

**ADVANCED MEDIATION TRAINING:
TOPICS AND COMPONENTS OF ADVANCED MEDIATION TRAINING
IN CANADA**

By

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A thesis submitted in partial fulfilment of the requirements for the degree of

**MASTER OF ARTS
IN
CONFLICT ANALYSIS AND MANAGEMENT**

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**ROYAL ROADS UNIVERSITY
2006**

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ABSTRACT

This thesis examines advanced mediation training in English speaking Canada. A survey identified curricula included in advanced mediation training offered by academic and non-academic programs. Action research, by way of interviews with mediation practitioners and trainers followed, to ascertain what experienced mediators recommended should be taught. A comparison of program content and the recommendations of the experts was then conducted. The findings suggest significant discrepancies between what is being taught and what is recommended. This research has implications for learners and trainers to increase their clarity in defining and identifying advanced mediation practice, skills, and competencies. Furthermore, the study indicates it is time for advanced mediation curriculum to be expanded in order to meet the training needs of the profession.

ACKNOWLEDGEMENTS

I would like, first and foremost, to thank my husband, Bob, for his unconditional, unwavering, and loving support. I could not and would not have done this without him. I am especially grateful for his graphic talents and the help he has provided with formatting – not to mention the many meals we ate out so I could work on the thesis!

I'm grateful for the relationships I enjoy with my children, Leanne and John, and my stepchildren, Celestine, Spencer, Ephraim, and Nathan. They have all taught me much about the importance of communication and commitment in nurturing and sustaining loving and fun-filled relationships.

My thanks also go out to my brother Dale and to my extended family for their friendship, support, and interest. I would also like to pay honour to the memory of my deceased parents, Lucy and Des Craddock, and to my sister-in-laws Debbie Oswald and Christine Cote, who have all left this life much too soon.

I am deeply grateful for the friendship and support of my co-workers Shawn Dheensaw and Ann Wellman. To Anna Parker and Marc Souliere, whose encouragement started me on this journey, I extend my heartfelt gratitude. A special thank you goes to Dan McGrath for his editing assistance. I would also like to acknowledge Penny Whillans, Sally Morgan, and Maureen Young for their personal support and friendship.

I feel incredibly lucky and blessed to have had the enthusiastic support of Dr. Tara Ney, Gordon Sloan and Dr. Fred Oster. I look upon each of them as role models in the work that they do.

Lastly, I would like to acknowledge the mediators who have participated and contributed to this project and who have graciously allowed me to quote them directly: Avi Tal, Larry Axelrod, Gary Harper, Gordon Sloan, Marc Souliere, Michael Fogel and Sally Campbell.

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CHAPTER ONE - STUDY BACKGROUND

INTRODUCTION

“Being a mediator is an honor [*sic*] and privilege” (Galton, 2004, p. 9).

Galton goes on to state that “at no time in modern history are peacemakers more needed ... we can and do make a difference ... you provide the blessing of peace every time you roll up your sleeves and assist people on that difficult journey” (pp.11 – 12).

The blessing of peace – touching people’s lives in a positive, meaningful way – I have heard these sentiments echoed throughout numerous books, articles, and personal interviews conducted for the purpose of this research. As a mediator, I have watched in awe as mediation participants share heart-wrenching life experiences, reaching an emotional depth and understanding that I could not have imagined at the start of the process. I have been struck by the ethical responsibility inherent in the role of mediator: to ensure, first and foremost, that I do no harm and to remember always that my role is to be “the guide on the side, not the sage on the stage.” (Smart, B., personal communication, 2000)

I believe it is crucial that, as a mediator, I take responsibility for being aware of my personal level of comfort and competency before I engage with parties. Mary Thompson (2004) concurs with this point of view: “the most exciting opportunity lies in developing mediator’s self-awareness, judgment, skills and desire to be thoughtful, ethical practitioners. Well-designed, engaging training activities that speak directly to the key areas of ethical competence are vital to this goal” (p. 23).

As an internal mediator for the Canada Revenue Agency, I'm often faced with mediating conflicts that require more skill than provided in basic mediation training. The conflicts that I mediate range from simple two-party disagreements to multi-party disputes that vary in complexity. Bronson (2000) points out that most mediators agree that basic training in the skills and processes of mediation are important, yet mere attendance at initial training sessions for an arbitrary number of hours (twenty-five to sixty) may not be enough to ensure competence; training is more likely an introduction to competency in a field that requires continuing education and ongoing professional growth (pp. 171- 179). Bronson's observation is testimony to my personal experience that competence in mediation work requires professional training that is continuous and progressive.

