

TEXAS CENTER  
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FOR THE JUDICIARY

Mediation in Child Protection Cases  
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Child & Family Research Partnership, The University of Texas at Austin  
2016 Child Welfare Judicial Conference  
November 14-16, Austin

# Overview of Presentation

- Introduction to Child Protection Mediation
- 2016 Mediation Judicial Survey Results
- Case Study: Cost Analysis of Mediation in Travis County

# What Do We Know About Mediation in Child Protection Cases in Texas?

- Child protection mediation uses a neutral facilitator to help parties in a legal dispute reach an agreement, typically regarding a service plan or case resolution, without a formal trial.
- Child protection mediation began in Texas after the passage of the Texas Alternative Dispute Resolution Act in 1987.
- Mediation use expanded from 1997 to 2005, when the Texas Children's Justice Act (CJA) funded 13 counties to provide mediation.
- During the CJA-funded pilot projects, parties reached full or partial agreement during mediation in 76 percent of cases.<sup>1</sup>

1. Bryant, Cynthia. (2010) "Child Protection Mediation in Texas: Past, Present, and Future," *The University of Texas School of Law Mediation Clinic*.

# What Do We Know About Mediation in Child Protection Cases in Texas?

- Other reviews of child protection mediation demonstrate:
  - Full agreement is reached in 60 to 80 percent of mediated cases.
  - Partial agreement is reached in another 10 to 20 percent of mediated cases.
  - Across several evaluation studies, cases that went to mediation achieved permanency quicker than cases that did not.<sup>2</sup>
- Other benefits of mediation can include more open adoptions and increased family engagement in the decision-making process.<sup>3</sup>

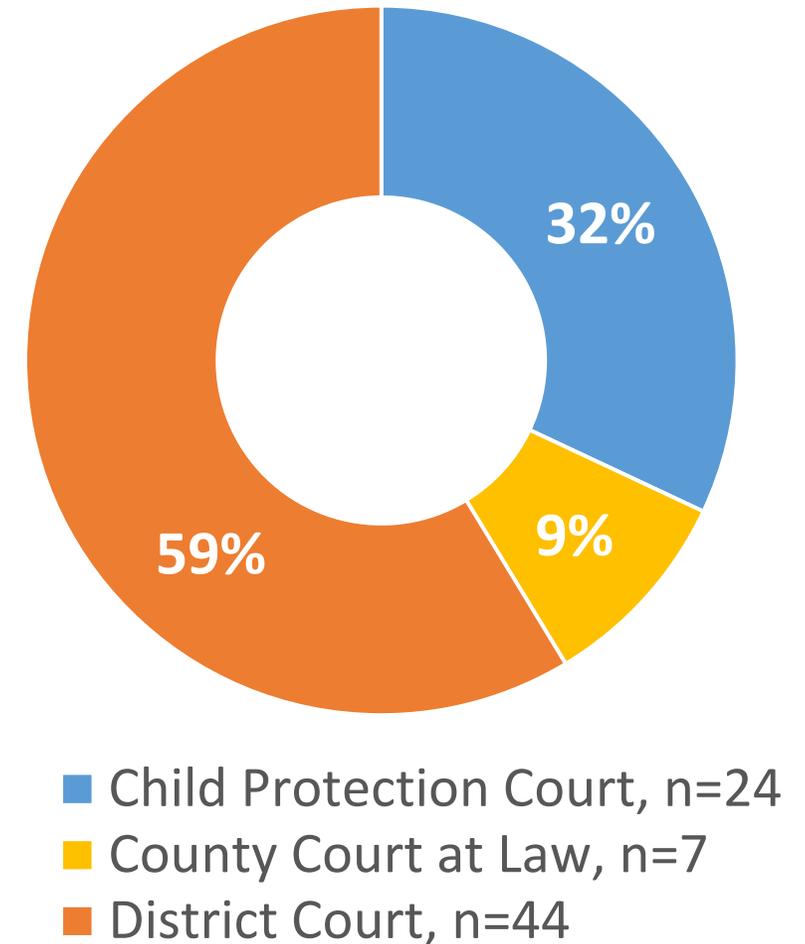
2. Thoennes, N. (2009). What We Know: Findings From Dependency Mediation Research. *Family Court Review*. 47(21)

3. Bryant, Cynthia. (2010) "Child Protection Mediation in Texas: Past, Present, and Future," *The University of Texas School of Law Mediation Clinic*.

# 2016 Mediation Judicial Survey

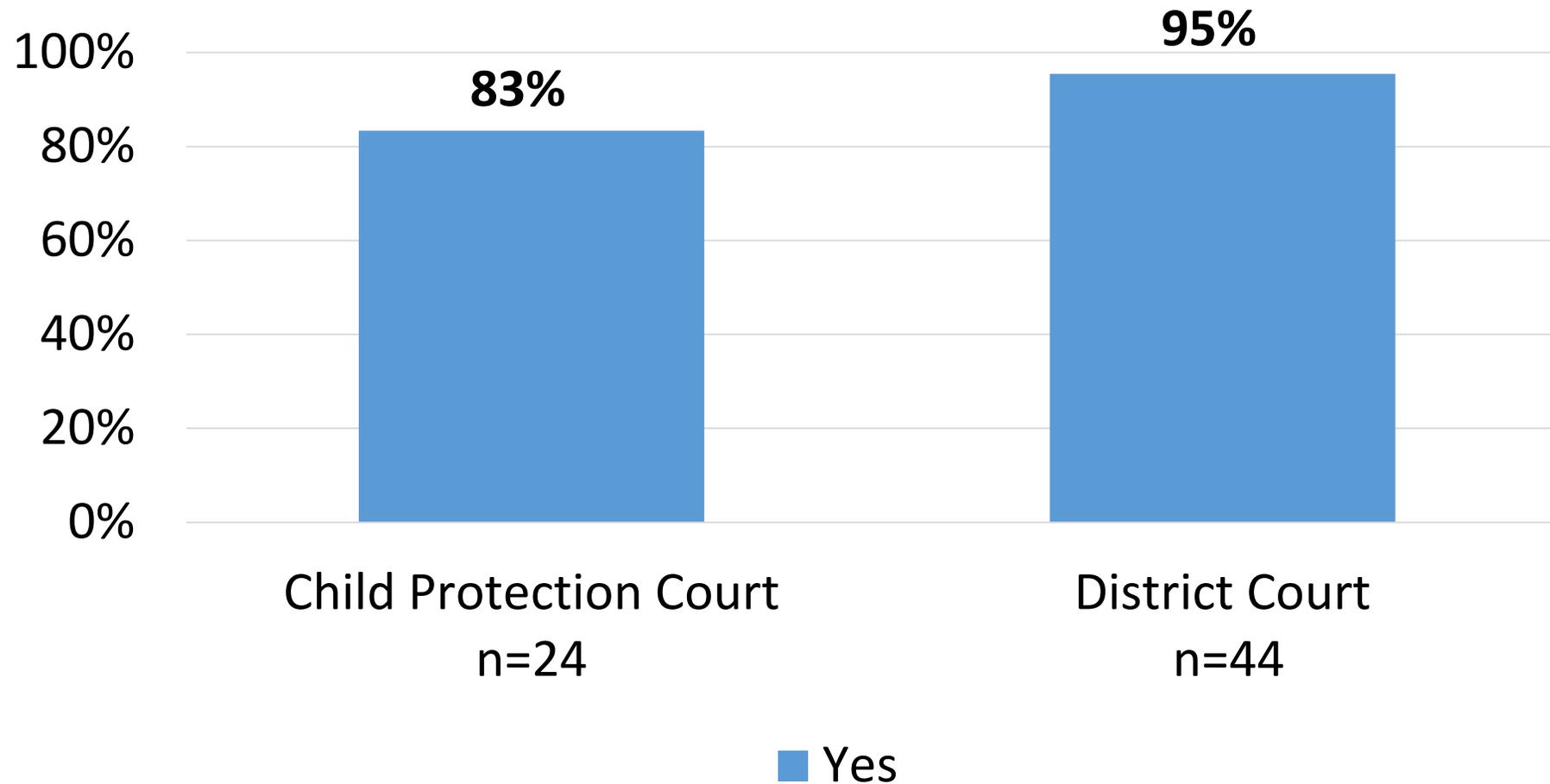
- The Texas Children’s Commission of the Supreme Court surveyed Texas judges across many jurisdictions in May 2016
- 78 active judges responded, representing 75 courts
- 69 courts use child protection mediation
- Large jurisdictions represented include Travis, Tarrant, Harris, Bexar, and Dallas Counties
- 24 out of 25 Texas Child Protection Courts are represented

Court Types Represented, N=75



# Mediation is Widely Used Across Texas Courts

## Mediation By Court Type

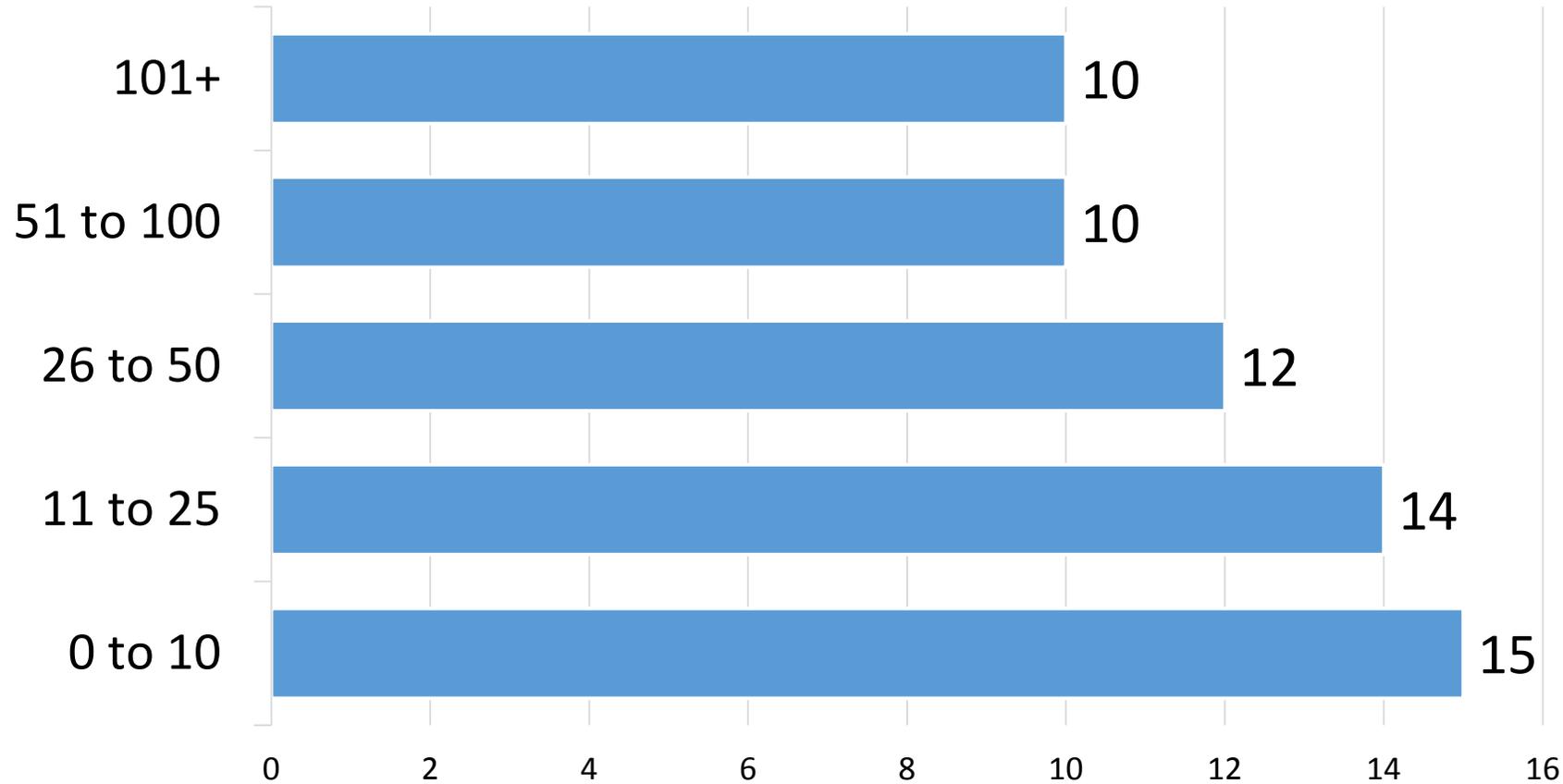


Notes: County Courts at Law not shown because of small sample size.



