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IN THE EYE OF THE STORM: MEDIATORS' PERSPECTIVES ON RESOLVING

LABOR-MANAGEMENT CONFLICT

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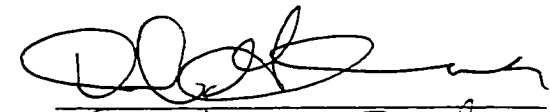
IN THE EYE OF THE STORM: MEDIATORS' PERSPECTIVES ON RESOLVING
LABOR-MANAGEMENT CONFLICT

A Dissertation APPROVED FOR THE
DEPARTMENT OF POLITICAL SCIENCE

BY

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This dissertation is dedicated to Joel and Jacob for providing me with loving support and inspiration every day of the year.

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Mareschal, Patrice M., Ph.D. *University of Oklahoma*, 1999. 300pp. Chair: David G. Carnevale

My dissertation examines the entire mediation process in the labor relations context to identify the determinants of successful mediation. This research makes several important methodological, theoretical, and practical contributions to the existing body of knowledge of mediation. Secondary data were derived from the Federal Mediation and Conciliation Service's printed documents such as annual reports, task force reports, training manuals, and brochures describing the services provided by the agency. Using these data I was able to infer what factors the agency considers to be critical to mediation success.

The participant observation portion of my research involved attending the FMCS new mediator training program. This training program consisted of four intensive week-long training sessions. The interview data were derived from 15 semi-structured interviews conducted with the mediators as well as countless informal conversations that took place during the national conference and new mediator training sessions.

I used the data collected from secondary sources, informal networking with dispute resolution professionals, participant observation, and qualitative interviews to develop a written survey. I distributed 185 surveys at the FMCS National Professional Development meeting. I received a total of 78 usable surveys, for a 42% response rate.

Some interesting results derived from the survey data include the following: (1) the "broad" and "narrow" approaches to mediation are complements to each other rather than substitutes for one another; (2) the survey data failed to establish a connection between the mediators' choice of techniques and strategies and the dependent variable of agreement on a contract; (3) the parties are less likely to seek the help of female mediators to improve their ongoing relationship.

The interviews and the participant observation suggested that the parties play a crucial role in the outcome of mediation, but the survey results found no direct effect of the parties on any dependent variable. These results are not as contradictory as they initially appear, as the regression results indicate that the parties exert an indirect effect on mediation outcomes. The participant observation and interview data concurred with the survey results indicating that there is no magic set of techniques and strategies which guarantee success.

Chapter 1

The Mediation Process

Explaining Mediation: A Complex Problem

In mediation a neutral third party assists parties in conflict in reaching voluntary

agreements. The mediator does not have the power or authority to impose a settlement.

Instead, s/he simply acts as a facilitator for the parties. The primary goal of the mediator

is to help the parties come to an agreement themselves. Toward this end, the mediator

facilitates information sharing and tacit bargaining between the parties. In addition, the

mediator tries to discourage the parties from holding back information. While the

principal measure of a successful mediation is reaching an agreement, it may be useful to

consider these intermediate steps as partial indicators of mediation success, as not every

dispute can be resolved thoroughly through mediation (Kochan and Katz 1988).

Mediators often claim that like snowflakes, no two mediation situations are exactly

alike. Moreover, no two mediators would deal with the same dispute in the same way.

Practitioners describe mediation as an art with numerous philosophies and approaches

(Kolb 1983; Kochan and Katz 1988). According to this line of argument, mediation is

difficult to learn and not well-suited to scientific study. Mediation is indeed a complex

process. Nevertheless, social scientists from a variety of disciplines have studied

mediation. Through both theoretical and empirical research social scientists have

identified some systematic patterns in the mediation process (Kochan and Jick 1978; Carnevale and Pruitt 1992; Wall and Lynn 1993).

The purpose of this research is to examine the entire mediation process in the labor relations context to identify the determinants of successful mediation and sort out the relative contributions of the various factors. The analytical framework used focuses on the parties' interactions, the mediators' techniques and strategies, the outcomes of mediation, and the determinants of these factors (e.g., mediator characteristics, situational characteristics, the sources and nature of conflict, and the parties themselves). The analyses are based on both qualitative data and quantitative data collected from secondary sources and through participant observation, qualitative interviews, and a written survey. The ultimate goal is to develop a theory that makes sense to both researchers and practitioners.

Why is this Important?

Conflict occurs in nearly all human relationships and in all communities. People involved in conflict may resolve their disputes in a variety of ways. One peaceful method of resolving disputes is mediation. Mediation is "the intervention in a negotiation or conflict of an acceptable third party who has limited or no authoritative decision-making power but who assists the involved parties in voluntarily reaching a mutually acceptable settlement of issues in dispute" (Moore 1996, 15). Ever since people have come into conflict with each other, mediators have come forth to help them resolve their disputes. In fact, some scholars have dubbed mediation "the second-oldest profession" (Kolb 1983).

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Mediation has a rich, multi-cultural history as demonstrated by evidence of Jewish,

Christian, Islamic, Hindu, Buddhist, and Confucian mediation traditions (Moore 1996).

The contemporary practice of mediation, a type of alternative dispute resolution,[1]

has grown rapidly, particularly during the past twenty-five years. However, its roots date

back to the late 1800s. More precisely, in the U.S. mediation became part of the

institutional framework of labor relations when national unions came to the forefront in

the late nineteenth century. The federal government first recognized mediation as a

method of handling labor disputes with the passage of the Erdman Act of 1898 (Kolb

1983). In 1913 the federal government set up the Department of Labor along with a panel

known as the "commissioners of conciliation" to deal with labor relations disputes. Later,

this panel became the United States Conciliation Service. In 1947 the panel was

reorganized as the Federal Mediation and Conciliation Service (FMCS) (Moore 1996).

More recently, the federal Civil Rights Act of 1964 established the Community

Relations Service to mediate community disputes (Moore 1996). Mediation is also being

used to resolve international conflicts (Kelman 1991) as well as criminal complaints and

disputes in correctional facilities (see for example, Felstiner and Williams 1978; Reynolds

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[1] Alternative Dispute Resolution (ADR) is a term used to describe a variety of
techniques that organizations use to eliminate or reduce the burden of more traditional
conflict resolution processes. The various approaches to ADR generally involve
intervention or facilitation by a neutral third party. Commonly used ADR methods
include: ombudsmen, mediation, peer panels, management review boards, and arbitration.
These methods vary in formality. At the one end of the spectrum are the relatively
informal processes in which an ombudsmen or mediator help the parties develop mutually
acceptable solutions to conflict. At the other end of the spectrum are more formal
processes such as peer panels, management review boards, and arbitration in which a
neutral body or person may rule on the merits of the disputants' positions and impose a
solution to the conflict (United States Government Accounting Office 1997).

and Tonry 1981). Indeed, mediation is expanding into almost all areas of dispute resolution including divorce and child custody (Kressel et al. 1994; Neilson 1994; Harrell and Doelker 1994; Swenson 1992), sexual harassment cases (Gadlin 1991), small claims court (Wissler 1995; Wall and Dewhurst 1991) and environmental and social policy disputes (Susskind and Cruikshank 1987; Stamato and Jaffe 1991).

In brief, mediation is quickly becoming the policy instrument of choice to resolve disputes at various levels of government. Given mediators' ability to influence the form disputes take, balance the interests of opposing parties, and maintain social peace, the mediation process is worthy of study. Moreover, recent congressional activities such as the enactment of the Civil Justice Reform Act of 1990, the Administrative Dispute Resolution Act of 1990, and the Negotiated Rulemaking Act of 1990 require federal agencies and departments to use alternative dispute resolution systems. These acts alone signal that conflict resolution is an important part of contemporary public administration (Lan 1997).

Mediation in the Labor Relations Context

Mediation is the most commonly used type of third party intervention in labor disputes and collective bargaining (Coleman 1990). In fact, the National Labor Relations Act (NLRA) requires a labor union to notify the FMCS 30 days before calling a strike. The 30-day notice provides federal mediators an opportunity to help the parties resolve their dispute peacefully prior to taking such drastic action as a strike. The Railway Labor Act also requires mediation before a dispute can go to the next phase of the impasse process. The National Mediation Board is the administrative agency for the Railway

Labor Act. Most of the mediation in private sector labor disputes is performed by the staff mediators of the FMCS or the National Mediation Board (Kochan and Katz 1988). As noted above, the Administrative Dispute Resolution Act of 1990 and the Negotiated Rulemaking Act of 1990 authorize the FMCS to provide conflict resolution services to public agencies in order to improve operations and reduce the resources expended on litigation (FMCS n.d.).

Labor Relations and the Public Administration Connection. This topic is especially relevant to scholars of public administration given that the public sector is heavily unionized. More precisely, in 1997 6.7 million union members worked in Federal, state, and local governments, comprising roughly 37.2 percent of government employment. An additional 1.8 million public sector employees were represented by unions, although they were not union members. This brings the total share of public sector workers represented by labor unions to 47.2 percent. This compares with unionization rates of roughly 10 percent of the employees in the private sector (Bureau of Labor Statistics 1998). Thus, organized labor has a strong presence in the public sector. This presence means that workplace changes cannot be implemented unilaterally in the public sector. In recognition of the strong union presence in the public sector, there have been numerous calls for labor-management cooperation (c.f. U.S. Department of Labor 1996; Carnevale 1993; Naff 1993).

To illustrate, a task force recently convened by the U.S. Secretary of Labor concluded that the public sector must transform the way services are planned and delivered, the way the public workplace is managed, and how public workers' knowledge

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is engaged in the process. According to the task force, traditional methods of service delivery, personnel administration, supervision and workplace communication, and collective bargaining will not be sufficient to compete in an increasingly globalized economy and to respond to increasing demands by members of society. Public sector agencies facing these challenges will require the participation of employees. If government services are to be improved through cooperation, the task force contends that adversarial relationships will need to be transformed so that workers may focus on their common goals. Indeed, the task force found that labor management cooperation that involved employees in service planning and implementation typically resulted in better service, more cost effectiveness, better quality of work life, and improved labor management relations (U.S. Department of Labor 1996).

Authentic Public Participation. The challenges of an increasingly globalized economy, massive demographic changes, widespread employment insecurity and declining real wages, as well as rapid social and environmental changes have given rise to conflicts in communities, organizations, and workplaces. At the same time that the level of conflict in society has been rising, the public confidence in the ability of leaders and institutions to face these challenges has declined (Chrislip and Larson 1994).

Despite this decline in public confidence, many members of the community and public administrators alike are interested in increasing the public's role in problem-solving and conflict resolution (c.f. King, Felty, and Susel 1998; Gerzon 1996; Weisbord and Janoff 1995). To achieve authentic participation the public must be involved from the beginning stages of problem-solving in which the issues are framed through to the final

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stages in which decisions are made and implemented (King et al. 1998). Mediation is one method of problem-solving that meets these standards. That is, mediation engenders authentic participation and has the potential to transform relationships and organizations.

Mediators act as collaborative leaders in resolving disputes and training the parties to participate in collaborative projects more effectively. For example, mediators do not have the authority to impose a solution. Instead, mediators work to build trust among participants and to foster a sense of ownership of the process among participants. The participants themselves are responsible for defining the problem and agreeing to a solution. The mediator's responsibility is to make sure the process is constructive and produces results.

The Rewards of Collaboration. Prominent management consultants, such as Peter Senge, Michael Hammer, David Naylor, and George Stalk, Jr. emphasize the importance of organizing around work processes (as opposed to functions), teamwork and collaboration, and organizational learning as critical factors in business success (Chrislip and Larson 1994). Businesses that follow these precepts tend to be more successful in meeting the challenges of an increasingly globalized economy than businesses following traditional management practices. In brief, authentic collaboration works for all parties involved. It is democratic. It decentralizes authority and increases feelings of self efficacy. It inspires interest and commitment from labor and management.

The key is that authentic collaboration produces self-leadership among individual workers and teams, thereby reducing subordinate dependency on those at the top of the organization (Carnevale 1995). Authentic participation in the workplace requires a high-

trust approach to leadership. The high-trust approach to leadership is based on a positive view of employees. That is, it assumes that employees want to make their organization a better place. This approach requires leaders to teach employees to trust in their own skills and abilities and provide them the freedom to perform their jobs without interference. In other words, high-trust leaders help build capacity in others (Carnevale 1995). The high-trust or collaborative style of leadership is similar to what others have identified as transforming, servant, or facilitative leadership. Thus, there are many parallels between collaborative leaders and mediators.

Learning Organizations. Similarly, the literature on organizations has called attention to the importance of team building and team learning (Porras & Silvers 1991; Senge 1990). The goal of team building and team learning is to create a "learning organization" with the capacity for continuous self-evaluation and improvement. The ultimate goal of mediation is to get the parties to resolve problems on their own, through cooperation, without the mediator's help. Thus, mediation serves as a forum for team learning.

In other words, the mediation process may be thought of as a sort of dialogue in which a group explores complex, conflictual issues from a variety of viewpoints. In this dialogue individuals are able to temporarily let go of their assumptions and communicate their ideas freely (Senge 1990). Moreover, this dialogue creates a high degree of mutual trust, which in turn reduces defensive behavior (Zand 1972). The result is a free exploration of problems and solutions that allows participants to move beyond their own individual positions and solve problems more effectively (Senge 1990; Zand 1972). In

contrast, in low-trust organizations energy and creativity are diverted from problem-solving and individuals use the problem as a tool to reduce their vulnerability (Zand 1972). Thus, mediation can lead to collaborative solutions that help the organization meet the challenges of a continuously changing environment.

To sum up, conflict is a fact of life in all communities, organizations, and interpersonal relationships. In recent years, mediation has become increasingly popular as a means to resolve conflict. In fact, mediation is being used as a policy tool to resolve disputes at various levels of government from the federal level down to the level of neighborhood disputes. Mediation, as a form of ADR, is especially relevant in the public sector given the strong presence of unions. Furthermore, mediation can contribute to team learning, an essential part of labor-management cooperation in the current environment. Finally, since public sector managers are involved in team building, resolving interpersonal disputes, and handling grievances they are, in essence, bargaining all the time. Therefore, mediation is a topic worthy of study within the field of public administration (for both practitioners and scholars), as well as other fields such as public policy analysis, organizational studies, labor relations, and conflict resolution.

Contribution to Existing Research

Conflict Resolution in Public Administration

Scholars in the field of public administration have devoted considerable attention to how public agencies execute the public will (Wilson 1887; Gulick 1937), deliver public services (Osborne and Gaebler 1992), and make government accountable to the public (Waldo 1948; Goodsell 1994). However, they have devoted much less attention to

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conflict resolution. In fact, over the period of 1992-1995, only four articles dealing with conflict resolution were published in mainstream public administration journals (Lan 1997). Thus, it appears that there is ample opportunity to make a contribution to the field, especially in terms of helping public administrators understand the nature of conflict in their work and their role as conflict resolvers. For instance, given that fairness and social justice are not always top priorities in the mediation process, the weaker parties may feel cheated even if an agreement is reached. Since mediation is a voluntary, non-binding process, the losing parties may start the whole process all over again thereby increasing the costs of conflict resolution and displacing the administrative goals of economy and efficiency (Lan 1997).

Other Perspectives on Conflict Resolution

Although there is a dearth of literature on conflict resolution in the mainstream public administration journals, much has been published on conflict resolution in general and mediation in particular in the fields of organizational development, international relations, labor relations, and sociology. As demonstrated above, mediation is becoming increasingly important as a method of conflict resolution. The growth in the practice of mediation has allowed researchers to study various segments of the mediation process and to study mediation in a variety of settings. As a result, researchers have been able to describe the mediation process in detail and compare findings across fields. Yet, comparisons across fields and integration of findings are difficult because the mediation process is so complex and because different disciplines have addressed divergent questions (c.f. Kolb and Rubin 1991).

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Filling the Gaps

Wall and Lynn (1993) contend that the rapid growth in mediation practice and research has outstripped theory building. Due to the complexity of the mediation process, they argue it would be futile to attempt to develop a general theory of mediation which applied across all mediation contexts. They offer several suggestions for correcting this deficiency.

In general, Wall and Lynn (1993) suggest that researchers should put more effort into conducting data-based research and less effort into informal story-telling. Also, they suggest that researchers would do well to develop context-specific theories. More precisely, they recommend that researchers group mediations according to the field of practice and study the complete mediation process. For instance, community disputes would be grouped together for theory building, labor disputes would be studied together, divorce mediations would be combined in another group and so on. Once mediations have been categorized, Wall and Lynn (1993) contend that researchers could contribute to theory building by studying the overall processes and outcomes for each category.

There are several advantages to context-specific theory-building. First, this approach produces richer theories that accentuate the variation in mediation and its setting (Wall and Lynn 1993). For example, this approach allows researchers to examine how context influences the mediation process and outcomes (see Kolb 1989). Moreover, using this approach researchers can determine how mediation varies according to the disputes, settings, and parties. In addition, this research strategy is useful to practitioners because

of the level of detail it provides and because it focuses on the entire mediation process in a particular category (Wall and Lynn 1993).

Toward this end, I examine the entire mediation process in the labor relations context to identify the determinants of successful mediation and sort out the relative contributions of the various factors. I focus on labor disputes mediated by the Federal Mediation and Conciliation Service (FMCS). In the next section, I review the past, present, and future of the FMCS. The model and research design are described in the following sections.

The FMCS

The FMCS was created as an independent agency of the U.S. government by the Labor Management Relations Act of 1947. The agency's mission is to preserve and promote labor-management peace. Toward this end the agency provides mediation, arbitration, and other conflict resolution services and programs to employers and their unionized employees in both the private and public sectors, excluding the railroad and airline industries (FMCS 1996a). In addition, Executive Order 11491 authorized the FMCS to assist federal agencies in resolving negotiation impasses (Kearney 1992). The services the FMCS provides are intended to prevent or minimize conflicts in the collective bargaining process and to improve labor-management relations (FMCS 1996a). In cases where the FMCS' attempts to resolve federal impasses are unsuccessful, the Civil Service Reform Act of 1978 (CSRA), section 7119 authorizes the Federal Services Impasse Panel (FSIP) to intervene in the dispute. The FSIP may use a variety of techniques to resolve

federal impasses including mediation, fact-finding, and final-offer arbitration (Kearney 1992).

As mentioned earlier, during the 1980s and 1990s the environment in which labor and management operate underwent rapid and profound changes. For example, labor and management witnessed the introduction of new work systems, new pay systems, new forms of ownership, new bargaining processes, and new types of problem-solving techniques during this period. With respect to bargaining processes, there was a gradual shift away from rights-based bargaining toward interest-based bargaining[2] (Stepp and Barrett 1990). The interest-based approach to bargaining requires mediators to possess a discernible set of skills that is somewhat different than the set of skills required in traditional bargaining (Stepp, Sweeney, and Johnson 1998; Stepp and Barrett 1990).

In response to these dramatic changes the FMCS set up a mediator task force to prepare the agency for the future (FMCS 1996b). The task force consisted of a representational sample of the agency's mediators, District Directors, the Deputy Director, the Special Assistant to the Director, the local union president (representing employees in the National office), and National office managers[3]. The mission of the task force was to

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[2] Briefly, with the rights-based or traditional approach to bargaining the focus is on ritual position taking. The role of the mediator in rights-based bargaining is to challenge and undermine these positions until one or both parties compromise. The emphasis is on settlement, quick fixes, and closure. In contrast, with interest-based bargaining the focus is on interests rather than positions. The role of the mediator is to get the parties to reveal and discover shared interests. The emphasis is on finding lasting solutions to the parties' problems (Stepp and Barrett 1990).

[3] This information is based on the text of *Forces of Change: Report of the Mediator Task Force on the Future of FMCS* (1996b) as well as conversations the author had with the agency's mediators and the Director of Education and Training.

examine trends and changes in the practice of collective bargaining and labor-management relations and the national economy, and to make recommendations as to where the agency should move in the future in terms of its mission, goals, and policies. Two of the key areas examined by the task force include: training and professional development and evaluation of mediator performance.

Choosing a Framework for Analysis: Developing a Model

As noted above, the research on mediation spans several disciplines. Wall and Lynn (1993) have organized the voluminous and diverse research on mediation into a mediation framework. I draw on their framework, with some modifications, in my research. The modified framework focuses on the parties' interactions, the mediator's techniques and strategies, the outcomes of mediation, and the determinants of these factors. My model is shown in Figure 1.1.

Parties' Interactions

According to Wall and Lynn's (1993) framework, the mediation process begins with the parties' interactions. In the collective bargaining context the parties do not interact in a social vacuum. Rather, they interact in a complex social-institutional environment.

Tetlock (1991) has emphasized the need to consider the complex social-institutional environment in which people make decisions. In particular, Tetlock (1991) argues that in making decisions social actors are influenced by the fact that they can be held accountable for their actions. Tetlock (1991) also contends that social actors seek the approval and respect of those to whom they are accountable. According to Tetlock

FIGURE 1.1

A General Model of the Determinants of Successful Mediation in the Labor Relations Context
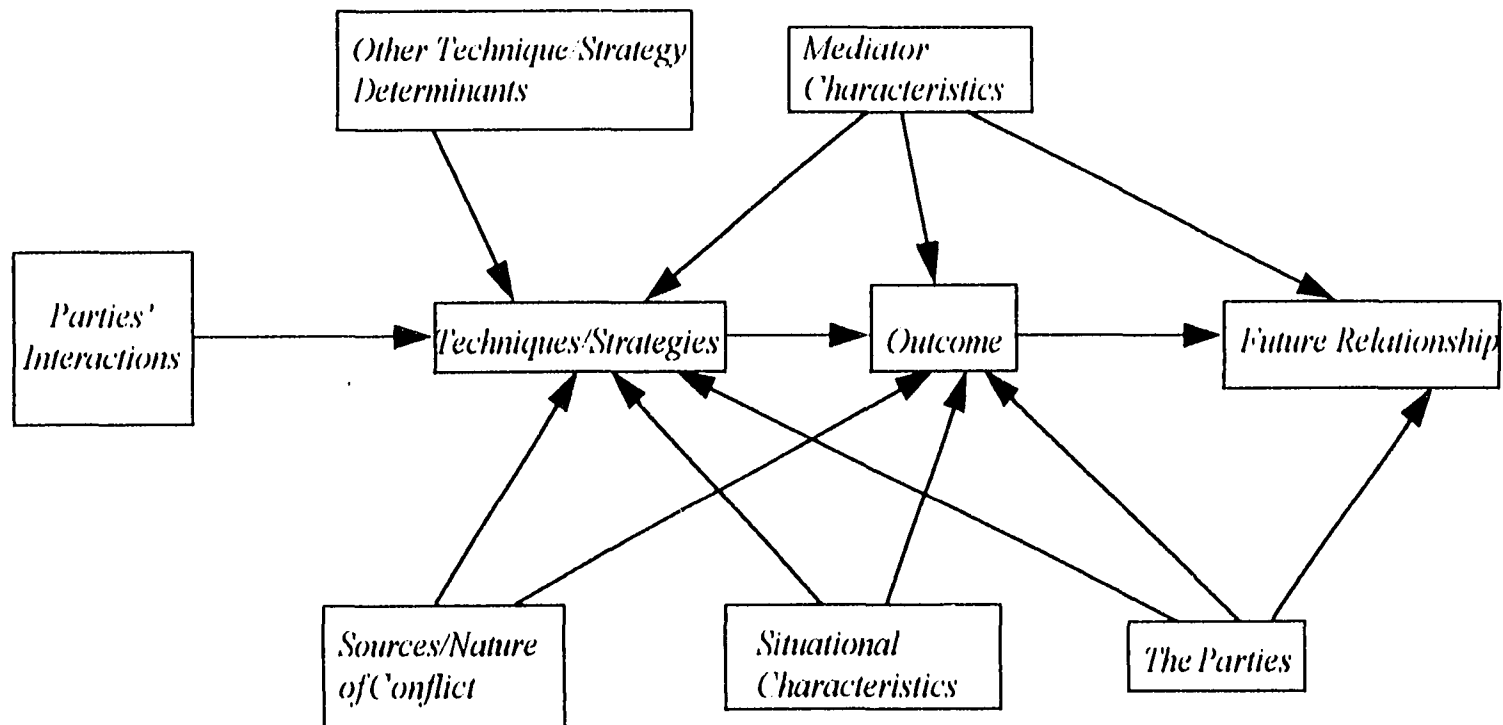
(1991), social actors seek approval for the following reasons: to protect and enhance their social image or identity, to protect and enhance their self image, and to acquire wealth and status.

In determining whether or not to seek the assistance of a third party, management and labor are influenced by the complex social-institutional environment of collective bargaining. For example, the parties to collective bargaining and labor disputes often are required by law to use mediation before taking a job action (e.g., a strike or a lockout) or moving to the next phase of the impasse procedure. Additionally, some collective bargaining contracts call for mediation of grievances.

Existing laws, contracts, and impasse procedures hold both parties accountable for their actions. In addition, both sides must answer to their constituencies and seek their constituents' approval. That is, the union bargaining team must satisfy its members and the management bargaining team must satisfy its employer.

Mediator Techniques/Strategies

Mediators may draw on a variety of techniques to help parties reach agreement. The strategies a mediator may use range from taking a passive, hands-off approach to an aggressive approach in which the mediator pushes the parties toward agreement. In fact, Wall and Lynn (1993) note that approximately 100 techniques for resolving disputes have been identified by researchers.

One key mediator technique is framing. For example, Bazerman (1998) suggests that if a mediator wants the parties to compromise, the mediator should strive to have the parties view the negotiations in a positive frame. This can be challenging since presenting

the negotiations in a positive frame for one party may result in a negative frame for the other party. Toward this end, Bazerman (1998) suggests that mediators meet separately with each party. In these separate meetings, the mediator needs to present different anchors to promote risk aversion in each party. To accomplish this, the mediator needs to emphasize the realistic risk that both parties face. By creating this uncertainty, the mediator encourages the parties to seek a sure settlement (Bazerman 1998).

Additional mediator tactics include: demonstrating empathy, structuring discussion, and stimulating thinking (Zubek et al. 1992), using a settlement strategy and using a problem-solving strategy (Kressel et al. 1994), using content-control and using motivational-control (Ross 1990), compensating and pressuring (Harris and Carnevale 1990), face-saving (Downie 1991), and caucusing (Welton, Pruitt, and McGillicuddy 1988), compromise suggestions (Conlon, Carnevale, and Ross 1994), and facilitative rather than autocratic tactics (Karambayya et al. 1992). Often, mediators use a variety of strategies during the course of a mediation (Kochan and Katz 1988).

Sources/Nature of Conflict

Some of the possible sources of conflict include: economic characteristics (e.g., employer's inability to pay, wage erosion), structural characteristics of the relationship (e.g., pattern-breaking relationship), organizational characteristics of the parties (e.g., negotiators' lack of authority to bargain, internal conflicts within one or both of the parties), interpersonal characteristics (e.g.,hostility between the parties), personal characteristics (e.g., negotiators' lack of skill or experience), the nature of the issues (e.g., "matters of principle" at stake), and the bargaining behavior of the parties (e.g., unrealistic

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expectations, over-commitment to a position, unwillingness to settle) (Kochan and Jick

1978). Recent studies have confirmed the role of these factors in determining the success

of mediation. To illustrate, in his study of the labor dispute between Air Canada and the

International Association of Machinists (IAM), Downie (1991) found that economic and

structural characteristics (e.g., the IAM's agreements with Air Canada's competitors and

Air Canada's contracts with other unions), the nature of the issues in dispute (e.g., pension

fund "surplus"), as well as internal discord (e.g., union politics) influenced the outcome of

mediation.

Mediator Characteristics

In a humorous mood, William E. Simkin (1971), a well-known mediator,

developed a list of 16 qualities sought in a mediator. The first 10 items were somewhat

humorous including: "the guile of Machiavelli" and "the hide of a rhinoceros" (Simkin

1971, 53). The final 6 items were more serious including such items as: "demonstrated

integrity and impartiality" and "basic knowledge of and belief in the collective bargaining

process" (Simkin 1971, 53).

More serious research efforts have identified trustworthiness, helpfulness,

friendliness, humor, intelligence, and knowledge of the substantive issues as desirable

mediator traits (Kochan and Katz 1988). The following mediator characteristics also have

been shown to influence the outcome of mediation: power and authority (Conlon,

Carnevale, and Ross 1994; Harris and Carnevale 1990), authority and experience

(Karambayya et al. 1992), experience and tenacity (Briggs and Koys 1990), status

(Keashly and Newberry 1995), and gender (Carnevale, Conlon, Hanisch, and Harris 1989; Maxwell 1992; Stamato 1992).

In addition, Wittmer, Carnevale, and Walker (1991), Conlon, Carnevale, and Ross (1994), and Karambayya et al. (1992) have documented the role that perceived mediator bias/fairness has on the disputants' behaviors and consequently on the outcome of mediation. With respect to gender, Carnevale, Conlon, Hanisch, and Harris (1989) found that female mediators tended to perceive more common ground between the disputants and to integrate more and use pressing tactics less than their male counterparts. Likewise, Wall and Dewhurst (1991) found that female mediators used more clarifying formulations (as opposed to controlling formulations) than their male counterparts.

Situational Characteristics

Situational factors also influence the success of mediation. The most important situational factor is the parties' motivation to settle. In private sector collective bargaining cases the threat of a strike serves as a prime motivator for the parties to settle (Kochan and Katz 1988). Other key situational factors include: the nature/characteristics of the impasse procedure (Karim and Dilts 1990; Wissler 1995), parties' past experience with mediation (Magnusen and Lim 1994), and trust (Gadlin 1991; Karim and Dilts 1990; Ross and Weiland 1996).

It is important to note that mediation works better at resolving some types of impasse than others. For instance, Kochan and Jick (1978) found that mediation was most successful in cases where negotiations stalled due to such factors as over-commitment to a position (bargaining behavior) or inexperienced negotiators (personal characteristics).

Karim and Dilts (1990) also found that personal characteristics were a shallow cause of conflict and that such conflicts were easily overcome by mediation. In contrast, Kochan and Jick (1978) found that mediation was least successful in resolving impasses caused by economic factors.

The Parties

Naturally, the parties themselves influence the success of mediation. In particular, information sharing can be risky proposition for the parties involved in labor negotiations. Thus, negotiators may be wary of cooperating with the mediator and their opponents in the dispute (Kochan and Katz 1988). Indeed, Gadlin (1991) notes the importance of establishing trust between the parties and dealing with power imbalances between the parties. Similarly, Ross and Weiland (1996) found that the degree of trust between the parties influences mediator strategies and thereby influences the outcome of mediation. Wissler (1995) found that the parties' goals played a role in determining the outcome of mediation. In particular, if disputants had a competitive, non-integrative orientation mediation was unsuccessful. Similarly, Karim and Dilts (1990) found perceptions of bargaining behaviors such as the union's perception that "the other side was not interested in settling" and management's contention that the union was "holding to past positions" to be important predictors of the success of mediation.

Other Technique/Strategy Determinants

When choosing among these various mediation techniques, mediators are influenced by a variety of factors. In addition to the factors outlined above, previous research has identified the following factors influencing mediators' choice of techniques:

rules and standards, common ground and concern for parties' outcomes, dispute characteristics, culture, mediation context, and time pressure (Wall and Lynn 1993). For instance, dispute characteristics such as the degree of trust between disputants (Ross and Weiland 1996), the power balance between parties (Laskewitz, Van De Vliert, and De Dreu 1994), and an emotionally charged atmosphere (Maxwell 1992) have been shown to influence the mediator's choice of tactics. Similarly, Carnevale and Conlon (1988) found that, when working under time pressure, mediators used more pressing and compensating tactics and fewer integrating tactics.

Outcome

The penultimate step in my model is the outcome of the mediation process. This is the key indicator of the success of the mediation. Ideally, mediation will lead to a settlement or agreement. Other outcomes which indicate a successful mediation include: improved current relationship, compromise and fairer agreements, compliance, and the parties' satisfaction (Kressel and Pruitt 1989). Often, researchers use a combination of measures of success. To illustrate, Zubek et al. (1992) use the following measures of short-term success: reaching agreement, goal achievement, and immediate satisfaction with the agreement and the mediation process.

Future Relationship

The final step in the mediation model is the connection between outcomes and the parties' ongoing relationship. Previous studies have shed some light on this link. For example, Kressel and Pruitt (1989) note that mediation does not improve the post-dispute climate between the parties. Harris and Carnevale (1990) found that repeated use of

mediation can have "chilling" and "narcotic" effects. The chilling effect occurs when parties learn from past mediations that they receive a better settlement in mediation than they do negotiating on their own. In such cases negotiators hold back concessions in anticipation of a mediated settlement. Similarly, the narcotic effect occurs when the use of mediation increases the tendency of the parties to rely on third-party intervention in the future. In other words, mediation becomes habit forming.

Methodology

This research uses a triangulated research design. More precisely, this research combines several different research methodologies. The study includes both qualitative and quantitative data. The goal of this research is to provide more effective mediation services to reduce conflict. One way to achieve this goal is to understand how mediation works and what makes mediation successful. The unit of analysis is individual mediation cases that come before the FMCS.

This research examines mediators' opinions of what makes mediation successful. That is, it explores the nature of their experiences with the mediation process. Thus, this project is well-suited to qualitative research (Strauss and Corbin 1990). It includes data collected through unobtrusive measures, as well as data from participant observation, qualitative interviews, and a written survey.

Most of the previous labor mediation studies have been based on field research (as opposed to laboratory experiments). The most common field research method used is the questionnaire/interview (Wall and Lynn 1993). The questionnaire/interview technique provides greater external validity than laboratory experiments because the data come from

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actual mediation participants. Unfortunately, it is often difficult to distinguish the independent variables from their effects (Wall and Lynn 1993), and self reports suffer from the problems of memory and self-presentation biases (Esser and Marriott 1995).

Despite these drawbacks, field research is well-suited to theory-building because it allows the researcher to determine relationships between variables and thereby provide a rich description of the mediation process (Esser and Marriott 1995). Moreover, the problems of memory and self-presentation bias can be overcome by combining self-reports with direct observation (see Kressel and Pruitt 1989).

Since my goal is to develop *grounded theory* (Strauss and Corbin 1990), I decided to use field research as opposed to laboratory experiments. My triangulated research design, which combines data collected through unobtrusive measures, participant observation, qualitative interviews, and a written survey, overcomes the drawbacks of field research outlined above. The qualitative and quantitative components of my research design are discussed in detail in chapters 2 and 4. I briefly summarize my methods below.

To begin with, my secondary data were derived from the agency's printed documents such as annual reports, task force reports, training manuals, and brochures describing the services provided by the agency. Using these data I was able to infer what factors the agency considers to be critical to mediation success. I collected some of these documents during the course of my initial literature review, some at the national conference, and some at the new mediator training sessions.

The participant observation portion of my research involved attending the FMCS new mediator training program. This training program consisted of four intensive week-

long training sessions. The four stages of the new mediator training sequence are: dispute mediation, preventive mediation, and alternative dispute resolution, and facilitation and group dynamics. These training sessions serve to initiate the new mediators to the agency and provide them with the basic tools they need to do their jobs.

The interview data were derived from 15 semi-structured interviews conducted with the mediators as well as countless informal conversations that took place during the national conference and new mediator training sessions. Given that I wanted to examine the entire mediation process in the labor relations context, I used semi-structured interviews. I started each interview with a list of pre-determined questions that covered the overall subject. Although the interviews began with an outline, the conversations were allowed to follow natural patterns as suggested by the interviewees. The interviews lasted from 20 minutes to an hour, with the average interview lasting 40 minutes.

I used the data collected from secondary sources, informal networking with dispute resolution professionals, participant observation, and qualitative interviews to identify ways to operationalize my variables and specify the expected relationship among the variables. Then, I used this information to develop a written survey. In developing the survey, my goal was to ask questions that thoroughly covered my model. I developed survey questions pertaining to every box in my model. Although, I did not develop exactly the same number of questions for each box, I tried to achieve some balance.

I distributed 185 surveys at the FMCS National Professional Development meeting. I received a total of 78 usable surveys, for a 42% response rate. Since I asked the mediators to provide information about two cases (i.e., one in which the parties

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reached agreement and one in which the parties failed to reach agreement), I had 156

observations on which to base my data analysis.

The written survey contained 83 questions which used 4- and 5-point Likert scales.

I used factor analysis with the varimax rotation to reduce these 83 Likert-scale questions

to underlying factors. The end result was an eleven factor solution. Next, I matched these

factors with constructs in my model. Then I used path analysis to test my hypotheses.

You Can Get There From Here: The Structure of the Dissertation

This chapter provided a brief tour of the intellectual puzzle this dissertation will

explore. Specifically, it discussed the complex nature of mediation. This chapter called

attention to the ubiquitousness of conflict and the growth of the practice of mediation as a

means to resolve conflict. In addition, it discussed the connection between mediation and

public administration, authentic public participation, and learning organizations. Finally,

this chapter presented a framework for examining the mediation process.

The following chapters use the framework introduced here to lead the reader

through an exploration of the mediation process in the labor relations context. Chapter 2

presents the qualitative research design and methods. Specifically, this chapter discusses

the overall research design and the qualitative data collection techniques used--

unobtrusive measures, participant observation, and interviews. In chapters 3 and 4 I

summarize the results of my participant observation of new mediator training in dispute

resolution. In chapter 5 I summarize the results of my interviews with mediators.

Chapter 6 presents the quantitative research design. In particular, this chapter

discusses how the written survey was constructed, pilot-tested, and distributed. In

addition, this chapter reviews the data management techniques I used including coding and factor analysis. In chapter 7 I explain how I matched the factor-based scale variables and demographic variables from my survey with constructs in my model. Here I also discuss how I developed hypotheses, the building blocks of my theory. In chapter 8 I discuss the technique used to analyze my quantitative data, path analysis, and the results of my analysis.

Finally, in chapter 9 I briefly summarize the results from each phase of the research--secondary data, participant observation, interviews, and the written survey. Next, I compare and contrast the results from these various phases and discuss the implications for mediation theory. I conclude with a discussion of the limitations of this research and suggestions for future research.

Chapter 2

Research Design: The Qualitative Component

Overall Design: Triangulation

This research uses a triangulated research design. More precisely, this research combines several different research methodologies. The study includes both qualitative and quantitative data. The qualitative data collected were used to develop a hypotheses. These hypotheses were then tested using quantitative data. The procedure of using quantitative data to validate qualitative analysis has been well-documented by Denzin (1978). Denzin (1978) advocates using a research strategy which combines dissimilar methods to measure the same unit. According to Denzin (1978) the weaknesses of one method are often the strengths of another. By combining methods one produces a better analysis that overcomes the unique deficiencies of individual methods. Moreover, the combination of multiple methods in a study permits the researcher to develop valid propositions that account for rival explanations/causal factors (Denzin 1978).

The goal of this research is to provide more effective mediation services to reduce conflict. One way to achieve this goal is to understand how mediation works and what makes mediation successful. In particular I am looking at mediators' opinions of what makes mediation successful; that is, I am exploring their interpretation of their experiences with the mediation process. Thus, this project is well-suited to qualitative research

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(Strauss and Corbin 1990). It includes data collected through unobtrusive measures, as well as data from participant observation, qualitative interviews, and a written survey.

In conducting this research, I followed a *grounded theory* approach (Strauss and Corbin 1990). Grounded theory is "inductively derived from the study of the phenomenon it represents"(Strauss and Corbin 1990, 23). In other words, grounded theory is developed through systematic collection and analysis of data related to the phenomenon. The researcher does not begin with a theory and collect data to test that theory. Instead, s/he begins with an area of study and builds the theory from the themes that emerge during the course of research.

As a practical matter, I had to secure approval for this research project from both my dissertation committee and the FMCS. To secure approval I had to present both gatekeepers with a research proposal. In preparing my research proposal, I conducted a literature review and developed a rough model of the mediation process. In other words, I did not enter the research relationship as a completely blank slate. I already had a basic understanding of the mediation process. Given this preparation, my research does not qualify as *pure* grounded theory. Instead, in attempting to build a theory of the mediation process I used the grounded theory approach.

The goal of my research is to develop a theory that makes sense to both researchers and practitioners. That is, I want to develop a theory that accurately portrays mediation in the labor relations context and improves our theoretical understanding of it as well. As a result, the grounded theory approach is the most appropriate method to serve these dual purposes (Strauss and Corbin 1990).

Data Collection Techniques

Unobtrusive measures

Many data collection techniques require human interaction. However, a variety of unobtrusive methods can be used to supplement interactive data collection techniques. Fetterman (1989) refers to unobtrusive methods as research on *outcroppings*. For example, it is useful to think of a community or group as an iceberg. A small part of the iceberg is above the water and a much larger part of it is below the water. The part of the iceberg that is above the water is easy to observe in an unobtrusive manner. In other words, the researcher can gather information about a community or organization from what is visible on the surface. This surface information may include such things as annual reports, mission statements, and budgets (Fetterman 1989).

Along the lines described by Fetterman (1989) I examined the FMCS' outcroppings. In particular I looked at the agency's printed documents such as annual reports, task force reports, training manuals, and brochures describing the services provided by the agency. Using these data I was able to infer what factors the agency considers to be critical to mediation success. I collected some of these documents during the course of my initial literature review, some at the national conference, and some at the new mediator training sessions.

Participant Observation

General guidelines. The next phase of my data collection involved participant observation. Fetterman (1989) notes that participant observation is the cornerstone of effective field research. Researchers engaging in participant observation take part in the

lives of the group they are studying while at the same time maintaining a professional distance. This professional distance allows the researcher to record and make sense of the behaviors s/he observes. Participant observation lays the groundwork for more refined data collection techniques such as surveys. In addition participant observation itself becomes more refined as the researcher gains a better understanding of the community being studied (Fetterman 1989).

Fetterman (1989) warns that at the beginning of participation observation the community being studied may be "on its best behavior". Over time, people become less guarded in their behavior and let their real selves show. In other words, they fall back into routine patterns of behavior. The researcher is able to observe these patterns in detail by living and working in the community being studied (Fetterman 1989).

This was true for my observation of the new mediator training sessions. The mediators were guarded in their conversations with me at first, but eventually became more relaxed. Over time I came to be treated as a member of the class. However, my role as a researcher was never completely out of the mediators' minds. To illustrate, occasionally after telling a joke, an amusing anecdote, or a story about their past the mediators would stop and ask, "Is this going to show up in your book?" At other times, I was allowed to join the mediators for conversations over a meal or coffee, but I was informed that the conversation was "off the record."

To overcome this phenomenon, ethnography in the classic sense of the word requires researchers to spend from six months to two years or more in the field. However, in many applied research settings long-term continuous field research is neither practical

nor desirable. Indeed scarce resources often force a researcher to apply ethnographic

techniques over a limited time frame rather than conduct full-blown ethnographic research

(Fetterman 1989). As an applied researcher I faced these same constraints. My

observation of new mediator training sessions consisted of four week-long meetings

spread out over the course of ten months. As such, I applied ethnographic techniques to

my study, but the study does not qualify as ethnography in the true sense of the word.

Nevertheless, attending the new mediator training sessions provided me an

opportunity to delve into the culture of the organization by learning how the organization

prepares its new recruits to do their jobs. It gave me insights into both the social

organization and social relations among members of the organization. As Fetterman

(1989) notes field research is exploratory in nature. The most critical part of field research

is actually being there to observe, ask questions, and record what one sees and hears.

Although it was not what I had originally intended (i.e., observation of mediation

cases), the observation of new training provided me with an excellent opportunity to look

inside the agency and find out, through the training program, what the agency considers to

be the critical factors influencing the success of mediation. Again, as Fetterman (1989)

notes ethnographic work is not always neat and tidy. It involves serendipity, creativity,

and a certain amount of luck. Furthermore, Fetterman (1989) argues a great deal of what

the ethnographer learns is unplanned, chaotic, and at the same time intriguing. It was my

good fortune to have the opportunity to look inside the agency. This unexpected

opportunity illustrated the point that an ethnographic researcher must constantly make

choices about the types of data to collect and the direction to follow throughout the

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research project. In this way data gathering and analysis are conducted concurrently in ethnographic research (Fetterman 1989).

Entry. An introduction by a member of the community is the best way for an ethnographic researcher to enter the community and open doors. The intermediary may play any number of roles in the community. The key requirement is that the facilitator should have credibility with the group. The closer the facilitator's ties with the group the better. At the beginning of the study the trust the group places in the facilitator will transfer to the researcher. If they are introduced by someone with a positive standing in the community the researcher will benefit from the halo effect. That is, group members will give the researcher the benefit if the doubt based on the facilitator's introduction (Fetterman 1989).

For introductions it is important to choose an integral and influential member of the community. At the same time it is important to establish independence to avoid cutting off potential sources of information. The downside of being introduced by a powerful member of the community is that it may require the researcher to expend a great deal of effort to convince members that s/he is an impartial or nonjudgmental observer (Fetterman 1989).

As I mentioned earlier, I gained entry to the FMCS through the Deputy Director of the agency. He was a powerful and influential member of the community. At the same time, the mediators (both seasoned and new) felt comfortable enough with him to refer to him by the nickname "Bubba." Moreover, the class of 30 mediators that I observed was nicknamed "Bubba's class" because C. Richard Barnes had been integrally involved in

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recruiting and hiring each member of the class. He was present at the selection interviews for all the mediators in the class. The class size, 30 mediators, was larger than usual. C. Richard Barnes was instrumental in securing authorization to hire so many new employees at once. I think the fact that it was "Bubba's class" is especially relevant given the fact that Richard Barnes was the key actor who introduced me to the class. He was well respected and influential. His credentials helped ease my transition into the group and made people more willing to talk to me.

Training Sessions. The new mediator training program consisted of four intensive week-long training sessions. The four stages of the new mediator training sequence are: dispute mediation, preventive mediation, and alternative dispute resolution, and facilitation and group dynamics. The facilitation and group dynamics was a new module that was pilot-tested on the Class of 1998 mediators. The training sequences were held in various locations across the country, Washington, D.C., New Orleans, LA, Chicago, IL, and San Diego, CA. There was a rotating team of trainers from across the country.

