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Divorce Mediation and its Impact on Children

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Divorce Mediation and its Impact on Children

by

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MSW Clinical Research Paper

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Master of Social Work

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The Clinical Research Project is a graduation requirement for MSW students at St. Catherine University/University of St. Thomas School of Social Work in St. Paul, Minnesota and is conducted within a nine-month time frame to demonstrate facility with basic social research methods. Students must independently conceptualize a research problem, formulate a research design that is approved by a research committee and the university Institutional Review Board, implement the project, and publicly present the findings of the study. This project is neither a Master's thesis nor a dissertation.

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Abstract

The percentage of children experiencing divorce in the United States and around the world has dramatically increased in the last fifty years and currently affects one million children every year. Divorce mediation can be helpful and beneficial for families when resolving emotional and familial conflict, which could decrease the negative effects divorce can have on children. This research aims to address the decision making process that mediators use when deciding to include children in the mediation process. A qualitative study was conducted, in which professional mediators were interviewed regarding the decision making process used to determine whether or not children are included in the mediation process. Data were analyzed and coded using inductive grounded theory. Significant similarities between the literature and findings included mediators providing education to parents, parents deciding whether or not to include children in mediation, and the age of the child impacting the inclusion of the child in mediation. These findings were linked to research, but provided an additional focus on the age of children, how mediators can be mindful of children's developmental levels and how that would affect how and when they are included in the mediation process. Further research is needed to determine how mediators are being trained to work with children and provide developmentally appropriate and competent services.

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Since the 1960's there has been an increase in the divorce rate (Kelly, 2006). Divorce is growing and is becoming more accepted in our society (Milne, Folberg, & Salem, 2004) and currently, approximately half of marriages result in divorce in the United States (Taylor, 2005; U.S. Census Bureau 2010). Emery (2004) describes divorce as, "the breakup of a family" (p. 238). Some reasons for divorce in the past have included, "unmet emotional needs, lifestyle differences or boredom with the marriage, and high conflict" (Gigy & Kelly, 1993, p. 1). According to the U.S. Census Bureau (2011) the marriage rate in the U.S. in 2008 was 10.6 with a divorce rate of 5.2, indicating that about half of marriages resulted in divorce. This trend was also evident in the 1990 and 2000 United States Censuses. The marriage rate in 2000 was 12.5, with a divorce rate of 6.2. Comparably, 1990's rates were similar, with the marriage rate at 14.9 and the divorce rate at 7.2 (U.S. Census Bureau, 2011). This research indicates that for the past 25 years, the divorce rate has been nearly half of the marriage rate. More notably, according to the Children's Defense Fund (2012), America has the highest divorce rates in the world. Emotions associated with grief and loss are common for individuals experiencing divorce. Such emotions could include worry, wonder, unhappiness, and anger (Emery, 2004) and can occur during different stages of the divorce (Amato, 2000). When couples with children have their marriages end in divorce, children are also affected, and it is estimated that approximately one million children are affected by divorce every year (Emery, 2004; Taylor, 2005).

Consequences of Divorce

Children of divorce may suffer behaviorally, psychologically, and emotionally

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(Amato, 1993; Bagshaw, 2007; Deutsch, 2008; Holtzworth-Munroe, Applegate, D'Onfrio, & Bates, 2010). Divorce can present as a crisis in a child's life (Emery, 2004). It can be a time of unfamiliar transition and the child could have a hard time adjusting to the transition (Amato, 1993; Emery, 2004). Research has also revealed that children with divorced parents are "twice as likely to see a mental health professional, 1.25 to 1.5 times as likely to have problems with depressed moods, and twice as likely to have problems managing their behavior" (Emery, 2004, p. 64). Increased stress and tension are also risk factors for children who have experienced the divorce of their parents (Amato & Sobolewski, 2001; Mienkowska-Norkiene, 2012; Schepard, 2004).

Also, when children are involved in divorces, they can be at risk for emotional issues, especially when parents aren't dealing with their emotions appropriately. The most common and complicated emotion during a divorce is anger in children and adults, which is a common reaction to grief and loss (Emery, 2004; Raisner, 2004). Consequently, if parents are not processing their emotions such as sadness, grief, or anger, it will negatively affect the children by causing more conflict and tension in the transition and children can become confused and upset about the divorce (Emery, 2004).

Walton, Oliver, and Griffin (1999) discussed the distress associated with divorce stating that it could cause a shift in mood and trigger anxiety in children as well. Equally, Emery (2004) asserts that divorce poses a challenging transition for the children to adjust to. Despite these concerns over the psychological well-being of children of divorce, Walton et al. (1999) found that after being involved in divorce mediation, parents had decreased levels of distress and anxiety, which may overall be beneficial for children, as they may benefit from their parent's decreased anxiety.

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Mediation

Given our country's high divorce rate and its negative impact on children, it is important that families become involved with "interventions that promote the positive involvement of both parents in children's lives following divorce" (Amato & Sobolewski, 2001, p.918). As well as being positively involved, families and children are in need of interventions to manage conflicts and emotions (Ahrons, 1994 as cited in Deutsch, 2008). Research by Kelly (2004) has shown that divorce mediation is helpful in resolving emotional and agreement issues in family conflict, which could have a positive impact on children's adjustment to the divorce.

Mediation is a confidential and voluntary process that helps the parties in conflict come to agreements without the use of the court system and expensive legal services (Emery, 2004), as well as help with negotiating through the process (Milne et al., 2004). However, some mediation can be mandated by a judge (Amato, 2010), which is very common in child custody disputes (Kelly, 2004; Raisner, 2004) or court based mediation programs (Mayer, 2004). Mandated mediation can also happen when and if parents do not agree on issues regarding their children such as their adjustment to the divorce or relationships with their children (Deutsch, 2008). Mediation should also be agreed upon by both parties involved in the divorce (Severson & Bankston, 1995).

In mediation, professional boundaries are set and it can be an ongoing process lasting months or even years for families (Emery, 2004), and each session can last several hours (Amato, 2010). It can be especially helpful in divorce cases with children and has the ultimate goal of conflict resolution (Emery, 2004; Kaslow, 1984), creating harmony, and improving cooperation among participants (Lowenstein, 2009). The mediation

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process has become a popular practical approach to resolve issues with families (Lowenstein, 2009; Mantle & Critchley, 2004) and has been described as the “least intrusive intervention” in regards to divorce (Mienkowska-Norkiene, 2012, p. 121). In Kelly’s (2004) review of mediation studies, it was concluded that mediation is effective in resolving emotional and agreement issues in family conflict. Mediation can help not only children, but parents as well with managing emotional problems caused by the divorce (Beck et al., 2004; Deutsch, 2008).

Importance to Social Work

Children exposed to high conflict are more likely be affected negatively (Emery, 2004) and could also have weakened relationships with one or both parents (Amato & Sobolewski, 2001). Divorce can also cause children to have to grow up too quickly which could impact their adjustment and resiliency (Emery, 2004). Social workers have the duty and responsibility to advocate for more forms of appropriate and healthy conflict resolution such as mediation to fulfill the ethical duty of service to clients and to recognize the importance of human relationships (NASW, 2008).

Clinical social workers are ethically responsible to provide appropriate services to clients in need. When situations arise which highlight the need for a child to receive services, it is in the best interest of the child to receive interventions in accordance with the Value of Social Justice (NASW, 2008). Social workers are ethically responsible to work with vulnerable populations, which could include children and families experiencing transition and conflict.

Human Dignity is embodied in the social work approach to advocate for mediation for all children of divorce, as this process could minimize the negative impact

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it could have on the child. It is our duty to help resolve conflict that our clients may face (NASW, 2008) and this could be done through mediation. We are ethically bound to work for the children and families experiencing conflict which is suggested in the Importance of Human Relationships Value (NASW, 2008).

Purpose

Due to the alarming rate of divorce in the United States, the likelihood of social workers to encounter clients who have experienced divorce, whether the parents or the children, is very high (Mantle & Critchley, 2004). Since divorce can have a negative impact on children and adults (Emery, 2004; Walton et al., 1999) the purpose of this exploratory study is to examine the role of mediation in the divorce process and how mediators decide whether or not to include children in the mediation process.

