

Court-Ordered Mediation: Perceptions and Outcomes

by

Betty R. McCrary

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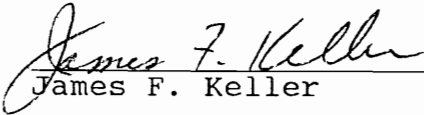
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Family and Child Development

APPROVED:



Michael J. Sporakowski, Chairman



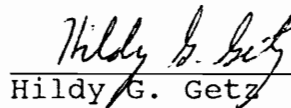
James F. Keller



Howard O. Protinsky, Jr.



Lawrence H. Cross



Hildy G. Getz

January, 1992

Blacksburg, Virginia

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Betty Rhodes McCrary

Committee Chairman: Michael J. Sporakowski
Family and Child Development

(ABSTRACT)

Data from 135 parents were used to explore and compare perceptions of process and outcome for court-ordered and voluntary participants in child custody/visitation mediation. Information from the Clients Assessment of Mediation Services (CAMS) is used to analyze six process and four outcome variables for male/female and agreement/no agreement groups. Data were reported on mediated agreements and reasons for termination of mediation prior to reaching agreement.

The results of this study indicated voluntary mediation participants, more than court-ordered participants, were 1) emotionally satisfied with the agreement, 2) believed mediators were warm, sensitive, and sympathetic, and 3) mediation improved their relationship with their (ex)spouse.

Voluntary and court-ordered participants were similar on process variables of empowerment, adequacy of information, and mediator impartiality, and outcome variables of satisfaction with custody and adequacy of

information about child issues. There were significant differences between court-ordered agreement/no agreement groups on the process variables of sensitive/effective mediator, empowerment, adequacy of information and focus on issues, and outcome variables of satisfaction with agreement, emotional satisfaction, satisfaction with custody and adequacy of information on child issues.

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CHAPTER I
INTRODUCTION

The process of divorce is accompanied by emotional turmoil and transition. The dissolution of a marriage, which begins well before the legal divorce and continues through an extended period of readjustment following formal proceedings, is a time of upheaval for most parents and children (Emery, Hetherington, & DiLalla, 1984). Parents express anger, depression, distrust, and ambivalence, and children are torn by loyalty dilemmas, saddened by separation/loss of a parent, and anxious about the stability in their lives (Emery & Wyer, 1987).

The consequences of divorce for children have long been studied and documented (Emery, 1982; Hetherington, 1979; Hetherington, Cox, & Cox, 1978; Wallerstein & Kelly, 1980; Weitzman, 1981; Zill, 1978). Children involved in interparental conflict before, during, and after divorce, are likely to react to this stress. Evidence supporting this conclusion includes findings that: 1) children who experience parental loss through death have better longterm adjustment than those who experience a parental divorce (Douglas, Ross, Hammond, & Mulligan, 1966; Gibson, 1969; Gregory, 1965), and 2) children from high-conflict, as opposed to low-conflict, divorces have more psychological

difficulties (Anthony, 1974; Hetherington, Cox, & Cox, 1976; Wallerstein & Kelly, 1980). The adversarial settlement of custody disputes would appear to place children in the middle of interparental conflict and promote further stress between divorcing partners who will remain parents.

Traditionally, divorcing parents have each secured lawyers who have, in turn, petitioned the court to decide the several issues involved in terminating a marriage. When there is a disagreement over issues regarding the children, public agencies (usually Social Services) have been ordered to investigate each parent and recommend to the court which parent should get custody of the children. This adversarial system has sometimes led to settlements that have had to be retried, and often has served to deepen the divorce wounds that each family member feels. This process is also costly to the courts, to the agencies, and to the families.

Mediation is a process in which divorcing parents meet with a neutral third party who works to help them identify, negotiate, and resolve disputes (Emery & Wyer, 1987). Mediation is an increasingly popular alternative to the traditional adversarial process of petitioning the court to make decisions regarding child custody and visitation arrangements. Currently, many states have mediation

sanctioned by law and, in some, mediation must be explored prior to court settlement. California, Maine, and Delaware have enacted statutes that mandate the mediation of custody disputes, and several other states allow judges to make referrals to mediation at their discretion (Freed & Foster, 1984; Me. Rev. Stat. Ann., 1984; Mich. Comp. Laws Ann., 1983). In Virginia, the Code of Virginia allows judges to order service delivery from any state or local agency, and if a custody mediation program exists, judges may court order or court refer cases to that program. Beginning in July 1991, social service agencies could charge a fee, based on income, for custody mediation.

Although divorce/child custody mediation has generated both interest and controversy, it has been the focus of relatively little systematic research (Emery & Wyer, 1987). Research investigating the effectiveness of the mediation alternative in divorce is also limited (Emery & Wyer, 1987; Kressel, 1985; Kressel & Pruitt, 1989; Pearson & Theonnes, 1989).

Kelly and Gigy (1989) completed a longitudinal study of mediation and adversarial divorce processes using a volunteer sample of clients. They concluded that mediation respondents perceived multiple aspects of their process and agreements to be more satisfactory compared to respondents using an adversarial approach. Research on mediation

satisfaction is generally studied utilizing a volunteer sample and the literature is lacking studies which look at perception and outcome of clients participating in court-ordered mediation.

The purpose of this study was to investigate court-ordered clients' attitudes toward selected aspects of the mediation process and its outcomes. The analysis also examined two dimensions of client satisfaction: satisfaction with the mediated agreement and emotional satisfaction. The rationale for this study was based upon the lack of empirically based literature concerning court-ordered mediation and its outcomes.

The following research questions are based on several assumptions about mediation:

- helping professionals believe that parents know what is best for their children and these parents should participate in decision-making
- mediation is a constructive communication enhancing process
- judges currently have relatively weak guidelines in the determination of custody and
- mediation can be both time and money saving.

Research Questions: Research questions addressed include:

1. What specific factors of the mediation process are more highly associated with reaching agreement?
2. What conflicts are referred to mediation? When agreements are reached, what percentage of parents abide by the terms of the agreement and how are changes negotiated after mediation is terminated?
3. Why do participants terminate mediation prior to reaching an agreement?

CHAPTER II

REVIEW OF THE LITERATURE

The divorce process and specific transitions are often accompanied by stress, conflict, and change. The process of marital dissolution and the separation of spousal roles from parental roles parallels a roller coaster ride. Emotions are up and down and those emotions feel out of control and/or manipulated by others. Those involved are torn by loyalty dilemmas, saddened by separation from family members, and anxious and uncertain about finding stability in their lives (Emery & Wyer, 1987).

The legal system has been somewhat slow in changing to accommodate the large number of divorce cases and the consequent requests for judicial determination of children's custody and resolution of other child-focused issues. The majority of divorced partners themselves report dissatisfaction with their experience with the entire legal system, including laws, judges, and lawyers (Spanier & Anderson, 1979).

Child-focused issues, such as custody and parental visitation, present unique issues. Although only about 10% of all divorces result in a formal court hearing (Bodenheimer, 1977; Foster & Freed, 1980), post-dissolution litigation occurs in as many as one-third of those cases

in which children are involved (Foster & Freed, 1973). The "tender years" presumption, a doctrine that held that young children should remain in the care of their mothers (Derdeyn, 1976), and the "best interests standard", a rule in which the judiciary should make custody decisions based on what will be in the future best interests of the children (Musetto, 1982), which once guided judges in making custody determinations, have been questioned and altered to the extent that judges currently are left with no strong guidelines in the determination of custody (Mnookin, 1975).

Legal and psychological concerns provide impetus for the exploration of alternative, cooperative means of settlement. One well known alternative is divorce mediation, a process in which divorcing persons meet together with a neutral third party (known as the mediator) who helps them to define, negotiate, and resolve issues of dispute. The mediator does not encourage marital reconciliation, but rather keeps the focus on issues of disagreement, such as child custody, visitation, or support.

Mediation differs from traditional adversarial methods of resolution in that mediation is based on the premise of cooperation rather than competition, communication takes place through a neutral third party (the mediator), and

the parties are in control of the decisions they make (Emery & Wyer, 1987). Mediation assumes that parents know their children better than anyone else and that parents can make the best decisions in issues that affect their children's lives. Most child custody issues are settled by parents themselves (62%) or in consultation with their attorneys (27%) (McIssac, 1981). Kelly (1983) believes that mediation is a goal-focused, task-oriented, time-limited process that emphasizes the present and the future, not the past. Kelly notes the goal of mediation is to negotiate a settlement of issues identified by the clients and the mediator as germane to the dispute. Mediation has four subgoals: 1) restructuring the marital relationship so that it can function effectively in continued parenting after divorce; 2) restructuring parent-child relationships to best meet the needs of each individual; 3) creating a model of communication and problem solving that can be replicated in future interactions; and 4) facilitating the adjustment of family members to the divorcing process.

Mediation may allow the exploration of some emotional issues that underlie the legal dispute; however, the exploration and resolution of problems related to the psychological aspects of the divorce are limited according to the overriding objective of negotiating an agreement that is acceptable to both parties (Kelly, 1983).

The most utilized settings for mediation programs are in connection with the courts or social service departments operating in cooperation with courts. Mediators in these public programs typically have advanced training in the mental health professions, work only with parents who have requested a court hearing, and limit negotiations to child custody or visitation disputes, leaving financial issues to be resolved through the adversary process (Pearson, Ring & Milne, 1983). Division of property, child and spousal support seem to lie more within the expertise of an attorney since more technical, legal and financial considerations are concerned (Emery & Wyer, 1987). In Virginia, the Code sets forth the guidelines to be used by judges in the determination of support (Code of Va.). California is well known as a forerunner for these mediation programs due to changes in the law in 1981 which mandated all parents who petition the court for custody or visitation must first attempt to resolve their disputes in mediation (California Civil Code, 1981).

Varied findings are reported in the literature regarding the number of agreements that were reached in mediation. McIsaac (1982) reported that 55% of couples in Los Angeles County reached an agreement while Salius and Maruzo (1982) reported 64% reached agreement in a Connecticut study. Kressel (1985) reported that, across

studies, most settlement rates fall between 40% and 70%. Other studies indicate that public mediation services help family members reach agreements in one half to three quarters of their cases (Irving, Benjamin, Bohm, & Mac Donald, 1981; Pearson & Thoennes, 1982).

Not all mediation efforts result in an agreement. The process does encourage cooperation, and those who fail to reach an agreement in mediation are more likely to negotiate a settlement out of court than are partners who never attempt mediation (Pearson, Thoennes, & Vanderkooi, 1982).

Are divorcing parents who participate in mediation more satisfied with this process than those parents who participate in the traditional litigation process? Most studies indicate yes (Irving, 1980; Kelly, 1989; Pearson & Thoennes, 1989). Generally, program studies have been conducted in which parents were assigned or asked to volunteer as participants in either a mediation group or a litigation group in order to reach a settlement about child custody/visitation. Numbers in these groups were controlled and, for the most part, the mediation process was followed from beginning to end.

Earlier data were interpreted as indicating that divorcing parents were more satisfied with mediation than with litigation. In three field studies in which families

were randomly assigned to mediation or litigation, it was found that: 1) mediation partners were three times more likely to report that "things had gotten much better" 6 weeks following the settlement (Irving, 1980); 2) at 6 to 12-month follow-up, parties with mediated settlements reported more satisfaction with the process and viewed it as being more fair (Pearson & Thoennes, 1982), and 3) when interviewed a short time after reaching a settlement, parents said mediation was less biased and more suited to the family than were adversary procedures (Watson & Morton, 1983). Pearson and Thoennes (1984) concluded that families entering into mediation settle issues out of court, parents express a preference for mediation over adversarial settlement, and at least in the short term, fewer families who go through mediation return to court with a new dispute.

Two longitudinal studies, the Denver Custody Mediation Project (conducted 1979-1981) and the Divorce Mediation Research Project (began in 1981), were conducted by Jessica Pearson and Nancy Thoennes. The Denver Custody Mediation Project provided mediation services to 160 couples contesting child custody and/or visitation arrangements. During this evaluation, three sets of interviews were conducted with 217 mediation clients, 113 persons who had

rejected an offer of mediation, and 89 others who chose to use traditional adversarial methods of settlement.

The Divorce Mediation Research Project collected data at three sites: the Los Angeles Conciliation Court, the Family Relations Division of the Connecticut Superior Court, and the Domestic Relations Division of the Hennepin County (Minneapolis) Family Court (Pearson & Thoennes, 1989). Observation, interviews, and analysis of video tapes were used to collect the data. Questionnaires were administered, at three points in time, to 450 mediation clients. Interviews were conducted with 100 individuals using the traditional adversarial approach and 100 divorcing, but noncontesting individuals.

In these studies, more than three-fourths of the clients expressed extreme satisfaction with mediation and would recommend it to others (Pearson & Thoennes, 1989). The majority (69%) agreed that mediation helped them focus on the needs of the children, and 70% to 90% agreed with the statement "Mediation gave me a chance to express my own point of view" (Pearson & Thoennes, 1989, p. 19). Kelly (1989) reports "spouses in mediation believed that the mediation process has a more beneficial effect on their ability to be reasonable and communicative with each other compared to adversarial respondents who used attorneys" (p. 84). These respondents also believed the mediators led

them to reach more workable compromises. Other positive features of mediation included the ability to identify the real issues in a dispute, the process was less rushed and superficial as compared to the courtroom, and finally, that mediation was better than going to court.

Negative reactions included that the sessions were tension-filled and unpleasant, and that they stimulated feelings of anger and defensiveness (Pearson & Thoennes, 1989). Other respondents (Pearson & Thoennes, 1989) expressed faulty expectations; 20% to 40% agreed that mediation was confusing and there were misconceptions about the goal of mediation. Those who believed the goal was reconciliation were either annoyed (if not interested in reconciling) or disappointed (that the process did not focus on ways to save the marriage). Finally, between a quarter and a third of the respondents of the Denver Mediation Research Project felt mediation was too rushed and should be given more time.

