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Gregg B. Walker

This paper investigates the nature of disputants' stories within the context of divorce mediation. Tapes and transcripts of actual mediation sessions from three different sources are scrutinized, utilizing a modified form of conversation analysis known as ethnography of speaking. Several themes emerge from this analysis of disputants' stories: the functions of stories, recurring types of stories, mediator responses to disputant's stories, and the significance of storytelling order. The data show several functions for disputant's stories: venting, controlling, bringing in outside interests, and speaking on behalf of the children. Types of disputant's stories identified
include conjoint, matter-of-fact, and emotion-laden stories. Mediator responses to disputants' stories can take the form of soliciting a story, suppressing a story, or refereeing between stories. Analysis of the data reveals that disputant's stories serve two essential purposes: information exchange, and emotional release. Findings indicate that storytelling order is not as significant as shown in previous research, and that disputants' stories often overlook the needs and interests of the children.
Disputant Storytelling In Divorce Mediation
by
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# TABLE OF CONTENTS

<table>
<thead>
<tr>
<th>Chapter</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>I. INTRODUCTION</td>
<td>1</td>
</tr>
<tr>
<td>The Nature of Mediation</td>
<td>1</td>
</tr>
<tr>
<td>Mediation defined</td>
<td>2</td>
</tr>
<tr>
<td>Mediation as a profession</td>
<td>3</td>
</tr>
<tr>
<td>Mediation research</td>
<td>5</td>
</tr>
<tr>
<td>Investigating Disputant Stories</td>
<td>6</td>
</tr>
<tr>
<td>Rationale</td>
<td>6</td>
</tr>
<tr>
<td>Research intent</td>
<td>7</td>
</tr>
<tr>
<td>Procedure</td>
<td>10</td>
</tr>
<tr>
<td>Storytelling Defined</td>
<td>10</td>
</tr>
<tr>
<td>The Mediator as Coach</td>
<td>11</td>
</tr>
<tr>
<td>II. LITERATURE REVIEW</td>
<td>14</td>
</tr>
<tr>
<td>Storytelling</td>
<td>14</td>
</tr>
<tr>
<td>The Place of Stories in Mediation</td>
<td>15</td>
</tr>
<tr>
<td>Stories in Dispute Settings</td>
<td>16</td>
</tr>
<tr>
<td>Stories in the courtroom</td>
<td>16</td>
</tr>
<tr>
<td>Stories in small claims settings</td>
<td>20</td>
</tr>
<tr>
<td>Stories in mediation</td>
<td>23</td>
</tr>
<tr>
<td>Research Questions</td>
<td>32</td>
</tr>
<tr>
<td>III. METHODOLOGY</td>
<td>33</td>
</tr>
<tr>
<td>The Data</td>
<td>33</td>
</tr>
<tr>
<td>Transcript details</td>
<td>35</td>
</tr>
<tr>
<td>Tape details</td>
<td>36</td>
</tr>
<tr>
<td>Demographic information</td>
<td>39</td>
</tr>
<tr>
<td>Session details</td>
<td>41</td>
</tr>
<tr>
<td>Reviewing the material</td>
<td>41</td>
</tr>
<tr>
<td>Data Analytic Method</td>
<td>45</td>
</tr>
<tr>
<td>Conversation analysis</td>
<td>45</td>
</tr>
<tr>
<td>The approach</td>
<td>46</td>
</tr>
<tr>
<td>Chapter</td>
<td>Page</td>
</tr>
<tr>
<td>----------------------------------------------</td>
<td>------</td>
</tr>
<tr>
<td>IV. RESULTS AND DISCUSSION</td>
<td>49</td>
</tr>
<tr>
<td>Types of Disputant Stories</td>
<td></td>
</tr>
<tr>
<td>Conjoint stories</td>
<td>50</td>
</tr>
<tr>
<td>Matter-of-fact stories</td>
<td>54</td>
</tr>
<tr>
<td>Emotion-laden stories</td>
<td>58</td>
</tr>
<tr>
<td>Functions of Stories</td>
<td>62</td>
</tr>
<tr>
<td>Control</td>
<td>63</td>
</tr>
<tr>
<td>Venting</td>
<td>69</td>
</tr>
<tr>
<td>Speaking on behalf of the children</td>
<td>76</td>
</tr>
<tr>
<td>Bringing in outside interests</td>
<td>81</td>
</tr>
<tr>
<td>Mediator Responses to Disputants' Stories</td>
<td>89</td>
</tr>
<tr>
<td>The mediator as story suppressor</td>
<td>90</td>
</tr>
<tr>
<td>The mediator as story referee</td>
<td>96</td>
</tr>
<tr>
<td>The mediator as story solicitor</td>
<td>104</td>
</tr>
<tr>
<td>Storytelling Order</td>
<td>109</td>
</tr>
<tr>
<td>V. CONCLUSION</td>
<td>113</td>
</tr>
<tr>
<td>Findings</td>
<td>114</td>
</tr>
<tr>
<td>Storytelling order</td>
<td>114</td>
</tr>
<tr>
<td>Children's needs and interests</td>
<td>115</td>
</tr>
<tr>
<td>Mediator's responses to stories</td>
<td>118</td>
</tr>
<tr>
<td>Purposes of disputants' stories</td>
<td>119</td>
</tr>
<tr>
<td>Relevance for Practitioners</td>
<td>124</td>
</tr>
<tr>
<td>Limitations</td>
<td>128</td>
</tr>
<tr>
<td>Implications for Future Research</td>
<td>129</td>
</tr>
<tr>
<td>Reflections of the Author</td>
<td>131</td>
</tr>
<tr>
<td>ENDNOTES</td>
<td>134</td>
</tr>
<tr>
<td>REFERENCES</td>
<td>136</td>
</tr>
</tbody>
</table>
# LIST OF TABLES

<table>
<thead>
<tr>
<th>Table</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Literature Review Summary</td>
</tr>
<tr>
<td>2</td>
<td>Data Sources</td>
</tr>
<tr>
<td>3</td>
<td>Demographic Information</td>
</tr>
<tr>
<td>4</td>
<td>Session Information</td>
</tr>
<tr>
<td>5</td>
<td>Steps in Tape and Transcript Review</td>
</tr>
</tbody>
</table>
How do parties tell their stories in mediation? Mediation research to date has primarily examined mediator behaviors and the efficacy of the process. The same scrutiny has not been applied to how disputants conduct themselves and convey their points of view. This study examines the nature of stories told by couples within the context of divorce mediation. After looking at the nature of mediation, and mediation as a profession, this introductory chapter will define storytelling and look at the rationale and intent behind studying the stories of disputants.

The Nature of Mediation
Mediation has been used as a means of resolving disputes for centuries. For example, people in China have utilized mediation for many years, and it remains a part of its legal system to this day (Wall & Blum, 1991). The Japanese have long turned to mediation and conciliation for resolving community and personal disputes. Many other countries around the world make use of the informal dispute resolution process of
mediation, and it has been practiced by churches in the U.S. (most notably the Quakers) since the days of the Pilgrims (Keltner, 1987).

**Mediation defined.**

Although numerous definitions of mediation exist, they generally emphasize a facilitated process of negotiation interaction. John Keltner, formerly a federal mediator and Oregon State University professor, characterizes mediation as "the intervention of a neutral third party to facilitate negotiation in an existing dispute ... the mediator makes no decisions for the parties, [and] has no authority to direct or control the action of the parties" (1987, pp. v, 11). Mediator and author Christopher Moore (1989) adds that the third party must be "acceptable [and] impartial" (p. 14). Expressed succinctly, mediation is "a form of conflict resolution that involves a third party who attempts to facilitate voluntary agreements between two or more disputing parties" (Carnevale & Henry, 1989, p. 481).

Mediation of domestic relations disputes, commonly referred to as divorce mediation, is the focal point of this study. Divorce mediation has some distinctive nuances. In the course of one or more sessions, the mediator helps couples work out agreements dealing with property, money, and parenting, and aids in future
intra-family decision making. It is a "process that helps to enhance communication [and] maximize the exploration of alternatives" (Milne & Folberg, 1988, p. 8), along with considering the needs of all involved. As a couple works towards a reasonable agreement, the mediator works him or herself out of a job by teaching the parties to resolve their own disputes, "thus obviat[ing] the necessity for further third-party intervention" (Pruitt, 1981, p. 207). In the case of a couple with minor children, divorce mediation ostensibly focuses on the children's best interests.

Mediation as a profession.

Prior to this century, mediators tended to be informally trained and became mediators by virtue of performing other occupations, such as clergy or government representative (Moore, 1989). The transformation of mediation into a recognized profession occurred largely over the past fifty years, with discernible growth spurts during the 1970's and 1980's. Mediation is increasingly used to resolve community, business, environmental, small claims, labor relations, and domestic relations disputes. In the area of labor-management relations, for example, mediation was used informally during the first half of this century before being institutionalized in 1947
with the creation of the Federal Mediation and Conciliation Service.

As federal legislation fostered increased use of mediation in the labor relations arena, so has state legislation led to more widespread use of mediation in other areas. The 1990's has seen greater mandated use of mediation for small claims disagreements, in much the same way that mandatory mediation was instituted in domestic relations disputes a decade earlier. In 1981, for example, California passed pioneering legislation which mandated mediation in divorce cases where there was a dispute over child custody or time-sharing/visitation (Shattuck, 1988). Since that time, over two-thirds of the states have instituted programs offering or mandating divorce mediation. This legislative activity followed on the heels of increased use of no-fault divorce laws (now in all fifty states) and early studies seeking a less adversarial approach to resolving domestic relations disagreements (Coogler, 1978; Haynes, 1978, 1981).

Absent specific figures, it still "seems clear" to mediation researcher William Donohue (1991) "that most divorce mediation activity is court-connected" (p. 5). This increase in legislatively mandated mediation has generated a need for professional mediators who mediate either full time or as an adjunct to a career most likely to be in the fields of law, social work, or
counseling (Folberg & Milne, 1988). A study conducted in 1992 graphically illustrates this increased need. The Administrative Office of the Courts in California found that 65,500 divorce mediation sessions were held in that one state in 1991 alone. Commensurate with greater use of divorce mediation, research in the field has also increased.

**Mediation research.**

One school of thought in the 1960's and 1970's held that mediation was an art, and therefore was not suited for scientific study (Meyer, 1960, cited in Slaikeu, et al., 1985a). This mode of thinking gave way as researchers began systematic study of mediation in the 1970's. Much of this early research was based on mediator self-reports (Kressel & Pruitt, 1989), which engendered concerns about accuracy of the results obtained (Slaikeu, et al., 1985a,b; Pearson, 1982). To address these concerns, researchers sought other approaches for studying mediation, such as observing sessions (McEwen & Maiman, 1981, 1984, 1986, 1989), laboratory settings (Carnevale, et al., 1989; Burrell, Donohue, & Allen, 1990), analyzing audiotapes (Pearson 1982, 1991; Pearson & Thoennes, 1988, 1989; Slaikeu, et al., 1985a,b, 1988; Donohue, et al., 1984, 1985, 1988, 1989), or some combination of these methods. A common thread running through these studies was their
concentration on the mediator and mediator behavior. Disputant behavior and interaction remained largely unexplored.

Investigating Disputant Stories

Rationale.
In acknowledging this lack of research into disputant behavior, Donohue (1991) writes: "discussions about communication in the mediation literature ... focus almost exclusively on the mediator, to the exclusion of the disputants" (p. 48). As disputant behavior cuts a rather broad swath, some means of narrowing the focus is in order. Sociologist Craig McEwen has provided that means.

Noted for the seminal studies of small claims mediation he conducted with Richard Maiman (1981, 1984, 1986, 1989), McEwen observes that disputants in mediation use different approaches in telling their side of the issues--their stories. McEwen broadly categorizes these storytelling types as falling into one of two camps: (1) a matter-of-fact approach, or (2) a more emotional presentation. The matter-of-fact approach concentrates largely on the details of the dispute, while the emotional storyteller expresses more anger through personal attacks, blaming, and you-messages. McEwen has questioned whether these
differing approaches might affect the possibility of reaching agreement (personal communication, May 1992).

Storytelling is an underresearched area of disputant behavior in mediation. While some studies have looked at disputant storytelling in the context of mediator neutrality (Fuller, Kimsey, & McKinney, 1992; Rifkin, Millen, & Cobb, 1991; Cobb & Rifkin, 1991; Cobb, 1993, 1994), the nature of disputant stories has not been closely examined. Researcher Dean Pruitt (1989) commented in an interview that while there are researchers looking at mediation "from the perspective of the mediated upon" and others studying the mediator's perspective, "there aren't many people who put the two together" (p. 10). This study seeks to link these two perspectives by expanding our awareness of and sensitivity to the nature of disputant stories (Fuller, Kimsey, & McKinney, 1992). As such, it is one more piece of the puzzle, which, when put together with studies of mediator behavior, will allow for greater understanding of mediation dynamics as a whole.

Research intent.

This investigation seeks to clarify the nature of disputant stories in divorce mediation. The nature of stories touches on several interrelated aspects of mediation--satisfaction, compliance, and voice. Satisfaction refers to how the parties rate their
mediation experience, and is usually determined either by an exit survey administered upon completion of mediation or by contact at a later date to obtain follow-up information. Compliance means the degree to which the parties live up to any agreements reached in mediation. Voice has to do with the disputant's opportunity to verbalize their concerns.

Studies indicate that between 60% and 70% of divorce mediation participants were satisfied with the process (Pearson, 1982, 1991; Pearson & Thoennes, 1988, 1989). Reasons cited for satisfaction include the uncovering of underlying issues, opportunity to be heard, focusing on the children, and a preference for mediation over litigation (Pearson & Thoennes, 1988). Related to satisfaction is the issue of compliance—adherence to the mediated agreement. Satisfied mediation participants have been found to be more likely to comply with the agreed upon terms (McEwen & Maiman, 1984; Pearson & Thoennes, 1988, 1989). As Pruitt (1989) notes: "we find that disputants who emerge from the hearing with a sense that they had their say ... that they were listened to and understood ... were more likely to comply and their relationship is more likely to be repaired in the future" (p. 10).

Because satisfaction and compliance can be affected by a disputant's sense of having been heard, an investigation of the stories disputants tell may shed
some light on these elements of mediation. However, satisfaction and compliance are beyond the scope of this study, which will focus on the stories told by disputants--their voice.

Numerous studies have shown the importance which disputants place on being heard--of having a voice (Thibaut & Walker, 1975; Tyler, 1984; O'Barr & Conley, 1985; McEwen & Maiman, 1984, 1989; Pearson & Thoennes, 1988, 1989). A 1990 study of disputants in small claims cases conducted by John Conley and William O'Barr showed that "the opportunity to have one's voice heard can have a profound impact on a [party's] sense of personal well-being and satisfaction" (p. 174). Although Donohue and his associates (1989, 1991, et al., 1985, 1988, 1989) have conducted research into communicator competence on the part of mediators, disputant's communication competence has not been given the same attention. Donohue's definition of communicator competence is borrowed from Cooley and Roach (1984): "the knowledge of appropriate communication patterns in a given situation and the ability to use the knowledge" (p. 25). For a disputant, this means effectively conveying their concerns, the issues of importance to them. For a mediator, this means facilitating the manner in which the disputants communicate their point of view, or story (Rifkin, Millen, & Cobb, 1991).
While it would be an oversimplification to say that voice equals satisfaction which in turn equals compliance, a mediator can ensure that each party has a voice through telling their story. The intent of this investigation, therefore, is to explore the nature of disputant's stories and help remedy a situation in which "all the texts on mediation cited [in his 1991 book] ... label only mediator behaviors and ignore the disputants" (Donohue, 1991, p. xii).

Procedure.
To investigate disputant storytelling, transcripts, audiotapes, and videotapes of divorce mediation sessions were obtained from three sources (see chapter three). The material from these tapes and transcripts is analyzed via a form of conversation analysis, a method referred to as ethnography of speaking (O'Barr & Conley, 1985, 1988; Conley & O'Barr, 1990). This method entails immersion in the material and examining the stories of disputants over an entire session, rather than focusing on a small segment of the storytelling.

Storytelling Defined
Researchers Bennett and Feldman (1981) define stories as "everyday communication devices that create interpretive contexts for social action" (p. 7). They
add that stories "represent capsule versions of reality" in which the storyteller "selects data, specifies the historical frame, redefines situational factors, and suggests missing observations" (p. 65). According to professors Cobb and Rifkin (1991), "stories or narratives are the discursive structures in which conflicts are constructed and transformed" (p. 51). Stories allow large amounts of information to be better organized and assimilated by those listening.

The Mediator as Coach

Cobb and Rifkin (1991) note that "mediators are trained to reduce adversarial processes; to do so they track ... psychological processes, they do not attend to discourse." In short, "mediators are not trained to attend to narrative processes" (pp. 59, 60). Cobb and Rifkin are acknowledging the fact that, historically, mediators have not received instruction in dealing with disputant's stories. This study may aid in increasing mediator awareness of the role played by stories in mediation. Should mediator skills be sharpened as a result, the mediation process will be improved.

A clearer understanding of the nature of disputant stories can aid in fulfilling what Moore (1989) calls "the coaching role" (p. 144) of the mediator. Along with a situation where a mediator assumes an active coaching posture, disputants are able to learn from a
mediator who models appropriate speaking and listening skills. Ray Lowe, of the Eugene, Oregon family mediation program, notes that a mediator's impact can transcend the bounds of the mediation session through what he calls 'seed planting' (personal communication, 1993). Even if the mediation does not end in agreement, the seed of improved communication competence may take root and surface during future disagreements. This aids in realizing one of the espoused benefits of mediation—its educative value (Folberg & Milne, 1988; Wolff, 1983). In mediation, "the disputing parties are suddenly and intimately aware of a new approach to resolving differences" (Volkema, 1986, p. 45). When mediation reaches its transformative potential (Baruch-Bush & Folger, 1994), the parties may leave mediation with new dispute resolution techniques and enhanced communication competence.

As previous research has sought ways to improve the mediation process, so this study seeks to make a contribution by analyzing disputant's stories. This information can, in turn, be a starting point for teaching mediators about the nature of stories in mediation. If mediators become better communication facilitators through awareness of disputant's stories, the mediation process will benefit. The reporting of this will unfold as follows: chapter two will present
a review of the literature, looking at storytelling in dispute settings along with pertinent studies of mediation. The methodology, found in chapter three, addresses how the tapes and transcripts—the data for this study—were assembled and analyzed. Chapter four examines transcriptions from actual divorce mediation cases. The analysis of the transcriptions is organized under four headings: types of disputant stories, functions of those stories, mediator responses to the stories, and storytelling order. In the final chapter, findings are detailed, along with sections addressing the limitations of the study, relevance for practitioners, and opportunities for future research.
CHAPTER II

LITERATURE REVIEW

Storytelling

The term storytelling may elicit thoughts of oral history passed between generations, fables heard as children, or literature classified as short stories. Storytelling as used in this paper for describing disputant's narratives has a sharper focus, yet may still seem nebulous when it comes to attaching a precise meaning. Polanyi (1989) states that "competent users of language recognize when a story is being told ... story recipients are alerted by conventional story introducers" (p. 15). In What Stories Are (1986), Leitch concurs with Polanyi, suggesting that "everyone knows what stories are--fortunately; for it is excessively difficult to say just what they are" (p. 3). He then spends a full chapter endeavoring to tell what stories are not. Whether we label disputants' discourse as reports, narratives, or stories, research can increase our knowledge of the manner in which the parties convey their point of view. After studying the role of how stories and legends played a part in conflict resolution among the First Nation peoples in Canada, Duryea and Potts (1993) note that "an understanding of the structure and power of narratives
is important to effective conflict intervention in any
cultural context" (p. 387).

