

REJECTION OF PREDIVORCE MEDIATION

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PREFACE

Divorce mediation has demonstrated benefit in a variety of areas, with respect to conflict resolution for divorcing spouses. The benefits cover a multitude of concerns: reduced family trauma, less expense, and faster resolution. Yet in nearly half of all instances when mediation is offered, it is refused. Two major models of divorce mediation are presented, each containing provisions for resolution of financial issues within the context of the mediation structure. However, to date, research in the area has tended toward only those circumstances involving visitation or custody disputes. This study investigated the potential for the public to expect a particular outcome in divorce settlements, and found that the wife is expected to prevail. Second, no support was found for the proposed additional benefit from resolution of financial concerns. Subjects did not differ significantly in their recommendations to approach, whether attorney or mediator, when presented divorce scenarios that varied the presence of children and property. Subjects did, however, differ in their predictions of the quality of outcomes, indicating more positive results from use of a divorce mediator.

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CHAPTER I

INTRODUCTION

Of today's marriages, nearly 50% will end in divorce (Laner, 1978). This figure represents a 100% increase since the late 1960's and is expected to continue its upward climb until 1990 (Glick, 1984). Basing projections on data from the U.S. Bureau of the Census (1982), Glick (1984) predicted that, of the people aged 30 who divorce, at least 20% of those will subsequently divorce a second time.

The accelerating divorce rate is creating a serious dilemma within our court system (Bahr, 1981). Our judicial system is being asked to bear a burden it cannot successfully carry. Delays in dispositions of cases are increasing, adding to the problems of the growing divorcing population (Landsman & Minow, 1978).

Divorce often involves not only a husband and wife. Frequently it reaches out to touch the lives of many of those who surround the marital relationship. Annually five million friends, relatives, and loved ones are drawn into the divorce trauma (Irving, 1980). Brothers, sisters, and a host of others who make up our everyday lives are made a part of this growing process. But, perhaps more than any others, divorce affects the young. Over one million children are subjected to the divorce process each year (Jarboe, 1978), and the number continues to grow. More than 40% of the children born during the 1970's will live at least part of their lives with only one parent (Spencer & Zammit, 1976).

Not only does the growing divorce problem create difficulties for the judicial system, simply because of the staggering volume of cases, but it leads to a question of the quality of the outcomes that are reached through the adversary processes. Are the courts in a position to accurately determine the best interests of the child? Is, in fact, anyone really concentrating on the future well-being of today's children of divorce (Landsman & Minow, 1978)? The questions are many. Contributing to the burden, divorce cases involving child custody are an area of law that packs more emotion than any other (Atkinson, 1984). This emotion may be displayed through increased frustration and bitterness between the divorcing parties. The problem is only exacerbated when the parties lose their ability to separate their individual emotional needs from those of their children (Saposnek, 1983; Woolley, 1979).

Traditionally the divorce process has developed into an adversary approach, which is perpetuated by our legal system (Irving, 1980). Some of the disputants feel that the best way to start off is by getting tough. Let the other party know just who is boss (Fisher, 1983). In many cases, neither party realizes they are making a decision for the adversary process until they are caught up in it, and then there is no apparent way out (Coogler, 1978; Haynes, 1981).

An initial problem with the adversary approach arises when one party elects to use the process as a stick to hold over the other's head, or to exact emotional or financial harm (Samuels & Shawn, 1983). Indeed, a major difficulty with the adversary process is that it may become more adversary than process (Koch & Lowery, 1984; Sander, 1983). As husbands and wives become committed to their roles as adversaries, they may become more concerned with who gets "custody" of the children, than with

what is "best" for the children. The recent movie Kramer Versus Kramer illustrates many of the difficulties of the adversary approach to divorce. Perhaps an alternative statement should be, "the interests of the Kramer children" instead of "Kramer Versus Kramer" (Kessler, 1975). All too often, disputants and attorneys alike become so wrapped up in personal issues that the concern for actual fairness is relegated solely to the court (Lande, 1984).

Once the adversary process is placed in motion, it may appear that the matter is taken out of the hands of the husband and wife. The legal system becomes an arena in which only the lawyers are left to do battle (Haynes, 1981). Attorneys often appear to work behind the scenes, trying to reach some sort of agreement, in the absence of the very people who initiated the process (Coogler, 1978; Lande, 1984). Once the lawyers have taken charge of the divorce, the disputants may be left by the sidelines, feeling as if their hands were tied in the matter (Saposnek, 1983).

Perhaps a critical defect in the adversary approach to divorce stems from the fact that it is designed only to resolve specific causes of action. The process does not emphasize the importance of the social network that may have surrounded a marriage (Lande, 1984). Given the increasing number of marriages that end in divorce, the impact on society may be greater than previously realized. A recent study (Pett, 1982) indicated that the size of the surviving interpersonal network was vital to the postdivorce adjustment of all parties concerned.

Another area for concern with the adversary approach results from difficulties arising from the responses of disputants who have had decisions forced upon them. Despite the divorce, the bitterness and frustra-

tion that may have developed in the process may linger over a lifetime (Coogler, 1978). In some cases the divorce is only a lull in the disputants' stormy relationship. More than 30% of these parties will return to court, in an attempt to relitigate decisions with which they were unhappy, or they felt were unfair (Bahr, 1981). These relitigations contribute heavily to the already heavy burden of the judicial system.

Perhaps an obvious factor in any divorce is the cost. Notwithstanding the amount that could be involved in a settlement, the actual cost of the process itself can be more than most can afford (Eakeley, 1975). An article from the Yale Law Journal (Cavanaugh & Rhode, 1976) summarized costs associated with an uncontested divorce, in which there was no issue of child custody. The average nationally was slightly in excess of \$500.

In recent years many states' judicial systems have begun a process aimed at relieving some of the problems associated with divorce. Forty-seven states now have provision for a no-fault divorce (Bahr, 1983), which eliminates the need for either party to prove marital misconduct. Also, several states are experimenting with joint custody of children (Freed & Foster, 1981; State Divorce Law Chart, 1983), in which both the mother and father retain parenting responsibilities for the children involved in divorce. Often the wife will still retain a primary custodial position (Dixon & Weitzman, 1980; McGraw, Sterin & Davis, 1980). In such instances the Court will frequently award the bulk of the couple's assets to the wife, under the provision of continuing care for the children (Weitzman, 1981).

There is also a national campaign underway to reduce the negative effects of divorce (Koch & Lowery, 1984, p. 110), "... which include psychological trauma, high legal costs, crowded court dockets, disgruntled

parents seeking revenge through child-napping, and chronic relitigation" A frequently proposed alternative to the adversary approach is divorce mediation (Bahr, 1981; Brown & Manela, 1977; Deutsch, 1973; Ebel, 1980; Herrman, McKenry & Weber, 1979; Mnookin & Kornhauser, 1979; Spencer & Zammit, 1976; Weiss & Collada, 1977). Divorce mediation is viewed as less adversary in nature (Brown, 1982; Raiffa, 1982), and focuses on negotiation between the divorcing spouses, with the assistance of an individual trained in mediation (Coogler, 1978; Haynes, 1981). Very early in the mediation process, the mediator works with the divorcing couple to identify an agenda, defining specifically what areas are still in conflict (Coogler, 1978; Haynes, 1981).

Divorce mediation was formally founded in 1975 (Coogler, 1978). The general practice of mediation, however, has seen use in labor relations since 1913 (Baer, 1974). Although the actual form of mediation sessions may vary, the basic function of the mediator is to act as a neutral third party (Coulson, 1983). Sessions may last one to two hours, and several sessions are typically scheduled. The time and number of sessions is normally determined by the needs involved and the complexity of the marital relationship (Coogler, 1978; Haynes, 1981). Marriages of longer term, with considerable property involved, or with child custody problems, may require more mediation than marriages of lesser term.

