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### Community mediation of parenting disputes between estranged parents

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**Community Mediation of Parenting Disputes  
Between Estranged Parents**

Madhawa P. Palihapitiya  
Kaila Obstfeld Eisenkraft

**ABSTRACT:** *Community mediation, characterized by free or low cost mediation services delivered primarily by volunteer mediators, aims to provide effective dispute resolution services to a broad spectrum of the population, particularly to underserved and low-income populations. The present study seeks to determine whether community mediation fulfills this goal with respect to divorce/separation-related parenting disputes while concomitantly testing the legitimacy of concerns about the quality of mediation services offered according to a community mediation model. Thus, the effectiveness of community mediation in resolving these disputes is measured through indicators reported by mediation participants, such as the population served, mediation results and party reactions to mediation, which encompass not only agreement and process satisfaction rates but also party motivation to use mediation, development of parenting plans, amount of court involvement, and relationship effects involving between-parent and parent-child interactions. The connections between relevant outcomes and the variables of conflict intensity and custodial status are also scrutinized.*

**KEY WORDS:** *community mediation, parenting disputes, divorce mediation, volunteer mediator, free mediation*

Over the past few decades, growing numbers of people have turned to mediation to deal with disputes arising from divorce or separation, particularly disagreements about parenting their children (Emery, Sbarra, & Grover, 2005). Mediation provides these disputants with a voluntary conflict resolution process in which an impartial third party helps them discuss their issues and explore options for a possible agreement in a collaborative manner that helps preserve relationships (Wilkinson, 2001; Shaw, 2010). In addition, mediation provides a forum for estranged couples to address property distribution, spousal support, and child care issues such as custody, visitation, child support, and so on (Moses, 2009). During this time of mediation's rising popularity, evidence of mediation's effectiveness as a dispute resolution strategy in the divorce or separation context has likewise grown (Ballard, Holtzworth-Munroe, Applegate, & D'Onofrio, 2011, January), demonstrated by a 50% to 80% range of settlement rates, a high degree of process satisfaction, and, compared to litigation, less relationship damage

and improved non-custodial parenting (Pearson & Thoennes, 1984, Winter; Pearson & Thoennes, 1988; Caprez & Armstrong, 2001; Emery et al., 2005; Ballard et al., 2011, January). Despite these gains, divorce/separation mediation remains underutilized (McGillis, 1997; Massachusetts Trial Court Working Group, 2006, September). Public awareness of mediation continues to be low, and cost has become an issue, placing mediation outside the reach of low-income individuals as private and for-profit practitioners have come to dominate the delivery of mediation services (Ray, 1997, Fall; Baron, 2004).

Community mediation has been proposed as a viable means of broadening access to mediation services, particularly for low income and underserved populations (Hardin, 2004). Mediation turns into community mediation when trained community volunteers are used to deliver mediation services that are offered for free or at low cost under the auspices of a non-profit organization or public agency which also engages in education and outreach (Ray, 1997, Fall; Hardin, 2004). This combination of affordability and community ties, generated in part by community mediation's free or low cost services and the use of volunteer mediators, offers the promise of increased participation on the part of low-income and diverse populations as well as mediation outcomes that encourage shared parenting despite separation (Ray, 1997, Fall; Moses, 2009). However, these free or low cost services and the use of volunteer mediators, which are at the heart of community mediation and form the basis for its claim to broaden access to conflict resolution, also generate concern about the quality of services delivered under a community mediation model (Ray, 1997, Fall; McGillis, 1997).

Consumers, unfamiliar with a prospective purchase, tend to rely on price as a gauge of quality (Cialdini, 1993). In view of the widespread unfamiliarity with community mediation, when individuals provide their services for free as volunteer mediators do and mediation services are provided for free or inexpensively by community mediation programs, questions arise about the quality of the services offered (Ray, 1997, Fall; McGillis, 1997; Hedeem & Coy, 2000). The effectiveness of community mediation has been shown, and doubts assuaged, for disputes involving small claims, parent-child conflict, citizen's police complaints, workmen's compensation, and permanency and juvenile issues, when measured by settlement rates and other mediation outcomes, by process and outcome satisfaction, by impact on relationships, and by comparisons to litigation (Merry & Rocheleau, 1985; Wissler, 1995; Maiman, 1997, May; Wilkinson, 2001; Mandell & Marshall, 2002; Anderson & Whalen, 2004; Charkoudian, 2005; Police Assessment Resource Center & Vera Institute of Justice, 2006; Gazley, Chang, & Bingham, 2006; Charkoudian, 2010).<sup>1</sup>

The effectiveness of using volunteer mediators to resolve divorce/separation-related disputes has also come under investigation<sup>2</sup> with respect to the identification of factors that promote divorce agreements through mediation, the integrity of agreements

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<sup>1</sup> Some studies have also found that satisfaction with the community mediation process is predictive of long-term success as indicated by improved party relations and agreement compliance (McGillicuddy, Pruitt, Welton, Zubek, & Peirce, 1991). Given the pervasiveness of high levels of process satisfaction with mediation, it is unclear whether this association is meaningful.

