

Statewide Research in District Court

Finds Alternative Dispute Resolution Beneficial to Litigants and Courts

The Maryland Judiciary initiated short and long term research to determine, among other things, if investments made in ADR were paying dividends to the Judiciary and the citizens of Maryland. For District Court ADR programs, the answer is an emphatic YES.

Participants that reached an agreement in ADR
were more likely to be satisfied with the judicial system
than those that reached an agreement on their own (without ADR).

Twelve months after an ADR session, the predicted probability
of a **case returning to court for an enforcement action** is:

- ♦ 45% if the case received a verdict
and
- ♦ **21%** if the case reached an agreement in District Court ADR

This implies that **the process of reaching an agreement in ADR is the factor that led to higher satisfaction**, rather than just the process of having negotiated a settlement. These findings support the idea that reaching an agreement in ADR cultivates trust and confidence in the judiciary, and for purposes of this research, in the District Court of Maryland.

ADR is clearly connected to several positive outcomes. All of these findings are uniformly applicable to ADR, whether an agreement was reached or not. **Participants who used ADR**, compared to those who went directly to trial, **are more likely to say:**

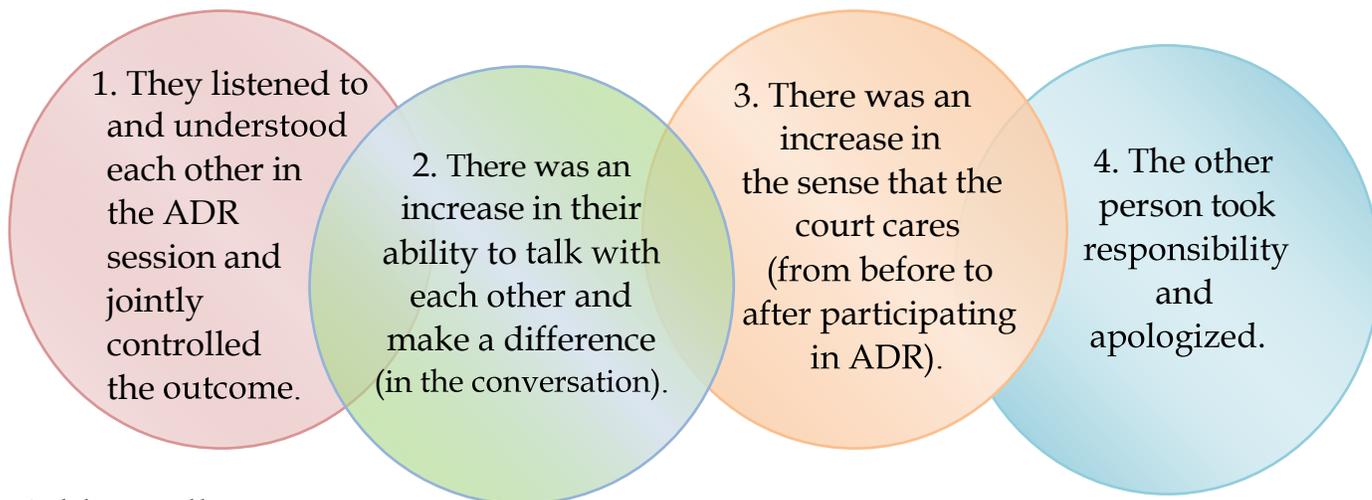
1. They **could express themselves, their thoughts, and their concerns.**
2. **All of the underlying issues came out.**
3. The **issues were resolved** and more likely **completely resolved** rather than partially resolved.
4. They **acknowledged responsibility** for the situation.
5. They **disagree with** the statement “the other person needs to learn they are wrong.”

Two research studies were conducted in the District Court of Maryland's Day of Trial, civil ADR programs. The **'Impact' study** compared the attitudes and changes in attitudes of participants who went through ADR to an equivalent comparison group who went through the standard court process. The **'Effectiveness' study** identified the mediator strategies and program factors affecting **case outcomes**.

The 'Impact' study found that **participants who went through an ADR process are more likely** than those who went through the court process **to report:**

- ✓ an **improved relationship and attitude toward the other participant** from before the ADR session or trial to 3 to 6 months later; and,
- ✓ that the **outcome reached in ADR was working**, they were **satisfied with the outcome and satisfied with the judicial system**.

In the 'Effectiveness' study, **reaching an agreement in ADR was positively associated with participants reporting:**



Additionally:

Cases were **Less Likely to Return to Court if:**

- ★ The ADR Practitioner used more eliciting solution strategies.
- ★ The ADR Practitioner had more ADR experience in the previous 12 months.