The decision to use divorce mediation as an alternative to the adversary approach, if made early in the divorce process, increases the probability for success (Pearson & Thoennes, 1982). The stress of the divorce situation can cause increased anger and bitterness. There can be feelings of frustration and helplessness, particularly if one party wants the divorce more than the other (Saposnek, 1983). The mediator

can work to direct these energies toward solutions that are in the best interests of the children (Haynes, 1981).

Mediation helps both parties to negotiate problem areas, and has as a goal the reduction of pain and turbulence for the family during the divorce process (Haynes, 1981). It is now believed that it is not the divorce but the conflict between the parents that creates problems for the family. Recent studies have shown a correlation between the level of distress during the divorce process and the successful readjustment of both the parents and children after the divorce (Bohannon, 1970; Wallerstein & Kelly, 1977). Other studies have indicated that, when compared to the adversary approach, couples who negotiated their own agreements in mediation readjusted more quickly after the divorce (Haynes, 1981; Weiss, 1975).

As compared to the more competitive adversary approach of the legal system, mediation is a cooperative effort at conflict resolution that is based in open and honest communication, operating without the necessity for blame or fault upon either spouse (Deutsch, 1973; Rubin & Brown, 1975). The focus of mediation is to allow individuals to reach an agreement on their own and avoid the possibility of having to live their lives, after the divorce, under conditions imposed by the Court (Coogler, 1978).

Nationally there are over 300 individuals and agencies that offer family and divorce mediation (Pearson, Ring & Milne, 1983). Recent outcomes from these services suggest that the children of mediated divorces have lives that are less disrupted, and more effective postdivorce adjustments (Berg, 1983; Haynes, 1981; Weiss, 1975). These findings may become more important as the number of these children increases with the escalating divorce rate.

It is important to note that, although the mediator's purpose is not to serve as a legal representative to either party, mediation still serves a role in the legal process. To this end, the mediator acts as a safeguard, overseeing the fairness of any agreement the disputing parties may reach. For example, if one spouse is considerably more anxious for the divorce, or is suffering from guilt because of the divorce, that spouse may agree to an inequitable division of property. One role of the mediator is to prevent either party from victimizing the other. Although mediation gives the divorcing parties an opportunity to negotiate their divorce agreement, the Court remains the final authority on the divorce decree. Any agreement found unethical or inequitable has little chance of approval. To assure this approval, the mediator works with the divorcing couple to produce a viable agreement (Coogler, 1978; Haynes, 1981).

Often there is a need for give and take on the part of the spouses, and difficulties may occur. However, and particularly in cases involving children, if the disputants can work through their differences, they are more likely to be satisfied with the agreement, and the agreement is also more likely to persist after the divorce (Bahr, 1981; McEwen & Maimon, 1981; Milne, 1978; Pearson & Thoennes, 1982a, 1982b).

Once agreement has been reached, it is suggested that an advisory attorney review, and then draft, the final form (Coogler, 1978; Samuels & Shawn, 1983). This process sets the conditions of the agreement in writing and provides a legal review, prior to the Court's ruling.

Compared to the more adversary approach of the legal system, divorce mediation usually requires less time and is less expensive. Mediation allows each party to voice their concerns and to work toward negotiating

an agreement they can live with. Mediation provides the opportunity for both parties to develop an agreement that is workable, similar to their own points of view, and likely to have better long-term acceptance (Cavanaugh & Rhode, 1976; Danzig & Lowry, 1975; Goldbeck, 1975; Mund, 1976; Spencer & Zammit, 1976).

Given these apparent benefits of divorce mediation, a puzzling dilemma still plagues the process. When mediation is offered, including divorce mediation, it is rejected approximately 50% of the time (National Institute for Justice, 1980; Pearson & Thoennes, 1982a). In essence, half of all disputants who are presented with the opportunity to use mediation as a vehicle for conflict resolution choose an alternative process. Koch and Lowery (1984) offer an explanation, noting the vast difference between findings of present day research and the initially proposed major mediation models (Coogler, 1978; Haynes, 1981). Koch and Lowery (1984, p. 115) conclude, "The models include resolution of financial issues; the services evaluated to date have limited their scope primarily to disputes involving custody and visitation."

In the actual process, it would appear that finance plays a major role in the predivorce development. Judges, friends of the court, and commissioners of domestic relations were surveyed by the American Bar Association. Financial problems were cited as one of the major causes of divorce by 89% of the respondents (Nuccio, 1967). Given this large percentage of cases that included financial problems, it may appear logical to include opportunities to settle financial problems in any offer of mediation. This does not, however, explain why the failure to do so results in a traditional 50% rejection rate.

The factors of ambivalence, communication, and method of conflict resolution were found to influence a couple's decision to mediate (Kressel, Jaffee, Tuchman, Watson, & Deutsch, 1980). Gold (1981) suggested a team approach to mediation, and added anxiety levels and stages of emotional disengagement to the research data. Demographics have also been viewed as potentially beneficial in specifically defining who does use the service (Saposnek, Hamburg, Delano, & Michaelson, 1984), but there remains little explanation for why others choose not to use the service.

Bahr (1981) estimated that mediation could save U.S. taxpayers nearly ten million dollars a year, when compared to the adversary approach. At the same time, divorced persons could reduce the amount of fees they pay nationally by almost ninety million dollars. Despite the presentation of divorce mediation as being both effective and less expensive, the 50% rejection rate has prevailed. When an explanation for the public's apparent disenchantment with divorce mediation failed to surface, a second alternative became more obvious. In 1981, California took the first step and made the mediation process mandatory in cases involving disputes over custody and visitation (McIsaac, 1981). A review of this mandatory process (Saposnek et al., 1984) indicated that the success rate was very similar to other nonmandatory services (Pearson & Thoennes, 1982a).

While the court's mandate appears to have provided one solution to the problem, there remains a need for explanation of the factors involved in the rejection. So, if the question remains, the need for research in this area remains as well, and the burden is upon those of us working within this area.

The purposes of this paper are twofold. First, it is proposed that the public has predispositions about the outcomes of divorce, generally

seeing the wife as prevailing in both custody and property settlements. If, in fact, this predisposition does exist, persons might have little preference for either divorce mediation or the adversary process if the outcome was expected to be the same in either case. Second, it is suggested that the presentation of divorce mediation as a vehicle for resolution of financial settlements, rather than custody alone, may allow the perception that more acceptable settlements are possible.

Perhaps the first step is to attempt an understanding of why persons decide to use any process in divorce. In other words, what prompts individuals to choose one course of action over another? Consideration of material from the equity theory may aid in further explanation (Walster, Berscheid & Walter, 1973). Equity theory rests on an exchange theory assumption that individuals will attempt to maximize their own outcomes by choosing a process that is compatible to this end. One might then expect that, if individuals viewed divorce mediation as offering more positive outcomes than other alternatives, this process would be selected. Persons attempting to maximize their own outcomes may be seeking what appears to them to be an equitable solution. This does not necessarily mean that the final outcome will be fair or equal to all parties. It does mean that we may expect that each party may choose the process that is perceived to offer the best solution to the individual. It is important to note that equity is a very individualized concept and according to Walster et al. (1973, p. 152), "... ultimately, equity is in the eye of the beholder."

To date, almost all research in divorce mediation has been limited to custody/visitation disputes (Koch & Lowery, 1984). Mediation research has not typically been conducted where children were not involved in the

divorce, nor where the focus was on resolution of financial settlements. Even the research involving divorces with children has frequently been limited to which parent is granted child custody and what living arrangements are to be provided for the children. Typically, the parent granted custody will maintain the primary residence. The other parent may be granted visitation, with "every other weekend" reflecting a commonly arrived upon solution. In terms of time it is obvious that custody and visitation are neither synonymous nor equal. While many states have joint custody (Freed & Foster, 1981), this concept is not intended to mean equal custody. Rather, both parents are encouraged to participate equally in the responsibilities of parenthood. Primary custody, or the child's residence and the bulk of the estate most often remain with the mother (Dixon & Weitzman, 1980; Weitzman, 1981).