These training sessions serve to initiate the new mediators to the agency and provide them with the basic tools they need to do their jobs. While the training sessions alone will not make the new mediators successful, they give a flavor of what the mediators will encounter on the job. In addition to the new mediator training sequence new mediators also work closely with a more seasoned mediator shadowing him/her on cases for a period. The length of the shadowing period varies according to the mediator's past experience and an individual training plan developed by the mediator and his/her director of mediation services.

The first training meeting sequence was held in Washington, D.C. The evening before the training officially began a welcoming reception was held. This provided an opportunity for the mediators and trainers to mix with each other on an informal basis. Here again, I tried to mingle with as many mediators as possible. I spoke informally with them about their background and experience. In breaking the ice in these informal conversations it was very helpful for me to be able to draw on my past work experience as a field examiner with the NLRB. It was at this welcoming reception that I began negotiating my research role with the new mediators and the trainers. Later at the reception the deputy director introduced himself and asked the trainers to introduce themselves. The training director briefly discussed the agenda for the week. Then the mediators took turns introducing themselves to the group, mentioning the field location in which they were stationed and how long they had been with the agency. Here I had the opportunity to introduce myself to the group and briefly explain my research interests.

The first day of the Sequence I of new mediator training was held at the national headquarters of the FMCS. The swearing-in ceremony took place at the end of the first day in the director's office. The subsequent four days of training were held in a hotel. For the training meetings all the mediators stayed in the same hotel. Classes met from 8:00 a.m. to 5:00 p.m. The day generally started with a continental breakfast in the training room so that mediators had an opportunity to chat over coffee and danish before the classes began. The mediators split into smaller groups for lunch and dinner and gathered in the hospitality suite in the evenings. This meant that the class was together morning,

noon, and night. This arrangement provided an ideal opportunity for me to observe mediators' behavior and interactions.

The subsequent training sessions followed a similar pattern (except for the swearing-in ceremony). For each session, training was held in a hotel. All the mediators and trainers stayed in the same hotel. Classes met from 8:00 a.m. to 5:00 p.m. and the mediators socialized together in the evenings.

This arrangement served the purpose of allowing the class members to bond with each other. As the year went on they would serve as resources and provide professional support for one another. Spending so much time with the mediators allowed me to have countless informal conversations with the mediators about what challenges they faced on the job, how their shadowing period was coming along, what qualifications they had, previous experiences they brought to the job, their style of mediation, how they approached cases, and what they thought made mediation successful.

Interviews

General Guidelines. Interviews help explain what the ethnographer observes and place observations into the larger context. As such, interviews are an indispensable tool for data collection (Fetterman 1989). Qualitative interviews are similar to ordinary conversations in that questions and answers follow each other in a fairly predicable fashion and people take turns talking. At the same time qualitative interviews are slightly different than ordinary conversations in that the interviewer has to focus the conversation to gain more depth and detail on a more narrow range of topics. This focusing helps the interviewer get past ordinary listening and discern meanings. The interviewer encourages

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his/her conversational partners to elaborate, give concrete examples, clarify what was said, and discuss events in detail (Rubin and Rubin 1995). This style of research that seeks depth, detail, and richness has been identified by Clifford Geertz (1973) as *thick description*. Thick description is grounded in the interviewees' real life experiences. These experiences provide the information that researchers collect, synthesize, and analyze in order to understand the meaning of data.

Formally structured and semi-structured interviews are the verbal equivalent of written surveys with clearly stated research goals. The data collected in such interviews serve dual purposes. First, the data collected allow the researcher to compare responses across subjects. Second, the data collected allow the researcher to establish representativeness by placing the responses into the context of common group beliefs and themes (Fetterman 1989).

The most common type of interview used in ethnographic research is the informal interview. The agenda for informal interviews is specific yet implicit. Informal interviews are valuable throughout the various phases of a research project for discerning what people think and how one respondent's perceptions compare with another's. Informal interviews are relatively easy to conduct because they do not require any specific types of questions nor do they impose any particular order of questions. Rather, informal interviews proceed naturally as a conversation (Fetterman 1989).

Conversations with Mediators. The interview data were derived from 15 semi-structured interviews conducted with the mediators as well as countless informal conversations that took place during the national conference and new mediator training

sessions. Given that I wanted to examine the entire mediation process in the labor relations context, I used topical interviews. The purpose of topical interviews is to collect explanations of events and processes. Generally, topical interviewing seeks to develop a coherent narrative, from interviews with different people, that explains puzzling outcomes. Topical interviews usually start out with a list of pre-determined questions that cover the overall subject. This more structured interview format helps the researcher gauge how much time to spend on each part of the topic (Rubin and Rubin 1995).

My first interview was conducted with the Deputy Director of the agency, C. Richard Barnes. Mr. Barnes served as what Fetterman (1989) terms a *key actor* and Spradley (1979) terms an *encultured informant*. Key actors play a critical role in joining the researcher with the community. The key actor may provide historical information, information about current interpersonal relationships, and a variety of information about meanings of everyday activities. Similarly, encultured informants are people who know the culture well and can explain the culture to the researcher. Since Mr. Barnes had joined the agency as a mediator and worked his way up to Deputy Director, he was well versed in the organizational culture.

As Fetterman (1989) notes, in order for the research relationship to be productive, the key actor and researcher must trust each other. Establishing a bond of trust takes time. It is typical for researchers to form long-term relationships with key actors who provide reliable and insightful information. In this initial interview, as suggested by Fetterman (1989) I made every effort to demonstrate respect for the agency and the labor relations community. I conveyed my respect through my apparel, language, and behavior.

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I was fully aware that success on the first interview with this key actor would open the door to future interviews and research opportunities.

After successfully completing my interview with Mr. Barnes, I was granted permission to ask other mediators to speak with me about their experiences as mediators. At first, I was advised to interview only experienced mediators and not to request interviews with the class of new mediators. At the final training session I asked permission to interview members of the new mediator class and was granted permission to do so.

I expected that mediators might have different points of view depending on the region of the country in which they practiced, their length of service, their gender, and their ethnic/racial background. In selecting interviewees I followed Rubin and Rubin's (1995) advice to strive for balance. That is, I attempted to represent all of these divisions in my choice of interviewees. For the semi-formal interviews I spoke with mediators from across the country including the Southern, Midwest, Upper Midwest, and Western regions. I interviewed ten seasoned mediators and five new mediators. I spoke with ten men and five women. In terms of ethnic/racial composition my interviewees included two African-Americans, two Asian-Americans, one Hispanic-American, and ten whites.

During all of the interviews I took notes on a legal pad. Thirteen mediators also permitted me to record our conversations. In two instances the tape was inaudible so my handwritten notes served as a crucial backup device. In both cases I transcribed my handwritten notes immediately after conducting the interview so that the data would be fresh in my mind. I was able to reconstruct much of the interviews from my handwritten

notes. Two of the interviewees did not want a recording device to be used during our

conversation. Both agreed to speak slowly and repeat anything that I was unable to write

down quickly enough. One of these interviewees indicated that his/her reluctance to be

recorded was rooted in the confidential nature of the mediation process and returned to

the theme of confidentiality numerous times during the course of our conversation. In

both cases where the interviewees did not want to be recorded I took handwritten notes

on our conversation. I reviewed my notes immediately after the interviews to fill in any

gaps, and clarify any abbreviations or notations that I used to save time.

I conducted five interviews in person and ten interviews were conducted over the

telephone. The in-person interviewees were provided with an informed consent form

which established that their identity would be kept confidential and that I would present

my results in summary form. For the telephone interviews I reviewed the informed

consent form verbally with the interviewees, emphasizing the voluntary nature of their

participation, the confidentiality of the reporting process, and the way in which the results

would be used. Where requested, I also provided interviewees with a copy of my research

proposal and invited any comments they might have about the research design and the

direction that the research was taking. Although some researchers recommend identifying

interviewees by name and position to give the research report credibility (Rubin and Rubin

1995), this was not feasible given the nature of mediation and its emphasis on

confidentiality.

Each interview began with a structured interview outline. Given the nature of my

study, all of my interview questions were open-ended. Open-ended questions allow the

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person being interviewed to interpret their world including their behaviors and interactions with others. The first question on my outline was what Fetterman (1989) describes as a survey or grand tour question. Survey questions are intended to elicit a response which provides the researcher with a big picture or map of the interviewees' world. Survey questions also help establish the limits of a research project. I began by asking mediators in general what they thought made mediation successful. The mediators' responses to the survey question provided me with a map of the mediators' world.

Then I proceeded to ask specific questions about particular aspects of that world. I probed for more detail in a number of areas. My probes came both from the literature and from information that the interviewees provided. Specific questions allow the researcher to dig deeper into an established category of behavior or meaning (Fetterman 1989). The mediators' responses to my specific questions helped focus my understanding of their world.

Although the interviews began with an outline, the conversation was allowed to follow natural patterns as suggested by the interviewees. Sometimes a particular area of probing that I considered important, based on the literature review, was not mentioned at all by the interviewee. In other instances, mediators indicated that a particular area I inquired about was not really important and directed the conversation to "what really mattered." Like Rubin and Rubin (1995) I found that my preliminary ideas provided guidance about which questions I should ask. Since I was asking the mediators to share their experiences and insights, our conversations often took unexpected turns. Sometimes

we covered only a few of the items on the outline, and often we discussed items that had not been on the original outline.

The final question that I asked was especially informative. Here, I asked the mediators if there was anything that I had not covered that they considered important. With this question I gathered some of the most useful insights into the mediation process and helpful suggestions for my survey design.

I made every effort to establish a good rapport with my interviewees. As Rubin and Rubin (1995) note, in conducting qualitative interviews the researcher forms relationships with the interviewee. Since the researcher is asking interviewees to share their life experiences, the researcher's empathy, sensitivity, humor, and sincerity are critical elements of the research process. If the researcher behaves in a closed and impersonal manner, s/he is not likely to gain the openness and cooperation required of interviewees. Despite my universal efforts to be warm and friendly with my interviewees, I was more successful at establishing rapport in some cases than in others.

The interviews lasted from 20 minutes to an hour, with the average interview lasting about 40 minutes. In some cases I was acutely aware of the demands on the mediators' time and tried to keep to my initial guideline of 20-30 minutes that I mentioned when scheduling an appointment with the interviewees. In other cases, mediators were anxious to share their experiences and insights, and I felt I had established a good rapport with them. These interviews tended to last longer. In one case even though we talked longer than the time allocated for the interview (30 minutes) and the mediator was called into a meeting with clients, the mediator agreed to schedule another appointment in which

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we could resume our conversation. After the first 4 or 5 interviews I later revised this guideline to 30-40 minutes.

Chapter 3

Participant Observation of New Mediator Training in Dispute Resolution: Part 1

Participant observation has been described by Fetterman (1989) as the cornerstone

of effective field research. As suggested by Fetterman (1989), I used my participant

observation of new mediator training sessions to lay the groundwork for a more refined

data collection technique, i.e., my mediation survey. As mentioned previously, my

observation of new mediator training sessions consisted of four week-long meetings

spread out over the course of ten months. Attending the new mediator training sessions

provided me an opportunity to delve into the culture of the organization by learning how

the organization prepares its new recruits to do their jobs. It gave me insights into both

the social organization and social relations among members of the organization.

Moreover, the observation of new mediator training allowed me to look inside the agency

and find out, through the training program, what the agency considers to be the critical

factors influencing the success of mediation.

The FMCS new mediator training program consists of four training modules. Each

training session is approximately one week long. The four stages of the new mediator

training sequence are dispute mediation, preventive mediation, alternative dispute

resolution, and facilitation and group dynamics[1]. These training sessions serve to initiate

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[1] As a researcher one always has to make decisions about which data will shed the most light on the subject being examined. The data I collected over the four weeks of participant observation is enough to fill an entire bookshelf. Therefore, I had to be

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the new mediators to the agency and provide them with the basic tools they need to do

their jobs. While the training sessions alone will not make the new mediators successful,

they give a flavor of what the mediators will encounter on the job.

This chapter discusses the welcoming reception and the first 2 days of the new

mediator training sequence in dispute resolution. The topics covered include: the FMCS

mission, an overview of FMCS programs, the commissioning ceremony, case

administration, mediator competencies, legal issues, theories of mediation. Days 3-5 of

this training sequence are covered in chapter 4.

Getting Started

The first training session, dispute mediation, was held in Washington, D.C. The

training began on a Sunday evening with a welcoming reception. This provided an

opportunity for mediators and trainers to mix with each other on an informal basis. After

the class had the opportunity to mingle for a while, the deputy director introduced himself

and asked the trainers to introduce themselves. The training staff was composed of a

director of mediation services (DMS) and three experienced mediators. The training staff

was drawn from various offices across the country representing the western, midwestern,

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selective about what I included here. Since my primary focus in this research is dispute
mediation, I decided to summarize only my observations from the dispute mediation
training sequence in this dissertation. I made this decision for several reasons. First, the
FMCS has been providing dispute mediation services since its inception, so the agency has
more of a history with dispute mediation than with the other services it provides. Second,
the FMCS' primary source of funding is based on the number of dispute mediation cases it
handles. As such, dispute mediation is the true "workhorse" of the agency. Third, my
interview and survey questions focus mainly on issues related to dispute resolution.
Finally, even with being selective about what to include from this training session, the
description of my participant observation experiences fills two chapters of this work.

and upper midwestern regions, as well as the national office. This diversity was important because the mediation process varies across cases according to a number of factors. Some of these factors include the sector in which the case is located (i.e., private, public, or federal), the industry involved, the parties involved, and the local economy.

One of the trainers was designated as the class mentor. The class mentor was a mediator with approximately three years experience with the FMCS. The class mentor would attend all of the new mediator training sessions with this class of new mediators. The mentor served as a resource for the new mediators while they were at the training sessions and back on the job. Since the class mentor had completed the new mediator training sessions fairly recently, he was sympathetic to the concerns of the new mediators and familiar with the transition they were going through. Likewise, in many instances the new mediators would feel more comfortable asking questions of someone who had recently joined the FMCS than they would asking their supervisor or their DMS.

Next, the training director briefly discussed the agenda for the week. The topics covered included the services provided by the FMCS, case administration, mediator core competencies, mediator functions, labor and employment law, dispute mediation theory, mediation fundamentals and techniques, types of settlement, expectations of FMCS mediators, and the mediator code of conduct. After this review of the agenda, the mediators took turns introducing themselves to the group, mentioning the field location in which they were stationed and how long they had been with the agency.

The first full day of Sequence I of the new mediator training was held at the national headquarters of the FMCS in Washington, D.C. The subsequent four days of

training were held in a hotel. For the training meetings all the mediators stayed in the same

hotel. Classes met from 8:00 a.m. to 5:00 p.m. The day generally started with a

continental breakfast in the training room so that the mediators had an opportunity to chat

over coffee and danish before the classes began. The mediators split into smaller groups

for lunch and dinner and gathered in the hospitality suite in the evenings.

Day One

The day began at 8:00 a.m. with welcoming remarks by the Director, John

Calhoun Wells. First, the director reviewed the FMCS' mission with the new mediators.

The FMCS' mission includes:

- Promoting sound and stable labor relations
- Preventing or minimizing work stoppages through mediation
- Advocating collective bargaining, mediation, and voluntary arbitration as the preferred methods for resolving disputes
- Developing the art, science, and practice of conflict resolution, and
- Supporting the establishment and maintenance of collaborative processes to improve labor management relationships, employment security, and organizational effectiveness (FMCS 1997, SQ1-2-H1).

During his presentation the director emphasized the need for all FMCS mediators to be

"360 degree" mediators. That is, all mediators should become competent in handling the

various types of mediation cases that the agency deals with, including dispute mediation,

preventive mediation, grievance mediation, and alternative dispute resolution. The

director also conveyed the sense that new mediators were chosen on the basis of their

qualifications and that he expected the new mediators to be long tenure employees of the

agency. To illustrate this point, he mentioned that the average tenure for FMCS mediators

was 25 years.

Next, Deputy Director, C. Richard Barnes addressed the new mediators. In his presentation he discussed the variety of backgrounds from which the new mediators had come. That is, some had previously been advocates for management, some were advocates for labor, and others had been neutrals in labor relations. Some came from the private sector, some from the public sector, and some from non-profit organizations. Some of the new mediators had previously worked in conflict resolution outside the typical labor-management arena of contract negotiations. During his presentation Richard Barnes emphasized the need for FMCS mediators to establish operational neutrality, regardless of their previous alliances. He also discussed some of the changes that had taken place in the FMCS over the past four years. For example, in the past the FMCS recruited mediators based on their content skills. That is, applicants had to have 7-10 years front-line labor negotiations experience to be considered for a mediator position. Once hired, the FMCS taught its mediators process skills. Today, the FMCS also hires applicants with strong process skills who may not have had the minimum seven years front-line labor negotiations experience. The new mediators hired on the basis of their process skills are taught content skills on the job.

Richard Barnes then went on to provide a brief overview of the FMCS programs and services for the public. These programs include: Dispute and Preventive Mediation Services, Arbitration Services, Alternative Dispute Resolution Services, Labor-Management Grants Program, and International Affairs. In dispute mediation cases the FMCS mediators help resolve disputes that arise in the negotiation of collective bargaining contracts. In preventive mediation cases the FMCS mediators train employers and their

unionized employees to use collaborative skills and processes in solving workplace problems. The Arbitration Services division maintains a list of qualified arbitrators, provides arbitration case administration services, and responds to new developments in the arbitration process. The Labor-Management Grants Program provides grants to support the creation and operation of labor-management committees. The International Affairs Program coordinates the FMCS' international activities including projects that send mediators outside the U.S. and projects that bring delegations from other countries to the FMCS Headquarters to learn about mediation and labor relations .

Next, the Deputy Director for National Operations, Wilma Liebman, addressed the class. She provided the mediators with an overview of the FMCS Internal Support Services. The support services described include: Human Resources, Administration and Technology, Special Projects, Arbitration and Grant programs, Alternative Dispute Resolution, Budget and Finance, Education and Training, Mediation Information, International Programs, and the Mediator Task Force. After the overview of internal support services was presented, representatives from each of these areas spoke briefly about new developments in their programs.

The rest of the first day of training covered housekeeping items such as travel regulations, travel vouchers, and personnel policies, payroll, and benefits. The training session ended shortly after 5:00 p.m. The mediators then gathered outside the FMCS National headquarters for a group photograph. At 5:30 the mediators met in Director John Calhoun Wells' office for the Director's Reception and Commissioning Ceremony. At this ceremony the new mediators were sworn in as commissioners. Each mediator had

his/her photograph taken with the Director as s/he was sworn in. Attendees included Director John Calhoun Wells, Deputy Director C. Richard Barnes, the new mediators, the trainers, experienced mediators from the national office and some members of the internal support staff. This provided an opportunity for the new mediators to socialize with each other as well as with the trainers and experienced mediators.

Day Two

The first half of day two of the training was devoted to discussions of case administration. The topics covered in the morning include notice processing and case tracking, assignments and reports, and mediator case management. In the second half of day two, the trainers began to focus on the nuts and bolts of the practice of mediation. The topics covered in the afternoon include mediator core competencies, the law and the mediator, and theories of mediation.

Details, Details, Details: Case Administration

The director of mediation information services kicked off the section on Case Administration. First, he provided a brief overview of the five regions: northeastern, midwestern, southern, and upper midwestern, and western, and the district offices in each region. Next he reviewed the four types of case assignment: preventive mediation (PM); dispute mediation (DM); education, advocacy, and outreach (EAO); and alternative dispute resolution (ADR). In particular the director of mediation information services mentioned that although the DM caseload is the major workhorse of the agency, the PM caseload is growing. He also emphasized that the 360 degree profile asks mediators to do information sharing (EAO) with current and potential clients. In other words, the

mediators are expected to be able to explain the variety of services that the FMCS

provides and value these services provide to users.

Notice Processing. Next, the director of mediation information services discussed

the reporting provisions in the National Labor Relations Act (NLRA). More precisely,

paragraph 8(d) requires that if either party to a collective bargaining contract (i.e., labor or

management) wishes to modify the contract, that party must give sixty (60) days notice to

the other party and thirty (30) days notice to the FMCS. In health care organizations the

party wishing to modify the contract must give ninety (90) days notice to the other party

and sixty (60) days notice to the FMCS. The director of mediation information services

noted that typically unions file the notices with the FMCS. If the notice is not filed in a

timely manner, one party may ask the National Labor Relations Board to issue an

injunction. Usually the FMCS receives notices of ongoing contracts that are up for

negotiation, but it receives other cases as well including re-openings of contracts,

grievance administration, and federal sector impact and implementation cases.

Case Tracking. For purposes of case tracking the clock starts when the notice is

filed. The notice, form F-7, has three key pieces of information on it: party 1, party 2, and

the expiration date of the contract. This information is entered into the FMCS database. If

the case is assigned to a mediator, the mediator then contacts the parties and offers the

FMCS' services. The mediator must file an initial report. The FMCS then records the

date of the initial contact and any new/updated information about the parties in its

database. The mediator assigned to the case periodically provides status reports and when

the case is finished files a final report. The final report is sent to Washington, D.C. where

it is audited and entered into the case database. The mediator's status and final reports are confidential and protected under the Privacy Act. However, the notice, form F-7, is public domain. This means the notice is available under the Freedom of Information Act. It is typically requested by union-busting organizations who use this information to contact employers with contracts due to expire.

Case Assignment. One of the trainers then discussed how cases are assigned. To begin with he emphasized that given the solitary nature of mediation it is important for mediators to keep open lines of communication with their Director of Mediation Services (DMS). The DMS must know what is happening with mediators on the job. The DMS receives a summary report from Washington, D. C. that provides the following information: the name of the employer, the name of the union, the expiration date of the contract, the size of the bargaining unit, the size of the employer, and historical information about the collective bargaining relationship.

This trainer noted that the FMCS does not have the resources to become involved in every case in which a notice is filed. Therefore, the DMS must establish guidelines for determining whether or not to assign a case to a mediator. The DMS's are allowed to set their own guidelines. His own guidelines are as follows. He does not assign a case if there are less than 20 employees in the bargaining unit. He does assign all initial contract cases, all health care cases, and all Federal Sector cases. In addition, mediators may request an assignment.

Once the DMS decides to assign a case, s/he must decide to whom the case will be assigned. Typically, a DMS will use take geography and travel costs into consideration. In

addition s/he will consider past assignments (e.g., Who dealt with the parties in the past?), history (e.g., Does the mediator have an association with a particular employer or union?), industry (e.g., Does the mediator have expertise in a particular industry?), the type of bargaining (e.g., traditional or interest-based) and the union involved. Balance is also important. That is, the DMS will try to balance the caseload among the mediators in a particular office. The mediator's experience is taken into consideration as well. Here the mediator's experience with the FMCS is especially important. Mediators' caseloads change as they gain experience with the FMCS. Variety of cases is another key criteria. For example, the DMS will try to assign mediators a variety of cases in different industries. Finally, the mediator's schedule, health, and personal situation are taken into consideration in assigning cases.

Reporting Requirements. As discussed earlier the FMCS keeps a computerized database to track all of the notices filed and any subsequent case assignments. Along with this tracking system comes reporting requirements. In typical dispute mediation (DM) cases, the mediator assigned to the case must file the initial report no later than 20 days prior to the expiration of the contract. With first-time contracts and with health care cases the initial report is due 10 days after the case has been assigned to a mediator.

In DM cases, the mediator assigned to the case must check with the parties five days prior to the expiration date of the contract to see how negotiations are coming along. If the parties have not settled by the expiration date of the contract, then the mediator must contact the parties every 30 days. If the case becomes active, the mediator must begin filing status reports. The mediator must file a status report whenever s/he meets

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with the parties. Additional status reports are due every time something significant happens in the case, for example a strike or the hiring of replacement workers. Whenever a strike occurs the mediator must also file a work stoppage report. Mediators must also file status reports in preventive mediation cases. The mediator's final report must be filed as soon as possible after settlement (i.e., ratification) occurs.

Case Management Tools for Mediators. Since mediators typically work on several different types of cases at once, all in various stages of development, it is important for mediators to keep track of their own cases, in addition to the records maintained at the national office. Toward this end the trainers provided several tools to help mediators manage their caseload. One of these tools was a paper and pencil system of tracking cases with specialized forms. The other was a computerized database system, called Casemain, that is available to all mediators with the FMCS. The trainers provided a brief demonstration of Casemain and encouraged the new mediators who had used the system to share their experiences with other mediators and serve as Casemain tutors. The new mediators were also encouraged to schedule additional computer training as part of their professional development plan. Then the trainers provided a brief demonstration of the FMCS intranet and explained how it could be used to access information maintained in the FMCS resource center. Mediators were also encouraged to use the Internet to gather data such as annual reports, information about industry trends, and public information.

So You Want to be a Mediator?: The Core Competencies

In this section the trainers introduced the core competencies to the new mediators

and briefly described what each competency entails. As noted earlier, the mediator core

competencies include:

1. Expertise in collective bargaining and labor management relations
2. Ability to provide assistance to the parties in the negotiation of collective
   bargaining agreements
3. Knowledge of the processes used to improve labor management relations
4. Facilitation and problem-solving skills
5. Knowledge of the processes used to improve organizational effectiveness
6. Ability to design and implement conflict resolution systems
7. Ability to engage in education, advocacy, and outreach efforts, and
8. Knowledge, Skill, and Ability in Information Systems.

To achieve **expertise in collective bargaining and labor management relations,**

mediators must have advanced substantive knowledge of labor-management relations

systems and processes. In particular, mediators need to keep abreast of economic trends

and developments, industry and sector trends, global developments, settlement patterns

and issues, local practices, and changes in corporate and union structures (FMCS 1997).

Mediators can develop competency in this area by reading, by using active listening skills,

and by participating in the collective bargaining process. This process of reading,

listening, and applying experiential knowledge must be continuous in order for mediators

to contribute relevant substantive knowledge to the mediation process.

Second, mediators must be able to assist the parties in the negotiation of collective

bargaining agreements. That is, mediators must **master the skills necessary to help**

labor and management reach mutually acceptable agreements. These skills include

proficiency in using new and innovative bargaining processes such as interest-based

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bargaining. To achieve competency in this area mediators must recognize that bargaining is a continuous process and the collective bargaining agenda is expanding beyond traditional subjects (FMCS 1997). In addition to mastering these skills, the trainers noted that the mediators must demonstrate operational neutrality to achieve this competency. That is, to succeed in helping the parties reach agreement the parties must *perceive* the mediator as a neutral.

Third, since the labor-management relationship is ongoing, it is essential that **mediators provide the parties with tools for improving the labor-management relationship**. In brief, this competency requires mediators to effectively train labor and management to use collaborative skills and processes in solving workplace problems. In addition to delivering these programs the mediators must be able to: customize these programs to suit their customers' individual needs, "train the trainer" so that the organizational change becomes institutionalized, and provide post-training follow-up and feedback (FMCS 1997).

Fourth, **mediators must be skilled in facilitation and problem-solving**. Facilitation skills include such things as brainstorming and group dynamics. Problem-solving skills include planning, problem identification, and implementation. Effective communication skills, which are important in all areas of the mediator's work, are especially critical to achieving this competency (FMCS 1997).

Fifth, **mediators must be capable of providing the parties the tools necessary to improve organizational effectiveness**. Competency in this area requires knowledge of organizational development, organizational change models, and strategic planning. In

particular, mediators need to be familiar with new work systems, best practices, and other new management/organization concepts. Perhaps most importantly, mediators need to be able to help labor and management integrate organizational effectiveness initiatives into the labor relations system (FMCS 1997).

Sixth, **mediators must be able to help the parties design and implement conflict resolution systems**. More precisely, mediators will need to have knowledge of various alternative dispute resolution processes ranging from consensual non-binding procedures to more formal procedures such as binding adjudication and arbitration. In brief, mediators need to develop expertise in numerous aspects of conflict resolution (FMCS 1997).

Seventh, **mediators need to engage in education, advocacy, and outreach efforts**. That is, mediators must be able to explain the role of the FMCS, its values, and the role and contributions of collective bargaining and conflict resolution in a democratic society. In particular, mediators should focus on building coalitions and partnerships to create an environment supportive of collective bargaining and constructive labor management relations (FMCS 1997).

Finally, **mediators need to develop knowledge, skill, and ability in information systems**. In other words, mediators must display computer literacy. They may do so through the use of lap tops and personal computers. In addition, mediators need to become proficient in using leading edge technology. Toward this end, mediators need to develop and utilize databases, clearinghouses, communication systems such as E-mail, computer conferencing, and teleconferencing.

It's Your Duty: Mediator Functions.

After reviewing the core competencies which mediators are expected to develop and on which they will be evaluated, the trainers began discussing the mediator's functions. The mediators' functions under the Labor-Management Relations Act (LMRA) of 1947 are broken down into five categories. These categories include: dispute mediation; preventive mediation; education, advocacy, and outreach; grievance mediation; and arbitration. Since the focus of this training session was dispute mediation this function was discussed in some detail. The trainers noted that the descriptions of mediators' functions in the other categories are available from other sources.

Dispute Mediation. In labor-management disputes, mediation is a valuable resource available to the parties to improve their bargaining. Mediation can create an environment which promotes meaningful communication. In dispute mediation the mediator convenes and chairs the meetings between the parties and provides structure to the meetings. Mediators help clarify issues and differences which separate the parties. They help the parties to define their problems and explore possible solutions to their problems. For example, mediators can create doubts in the parties' minds about their positions and suggest alternative solutions to their problems. Mediators help the parties remain focused and ensure that the talks are progressing and are on track. During the course of negotiations mediators get a close-up view of the relationship that exists between the parties. Once an agreement is reached and some of the adversarialism of the negotiation process subsides, the mediator can suggest ways to improve the ongoing relationship between the parties (FMCS 1997).

The trainers suggested several qualities that mediators must have in order to perform these functions well. First of all, throughout the mediation process the mediator must demonstrate integrity and impartiality. Second, mediators must have a strong ego and personal drive. At the same time, mediators must not let their ego and personal ambition get in the way of a settlement. Finally, mediators should not hesitate to be self-effacing when the situation call for such behavior.

The Long Arm of the Law: Labor and Employment Issues

After the mediator code of conduct was reviewed the director of special projects made a presentation entitled "The Law and the Mediator". This presentation served to familiarize mediators with the various laws and agencies that influence their work. In her opening remarks, the director of special projects noted that the purpose of this section of the training was to provide the mediators with an overview of relevant legislation and identify resources for further information. She stressed that this brief overview would not make the mediators legal experts and that mediators should not give legal advice. In addition, she emphasized that mediators should always mention in their opening statement that everything in the mediation process is confidential and that a mediator cannot be subpoenaed to testify in court about what occurs in the mediation process. Next, she outlined the topics to be covered in her presentation. These topics include: the acts and boards governing the collective bargaining process, civil rights legislation, labor standards and social security legislation, and the Family and Medical Leave Act (FMLA).

This session was presented after lunch. By this point in the day the post-lunch doldrums were beginning to set in and many of the mediators were becoming weary from

sitting in the training meeting all day with a lecture/limited discussion format. The director of special projects livened things up a bit by giving the class a sort of pop-quiz. As she moved through the topics she called out questions, some open-ended and some true/false, and encouraged the class to shout their responses. Although at times it was cacophonous, this technique succeeded in promoting class participation, along with some good-natured ribbing of the participants who responded loudly with incorrect answers. When the ribbing occurred, the director of special projects noted that this was the perfect place to give incorrect answers and to learn from those answers either the basics of the applicable law or where to look for more information.

Acts and Boards. The most pertinent Acts and Boards discussed as part of this topic include: the National Labor Relations Act (NLRA), The National Labor Relations Board (NLRB), the Labor Management Relations Act of 1947 (LMRA), the Federal Labor Relations Authority (FLRA), and the Federal Services Impasses Panel (FSIP). Descriptions of these Acts and Boards were included in the training manual. Highlights from the presentation and training manual will be discussed in the paragraphs that follow.

The National Labor Relations Act (NLRA), also known as the Wagner Act, was passed in 1935. In brief, the NLRA protects the rights of private sector employees to organize, choose their own representatives and bargain collectively. Moreover, the NLRA makes it illegal for employers to interfere with these rights. The NLRA defines various forms of interference by employers as unfair labor practices (ULPs). Furthermore, the NLRA established the National Labor Relations Board (NLRB) to protect employees in exercising their rights under the NLRA (FMCS 1997). .

The Labor Management Relations Act of 1947 (LMRA), also known as the Taft-Hartley Act, amended the NLRA to include ULPs for unions, placed restrictions on financial transactions between employers and unions, and set special provisions for health care institutions involved in collective bargaining. In addition, the LMRA created procedures for the conciliation and mediation of labor disputes. Toward this end, the LMRA established the FMCS (FMCS 1997).

The Federal Labor relations Authority (FLRA) was established as part of the Civil Service Reform Act of 1978. The FLRA is an independent, neutral, full-time authority which regulates labor-management relations in the federal sector. The functions of the FLRA are very similar to those of the NLRB in the private sector. Like the NLRB, the FLRA becomes involved in a dispute when an unfair labor practice has been alleged. Similarly, if the parties reach an impasse in their negotiations, the FMCS is authorized to provide mediation assistance. If it appears that the parties cannot voluntarily resolve their dispute, the parties or the FMCS mediator may refer the parties to the Federal Services Impasse Panel (FSIP). The FSIP may refer the case back to the parties for further negotiation or resolve the case through arbitration, fact-finding, or a combination of methods. However, the FSIP will not even begin to process the case until all mediation efforts have been exhausted (FMCS 1997).

Civil Rights Legislation. The key pieces of civil rights legislation reviewed include: Title VII of the Civil Rights Act 1964 as amended, the Americans with Disabilities Act (ADA) of 1990, and the Occupational Safety and Health Act (OSHA) of 1970. The primary emphasis in the review of civil rights legislation was the Civil Rights

Act of 1964 which prohibits employers, employment agencies, and labor unions from discriminating against individuals on the bases of race, color, religion, gender, or national origin. The ADA provides additional protection from discrimination for individuals with disabilities. OSHA gives the Secretary of Labor authority to set health and safety standards in the workplace. (FMCS 1997). .

Labor Standards and Social Security Legislation. Next, the director of special projects reviewed various pieces of legislation that deal with labor standards and social security. The legislation discussed in this section applies to mandatory subjects of bargaining. That is, subjects over which the parties must bargain in good faith. Mandatory subjects include issues that constitute or affect wages, hours, and other terms and conditions of employment. Thus, mediators are likely to see these issues come up over and over again in contract negotiations.

Several pieces of legislation that specified wage, hour, and child-labor standards were discussed. These include the Fair Labor Standards Act of 1938, the Public Contract (Walsh-Healey) Act of 1936, the Davis Bacon Act of 1931, and the Worker Adjustment and Retraining Act (WARN) of 1989. Other salient pieces of legislation discussed dealt with retirement, fringe benefits, and paid and unpaid leave. These included: the Social Security Act of 1935, the Employee Retirement Income Security Act (ERISA) of 1974, Group Health Plan Continuation Coverage (COBRA), the Older Worker Benefit Protection Act of 1990 (OWBPA), and the Family and Medical Leave Act (FMLA). Again, since provisions for retirement benefits, fringe benefits, and paid and unpaid leave

are standard in most collective bargaining contracts, mediators need to be familiar with these pieces of legislation.

Propositions You Can't Refuse: Dispute Mediation Theory

The final topic covered on day two of this training session was dispute mediation theory. In this section the trainers discussed the goals of mediation, the bases of influence in mediation, and the factors that impact the effectiveness of mediation. Then they discussed the different roles that these factors play in private, public, and federal sector mediation cases.

The Goal of Mediation. In brief, the goal of mediation is to reach a settlement. Moreover, the settlement should be one that both parties can live with for the duration of the contract. Beyond reaching a settlement, the goal of mediation is to improve the relationship between the parties. The goal of improving the relationship is somewhat unique to labor relations (as opposed to divorce mediation or mediation in small claims court for example) because the parties are involved in an ongoing relationship. After the dispute is settled, management and labor will continue to interact on a daily basis in the workplace.

Bases of Influence. As mentioned earlier, mediation involves the intervention of a third party neutral who provides help to parties in dispute. Mediators do not have the authority to impose a solution on the parties. Instead, mediators must persuade the parties to resolve their problems. In order to persuade the parties to reach agreement, mediators must have access to some base of power or influence. Thus, the crux of all mediation efforts rests on using one or more power bases (FMCS 1997).

The bases of influence discussed here include reward, coercive, legitimate, referent, expert, informational, and affect. All mediators use one or more of these bases of influence. To be successful, mediators must be adept at using a variety of these bases. No single base will work in every circumstance. In deciding which power base to use, most mediators do not make explicit choices from this list of power bases. Instead, they rely on intuition or a learned trial and error sense of what works in a particular situation (FMCS 1997)

With affect power, the person exercising power tries to create an atmosphere which promotes agreement and mutual consent. By definition, this is what the mediator tries to do in all situations. As such, affect power sets the stage for the use of other power bases.

Reward power is the ability to give something that is desired. By definition, mediators have no rewards of their own to distribute to the parties. Instead, mediators utilize the reward base of influence by channeling the potential rewards that the parties may have for each other. For example, one party may be willing to trade movement on a union security clause for movement by the other party on wages. The mediator's job is to work with the parties to discover where there is room for movement. The mediator can then use this knowledge to create "rewards" that give the mediator the power to persuade the parties to change their positions (FMCS 1997).

Coercive power is the ability to punish or use sanctions. The mediator can use the threat to break off talks or the threat of a strike to generate movement. Yet, because the response to coercion can be unpredictable, its use as a basis of influence is limited. As the

training manual states "it is closely akin to using a gun with but one bullet in it" (FMCS 1997, SQ1-8-H5).

With legitimate power, the person in exercising power is granted authority to do so according to the values of the person being influenced. To illustrate, in the private sector, in the early stages of the mediation process, the mediator typically will frame the outstanding issues and place restrictions on the addition of new items. This practice has long been accepted by the parties. It has become a "legitimate power" of the mediator because the parties view it as a rightful exercise of mediator authority (FMCS 1997).

Expert power derives from the user's specialized knowledge and skills. The persons influenced by this type of power believe that the person exercising power is likely to be correct and accurate. Sometimes, the parties to mediation attribute expert status to the mediator on the basis of their past experiences with that mediator or with other mediators. In other cases the mediator must earn the expert status through his/her handling of the situation. The mediator's behavior must convince the parties that s/he possesses the skills and expertise needed to help them resolve their dispute (FMCS 1997).

Similarly, informational power derives from the specialized knowledge of the person with authority. What matters here is specialized knowledge about the collective bargaining situation or the positions of the parties. This type of power is most effective when mediators practice "shuttle diplomacy." That is, when mediators keep the parties separated and move between them dispersing information to each side about the current

state of negotiations, the options available, and the possibility of settlement. Under these circumstances the mediator serves as a gatekeeper of information (FMCS 1997).

With referent power the person being influenced desires to model his/her behavior after the person exercising power. For this type of power to be effective, the person being influenced must closely identify with the personal or role characteristics of the person exercising power. Since referent power cannot be used with any predictability, mediators are rarely able to take advantage of this base (FMCS 1997).

Factors Impacting Mediation Effectiveness. As mentioned earlier the acceptability, credibility, and perceived neutrality of the mediator are the basic building blocks of mediator effectiveness. Beyond these basic building blocks, a variety of factors influence mediator effectiveness and the eventual outcome of the dispute. Those factors which appear to be most common and have the greatest influence are: the pressure on the parties to settle, the parties' experience with bargaining/mediation, the nature of the relationship between the parties, and the nature of the issues in dispute (FMCS 1997). In the paragraphs that follow I will discuss how these four factors interact with the mediator's power bases, thereby impacting mediation effectiveness.

The most essential factor is the pressure on the parties to settle. Without some sort of deadline or pressure to settle, negotiations could drag on indefinitely. As the pressure to settle becomes greater, the mediator is better able to use reward power and, if necessary, coercion.

The parties' past experience (or lack of experience) with negotiations and mediation impacts the mediator's ability to use reward, expert, and legitimate power.

Parties with greater experience in bargaining and mediation typically are more willing to share position information with the mediator than are less experienced parties. This information sharing increases the mediator's reward power. Similarly, parties with greater experience in bargaining and mediation are more likely to perceive the mediator as an expert and more likely to accept the mediator as a legitimate authority.

The nature of the relationship between the parties influences the mediator's ability to use reward, legitimate, and informational power. For example, if both parties want to work on their ongoing relationship to make it more productive, the mediator's ability to use reward and legitimate power is greatly increased. On the other hand, a mediator's ability to use legitimate power is decreased if either party wants to end the relationship or does not accept the other party's right to participate in the bargaining process. Under such circumstances, the party who either wants to end the relationship or refuses to recognize the other party as a legitimate participant in bargaining will resist bargaining and try to obstruct the process. This behavior (e.g., the denial of the legitimacy of collective bargaining) prevents the mediator from using reward power. In other cases the parties may want to resolve their dispute while simultaneously avoiding contact with members of the other bargaining team. Under these conditions, a mediator's informational power is enhanced.

Lastly, the nature of the issues in dispute directly influence the mediator's ability to use reward and expert power. For instance, the mediator's ability to use reward power is enhanced when there are a large number of issues in dispute and the issues are quantifiable. Naturally, when there are a large number of issues in dispute the mediator's

job (i.e., helping the parties reach agreement) is more formidable. Nevertheless, the training manual notes that most mediators prefer to have multiple issues in dispute rather than a single issue, because it is easier to find some room for flexibility with multiple issues (FMCS 1997). Equally important, mediators must have experience with the issues in dispute in order to be perceived by the parties as an expert.

Private, Public, and Federal Sector Labor Relations in Comparison. The four factors outlined above play out differently in the private, public (state and local government), and federal sectors. For example, structural characteristics in the private sector typically improve the odds that settlement will be reached. To begin with, there is some pressure on the parties to settle. The contract sets the deadline, but often the contract may be extended. Even though this deadline is not set in stone, it does give the parties an incentive to reach agreement. Moreover, the costs of failing to reach an agreement are high for both parties and are understood. Often, a strike is the only alternative to settlement (FMCS 1997).

In addition, the parties tend to have experience with bargaining and the mediation process. As one trainer described it, "the parties know the rules of the game." This tends to be true because mediation has long been accepted in the private sector; therefore it is a familiar practice (FMCS 1997).

The nature of the relationship in the private sector is often conducive to settlement. For example, many relationships in the private sector are long-standing. In many cases the parties perceive each other as legitimate. Usually there are two fairly cohesive parties

involved in the dispute. Moreover, the contractual relationship fosters mutual interdependence (FMCS 1997).

Finally, in the private sector there are typically a number of issues in dispute and the issues tend to be concrete, rather than abstract. Often these issues are economic. These characteristics heighten the mediator's reward and expert power. This is true because economic and concrete issues lend themselves to a variety of possible solutions. In turn, the variety of possible solutions enhances the mediator's ability to offer rewards (FMCS 1997).

The structural characteristics of collective bargaining in the public sector are somewhat less conducive to settlement. To begin with, as one of the trainers noted, 34 states have their own laws on collective bargaining for public employees. Each of these states has different coverage and different impasse procedures. In most cases strikes by public employees are prohibited by law. There is little pressure to settle because deadlines are rare. In many cases, additional dispute resolution procedures are available to the parties after the mediation process. The availability of procedures beyond the mediation process erodes the mediator's bases of legitimate, reward, and coercive power. Thus, the mediator's ability to persuade the parties to settle is severely limited.

The nature of the relationship between the parties is also more complicated in the public sector. Often, public sector management is less willing than private sector management to recognize unions as legitimate bargaining partners. Furthermore, there are numerous power participants who are not present at the bargaining table (FMCS 1997). To illustrate, one trainer related a story about a bargaining session at a military base

between management and unionized civilian employees. Although the management and union representatives at the bargaining table were able to reach an agreement, the commanding officer of the base would not abide by the agreement.

Since collective bargaining is relatively new in the public sector, the parties tend to have less experience than parties in the private sector with collective bargaining and mediation processes. As a result, the parties tend to resist sharing information with the mediator about where their flexibility lies. Also, the parties are less likely to perceive the mediator as an expert. All of this means that the mediator must educate the parties about the mediation process and demonstrate his/her expertise with collective bargaining before s/he can utilize the expert and reward bases of power.

To make matters worse, the issues in dispute in the public sector tend to be more abstract and less amenable to negotiation than issues in the private sector. Abstract issues (e.g., a demand to be treated with respect), are more difficult to trade off than concrete issues (e.g., a demand for an additional floating holiday). Again, this structural characteristic makes it harder for the mediator to use reward power.

Together these structural characteristics limit the mediator's options and make the task of mediation more challenging. Nevertheless, mediation can and does play an important role in the public sector. These characteristics simply require the mediator to behave differently in the public sector than s/he does in the private sector. Most importantly, mediation efforts in the public sector need to begin earlier than they do in the private sector. By getting involved early, the mediator has an opportunity to educate the parties. In turn, the parties have time to become comfortable with the functions that a

mediator performs. This extra time also allows the mediator to demonstrate his/her expertise to the parties. The end result of getting involved early is that the mediator builds up his/her reward, expert, and informational bases of power.

The Federal Sector is similar to the public sector in a number of respects. First, there are no deadlines, so there is very little pressure on the parties to settle. Second, the collective bargaining relationship between the parties is not as mature as it is in the private sector. Third, the bargaining units tend to be large and unwieldy. Fourth, there are statutory difficulties in negotiations in the Federal sector. For instance, Federal employees are bound by a restrictive clause regarding the permissible subjects of bargaining. This clause prohibits bargaining over wages, benefits, and position classifications. Moreover, there is no duty to bargain on the part of employers. Even if the parties reach agreement, the agreement must be reviewed by the agency head. The agreement may be appealed to the FLRA. If either party is displeased with the FLRA's ruling, the case may be heard in a Federal Court of Appeals. As a result of these structural characteristics, Federal sector negotiations tend to be very litigious. Thus, as one trainer pointed out, it is not surprising that 99% of the FMCS' alternative dispute resolution work is in the Federal sector.

