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Aims, separation and attitudinal factors in mediation: An exploratory investigation

Darryl Frank Menaglio
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**Aims, Separation and Attitudinal Factors in Mediation:
An Exploratory Investigation**

By

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B.A. (Hons), B.Soc.Wk., M.Psych.(Clin.)

A Thesis Submitted for Partial Fulfilment of the Requirements for the Degree of

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USE OF THESIS

The Use of Thesis statement is not included in this version of the thesis.

ABSTRACT

The general aim of this research was to explore issues regarding mediation in family law about which there appears to be uncertainty. Study 1 investigated: (a) what stakeholders (practitioners and separated spouses) believe the aims of mediation should be; (b) what they believe are the effects of the separation factors, that is, perceived mutuality (whether the decision to separate was made by one or both spouses), perceived status (whether spouses view themselves as leavers, lefts or neither), and the attribution and strength of blaming someone for the decision to separate on attitudes towards engaging in mediation; and (c) stakeholders' views of the importance of the attitudinal factors (i.e. hope, expectation and commitment) for reaching agreement. The attitudinal factors were derived from Janis and Mann's (1977) theory of decision making. Study 2 investigated the operation of the separation and attitudinal factors in separated spouses attending mediation and the influence of specific biographical variables on these factors. The biographical variables were duration of separation, duration of marriage, gender and referral type.

In Study 1, 67 stakeholders (42 practitioners and 25 separated spouses) were of the opinion that spouses learning techniques to be able to resolve future disagreements should be the most important aim of the four aims of mediation suggested to them. Currently, the Family Law Act 1975 does not recognise this aim, though the finding is consistent with contemporary views of what the aim of mediation should be. Stakeholders also agreed that the separation factors substantially affect attitudes towards engagement in mediation and that the attitudinal factors are very important for reaching agreement. These findings are consistent with theories that suggest the separation factors influence engagement in mediation (Brown, 1985; Emery, 1994) and that the attitudinal factors are important for reaching agreement (Weitzman & Weitzman, 2000).

In Study 2, 315 separated spouses (160 females, 155 males) attending court ordered ($n = 180$) and voluntary ($n = 135$) mediation responded to a questionnaire that sampled their biographical variables and the separation and attitudinal factors. Small significant χ^2 measures ($p < .001$) revealed that the separation factors were associated. Specifically, when separated spouses perceived the decision to separate was non-mutual, they also were likely to perceive themselves as left or leavers. Those in the non-mutual, left group were more likely to blame and the majority of these were males. Analysis of a moderate significant Kendall rank correlation coefficient ($p < .001$) for the association between hope and commitment and weak/negligible associations between these factors and expectation revealed that separated spouses reported high levels of hope and commitment but did not necessarily expect to reach agreement. Separated spouses who were court ordered were more likely to blame intensely ($r = .24, p < .01$), were less committed ($w = .14, p < .001$) and less expecting ($w = .43, p < .001$) to reach agreement than those who attended voluntarily. Expectation of reaching agreement was highest within 6 months of the decision to separate, while strength of blame for the decision to separate was most intense in those who were court ordered and those attending mediation within 6 months of the decision to separate.

Implications of the findings for policy makers, assessment of separated spouses' readiness to engage in mediation and theory to guide mediation practice are discussed.

I certify that this thesis does not, to the best of my knowledge and belief:

- (i) incorporate without acknowledgement any material previously submitted for a degree or diploma in any institution of higher education;
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Date.....15/03/04.....

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INTRODUCTION

The modern concept of divorce entered English law in 1857 with the acceptance of the Divorce and Matrimonial Cause Act. This legislation required fault on the part of one of the spouses as a prerequisite to divorce, and the legal process followed the adversarial format typical of English law (Finlay, 1978). Consequently, to obtain a divorce, it was necessary for one spouse to sue the other and to prove, on a balance of probabilities, that the other spouse was guilty of having committed one of two prescribed *matrimonial offences*. The most prominent of these offences was adultery (Dickey, 1985). This fault requirement led to humiliation of at least one of the parties and bitterness between spouses. For example, even where both spouses, also referred to in this research as partners, desired divorce, one party still had to prove to the court that a matrimonial offence had occurred. The need for proof often resulted in either the fabrication of evidence under oath, or one of the spouses deliberately committing a matrimonial offence (English Law Commission, 1966).

Australia followed the English Law approach until 1975 when the Family Law Act (Cth) ("Act") was introduced. This Act removed the concept of fault as cause for divorce and provided a specialised court, the Family Court, for consideration of family disputes. Another important feature of the Act was that it provided an alternative framework that was hoped would encourage separated spouses to voluntarily use mediation and conciliation facilities to resolve matters in dispute, such as the welfare and care of children and distribution of finances, property and assets (Charlesworth, 1991; Murphy, 1974). Mediation consequently became very prominent in the family law area and remains so (Astor & Chinkin, 1992; Charlesworth, Turner & Foreman, 2000).

Mediation, defined here as “a particular form of dispute resolution in which a neutral third party assists parties to the dispute to negotiate an agreement over some or all of their differences” (Charlesworth et al., 2000, p. 265), was not a new concept when it was introduced to Family Law in Australia in 1975. It had been practised in China, as a manifestation of Confucian teachings, for over two thousand years (Brown, 1982; Parkinson, 1986). In Australia, the idea of using a neutral third party to help parties deal with an impasse was first introduced with the acceptance of the Conciliation and Arbitration Act (Cth) (1904). The use of mediation in English family law can be traced back to the 1930’s when social workers and probation officers were employed by magistrates’ courts in an attempt to reconcile spouses who wished to divorce (Eekelaar & Dingwall, 1988; McGregor, Blom-Cooper, & Gibson, 1970). At the time the Australian Family Law Act was introduced, there was also much interest in the use of what was then called alternative dispute resolution methods, such as mediation, in other areas of law, particularly industrial and labour law (Astor & Chinkin, 1992).

Today, mediation is only one of a range of options from which separated spouses can choose to resolve matters in dispute (Charlesworth et al., 2000). Other options include negotiating without the use of third parties, negotiating through lawyers, conciliation conferences in which a Registrar, as an officer of the Family Court, can make interim orders (order 24 and section (“s”) 63C of the Act), and via a determination of the Family Court (Charlesworth et al., 2000). The Act also permits the Family Court to order separated spouses to attend mediation (s16A). If ordered to attend mediation, separated spouses face no penalty if they attend without the intent of engaging in mediation.

Since 1975 the field of mediation in general, and in family law in particular, has been evolving. One of the more recent insights has been the realisation that mediation

is not an alternative form of dispute resolution, but rather is one of the *primary* forms of dispute resolution. Relevant changes to recognise mediation as a primary dispute resolution procedure were embodied in the Family Law Amendment Act (Cth) 1995 (Charlesworth et al., 2000).

Despite the emphasis on mediation in family law, there appears to be uncertainty about a number of important issues regarding this form of dispute resolution in the family law context. These include, the absence of clear and concise theories to guide mediation practice, lack of standardised well validated assessment procedures, limited knowledge about what actually happens during mediation, and the longer term impact of mediation on separated spouses' relationships, adjustment to divorce and their abilities to manage conflict (Beck & Sales, 2001; Benjamin & Irving, 1995). The resolution of these issues is hindered by minimal available empirical research. For example, the development of theories requires an understanding of what the aims of mediation should be. Currently there is debate about this, without the backing of empirical evidence (Beck & Sales, 2001). Likewise, the development of assessment procedures requires an understanding of spousal variables which might affect engagement in mediation processes, but research concerning both spousal variables and engagement in mediation appears to be absent (Benjamin & Irving, 1995; Kelly, 1996).

In part, this lack of research is because researchers realise that "much of the complexity, emotionality, and irrationality of divorce is lost in empirical research, which by necessity must focus on more simple, quantifiable, and understandable aspects of the process" (Emery, 1994, p. 2). However, such research is important. Therefore this research will endeavour, via two empirical studies, to address some of these issues. This exploratory research will focus on two main issues. The first issue is of a definitional nature and will examine what practitioners, i.e. clinicians approved under

the Act to offer mediation services to separated spouses (s19K of the Act), and separated spouses consider the aim of mediation in family law should be. The second issue, thought related to the first issue as will become evident, is more operational, focussing on two aspects, (a) separated spouses' perceptions and attributions concerning the decision to separate and how these affect engagement in mediation, and (b) attitudes of separated spouses towards the outcome of mediation.

The literature that can shed some light on these issues will be discussed next, but before doing this, it is necessary to pause briefly to consider the concept of separated spouses. For this research, separated spouses will refer to those who have made the decision to separate with the intent of moving forward to divorce. It therefore does not include situations where a spouse may part from his or her partner for some other reason than divorcing such as to send a message to the partner to change.

Aim of Mediation in the Family Law Context

Aim here is defined as the outcome or goal that practitioners and separated spouses should strive to achieve during mediation. The determination of the exact aim of mediation has attracted the attention of scholars in recent years because it is considered important for theory development in the area (Beck & Sales, 2001). Traditionally the aim, as the definition of mediation used above demonstrates, has been to help the parties achieve an agreement that is fair to everyone involved. In the context of family law, this does not mean helping separated spouses save their marriage (see e.g. Emery, 1994), but is historically aimed at helping them reach consensus in respect of disputes such as financial matters and the rights of their children. However recently, alternative aims have been suggested. The most prominent of these is that parties should be taught techniques that will help them solve the current and future problems

(Irving & Benjamin, 2002). Other possible aims that have been mentioned in the literature include that parties should be satisfied with mediation (Beck & Sales, 2001), or that parties should undergo a transformation that will help them to understand each other better (Beck & Sales, 2001). Each of these alternatives will be presented and examined in more detail next.

Reaching Agreement

The traditional aim of mediation, and also the one reflected in order 25A of the Act, is that mediation should facilitate separated spouses reaching agreement on matters in dispute. Emery (1994) defines this aim succinctly when he says that “the overriding goal of mediation is to help separated and divorced couples to negotiate a written agreement that becomes a basis for their legal settlement, and the exploration of emotional issues is limited according to that goal” (pp. 1-2).

According to Coogler (1978), the aim of mediation is that agreement should be reached in a time-limited frame, without focussing on intrapersonal or interpersonal change. To keep focussed on reaching agreement, Coogler required separated spouses to sign contracts prior to mediation in which they agreed to be cooperative, negotiate without emotion and follow predetermined formalised rules.

Haynes and Charlesworth (1996) are more recent promoters of reaching agreement as the main aim of mediation. In a personal communication (February 14, 1996), Haynes referred to this approach as the “lets cut a deal model”. However, unlike Coogler (1978), Haynes and Charlesworth do not require separated spouses to sign a contract prior to mediation, though they do acknowledge that practitioners often use contracts. Instead, they expect that separated spouses will mediate on current solvable problems and not use mediation to try to resolve emotional hurts and pains arising from

past decisions and actions. Thus, for example, it would not be appropriate if a separated spouse wished to utilise mediation to try and save his/her marriage, or to understand why his/her marriage ended. For Haynes and Charlesworth, what is appropriate is that separated spouses aim to reach agreement on disputes involving such things as the care and welfare of children and/or finances in order that divorce can be finalised. As pointed out earlier, this is in accordance with Australian family law legislation.

Spouses Learn Techniques

In contrast to purely achieving agreement, Irving and Benjamin (2002) and Kressel (1997) support an approach where the aim of mediation is to help separated spouses learn techniques considered necessary to solve current and future problems. The rationale for this aim is that because divorcing spouses with children will have an ongoing, albeit changed, relationship in the future, it is important that they learn techniques and skills that will allow them to solve problems that will inevitably arise. It is not possible to cover all the techniques that spouses can learn via mediation. However, broadly, these techniques fall into two categories, skills to enhance effective communication and skills for negotiating.

Effective communication techniques include separated spouses revealing to each other all necessary factual information in a manner which is clear and accurate, the personal importance of the matter under negotiation, and the degree of conviction a spouse holds to a position he/she has taken. How this information is communicated and received is also considered important both for constructive negotiation and to preserve the relationship between separated spouses as parents. Thus, Irving and Benjamin (2002), in their “therapeutic model of mediation”, teach separated spouses to be

appropriately assertive and to listen and discuss in a respectful, empathic and accurate manner.

There are numerous negotiating skills that have been listed in the mediation literature that can be taught to separated spouses (Haynes & Charlesworth, 1996; Irving & Benjamin, 2002). These skills include the categorisation of the relative importance of proposals from essential to non essential, brainstorming, distinguishing between overt and covert disputes, the ability to make concessions in a manner which is reciprocated, maintaining a focus on the specifics of the negotiation rather than generalising, and distinguishing between something which is necessary versus something which is not essential.

Satisfaction

Beck and Sales (2001) note that it is important for separated spouses to be satisfied with what happened during mediation. This satisfaction is of a tempered, sober kind, in which neither spouse feels either triumphant or humiliated by the process of mediation (Kressel, 1997).

In the early beginnings of mediation in the field of family law, the importance of separated spouses being satisfied with mediation received a great deal of practitioner and research attention (Depner, Cannata & Simon, 1992; Kelly, 1989; Pearson & Thoennes, 1982, 1985, 1988, 1989). There appear to be two reasons for this interest. Firstly, proponents were attempting to establish mediation as an alternative to litigation. It was therefore considered necessary to demonstrate that mediation could result in a more acceptable (Beck & Sales, 2001) and procedurally just (Kitzmann & Emery, 1993) experience for separated spouses than litigation. Secondly, it was considered that satisfaction would be related to a number of successful outcomes, such as reaching

agreement, long term compliance with the agreements reached and improved long term co-parental relationships (Benjamin & Irving, 1995).

Transformative

The transformative aim departs from the premise that most spouses who separate do not understand each other, or each other's interests. Their separation introduces fear and confusion and this will usually make them defensive, suspicious and hostile. These emotions are considered to make it even more difficult for the separating spouses to understand and acknowledge each other. Consequently, the aim of mediation should be to change separated spouses so that they are able to understand and acknowledge the perspective of each other (Bush & Folger, 1994). The emphasis on changing separated spouses shifts mediators from mere managers of negotiations to active interveners with a therapeutic agenda. Bush and Folger argue that by adopting the transformative aim, mediators can strengthen separated spouses' capacity to jointly analyse situations and collectively make effective decisions. It follows that they will then also be able to more easily reach an agreement as envisaged by the Family Law Act.

For separated spouses to achieve better understanding of each other, Bush and Folger (1994) believe they need to be encouraged to experience two inherent capacities: (a) the capacity of empowerment, which is the ability to deal with difficulties of all kinds via deliberate reflection, choice and action; and (b) the capacity of recognition which is concern and consideration for others. Bush and Folger argue that the transformative aim should take precedence over all other aims.

In conclusion, while there has been some discussion of the four aims by scholars, review of the relevant literature revealed little scholarly examination of these aims. For example, at a theoretical level, no attempt has been made to date to consider

whether these aims are mutually exclusive or whether they are all part of a more comprehensive general aim of mediation. Nor has there been an attempt to determine whether the different aims fall into specific categories, for example agreement versus the other three. Nor has there been an attempt to explore the relationships between the different aims to determine whether there is a hierarchical relationship (Beck & Sales, 2001).

Without the examinations just detailed, it seems the field of mediation has no guidelines to determine what the aim or aims of mediation should be. This lack of direction is evident in the current literature. For example, some scholars, such as Haynes & Charlesworth (1996), place emphasis on reaching agreement, but will also teach separated spouses problem solving and negotiation skills. They are not interested in the therapeutic perspective of Bush and Folger's (1994) transformative aim that acknowledges the role emotions from the break-up of the marital relationship can play during mediation. Other scholars argue for a more comprehensive approach to mediation (Irving & Benjamin, 2002). This involves shifting the aims of mediation to match the needs of separated spouses. Thus, for some separated spouses, Irving and Benjamin suggest the focus of mediation should be only on reaching agreement, for others it should be teaching skills as well as reaching agreement. For yet others, Irving and Benjamin suggest the aim of mediation should be a combination of therapy, teaching skills and reaching agreement.

There have also been challenges to the necessity for mediation to aim towards reaching agreement. The first of these challenges comes from the findings that separated spouses who fail to reach agreement are nevertheless satisfied with mediation (Benjamin & Irving, 1995). Another comes from Pruitt, Perice, McGillicuddy, Welton & Castrianno (1993). These scholars have argued that agreements reached during

mediation are likely to quickly become irrelevant due to changing circumstances. This may indeed be the case with agreements reached by separated spouses over their children's welfare and needs. As children develop, their needs change. Consequently, separated parents have to adjust their agreements or make new agreements to meet these changing needs. Under these circumstances, what are separated parents supposed to do – attend mediation every time in order that a mediator can assist them to reach an agreement? (Pruitt et al., 1993). It would appear to be more efficient for separated spouses to learn techniques to negotiate agreements, than to merely employ a mediator to assist them reach agreement each time they are in dispute (Pruitt et al., 1993).

In view of the different opinions concerning the aims of mediation, it is consequently not surprising that this researcher was unable to find any empirical studies which have examined what practitioners, i.e. clinicians, and separated spouses believe should be the most important aim of mediation.

Issues at the Beginning of Mediation

The literature dealing with intake assessments aimed at determining the suitability of spouses for mediation was reviewed. This revealed that practitioners appreciate that separated spouses' perceptions, attributions and attitudes prior to the commencement of mediation influence how they approach mediation and behave at the beginning of mediation.

Practitioners, for example, examine parties' levels of trust in the other and cooperative orientation (Deutsch, 2000; Irving & Benjamin, 2002; Kressel, 1997; Lewicki & Wiethoff, 2000; Moore, 1996). This assessment of separated attitudes has included such issues as the viability of mediation as a means to resolve disputes, attributions of blame, perceptions concerning the ending of the marital relationship,

acceptance of the ending of the marital relationship and willingness to contain strong affect and/or abusive behaviour which might be destructive to mediation (Haynes & Charlesworth, 1996; Irving & Benjamin, 2002). Given the exploratory nature of this research project, only two aspects will be examined, namely, spouses' perceptions and attributions regarding the decision to separate and their attitudes at the beginning of mediation towards the outcome of mediation.

Separation Factors

For most couples the decision to separate (or divorce) marks a real change in their relationship (Brown, 1985). Kressel, Jaffee, Tuchman, Watson and Deutsch (1980) appear to have been the first to observe that spouses' perceptions and attributions regarding the decision to separate affect the manner in which they engage in mediation. Consequently, other scholars and practitioners have examined what factors (called separation factors in this research) explain the manner in which spouses engage in mediation (e.g. Brown, 1985; Emery, 1994).

However, while there does appear to be agreement that spouses' perceptions and attributions regarding the decision to separate can lead to powerful emotions and reactions that may affect how they engage in mediation, some practitioners place much less emphasis on these factors (e.g. Coogler, 1978; Haynes & Charlesworth, 1996). This latter group accept that spouses will have specific perceptions about the decision to separate and make attributions in this regard, but they assume that separated spouses are able to negotiate rationally despite this (Coogler, 1978; Haynes & Charlesworth, 1996). These authors therefore suggest that mediators should have minimal involvement with perceptions and attributions associated with the decision to separate. This does not mean that these authors ignore the emotions that flow from the perceptions and

attributions of spouses. For example Haynes and Charlesworth encourage practitioners to inquire at the beginning of mediation about who made the decision to separate, how long the spouses have been separated and how they feel about it. However, Haynes and Charlesworth say that they only ask these questions about the past because the "mediator needs to know this basic information to determine the extent of the differences between the couple towards the idea of separation" (p. 56), that is how far a spouse has accepted separation. Haynes and Charlesworth are concerned that if a spouse has not accepted the decision to separate, then separation and divorce are goals which are unlikely to be preferred. In this context, as mediation is ultimately for the purpose of separation and divorce, a spouse's self interest to continue the marital relationship will be undermined.

However, during a personal communication with J. M. Haynes (February 14, 1996), he elaborated by suggesting that there is a subgroup of spouses whose perceptions of the decision to separate were important for engaging in mediation. This subgroup are those who perceive a non mutual decision has been made to separate, feel left and blame their (ex)partner for the decision to separate. Haynes thought that the combination of these three factors negatively influences engagement in mediation.

Brown (1985) and Kressel et al. (1980) have also emphasised the importance of the three separation factors mentioned by Haynes (personal communication February 14, 1996) as playing an important role in separated spouses' engagement in mediation. As there appears to be common ground here between Haynes, Brown, and Kressel et al. concerning the role of the separation factors for engagement in mediation, the relevant literature will be discussed next.

Perceived Mutuality

It appears as if Kressel et al. (1980) first made the distinction between mutuality and non-mutuality of the decision to separate. For these scholars, mutual referred to a spouse's perception that the decision to separate was made by both spouses. Whereas, non-mutuality referred to a spouse's perception that the decision to separate was made by one spouse, that is unilaterally. Kressel et al. observed that in couples where the decision to separate was perceived to have been non-mutual at the beginning of mediation, both spouses had difficulty comprehending fully the rules and procedures.