The Divorce and Mediation Project (Kelly, 1989; Kelly & Gigy, 1988; Kelly & Gigy, 1989) was initiated in 1983 as a multimeasure longitudinal design to investigate the effectiveness of a comprehensive divorce mediation process as contrasted to a traditional two-attorney adversarial divorce process. The 225 individuals (including 47 couples) in the adversarial sample were contacted from

court records of divorce petitions filed in Marin County, California, between 1984 and 1989 (Kelly & Gigy, 1989). The mediation sample consisted of 212 individuals (106 couples) who came voluntarily to the Northern California Mediation Center for mediation of issues pertaining to their divorce. Thirty-eight percent of these clients were referred by legal (21%) and mental health (17%) professionals, 35% came at their own or their spouse's initiative, 16% learned of the Center from friends or prior clients, and 11% had other or overlapping resources (Kelly & Gigy, 1989).

Kelly and Gigy (1988), developed the Client Assessment of Mediation Services (CAMS), to measure respondent's perceptions of and satisfaction with mediated and adversarial divorce process and outcomes. Process variables centered in six major dimensions: 1) effectiveness and sensitivity of mediator/attorney; 2) empowerment; 3) adequacy of information; 4) mediator/attorney impartiality; 5) focus on issues; and 6) impact on spousal relationship. Outcome variables centered into five main dimensions: 1) satisfaction with financial (nonchild) agreements; 2) emotional satisfaction; 3) satisfaction with custody and child support agreements; 4) understanding of children's needs and issues; and 5) overall satisfaction with mediated or adversarial divorce.

The data from the CAMS made significant contribution to Kelly and Gigy's (1989) following conclusions which relate to the client's perception of the mediation process:

Effectiveness and Sensitivity of Mediator/Attorney:

In reviewing Kelly and Gigy's process variable outcomes, the following conclusions were documented. Between 65% and 82% of men and women in both the adversarial and mediation groups viewed their attorneys and mediators as warm, sympathetic, and sensitive to and concerned about their feelings regarding divorce, and many respondents felt their attorneys and mediators helped them to stand up for their rights when the clients disagreed (Kelly, 1989). Mediators were reportedly more helpful than attorneys in the following areas: proposing ways to resolve disagreements with spouses, leading both spouses to workable compromises, helping clients control angry feelings, and overall, more skilled in the process.

Empowerment: Comparison of group means indicate that neither the mediation nor adversarial group viewed the process as particularly enhancing to the overall ability to stand up for themselves. Mediation women were most likely to report that the process helped them to stand up for themselves as compared to adversarial women and men. Mediation males were less likely to believe this was true

(Kelly, 1989). Both groups agreed that their processes helped them identify important issues and problems.

Adequacy of Information: There was no significant sex or group difference in the two groups in this area. Participants felt they were given sufficient information for decision making.

Mediator/Attorney Impartiality: Between 41% (adversarial women) and 46% (mediation men) believed that their spouses had an advantage over them in divorce negotiations or proceedings. Differences in impartiality seemed to emerge with regard to the way in which the mediator and attorney roles were defined. Attorneys generally do not elicit the positions of their client's spouse. Mediators ensure each spouse's interests, needs, and positions are heard and respected. Although less than one-third of mediation men and women felt their mediators favored their spouse's point of view, the anticipated group difference was confirmed. An unexpected and significant sex difference was found. Men in both groups rated their attorneys or mediators as more often favoring their spouses' point of view than did the women (Kelly, 1989).

Focus on Issues: In both groups, men were significantly more likely than women to believe they had wasted time by not focusing on the most important issues. Forty-one percent of mediation males, compared to 22% of

females, felt they had wasted time in mediation by not focusing on the most important issues.

Impact on Spousal Relationship: Seventy-six percent of mediation women and 62% of mediation men believed that the mediation process helped them become more reasonable in their dealings with each other. Only 39% of adversarial males and 26% of adversarial women believed this. Approximately 50% of the adversarial group reported the divorce process had worsened their communication problems; only 11% of the mediation group reported this. In both groups, men were more likely to report a decline in communication than women.

Satisfaction with Financial (Nonchild) Agreements: The mediation group was significantly more satisfied with the property settlement and the spousal support agreement. Mediation men and women were significantly more likely to perceive that they had equal influence over the terms of their divorce agreements than were the adversarial respondents (Kelly, 1989).

Emotional Satisfaction: Mediation respondents (73% men and 53% women) were more likely than adversarial respondents (44% men and 33% women) to report they would have been content with their spouse's settlement had it been their own. More than one-half of respondents in both

groups reported being less angry at their spouses at the end of divorce (Kelly, 1989).

Satisfaction with Custody and Child Support

Agreements: Both men and women in the mediation group felt that negotiated custody and visitation agreements would be better for everyone in the family. Seventy-two percent of mediation women, compared to 51% of adversarial women, felt the arrangements would be beneficial to all family members. Child support was more often perceived to be inadequate by women than men, regardless of group (Kelly, 1989).

Adequacy of Information about Child Issues: Mediators were seen as significantly more helpful than attorneys in identifying practical ways to arrange custody and visitation. Mediation clients, more than adversarial clients, reported an increased understanding of their children's psychological needs and reactions, and an increased understanding of the dollar cost associated in raising children.

Overall Satisfaction with Mediated or Adversarial

Divorce: The mediation group was significantly more satisfied with the mediation process and outcomes than the adversarial group was with the adversarial process. At final divorce, 69% of mediation respondents were somewhat to very satisfied, compared to only 47% of the adversarial group (Kelly, 1989). There were no sex differences.

Kelly, Gigy, and Housman (1988) cited a variety of reasons for parents terminating mediation prior to reaching an agreement. "Mediation is too expensive" was the most frequently checked reason followed by "stopping mediation was my spouse's decision". Most of the remaining items fell into two clusters: feeling overwhelmed or lacking empowerment within the process or feeling that the spouse was unreasonable, untrustworthy, angry, and/or intolerable.

Even though there is currently an expansion of family and divorce mediation services in many states, research investigating the effectiveness of child custody/visitation mediation is limited (Emery & Wyer, 1987; Kressel, 1985; Kressel & Pruitt, 1989), and research which investigates court-ordered mediation is difficult, if not impossible, to locate. Generally, all studies have allowed parents to decide if they wish to participate in mediation services, and most who do choose to participate report satisfaction with the mediation process (Emery & Jackson, 1989; Kelly, 1989, Pearson & Thoennes, 1989).

CHAPTER III
METHODOLOGY

Procedure and Results

A questionnaire was mailed to court-ordered clients who had participated in the Child Custody Mediation Program of the Roanoke County Department of Social Services (see Appendix A for program description) in the years of 1987, 1988, 1989, 1990, and the first quarter of 1991. In an effort to facilitate returns, several follow-up contacts were made after the initial mailing, following procedures set forth by Dillman (1978). The initial mailing included a cover letter (which included an endorsement for this research from the Chief Judges in both Circuit and Family Courts; See Appendix B), the questionnaire, and a self-addressed, stamped return envelope. Telephone contact was made with approximately 70% of clients for the purpose of address verification prior to mailing. The initial mailing was sent to 215 clients; 104 male and 111 female. Ten questionnaires were returned for insufficient address (9) and for mistaken identity (1). Fourteen days after the initial mailing, a postcard was sent to the total sample, expressing thanks if the questionnaire had already been completed and returned, and serving as a request for

questionnaire completion to those who had not yet responded (Appendix C).

Five weeks after the first mailing, a second letter (Appendix D), a replacement questionnaire, and a self-addressed, stamped return envelope was mailed to the 140 clients who had not yet responded. Three of these were returned; one because the client could not read or write (explanation written by mother on questionnaire), and two were returned unanswered because clients had only attended one mediation session and did not wish to respond.

Subsequent follow-up, 6 weeks after the second mailing, included a brief letter (Appendix E) which was mailed to the 89 clients who had not completed the questionnaire. The letter requested the clients to mark and return a postcard which gave reasons for not completing the questionnaire (Appendix F). Twenty postcards (22%) were returned and one parent telephoned the project coordinator to give a verbal response. Five responses contained the statement "I already sent in the evaluation"; however these completed questionnaires were never received. The most frequently checked reason (23%) for not completing the questionnaire was "participation was too long ago to remember accurately". "Other" (17%) listed additional reasons such as questionnaire not respectful of confidentiality, too long and overwhelming, only attended

one session, mediation was good, and still too hurt to respond. "Not satisfied with the mediation program" and "desire to forget feeling associated with mediation" individually accounted for 13%. Three reasons "desired no further contact with Social Services", "too busy - didn't want to take the time", and "questionnaire too personal - did not want to share this information" accounted for 10% each. "Never answer questionnaires" was checked 3 times (3%).

Although the response rate was about 65% (135 total responses; males 51, females 60), this resulting percentage had been anticipated from this divorced population whose addresses change, and whose interest is not in reliving the divorce, or in helping the researcher better understand the choice process (Duryee, 1991). The percentage of sample respondents reaching agreement in mediation was 73% which closely approximated the 71% agreement figure for all cases seen in the overall program. Of the total received, 111 responses were usable in the final analysis. Two completed questionnaires were received after the analysis cut off date had been reached.

Instrument

Clients' attitudes toward the process and outcome of mediation were measured using the Client Assessment of

Mediation Services (CAMS), (Kelly & Gigy, 1987). "Designed to evoke opinion rather than memory or cognition, the questions were written to allow for agreement as well as disagreement among a normal population of respondents who use such services. Items were worded positively as well as negatively, to preclude response bias. Further, questions likely to evoke more extreme responses were favored over questions evoking neutral answers" (Kelly & Gigy, 1988, p.44). The questions were highly readable, easy to understand and answer, and sensitive to change over time. This instrument was specifically designed for divorce mediation, but may be useful in other mediation settings. Evidence for validity is found in Kelly and Gigy (1988). Factor analysis of the original 54 item scale indicated six CAMS dimensions; satisfaction with process, satisfaction with outcome, and satisfaction with child-specific issues. Additional factor analysis indicated six process factors, two outcome factors, and two child-specific process and outcome factors. As evidence of construct validity, two groups were compared: those completing a written agreement and those terminating before reaching a written agreement. Statistical differences were found between the two groups. Coefficient alphas were done to assess reliability. They ranged from .58 to .91.

The original questionnaire contained of 54 Likert-type items, with at least three items of positive and negative direction in each of the following areas: 1) mediator impartiality and fairness; 2) mediator behaviors; 3) mediator effectiveness; 4) efficiency of process; 5) effect on spousal relationship; 6) self-efficacy (empowerment) through process; 7) emotional concerns of clients; 8) structural satisfaction, and 9) settlement satisfaction. Each question had seven possible response choices: very strongly disagree, strongly disagree, disagree somewhat, uncertain, agree somewhat, strongly agree, and very strongly agree.

For purposes of the present research, the number of items in the CAMS was reduced from 54 items to 44 items. Support and property issues (10 items) are not a part of the mediation program at the Roanoke County Department of Social Services, but were a part of the original Kelly and Gigy study (1987). After her study, Duryee (1991) recommended reduction from a seven point to a five point scale which would maximize the number of responses per cell, which she found to be inadequate with 150 responses when using the seven point scale. After considering the sample size and the anticipated return rate, the present dissertation committee agreed that a reduced Likert scale (from seven to four response options) would be appropriate.

Response options were disagree, somewhat disagree, somewhat agree, and agree. A copy of the instrument is provided in Appendix G.

In this study there are six factors or dimensions of satisfaction reflected in 29 items assessing reactions to the mediation process. The six factors describing client's satisfaction were: effective/sensitive mediator (questions 1, 5, 8, 14, 21, 22, 23, 29, and 34); empowerment (questions 13, 15, 16, and 35); adequacy of information (questions 12, 25, and 33); impartiality (questions 7, 11, 20, 27 and 32); focus on issues (questions 2, 4, 9, and 28); and impact on spousal relationship (questions 10, 24, 26, and 30).

There are two dimensions of satisfaction reflected in client ratings of mediation outcomes and agreements reached in mediation: satisfaction with agreements (questions 3, 18 and 36) and emotional satisfaction (questions 6, 17, 19, and 31).

There are two dimensions of satisfaction reflected in client ratings of child-specific issues: satisfaction with custody (questions 37, 38, and 41) and adequacy of information about child issues (questions 39 and 40).

Questions 43-47 address level of cooperation regarding parenting issues before and after mediation. Questions 62-66 focus on the degree to which parents abide by their

agreement or modify the agreement after mediation terminates. Questions 71-98 address the reasons for termination of the mediation process prior to reaching an agreement.

The final page of the questionnaire offered respondents an opportunity to volunteer for a semi-structured interview which allowed for expansion of data gathered from the CAMS and an opportunity to express feelings, frustrations, and opinions about the referral and mediation process. Thirty-five parents volunteered for the interview. Twelve parents were selected and interviewed. Three each were randomly chosen from the following groups: male/agreement, male/no agreement, female/agreement, and female/no agreement. Of those interviewed, in two instances, both the father and mother were interviewed. (See Appendix H for interview letter, Appendix I for interview questions, Appendix J for consent form).

Sample Description

The sample was composed of 51 males and 60 females. Respondents' average age was 36.81 years; males 37.46 years and females 36.25 years. Length of marriage at the time of separation averaged 10.20 years, males being married slightly longer than females. Fifty-six percent of the respondents were separated at the time mediation began and

44% were divorced. A relatively small number, approximately one-fifth, had been previously married. The respondents average number of children was 1.82; boys mean age was 8.9 years, girls mean age was 9.9 years. Over 70% were high school graduates with some college/technical training, and 90% were employed full time. Of the total number of respondents employed, family income for 63% was less than \$29,999 per year. Table 1 (pp. 86-87) provides more detailed demographic data.

CHAPTER IV
RESULTS AND DISCUSSION

RESEARCH QUESTION 1

What specific factors of the mediation process are more highly associated with reaching agreement?

Table 2 (pg. 88) shows the means for those who did and did not reach agreement on the process and outcome variables. The differences between means for five of the six process variables were significant at the .01 level. In each case those who reached agreement evidenced more positive responses to the process questions than did those not reaching agreement. Those reaching agreement were more positive on sensitive/effective mediator, empowerment, adequacy of information, focus on issues and impact on spousal relationship. Only the impartiality variable revealed no significant differences between those who did and did not reach agreement.

Significant mean differences were also found between those who did and did not reach agreement on all four outcome variables. Greater outcome satisfaction was expressed by those respondents who reached agreement.