Even under divorce mediation, and only when both parties are in agreement on visitation, the average monthly visitation for the noncustodial parent is five days (Pearson & Thoennes, 1982a). In any event, this would allow the noncustodial parent, typically the father, visitation of the children on an "every-other weekend" type of schedule. Another finding of interest from the previously cited study (Pearson & Thoennes, 1982a) was that more than 70% of couples who mediated agreed to joint custody arrangements. Less than 15% of nonmediating couples chose this solution.

Equity theory (Walster et al., 1973) suggests that individuals are more likely to use a technique if the technique is seen as capable of maximizing individual gain. This experimenter suggests that, relative to the matter of custody/visitation, the general public harbors a foregone conclusion that primary custody, and subsequent property settle-

ments, are awarded in favor of the wife. Respondents in a recent California study on divorce mediation (Saposnek et al., 1984) were asked if the mediator had done anything to make reaching an agreement more difficult. The most common response was that the mediator was biased toward the father, the answer coming from the mothers. The reverse situation was not true; fathers did not report mediator bias toward mothers. Upon investigation it was discovered that the mediators began their sessions with statements to the effect that "joint custody" was to be preferred. Mothers considered this a bias toward fathers because they had "traditionally assumed they would receive primary custody" (p. 15). In this instance, the observed data were part of an evaluation of California's mandatory mediation process. These results may indicate that there is an expectation for divorce outcomes on the part of the public. And, if this predisposition exists, persons may indicate little preference for either divorce mediation or the adversary approach. Outside factors, such as mistrust of attorneys, the newness of divorce mediation, or previous divorce experiences could also impact the selection process, but it may be possible that a predisposition to outcome results in a rather even distribution of choices for either approach. Factors within the marriage itself, such as child custody and property settlements, may affect what process a person chooses to take. Equity theory suggests that an individual will choose the process that is perceived to yield the more positive outcome.

Also from equity theory, if there is a general perception that the wife is more likely to dominate a custody/visitation dispute, other findings should follow. For example, men who feel confident about winning in court should select that process and be less likely to mediate.

Findings from a recent study document this by indicating that one reason men rejected mediation arose from the belief that they could win in court (Pearson, Thoennes & VanderKooi, 1982). Equity theory also suggests that, if a situation is not perceived to be equitable, the party getting the greater benefit may attempt to restore equity by attempting to compensate the other party (Walster et al., 1973). Given the wife's dominant position in custody disputes, equity theory would suggest that wives might in some fashion attempt to reestablish either actual or psychological equity with their spouses. This could be demonstrated by a greater likelihood of women agreeing to mediation, regardless of whether the divorce had been initiated by the husband or the wife. Findings from the previously cited study (Pearson, Thoennes & VanderKooi, 1982) indicated this to indeed be true.

It is proposed that a possible explanation for the 50-50 acceptance/rejection rate for divorce mediation may result from the public's predisposition to divorce outcomes. This proposal is based upon the belief that the area of custody/visitation is neither presented, nor perceived, as having a singular solution that is at once equitable to all parties. If an outcome is already predisposed, it may result in individuals having a preference for neither divorce mediation nor the legal system approach. While it is not typical in divorces for children to be evenly divided between parents, it is possible that any property involved be equally divided. Therefore, while the conclusion may be foregone, relative to the matter of child custody, this may not be the case in matters of financial concern. Hence, the door may still be open for the gain of individual benefit, or at least the perception of such, and lead to a statement of actual preference in this area.

A second focus of this study addresses a possible solution to the rejection rate, and is predicated upon the previously discussed theoretical considerations. If, in fact, the rejection rate is a result of individual perceptions that neither divorce mediation nor the legal system approach offers additional benefit, then we might expect that people would have no preference for one process over the other. This lack of preference, relative to custody/visitation, has neither a positive nor negative impact. If divorce mediation were to be presented with a concentration on resolution of financial matters, it may more likely be perceived as offering a favorable outcome. It has been previously stated (Nuccio, 1967) that nearly 90% of divorce cases had indicated problems of a financial nature. There is a certain logic in addressing an area which appears to be a major contributor to the divorce process. Perhaps more important, the area of property settlement has options that are more concrete. Almost any item of value can be fairly divided, even if the item must first be sold and the proceeds then divided. This process is not an alternative which is readily available when considering custody/visitation.

It is assumed there is a general predisposition to believe that, in custody/visitation disputes, the wife will get both primary custody and the bulk of the estate. If this predisposition is demonstrated, it may offer partial explanation for why disputants offer only a 50% acceptance rate for divorce mediation. If persons perceive neither approach as being more beneficial, we would not expect to find a preference for either divorce mediation or the adversary approach. But it is hypothesized that the presentation of divorce mediation as a vehicle to include resolution of financial issues will result in increased preference for mediation

over litigation. In order to test these assumptions and the hypothesis, the following study was designed.

There were five groups of 50 subjects each. Each group completed a different questionnaire form. One group stated both expectations and preferences relative to divorce outcomes. The other four forms differed in presentation relative to custody and property settlements and sought to determine the effect of these variables on subjects' recommendations for either divorce mediation or the adversary approach, and also the quality of predicted outcomes associated with these recommendations.

CHAPTER II

METHODS AND PROCEDURES

Subjects

Two hundred fifty adult volunteers were recruited from two state agencies of a midwestern state and a large banking institution. Subjects were not compensated for their participation and were told only that this research dealt with attitudes on the impact of divorce. Demographic information was gathered for each subject, including marital status, impact from divorce, and other general information pertinent to age, sex, and number of children (see cover sheet, Appendix A). Demographic data for subjects appear in Table I. Subjects were requested to indicate whether they were married (M), single (S), divorced (D), or widowed (W). In addition, 72% of the respondents indicated they had experienced the impact from divorce of an immediate family member or close personal friend. The data in Table I provide the composition for each group of subjects by form and represent what may be considered a typical adult population. All subjects were treated in accordance with the "Ethical Principles of Psychologists" (American Psychological Association, 1981).

Materials

An audio tape, approximately three minutes in length, produced by the experimenter, was used. The recording's content and purpose were

TABLE I
 DEMOGRAPHIC INFORMATION ON QUESTIONNAIRE RESPONDENTS
 (N = 250)

Group	Marital Status							
	Male				Female			
	M	S	D	W	M	S	D	W
A	14	5	3	1	16	8	3	0
	Age \bar{X} = 32.64				Age \bar{X} = 34.16			
	Children \bar{X} = 1.29				Children \bar{X} = 1.39			
B	17	4	2	0	20	4	3	0
	Age \bar{X} = 32.83				Age \bar{X} = 34.53			
	Children \bar{X} = 1.27				Children \bar{X} = 1.21			
C	16	6	2	0	20	2	2	2
	Age \bar{X} = 38.16				Age \bar{X} = 37.8			
	Children \bar{X} = 1.35				Children \bar{X} = 1.41			
D	15	5	2	0	20	3	2	3
	Age \bar{X} = 39.06				Age \bar{X} = 39.66			
	Children \bar{X} = 1.45				Children \bar{X} = 1.31			
E	22	2	3	2	16	2	3	0
	Age \bar{X} = 37.08				Age \bar{X} = 36.8			
	Children \bar{X} = 1.15				Children \bar{X} = 1.25			

twofold. First, there was a brief statistical presentation of information on the current divorce situation in the United States. This gave subjects a background for the divorce rate and the numbers of persons involved in the present-day divorce process. Second, a brief scenario presented a fictitious couple in a divorce situation. The audio tape was utilized to ensure continuity across presentations. The script for the audio tape is attached (Appendix F).