Kressel et al. (1980) also noted that when a decision to separate was perceived as non-mutual, this created a situation in which one spouse was seen to be the initiator and the other the non-initiator of the decision to separate. When spouses perceived that the decision to separate was non-mutual, then Brown (1985), Emery (1994) and Margulies & Luchow (1993) have argued that because the non-initiating spouses can be surprised by the decision to separate, they are likely to be in an inferior psychological position, that is emotionally and cognitively unprepared for the ending of the marital relationship.

Perceived Status

The second relevant observation that Kressel et al. (1980) made was that spouses can either perceive that they have been left or that they have been the leavers (also see Brown, 1985 who talks of the "dumpee" and "dumper"; Emery, 1994). While they do not mention it, it is possible that there is a third group who perceive themselves as neither a left nor a leaver. Such a circumstance may arise when a spouse believes that his/her partner agrees that the marital relationship should end and, like the other spouse, is ready to end the marital relationship.

Kressel et al. (1980) observed that those who felt left were reluctant to make an informed commitment to mediation and once negotiations began, tended to adopt extreme and inflexible positions. Kressel et al. also observed that leavers typically responded by first acquiescing to the demands of their left spouses and then with anger and inflexibility of their own in response to the reactions of the left spouses.

Attribution of Blame

Brown (1985) suggested that blame is a natural consequence of the decision to separate and Kressel et al. (1980) found that mutual blaming was particularly destructive to the mediation process. While Kressel et al. did not define blame, their observation is consistent with that made by Rubin, Pruitt and Kim (1994) in the broader field of conflict resolution. These researchers found that when a party to a dispute blamed others, this is usually manifested as anger, and contentious actions follow such as threats, guilt trips, attempts to impose a solution, or domination of mediation. Rubin, et al. defined blame as finding fault with the other for perceived unpleasant behaviour and holding the other responsible and hence accountable for this behaviour. Rubin et al. also observed that blame was used as a justification for harsh punitive action. In turn, the other reacted. The result was a retaliatory spiral in which conflict escalated as a result of each party's efforts to punish the other for actions found to be aversive (Rubin, et al., 1994). This description of a retaliatory spiral was similar to observations reported by Kressel and colleagues.

Discussion of the Separation Factors

Since Kressel et al. (1980) made these observations a number of practitioners and scholars (e.g. Brown, 1985; Emery, 1994; Margulies & Luchow, 1993) have

explored the emotional dynamics underlying the behaviour of separated spouses at the time they engage in mediation. There appears to be general consensus that when the decision to separate is made, both spouses start a grieving process over the loss of the marital relationship. However, the content and course of the mourning process will differ depending on the relevant spouses' perceptions of the mutuality or not of the separation, and whether they perceive themselves as leavers or lefts. From the observations of Kressel et al. and the exploration of Brown and Emery, it follows that these perceptions will also influence whether a spouse blames someone (i.e. him/herself, the other spouse, or another) and the manner in which this blame manifests.

Thus, following Brown (1985), Emery (1994), Kressel et al., (1980) and as suggested during a personal communication with J.M. Haynes (February 15, 1996), it seems that spouses who perceive the decision to separate was non-mutual will often not have accepted that the marital relationship is at an end. They are very likely to blame the other party for the situation but, following Emery's cyclic model of grief, may even blame themselves. Further, Kressel et al's observations and Haynes' personal communication suggests that these spouses are likely, if they engage in mediation, to do so in an effort to try and save the marriage, or make it difficult for the other party to proceed with divorce. On the other hand, the observations of Kressel et al. suggest that those spouses who perceive that the agreement to separate was mutual, will approach mediation as an opportunity to end the marital relationship amicably and without unnecessary emotional and financial cost. If there is blame, it may be directed at the other person or themselves, but it is unlikely to be overly intense (Kressel et al., 1980).

Likewise, following Emery (1994), spouses who perceive they made the decision to separate (i.e. are leavers) will, when they engage in mediation, have experienced a sense of grief and disengagement over a period of time (see also

Margulies & Luchow, 1993; Schwartz & Kaslow, 1997; Rice & Rice, 1986). At the time of engaging in mediation, these spouses are likely to experience a sense of freedom and empowerment from having made the decision to leave. If they blame, they are likely to blame their (ex)partner for the situation, and this blame is likely to be designed to give the leavers a sense of righteousness that the decision to separate was correct (Emery, 1994). However, Emery notes that the leaver may also experience feelings of guilt and self blame for initiating the separation (see also Weiss, 1975). Consequently, these spouses are likely to endeavour to soften the blow of their decision to separate by being friendly and supporting towards their (ex)partners during mediation (Emery, 1994).

Unlike the leaver, whom Emery (1994) and Kressel et al. (1980) believe has had time to contemplate the decision to separate and grieve the loss of the marital relationship, the left, at the time of mediation, will not have had time to emotionally deal with separating. Consequently, spouses who perceive themselves as left will be behind their partners in managing the grieving process. Further, spouses who perceive themselves as left, at the time of mediation, may not even accept that there has to be a breakdown of the marital relationship and could therefore be hoping that the relationship can be saved. Emery suggests that when spouses perceive they have been left, these spouses experience a cycling mix of affects that include anger, hurt, emotional pain, rejection, abandonment and hope of reconciliation. Whilst they can blame themselves for their partners making the decision to separate, it is more likely they will blame their partners, because after all it was not they who chose to separate.

When the decision to separate is non-mutual, it is clear from the observations of Brown, (1985), Emery, (1994) and Kressel et al., (1980), that these scholars believe that each spouse is likely to come to the mediating table with a different combination of

perceptions and attributions which will influence why and how they engage in mediation. For example, those who perceive themselves to be leavers may engage in mediation in a friendly and conciliatory manner because they feel guilty and also want to terminate the relationship as soon as possible, with as little contact as possible with the other spouse. Those who perceive themselves as left may, on the other hand, still want to communicate with their (ex)partners in an attempt to save the relationship and may therefore be friendly. On the other hand if those who perceive themselves as left feel angry, humiliated and helpless with a corresponding sense of abandonment, loss of power and control (Johnston & Campbell, 1988; Rice & Rice, 1986), then they may see mediation as a means of restoring their power and control by being negativistic, blaming and oppositional (Johnston & Campbell, 1988).

In conclusion, despite the fact that there seems to be fairly general agreement that separation factors such as perceived mutuality, perceived status and blame may influence how separated spouses engage in mediation, it is surprising that there has to date been very little empirical research about what effect they have on engagement in mediation. At present, even the most basic question, namely how important practitioners and separating spouses rate the influence of separation factors on engaging in mediation has not been examined.

Attitudinal Factors

When spouses arrive at mediation for the first time, they are likely to have feelings and beliefs about mediating (Rubin et al., 1994). These feelings and beliefs may be positive or negative, that is constructive or destructive to the process of mediation (Rubin, et al., 1994). Consequently, scholars argue that one of the first tasks a mediator must do is assess disputants' beliefs and feelings towards mediation. These

feelings and beliefs towards mediation will be referred to as engagement attitude in this research but they are also sometimes referred to as psychological readiness to mediate (see Moore, 1996).

Irving and Benjamin (2002) and Moore (1996) believe that it is the role of the mediator to nurture a positive engagement attitude. Negative feelings and beliefs are more likely because, as Irving and Benjamin suggest, the decision to separate highlights a period in which behaviour and communication between spouses have proved insufficient to resolve marital differences. Consequently, separated spouses are likely to feel pessimistic and cautious about further attempts at communicating with their partners in order to try to resolve matters in dispute.

What is not clear is what variables are involved in a positive engagement attitude (Fuhr, 1989; Irving & Benjamin, 1989, 2002; Moore, 1996; Rubin et al., 1994). Objectively, it appears as if a researcher who wants to determine what a positive engagement attitude is can follow one of at least two avenues.

The first is to identify variables that might be components of a positive engagement attitude. Examples of possible variables that have been identified include a trusting and a cooperative orientation (Fuhr, 1989; Irving & Benjamin, 1989, 2002; Moore, 1996; Rubin et al., 1994), an inclination to reach an agreement quickly and fairly (Haynes, 1985), and a willingness to talk, be open, honest, prepared to respect the opinions and views of others, compromise and negotiate equitably (Irving & Benjamin, 2002; Tan, 1991). However, there appears to be no research that tested whether any of these variables do in fact predict a positive engagement attitude.

The second, and preferable, approach would be to find a generic theoretical framework that could be used to predict positive engagement. A possible approach in finding such a framework is to work from the premises that mediation involves two

processes; a process in which parties come together to develop alternative possibilities for resolving conflict and a decision making process in which parties must choose between alternative possibilities (Boulle, 1996; Weitzmann & Weitzmann, 2000). Viewing mediation as involving a decision making process creates a link to a large body of theory and research in the field of social psychology examining decision making (Abelson & Levi, 1985; Weitzman & Weitzman, 2000). Decision making theory and research may be valuable to the field of mediation because it offers a framework for understanding how and why separated spouses make decisional choices during mediation.

Weitzman & Weitzman (2000) have argued that a theory on decision making that seems particularly appropriate for understanding positive engagement attitude is Janis and Mann's (1977) theory of decision making under conditions of conflict and distress (see also Janis, 1993). Janis and Mann used as their starting point Lewin's (1938, 1946, 1948) expectancy theory which accounts for the tendency of people to withdraw from stressful conflict situations when they become aware of the predominantly undesirable consequences to be expected from whatever choice they make (Janis & Mann, 1977). In their theory, Janis and Mann hypothesised that: (a) prior conflict and distress will affect hope, expectation and commitment to finding a solution to current conflict; (b) hope, expectation and commitment are essential for effective coping; and (c) lack of hope, or expectation or commitment will result in behaviours such as decisional procrastination or panic like states in which there is a frantic search to find a solution which promises immediate relief from distress.

As the decision to separate creates a situation where people must make decisions under conditions of conflict (Irving & Benjamin, 2002) and distress (Holmes & Rahe, 1967), it is possible that Janis and Mann's (1977) theory may predict positive

engagement attitude. This is especially since scholars in the field of conflict resolution and mediation have mentioned variables similar to hope (Coleman, 2000; Haynes & Charlesworth, 1996; Irving & Benjamin 2002; Saposnek, 1983), expectation (Haynes & Charlesworth, 1996; Irving & Benjamin 2002; and commitment (Albert & Howard, 1985; Kruk, 1998; Moore, 1996; Tan, 1988, 1991) as being important at the beginning of mediation. The constructs hope, expectation and commitment will next be discussed in more detail from the perspectives of expectancy theory, decision making theory and mediation.

Hope

Lewin (1948) defined hope as a desire "that sometime in the future, the real situation will change so that it will equal my wishes" (p. 103). For Lewin, hope is linked with mood state and motivation, i.e. he argued that when people give up hope they become despairing and avolitional.

Consistent with Lewin's (1948) view of hope as a motivating variable, Coleman (2000) has noted that disputants in an intractable conflict reach a point where they feel hopeless about the potential for constructive resolution. At this stage the parties are unable to envision mediation, or for that matter any approach, being able to resolve conflict (Coleman, 2000). To counter feelings of hopelessness of reaching agreement, scholars in the field of mediation suggest that mediators orientate separated spouses to the future by discussing with spouses their hopes for agreement (Haynes & Charlesworth, 1996; Irving & Benjamin, 2002; Saposnek, 1983).

Irving and Benjamin (2002) have associated blame with hope. They argue that a separated spouses' hope for the future will be diminished if they blame either themselves or their partners for matters concerned with the decision to separate. Like

Haynes and Charlesworth (1996), Irving and Benjamin believe that blaming keeps separated spouses focussed on the past.

While Haynes and Charlesworth (1996), Irving and Benjamin, (2002) and Saposnek (1983) refer to the importance of hope at the beginning of mediation, they do not define hope. However, in the broader conflict resolution literature, Rubin et al., (1994) discuss the importance of aspirations, which they define as "goals that Party is striving for or standards that Party hopes to meet or exceed" (p. 253). The emphasis on striving in this definition appears to approach Lewin's (1948) concept of hope as a desire that the present will change to match what is wished for. When hope is viewed from the perspective of striving and wish fulfilment, then the personal or subjective importance of what is desired would seem to be important for engagement in mediation i.e., if the possibility of reaching agreement is not important to separated spouses, then it seems unlikely that they will strive or put much effort into mediating.

To summarise, the definition of hope to be used in this research will follow Lewin's (1948) views concerning this construct and Rubin, et al's (1994) consideration of aspiration. Thus, hope here is defined as a separated spouse's desire or wish level that mediating might result in agreement with his/her (ex)partner concerning matters they are in dispute over.

Expectation

When Janis and Mann (1977) and Weitzman and Weitzman (2000) refer to people's level of expectation they have the construct of subjective probability in mind, that is the process whereby people weigh up their realistic chances of achieving what they desire (Abelson & Levi, 1985; Edwards, 1961). Whereas hope is about possibility, expectation is about the realistic probability of achieving what is desired (Lewin,

Dembo, Festinger & Snedden, 1944). Arriving at a level of expectation is considered by Janis and Mann to involve a person weighing up all the gains and losses of pursuing a course of action. These gains and losses include the practical or instrumental gains and losses to self and others, as well as those associated with moral standards, ego ideals and self esteem involving self and other (Janis & Mann, 1977).

Consistent with Janis and Mann's (1977) views on expectation, before making the decision to mediate, separated spouses are faced with a number of options from which to choose to resolve their differences. These options include do nothing, mediate, litigate, or use lawyers to negotiate or litigate. From a utilitarian perspective, much has been made of mediation as a financially less costly process for resolving disputes (Beck & Sales, 2001). However, if separated spouses believe it is more likely they will achieve the outcome they desire by litigating, then they may not choose mediation and vice versa.

From the perspective of personal gains and losses to the self, litigation may be appealing if a spouse believes that by litigating his/her battered pride or self esteem will be recognised by the Family Court. For others, litigating may afford protection from physical violence, because the resolution of conflict is decided by a Judge and therefore spouses do not have to risk offending a violent (ex)partner during mediation by stating and attempting to negotiate their desires (Ellis & Stuckless, 1996). On the other hand, separated spouses may consider the cost to violent (ex)partners, and possibly to themselves, and choose mediation in an effort to avoid what might be a humiliating experience to the (ex)partner, that is potential or actual exposure of the violence in court.

In terms of costs and benefits to support systems such as family and friends, Baumgartner (1993) has argued that continuing support from family and friends may be

dependent upon decisions a separated spouse makes. For example, if family and/or friends decide mediation is the preferred method to resolve disputes with the (ex)partner, then a spouse may consider this in his/her gains and losses (see also Johnston & Campbell, 1988 on tribal warfare). Separated spouses are also likely to take into account the motives of the partner for choosing mediation and whether these motives are conducive to reaching agreement, that is whether the (ex)partner is willing to compromise or see a different point of view (Irving & Benjamin, 2002).

Apart from the probability estimates made by separated spouses on their own at the beginning of mediation, Haynes and Charlesworth (1996) and Irving and Benjamin (2002) encourage separated spouses to estimate how realistically probable it is that they will achieve agreement. This estimate involves discarding those matters on which it is unlikely or impossible to achieve agreement, and the gains and losses associated with the implementation of agreements which are likely to be achievable. This process is considered to be important for engaging in mediation because it dissuades separated spouses from wasting time and effort on matters with which they are unlikely to achieve agreement (Haynes & Charlesworth, 1996; Irving & Benjamin, 2002).

In summary, decision making theory, as detailed by Janis and Mann (1977), suggests that separated spouses will engage in mediation with an expectation arrived at from the perceived gains and losses to self, (ex)partner and possibly others such as family and friends, concerning whether agreement can or should be achieved via mediation. At the beginning of mediation, practitioners appear to encourage separated spouses to develop probability estimates on what can be agreed upon (Haynes & Charlesworth, 1996; Irving & Benjamin 2002). Thus, a realistic expectation of achieving agreement appears to be an important component of a positive engagement attitude.

Commitment

The concept of commitment is considered to be central to most psychological formulations of the decision making process (Janis & Mann, 1977; Kiesler, 1971; Lewin, 1952). In the field of mediation (Albert & Howard, 1985; Benjamin & Irving, 1995; Boulle, 1996; Folberg & Taylor, 1984; Hale, 1998; Haynes & Charlesworth, 1996; Mayer, 2000; Moore, 1996), and in the general conflict resolution literature (Brown & Marriott, 1993; Carnevale & Pruitt, 1992; Pruitt & Carnevale, 1993) the idea of parties' commitment to mediation has been considered to be important. Research by Kruk (1998) also indicates that mediators also believe that commitment is important. He asked mediators what they thought were the most salient spousal characteristics contributing to positive mediation outcomes. Two hundred and fifty mediators cited two client characteristics as being of almost equal importance, "focussing on children's needs and interests in the negotiations", mentioned by 105, and "commitment to the mediation process" which was mentioned by 97 mediators. Unfortunately, Kruk did not define commitment, while various other scholars have defined commitment in different ways.

Stulberg (1987) gave a detailed account of commitment. He suggested it involved parties' willingness to talk to each other about issues involved in the dispute, willingness to decide matters jointly, willingness to share information, willingness to include all appropriate parties to the discussion, willingness to use mediation as the primary dispute settlement process or minimally and to use other procedures openly so that the simultaneous use of different forums will not secretly sabotage the mediated discussions.

Tan (1988, 1991) linked the concept of commitment in mediation with decision making theory. Tan defined commitment as separated spouses pledging or binding themselves to use mediation. Tan's definition of commitment is similar to Janis and Mann's (1977) in that they also saw commitment as people binding themselves to contract or obligation to carry out a chosen course of action. Tan found that separated spouses' commitment to mediation was the best predictor of an overall rating of success of mediation. This rating was completed by mediators and separated spouses. The overall rating involved a consideration of factors such as reaching agreement and separated spouses' satisfaction with mediation. Tan did caution that his finding should be accepted as tentative because only a low response rate to the mediation outcome questionnaire was achieved.

Janis and Mann's (1977) definition of commitment was similar to that used by Tan (1988, 1991). Janis and Mann point out that in the early pre-decision stages there are often cues to warn people that they will be bound by the decision they make. Once a decision is made, Janis and Mann argue that the stability of the decision is based on commitment insofar as the person makes a contract or takes on an obligation in the eyes of other people to stick with their chosen course of action.

Given the central role given to Janis and Mann's (1977) model in this study, their definition of commitment will be adopted for this research. Thus, commitment here is defined as a separated spouse making a contract or pledging to use mediation in order to reach an agreement regarding matters in dispute with his/her partner. In view of the preliminary findings of Tan (1988, 1991), Kruk (1998) and in view of the importance placed on commitment by scholars in the decision making, mediation and conflict resolution literature, for this research this factor will be considered an important component of a positive engagement attitude.

Discussion of the Attitudinal Factors

Clearly, the attitudinal factors, hope, expectation and commitment are likely to be important for mediation. However, although Janis and Mann (1977) developed their model of decision making over 20 years ago, it has been recognised only recently that this model may be important for mediation (Weitzman & Weitzman, 2000).

Consequently, little is known about how hope, expectation and commitment might operate in mediation or what might influence these factors. For example, apart from Kruk's (1998) and Tan's (1988, 1991) preliminary findings concerning commitment, it is unknown whether practitioners and separated spouses believe hope, expectation and commitment are important for the outcome of mediation. Before it is assumed that Janis and Mann's model has something to offer the field of mediation, it is necessary to assess whether the attitudinal factors hope, expectation and commitment are considered important for mediation outcome. It would be expected, following Janis and Mann's model of decision making, that stakeholders in mediation, that is practitioners and separated spouses, would believe that these attitudinal factors are important. This research will determine if stakeholders are of the opinion that the attitudinal factors are important for reaching agreement on matters in dispute.

It is also unknown how hope, expectation and commitment relate to each other, if at all. Janis and Mann's (1977) model suggests that these factors are related, that is without all three, effective coping cannot occur. However, it seems possible that spouses could engage in mediation with high levels of hope and commitment, but not expect to achieve agreement. Such a situation might occur when separated spouses have been in dispute over a specific matter, for example care of children, for a long period of time. As the dispute has been ongoing, separated spouses may not expect

further attempts to resolve the matter via negotiation, such as occurs during mediation, is possible. It also seems possible that spouses may approach mediation hoping that it is possible to resolve a matter, but neither expect a resolution nor be committed to achieving a resolution. A situation such as this may arise when spouses believe that their partners are intent on litigating, but as part of the court process, they have been referred to mediation. In this situation, spouses may hope that somehow mediating will bring a resolution, but because partners are intent on litigation they may also believe that it is unlikely agreement will be reached and therefore mediating is a waste of time and does not deserve commitment.