Table 3 (pg. 89) shows the means, standard deviations and intercorrelations among all variables shown in Table 2. Consistent with the mean differences noted above, the

correlations between these process variables and the agreement/no agreement variable are all shown to be .20 or higher except for impartiality which is only .09. It was of interest to examine, by using a forward selection regression model, the extent to which these six process variables could be used to predict agreement/no agreement. However, the high collinearity limited the capability of using these variables to predict the criterion (agreement/no agreement). The only variable to enter the equation was "focus on issues" which had a .30 correlation with agreement/no agreement as evidenced in Table 3. It appears that the prediction of agreement/no agreement on the basis of the process variables is of limited utility.

Outcome variables (Table 3) correlated modestly highly with agreement and spuriously high with other outcome variables. This is likely due to the respondent falling into a "yes set" pattern when answering the questionnaire. It is reasonable to assume that if a parent is satisfied with the process, the parent is satisfied with the outcome.

RESEARCH QUESTION 2

What conflicts are referred for mediation? When agreements are reached, what percentage of parents abide by the terms of the agreement and how are changes negotiated after mediation is terminated?

Conflicts referred for mediation were custody (4.6%), visitation (57.4%), and custody and visitation (38%). The typical length of attendance in mediation was 4 to 6 sessions. Seventy-three percent of the respondents reached agreement on the issues referred for mediation. This is consistent with previous research which documented agreement rates varying from 64% to 75% (Irving, Benjamin, Bohm, & Mac Donald, 1981; Pearson & Thoennes, 1982; Salius & Maruzo, 1982).

Mediation resulted in a variety of agreements. Forty-two percent of mediated agreements describe the arrangement as custody to mother, father has visitation. Twenty-six percent describe the agreement as a visitation arrangement only. See Table 4 (pg. 90) for a summary of written agreements.

Ninety-two percent of parents (48 males and 54 females) report that they abide by the terms of the mediated agreement. By contrast, when asked "Does your (ex)spouse abide by the terms of your written agreement?" parents report yes only 59.3% of the time. However, it

should be noted that in 32.5% of all cases, the written agreement reached in mediation has been modified in some way after the termination of mediation. The change in the agreement in 41.4% of these cases was due to a change in days and times of visitation, generally due to work schedules, children's activities, or the child's request. Others changes (27.5%) were the result of a parent moving out of town, a court modified agreement, or when a change in custody dictated a change in visitation. The following were some of the statements made regarding change in the agreements:

Mothers' comments: "Visitation dates changed with written request and with written acceptance by either parent. Also, our son, age 12, mediated changes on his behalf with his father".

"The agreement has been court ordered as a decree: I follow unless I know _____ won't care. I can not afford to do anything wrong as I still want custody of my boys".

"Visitation days have been changed to work around children's outside activities".

"The visitation was changed from Wednesday night to Thursday night so I could go to school. I asked my ex over the phone to help me out with this change."

Fathers' comments: "Ex-spouse changed visitation from one weekend a month from every other weekend. My son also asked to change it".

"If she is not mad at me, she will sometimes let me have extra time in the summertime".

"She gives our son the responsibility of deciding visitation".

"She does whatever she wants, whenever she wants".

Approximately 48% of these changes in the agreement were mutually agreed upon by parents either verbally (34.5%) or in written communication (13%). Court action changed the agreements in 21.7% of the cases. In some cases, the child negotiated a new agreement with the parent (13%) or assistance was sought from a mental health professional (8.7%).

Mothers' comments: "I asked father to take the child because I am currently unemployed and found it difficult to provide for her needs and her father agreed".

"I asked my ex-spouse over the phone if he could change the days and help me out so I could go to school".

"The children discussed wishes they had with their father to change visitation. He agreed. He asked

me (through the children) to write him a letter stating my agreement, which I did".

Fathers' comments: "Kids came to me and asked if they could change it. Since they asked, I changed but not before ex-spouse gave written agreement".

"The agreement was changed through us talking one to one and then through our attorneys".

"Changed by her own doing"

Parents were asked "If issues arise and you need to make changes in the existing agreement in the future, how will you do this?" Forty-four percent (16 males and 19 females) would "choose to informally work it out with the (ex)spouse". Eighteen percent (6 males and 9 females) would "go directly back to mediation, call the mediators". Fifteen percent (6 males and 6 females) would "see if an attorney could help us settle it without going to court" and 15% (6 males and 6 females) would "go back to court".

Both mothers and fathers agree they would return to mediation primarily "because it works". Both parents also cited that mediation "was more reasonable than court; better to settle out of court" and "mediators were helpful and supportive, possess knowledge and skills to assist in fair agreement" were reasons to return to mediation. Mothers cited "less arguing and less hostility" in mediation.

Some comments about choosing to return to mediation:

"It is less stressful than court and not as intimidating".

"Anger and bitterness toward each other lingers and still gets in the way of our logic. We need mediation to help resolve important issues".

"Mediation helped us realize we can act/ behave as rational adults and can work out most things on our own if we communicate in a rational way. If there comes a time when this is not possible, I would return to mediation".

"Mediation helps to give me some security to be able to express myself without as many anxieties and fears of major conflicts with my ex's bad temperament and he has to listen to me without trying to dominate and control the situation".

"I would return because I feel the mediators possess the skills, knowledge to assist in a fair agreement".

"Yes, I would (return) because they (mediators) understood both sides of the problems".

These statements substantiate Pearson & Thoennes (1989) reasons to return to mediation.

Both fathers and mothers (17%) who would choose not to return to mediation cited primarily the same reason:

(ex)spouse too unreasonable and/or dishonest to negotiate. Fathers also cited the (ex)spouse disregards the current agreement. Mothers would not return to mediation because they felt the issues with the (ex)spouse could be resolved on their own.

Some comments about choosing not to return to mediation:

"I prefer the cut and dry solution of the court order. My husband continues to manipulate through our mediation agreement."

"It was a most horrible experience. The mediators were biased; you would think they had been paid to be partial".

"It was very difficult to request time off when I keep my time off for doctor and school appointments".

"I would not return. I did not care for the format of allowing the ex-spouse to verbally abuse me as much as he likes with no intervention from the mediators".

"I feel it would be to my advantage to go to court. I tried mediation but it just doesn't work; the agreement is not what I wanted; wording is too broad".

"I would return if mediators were more knowledgeable and showed greater concern for the children and less for seeking any agreement".

Approximately half (51.2%) of the respondents did not consider quitting mediation in the midst of it. Twenty-three percent considered quitting at least once. Mothers stayed in mediation first because it was court ordered, and secondly, because "it was best for my children, I learned to focus on the needs of the children (not the parents), and I became more knowledgeable about co-parenting". Fathers' reasons were similar, but in inverse order.

Some comments about remaining in mediation:

"The cost of hiring a lawyer and the stress of going to court kept me in mediation".

"I could see from the start that the mediators would help us set our hostilities aside and focus on what was best for our child".

"I held on to the hope that my ex-spouse would "get over" bitterness toward me and finally view how his actions were personally harming our daughter".

"Compassionate, understanding mediators"

"Even though it was stressful and embarrassing at times, I needed and wanted to have some peace and resolutions, which were seemingly impossible.

Since mediation, I realize I am a much stronger person and I will stand up for my beliefs and rights. I will no longer try to hide and protect my ex's behavior and problems - even if it means going to mediation again".

"My child's welfare and happiness is why I stayed".

It is reasonable to conclude that once parents have been involved in mediation, they seem willing and able to attempt to negotiate changes mutually with one another, rather than seeking additional mediation or court intervention. Thirty-nine parents who reached agreements reported an increased level of cooperation with the (ex)spouse after mediation. Thirty-five parents reported the level of cooperation did not change as a result of mediation.

RESEARCH QUESTION 3

Why do participants terminate mediation prior to reaching an agreement?

Respondents were asked to review a list of 27 potential reasons for terminating mediation and to check all that applied to their situation. In addition, they were asked to indicate, by using the number 1, the reason that came closest to the primary reason for termination. Although all 28 respondents marked reasons for termination, only 17 indicated a primary reason. In addition to listing 27 reasons, an "other" category was provided and checked by 10 people (8 male, 2 female).

"My spouse was uncooperative or too angry" and "my spouse's demands were too unreasonable" were the most frequently checked reasons for termination by both males and females. These were also frequently cited reasons in the Kelly and Gigy (1989) study. See Table 5 (pg. 91) for additional reasons and frequencies. Females checked three options more often than males and significant differences were found for the following reasons: "My spouse was uncooperative or too angry" (Chi Square (1, $N = 28$) = 6.08. $p < .05$); "I didn't trust my spouse" (Chi Square (1, $N = 28$) = 5.25. $p < .05$); and "Mediation was too emotionally draining" (Chi Square (1, $N = 28$) = 9.33. $p < .05$).

Comments on the questionnaire reflected this theme of lack of cooperativeness and anger:

"Mediation is a good program; it just did not work for us because my ex was too angry".

"I knew from the beginning it was a waste of time because my husband is very uncooperative. In the end, the very solutions I suggested were the ones selected by the judge".

"I think mediation created more hostile feelings for us".

"The mediation process is good but it only works when both parents can be rational and think about the best interest of the children. My ex has mental problems and is very uncooperative in dealing with any issues regarding my son".

"My husband was too angry to mediate; he really needed court ordered counseling to treat the anger he held inside before mediation".

Fifty percent of the males indicated "other" as the primary reason for termination. Listed by respondents under this option were a preference to have a court decision, mediation was a waste of time, and the mediators discontinued mediation due to lack of progress. One father stated:

"Mediation was very helpful with my ex. It got to

the point we quit going forward and started going backward. I got tired of being hammered with no positive results. That is why we decided to stop".

Males also indicated in equal numbers "stopping mediation was my spouse's decision" and "the complexity of the issues were just too overwhelming" as additional primary reasons for termination. One father wrote:

"Due to my ex-wife's husband's control over her and her demands, actions, and attitudes toward me, the mediators were unable to help us. It was just too overwhelming".

Twenty-two percent of females selected as primary reasons for termination "stopping mediation was my spouse's decision" and "my spouse was uncooperative or too angry". One wrote:

"It takes two to mediate; you can't deal or reason with an alcoholic who is threatening the children and won't admit he drinks too much. Why waste everybody's time?"

Other primary reasons, equally cited by females, were "the complexity of the issues was just too overwhelming", "my spouse's demands were unreasonable", "I didn't trust my spouse", and "other" (mediators terminated due to lack of progress).

Residual relationship issues of anger, inability to cooperate, unreasonable demands, and trust (or lack of) contributed more to termination than issues of process in mediation. Did the mediation process affect the level of cooperation between parents who were unable to reach an agreement? No, not in any obvious way. Of the 30 responses on level of cooperation, before and after mediation, 23 registered the same level of cooperation, 4 evidenced a higher level of cooperation after mediation, and 3 evidenced a lower level of cooperation.

INTERVIEW DATA

Thirty-five respondents originally volunteered for a semi-structured interview which allowed for expansion of data gathered from the CAMS and an opportunity to express feelings and opinions about the referral and mediation process and outcomes not necessarily covered in the questionnaire. Twelve respondents were selected and interviewed. Three each were randomly chosen from the following groups: male/agreement, male/no agreement, female/agreement, female/no agreement. Of those interviewed, in two instances, both the father and mother were interviewed. The data reported are associated with the process and outcomes of mediation.

None of the 12 parents had previously participated in any type of mediation. In each case, the judge had ordered mediation, but had not given these parents any explanation of the mediation program or process while in the courtroom. Prior to the initial information received by mail from Social Services or during the initial session, only one parent had received an explanation of mediation from his attorney. Thus, most parents came to the initial session with little or no understanding or knowledge about the mediation process or goals.

All 12 parents were supported by their family/friends to participate in mediation, mainly because it was court

ordered. One mother did state her family wanted her to withdraw from mediation after the initial session because she became so upset during this session and missed several days of work due to the stress of the session. However, she did not withdraw and eventually reached an agreement. Reflecting on this incident, her ex-spouse stated "I was expecting her to break; by standing her ground and coming back, fighting for what she wanted, she showed me she still had some goals or strength and I was a little comforted by it, that she would fight".

Mediation Process

There were few differences in parents' perception of the mediation process, regardless of whether an agreement was reached or not reached. Parents discussed several techniques/approaches which were helpful during mediation. Mediators setting clear rules, boundaries, and expectations at the initial session allowed parents to take advantage of a situation in which they would be encouraged and supported to speak, tell their story, and verbalize their wants and expectations without the threat of verbal abuse or bodily harm. One mother noted "It was good to see the mediators were not visibly upset by conflict and I felt safe". Two mothers noted the balance of the male-female mediation team encouraged and invited discussion and negotiation. These

mothers perceived an atmosphere of being supported (in the mediation) by at least one of these persons (mediators).

During the initial session, parents met together with the mediators and began to share their history and what had brought them into mediation. Fifty percent of parents (4 fathers, 2 mothers) felt the story-telling was allowed to go on for too long and that rehashing old issues was not helpful in dealing with the child-focused issues referred to mediation. Other parents felt this sharing was critical for the mediators to develop a sense of what issues had caused difficulty in the past and why resolution had not been accomplished. Two parents stated it was helpful to hear their (ex)spouse express the emotional pain and residue still existing in their relationship. It was also helpful to several parents to find the (ex)spouse determined to remain an active part of the child's life and not wanting to give up visitation or contact.

Three mothers suggested that the initial session be held in a different format. Parents would meet first individually with the mediators to give an overview of the issues (past and present), and the mediators would then bring the parents together and present the mediators' perception of the issues and outline how mediation would proceed. These women felt that pressure and anxiety would be reduced if they were first allowed to talk with the

mediators before facing the (ex)spouse, and that the storytelling time would be shortened.

Parents generally observed the mediators as remaining respectful, neutral and child-focused throughout the process. Regardless of the diversions presented by parents, the focus was always returned to the child and what the parents needed to negotiate in order to insure the child's continued relationship with both parents. This process was enhanced by the provision of books, handouts, and supplemental materials provided to the parents on various topics regarding the child. These handouts included such information as the ways in which divorce may impact the child, strategies to reduce the child's manipulation of the parent, the importance of consistency in everyday living, guidelines for visitation, etc.. The use of supplemental materials appeared to be sporadic and often given by the mediators when parents had reached a stalemate.