Literature Review

Role of Mediator

The role of a mediator can be described in many ways, but most importantly, mediators work in the best interest of families, keeping in mind the well being of the family (Giunta & Amatea, 2000). Mediators do not act as experts (Mayer, 2004), can have multiple roles, and come from a wide variety of backgrounds. Mediators have different styles and ways of conducting mediation sessions (Meierding, 2004). Several researchers have examined the skills that mediators should have and are most often trained in. More specifically, Mienkowska-Norkiene (2012) stated that the mediator should have legal and psychological knowledge. Grebe (1986) also noted that most mediators have mental health backgrounds. Likewise, the combination of lawyers and mental health professionals is common (Deutsch, 2008; Emery, 2004; Kaslow, 1984; Meierding, 2004). This could be due to the court process in which families are often involved, especially regarding child custody disputes (Deutsch, 2008; Kaslow, 1984). Having knowledge of court processes is also important. For example, in the Holtzworth-Monroe et al. (2010) study, law students in their third year were mediators for a pilot program, which also indicates that lawyers can be involved as mediators as well. Research conducted by Perlmutter (1987) highlighted that the majority of participants who practiced mediation were master's level social workers, as did Wiseman and Fiske (1980) who noted that mediation had been most explored by, "social workers, judges, and lawyers" (p. 442) indicating the importance of collaboration among the disciplines. The counseling profession and behavioral sciences are generally other disciplines involved in mediation (Kelly, 2004; Severson & Bankston, 1995). Research has also emphasized the

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importance of social workers in the role of a mediator, stating that the social workers who practice family court mediation are highly trained and qualified (Mantle and Critchley, 2004). Lastly, mediators can partner with advocates, as this role is often involved in the mediation process (Holtzworth-Monroe, 2011).

The mediator plays a neutral role in the process, not taking either participant's side (Emery, 2004; Gentry, 1997; Holtzworth-Munroe, 2011; Kline Pruett & Johnston, 2004; Weingarten, 1986), and not having a bias (Beck et al., 2004). A mediator should encourage cooperation, sensitivity (Weingarten, 1986), respect for both individuals involved (Grebe, 1986) and offer education to the parents (Giunta & Amatea, 2000; Holtzworth-Munroe, 2010; Raisner, 2004), especially about common concerns children may have, or how conflict can impact children (Holtzworth-Munroe, 2010). Mediators need effective and exceptional communication skills (Meierding, 2004). The mediator can help the participants brainstorm, which helps to resolve issues and can reduce the effects of the emotions involved with the divorce process (Emery, 2004). Principles of mediation can include "empowerment, consideration of the best interests of all family members, full and honest disclosure of assets, cooperative problem solving" (Kaslow 1984, p. 62). Self-determination is also a principle of mediation, as clients are encouraged and not forced into decisions (Mayer, 2004; Weingarten, 1986) and they are given choices and options (Academy of Professional Family Mediators, 2012). A mediator should also make referrals for the couple to family therapists, financial advisors, or other professionals as necessary (Severson & Bankston, 1995) and should be sensitive to the loss that the individuals are facing (Weingarten, 1986), especially feelings of grief and

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relief (Raisner, 2004). Feedback during mediation can also be a powerful tool used to help families (Grimes & McIntosh, 2004).

Many argue that mediation should be conducted by trained professionals. Grimes and McIntosh (2004) argue, “It is vital for mediators and child consultants to share core training, supervision, and professional development around child inclusive practice” (p.115). Stansbury (2012) highly suggests the use of trained mental health professionals in the mediation process rather than only lawyers due to their “credibility on issues that affect children that can be used to effectively resolve a conflict” (p. 140). Mediators should be trained in and have knowledge of interviewing skills (Meierding, 2004). The profession’s *Model Standards* as referred to by Schepard (2004) defines some qualifications recommended for mediators as it includes a *Competence* standard which states that mediators should have cultural competence and receive education as part of their training.

Divorce Mediation

Mediation is a maturing field of practice (Milne et al., 2004). It is a skill (English & Neilson, 2004) and is also sometimes referred to as an “alternative dispute resolution method” (Holtzworth-Monroe, 2001, p.320; Perlmutter, 1987, p. 11; Severson & Bankston, 1995, p. 683; Shaw, 2010) and is sometimes abbreviated as “ADR” (Mantle & Critchley, 2004, p. 1161). It has recently been described as a unique and traditional conflict resolution model (Cashmore & Parkinson, 2011; Milne et al., 2004).

Additionally, Lowenstein (2009) describes mediation as, “one of the interventions in place to put parents in control of the decision making regarding their divorce and future of their children” (p. 234). This is important to reduce the negative impact of divorce on

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children. There is always a goal to come to an agreement about a certain issue in mediation and there is always a reason couples seek out mediation (Beck et al., 2004; Gentry, 1997). Common goals of mediation are to help couples “render valuable benefits” (Shaw, 2010, p.448) and reduce conflict (Emery, 2004). It can help families manage feelings about the new structure of their family (Grebe, 1986). More importantly, Lowenstein (2009) asserts that mediation “is primarily for the benefit of providing security for the children” (p.240).

Divorce mediation should reduce “the negative consequences of divorce” on children (Mienkowska-Norkiene, 2012, p.199). Children are sometimes challenged and put in the middle of the divorce regarding their living arrangements, and they may have to make the choice with whom to live. However, if the parents are involved in mediation, it is more likely that children will have more contact with the parent they are not living with (Emery, 2004) and are less likely to display “delinquent behaviors” (Stull & Kaplan, 1987, p.57). Additionally, overall involvement with mediation can “serve to diminish the feelings of despair, depression, hopelessness, helplessness, self-pity, fury and alienation that frequently characterize the legal, economic and custody phases of divorce” (Kaslow, 1984, p. 62).

History and Evolution of Mediation

Divorce mediation started in the 1970’s (Grebe, 1996) and has been practiced for two to three decades (Mantle & Critchley, 2004; Shaw, 2010). It is an intervention being practiced nationwide (Grebe, 1986) and has been used in the court system since the 1980’s (Giunta & Amatea, 2000). Mediation has become a popular and accepted

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intervention (Amato & Sobolewski, 2001; Lowenstein, 2009) and it is an important intervention for child custody and divorce (Perlmutter, 1987).

More recently, it has become “professionalized” (Gentry, 1997, p. 310) as research has shown that, “unprofessional mediation practice can cause serious damage to participants and the profession” (Schepard, 2004, p. 516). Therefore, more universities started to offer degrees and training programs specializing in mediation (Grebe, 1986) and the number of programs are increasing (Milne et al., 2004). However, requirements differ from state to state (Giunta & Amatea, 2000) which sometimes “makes it difficult to enforce ethical standards” (Milne et al., 2004, p. 18). Options for certification range from day or week-long coursework programs to college degrees in conflict resolution. There are also associations that support professional mediation such as The Association for Conflict Resolution, the American Bar Association Section of Dispute Resolution (Milne et al., 2004), and The Academy for Professional Family Mediators (Academy of Professional Family Mediators, 2012).

Divorce mediation addresses conflicts that arise in the divorce process and aims to resolve those conflicts in an organized (Emery, 2004) and less hostile manner (Shaw, 2010). Mediation is more like a forum (Taylor, 2005; Weingarten, 1986). It is not therapy (Severson & Bankston, 1995) nor is it arbitration (Milne et al., 2004). It differs from therapy because the mediator does not take as much responsibility for progress, and goals are only focused on conflict resolution (Grebe, 1986). Compared to therapy, mediation does not require a diagnosis nor does it focus on the evolution of the conflict (Milne, et al., 2004). Comparatively, in arbitration, the third party involved makes the final decisions, which does not happen in mediation (Milne, et al., 2004).

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Mediation has been used for other purposes besides divorce, in a wide variety of settings (Beck, Sales, & Emery, 2004). For example, it can be used to address and resolve issues in the criminal and juvenile justice system, in schools for bullying issues, and in community settings (Mantle & Critchley, 2004; Severson & Bankston, 1995). However, it is more common in divorce and child custody disputes (Hahn & Kleist, 2000) and to assist in the decision-making regarding finances, parenting, and property (Milne et al., 2004). Shaw's (2010) study revealed that divorce mediation is more beneficial than litigation, especially since litigation can be expensive, stressful, (Cashmore & Parkinson, 2011) and "divisive" (Beck et al., 2004), even though the litigation process sometimes collaborates with mental health professionals (Stansbury, 2012). Mediation has also been described as "less time consuming" and "more humane" than litigation (Kelly, 2004, p.3) and, compared to mediation, litigation is more expensive and less efficient (Mienkowska-Norkiene, 2012). Litigation costs can occur in the court system for the family, and affect taxpayers as well (Beck et al., 2004). The litigation process requires parties to negotiate and communicate through attorneys, which can decrease the communication and trust among involved parties, and create a competition (Beck et al., 2004).

Litigation tends to focus on stopping the conflict, rather than resolving it (Grebe, 1986). Additionally, Emery (2004) found that, "Parents who mediated reached an agreement in half the time it took parents to achieve a settlement through their lawyers and the courts" (p.153). Similarly, families involved in litigation are rarely satisfied with the outcome (Stansbury, 2012). This could be due to the fact that litigation tends to focus on the division of materials such as finances, belongings, and children, and doesn't focus on the emotions of the involves parties (Grebe, 1986).