The Place of Stories in Mediation

Most mediation formats allow a time for the
disputants to tell their stories with little or no
interruption. In Moore's (1989) twelve stages of
mediation, this storytelling opportunity occurs at
stage six; the parties state their positions during
phase three in Keltner's (1987, 1992) seven phase
sequence of events. Taylor (1981) emphasizes the
importance of allowing "adequate time for each
participant to present his or her view of the
situation" (p. 66), which happens during the first of
eight stages in her general theory of mediation.
Emery (1994) utilizes a 'problem solving stage' during
which the parties tell their stories. Melamed and
Corcoran (1994) designate one of their seven stages as
"fact finding and isolation of issues" (Ch. 5, p. 3).

These stories serve as communication devices for
simplifying, selecting, symbolizing, and organizing
information to allow for interpretation and judgment on
the part of the listeners--both the mediator and the
other disputant(s) (Bennett & Feldman, 1981). The
initial narratives can play an important part in the
conveying of information, for it may well be "the first
time that the parties have sat and actually listened to
an uninterrupted statement of the views" of the other disputant (Kovach, 1994, p. 86). While this study examines stories over the course of entire mediation sessions, these "opening statements" often contain the richest narratives.

Stories in Dispute Settings

From the courtroom (Bennett & Feldman, 1981) to small claims disputes (O'Barr & Conley, 1985, 1988; Conley & O'Barr, 1990) to mediation (Fuller, Kimsey & McKinney, 1992; Cobb & Rifkin, 1991; Rifkin, Millen & Cobb, 1991; Cobb, 1993; Cobb, 1994; Rogers & Francy, 1988), researchers have examined how parties tell their stories in differing arenas. While the context may vary, the common theme is a disputant's attempt to convey his or her point of view by means of a story.

Stories in the courtroom.

Bennett and Feldman's 1981 collaboration looked specifically at storytelling in a courtroom context. For most disputants, courtrooms and mediation sessions are foreign settings, environments outside the norm which can influence comfort level and the ease with which parties tell their stories. In addition, the research of Bennet and Feldman is germane to the topic at hand because of how they describe the elements of storytelling and also the manner in which they
scrutinize the characteristics of stories told by disputants. Describing storytelling as a way of re-presenting historical reality, Bennett and Feldman (1981) see stories as "symbolic reconstructions of events and actions ... [which allow] for the development, climax, and denouement of action" (pp. 6, 7).

Noting that the structural characteristics of a story are generally the critical elements for a listener to determine whether or not a story is true, Bennett and Feldman (1981) found that "the structure of a story can be just as important as its documentation" (p. 67). In both the courtroom and mediation, the structural properties of a story become particularly important when "facts or documentary evidence are absent ... [and in] cases in which a collection of facts or evidence is subject to competing interpretations" (Bennett & Feldman, 1981, p. 89). Bennett and Feldman (1981) explain that "stories 'develop' the relations between acts, actors, and situations ... to a point of [establishing] a dominant central action ... the 'point' of the story" (p. 47). Through what Bennett and Feldman characterize as bookkeeping devices (consistencies in story format), the listeners (both the other party and the mediator) can both organize information and form some preliminary judgments.
Bennett and Feldman see storytelling as reconstructing an event within contextual factors, chief among them being what has transpired in the session prior to the story being told, interests present, and the perceptions of the audience. One may infer from their emphases that storytelling is an interactive event, with importance attached to both the telling and the listening. Labelling this as the "storytelling-interpretation process", Bennett and Feldman point out that choices are made by both teller and listener during the duration of the story, which applies regardless of the setting.

Whether in a courtroom or mediation session, listeners have different skills when it comes to interpreting the stories that they hear: "the judgments about any story will be a product of the interaction between the symbolic form of the story and the interpretive capacity of the audience" (Bennett & Feldman, 1981, p. 73). While the story listening skills of a mediator can be enhanced through training, effort, and awareness, the "interpretive capacity" of the other disputant(s) in mediation may be hampered by the shared history of the parties. One researcher has suggested that mediators can act as managers of stories (Cobb, 1994), thus increasing the likelihood of each party's story being heard. Conley and O'Barr (1990) believe that "a story does not exist fully developed on
its own, but only emerges through a collaboration between the teller and a particular audience" (p. 171). As a disputant in a courtroom may focus on swaying a judge or jury, so might a party in mediation tailor his or her story to the people present, for "the audience is in some respects as important to the form of an account as the 'facts' being recounted" (Conley & O'Barr, 1990, p. 171).

Bennett and Feldman (1981) also touch on the effect that language differences can have on storytelling. The mediation literature of the past few years shows increased awareness of and concern for cultural variations and the potential impact of such differences on the mediation process (for example, Mediation Quarterly for summer, 1992--Volume 9, Number 4--devotes an entire issue to cross-cultural concerns; see also Donohue & Bresnahan, 1994), but Bennett and Feldman's emphasis falls along another line. Their concern is not so much with cultural divergence and foreign languages, but with differing syntax and vernacular within a particular language. Such variations might prove disadvantageous to ethnic groups as well as working class people whose use of language is not as formal as that of the middle class. Conley, O'Barr, and Lind (1978) contend that in some instances, interpreters might be needed "to mediate
between speakers of very different versions of the same language" (p. 1398).

Bennett and Feldman (1981) see language as vital to story construction for two reasons: "coding story elements for proper assembly and ... setting up inferences (p. 172). They add that "storytelling can sustain the conscious presumption of objectivity and fairness ... only if participants ... presume the existence of a broad uniformity in communication skills and social experience" (p. 181), which they consider a dubious presumption. As a means of mitigating potential bias or discrimination, Bennett and Feldman (1981) suggest one possible remedy: introducing all involved to the concept "that social norms and understandings are anchored in experience and, therefore, may differ from one group to another" (p. 179). While they dismiss this remedy as "unrealistic" in a courtroom setting, such a resolve might well be attainable in the realm of mediation and mediator training.

Stories in small claims settings.

Storytelling in a traditional courtroom takes place within the constraints of rules of evidence, which proscribe the introduction of hearsay and non-expert opinions. In contrast, stories in small claims hearings are not so limited--parties are
generally allowed a time for virtually uninterrupted narrative, much like mediation. The relative informality of the small claims hearings allows for parallels to be drawn between storytelling in such settings and the stories told by mediation participants.

One research perspective on types of stories is characterized by the work of professors Conley and O'Barr in their analysis of disputant storytelling in a small claims court setting. Utilizing naturally occurring speech as the primary source of data, O'Barr and Conley's (1985) approach to examining disputant storytelling "is fundamentally similar to conversation analysis" (p. 675). Their method differs from most conversation analysis in that the complete disputant account is examined, a much larger unit than is customarily scrutinized. To analyze the over one-hundred hours of taped information (from fifty-five trials in North Carolina and Colorado), Conley and O'Barr used a group workshop approach. Several researchers listened to one trial segment as many as six times. The investigators were supplied with a transcript, and after listening to the tape, they would spend twenty minutes writing notes on the portion heard. The group of researchers then engaged in a sixty to ninety minute discussion which focused on how
small claims narrative differed from more traditional legal settings.

Findings from the study show that every disputant gave a narrative description, often switching vantage points during the presentation. O'Barr and Conley (1985) surmise that this switch is intended either to triangulate on events or hold the attention of those listening by shifting highlights. The parties tended to use an inductive approach, did not always include information about the contractual relationship, and were also lax in providing a legally adequate account of the situation. In O'Barr and Conley's (1985) view, the "narrative freedom" enjoyed by disputants in small-claims actions "is a mixed blessing" (p. 698), presenting potential problems which "can [best] be resolved by a magistrate who has the time, inclination, and ability to intervene" (p. 696). Although mediators often work within time constraints, most have the ability and the inclination to intervene. Within a mediation context, Felson (1981, 1984) and Donohue (1991) stress the importance of active mediator intervention. Such intervention, or control if you will, may aid in overcoming the difficulties which can stem from inadequate disputant narratives.
Stories in mediation.

Professor William Donohue's mediation research spans eleven years and numerous articles and books. Much of his mediation research lies in examination of twenty divorce mediation transcripts obtained from Pearson and Thoennes' Divorce Mediation Research Project of the early 1980's. Some of the same transcripts have been used in this study. In Donohue's (1991) view, "mediator interventions 'frame' disputant communication patterns" (p. 81). Donohue's earlier research (1989; et al., 1984, 1985, 1988, 1989) focused generally on mediator behavior and specifically on his communicator competence model of mediation, which was based on Cooley and Roach's (1984) idea of communication competence. However, Donohue's 1991 book took a broader approach, as he sought to "describ[e] and understand the key interrelationships between disputant and mediator communication strategies" (p. 92).

As Donohue's 1980's research primarily studied mediator behavior, so did a number of studies by Peter Carnevale and his colleagues (Carnevale, 1986; Carnevale, Conlon, Hanisch, & Harris, 1989; Carnevale & Henry, 1989; Carnevale & Pruitt, 1992; Lim & Carnevale, 1990). While Donohue's research focused on divorce mediation transcripts, Carnevale's studies were done in a laboratory setting and looked at mediators in general.
The strategic choice model sees mediator tactics as falling into one of four areas: compensation, pressing, integration, and inaction. When pressing, the mediator restricts the range of outcome alternatives; in compensation, the mediator gives something desirable to one or both parties. Integration dwells on common ground between the disputants and finding alternatives acceptable to both parties, while inaction entails the mediator allowing the parties to negotiate their own agreement. Emery's (1988, 1994) psychological model of mediation differs from Donohue's issue centered approach and Carnevale's contingent use of mediator tactics in that Emery's person centered approach deals more with the emotional aspects of divorce and parenting. Like Emery's model, Wallerstein's (1986) relational development model also dwells on the psychological aspects of divorce, but she emphasizes constructing a co-parenting agreement which considers the needs of the children first. McIsaac's (1985) disputant-control model bears some similarity to Carnevale's inaction strategy. However, McIsaac's model allows the disputants to set the agenda, after which the mediator functions as process facilitator, rather than using inactivity as a situational tactic. As these models attest, a great deal of research has looked at mediator behavior in general. None of these studies, however, has narrowed the focus in the manner
this paper will, by specifically analyzing mediator responses to disputant's stories.

Whether in negotiation or mediation, storytelling can play a major role in disseminating information. The work of cultural anthropologist P. H. Gulliver in negotiation also pertains to storytelling in mediation. Gulliver (1979) asserts that in negotiation and mediation "there is and has to be exchange of information, or more accurately, of messages ... information is not exchanged but shared" (p. 84). Should one party refuse to share messages, the initial response of the other disputant is to send more messages. Continued refusal on the part of one or both of the disputants will likely lead to impasse—a breakdown in the negotiations. Gulliver addresses two problems which must be faced by disputants/negotiators: how much information to give, and how important is the information received. The quality of the information needs to be filtered and questioned, since "it can be assumed that information can never become complete and that it is seldom given or received in wholly objective, impartial fashion" (Gulliver, 1979, p. 115). He adds that just because one party may want as much information from the other party as is possible, the desire is not always linked to the first party divulging as much or as reliable information. Gulliver (1979) offers a cogent reminder: "in all this we need
to remember that the two parties are in dispute" (p. 117).

Over the past four years, professor Sara Cobb (University of California at Santa Barbara) has authored or coauthored several articles which look at storytelling in mediation. Using qualitative research methods, Cobb used her initial studies of mediator neutrality as a springboard for examining disputant's stories. Cobb (1994) wonders what it means 'to tell a story', what role storytelling plays in mediation, and how the storytelling process is enabled or constrained. She acknowledges that "to date, there is little research in mediation that can address these questions" (p. 48), and attributes this to storytelling within mediation being a metaphor. Cobb considers story to be the primary form of communication, and views mediators as storytelling facilitators (Rifkin, Millen, & Cobb, 1991).

Both Cobb and Rifkin (1991) and Fuller, Kimsey, and McKinney (1992) look at the role of primacy (first storyteller) and recency (second/last storyteller) in disputant storytelling. While not the primary focus of this study, considering the results of their studies is more than just an aside. The author is concerned that the findings of this and any additional research into disputant storytelling would be colored, if not skewed
completely, should primacy and recency be found to have a profound effect on storytelling in mediation.

In the videotaped community mediation sessions they analyzed, Cobb and Rifkin (1991) found that "in twenty-four of thirty cases, the settlements emerge out of the initial narrative!" (p. 61, emphasis theirs). They take this to mean that in 80% of the cases, the second party is unable to give their own story without being dominated/colonized by the first story. If this holds true in other types of mediation, in over three-fourths of their cases mediators may face a situation disadvantageous to the second storyteller.

Cobb and Rifkin's findings raise concerns about the second storyteller's opportunity for full expression. The disputant speaking in the recency position may well be relegated to a position of rebutting the primacy story, where s/he "must refute/deny the discursive position provided by the first speaker" (Cobb & Rifkin, 1991, p. 58). While Fisher and Ury (1981) state unequivocally that negotiation is not a debate, there are other views extant. Walcott, Hopmann, and King (1977) hold that "most negotiations are, to some extent, exercises in persuasive debate ... process of persuasion coexist with processes of bargaining", but they add that "few negotiations are exclusively debates" (p. 193, emphasis theirs).
Cobb and Rifkin's (1991) view is that "the structure of the mediation session itself contributes to allowing one story to set the semantic and moral grounds" (p. 56) for further discussion. On this point, researchers Fuller, Kimsey, and Mckinney (1992) agree that "primacy narration establishes the status quo", resulting in "increased effectiveness of the primary message" (pp. 188, 189) along with limiting the second party. This finding that the initial narrative dominates has repercussions beyond becoming mired in debate. An additional problem is that the story of the second disputant may be marginalized at the same time a cycle of accusation and justification begins. Utilizing several terms to describe this occurrence--domination, marginalization, colonization--Cobb and Rifkin (1991) raise the issue that the second storyteller risks being deligitimized along with his or her story.

Also studying storytelling and mediator neutrality but arriving at a slightly different conclusion, Fuller, Kimsey, and McKinney (1992) sought to ascertain "whether storytelling phase disclosure significantly altered disputants' perception of mediator neutrality" (p. 189). Their study had twenty-four undergraduate students participate in mediation role-plays which utilized the same two trained mediators and the same dispute. Upon completion of the role-play, the
disputants completed a fifteen item questionnaire developed by Burrell, Donohue, and Allen (1988). The questionnaire was designed to measure how disputants perceived four mediator qualities: fairness, competence, listening, and control.

Results of study by Fuller and colleagues indicate that the order in which disputants tell their story does have an influence on their perception of mediator neutrality. While this is a small sample, analysis of the data revealed significant differences between the primacy and recency groups. Those disputants who told their stories first viewed the mediator as less controlling. Disputants telling their story in the recency position perceived the mediator as exercising greater control.

Fuller, et al., (1992) also studied what might occur if sequential storytelling were eliminated. They did so by having the disputants simultaneously view the videotaped story of the other party. The results indicated that both disputants perceived the mediator as more controlling when the videotaped stories were used. One can gain some understanding of the effect of storytelling order through these studies, but other research has shown this impact can be mitigated in some sessions. Hendrick and Constantini (1970, cited in Fuller, et al., 1992) found that subjects with a high
cognition need are not as prone to the primacy effect.

Although the studies of Cobb and Rifkin (1991) and Fuller, et al., (1992) obtained similar results, the conclusions which they drew from the results differed dramatically. Cobb and Rifkin (1991) described their findings using terms such as delegitimizing, marginalizing, and dominant, along with phrases such as "the oppression (suppression) of one story" (p. 60). Conversely, Fuller and his colleagues (1992) conclude by stating that "while their appears to be some advantage to the ... primacy storyteller, that advantage is modest at best" (p. 192). While the findings on the effect of storytelling order might be inconclusive, the significance for this investigation lies in acknowledging the potential for misperception. As stated succinctly by Fuller, et al., (1992): "Mediators need to recognize the importance of the primacy storytelling position and be sensitive to perceptions that result from storytelling order or sequence" (p. 191).

Wondering whether more storytelling/communication would be better than less, Rogers and Francy (1988) studied one hundred and two mediation sessions. Acknowledging that the quantity of communication "had a somewhat inconsistent effect on the outcomes of mediation sessions", Rogers and Francy (1988) found "that, overall, less rather than more communication had
<table>
<thead>
<tr>
<th>Researchers</th>
<th>Sample</th>
<th>Focus</th>
<th>Results</th>
</tr>
</thead>
<tbody>
<tr>
<td>Bennett &amp; Feldman (1981)</td>
<td>Courtroom</td>
<td>Disputant stories</td>
<td>Qualitative analysis and discussion</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>O'Barr &amp; Conley (1985,</td>
<td>55 small claims cases</td>
<td>Conversation analysis of</td>
<td>Stories are not legally adequate</td>
</tr>
<tr>
<td>1988)</td>
<td>(taped)</td>
<td>disputant stories</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Donohue (1989,1991; et.</td>
<td>Twenty mandatory divorce</td>
<td>Mediator strategies and</td>
<td>Supportive of communicator competence</td>
</tr>
<tr>
<td>al., 1984, 1985, 1988,</td>
<td>mediations</td>
<td>tactics</td>
<td>model of mediation</td>
</tr>
<tr>
<td>1989, 1989)</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Carnevale (1986; et al.,</td>
<td>Laboratory mediations</td>
<td>Tactics: compensate,</td>
<td>Supportive of strategic choice</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Fuller, Kimsey, &amp; McKinney</td>
<td>Twelve mediation role-plays</td>
<td>Story-telling order</td>
<td>Story order can alter idea of mediator</td>
</tr>
<tr>
<td>(1992)</td>
<td></td>
<td></td>
<td>neutrality</td>
</tr>
<tr>
<td>Cobb &amp; Rifkin (1991)</td>
<td>Thirty community mediations</td>
<td>Stories &amp; mediator</td>
<td>Initial story dominates</td>
</tr>
<tr>
<td></td>
<td></td>
<td>neutrality</td>
<td></td>
</tr>
<tr>
<td>Rogers &amp; Francy (1988)</td>
<td>102 live community</td>
<td>Amount of disputant</td>
<td>More communication does not equal more</td>
</tr>
<tr>
<td></td>
<td>mediations</td>
<td>communication</td>
<td>agreements</td>
</tr>
</tbody>
</table>
a positive effect on the outcome" (p. 45). Rogers and Francy studied only community mediation sessions (as did Cobb, above), and they readily admit that this limits the generalizability of their findings. Nonetheless, one of their conclusions speaks to the issue of quantity vs. quality in disputant storytelling: "How much communication occurs between disputing parties becomes less an issue than the kind of interaction that is taking place" (Rogers & Francy, 1988, p. 48).

