RESOLVING FAMILY LAW DISPUTES

Cost, Benefits and Limitations of Different Processes

5.1% of adults in Canada experience one or more serious family law problems in any given **3-year period**.

These can be problems related to:

- Separation
- Divorce
- Child Support
- Spousal Support
- Child Custody
- Guardianship
- Other Relationship Breakdown Matters
- Other Child-Related Matters

FAMILY LAW PROBLEMS CAN BE RESOLVED USING DIFFERENT METHODS, INCLUDING:

COLLABORATIVE SETTLEMENT PROCESSES

lawyers and other

MEDIATION

a neutral intermediary leads

ARBITRATION

resolutions to family law

LITIGATION

family law problems are professionals work with clients towards resolutions that meet the specific needs of those involved in the dispute.

parties through structured, interactive sessions aimed at mutually favourable outcomes.

problems are decided outside of the courts by one or more arbiters.

decided through judicial proceedings within the courts.

We asked 166 lawyers practicing family law in Alberta, British Columbia, Ontario and Nova Scotia questions about the **BENEFITS**, **LIMITATIONS**, **COST** and **SUITABILITY** of Collaboration, Mediation, Arbitration and Litigation to resolve different types of family law problems.

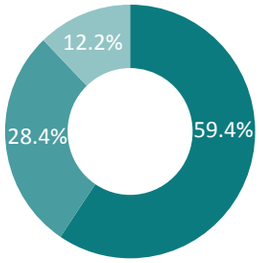
Here's what we found:

USEFULNESS OF DISPUTE RESOLUTION PROCESS TO RESOLVE DIFFERENT PROBLEM TYPES

Here's how lawyers rated these processes for addressing different types of family law disputes:

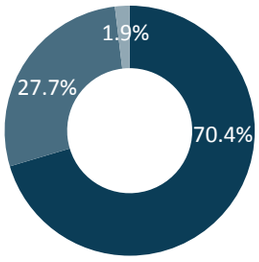
CARE OF CHILDREN AND PARENTING

COLLABORATION



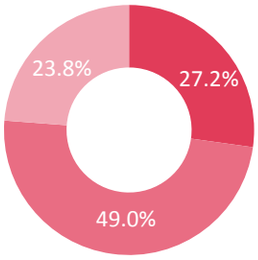
- Very Useful
- Somewhat Useful
- Not Useful

MEDIATION



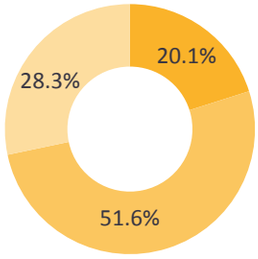
- Very Useful
- Somewhat Useful
- Not Useful

ARBITRATION



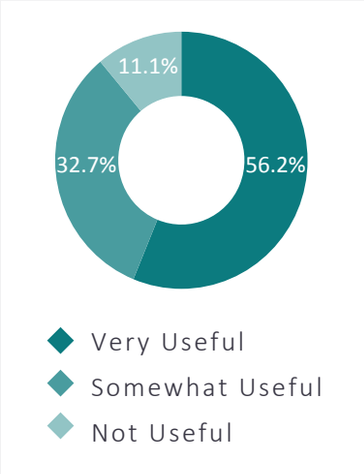
- Very Useful
- Somewhat Useful
- Not Useful

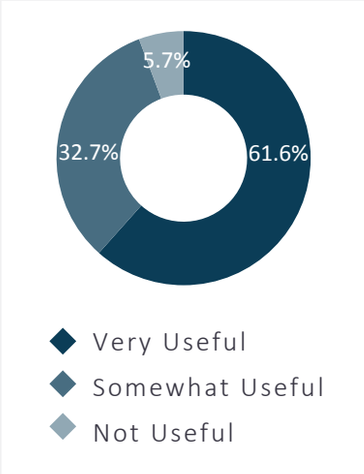
LITIGATION

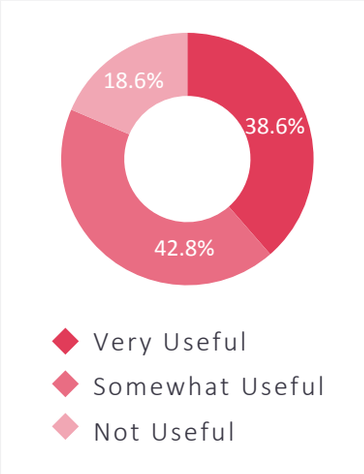


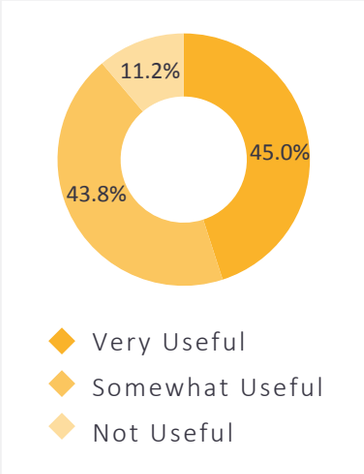
- Very Useful
- Somewhat Useful
- Not Useful

