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**DIVORCE MEDIATION: FACTORS INFLUENCING THE CHOICE OF
MEDIATION AND THEIR RESPECTIVE OBJECTIVE AND SUBJECTIVE
OUTCOMES**

The University of North Carolina at Greensboro

PH.D. 1985

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DIVORCE MEDIATION: FACTORS INFLUENCING THE CHOICE OF
MEDIATION AND THEIR RESPECTIVE OBJECTIVE
AND SUBJECTIVE OUTCOMES

by

Tony Ray Deal

A Dissertation Submitted to
the Faculty of the Graduate School at
The University of North Carolina at Greensboro
in Partial Fulfillment
of the Requirements for the Degree
Doctor of Philosophy

Greensboro
1984

Approved by


Dissertation Advisor

APPROVAL PAGE

This dissertation has been approved by the following committee of the Faculty of the Graduate School at The University of North Carolina at Greensboro.

Dissertation Advisor John Scanzoni

Committee Members
Sarah M. Shoffner
Deborah D. Godwin
John R.

July 12 1984
Date of Acceptance by Committee

July 12 1984
Date of Final Oral Examination

DEAL, TONY RAY, Ph.D. Divorce Mediation: Factors Influencing the Choice of Mediation and their Respective Objective and Subjective Outcomes (1984). Directed by Dr. John Scanzoni. 106 pp.

Using a decisioning paradigm based on exchange and conflict theories, this study analyzed the data from 200 couples involved in the Denver Custody Mediation Project. Analyses were performed in order to investigate the factors associated with (1) the choice of mediation or litigation, (2) the objective outcomes of mediation, and (3) the subjective outcomes.

In the analysis of choice of mediation, six variables were used to predict the choice of mediation or litigation. Couples who chose mediation appeared to have high tangible resources, high acceptance of the divorce, and low interest in getting back together; yet somewhat contradictorily, appeared to still be emotionally attached to their spouses and former marriage. The analysis was very successful in discriminating between couples who chose mediation and litigation with over 96 percent of couples being correctly classified into their groups.

In the analysis of objective outcomes, 42 variables were used in a discriminant analysis in order to predict successful or unsuccessful outcomes. Higher communication/relationships was the only variable associated with both husbands and wives. Excluding communication, husbands and wives had different variables associated with successful outcomes. The discriminant equation was 77 percent accurate in predicting successful couples and 79 percent accurate in predicting unsuccessful couples.

In the analysis of subjective outcomes, a discriminant analysis and multiple regression analysis were used to discover those variables

associated with subjective outcomes of equity, compliance, and future conflict. Feelings of fairness were associated with successful mediation for both husbands and wives. For husbands, successful mediation was also associated with higher feelings of satisfaction and lower expectations of future modifications of the agreement. The successful wives reported higher spousal compliance. The analysis was successful in distinguishing between the subjective outcomes of successful and unsuccessful mediated couples. The overall accuracy rate in predicting group membership (successful or unsuccessful) by the subjective measures was 71 percent. It does appear that for this sample, choice of mediation and objective and subjective outcomes can be predicted with relative success through the use of selected variables consistent with the decisioning paradigm.

ACKNOWLEDGEMENTS

The author would like to thank and acknowledge the following individuals for their support and guidance during this research project: Dr. John Scanzoni, dissertation committee chairman; and Dr. Deborah Godwin, Dr. Steven Hayes, Dr. Sarah Shoffner, and Dr. Rebecca Smith, research committee members.

A special acknowledgement goes to Dr. Deanna Bowman, Director of Research at Appalachian State University, for her computer assistance, to Dr. Deborah Godwin for her statistical advice, and to Ms. Betty Taylor for her typing and editing skills.

My deepest gratitude and appreciation go to Dr. Nancy Thoennes and Dr. Jessica Pearson of the Denver Custody Research Project and to the supporters of their project for sharing their data. Their eagerness to share these data demonstrates their true professionalism.

TABLE OF CONTENTS

	<u>Page</u>
APPROVAL PAGE	iii
ACKNOWLEDGEMENTS	iii
LIST OF TABLES	vi
LIST OF FIGURES	ix
 CHAPTER	
I. INTRODUCTION	1
Overview	8
II. REVIEW OF THE LITERATURE	11
Social-Exchange Theory	13
Conflict Theory	14
Power Theory	15
Decisioning Theory: Negotiating a Settlement	17
III. PROCEDURE	23
Determinants of Choice of Mediation	27
Context Variables: Conceptual and Operational Definitions	27
Directional Hypotheses	32
Determinants of Objective Outcomes	33
Context Variables: Conceptual and Operational Definitions	33
Directional Hypotheses	36
Determinants of Subjective Outcomes	37
Context Variables: Conceptual and Operational Definitions	37
Directional Hypotheses	39
Statistical Procedure	41

	<u>Page</u>
IV. STATISTICAL RESULTS AND INTERPRETATIONS.	43
Determinants of Choice of Mediation or Litigation .	43
Statistical Results.	43
Discussion and Implications.	47
Determinants of Objective Outcomes.	51
Statistical Results.	51
Discussion and Implications.	59
Determinants of Subjective Outcomes	61
Statistical Results for the Discriminant	
Analysis	61
Discussion and Implications.	63
Statistical Results for the Regression	
Equations.	67
Predicting Fairness/Unfairness	67
Predicting Satisfaction/Dissatisfaction.	73
Predicting Spousal Compliance.	76
Predicting Change in the Final Agreement	78
V. SUMMARY OF RESEARCH.	81
Strengths and Limitations	87
Implications for Future Research.	89
BIBLIOGRAPHY.	91
APPENDIX: Sample Survey Instrument	96

LIST OF TABLES

	<u>Page</u>
TABLE 1 Selected Demographic Characteristics of 200 Participating Couples	26
TABLE 2 Summary of Means and Standard Deviations for Independent Variables in Analysis of Choice of Mediation or Litigation for Husbands and Wives	44
TABLE 3 Variable List, Classification Coefficients, and Significance Levels for Choice of Mediation or Litigation.	46
TABLE 4 Percentage of Subjects Correctly and Incorrectly Identified According to Choice of Mediation or Litigation	48
TABLE 5 Summary of Means and Standard Deviations for Independent Variables in Analysis of Objective Outcomes.	52
TABLE 6 Variable List, Classification Coefficients, and Significance Levels for Successful/ Unsuccessful Outcomes of Mediation	55
TABLE 7 Percentage of Subjects Correctly and Incorrectly Identified According to Successful or Unsuccessful Mediation	58
TABLE 8 Summary of Means and Standard Deviations for Independent Variables in Analysis of Subjective Outcomes	62

	<u>Page</u>
TABLE 9 Variable List, Classification Coefficients, and Significance Levels for Subjective Outcomes.	64
TABLE 10 Percentage of Subjects Correctly and Incorrectly Identified According to Objective Outcomes	65
TABLE 11 Summary of Standardized Discriminant Function Coefficients for Choice of Mediation, Objective Outcomes, and Subjective Outcomes	68
TABLE 12 Regression of Variables on Wives' Feelings of Fairness.	71
TABLE 13 Regression of Variables on Husbands' Feelings of Fairness.	72
TABLE 14 Regression of Variables on Wives' Feelings of Satisfaction.	74
TABLE 15 Regression of Variables on Husbands' Feelings of Satisfaction.	75
TABLE 16 Regression of Variables on Wives' Perception of Spousal Compliance.	77
TABLE 17 Regression of Variables on Husbands' Perception of Spousal Compliance.	79
TABLE 18 Regression of Variables on the Husbands' Predicting Future Modification in the Agreement	80

	<u>Page</u>
TABLE 19	
Summary of Directional Influences of Independent Variables in Wives' Regression Analysis of Subjective Outcomes.	85
TABLE 20	
Summary of Directional Influences of Independent Variables in Husbands' Regression Analysis of Subjective Outcomes.	86

LIST OF FIGURES

	<u>Page</u>
FIGURE 1 Determinants of Choice of Mediation.	28
FIGURE 2 Determinants of Objective Outcomes	29
FIGURE 3 Determinants of Subjective Outcomes.	30
FIGURE 4 Outcome Measures	38

CHAPTER I
INTRODUCTION

No citations or references are needed when the tremendous pain and trauma that accompanies divorce in America are described. If one multiplies the traumatic effects of one divorce by the estimated 1.2 million divorces annually (National Center for Health Statistics, 1981), the evidence of the negative impact on family life becomes very apparent.

The doubling of the divorce rate between the mid-1960's and mid-1970's (Spanier & Glick, 1981) also has had a profound impact on both the legal system and the human service professions, for neither the courts nor the human service systems were equipped to deal with this increase. Although this large increase in divorce rates has leveled off (National Center for Health Statistics, 1981), there is little evidence to indicate that the high divorce rate will change in the near future (Spanier & Glick, 1981; Weed, 1982).

What is changing, however, is the manner in which families are dissolving. New alternatives in the divorcing process, e.g., do-it-yourself divorces and mediation, as well as more acceptable alternatives in the reorganization of the family, e.g., joint custody, co-parenting, fathers with custody, are allowing for more choices and flexibility. These changes in the divorcing process are accompanying the general societal changes away from traditionalism to egalitarianism in

family roles and behavior. Famologists are beginning to look beyond the traditional pre- and postdivorce areas of cause and adjustment and to look at the implications of these new alternatives on the total family adjustment. If a family must dissolve, what processes of dissolution will produce the best adjustment for the entire family and set the stage for positive parent/child relationships?

Accumulated evidence has revealed that the traditional legal process may be inappropriate for resolving modern domestic conflict. Many authorities believe that within this adversarial system, the divorce process itself greatly contributes to the negative postdivorce adjustment of spouses and children (Bahr, 1981; Goldstein, Freud, & Solnit, 1973; Milne, 1978; Wallerstein & Kelly, 1980.

In response to what is seen as a need for a better way, the new field of divorce mediation has evolved. As with most new professions, lines are being drawn, professional turfs are being protected, and opinions are being voiced--based on feelings rather than on empirical evidence. This research will look at this new method of divorce settlement and will explore the factors which are believed to influence the decision to use mediation and the factors which possibly influence the outcomes of the mediation process.

To understand fully the current state of the divorcing process in the United States, one must trace the history of both the traditional legal system and the new method of divorce mediation. As with many of the folkways, mores, and laws, the roots of the traditional legal

system can be found in the tenets of English law as well as of the Church of England. Irving (1981a) traced the current ideas of proving fault in a divorce to the Roman Catholic Church in pre-Reformation England. Although the colonies shifted the matter of divorce from religious to civil areas, the idea of fault was retained. As women rose above the chattel state, matters of child custody, alimony, and property settlements were based on determination of the guilty and the innocent parties. Even today, although all but three states have removed fault as grounds for divorce, the adversary system still attempts to determine the fit or unfit parent, to discover the exploited and the exploiter, and to produce a winner and a loser.

While fault as a legal issue is basically dead, the competitive idea of winning and losing is still alive. However, the idea of competition is coming under criticism (Coogler, 1978; Coulson, 1983; Haynes, 1981; Irving, 1981a; Milne, 1978). As a leader and spokesperson against the negative effects of the adversarial divorce process in America, the late O. J. Coogler summed up his argument in the statement, "Marital dissolution calls for the reorganization of family relationships and not for the division of the family into hostile camps" (Coogler, Weber, & McKenny, 1979, p. 256). In his book, Structured Mediation in Divorce Settlements, Coogler (1978) credited his wife and both sets of lawyers for inspiring him to seek a better way to divorce.

The legal profession also has advocates for changing the current system. For example, Judge Norman Fenton, in the preface statement

in Divorce Mediation (Irving, 1981a), stated that the current adversarial system is too impersonal, causes undue stress and anxiety, lacks respect for privacy, and ignores the emotional rights of the divorcing parties.

Many divorcing individuals themselves have concerns. Spanier and Anderson (1979) found that 26 percent of divorcing parties indicated that their lawyers worsened their relationships with their ex-spouses. Kressel, Lopez-Morillas, Wein-Glass, and Deutsch (1979) concluded that in many cases the adversarial system does escalate the conflict. Another related concern with the traditional legal system is that attorneys who, for the most part, are untrained in the areas of counseling and human services, tend to spend a considerable amount of time in counseling and extralegal support areas (Felner, Primavera, Farbs, & Bishop, 1982).

As a result of the belief in the inappropriateness of the traditional legal system to handle modern divorces, public and private mediation services have evolved (Pearson, Ring, & Milne, 1983). Central to the efforts of both the public and private sectors is the belief that third parties in a domestic conflict should not escalate the competitiveness but should mediate the differences between couples in the divorcing process.

Mediation as a process of conflict resolution is not new. Succinctly defined as "the endeavor of a third party in settling a conflict," mediation has been used for centuries and is universally

practiced (Gulliver, 1979). The United States has a long history of mediation in labor disputes and international conflicts; however, divorce and domestic mediation are relatively new.

Divorce mediation in the public sector began with the creation of conciliatory courts which were designed to resolve domestic disputes. The California Conciliation Court System is credited with being the forerunner of the conciliatory court movement (Irving, 1981b). Currently, there are over 200 court-related counseling services and over 800 members of the Association of Family and Conciliation Courts (Pearson, Thoennes, & Vanderkoor, 1983).

