

# **Parent Reactions to Mediation Services Of the County Mediation and Family Court Services Program**

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This report is provided for the Stone Soup Dispute Resolution Knowledge Project as an illustration of qualitative research. The sections highlighted above are missing for some reason. Presumably, the rest of the report should be useful nonetheless.

## **Introduction**

This report summarizes interviews with 18 parents who had mediated child placement and access issues in the County Mediation and Family Court Services Program. These parents were interviewed in five focus groups conducted during July and August 1991. The interviews followed a general script, which is attached as Appendix A. The questions in the script were used as initial probes and follow up questions were asked based on the parents' responses. There was some variation in the content and flow of the interviews because of their open-ended nature, revisions in the script between interviews, and time limitations. The interviews generally lasted two hours and were taped and transcribed. (Suggestions for conducting similar focus group research are included as Appendix B.)

Parents were selected to be interviewed to reflect the approximate proportion of parents who reach agreement in the Mediation Program. Because parents were not selected randomly and because of the small number of parents interviewed, readers should be cautious about making inferences about the generalizability of the responses, especially the quantitative distribution of the responses, to the population of parents who use the services of the Mediation Program. In other words, this report should be useful in identifying parents' reactions in some detail. One can properly infer that a certain percentage of parents had particular reactions identified in this report only with further research. If further research is desired, this report should be very helpful in designing the research plan.

Several other cautions are in order. First, some of the parents' descriptions may be inaccurate because the events they described typically occurred a year or more before the interview. Indeed, several parents commented about their difficulty in recalling events and it became clear that at least in some particulars, some recollections were inaccurate. Second, responses were not validated by comparing them with the accounts of others involved in the cases or with case files. In no case were both parents in a mediation interviewed for this project. Nor were the mediators or attorneys involved in the cases interviewed. Given the contentious and emotionally charged nature of the subject, it is likely that some of the accounts were one-sided, possibly distorting some relevant facts and omitting others. Third, some reactions may have been influenced by the outcomes of the mediation and parents' satisfaction with the results. Our impression was that parents who reached agreement were generally more positive about their experiences than those who did not reach agreement. However the parents interviewed seemed fairly sober in their assessments. Some who were generally satisfied with the agreements pointed out problems they experienced and some parents who were most dissatisfied acknowledged merits of the process in their case and in the program generally.

This report is organized into several major parts with headings shown in the table of contents. Most parts include a series of short paragraphs summarizing relevant findings followed by a series of illustrative quotations which are indented. Readers who wish to skim the report may simply read the summary paragraphs and skip the

quotations. Readers who wish to get a richer understanding of the parents' perspectives will want to read the quotations. Note that quotations were selected for their illustrative value. The number or length of quotations included do not necessarily represent the distribution of opinions either within the sample interviewed for this report or the population of parents using the Mediation Program services.

### **How Parents First Heard about Mediation**

Many of the parties first heard about the mediation program from the judge or the court commissioner in their case. Almost as many said that they heard about the mediation program from their attorneys, or in one case, from a letter from the other parent's attorney. One person said that he knew the secretary for the mediation program and she suggested that he try mediation. Several respondents had gone through mediation more than once and thus were obviously familiar with the program when they went back the second time. None of the respondents said that they had first heard about mediation from their friends or relatives or that they had heard about it before disputes over child placement.

### **Orientation and Assessment**

Parents began mediation by attending an orientation and assessment session in groups, typically including 10 to 20 parents. During the orientation, the mediators made a presentation and show a videotape to describe how the process works. Then the mediators met separately with each set of parents to evaluate whether mediation was appropriate in that case. (In some cases, the assessment was conducted on a separate day than the orientation.) During the assessment, mediators frequently helped the parties to develop a joint parenting statement describing the parties' goals for their children.

### **What Parents Liked about the Orientation and Assessment**

Several parents commented that the orientation was helpful in explaining how the process would work and about issues that often arise in mediation.

"[The orientation process] familiarized me with what was going on. Before it was a little confusing as far as what mediation was about and the process that they used."

"[In the orientation] you got introduced to the whole process of mediation, which I was very unfamiliar with at the time. They explained it quite well."

"[The videotape] was informational just so that you knew the process or the order of things that you were going to go through. They kept it short and sweet and I was pleased about that because that kind of presentation is always boring. So I thought they did that well."