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Child Involvement in Divorce Mediation

Children are increasingly being involved in the mediation process (Gentry, 1997). Sometimes children should be involved in the mediation process (Emery, 2004; Kaslow, 1984; Saposnek, 1991) so they can be heard and because they are the “most affected by separation and divorce” (Saposnek, 1991, p. 327). Even though they are the most affected, children often times may not even understand the meaning or purpose for the divorce or separation (Emery, 2004). It is important to make sure that if a child is being involved, that their basic awareness about the divorce is assessed (Saposnek, 2004). Research suggests that parents should work together to reduce the negative outcomes it could have on the child and continue to talk with children regarding the divorce (Emery, 2004). Mediation can increase communication and improve the co-parental relationship as well (Walton et al., 1999), which could benefit children. Research shows that there are several benefits to a child being included in the mediation intervention (Holtzworth-Monroe, et al., 2010; McIntosh, 2004). However, the mediator asks the parents about including the children, and determines whether or not to include the child (Saposnek, 2004). For example, children who are involved in divorce mediation with their parents are less likely to display “delinquent behaviors” (Stull & Kaplan, 1987, p. 57). Another benefit of mediation was found in a meta-analysis of nine studies by Kelly (2004) who concluded that mediation can settle multifaceted and extremely emotional disputes with high client satisfaction.

There are several ways a child could be included in the mediation process (Gentry, 1997; Holtzworth-Monroe, et al., 2010; McIntosh Long, & Maloney, 2004; Saposnek, 1991; Saposnek, 2004). One approach involves collaboration between the

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mediator and the parents to examine the child's needs (McIntosh, et al., 2004), which could be beneficial as it is comprehensive, focusing on all issues in the family (Mantle & Critchley, 2004). There is also the option of children being periodically included, such as when clarification is needed (Saposnek, 2004). Another approach only includes children in the last session of mediation after the parents have reached an agreement (Gentry, 1997; Saposnek, 2004). The information would then be relayed to the parents, which could benefit the outcome of the child (McIntosh et al., 2004). Some mediators also choose to talk with the children separately from their parents who are in mediation (Gentry, 1997). Saposnek (1991) urges that if a mediator is including a child in the process, the mediator must be "adequately qualified" by having a knowledge base of "child development and family dynamics" (p. 341).

Child focused (CF) and child inclusive (CI) mediation are two common styles of mediation being practiced today (Hewlett, 2007; Holtzworth-Monroe, et al., 2010; McIntosh, 2004). In CF mediation, however, the child does not directly meet with the mediator, but parents are given feedback and education regarding common needs and distress the child could be experiencing during the divorce (Holtzworth-Monroe, et al., 2010). CF as a process was described as having the mediator be "non-neutral with respect to advocating for the interests of the children" (McIntosh et al., 2008, p. 107).

In contrast, CI mediation is intensive and the child meets with the mediator so the parents can understand the child's perspective. The overall goal of CI is to support parents and help them grasp the emotions their children are experiencing (Hewlett, 2007). CI involves a child consult and in-person child interviews. Parents must be attending mediation and both must agree to include the child (Grimes & McIntosh, 2004). CI is a

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responsive approach to mediation and has shown more effective outcomes for children than CF mediation, as it has enhanced attachment relationships among parents and children (McIntosh et al., 2008). Child inclusive mediation was recommended by Cashmore and Parkinson (2011) for older children struggling with the parent with whom they do not live.

Involving a child in the mediation process can also help parents improve understanding of the child's emotional and psychological state of mind (Hewlett, 2007). It can also empower the child (Saposnek, 1991), and as noted by Beck and Sales (2001) in Shaw (2010), it can empower all participants in the mediation process. Children interviewed in the study conducted by Bagshaw (2007) stated they wanted to be involved in the decision making during the divorce of their parents. They felt they did not want someone else making decisions, such as with whom they would live, for them. The children in this study also all responded that they should be asked questions and listened to.

Even though mediation has been practiced for over twenty years by professionals (Mantle & Critchley, 2004; Shaw, 2010), involving children in divorce mediation is not always supported by mediators, mental health professionals, and researchers. Some argue that the inclusion of a child depends on the situation and family dynamics (Holtzworth-Munroe et al., 2010; Lowenstein, 2009) and should be "carefully considered" (Saposnek, 2004, p. 162). This could be because children experiencing divorce are already at high risk for adjustment issues (Emery, 2004), especially if they are exposed to parental conflict after the divorce (Deutsch, 2008). Research has shown that divorce could negatively impact attachment between child and parent and possibly alienate or isolate

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the child (Lowenstein, 2010; Milne et al., 2004). However, mediation has been shown to have a positive impact on children's adjustment behaviorally and psychologically (Walton et al., 1999). Saposnek (1991) found that more experienced mediators are more likely to include children in mediation than those with less experience. Nevertheless, mediation is not always the most appropriate intervention for divorce and separation cases. There is a risk for children and families who have been involved in domestic violence if mediation is chosen as a method of resolution (Holtzworth-Munroe, 2011; Lowenstein, 2009), mostly because it could have an impact on the child custody outcome (Holtzworth-Munroe, 2011). Mediation with domestic violence victims has resulted in "poor outcomes" (Lowenstein, 2009, p. 237) and is a controversial issue (Milne, 2004). Families involved in domestic violence are encouraged to seek other forms of intervention (Lowenstein, 2009) as some argue that mediation as an intervention would be unsafe or unfair (Milne, 2004).

Mediators face many challenges related to their role, such as their knowledge base of child development, and their professional background and experience. Since children are at risk during divorce (Emery, 2004), it is important to look to professionals providing mediation services to children and families. The purpose of this study is to examine the role of a mediator and identify how mediators make decisions about including children in the mediation process.

Conceptual Framework

Mattison's (2000) Cycle of Reflection chart and Framework to Analyze Ethical Dilemmas is a useful framework for understanding the decision-making process of including or not including a child in the mediation process. Since some research has shown that the inclusion of a child in the mediation process should be determined on a case-by-case basis (Holtzworth-Munroe et al., 2010; Lowenstein, 2009), this leaves the decision up to the professional mediator (Saposnek, 2004). This can sometimes be a difficult decision to make (Saposnek, 2004) and Mattison (2000) suggests that professionals analyze the dilemma systemically; Mattison advises social workers to be aware of their own personal values and beliefs, as this could ultimately influence the decision and outcome for the client.

Mattison's (2000) Cycle of Reflection chart highlights steps a professional could consider while making ethical decisions. Reflecting upon one's self-awareness and ethical principles is the first and most crucial step, which will be beneficial to complete the next step of analyzing the dilemma. The professional is then advised to "continue the process of reflection and self-awareness" (p. 210) to determine possible elements influencing the overall decision. After making a decision, the professional should continue to reflect on that choice, and modify if needed.

The framework triangle, similar to the Cycle of Reflection, highlights the importance of the "value system and preferences of the decision maker" (p. 206) and suggests that the decision maker start at the bottom of the triangle to explore background information or details about the case. Gathering information about family dynamics could be beneficial for the mediation process. The next step is to separate practice

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considerations from ethical components, and then identify value tensions. Next, the professional should refer to his/her Code of Ethics and identify principles that could align, as well as identifying the expected outcome with benefits and costs. The professional should then be able to assess and justify the choice of action, and will have come to the resolution of his/her ethical dilemma. A case study can illustrate this value system in relation to decision making process for professionals. For example, if a mediator is working with a husband and wife who have a history of drug use, this could impact the decision as to whether or not their children should be involved in their mediation process. Knowing that drug use is a risk factor for including children, the mediator considers this an ethical problem. He or she engages in self-reflection to ensure that she is not including or excluding the child simply because of her personal biases. Moreover, he or she analyzes the case by asking herself questions: How serious is the drug use? Is it likely to get worse if the child is involved? How is this child affected by the drug use? He or she will consider the family's past history, but then only want to assist with what needs to be negotiated in the present. Choosing to not focus on past events could correlate with the mediator's personal beliefs and values as well. The professional might not agree with drug abuse, but recognizing that bias and moving forward with the decision that will best benefit the client is what Mattison's (2000) Cycle suggests to do. After meeting with the individuals and hearing what they want from the mediation process, the mediator could then decide whether or not to involve the child.

Along with Mattison's (2000) framework for ethical decision making, The Family Stress Theory (McCubbin, 1993, as cited in Beckett, 2000) has also been linked to the process of divorce and its impact on the family. Those supporting this theory examine

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the ability for families to cope with crisis and stress and their capability to recover (McCubbin & Grossenbacher Boss, 1980) because in addition to children being affected by divorce, the parents now have to adapt to a new lifestyle as a result of the transition (Amato, 2000). Divorce causes a change in roles for the parents (Emery, 2004) as well as responsibilities (Walton et al., 1999), which can create stress and affect “emotions, time, patience, and energy” (Emery, 2004, p. 265). This theory is compatible with social work principles, as those espousing Family Stress Theory also recognize the strengths of the family system. Emery (2004) also suggested to build on children's strengths rather than their struggles, which is beneficial when applying this theory and relating it to social work. Phases of this theory, such as the Adjustment Phase and Adaptation Phase, outline problem resolution and coping skills of the family which can be important when intervening with divorce mediation to resolve conflict (Beckett, 2000).