In addition, five different one-page questionnaires (Forms A, B, C, D, and E) were used (Appendices A through E). Form A presented a divorce scenario with children, in which subjects were asked to predict the post-divorce property and custody settlement of the Andersons. Form A then asked subjects to evaluate whether their predicted outcomes were reasonable. Questionnaire Form B presented a divorce scenario with children, but with a focus on a property settlement, and asked that subjects recommend an approach to divorce. Form C presented a divorce situation with children, but with the focus on custody/visitation, and asked that subjects recommend an approach to divorce. Form D presented a divorce situation in which there were no children, and the concentration was on property settlement alone. Form E presented a divorce situation in which there were no children, and no property for settlement. Again, for these latter two forms, subjects were asked to recommend an approach to divorce. Each of these forms had a cover sheet (Appendix A) which requested information about the subjects' sex, marital status, number of children, and the impact from divorce of a close personal friend or an immediate family member. Development of these questionnaire forms included divorce situations in which there were children and situations in which there were not. Also, two forms addressed the specifics of resolution for

conflict based upon a financial focus. Inclusion of these presentation factors resulted from evaluation of literature in the area and the identification of a deficit of study which focused on resolution of financial settlements rather than custody and visitation alone. Additional research also pointed out that financial resolution was a key aspect of the two major models of mediation (Coogler, 1978; Haynes, 1981). Last, Lowery and Koch (1984), in citing the lack of study on mediation which involved both financial and property settlements, suggested further evaluation of the benefit that might be associated with this approach. Specifically, this study seeks to determine the benefit perceived by subjects who are asked to recommend an approach to divorce, divorce mediation or adversary approach, when the divorce scenario differs with respect to settlement issues.

Design and Procedures

Subjects were recruited to participate in groups of approximately 25 subjects each. Subjects were nonuniversity affiliated and were employees of a large banking institution or one of two major state agencies. Prior to requesting the subjects' volunteer participation, consent had been obtained from the appropriate individual at each location. Within each location a conference room was made available for purposes of data collection. Each of the rooms was well lighted, furnished with tables and chairs, and similar in appearance. Posters were placed in each location prior to the actual days of data collection to notify employees of dates, times, and purpose of the study. All five questionnaire forms (A through E) were randomly sorted for presentation to subjects. Within each group presentation each subject was randomly

assigned a questionnaire form. Marital status and sex of the respondent were used as controls to ensure that the composition of subjects answering each form was similar.

Within each data collection session subjects were presented with one form of the questionnaire and asked to complete the cover sheet on background data. Subjects were told that the purpose of the study was to determine the public's attitude on the impact of divorce. In an effort to generate subject interest, the subjects were also told that the questionnaire forms they had been given represented client case histories, but that the names had been changed to protect client identities. After the subjects had completed the cover sheet, the audio tape was played. Tape length was approximately three minutes. Subjects were then asked to complete their questionnaire forms. Each session lasted approximately 15 minutes and included an opportunity for subjects to ask questions or make comments. Due to the fact that data collection took place over four successive weeks, subjects were not immediately debriefed nor given any outcome data. A verbal debriefing did take place immediately upon completion of data collection.

Data Analysis

All statistical analyses utilized frequency analysis of chi square. All 2X2 analyses also employed Yate's correction for continuity (Ferguson, 1966, p. 207).

Questionnaire Form A asked subjects to predict outcomes for child custody and property settlement. This form further requested that subjects indicate if another outcome might be preferred. Subjects were asked to respond to each of four questions, each of which had three

possible answers. In addition, subjects' responses were compared to identify possible differences between expectations and preferences for both areas of settlement.

Questionnaire Forms B through E each requested that subjects recommend an approach to divorce, either attorney or mediator. Each of the four forms varied in presentation with respect to the presence of children and property. A 2X4 chi square was used to analyze responses across forms.

Questionnaire Form B presented a divorce scenario with children but focused on a distribution of property. Subjects were asked to recommend either of two approaches to divorce, given only the property issue. Specifically, on Form B subjects were requested to predict what the situation would be like, one year later, for both the Andersons and their children. For each of these two areas, subjects were given two response options. They may have selected a positive outcome, "... get along fairly well," or a negative outcome, "... dislike each other."

Questionnaire Form C was similar to Form B, with the exception that Form C presented a divorce scenario with children that focused on child custody/visitation, and not on property settlement. Again, subjects were asked to recommend one of two different approaches to divorce, adversary or mediation. Also, subjects were asked to predict what the situation would be like, one year later, for the Andersons and their children.

Questionnaire Form D presented a divorce scenario in which there were no children, but there was a question of property settlement. Subjects were asked to recommend an approach to divorce, adversary or mediation. Also, subjects were asked to predict the situation between the

Andersons, one year later, but in this instance the expectations concerned personal and financial issues.

Questionnaire Form E was similar to Form D in that there were no children. However, on Form E the divorce scenario presented a couple with neither children for custody nor property for settlement. Subjects were asked to recommend an approach to divorce, and predict what the Andersons' situation would be like one year later.

A 2×4 chi square was used to analyze the significance of negative/positive predictions for both the attorney and mediator, across the four presentations. On each of the four questionnaires the first question was the same and asked subjects to predict outcomes for the Andersons. On Forms B and C question two asked subjects to predict outcomes for the Anderson children. However, on Forms D and E (no children), subjects were asked to predict the financial outcome for the Andersons. In this instance, subjects' responses to question two for Forms B and C were analyzed separately from subjects' responses to question two on Forms D and E.

CHAPTER III

RESULTS

The project addressed two general research questions. First, what are the public's expectations and preferences for the outcomes of a divorce, relative to property and custody settlements? Second, do the issues of custody and property in a divorce affect the public's recommendation to approach, attorney or mediator; and also, do these issues affect the predicted quality of outcome? All analyses utilized chi square.

Form A--Predictions and Preferences

Results from subjects' responses to Form A are provided relative to the first research question. This form requested that subjects predict the outcome of a divorce scenario, with respect to custody and property settlements. In addition, this form requested that subjects evaluate whether or not this predicted outcome was equitable. Table II shows each question of Form A and each possible response (husband, wife, joint custody), and presents response frequencies for both male and female subjects. For each of the four questions of Form A, frequency of responses (husband, wife, or joint custody) by males was compared to the frequency of responses by females. The chi square test of independence showed no significant differences between males and females, Question A, $\chi^2 (2, N = 50) = 1.98$, ns. Question B, $\chi^2 (2, N = 50) = 1.778$, ns. Question C, $\chi^2 (2, N = 50) = 2.32$, ns. Question D, $\chi^2 (2, N = 50) = 0.588$, ns.

TABLE II
 EXPECTATION AND PREFERENCE FOR DIVORCE SETTLEMENT
 (FORM A, N = 50)

Response	Question							
	A		B		C		D	
	WILL Get Children		WILL Get Estate		SHOULD Get Children		SHOULD Get Estate	
	M	F	M	F	M	F	M	F
Husband	0	1	14	9	0	1	4	2
Wife	16	13	0	1	7	3	1	1
Joint	11	9	13	13	20	19	21	21

M = male; F = female.

Questions A and C asked who "WILL" get the children, and who "SHOULD" get the children, respectively. Subjects could respond by indicating either spouse or "joint custody." Directions for this form defined joint custody as shared parenting responsibilities; however, the primary residence would still be with the mother. Comparison of the responses for questions A and C (WILL versus SHOULD) indicated that the wife was seen most likely to get custody of the children, but that joint custody was seen as the preferred outcome, $\chi^2 (2, N = 50) = 15.375$, $p < .001$. Questions B and D on this form focused on property settlement and addressed "WILL" versus "SHOULD" get the bulk of the estate. Although many subjects predicted that the husband would get the bulk of the estate, the preferred outcome was that of sharing equally, $\chi^2 (2, N = 50) = 14.064$, $p < .001$.

