

A STUDY ON MEDIATION:
CONSUMER SATISFACTION WITH THE MEDIATION PROCESS

BY

RACHEL BIRNBAUM

A Thesis
Submitted to the Faculty of Graduate Studies
in Partial Fulfillment of the Requirements
for the Degree of

MASTER OF SOCIAL WORK

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Abstract

This exploratory study examines 270 individuals who have been referred to Family Conciliation Services, Winnipeg, Manitoba for mediation.

The intent of doing this exploratory study was to examine the relationship between consumer reported satisfaction with the mediation process and selected variables identified in the literature as thought to affect outcome in mediation. A second intention was to examine gender differences across the variables, which are thought to be connected to successful outcome in mediation.

The individuals studied were asked to respond to a mail-out survey questionnaire. A comparison between the responding and non-responding groups was also explored with respect to certain variables. It was hypothesized that the consumers of the service at Family Conciliation Services would find mediation to be beneficial in resolving custody and access disputes.

In examining the key satisfaction indicators the results showed that there was a significant association found between satisfaction with the parenting agreement and improved communication between the ex-spouses. There was a significant association found between satisfaction with the parenting

agreement and having reached this agreement with the help of a mediator. There was also a significant association found between recommending mediation to others in similar circumstances and satisfaction with both the mediation sessions and the mediation outcome.

In examining the results of this exploratory study one is led to believe that while the consumers of mediation found the service to be beneficial with respect to resolving custody and access disputes, the overall results of consumer satisfaction with mediation needs further investigation.

TABLE OF CONTENTS

	Page
INTRODUCTION	1
I. BACKGROUND ON THE STUDY	1
A. PROLOGUE	1
B. HISTORICAL ROOTS OF DIVORCE LEGISLATION-	
INFLUENCE OF THE CHURCH	3
C. DIVORCE LEGISLATION IN CANADA	5
D. ORIGINS OF CHILD CUSTODY ADJUDICATION	9
II. PURPOSE OF STUDY	12
III. DEFINITION OF TERMS	14
IV. ASSUMPTIONS	17
V. SIGNIFICANCE OF STUDY	18
VI. SCOPE AND LIMITATIONS	19
LITERATURE REVIEW	25
I. DIVORCE MEDIATION	25
A. THE DEVELOPMENT OF DIVORCE MEDIATION	25
B. DIVORCE MEDIATION - THE PROCESS	30
C. DIVORCE MEDIATION - THE MODELS	34
D. SIGNIFICANT VARIABLES THAT AFFECT OUTCOME	37
Process Factors	37
(1) Client Characteristics	37
(2) Coping Ability and Degree of	
Communication	42
(3) Mediator Style	43
(4) Timing of Mediation	46
(5) Life Satisfaction	46
(6) Extent of Lawyer Support	50
(7) Savings in Money and Time	50
(8) Settlement Rate	53
(9) Post-Divorce Adjustment (Relationships	
Between Parents and Child)	56
(10) Degree of Compliance and Relitigation	59
E. SUMMARY OF FINDINGS	62
F. LIMITATIONS AND SUMMARY	72

	Page
G. CONSUMER SATISFACTION RESEARCH	80
Richardson Study (1988)	90
Sloan and Greenaway Study (1988)	99
METHOD	112
A. Research Setting	114
B. Research Participants	117
C. Instrumentation	119
D. Data Analysis	120
RESULTS	122
A. Sample Characteristic of Responding Group	122
B. Comparison of Responding and Non-Responding Groups	156
DISCUSSION	165
A. Responding Group	165
B. Comparison of Responding and Non-Responding Groups	189
SUMMARY AND CONCLUSION	193
I. Purpose/Literature Review	193
II. Summary of Significant Findings in the Exploratory Study	197
A. Satisfaction	197
B. Gender Differences/Satisfaction	198
C. Respondents versus Non-Respondents	199
III. Interpretation of Results	201
IV. Limitations	202
V. Future Directions	205
APPENDIX I	209
APPENDIX II	215
APPENDIX III	226
BIBLIOGRAPHY	227

TABLES

	Page
Table I. Distribution of Respondents Income by Sex	123
Table II. Distribution of Employment Status by Sex	125
Table III. Distribution of Marital Status at the time of Mediation by Sex	126
Table IV. Frequency Distribution of Length of Relationship by Sex	127
Table V. Frequency Distribution of Length of Separation Prior to Mediation by Sex	128
Table VI. Frequency Distribution of Children's Principle Residence at the time of Mediation and at the time of Survey by Sex	129
Table VII. Frequency Distribution of Level of Coping Ability at time of Mediation by Sex	130
Table VIII. Frequency Distribution of Current Level of Coping Related to Experience in Mediation	131
Table IX. Distribution of Parties Ability to Communicate with the Other Party since Completing Mediation by Sex	131
Table X. Frequency Distribution of Parties Ability to Communicate Directly Related to their Experience in Mediation	132
Table XI. Frequency Distribution of Types of Issues in Dispute	133
Table XII. Referral Source by Sex	134
Table XIII. Distribution of Life Situation since Completing Mediation by Sex	135
Table XIV. Distribution of Satisfaction with Mediation Sessions by Sex	136
Table XV. Distribution of Satisfaction with Mediation Outcome by Sex	137
Table XVI. Lawyer Supportive of Participation in Mediation	138

	Page
Table XVII. Frequency Distribution of Recommending Mediation to Others	138
Table XVIII. Agreements Reached or Not	139
Table XIX. Degree of Financial Strain Following Separation and/or Divorce by Sex	140
Table XX. Financial Status Changed Since Completing Mediation	141
Table XXI. Frequency Distribution of Parenting Agreement Reached Independently	142
Table XXII. Frequency Distribution of Parenting Agreement Reached With the Help of the Mediator	143
Table XXIII. Frequency Distribution of Parenting Agreement Reached with the Help of the Lawyer	144
Table XXIV. Frequency Distribution of Parenting Agreement Reached Through Court	145
Table XXV. Whether or Not Agreement was Reached and Mediator was Biased Towards the Other Parent	146
Table XXVI. Whether or Not Agreement was Reached and Mediator Remained Neutral and Fair	147
Table XXVII. Whether or Not Agreement was Reached and Mediator Provided Structure	148
Table XXVIII. Whether or Not Agreement was Reached and Mediator Facilitated Communication	149
Table XXIX. Whether or Not Agreement Reached and Mediator Offered Information	149
Table XXX. Whether or Not Agreement Reached and Mediator Did Not Understand my Needs and/or my Child's/ren's Needs	150
Table XXXI. Whether or Not Agreement Reached and Mediator Pressured me to Agree and/or Compromise Before I was Ready	151
Table XXXII. Distribution of Responding and Non- Responding Groups by Sex	157

Table XXXIII. Distribution of Responding and Non- Responding Groups by Number of Children	158
Table XXXIV. Frequency Distribution of Employment Status of Responding and Non-Responding Groups	159
Table XXXV. Frequency Distribution of Length of Relationship by Responding and Non-Responding Groups	160
Table XXXVI. Distribution of Marital Status and Responding and Non-Responding Groups	161
Table XXXVII. Frequency Distribution of Agreement Reached among Responding and Non-Responding Groups ...	162
Table XXXVIII. Distribution of Responding and Non- Responding Groups by Who Referred	163
Table XXXIX. Distribution of Responding and Non- Responding Groups by Which Problem	164

INTRODUCTION

I. BACKGROUND ON THE STUDY

A. PROLOGUE

The dissolution of a marital relationship involves a number of processes. One process is the actual termination of the marriage, which is essentially legal in nature. The second process is a combination of a psychological divorce (Jackson and Lederer, 1986), a social divorce (Ricci, 1980; Folberg, 1983), and a legal divorce.

This study focuses on the latter process of marital dissolution. Couples experiencing separation and/or divorce are at a high risk for developing social, psychological and medical problems (Goode, 1956; Gurin, Veroff and Feld, 1960; Holmes and Rake, 1967; Bohannon, 1970; Gove, 1972; Weiss, 1975; Ladbrook, 1976; and Coogler et al., 1979). Stress, confusion, and uncertainty about the future are often precipitated in some of these individuals as a result of separation and/or divorce. In addition, the children of these separating and/or divorcing parents are themselves caught between divided loyalties, saddened by separation and loss of one of their parents, reduced standard of living, and anxious and uncertain about their future (Wallerstein and Kelly, 1980; Koch and Lowery, 1984; Emery and Wyer, 1987).

The legal system emphasizes the rights of the individuals which often exacerbates the problems associated with separation and/or divorce and can have overwhelmingly negative consequences for the entire family. Each parent is represented by a lawyer who strongly represents their clients' individual interests. In turn, this adversarial process inevitably creates a divisiveness and conflict. Within the traditional adversarial system, divorce is often viewed as a personal and moral failure (Brown, 1982). This system tends to heighten tensions which already exist between the parties.

Mediation has been developed as an alternative to the traditional adversarial process (Buttenweisser et al., 1966; Bohannon, 1970; Cavanaugh and Rhode, 1976; and Sander, 1976). Mediation is an interventive technique which empowers the parties by encouraging them to take responsibility for their own decisions and assisting them to clarify the issues in dispute (Folberg, 1983). It encompasses the psychological, social and legal aspects of divorce and facilitates an examination of mutual interests rather than individual ones (Folberg, 1983). Unlike the traditional adversarial process, mediation seeks to avoid blame on either party and can facilitate mutual problem-solving (Gulliver, 1979; Folberg, 1983).

B. HISTORICAL ROOTS OF DIVORCE LEGISLATION-INFLUENCE OF THE CHURCH

Prior to the Middle Ages, both marriage and divorce were viewed as a private matter not to be interfered with by the State or Church. A shift in the regulation of marital dissolution occurred about the tenth century (Walker, 1986). Marriage ceased to be a private matter and became a religious one, subject to the regulation of the ecclesiastical legal system (Wacher, 1971). This shift was due to a rising number of divorces and remarriages in Rome. The Church of Rome was emerging as a strong political and social force in society. The influence of Christianity, with an emphasis on the Sacramental nature of marriage, took a strong hold well into the sixteenth century. Marriage was viewed as a sacrament and indissoluble (Day and Hook, 1987). "What therefore God has joined together, let no man put asunder."¹

With respect to divorce, severe laws predominated. For example, divorce was possible if it could be proven that the wife was an adulterer, prostitute, or a convicted prisoner (Day and Hook, 1987). Women, on the other hand, were allowed few grounds for divorce. The major reason the woman could divorce was by military separation; if the husband had not

¹ The Holy Bible, New Testament, Book of Matthew, St. Matthew, Chapter 19, Verse 9.

been heard from in many years; or if he was convicted of a felony (Day and Hook, 1987).

With the birth of the Protestant Reformation in the sixteenth century marriage and divorce became controversial issues. Marriage was no longer viewed as sacred. This challenge first began with Martin Luther, who proposed "that marriage was not a holy sacrament, but an element of creation."² Henry VIII of England also challenged the church control of marriage. His challenge centered on the view of patriarchal rule whereby the role of the father in the family was the final authority. Prior to Henry VIII the center of authority rested with the Pope (Day and Hook, 1987).

A tradition was thus established that "rested on the subordination of married women, a guilt-innocence approach to divorce and the state's interest in preserving marriage."³

This transfer of ideology from the ecclesiastical to the secular continued throughout the sixteenth century. Mahlo (1975) believed that one of the reasons for this shift was

² Day, R. and Hook, D. 1987. A Short History of Divorce: Jumping the Broom and Back Again. Journal of Divorce, 10, (3/4), Spring/Summer, p 63.

³ Gettleman, S. and Markowitz, J. 1974. The Courage to Divorce. Bantam Books, p 60.

due to a gradual abandonment of early Christian norms of social conduct. It is not within the scope of this thesis to examine the socio-political and economic reasons for this change, but, to be aware of the historical significance of the Protestant Reformation because these changes provided a context for the development of the adversarial system, and led the way to the notion of "guilt and fault" as the legal basis of divorce.

C. DIVORCE LEGISLATION IN CANADA

Statutory reform in Canada developed incrementally. The Divorce and Matrimonial Causes Act of 1857 (McKie et al., 1983), largely inherited from English laws, established the grounds for divorce. Imbedded in this Act was the notion of "guilt and fault". The creation of Canada through Confederation in 1867 (the BNA Act) assigned exclusive authority over both marriage and divorce to the Federal Government. However, each individual province had different laws and procedures on how to implement the law (Abernathy and Arcus, 1977; McKie et al., 1983).

Irving stated, "thereafter statutory reform with respect to divorce proceeded in piecemeal fashion until 1960's."⁴

⁴ Irving, H. and Benjamin, M. 1987. Family Mediation: Theory and Practice of Dispute Resolution. p 29.

In 1968, the Federal Government enacted the Divorce Act, 1968, which produced uniform Federal legislation throughout Canada. However, individual provinces and territories enacted their own legislation concerning division of matrimonial property, child custody and child and spousal support (Department of Justice, 1985). The passing of this Act included "no-fault" or marriage breakdown as an addition to the grounds for divorce.

The Divorce Act, 1968, was widely criticized (Payne, 1973). The Department of Justice stated,

"underlying many of these criticisms was a perception of family law as in many ways unique in that it falls somewhere between civil and criminal law -- it involves a greater human and emotional element."⁵

With time new divorce legislation emerged out of the changing social and political order of the 70's and 80's. The nuclear family had changed, the social, psychological and economic consequences of divorce on families were being understood and interest groups such as father's rights groups and women's groups were emerging (Department of Justice, 1985).

⁵Department of Justice. Evaluation of the Divorce Act, 1990. Phase 11, Monitoring and Evaluation. p 2.

As a result of these changes the Divorce Act, 1986 became law. This Act had three main objectives:

- "(a) to make the divorce process less adversarial while increasing chances for the reconciliation of the spouses;
- (b) to provide a more humane and fairer resolution of the consequences of divorce; and
- (c) to recognize provincial responsibility and provide for a process of divorce which will operate with as few complications or duplication as possible."⁶ (See Appendix I on a Comparison Between Major Provisions of the Divorce Act of 1968 and the Divorce Act, 1986).

With the introduction of the Federal legislation of "no-fault" divorce in 1986 legislators hoped to eliminate the burden of proving fault as long as "marriage breakdown" was the only grounds for divorce. The use of matrimonial offences (adultery, desertion) and marriage breakdown (irreconcilable differences) as grounds for divorce was now being viewed as disguising what the real reasons for the divorce were

⁶ Department of Justice. Evaluation of the Divorce Act, 1990. Phase 11, Monitoring and Evaluation. p 1.

(Department of Justice, 1985). The Canadian Law Reform Committee in 1976 stated,

"It has long been recognized that matrimonial offences such as adultery have in most cases, only been used as a pretext to obtain a divorce. They have not been the cause of marriage breakdown, but the result."⁷

Since 1986, a marriage is considered to have dissolved if:

- "(a) the husband and wife intentionally live separate and apart for one year or longer; or
- (b) either the husband or the wife committed adultery; or
- (c) either the husband or the wife subjected the other to intolerable physical and/or mental cruelty."⁸

It will undoubtedly take some time to establish whether the Divorce Act, 1986 reflects the changes in attitudes the legislators were attempting to accomplish. More importantly, it does reflect one important consequence of divorce and that

⁷ Canadian Law Paper. 1976. Commission of Canada, Ottawa, p 31.

⁸ Divorce Law for Counsellors. 1986. Department of Justice, Canada, p

is the social and psychological impact that divorce can have for some. Under this Act,

"a lawyer consulted by a person seeking a divorce must point out the advisability of negotiating support, custody and access matters. The lawyer must also inform the client of any appropriate mediation services that are known to the lawyer."⁹

Irving cogently summarized this when he stated, "a major difficulty of family law is that the problems brought by the clients' are frequently not primarily legal problems, they are deep human problems in which law is involved."¹⁰

D. ORIGINS OF CHILD CUSTODY ADJUDICATION

In 1986, Macdonald identified three dominant themes which indicate how the enshrinement of custodial rights throughout history has paralleled the development of divorce legislation. These themes are: (1) presumption of paternal superiority; (2) conduct of the parents; and (3) emotional ties to the child.

⁹ Divorce Law for Counsellors. 1986. Department of Justice, Canada, p 24.

¹⁰ Irving, H. 1980. Divorce Mediation: The Rational Alternative.

Personal Library Publishers, Toronto, p 28.

The first theme stems from the child being viewed as property with no inherent rights or feelings. Regardless of the age of the child, paternal dominance equated with absolute control over the children dating back to the Dark Ages. For example, in the seventh century the father could very well sell his child under the age of seven into slavery. During this time, infanticide, child sacrifice and child slavery were not uncommon (Bala and Clarke, 1981).

In England it was not until 1839 in Talfourd's Act (Ames and Knopf, 1962) that the Court had the authority to award custody to a mother. However, a proviso was made which stipulated that at the age of seven the child would automatically return to the father. This Act simply recognized the biological limitations of the father while still maintaining the presumption of paternal ownership. It was not until well into the twentieth century that children's rights were addressed let alone recognized. Laws came to be enacted to protect a child's physical and emotional health. For example, the Factory Act in Canada, 1887, regulated and limited the employment of Children in factories. The first Children's Aid Society was founded in the early 1890's to protect the welfare of minor children (Bala and Clarke, 1981).

The second theme dealt with the moral conduct of parents in family law. This was defined as the behaviour of

one or both of the parents as viewed by the Court in determining decisions of custody and/or access. It is the Court who decides on the "conduct" of the parents. For example, the issue of adultery could be raised against one parent or the other. With the passage of time moral conduct of the parents gave way and more emphasis was placed on the parenting ability of either party (Bala and Clarke, 1981).

The third theme influencing the determination of custody rested on the emotional ties of the parents to the child. Custody adjudication was now being determined by what was in the best interests of the child. Goldstein, Freud, and Solnit in Beyond the Best Interests of the Child (1973) were the first to introduce the legal profession to the concept of a psychological parent. This principle essentially states that given the vulnerability of the child, his/her interests must take center stage in the divorce and/or separation process.

The ultimate resolution of custody has gone through both moral and judicial changes. The emotional ties of parents to children were not considered in the past. Parents as well as the judiciary are now placing less emphasis on paternal dominance and moral conduct and focussing more on the needs and wishes of the child. This implies that the child is a person, a concept which did not formerly exist in law (Macdonald, 1986).

II. PURPOSE OF STUDY

The objective of this study was an exploratory examination of the relationship between consumer satisfaction with the mediation process and selected variables that have been identified as helpful in determining the effectiveness of outcome in mediation. To date, differences with respect to the variables identified have not been fully explored in the literature so it was resolved that this would be examined as well; and finally, it was hypothesized that the consumers of the service at Family Conciliation Services would find mediation to be beneficial in resolving custody and access disputes.

In evaluating clinical services in family practice settings, Trute (1985) states, "evaluation researchers consider consumer feedback to be an important source of information on treatment."¹¹ Therefore, it would seem from a practical and research point of view that it would be valuable to examine consumer satisfaction with mediation. However, there is a paucity of research that specifically examines consumer satisfaction with mediation. The research does indicate a number of variables that have been identified as being helpful in determining the effectiveness of outcome

¹¹ Trute, B. 1985. Evaluating Clinical Service in Family Practice Settings. Canadian Social Work Review, p 107.

in mediation. From an examination of the literature, the following list of variables was compiled:

- (a) client characteristics (socio-demographic dimensions);
- (b) client resources (degree of communication);
- (c) mediator style (reflexive, contextual, and/or substantive);
- (d) types of issues in dispute (custody and/or access);
- (e) timing of mediation;
- (f) life satisfaction; satisfaction in mediation sessions and outcome;
- (g) extent of lawyer support;
- (h) savings in money and time;
- (i) post-divorce adjustment (relationship between parents and child);
- (j) degree of compliance and relitigation; and
- (k) settlement rate

Wihak (1985) categorized these variables from the research as process factors, client factors, and other factors in determining the outcome in mediation. The Conciliation Project Unit in Great Britain stated in 1985,

"what have now come to be recognized as the standard indicators of the effectiveness of conciliation: satisfaction with process,

satisfaction with outcome, agreement rates and improvements in communication."¹²

Lebow (1983) also suggests that consumer satisfaction is an important element in achieving a positive outcome. Davis (1983) argues, "that the main yardstick of effectiveness of family conciliation should be the parties' satisfaction with the arrangements."¹³ It is my intent to explore, describe, and develop further hypotheses concerning the relationship between consumer satisfaction and the variables that effect outcome in mediation. The findings in this study will hopefully contribute to practitioner work in effectively dealing with those individuals involved in marital dissolution.

III. DEFINITION OF TERMS

The following is a definition of terms used in this exploratory study:

- (1) Consumer Satisfaction - a subjective evaluation measuring the extent to which any parent surveyed has found the Service helpful to them according to self-

¹² Simpson, B., Corlyon, J., McCarthy, P., and Walker, J. 1990. Client Responses to Family Conciliation: Achieving Clarity in the Midst of Confusion. British Journal of Social Work. p 559.

¹³ Davis, G. 1983. Conciliation and the Professions. Family Law (3), p 7.

report measures of the variables used in this exploratory study.

- (2) Divorce Mediation - a mutual process of problem-solving facilitated by a neutral third party, to help achieve mutual agreement on issues relating to custody of and access to the parties child(ren). In Great Britain the term conciliation is used. For purposes of this thesis the terms are synonymous.
- (3) Custodial Parent - the parent who has principal care and control of the child, the child has primary residence with the parent(s).
- (4) Access Parent - the parent who visits with the child according to some pre-arranged agreement made by a mediator or by the parties themselves.
- (5) Coping Ability - the degree to which a parent is managing emotionally since the separation and/or divorce.
- (6) Level of Communication - the degree to which each of the parent(s) are able to clearly express his/her thoughts, opinions, feelings, and so on to each other.
- (7) Mediator Strategy (a) reflexive: mediator explores the dispute with the parties to establish some groundwork upon which to explore later. Mediator attempts to gain the parties trust and build some rapport (Kressel, 1972; Kressel and Deutsch, 1977).
(b) contextual: mediator creates the condition to allow for the communication and mutual

problem-solving. Mediator identifies the important issues and structures the agenda (Susskind and Ozawa, 1985).

(c) substantive: mediator takes an active role in providing suggestions, and offers compromises. Mediator helps the parties toward a settlement (Wall and Rude, 1985).

- (8) Disputing Parties - the couple involved in the request for custody of and/or access to the child(ren).
- (9) Closed Mediation - the mediation remains completely confidential. If the mediation has been successful the mediator only reports the results of the agreement (this kind of mediation is practiced at the Family Conciliation Services, Winnipeg, Manitoba).
- (10) Open Mediation - the mediator reports recommendations on the custody of or access to the Court which includes what the parties have said.
- (11) Agreement Reached (outcome) - agreement or non-agreement.
- (12) Court-ordered Mediation - a Manitoba Court of Queen's Bench Judge or Master can order the parties to attend with a mediator who will attempt to help the parties resolve the issues of custody and/or access.

IV. ASSUMPTIONS

There are several underlying assumptions of mediation which are not shared by the traditional adversarial system. These include:

- 1) "parents are forever" -- A divorce ends the legal relationship between husband and wife, but it does not end the role of parents, the responsibilities of parents, nor the parent/child relationship;"¹⁴
- 2) "families are forever" -- A divorce ends a marriage, but does not end the family. It only rearranges the relationships among it's members;"¹⁵
- 3) "people can change -- Therefore it has to be said that most persons, when freed from the enervating burdens of a dysfunctional marriage can and often do change. Many are capable of arriving at mutually acceptable decisions, during and after the divorce, even though they were unable to agree while married."¹⁶

The overriding assumption is that mediation is helpful to the parties involved in marital dissolution by assisting

¹⁴ Elkin, M. 1982. The Missing Links in Divorce Law: A Redefinition of Process and Practice. Conciliation Courts Review, p 43.

¹⁵ Ibid, p 43.

¹⁶ Ibid, p 44.

them in mutual decision-making of custody and/or access arrangements.

V. SIGNIFICANCE OF STUDY

Divorce mediation has generated considerable interest as an alternative method of resolving disputes. However, studies exploring the actual effectiveness of mediation as well as studies exploring the consumer's satisfaction with this process have been limited (Kressel, 1985; Emery and Wyer, 1987; and Kelly and Gigy, 1988).

Research on divorce mediation has largely been American. Only through the pioneering efforts of Irving and Irving (1974); Irving and Gandy (1977); Irving (1979, 1980); Irving, Bohm, MacDonald, and Benjamin (1979, 1981); Irving and Bohm (1981); Irving and Benjamin (1983, 1984, 1985, 1987); Richardson (1988), and Sloan and Greenaway (1988) has Canadian research contributed to the body of literature on divorce mediation. This exploratory study will hopefully add to the Canadian stage.

This exploratory study is important for the consumers of the service and is also important to the field of mediation. Exploring the variables that effect outcome may in turn help improve the services to the consumer.

Two variables which have been explored in the research are post-divorce compliance and relitigation rates. These variables have shown to be supportive of mediation as an alternative to the traditional adversarial system (Margolin, 1973; Bahr, 1981; and Pearson and Thoennes, 1984). In a broader perspective, if these variables could then be linked with client satisfaction, mediation may take on even greater significance (Kelly and Gigy, 1988).

This exploratory study of consumer satisfaction with mediation is one such step in making those links. One note of caution, this study is not intended to be an evaluation of the Family Conciliation Service, Winnipeg, Manitoba.

VI. SCOPE AND LIMITATIONS

This exploratory study was narrow in its focus. Only the aspects of mediation with respect to custody and access issues were examined as they are the only two issues that are mediated at the Family Conciliation Services, Winnipeg, Manitoba, which was the site of the study. The Service has a unique feature in that virtually all parties in dispute of custody and/or access issues are referred by the Court. The results of this study can only be interpreted with respect to this particular Service.

I found from my interviews with the staff members at Family Conciliation Services, Winnipeg, Manitoba, that they

describe themselves as taking an eclectic approach to mediation and were influenced to some degree by Saposnek and Irving. Richardson reports,

"in Winnipeg, one counsellor characterized his style as 'business-like' and practical and as usually steering away from 'relationships', while another described this approach as relatively 'therapeutic' and concerned with communication skills."¹⁷

For purposes of this study, I will focus on the three models of mediation which the literature tends to support as the major models most often used by mediators:

- (1) the therapeutic model;
- (2) the labor negotiation model; and
- (3) the structural model (Brown, 1985; Irving and Benjamin, 1987).