<sup>2</sup> Many of these cited studies examine programs that involve volunteer mediators but may not be explicitly identified with community mediation.

that reach trial, the role of domestic violence, gender differences in mediator communication, and the effects of linguistic framing by mediators (Wagner, 1990; Chandler, 1990; Wall & Dewhurst, 1991; Drake & Donohue, 1996; Ballard et al., 2011, January). In a study comparing mediation to litigation of divorces, Bautz and Hill (1989) found that divorced couples who had engaged in mediation conducted by volunteer mediators were more likely than couples whose divorce went through traditional channels to be satisfied with their divorce agreement, to have agreed to joint legal custody, to consider the divorce process somewhat fair, to be more reliable about child support payments, and to describe inter-parent relations as cordial.

The current study seeks to add to this body of research by testing the legitimacy of concerns about community mediation, which offers free or low cost mediation services provided by volunteer mediators, through an examination of the effectiveness of the community mediation of divorce/separation-related parenting disputes. Besides contributing to the literature regarding the scope of disputes amenable to community mediation, the results of this study may also have practical implications for decision-makers with a variety of interests.

The extent to which community mediation lives up to its promise is a matter of concern for parties interested in resolving their disagreements, for courts and attorneys seeking to recommend to parties an effective means of dispute resolution that will also reduce litigation costs and lessen the court's burden, and for policy-makers responsible for promoting the welfare of children and families. Evidence of the extent of community mediation's success in dealing with divorce/separation-related parenting disputes, as

revealed by research into the community mediation of such disputes, will enable disputants to make better-informed decisions about whether to participate in a community mediation program. Courts and attorneys can use such evidence to make research-based referrals to an appropriate method of alternative dispute resolution for parties in conflict. The importance of these referrals should not be underestimated considering that individuals faced with consequential decisions often depend on experts for a careful analysis of options and that “individuals [in divorce disputes] whose attorneys are ambivalent or opposed to mediation are very reluctant to try it” (Pearson & Thoennes, 1988, p. 431; Cialdini, 1993).

Moreover, in light of research demonstrating the harm that inter-parent conflict can inflict upon children and that the presence of conflict predicts lower levels of involvement between the non-custodial parent and child, information about the effectiveness of community mediation is germane to the development of policies that seek to promote parenting and the well-being of children (Caprez & Armstrong, 2001; Ballard et al., 2011, January). Congressional reconsideration of Temporary Assistance for Needy Families (TANF) legislation provides a case in point. The option of delivering mediation services through community-based organizations was brought to the attention of TANF policy-makers concerned to minimize the harm to children in disrupted families where parents disagree about child-rearing (Moses, 2009). It was argued that the promotion of this approach would, firstly, help improve child support by reducing between-parent conflict and, secondly, would enhance the TANF access and visitation program by providing assistance with divorce/separation-generated family issues to the

low-income population served by the program (Yates, 1997, May; Hutson, 2007, September; Moses, 2009). Policy decisions about adopting such an approach gain credibility when grounded in research on the efficacy of community mediation of parenting disputes arising from divorce/separation.

Pursuant to sociological theory advanced by Pruitt and Olczak (1995), which explains conflict resolution behavior in terms of the interaction of individuals' motivations, affect, cognition (for example, beliefs), behavior, and their environment (Coleman & Lim, 1995), the present study addresses the question of the effectiveness of a community mediation model in resolving the conflicts between estranged parents over parenting issues from the perspective of the individuals engaged in the mediation process. Effectiveness is measured here by way of such indicators as the population served, as well as mediation results and party reactions to mediation, including not only such typical measures as agreements reached and process satisfaction but also party motivation to engage in mediation, the development of parenting plans – which are agreements allocating rights and responsibilities for child rearing between parents (Moses, 2009) – the extent of court involvement, and relationship effects – consisting of between-parent interactions and parent-child relationships – as reported by parents and mediators who participated in a community mediation program dealing with divorce/separation-related parenting issues.<sup>3</sup> Parenting plans and relationship effects qualify as mediation success

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<sup>3</sup>The variety of outcomes under consideration here is in response to the concern that equating mediation success with the production of agreements is too constrictive a view of the goal of community mediation: “[a]mong mediation’s numerous advantages is its ability to constructively address conflicts, respect each party’s perspective, empower individuals to take personal responsibility for conflicted relations, establish mutually beneficial dialogue, and reduce violence.



indicators because, for one, parenting plans are frequently recommended in divorces involving child custody, and, for another, both these plans and mediation interventions are considered helpful in achieving such mediation results as conflict reduction and relationship preservation (Moses, 2009). Moreover, since conflict intensity and custodial status are important factors in conflict resolution – high levels of conflict have been found to reduce the likelihood of agreements (Ballard et al., 2011, January) and custodial status can reflect differences in parents’ legal rights and responsibilities (e.g., Massachusetts General Law ch.208 §31) – the connections between these various outcomes and the variables of conflict intensity (short of domestic violence) and custodial status are also scrutinized.