# The Number of Mediations Conducted Annually Varies Across Jurisdictions

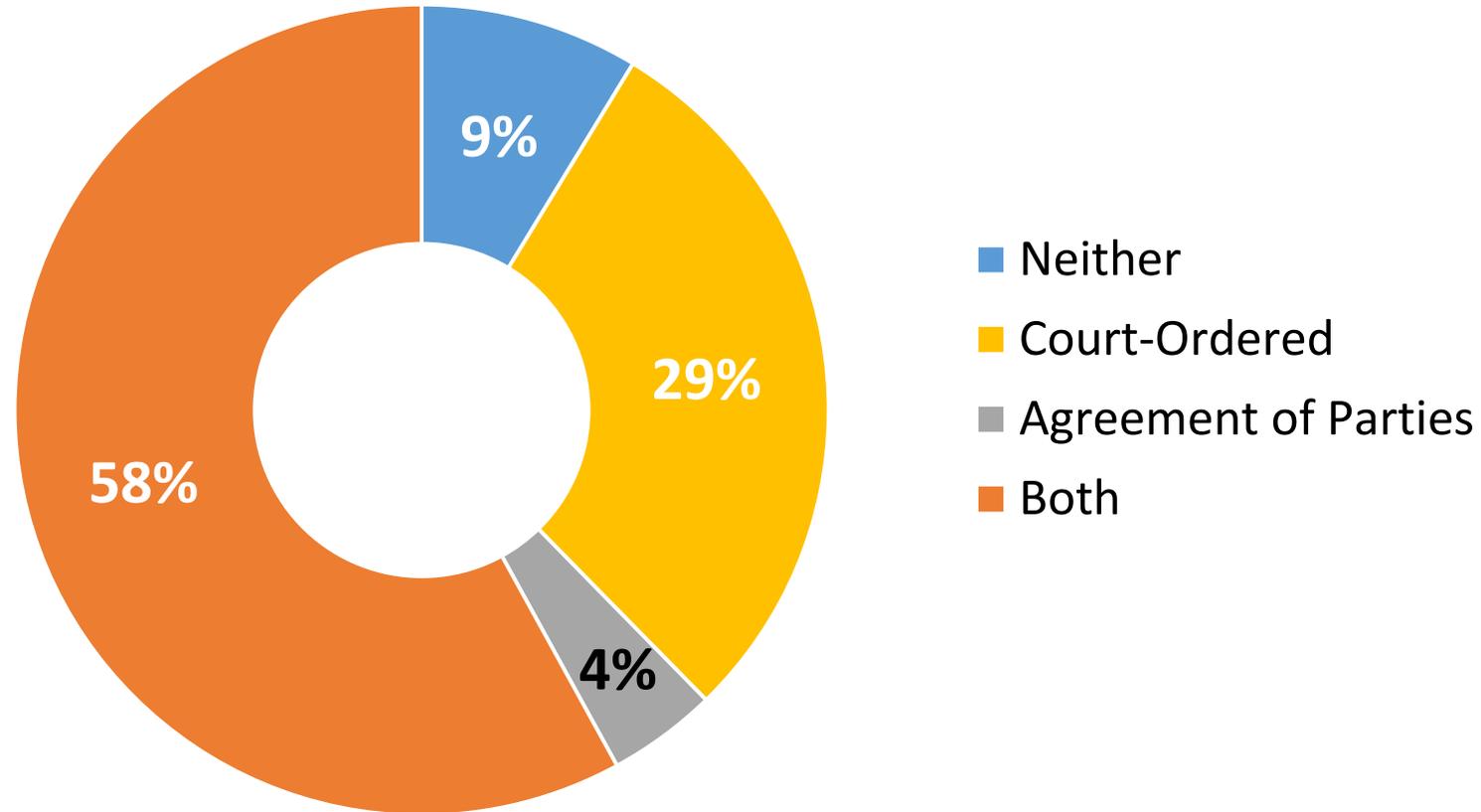
How many CPS mediations occur annually in your jurisdiction? N=61



Notes: Limited to 61 courts that responded to the survey question out of 69 courts that use mediation.

# Most Jurisdictions Use a Combination of Court-Ordered Mediation and Mediation Based on Agreement of Parties

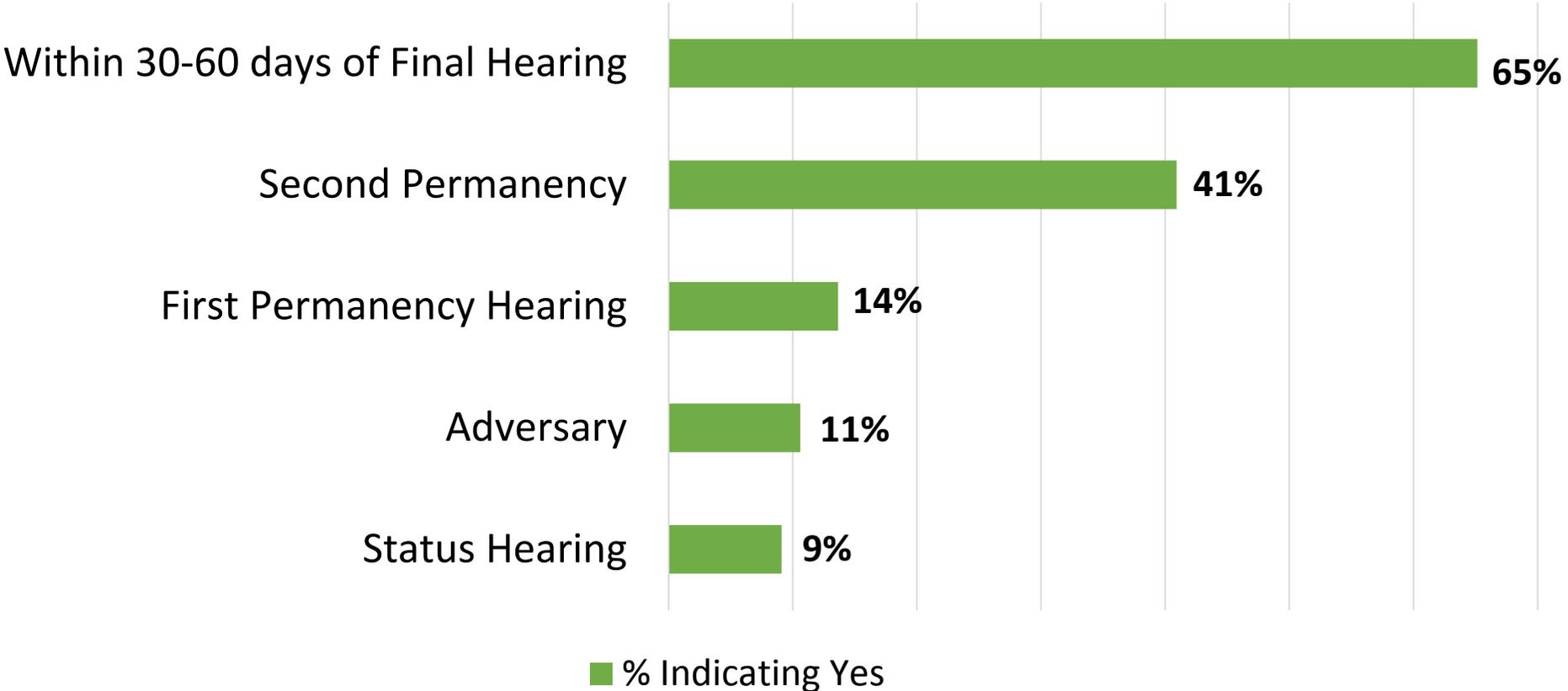
Under what circumstances does mediation occur in CPS cases in your jurisdiction? N=66



Notes: Limited to 66 courts that responded to the survey question out of 69 courts that use mediation.

# Most Mediations Occur Late in the Case Process

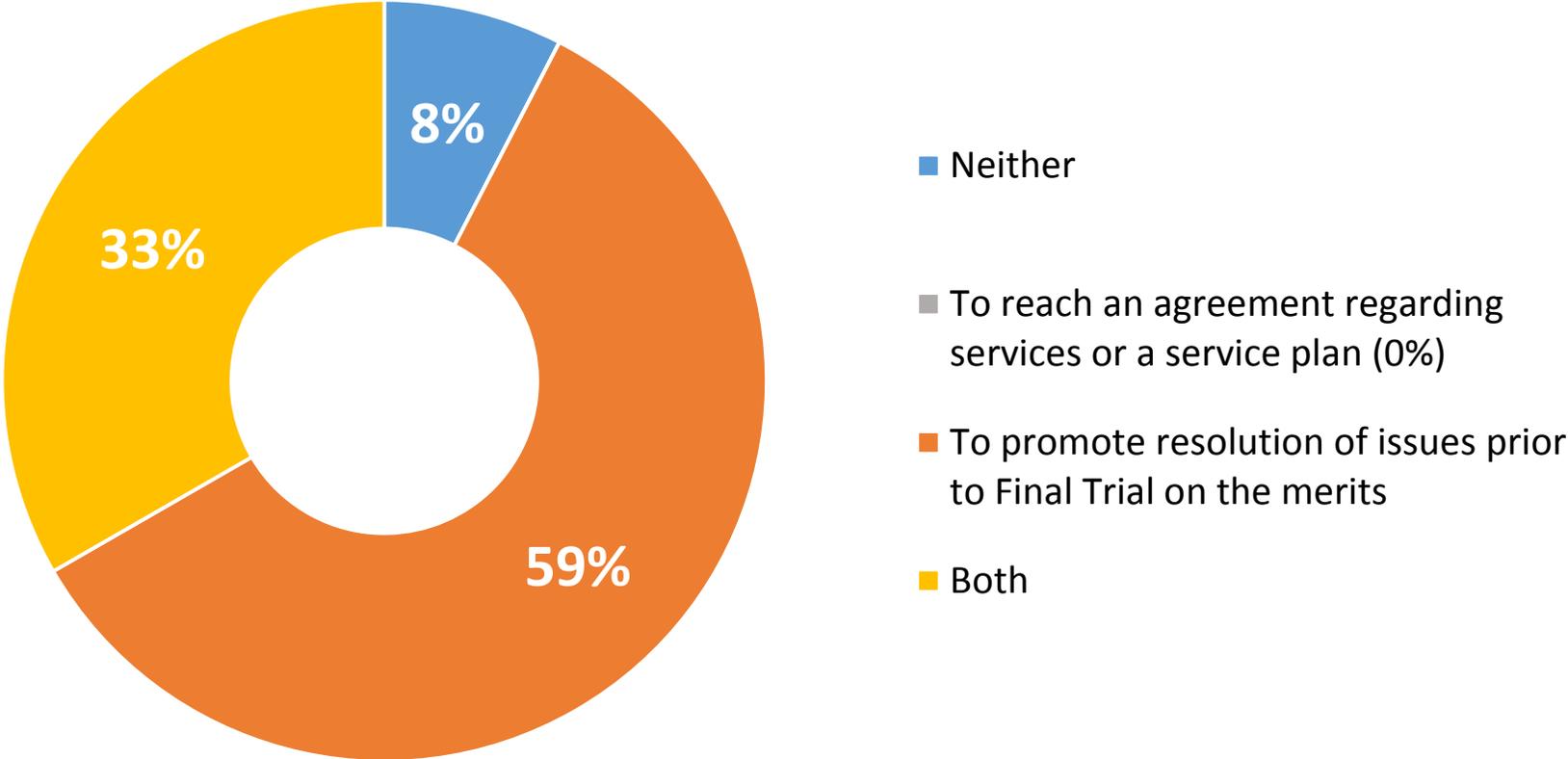
At what phase(s) of a CPS case does mediation occur in your jurisdiction? N=66



Notes: Limited to 66 courts that responded to the survey question out of 69 courts that use mediation. Respondents selected multiple answers when applicable.