The therapeutic model of mediation rests on two distinctive features. The first being that the mediator helps the disputing parties to focus on the emotional aspects of the divorce prior to examining the more substantive issues of custody, access, division of property, and spousal and child support. The second feature of this particular model focuses

¹⁷ Richardson, C.J. 1988. Court Based Divorce Mediation in four Canadian cities. Overview of Research Findings, p 26.

on educating the disputing couple on the emotional and developmental needs of their children during the divorce process. Although this model borrows heavily from therapy techniques, it is not therapy oriented. On the contrary, the mediator utilizing this model has a knowledge base of family therapy, child psychology as well as an understanding of the legal aspects to the dispute.

The labour negotiation model focuses on reaching a settlement by examining the positions of the disputing couple. Unlike the therapeutic model, this model is less concerned with the parties' feelings. More significance is placed on which areas of agreement and negotiation can take place between the parties. The distinctive feature of this model is its focus on the process of negotiation with the parties to reach a mutually acceptable agreement.

The structural model of mediation sets out specific rules. These rules usually include who will attend the sessions, the goals of each session, the ordering of the issues, the consequences of not meeting the stated goals, the time when the lawyers or outside sources can be contacted, permissible conduct between sessions, and with how the final agreement will be formalized and implemented (Coogler, 1978). This model is highly structured, with the mediator taking control of the issues and deciding how they will be dealt with. It focuses on the substantive issues of divorce,

procedural expectations and offers a degree of predictability for the disputing parties. However, this same approach is often not as flexible as it could be and does not allow enough room to deal with the emotional issues of the divorce process itself.

These three models offer different ways of conducting mediation and tend to overlap with one another. Perhaps no one model is superior to any other, but does provide a theoretical framework from which the consumer can choose from. As there are different mediator styles (reflexive, contextual, and substantive) as previously outlined, so too are there different models of mediation practiced by mediators.

In a study of court-based mediation in Winnipeg, Manitoba, Sloan and Greenaway (1988) reported that counsellors at Family Conciliation Services,

"vary greatly, however, in the main thrust of their approach from relatively structured and practical on the one hand to relatively unstructured and therapeutic on the other."¹⁸

¹⁸ Sloan, R.L. and Greenaway, W.K. 1988. Divorce and Family Mediation Research Study, Winnipeg. p 34.

Given the circumstances of this specific setting and the mediation approach, the following list of variables were the only factors that this study was able to attend to:

- (1) client characteristics (socio-demographic information);
- (2) client resources (coping ability, degree of communication with the other spouse);
- (3) mediator style (reflexive, contextural, and/or substantive);
- (4) types of issues in dispute (custody and/or access);
- (5) who referred the parties to mediation;
- (6) degree of court involvement during and after mediation;
- (7) life satisfaction, satisfaction with mediation sessions and outcome;
- (8) extent of lawyer support;
- (9) recommending mediation to others;
- (10) whether or not agreements are reached;
- (11) degree of financial strain; and
- (12) how was parenting agreement reached and has it changed before and after mediation.

A feature affecting this exploratory study was another study being carried out on some of the same client base as this study. This may have reduced the compliance rate of those surveyed in this study.

Other limitations effecting this study were:

- (a) size of the sample

- (b) length of time after completion of the mediation process
- (c) the difficulties involved in reaching individuals at their last known address
- (d) some of those individuals surveyed did not wish to respond as they did not want to relive a painful process
- (e) the difficulties in compliance rate for mailed surveys is usually low (Lebow, 1983)
- (f) the self-selection process of those surveyed
- (g) amount of missing data, both in the court files and in the questionnaire.

LITERATURE REVIEW

I. DIVORCE MEDIATION

A. THE DEVELOPMENT OF DIVORCE MEDIATION

Mediation is not unlike disputes that were settled in earlier times by a neutral third party. In ancient China, under the influence of Confucianism, emphasis was placed on developing natural harmony through moral persuasion and agreement (Folberg and Taylor, 1984). The historical roots of mediation in dispute resolution dates back to early Judeo-Christian values (Folberg and Taylor, 1984). Mediation was synonymous with the biblical values of forgiveness, reconciliation and restoration (Brown, 1982; and Folberg and Taylor, 1984). "Blessed be the peacemakers for they shall be called the Sons of God."¹⁹ The Jewish religious court, Beth Din, also has a long tradition dating from the ancient Hebrews. This system of justice is now part of the Israeli legal system (Irving, 1980; Brown, 1982; and Irving and Benjamin, 1987). Similar forms of mediation have long existed in Africa. The assembling of a "moot" court or neighborhood meeting to resolve a variety of disputes has long been a tradition (Folberg and Taylor, 1984 and Irving and Benjamin, 1987). The Quakers have also used forms of mediation as well to resolve their disputes (Brown, 1982; Folberg and Taylor, 1984; and Irving and Benjamin, 1987).

¹⁹ The Holy Bible, Old and New Testaments. Book of Matthew, St. Matthew, Chapter 5, Verse 9.

Formal institutions of divorce mediation began to take shape in the early twentieth century. In 1939, the first conciliation service (mediation) was established at the Los Angeles County Conciliation Court (Irving, 1980; and Devlin and Ryan, 1986). Its sole purpose was to preserve and promote family life, reconcile families, and provide amiable resolution to family difficulties (Hodges, 1986). Much of what mediators had been doing previously was now being adapted to separation and/or divorce mediation.

Developments in the field of labour-management disputes helped foster the notion of alternate means of dispute resolution in the 1960's to 1970's (Sander, 1983; Irving and Benjamin, 1987). This included various organizations being formed such as the American Arbitration Association in 1969; the passage of the Dispute Resolution Act in 1980; and the founding of professional bodies of dispute resolution (Irving and Benjamin, 1987).

Parallel developments in divorce mediation were occurring in Canada as well, both in the public and private sector (Devlin and Ryan, 1986).

The first conciliation court demonstration service established in Canada was in Edmonton, Alberta (1972). The goal of this conciliation service was to assist the disputing

parties to reach mutual agreement about the future needs of their children (Devlin and Ryan, 1986).

One year later conciliation services developed in Ontario, in particular, in Hamilton, Ontario under the Unified Family Court System. The service was available to individuals who had been referred by judges or lawyers to resolve issues of custody, access, and/or financial matters. By 1976, eight experimental models of mediation services were operating within the family courts of Ontario (Devlin and Ryan, 1986; Irving and Benjamin, 1987). However, there was no uniformity in the services offered. This was a result of different funding and different settings which offered mediation (Devlin and Ryan, 1986).

Other provinces, such as British Columbia, New Brunswick, Newfoundland, Prince Edward Island, Manitoba and Saskatchewan all have similar mediation services attached to the Courts. To date, the only Court in Canada which operates as a Rule of Court ("automatic" referral), providing for referral to mediation, is in Winnipeg, Manitoba (Devlin and Ryan, 1986; and Richardson, 1988).

There are only two mediation services in Canada which offer a comprehensive mediation service (custody, access as well as financial matters). One such service is the Frontenac Family Referral Service in Kingston, Ontario which was

established in 1976 by Judge George Thomson of the Provincial Court (Family Division). Another similar service was established in Montreal, Quebec in 1981. The Montreal mediation service became permanent in April 1984 and now operates in the City of Quebec as well (Devlin and Ryan, 1986). Both these services are fully subsidized by their provincial governments.

The service in Montreal is based on the "Coogler" model of mediation. The Coogler model is named after James Coogler, a lawyer in the United States. In 1974, he advocated a system of comprehensive mediation which resolved all issues in dispute (custody, access, and financial matters).

The private sector, since the 1970's, has produced the most growth in offering mediation services (Devlin and Ryan, 1986; Irving and Benjamin, 1987). These services are offered by various mental health professionals who provide alternative means of resolving custody and/or access matters. Some mediators only deal with custody and/or access issues, while others will mediate financial matters as well.

With the expansion of services, both in the public and private sectors, professionals recognized a need for a professional body to establish and promote standards of practice. Consequently, the Ontario Association for Family Mediation in Ontario was first founded in 1982. Other

provinces have since formed Provincial Mediation Associations.

In 1984, a national conference called "The People's Law Conference" was organized by Federal Minister of Justice, the Honourable Mark MacGuigan in response to a need for reforms in family law (Devlin and Ryan, 1986). As a result of that conference discussion led to government support for mediation as well as Family Mediation Canada being formed in 1984 (Devlin and Ryan, 1986; and National Family Law Program, McGill University, 1988).

Presently Family Mediation Canada is now a federally incorporated, registered charity. The objectives of this organization are:

- "(1) to provide a Canadian forum for the exchange of ideas, experiences, research and opportunity relating to all aspects of family mediation through newsletters, conferences and seminars.
- (2) to develop and encourage a code of ethics and standards of practice.
- (3) to develop and encourage training and continuing education programs.
- (4) to encourage and conduct research into all areas of family dispute resolution.

- (5) to provide consultation to the Provincial Mediation Association and other interested groups and individuals.
- (6) to inform the Canadian public about the advantages of mediation."²⁰

As outlined, mediation has a relatively short history in Canada. Only since the early 1970's has a growing understanding of the consequences of separation and/or divorce, especially on children, contributed to the interest in mediation. In spite of its brief life, mediation continues to evolve as an alternative to the traditional adversarial system.

B. DIVORCE MEDIATION - THE PROCESS

The process used to assist parents through the socio-emotional and psychological difficulties of a divorce is often as important as the decisions reached. The mediation process helps parents separate the legal issues from the emotional issues in a way that can help them plan for their future as individuals, and as parents (Folberg, 1983; and Irving and Benjamin, 1987).

²⁰ Devlin, A. and Ryan, J. 1986. Family Mediation in Canada: Past, Present and Future Developments. Mediation Quarterly, 11, p 98.

Mediation introduces cooperative conflict resolution to the parties during the mediation process (Gold, 1981; and Irving and Benjamin, 1987). It has been described as an intervention responsive not only to the process of divorce but the event of divorce as well (Gold, 1981). Mediation can be viewed as an alternative to the traditional adversarial system, by providing an opportunity for the disputing couple to take responsibility for their own decision-making, as well as laying the foundation for the reorganization of new family relationships (Gold, 1981; Coogler et al., 1979; Kressel, 1985; and Irving and Benjamin, 1987).

Kressel has stated that, "we are in the very early stages of systematic research on the mediation process."²¹

What we have learned through examining the mediation process involved in divorce mediation, is that the role of the mediator, the parties themselves, and the stages of the mediation process all operate in an interdependent fashion. The research in this field has primarily focussed on outcome in mediation which includes the process variables of mediation (Irving and Benjamin, 1987). Very little has been

²¹ Kressel, K. 1987. "Research on divorce mediation: A summary and critique of the literature. In The Role of Mediation in Divorce Proceedings: A Comparative Perspective (United States, Canada and Great Britain). Vermont Law School Dispute Resolution Project, p 225.

researched on the role of the mediator and the skills of the mediator (Gulliver, 1979; Vanderkooi and Pearson, 1983).

Koch and Lowery (1984) and Moore (1983, 1986) both present a definition of the role of the mediator. The role of the mediator is as follows:

- (1) to establish an orientation to mediation (the mediator attempts to understand the disputing couple, their issues and the dynamics of the conflict while clarifying the process);
- (2) to outline the requirements to begin the mediation session (the mediator educates the parties about the dispute resolution procedures and clarifies agreement on what behaviours will be expected of the parties during mediation as well as obtaining a commitment from the parties to begin the process);
- (3) to define the issues and set the stage for negotiating on the issues;
- (4) to define the individual interests of the parties and their needs (defining the components which will be needed to effect a settlement);
- (5) to generate alternatives for settlement (helping the parties examine options that they may have);
- (6) to assess the alternatives for settlement (reviewing and refining the interests and needs of the parties); and
- (7) to help the parties reach a final agreement on the issues in dispute (mediator helps parties define,

operationalize and helps the parties to put the agreement into effect).

In terms of the mediation process, Irving and Benjamin state, "there is little agreement concerning the stages of the mediation process, that is, the stages each case should go through before it is completed."²² Vanderkooi and Pearson (1983) view the process of mediation as a progression of stages. In a review of the stages, Irving and Benjamin identified mediators who used a range of 4 to 12 stages.

Moore's (1989) outlines a 12 stage process most describes: (1) the goals and/or objectives, (2) the components and/or methods, and (3) the techniques involved in achieving a mutually agreed upon settlement in the best interest of the children. These stages encompass all the issues involved in the process and identify the range of techniques and/or strategies that mediators can utilize to facilitate the process.

²² Irving, H. and Benjamin, M. 1987. Family Mediation: Theory and Practice of Dispute Resolution. p 51.

C. DIVORCE MEDIATION - THE MODELS

As in the counselling situation, divorce mediators operate from a model or theoretical perspective upon which practice is based. In this section, I will outline the variety of models utilized in the field.

These models have been identified by various mediators as:

- (1) Haynes (1978) presented a model which incorporated techniques from his experience in labour disputes with the emotional issues that the disputing parties are experiencing.
- (2) Black and Joffe (1978) outline a similar model to Haynes and add a co-mediation of solicitor and mental health professional.
- (3) Gold (1982) proposed a team approach as well, that comprised a lawyer and therapist. Each of these mediators believed that a mix of legal and emotional issues need to be addressed during the divorce process.
- (4) Coogler (1978), a lawyer, was the first to propose a mediation model based on a number of structured steps. Parties using this model only speak with the mediator and can never individually consult with the mediator.
- (5) Elkins (1977) and Coombs (1984), solicitors as well, proposed a lawyer mediated model like Coogler (1978).

Irving and Benjamin (1987) delineate four models of mediation: (1) structural; (2) labour mediation; (3) social-psychological; and (4) strategic.

The structural model focuses more on substantive matters. For example, this model relies heavily on prepared reading material and forms to move the parties through the areas of property and finances, support, custody and access. The relationship between the parties and their emotions are not dealt with. Irving and Benjamin state that,

"the explicit intent of this model is to create a procedural structure which moves couples in conflict smoothly, efficiently, and quickly to a negotiated settlement."²³

Reaching an agreement is the only focus and if the parties cannot reach an agreement then litigation becomes the next course of action.

The labour mediation model focuses on the psychological needs of the disputing parties. In this model the mediator is much more like a therapist or counsellor and the focus is on what Irving and Benjamin call the "emotional aspects of divorce".²⁴ As in labour negotiations, individual caucusing is

²³ Irving, H.H. and Benjamin, M. 1987. Family Mediation. Theory and Practice of Dispute Resolution. Carswell, Toronto. p 56.

²⁴ Ibid, p 57.

often used. Once an agreement is reached, the parties are sent to review the agreement reached with their solicitor.

The social-psychological model can be viewed as a combination of the previous two models. The difference rests on "conceptualizing interpersonal conflict in terms of latent and manifest as well as constructive and destructive conflict."²⁵ The model addresses some of the emotional issues involved, but only from an individual perspective.

The strategic model focuses solely on child custody mediation. Unlike the previous three models, this model focuses on the relationship between family members. This model is based on strategic family therapy techniques. An attempt is made to keep conflict between the disputing parties at a minimum so the process of mediation becomes the focus. Regarding this model, Irving and Benjamin state "the purpose of intervention in destructive conflict between spouses is to contain it so that the process may continue."²⁶ Models, like the strategic model as described by Irving and Benjamin (1987), restrict mediation to custody and access of children only.

²⁵ Ibid, p 58.

²⁶ Ibid, p 59.

The model used depends largely on the nature of the conflict, the setting (private or public), the experience and finances of the parties, as well as the educational background and training of the mediator (Folberg and Taylor, 1984). One model is not preferable to another, but rather viewed as variation in style of practice of the particular mediator given his/her background. As well, the use of a particular model should respond to the needs of the disputing parties.

D. SIGNIFICANT VARIABLES THAT AFFECT OUTCOME

Process Factors

(1) Client Characteristics

In a study by Doyle and Caron (1979) 686 cases of custody litigation which were referred to a court-based mediation service was examined. A random sample of 113 cases where custody was not disputed was used as the control (non-mediation) group. The results revealed that no significant differences were found in age, length of marriage, number of children or income in either groups.

In a study by Irving et al. (1979), Irving et al. (1981) and Irving and Benjamin (1983, 1984), they focussed on a sample of 193 individuals who attended conciliation counselling. They found that education, middle class social status, and inclusion of at least one child in counselling correlated with a higher rate of agreement. However, this

study had a small sample size and the clients who attended counselling were a sample of selected individuals based on a selected criteria (Irving et al., 1979, 1981).

Pearson (1982), Pearson and Thoennes (1984C), Little et al. (1985), Lyon et al. (1985), Cauble et al. (1985) referred to as Pearson (1982) headed two major studies. The first study was an empirical evaluation of three court-based mediation programs. (The Los Angeles Conciliation Court, Connecticut Superior Court, and Minneapolis, Minnesota Hennepin County Superior Court). All three programs offered mediation to divorcing couples who disputed custody and access matters. They researched an additional randomly selected group of mediation and litigation individuals in Minneapolis five years previously. They compared the Minneapolis group with a group of disputing individuals involved in custody and access disputes in Colorado who were not in mediation.

In the Los Angeles court-based program there were 256 questionnaires administered to all mediation clients in the waiting room. This was referred to as Phase I. Phase II questionnaires were conducted either by telephone or through the mail three months later. The attrition rate between these two phases was 7 percent.

In the Connecticut court-based program 163 Phase I questionnaires were done either by telephone or mail as the disputing parties were spread over different counties. Phase II questionnaires were also administered by telephone. There were 142 interviews conducted leaving an attrition rate of approximately 13 percent.

In Hennepin County Phase I questionnaires were mailed to all disputing parties who presented at court. There were 109 questionnaires completed in Phase I and only 89 questionnaires completed in Phase II leaving an attrition rate of 18 percent.

Although they did not specifically address the issue of the differences in socio-demographic variables and its relationship to outcome, they found that mediation clients come from a wide variety of both educational and occupational backgrounds. This three-city study was only a preliminary evaluation and was largely descriptive.

The results revealed that the three sites differ in the average number of sessions and hours spent with the disputing parties, as well as the involvement of children or their respective attorneys. However, all three sites reported significant user satisfaction. This study was based on voluntary mediation clients. The attrition rate in each site

was not examined as to whether differences existed between groups on the sites.

The studies of Irving et al. (1979, 1981); Irving and Benjamin (1983, 1984); and Doyle and Caron (1979) were all in court-based mediation centres. Therefore, the generalizability from the public to private sector cannot be made as there are substantial differences in client characteristics for these two settings (Pearson and Milne, 1983). For example, in the Pearson and Milne (1983) survey of mediation clients in both the private and public sectors, they found that in fact private mediation clients typically are middle or upper class, and highly educated.

The second study by Pearson et al. (1982); Vanderkooi and Pearson, (1983); Pearson and Thoennes, (1984A, 1984B, 1985); and Thoennes and Pearson, (1985) referred to as Pearson and Thoennes (1984), employed a quasi-experimental research design comparing mediation and litigation of custody and access disputes in a court-based mediation centre. The individuals were randomly assigned to a mediation group, and control group. Those in the control group who agreed to participate were contacted by letter or telephone initially. They were interviewed at the beginning of their court involvement, approximately three months later, and 6 to 12 months later for a follow-up. Those individuals in the mediation group were interviewed prior to mediation,

immediately after mediation concluded; after court orders were made and 6 to 12 months later for a follow-up. A third group identified as the "rejecting group" were interviewed as well to assess any differences between the mediation and control groups. A total of 95 individuals were in the rejecting group, 54 individuals in the control group, 125 individuals in the mediation group, which were broken down into 61 individuals who successfully reached an agreement and 64 individuals who did not reach agreement in mediation.

Johnson (1984) found in his study that mediated agreements were more likely when there were fewer children and when the parties had previous marriages. His study was exploratory in nature to identify variables which bear on the mediation outcome. Unlike Irving and Benjamin (1983, 1984), his study involved mandatory mediation of a small sample of 50 couples.

The Frontenac Family Referral Service (1984) study randomly assigned one out of every five couples referred to the service to either the mediation group or a control group. A follow-up study was conducted of 37 couples who had reached agreements through mediation and 69 couples in the control group. The two groups were comparable in terms of age, length of marriage and income. Seventy-nine percent of the mediation group reached agreement prior to court involvement as

compared to 44 percent who reached agreement after litigation had finished.

(2) Coping Ability and Degree of Communication

In Irving et al. (1979, 1981), 59 percent of the respondents reported that agreements reached were related to improved communication between the parties. In the three-city study by Pearson (1982), they found that the most important predictor in reaching an agreement was the consumer's perception of the ability of the mediator to facilitate communication between the parties. Those individuals who reached agreements in mediation reported significantly more communication and cooperation between themselves. The individuals who did not reach agreement reported that mediation had no impact on their degree of communication with one another. When interviewing the group nine to ten months later, Pearson and Thoennes (1984) found that the successfully mediated group continued to report improved communication, cooperation between themselves, less anger and understanding in contrast to only 20 to 30 percent of the control and rejecting group.

In a similar study by Waldron et al. (1984) 13 couples in mediation were studied over a 15 month period in a court-based mediation centre. As in Pearson (1982) and Pearson and Thoennes (1984), the issues examined were custody and access only. They found that mediation couples, compared to couples

in litigation, were more likely to report improved communication. This study employed a small sample size and as in the previous studies, generalizations cannot be made.

(3) Mediator Style

It is important to understand what takes place in mediation. Irving and Benjamin state that,

"first what mediators say they do and what they actually do may or may not coincide. Process data, then can establish the reliability of mediator's decisions and can seem as an important teaching tool. Second, specific techniques may be more or less effective with some client groups than with others. Process data can serve to pinpoint what works with whom and under what conditions."²⁷

The literature suggests that mediator's behaviours are on a continuum. For example, some mediators prefer to be non-directive while others are more task-oriented (Vanderkooi and Pearson, 1983). Gulliver (1979) has described mediator behaviours as ranging from 'passive' (mediator encourages

²⁷ Irving, H.H. and Benjamin, M. 1987. "Family mediation research: Critical review and future directions." In The Role of Mediation in Divorce Proceedings: A Comparative Perspective (United States, Canada and Great Britain). Vermont Law School Dispute Resolution Project, p 235.

communication and negotiation) to being much more active in the form of 'leader' (mediator suggests and recommends options). Kochan and Jirk (1978) describe mediator behaviour as contingent, non-contingent and aggressive.

In an attempt to summarize the many and varied interventions (mediator strategies) used by the mediator, Kressel (1977) and Kressel and Pruitt (1985) identify the following styles:

- (1) reflexive: refers to the mediator gaining the parties' trust and building rapport with them. This is the beginning stage which is important for establishing effectiveness during the negotiation process (Kressel, 1972; and Kressel and Deutsch, 1977). In a study by Carnevale and Peggnetter (1985) they reported that building trust and open communication with the disputing parties was the single most important task in reaching agreement.
- (2) contextual: refers to the mediator's ability to facilitate communication and mutual problem-solving between the disputing parties (Thoennes and Pearson, 1982). This intervention includes gathering information about the dispute by examining all the issues the parties are concerned about. The mediator takes on an active role and helps the parties identify the important issues and structures the agenda (Susskind and Ozawa, 1985). In a study by Thoennes and Pearson (1982) they

found that the mediator's actions and impact on the parties (contextual intervention) may be more significant than the dispute itself or the characteristic of the parties. This study was employed in a court-based mediation program.

- (3) substantive: refers to the actual settlement. The issues are narrowed, the mediator makes suggestions, offers compromises and helps move the parties towards a settlement. Wall and Rude (1985) suggest that this intervention comprises much of the mediator's time. In a study by Vanderkooi and Pearson (1983) both audio-taped recordings and written reports from the mediator of the mediation process were examined. It was found that the most effective approach to achieving an agreement was when the mediator provided structure, was highly directive and took on an active part in the process (substantive intervention). This study focussed only on those who agreed to mediate and the mediators themselves were both lawyers and mental health professionals working singly or together.

Kressel and Pruitt (1985) believe there are significant limitations in stating with any degree of certainty how one particular mediator style or intervention is better than another. Moreover, they state, "it is clear that strategies

and tactics are not used separately but are bundled together in strategic thrust."²⁸

(4) Timing of Mediation

A study by the Frontenac Family Referral Service (1984) suggests a greater probability of reaching agreement in mediation when intervention occurs earlier in the process of marital dissolution. Graham (1968) and Thiessen (1980), reported that the earlier mediation occurred in the dissolution process, the higher the rate of success because the separation event is highly correlated with stress (Kitson and Raschke, 1981). Further research in this area needs to be explored to identify whether and how this variable is related to satisfaction.

(5) Life Satisfaction; Satisfaction in Mediation Sessions and Outcomes

Irving and Benjamin state:

"Common sense suggests that client satisfaction and outcome success would be related... outcome failure may still be associated with a surprisingly high rate of client satisfaction."²⁹

²⁸ Kressel, K. and Pruitt, D.G. 1985. Themes in the mediation of social conflict. Journal of Social Issues, 42(2), p 196.

²⁹ Irving, H.H. and Benjamin, M. 1987. "Family mediation research: Critical review and future directions." In The Role of Mediation in

In the Irving et al. (1979, 1981) and Irving and Benjamin (1983, 1984) studies the researchers found that agreement was related to a greater feeling of life satisfaction than those who did not reach agreement on issues of custody and access. In addition, approximately 60 to 70 percent reported that issues between themselves as well as issues individually had gotten better and that they were generally satisfied or very satisfied with the outcome.

There were two studies described by Bahr (1981A, 1981B). In the study by Bahr (1981A) a telephone survey was conducted of private mediation cases in Virginia. Of the 79 individuals who responded, there were 19 individuals from the mediation service and 60 individuals were selected from the court record sample. The respondents were asked to evaluate the cost effectiveness, fairness, and client satisfaction with respect to mediation versus the non-mediation group. The two groups were not randomly assigned nor was there an experimental design to this study. The results revealed that there was a high degree of satisfaction with the mediation service. He found that 68 percent reported that they were very satisfied and 21 percent reported that they were

Divorce Proceedings: A Comparative Perspective (United States, Canada and Great Britain). Vermont Law School Dispute Resolution Project, p 238.

somewhat satisfied. In addition he found that 84 percent of the respondents would recommend their individual mediator to a friend as compared to 50 percent of the respondents who would recommend their solicitor to a friend.

In the Pearson (1982) three-city study similar results were found. All three sites reported between 60 to 70 percent satisfied that the mediator helped them focus on their children's well-being. Between 70 to 80 percent reported satisfaction with being allowed to discuss their roles as parents and their concerns about one another. Another 70 to 80 percent of those sampled reported satisfaction with their individual mediator who focussed them on the issues.