Similarly, Amato (2010) supports the Family Stress Theory and relates to this process of change, specifically divorce, and links it to what he calls, “divorce-stress-adjustment perspective”, a broad term which suggests that the divorce is a long process which can have “short term stresses and long-term strains...with few long-term negative consequences, or slow, with negative consequences that persist well into adulthood” (p.666). This implies that stress impairs parenting skills (Amato, 1993) in adults, and potentially the well-being of the child.

Method

Research Design and Sampling

For the purpose of this research, qualitative interviews were conducted with professional mediators. A qualitative method was selected because this study is

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exploratory in nature and more in depth answers could be revealed from professionals in the mediation field. Convenience and snowball sampling were used to select participants based on this writer's familiarity with mediators and mediation center websites. A recruitment letter was sent out (see Appendix A) to professionals that have been previously identified as including children in their mediation processes with families. Interviews were conducted during the month of January. The sample consisted of seven professional mediators trained in mediation and who practice independently in the Minneapolis/St. Paul area. Three males and four females were interviewed with backgrounds varying in family law, collaborative law, and mental health, with years of practice ranging from five to twenty years.

Protection of Human Subjects

Prior to interviewing the participants, the study was explained and participants were given copies of the interview questions (see Appendix B). Participants had the choice of where the interview was conducted. All participants were asked to sign an Informed Consent Form (see Appendix C) prior to the interview. Participants were informed that they can withdraw from the study at any time or skip any questions at any time. All data collected from the interviews was stored on this researcher's password protected computer to ensure confidentiality.

Data Collection

After selecting respondents for interviews, the semi-structured interviews were conducted and data was collected. All interviews were audio recorded and transcribed by this researcher. Interviews lasted approximately 30-45 minutes. Ten questions regarding the decision making process for including children in mediation were developed prior to

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the interview and were approved by The Research Committee chair, members, and St. Thomas's Institutional Review Board (IRB) prior to data collection, in order to ensure credibility and ethics were maintained. These questions asked about the mediation process, how the best interest of the child is ensured during the process, and asked whether or not there is a screening process used commonly by mediators.

Analysis Plan

Once interviews were conducted, the transcripts were transcribed by this researcher. Then the researcher used coding, a form of qualitative content analysis, to analyze the data. The goal of content analysis is to recognize patterns of language. It involves looking for patterns and themes in the data. Coding is used to organize data and interpret what it is saying (Berg, 2008). The transcript of the interview was carefully examined to identify codes and themes. Inductive grounded theory was used which is an approach that begins with more specific things such as words or data, and then progresses to more general things such as theory and themes (Berg, 2008). Open coding was used to code the data, which Berg (2008) describes as an unrestricted coding method to identify concepts and to open up possibilities of meanings of the data. Codes were identified and labeled line by line in the transcript. Codes that appeared more than three times turned in to themes and each theme had at least three quotes from the respondent to correspond with it, as Berg (2008) suggested.

Strengths and Limitations

The interview questions were based on questions used in previous studies from the review of literature. Some questions were also developed based on gaps in literature,

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such as how mediators make decisions regarding including children in the mediation process. Only one set of questions were used, potentially limiting responses.

Only professional mediators with experience in this field were interviewed, which did not apply to mediators who volunteer or do not have professional training in mediation. Also, depending on the number of interviews conducted, their professional experiences could contribute to the future research that needs to be done regarding this population.

Findings

This section will describe the themes identified through the data analysis process. The following four concepts were depicted: children are affected by conflict, parents make the ultimate decisions about their children, mediators can educate parents, and the age of the children impacts whether or not children are included in mediation.

Children Affected by Conflict

The first theme that emerged was in relation to conflict and how it can impact children. The following quotes from the respondents are examples of this theme.

Respondent 3

Part of the motivation for being a divorce mediator is the idea that quite often it does affect the child positively. The parents may get to a better place with each other which itself, since the children are so connected to each parent. Children are affected by conflict between the parents. So parents who maintain a respectful, kind, even loving relationship between each other that is good for the kids. And mediation can help parents do that. So, it can affect them very positively and help reduce the conflict.

Respondent 5

But if you think about it divorce affects the kids at any time; it affects their confusion about how am I gonna handle different rituals in my life now? How am I gonna deal with this? What I usually tell parents, this is a crisis for your children. There's no way it can't be. But we don't want this crisis to become a trauma. Parents really get that. And the two things that we have learned are most traumatic for kids are if the conflict never ends between their parents, or a parent

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leaves and they don't have access to that parent. So any process that's designed to try to at least stop the conflict from escalating. Ideally we would like to say that we're transforming conflict into something different. Realistically sometimes we just make it so it doesn't get worse. Ideally if it works to use ADR, bring everybody's anxiety down. We're not quite as acrimonious towards each other. We have made the decisions together. Someone didn't tell us what to do. That's better for kids, to have that atmosphere.

This quote highlights that the mediator is empowering the clients by giving them information and letting them make their choices based on the presented information. This puts the responsibility into the client's hands and out of the mediator's which also could enhance the client's self-determination. The mediator made the decision to educate the client and provided ethical and competent information without imposing personal bias.

Respondent 6

The way I understand the research is that the one factor that has the most damaging impact on kids is parent conflict. And you're gonna be more likely to have parent conflict in a divorce than you are in an intact marriage. So you could extrapolate that a negative effect of divorce is the conflict, which negatively affects the kids. But it's not about the divorce; it's about the conflict. So if there's an amicable divorce without high conflict, I wouldn't say there is universally a negative impact of divorce. There are frequent occasions. So I can't say it's about the divorce.

In relation to the Family Stress Theory, the mediator can recognize the conflict and realize that conflict can impact the family system negatively. In mediation, the

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coping skills could be discussed and the parents could be educated on ways to help their child cope with the change of roles and the consequences of the conflict.

Respondent 7

I'll start with the positive. My process has a positive impact because it encourages parents to meet in the middle to find the middle ground to cooperate and collaborate for the best interests of the child. There's a lot of pressure to do that. Because they've got experts on a team, they cannot use legal typical strategies to put parties against each other. And I think that sets up a more successful experience and can affect children more positively. The parents then start off in a better place, have learned better skills, have better information. It could affect them negatively. Obviously divorce does affect kids negatively for a time. There's no way around that. It's a major life stressor and that impacts their emotional, physical, social health. There's an impact. But I feel like the collaborative divorce process is more likely to mitigate those effects rather than contribute to them.

When applying the Family Stress Theory to divorce mediation, it is important to remember that the child will be affected by the divorce. Keeping in mind the best interests of the child highlights the potential cause for harm to the child due to the familial conflict and recognizes the stress involved with the process.

This theme was widely apparent in the responses from respondents. This theme led into the next theme, as mediators are able to indicate to parents that divorce can be a crisis, and then intervene with psycho-education.

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Educating Parents

Five of the seven respondents indicated a need for mediators to educate parents about the potential effects that the separation and/or divorce could have on their child, the needs of their children, and developmentally appropriate strategies and guidelines for their parenting plans. Respondents discussed important nuances that dictate how they decided to educate their clients, which corresponds strongly to the Cycle of Reflection. Furthermore, these nuances are well informed by research, suggesting the importance of understanding issues associated with the Family Stress Model. The following quotes from the respondents are examples of this theme.

Respondent 2

Because the parents are responsible for their own outcome, but also for the outcome of the child. It's advocacy for parents to use a higher standard of reason than just reaction.

Within mediation my role is to give people as much education as possible. I am happy to help educate; for example, this is how little Johnny is going to be affected by A, B or C.

I don't care what decisions you come to, but I am going to tell you the pros and cons and consequences of choices. Not consequences, but I will tell you cause and effect.

Sometimes, so one of the advantages of working in the industry is the education and studies I can read and receive about how divorce affects children. For example, Bird nesting: if you decide to keep the children home and the parents rotate, I learn about, and I see the long term consequences and how that could be

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challenging for mom and dad. Week on week off, younger toddlers need more consistency with the parents. I think it's not knowing what the research is and not knowing where to look.

This quote, in relation to using research, demonstrates how part of the decision making process relies on understanding how the children will be affected. This resonates with the Family Stress Model, which encourages understanding the stress families endure.

I think as much education as I can give. I am also a huge fan of referring parents, if they can afford it and if they have the time, if they have the commitment to their kids, to a child specialist, a mental health professional whose practice is child development focused. So I'm happy to send people to those, to engage and inspire and not judge, but educate and understand how to make child centered decisions.