In summary, given the voluntary nature of mediation, mediators must be adept at persuading the parties to reach agreement. In attempting to persuade the parties, the mediators draw on several sources of power. These sources of power include: reward, coercion, legitimate, referent, expert, information, and affect. In turn, the efficacy of these power bases depends on the structural characteristics of the collective bargaining situation. The structural characteristics that play the greatest role in determining the outcome of the

mediation process are: the pressure on the parties to settle, the nature of the relationship, the parties past experience with negotiations and mediation, and the nature of the issues in dispute. These structural characteristics vary from one situation to another, especially according to the sector (i.e., private, public, or federal) in which negotiations take place. Consequently, mediators must take these structural characteristics into account and adapt their behavior to the specific situation at hand.

Summary

To sum up, the topics covered during the first day of new mediator training included a review of the FMCS' mission and the services the agency provides. The first day of training was conducted at the FMCS' national office in Washington, D.C. The day ended with a swearing-in ceremony. Both the location of training and the swearing-in ceremony were symbolic. These elements reinforced the notion that regardless of their previous affiliations, the mediators were now employees of the Federal Government. In handling their day-to-day assignments the mediators' were to conduct themselves as neutral public servants.

A variety of topics were covered in day two of the new mediator training. First, the trainers discussed case administration. The points covered include:

- notice processing
- case tracking,
- case assignment,
- reporting requirements, and
- case management tools.

This topic was especially relevant to the trainees since they work under somewhat isolated conditions in field offices across the country with little or no local administrative support.

Second, the trainers reviewed the mediator core competencies. The core competencies are essential knowledge, skills, and abilities that all mediators with the FMCS are expected to develop. These include competencies include:

1. Expertise in collective bargaining and labor management relations
2. Ability to provide assistance to the parties in the negotiation of collective bargaining agreements
3. Knowledge of the processes used to improve labor management relations
4. Facilitation and problem-solving skills
5. Knowledge of the processes used to improve organizational effectiveness
6. Ability to design and implement conflict resolution systems
7. Ability to engage in education, advocacy, and outreach efforts, and
8. Knowledge, Skill, and Ability in Information Systems.

The bottom line is that the trainees are expected to become full service mediators, capable of performing all of the functions set out in the LMRA. These functions include: dispute mediation; preventive mediation; education, advocacy, and outreach; grievance mediation; and arbitration.

Third, the trainers covered relevant aspects of labor and employment law. This portion of the training familiarized the mediators with the various laws and agencies that influence their work. Some of the specific acts covered include the NLRA and LMRA. The relevant boards covered include the NLRB, FMCS, FLRA, and FSIP. In addition, the trainers also reviewed relevant pieces of civil rights legislation as well as labor standards and social security legislation. Although they need not be legal experts, mediators should be familiar with these aspects of labor and employment law and the impact these laws and boards have on the negotiation of collective bargaining contracts.

The coverage of labor and employment law in the FMCS new mediator training program is significant. It demonstrates the need for substantive knowledge of the contextual area in which a mediator practices. Substantive knowledge of the labor relations context is deemed important even for FMCS' trainees who have already have several years experience bargaining and negotiating contracts as either advocates for management or advocates for labor.

Fourth, the trainers introduced the trainees to the basics of mediation theory. In particular, the primary goal of mediation is to reach a settlement. In order to help the parties reach a settlement the mediator draws on a variety of power bases including:

- reward
- coercive
- legitimate
- referent
- expert
- informational, and
- affect bases.

The mediator's ability to effectively draw on these power bases to help the parties settle a dispute is influenced by the following factors:

- pressure on the parties to settle
- the parties' experience with bargaining and mediation
- the nature of the relationship between the parties, and
- the nature of the issues in dispute.

Finally, the trainers discussed how the four factors outlined above play out differently in the private, public (state and local), and federal sectors. In brief, the structural characteristics in the private sector are more conducive to settlement than in the public and federal sectors. Nevertheless, settlements can be reached in the public and

federal sectors. In all cases, mediators must take these structural characteristics into account and adapt their behavior to the circumstances.

Participant Observation of New Mediator Training In Dispute Resolution: Part 2

Day Three

The first half of day three of the training was devoted to discussions of mediation fundamentals, techniques, and types of settlement. The topics covered in the section on mediation fundamentals include: steps for getting involved in a dispute mediation assignment, the points to cover in an opening statement, and the use of joint and separate conferences. The topics covered in the section on mediation techniques include: mediator actions, movement towards agreement, clarifying issues, getting the parties moving, changing the focus , overcoming resistance, dealing with difficult parties/members of the bargaining team, using separate caucuses, proposal presentation, final agreement, risky techniques, and challenges in mediation. The trainers concluded the first half of day three with a discussion of types of settlement. In the second half of day three, the class split into four groups and participated in a mediation simulation.

Fundamentals: The Nuts and Bolts of Mediation

Getting Involved. Mediators follow several steps to become involved in a case. These steps include gathering information, developing a friendly relationship with the parties, informing and advising the parties about the mediation process and the mediator's role in that process, and providing information about the FMCS. To begin with, the mediator must gather information. Given the constraints on a mediator's time, s/he will be

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able to conduct only minimal research. The mediator should begin by talking to other mediators who have experience with one or both parties. Next, the mediator should review old case files, if available, to familiarize himself/herself with the parties' previous negotiations.

After reviewing old case files and talking to other mediators, the mediator needs to contact both parties. Ideally, these contacts should be made in person, since the mediator is trying to establish a relationship with the parties and it is difficult to develop relationships over the telephone. In some cases it may be necessary to make contacts over the telephone. In such cases the mediator should introduce himself/herself and try to keep the conversation friendly. The mediator should avoid making it appear that s/he is going through a checklist or survey. In some instances it will be helpful for mediators to use their formal title to get past organizational gatekeepers, for example, " Hello, this is Commissioner Jones with the Federal Mediation and Conciliation Service...."

During this initial contact the mediator should gather all the routine information which is vital to proper handling of the case. This information includes: the nature and size of the company, the representatives of the company and the union, the status of the contract, the effect on commerce, and whether or not there are any government contracts involved. From this conversation the mediator also needs to determine the current state of negotiations. In this regard the mediator should gather information about the any unresolved issues between the parties, the meetings held to date, any meetings scheduled for the future, and what the parties perceive as the next logical step in negotiations (FMCS 1997).

In some cases the mediator will encounter resistance in becoming involved in a dispute mediation assignment. For example, sometimes the union wants the mediator to help with the negotiations but the employer does not want the mediator's help. In such instances the trainers suggested that the mediator should try to explain to the employer the services that s/he can provide and let the employer know that the union wants help with its bargaining committee.

During these preliminary contacts, the mediator should explain the role that s/he plays in the collective bargaining process and the limitations of that role. In particular, the mediator should inform both parties s/he will honor confidentiality. Finally the mediator should clearly define the role of the FMCS in the collective bargaining process.

Once the mediator becomes active in a case, s/he plays the role of leader, chairperson, general advisor, and consultant to the parties. In these roles the mediator determines the date, time, and location of meetings. When making these arrangements, the mediator's attitude and manner are critical to securing the parties' graceful acceptance of the meeting arrangements (FMCS 1997).

The Initial Conference: Separate or Joint? How should the mediation process begin? The answer to this question depends on the situation, the parties involved, and the mediator's preferences. In some instances, mediators prefer to meet separately with the parties before scheduling a formal joint conference. This is typically the case when the mediator knows the parties well. Other mediators prefer to begin with a joint conference, followed by separate meetings. The key steps in both approaches will be outlined below.

If the mediator begins the mediation with separate conferences, s/he should open the meeting by outlining his/her functions as a mediator. In addition, the mediator will need to identify the chief spokespersons for both bargaining teams. Next, the mediator should secure a clear statement of the issues in dispute. Sometimes the parties agree on the outstanding issues and other times they disagree. Regardless of whether they agree or disagree, the mediator's task is to find out how each party perceives the dispute.

Once the mediator identifies the outstanding issues, s/he should discourage the parties from introducing new issues during the course of bargaining. Toward this end, the mediator should emphasize that the addition of issues mid-stream can seriously delay the resolution of the dispute. Moreover, such behavior is not considered to be good faith collective bargaining (FMCS 1997).

Next, the mediator should determine how much the parties value the outstanding issues. In determining the issue values the mediator may ask the parties to rank the outstanding issues in terms of importance. At this point the parties may not be entirely forthcoming in terms of identifying which issues are "must haves" and which issues are "throw aways." Nevertheless the mediator should try to glean some indication from the parties as to the relative weight of each issue.

Armed with this information, the mediator should tentatively decide how to approach the case. For example, the mediator has to decide whether to begin by negotiating over the issues that are of little value to the parties or to begin with the most important issues. Further, the mediator must decide how much control to exert over the format of meetings. For instance, should the parties be allowed to discuss outstanding

issues with little guidance from the mediator or should the mediator structure the discussions? All of these decisions are made intuitively, based on the mediator's assessment of the parties' personalities, experience, and skills as well as the nature and number of issues outstanding, and the progress the parties have made so far (FMCS 1997).

The initial joint conference proceeds in much the same manner. In his/her opening statement the mediator introduces himself/herself to the parties stating his/her name and title, and explaining the FMCS' mission. The mediator should emphasize his/her neutrality and commitment to confidentiality. Next, the mediator should explain how the mediation process works and what role s/he plays in the process. For example, the mediator may need to explain that separate caucuses and sidebars may be used and that s/he will take notes during the process and occasionally make mediator assessments. Again, it is important for the mediator to remind the parties that the mediator cannot be subpoenaed to testify in legal proceedings. The mediator also needs to inform the parties of the voluntary nature of mediation. This means that the mediator cannot force parties to accept positions or to reach agreement.

After introducing himself/herself, the mediator should make sure that all participants know each other. If the participants do not already know each other, the mediator should make introductions. Then the mediator should communicate his/her own assessment of the situation. In particular, the mediator should convey that the dispute is a serious matter. Moreover, the welfare of the employer, the union, and the community

depend on agreement. Finally, the parties must take responsibility for reaching an agreement.

As with the initial separate conference, the issues in dispute must be identified. Typically, the mediator will ask the chief spokesperson for each side to state the issues as s/he sees them. After the issues have been identified, the next step is to agree on the approach to be used in resolving issues. The approach most commonly used is a conditional agreement approach. This means that as the parties begin tackling the issues and working toward agreement, any agreement reached on individual issues is conditional on securing a final agreement. Other approaches include resolving one issue at a time, or discussing all outstanding issues at once and agreeing on the entire group as a package (FMCS 1997).

Often tensions run high at the negotiating table. To effectively deal with these tensions the mediator must be an astute observer of interpersonal relations. In some cases, it may be beneficial to permit the parties to engage in emotional outbursts and vent their frustrations. At the same time, the mediator must practice damage control. That is, s/he must not to let the outbursts reach the point where irreparable damage is done to the relationship and the possibility of reaching agreement is lost (FMCS 1997).

To sum up, at the initial joint conference, the mediator delivers his/her opening statement and introduces the parties. The parties identify their outstanding issues and, with the mediator's help, agree on an approach to resolving these issues. The parties often use the joint bargaining meetings as a forum to vent their frustrations. The mediator should be aware of this tension relieving function of bargaining meetings and control the

expression of frustrations so that the situation does not get out of hand. Overall, the mediator's role in the early part of the conference is fairly passive. S/he listens, asks questions, and stimulates discussion. As the mediator becomes more familiar with the members of the bargaining teams and the issues in dispute, s/he plays more of an assertive role in the bargaining process.

Parting Is Sweet Sorrow: The Role of Separate Caucuses. There will be times during negotiations when joint meetings cease to be productive. For example, the parties may become too rigid in their adherence to particular positions, or the discussions stagnate so that neither side is offering anything new in terms of facts, ideas, or opinions. When this occurs, rather than send the parties home for the day the mediator will often separate the parties and then meet with each side individually.

The separate caucus provides the mediator an opportunity to determine what the "real" issues are. In the separate caucus the mediator probes the parties to determine which items, if resolved, will result in a contract. These items form the revised agenda for bargaining. The mediator may also use the separate caucus to discuss problems the parties are facing, elicit alternative solutions to their problems, and make suggestions to the parties.

Again, confidentiality is of utmost importance in the separate caucuses. In the separate caucus the mediator encourages the parties to reveal their strategies, goals, and objectives with the provision that the mediator will not share this information with the other side. The mediator also plays a more active role in providing information and

advising the parties. In doing so, it is important for the mediator to respect the positions of the parties. As always, the mediator should try to establish a rapport with the parties.

At the same time, the separate caucus allows the mediator to use techniques which may not be feasible in the joint conference. For example, the mediator can point out difficulties in the parties' positions and strategies. As one trainer described it, the mediator serves as "the agent of reality". In separate caucuses the mediator can also coach the parties on how to be good negotiators. Mediators can also use what one trainer referred to as the "Columbo" technique. In using this technique, named after a fictional television detective, a mediator would feign ignorance of the problems the parties are facing and ask the parties to explain the situation to him/her. Another trainer suggested using the "supposal" technique. Using this technique a mediator tests possible solutions by making statements such as "suppose you tried..." or "what would happen if you ....."

Whatever techniques the mediator uses in separate caucuses, s/he should always double check with the party in caucus before sharing the information and options discussed with the other side. The mediator also needs to avoid the appearance of partisanship. In addition the mediator should allow some time between the acceptance of a proposal and the announcement of that acceptance. The mediator should avoid criticizing one party in front of another. Finally, the mediator should refrain from offering his or her own views on the worthiness of proposals.

The Mediator's Toolbox: Techniques

In their day-to-day routine of handling cases mediators draw on a variety of techniques in addition to those discussed above for separate caucuses. No single

technique fits every situation. Indeed some of the techniques are opposites of one another. There is no cookbook method for choosing among the various techniques available. The choice of which technique to use in a given situation and how to apply that technique is left to the mediator's judgment.

Given the broad array of techniques available to mediators, there was not sufficient time in the training session to review all of them. The training manual organized the techniques into the following categories: mediator actions, movement towards agreement, clarifying issues, getting the parties moving, changing the focus, overcoming resistance, difficulties with negotiating parties/members of bargaining teams, separate caucuses, proposal presentation, final agreement, risky techniques, and challenges in mediation. The trainers briefly discussed a few of the more commonly used techniques in several categories.

To illustrate, in the mediator actions category, the trainers discussed demonstrating competence, maintaining neutrality, listening, creating doubt, and timing. Most of these techniques are fairly self-explanatory. However, two of these techniques merit further discussion. The mediator may try to create doubt when one party suggests extreme action such as a strike. In such instances, the mediator may try to create doubt in the parties' minds about the feasibility of this action. To do so the mediator may discuss the current condition of the labor market, the amount of inventory the company has on hand, and the possible consequences of a strike. In terms of timing, there are parts of the negotiation process which the mediator may postpone or move up on the agenda. For example, a

mediator may "put an issue in the parking lot". This removes the issue from the table until a later time when the parties may be more amenable to agreement.

Some of the suggested techniques for making movement towards agreement include: control of joint meetings, keeping the parties talking, the habit of agreement, and planting the seed. Here again, a brief explanation is in order. The habit of agreement means that mediators will begin with issues on which there is relatively little disagreement. By tackling the "easy issues" first, the parties get used to (or in the habit of) agreeing. Being in the habit of agreement makes it easier to work through and reach agreement on the more contentious issues. In "planting the seed" a mediator mentions a possible solution to a problem in a casual or off-hand way. This starts the parties thinking about the solution and often one of the parties will introduce the solution as his/her own proposal.

Under the category of clarifying the issues, the mediator may use the following techniques: hypothetical situations, illustrations, repetition, thinking out loud, and intelligence (also known as the "don't kid me" approach). When negotiations have stalled, the mediator may use a variety of techniques to get the parties moving again. Some of these include: marathon sessions, trading issues, impractical suggestions, extensions of deadlines, and the use of subcommittees. Of particular note is the impractical suggestion technique. When the parties become deadlocked the mediator may propose an impractical solution, in an effort to get the parties to point out the problems with the mediator's proposal and come up with a better one themselves.

After discussing several of the more commonly used techniques, the trainers instructed the new mediators to read the mediation techniques section of the training manual on their own time. The trainers wrapped up this section by noting that the description of techniques in the training manual is not intended to be an all-inclusive list. Rather, the descriptions are provided as a resource for new mediators. The trainers reiterated the importance of the mediator's judgment in choosing among these various techniques.

Types of Settlement: There's More Than One Way to Reach Agreement

Before beginning the collective bargaining simulation the trainers closed the discussion of mediation fundamentals and techniques by noting that there are several types of settlement. Sometimes mediators achieve settlement simply by making communication possible. In such cases no substantive dispute exists. As one trainer put it, the mediator "plays the role of traffic cop". In other cases settlement is achieved by integration. That is, through mediation the parties discover a solution that does not sacrifice the interests of either party. At times, settlement is achieved by enabling one party to change its position. For instance, sometimes an issue quietly goes away. Alternatively, a party may be presented with a face-saving opportunity to change their position. In some situations settlement is achieved through tradeoffs. Tradeoffs are often possible because all issues are not valued equally by both parties.

Notwithstanding the various types of settlement discussed above, some settlements require major concessions. In cases that require major concessions, the mediator should consider the following factors. Do the parties genuinely desire settlement? What are the

parties' attitudes toward alternative methods of resolving the dispute? How close are the relevant deadlines? How knowledgeable are the parties? Do they know a good deal when they see one? In addition the mediator needs to take into account the parties' attitude toward the mediator. The parties' confidence in the mediator is critical to resolving the dispute. The mediator's understanding of the issues also plays a key role in reaching settlement. In particular, the mediator's understanding of issues will help the mediator ascertain the reasonableness of various demands. Finally, in cases requiring major concessions, the mediator must be willing to stay with the parties for the long haul.

When the parties do make major concessions, the mediator should be aware that they will typically move through the five stages of grief. These stages include: denial, anger, attempt to bargain, depression, and acceptance. In the end, despite the mediator's best efforts some issues simply do not settle. With this in mind, when handling cases the mediator should always look for the parties' readiness to settle, the proximity of deadlines, and the parties' best alternative to a negotiated agreement (BATNA).

Getting Your Feet Wet: A Mediation Simulation

After lunch the trainers introduced a mediation simulation exercise. This exercise consisted of seven phases and would continue for the rest of the afternoon and the following day. To make the exercise manageable the class of new mediators was split into four groups. The three trainers and the class mentor split up as well so that one experienced mediator was working with each group. Each group went to a separate breakout room to work on the mediation simulation exercise. Within these groups the new mediators split up into two teams--union and management. In addition, one member

from each of the four groups was designated as the mediator. The role of mediator was a rotating position; each new mediator would have the opportunity to mediate a portion of the simulated dispute over the next day and a half.

The trainers and the class mentor observed the mediation simulation. While the simulation was in progress they quietly jotted notes and did not comment on the proceedings. At the conclusion of each phase of the simulation, the experienced observers debriefed the participants and shared their observations. Usually they began by asking the participants to share their reactions to the simulation, e.g., How did the new mediator perform? What worked well, and what did not go so well?, What suggestions for improvement did they have for the new mediator? Next, the participant playing the role of mediator was asked to share his/her reactions with the group. In particular, the participant playing the role of mediator was asked: What did s/he think worked well?, What were his/her greatest challenges?, and Given the benefit of hindsight, what would s/he do differently in the future? Then the observers shared their own observations and critique with the mediators, with a special emphasis on suggestions for improvement.

As noted above the mediation simulation was divided into seven phases. Phase one was the initial joint conference. Phases two through six involved working through: a job security issue, a pension issue, a wage issue, a seniority issue, and a no strike clause. Phase seven was closing the deal. For each of these phases each team was given a confidential information sheet. The information sheet outlined the team's strategy. For example, the confidential strategy information provided to the union team for the initial joint conference mentioned that strike funds were nonexistent, sixty percent of the employees would not

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support a work stoppage, and that if the contract was terminated several employees would file for decertification because another union was waiting in the wings to raid the bargaining unit. In addition, each confidential data sheet contained a scenario for a mediator challenge. For example, the mediator challenge scenario provided to the management team for the initial joint conference stated that the management was not familiar with the mediator and directed the team to demand an explanation of his/her credentials. Additionally, the mediator challenge scenario provided to the union team for the initial joint conference instructed the union team to use the opportunity of having the mediator present to add two new issues to the original list of five outstanding issues.

Since all of the members of the class of new mediators would have the opportunity to play the role of mediator in the simulation, I had expected that those playing the role of union and management would treat the budding mediators with kid gloves. However, this was not the case. The participants took the simulation very seriously, especially the mediator challenge scenario. For example, in response to one mediator's attempt to persuade the union team to move toward agreement, one union team member replied, "we don't want to bargain against ourselves." Other members of both union and management teams echoed the same sentiments, but with more colorful language. Some participants, perhaps drawing on their own past experiences at the bargaining table, even ad-libbed mediator challenges. In one case the union team stormed out of the bargaining session, leaving the mediator somewhat flabbergasted. In another case the union team corralled a couple of hotel employees to come to the bargaining session posing as the family members of a fired employee.

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For the most part, the new mediators handled these challenges well. Some were already beginning to model behaviors discussed earlier in the training session. For instance, the role-playing mediators restated the issues and double-checked with both teams about the wording of issues. One mediator asked the parties to restate their positions and then said, "I think that there are underlying concerns behind these issues; we need to explore those concerns." The role-playing mediators also asked a lot of questions including, "What are your concerns?" Other mediators used phrases such as, "What I hear is...", "Let me share with you what I see...."

A Homework Assignment. The collective bargaining simulation continued until 5:00. At 5:00 the class reconvened in the large classroom. The trainers reviewed the agenda for the following day. Although the simulation exercise would continue on day four, the class would begin the day together in the large classroom. Before adjourning the class, the trainers instructed the class to read a section in the training manual entitled: "The 7,000 Habits of Effective Mediators".

Several of the topics covered in "The 7,000 Habits of Effective Mediators" had been covered already in the training class in slightly different form. The fact that the topics were repeated again here demonstrates the important role that these "habits" play in a mediator's work. For example, this section began with a review of the role of an FMCS Commissioner, including guidelines for personal conduct. Next, instructions were provided for communicating with the parties after an assignment is received. These instructions were followed with a discussion of how to choose a meeting place for the

conferences. In particular, it was noted that meetings should be held on neutral territory and that mediators should be aware of the sound-proofing qualities of the meeting rooms.

This section also reviewed conference procedures including serving as chairman, handling joint conferences, eliciting presentations of demands, handling separate conferences, stipulating a settlement, and taking initiative. The training manual noted that the degree of initiative a mediator takes will vary from meeting to meeting and from case to case. The extent of initiative a mediator may take is determined by the mediator's acceptability to the parties. Here again, mediators were reminded that the contract belongs to the parties; they were warned to do no more than is absolutely necessary.

Some of the new material covered in this section included guidelines for handling challenging situations such as going over the heads of labor and management, bringing in another commissioner to help with a difficult case, and making public statements. The training manual also reiterated the importance of maintaining contacts in the labor relations community outside of dispute negotiations. Finally, this section outlined miscellaneous do's and don'ts for mediators, effective behaviors/traits of mediators, and ineffective behaviors/traits of mediators.

<p style="text-align:center">Day Four</p>

Dimensions of Bargaining

Day four began with the mediators meeting in the large training room for coffee and danish. Before dispersing the four groups to the breakout rooms to continue the collective bargaining simulation exercise the trainers made a presentation on the dimensions of bargaining. The trainers introduced this topic by stating that there are

several dimensions to bargaining. To help illustrate this point, one of the trainers drew a diagram on the flip chart at the front of the classroom of the various actors that influence and are influenced by the collective bargaining process.

At the top center of the diagram, as if at the head of the table, was the mediator. The management bargaining team was on one side of the table. The union bargaining team was on the other side. Additional outside players depicted as influencing and being affected by the outcome of collective bargaining on the management side of the table included: top management, industry, and other employees--such as supervisors. Additional outside players depicted as influencing and being affected by the outcome of collective bargaining on the union side of the table included: higher level (e.g., state, regional, and national) authorities within the union, the outside community, and the union membership.

Next, the trainers reviewed the key dimensions to the collective bargaining process. These dimensions include: horizontal bargaining, intra-level bargaining, and vertical bargaining. Horizontal bargaining occurs across the table between the labor and management teams. It is typically conducted by the chief spokespersons of both teams. Generally, with this type of bargaining the history of the dispute is reviewed, issues and interests are identified, and options are generated and discussed (FMCS 1997). However, the trainers noted that not much problem-solving work is done at this level.

Intra-level bargaining is bargaining within the team. Often, the team members have different levels of power, prestige, seniority, skills, information, and resources. These differing characteristics among team members influence negotiation outcomes. For example, when great disparities exist between team members, consensus is typically

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maintained through hierarchical authority. However, there are a lot of vested interests at this level of bargaining. As a result, the hierarchical authority invoked to maintain consensus tends to be unstable and to break down (FMCS 1997). Nevertheless, the trainers stated that this is where most bargaining occurs. Moreover, this is where a mediator hears about opportunities for change in the parties' positions.

Vertical bargaining occurs between the people at the table and others affected by bargaining on their side. More precisely, to achieve a final settlement, the bargaining team must negotiate with individuals or groups who have the ultimate authority to accept or reject the settlement (FMCS 1997). For instance, vertical bargaining often occurs between the management bargaining team and top management, as well as other employees such as supervisors.

In handling a case, the mediator needs to keep in mind these key dimensions of bargaining. In addition, the mediator also needs to be aware of the outside influences on bargaining such as the outside community, the larger industry, and the economy. With all of these dimensions and actors, the mediator's sense of timing (i.e., knowing when to act) is crucial.

Back to the Bargaining Table

After discussing the dimensions of bargaining, the mediators moved into the break out rooms to continue the mediation simulation. Within each group the mediators returned to their roles as members of the union or the management bargaining teams. In addition, they continued to rotate through the position of mediator with each new phase of the simulation exercise, so that by the end of day four each member of the class would

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have an opportunity to mediate a portion of the simulated dispute. As before, the trainers

and the class mentor observed, critiqued, and debriefed the mediation simulation. The

simulation exercise continued for the rest of day, with morning and afternoon coffee

breaks and a break for lunch.

History and a Sense of Place

After lunch the mediators returned to the breakout rooms to continue the

simulation exercise. The mediators continued working on the collective bargaining

simulation until 5:30. In the evening an optional class trip was planned to visit the "Friends

of the FMCS." The Friends of the FMCS is a non-profit organization that serves as an

archive for historical data and materials pertaining to the FMCS. It is run by a former

FMCS mediator and executive. The archive includes the oral histories of over 160

individuals who have been associated with the FMCS, class photographs of past new

mediator classes, as well as published materials. Approximately 15 members of the class

participated in this outing. The new mediators were especially interested in looking at the

class photos of previous new mediator classes. They looked for photos of their

supervisors and office mates and compared the size and composition of various classes

over the years. This excursion served as a bonding opportunity for the new mediators. It

helped familiarize them with some of the history of the agency and the changes the agency

has gone through over the years. More importantly, this experience helped the mediators

see where they fit in the agency's history. In brief, this excursion served to make them feel

a part of the community of federal mediators.

Day Five

Like the other days, day five of the new mediator training in dispute mediation began with the new mediators chatting over coffee and danish. The main topics covered in day five include discussions of the typical career progression schedule for new mediators, the direction in which the agency is heading, and the mediator code of conduct. The agenda also included an overview of grievance mediation and preventive mediation services. In addition to the trainers and class mentor, the presenters on day five included Director John Calhoun Wells and Deputy Director C. Richard Barnes. The director of education and training concluded the day by conducting an evaluation of the training meeting and discussing the current plans for scheduling the second sequence of new mediator training on preventive mediation.

Great Expectations: Then and Now

Career Progression. Richard Barnes started the day off by stating that the agency expects the new class of mediators to be successful. As successful mediators, they would soon be eligible for promotion. He thought it important for them to be familiar with the typical salary grade progression for new mediators. In brief he noted that most mediators move up one classification after the first year and move up another classification after two years on the job. Mediators are evaluated in part on the number of cases they handle.

Next he began discussing recent changes in the collective bargaining arena and the FMCS' responses to these changes. First and foremost, he noted that there has been a significant drop in the number of notices of contract expiration filed with the agency. This drop in contracts is due in part to changes in the contract length. In the past contracts

rarely lasted longer than three years. Today, however, it is not uncommon for contracts to last for six years or longer. Ultimately, the longer contracts and the resulting drop in notices filed mean that the agency handles fewer dispute mediation cases.

In the past supervisors managed to "minimums," they did not approve of visits to FMCS "customers." Generally the supervisors would not approve any meetings that were not joint meetings. The agency's new approach places emphasis on and rewards mediators for engaging in education, advocacy, and outreach efforts.

In the past grievance mediation was counted as preventive mediation. Today it is counted as dispute mediation if a mediator receives request from one of his/her "customers", i.e., a party for which the mediator handled a contract negotiation. Under these circumstances the mediator should ask the parties to file an F-7 form (i.e., a notice that negotiations are about to begin).

In 1997 the number of F-7 notices filed was up 4%. This is important because Congress determines the amount of funding provided to the agency in part based on the number of F-7 notices filed. So, numbers are important but mediators are not evaluated solely on numbers. Numbers are only evaluated within ranges. For example, last year some mediators received outstanding ratings with only four active cases. When conducting performance evaluations, supervisors have to take into consideration the opportunities the mediator had to handle different types of cases. For example, was the mediator given ample opportunity to handle dispute mediation, preventive mediation, and education, advocacy, and outreach cases? If the mediator was not given the opportunity

to handle such cases the supervisor cannot downgrade the mediator for a lack of "numbers" in those areas.

Tying the Organization Together: The Role of Communication

Next Richard Barnes discussed the role that communication plays in tying the FMCS together. In particular, outreach activities are mediators' primary method of communicating with current and potential clients and with the public. As such, outreach activities are critical to the future of the agency. Therefore, it is essential that mediators need to get up from their desks and talk to people.

The Long Road to Interest-Based Bargaining

Prior to 1935, the primary method of negotiating in the collective bargaining arena was power-based negotiation because workers had no rights. The passage of the Wagner Act in 1935 created a court of competent jurisdiction. This meant that workers could bargain with management on the basis of rights. The rights-based era of bargaining lasted from 1935 to the mid-1970s. During this period the War Labor Board established the institution of arbitration. Drawing on the War Labor Board's example, the institution of arbitration became written into most collective bargaining contracts. Between the mid-1970s and the early 1980s the approach to collective bargaining followed an alternating cycle of power- and rights-based bargaining.

By the late 1980s, a few employers began to realize that sound business strategy requires them to treat labor as an asset, rather than as a variable cost. In these cases employers and unions have been able to form partnerships based on the premise that they

share common interests. This change in perspective was driven in part by Fisher and Ury's (1981) work on "principled" or "interest-based" negotiation.

Interest-based Bargaining (IBB) is not a fad. In addition to the collective bargaining context, IBB is being used in a variety of other contexts. Although it has been around for a long time, mediators with the FMCS have only recently begun using IBB. To illustrate, in the 1970s only 1% of the FMCS' work involved collaborative activities between unions and management. Today, 18% of the FMCS' the work involves collaborative activities between unions and management. Barnes concluded by noting that "IBB is going to be the way we do business in the future."

Media Sound Bites and the FMCS

Next Richard Barnes offered some tips for dealing with the media. First, he noted that as public servants the mediators do have some responsibility to keep the public informed. Moreover, outside the labor relations community, most citizens of the U.S. are not familiar with the work that the FMCS performs. The media provides free publicity for the agency by reporting on its activities. In turn, the mediators need to take the necessary steps to ensure that the free publicity is positive. When asked about their work, it does not serve the agency's public image to simply say, "no comment."

Mediators need to be prepared for reporters' questions. The catch is that very few newspapers and television stations have labor desks today. That is, very few media sources have a designated reporter assigned to cover labor issues. Therefore, the mediator must often educate reporters about the agency's mission and the services it provides. In addition, he counseled the mediators to "tell reporters everything you can that

won't harm the negotiations." The key is to never talk about issues with reporters. Instead, mediators should talk about the process.

Richard Barnes concluded by noting that communicating about the agency is a continuous process. Education, advocacy, and outreach is a form of marketing. Marketing is the promise of performance. And a sound marketing effort/program creates expectations of high quality service.

A Message from the Director

Next, Director John Calhoun Wells addressed the class. Director Wells briefly discussed how he became interested in labor relations as a profession. In doing so, he highlighted his background, work history, and educational achievements. Next he discussed his tenure with the FMCS and some of the organizational changes he implemented. One of his most noteworthy changes was as he described it his effort to "cast a wider net". That is, he championed diversity in the FMCS and spearheaded an effort to bring more women and people of color into the agency. Indeed, the FMCS commitment to diversity was evident in the composition of the new mediators class. Among the 25 new mediators, there were 9 women and 10 people of color. The agency's commitment to diversity was also evident in the training staff and in the national office.

Director Wells also emphasized his record of dealing with Congress. In fact, at a time when most budgets were being cut, the FMCS' appropriation from Congress remained steady. In addition, Executive Order 12871 issued in 1993 authorized the FMCS to work with federal employee unions and their employers to set up labor management partnerships to improve the way that government works. The FMCS' ADR

activities, international activities, and federal partnership work is performed under inter-agency reimbursable agreements. These reimbursable agreements provide additional monetary resources for the agency. Finally, Congress authorized the FMCS to begin providing arbitration services on a fee-for-service basis on October 1, 1997.

A Mediator is as a Mediator Does: The Code of Conduct

The mediator code of conduct is a major element in the orientation of new mediators. As the topic was introduced the trainer leading the presentation suggested that mediators read the code of conduct either daily or weekly during their first few years as an FMCS mediator. Further evidence of its importance was the amount of time set aside on the agenda for discussing the mediator code of conduct—one hour and fifteen minutes. The mediator code of conduct was organized according to the mediator's responsibilities. These responsibilities fell into the following categories:

- mediator's responsibilities to the parties,
- mediator's responsibilities to other mediators
- mediator's responsibilities to the public,
- mediator's responsibilities to themselves
- and mediator's responsibilities to the FMCS (FMCS 1997).

These categories will be discussed in more detail in the paragraphs that follow.

The Parties. To begin with, the mediator's primary responsibility to the parties is **helping them settle their disputes.** In the collective bargaining arena dispute mediation is a voluntary process. The mediator, a third party neutral, helps the parties reach an agreement in their contract negotiations. As mentioned earlier, mediators contact both parties before negotiations actually begin. This initial contact is spurred by the filing of a notice of intent to open a collective bargaining contract, as required by law (FMCS 1997).

Besides helping the parties settle disputes, FMCS mediators have a responsibility to help the parties identify the cause of poor labor-management relations and build better working relationships which benefit both employers and employees. Additional responsibilities to the parties include informing them regarding the jurisdiction, coverage, assistance, services, programs, and training the FMCS provides. Finally, FMCS mediators have a responsibility to provide information and guidance to the parties on a variety of labor relations problems. Often, this guidance consists of referring the parties to another agency (FMCS 1997).

One trainer summed up the mediator's responsibility to the parties as follows, "The parties look to the mediator as an expert, a leader, and a provider of content." Again he emphasized the importance of keeping up with trends in labor relations systems and suggested that mediators identify opportunities for continuous learning in their individual development plans. Furthermore, he stated that mediators need to be of good character and demonstrate high personal and professional values. As this trainer put it, "show you care by the way you act."

Other Mediators. Federal, state, and other mediators share a common goal. That goal is promoting labor-management peace. It is imperative that FMCS mediators cooperate with other mediators, where appropriate, to achieve this goal (FMCS 1997). Along these lines the trainer noted that mediators should share information, but not confidential information. In addition, FMCS mediators should treat other mediators professionally. He emphasized that mediators should be extremely cautious about criticizing other mediators. Then he discussed several scenarios in which criticism might

come up and offered suggestions for handling such criticism. Lastly, the trainer warned

the new mediators that when they are working in team mediation situations, they should

never disagree with the other mediators in front of the parties. This advice was especially

pertinent since the new mediators would go through a shadowing period in which they

worked on cases with other more experienced mediators before they were assigned to

cases on their own.

The Public. Mediators are expected to be active members of the labor-relations

community in which they practice. Toward this end mediators are encouraged to attend

forums, conferences, and labor and management group meetings. Mediators are also

expected to join and participate in professional associations. Finally, mediators should

become familiar with representatives of the press and establish professional working

relationship with them. Through these contacts the mediator educates the public and helps

build public confidence in the FMCS.

Themselves. In addition to the responsibilities that mediators have to others they

also have responsibilities to themselves. First, mediators have a responsibility to develop

their professional backgrounds. This responsibility is especially important given the

dynamic nature of collective bargaining. Labor-management relations are continually

evolving. Indeed, mediators must "grow with the profession or find that the profession has

outgrown them" (FMCS 1997).

Second, mediators must maintain their professional standards. During their careers

mediators will continually encounter situations when one or both parties try to use the

mediator to further their own goals. Granted, the mediator's role is to serve the parties.

Yet, the mediator must always remember that the duty to serve the parties ends where there are efforts to compromise his/her basic standards of honesty, integrity, and principle (FMCS 1997). As one trainer succinctly phrased it, "You will be used; avoid being abused."

The final responsibility mediators have to themselves is to live a well-balanced life. Negotiation is a human process. If mediators are to be successful, they will need to treat collective bargaining as a human endeavor rather than an academic exercise. Hence, the ideal mediator is a person with well-developed interpersonal skills and broad cultural, recreational, and familial interests (FMCS 1997).

The FMCS. Mediators have several key responsibilities to the FMCS. To begin with, the mediator's primary responsibility to the FMCS is to carry out his/her assignments. The main assignment is to mediate. At the same time, the mediator plays a number of roles. S/he is a consultant, an advisor, and an expert who the parties look to for information and guidance on contractual problems and other labor relations issues (FMCS 1997). As noted in the training manual, the mediator is "a friend of the parties and the collective bargaining process" (FMCS 1997, SQ1-6-H10). In this role of "friend" the mediator is able to use his/her human relations skills, broad experience in labor-management relations, impartiality, and objectivity to help the parties identify and reduce and/or eliminate the primary causes of labor-management conflict (FMCS 1997). As one trainer commented, "Do the best you can. We succeed, but we never fail. If an agreement is not reached, the parties have failed."

Second, mediators must provide written reports on their activities to the FMCS. Again, given the solitary nature of the mediator's work (much of the work is performed in field locations away from the mediator's home office), these reports are critical to keeping the regional leadership informed of the mediator's activities. Additionally, these reports provide a link between the regional and national offices. Moreover, these reports provide the foundation on which research is built and statistics are collected, and budget and staffing decisions are made. These reports are especially important in the current environment of fiscal conservatism and government cutbacks (FMCS 1997).

Fourth, mediators have a responsibility to improve the operations of the FMCS. The FMCS takes a "bottom-up" approach to management. Toward this end mediators are expected to share their experiences and successes with their colleagues in the FMCS. When mediators encounter problems they are encouraged to suggest remedies to the problems rather than simply complaining about the problems (FMCS 1997).

Finally, mediators need to conduct themselves in a manner that reflects well on the FMCS. FMCS mediators are representatives of the Federal government. As such their conduct is under public scrutiny and subject to criticism both on and off the job. Mediators should use mature judgment, demonstrate a high sense of ethical and moral values, and conduct themselves in a manner which commands the respect of the community and adds value to the collective bargaining process (FMCS 1997).

More to Come: Previews of other FMCS' Services

Next the training staff provided a brief preview of some of the services the agency provides in addition to dispute mediation. The two services previewed here were

grievance mediation and preventive mediation. The goal of these previews was to familiarize the new mediators with the range of services they may be asked to provide to labor and management. They were not intended to make the mediators "experts" on the topics covered. The new mediators would gain expertise in these areas by attending future training sessions and through on-the-job experience of shadowing seasoned mediators.

Grievance Mediation. In handling requests for grievance mediation, mediators should adhere to the following guidelines. First, grievance mediation should not be used for routine grievances. Rather, grievance mediation should be used as a last resort in exceptional cases. Grievance mediation is appropriate in federal sector labor disputes. It is also appropriate when the grievance involves on-going contract negotiations.

The bottom line is that grievance mediation should be performed to help maintain the ongoing relationship between the parties. Along these lines, both parties must sign the request for grievance mediation. In addition, both parties must sign a statement indicating that they have read and agree to the FMCS procedures for grievance mediation. In brief these procedures establish the confidentiality of the meetings and outline the steps to be taken if agreement is not reached.

Preventive Mediation. The trainers described the FMCS preventive mediation program as alphabet soup. The first element of the alphabet soup discussed was RBO or Relationships by Objectives. The trainers noted that this was one of the FMCS' best preventive mediation programs. It has stood the test of time. RBO is reserved for the worst relationships. As the name suggests, when using RBO the mediator helps the

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parties identify the problems that are preventing them from having a productive relationship. Then the mediator helps the parties prepare an objective-based plan to resolve those problems. As part of an RBO program, the parties often develop a list of skills that will be need to help them work together collaboratively. To illustrate, the list may include such objectives as implementing a steward/supervisor training program to provide stewards and supervisors with grievance handling and negotiation skills.

The PIC or Partners-in-Change Program is somewhat similar to the RBO program. The PIC Program is an organizational change process that encourages cooperation and proactive planning. Like the RBO Program, the PIC Program sets objectives for the parties. The key difference is that the PIC program is designed for sophisticated, productive, healthy relationships.

The LMC/LMPC (Labor Management Committees/Labor Management Partnerships) Programs are designed to help the parties establish joint committees that bring labor and management together in regularly scheduled meetings. The purpose of these meetings is to get the parties to communicate with one another over topics of mutual concern. The goal of the LMC/LMPC Program is to help the parties develop problem-solving, consensus, and other effective group interaction techniques.

The final element of the alphabet soup discussed was IBB/IBN/IBPS/IBGH. These acronyms stand for Interest-Based Bargaining, Interest-Based Negotiation, Interest-Based Problem-Solving, and Interest-Based Grievance Handling. Across the spectrum of preventive mediation programs, the interest-based programs are in particularly high demand. These programs provide an alternative to traditional methods of negotiating and

solving problems. That alternative involves a problem-solving/consensus-based approach to negotiations. As the titles of these programs suggest, this approach requires the parties to focus on interests rather than positions.

In closing, the trainers noted that the underlying objective of all the preventive mediation programs is to help the parties improve their relationship and work together cooperatively. With this common objective in mind, mediators will often combine elements of the various programs in the training provided. In other words, these programs can be customized to suit the needs of the parties.

Evaluation and Take-Home Readings

Before adjourning the training meeting the FMCS' director of education and training conducted a training evaluation and distributed a set of take-home readings. The evaluation forms required the new mediators to complete self-assessments of their core competency learning as well as rate the quality of the training provided. The director of education and training noted that the results would be compared to the self-assessment that the mediators completed prior to attending this training session. In addition, the director of education and training informed the mediators that they would be asked to complete a follow-up post-training assessment three to six months after the end of this training session.

As "homework" the mediators were given four books to read. The first of these books was *Getting to Yes: Negotiating Agreement Without Giving In* by Fisher, Ury, and Patton (1991). Briefly, *Getting to Yes* provides a step-by-step guide for engaging in what the authors call "principled negotiation" or "negotiation on the merits" (Fisher, Ury, and

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Patton 1991, 10). The four main points that Fisher, Ury, and Patton (1991, 10-11) make are as follows: 1) separate the people from the problem, 2) focus on interests, not problems, 3) generate multiple options before choosing a solution , and 4) use objective criteria to evaluate options.

Second, the take-home readings included: *Contemporary Collective Bargaining in the Private Sector* edited by Paula Voos (1994). This text analyzes the state of labor relations in various industries over the period of 1979-1993. The main trends discussed include: confrontational hard bargaining, the rise of employee involvement programs, the diffusion of workplace innovations, increased decentralization in bargaining structures, declining real wages, declining unionization rates, and increased concern for job security. Finally, this text discusses the implications these trends have for public policy.

The third book on the take-home reading list was *Mediation and the Dynamics of Collective Bargaining* by Simkin and Fidandis (1986). This book was written by a former Director of the FMCS (Simkin) and a former Director of Mediation Services for the FMCS (Fidandis). Together, they provide an insider's view of the dynamics of the collective bargaining process and the role that mediation plays in that process. The topics covered include: the basic elements of collective bargaining (for example, bargaining forums, the scope of bargaining subjects, bargaining objectives, and tangible results); the basic philosophy of mediation; mediator selection, retention, and training; mediation practices (e.g., procedural functions, communication functions, and substantive functions), and aspects of crisis bargaining.

The final book on the reading list was *When Push Comes to Shove: A Practical Guide to Mediating Disputes* by Slaikeu (1996). This text is aimed at a broader audience than the Simkin and Fidandis (1986) text. It is intended to be a "how-to guide" for practitioners in a variety of dispute resolution contexts. Slaikeu (1996) acknowledges that mediation is both a social skill and an emerging discipline. He focuses on the most critical interpersonal and communication skills required to mediate conflict. In addition, Slaikeu (1996) presents a five-step model of the mediation process: 1) first contact, 2) opening meeting, 3) caucuses, 4) joint/shuttle meetings, and 5) closing. Slaikeu (1996) coaches the reader through these steps. The key to effective mediation, Slaikeu (1996) contends is the mediator's ability to bring calm control to a volatile situation while attending to the needs of the various parties involved.