In the Waldron et al. (1984) study similar reports of satisfaction (66 percent) with the mediation process were also reported. This study, however, had a small sample size and was based on a particular model of mediation. This model allowed the couples to explore their feelings and discuss issues more than the previous study.

In contrast to this, the Frontenac Family Referral Service (1984) reported both mediation and court clients were satisfied with the service they received.

Saposnek et al. (1984) reported 60 percent were satisfied with mediation and 33 percent reported that they did not like the mediation process regardless of outcome.

The second study by Pearson and Thoennes (1984) revealed that 92 percent of all successful mediation individuals are both satisfied with the process and would not only use mediation in the future, but recommended mediation to a friend. Sixty-one percent of the rejecting group would still recommend mediation to a friend. The mediation group reported the greatest satisfaction with their final agreements, although the remaining groups were still happy with their agreements.

Ninety percent of the mediation group believed mediation was a fair way of resolving their dispute, 60 percent of the unsuccessful mediation group, control group and rejecting group still believed their way was also fair.

The level of satisfaction with the mediation process remained consistent over time. Those individuals in the mediation group who were successful in reaching an agreement reported the greatest satisfaction with their final custody and access orders.

(6) Extent of Lawyer Support

When examining client variables with a positive outcome in conciliation counselling, Irving et al. (1979, 1981) and Irving and Benjamin (1983, 1984) found that agreement was significantly related to whether or not their lawyer was viewed as helpful. They found that lawyers were seen by both men and women (37 percent) to have been most helpful. Another significant factor found was that the couples reported improved life satisfaction as related to finding their lawyer as "most helpful." This appeared to be the only study which specifically addressed this variable. Studies by Pearson (1982) and Pearson and Thoennes (1984) reported that lawyers referred their clients to the services but did not explore this variable in relation to satisfaction.

(7) Savings in Money and Time

In a study by Bahr (1981A) he found that 53 percent of the respondents reported the cost of mediation to be about right and 11 percent believed the lawyer's fees were too high. In addition, over one third of the respondents reported that the cost of the mediation was somewhat low as compared to half of the respondents who believed their lawyers were overpaid.

In the study by Bahr (1981B) he reviewed data from both courts and journals describing mediation services for custody and access disputes in the United States, Australia,

Minnesota, and Toronto. He compared the sites to examine cost effectiveness, compliance with court orders and post-divorce adjustment between mediation services and those services with no mediation. With respect to cost effectiveness, he found the following:

In California, of 1,423 families referred to the court counsellors, 46 percent (649) of these families were able to reach agreements on custody and access. The cost of mediation was \$21 per hour compared to \$91 per hour. In Australia, an analysis of data identifying success rates and computed cost-benefit ratios showed there was a 50 percent reduction in costs if there was a mediation centre attached to the court than a court with no mediator counselling. In Minnesota where there was a mediator program, data suggested that 61 percent (92 of 151) of the cases in mediation reached a voluntary agreement in the first year of the program. The cases doubled in the second year to 294, and 59 percent of those cases reached agreement. In Toronto, an evaluation of both programs was conducted using a random assignment method. The data suggested that almost three times as many of the mediation cases versus the conciliation service reached an agreement (22 percent compared to 8 percent). A cost analysis of the mediation service revealed that it saved 10 percent of the public funds as compared to the conciliation system. In an analysis of four American cities Bahr reported that mediation saved more public money as it was less expensive than a

trial. All the available data that was gathered indicated that court mediation would save public funds when compared to the traditional adversarial approach.

In the Frontenac Family Referral Service (1984) study a comparison of cost savings revealed that there was an average of \$27.00 per hour compared to \$273.00 per hour in the court saved with mediation versus litigation.

Pearson and Thoennes (1984) found that successful mediated clients spent a shorter time in the court system than the control group. The unsuccessful mediated group spent the most time going through the court system. Further, the average legal fee paid by the successful mediated group was \$1,630 compared with \$2,000 paid by the unsuccessful mediated group. Both the rejecting and control groups paid \$1,800 and \$2,360 respectively.

These studies indicate a substantial savings in mediation over litigation and suggest further studies be done to examine the cost-effectiveness of family mediation and its relation to satisfaction with mediation.

Further research regarding the savings in money and time need to be assessed in relation to satisfaction with outcome.

(8) Settlement Rate

Margolin (1973) examined 150 couples who were previously divorced and were unable to reach agreement on access of their children. A questionnaire was administered to gather socio-demographic information, history of the problem and their definition of what reasonable access meant to them. An experimental design was employed. One half of the couples were randomly assigned to a single experimental two hour counselling session. The other half of the couples, the control group, received no counselling. The results revealed that approximately 73 percent to 75 percent of the couples who attended counselling were able to reach agreements on the issue of access prior to their court appearance compared with the experimental group. A four month follow-up of both groups revealed that 9 of the couples in counselling and 59 couples in the control group returned to court for further litigation. The couples in counselling reported their children were more satisfied, they were themselves satisfied with their access arrangements and both parents and their children enjoyed their visits with one another as compared to the control group. Eighty-six percent of the mothers and 77 percent of the fathers found counselling to be helpful.

There was no agreement on the definition of reasonable access and there was a high degree of attrition found at the four month follow-up.

Doyle and Caron (1979) reported agreements were reached in 77 percent of the mediation cases as opposed to only 21 percent in the control group. As in the previous study, custody and access were the only two issues examined in court-based mediation centres.

Irving et al. (1979, 1981) and Irving and Benjamin (1983, 1984) conducted two studies of a court-based counselling program in Toronto, Ontario. There were 228 individuals who were assigned on a quasi-random basis either to an intake service (N=122), which helps couples understand the court system or a conciliation counselling service (N=106), which helps couples resolve their differences and achieve agreements on issues of custody and access. The results in this study were an agreement rate of 22 percent among those in the conciliation counselling service as compared to only an 8 percent agreement of those couples in the intake service. It was hypothesized that the conciliation counselling service would provide more agreements and be of more use to the couples in dispute. The second study (Irving et al., 1979, 1981; Irving and Benjamin, 1983, 1984) which focussed on only a select sample of 193 individuals who attended conciliation counselling service, revealed that there was a 70 percent agreement rate amongst this group.

In the Bahr (1981A) study, 90 percent of the respondents in the mediation group reported that they were somewhat

satisfied with their final decision on money, property and children, as compared to 59 percent of the non-mediation group.

In the Pearson (1982) three-city study they report the samples across all three sites at the three month follow-up revealed approximately 35 to 40 percent permanent agreements on issues of custody or access. There were approximately 20 to 30 percent who reported with temporary agreements pending court or temporary agreements as a trial period.

The Frontenac Family Referral Service (1984) found 79 percent of the mediation group reached an agreement as compared to 44 percent who reached agreement after litigation had begun.

Saposnek, Hamburg, Delano, and Michaelsen (1984) did a study of mandatory mediation in a court-based mediation service. The sample consisted of 148 cases during one year who were referred to mediation on issues of custody and access disputes. Seventy-five percent of these individuals were able to reach agreement in mediation, 15 percent did not complete mediation for a variety of reasons, and 10 percent failed to reach an agreement. Waldron et al. (1984) also reported an agreement rate of 60 percent.

Pearson and Thoennes' (1984) study of custody agreements found that approximately 60 percent of the mediation group reached agreement, 60 percent of those in the rejecting group produced an agreement before they went to court, and approximately 60 percent of the control group also produced an agreement before court on their own. These results suggest that when comparing mediation to litigation there were few differences found. The results obtained in this study differ markedly from the findings of other studies.

(9) Post-Divorce Adjustment (Relationships Between Parents and Child)

In examining post-divorce adjustment, the following studies revealed a significant association with mediation as being a positive contributing factor in the lives of families in dispute of custody and/or access.

Margolin (1973) found that at the four month follow-up compared to the control group, the clients who received counselling reported not only greater child satisfaction with the agreement, but also greater coparental cooperation, and more appropriate behaviour by the child both before and after access visits. Similarly, Bahr (1981B) suggested in his review of studies that those individuals who chose mediation and reached agreement exhibited better overall post-divorce adjustment. This finding, however, is based solely on his review of the studies he examined and is purely subjective in

nature. In the Pearson (1982) three-city study, at the three month follow-up the samples from all three sites who had custody of their child(ren) reported greater satisfaction than the access parent. In both Hennepin County and Connecticut, joint custody agreements were more common in mediation agreements while the Los Angeles sample reported joint custody.

Waldron et al. (1984) found that of the parents who had a successful mediation agreement, they reported that the children were doing well and there was also improved parent-child communication. Of those parents who did not reach an agreement, they reported negative changes in their children. When they examined the effects on parental relationships they found that 58 percent of the parents surveyed reported improvements in their relationships, 21 percent reported no change and 21 percent stated their relationship with their ex-spouse had become worse. Four of the parents who reported their relationship became worse were not able to reach an agreement.

In Pearson and Thoennes (1984) they too examined the relationship between parents and parent and child. They found that approximately 80 percent of the successful mediated individuals, 50 percent of the unsuccessful mediated individuals, 47 percent of the rejecting group and 44 percent of the control group described their relationship with their

ex-spouse as no better or worse. When asked if the mediation process had any effect, the results revealed that 71 percent of the successful mediated group generally reported improved communication, 59 percent reported control over their anger, 74 percent reported more cooperation and 52 percent reported better understanding. Approximately 5 percent reported that the process did not impede them in any of these areas. Approximately 25 percent of the unsuccessful mediated groups reported the same views. Twenty-seven percent of the unsuccessful mediated groups reported that the court process interfered in the ability to understand their ex-spouse and 10 percent reported difficulties in understanding mediation. Fifteen percent of the unsuccessful mediated group reported feeling mediation had a negative effect on communication with their ex-spouse and 31 percent believed the court process did not help in the ability to communicate. The control group, however, reported between 10 to 20 percent improvement in all these areas.

Almost 70 percent of those in mediation who reached agreement chose joint custody. Approximately 20 percent chose sole custody with the mother and joint custody accounted for 30 percent of the control group.

When interviewed nine to ten months later, 80 percent of the successful mediated group continued to report that their relationship with their ex-spouse had not changed. Forty to

50 percent of the remaining groups reported the same feelings. The successful mediated group continued to report improved communication, cooperation between themselves, less anger and understanding in contrast to only 20 to 30 percent of the other groups. In the successful mediated group results revealed that access to children was the most stable and reliable in any of the other groups.

This variable is significant as if it can be proven that mediation is linked to satisfaction as opposed to litigation the consumer will undoubtedly benefit, as will their children.

(10) Degree of Compliance and Relitigation

Margolin (1973) found after a four month follow-up of both groups (counselling and experimental), that 9 of the couples in counselling and 59 couples in the control group returned to court for further litigation.

In the Doyle and Caron (1979) study the mediation group returned to court for further litigation 10 percent of the time as compared to the control group who returned 26 percent of the time.

In the Irving et al. (1979, 1981) and Irving and Benjamin (1983, 1984) study a one year court follow-up revealed that most individuals (71 percent) returned to court

one or more times during the year and 80 percent were still disputing over the issue that brought them there initially. Returning to court was significantly related to their perception that their life situation had gotten worse and that counselling made no difference.

Twenty-two percent had reconciled while 10 percent had to return to court. Forty-six percent of those individuals had made changes to the agreement and 74 percent did so without returning to court.

In the Bahr (1981B) study, a comparison of data on cases in Minnesota between mediation and a custody study showed 26 percent returned to court for further litigation versus 10 percent of those who had used mediation (Doyle and Caron, 1979). This data was based on a two year follow-up of cases with no random assignment. In Wisconsin, which has a mediator service, data revealed that 10.5 percent of those who used mediation return to court for further litigation two years later versus 34.3 percent of those who had a custody study done. In Connecticut, data obtained from a questionnaire sent to mediation clients asking them about their agreements, revealed that fewer than one third of the families stated their agreement held over time. There was no comparison established in this city. Bahr reports that with respect to the degree of compliance and relitigation, the data is not high and the results are obtained from observations only.

Waldron et al. (1984) found that 75 percent of the mediated agreements were still holding ten months to two years later. They also reported that 46 percent of the overall agreement rate was maintained after a one year follow-up.

The Pearson (1982) three-city study found that 85 percent of mediation clients who had reached agreement five years earlier in Hennepin County reported that their agreements on the issue of custody was still in effect. This is in contrast to 60 percent of those individuals who underwent a traditional custody assessment on who failed to reach agreement at all. In the Pearson and Thoennes (1984) study at a nine-month follow-up, 85 percent of the successful mediated group reported their partner as generally complying with the agreement. Approximately 60 percent in the remaining groups also reported compliance. Of those individuals in the control, rejecting and unsuccessful mediated groups, there were approximately 30 to 40 percent who reported problems with compliance of their agreements in custody and access cases.

E. SUMMARY OF FINDINGS

The studies are divided into the following categories as previously discussed:

(1) Client Characteristics

Doyle and Caron (1979) found no significant differences with respect to socio-demographic variables in either the respondents who reached agreement or not. Irving et al. (1979, 1981), Irving and Benjamin (1983, 1984) found that education, middle class social status and at least one child being included in the counselling was related to a higher rate of agreement. Pearson (1982), and Johnson (1984) reported that mediation clients come from a wide variety of both educational and occupational backgrounds. They also found that having fewer children and previous marriages resulted in more agreements.

(2) Coping Ability and Degree of Communication

Pearson (1982), Irving et al. (1979, 1981), Irving and Benjamin (1983, 1984), Pearson and Thoennes (1984), and Waldron et al. (1984) all report high rates of improved communication between disputing spouses.

(3) Mediator Style

Of the three mediator styles, it may be concluded that each style has something to offer and should be based on what fits for the mediator with the disputing couple.

(4) Timing of Mediation

The Frontenac Family Referral Service (1984), Graham (1968) and Thiessen (1980) all report that agreements in mediation are more likely to occur when intervention occurs early in the marital dissolution process.

(5) Life Satisfaction, Satisfaction in Mediation Sessions and Outcome

The Irving et al. (1979, 1981) and Irving and Benjamin (1983, 1984) studies suggest that between 60 to 70 percent of those in mediation who reached agreement stated that things had "gotten better" both interpersonally and personally. They reported improved communication between themselves and parent-child relationships and satisfaction with the settlement. Bahr (1981A) found that 90 percent of the respondents reported that they were somewhat satisfied with their final agreement. Pearson (1982) reported between 60 to 70 percent satisfaction with the mediation process and the mediator. Waldron et al. (1984) and Saposnek et al. (1984) both reported between 60 to 66 percent satisfaction with the mediation process. This is in contrast to the Frontenac Family Referral Service (1984) who reported both the mediation and court clients who were equally satisfied. Pearson and Thoennes (1984) reported 92 percent of the respondents who obtained a mediated agreement were satisfied with the process.

Kressel states, "these levels of user satisfaction are comparable, and perhaps even higher, than those reported for public satisfaction with other types of professional services."³⁰ Kressel (1985) reported satisfaction rates of 75 percent who sought help for a personal problem, 80 percent satisfaction with those who consulted either a physician or clergy, 49 percent satisfaction with those who consulted a marriage counsellor, and between 35 to 89 percent satisfaction of those patients who evaluated medical services.

One of the limitations of the term "satisfaction" is that it lacks a concise definition and when expressed as a percentage does not have any meaning (Kressel, 1985; and Irving and Benjamin, 1987).

(6) Extent of Lawyer Support

Researchers Irving et al. (1979, 1981) and Irving and Benjamin (1983, 1984) found that agreement in conciliation counselling was more likely if the lawyers of the disputing parties were viewed as helpful.

³⁰ Kressel, K. 1985. The Process of Divorce. How Professionals and Couples Negotiate Settlements, p 187.

(7) Savings in Money and Time

The research in this area appears to suggest that mediation does offer some savings as opposed to litigation. In his two studies, Bahr (1981A, 1981B) found significant amounts of reduction in savings in all sites that he reviewed. The Frontenac Family Referral Service (1984) reported a savings of \$27.00 per hour for those in mediation compared to \$273.00 per hour for those who went to court. Pearson and Thoennes' (1984) study reported successful mediation clients paid \$1,630 in contrast to \$2,360 for those in litigation. Kressel (1985) states,

"Based on the experiences of the mediated and non-mediated sample in the Denver Custody Mediator Project (DCMP), it is possible to estimate that on a national basis the use of mediation in highly conflictual custody and visitation disputes could save a minimum of between \$79.5 million to \$159 million annually."³¹

(8) Settlement Rate

The studies have varied in their reports of achieving settlements. Margolin (1973) reported a significantly higher number of agreements (73 to 75 percent) in her study. Irving et al. (1979, 1981) and Irving and Benjamin (1983, 1984)

³¹ Kressel, K. 1985. The Process of Divorce. How Professionals and Couples Negotiate Settlements, p 189.

reported an agreement rate among mediation clients to be 22 percent compared to the brief service clients (8 percent). In the second study the agreement rate rose to 70 percent. Pearson (1982) three city study reported an agreement rate of between 35 to 40 percent agreements with respect to custody and access and another 20 to 30 percent of temporary agreements. Pearson and Thoennes (1984) reported 60 percent agreement rate in their sample. Saposnek et al. (1984) and Waldron et al. (1984) reported settlement rates in mandatory mediation between 60 to 70 percent.

Irving and Benjamin (1987) contend that mediation process variables are more important than socio-demographic variables in reaching agreement. Johnson (1984) found that when comparing those who were not successful in reaching an agreement with those who did, the latter had fewer children, more previous marriages and the women reported to be more empowered than their partners with respect to decision-making. Irving et al. (1979, 1981) and Irving and Benjamin (1983, 1984) reported agreements being associated with several factors. These factors include:

- (1) rating the dispute as "mild" to "moderate";
- (2) having the lawyer be supportive of the mediation process;
- (3) including children to some degree;
- (4) the disputing parties report that their life situation has improved and;

- (5) having a sense of achievement in mediation.

Irving and Benjamin (1987) suggest that "outcome success is associated with a combination of client, mediation process and third party variables."³² The studies indicate that a certain constellation of client variables are related to positive outcomes, if the client:

- (1) had more than high school education,
- (2) had a skilled or professional background,
- (3) presented with only mild to moderate conflict over the issues,
- (4) understood and accepted the termination of the marital relationship, and
- (5) presented with either custody and/or access as the problems in dispute (Irving and Benjamin, 1987).

Mediation process variables predicted positive outcome, if the client:

- (1) allowed enough time for the process of mediation to unfold;
- (2) had a clear focus on the presenting problem; or where

³² Irving, H.H. and Benjamin, M. 1987. "Family mediation research: Critical review and future directions." In The Role of Mediation in Divorce Proceedings: A Comparative Perspective (United States, Canada and Great Britain). Vermont Law School Dispute Resolution Project, p 238.

- (3) communication between the clients and mediator was clear and understood by everyone; and where
- (4) the involvement of children was required (Irving and Benjamin, 1987).

Third party involvement leading to positive outcome usually related to the support of the attorney/solicitor in the mediation process (Kressel, 1985; and Irving and Benjamin, 1987).

The settlement rates are based on a myriad of different types of mediation (private versus public), different models of mediation, different experimental designs of mediation, different pretreatment procedures, and a host of subjective reporting by the mediators themselves and the clients involved. To be able to distinguish the impact of mediation outside of these influencing factors will require much more sophisticated sampling techniques and more rigorous statistical analysis.

(9) Post-Divorce Adjustment (Relationships Between Parents and Child)

Irving and Benjamin (1987) reported that the degree of compromise in the process of mediation can be measured in three ways:

- "(1) by the proportion of clients who choose shared parenting over sole custody;

- (2) by the proportion of the father's income reflected in child support orders and;
- (3) by the proportion of client's who reported a reduction in the number and severity of their presenting problems."³³

Margolin (1973) and Bahr (1981B) both reported overall post-divorce adjustment and co-parental cooperation of those that used counselling or mediation.

Irving et al. (1979, 1981) and Irving and Benjamin (1983, 1984) reported that those in mediation who reached agreement had fewer problems in their marital conflict, parenting styles, financial problems and both spousal and child support and life goals. Pearson (1982), Waldron et al. (1984), Johnson (1984), the Frontenac Family Referral Service (1984), Saposnek et al. (1984) and Pearson and Thoennes (1984), all report similar findings. Those who reached agreement in mediation enter with fewer problems and less conflict.

³³ Irving, H.H. and Benjamin, M. 1987. "Family mediation research: Critical review and future directions." In The Role of Mediation in Divorce Proceedings: A Comparative Perspective (United States, Canada and Great Britain). Vermont Law School Dispute Resolution Project, p 239.

Pearson and Thoennes (1984) found that mediation resulted in more joint custody agreements (as opposed to sole), more child support awards which was in direct proportion to the father's income bracket than those who did not mediate.

(10) Degree of Compliance and Relitigation

As evidenced in the literature, the rates of compliance appeared to be favorable to mediation as compared to litigation. In a four month follow-up of mediation clients, Margolin (1973) reported greater child satisfaction, greater satisfaction with access arrangements, and that the children enjoyed the visits more. As well, only 9 mediation couples and 59 non-mediation couples returned to court for further litigation.

Doyle and Caron (1979) as cited in Storm and Sprenkel (1983), reported those in mediation returned to court for further litigation 10 percent of the time as compared to the non-mediation group who returned to court 26 percent of the time. Irving et al. (1981) and Irving and Benjamin (1983, 1984) reported that at a one year follow-up results indicated that 71 percent had returned to court for further litigation. Forty-six percent had made changes to their agreement while only 74 percent made changes to their agreement without resorting to further court action. Sixty-nine percent

reported being satisfied with their agreement on custody and access.

Bahr (1981B) also reported a high compliance rate with mediation as opposed to litigation. The data in all sites suggested a better overall post divorce adjustment. In a three month follow-up, Pearson (1982) reported 35 to 40 percent of the agreements were still in effect with respect to custody and access. When examining the randomly selected groups five years earlier, the researchers found 85 percent of mediation clients who had reached agreements were still in effect. Pearson and Thoennes (1984) reported 85 percent compliance with the original agreement. When compared to the non-mediation groups, mediation clients reported improved communication, improved management of their anger, more cooperation and understanding between spouses and more parent-child interaction. Waldron et al. (1984) also found 75 percent of the mediated agreements were still in effect ten months to two years later. In addition, 46 percent of the overall agreements were maintained after a one year follow-up. Richardson (1988) and Sloan and Greenaway (1988) also reported similar findings.

Sprenkle and Storm (1985) reviewed all the studies in which a direct comparison could be made. They state that mediation produced:

- "(1) a considerably higher rate of pre-trial stipulation or agreements than did control groups;
- (2) a significantly higher level of satisfaction with the mediated agreements than those imposed by courts;
- (3) a dramatic reduction in the amount of litigation following final orders;
- (4) an increase in joint custody arrangements; and
- (5) a decrease in public expenses such as custody studies and court costs."³⁴

F. LIMITATIONS AND SUMMARY

In exploring the research in divorce mediation, it becomes clear that there is no uniform body of research and the services being provided are not homogeneous in any way (Kressel, 1985; Irving and Benjamin, 1987). There is an assumption made in the literature that when mediation is compared to the traditional adversarial method that this represents a true dichotomy (Sloan and Greenaway, 1988).

First, a review of a critique done by Kressel (1985) and Irving and Benjamin (1987) will be highlighted as well as a

³⁴ Sprenkle, D.H. and Storm, C.L. 1983. Divorce Therapy Outcome Research: A Substantive and Methodological Review. Journal of Marital and Family Therapy, 9(3), p 240.

discussion of both the substantive and methodological problems in the research to date will be explored. The critique is divided into the following headings as outlined by Kressel (1985) and Irving and Benjamin (1987).

Size of the Samples and Types of Dispute

There are a limited number of studies of divorce mediation to draw upon and the size of the samples are small. Of those that are reported, they deal mainly with custody and access disputes. It is also possible that the data was obtained on incomplete and, perhaps, biased subsamples of the original data that was collected. This is especially true of the Pearson and Thoennes (1984) study (Levy, 1984). Only the Frontenac Family Referral Service explores a comprehensive mediation program. Studies typically focus on court-based mediation services and there is little comparison to private sector mediation (Kressel, 1985; Irving and Benjamin, 1987). Levy (1984) argues that the Pearson and Thoennes (1984) study was based on too small a sample size for both the experimental and control groups. In addition, he argues that the criteria chosen for the groups may have been as a result of bias of the researchers.

Singular Effects vs. Indeterminate Effects

There is no control in the studies presented which might explain observed differences between the two groups. In family therapy research, it has long been understood that the

therapist's ability to be both consistent and congruent with the expectations of the clients' leads to a positive outcome (Griffin and Hill, 1986). In other words, what the clients believe they will receive and what the providers of the service deliver have an impact on the outcome (Irving and Benjamin, 1987). Mediation in a court-based setting is often provided for free, and the traditional adversarial approach can be expensive, therefore attitudinal measures of satisfaction can lead to contamination (Irving and Benjamin, 1987). Most of the court-based mediation programs offer a general orientation to the program and education of the benefits of mediation. None of these factors have been explored either singularly or in combination to explain intended and unintended differences between mediated and non-mediated groups.

Outcome Measure

Lebow (1983) posits that whom one includes in a study, whom one excludes, and why, all have a direct bearing on outcome. The research in divorce mediation does not examine empirically those who drop out of mediation from those who reject mediation and from those who would prefer litigation (Kressel, 1985; and Irving and Benjamin, 1987).

The main body of research in mediation examines agreements reached as a measurement of outcome. This would exclude the other groups and only increases the levels of

outcome success. It has also been suggested that the mediation group are self-selected to some extent and perceive that they will reach an agreement in mediation as opposed to litigation (Kressel and Pruitt, 1985).

Mediation respondents who reached agreement were more likely to claim improved communication, cooperation, understanding, improved anger control and improved parent-child relationships (Kressel, 1985; and Irving and Benjamin, 1987). Few, if any, who went through litigation had comparable feelings. Kressel (1985) states, "no more than half of mediation respondents felt that the impact of mediation was positive on any of these variables."³⁵

The data does lead one to believe that although a majority of mediation users are satisfied with the process and outcome of mediation, some are not (Irving and Benjamin, 1987). In the Pearson (1982) study, a large number of individuals at all three sites reported negative feelings about the mediation experience. Some reported that the mediator did not understand them (36 percent) or the mediation process itself was confusing (25 percent). Twenty-five percent reported that mediation had helped them

³⁵ Kressel, K. 1985. *The Process of Divorce. How Professionals and Couples Negotiate Settlements*, p 192.