To summarise, the field of mediation has recently become interested in the application of theories concerning decision making. One theory in particular, Janis and Mann's (1977) theory of decision making under conditions of conflict and distress, is of particular interest because it focuses on three attitudinal factors, hope, expectation and commitment. These factors are similar to variables mentioned by scholars as being important at the beginning of mediation. As the potential importance of Janis and Mann's theory for the field of mediation has been recognised only recently (Weitzman & Weitzman, 2000), it is unknown whether these attitudinal factors are important for mediation. Therefore, this research will investigate the importance of the attitudinal factors for reaching agreement via mediation and the association between these variables, if any.

Other Variables of Importance Identified in the Literature

In the course of the literature review for this study, it became apparent that any study of mediation will have to take into account four factors that may influence the findings, namely: (a) gender (Beck & Sales, 2001; Benjamin & Irving, 1995; Emery,

1994; Kressel, 1997); (b) referral type (Brown & Ibbs, 1997); (c) duration of separation (Kressel, 1997); and (d) duration of marriage (Moloney et al. 1996). These four factors ("biographical factors") will be discussed in turn next.

Gender

Gender is of interest because of the uniqueness of the negotiating situation, that is: (a) one negotiator is always a man, the other always a woman; and (b) concern that one gender might be disadvantaged by mediation (Benjamin & Irving, 1995; Beck & Sales, 2001; Kressel, 1997). There is also evidence to suggest that women are more likely to initiate the decision to separate and designate themselves as leavers rather than left or neither (Braver, Whitley, Ng, 1993; Buehler, 1987; Moloney et al., 1996; Pettit & Bloom, 1984; Zeiss, Zeiss & Johnson, 1980). Not surprisingly therefore, Emery (1994) found that "men were much less accepting of the end of their marriage than women ..." (p. 8), and in an Australian study Jordan (1989) found that men tended to see themselves as powerless victims. However, it is unknown if gender is associated with the separation or attitudinal factors.

Referral Type

The ability of the Family Court to order separated spouses to attend mediation (see s16A of the Act) has focused attention on possible differences between these spouses and those who have chosen to attend mediation voluntarily. Investigation of referral type by Brown and Ibbs (1997) found many differences between court ordered and separated spouses who attended mediation voluntarily. These differences included court ordered spouses reporting (a) poorer levels of communication, (b) more involvement in the court and legal processes, and (c) extensive use of previous

counselling to try and resolve differences. In view of the nature of the differences found by Brown and Ibbs, it seems reasonable to investigate whether there is an association between referral type and the separation and attitudinal factors. This is important to explore because it concerns whether court ordered and separated spouses experienced with mediation should be managed differently by mediators (Benjamin & Irving, 1995).

Duration of Separation

With respect to duration of separation, Wallerstein and Kelly (1980) found that in the majority of 60 divorcing parents, hostilities and disagreements were most intense just after separation. At 18 months post separation these researchers found a distinct reduction in hostilities. In the mediation literature Irving and Benjamin (2002) have noted that pessimism and cautiousness are of greater intensity closer to the time of the decision to separate because spouses have not had time to have dealt with the emotional issues of separation. When Moloney et al. (1996) investigated how close to the time of separation separated spouses began mediation, they found that about a third did so within six months and approximately a quarter postponed mediation for two years or more. Taken together, these studies suggest that because of the pessimism and cautiousness in the first 6 months after separation, there is likely to be an association between duration of separation and the separation factors, and between duration of separation and the attitudinal factors.

Duration of Marriage

When Moloney et al. (1996) investigated duration of marriage of separated spouses in mediation, they found that in comparison to the Australian Bureau of

Statistics' (1992a, b) figures, that longer married spouses were over represented in their mediation samples. They suggested that this difference may reflect the fact that longer married couples have much more to negotiate over, that is children, assets and finances. If this is the case, then duration of relationship may be associated with blame, hope, expectation and commitment, because of the increase in the complexity of negotiations in the couples who have been together longer and therefore the opportunity for increased dispute. Thus, because longer married couples may have much more to negotiate over, it is possible that duration of marriage may be associated with the separation and attitudinal factors.

General Purpose of this Research

This review revealed that the knowledge base concerning the aims of mediation and the factors that influence separated spouses at the beginning of mediation is limited (Benjamin & Irving, 1995). There are, for example, no empirical studies which have surveyed stakeholders, that is practitioners' and separated spouses' opinions concerning: (a) what is believed to be the most important aim for mediation; (b) the effect separation factors such as perceived mutuality, perceived status and blame have on separated spouses' engagement in mediation; or (c) the of importance of hope, expectation and commitment for reaching agreement. There are also no empirical studies that have investigated separated spouses who are engaged in mediation with respect to, (d) the operation of the separation factors, (e) the operation of the attitudinal factors, or (f) the influence of biographical variables on the separation and attitudinal factors. To advance towards necessary clear and concise theories to guide mediation practice and develop assessment procedures, (Beck & Sales, 2001; Benjamin & Irving, 1995) requires that these six issues be investigated.

Research Questions for Studies 1 and 2

The first study of this research addressed three questions, namely what do stakeholders, practitioners and separated spouses experienced with mediation believe is the:

1. Most important aim of mediation.
2. Effect of the separation factors, perceived mutuality, perceived status and blame on separated spouses' engagement in mediation.
3. Importance of the role of the attitudinal factors, hope, expectation and commitment for reaching agreement.

The second study investigated separated spouses who were engaged in mediation to determine whether the:

4. Separation factors, perceived mutuality, perceived status and blame are associated.
5. Attitudinal factors, hope, expectation and commitment are associated.
6. Biographical variables, gender, referral type, duration of separation, and duration of marriage are associated with the separation and attitudinal factors.

STUDY 1

Purpose

The purpose of Study 1 was to survey stakeholders' opinions concerning what they believed were: (a) the most important aims for mediation; (b) the effect separation factors such as perceived mutuality, perceived status and blame have on separated spouses' engagement in mediation; and (c) the importance of the attitudinal factors hope, expectation and commitment for reaching agreement.

Method

Participants

Sixty seven stakeholders responded to two purpose designed questionnaires. Forty two were practitioners and 25 were separated spouses who had experience of mediation. Thirty six practitioners were employed in three registries of the Family Court of Australia Counselling Service: Sydney ($n = 15$), Melbourne/Dandenong ($n = 11$) and Perth ($n = 10$). Six practitioners were employed in two "not for profit organisations" in Western Australia: CentreCare ($n = 3$) and Relationships Australia - Western Australia ($n = 3$). At the time this study was undertaken, this sample size was approximately 50% of the total number of practitioners employed by the participating Family Court Registries and not for profit organizations. The majority of practitioners were trained in social work ($n = 23$) and psychology ($n = 14$). Training in other professions included social science ($n = 1$) and law ($n = 1$). Three practitioners did not indicate what background training they had received.

Of the 25 separated spouses experienced with mediation, 17 were females and 8 were males. They had been married for an average of 12.6 years (range 2 to 28 years),

separated for a mean of 16.1 months (range 2 weeks to 9 years) and had attended mediation sessions an average of four times (range 1 to 20). For 17, under the Act their decree nisi had been made absolute (s 55). The majority of the separated spouses ($n = 17$) had attended mediation at the Family Court Counselling Service. The rest had attended mediation at private not for profit organisations. Approximately half had been ordered by the Family Court to attend mediation ($n = 13$).

Measures

Owing to the fact that the Family Court practitioners were located in different States of Australia and practical constraints made it impossible to interview, a single questionnaire could not be used for this Study. Instead, two purpose designed questionnaires, a "practitioners' questionnaire" and a "separated spouses' questionnaire" were utilised. Information about these questionnaires will be presented next.

Practitioners' Questionnaire

The practitioners' questionnaire (Appendix A) contained an open ended question which attempted to obtain practitioners' views regarding the effects of: (a) the separation factors, perceived mutuality, status and blame for the decision to separate on separated spouses' attitudes towards engaging in mediation; and (b) the importance of the attitudinal factors, hope, expectation and commitment on reaching agreement via mediation. The open ended question was presented first. It was preceded by a request not to read ahead. The purpose of this request was an attempt to obtain practitioners' opinions that were not influenced by other questions.

Following the open ended question, practitioners were asked to rank in order of importance four aims of mediation (a) achievement of agreement, (b) satisfaction with what happened during mediation, (c) that spouses better understand each other, (d) that spouses learn techniques to be able to resolve future disagreements. Three closed questions measured via a Likert scale followed. These required practitioners to rate on a scale of 1 to 10 the effect they believed the separation factors: (a) perceived mutuality; (b) perceived status, that is a spouse feeling either left by or having left the partner; and (c) blaming the (ex)partner for the separation, had on separated spouses' attitudes towards engaging in mediation. The rating scales were anchored at 1 by the phrase "has no effect at all" and at 10 by "has a big effect". Mutuality was defined in the questionnaire as whether a spouse believes one or both made the actual decision to separate. Rating scales using 10 intervals were used throughout this research in order to avoid respondents committing themselves to a middle point (Aiken, 1996) and to give respondents a wide range of choice.

Prior to answering the next three questions, practitioners were instructed that these questions were concerned with separated spouses' attitudes at the beginning of mediation. Practitioners were then requested to rate on a scale 1 to 10 how important they considered the following attitudinal factors to be for reaching agreement (a) that a spouse is hoping it is possible agreement might be reached, (b) that a spouse thinks it is realistic to expect agreement will be achieved, (c) that a spouse is committed to reaching agreement. The Likert scale was anchored at 1 by "not important at all" and at 10 by "very important".

There was a minor difference between the questionnaire that was completed by practitioners employed by the Family Court Counselling Service and that used for practitioners employed by CentreCare and Relationships Australia. This difference

occurred in the title and wording of the questionnaire. At the time this study was undertaken, practitioners at the Family Court Counselling Service were referred to as conciliation counsellors, whereas those in the not for profit organisations were referred to as mediators. The title and wording of the questionnaire was changed to reflect this protocol.

Separated Spouses' Questionnaire

The separated spouses' questionnaire (Appendix B) was divided into five parts. The first part asked an open ended question concerned about possible effects of the decision to separate on spouses' attitudes towards engaging in mediation. The second part contained the same closed questions and rating scales for the separation factors as used in the practitioners' questionnaire. The third part of the separated spouses' questionnaire asked another open ended question, but this time spouses were requested to report any factors at the beginning of mediation which they considered might be important for achieving agreement via mediation. Part four included the same closed questions and rating scales regarding the importance of the attitudinal factors for reaching agreement via mediation as used in the practitioners' questionnaire. The fifth part included a ranking question regarding the importance of four possible aims of mediation and biographic questions. This ranking question was the same as used in the practitioners' questionnaire.

Procedure

The design of the practitioner and separated spouses' questionnaires required different data collection procedures. These procedures will be discussed next.

Data Collection for Practitioners

Letters of invitation (Appendix C) were sent with the questionnaire to all practitioners. In Western Australia, the invitations and questionnaires were sent directly to all practitioners. For Sydney and Melbourne/Dandenong Family Court Registries, the invitations and questionnaires were sent to Area Supervisors who distributed these to all practitioners and took responsibility for the return of the completed questionnaires within four weeks of receiving the invitations and questionnaires.

In Western Australia, completed questionnaires were placed in an envelope held at the reception desks of the Family Court Counselling Service, CentreCare and Relationships Australia. After a period of four weeks had lapsed from when the questionnaires had been sent, the researcher collected the envelopes.

For all registries and the Family Court of Western Australia, 50% of the questionnaires were returned (36 out of 72 questionnaires).

Data Collection for Separated Spouses

Advertisements were placed in local and state newspapers as well as in the newsletter of Parents Without Partners. Although the wording of the advertisement was changed to suit the advertising venue, essentially people who had experience of mediation were invited to contact the researcher (Appendix D).

When potential participants replied to the advertisement, it was confirmed that they had attended mediation. If potential participants had not attended mediation, they were thanked for their interest and not included in Study 1. For those participants who fulfilled the criteria, it was explained that the questionnaire would take anywhere between 10 and 20 minutes to complete, would be administered via the telephone, that responses would be recorded for later transcription and analysis and that their responses

would not be given to anyone but would form part of a larger pool of responses. Participants were also asked at this stage if they had any objections to their responses being audio recorded. Two participants did not wish to respond via the telephone. Both participants indicated they found it easier to respond by email because of employment commitments. These commitments made it difficult to arrange a time for an interview via telephone. For these two participants, the open ended questions were first sent via email. When responses were received to the open ended questions, the closed questions were sent. Apart from these two, no other participants who had met the criteria for inclusion in Study 1 objected to having their responses audio recorded.

At a time agreed to be convenient, participants were contacted by telephone and again asked if they would permit an audio recording of their responses. No participants refused this request. Once permission had been obtained, an OMNI AM 400 micro telephone answering machine with recording facilities was switched on. The participant was again asked if it would be acceptable to record his/her responses. This second check was to audio record a participant's permission to record the conversation.

An ethics statement was next read to each participant (Appendix E). This ethics statement obtained permission for recording the conversation, the purpose and rationale for the study, and contact telephone numbers if the participant felt distressed or required further information after completing the questionnaire. The questionnaire was then administered.

In order to elicit participants' spontaneous responses, the open ended questions were first administered. If participants found it difficult to answer the open ended question, prompts were given. The prompts did not mention the target factors, but did attempt to ask the open ended question in another form. Examples of prompts included

"when people separate do you think there are feelings from this which affect mediation?"

Following the initial response, probes were used to clarify and encourage the participants to elaborate their responses. Examples of probes included, "could you tell me more about", "I'm not sure what you mean by.....", and "could you please explain that further". Some participants approached the open ended questions by recounting their experiences of separation and mediation. Others spoke from the position of an observer relating their views and opinions regarding separation and mediation.

On completion of the administration of the questionnaire, participants were invited to make further comments. They were also encouraged to ask questions which they felt they needed to. If participants had no questions or further comments, they were thanked for their time and comments.

Content Analysts

For the separated spouses' questionnaire, the audio tapes were transcribed into written format. Content analysis for the open ended questions of the practitioners' and separated spouses' questionnaires were completed by four coders. The coders were graduate level psychology students. Coders were given a brief overview of the aims of Study 1, followed by the definitions of the separation and attitudinal factors ("target factors").

Following Holsti (1969) and Neuman (1994), coders were instructed to code for both explicit or implicit mentioning of the target factors. In order to maximise coders' understanding of responses, they were required to read an entire response before coding.

Coders were asked to indicate whether each of the target factors was either definitely present, maybe present, or definitely not present.

When coders indicated they understood the definitions and procedure, for practice, they were asked to code responses from six fictitious stakeholders, three practitioners and three separated spouses. Like the typed copy of actual responses, each line of the fictitious responses was numbered. Coders were asked to detail on their coding sheet which line number(s) they considered demonstrated the target factors were present. The numbering of the lines allowed for coders' responses to be later compared and analysed.

Upon completion of the fictitious responses, coders then discussed their coding with a view to achieving a common understanding of the process and definitions. Once this was achieved, coders were then given copies of the practitioners' and separated spouses' responses. Coders independently analysed these responses.

As coders were permitted to code for implicit mention of the target factors, it was anticipated that there would be disagreement among coders (Neuman, 1994). When the coders had completed their independent analyses, codings on which they disagreed were identified. For these disagreements, coders were asked to consult with each other to determine if agreement could or could not be achieved. After coders consulted, inter-coder reliability was computed based on the frequency coders unanimously agreed that a target factor was present or absent in participants' responses.

Statistical Analysis

Descriptive statistics frequencies, percentage frequencies and medians were used to describe the results. Medians were considered to be appropriate because it was unknown whether the rating scales met the criteria for interval measurement.

Results

Aims of Mediation

Table 1 shows stakeholders', that is practitioners' and separated spouses', frequency rankings of the four aims of mediation. Inspection of the patterns of frequency rankings in Table 1 shows that practitioners were clear about what they believed should be the most and least important aims of mediation. In comparison, the pattern of responses from separated spouses was not as clear.

Table 1 shows that both practitioners and separated spouses were of the opinion that "separated spouses learning techniques to be able to resolve future disagreements" was the most important aim of mediation. The combined frequency ranking by stakeholders for this aim was 33 (24 by practitioners and 9 by separated spouses). The next closer combined frequency ranking was for separated spouses better understanding each other. This combined frequency ranking was 14, (6 by practitioners and 8 by separated spouses).

As can be seen in Table 1, frequency rankings by separated spouses were not as clear as practitioners. For example, from Table 1, there was only a difference of 1 frequency ranking between separated spouses' responses for learning techniques to be able to resolve future disagreements (9) and better understanding each other (8) for the most important aim of mediation. Further, for better understanding each other, practitioners were clear that this aim should be the second most important aim of mediation (21 practitioners ranked this aim second). Separated spouses ranked better understanding as first and second in importance approximately 50% of the time (8+4 respectively) and third and fourth the other 50% (7+6 respectively). A similar split was also evident in separated spouses' rankings of satisfaction. As is evident in Table 1, it

can be seen that for satisfaction, separated spouses ranked this first and second 13 times (5 + 8 respectively) and third and fourth 12 times (3 + 9 respectively).

Table 1

Frequency of Stakeholders' Rankings of the Aims of Mediation

Ranking	Aim			
	Achieve agreement	Satisfaction	Understanding	Learn techniques
Practitioners				
1	8	4	6	24
2	7	7	21	7
3	13	16	6	7
4	14	15	9	4
Separated spouses				
1	3	5	8	9
2	7	8	4	6
3	11	3	6	5
4	4	9	7	5

Note. A ranking of one represents the most important aim of mediation.

Table 1 also shows that practitioners were of the view that “achievement of agreement” and “satisfaction with mediation” were the least important aims of mediation. Separated spouses were less clear about what the least important aims should be. However, separated spouses did agree that achievement of agreement was not the most important aim of mediation. They ranked this aim third 11 times.

Effects of the Separation Factors

From the Open Ended Questions

The inter-coder reliabilities, that is the percentage of times coders unanimously agreed that the separation factors were present or absent in stakeholders’ responses to the open ended questions, were high. For practitioners’ responses inter-coder reliability for perceived mutuality was 93%, perceived status was 97%, and blame was 95%. Inter-coder reliabilities for the responses of separated spouses’ were 100% for perceived mutuality, 92% for perceived status and 100% for blame. The high inter-coder agreement suggests coders were able to agree whether the separation factors were present or absent in stakeholders’ responses to the open ended question.

Table 2, in respect of the open ended questions, shows the frequency percentages that coders detected the mention by stakeholders of the separation factors as affecting engagement in mediation. Evident in Table 2 is that separated spouses in their responses more often than practitioners mentioned perceived mutuality as affecting engagement in mediation. The largest discrepancy between practitioners and separated spouses was in respect of perceived mutuality. It is also evident in Table 2 that practitioners and separated spouses both agreed that blame is the most influential separation factor for engagement in mediation.

Table 2

Frequency Percentage Coders Detected the Separation Factors as Present in the Responses of Stakeholders to the Open Ended Questions

Separation factors	% detection	
	Practitioners	Separated spouses
Perceived mutuality	17	76
Perceived status	55	58
Blame	67	92

From the Rating Scales

Table 3 shows medians for stakeholders' ratings of the effects of the separation factors on engagement in mediation. As is evident in Table 3, when practitioners and separated spouses experienced with mediation were asked to actually rate the effects of the separation factors on attitudes towards engaging in mediation, there was high degree of agreement between these groups. Both practitioners and separated spouses rated all the separation factors as having a substantial effect on attitudes towards engaging in mediation.

The opinion that the separation factors have a substantial effect on attitudes towards engaging in mediation expressed via Likert ratings appears to be discrepant with the frequency percentage of these factors in practitioners' and separated spouses' views expressed via the open ended questions. In particular, as noted in Table 2, perceived mutuality was detected in only 17% of practitioners' spontaneous responses

to the open ended questions, yet these same practitioners rated the effects of this factor on attitudes to engagement in mediation as substantial, that is a median of 8 (see Table 3).

Table 3

Medians for Stakeholders' Ratings of the Effects of the Separation Factors on Attitudes Towards Engaging in Mediation.

Separation factors	Median rating	
	Practitioners	Separated spouses
Perceived mutuality	8	9
Perceived status	8	8
Blame	8	9

Note. A rating of 1 indicated that the factor was believed to have no effect at all and a rating of 10 that it has a big effect.

Importance of the Attitudinal Factors

From the Open Ended Questions

Inter-coder reliabilities for the presence or absence of the attitudinal factors in stakeholders' responses to the open ended question were high. For practitioners' responses, inter-coder reliability for hope was 95%, expectation was 100% and commitment was 100%. For separated spouses' responses, the inter-coder reliabilities were 92% for hope, 100% for expectation and 100% for commitment. The high inter-coder agreement suggests coders were able to agree whether the target attitudinal

factors were present or absent in the responses of stakeholders to the open ended question.