Feedback from the mediators was a very essential component of the mediation process. Mediators were resourceful in contributing alternative approaches for arrangement of custody and provision of visitation, and encouraged parents to look at the many ways in which everyone's needs and schedules could be accommodated. Parents appreciated the mediators' ability to suggest a

wide range of agreement possibilities and alternatives, especially since they, the parents, had been unsuccessful in negotiating on their own or with their attorneys' intervention. The mediators were able to share examples of arrangements made by other parents, which agreements had worked and why, and which agreements had failed and the reasons for breakdown. However, most parents believed that if and when they reached an impasse, the mediators would then make the decision and that decision would become part of the agreement. The parents were unaware that the mediators would never decide an issue, but instead would, try to present further alternatives to assist the parents reach agreement. In some cases this was frustrating for parents who wanted the mediators to be more active in decision making or for parents who did not want to take responsibility for their agreement.

Two fathers (one who reached agreement, one who did not reach agreement) stated the use of caucus (time out called by the mediators to talk individually with a parent) was very disturbing and set an atmosphere "for distrust and alienation". These fathers felt left out and lost, and that a portion of the mediation process was unavailable to them. It was their opinion that caucus should not be utilized in mediation to talk with one parent alone, but could be utilized as a means to take a break if mediation

was getting too emotional, too abusive or out of control. One mother (agreement) described the use of caucus to interrupt a standstill as helpful during her mediation. In this case, both parents were spoken with individually and then brought back together with the mediators and asked to attempt to renegotiate an issue.

Parents were also asked to identify the least helpful techniques utilized by the mediators. Two fathers indicated the intense pressure they felt during mediation to reach an agreement was least helpful. One father stated "I mean intense, because the way the program is set up, it is just intense mediation, you talk about a pressure cooker, they put you in a small room, no windows, no TV, and you are at a little table, and they are badgering you and that is what they do to work out a solution... there was tremendous pressure from the mediators to reach an agreement. It did not matter what I wanted or what she wanted - they tell you they want you to compromise but in reality, they really don't care, they want a solution". Similar findings regarding pressure felt by parents were documented by Pearson & Thoennes (1989).

Three fathers and one mother who did not reach agreement felt the mediators allowed mediation to continue too long before termination. These parents complimented the mediators on having determination and "stick power" and

a willingness to keep offering alternatives, but quickly acknowledged the emotional issues were so complex and unamenable between the parents, that nothing short of a judicial decision would be acceptable or respected. One father (no agreement) said "I really felt sorry for those mediators; they really tried". "I don't think there is anything mediation could do that they did not try to do. They tried their level best to do a good job. They tried every tact they knew, ever trick of the trade you might say. But, I think they did their job, they were just not successful, but going into it, neither myself or my ex-wife felt there was room for mediation. We knew where our stances were, it was black and white, not a lot of gray area" was the opinion of another father (no agreement).

Those parents who did not reach agreement stated mediation stopped due to stalemate, refusal to accept proposals, or one of the parents refusing to return to mediation. When asked "Did the mediators contribute in some way to the withdrawal from mediation?", 5 parents of 6 said no. One mother did not feel supported by the mediators. When asked "Was there anything the mediators could have done differently to prevent termination?", most parents said no - only to have stopped mediation earlier. One father felt there should have been a time break in mediation and that the parents may have been able to return

later and look at the issues from a less emotional perspective. One father who did not reach agreement stated "Even though I was a flop, I still think it is a good program, it is a critical program and it can be successful but you have to have two cooperating parents in there or else it will end like mine...if her concerns (marriage) were the same as mine (child) we could have probably solved it in a two hour session, but these are not marriage counselors, and our marriage was over".

Four of six mothers expressed that the mediators seemed to be unable or unwilling to recognize the emotional pain that was present for them when asked to sit down and discuss, sometimes for the first time after separation, the dissolution of their marriage and future plans for caretaking of their children. They were saddened and frustrated because the mediators had not been more empathic.

Regardless of the outcome of mediation, parents generally agreed on the advantages of mediation. Increased communication and cooperation were cited most frequently by both mother and fathers as a primary advantages.

"Mediation helped us both see we weren't trying to take the child from the other" and "I only wanted more time with my son, not to take him away" were typical responses from parents. "Being placed in a position where we were both

provided an opportunity to talk, as well being forced to talk, without violence or abuse, was the best part of mediation" stated one mother.

These 12 parents experienced mediation as an opportunity to "be heard" and "listened to by a professional". They felt discounted by the court proceedings and often manipulated by the judge and ordered quickly into another service system for resolution of their custody/visitation issues. One father (no agreement) stated "It truly helped me feel as though I had exhausted every reasonable effort to avoid what ultimately happened" (court decision). Another father (no agreement) credited the mediation experience with helping him to build his tolerance to his ex-spouses verbal abuse. Two mothers (agreement) also expressed comfort in knowing they could return to mediation if renegotiation was necessary in the future.

Mothers did not express disadvantages of meeting face to face with the (ex)spouse. Only fathers discussed the disadvantages of meeting face-to-face with the mother. These disadvantages included being forced to deal with the emotional issues associated with the marriage dissolution, and discovering a need for more professional help in separating the husband role from the father role. For several fathers, this emotional baggage prohibited an

agreement being reached and it saddened these fathers that the court had to be consulted for resolution.

Another disadvantage of mediation was the realization that both parents could not have everything they desired. One father said "The least helpful part was not getting what I wanted to go after. When I sat down and said this is what I want, this is what I want to do, because no one wants to lose, no one wants something taken away, this is the worst part".

One father had been divorced for 4 years and had custody of his three children. The mother was petitioning for custody of their daughter and the parents were ordered to mediation. This father stated that mediation only served to undermine the reasonably good communication that the 4 years of separation had established. The discussion of old marital issues and problems in mediation activated feelings of distrust and pain, and the parental communication crumbled.

These 12 parents had a total of 15 children. Parents were asked about their children's role in the mediation process. Eight parents had told their children about the mediation process and their participation. Both custodial and non-custodial parents shared this information with the children. In three cases, the children were under age 3 and the parents did not discuss the mediation. In the

remaining case, the children were ages 4 and 9, and the father did not want the children to feel any additional stress from knowing their parents had still not settled the issues, so he did not discuss the mediation. There was a variety of responses from the children when told about the mediation. The majority expressed excitement, optimism, and feelings of gladness that the parents would stop fighting, start talking and get along better. There was also some confusion because the children had been previously told the judge would make the decisions and now were told the parents were expected to cooperate and make the decisions. Two adolescent siblings, age 12 and 15, thought it was "terrible" that mediation was ordered, and just "wanted the judge to make the decision and leave them alone; they had been through enough". These two children eventually participated in mediation and essentially had two or three supervised visitations with their father. One 12 year old asked to participate in mediation in order to tell the mediators (not her father) what she wanted regarding visitation.

Ten parents felt the children should be involved in the mediation process. Two points were clearly evident from these parents. The first is that children should never be allowed to participate in the initial session, due to the anger, hostility, and confusion which is often presented by

one or both parents. It was suggested that children become involved about the third or fourth session, when parents can talk more easily with one another, and the parents are beginning to focus on the issues which must be settled. When children are allowed to participate, their role is that of observer, unless asked by both parents to actively participate in the negotiations.

Secondly, these same parents felt the children should be present at the final session. The parents should use this session to explain to the children what the agreement states, how it will be carried out, and how changes will be made, if necessary, in the future. The children should always witness the parents signing the agreement and be allowed and encouraged by the parents to understand this cooperative effort to continue their role as parents, even though their role of spouses has been dissolved. It is also important that the children understand that they continue to be valued by both parents.

Two fathers (who did not reach agreement) believed children should not be involved in the process. One father felt the process was too stressful for children to witness and that the children could be swayed or relationships damaged by the children's perceptions of what is exchanged between the parents. Later, he did say children who were over 12 could perhaps be involved in mediation if both

parents could agree to that decision. One father stated mediation was the parents' responsibility and the child should not be involved in the discussion and negotiation component, but be allowed to be present with both parents to witness the signing of the agreement, if one is reached.

Mediation Outcome

Parents who reached agreement supported mediation as a process which allowed more flexibility and cooperation in settling child-focused issues. Mediation provided the environment to clear up issues and look at broadened alternatives. One father stated "I thought mediation was negative at first but then I just had to give in...my reasons (requests) were unreasonable...Seeing my wife's actions (in mediation) helped me be more reasonable."

The six parents (3 mothers, 3 fathers) who reached agreement had the following distribution of custody arrangements: two (1 mother, 1 father) had joint custody and four mothers had custody. These parents affirmed that their agreements had been successful for both them and the children. The agreements have been helpful in setting boundaries and the minimum guidelines for visitation, a plan to follow if all else fails. One mother stated "It (agreement) is something we started with, now we don't pay a lot of attention to it, we know it's there if we need

it...we have expanded our agreement to allow _____ extended time with his father and grandparents, including out of town trips." One father stated he did not take his children as often as the agreement allowed due to the emotional distress these visits created for him. "I have a hard time dealing with the way the children act and behave...we have some personality conflicts influenced by their mother and when I have them on weekends, I guess you could say I ride them and they report to their mother I was irritated with them... pretty hard on me because you are raised to have values and morals and you can't influence them on a weekend basis...I tell them (children) I cannot deal with being a weekend daddy and a weekend warrior".

The agreement continues to allow the parents an opportunity to talk about the children, and parents felt the mediation alternative was quicker and more satisfying than what they perceived the court to offer. However, some parents were not able to include all they wanted in the agreement. "After all", said one father, "I had to negotiate. When I sat down and said this is what I want, this is what I want to do, because no one wants to lose, no one wants to have things taken away, and I couldn't have everything." Parents who reached agreement felt the final agreement allowed more equitable time sharing and opportunity for both parents to take responsibility for

other aspects of parenting (attending school conferences, child care, medical treatment, extracurricular activities participation, religious upbringing, promoting extended family relationships, and retention of some rituals, especially those rituals associated with holidays).

Those parents who did not reach agreement and returned for a court decision perceived their arrangements as "cold" and "unbending", with no opportunity or flexibility to expand on the court order. These parents were less cooperative, spoke less often, if at all, about their children and their issues, problems, or accomplishments, and tended to continue to relay messages through the children rather than taking responsibility to speak directly with one another. It appears the continued parental conflict is more evident in cases in which the court made the final decision.

Parents who reached agreement did not feel pressure from the mediators about the contents of the agreement itself. They had freedom to include any and all issues which were important for continued parental cooperation (visits, holiday and birthday arrangements, summer vacations, medical care, child care arrangements, telephone contact, school and religious activities, participation in sports); anything was acceptable to be included if both parents agreed.

However, parents did feel some distinct pressures from the mediators on other issues. There seemed to be, in the majority of cases, the pressure to compromise and reach agreement, rather than return to court. One parent felt that the mediators were too interested in reaching an agreement in order to keep the statistics high and the program intact, rather than listening to all the issues. Mediators did pressure parents to stay child-focused, often directing the discussion back to the child and what the child needed developmentally, physically, and emotionally from the parents in order to experience the least trauma possible from this adverse situation.

And finally, the mediators refused to align with one parent over the other. The mediators' neutral stance and refusal to make any decisions forced the parents to assume responsibility for negotiation and presenting solution alternatives.

Some of the skills learned in mediation (listening, reframing sentences, I-messages, looking for common ground) continue to be present in the communication between parents. Mothers, more than fathers, discussed the need to continue to negotiate by listening first, allowing less anger into the conversation, attempting to keep the focus always on the child, and trying to hear what the father was really wanting. One father cited the "continued open lines

of communication" as the primary skill he developed and retained from his mediation experience. Two parents do not speak or have contact with the (ex)spouse, but continue to have a relationship with the child strictly according to court order.

There have been some changes in the initial mediation agreements in two-thirds of the cases included in the interviews. The changes have relaxed the visitation times and expanded visitation both weekly and during the summer. Pick-up days and times have become more flexible according to the demands of work, school, and extracurricular activity schedules. Two agreements have not changed. One father has chosen not to take advantage of the visitation provided in the agreement.

The most distinct difference in these two groups (agreement, no agreement) was apparent when the issues of co-parenting were addressed. Six parents who did not reach agreement had difficulty expressing ways in which mediation improved the co-parenting arrangement with the (ex)spouse or ways in which mediation changed how (ex)spouses relate on parenting issues. Two fathers stated there was more open communication on the phone and an increase in shared decision making. The other parents (no agreement) were unable to articulate any benefits, and one asserted there

was more hostility and frustration as a result of mediation.

Parents who reached agreement were able to quickly and adamantly discuss benefits for the co-parenting relationship which resulted from the mediation experience. Mediation provided a "starting point of cooperation" and a new understanding that both parents could continue to raise the children. Mediation helped define the parent role separate from the spousal role, which resulted in more trust and allowed parents to be more receptive to advice and suggestions from each other. The establishment of boundaries and time frames was helpful in bringing closure on the marriage and opening doors for the continued parenting of the child. One mother stated mediation "makes it easier for expansion of the agreement...he does better asking for more time and I am less defensive."

The ability of parents to relate to each other on parenting issues was positively influenced by mediation. Both mothers and fathers reported a decrease in hostility and an increase in open communication which was child-focused, respectful of the other opinion, and less argumentative. Parents reported more cooperation in discipline and the importance of the child receiving consistent messages and direction from both parents. Child developmental and school issues are now less secretive and

more openly discussed, with several parents expressing a willingness to adopt the opinion and accept parental direction and advice from the other parent. One father reported a new willingness to negotiate with his (ex)spouse due to her ability to follow the lead and direction of the mediators. Following mediation, he felt the mother really did want whatever was best for the children, and she had given up her struggle with him as a spouse and had moved in a positive direction to allow the struggle as a single parent to develop.

Regardless of the outcome of mediation, 10 parents were able to discuss ways in which their relationship had changed with their children as a result of the mediation experience. There were no critical differences in whether an agreement was reached or not reached and all changes recorded were positive.