(Kressel, 1985). These are all based on subjective reports of outcomes.

Other claims regarding positive outcome in mediation have been made with respect to parent-child relationships. Margolin (1973), Irving et al. (1979, 1981) and Irving and Benjamin (1983, 1984) all report improved communication between themselves and their children. Others have reported improved access as being the measure of improved parent-child relationships (Kressel, 1985; and Irving and Benjamin, 1987). In the Pearson (1982) study more unsuccessful mediation respondents (Hennepin County and Connecticut) reported improved access than the successful mediation respondents. In one year follow-ups across all sites, however, access problems were reported. Children have not been the subject of study in most of the research. Measuring their emotional adjustment to the subjective reports of improved parent-child relationships would reveal different outcomes and assess the impact of mediation on the children. This in turn may lead to satisfaction with mediation as preferable to litigation.

Post-divorce adjustment and relitigation have also been linked to measure outcome. Many of the studies report positive results on follow-up. However, the differences seem few in comparison and do not take into account whether the individual followed through with litigation or returned to mediation.

Agreement Reached or Not Reached

As in the false dichotomy between mediation and litigation, there is also a false dichotomy between agreements reached and agreements not reached in mediation (Richardson, 1988; and Sloan and Greenaway, 1988). Going through a process in and of itself can produce benefits regardless of whether one succeeds or not. Mediation is no different in this respect. The studies found that changes in parent-child relationships, cooperation between ex-spouses and improved communication can accrue regardless of reaching agreement (Irving and Benjamin, 1987). However, there were no appreciable difference reported in any of the studies to show unequivocally that benefits were not derived in both successful and unsuccessful groups.

Differences Prior to Mediation and Non-mediation

Many of the studies found in the literature suffer from a true distinction of treatment differences between mediated and non-mediated groups (Kressel, 1985). For example, Levy (1984) in his critique of the Pearson and Thoennes (1984) study states that those who choose mediation and follow through are different in a host of ways than the non-mediation group. Both the Doyle and Caron (1979) and the Pearson (1982) studies distinguished between those who presented with fewer conflicts and number of problems from the more serious ones who were usually in the control group.

The Pearson and Thoennes (1984) study, Margolin (1973) study and Irving et al. (1983, 1984) employed random assignment which would control for this. However, in the Margolin (1973) study there was only one counsellor. Therefore, the effects of the counsellor from the effects of the process was not examined. Further, there was no control for those who had serious problems which may have required another intervention from those who would benefit from mediation.

Each study had a high degree of attrition. Very few studies explored the reasons for this high attrition, which could lead to systematic bias. Levy (1984) criticized the Pearson and Thoennes (1984) study for this very reason. He believed that the attrition rates were too large and variable amongst the three groups and that the conclusions drawn must be viewed with a degree of skepticism. In addition, this in turn inflates the outcome of agreements reached based on a small sample. All the studies suffered from lack of cooperation by the respondents and from inability to locate the respondents for follow-up. Further, there was no control for differences of responses of only one spouse cooperating in the study. This would affect the random assignment as both groups of mediation versus non-mediation lack comparability. In addition, those who refused mediation and those who accepted mediation had not been examined to see if there were any differences between the two groups. Kressel (1985) reports that usually the individuals who chose mediation

presented initially with less conflict and fewer problems. The research indicates that mediation works better for those groups (Pearson and Thoennes, 1985). This creates a bias in the results reported. Level of education (Doyle and Caron, 1979) appears to be one variable that does not necessarily lead to a successful mediated agreement.

Many of the studies used statistical comparisons of outcome based on different pretreatment procedures (Kressel, 1985; and Irving and Benjamin, 1987). The groups were not homogeneous and the results do not reflect an accurate comparison between mediated and non-mediated groups.

Mediator Behaviours

In examining the many and varied mediator behaviours which have an impact on successful mediation, Kressel (1987) states,

"Only three basic kinds have been documented to have any reliable association with results; effects to establish rapport; improving the negative climate; and mediator assertiveness."³⁶

Trust and confidence (reflexive intervention) appear to be the singularly most important issues in examining research

³⁶ Kressel, K. 1987. Clinical Implication of Existing Research on Divorce Mediation. The American Journal of Family Therapy, 15(1), p 72.

on divorce mediation. A key mediator function that has also been reported in the literature is improving communication (contextual intervention) between the disputing parties. The ability to reach settlements (substantive intervention) has also been the most consistent finding in the literature to date (Kressel, 1987).

The difficulties of these particular mediator styles leads to false assumptions about outcome and the understanding of the mediation process itself. The research does not explore reciprocal influences of the mediator on the mediation process or the style of interventions (Kressel, 1985). Each intervention is not viewed in isolation of the others but as a sum total which leads to positive outcome.

In summary, with respect to the literature on divorce mediation, Wall (1981) sums up the present state of the field when he states, "despite its variety, longevity and seeming ubiquity, mediation remains understudied, less than understood and unrefined."³⁷

G. CONSUMER SATISFACTION RESEARCH

In the field of mental health services, consumer satisfaction surveys provide an important source of data for

³⁷ Wall, J.A. 1986. Assessment in divorce conciliation: Issues and practice. Mediation Quarterly, 11, p 157.

the consumer with respect to the efficacy of the service providers (Lebow, 1982). However, Lebow states that,

"despite the widespread use of consumer evaluation in mental health settings, a coherent literature on the subject has yet to develop."³⁸

Consumer satisfaction has been linked to many different variables. The literature at the time of the writing of this study indicates the following findings.

In a study by Denner and Halprin (1974) 66 clients of a total of 166 who had terminated therapy were telephoned to assess their satisfaction with the services offered, their ability to resolve problems and their perception of the cause of their change. The researchers compared both the respondents and non-respondents to examine whether differences existed or not. As well, the researchers attempted to assess whether satisfaction was related to socio-demographic characteristics, length of session, and type of termination. The study found that:

- (1) 71 percent were satisfied with the service; 11 percent reported being dissatisfied;
- (2) 83 percent reported improved problem-solving ability; 5 percent reported getting worse;

³⁸ Lebow, J. 1982. Consumer Satisfaction with Mental Health Treatment.

Psychological Bulletin, 91(2), p 244.

- (3) 66 percent attributed the change to the clinic; 33 percent attributed other events as being more relevant to their change or lack thereof.

There was no difference found between those who responded to the interviews and the non-respondents in terms of socio-demographics or in early termination. There was a difference found in those who initiated termination of the therapy on their own. Those individuals who terminated their therapy were the very people who were least satisfied with the service.

Bent, Putnam and Kiesler (1976) asked whether a positive perception of the therapist was related to a positive outcome in therapy. The patients who reported that they were satisfied (N=24) were compared with those that stated they were very dissatisfied (N=16). The results revealed that those who were satisfied with their therapist as opposed to the control group described their therapist as warmer, more likeable and much more involved. The satisfied group also reported that therapy had a positive change in their behaviour as compared to the control group.

In a study by Balch, Spencer, McWilliams and Lewis (1977) outpatient clients were telephoned to obtain information on their satisfaction with therapy. The study attempted to explore socio-demographic characteristics and treatment variables to consumer satisfaction. Contacted and

non-contacted clients were compared on socio-demographic characteristics and treatment variables. The researchers found that there was no difference between the two groups. Of the clients who responded, age, sex, marital status and level of income were not related to satisfaction. In addition, satisfaction was not related to whether the client improved in therapy, or whether or not the client terminated the therapy, or there was a mutual decision to end therapy.

Gilligan and Wilderman (1977) surveyed former clients to assess consumer satisfaction as well. The issues that were examined were:

- (1) whether or not former clients were helped by the centre;
- (2) their report on how they felt about their therapist; and
- (3) their report on how they presently felt about themselves.

Responses were gathered from a postcard survey mailout as well as a telephone survey to former clients. They found that those clients who perceived that they were helped by the centre described themselves as feeling better than those who expressed that they received only minimal or no help from the mental health centre. As well, they found that a majority of the clients would recommend the centre to a friend or family. One finding that was consistent with the previous studies was that those clients who felt understood and listened to by their therapist reported that their therapists were not only involved with them in the therapy, but also preferred that

particular therapist. This finding is similar to the Bent, Putnam and Kiseler (1976) study.

Justice and McBee (1978) surveyed both patients in therapy and the parents of patients in therapy. To assess differences they also surveyed former patients and former patient's parents. They found no differences between the groups with respect to degree of satisfaction with the service either by patients or by the parents of the patients.

Distefano, Pryer and Garrison (1981) surveyed 40 psychiatric patients to assess their satisfaction with the hospital program. The researchers compared clients' satisfaction with prior surveys of the same program to determine if the feedback to staff improved the patient's satisfaction with the services. They found that although the patients reported a high level of satisfaction with the service, it was not significantly related to the patient's behavioural adjustment or to any socio-demographic variables. They surmised from this study as well as studies in the literature that measures of satisfaction may be independent of other criteria for outcome.

Bene-Kociemba, Cotton and Fortgang (1982) examined consumer satisfaction with state hospital treatment and community based treatment services of former patients. They were able to interview 22 patients. When comparing socio-

demographic variables between the responding groups and a control group (N=14) they found no differences with respect to age, sex, marital status, socio-economic status, or diagnosis on initial intake. Of the responding group they found that the patients' perceptions of helpfulness of staff were not related to frequency or length of meetings they had with their therapist. A majority (78 percent) of the patients reported feeling helped by the after-care services. As well, they found that the more the patient felt understood by the after-care worker, the more satisfaction and fewer complaints were reported. Feeling understood and that someone was there listening to them was an important component of satisfaction. Similar results were found in Bent, Putnam and Kiesler (1976) and Gilligan and Wilderman (1977).

Heath Jr. et al. (1984) assessed client satisfaction with respect to two groups of former clients who received treatment at a counselling centre. One group consisted of mentally retarded clients and the other group consisted of geriatric clients. In their review of the literature they found that Lebow (1982) reported that demographic variables such as age, sex and marital status would not be correlated with levels of consumer satisfaction. However, in their study they found that those clients who were under 30 years of age reported less satisfaction with the service than those who were over 30 years of age. Although there were no differences in sex and level of consumer satisfaction, they did find that

married clients were more satisfied than clients who were never married. As well, they found that clients who returned to the centre reported the same level of satisfaction as those clients who did not return for service. They also found that those clients who did not pay for the service reported less satisfaction than those clients who paid partially or fully.

All the studies, in examining the literature on consumer satisfaction with mental health centers, reported relatively high rates of satisfaction. One such explanation that was found in the literature was a tendency for clients to overrate the services they received (social desirability) (Carscadden, George, Wells, 1990). In reviewing the studies it becomes clear that there were many design problems in eliciting responses on consumer satisfaction from clients. For example, the literature has found that there is little agreement on the definition of satisfaction or a method to assess satisfaction (Bene-Kociemba, et al., 1982). The studies examined socio-demographic variables as well as process variables and their relationship to outcome. Although there were inconsistent data found by the researchers in linking these variables with consumer satisfaction, the studies did identify that each variable interacts with each other to produce a positive outcome. A similar finding was found by Kressel (1985) when examining mediator behaviours. He too, found that no individual behaviour in and of itself

could be significant but rather a combination of mediator behaviours lead to a positive outcome.

In reviewing literature on consumer satisfaction with respect to divorce mediation we find only two studies which are referred to as consumer evaluation studies (Sprenkle and Storm, 1983).

The first study by Brown and Manela (1977) was intended to investigate client satisfaction with a court-related marriage and divorce counselling service. The individuals were initially interviewed as they attended the service and were re-interviewed four months later to assess their coping abilities with respect to their physical and emotional health. During the second interview they were asked to evaluate the service and describe how the service was helpful or unhelpful in resolving their problems. Initial comparisons were made with those completing both interviews to those who refused and/or dropped out of the study inbetween interviews. They found that significantly more men than women, and blacks than whites, did not complete both interviews. They also found that a significantly higher proportion of lower educated, black men and women were not included in the sample. Of the sample surveyed, they found:

- (1) 75 percent reported the agency as being helpful or somewhat helpful;

- (2) 11 percent reported the agency as being somewhat or very helpful; and
- (3) 14 percent reported the agency as being both helpful and unhelpful.

When the individuals attended for only one counselling session, they reported that they were less satisfied with the agency than those who saw a counsellor for four months but terminated their counselling prior to the follow-up survey. Those clients who were still in counselling at the four month follow-up reported being the most satisfied. There was no difference found in satisfaction between the divorced group in counselling and the group with attending counselling for reconciliation. Similarly, those clients whose spouse refused to attend counselling perceived the agency as positive compared to those whose spouses attended counselling jointly. With regard to socio-demographic differences, the main characteristic found to be associated with client satisfaction was sex and race only. All other socio-demographic variables showed no such association with client satisfaction.

The second study on consumer satisfaction feedback was done by Lee (1979) who evaluated a court-connected marriage and divorce counselling agency. Results from a mailed questionnaire showed that:

- (1) 60 percent of the clients reported that the agency had been somewhat helpful or very helpful;
- (2) 69 percent of the clients reported that they were satisfied with their counsellor's help;
- (3) 46 percent of the clients reported that they had learned some or a great deal about helping their children adjust to the divorce;
- (4) 42 percent of the clients reported that they learned how to communicate with the other spouse to resolve problems;
- (5) 29 percent of the clients reported that counselling had helped them learn to be co-parents to their children;
- (6) 23 percent of the clients reported either not sure or does not apply to the questions.

As in the Brown and Manela (1977) study, this study also found no significant differences of the groups reporting of helpful or not helpful by the agency. Both studies had a very small sample which could not be generalized to other agencies. The studies used global ratings of helpfulness and unhelpfulness as well as satisfaction without defining the terms. There were many methodological problems such as no control group or random assignment of groups. In addition, there was no control for stages of the divorce process. In both studies the impact of the therapist's behaviour or style was not analyzed.

Richardson Study (1988)

A study by Richardson (1988) was conducted in three Canadian cities that offered court-based mediation and separation counselling (Saskatoon, Montreal, and St. John's). Baseline data on divorce was analyzed from records in Ottawa. The purpose of the study was threefold:

- (1) to evaluate divorce mediation with respect to process, outcome and social impact,
- (2) to produce data on custody, access and maintenance for divorce cases (Federal) as well as those cases provincially and,
- (3) to collect and report on baseline data for future evaluation of the Divorce Act (the Ottawa court was added for this purpose).

The study began in July 1985 and was completed in early 1986. The study was longitudinal and based on a quasi-experimental research design. There were three components to the study:

- (1) Case Analysis Study, a systematic analysis of court records was reviewed,
- (2) Observational Study, observations of the settings and mediation process,
- (3) Client Interview Study, personal interviews with the former spouses where cases were studied in the Case Analysis Study.

In addition, family law lawyers were surveyed by mail as well as personal interviews (Lawyer Survey), as well as interviews with mediators, and a mail survey was sent to mediators and counsellors (Mediation Study). The data from the Ottawa court was limited to the Case Analysis Study and the Client Interview Study of federal divorce cases only as there are no court-based mediation centre in Ottawa.

Another study, which was part of the Richardson (1988) longitudinal study, was conducted by Sloan and Greenaway (1988) in Winnipeg, Manitoba. The results of this study will be reported separately as a different methodology was used to adapt to the uniqueness of that Service.

The Saskatoon and St. John's court-based mediation services were found to be similar in the clients served, operation of the courts and limited to disputes of custody and access matters only. The Montreal Family Mediation Service was found to be much more structured and divided into mediation and assessment services. This service is also different in that maintenance and property division, along with custody and access matters, are all mediated. A lawyer or consultant is available to the parties and the mediator to discuss legal issues when required. All mediation sites are being compared with those cases proceeding via the adversarial system.

Due to the different sizes of the four courts and the different kinds of cases, different sampling procedures were used in each site. All disputed custody and access matters in Saskatoon, Ottawa and St. John's filed from January 1985 to December 1985 were included. In Montreal, all disputed cases of custody, access, and finances that were settled between January, 1985 and September, 1985 were included. Uncontested cases in Saskatoon and St. John's that were completed between September, 1985 and January, 1986 were included. In the Ottawa court, a random sample of 200 completed cases were included. In the Montreal court, a random sample of cases from August and September, 1985 were included. All sites were assured of including all mediation or separation counselling cases which had or would be completed between January, 1985 and December, 1985. This included 363 cases. In all of the four research sites there was a total of 1,773 cases which was collected and analyzed.

Montreal Court

The mediation service offered at this court is unique in Canada as it offers a comprehensive mediation service of custody, access and maintenance issues. There is a larger volume of cases that are dealt with at this court than any other site. Although the service is part of the court system, it serves the clients independent of the court. All mediation sessions are closed and the staff come from a multi-

disciplinary background who focus on a "systems approach" with their clients.

Saskatoon Court

The service offered in this court is accountable to the court unlike the Montreal service. Issues of custody and access are the only issues that are mediated. The service offers counselling, mediation, custody/access assessments and public education.

St. John's Unified Family Court

The service offered in this court focuses on intake, information sharing, short-term counselling, mediation, and any custody/access assessments are usually conducted by outside professionals.

Client Characteristics

The results of all three sites revealed that those who participated in mediation have higher incomes than those who do not. The Case Analysis data showed that mediation clients were twice as likely as non-mediation clients to be earning more than \$20,000 annually. The court records showed men's incomes were substantially higher than women.

There was no difference in employment status between the two groups. Each group shared similar skilled, semi-skilled, and professional backgrounds.

Mediation clients (men and women) generally had more than high school educations as opposed to non-mediation clients. Generally men reported higher educational backgrounds than did women.

Mediation clients had been married an average of 11 years in contrast to an average of 10 years in the non-mediation group. Each had at least 2 children in either group.

Spousal support was listed as the greatest issue in dispute in the mediation group, followed by access. Spousal support and no issues in dispute were reported in the non-mediation group, followed by access difficulties.

Children were rarely involved in the mediation sessions and the majority of both men and women preferred that their children not be involved in the process.

Process Issues

The majority of men and women stated that they had no preference as to sex of the mediator. Eighty percent of both men and women felt that the mediator was fair and understood them. Ninety-two percent reported that the mediator had been fair and impartial and 80 percent reported that their mediator allowed them to express their feelings. Thirty

percent reported that the mediator was too controlling and did not listen to the parties. The majority of those who attended mediation would recommend it to a friend. Men preferred mediation over women, however, 70 percent of both groups would recommend a mediator alone or both a mediator and lawyer. Generally the results indicated a satisfaction with the mediation experience as opposed to non-mediation. For those in both the mediation and non-mediation group they reported that they were also satisfied with their lawyer.

Agreement Reached

Of those individuals in mediation, an agreement was reached on all issues in 48.6 percent of the cases. This figure rose to 53 percent when the number of reconciled individuals were taken into account and 64 percent if partial settlement was also included. When the clients were surveyed they reported 38.4 percent of the cases reached agreement. There is very little difference in reporting agreements between men and women. Couples in both groups tended to have joint legal custody as their final agreement. Access arrangements were identified as the biggest issue by clients and were more likely to be specified and structured in the mediation group as compared to the non-mediation group.

Relationship Between Spouses

Examination of the interviews with the clients and their mediators indicate that there was little conflict and

hostility between the spouses. Approximately 43 percent of men and 52 percent of women described their relationship with their ex-spouse as friendly and cordial contrasted with 21 percent of men and 16 percent of women who reported tension in their relationship with one another. Overall, those who did not attend mediation 47 percent of both men and women reported the same results of a friendly and cordial relationship with their ex-spouse as compared to approximately 37 percent of those who did attend mediation. Women in the mediation group reported their husbands to have better parenting ability than those in the non-mediation group.

Comparison of Cost Benefits

Women who attended mediation estimated that the average legal fees would be \$1,599.00 compared to \$1,214.00 for those who did not attend mediation. Men in the mediation group estimated that their average legal fees would be \$2,019.00 as compared to \$1,511.00 in the non-mediation group. Seventy-seven percent of the clients in mediation reported that their court hearing was over in less than an hour compared to 56 percent of non-mediation clients. Thirty-six percent of those who attended mediation as compared to 31 percent who did not attend mediation found themselves in court on more than one occasion. Those who were in mediation faced fewer delays in working through the court system than those who litigated when filing for a divorce. Separation cases on average in

mediation, are concluded more quickly than non-mediation cases.

Maintenance Awards

On the average, women appeared to be better off financially if they went to court requesting spousal support and child support. For women receiving support and who had an average of two children the quantum of support did not reflect the needs of the children. Both court records and client data reported that amounts awarded rose with the number of children, however there was less per child. Neither mediation nor non-mediation cases reflected any differences.

The findings in this study, while impressive in the quantity of data it produced, generated only a descriptive analysis of the results. The only mention in the entire report made to previous research in the field of mediation was only in relation to the seeming benefits that mediation versus the traditional adversarial approach had. Richardson (1988) states,

"the main intent of the process evaluation was to provide a descriptive account of divorce mediation, its clients and the relationship of this approach to the legal process and the legal profession."³⁹

³⁹ Richardson, C.J. 1988. Divorce and Family Mediation Research Study in Three Canadian Cities. Department of Justice, Canada, p iii.

This study was included to provide a framework of divorce mediation services in Canada which had not been done to date, and more importantly ask the consumers of the service for their responses. What becomes abundantly clear is the lack of definition of services, models, mediator interventions, the mediation process itself, as well as what is referred to as litigation as being a true comparison. This study was the first to examine intended and unintended consequences of divorce mediation. These were explored from the viewpoint of:

"(a) impact on preservation of the family and marriage, (b) impact on the situation of women and children, and (c) impact on the legal profession."⁴⁰

The overall conclusion that was reached appears to be that divorce mediation did not produce unintended negative consequences.

Although the results concluded no appreciable differences between mediation and non-mediation, it offers a venue for the researcher to explore in greater detail the significance of the processes by which comparisons can be better analyzed and whether a relationship exists between consumer satisfaction to the variables explored.

⁴⁰ Ibid, p 196.

Sloan and Greenaway Study (1988)

A study done by Sloan and Greenaway (1988) was part of the Richardson (1988) longitudinal study. This particular court-based service provides for an almost "automatic" referral system to mediation. Therefore, the design of this study necessitated a different approach from the Richardson (1988) study. The Winnipeg court-based program is also unique in that the court has both the jurisdiction to deal with a divorce (Federal) as well as provincial jurisdiction. Data was collected from files, management statistics, questionnaires and interviews. In total there were 282 individuals referred for mediation who made up the sample. Of the 282 there were 138 individuals who were contacted by telephone four months after they completed mediation. The researchers found that attrition was due to not being able to locate the individuals and the unwillingness of some individuals to continue with the study. In the analysis of the Family Conciliation Services files there were 20 files which could not be located of the original 282 individuals. Analysis of court files of individuals who were court referrals to mediation resulted in 93 individuals. A "comparison group" was used which was made up of 170 individuals who filed for divorce where custody and access was an issue. There were 42 telephone interviews with family law lawyers which were based on a structured interview as

well as interviews with the staff at Family Conciliation Services.

The focus was not on the actual agreements. There was no uniform definition of how to measure outcome therefore the focus was on whether agreements were reached or not. As in the Richardson (1988) study, the results only provided a descriptive analysis of the program and process of all components.

COUNSELLOR VIEWS

A. Timing of Mediation

Both the judiciary as well as the counsellors reported that timing was an important factor in the outcome of mediation. The counsellors stated a range from the beginning of the dispute to waiting a few months until mediation would begin.

B. Extent of Lawyer Contact

The views that counsellors expressed ranged from wanting no involvement with the lawyer to having a lawyer who was favourable to mediation. This, in turn, resulted in a positive outcome.

C. Mediation Process

All counsellors interviewed reported that they had an eclectic approach to mediation. Some were non-directive in

style and some were very focussed and task specific in their approach. The counsellors varied as to whether they involved children in the mediation sessions. The counsellors also reported a range of 6 to 12 weeks was needed for mediation to be concluded.

D. Settlement Rates

The counsellors reported a range of 28 to 60 percent of their mediation cases reached either full or partial agreement on issues of custody and/or access. The counsellors also reported that they believed education and the ability to verbally express oneself is highly correlated to a successful outcome.

JUDICIARY'S VIEWS

A. Referrals

Both the judges and lawyers refer cases to mediation where custody and access are in dispute. Lawyers also tend to refer clients to private mediation.

B. Involvement of Lawyers

The majority of lawyers prepare their clients for mediation by encouraging attendance and participation by their clients in the process. The lawyers reported that although they do not play an active role in the mediation process itself, they do monitor the process and provide legal advice when needed.

C. Satisfaction with Mediation

More than half of the lawyers and all the judges interviewed reported that custody and access issues should be the only issues to mediate. Most of the lawyers as well as the judges viewed mediation as positive and supported the mediation process.

CLIENT DATA

Source of Referral

The most frequent source of referral was by the court or lawyers. They also reported that even though (83.3 percent) they met with the lawyer before or between mediation sessions, their lawyer did not take on an active role in the process and 92.3 percent reported that their lawyer encouraged them on mediation.

Custody/Access

The issue that brought the individual to court was almost always access difficulties and they were optimistic that mediation would resolve the problem.

Follow-up

When interviewed four months later about their experience with the mediation, the majority, 121 individuals (87.7 percent), indicated that they did not feel pressured by the mediator. They reported that the mediator was friendly

and approachable (89.8 percent), focussed on interests of the children (83.3 percent), felt listened to by the mediator (81.1 percent), and explained what options were available to them (76.1 percent). Of those that reported dissatisfaction with the mediation, the majority clearly indicated (17.4 percent) that their rights were not adequately explained.

Agreements Reached

A comparison of agreements reached was analyzed from three different sources. Family Conciliation Services statistical records for the year 1985 and 1986 reported 65 percent of the cases in mediation to have resulted in full or partial agreement. The second source of data was the original 282 individuals who completed the questionnaire and results indicated that a total of 51.3 percent of the cases reached full or partial agreement. The third source of data was from interviews with the clients. Of 135 of the 138 individuals who completed mediation, 45.9 percent reported full or partial agreement with the assistance of a mediator.

The researchers examined the differences in agreements reached from the three sources and concluded that a range of "other factors" may explain the differences found. For example, there appeared to be a wide range of discretion in recording outcomes by the mediator, the various number of sessions involved to reach agreement, as well as an

"observed" difference by the researchers of the mediation assigned to the case and outcome.

The individuals did report that mediation contributed to the resolution of access problems, parenting issues and custody issues. However, parenting and custody issues alone resulted in less satisfaction with mediation.