Private divorce mediation is the brainchild of O. J. Coogler who, basing his technique of mediation on the theory of conflict resolution (Deutsch, 1973), mediated his first divorce in 1974 and established the Family Mediation Association in 1975. His book, Structured Mediation in Divorce Settlements (1978), served as a benchmark. Since that time, the field has expanded to over 400 providers of mediation services in the United States (Pearson, Ring, & Milne, 1983). However, as with every new profession or discipline, unity, consensus, and national leadership are lacking. There are no recognized national standards for the professional divorce mediator or guidelines for the delivery of the service. At least five separate professional organizations are providing training and setting standards for those within their particular organization: Family Mediation Association, Association of Family and Conciliation

Courts, American Association for Mediated Divorce, Academy of Family Mediators, and Family Mediation and Domestic Disputes Section of the American Arbitration Association. There are also at least five published models of divorce mediation (Coogler, 1978; Coulson, 1983; Haynes, 1981; Irving, 1981a; Milne, 1978). Even though these models share basic assumptions and goals, the techniques of the mediation process vary considerably.

What varies more than the techniques of divorce mediation are the opinions as to the general strengths and weaknesses of mediation. Advocates cite advantages from cost effectiveness to human relations effectiveness. Critics claim that divorce mediation is an untested bandwagon that is rolling over the tried and proven traditional legal system.

Advocates categorize the advantages of mediation into the pragmatic concerns of time, energy, and money, as well as into the human concerns of the divorcing individuals and their children. In the pragmatic area, mediating divorces are believed to ameliorate the conditions of overcrowded courts. Mediation is also believed to be more cost effective in terms of energy, time, and money (Bahr, 1981; Coogler, et al., 1979; Irving, 1981b; Pearson & Thoennes, 1982). Mediation has also been credited with reducing future litigation and in promoting couples' tendencies to honor the agreements on visitation, child support, etc. (Pearson & Thoennes, 1982). These findings support the general assumptions of constructive conflict resolution (Deutsch, 1973; Festinger, 1957, Gulliver, 1979).

In the area of human concerns, mediation has been found to offer advantages to the divorcing couple and their children. Divorcing couples report mediation to be a more satisfying experience than do couples who use the traditional adversarial system (Bahr, 1981; Pearson & Thoennes, 1982). This increased satisfaction is thought to be related to the assumption that mediation reduces the level of conflict and the accompanying stress (Coogler, et al., 1979; Haynes, 1981; Irving, 1981b; Milne, 1978; Pearson & Thoennes, 1982).

Children are always a concern when a divorce occurs. The postdivorce relationship between the spouses, whether it is one of cooperation for the children's best interest or one of perpetual conflict, is seen as an important factor in the children's adjustment (Wallerstein & Kelly, 1980). The mediation process is consistent with this goal of postdivorce cooperation. The traditional methods of determining custody and parental fitness based on traditional roles are giving way to the ideas of co-parenting, equal decisioning, and cooperation between the divorced parents (Chasin & Grunebaum, 1981; Pearson & Thoennes, 1982). The mediation model is seen as giving considerable attention to the best interests of the total family, including the children.

Critics voice concerns about professional ethics as well as the quality of legal care received by those using mediation. Concerns about professionalism center on attorneys who violate their professional code by representing both conflicting parties and mediators who illegally practice law (Nejeski, 1977). Concerns about the quality

of legal care center on the weaker party's being exploited as a result of not having a true advocate. Crouch (1982) sees the absence of an advocate as resulting in less than adequate justice.

There is also the view that those arguing the pros and cons of divorce mediation are really arguing a hidden agenda. That agenda deals with finances--how the legal profession and the human services profession will slice the financial pie of divorce cases (Felner, et al., 1982).

While advocates and critics of divorce mediation disagree, each must accept the fact that his or her position is based on subjective opinions usually reflecting his or her professional concerns and viewpoints. Little empirical evidence supporting the pros and cons of divorce mediation can be found. Kochan and Jick (1978) claim that mediation is probably the most practiced and the least researched conflict resolution procedure. This view is also supported by Kressel and Deutsch (1977), who found little research involving either the decisioning processes that occur in a divorce or the elements that determine a constructive or destructive divorce outcome.

Overview

This research was prompted by Kressel and Deutsch's conclusions that more research is needed to understand the processes that produce constructive and destructive divorces. Gulliver (1979) stated that public conflict is usually settled by negotiation or

adjudication. Consistent with that idea are the two current modes of settling divorce disputes--mediation and litigation. The question is not whether mediation or traditional litigation is the best answer to a constructive divorce. It is not that simple. The challenge is one of exploring when and under what circumstances do mediation or the traditional adversarial approach produce constructive divorces. The answer to the question requires an understanding of the relationships among the characteristics of the divorcing couple, the context in which the divorce takes place, the process of divorce used, and their respective settlement outcomes.

This research will use the decisioning paradigm as outlined by Scanzoni and Szinovacs (1980) to explore the context factors and settlement outcomes of couples who mediated their custody disputes and couples who used the traditional adversarial process. Even though this study is basically exploratory in nature, specific context variables selected for their potential relevance, will be analyzed for their contributions to the process of divorce chosen (mediation or litigation) and to the differing outcomes.

The research questions of interest are as follows:

1. What are the personal characteristics that relate to a couple's choice of mediation or litigation as a divorce process?
2. How are the objective outcomes of mediation influenced by personal and context characteristics?

3. How do the subjective outcomes of the final settlement differ between those couples who were successful at mediation and those who were unsuccessful?

CHAPTER II
REVIEW OF THE LITERATURE

Even though divorce mediation is a relatively new phenomenon, its origins can be traced to the beginnings of sociological inquiry. This chapter will trace the theoretical roots of divorce mediation from early process theorists through the more modern theories of exchange, conflict, power, and ultimately, to the decisioning theories of negotiation and mediation.

The trend away from the traditional adjudication of divorce settlements to the process of negotiating settlements parallels the cultural and societal shift away from traditionalism and normative structure to modernism and negotiated order (Scanzoni, 1978). The history of sociological inquiry has consistently reflected the concern for normative structure versus the more dynamic interactive processes. In reviewing the models of sociological inquiry, Buckley (1967) outlined the characteristics of the models of "process" and "structural/functionalism." He credited Talcott Parsons with being the leader in the functionalism movement. Parsons and Bales (1955) saw order and equilibrium as the main concerns for both the family and the society. Social structures and their associated traditional norms and roles were necessary to carry out vital functions of families and society. Based on the organismic model, the system's goal was one of equilibrium and stability. Divorce was seen as a

breakdown in the system, a failure of someone to carry out his or her proper role. Although this model has had considerable impact on sociological thought and has contributed important concepts and terms, its inability to deal with change and deviancy resulted in much criticism and has ultimately led to its demise as an influential sociological model (Buckley, 1967; Scanzoni, 1979).

The origin of the process model can be traced as far back as Hegel's thesis, antithesis, and synthesis and to Marx and Engel's dialecticism. The early German sociologist, George Simmel, is credited with anticipating the thrust and future of the process approach (Levine, 1976). His emphasis on social interaction (the positive aspects of conflict and change) as the essence of sociological inquiry laid the groundwork for modern exchange and conflict theories (Cosser, 1956).

Influenced by Simmel, the Chicago School of Interactionism is also credited with being influential in the process movement (Buckley, 1967). George Herbert Mead's Symbolic Interactionism (1934) and the work of eminent sociologists influenced by Mead, e.g., Cooley, Thomas, Park, and Burgess, have greatly contributed to the view that society must be understood on the personal-interactional level. Burgess, in his classic text, called for the study of the family as a unity of interacting personalities (Burgess & Locke, 1945).

The theoretical frameworks which have evolved for understanding family dynamics have met Burgess' challenge. In the most currently recognized effort to pull together the major contemporary theories

of the family, Burr, Hill, Nye, and Reiss (1979) outlined five theoretical frameworks commonly used in the study of the family. Of these five, three are directly related to the interactionists and process-oriented approach: social exchange, symbolic interactionism, and conflict theory. Social exchange and conflict theory, along with the related theories of power, seem to be the most tenable theories to explain divorce processes.

Social-Exchange Theory

Exchange theory, as originated by Thibaut and Kelly (1959) and Homans (1974), has been used to explain almost every facet of family life (Nye, 1979). Exchange theory and the derived propositions are particularly helpful in understanding marital instability and dissolution (Albrecht & Kunz, 1980; Federico, 1979; Gottman, Notarius, Markman, Banks, & Yoppi, 1976; Nye, 1979).

Thibaut and Kelly's (1959) concepts of comparison level and comparison levels of alternatives are very useful in explaining the decision to divorce. The concepts of costs, rewards, and profits are also appropriate and useful in understanding the choice of divorce techniques as well as the negotiations that follow.

Historically, the decision on how a settlement would be reached was based on traditional roles as outlined by both the church and the state. The process was one of both adjudication and tradition, not negotiation. But with the shift away from traditionalism, negotiation and bargaining (as outlined in exchange theory) have

become more prevalent. From an exchange perspective, divorce mediation is seen as a specific form of negotiation. Each party exchanges information and then makes decisions based on his or her own perceptions of costs, rewards, comparison levels, and alternatives with the overriding idea of maximizing rewards and minimizing costs.

Conflict Theory

The theories of conflict and power are closely related to the exchange theory. Conflict theory, with its origins associated in the macroconflict of Marx and with the microconflict of Simmel, is closely tied to exchange theory (Sprey, 1979). In fact, some believe that conflict theory should be subsumed under exchange theory (Scanzoni, 1978). Scanzoni sees conflict as a special type of exchange in which incompatible behavior produces exchanges of injury over benefits. Burr, et al. (1979), however, chose to treat conflict theory as a separate theory. Regardless of the similarities and differences between exchange and conflict theory, both are dynamic and process-oriented approaches to understanding personal and social change. Conflict theory is highly applicable in the area of divorce settlements. Coogler's structured mediation techniques are based on Deutsch's (1973) conflict studies.

Several key concepts of conflict theory are used in the understanding and resolution of marital conflict. Drawing mainly from the works of Coser (1956), Deutsch (1973), and Sprey (1979),

certain assumptions about conflict in general are related to divorce mediation. Conflict is inevitable but is not ipsofacto negative or destructive. While people are self-oriented and make choices and exchanges based on their own self-interest, many conflicts can be resolved with profits for each party. In human relationships, competition (zero-sum conflict) in its pure form is rare. Much human conflict is of the mixed-motive type in which integrative solutions of maximum joint profits (win-win solutions) are possible (Deutsch, 1973). The competitive approach to conflict, as associated with the traditional adversarial system, is believed to escalate the conflict, increase aggression, and produce extreme countersolutions, thereby resulting in adjudication of the conflict. The constructive handling of the conflict in divorce settlements requires negotiation and bargaining in order to arrive at an integrative solution--a solution in which both parties feel they have won rather than lost. Mediation is such a technique in which a win-win solution is the goal.

Power Theory

It is impossible to discuss conflict resolution without dealing with the related concept of power. While social scientists agree upon importance of power, there is still controversy as to what exactly is included in the concept of power and how it is measured. Much of this confusion has developed as a result of seeing power as an unidimensional and status concept rather than as a multidimensional, dynamic concept (Scanzoni, 1979).

Cromwell and Olsen (1975) viewed power as multidimensional. They pointed out that power must be understood by analyzing three separate domains. The first domain is the basis of power. The basis of power refers to the resources, abilities, and possessions that are attributed to another which could result in the capacity to give rewards or punishments (Scanzoni, 1978).

The second domain of power concerns the actual process of negotiating or resolving an issue. Power must be understood in terms of an interactive process of exchange which involves reciprocity, negotiating skill, importance of issue, and alternatives.

The third domain of power concerns outcomes, which involve both the objective and subjective results of the negotiated settlement. Outcomes are important in the initial conflict but are especially important as they influence the context of future negotiations.

Power is an important concept in negotiations, conflict resolution, and in understanding the dynamics of divorce settlements. In contemporary divorce mediation, the possibility of power disparity is very real. The specific issue relating to power disparity in divorce mediation concerns the exploitation of the weaker party (Crouch, 1982; Fisher, 1972; Tuchman, 1977) and the inability of the weaker party to successfully negotiate (Sachs & Wilson, 1978).

Tuchman (1977) found that one of the main problems in arriving at a successful mediated outcome was the wide discrepancy of power in the relationship. Haynes (1981) recognized the influence of power

in divorce mediation. He stated that the power base of one party, i.e., tangible and intangible resources, is sometimes offset by the power process of another, i.e., negotiating skills or refusing to negotiate. He also felt that having the alternative of litigation available is possibly a good check for what may appear as a power disparity within a couple.

Another power issue in divorce negotiations concerns divorce mutuality, i.e., the couple's mutual acceptance of the marriage dissolution. Many divorce experts believe that the tone of the divorce proceedings is set by a couple's agreement or lack of agreement on the desirability of the breakup (Irving, 1981a; Federico, 1979; Goode, 1956; Kressel, Jaffee, Tuchman, Watson, & Deutsch, 1980; Kressel & Deutsch, 1977). The lack of mutuality can produce a power imbalance. This situation is descriptive of Waller's (Waller & Hill, 1951) theory on the "least committed" and is also consistent with interpretations of social exchange that the least committed really have more acceptable alternatives.

Decisioning Theory: Negotiating a Settlement

The preceding has been an attempt to separate and distinguish social exchange, conflict, and power theories as they relate to divorce. But in the real world, there are no clear distinctions. In family dissolution and the resulting divorce settlement, the elements of choice, exchange, power, and conflict are all operating.

Scanzoni (1979, however, sees a larger concept that incorporates and expresses the interrelatedness of these dynamic concepts. The concept of decision-making encompasses all these related theories which involve purposeful, goal-oriented behavior.