Research Questions

While disputant stories have been studied in both formal courtrooms (Bennett & Feldman, 1981; Conley & O'Barr, 1990) and small claims settings (O'Barr & Conley, 1985, 1988), storytelling in mediation has not received as much attention from researchers (see summary on page 30). The research problem to be addressed is the role of disputant stories in divorce mediation. As a first step towards understanding the place of disputant narrative, this paper will examine the stories discovered in the tapes and transcripts obtained from Pearson, Donohue, and Lowe^2. The specific research questions for this thesis: 1) What is the nature of disputant storytelling in divorce mediation?, and 2) How do mediators respond to disputant's stories?
CHAPTER III
METHODOLOGY

This research examines stories told by disputants in divorce mediation. Achieving this goal requires appropriate data and the means for analyzing that data. This chapter explains the nature of the data used in this study and the method for analyzing it.

The Data

Lofland and Lofland (1984) identify "four clusters of concern" (p. 1) in qualitative research—the gathering of data, the focusing of data, analyzing data, and guiding the consequences. This study gathered data from several sources.

The initial material for this study was obtained from a program with which the author is involved, the Family Mediation Program in Eugene, Oregon. Based on the University of Oregon campus and directed by professor emeritus Ray Lowe, this source yielded nineteen videotaped mediation sessions. Jessica Pearson, director of the Center for Policy Research in Denver, Colorado, provided twenty-two transcripts and ten audiotapes of divorce mediations. Acting on Pearson's recommendation, professor William Donohue of Michigan State University was contacted about material he had utilized in his research—transcripts from the
Divorce Mediation Research Project conducted in the early 1980's (Pearson, 1982; Pearson & Thoennes, 1988, 1989; Thoennes & Pearson, 1985). He sent twenty-one transcripts. This diverse body of material afforded the author an opportunity to examine disputant stories in a variety of divorce mediation settings and locations.

As summarized in Table 2 (below), the seventy-two tapes and transcripts represented sixty-two cases. One Donohue transcript and five Lowe tapes were multiple session cases. Looking at the cases as a whole, one conspicuous aspect is the low percentage (40%) of couples who reached an agreement. Previous research by Pearson and Thoennes (1988, 1989) conducted at four locations around the country indicated that approximately 60% of the couples entering mediation arrived at a settlement, with little difference detected between mandatory and voluntary mediation.

Table 2: Data Sources

<table>
<thead>
<tr>
<th>Provider and type</th>
<th># Cases</th>
<th>#Sessions</th>
<th>Agreement</th>
</tr>
</thead>
<tbody>
<tr>
<td>Pearson tapes</td>
<td>10</td>
<td>10</td>
<td>2 (20%)</td>
</tr>
<tr>
<td>Pearson transcripts</td>
<td>22</td>
<td>22</td>
<td>8 (36%)</td>
</tr>
<tr>
<td>Donohue transcripts</td>
<td>20</td>
<td>21</td>
<td>7 (35%)</td>
</tr>
<tr>
<td>Lowe tapes</td>
<td>10</td>
<td>19</td>
<td>8 (80%)</td>
</tr>
<tr>
<td>Totals</td>
<td>62</td>
<td>72</td>
<td>25 (40%)</td>
</tr>
</tbody>
</table>
The low agreement percentage may be attributable to the fact that these mediations are not a random sampling and do not all include complete information. For example, the Donohue and Pearson material may have included only one early segment of a multiple session mediation in which agreement was reached later.

**Transcript details.**

Information on the Pearson transcripts is sketchy. What is known is that sixteen of the twenty-two transcripts are from a court-connected program in Marion county, Indiana--the Indianapolis area. The location of the other six is unknown, but three mention fees for the mediators and four of the six are mediated by attorneys. By contrast, much is known about the Donohue transcripts.

As the source for Donohue's transcripts was the Pearson/Thoennes mediation research of the 1980's, his transcripts could easily be labelled as Pearson II. The distinction is made not only to give credit to those who provided material, but also because the location and types of mediation differ. Most of Donohue's mediation research has focused on the tapes he received from Pearson; features of the tapes and partial transcriptions of them are included in each of the articles in which they served as data (Burrell, Donohue, & Allen, 1988, 1990; Donohue, 1989; Donohue,
Allen & Burrell, 1985, 1988, 1989; Donohue, Diez, & Weider-Hatfield, 1984; Donohue & Weider-Hatfield, 1988). In addition, Donohue devotes a full chapter of his 1991 book to the quantitative and qualitative traits of the twenty tapes. All of the cases are from southern California and are court-connected. Since expenses are covered by increased divorce filing fees, there is no further financial cost to the parties. The initial session is mandatory, and although additional sessions are allowed, few parties avail themselves of the opportunity to go beyond one meeting. Time length averages two hours, with the mediator having the option of extending the time. Confidentiality is maintained by not allowing attorneys to be present during the sessions along with a proviso that the mediators will not testify in court. Couples who do not reach an agreement in mediation will return to court where a judge will impose a decision.

**Tape details.**

The ten Pearson audiotapes, like the transcripts she provided, have a limited amount of background information. Four of the sessions are no-charge, court-connected, mandatory mediation, while six are on a for-fee basis. Two tapes came from each of five locations--Washington, D.C.; Ann Arbor, Michigan;
One similarity between Lowe's family mediation program and the court-connected sessions obtained from Donohue and Pearson is that there is no financial cost for the participants. Therefore, adding the nineteen videotaped sessions from Lowe's program to the twenty Pearson (sixteen transcripts and four audiotapes) and twenty-one Donohue court-connected sessions, results in sixty of the sessions used in this research being no-charge mediation. This leaves twelve sessions for which a fee was charged.

Several aspects unique to the Eugene, Oregon family mediation program help to differentiate it from the other tapes and transcripts. First, all of the sessions are co-mediated. By contrast, only nine of the twenty-two Pearson transcripts and three of the Pearson tapes were co-mediated. All of the Donohue material used a sole mediator. Co-mediation is utilized by Lowe for educating new mediators, as he pairs them with a more experienced supervising mediator.

A second distinction of the Eugene, Oregon program is the individual session conducted with each disputant prior to beginning face-to-face mediation. Lowe considers these one hour sessions to be an important part of mediation, as they allow the co-mediators to
gain familiarity with the issues and the "history" present, along with acquainting the parties with the mediation process. This exchange of information affords the disputants an opportunity to make what Lowe calls an "informed decision" regarding the suitability of mediation for their situation. Three such individual sessions were among the Lowe videotapes analyzed. Seven of the Donohue/Pearson transcripts mentioned that the mediator spent between five and fifteen minutes with each party individually before the joint session. However, no preliminary individual sessions or caucuses (individual times within a mediation session) in the Pearson/Donohue material were taped or transcribed, and were therefore unavailable for study.

Unlike the court-connected mediation sessions which comprise 77% of the Pearson/Donohue tapes and transcripts, Lowe's program has no constraints on topics which can be discussed and included in an agreement. Most court-mandated mediations are confined to custody and visitation (which Lowe prefers to call time sharing), omitting property division and spousal/child support. Donohue's (1991) view is that "most mediators would probably prefer few topical restrictions" (p. 9); Lowe's approach affords the participants and the co-mediators an opportunity for exploration without such limitations.
An additional difference between the Lowe tapes and the tapes and transcripts obtained from Pearson and Donohue lies in the area of time constraints. In regard to his transcripts, Donohue (1991) writes: "because the case load is large in Los Angeles, mediators often feel time pressures to mediate any given case" (p. 95). Most court-connected mediation has limitations on both session length and number of sessions allowed. For example, the county in which the author lives confines mediation to three sessions totalling four hours--the parties must pay for any time beyond that. The for-fee mediation sessions found in the Pearson tapes and transcripts may produce a situation in which the participants feel compelled to make some progress as a means of limiting the cost. Lowe's program provides for up to ten two-hour sessions, although this is more of a guideline than an absolute limit. One couple recently reached agreement after some twenty-five sessions spanning over a year. Flexibility in meeting times is also a feature of Lowe's approach, such as marathons in which multiple sessions are conducted within the span of a weekend to accommodate parties who live out-of-town.

**Demographic information.**

Table 3 summarizes the demographics which could be gleaned from the four data sources. As indicated by
Table 3: Demographic Information

<table>
<thead>
<tr>
<th>Characteristics</th>
<th>Pearson Transcr.</th>
<th>Donohue Transcr.</th>
<th>Pearson Tapes</th>
<th>Lowe Tapes</th>
</tr>
</thead>
<tbody>
<tr>
<td># of children-mean</td>
<td>1.85</td>
<td>1.55</td>
<td>2.00</td>
<td>1.50</td>
</tr>
<tr>
<td># of children-SD*</td>
<td>.670</td>
<td>.686</td>
<td></td>
<td></td>
</tr>
<tr>
<td>**n=20</td>
<td>n=20</td>
<td>n=10</td>
<td>n=10</td>
<td></td>
</tr>
<tr>
<td>Custody</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Mother sole</td>
<td>19(90%)</td>
<td>13(81%)</td>
<td>8(89%)</td>
<td>6(60%)</td>
</tr>
<tr>
<td>Father sole</td>
<td>---</td>
<td>1(6%)</td>
<td>---</td>
<td>1(10%)</td>
</tr>
<tr>
<td>Joint</td>
<td>1(5%)</td>
<td>2(13%)</td>
<td>1(11%)</td>
<td>3(30%)</td>
</tr>
<tr>
<td>Split</td>
<td>1(5%)</td>
<td>---</td>
<td>---</td>
<td>---</td>
</tr>
<tr>
<td>Median income</td>
<td>$44060</td>
<td>---</td>
<td>$61620</td>
<td>Under</td>
</tr>
<tr>
<td>Median years since</td>
<td>4.9</td>
<td>3.2</td>
<td></td>
<td></td>
</tr>
<tr>
<td>relationship ended</td>
<td>n=15</td>
<td>n=9</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Median years together</td>
<td>3</td>
<td>10</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>n=1</td>
<td>n=6</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

*SD represents standard deviation
**n is the number of sessions for which data is known
low numbers and blank spaces, details are lacking in some areas. In all of the Donohue transcripts and 80% of the Pearson material, support issues were not mediated, resulting in very little information about the incomes of the disputants. In addition, the number of years which a couple had been together seldom surfaced during the course of mediation, but more information was divulged regarding time passed since the relationship ended.

Session details.
As can be seen from the figures in Table 4, there was wide fluctuation between the shortest and longest sessions held. While this difference seems extreme, especially in the Donohue transcripts, most sessions fell within a middle ground of approximately 400 exchanges. The average time length for the Pearson tapes was just under one and one-half hours, while the Lowe joint session tapes all made full use of the two hours allotted.

Reviewing the material.
Lofland and Lofland (1984) identify three aspects in focusing data. The first is to think in terms of units of social settings. For this research, the particular unit is the encounter, in which at least two people are together and "strive to maintain a single
Table 4: Session Information

<table>
<thead>
<tr>
<th>Characteristics</th>
<th>Pearson Transcr.</th>
<th>Donohue Transcr.</th>
<th>Pearson Tapes</th>
<th>Lowe Tapes</th>
</tr>
</thead>
<tbody>
<tr>
<td>Number of exchanges*</td>
<td></td>
<td></td>
<td></td>
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</tr>
<tr>
<td>Mean</td>
<td>379.32</td>
<td>454.29</td>
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<td>---</td>
</tr>
<tr>
<td>SD</td>
<td>115.20</td>
<td>245.05</td>
<td>---</td>
<td>---</td>
</tr>
<tr>
<td>Range</td>
<td>450</td>
<td>878</td>
<td>---</td>
<td>---</td>
</tr>
<tr>
<td></td>
<td>(127-577)</td>
<td>(86-964)</td>
<td>---</td>
<td>---</td>
</tr>
<tr>
<td>Median</td>
<td>348.5</td>
<td>386</td>
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</tr>
<tr>
<td></td>
<td>n=22</td>
<td>n=21</td>
<td>---</td>
<td>---</td>
</tr>
<tr>
<td>Average session</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>length, in hours</td>
<td>---</td>
<td>---</td>
<td>1.5</td>
<td>2.0</td>
</tr>
<tr>
<td></td>
<td>n=10</td>
<td>n=19</td>
<td></td>
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</table>

*Number of exchanges represents the number of speaking turns taken. This information is not available for the partially transcribed audio and video tapes.

(ordinarily spoken) focus of mutual involvement" (Lofland & Lofland, 1984, p. 78). The second step in focusing the data is to ask questions about these encounters. In the course of multiple reviews of each tape and transcript (at least five times for each session), the questions asked were based on the step at which a particular reading or listening occurred, as summarized in Table 5.
The initial encounter with the tapes and transcripts was designed to acquaint myself with the material available. For the second review of the material, specific questions were prepared which dealt largely with demographics and details of the mediation session(s) themselves (see Table 5). The answers, if available, were recorded on charts with a column for each question asked. After determining how much socio-demographic information could be obtained from the tapes and transcripts, a third review concentrated on the stories of the disputants, and led to some preliminary labelling of types of stories.

A fourth reading of and listening to the material sought answers to additional inquiries, as listed in Table 5. The questions asked in steps two and four of the review process clearly pertain more to the peripheral details than to types of storytelling. Asking the questions allowed for the gathering of information, the drawing of contrasts between sources of material, and provided additional exposure to the data and the stories told.

Utilizing grounded theory (Strauss and Corbin, 1990), recurring themes began to emerge from the encounters with the tapes and transcripts. These themes, or common threads, became the focus of steps five through eight in the review of the material, which are described below.
### Table 5: Steps in Tape and Transcript Review

<table>
<thead>
<tr>
<th>Step</th>
<th>Focus of tape listening/transcript reading:</th>
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<tbody>
<tr>
<td>1.</td>
<td>Familiarization with material available</td>
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<tr>
<td>2.</td>
<td>Socio-demographic questions regarding:</td>
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<td></td>
<td><strong>The mediator(s)</strong></td>
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<td></td>
<td><strong>The mediation</strong></td>
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<td></td>
<td>Gender</td>
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<td>Profession</td>
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<td>Co-mediated?</td>
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<td></td>
<td>Skill level</td>
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<td>Where held</td>
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<td></td>
<td>Court-connected?</td>
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<td></td>
<td>Fee charged?</td>
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<td></td>
<td>Which session?</td>
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<td></td>
<td>Agreement reached?</td>
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<tr>
<td></td>
<td><strong>The couple</strong></td>
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<tr>
<td></td>
<td><strong>Conflict level</strong></td>
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<td></td>
<td><strong>Number of children</strong></td>
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<td></td>
<td><strong>Length of session</strong></td>
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<td></td>
<td><strong>Number of exchanges</strong></td>
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<td>3.</td>
<td>Concentration on disputant's stories, with</td>
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<td></td>
<td>preliminary labelling of story types</td>
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<td>4.</td>
<td>Additional socio-demographic questions regarding:</td>
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<td></td>
<td><strong>The couple</strong></td>
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<td></td>
<td><strong>The mediation</strong></td>
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<td></td>
<td>Income</td>
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<td></td>
<td>How long married?</td>
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<td></td>
<td>Time since break-up</td>
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<td>Status of custody</td>
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<td>Current marital status</td>
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<td>Status of support</td>
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<td>Who initiated divorce?</td>
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<td></td>
<td>Divorce resisted?</td>
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<td></td>
<td>'Causes' of the divorce</td>
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<td></td>
<td>Any allegations of physical, sexual, or</td>
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<td></td>
<td>substance abuse?</td>
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<tr>
<td>5.</td>
<td>Data analysis of disputant's stories, emergent</td>
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<tr>
<td></td>
<td>themes recorded</td>
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<tr>
<td>6.</td>
<td>Comparing and contrasting the emergent themes</td>
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<td>7.</td>
<td>Selection of tapes and transcripts to be utilized</td>
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<td></td>
<td>as examples for this research</td>
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<tr>
<td>8.</td>
<td>Conversation analysis of material chosen to be</td>
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<td></td>
<td>highlighted in chapter four</td>
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</table>
Data Analytic Method

This study employs a modified analysis of conversation following immersion in the tapes and transcripts. Such an approach is based on my encounter with the data, which is naturally occurring speech—the stories of disputants taken from tapes and transcripts. The encounter called for an immersion in the material: sifting, exploring, questioning, labeling, describing, and cataloging.

Conversation analysis.

Analysis of conversation is multidisciplinary, cutting across as many as nine disciplines (Brown & Yule, 1983; Taylor & Cameron, 1987; Tannen, 1989; Cortazzi, 1993; Bilmes, 1986; Budd, Thorp, & Donohew, 1967). As such, conversation analysis does not have either a single unifying theory or a consistent method of analysis. What this "inclusionary multidiscipline" does have is heterogeneity, to the point where "it may seem almost dismayingly diverse" (Tannen, 1989, pp. 197, 6).

Some types of conversation analysis, such as narrative analysis, conversational analysis, pragmatics, and conversational structure analysis, utilize an interactional rules and units procedure in examining conversation. This dissecting of statements
would not be helpful in furthering our understanding of the nature of large blocks of narrative in mediation. What is needed is a method of examining conversation in terms of communication interaction. At the time McEwen provided the initial idea behind this study, he also recommended a methodological approach.

When McEwen suggested examining how differing story approaches might influence reaching agreement, he made reference to O'Barr and Conley's (1985, 1988) studies of stories in small-claims courts. O'Barr and Conley's research utilized a type of conversation analysis known as ethnography of speaking, which became the methodological opening for examining disputant stories in mediation. This study will examine complete disputant accounts, as did O'Barr and Conley, rather than perform a microscopic analysis of conversation. Such a functional approach falls under the umbrella of discourse analysis (Brown & Yule, 1983): it "simply describes the object of study; language beyond the sentence" (Tannen, 1989, p. 6).

The approach.

The approach used for describing the nature of disputant stories is a modified form of conversation analysis. As expressed by Atkinson and Heritage (1984): "the central goal of conversation analytic research is the description and explication of the
competences that ordinary speakers use and rely on" (p. 1). The method utilized shares some common ground with conversation analysis. First, recordings (and transcriptions from them) serve as the primary source of data. Second, "the native speaker competence of the researcher [is the] principal tool for the analysis of the data" (O'Barr and Conley, 1985, p. 675). The method differs from conversation analysis in two ways. The first difference is that larger blocks of narrative will be examined—in this case, the entire story told by a disputant in a mediation session. Traditional conversation analysis customarily analyzes much shorter exchanges. The second difference lies in the goal of the analysis. As O'Barr and Conley (1985, 1988), sought to look beyond understanding the conversation itself, so does this paper seek to look past the conversation to better comprehend the nature of disputant's stories in mediation.

The method, ethnography of speaking, is "far less constrained by the rules and units framework ... ethnography of speaking seeks to describe [and] ... catalogue features of speaker, addressee, setting, topic, channel, and the like" (Taylor & Cameron, 1987, p. 5). Ethnography of speaking is utilized in this study in much the same way that O'Barr and Conley (1985, 1988) used the approach in their studies of disputant's stories in small claims court—as an entry
into the data. This entry allows larger blocks of narrative to be examined in the context of communication interaction and discourse.

Strauss and Corbin (1990) state that "some areas of study naturally lend themselves more to qualitative types of research" (p. 19). This study, dealing with the complex, narrative character of disputant storytelling, is well suited to a qualitative approach. It is a given that such an approach incorporates a subjective aspect, both in the data selection and data analysis--the interpretive nature is an intrinsic part of the study. However, because extended segments of the transcripts are included in the data analysis chapter, the reader is afforded an opportunity to analyze for him or herself--the chance to "make an independent assessment" (Conley & O'Barr, 1990, p. xiv). Qualitative analyses address the how and why of a research question. As this paper focuses on how disputants tell their stories, our understanding can best be enhanced by the "intense empiricism" (Conley & O'Barr, 1990, p. xiv) inherent in a qualitative approach.
CHAPTER IV
RESULTS AND DISCUSSION

Through multiple readings and subsequent analysis of the mediation sessions, a number of themes have emerged. The first to surface was the recurring aspect of some types of stories. Additional key themes center on the functions of disputant's stories, mediator responses to those stories, and the significance of storytelling order. While these themes are not discrete—there is overlap among them—they are based on the data analyzed, and form a useful framework for organizing the results, discussion, and subsequent findings.