Summary

In summary, days 3-5 of the new mediator training provided the mediators with practical advice and experience in mediating disputes. Day three of the training was devoted to discussions of mediation fundamentals, techniques, and types of settlement. The topics covered in the section on mediation fundamentals served as a how-to guide for new mediators. These topics include:

- steps for getting involved in a dispute mediation assignment
- the points to cover in an opening statement, and
- the use of joint and separate conferences.

The topics covered in the section on mediation techniques include:

- mediator actions
- movement towards agreement

- clarifying issues
- getting the parties moving
- changing the focus
- overcoming resistance
- dealing with difficult parties/members of the bargaining team
- using separate caucuses
- proposal presentation
- final agreement
- risky techniques, and
- challenges in mediation.

The coverage of mediation fundamentals and mediator techniques suggests that mediator behaviors are important components of the mediation process. This message was reinforced in class discussions and the assigned readings, especially the section of the new mediator handbook entitled, "The 7,000 habits of Effective Mediators." The primary purpose of this section was to expose mediators to the wide variety of techniques available. The combined aspects of this training session made it clear that the available techniques are too numerous to be covered in detail in a single training session. Instead, mediators will naturally become more familiar with various techniques as they gain a greater understanding of the mediation process. The choice of which techniques to use is left to the mediator's judgment. This treatment of mediator behaviors and techniques, reinforces the notion that mediation more like an art than a science.

The trainers concluded the first half of day three with a discussion of types of settlement. For instance, in some cases mediators achieve settlement simply by making communication possible. In other cases settlement is achieved by integration. Some settlements require major concessions and some issues simply do not settle. Given the variation in types of settlement, the mediator should always look for the parties' readiness

to settle, the proximity of deadlines, and the parties' best alternative to a negotiated agreement (BATNA).

In the second half of day three, the trainees were given the opportunity to practice what they had been learning using a simulated mediation case. The simulation exercise lasted approximately a day and a half. Each trainee had the opportunity to mediate a part of the simulated dispute. The use of a simulation in the new mediator training program demonstrates the importance of active, experiential learning techniques, even for trainees who bring a great deal of professional experience to the table.

Additional topics covered include the dimensions of bargaining. The presentation on the dimensions of bargaining was basically a systems approach to bargaining and mediation. The basic premise of this presentation was that bargaining occurs in a variety of directions. For example, bargaining may occur across the table, between the labor and management teams. Alternatively, bargaining may occur between members of the same team. Finally, bargaining may occur between people at the bargaining table and outside actors, such as community members or government officials. In handling a case, the mediator needs to keep the systems model in mind.

The main topics covered in day five include discussions of the typical career progression schedule for new mediators, the direction in which the agency is heading, and the mediator code of conduct. In discussing the mediator's future with the FMCS the training team emphasized:

- the role that communication plays in tying the FMCS together
- the trend towards interest-based bargaining
- tips for dealing with the media

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- the FMCS' efforts to diversify its workforce, and
- the FMCS' track record in dealing with Congress.

In discussing the mediator code of conduct the training team emphasized the mediator's responsibilities to:

- the parties
- other mediators
- the public
- themselves, and
- the FMCS.

The dispute resolution training described in chapters 3 and 4 was a basic mediation course developed as one component of a four-week training program for new mediators with the FMCS. During this week-long training session the instructors used a variety of educational techniques including: short lectures, in-class discussions, hands-on exercises, and take home assignments. As noted previously, the purpose of the training sessions is to initiate the new mediators to the agency and provide them with the basic tools they need to perform their jobs. Although the training sessions alone will not make the new mediators successful, they help prepare the mediators for the challenges they will face on the job. In addition, all new mediators begin their work with the FMCS' by shadowing other more seasoned mediators on cases. Only after the shadowing period has been successfully completed do the new mediators begin to handle cases on their own.

Several conclusions may be drawn from the FMCS' training program. First, comprehensive training is needed for mediators, even those with relevant professional experience. Indeed, most of the class members had several years of experience bargaining and negotiating in the labor relations context. Second, both substantive knowledge and

process knowledge are necessary as demonstrated in the sections on labor and employment issues and the core competencies. Third, mediators learn by doing; they learn through experiences. Sometimes, they even learn from the experiences of more seasoned mediators. The FMCS' shadowing requirement allows new mediators to begin practicing the skills they learned in the training sessions in a relatively safe environment. Given the solitary nature of mediation, this initial shadowing period is crucial to the mediators' success.

Beyond Participant Observation

I supplemented the qualitative data I collected through unobtrusive measures and participant observation with data from qualitative interviews. As Fetterman (1989) notes, interviews are valuable tools for ethnographic researchers because they serve two key purposes. First of all, interviews help explain what the researcher observes. Second, interviews help place the researcher's observations into the larger context. The data I gathered through qualitative interviews are summarized in chapter 5.

Chapter 5

Interviews

Conversations With Mediators

The interview data were derived from 15 semi-structured interviews conducted with FMCS mediators. I conducted 5 interviews in person and 10 interviews were conducted over the telephone. The interviews lasted from twenty minutes to an hour, with the average interview lasting about 40 minutes. I started each interview with a list of pre-determined questions that covered my overall subject.

To begin with, mediators were asked to comment in general on what they thought made their efforts to engage workers and management in a problem-solving dialogue successful. After this initial inquiry, mediators were asked more probing questions about specific determinants of success. These follow-up questions were based on a model of the mediation process developed from a literature review (c.f. Wall and Lynn 1993; Kochan and Jick 1978). The determinants of success we discussed include the strategies and techniques mediators use, mediator characteristics, the sources/nature of conflict, situational characteristics, and the parties themselves. In addition, mediators were asked how the outcome of a particular mediation case feeds back into the process to influence

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the parties' future relationship and future problem-solving efforts. Several common

themes emerged from the interviews. The results of these interviews are discussed below[1].

Overall Contributors to Mediation Success

Dominant Themes

As noted above, in my initial question I asked them to comment on what they

thought made mediation successful. This question elicited a broad range of responses.

From these responses several dominant themes emerged. First, success is viewed as a

continuum. Second, the parties must believe in the process. Third, the FMCS' reputation

contributes to success. Fourth, the nature of mediation itself plays a role. These themes are

discussed in more detail in the paragraphs that follow.

The Many Faces of Success. One common theme that emerged here is that

mediators tend to view "success" along a continuum. At the one end of the spectrum

success means the parties gain a better understanding of the bargaining process.

Sometimes the relationship between the parties is so damaged that not much more than

this can be achieved during the course of the mediation. Toward the other end of the

spectrum is a negotiated agreement that satisfies the parties' interests and that both sides

can live with for the duration of the contract. Under the best of circumstances the parties

indicate that they would use the mediation process again.

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[1]Although some researchers recommend identifying interviewees by name and
position to give the research report credibility (Rubin and Rubin 1995), this was not
feasible given the nature of mediation and its emphasis on confidentiality, as discussed
below.

The Need for True Believers. Another common theme that emerged from the interviews is that both parties, i.e., labor and management must be willing to participate in mediation for it to be successful. Mediation is a voluntary process; the mediator cannot impose an agreement on the parties. For example, one mediator commented, "[the parties] must be willing to engage in the initiative ... it runs a high risk of being unsuccessful if the parties aren't willing to be there...". Along these same lines, one mediator commented, "It's the trust the parties have in the process." Similarly, another mediator indicated that mediation is successful because "it allows the two sides to come to their own agreement...the parties have to buy into the solution." Other mediators indicated that mediation is successful because it satisfies the interests of the parties, provides them with a new understanding of their relationship, and gives them confidence that the solution they reach through mediation will work for them in the future. Another mediator described successful mediation as follows:

> I once had a very learned colleague of mine tell me that his best job of mediation was one day he left a bargaining table and he heard someone say who was that guy and what did he contribute to these negotiations? That's as they were shaking hands and patting each other on the back. What he had done, what he had been successful in doing was coming up with a solution and working them into thinking they had thought of it. That's the mark of a good mediator to me, in traditional, in-your-face negotiations. What that demonstrated to me was someone who understood the issues, who understood the interaction between the parties, and was able to work them to a point where they both had a mutual understanding, a mutual interest and then was able to convince them that it was really their idea and not his in the way he worked. That's good mediation. Mediators know when they've made a contribution, they know when their efforts have not been successful.

Another mediator drew distinctions between parties who are familiar with the mediation process and parties who are not. As he phrased it,

For people who don't know what mediation is, and have never experienced or haven't been involved in it, it's going to be up to the mediator to be able to set a tone that allows the parties to feel comfortable, all the time explaining the voluntary nature of it, the confidentiality of it, and the scope of it, and that it's their process, or mediators' process but their method of solving their issues without having to rely on somebody else giving them the decision. And generally, when people don't understand the process, it's because they have either been forced to go there or have heard about it and think that maybe the mediator can help them make a decision because the mediator has some special knowledge and can help them get to a decision or actually even make the decision for them. So I think it has a lot to do with the capabilities of the mediator in a situation where people don't know the process. For people who understand the process, and these are most of the people that I deal with in the labor/management area, they know the process and unless they want it to be successful it won't be.

The FMCS Does its Part, Too. The mediators also suggested that the organization itself, that is the FMCS, contributes to mediation success. The FMCS has been in the business of resolving labor disputes for 50 years, so the agency has credibility and is acceptable to the parties. Of particular importance is the FMCS' emphasis on confidentiality. More precisely, the FMCS protects its mediators from being subpoenaed to testify in court about mediation cases. Likewise, the mediator's status as a neutral public servant also contributes to the success of mediation. As one mediator noted, "What you bring to the table as a mediator that helps make it successful is number one that you're a neutral third party, that you have nothing to gain or lose by seeing them come to agreement or not come to agreement, and they view you as being able to be objective." Along the same lines, the agency's reputation for employing trained professionals helps make mediation successful.

It's the Nature of the Beast. In addition to the role that the FMCS' reputation for being credible, acceptable, and professional plays in determining the success of mediation

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cases, is the nature of mediation itself. More precisely, the mediator, while familiar with labor disputes and the labor-management relationship is not party to that relationship. Rather, s/he is an outsider who is above the fray of "family" squabbles. In highly adversarial relationships, the mediator acts as a buffer in the parties' relationship. As one mediator described it, mediators "become a sounding board for the [parties], they become a venting and raging board for the [parties] in the traditional approach and they allow that to occur only to get the dynamics of the process underway." Another mediator indicated that the mediator acts as a "shock absorber" soaking up some of the abuse that the parties dish out and re-directing it toward a positive conclusion that they both want to reach.

Mediation is also successful because it allows the parties to share information in a safe environment. Often the parties sometimes view revealing flexibility or bottom lines as signs of weakness. Therefore, they will not divulge this information to each other directly. However, since the mediator is a neutral, the parties are often willing to share information with the mediator that they would not be comfortable revealing directly to the other side. In the role of neutral, the mediator is able to listen to both sides and understand why positions are important, and the mediator can also let the other party know about why various positions are important. This information sharing, when done in a safe environment, can help the parties reach an agreement.

In addition, mediation is successful because it empowers both parties to the conflict. That is, with mediation people retain the ability to make their own decisions and to control their own lives. As one mediator described it, "In mediation you're really in control of

your own destiny to a large extent, but the car has two steering wheels so you have to try to get them to go parallel."

Finally, mediation helps the parties view the conflict from a different perspective. One mediator explained the shift in perspective as follows:

> I think the fact that when a mediator's sitting at the table both sides are talking to him, not to each other necessarily, then they hear each other better, because if two people just talk to each other both of them are on the defensive and they're just trying to think of a comeback, but you get a mediator in there then all of a sudden the attention shifts, not straight across the table but to the end of the table where the mediator sits, and say the management side will start to say, the mediator will ask the management side, 'Why is it that you need management's rights in this particular arena?' and the manager will tell him why, and while he's talking back and forth with the mediator, then for a few moments the union becomes like a third party, the union can sit there and listen to this discussion and not feel attacked, and not feel defensive, but he can actually listen to it a little more objectively. So to have this discussion with either side and the mediator allows the other side to listen more closely to the arguments that are being made or the issues that are being shared.

To sum up, mediation provides the parties an opportunity to air their grievances and then begin to work on solving their problems. Mediation creates a safe environment in which information sharing can occur. It empowers the parties to make their own decisions. Moreover, mediation helps the parties view their problems with a fresh perspective and generate creative solutions to their problems.

Secondary Themes

Several secondary themes emerged from the responses to my initial question as well. For example, the interviewees mentioned mediator techniques such as "listening, listening, and listening," reframing, and reality-testing. They also mentioned mediator characteristics such a sense of humor and a sense of timing, and situational characteristics

such as pressure on the parties to settle. These themes which fit neatly with the boxes on my model will be discussed in more detail in the paragraphs that follow..

Strategies and Techniques

Several common themes emerged from the interviews regarding the strategies and techniques mediators employ. First, there was unanimous agreement that there is a lot of variation in the strategies and techniques that mediators use to keep the parties talking and work toward reaching an agreement. Several commented that mediation is an art form. One mediator indicated that successful mediation cannot be boiled down to a specific technique or strategy. For example, some mediators use every technique in the book but are not effective. There are so many techniques that it is hard to isolate a single technique or set of techniques. Another mediator commented that no two mediators enter a meeting the same way.

Strategies

Notwithstanding their acknowledgment that there is a great deal of variation among mediators in terms of the strategies and techniques employed, the interviews with mediators revealed similar patterns of behavior regarding strategies and techniques. Two key strategies that are evident from the interview data include dispute assessment and relationship building. Generally, mediators pursue a dispute assessment strategy first, followed by a relationship-building strategy. Both strategies are discussed in more detail in the paragraphs below.

Dispute Assessment. In terms of strategy, mediators usually begin by trying to assess the current state of relations between the parties. This is accomplished in a variety of

ways. For instance, one mediator indicated that mediators must be able to "read the room". Similarly, another mediator indicated that to be successful a mediator must have "the ability to read the situation that exists." Based on this reading, the mediator must determine whether it is more productive to have the parties together or apart. Again, this mediator stated that there is no common way to handle a meditation. S/he usually starts with the parties together and tries to determine what issues separate the parties. In addition, this mediator watches for differences in how the parties emphasize their priorities when they are together versus when they are apart. These differences provide cues as to how the dispute may be resolved.

Yet another mediator tries to identify "where the parties are truly at when they start their conversation, when they begin their interaction, when I see it." Although some information about the parties is available prior to the first joint meeting through telephone conversations and/or past experience with the parties, the mediator starts to "get clarification" on the true relationship between the parties at the first joint meeting. Then the mediator tries to "weave" what is said by one party together with what is said by the other.

Likewise one mediator commented, "To begin with, I listen to the parties [then] I decide how to deal with them. I spend time with the parties. I observe and listen. I watch parties react to the presentation of others' position, [I] look for facial expressions. This is an assessment tool." Another mediator said his/her strategy was to, "Find out what the issues are."

Often, by the time the mediator enters the dispute the parties are so entrenched in their positions that they do not hear what the other side is saying. The mediator must "first and foremost identify the issues." Along these same lines, another mediator indicated that his/her strategy is to: "Get them to think about what led to impasse. To get both parties talking -- make sure both sides lay out the issues. They have already had their battles. I ask them to bring me up to speed. I want to know their last proposal -- not their arguments." Another mediator described his dispute assessment strategy as follows:

> My style is to try not to play games, and that sometimes has created trouble for me in a couple of situations, particularly in the federal sector, where that's kind of their m.o., they play games, they like doing that, that's the whole part of their existence, because they can't actually strike and they can't negotiate over wages and benefits and economic issues, they can only negotiate over how many desks are on the floor and how many chairs you sit in and that kind of thing, so they play these kind of games and I have a hard time with that, not with the issues but the way that they approach the issues. I think my strategy or approach is to find out who they are, what they want to do, and then move them ahead, and be more directive than listening, but I've kind of come off of that in recent times by asking more questions, trying to let them take the lead and go where they want to go.

Relationship Building. After this initial assessment is performed, the successful mediator moves on to a relationship-building strategy. As one mediator put it, "I work on developing a rapport with the parties. This is most important. My goal is to bond with people. The parties need to develop trust. The parties must feel comfortable with the mediator. It is a people-based approach." Several others echoed the parties' need to develop trust in the mediator and to be assured that whatever they say to the mediator will be held in the strictest of confidence. Indeed, mediation in the labor-management context is unique in that the parties have an ongoing relationship. Once the parties participate in mediation they tend to use the same mediator in the future. That is, the parties request the

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same mediator because they had a very positive relationship with that person. Thus, relationship-building is a key strategy.

Mediators use relationship-building strategies with the parties early in the mediation process. Relationship building starts with the mediator's first contact with the parties prior to the expiration of their contract. It is important for the mediator to get to know both the management and the union chief negotiators before the dispute becomes active.

Additional Strategies. After this initial contact, strategy continues to play a role in the mediation. For instance, if the dispute becomes active at the bargaining table, then a key strategy is helping the parties identify and narrow the major issues that prevent them from reaching an agreement. Often, there are a lot of underlying issues that the parties do not openly identify at the beginning of the dispute-resolution process. For instance one mediator begins by asking the parties for their "standpoint". If the parties are "totally locked down", the mediator visits with the parties separately. Frequently, the parties will openly admit in caucus that there are several issues on the table but will reduce the number if they can settle a particular issue.

A closely related strategy is to "identify and read the really important issues and the people on the committee." Often, one or two people dominate the committees and "create" issues. The mediator needs to determine whether there is a formed position taken by an entire committee or a self-interest of one or two members. Making this determination gives the mediator "a better feel of how to resolve [the issue]."

Another key strategy is to create a sense of urgency. By creating a sense of urgency, the mediator helps focus the dispute and gets the parties "in a mood to resolve and get the

contract put together." In many cases if there is no real sense of urgency the parties will just schedule another meeting. As one mediator described it, "if some of them are getting off work and the company's not confronted with a strike possibility it can go on considerably for ever."

Techniques

Similarly, there is a lot of variation in the techniques that mediators use to keep the parties talking and to move from position based bargaining to "what if" supposals. To begin with, the mediator needs to put the parties at ease. As one mediator explained, "If the parties are comfortable with the process they'll be much more attuned to opening up and revealing information so that the neutral can deal with that information."

Another technique is, "Listening, listening, and listening." As one mediator described it, "It's listening to the parties not just with your ears but also with your eyes, it's observing the parties as they express themselves, the type of intensity they express with each position, argument, or issue they discuss." Others echoed the theme that they begin a mediation case by trying to do a lot more listening than participation.

Questioning is a technique that goes hand-in-hand with listening. Mediators often use questions to make implications and to hold the parties accountable. For example, one mediator described a scenario in which one of the parties complained that the other side never allows them to have input into policy- or into rule-making. This mediator used a question to hold them accountable for what they just said, such as "Are you telling me that if you had input to which insurance company to select or which plan to select, that this would no longer be an issue?"

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Mediators also use questions to demonstrate a real understanding of the situation and a sympathy for the parties. In fact one mediator commented, "I think that the parties evaluate a mediator not so much by all the advice he gives but by the questions he asks." Another related the value of asking questions with the following scenario:

> I was mediating with a large, national trucking company and it was my very first mediation, my very first negotiations actually, I was a Teamster business agent, and I didn't know from Adam how to negotiate a contract, and I just went in and I started asking questions, this is not as a mediator but as an advocate, and I said well, 'Tell me something about your business, how does your business run? What are the pressures you feel? And what are the complaints that you're hearing from my membership?' And I asked them all kinds of questions, and we spoke for about four hours, and that was our first mediation session, and eventually after a couple more meetings we had an agreement and the guy later on told me he thought I was the most skillful negotiator he ever met.

Reframing is another important technique. Reframing is closely related to listening and questioning. Several mediators commented that the parties typically will give answers to each other for their problems or issues. Mediators take this information and reframe it. One mediator described his reframing technique this way, "(I) reword it into the form of a question for the other party to answer, and that way you've got each party trying to address the issue of the other party, or address the position of the other party." This reframing allows the mediator to ask the question about how to resolve an issue rather than give an answer on how to resolve the issue.

Other mediators indicated that they use reframing to conduct reality testing. For example in caucus, a mediator may ask "Well is really what you want? Is this what you're looking for?" After clarifying why the parties are looking for certain things, the mediator may then move to giving a "supposal" such as saying, "Well have you considered this

option, or have you considered the impact of this if you get what you ask for?" Additionally , as part of the reframing and reality testing the mediator may ask the parties to consider the BATNA/WATNA, (i.e., what is the best alternative and the worst alternative, to a negotiated agreement). Then the mediator probes. For example, are the parties really willing to accept the worst alternative? The reframing and reality testing technique proceeds as a type of brainstorming exercise to explore the possible options that the parties might want.

As mentioned earlier, another useful mediation technique is allowing the parties to vent. Where appropriate, mediators may also demonstrate empathy for the parties. For example one mediator commented,

> When I see that a party needs to see that somebody else understands their plight, feels their pain, or feels their anger, then oftentimes I will take on whatever I believe that party needs to see in the way of an emotion, and I will demonstrate it for that party so that they can feel that somebody else felt it.

Once the parties have had ample opportunity to vent, they feel heard; they feel that their emotions have been understood and shared. At this point the parties often feel vindicated and are willing to then to reach settlements and go a lot further than they would before they had the opportunity to express their sentiments and saw that someone else picked up on those same sentiments, feelings, and thoughts.

Some of the organizational techniques used at the bargaining table include chairing the meetings and convening joint sessions. Another tool mediators use very commonly is the separate caucus. To illustrate, one mediator commented, "I send the parties to separate rooms, I have them expand on what they said in joint session." Again, with separate

caucuses mediator confidentiality is of utmost importance. The parties must have confidence that the mediator understands the issues and that the mediator will use confidentiality in terms of what s/he talks about with the parties in separate caucuses. The mediator's commitment to confidentiality, as well as the role that the mediator plays in both joint sessions and separate caucuses, should be established early in the mediation process.

Another tool is the sidebar, or "off the record meetings." Sidebars are generally held with the chief spokespersons of labor and management. The sidebar is one of the most productive techniques in terms of having an opportunity to seek out "what ifs" and different types of issues that the parties may not necessarily want to talk about in joint sessions or in separate sessions. The parties are often reluctant to discuss possible solutions in joint sessions and separate caucuses because the possibilities discussed have the tendency of taking on the official status of a proposal. The sidebar permits the mediator greater freedom to explore different possibilities and thereby seek a tentative solution to the conflict.

Choosing Among Strategies and Techniques

There was unanimous agreement among my interviewees that there is not one foolproof way to mediate a dispute. Instead, the parties' dynamics and the issues themselves dictate what strategies and techniques to use. The mediator needs to continually read the process to determine which strategies and techniques to use.

For example, the parties themselves give the mediator cues about when might be a good time to get a couple of the leaders from each committee together, either isolate them

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and talk to them one-on-one or maybe isolate them from the rest of the group and talk to them together. To illustrate, when the parties' dynamics are such that they are hostile to each other, incapable of brainstorming with each other, position themselves on every issue and every word to the point that they become defensive or reactive rather than proactive, then it is generally a good idea to separate them and use a caucus or a sidebar.

Once the parties are separated, the mediator can start getting in to some "what-ifs" or give them some ideas as to maybe what might resolve the dispute. The mediator should always guide the parties in such a way that they feel like it is their idea or their process. In particular, the mediator never wants to be identified with a specific solution because as one mediator phrased it, "down the road if that solution doesn't work out the [parties are] always going to refer to [it as] a mediator problem, and you always need to be careful of that."

Mediator Characteristics

As with other determinants of mediation outcomes, the interview data indicates that a multitude of characteristics contribute to mediation success. Indeed, one mediator commented, "I think one you've got to have intelligence, and I think you have to have extraordinary people skills, and you have to listen, and probably 8000 other things that are almost too numerous to mention." Other mediators identified these three characteristics and elaborated on the laundry list of characteristics that contribute to mediation success. Again, common patterns emerged in the mediators' responses to the question about mediator characteristics.

People Skills

One characteristic that was mentioned over and over again by the mediators was human relations skills. As one mediator described it, successful mediators are "people-oriented and good observers of human behavior." This mediator went on to say that successful mediators "have a good sixth sense of things", are "intuitive", and "go with their gut." Empathy is also important. That is, the mediator needs to recognize s/he is there to help the parties.

Several mediators emphasized personality and style. One mediator stressed that personality is important because "it can have a calming effect on a volatile situation." This mediator noted that some mediator personalities can increase the volatility of a situation. S/he concluded "It is a very people-based process."

Also important in terms of people skills are the ability to get people's confidences and the ability to establish credibility with the parties. Along these same lines, the mediator must be trustworthy. As one mediator put it, "The mediator has to be accepted by both sides, and that means being trusted by both sides."

On a lighter note, mediators need to have a good sense of humor. To use humor effectively the mediator does not necessarily have to be a comedian. However, someone who understands the humor in all human activity and can even cite him- or herself as the butt of a particular funny occurrence will be effective. The effective use of humor serves to break the tension and to ease the parties into a better, more straightforward dialogue.

Listening/Communication Skills

Listening and communication skills were also stressed as characteristics that contribute to successful mediation. For example, one mediator said, "What makes for successful mediation is a mediator who has tremendous active listening skills and tremendous communication skills." Listening skills are especially important to developing an understanding of the issues in the dispute. Communication skills are important because part of what the mediator does is facilitate and teach. In a sense, the mediation process can be an educational process for the parties. That is, through mediation the parties learn techniques that they can use to solve problems back at the work site and in the continuing relationship between labor and management.

To illustrate, one mediator commented,

If you have a mediator who really knows how to listen well, he'll help people communicate by drawing out their interests. If you add the factor in that you have a mediator who knows how to ask the right questions to draw out what it truly is that both sides feel is critical to their reaching an agreement, that's helpful.

Another commented, "Good active listening skills, all the basic active listening skills of rephrasing, paraphrasing, mirroring the content of people's conversations with them, these are all critical, I think probably the most important aspects of mediation skills."

Comfortable with Conflict

To be successful, mediators must be comfortable with conflict. After all, it is their business. Moreover, the parties often are not comfortable with conflict. Sometimes, the parties "are afraid to raise conflict, they dance around agreement, around the issues." When this occurs, the mediator needs to "start an ugly discussion to get the real issues to

the forefront." In other cases, "the parties only yell and scream and they miss real issues."

Under these circumstances, the mediator needs to be comfortable with conflict and be able

to avoid getting caught up in the conflict. After allowing the parties some opportunity to

vent their frustrations, the mediator needs to try to calm them down so they can start

discussing the issues on the table.

Professionalism

Professionalism was also mentioned as a characteristic that contributes to mediation

success. For instance, one mediator discussed the need for professionalism this way,

> I think a mediator should be representing the [FMCS] in terms of their first
> telephone contact. [The mediator should be] very professional in establishing who
> you are, what your service is, and not assuming that the parties are familiar with
> exactly your job and what you do and the contributions that you would make.

The need for professionalism carries over into direct meetings with the parties.

Professionalism is conveyed through such things as the mediator's appearance, stature,

and handshake. First impressions are important. As one mediator described it, "I'm

always, as a commissioner, wanting to establish that I'm here to carry out the mission of

the [FMCS] and I want to be of service and establish that they are our customers, and

we're here to serve and to work with them." Others echoed the theme that mediation is

successful because of the professional reputation of the FMCS.

Another component of professionalism is ethical behavior. In terms of ethical

behavior, several mediators mentioned the role that confidentiality plays in successful

mediations. Any breach of confidentiality would "spread like wildfire" destroying the

mediator's credibility and the mediator's as well as the agency's professional reputation.

Operational neutrality is also part and parcel of professionalism. More precisely, mediators need to treat both parties in the same way. That is, the mediator should make every effort to spend equal amounts of time with the parties and engage in similar activities with both parties. Something as simple as eating lunch with one party but not the other can destroy operational neutrality. In fact one mediator commented, "There are so many subtleties to mediation that you must do everything you can do to maintain operational neutrality."

Mediators must come off as credible, sincere, interested, and the interest needs to be one of knowing when to be sympathetic and when to be empathetic with the parties, and utilizing empathy and sympathy as most appropriate to settling the agreement. "I think that when I indicate they need to appear credible, that means the way they dress, the way they sit, their demeanor, their verbiage, their grooming, everything."

Intelligence

Intelligence is another mediator characteristic that contributes to success. The role that intelligence plays in the success of mediations was described in a variety of ways. For instance, it was said that mediators need to be "quick studies" and "smart but not necessarily book-learning smart." The mediators need to be able understand and grasp issues quickly. Moreover, the successful mediator is one that recognizes that there are two dynamics occurring during the mediation, the process and the content. Finally, a mediator needs to have the intellect to determine what is realistic and attainable in terms of resolving the dispute.

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Flexibility

Mediator flexibility also contributes to the success of the mediation process. One interviewee said that mediators cannot be "control freaks." They need to be comfortable with not being in total control.

In addition, mediators need to react to change quickly and to "think on their feet." Mediators have to be willing to change strategy as the situation demands and be flexible with their techniques. That is, mediators need to be able to think of various modes of again extracting information as well as reframing issues so that the parties are not deadlocked into one kind of thinking. If one technique does not work, the mediator needs to be very adroit and shift techniques. The mediator must have a good command of what can extricate information from the minds of the parties. One mediator commented, "I find that most times the solution lies within the parties themselves, not necessarily the mediator, but it's just digging for and getting them to release that in a creative mode that really spells for success."

A closely related characteristic is the mediator's sense of timing. As one mediator described it:

> It's a unique ability of the mediator to have timing so they know when to drop process and then be able to jump from the process to content interventions and eventually [to] suggesting alternatives. That's something that's hard to teach, that's something that's gained by years of experience and getting bit a time or two for doing it wrong. Those are some of the successful marks of mediation.

Similarly, a mediator needs to know when to keep his or her mouth shut. If the dialogue is flowing, the mediator should let it keep going without interrupting. There is a tendency on the part of many neutrals to feel as if they have not contributed to the process

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if the dialogue is flowing and the mediator is not talking. Yet, dialogue between the parties makes for a successful mediation. If the mediator unblocks an issue or a mode of thinking, that is sufficient. The parties can carry on themselves. The mediator is just there to facilitate the free flow of information and ideas, s/he does not necessarily have to talk.

Likewise, if the parties reach an impasse and run out of things to say, the mediator may not necessarily jump in right away to save the parties. The parties may need to feel a uncomfortable for a while before the mediator offers a suggestion to get out of the mess. Again the mediators agreed that it knowing when to talk or remain quiet or when to shift strategies or techniques is part of reading the conflict and the parties.

Training and Education

There is an ongoing debate in the literature regarding the education, training, and experience that is necessary to be a successful mediator. The crux of this debate revolves around the need for content knowledge (i.e., labor relations experience) versus process knowledge. When questioned about this particular mediator characteristic the interviewees voiced differing opinions. Most agreed that some combination of training, education, and content expertise in labor relations was desirable. Similarly, most agreed that completing a single mediator training class does not make one an effective mediator.

At the same time, several mediators felt very strongly that labor relations experience is critical to successful mediation. Although a mediator needs both content knowledge and process knowledge, mediation is a "hands-on" process which demands content knowledge. These mediators agreed that process skills can be taught, but experience in labor relations/collective bargaining cannot be gleaned from a textbook. The labor

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relations experience provides the mediator with an understanding of contract bargaining, the types of issues that typically arise in contract bargaining, and a sensitivity to the parties. The parties know clearly whether or not the mediator understands what those issues are, what they mean, what they have meant in the past, and where the flexibility may come in terms of offering alternative solutions. This labor relations knowledge that comes from experience is important because as one interviewee put it, the mediator has to "penetrate the parties in order to persuade them to look at another alternative."

One mediator summed up the need for labor relations experience as follows,

I personally can't imagine not having [labor relations experience]. When the parties know that you have sat in their position, I believe it instills confidence in them that you know what the consequences are, and I think that's important. It builds that trust factor and it also builds a camaraderie with the mediator that you wouldn't have if you'd never been there, and even though they don't very often ask you that, sometimes they do, but I think simply by the questions you ask or the way you phrase things they know that you've been at the table before.

These interviewees recognize that the FMCS' business has grown substantially in the areas of offering parties problem-solving techniques and skills throughout the life of their collective bargaining agreement. Process skills are particularly important in terms of having the confidence and the ability to communicate clearly, to facilitate meetings, to explain "how to", and to teach the parties techniques they can use at their work sites. Overall, these mediators felt that process skills were secondarily important and that most mediators could learn the process skills. Indeed, the FMCS has its own set of facilitation/teaching skills supplements such as overheads and higher-technological supportive aids to help mediators. However, in contract negotiations the mediators are on

their own. Detailed knowledge of the labor relations process is gained only through experience.

In contrast several mediators indicated that process knowledge is crucial and perhaps the more important of the two. In fact, one mediator commented that, "Labor relations is not rocket science." These mediators felt that most people can learn the aspects of labor law that are relevant. For example, most attorneys can deal with aspects of labor law that are relevant even if they have not had labor relations experience. To illustrate, one mediator commented,

> I think that it's critical that you have the understanding and ability through application, but I don't think that being a practitioner in labor relations is the only way to be a mediator, to be successful as a mediator with labor relations. I think there are plenty of people that can begin to understand the dynamics simply by experiencing the interplay of dynamics between the parties.

Another phrased it this way,

> I think it's good to have a working knowledge of terminology. I think it's good to have a working knowledge of some history of the labor movement, of the labor/management movement, but I don't necessarily think that it's an absolute. I think it's very helpful but I don't necessarily think it's a must. And that's coming from an old-line labor mediator.

At the same time, this group noted that sometimes the parties take offense at mediators without "battle scars." Indeed, often the chief negotiators are very strong people who have probably made their whole life and career in negotiations. When the parties call in a mediator, they want to have a person who has the knowledge base and skills necessary to work out a problem that the parties could not resolve themselves. This resistance from the parties to the dispute can present challenges to the mediator who lacks

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labor relations experience. Thus, labor relations experience familiarizes the mediators with the culture of the collective bargaining environment. One mediator described it as follows,

> I think it's helpful to have a labor-management background. It saves time and just as it's helpful for people to have a sense of one another's cultural backgrounds, when you have a labor/management background what you basically don't have to learn is that you understand the culture of unions, you understand the culture of management politics, you understand the culture of collective bargaining. So that helps you, that kind of jump-starts you a little bit and it's nothing that you can't learn because all of us have learned it at some point in some way, but I think it's a distinct advantage to have that coming into a labor dispute, no question about that.

Sources/Nature of Conflict

The literature on mediation suggests that the sources/nature of conflict can also influence the success of mediation efforts. Some of the possible sources of conflict include: economic characteristics (e.g., employer's inability to pay, wage erosion), structural characteristics of the relationship (e.g., pattern-breaking relationship), organizational characteristics of the parties (e.g., negotiators' lack of authority to bargain, internal conflicts within one or both of the parties), interpersonal characteristics (e.g.,hostility between the parties), personal characteristics (e.g., negotiators' lack of skill or experience), the nature of the issues (e.g., "matters of principle" at stake), and the bargaining behavior of the parties (e.g., unrealistic expectations, over-commitment to a position, unwillingness to settle) (Kochan and Jick 1978). In this part of the interviews, the mediators were asked to comment on how the sources/nature of conflict contribute to the success of mediation. The mediators' responses were very informative. First, they suggested a common source of all conflict. Second, their responses covered all of the sources of impasse listed in the typology above. In discussing the role that the

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sources/nature of conflict play in determining the outcome of mediation, the mediators tended to focus on sources of conflict that make it more difficult to achieve success.

Contradicted Expectations: The Root of all Conflict

The mediators suggested a common source of all conflict. That is, every time conflict occurs, someone's expectation has been contradicted. In other words, when the parties go to the bargaining table, they have an expectation of the other side's willingness or unwillingness to help them achieve what they want. For example, the union goes to the table either with an expectation that management is going to fight them all the way, or with an expectation that management is going to cooperate. Whatever the expectation is, it is seldom met. As soon as that expectation has been contradicted, conflict occurs.

Economic Characteristics

Several mediators mentioned economic characteristics. For instance, one mediator commented that the globalization of the economy and multilateral trading agreements such as NAFTA and GATT are external factors that are beyond the control of the persons sitting at the bargaining table. This mediator implied that economic issues, especially those driven by external forces, can be more difficult to resolve than other sources of impasse.

Similarly, other mediators characterized economic issues as "really tough nuts to crack." This is true in part because money always seems to be a finite resource. Another source of difficulty is the perception of money. As one mediator indicated, money is tied to the workers' perceptions of self-worth and the workers' perceptions of how well the company is doing. For example, "sometimes if the company's losing money and the [workers] get a 1% raise, that might be considered as a big victory, whereas if the

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[workers] think the company's making good money and they're getting like a 5% raise that may not be seen as enough."

Another mediator indicated that economic issues are very important for people working for subsistence-level wages. This is particularly true in service industries and in the food-packing industry where a lot of the under represented, non-English speaking workers are being abused. In these cases the source of conflict revolves around eking out a basic living.

In contrast, when the workers are paid well, for example 12, 15, 20, 25 dollars an hour economic issues are not as critical. This is especially true for skilled workers such as truck drivers, craftsmen, and machinists. In these cases workers have good benefits and they have vacations. As one mediator described it,

> They've already reached the Maslow, they've fulfilled their lower echelon needs, they've got their car and their boat, they've got their second home, they take their vacations, and those kinds of things, they go to the river and ride their watercraft and all that kind of stuff. So their basic economic needs is now they need to be self-actualized, they need to be recognized for who they are as individuals, they need to have some input.

Even though the collective bargaining process focuses on language and economic issues, where workers are above subsistence level economic issues are just "surface issues." What really matters is having some input into their individual destiny and having some say in what happens within their workplace.

In contrast, other mediators commented that money is one of the easiest things to deal with as a source of conflict. One mediator noted that money is always going to be an issue, and the mediator and the parties "can get past that." Similarly, another commented

that unless the company is losing money and in danger of going out of business, normally economics are easier than some of the philosophical issues that you deal with, such as outside contracting or subcontracting of work. This is true because normally with economics you can deal with facts surrounding situation. For example, comparisons can be made to the industry standard for wages and benefits and to the employer's primary competitors. The mediator and the parties can compare the economic offers that are on the table and specifically ask why the other side has taken a particular position.

Structural Characteristics

As one mediator commented, "Almost every content dispute or conflict has something to do with relationships." In terms of structural characteristics of the relationship, the mediators mentioned such things as shifting demographics of the workforce, introduction of new technology, and internal domestic competition between corporations.

If there is a pattern in the industry, that influences whether or not the parties are going to settle and what they are going to settle for. If the parties are not going to settle for the pattern the mediator has to identify reasons for not settling just the way the pattern is. For example, if the economic health of the company is a the reason given for breaking the pattern settlement, then the mediator has to get enough information on the table that the union can either believe that there is an economic problem there or the union can prove that even with all the evidence provided there is not an economic reason that the company and union cannot settle for more.

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These structural characteristics make disputes more difficult to resolve. In addition, contract deadlines play a role in determining the outcome of mediation. More precisely, when the parties perceive the contract deadline to be in the distant future there is no incentive to settle.

Organizational Characteristics

In terms of organizational characteristics of the parties, the mediators mentioned problems with leadership as hindering the success of mediation. Problems with leadership were described as having "wannabe leaders" on either side, having spokespersons who are not leaders, and having leadership that is "in a vacuum." Additional organizational characteristics that hinder the success of mediation include unequal power distribution between the parties, negotiators who lack the broad support necessary to resolve the issues, and "runaway committees".

Interpersonal and Personal Characteristics

Interpersonal and personal characteristics were often mentioned by the mediators as influencing the outcome of mediation. In terms of interpersonal characteristics, one mediator said, the "deepest conflict [occurs] when there is a personality conflict between the two chief bargainers." Similarly, another mediator commented, "the most difficult sources of conflict are if one side truly will not listen to the other, or worse is absolutely callous to it." Yet another mediator summed it up this way,

> Personalities certainly get into it, just basic values and beliefs. If the management doesn't care much for unions, they're not going to think of them as value added and they're going to impart that attitude throughout their organization and there's going to be more strife than there would be if management felt that the employees needed to be represented and wanted to work with them in a cooperative way. So I think

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it's beliefs and values as well that create the tone of the relationship, and if that is negative then there's going to be more conflict, if it's positive they're going to find ways to solve problems at the lowest possible level and even develop formalized ways like labor/management committees and other ways.

In terms of personal characteristics, one interviewee commented that "sometimes the parties do not know a good deal when they see it." This failure to recognize a "good deal" can be due to a lack of skill and experience on the part of the chief negotiator(s) and/or the bargaining team(s). Likewise, an ineffective mediator can influence the outcome of mediation. Again, the characteristics mentioned by the mediators tended to be those characteristics that hinder successful mediation.

Nature of the Issues in Dispute

The mediators interviewed also cited the nature of the issues in dispute as a factor influencing the success of mediation. For example, one mediator commented that issues brought up at the bargaining table are often related to something that happened back on the shop floor. The incident(s) in question may have involved other actors about which the mediator knows nothing; the mediator simply knows that the parties are "stirred up." Often in such cases there are matters of principle at stake such as race, religion, and relative class status in the workplace.

Non-economic issues such as philosophical differences on management's rights can be very difficult to mediate. Even when the parties can verbally agree problems arise when they are asked to reduce the agreement to writing. Disagreements over rights can, as one mediator described it, "go on forever."

A key factor here is the perception of fairness. That perception is emotionally laden. For example, often in negotiation there is a perception in the work force, that the company does not care about its employees. Under such circumstances the parties are very hostile to each other. Nothing the company offers is perceived as fair. As one mediator described it, "You can't give them enough, they just want to strike, they just want to fight, or it's kind of heady sense to be at the table and for one time in every three years to feel like you've got a little bit of control and a bit of little power over the boss, and so that's hard to give up."

Issues such as those described above, can make it more difficult to reach agreement. Indeed the mediators indicated that negotiations are not all about common sense. Negotiations are not all about just being logical. Instead, negotiations often have to do with emotions and people's perception of the world and what they think is fair or unfair.

Bargaining Behavior

Finally, the bargaining behavior of the parties influences the success of mediation. For instance, sometimes management brings in someone who will only give very narrow answers to questions. Other times, the parties play it like a poker game. That is, they withhold information and try to inflict losses on the other side. Sometimes there is a high level of anger and the parties deliberately seek a strike. This is more often observed on the union side than the management side. On the other hand, as one mediator described it, sometimes the employer "takes a ridiculous position and needs to lose money."

In general, the mediators agreed that the sources/nature of conflict influence the way the mediator approaches the case. For instance, the mediator approaches the case

differently when there are a number of issues on the table than s/he does when there is only one issue on the table. If there are a large number of issues the mediator may just help the parties organize the dispute, help identify common themes in the issues, and organize the negotiation. If there is only one issue on the table, there is a different dynamic. Then, "the mediator will go to his 'bag of tricks' or techniques."

However, the stated issues are not always the cause of the dispute. Often other factors such as personalities, timing, and political concerns are at the heart of the dispute. Mediators refer to these unstated issues as "hidden agendas". Furthermore, the mediators indicated that not everything is appropriate for mediation. For example, a clear interpretation of contract language is not appropriate for mediation.

To be successful, the mediator needs to recognize what the true source of conflict is. S/he has to try to uncover the hidden agendas. To do this the mediator may have to separate the parties or bring new players to the bargaining table. For example the mediator may suggest that the union's business manager may have some ideas that are worth listening to, and encourage the union to bring the business manager to the table. Similarly, the mediator may suggest to the management that they CEO may have some ideas that could help resolve the problem and encourage the management team to invite the CEO to the table.

Finally, the mediator needs to recognize that there are times when the negotiations are going to break down, and it does not matter what the mediator does or says. For example, there are times that unions are going to go on strike, no matter what the mediator does. Often this happens because a problem that has festered over the course of

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the contract. Under these circumstances, the prior relationship is the source of conflict and the parties must be willing to work on that relationship before the mediator can help.

Situational Characteristics

Situational characteristics also influence the outcome of mediation. The key situational characteristics mentioned by the mediators include: a desire to settle, "the players at the table", the level of risk involved, and perceptions of "the big picture." These situational factors are discussed in more detail in the paragraphs that follow.

The Desire to Settle

To begin with, mediation will not be successful if the parties refuse to come away from their positions and talk about their interest in agreement. In some cases the employer does not want to settle, rather the employer wants the union to be decertified. As one mediator described it, "[In situations] where one party truly will have nothing to lose regardless, and the other party will have everything to lose regardless, and that makes the dynamics or the situation of the dynamics difficult to mediate." For example, in some cases management really does not want to deal with the union. Management does not care what the union does. If the union goes on strike, management "will wait out their time, bust the union and have a non-union company." If the union does not go on strike it will only be because they conceded to the demands of management. If the union concedes it becomes so weak that it does not really mean anything to management anyway. Management can carry on as though the union did not exist. There is very little a mediator can do under these circumstances because management has already decided that they do

not care about the relationship. Instead what management cares about is the outcome of either a weak or no union.

The Case of the Public Sector. In other cases one or both parties simply want to stretch out the bargaining process. This is especially true in the public sector. That is, sometimes in the public sector one party stretches out the process because it costs the other side money or because the party is afraid of "take-backs." In the public sector there are so many steps in the dispute resolution process that the negotiations can go on for a long period of time without either party making any concessions or positive contributions to settling the negotiations. This occurs because both sides can be very comfortable with the status quo. Moreover, in the public and federal sectors, sometimes the victory is only in the fight not in the settlement. So, there is no desire to truly work on resolving the problem. Instead, it is easier for the parties to say,

> We fought all the way, we gave up nothing, it was that lousy arbitration ruling that took it away from us, but we fought, so we're your good leaders, and management is the bad management or the union is the bad union, but we did what we were supposed to do in representing you, and it was that lousy arbitration ruling that did it to us.