The latter part of this quote “to engage and inspire and not judge” illustrates the value this professional places on the ethic of being respectful toward parents. Taking such an ethical and professional stance is a crucial part of the Cycle of Reflection.

Respondent 4

We have very little control to say no, that's a terrible idea. More broadly, you don't see many cases like that. It's incumbent on family law attorneys to at least converse on the literature around it, and the literature on child development and the needs of children. So we are telling our clients. So we let them know that even though this is how their friends have done it in the past, here are some guidelines; let's see a way we could make this work for your family.

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Here again, the mediator speaks to the issue of reflection: how even though the family's friends have tried this one way, it is the mediator's job to show different options. Moreover, the careful wording here "let's see a way we could make this work for your family" again highlights and focuses on the ethical responsibility of the mediator to cautiously engage families without offending, as well as not impeding their personal opinion onto their clients.

Respondent 5

So people have to suspend disbelief and enter into the notion that you are really going into co-parenting and stay responsive to your kids' cues and we're here to help with dispute resolution or looking at things differently. It should match developmental level, temperament, and their needs. If you're in ADR, you are not telling them what to do or making recommendations. Just pointing out certain things.

Interviewer: Educating them?

Respondent 5: Yes.

To "match developmental level" is to practice ethically, and to be aware of how the family situation may cause stress for the child. Here again, educating parents relies on mediator's knowledge of the family dynamic and different stages of family life, and relaying the information in a way that parents can understand it.

Respondent 6

The family is the family. I can educate the parents. I can facilitate a discussion, question them and remind them about how a child's need is or is not being included in their discussion. But what they end up agreeing to do, I can't

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guarantee that's best for the child. And what they agree in writing, I can't guarantee they will stick with that. We know that the parents having a verbal argument in front of the child is not in the child's best interest. I can educate them about how that's not good to do in front of the child. We can go over that and talk about that for five hours, and they still might fight in front of the kid. They can say we will try, or write it in their plan, and then they go off and do it. So I cannot ensure anything.

In this case, it is clear that the mediator still sees an ethical responsibility.

However, in this case, the ethical responsibility is to respect the decisions families make. Thus, a part of the Cycle of Reflection is to recognize the role one plays as mediator. The mediator does not hold the family accountable or judge the clients, but provides ethical and competent education to the family.

Respondent 7

It's up to the freewill of their caregivers. But I feel that if I arm parents with good information, from an unbiased source that's perceived as an expert that not only knows the field of child development and psychology and divorce, but has also met their child. It gives me some leverage from them. So it helps them consider my recommendations.

In this latter case, there is still adherence to the ethic of respecting family decisions. However, the mediator also recognizes the powerful role played through educating parents. Although parents can make the decision, giving the parents knowledge allows the mediator to feel actively involved in the outcome. Meeting with the

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child also gives the mediator more insight and leverage which might develop more rapport and trust with the family, which could better impact their outcomes.

It is different for each individual or couple that is experiencing the mediation process. Some couples have highly contentious relationships, where others can openly discuss their viewpoints without arguing. Therefore, couples require or request different amounts of education from mediators and are educated in many different ways. Importantly, mediators have to impart education to their clients based on these nuances and their devotion to ethical principles.

Parents Making the Ultimate Decisions

The third theme that emerged from the interviews was parents making the ultimate decision about the inclusion of their children in mediation. Five of the seven respondents discussed the parent's role in mediation and how the parents make the ultimate decision of including the child or not. The following quotes from the respondents are examples of this theme.

Respondent 1

This one family in particular they had three boys, each parent had his or her own home, they didn't live that far apart so they could go to the same schools...the kids were a little bit older, and I said I think it would be good to see how they think the schedule is working from the kid perspective. That was the big grind with that particular couple. She didn't think that the schedule was good for the boys and you know it definitely wasn't good for her and she expressed that she didn't think it was good for the boys. And the dad said well I think kids are pretty flexible and doing fine, and we talk about how they're doing. I thought in that

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case it might provide some real insight to talk to the boys: see how does that schedule work for you? Not to ask which place do you prefer so much, but how does the schedule work? What would work better? Assuming that your parents aren't ever gonna get back together? What do you think is the best way to manage getting to school and sports and all those kinds of things? But she was the one who said no there's no way you're not talking to my kids.

Interviewer: So the parents have the ultimate say?

Respondent One: Yeah, unless there's a court order. If the court says your kids are going to talk to a mediator, then no.

Again, empowering the clients and giving them the power and education to make their own choices is an ethical duty that could be considered when inviting children to participate in the mediation process. Receiving consent from the parents and respecting their decision would be considered an ethical component of the case.

Respondent 2

I think mediation as opposed to litigation is a really positive thing. Number one, parents are making the decisions, not an attorney. Not a judge. The parents that are inspired by the best interests of the children.

It's a little intuitive but I have a couple of guidelines. I wouldn't bring a two year old or a five year old in. So the age of the children, especially if they're older. The other thing I use with kids into the process qualifier is, are the parents giving the power away to the children? I had one couple where the kids knew how to play mom and dad against each other, taking sides, to get what they wanted, so the parents need to be the parents and not put the sole decision making responsibility

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on the children. If I noticed that the parents wanted the kids to make the decisions, I would coach the parents, like you guys need to retain the power, and try to coach them a little bit and remind them they are the parents and not the children.

The role of the parents and children being addressed in the latter part of the quote is very important in relation to the Family Stress Theory. “Remind them they are the parents and not the children” refers to role changes, which are common with crisis, divorce, and stress that families encounter.

Respondent 3

I have seen my role as helping parents get to a better place with their conflict. And the basic assumption is parents who are at a good place with each other make better decisions and decisions that are more tuned into the child's needs. If parents are freaking out in their war with each other, they can't pay attention to the kids; they're too busy defending themselves and in their own war. So if they're at a better place it opens up a lot of energy for them to pay attention to their kid more. So that's my contribution of helping parents get to a better place.

Respondent 4

I certainly try to help them see what's in the child's best interest, to counsel them to help them see that, but I'm not the child's attorney. They have the last say.

Respondent 7

95% of the time kids are included in the collaborative process; they meet with the child specialist which is a neutral party. It's a default...

Interviewer: I'm assuming the parents have the ultimate say?

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Respondent 7: Yes, absolutely. I have never had a parent decline to have their child be involved. I have had parents be concerned, wondering what we're going to talk about. But once they hear my agenda they usually don't have concerns. I'm trying to think if I've had a child refuse, but I can't think of any right now.

This theme emerged in two different ways as some respondents discussed parents deciding whether or not to include the children, where others discussed parents deciding what is best for their children in general. This theme highlights that the parents have a voice over the mediator as to whether or not their child will be included in the mediation process as well as the overall outcome of their children, as the mediator cannot control this beyond the mediation sessions.

Age of Children Can Impact Decision to Include in Mediation

The fourth theme that emerged from the interviews related to the age of the children and how that impacts the decision to include them in the mediation process. Five of the seven respondents indicated that the age of the child is an important thing to consider when being involved in the mediation process. The following quotes from the respondents support this theme.

Respondent 2

It's a little intuitive but I have a couple of guidelines. I wouldn't bring a two year old or a five year old in. So the age of the children is important, especially if they're older.

Including or not including children in mediation because of their age could be viewed as an ethical dilemma. At this point, professional mediators could refer to the Cycle of Reflection chart to analyze the ethical dilemma by gathering more information

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and reflecting upon their personal biases. This respondent indicated that a two year old would not be brought in due to his/her developmental stage which is her professional opinion based on her training on child development and ethics.

Respondent 3

I believe there are certain age limits that I imagine most mediators have a certain age under which they won't want to include the kid. 14 I would bet is standard; they would likely say it is ok to include the kid. Also OK under age one.

Respondent 4

What I typically mean is trying to entertain the child's preferences so the mediator can give some perspective on how the child's going to perceive the arrangement that we have reached. And typically my base criteria for that is A) if the client is having opposing ideas on what the child wants, mom says the kids never want to see dad, dad's attorney says no that's not true, the kids love dad they want to see him all the time. Then I think you are able to have a third party neutral or the mediator themselves actually entertain the kids preferences so that as you go forward with mediation you're operating with factual information. Other than that I tend to say with very young children, one, two, three years old, there isn't any point in including the child, I'm not sure that it's developmentally appropriate and I don't know that it would add a whole lot to, because children younger, lower elementary and younger, don't add a lot to the process by expressing their wants or needs. So usually I'm looking at what the children actually want, if that's a live issue then actually, then it's helpful and those would be my two primary screening tools.

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Respondent 6

Any minor children are included. The older, maybe 16, 17, 18, at a lesser degree.

We actually will ask the parents to come in with the baby. You can still get an idea of the temperament, the relationship. I still ask the parents to bring the young one in to a session, to experience that together.