Types of Disputant Stories

Of the recurring types of stories discovered in the course of analyzing the material, three stand out because of the frequency of their occurrence: conjoint stories, emotion-laden stories, and matter-of-fact (or information exchange) stories. Most of the transcripts and tapes had segments devoted to sharing of factual details, and exchange of information (matter-of-fact stories) could easily be classified as a story function. Categorizing information exchange as a type of story occurs when this exchange goes from
a portion of the mediation time to dominating the entire session.

**Conjoint stories.**

Taken from Ray Lowe's family mediation program in Eugene, Oregon, the following transcript excerpt illustrates a story developed jointly by the parties involved. The case is a mediation stemming from a divorce, in which a father and his two children are mediating what type of relationship they are to have. The son is twelve, the daughter is fourteen, their school counselor is present, and the sessions are co-mediated. It is early in the fifth session, and a recent visit between the father and his children is his children is being discussed:

24. Daughter: It was on a Saturday ... you called at 1:00 that day.
25. Father: It was in the morning.
26. Daughter: OK, it was around noon. I had company that day ... I did want to see you, but I wanted to be with [her friend] too ... We went and saw you, and it was not because of that thing, Dad.
27. Father: OK. I'm curious, because if I would have said no, it was going against that payment thing that was set up, that your mother--who we're not supposed to talk about--was refusing to go by. And it was, like, "Are you going to pay this money?" was what was told to me.
28. Daughter: Who said that?
29. Father: Your mother did, to you over the phone.
31. **Mediator:** Let me interject here. You're really putting the heavy on the kids by asking them this. That's between you and their mom.

32. **Father:** No, no, no, no. I agree to a point, but I'm trying to make a point. I'm asking them, if I said I wasn't going to pay that money, would they still say to their mom that they wanted to go with me.

33. **Mediator:** OK, then get to the question that you want to ask.

34. **Daughter:** Of course.

35. **Father:** I was trying to bring up a fact to them about this misunderstanding. OK, so there wouldn't have been any problem if I had said no.

36. **Daughter:** There would have been no problem.

The father and daughter develop a story which begins with establishing the time of contact, and goes on to include information on dental and medical bills. The school counselor reminds the father of earlier agreements:

40. **Counselor:** I want to bring something up ... we ironed out some things [in an earlier session] and I'm just going to be up front about it. You had an agreement on the medical stuff ... you're arguing about what you and [your ex-wife] are getting involved in with the kids ... it really is frustrating me, because it frustrates the kids.

41. **Father:** It frustrates me, too.

42. **Counselor:** Well, then, stick to the agreement.

43. **Mediator:** Do you have the idea how to handle it? That's the main thing.

44. **Father:** No, but it will be worked out between their mother and me.

45. **Mediator:** (To the son) You look kind of downcast about that. What's going through your head?

46. **Son:** Well, mom's going to be real mad about that.
52

47. Mediator: And? Is she going to take it out on you?
48. Father: Is she going to take it out on you?
49. Daughter: Dad, how does she owe you money? About the stupid orthodontic bill?
50. Father: The dental bill. Your mother has got—no, we're not going to talk about your mother. But obviously, it's upsetting you guys—the pressure your mother is putting on you guys about this.
51. Daughter: How can you say that? You have not lived with her for four years now. How do you know?
52. Father: Why are you crying?
53. Daughter: Because you're a jerk, dad. This is the same way you've always been treating us.

As covered in the section on outside interests, there is a party who is involved in this case without being physically present in the mediation—the ex-wife and mother. The father continues with his approach:

54. Father: I knew I should have brought those letters. Your mother has letters both from my lawyer and me ... the only reason [he paid the money the day of the visit] was to see you guys.
55. Mediator: All this is between you and their mother.
56. Father: Right, right. But look at them. They're reacting to my thing with their mother.
57. Mediator: But the point is, the more you try to explain, the more you alienate them.
58. Daughter: ...the more you say, the more it sounds like we're just a bill to you.
59. Father: No, no. I paid my end.
60. Mediator: You've already stated your position. We can't get anywhere here. If it were among us, we could get it worked out. But there is a person not here who is critical to the solution or critical to the problem, I don't know which. For you to use them to communicate or for their mother to use them to communicate, it can't get us anywhere. Do you follow me?
61. Daughter: Yeah.
62. Mediator: It's not easy, but there's nothing we can do about it, and the more you go after him, the more he's going to be explaining, which is not fair to your mother because she's not here. He has to work this out with her.

63. Co-mediator: Well, would it be fair that the children don't bring him the medical messages, that their mother send it to him?

64. Daughter: Then how will he get it? She will not speak to him.

65. Father: She has my address.

66. Daughter: We don't have your address. We don't even have your work phone number. We don't even know where you work.

67. Father: I have given you my address--you have my PO box. I have written your mother umpteen times. My lawyer has written your mother. I cannot be responsible for what happens after the letter leaves my hands.

A discussion ensues between the father, counselor, and co-mediators regarding the agreement reached in an earlier session about the payment of medical bills, with the daughter becoming involved after the adults have talked:

96. Father: What I see, what I'm negative about the situation that involves [his ex-wife] and I, I see the reaction that I just saw in those two [his children]--they were both tearing up. I don't think that was because, "Oh, dad's dumping on us again". They're so worried about going and telling their mother, "Oh, he's not going to pay that".

97. Counselor: You're right. Just as they get worried about coming in here and having to ask you whether you're going to pay it or not.

98. Father: And they shouldn't have to. Their mother is a perfectly capable woman and has every ability to contact me.
99. Daughter: How can we not be scared to come in and
tell you when you are going to say no?
100. Father: Because that's no business of yours.
101. Mediator: It was business of theirs that the
agreement said that you pay your fair
share.
102. Father: I will pay my fair share.
103. Mediator: But you paid an unfair share. You paid
more than your share, and that's what
screwed it up.
104. Father: No, that's not what screwed it up.
What's screwing it up right now is that
[his son] is coming back and saying,
"Are you going to pay that bill?"
105. Mediator: And your answer is that "I've paid or
I'm going to pay my share of the bill,
which is this amount of money".

This type of story features a mediator-facilitated
dialogue aimed at ascertaining what has occurred
outside of and prior to the session. While the stories
of the parties contradict each other at times, the
father and his children co-create a single story about
the medical bills and the attempted contacts. In this
case, the conjoint story achieved limited success, with
a partial agreement being reached which addresses
leaving the children out of any parental disagreements/
discussions over medical or dental bills.

**Matter-of-fact-stories.**

Those familiar with commercial television circa
the mid-1960's may recall a police series by the name
of "Dragnet", which was reprised with a movie made for
theatrical release in the 1980's. One of the more
enduring images from that series is detective Joe Friday, played by Jack Webb, admonishing a crime witness or alleged perpetrator that he wants "the facts, just the facts". In the course of analyzing the tapes and transcripts for this research, multiple cases were discovered in which the stories of the disputants are confined to just such a delineation of the facts.

These snippets of information, or fragments of narrative (Conley, O'Barr, & Lind, 1978), do not even meet the minimum qualifications for a story, unless we use Rifkin, Millen, and Cobb's (1991) definition. Their view is "that all human communication can be understood as story, or narrative" (p. 161). Obviously, this is a much broader definition of a story than has been used in this paper heretofore. Defining stories as rich narratives or a sequence of events with a finale served to both explain what a story is for the purpose of this paper and to provide a guideline for recognizing disputant stories in mediation. This definition is being broadened only for this section, so that information exchange can be included under the heading of a type of story.

The reason for looking at these non-story exchanges is because of the sheer numbers they represent from the tapes and transcripts. In over one-
half of the Pearson and Donohue material (twenty-nine of fifty-three sessions), the disputants never get beyond dealing with details. They may well be important details, such as time-sharing, support, or custody, but rich narrative is nowhere to be found. The following portion of a Pearson transcript is an example of matter-of-fact storytelling:

02. Mediator: Are you separated right now?
03. Mother: We've been separated since March. Actually since '82; we've been back together off and on.
04. Mediator: Right. And is there any sort of preliminary order ordering you to pay a certain amount of child support or give you any visitation at all?
05. Father: No. I just got a court order.
06. Mediator: A court order? So you want an order to pay something right now? Okay. And how did you arrive at that amount? Did you just voluntarily come up with that number, or how did you arrive at that?
07. Mother: Four years ago, I wasn't in this court, it was in Dallas.
08. Mediator: This is just an agreement between the two of you? When you separated?
09. Mother: Well, it wasn't so much of an agreement. He just told me he'd pay.
10. Mediator: But nothing was filed in court?
11. Mother: No. And then I came down here and then for some reason he was laid off or whatever and he got behind, so two years ago I came back down and said I need more money. So, they said, well, you deserve some $30 more. So now,
12. Mediator: I'm a little bit confused. When was the divorce final?
13. Mother: January 17 or 18.
14. Mediator: Of this year?
15. Mother: Yes.
16. Mediator: So, did you have a separation petition or anything?
17. Mother: No, we never did.
18. Mediator: Do you have an order of child support?
19. Mother: I wanted a child support petition, to ask for child support.
20. Mediator: Right. I see.
21. Mother: It was never, until then, then it was a court order. Except for his job that he paid
22. Mediator: Okay. All right.
23. Father: I had to give up [to line 25] ... I was paying about $135 but there is a dispute about that.

This exchange is aimed primarily at informing the mediator of the current situation. Other matter-of-fact stories may provide an exchange of information between the parties, such as work schedules, holiday preferences, and income status.

Several factors play a part in stories which concentrate on 'facts' or mutual exchange of information between the parties. Time pressures can serve to limit both the amount and type of storytelling. Disputants can also self-limit the scope of the discussion by not addressing underlying issues which may be present. In addition, mediators (particularly in court-connected cases) may be trained in what Donohue (1991) labels "interaction management" (p. 68), in which the communication patterns of the disputants are directed towards specific outcomes. In such mandatory mediation, the disputant's stories will likely be limited to surface details, steering clear of the minefield of relational issues.
Emotion-laden stories.

The following transcript excerpt is from the second session of a Pearson case. This was the only multiple session mediation (with the same couple in two taped or transcribed sessions) from the Pearson and Donohue material. The first session (covered under the heading "Bringing in outside interests", found in the section "Functions of Stories") dealt largely with issues surrounding the first ex-husband. At the very end of that session (exchange 468 of a total of 499), the father divulged that he wanted both sole and residential custody of his daughter, who at that time was in her mother's home and custody. The second session, one month later, begins with the father echoing the concerns he expressed in the first meeting regarding ex-husband number one:

22. Father: I mean, really, at this point, I mean, we can talk about it, but I've made up my mind.
23. Mother: And I have to.
24. Mediator: Let me be sure that I understand you both. At this point both of you are still seeking to have sole custody of Angela. Is that what you're saying?
25. Father: I'm saying this--that Angela has been in an environment that I don't feel is in her best interest and due to the fact that there is no cooperation for me to work things out for her, that's why.
26. Mother: Work out what things?
27. Father: You know, most of the issues we've dealt with.
28. Mother: Oh, he doesn't. He wants me to move out away from my other two children.
29. Father: No I don't.
30. Mother: Away from that house. He doesn't want me living there because my ex- is living in that house, even though we have separate living areas.
31. Mediator: I remember we talked a little about that last time.
32. Father: That's not, I'm not asking her to move. How she lives is up to her, but at the point where it affects my daughter.
33. Mother: And I've got, see you're not in the situation, you don't really know. You want to assume that because you want Angela, you want to take her away.
34. Father: No.
35. Mother: [ ], just stop.
36. Mediator: Let me interrupt you here for a minute because I think that if we begin with each of you saying, you know, "this is what I want and I'm not willing to talk about anything else", you are going to be stuck ... I wonder if we could begin by talking about what you both think Angela needs and ideas about how you could accomplish that ...

To this point, this second session transcript deals largely with exchanges of information dealing with custody preferences, in much the same vein as the first session. This groundwork is helpful in distinguishing between the matter-of-fact and emotion-laden story types, for this transcript provides a clear example of the difference between the two types:

78. Father: OK. I want to stress that I used to date, I haven't dated for a year and we live with my mother and my little brother. My mother is the support system, the female influence in his life [their son, David], those types of things ... it's worked out real good and he's going to a Christian school, and getting good grades, he's upped his
Father, (cont'd) grade almost 50% in every grade, his behavior change has been drastic ... don't get me wrong, I do make mistakes, I know, I'm sure I make mistakes ... [to line 83] Even if she (his ex-wife) was doing things perfect there's a problem and those problems are becoming Angela's problems.

Prior to line 78, the father's story was much like the first session, looking outward. Emotion-laden stories such as this one show a more personal side, and deal with expressing feelings rather than thoughts. Here, the father's story becomes more emotional, as he begins sharing some personal matters pertaining to how he lives. Having kept the focus on the mother and ex-husband number one until this point, the father abruptly turns the spotlight on himself:

103. Father: Can I say something? First of all, I want to apologize for my attitude this morning. I get a little aggravated when we get in environments like this.

104. Mother: I get nervous.

105. Father: I want to work these things out but I know I can't. It is causing me a great deal of frustration because I've tried for four years, five years, and ah I've already stated, we could come back and forth and back and forth and it's not gonna do no good. I don't see how we can resolve this, I really don't, because I know that I have sought counseling, I have sought help. I've done all the things I can do ... First, if you, if we need to do this, I'll do it because I'm a workable person but I know at this point it's not done no good.

106. Mother: Now tell me on each one of these just exactly what you need me to do to fix it to where you are happy with the situation.
Yes, that was the mother speaking, not the mediator. The father's story change resulted in the parties speaking directly to each other, rather than through the mediator. However, this change is shortlived, as the couple returns to their unproductive stories. Despite several hours of effort and a switch in type of storytelling, no agreement will be reached.

The couple has hit a stumbling block which appears to be insurmountable. Ury, Brett, and Goldberg (1988) write about situations where resolving disputes by dealing with and reconciling interests is simply not possible:

The parties cannot reach agreement on the basis of interests because their perceptions of who is right or who is more powerful are so different that they cannot establish a range in which to negotiate (p. 16)

This excerpt is but one example of emotion-laden stories. The emotions expressed can take many forms, from hurt, fear, and blame, to outright anger, as can be seen in the "Functions of Stories" excerpt dealing with venting. Emotion-laden stories feature direct expression of feelings, ranging from disgust and contempt to exasperation and frustration. As Donohue (1991) states, such emotional displays can present "significant challenges for mediators" (p. 56).
Functions of Stories

In the course of examining the transcripts and tapes, one of the themes which emerged centered on the purposes for which disputant's use their stories. The analysis detected several story functions which appeared on a recurring basis. The first of these functions is control, in which one or both of the parties use their stories in an attempt to set the agenda, frame the discussion, or define the issues. As was the case with information exchange, control can be found in most of the transcripts in small amounts. However, in almost one-fourth of the cases studied (fourteen of sixty-two), disputant's used their stories in an attempt to control during the greater part of the session.

The second discernible function of disputant's stories dealt with venting, or emotional expression. Although declaration of feelings was covered under the emotion-laden story on pages 55 to 58, venting as used here means expressions of anger. Although not as common as the function of control, venting was still the dominant story function in nine of the fifty-two Pearson and Donohue cases (venting did not dominate any of the Lowe sessions). The third function detected was speaking on behalf of the children. Presumably, this would be an important part of any parent's story in divorce mediation, but it was found in fewer of the
Pearson and Donohue tapes and transcripts than either venting or control. Only seven of the fifty-three Pearson and Donohue sessions (along with seventeen of the nineteen Lowe sessions) included stories where the best interests of the children were paramount.

**Control.**

Disputants entering mediation may well find themselves in an unfamiliar situation, one which might be unsettling. One approach to dealing with such a new experience may be an effort to exert some control over the conditions present. Such an attempt may be evident in the manner in which the parties tell their stories. The control might be implicit, through reluctance to tell one's story, trying to dominate the session, or seeking to regulate the agenda through interruptions and topic changes. Control might also be explicit, and be manifested in attempts to either control the former partner directly or, as in the case below, indirectly by means of controlling the spending of funds paid as support.

The following co-mediated, mandatory session is from a Pearson transcript. The mother in this case has sole custody of the two sons of the marriage, and is seeking the first modification of the decree in the six years since the divorce occurred. She wants an increase in the father's financial contribution, and is
not particularly concerned about the form it takes. Her suggestions include sharing the cost of medical insurance and bills, increased child support, or help with private school tuition for both boys. Although financial considerations occupy the entire session and the state in which this takes place (Indiana) does have child support guidelines, the mediators in this case only make tangential reference to the guidelines, unlike the mediator(s) in the other ten Indiana transcripts. One abnormal aspect of this case is that the mother's income is greater than that of the father ($26,000 to $21,000, in 1989). This only occurred in one other transcript in which income was divulged.

The father sees his current contributions to the boys as being generous:

48. Father: Well, I started out high because I thought that's what it would take and I didn't really want to go through increases and things like that, a lot because of the cost, you know, attorneys and things like that, you know, I pay them and the kids don't get any of that money. I thought it would be better to give a little more than I had to at the time of the divorce and then the cost would be about the same and the kids would get all the money. At the time of divorce I don't think that she needed that much as far as normal situations because at the time of the divorce I basically gave her everything anyway: the house and equity and the car, whatever, all the furniture ... I was looking at these guidelines and based on
what I'm guessing for income is, I'm still right about where I should be on the child support. As far as increasing what I pay, I would be willing to do, spend more money on the boys as long as I don't have to go to court ...

Despite considering his financial support to be above and beyond the call, the father's story includes his willingness to increase his contribution, but with strings attached. The first condition is avoidance of court; the second is about to surface:

50. Father: I guess what we never got to was that I can see after six years is I would like to be in charge of some of the spending because I give her $5,000 a year [his support level is set at $100 a week] and she matches that theoretically with, we have about the same income but she has total control over what she spends it on whether it be

51. Mother: I only spend it on the boys.
52. Father: I know, but still you have total control over what you spend it on and what you think is important for them to have first because the money only goes so far ... [at] $10,000 a year, you're pretty much stuck with that amount. So, I feel like I don't have any choice. Am I wrong in that? That's one thing we've never agreed on. She says she has $5,000 a year to spend on the kids.

53. Mother: I did not ever say that. I said that's what you give me is $5,000 a year, and you tell me I actually have $10,000 a year. I don't know what the hell that means.

Since this mediation stems from the mother's legal action to modify the divorce decree by increasing child support, the agenda is pre-determined and is
beyond the father's control. Where he can use his story to control is in the area of framing the discussion. Simply put, the father wants a say as to how the child support is spent. Although he has married again, he seems to want some control over his sons and first wife, or at least over the money:

222. Father: ... I would like to have a little bit of choice ... (to line 232) Well it depends on what it is whether or not I want to put this in writing or not. I would rather spend more money, if I buy their clothes and have a choice of what kind of clothes they wear and that sort of thing, rather than pay their medical bills or whatever ... Now if, for instance, I have an opportunity to get the medical insurance cheaper and we're both paying half of it and she doesn't, you know, want to do it that way for some reason then in that case I kind of lose my choice ...