Based upon prior mediation research and theory, it was anticipated that the majority of the parents using community mediation to resolve their parenting issues would be of low income, mostly attracted to the free services provided; that agreement rates would be in the 50%-80% range and the process satisfaction rate would exceed 75%; that most of these parents would expect mediation to address child care issues relating to custody, visitation, access, and so on; and that most would find their expectations fulfilled and mediation to be helpful in assisting them in their role as parent; that, compared to these child care issues, improved between-parent interactions and reduced court involvement would be less frequently selected as mediation hopes and

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Written settlements are often a by-product of these dynamics, but they are not in themselves a sufficient goal of community mediation” (Hedeen & Coy, 2000).

mediation achievements; and that conflict intensity and custodial status would make a difference in parent responses.

### **Method**

The present study relied upon exit questionnaires and follow-up interviews to elicit feedback about the community mediation process from parties and mediators involved in mediating parenting issues arising from divorce or separation.

### **Participants**

The participants involved in this study were parents qualifying for mediation services from, and mediators working for, the Massachusetts Parent Mediation Program (PMP), sponsored by the Massachusetts Department of Revenue's Child Support Enforcement Division under a federal Access and Visitation grant and administered by the state's office of dispute resolution, the Massachusetts Office of Public Collaboration (MOPC) at the University of Massachusetts Boston. At the time of the study, the PMP operated in five community mediation centers, offering up to six hours of free mediation services under a co-mediation model to divorced, separated, or never-married parents in military, veteran, or civilian families to deal with parenting issues surrounding custody, access, parenting time, or visitation (Massachusetts Office of Public Collaboration, 2011, July). In order to be eligible for PMP services, the family configuration, in practice, had to consist of a custodial parent and a non-custodial parent, with neither actively engaged in substance abuse or domestic violence.<sup>4</sup> Mediation services were delivered by volunteer

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<sup>4</sup> It should be noted that the practice of mediating disputes that arise in circumstances which involve domestic violence is controversial. Some practitioners and scholars argue that the power imbalance characteristic of domestic violence should preclude the use of mediation. Others claim

and some staff mediators, all trained according to state court requirements for dispute resolution neutrals (i.e., Massachusetts Supreme Judicial Court Rule 1:18). A typical mediation was completed in an average of nearly three mediation sessions per parenting conflict case. During the study year, 131 cases of parenting conflict were mediated.

### **Procedure**

Over the period of a year, both parents and mediators who participated in mediation sessions offered by PMP were asked to provide feedback about the impact of mediation by completing questionnaires containing questions with closed-ended choices, either in writing or through interviews.

Parents in the PMP (also referred to as “parties” or “party participants”) were invited to voluntarily fill out a questionnaire, usually supplied by a mediator after their mediation session or after the completion of mediation. They were asked to provide demographic information, to evaluate process features, to identify their reasons and expectations for, their sources of information about, and the mediation outcomes of, mediating in this parent mediation program. Seventy-six usable questionnaires were obtained.

Mediators were also asked to complete post-session questionnaires that inquired into their perception of the intensity of conflict in the disputes they mediated among other questions. One hundred fifty-nine completed forms were collected.

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that safeguards can be built into the mediation process that will minimize the problems with mediating in some domestic violence situations (Perry, 1994; Gerencser, 1995).

Following a four- to eight-week interval after the mediation session, 43 willing parent parties responded to a follow-up questionnaire in telephone interviews conducted by center staff. Parties were asked about post-mediation changes in parent-child and between-parent relations and in their financial situation.

The frequency of responses to questionnaire items was determined, and the percentage of respondents responding similarly to respective questionnaire items was calculated. The resultant percentages formed the basis for identifying likely trends and key developments as exhibited by the data. Chi-square tests were performed to determine whether relevant variables were independent of one another or not.