Consistent with the propositions of the process-oriented theories, decision-making is also seen as both a cyclical and a developmental phenomenon (Gulliver, 1979; Scanzoni & Szinovacs, 1980). This research will study divorce negotiations within this decisioning paradigm.

Central to decision-making is the process of negotiation. As previously stated, Gulliver (1979) concluded that public conflict traditionally has been handled either by negotiation or adjudication. Gulliver believed negotiation is the more desirable of the two. This belief is supported by an accepted proposition of conflict theory which states that conflict resolved by power (adjudication) will return or change forms when the power, i.e., the court's authority, is removed (Deutsch, 1973). The goal of negotiation, however, is to arrive at an integrative solution accepted by the conflicting parties. Although in some conflicts, the conflicting parties themselves are able to negotiate, other conflicts must be negotiated with the help of outsiders. This special form of negotiation is called mediation--the use of a third party to control the process and not the outcome. Even though mediation has been, and still is, a universal method of conflict resolution,

there is little empirical research on mediation (Gulliver, 1979; Wall, 1981). This lack of research appears to come from the commonly held belief that mediation is an art form having no common elements that are subject to scientific investigation (Wall, 1981).

While mediation does vary from case to case, there is a common underlying assumption on which mediation is based. This assumption is that conflict between individuals is not necessarily competition in which there must be a winner and a loser, but may be a mixed-motive conflict in which both parties may win something. Cooperative strategies can produce constructive resolution in which maximum joint profits can be obtained. The spirit of mediation is not one of fault or blame; it is one of producing the best solution while enabling conflicting parties to maintain self-esteem. Trombetta (1982) sees mediation as an advocate for discussion and communication rather than as an advocate for a solution.

Although there is agreement on the assumptions and goals of the mediation process, there is a lack of consensus as to the mediator's role. The most commonly accepted role is that of controlling communication between the conflicting parties (Deutsch, 1973; Gulliver, 1978; Mitchell, 1981; Schmidt & Tannenbaum, 1960; Trombetta, 1982; Wall, 1981; Wehr, 1979). This involves helping parties clarify the issues, reduce distortions, facilitate effective listening, and control feedback.

Another highly agreed-upon role of the mediator is one of controlling the negative emotions while producing a climate favorable to cooperation (Deutsch, 1973; Gulliver, 1979; Pruitt, 1981; Schmidt & Tannenbaum, 1960; Wehr, 1979). Other roles include identifying possible solutions that seem prestigious and attractive to the conflicting parties and to their constituents (Deutsch, 1973), seeking a balance of power between the negotiators (Wehr, 1979), and controlling the relationship (Wall, 1981). Gulliver (1979) credits the lack of consensus on the mediator's role to the fact that mediation is not one specific process but is a general process that can be found on a continuum of levels ranging from one of absolute passivity to a position close to arbitration.

Consistent with the decisioning process previously described, all forms of mediation involve both a cyclical, interactive process and a developmental and progressive process (Gulliver, 1979; Kochan & Jick, 1978; Scanzoni, 1979; Wall, 1981). The cyclical process is the exchange of information, the give and take of bargaining, the reciprocal changes in preference sets, expectations, etc. This interaction changes as the negotiation progresses through different stages. The mediator, as well as the negotiators, changes strategies and relationships as the process evolves (Gulliver, 1979).

The particular labels to the developmental stages vary per writer, but all incorporate the idea of developing from an

unstructured situation of disagreement to a more fully structured setting of agreement (Fisher & Ury, 1981; Gulliver, 1979; Wall, 1981).

Divorce mediation also involves some form of developmental stages (Coogler, 1978; Coulson, 1983; Haynes, 1981; Irving, 1981a; Milne, 1978; Pearson & Thoennes, 1982). The stages, regardless of their labels or levels of abstraction, cover the following stages:

1. Setting the stage: agreeing to mediate; establishing the who, when, where, and how to disagree; agreeing on ground rules; fees; etc.
2. Defining the issues: agreement on the substantive areas that will be negotiated; usually the areas include all or any combination of child custody, child support, visitation agreement, alimony, and division of personal property.
3. Negotiating the issues: communication exchanges, adjusting positions, bargaining, etc.
4. Reaching agreements: the mutual establishment of acceptable agreements on each of the issues and developing procedures (structure) for implementing the agreements.

As with general mediation, techniques in divorce mediation vary considerably among mediators, who will differ in their personal styles and structured formats. For example, consider the

different ways that emotions are handled. Some techniques are highly structured, businesslike, and designed to eliminate as much emotional input as possible (Coogler, 1978). Other techniques are based on the assumption that emotional states are important factors and should be dealt with first (Milne, 1978). Techniques are also found to vary according to how well the negotiations are proceeding and according to the developmental states of the negotiations (Vanderkooor & Pearson, 1983). It is evident by reviewing the history, literature, and theoretical background that divorce mediation has a firm theoretical foundation and is in the forefront of the applied conflict resolution movement.

CHAPTER III

PROCEDURE

This research involved analysis of secondary data provided by the Center for Policy Research, Denver, Colorado. The data were originally collected as part of the Denver Custody Mediation Project conducted by the Center for Policy Research and co-sponsored by the Piton Foundation and the Colorado Bar Association.

The original project was designed to study the impact of divorce mediation on child custody settlements and on postdivorce parent/child relationships. Since divorce mediation is relatively new, the project offered free mediation services to couples involved in divorce-related disputes in order to compare the effects of mediation with traditional custody litigation.

The Denver Custody Mediation Project used a quasi-experimental design which involved the subjects' self-selection into the experimental and control groups. Beginning in March of 1979, 830 couples were referred to the Center by lawyers, judges, settling clerks, and human service investigators. Of the couples referred, 390 were judged appropriate for study purposes. Criteria used to select the couples included the existence of an unresolved divorce dispute and realistic geographical and language considerations.

Approximately two-thirds of the 390 cases (246 couples) were randomly assigned to the mediation group (experimental group); the remaining 144 cases were assigned to the control group. Seventy-six percent of the control group agreed to participate and were consequently interviewed at three different times--when they were identified, three months after their final court orders were promulgated, and six months after the second interview. The attrition rate for the control group was approximately 20 percent.

The 246 couples assigned to the experimental group were introduced to divorce mediation and were offered free mediation services to be conducted by male-female teams comprised of a lawyer and a mental health professional. It was understood that the final agreements reached as a result of mediation would be offered to the court as an interparty agreement. Of the 246 couples, 124 agreed to try mediation.

Approximately 50 percent of those in the experimental group refused the mediation service. This high number resulted in the creation of a third group (rejection group) composed of 76 couples who agreed to be interviewed three times--on initial contact (by telephone), three months after the final orders, and some seven months after the second interview.

The mediation group, composed of 124 couples, was interviewed in person in the beginning, interviewed by telephone three months

after the final orders, and approximately six months later. Data on specific court-ordered outcomes, modifications of final agreements, and relitigations were collected by reviewing court records approximately 17 months after promulgation of final orders.

The subjects for this dissertation were the 124 couples who agreed to mediate and the 76 couples who refused to mediate but agreed to be interviewed. Because the analyses focused on couple's choice of mediation versus litigation, those 144 cases originally in the sample who were randomly assigned to the control group were eliminated, i.e., they had no "choice." The couples were a heterogeneous group reflecting a cross section from the metropolitan area of Denver, Colorado. Table 1 outlines selected demographic characteristics of those subjects.

The original study collected data on approximately 454 variables. From this extensive body of data, variables of interest were selected for this current research. Variable selection was based on the association with the decisioning paradigm and the research questions. For a more detailed description of the original study and the methodology, see Pearson and Thoennes' article entitled "Mediating and Litigating Custody Disputes: A Longitudinal Evaluation" (1982).

Three major analyses were performed: (1) analysis of selected context factors associated with the choice of mediation

Table 1

Selected Demographic Characteristics of 200 Participating Couples

	Husbands	Wives
<u>Personal Characteristics</u>		
Mean Age (in years)	33	31
Annual Income:		
Under \$10,000	15%	52%
\$10,000 - \$20,000	45%	39%
Over \$20,000	40%	9%
Education:		
High School Diploma or Less	34%	48%
Some College Degree or More	66%	52%
Occupational Levels:		
Professional; Managerial	50%	27%
Sales; Clerical; Skilled	26%	48%
Semi-Skilled; Laborer; Service	24%	27%
Religious Affiliation:		
None	21%	5%
Catholic	29%	22%
Protestant	37%	52%
Jewish	2%	2%
Other	11%	9%
Race:		
White	80%	82%
Black	6%	5%
Chicano	10%	9%
American Indian	2%	1%
Other	2%	3%
<u>Couple Characteristics</u>		
Mean Number of Children Per Couple	1.85 Children	
Mean Number of Years Married	9.22 Years	

or litigation, (2) analysis of the context factors associated with the objective outcomes of mediation, and (3) analysis of context factors associated with personal subjective outcomes (Figures 1, 2, and 3). Since the essence of divorce mediation is dealing with male/female conflict, it is critical to account for any differences and similarities between the husband and wife on all variables. In order to better understand how both spouses' variables relate to the various dependent variables, all variables entered into analyses had both husband and wife scores, e.g., husbands' tangible resources, wives' tangible resources. Throughout the analyses and interpretations, it is important to note that the dependent variables reflect the couples' actual behavior, e.g., the couples' participation in mediation, the couples' outcome, etc.

Determinants of Choice of Mediation

Understanding the factors involved in the choice of "how" a couple will settle divorce and custody disputes is of interest to both the conflict theoreticians and the divorce mediators. The decisioning paradigm investigated those context variables thought to be related to the process choice of mediation or litigation, which is the focus of the first analysis (see Figure 1).

Context Variables: Conceptual and Operational Definitions

Context variables include the pre-existing individual and couple characteristics which are brought to the negotiations. These include both the current relationships as well as the couple's