The Players at the Table

Two closely related situational characteristic mentioned by the mediators were "the players at the table and their agendas" and the power balance between the parties. For example, sometimes the union has such erratic leadership that they cannot deal with realistic proposals. In other cases a bargaining team may so unskilled that they do not recognize even the protocol of negotiations and refuse to be taught anything by anyone. Under these circumstances it really does not really make much difference what the other

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party is willing to do. The party with erratic leadership, or an unskilled bargaining team that refuses to learn, has no ability to do anything except create its own failure, and harm the other party in the process. In those circumstances a mediator cannot do on-the-job training in short order to reconstruct the dynamics and the skills of the ill-prepared party.

Similarly, the power balance between the parties influences the outcome of mediation. If there is an extreme power imbalance between the parties, the case can be difficult to mediate. If the power imbalance is coupled with a lack of desire to settle on the part of the more powerful party, as described above, then the mediator has a truly formidable task.

The Element of Risk

The element of risk, the timing of negotiations, and the threat of a strike were also mentioned as situational characteristics influencing the outcome of negotiations. As one mediator described it "Wherever the parties have greater risk then they have greater reason to settle and normally greater stake in the outcome of the settlement." For example, in the private sector management may lock out its employees, the union may go on strike, and management may hire replacement workers. Generally, both management and the union understand that there are risks involved in these various actions. When there is a great deal to lose, settling provides the parties much more to gain. In contrast, where the parties have lesser risk, for example "no willingness or ability to strike, no willingness or ability to be locked out or to conduct a lockout," then they have a lesser stake in the outcome and less willingness to reach a settlement..

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The timing of negotiations is closely related to the element of risk. In the private sector the threat of a deadline works to motivate the parties to reach agreement. This is true because "psychologically everyone understands that at midnight at a certain day the contract expires."

The Case of the Public Sector. In contrast, in the federal and public sectors deadlines do not play such a critical role. Again, this is because in many states public sector employees are not allowed to strike and public managers are not allowed to take any type of job action. As a result, mediators have become very creative in public sector negotiations.

To illustrate, several mediators indicated that they set up artificial deadlines for the parties. For example, in the federal sector the parties often begin negotiations with a large number of unresolved issues (i.e., 50 or more). One mediator indicated that when the parties ask for help with so many outstanding issues, he tells the parties that he will assist in their negotiations only if the get the number of outstanding issues down to a reasonable number. Once the parties have reduced their outstanding issues to a reasonable number, he responds, "All right, I'll assist you, but come June 30th that's when I have to cease my mediation assistance with you because I have so many other cases to handle where it's absolute deadlines and there's a threat of a strike." Even these artificial deadlines appear to motivate the parties to settle. That is, when the parties know that the assistance of a neutral will evaporate, they generally try to work toward that date.

Threat of a Strike

Most of the mediators mentioned the threat of a strike as a situational factor influencing the outcome of mediation. In the current labor relations environment the threat of a strike is probably more effective than the strike itself. After the strike has taken place, the complexity of the issues change. This is especially true in light of recent changes in labor law which permit employers to permanently replace striking workers. As one mediator commented, "people are thinking a little more carefully about [the consequences] before they go out on a work stoppage."

The Big Picture

In turn, the FMCS mediators have encouraged companies to be very responsible in terms of looking at the total picture. That is, the agency is encouraging the parties to expand their focus to include not only what happens at the collective bargaining table, but also what impact these negotiations will have on productivity and morale in the long run. As a result of these efforts labor and management are looking at a different role for unions that includes being responsible 365 days of the year for having input into the workplace and contributing to the success of the company. The parties are also working to establish a more collaborative process without becoming displaced as management or as union members by doing so.

In summary, mediators perceived a variety of situational factors as influencing the outcome of mediation. Overall, the parties' willingness to work together in a collaborative process over the entire range of their relationship (e.g., grievance handling, contract negotiation, conflict resolution processes) emerged as the most critical situational

determinant of mediation outcome. Again, the mediators stressed that each situation is unique and the mediator needs to be aware of and account for the situational characteristics. As one mediator put it, " you can't run a school district [in] the same [way] as a factory."

The Parties

According to the mediators interviewed, the parties themselves have a major impact on success. The parties have to believe in the process. If they don't believe in the process, it is not going to work. For example, the parties' background with mediation is very important. The parties' previous experience with mediation, their expectations of mediation, and their motivation for having the case mediated all play a role in determining the outcome of mediation.

Experience

Having seasoned, experienced negotiators on both sides is extremely helpful. In such cases the parties not only know how to negotiate with each other; they also know how to effectively use a neutral once they call for help. Experienced bargainers can skillfully use a neutral to move the negotiations along.

In contrast, if the parties to a dispute have not used mediation in the past the situation can be challenging for the mediator. As one mediator described it, "In a lot of instances mediators will call the parties that have never worked with us before and the response is you're from the federal government I don't really need your help." This occurs in part because the parties are not quite sure what the mediation process is about.

In addition, when the parties are inexperienced, they tend to be distrustful. They do

not trust each other or the neutral. As a result, they tend to be critical of the mediator's techniques. Under these circumstances, the mediator has to:

> Go through some very persistent education as to what [mediation] is and what it isn't, and so when you have these inexperienced parties you have to slog through an awful lot of trust-building before you get them to reveal information that will help both sides resolve the dispute.

In brief, lack of mediation experience or lack of experience with the FMCS can be an obstacle to successful mediation.

Nevertheless, even when the parties lack these experiences the mediation can be successful if the parties are willing to meet with the mediator and give the mediator an opportunity to explain what mediation is and what the mediator's role is. Mediators with the FMCS are trained to explain the process and its advantages to the parties. The parties' knowledge of mediation and of the FMCS' role in mediation is critical to the success of mediation. It is important for the parties to be aware that the FMCS exists and to be aware of the contributions the agency can make to their negotiations and their day-to-day working relationships. For example, it is important for the parties to understand that the FMCS mediators provide mediation services rather than arbitration services. In addition, it is important for the parties to understand that the dispute mediation services the agency provides are "pre-paid." This means that the services have already been paid for through tax dollars , so there is no additional cost to the users of the agency's dispute mediation services. Once the mediator is able to get his/her "foot in the door" and explain the mediation process and its advantages to the parties the mediator can begin the relationship-building process.

Motivation

As mentioned above, the parties' motivation for having the case mediated plays a role in determining the outcome of mediation. Indeed, one mediator commented that some parties use mediation to drive their own agenda. Another commented that,

> Mediation works best where the parties request mediation in order to get a settlement. It works least where parties use mediation as one of the required steps on the way to arbitration, because if the parties expect nothing from mediation that's likely what they will get, because that's all they're open to.

Similarly, the parties need to have a sense that they own the outcome as well as accept the process. Indeed, "The moment they believe the outcome is no longer theirs the mediator begins to lose them as participants."

The successful mediator needs to deal with these motivations. Sometimes the parties tell the mediator directly what their motivations are. Other times the mediator just "senses it" from the parties' behavior. For example, if the parties are working on proposals, listening to each other, and trying to accommodate each others' needs then these are signals that they are motivated to find a collaborative solution to the dispute.

Bargaining Team

Other characteristics of the parties that influence the outcome of mediations include: the bargaining teams' interpersonal skills, cultural differences between the parties, the mix of people at the bargaining table, and clashing personalities. For example, if the chief negotiators are experienced and have a good relationship within their committees that is very helpful. However, even experienced negotiators sometimes have "runaway

committees." These runaway committees create boundary-role conflict for the chief negotiators. As one mediator described the situation,

> Within their own boundaries or their own groups they have chaos or conflict, and in effect many times the negotiations between their counterparts is a lot easier than it is with their own people. Parties who recognize that, or negotiators who recognize that they have a maverick committee can use an experienced mediator to assist them in working on their contract committees, to organize them and get them to respond more effectively.

Perhaps the most important characteristic of the bargaining teams is that they genuinely want to get a deal. That is, they want the mediation to be successful. If both parties want mediation to succeed they will achieve a better outcome than could be achieved if either or both parties want the mediation to fail. As one mediator described it, when both parties want mediation to succeed the outcome is "a better contract as opposed to a settlement."

Trust

Trust is always a big factor in any negotiations. The mediator can save a lot of time if the parties "trust each other and they know each other, and they have a relationship outside of the bargaining unit." For instance, as one mediator phrased it,

> If the union and the company have been resolving problems on a daily basis over the last three years, they do not have to bring all of those pent-up problems to the negotiation table and paint them as negotiation issues, because they're problems that have been solved on a day-to-day basis.

This is where labor-management committees and other preventive mediation efforts aimed at improving the ongoing relationships play a key role. On the other hand, if there is no conversation or communication between the union and the company for three years, and then everything has to be discussed in the context of negotiations, the negotiations will

become interminable. This occurs because the contract negotiation meetings are the only forum in which to solve problems.

Several mediators relayed scenarios in which the employer's initial contract offer was rejected by the union membership due to a lack of trust. In all of these cases, the mediators indicated that management subsequently "had to put a lot more on the table than probably they needed to if they had just worked at building the trust before the negotiation." In brief, a trusting relationship is critical to successful negotiations.

Outcomes and Process Feedback

Overall, the mediators agreed that the outcome of individual mediation cases feeds back into the mediation process to influence the parties' future interactions, negotiations, and mediations. In fact, one mediator summed it up this way, "The outcome of bargaining is the relationship. A tentative agreement helps improve the relationship. The key thing is improvement."

Getting Started: Dispute Mediation

One mediator estimated that s/he gets involved in some manner with 40-50% of the parties s/he contacts. Usually, the initial contact involves dispute mediation. The outcome of mediation has a significant impact as the parties become more familiar with mediation.

Will the Parties Call Back?

Successful dispute mediation builds the parties' confidence in the mediator. The interviewees estimated that mediators are invited back to work with the parties again in 70-80% of the cases they handle. Other aspects of the outcome that influence the parties'

future interactions, negotiations, and mediations include: the parties' expectations, the parties' perceptions of the mediator, and the relationship between the parties.

Building on Success. When mediation succeeds, the FMCS gains more business. More precisely, a successful dispute mediation can lead to requests for assistance with grievance mediation, preventive mediation services, or alternative dispute resolution services. For example, if there is a relationship to build on (e.g., good communication skills and good labor relations), the FMCS mediators try to reinforce the relationship by moving to labor-management committees to keep the dialogue going and keep the parties working together.

The outcome of an individual mediation feeds back into the mediation process to influence the parties' future interactions even when the results of that mediation are less than stellar. For instance, sometimes after a particularly difficult contract negotiation the parties decide they are "tired of beating each other up." Then the parties bring the mediator in earlier next time, "before the fire is over head." The FMCS mediators get a lot of repeat calls and encourage the parties to call the agency before they "get locked down." The mediators try to nurture the collective bargaining relationship, and encourage the parties to move away from their adversarial relationship toward interest-based bargaining. If the relationship is particularly bad and the parties want to improve it they often seek help from the mediator. In such cases, the mediator provide the parties training in the Relationship-by-Objectives (RBO) program. This program helps the parties improve relationships that have broken down and develop skills for working together to solve workplace problems.

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Parties' Expectations. If the parties believe the process served them, and the outcome satisfied them, then they will be more likely to use mediation again in the future. Conversely, if the parties' expectations were not met they will be less likely to use mediation in the future. For example, if the parties called the mediator because they want a settlement and they think the mediator is going to help twist the arm of the other party and that does not occur, then they may feel comfortable with the process but they feel the outcome backfired. As a result they may not want to utilize mediation again. On the other hand, if each party has the expectation that mediation will help move them also, then typically those parties will want to use mediation again.

Perceptions of the Mediator. Other aspects of the outcome of mediation that impact the parties' future interactions, negotiations, and mediations are the parties' perceptions of the mediator and the confidence they have in the mediator. First, the mediator needs to make sure that the parties do not perceive the mediator as having come in and made the situation worse. In particular, the mediator should not stand in the way of the parties coming to an agreement. The mediator has to be careful not to interject him- or herself to the point where the mediator is trying to get what s/he sees as a good deal. It does not matter what the mediator thinks of the tentative agreement. Rather it is up to the parties to determine whether they have a good or a bad deal. The parties' perceptions of the contract are all that matter. So, the mediator needs to take steps to assure that the parties do not see him or her as a hindrance.

On the other hand, if the parties have some issues that they feel the mediator has "kind of smoothed out and made the whole process more, if not enjoyable, at least

compatible" then the parties will have a more positive perception of the mediator and the mediation process. Under these circumstances, the mediator will probably be invited back to help the parties negotiate their next contract. In addition, the parties will be more likely to invite the mediator back to help them out throughout the period of the contract with training in the labor relations process, grievance mediation, and other preventive mediation services.

Relationships. Finally, the parties behavior toward one another during negotiations influences the parties' future interactions, negotiations, and mediations. As one mediator put it, "the whole thing revolves around relationships." If people have been kind to each other in negotiations, if they have been respectful towards each other, then negotiations can be a positive experience. Contract negotiations do not have to be catfights.

The behavior of the parties toward one another during the negotiations affect the relationship in the work place. If people felt respected during the negotiations, they will have a more positive working relationship during the year. On the other hand, if people have played every dirty trick they could on each other during the negotiations, their interactions in the workplace will be negative as well. As one mediator described it, "They won't be able to talk to each other, they'll just say nasty things about each other, they'll just create a bad morale, both sides will feel like they've lost, and you're going to end up with a bad situation."

Summary

To summarize, the qualitative interviews began with a "grand tour" question in which the mediators were asked to comment in general on what they thought made their

efforts to engage workers and management in a problem-solving dialogue successful.
After this initial inquiry, mediators were asked more probing questions about specific
determinants of success. In addition, mediators were asked how the outcome of a
particular mediation case feeds back into the process to influence the parties' future
relationship and future problem-solving efforts. The results of these interviews are briefly
summarized below.

When the mediators were asked to comment on the overall contributors to mediation
success the following themes emerged:

- success is viewed as a continuum
- the parties must believe in the process
- the organizational reputation of the FMCS contributes to success, and
- the nature of mediation itself plays a role.

Before discussing specific strategies and techniques, the mediators noted that there is
a great deal of variation in the strategies and techniques that are used to resolve disputes.
Indeed, several mediators commented that mediation is an art form and that it is
impossible to reduce successful mediation to a single technique or strategy. At the same
time, the mediators revealed similar patterns of behavior regarding strategies and
techniques. Some of the key strategies that emerged from our conversations include:

- dispute assessment
- relationship building
- identifying and narrowing major issues, and
- creating a sense of urgency.

Some of the key techniques that emerged from our conversations include:

- chairing meetings, convening joint sessions and separate caucuses, sidebars .
- listening and asking questions
- demonstrating understanding

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- reframing and supposals
- allowing the parties to vent, and
- confidentiality.

When choosing which strategy or technique to use the mediators noted that each case is unique; there is no foolproof way to mediate a dispute. The mediator must continually read the process to determine which strategies and techniques to use.

The mediators identified the following mediator skills and characteristics as contributors to mediation success:

- people skills (e.g. good observers of human behavior)
- listening/communication skills (e.g., rephrasing, paraphrasing, mirroring)
- comfort with conflict (e.g. able to avoid getting caught up in conflict)
- professionalism (e.g., operational neutrality, credibility, trustworthiness)
- intelligence (e.g. understand and grasp issues quickly)
- flexibility (e.g. react to change quickly, think on their feet)
- substantive/content knowledge and skills (e.g., labor relations experience), and
- process knowledge/skills (e.g., facilitation and teaching skills).

The mediators identified the following sources/nature of conflict as influencing the outcome of mediation:

- contradicted expectations
- economic characteristics (e.g. globalization of the economy, subsistence-level wages)
- structural characteristics of the relationship (e.g. shifting demographics of the workforce, introduction of new technology)
- organizational characteristics of the parties (e.g. wannabe leaders, runaway committees)
- interpersonal/personal characteristics (e.g. personality conflicts between the two chief bargainers)
- the nature of the issues in dispute (e.g. issues involving relative class status in the work place), and
- the bargaining behavior of the parties (e.g., withholding information).

Again, in discussing the role that the sources/nature of conflict play in determining the outcome of mediation, the mediators tended to focus on sources of conflict that make it more difficult to achieve success.

The mediators identified the following situational characteristics as influencing the outcome of mediation:

- desire to settle
- the players at the table (e.g., the power balance between the parties)
- the element of risk (e.g., the greater the risk, the greater reason to settle), and
- the big picture (e.g., the parties willingness to work together over the entire range of their relationship).

Of course the parties themselves have a major impact on mediation success. The mediators identified the following characteristics of the parties themselves as determinants of mediation success:

- experience with bargaining, negotiation, and mediation
- motivation for having the case mediated
- the bargaining team (e.g., interpersonal skills, cultural differences between the parties, the mix of people at the table), and
- trust.

Finally, the mediators agreed that the outcome of individual mediation cases feeds back into the mediation process to influence the parties' future interactions, negotiations, and mediations. Successful dispute mediation builds the parties' confidence in the mediator. When mediation is successful, the parties are very likely to invite the mediator back to work with them again. Even when the results of mediation are less than stellar, the parties often decide to use the mediator's services in the future because they are tired of going to battle with one another. Other aspects of the outcome that influence the

parties' future interactions, negotiations, and mediations include: the parties' expectations, the parties' perceptions of the mediator, and the relationship between the parties.

Conclusion: Lessons for Policy-Makers and Public Managers

As mentioned earlier, mediation is rapidly becoming the policy instrument of choice at various levels of government. Moreover, recent Congressional activities such as the enactment of the Civil Justice Reform Act of 1990, the Administrative Dispute Resolution Act of 1990, and the Negotiated Rulemaking Act of 1990 provide for the use of alternative dispute resolution systems in federal agencies and departments. These acts signal that conflict resolution is an important part of contemporary public administration (Lan 1997). As noted earlier, public sector managers are involved in resolving disputes and promoting cooperation on a daily basis. Thus, policy-makers and public managers can benefit from the following lessons derived from mediators' experiences.

First, in resolving disputes and fostering collaborative efforts, perceived impartiality is crucial. Toward this end, public managers must demonstrate professionalism and ethical behavior in dealing with their subordinates. In particular, managers need to treat all parties involved in the same way. For example, managers should attempt to spend equal amounts of time with the parties and engage in similar activities with the parties. Confidentiality is of the utmost importance. That is, issues, concerns, and options for settlement that are discussed with the manager in confidence should remain confidential until the party that divulged the information is prepared to share it with others. Likewise, policy-makers should be aware of the need for confidentiality in designing dispute resolution programs and collaborative projects.

Second, public managers engaged in dispute resolution and team-building should be prepared to take small steps. As noted above, success is a continuum. Sometimes, just getting parties to sit down in the same room and talk about the problems they are facing or the possibilities for cooperation is an improvement. Similarly, policy-makers should be aware of the need to take small steps when implementing and evaluating dispute resolution programs and collaborative projects.

Third, the relationship matters. The parties that public managers work with have an ongoing relationship. They deal with each other on a daily basis. As such, public managers need to develop and pursue relationship-building and relationship-improving strategies. Along these same lines, people matter. Public managers need to make an honest effort to get to know the workers they supervise. In other words, public managers need to be astute observers of human behavior. In attempting to resolve disputes or foster collaborative efforts they need to be attuned to the personalities, cultural differences, and interpersonal skills of their workforce.

Fourth, flexibility is key to success. As noted above, resolving disputes and training people to cooperate is more akin to an art than a science. No single approach will work in all situations. Thus, public managers need to be able to think on their feet and change gears quickly.

Fifth, not all disputes can be resolved through mediation. Public managers need to realize this and they need to be comfortable with conflict. In determining whether or not a dispute can be resolved through mediation, public managers need to take into account the sources of conflict and the issues in dispute. They also need to learn how to uncover

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"hidden agendas" and "hidden issues". Perhaps most importantly, they need to assess the parties' willingness to solve the problem and to work cooperatively.

Sixth, although the mediators disagree about the relative importance of content knowledge versus process, they tend to agree that both types of knowledge are necessary. Thus, to be successful in resolving disputes and promoting cooperative projects public managers will need to develop both knowledge of labor-management relations (i.e., content knowledge) and knowledge of group dynamics, facilitation, and problems-solving techniques (i.e., process knowledge). Policy-makers should be aware of these training and education requirements when planning dispute resolution programs and collaborative projects.

Finally, collaborative leadership is harder to get started than it is to sustain. In starting collaborative leadership efforts, public managers must first establish their trustworthiness, credibility, and acceptability with the parties. To be successful, the public manager must convince the parties that s/he has knowledge and skills required to help the parties solve their problems and participate in collaborative projects effectively. Once the public manager is successful in one dispute or one collaborative project this success builds on itself. The parties tend to be more willing to cooperate and to seek his/her assistance in the future. Thus, managers should not be frustrated by an initial lack of success in implementing collaborative leadership. The experience of federal mediators indicates that collaborative leadership is an attainable goal which, if achieved, can lead to tremendous improvements in the effectiveness of public institutions. The end result is a more trusting work environment in which employees assume leadership responsibilities themselves.

Chapter 6

Research Design: The Quantitative Component

Overall Research Design: A Blended Approach

As mentioned earlier this research combines several different research

methodologies in a triangulated research design. The study blends qualitative and

quantitative data, a technique advocated by Denzin (1978). The qualitative portion of this

project draws data from secondary sources, participant observation, and qualitative

interviews. The qualitative data gathered from these sources was used to develop a

written survey. The written survey was then used to collect quantitative data. In the

paragraphs that follow I outline some of the advantages and limitations of using written

surveys to collect data and my reasons for doing so. Then, I discuss how the survey was

constructed and distributed. Finally, I discuss the data management techniques that I used

(i.e., coding and data reduction).

Written Surveys: The Promise and Problems

First the Good News. Backstrom and Hursh-César (1981) argue that in order to

make effective public policies, we must understand the nature of problems and proposed

solutions. Toward this end, researchers need to collect information about people's

behavior, feelings, attitudes, and beliefs. According to Backstrom and Hursh-César

(1981), survey research is an ideal tool for collecting this information. Survey research

helps social scientists make generalizations about human behavior. In addition, it allows

the researcher to visualize conditions beyond his/her own direct experience. The orderly

procedures of survey research allow the researcher to repeatedly test, affirm, and refine

explanations of how people behave under varying conditions. Moreover, survey research

allows the researcher to determine in what ways people are similar to or different from

each other in terms of their knowledge, attitudes, and behavior (Backstrom and Hursh-

César 1981).

And Now the Bad News. There is a down side to using survey research. First of

all, surveys are costly to conduct. For example, it is expensive to reach the proper number

and mix of people. In addition, if the researcher wants to survey a large number of people

s/he cannot ask detailed questions of every person. Hence, the data collected from

surveys tends to be superficial (Backstrom and Hursh-César 1981).

Second, as Fetterman (1989) notes surveys are a fairly rigid form of data

collection. With survey research there is greater distance between the researcher and the

respondent than in other types of data collection, such as interviews. To illustrate, with

written questionnaires there is no opportunity for clarification if a respondent does not

understand a particular question. Also, respondents sometimes try to provide an idealized

image on written surveys. Without face-to-face contact the researcher cannot distinguish

such responses from genuine responses. Furthermore, the researcher lacks the

interpersonal cues to guide his or her interpretation of responses (Fetterman 1989).

Similarly, Backstrom and Hursh-César(1981) note that the highly structured nature

of survey research forces the researcher and the respondent into narrowly-defined

conversational roles in which the researcher asks questions and the respondent answers

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questions. For some respondents the survey experience may be akin to an interrogation. Moreover, since the researcher controls the questions that are asked as well as the admissible answers, the survey situation may potentially cover issues that are irrelevant to the respondent or outside his/her range of experience. In such cases, the data gathered are not very useful to the researcher trying to describe and explain behavior in a specific population (Backstrom and Hursh-César 1981).

Another limitation is that surveys are obtrusive. That is, they are interruptions to people's everyday lives (Backstrom and Hursh-César 1981). Additional limitations include the fact that data in surveys are self-reported and may not be completely accurate. Non-response and low return rates are also problems. In other words, some of the people the researcher would like to hear from will not complete the survey (Backstrom and Hursh-César 1981).

Wither the written survey? The problems outlined above weaken the credibility of research projects which use written surveys as the primary means of collecting data. Yet, no research tool is without disadvantages. I decided to use a written survey in my research for the following reasons.

To begin with, survey research is appropriate to my research topic. Specifically, I am interested in the factors which make mediation successful. Although the unit of analysis in my research is individual dispute mediation cases that come before the FMCS, I need to use individual persons (i.e., the mediators) as informants (Babbie 1986).

Second, there are nearly 200 mediators employed by the FMCS. These mediators are located in various field offices across the country. They spend a great deal of their

working hours away from their offices meeting with representatives of labor and management. It would be too time-consuming and expensive (not too mention a logistical nightmare) for me to meet directly with all of these mediators. In addition, given their workloads, it is highly unlikely that the entire population of FMCS mediators would have the time to meet with me. As Babbie (1986) notes, survey research is one of the best methods available to social scientists for collecting original data that describe a population which cannot be observed directly.

Moreover, survey research it is not my primary means of data collection. My survey is based on the data I collected through secondary analysis, qualitative interviews, and participant observation. This blended approach overcomes some of the disadvantages of using survey research on its own.

Despite its flaws, survey research still provides a systematic process for determining: what information is collected, from whom, and how (Backstrom and Hursh-César 1981). Moreover, written surveys are very useful tools for dealing with issues of representativeness (Fetterman, 1989). Given my research interests, the nature of my research problem, and my goal of developing and testing grounded theory, survey research appears to be an ideal tool.

Survey Research Step by Step

Background Research

Getting Started. As Backstrom and Hursh-César (1981) note, all good surveys begin with background research. My research project was no exception. My background research began with my literature review. Based on my literature review, I developed a

rough model of the mediation process and a list of the possible variables that influence the outcome of dispute mediation cases.

Refining the Model. I used the data collected from secondary sources, informal networking with dispute resolution professionals, participant observation, and qualitative interviews to refine my model. As Backstrom and Hursh-César (1981) suggest, I used this additional information to focus the range of my objectives, identify ways to operationalize my variables, and specify the expected relationship among the variables. Given the complex nature of the mediation process, it was helpful to create a path diagram with each variable in a box and arrows connecting the variables to indicate the relationships that I expected to exist (see Figure 1.1).

Constructing the Survey

What to ask? With the refined model in hand I was ready to begin constructing questions. In constructing my survey I pored over my participant observation notes, interview notes, and the various printed documents I had gathered. In developing the survey, my goal was to ask questions that thoroughly covered my model. I developed survey questions pertaining to every box in my model. Although, I did not develop exactly the same number of questions for each box, I tried to achieve some balance.

Initially, I recorded every question that came to mind on paper. My initial list included 80 questions. I edited the questions for conciseness and clarity. Then I submitted the list to a colleague for critique. Based on this feedback I revised the survey. This process of drafting questions and revising the survey followed several iterations.

Survey Format. After these various iterations my survey began to take shape. The survey included both open-ended and closed-ended questions. As Fetterman (1989) notes, in conducting ethnographic research both open-ended and closed-ended questions are useful. Open-ended questions allow the persons being interviewed to interpret their world including their behaviors and interactions with others. Closed-ended questions are geared more toward quantifying behavior patterns (Fetterman 1989).

At this point the survey had four parts. The first part asked the respondents to answer a set of questions based on the most recent dispute mediation case in which they participated and the parties reached agreement. This part of the survey included 101 questions. This part was broken down into six sections. These sections included: mediator techniques/strategies, mediator skills/characteristics, sources/nature of conflict, the parties, situational characteristics, and feedback.

The questions in part one were closed-ended and used a 5-point Likert scale. That is, the questions presented the respondents with a statement and asked them to indicate the extent to which they agreed with the statement. The response categories were: strongly agree, agree, neutral, disagree, and strongly disagree. For example, one of the statements used in the mediator strategies/techniques section was: "I gave the parties ample opportunity to vent their frustrations". Another statement used in the sources/nature of conflict section was: "The parties respected each other's rights to be at the bargaining table".

The second part of the survey asked the respondents to answer the same set of questions as in part 1. The difference was that in part 2 the respondents were asked to

answer the questions based on the most recent dispute mediation case in which they participated and the parties did <u>not</u> reach agreement. Here my goal was to try to determine what distinguished successful cases from unsuccessful cases.

The advantage of using closed-ended questions in parts one and two of the survey is that fixed-responses make it easier to conduct data processing. The disadvantage of using closed-ended questions is that the researcher loses the personal flavor of responses (Backstrom and Hursh-César 1981). The heavy emphasis on closed-ended questions was appropriate here because I was attempting to confirm what I had learned in the qualitative, exploratory phase of my research (Fetterman 1989). In addition, I expected that the use of closed-ended questions in parts 1 and 2 of my survey would allow me to make generalizations about my data.

Part three of the survey asked the parties to answer two questions about mediation in general. These questions were open-ended. The first question in this section was, "How would you define successful mediation?" The second question in this section was: "Is there anything else that you think influences the success of mediation that has not been covered in this survey?" Although I had already done much exploratory research, I was interested in further exploring practitioners' definitions of mediation success. Likewise, in the second question I was exploring any shortcomings of my survey. Thus, the use of open-ended questions were appropriate here because I was working with a highly knowledgeable population and open-ended questions were the best way for them to share their perceptions (Backstrom and Hursh-César 1981).

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Part four of my survey consisted of demographic questions. Here I asked whether the respondent was male or female, in what capacity the respondent had worked prior to joining the FMCS (i.e., as an advocate for labor, an advocate for management, a neutral in labor relations, or other), how long the respondent had served as a commissioner for the FMCS, and how heavily unionized was the geographic area in which the respondent practiced. I included these demographic variables for two reasons. First, these questions would help me describe my respondents. Second, the data gathered from these questions would allow me to look for response patterns for different sub-groups within the population of FMCS mediators. That is, I would be able to determine whether the presence or absence of these characteristics, or the degree of possession (i.e., more or less) of these characteristics was associated with the respondents' answers to the questions in the earlier parts of the survey.

Will it Fly?: The Pilot-Test. Before taking on the expense of printing and distributing my survey to the entire population of mediators with the FMCS, I wanted to gather some preliminary feedback on it. In particular, I wanted to check for clarity and completeness. Also, I wanted to make sure that the survey made sense to my respondents- -federal mediators. Toward this end, I pilot-tested the survey on six FMCS mediators and two members of my dissertation committee. First of all, I asked my respondents to identify any questions that were confusing or redundant. Second, I asked my respondents if I had omitted anything that should have been covered. Third, I asked my respondents to indicate how long it took them to complete the survey. Finally, I asked my respondents to give me any other suggestions they had for improving the survey.

Back to the Drawing Board. The feedback I received from the pilot-test group was very informative and greatly improved my survey. Interestingly, although I knew that my survey was not very brief, several mediators suggested adding questions to the survey. The pre-test group also helped me eliminate redundant questions and re-state some questions more clearly. After making the revisions to the survey the pilot-test group suggested, there were 83 questions each in parts 1 and 2, 2 questions in part 3, and 5 questions in part 4. Some of the specific revisions I made are discussed below.

Based on the pilot-test feedback I changed the response categories for some of the questions. For example, I changed the wording on a set of questions pertaining to mediator techniques to read "How important were each of the following....?" I changed the corresponding response categories to: very important, somewhat important, not very important, and not at all important. This change in response categories resulted in a 4-point scale for these questions.

In addition, I added a question to the situational characteristics section in parts 1 and 2 that asked the respondents to indicate whether the case was in the private, federal, or public sector. The main question in the situational characteristics section was modified to present the respondents with this statement: "The following situational characteristics played a critical role in the outcome of the case:...." Below this statement appeared a list of situational characteristics. The response categories for each situational characteristic listed were: strongly agree, agree, neutral, disagree, strongly disagree, and not applicable. I added the not applicable category because some of the situations listed do not occur outside of the private sector (e.g., strikes and lockouts). This change in response

categories resulted in a 6-point scale for the main question in the situational characteristics section of the survey.

Securing Approval. The next step in this process was to request approval from the FMCS to distribute my survey to mediators. Since I had already established a research relationship with the agency and had discussed my plan to survey mediators with Acting Director Richard Barnes during our early conversations, I expected that my request would be approved. I mailed a copy of my survey and my draft cover letter to Richard Barnes. I also contacted Richard Barnes by telephone to follow-up on my request. Within a matter of days my request was approved. Richard Barnes suggested that I add a separate instruction page to alert the respondents that there were several parts to the survey. He also suggested minor changes to my cover letter.

After securing Richard Barnes' approval I had my survey printed in booklet form. The instruction page appeared on the cover of the survey. Inside the booklet there were nine pages of questions. The final version of the cover letter and the survey appear in Appendix A.

Survey Distribution

The National Professional Development Meeting. I distributed my survey at the FMCS national professional development meeting in Las Vegas, Nevada, November 30-December 3, 1998. Before the opening of this conference I placed a copy of my survey at each place setting on each table in the main meeting room. This was an ideal setting for distributing the survey for several reasons. First, this meeting was attended by nearly all of the mediators with the FMCS. Of the 195 mediators then employed by the FMCS

approximately 185 attended this conference. As suggested by Backstrom and Hursh-César (1981), distributing my survey at this meeting was an efficient way for me to gather information from interest group members with a high level of concern for my subject.

Second, as Fetterman (1989) notes, it helps to have an integral and influential member of the community introduce the researcher. Toward this end, Richard Barnes gave the opening remarks at this meeting. As part of his opening remarks he called attention to the surveys that had been placed on the tables. He mentioned that the surveys were important to him and to the agency. He strongly encouraged the mediators to complete the survey. Richard Barnes repeated this message at the luncheon on the final day of the conference.

Third, this conference lasted for several days. This gave me the opportunity to speak to my respondents personally. Again as suggested by other researchers, I attempted to cast a wide net (see for example Fetterman 1989; Rubin and Rubin 1995). That is, I discussed my research project with as many people as possible. For example, I spoke to the mediators I had already met through my participant observation and interviews and . asked them to encourage their colleagues in their field offices to complete the survey. I also asked the mediators I knew to introduce me to other mediators so that I could explain my research. Finally, I introduced myself to mediators and struck up conversations about their work and my research. Here again, in breaking the ice in these informal conversations it was very helpful for me to be able to draw on my past work experience in labor relations. My goal was to speak to as many people as possible and encourage them to complete my survey.

The Initial Response. Backstrom and Hursh-César(1981) warn researchers that written surveys suffer from low response rates. To illustrate, returns range from 10% for a general population sample to as high as 80% for a well-motivated sub-sample of the population (Backstrom and Hursh-César 1981). I expected my survey response rate to fall somewhere in between these extremes.

To begin with, these ranges were given for mail surveys. Backstrom and Hursh-César (1981) indicate that once the surveys are in the mail the researcher has little control over the response rate. The cover letter and follow-up letter must do it all. However, I was distributing my survey at a conference where I had the opportunity to establish some personal contact with many of my respondents. In addition, I was surveying a population about its chosen occupation--a subject in which they should be extremely interested. As Backstrom and Hursh-César (1981) note, people who are highly interested in the subject are more likely to respond. Thus, I expected to get higher than a 10% response rate. On the other hand, I did not expect to get an 80% response rate because as Backstrom and Hursh-César (1981) note, short questionnaires have the highest return rate. At nine pages my survey did not qualify as short.

I set up a survey collection box at the conference and also provided the respondents with a postage-paid business reply envelope. In my cover letter I asked my respondents to complete the questionnaire and return it to the survey collection box by the close of the conference, December 3, 1998 or mail the survey in the postage-paid envelope by December 31, 1998. By the close of the conference I had received 30 completed surveys. By January 10, 1999 I had received an additional 40 surveys in the mail.

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Just a Reminder: The Follow-up Notice. With my research budget stretched to the

breaking point, I could not afford to send a follow-up reminder to all of the mediators with

the FMCS. Fortunately, one of the mediators I spoke with at the national professional

development meeting suggested an E-mail alternative. Since the mediators have an

internal E-mail system I was not able to send E-mail messages to them directly. Instead, I

contacted Richard Barnes and asked for his help in sending a follow-up notice. On

January 15, 1999, an E-mail message was sent to all the mediators with the FMCS asking

them to complete the survey if they had not already done so and mail it to me by January

31, 1999.

By February 15, 1999 I received an additional nine surveys in the mail.

Unfortunately, one of the surveys had been misprinted, and I was unable to use the data

contained in that survey. In the end I received a total of 78 usable surveys out of 185

distributed. This brought my final response rate to 42%.

Data Management

Coding

In parts 1 and 2 questions for which the response categories were degrees of

agreement were coded as follows: strongly agree=1, agree=2, neutral=3, disagree=4,

strongly disagree=5. Questions for which the response categories were degrees of

importance were coded as follows: very important=1, somewhat important=2, not very

important=3, not at all important=4.

In the situational characteristics section of parts 1 and 2, the question pertaining to

the sector in which the case was located was initially coded as follows: private sector=1,

federal sector=2, public sector (state and local)=3. Later, I recoded this as a private

sector dummy variable. If the respondents checked the private sector box the dummy

variable was coded as 1. If the respondents checked the federal sector or public sector

(state and local) boxes the dummy variable was coded as 0.

The main question in the situational characteristics section presented the

respondents with this statement: "The following situational characteristics played a critical

role in the outcome of the case:...." Below this statement appeared a list of situational

characteristics. Initially, the responses to this question were coded as follows: strongly

agree=1, agree=2, neutral=3, disagree=4, strongly disagree=5, not applicable=6. I had

anticipated that the respondents would only check the not applicable box in cases outside

the private sector where the situational characteristics do not occur. For example, in the

federal sector and in most states strikes by public employees are prohibited by law.

However, the respondents appeared to treat the not applicable category as an extension of

the disagreement scale, even checking it for the threat of a strike in the private sector.

Therefore, I made the decision to recode the not applicable responses=6 as strongly

disagree=5. Missing values, for questions that were not answered by an individual

respondent, were replaced by the mean value of that variable (Tabachnick and Fidell

1996).

Data Reduction

Factor Analysis. The survey contained 83 questions which used 4- and 5-point

Likert scales. Factor analysis with the varimax rotation was used to reduce these 83

Likert-scale questions to underlying factors. First, during the principal components

analysis 25 factors were extracted. The factors extracted were those that had eigenvalues greater than 1. Then the 25 factors were rotated using the varimax technique. This technique maximizes the separation of the factors. In other words, this technique generates a solution in which a given variable is likely to have a high loading with one factor and low loadings on the other factors (Kim and Mueller 1978). Factor loading represents the correlation between the variables of interest (here the 83 survey questions) and the extracted factor.

Next, I determined how many variables loaded highly on each factor. One rule of thumb is to consider a loading to be substantial if it exceeds .3 and if the variable loads most highly on that particular factor (Kim and Mueller 1978, 70). Another rule of thumb is that a factor must be highly related to at least three variables. Yet, another rule of thumb in determining the minimum number of factors compatible with the data is to use a scree-test. Using this test, one plots the eigenvalues corresponding to each factor against the factor number. Then, the point where the plot begins to level off forming a straight line with an almost horizontal slope represents the number of useful factors (Kim and Mueller 1978). Since no single criterion for determining the number of factors in a solution is universally accepted by researchers, Kim and Mueller (1978) recommend that researchers combine various rules and accept only those solutions that are supported by several criteria.

Following the guidelines discussed above, an eleven factor solution was obtained. The eleven factor solution is described below. This information is presented in summary

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form in Table 6.1. The rotated component matrix showing all variables and their loading scores on each of the eleven factors appears in Appendix B.

The first factor explained 13.7% of the variance and had substantial loadings for six questions. I called it "relationship improvement" because it focused on aspects of the parties' ongoing relationship. Questions which loaded highly on this factor included: "During this mediation case the parties learned techniques they can use to solve problems in their continuing relationship"; "The parties are likely to use the services of the FMCS again in the future for preventive mediation"; and "The parties are likely to use the services of the FMCS again in the future for alternative dispute resolution."

The second factor explained 5.5% of the variance and had substantial loadings for eight questions. I named it "mediator acceptability." The questions which loaded highly on this factor pertain to mediator skills and characteristics such as flexibility, credibility, trustworthiness, and active listening skills.

The third factor explained 5.2% of the variance and had substantial loadings for five questions. I called it "management outlook" because the questions which loaded on this factor pertained to the management's: desire for the mediation to be successful, realistic expectations of the process, and bargaining experience.

TABLE 6.1

Factors Derived from Mediator Survey		
Factor	Percent of Variance Explained	Questions Loaded on Factor
Future Relationship	13.7	During this mediation case the parties learned techniques they can use to solve problems in their continuing relationship. The parties are likely to use the services of the FMCS again in the future for preventive mediation. The parties are likely to use the services of the FMCS again in the future for grievance mediation. The parties are likely to use the services of the FMCS again in the future for alternative dispute resolution. My teaching skills were important in bringing the parties closer to agreement. Interest-based bargaining techniques were important in bringing the parties closer to agreement.
Mediator Acceptability	5.5	My flexibility was important in bringing the parties closer to agreement. My credibility was important in bringing the parties closer to agreement. My trustworthiness was important in bringing the parties closer to agreement. My active listening skills were important in bringing the parties closer to agreement. My communication skills were important in bringing the parties closer to agreement. My facilitation skills were important in bringing the parties closer to agreement. The FMCS' reputation for being credible, acceptable, and professional was important in bringing the parties closer to agreement. The parties are likely to use the services of the FMCS again in the future for dispute mediation.

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TABLE 6.1 (continued)

Factors Derived from Mediator Survey		
Factor	Percent of Variance Explained	Questions Loaded on Factor
Management Outlook	5.2	I had the sense that management really wanted the mediation to be successful.
		The management bargaining team had realistic expectations of the bargaining/mediation process.
		The chief negotiator(s) for the management team was(were) experienced/skilled in negotiation.
		The members of the management team were experienced bargainers.
		The contract deadline played a critical role in the outcome of this case.
Relationship Volatility	4.7	Internal conflicts within either party played a critical role in the outcome of this case.
		Personality conflicts between the chief bargainers played a critical role in the outcome of this case.
		Hostility between the parties played a critical role in the outcome of this case.
		Matters of principle (e.g. relative class status in the work place, respect, race, religion, etc.) played a critical role in the outcome of this case.
		Structural characteristics of the relationship (e.g. workforce demographics, introduction of new technology, changing ownership, etc.) played a critical role in the outcome of this case.
		The parties' leadership played a critical role in the outcome of this case.
Broad Approach	3.7	I tried to look beyond the contractual issues in defining the problem to be resolved.
		Reframing was an important technique in bringing the parties closer to agreement.
		I gave the parties ample opportunity to vent their frustrations
		I served as a sounding board for the parties as they were proposing solutions to their problems.
		I was able to successfully avoid getting caught up in the parties' conflict.

TABLE 6.1 (continued)

Factor	Percent of Variance Explained	Questions Loaded on Factor
Factors Derived from Mediator Survey		
Bargaining Context	3.5	In determining which techniques/strategies to use in this case, I was influenced by an emotionally charged atmosphere.

In determining which techniques/strategies to use in this case, I was influenced by time pressures.

In determining which techniques/strategies to use in this case, I was influenced by the nature of issues in dispute.

Face-saving was an important technique in bringing the parties closer to agreement. |
| Bargaining Chips | 3.1 | The threat of a strike played a critical role in the outcome of this case.

The threat of a lockout played a critical role in the outcome of this case.

The threat of a plant/facility closure played a critical role in the outcome of this case.

Pending NLRB charges played a critical role in the outcome of this case.

Pending grievances played a critical role in the outcome of this case. |
| Collaborative Orientation | 2.8 | The parties respected each others' right to be at the bargaining table.

The union team willingly shared information at the bargaining table.

The management team willingly shared information at the bargaining table.

The parties' willingness to work together in a collaborative process over the entire range of the relationship played a critical role in the outcome of this case.

The management negotiators had the authority and broad support necessary to resolve issues. |

TABLE 6.1 (continued)

Factors Derived from Mediator Survey		
Factor	Percent of Variance Explained	Questions Loaded on Factor
Narrow Approach	2.1	I encouraged the parties to focus on resolving specific contractual problems. I was able to direct the parties while still allowing them to feel in control of the process. My knowledge of substantive issues was important in bringing the parties closer to agreement. In determining which techniques/strategies to use in this case, I was influenced by concern for the parties outcomes. My personality/style was important in bringing the parties closer to agreement.
Structure of the Impasse	2.4	In determining which techniques/strategies to use in this case, I was influenced by the nature of the impasse procedure. The nature of the impasse procedure played a critical role in the outcome of this case. I tried to find out how the parties perceived the conflict.
Mediator Skill Base	2.3	My labor relations skills/experience were important in bringing the parties closer to agreement. My process skills were important in bringing the parties closer to agreement. My ability to be a quick-study was important in bringing the parties closer to agreement. Sidebars were an important technique in bringing the parties closer to agreement.

The fourth factor explained 4.7% of the variance and had substantial loadings for six questions. I called it "relationship volatility." The questions which loaded highly on this factor related to sources of conflict which played a critical role in the outcome of the

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case. These sources included: internal conflicts within either party, personality conflicts between the chief bargainers, and hostility between the parties.

The fifth factor explained 3.7% of the variance and had substantial loadings for five questions. I named it "the broad approach" because the questions which loaded highly on this factor pertain to mediator techniques and strategies aimed at seeing "the big picture". For example, questions which loaded highly on this factor include: "I served as a sounding board for the parties as they were proposing solutions to their problems"; "I tried to look beyond the contractual issues in defining the problem to be resolved"; and "reframing was an important technique in bringing the parties closer to agreement."

The sixth factor explained 3.5% of the variance, and had substantial loadings for four questions. I called it "bargaining context." The questions which loaded highly on this factor pertained specifically to strategic determinants such as "an emotionally charged atmosphere," "time pressures," and "the nature of the issues in dispute."

The seventh factor explained 3.1% of the variance, and had substantial loadings for five questions. I called it "bargaining chips." The questions which loaded highly on this . factor pertained specifically to situational characteristics which played a critical role in the outcome of this case. These included: "threat of a strike," "threat of a lockout," "threat of plant/facility closure," and "pending NLRB charges."