284. Mother: I can't believe the emphasis we're putting on clothes here. I can't believe it. I mean, yes, it's important, but my God ... (to line 286) Really, food and insurance. Yes, clothes are important, but that seems to be the only thing you're thinking of.

At line 26, the father admitted that the couple had a verbal agreement that he would cover one-half of their sons' medical bills, but that he "just kind of quit doing it." The co-mediators don't directly address the father's wanting more say in the spending of child support. Rather, they stress the importance of putting in writing any areas of agreement:
Well, your unwillingness to put into writing what you're willing to spend on the boys is not going to satisfy, is not going to meet her needs ... 

I think it's great that you're willing to do something extra, but how can we have an agreement if it's not in writing?

The father continues using his story in an effort to control the discussion, and he also wishes aloud that he had exerted more control at the time of the divorce settlement:

I probably would have been better off if I had kept my share of the equity and then used that to pay things later on that I had control over. [to 340]

There is nothing unreasonable about asking to have something in writing, is there?

In order for a judge to sign something and make it official there has to be something there on paper for the judge to sign.

I don't think it's unreasonable for you to do that now. I mean

Well, I don't have to pay you the health insurance and I don't have to pay you any more than I am right now.

That's why I'm here, [ ].

I'm willing to go in writing about the health insurance and paying half of all the medical bills. And you can put that in writing if that will make you feel better. But that's as much as I will put in writing.

While the father appears to temper his opposition to any written agreement, he still wants to control what that written agreement will include. He has not quite finished his story:
376. Father: I feel like the child support gives her the money for her to decide where it goes; she spends it on whatever she
377. Mother: But it doesn't go as far as it used to.
378. Father: Then I spend money on what I think is important, the extra money. I don't see you spending $10,000 on the kids, I just don't. I think it's going too much for the rent and too much for this and that, that's separate ...

Lengthwise, the session would normally have ended around line 333 (when one of the mediators announced that it was time to end) but the session continued when all four present agreed to work on reaching an agreement during this session rather than returning the following week. Continuing for another 243 exchanges, a tentative (pending approval of their attorneys) agreement was reached incorporating what the father had agreed to at line 345, pertaining to health insurance and medical bills.

The features of this controlling story include the father's word selection and his persistence in reiterating his desires. At lines 50 and 52, he describes his ex-wife as having "total control" over child support payments. His approach is direct if not overbearing, as he states at line 50 that he "would like to be in charge of some of the spending." His view is that he doesn't "have any choice" (line 52), a thought he returns to at lines 222 and 232 (twice). He is unable to delineate exactly how the child support is
being misspent, but allows at line 378 that "it's going too much for the rent and too much for this and that."

In this session, the father was afforded full opportunity to tell his story, but he was unsuccessful in the purpose behind his story--exerting control over spending of his child support payments.

Venting.

Some disputant's stories function primarily as expressions of anger, sometimes aimed at the mediator or the legal system, but most commonly directed at the former partner. Venting may be manifested through verbal jabs or correcting the former partner, or, as in the portion of the Pearson transcript below, through personal attacks. The goal of the father is time with his son, while the mother's goal is enforcement of an order giving her child support. These goals tend to get lost in their stories, as the couple uses this mandatory, court-connected mediation session as a forum for degrading each other:

13. Mediator: Okay. I'd kind of like to find out a little something here just for my knowledge so I know where to start. Are you against the idea of John Robert having contact with his father?
15. Mediator: You are against any contact?
17. Mediator: Anything might be helpful to me to try to get a list of what your concerns are,
Mediator, (cont'd) what you'd like, then maybe we could see where we might start and where room for negotiation might be. What are some of your main concerns?

18. Mother: Well, I don't know where John's living. I'd like it checked out before because I've lived with him and his family before, and I don't want [her son] to go into that kind of an environment.


20. Mother: I mean, it's a bad environment.

21. Mediator: Okay. Now when you say that

22. Mother: If it was at his grandma's, I mean, at his mom's house, who lives right down the street from my Aunt May, if I'm not correct. Am I correct? That would be fine. I would be, I mean, but anyway it goes I still don't see how he can get custody when he hasn't paid a dime of child support in two and one-half years.

23. Mediator: Oh, custodiy or visitation, which?

24. Mother: No, visitation. I don't want him to have custody at all. I mean, that's just out of the question.

25. Mediator: Okay. When you said 'I don't see how he can get custody if he hasn't paid support', I was a little confused.


27. Mediator: Well, you do realize that support and visitation are completely

28. Mother: Yeah, but I don't see how. I, I mean JR and I are the ones suffering because he don't pay support. I mean, we are suffering, it's not, I mean, I don't care that I suffer, but JR is suffering and he shouldn't have to suffer. I mean, he can't go to the doctor now, he has to go to a clinic. We don't always have food on the table. I mean, I don't see why JR has to suffer just because he can't pay support ...

29. Mediator: Okay. There's two separate issues here but I know you

30. Mother: But that's

31. Mediator: I'm sure you have a legitimate point here.

32. Mother: Yeah.

33. Mediator: Okay. Well, let's just imagine that the support thing will get taken care of and you're both

34. Mother: It won't.
35. Mediator: Well, let's just assume that it will for the sake of trying to proceed here. Perhaps the court can deal with the support issues.

36. Mother: He quits his job when they garnish his wages.

37. Mediator: Perhaps the judge will deal with that.

38. Mother: He won't, but okay.

39. Mediator: Okay. But what I'd like to try [is] to assist the two of you in doing now.

40. Mother: That's what everybody wants to do--just visitation--they don't want to assist in the support.

As in the session which will be covered as "The mediator as story suppressor" under "Mediator Responses", the mother's story is thwarted. The mother then turns to venting her anger towards her ex-husband. Whether this anger stems directly from her being stymied is a matter of speculation. The mother has made multiple uses of the word suffer to describe how she and her son are faring, and has also expressed her frustration over lack of child support. What can be seen from the transcript is the session turning into a series of personal attacks:

44. Mother: It's just that I don't see why I have to pay for everything, I mean, his doctor bills and everything. I am not joking, John, you could have sent some money to my dad. Instead, my dad's in debt, because of us. It's not funny.

57. Mediator: Okay. Well, let's take a look at what conditions you would feel need to be met before you would feel comfortable ... [to line 61] What are you worried about?

62. Mother: Well, where they used to live ... [to line 64] I mean, there was roaches, it was dirty, I mean, like nobody picks up,
Mother, (cont'd) it's just gross ... the neighborhood is just totally disgusting ... the people around him, they're just trash, they'd steal for a living, they'd deal drugs for a living ... they don't care what their kids look like, they don't give them baths, they don't feed them properly, they don't do anything right ... his little nephew, that little Billy, two years old--and they would laugh about this stuff--would call me a bitch, sit there and grab his finger and say 'eat the big one' ... I don't want him growing up in that environment thinking it's okay to sit there and beat up on another girl or it's okay to call girls names. The male is always the dominate (sic). He shouldn't grow up like that [to line 94] ... I don't want him in the neighborhood.

95. Mediator: Not even inside the house?
96. Mother: No, I do not want him in the neighborhood at all ... [to line 103] You lived in it all your life. I know what you done ... You know how they break in their house and tear down their cars ... that's not an environment or a place I want my son to grow up in, at all.

104. Father: See what I mean? Sit here and argue about how the neighborhood, I mean, I don't like some of the things you do with JR, either, but I just want to see my little boy, that's all ... it's really silly.

105. Mother: It isn't silly, though.
106. Father: Yes it is.
107. Mother: No it's not. It's very important to me. [to line 109] You don't pay no support.

The mother returns to her original story, restating her anger over lack of child support. The mother's venting to this point had been used to attack her ex-husband's neighborhood, but she now takes direct aim:
109. Mother: You've only hit my mom, upside the head.
110. Father: I did not.
111. Mother: You did too, and you know it.
112. Father: You mean Debbie?
113. Mother: Yes.
114. Father: Your stepmother?
115. Mother: You're damn right, upside the head, and you've kidnapped Jr from me three times. You've hit me, you've tried to kill me, you've hid in my closet until I would get home, painted black. [to line 124]
124. Father: Everybody's done things, Roxanne. It ain't like you are perfect, you know.
125. Mother: I know I'm not perfect, but you had done
126. Father: And I wish you would quit trying to blame everything on me.
127. Mother: You kidnapped him from me three times. You're not doing it again.
128. Father: Why did I?
129. Mother: Calling me up out of state and telling me you're not coming back.
130. Father: Why did I? What were you doing when I
131. Mother: I just got off work.
132. Father: What were
133. Mother: We weren't doing nothing but sitting there. You brought over beer and roses and then accused me of being drunk and everything and then took JR, while I'm hanging onto the back of the truck.
134. Father: There ain't no point in lying.
135. Mother: I'm not lying.
136. Mediator: Has there been violence between the two of you?
137. Mother: Yes.
138. Mediator: In front of JR?
139. Mother: There's been a lot of violence.
140. Mediator: Would you agree to that? [to line 143]
143. Father: I admit I've slapped her before, you know, but I've never hit her in front of JR.
144. Mother: Not in front of JR. He was too little then.
145. Father: One time she beat up on me in front of JR, and I had JR in my hands. Do you remember?
146. Mother: Yeah.
147. Father: She come hitting me.
148. Mother: He was two hours late from bringing him back and I was worried sick that he had kidnapped him.
The venting in this segment is characterized by allegations of misbehavior by both parties. The stories continue in this vein despite the mediator's intervention attempts:

159. Mediator: Would you both be willing to say that you will not engage in violence in front of JR?
160. Father: I'm not going to because there's no sense to it ... the only thing she can do that really makes me mad is that she uses my son against me ...
161. Mother: How do I use him against you?
162. Father: Keep him from me. [to line 81]
181. Mediator: Well, tell me this. It might help me understand each of your complaints a little bit. There was joint legal custody, is that right?
182. Father: Three months, but that ended. Well, we first got divorced in August of 87 and we had joint custody until December.
183. Mother: And then he tried to kill me.
184. Father: And then, ah
185. Mother: So the judge took him away.
186. Father: The judge, ah
187. Mother: Yeah, JR was there then.
188. Father: When did I try to kill you?
189. Mother: Oh, when you broke my door down ...

The couple go over the incident, detailing what occurred and the police involvement.

206. Father: ... I just come up and say I've come to get my son, well, we want to search to see if you have a gun, get out of your car. This happened four or five times it happened all the time ... [to line 209] I told her I wanted to pick JR up this week [and she said] "No, get out of here, I'm calling the police". I'm leaving, I get into my car to pull away, I'm coming around and, I mean, they tried to beat the crap out of me ... [to line 211] It wasn't three nights later after that I went over to talk to her
Father, (cont'd) again, thought everything had cooled out you know, she did the same thing—she called the police.

212. Mother: That's right. I called the police. Look at everything he's done to me ...

213. Mediator: How do you think all this stuff is affecting JR?

214. Mother: It's not, because he's not around.

215. Father: Of course it's affecting JR. He don't know who his dad is. It's been almost a year since I saw him. And that's not healthy for him, that's not good for him.

As the couple's stories continue to spew out hostility towards each other, their child has been largely overlooked. The mediator raises the welfare of JR once again:

241. Mediator: Do either of you make negative comments about the other in front of JR?

242. Mother: No.

243. Father: I don't even see him.

244. Mediator: Well, when you have.

245. Mother: I do not let anyone talk bad about John in front of JR.

246. Mediator: Well, that's one positive thing I can say about this situation.

247. Mother: Because I don't want him growing up thinking bad things.

248. Father: What's he going to grow up thinking if he doesn't get to see me?

249. Mother: That you're dead.

250. Father: And that's not negative?

251. Mother: Well, he ain't been taught it yet, he don't ask. He don't ask about you so I don't have to say nothing. I don't see why confuse him now, he's happy.

252. Father: I think he would be a whole lot happier if he could spend some time with the old man.

253. Mother: Well, you haven't made me happy, either.

254. Father: I'm not supposed to fucking make you happy. We're divorced. Jesus Christ. The only person I got to make happy is my little boy.
Just when the couple seems to be turning the focus of their stories from themselves toward their son, the dialogue degenerates into another cyclical exchange about child support. The venting, which had included large doses of blame and accusation, has expanded to include profanity. The couple's stories are becoming verbally aggressive (Felson, 1978, 1981, 1984), which is characterized by strident personal attacks. As seen here, venting is an outward focused tirade. Despite the angry nature of their stories, this couple did reach an agreement on time sharing, apparently swayed by the prospect of going to court should the mediation fail to produce an agreement. This everpresent legal influence, aptly described as "bargaining in the shadow of the law" (Mnookin & Kornhauser, 1979, p. 950), was highly influential in this session. That shadow turned an animosity-ridden session into an agreement session.

**Speaking on behalf of the children.**

Divorce mediation is not all anger, allegations, and self-serving stories. Some couples enter mediation with concern for their child(ren) being paramount. The stories told convey caring, along with a desire to help their offspring through the process of divorce or break-up, which has been shown to be a difficult time
for children (Wallerstein & Kelly, 1980). Only twenty-two of the fifty-two Pearson and Donohue couples and eight of the ten Lowe couples could be classified as cooperative, and fewer still would be considered friendly. Still, this type of parental cooperation forms an oasis in a desert of acrimony.

A function of stories in these cases is to focus on the welfare of the children. Large blocks of narrative storytelling are not as prominent in these friendly sessions. The communication is characterized by short, animosity-free exchanges of information. The parties are not as likely to use mediation as a forum for attacking, criticizing, or blaming the other party. Nonetheless, the mediator plays an important role by listening to the parties' stories, facilitating communication, ensuring full coverage of issues, and consolidating an agreement.

One California couple utilized mediation to arrange the best time sharing arrangement for their three year old son. The following exchange occurs approximately one-third of the way through their session, taken from one of the Pearson tapes:

91. Mother: We could leave it at reasonable visitation then.
92. Father: As we need to, yeah as we need to work it out, you know.
93. Mother: I just need to know if you're flexible at that.
94. Father: I'm flexible.
95. Mediator: You two seem to have a nice relationship where you know you can talk this thing out...

96. Mother: When other people are around (laughter).

97. Mediator: What would it be like if I weren't here?

98. Father: I think we've gotten better. Initially it wasn't like this at all.

99. Mother: Yeah. This has been going on for almost two years. It's taken a lot of work...

100. Mediator: But it's good to see that the two parents, the two of you are able to sit down and try to work things out in a way that's good for [your son].

101. Father: Well, we're both interested in him.

102. Mother: He's a very special child.

103. Father: But we've been flexible.

106. Mother: [After two more exchanges] I know we both love him and that's what counts.

107. Mediator: That's real crucial--to be able to put his needs ahead of your own--I think that is a real key thing.

This conjointly developed story, while it may be lacking in rich, sustained narrative, focuses on the welfare of their son. While the couple's stories told in this session do not involve making a case for their side in the dispute or include high emotional content, emotions are still present. The couple above are able to calmly discuss most aspects of co-parenting, but are unable to come to an agreement on child support, primarily because the husband sees support as "something I had to pay in order to have access to my son." (As support is not normally decided in California divorce mediations, the mediator deferred to the party's attorneys to determine a dollar figure.) Even the discussion about support is not characterized the testiness common in these situations.
The following segment is taken from another Pearson tape, this time from Florida. The couple is going through mediation nine months after they separated. They were able to reach agreement in one session, a meeting where laughter replaced uneasiness. Early in the session:

11. Mediator: Why don't we start out by you explaining to me what you want to do.
12. Mother: OK. Basically, this is the agreement that we have: I have full custody of the two girls, and he has what I guess you'd call open visitation rights. He has them on the weekends, whenever he calls.
13. Mediator: Let me explain something to you. Legally, you'll probably want to change the language ... [speaks of shared time]
15. Mediator: The specifics of shared parental responsibility is that you talk about the major decisions in your child's life. Education, for example. [To the mother] You say "we have to check with dad on this".
16. Mother: We have discussed that the girls will stay on his insurance.
17. Mediator: Getting back to custody ... [to line 40]
40. Mediator: Let me just see what we need to put in here...[addresses specifics] It sounds like you're doing well.
41. Mother: We do. We just do it for the children. It's hard, but as time went by, it just came natural (sic).
42. Mediator: It shows that you're caring parents and that you're nice people--not everybody can do this. Usually there's alot of crap about the kids.
43. Father: We don't want to drag them into it.
48. Mediator: We can just say that the schedule will be flexible and arranged around everyone's needs.
49. Mother: Exactly.

While the stories focus on the children's best interests, the mediator is not just a bystander. He
assists the parents by directing their stories toward
details and specific issues which need to be addressed
in an agreement. The father's story turns to the
subject of support payments:

233. Mediator: [Do you pay] directly, or do you pay
through the court?
234. Father: I work where her father works, so what
I've been doing is taking the cash and
putting it into an envelope and giving
it to her father. He hand carries it to
her. If you can believe that [laughter].
235. Mother: I know, some people can't believe that.
236. Mediator: From the point of view of the law, you
would have to change.
(237 to 243 address paying through court vs. directly)
244. Mediator: Do you pay by cash or by check?
245. Father: Cash.
246. Mediator: Cash. So you don't have a record?
247. Father: No.
248. Mediator: I hope you two are always this pleasant
toward each other (to line 250)... I
would recommend that you have some sort
of (pause) either pay by check or get a
receipt. I'm not trying to create a
problem here.

Indeed, the mediator is doing his utmost to avoid
future difficulties. The three share some laughter
about that later:

258. Mediator: I'm going to teach you all the things
you can do to create problems. You're
going to go out of here and say "Wow.
Here's all the things we can do wrong.
Let's go do them."
259. Mother: No, no. We did that for years. Now
we're trying to do things right.

The stories have been brief and pleasant in tone,
and have served the purpose of the parents—focusing
on the children. In cases such as this, the mediator becomes less of a referee and more of a facilitator, performing important tasks such as reality checking, consolidating areas of agreement, and reducing the agreement to written form.

**Bringing in outside interests.**

In most divorce mediation cases, the couples are the ones (with the help of the mediator) who make the decisions regarding their children. However, in some cases, outside influences may be felt. Whether in the form of attorneys, friends, grandparents, or other relatives, these outside interests may have a discernible effect on the mediation process without their actually being present in the sessions. Based on Lowe's experiences, a new partner is likely to be a particularly confounding outside interest (personal communication). He calls these new partners "step-loves" until and unless they achieve the status of step-parents.

In the following mandatory, court-connected session taken from one of Donohue's transcripts, the couple's stories center on an outside influence:

4. Mediator: Can we stick with the issue of the kids?
5. Mother: Yes.
6. Mediator: OK.
7. Mother: Now, to make it easier for [her ex-husband], I will do like I did before--he can have the use of our home, for, you know, the children, so they can have a yard and they can be by their friends. So the situation

8. Mediator: Are your relatives still
9. Mother: My brother's
10. Father: She still has the trash in the house and I'm not going over there with the trash in the house.
11. Mother: My brother has his own place. He's only living there temporarily. If I ask him to move, he will move. His girlfriend has a job
12. Father: Then get the pig out.
13. Mother: Excuse me. His girlfriend has a job. My brother's girlfriend is also a friend of mine ... She is only there temporarily because of my situation. I charge her rent and she watches my son while I work, because my husband told me that he will not pay anything until we go to court. When I ask him for a little help
14. Father: That's cause you started switching everything around. After you moved the pig in you needed more money, and I'm not going to support your brother.
15. Mother: The money
16. Father: And that pig. I told you that before--I'm not supporting 'em anymore.