Compliance and Re-litigation

In terms of compliance and relitigation, interviewed respondents reported that 14.5 percent had returned to court, 41.3 percent reported that they expected to return to court in the future, and 3.6 percent reported that they have to return to court. Forty-six percent reported no further court involvement.

Satisfaction with Agreement/Parent/Child Relationships

Those who reached agreement reported that they believed their children's capacity to cope (socio-emotional adjustment of children) was improved. However, those who did not receive mediation also reported that their children were coping well with the separation. Satisfaction with the parent-child relationship of those who reached an agreement was significantly higher (49.2 percent) than those who did not (29.3 percent). Satisfaction with custody agreements of those who reached an agreement was also significantly greater (82.3 percent) than those who did not (17.7 percent). Satisfaction

with access arrangements of those who reached agreement was 78 percent. The percentages are based on 96 individuals out of the 138 interviewed regarding custody and 91 out of the 138 interviewed regarding access who reported a resolution of these two issues. There was no difference in satisfaction found on custody and access between those who did mediate and were successful as compared to those who have not.

The following results represent an analysis of data that was obtained from 93 court files that corresponded to those who were referred to mediation by the court.

Client Characteristics (Court Data)

The average age at the time of marriage for men was 23.8 years and 21.4 years for the women. The average length of marriage was 9.8 years. The majority of men were employed full-time (64.5 percent). The majority of women were unemployed (38.6 percent); employed full-time (23.7 percent), and employed part-time (15.1 percent). The average income for men was approximately \$23,000 and for women was approximately \$12,000. On average, there were less than two children identified in the court proceedings and access was the main issue in dispute (84.9 percent).

In examining the final court orders, there was no relationship between quantum of child support and mediation outcome. There was no relationship found between mediation

outcome and joint custody orders. There was also no relationship found between which parent was awarded custody and mediation outcome. There was no relationship found between mediation outcome and the numbers of court orders made when the parties could not agree. There was no relationship found between mediation outcome and the number of all court motions and court orders found in the files. There was also no relationship found between full and partial mediated agreements and the filing of consent orders. The data obtained from court files suggests that mediation does not have any appreciable impact on the court process.

The following results are from court records of those individuals who filed for a Divorce Petition in 1983. These results were used as a comparison to show the impact of the "automatic" referral system to the mediation service.

Client Characteristics

The average age at the time of marriage for men was 24.3 years and 21.3 years for the women. The average length of marriage was 10.2 years. The majority of men were employed full-time (59.4 percent). The majority of women were also employed full-time (38.8 percent). The average income for men was \$22,000 and women \$11,000. There were less than two children identified in the court proceedings. Custody and access were identified as at issue 72.4 percent and 84.9 percent of the time respectively.

There was no significant relationship with respect to custody orders being awarded in 1983 and in mediation. However, the two groups are not truly comparable. In comparing changes in orders under divorce proceedings and mediation, results could not be made as there was a lack of comparability.

The results reported by Sloan and Greenaway (1988) do not support the conclusion that mediation, as it is practiced in Winnipeg, Manitoba, had an impact on the final outcome of cases. However, the individuals who were in dispute over custody and access matters reported that they were satisfied with mediation. Although this may seem contradictory, in fact the complex interplay between the divorce process itself and the mediation process cannot be reasonably isolated as an either/or phenomenon. Perhaps a larger sample size with a true experimental design could capture this seeming contradiction.

Methodological problems such as those encountered in divorce mediation research are not uncommon or unique in other fields such as mental health or family therapy. Lebow (1982) summarizes the following methodological problems:

- (1) the lack of reliability;
- (2) the lack of validity of the consumer survey instrument with respect to sampling, lack of control over procedure

- with respect to data-gathering, possible sources of error in the response of the consumer and including items that are unrelated to consumer satisfaction;
- (3) the lack of alternatives in the responses of the consumer;
 - (4) the lack of alternative responses across different treatment situations;
 - (5) the lack of comparable measurements in different treatment situations;
 - (6) the lack of identifiable baselines for measuring satisfaction;
 - (7) the lack of differentiating between the clients themselves and the treatments in question;
 - (8) the lack of differences between interview vs. questionnaire, and mail survey or telephone survey; and finally
 - (9) the lack of sophisticated data analysis and how it is reported.

When examining the relationship between consumer satisfaction or other possible outcome measures, Lebow (1982) focuses on the following:

- (1) relationship between measures of therapist satisfaction and client satisfaction;
- (2) relationship with respect to satisfaction with significant others (family, friends);

- (3) relationship with respect to the therapist's judgment of how well the client is satisfied;
- (4) relationship between client-rated outcome measures;
- (5) relationship between therapist and rater assessed change; and
- (6) relationship with respect to premature termination of therapy.

Although there are both substantive and methodological difficulties in assessing consumer satisfaction, the literature does explore the appropriateness of studying the consumer of the service. Lebow (1982) has evaluated consumer satisfaction with mental health treatment and suggests that there are a number of factors to be included in evaluating consumer satisfaction. Lebow (1983) states that consumer satisfaction studies should include:

- (1) socio-demographic variables;
- (2) social history of the clients
- (3) treatment characteristics, both generally (setting and choice of treatment) and specific (model used), as well as
- (4) clinicians characteristics.

In addition, research has shown that clients ratings of their outcome of their treatment experience and life satisfaction appear to be highly correlated with satisfaction (Lebow, 1982; LeVois et al., 1981).

The choice of survey instrument is important with respect to evaluating consumer satisfaction. Lebow states, "the common practice has been to develop a new measure for each study."⁴¹

Another important criteria to examine is the choice of how and when the clients will be questioned. For example, issues such as timing of the assessment, method of data gathering, presentation of how the evaluation to the consumer will be given, and how to increase the response rate and the handling of who will be included in the evaluator rating consumer evaluation are all to be carefully examined (Lebow, 1982).

This exploratory study shares many of the same methodological problems as the divorce mediation studies and the consumer studies. One of the criticisms raised about the present research in divorce mediation, is that gender differences have not been reported (Levy, 1984; and Emery and Wyer, 1988). This study will report the differences in gender with respect to mediation. All the factors described by Lebow (1982) were taken into consideration in the design of the survey instrument. However, even though all factors were

⁴¹ Lebow, J. 1983. Evaluation of Consumer Satisfaction with Mental Health Treatment. Evaluation and Program Planning, 5, p 351.

taken into account in the research and design of this exploratory study, the issue of consumer satisfaction with mediation is difficult to assess.

Walker states,

"that satisfaction is an enormously complex dimension and is not simply about the experience of the process or the outcome, but is related to all aspects of a person's situation and how he/she got there... Another difficulty with the consumer view is that most parties are not able to say what this experience of divorce would have been like had they not received conciliation."⁴²

She further states,

"even if it is possible to find suitable evaluation measures of conciliation in all its forms, in order to make an assessment of its worth it is necessary to describe the process which it seeks to supercede."⁴³

⁴² Walker, J. 1987. "Divorce Mediation - Is it a better way?" In The Role of Mediation in Divorce Proceedings: A Comparative Perspective (United States, Canada and Great Britain). Vermont Law School Dispute Resolution Project, p 260.

⁴³ Ibid, p 260.

METHOD

The intent in doing this exploratory study was to examine the relationship between consumer reported satisfaction with the mediation process and selected variables identified in the literature review which are thought to affect mediation outcome. This study took place at the Family Conciliation Services, Winnipeg, Manitoba, which is a court-connected service that only examines the issues of custody and access with respect to mediation.

As a consequence of these limitations, the following variables were chosen for this study:

- (a) client characteristics (socio-demographic information);
- (b) client resources (coping ability, degree of communication with the other spouse);
- (c) types of issues in dispute (custody and/or access);
- (d) who referred the parties to mediation;
- (e) degree of court involvement during and after mediation;
- (f) life situation, satisfaction with mediation sessions and outcome;
- (g) extent of lawyer support;
- (h) recommending mediation to others;
- (i) whether or not agreements were reached (outcome of mediation);

- (j) degree of financial strain;
- (k) how parenting agreement was reached;
- (l) mediator's style:

(a) Reflexive Strategies are the behaviours of the mediator which occurred early in mediation to effectively deal with the conflict and establish a working relationship. For example, humour, story telling, building trust, mediator bias, mediator neutral and fair.

(b) Contextual Strategies are the behaviours by the mediator which help the disputing parties learn new problem-solving skills and facilitate communication. For example, organized which issues facilitated communication, provided structure, offered information.

(c) Substantive Strategies are those behaviours by the mediator which lead to a resolution of the problem. For example, the mediator offers compromise suggestions, a different course of action, argues one disputing parties case over the other, discusses other settlements, understands needs, pressures into agreeing (Kressel, 1972; and Kressel and Deutsch, 1977).

As a major dependent variable of the study, a satisfaction scale was created to assess overall results of mediation. This scale was comprised of the following questions:

- (1) How satisfied were you with your parenting agreement after you completed mediation?
- (2) To what extent do you feel your individual concerns were understood and dealt with by the mediator?
- (3) How satisfied were you with the mediation process?
- (4) How satisfied were you with the mediation outcome?
- (5) Would you recommend mediation to others if their situation was similar to yours?
- (6) Do you feel that your life situation has improved since mediation?

A. Research Setting

Family Conciliation Services, Department of Community Services, Winnipeg, Manitoba, is a court-connected counselling service, which is part of the Family Division, Court of Queens Bench. The service offers:

- (1) information and referral (the staff provide information to the public about what the service offers and makes appropriate referrals to other professionals and agencies);
- (2) conciliation services (short-term counselling is offered to individuals, couples or families in times of crisis. These issues may include decisions around separation and divorce, family difficulties, assistance with access to children, and/or problems with regards to court-ordered maintenance);

- (3) mediation services (the service provides a neutral third party to help resolve issues of custody and/or access with the outcome being a mutually agreed-upon written agreement or a return to the adversarial system);
- (4) court-ordered assessments (where there are unresolved conflicts of custody/access of children and mediation is not possible, an assessment of the family may be undertaken and a written report is provided to the Court as well as counsel for the parties) and;
- (5) reciprocal enforcement of maintenance orders (on-going services for residents of Manitoba who require assistance in the enforcement of a maintenance order from another jurisdiction).

An information seminar is presented to the parties at the intake process when they are referred for either mediation or assessment. This seminar provides a general orientation of the services offered and the parties' questions are addressed.

Referrals to the service come from a wide array of sources -- judges, lawyers, self-referrals, friends, as well as other professionals in the community. The service is voluntary in nature and, over the years, has become the first avenue of exploration for couples in dispute.

Most of the social workers have had many years of experience in conflict resolution and they are eclectic in their styles of approach to the mediation process.

The area served by the Unified Court covers approximately 75% of Manitoba's population (Winnipeg, St. Boniface, Selkirk, and other limited areas). Attached to the Court is a unit called "Family Conciliation Services" or FCS, made up of a Director and eight social workers.

The social workers in the unit are identified in the Queen's Bench Rules (rules of Court having legislative effect) as conciliation officers (Rule 826). This rule states:

- "A conciliation officer may at the request of the parties or their solicitors, and shall upon a reference by a judge or master;
- (a) meet with the parties and, if they agree, attempt to mediate their dispute; and if the conciliation officer deems it appropriate,
 - (b) meet with children and such other persons including solicitors as the conciliation officer deems necessary in the attempt to mediate the dispute.

Upon conclusion of mediation, send a report to the parties, or to their solicitor, if they are

represented, indicating what, if any, agreements have been tentatively reached, and advise the court when conciliation efforts have been concluded, and whether all issues between the parties have been resolved."⁴⁴

This unit covers the issues of custody and/or access only. The rules of court address that the process be closed mediation.

B. Research Participants

Disputing parties who completed mediation during the period of January to June, 1986 at the Family Conciliation Services, Winnipeg, Manitoba were surveyed.

A total of 270 individuals were identified for receipt of a 38-item questionnaire. The characteristics of the sample identified included:

(a) those individuals who attended the service in December, 1985 which led to a referral for mediation and began in January 1986;

(b) if mediation was attempted first and was not successful a questionnaire was still sent to the parties;

⁴⁴ Court of Queen's Bench Act and Rules of Practice (Rule 826). 1986.

(c) questionnaires were sent to individuals even though other partner's address was unavailable.

Of this total, there were 98 completed questionnaires returned. An examination to assess the difference between those who responded and those who did not respond to the questionnaire was also made. The group consisted of 172 individuals. From the total there were 40 couples who were not included because:

- (1) there was a court-ordered assessment report only;
- (2) there was a home-study report ordered only;
- (3) the case was opened and closed before draft of the study;
- (4) one couple reconciled;
- (5) one address for an individual could not be found;
- (6) children were in the care of Family and Children's Service of Greater Winnipeg;
- (7) files could not be located;
- (8) three questionnaires came in late and could not be included in data analysis.

Relevant demographic data and process data for both groups was obtained from the following sources:

- (1) Family Conciliation Services' internal statistical records.
- (2) Family Conciliation Services' files which contained documentation for sex, age, who referred them, why they were referred, did they reach an agreement,

and the number of children living with them at the time of mediation.

C. Instrumentation

The items for this questionnaire were selected after a review and consultation with the following sources:

- (a) interviews with conciliation staff;
- (b) interviews with the Director of the Service;
- (c) a review of questions that were previously designed from Canadian studies (Sloan and Greenaway, 1986; Irving and Benjamin, 1987); and
- (d) interviews with Social Work staff at the University of Manitoba.

A draft survey questionnaire was pre-tested on a sample of six individuals who had already gone through mediation at Family Conciliation Services. The first draft of the questionnaire consisted of 50 items which was eventually refined to produce the final questionnaire (see Appendix II). Twelve questions were eliminated due to repetition. Other questions were clarified and made more precise based on the input of sources previously identified.

The questionnaire was mailed out by regular post. This included a return self-addressed envelope. Attached to the questionnaire was a covering letter which was mailed and sent

to potential survey respondents on government letterhead (see Appendix III).

For those individuals for whom a telephone number was available, a telephone follow-up call was made. One hundred and twenty participants were telephoned over a ten day period to request that they return the questionnaire. Seven individuals stated they did not wish to participate as the issues were still difficult to talk about; three individuals said that they had never been to the Service nor had they heard of it; four individuals had reconciled and one individual was too ill to respond. Ninety-eight completed questionnaires were received. Of the 172 individuals who did not return the questionnaire, there were 20 questionnaires returned marked "address unknown."

D. Data Analysis

Two groups of data were statistically analyzed. One group was referred to as the responding group (N=98) while the second group of individuals (N=172) were referred to as the non-responding group.

The quantitative data was coded and keyed into a microcomputer and edited for computer analysis using both the Statistical Package for the Social Sciences (Nie et al., 1975) and the Statistical Analysis Package (Wolonick and Associates, 1981-86). A further statistical analysis package

that was used was SAS (SAS Institute Inc., 1980). An alpha level of .05 was established as the acceptable level of statistical significance.

RESULTS

From the 270 identified individuals, 98 completed questionnaires were returned for a response rate of 36.3%. Among the respondents there were only 18 couples who returned the questionnaire. Of those who did not respond to the survey (172 individuals), data was obtained from the files. A comparison of the responding and non-responding groups was also examined to assess any differences between groups.

The sections of this chapter will be divided into:

- (A) responding group
- (B) comparison of responding and non-responding groups

A. Sample Characteristic of Responding Group (N=98)

The tables illustrate different sample sizes (N=) due to the following difficulties:

- (1) data was missing from the files.
- (2) some individuals could not or did not answer the questions that asked for a differentiation between responses.
- (3) some individuals checked off more than one response, consequently invalidating their response.
- (4) responses categorized as "I don't know" were eliminated for purposes of data analysis.

I. Client Characteristics

a. Age

The sample was composed of 41 females and 19 males. The age distribution of this sample was distributed between 21 and 50 years of age. The mean age of the sample was 36 years. The standard deviation was 6.67 years.

The mean age of males was 38.5 years and the standard deviation was 6.1. The mean age of females was 34.9 years and the standard deviation was 6.68. The age difference between males and females was statistically significant, $t(58)=2.00$, $p<.05$.

b. Income

Table I. Distribution of Respondents Income by Sex (N=62)

Annual Income	Females	Males	Total
Under \$10,000	18	2	20
\$10,001 - \$19,000	14	3	17
\$19,001 - \$29,000	4	8	12
\$29,001 - \$39,000	1	8	9
\$39,001 - \$49,000	0	3	3
Over \$49,001	0	1	1
	(37)	(25)	(62)

Table I illustrates the distribution of gross annual income. This table illustrates that a predominance (80%) of the males fell into the higher income brackets and that a predominance (86.5%) of the females fell into the lower income brackets. The mode for females was under \$10,000 and the bi-modal for males was between \$19,001 - \$29,000 and \$29,001 - \$39,000. The mean income for males was between \$19,001 - \$29,000 and the standard deviation was 1.22. The mean income for females was between \$10,001 - \$19,000 and the standard deviation was 0.78. The difference in income between males and females was statistically significant, $t(60)=6.77$, $p<.001$.

c. Employment

Table II. Distribution of Employment Status by Sex (N=87)

Employment Status	Females	Males	Total
Full-time	24	31	55
Part-time	1	1	2
Unemployed, seeking work	5	0	5
Homemaker	9	0	9
Student	5	1	6
Other	8	2	10
	(52)	(35)	(87)

Table II illustrates the employment status of the sample. Almost half (46%) of the females (24) and the majority (88%) of the males (31) were employed full-time. Both females and males who stated "other" were either self-employed or a combination of student and part-time homemaker and student.

d. Marital Status

Table III. Distribution of Marital Status at the time of Mediation by Sex (N=84)

Marital Status	Females	Males	Total
Separated	40	25	65
Divorced	13	6	19
	(53)	(31)	(84)

Table III illustrates that the majority of females (75%) and males (81%) were separated at the time of mediation. There was no significant association found between sex and marital status, $X^2(1, N=84) = .299, p > .5$.

e. Length of Relationship

Table IV. Frequency Distribution of Length of Relationship by Sex (N=84)

Years	Females	Males	Total
0 - 2	3	3	6
3 - 5	9	4	13
6 - 8	10	6	16
9 - 11	5	7	12
12 - 14	9	7	16
15 - 17	7	3	10
Over 17	7	4	11
	(50)	(34)	(84)

Table IV illustrates that there were 23 females who fell above the median and 27 females who fell below the median. There were 14 males who fell above the median and 20 males who fell below the median. The median test revealed that the difference between females and males was not statistically significant, $X^2(1, N=84) = .189, p > .5$.

f. Length of Separation

Table V. Frequency Distribution of Length of Separation Prior to Mediation by Sex (N=77)

Months	Females	Males	Total
0 - 2	4	1	5
3 - 5	4	8	12
6 - 8	5	1	6
9 - 11	3	6	9
12 - 14	6	2	8
15 - 17	0	0	0
Over 17	23	14	37
	(45)	(32)	(77)

Table V illustrates that the majority of females (51%) and almost half of the males (44%) were separated for over 17 months before entering into mediation at Family Conciliation Services. The most frequently occurring category for females and males was over 17 months (48%).

There were 23 females who fell below the median and 22 females who fell above the median. There were 14 males who fell above the median and 18 males who fell below the median. The median test revealed that the difference in length of

separation prior to mediation between females and males was not statistically significant, $X^2(1, N=77) = .401, p > .5$.

g. Children's Principle Residence at time of Mediation and at time of Survey

Table VI. Frequency Distribution of Children's Principle Residence at the time of Mediation (N=89) and at the time of Survey (N=88) by Sex

	With Mother	With Father	Total
Time of Mediation	48	11	59
Time of Survey	48	14	62

Table VI illustrates that there was a majority (81.3%) of children who had principle residence with their mothers at the time of mediation. There was a statistically significant association found between sex and principle residence of children at the time of mediation, $X^2(1, N=89) = 34.55, p < .001$.

This table also illustrates that the majority (81.3%) of children had principle residence with their mothers at the time of the survey. There was a statistically significant association found between sex and children's principle residence at the time of the survey, $X^2(1, N=88) = 29.16, p < .001$.

II. Client Resources (Coping Ability, Degree of Communication with Other Spouse)

Table VII. Frequency Distribution of Level of Coping Ability at time of Mediation by Sex (N=64)

Coping Ability	Females	(%)	Males	(%)	Total
Coping Very Well	13	(34.2)	9	(34.6)	22
Coping	14	(36.8)	4	(15.4)	18
Mixed Feelings	7	(18.4)	4	(15.4)	11
Not Coping Well	3	(8.0)	6	(23.1)	9
Coping Very Poorly	1	(2.6)	3	(11.5)	4
	(38)		(26)		(64)

Table VII illustrates at the time of mediation a majority (71%) of the females were coping or coping very well; whereas the males were distributed across the spectrum from coping very well to coping very poorly.

Table VIII. Frequency Distribution of Current Level of Coping Related to Experience in Mediation (N=63)

Coping Ability	Females	(%)	Males	(%)	Total
Directly	0	(0)	1	(3.8)	1
Somewhat	12	(32.4)	6	(23.1)	18
Not at all	22	(59.5)	19	(73.1)	41
Not sure	3	(8.1)	0	(0)	3
	(37)		(26)		(63)

Table VIII illustrates that the majority of females (59.5%) and males (73.1%) felt that their current level of coping was not at all related to their experience in mediation.

Table IX. Distribution of Parties Ability to Communicate with the Other Party since Completing Mediation by Sex (N=71)

	Females	(%)	Males	(%)	Total
Yes	19	(45.2)	10	(34.5)	29
No	23	(54.8)	19	(65.5)	42
	(42)		(29)		(71)

Table IX illustrates that the majority of females (54.8%) and males (65.5%) could not communicate with the

other parent since completing mediation, however 45.2% of the females and 34.5% of males could communicate with the other party since completing mediation.

There was no significant association found between the sexes and their ability to communicate with the other parent after completing mediation, $X^2(1, N=71) = .821, p > .10$.

Table X. Frequency Distribution of Parties Ability to Communicate Directly Related to their Experience in Mediation (N=30)

	Females (%)	Males (%)	Total
Directly or somewhat	9 (45)	5 (50)	14
Not at all	11 (55)	5 (50)	16
	(20)	(10)	(30)

There was also no significant association found between the sexes and whether their ability to communicate was directly related to their experience in mediation, $X^2(1, N=30) = .067, p > .50$.

III. Types of Issues in Dispute

Table XI. Frequency Distribution of Types of Issues in Dispute (N=92)

Issue	
Custody	6
Access	57
Both	29
N = 92	

Table XI illustrates that there were 6.5% of the total respondents who indicated that they attended mediation for a custody problem, 62% of the respondents indicated that they attended for an access problem, and the remaining 31.5% of the respondents indicated that they attended mediation for both custody and access problems.

IV. Who Referred the Parties to Mediation

Table XII. Referral Source by Sex
(N=83)

Who Referred	Females	(%)	Males	(%)	Total
Self	13	(26)	11	(33.3)	24
Lawyer	19	(38)	10	(30.3)	29
Judge/Master*	18	(36)	12	(36.4)	30
	(50)		(33)		(83)

*Judge/Master are both Officers of the Court who can make the same referrals to mediation.

Table XII illustrates that the majority (74%) of referrals to Family Conciliation Services were lawyer referred and referred by a Judge/Master for females. The referrals for males were evenly distributed between self, lawyer and Judge/Master. There was no significant association found between females and males and who referred them to mediation, $X^2(2, N=83) = .708, p > .5$.

V. Degree of Court Involvement During and After Mediation

Fifty percent of the respondents initiated court action during mediation. There was no significant association found between gender and court involvement during mediation, $X^2(1, N=69) = .03, p > .5$. Fifty percent of the respondents initiated

legal action since completing mediation. There was no significant association found between gender and initiation of legal action since completing mediation, $X^2(1, N=69) = .12$, $p > .5$.

VI. Life Situation, Satisfaction with Mediation Session and Outcome

Table XIII. Distribution of Life Situation since Completing Mediation by Sex (N=64)

	Females	(%)	Males	(%)	Total
Much Improved	5	(12.8)	7	(28)	12
Improved	10	(25.6)	8	(32)	18
All Right	12	(30.8)	4	(16)	16
Not Improved	10	(25.6)	5	(20)	15
Got Worse	2	(5.1)	1	(4)	3
	(39)		(25)		(64)

Table XIII illustrates that the majority of females (70%) and males (76%) reported feeling that their life situation has generally been improved. Of the females, 30.7% reported that their life situation has not improved or got worse as opposed to 24% of the males who reported that their life situation has not improved or got worse in fact since mediation.

Table XIV. Distribution of Satisfaction with Mediation Sessions by Sex (N=70)

	Females	(%)	Males	(%)	Total
Very Satisfied	5	(11.9)	4	(14.3)	9
Satisfied	13	(31.0)	8	(28.6)	21
Mixed Feelings	13	(31.0)	8	(28.6)	21
Dissatisfied	7	(16.7)	6	(21.4)	13
Very Dissatisfied	4	(9.5)	2	(7.1)	6
	(42)		(28)		(70)

Table XIV illustrates that 42.9% of the females and males were very satisfied or satisfied with the mediation sessions. There were 31% of females and 28.6% of males who reported that they had mixed feelings about their level of satisfaction with the mediation sessions. The remaining 26.2% of females and 28.5% of males reported that they were either dissatisfied or very dissatisfied with the mediation sessions.

Table XV. Distribution of Satisfaction with Mediation Outcome by Sex (N=69)

	Females	(%)	Males	(%)	Total
Very Satisfied	1	(2.5)	4	(13.8)	5
Satisfied	8	(20.0)	5	(17.2)	13
Mixed Feelings	12	(30.0)	9	(31.0)	21
Dissatisfied	13	(32.5)	5	(17.2)	18
Very Dissatisfied	6	(15.0)	6	(20.7)	12
	(40)		(29)		(69)

Table XV illustrates that 22.5% of the females indicated that they were very satisfied or satisfied with the mediation outcome. There were 31% of the males who indicated that they were also very satisfied or satisfied with the mediation outcome. Thirty percent of the females and 31% of the males indicated that they had mixed feelings about their level of satisfaction with the mediation outcome. The remaining 47.5% of the females and 37.9% of the males indicated that they were dissatisfied or very dissatisfied with the mediation outcome.