Property and Custody Issues

Forms B, C, D, and E requested that subjects recommend an approach to divorce, dependent on presentation focus. These forms were intended to solicit responses relative to the sample's recommendations for an approach to divorce across differing property and custody issues. Also addressed was the quality of predicted outcomes that were associated with these recommendations. Form B presented a divorce scenario in which the divorcing couple had children, but the primary focus was on resolution of the property settlement. Form C presented a similar divorce scenario, but in this instance subjects were asked to predict outcomes based on resolution of custody and visitation issues. Form D presented the divorce scenario with the same question of financial resolution as Form B, but in this instance, no children were involved. Form E again used the divorce scenario, but there were no children involved and the couple was deeply in debt. For each form subjects were requested to select an approach to divorce that they could recommend to the couple in the divorce scenarios. Information in Table III presents subjects' responses to each of the four forms, with preferences for approach.

Data in Table III indicate that the presentation of the divorce scenario in the four different situational contexts did not produce significant differences in recommendation of either approach, $\chi^2(3, N = 200) = 2.222, p = .528$. However, subject responses, considered across the four forms, did show that the preferred recommendation to the divorcing couple was the use of a divorce mediator, $\chi^2(1, N = 200) = 21.25, p < .001$. Differences in male and female recommendations were not significant, $\chi^2(1, N = 200) = .010, ns$.

TABLE III
 PREFERENCE FOR APPROACH BY SITUATIONAL FOCUS
 (ACROSS FORMS B, C, D, AND E, N = 200)

	Form Letter and Presentation							
	B		C		D		E	
	Children Property		Children Custody		No Children Property		No Children No Property	
	M	F	M	F	M	F	M	F
Attorney	10	10	7	6	5	12	11	6
Mediator	13	17	17	20	17	16	18	15

M = male; F = female.

Note: Differences across statistically nonsignificant.

On each of these same forms subjects were also requested to respond to two additional items. First, subjects were asked to predict the status of the divorcing couple's personal relationship, one year after the divorce. For example, "... one year later they will get along well, or dislike each other." The responses to these items clearly represented a positive or negative outcome to the relationship. Second, on Forms B and C (with children), subjects were also asked to make a similar prediction for the school adjustment of the children. For example, "... one year later the children are doing well, or are doing poorly." On Forms D and E (without children), the second question asked that subjects predict the financial condition of the divorcing couple, again one year after the divorce. Data in Table III indicate that subjects recommended the use of a mediator. Data in Table IV indicate that when they did so, they also predicted a more positive outcome, $\chi^2 (1, N = 200) = 39.164$,

$p < .001$. Differences in male and female responses were statistically nonsignificant, $\chi^2 (1, N = 200) = .651, ns$.

TABLE IV
OUTCOMES ASSOCIATED WITH RECOMMENDATIONS FOR
MEDIATOR OR ATTORNEY (ACROSS FORMS
B, C, D, AND E, N = 200)

Predicted Positive or Negative Outcome							
Mediator				Attorney			
Male		Female		Male		Female	
+	-	+	-	+	-	+	-
110	20	113	23	32	34	42	26

Note: Each form requested two predictions for a total of 400 predictions.

Briefly, each of the four forms (B through E) requested that subjects select an approach to divorce, either use of an attorney or a mediator. The four forms varied information in the divorce scenario to reflect different property and custody settlement requirements. Subjects more often recommended the mediator, but these recommendations were not affected by the presentation of custody or financial settlements. In addition, data in Table IV reveal that subjects most often associated a positive outcome with the recommendation of the mediator; however, these data are not consistent, for either the attorney or mediator, across the four presentations.

Additional data are presented in Table V. On each of the four forms, question one asked subjects to predict negative or positive outcomes for Ron and Sue Anderson (dislike each other, or get along well). Overall, subjects who recommended the use of an attorney differed significantly in their predicted outcomes, $\chi^2 (3, N = 200) = 18.885, p < .001$. However, these differences were significant only in the comparison of the presentations without children, when the prediction was based on property or debt, $\chi^2 (1, N = 100) = 14.285, p < .001$. In this instance subjects who recommended the attorney were more negative when the couple was deeply in debt. Differences in predicted negative or positive outcomes by those recommending the attorney were not significant in the two presentations involving children, $\chi^2 (1, N = 100) = .535, ns$. Those subjects who recommended the use of a mediator did not show a significant difference across presentations, $\chi^2 (3, N = 200) = 1.880, ns$, generally viewing mediation positively. These data are presented in Table V.

Question two differed across forms, dependent upon whether or not children were involved in the potential settlement. Question two on Forms B and C (with children) asked that subjects predict the outcome on school performance for the Anderson children. Question two on Forms C and D (no children) asked subjects to predict the financial adjustment of Ron and Sue Anderson, one year after the divorce. Because of these differences, an analysis of question two across the four forms would not be appropriate. These data appear in Table VI. The following four analyses used chi square tests of independence. Thus separate analyses compared question two on Form B to Form C (with children), and on Form D to Form E (no children). Responses to Form B (+26, -4) and responses to

TABLE V
 NEGATIVE AND POSITIVE PREDICTIONS FOR QUESTION ONE
 BY RECOMMENDATION FOR EITHER ATTORNEY
 OR MEDIATOR (N = 200)

Approach	Form Letter and Presentation							
	B Children Property		C Children Custody		D No Children Property		E No Children No Property	
	+	-	+	-	+	-	+	-
Attorney	10	10	9	4	14	3	2	15
Mediator	29	1	34	3	29	4	31	2

TABLE VI
 NEGATIVE AND POSITIVE PREDICTIONS FOR QUESTION TWO
 BY RECOMMENDATION FOR EITHER ATTORNEY
 OR MEDIATOR (N = 200)

Approach	Form Letter and Presentation							
	B Children Property		C Children Custody		D No Children Property		E No Children No Property	
	+	-	+	-	+	-	+	-
Attorney	10	10	9	4	14	3	6	11
Mediator	26	4	32	5	23	10	21	12

Form C (+32, -5), for subjects recommending the mediator only, were first analyzed. The comparison of these data from Forms B and C (with children) for subjects who recommended the mediator indicated no significant differences, $\chi^2 (1, N = 100) = .115$, ns. Analysis of data comparing Forms D (+23, -10) and E (+21, -12) for subjects recommending the mediator also indicated no significant differences, $\chi^2 (1, N = 100) = .068$, ns. Thus subjects uniformly expected positive outcomes in all cases where mediation was recommended. For subjects recommending the attorney, the comparison of Form B (+10, -10) to Form C (+9, -4) (with children) also indicated no differences, $\chi^2 (1, N = 100) = .535$, ns. However, as was the case in the analysis for question one, subjects who recommended the attorney differed in their predicted outcomes for the Andersons when there were no children involved and the comparison was between property and debt, Forms D (+14, -3) and E (+6, -11) $\chi^2 (1, N = 100) = 5.95$, $p = .015$. Overall, subjects recommending the attorney did not differ in positive and negative outcomes for the Andersons when children were involved. However, it did appear that the presence or absence of property for settlement did affect subject recommendations when children were not considered as a part of the divorce scenario. These data appear in Table VI.