Table 4 shows, in respect of the open ended questions, the frequency percentages that coders detected the mention of the attitudinal factors as important for reaching agreement by stakeholders. Evident in Table 4 is that separated spouses, in their responses, more often than practitioners mentioned all the attitudinal factors. It is also evident in Table 4 that stakeholders considered commitment to be more important than hope or expectation for reaching agreement.

Table 4

Frequency Percentage Coders Detected the Attitudinal Factors as Present in the Responses of Stakeholders to the Open Ended Questions

Attitudinal factors	% detection	
	Practitioners	Separated spouses
Hope	37	68
Expectation	38	80
Commitment	83	100

From the Rating Scales

Table 5 shows the medians for stakeholders' ratings of the importance of the attitudinal factors for reaching agreement. As is evident in Table 5, there was a high

degree of agreement between practitioners and separated spouses regarding the importance of the attitudinal factors for reaching agreement.

The medians presented in Table 5 show that practitioners and separated spouses were of the opinion that all the attitudinal factors were very important for reaching agreement. In comparison to the frequency percentages that coders detected mention of the attitudinal factors to the open ended questions (see Table 4), the high ratings shown in Table 5 appear discrepant. Thus here, as well as with the separation factors, it appears that stakeholders, particularly practitioners, considered certain attitudinal factors (viz., hope and expectation) much more important when they were asked to rate them than was the case when they responded spontaneously to open ended questions.

Table 5

Medians for Stakeholders' Ratings of the Importance of the Attitudinal Factors for Reaching Agreement via Mediation

Attitudinal factors	Median rating	
	Practitioners	Separated spouses
Hope	8	9
Expectation	7	8
Commitment	8	9

Note. A rating of 1 indicated the factor was believed to be not important at all, and a rating of 10 that it was very important.

Summary of Results of Study 1

Stakeholders were of the opinion that spouses learning techniques to be able to resolve future disagreements should be the most important aim of mediation (frequency 33). Practitioners ranked separated spouses' better understanding of each other as the second most important goal of mediation (frequency 21). In comparison to practitioners, separated spouses were not as clear in their rankings. However, stakeholders did agree that reaching agreement was not the most important aim of mediation. Practitioners ranked this aim last (frequency 14) and separated spouses ranked it third (frequency 11).

In answer to open ended questions, there was discrepancy between stakeholders concerning the effects of the separation factors on attitudes towards engagement in mediation. Separated spouses experienced with mediation mentioned that perceived mutuality (76% detection) and blame (92% detection) were likely to have an effect, whereas practitioners placed greater emphasis on the effects of blame (67% detection). However, when asked to rate the effects of the separation factors, all stakeholders agreed that perceived mutuality, perceived status and blame substantially affected attitudes towards engagement in mediation. These separation factors were measured via a 10 point interval Likert scale where 1 was anchored with "has no effect at all" and 10 with "has a big effect". Medians ranged from 8 to 9.

For the attitudinal factors, stakeholders, in response to the open ended questions, agreed that commitment was the most important factor for reaching agreement. Percentage detection for commitment in practitioners' responses and separated spouses' responses were 83% and 100% respectively. From the analysis of the open ended question responses, there was a difference of opinion between stakeholders concerning the importance of hope and expectation. Practitioners did not place as much emphasis

on the importance of these factors as did separated spouses. In practitioners' responses, percentage detection for hope and expectation were 37% and 38% respectively.

Whereas for separated spouses, the percentage detection of hope and expectation were 68% and 80% respectively. However, when asked to rate the importance of the attitudinal factors, all stakeholders agreed that hope, expectation and commitment at the beginning of mediation were very important for reaching agreement. These attitudinal factors were measured via a 10 point interval Likert scale where 1 was anchored with "not important at all" and 10 with "very important". Medians ranged from 7 to 9.

STUDY 2

Purpose

The purpose of Study 2 was to investigate separated spouses attending mediation in order to determine whether the: (a) separation factors, perceived mutuality, perceived status and blame are associated; (b) attitudinal factors, hope, expectation and commitment are associated; (c) the biographical variables, gender, referral type, duration of separation, and duration of marriage, are associated with the separation and attitudinal factors.

Method

Participants

Three hundred and thirty two spouses attending mediation at the Family Court of Western Australia Counselling Services ($n = 229$) and CentreCare of Western Australia ($n = 103$) participated in this study. Responses from 17 participants, 11 from the Family Court Counselling Service and 6 from CentreCare were not included because of non completion of critical items on the questionnaire. This left a final sample size of 315. Of this sample, 180 indicated they had been court mandated to attend mediation. Participants reported they had attended a mean of 1.6 ($SD = 3$) sessions previously at mediation.

The data from the Family Court Counselling Service was collected over a four month period and from CentreCare over a period of 12 months. Over the time the data for Study 2 was collected, there were 1419 referrals to the Family Court Counselling

Service and 192 to CentreCare. Therefore, the sample represented approximately 20% of the pool of the total referrals to the Family Court Counselling Service and CentreCare during the time of the data collection for this study. There were similar numbers of females ($n = 160$) and males ($n = 155$) in the sample.

Participants reported having been married for a mean of 9.49 years ($SD = 6.31$). They considered themselves separated for a mean of 24 months ($SD = 28$). The reason for the large standard deviation was that some spouses indicated they had only been separated a matter of weeks, whereas others had been separated for a long time. The maximum period of separation was 15 years.

Measure

The instrument used for Study 3 was a purpose designed questionnaire - "The Separation Questionnaire: A study of feelings and thoughts of people attending mediation and working through separation" (Appendix F). This questionnaire was developed in three pilot studies.

Pilot Study 1

For Pilot Study 1, proposed questions for the separation factors, perceived mutuality, perceived status, and blame, and for the attitudinal factors, hope, expectation and commitment, were submitted to two practitioners. These practitioners were asked to consider the wording of the questions such that guidelines of the ethics committee of the Family Court of Western Australia were met. This committee required that the questions be brief and not distress respondents.

Pilot Study 2

After practitioners had agreed on the wording of the questions, a second pilot study was undertaken. Eighteen volunteers recruited from the clients of a private clinical psychology practice read one of three scenarios and responded to questions developed in Pilot Study 1. Each scenario required the volunteers to imagine they had been married for 15 years, the marriage had declined, a decision had been made to separate and they had agreed to mediate in order to reach agreement on parenting arrangements and financial matters. The three scenarios differed regarding how the decision to separate had occurred. One emphasised feeling left and that the partner had made the decision to separate. Another scenario emphasised that the decision to separate had been made together. The third emphasised that the person considered him/herself a leaver. Immediately after responding, participants were asked to indicate how easy the questions were to understand, whether they might cause distress and to provide any other comments which might improve the questions.

Nine participants commented that they had difficulty distinguishing the hope question from the expectation question. All participants indicated that the expectation question was easily understood. This question was phrased as "how realistic do you think it is that an agreement which is acceptable to you and your (ex)partner will be achieved?". Participants responded to this question using a Likert scale numbered 1 to 10, with 1 anchored with "not realistic at all" and 10 anchored with "highly realistic". For hope, the question was phrased "how do you feel about the possibility of reaching agreement which is acceptable to both you and your (ex)partner?". To respond to this

question a Likert scale numbered 1 to 10 was presented to participants. The scale was anchored at 1 with "feel not at all hopeful" and at 10 with "feel very hopeful". Three possible questions to replace the phrasing of the hope question were developed. These were (a) "how hopeful do you feel about the possibility of reaching an agreement which is acceptable to both you and your (ex)partner?", (b) "how hopeful do you feel about reaching an agreement which is acceptable to both you and your (ex)partner?", and (c) "how much are you hoping for the possibility of reaching an agreement which is acceptable to both you and your (ex)partner?". All three new questions utilised a Likert scale numbered 1 to 10. For questions (a) and (b) the anchor at 1 was "feel not at all hopeful" and at 10, "feel very hopeful". For question (c), the anchor at 1 was "not hoping at all" and at 10, "hoping a lot".

The original questions for hope and expectation together with the three new questions for hope were presented to another six volunteers from the private clinical psychology practice. The following information was given to the volunteers: "I am completing research for a doctoral degree. The research involves identifying factors that might influence the outcome of mediation during the divorce process. Some pilot work has been completed on the questionnaire to be used in the research, however one question is giving a problem and I would appreciate your thoughts. I want to distinguish between hopeful feelings and expectation of achieving an agreement as a result of going through mediation. The distinction I want to make can perhaps be best given in the example, I might be hopeful of winning lotto, but realistically do not expect to do so. The question I am asking regarding expectation is ____."

The expectation question was then given followed by the following request: "I would like your opinion concerning which of the following questions best achieves helping people make the distinction between realistic expectation and hopeful feelings, such as in the lotto example". Questions (a), (b) and (c) were then presented. Participants were next asked to give their opinions concerning which hopeful question made the clearest distinction. The question chosen by 4 out of the 6 participants was question (c).

Pilot Study 3

Pilot study 3 continued the refinement process of the questions. A further twelve clients (6 males and 6 females) from the clients of the clinical psychology practice were invited to participate. These twelve clients had experienced divorce and were invited to give feedback regarding the proposed questions. As these participants had experienced divorce, it was assumed they would have an understanding of how best to word questions for clarity, brevity and to minimise distress to separated spouses. All twelve clients had resolved their marital/divorce issues and gave their consent to participate in the study. No participants reported suffering distress as a result of participation in Pilot Study 3.

The twelve participants were invited to recall the time in their divorce when they were negotiating with their partner regarding matters which required settlement such as care and welfare of children, property and finance. The participants were then asked if they could complete the questions developed in Pilot Studies 1 and 2 and answer "as if they were in the waiting room about to attend a mediation session". The questions used

in this Pilot study were "How much are you hoping it is possible an agreement might be reached which is acceptable to you and your (ex)partner?"; "how realistic do you think it is that an agreement will be achieved which is acceptable to you and your (ex)partner?" and how committed are you to reaching an agreement which is acceptable to you and your (ex)partner?"

Participants were observed completing the questionnaire. These observations permitted an assessment of the degree of difficulty experienced in answering the questions. Difficulty was determined by how long it took participants to answer each question. If it were obvious participants had not completed a question within 30 seconds, this was noted for later discussion.

Once the trial questionnaire was completed, participants were asked (a) how easily understood the questions were, (b) to comment on possible refinements to the wording of the questions, (c) whether the questions would cause distress, and (d) if it had been noted that a participant had taken more than a few moments to complete a question, this was raised in discussion by a comment such as, "I noticed you took a little longer with _____. Were you having difficulty understanding the wording or phrasing of the question?"

The discussion with the participants in Pilot Study 3 revealed that the questions for the attitudinal factors could be shortened. Reference to reaching an agreement which is acceptable to you and your (ex)partner was removed from all the questions because it was believed by participants to be unnecessary. Thus, the question for hope was shortened to, "how much are you hoping it is possible agreement might be reached?". The question for expectation was shortened to, "how realistic do you think it is that

agreement will be achieved?". The question for commitment was shortened to, "how committed are you to reaching agreement?".

When six consecutive participants indicated that all questions were concise and simple to understand, these questions were submitted to two practitioners. The practitioners were asked to comment regarding clarity and brevity of the questions and whether the questions might cause offence. Practitioners agreed the questions were clear, concise and would not cause offence. These questions became "The Separation Questionnaire" used in Study 2.

Procedure

Data Collection

Spouses attending the Family Court Counselling Service and CentreCare were invited to be participants. A secretary greeted the spouses and indicated that a researcher from Edith Cowan University was investigating what people thought and felt concerning their separation and mediation. If a spouse indicated an interest in completing the questionnaire, then he/she was handed the Separation Questionnaire (Appendix F) with a written invitation to participate in the study (Appendix G). A locked sealed box was provided for the collection of completed questionnaires.

Statistical Analysis

GB-Stat for Macintosh PPC v6.5.5 (Taylor, 1998) was used to compute all statistical measures. Two-tailed Chi-Square measures were employed to assess for associations between the separation factors. Kendall's rank coefficient (Kendall's tau) was used to assess for associations between the attitudinal factors. Two-tailed Chi-

Square measures were also employed to assess for associations between the biographical, separation and attitudinal factors. An alpha level set at .05 determined statistical significance for all measures. Setting this alpha level for all measures was considered appropriate because this research was both exploratory and one of the first empirical studies to investigate specific separation and attitudinal factors. Therefore, it seemed premature to set a level which would restrict findings that could suggest future avenues of research (see Bender & Lange, 2001).

When there were significant Chi-Square measures and factors employed nominal levels of measurement, such as gender by perceived status, the description of the association was presented via frequency and percentage distributions. When there were significant Chi-Square measures and there was a mix of nominal and ordinal measures, as in referral type by strength of blame, then the direction of the association was determined by an examination of either the percentage frequencies or cumulative frequencies of the ordinal measures. Two-tailed Mann-Whitney *U* measures were employed to assess the significance of the observed differences in the percentage or cumulative frequencies of the ordinal measures. Where factors employed ordinal levels of measurement, for example the attitudinal factors, Kendall's tau was used to determine the degree of association.

While Chi-Square measures indicate whether factors are associated, contemporary reporting of psychological research results requires that the effect size, also referred to as strength of association, be reported (Cohen, 1994; Wilkinson and the American Psychological Association Task Force on Statistical Inference, 1999). Where Chi-Square measures were computed to assess for associations and statistically significant results were obtained, Cohen's (1988) effect size (*w*) for Chi-Square

measures was used as an estimate of strength of association. Cohen's (1988) guidelines were used to determine the relative strength of association of w . For Kendall's tau, effect size was determined with reference to Black's (1993) guidelines for relative strength of association for PRE measures.

If strength of association was not established via Chi-Square measures, then for Mann-Whitney U tests, a Glass Biserial r measure was used to estimate this strength. Cohen's (1988) guidelines for r were applied to determine the effect size of the Glass Biserial r . Post hoc analyses were undertaken when the data suggested something which appeared important for future researchers or practitioners.

The application of non parametric measures was deemed to be appropriate because: (a) it was unknown whether the measures for the attitudinal factors met the criteria for interval measurement; and (b) analysis of the frequency distribution for hope, commitment and expectation showed that the data for these factors was not normally distributed (see Figures 1, 2 and 3). It is recognised that the Chi-Square and Mann-Whitney U measures are normally used to compare independent groups that have been randomly sampled. However, ethical and practical constraints did not allow for establishment of independent groups and random sampling.

Results

Associations between the Separation Factors

There were significant associations within the separation factors. They were between (a) perceived mutuality and perceived status, (b) mutuality and blame, and (c) perceived status and blame. Chi-Square measures, degrees of freedom, and Cohen's effect sizes (w) for these significant associations are given in Table 6. Compared to

Cohen's (1988) guidelines for the relative strength of the effect sizes, all the associations were small. The associations shown in Table 6 will be discussed next. Frequency crosstabulations for the associations within the separation factors are presented in Tables 7 to 9.

Table 6

Chi-Square, Degrees of Freedom, and Cohen's Effect Sizes for Significant Associations Between the Separation Factors

Significant association ^a	χ^2	df	w
Perceived mutuality by perceived status	18.31 *	2	.24
Perceived mutuality by blame	12.70 *	1	.20
Perceived status by blame	22.66 *	2	.27

^aN = 315.

* p < .001.

Association between Perceived Mutuality and Perceived Status

As is evident in Table 7, the majority of separated spouses ($n = 236$ or 75% of the total sample size) perceived that the decision to separate was non-mutual.

Examination of Table 7 further reveals that when a non-mutual decision to separate was perceived to have been made, the majority of these separated spouses perceived themselves to be either a leaver or a left.

Table 7

Frequency Crosstabulations of Perceived Mutuality by Perceived Status

Perceived status	Perceived mutuality		Total
	Mutual	Non-mutual	
Leaver	19 (24%)	81 (34%)	100 (32%)
Left	16 (20%)	86 (36%)	102 (32%)
Neither	44 (57%)	69 (29%)	113 (36%)
Total	79	236	315

Note. Column frequency percentages are presented in brackets.

From Table 7, when the column percentages were added for non-mutual leaver (34%) and non-mutual left (36%), the percentage of non-mutual spouses perceiving themselves to be either a leaver or a left was 70%. In contrast, when the decision to separate was perceived as mutual, 57% of separated spouses perceived themselves to be neither a leaver, nor a left.

Association between Perceived Mutuality and Blame

Evident from the percentage frequencies of Table 8 is that, when the decision to separate was perceived to be mutual, the majority (62%) of these spouses did not blame anyone for the decision to separate. The opposite was the case for those spouses that perceived a non-mutual decision to separate had been made, the majority (61%) of these separated spouses blamed someone for the decision to separate.

Table 8

Frequency Crosstabulations of Perceived Mutuality by Blame/No Blame

Blame/no blame	Perceived mutuality		Total
	Mutual	Non-mutual	
Blame	30 (38%)	144 (61%)	174 (55%)
No blame	49 (62%)	93 (39%)	141 (45%)
Total	79	236	315

Note. Column frequency percentages are presented in brackets.

Association between Perceived Status and Blame

Evident in Table 9 is that the majority of separated spouses (74%) who perceived themselves to be left also blamed someone for the decision to separate. In comparison, those that perceived themselves to be leavers or neither a leaver nor a left were approximately equally distributed between blame and no blame of another.

Table 9

Frequency Crosstabulations of Perceived Status by Blame/No Blame

Blame/no blame	Perceived status			Total
	Leaver	Left	Neither	
Blame	46 (46%)	76 (74%)	52 (46%)	174 (55%)
No blame	54 (54%)	26 (26%)	61 (54%)	141 (45%)
Total	100	102	113	315

Note. Column frequency percentages are presented in brackets.

Post hoc Analysis of the Associations between the Separation Factors

As the separation factors were found to be associated with each other,

it was possible that separated spouses who perceived a non-mutual decision to separate had been made and who perceived that they had been left, were more likely to blame someone than those in any other sub group. The evidence in Table 10 supports this suggestion. Table 10 shows the frequencies for perceived mutuality by perceived status by blame/no blame for the decision to separate.

Table 10

Frequency Crosstabulations for Perceived Mutuality by Perceived Status by Blame/No Blame

Blame/no blame	Perceived mutuality						Total
	Mutual			Non-mutual			
	Perceived status						
Leaver	Left	Neither	Leaver	Left	Neither		
Blame	7 (37%)	8 (50%)	15 (34%)	39 (48%)	68 (79%)	37 (54%)	174 (55%)
No blame	12 (63%)	8 (50%)	29 (66%)	42 (52%)	18 (21%)	32 (46%)	141 (45%)
Total	19	16	44	81	86	69	315

Note. The percentages in brackets are column percentages.

Evident in Table 10 is that the majority (79%) of spouses who perceived that a non-mutual decision to separate had been made, and perceived themselves as left, blamed someone for the decision. No other sub group had such a high proportion of participants who blamed someone for the decision to separate. The non-mutual, left and blame sub group also had the largest proportion of participants accounting for 22% ($n = 68$) of the total sample size. In contrast, the sub group with the second largest proportion of participants was separated spouses who perceived a non-mutual decision to separate, perceived themselves as leavers and blamed no one for the decision to separate ($n = 42$). This group accounted for 13% of the total sample size.

In addition, as can be seen in Table 10, the majority of those who perceived a mutual decision to separate had been made and also perceived themselves as either leavers (63%) or neither leavers nor lefts (66%), blamed no one. In view of the association between perceived status and blame, an analysis was undertaken on a sub group ($n = 174$) of participants to determine who was blamed. The results of this analysis are presented in Table 11. This Table shows the frequency crosstabulations for perceived status by who was blamed. As is evident in Table 11, the partner was the focus of blame regardless of whether separated spouses perceived themselves to be leavers, lefts or neither leavers nor lefts.

Also evident in Table 11 is that the perceived leavers were more specific in their blaming, either blaming their partner (67%) or themselves (17%) for the decision to separate. Whereas, in those who perceived themselves as left and those who perceived themselves as neither leavers nor lefts about 50% blamed their partner, while about 45%

blamed globally. Few of those who perceived themselves as leavers, or neither leavers nor leavers blamed themselves for the decision to separate (7% and 4% respectively).

Table 11

Frequency Crosstabulations for Perceived Status by Who was Blamed

Who was blamed	Perceived status			Total
	Leaver	Left	Neither leaver nor left	
Partner	31 (67%)	37 (49%)	28 (54%)	96 (55%)
Global	7 (15%)	34 (45%)	22 (42%)	63 (36%)
Self	8 (17%)	5 (7%)	2 (4%)	15 (9%)
Total	46	76	52	174

Note. Percentages shown are column percentages. The instruction to participants was to tick one category only of partner, other and self. However, some participants ticked more than one category. This resulted in three new categories, blame both partner and self, blame partner and other, blame everyone. Participants in the blame everyone category had ticked all original categories. The final global category was formed by summing responses from the original and new categories. For more information Appendix H contains a frequency breakdown with details of the original responses.