The function of the mother's story is to explain her current living arrangements; the father's story functions as a diatribe against the outside influence:

49. Father: You ain't goin' to come to no agreement until you get the pigs out [to line 69]
69. Mediator: It appears that now there are certain ultimatums that are saying "No, I won't even talk about anything until such and such is accomplished". And I don't know how we're going to work with that.
70. Father: Pretty easy. All you got to do is make that lady draw up the agreement and
Father, (cont'd) everything with the stipulation that they get out [to line 76].

76. Mediator: Would you be willing to agree to a plan that had in it a time by which the other parties would be out of the house.

77. Father: She moved 'em in in one day and they can can move out in one day. It's that simple.

The relatives in question form a portion of the eventual agreement, but the father's dwelling on them occupies 60% of the mediation session (300 exchanges out of 499). The father in this case was quite open, and his story functioned explicitly regarding the role played by the outside interest. As evidenced by the following session, sometimes the presence of the outside influence is more implicit and may take the form of a hidden agenda. The following transcription is a portion of the first joint session for a couple in the Eugene, Oregon family mediation program. Program director Lowe will physically include an outside interest in mediation if both the co-mediators and the parties agree to such an inclusion. In this case, however, including the outside interest is not possible, as she lives 2000 miles away. The father moved out of state one year before this session, and has not seen his daughters during that year:

51. Mediator: [To mother] Could you tell [the father] your proposal for time sharing?

52. Mother: Well, since the girls are scared of [their father] and need some time to
Mother, (cont'd) get to know him and the [divorce] decree doesn't let [the father] have them this summer, he could have some visits with the girls here [in state] and work up to a trip to Portland and then maybe in six months to a year go back to [the father's state of residence] for the two or three weeks that he wants.

53. Mediator: You wouldn't object to his taking the girls back to [his state of residence]?
54. Mother: Right now, yeah, but not if we do it slowly. Really, I'd encourage the girls to go. I need a break, too, sometimes.
55. Mediator: [To father] This is new information. She'll let you take the girls back to [your state] if you take it slow. From what you were saying, you thought this would never happen. What can you do with this information?
56. Father: I don't believe her.
57. Mediator: Well, she said she'd do it.
58. Father: She's lied so many times in the past. Just this morning I found out that she lied to me three months ago.
59. Mediator: That's history.
60. Father: Yeah, but it confirms that I can't believe what she says.

The father will only accept information that coincides with his view of the situation. The importance of the outside interest has yet to be felt. One of the couple's two daughters is present in the session, and the mediator seeks to involve her:

111. Mediator: Could you tell your father your ideas about time with him?
112. Daughter: Yeah, well, you know I don't really know you [calls her father by his first name], cause you've been gone so much. I don't want to go back to [your state] now, but maybe next year.
113. Mediator: [To father] See, your daughter wants a relationship with you. You were thinking that it would be years before
Mediator, (cont'd) she would go with you. Can you use this new information?

114. Father: No. I have rights and I want to take my girls with me now.

115. Mediator: Yes, you do have a right to time with them. But can't you see that your approach makes it difficult to get what you want?

116. Father: No.

After several more exchanges, the mediator returns to his previous approach—notice the change in wording:

125. Mediator: Can't you see that what you're doing makes it impossible (emphasis added) for you to get what you want? You don't want to take your daughters with you and have them hate you for two weeks, do you?

126. Father: I'll just have to get an attorney so I can take [his daughters] with me.

The father clings to his position, seemingly unable to see that what he wants might best be accomplished by looking beyond his position to what are the interests of he and his daughters (Fisher & Ury, 1981). Ray Lowe, the supervising mediator in this case, expresses this as moving from a personal position to a principled position.

While the role of the outside interest was evident from the beginning of the previous case, in this case the outside influence does not become a noticeable factor until later in the session. In retrospect, the effect of the outside influence on the father's story can be sensed from the outset. His story functioned on
behalf of his outside interest, as he remained strident in his attempt to arrange time sharing. It is not until a caucus session that the identity of the outside interest is divulged. The father reveals that he has a new partner, and she has been adamant that the father demand time with his daughters. The only time deemed acceptable by his new partner is the two weeks out of state for which the father has been striving. Further complicating the situation is the fact that this new partner is an attorney who has emphasized the father's rights (as reflected in his statements at lines 114 and 126). Aiding parties in saving face during mediation (Keltner, 1987, 1992; Brown, 1977) can be tricky in itself; helping a party save face with an interested outsider presents even greater difficulties. Initially, the father's story functioned to limit time sharing options. Later, his story reflected the wishes of his new partner, the outside interest in this case. Despite additional phone negotiation occurring after this first session, no agreement was reached and the daughters did not go out of state with their father.

Divorce mediation does not only occur at the time of the initial break-up. Should a couple return to court for modification of a divorce decree involving children, mediation may be mandated at that time, which may be years after the marital relationship ended. In
other cases, the mediating parties may have been married previously. The next transcript introduces the latter type of complicating outside interest—a previous ex-spouse.

101. Mother: Could I explain the situation?
102. Mediator: Sure. Could I suggest that you explain it to him and I'll just kind of listen in.
103. Mother: Okay. You know that because of the divorce and the strain of all this, we [she and her first ex-husband] haven't been able to have a relationship going, so we said, "Okay, we can't have a marital relationship but we can still be friends" and he wants what's best for the children. So we have worked out the situation and we're living right now, the upstairs with two bedrooms, a living room, and a bath are mine and Angela's living quarters. What goes on up there is our personal business. Downstairs is [her first ex-husband's] personal living space. The phone is down there. It is in his name, he pays the bill, it's in his living space, and he has the right legally and morally to say what goes on in his home and his space and he's the one who said that [her second ex-] cannot use the phone.

104. Father: It's caused a lot of problems.
105. Mediator: May I interrupt here for a second, just for one minute? Does [her first ex-] object to [her second ex-] having access to the phone or just to make special arrangements?
106. Mother: That is different, too. There was a confrontation between the two of them and he [her first ex-] just wants him to stay out of his life completely and he has that right and

107. Mediator: Okay, what we need--I know I'm interrupting you--I'm trying to keep track of the time because we have a lot to look at here. I guess what we need to do then is if using the telephone [of the first ex-husband] is not an option,
Mediator, (cont'd) we need to come up with some kind of other way that you could get some messages in the event that's necessary.

108. Mother: My attorney said that there are certain people that are allowed to use it and as long as it does not cause [her first ex-husband] a hassle, I'm allowed to use it but if there is a conflict that it will be taken away, and there's certain people he does not want to call, you know.

The outside interest dominates the stories of both parties: the mother's explaining and the father's complaining:

113. Father: But the problem we have been having with the no phone number is the fact that he [the first ex-] is living in the same house and I can't have contact with my daughter. When we went to court last time you shared that you was going to get a phone.

114. Mother: I said when I get the money to do it. I'm still on ADC and there isn't, if you would pay the installation, I would get a phone, if you're willing to do that.

115. Father: There's just a bunch of problems with the environment you've chosen to live in. She can help out there, there's special housing through the welfare department.

116. Mother: But see, I have the two younger children and this is something, well part of their lives. We're very good friends [she and the first ex-], you know.

117. Mediator: Well, we're kind of getting off track here a little bit and I can see that it's all pushed up together [to line 119] ... what we need to come up with here is some kind of arrangement that is acceptable to both of you and it sounds like [the first ex-'s] phone is not an option. [to line 121]

121. Father: See, the problem I'm having here is, what she wants to do with her life is strictly up to her, it does not matter
Father, (cont'd) to me, but when it affects my children, it carries a great deal of ... [to line 125] she's creating, I mean, I, her situation is creating a situation in our lives, too, you see.

Here we have an overlap in functions of stories, with an outside interest being a factor along with the father attempting to control the mother's living situation. This Pearson transcript, from a court-connected program in Indiana, is from a session which takes place four years after the marriage ended. Donohue's (1991) research shows that the likelihood of agreement is affected by the point in the relationship when mediation occurs, with post-divorce couples (those where one or both are seeking a modification) less likely to settle. En route to not reaching an agreement, this couple's stories about the outside interest occupy over two-thirds of the session.

Mediator Responses to Disputants' Stories

For disputant stories to contribute to the mediation process, the mediator must listen to, understand, and respond to the stories. Bennett and Feldman (1981) emphasize the importance of the "storyhearing" of the mediator. Kovach (1994) stresses that a mediator needs to be a good listener and utilize what she labels "acute listening skills" (p. 33) within the mediation session. Once the mediator has listened
to a story, what does he or she do with the information received? Carnevale and colleagues (1985, 1986, 1989, 1992) and Donohue and various associates (1985, 1988, 1989, 1991) have researched mediator communication and behavior, but have not considered the aspects of listening and responding to disputant stories. Whether we see mediators as process facilitators (Gulliver, 1979) or a "facilitators of the storytelling process" (Rifkin, Millen, and Cobb, 1991, p. 157), an important point of this discussion is how mediators respond to disputant's stories.

**The mediator as story suppressor.**

The following mandatory session is taken from one of Donohue's transcripts. The attorneys for both parties are literally waiting outside the door, as the court appearance will take place after the session is completed. The couple, married for 15½ years, has had a difficult 1½ year separation:

73. Mother: I'm having--I'm having actual problems. Um, my daughter Karen is an honors student. She has been working hard to do well in school. She's having a hard, hard time relating to the school ...

109. Father: I just feel that I should be involved in some of these problems. I was not aware of any of these things [school, discipline, and playing with matches] until just now.

110. Mother: Okay, now, just this recent weekend, I made [the father] aware before he left that Jeffrey and now Karen's had one progress report. Jeffrey's had four
Mother, (cont'd) progress reports. Now Jeffrey's being tutored twice a week at this time, by a tutor trying to get him organized and get him caught up. When [the father] came to pick up Jeffrey on Friday afternoon, I informed him that he's had these progress reports and basically the tutor and I have to catch him up on a great deal.

111. Mediator: Progress reports mean
112. Mother: Progress reports mean that he is in the position of getting a D.
113. Mediator: OK.
114. Mother: OK? It's alerting the parent to the fact that, you know, I had Jeffrey when these progress reports came out a week ago Friday. I received them
115. Mediator: Mm hmmm.
116. Mother: a week ago Saturday. Monday morning I took Jeffrey to school, to get a note from each of the teachers, each of the four teachers, outlining exactly where he was behind and deficient. And I had
117. Mediator: Mm hmm.
118. Mother: him take those to his tutor
119. Mediator: Mm hmmm.
120. Mother: and had the tutor initial them and he goes to the tutor on Monday nights right after school. I picked him up at the tutor's and he sat down and said "I can't believe this. Jeffrey's been lying to me, too". 'Cause we both felt that Jeffrey was caught up ... So the tutor's come up with a solution that he's
121. Mediator: Mm hmmm.
122. Mother: going to talk to the teachers in between. I mean, one of the teachers Monday could not give Jeffrey his assignment and she didn't give it to him until Wednesday. And she outlined his assignments on Wednesday
123. Mediator: Mm hmmm.
124. Mother: and it happened to have been three literature projects that he had not done, answering questions at the end of the chapter, plus he had a book outline that was due the week before.
125. Mediator: OK.
126. Mediator: OK, let's not get into all that.
127. Father: Yeah, let's not. It's not your part.
128. Mother: OK, OK. I understand. OK, OK.
129. Mediator: Wait, let me just stop you. I understand that you're saying that there are problems with the children and that

It is likely that the mediator in this case is not versed in dealing with relational issues, but has received training in the interventionist approach to mediation, which is directive and seeks to focus on the issues which can be mediated in California—custody and visitation. Perhaps because of time constraints, or the thought of the attorneys waiting outside, the mediator moves to cut short the mother's particular avenue of storytelling. She remains undeterred:

130. Mother: No, no, no. Let me go further. I did tell Mark of those problems.
131. Mediator: Mm hmm. And
132. Father: You did not tell me anything about the literature. We spent a significant amount of time on the weekend. Uh, can I, can I speak?
133. Mother: I specifically discussed the literature. No, you're interrupting me. You're interrupting me. I specifically said he had a book outline that
134. Father: I never heard about the literature.
135. Mother: was due a week ago Friday, which is not completed, and he has some literature books that need to be done. And [the father] said, and his comment was: "Well, when I finally get him home here you send him with the homework again." [This was the first full weekend that the father had with the children since the separation 1½ years earlier]. I said I have no choice, I have faced this every night of my life. I have no
136. Mediator: Mm hmm.
137. Mother: choice. If you want to see Jeffrey, you must understand that Jeffrey is behind and he has his homework. And he said: "Oh, sure."
138. Mediator: Oh
139. Father: OK. First of all, Jeffrey goes to an academic private school, which, in talking to the people at the school, he should not be there. He is not prepared for that kind of thing. He struggled through six years, he's struggling through his seventh year. All of his friends go to public junior high schools and they're all more relaxed and they're developing social relationships. Jeffrey does nothing but study and play video games ... He is just not mature enough yet to really get involved in the academic nature of this school.

140. Mediator: OK. Let me, excuse me, I want to interrupt for a minute because I don't want to get into that discussion right now. Those are very crucial issues, and I feel that once your life has stabilized, with some patterns for the children, it would be very important for the two of you to deal with it, but, um, this is not an ongoing therapy situation, and I'd like to halt you in that area right now.

The mediator has again moved to stifle the mother's story, as when he stopped her at line 129. Here, he interrupts at line 140, states that he doesn't "want to get into that discussion right now" at line 142, and adds at line 144 that he would "like to halt" the mother's story. The "right now" to which the mediator made reference is rather short-lived, as the mother makes an attempt to return to her story:

161. Mother: Can we get back to the basics?
162. Mediator: No, I don't want to, you know, right now
163. Father: That's not relevant.
164. Mediator: and I'll tell you
165. Mother: Yes, it is relevant because it's part of my problem with my children right now. You've got to face the facts.

Once again, as at line 127, the father bolsters an attempt by the mediator to alter the direction of the discourse. Even if the subject cannot be easily changed, the seating arrangement can be:

205. Mediator: I must point out something to you. The both of you are sitting in a fashion that, you know, says that you don't want to talk about it, and yet you're here in a way that resolves something. I'd like one of you to move, so that, you know, there's some possibility of communication between each other. I think you [ ] can move to the chair there and you [ ] can move, too. OK. Thank you.

The responses of the mediator border on exasperation by this point:

219. Mediator: Let me just say something. Let me just say something ... (to line 222) let's look at the forest and not the trees, okay?

A short time later:

257. Mediator: Okay, you two.

The mother continues:

286. Mother: And Jeffrey, and his school work, have been a frustration to me.

287. Mediator: All right.

288. Mother: But I am trying to deal with it. I've
Mother, (cont'd) recognized that I have a problem with Jeffrey and his school work.

Even after a caucus with each party individually (unfortunately, the caucuses were not transcribed):

342. Mediator: Okay, wait a second. I want to stop you because the
343. Father: Yeah.
344. Mediator: two of you have this problem, and it's driving me bananas this morning. That's not what we're talking about. Okay?
345. Mother: Okay.
346. Mediator: What we're talking about, the question we asked you, is what we do, [ ], when ... [to line 348] we're knocking heads against one another, and you say one thing and I say another, what is going to be our ground rules?
349. Mother: Okay. So, are you going to answer that question? I have no ground rules.

The mediator has gone from stifling and attempting to suppress the mother's story to shutting down any further discussion of the children's school problems. This appears consistent with Cobb and Rifkin's (1991) conclusion that a mediator, by means of questions and summaries, may contribute to story suppression "Because they do constrain the development of certain story lines and favor others" (p. 56).

The session ends with the mediator calling for the attorneys to come in (at line 563). The bickering and differences continued through the end of the session, with the couple seemingly far from agreement. Then, in the words of the transcriber, "attorneys come in and
much discussion follows. Agreement is hysterically reached", on the courthouse steps, as it were.

Pruitt (1983) writes of the "grim picture of the outcomes resulting from contentious behavior ... [any agreement] is likely to be much delayed and to take the form of a last-minute low-level compromise" (p. 170). Pruitt attributes this to the parties not having done any creative thinking. The mediator says as much approximately two-thirds of the way through the session:

356. Mediator: If the two of you can get out of the arena of power and control, which is where you are right now, that's why you don't think of a logical alternative

While we do not know about the quality and duration of the agreement in this case, we do know that an angry, divided couple, combined with a mediator who seemed overwhelmed during much of the session, did reach agreement despite the constraints placed on storytelling. Lowe states that he avoids predicting which couples are likely to reach an agreement because his predictions are usually wrong (personal communication, 1993). In this case, agreement seemed unlikely all the way through the session.

The mediator as story referee.

The session which follows involves a couple caught up in accusations and squabbling over details, combined
with a mediator who unwittingly promotes the counter-productive dialogue. The couple has one five year old son, Jason, and the mother has custody of her twelve year old son, Craig, from a previous marriage. Attorneys for both parties are involved in discussions prior to and immediately after the mediation, but are not present during the session itself. This excerpt from a mandatory session comes from one of Donohue's southern California transcripts:

14. Mediator: Let me, let me back up a little bit and ask you what you would really like for Jason and Craig, not for yourselves but for them.

15. Father: Want 'em to have everything that I been tryin' to give 'em.

16. Mediator: Okay. What have your been tryin' to give 'em?

17. Father: Good life.

18. Mediator: Good life.

The mediator attempts to center the stories of the parents on the two sons, first with the father (above), and then moving to the mother:

22. Mediator: [ ], what else would you want for Jason and Craig? What else would you want to give them?

23. Mother: Well, I wanna give 'em the best of everything I'm able to. I'm working.

24. Mediator: Mmm.

25. Mother: I don't want Jason taken away from me and to go with his father because I don't think that would be right. His father is on drugs, he drinks, he lies, all this is very untrue what he has been
Mother, (cont'd) saying. He can have visitation rights. What I know he will do is I know the minute he gets ahold of Jason I won't see Jason again. He's not working, he has nothing to hold him here. He has told me time and time again that if he and I ever separated, he would take Jason and I would never see him again. Now he's turned around and said

26. Father: That's not true.
27. Mother: That is true.
28. Father: No, it's not true.
29. Mother: What have you said about Craig? (Her twelve year-old son).
30. Father: I'm not working because I had an accident, okay?
31. Mother: Because you were driving under the influence and went off a cliff, [   ].
32. Father: I have not been cited for any such violation. I did have an auto accident, and at the bottom of the cliff where I laid for 2½ hours, I did have a beer. And the lady that found me, I also had a beer sitting on the side of the cliff before they got me up in a basket on the side of the cliff. I went off a cliff 450', and I'm not on drugs.

33. Mother: Two hundred feet, two hundred feet.
34. Father: Four hundred and fifty.
35. Mother: Two hundred feet. I have the police report.