### **Results**

Demographic data regarding the population studied were obtained from optional closed-ended questions that asked parties to describe their racial/ethnic identity and financial circumstances. With a 100% response rate, party respondents predominantly self-identified as white (87%) when asked to select all applicable racial or ethnic categories from a menu of choices.<sup>5</sup>

When asked to select their income category from among eight choices ranging from less than \$10,000 to \$65,000 or more, 89% of party participants responded. During the study year, the national median household income was \$50,054, and a family of two earning \$29,420 was at 200% of national poverty (Luhby, 2012, September 12). With these financial distinctions in mind, an examination of party participant responses

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<sup>5</sup> The choices provided were American Indian/Alaska Native, Asian, Black/African American, Native Hawaiian or other Pacific Islander, White, Hispanic/Latino/Spanish origin, and other.

## Community mediation of parenting disputes between estranged parents

revealed that over a majority (56%) earned \$29,000 or less while 23% earned at least \$50,000. The largest cluster of respondents (24%) was in the \$10,000-\$19,000 income category.

Since a parent's custodial role can play a part in fashioning the results of mediating parenting disputes, information about custodial status was obtained from all parties. The party participants in the present study consisted of comparable numbers of custodial (53%) and non-custodial parents (47%).

Considering community mediation's low public profile (Baron, 2004), combined with anecdotal accounts about common information sources plus the importance of referral sources to party use of mediation, the questionnaire included an inquiry into the source of the party's awareness of the mediation program. Out of seven choices, four court-related (recommended by a judge, ordered by a judge, recommended by court personnel, information shared by court personnel) and three non-court-related (referred by family or friend, internet, "other"), the vast majority of participants (63%) heard about mediation from court sources (29% from judges and 34% from court personnel). Eight percent of party participants were ordered to mediate by the court.

Community mediation offers users the benefits of affordable mediation services, community accessibility, and an alternative to litigation (Hedeen & Coy, 2000). Furthermore, prior research indicates that most divorcing parents participate in community mediation 'because they thought it would be the "least expensive" way to settle' (Bautz & Hill, 1989, p. 36). Mindful of this research and the predicted benefits, the questionnaire provided party participants the opportunity to indicate all their reasons for

choosing to mediate from a list that contained the following options: mediation as better option than court, previous positive mediation experience, easy accessibility, local access, free services, and “other.” Out of 76 parties, mediation as a better option than court was, at 64%, the most popular reason to mediate with free services a distant second, motivating 30% of the group.

In order to examine the relationship between motivation and income, parties’ reasons for mediating were sorted by income level based upon 68 usable responses. The null hypothesis that there was no relationship between reasons to mediate and income levels of \$29,000 or less and of \$50,000 or more could not be rejected ( $X^2 = 3.24$ ,  $df = 5$ ,  $p > 0.60$ ).

Conflict intensity has been found to be a determinant of mediation success, where high party conflict is predictive of failure to agree in mediation (Ballard et al., 2011, January). According to the mediators participating in this study, only a small portion (4%) of the parenting disputes brought to their attention were unattended by conflict. Over a quarter (26%) assessed the conflict level to be low; nearly half (48%) considered the party’s conflict as moderate while more than a fifth (23%) characterized the conflict level as high.

Expectations are an important influence on an individual’s conduct and state of mind, and, as a result, are instrumental in determining outcomes (Guthrie & Levin, 1997-1998; Waldman, 1999). In order to ascertain which expectations party participants brought to mediation, they were asked to identify all their hopes for mediation’s

achievements from among 12 closed-ended choices.<sup>6</sup> The comprehensiveness of these choices is indicated by the small size of the portion of respondents (5%) selecting “other.” Data analysis of the responses from all parties, displayed in Table 1, which presents the percentages of parties selecting each choice of mediation hope and of mediation achievement, reveals that the three most commonly-held expectations involved the development or revision of a parenting plan (70%) and the improvement of between-parent interactions through communication (67%) and conflict reduction (66%). Most parents also had expectations for reduced court involvement (57%) and improved skills for resolving between-parent conflicts (55%). Less than one-quarter of parties came to mediation with expectations for changes in their parent-child interactions. A small minority of parties – less than one-fifth – anticipated mediation assistance with financial matters.

Party assessment of the outcomes of mediation was elicited with respect to meeting expectations, impact on parenting, and the production of agreements. To measure how party expectations fared, party participants were asked to identify the achievements obtained in mediation from an array of 12 options that mirrored the choices for mediation hopes. Again, the completeness of the array of choices presented is suggested by the unpopularity of “other.”

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<sup>6</sup> One choice focused on parenting plans, three choices addressed the management of between-parent interactions (improve between-parent communication, reduce between-parent conflict, improve skills to resolve between-parent conflicts), two dealt with parent-child relations (increase amount of time with child and improve skills to resolve parent-child conflicts), three concerned family finances (improve family finances, increase non-custodial parent’s financial support of child, and reduce welfare independence), two referred to typical third-party involvement (increase awareness of community services, reduce court involvement), and “other.”