# Most Courts Use Mediation to Promote Case Resolution, and Many Also Use Mediation to Reach Agreement on the Service Plan

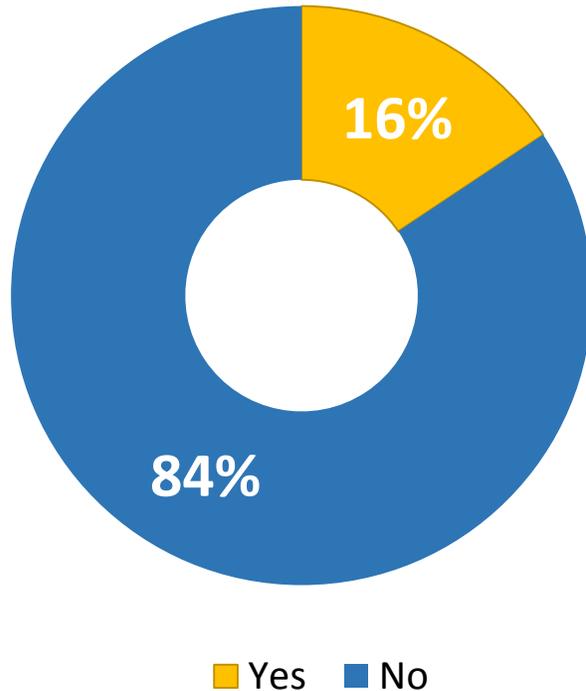
Why is mediation in CPS cases used in your jurisdiction? N=66



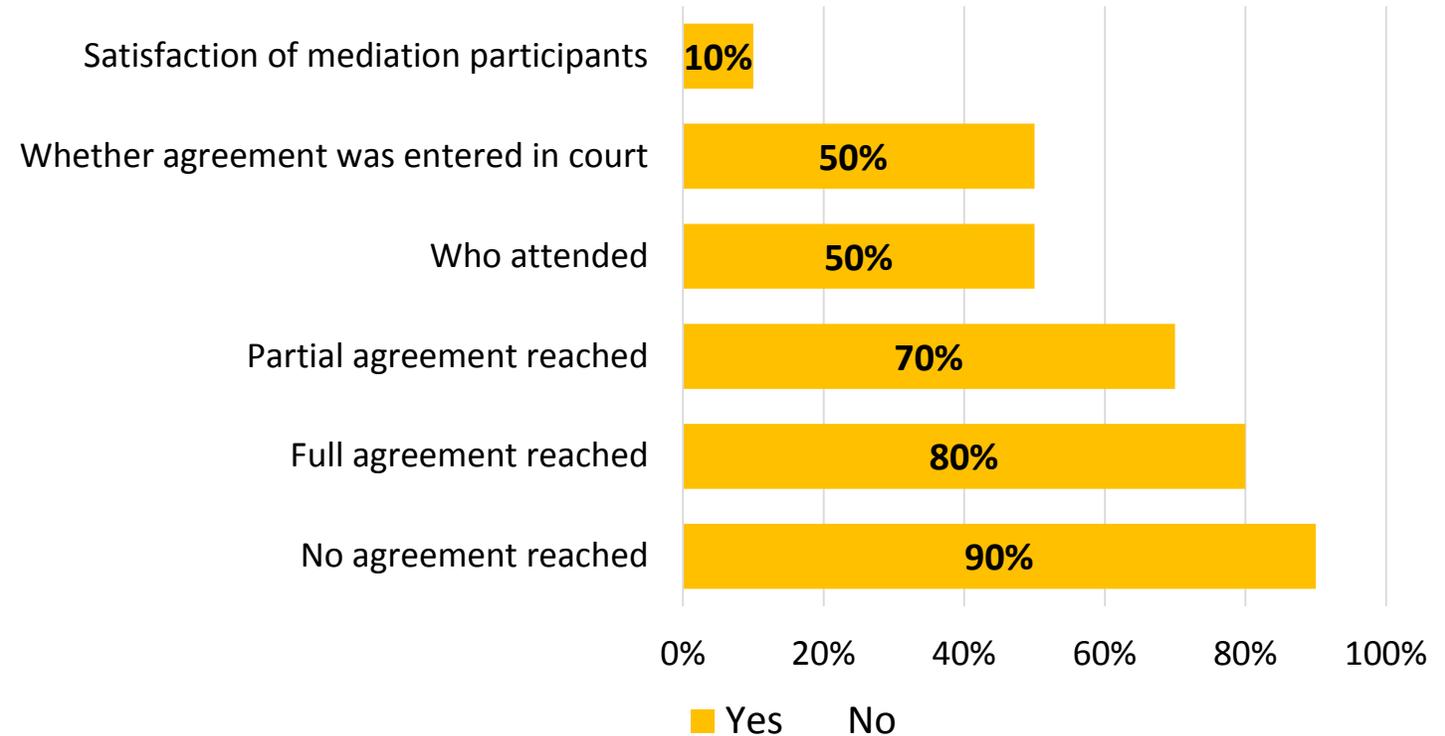
Notes: Limited to 66 courts that responded to the survey question out of 69 courts that use mediation.

# Most Courts Do Not Collect CPS Mediation Data

Does your jurisdiction collect data regarding CPS mediations? N=61



Which of the following data does your jurisdiction collect regarding CPS mediations? N=10

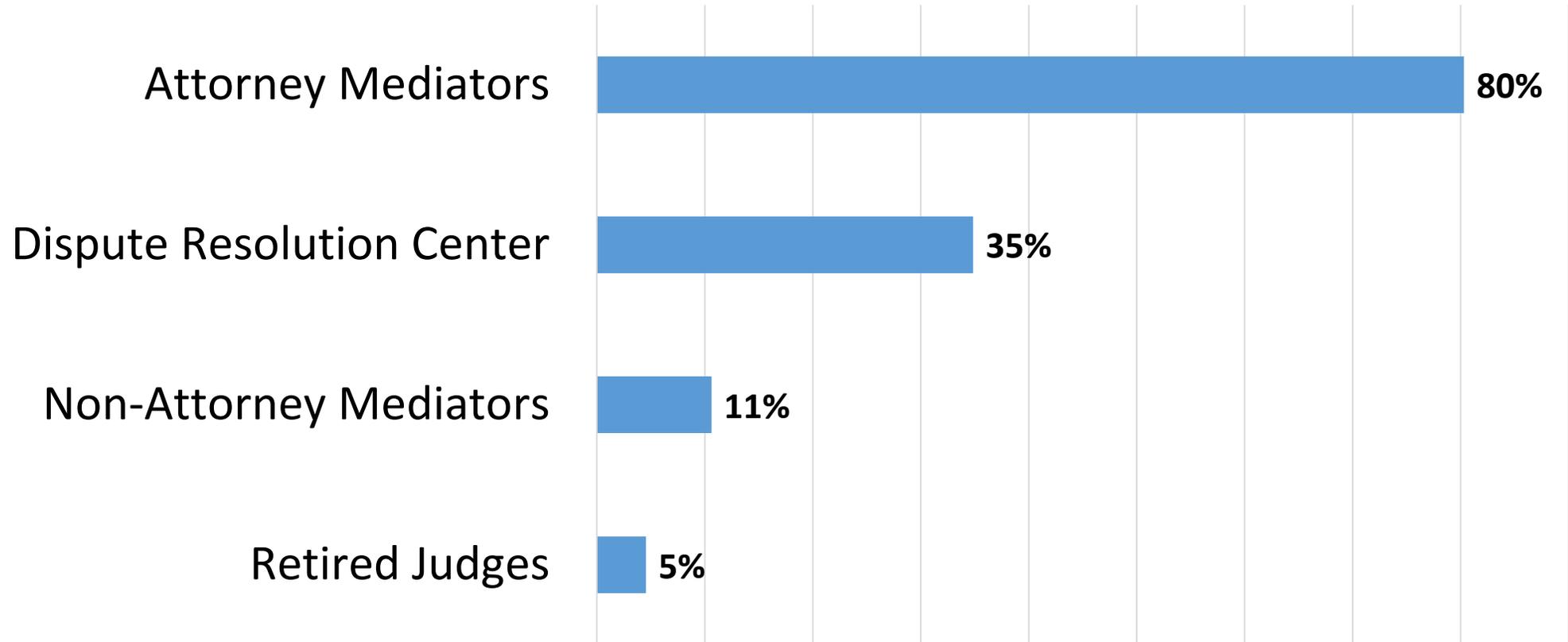


Notes: Limited to 61 courts that responded to the survey question out of 69 courts that use mediation.

Notes: Limited to 10 courts that collect mediation data out of 69 courts that use mediation.