Associations between the Attitudinal Factors

Table 12 shows the Kendall rank correlation coefficients for the associations within the attitudinal factors.

Table 12

Kendall rank Correlation Coefficients for the Associations between the Attitudinal Factors

	Hope	Expectation	Commitment
Hope	1	0.22*	0.44*
Expectation		1	0.22*
Commitment			1

$p < .001$.

All the coefficients shown in Table 12 were significant, $p < .001$. Following Black's (1993) guidelines, the associations between (a) hope and expectation, and (b) expectation and commitment can be considered to be weak/negligible associations. The association between hope and commitment would be considered by Black's guidelines as a moderate association.

Post hoc analysis of the Associations between the Attitudinal Factors

The correlations between the attitudinal factors evident in Table 12 suggest the possibility that the relationship between hope and commitment may have been spurious due to the effects of expectation, or that the association between hope and expectation

may have been spurious due to the effects of commitment. To investigate these possibilities, Kendall partial rank correlation coefficients were computed for (a) the association between hope and commitment controlling for expectation, and (b) for hope and expectation controlling for commitment, and (c) for expectation and commitment controlling for hope.

The partial correlation coefficient for hope by commitment, controlling for expectation, was .41. Thus, controlling for expectation had a negligible effect on the association between hope and commitment. This very negligible effect suggests the association between hope and commitment was not spurious.

The partial correlation coefficient for hope by expectation, controlling for commitment, was .14. The partial correlation coefficient was also .14 for expectation and commitment controlling for hope. These coefficients were less than the initial coefficients of .22 (see Table 12). From Black's (1993) guidelines, an association of .14 is considered a weak to negligible association. Therefore, the associations between hope and expectation, and between expectation and commitment, evident in Table 12, were spurious.

Figures 1, 2 and 3 show the frequency responses for the attitudinal factors. The association between hope and commitment can be seen in Figures 1 and 2. These figures show that the data for hope and commitment were positively skewed. The majority of separated spouses who were engaged in mediation did so with high levels of hope and commitment, that is 68% reported their level of hope, and 75% reported their level of commitment as equal to or greater than 9 on a Likert scale of 1 to 10, where 10 was the highest level of hope and commitment.

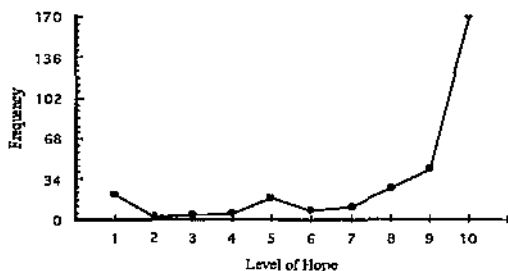


Figure 1. Frequency responses for levels of hope. Points represent the number of participants who responded at each level of hope (1 = *not hoping at all agreement will be reached*, 10 = *hoping a lot agreement will be reached*). The majority of separated spouses reported high levels of hope that agreement could be reached via mediation.

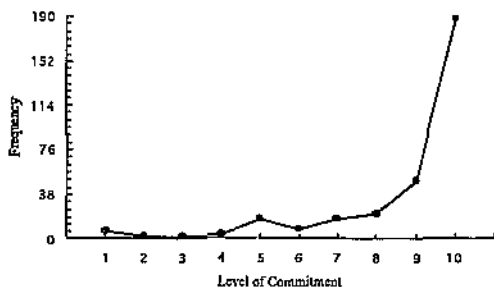


Figure 2. Frequency responses for level of commitment. Points represent the number of participants who responded at each level of commitment (1 = *committed very little to reaching agreement*, 10 = *committed a lot to reaching agreement*). The majority of separated spouses reported high levels of commitment to reaching agreement via mediation.

As can be seen in Figure 3, the pattern of frequencies for level of expectation was complex with peaks at ratings of 1 and 5. This pattern indicates that 64% of separated spouses reported their expectation of reaching agreement via mediation as 5 or less on a 10 point Likert scale, where 1 was the lowest level of expectation and 10 the highest, that is not realistically probable. Thus, while the majority of participants hoped and were committed to reaching agreement via mediation, well over half did not expect to reach agreement

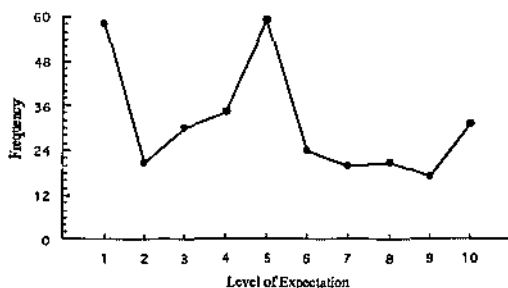


Figure 3. Frequency responses for level of expectation. Points represent the number of participants who responded at each level of expectation (1 = *not realistic at all that agreement would be achieved*, 10 = *highly realistic that agreement would be achieved*). Over half of the participants did not expect to reach agreement (64% reported their level of expectation as 5 or less).

Associations between the Biographical Variables and the Separation and Attitudinal Factors

As is evident in Figures 1 and 2, the skewness of the data resulted in very small frequencies for some levels of hope and commitment. Following Lumsden's (1974) argument that Chi-Square measures should not be calculated with very small expected frequencies, that is less than 5, hope, commitment and strength of blame were recoded into two levels, 1 to 5 and 6 to 10. This recoding was used whenever Chi-Square measures were required to assess for associations between the biographical variables and the attitudinal variables, hope and commitment.

For more information, Appendices I to L contain frequency crosstabulations for the biographical variables by the separation factors perceived mutuality, perceived status and blame for the decision to separate. Appendices M and N contain mean and standard deviation data for the biographical variables by strength of blame and the attitudinal factors.

For the association between the biographical, separation and attitudinal factors, there were three significant Chi-Square measures. The three significant measures, the associated values for Chi-Square, degrees of freedom, sample sizes, p values and Cohen's effect size (w) for Chi-Square measures are shown in Table 13.

In addition to the three Chi-Square significant measures, there were three other noteworthy patterns of responses. These were the influence of (a) gender on blame for the decision to separate in the sub group of separated spouses who perceived the decision to separate was non-mutual and who also perceived themselves as left, (b) a

combination of referral type and duration of separation on expectation of reaching agreement via mediation, and (c) referral type on strength of blame for the decision to separate. Details of significant Chi-Square measures and noteworthy patterns are reported next.

Table 13

Chi-Squares, Degrees of Freedom and Cohen's effect sizes (w) for Significant Associations between the Biographical Variables, Separation and Attitudinal Factors

Significant association ^a	χ^2	df	w
Gender by perceived status	44.32**	2	.35
Referral type by commitment	23.88*	9	.14
Referral type by expectation	54.35**	9	.43

^a N = 315.

* $p < .01$. ** $p < .001$.

Gender and Perceived Status

Based on Cohen's (1988) guidelines for relative strength of w , the effect size, shown in Table 13 for the significant gender by perceived status was medium ($w = .35$). Table 14 shows cell frequencies for gender by perceived status. Evident in Table 14 is that proportionally more females (77%) than males (23%) perceived themselves to be leavers. Whereas the opposite was true for males, that is more males (69%) than females (31%) perceived themselves as left.

Table 14

Frequency Crosstabulations for Gender by Perceived Status

Gender	Perceived status			Total
	Leaver	Left	Neither	
Female	77 (77%)	32 (31%)	51 (45%)	160 (51%)
Male	23 (23%)	70 (69%)	62 (55%)	155 (49%)
Total	100	102	113	315

Note: Percentage cell column frequencies are shown in brackets.

Gender and Blame

Table 15 shows the frequencies for gender by blame/no blame in the sub group of separated spouses who perceived a non-mutual decision to separate had been made and who perceived themselves as left. A noteworthy pattern evident in Table 15 is that males predominated (70%) by a ratio of approximately 2 to 1 in the sub group of spouses who perceived a non-mutual decision to separate had been made and perceived that they had been left.

Also evident in Table 15 is that of the participants who blamed someone, males predominated in this group by a ratio of 2.5 to 1 (72% to 28%). Thus, of the spouses

who perceived the decision to separate was non-mutual, and who perceived themselves as left, the majority were males who also blamed someone for the decision to separate.

Table 15

Frequency Crosstabulations for Gender by Blame/No Blame for the Sub group of Separated Spouses who Perceived a Non-Mutual Decision to Separate and Perceived Themselves as Left

Blame/no blame	Gender		Total
	Male	Female	
Blame	49 (72%)	19 (28%)	68
No blame	11 (61%)	7 (38%)	18
Total	60 (70%)	26 (30%)	86 (100%)

Note. Percentages shown in brackets are row percentages.

Referral Type and Commitment

Based on Cohen's (1988) guidelines for relative strength of w , the effect size, shown in Table 13, for the significant referral type by commitment was small ($w = .14$). Table 16 shows the percentage frequencies for level of commitment to reaching agreement via mediation by referral type.

It is evident in Table 16 that the majority, approximately 72 %, of separated spouses who attended mediation voluntarily rated their level of commitment as 10. In contrast, 51% of separated spouses ordered by the court to attend mediation rated their level of commitment as 10 (a level of 10 represented the highest level of commitment).

Table 16

Percentage Frequencies of Referral Type by Level of Commitment

Level of commitment	Referral type	
	Voluntary (<i>n</i> = 135)	Court ordered (<i>n</i> = 180)
1	0	4
2	0	1
3	1	1
4	1	2
5	4	7
6	0	4
7	3	7
8	5	8
9	15	16
10	72	51

Note. A level of one was anchored with committed very little to reaching agreement. A level of ten was anchored with committed a lot to reaching agreement.

The distribution of the frequencies in Table 16 suggests that proportionally more separated spouses who attended mediation voluntarily had higher levels of commitment than those ordered by the court to attend mediation. This suggestion was supported by a significant Mann-Whitney U measure for referral type by commitment, 15181 , $n_1 = 135$, $n_2 = 180$, $p < .001$.

Referral Type and Expectation

As suggested by Cohen's (1988) guidelines for relative strength of w , the effect size, shown in Table 13 for referral type by expectation of reaching agreement was medium ($w = .43$). Table 17 shows the cumulative percentage frequencies for referral type by expectation of reaching agreement via mediation.

Evident in Table 17 is that approximately 50% of separated spouses ordered by the court to attend mediation rated their level of expectation of reaching agreement as 3 or less. This suggests that these separated spouses did not believe it was realistic at all to expect to reach agreement via mediation, whereas, only 17% of separated spouses who attended mediation voluntarily responded that their expectation of achieving agreement was 3 or less (a level of 1 represented the lowest level of expectation).

The evidence in Table 17 suggests that proportionally more court ordered spouses were less expectant of reaching agreement than separated spouses who attended mediation voluntarily. This suggestion was supported by a significant Mann-Whitney U for referral type by reported level of expectation, $U = 17686$, $n_1 = 135$, $n_2 = 170$, $p < .001$.

Table 17

Cumulative Percentage Frequencies for Referral Type by Level of Expectation

Level of expectation	Referral type	
	Voluntary (<i>n</i> = 135)	Court ordered (<i>n</i> = 180)
1	5	28
2	10	36
3	17	48
4	27	59
5	46	78
6	53	85
7	64	88
8	76	92
9	84	95
10	100	100

Note. A level of one was anchored with not realistic at all that agreement would be achieved. A level of 10 was anchored with highly realistic that agreement would be achieved.

Referral Type, Duration of Separation and Expectation

Although separated spouses who were ordered by the court to attend mediation reported lower levels of expectation of reaching agreement than did those who attended

mediation voluntarily, further analysis revealed that duration of separation also influenced referral type and level of expectation. This analysis proceeded in two steps.

Firstly, a significant Mann-Whitney U (10723, $n_1 = 79$, $n_2 = 220$, $p < .01$) revealed that spouses separated 6 months or less reported higher levels of expectation of reaching agreement ($Mdn = 6$) than those separated more than 6 months ($Mdn = 5$). The Glass Biserual r for this significant Mann-Whitney U was .23, which from Cohen's (1988) guidelines for r , is considered to be small.

Secondly, two Mann-Whitney U measures for expectation were computed to compare separated spouses who attend mediation voluntarily and via court order for each level of duration of separation. Both Mann-Whitney U measures were significant. The Mann-Whitney U measure for referral type by spouses separated 6 months or less was 1083, $n_1 = 30$, $n_2 = 49$, $p < .001$, and for referral type by spouses separated more than 6 months it was 8022, $n_1 = 78$, $n_2 = 142$, $p < .001$.

For court ordered and voluntary spouses, the influence of duration of separation is evident in Table 18. This Table shows the medians, cell sizes and effect sizes for referral type by duration of separation for expectation. Based on Cohen's (1988) guidelines for r , both effect sizes (.22 and .19) were small. Thus, as can be seen from the medians in Table 18 (a) court ordered and voluntary spouses differed in their level of expectation with court ordered spouses reporting lower levels, and (b) those separated 6 months or less and who attended mediation voluntarily were the group who most expected to reach agreement, whereas those separated more than 6 months and who had been court ordered were least expectant of reaching agreement via mediation.

Table 18

Medians, Cell Sizes and Effect Sizes, for Expectation of Reaching Agreement by Referral Type and Duration of Separation

Referral type	Duration of separation	
	6 months or less	More than 6 months
Court ordered		
Median	4	3 ^b
<i>n</i> ^a	30	142
Voluntary		
Median	7	5
<i>n</i> ^a	49	78
Effect size ^c	.22	.19

^aCell *n*'s do not sum to sample size ($N = 315$) because 16 participants did not report duration of separation. ^b The cumulative frequency at the expectation level of 3 was 49.3%. This was rounded to 50% to give a median of 3. ^c Effect size based on Glass Biserual *r*.

Referral Type and Strength of Blame

The noteworthy pattern of the influence of referral type on strength of blame can be seen in Table 19. This Table shows the percentage frequencies for referral type by strength of blame for the decision to separate in the sub group of separated spouses who blamed someone for the decision to separate.

Table 19

Percentage Frequencies for Referral Type by Strength of Blame for the Sub Group of Separated Spouses who Blamed Someone

Strength of blame	Referral type	
	Voluntary (<i>n</i> = 69)	Court ordered (<i>n</i> = 105)
1	0	3
2	0	0
3	3	4
4	4	2
5	20	10
6	13	10
7	23	18
8	17	10
9	10	14
10	9	30

Note. A level of one was anchored with blame hardly at all someone for the decision to separate. A level of 10 was anchored with blame entirely someone for the decision to separate.

As is evident in Table 19, 19% of separated spouses who attended mediation voluntarily reported their strength of blame as either a 9 or a 10. In contrast, 44% of court ordered separated spouses reported their strength of blame as either a 9 or a 10 (a level of 10 represented the strongest intensity of blame).

Thus, the percentage frequencies presented in Table 19 suggest more court ordered spouses reported stronger levels of blame than did separated spouses who attended mediation voluntarily. This observation was supported by a significant Mann-Whitney U measure for referral type by strength of blame, 5185, $n_1 = 69$, $n_2 = 105$ $p < .01$. The Mann-Whitney U was computed for a sub group ($n = 174$) of separated spouses who blamed someone for the decision to separate. A Glass Biserial r measure was used to estimate the strength of association between referral type and strength of blame. The value of r was .24. Based on this r , the effect size, as suggested by Cohen's (1988) guidelines, for referral type by strength of blame was small.

Post hoc analysis of Referral Type, Duration of Separation, Separation Factors and Strength of Blame

Given the destructive role blame can play in the mediation process, factors associated with the strength of blame were inspected more closely. Blaming someone for the decision to separate was most common among separated spouses who perceived themselves as lefts, and the decision to separate as non-mutual (Table 10). Seventy nine percent of them blamed someone, and this subgroup was therefore used to further analyse the strength of blame. A Mann-Whitney U measure indicated that the association between referral type and strength of blame was significant ($U = 820$, $n_1 = 31$, $n_2 = 37$, $p < .001$). The Glass Biserial r for this measure was .43. Based on this r , as suggested by Cohen's (1988) guidelines for the effect size, the association between referral type and strength of blame for the decision to separate can be described as medium. Inspection of the medians revealed that those in this sub group who had been

court ordered rated their strength of blame for the decision to separate as very intense ($Mdn = 9$). In comparison those who attended mediation voluntarily rated their strength of blame as less intense ($Mdn = 7$).

Further analyses were undertaken and Table 20 shows the median strength of blame and cell sizes for referral type by duration of separation in this sub group. Court ordered spouses, who had been separated for 6 months or more after the decision to separate, were just as intense in their blaming as those in their first 6 months of separation (both medians 9). Whereas for spouses who attended mediation voluntarily, the median strength of blame was 7 for those separated 6 months or less, and 6 for those separated more than 6 months. The Mann-Whitney U was significant, $U = 164$, $n_1 = 13$, $n_2 = 17$, $p < .05$. The Glass Biserial r was .48. From Cohen's (1988) guidelines for effect size, this r would be considered to be medium.

For those separated more than 6 months, a Mann-Whitney U measure comparing spouses who had been court ordered to attend mediation, with those who had attended mediation voluntarily, was also significant, $U = 384$, $n_1 = 17$, $n_2 = 30$, $p < .01$. For this U , the Glass Biserial r was .50. From Cohen's guidelines, this effect size is considered to be large.

For the spouses separated 6 months or less, a Mann-Whitney U measure ($U = 61$, $n_1 = 7$, $n_2 = 13$, $p > .10$) reveals no significant difference between those who were court ordered ($Mdn = 9$) and those who attended mediation voluntarily ($Mdn = 7$).

While the intensity of blame was the highest in court ordered spouses, irrespective of the duration of separation ($Mdn = 9$), it was the least in those who attended mediation voluntarily and had been separated 6 months or more ($Mdn = 6$).

Table 20

Medians and Cell Sizes, for Strength of Blame by Referral Type and Duration of Separation for the Group of Participants who Perceived a Non-Mutual Decision, Perceived Themselves as Left and Blamed Someone.

Referral type	Duration of separation	
	6 months or less	More than 6 months
Court ordered		
Median	9	9
<i>n</i>	7	30
Voluntary		
Median	7	6
<i>N</i>	13	17

Note. Cell *n*'s do not add to 68 because 1 participant did not report duration of separation.

Summary of Results

Study 2 examined the operation of the separation and attitudinal factors and the influence of biographical variables on these factors in separated spouses attending mediation. The three separation factors, perceived mutuality, perceived status and blaming someone for the decision to separate were associated. Significance levels for the Chi-Square measures for these associations were $p < .001$, while effect sizes were small (w ranged from .20 to .27). When the decision to separate was perceived as non-mutual,

separated spouses (70%) were more likely to also perceive themselves as either leavers or left. Of those who perceived themselves as lefts, the majority (69%) were males, and of those who perceived themselves as leavers, the majority (77%) were females.

Those who perceived the decision to separate as non-mutual and who also perceived themselves as left, were more likely to blame someone (79%) for the decision to separate than any other group. The opposite was also true, that is the majority of separated spouses who perceived the decision to separate as mutual and perceived themselves as leavers (63%) or neither leavers nor lefts (66%) did not blame someone for the decision to separate. In the sub group who blamed someone for the decision to separate, those who perceived themselves as left, or neither leavers nor lefts, blamed either their partner approximately 50% of the time or blamed globally approximately 45% of the time. Few lefts (7%), or neither leavers nor lefts (4%) blamed themselves for the decision to separate. Separated spouses who blamed and perceived themselves as leavers focussed their blame on either their partner (67%) or themselves (17%). In contrast to those who perceived themselves as lefts or neither leavers nor lefts and blamed, few of the leavers who blamed did so globally (15%).

There was a moderate, but significant, association found between the attitudinal factors hope and commitment to reaching agreement ($p < .001$, Kendall's rank correlation coefficient = .44). Expectation of reaching agreement was found not to be associated with either hope or commitment. The majority of separated spouses attended mediation with high levels of hope and of commitment to reaching agreement, that is 68% reported levels of hope and 75% reported levels commitment equal to or greater than 9 on a Likert scale of 1 to 10, where 10 was the highest level for these

attitudinal factors. However, many reported they were not expecting to reach agreement, that is on a 10 point Likert scale, where 1 was the lowest level of expectation and 10 the highest, 64% of separated spouses reported their expectation of reaching agreement as 5 or less.

Referral type was found to have a small but significant influence on reported levels of commitment ($w = .14, p < .001$), and a medium and significant influence on expectation of reaching agreement ($w = .43, p < .001$), and a small but significant influence on strength of blaming someone for the decision to separate ($r = .24, p < .01$). Proportionally more separated spouses who had been ordered by the court to attend mediation were less committed and less expecting to reach agreement and blamed someone more intensely for the decision to separate than those who attended mediation voluntarily. That is, for spouses ordered by the court to attend mediation, 51% reported their level of commitment as 10, nearly 50% reported the level of expectation as 3 or less, and of those who blamed someone for the decision to separate, 44% reported their strength of blame as either a 9 or a 10. For separated spouses who attended mediation voluntarily, 72% rated their level of commitment as a 10, 17% rated their level of expectation as 3 or less, and of those who blamed someone for the decision to separate, 19% reported their strength of blame as either a 9 or a 10.