"I was made aware of the fact that the court system is now recognizing father's rights a little more than it has, perhaps. Whereas by using these mediations -- not that it was always wrong in the past for children to be placed with their mothers more -- but they're recognizing that it's equally important for the child to have a healthy relationship with the father too."

"[The videotape] really, in my estimation, didn't slant towards the man or the woman. It showed no fault either way and that's what they tried to emphasize. There was no fault no matter what the case was."

"I think [the videotape] explained the issue of joint custody quite well."

"The movie was so typical."

Many of the positive comments described how the orientation and assessment helped the parents focus on the needs of their children.

"I liked the presentation where they come right out and they stated that, 'Hey, we're not going to be arbitrators in a war. We're here for the benefit of the minors, which you're all here for. And we're going to be a neutral observer. And we're trying to keep you on a proven path for the benefit of the kids.' And they kept emphasizing that. And if anything brought myself around, it was that."

"I thought the movie was very good. It was very close to TV programs and any books that you read, but it's trying to get the other half to actually see that children aren't toys. They're real people with real goals."

"I remember watching a movie on how important it is to try to solve your problem, to try to come to some resolutions to lessen the effects on the children. I remember that that was a real positive thing which made a lot of sense to me at that time."

"I thought [the parenting statement] was real positive. Because of your parenting statement [you talked about] 'What do you want for your kids? What do you want for your spouse now that you're going to be divorced?' ... I thought [that] really made you aware of your feelings and start rethinking your values. I mean all this emotion being real strong -- it just gave you some time to really think about what it is. What should you want for your kids? So I think that was real good."

"I think the emphasis was on the children and they emphasized all the ramifications to your children -- what's best for them."

Several parents said that the assessment helped them see each other in a more balanced way and it improved communication between them. This was especially important for some sets of parents who had little or no communication at the time. As

some of the following comments indicate, the improvement in communication that began in the assessment session helped them to ultimately reach agreement.

"It was nice to have a middleman where you wouldn't get the phone hung up on you or you wouldn't get the door slammed in your face."

"At first it wasn't easy because we hadn't spoken in so long. Neither one really wanted to talk to the other one. It was kind of nice to have someone else there to ask the questions and get you talking a little bit."

"[What I liked about the orientation session was] just being able to talk. I felt that it was easier for me to talk to my ex with an objective person there, because a big problem between us is communication. Either I would clam up or she would clam up and it would be a stalemate. Having an objective person there that was able to say, 'Look.' He was on each side of it to each of us if there wasn't something we were agreeing on. It really helped things along."

"[Developing a parenting statement during the assessment] was very helpful because [my ex-wife] had this [idea of a] dark side of me, thinking how I really felt of my child. She finally was kind of open-eyed because of the statements that I made about how I would like to see my child growing up and all that. And it showed her that maybe I'm not the dark guy with the horns, that I do have a halo and [she] finally realized that. She says, 'Geez, he's not the bad guy that everybody says he is and he does want to see this for his daughter.'"

Many of the respondents liked having the orientation in a group. One put it this way:

"You're glad to see [you're] not the only one with this problem. But at the same time everybody's looking at you going, 'God, you know, I got a problem too.'"

### **What Parents Disliked about the Mediation Process**

Several parents expressed dissatisfaction because they felt unable to raise certain issues such as the other parents' mental condition, drug abuse, history of spouse abuse, or emotional issues involved in the dispute.

"I think the biggest problem with the whole mediation is the mediator assumed that we were both normal, healthy people that needed to resolve things, and it wasn't the case. But I never was able to bring that out in mediation."

"It was so controlled. I mean it was like every time -- you know, if I tried to speak, he would say, "Wait, and then we'll go into the next session." So it ended up being many sessions. I was also -- and partly it was my fault, and he did talk to me about this a little bit later that, you know, he could have been more -- I was afraid because of the mental state of my ex at the time. I could tell -- if I you

know, really pressured him or brought that -- I didn't know if he'd end up in the hospital. I didn't know what would happen to tell you the truth."

"The big issue [of my ex-wife's drug use] wasn't dealt with. They didn't want to deal with it. I tried to bring it up and it was like, 'We're not here to talk about what she's doing. We're here to do what's best for the kids.'"