CHILD SUPPORT OR SPOUSAL SUPPORT

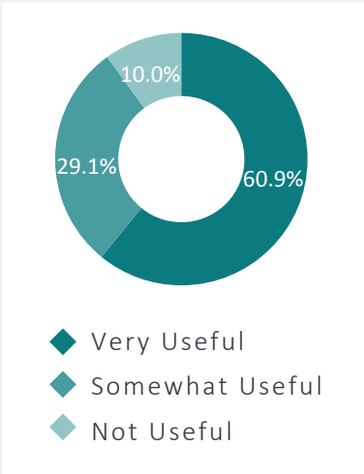


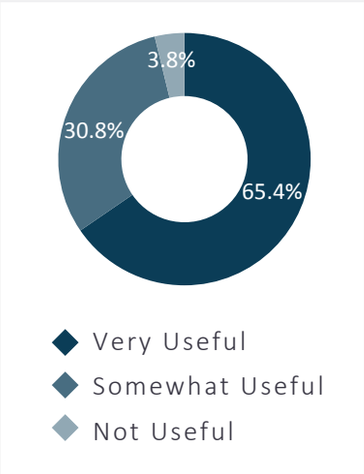


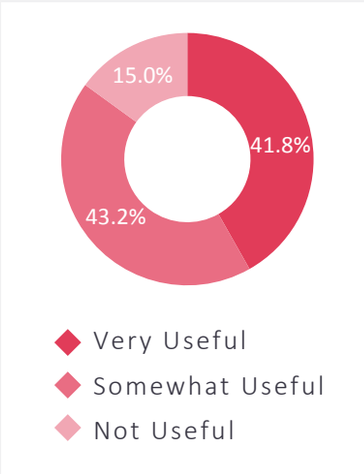


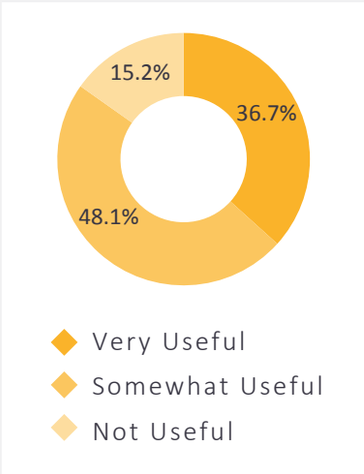


DIVISION OF PROPERTY AND DEBT

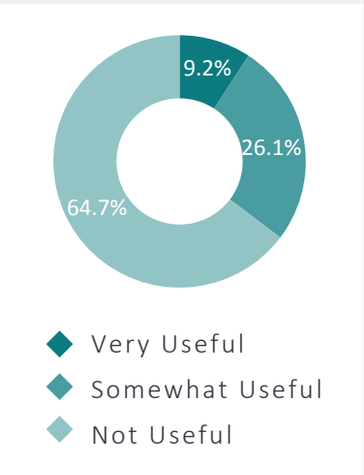


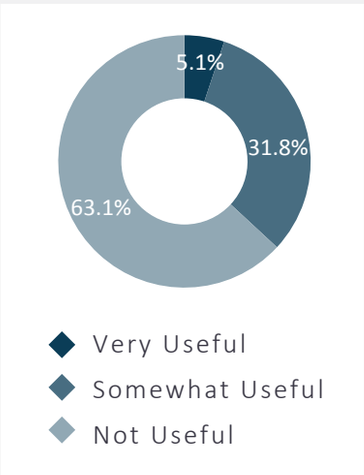


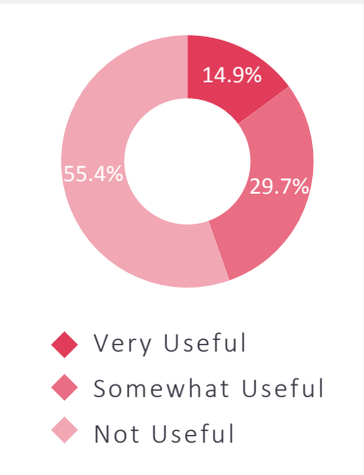


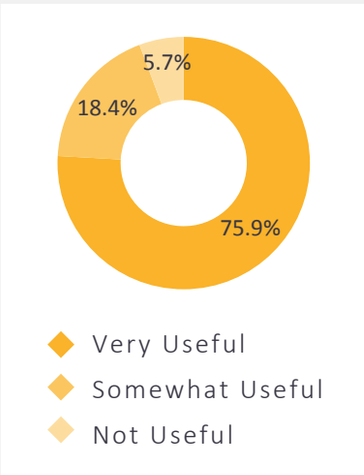


URGENT PROBLEM INVOLVING A RISK TO AN ADULT OR CHILD

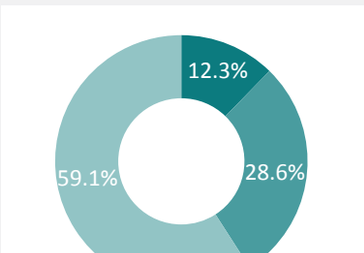


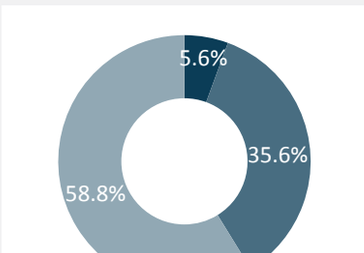


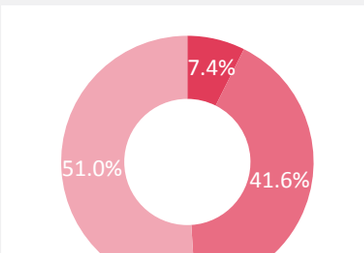


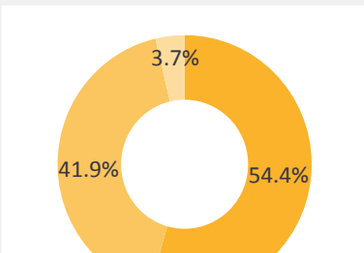


ALLEGATIONS OF FAMILY VIOLENCE OR ABUSE