Benefits to the parents, which then resulted in changes in the relationship with the child, included an increased understanding of the child's desire and need to have an ongoing, available, positive relationship with both parents and that one parent cannot exclusively meet all the child's needs. Complementary parenting is important.

Secondly, parents gained knowledge regarding the pressure and expectations the child was experiencing when placed between the parents and often used as a pawn during

the parents' marital dissolution. Parents recognized they had put their child in the middle, often asking the child to serve as a spy and report information which could be damaging and used in a future court battle.

Thirdly, the open discussion regarding the struggle of adjusting to living alone and to being a single or part-time parent, with its struggles and problems, assisted parents in being more receptive to the other's wants, needs, and desires. These included the importance of cooperation, flexibility, dependability, and collaboration.

Fourth, parents began to assume responsibility for their own decisions and behavior and stopped trying to explain or justify the behavior of the other parent to the child. They talked more with the child about what was within their control (for example, being home and available when time for a visit), as well as what they could not control (whether the other parent came for the visit).

As a result of mediation, parents felt the children began to identify a more cooperative, more respectful, less hostile and less argumentative relationship between their parents. Children began to experience both parents being supportive of the other, more joint decisions from parents and less ability to manipulate parents against each other. One father said "The main thing as far as he (son) goes, it taught us (parents) that anytime we address a subject

pertaining to him, it is not I want you to do this or your mama wants you to do that, it is we want you to do this or we want you to do that". Some parents are now trying to "check out" the child's stories with the other parent in order to help eliminate the child's manipulation and decrease the power associated with sharing something negative about the other parent.

One custodial father has invited his son (age 10) to begin to negotiate some of his extended visitation with his mother. The father believes this process will empower his son to be more assertive in what he wants or needs from his mother. Also, the father hopes his son will learn the responsibilities and consequences associated with "speaking up" for oneself.

Another father spoke of mediation in a almost reverent manner as the saving intervention that allowed him to now have a closer and more frequent relationship with his son. Mediation "allowed me to get closer to him, and the overall raising of him because there was a lot of things we were not finding out, it was void when he was with the other parent...there are things we now talk about".

Eleven parents said they would be willing to participate in mediation again, either coming voluntarily to renegotiate the agreement or to attempt to resolve other issues. Those who did not initially reach agreement did

not blame the program, the process, or the mediators. Instead, they expressed mediation failed because the emotions were too raw and/or issues too volatile to be addressed at the time mediation was ordered. It appears that timing is essential in assisting parents negotiate an agreement.

The father who would not be willing to return to mediation based his decision on the current ages of his children and the length of the divorce. He believed his children (adolescents) should be allowed to individually make their own decision about living arrangements and the amount of contact needed or desired from each parent. His decision was not based on the structure of the mediation program or the mediation process.

How does this research compare with the Kelly and Gigy (1989) study? A revised CAMS instrument, deleting information regarding financial settlement, was developed for use in this court ordered sample. There are several differences in the voluntary participants and those court-ordered participants in this study. Volunteer participants (73%) in mediation (Kelly and Gigy, 1989) found the mediators to be more warm, sensitive, and sympathetic regarding divorce issues and feelings than the court-ordered participants (49%). Volunteer participants (69%) believed, more than court-ordered participants (49%),

that the mediation process helped them to become more reasonable with the (ex)spouse and the relationship improved. However, court-ordered participants (41% male, 69% female) believed mediation worsened communication problems. Kelly and Gigy (1989) also found voluntary participants (63%) to be more emotionally satisfied with their agreements than court-ordered participants (50%). Voluntary participants (71% females), compared to court-ordered participants (57% females), more strongly believed that the agreements reached would be best for everyone in the family. Court-ordered males (59%) and females (42%) believed there was too much time wasted in mediation by not focusing on the most important issues. This process variable, lack of focus, for Kelly and Gigy's (1989) sample was 41% for males and 22% for females.

Voluntary and court-ordered mediation participants responded similarly on the process variables of empowerment, adequacy of information and mediator impartiality, and outcome variables of satisfaction with custody, and adequacy of information about child issues.

The following conclusions relate to the six process and four outcome variables:

Effectiveness and Sensitivity of Mediator: Volunteer males and females (between 65% and 82%) (Kelly & Gigy, 1989) viewed the mediators as more warm, sensitive and

sympathetic than court-ordered males and females (between 41% and 58%). For court-ordered participants, there was a significant difference (Chi Square (1, $N = 111$) = .022, $p < .05$) on this process variable between respondents who reached agreement and those who did not reach agreement. In addition, court-ordered males who reached agreement (94%) viewed mediators as effective/sensitive more than court-ordered females who reached agreement (84%). However, court-ordered females who did not reach agreement (80%) rated the mediators more effective and sensitive than court-ordered males who did not reach agreement (73%).

Empowerment: Volunteer mediation participants did not view the mediation process as particularly enhancing to the overall ability to stand up for themselves (Kelly & Gigy, 1989). Fifty percent of the court-ordered respondents indicated the process as enhancing to the overall ability to stand up for themselves. Both volunteer and court-ordered females (53%) reported they were more confident about their ability to stand up for themselves after mediation. There was a significant difference (Chi Square (1, $N = 111$) = .009, $p < .05$) on empowerment between court-ordered respondents who reached agreement and those who did not reach agreement. For those who reached agreement, females (57%) felt slightly more empowered than males

(54%). For those who did not reach agreement, males (66%) felt more empowered than females (57%).

Adequacy of Information: There was no overall difference in this variable between males and females in volunteer or court-ordered groups. A significant difference (Chi Square (1, $N = 111$), = .023. $p < .05$) was present for those court-ordered participants who reached agreement and those who did not reach agreement. For court-ordered parents who reached agreement, 76% believed they had received sufficient information for decision making. Only 56% of parents who did not reach agreement believed they had received sufficient information.

Mediator Impartiality: Overall, court-ordered females (56%) more than court-ordered males (44%) believed that the mediator ensured that each spouse's interests, needs, and positions were heard and respected. Forty-six percent of volunteer males believed their spouses had an advantage over them in mediation (Kelly & Gigy, 1989). Of those court-ordered participants who reached agreement, 69% of the males and 77% of the females believed the mediator was impartial. This was slightly inversed in the no agreement group, with males (73%) confirming mediator impartiality only slightly more than females (70%). Volunteer males were likely to believe the mediators were not impartial,

but rather favored the spouses' point of view (Kelly & Gigy, 1989).

Focus on Issues: Volunteer males believed that time was wasted in mediation by not focusing on the most important issues (Kelly & Gigy, 1989). However, in the court-ordered group, females (58%) more than males (41%) believed they had not wasted time in mediation and were able to focus on the issues needing resolution. There was a significant difference (Chi Square (1, $N = 111$) = .009. $p < .05$) between the agreement/no agreement groups. The agreement group (75%) rated the focus on issues higher than the no agreement (53%) group. There was a difference in agreement females (81%) and agreement males (69%), but no difference in the no agreement groups (males and females both rated the variable as 53% focus on the issues).

Impact on Spousal Relationship: Sixty-nine percent of volunteer males and females believed the mediation process helped them to become more reasonable in their dealings with each other. For the court-ordered group, 43% - 56% mediation males and females believed this. Court-ordered males in both the agreement (88%) and no agreement groups (100%) believed mediation had a positive impact on the relationship with the (ex)spouse. Court-ordered females (agreement 81%, no agreement 66%) believed the impact from mediation to be less positive. This reported improvement

in the relationship is contradictory to those issues regarding communication. Overall, 41% court-ordered males and 69% court-ordered females reported mediation only worsened communication problems which had been prominent in the marriage.

Satisfaction with Agreements: Volunteer mediation parents reported significant satisfaction with their agreement. Slightly less than half (49%) of overall court-ordered respondents were satisfied with their agreements. For those 81 court-ordered parents who did reach agreement, the difference between fathers (61%) and mothers (62%) is almost nonexistent. For those who did not reach agreement, the rating was the same (33%) for fathers and mothers.

Emotional Satisfaction: Volunteer participants (63% overall) more than court-ordered participants (50% overall) believed they were emotionally satisfied with their agreements and/or had experienced a reduction of anger with the (ex)spouse after mediation. There was significant difference (Chi Square (1, $N = 111$) = 0001. $p < .05$) between the court-ordered agreement/no agreement group. In both the agreement (64%) and no agreement groups (33%), court-ordered males rated this outcome variable higher than court-ordered females (agreement 62%, no agreement 0%). Fifty-two percent of court-ordered males (agreement) and 26% of court-ordered females (agreement) supported that

they would have been comfortable with their spouses' agreement.

Satisfaction with Custody: Volunteer females (72%) felt custody/visitation arrangements were beneficial to all family members. Overall, court-ordered males (44%) were less satisfied than court-ordered females (55%) with the outcome of custody. There was significant difference (Chi Square (1, $N = 111$) = .024, $p < .05$) between the court-ordered agreement and no agreement groups. For those who reached agreement, court-ordered females (68%) were more satisfied than court-ordered males (64%) with the custody arrangement. Fifty-seven percent of females, compared to 47% of males, felt the custody/visitation agreements would be best for everyone in the family. For those who were court-ordered and did not reach agreement, and allowed the court to make the decision, males (42%) were more satisfied than females (39%).

Adequacy of Information About Child Issues: Both volunteer and court-ordered (50% overall) respondents believed they gained an increased understanding of the children's psychological needs and reactions during divorce. There was a significant difference (Chi square (1, $N = 111$) = .003, $p < .05$) between the court-ordered agreement and no agreement groups. In the agreement group, court-ordered males (72%) more than court-ordered females

(65%) gained information about child issues. In the no agreement group, both court-ordered males (38%) and females (36%) differed only slightly in the amount of knowledge gained about child issues.

This research confirmed a significant difference between agreement and no agreement groups for both process and outcome variables. Significant differences were found for the process variables of sensitive/effective mediator, empowerment, adequacy of information and focus on issues. Significant differences were found for the outcome variables of satisfaction with agreements, emotional satisfaction, satisfaction with custody, and adequacy of information on child issues.

CHAPTER V
SUMMARY AND RECOMMENDATIONS

There have been few studies that have examined clients' perceptions and outcomes for court-ordered mediation programs. Subjects for this study were 111 parents who had participated in the Custody Mediation Project at the Roanoke County Department of Social Services between 1987 and the first quarter of 1991. Eighty-one respondents had reached agreement through the mediation process on the issues of custody and/or visitation. This reflects an agreement rate of 73% which is consistent with earlier findings reported by McIssac (1982) and Kressel (1989).

Respondents completed the Client Assessment of Mediation Services (CAMS) (Kelly & Gigy, 1987) which had been revised to be used in this study. Respondents were given the opportunity to volunteer for a semi-structured interview to discuss their experience in mediation and to provide information to enrich the quantitative data. Twelve of the parents who volunteered were randomly selected for the interview by the researcher.

Visitation (57.4%) was the issue most frequently referred to mediation, followed by custody and visitation (38%) and custody (4.6%). Forty-two percent of the

mediated agreements described the arrangement as custody to mother, father has visitation, and 92% of parents reported that they abide by the terms of the agreement. Agreements have been modified either by the parents or the courts in 32.5% of the cases.

There were six process variables and four outcome variables of the mediation program which were studied in this court-ordered mediation sample. The process variables, sensitive/effective mediator, empowerment, adequacy of information, impartiality, focus on issues, and impact on spousal relationship, were found to have little or no predictive value in determining whether or not an agreement is reached. Outcome variables, satisfaction with agreements, emotional satisfaction, satisfaction with custody and adequacy of information about child issues, correlated modestly high with agreement. This only seems reasonable in that respondents satisfied with the process and agreement would be satisfied with the outcome.

Volunteer mediation participants (Kelly & Gigy, 1989), more than court-ordered participants, believed their mediators to be more warm, sensitive, and sympathetic regarding divorce issues. They felt that the mediation process helped them to be more reasonable with the (ex)spouse and they indicated that relationship improved during or after mediation. Voluntary participants were

more emotionally satisfied with their agreement than court-ordered participants. Court-ordered participants believed that too much time was wasted by not focusing on the issues, and they also were less satisfied that the agreement reached was best for everyone in the family. It appears that voluntary participants in mediation were more satisfied overall with the mediation process and outcomes than court-ordered participants.

Those parents interviewed, whether an agreement was reached or not, generally supported the following as some of the most beneficial aspects of mediation:

- mediation became a starting point of cooperation between parents who were no longer married
- mediators set boundaries, rules, and expectations which encouraged the parent to speak up without threat of verbal abuse or bodily harm from the (ex)spouse
- mediators maintained an atmosphere of respect (for each other, the parents, and the process) and neutrality, and remained child-focused throughout the process
- there was ample time for both parents to address all issues
- handouts and supplemental materials were used

- feedback from mediators about possible alternative solutions and/or arrangements was helpful in reaching agreements
- increased communication and cooperation between parents developed in some cases
- mediation allowed for flexibility and cooperation in terms of agreement

Some aspects about mediation that were not as helpful included the following:

- initial storytelling stage was too long and allowed too much information from the past to be filtered into the current issues referred by the court for resolution
- parents desired more feedback from the mediators
- use of caucus set an atmosphere of distrust
- intense pressure felt by parents to reach an agreement
- difficulty associated in realizing that compromise meant giving up on some issues in order to gain on others
- mediators allowing the process to go on too long before termination and accepting the realization that an agreement was not going to be reached

Males and females terminated mediation before reaching agreement for a variety of reasons, the most frequently

cited was "my spouse was uncooperative or too angry" or "my spouse's demands were too unreasonable". These were also frequently cited reasons for termination in the Kelly and Gigy (1989) study. Mediation cannot work when parents are unwilling or unable to negotiate. Residual relationship issues of anger, inability to cooperate, unreasonable demands, and trust (or lack of) contributed more to termination than issues of process in mediation. Lack of agreement appeared to be an issue for the parents, not an enigma in this mediation program.

Overall, parents supported the mediation program and its goals. Most parents interviewed, 11 of 12, would be willing to participate again in mediation, regardless of the outcome of their first experience. Those parents interviewed believed that all parents experiencing a divorce would gain knowledge about themselves as parents and knowledge about their children's needs by participating in mediation.