"All I remember is [the questionnaire] asked if there was abuse in the marriage and I had wrote yes or checked yes or whatever, but it was never brought up in the mediation. And then a few times there came a point where we were kind of at a standstill, and so then he would ask my ex-husband to leave, and then he'd talk to me. So I was still uncomfortable and ashamed to even admit it to this guy, so I just told him just a little bit, as much that I could get by with. And it wasn't until after that I just called him and I said, 'Why am I going through this if I didn't have to?' Well, he wouldn't even bring it up in the mediation, not the first time. The second time he did because I had an advocate with me, and so I felt safe enough that that could be brought up. But it wasn't until then. And then he was like, 'Well, I didn't know I could bring that up.'"

"When I brought up [emotional issues] it was like, 'No, we don't address that here. Sorry, we don't address that here. Sorry.' It was a repeated phrase that I heard all the time. 'We don't address that issue here. All we address is physical placement, period.'"

"They didn't take us as an individual situation. ... They kind of had their program set and they weren't going to bend it or mold it around me in any way, shape or form. They already had the mold made."

Some parents felt frustrated that they were not able to discuss financial issues which they believed were related to disputes over child placement or access. Many of these complaints were from parents (usually, but not always, mothers) who believed that the other parents demanded placement or access as a means to eliminate or reduce child support obligations. On the other hand, several fathers said that the mothers wanted child placement to receive welfare payments.

"In my case, they should have addressed the child support issue because that was the crux of the problem, but they refused to address that."

"The main issue for [my ex-husband] was money. He did not want to pay any child support. But we were not allowed to talk about money at all. The first [time we mentioned money] they said, 'Don't bring up money.' But all of his decisions were based on money. So his whole idea in wanting them half the time was so he didn't have to pay anything, and we couldn't discuss that."

"The real motivation behind [mediation], I guess, was basically that my spouse didn't care if he had his son or not. He would deal with him or not. Basically, he

did not want to pay child support, which I think for a lot of men is a big issue. They realize that that's going to be a real problem. And he was very aware that however the physical placement of my son was determined would determine how much on child support would be paid. So what he wanted to achieve was to have equal custody so that he would not have to pay any child support."

"In mediation we could not talk about child support, we couldn't talk about money. We couldn't talk about anything, because we weren't married. I had to do everything through small claims and file a whole bunch of different papers."

"I know why my wife wanted [my son]. Because I have him four nights, she has him three nights. She avoided child support. She makes \$60,000 a year and I was making 26. I mean, that's what led to the point that I don't think the issue is our child at this point."

"She wanted the kids, I wanted the kids. But I felt I knew her well enough to where I knew that she didn't want the kids simply because she thought it was best for them. She wanted them because she wanted to go on welfare. ... I just think that she likes the idea of getting this money from having custody of the kids and it's another bonus with her boyfriend working at General Motors. Here she's making the house payments, you know, with her welfare check."

"The first time [in mediation the discussion focused on the real issues]. The second time I guess we just realized that AFDC was most important to her and we had to work around that."

In some but not all cases the mediators held "private caucuses" where for part of a mediation session, they met separately with each parent. Some parents were frustrated that they were not able to talk with the mediator separately.

"We never really did have a private session. It was such a horrible time in my life, I don't remember things real clearly, but I don't remember [the mediator] ever offering it to us. But what he did do at the end when we realized that we were at a standoff, he called us. He called and suggested an alternative, and I said that I would agree to that, and then he said he would call my ex-husband and try to reason with him and talk with him. When I talked to him on the phone, then I was able to vent a little better what was going on and then he called my ex, and of course, my ex wouldn't agree to anything. So he called me back and I think he really felt bad that he wasn't able to work it out at all. I think it would have been really good for me had we sat down alone and just talked. But he was very careful -- he kept stopping me, and saying, 'I really am not supposed to be listening or hearing you separately,' and suggested that I go to somebody else, a counselor or something to vent what was going on. So you see where I was frustrated, because I didn't see how he could get the whole picture without listening."

"To my knowledge, I don't think that was even brought up that that was an option to have a private session. I think that that would have probably been very helpful for [the mediators] to get a real true picture of what was going on with either one of us, because when you're together and you're in a highly charged emotional situation you don't speak like you do when you know you're alone."

"I would have liked to have [have private caucuses] because I would have felt a little more understood. When your spouse is sitting right there, you certainly don't say or do the same thing that you do when they're not there."