There was a small but significant association between duration of separation and expectation ($r = .23, p < .01$). Spouses separated 6 months or less reported higher levels of expectation ($Mdn = 6$) than those separated more than 6 months ($Mdn = 5$). Further, spouses who had been separated more than 6 months and who had been ordered by the court to attend mediation were the group who least expected to reach agreement ($Mdn =$

3). In comparison, those who were separated 6 months or less and who attended mediation voluntarily, were the group who most expected to reach agreement ($Mdn = 7$).

The following findings are pertinent in respect of the sub group of separated spouses who were more likely to blame someone for the decision to separate, that is those who perceived the decision to separate had been non-mutual and perceived themselves as left ($n = 68$). Firstly, males predominated in this sub group (72%). Secondly, in this sub group, blaming was reported to be most intense in those who had been ordered by the court to attend mediation. For these court ordered separated spouses, it did not seem to matter whether they had been separated for 6 months or less or more than 6 months, on a Likert rating scale where a level of 10 represented the strongest intensity of blaming someone for the decision to separate, their reported level of blame being 9. Thirdly, for spouses separated 6 months or less, there was no significant difference in the strength of blame for court-ordered spouses and those who attended mediation voluntarily. The median strength of blame for the non-mutual lefts who attended mediation voluntarily and who had been separated 6 months or less was 7. In contrast, for spouses separated more than 6 months, there was a large significant difference in the strength of blame reported by court-ordered spouses and those who attended mediation voluntarily ($r = .50, p < .01$). Finally, for spouses who attended mediation voluntarily, there was a medium and significant difference in the strength of blaming by those non-mutual lefts separated 6 months or less compared to those separated more than 6 months ($r = .48, p < .05$). The median strength of blame for the voluntary, non-mutual, lefts separated more than 6 months was 6.

DISCUSSION

The literature review undertaken for this research revealed that despite the fact mediation has become an established primary dispute resolution method in family law, there are still many uncertainties regarding various aspects of the process. This study was aimed at empirically examining some of these uncertainties.

The first issue addressed was practitioners' and separated spouses' (stakeholders) opinions about what the main aim of mediation should be. The literature review demonstrated that, not only was there a discrepancy between what the legislator in Australia and scholars believe the aims and outcomes of mediation should be, but that scholars also disagree amongst themselves about this.

This research secondly considered the effect separation factors such as perceived mutuality, perceived status and blame have on separated spouses' engagement in mediation. This was deemed necessary because the literature reflects that scholars differ regarding how important they believe these factors are for the outcome of mediation.

As there is also a dearth of empirical research regarding the influence that spouses' attitudes and beliefs have on their ability to reach an agreement, the research thirdly focused on attitudinal factors. In the absence of certainty about what attitudinal factors are important, the research was guided by Janis and Mann's (1977) theory of decision making under conditions of conflict and distress. The importance of three factors identified in the Janis and Mann model, namely hope, expectation and commitment for reaching agreement, was examined. Finally, as the literature review suggested that biographical variables such as gender, referral type, duration of separation and duration of marriage may influence the findings regarding separation and attitudinal factors, these variables were considered as well.

A total of 42 practitioners (36 from the Family Court and 6 from not for profit organizations) and 25 separated spouses (8 males and 17 females) participated in Study 1. For Study 2, 315 spouses (155 males and 160 females) who were attending mediation at the Family Court of Western Australia and Western Australia CentreCare served as participants.

Aims and Outcomes of Mediation

Certainty about what the aims and expected outcomes of mediation are, is important for a number of reasons. Firstly, within the context of the administration of the Family Law Act 1975 ("Act") it is important to know what spouses and practitioners believe the aim of the mediation process should be. Spouses are, after all, directly influenced by mediation, and if their expectations about the aim of mediation differ from that of the legislator, the legislation is bound to be less successful. Likewise, practitioners are charged with facilitating mediation sessions, and it is important that their perceptions about the aim of mediation should also be taken into account. Secondly, researchers who must evaluate the efficacy of mediation in general, and practitioners in particular, need to know what the required outcomes of mediation should be. Knowledge about the aims and expected outcome of mediation is finally important because it is a necessary first step in the advancement of theory.

In certain jurisdictions, legislation makes it clear what the aims should be. In Australia, for example, order 25A (10)¹ of the Act provides that the aim of mediation is to reach an agreement. However, Beck and Sales (2001) could find no empirical information that indicates what practitioners and spouses believe the outcomes of mediation should be.

Study 1 provides empirical evidence about what stakeholders believe the main aim of mediation should be. A literature review was first executed that indicated that scholars believe mediation has four important outcomes. These are that separated spouses (a) reach agreement, (b) learn techniques that will help them resolve future disagreements, (c) are satisfied with what they achieve during mediation, and (d) better understand each other. The survey of the opinions of stakeholders in this study indicated that they believed the most important aim of mediation should be for "spouses to learn techniques to resolve future disagreements". Of the 67 stakeholders, 33 ranked this aim as the most important. Stakeholders also agreed that achievement of reaching agreement should not be the most important aim of mediation. Practitioners were clear that the second most important aim of mediation should be that separated spouses better understand each other.

The opinion that it is important for separated spouses to learn techniques that will help them to resolve future disagreements, is consistent with contemporary approaches to mediation practice (Irving & Benjamin, 2002). The finding that practitioners also believed that another important aim of mediation should be to assist separated spouses to better understand each other is consistent with one of the aims of the transformative model of mediation (Bush & Folger, 1994). It also is consistent with aims of other mediation models such as Irving & Benjamin's (2002) therapeutic model, and to an extent, Haynes & Charlesworth's (1996) "cut a deal model". During mediation, all these models encourage separated spouses to listen to each other and accept differences, while at the same time negotiate compromises with which both of them can live.

Study 1 demonstrates that the aim of mediation as defined in the Australian Act is incongruent with what stakeholders believe the aim should be. It is clear that

stakeholders believe the aims of mediation should go beyond merely reaching an agreement, and that they place great emphasis on the need for separated spouses to learn techniques to resolve future disagreements and learn to understand each other better. This raises the question whether the Act should be amended to broaden the aims of mediation to incorporate the aims stakeholders consider important.

It is also clear that reaching an agreement must remain one of the aims of mediation. For separated spouses to obtain a divorce decree absolute, the Act 1975 requires that spouses must reach agreement about matters such as proper arrangements for the care and welfare of children (s 55A). Further, agreements concerning property settlements must be lodged within 12 months of the decree nisi (s 44 (3)). Thus, separated spouses reaching agreement on matters related to children and property is central to the achievement of divorce, and therefore mediation. However, there are a number of arguments in favour of adding, as part of a more comprehensive aim, that mediation should also aim to teach separated spouses skills that will help them resolve future disputes and better understand each other.

It could, firstly, be argued that for mediation to be effective, the aims thereof should be in line with the expectations of separated spouses, because they are the people who are affected by mediation, and practitioners, because of the pivotal role they play in the mediation process.

Secondly, amending the legislation to include these two aims would also recognise that, even if spouses did not reach agreement, mediation may not have been a failure if separated spouses had learned new skills or better understood each other. Rather than reinforcing failure, from a clinical perspective it would seem important practitioners, with the support of the Act, reinforce success. In this way, separated spouses are more likely to leave mediation feeling optimistic and positive even if they

have not reached agreement, rather than pessimistic and negative that they have achieved little.

Thirdly, changing the Act to bring its aims of mediation in line with spouses and practitioners would not appear to be inconsistent with the rationale of the Act. The rationale of the Act, as detailed by Murphy (1974), was to minimise distress and acrimony between separated spouses desirous of divorce. Clearly, if separated spouses have the techniques to be able to resolve disputes themselves, and they gain a better understanding of each other, then, conceptually, it seems to follow that these spouses would also be less distressed and acrimonious, than if they had to return to mediation every time they were in dispute (Pruitt et al., 1993).

Fourthly, there is academic support for the notion that the aim of mediation in family law should be comprehensive and include reaching agreement, teaching separated spouses techniques to resolve disagreements and to better understand each other. For example, Bush and Folger (1994) recognise that separated spouses are required to reach agreement on matters in dispute. However, they suggest that solely focussing on reaching agreement ignores other potential benefits of mediation, whereas focussing on these other benefits, such as understanding and acknowledging the partner, may in fact improve the chances that separated spouses will reach an agreement as well. In other words, from a theoretical perspective, it is conceivable that if the legislator broadens the aim of mediation in the Act, spouses are more likely to achieve what the legislator would primarily like to see happen, namely reach an agreement.

Fifthly, amending the Act to broaden the aim of mediation would also be in accordance with the view of the principles of therapeutic jurisprudence. The therapeutic jurisprudence school of thought in law believes, that as judicial procedures invariably influence the psychological well-being of participants in the process, it is important to

try to maximize their therapeutic effect, and minimize their anti-therapeutic effect (see for example Allan, 2001; Winick, 1997). It could be argued that if spouses have the skills to deal with future disputes and understand each other better, it will reduce future stress and therefore enhance the psychological well-being of the spouses and their children, if any. From a therapeutic jurisprudence perspective, it would therefore be appropriate to amend the Act so it acknowledges that, other than reaching an agreement, it is also important that spouses learn how to solve further disputes and understand each other better.

Two qualifications must be made in respect of the findings of Study 1. It can first be pointed out, that while the stakeholders as a whole believed the most important aim of mediation should be that separated spouses learn techniques, separated spouses do not appear to be as clear as practitioners with respect to the importance of the various aims of mediation. For example, in Study 1 there was only a frequency difference of 1 in separated spouses' responses for learning techniques (frequency 9) and better understanding each other (frequency 8). There was also a split within separated spouses' rankings of the importance of better understanding. Approximately half ranked this aim as either the first or second in importance (frequency 12), while the other half ranked this as the third or fourth (frequency 13). It was similar for the satisfaction aim. Approximately half ranked this either first or second in importance (frequency 13), while the other half ranked this third or fourth (frequency 12). However, it is still clear that spouses considered it important that mediation should aim to give spouses skills to deal with future disputes and understand each other better, and that they considered these as notably more important than reaching an agreement.

Secondly, while the literature review suggests that mediation aims to improve dispute resolution skills and knowledge of the other spouse should improve future

relationships between the separated spouses (see for example, Emery, 1994), no empirical research was found that indicate this is in fact the case. Thus, at this time, it is unknown whether separated spouses learning techniques to resolve disagreements or better understanding each other will result in improved relationships between separated spouses.

To summarise, Study 1 found that stakeholders believe the main aim of mediation should be that spouses learn techniques to be able to resolve future disagreements. Study 1 also found that stakeholders considered that spouses better understanding each other is an important secondary aim. The findings of Study 1 suggest that consideration should be given to amending the Act so that its aim is consistent with the views of stakeholders.

Separation Factors

Benjamin and Irving (1995) and Kelly (1996) noted that there was little information about the thoughts, beliefs and attributions of spouses who attend mediation and concluded with concerns that this lack of information was hindering the development of mediation theory and assessment. The literature review identified three factors that could influence the attitude with which spouses engaged in mediation (see for example Brown, 1985; Kressel et al., 1980; Emery, 1994). These factors were perceived mutuality, perceived status and blame for the decision to separate. Collectively, these characteristics were referred to as separation factors in this research. Although scholars had considered these characteristics, the literature review revealed there was no empirical information concerning whether spouses and practitioners believe these separation factors did affect the attitude of separated spouses when they engage in mediation. The literature review also revealed that there was little empirical

information concerning the operation of these factors in separated spouses' engagement in mediation. The findings of Study 1 provide information about stakeholders' opinions concerning the effects of the separation factors on attitudes towards engagement in mediation. The findings of Study 2 provide information about how the separation factors operate in separated spouses engaged in mediation.

Effect of the Separation Factors

Study 1 required stakeholders to respond to an open ended question requesting their opinions about the effects of the separation factors on attitudes toward engaging in mediation. Study 1 also asked stakeholders to rate the effects of the separation factors on attitudes toward engaging in mediation. An analysis of the open ended responses reveal, that while separated spouses emphasised that both perceived mutuality (76% detection) and blame (92 % detection) were likely to have an effect, practitioners only emphasised the effects of blame (67% detection). Practitioners did not appear to believe that perceived mutuality had much effect (17% detection).

The data of Study 1 do not reveal why practitioners did not spontaneously mention perceived mutuality as having an effect on attitudes towards engaging in mediation. However, it is possible that practitioners did not mention perceived mutuality because different methods were used to collect the spontaneous opinions of separated spouses and practitioners. As mentioned in the methodology for Study 1, the data from practitioners was obtained under time and distance constraints. These constraints necessitated the use of a brief questionnaire in which practitioners gave their response in writing. Unlike with the interviews of the separated spouses, there was no opportunity to prompt practitioners to elaborate on their responses. Though speculative, it may have been that the inability to use prompts with practitioners could have resulted

in the differences between practitioners and separated spouses concerning perceived mutuality. Thus, the methodology possibly allowed separated spouses to be comprehensive in their responses, whereas practitioners may have had to be more selective.

When asked to rate the effects of the separation factors, on a scale of 1 to 10 where 1 was anchored with "has a little effect" and 10 was anchored with "has a big effect", all stakeholders responded with ratings of eights and nines. These ratings suggest, that when asked directly, stakeholders agreed that perceived mutuality, perceived status and blame substantially affect attitudes towards engagement in mediation.

These findings do not demonstrate that specific perceptions and attributions of spouses, prior to the commencement of mediation, affect the manner in which they engage in mediation as suggested by Kressel et al. (1980), Brown (1985) and Emery (1994). However, they do indicate that stakeholders support these authors' theory that perceptions and attributions of this nature influence the attitude with which spouses engage in mediation. To this limited extent, the results of Study 1 question Coogler's (1978) and Haynes and Charlesworth's (1996) views that mediators should have minimal involvement concerning these factors. On the contrary, the fact that the separation factors were seen to have a substantial effect suggests that mediators need to seriously consider these factors in their assessments of separated spouses at the beginning of mediation.

These findings suggest that a further empirical study, preferably a prospective study, is necessary to establish whether separation factors do in fact influence the attitude and manner in which spouses engage in mediation, and ultimately influence the outcome of mediation. Such a study will be very complex because, as was discussed in

the introduction, there are many possible factors that can influence engagement in mediation. These include trust in the other and cooperative orientation (Deutsch, 2000; Irving & Benjamin, 2002; Kressel, 1997; Lewicki & Wiethoff, 2000; Moore, 1996) and affective states such as anger, sense of helplessness, humiliation, shame, rejection, and behaviours such as negativism and antagonism as destructive to mediation (Emery, 1994; Kressel et al., 1980; Johnston & Campbell, 1988). An attempt to do this has been published since the data for this study was collected. Bickerdike and Littlefield (2000) used a modified version of Slaikeu, Pearson, Luckett, and Costin-Myers' (1985) *mediation process analysis coding instrument* to assess levels of separated spousal attachment, anger, and sadness during mediation. They found that anger and attachment disparity independently predicted the outcome of mediation. Specifically, on the one hand, high levels of anger were associated with contentious behaviours during mediation, poor problem solving behaviour and failure to reach agreement. On the other hand, continuing attachment by one spouse also contributed to poor problem solving behaviour and failure to reach agreement. Bickerdike and Littlefield referred to continuing attachment by one spouse as attachment disparity. Where this attachment disparity is found, Bickerdike and Littlefield also found that the decision to separate had been made by one person, that is the decision was non-mutual. Thus, the findings of Study 1 that stakeholders rated perceived mutuality as important for engagement in mediation is consistent with the findings of Bickerdike and Littlefield's research.

Even in the absence of knowledge of the influence the separation factors may have on the attitude of spouses when they engage in mediation, it appears as if practitioners would be well advised to assess in advance what spouses' perceptions are in respect of the mutuality of the decision and their status, as well as their attributions of blame. As Emery (1994) notes, the mutuality or not of the decision to separate, the

perception of being left or a leaver and blame are associated with powerful feelings of attachment, anger and sadness concerning the ending of the marital relationship. As suggested by Bickerdike and Littlefield's (2000) research these feelings in turn can impact in a positive or negative way on mediation processes and determine whether separated spouses can reach agreement via mediation.

Operation of the Separation Factors

Study 2 investigated the operation of the separation factors in separated spouses who were engaged in mediation. Study 2 addressed two questions whether: (a) the three separation factors are associated; and (b) whether the biographical variables, gender, duration of marriage, duration of separation and referral type, are associated with the separation factors.

Association between the Separation Factors

The findings of Study 2, suggest that in separated spouses engaged in mediation, the three separation factors, perceived mutuality, perceived status and blame are associated. Specifically, when separated spouses perceive that the decision to separate is non-mutual, that is one spouse is perceived to have made the decision, they are also likely to perceive themselves as either leavers or lefts. Further, spouses who perceive the decision to separate as non-mutual and also perceive themselves as left, are more likely to blame someone for the decision to separate. The findings of Study 2 also suggest that when spouses perceive the decision to separate is mutual and they perceive themselves to be either leavers, or neither leavers nor lefts, they are unlikely to blame.

Amongst those who blamed someone for the decision to separate, leavers primarily blamed their partners. In contrast, the lefts and those who perceived

themselves as neither leavers nor lefts, tended to blame either their partners or a range of people.

These findings support what J.M. Haynes (February, 1996) mentioned in his personal communication. In this communication, Haynes mentioned that he believed that separated spouses who perceived themselves as left, were also likely to perceive that a non-mutual decision to separate had been made, and blame someone for this decision. The findings are also consistent with the observations of Kressel et al. (1980) who found that those who perceived themselves as left engaged in blaming. In contrast, those who perceived themselves as leavers, did not engage in blaming during the initial stages of mediation, though this sometimes changes when those who believe they were left are hostile.

The finding that spouses spontaneously identified blame as a factor that influences engagement in mediation is notable. Since the middle of the 20th century, there had been a tendency in modern family law to move away from establishing fault and blame. This is also the case in the Australian Family Law Act (Murphy, 1974). Practitioners therefore actively discourage acrimonious behaviours such as fault finding and blaming (Haynes & Charlesworth, 1996; Irving & Benjamin, 2002). However, the findings of this study indicate that spouses are still very aware of the presence of blaming when they engage in mediation. This is important, because as Kressel et al. (1980) observed, the failure by practitioners to identify the presence of blaming can result in the destruction of mediation via reciprocity of blaming between the separated spouses. Practitioners must therefore assess for blaming, particularly by spouses who fall in the *non-mutual left* group and recognise that blaming is a manifestation of anger (see Averill, 1983) and should be dealt with accordingly, that is either contained or treated.

Association between the Biographical Variables and Separation Factors.

Gender and referral type were found to be associated with the separation factors, perceived status and blame. For the association between perceived status and blame, the majority of separated spouses who perceived themselves as left were males, while the majority who perceived themselves as leavers were females. The association between gender and blame suggests that males, by a factor of 2.5 to 1, predominate in the sub group of separated spouses who perceive the decision to separate has been non-mutual, perceive themselves as left and blame someone.

Referral type was also found to be associated with strength of blame for the decision to separate. These associations suggest that separated spouses who are ordered by the court to attend mediation are likely to blame more intensely than those who attend voluntarily.

In the group of separated spouses who were most likely to blame, that is those who perceived a non-mutual decision and perceived themselves as left, regardless of how long they have been separated, court ordered spouses appear to maintain their intensity of blame. However, in comparison, those separated spouses who perceive a non-mutual decision has been made, perceive themselves as left, but attend mediation voluntarily, appear to blame during the first 6 months of separation just as intensely as similar spouses who are court ordered, but after 6 months of separation, blame less intensely. The association between gender and blame will be discussed first, followed by a discussion of the non-mutual left group and blame.

This study confirms the findings of other studies that males predominate in those who perceive themselves as lefts, and females predominate in those who perceived themselves to be the leavers (see Braver et al., 1993; Beuhler, 1987; Moloney et al., 1996; Pettit & Bloom, 1984; Zeiss et al., 1980). Research that requires further

examination is an Australian study of participants who had filed for divorce by Jordan (1988). He found that men whose marital break up was initiated by the wife desired reconciliation, saw themselves as powerless victims and tended to blame society as a source of injustice. It is likely that these men in Jordan's study would, had they participated in Study 2, have formed part of the non-mutual, left sub group. In Study 2 it is primarily men in the non-mutual, left sub group who are likely to blame someone for the decision to separate. The findings of Study 2 therefore appear to be in accordance with Jordan's findings.