Figure 1

Determinants of Choice of Mediation

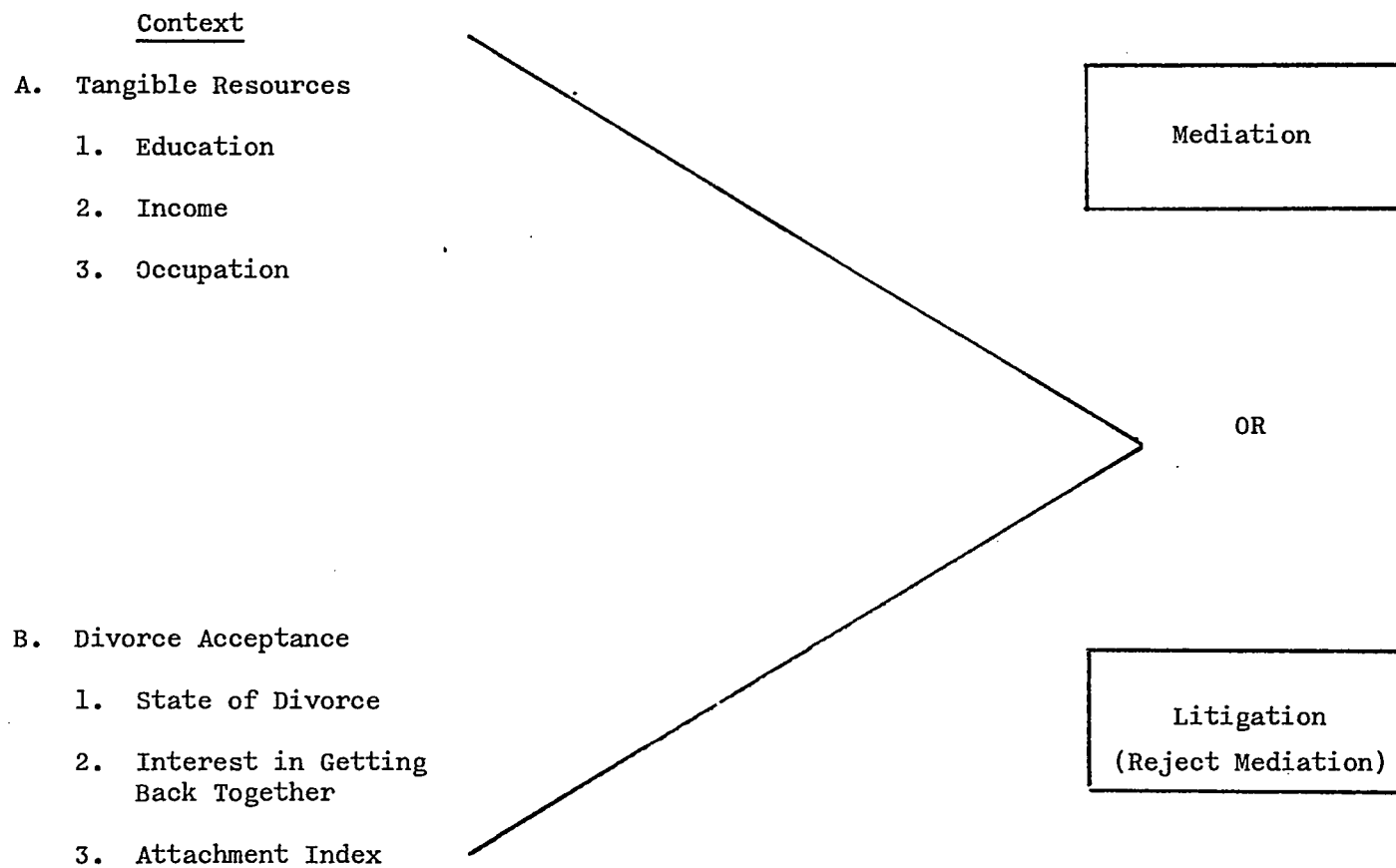


Figure 2

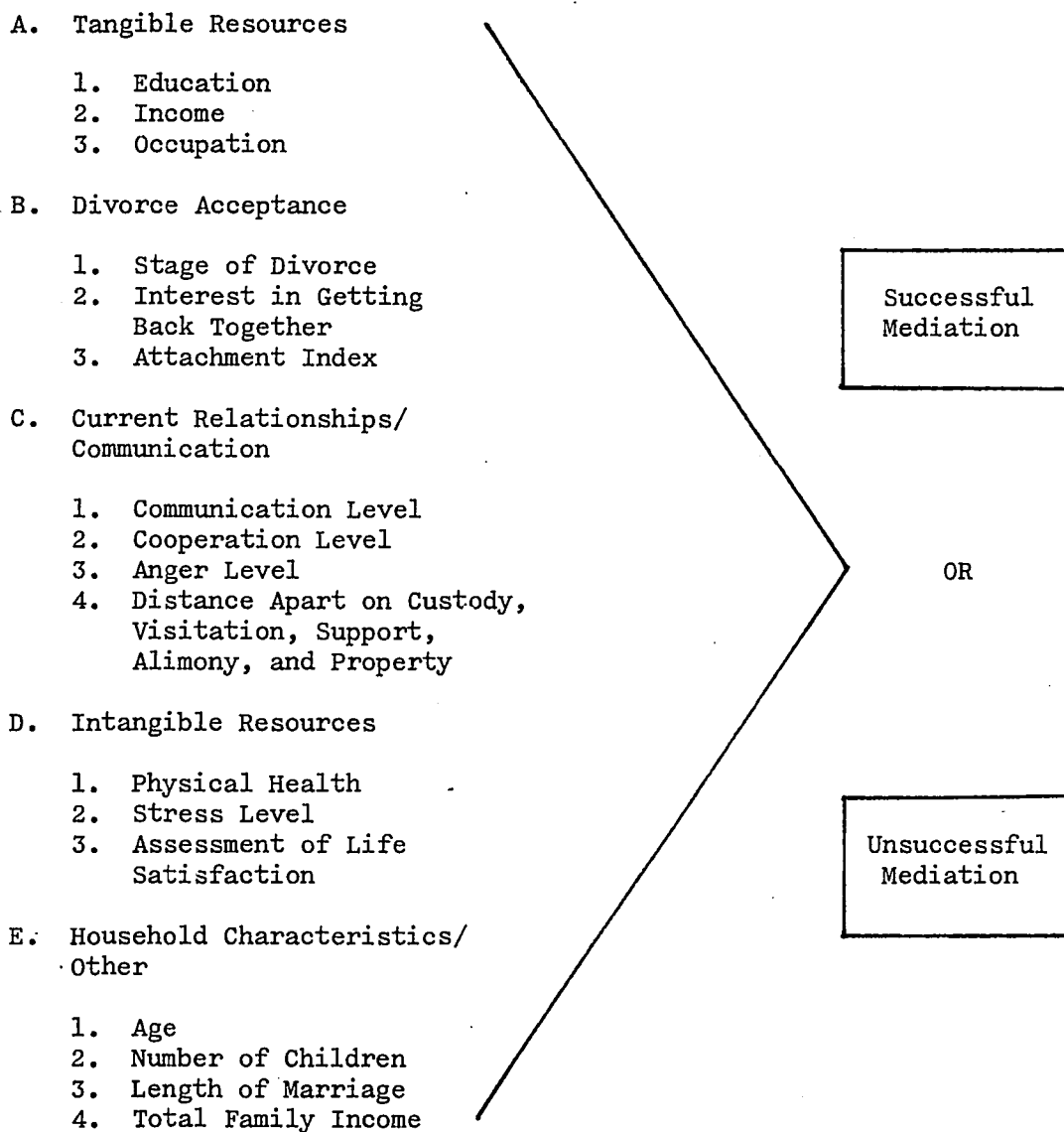
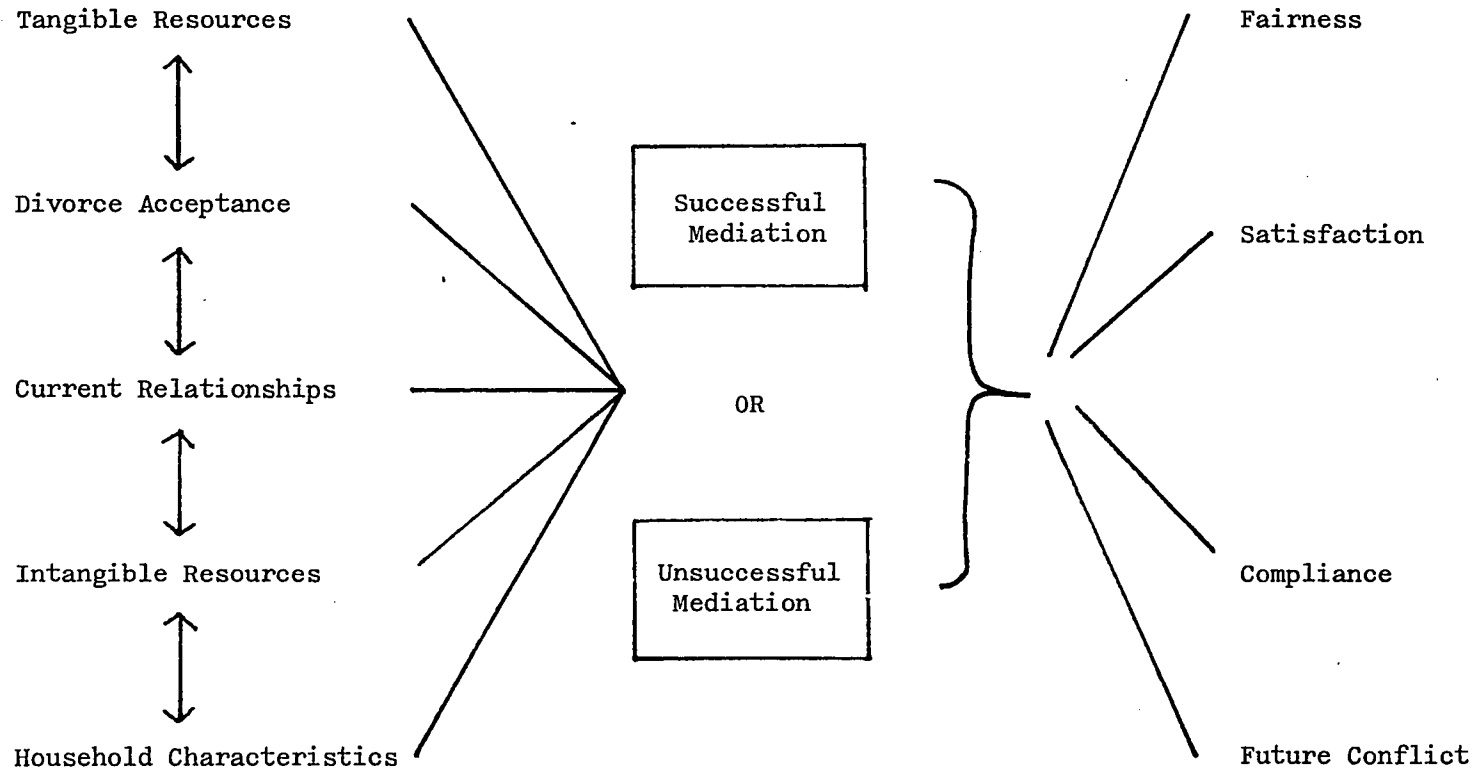
Determinants of Objective Outcomes

Figure 3

Determinants of Subjective Outcomes



history. In the pure sense, there is no distinction between the independent and dependent variables in the cyclical model of decision-making. However, in this research, it may be helpful to think of the context factors as independent variables used to explain the couples' choice of process categories. The two major types of context factors selected for this research were tangible resources and divorce acceptance. The choice of only two context constructs was determined by the absence of other types of data collected on those couples rejecting mediation.

Tangible Resources. Tangible resources are defined as personal assets possessed by a party which, in a given culture, are valued and normally associated with influence, power, and successful negotiating. The most common tangible resources are education, job status (occupation), and income (Scanzoni & Szinovacs, 1980). For this study, tangible resources were operationally defined as the highest level of formal education, occupational rank, and gross personal income. (See Appendix for sample survey used to collect information; Question I: A, B, C.) It should be noted that occupational rank was reverse coded such that high scores represented a high occupational status.

Divorce Acceptance. Divorce acceptance is conceptually defined as one's acceptance of the marriage dissolution. It is commonly understood that many divorces involve couple disparity in the

acceptance of the marriage dissolution. The role of divorce acceptance in divorce counseling and divorce mediation needs to be better understood. Those variables that are related to the concept of divorce acceptance are stage of divorce, interest in getting back together, and attachment index.

Stage of divorce is a 4-point scale reflecting one's emotional adjustment to the divorce. Low scores reflect a rejection of the divorce and possibly an interest in reconciliation; high scores represent an acceptance of the divorce (Question III: B). The interest in getting back together variable is a 5-point scale representing one's personal interest in getting back together. A low score represents an interest in getting back together, and a high score represents no interest in getting back together. The attachment index is a series of nine questions, coded on a 5-point scale, selected to measure attachment to or grief over the divorce. Only four items were used for computing the index. High scores represented a high emotional attachment to or grief over the divorce. Divorce acceptance is operationally defined by these variables (Question III: A, B, C).

Directional Hypotheses

Even though this study was exploratory in nature, certain relationships (based on the literature and exchange framework) were predicted. In reference to the determinants of choice of mediation, the research questions of interest and hypothesized answers were as follows:

Research Questions. (1) How do tangible resources and divorce acceptance relate to a couple's decision to mediate or litigate their divorce and custody dispute? (2) Can tangible resources and divorce acceptance be used to predict group membership of mediating and litigating couples?

Hypothesis I. Tangible resources will be a significant predictor of group membership for husbands and wives: couples with high tangible resources will choose mediation and those with low resources will choose litigation.

Hypothesis II. Divorce acceptance will be a significant predictor of group membership for husbands and wives: couples that are more accepting of the divorce will choose mediation.

Determinants of Objective Outcomes

Understanding the factors involved in successful and unsuccessful mediation outcomes is of primary importance to the mediator. Five context factors were used to predict the objective outcomes of the mediation process (see Figure 2).

Context Variables: Conceptual and Operational Definitions

Tangible Resources. Education, occupation, and income were the variables used to measure these concepts (same as those used in Analysis I).

Divorce Acceptance. Stage of divorce, interest in getting back together, and attachment index were the variables used to measure these concepts (same as those used in Analysis IO).

Intangible Resources. Intangible resources are the physical, social, and emotional states of being that, although not valued intrinsically, serve to enhance one's tangible resources and negotiating position. Even though physical health, self-esteem, and self-confidence may not by themselves be commodities for exchange, the addition of these resources may place one in a more favorable negotiating position. Again, from an exchange framework, intangible resources are seen as providing strengths and skills in the negotiating process as well as providing choice and alternatives which result in a stronger bargaining position. For the purpose of this research, intangible resources will be operationally defined as one's subjective assessment of physical health, stress level, and current life satisfaction. Physical health was measured on a scale of 1 to 4, with 1 symbolizing excellence. The variable was recoded so that higher scores would equal better health. Stress level was measured by the subjects' reported number of stressful events occurring during the last year. Forty-two items were summed, with higher scores representing higher stress. Current life satisfaction, i.e., where one sees one's life relative to one's own ideas of the best possible life was a subjective response. Responses ranged from zero representing the worst possible life to ten points representing the best possible life. This variable is conceptually related to exchange theory's concept of comparison level of alternatives (Question II: A, B, C).

Current Relationship. This concept refers to the couple's subjective evaluation of their personal interaction, communication, and position on issues relative to each other. The four interactional variables used to define the concept of current relationship are communication, cooperation, subjective anger, and distance apart on the issues of custody, child support, alimony, and division of property (Question IV: A, B, C, D).

Communication (Question IV: A) was measured by the subjects' self-report of how well the couple communicated. The variable was measured on a 5-point scale, with 5 representing the highest level of communication. Cooperation (Question IV: B) was also measured by the subjects' self-report of how well the couple was cooperating. The cooperation index was measured on a 4-point scale, with 1 representing high cooperation. The variable was recoded so that higher scores represented higher cooperation. Subjective anger (Question IV: C) was measured by the couple's self-report of personal feelings of anger toward each other. The anger index was on a 5-point scale, with higher scores representing higher levels of anger. Distance apart on settlement issues (Question IV: D) was measured by the subjects' self-report of perceived distance apart on the issues of custody, visitation, child support, alimony, and division of property. The index was a 3-point scale, with 3 representing greater distance apart on the issues.

Household Characteristics. In order to understand the population in the study and to explore possible extraneous variables which could be influencing the variation in the data, the following characteristics were analyzed: (1) age, (2) number of children, (3) length of marriage in months, and (4) total family income. Total family income was measured on a scale of 1 to 8, with 8 representing the highest level of income (over \$50,000) (Question V: A, B, C, D,).

Directional Hypotheses

In reference to the relationship of selected context variables and the objective outcomes of the mediation process, the research questions and hypothesized answers are as follows:

Research Question. How do tangible resources, divorce acceptance, intangible resources, current relationships, and household characteristics influence the objective outcomes of those couples that mediated their custody disputes? In other words, can the above-named context variables be used to predict successful and unsuccessful outcomes of mediation.