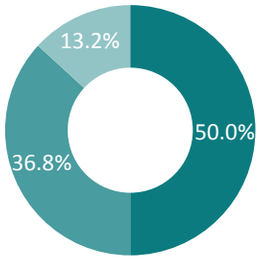
Very Useful
Somewhat Useful
Not Useful

Very Useful
Somewhat Useful
Not Useful

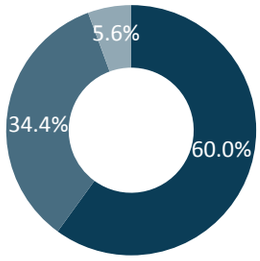
Very Useful
Somewhat Useful
Not Useful

Very Useful
Somewhat Useful
Not Useful

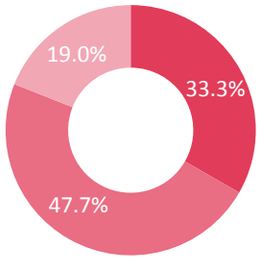
ISSUES ARISING AFTER THE RESOLUTION OF A DISPUTE



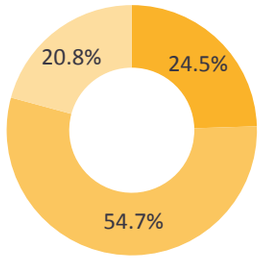
Very Useful
Somewhat Useful
Not Useful



Very Useful
Somewhat Useful
Not Useful

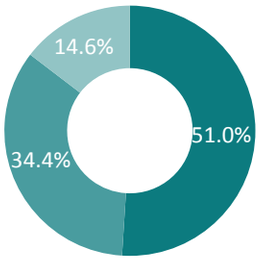


Very Useful
Somewhat Useful
Not Useful

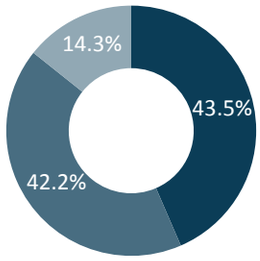


Very Useful
Somewhat Useful
Not Useful

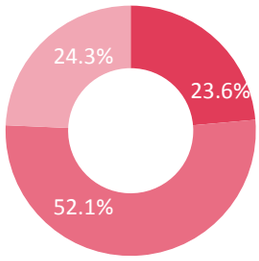
VOICES, VIEWS OR PREFERENCES OF CHILDREN