This respondent highlighted the importance of the relationship, even though the family is experiencing separation or divorce. In relation to the Family Stress Theory, since divorce can have long term consequences, it is important to highlight the connection that is still positive between the parent and the child.

Respondent 7

If the decision were made to not include them it would be maybe age, that some don't feel comfortable working with a younger child. Maybe three or four or younger. That wouldn't surprise me if that were a factor for some. The autonomy of the child, if the child is hesitant or feels, is pushing back in some way, we don't want to push them or make it more difficult for them in any way either.

The autonomy of the child was discussed in this quote for the first time in any interview. Although the mediator ethically still needs to respect the family's wishes, this gives power and a voice to the child, respecting their wishes and boundaries, not only those of their parents.

This theme revealed varying responses from respondents; however, the respondents discussed their reasoning regarding the age limits and discrepancies. All four respondents gave an age of which they thought was too young or old to include a child which highlights the importance of the Cycle of Reflection and their views on ethical

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practice. Each mediator has their own background, personal experiences, and biases that they bring to their clients. Based on their values and experience, they are able to determine their comfort level of working with children in the mediation process. Some respondents will include children of any age, where some indicate only certain age ranges that they will work with.

Discussion

Consistency between Themes and Previous Literature

The first theme, divorce and conflict impacting the children, was widely apparent in the data. Respondents indicated that divorce can be viewed as a crisis, but hopefully not a trauma for children. Emery (2004) and Saposnek (1991) assert that divorce can impact children the most and that it can present as a crisis in a child's life, which supports this theme. With the emphasis on the impact of the divorce on the child, it is evident that mediators are aware of this issue and can provide education to parents and use their professional judgment when involving children in the process.

Findings also indicated a second theme of mediators educating clients. The respondents indicated that they believe that the more information and education parents have, the better the outcome could be for the child. Literature concluded the same, stating that mediators can offer education to the parents (Giunta & Amatea, 2000; Holtzworth-Munroe, 2010; Raisner, 2004) especially about child development or possible responses they might have to the divorce. Literature also concluded that mediators can educate parents on how conflict can impact children (Holtzworth-Munroe, 2010), which five of the seven respondents revealed as well.

A major finding highlighted the mediator not having a bias, or presenting in a non-judgmental demeanor as a common characteristic of professional mediator. This was a common theme in the literature and interview findings. Other common characteristics mentioned among the literature and interviews included background knowledge and training of mediators and mediators' use of effective communication skills. Weingarten

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(1986) and Grebe (1986) related to the professionalism of a mediator, indicating that a mediator should encourage cooperation and sensitivity in a respectful manner.

Findings in the literature asserted that mediation can be “less time consuming” and “more humane” than litigation (Kelly, 2004, p.3). However, no respondents discussed the mediation process taking less time than litigation. Rather, respondents indicated that the duration of mediation depends on the family, their situation, comfort level, and ability to communicate.

The findings of this research suggest that mediators, as part of their ethical practice, are consistently working on behalf of the well-being of children. Through my research, I found similarities in themes from the interview, as well as in the peer reviewed literature. Based on my interpretations of the interview, honest and open communication is a way parents could work together for the children. Respondents and the literature also discussed that open, honest, and increased communication overall will benefit the child. Children are also being brought to the forefront of the discussion in mediation, with most respondents indicating that they will educate parents about the best interests of their children and how they could be impacted by divorce. The promotes the well being of the child with the assumption that parents will consider the psycho-education provided by the mediator and consider this when making parenting decisions and custody arrangements.

The age of the children being a determining factor regarding their inclusion in the mediation process was discussed in the interviews, but not in the literature. This could be due to not all of the studies being conducted by professionals that encompass a strengths based assessment or not having a knowledge base in child development. Many

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respondents, as well as the literature, implied a need for a knowledge base in child development to be able to best serve couples with children. Future research could analyze the education background of mediators who are working with children to further develop the field and professional standards of divorce mediators. Having a background in child development could enhance the opportunity for mediators to have more clients who have children. It would also support the ethical duty of competent service to clients.

Both the literature and the findings spoke about including children in the process but not putting them in the middle. This could be related to the definitions of child focused and child inclusive mediation, and the professionals' familiarity and application of those terms. Respondents indicated that the children should be included so that they have a voice; however, that they should be put at the center of the mediation, not the middle, indicating that the child should be the center of the conversation, not the arguing point for parents. With contentious divorces, many respondents indicated that parents will argue over custody and physical arrangements for the child, without considering what is best for the child or what the child wants.

Social Work Practice and Research Implications

After analyzing the data and comparing it to the literature, implications for social work practice are focused around child development and family dynamics and their relation to divorce mediation. Social workers practicing mediation, especially when including children in the process, should have a well developed understanding of child development and Family Systems Theory. In order to provide competent services to families with children, social workers will need to be able to educate parents on what they could expect their children to experience as a result of the divorce. In relation to

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ethical standards, this would be in accordance with the NASW Code of Ethics, specifically honoring the value of competent service to clients. In relation to the Family Stress Theory, educating parents about potential effects of divorce would support this theory by identifying the stress related to the crisis and their ability to recover from it.

Future social work research could also address the topic of different age ranges of children, and how it impacts their outcome after mediation. Studies could categorize age ranges by developmental levels of children. For example, toddlers age two and three could be grouped together and pre-school aged children four to five could be grouped together. A study could then be conducted on how they were impacted by the process or if their voices were considered in the process. Many respondents discussed that they do not get to see the outcomes of the children they involve in mediation cases, and this could be addressed in future research by follow up interviews with participants at three, six, nine, and twelve months after the conclusion of the mediation services. This would be in accordance with the ethical responsibility of continued education and research and still continuing to consider the best interest of the client.

Another research idea would be to focus on children's attachment styles before and after mediation as an intervention. This would highlight how the crisis of the divorce did or did not impact the adjustment and attachment style of the child and parents. Pre and post tests could be administered to participants to determine attachment styles before, during, and after the mediation process. This could be administered to the parents to determine their parenting style(s) and to the children as well, to measure their attachment.

It is evident from the literature and findings that mediators need to provide ethical and competent services to families in mediation. This was illustrated and evident in

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different ways from the respondents. More specifically, respondents made it clear that in order to maintain clear boundaries, there is a balance that needs to happen in mediation which completely respects the parents' decisions, and court-ordered arrangements and decisions. Parents' decisions could differ from what a judge might order or recommend, and court ordered arrangements could be viewed as more child-centered.

In relation to ethical decision making, future social work researchers could ask social workers their opinions and processes regarding ethical decision making when involving children in the mediation process. Social workers could reflect on their personal biases and the potential impact that could have on the mediation process with families. Biases could be explored more fully by continued supervision and consultation with professionals in the field. In relation to the Cycle of Reflection, the professional could analyze the ethical dilemma by gathering more information and reflecting upon their personal biases to maintain ethics and competency. Research could also highlight common ethical dilemmas that arise when working with children in mediation or common steps taken to address ethical dilemmas in mediation so that it does not negatively impact the process.

DIVORCE MEDIATION AND CHILDREN

References

- Alton, L., Oliver, C., & Griffin, C. (1999). Divorce mediation: The impact of mediation on the psychological well-being of children and parents. *Journal of Community & Applied Social Psychology*, 9(1), 35-46. Retrieved from <http://ezproxy.stthomas.edu/login?url=http://search.ebscohost.com/login.aspx?direct=true&db=aph&AN=11819995&site=ehost-live>
- Academy of Professional Family Mediators. (2012). The professional family mediator summer 2012 newsletter. Retrieved from http://www.professionalfamilymediators.org/docs/Newsletters/apfm_newsletter_Summer2012.pdf
- Amato, P. R. (1993). Children's adjustment to divorce: Theories, hypotheses, and empirical support. *Journal of Marriage & Family*, 55(1), 23-38. Retrieved from <http://ezproxy.stthomas.edu/login?url=http://search.ebscohost.com/login.aspx?direct=true&db=aph&AN=9409210579&site=ehost-live>
- Amato, P. R. (2000). The consequences of divorce for adults and children. *Journal of Marriage & Family*, 62(4), 1269-1287. Retrieved from <http://ezproxy.stthomas.edu/login?url=http://search.ebscohost.com/login.aspx?direct=true&db=aph&AN=3772498&site=ehost-live>
- Amato, P. R. (2010). Research on divorce: Continuing trends and new developments. *Journal of Marriage & Family*, 72(3), 650-666. doi: 10.1111/j.1741-3737.2010.00723.x