CHAPTER IV

DISCUSSION

A problem of growing proportion in today's society is that of divorce (Jarboe, 1978; Spencer & Zammit, 1976). It touches the lives of millions and clogs the entire judicial process (Bahr, 1981; Landsman & Minow, 1978). Although divorce is often pursued through the traditional approach of the legal system, it has been suggested that this process itself is detrimental to those involved (Ebel, 1980; Kessler, 1975). There are alternatives, and the one most often suggested is divorce mediation (Bahr, 1981; Brown & Manela, 1977; Deutsch, 1973; Ebel, 1980; Herrman, McKenry & Weber, 1979; Kressel, Jaffe, Tuchman, Watson, & Deutsch, 1979; Mnookin & Kornhauser, 1979; Spencer & Zammit, 1976; Weiss & Collada, 1977). Despite the fact that divorce mediation is still in its infancy, it has repeatedly been cited for benefit in the divorce process (Coogler, 1978; Cavanaugh & Rhode, 1976; Danzig & Lowry, 1975; Goldbeck, 1975; Haynes, 1981; Mund, 1976). Why then does mediation, given its apparent advantage over the more traditional adversary approach, still suffer a serious problem? Half the time, when mediation is offered as a solution for divorcing spouses, it is rejected (National Institute for Justice, 1980; Pearson & Thoennes, 1982a). Two basic models of divorce mediation have been offered (Coogler, 1978; Haynes, 1981), but the literature does not report previous research on mediation which focuses on financial settlement. In fact, Koch and Lowery (1984) suggest that failure to include

the models' component of financial resolution, as well as custody and visitation problems, may be a factor in the rejection of divorce mediation.

This research was designed to pursue a possible explanation for the rejection of mediation as a process for reaching divorce settlements. The overall concern was for the collection of data showing the public's perceptions of the divorce process and its impact. Two research questions guided the project's design. First, does the public already believe that one outcome, relative to custody or property settlements, is more likely than another? Second, following from the first question, if there is a predisposition to expect a certain outcome, would this affect public preferences for the approach to follow in divorcing?

Before further discussion on the findings of this project, I believe a note on the question of subject populations is in order. Two previous studies are the most prominent in divorce mediation (Bahr, 1981; Pearson & Thoennes, 1982a). These investigations illustrate, perhaps, some of the difficulty in researching this area. While the merit of conventional scientific research design is not debated, it is often very difficult, if not impossible, to carry this methodology cleanly into the public domain. In the two cited projects, even though efforts were made to "randomize," etc., problems remained. When research occurs at the court level, it is unlikely that the persons studied have not had at least some exposure to an attorney. These same persons may have also been through previous divorces. In short, the investigator's presentation of divorce mediation as an alternative to the more traditional approach may not be sufficient to override previous experiences. Perhaps an ideal research sample would be free from bias to either approach. Difficulties in

attempting to identify such a population are relatively apparent and leave us with, as is most often the case, having to work with what we have. This was the rationale involved in this study in electing to use adult subjects, not affiliated with the university, who could offer some representation of the public-at-large.

The first research question addressed the possibility of a general public predisposition to a particular outcome of divorce. This is an area apparently not previously studied. Questionnaire Form A asked subjects to predict the outcomes that would follow a rather nebulous divorce scenario. Subjects were presented with opportunities to name either the husband or the wife as the custodial parent. Also, subjects could have selected "joint custody." However, pilot test interviews indicated that, while joint custody was considered to give both parents more of a role in major child rearing decisions, the primary residence was still, most likely, that of the mother.

The data indicate rather clearly a somewhat one-sided expectation in matters of child custody, in favor of the wife. On the other hand, preferences for outcome strongly favored joint or equal outcomes. However, given the initial context of joint custody as probably still meaning residence with the mother, the data show differences only by degree. Even though the subjects' predictions indicated that the mother would be granted custody of the children, the "preferred" situation was one in which both parents were "responsible" for the children's upbringing. Since the principle recommendation from the overall sample was that of the divorce mediator, it may well be that such an approach is perceived by subjects "as if" it represented the most equitable solution to the divorce situation as a whole, rather than to either spouse. These recom-

mentations for the mediator also carried with them more positive expectations for outcomes, based upon what "should" happen. Also reflected in subjects' expectations for outcome was the one-sided result of what may be associated with the more traditional usage of the legal system. Overall, subjects recommended the mediator and associated this approach with more positive outcomes that also represented preferences for joint custody.

In any struggle for divorce, other outside factors may influence the decisions concerning children. However, the subjects for this project were not typically involved in a current divorce situation. Pretest interviews indicated that subjects were not openly agreeable to discussing their own previous marital situations. Initial questions concerning the numbers of previous marriages met with comments such as "... none of your business," or "... I don't think you really need that kind of information." As a result, the demographic information gathered asked for present marital status. Fewer than 10% admitted to being divorced. In a manner still intended to gather information on possible previous divorce experience, subjects were asked to answer yes/no to "... felt the impact from the divorce of ... family member or close friend." Over 72% of the subjects responded positively to this question.

Further work in this area could benefit from a more precise detailing of subjects' marital histories, particularly in identifying the effect of previous exposure to either approach. The problem of accounting for subjects' prior experiences does not appear to have a readily identifiable solution and immediately gets into the question of ethics in working with human subjects. The finding that subjects strongly supported greater equality of outcome than they predicted suggests that when not

actually involved in the divorce process, a normal population seeks the solution that is fair to both sides. But rationality may well not prevail in the divorce process. Landsman and Minow (1978) offer a possible explanation for the breakdown of rationality by suggesting that divorce becomes a battle and that the children are but prizes for the victor.

The second research question sought to determine the impact of including resolution of financial issues in the questions to be resolved in divorce. It was suggested that this addition presented an opportunity for more problem solving than seems to be the case in the determination of custody or visitation. Although differences among the four variations of presentation did not reach significance, in the two presentations involving children, subjects were less favorable toward mediation when the focus was that of financial resolution. If the public perceives divorce mediation as a vehicle inappropriate to resolution of financial concerns, this is an area for concern. Perhaps future studies could investigate the possibility of the influence of children on the decision to use divorce mediation. Postquestionnaire comments such as (male) ; ". . . well, if there are kids involved, it would probably be better if they could work it out themselves; anyway if they go to court the wife is going to win anyhow!" Also (female), ". . . I just presumed that the wife would get the kids, but if you don't get a lawyer, how could she be sure to get everything she needs?"

Additional data that were both interesting and puzzling dealt with the quality of the predicted outcomes, based on the subjects' own recommendations. It has not been anticipated that subjects would recommend an approach, and then predict a negative result from it. In this study, however, only persons recommending an attorney then predicted a negative

outcome. Previous research in divorce mediation has not addressed conflict situations where there were no children involved. In fact, as previously stated, the heaviest research focus has centered on child custody/visitation disputes. Unfortunately, in the present research, responses predicting a negative outcome were clustered in the areas of financial resolution/with children and no children/no property. A possible explanation comes again from postquestionnaire comments on Form E (male), ". . . anybody with that many bills better get a lawyer or he's going to lose his butt." Also (female), ". . . if the wife's not careful she'll end up paying the husband's bills and end up with nothing. I'd be damn sure I had a good lawyer." Part of the difficulty may have, in fact, been an artifact of the questionnaire Form E. In an effort to represent various combinations of children and property, the last questionnaire (Form E) presented a couple with no children and no property. However, this form also included the term "deeply in debt," which was intended to offset the issue of not having property to divide in settlement. It appears now that "no property" and "deeply in debt" are not synonymous and may have been perceived by subjects differently than intended.