The eighth factor explained 2.8% of the variance and had substantial loadings for five questions. I named it "collaborative orientation." The questions which loaded highly on this factor related to sources of conflict which played a critical role in the outcome of

the case. These sources included: the parties' respect for each other's right to bargain and the parties' willingness to share information.

The ninth factor explained 2.6% of the variance and had substantial loadings for five questions. I called it "the narrow approach" because the questions which loaded highly on this factor pertain to mediator techniques and strategies which narrowly define the dispute to be mediated. For example, questions which loaded highly on this factor include: "I encouraged the parties to focus on resolving specific contractual problems" and "I was able to direct the parties while still allowing them to feel in control of the process."

The tenth factor explained 2.4% of the variance, and had substantial loadings for three questions. I called it "structure of the impasse." The questions which loaded highly on this factor included "I tried to find out how the parties perceived the conflict" and "The nature of the impasse procedure played a critical role in the outcome of this case."

The eleventh factor explained 2.3% of the variance, and had substantial loadings for four questions. I named it "mediator skill base." The questions which loaded highly on this factor pertained specifically to mediator skills and characteristics which brought the parties closer to agreement. These included: "ability to be a quick study," "labor relations skills/experience," and "process skills."

The total variance explained by this eleven factor solution is 50%. Although other published studies have used factor solutions which accounted for comparable levels of variance (Tabachnick and Fidell 1996, 706), the fact that half the variance in the survey responses is unaccounted for by my factor solution is a limitation of my study. The relatively low level of variance explained in my factor solution may be attributed to the

heterogeneity of questions included in the survey. Such heterogeneity was necessary given my desire to study the entire mediation process.

Studies which focus on a single segment of the mediation process may yield higher levels of total variance explained when factor analysis is used to reduce a large number of variables to underlying factors. However, as Wall and Lynn (1993) note, context-specific theory building (which examines the entire mediation process) produces richer theories that accentuate the variation in mediation and its setting than general theory building (which focuses on single segments of the mediation process). In addition, context-specific theory building is useful to practitioner because of the level of detail it provides.

Factor Scores or Factor-Based Scales? In factor analysis the researcher has a choice between using factor scores as generated by the computer or creating factor-based scales by summing those variables which load highly on each factor (Kim and Mueller 1978). I chose factor-based scales for two reasons. First, no factor had high loadings for more than eight variables. This means that each factor score contains information from at least 75 variables which do not load highly on that factor. Second, the factor scores as generated by the computer are uncorrelated with each other.

Since, the factor-based scales could be correlated with each other this option was preferable. I created factor-based scales by summing those variables which load highly on each factor (Kim and Mueller 1978, 70). The reliability scores of the factor-based scales I created, as measured by Cronbach's alpha (Cronbach 1951), ranged from 0.6 for the eleventh factor to 0.81 for the second factor, with an average reliability of 0.7.

Additional Variables

In addition to the questions which were used in the data reduction, I also used the following questions in my quantitative analysis. The first question asked in which sector the mediation case took place. Based on this question, I created a dummy variable called "private sector" which equaled 1 if the case took place in the private sector and 0 if the case took place in the federal or public sectors.

The other questions pertained to demographic information about each respondent. The first variable derived from the demographic questions was "gender". Gender was coded as 1 if the respondent was male and 0 if the respondent was female. The second variable derived from the demographic questions was "previous experience as an advocate for management". This was coded as 1 if the respondent had previously worked as a management advocate and 0 otherwise. The third variable derived from the demographic questions was "previous experience in the private sector". This was coded as 1 if the respondent had previously worked in the private sector and 0 otherwise.

The final two variables were also derived from the demographic questions. "Length of tenure with the FMCS" was the number of years for which the respondent had served as an FMCS commissioner. "Unionization rate" was a percentage measure of how heavily unionized the geographic area was in which the mediator handled most of his or her cases.

Beyond Factor Analysis

In chapter 7 I shall relate the factor-based scales and the additional variables to my theoretical model and develop hypotheses relating these variables to each other and to the likelihood of successful mediation. Together, the model and hypotheses comprise my grounded theory of mediation. In chapter 8 I discuss how I used the quantitative data collected in my survey to test my theory of mediation.

Chapter 7

Hypotheses: The Building Blocks of Theory

Matching Variables and Constructs

Before I could develop hypotheses relating the variables to each other, I had to

match each variable with the appropriate construct from my model of the determinants of

successful mediation in the labor relations context (see Figure 7.1). The matches are

reported below.

Parties' Interactions

As mentioned earlier, the mediation process begins with the parties' interactions.

Various circumstances determine whether or not the parties seek the assistance of a third

party. In collective bargaining and labor disputes mediation is often required by law

before a labor union can go on strike or move to the next phase of the impasse procedure.

Thus, the parties' interactions box in my model focuses on how the parties approach the

conflict and the mechanisms in place for resolving the conflict. The variable that matches

with the parties' interaction construct is "structure of the impasse."

Mediator Techniques/Strategies

As discussed earlier mediators may draw on a variety of techniques and strategies

to help the parties reach agreement. Indeed, Wall and Lynn (1993) note that researchers

have identified approximately 100 techniques for resolving disputes. Likewise, the FMCS'

new mediator training manual refers to "The 7,000 Habits of Effective

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FIGURE 7.1

Model of the Determinants of Successful Mediation in the Labor Relations Context With Specific Variables Identified
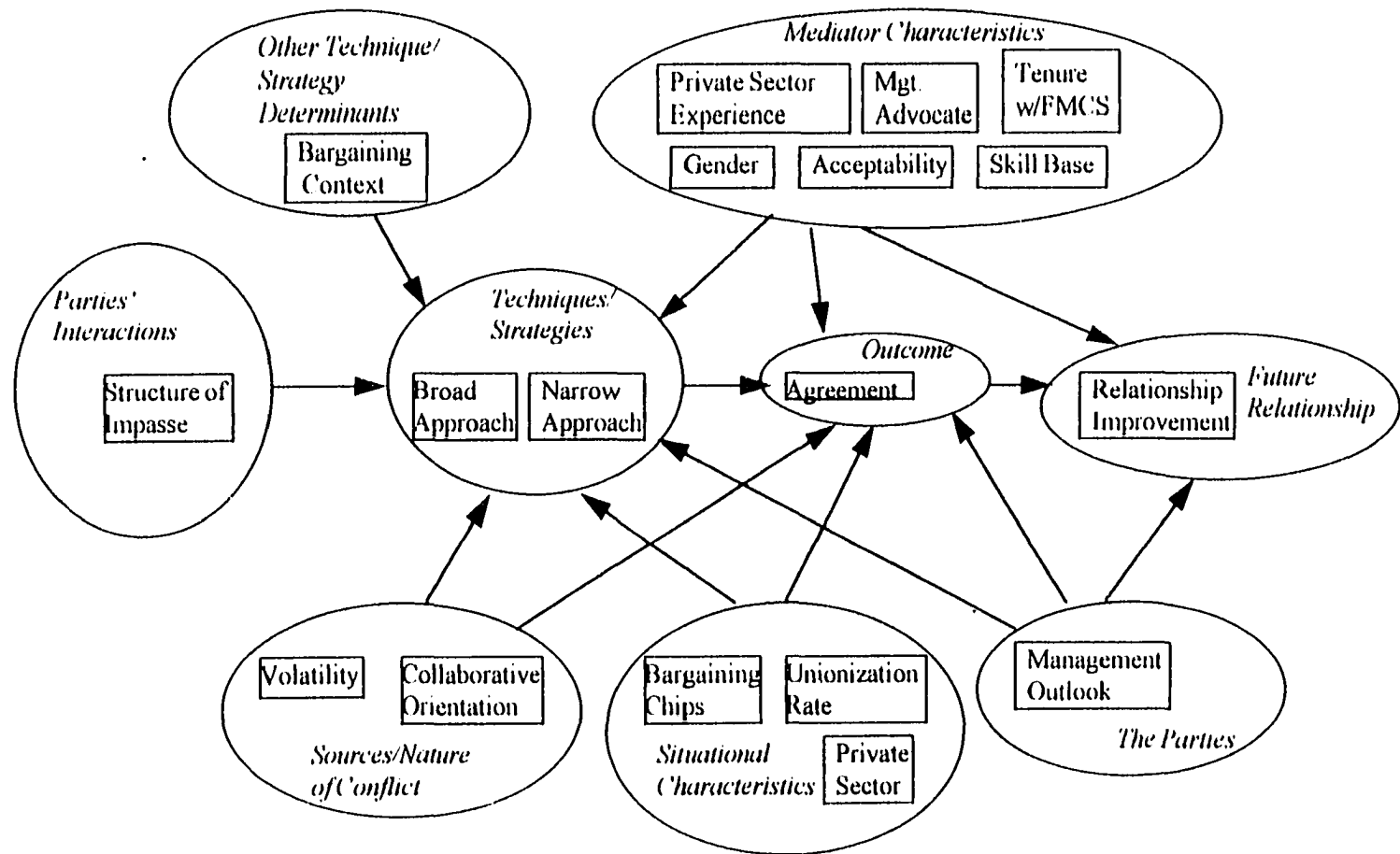
Mediators" (FMCS 1997). Mediators may also employ a variety of strategies in attempting resolve a dispute. The strategies a mediator may use range from taking a passive, hands-off approach to an aggressive approach in which the mediator pushes the parties toward agreement. The strategies/techniques box in my model attempts to capture some of these various techniques and strategies. The variables that matched with the mediator's techniques/strategies construct are "the broad approach" and "the narrow approach." Again, the "broad approach" includes mediator techniques and strategies aimed at seeing the "big picture," and the "narrow approach" includes mediator techniques and strategies which narrowly define the dispute to be mediated.

Outcome

The outcome of the mediation process is the second to last stage in my model of the mediation process. The outcome of a case is a key indicator of the success of mediation. As noted earlier, success may be viewed as a continuum. At the one end of the spectrum success means the parties gain a better understanding of the bargaining process. Toward the other end of the spectrum is a negotiated agreement that satisfies the parties' interests and that both sides can live with for the duration of the contract.

For purposes of analysis I had to have a precise definition of success. I defined successful mediation cases as those in which the parties reached agreement. I defined unsuccessful mediation cases as those in which the parties did not reach agreement. The variable which matches with the outcome construct is "agree." Agree is a dummy variable. It was coded as one for the cases in which the parties reached agreement and zero for the cases in which the parties did not reach agreement.

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Future Relationship

The final stage in my revised model of the mediation process is the future relationship box. The future relationship construct is the link between outcome of a mediation case and the parties' ongoing relationship. The variable which matches with this construct is "relationship improvement." Relationship improvement incorporates the likelihood that parties will use FMCS' programs, such as preventive mediation and alternative dispute resolution, in the future to improve their ongoing relationship.

Mediator Characteristics

As noted earlier, mediator characteristics influence both the mediator's choice of techniques/strategies and the outcome of the case. The mediator characteristics construct encompasses a variety of characteristics. Some of these include: credibility, experience, trustworthiness, helpfulness, friendliness, humor, intelligence, and knowledge of the substantive issues. The variables which match with this construct include both factor-based scale variables and demographic variables. The following factor-based scales were matched with the mediator characteristics construct: "mediator acceptability" and "mediator skill base." Again, "mediator acceptability" encompasses such characteristics as flexibility, credibility, trustworthiness, and active listening skills. "Mediator skill base" encompasses such characteristics as: ability to be a quick study, labor relations skills/experience, and process skills. The following demographic variables were matched with the mediator characteristics construct: "previous experience in the private sector," "previous experience as a management advocate," "length of tenure with the FMCS," and "gender".

Sources/Nature of Conflict

Similarly, the sources and nature of conflict influence both the mediator's choice of techniques/strategies and the outcome of the case. As indicated earlier, some of the possible sources of conflict include: economic characteristics, structural characteristics of the relationship, organizational characteristics of the parties, interpersonal characteristics, personal characteristics, the nature of the issues, and the bargaining behavior of the parties (Kochan and Jick 1978). The factor-based scale variables which matched with the sources/nature of conflict construct include: "relationship volatility" and "collaborative orientation." Some of the sources of conflict incorporated by the "relationship volatility" variable include: internal conflicts within either party, personality conflicts between the chief bargainers, and hostility between the parties. Some of the sources of conflict incorporated by the "collaborative orientation" variable include: the parties' respect for each other's right to bargain and the parties' willingness to share information.

Situational Characteristics

Likewise, situational factors influence both the mediator's choice of techniques/strategies and the outcome of the case. As mentioned earlier, one of the most critical situational factors is the parties' motivation to settle. In private sector collective bargaining cases the threat of a strike serves as a prime motivator for the parties to settle (Kochan and Katz 1988). The following three variables matched with the situational characteristics construct: "bargaining chips", "private sector", and "unionization rate". "Bargaining chips" is a factor-based scale variable that encompasses the following situational characteristics: threat of a strike, threat of a lockout, threat of plant/facility

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closure, and pending NLRB charges. "Private sector" is a dummy variable which indicates the sector in which the mediation case took place. "Private sector" equals one if the case took place in the private sector and zero if the case took place in the federal or public sectors. The "unionization rate" variable is a percentage measure of how heavily unionized the geographic area is in which the mediator handles most of his or her cases.

The Parties

The parties themselves also influence both the mediator's choice of techniques/strategies and the outcome of the case. For example, information sharing can be a risky proposition for the parties involved in labor negotiations. Thus, negotiators may be wary of cooperating with the mediator and their opponents in the dispute (Kochan and Katz 1988). Previous researchers have found that the level of trust between the parties influences the outcome of mediation (Gadlin 1991, Ross and Weiland 1996). In addition, the parties' goals play a role in determining the outcome of mediation (Wissler 1995). The variable which matches with the parties' construct is "management outlook". "Management outlook" is a factor-based scale variable which encompasses management's: desire for the mediation to be successful, realistic expectations of the process, and bargaining experience.

Other Technique/Strategy Determinants

In addition to the influences on the mediator's choice of techniques and strategies outlined above, a variety of other factors determine the mediator's choice of techniques and strategies. Some of these other factors include: rules and standards, common ground between the parties, dispute characteristics, culture, the mediation context, and time

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pressure (Wall and Lynn 1993). The variable which matched with the other technique/strategy determinants construct was "bargaining context". This variable encompasses strategic determinants such as an emotionally charged atmosphere, the nature of issues in dispute, and time pressures.

Hypotheses

After matching each variable with the appropriate construct from my model of the determinants of successful mediation in the labor relations context, I developed hypotheses relating the variables to each other. I developed a total of 50 hypotheses. These hypotheses are briefly summarized in Tables 7.1, 7.2, and 7.3. These hypotheses are discussed in more detail in the paragraphs below.

Predictors of Mediators' Techniques and Strategies

There are two dependent variables in this category, "the broad approach" and "the narrow approach". These approaches represent different sets of mediator techniques and strategies, but the broad approach is not the exact opposite of the narrow approach. In fact, as I demonstrate in the next chapter, these two factor-based scales are positively correlated with each other. However, I expect each independent variable to have opposing effects on the two dependent variables, i.e., positively related to one and negatively related to the other. Therefore, in this section I group together my hypotheses relating to the broad approach and the narrow approach for each independent variable.

Mediator Characteristics. The first independent variable in this category was mediator acceptability. I expected that credible, trustworthy mediators would be more successful in using an integrative approach to bargaining, i.e., an approach which focuses

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TABLE 7.1

Hypotheses

Predictors of Mediator's Techniques and Strategies

- *Mediator Characteristics*

1a: Mediator acceptability will be negatively related to the use of the narrow approach.

1b: Mediator acceptability will be positively related to the use of the broad approach.

2a: Mediator skill base will be positively related to the use of the narrow approach.

2b: Mediator skill base will be positively related to the use of the broad approach.

3a: Female mediators will be less likely to use the narrow approach.

3b: Female mediators will be more likely to use the broad approach.

4a: Mediators with longer tenure will be more likely to use the narrow approach.

4b: Mediators with longer tenure will be less likely to use the broad approach.

5a: Mediators with previous experience in the private sector will be more likely to use the narrow approach.

5b: Mediators with previous experience in the private sector will be less likely to use the broad approach.

6a: Mediators with previous experience as an advocate for management will be more likely to use the narrow approach.

6b: Mediators with previous experience as an advocate for management will be less likely to use the broad approach.

TABLE 7.1 (continued)

Hypotheses
Predictors of Mediator's Techniques and Strategies • *Sources/Nature of Conflict* 7a: Relationship volatility will be positively related to the narrow approach. 7b: Relationship volatility will be negatively related to the broad approach. 8a: Collaborative orientation will be negatively related to the narrow approach 8b: Collaborative orientation will be positively related to the broad approach. 9a: The availability of bargaining chips will be negatively related to the narrow approach. 9b: The availability of bargaining chips will be positively related to the broad approach. 10a: The unionization rate will be negatively related to the narrow approach. 10b: The unionization rate will be positively related to the broad approach. 11a: Private sector cases will be positively related to the narrow approach. 11b: Private sector cases will be negatively related to the broad approach.

TABLE 7.1 (continued)

Hypotheses
Predictors of Mediator's Techniques and Strategies • *The Parties* 12a: A favorable management outlook will be negatively related to the narrow approach. 12b: A favorable management outlook will be positively related to the broad approach. • *Parties' Interactions* 13a: Structure of the impasse will be positively related to the narrow approach. 13b: Structure of the impasse will be negatively related to the broad approach. • *Other Technique/Strategy Determinants* 14a: Bargaining context will be positively related to the narrow approach. 14b: Bargaining context will be negatively related to the broad approach.

TABLE 7.2

Hypotheses
Predictors of Outcome

• *Mediator Characteristics*

15: Mediator acceptability will be positively related to the likelihood that the parties reach agreement.

16: Mediator skill base will be positively related to the likelihood that the parties reach agreement.

17: Female mediators are more likely to be successful in helping the parties reach agreement.

18: Mediators with longer tenure are more likely to be successful in helping the parties reach agreement.

19: Mediators with previous experience in the private sector are more likely to be successful in helping the parties reach agreement.

20: Mediators with previous experience as an advocate for management are less likely to be successful in helping the parties reach agreement.

• *Sources/Nature of Conflict*

21: Relationship volatility will be negatively related to the likelihood that the parties reach agreement.

22: Collaborative orientation will be positively related to the likelihood that the parties reach agreement.

• *Situational Characteristics*

23: The availability of bargaining chips will be positively related to the likelihood that the parties reach agreement.

24: The unionization rate will be positively related to the likelihood that the parties reach agreement.

25: In private sector cases the parties will be more likely to reach agreement.

TABLE 7.2 (continued)

Hypotheses

Predictors of Outcome
 	
•   *The Parties*
 	
      26: A favorable management outlook will be positively related to the likelihood of reaching agreement.
 	
•   *Mediator Techniques/Strategies*
 	
      27: The broad approach will be positively related to the likelihood of reaching agreement.
 	
      28: The narrow approach will be negatively related to the likelihood of reaching agreement.

TABLE 7.3

Hypotheses
Predictors of Future Relationship

- *Mediator Characteristics*

> 29: Mediator acceptability will be positively related to the future relationship between the parties.

> 30: Mediator skill base will be positively related to the future relationship between the parties.

> 31: Female mediators are more likely to be called in to help the parties develop a positive future relationship.

> 32: Mediator tenure will be positively related to the future relationship between the parties.

> 33: Private sector experience will be positively related to the future relationship between the parties.

> 34: Previous experience as an advocate for management will be negatively related to the future relationship between the parties.

- *The Outcome of Mediation*

> 35: Agreement on a contract will be positively related to the future relationship between the parties.

- *The Parties*

> 36: Favorable management attitudes will be positively related to the future relationship between the parties.

on improving the entire relationship between the parties, rather than the traditional approach which narrowly defines the conflict to be mediated. This expectation was based on my participant observation of new mediator training and my qualitative interviews. For example, in the new mediator training program the trainees were presented with a code of conduct. The code of conduct emphasized maintaining standards of honesty, integrity, and principle. In addition, throughout the training program the instructors stressed the importance of mediator confidentiality. Similarly, the interview data reveals the importance of professionalism, ethical behavior, operational neutrality, credibility, and sincerity. All of these characteristics help make the mediator acceptable to the parties.

Given the voluntary nature of mediation, mediator acceptability is critical to the success of mediation. Furthermore, if the mediator is acceptable to the parties s/he is more likely to be successful in securing the parties' consent to use the broad approach, which is a departure from the more narrowly focused traditional approach to collective bargaining. Hypothesis 1a: Mediator acceptability will be negatively related to the use of the narrow approach. Hypothesis 1b: Mediator acceptability will be positively related to the use of the broad approach.

The second independent variable in this category was mediator skill base. The data collected through participant observation and qualitative interviews indicate that mediators need both substantive knowledge (i.e., labor relations skills and experience) and process knowledge (i.e., facilitation and problem solving skills) to be effective. In particular, the need for both types of knowledge is evident in the mediator core competencies. This message was reinforced in the qualitative interviews. Although the

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mediators interviewed disagreed about the relative importance of the two types of knowledge, they tended to agree that both types were necessary.

Based on the on my participant observation of new mediator training and my qualitative interviews I expect that a mediator's labor relations skills/experience should facilitate use of the traditional approach, and a mediator's process skills should facilitate use of the integrative approach. Since the survey questions regarding both labor relations skills and process skills loaded on the same factor, i.e., mediator skill base, I expect that mediator skill base will be positively related to both the broad and narrow approaches. Hypothesis 2a: Mediator skill base will be positively related to the use of the narrow approach. Hypothesis 2b: Mediator skill base will be positively related to the use of the broad approach.

The third independent variable in this category was gender. I expected that female mediators would be more successful in using an integrative approach to bargaining rather than the traditional approach. As mentioned earlier, previous researchers found that female mediators tended to perceive more common ground between the disputants and to integrate more and use pressing tactics less than their male counterparts (Carnevale, Conlon, Hanisch, and Harris 1989). Similarly, previous researchers found that female mediators used more clarifying formulations (as opposed to controlling formulations) than their male counterparts (Wall and Dewhurst 1991). These techniques of looking for common ground, integrating, and clarifying what has been said fit with the broad approach to mediation. Hypothesis 3a: Female mediators will be less likely to use the narrow

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approach. Hypothesis 3b: Female mediators will be more likely to use the broad approach.

The fourth independent variable in this category was length of tenure with the FMCS. I expected that mediators with shorter tenure with the FMCS would be more successful in using an integrative approach to bargaining rather than the traditional approach. This expectation was based on my conversations with mediators and observation of training sessions. From both of these experiences it became clear that some of the mediators who had been with the FMCS for a long time were critical of the FMCS' expansion into preventive mediation services, which focus on relationship improvement. Similarly, the more seasoned mediators tended to be skeptical of the benefits of interest-based bargaining. Hypothesis 4a: Mediators with longer tenure will be more likely to use the narrow approach. Hypothesis 4b: Mediators with longer tenure will be less likely to use the broad approach.

The fifth independent variable in this category was previous experience in the private sector. I expected that mediators without previous experience in the private sector would be more successful in using an integrative approach to bargaining rather than the traditional approach. I expected this to be true because, as discussed in the participant observation chapters, collective bargaining is relatively new in the public and Federal sectors. Thus, the traditional methods of bargaining are not as entrenched as they are in the private sector. Also, the issues over which the parties disagree in the public sector tend to be more abstract (e.g., respect in the workplace) than the issues in the private sector. Finally, in the public sector there are often numerous power participants who are

not present at the bargaining table. All of these factors lend themselves to the broad approach to mediation which focuses on developing and understanding options and deals with barriers to negotiation such as interpersonal problems and communication problems between the parties to the dispute, as well as outside actors. Hypothesis 5a: Mediators with previous experience in the private sector will be more likely to use the narrow approach. Hypothesis 5b: Mediators with previous experience in the private sector will be less likely to use the broad approach.

The sixth independent variable in this category was previous experience as an advocate for management. Management resistance has been blamed for the recent decline in union membership and in union success for representation elections (Kochan and Katz 1988). Therefore, I expected that mediators with previous experience as an advocate for management would have difficulty gaining the necessary trust from union negotiators to implement an integrative approach to negotiations. Hypothesis 6a: Mediators with previous experience as an advocate for management will be more likely to use the narrow approach. Hypothesis 6b: Mediators with previous experience as an advocate for management will be less likely to use the broad approach.

Sources/Nature of conflict. The first independent variable in this category was relationship volatility. I expected that hostile relationships within and between the parties would make it difficult for mediators to use integrative techniques to bring the parties closer together. This expectation was based on my participant observation of the new mediator training program and my interviews with mediators. For example, the new mediator training program included a section on factors impacting mediation effectiveness.

Here the instructors noted that the nature of the relationship between the parties affects the mediators ability to persuade the parties to resolve their dispute. When the relationship between the parties is hostile, the mediator's ability to persuade the parties by using reward, legitimate, and informational power is severely restricted. This premise was supported by the interview data. In particular, the mediators noted that personality conflicts between the bargaining teams can be some of the most difficult sources of conflict to resolve.

Thus, I expect that when the collective bargaining relationship is volatile (e.g. there is hostility between the parties, the relationship is undergoing major structural changes), the mediator will have greater difficulty persuading the parties to use the broad approach. Hypothesis 7a: Relationship volatility will be positively related to the narrow approach. Hypothesis 7b: Relationship volatility will be negatively related to the broad approach.

The second independent variable in this category was collaborative orientation. I expected that an atmosphere of mutual respect and openness between the parties would make it easier for mediators to use integrative techniques to bring the parties closer together. Again, this expectation was based on my participant observation of the new mediator training program and interviews with mediators. In particular, the instructors noted that when both parties want to work on their ongoing relationship to make it more productive, the mediator's ability to persuade the parties through the use of reward and legitimate power is increased. Likewise, the mediators interviewed indicated that the mediation process flows more smoothly when the parties respect and trust each other.

Since the board approach to negotiations requires the parties to share information that they would not normally reveal in traditional bargaining, I expect that mediators would be better able to use the broad approach when an atmosphere of mutual respect and openness exists between the parties. Hypothesis 8a: Collaborative orientation will be negatively related to the narrow approach. Hypothesis 8b: Collaborative orientation will be positively related to the broad approach.

Situational Characteristics. The first independent variable in this category was bargaining chips. I expected that the ability of one party to pressure the other would make it easier for mediators to use integrative techniques to bring the parties closer together. This expectation is based on my participant observation of the new mediator program. Specifically, the instructors noted that the most essential factor impacting mediation effectiveness is the pressure on the parties to settle. As the pressure to settle becomes greater, the mediator's ability to persuade the parties through the use of reward power and coercion is enhanced.

Thus, when bargaining chips, such as the threat of a strike or pending NLRB charges are available, the mediator should be in a better position to persuade the parties to use the broad approach. Hypothesis 9a: The availability of bargaining chips will be negatively related to the narrow approach. Hypothesis 9b: The availability of bargaining chips will be positively related to the broad approach.

The second independent variable in this category was unionization rate. I expected that areas with higher unionization rates would facilitate integrative mediation techniques. This expectation was based on my interviews with mediators. In particular, one mediator

from a state where the unionization rate is relatively low indicated that he thought mediators in states with higher unionization rates would be freer to experiment with non-traditional techniques. This mediator's perception may be due in part to the fact that where unions are relatively rare, public opinion can be presumed to be less favorable to collective bargaining.

Since the broad approach represents a departure from the traditional approach to mediation, I expected that mediators in areas with relatively high unionization rates would be more likely to use the broad approach. Hypothesis 10a: The unionization rate will be negatively related to the narrow approach. Hypothesis 10b: The unionization rate will be positively related to the broad approach.

The third independent variable in this category was private sector. This was a dummy variable which equaled one if the mediation case took place in the private sector, and zero otherwise. For reasons which I discussed above related to the expected effects of the mediator's previous experience in the private sector, I expected that private sector cases would be less amenable to the integrative approach. Hypothesis 11a: Private sector cases will be positively related to the narrow approach. Hypothesis 11b: Private sector cases will be negatively related to the broad approach.

The Parties. The only independent variable in this category was management outlook. Management outlook is a factor-based scale variable which encompasses management's: desire for the mediation to be successful, realistic expectations of the process, and bargaining experience. I expected that management intransigence would inhibit the use of integrative techniques, while a favorable management outlook would

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facilitate the use of integrative techniques. These expectations are based on my participant observation of the new mediator training program and my interviews with mediators. For example, my interview data demonstrates that the parties must believe in the mediation process and must want to resolve their dispute for mediation to be successful. If management does not want to deal with the union or if management wants the union to be decertified, the case can be very difficult to mediate.

Again, if management does not want the mediation to be successful, they are unlikely to engage in the information sharing that is required when the broad approach is used. Hypothesis 12a: A favorable management outlook will be negatively related to the narrow approach. Hypothesis 12b: A favorable management outlook will be positively related to the broad approach.

Parties' Interactions. The only independent variable in this category was structure of the impasse. I expected that a highly structured impasse procedure would inhibit the use of integrative techniques. As indicated in the participant observation chapters, in some cases mediation is one of many steps in the impasse procedure. That is, additional dispute resolution processes are available to the parties after they participate in the mediation process. Under these circumstances, I would expect that the mediator would have greater difficulty in using the broad approach, which is aimed at improving the parties' entire relationship, because the parties tend to view mediation simply as a stepping stone to other dispute resolution processes. Hypothesis 13a: Structure of the impasse will be positively related to the narrow approach. Hypothesis 13b: Structure of the impasse will be negatively related to the broad approach.

Other Technique/Strategy Determinants. The only independent variable in this category was bargaining context. I expected that a pressurized, emotionally charged atmosphere would inhibit the use of integrative techniques. I expected to find this relationship because the broad approach requires the parties to consider mutual interests and focuses on developing and understand various options. When faced with extreme time pressures and an emotionally charged atmosphere the mediator may find it difficult to get the parties to step away from their entrenched positions and try to see the "big picture". Hypothesis 14a: Bargaining context will be positively related to the narrow approach. Hypothesis 14b: Bargaining context will be negatively related to the broad approach.

Predictors of Outcome

Mediator Characteristics. The first independent variable in this category was mediator acceptability. I expected that credible, trustworthy mediators would be more successful in helping the parties reach agreement. As noted above, this expectation was based on my participant observation of new mediator training and my qualitative interviews. Hypothesis 15: Mediator acceptability will be positively related to the likelihood that the parties reach agreement.

The second independent variable in this category was mediator skill base. As previously mentioned, the data collected through participant observation and qualitative interviews indicate that mediators need both substantive knowledge (i.e., labor relations skills and experience) and process knowledge (i.e., facilitation and problem solving skills) to be effective. A mediator's labor relations skills/experience and process skills should

both facilitate reaching agreement. <u>Hypothesis 16</u>: Mediator skill base will be positively related to the likelihood that the parties reach agreement.

The third independent variable in this category was gender. Studies of communication patterns have found that women tend to be more relationship-oriented than men in their communication styles (Gilligan 1993). Since my interviewees stressed the paramount importance of the relationship in mediation, I expected that female mediators would be more successful than male mediators in helping the parties reach agreement. <u>Hypothesis 17</u>: Female mediators are more likely to be successful in helping the parties reach agreement.

The fourth independent variable in this category was length of tenure with the FMCS. I expect that mediators with longer tenure with the FMCS are more likely than mediators with shorter tenure to be successful in helping the parties reach agreement. This expectation was based on my conversations with mediators and observation of training sessions. First, mediators with longer tenure have a greater variety of experiences to draw on in helping the parties come to agreement. Second, success tends to build on itself. That is, if a mediator is successful in helping the parties one time those parties are likely to request that mediator's help in the future. Third the simple fact that a mediator has a long tenure with the agency suggests that s/he is successful. That is, if a mediator was unsuccessful over the years s/he probably would not remain in the same occupation and with the same employer. <u>Hypothesis 18</u>: Mediators with longer tenure are more likely to be successful in helping the parties reach agreement.

The fifth independent variable in this category was previous experience in the private sector. I expected that mediators with previous experience in the private sector would be more successful than mediators without such experience in helping the parties reach agreement. I expected this to be true because the majority of cases the FMCS handles occur in the private sector. Thus, mediators with previous experience in the private sector are likely to be familiar with the issues that typically arise in the private sector. Hypothesis 19: Mediators with previous experience in the private sector are more likely to be successful in helping the parties reach agreement.

The sixth independent variable in this category was previous experience as an advocate for management. As mentioned earlier, management resistance has been blamed for the recent decline in union membership and in union success for representation elections (Kochan and Katz 1988). Therefore, I expected that mediators with previous experience as an advocate for management would have difficulty establishing their credibility and trustworthiness with the union bargaining team. Hypothesis 20: Mediators with previous experience as an advocate for management are less likely to be successful in helping the parties reach agreement.

Sources/Nature of conflict. The first independent variable in this category was relationship volatility. As noted above, the participant observation data indicate that when the relationship between the parties is hostile, the mediator's ability to persuade the parties by using reward, legitimate, and informational power is severely restricted. Similarly, the interview data indicate that personality conflicts between the bargaining teams can be some of the most difficult sources of conflict to resolve. Thus, I expected hostile

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relationships within and between the parties would make it more difficult for the mediator to help the parties reach agreement. Hypothesis 21: Relationship volatility will be negatively related to the likelihood that the parties reach agreement.

The second independent variable in this category was collaborative orientation. As previously discussed, the participant observation data indicate that when both parties want to work on their ongoing relationship to make it more productive, the mediator's ability to persuade the parties through the use of reward and legitimate power is increased. Similarly, the interview data indicates that the mediation process flows more smoothly when the parties respect and trust each other. Therefore, I expected that an atmosphere of mutual respect and openness between the parties would make it easier for the mediator to help the parties reach agreement. Hypothesis 22: Collaborative orientation will be positively related to the likelihood that the parties reach agreement.

Situational Characteristics. The first independent variable in this category was bargaining chips. As discussed in the participant observation chapters, the most essential factor impacting mediation effectiveness is the pressure on the parties to settle. As the pressure to settle becomes greater, the mediator's ability to use reward power and coercion to persuade the parties is enhanced. Similarly, the interviewees noted that the element of risk provides an incentive for the parties to reach agreement. The availability of bargaining chips, such as the threat of a lockout or the threat of a plant/facility closure, introduces the element of risk to the dispute and thereby puts pressure on the parties to settle. Thus, when bargaining chips are available the mediator should be in a better position to persuade the parties to resolve their dispute. Hypothesis 23: The availability of

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bargaining chips will be positively related to the likelihood that the parties reach agreement.

The second independent variable in this category was unionization rate. I expected that in areas with higher unionization rates the parties would be more likely to reach agreement. Again, this expectation was based on my conversations with mediators. More precisely, the interview data suggested that in states with higher unionization rates, public opinion can be presumed to be more supportive of collective bargaining. As a result, mediators practicing in states with higher unionization rates would have a greater variety of techniques at their disposal. The greater variety of techniques available translates into greater opportunities for settlement. Hypothesis 24: The unionization rate will be positively related to the likelihood that the parties reach agreement.

The third independent variable in this category was private sector. This was a dummy variable which equaled one if the mediation case took place in the private sector, and zero otherwise. As mentioned in the participant observation and interview chapters, structural characteristics in the private sector typically improve the odds that settlement will be reached. To begin with, there is some pressure on the parties to settle. The contract deadline gives the parties an incentive to reach agreement. In addition, the parties tend to have experience with bargaining and the mediation process. Moreover, the nature of the relationship in the private sector is often conducive to settlement. For example, many relationships in the private sector are long-standing. In many cases the parties perceive each other as legitimate. Finally, in the private sector there are typically a number of issues in dispute and the issues tend to be concrete, rather than abstract. Therefore, I

expect that mediators would be more successful in helping the parties reach agreement in private sector cases than they would be in public or federal sector cases. Hypothesis 25: In private sector cases the parties will be more likely to reach agreement.

The Parties. The only independent variable in this category was management outlook. Again, I expected that management intransigence would inhibit the likelihood of reaching agreement, while a favorable management outlook would facilitate reaching agreement. As noted above, these expectations are based on my participant observation of the new mediator training program and my interviews with mediators. In particular, in discussing the types of settlement the instructors noted that when handling cases the mediator should always look for the parties readiness to settle. Likewise, my interview data demonstrates that the parties must be willing to participate in mediation for it to be successful. For instance, my interviewees noted that if management does not want to deal with the union or if management wants the union to be decertified, the case can be very difficult to mediate. Hypothesis 26: A favorable management outlook will be positively related to the likelihood of reaching agreement.

Mediator Techniques/Strategies. The first independent variable in this category was the broad approach. Again, the "broad approach" includes mediator techniques and strategies aimed at seeing the "big picture". Mediators following the broad approach operate on the assumption that the goal of mediation is to reach an agreement that serves the mutual interests of the parties. The focus is on developing and understanding options. In addition, the broad approach to mediation deals with barriers to negotiation such as emotional/interpersonal problems and communication problems between the parties and

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outside actors. Under the broad approach one of the primary objectives of negotiation is improving the relationship between the parties. Furthermore, this approach emphasizes encouraging and empowering the parties to make their own decisions (Riskin, 1993). For these reasons I expect that the broad approach to mediation should facilitate agreement. Hypothesis 27: The broad approach will be positively related to the likelihood of reaching agreement.

The second independent variable in this category was the narrow approach. As its name suggests, the narrow approach narrowly defines the conflict to be mediated. This narrow definition of the conflict restricts the issues that can be discussed as part of the mediation process. The narrow approach to mediation places an emphasis on gaining concessions form the parties. Moreover, when this approach is followed the possible outcomes of mediation are severely limited. Indeed, Riskin (1993) questioned whether parties involved in narrow mediations were really participating in the mediation sessions or simply attending them. For these reasons I expect that the narrow approach to mediation should inhibit agreement. Hypothesis 28: The narrow approach will be negatively related to the likelihood of reaching agreement.

Predictors of Future Relationship

Mediator Characteristics. My interviewees indicated that they often provide continuing services to the parties after the contract has been negotiated. Therefore, I expected mediator characteristics to have a direct effect on the quality of the ongoing relationship between the parties. The first independent variable in this category was mediator acceptability. I expected that the parties would be more likely to request a

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credible, trustworthy mediator's assistance in improving their relationship throughout the life of their contract. Hypothesis 29: Mediator acceptability will be positively related to the future relationship between the parties.

The second independent variable in this category was mediator skill base. A mediator's labor relations skills/experience and process skills should enhance the parties' perceptions of the mediator's competence and should therefore encourage the parties to seek out additional services from the FMCS. Hypothesis 30: Mediator skill base will be positively related to the future relationship between the parties.

The third independent variable in this category was gender. Studies of communication patterns have found that women tend to be more relationship-oriented than men in their communication styles (Gilligan 1993). Since my interviewees stressed the paramount importance of the relationship in mediation, I expected that the parties would be more interested in seeking the help of female mediators to improve their ongoing relationship. Hypothesis 31: Female mediators are more likely to be called in to help the parties develop a positive future relationship.

The fourth independent variable in this category was length of tenure with the FMCS. I expected that mediators with longer tenure with the FMCS are more likely than mediators with shorter tenure to be successful helping the parties improve their relationship throughout the life of their contract. This expectation was based on my conversations with mediators and observation of training sessions. Mediators with longer tenure have a greater variety of experiences to draw on in helping the parties improve their

relationship. Hypothesis 32: Mediator tenure will be positively related to the future relationship between the parties.

The fifth independent variable in this category was previous experience in the private sector. I expected that mediators with previous experience in the private sector would be more successful than mediators without such experience in helping the parties improve their relationship throughout the life of their contract. I expected this to be true because the majority of cases the FMCS handles occur in the private sector. Thus, mediators with previous experience in the private sector are likely to be familiar with the issues that typically arise in the private sector. Hypothesis 33: Private sector experience will be positively related to the future relationship between the parties.

The sixth independent variable in this category was previous experience as an advocate for management. Again, management resistance has been blamed for the recent decline in union membership and in union success for representation elections (Kochan and Katz 1988). Therefore, I expected that mediators with previous experience as an advocate for management would have difficulty establishing their credibility and trustworthiness with the union bargaining team. Hypothesis 34: Previous experience as an advocate for management will be negatively related to the future relationship between the parties.

The Outcome of Mediation. Many of the mediators I interviewed indicated that a successful mediation is one in which the parties reach an agreement that they can live with for the life of the contract. A successful mediation should strengthen the bonds between

labor and management. <u>Hypothesis 35</u>: Agreement on a contract will be positively related to the future relationship between the parties.

The Parties. The only independent variable in this category was management outlook. I expected that a favorable management outlook would improve the ongoing relationship between the parties. This expectation was based on my interview data. In particular, my interviewees indicated that the parties behavior toward one another during negotiations influences the parties' future interactions, negotiations, and mediations. As one mediator put it, "the whole thing revolves around relationships." If people felt respected during the negotiations, they will have a more positive working relationship during the year. <u>Hypothesis 36</u>: Favorable management attitudes will be positively related to the future relationship between the parties.

The Next Step: Putting My Theory to the Test

Armed with these hypotheses, I was ready to test my theory. In the chapter that follows I discuss the technique that I chose to test my theory, path analysis, and the reasons for my choice. Then I discuss the hypotheses the data supported and those hypotheses the data failed to support. In cases where the data failed to support my hypotheses, I offer alternative explanations for my findings.

Chapter 8

Putting Theory to the Test: Data Analysis and Results

Choosing a Technique

Structural Equation Modeling. At first glance my model of the determinants of

successful mediation in the labor relations context looks ideally suited for structural

equation modeling because it includes factors, endogenous variables, and exogenous

variables. However, structural equation modeling texts typically assume that all

endogenous (dependent) variables are continuous (Maruyama 1998). In my model one of

the endogenous variables, agreement, is dichotomous. It is tempting to treat this variable

as a continuous variable and apply standard structural equation modeling techniques.

Unfortunately, this would constitute a serious violation of the assumptions of structural

equation modeling and would yield inaccurate results (Joreskog 1990). Moreover, it does

not make sense theoretically to convert the agreement variable into a continuous variable.

Although the mediators I spoke with indicated that success may be viewed as a

continuum, agreement may not. The parties either reached agreement or they did not.

There is no in-between.

A technique is available to deal with structural equation models with ordinal

endogenous variables, but it requires a large sample size to yield accurate results (Xie,

1989). How large is a large enough sample? Xie's (1989) example had over 14,000

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observations. My data consist of only 156 observations. Therefore, it appears that my data set is too small to facilitate the use of Xie's (1989) technique.

Path Analysis. Even though structural equation modeling is not appropriate in this case, my model is ideally suited for path analysis. Path analysis typically uses standardized regression coefficients (Leclair 1981). However, when some of the independent variables are dichotomous it is not meaningful to discuss the effect of a one standard deviation increase on the dependent variable.

Israels (1987) offers an alternative. More precisely, Israels (1987) discusses path analysis where one endogenous variable is dichotomous and predicts another endogenous variable. This is exactly how my model is specified. Israels (1987) recommends the use of unstandardized regression coefficients in the path analysis, and binary regression to model the dichotomous dependent variable. In binary regression, also known as the linear probability model, standard regression techniques are used even though the dependent variable is dichotomous. The linear probability model yields unbiased but inefficient results due to heteroscedasticity, so more efficient alternatives such as logistic regression are usually preferable (Aldrich and Nelson 1984). To test the robustness of the linear probability model I also conduct a logistic regression for the dichotomous dependent variable. In summary, the proper method for modeling my hypotheses is path analysis using unstandardized regression coefficients and a linear probability model for agreement.

Analyzing the Data

As mentioned earlier, I received a total of 78 usable surveys out of 185 distributed. My response rate was 42%. Since I asked each mediator to provide data about two cases (i.e., a case in which the parties reached agreement and a case in which the parties failed to reach agreement), I had 156 observations on which to base my data analysis.

Table 8.1 displays descriptive statistics and Table 8.2 displays the correlations between all of the variables used in my quantitative analysis. In the following section I review the statistically significant results of each of the regressions.[1] I discuss the impact on the dependent variable of a one unit increase in the independent variable.

Predictors of the Narrow Approach

The results of the regression predicting the narrow approach are shown in Table 8.3. The following predictors of the narrow approach were found to be statistically significant: bargaining context ($p < .05$), structure of the impasse ($p < .01$), gender ($p < .10$), mediator acceptability ($p < .01$), and bargaining chips ($p < .10$).

Hypothesis 1a stated that mediator acceptability will be negatively related to the use of the narrow approach. This hypothesis was not confirmed, as mediator acceptability was positively related to use of the narrow approach. This means that a one unit increase in mediator acceptability led to an increase in use of the narrow approach of .22 units.

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[1] I tested each regression for multicollinearity. Multicollinearity is detected when the collinearity diagnostics indicate that a root has a conditioning index which exceeds 30 and more than one variance proportion which is greater than .5 (Tabachnick and Fidell 1996). This did not occur for any of my regressions. Therefore, multicollinearity is not a problem for this analysis.