"[The mediator] wouldn't let me talk to him for very long [in private caucus]. I talked real fast and tried to explain to him a little bit about why we couldn't come to an agreement -- it was like the eighth session. ... I got the impression that he didn't want to take any sides at all. He wanted to be very fair, and so I felt like I couldn't be that honest, if that makes sense."

"Because a private session was never offered, they never really lined out options. It was just done, 'Okay, we have to do joint custody is what we'll do.' And I'm going, 'Okay.'"

Some parents expressed ambivalence about private caucuses. They would have liked the opportunity to talk privately with the mediator, but they were concerned about whether their conversations would be revealed to the other parent or whether the other parent might make charges in private that they would not have the chance to defend against.

"There was an issue that I wanted to bring up that I didn't. ... It was really a personal issue on behalf of my ex, and she's very, very defensive about it, but I just didn't know how she would react and I didn't know if she would just deny it or not. But there had been instances of some sexual abuse in her family on her side and I didn't know how or if that was going to affect our daughter. There are times when she seems very depressed -- that's part of the communication problem. There's times when she just doesn't get up until like 10 or 12 o'clock during the day and she just doesn't want to do anything. And I wanted to bring that up. It has changed somewhat since she's gotten married and I just wanted to bring it up because I'm concerned about it. ... She didn't want to bring it up and she hasn't brought it up anymore, which I can understand. It's pretty painful, but it's something that she should deal with, perhaps get some counseling or something. [I might have raised it in mediation], perhaps bring it up to the mediator [in a private meeting] and that would seem like going behind her back, too. If I brought it up to the mediator and she in turn went to my ex and says, "Well, this has been brought to my attention."

"I would maybe like to have one private meeting, but then I suppose the other parent is going to feel, "Gee, I don't know what's being said." I guess in a way, sure, I'd like to have a private session just to get my point across in one straight

shot without having the other party interrupt and want to add comments. But then in the same sense, I don't know if I'd want to sit behind closed doors while they talked, because I wouldn't have a chance to defend myself either on certain issues."

Several parents felt that the mediator pressured them to reach agreement.

"I guess I felt [pressured to reach some agreements so that we wouldn't go to court] from the first day I walked in there. [The mediator] wanted this to be successful and [from] the orientation and all the way through I got the feeling [from him] that going to court is a very bad thing to do for the children. So again I felt guilty, that was part of the reason we continued in mediation. So yeah, I felt real pressure."

"[The mediator] kind of pressured me to the point where both of us knew that the court wanted to get this done and over with. It was going on two years, and it was his longest case. ... He pretty much told me either I was going to have to reach an agreement and pretty darn quick or the court was going to reach an agreement for me, which neither one of us might have liked."

Some parents described problems because agreements reached in mediation were not signed or submitted to court to be entered as court orders.

"Well, with some of the paperwork it was, because she didn't really want to agree on it. But once we had all the paperwork done, I signed and my attorney signed it. It got sent to her, but I guess she never signed it. My attorney called me back saying, 'I don't know if she ever got the paper.' I said, 'Well, she got the paper but she never signed it,' and every time I told her, 'Well, I forgot, I'll sign it.' But she never signed it."

"Well, the first time I was through mediation, we came up with an agreement and the mediator said, 'I will notify your attorneys and send them a copy and I'll notify the court.' And I figured it was done. We made the agreement. It was a contract. They were going to write it all up and it was done and over with. And I had no idea that my attorney was waiting for me to take it or tell him to take it to the court to have the judge sign it. So nine months went by that I knew absolutely nothing, and I thought we were done. And then I got yanked nine months later back into mediation and into the court again."

## **Mediated Agreements**

### **What Parents Liked about Mediated Agreements**

Parents who reached agreements in mediation generally were satisfied with them.

"I think [the agreement] was fair ... [even though if I had gone to court] I think that there was a good chance that [the judge] would have ruled in favor of me. ... I think that what we got now is better because I was afraid that my ex-wife would have begun to disassociate herself with the kids, start to move away from them. And then when she goes with the kids, I was afraid that there would be so many bad emotions about me and the situation. And then [she would] feel sorry for herself because she didn't get to be with the kids much. And what kind of quality time would she be behaving with the children with all these other emotions involved? I thought that would be bad so I think this is the best right now. ... I could have made a personal victory out of myself. I could have put her down saying, 'I'm the better parent and the kids are better off with me.' But the kids would have been the real losers."