Almost all the participants (89% of 68 usable responses) considered that mediation resulted in achievements. As Table 1 shows, among the top five selections, over half the party participants (62%) reported that mediation affected parenting plans, and between one-third and nearly one-half pointed to reduced court involvement (46%), improved inter-parent communication (44%), reduced between-parent conflict (38%), and improved conflict resolution skills for between-parent conflicts (37%).

The alignment in ranking of mediation hopes and achievements is noteworthy. The most prevalent mediation achievements are associated with the most frequently chosen mediation hopes, and the least frequently held hopes corresponded to the lowest response levels for achieved outcomes. This configuration may be the result of chance, however, since no evidence of a significant relationship between mediation hopes and mediation achievements was found ( $X^2 = 20.33$ ;  $df = 11$ ;  $p > 0.20$ )



Table 1. Percentage of parties selecting mediation hopes and achievements

Issues	What were you hoping mediation would achieve? (n=76)	Did mediation achieve any of the following? (n=68)
Increase time with child	24%	16%
Develop/revise parenting plan	70%	62%
Increase non-custodial parent's financial involvement with child	16%	9%
Improve communication between parents	67%	44%
Reduce conflict between parents	66%	38%
Improve skills to resolve conflicts between parents	55%	37%
Improve skills to resolve conflicts with child	14%	7%
Increase awareness of community services/resources	0%	7%
Reduce court involvement	57%	46%
Improve family financial situation	18%	7%
Help reduce dependence on welfare	3%	3%
Other	5%	7%

The production of agreements is regularly used to measure the success of mediation, including community mediation (Emery, Sbarra, & Grover, 2005). Party beliefs about whether agreements were an outcome of their mediation were elicited by providing participants with a list of three possible mediation results, namely, agreement reached, no agreement, or “other.” With an 87% response rate, 61% of responding party participants reported reaching agreement while 35% did not.

## Community mediation of parenting disputes between estranged parents

In order to gauge mediation's impact on parental responsibility, party participants were asked to indicate all the ways that mediation helped them as parents. The question provided a list of nine closed-ended choices. Eight (namely, parenting time, access, visitation, financial support, involvement with education and extra-curricular activities, understanding parenting skills, personal connection to child) were derived from factors typically used by the courts to assess parental fitness (Serrato, 2013, January). Three-fourths of party participants responded, all acknowledging mediation's helpfulness with some aspect of parenting. However, no one of these eight parenting assistance options garnered a majority of party responses. One-third (33%) of parties were helped with parenting time, and slightly more than a quarter (26%) received child visitation assistance while the remaining six parenting assistance options were chosen by 17% or fewer respondents. The case was otherwise for a ninth parenting assistance choice, namely, between-parent communication about parenting. Notably, a majority of responsive participants (61%) considered that mediation helped them better express parenting expectations to the other parent.

The responses regarding successful mediation outcomes – which here encompass the aforementioned mediation achievements and parenting assistance as well as agreements – were further analyzed to determine whether there was an association between mediation outcome and the factors of conflict intensity and custodial status.

With respect to the relationship between conflict level and mediation success, Table 2 displays the percentages of party responses regarding agreements reached,

achievements accomplished, and parenting assistance obtained through mediation sorted by conflict level.

According to the 44 mediator participants who described the conflict levels of mediations that involved party participants, half mediated moderate-level conflicts, with the remainder divided fairly evenly between high and low levels of conflict at 23% each, and a tiny portion – 5% – devoid of conflict. As Table 2 reveals, positive mediation outcomes (namely, agreements reached, achievements accomplished, and parenting assistance obtained) were reported by party participants at all levels of existing conflict. No evidence of a relationship between conflict level and mediation outcome was found ( $X^2 = 5.37$ ,  $df = 6$ ,  $p > 0.40$ ).

Table 2. Percentage of parties reporting outcome of mediation at each conflict level

Outcome	Conflict level			
	High	Moderate	Low	None
Agreements reached (n=33)	6%	48%	36%	9%
Achievements of mediating (n=51)	20%	49%	27%	6%
Parenting assistance (n=42)	21%	50%	26%	2%

Distinctions in the custodial status of divorced parents reflect differences in parental rights and responsibilities under the law <sup>7</sup> that may, in turn, create disparities in parents' needs and interests regarding the rearing of their child. Custodial and non-custodial parents may develop dissimilar views about the mediation's outcomes in light

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<sup>7</sup> See Massachusetts General Law ch.208 §31.

of the disparity between their respective interests and needs. In order to determine whether parties' custodial status was associated with differences in reported mediation expectations and outcomes, the responses of parties regarding their hopes for mediation and the related achievements of mediation were sorted by custodial status. Table 3 presents the results of these calculations in percentages.