Results of this research warrant the following recommendations regarding this mediation process under study:

1. There exists a need for some inservice training with the judges from both the Circuit and Family Court to revise information given to parents regarding the mediation process. This is necessary to prepare parents for their

role in mediation, to give an overview of the mediation process and to inform the parents of the courts' expectation that an agreement be reached in mediation.

2. Consideration should be given to extending the hours that mediation is available, providing some opportunity for parents to participate during evening hours without being forced to leave employment and/or having to make the employer aware of this personal issue in order to request and receive time off.

3. Continuation of the male/female mediation teams

4. Mediation is the preferred alternative, rather than custody investigation, for resolution of issues regarding custody and visitation. All mediators should have knowledge and some minimal experience with both custody investigations as well as mediation in order to provide parents with information about processes and outcomes of both.

5. More prompt scheduling of both the initial and subsequent mediation sessions is necessary. The ideal would be that sessions are set weekly, but never more than two weeks between sessions.

6. Handouts and supplemental material about children and their adjustment to the changes resulting from divorce should be routinely provided to all parents in mediation.

7. It is strongly recommended that children's participation in mediation, especially in the agreement signing session, be considered and studied.

8. Use of caucus should be studied to determine if this technique is the most effective technique to talk individually with parents. Perhaps a training session on caucus, why and when to use, use of caucus to bring balance to the session, use of caucus without alienation, etc. should be considered.

9. It should be remembered that a primary objective of mediation is recognizing the importance of being child-focused and the parents' taking responsibility in a positive way for the child's needs and interests. Parents report that feeling pressure to reach an agreement sometimes overshadowed the children's needs. This was not helpful in assisting parents to reach resolution.

Results of this research warrant the following recommendations to court settings involved in mediation:

1. Consideration should be given to mandating mediation for all divorcing parents prior to the initial court hearing or traditional custody investigation.

2. During the court hearing, when mediation is ordered, judges must revise their current instructional delivery to include a brief, but thorough, description of the mediation process, how and where it will take place,

the expectation of the court that parents will cooperate and work together to reach an agreement, and the encouragement to parents to make the decisions based on their children's needs and interests. There should be an explanation of what will occur (custody investigation) if parents are unable to reach an agreement in mediation. The advantages of mediation over investigation for the child and parents should be emphasized, and the parents should clearly be given the message that mediation is supported by the court as the best means to reach resolution.

3. The written brochure on mediation should be given by the judge to the parents before court is dismissed.

Based on the research of Kelly and Gigy (1989) and this study, it is evident that ongoing evaluation of mediation programs is essential in order to continue to differentiate between those who volunteer for mediation and those who are court-ordered for mediation. Would parents be more likely to reach agreement if the mediation process differed for these two groups? Process variables were unable to predict agreement in this study. However, the importance of process variables in reaching agreement may need to be measured in a different manner in order to be more helpful in prediction of agreement. Once a determination of predictability due to process variables is available, this information can be utilized to develop

and/or change mediator training programs to allow emphasis to be placed on variables most likely to help parents reach agreement.

It is important to gather data at the termination of the mediation process in order to have parents respond before time dulls their memory about the process or they are unable to be located. This evaluation could become the last step in the mediation process and would then provide ongoing data for research.

Longitudinal research to explore the success of mediated agreements, as compared to court agreements, would enable mediators to learn additional information about the dynamics of the agreement, what should be included, and what can be eliminated.

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TABLE 1

Demographic Information

Variable	Statistic	Males (N=51)	Females (N=60)	Total (N=111)
Age (Years)	Mean	37.46	36.25	36.81
	SD	6.48	6.80	6.65
Length of Marriage (Years)	Mean	10.38	10.05	10.20
	SD	5.96	6.11	6.01
Number of children	Mean	1.86	1.80	1.82
	SD	.82	.70	.76
Number of Boys	Mean	1.00	1.00	1.00
	SD	.75	.76	.75
Age of Boys (Years)	Mean	8.9	9	8.9
	SD	5.02	6.01	5.55
Number of Girls	Mean	.82	.80	.81
	SD	.91	.77	.84
Age of Girls (Years)	Mean	9.9	9	9.41
	SD	4.23	4.85	4.58

Demographic Information (Continued)

Variable/Category	Male N (%)	Female N (%)	All N (%)
Education			
Less than high school	1 (2%)	4 (7%)	5 (5%)
High School	16 (31%)	21 (35%)	37 (33%)
Some college/technical	23 (45)	22 (37%)	45 (40%)
Bachelor's Degree	5 (10%)	8 (13%)	13 (12%)
Some graduate work	3 (6%)	3 (5%)	6 (5%)
Masters Degree	0	2 (3%)	2 (2%)
Doctoral Degree	3 (6%)	0	3 (3%)
Marital Status when mediation began			
Separated	27 (55%)	33 (57%)	60 (56%)
Divorced	22 (45%)	25 (43%)	47 (44%)
Previously Married			
Yes	8 (16%)	15 (25%)	23 (21%)
No	41 (84%)	44 (75%)	85 (79%)
Current Employment			
Full time	49 (96%)	41 (68%)	90 (81%)
Part time	0	10 (17%)	10 (9%)
Not employed	2 (4%)	9 (15%)	11 (10%)
Yearly Family Income			
No income	0	1 (2%)	1 (1%)
Less than \$19,999	11 (22%)	27 (45%)	38 (34%)
\$20,000 - \$29,999	13 (26%)	18 (30%)	31 (28%)
\$30,000 - \$39,999	10 (20%)	8 (13%)	18 (16%)
\$40,000 - \$49,999	5 (10%)	0	5 (5%)
\$50,000 - \$59,999	2 (4%)	3 (5%)	5 (5%)
\$60,000 - \$69,999	2 (4%)	1 (2%)	3 (3%)
\$70,000 and over	5 (10%)	1 (2%)	6 (6%)

Mean Differences on Process and Outcome Variables for
Clients Who Reached/Did Not Reach Agreement

Client's Ratings of Mediation Process

	<u>Agreement</u> N=81		<u>No Agreement</u> N=30		<u>t-Test</u>	<u>df</u>
	Mean	SD	Mean	SD		
Sensitive/Effective Mediator	2.97	.79	2.56	.70	2.48*	109
Empowerment	2.36	.92	1.86	.70	2.72**	109
Adequacy of Information	2.92	.76	2.49	.78	2.64**	109
Impartiality	2.77	.86	2.66	.79	.58	109
Focus on Issues	2.87	.84	2.32	.89	2.98**	109
Impact on Spousal Rel.	2.88	.74	2.55	.68	2.17*	109

Client's Ratings of Mediation Outcomes

	Mean	SD	Mean	SD	t-Test	df
Satisfaction with Agreements	2.42	.84	2.02	.76	2.30*	109
Emotional Satisfaction	2.26	.78	1.65	.59	3.91*	109

Client's Ratings of Child-Specific Process and Outcomes

	Mean	SD	Mean	SD	t-Test	df
Satisfaction With Custody	2.73	.93	2.05	.80	3.41***	106
Adequacy of Information About Child Issues	2.78	1.00	1.94	.88	3.90***	106

*p < .05. **p < .01. ***p < .001.

TABLE 3

Means, Standard Deviations, and Correlations Among Process and Outcome Variables

	1	2	3	4	5	6	7	8	9	10
PROCESS VARIABLES										
1 Sensitive/Effective Mediator										
2 Empowerment	.63									
3 Adequacy of Information	.73	.60								
4 Impartiality	.68	.38	.65							
5 Focus on Issues	.74	.55	.72	.54						
6 Impact - Spousal Relationship	.66	.54	.69	.60	.74					
OUTCOME VARIABLES										
7 Satisfaction with Agreements	.42	.52	.57	.49	.40	.55				
8 Emotional Satisfaction	.32	.32	.41	.37	.38	.51	.55			
9 Satisfaction with Custody	.76	.65	.73	.63	.68	.70	.67	.45		
10 Adequacy of Information About Child Issues	.70	.70	.60	.34	.62	.52	.42	.47	.65	
11 Agreement/No Agreement	.24	.25	.26	.09	.30	.20	.30	.34	.31	.35
Mean	2.86	2.23	2.80	2.73	2.72	2.80	2.29	2.11	2.56	2.57
SD	.79	.89	.78	.85	.88	.75	.81	.79	.94	1.02

TABLE 4

Written Agreements

Agreement	Total
Custody to mother, father has visitation	43.9%
Visitation arrangement only	26%
Joint legal and physical custody	10.8%
Joint legal custody, physical custody to mother	10.8%
Split custody (each parent has custody of a child)	3.6%
Custody to father, mother has visitation	2.4%
Custody to mother, father has no visitation	1.2%

TABLE 5

Reasons Most Frequently Cited for Termination of Mediation

<u>Statement</u>	<u>Frequency</u>		<u>Total</u>
	Male	Female	
My spouse was uncooperative or too angry	9	14	23
My spouse's demands were unreasonable	9	12	21
I didn't trust my spouse	5	11	16
Stopping mediation was my spouse's decision	4	6	10
It became clear the solution/agreements we were reaching were not what I wanted	5	5	10
I felt I didn't have enough power	6	4	10
The complexity of the issues was just too overwhelming	4	3	7
Mediation was too emotionally draining	0	7	7
I couldn't tolerate meeting together with my spouse	1	6	7
Other reasons	5	2	7
The mediators did not seem impartial	3	3	6
The pace and/or progress was too slow	5	1	6
I didn't feel I was protected in the mediation	1	3	4
The mediators were not sufficiently knowledgeable or skilled	1	2	3
I wasn't able to say what I wanted	0	1	1
My attorney advised me to quit	0	1	1
After several sessions, my spouse and I decided we could make our decisions without the assistance of mediators	0	1	1
Didn't feel mediation program was supported by the court	0	1	1

APPENDIX A

Overview of Mediation in Roanoke County

The Roanoke County Department of Social Services developed and began the custody mediation program in 1985. Records on participants have only been kept in an identifiable manner since mid-1986. This program has not been evaluated. Some of the most distinctive features in this mediation program are that: 1) mediation takes place in the office of Department of Social Services; 2) all services are free of charge; 3) mediation is limited to issues of custody and visitation (property and support is a judicial decision); 4) cases are either court-ordered or court referred; 5) concurrent legal charges (such as child abuse or spouse abuse) are not mediated; 6) mediation can be terminated at any time by either party; 7) sessions are generally approximately 2 hours in duration; 8) there is no limit to the number of sessions which are needed to negotiate an agreement; 9) all sessions are videotaped and then erased at the conclusion of mediation; 10) parents are encouraged to consult an attorney before signing an agreement; and 11) copies of the notarized agreement are sent to the referring judge who then endorses the agreement and that agreement becomes a part of the court order. Not only parents but grandparents (when they have petitioned

the court) may be ordered to participate in mediation. However, since parents comprise by far the majority of cases in this program, use of the word parents in this paper will refer to participants.

To date, all but one mediation case has been seen by male-female mediation teams. Co-mediation seems to have a number of benefits which include preventing the development of strategic alliances, balancing the sexes at the bargaining table, using variations of the "good guy/bad guy" interview, dividing responsibilities for process and content, and obtaining peer supervision (Emery, Shaw, & Jackson, 1987). Co-mediation also allows the participants to use the mediators as role models in the area of mutual respect for each other and negotiation of responsibility and time.

The program has a developed, structured method of conducting the interviews and this procedure is used by all mediators in this setting. The mediators begin with an introductory overview of the mediation program and emphasize that the process is structured and child focused. Often a statement similar to this is made, "Some decision is going to be made about your children and these issues. It is up to you whether you make the decision or allow the Judge to make the decision for you". Confirmation of all information contained in the court order and any additional

information required by the State of Virginia in order to open this case for services is requested. A brief description of the building layout gives information about restrooms, smoking areas, water fountain, etc., which the client may want to utilize during caucus (when mediators talk with one parent to the exclusion of the other, or when mediators talk with each other to the exclusion of both parents) or break.

The next part of the session includes the signing of two documents required by agency program policy. The consent form was developed, with judicial cooperation, to insure confidentiality of the process, to release the mediators of any responsibility to serve as a witness for either parent in subsequent court proceedings, and to encourage the client to seek independent legal advice before signing the final agreement. The consent not only protects the mediators, but assures the parties that they are not going to be evaluated or judged by the mediators. This serves as a contract that the parents will mediate in good faith. The second form is the permission to videotape the sessions and to use these tapes for supervision, teaching, or research. Clients are assured the tapes are erased at the conclusion of the mediation process.

Next, the establishment of ground rules is introduced. All parties are asked to refrain from verbal attacks or

character assassination of the other person, to respect an individual's right to speak without interruption, and to stay focused on the issues which are identified. The mediators confirm the parents' decision to participate in mediation and recognize that parents know their situations and their children best. The program philosophy is that parents are the most appropriate persons to make decisions about the future for their children. However, it is also emphasized that if parents are unable to make these decisions, a judge who does not know their children will determine their future. Participants are allowed to add ground rules, if mutually agreed upon. Once the parents develop a method of cooperation, the ground rules become more flexible in following the spirit rather than the letter of the agreement (Emery, Shaw, & Jackson, 1987).

At this point, some mediators ask the parents to talk about the children, not focusing on the problems, but on personality, behaviors, likes/dislikes, activities, and strengths. This discussion allows the parents to speak in an unstructured manner about their children and also serves to continue to establish rapport with the mediators. Other mediators prefer to seek this information later in the sessions when the parents are particularly angry or unable to negotiate. The later discussion of the children often neutralizes anger, and is helpful in allowing the

parents to pull back from fighting and focus on the mutual concern for their children.

The fourth part of the initial session is focused on asking the parents to identify the issues they hope to resolve in mediation. The mediators give the floor to one parent (usually the petitioner) and hand a notepad to both participants. The listening parent is told they must remain silent while the other parent speaks, but to take notes to use when it is his turn to speak. This time is often referred to as "storytelling" and parents are encouraged to discuss all issues they would like to address. After both parents have had the opportunity to speak uninterrupted, time is allowed for rebuttal. Generally, arguments begin at this point and the mediators must continue to monitor the discussions in order to prevent excessive escalation of feelings and to keep the discussion both on child-focused issues and oriented toward the future. The mediators must display the ability to tolerate and control the parents' fighting. The mediators must enforce the ground rules and concentrate on keeping the focus on current and future issues, not disappointments or failures in the past. This stage is centered on defining the problems/issues and the beginning of problem-solving. Strategies used by the mediators include paraphrasing, reflective listening, encouraging creative

solutions, reinforcement and confirmation of potential solutions, discussion of the effects of divorce on children, discussion of grief and loss, emphasizing the drawbacks in terms of money and emotional stress that protracted litigation causes, and the importance of parents assuming the responsibility of making decisions for their children.