"[The agreement] has worked out very well."

"[Our agreement was] a lot better than going through court, because court would have been much worse because she's got a record longer than what the Beatles had. ... It would have damaged not only her, it would have damaged me too from everything that went on through the past few years. So I'm kind of glad I did go through mediation. We didn't have to go to really hate each other, but we just kind of like each other now because we care for the children."

"[My agreement is] actually pretty good. The only thing I think I'd change right now if I ever had to go back to it would be grandparent's rights ... [although that issue] came up after [mediation ended]."

"I'm satisfied with everything if she'll sign it and comply with it. ... I'd say [the agreement is] better [than I would have gotten in court] because I know exactly what I've got. When you go into court, you don't know what you're going to get."

Although some parents did not feel satisfied with the terms of their agreements reached in mediation, they believed the agreements were "the best they could get."

"I'm not real happy with what I got. I would like [my son] some more of the weekends, but it's working out the best we can do it right now. I don't know that it could have come out any better for him."

### **What Parents Disliked about Mediated Agreements**

Some parents were dissatisfied because the other parents were not complying with the agreements. In one case, the mother and her lawyer expected that the father would not comply and intended to use that as the basis for a later modification.

"[In mediation, we reached an agreement that I knew my ex-husband wasn't going to live up to.] It was something that he would sign his name to, which it was the first time, and I was happy for that ... and that was because he was

scared and felt that he had to because it was ordered by the court. I mean, that's a big hammer there. I mean that really impressed him. So in that sense, I would say overall it was good, but I'm still living with a difficult situation, but at least I see light at the end of the tunnel. ... I agreed in court that he would have my son 50 percent of the time, which he doesn't. ... Basically my lawyer told me, 'Just agree to it, and if you can handle it for the next year, keep a chart and the judge will go on what actually transpires.' And so that's what I'm doing. I'm keeping a chart. I have just a few more months, and then I will be going back to court and I will be getting a fair agreement."

Some parents were dissatisfied with their agreements because of problems with the children that they attribute to the agreement.

"I'm still really pissed off about [the agreement] because my little girls do not want to be with their mother. The bawl constantly telling me they don't want to leave with her. She'll show up for weekends to pick them up, they'll hide on her and they'll start crying they don't want to go, they don't want to leave. And it's like my arms are tied behind my back. There's nothing I can do."

"It's too long a period of time when I've had [my son] brought home. He leaves at 1 on Saturdays and he comes back at 7 on Sunday at night. If he comes back right away Sunday morning, we don't have too many problems at all. But the longer [period causes him to come back] ... whining. I couldn't leave the room."

Some parents did not reach agreement in mediation and were dissatisfied because the other parents were uncooperative.

"By the third or fourth session, I'm thinking, "Hey, I'm the one doing all the compromising. They haven't compromised one bit." And so I dropped out of the mediation. I said, "Forget it, I'm going to court."

## **Recommendations from Parents**

Many of the recommendations from the parents interviewed involved improvements in the space used for the mediation process.

"Have one designated area so you don't have to be all over the courthouse."

"We always got pawned off to a room. I mean we spent five, ten minutes looking for a room to go to to have privacy, and we were all over that courthouse."

"They should have had [the orientation] in a bigger room so you didn't have to sit so close to your ex."

"My ex even said to me on the way down in the elevator -- we rarely took the same elevator. They need more elevators in that courthouse."

Some parents had some suggestions about the orientation, especially holding the orientations in smaller groups. Several also emphasized the importance of conducting the assessment on the same day as the orientation.

"The second time I went [to the orientation] we had a much smaller group, maybe four couples, and two of us were not couples, only one party showed up. I think if they kept it maybe four, five couples at the most, it might be pretty good."

"[I think that the orientation and assessment should definitely be on the same day.] I think seeing the video too kind of put you in the mood to want to start mediation. ... You're anxious to start it. It makes you really want to start talking about some of the things because you see things on the screen that relate to some of your problems and you want to start talking about it."

"I think I'd prefer it all in one day. I had to miss half a day of work for mine and I think it would be helpful to have some in the morning and maybe some in the afternoon."

One parent who complained of spouse abuse had some suggestions about dealing with cases where there had been a history of abuse.