Neither Jordan (1988) nor Study 2 explains why people in the non-mutual left group are more likely to attribute blame. However, Johnston and Campbell (1988) argue that a non-mutual decision to separate leaves the other spouse feeling left and abandoned with consequent feelings of humiliation and helplessness. Under these circumstances, Johnston and Campbell believe that the person who is left experiences an enormous betrayal of trust. They suggest this leads to strong feelings of anger which manifest as blaming behaviour. This is in accordance with Averill's (1983) suggestion that anger is likely to manifest as blaming behaviour. Thus this reinforces a point made earlier, namely, that from a practical perspective, practitioners who are confronted by blaming spouses, particularly by males, should take it as an indication that the relevant spouses probably fall in the *non-mutual left* subgroup and are likely to sabotage mediation unless their blaming (anger) is dealt with in the initial stages of the mediation process.

The results of Study 2 also do not explain why court ordered non-mutual lefts, should maintain a high intensity of blame. Similarly, the results do not suggest why in similar separated spouses, who attend mediation voluntarily after 6 months of separation, intensity of blame decreases. For this non-mutual, left group, as strength of

blame for the decision to separate was similar in the court ordered and voluntary group during the first 6 months or less of separation, this suggests that at least for the voluntary group it is not so much the referral type but the passage of time which ameliorates the strength of blame for the decision to separate. There appear to be many possibilities which might occur during this passage of time, for example positive influences from new relationships, family and friends (Gold, 1992), forgiveness for perceived betrayal (Fitness, 2001; Johnston & Campbell, 1988), and acceptance of the end of the marital relationship (Emery, 1994).

To summarise, the separation factors, perceived mutuality, perceived status and blame are considered by stakeholders to have a substantial effect on separated spouses' attitudes towards engaging in mediation. These findings suggest that development of assessment instruments and mediation theory should take into account these factors. Study 2 found that the separation factors are associated. Specifically, those who perceived the decision to separate as non-mutual and also perceived themselves as left were more likely to blame someone for the decision to separate than any other group, and that it was males who predominated in this group. In this group, court ordered spouses and those who attended mediation voluntarily within the first 6 months of separation are likely to report intense levels of blame. Also within this group, those who attend mediation voluntarily who have been separated more than 6 months, are less likely to blame intensely.

Attitudinal Factors

Rubin et al. (1994) suggested that mediators should assess spouses' feelings and beliefs about mediation because they can influence the mediation process. What the literature does not reveal, is which of the potentially very large number of attitudes

should be considered. The literature review identified that scholars in the field of mediation such as Weitzman & Weitzman (2002), have begun to consider Janis and Mann's (1977) decision making theory under conditions of conflict and distress as offering an important insight into separated spouses' attitudes towards mediation and decision making. Janis and Mann's theory was developed from a large body of research and theorising in the field of social psychology. They identified three key factors that they considered important for effective decision making and coping under conditions of distress and conflict. These factors are (a) hope, (b) expectation and (c) commitment. Collectively, for the purpose of this research, these factors were referred to as attitudinal factors. Until Studies 1 and 2, there was no empirical investigation of the attitudinal factors in the field of mediation. Thus, in addition to the effect of the separation factors, Study 1 also examined stakeholders' opinions concerning importance of the attitudinal factors for reaching agreement via mediation. Study 2 examined how these factors operate in separated spouses engaged in mediation. The importance and operations of the attitudinal factors will be discussed next.

Importance of the Attitudinal Factors

As with the separation factors, Study 1 invited stakeholders to respond to an open ended question requesting their opinion about the importance of the attitudinal factors for reaching agreement via mediation. Study 1 also asked stakeholders to rate the importance of the attitudinal factors for reaching agreement.

With respect to the open ended questions there was a difference in opinion between stakeholders regarding the importance of the attitudinal factors. Practitioners less frequently mentioned hope (37% detection) and expectation (38% detection) than did separated spouses whose % detection rated in this regard were 68 and 80

respectively. Both practitioners (83% detection) and separated spouses (100% detection) frequently mentioned commitment as important for reaching agreement. However, as mentioned with respect to the effects of the separation factors, these differences may have been an artefact of the different procedures used to collect data from the practitioners and separated spouses. Nevertheless, it is notable that, despite the difference in procedure, the detection rate of commitment was very high for practitioners.

When asked to rate the importance of the attitudinal factors, on a scale of 1 to 10 where 1 was anchored with "not important at all", and 10 was anchored with "very important", all stakeholders responded with ratings of sevens, eights and nines. These ratings suggest that, when asked directly, stakeholders agreed separated spouses' hope, expectation and commitment at the beginning of mediation are important for reaching agreement.

In view that stakeholders rated hope, expectation and commitment as important for reaching agreement, this finding supports Weitzman and Weitzman's (2000) opinion that Janis and Mann's (1977) theory of decision making under conditions of distress and conflict offers important insights for the field of mediation. It consequently appears as if a comprehensive examination of the application of Janis and Mann's (1977) theory to mediation is justified.

These findings of Study 1 are also consistent with the earlier findings of Kruk (1998) and Tan (1988, 1991). These researchers found that separated spouses' commitment to mediation was associated with positive mediation outcomes. The findings are also consistent with the views of scholars such as Haynes & Charlesworth (1996) and Irving and Benjamin (2002) that the attitudinal factors are important at the beginning of mediation for engaging in mediation to reach agreement.

For practitioners, the attitudinal factors can be seen as motivating variables for engaging in mediation. Though speculative, if separated spouses desire (hope), believe (expect) and are committed (prepared to stick with mediating), then the practitioners' task of guiding separated spouses through mediation is likely to be made easier. Even if during mediation serious disputes or contentious behaviours arise between separated spouses, if practitioners know that the separated spouses are hoping, expecting and committed to reaching agreement, then conceptually, it would seem reasonable practitioners could relax and allow expression of the difficulties by the spouses without too much concern that mediation will be compromised. If, on the other hand, separated spouses were not hoping, did not expect or were not committed to reaching agreement, then under these circumstances, the ability of practitioners to guide separated spouses in their negotiations seems likely to be seriously compromised. Thus, in view that Study 1 found the attitudinal factors to be considered important, assessing separated spouses' levels of hope, expectation and commitment at the beginning of mediation should assist practitioners in determining the extent of support, and the degree of containment of strong feeling required to assist and guide separated spouses through mediation.

The results of Study 2 do not suggest why stakeholders gave such prominence to the importance of commitment for reaching agreement. Commitment viewed as a contract or an obligation would appear to emphasise the principle that "no matter what happens one has a duty to stick with mediation to arrive at a resolution" (see Janis & Mann, 1977; Tan, 1988, 1991). While it is speculative, it is possible that stakeholders who participated in Study 2 may have had this principle in mind when considering the importance of commitment.

Operation of the Attitudinal Factors

Study 2 also investigated the operation of the attitudinal factors in separated spouses who were engaged in mediation. Study 2 addressed two questions whether: (a) the three attitudinal factors, hope, expectation and commitment are associated; and (b) whether the biographical variables and attitudinal factors are associated.

Association between the Attitudinal Factors

The findings of Study 2 suggest that in respect of separated spouses engaged in mediation, hope and commitment are associated. The findings also suggest that expectation of reaching agreement is not associated with either hope or commitment. Inspection of the data revealed that the majority of separated spouses attending mediation do so with high levels of hope (68%) and commitment (75%) of reaching agreement. However, many (64%) do not expect to reach agreement.

The finding regarding hope and commitment supports Janis and Mann's (1977) theoretical model that when decision making is required in conditions of distress and conflict, hope and commitment are associated. However, the findings do not support linking hope with expectation and expectation with commitment. The findings suggest that expectation operates independently of hope and commitment. In other words, separated spouses can engage in mediation with high levels of hope and commitment, yet not expect to reach agreement.

For practitioners, the lack of association between expectation and the other attitudinal factors, hope and commitment may not be surprising. Separated spouses do not engage in mediation devoid of history. Prior to engaging in mediation they are likely to have made many attempts to negotiate the resolution of their differences (Irving & Benjamin, 2002). Attendance at mediation signals, amongst other things,

another failure by the spouses to resolve differences. It seems reasonable to assume that past failure, at least in the mind of separated spouses, would objectively reduce expectation of reaching agreement. However, in view of the high levels of hope and commitment found in participants of Study 2, it would seem that low expectation of reaching agreement does not influence the subjective desire (hope), nor willingness to give mediation a chance (commitment).

Association between the Biographical Variables and Attitudinal Factors

Referral type and duration of separation were found in Study 2 to be associated with commitment and expectation of reaching agreement. Separated spouses who attended mediation voluntarily were more committed than those who were mandated to attend mediation. Approximately 72% of spouses who attended mediation voluntarily rated their commitment as 10 on a scale 1 to 10, where 10 was anchored with "committed a lot". In contrast, 51% of separated spouses ordered by the court to attend mediation rated their commitment as 10. This finding is not surprising as court mandated spouses probably have a much longer history of conflict and/or are confronted with more difficult problems than those spouses who volunteer (Brown & Ibbs, 1997).

Not surprisingly either, separated spouses who attended mediation voluntarily had much greater expectations that an agreement could be reached. Only 17% of separated spouses who attended mediation voluntarily responded that their expectation of achieving agreement was 3 or less, while nearly 50% of separated spouses ordered by the court to attend mediation rated their level of expectation of reaching agreement as 3 or less. The Likert rating scale for expectation was numbered 1 to 10. One was anchored with "not realistic at all" and 10 with "highly realistic".

The association between referral type and expectation was complicated by the effects of duration of separation. Firstly, Study 2 found that spouses who had been separated less than 6 months were more expectant of reaching agreement via mediation than those separated more than 6 months. Secondly, Study 2 found that spouses who had been ordered by the court to attend mediation were the group who least expected to reach agreement. In comparison, those who were separated 6 months or less and who attended mediation voluntarily were the group who most expected to reach agreement. These two findings suggest: (a) that as far as level of expectation is concerned, the best time for mediation to occur is within 6 months of the decision to separate because this is the time when expectation is at its highest; (b) if separated spouses are ordered by the court to attend mediation and they have been separated more than 6 months, then these spouses are likely to be the sub group who are less expectant of reaching agreement. This suggest that spouses should be encouraged to attend mediation, or ordered to do so, within 6 months after separating.

The finding that level of expectation was at a peak in the first 6 months after the decision to separate was surprising, given the opinion of Irving and Benjamin (2002) and research of Wallerstein and Kelly (1980). Irving and Benjamin were of the opinion that pessimism and cautiousness were of greatest intensity close to the time of separation because separated spouses have not had time to deal with the emotional issues associated with separation. They do not refer to any specific empirical research to support this opinion.

Wallerstein and Kelly's research was a longitudinal survey study utilising questionnaires and interviews of 60 families in which the parents had decided to separate/divorce. From their data, Wallerstein and Kelly noted that bitter, passionate and agitated interaction characterised the separation and its immediate aftermath. Initial

inspection of Wallerstein and Kelly's data suggests that, despite bitter and agitated interaction, many separated spouses were able to reach agreements concerning care arrangements for their children. However, there were in Wallerstein and Kelly's sample, a group identified via poor adjustment by their children in whom the bitterness continued past 18 months and was evident at 5 years follow up. It appears that the intensity of conflict in this group was such that they could expect to agree on little. Therefore, it would appear, on closer inspection, that the findings concerning level of expectation being at its highest in the first 6 months after the decision to separate is in fact consistent with Wallerstein and Kelly's results. That is, the longer the period of time from the decision to separate, then the less likely it is that former spouses will expect to reach agreement, particularly if agreement was not achieved soon after separation. Following Wallerstein & Kelly's (1980) findings, from a speculative perspective, the likely lower level of expectation of reaching agreement in court ordered spouses after 6 months of separation findings of Study 2 may reflect the influence of a chronic long standing argumentative stance.

The differences between spouses court ordered to attend mediation and those who attend voluntarily are consistent with the empirical findings of Brown and Ibbs (1997). These researchers found that court ordered spouses presented to mediation with significantly more serious problems than spouses who attended voluntarily.

It should be pointed out that this research does not indicate that court mandated spouses are eventually worse off than spouses who attended mediation voluntarily or who did not attend mediation at all. It would be useful to determine whether there are in fact differences in the outcome for these three groups. The problem with such research, other than the ethical and practical, is that it is difficult to identify an appropriate outcome measure. The most obvious possibility is whether spouses reached

an agreement. However, this is a very short term outcome because there is no reason to believe that reaching an agreement is a guarantee that it will be adhered to. There is also no guarantee of cooperation later or enhancement of psychological functioning of separated spouses and their children, if they have children.

For practitioners, the findings of Study 2 suggest they need to know, in addition to the referral type, the duration of separation. For both court ordered spouses and those who attend voluntarily, the closer to the time of separation they can engage in mediation, the higher the expectation of reaching agreement. For those who have been separated longer than 6 months, particularly court ordered spouses, practitioners may need to assess whether it is necessary to schedule additional pre-mediation preparatory mediation sessions which focus on raising in separated spouses the level of expectation of reaching agreement.

The biographical variable, duration of marriage, was not found to be associated with any separation or attitudinal factor. Therefore, even though Moloney et al. (1996) found that longer married couples were over represented in their sample of separated spouses attending mediation, Study 2 gives no indication of how duration of marriage operates.

To summarise, the three attitudinal factors hope, expectation and commitment were found to be important at the beginning of mediation for separated spouses' attitudes towards reaching agreement. This suggests that these factors should be considered in the development of assessment instruments and theory. Hope and commitment were found to be associated, while expectation was found to be associated with neither hope nor commitment. For the attitudinal factors, referral type was found to be associated with commitment and expectation of reaching agreement, while duration of separation was also found to influence expectation of reaching agreement.

Specifically, separated spouses who were ordered by the court to attend mediation were found to be committed to reaching agreement and less expecting to reach agreement than those who attended mediation voluntarily. Further, the longer the duration of separation, the less expectation there is that agreement will be achieved. This was particularly so for court ordered spouses who had been separated more than 6 months.

Limitations

The conclusions drawn need to be qualified by some aspects of the design of this investigation. There are five qualifications concerning (a) the self selection process of the data collection, (b) the possibility that data was collected from both spouses of a marriage, (c) there was only one question per factor, (d) effect sizes, and (e) risk of type one errors. These limitations will be discussed next.

Self Selection Process of the Data Collection

This problem has already been mentioned when discussing the statistical analysis. For Study 2, participants were not randomly selected or allocated to the various conditions which were investigated. Instead, participants were allowed to participate on a self selection basis. Related to this problem is the fact that only 20% of the pool of total referrals to the Family Court Counselling Service and CentreCare during the data collection period of Study 2 was sampled. Although unknown, the sample size and self selection may have resulted in a failure to acquire a representative sample of participants.

Small Sample Size of Practitioners in Study 1

While the number of practitioners who participated in Study 1 was a reasonable representative sample, that is 50% of the total number of practitioners employed in participating Family Court registries, the same cannot be said for the separated spouses. In comparison to how many spouses were referred to mediation during data collection phase of Study 2, that was 1419, the sample size of 25 separated spouses who participated in Study 1 was small. In view of this small sample size and the lack of clarity in separated spouses' rankings of the aims of mediation, cautions must be exercised in generalising the findings of Study 1.

Collection of Data from Both Spouses of a Marriage

It is unknown how many separated spouses from the same relationship participated in Study 2. It is also unknown what effects data from both spouses from a marriage had on the statistical measures used in Study 2.

At the time Study 2 was designed, it was not possible to collect information to determine if spouses from the same marriage participated. This was because of section 19 of the Act requiring that matters before the Family Court are confidential. If spouses could be identified from the same marriage, then this was considered to weaken the guarantee that information could be kept confidential. For example, even though the information collected for Study 2 would not have been allowed to be presented in any court (Section 18), it was still possible that the information could have been subject to subpoena. In this situation, if the methodology of Study 2 allowed for spouses' responses to be matched, then it would have been possible to identify spouses.

One Question per Factor

As already mentioned, it was the requirement of the Family Court that the questionnaire be parsimonious. This was why the questionnaire was restricted to one question for each factor. The result of this may have been that the questionnaire did not allow for a fine enough discrimination to occur on the separation and attitudinal factors. This possible failure of the survey instrument to make fine discriminations may have resulted in the skewed data and/or reduced effect sizes.

Effect Sizes

The effect sizes for this investigation ranged from small for referral type by commitment to medium/large for referral type by expectation and for hope by commitment. Other effect sizes, for example for the associations between the separation factors were small to medium. Thus, while the associations were significant, that is the phenomena exist, the degree to which these associations exist range from weak/small to medium/moderate. For clinical purposes, practitioners want to know that associations not only exist, but that these associations are strong, or that significant differences exist between groups and that these differences are large (Argyrous, 1996). A challenge for future research is to develop more refined assessment instruments than used in this research to investigate if effect sizes found in this investigation can be increased. If effect sizes cannot be increased, then for some of these weak/small associations, for example referral type by commitment, practitioners may not necessarily be concerned. However, on the other hand, practitioners need be aware of the weak/low association found between expectation and hope, and between expectation and commitment. As already noted, this weak/low association suggests practitioners cannot assume that if spouses are hoping to reach agreement and/or are committed to

reaching agreement, they also expect to reach agreement. Practitioners and researchers do need to take the association between referral type by expectation seriously, because, based on Cohen's (1988) guidelines, this association was found to be medium (.43) relative strength. Although finding were post hoc, practitioners may need to take into consideration the large effect size (.50) for strength of blame for the decision to separate between court ordered spouses and voluntary spouses who have been separated longer than 6 months in the group who perceive a non-mutual decision to separate and perceive themselves as left. Also practitioners should be aware of the medium effect size in this same group for the strength of blame for the decision to separate between spouses who attended mediation voluntary and who have been separated for 6 months or less and those who have been separated more than 6 months.

Risk of Type One Errors

In view of the deliberate decision to set alpha at a probability level of 95% for all measures, it is likely that future research will find some of the associations identified in Study 2 spurious. As mentioned in the methodology section of Study 2, the reason for this choice was because Study 2 was exploratory. It was also one of the first studies to empirically investigate specific separation and attitudinal factors.

Conclusion

The findings of this exploratory research can be summarised in three general groups. The first pertains to the aims of mediation. Both practitioners and separated spouses believe that the aims of mediation should be broader than merely reaching an agreement and should include other aims such as the learning of techniques by spouses that will help them resolve future disagreements and assisting them to better understand

each other. These two aims were regarded as more important than reaching agreement by the stakeholders. These findings are in accordance with contemporary thinking in the mediation field (Irving & Benjamin, 2002). This raises the question whether the Family Law Act 1975 should be amended to broaden the aim of mediation. The fact that spouses and practitioners believe other aims are important is clearly in itself not enough reason for the legislator to amend the Act, but it does suggest that further research should examine the need to broaden the aims of mediation. It is submitted that such research should ideally consider three issues. First, does the knowledge acquired by spouses in an attempt to learn techniques to solve future disputes and understand each other improve their probabilities of reaching an agreement. Second, how effective is mediation in teaching spouses techniques to resolve future disagreements and better understand each other. Finally, from a therapeutic jurisprudence perspective, do such techniques and knowledge in fact improve the later psychological functioning of the ex spouses and their children, if any.

The second group of findings is in respect of the separation factors, perceived mutuality, perceived status and blame. Both spouses and practitioners rated these factors as having a big effect on attitude to engage in mediation. This does not mean that it is actually the case and a further empirical study, preferably a prospective study, is necessary to establish whether separation factors do in fact influence the attitude and manner in which spouses engage in mediation, and ultimately influence the outcome of mediation. Though, as was mentioned in the discussion, such a study will be very complex because there are many possible factors that can influence engagement in mediation. Judging by the responses of separated spouses engaged in mediation, the three separation factors, perceived mutuality, perceived status and blame for the decision to separate are associated. Specifically, when separated spouses perceive the

decision to separate as non-mutual, that is one spouse is perceived to have made the decision to separate, they are also likely to perceive themselves as either leavers or lefts. Spouses falling in this non-mutual and left group are more likely to blame someone for the decision to separate. In this study the majority of separated spouses who perceived themselves as left were males, while the majority who perceived themselves as leavers were females. Not surprisingly, separated spouses who are ordered by the court to attend mediation are likely to blame someone for the decision to separate more intensely than those who attend voluntarily. Thus it seems that perception of mutuality, perceived status, gender and referral type affect blame amongst separated spouses. The third major group of findings deals with the role of hope, expectation and commitment in the achievement of an agreement. While both practitioners and separated spouses rated hope, expectation and commitment at the beginning of mediation as very important for reaching an agreement, it is clear that commitment is considered by far to be the most important of these factors. These findings provide some support for the opinion of Weitzman and Weitzman's (2000) that Janis and Mann's (1977) theory of decision making under conditions of distress and conflict may be useful to understand the decision making of spouses involved in mediation. For separated spouses busy with mediation, the expectation of reaching agreement, is not associated with either hope or commitment. Expectation and blame were associated with referral status. Separated spouses who attended mediation voluntarily were much more committed than those who were mandated to attend mediation, had much greater expectations that an agreement would be reached, and were likely to blame with less intensity. Separated spouses who are ordered by the court to attend mediation and who have been separated more than 6 months, are the least likely to expect reaching agreement. The findings suggest that in all cases the best time for mediation to occur is

within 6 months of the decision to separate, because this is the time when expectation is at its highest. However, intensity of blaming, and therefore possibly anger, is likely to be most intense during this 6 months in the separated spouses who perceive a non-mutual decision, perceive they have been left and blame someone for the decision to separate.