Hypothesis I. Tangible resources will be a significant predictor of objective mediation outcomes: couples who successfully complete mediation will have greater tangible resources than the unsuccessful couples.

Hypothesis II. Divorce acceptance will be a significant predictor of objective mediation outcomes: couples who successfully complete mediation will have a higher acceptance of the divorce.

Hypothesis III. Intangible resources will be a significant predictor of objective mediation outcomes: couples who successfully complete mediation will have greater intangible resources.

Hypothesis IV. Current relationship and communication patterns will be a significant predictor of objective mediated outcomes: couples who successfully complete mediation will have more positive relationship and communication patterns.

Since this research was exploratory in nature, the influence of household characteristics was not predicted as a directional hypothesis; and influences found in the analyses were reported.

Determinants of Subjective Outcomes

Concluded negotiations produce both an objective outcome and a subjective feeling about that outcome (see Figure 3). Although the final objective outcomes were important in understanding mediation and litigation, the third analysis focused on the more subjective component, feelings of fairness, satisfaction, compliance, and future conflict and their respective determinants (see Figure 4). The importance of these subjective components lies in their impact on the future relationships of all family members.

Outcome Variables: Conceptual and Operational Definitions

Fairness. Fairness refers to the personal feelings of justice in the settlement process. It was measured by the subjects' self-report on a 4-point scale, with 4 symbolizing feelings of absolute

Figure 4

Outcome Measures

Objective Outcomes

1. Successful Mediation -
Couples arrived at a settlement entirely through the mediation process.

2. Unsuccessful Mediation -
Couples failed to arrive at a settlement through the mediation process; final settlement was through lawyers and/or courts.

Subjective Outcomes

1. Feelings of Fairness
How fair the process?

2. Feelings of Satisfaction
How satisfied with outcome?

3. Compliance
Is spouse complying with agreement?

4. Future Conflict
Do you predict future changes in agreement?

unfairness. The variable was recoded so that higher scores would reflect greater fairness (Question VI: A).

Satisfaction. Satisfaction refers to the subjects' feelings about the actual settlement details. Satisfaction was coded on a 4-point scale, with 4 points representing very dissatisfied. The variable was recoded so that higher scores would reflect greater satisfaction (Question VI: B).

Spousal Compliance. The variable compliance might be called the outcome of the outcome. Spousal compliance refers to one's subjective belief about his or her spouse's compliance with the agreement. Spousal compliance was measured on a 4-point scale, with the highest score signifying complete noncompliance. The variable was recoded so that higher scores would reflect greater compliance (Question VI).

Future Conflict. Future conflict refers to one's anticipation of changes in the final agreement. Future conflict was measured on a 5-point scale, with one representing an absolute desire for future changes. The variable was recoded so that higher scores would reflect a spouse's opinion that there is a greater chance of future conflict (Question VI: D).

Directional Hypotheses

In reference to the subjective outcomes of successful and unsuccessful mediation groups, the research questions of interest and hypothesized answers are as follows:

Research Questions. (1) What subjective outcomes are associated with the successful and unsuccessful mediation groups? That is to say, what subjective outcome variables in a discriminant analysis are significantly associated with successful and unsuccessful mediation groups? (2) What context factors associated with successful and unsuccessful mediation are also associated with the various mediation outcomes? In other words, what context variables significantly contribute to the regression equation predicting subjective outcomes?

Hypothesis I. Fairness scores will be significantly associated with objective outcomes: couples who successfully complete mediation will have higher fairness scores.

Hypothesis II. Satisfaction scores will be significantly associated with objective outcomes: couples who successfully complete mediation will have higher satisfaction scores.

Hypothesis III. Spousal compliance scores will be significantly associated with objective outcomes: couples who successfully complete mediation will have higher spousal compliance scores.

Hypothesis IV. Future conflict scores will be significantly associated with objective outcomes: couples who successfully complete mediation will have lower future conflict scores.

In the preceding discussion of the conceptual and operational definitions of the variables, little attention has been given to the validity and reliability of the measures as they relate to the constructs. This research, being exploratory in nature, has

attempted to select and reorganize the variables of interest to fit the decisioning paradigm. All variables selected were theoretically sound and demonstrated face validity. It is recognized that the external validity of this study must be interpreted in this light.

Statistical Procedure

The statistical procedures selected are based upon the research design, type of data, and research questions for each major analysis. Multivariate statistics were used in order to understand better the interaction of various independent variables and their joint influence on the dependent variables.

Analysis of choice of mediation and objective outcomes used discriminant analysis as a classification and diagnostic tool in which group membership, i.e., mediation versus litigation and successful versus unsuccessful outcomes, were predicted by the selected context variables. Wilks' lambda and F values were used to determine the statistical significance of the overall equation and individual variable contributions to the discriminations between the groups. The unstandardized and standardized discriminant function coefficients were used to understand the direction and strength of the relationship between each independent variable and group membership.

The third analysis used two separate procedures. Discriminant analysis was used as a tool to understand better the differences in successful and unsuccessful mediation groups in relation to their

subjective outcomes. The discriminant equation gave a profile of these differences and the relative importance of the outcome variables. While this use of discriminant analysis is not common, it is a legitimate use that has much potential (Kerlinger, 1979).

A second analysis used multiple regression as a means of evaluating the influences of all variables (context and outcome variables) on the subjective outcomes of fairness, satisfaction, compliance, and future conflict. This analysis was consistent with the decisioning paradigm which holds that previous outcomes become context variables in future negotiations. Multiple regression analysis was chosen for its ability to look at the specific contributions of each variable, the relationship among them, and the combined effects of two or more variables. The regression analyses were interpreted in light of the direction and strengths of the variables entered (b values), their relative importance (betas), the statistical significance of the equation (overall F), and the overall measure of their success (proportion of explained variability or R^2).

Regression analyses were performed on each of the four measures of subjective outcomes (see Figure 4). Data were analyzed through the use of the Statistical Package for the Social Sciences (Nie, Hull, Jenkins, Steinbrenner, & Bent, 1975).

CHAPTER IV

STATISTICAL RESULTS AND INTERPRETATIONS

Results, discussion, and interpretation of each research question will be presented separately for each of the three analyses. Efforts will be made to pull together the results of these three analyses and interpret the findings vis-a-vis the theoretical perspectives on which this study was based.

Determinants of Choice of Mediation or Litigation

Statistical Results

The first research question investigated selected context variables that were thought to be predictive of the husbands and wives' choice of mediation or litigation. Two context constructs, tangible resources and divorce acceptance, were measured through the selection of three representative variables for each construct (refer back to Figure 1). Each of the six variables was used twice—one variable representing husbands' response to each question, and one representing wives'—resulting in a total of 12 independent variables available for entry into the analysis. Step-wise discriminant analysis was used to investigate the relationship between these variables and the dependent variable, choice of mediation or litigation. Table 2 presents means and standard deviations for the independent variables.

Table 2

Summary of Means and Standard Deviations for Independent Variables in Analysis of Choice of Mediation
or Litigation for Husbands and Wives

(n = 400)

Independent Variables	Means		Standard Deviation	
	Husbands	Wives	Husbands	Wives
Interest in Getting Back Together	.96	.64	1.61	1.41
Stage of Divorce	2.89	3.21	1.28	1.12
Educational Level	2.82	2.49	.86	.83
Occupational Level	4.74	4.07	2.30	2.40
Income	5.20	3.67	1.78	1.71
Attachment Index	3.39	2.34	1.74	1.71

Analysis revealed that eight of the 12 variables contributed significantly to the discrimination between the two groups. Table 3 reveals these variables, their strengths, and statistical significances as indicated by the Wilks' lambdas.

The standardized discriminant functions revealed that the strongest discriminator of couples choosing divorce mediation or litigation was the husbands' attachment index (.96), followed by wives' attachment index (.49). Other contributing variables for both husbands and wives were the stage of divorce and occupational level. The husbands' interest in getting back together and the wives' education also contributed to distinguishing between divorcing couples who mediated and litigated.

An analysis of the group centroids and the signs on the discriminant function coefficients revealed the directional influence for each of the variables. Husbands and wives' high attachment scores, late stage of divorce, and high occupational level were associated with couples in the mediation group for both husbands and wives, and high education contributed for the wives. For husbands, high interest in getting back together contributed to the couples' choice of litigation.

The eight variables included in the step-wise equations were statistically significant in distinguishing between the mediating and litigation groups ($p < .001$). The resulting discriminant equation accurately classified 96 percent of the cases for each

Table 3
 Variable List, Classification Coefficients, and Significance Levels for
 Choice of Mediation or Litigation
 (n = 400)

Independent Variables	Unstandardized Discriminant Function Coefficient	Standardized Discriminant Function Coefficient	Wilks' Lambda
H - Attachment Index	.4049	.96	.4569 ***
W - Attachment Index	.2392	.49	.3772 ***
H - Interest in Getting Back Together	- .1570	-.25	.3356 ***
H - Occupational Level	.1005	.24	.3078 ***
H - Stage of Divorce	.1760	.23	.2956 ***
W - Stage of Divorce	.1831	.20	.3011 ***
W - Educational Level	.1705	.14	.3170 ***
W - Occupational Level	.0527	.13	.2925 ***
Constant	-3.5605		
Wilks' Lambda = .2925			
Chi-Square = 238.46 ***; D.F. = 8			

* = $p < .05$

** = $p < .01$

*** = $p < .001$

NOTE: Independent variables arranged in order of descending betas.

group (see Table 4). The equation was equally successful in predicting membership in the two groups. It is also important to note those variables which did not significantly contribute to the discriminant equation. These variables were income reported by both husbands and wives, the husbands' educational level, and the wives' interest in getting back together.

Discussion and Implications

Hypothesis I proposed that each of the three tangible resource variables of husbands and wives would be a significant predictor of choice of mediation or litigation group membership. This hypothesis was based on the decisioning literature which holds that an increase in the traditional assets of income, education, and occupational status tends to increase one's bargaining position and feelings of self-determination. The findings partially support this hypothesis. For both husbands and wives, the occupational level made a significant contribution to distinguishing the two groups of couples. However, this was the only tangible resource variable of husbands that contributed. The wives' educational level was another tangible resource contributor. Couples with higher levels of these resources (and thus, more confidence in their bargaining ability) were more likely to choose mediation as a divorcing process. These findings are consistent with the propositions of resource and exchange theories as well as the research on the characteristics of those who first experience new innovations, i.e., these couples may

Table 4

Percentage of Subjects Correctly and Incorrectly Identified According
to Choice of Mediation or Litigation

Groups	Number of Cases	Predicted Group Membership	
		Mediation	Litigation
Mediation	124	119 (96%)	5 (4%)
Litigation	76	3 (3.9%)	73 (96.1%)

Percentage Correctly Classified = 96.11

be more open to innovation or more informed about the potential benefits of such a process (Pearson, Thoennes, & Vanderkoor, 1982).

The explanation for those resource variables not making significant contributions may be due to the covariance in the three variables—education, occupation, and income (Scanzoni & Szinovacs, 1980). In the step-wise procedure, occupational status may have best represented the construct of tangible resources, thus making the inclusion of the other tangible resource variables redundant. Are bivariate R 's evidence of this? Factor analysis of these variables would be recommended.

Hypothesis II proposed that all three variables representing the construct divorce acceptance would significantly contribute to the prediction of membership in the mediation or litigation groups, with indicators of high divorce acceptance being associated with couples in the mediation group. Again, this hypothesis was partially supported by the analysis.

The stage of divorce variable, as reported by both husbands and wives, contributed significantly to the choice, with high acceptance of the divorce contributing to the choice of mediation. This was paralleled by the finding that husbands' low interest in getting back together also contributed to the choice of mediation.

The main contributing variables to differentiating between the mediators and litigators (and the main finding which contradicted the expected direction of the hypotheses) was husbands' and wives'

attachment index. Unexpectedly, higher attachment scores were associated with both husbands and wives in the mediation group, i.e., mediators were more "attached" to their spouses and their marriage than the litigation couples. Analysis of the bivariate correlation matrix revealed that attachment was negatively correlated to the stage of divorce and interest in getting back together. In short, the attachment index appears to be an invalid measure for the construct of divorce acceptance. Any explanation for this unexpected result would only be speculative. However, coming from a choice/exchange and conflict perspective, one would assume that if given a choice, the decisions about both the process (technique of resolving—mediation or litigation) and the outcome of a conflict would be based on what is believed to be in one's best interests (cost/reward ratio). Since for both husbands and wives a late stage of divorce was associated with choice of mediation, one could assume that the choice of mediation was based not on trying to reconcile but on the expectation of a profitable outcome or the personal selection of a process (method) which best "fits" one's emotional style. Expanding this reasoning to the attachment index, it may be that a high attachment index, while not a valid measure of divorce acceptance, was an indicator of one's emotional style or state that is more comfortable with the mediation process. It could be that highly emotional individuals in general would choose mediation over litigation. Pearson and Thoennes (1982)

found this to be true from the comments of wives but did not find this for husbands. Because of traditional sex roles, males may not report this. For husbands who reported high attachment, mediation may have been the best alternative, considering their emotional state and their desired outcome.

It does appear that the decisioning theory and the selected context variables can be used to explain adequately the choice of mediation or litigation. Even though this exploratory research cannot explain with certainty how these context variables operate in order to contribute to the decision of mediation or litigation, the fact that these variables can be used to correctly predict 96 percent of couples' choices demonstrates their theoretical soundness.

Determinants of Objective Outcomes

Statistical Results

Selected context variables thought to be predictive of the objective outcome of mediation were investigated in the second analysis. The dependent variable was mediation outcome, either successful completion of mediation or unsuccessful completion. Successful mediation was defined by the couples' reaching a final agreement through the mediation process.