# Most CPS Mediators are Attorneys or From a Dispute Resolution Center

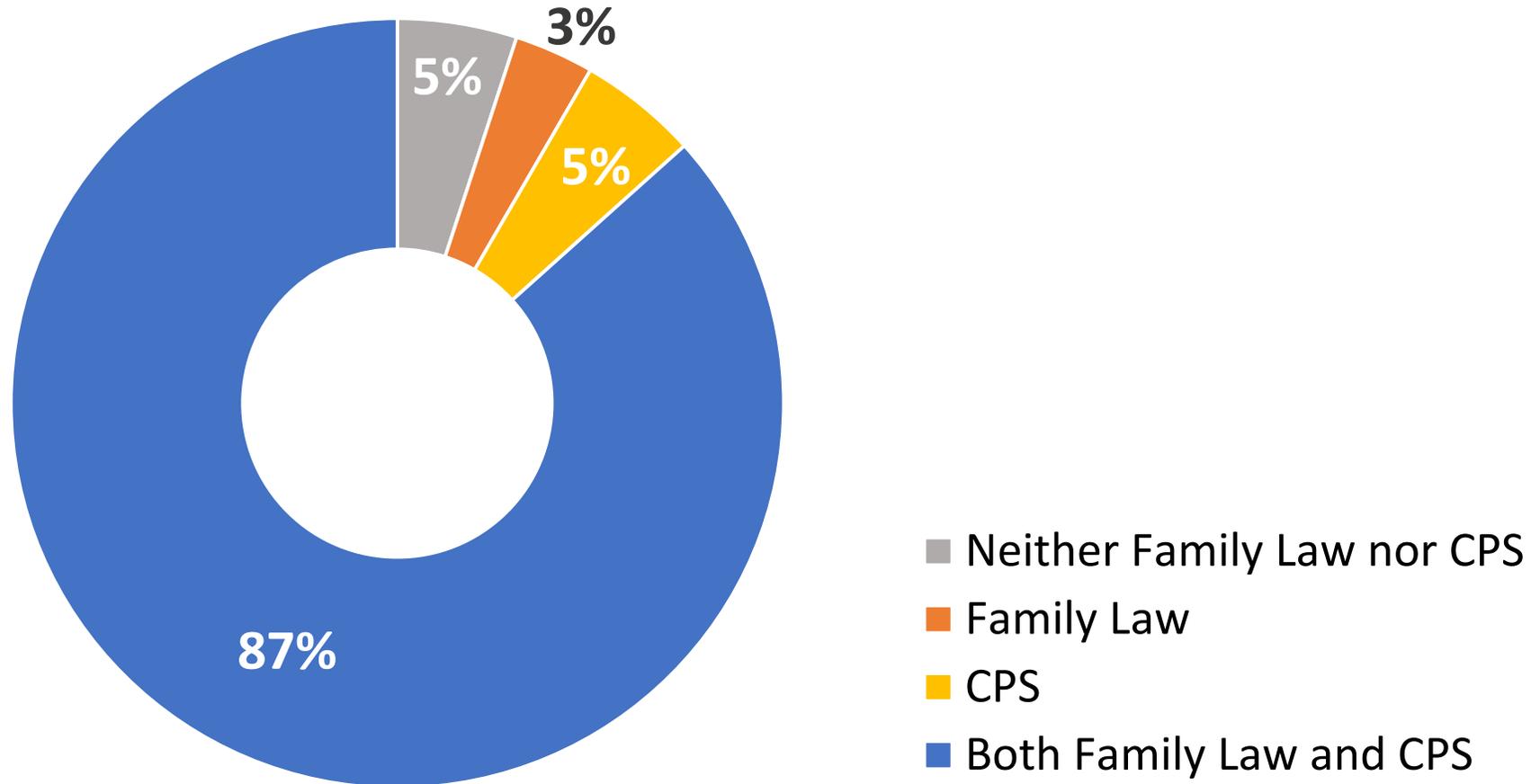
Who mediates CPS cases in your jurisdiction? N=66



Notes: Limited to 66 courts that responded to the survey question out of 69 courts that use mediation. Respondents selected multiple answers when applicable.

# Mediators Tend to Have Both Family Law and CPS Experience

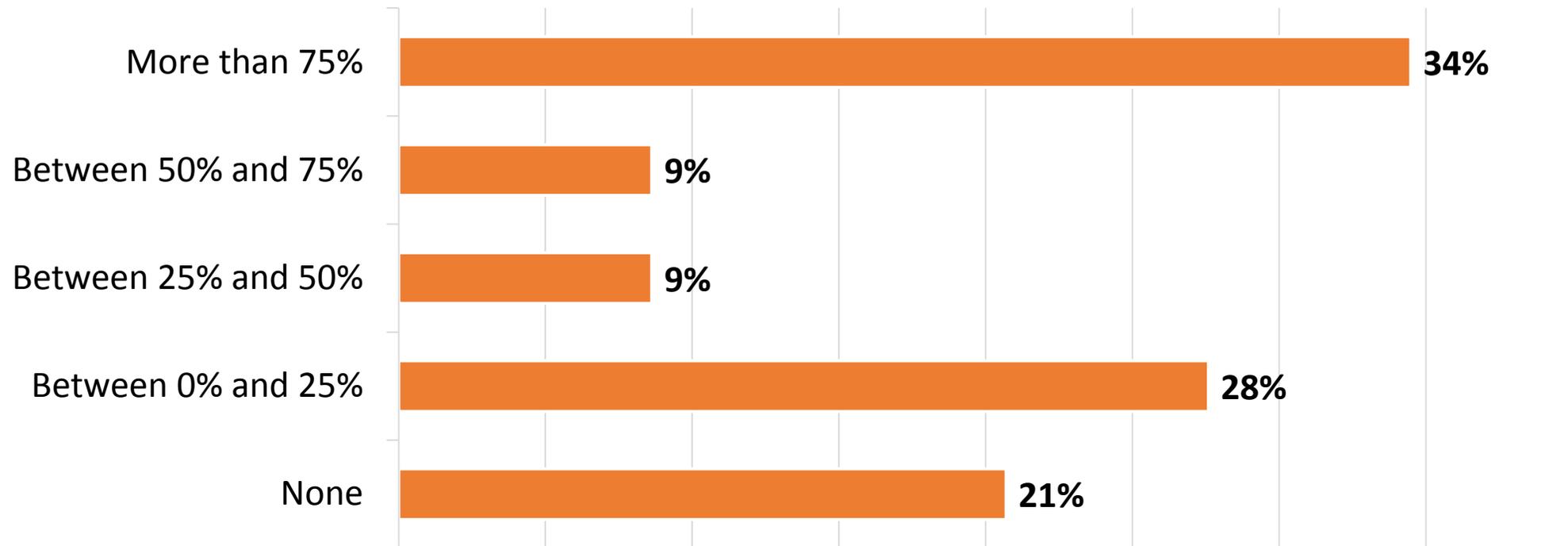
What type of experience do the CPS mediators have? N=66



Notes: Limited to 66 courts that responded to the survey question out of 69 courts that use mediation.

# Training Practices for CPS Mediators Vary in Texas Courts

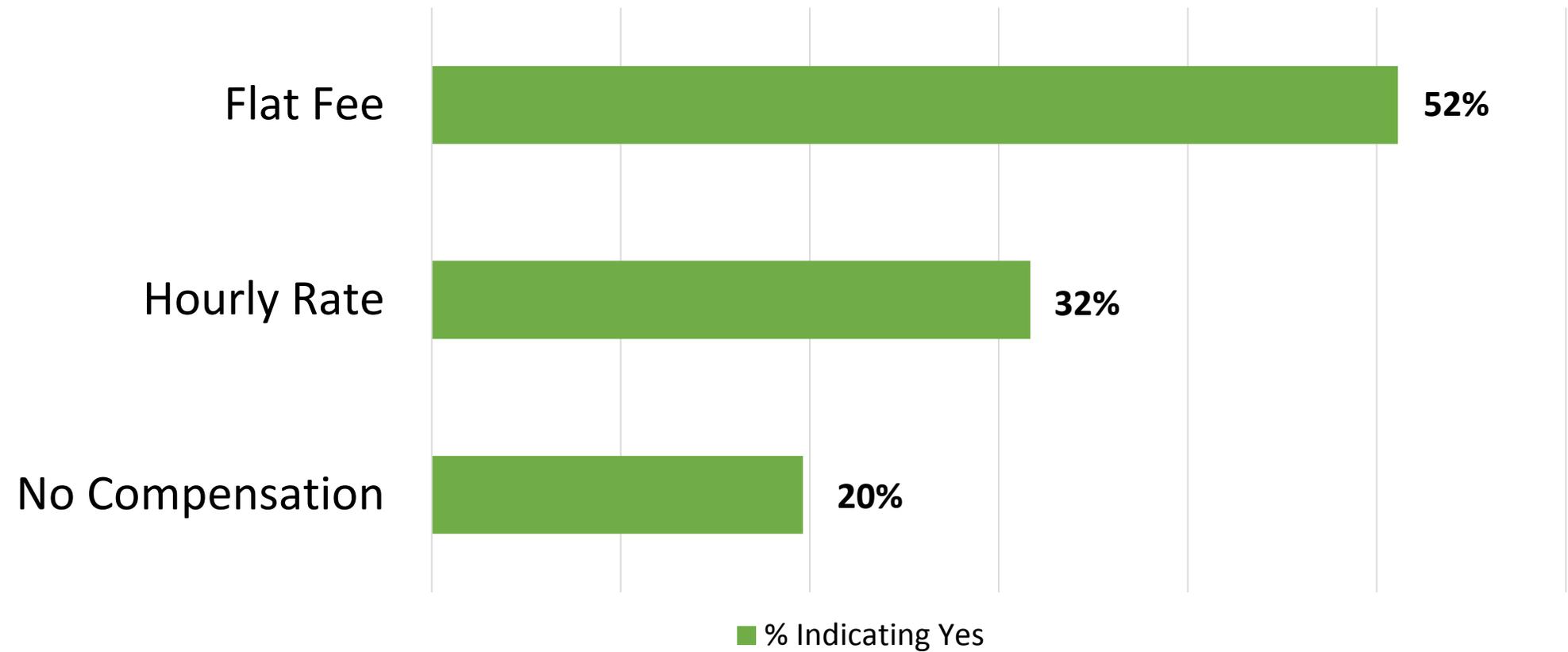
What percentage of CPS mediators in your jurisdiction receive training regarding CPS mediations? N=58



Notes: Limited to 66 courts that responded to the survey question out of 69 courts that use mediation.

# Mediator Compensation Varies Across Courts, and Courts Compensate Differently Across Cases

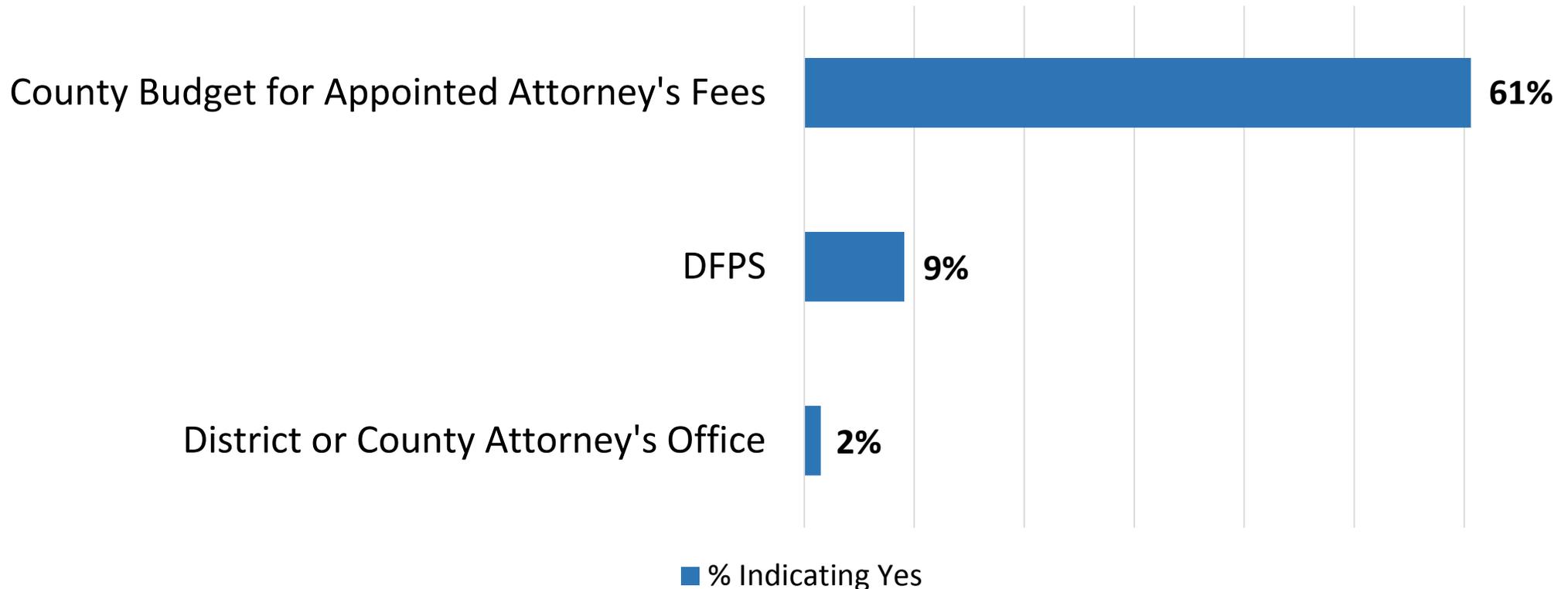
How are mediators compensated? N=66



Notes: Limited to 66 courts that responded to the survey question out of 69 courts that use mediation. Respondents selected multiple answers when applicable.