DIVORCE MEDIATION AND CHILDREN

- Amato, P. & Sobolewski, J. (2001). The effects of divorce and marital discord on adult children's psychological well-being. *American Sociological Review*, 66(6), 900-921.
- Bagshaw, D. (2007). Reshaping responses to children when parents are separating: Hearing children's voices in the transition. *Australian Social Work*, 60(4), 450-465. doi: 10.1080/03124070701671164
- Beck, C. J., Sales, B. D., & Emery, R.E. (2004). Research on the impact of family mediation. In J. Folberg, A. Milne, & P. Salem, *Divorce and Family Mediation* (pp. 447-482). New York: The Guildford Press.
- Beckett, C. (2000). Family Theory as a framework for assessment. Retrieved from http://jan.ucc.nau.edu/~nur350-c/class/2_family/theory/lesson2-1-3.html
- Berg, B. L. (2004). Qualitative research methods for the social sciences (Fifth Ed.). Needham Heights, MA: Allyn & Bacon.
- Cashmore, J. A., & Parkinson, P. N. (2011). Reasons for disputes in high conflict families. *Journal of Family Studies*, 17, 186-203.
- Children's Defense Fund. (2012). The state of America's children handbook. Retrieved from <http://www.childrensdefense.org/child-research-data-publications/data/soac-2012-handbook.pdf>
- Deutsch, R. M. (2008). Divorce in the 21st century: Multidisciplinary family interventions. *Journal of Psychiatry & Law*, 36(1), 41-66. Retrieved from <http://ezproxy.stthomas.edu/login?url=http://search.ebscohost.com/login.aspx?direct=true&db=aph&AN=35138221&site=ehost-live>

DIVORCE MEDIATION AND CHILDREN

Dodd, C., & Guest, K. (2004). How to survive divorce without damaging our children.

Independent on Sunday, 18-19. Retrieved from

<http://search.proquest.com/docview/57048436?accountid=14756>

Emery, R. E. (2004). *The truth about children and divorce*. New York: Viking.

Gentry, D. B. (1997). Including children in divorce mediation and education: Potential benefits and cautions. *Families in Society*, 78(3), 307-315. Retrieved from

<http://search.proquest.com/docview/57515741?accountid=14756>

Grebe, S. C., Irvin, K., & Lang, M. (1989). A model for ethical decision making in mediation. *Mediation Quarterly*, 7(2), 133-148. Retrieved from

<http://search.proquest.com/docview/61591887?accountid=14756>

Giunta, S. A. & Amatea, E. S. (2000). Mediation or litigation with abusing or neglectful families: Emerging roles for mental health counselors. *Journal of Mental Health Counseling*, 22(3), 240-252.

Grimes, A. & McIntosh, J. (2004). Emerging practice issues in child-inclusive divorce mediation. *Journal of Family Studies*, 10(1), 113-120.

Gigy, L. & Kelly, J. B. (1993). Reasons for divorce: Perspectives of divorcing men and women. *Journal of Divorce and Remarriage*, 18(1-2), 169-188. doi:

10.1300/J087v18n01_08

Hahn, R. A., & Kleist, D. M. (2000). Divorce mediation: Research and implications for family and couples counseling. *The Family Journal: Counseling and Therapy for Couples and Families*, 8(2), 165-171.

DIVORCE MEDIATION AND CHILDREN

Hewlett, B. (2007). Accessing the parental mind through the heart: A case study in child-inclusive mediation. *Journal of Family Studies*, 13(1), 94-103. doi:

10.5555/jfs.327.13.1.94

Holtzworth-Munroe, A., Applegate, A. G., D'onofrio, B., & Bates, J. (2010). Child informed mediation study (CIMS): Incorporating the children's perspective into divorce mediation in an American pilot study. *Journal of Family Studies*, 16(2), 116-129. Retrieved from

<http://ezproxy.stthomas.edu/login?url=http://search.ebscohost.com/login.aspx?direct=true&db=sih&AN=55323869&site=ehost-live>

Holtzworth-Munroe, A. (2011). Controversies in divorce mediation and intimate partner violence: A focus on the children. *Aggression and Violent Behavior*, 16(4), 319-324. doi: 10.1016/j.avb.2011.04.009

Kaslow, F. W. (1984). Divorce mediation and its emotional impact on the couple and their children. *The American Journal of Family Therapy*, 12(3), 58-66. Retrieved from

<http://ezproxy.stthomas.edu/login?url=http://search.ebscohost.com/login.aspx?direct=true&db=swh&AN=15810&site=ehost-live>

Kelly, J. B. (2004). Family mediation research: Is there empirical support for the field? *Conflict Resolution Quarterly*, 22(1), 3-35. Retrieved from

<http://ezproxy.stthomas.edu/login?url=http://search.ebscohost.com/login.aspx?direct=true&db=aph&AN=15506978&site=ehost-live>

DIVORCE MEDIATION AND CHILDREN

- Kelly, J. B. (2007). Children's living arrangements following separation and divorce: Insights from empirical and clinical research. *Family Process*, 46(1), 35-52. doi: 10.1111/j.1545-5300.2006.00190.x
- Kline Pruett, M. & Johnson, J.R. (2004). Therapeutic mediation with high-conflict parents: Effective models and strategies. In J. Folberg, A. Milne, & P. Salem, *Divorce and Family Mediation* (pp. 92-111). New York: The Guildford Press.
- Lowenstein, L. F. (2010). Attachment theory and parental alienation. *Journal of Divorce & Remarriage*, 51(3), 157-168. doi: 10.1080/10502551003597808
- Lowenstein, L. F. (2009). Mediation with separated parents: Recent research 2002-2007. *Journal of Divorce and Remarriage*, 50(4), 233-247. doi: 10.1080/10502550902754759
- Mantle, G., & Critchley, A. (2004). Social work and child-centered family court mediation. *The British Journal of Social Work*, 34(8), 1161-1172. Retrieved from <http://ezproxy.stthomas.edu/login?url=http://search.ebscohost.com/login.aspx?direct=true&db=swh&AN=75982&site=ehost-live>
- Mattison, M. (2000). Ethical decision making: The person in the process. *Journal of Social Work*, 45(3), 201-209.
- Mayer, B. (2004). Facilitative Mediation. In J. Folberg, A. Milne, & P. Salem, *Divorce and Family Mediation* (pp. 29-52). New York: The Guildford Press.
- McCubbin, H. I. & Grossenbacher Boss, P. (1980). Family stress and coping: Targets for theory, research, counseling, and education. *Family Relations*, 429-430.
- McIntosh, J., Long, C., & Moloney, L. (2004). Child-focused and child-inclusive mediation: A comparative study of outcomes. *Journal of Family Studies*, 10(1),

DIVORCE MEDIATION AND CHILDREN

87-95. Retrieved from

<http://ezproxy.stthomas.edu/login?url=http://search.ebscohost.com/login.aspx?direct=true&db=aph&AN=13929734&site=ehost-live>

McIntosh, J. E., Wells, Y. D., Smyth, B. M., Long, C. M. (2008). Child focused and child inclusive divorce mediation: Comparative outcomes from a prospective study of post separation adjustment. *Family Court Review*, 46(1), 105-124.

Meierding, N. R. (2004). Managing the communication process in mediation. In J.

Folberg, A. Milne, & P. Salem, *Divorce and Family Mediation* (pp. 225-247).

New York: The Guildford Press.

Mienkowska-Norkienė, R. (2012). Inequality in divorce mediation--Reasons,

manifestations and ways to avoid it. Lessons for Lithuania. *Social Work*, 11(1),

119-130. Retrieved from

<http://ezproxy.stthomas.edu/login?url=http://search.ebscohost.com/login.aspx?direct=true&db=sih&AN=76601810&site=ehost-live>

Milne, A. L. (2004). Mediation and domestic abuse. In J. Folberg, A. Milne, & P. Salem,

Divorce and Family Mediation (pp. 304-335). New York: The Guildford Press.

Milne, A. L., Folberg, J., & Salem, P. (2004). The evolution of divorce and family

mediation. In J. Folberg, A. Milne, & P. Salem, *Divorce and Family Mediation*

(pp. 3-25). New York: The Guildford Press.

National Association of Social Workers. (2008). *Code of ethics of the National*

Association of Social Workers. Retrieved from

<http://www.socialworkers.org/pubs/code/code.asp>

DIVORCE MEDIATION AND CHILDREN

Perlmutter, F. D. (1987). Divorce mediation in family service agencies. *Mediation Quarterly*, (17), 11-22. Retrieved from

<http://search.proquest.com/docview/61602241?accountid=14756>

Raisner, J. K.. (2004). Mediation with never-married parents. In J. Folberg, A. Milne, & P. Salem, *Divorce and Family Mediation* (pp. 283-303). New York: The Guildford Press

Saposnek, D. T. (1991). Value of children in mediation: A cross-cultural perspective.

Mediation Quarterly, 8(4), 325-342. Retrieved from

<http://ezproxy.stthomas.edu/login?url=http://search.ebscohost.com/login.aspx?direct=true&db=sih&AN=SM130642&site=ehost-live>

Saposnek, D.T. (2004). Working with children in mediation. In J. Folberg, A. Milne, & P. Salem, *Divorce and Family Mediation* (pp. 155-179). New York: The Guildford Press.