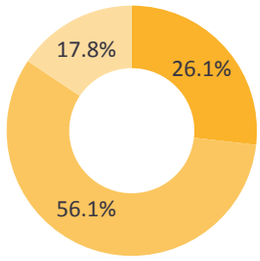
Very Useful
Somewhat Useful
Not Useful



Very Useful
Somewhat Useful
Not Useful



Very Useful
Somewhat Useful
Not Useful

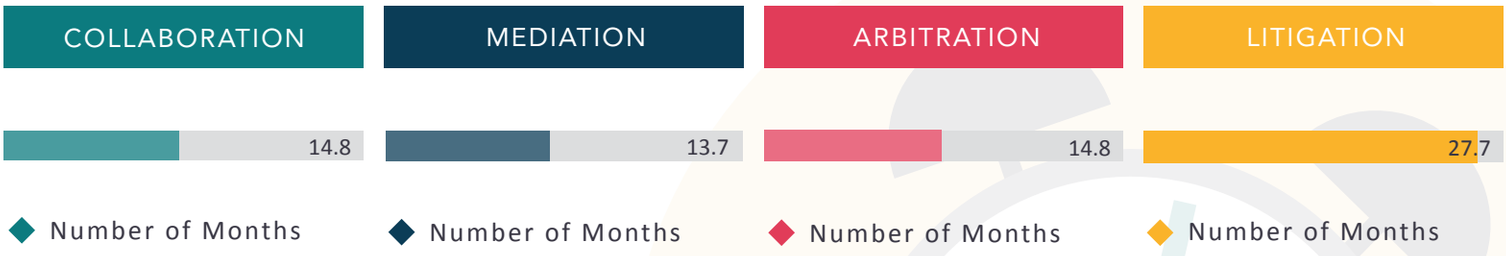


Very Useful
Somewhat Useful
Not Useful

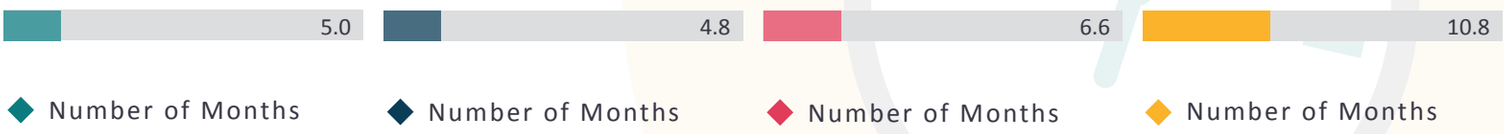
DURATION AND EFFICIENCY

How long does it take to resolve family law problems using these dispute resolution processes? How do they stack up in terms of efficiency? Here's what we found:

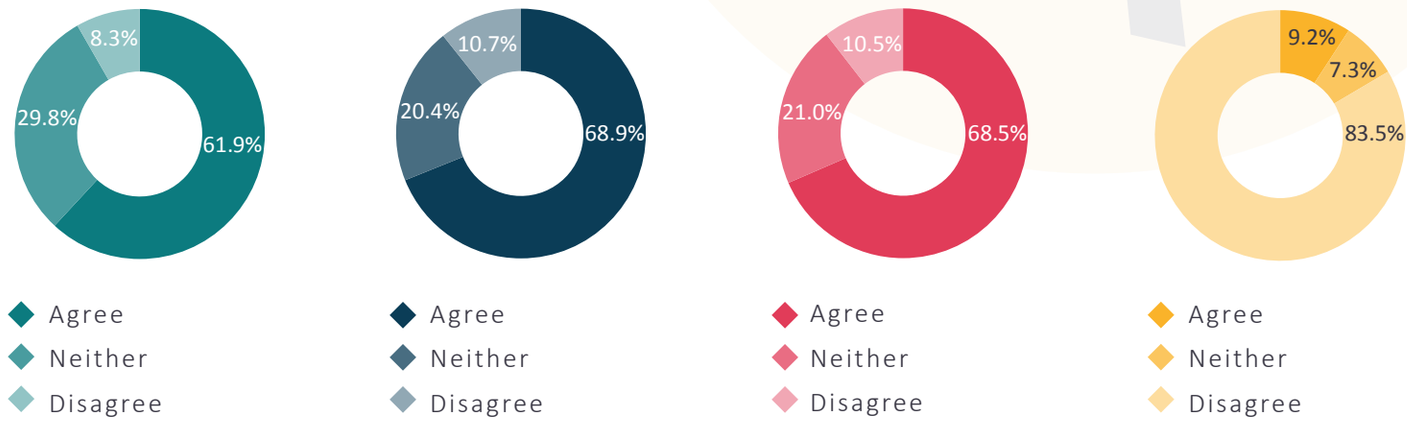
AVERAGE TIME TO RESOLVE *HIGH* CONFLICT DISPUTES



AVERAGE TIME TO RESOLVE *LOW* CONFLICT DISPUTES



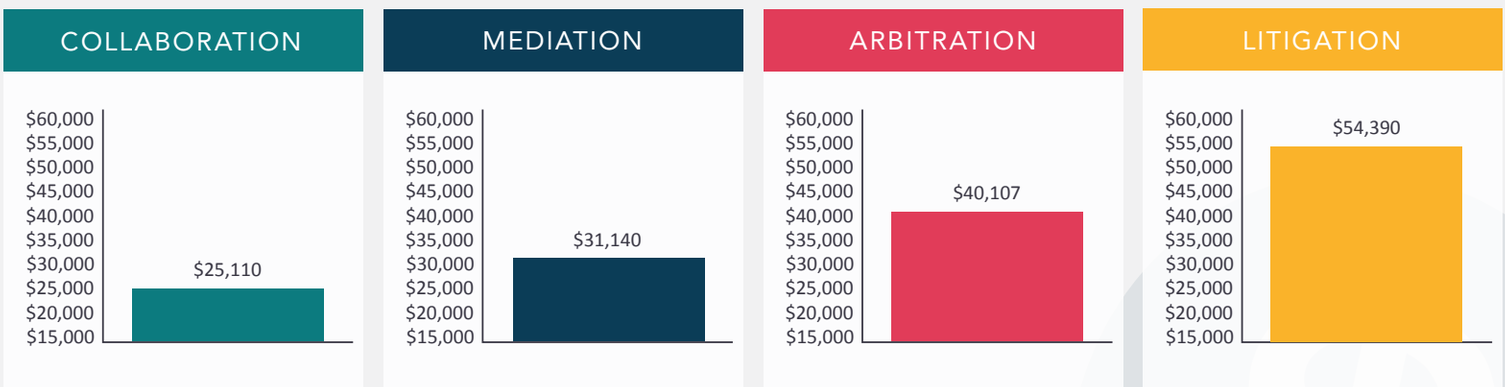
CONSENSUS THAT THE PROCESS IS "FAST" AND "EFFICIENT"