# Most Mediation Funding Originates From County Budgets for Appointed Attorney Fees

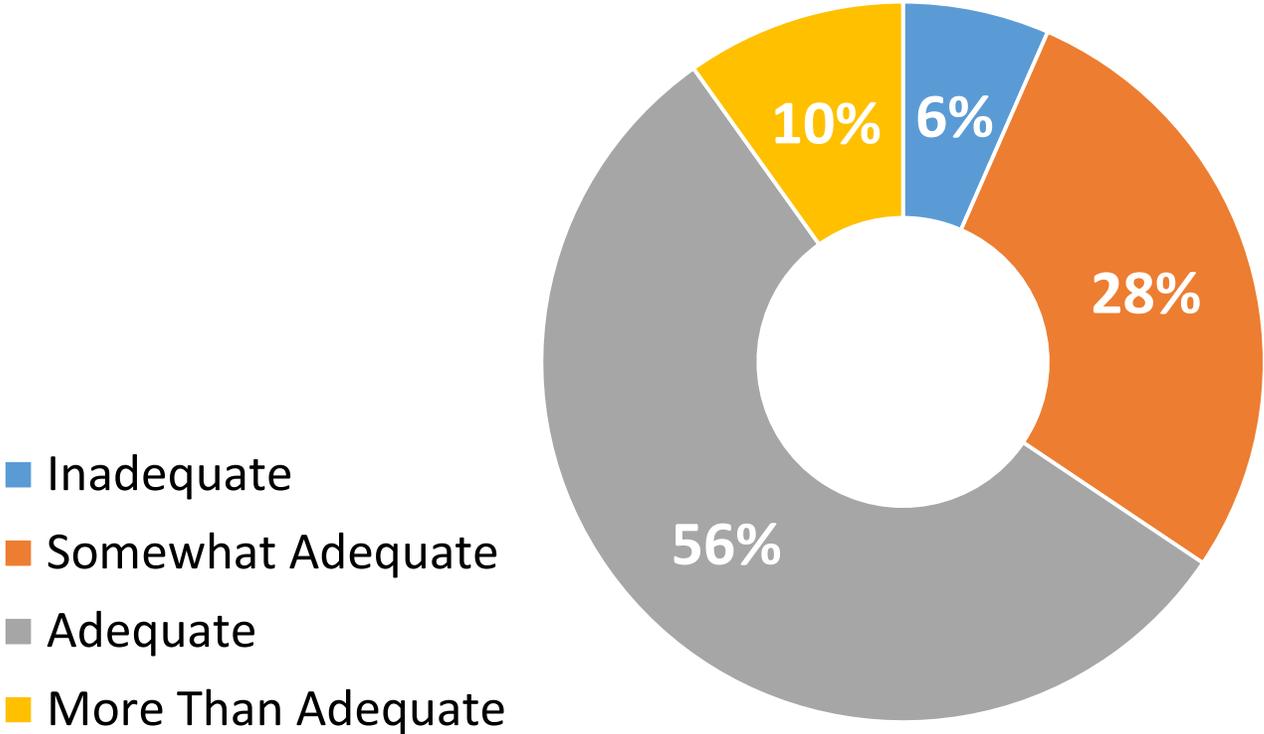
If mediators are compensated, where does funding originate? N=66



Notes: Limited to 66 courts that responded to the survey question out of 69 courts that use mediation. Respondents selected multiple answers when applicable.

# Responding Judges Feel There is an Adequate Number of CPS Mediators in Their Jurisdiction

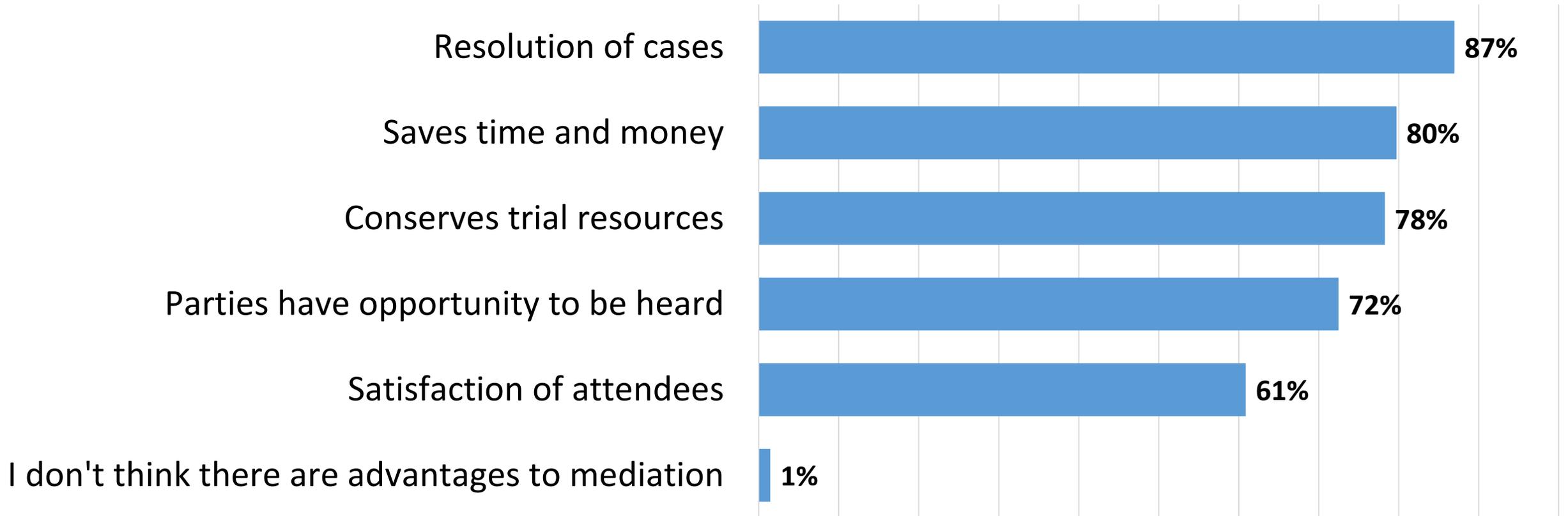
How adequate is the number of CPS mediators in your jurisdiction? N=61



Notes: Limited to 66 courts that responded to the survey question out of 69 courts that use mediation.

# Judges Find Many Advantages to CPS Mediation

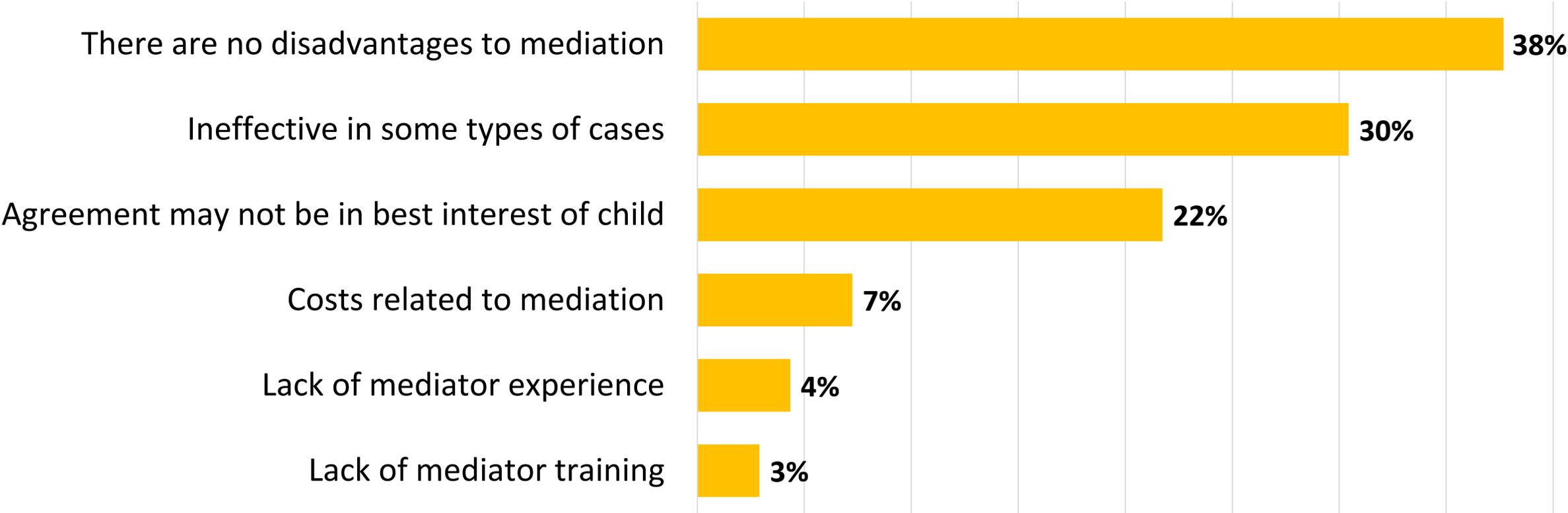
What are the advantages of using mediation in CPS cases? N=69



Notes: Limited to 69 courts that use mediation.