Five conceptual constructs available for entry were tested by the use of 42 selected independent variables into a step-wise discriminant analysis. Table 5 describes these variables, their means and standard deviations. Having 42 independent variables resulted in the loss of a considerable number of subjects due to

Table 5
 Summary of Means and Standard Deviations for Independent Variables in
 Analysis of Objective Outcomes
 (n = 82)

Independent Variables	Means		Standard Deviation	
	Husbands	Wives	Husbands	Wives
Educational Level	3.0	2.64	.78	.75
Income	5.68	3.94	1.55	1.33
Occupation	2.79	3.83	2.01	2.42
Physical Health	1.63	2.09	.78	.80
Stress Level	26.01	26.75	12.32	10.26
Personal Success	5.96	6.48	1.97	1.77
Cooperation Level	3.12	3.20	1.21	1.03
Communication/ Relationships	2.62	2.61	.95	.89
Anger Level	2.77	2.66	1.39	1.25
Stage of Divorce	3.00	3.55	1.16	.76
Interest in Getting Back Together	4.12	4.51	1.49	1.28
Attachment Index	5.22	3.96	3.12	2.56
Age	33.48	31.61	7.04	5.24
Number of Children	1.85	1.87	.85	.82
Length of Marriage in Months	133.05	133.51	67.03	67.03

Table 5 (continued)
 Summary of Means and Standard Deviations for Independent Variables in
 Analysis of Objective Outcomes
 (n = 82)

Independent Variables	Means		Standard Deviation	
	Husbands	Wives	Husbands	Wives
Total Family Income	4.85	4.79	2.50	2.49
Distance on Custody	2.68	2.62	.60	.62
Distance on Visitation	2.11	2.01	.83	.83
Distance on Child Support	1.83	2.01	.81	.85
Distance on Alimony	1.57	1.27	.86	.59
Distance on Property	1.59	1.67	.78	.80

missing data. After trying a process in which all missing data for couples were recoded to the mean of each variable, the results suggested that better discrimination would occur if only real data were used in the analyses. Analysis revealed that of the 42 exploratory variables, 16 variables significantly contributed to the discrimination between the two outcomes. Table 6 reveals these variables, their strengths, and levels of significance.

The standardized discriminant function coefficients revealed that the five strongest husbands' discriminators between the two groups were stage of divorce (2.31), communication/relationships (-1.51), interest in getting back together (1.32), length of marriage (1.26), and total family income (1.34). An analysis of the group centroids and the direction of the discriminant function coefficients revealed the directional influences for each of the discriminant functions. For purposes of interpretation, couples with high scores on all those variables with negative signs can be interpreted as being in the successful mediation group, while couples with high scores on variables with positive signs are associated with couples being in the unsuccessful group. For both husbands and wives, high communication/relationships were associated with successful outcomes. However, the other two common variables for husbands and wives had opposite influences. For husbands, the greater the perceived distance apart on agreement on visitation and property issues, the more likely it was that the couple would

Table 6
 Variable List, Classification Coefficients, and Significance Levels
 for Successful/Unsuccessful Outcomes of Mediation
 (n = 82)

Independent Variables	Unstandardized Discriminant Function Coefficient	Standardized Discriminant Function Coefficient	Wilks' Lambda
H - Stage of Divorce	2.0084	2.31	.6603 ***
H - Communication/ Relationships	-1.2425	-1.51	.6311 **
H - Total Family Income	.5318	1.34	.5226 ***
H - Interest in Getting Back Together	.8784	1.31	.4417 ***
H - Length of Marriage	.0071	1.25	.7175 **
W - Far Apart on Visitation	-1.4711	-1.24	.5800 ***
W - Communication/ Relationships	-1.1452	-1.18	.4566 ***
W - Cooperation Level	-1.1149	- .98	.4085 ***
W - Total Family Income	- .3890	- .97	.3763 ***
H - Far Apart on Property	.8626	.66	.7506 **
H - Attachment Index	.2127	.65	.6215 **

Table 6 (continued)
 Variable List, Classification Coefficients, and Significance Levels
 for Successful/Unsuccessful Outcomes of Mediation
 (N = 82)

Independent Variables	Unstandardized Discriminant Function Coefficient	Standardized Discriminant Function Coefficient	Wilks' Lambda
W - Far Apart on Property	-1.7739	- .62	.6896 **
H - Income	- .3414	- .53	.3804 ***
H - Far Apart on Visitation	.5345	.45	.4831 ***
H - Far Apart on Alimony	.4592	.38	.8468 **
H - Personal Success	.1825	.35	.7911 **
Constant	-5.9824		
Wilks' Lambda = .3763 ***			
Chi-Square = 43.004; D.F. = 16			

* = $p < .05$

** = $p < .01$

*** = $p < .001$

be in the unsuccessful mediation group. This would be consistent with what one would expect. The opposite was found to be true for wives, for whom greater distance on these issues was associated with successful outcomes for the couple.

The husbands of successful couples had higher personal incomes and higher communication/relationships. The husbands of unsuccessful couples had higher feelings of personal life success, later stage of divorce, higher interest in getting back together, higher attachment index, longer length of marriage, and higher total family income. Unsuccessful husbands also had greater distance apart on visitation, alimony, and property issues.

For successful couples, the wives had higher communication/relationships, cooperation level, and total family income. They had greater distances apart on the issues of visitation and property settlements.

Using these 16 variables as group predictors, the resulting discriminant equation accurately classified 78 percent of the cases (see Table 7). This is significantly higher than the expected 50 percent probability. It is important to note the variables which did not significantly contribute to the discriminant equation in the step-wise analysis. For husbands, variables that did not enter were education, occupation, physical health, stress index, cooperation level, anger level, age, number of children, far apart on custody, and far apart on support. Wives' variables that

Table 7

Percentage of Subjects Correctly and Incorrectly Identified According
to Successful or Unsuccessful Mediation

Groups	Number of Cases	Predicted Group Membership	
		Successful	Unsuccessful
Successful Group	48	37 (77%)	11 (23%)
Unsuccessful Group	34	7 (20.6%)	27 (79.4%)

Percentage Correctly Classified = 78.05

were not statistically significant in predicting success of mediation were education, income, occupation, physical health, stress index, ladder of success, anger level, stage of divorce, interest in getting back together, attachment, age, number of children, length of marriage, far apart on custody, far apart on support, and far apart on alimony.

Discussion and Implications

The statistical findings will be discussed in relation to each hypothesis presented for the analysis of objective outcomes. Hypothesis I proposed that for both husbands and wives, higher tangible resources would be associated with successful mediation. Of the three variables representing tangible resources (income, education, and occupation), only income was significant, i.e., higher personal income for husbands was found to be a significant contributor to successful mediation. However, wives' report of total family income (a household characteristic variable) also contributed to successful mediation.

Hypothesis II proposed that for both husbands and wives, divorce acceptance would be associated with successful mediation. Unsuccessful couples included husbands with a more advanced stage of divorce, high interest in getting back together, and high attachment index. None of the wives' variables measuring divorce acceptance contributed to discrimination between successful and unsuccessful couples. It should be noted from the first analysis that attachment did not appear to be representative of the divorce acceptance construct.

Hypothesis III proposed that for both husbands and wives, higher intangible resources would be associated with successful mediation. Of the three variables representing the construct of intangible resources, only the husbands' ladder of success contributed to the discrimination between the group; this was opposite to the direction as hypothesized. Husbands with higher levels of subjective personal success were associated with unsuccessful mediation.

Hypothesis IV proposed that for both husbands and wives, high communication/relationships would be associated with successful mediation. Successful husbands and wives reported high communication/relationships scores. Successful couples also had husbands who believed he and his wife were only a small distance apart on the issues of property, visitation, and alimony. Successful couples had wives who had high cooperation scores, but also had a high perception of distance from husbands on the issues of visitation and property. The results support the hypothesis of high communication/relationships but with the exception of the wives' high distance on issues of visitation and property.

Of the four variables describing household characteristics, husbands' report of length of marriage and wives' report of total family income were significant contributors, with shorter marriages and higher total family income being associated with the couples who successfully mediated.

It is interesting to note that while the context factors contributing to the choice of mediation were similar for both husbands and wives, this analysis of outcomes had different variables contributing for husbands and wives. Results also seem to indicate that the outcome of mediation may depend on internal personal factors for the husbands and relationship factors for the wives.

Determinants of Subjective Outcomes

The third analysis focused on the couples' subjective assessment of the outcomes of the completed agreements. Four outcome constructs (fairness, satisfaction, compliance, and future conflict) were created through the use of four selected variables. Each variable was used twice, once for husbands' responses and once for wives' responses. Two statistical techniques, discriminant analysis and multiple regression analysis, were used in order to understand the relationships between the subjective outcomes and the objective outcomes (discriminant analysis) and to understand the relationships between the context variables and the subjective outcomes (multiple regression).

Statistical Results for the Discriminant Analysis

Table 8 lists the independent variables available in the discriminant analysis, their means and standard deviations. The discriminant analysis revealed that six of the eight subjective outcome variables were significantly related to the success of the

Table 8
 Summary of Means and Standard Deviations for Independent Variables in Analysis
 of Subjective Outcomes
 (n = 168)

Independent Variables	Means		Standard Deviation	
	Husbands	Wives	Husbands	Wives
Fairness	2.45	2.03	1.37	1.07
Satisfaction	2.47	2.09	1.21	1.19
Spousal Compliance	1.78	2.03	.91	1.10
Predict Change	2.62	2.88	1.65	1.61

divorce mediation outcome. Table 9 reveals these variables, their strengths, and statistical significances.

Analysis of the standardized discriminant function coefficients revealed that the most influential variable for both husbands and wives was feelings of fairness. Analysis of the group means revealed that husbands and wives who had successfully completed the mediation process each reported stronger feelings of fairness than did unsuccessful couples.

Husbands' high satisfaction with the settlement and feelings of low likelihood for future modification were associated with the successful mediation group. Wives' positive feelings about spousal compliance was associated with the successful mediators, but, unlike husbands, wives who thought there was a likelihood for future modification of the agreement were likely to be in the successful group.

Using these six variables as predictors, the resulting discriminant analysis accurately classified 70.83 percent of the cases (see Table 10). It is important to note the variables which did not contribute to the discriminant function equation between the groups. These variables were wives' reported satisfaction and husbands' reported spousal compliance.

Discussion and Implications

Hypothesis I proposed that the equity variables of fairness and satisfaction would be associated with the successful mediation

Table 9
 Variable List, Classification Coefficients, and Significance Levels for
 Subjective Outcomes
 (n = 84)

Independent Variables	Unstandardized Discriminant Function Coefficient	Standardized Discriminant Function Coefficient	Wilks' Lambda
W - Fairness	- .5722	-.5949	.8280 ***
H - Fairness	- .3561	-.4633	.7986 ***
W - Spousal Compliance	- .3681	-.3907	.7983 ***
H - Future Modification	.1818	.30	.7862 ***
H - Satisfaction	- .2460	-.2931	.7819 ***
W - Future Modification	- .1374	-.2230	.7800 ***
Constant	3.3149		
Wilks' Lambda = .7718			
Chi-Square = 40.39 ***; D.F. = 6			

*. = $p < .05$

** = $p < .01$

*** = $p < .001$

Table 10
 Percentage of Subjects Correctly and Incorrectly Identified According
 to Objective Outcomes

Groups	Number of Cases	Predicted Group Membership	
		Successful	Unsuccessful
Successful Mediation	58	44 (76%)	14 (24%)
Unsuccessful Mediation	110	35 (32%)	74 (68%)

Percentage Correctly Classified = 70.83

groups. The results supported the hypothesis. For successful couples, both husbands and wives had high feelings of fairness. Husbands of successful mediators reported high satisfaction, but wives did not. According to the standardized discriminant function, feelings of fairness were the strongest contributor for both husbands and wives.

Hypothesis II proposed that high spousal compliance would be associated with successful mediation. The results partially supported this hypothesis. Successful mediation was associated with those wives reporting higher spousal compliance, but this was not a significant contributor for the husbands. This could be explained by the greater importance of spousal compliance for wives (child support, alimony, etc.) than for husbands.

Hypothesis III proposed that feelings about the likelihood of modifications of the agreement would be lower for the successful mediators. For husbands, this hypothesis was supported. Low expectations of future modifications were associated with successful mediators. However, for wives the opposite was true. Analysis of the group means revealed that for the successfully mediated couples, the wives had higher expectation of future modification. This was an unexpected result. It should be noted that the variable measures one's belief in the likelihood of future modifications and not the actual modification. Others have found that successful mediators are less likely to be involved in

future mediation (Pearson & Thoennes, 1982). For a summary of the standardized discriminant function coefficients for each discriminant analysis, see Table 11.

Statistical Results for the Regression Equations

Eight regression analyses (four for husbands' subjective assessment of the mediation outcome and for for wives) were performed in order to discover the relationships of the context variables with the four subjective outcomes. In order to develop the best equation, each variable entered had to have an F ratio of 1.00 or greater. The final equation had to be significant at the .05 level.

Since these analyses were basically exploratory, no hypotheses were proposed. However, the statistical results are presented for each analysis, and interpretation of these results will be in the context of the decisioning paradigm and the general theoretical framework. The independent variables for each analysis were the context variables from the second analysis, with the addition of the variable, successful/unsuccessful mediation, serving as a dummy variable.