The mother's story at line 25 and the father's at line 32 represent their longest speaking times during the session--the remainder of their exchanges seldom exceed two lines. The mother uses her storytelling in an attempt to bring the mediator to her side by attributing numerous negative qualities to her ex-husband. The father seeks to explain what 'really' happened, and the "attack/defend cycle" (Donohue, 1991) begins in earnest. Rather than attempting to move the couple in
a different direction, the mediator takes them deeper into the quagmire of details:

36. Mediator: [ ], [ ]. What happened? I mean, how did the accident occur?
37. Father: I was nervous, I was upset. I have been evicted from my home which I had paid for, supported, all the time we'd been there. I was
38. Mother: Ahh!
39. Father: abruptly woken in the middle of the night, told to pack what little personal effects that I
40. Mother: You
41. Father: wanted, and leave.
42. Mother: Alright, he was
43. Father: Forthwith, in the middle of the night.
44. Mediator: Okay, okay.
45. Mother: He was served divorce p-
46. Mediator: Do you, do you know that I'm not a judge and that I don't make recommendations.
47. Mother: Oh. Okay.
48. Father: Okay. So I'm just telling you how my accident happened.
49. Mediator: Okay, okay.
50. Mother: And I'm telling you he was driving under the influence. I have the police report in my purse.
51. Mediator: All right.

The mediator's question about the accident at line 36 is apparently an attempt to referee the couple's dispute about the height of a cliff. Even if the height of the cliff could be ascertained, the couple would not be any closer to an agreement about the children. Instead of officiating at the main event---time sharing---the mediator becomes entangled in a side show:

52. Mother: He was under the influence.
53. Father: I had not been cited.
54. Mother: He has not been cited because there was no one to see him behind the wheel.

55. Father: And I wasn't under any drugs.

56. Mother: He was served papers at 5:10 a.m. on March 4th. It was said in the papers that you do not remove anything from the house. He took everything he could get his hands on, drove up to Lake Isabella, driving under the influence and drove a truck off a 200' cliff and lost everything. And then he turns around

57. Mediator: Okay, okay.

58. Mother: just let me finish. And then he turns around and says to his lawyer that my twelve year-old son is beating the five year-old. That is a downright dirty lie and I'm not going to stand by and let him (Unclear)

59. Father: 

60. Mother: get away with it. [to line 71]

71. Mediator: Okay.

72. Father: She doesn't come home at night.

73. Mediator: Lynelle, excuse me, Lynelle and George, both, both of you.

74. Mother: I come home at night. You are lying.

75. Father: She stays out with her girlfriends all night. I've got dates.

76. Mother: That's a lie.

77. Father: All right. I'm the one that was

78. Mediator: This, this

79. Father: there with my son. I took care of my son all night long.

80. Mediator: George, excuse me, okay? This is not helping us work out a plan.

The mediator/referee tries to blow the whistle at lines 44, 49, 57, 71, 73, 78, and 80, but is run over by the couple's stories. One might picture a hockey referee attempting to separate two fighting players. Hockey sticks and gloves are strewn on the ice. The official endeavors to keep the protagonists at arm's length, but they continue shouting at each other until they are sent to the penalty box. As the referee makes use of physical separation to end the fight, so the
mediator resorts to caucus time with each of the parties:

81. Father: I want my son. I'm able to physically give him
82. Mediator: (Unclear)
83. Father: full attention.
84. Mother: You are not working. Jason is fine in
85. Mediator: Okay, what happened?
86. Mother: the home he is in. He's going to school
87. Father: He has a place to live that has an atmosphere
88. Mother: There is nothing wrong with him.
89. Father: that's totally different than his dad.
90. Mediator: Hey. Let, let me talk to each of you alone for a while, okay?

The mediator's use of a caucus time with each of the disputants may be a cool down time or an attempt to alter the pattern of the discourse. The caucus sessions, which lasted between twenty and twenty-five minutes but were not transcribed, have no discernible impact on the direction of the session.

Out of the penalty box and back on the ice, as it were, the couple is ready to pick-up the fight just as they left it. The parents have created a narrative by combining the mother's allegations and the father's rebuttals, but the mediator is unable to turn the stories in a more productive direction:

109. Mother: You're trying to take him away from me.
110. Father: I always have to pay all the bills.
111. Mediator: Okay. Excuse me.
112. Mother: You're trying to take him away from me.
113. Mediator: Okay. [ ], [ ], the issue of custody right now is an open issue.
[to line 134]
134. Mediator: Okay, let's
135. Father: She doesn't come home at night
136. Mediator: We're not, this is not a trial. [ ]
137. Mother: I have been home every single
138. Mediator: [ ]
139. Mother: night, [ ].
140. Father: You would be investigated.
141. Mediator: Hey, [ ]. Excuse me. We're not, this is not a trial.
142. Father: What do you want?
143. Mother: You disgust me.
144. Mediator: Okay.
145. Mother: You are a disgusting person, [ ].
146. Mediator: [ ].
147. Mother: You will lie. God. You're gonna get yours in the end, you watch it.
148. Mediator: Excuse me, [ ], excuse me please. Okay, we're not trying the case. I don't wanna hear anymore arguments.

Even when the referee/mediator is ready to call off the game, the mother and father continue unabated:

172. Father: ... I didn't ask for this divorce.
173. Mediator: [ ].
174. Mother: You did. You filed it. I didn't want the divorce to
175. Mediator: Would you call in the attorneys, please?
176. Mother: begin with.
177. Mediator: I want to talk to all, both of you and the attorneys, okay?
178. Father: You're the one who started it
179. Mother: So you're trying to say that I'm an unfit mother? I
180. Father: You ruined the family.
181. Mother: can't live with you anymore. We can't get along.
182. Father: We tried.
183. Mother: No, we can't.

Having called twice for the attorneys without success, the mediator tries again:

184. Father: You didn't want to try. Your family paid th-, paid for you to get an attorney before we could even talk.
Mother: Oh, no, they most certainly did not. I beg, borrow, and steal for that money to get my attorney, buddy (sic).

Father: No, I gave you money before you left.

Mother: No, you gave me

Mediator: Hey [ ], [ ], would you call the attorneys please?

Mother: I had a hundred dollars on me. You took everything else I had.

Father: I gave you $400 right after

Mother: Baloney. Baloney. You got a fight on your hands, buddy.

Mediator: Dan, too. Okay, would you call Dan, too?

Father: Want the other attorney also?

Mediator: Yeah.

Father: I don't want to talk about it.

Perhaps it is expecting too much to have a mediator act as a referee between two steamrollers. In his book Getting Past No, William Ury (1992) describes a dialogue of the deaf, in which negotiators do not listen to each other. In this case, the couple appeared to be deaf to each other and also to the mediator's attempts to focus on a plan for the children.

The mere opportunity to tell one's story does not assure that the information shared will be useful. Responding to the couple's stories early in the session, the mediator listened closely and encouraged explanation, with the couple in turn expanding on their statements. The resultant exchange of information was neither productive or helpful in addressing the issues surrounding the children. Rogers and Francy's (1987) research showed that more communication is not necessarily better. In this session, quantity of
information did not equal quality of information. The mediator attempted to swim through a sea of minor if not irrelevant details. Unable to shift the discourse to more substantive matters, the mediator drowned in the very stories s/he elicited at the beginning.

**The mediator as story solicitor.**

As the parties in divorce mediation are not always willing participants, they may express their resistance through withdrawal, expressions of anger, or lack of concentration. While such obstructions might seem more likely to occur in court-connected mandatory mediation sessions, resistance can also be found in voluntary situations such as Lowe's family mediation program, from which the following example is taken:

16. Mediator: ...it was very helpful to hear from both of you [in the individual sessions prior to this meeting], to hear your vantage points ... what you thought the issues were ... [to the father] What do you want to be on the agenda for mediation? [To the mother] I'll ask you the same question, even though you wrote it down.

17. Father: I don't really know. I don't know. What are usually on the agendas?

18. Mediator: Everybody's case is unique—not different, but unique. What do you want resolved? Let me put it that way.

19. Father: She's already thought through it. Let her start. I can just add things to it.

20. Mediator: Let me tell you the dangers to that. That's not an unusual position for the first person to take, because it gives
Mediator, (cont'd) you the advantage in a power contest of "You did this ... you did that".

21. Father: It'll come to me. There's no contest. I just haven't put myself in [pause] I just haven't thought about it.

If this session were the only one with this particular couple, we might wonder if the father is inarticulate, frightened by the mediation atmosphere, or hesitant to express himself for some unknown reason. However, both his individual one hour session and the couple's second joint session were also available for analysis. The father was much freer with his comments and desires during the other meetings. The mediator responds to the father's quietude by pressing:

22. Mediator: ... The first time we come together there's usually a great deal of history--"You didn't do this, you didn't do that, you shouldn't have done this". We find that parents, disputants, are great historians--they know everything bad that the other person has done ... We'll listen to it once ... [to line 24] You don't need to say it for each other. If you say it again, I'll probably say "Why are you telling us that again?" This is to try and help you see that you are in a rut of retaliation. We want to get you out of it, because you can't communicate as long as you are trying to retaliate ... I'll try again. What do you want to discuss? No right or wrong.

25. Father: I haven't put much thought into this.

26. Mediator: What can you come up with now?

27. Father: I'm not prepared. I'm sorry.

28. Mediator: If I insulted you like you've insulted yourself you'd go to the president and say "Get rid of that guy!"

29. Father: Only at this thing.

30. Mediator: What you're saying to me is, "I want you to think I'm stupid," and I don't
Mediator, (cont'd) think you're stupid
31. Father: Oh, I know I'm not stupid

At this point, the mediator challenges the father's behavior in an attempt to draw out a story:

32. Mediator: Then come up with what you want to have discussed. You're playing a game—you want to know what she is doing so you can jump on her.
33. Father: No, I just don't know what the issues are. I don't understand exactly what you mean. What issues? I don't want the child with her?
34. Mediator: Let me ask you this. What is the issue in court?
35. Father: Because she filed charges against me.
36. Mediator: What are you asking for in court?
37. Father: I'm not asking for anything. I haven't asked for a thing. I'm just going to court.
38. Mediator: Your attorney isn't going to go in and try to get you something?
39. Father: We haven't decided that. I got some papers saying she is suing for full custody and I got a lawyer but I haven't filed any countercharges.

Mediator experience may play a role in determining how long to continue with a particular approach. Here, the very experienced mediator chooses to persist:

40. Mediator: Let me try it once more ... What would you like to have the relationship be with your child, in terms of what we call timesharing? We don't use the term visitation—it's an insult ... to think that you are going to 'visit' your child ... What do you want to do? What do you want to have happen with the shared time with your child?
41. Father: I can't--I'd be rude if I say that--I'd offend.
42. Mediator: You can't offend us. Try.
43. Father: But I'll offend her.
44. Mediator: We're not worried about her now. This is between you and me.

45. Mother: I've heard it all before.

46. Father: Uh, about timesharing?

47. Mediator: Yeah. What kind of time do you want to share with your child? [No answer]. Hmmm. That's quite a response. Try another one.

48. Father: I'm thinking. I'm trying to see if you want me to say I want full time with her. I don't know right now.

49. Mediator: I'm not going to nail you about it.

50. Father: It's hard to say. It goes in phases. You're saying how much time she'll be with her--her mother? Sometimes I think it would be great to be with her 50% of the time.

51. Mediator: I don't care what she wants to do right now. I want to know what you want to do. What you're telling us is what you don't want.

52. Father: I would like to have her all the time.

53. Mediator: So you would like to have full custody. Okay. So you would like on the agenda full custody.

54. Father: Yeah.

55. Mediator: Okay.

The mediator has finally elicited an agenda item from the father, or at least thinks he has:

56. Father: But it's not like that. I don't want full custody. I would still want her to be with her. I think I'd feel guilty if she was with me all the time and not with her mom. Do you understand?

57. Mediator: Full custody doesn't mean that you'll actually have her full time. You can't deny her mother ... [to line 59] You can't deny a parent. That's why negotiation is so important. How are you going to timeshare with your child? [No answer]. Okay, we've got an agenda item, tentative though it is. [Turns to the mother] What do you want on the agenda?
The mediator's perseverance has resulted in one item of concern to the father. As the mother shares the same concern, discussion ensues on the issue of custody of their daughter, with greater participation from the father as the session continues. Gulliver (1979) stresses the importance of shared information. He sees this sharing as a form of social reciprocity, in which a party offers information, seeking a response or at least a reaction from the other party. Here the mediator has gone to great lengths to bring out a story from the father, through the use of humor, challenges, questions, and elaborating on the father's brief statements. Gulliver warns that continued refusal to exchange messages may lead to impasse. In this session, the mediator strives to avoid a breakdown in the mediation process by engaging the father in a meaningful exchange of messages, and the father does converse more as the session goes on.

Interestingly, the beginning of the second session a week later bears a striking resemblance to how the first meeting started:

4. Mediator: Okay. We talked about a number of things; quite a number of issues. [To the father] What do you want on the agenda tonight?
5. Father: Well.
6. Mediator: Could be the same thing as last time, but sometimes there are changes.
7. Father: I want to wait for her.
8. Mediator: You did that last time.
10. Mediator: I didn't let you do it, but we can go ahead this time and change back and forth. [To the mother] What do you want on the agenda?
11. Mother: Um, I would like to see if we could get something, cause we've talked.
12. Mediator: I want to know what the something is.
14. Father: And timesharing.
15. Mother: Both.
16. Mediator: [To the father] Are these okay with you, or do you want something else?
17. Father: No, these are the main concerns.

Soliciting a story was not the sole motivation for the mediator's persistence. Lowe (the mediator in this case) divulged that he was soliciting any response that he could get, as a means of involving the father in the process (personal communication). Lowe's prodding and cajoling paid dividends later on, as the father told stories relating to the concerns and hopes he held for his daughter. The couple eventually reached agreement after four sessions. Lowe's approach to soliciting a story resembles Carnevale's (1986) strategic choice of pressing. One might imagine this pressing for a story being done in an overbearing or brusque manner. In this case, the mediator responded with gentle, albeit persistent, prodding.

**Storytelling Order**

In their research on storytelling in mediation, Cobb and Rifkin (1991) found that in 80% of the
community mediation cases they studied, the agreements favored the party who told his or her story first. Their findings could significantly impact this study of disputant's stories, should the results have external validity and apply to other mediation forums. The concern was that research into the nature of disputant's stories would be far less meaningful if storytelling order exerted such a strong influence over other stories and subsequent agreements.

In the course of analyzing the tapes and transcripts utilized in this study, this issue of the primacy/recency effect (if any) of disputant's stories was addressed. During an early step in scrutinizing the data, note was made of those tapes and transcripts for which agreement status was known. A subsequent step isolated those sessions which ended in agreement to ascertain if any information about the nature of the agreement was included in the tape or transcript. Known details of the agreement were then compared with the presentation of the first storyteller, seeking links between the initial story and the resultant agreement. Quite obviously, this filtering process resulted in fewer tapes and transcripts at each step.

Perhaps because of longer time and more sessions allowed, the eight agreements which came out of Lowe's program were all composites of both party's concerns. Looking solely at the Pearson and Donohue material,
fifty-two cases were available for study. Of the thirty-five cases in which agreement status was revealed, seventeen agreements were reached. From this shrinking number of tapes and transcripts, it was found that the agreement in six cases was based on the first story told. In the material used in this study, therefore, 35% of the agreements reached were based on the story of the first storyteller, in sharp contrast to the findings of Cobb and Rifkin (1991). Several factors come to bear when comparing this result with previous research.

First, Cobb and Rifkin studied community mediation, while this paper focuses on divorce mediation. A second factor, related to the first, deals with the ongoing relationship of the parties. In divorce mediation, couples with children are likely to have continued contact in the future, while disputants in community mediation might not have as many dealings with each other once the dispute is resolved. There is a chance that divorce mediators, some of whom see themselves as advocates for the children, would be more concerned with an agreement which considers the needs of both parents on the basis that the children would benefit. Third, the low overall agreement percentage (fewer than one-third of the Pearson/Donohue couples settled) of the material in this study appears to be atypical. Therefore, the low percentage of agreements
based on the first story may also be atypical. Of import to this study is the determination that, at least in this data, the first storyteller is not dominant. The significance for this research is that any findings are less likely to be skewed because of storytelling order. As Fuller, Kimsey, and McKinney (1992) point out, mediators should still be aware of the potential impact of the sequence of disputant's stories. While storytelling order is a factor to be considered in mediation, it is not preeminent.
CHAPTER V
CONCLUSION

This study provides an introductory examination of the nature of disputants' stories in divorce mediation. In this concluding chapter, findings of the research will be highlighted, with elaboration to follow. The remainder of the chapter is devoted to discussing the relevance of the study for mediators, limitations of the study, implications for future research, and reflections of the author.

As this project began, the research focus was on McEwen's idea of comparing emotional stories with matter-of-fact stories and ascertaining if there were any links between storytelling approach and likelihood of agreement. Since the data obtained lacked sufficient information for establishing such a link, the focus shifted to investigating recurring types of stories. Common threads between story presentations had been noticed during the initial reviews of the tapes and transcripts, and the first drafts of this thesis concentrated on classifying the story types identified. What resulted from analyzing the material and attempting to categorize the stories was the realization that a taxonomy of story types was not particularly useful, and would not add as much to our
understanding of the nature of stories as was first thought. These shifts in focus have culminated in several significant findings.

Findings

Even though a storytelling taxonomy did not result, a number of themes emerged from scrutinizing the tapes and transcripts. As these emergent themes were compared and contrasted with previous research, several findings were discovered. Analysis of the data reveals that:

1) Storytelling order is not as significant as indicated in previous research.

2) Children's needs and interests are often overlooked in the stories parents tell.

3) Mediators have varied responses to disputants' stories.

4) Disputants' stories serve two important purposes: Information exchange and emotional release.

**Storytelling order.**

Findings from this study stand in direct contrast to the results obtained by Cobb and Rifkin (1991) in their examination of thirty community mediation sessions. In the course of looking at mediator neutrality, they discovered that in a preponderance of
sessions, agreements stemmed from the first story. Cobb and Rifkin (1991) conclude that "80% of the time, the second speaker never is able to tell a story that is not colonized by the first or dominant story!" (p. 61, emphasis theirs). They add that mediation "is not, from this perspective, a communication context where all persons have equal time and access to the storytelling process" (Cobb & Rifkin, 1991, p. 61).

In this study, 35% of the agreements reached (six of seventeen) in the Pearson and Donohue material were based on the initial narrative, a strikingly lower figure than the results obtained by Cobb and Rifkin (1991). As detailed on pages 110 to 112, this figure omitted the Lowe material, in which none of the agreements were based on the first story. Should the Lowe material be added, only six of twenty-five agreements--24%--were based on the first storyteller's presentation. As stressed by Fuller, Kimsey, and McKinney (1992), mediators should be sensitive to and aware of the potential impact of storytelling order. At the same time, mediators need not be fearful that the first storyteller will necessarily dominate.

**Children's needs and interests.**

Ostensibly, divorce mediation exists to serve the best interests of the children (Wallerstein, 1986; Gold, 1992; Haynes, 1994). In those states where
court-connected mediation is available, the process only becomes mandatory when the couple has a minor child or children. The data indicate that in almost one-half of the Donohue and Pearson sessions (twenty-five of fifty-three), the interests and needs of the children are not even considered.