The mediators must then examine all the issues presented by both parents and summarize areas of agreement and disagreement. The message to the parents is one of a relationship problem; that is, even though they are living apart, they need to find some minimal means of cooperation and communication about the children. The negotiation of the agreement is only the beginning of many issues which the parents will need to resolve in the future. Thus, mediation is a beginning point, not an ending point in learning to address and practice changes in conflictual patterns.

Throughout the subsequent sessions, the process is generally less structured and parents are encouraged to freely begin to discuss issues with each other. There are several themes which are entwined throughout the sessions: (1) parents must redefine and continue their role as parents to their children while they terminate their role as spouse to each other; (2) it is best to negotiate from a

position of interests and goals rather than to negotiate from extreme stances which make the middle ground more difficult to reach; (3) the need to be creative and to develop as many options as necessary to meet the individual needs of the children; and (4) the assurance that the agreement must meet their level of acceptance, not the mediators' or the Judge's expectations.

The development of an agreement that meets the participants needs is the primary goal of mediation. A secondary goal is the development of an agreement that the Judge will approve and incorporate into the court order. Each agreement is unique, and the agreement attempts to address everyday parenting issues, parenting time, and decision making (custody). To date, all agreements in this mediation program have been approved by a judge and incorporated into a court order. Included in the agreements are a variety of issues: methods of communication, means of pick-up and delivery of children for visitation, times and dates of parenting arrangements (visitation), legal basis for custody, educational and religious guidelines, and medical care and insurance information (sometimes procedures for filing these claims are included), and any other issues on which the parents agree and want specifically identified in the agreement. The writing of the agreement is a symbolic acknowledgement

that the relationship has ended (Emery, Shaw, & Jackson, 1987).

After review, the agreement is signed by both participants and both mediators. This notarized agreement is then sent to the referring Judge for approval.

When parents are still in the initial stages of divorce (and sometimes under other circumstances, such as a pending change of employment, residential move, or extreme emotional stress), temporary agreements are created with a commitment to return to mediation at a later date (for example, after relocation or therapy). Occasionally, the mediators will suggest temporary termination of mediation until one or both parents seek therapeutic intervention. In the final agreement, some participants agree to return to mediation (rather than court) if future disputes arise which they are unable to solve themselves.

Children are seldom included in the mediation sessions. Rather than being given a right to input in determining their future, children often seem to be given the responsibility for making an adult decision (Emery & Jackson, 1989). The belief is that parents are the persons responsible for determining their children's future.



VIRGINIA POLYTECHNIC INSTITUTE AND STATE UNIVERSITY

Blacksburg, Virginia 24061-0416

DEPARTMENT OF FAMILY AND CHILD DEVELOPMENT (703) 231-4794 or 4795

The Roanoke County Department of Social Services, Virginia Polytechnic Institute and State University, Department of Family and Child Development, and Circuit and Family Courts (formally the Juvenile and Domestic Relations Court) in Roanoke County and Salem have joined together to study and evaluate the Custody Mediation Program in which you have participated. Your responses to the enclosed questionnaire are of major importance to the study. Your input along with others in this study will provide information which will be helpful in improving the services offered by the Department of Social Services in the mediation program.

We need your help. Your participation in the mediation program has allowed you the unique opportunity to resolve custody/visitation issues regarding your children. This mediation program is like no other in this part of the state. Your willingness to share feelings and thoughts about the mediation process will help us learn more about what parents need and want when making important decisions about their children.

Your responses are essential if we are able to have an accurate assessment of your mediation experience. Judge G. O. Clemens and Judge Joseph Clarke II have both endorsed this study. Please take a few minutes (approximately 20-30) to give us your honest opinions about mediation. Your answers will be strictly confidential. Your answers will have no bearing on your court case, either now or in the future. The number on the form is for mailing follow-up letters only. This data will be reported in such a manner as to not allow individual identification. No other person will have access to the responses.

Please complete your responses in a timely manner. Fold the questionnaire lengthwise and return in the enclosed stamped envelope.

If you have questions, please contact Betty McCrary at 703-387-6134 between 7:30 a.m. and 4:00 p.m.. Thank you in advance for participating in this study.

Handwritten signature of Betty R. McCrary in cursive.

Project Coordinator

Handwritten signature of M. J. Spornowski in cursive.

Project Supervisor

APPENDIX C

POSTCARD

APPROXIMATELY TWO WEEKS AGO YOU SHOULD HAVE RECEIVED A REQUEST TO EVALUATE THE CUSTODY/VISITATION MEDIATION PROGRAM AT ROANOKE COUNTY DEPARTMENT OF SOCIAL SERVICES. IF YOU HAVE COMPLETED AND RETURNED THE EVALUATION, WE THANK YOU FOR YOUR ASSISTANCE. IF YOU HAVE NOT COMPLETED THE EVALUATION, PLEASE DO SO AS QUICKLY AS POSSIBLE AND RETURN THE EVALUATION IN THE STAMPED ENVELOPE YOU RECEIVED. YOUR INPUT IS A VITAL COMPONENT OF THIS EVALUATION AND WE NEED YOUR HELP IN ORDER TO CHANGE AND IMPROVE THIS PROGRAM.

THANK YOU.



VIRGINIA POLYTECHNIC INSTITUTE AND STATE UNIVERSITY

Blacksburg, Virginia 24061-0416

DEPARTMENT OF FAMILY AND CHILD DEVELOPMENT (703) 231-4794 or 4795

Dear

Approximately five weeks ago you should have received a questionnaire requesting you to evaluate the Custody/Visitation Mediation Program at the Roanoke County Department of Social Services. We are asking parents who have participated in this program to assist us in evaluating the program's effectiveness. To date, we have not received your completed evaluation.

Your participation in the Custody/Visitation Program has allowed you the unique opportunity to resolve custody/visitation issues by meeting and negotiating with your (ex)spouse, rather than allowing the Court to decide what is best for your child/children. We are interested in your feelings and thoughts about the mediation process. Your input, as well as input from other parents, will allow us to evaluate, change, and improve the existing program. We can't make improvements without learning from your mediation experience.

Please take a few minutes (approximately 20-30) to give us your honest opinions about mediation. Enclosed is another questionnaire for your completion. Please respond as quickly as possible. Fold the completed questionnaire lengthwise and return in the enclosed stamped envelope.

If you have questions, you may call Betty McCrary at 703-387-6134 between the hours of 7:30 a.m. and 4:00 p.m.

Thank you for your assistance in this evaluation.

Betty R. McCrary
Project Coordinator



VIRGINIA POLYTECHNIC INSTITUTE AND STATE UNIVERSITY

Blacksburg, Virginia 24061-0416

DEPARTMENT OF FAMILY AND CHILD DEVELOPMENT (703) 231-4794 or 4795

Dear

During the past three months you have received two questionnaires and a follow-up letter requesting your participation in evaluating the Custody Mediation Program at the Roanoke County Department of Social Services. To date, we have not received your response.

We are interested in understanding the reasons that some parents choose not to evaluate this Custody Mediation Program. Please take a minute and give us your comments on the enclosed card.

Thank You.

Sincerely,

Betty R. McCrary
Betty R. McCrary
Project Coordinator

APPENDIX F

POSTCARD

I DID NOT COMPLETE THE EVALUATION OF THE CUSTODY MEDIATION PROGRAM DUE TO THE FOLLOWING REASONS: (CHECK ALL THAT APPLY)

- PARTICIPATION WAS TOO LONG AGO TO REMEMBER ACCURATELY
- DESIRED NO FURTHER CONTACT WITH SOCIAL SERVICES
- TOO BUSY - DIDN'T WANT TO TAKE THE TIME
- NOT SATISFIED WITH MEDIATION PROGRAM
- QUESTIONNAIRE TOO PERSONAL - DID NOT WANT TO SHARE THIS INFORMATION
- DESIRE TO FORGET FEELINGS ASSOCIATED WITH MEDIATION
- NEVER ANSWER QUESTIONNAIRES
- DID NOT RECEIVE QUESTIONNAIRE
- OTHER (PLEASE SPECIFY)

**CUSTODY/VISITATION
MEDIATION**

**Department of Family and Child Development
Virginia Polytechnic Institute & State University**

in conjunction with

**Roanoke County Department of Social Services
Roanoke County Circuit & Family Courts
Salem Circuit & Juvenile & Domestic Relations Court**

	Disagree	Somewhat Disagree	Somewhat Agree	Agree
6. My spouse and I failed to reach full agreements on all of our important conflicts in mediation.	1	2	3	4
7. I often felt I was on the defensive during mediation.	1	2	3	4
8. The mediators showed much warmth and sympathy for our difficulties.	1	2	3	4
9. I often felt that our mediation discussions wasted time by not addressing the most important issues.	1	2	3	4
10. Mediation only worsened communication problems which had been prominent in our marriage.	1	2	3	4
11. The mediators often tried to impose their viewpoints on me.	1	2	3	4
12. Mediation was often too confusing.	1	2	3	4
13. Being in mediation helped me to understand my spouse's point of view better.	1	2	3	4
14. The mediators showed enough concern for my feelings about the separation and divorce.	1	2	3	4
15. Mediation helped me identify very important issues and problems.	1	2	3	4
16. As a result of mediation, I am more confident about my ability to stand up for myself.	1	2	3	4

	Disagree	Somewhat Disagree	Somewhat Agree	Agree
17. I would be totally comfortable with my spouse's divorce/mediation settlement if I had received it instead of my own.	1	2	3	4
18. My spouse and I had just about equal influence over the terms of our agreement.	1	2	3	4
19. By the end of mediation, I was just as angry at my spouse as when we started.	1	2	3	4
20. I felt that the mediators too often favored my spouse's point of view.	1	2	3	4
21. The mediators helped me and my spouse relax during the sessions.	1	2	3	4
22. The mediators helped me stand up for my rights when I disagreed with my spouse.	1	2	3	4
23. The mediators were not at all helpful in leading me and my spouse to workable compromises.	1	2	3	4
24. The mediators helped me and my spouse become more reasonable with each other.	1	2	3	4
25. I feel that I received enough information to protect my own best interest during the mediation process.	1	2	3	4
26. The mediators pressured me into an agreement before I was prepared to make it.	1	2	3	4

	Disagree	Somewhat Disagree	Somewhat Agree	Agree
27. I often felt that my spouse had an advantage over me during our negotiations.	1	2	3	4
28. I would recommend mediation to a friend if he or she were getting a divorce.	1	2	3	4
29. The mediators were often helpful in proposing ways to resolve disagreements with my spouse.	1	2	3	4
30. I wish the mediators would have stopped my spouse from acting so destructively toward me in mediation.	1	2	3	4
31. I am afraid that my spouse will not live up to all aspects of our agreement.	1	2	3	4
32. The mediators seemed quite impartial when it came to resolving differences between me and my spouse.	1	2	3	4
33. The mediators should have given us more direct and practical advice about what to do and how to decide matters.	1	2	3	4
34. I felt the mediators were rather insensitive to my feelings.	1	2	3	4
35. Participation in mediation has helped me to assume greater responsibility in managing my personal affairs.	1	2	3	4
36. I now believe that I can resolve any future disagreements with my spouse without "outside" help.	1	2	3	4

- | | Disagree | Somewhat
Disagree | Somewhat
Agree | Agree |
|---|----------|----------------------|-------------------|-------|
| 37. I feel that the custody/
visitation agreements which
we negotiated will be best
for everyone in our family. | 1 | 2 | 3 | 4 |
| 38. I wish the mediators would
have focused more on our
children's needs. | 1 | 2 | 3 | 4 |
| 39. Mediation helped identify
useful ways to arrange
custody and visitation. | 1 | 2 | 3 | 4 |
| 40. The mediation increased
my understanding of my
children's psychological
needs and reactions to
divorce. | 1 | 2 | 3 | 4 |
| 41. I often disagreed with the
mediators ideas regarding
roles and responsibilities
after divorce. | 1 | 2 | 3 | 4 |
| 42. How well do you think you and your spouse will be
able to (have been able to) cooperate regarding the
children after divorce? (Circle number) | | | | |

Not At All	Very Little	Somewhat	Reasonably Well	Very Well
1	2	3	4	5

We would like to find out how you and your (ex)spouse get along today as parents. In questions 43-48, circle the number that best describes your situation now.

43. When you and your (ex)spouse discuss parenting issues, how often is the underlying atmosphere one of hostility or anger?

Never	Rarely	Sometimes	Usually	Always
1	2	3	4	5

44. Do you and your (ex)spouse have basic differences of opinion about issues relating to child rearing?

Never	Rarely	Sometimes	Usually	Always
1	2	3	4	5

45. Would you say that your (ex)spouse is a help to you in raising the children?

Never	Rarely	Sometimes	Usually	Always
1	2	3	4	5

46. Please rate the level of cooperation between you and your spouse before mediation.

None	Poor	Some	Good
1	2	3	4

47. Please rate the level of cooperation between you and your spouse after mediation.

None	Poor	Some	Good
1	2	3	4

48. Rate your overall level of satisfaction with the mediation experience and outcome:

Very Dissatisfied	Somewhat Dissatisfied	Somewhat Satisfied	Very Satisfied
1	2	3	4

49. What issues were referred for mediation?
(Circle number)

- 1 Custody
- 2 Visitation
- 3 Both custody and visitation

50. The number of mediation sessions I attended was:
(Circle number)

- | | | | |
|---|----------------|---|-----------------------|
| 1 | 1 - 3 sessions | 4 | 10 - 15 sessions |
| 2 | 4 - 6 sessions | 5 | More than 15 sessions |
| 3 | 7 - 9 sessions | | |

For purposes of this study, use the following definitions:

AGREEMENT - parents reached agreement on some or all issues referred to mediation, resulting in a written, signed agreement which could be incorporated into the court order

NO AGREEMENT - mediation was terminated before a written agreement was developed and signed

51. What resulted from your mediation? (Circle number)

- 1 Agreement - Please go to Part B
- 2 No agreement - Please go to Part C

PART B

Your written agreement describes your arrangement as:

CHECK ONLY ONE:

- 52. _____ Joint legal and physical custody
- 53. _____ Joint legal; physical custody to father
- 54. _____ Joint legal; physical custody to mother
- 55. _____ Custody to mother; father has visitation
- 56. _____ Custody to mother; father has no visitation
- 57. _____ Custody to father; mother has visitation
- 58. _____ Custody to father; mother has no visitation
- 59. _____ Split custody (each parent has custody of a child.)
- 60. _____ Visitation agreement only

61. Do you abide by the terms of your written agreement?
(Circle number)

1 Yes

2 No

62. Does your (ex)spouse abide by the terms of your written agreement? (Circle number)

- 1 Yes
- 2 No

63. Have you and your (ex)spouse modified the written agreement in any way? (Circle number)

- 1 Yes
- 2 No

64. If yes to above question, you have modified the agreement, please describe in what way/s the agreement has been modified.