Table 8.1

Descriptive Statistics for All Variables Used in Path Analysis (n = 156)

Variable	Mean	S.D.
Factor-based scales:		
1. Ongoing relationship	16.29	4.00
2. Structure of impasse	7.90	2.61
3. Mediator skill base	6.36	2.03
4. Acceptability	11.14	3.12
5. Management outlook	12.35	3.69
6. Relationship volatility	13.64	4.10
7. Broad approach	8.72	2.39
8. Bargaining context	7.82	2.62
9. Bargaining chips	17.78	4.35
10. Collaborative orientation	13.67	4.01
11. Narrow approach	9.07	2.47
Other variables:		
12. Agreement	0.50	0.50
13. Private sector	0.81	0.40
14. Gender (Male = 1)	0.82	0.37
15. Management advocate	0.36	0.48
16. Tenure w/FMCS	9.13	9.42
17. Private sector work exp.	0.90	0.30
18. Unionization rate	33.04	19.17

Table 8.2
Bivariate Statistics for All Variables Used in Path Analysis (n – 156)

Variable*	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18
								Correlations									
1.	.18*	.22**	.38**	.15†	.14†	.35**	.13	.19*	.34**	.27**	-.30**	-.02	-.12	.02	-.00	.05	-.17*
2.		-.02	.18*	.00	.13	.04	.15†	-.11	.19*	.27**	.05	.46**	.11	-.12	-.04	.04	.07
3.			.54**	.15†	.28**	.24**	.31**	.15†	.10	.33**	-.25**	-.20*	-.12	-.04	.03	.05	-.02
4.				.28**	.24**	.34**	.36**	.10	.25**	.45**	-.28**	-.02	.08	-.04	-.04	.21**	-.05
5.					.03	.11	.26**	.23**	.38**	.16†	-.29**	-.14†	.00	.09	-.16*	.22**	-.03
6.						.16*	.20*	.26**	-.08	.13	.20*	-.09	-.03	.01	-.07	.21**	.02
7.							.24**	.04	.16*	.38**	-.18*	-.12	-.07	-.05	.01	.00	-.27**
8.								.23**	.07	.32**	-.02	-.06	.07	.08	-.08	.14†	.01
9.									.07	-.00	-.03	-.30**	-.19*	.20*	.06	.16*	-.10
10.										.22**	-.48**	.13	-.06	-.04	-.10	.01	-.13
11.											-.14†	.04	-.04	.02	.03	.07-	.14†
12.												.07	.00	.00	.00	.00	.00
13.													.10	-.04	-.02	-.01	.09
14.														.13	.23**	.07	.08
15.															.05	.17*	-.15†
16.																-.23**	-.02
17.																	.14†
18.																	

† - significant, p<.10; * - significant, p<.05; ** - significant, p<.01

* For variable names please see Table 8.1.

Table 8.3

Regression Results: Dependent variable = narrow approach (n = 156)

Independent Variable	b	s.e.(b)	t
Mediator acceptability	.22	.03	3.01**
Mediator skill base	.13	.11	1.24
Gender (Male = 1)	-.87	.51	-1.69†
Tenure w/FMCS	.03	.02	1.52
Private sector exp.	.24	.64	.38
Management advocate	.33	.39	.85
Relationship volatility .00	.05	.10	
Collaborative orientation	.06	.05	1.12
Bargaining chips	-.09	.05	-1.83†
Unionization rate	-.01	.01	-1.58
Private sector case	-.32	.53	-.60
Management outlook	.01	.06	.10
Structure of impasse	.21	.08	2.62**
Bargaining context	.17	.08	2.31*
Constant	4.27	1.40	3.04**
F-statistic	4.87**		
Adjusted r-squared	.26		

† - significant, $p<.10$; * - significant, $p<.05$; ** - significant, $p<.01$

Hypothesis 3a stated that female mediators will be less likely to use the narrow approach. This hypothesis was confirmed. The negative coefficient indicates that male respondents are more likely than females to use the narrow approach. The difference between male and female respondents, controlling for the other independent variables, was about .87 units.

Hypothesis 9a stated that the availability of bargaining chips will be negatively related to the narrow approach. This hypothesis was confirmed. This means that a one unit increase in bargaining chips led to a decrease in use of the narrow approach of .09 units.

Hypothesis 13a stated that the structure of the impasse will be positively related to the narrow approach. This hypothesis was confirmed. This means that a one unit increase in structure of the impasse led to an increase in use of the narrow approach of .21 units.

Hypothesis 14a stated that bargaining context will be positively related to the narrow approach. This hypothesis was confirmed. This means that a one unit increase in bargaining context led to an increase in use of the narrow approach of .17 units.

Predictors of the Broad Approach

The results of the regression predicting the broad approach are shown in Table 8.4. The following predictors of the broad approach were found to be statistically significant: bargaining context (p<.10), mediator acceptability (p<.05), and unionization rate (p<.01).

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Table 8.4

Regression Results: Dependent variable = broad approach (n = 156)

Independent Variable	b	s.e.(b)	t
Mediator acceptability	.19	.07	2.54*
Mediator skill base	-.01	.11	-.05
Gender (Male = 1)	-.57	.53	-1.09
Tenure w/FMCS	.02	.02	.81
Private sector exp.	-.08	.66	-.13
Management advocate	-.25	.40	-.63
Relationship volatility .06	.05	1.28	
Collaborative orientation	.06	.05	1.12
Bargaining chips	-.07	.05	-1.40
Unionization rate	-.03	.01	-3.19**
Private sector case	-.70	.55	-1.29
Management outlook	-.01	.06	-.20
Structure of impasse	-.00	.08	-.02
Bargaining context	.15	.08	1.97†
Constant	7.24	1.44	5.01**
F-statistic	3.14**		
Adjusted r-squared	.16		

† - significant, p<.10; * - significant, p<.05; ** - significant, p<.01

Hypothesis 1b stated that mediator acceptability will be positively related to the use of the broad approach. This hypothesis was confirmed. This means that a one unit increase in mediator acceptability led to an increase in use of the broad approach of .19 units.

Hypothesis 10b stated that the unionization rate will be positively related to the broad approach. Recall that for all of my factor-based scales, lower scores indicate greater agreement with the statements on the survey. Higher unionization rates were associated with lower scores in the broad approach scale, therefore this hypothesis was confirmed. Specifically, a one percent increase in unionization rate led to a decrease in the broad approach scale of .03 units.

Hypothesis 14b stated that bargaining context will be negatively related to the broad approach. This hypothesis was not confirmed, as bargaining context was found to be positively related to the broad approach. This means that a one unit increase in bargaining context led to an increase in use of the broad approach of .15 units.

Predictors of Agreement

The results of the linear probability model predicting agreement are shown in Table 8.5, and the results of the logistic regression model predicting agreement are shown in Table 8.6. The set of significant independent variables, and the statistical significance of each of these independent variables, were the same in both models. This means that the linear probability model provided efficient estimates of the regression coefficients. The following predictors of agreement were found to be statistically significant: volatility ($p<.01$), collaborative orientation ($p<.01$), and skill base ($p<.05$).

Table 8.5

Regression Results: Dependent variable = agreement (n = 156)

Independent Variable	b	s.e.(b)	t
Mediator acceptability	-.02	.01	-1.27
Mediator skill base	-.05	.02	-2.22*
Gender (Male = 1)	-.02	.10	-.24
Tenure w/FMCS	-.00	.00	-.40
Private sector exp.	.02	.13	.18
Management advocate	-.04	.08	-.54
Relationship volatility	.03	.01	3.43**
Collaborative orientation	-.05	.01	-5.18**
Bargaining chips	.00	.01	.12
Unionization rate	-.00	.00	-1.41
Private sector case	.11	.10	1.12
Management outlook	-.01	.01	-1.00
Broad approach	-.02	.02	-1.42
Narrow approach	.01	.02	.89
Constant	1.49	.30	4.92**
F-statistic	5.73**		
Adjusted r-squared	.30		

† - significant, p<.10; * - significant, p<.05; ** - significant, p<.01

Table 8.6

Logistic Regression Results: Dependent variable = agreement (n = 156)

Independent Variable	b	s.e.(b)	Wald
Mediator acceptability	-.13	.10	1.58
Mediator skill base	-.33	.15	4.82*
Gender (Male = 1)	-.44	.69	.41
Tenure w/FMCS	-.01	.02	.22
Private sector exp.	.10	.74	.02
Management advocate	-.22	.46	.23
Relationship volatility	.20	.06	11.32**
Collaborative orientation	-.33	.08	18.93**
Bargaining chips	.00	.06	.00
Unionization rate	-.02	.01	2.69
Private sector case	.59	.58	1.02
Management outlook	-.05	.07	.57
Broad approach	-.16	.10	2.19
Narrow approach	.07	.10	.48
Constant	7.13	2.15	10.95**
Model chi-square	70.31**		

† - significant, p<.10; * - significant, p<.05; ** - significant, p<.01

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Hypothesis 16 stated that mediator skill base will be positively related to the likelihood that the parties reach agreement. This hypothesis was confirmed. A lower score on the skill base scale indicates a greater mediator skill base, so the negative coefficient confirms my hypothesis. A one unit decrease in the mediator skill base scale led to a 5% increase in the probability of reaching agreement.

Hypothesis 21 stated that relationship volatility will be negatively related to the likelihood that the parties reach agreement. This hypothesis was confirmed. A higher score on the relationship volatility scale indicates less volatility, so the positive coefficient confirms my hypothesis. A one unit increase in the relationship volatility scale led to a 3% increase in the probability of reaching agreement.

Hypothesis 22 stated that collaborative orientation will be positively related to the likelihood that the parties reach agreement. This hypothesis was confirmed. A lower score on the collaborative orientation scale indicates a greater collaborative orientation, so the negative coefficient confirms my hypothesis. A one unit decrease in the collaborative orientation scale led to a 5% increase in the probability of reaching agreement.

Predictors of Relationship Improvement

The results of the regression predicting relationship improvement are shown in Table 8.7. The following predictors of relationship improvement were found to be statistically significant: agreement ($p<.01$), gender ($p<.05$), and mediator acceptability ($p<.01$).

Table 8.7

Regression Results: Dependent variable = ongoing relationship (n = 156)

Independent Variable	b	s.e.(b)	t
Mediator acceptability	.48	.12	4.05**
Mediator skill base	-.11	.18	-.65
Gender (Male = 1)	-1.88	.83	-2.25*
Tenure w/FMCS	.02	.03	.63
Private sector exp.	-.18	1.04	-.17
Management advocate	.43	.63	.69
Agreement	-1.69	.63	-2.68**
Management outlook	.00	.09	.04
Constant	13.81	1.84	7.49**
F-statistic	5.12**		
Adjusted r-squared	.18		

† - significant, p<.10; * - significant, p<.05; ** - significant, p<.01

Hypothesis 29 stated that mediator acceptability will be positively related to the future relationship between the parties. This hypothesis was confirmed, as the coefficient of mediator acceptability was positive. This means that a one unit increase in mediator acceptability led to an increase in relationship improvement of .48 units.

Hypothesis 31 stated that female mediators are more likely to be called in to help the parties develop a positive future relationship. This hypothesis was not confirmed. The coefficient of gender was negative, indicating that male mediators expect a more fruitful ongoing relationship between the parties than female mediators. The difference between male and female respondents, controlling for the other independent variables, was about 1.88 units.

Hypothesis 35 stated that agreement on a contract will be positively related to the future relationship between the parties. This hypothesis was confirmed, as agreement led to a lower score on the ongoing relationship scale, which indicates a more satisfactory ongoing relationship. The difference between mediations in which agreement was reached and mediations in which agreement was not reached, controlling for the other independent variables, was about 1.69 units.

Summary and Discussion

To sum up, I started with 50 hypotheses. I found 14 statistically significant relationships. Eleven of these relationships confirmed my hypotheses, while only three coefficients were both statistically significant and in the opposite of the predicted direction. These findings are presented in summary form in Tables 8.8, 8.9, 8.10. In the following paragraphs I interpret my results including those cases in which my hypotheses were not confirmed, some of the statistically insignificant results, and those cases in which my hypotheses were confirmed.

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Table 8.8

Results Summary: Predictors of Mediator's Techniques and Strategies		
Hypothesis	Confirmation Status*	Significance Level
Mediator Characteristics		
1a: Mediator acceptability will be negatively related to the use of the narrow approach.	0	.01
1b: Mediator acceptability will be positively related to the use of the broad approach.	+	.05
2a: Mediator skill base will be positively related to the use of the narrow approach.	0	---
2b: Mediator skill base will be positively related to the use of the broad approach.	0	---
3a: Female mediators will be less likely to use the narrow approach.	+	.10
3b: Female mediators will be more likely to use the broad approach.	0	---
4a: Mediators with longer tenure will be more likely to use the narrow approach.	0	---
4b: Mediators with longer tenure will be less likely to use the broad approach.	0	---
5a: Mediators with previous experience in the private sector will be more likely to use the narrow approach.	0	---
5b: Mediators with previous experience in the private sector will be less likely to use the broad approach.	0	---

* Confirmed hypotheses=+, unconfirmed hypotheses=0

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Table 8.8 (continued)

Results Summary: Predictors of Mediator's Techniques and Strategies		
Hypothesis	Confirmation Status[a]	Significance Level
Mediator Characteristics (continued)		
6a: Mediators with previous experience as an advocate for management will be more likely to use the narrow approach.	0	---
6b: Mediators with previous experience as an advocate for management will be less likely to use the broad approach.	0	---
Sources/Nature of Conflict		
7a: Relationship volatility will be positively related to the narrow approach.	0	---
7b: Relationship volatility will be negatively related to the broad approach.	0	---
8a: Collaborative orientation will be negatively related to the narrow approach	0	---
8b: Collaborative orientation will be positively related to the broad approach.	0	---
Situational Characteristics		
9a: The availability of bargaining chips will be negatively related to the narrow approach.	+	.10
9b: The availability of bargaining chips will be positively related to the broad approach.	0	---
10a: The unionization rate will be negatively related to the narrow approach.	0	---
10b: The unionization rate will be positively related to the broad approach.	+	.01

[a] Confirmed hypotheses=+, unconfirmed hypotheses=0

Table 8.8 (continued)

Results Summary: Predictors of Mediator's Techniques and Strategies		
Hypothesis	Confirmation Status[*]	Significance Level
Situational Characteristics (continued)		
11a: Private sector cases will be positively related to the narrow approach.	0	---
11b: Private sector cases will be negatively related to the broad approach.	0	---
The Parties		
12a: A favorable management outlook will be negatively related to the narrow approach.	0	---
12b: A favorable management outlook will be positively related to the broad approach.	0	---
Parties Interactions		
13a: Structure of the impasse will be positively related to the narrow approach.	+	.01
13b: Structure of the impasse will be negatively related to the broad approach.	0	---
Other Technique/Strategy Determinants		
14a: Bargaining context will be positively related to the narrow approach.	+	.05
14b: Bargaining context will be negatively related to the broad approach.	0	.10

[*] Confirmed hypotheses=+, unconfirmed hypotheses=0

Table 8.9

Results Summary: Predictors of Agreement		
Hypothesis	Confirmation Status*	Significance Level
Mediator Characteristics		
15: Mediator acceptability will be positively related to the likelihood that the parties reach agreement.	0	---
16: Mediator skill base will be positively related to the likelihood that the parties reach agreement.	+	.05
17: Female mediators are more likely to be successful in helping the parties reach agreement.	0	---
18: Mediators with longer tenure are more likely to be successful in helping the parties reach agreement.	0	---
19: Mediators with previous experience in the private sector are more likely to be successful in helping the parties reach agreement.	0	---
20: Mediators with previous experience as an advocate for management are less likely to be successful in helping the parties reach agreement.	0	---
Sources/Nature of Conflict		
21: Relationship volatility will be negatively related to the likelihood that the parties reach agreement.	+	.01
22: Collaborative orientation will be positively related to the likelihood that the parties reach agreement.	+	.01

* Confirmed hypotheses=+, unconfirmed hypotheses=0

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Table 8.9 (continued)

Results Summary: Predictors of Agreement		
Hypothesis	Confirmation Status[*]	Significance Level
Situational Characteristics		
23: The availability of bargaining chips will be positively related to the likelihood that the parties reach agreement.	0	---
24: The unionization rate will be positively related to the likelihood that the parties reach agreement.	0	---
25: In private sector cases the parties will be more likely to reach agreement.	0	---
The Parties	0	---
26: A favorable management outlook will be positively related to the likelihood of reaching agreement.		
	0	---
Mediator Techniques/Strategies		
27: The broad approach will be positively related to the likelihood of reaching agreement.	0	---
28: The narrow approach will be negatively related to the likelihood of reaching agreement.	0	---

[*] Confirmed hypotheses=+, unconfirmed hypotheses=0

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Table 8.10

Results Summary: Predictors of Relationship Improvement		
Hypothesis	Confirmation Status[*]	Significance Level
Mediator Characteristics		
29: Mediator acceptability will be positively related to the future relationship between the parties.	+	.01
30: Mediator skill base will be positively related to the future relationship between the parties.	0	---
31: Female mediators are more likely to be called in to help the parties develop a positive future relationship.	0	.05
32: Mediator tenure will be positively related to the future relationship between the parties.	0	---
33: Private sector experience will be positively related to the future relationship between the parties.	0	---
34: Previous experience as an advocate for management will be negatively related to the future relationship between the parties.	0	---
The Outcome of Mediation		
35: Agreement on a contract will be positively related to the future relationship between the parties.	+	.01
The Parties		
36: Favorable management attitudes will be positively related to the future relationship between the parties.	0	---

[*] Confirmed hypotheses=+, unconfirmed hypotheses=0

Explaining the Anomalies

The Path Not Taken: Unconfirmed Hypotheses . As noted above, I started with 50 hypotheses. I found 14 statistically significant relationships. Eleven of these relationships confirmed my hypotheses. At the same time, three coefficients were statistically significant in the opposite of the predicted direction. Hypotheses 1a, 14b, and 30 were not confirmed.

First, hypothesis 1a stated that mediator acceptability will be negatively related to the use of the narrow approach. That is, I expected that credible, trustworthy mediators would be more successful in using an integrative approach to bargaining, i.e., an approach which focuses on improving the entire relationship between the parties, rather than the traditional approach which narrowly defines the conflict to be mediated. This hypothesis was not confirmed.

One possible explanation for this anomaly lies with the fact that mediator acceptability was also positively related to the broad approach. Perhaps mediator acceptability is a prerequisite for the use of either the broad or the narrow approach. In the absence of acceptability, the mediator may not be able to use a coherent set of techniques and strategies.

Second, hypothesis 14b stated that bargaining context will be negatively related to the broad approach. Again, bargaining context encompasses strategic determinants such as an emotionally charged atmosphere, the nature of the issues in dispute, and time pressures. I expected to find this relationship because the broad approach requires the parties to consider mutual interests and focuses on developing and understand various

options. When faced with extreme time pressures and an emotionally charged atmosphere, the mediator may find it difficult to get the parties to step away from their entrenched positions and try to see the "big picture." This hypothesis was not confirmed.

One possible explanation for this anomaly comes from previous research. Specifically, Riskin (1993) found that the broad approach to mediation produced more satisfactory results than the narrow approach, especially in reducing tensions and laying the groundwork for future communication and cooperation. These results may be attributed in part to the fact that the broad approach to mediation deals with barriers to negotiation such as emotional and interpersonal problems and communication problems between the parties and outside actors. Thus, the broad approach appears to be ideally suited for situations in which there is an emotionally charged atmosphere and/or the issues in dispute are related to something that occurred on the shop floor or involve matters of principle such as race, religion, and relative class status in the workplace. In terms of time pressure, when the broad approach is used, it may be easier for the parties to decide that it is in their mutual interests to extend the bargaining deadline in order to resolve their dispute peacefully.

Third, hypothesis 31 stated that female mediators are more likely to be called in to help the parties develop a positive future relationship. As noted earlier, studies of communication patterns have found that women tend to be more relationship-oriented than men in their communication styles (Gilligan 1993). Since my interviewees stressed the paramount importance of the relationship in mediation, I expected that the parties would

be more interested in seeking the help of female mediators to improve their ongoing relationship. This hypothesis was not confirmed.

Two possible explanations for this anomaly are as follows. First, although mediation has been dubbed the "second oldest profession" (Kolb 1983), in the labor relations context women have only recently gained acceptance as mediators. Indeed, during my participant observation of new mediator training sessions the director of the FMCS indicated in his presentation that the agency only recently began a concerted effort to actively recruit women and minorities as new mediators. My own work experience in the field of labor relations confirms that the field is still very much an "old boys club". Thus, even though women tend to be relationship-oriented in their communication styles, they may still encounter significant resistance from the parties when they attempt to intervene in a dispute.

Second, my survey asked mediators to report the likelihood that the parties would use their services in the future. Since the FMCS only recently began actively recruiting female mediators, the female mediators with the FMCS may be experiencing difficulty in establishing informal mentoring relationships with experienced mediators. Thus, a relative lack of social support may cause the female mediators to feel less confident when asked about the likelihood that the parties will request their services in the future.

Making something out of nothing: statistically insignificant results. As noted above, among the 50 hypotheses I began with, I found 14 statistically significant relationships. The other 36 relationships I expected to find were not statistically significant. Three sets of insignificant results are theoretically interesting.

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First, there is the failure to confirm a relationship between the demographic variables and agreement. In the final part of my survey I collected data on five demographic variables: gender, tenure with the FMCS, private sector experience, management advocate experience, and unionization rate. Based on my interview and participant observation data I expected that these demographic variables would be related to reaching agreement. However, my analysis failed to confirm these relationships.

The most likely explanation for this anomaly is the research design. Specifically, each of the demographic variables listed above was associated with a mediation in which agreement was reached and a mediation in which agreement was not reached. This research design is unlikely to yield significant relationships between these five variables and the probability of agreement. Therefore, I cannot conclude on the basis of this survey that these five variables are truly unrelated to the probability of agreement.

Next, is the management outlook and all of the dependent variables. Based on the interview data, I expected that management outlook would be significantly related to each of the dependent variables. However, the management outlook variable never came close to statistical significance as its t-statistic never exceeded 1.0.

Another look at Table 8.2 explains this result. Consider for example, the relationship between management outlook and agreement. The correlation between management outlook and agreement is larger than the correlation of the other independent variables and agreement, except for collaborative orientation. The correlation between management outlook and collaborative orientation is also large. In the regression, collaborative orientation is related to agreement at p<.01, whereas management outlook is

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unrelated to agreement. Therefore, management outlook appears to exert an indirect effect on agreement through the direct effect of collaborative orientation.

A similar pattern can be found between management outlook and the narrow approach, and between management outlook and ongoing relationship. In both cases management outlook is correlated with the dependent variable at $p < .10$ and more highly correlated with an independent variable which is significantly related to the dependent variable according to the regression. For the narrow approach, management outlook is correlated with the following statistically significant independent variables: mediator acceptability, bargaining chips, and bargaining context. For the ongoing relationship management outlook is correlated with the following statistically significant independent variables: mediator acceptability and agreement. Thus, management outlook appears to have an indirect effect on three of the dependent variables in my model and no effect on the fourth dependent variable, the broad approach.

The final set of interestingly insignificant results concerns the relationship between techniques/strategies and agreement. Possible explanations for this finding lie in my participant observation data, my interview data, and previously published research. To begin with, the participant observation data reveal that the techniques and strategies available to mediators are virtually limitless. No single technique fits every situation. In fact, some techniques are opposites of each other. There are no set guidelines for choosing which technique to use. Rather, the mediator must exercise judgment in deciding which technique to use in a given situation and how to apply that technique.

The interview data confirm the participant observation data and suggest another possible explanation for this anomaly. First, the interviewees agreed that there is a lot of variation in the strategies and techniques that mediators use to keep the parties talking and work toward reaching an agreement. One mediator indicated successful mediation cannot be boiled down to a specific technique or strategy. Others indicated that the available techniques and strategies are so numerous that it is difficult to isolate a single technique or strategy or a set of techniques and strategies.

Second, the interviewees indicated that the success of mediation may be attributed to the nature of mediation itself. That is, although the mediator is familiar with labor disputes and the labor-management relationship, s/he is not party to that relationship. Rather, s/he is an outsider who is above the fray of "family" squabbles. In highly adversarial relationships, the mediator acts as a buffer in the parties' relationship. As one interviewee described it, the mediator acts as a "shock absorber" soaking up some of the abuse that the parties dish out and re-directing it toward a positive conclusion that they both want to reach. In brief, mediation provides the parties an opportunity to air their grievances and then begin to work on solving their problems. The mediator helps the parties view their problems with a fresh perspective and generate creative solutions to their problems. So, the nature of mediation itself may be more important than the specific strategies or techniques that the mediator uses.

These results are also not completely surprising in light of previous research on mediator techniques and strategies. For example, in a study of federal and state mediators involved in the resolution of public employee strikes, Rodgers (1986) found that the

tactics employed by mediators were not significantly related to dispute outcomes.
However, over 80% of the cases in Rodgers' (1986) study were settled, so there was not
much variance in the dependent variable. Likewise, in their study of mediators in a state
mediation agency Briggs and Koys (1990) found that mediator strategies did not make a
significant independent contribution to mediator effectiveness. This study used supervisor
evaluations of mediator effectiveness as its dependent variable. Supervisor evaluations of
mediators may be inaccurate since the supervisors rarely observe the mediators in action.

My study uses an unambiguous dependent variable. It is safe to assume that the
mediators knew whether or not agreement was reached. Furthermore, my experimental
design set the agreement rate at exactly 50%, providing the maximum possible amount of
variance in the dependent variable. Since all three studies reach similar conclusions, a
body of evidence is mounting which suggests that mediator techniques and strategies are
not consistently related to mediation outcomes.

Hitting the Mark: Confirmed Hypotheses

Eleven of the 50 hypothesized relationships had the expected signs and were
statistically significant. These included four of the five significant predictors of the narrow
approach, two of the three significant predictors of the broad approach, all three
significant predictors of agreement, and two of the three significant predictors of ongoing
relationship. Further evidence of the quality of my models is that the goodness of fit
measures for all five regressions were significant at $p < .01$. In the concluding chapter of
this dissertation I summarize the findings of all three of my research methodologies:
participant observation, interviews, and survey results. As part of my summary of survey

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results, I will include a graphical representation of the path analysis showing all significant paths. Finally, I will discuss limitations of my research and provide suggestions for future research into mediation.

Chapter 9

Conclusion

To summarize, in mediation a neutral third party assists the parties in conflict in reaching a voluntary agreement. The mediator does not have the power or authority to impose a settlement. Instead, s/he simply facilitates the negotiation process. The primary goal of the mediator is to help the parties come to an agreement.

Mediation is important for a number of reasons. In particular, mediation is quickly becoming the policy instrument of choice to resolve disputes at various levels of government. Mediation is especially relevant in the public sector given the strong presence of unions. Furthermore, mediation promotes labor-management cooperation; such cooperation is essential to providing public services in a timely and cost-effective manner. Moreover, since public sector managers are involved in team building, resolving interpersonal disputes, and handling grievances they are in essence bargaining all the time.

Indeed, courses in conflict resolution/mediation are being offered in the curricula of many public administration programs in an effort to help public administrators understand the nature of conflict in their work and their role as conflict resolvers. As evidence of the role that mediation plays in the public sector, such courses are often filled to capacity.[1] The growing interest in teaching negotiation and dispute settlement is also

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[1]This information is based on discussions at panel sessions on Personnel and Labor Relations at the 1998 American Society for Public Administration (ASPA) conference.

reflected in the editorial policies of multidisciplinary journals such as *Negotiation Journal* which features a section on Educational Innovations. Thus, mediation is a topic worthy of study within the field of public administration (for both practitioners and scholars), as well as other fields such as public policy analysis, organizational studies, labor relations, and conflict resolution.

Although mediation has become increasingly popular as a means to resolve conflict the practice of mediation has outstripped theory-building. As mentioned earlier, mediators often claim that mediation is an art, not a science. However, given the explosive growth in the use of conflict resolution services, the premise that mediation cannot be evaluated has become untenable. Toward this end, this research examines the entire mediation process in the labor relations context to identify the determinants of successful mediation and sort out the relative contributions of the various factors.

In this chapter I summarize the results from each phase of this research project--secondary data analysis, participant observation, interviews, and the written survey. Next I compare and contrast the results from these various phases. Then I review the contributions this research makes to the existing body of knowledge of mediation. I conclude with a discussion of the limitations of this research and suggestions for future research.

Secondary Data

The secondary data were derived from the agency's printed documents such as annual reports, task force reports, training manuals, and brochures describing the services provided by the agency. Using these data I was able to infer what factors the agency

considers to be critical to mediation success. I collected some of these documents during the course of my initial literature review, some at the national conference, and some at the new mediator training sessions.

Based on the FMCS' documents, one can infer that mediators with the FMCS follow the "broad" approach to mediation, as described by Riskin (1993). Mediators following the broad approach operate on the assumption that the goal of mediation is to reach an agreement that serves the mutual interests of the parties. The focus is on developing and understanding options. In addition, the broad approach to mediation deals with barriers to negotiation such as emotional/interpersonal problems and communication problems between the parties and outside actors. Under the broad approach one of the primary objectives of negotiation is improving the relationship between the parties. Furthermore, this approach emphasizes encouraging and empowering the parties to make their own decisions (Riskin, 1993). Evidence of the broad approach to mediation can be found in the FMCS' core competencies (see Table 9.1) which were designed to produce "360 degree mediators", capable of delivering the full range of conflict resolution services sought by its customers. For example, the mediators are expected to help the parties reach mutually acceptable agreements.

Table 9.1

Mediator Core Competencies
_____

1. Expertise in collective bargaining and labor management relations
2. Ability to provide assistance to the parties in the negotiation of collective bargaining
      agreements
3. Knowledge of the processes used to improve labor management relations
4. Facilitation and problem-solving skills
5. Knowledge of the processes used to improve organizational effectiveness
6. Ability to design and implement conflict resolution systems
7. Ability to engage in education, advocacy, and outreach efforts, and
8. Knowledge, Skill, and Ability in Information Systems.
_____

Additionally, the mediators use an open-systems approach to resolving conflict.

That is, the mediators are encouraged to understand the role that outside actors such as

federal, state, and local governments play in the labor relations environment. The FMCS

also places great importance on helping the parties improve their relationship and improve

organizational effectiveness. In brief, it appears that the broad approach improves the

chances of successful mediation in the labor relations context and other contexts as well.

Finally, running through the FMCS core competencies is an emphasis on

communication and problem-solving skills. These skills form the basis of mediation and

therefore apply to mediation regardless of the context in which it is practiced.

Specifically, mediators are called in to help parties solve problems that the parties were

unable to resolve on their own. The dispute resolution process begins with

communication including meeting the disputants and making introductions, explaining

what the mediation process is and what the mediator's role is in that process, and relies on

effective communication skills throughout.

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The FMCS core competencies provide a good model of the knowledge, skills and abilities that are required of mediators in the labor relations context. Combined with a training and education program that encourages continuous learning and improvement and reinforces these goals through performance evaluations, work plans, and leadership, the FMCS core competencies contribute to successful mediation in the labor relations context.

Participant Observation

The participant observation portion of my research involved attending the FMCS new mediator training program. This training program consisted of four intensive week-long training sessions. The four stages of the new mediator training sequence are: dispute mediation, preventive mediation, and alternative dispute resolution, and facilitation and group dynamics.

These training sessions serve to initiate the new mediators to the agency and provide them with the basic tools they need to do their jobs. Some of the key themes covered during the dispute resolution training program include: factors impacting mediation effectiveness; private, public, and federal sector labor relations in comparison, and mediator techniques and strategies. These key themes will be summarized in the paragraphs that follow.

Factors Impacting Mediation Effectiveness

Mediator characteristics such as acceptability, credibility, and perceived neutrality of the mediator are the basic elements of mediator effectiveness. Beyond these basic elements, a variety of factors influence mediator effectiveness and the eventual outcome of the dispute. Those factors which appear to be most common and have the greatest

influence are: the pressure on the parties to settle, the parties' experience with bargaining/mediation, the nature of the relationship between the parties, and the nature of the issues in dispute. These findings are summarized in Table 9.2.

TABLE 9.2

Factors Impacting Mediation Effectiveness

Factor	Power Base(s)
Pressure on the parties to settle	Reward Coercion
Parties' experience with bargaining/mediation	Reward Expert Legitimate
Nature of the relationship between the parties	Reward Legitimate Informational
Nature of the issues in dispute	Reward Expert

Private, Public, and Federal Sector Labor Relations in Comparison

The four factors outlined above play out differently in the private, public (state and local government), and federal sectors. For example, structural characteristics in the private sector typically improve the odds that settlement will be reached. To begin with, there is some pressure on the parties to settle. Typically, the contract sets the deadline. Moreover, the parties understand that the costs of failing to reach an agreement are high.

Since mediation has long been accepted in the private sector; it is a familiar practice. As a result, the parties tend to have experience with bargaining and the

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mediation process. Similarly, the nature of the relationship in the private sector is often conducive to settlement. Relationships in the private sector tend to be long-standing. As a result, the parties generally perceive each other as legitimate. Finally, in the private sector there are typically a number of issues in dispute and the issues tend to be concrete, rather than abstract.

The structural characteristics of collective bargaining in the public and Federal sectors are somewhat less conducive to settlement. To begin with, states have varying laws on collective bargaining for public employees. In most cases strikes by public employees are prohibited by law. There is little pressure to settle because deadlines are rare. In many cases, additional dispute resolution procedures are available to the parties after the mediation process. Thus, the mediator's ability to persuade the parties to settle is severely limited.

The nature of the relationship between the parties is also more complicated in the public and federal sectors. Often, public sector management is less willing than private sector management to recognize unions as legitimate bargaining partners. Furthermore, there are numerous power participants who are not present at the bargaining table.

Since collective bargaining is relatively new in the public and federal sectors, the parties tend to have less experience than parties in the private sector with collective bargaining and mediation processes. As a result, the parties tend to resist sharing information and are less likely to perceive the mediator as an expert. To make matters worse, the issues in dispute in the public sector tend to be more abstract and less amenable to negotiation than issues in the private sector.

In summary, given the voluntary nature of mediation, mediators must be adept at persuading the parties to reach agreement. Mediator efficacy depends on the structural characteristics of the collective bargaining situation. The structural characteristics that play the greatest role in determining the outcome of the mediation process are: the pressure on the parties to settle, the nature of the relationship, the parties' past experience with negotiations and mediation, and the nature of the issues in dispute. These structural characteristics vary from one situation to another, especially according to the sector (i.e., private, public, or federal) in which negotiations take place. Consequently, mediators must take these structural characteristics into account and adapt their behavior to the specific situation at hand.

Mediator Techniques and Strategies

In their day-to-day routine of handling cases mediators draw on a variety of techniques. No single technique fits every situation. Further, there is no established routine for choosing among the various techniques available. The choice of which technique to use in a given situation and how to apply that technique is left to the mediator's judgment.

Some of the techniques/strategies labeled as mediator actions include: demonstrating competence, maintaining neutrality, listening, creating doubt, and timing. To illustrate, the mediator may try to create doubt when one party suggests extreme action such as a strike. In such instances, the mediator may try to create doubt in the parties' minds about the feasibility of this action. To do so the mediator may discuss the

current condition of the labor market, the amount of inventory the company has on hand, and the possible consequences of a strike.

Some of the suggested techniques for making movement towards agreement include: control of joint meetings, keeping the parties talking, the habit of agreement, and planting the seed. For instance, the habit of agreement means that mediators will begin with issues on which there is relatively little disagreement. By tackling the "easy issues" first, the parties get used to (or in the habit of) agreeing. This makes it easier to work through and reach agreement on the more contentious issues.

With to respect to clarifying the issues, the mediator may use the following techniques: hypothetical situations, illustrations, repetition, thinking out loud, and intelligence (also known as the "don't kid me" approach). When negotiations have stalled, the mediator may use a variety of techniques to get the parties moving again. Some of these include: marathon sessions, trading issues, impractical suggestions, extensions of deadlines, and the use of subcommittees. For example, if the parties become deadlocked the mediator may propose an impractical solution. Here the intent is to get the parties to point out the problems with the mediator's proposal and come up with a better one themselves.

Interviews

The interview data were derived from 15 semi-structured interviews conducted with the mediators as well as countless informal conversations that took place during the national conference and new mediator training sessions. Given that I wanted to examine the entire mediation process in the labor relations context, I used semi-structured

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interviews. I started each interview with a list of pre-determined questions that covered the overall subject. Although the interviews began with an outline, the conversations were allowed to follow natural patterns as suggested by the interviewees. The interviews lasted from 20 minutes to an hour, with the average interview lasting 40 minutes. The interview results are summarized in Table 9.3 and discussed in more detail in the paragraphs that follow.

As previously noted, in my initial question I asked the mediators to comment on what they thought made mediation successful. This question elicited a broad range of responses. From these responses several dominant themes emerged. First, success is viewed as a continuum. Second, the parties must believe in the process. Third, the FMCS' reputation contributes to success. Fourth, the nature of mediation itself plays a role.

Several secondary themes emerged from the responses to my initial question as well. For example, the interviewees mentioned mediator techniques such as "listening, listening, and listening," reframing, and reality-testing. They also mentioned mediator characteristics such a sense of humor and a sense of timing, and situational characteristics such as pressure on the parties to settle.

Table 9.3

<u>Summary of Interview Results</u>

- Overall Contributors to Mediation Success
    - "success" viewed as a continuum
    - both parties must be willing to participate
    - organizational reputation of the FMCS
    - nature of mediation itself

- Mediator Strategies
    - dispute assessment
    - relationship building
    - identify and narrow the major issues
    - create a sense of urgency

- Mediator Techniques
    - chairing meetings, convening joint sessions & separate caucuses, sidebars
    - listening and asking questions
    - demonstrating understanding
    - reframing and "supposals"
    - allowing the parties to vent
    - confidentiality

- Mediator Skills/Characteristics
    - people skills (e.g. good observers of human behavior)
    - listening/communication skills (e.g., rephrasing, paraphrasing, mirroring)
    - comfort with conflict (e.g. able to avoid getting caught up in conflict)
    - professionalism (e.g., operational neutrality, credibility, trustworthiness)
    - intelligence (e.g. understand and grasp issues quickly)
    - flexibility (e.g. react to change quickly, think on their feet)
    - substantive/content knowledge and skills (e.g., labor relations experience), and
    - process knowledge/skills (e.g., facilitation and teaching skills).

- Sources/Nature of Conflict
    - contradicted expectations
    - economic characteristics (e.g. globalization of the economy, subsistence-level wages)
    - structural characteristics of the relationship (e.g. shifting demographics of the workforce, introduction of new technology)
    - organizational characteristics of the parties (e.g. wannabe leaders, runaway committees)
    - interpersonal/personal characteristics (e.g. personality conflicts between the two chief bargainers)
    - the nature of the issues in dispute (e.g. issues involving relative class status in the work place), and
    - the bargaining behavior of the parties (e.g., withholding information).

- Situational Characteristics
    - desire to settle
    - the players at the table (e.g., the power balance between the parties)
    - the element of risk (e.g., the greater the risk, the greater reason to settle), and
    - the big picture (e.g., the parties willingness to work together over the entire range of their relationship).

Table 9.3 (continued)

Summary of Interview Results

- The Parties
  - experience with bargaining, negotiation, and mediation
  - motivation for having the case mediated
  - the bargaining team (e.g., interpersonal skills, cultural differences between the parties, the mix of people at the table), and
  - trust.

- Future Relationship
  - successful and unsuccessful outcomes influence future interactions
  - the parties' expectations
  - perceptions of the mediator
  - the history of the relationship between the parties

- Lessons for Policy Makers and Public Managers
  - perceived impartiality is crucial
  - small steps
  - the relationship matters
  - flexibility is key to success
  - mediation is NOT a panacea
  - process and content knowledge
  - harder to start than to sustain

Strategies and Techniques

Several common themes emerged from the interviews regarding the strategies and techniques mediators employ. First, there was unanimous agreement that there is a lot of variation in the strategies and techniques that mediators use to keep the parties talking and work toward reaching an agreement. Several commented that mediation is an art form. One mediator indicated that successful mediation cannot be boiled down to a specific technique or strategy. For example, some mediators use every technique in the book but are not effective. There are so many techniques that it is hard to isolate a single technique or set of techniques. Another mediator commented that no two mediators enter a meeting the same way.

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Notwithstanding their acknowledgment that there is a great deal of variation among mediators in terms of the strategies and techniques employed, the interviews with mediators revealed similar patterns of behavior regarding strategies and techniques. Two key strategies that are evident from the interview data include dispute assessment and relationship building. Generally, mediators pursue a dispute assessment strategy first, followed by a relationship-building strategy.

Mediator Characteristics

As with other determinants of mediation outcomes, the interview data indicate that a multitude of characteristics contribute to mediation success. Indeed, one mediator commented, "I think one you've got to have intelligence, and I think you have to have extraordinary people skills, and you have to listen, and probably 8000 other things that are almost too numerous to mention." Other mediators identified these three characteristics and elaborated on the laundry list of characteristics that contribute to mediation success.

There is an ongoing debate in the literature regarding the education, training, and experience that is necessary to be a successful mediator. The crux of this debate revolves around the need for content knowledge (i.e., labor relations experience) versus process knowledge. When questioned about this particular mediator characteristic the interviewees voiced differing opinions. Most agreed that some combination of training, education, and content expertise in labor relations was desirable. Similarly, most agreed that completing a single mediator training class does not make one an effective mediator.

Sources/Nature of Conflict

In this part of the interviews, the mediators were asked to comment on how the sources/nature of conflict contribute to the success of mediation. The mediators' responses were very informative. First, they suggested a common source of all conflict. Second, their responses covered all of the sources of impasse discussed in the introductory chapter. In discussing the role that the sources/nature of conflict play in determining the outcome of mediation, the mediators tended to focus on sources of conflict that make it more difficult to achieve success.

Contradicted Expectations: The Root of all Conflict. The mediators suggested a common source of all conflict. That is, every time conflict occurs, someone's expectation has been contradicted. In other words, when the parties go to the bargaining table, they have an expectation of the other side's willingness or unwillingness to help them achieve what they want. For example, the union goes to the table either with an expectation that management is going to fight them all the way, or with an expectation that management is going to cooperate. Whatever the expectation is, it is seldom met. As soon as that expectation has been contradicted, conflict occurs.

Situational Characteristics

Situational characteristics also influence the outcome of mediation. The key situational characteristics mentioned by the mediators include: a desire to settle, "the players at the table," the level of risk involved, and perceptions of "the big picture."

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The Parties

According to the mediators interviewed, the parties themselves have a major impact on success. The parties have to believe in the process. If they do not believe in the process, it is not going to work. For example, the parties' background with mediation is very important. The parties' previous experience with mediation, their expectations of mediation, and their motivation for having the case mediated all play a role in determining the outcome of mediation.

Outcomes and Process Feedback

Overall, the mediators agreed that the outcome of individual mediation cases feeds back into the mediation process to influence the parties' future interactions, negotiations, and mediations. In fact, one mediator summed it up this way, "The outcome of bargaining is the relationship. A tentative agreement helps improve the relationship. The key thing is improvement."

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Survey

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I used the data collected from secondary sources, informal networking with dispute resolution professionals, participant observation, and qualitative interviews to develop a written survey. I distributed 185 surveys at the FMCS National Professional Development meeting. I received a total of 78 usable surveys, for a 42% response rate. Since I asked the mediators to provide information about two cases (i.e., one in which the parties reached agreement and one in which the parties failed to reach agreement), I had 156 observations on which to base my data analysis.

I used factor analysis to reduce my survey questions to underlying factors. The end result was an eleven factor solution. Next, I matched these factors with constructs in my model. Then I used path analysis to test my hypotheses. A graphical representation of the path analysis is shown in Figure 9.1. The results of this analysis are summarized below.

Predictors of the Narrow Approach

The narrow approach, as it name suggests, narrowly defines the conflict to be mediated. This narrow definition of the conflict restricts the issues that can be discussed as part of the mediation process. The narrow approach to mediation places an emphasis on gaining concessions from the parties. Moreover, when this approach is followed the possible outcomes of mediation are severely limited (Riskin 1993).

The following predictors of the narrow approach were found to be statistically significant: bargaining context ($p<.05$), structure of the impasse ($p<.01$), gender ($p<.10$), mediator acceptability ($p<.01$), and bargaining chips ($p<.10$). The sign of the mediator acceptability coefficient was in the opposite of the predicted direction. The other significant results confirmed my hypotheses.

Predictors of the Broad Approach

The broad approach includes mediator techniques and strategies aimed at seeing the big picture. The following predictors of the broad approach were found to be statistically significant: bargaining context ($p<.10$), mediator acceptability ($p<.05$), and unionization rate ($p<.01$). The sign of the bargaining context coefficient was in the opposite of the predicted direction. The other significant results confirmed my hypotheses.