Table 3. Mediation hopes and achievements according to custodial status

Issues	Percentage of custodial parents selecting achievement (n=37)	Percentage of non-custodial parents selecting achievement (n=31)	Percentage of custodial parents selecting hopes for achievements (n=40)	Percentage of non-custodial parents' hopes for achievements (n=36)
Increase time with child	5%	29%	13%	36%
Develop/revise parenting plan	59%	65%	73%	67%
Increase non-custodial parent's financial involvement with child	11%	10%	28%	3%
Improve communication between parents	38%	52%	73%	61%
Reduce conflict between parents	35%	42%	70%	61%
Improve skills to resolve conflicts between parents	32%	42%	63%	47%
Improve skills to resolve conflicts with child	8%	6%	18%	11%
Increase awareness of community services/resources	8%	6%	0%	0%
Reduce court involvement	41%	52%	58%	56%
Improve family financial situation	5%	10%	20%	17%
Help reduce dependence on welfare	0%	6%	0%	6%
Other	11%	3%	5%	6%

On the whole, custodial and non-custodial parents did not significantly differ in their expectations for mediation expectations and their choice of achievements issuing from mediation (mediation hopes by custodial status:  $X^2 = 18.17$ ,  $df = 10$ ,  $p > 0.10$ ; mediation achievements by custodial status:  $X^2 = 13.32$ ,  $df = 11$ ,  $p > 0.20$ ). As Table 3 shows, both custodial and non-custodial parents tended to place parenting plans, improved between-parent communication, reduced parental conflict, and reduced court involvement at the top of their mediation wish list and counted parenting plans, improved parental communication, and reduced parent conflict and court involvement in the top five of mediation's accomplishments.

Similarly, custodial parent participants did not markedly differ from non-custodial parent participants in their reports of reaching agreement (63% of 35 custodial parents and 58% of 31 non-custodial parents).

In contrast, custodial status did make a difference in parties' assessment of mediation's help with parenting. The evidence of an association between custodial status and party responses to mediation's helpfulness with parenting is strong ( $X^2 = 27.2$ ,  $df = 8$ ,  $p = 0.001$ ). The data in Table 4, which presents the percentage of parties choosing each option of parenting assistance obtained through mediation as disaggregated by custodial status, reveal that a greater proportion of non-custodial parents found mediation to be helpful with parenting than did custodial parents for nearly all forms of listed issues. The option of "better express parenting expectations to other parents," however, proved a striking exception. A substantially greater number or proportion of custodial parents

(78%) acknowledged mediation's help with communicating parenting expectations than did non-custodial parents (40%).

Table 4. Parenting assistance according to custodial status

Parenting assistance	Percentage of custodial parents selecting option (n=32)	Percentage of non-custodial parents selecting option (n=25)
Increase parenting time	16%	52%
Establish access to child	3%	32%
Establish visitation with child	6%	48%
Increase financial support for child	16%	16%
More involved with child's education	3%	28%
More involved with child's extra-curricular activities	3%	20%
Increase understanding of parenting skills	13%	20%
Better express parenting expectations to other parent	78%	40%
Establish personal connection with child	9%	16%

The persistence of post-mediation changes was examined in guided interviews of 43 party participants after a four- to eight-week interval following mediation. Interviewees were asked to indicate whether features of their relationship with the other parent and with their child, as well as aspects relevant to their financial situation had increased, decreased, or stayed the same since mediation (or relevantly similar

language).<sup>8</sup> Sustained post-mediation changes in nearly all the categories were generally absent. Almost half or more of interviewees considered the situations of inter-parent communication (49%) and conflict (65%) to be static; at least 65% considered their relations with their child to be unchanged; and family finances remained the same or did not apply for 60% and more of interviewees. The only suggestion of durable post-mediation changes concerned the interviewee's ability to resolve conflicts with the other parent – half of those interviewed reported an increase in their ability.

Mediation tends to rate highly in party satisfaction with the process, and according to earlier studies, community mediation is no exception (Wissler, 1995). Ninety-five percent of participants in community mediation programs across the country indicated their readiness to use mediation again (Wilkinson, 2001, August). In the present study, party feedback regarding the process aspect of the community mediation of their parenting disputes was acquired by means of questions that requested party participants to assess the clarity of the information they received about mediation, the quality of staff services, and the usefulness of the mediator's skills and that asked whether they would use the mediation program again or recommend it to others. With a 99% response rate, nearly all parties indicated their willingness to use the mediation services of the program again (95%) and recommend it to others (99%). Program services were considered

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<sup>8</sup> Between-parent relationship options consisted of between-parent communication, between-parent conflict, and ability to resolve between-parent conflict. The parent-child relations options presented were: time spent with child, involvement in child's education or extracurricular activities, ability to resolve conflicts with child, and personal connection to child. The options dealing with finances were: ability to financially support child, personal financial situation, and dependency on welfare/public assistance.

excellent or good by 94% of parties; a large majority of parties acknowledged being helped by the mediator's listening skills (87%), issue clarification (81%), fairness (88%), and idea generation (68%); 95% found the pre-mediation information to be clear. A minority of party participants felt empowered (that is, 27% acknowledged assistance with greater control over decision-making) or were helped with agreement writing (49%).