VII. Extent of Lawyer Support

Table XVI. Lawyer Supportive of Participation in Mediation
(N=57)

Support from Lawyer	Females	(%)	Males	(%)	Total
Very supportive	25	(74.0)	11	(47.8)	36
Somewhat supportive	7	(21.0)	10	(43.5)	17
Mixed	0	(0)	1	(4.3)	1
No support at all	2	(5.9)	1	(4.3)	3
	(34)		(23)		(57)

Table XVI illustrates that the vast majority of females (95%) and males (91.3%) reported that their lawyer was very supportive or somewhat supportive of the participation in mediation.

VIII. Recommending Mediation to Others

Table XVII. Frequency Distribution of Recommending Mediation to Others (N=63)

	Females	(%)	Males	(%)	Total
Yes	29	(78.4)	16	(66.7)	45
No	8	(21.6)	10	(41.7)	18
	(37)		(24)		(63)

Table XVII illustrates that the majority (78.4%) of females and the majority (66.7%) of males would recommend mediation to others if their situation was similar to that of the mediated couple.

There was no significant association found between recommending mediation to others and sex, $X^2(1, N=63) = 2.12$, $p > .1$.

IX. Whether or Not Agreements Reached

Table XVIII. Agreements Reached or Not (N=90)

	Females	(%)	Males	(%)	Total
Yes	37	(66.1)	25	(73.5)	62
NO*	19	(33.9)	9	(26.5)	28
	(56)		(34)		(90)

* Within 'No' are subsets of: Court-ordered assessment reports where there are unresolved conflicts of custody and/or access issues of children and mediation was not successful; Homestudy report where the Court wants information on the parent's home and lifestyles without making a recommendation as to custody and/or access and mediation was not successful.

Table XVIII illustrates that the majority of females (66.1%) and males (73.5%) were able to reach an agreement.

There was no significant association found between whether agreements were reached or not and sex, $\chi^2(1, N=90) = .549, p > .1$.

X. Degree of Financial Strain

Table XIX. Degree of Financial Strain Following Separation and/or Divorce by Sex (N=65)

Financial Strain	Females	(%)	Males	(%)	Total
Not or Mild	5	(12.8)	9	(34.6)	14
Moderate or Considerable	22	(56.4)	10	(38.5)	32
Extreme	12	(30.8)	7	(26.9)	19
	(39)		(26)		(65)

Table XIX illustrates that the majority of females (56.4%) were experiencing moderate or considerable degree of financial strain following the separation and/or divorce. In contrast, 38.5% of the males experienced moderate or considerable degree of financial strain; 34.6% of the males experienced no or mild degree of financial strain and 26.9% of the males experienced extreme financial strain following separation and/or divorce. There was no significant

association found between sex and degree of financial strain, $\chi^2(2, N=65) = 4.54, p > .1$.

Table XX. Financial Status Changed Since Completing Mediation (N=64)

Status	Females		Males		Total
Much better	9	(24.0)	6	(23.1)	15
Somewhat better	10	(26.3)	5	(19.2)	15
About the same	16	(42.1)	10	(38.5)	26
Somewhat worse	1	(2.6)	2	(7.7)	3
Much worse	2	(5.3)	3	(11.5)	5
	(38)		(26)		(64)

Table XX illustrates that half of the females (50.3%) reported that their financial status was much better and somewhat better since completing mediation as opposed to 42.3% of the males. Of the females, 42.1% and 38.5% of the males reported that their financial status was about the same since completing mediation. There were 7.9% of the females who reported that their financial status was somewhat worse or much worse since completing mediation, as opposed to 19.2% of the males.

XI. How was your Parenting Agreement Reached

Table XXI. Frequency Distribution of Parenting Agreement Reached Independently (N=82)

	Females (%)	Males (%)	Total
Yes	10 (20)	10 (20)	20
No	40 (80)	22 (68.8)	62
	(50)	(32)	(82)

Table XXI illustrates that 24.4% of the respondents reached a parenting agreement independently in contrast to 75.6% of the respondents who did not reach their parenting agreement independently. The majority of females (80%) and males (68.8%) were not able to reach a parenting agreement independently.

There was no significant association found between reaching a parenting agreement independently and sex, $\chi^2(1, N=82) = 1.34, p > .1$.

Table XXII Frequency Distribution of Parenting Agreement Reached With the Help of the Mediator (N=84)

	Females	(%)	Males	(%)	Total
Yes	30	(58.7)	15	(46.9)	45
No	22	(42.3)	17	(53.1)	39
	(52)		(32)		(84)

Table XXII illustrates that 53.6% of the respondents reached a parenting agreement with the help of a mediator in contrast to 46.4% of the respondents who did not reach a parenting agreement with the help of the mediator. The majority of females (58.7%) reached an agreement with the help of a mediator in contrast to 53.1% of the males who did not reach an agreement with the help of a mediator.

There was no significant association found between reaching a parenting agreement with the help of the mediator and sex, $X^2(1, N=84) = .932, p > .1$.

Table XXIII. Frequency Distribution of Parenting Agreement Reached with the Help of the Lawyer (N=81)

	Females	(%)	Males	(%)	Total
Yes	13	(26.5)	13	(40.6)	26
No	36	(73.5)	19	(59.4)	55
	(49)		(32)		(81)

Table XXIII illustrates that 32.1% of the respondents reached a parenting agreement with the help of the lawyer, in contrast to 68% of the respondents who did not reach a parenting agreement with the help of the lawyer. The majority of females (73.5%) and males (59.4%) were not able to reach a parenting agreement with the help of the lawyer.

There was no significant association found between reaching a parenting agreement with the help of the lawyer and sex, $X^2(1, N=81) = 1.76, p > .1$.

Table XXIV. Frequency Distribution of Parenting Agreement Reached Through Court (N=81)

	Females	(%)	Males	(%)	Total
Yes	17	(34.7)	7	(21.9)	24
No	32	(65.3)	25	(78.1)	57
	(49)		(32)		(81)

Table XXIV illustrates that 29.6% of the respondents reached a parenting agreement through Court in contrast to 70.4% of the respondents who did not reach a parenting agreement through Court. The majority of females (65.3%) and males (78.1%) were not able to reach a parenting agreement through Court.

There was no significant association found between reaching a parenting agreement through a court order and sex, $\chi^2(1, N=81) = 1.53, p > .1$.

XII. Mediator Style

(1) Reflexive Strategies

Table XXV. Whether or Not Agreement was Reached and Mediator was Biased Towards the Other Parent (N=55)

		Agreement Reached	
		Yes	No
Mediator Bias	Yes	8 (15%)	6 (10.9%)
	No*	30 (55%)	11 (20%)

Table XXV illustrates that 70% of the respondents reached an agreement whether or not their mediator was biased towards the other parent. However, regardless of whether or not an agreement was reached, 75% of the respondents perceived the mediator as not biased.

* Within 'No' are subsets of: Court-ordered assessment reports where there are unresolved conflicts of custody and/or access issues of children and mediation was not successful; Homestudy report where the Court wants information on the parent's home and lifestyles without making a recommendation as to custody and/or access and mediation was not successful.

Table XXVI. Whether or Not Agreement was Reached and Mediator Remained Neutral and Fair (N=55)

		Agreement Reached	
		Yes	No
Mediator Remained Neutral and Fair	Yes	26 (47.2%)	12 (21.8%)
	No	10 (18.1%)	7 (12.7%)

Table XXVI illustrates that 65.3% of the respondents reached an agreement whether or not their mediator remained neutral and fair. However, regardless of whether or not an agreement was reached, 69% of the respondents perceived the mediator as remaining neutral and fair.

(2) Contextual Strategies

Table XXVII. Whether or Not Agreement was Reached and Mediator Provided Structure (N=55)

		Agreement Reached	
		Yes	No
Mediator Provided Structure	Yes	30 (54.5%)	14 (25.4%)
	No*	6 (10.9%)	5 (9%)

Table XXVII illustrates that of the respondents 65.4% reached an agreement whether or not the mediator provided structure. However, regardless of whether or not an agreement was reached, 79.9% of the respondents perceived the mediator as providing structure.

* Within 'No' are subsets of: Court-ordered assessment reports where there are unresolved conflicts of custody and/or access issues of children and mediation was not successful; Homestudy report where the Court wants information on the parent's home and lifestyles without making a recommendation as to custody and/or access and mediation was not successful.

Table XXVIII. Whether or Not Agreement was Reached and Mediator Facilitated Communication (N=56)

		Agreement Reached	
		Yes	No
Mediator Facilitated Communication	Yes	29 (51.8%)	10 (17.9%)
	No	9 (16%)	8 (14.3%)

Table XXVIII illustrates that 67.8% of the respondents reached an agreement whether or not their mediator facilitated communication. However, regardless of whether or not an agreement was reached, 69.7% of the respondents perceived the mediator as facilitating communication.

Table XXIX. Whether or Not Agreement Reached and Mediator Offered Information (N=49)

		Agreement Reached	
		Yes	No
Mediator Offered Information	Yes	26 (53%)	10 (20.4%)
	No	6 (12.2%)	7 (14.3%)

Table XXIX illustrates that 65.2% of the respondents reached an agreement whether or not their mediator offered information. However, regardless of whether or not an

agreement was reached, 73.4% of the respondents perceived the mediator as offering information.

(3) Substantive Strategies

Table XXX. Whether or Not Agreement Reached and Mediator Did Not Understand my Needs and/or my Child's/ren's Needs (N=53)

		Agreement Reached	
		Yes	No
Mediator did not understand needs	No*	24 (45.2%)	9 (17%)
	Yes	9 (17%)	11 (21%)

Table XXX illustrates that 62.2% of the respondents reached an agreement whether or not the mediator did not understand their needs and/or their children's needs. However, regardless of whether or not an agreement was reached 62.2% of the respondents perceived the mediator as understanding their needs and/or their child's/ren's needs.

* Within 'No' are subsets of: Court-ordered assessment reports where there are unresolved conflicts of custody and/or access issues of children and mediation was not successful; Homestudy report where the Court wants information on the parent's home and lifestyles without making a recommendation as to custody and/or access and mediation was not successful.

Table XXXI. Whether or Not Agreement Reached and Mediator Pressured me to Agree and/or Compromise Before I was Ready (N=56)

		Agreement Reached	
		Yes	No
Mediator Pressured and Compromised	Yes	9 (16%)	8 (14.2%)
	No	29 (52%)	10 (18%)

Table XXXI illustrates that 68% of the respondents reached an agreement whether or not the mediator pressured the individual to agree or compromise before he/she was ready. However, regardless of whether or not an agreement was reached, only 30.2% of the respondents perceived the mediator as pressuring them to agree and/or compromise before they were ready.

XIII. Degree of Satisfaction

There was a statistically significant association found between satisfaction with parenting agreement and:

the individual's ability to communicate with the other parent, $X^2(2, N=62) = 6.62, p < .05$;

the other parent's ability to communicate, $X^2(2, N=55) = 7.14, p < .05$;

parenting agreement reached with the help of the mediator, $X^2(3, N=69) = 15.54, p < .005$.

There was a statistically significant association found between recommending mediation to others in the same or similar situation and:

satisfaction with mediation sessions, $X^2(2, N=61) = 18.28, p < .001$;

satisfaction with the mediation outcome, $X^2(2, N=60) = 19.47, p < .001$.

There was no significant association found between satisfaction with parenting agreement reached after mediation and:

parenting agreement reached through court, $X^2(3, N=69) = 7.21, p > .05$;

parenting agreement reached with the help of a lawyer, $X^2(3, N=69) = 1.31, p > .50$;

parenting agreement reached independently, $X^2(3, N=69) = 1.54, p > .50$;

whether the individual initiated any court involvement during mediation, $X^2(3, N=63) = 5.42, p > .1$.

There was no significant association found between satisfaction with mediation sessions and life situation being improved since mediation, $X^2(4, N=63) = 4.75, p > .10$. There was no significant association found between length of separation and satisfaction with parenting agreement reached, $X^2(3, N=52) = 5.60, p > .1$.

XIV. Agreement Reached

There was a statistically significant association found between whether or not an agreement was reached and whether the mediator pressured the individual to agree (Substantive Strategy), $X^2(1, N=48) = 5.7, p < .05$. There was a statistically significant relationship between whether or not agreements were reached and whether the marriage was the first one, $X^2(1, N=69) = 10.95, p < .001$.

There was no significant association found between reaching or not reaching an agreement and age*, $X^2(2, N=47) = .549, p > .50$. There was no significant association found between reaching an agreement or not and children residing with the parent at the time of mediation, $X^2(1, N=28) = .233, p > .50$. There was no significant association found between whether or not agreements were reached and the number of months the individuals were separated prior to mediation, $X^2(6, N=65) = 1.74, p > .50$. There was no significant association found between whether or not agreements were reached and who referred the individuals to mediation, $X^2(3, N=69) = 2.84, p > .10$. There was no significant association found between whether or not agreements were reached and the nature of the problem the individuals first presented, $X^2(2, N=76) = 1.65, p > .10$.

* age category (20's, 30's, 40's)

There was a statistically significant association found between parenting agreement reached through the help of court and the individual taking legal action since completing mediation, $X^2(1, N=70) = 4.64, p > .05$.

XV. Satisfaction Scale

The items used in the scale were comprised of a five-item Likert Scale ranging from very satisfied, satisfied, mixed feelings, to dissatisfied and very dissatisfied. Four methods of parenting agreements were compared:

- (a) parenting agreement reached independently
- (b) parenting agreement reached by mediator help
- (c) parenting agreement reached by lawyer help
- (d) parenting agreement reached by court

Tukey's multiple comparison's procedure ($p = .05$) revealed that the only statistically significant difference found was between parenting agreement reached by mediator help and parenting agreement reached by court, $F(3, 32) = 3.62, p < .05$.

There was a statistically significant association found between the satisfaction scale and parenting agreement reached with the help of the mediator, $X^2(2, N=55) = 8.05, p < .05$. There was also a statistically significant association found between the satisfaction scale and parenting agreement reached through court, $X^2(2, N=55) = 7.39, p < .05$.

There was no significant association found between satisfaction scale and parenting agreement reached with the help of a lawyer, $\chi^2(2, N=55) = .006, p > .50$. In addition, there was no significant association found between the satisfaction scale and parenting agreement reached independently, $\chi^2(3, N=69) = 1.54, p > .5$.

Inter-item correlations were completed on all items comprising the satisfaction scale to estimate strength of internal consistency and items ranged in correlation with the total score from $r = .54$ to $r = .84$.

There was no significant relationship found in the satisfaction scale and:

- (1) age, $r = -.144$,
- (2) sex, $r = .171$,
- (3) income, $r = .009$,
- (4) marital status, $r = -.037$,
- (5) number of children, $r = .158$,
- (6) employment status, $r = .163$.

There was no statistical significance found between gender and the satisfaction scale, $t(57) = 1.31, p > .1$.

B. Comparison of Responding and Non-Responding Groups

Statistical analysis between the two groups was done on the following 9 variables which could be assessed through the files:

- (1) age
- (2) sex
- (3) number of children
- (4) employment status
- (5) how long was this relationship
- (6) marital status
- (7) agreement reached
- (8) who referred
- (9) for which problem

(1) Age

The mean age of the responding group was 36 years and the standard deviation was 6.67. The mean age of the non-responding group was 35 years and the standard deviation was 7.57. There was no statistical significance between the responding and non-responding groups and age, $t(177) = .570$, $p > .5$.

(2) Sex

Table XXXIII. Distribution of Responding and Non-Responding Groups by Sex (N=268)

	Females	Males	Total
Responding	59	38	97
Non-Responding	73	98	171
	(136)	(132)	(268)

Table XXXIII illustrates that more females (61%) than males (39%) responded to the survey. There was a statistically significant association found between sex and whether they responded or not to the survey, $\chi^2(1, N=268) = 7.43, p < .01$.

(3) Number of Children

Table XXXVIII. Distribution of Responding and Non-Responding Groups by Number of Children (N=263)

Number of Children	Responding	(%)	Non-Responding	(%)	Totals
1	36	(37.5)	73	(43.7)	109
2	34	(35.4)	61	(36.5)	95
3	17	(17.7)	28	(16.8)	45
4	9	(9.4)	5	(3.0)	14
	(96)		(167)		(263)

Table XXXVIII illustrates that the majority (72.9%) of the responding group were arguing over one or two children. The majority (80.2%) of the non-responding group were also arguing over one or two children.

There was no significant association found between number of children and whether or not they responded to the survey, $\chi^2(3, N=263) = 5.28, p > .1$.

(4) Employment Status

Table XXXIV. Frequency Distribution of Employment Status of Responding and Non-Responding Groups (N=183)

Employment Status	Responding	(%)	Non-Responding	(%)	Totals
Full-time	55	(62.5)	79	(83.2)	134
Part-time	2	(2.3)	0	(0)	2
Unemployed, seeking work	5	(5.7)	6	(6.3)	11
Homemaker	9	(10.2)	5	(5.3)	14
Student	6	(6.8)	3	(3.2)	9
Other	11	(12.5)	2	(2.1)	13
	(88)		(95)		(183)

Table XXXIV illustrates that the majority (62.5%) of the respondents and non-respondents were employed full-time. Both the responding and the non-responding groups who stated "other" were either self-employed or a combination of student and part-time homemaker and student.

(5) How long was this relationship

Table XXXV. Frequency Distribution of Length of Relationship by Responding and Non-Responding Groups (N=186)

Years	Responding	Non-Responding	Total
0 - 2	7	4	11
3 - 5	13	10	23
6 - 8	16	10	26
9 - 11	12	10	22
12 - 14	16	25	41
15 - 17	10	11	21
Over 17	11	31	42
	(85)	(101)	(186)

Table XXXV illustrates that 21 individuals fell above the median and 64 individuals fell below the median in the responding group. There were 42 individuals who fell above the median and 59 individuals who fell below the median in the non-responding group. The median test revealed that there was a statistically significant association found between the responding and non-responding group and number of years married, $X^2(1, N=186) = 5.84, p < .02$

(6) Marital Status

Table XXXVI. Distribution of Marital Status and Responding and Non-Responding Groups (N=224)

	Responding	Non-Responding	Total
Separated	66	126	192
Divorced	19	13	32
	(85)	(139)	(224)

Table XXXVI illustrates that the majority of the respondents (77.6%) to the survey were separated and the majority of the non-respondents (90.6%) to the survey were separated. There was a statistically significant association found between marital status and responding and non-responding individuals to the survey, $\chi^2(1, N=224) = 6.25$, $p < .05$.

(7) Agreement Reached

Table XXXVII. Frequency Distribution of Agreement Reached among Responding and Non-Responding Groups (N=213)

	Responding	(%)	Non- Responding	(%)	Total
Agreement reached	62	(78.5)	75	(56)	137
Agreement not reached	17	(21.5)	59	(44)	76
	(79)		(134)		(213)

Table XXXVII illustrates that the majority (78.5%) of the responding group and 56% of the non-responding group were able to reach an agreement. There was a statistically significant association found between agreement reached and responding and non-responding individuals to the survey, $\chi^2(1, N=213) = 10.01, p < .01$.

(8) Who Referred

Table XXXVIII. Distribution of Responding and Non-Responding Groups by Who Referred (N=223)

	Responding	(%)	Non- Responding	(%)	Total
Self	24	(28.6)	27	(19.4)	51
Lawyer	29	(34.5)	42	(30.2)	71
Judge/Master*	31	(36.9)	70	(50.4)	101
	(84)		(139)		(223)

*Judge/Master have the same judicial powers to refer parties to mediation.

Table XXXVIII illustrates that referrals were evenly distributed between self, lawyer and Judge/Master for the responding group. Fifty percent of referrals were from the Judge/Master for the non-responding group.

There were no significant differences found between who referred the individual and whether or not the individual responded to the survey, $X^2(2, N=223) = 4.42, p > .1$.

(9) For Which Problem

Table XXXIX. Distribution of Responding and Non-Responding Groups by Which Problem (N=249)

	Responding	(%)	Non- Responding	(%)	Total
Custody	6	(6.5)	13	(8.3)	19
Access	57	(62.0)	90	(57.3)	147
Both	29	(31.5)	54	(34.4)	83
	(92)		(157)		(249)

Table XXXIX illustrates that the majority (62%) of the responding group, as well as the majority (57.3%) of the non-responding group were disputing over an access issue.

There were no significant differences found between those who were referred for a custody, access or custody and access problem, and whether they responded or did not respond to the survey, $X^2(2, N=249) = .59, p > .5$.

DISCUSSION

The results of this survey show a final response rate of 36.3%. Lebow (1984) advises that the lowest rates of responding to consumer surveys are those found with mailed questionnaires. He further adds that the average returned mailed questionnaires has been 40 percent. In addition, similar attrition rates were found to be high in other studies found in the literature (Pearson and Thoennes, 1984; Sloan and Greenaway, 1988; and Richardson, 1988).

The discussion will be presented according to the following sections as laid out in the results:

- (A) responding group
- (B) comparison of responding and non-responding groups

A. Responding Group

I. Client Characteristics

In terms of client characteristics, the sample was not representative of a homogeneous group of individuals. The results described a group of individuals in their 30's (males, \bar{X} = 38.5; females, \bar{X} = 34.9 years). The age differences between males and females was found to be statistically significant. The difference in income between males and females was also found to be statistically significant. More males tended to be in the higher income categories (\$19,000 and over) whereas more females tended to

be found in the lower income (under \$19,000) categories. The majority of both males and females were found to be employed full-time. The majority of both males and females were also found to be separated for over 17 months prior to mediation, and had been married between 6 to over 17 years. The great majority of the children had principle residence with their mother rather than their father at the time of mediation as well as at the time of the survey. In fact, it was rare for the children resided with their fathers.

Sloan and Greenaway (1988) found that their sample consisted of younger individuals who were married for an average of only 10 years. In contrast, the results of this study found that individuals who were married between 6 to over 17 years were older. Sloan and Greenaway also found that more males tended to be employed full-time, earning only an average of \$23,000, whereas more females tended to be unemployed, earning an average income of \$12,000. In contrast to the results of this study, which found that the majority of both males and females tended to be employed full-time. In addition, males were in the higher income brackets (over \$19,000) and females were found in the lower income brackets (under \$19,000). The results found in this study and the Sloan and Greenaway study (1988) indicated that in the majority of family situations, three children or less were being disputed over and had principle residence with their mother.

Most of the studies in the literature review examine socio-demographic characteristics of age, income, marital status, and so on in relation to agreements reached. Pearson and Thoennes' study (1984) concluded that mediation process variables are more crucial than client demographics in determining the agreements reached between disputing parties. However, in examining whether age, sex, education, occupation, and income have an influence on the decision to mediate the following results were found:

- (a) that the age of the individual and the length of the marriage have no influence over the decision to mediate;
- (b) both men and women were found to be equally receptive to mediation;
- (c) the levels of education and income were positively correlated with the decision to use mediation in order to resolve disputes; and
- (d) variables affecting gender differences revealed that there was a sex bias where men reported greater satisfaction with the process and a positive impact on all family members.

II. Client Resources (Coping Ability, Degree of Communication with Other Spouse)

The results revealed that there were more females who reported that they were coping very well or coping at the

time of mediation. Males were found to be distributed across the spectrum from coping very well to coping very poorly. The results may very well be explained by the survey having been conducted 16 months after mediation had taken place. The individuals in the survey may very well have had a number of events occurring in their lives since the mediation had been completed. As such, the linkage between individuals and their current level of coping may not necessarily be associated with mediation as it reflects on their experiences 16 months later.

Of significance are the results that indicated no associations were found between the sexes and their ability to communicate with the other parent after completing mediation. In addition, no statistically significant association was found between the sexes and whether their ability to communicate was directly related to their experience in mediation.

These findings contrast with the literature which concluded that spousal communication had improved between disputing parties as a result of mediation (Margolin, 1973). The Frontenac Family Referral Service (1984) and Pearson (1982) three-city study also found not only greater spousal communication as a result of mediation, but that individuals in mediation reported that they were more in control of the process, had understood what had gone on between the spouses

and learned to communicate more effectively with each other. Waldron et al. (1984) and Pearson and Thoennes (1984) also found that individuals reported improved communication and cooperation between spouses.

III. Types of Issues in Dispute

The major issue (62%) in dispute was over an access problem in this exploratory study. Similar findings were found in both the Richardson (1988) and Sloan and Greenaway studies (1988) which also indicated that access was the major issue in dispute.

The literature indicates that the "ideal" disputing parties mediate on a limited number of issues (Sprenkle and Storm, 1983; Camplair and Stolberg, 1990). This would support our survey results which showed that the only issues in dispute were custody and access. However, a limitation of the Family Conciliation Service is that it only deals with custody and/or access issues. Financial matters and property issues are not the focus of mediation. In the Pearson (1982) three-city study and in the Richardson study (1988) it was found that spousal support was the major issue in dispute.

IV. Who Referred the Parties to Mediation

Referrals to Family Conciliation Service were made by a judge/master for the majority of females. The referrals for males were evenly distributed between self-referred, lawyer,

and judge/master referred. The Richardson study (1988) and the Sloan and Greenaway study (1988) supports these survey results. However, a note of caution must be taken as Family Conciliation Service is a court-connected service which offers an "automatic" referral from the judiciary. Therefore, the referrals would largely arise from the lawyers, and judges/masters. Sloan and Greenaway (1988) also found that individuals referred by their lawyers or are self-referred are less likely to believe that mediation is mandatory in contrast to referrals by the Court.

V. Degree of Court Involvement During and After Mediation

The results in this exploratory study indicate that there is no association found between initiation of court involvement either during or after mediation and sex differences. Fifty percent of the respondents initiated court action during mediation and 50% after mediation. As stated earlier, the survey was conducted 16 months after mediation. Similar results were found in the Irving et al. (1979, 1981) and Irving and Benjamin (1983, 1984) studies which revealed a high degree of relitigation after a one year follow-up. During that span individuals were found to be still disputing (80%) over the issue that brought them to mediation initially. In contrast, Doyle and Caron (1979) and Bahr (1981B) found that when mediation was initiated versus a

custody assessment of the issues, mediation tended to produce less court relitigation.

VI. Life Situation, Satisfaction with Mediation Sessions and Outcome

In this study the majority of females (70%) and males (76%) reported feeling their life situation has generally improved since completing mediation. Of the females, 30.7 percent reported that their life situation has not improved or got worse as opposed to 24 percent of the males who reported that their life situation has not improved or got worse in fact since completing mediation. As most of the females had the children residing with them at the time of mediation and at the time of the survey, as well as earning less income than males, their reporting of their life situation not improved or got worse is understandable.

Irving et al. (1979, 1981); Irving and Benjamin (1981, 1984) examined life satisfaction and found that 60 - 70% of those responding stated that 'issues' (problems) between the disputing parties as well as personally had gotten better. There was no breakdown as to gender differences nor was there any explanation as to what 'issues' were referred to.