# Disadvantages to Mediation Include Ineffectiveness in Some Types of Cases, While Many Judges Report No Disadvantages

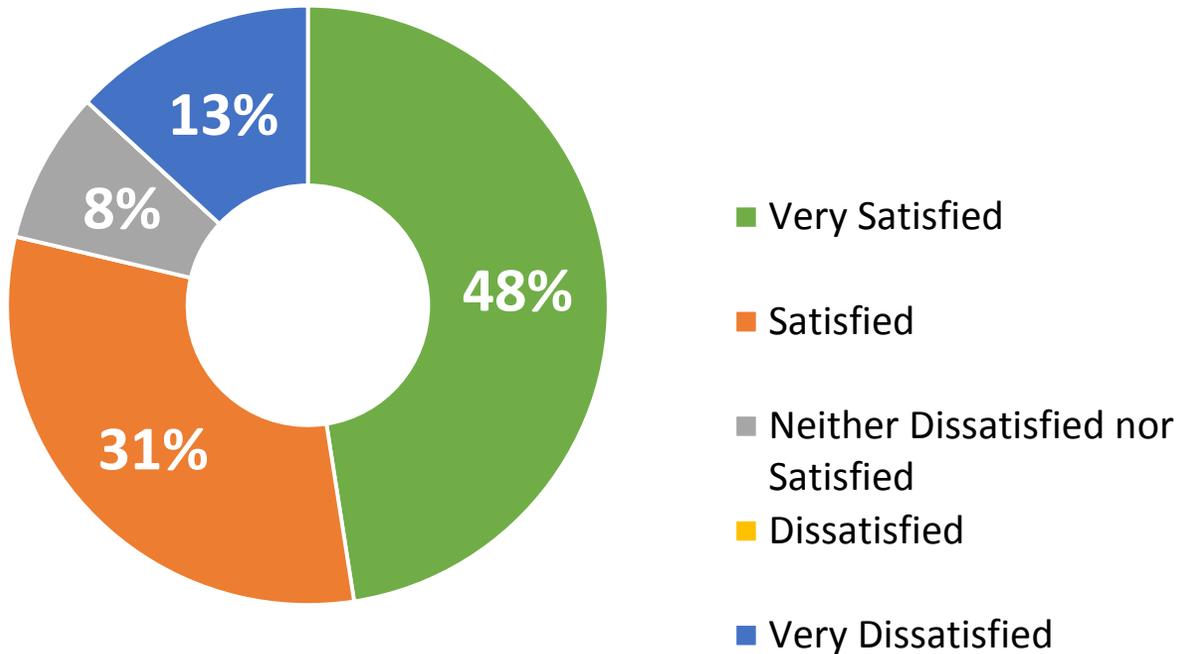
What are the disadvantages of mediation in CPS cases? N=69



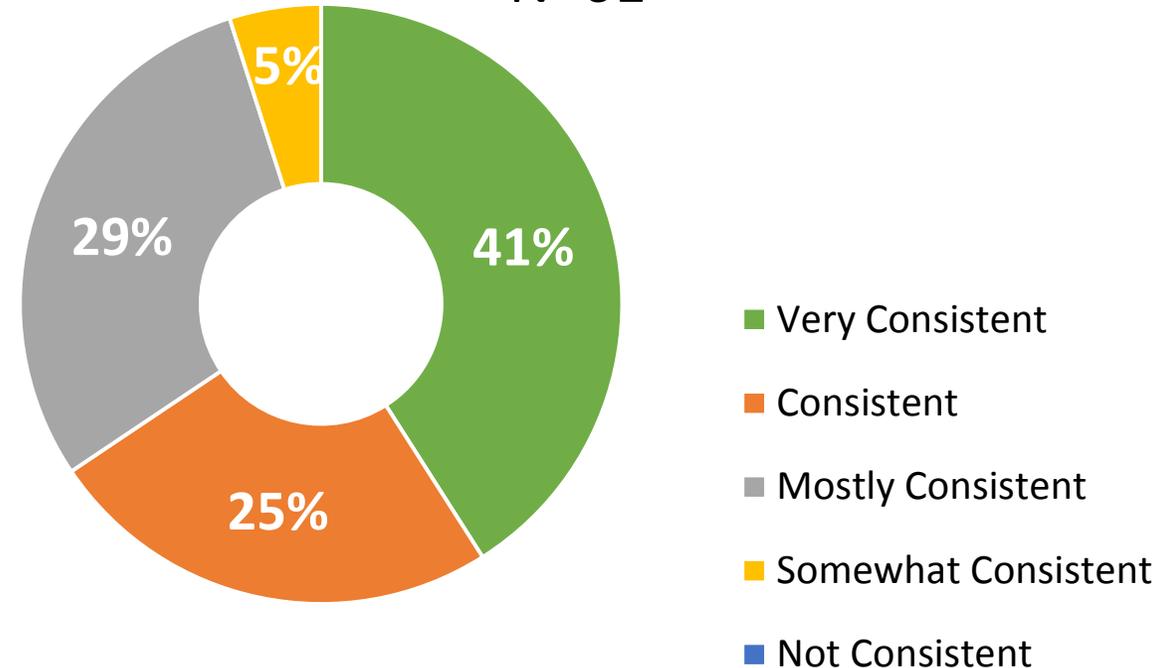
Notes: Limited to 69 courts that use mediation.

# Most Judges are Very Satisfied with Mediation and Find Mediator Quality Very Consistent

Satisfaction with CPS Mediation,  
N=61



Consistency of Mediator Quality,  
N=61



Notes: Limited to 61 courts that responded to the survey question out of 69 courts that use mediation.

# Most Judges Who Do Not Mediate are Interested in Mediation

- Of the nine respondents who say their jurisdiction does not use mediation, six judges responded that they are interested in mediation.
- The majority of judge respondents use mediation and as a result information on barriers to mediation from this survey is limited.
- Barriers cited by judges whose jurisdictions don't use mediation include lack of trained mediators, lack of funding, and use of other methods to resolve issues.

# Travis County Cost Analysis: Research Questions

CFRP was tasked with answering the following for the Texas Children's Commission of the Supreme Court and Travis County Family Court:

**To what extent is mediation a cost-effective strategy for resolving child protection cases?**

Additionally,

- How do case characteristics differ between cases that resolve at mediation and cases that go to trial?
- How do case outcomes differ between cases that resolve at mediation and cases that go to trial?

# Child Protection Cases in Travis County

- Travis County Family Court is one of twenty child abuse and neglect model courts established by the National Council of Juvenile and Family Court Judges to implement innovative strategies, including mediation, to improve outcomes for children and families.
- Although mediation is not required, judges in Travis County Family Court strongly encourage parties to conduct mediation before going to trial.
- Mediation is used nearly universally in Travis County child protection cases that are otherwise heading to trial.

# Travis County Cost Analysis: Methodology

**CFRP examined the difference in the average (or median) costs associated with cases that went to trial compared to those that were resolved after mediation and prior to trial.**

Analytic sample includes:

- Data from cases filed in the Travis County Family Court database after September 1, 2007 and closed before February 2015
- Cases that involved removal of a child
- Only the Temporary Managing Conservatorship (TMC) period was considered

Data Sources:

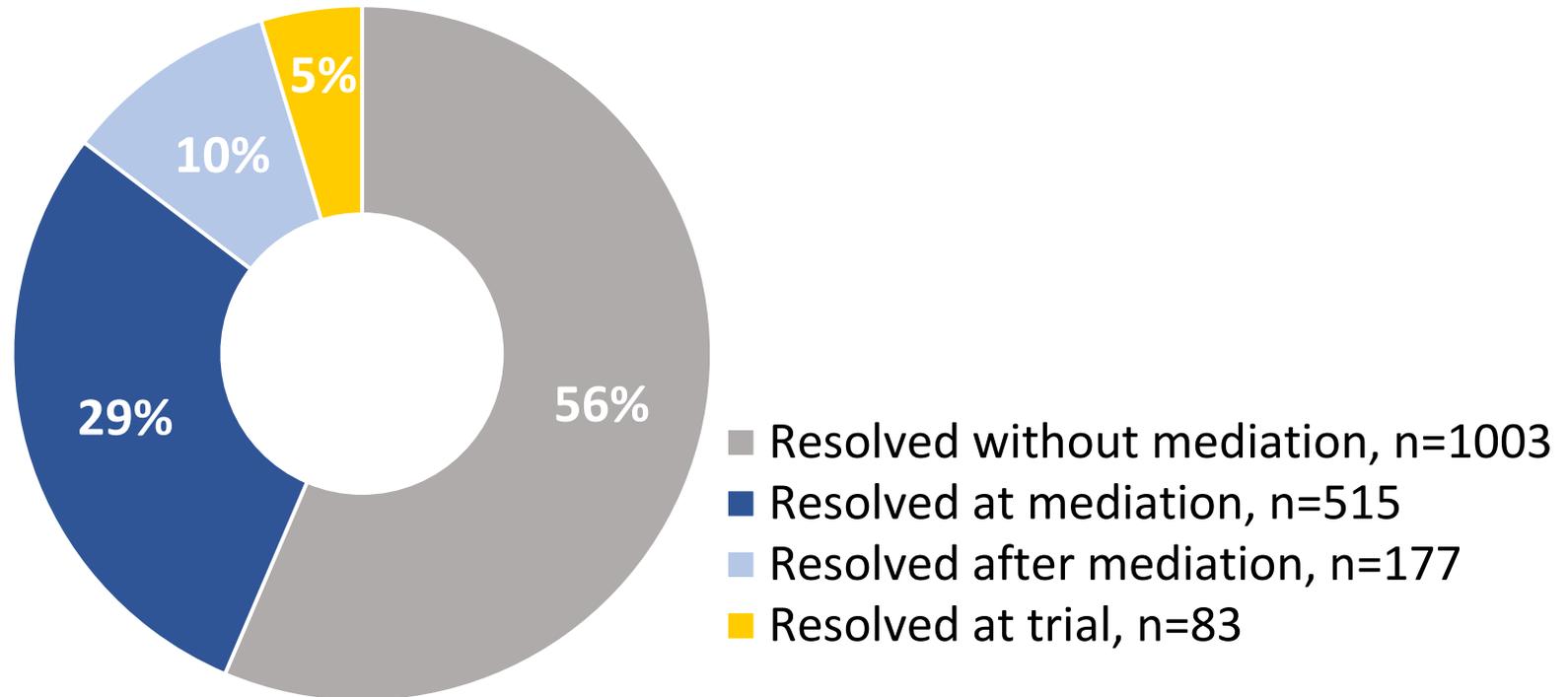
- DFPS IMPACT data updated through May 2016 , the DFPS Research Database in the Qlikview data management system (Qlikview), the Petition Tracking System (PTS), and aiSmartBench (SmartBench)

# Findings

- Travis County resolves 95% of child protection cases involving removal without a trial.
- Travis County saved up to \$2 million annually through mediation in county and state costs.
- Travis County cases that resolved at or after mediation settled 11 weeks sooner.
- Children in Travis County cases resolved at mediation spent 14 fewer weeks in TMC.

# Travis County resolves 95% of child protection cases involving removal without a trial

Travis County Family Court Case Resolution  
September 2007 to January 2015, N=1,778

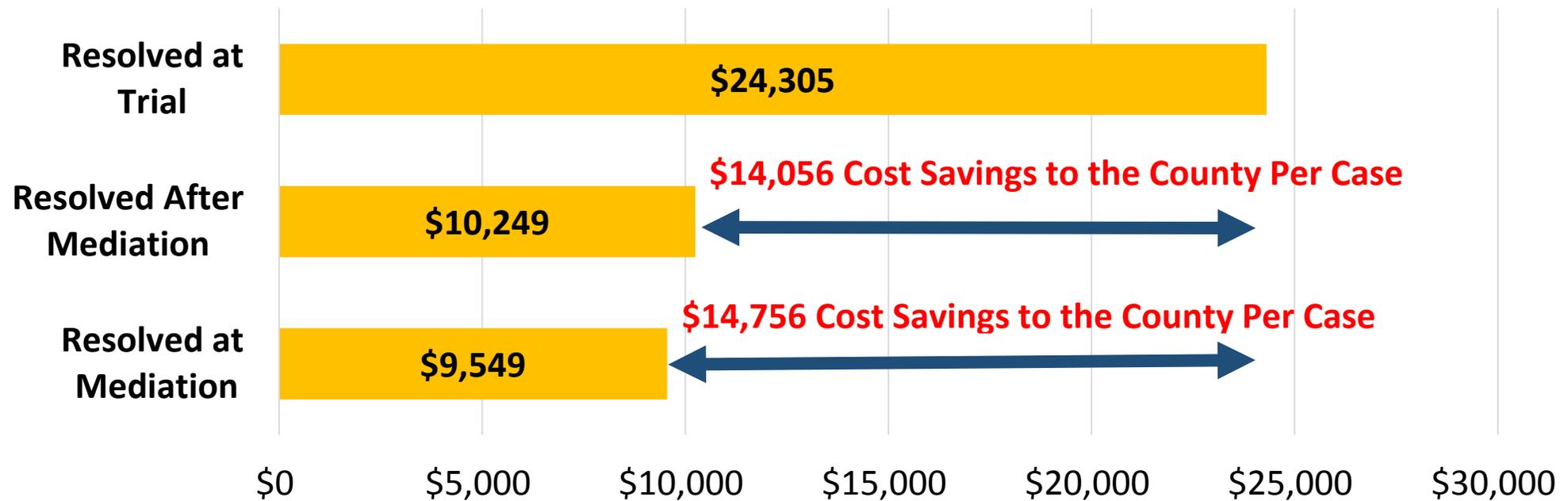


Source: DFPS Research Database in Qlikview for Travis County Family Court and IMPACT data provided by DFPS, updated through May 2016 .