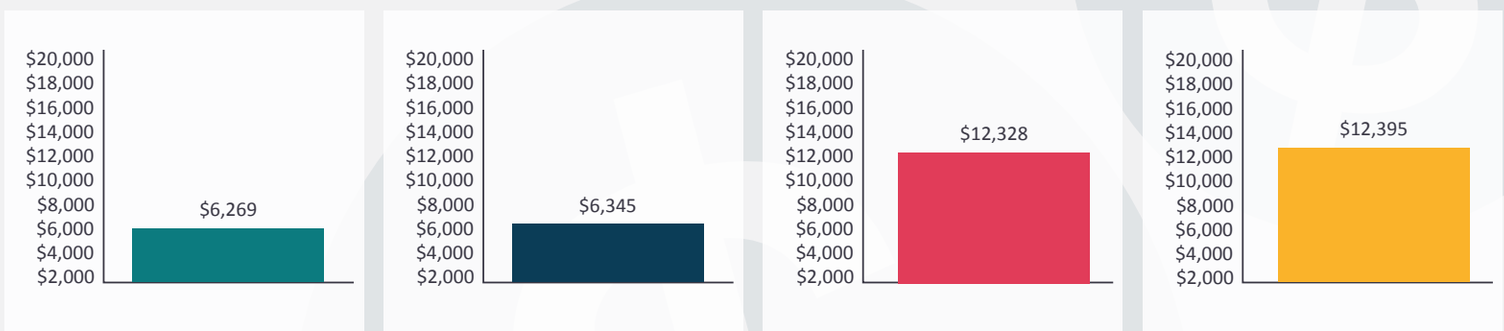
COST

What does it cost to resolve family law problems using these processes? Which processes are considered to be the most cost-effective? Here's what we found:

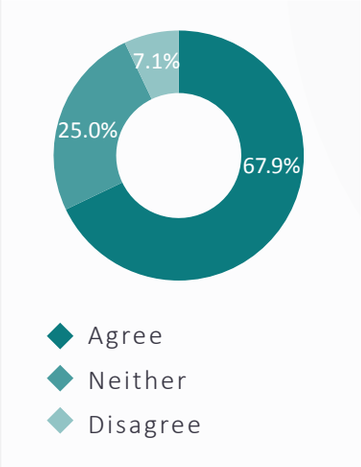
AVERAGE COST TO RESOLVE *HIGH* CONFLICT DISPUTES

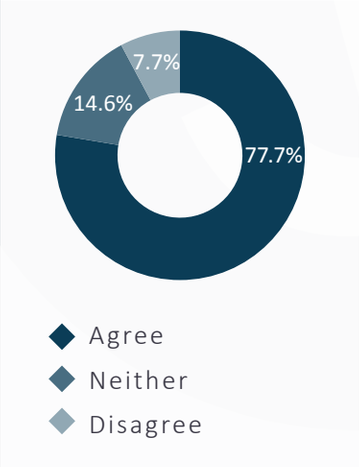


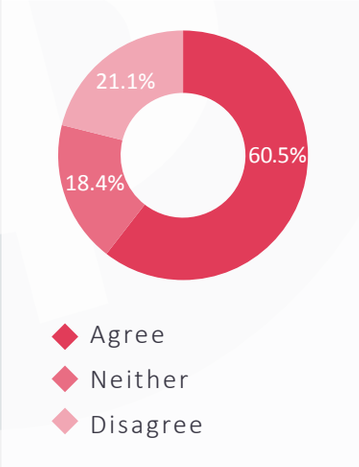
AVERAGE COST TO RESOLVE *LOW* CONFLICT DISPUTES

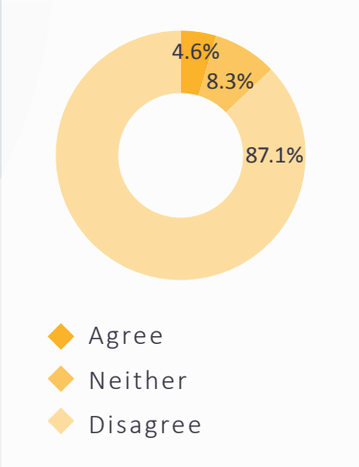


CONSENSUS THAT THE PROCESS IS "COST-EFFECTIVE"