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Appendix A

Practitioners' Questionnaire

- 1. What is your main background training? (eg Social work, psychology, counselling, clinical psychology, law etc.)**

For questions 2 and 3 I want to obtain your spontaneous thoughts. Please do not read ahead and please do not rewrite your answers after completing the rest of the questionnaire. Thank you.

- 2. At the beginning of mediation, do you think there are any specific attitudes, feelings or beliefs held by a spouse which may influence the outcome of mediation? (please list any you consider important).**

3. With consideration to the following, what do you believe to be the most to least important outcome of mediation. (Please rank these 4 goals from 1 to 4, where 1 = most; 4 = least important).

_____ The achievement of an agreement.

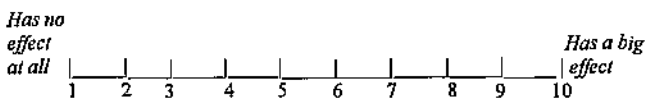
_____ satisfaction with what happened during the process.

_____ That spouses better understand each other.

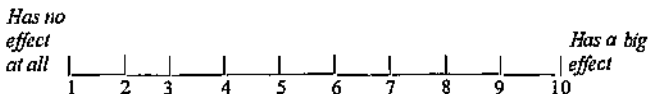
_____ The spouses have learned techniques to be able to resolve future disagreements.

4. For this question "mutuality" refers to whether a spouse believes one or both made the actual decision to separate.

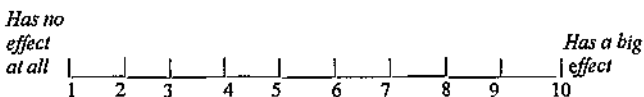
How much effect do you think the mutuality of the actual decision to separate has on attitudes towards engaging in mediation?



5. How much effect do you think a spouse either feeling left by or having left the partner has on attitudes towards engaging in mediation?

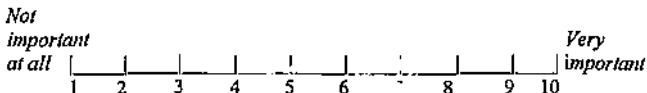


6. How much effect do you think blaming the (ex)partner for the separation has on attitudes towards engaging in mediation?

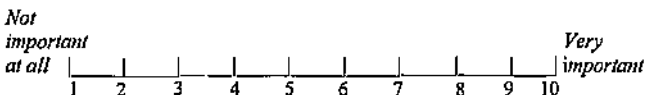


The last three questions are concerned with attitudes at the beginning of mediation.

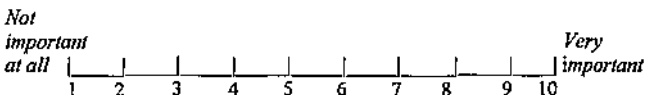
7. How important do you consider it is that a spouse is hoping it is possible agreement might be reached?



8. How important do you consider it is that a spouse thinks it is realistic to expect agreement will be achieved?



9. How important do you consider it is that a spouse is committed to reaching agreement?



Thank you for your time to complete this questionnaire.

Appendix B

Separated Spouses' Questionnaire

Part I

Q 1. Have you ever answered any questions which might be concerned with this research?

Yes, I have ☐

No, I have not ☐

Q 2. Male ☐

Female ☐

Q 3. Could you please tell me where you did your mediation?

Use probes and prompts such as - Could you tell me more..... I'm not clear what you are saying..... Could you elaborate..... if necessary repeat/ rephrase question.

Q 4. If you can cast your mind to how people separate, do you think there is anything about separating which could later affect feelings and attitudes towards mediation? What might these things be?

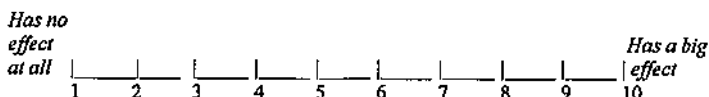
Part 2

I would now like to ask you about some specific things about separation and mediation.

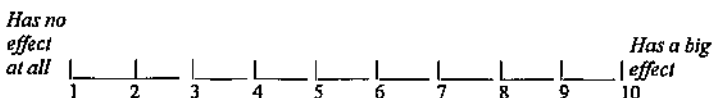
When answering, could you please use a scale 1 to 10 where 1 means "No effect at all" and 10, "Has a big effect". Do you understand? (If no, repeat).

Q 5. For this question "mutuality" refers to whether a spouse believes one or both made the actual decision to separate. Do you understand? (If no, repeat and explain if necessary).

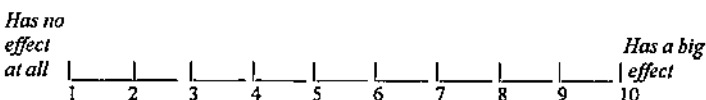
How much effect do you think the mutuality of the actual decision to separate has on attitudes towards engaging in mediation?



Q 6. How much effect do you think a spouse either feeling left by or having left the partner has on attitudes towards engaging in mediation?



Q 7. How much effect do you think blaming the (ex)partner for the separation has on attitudes towards engaging in mediation?



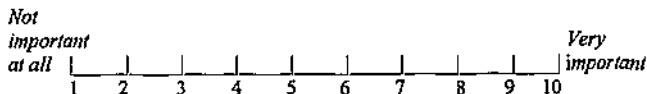
Part 3

Q 8. Could you please bring your mind forward to the beginning of mediation. From your experience, I'm interested to know how you think people should start their mediation so that eventually a positive outcome is achieved.

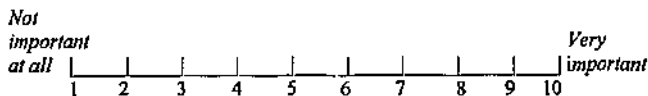
Just staying with the beginning of mediation, I would like your thoughts on how important you think some specific attitudes are at the beginning of mediation. When answering could you again please use a scale 1 to 10, but this time 1 means "Not important at all" and 10, "very important". Do you understand? (If no, repeat and rephrase if necessary).

Part 4

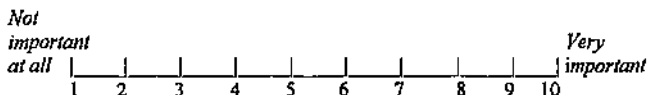
Q 9. How important do you consider it is that a spouse at the beginning of mediation is hoping there is a possibility agreement will be achieved?



Q 10. How important do you consider it is at the beginning of mediation that a spouse thinks it is realistic to expect agreement will be achieved?



Q 11. How important at the beginning of mediation do you consider it is that a spouse is committed to reaching an agreement?



Part 5

Q 12. I am going to read to you a list of 4 possible outcomes of mediation. With respect to your experience could you please rank them in order of what you believe to be the most to the least important (1 = most; 4 = least important). Do not worry if you forget any of the list, I will be happy to repeat it as many times as you need. Alternatively, it may be easier to write them down.

____ The achievement of an agreement.

____ Satisfaction with what happened during the process.

____ That spouses better understand each other.

____ The spouses have learned techniques to be able to resolve future disagreements.

Q 13. How many times did you go to mediation?

Q 14. In your view did you achieve agreement?

Yes ☐

No ☐

Q 15. Did you attend mediation because the court ordered you to?

Yes ☐

No ☐

Q 16. How long do you consider you had been separated for at the time of the first mediation session?

Q 17. How many years did you and your (ex)partner live together?

Q 18. Are you now divorced?

Yes ☐

No ☐

Thank you for taking time to answer these questions. Do you have any questions?

Appendix C
Letter of Invitation to Practitioners

DARRYL MENAGLIO



Dear Mediator/Conciliation Counsellor,

*An invitation to complete the attached questionnaire
for a research project examining client attitudes
at the beginning of mediation.*

Thank you for your time to read this invitation. I am a Doctoral student in forensic psychology at Edith Cowan University. I'm undertaking research into clients' attitudes at the time they begin mediation. I would like to know what attitudes you think are important for clients to have at the beginning of mediation.

To help with the research, could you please complete the attached questionnaire. The questionnaire consists of 11 questions and should take no more than 5 minutes to complete.

If you decide to complete the questionnaire, please place the answered questionnaire in the locked white box at reception marked "Research". I hope to collect all responses by Friday 30th June 2000.

I do not need to know any details about you, except what your main background training was before becoming a mediator.

The research has the approval of the Ethics committees of Edith Cowan University and the Family Court of Western Australia.

Dr Alfred Allan is the person supervising the research. If you want more information or wish to discuss the research, please feel free to contact either Dr Allan on (08) 9400 5536 or myself on ([REDACTED])

If you decide to answer the questionnaire, the information you give will be pooled and the results will be made available to mediators and possibly published in professional journals. I'm hopeful that the research will be informative to mediators.

I appreciate your time.

Thank you.

Yours sincerely

Darryl Menaglio

Appendix D

Sample Advertisement

Variations in the wording of this advertisement were placed in news letters of organisations such as Parents without Partners and local community newspapers.

Separated or Divorced and been to mediation?

I am a clinical psychologist seeking people to participate in a Doctoral research project to investigate these processes.

This study has been approved by the research committee of Edith Cowan University and the Family Court of WA and is supported by CentreCare mediation services.

Confidentiality is guaranteed.

For more information, please call
Darryl Menaglio on [REDACTED]

Appendix E

Ethics Statement

To help me study what you tell me, I will be recording what you say. Is this OK? (Give further explanations about beeps to indicate recording).

Thank you for your time to complete this questionnaire. I know your time is valuable so I will be brief. If at any time you don't understand anything I have said, please don't hesitate to ask me to explain.

This research is part of Doctoral studies which I'm completing at Edith Cowan University. Dr Alfred Allan is supervising this research and if you wish to discuss any matter which I cannot help you with, he can be contacted at the Joondalup Campus on 9400 5536. Alternatively, you may have questions after you complete this survey. If you want to contact me, my telephone number is [REDACTED]

From your experience of mediation I'm interested to know what you think about two parts of the process. The first part concerns actual separation and whether there is anything about the way separation occurs which might later affect how people approach mediation. The second concerns how you think people should approach mediation in order to get a positive outcome.

What I will be doing is asking some general questions and some more specific questions. However, at anytime please feel free to make any comments you like.

I don't need to know any personal details, such as your last name or name of your partner.

Do you have any questions?

Appendix F

The Separation Questionnaire: A Study of Feelings and Thoughts of People Attending
Mediation and Working Through Separation.

1. Are you Male or Female?

Male

☐

Female

☐**2. How many years did you and your (ex)partner live together?****3. Are you attending mediation because the court ordered you to? (note this question was not included in the questionnaire used at CentreCare, because all clients attend CentreCare voluntarily).**

Yes

☐

No

☐

For questions 4 to 8 could you please answer with the current separation in mind.

4. How long do you consider you have been separated?

5. How many times have you previously attended mediation?

6. Do you believe the actual decision to separate was made by one of you or both?

One of us

☐

Both

☐

7. Which one of the following best describes your feelings? (Please tick one).

I feel left by my (ex)partner

☐

I feel I am leaving my (ex)partner

☐

I feel neither a left nor a leaver

☐

8. Do you blame anyone for the separation?

Yes

☐

No

☐

If no, please go to question 9 which is over the page.

If yes, please answer the following two questions, then go to question 9.

If you blame someone who is this person? (Please tick one)

Yourself

☐

(ex)Partner

☐

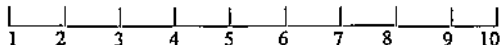
Other

☐

And

How strong is this blame? (Please circle one number which best describes your strength of blame).

*Blame
hardly
at all*

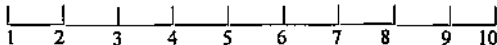


*Blame
entirely*

The last three questions refer to your/mediation. Please answer these questions with this in mind.

9. How much are you hoping it is possible agreement might be reached? (Please circle one number).

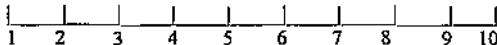
*Not
hoping
at all*



*Hoping
a lot*

10. How realistic do you think it is that agreement will be achieved? (Please circle one number).

*Not
realistic
at all*



*Highly
realistic*

11. How committed are you to reaching agreement? (Please circle one number).

Committed

very

little

1 2 3 4 5 6 7 8 9 10

Committed

a lot

Thank you for completing this questionnaire.

Appendix G

Invitation to Participate in a Study of Thoughts, Feelings and Reactions Concerning Separation and Achieving Agreement

What this invitation is about.

Thank you for taking time to read this invitation. I know matters which have brought you here today are probably the most important thing to you at the moment, so your time is much appreciated.

My name is Darryl Menaglio. I am a Clinical Psychologist and have a degree in Social Work. I'm undertaking this research as part of my Doctoral studies at Edith Cowan University. Dr Alfred Allan is my supervisor. Though the Family Court (WA)/CentreCare is helping me, I am not employed by it.

- **I am interested** to know the thoughts and feelings people have as they work through their separation with the help of mediation.
- **To get your thoughts, reactions and feelings** I have prepared a short questionnaire, *The Separation Questionnaire*.
- **The maximum time** it should take to complete the questionnaire is 5 minutes.
- **Your answers** are confidential.

- If you choose not to participate, then this will have no effect on your mediation

Confidentiality.

I do not need to know your name. Your answers will be confidential. To maintain this confidentiality, please place your completed questionnaire in the sealed *white box* marked "*Research*" at the receptionist's desk.

How the information will be used.

Though your answers will not be given to anyone, they will become part of a larger pool of information. The results from this larger pool of information will be made available to counsellors, mediators and psychologists and possibly be published in professional journals.

The questionnaire and research is not connected with the Family Court (WA)/CentreCare.

The research is supported by Edith Cowan University. Although the family Court (WA)/CentreCare has kindly given permission to place the questionnaire in the waiting area, it is not connected with the Family Court/CentreCare in any way. Therefore, your decision to complete or not to complete the questionnaire will in no way influence your Court Counsellor/Mediator or the Family Court (WA)/CentreCare in any manner.

Ethics Approval.

The research has the approval of the Ethics Committee of Edith Cowan University.

If you choose to participate.

Please complete the questionnaire, "*Separation Questionnaire*". When you have completed the questionnaire, please place it in the sealed *white box* marked "*Research*" at reception.

To know more about my research.

Should you wish to discuss my research, receive a copy of the results, or if you find yourself in any way distressed by the questions, please feel free to contact me on [REDACTED] or Dr Alfred Allan on 9400 5536.

Thank you.

Darryl Menaglio

B.A.(Hons), B.Soc.Wk., MPsych.

Appendix H

Frequency Crosstabulations for Perceived Status by Who was Blamed

Who was blamed	Perceived status			Total
	Leaver	Left	Neither leaver nor left	
Partner	31 (67%)	37 (49%)	28 (54%)	96 (55%)
Other	1 (2%)	10 (13%)	7 (14%)	18 (10%)
Partner and self	5 (11%)	10 (13%)	8 (16%)	23 (13%)
Partner and other	0 (0%)	12 (16%)	4 (8%)	16 (10%)
Everyone	1 (2%)	2 (3%)	3 (6%)	6 (3%)
Self	8 (17%)	5 (7%)	2 (4%)	15 (9%)
Total	46	76	52	174

Note. Percentages shown are column percentages

Appendix I

Frequency Crosstabulations for Gender by the Separation Factors

Separation factor	Gender ^a					
	Male		Female		Total ^b	
	<i>n</i>	%	<i>n</i>	%	<i>n</i>	%
Perceived mutuality						
Mutual	42	53	37	47	79	25
Non-mutual	113	48	123	52	236	75
Perceived status						
Leaver	23	23	77	77	100	32
Left	70	69	32	31	102	32
Neither	62	55	51	45	113	36
Blame						
Yes	93	53	81	46	174	55
No	62	44	79	56	141	45

^a Row percentage frequencies are presented.

^b Percentage frequencies are based on population total ($N = 315$)

Appendix J

Frequency Crosstabulations for Duration of Separation by the Separation Factors

Separation factor	Duration of separation ^a					
	<= 6 months		> 6 months		Total ^b	
	<i>n</i>	%	<i>n</i>	%	<i>n</i>	%
Perceived mutuality						
Mutual	17	24	55	76	72	24
Non-mutual	62	27	165	73	227	76
Perceived status						
Leaver	29	31	65	69	94	31
Left	28	28	72	72	100	33
Neither	22	21	83	79	105	35
Blame						
Yes	43	26	123	74	166	56
No	36	27	97	73	133	45

^a Row percentage frequencies are presented.

^b Percentage frequencies are based on population total ($N = 299$). The reason why this total does not equal 315 is because 16 participants did not indicate how long they had been separated.

Appendix K

Frequency Crosstabulations for Duration of Marriage by the Separation Factors

Separation factor	Duration of marriage ^a					
	<= 5 years		> 5 years		Total ^b	
	<i>n</i>	%	<i>n</i>	%	<i>n</i>	%
Perceived mutuality						
Mutual	25	32	52	67	77	25
Non-mutual	71	31	159	69	230	75
Perceived status						
Leaver	29	29	70	71	99	32
Left	30	30	70	70	100	33
Neither	37	34	71	66	108	35
Blame						
Yes	56	33	115	67	171	56
No	40	29	96	71	136	44

^a Row percentage frequencies are presented.

^b Percentage frequencies are based on population total ($N = 307$). The reason why this total does not equal 315 is because 8 participants did not indicate how long they had been married.

Appendix L
Frequency Crosstabulations for Referral Type by the Separation Factors

Separation factor	Referral type ^a					
	Voluntary		Court ordered		Total ^b	
	<i>n</i>	%	<i>n</i>	%	<i>n</i>	%
Perceived mutuality						
Mutual	33	42	46	58	79	25
Non-mutual	102	43	134	57	236	75
Perceived status						
Leaver	46	46	54	54	100	32
Left	43	42	59	58	102	32
Neither	46	40	67	59	114	36
Blame						
Yes	69	40	105	60	174	55
No	66	47	75	53	141	45

^a Row percentage frequencies are presented.

^b Percentage frequencies are based on population total ($N = 315$).

Appendix M

Means and Standard Deviations for the Attitudinal Factors by the Biographical Variables

Biographical variables	Attitudinal factors					
	Hope		Expectation		Commitment	
	<i>M</i>	<i>SD</i>	<i>M</i>	<i>SD</i>	<i>M</i>	<i>SD</i>
Gender						
Male (<i>n</i> = 155)						
Female (<i>n</i> = 160)	8.3	2.7	4.9	2.9	8.8	2.1
	8.3	2.6	4.8	2.8	8.8	2.0
Duration of marriage ^a						
<= 5 years (<i>n</i> = 96)						
> 5 years (<i>n</i> = 211)	8.5	2.4	4.4	2.9	8.8	2.1
	8.2	2.8	5.1	2.9	8.8	2.1
Duration of separation ^a						
<= 6 months (<i>n</i> = 220)						
> 6 months (<i>n</i> = 79)	8.4	2.4	5.7	2.9	9.0	1.7
	8.3	2.8	4.6	2.8	8.8	2.1
Referral type						
Court ordered (<i>n</i> = 180)						
Voluntary (<i>n</i> = 135)	8.0	2.9	3.9	2.6	8.4	2.4
	8.7	2.3	6.2	2.7	9.4	1.3

^a *n*'s do not sum to 315, because some participants did not indicated how long they had been married or how long they had been separated.

Appendix N

Means and Standard Deviations for Strength of Blame by the Biographical Variables for the Sub Group of Separated Spouses who Blamed Someone

Biographical variables	Strength of blame	
	<i>M</i>	<i>SD</i>
Gender		
Male (<i>n</i> = 93)	7.2	2.2
Female (<i>n</i> = 81)	7.4	2.1
Duration of marriage^a		
<= 5 years (<i>n</i> = 56)	7.6	2.0
> 5 years (<i>n</i> = 115)	7.1	2.2
Duration of separation^a		
<= 6 months (<i>n</i> = 43)	7.3	2.0
> 6 months (<i>n</i> = 123)	7.3	2.2
Referral type		
Court ordered (<i>n</i> = 105)	7.6	2.3
Voluntary (<i>n</i> = 69)	6.8	1.8

^a *n*'s do not sum to 174, because some participants did not indicated how long they had been married or how long they had been separated.