Notes: The median is used as the measure of central tendency for all cost calculations.

# Travis County Saves Between \$14,000 and \$15,000 Per Case Through The Use of Mediation in County Costs

## Median County Cost of Child Protection Cases by Resolution Type

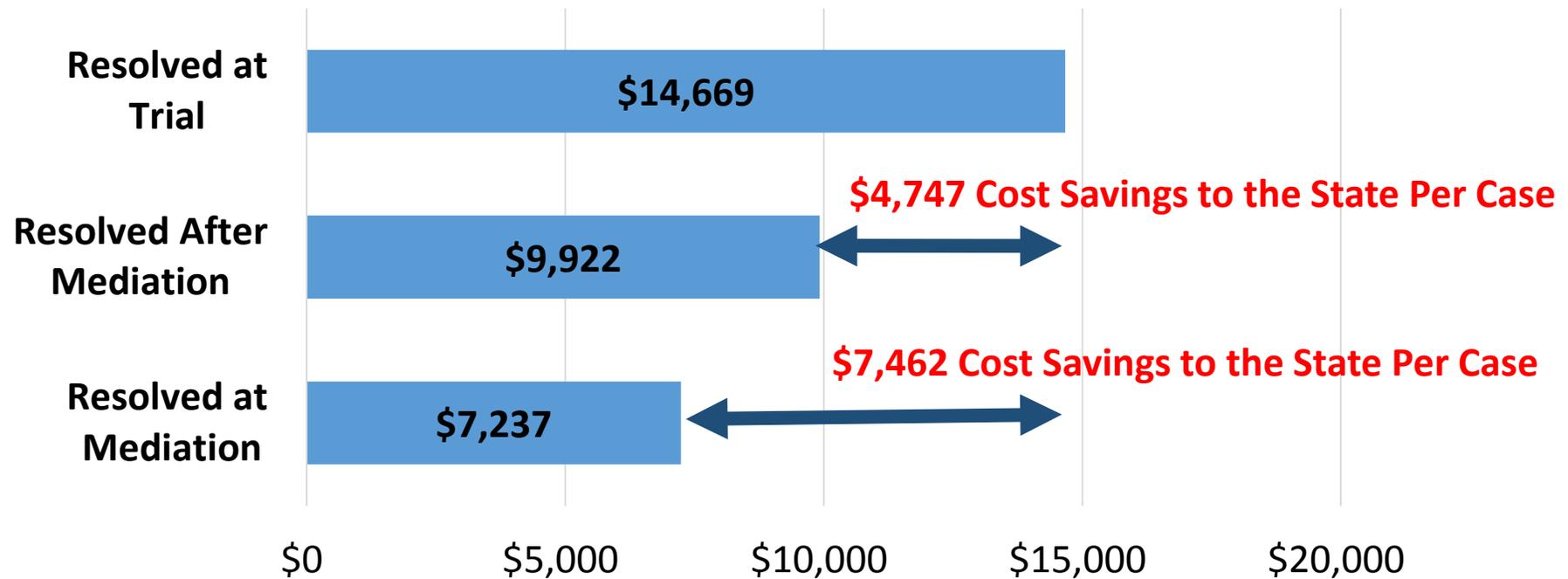


Source: DFPS Research Database in Qlikview for Travis County Family Court and IMPACT data provided by DFPS, updated through May 2016.

Notes: The median is used as the measure of central tendency for all cost calculations.

# Travis County Saves Between \$4,800 and \$7,500 Per Case in State Costs Through the Use of Mediation

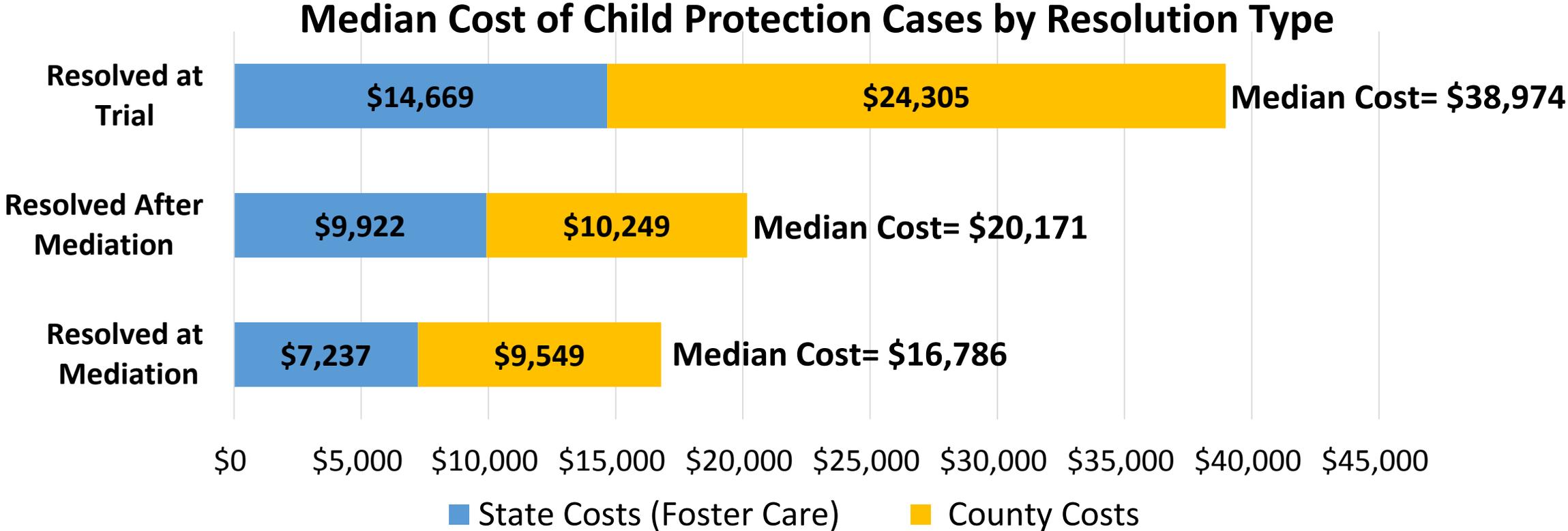
## State Cost of Child Protection Cases by Resolution Type



Source: DFPS Research Database in Qlikview for Travis County Family Court and IMPACT data provided by DFPS, updated through May 2016.

Notes: The median is used as the measure of central tendency for all cost calculations. State cost differences by group are driven by length of time spent in placements, the type of placement, and level of care per placement.

# Overall, Travis County Saves Between \$16,000 and \$20,000 Per Case Through the Use of Mediation



Source: DFPS Research Database in Qlikview for Travis County Family Court and IMPACT data provided by DFPS, updated through May 2016.

Notes: The median is used as the measure of central tendency for all cost calculations.

# Cost Differences Are Driven By Foster Care and Attorney Fees

	<b>Group 1: Resolved without mediation N=1003</b>	<b>Group 2: Resolved at mediation N=515</b>	<b>Group 3: Resolved after mediation N=177</b>	<b>Group 4: Resolved at trial N=83</b>
<b>Median County Costs Per Case</b>	<b>\$3,771</b>	<b>\$9,549</b>	<b>\$10,249</b>	<b>\$24,305</b>
Attorney Fees	\$3,771	\$8,482	\$9,182	\$21,335
Mediation	\$0	\$1,067	\$1,067	\$1,050
Jury	\$0	\$0	\$0	\$1,920
<b>Median State Costs (Foster Care) Per Case</b>	<b>\$4,939</b>	<b>\$7,237</b>	<b>\$9,922</b>	<b>\$14,669</b>

Source: DFPS Research Database in Qlikview for Travis County Family Court. Includes TMC and PMC cases filed after October 2007 and closed before February 2015. Notes: The median is used as the measure of central tendency for all costs, because of skew in the distribution of costs within groups. Individual line costs differ from overall case cost because of skew in the distribution for certain costs.

# Travis County Saved Up to \$2 Million Annually Through Mediation in County and State Costs

	County Costs Saved Per Case	State Costs Saved Per Case	Annual Number of Cases	Annual County Cost Savings	Annual State Cost Savings Per Year	Total Cost Savings Per Year
<b>Group 2: Resolved at mediation N=515</b>	\$14,756	\$7,462	74	\$1,091,935	\$549,956	\$1,641,891
<b>Group 3: Resolved after mediation N=177</b>	\$14,056	\$4,747	25	\$351,394	\$118,658	\$470,053

Source: DFPS Research Database in Qlikview for Travis County Family Court and IMPACT data provided by DFPS, updated through May 2016 . Includes TMC and PMC cases filed after October 2007 and closed before February 2015. Notes: The median is used as the measure of central tendency for all costs, because of skew in the distribution of costs within groups. Individual line costs differ from overall case cost because of skew in the distribution for certain costs.