### **Discussion**

This study shows that community mediation provides broad access to mediation services for divorce/separation-related parenting disputes. The low income of most (56%) of the parties plus the minimum \$50,000 income of over one-fifth (23%) of the parties indicate that, with respect to parenting disputes, community mediation lived up to its promise of serving those with low incomes and did so without ignoring the dispute resolution needs of those more comfortably circumstanced.

Study results also furnished evidence of community mediation's effectiveness in resolving parenting disputes between estranged parents. The agreement rate of 61% reported in this study is consistent with mediation and community mediation trends for other types of disputes (McGillis, 1997; Wilkinson, 2001, August). In light of research indicating that the probability of agreement is reduced when there is more than one mediation session (Ballard et al., 2011, January), it is unlikely that the agreement rate reported here appreciably undercounts the final number of agreements reached even though some responses were collected before mediation was completed.

Similarly, the favorable reactions to the community mediation of parenting disputes exhibited by party participants with respect to the usefulness of mediator skills,



the clarity of pre-mediation communication, and the quality of staff assistance along with their willingness to participate in the program and recommend it to others align with the high levels of process satisfaction found in other studies of mediation and community mediation (Wilkinson, 2001, August). Indeed, the recognition by more than 80% of parties of the assistance afforded by mediator fairness and skills in listening and option generation may attest to the high quality of mediation services received.

Moreover, successful outcomes – be they agreements, the accomplishment of achievements, or assistance with parenting – were attained at all levels of conflict intensity (excepting domestic violence) and irrespective of custodial status. The expected association between conflict and mediation outcomes was not supported by this study's data. Although the reliability of mediators' distinctions between the various levels of conflict intensity was not ascertained, common sense urges diminished concern about mediator judgments concerning the presence or absence of conflict in party interactions during mediation. In addition, it may be the case that intense conflicts were under-represented in this study. Situations involving domestic violence were excluded from the mediation program in question and the voluntary nature of this program may have led to the non-participation of individuals reluctant to interact with one another because of the intensity of their conflict (Ballard et al., 2011, January). Despite these caveats, it is encouraging that a measure of success was achieved by community mediation for conflicts of at least some degree of intensity for both custodial and non-custodial parents.

The view that mediation would fulfill party expectations did not receive significant support from the data here, possibly because expectations may not have

exerted that strong an influence on conflict resolution behaviors compared to other factors. On the other hand, the absence of a significant connection between mediation hopes and accomplished achievements may be regarded as a hopeful sign that retrospective bias may not have had an untoward impact on party reports of prior hopes and post-mediation results.

Community mediation's greatest allure for party participants resided in its offer of an alternative to litigating parenting issues. The free mediation services and convenience provided by community mediation of parenting disputes attracted a minority of parties: approximately one-third of parties turned to mediation because of considerations of cost (30%) or convenience (35% of combined accessibility categories). For most of the participating parties, though, community mediation provided a sought-after alternative to settling disputes in court. It was the most popular reason for parties' choice of mediation – 64% considered mediation preferable to court – and was dominant among the mediation hopes and achievements for almost half the parties (57% hoped for reduced court involvement and 46% identified that reduction as a mediation achievement). Moreover, avoiding litigation was a prevalent reason for parties at both lower and higher income levels. These data lend themselves to the understanding that while community mediation may eliminate economic barriers to using mediation for parenting disputes,<sup>9</sup> it is the prospect of a litigation substitute that brings people to the community mediation table.

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<sup>9</sup> An informal inspection of internet web sites revealed that private practitioners charge from \$175 to \$300 per hour to mediate divorce and custody issues.

The importance of litigation avoidance in motivating disputing individuals in the throes of divorce/separation to turn to community mediation may be further explained by data in this study, which shows that – unlike the Bautz and Hill study (1989) where participants were primarily concerned about cost and identified friends, therapists, and the media as their sources for information about mediation – the court was, in some fashion, the source of information about the community mediation program for a large majority of the parties. It is reasonable to infer, first, that the court's status as an authority in the adjudication of family disputes may well have conferred enhanced legitimacy upon community mediation as an alternative dispute resolution process, making it an attractive choice for the majority of parties. Second, inasmuch as divorce actions involve court proceedings, a majority of parties may well have experienced the detrimental effects of divorce litigation on their relationship (Moses, 2009, citing Census Bureau, 2008). Thus, for some parties, the court might have had a dual role, both in influencing their selection of community mediation as a dispute resolution strategy and in setting up expectations about mediation results.