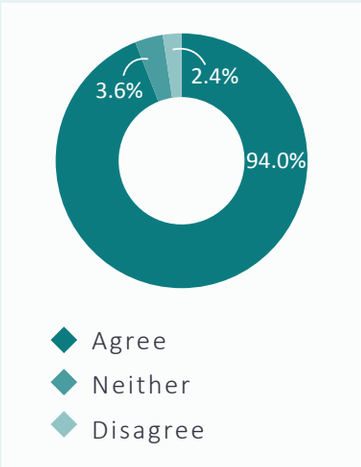


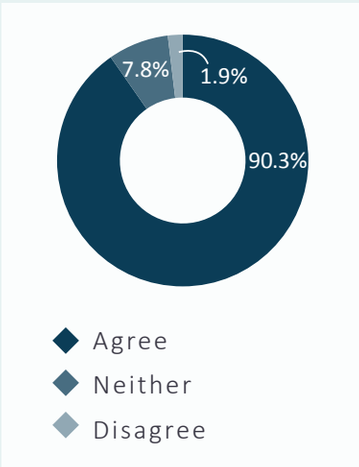


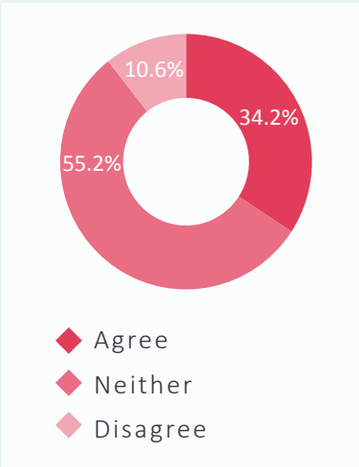
SATISFACTORY OUTCOMES

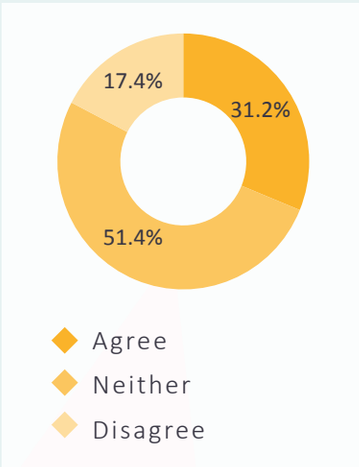
How well do each of these processes meet the expectations and needs of those involved in family law disputes and those affected by them? Here's what we found:

ACHIEVES RESULTS IN THE CLIENT'S INTEREST

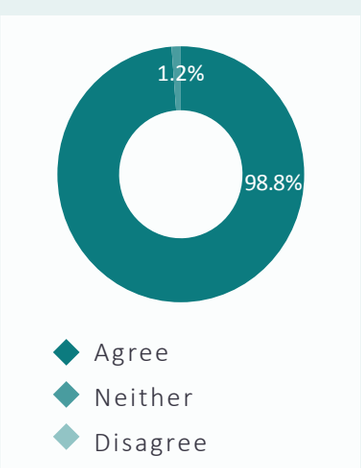


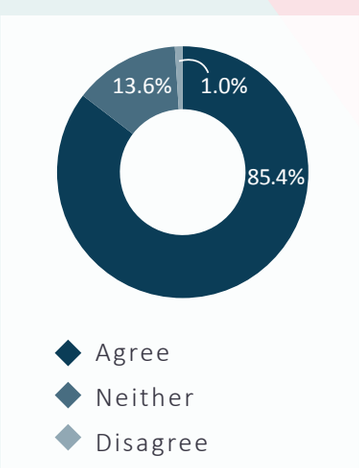


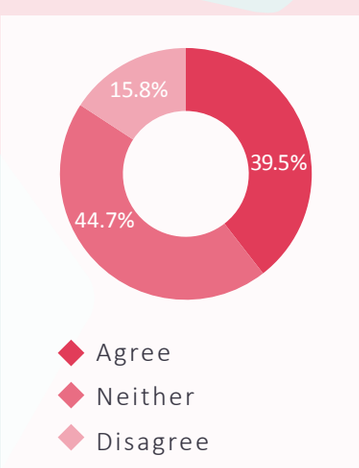


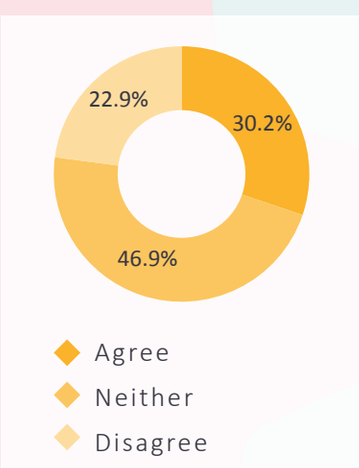


ACHIEVES RESULTS IN THE CLIENT'S CHILD'S INTEREST

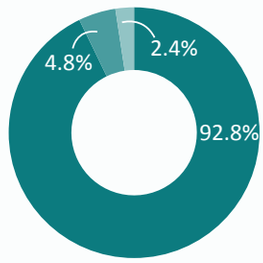




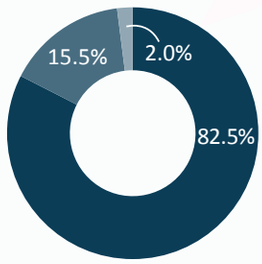




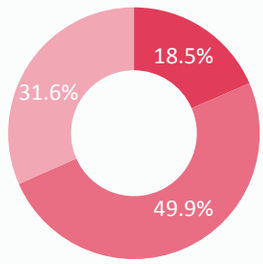
MAKES IT EASIER FOR PARTIES TO COOPERATE IN THE FUTURE



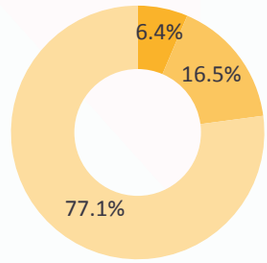
- Agree
- Neither
- Disagree



- Agree
- Neither
- Disagree



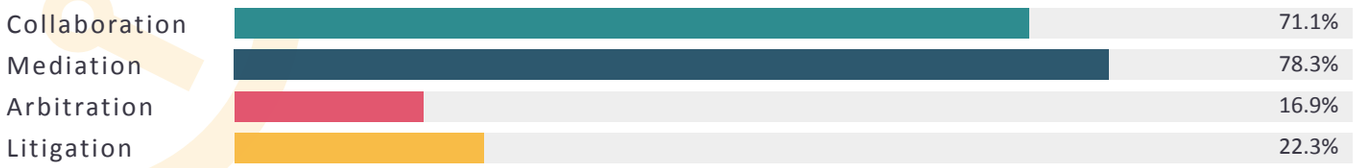
- Agree
- Neither
- Disagree



- Agree
- Neither
- Disagree

RESULTS IN THE MOST LONG-LASTING RESOLUTIONS

Lawyers chose the process or processes that they believe leads to the longest lasting resolutions