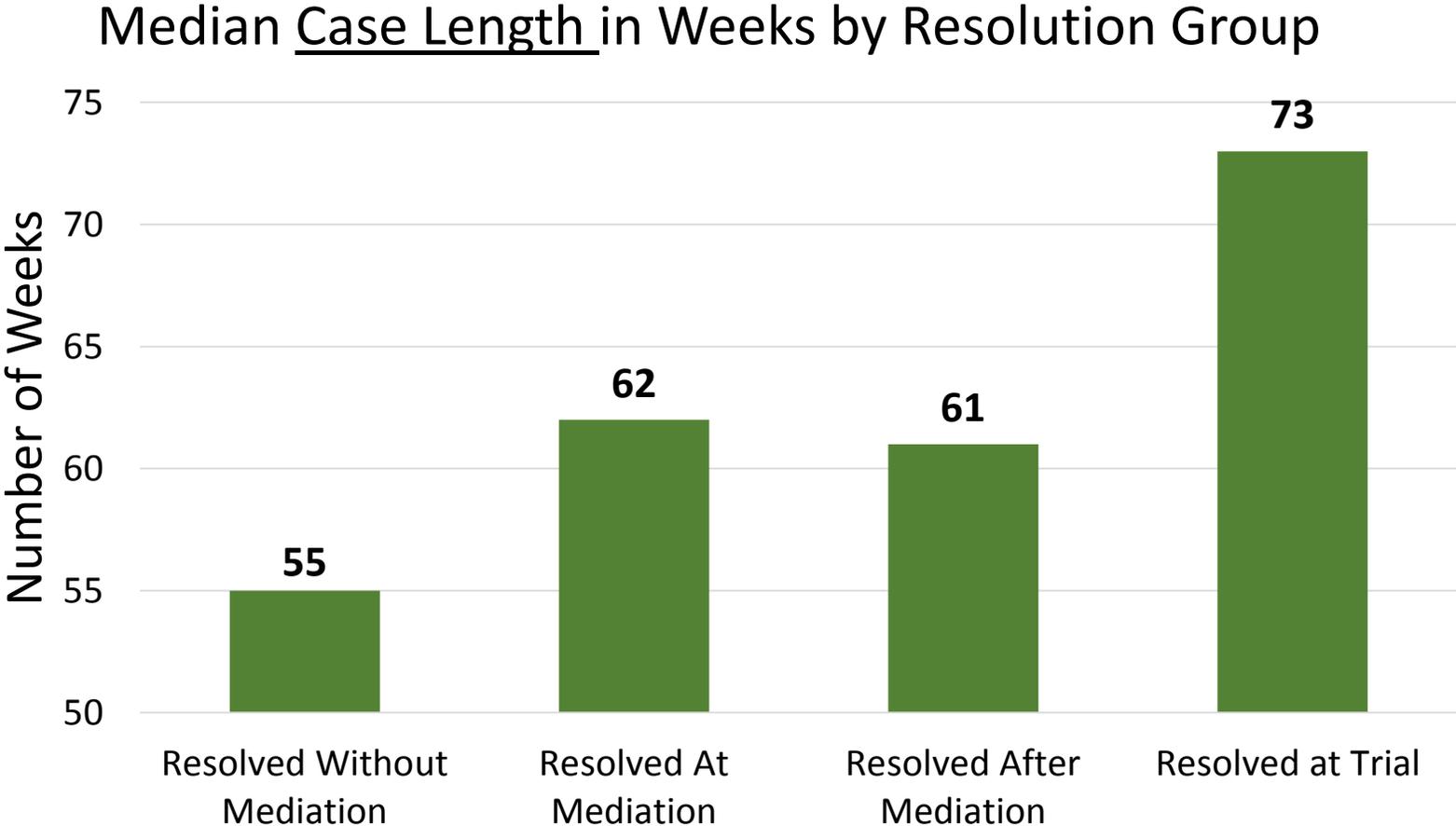
# Without Mediation, Up To 99 Additional Cases Might Proceed to Trial Annually in Travis County

Item	Unit Cost	Annual Cost in Travis County
<b>County Costs</b>		
Judge	\$140,000 annual salary	\$140,000
Court Operations Officer	\$48,000 annual salary	\$48,000
Court Reporter	\$80,341 annual salary	\$80,341
Inmate Transport to Trial	\$2,060 for transport and 6 days of housing x 6 average annual transports	\$12,360
<b>State Costs</b>		
CPS Caseworker	\$32,976 annual salary x 185 Conservatorship Workers in Austin region	N/A
Purchased Client Services	Varies- Includes counseling, Preparation for Adult Living (PAL) programming; relative caregiver support	N/A

Source: Texas Tribune Government Salaries, DFPS 2014 Data Book, DFPS Self Evaluation to Sunset Commission, Sept 2013, Meanette Salgado (Court Reporter), Joan Peterson (ADA), Lieutenant John Bartlett (Travis County Sheriff's Office), Amanda Michael (Lead Financial Analyst).

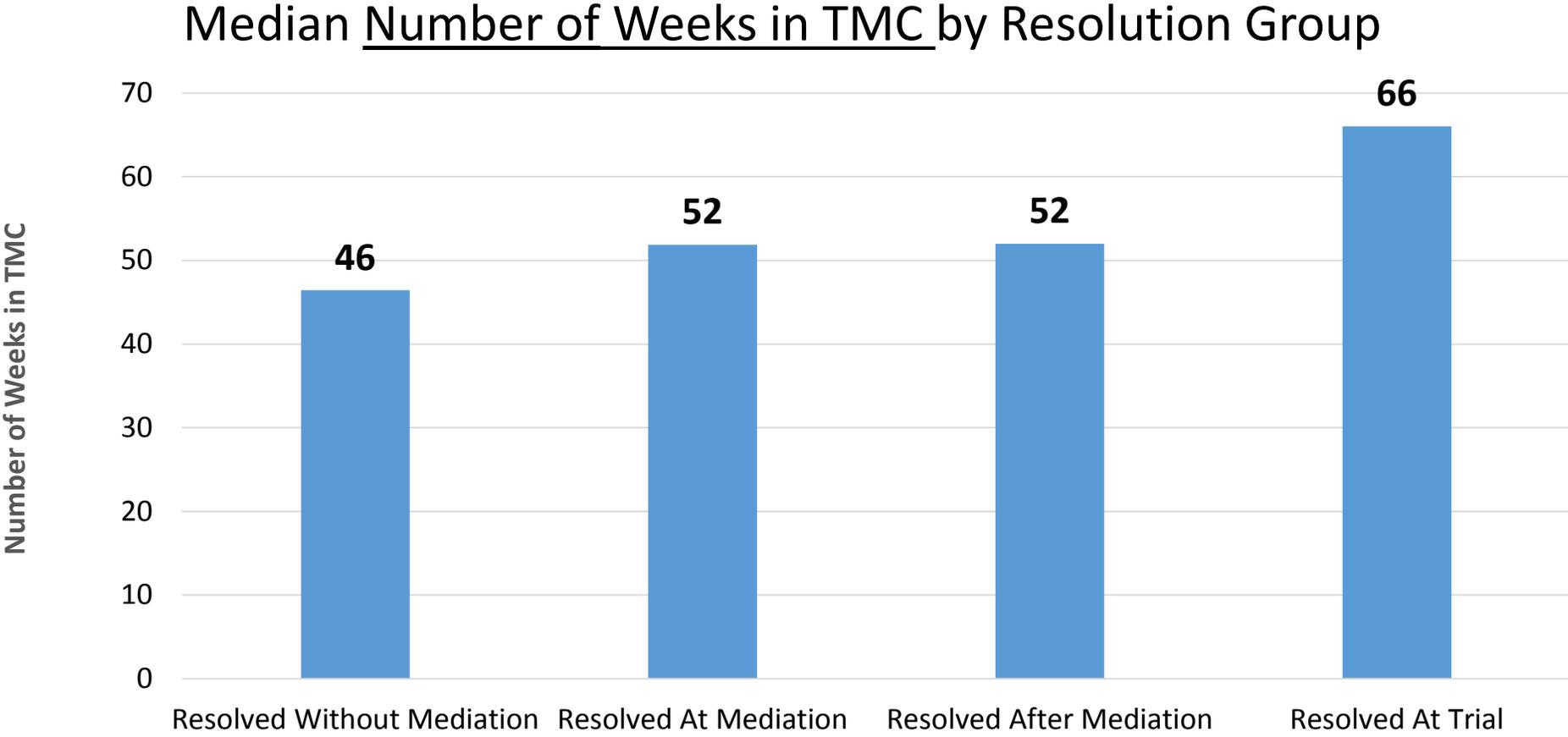
Notes: Number of items is an approximate number based on past years.

# Travis County Cases Resolved at Mediation Settled 11 Weeks Sooner



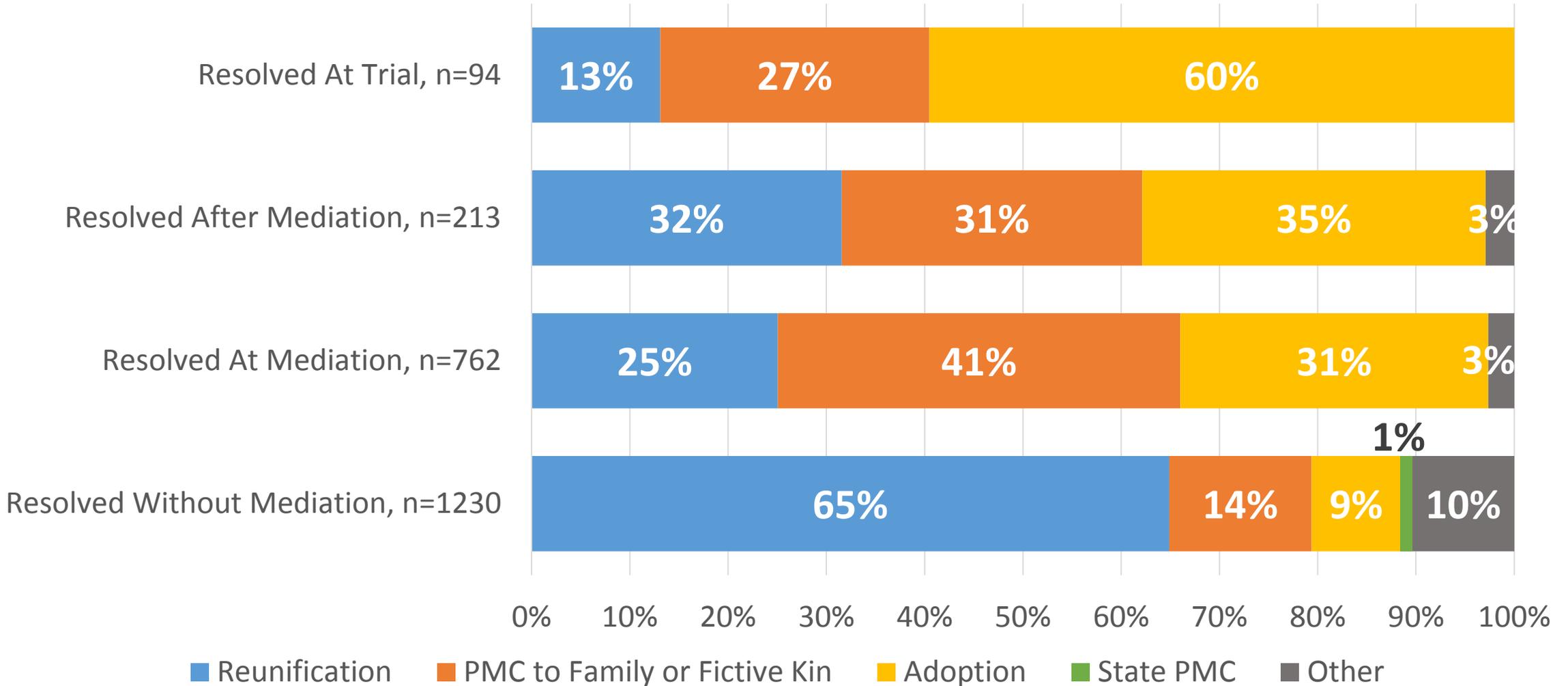
Source: DFPS Research Database in Qlikview for Travis County Family Court. Includes TMC and PMC cases filed in the Travis County Family Court after October 2007 and closed before February 2015.

# Children in Travis County Cases Resolved at Mediation Spent 14 Fewer Weeks in TMC



Source: DFPS Research Database in Qlikview for Travis County Family Court. Includes TMC and PMC cases filed in the Travis County Family Court after October 2007 and closed before February 2015.

# Cases that Settle at Mediation Frequently Result in PMC to Family or Fictive Kin



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