A second, and more general, possibility also exists to explain why some subjects predicted negative outcomes and pertains to the subject demographics and extraneous variables. Given today's divorce statistics (Jarboe, 1978; Spencer & Zammit, 1976), it is unlikely that only 10% of the subject population had actually been divorced. The traditional approach to divorce has been through the use of attorneys, so a considerable portion of the sample could have had direct exposure to this process previously. This previous experience may well have had more impact than the independent variables on their responses to items of the ques-

tionnaires. The questionnaires addressed only two items: how well the divorcing spouses got along later, and children or financial readjustment. The complexities surrounding a divorce are far greater than these limited measures can assess, leaving open the possibility that subjects recommended an attorney, then predicted negative results on the form for unstated reasons. Approximately one-third of the subjects recommended use of an attorney, an amount that may more nearly represent the actual percentage of divorced persons in the study. This information was unavailable but may have facilitated the interpretation of the data. It appears consistent that persons who have used an attorney, and viewed the process favorably, might again recommend the process. In addition, some subjects may have viewed the use of an attorney as producing negative outcomes on the dependent variables, but other extraneous factors carried more weight. In general, it may be unrealistic to presume that, after the divorce, persons are going to "... get along well," etc. Persons having experienced a divorce may have stronger opinions on the subject than were measurable on the questionnaire.

Equity theory states this proposition (Walster, Berscheid & Walster, 1973, p. 151): "Individuals will try to maximize their outcomes (where outcomes equal rewards minus costs)." In essence, individuals actively seek to associate the greater benefit with the lesser loss. The data from Form A of this project may indicate that, while the wife is more likely to obtain child custody, the question of equity is one of degree rather than yes or no. If, in fact, the general predilection is to expect custody for the mother, presenting the father with an opportunity for contribution to parenting roles may represent an outcome which can be perceived as representing equity. If the wife expects custody and

the husband accepts this as equitable, and these are the major concerns, then one might expect to find a cooperative spirit amenable to participating in the mediation process. However, derived from equity theory, if there are other outcomes to be maximized, such as financial concerns, it could be presumed that individuals would seek the process perceived as more beneficial. Further research could focus on the relationship of all the factors in the divorce situation and what their interactions may be. As stated by others (Coogler, 1978; Haynes, 1981; Landsman & Minow, 1978), the divorce process should not be allowed to become a struggle for self-justification.

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APPENDIX A

FORM A

The divorce rate is increasing rapidly and a solution to the problem does not appear readily available. It is estimated that nearly 50 percent of today's marriages will end in divorce. In order to address the specifics of the problem, we are attempting to better understand the opinion of the public. Your assistance will be greatly appreciated. Please answer the questions at the end of this article by giving your own opinion.

Following is a brief discussion of a divorce situation that was taken from a case history. Please read it carefully. Please understand, this situation may not have "right" or "wrong" answers.

Ron and Sue Anderson have decided to get a divorce. After 15 years of marriage, the Andersons own many items of property. In addition, they have two children. Mark is age 12 and his sister, Donna, is age 8. The Anderson children get along agreeably with both parents. Neither child has expressed an interest in going with either parent specifically, and the children have equal feelings of affection for each parent.

Both Ron and Sue agree that each is to keep their own personal property, such as clothing, jewelry, etc., but there is no decision concerning the remainder of the property. Following is a list of the Andersons' principle assets. All of these items are fully paid for, so there will be no question of continuing payment after the divorce. Ron and Sue realize that some decision must be made regarding what is to be done with their assets, but they cannot agree upon a division of property.

The Andersons own a brick ranch house that is attractively landscaped and located in a pleasant residential neighborhood. The furniture is relatively new and well kept. Also, the Andersons own two late model cars. The cars are slightly different from one another but are approximately equal in value. Finally, the Andersons have a savings account at their local bank but no other major assets, such as stocks or bonds.

Ron and Sue each wish to have custody of their children. Both feel that if they do not have full-time custody, they may become isolated from the children. Each parent wishes to remain a part of the children's daily lives, but Ron and Sue are unable to agree upon a decision.

Results of the Divorce

The Andersons agree that their marriage is over and that the differences between them are best resolved by divorce. The divorce is not complete, however, until the court's decree.

- A. IN YOUR OWN OPINION, what do you predict the court settlement WILL BE, with respect to child custody? (ENCIRCLE.)
1. Ron will most likely get primary custody of the children.
 2. Sue will most likely get primary custody of the children.
 3. Ron and Sue will share joint custody.
- B. Also, IN YOUR OPINION, what do you predict the settlement WILL BE, with respect to the division of property?
1. Sue will most likely get the bulk of the property.
 2. Ron will most likely get the bulk of the property.
 3. I think both Sue and Ron will get equal amounts of the property.

The following questions are to determine whether you think there are differences between what "WILL" happen and what "SHOULD" happen. In other words, given your answers to questions A and B, do you think that your predicted outcome is reasonable?

- C. What do you think the settlement "SHOULD" be with respect to child custody?
1. Ron should get primary custody.
 2. Sue should get primary custody.
 3. Both should share joint custody.
- D. What do you think the settlement "SHOULD" be with respect to property?
1. Sue should get the bulk.
 2. Ron should get the bulk.
 3. Both should share equally.
- E. If you think one parent should have primary custody, please WRITE that parent's name in the blank (____) and place a checkmark beside each statement below with which you agree.
- This parent should have primary custody because (check all that apply):
- it is more socially acceptable.
 - the children need this parent more emotionally.
 - the children need this parent more financially.
 - this parent is better qualified to raise children.
 - this parent provides a more stable homelife.
 - this parent probably loves the children more.
 - the children probably prefer this parent more.
 - other (please comment on any reason you feel one parent might be preferred to the other).

Your comments: _____

APPENDIX B

FORM B

Ron and Sue Anderson have decided to get a divorce. After 15 years of marriage, there are many items of property that the Andersons own. In addition, the Andersons have two children. Mark is age 12 and his sister, Donna, is age 8.

Both Ron and Sue agree that each is to keep their own personal property, such as clothing, jewelry, etc., but there is no decision concerning the remainder of the property. Following is a list of the Andersons' principle assets. All of these items are fully paid for, so there will be no question of continuing payment after the divorce. Ron and Sue realize that some decision must be made regarding what is to be done with their assets, but they cannot agree upon a division of property.

Assets

1. Family residence--three bedroom brick ranch house, valued at \$75,000.
2. Two personal vehicles, each of which is only one year old, and each is valued at \$8200.
3. Household furnishings (i.e., tables, chairs, beds, televisions, stereo, etc.), valued at \$15,000.
4. Savings account of \$4800.

Approach to Divorce

Ron and Sue must decide which approach to use to obtain their divorce. Which of the two approaches would you advise the Andersons to use. (Please encircle your choice.)

- | | |
|----------------------------------|-----------------------------------|
| A. Each hire their own attorney. | B. Both go to a divorce mediator. |
|----------------------------------|-----------------------------------|

The Andersons choose to take your advice, and use the approach to divorce that you selected. ONE YEAR AFTER THE DIVORCE, what do you predict the situation will be like between the Andersons?

1. Ron and Sue dislike each other and speak to one another only when absolutely necessary.
2. Ron and Sue get along fairly well and can work together on matters concerning the children.

Also, divorce typically has an impact upon the children involved. What is your expectation for the adjustment of the Anderson children? AGAIN, THIS IS ONE YEAR LATER.

1. The Anderson children are fairly happy and are doing well in school.
2. The Anderson children are unhappy and are doing poorly in school.

APPENDIX C

FORM C

Ron and Sue Anderson have decided to get a divorce. The Andersons had agreed that their marriage was not working. They had also agreed that a divorce was the wisest solution, but neither had contemplated a change in the relationship with their children. Both of the Anderson children--Mark, age 12, and Donna, age 8--are attending a local school. Mark and Donna Anderson have always been close to both parents. Neither child has stated a preference for living solely with either parent. Following are options that are sometimes suggested for resolving custody or visitation problems.