Schepard, A. (2004). The model standards of practice for family and divorce mediation.

In J. Folberg, A. Milne, & P. Salem, *Divorce and Family Mediation* (pp. 516-543). New York: The Guildford Press.

Severson, M. M., & Bankston, T. V. (1995). Social work and the pursuit of justice through mediation. *Social Work*, 40(5), 683-691. Retrieved from

<http://search.proquest.com/docview/57816654?accountid=14756>

Shaw, L. A. (2010). Divorce mediation outcome research: A meta-analysis. *Conflict Resolution Quarterly*, 27(4), 447-467. doi: 10.1002/crq.20006

Stansbury, C. D. (2012). Creative uses of ADR Techniques in family law litigation.

American Journal of Family Law, 28(3), 136-146.

DIVORCE MEDIATION AND CHILDREN

- Stull, D. E., & Kaplan, N. M. (1987). The positive impact of divorce mediation on children's behavior. *Mediation Quarterly*, 53-59. Retrieved from <http://ezproxy.stthomas.edu/login?url=http://search.ebscohost.com/login.aspx?direct=true&db=sih&AN=SN105681&site=ehost-live>
- Taylor, R. J. (2005). Use of Nash Equilibrium in the education and use of divorce mediation. *Journal of Divorce and Remarriage*, 43(1-2), 163-168. doi: 10.1300/J087v43n01_09
- U.S. Census Bureau, Statistics abstract of the United States. (2011). Marriage and Divorce Rates by Country: 1980-2008. Table 1336. Retrieved from: <http://www.census.gov/compendia/statab/2011/tables/11s1335.pdf>
- Walton, L., Oliver, C., & Griffin, C. (1999). Divorce mediation: The impact of mediation on the psychological well-being of children and parents. *Journal of Community and Applied Social Psychology*, 9(1), 35-46. Retrieved from <http://search.proquest.com/docview/57881343?accountid=14756>
- Weingarten, H. R. (1986). Strategic planning for divorce mediation. *Social Work*, 31(3), 194-200. Retrieved from <http://ezproxy.stthomas.edu/login?url=http://search.ebscohost.com/login.aspx?direct=true&db=sih&AN=5271381&site=ehost-live>
- Wiseman, J. M., & Fiske, J. A. (1980). A lawyer therapist team as mediator in a marital crisis. *Social Work*, 25(6), 442-445. Retrieved from <http://ezproxy.stthomas.edu/login?url=http://search.ebscohost.com/login.aspx?direct=true&db=sih&AN=5271991&site=ehost-live>

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Recruitment Letter Appendix A

Hello,

My name is Brianna Nelson. I am a graduate student working on my Master of Social Work degree. I am researching divorce mediation and its impact on children. I found your name by a simple google search of professional mediators on the internet.

More specifically, for my research, I am looking at the decision making process regarding how children are involved, and am wondering if you as a professional have experience with this process. My study will focus on professionals who include children and are willing to discuss the process in which children are included.

Thank you for your time. I look forward to your response.

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Interview Questions Appendix B

Describe to me the characteristics of families served at your agency.

Tell me about the decision making process at your agency regarding the inclusion of children in the mediation process.

How do characteristics of the couple or child impact the decision as to whether or not children are included in the process?

Is there a screening process that mediators commonly use when deciding whether or not to include children?

Research indicates that child focused and child inclusive mediation are common models used in the mediation process. Is there a specific model that is used at your agency regarding the inclusion of children in divorce mediation such as child inclusive or child focused mediation? If so, how did the agency come to the decision to use that particular model?

How can the best interests of the child be ensured during the mediation process?

How and under what circumstances does divorce mediation affect children either positively or negatively?

Tell me what a successful mediation case looks like.

What do mediators notice about child outcomes based on the success of mediation?

Are you aware of any gaps in the mediation process with children? For example, are there laws or agency policies that impact this process?

Why does divorce mediation work for some families and not for others?

How could mediation with children involved be improved?

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Consent Form
Appendix C

CONSENT FORM

Please read this form and ask any questions you may have before agreeing to participate in the study.

Please keep a copy of this form for your records.

Project Name	Divorce Mediation	IRB Tracking Number	384044-1
General Information Statement about the study:			
This study will explore divorce mediation and how children are involved in the mediation process. Professional mediators will be interviewed and asked questions specifically related to the decision making process of whether or not to include children in mediation.			
You are invited to participate in this research. You were selected as a possible participant for this study because:			
You are a professional that conducts divorce mediation that involves children in the process.			
Study is being conducted by:	Brianna Nelson		
Research Advisor (if applicable):	Lance Peterson		
Department Affiliation:	School of Social Work		
Background Information			
The purpose of the study is:			
The purpose of this exploratory study is to examine the role of mediation in the divorce process and how mediators decide whether or not to include children in the mediation process.			
Procedures			
If you agree to be in the study, you will be asked to do the following: <i>State specifically what the subjects will be doing, including if they will be performing any tasks. Include any information about assignment to study groups, length of time for participation, frequency of procedures, audio taping, etc.</i>			
Meet with this researcher to answer interview questions that will be audio recorded, regarding child inclusive divorce mediation. Interviews will be conducted one time, lasting approximately 30 to 45 minutes.			
Risks and Benefits of being in the study			

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<p>The risks involved for participating in the study are:</p>	
<p>Since participants will be asked questions regarding their practice and place of employment, a possible risk is that this could probe issues or concerns about their place of employment.</p> <p>Precautions used to minimize risks include reminding the participants that they can skip questions during the interview, or withdraw from the interview at any time.</p>	
<p>The direct benefits you will receive from participating in the study are:</p>	
<p>There are no known benefits for participating in this study.</p>	
<p>Compensation</p> <p>Details of compensation (if and when disbursement will occur and conditions of compensation) include:</p> <p><i>Note:</i> In the event that this research activity results in an injury, treatment will be available, including first aid, emergency treatment and follow-up care as needed. Payment for any such treatment must be provided by you or your third party payer if any (such as health insurance, Medicare, etc.).</p>	
<p>There will be no compensation for participating in this study.</p>	
<p>Confidentiality</p> <p>The records of this study will be kept confidential. In any sort of report published, information will not be provided that will make it possible to identify you in any way. The types of records, who will have access to records and when they will be destroyed as a result of this study include:</p>	
<p>The primary investigator will only have access to the audio recorded interviews, notes from the interview, and transcripts of the interview. All data collected will be stored on primary researcher's password protected computer to ensure confidentiality. Paper records related to this study will be in a locked file at the primary investigator's home. Data will be destroyed on May 30, 2012.</p>	
<p>Voluntary Nature of the Study</p> <p>Your participation in this study is entirely voluntary. Your decision whether or not to participate will not affect your current or future relations with any cooperating agencies or institutions or the University of St. Thomas. If you decide to participate, you are free to withdraw at any time up to and until the date\time specified in the study. You are also free to skip any questions that may be asked unless there is an exception(s) to this rule listed below with its rationale for the exception(s).</p>	
<p>Should you decide to withdraw, data collected about you</p>	<p>will NOT be used in the study</p>
<p>Contacts and Questions</p> <p>You may contact any of the resources listed below with questions or concerns about the</p>	

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study.			
Researcher name	Brianna Nelson		
Researcher email	nels7907@stthomas.edu		
Researcher phone	507-202-1507		
Research Advisor name	Lance Peterson		
Research Advisor email	pete2703@stthomas.edu		
Research Advisor phone	651-962-5811		
UST IRB Office	651.962.5341		
Statement of Consent			
I have read the above information. My questions have been answered to my satisfaction and I am at least 18 years old. I consent to participate in the study. By checking the electronic signature box, I am stating that I understand what is being asked of me and I give my full consent to participate in the study.			
Signature of Study Participant <input type="checkbox"/> <i>Electronic signature</i>		Date	
Print Name of Study Participant			
<hr/>			
Signature of Parent or Guardian (if applicable) <input type="checkbox"/> <i>Electronic Signature</i>		Date	
Print Name of Parent or Guardian (if applicable)			
<hr/>			
Signature of Researcher <input type="checkbox"/> <i>Electronic signature*</i>		Date	
Print Name of Researcher	Brianna Nelson		

*Electronic signatures certify that::

The signatory agrees that he or she is aware of the politics on research involving participants of the University of St. Thomas and will safeguard the rights, dignity and privacy of all participants.

- The information provided in this form is true and accurate.
- The principal investigator will seek and obtain prior approval from the UST IRB office for any substantive modification in the proposal, including but not limited to changes in cooperating investigators/agencies as well as changes in procedures.
- Unexpected or otherwise significant adverse events in the course of this study which may affect the risks and benefits to participation will be reported in writing to the UST IRB office and to the subjects.
- The research will not be initiated and subjects cannot be recruited until final approval is granted.