Besides avoiding litigation, the formation of parenting plans and managing between-parent interactions loomed large for study parties. Parenting plans apportion the different responsibilities for the children between the parents (Moses, 2009). As such, these plans constitute an important vehicle for effective co-parenting, forestalling disagreements about child-rearing between estranged parents (Moses, 2009). Under Massachusetts law, a type of parenting plan known as a shared custody implementation plan is to be submitted to the court by parties contesting child custody (Massachusetts

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General Law ch.208 §31). Working on parenting plans proved to be both a prevalent concern and accomplishment of the community mediation process according to party participants.

Although child-rearing issues formed the substance of the disputes that gained entrée into the community mediation program examined here, most parties wanted mediation to assist them with their inter-parent relationship, that is, with the way they interacted with one another in handling their disagreements. A small minority of parties came to mediation hoping for, and an even smaller minority experienced, an impact on their interaction with their children from mediation. Indeed, twenty-five percent fewer parties responded to the survey question about mediation's helpfulness with parenting. Difficulties in communicating and managing conflict with the other parent, however, were in the top quartile of most parties' mediation hopes and accomplishments. For most participants, then, matters concerning the relationship between parents were at the forefront of concerns that they brought to the mediation table.

To the extent that parenting concerns were the focus of three-fourths of participants, non-custodial parents tended to be significantly more positive about mediation's helpfulness with parenting issues than were custodial parents. Among all responding parties, the only option that garnered a majority of responses (at 61%) concerned inter-parent relations, namely, inter-parent communication of parenting expectations. Although, when responses in this category were disaggregated by custodial status, the proportion of non-custodial parties finding that mediation helped them express parenting expectations proved fairly substantial (at 40%), it paled in comparison to the

robust response of custodial parent parties (at 78%). The possibility that this result portends a nascent beginning of future co-parenting by these estranged parents, however, awaits further research.

It may be that these reported developments in the relationships between parents will prove temporary. Implementing the mediation agreement and sustaining positive changes are challenging tasks: as one party pointed out, “You gave us great tools to work with. Easier said than done of course.” When the first flush of enthusiasm about a successful mediation wears off, reality may set in and parties may return to their old conflict habits. As another party noted, “Yes, [the] day of mediation seemed wonderful and positive, we came to an agreement. The very next day he tried to get out of it.” Encouraging hints that the changes in inter-parent relationships following mediation may have some staying power are suggested by parties interviewed after a 4- to 8-week interval, where half indicated that their ability to resolve conflicts with the other parent had increased.

The present study is constrained by its reliance on retrospective self-reporting. The biases that typically attend backward-looking self-reports (Maiman, 1997, May) have been minimized in this study by the precautions taken to preserve confidentiality and by the role that self-reports play as a primary source of knowledge about the expectations and cognitions examined here, which are instrumental in shaping the conduct and outcomes of mediation.

Future research is needed to determine the extent to which the results of this study can be generalized. These results were collected from participants in a particular

community mediation program with features that may limit generalization. The program operated under Massachusetts law, employed a co-mediation approach, offered multiple mediation sessions, and worked with a primarily white population. Additional research is needed to determine how community mediation of divorce/separation-related parenting disputes fares when the population served is diverse, a different mediation style is employed, mediation is limited to a single session, or when other laws govern parenting disputes, particularly with regard to such features as custodial status, parenting plans, and mediator training.

### **Conclusion**

The present study provided a measure of reassurance that the effectiveness of mediating parenting disputes between estranged parents does not suffer when mediation services are free and provided predominantly by volunteer mediators. The study results yielded promising signs that community mediation offers an economically diverse group of disputants, particularly those of low income, access to an effective dispute resolution process that addresses divorce/separation-related parenting disputes. Regardless of income, most participating parties turned to community mediation because it presented an alternative to litigation, and, according to the majority of the parties, community mediation did not disappoint. The reported agreement rate of 61% here was consistent with other mediation research findings as were the generally favorable party reactions to participating in the program and to various features of the mediation process, such as the mediator's fairness and ability to listen, to clarify issues, and to generate ideas.

The community mediation process proved successful to some degree at all levels of conflict intensity, excepting domestic violence, for both custodial and non-custodial parents. The majority of the disputing parents emerged from community mediation with reports of the development of parenting plans and improved between-parent interactions, and a sizable minority claimed reductions in court involvement. Moreover, mediation furnished the estranged parents with an opportunity to communicate with one another, particularly about expectations concerning parenting for a large majority of responding custodial parents. In the end, any decrease in the conflict between estranged parents attributable to participation in community mediation may contribute to the well-being of their children.

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