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FIGURE 9.1

Determinants of Successful Mediation: Path Analysis Results (Unstandardized Coefficients)
Note: n = 156; ** - significant, p < .01, * - significant, p < .05, † - significant, p < .10
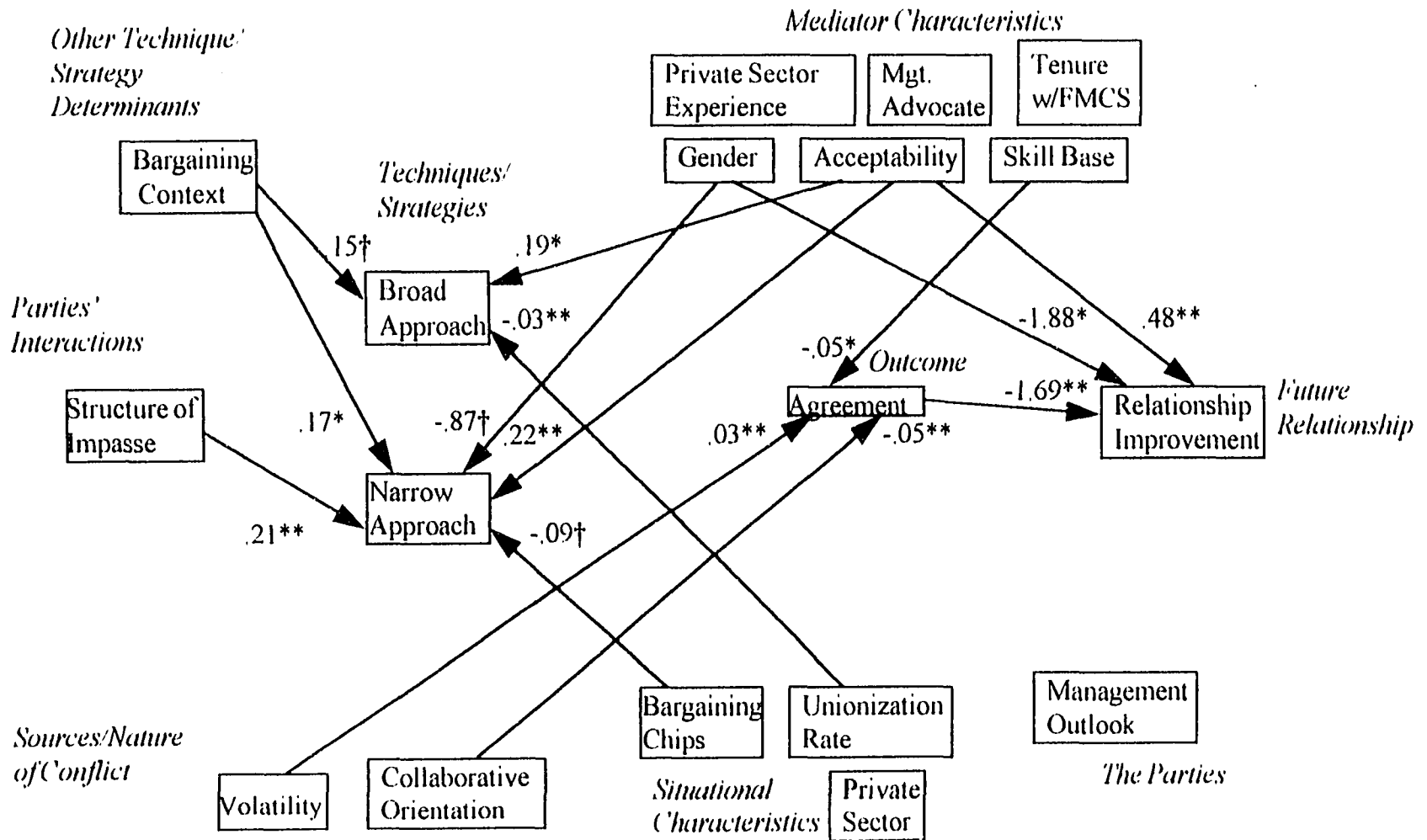
Predictors of Agreement

The following predictors of agreement were found to be statistically significant: volatility (p<.01), collaborative orientation (p<.01), and skill base (p<.05). All significant results confirmed my hypotheses. It is noteworthy that mediator techniques and strategies were unrelated to the probability of agreement.

Predictors of Relationship Improvement

The following predictors of relationship improvement were found to be statistically significant: agreement (p<.01), gender (p<.05), and mediator acceptability (p<.01). The sign of the gender coefficient was in the opposite of the predicted direction. The other significant results confirmed my hypotheses.

So What?: Implications of Survey Results

As noted in the introduction, the goal of this research is to provide more effective mediation services to reduce conflict. Toward this end, this research strives to understand how mediation works and what makes mediation successful. In particular, the survey data contribute to the understanding of the mediation process and of what makes mediation successful by establishing some of the determinants of: mediators' techniques and strategies, outcome, and the future relationship between the parties.

Mediator Techniques and Strategies. One of the most interesting findings from the survey data involves the use of the broad and narrow approaches to mediation. The survey data suggest that the broad and narrow approaches to mediation are complements to each other rather than substitutes for one another. Indeed, whenever a variable was significantly related to both the broad and narrow approach, it affected both approaches in

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the same direction. To illustrate, mediator acceptability was positively related to both the broad and narrow approaches. Similarly, bargaining context was positively related to both the broad and narrow approaches.

This finding suggests that mediators do not use one approach to the exclusion of the other. Hence, mediators may use both approaches in a single case, switching from one approach to another as the situation warrants. Rather than being faced with a choice of broad versus narrow approaches, mediators may be faced with a choice between using the broad/narrow complement and some other set of techniques and strategies which was not identified in this study.

Outcome. Several results are interesting here. First, the survey data established a relationship between mediator skill base and the dependent variable agreement. Since mediator skill base included both substantive knowledge (labor relations skills/experience) and process knowledge (facilitation and problem-solving skills) this suggests that both types of knowledge/skills contribute to mediation success.

Second, the survey data failed to establish a connection between the mediators' choice of techniques and strategies and the dependent variable agreement. This finding confirms earlier studies (c.f. Briggs and Koys 1990; Rodgers 1986) which suggest that mediator techniques are not consistently related to mediation outcomes.

Third, the survey data failed to establish a direct connection between management outlook and the dependent variable, agreement. This finding was surprising in light of my interview data. At the same time, collaborative orientation, a similar concept, was

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significantly related to agreement. Management outlook and collaborative orientation are correlated with each other at the .01 significance level.

Fourth, relationship volatility was significantly related to the dependent variable, agreement. Again, volatile relationships are those characterized by internal conflicts within either party, personality conflicts between the chief bargainers, and hostility between the parties. This finding suggests that when the parties have a volatile relationship, it is harder for the mediator to help them reach agreement.

Future Relationship. Again, several findings are noteworthy here. First, the survey data indicate that mediator acceptability is positively related to the dependent variable relationship improvement. Thus, a mediator who is perceived as credible and trustworthy by the parties is more likely to be invited back to help the parties improve their relationship throughout the life of their contract. This is important because mediation is a voluntary process. The mediator may help the parties resolve their disputes only with their consent.

Second, the survey data indicate that the parties are less likely to seek the help of female mediators to improve their ongoing relationship. This is somewhat surprising given that studies of communication patterns show that women tend to more relationship-oriented than men in their communication patterns (Gilligan 1993). However, this finding is not entirely unexpected given that labor relations has traditionally been a male bastion. Moreover, since the survey asked mediators to report the likelihood that the parties would use their services in the future, this finding may be due to a lack of confidence on the part of female mediators.

Third, there is some debate in the literature about how to define a successful mediation. The survey data establishes a positive connection between agreement and relationship improvement. Thus, this research suggests that agreement is a good measure of mediation success.

Comparing Results Across Methods

The Role of the Parties

The interviews and the participant observation suggested that the parties play a crucial role in the outcome of mediation, but the survey results found no direct effect of the parties on any dependent variable. These results are not as contradictory as they initially appear. Management Outlook, my variable measuring the attitudes of the parties, was significantly correlated with three of the four dependent variables. The regression results indicate that the parties exert an indirect effect on mediation outcomes. Therefore, when the parties are more experienced and have more realistic expectations of the mediation process, mediation is more likely to be successful. Whether the effect of the parties on mediation outcome is direct or indirect is probably of lesser concern to mediators than to researchers.

Relationship Between Mediator Techniques/Strategies and Outcome

As I discussed earlier, previous researchers have failed to establish a relationship between mediator techniques/strategies and outcomes in the labor relations context. The participant observation and interview data concurred with the belief that there is no magic set of techniques and strategies which guarantee success. My quantitative study was ideally designed to uncover such a relationship because exactly half of the mediations were

successful, however the coefficients of the techniques and strategies variables came nowhere near statistical significance. This suggests that studies intended to identify an optimal set of mediator techniques and strategies may be misguided. Likewise, research into the determinants of mediator techniques and strategies may have limited practical relevance.

Contributions to Existing Body of Knowledge

This research makes several important contributions to the existing body of knowledge of mediation. In brief, this research makes methodological, theoretical, and practical contributions to our understanding of the mediation process and of what makes mediation successful. These contributions are reviewed in the paragraphs that follow.

Methodological Contributions

First, this research is empirical. Thus, it represents an advance over articles which consist of anecdotal stories and informal commentary. As Wall and Lynn (1993) note, approximately 50% of the articles published on mediation in recent years are based solely on the authors' ideas, opinions, and informal observations.

Second, this research is a methodological advance over previous studies because it is based on a triangulated research design. It uses qualitative data to build a theory. Then, it uses quantitative data to test that theory.

Third, this research represents a methodological advance over previous studies because of the source of data. The FMCS is the premiere provider of mediation services in the United States and is currently branching out to provide mediation services in other countries, including Panama, Taiwan, and the countries of Eastern Europe. The mediators

with the FMCS are highly experienced in resolving labor disputes and other types of conflict as well. Moreover, they perform their work in what Tetlock (1991) would describe as a complex social-institutional environment. Hence, in making decisions the FMCS' mediators are influenced by the fact that they can be held accountable for their decisions.

Theoretical Contributions

I began this research by modifying the general mediation framework developed by Wall and Lynn (1993). The modified framework included the parties' interactions, the mediator's strategies and techniques, the outcome of mediation, and the influence of the mediation outcome on the parties' future relationship. The process of modifying Wall and Lynn's (1993) general framework familiarized me with some of the possible influences on the outcome of the mediation and suggested relationships among them. In other words, it helped me develop *theoretical sensitivity* (Strauss and Corbin, 1990). This theoretical sensitivity allowed me to ask informed questions of my research subjects.

Next, I answered Schon's (1983) call for "inquiry into the epistemology of practice" (p. viii). That is, I asked mediators to share their interpretations of the mediation process. This is particularly important for mediation since mediators are reflective practitioners (Schon 1983). A reflective practitioner is not blindly granted the trust of his or her clients. Instead, reflective practitioners work together with clients to solve the clients' problems. Over the course of their interactions, the client develops confidence in the practitioner's abilities and the practitioner gains new experiences which assist in future interactions. Reflective practice can only be studied by observation and communication with

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practitioners. Likewise, research of reflective practice must be of value to practitioners if it is to be truly worthwhile. Based on my observations of and conversations with mediators I developed a specific framework of mediation in the labor relations context.

Finally, I rigorously tested the specific framework of mediation in the labor relations context using survey data. Interestingly, my test of the specific theory of mediation in the labor relations context failed to establish a connection between one of the key segments of my model, mediator strategies and techniques, and the mediation outcome, agreement. The failure to establish a connection here supports mediators' contentions that mediation is as much an art as it is a science.

Mediation involves judgment. This judgment is both reflection and action. As Schon (1983) notes, the reflective practitioner understands that his/her expertise is only one way of looking at a problem. In mediation, both the mediator and the parties bring to the conflict knowledge which they can only partially communicate to each other and which is difficult to describe. As a reflective practitioner, the mediator must try to understand the parties' experience of the conflict. Furthermore, the mediator must make his/her understanding accessible to the parties and reflect continually on what s/he knows (Schon 1983). The difficulty the mediator has in describing his/her knowledge and the process of continual reassessment and reflection goes a long way towards explaining the failure to establish a statistically significant connection between the mediator's strategies and techniques and the outcome of mediation.

Practical Contributions

One important issue that arises out of the recent explosive growth in the practice of mediation is: what do mediators need to know in order to assist the parties in resolving their conflicts? In the past, a mediator's choice of strategies and techniques was considered so personal and so unique to each situation that many argued that mediator effectiveness was virtually impossible to analyze. Given the explosive growth in the use of conflict resolution services, the premise that a mediator's performance cannot be evaluated has become untenable. Indeed, Bellman (1998) indicates that the tremendous growth in the practice of mediation has created a situation in which "the field could be described as a mile wide and an inch deep" (p. 206). That lack of depth means that the field is fragile and vulnerable.

To remedy this situation, practitioners and scholars alike have recommended establishing guidelines for evaluating and screening mediators (c.f. Honeyman, 1993; Bellman 1998). In particular, Bellman (1998) identifies the chaotic and unstandardized state of mediator training as an area ripe for improvement. Similarly, Honeyman (1993) suggests that the establishment of guidelines could help even out the disparities in talent between various mediators, by helping programs identify the specific training needs of individual mediators. Yet, recent attempts to develop more objective standards for gauging the knowledge, skills, and abilities required of mediators, let alone analyze mediators' effectiveness, have met with great resistance (c.f. Bush 1993; Kolb and Kolb, 1993; Salem 1993).

This research makes a contribution in that it provides a thick description of the FMCS' program of mediator training and development program. It shares best practices from the premiere provider of mediation services in the United States. The FMCS core competencies provide a good model of the knowledge, skills and abilities that are required of mediators in the labor relations context. Combined with a training and education program that encourages continuous learning and improvement and reinforces these goals through performance evaluations, work plans, and leadership, the core competencies described here contribute to successful mediation in the labor relations context. Although the labor relations context may not be entirely predictive of the mediator competencies required in other contexts, the labor management model is relevant to public administration because the public sector is so heavily unionized. Moreover, the FMCS encourages public sector employers and labor unions to utilize the agency's services.

Limitations

My research has two important limitations. First, I was unable to observe any mediations directly. Obviously, first-hand observation would have enhanced my understanding of the mediation process. However, since it is often argued that no two mediations are alike, direct observation of a few mediation cases would provide a less complete picture of the mediation process than my triangulated research design.

Second, the survey design made it extremely difficult for mediator characteristics such as gender and experience to be related to the outcome of mediation. It is possible that there are consistent differences in success rates between mediators based on demographic characteristics. My survey design was optimal for detecting the influence of other factors

on mediation success, but the tradeoff was that it could not resolve issues such as the effect of a mediator's previous experience in the private sector on mediation success.

Third, the final model I developed was not very parsimonious. This is due in part to the fact that my participant observation and interviews revealed a variety of perspectives on what makes mediation successful. In addition, I attempted to cover the entire mediation process rather than focus on a specific segment of the mediation process. As a result, the model I developed of mediation in the labor relations context was very detailed. In the end, some of the survey items I expected to be important (e.g. items pertaining to the unions' expectations and experience) did not have substantial loadings in my factor analysis and some of the variables I expected to be important were not statistically significant in my path analysis.

Suggestions for Future Research

My research could be extended in several directions. First, the labor relations context is highly structured. For example, the parties have rights established by law and labor boards exist to enforce these laws and to deal with parties who bargain in bad faith. It would be interesting to see how the mediation process works in less structured environments. The survey could be replicated in different contexts such as family mediation as a step toward devising a general theory of mediation. In addition, the context in which mediation is practiced may produce a different set of significant mediator characteristics. For example, female mediators may be more successful in areas which traditionally have not been dominated by males, such as family disputes and divorce mediation.

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Second, within the labor relations context the survey could also be administered to other mediation participants such as management and union negotiators in order to gain alternative perspectives on the mediation process. As Schon (1983) notes, the reflective practitioner learns from the client's interpretation of the problem. If research on mediation is to have practical value, then researchers would do well to learn from both the mediators (i.e, the practitioners) and the parties (i.e., the clients).

Third, the model could be revised to be more parsimonious. Elements of the parties' interactions, bargaining behavior, perceptions, and expectations appear in several boxes in the model. The model could be revised to include these items in a single box. Subsequently the survey could be revised to cover all items relating to the parties in a single section. This may result in a factor solution that explains a higher percentage of the variance in the survey items and a model in which more of the expected relationships between dependent and independent variables are confirmed.

Finally, the FMCS itself is an interesting research site for public administration scholars as it attempts to modernize its image, broaden the range of services it provides, and diversify its workforce. Indeed, in a recent Industrial Relations Research Association newsletter practitioners and researchers alike are called upon to participate in a national policy forum. One of the key topics to be discussed in the forum is the massive organizational changes that the FMCS has undertaken in recent years (Kochan 1999).

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Appendix A

Survey Instrument and Cover Letter

The University of Oklahoma

November 30, 1998

Dear Commissioner:

Your help is needed to develop a model of the correlates of effective mediation methods. As you are well aware, in recent years mediation has become increasingly popular as a means to resolve conflict. However, the practice of mediation has outstripped theory-building. Much of the theoretical research that has been conducted on mediation is based on laboratory experiments and simulations conducted on college students. Very few researchers have studied practicing mediators to advance the theory of mediation. **As the largest group of daily mediation practitioners, your response can provide the necessary input from the real world.**

The enclosed survey is designed to fill the gaps in our existing body of knowledge. In recognition of the fact that a variety of elements contribute to mediation success, this survey asks about:
- Mediator Techniques/Strategies
- Mediator Skills/Characteristics
- The Sources/Nature of Conflict
- The Parties to Conflict
- Situational Characteristics

In addition, this research examines how the final stage of the mediation process, the mediation outcome, feeds back into the loop to influence future interactions between the parties and future mediations.

Please take the time (approximately 20-30 minutes) to complete the questionnaire and return it to the survey collection box by the close of the conference, **December 3, 1998** or mail your completed survey in the enclosed postage-paid envelope before **December 31, 1998.**

Your responses are confidential. No names or individual information will be used. The data collected in this study will be reported in summary form. A summary of the results of this research will be provided to the FMCS. If you would like to receive an individual copy of the results and/or if you have any questions or concerns, please call me at (405) 325-3209 or (405) 573-9959, or write to me at the address listed below. Thank you for your consideration.

Sincerely,

Patrice M. Mareschal

Patrice M. Mareschal
Ph. D. Candidate

THE UNIVERSITY OF OKLAHOMA
NORMAN, OKLAHOMA 73019

Mediation Survey

This survey has four parts.

In **Part I** you will be asked to answer a set of questions based on the most recent dispute mediation case in which you participated and the parties reached agreement.

In **Part II** you will be asked to answer a set of questions based on the most recent dispute mediation case in which you participated and the parties did NOT reach agreement.

In **Part III** you will be asked to answer questions about mediation in general.

In **Part IV** you will be asked to provide demographic information for purposes of analysis.

Thank you for your cooperation.

PART I INSTRUCTIONS: Please answer the following questions based on the most recent dispute mediation case in which you participated and the parties reached agreement.

	Strongly Agree	Agree	Neutral	Disagree	Strongly Disagree

Mediator Techniques/Strategies

I tried to find out how the parties perceived the conflict	❑	❑	❑	❑	❑
When the parties took positions, I tried to find out what the underlying issues were	❑	❑	❑	❑	❑
I occasionally checked in on the parties when they were in caucus to make sure the sessions were productive.	❑	❑	❑	❑	❑
I used relationship-building strategies with the parties early in the mediation process.	❑	❑	❑	❑	❑
I was able to successfully avoid getting caught up in the parties' conflict.	❑	❑	❑	❑	❑
I gave the parties ample opportunity to vent their frustrations.	❑	❑	❑	❑	❑
I served as a sounding board for the parties as they were proposing solutions to their problems.	❑	❑	❑	❑	❑
I was able to direct the parties while still allowing them to feel in control of the process.	❑	❑	❑	❑	❑
I encouraged the parties to focus on resolving specific contractual problems.	❑	❑	❑	❑	❑
I tried to look beyond the contractual issues in defining the problem to be resolved	❑	❑	❑	❑	❑

How important were each of the following techniques in bringing the parties closer to agreement:	Very Important	Somewhat Important	Not Very Important	Not At All Important
Face-saving	❑	❑	❑	❑
Reframing	❑	❑	❑	❑
Mediator "supposals"	❑	❑	❑	❑
Putting pressure on the parties	❑	❑	❑	❑
Chairing the meetings	❑	❑	❑	❑
Joint sessions	❑	❑	❑	❑
Sidebars	❑	❑	❑	❑
Caucuses	❑	❑	❑	❑
Asking the parties to consider the consequences of their actions	❑	❑	❑	❑
Interest-Based Bargaining	❑	❑	❑	❑

In determining which techniques/strategies to use in this case, I was influenced by :	Strongly Agree	Agree	Neutral	Disagree	Strongly Disagree
The degree of common ground that existed between the parties	❏	❏	❏	❏	❏
Concern for the parties' outcomes	❏	❏	❏	❏	❏
The degree of trust between the parties ..	❏	❏	❏	❏	❏
The power balance between the parties ..	❏	❏	❏	❏	❏
An emotionally charged atmosphere	❏	❏	❏	❏	❏
Time pressures	❏	❏	❏	❏	❏
The nature of the impasse procedure	❏	❏	❏	❏	❏
The nature of the issues in dispute	❏	❏	❏	❏	❏
Other (specify)_____	❏	❏	❏	❏	❏

Mediator Skills/Characteristics

How important were each of the following skills/characteristics in bringing the parties closer to agreement. Your:	Very Important	Somewhat Important	Not Very Important	Not At All Important
Human relations skills	❏	❏	❏	❏
Intuition	❏	❏	❏	❏
Sense of timing	❏	❏	❏	❏
Sense of humor	❏	❏	❏	❏
Ability to show empathy	❏	❏	❏	❏
Personality/style	❏	❏	❏	❏
Active listening skills	❏	❏	❏	❏
Communication skills	❏	❏	❏	❏
Facilitation skills	❏	❏	❏	❏
Teaching skills	❏	❏	❏	❏
Ability to be a quick study	❏	❏	❏	❏
Flexibility	❏	❏	❏	❏
Labor relations skills/experience	❏	❏	❏	❏
Process skills	❏	❏	❏	❏
Intelligence	❏	❏	❏	❏
Credibility	❏	❏	❏	❏
Trustworthiness	❏	❏	❏	❏
Knowledge of substantive issues	❏	❏	❏	❏
The FMCS' reputation for being credible, acceptable, and professional	❏	❏	❏	❏

Sources/Nature of Conflict

	Strongly Agree	Agree	Neutral	Disagree	Strongly Disagree
The union negotiators had the authority and broad support necessary to resolve issues	❏	❏	❏	❏	❏
The management negotiators had the authority and broad support necessary to resolve issues.	❏	❏	❏	❏	❏
The parties respected each other's right to be at the bargaining table.	❏	❏	❏	❏	❏
The management team willingly shared information at the bargaining table	❏	❏	❏	❏	❏
The union team willingly shared information at the bargaining table	❏	❏	❏	❏	❏

The following sources of conflict played a critical role in the outcome of this case:

	Strongly Agree	Agree	Neutral	Disagree	Strongly Disagree
Economic characteristics of the dispute	❏	❏	❏	❏	❏
Structural characteristics of the parties' relationship (e.g., workforce demographics, introduction of new technology, changing ownership, etc.)	❏	❏	❏	❏	❏
The parties' leadership	❏	❏	❏	❏	❏
Internal conflicts within either party	❏	❏	❏	❏	❏
Personality conflicts between the chief bargainers	❏	❏	❏	❏	❏
Hostility between the parties	❏	❏	❏	❏	❏
Matters of principle (e.g., relative class status in the work place, respect, race, religion, etc.)	❏	❏	❏	❏	❏

The Parties

	Strongly Agree	Agree	Neutral	Disagree	Strongly Disagree
I had the sense that the union really wanted the mediation to be successful	❏	❏	❏	❏	❏
I had the sense that management really wanted the mediation to be successful	❏	❏	❏	❏	❏
The union bargaining team had realistic expectations of the bargaining/mediation process	❏	❏	❏	❏	❏
The management bargaining team had realistic expectations of the bargaining/mediation process	❏	❏	❏	❏	❏
The chief negotiator(s) for the union team was(were) experienced/skilled in negotiations.	❏	❏	❏	❏	❏
The chief negotiator(s) for the management team was(were) experienced/skilled in negotiations	❏	❏	❏	❏	❏
The members of the union bargaining team were experienced bargainers	❏	❏	❏	❏	❏
The members of the management bargaining team were experienced bargainers	❏	❏	❏	❏	❏

Please continue to next page...

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	Strongly Agree	Agree	Neutral	Disagree	Strongly Disagree
There was a fairly equal power distribution between the parties	❑	❑	❑	❑	❑
During this mediation case the parties learned techniques they can use to solve problems in their continuing relationship	❑	❑	❑	❑	❑

Situational Characteristics
This case was in the:

❑ Private Sector ❑ Federal Sector ❑ Public Sector (state and local)

The following situational characteristics played a critical role in the outcome of this case:

	Strongly Agree	Agree	Neutral	Disagree	Strongly Disagree	Not Applicable
Contract deadline	❑	❑	❑	❑	❑	❑
Threat of a strike	❑	❑	❑	❑	❑	❑
Threat of a lockout	❑	❑	❑	❑	❑	❑
Threat of plant/facility closure	❑	❑	❑	❑	❑	❑
Pending grievances	❑	❑	❑	❑	❑	❑
Pending NLRB charges	❑	❑	❑	❑	❑	❑
Nature of the impasse procedure	❑	❑	❑	❑	❑	❑
The parties' willingness to work together in a collaborative process over the entire range of the relationship	❑	❑	❑	❑	❑	❑

Feedback

How likely are the parties to use the the services of the FMCS again in the future for:

	Very Likely	Somewhat Likely	Not Very Likely	Not At All Likely	Don't Know
Dispute mediation	❑	❑	❑	❑	❑
Preventive Mediation	❑	❑	❑	❑	❑
Grievance Mediation	❑	❑	❑	❑	❑
Alternative Dispute Resolution	❑	❑	❑	❑	❑

Please continue to next page...

PART II INSTRUCTIONS: Please answer the following questions based on the __most recent__ dispute mediation case in which you participated and the __parties did NOT reach agreement.__

Mediator Techniques/Strategies	Strongly Agree	Agree	Neutral	Disagree	Strongly Disagree
I tried to find out how the parties perceived the conflict	❑	❑	❑	❑	❑
When the parties took positions, I tried to find out what the underlying issues were	❑	❑	❑	❑	❑
I occasionally checked in on the parties when they were in caucus to make sure the sessions were productive.	❑	❑	❑	❑	❑
I used relationship-building strategies with the parties early in the mediation process.	❑	❑	❑	❑	❑
I was able to successfully avoid getting caught up in the parties' conflict.	❑	❑	❑	❑	❑
I gave the parties ample opportunity to vent their frustrations.	❑	❑	❑	❑	❑
I served as a sounding board for the parties as they were proposing solutions to their problems.	❑	❑	❑	❑	❑
I was able to direct the parties while still allowing them to feel in control of the process.	❑	❑	❑	❑	❑
I encouraged the parties to focus on resolving specific contractual problems.	❑	❑	❑	❑	❑
I tried to look beyond the contractual issues in defining the problem to be resolved	❑	❑	❑	❑	❑

How important were each of the following techniques in bringing the parties closer to agreement:	Very Important	Somewhat Important	Not Very Important	Not At All Important
Face-saving	❑	❑	❑	❑
Reframing	❑	❑	❑	❑
Mediator "supposals"	❑	❑	❑	❑
Putting pressure on the parties	❑	❑	❑	❑
Chairing the meetings	❑	❑	❑	❑
Joint sessions	❑	❑	❑	❑
Sidebars	❑	❑	❑	❑
Caucuses	❑	❑	❑	❑
Asking the parties to consider the consequences of their actions	❑	❑	❑	❑
Interest-Based Bargaining	❑	❑	❑	❑

In determining which techniques/strategies to use in this case, I was influenced by :	Strongly Agree	Agree	Neutral	Disagree	Strongly Disagree
The degree of common ground that existed between the parties	❑	❑	❑	❑	❑
Concern for the parties' outcomes	❑	❑	❑	❑	❑
The degree of trust between the parties ..	❑	❑	❑	❑	❑
The power balance between the parties ..	❑	❑	❑	❑	❑
An emotionally charged atmosphere	❑	❑	❑	❑	❑
Time pressures	❑	❑	❑	❑	❑
The nature of the impasse procedure	❑	❑	❑	❑	❑
The nature of the issues in dispute	❑	❑	❑	❑	❑
Other (specify)_____	❑	❑	❑	. ❑	❑

Mediator Skills/Characteristics

How important were each of the following skills/characteristics in bringing the parties closer to agreement. Your:	Very Important	Somewhat Important	Not Very Important	Not At All Important
Human relations skills	❑	❑	❑	❑
Intuition	❑	❑	❑	❑
Sense of timing	❑	❑	❑	❑
Sense of humor	❑	❑	❑	❑
Ability to show empathy	❑	❑	❑	❑
Personality/style	❑	❑	❑	❑
Active listening skills	❑	❑	❑	❑
Communication skills	❑	❑	❑	❑
Facilitation skills	❑	❑	❑	❑
Teaching skills	❑	❑	❑	❑
Ability to be a quick study	❑	❑	❑	❑
Flexibility	❑	❑	❑	❑
Labor relations skills/experience	❑	❑	❑	❑
Process skills	❑	❑	❑	❑
Intelligence	❑	❑	❑	❑
Credibility	❑	❑	❑	❑
Trustworthiness	❑	❑	❑	❑
Knowledge of substantive issues	❑	❑	❑	❑
The FMCS' reputation for being credible, acceptable, and professional	❑	❑	❑	❑

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Sources/Nature of Conflict

	Strongly Agree	Agree	Neutral	Disagree	Strongly Disagree
The union negotiators had the authority and broad support necessary to resolve issues	❏	❏	❏	❏	❏
The management negotiators had the authority and broad support necessary to resolve issues.	❏	❏	❏	❏	❏
The parties respected each other's right to be at the bargaining table.	❏	❏	❏	❏	❏
The management team willingly shared information at the bargaining table	❏	❏	❏	❏	❏
The union team willingly shared information at the bargaining table	❏	❏	❏	❏	❏

The following sources of conflict played a critical role in the outcome of this case:

	Strongly Agree	Agree	Neutral	Disagree	Strongly Disagree
Economic characteristics of the dispute	❏	❏	❏	❏	❏
Structural characteristics of the parties' relationship (e.g., workforce demographics, introduction of new technology, changing ownership, etc.)	❏	❏	❏	❏	❏
The parties' leadership	❏	❏	❏	❏	❏
Internal conflicts within either party	❏	❏	❏	❏	❏
Personality conflicts between the chief bargainers	❏	❏	❏	❏	❏
Hostility between the parties	❏	❏	❏	❏	❏
Matters of principle (e.g., relative class status in the work place, respect, race, religion, etc.)	❏	❏	❏	❏	❏

The Parties

	Strongly Agree	Agree	Neutral	Disagree	Strongly Disagree
I had the sense that the union really wanted the mediation to be successful	❏	❏	❏	❏	❏
I had the sense that management really wanted the mediation to be successful	❏	❏	❏	❏	❏
The union bargaining team had realistic expectations of the bargaining/mediation process	❏	❏	❏	❏	❏
The management bargaining team had realistic expectations of the bargaining/mediation process	❏	❏	❏	❏	❏
The chief negotiator(s) for the union team was(were) experienced/skilled in negotiations.	❏	❏	❏	❏	❏
The chief negotiator(s) for the management team was(were) experienced/skilled in negotiations	❏	❏	❏	❏	❏
The members of the union bargaining team were experienced bargainers	❏	❏	❏	❏	❏
The members of the management bargaining team were experienced bargainers	❏	❏	❏	❏	❏

Please continue to next page...

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	Strongly Agree	Agree	Neutral	Disagree	Strongly Disagree
There was a fairly equal power distribution between the parties	❏	❏	❏	❏	❏
During this mediation case the parties learned techniques they can use to solve problems in their continuing relationship	❏	❏	❏	❏	❏

Situational Characteristics

This case was in the:

❏ Private Sector   ❏ Federal Sector   ❏ Public Sector (state and local)

The following situational characteristics played a critical role in the outcome of this case:	Strongly Agree	Agree	Neutral	Disagree	Strongly Disagree	Not Applicable
Contract deadline	❏	❏	❏	❏	❏	❏
Threat of a strike	❏	❏	❏	❏	❏	❏
Threat of a lockout	❏	❏	❏	❏	❏	❏
Threat of plant/facility closure	❏	❏	❏	❏	❏	❏
Pending grievances	❏	❏	❏	❏	❏	❏
Pending NLRB charges	❏	❏	❏	❏	❏	❏
Nature of the impasse procedure	❏	❏	❏	❏	❏	❏
The parties' willingness to work together in a collaborative process over the entire range of the relationship	❏	❏	❏	❏	❏	❏

Feedback

How likely are the parties to use the the services of the FMCS again in the future for:	Very Likely	Somewhat Likely	Not Very Likely	Not At All Likely	Don't Know
Dispute mediation	❏	❏	❏	❏	❏
Preventive Mediation	❏	❏	❏	❏	❏
Grievance Mediation	❏	❏	❏	❏	❏
Alternative Dispute Resolution	❏	❏	❏	❏	❏

PART III: Please take just a few more minutes to answer the following questions about mediation in general.

How would you define a successful mediation? _____

_____

_____

_____

_____

Is there anything else that you think influences the success of mediation that has not been covered in this survey?

_____

_____

_____

_____

PART IV: Demographic Data
This information is being requested for purposes of analysis only. Confidentiality of your responses is assured.

I am:

❏ Female   ❏ Male

Prior to joining the FMCS, I worked as (please check all applicable boxes) :

❏ An advocate for management   ❏ An advocate for labor   ❏ A neutral in labor relations
❏ Other: _____

My previous experience was in the (please check all applicable boxes):

❏ Private sector   ❏ Public sector (state and local)
❏ Federal sector   ❏ Academic Sector
❏ Other: _____

I have served as a commissioner for the FMCS for (number of years): . . . .   [_____]

How heavily unionized is the geographic area in which you handle most of your
cases? . . . .   [_____]%

Thank you for your time!

Please return your completed survey to the survey collection box by the close of the conference.
December 3, 1998 or mail your completed survey in the enclosed postage-paid envelope before December
31, 1998. If you have any questions about this survey, please call me at (405) 325-3209.

Patrice M. Mareschal
University of Oklahoma
Department of Political Science
455 W. Lindsey, Room 304
Norman, OK 73019

Appendix B:

Rotated Component Matrix

Rotated Component Matrix[a]

Variables	Factor										
	1	2	3	4	5	6	7	8	9	10	11
FEED1_1	.213	.409	.077	-.202	.038	.221	-.149	.176	.129	.044	.149
FEED2_1	.813	.088	-.003	.057	.021	.070	-.058	.072	.068	-.019	.066
FEED3_1	.695	.231	-.039	.027	.068	.099	.027	-.055	-.006	.040	.013
FEED4_1	.739	.000	.057	.082	-.039	.103	.111	-.050	-.003	.101	-.071
MSKCH1_1	.185	.373	.007	.056	.273	-.012	-.094	-.005	.193	.104	.130
MSKCH1_2	.522	.085	-.027	.013	.012	-.209	.155	.082	.191	.018	.159
MSKCH1_3	.050	.271	.066	-.018	.100	.252	-.039	.011	-.099	-.121	.386
MSKCH1_4	.037	.328	.133	.190	.037	.293	-.118	-.067	-.110	-.069	.184
MSKCH1_5	.042	.233	.036	.060	.032	.039	.033	-.044	.046	-.026	.819
MSKCH1_6	.259	.214	-.094	.070	.112	.086	-.011	.056	.417	.126	.462
MSKCH1_7	.046	.226	-.050	.135	-.029	.192	.080	.062	.247	.079	.361
MSKCH1_8	-.022	.828	-.008	.012	.080	.101	.012	.045	.016	.030	.159
MSKCH1_9	.036	.799	.006	.048	.008	.041	-.019	-.066	.068	.009	.060
MSKCH2_1	-.024	.189	.057	.049	.079	.095	.032	.058	.068	.039	-.076
MSKCH3_1	.075	.393	-.083	-.076	.117	.161	.022	-.137	.000	-.219	.147
MSKCH4_1	.076	.232	.185	-.095	.043	-.120	.083	.078	.021	.078	.089
MSKCH5_1	.101	.260	.166	.133	.140	.055	-.050	.065	.254	.008	-.027
MSKCH6_1	.311	.389	.127	.056	.031	-.118	-.028	-.001	.425	.093	.004
MSKCH7_1	.256	.612	.062	.079	.136	.067	.017	.183	.064	.078	.211
MSKCH8_1	.196	.571	.106	.038	.169	.103	-.045	.108	.029	.039	.348
MSKCH9_1	.310	.334	.146	.158	.154	.077	.151	.100	.229	.128	.140
MTS1_1	.074	.014	.014	.112	.157	.033	-.111	.047	.070	.657	.000
MTS10_1	.213	.059	-.050	.192	.456	-.070	-.114	.079	.010	-.077	.025
MTS11_1	.238	.031	.037	.149	.405	.482	.009	-.025	-.074	.112	.008
MTS12_1	.368	.100	.020	.140	.436	.066	.161	.075	.309	-.005	-.066
MTS13_1	.144	.024	-.079	-.155	.137	.179	.050	.115	.035	-.044	.022
MTS14_1	.012	.075	.100	-.017	.008	-.054	.010	-.130	.046	.111	-.092
MTS15_1	.120	.038	-.043	.060	.013	.032	-.106	.053	.113	.165	.129
MTS16_1	.264	.152	-.167	.088	.108	.052	.009	.062	.113	-.219	-.242
MTS17_1	-.090	.098	.070	.211	.068	.072	.064	.124	-.081	-.191	.580
MTS18_1	.070	.202	.127	.172	.039	-.059	-.072	.020	.165	-.093	.073
MTS19_1	.075	.130	-.019	.135	.160	.055	-.010	-.078	.094	.169	.114
MTS2_1	.082	.148	-.128	.073	.102	.151	-.092	.150	.230	.221	.144
MTS20_1	.540	-.100	-.014	-.071	.265	-.117	.145	.204	-.111	.183	.084
MTS21_1	-.018	.179	.085	-.156	.238	.064	-.106	.387	-.073	-.084	-.059
MTS22_1	-.001	.027	.027	-.072	.115	.298	.022	.167	.608	.312	.137
MTS23_1	.132	.084	-.059	-.112	.021	.179	-.050	.181	-.053	.034	-.009
MTS24_1	-.055	.140	-.069	-.058	-.025	.211	.065	-.197	-.022	.079	.170
MTS25_1	-.022	.114	-.068	.115	-.008	.779	.110	.071	.129	.130	.067
MTS26_1	.025	.051	.159	.007	.051	.734	.062	-.065	.041	-.077	.058

Extraction Method: Principal Component Analysis.
Rotation Method: Varimax with Kaiser Normalization.

Variables	Factor										
	1	2	3	4	5	6	7	8	9	10	11
MTS27_1	.163	.106	.114	.063	.002	.059	-.108	.036	.140	.623	-.050
MTS28_1	-.049	.126	.177	-.070	.271	.356	.020	-.173	.248	.252	.150
MTS29_1	.016	.120	.018	-.011	.041	-.013	.062	-.047	.131	.147	-.020
MTS3_1	.083	.044	.000	.041	.131	-.028	.052	-.081	.089	.117	.000
MTS4_1	.311	.021	.046	-.052	.359	-.213	.017	.153	.178	-.005	-.044
MTS5_1	-.048	.119	-.004	-.436	.511	-.117	.114	-.078	.057	.022	.150
MTS6_1	.113	.198	.046	.093	.688	.061	-.060	.011	.082	-.076	-.023
MTS7_1	-.001	.006	.042	.004	.748	.124	-.063	.064	.117	.027	.103
MTS8_1	.114	-.071	.249	-.022	.139	.093	-.062	.091	.319	-.015	.189
MTS9_1	.082	.014	-.059	.068	.185	.010	-.104	.020	.730	-.021	-.100
PAR1_1	.156	.183	.039	-.045	.097	.074	.054	-.002	-.033	-.086	.048
PAR10_1	.630	.053	.000	-.094	.158	-.011	.151	.265	.079	-.053	-.013
PAR2_1	.202	.153	.567	-.166	.168	.111	-.062	.130	-.039	.073	.065
PAR3_1	.129	.028	.218	-.003	-.012	-.090	.009	.073	.147	-.051	.057
PAR4_1	.010	.089	.768	-.054	.053	.051	-.095	.170	-.015	.140	-.004
PAR5_1	-.072	.059	.154	.075	.066	-.054	.021	.112	.032	-.135	.021
PAR6_1	-.144	.064	.596	.090	-.005	-.047	.061	.220	.071	-.030	-.022
PAR7_1	.149	-.077	.250	.015	-.063	.029	.133	.146	-.018	-.105	.179
PAR8_1	-.041	.006	.682	-.008	-.040	.061	.081	.041	-.070	-.067	.064
PAR9_1	.144	-.063	.257	-.014	.068	.090	.080	.134	-.039	.100	.057
SIT2_1	.219	.051	.397	-.078	-.041	.375	.263	-.086	.004	-.225	-.026
SIT3_1	.052	-.066	.352	.013	.058	.301	.356	-.039	.194	-.310	.168
SIT4_1	.089	-.028	.118	.033	.008	-.002	.721	-.045	.040	-.081	.053
SIT5_1	.107	-.117	.044	.034	-.112	-.017	.715	.018	-.110	.014	.141
SIT6_1	.136	.149	-.078	.166	-.049	.205	.712	.098	-.166	.024	-.107
SIT7_1	-.039	.064	-.101	.281	.030	.076	.687	.008	.063	-.016	-.013
SIT8_1	.035	.021	-.006	.043	-.157	.010	.092	.146	.038	.741	-.072
SIT9_1	.423	.112	.076	-.148	.046	-.048	-.132	.507	-.048	.232	-.071
SNC1_1	.137	-.021	-.024	.027	.016	-.030	.028	.147	.046	-.051	.003
SNC10_1	.082	.039	.002	.722	-.043	.000	.135	-.162	.098	-.062	-.013
SNC11_1	-.150	.023	-.050	.766	.014	.035	.110	-.165	.121	.107	.118
SNC12_1	.038	.131	-.317	.632	.100	.007	.120	-.052	-.087	.127	.087
SNC2_1	-.022	-.106	.285	-.160	.050	.275	.171	.451	.170	-.174	.047
SNC3_1	.032	.085	.279	-.156	.062	.080	.054	.635	.022	.045	.053
SNC4_1	.144	.097	.316	-.084	.001	-.086	-.002	.668	.073	.171	.065
SNC5_1	.156	.060	-.017	-.012	-.014	-.117	.094	.603	.112	.094	.011
SNC6_1	-.050	.056	.090	-.065	-.102	.117	-.030	.082	.039	-.104	.005
SNC7_1	.147	-.019	.103	.434	.222	-.090	.113	.156	-.048	.015	.052
SNC8_1	.152	.115	.238	.425	.157	.185	-.044	.105	-.060	.163	.227
SNC9_1	.141	.007	.124	.499	.177	.221	.136	.077	-.090	.073	.174

Extraction Method: Principal Component Analysis.
Rotation Method: Varimax with Kaiser Normalization.
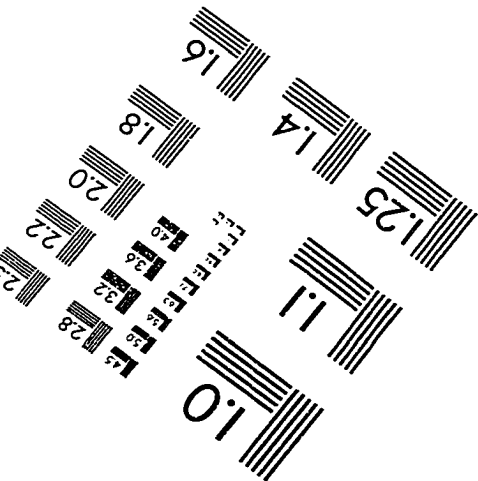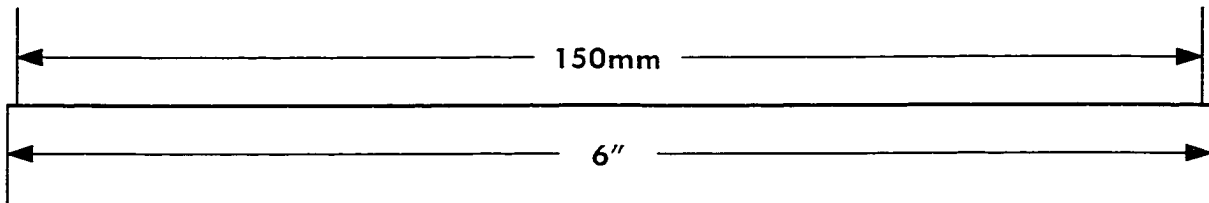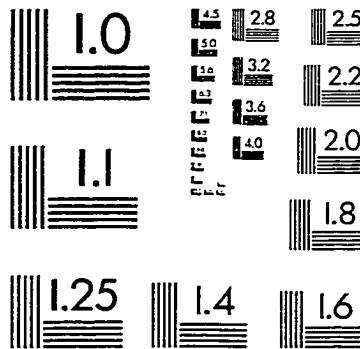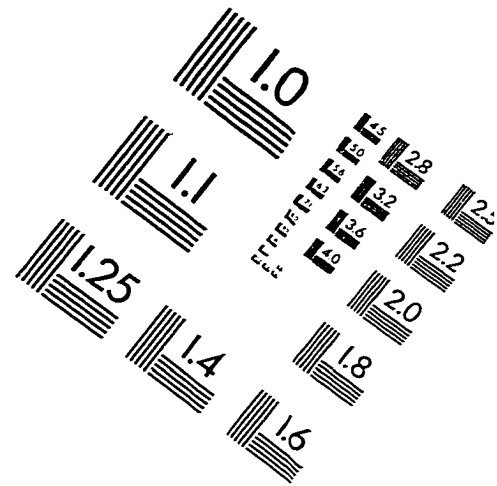
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Rotated Component Matrix (cont.)[a]

Variables	Factor										
	1	2	3	4	5	6	7	8	9	10	11
MSKCH_10	-.116	.253	-.023	.133	-.124	.105	-.032	-.017	.421	.083	.178
MSKCH_11	.092	.613	.177	.056	.041	-.081	.162	.146	-.005	.021	-.058

Extraction Method: Principal Component Analysis.
Rotation Method: Varimax with Kaiser Normalization.

a. Rotation converged in 56 iterations.

IMAGE EVALUATION
TEST TARGET (QA-3)
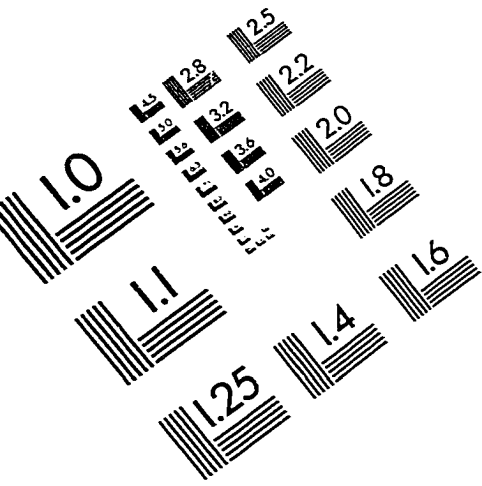
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