Predicting Fairness/Unfairness

Two regression equations, one for husbands and one for wives, were used to determine those context variables contributing to feelings of fairness. The dependent variable, fairness, was measured on a 4-point scale. The variable was recoded so that higher scores reflected higher feelings of fairness. The mean and standard deviations for the fairness variables were reported in Table 8.

Table 11

Summary of Standardized Discriminant Function Coefficients for Choice of
Mediation, Objective Outcomes, and Subjective Outcomes

Independent Variables	Analysis I Choice of Mediation*	Analysis II Success of Mediation**	Analysis III Subjective/ Objective Outcomes***
H - Attachment	.96	.65	
W - Attachment	.49		
H - Interest in Getting Back Together	-.25	1.31	
H - Occupational Level	.24		
H - Stage of Divorce	.23	2.31	
W - Stage of Divorce	.20		
W - Educational Level	.14		
W - Occupational Level	.13		
H - Income		-.53	
H - Personal Success		.35	
H - Communication/ Relationships		-1.51	
H - Length of Marriage		1.26	
H - Total Family Income		1.34	
H - Distance on Visitation		.45	
H - Distance on Alimony		.38	
H - Distance on Property		-.66	

Table 11 (continued)

Summary of Standardized Discriminant Function Coefficients for Choice of
Mediation, Objective Outcomes, and Subjective Outcomes

Independent Variables	Analysis I Choice of Mediation*	Analysis II Success of Mediation**	Analysis III Subjective/ Objective Outcomes***
W - Communication/ Relationships		-1.19	
W - Cooperation Level		- .99	
W - Total Family Income		- .98	
W - Distance on Visitation		-1.24	
W - Distance on Property		- .62	
W - Fairness			- .59
H - Fairness			- .46
W - Spousal Compliance			- .39
H - Future Modification			.30
H - Satisfaction			- .29
W - Future Modification			- .22
Percentage Correctly Classified	96.11	78.05	70.83

* Positive Score = Mediation

** Negative Score = Success in Mediation

*** Negative Score = Success in Mediation

For wives, two independent variables were significant contributors to the prediction equation. Having successfully completed mediation and having higher occupational levels explained 15 percent of the variability in fairness. Interpretations of the beta weights revealed the relative importance of each variable. The variable, having successfully completed mediation (beta .28), was the strongest contributor to the equation (see Table 12).

Husbands also had two variables that contributed to the regression equation. Couple cooperation and communication/relationships explained 24 percent of the variability in husbands' feelings of fairness. Interpretations of the beta weights revealed the relative importance of each variable. Couple cooperation as reported by the husbands was the strongest contributor (beta .31) (see Table 13).

Analysis of the R^2 for both husbands and wives revealed that more of the husbands' feelings of fairness were explained ($R^2 = .24$) by the independent variables than were those of the wives' ($R^2 = .15$).

The relatively low R^2 and the small number of variables entering the equation can be explained by the small N and the restricted range of the dependent variable. As in the analysis of objective outcomes, missing data forced the elimination of many subjects; however, it was decided to use only those subjects that had complete data sets rather than the alternative of substituting the missing data with the group means.

Table 12
 Regression of Variables on Wives' Feelings of Fairness
 (N = 41)

Independent Variables	B	Beta	T
Mediation (Successful = 1)	.5432	.28	2.480 *
Occupational Level	.1105	.26	2.295 *
Constant	1.4774		
$R^2 = .1496$			
Adjusted $R^2 = .1180$			
$F = 6.2873 **$			

* = $p < .05$

** = $p < .01$

*** = $p < .001$

Table 13
 Regression of Variables on Husbands' Feelings of Fairness
 (n = 41)

Independent Variables	B	Beta	T
Couple Cooperation	.3826	.31	2.638 **
Communication/Relationships	.3393	.26	2.241 **
Constant	2.2888		
$R^2 = .2408$			
Adjusted $R^2 = .2211$			
$F = 12.2123 ***$			

* = $p < .05$

** = $p < .01$

*** = $p < .001$

Predicting Satisfaction/Dissatisfaction

Two regression equations, one for the husbands and one for the wives, were used to determine those context variables contributing to feelings of satisfaction with the final settlement. The dependent variable, satisfaction, was measured on a 4-point scale. The variable was recoded so that higher scores would reflect higher feelings of satisfaction. The mean and standard deviation for this variable can be found in Table 8.

For wives, three variables were significant contributors to the regression equation (see Table 14). According to the regression coefficients, the shorter the marriage, the less distance apart on the issue of child support; the less attachment to the marriage, the greater the satisfaction with the final agreement. These variables explained approximately 28 percent of the variability of wives' feelings of satisfaction ($R^2 = .28$). Interpretations of the beta weights revealed the relative importance of each variable. The variable length of marriage had the highest beta weight ($-.33$), followed by the distance apart on child support variable ($-.30$) and the attachment variable ($.26$).

Husbands had two variables predictive of feelings of satisfaction (see Table 15). Couple communication (beta $.32$) was associated with the husbands' feelings of high satisfaction. This result is consistent with naive theory (common sense), communication theory, and the propositions on the role of communication in positive conflict resolution.

Table 14
 Regression of Variables on Wives' Feelings of Satisfaction
 (n = 41)

Independent Variables	B	Beta	T
Length of Marriage	-.0023	-.33	-2.980 **
Distance Apart on Child Support	-.3949	-.30	-2.642 **
Attachment	-.1150	-.26	-2.361 **
Constant	.35635		
R ² = .2768			
Adjusted R ² = .2122			
F = 6.016 **			

* = p < .05

** = p < .01

*** = p < .001

Table 15

Regression of Variables on Husbands' Feelings of Satisfaction

(n = 41)

Independent Variables	B	Beta	T
Communication	.4744	.32	3.015 **
Anger Level	-.25966	-.21	-2.014 *
Constant	.37468		
$R^2 = .14038$			
Adjusted $R^2 = .11805$			
$F = 6.28 **$			

* = $p < .05$ ** = $p < .01$ *** = $p < .001$

The second variable, anger level, was negatively correlated with feelings of satisfaction (beta $-.21$). High anger could have reduced the chance of a positive settlement and could have distorted perception of the final settlement. An accepted proposition in conflict theory is that high emotions distort the perception of those involved in the conflict (Deutsch, 1973).

Analysis of the R^2 for both husbands and wives ($.14$ and $.28$ respectively) revealed that more of the wives' feelings of satisfaction were explained by the independent variables than were those of the husbands. Again, the low R^2 and the small number of variables entering the equation were partially due to the small N and the restricted range of the dependent variable.

Predicting Spousal Compliance

In predicting spousal compliance, a 4-point scale was used (dependent variable). The variable was recoded so that higher scores would reflect higher spousal compliance. The mean and standard deviation for the variable can be found in Table 8. In interpreting spousal compliance, it is important to remember that the belief about compliance is being measured, not the actual behavior.

For wives, four variables were found to be significantly associated with spousal compliance (see Table 16). According to the regression coefficients, perception of spousal compliance is associated with successful mediation (beta $.44$), lesser distance on

Table 16
 Regression of Variables on Wives' Perception of Spousal Compliance
 (n = 41)

Independent Variables	B	Beta	T
Mediation (Successful = 1)	.9748	.44	4.223 ***
Distance on Child Support	-.34353	-.25	-2.411 *
Number of Children	-.3402	-.24	-2.357 *
Couple Communication	.2483	.21	2.022 *
Constant	.14836		
R ² = .3848			
Adjusted R ² = .3444			
F = 9.5388			

* = p < .05

** = p < .01

*** = p < .001

the issue of child support (beta $-.25$), smaller number of children (beta $-.24$), and better communication (beta $.21$). Again, for wives, successful mediation appears to be the most important variable.

Husbands had two variables that were significant contributors to the regression equation: communication/relationships and perceived couple distance on the issue of alimony (see Table 17). Interpretation of the beta weights revealed that communication/relationships ($-.44$) was the strongest contributor. Analysis of the R^2 for both husbands and wives shows that even though the contributing variables are different, the amount of variability explained by each equation is approximately the same, i.e., $.38$ and $.36$.

Predicting Change in the Final Agreement

Predicting change in the agreement was measured on a 5-point scale. The variable was recoded so that higher scores would reflect a higher predicted change in the agreement. See Table 8 for the means and standard deviations for the dependent variable.

For wives, no variables were found to be significant predictors of future change. For husbands, the greater the perceived distance of the couple on the child support issue, the more likelihood of future modification of the agreement (see Table 18). Even though the variable was significant ($p < .05$), the R^2 showed only a small amount (6 percent) of explained variability. As explained in the preceding discussion of the regression analysis, the small N and restricted range of the dependent variable probably resulted from not having more significant results.

Table 17

Regression of Variables on Husbands' Perception of Spousal Compliance

(n = 41)

Independent Variables	B	Beta	T
Communication	.3124	-.44	4.421 ***
Distance Apart on Alimony	- .2041	-.21	-2.167 *
Constant	1.7342		
$R^2 = .3588$			
Adjusted $R^2 = .3305$			
$F = 12.683 **$			

* = $p < .05$ ** = $p < .01$ *** = $p < .001$

Table 18
 Regression of Variables on the Husbands' Predicting Future Modification
 in the Agreement
 (n = 41)

Independent Variables	B	Beta	T
Distance on Child Support	.5258	.25	2.264 *
Constant	3.5049		
R ² = .0616			
Adjusted R ² = .0496			
F = 5.1275 *			

* = p < .05

** = p < .01

*** = p < .001

CHAPTER V

SUMMARY OF RESEARCH

Using secondary data from 200 couples in the Denver Custody Research Project, this research analyzed the influences of 62 variables on the choice of mediation or litigation in divorce proceedings and both objective and subjective outcomes thereof. Of the 62 variables, 46 made significant contributions.

Of the nine hypotheses that were presented, eight were supported or partially supported. Analyses centered on three major research questions:

1. What are the personal characteristics that relate to a couple's choice of mediation or litigation as a divorce process?
2. How are the objective outcomes of mediation influenced by personal and context characteristics?
3. How do the subjective outcomes of the final settlement differ between those couples who were successful at mediation and those who were unsuccessful?

Each analysis attempted to identify husbands' and wives' characteristics and attitudes that were associated with couples' actual behaviors.

One helpful way to summarize the results was to create husband and wife profiles for each of the research questions. Relative

to the first question, husbands in couples who chose mediation appeared to have high occupational levels, a high acceptance of the divorce, low interest in getting back together, yet somewhat contradictorily, appeared to be still emotionally attached to their spouses and former marriage. The wives had a similar profile. Wives in couples accepting mediation appeared to have high occupational and educational levels and high acceptance of the divorce, yet, like their husbands, appeared to be emotionally attached to their spouses and former marriage. The analysis was very successful in discriminating between couples who chose mediation and litigation with over 96 percent of couples being correctly classified into their groups. Overall, the personal characteristics of husbands and wives and context variables were good predictors of the divorcing couples' choice, although in one case (attachment), the direction of the effect was opposite from that hypothesized.

The second research question focused on the ability of the context factors to predict the success or nonsuccess of the couples who chose mediation. Results from this analysis indicated the husbands in couples who were successful at mediation had higher tangible resources but low intangible resources. In the area of communication/relationship patterns, successfully mediated husbands had better communication/relationships and were not far from their wives on the issues of visitation, alimony, and property. These husbands had less interest in getting back together and a low emotional attachment to their wives and former marriage. Their

length of marriage was shorter than the husbands in unsuccessful couples. For the wives in the two mediation groups, the main characteristics were centered on the communication/relationships construct. Wives of couples who successfully completed mediation reported higher communication/relationships and higher cooperation than did the wives of the unsuccessful group. The most surprising and perplexing result was that successful wives perceived the couple as being further apart on visitation and property issues. The context variables were successful in discriminating between the couples who were successful and unsuccessful at mediation. The discriminant equation was 77 percent accurate in predicting successful couples and 79 percent accurate in predicting unsuccessful couples.

Regarding the third research question on subjective outcomes, the husbands' profile for successfully and unsuccessfully mediated couples was as expected. Successful mediation resulted in husbands that had higher feelings of fairness and satisfaction and lower expectations of future modification of the agreement. Again, the wives' profile was not so clear. The successful wives had higher feelings of fairness and reported higher spousal compliance. What was unexpected and perplexing was the association with an increase in future modification of the agreement, i.e., wives who had successfully completed mediation were more likely to anticipate future change in the agreement resulting from the mediation. The analysis was successful in distinguishing between the subjective

outcomes of successful and unsuccessful mediated couples. The overall accuracy rate in predicting group membership (successful or unsuccessful) by the subjective outcome measures was 71 percent.

In the regression analysis, the small number of subjects available (due to missing data) and the restricted range of the dependent variables limited the findings. However, even with these limitations, the results were enlightening.

For wives, having successfully completed mediation was related to feelings of fairness and spousal compliance. Longer marriages, greater distance on child support, and high attachment were negatively related to feelings of satisfaction. The explained variability (R^2) ranged from .3848 for spousal compliance to .1496 for feelings of fairness. No variables were significantly related to expected future conflict (see Table 19).