Cases were **More Likely to Return to Court if:**

- ✘ The greater percentage of time was spent in caucus (*in the 12 months after participating in ADR for an enforcement action*).

*Short and long-term findings from 'Impact of Alternative Dispute Resolution on Responsibility, Empowerment, Resolution, and Satisfaction with the Judiciary: Comparison of Outcomes in District Court Civil Cases', February 2016.

**Short and long-term findings from 'What Works in District Court Day of Trial Mediation: Effectiveness of Various Mediation Strategies on Short Term and Long-Term Outcomes', January 2016.

What Works in District Court Day of Trial ADR

The 'Effectiveness' study identified the strategies used in the ADR process affecting case outcomes. Statistical analysis of actual ADR sessions revealed four groups of strategies for study: Reflect, Elicit, Offer/Tell, and Caucus. ADR Practitioners often use more than one set of strategies. The groupings described below are strategies commonly used together. *These are not labels for types of ADR Practitioners.*

Reflect

Reflecting Strategies:

- Reflecting emotions & interests



SHORT TERM: Reflecting strategies are **positively associated** with participants reporting:

- the other person took responsibility and apologized
- an increase in self-efficacy
- an increase from before to after ADR in their sense that the court cares

Elicit

Eliciting Strategies:

- Asking participants to suggest solutions
- Summarizing solutions that have been offered
- Asking participants how those solutions might work for them



SHORT TERM: Eliciting participant solutions are **positively associated** with participants reporting that:

- they listened, understood each other and jointly controlled the outcome
- the other person took responsibility and apologized

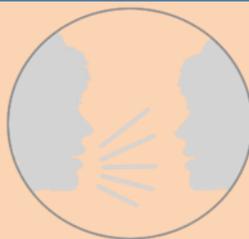
Eliciting was positively associated with reaching an agreement in ADR.

LONG TERM: Participants were more likely to report a change in their approach to conflict.

Offer / Tell

Offering Strategies:

- Offering
- Advocating for their own solutions
- Offering legal analysis



LONG TERM: The more offering strategies that are used, **the less participants report:**

- The outcome was working
- They were satisfied with the outcome
- They changed their approach to conflict

Caucus

Caucusing is the practice of meeting with the participants separately and privately.

SHORT TERM:

The greater percentage of time participants spend in caucus, the **more likely participants report:**

- the ADR practitioner controlled the outcome, pressured them into solutions, and prevented issues from coming out.
- an increase in a sense of powerlessness, an increase in the belief that conflict is negative, and an increase in the desire to better understand the other participant.

The greater the percentage of time in caucus, the **less likely participants report:**

- they were satisfied with the process and outcome, and the issues were resolved with a fair and implementable outcome.

Data Collection

Data for this study were collected in the District Court Day of Trial ADR programs in Baltimore City, and Montgomery, Calvert, and Wicomico Counties.

Litigants were separated into a treatment group (those that used ADR) and a control group (those that used the standard court process). The same survey was administered to both groups prior to the ADR session or court, respectively, and the same questions were administered at the conclusion of their court experience. A comparison between those two surveys comprised the “**short term**” results for this research.



Data was also collected through behavior coding of the participants and the ADR practitioner(s) during observations of ADR sessions. Litigants were contacted again 3 to 6 months later and asked the same questions. A comparison between the short term responses and the responses given 3 to 6 months later comprise the “**long term**” results for this research. Finally, researchers reviewed electronic court records twelve months after the trial date to see which, if any, cases returned to court.

Analysis

This document simplifies a rigorous study which used a variety of statistical tools to determine the results. A detailed discussion of the research methods, data collection instruments, statistical analysis and the full study can be found in the full report at: <http://mdcourts.gov/courtoperations/adrprojects.html>.

The Maryland Judiciary has a long-term commitment to building ADR programs in Maryland.

The Administrative Office of the Courts, in conjunction with the District Court of Maryland, commissioned this study to be conducted by independent researchers in its ongoing effort to provide the best practices to those seeking the assistance of the courts.



This research, commissioned by the Maryland Judiciary, is part of its Statewide Evaluation of ADR. The project was led by the Administrative Office of the Courts and funded in part by a grant from the State Justice Institute. Salisbury University and the University of Maryland worked on the statewide study under memoranda of understanding with AOC. The research for this portion of the study was conducted by Community Mediation Maryland and the Bosserman Center for Conflict Resolution at Salisbury University. Lorig Charkoudian, PhD, served as Lead Researcher.