In examining satisfaction with mediation sessions, there was a significant percentage (42.9%) of both females and males who reported being very satisfied or satisfied with the

mediation sessions. Bahr (1981A) also found a high degree of satisfaction with the mediation sessions. In examining satisfaction with the mediation outcome, there were more females (47.5%) than males (37.9%) who reported feeling dissatisfied or very dissatisfied with the mediation outcome.

These results could be explained by the fact that the individual participants found the outcome of mediation less than satisfactory but the process itself may have been helpful to them in the end.

The literature tends to support this finding (Margolin, 1973; Waldron et al., 1984; and Pearson and Thoennes, 1984). These studies all showed high degrees of positive and improved parent-child relationships and better spousal relationships. This finding of improved post-divorce adjustment was still found to be high nine months later in the Pearson and Thoennes (1984) study.

Pearson's (1982) three-city study examined this very issue and found that all three sites reported satisfaction with the mediation process in allowing them to focus on their children's well-being. Waldron et al. (1984) and Pearson and Thoennes (1984) also reported similar findings. The Frontenac Family Referral Service (1984) and Saposnek et al. (1984) reported satisfaction with the mediation process regardless of outcome.

VII. Extent of Lawyer Support

In this study the parties felt there was much support from the judiciary (judges and lawyers) with respect to mediation. As stated earlier, Family Conciliation Services is a court-connected counselling service which offers an "automatic" referral of individuals to mediation. Therefore, one could suggest that although it is important to be supportive of mediation, caution must be taken when examining this variable.

The literature suggests that the attitudes of the legal profession towards mediation has shown to influence positively the outcome of mediation. Irving et al. (1979, 1981) found that couples who were referred to mediation by lawyers who favour the process were more likely to reach agreements. Of even more significance, they found that couples reported improved life satisfaction if they found their lawyer "most helpful." Pearson and Thoennes (1984) also reported that solicitors' attitudes have been an important variable in mediation. They found that the perceptions of the judicial system, as well as the public's perception of mediation, influenced both the process and development of mediation programs. Richardson (1988) and Sloan and Greenaway (1988) found high levels of lawyer support to individuals in mediation as well.

VIII. Recommending Mediation to Others

Results indicate a high number of individuals would recommend mediation to others when their situations were similar. This would lead to the conclusion that the participants found the process and the outcome of mediation to be of value. Bahr (1981A) and Pearson (1982) three-city study, as well as the Frontenac Family Referral Service (1984) found that individuals who reached agreement would mediate again in the future or recommend the mediation process to a friend. Hochberg and Kressel (1983) described similar findings in short-term benefits of user satisfaction.

IX. Whether or Not Agreements Reached

The number of agreements reached was considerably high (69%) in this exploratory study. Sloan and Greenaway (1988) found that there appeared to be a wide range of discretion in recording outcomes by the mediator. Similarly, the Pearson's (1982) three-city study found higher rates of agreement when adding the number of temporary agreements pending court or temporary agreements as a trial period.

The high rate of agreement reached in mediation in this particular sample can perhaps be explained by the conclusions reached in Vidmar (1983, 1985) and Black and Kregor (1982). They concluded that mediation is successful in reaching agreements in part due to the self-selection bias of those who enter into it. For example, mediation meets the

expectation that the individuals will be listened to. A forum is provided to facilitate compromise and communication and also to reach a mutually acceptable agreement. Sloan and Greenaway (1988) study found that individuals who were mediating over access difficulties were most optimistic with regards to a resolution of this issue.

Similar high rates of agreement were found in Margolin (1973); Doyle and Caron (1979); and Irving et al. (1979, 1981). These studies however, compared the rates of agreement in mediation to litigation. Irving et al. (1979, 1981), Irving and Benjamin (1983, 1984) and Saposnek et al. (1984) found high rates of agreement when examining mediation in a court-connected mediation service similar to the Family Conciliation Services of Winnipeg, Manitoba.

Those who reached agreement in mediation tended to have fewer numbers of children and fewer issues in dispute (Johnson, 1984; Irving and Benjamin, 1987). This tends to be supported in this exploratory study where there were fewer than three children and access was the main issue in dispute.

It should be noted that "successful mediation" or "agreement reached" is defined as settlement of the issues in dispute. There was no examination of the agreement being either partially or fully agreed upon. It was at the discretion of the mediator (counsellor) to decide if an

agreement had been reached. This kind of mediator discretion could lead to bias as it was subjective in nature. This was true in the Sloan and Greenaway study (1988).

X. Degree of Financial Strain

The results of this study indicate that a majority of females (56.4%) were experiencing moderate or considerable degree of financial strain following the separation and/or divorce, in contrast to 38.5 percent of the males. This might be expected as the family unit is divided, thus dividing the disposable income between parents. As well, females were earning less income to begin with. Richardson study (1988) found that those females who chose to litigate over the issues of spousal support and child support experienced less financial strain.

Only 19.2 percent of males indicated that they were "somewhat worse" or "much worse" off in financial status since completing mediation. This might be expected as more males were earning higher incomes thus dividing their disposable income between two households. This is supported in the Sloan and Greenaway study (1988) which found that spousal support and child support remained unresolved four months after the survey was completed, as finances are not mediated issues at Family Conciliation Services.

The Richardson study (1988) found that women earned less income to begin with. When spousal and child support was taken into account, women continued to experience financial hardship after mediation which is in contrast to the results of this study. This may be because the Family Conciliation Services does not mediate financial matters.

XI. How Was Your Parenting Agreement Reached

The results of the survey show that:

- (a) 24.4% of the respondents reached a parenting agreement independently,
- (b) 53.6% of the respondents reached a parenting agreement with the help of a mediator,
- (c) 32.1% of the respondents reached a parenting agreement with the help of the lawyer, and
- (d) 29.6% of the respondents reached a parenting agreement with the help of the Court.

There was no significant association found between reached a parenting agreement, and gender differences. Similar results were found in the Sloan and Greenaway study (1988).

XII. Mediator Style

Reflexive Strategies

The results of this study indicate that 70 percent of the respondents reached an agreement whether or not their mediator was biased towards the other parent. However, regardless of whether or not an agreement was reached, 75 percent of the respondents perceived the mediator as not biased.

Sixty-five point three percent of the respondents reached an agreement whether or not their mediator remained neutral and fair; 69 percent perceived the mediator as remaining neutral and fair regardless of whether or not an agreement was reached.

Contextual Strategies

The results of this study indicate that 65.4 percent of the respondents reached an agreement whether or not the mediator provided structure. However, regardless of whether or not an agreement was reached, 79.9 percent of the respondents perceived the mediator as providing structure.

Sixty-seven point eight percent of the respondents reached an agreement whether or not their mediator facilitated communication; 69.7% of the respondents perceived the mediator as facilitating communication regardless of whether or not an agreement was reached.

In addition, 65.2 percent of the respondents reached an agreement whether or not their mediator offered information. However, regardless of whether or not an agreement was reached, 73.4 percent of the respondents perceived the mediator as offering information.

Substantive Strategies

The results of this study indicate that 62.2 percent of the respondents reached an agreement whether or not the mediator did not understand their needs and/or their children's needs. However, regardless of whether or not an agreement was reached, 62.2 percent of the respondents perceived the mediator as understanding their needs and/or their child's/ren's needs.

Sixty-eight percent of the respondents reached an agreement whether or not the mediator pressured the individual to agree or compromise before he/she was ready. However, regardless of whether or not an agreement was reached, 30.2 percent of the respondents perceived the mediator as pressuring them to agree and/or compromise before they were ready.

The Thoennes and Pearson study (1982) found that contextual interventions were more significant than the

dispute itself or the characteristics of the disputing parties.

Kressel and Pruitt (1985) suggest that there are significant limitations in stating one particular mediator intervention is better than another. As there are so many different sets of variables at play in the process of mediation, one strategy or intervention may be successful at one time or another and not at another. In addition, the results may be explained by Irving and Benjamin (1987). They stated that what mediators state they do and what they really do are not necessarily identifiable.

Sloan and Greenaway (1988) found that 83.3 percent of the respondents agreed or strongly agreed that their mediator encouraged the parties to consider the interests of the children, and 81.1 percent of the respondents agreed or strongly agreed that their mediator listened to their opinions. The researchers also found that the respondents agreed or strongly agreed that their mediator explained their rights and obligation as parents (74.7%); that their mediator helped the respondent to understand the views of his/her spouse (74.7%).

Sloan and Greenaway (1988) also found that most respondents disagreed or strongly disagreed that the mediator pressured them to agree and/or compromise before they were

ready, or that the mediator was biased towards the other parent (73.2%).

It must also be kept in mind that the counsellors at Family Conciliation Services are an eclectic group (Sloan and Greenaway, 1988). In interviews with the court staff it was found that they were not very directive or structured in their approach to mediation, and borrowed eclectically from various readings in the literature. This study did not explore the relationship of gender differences of the mediator in mediation which could affect the mediator style, and in turn the mediation process and outcome.

XIII. Degree of Satisfaction

In examining the degree of satisfaction that the individual experienced the results revealed that there was a significant relationship between satisfaction with the parenting agreement and improved communication between the ex-spouses. The literature tends to support this finding. In the Irving et al. (1979, 1981) and Irving and Benjamin (1983, 1984) studies it was found that individuals reported improved communication between themselves and parent-child relationships and satisfaction with the settlement. The literature also suggests that agreements were less likely to occur when the disputing parties could not communicate with one another (Kressel et al., 1980; and Pearson and Thoennes, 1983, 1984).

There was also a significant relationship found between satisfaction with the parenting agreement and resolution of disputes with the help of a mediator as compared with independent "helpers" (eg. friends, family, lawyer, court). The literature found similar results with respect to satisfaction with the mediator. In her three city study, Pearson (1982) found between 60 to 70% satisfaction with the mediation process and the mediator. This was different from the Richardson (1988) and Sloan and Greenaway (1988) studies which indicated that there were no appreciable differences found in either communication between ex-spouses or whether they were satisfied with the help of the mediator. However, Richardson (1988) compared mediation to litigation and Sloan and Greenaway (1988) compared mediation with information taken from court files showing no differences.

Another finding in this exploratory study was a significant relationship between recommending mediation to others in the same or similar situation as themselves and satisfaction with both the mediation sessions and the outcome of mediation. Irving et al. (1979, 1981) and Irving and Benjamin (1983, 1984) also reported similar findings with satisfaction with the mediation outcome. In the Pearson and Thoennes (1984) study the authors reported a high degree of satisfaction not only with the mediation process. They also reported that individuals would use mediation again in the

future and recommend mediation to a friend. As well, they reported that of those individuals who did not attend mediation would still recommend mediation to a friend. Pearson and Thoennes (1984) study reported that individuals found mediation to be a fair way of resolving a dispute regardless of outcome. One could speculate that mediation leads to other benefits such as reduced hostility between the parties, thus producing satisfaction regardless of outcome. Similar findings were reported in the Richardson (1988) and Sloan and Greenaway (1988) studies.

Kressel (1985) suggests that one of the limitations of the term "satisfaction" is that it is difficult to define. The term is a very subjective definition. This may be one explanation for the paucity of results overall in this exploratory study. However, recommending mediation to others in the same situation and satisfaction with the mediation process and outcome speaks highly for itself.

XIV. Agreement Reached

There was a significant association found between whether or not agreements were reached and mediator pressured the individual to agree (Substantive Strategy). The literature supports this finding. The three strategies adapted from Kressel (1972) and Kressel and Deutsch (1977) were used to establish how the disputing parties described which mediator style would be helpful in reaching agreements.

In the literature it was found that a high level of successful agreement is likely to be reached when the mediation is more structured and task oriented (Substantive Strategy). In contrast to the Sloan and Greenaway (1988) study, they found that most individuals did not feel pressured by the mediator to reach an agreement or not.

There was also a significant relationship found between whether or not agreements were reached and if the marriage was the first one. In the Pearson (1982) study they found that agreements were more likely to occur where there were previous marriages. The idea stemming from the hypothesis that experience from previous marriages was a key factor in producing more agreements.

In this exploratory study there were a significant number of individuals who were married for a considerable number of years and who were in their mid to late 30's. Therefore the significance of a relationship between reaching or not reaching agreements and it being the first marriage may be explained by their experiences in life with one partner as opposed to several. There was no breakdown as to gender and length of marriage in the Pearson (1982) study.

There was no relationship found between younger or older individuals reaching an agreement or not. As the literature does not explore client characteristics in relation to

agreement or not, one could hypothesize that reaching an agreement or not is independent of life experience. There was also no relationship found between whether or not agreements were reached and the length of separation. In this study both the women and men were separated for over 17 months before entering mediation, and the agreement rate was high. This is in contrast to the literature which found that those who entered mediation shortly after their separation were more likely to reach agreement (Frontenac Family Referral Service, 1984). From the literature, one would conclude that mediation would be more effective if it occurred early in the separation process as found by the Frontenac Family Referral Service (1984). Graham (1968) and Thiessen (1980) reported that the earlier mediation occurred in the dissolution process, the higher the rate of success because the separation event is highly correlated with stress (Kitson and Raschke, 1981). However, one could also hypothesize that the emotions involved at the time of separation are too great to have to closely interact with your partner and negotiate rationally (Pearson, 1984).

Of note is that there was a significant relationship found between parenting agreement reached through the help of the court and the individual taking legal action since completing mediation. This may suggest that the individuals were not satisfied with the parenting agreement reached through the help of the court.

XV. Satisfaction Scale

In examining the satisfaction scale which was the major dependent variable, there was a significant relationship found between the satisfaction scale and parenting agreement reached by mediator help and parenting agreement reached by the court. One could speculate that as Family Conciliation Services is part of the court system individuals may perceive that a parenting agreement will be achieved either in mediation or by the court. There was no significant association found between the satisfaction scale and parenting agreement reached with the help of a lawyer. This is in contrast to the literature which found satisfaction with agreement reached by either the mediator, court or lawyer (Irving et al., 1979, 1981; Irving and Benjamin, 1983, 1984; Richardson, 1988; and Sloan and Greenaway, 1988).

It was also found that there was no relationship between the satisfaction scale and age, sex, income, marital status, number of children or employment status. This would tend to support the literature that satisfaction based on percentages is not an accurate reflection as it does not have any meaning. In addition, satisfaction is based on a subjective process under a host of different variables (Irving et al., 1979, 1981; and Kressel, 1985). These results must be viewed with a degree of caution as the sample size was small in each of the client characteristics.

The sample in this exploratory study was small and generated little empirical support. The variables that could be identified in this study that tied into satisfaction did not produce clear and objective results from which to draw any strong conclusions. It does suggest perhaps that mediation should be viewed as a process and not a "snap-shot" in time (Haynes, 1978). The findings may very well be conceptualized as generating hypothesis' for further exploration.

Family Conciliation Services provides for an almost "automatic" referral system for mediation. This could also introduce a bias in the self-selection process as well as the degree of user satisfaction, where the power of the court could force individuals to mediate and reach agreement. Also, the service does not allow random assignment of individuals as there are no control groups. Therefore the lack of a control group of litigating individuals limits how the results can be interpreted.

One issue that was raised in the questionnaire and also a concern raised by feminists is the issue of mediation when domestic violence is present. There were two individuals who responded to the questionnaire and referred to domestic violence. One individual did not want to respond as the other parent was physically abusive and had alcohol related

problems. Another individual responded saying the process of mediation did not matter as the other parent would have caused further violence regardless of the outcome. Further investigation of domestic violence could be a negative factor in satisfaction and could be further explored.

Regardless of the small sample size and the limitations of the design and methodology, the consumers in this study stated, "only I wish I had done it sooner"; "the mediator was good and thorough"; "it took less time than with our own lawyers".

Similar results found in Richardson (1988) and Sloan and Greenaway (1988) led them to the conclusion that although mediation did not show any appreciable difference in their particular studies, "the justification for family mediation comes not in its technical effectiveness but in the process itself."⁴⁵ Further, Sloan and Greenaway (1988) suggest "As a process it (mediation) complements the roles of judges and lawyers and it permits clients to resume a pivotal role in dispute settlement."⁴⁶

⁴⁵ Sloan, R.L. and Greenaway, W.K. 1988. Divorce and Family Mediation Research Study, Winnipeg, p. XVI.

⁴⁶ Ibid., p. 7.

B. Comparison of Responding and Non-Responding Groups

There were no significant differences found between the responding group and the non-responding groups that could be statistically examined with respect to:

- (1) age
- (2) number of children
- (3) who referred the parties to mediation
- (4) for which problem were the parties referred to for mediation.

With respect to employment status, it was found that the majority of respondents and non-respondents to the survey were employed full-time.

The following variables were found to be statistically significant.

(i) Sex

There was a significant difference found between sex of the responding and non-responding groups. There were more females than males who responded to the survey. However, this could be explained as there were proportionally more females in the responding group than males, which could have led to these differences found between the groups. Kressel (1985) suggests that women may feel more satisfied with their agreements. As well, there was the opposite found in the non-responding group in that there were proportionally more males than females in the sample. The differences found in sex are linked to the number of females and males in the sample which

were small in both groups. This is in contrast to the literature on consumer satisfaction where no differences were found in terms of socio-demographics between responding and non-responding groups (Denner and Halprin, 1974; Balch, Ireland, McWilliams and Lewis, 1977; and Distefano, Pryer and Garrison, 1981). However, in this exploratory study there was no way of establishing the reasons why some individuals responded to the survey and others did not. Therefore the differences found in gender must be viewed with caution and could be biased. When examining gender differences and satisfaction, a further development of the satisfaction scale would have to be done with a more powerful analysis and larger sample size than was possible in this exploratory study.

(ii) Length of Relationship

There was a significant difference found between the length of the relationship of the responding and non-responding groups. The longer the relationship the less the individual replied to the survey. Individuals who were married for a significant period of years and did not respond may not have wished to revive old wounds or reflect on their difficulties. More individuals responded to the survey who were married for a shorter period of time and could have introduced a bias into the sample. Consequently, one has to be cautious of making generalizations based upon individuals who were married for longer periods of time.

(iii) Marital Status

There was a significant association found between marital status and the responding and non-responding groups to the survey. There were proportionally more individuals who were separated in both groups than divorced. There were 77.6% of the responding group and 90.6% of the non-responding group. This may very likely be influenced by the timing of the survey which was conducted prior to the change in the Divorce Act, 1968. The individuals in this exploratory study had to wait a period of three years before they were allowed to be divorced, thus the high number of separated individuals in both groups.

(iv) Agreement Reached or Not

There was a significant relationship found between agreement reached and not reached among the responding and non-responding groups. A significant number of individuals reached an agreement whether they responded or not. Fifty six percent of the non-responding group reached an agreement and 78.5 percent of the responding group reached an agreement. A much greater percentage (44 percent) of the non-responding group did not reach an agreement as opposed to 21.5 percent of the responding group who did not reach agreement. The non-responding group appears to have been affected by the fact that a larger percentage (44 percent) did not reach an agreement. However, there is discretion in whether the

mediator deems an agreement to have been achieved or not. There is no way of statistically analyzing these subjective responses. Therefore the differences between these two groups must be viewed with caution.

The two groups are not comparable as found in a true experimental and control design. For example, the information from the non-responding group was obtained from the files. These files were not complete and were at the very least compared on only a limited number of variables. As there was no way of eliciting the reason for non-respondents, the differences that do exist must be interpreted with a high degree of caution. If an individual is dissatisfied in one area of mediation it would also reflect in other areas of the mediation process. This exploratory study does not discern these differences which also produce differences between the responding and non-responding groups. The total sample as well as the sample found in each variable described is very small. Consequently, even though there may have been some significant findings the validity is questionable because of the limited sample in each category.

SUMMARY AND CONCLUSION

I. Purpose/Literature Review

The purpose of this exploratory study was to examine the relationship between consumer reported satisfaction with the mediation process and selected variables identified in the literature which are thought to affect outcome in mediation. A second intention was to examine gender differences across the variables, which are thought to be connected to successful outcome in mediation.

Mediation is not practiced in a vacuum. The procedures and practices of statutory law as well as case law influence how mediation is practiced at Family Conciliation Services, Winnipeg, Manitoba. In addition, the processes and outcome of mediation influence the degree of the satisfaction of the consumer. Little is known about factors that influence client satisfaction with the mediation process. A third intention of this exploratory study was to seek fundamental elements in both client attributes and situational circumstances that might warrant more detailed future analysis.

The impetus for this study was found in the literature which examined the variables related to outcome in mediation. In reviewing the literature it was found that mediation clients came from a wide variety of both educational and

occupational backgrounds (Pearson, 1982). Agreements in mediation were more likely to occur when:

- (1) there were fewer children, and
- (2) where the individuals had previous marriages (Pearson, 1982; and Johnson, 1984), and
- (3) when the consumers perceived the ability of the mediator to facilitate communication between the parties (Pearson, 1982; Pearson and Thoennes, 1984; and Waldron et al., 1984).

With respect to mediator style, building trust and open communication with the disputing parties was the single most important task in reaching agreement (Pearson and Thoennes, 1982; and Carnevale and Pegnetter, 1985). Other mediator styles which have been identified as facilitating the reaching of positive outcome include the mediator providing structure and being highly directive and active in the mediation process (Vanderkooi and Pearson, 1983). The timing of mediation was critical in reaching agreement in mediation. When intervention occurred earlier in the process of the separation success in reaching agreement was more likely (Graham, 1986; Thiessen, 1980; and Frontenac Family Referral Service, 1984).

The literature review also examined life satisfaction, satisfaction in mediation sessions and outcome. Agreement in mediation was found to be related to a greater feeling of

life satisfaction. As well, agreement in mediation was also found to be related to issues between ex-spouses improving and that the individuals were reporting satisfaction with the outcome and the mediator (Irving et al., 1979, 1981; Pearson, 1982; Irving and Benjamin, 1983, 1984; Waldron, 1984; and Pearson and Thoennes, 1984). Agreement was also significantly related to lawyer support (Bahr, 1981A; Irving et al., 1979, 1981; Irving and Benjamin, 1983, 1984; Richardson, 1988; and Sloan and Greenaway, 1988).

Short term benefits of mediation as compared to the traditional adversarial system were also explored. These benefits included:

- (1) higher user satisfaction
- (2) reporting of improved inter-spousal communication
- (3) more satisfaction and higher rates of compliance with court orders as compared to those in the adversarial system (Pearson and Thoennes, 1984).

Long term benefits of mediation included:

- (1) greater optimism about future problem solving (Irving et al., 1979, 1981; and Pearson and Thoennes, 1984)
- (2) satisfaction with the final agreement (Irving et al. 1979, 1981; Irving and Benjamin, 1983, 1984; and Pearson and Thoennes, 1984)

- (3) a lower relitigation rate (Bahr, 1981B; and Pearson, 1982)
- (4) more positive post-divorce adjustment between ex-spouses and children (Margolin, 1973; Bahr, 1981B; Waldron et al., 1984; and Pearson and Thoennes, 1984).

The limitation of these studies were found to be in their size and scope as most studies were limited to issues of custody and access. In addition, there was no control in the studies to explain observed differences between mediation and litigation clients or a scientifically objective measure of outcome other than agreements reached or not reached in mediation. The literature examines groups which are not homogeneous and the results were based on different pretreatment procedures in each study (Kressel, 1985; and Irving and Benjamin, 1987). However, having said this, Kressel (1987) succinctly summarizes the literature with respect to mediation:

- "(1) divorce mediation appears to be reasonably satisfying and workable
- (2) divorce mediation appears more workable for couples who are not at the extreme levels of conflict and hostility, having reasonably good financial resources, are receptive to mediation, and are guided by a mediator who focuses on improving the

negotiating climate while remaining highly active and directive

- (3) the degree of mediation's efficacy is probably inflated... there is no compelling evidence that whatever is meant by "mediation" is better than whatever is meant by the "adversary system"
- (4) it is not possible to say whether research findings are describing the conditions hospitable to effective mediation or simply the circumstances in which any focus of negotiation is likely to thrive."⁴⁷

II. Summary of Significant Findings in the Exploratory Study

A. Satisfaction

Satisfaction with the parenting agreement was found to be significantly associated with improved communication between ex-spouses. This finding was supported in the literature (Kressel, 1980; Irving et al., 1979, 1981; Irving and Benjamin, 1983, 1984; and Pearson and Thoennes, 1983, 1984). There was a significant relationship also found between satisfaction with the parenting agreement and mediator resolved disputes as opposed to other independent helpers (eg. friends, family, lawyer, court). Pearson (1982)

⁴⁷ Kressel, K. 1987. Clinical Implication of Existing Research on Divorce Mediation, American Journal of Family Therapy, 15(1), Spring, p.

found similar results in her three city study. This study found satisfaction with the mediation outcome and mediation sessions were found to be significantly associated with recommending mediation to others in the same or similar situation as themselves. These results are similar to those found in the Bahr (1981A), Irving et al. (1979, 1981), Irving and Benjamin (1983, 1984), Pearson and Thoennes (1984), Richardson (1988) and Sloan and Greenaway (1988) studies.

B. Gender Differences/Satisfaction

This study found that the majority of females (70%) and males (76%) reported feeling that their life situation had generally improved since completing mediation. Similar results were found with respect to high degrees of reported life satisfaction in the Irving et al. (1979, 1981) and Irving and Benjamin (1983, 1984) studies. However those studies did not break down gender differences.

This study also found that 42.9 percent of the females and males were very satisfied or satisfied with respect to the mediation sessions. There were more females than males who reported feeling dissatisfied or very dissatisfied with the mediation outcome. Even though the individual participants found the outcome of mediation less than satisfactory, the process in and of itself was found to be helpful. This finding is supported in the literature with respect to post-divorce adjustment where relationships

between ex-spouses and children improved significantly since completing mediation (Margolin, 1973; Waldron et al., 1984; and Pearson and Thoennes, 1984). The Frontenac Family Referral Service (1984) and Saposnek et al. (1984) reported satisfaction with the mediation process regardless of outcome. However, as in most of the studies reviewed, there was no breakdown with respect to gender differences. Beer and Stief (1985) suggest that women enter mediation to avoid hostility, whereas men enter mediation because they think they will get a better "deal" than if they went before the judge.

C. Respondents versus Non-Respondents

There were no significant differences found between the responding and non-responding groups with respect to age, number of children, employment status, who referred the parties to mediation, and for which problem the parties were being referred for mediation.

There were significant differences found between sex of the responding and non-responding groups. However, in the responding group there were proportionally more females than males. The opposite was found to be true in the non-responding groups. There was no way of establishing the reasons between the responding and non-responding groups with respect to gender, therefore the results must be viewed with caution.