For husbands, the communication/relationships variable contributed to three regression equations. High communications were related to feelings of fairness, satisfaction, and spousal compliance. Two negative relationships were found. Anger level was negatively related to feelings of satisfaction, and distance on alimony was negatively related to spousal compliance. As one could expect to find for husbands, the greater the perceived distance on child support, the greater the likelihood of future modifications (see Table 20). In attempting to draw some general conclusions about the three research questions, it does appear that for this sample,

Table 19
 Summary of Directional Influences of Independent Variables in Wives'
 Regression Analysis of Subjective Outcomes

Independent Variables	Feelings of Fairness	Feelings of Satisfaction	Spousal Compliance	Future Modification
Successful Mediation	+	0	+	0
Occupational Level	+	0	0	0
Length of Marriage	0	(-)	0	0
Distance Apart on Child Support	0	(-)	(-)	0
Attachment	0	(-)	0	0
Number of Children	0	0	(-)	0
Couple Communication	0	0	+	0
R^2	.1496	.2768	.3848	0

+ = Positive Relationship

0 = No Linear Relationship

(-) = Negative Relationship

Table 20

Summary of Directional Influences of Independent Variables in Husbands'
Regression Analysis of Subjective Outcomes

Independent Variables	Feelings of Fairness	Feelings of Satisfaction	Spousal Compliance	Future Modification
Couple Cooperation	+	0	0	0
Communication/ Relationships	+	+	+	0
Anger Level	0	(-)	0	0
Distance on Alimony	0	0	(-)	0
Distance on Child Support	0	0	0	+
R^2	.2408	.14037	.3588	.0616

+ = Positive Relationship

0 = No Linear Relationship

(-) = Negative Relationship

choice of mediation and objective and subjective outcomes can be predicted with relative success through the use of selected variables consistent with the decisioning paradigm.

Strengths and Limitations

The strengths and limitations of any research rest in the context of the state-of-the-art of that particular substantive issue and the appropriateness of the empirical research tools and methodologies selected. Strengths and limitations of this study will be discussed within these contexts.

In reference to the state-of-the-art, the study of divorce mediation produces several problems for the researcher. Because it is a new field of study, there are limited numbers of subjects available. Those that are available are not necessarily representative of the general population. External validity is always a question. Having used secondary data from a group of subjects who selected themselves into the original study makes generalizations about the results questionable or more limited. Because this research was exploratory in nature, the risks and limitations associated with this problem were accepted. However, this research must be judged for its heuristic contributions rather than for its external validity.

A second problem in researching a new and controversial issue like divorce mediation concerns researcher bias. This issue has been raised by Levy (1984) against the Denver Custody Mediation

Project. Levy questions whether advocates of mediation should conduct mediation research. For this dissertation, this writer has tried to retain a scientific perspective; although, by training, he is somewhat biased in favor of negotiation over adjudication.

Several problems which are associated with the methodologies of the original Denver study are reflected in this study. In reference to the Denver study, high mortality rates of subjects, unequal cases, missing data, differential treatment of control (mediation) groups, and variable quantifications and selection have been questioned. (For a critique of the Denver Custody Research Project study, see Levy, 1984.)

Within this controversial context, the attempt was made in this research to explore a large set of data and to analyze these data from a specific paradigm. One of the main weaknesses of this study is that the crux of the mediation process, i.e., the actual give-and-take bargaining, was not investigated. It is essential to know how the variables studied actually influenced the ongoing mediation process.

Another weakness concerns the creation of constructs using only face validity. Variables were selected and organized into various constructs if they appeared to be related. Any future analysis should look at the validity of those constructs. Any possible violations of statistical research methodologies were undertaken with the understanding that the results would be seen as exploratory and would not be generalized to other populations as "truths."

Implications for Future Research

Most of the suggestions for future research are automatically inferred by those weaknesses previously discussed. However, several suggestions for improving this specific project, similar projects, and mediation research in general are offered.

In reference to this particular research and data set, any future study should (1) concentrate on couple data in an attempt to discover if any typologies of couples exist in reference to the three analyses; (2) place more emphasis on the constructs themselves in order to determine their validity, and (3) do further analysis on those variables which made significant contributions.

Similar projects should add two major variables which were conspicuously absent in this study. One of these would be preference. It would be extremely important to see how sex-role preference would influence the decisioning process. A second variable would be one's conflict resolution style. It would also be very informative to discover the influences of various personal styles of resolving conflicts, e.g., competing, avoiding, accommodating, compromising, and collaborating on the choice and outcome of the divorce process.

For future mediation research in general, it is crucial that the actual process, i.e., techniques of the mediators and the give and take of the negotiation process, be studied. Wall (1981) has outlined an excellent paradigm for investigating the mediation process. Only when the strategies, skills, and behaviors of the

mediator and the conflicting parties are understood will it be possible to positively influence the outcomes of divorce conflicts.

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APPENDIX

Sample Survey Instrument

SAMPLE SURVEY INSTRUMENT

I. Tangible Resource Disparity

A. Education

Question:

What is the highest level of education completed?

- _____ (7)
- _____ (8)
- _____ (9)
- _____ (10)
- _____ (11)
- _____ (12)
- _____ (13)
- _____ (14)
- _____ (15)
- _____ (16)
- _____ (17)
- _____ (18)
- _____ (19)
- _____ (20)

B. Occupation

Question:

What is your occupation?

- _____ (1) Professional technical
- _____ (2) Manager, administrative, businessperson
- _____ (3) Sales worker
- _____ (4) Clerical or similar work
- _____ (5) Craftsman, foreman, or similarly skilled
- _____ (6) Semi-skilled machine or transport operator
- _____ (7) Laborer (including farm worker)
- _____ (8) Service worker (domestic helper)

C. Income

Question:

What is your (exclude your spouse) current gross income from all sources? This includes wages, salaries, investment income, interest, maintenance and welfare payments.

- _____ (1) Under \$2,999
- _____ (2) \$ 3,000 - \$ 4,999
- _____ (3) \$ 5,000 - \$ 9,999
- _____ (4) \$10,000 - \$14,999
- _____ (5) \$15,000 - \$19,999
- _____ (6) \$20,000 - \$24,999
- _____ (7) \$25,000 - \$49,999
- _____ (8) \$50,000 and over

II. Intangible Resource Disparity

A. Physical Health

Question:

Since your separation, what would you say your physical health has been?

- _____ (1) Excellent
- _____ (2) Good
- _____ (3) Fair
- _____ (4) Poor

B. Stress Level

Question:

Which of the following have occurred during the last year? If event occurred more than once, check for each occurrence.

- _____ (1) Death of spouse
- _____ (2) Divorce
- _____ (3) Marital separation
- _____ (4) Jail term
- _____ (5) Death of close family member
- _____ (6) Personal injury or illness
- _____ (7) Marriage
- _____ (8) Loss of job (being laid off or fired, or quitting; not through changing jobs)
- _____ (9) Marital reconciliation
- _____ (10) Retirement
- _____ (11) Change in health or behavior of a family member
- _____ (12) Pregnancy
- _____ (13) Sex difficulties
- _____ (14) Gain of new family member (through birth, adoption, oldster moving in, etc.)
- _____ (15) Business readjustment (merger, reorganization, bankruptcy, etc.)
- _____ (16) Change in financial state (a lot worse or better off than before)
- _____ (17) Death of close friend
- _____ (18) Change to different line of work
- _____ (19) Change in number of arguments with spouse (a lot more or less than usual, re: childrearing, personal habits, etc.)
- _____ (20) Mortgage over \$10,000 (purchasing home, business, etc.)
- _____ (21) Foreclosure of mortgage or loan
- _____ (22) Change in responsibilities at work (promotion, demotion, lateral transfer)
- _____ (23) Son or daughter leaving home (marriage, attending college, etc.)
- _____ (24) Trouble with in-laws
- _____ (25) Outstanding personal achievement
- _____ (26) Your spouse begins or stops work outside the home
- _____ (27) Beginning or ending formal schooling
- _____ (28) Change in living conditions (building a new home, remodeling, deterioration of home or neighborhood)

(continued on next page)

- _____ (29) Revision of personal habits (dress, manners, associations, etc.)
- _____ (30) Trouble with boss
- _____ (31) Change in work hours or conditions
- _____ (32) Change in residence
- _____ (33) Change in schools
- _____ (34) Change in recreation (type or amount)
- _____ (35) Change in church activities (a lot more or less than usual)
- _____ (36) Change in social activities (clubs, dancing, visiting, etc.)
- _____ (37) Mortgage or loan less than \$10,000 (purchasing a car, television, freezer, etc.)
- _____ (38) Change in sleeping habits (a lot more or less sleep or change in part of day when asleep)
- _____ (39) Change in number of family get-togethers
- _____ (40) Change in eating habits (a lot more or less food intake, very different meal hours, or surroundings)
- _____ (41) Vacation
- _____ (42) Minor violations of the law

C. Current Life Satisfaction

Question:

Picture a ladder with ten (10) steps. Suppose we say that the top of the ladder represents the best possible life for you, and the bottom represents the worst possible life for you. Where on the ladder (at what step) do you personally see yourself at the present time?

- _____ (1)
- _____ (2)
- _____ (3)
- _____ (4)
- _____ (5)
- _____ (6)
- _____ (7)
- _____ (8)
- _____ (9)
- _____ (10)

III. Divorce Acceptance

A. Stage of Divorce

Question:

People go through different stages in adjusting to divorce and a new life as a single. Where do you see yourself in the adjustment process right now?

- (1) Reject idea of divorce (interested in reconciliation)
- (2) Ambivalent (attached, wants to be married and yet doesn't)
- (3) Detached (accepts divorce, but down about it; anxious, grieving)
- (4) Accepts (realistic appraisal of marriage; anatomical release of ex-spouse; identifies with new self)

B. Interest in Getting Back Together

Question:

How interested are you in getting back together with your spouse/ex-spouse?

- (1) Very interested
- (2) Somewhat interested
- (3) Not sure
- (4) Not very interested
- (5) Not interested at all

C. Attachment Index

Question:

The following nine statements express how people going through divorce may feel. How do you feel about the following (circle the appropriate number with one being the lowest and five the highest):

	Not at all my feelings		Very much my feelings		
	1	2	3	4	5
a. Everything I have to do seems like an effort	1	2	3	4	5
* b. I find myself spending a lot of time thinking about my ex-husband/wife (friend)	1	2	3	4	5
c. I'm feeling like myself again	1	2	3	4	5
* d. Sometimes I just can't believe that we got a divorce (broke up)	1	2	3	4	5
* e. I find myself wondering what my ex-husband/wife (friend) is doing	1	2	3	4	5
f. I have no interest in anything	1	2	3	4	5
g. I'm angry at my ex-husband/wife (friend)	1	2	3	4	5
h. I do not feel any guilt about the divorce (breakup)	1	2	3	4	5
* i. I feel I will <u>never</u> get over the divorce (breakup)	1	2	3	4	5

* NOTE: Questions were used in computing the attachment index.

IV. Interactional Style/Current Relationship

A. Communication

Question:

What kind of relationship do you have with your ex-spouse today? Can you communicate and work together or is the relationship pretty difficult?

- _____ (1) No relationship or communication
- _____ (2) Communicate through third parties
- _____ (3) Communicate only when necessary
- _____ (4) Can communicate on some areas; not on others
- _____ (5) Can communicate freely

B. Cooperation

Question:

Taking all things together, how would you describe your relationship with your spouse?

- _____ (1) We're still friends and it's easy to cooperate
- _____ (2) Our relationship is pretty strained, but we are able to cooperate
- _____ (3) We have too many problems and hard feelings to cooperate too much
- _____ (4) We're not on speaking terms, and cooperation is just about impossible

C. Subjective Anger

Question:

I'm angry at my ex-spouse (husband or wife).

- _____ (1) Not any feelings at all
- _____ (2) Mild anger
- _____ (3) Not sure; mixed
- _____ (4) Somewhat angry
- _____ (5) Very much my feelings

D. Distance on Settlement Issues

Question:

Are you and your spouse far apart on the following issues
(circle the appropriate number):

	Not Very <u>Much</u>	<u>Somewhat</u>	Very <u>Much</u>
a. Custody	1	2	3
b. Visitation	1	2	3
c. Child support	1	2	3
d. Alimony	1	2	3
e. Division of property	1	2	3

V. Household Characteristics

A. Age

Question:

What is your age? _____

B. Number of Children

Question:

How many children do you and your husband have? _____

C. Length of Marriage (in months)

Question:

How many months between marriage and date filed for
divorce? _____

D. Total Family Income

Question:

At the time you separated, how much was your total family income before taxes? Include both your income and your former spouse's income.

- (1) Under \$2,999
 (2) \$ 3,000 - \$ 4,999
 (3) \$ 5,000 - \$ 9,999
 (4) \$10,000 - \$14,999
 (5) \$15,000 - \$19,999
 (6) \$20,000 - \$24,999
 (7) \$25,000 - \$49,999
 (8) \$50,000 and over

VI. Subjective Outcomes

A. Fairness

Question:

How fair do you think the process of arriving at a custody agreement was to you?

- (1) Perfectly fair
 (2) Quite fair
 (3) Not very fair
 (4) Absolutely unfair

B. Satisfaction

Question:

How satisfied are you with your divorce settlement or court decree? Would you say you were

- (1) Very satisfied
 (2) Somewhat satisfied
 (3) Somewhat dissatisfied
 (4) Very dissatisfied

C. Spousal Compliance

Question:

An important question is how well couples live up to their divorce agreements and court orders. Is your former spouse complying completely with the agreements and court orders of the divorce settlement?

- _____ (1) Complete compliance
- _____ (2) Generally complying
- _____ (3) Generally not complying
- _____ (4) Completely not complying

D. Future Modifications

Question:

Right now, do you predict that you will want to reconsider and/or modify these terms at some later date?

- _____ (1) I am sure I will want a modification
- _____ (2) It is likely I will want a modification
- _____ (3) I can't tell (neutral)
- _____ (4) It is likely I will not want a modification
- _____ (5) I am sure I will not want a modification