65. Did you find it necessary to return to mediation to modify the agreement? (Circle number)

- 1 Yes
- 2 No
- 3 Not applicable - no changes made to date

66. If no to question 65, you did not return to mediation to modify the agreement, how did the modification of the agreement take place?

67. If issues arise and you need to make changes in the existing agreement in the future, how will you do this? (Circle number)

- 1 Go directly back to mediation, call the mediators
- 2 Informally work it out with my (ex)spouse
- 3 See if an attorney could help us settle it without going back to court
- 4 Go back to court
- 5 Other (explain) _____

68. Please explain why you would or would not return to mediation.

69. Did you consider quitting mediation in the midst of it? (Circle number)

- | No | At Least Once | Several Times | Often |
|----|---------------|---------------|-------|
| 1 | 2 | 3 | 4 |

70. What made you decide to stay in mediation?

Skip Part C - Go next to Part D

PART C

Please check below all reasons why mediation stopped.
Use the number 1 (one) to indicate the primary reason.

71. _____ Stopping mediation was my spouse's decision
 72. _____ Mediation was too expensive financially
 73. _____ The complexity of the issues was just too
 overwhelming
 74. _____ I felt that I didn't have enough power
 75. _____ The mediators did not seem impartial
 76. _____ I didn't feel I had enough knowledge of
 financial matters
 77. _____ My spouse's demands were unreasonable
 78. _____ Mediation was too emotionally draining
 79. _____ I didn't want the responsibility of deciding
 all the issues
 80. _____ I didn't feel I was protected in the
 mediation
 81. _____ The mediators were not sufficiently
 knowledgeable or skilled
 82. _____ I couldn't tolerate meeting together with my
 spouse
 83. _____ The pace and/or progress was too slow
 84. _____ The pace and/or progress was too fast
 85. _____ I didn't feel I had enough power
 86. _____ My spouse was uncooperative or too angry
 87. _____ I was too angry at my spouse to mediate
 88. _____ It became clear the solution/agreements we
 were reaching were not what I wanted
 89. _____ I wasn't able to say what I wanted
 90. _____ I didn't trust my spouse
 91. _____ My attorney advised me to quit
 92. _____ My spouse and I reconciled
 93. _____ After several sessions, my spouse and I
 decided we could make our decisions without
 the assistance of mediators
 94. _____ Job loss
 95. _____ Death of the (ex)spouse
 96. _____ Death in the family
 97. _____ Didn't feel mediation program was supported
 by court
 98. _____ Other reasons _____

Go next to Part D

Part D

99. Any additional comments regarding mediation you would like to share with us would be welcome.

Go next to Part E

Part E

Finally, we would like to request some general information.

100. What is your gender? (Circle number)

1 MALE

2 FEMALE

101. What is your age? _____

102. What was the length of your marriage at the time of separation?

_____ Years

103. How long ago did you go through mediation?

104. At the time you entered mediation, were you:
(Circle number)

1 Separated

2 Divorced

3 Living together

105. Have you been married previously?
(Circle number)

1 No

2 Yes...If so, how many times? _____

106. How many children do you have? _____
(number)

107. What were the ages of your children at the time mediation began?

BOYS
 (age) (age) (age) (age)

GIRLS
 (age) (age) (age) (age)

108. What is the highest level of education you have completed? (Circle number)

- 1 Less than high school
- 2 High school
- 3 Some college or technical training
- 4 Bachelor's Degree
- 5 Some graduate work
- 6 Master's Degree
- 7 Doctoral Degree

109. Which best describes your current employment? (Circle number)

- 1 Full Time (30+ hours per week)
- 2 Part Time (less than 30 hrs. per week)
- 3 Not Employed

110. What is your approximate yearly family income (before taxes)? (Circle number)

- 1 No income
- 2 Less than \$19,999
- 3 \$20,000 - \$29,999
- 4 \$30,000 - \$39,999
- 5 \$40,000 - \$49,999
- 6 \$50,000 - \$59,999
- 7 \$60,000 - \$69,999
- 8 \$70,000 and over

I M P O R T A N T

Thank you for completing this questionnaire. Your contributions will be valuable in helping us learn more about mediation and what is helpful to parents when important decisions must be made for their children.

We would also like to obtain some additional information about your experience in mediation. We are looking for a few select parents who would be willing to participate in an interview (approximately 60 minutes). From those parents who are chosen and complete the interview, one name will be randomly selected and that parent will receive a \$50.00 U. S. Savings Bond.

If you are interested in being considered for this interview, please complete the information below:

Name: _____

Address: _____

Telephone: _____

Please include the above information with your questionnaire, or mail separately to:

Custody Mediation Project
Department of Family and Child Development
Virginia Polytechnic Institute and State University
Wallace Annex
Blacksburg, Virginia 24061-0416



VIRGINIA POLYTECHNIC INSTITUTE AND STATE UNIVERSITY

Blacksburg, Virginia 24061-0416

DEPARTMENT OF FAMILY AND CHILD DEVELOPMENT (703) 231-4794 or 4795

Dear

Recently you completed an evaluation of the Custody/Visitation Program at the Roanoke County Department of Social Services. As a component of the evaluation, you also requested to be considered for the structured interview.

You have been selected as an interview participant. I will be contacting you within the next two weeks to schedule a time for us to meet. Upon completion of the interview, you will become eligible for the \$50.00 U. S. Savings Bond. The bond winner will be randomly drawn from all interview participants.

I look forward to talking with you.

Thanks.

Sincerely,

A handwritten signature in cursive script that reads "Betty R. McCrary".

Betty R. McCrary, M.A.
Licensed Professional Counselor
Project Coordinator

APPENDIX I

Semi-Structured Interview (Agreement Group)

1. When you originally went to court, were you aware of the mediation program and that you might be ordered to participate in that program?
2. How was the mediation similar to/different from your expectations?
3. Have you ever participated in any other kind of mediation? If so, what kind?
4. What kind of support did you get from your family/friends regarding your participation in the program?
5. Did your children know that their parents were working together in mediation to solve custody/visitation issues?

How did they find out about this?

What were their reactions?

Do you think children should be allowed to participate in mediation? Why or why not?

At what age should children be allowed to participate?

How would their participation have been helpful?

6. Do you think your current spouse/live-in/ significant other should have been allowed to participate in mediation?

If this participation would have been allowed, in what ways do you think the mediation would have been different?

7. Do you believe mediation affected agreement flexibility in a positive or negative way? In other words, did mediation allow more flexibility in the agreement or restrict flexibility in the agreement? Please explain.

8. Tell me about how your agreement has been or has not been successful for you and your ex/spouse? For your children?
9. Were you able to include all you wanted in the agreement?
10. Did you feel pressure from the mediators about what you wanted to include in the agreement? If so, in what ways?
11. Did you agree to any part of your mediation agreement due to pressure you felt by the mediators to reach conclusion? Or pressure felt for any other reasons? Explain.
12. What were the most useful approaches used by the mediators to help you and your ex/spouse reach agreement?

What were the least helpful?

13. Have you used any of the skills you learned in mediation (such as listening, reframing sentences, using I-messages, looking for common ground, making suggestions) to continue to negotiate with your ex/spouse in areas which concern the children? Tell me about this.
14. Have you changed the agreement you signed in mediation? If so, how did this change occur?
15. In looking back over the mediation experience, how would you say mediation was helpful during the time of your separation/divorce?

What was the most helpful part of meeting and negotiating face-to-face with your ex/spouse?

What was the least helpful part of meeting and negotiating face-to-face with your ex/spouse?

16. How did participation in mediation affect the co-parenting arrangement you now have with your (ex)spouse?

In what ways did the experience in mediation change the way both you and your (ex)spouse relate to each other on parenting issues?

In what ways did the experience in mediation change the way you and your (ex)spouse relate to your children?

17. If you were to participate again in mediation, what changes would you like to see in this program that would allow and encourage more cooperation between spouses?
18. Any other suggestions.

Semi-Structured Interview (Termination Group)

1. When you originally went to court, were you aware of the mediation program and that you might be ordered to participate in that program?
2. How was the mediation similar to/different from your expectations?
3. Have you ever participated in any other kind of mediation? If so, what kind?
4. What kind of support did you get from your family/friends regarding your participation in the mediation program?
5. Did your children know that their parents were working together in mediation to solve custody/visitation issues?

How did they find out about this?

What were their reactions?

Do you think children should be allowed to participate in mediation? Why or why not?

At what age should children be allowed to participate?

How would their participation have been helpful?

6. Do you think your current spouse/live-in/significant other should have been allowed to participate in mediation?

If this participation would have been allowed, in what ways do you think the mediation would have been different?
7. How do you believe the mediation experience affected the court order you eventually received? More or less flexibility?
8. Does your court order contain all the issues you wanted addressed?
9. While in mediation, did you feel pressure from the mediators about what you wanted to include in the agreement? If so, in what ways?

10. What were the most useful approaches used by the mediators to help you and your (ex)spouse reach agreement?

What were the least helpful?

11. Have you used any of the skills you learned in mediation (such as listening, reframing sentences, using I-messages, looking for common ground, making suggestions) to continue to negotiate with your (ex)spouse in areas which concern the children? Tell me about this.

12. What caused the termination of mediation?

Was there anything the mediators could have done differently to prevent termination?

Did the mediators contribute to the withdrawal in any way?

13. In looking back over the mediation experience, how would you say mediation was helpful during the time of your separation/divorce?

What was the most helpful part of meeting and negotiating face-to-face with your (ex) spouse?

What was the least helpful part of meeting and negotiating face-to-face with your (ex)spouse?

14. How did participation in mediation affect the co-parenting arrangement you have now with your (ex)spouse?

In what ways did the experience in mediation change the way both you and your (ex)spouse relate to each other on parenting issues?

In what ways did the experience in mediation change the way you and your (ex)spouse relate to your children?

15. If you were to participate again in mediation, what changes would like to see in this program that would allow and encourage more cooperation between spouses?

16. Any other suggestions.



VIRGINIA POLYTECHNIC INSTITUTE AND STATE UNIVERSITY

Blacksburg, Virginia 24061-0416

DEPARTMENT OF FAMILY AND CHILD DEVELOPMENT (703) 231-4794 or 4795

CONSENT FORM

I agree to participate in an individual interview regarding my experience in the Roanoke County Department of Social Services Custody Mediation Program. The interview will be approximately one hour in length and will be audiotaped. I understand I will only be identified in the transcript as "mother" or "father". All information is confidential and will not be shared in any identifiable manner with Social Service or Court Service staff. This confidential information is protected as outlined and described in the Confidentiality Laws of Virginia and the Department of Social Service Policy and Procedure manual.

Parent signature

Date

Betty R McCrary

BETTY R. McCRARY

1908 Old Mill Drive
Salem, Virginia 24153
(703) 389-6157
(703) 774-4686

EDUCATION

East Tennessee State University, Bachelor of Social
Welfare, 1971
Virginia Polytechnic Institute and State University,
M.A. in Counseling, 1984
Virginia Polytechnic Institute and State University,
Ph.D. in Family and Child Development, 1992.

EMPLOYMENT

Director, Roanoke County Department of Social Services,
Effective 3-1-92
Social Work Supervisor and Family Counselor/Mediator,
Roanoke County Department of Social Services, 1977-
1992
Licensed Professional Counselor/Family Mediator, Private
Practice, The Manassas Group, 1989-Present
Family Counselor, Associates in Psychiatry and Counseling,
1987-1989
Social Worker, Roanoke County Department of Social
Services, 1973-1977.
Social Worker, McVitty House, Inc., 1971-1973

PROFESSIONAL AFFILIATIONS/MEMBERSHIPS

Licensed Social Worker, State of Virginia
Licensed Professional Counselor, State of Virginia
Certified Family Mediator, AAFCM
National Certified Counselor
Virginia Counselors Association
Roanoke Counselors Association
American Association for Counseling and Development
American Association of Family Counselors and Mediators,
Inc.

National Council on Family Relations
 Board of Directors, Youth Haven I, Youth Haven II, and
 Sanctuary
 Mental Health Association of the Roanoke Valley

CONSULTATION AND TRAINING

Workshop Trainer for Foster Parents, Roanoke County and
 City Department of Social Services
 Regional Trainer for Family Day Care Providers, Virginia
 Department of Social Services
 Stress Management for the Working Woman, Roanoke Business
 Women's Association
 Stress Management for Women, Various Church Presentations
 Stress Management for Adolescents, Public agencies and
 churches
 Stress Management for Parents of Adolescents, Public
 agencies and churches
 Family Systems Orientation, Roanoke County Department of
 Social Services
 Workshop on "Working with Adult Children from Dysfunctional
 Families", Virginia Counselors Association
 Workshop on "Family Relations in the 90's", American Red
 Cross
 Guest Classroom Instructor on Child Custody and Visitation
 Mediation, Virginia Polytechnical Institute and State
 University
 Parent Education Groups
 Consultant and Developer of Child Custody/Visitation
 Mediation Program, Roanoke County Dept. of Social
 Services, Roanoke County and Salem Courts
 Family Life Education Community Involvement Team, City of
 Salem Schools