As was the case with "Storytelling Order", the results obtained from the Lowe material differs markedly from the Pearson and Donohue material. In the Lowe tapes, the children were the focus in eight of the ten cases (the eight in which agreement was reached). This may be attributable to the fact that Lowe is a child psychologist and specialist in child growth and development. If the co-mediator does not keep the children in the forefront, Lowe will. One of his approaches for dealing with stories which get off the track (away from the interests of the children) is to ask "How will this [information/story] help the children?" This question could have been put to good use in much of the Pearson/Donohue material. Both of the Lowe non-agreement cases were situations where the stories of one or both of the parties did not focus on the children, instead staying mired in their personal position(s).

Research conducted by Bautz and Hill (1991) indicates that children are the "winners" (p. 209) when their parents go through divorce mediation. Their
findings (from three states) indicate that mediated divorces result in greater use of joint custody, regular child support payments, and more cooperative post-divorce parenting. One can see how children would be well served by Lowe's working on their behalf. In addition, in one-half of the Pearson and Donohue tapes and transcripts, the children's welfare was raised by the mediator and/or parents. However, this begs the question about the 47% of the sessions (in the Pearson/Donohue material) where the parents' stories disregard their children: Who will speak for the children? How can the children win if they are not even considered?

Divorce mediation provides a third party who can assist parents in considering the needs and interests of their children. Transcript excerpts on pages 76-81 illustrate parents cooperating in support of their children. While not all parents in mediation emphasize their children to such an extent, these samples serve as the ideal, where the stories told do not dwell on past hurts and difficulties. Should the parents not focus on their offspring, the mediator has the opportunity if not the obligation to keep the children in the foreground. Through mediation, the "suffering" (Hetherington, Cox, Cox, and Lamb, 1982; Wallerstein and Blakeslee, 1989) experienced by children of divorce can be reduced; mediators can facilitate this reduction.
Mediator's responses to stories.

Despite the extensive research focusing on mediator behavior, the manner in which mediators respond to disputants' stories has not been studied. This study found that mediators differ in both their styles of mediating and their responses to how stories are told. The data reveal that mediators have a variety of responses to disputants' stories, with no one correct manner of response.

While there is no evidence demonstrating that mediators must respond to stories in one particular way, there is evidence that mediators sometimes respond to stories in an inappropriate manner. As seen in the transcript excerpt on pages 96 to 104, the mediator's response to the disputants' conjoint story about the father's accident—seeking more details—was not of help in addressing the issues surrounding the children. The mediator's interest in the story brought out extensive information from both the mother and father, but the minutiae was not useful. Blindly encouraging any story may not be appropriate. As expressed by Donohue and his associates, "the competent mediator must know how to merge the intervention with the situation" (Donohue, Allen, & Burrell, 1985, p. 87). The mediator needs to distinguish productive stories from those which are potentially unproductive.
Rather than develop a new model of mediation which centers on disputants' stories, we may be able to apply aspects of models already extant. From Carnevale's (1986) strategic choice model, inaction may be called for in a case where the parties' stories are productive and leading towards agreement, while a mediator may use integrating to select useful segments from each story as a means of finding a solution. Donohue's (1989) communicator competence model incorporates reframing positions and expanding information, each applicable when clarifying or drawing out stories.

The transcript excerpt entitled "The mediator as story suppressor" (pages 90-96) demonstrates that stifling a story does not necessarily thwart agreement. Encouraging a story, as done on pages 96 to 104 ("The mediator as story referee") does not in itself help reach an agreement, particularly when the direction of the story is not beneficial. Further research may ascertain which types of stories to encourage and which to discourage. When added to mediator training and coupled with specific tactics for soliciting or suppressing a story, this information will assist mediators in choosing the best intervention.

Purposes of disputants' stories.

In their small claims research, O'Barr and Conley (1985, 1988) found not only story variations, but also
story changes within one court appearance. This
switching of vantage points was not often found in the
mediation material studied. Changing stories in
mid-session was also a seldom seen occurrence, with the
notable exception of the transcript excerpted in the
section "Emotion-laden stories" (pages 58-61). The
father in that case changed his story from looking
outward in blame to looking inward and apologizing for
his behavior in the first one and one-half mediation
sessions. Such an apology can have a cathartic effect,
and can also aid in moving negotiations off of dead
center (Fisher & Ury, 1981; Ury, 1992). The switch in
storytelling, the most dramatic found in the data, did
not bring about an agreement.

The matter-of-fact story (or exchange of
information), characterized by a concentration on
details and a lack of rich narrative, was the most
common story type found in this research. My
pre-thesis study of stories in mediation began with
transcripts of small claims mediation received from
McEwen. The dearth of narrative in the small claims
sessions contributed to my seeking divorce mediation
material. Implicit in this search was the thought that
divorcing couples would have more stories to tell
because of their shared experiences. At the very
least, I expected that more emotion would be present in
the divorce cases than those from small claims. I was
surprised at the number of divorce mediation sessions which only dealt with details. This is not to say, however, that emotions were lacking in the sessions examined.

This study found that feelings such as hurt, disappointment, distrust, frustration, and confusion surfaced far more often than overt anger. In addition, analysis of the tapes and transcripts show that storytelling is a viable option for such emotional release. The mother in the transcript excerpt "The mediator as story suppressor" (pages 90-96) wanted (if not needed) to voice her concerns about her children's school situation. The father on pages 81 to 83 spent an extended period of time expressing his anger about his ex-wife's relatives, while the mother on pages 69 to 78 vented repeatedly (raising the issue a half-dozen times) about not receiving child support. That same transcript contained some of the sharpest anger and emotional release found in the seventy-two sessions analyzed. Contending with emotionally intense stories and determining when and how to intervene presents a "significant challenge" (Donohue, 1991) for mediators; one will not find consensus in the literature on how to deal with such displays of emotion.

In Donohue's (1991) opinion, emotions must be vented in order for the parties to educate each other about the intensity of their views. Payne and
Overend (1991) assert that venting should only be allowed if the emotional level will be reduced as a result, but they do not indicate how to ascertain this in advance. Salius and Maruzo (1988) emphasize controlled venting, believing that such venting should be strictly limited in both scope and time length. Letting off steam is perceived as beneficial by Fisher and Ury (1981); O'Barr and Conley (1985) view this tactic as a conflict neutralizer. Moore (1989) sees some benefit in venting, particularly in caucus sessions.

Emotional release need not be an obstacle to reaching agreement, and can prove to be constructive if contained within a mediator-facilitated story. Donohue (1991) emphasizes that the mediator should provide direction and focus to the parties' venting, so that positions can be separated from "emotional baggage" (p. 84). Discerning the productivity of emotional expressions is a very difficult task for mediators, as evidenced by the segment "The mediator as story referee", where the mediator facilitates the parents' counter-productive story line. Mediator training which includes information on disputants' stories could help mediators determine when venting specifically and stories in general are not constructive.

warned of the possibility of harsh personal accusations disrupting the mediation process. Felson's research shows that when offensive comments are used as an outlet for intense emotions, conflict escalation results. Such behavior was not a characteristic of most of the material used in this research. The intense anger which I anticipated surfaced in less than 10% of the Pearson and Donohue cases (five of fifty-two) and not at all in the Lowe material. I envisioned a bitter courtroom battle being fought within the confines of mediation, but this was seldom the case.

The key here might be the surfacing of the anger. The anger level between many of the parties may well have been higher outside the presence of a third party. As the mother relates in the transcript excerpt on page 78, it is easier to talk and have a nice relationship "when other people are around." Mediators might have a tempering effect on the parties, it might be a situation where people are on their 'best behavior', or perhaps the couple worked through some of their difficulties with the passage of time. Donohue (1991) found evidence that agreements can be more difficult to reach when some time has passed since the divorce, but there are obviously exceptions to this. The couple on page 78 were relating better after two years of "a lot of hard work"; the parents on page 79 told of how they cooperated for the sake of their children, and although
difficult, "as time went by, it just came natural" (sic). These couples had largely worked through their anger prior to entering mediation, and did not make use of the session for negative emotional release.

Relevance for Practitioners

To the extent that emotional release is necessary and constructive, mediators might see a value in allowing if not encouraging such venting. The venting may be a necessary prelude to dealing with the issues at hand. In Lowe's family mediation program, joint sessions beyond the first session begin with an opportunity for "getting current", where the parties relate what has transpired since the last session. This helps to remove distractions which might hinder progress. Venting may well serve the same purpose—clearing the air so that mediation can proceed.

In all this, an important distinction must be made—mediation is not counseling. Venting in mediation can serve to inform the mediator and the other party of the intensity of feelings present, but it does not necessarily set the agenda. Mediators can acknowledge the emotions, but addressing deep-seated emotional concerns is more a function of counseling. As Lowe is prone to state after an emotional tirade: "We cannot mediate feelings. You have a right to express your feelings, but you do not have a right to
expect us (the co-mediators and the other party) to do something about them." Counseling can be a forum for attempting to "do something" about feeling issues; mediation deals largely with thinking issues.

Why, therefore, encourage parties to vent through the telling of stories? First, in some cases venting may be a necessary precursor to dealing with substantive issues. Second, to the extent that venting is constructive, all present are educated about the depth of concern. The difficulty for mediators lies in discerning when such venting is constructive and also when emotional release may be (or is becoming) counterproductive. Such concerns are best addressed through experience and additional training. Mediator training which includes the role of storytelling and the place of venting would benefit both practitioners and their clients.

One caution deserves note, though. This discussion may imply that more storytelling is better. However, storytelling for storytelling's sake may not be in the best interests of all involved. For example, an untrained mediator might encourage too much storytelling, a potential problem whether the divorce mediation is court-connected or for-fee. Storytelling takes time. Storytelling might not be productive within the time limitations of court-connected
mediation. As counseling is a time-intensive and potentially expensive endeavor, so extended storytelling within a for-fee mediation context might prove to be too costly. These time and financial constraints act as a shaping force in mediation. Extended storytelling might only be practicable in a program such as Lowe's, where financial and time constraints are removed through use of volunteers. Rather than recommending storytelling for its own sake, this study seeks knowledge of productive communication between disputants. Telling stories is but one form of potentially fruitful communication.

Analysis of the data show that, in divorce mediation, there are many paths to agreement and also many paths to impasse. Angry couples working with a seemingly overwhelmed mediator reached agreement, while couples whose stories focused on the children and were aided by a skilled mediator were unable to settle. Along these many paths lie a myriad of storytelling approaches. These multiple varieties of stories can be seen as a strength of mediation, wherein the disputants have the freedom to use their own approach to storytelling, unhindered by the constraints inherent in a courtroom setting. Such storytelling can be encouraged by the mediator. Functioning as process facilitators, mediators "help to increase or orient the
exchange of information and to expedite the learning and adjustment process" (Gulliver, 1979, p. 6).

The data indicate that no particular storytelling approach either guarantees or eliminates the possibility of agreement. Therefore, mediators need to listen to the disputants' stories without prejudging the parties or the likelihood of settlement. In Donohue's (1991) view, mediators tend to assess the possibility of success early in a session, and in effect, cut and run when the chances of agreement appear to be slim. In the "Control" and "Venting" transcripts, agreements resulted even though prospects were bleak at the beginning. Winston Churchill's admonition of over one-half century ago to "never, never, never, never give up" could well be applied to mediators.

The importance of this research for practitioners lies in greater awareness and understanding of the significance of disputant storytelling. Awareness would take the form of realizing how important it is for the parties to have a full opportunity to voice their concerns, coupled with sensitivity to storytelling and storytelling order (Fuller, Kimsey & Mckinney, 1992). Deeper understanding of storytelling would help to augment mediator training, which typically pays little attention to discourse and narrative processes (Cobb & Rifkin, 1991). Such
understanding and awareness would contribute to improving the mediation process.

As the mediation process is bettered, a potential benefit lies in the area of the parties being satisfied with their experience. Disputant satisfaction can benefit mediators through repeat business, word-of-mouth referrals, and justifying the continued existence of mediation programs. Understanding the importance of disputants' stories can put in motion the ripple effect of voice affecting satisfaction which in turn influences compliance. This study's relevance for practicing mediators can be summarized in one sentence: Be open to the productive potential of stories and venting, and keep the focus on the children.

Limitations

The findings of this study are limited by the methodology employed and the ability to apply the results to other mediation programs or types of mediation. The tapes and transcripts are not a random sampling, and there is a subjective aspect in both the selection of material for closer scrutiny and in the analysis itself.

While utilizing tapes and transcripts from several sources helps provide variety not found in single source studies, it is questionable whether the material is truly representative of divorce mediation in this
country. The inclusion of Lowe's family mediation tapes provides a striking contrast to the mandatory, court-connected sessions and adds depth to the study, but his program may be one of a kind. These concerns about the representativeness of the sample have a negative impact on external validity.

An additional limitation is the use of the term "storytelling" to describe disputants' narratives. As storytelling evokes a number of images and means many things to many people, a better term might be needed to capture the communication aspect of disputants' discourse. What would be helpful is a term without the many connotations of storytelling, perhaps a phrase such as "narrative feedback." Rather than limiting our frame of reference, an alternative term might serve as an opening to further exploration of disputants' communication patterns.

Implications for Future Research

This study represents an introductory examination of disputant storytelling, and can be seen as one more approach to exploring the complexities of mediation. Several directions could be taken to build on this work:

1) A study which correlates storytelling with disputant satisfaction and compliance with the mediated agreement. Follow-up data (not available for
the material utilized here) would be necessary for such a study.

2) Tracking disputant storytelling over multiple sessions. This was done in a very limited manner here. While court-connected programs might not find much benefit from this, private mediators or those involved in multiple session programs may gain insight.

3) Utilizing O'Barr and Conley's (1985, 1988) group workshop approach for detecting themes and patterns of storytelling in mediation. Such an approach, and/or co-authoring might lessen the concerns about subjectivity.

4) Research aimed at answering McEwen's original call to investigate a possible link between storytelling approach and likelihood of agreement. Cases with full information on final disposition would be needed for such an inquiry.

5) A study of the role played by mediator questions in soliciting or suppressing disputants' stories. Keltner (1987) emphasized the importance of good questioning skills for mediators; examining the correlation between questions and story responses would be useful in the additional mediator training recommended at several points in this chapter.
Reflections of the Author

On a personal note, to say that this undertaking has been a learning experience is an understatement. As the study began, I thought that results were paramount, relegating the procedure to secondary status. While creating something worth writing and worthy of reading remains desirable, I discovered that the process of research can be highly stimulating and educational in itself, not to mention challenging and frustrating. Webster defines research as "systematic study and investigation", and I found significance in the study, investigation, and the system itself. To read, ponder, examine, explore, and analyze—all were instructive and informative. The selecting, rejecting, writing and rewriting became interesting activities in themselves, even if what resulted was not directly useful in or beneficial to this thesis. What did I learn?

One thing I noted was the lack of intense anger in the great majority of these sessions. At the time I became involved in mediating divorces through the Eugene, Oregon Family Mediation Program, I had doubts about my ability to handle harshly angry disputants. In the two years of mediating in that program I have seldom encountered verbal aggression or overwhelming hostility. I attributed this largely to my co-mediating with Ray Lowe, whose gentle demeanor,
skill with people, and sense of humor served to defuse most potentially angry exchanges. I expected to find more anger in the Pearson and Donohue material, particularly in the court-connected mandatory mediation sessions. This is based on my experiences in co-mediating several parent-teen cases and also being a party in three divorce mediation sessions. In both of these situations, I encountered sharp anger and strident personal attacks, and anticipated that these emotions would be a factor in divorce mediation. What surfaced more frequently than outright expressions of anger was hurt, disappointment, distrust, confusion, and frustration.

My recommendation is that mediator training include instruction in dealing with the entire gamut of emotions. This would assist mediators in being prepared for any and all expressions of feelings, rather than simply being braced in anticipation of displays of anger. Notable in some sessions was the caring and concern expressed by some parties, whether for their children, themselves, or even their ex-partner. Emotions are indeed present, but not in the form or intensity I had envisioned.

The goal of this introductory examination of disputants' stories has been to further our understanding of how disputants express themselves. Storytelling is but one avenue for such expression.
Greater appreciation of the significance of disputants' communication patterns can assist mediators in moving the parties from confrontation to collaboration (Lewicki, Litterer, Minton, & Saunders, 1994). At the end of one of the Pearson transcripts, the mother directed an editorial comment to the mediator: "Well, it's been fun. I wouldn't have your job for anything in the world." While not all may aspire to be mediators, those who do will benefit from greater understanding of disputants' communication.
Dr. Craig McEwen, professor of sociology and anthropology at Bowdoin College in Brunswick, Maine, played a pivotal role in this thesis. In May of 1992, he briefly visited Oregon to serve as a consultant to Alice Phalan, director of the Oregon Dispute Resolution Commission. In this capacity, Craig helped to create evaluation tools for the community mediation programs overseen by the commission. I was serving as a student intern with the commission, and during a conversation Craig mentioned that disputant storytelling remained largely unexplored in the literature. He thus planted the seed from which this paper grew. Craig went beyond the initial advice in two ways. First, he mentioned the pertinence of the O'Barr and Conley articles examining disputants in small claims litigation. Second, Craig generously provided thirty transcripts of small claims mediation sessions from Maine, allowing me to begin research.

Transcriptions done by the author from videotapes of divorce/family mediation conducted at the Family Mediation Program in Eugene, Or. The program is located on the University of Oregon campus under the auspices of Dr. Ray Lowe. Ray, professor emeritus in counseling psychology at the university, is heavily involved in educating mediators. Educating is his focus, as opposed to a thirty or forty hour mediation training. Ray utilizes course work, reading, papers and role plays as a starting point, but the substance of his program is allowing students to co-mediator in the family mediation program in conjunction with a supervising mediator, often himself. Herein lies the true education of a mediator. No cost family mediation is offered on the campus of the university as an offshoot of Community Mediation Services. This service is labelled family mediation rather than divorce mediation because most of the couples never married. In addition, family and parent/child cases are also mediated. Couples who qualify are low income, have at least one child from the relationship, and are unable to resolve their disagreements. All issues of a break-up can be mediated, and up to ten sessions are allowed. The co-mediator gradually assumes a larger role as the sessions progress. Ray kindly allowed the viewing of sessions videotaped between 1992 and 1994. I observed a number of sessions while they were occurring, watched
videotapes of nineteen sessions, and transcribed portions of the videotaped mediations.

3 Dr. Jessica Pearson, head of the Center for Policy Research in Denver, Co., and one of the leading researchers in the mediation field, was very helpful in providing divorce mediation material for further research. I met her in May of 1993 at the annual conference of the Association of Family and Conciliation Courts in New Orleans. Dr. Pearson responded graciously to my request for research material by providing 22 transcripts of divorce mediation sessions. In addition, she sent 10 audiotapes of sessions from several locations, including Michigan, Florida, California, and the District of Columbia. I transcribed the portions of these tapes used in the thesis. Dr. Pearson did not believe that all of these sessions were examples of quality divorce mediation, and referred me to Bill Donohue for better quality transcripts (see endnote 4). Actually, she did so on three separate occasions--in person, by letter, and over the phone. It was only after the third prodding that I heeded her advice.

4 Michigan State University professor Dr. William Donohue has studied mediation since the early 1980's, and has published numerous articles detailing his findings, along with editing and writing books of his own. Much of his research relied on twenty audiotapes of divorce mediation sessions obtained from the Divorce Mediation Research Project conducted by Jessica Pearson (see endnote 3) and Nancy Thoennes. Mr. Donohue unselfishly sent copies of these transcripts after I contacted him by phone in July of 1993. In Dr. Pearson's view, these transcripts are examples of good mediation conducted by skilled mediators.
REFERENCES