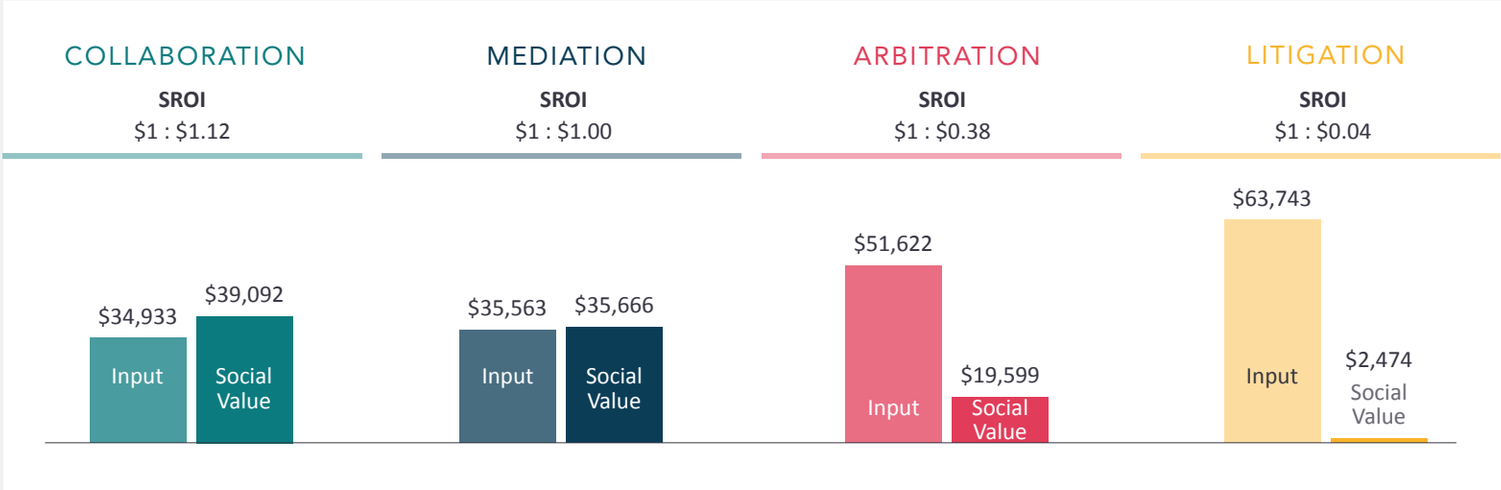


SOCIAL RETURN ON INVESTMENT (SROI) ANALYSIS

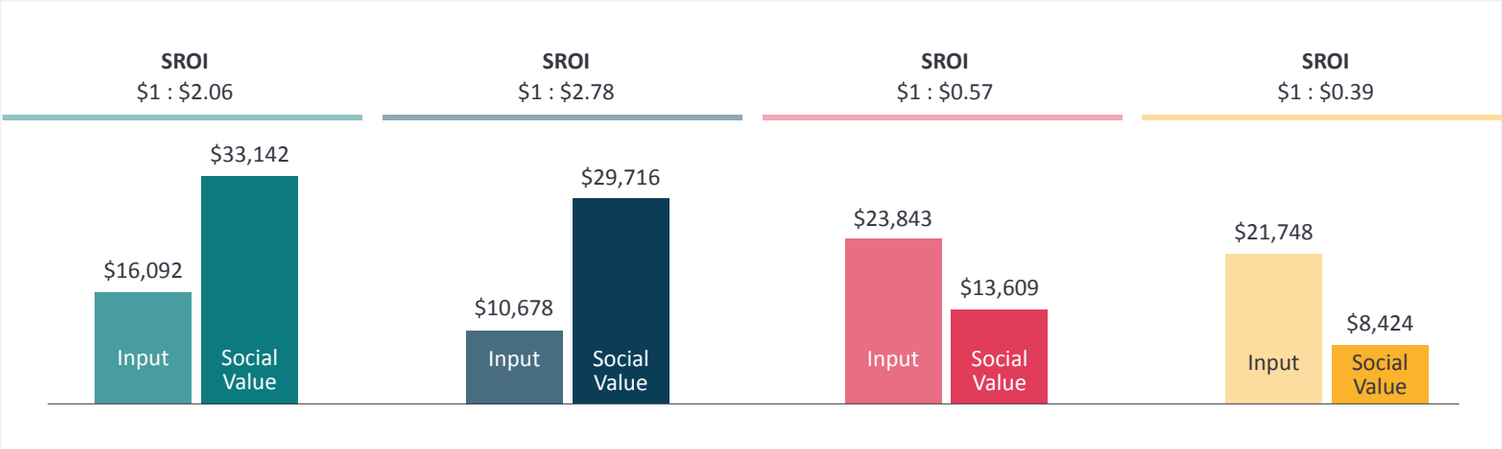
We used a modified SROI method to compare the investment made by lawyers and clients in resolving problems through each process with the impact and outcome of the processes. Here are the factors that were used to estimate the SROI for these dispute resolution processes:

- Length of Process
- Perceived fairness of outcome
- Satisfaction with outcome
- Potential for future conflict
- Cost to the family justice system

FOR EVERY $1.00 INPUT TO RESOLVE A *HIGH* CONFLICT DISPUTE, THE SOCIAL RETURN ON INVESTMENT IS:



FOR EVERY $1.00 INPUT TO RESOLVE A *LOW* CONFLICT DISPUTE, THE SOCIAL RETURN ON INVESTMENT IS:



HOW DO THESE DISPUTE RESOLUTION PROCESSES STACK UP AGAINST EACH OTHER?

Here's what we found:

Mediation and **Collaboration** are viewed as the most useful for:

- Low-conflict disputes
- Hearing the voices and preferences of children
- Issues arising after the resolution of a dispute
- Disputes about the care of children and parents
- Child support or spousal support
- Division of property and debt

Litigation is viewed as the most useful dispute resolution process for urgent problems involving

Litigation and **Collaboration** are useful for:

- Hearing the evidence of financial experts and valuators

Litigation is viewed as more useful for high-conflict disputes than the other dispute resolution processes.

Almost all lawyers who use **collaboration** or **mediation** say that they prefer to use those processes whenever possible.

- A risk to an adult or child,
- A risk to property
- Allegations of family violence or abuse
- Adult substance abuse
- Mental disorder
- Alienation

Lawyers' fees for typical **low-conflict** cases resolved through **collaboration** and **mediation** cost approximately **half** that of cases resolved through **arbitration** and **litigation**.

A **majority** of lawyers **agreed** that **mediation**, **arbitration** and **collaboration** are usually **cost-effective**.

A **majority** of lawyers using **litigation** **disagree** that it is usually **cost-effective**.

Almost all lawyers using **collaboration** and **mediation** agreed that the results they achieve are in the interest of the client's children.

Typical **low-conflict** cases resolved through collaboration or mediation cost almost **half** that of low- conflict cases resolved through arbitration or litigation.

Typical **high-conflict** cases resolved through **litigation** cost more than **double** that of high-conflict cases resolved through **collaboration**.

Over **90%** of lawyers using **collaboration** or **mediation** agreed that the results they achieve are in the client's interest. This compares to approximately 30% of lawyers using **arbitration** or **litigation**.

CFCJ FCJC
Canadian Forum on Civil Justice
Forum canadien sur la justice civile

THE COST OF JUSTICE

This infographic was prepared by the Canadian Forum on Civil Justice (CFCJ) . Data presented in this infographic is from the Canadian Research Institute for Law and the Family's (CRILF's) "An Evaluation of the Cost of Family Law Disputes: Measuring the Cost Implications of Various Dispute Resolution Methods" report prepared for the CFCJ.

CANADIAN RESEARCH INSTITUTE FOR LAW AND THE FAMILY