Custody Alternatives

1. Sue would have primary custody, but the children would visit Ron two weekends a month.
2. Ron would have primary custody, but the children would visit Sue two weekends a month.
3. Sue would have primary custody, but the children would spend summers with Ron.
4. Ron would have primary custody, but the children would spend summers with Sue.
5. The two Anderson children would spend an equal amount of time living with each parent.

Approach to Divorce

Ron and Sue must decide which approach to use to obtain their divorce. Which of the two approaches would you advise the Andersons to use? (Encircle.)

- | | |
|----------------------------------|-----------------------------------|
| A. Each hire their own attorney. | B. Both go to a divorce mediator. |
|----------------------------------|-----------------------------------|

The Andersons choose to take your advice, and use the approach to divorce that you selected. ONE YEAR AFTER THE DIVORCE, what do you predict the situation will be like between the Andersons? (Encircle.)

1. Ron and Sue dislike each other and speak to one another only when absolutely necessary.

2. Ron and Sue get along fairly well and can work together on matters concerning the children.

Also, divorce typically has an impact upon the children involved. What is your expectation for the adjustment of the Anderson children? AGAIN, THIS IS ONE YEAR LATER.

1. The Anderson children are fairly happy and are doing well in school.
2. The Anderson children are unhappy and are doing poorly in school.

APPENDIX D

FORM D

Ron and Sue Anderson have decided to get a divorce. After 15 years of marriage, there are many items of property that the Andersons own. However, the Andersons have no children, so there will be no other outside parties involved in the property settlement.

Both Ron and Sue agree that each is to keep their own personal property, such as clothing, jewelry, etc., but there is no decision concerning the remainder of the property. Following is a list of the Andersons' principle assets. All of these items are fully paid for, so there will be no question of continuing payment after the divorce. Ron and Sue realize that a decision must be made regarding their assets, but there has been no agreement on a division of property.

Assets

1. Personal residence--three bedroom brick ranch house, valued at \$75,000.
2. Two personal vehicles, each of which is only one year old, and each is valued at \$8200.
3. Household furnishings (i.e., tables, chairs, beds, televisions, stereo, etc.), valued at \$15,000.
4. Savings account of \$3800.

Approach to Divorce

Ron and Sue must decide which approach to use to obtain their divorce. Which of the two approaches would you advise the Andersons to use? (Encircle.)

- | | |
|----------------------------------|-----------------------------------|
| A. Each hire their own attorney. | B. Both go to a divorce mediator. |
|----------------------------------|-----------------------------------|

The Andersons choose to take your advice and use the approach to divorce that you selected. ONE YEAR AFTER THE DIVORCE, what do you predict the situation will be like between the Andersons? (Encircle.)

1. Ron and Sue dislike each other and speak to one another only when absolutely necessary.

2. Ron and Sue get along fairly well and can work together on matters concerning them both.

Also, divorce typically has an impact upon the financial adjustment of the parties involved. What is your expectation for the adjustment of the Andersons? AGAIN, THIS IS ONE YEAR LATER.

1. Both Ron and Sue have adjusted well and are in about an equal financial condition.
2. Neither Ron nor Sue has adjusted financially and both are in poor financial condition.

APPENDIX E

FORM E

Ron and Sue Anderson have decided to divorce. During their marriage they have purchased a home, several automobiles, and other expensive items, but have lived beyond their means. At present they are deeply in debt. However, they do not have any children, so there will be no outside parties involved in the settlement.

Both Ron and Sue agree that each is to keep their own personal property. But when the Andersons stop to inventory their assets, they realize that, because of their indebtedness, there will be little left to distribute in a property settlement. Even if everything is sold, there will be virtually no money left to divide. Following is a list of the Andersons' assets and balances owed.

Assets

1. Personal residence--three bedroom brick ranch house; balance owed is \$75,000.
2. Two personal vehicles, each of which is only one year old; each has a balance owed of \$8200.
3. Household furnishings (i.e., tables, chairs, beds, televisions, stereo, etc.); balance owed is \$15,476.
4. Savings account in the amount of nine dollars.

Approach to Divorce

Ron and Sue must decide which approach to use to obtain their divorce. Consider that these approaches are equal in both time and cost. Which of the two approaches would you advise the Andersons to use? (Encircle.)

- | | |
|----------------------------------|-----------------------------------|
| A. Each hire their own attorney. | B. Both go to a divorce mediator. |
|----------------------------------|-----------------------------------|

The Andersons choose to take your advice and use the approach to divorce that you selected. ONE YEAR AFTER THE DIVORCE, what do you predict the personal situation will be like between the Andersons? (Encircle.)

1. Ron and Sue dislike each other and speak to one another only when absolutely necessary.

2. Ron and Sue get along fairly well and can work together on matters concerning them both.

Also, divorce typically has an impact upon the financial adjustment of the parties involved. What is your expectation for the financial adjustment of the Andersons?

1. Both Ron and Sue have adjusted well and are both in good financial condition.
2. Neither Ron nor Sue has adjusted financially and both are in poor financial condition.

APPENDIX F

AUDIO TAPE SCRIPT

Narrator:¹ Today, divorce litigation is a major cause of the heavy caseload on our court system. This increased burden often results in an unnecessary delay in the disposition of cases (Bahr, 1981; Landsman & Minow, 1978). Of today's marriages nearly 50% will end in divorce (Laner, 1978). Each year nearly five million of us are, in some way, touched by the divorce process (Irving, 1980). Divorce reaches out to touch grandparents, brothers, sisters, friends, and a host of others who are part of our everyday lives. The problem continues, with the divorce rate not expected to reach its peak until 1990 (Glick, 1984).

(Narrator continues after brief pause): In cities across the nation there are couples who, for a variety of reasons, have reached the decision to divorce. Ron and Sue Anderson are just such a couple. The Andersons have been married for nearly 15 years. Ron Anderson is an architect and Sue is a legal secretary. Both have worked hard in their respective careers and look forward to their individual successes.

While the Andersons have succeeded in their careers, their marriage has not done as well. There is no longer an effort at communication between Ron and Sue. They have tried marriage counseling in the past, but there has been no improvement in their marriage. The love that might have existed between the two has died; the feeling of romance has gone. The Andersons no longer have sexual relations and resign themselves to the fact that their marriage has failed. In the past year both parties have considered getting a divorce to end their existing relationship.

Narrator continues: The Andersons have decided to divorce, but each of them has many questions about the divorce process. What should they do next? What is involved in a divorce? Who should they talk to?

AUDIO TAPE PRESENTATION ENDS AND EXPERIMENTER BEGINS DATA COLLECTION.

¹Note: Narrator did not read references.

APPENDIX G

COVER SHEET

PLEASE DO NOT TURN THIS FORM OVER UNTIL INSTRUCTED TO DO SO.

Thank you for your participation in this study. Your assistance is appreciated. However, if at any time you feel that you wish to withdraw from this project, please feel free to do so. The information asked for on this form will remain CONFIDENTIAL and does NOT require that you put your name on this form.

PLEASE NOTE--PLEASE DO NOT PUT YOUR NAME ON THIS FORM.

Please provide ONLY the information requested below:

1. Age _____
2. Sex (please encircle) Male Female
3. Marital status (please encircle)
 Married Divorced Single Widowed
4. Number of children _____
5. Have you personally felt the impact from the divorce of an immediate family member or close friend? (Please encircle.)
 No Yes

VITA

Robert Gail Hansen

Candidate for the Degree of

Doctor of Philosophy

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Professional Experience: Marketing management, Southwestern Bell, Houston, Texas, June, 1976, to December, 1977; Co-Owner, Comstaff, Ltd., telecommunications consulting, Houston, Texas, January, 1978, to July, 1982; Teaching Assistant, Department of Psychology, Oklahoma State University, August, 1983, to June, 1984; Management-Systems Consultant, Department of Human Services, Oklahoma, July, 1984, to present.