"One thing that I didn't like is a comment that the mediator made to my advocate because he couldn't understand my feelings of being scared and stuff. He says, "She was in a room with me. I mean it wasn't like she was alone with him.' And she said, 'Yeah, but after the mediation that's when he would follow her." See, I was scared to go to mediation for what happened afterwards too. I feel like they should have let him out or me out first, basically and let me go, and then let him go, you know. And they didn't do that."

"I would have stopped after one time if I would have known the abuse stuff. ... [If I could have changed something, I] would have had an advocate with me [from the beginning]. That was one of the biggest helps is just having someone there, and she didn't necessarily say anything, but when I'm in a situation where I'm scared and nervous and all that, I can't think straight. So there were several times when I would call a break. We'd go into another room and I'd say, 'Okay, am I being a bitch here or what?' And so she would tell me, 'Yeah, you are. Give in a little bit.' or 'No, you aren't. He's not giving in.' And so that helped me just keep my head straight."

Parents gave a variety of other suggestions as well, such as starting mediation earlier in the process, requiring more than just the assessment, including new spouses in the process more, and focusing more on the problems with the court process.

"As soon as the papers are filed, the system should have you go into mediation. I know in [one] particular case it had to wait until it got all the way to court."

"I wish they were required to attend like three sessions of mediation rather than just the orientation and the assessment because I don't feel that's enough time. ... So it's like I really wish the law was that they have to go to the orientation and maybe two sessions afterwards."

"[I think that new spouses of the parents should be] included more because of the fact that they are very much a part of the everyday lives of the children involved. If they're remarried or whatever, I think that they would have had just as much influence on them as being their biological parents."

"I think it could have been focused a little bit more [on the end results of the real judicial system and the problems of enforcing judgments]. In my situation, it probably wouldn't have done any good, but I think it could help a lot of people if they'd focus more on that in the introduction to it, on how important it is -- not only financially -- just to stay out of the system."

## Appendix A: Protocol for Analysis of Parents' Experiences

### Introduction

1. Thanks for coming this evening. My name is John Lande. Before we go any further, I'd like to ask you each to introduce yourselves.

2. You all share at least one thing in common. You each have gone through the county family court mediation program. This group interview is intended to find out about the experiences of people like you, clients of the mediation program. This interview will be confidential. Only the secretary who types out the interview will hear this tape. So that we can record your responses accurately, please use words rather than nodding your head or saying "uh-huh." It is also important that you speak loud and clear and only one at a time or else you will drive the transcriber crazy. The transcript of the interview and any report based on this interview will not have your names on it. To further protect confidentiality, I ask that when you answer my questions, you not use any names; instead, please refer to my "ex-husband," "ex-wife," "child," "lawyer," etc.

3. We want you to give your reactions as honestly as possible. We do not want you to give what you think are the "right" answers. Also, we are not in mediation, so we are not going to try to get you to agree on the answer to any question. You have each had different experiences and so we expect that you will have somewhat different responses to my questions. Please, do not suppress negative reactions because you don't want to criticize the program. Any real criticisms are important information that the program needs to help the people it will serve in the future. You don't need to go out of your way to find negative reactions, however. In other words, please just call them the way you see them.

4. This interview will last about two hours. At the end of the interview, I will distribute your stipends. We will take a short break about half way through. To avoid distracting each other by getting up during the interview, I would appreciate it if you would hold off going to the bathroom until the break. We can also break for this purpose just before we begin the first half.

5. Do any of you have any questions?

6. Do any of you want a bathroom break before we begin?

1. We're going to start by going back to the time before you went through mediation.
  - a. How did you first learn about mediation?
  - b. Before you started mediation, what were your initial impressions or expectations?
  - c. How many of you had an attorney when you went through the mediation process?
  - d. How did your attorney feel about mediation?
2. Let's talk about the orientation session explaining how mediation works.
  - a. What were the things about the orientation you liked?
  - b. What were the things about the orientation you disliked?
  - c. Did it give you any information that you had not heard before?
  - d. [If so:] What did you learn from the orientation?
  - e. How useful was it to watch the videotape?
  - f. As you look back on it, is there any information you wished you had at the start?
  - g. After the orientation, you met with a mediator to decide whether you would go ahead with mediation, right?
  - h. Did you find that meeting helpful? Why or why not?
  - i. Did you have enough time in that meeting to discuss the things you needed to discuss at that point?
  - j. How long did you have to wait between the group orientation and the individual assessment?
  - k. Was the wait a problem? [If so:] How so?
3. Now we're going to ask you more about what happened in your cases.
  - a. Would you tell me briefly what were the issues that brought you to mediation?

b. I'd like to go around the room and ask you each to briefly tell the story of what happened in your case.