There were significant differences found between the length of the relationship between the responding and non-responding groups. More individuals married for a shorter period of time responded whereas more individuals married for many years did not respond to the survey. However, the issues of revisiting and rehashing old stories could have played a significant role in the reason for the non-respondents to the survey.

There also was a significant difference found between marital status and the responding and non-responding groups to the survey. Once again, the differences may very well be due to the effect of the Divorce Act, 1968. Under this Act individuals had to wait for three years to be able to obtain a divorce. Subsequently those found in both of these samples tended to be separated creating a difference that may very well have been significant, but weak.

Finally, there was also a significant difference found between agreement reached among the responding and non-responding groups. However, there were a large percentage of non-agreements reached in the non-responding groups which could have greatly influenced their decision to not respond.

III. Interpretation of Results

The results must be weighed carefully when interpreting satisfaction with mediation from a consumer's point of view. However, a significant number of respondents to the survey indicated that they would recommend mediation to others if their situation was similar. This is one indication of satisfaction with mediation. Other elements of satisfaction with mediation were:

- (1) with mediation sessions and parenting agreement
- (2) with mediation outcome and parenting agreement
- (3) with improved communication.

In order to state with any degree of certainty with respect to consumer reported satisfaction with mediation, there needs to be further research on the following variables with satisfaction:

- (1) client characteristics
- (2) client resources
- (3) mediator style
- (4) types of issues in dispute
- (5) timing of mediation
- (6) savings in time and money
- (7) post-divorce adjustment
- (8) degree of compliance and relitigation, and
- (9) settlement rates.

IV. Limitations

This exploratory study was narrow in its focus. Family Conciliation Services, Winnipeg, Manitoba only examines the issues of custody and access. In addition, this service has the unique distinction of providing an almost "automatic" referral to mediation. The mediators in this service described themselves as eclectic in nature and consequently one particular mediator style could not be differentiated as contributing to the successful outcomes in mediation from another mediator style.

Another study by Sloan and Greenaway (1988) was in the process of completion at the same time as this exploratory study was being done. There may have been some individuals who responded to that study thus reducing the rate of compliance.

Other limitations effecting this study were:

- (a) size of the sample
- (b) length of time the individuals were being surveyed after completion of the mediation process
- (c) the enormous difficulty involved in reaching separating and/or divorcing spouses who are very mobile
- (d) some individuals chose not to respond as they did not wish to relive or re-examine a painful process

- (e) the difficulties in compliance rate for mailed surveys (Lebow, 1983)
- (f) the self selection process in a court-connected counselling service
- (g) the amount of missing data both in the court files and in the questionnaire which would impact on the validity of the results, and
- (h) there was no comparison to be made with a group of individuals who chose to litigate versus mediation.

In addition, the differences found between the responding and non-responding groups to the survey were solely based on what variables could be identified from the files of the non-responding group. As there was so much missing data from the non-responding group, the differences must be carefully weighed in this context. The studies reviewed also had similar limitations. These include: (1) lack of random assignment, (2) different pre-treatment procedures, and (3) the high attrition rates.

Perhaps with better controlled conditions of a true experimental design, a larger sample size, and a more sophisticated research instrument, more significant results could be drawn from consumer satisfaction surveys of mediation. All of these limitations add up to the difficulties in conducting research in an area that is very subjective and lacks any scientific definition with respect

to consumer satisfaction with mediation. Furthermore, at the time of the study, "no instruments are suggested in the literature to measure client satisfaction with the mediation process."⁴⁸ However, this was an exploratory study and a beginning attempt to examine a link between consumer satisfaction with mediation.

Although this study is based on data taken from 1985 and 1986 statistics, the relevancy to the direction of research in mediation has shown that consumer reported satisfaction is an important avenue to explore. There is a paucity of Canadian research available and this exploratory study into consumer reported satisfaction offers a venue for further exploration and hypothesis testing. Having said this, Family Conciliation Services, Winnipeg, Manitoba is constantly reviewing and exploring avenues in which to better serve the consumer. This study is not intended to reflect or be used in any way as an evaluation of the services provided given the many changes in family law in Manitoba.

This exploratory study addresses the many problems associated with carrying out research in an area which is not

⁴⁸ White, J.H. 1985. "Developing an instrument to measure satisfaction with divorce mediation." In J.A. Lemmon, Evaluative criteria and outcome in mediation, Mediation Quarterly, 10, December, San Francisco, Jossey-Bass, p. 91.

clearly defined, difficult to research, and has no body of reliable data from which to draw upon. Perhaps this exploratory study suggests that other avenues of research such as a phenomenological method or case study method would be more appropriate in studying consumer reported satisfaction with mediation.

V. Future Directions

The literature presently available since the completion of this exploratory study addresses the very issue of the linkage between client satisfaction and mediation. Kelly and Gigy (1988) have developed a scale - The Client Assessment of Mediation Services (CAMS). This scale was developed "to measure the clients' attitudes toward selected aspects of the process and outcomes believed to be important in mediation."⁴⁹ The consumers' of the service are now being queried as to their level of satisfaction with mediation in the following areas:

- (1) mediator impartiality and fairness
- (2) mediator behaviour
- (3) mediator effectiveness
- (4) efficiency of process

⁴⁹ Kelly, J.B. and Gigy, L.L. 1988. "Measuring clients' perceptions and satisfaction." In J.A. Lemmon, Establishing standards for performance and evaluation, Mediation Quarterly, 19, Spring, San Francisco, Jossey-Bass, p. 44.

- (5) effect on spousal relationship
- (6) self-efficacy (empowerment) through process
- (7) emotional concerns of client
- (8) structural satisfaction
- (9) settlement satisfaction

In addition, clients' attitudes towards the process and outcomes reached, as well as the clients' satisfaction with child-specific issues related to custody, access, and financial support were also factored in to measure the satisfaction of the consumer with mediation. This scale is now used to,

"enhance our understanding of clients who complete mediation compared to those who terminate, to clarify differences in reactions of men and women to mediation, and to explore differences between mediation and adversarial respondents at final divorce."⁵⁰

Further research needs to be conducted utilizing the CAMS scale to assess its effectiveness in the different settings with different samples of clients in mediation.

Kelly and Gigy (1988) also address the research into, "the relationship between clients' perceptions and satisfaction levels and predivorce psychological and interspousal variables is being evaluated, and post

⁵⁰ Ibid, p. 51.

divorce follow-up data will permit an assessment of the relationship between levels of satisfaction, compliance, and modes of conflict resolution."⁵¹

Tan (1988) developed and refined another research instrument in divorce mediation. This instrument, Divorce Mediation Assessment Instrument (DMAI) was a result of the research into examining a need to assess clients' readiness for divorce mediation. It is hoped that this instrument will assist mediators in determining appropriate intervention strategies with separating and/or divorcing clients. In a study by Davis and Roberts (1988) they too explained client satisfaction with mediation. In this study,

"the researchers were particularly keen to explore the process of conciliation and clients' satisfaction with both process and outcome... this is the first attempt to canvass the views of those who actually experience mediation and are the recipients of its support benefits."⁵²

⁵¹ Ibid, p. 51.

⁵² Walker, J.A. 1989. "Family Conciliation in Great Britain: From Research to Practice to Research." In J.A. Lemmon, Empirical research in divorce and family mediation, Mediation Quarterly, 24, Summer, San Francisco, Jossey-Bass, p. 35.

Mathis, Yingling (1991) have examined spousal consensus on the divorce decision and mediation outcome. They examined family system factors which have been found to be important in divorce mediation yet their relationship to outcome has been largely underreported and understudied.

The present body of exploratory research addresses many facets of the mediation process and the mediation outcome. In the final analysis mediation is not a panacea for everyone and further research into consumer satisfaction with mediation will lead, I suspect, to further avenues of research. Kressel (1987) summarizes this very issue, "in my view, a better query regarding the management of divorce conflict is, what kinds of dispute resolution process for what kinds of disputes?"⁵³

⁵³ Kressel, K. 1987. "Research on divorce mediation: A summary and critique of the literature." In The Role of Mediation in Divorce Proceedings: A Comparative Perspective (United States, Canada and Great Britain). Vermont Law School Dispute Resolution Project, South Royalton, Vermont, p. 223.

APPENDIX I

COMPARISON BETWEEN MAJOR PROVISIONS OF THE
DIVORCE ACT OF 1968 AND THE DIVORCE ACT, 1985

	DIVORCE ACT 1968	DIVORCE ACT 1985
Grounds for Divorce	<p>Respondent has committed:</p> <ul style="list-style-type: none"> * adultery * sodomy * bestiality * homosexual act * bigamy * physical or mental cruelty (rendering continued cohabitation intolerable). <p>Permanent breakdown of marriage by reason of:</p> <ul style="list-style-type: none"> * respondent being: <ul style="list-style-type: none"> - imprisoned at least 3 of the last 5 years - imprisoned at least 2 years to date on term in excess of 10 years - grossly addicted to alcohol or narcotic for at least 3 years - no expectation of recovery - absent from home 3 years with no indication of whereabouts - unable or unwilling to consummate marriage for not less than one year; * spouses living separate and apart: <ul style="list-style-type: none"> - at least 3 years - 5 years if petitioner deserted spouse. 	<p>Breakdown of marriage - established by:</p> <ul style="list-style-type: none"> * spouses intentionally living separate and apart at least one year and at least one had intention to live apart from other <p>or</p> <ul style="list-style-type: none"> * since the marriage, either spouse has: <ul style="list-style-type: none"> - committed adultery or - treated the other spouse with physical or mental cruelty rendering continued cohabitation intolerable.
Reconciliation	<p>Lawyer or legal adviser has a duty:</p> <ul style="list-style-type: none"> * to advise client of reconciliation provisions of the Act * to discuss possibility of reconciliation with client * to inform client of marriage counselling or guidance facilities which could assist in reconciliation efforts. 	Same.

Court will adjourn proceedings

	DIVORCE ACT 1968	DIVORCE ACT 1985
Reconciliation Cont'd	at any point reconciliation appears to be a possibility: * Court may appoint person to assist in reconciliation discussions: - that person cannot be compelled to give evidence if reconciliation efforts fail.	
Mediation	No provision.	Lawyer has obligation to inform client about the advisability of negotiating a settlement of custody, access and support issues. Lawyer must inform client of mediation services about which lawyer is aware.
Bars to Divorce	Collusion between spouses. Connivance. Condonation of misconduct.	Same plus absence of reasonable arrangements for the support of any children of the marriage.
When Divorce Becomes Effective	Divorce will not be made absolute until at least 3 months after Decree Nisi and every right of appeal is exhausted. Applicant must apply to court for Decree Absolute Order. Decree Absolute may be granted earlier on application if: * special circumstances exist, and * both parties agree not to appeal.	Divorce takes effect on 31st day after court judgement unless an appeal pending. Divorce may be made effective earlier on application to court if: * special circumstances exist, and * both parties agree not to appeal.
Appeal of Divorce	Appeal must be filed within 15 days of order. Extension of time limit court's discretion.	Appeal must be filed within 30 days of order. Extension of time limit at court's discretion only if

	DIVORCE ACT 1968	DIVORCE ACT 1985
Appeal of Divorce Cont'd	Applicant cannot appeal after Decree Absolute.	requested before divorce becomes effective. Applicant cannot appeal once divorce effective (31st day after order).
Support, Custody and Access	<p>1.MAINTENANCE</p> <ul style="list-style-type: none"> * Periodic or lump sum payments to be paid by either spouse for either spouse or children of marriage or both. <p>DETERMINING FACTORS:</p> <ul style="list-style-type: none"> * conduct of husband or wife taken into account * conditions, means and circumstances of each spouse. <p>2.CUSTODY, CARE, UPRBRING-ING OF CHILDREN</p>	<p>1.SUPPORT</p> <ul style="list-style-type: none"> * Periodic or lump sum payments to be paid by either spouse for either spouse or children of marriage or both. <p>DETERMINING FACTORS:</p> <ul style="list-style-type: none"> * misconduct of spouses not taken into account * conditions, means, needs and other circumstances of each spouse, including: <ul style="list-style-type: none"> - length of cohabitation - functions performed by each - orders or agreements relating to spousal or child support; * order should: <ul style="list-style-type: none"> - recognize economic advantages/disadvantages arising from marriage/divorce - apportion financial consequences of child custody - relieve economic hardship arising from breakdown - promote economic self-sufficiency within a reasonable time if possible - recognize joint financial obligation to maintain child. <p>2.CUSTODY OF, OR ACCESS TO CHILDREN</p> <ul style="list-style-type: none"> * possibility of joint custody

 DIVORCE ACT 1968

 DIVORCE ACT 1985

Support,
Custody and
Access Cont'd

* person other than
parents can apply with
court's permission.

CONSIDERATIONS

- * conduct of parties
- * condition, means and other circumstances of parties.

CONSIDERATIONS

- * past conduct not taken into account unless relevant to parenting ability
- * best interest of the child
 - reference to condition, means, needs and other circumstances of child
- * as much contact with each parent as consistent with child's best interest
- * willingness of custodial parent to facilitate access of other spouse.

OTHER ISSUES:

- * access parent has right to information about child's health, education, welfare
- * 30 days' notice of residence change by custodial parent can be ordered by the court on request.

3. ENFORCEMENT OF ORDERS

- * order may be registered in any superior court in Canada - enforced in same manner as an order of that court.

3. ENFORCEMENT OF ORDERS

- * order has legal effect throughout Canada
- * may be registered in a court in any province or territory and enforced in same manner as an order of that court - or in any other manner specified by the laws of that province or territory.

	DIVORCE ACT 1968	DIVORCE ACT 1985
Support, Custody and Access Cont'd	<p>4.VARIATION, RESCINDING OF ORDERS</p> <p>COURT</p> <p>* the court which made the order.</p> <p>CONSIDERATIONS</p> <p>* conduct of parties since order made</p> <p>* change in condition, means or circumstances of either.</p>	<p>4.VARIATION, RESCINDING, SUSPENSION OF ORDERS</p> <p>COURT</p> <p>* court of competent jurisdiction in any province or territory.</p> <p>CONSIDERATIONS</p> <p>* court must be satisfied that there has been a change in the condition, means, needs or other circumstances of spouses or child</p> <p>* court cannot renew a time-limited order after expiry, unless necessary to relieve economic hardship related to the marriage, and unless changed circumstances would likely have resulted in a different order if they had existed when order was originally made.</p>
Courts	Supreme Court of province or territory or Superior Court of province or Court of Queen's Bench (names vary from province to province).	Same.
Residency Requirements	<p>Petitioner must have been domiciled in Canada and either petitioner or respondent must be:</p> <p>* ordinarily resident in the province at least one year, and must be</p> <p>* actually resident in the province at least 10 months.</p>	<p>DIVORCE PROCEEDINGS</p> <p>Either spouse must be ordinarily resident in the province for at least one year.</p> <p>COROLLARY RELIEF PROCEEDINGS</p> <p>Court which granted divorce has jurisdiction.</p>

	DIVORCE ACT 1968	DIVORCE ACT 1985
Residency Requirements Cont'd		VARIATION PROCEEDINGS; * either spouse must be ordinarily resident in the province, or * both spouses must accept court's jurisdiction.
Procedure	Appropriate courts in each province or territory make rules of court applicable to proceedings in their court. Governor-General-in-Council make regulations to assure uniformity.	Competent authority in each province or territory (courts or persons who ordinarily makes rules pursuant to provincial or territorial law) makes rules applicable to proceedings. Same.
Evidence	Provincial laws of evidence apply.	Same.

(Dept. of Justice, 1986)

APPENDIX II

QUESTIONNAIREINSTRUCTIONS

Name _____

PLEASE ANSWER THIS QUESTIONNAIRE BASED ON THE CHILD/REN FOR WHICH YOU AND THE OTHER PARENT OF THE CHILD/REN ATTENDED MEDIATION SESSIONS ABOUT.

1) At the time of the mediation were you:

married and living together _____
 living common-law _____
 separated _____
 divorced _____
 other: specify _____

2) How long was this relationship?

0- 2 years _____
 3- 5 years _____
 6- 8 years _____
 9-11 years _____
 12-14 years _____
 15-17 years _____
 over 17 years _____

3) Prior to attending mediation, how long had you been living separate and apart from each other?

0- 2 months _____
 3- 5 months _____
 6- 8 months _____
 9-11 months _____
 12-14 months _____
 15-17 months _____
 over 17 months _____
 still living together _____

4) If you were married, was this your first marriage?

Yes _____
 No _____

5) If you were living common-law, was this your first relationship?

Yes _____
 No _____

- 6) What is your present employment status (please check more than one, if applicable)?

employed, full-time _____
 employed, part-time _____
 unemployed, seeking work _____
 homemaker _____
 student _____
 other: specify _____

- 7) Did your child/ren have principal residence with you at the time of mediation?

Yes _____
 No _____

- 8) Does your child/ren have primary residence with you at present?

Yes _____
 No _____

- 9) Did you and the other parent of the child/ren agree on who will have care and control of the child/ren?

Yes _____
 No _____

- 10) Did you and the other parent of the child/ren agree on when you could each see your child/ren?

Yes _____
 No _____

- 11) What was the degree of financial strain on you at the time of mediation?

no financial strain at all _____
 mild financial strain _____
 moderate financial strain _____
 considerable financial strain _____
 extreme financial strain _____
 don't know _____

12) What was your gross annual income from all sources (including child support and spousal maintenance) at the time of mediation?

less than \$10,000 _____
 \$10,001 - \$19,000 _____
 \$19,001 - \$29,000 _____
 \$29,001 - \$39,000 _____
 \$39,001 - \$49,000 _____
 over \$49,001 _____
 don't know _____

13) How has your financial status changed since you completed mediation?

much better _____
 somewhat better _____
 about the same _____
 somewhat worse _____
 much worse _____
 don't know _____

14) How was your parenting agreement reached (please check more than one, if applicable)?

independently _____
 with the help of the mediator _____
 with the help of lawyers _____
 through a court order _____
 with the help of a friend/s _____
 with the help of family _____
 other: specify _____

15) How satisfied were you with your parenting agreement after you completed mediation?

very satisfied _____
 satisfied _____
 mixed feelings _____
 dissatisfied _____
 very dissatisfied _____
 not applicable _____

- 16) For the first three months following the completion of mediation, how closely did you and the other parent of the child/ren follow the parenting agreement?

	YOU	OTHER PARENT
follow completely	_____	_____
follow most of the time	_____	_____
follow half the time	_____	_____
follow seldom	_____	_____
didn't follow it	_____	_____
not applicable	_____	_____

- 17) Do you presently have a completely different parenting agreement?

Yes _____
 No _____
 No agreement _____

(If yes please answer questions 18 and 19)

- 18) How satisfied are you with your present parenting agreement?

very satisfied	_____
satisfied	_____
mixed feelings	_____
dissatisfied	_____
very dissatisfied	_____
not applicable	_____

- 19) To what extent do you and the other parent of the child/ren follow this new parenting agreement?

	YOU	OTHER PARENT
follow completely	_____	_____
follow most of the time	_____	_____
follow half the time	_____	_____
follow seldom	_____	_____
didn't follow it	_____	_____
don't know	_____	_____
not applicable	_____	_____

20) How has/have your child/ren been dealing with the parenting arrangements that you and the other parent worked out?

- 1 = doing very well
- 2 = well
- 3 = pretty well
- 4 = doing poorly
- 5 = doing very poorly
- 6 = I don't know

CHILD/REN	NAME/S
1) _____	1 2 3 4 5 6
2) _____	1 2 3 4 5 6
3) _____	1 2 3 4 5 6
4) _____	1 2 3 4 5 6
5) _____	1 2 3 4 5 6

21) At the time of mediation, how would you judge your coping with the separation?

- coping very well _____
- coping _____
- mixed feelings _____
- not coping well _____
- coping very poorly _____

22) Currently how would you judge you are coping with the separation?

- coping very well _____
- coping _____
- mixed feelings _____
- not coping well _____
- coping very poorly _____

23) To what extent is your current level of coping related to your experience in mediation?

- directly _____
- somewhat _____
- not at all _____
- not sure _____

24) Had you or the other parent of the child/ren initiated any court action during mediation?

	YOU	OTHER PARENT
Yes	_____	_____
No	_____	_____

25) Had you or the other parent of the child/ren taken any legal action since you completed mediation?

	YOU	OTHER PARENT
Yes	_____	_____
No	_____	_____

26) Has your ability to communicate with the other parent of the child/ren changed since you completed mediation?

	YOU	OTHER PARENT
Yes	_____	_____
No	_____	_____

27) If yes, how has this changed?

much better	_____
somewhat better	_____
somewhat worse	_____
much worse	_____
not applicable	_____
don't know	_____

28) If your ability to communicate has changed, to what extent are these changes directly related to your experience in mediation?

directly	_____
somewhat	_____
not at all	_____
not sure	_____
not applicable	_____
don't know	_____

29) To what extent do you feel your individual concerns were understood and dealt with by the mediator?

very satisfied	_____
satisfied	_____
mixed feelings	_____
dissatisfied	_____
very dissatisfied	_____
not applicable	_____

30) Looking back, do you wish that any of the following had been done differently in your case (you can choose more than one if applicable)?

more individual contact with mediator	_____
more sessions	_____
more time per session	_____
involvement of others	_____
(eg: child/ren in sessions)	_____
follow-up sessions	_____
different mediator	_____
male/female team	_____

31) Please rate your mediator style on the following characteristics?

	FREQUENTLY DONE	OFTEN DONE	NEVER DONE
offering compromise suggestions	_____	_____	_____
suggesting different courses of action	_____	_____	_____
used humour to help you deal with the issues	_____	_____	_____
used story-telling to help in your understanding	_____	_____	_____
argued one parties case over the other	_____	_____	_____
organized which issues will be explained to negotiate	_____	_____	_____
gained your trust and confidence	_____	_____	_____
discussed other settlements made by others	_____	_____	_____
helped focus the responsibility of decisions made	_____	_____	_____

32) Please indicate how strongly you agree or disagree with the following statements. (INSTRUCTION: PLACE THE MOST APPROPRIATE NUMBER BESIDE EACH STATEMENT)

- 1 = strongly disagree
 2 = disagree
 3 = undecided
 4 = agree
 5 = strongly agree
 6 = I don't know

my mediator provided structure _____
 my mediator facilitated communication _____
 my mediator was biased towards the other parent _____
 my mediator offered information _____
 my mediator did not understand my needs and/
 or my child's/ren needs _____
 my mediator pressured me to agree and/or
 compromise before I was ready _____
 my mediator remained neutral and fair _____

33) When you attended mediation were any of these issues a problem for you?

TYPES OF PROBLEMS	EXTENT OF PROBLEM		
	SERIOUS	MINOR	NONE
at a convenient location?	_____	_____	_____
at convenient times?	_____	_____	_____
long enough to get things done?	_____	_____	_____
enough in number to get everything done?	_____	_____	_____
scheduled frequently enough?	_____	_____	_____
held in a comfortable room?	_____	_____	_____

34) When you attended mediation sessions, did you have problems with any of the following?

TYPES OF PROBLEMS	EXTENT OF PROBLEM		
	SERIOUS	MINOR	NONE
taking time off work?	_____	_____	_____
finding a babysitter?	_____	_____	_____
paying a babysitter?	_____	_____	_____
finding transportation?	_____	_____	_____
finding parking?	_____	_____	_____
other: specify	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____

35) How satisfied were you with the mediation sessions and the outcome of mediation?

- 1 = very satisfied
 2 = satisfied
 3 = mixed feelings
 4 = dissatisfied
 5 = very dissatisfied

Mediation sessions	1	2	3	4	5
Outcome of mediation	1	2	3	4	5

36) Would you recommend mediation to others if their situation were similar to yours?

Yes, definitely _____
 Yes _____
 No _____
 No, definitely _____
 don't know _____

37) To what extent was your lawyer supportive of your participation in mediation?

very supportive _____
 somewhat supportive _____
 mixed _____
 not very supportive _____
 not supportive at all _____
 don't know _____

38) Do you feel that your life situation has improved since mediation?

much improved _____
 improved _____
 all right _____
 not improved _____
 got worse _____

PLEASE CHECK THE APPROPRIATE BOX IF YOU WOULD LIKE THE RESULTS OF THIS SURVEY MAILED TO YOU.

Yes _____
 No _____

Data Taken From the Files of
Those Who Did Not Respond

- 1) Sex?
 - 1 = male
 - 2 = female
- 2) Age?
- 3) Number of children?
- 4) At the time of mediation I was?
 - 1 = married
 - 2 = common-law
 - 3 = separated
 - 4 = divorced
 - 5 = other
- 5) How long was this relationship?
 - 1 = 0 to 2 years
 - 2 = 3 to 5 years
 - 3 = 6 to 8 years
 - 4 = 9 to 11 years
 - 5 = 12 to 14 years
 - 6 = 15 to 17 years
 - 7 = over 17 years
- 6) Present employment status?
 - 1 = full-time
 - 2 = part-time
 - 3 = unemployed
 - 4 = homemaker
 - 5 = student
 - 6 = other
- 7) Children resided at the time of mediation?
 - 1 = Yes
 - 2 = No
- 8) Who referred you to mediation?
 - 1 = self
 - 2 = friend
 - 3 = family
 - 4 = lawyer
 - 5 = judge
 - 6 = other

9) Agreement reached?

- 1 = Yes
- 2 = No
- 3 = other

10) For which problem did you attend for?

- 1 = custody
- 2 = access
- 3 = both
- 4 = other



Community Services

Family Conciliation

9th Floor
Woodsworth Building
405 Broadway
Winnipeg, Manitoba, CANADA
R3C 3L6

September, 1987

(204) 945-7236

Dear Sir/Madam:

Family Conciliation is participating with the School of Social Work at the University of Manitoba in research on consumers' responses to family mediation. By taking a few minutes to complete the attached questionnaire and return it to Family Conciliation, you can provide valuable information to help others in times of family stress.

The research is strictly confidential and your participation is voluntary. A self-addressed envelope is provided for your convenience. If you would like a copy of the results, please check the box on the last page of the questionnaire.

If you have any questions or concerns, please feel free to telephone me at Family Conciliation, . or Rachel Birnbaum at the School of Social Work, . Ms. Birnbaum, an M.S.W. candidate, may contact you by telephone in the next few weeks.

Thank you very much for your time.

Yours truly,

(Ms.) Jocelyn Gifford, M.S.W., R.S.W.
Director, Family Conciliation

JG/hs

enc.

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