Probe for overview of process and result, e.g.,

- i. when the mediation began and ended
- ii. number of sessions
- iii. what each parent wanted
- iv. problems in reaching agreement
- v. tone of the process, e.g., hostile or cooperative
- vi. whether they reached agreement in mediation
- vii. terms of agreement or court decision
- viii. how the decision is working out in practice
- ix. good and bad parts of decision

4. Now let's talk about the mediation process itself.

- a. What were the things about mediation you liked?
- b. What were the things about mediation you disliked?
- c. What did the mediator do that was most helpful?
- d. What did the mediator do that was least helpful?
- e. I am going to list several things that mediators sometimes do and ask you which of them the mediator did in your case, and how helpful you found them:
  - i. focus the discussion on the needs of the child[ren]
  - ii. provide information about the psychological needs of children generally
  - iii. help the other parent better understand your point of view
  - iv. help you better understand the point of view of the other parent

- v. suggest possible agreements
- vi. discuss the likely effects of possible agreements
- f. How well did you feel that the discussion focused on and dealt with the real issues involved in your case?
- g. Were there things that you wanted to say that you did not have a chance to discuss?
- h. [If so:] What didn't you have a chance to say?
- i. In mediation, did the mediator discuss what would happen in court if you did not reach an agreement?
- j. [If so:] What did the mediator say?
- k. Did the mediator say anything different than your lawyer about what would happen in court? [If so:] What?
- l. Did you feel that the mediator favored you or the other parent at any point?
- m. [If so:] How did he or she do that?
- n. Did you have any private meetings with the mediator?
- o. How did you feel when the mediator was in a private meeting with you?
- p. How did you feel when the mediator was in a private meeting with the other parent?
- q. Would it have been helpful to have more or fewer private meetings with the mediator? [If so:] Why?
- r. How well were you able to stand up for yourself and protect your rights in mediation?
- s. How much do you feel that you had the opportunity to influence the outcome of the mediation?
- t. Did you feel that the mediator pressured you to decide one thing rather than another?

[If needed, give an example, such as deciding that a child should spend weekends with one parent rather than another.]

- u. [If so:] What did the mediator say or do that made you feel pressured?
- v. Did you feel that the mediator pressured you to reach an agreement to prevent you from going to court?
- w. [If so:] What did the mediator say or do that made you feel pressured?
- x. Should the mediation process have moved more quickly or more slowly?

5. This next series of questions deals with the agreement or court decision in your case. [As appropriate, feed back summaries of responses and mention whether the subject had or had not reached agreement in mediation.]

- a. For those of you who reached agreement in mediation, how satisfied are you with it?
- b. If you had gone to court from the start, do you think that the judge's decision would have been better or worse than your agreement? [If so:] How?
- c. [For those with attorneys:] What did your attorney say about this?
- d. For those of you who did not reach agreement in mediation, did the mediation process affect the process after mediation ended? [If so:] How?
- e. Did you reach any agreements in mediation that were later included in the settlement or court decision?
- f. [If so:] Please describe the agreements reached in mediation that you kept and the issues that were not resolved in mediation.
- g. How satisfied are you with your experience in mediation?
- h. Thinking back about what happened after mediation ended, would you have done anything differently in mediation?
- i. Is there anything you wish the mediator had done differently?
- j. [All:] If you had not gone through mediation, how do you think that things would have been different? [Probe for both process and outcome]
- k. Have you or the other parent failed to comply with the decision? When I say "decision," I also mean any agreement to modify the initial decision. [If so:] How?

- i. How well does the decision meet your needs?
- m. How well does the decision meet your child[ren]'s needs?
- n. Has your child[ren]'s behavior or emotional patterns changed since the mediation?
- o. [If so:] How? Do you think that these changes were related to the mediation?
- p. Has mediation affected your relationship or communication with your child[ren]? [If so:] How?
- q. Has mediation affected your relationship or communication with the other parent? [If so:] How?
- r. Has mediation affected the way that you and the other parent make decisions about your child[ren]? [If so:] How?
- s. Have any of you been back to mediation?
- t. [If so:] Please tell me what happened.
- u. Have any of you been back to court after reaching an agreement in mediation or having an initial court decision?
- v. [If so:] Please tell me what happened.
- w. Do you feel that mediation was worth the time and effort you put into it? [If so:] Why or why not?
- x. If you could change anything about the mediation program, what would you change?
- y. If I was about to start in mediation, what would you advise me to do?
- z. Was there any information that you would have liked the mediator to provide, such as information on parenting classes, needs of children of different ages, effects of divorce on children, etc.? [If so:] What information?
- aa. Would you have liked the mediator to refer you to any additional services, such as child care while attending court activities, counseling, divorce education, placement supervision services, follow up support or discussion groups, etc.? [If so:] What services?

- bb. Did you have problems scheduling mediation sessions?
- cc. Would you have liked the mediator to call you a month or two after the mediation to ask how things were going?

## Appendix B: Suggestions for conducting focus group evaluations of mediation program services

The first steps in designing a research project involve deciding on the goals of the research and then considering the best means of achieving those goals. Focus group interviews are especially useful in eliciting in-depth understandings of individuals' experiences and perceptions. Generally, focus group research is not as useful in determining the proportions of particular populations who have one view or another; however, focus group research can be extremely helpful in developing standardized survey questions that could provide valid information about the distribution of attitudes in the population of mediation program clients.

After deciding to use a focus group method to study mediation program services, it is important to determine which groups within the population of mediation clients to study. For example, one might ensure that focus groups include clients in cases involving allegations of spousal or child abuse, alcohol or other drug abuse, psychopathology, power imbalances etc. One might set up special homogeneous groups based on such characteristics to make it easier for participants to discuss sensitive issues. For example, we found that in an all-women group, women raised more complaints about men seeking child placement to avoid child support than in a mixed-gender group. Clearly, focus groups should include some clients who reached agreement in mediation and some who did not.

The interview protocol should be designed to assess the issues of primary concern regarding the operation of the mediation program and should be tailored to reflect the programs' particular practices. If some groups will be limited to special sub-populations such as women with complaints of spouse abuse, the protocol for those groups might include additional questions focused on issues particularly relevant to those groups.

After deciding on the general composition of the groups and the interview protocol, clients should be invited to participate in the discussions. In our study, staff of the County Mediation Program telephoned prospective participants to explain the purposes of the study and to determine their willingness to participate and the times when they would be available. We found that participants generally preferred to meet in the evenings although we scheduled one group to meet in the day time for parents who worked at night.

After determining the availability of prospective participants, focus groups of three to six individuals should be scheduled. To prevent unproductive arguments and protect confidentiality, we did not include in the study both parents of the same child. Letters should be sent confirming the participants' agreement to participate in the study. In addition, participants should be given reminder calls a day or so before their focus groups. (After five of the six individuals who were supposed to be in our first focus group failed to attend, we began making reminder calls which improved attendance

dramatically.) If the budget permits, participants may be offered stipends for participating. We paid participants \$20 each and we provided refreshments during the focus group interviews. We paid the participants in cash and asked them to sign receipts to account for the payments.

To encourage participants to discuss their experiences openly, focus group interviews should be conducted by professionals who are not connected with the mediation program being evaluated, especially not the mediators themselves. Similarly, focus groups should not be conducted in mediation program offices. (We conducted the interviews in a conference room of a nearby hotel.) Interviewers should encourage participants to respond openly, providing both positive and negative reactions, and assure them that their responses will remain confidential. (See Appendix A.) To take full advantage of the focus group format, interviewers should use non-directive follow-up questions to clarify, confirm, and elaborate participants' responses. Moreover, if a participant raises an important issue not in the protocol, interviewers should ask the other participants for their experiences with the issue. After each focus group, interviewers should consider whether to modify the protocol to deal with any unanticipated problems.

Interviews should be audio taped if at all possible. This provides a verbatim record of the questions and answers and thus is a much better record than interviewer notes. In addition, it frees interviewers to devote their full attention to the conversation with participants. Interviews should be transcribed if the resources are available to do so. Finally, participants' comments are analyzed and summarized in a written report.