The challenge I currently face is to find advanced training in order to improve my personal competency as a mediator to ensure ongoing professional growth. Where might such training be found and what topics and components would be useful?

Morton Deutsch (1995) asserted, "we are now at the point where we need to go beyond demonstrating that CRT (conflict resolution training) can be worthwhile; we have to start studying what types of training are most effective and most efficient" (p. 573). To this concern, I would specify that we need research to understand the training requirements of mediators who are doing more complex kinds of work.

THESIS RESEARCH QUESTIONS

This thesis is focussed on two research questions:

- 1) What are the key topics and components of advanced mediation training recommended by experienced mediation practitioners and trainers?
- 2) To what extent are these topics and components covered within academic and non-academic advanced mediation training programs in English speaking Canada?

RESEARCH GOALS

My academic research goals are: to first, explore and respond to Deutsch's concerns by identifying the topics and components included in advanced mediation training programs and secondly, to compare those to the topics and components practitioners believe are most important for advanced training. My hypothesis for this research is that I suspect there is a gap between training recommended by practitioners and what is actually being taught.

My personal research goals are: to first, identify advanced mediation skills, practice, and knowledge that I need so that I can address gaps in my own training; and secondly, to interview experienced mediators to garner advice on how to become a better mediator. I am curious to discover if the challenges I am facing in locating advanced mediation training for myself might be related to possible gaps in the actual training being offered.

The methodology of this research has involved three main activities. First, I conducted a survey of the topics and components of advanced mediation courses currently presented by post-secondary academic institutions and non-academic training providers.

I then conducted interviews with experienced mediation practitioners and trainers to ascertain what topics they recommend are included in advanced mediation training and their rationale. Lastly, I completed a comparative analysis of the training offered versus the training recommended.

My hope is that the findings of this research will provide learners, practitioners, and trainers with increased clarity in defining and identifying advanced mediation practice, skills, and competencies. The research also aims to identify potential training topics that the learner might wish to take as well as potential training topics that mediation trainers might wish to include in their curricula.

THE SPONSOR

ADR Education is a distinguished Canadian firm that provides Canada-wide dispute resolution training and alternate dispute resolution services. With over twenty years of experience, principals Gordon Sloan and Jamie Chicanot are highly regarded for their expertise in this field. ADR Education customizes their services to meet the needs of clients who include provincial governments, federal government departments, corporations, law societies, universities, tribal councils, private sector organizations and crown corporations. In addition, they deliver training in family and civil mediation, co-ordinate continuing legal education programs and train judges at all court levels.

The firm also provides a wide variety of alternate dispute resolution services from two party mediations to large, multi-party group interventions that can range from single sessions of a few hours to sessions that continue over several months.

ADR Education is committed to providing mediation, negotiation, and facilitation training that will meet the highest standards of integrity, ethics, and personal expertise. In addition, coaching and mentoring is offered for professionals in the field of dispute resolution as well as coaching for managers.

Training products include two state of the art manuals: “*The Practice of Mediation*” and “*The Practice of Negotiation*” with both English and French versions.

SUPPORT PROVIDED BY THE SPONSOR

I first met Gordon Sloan, in January 2004, when I attended an advanced mediation training clinic he presented for the Continuing Legal Education Society of British Columbia. He posed a question that I saved in my notes: “How might I assist these people’s lives to become better – how might I contribute to humankind?” (personal communication, 2004)

It was Gordon’s humility, sense of humour and desire to serve that led me to approach him and ask if he might consider sponsoring my thesis. I felt a strong sense of kinship with his personal philosophy as well as his ideals and personal integrity. As Gordon likes to put it, his style is uniquely “Sloan.”

While my research question was somewhat vague at our first meeting, general questions about advanced mediation skills and techniques were clearly identified as a personal learning goal: “Where does someone in my position go for more advanced training?” Gordon did not have an answer. He also stated he was not clear of what is included in other advanced training courses other than what he offers in his own sessions. Gordon was curious to learn what other

trainers were doing and how might he improve his own curriculum. Out of mutual curiosity this thesis was born.

As my sponsor, Gordon wrote a letter of invitation to a mutually agreed upon list of colleagues. We decided to handpick research participants who are representative of a variety of mediator styles, specialties, expertise in other areas, gender, and experience in mediation training. Inclusion on the list of invitees was a relatively simple process: I requested introduction to mediators whose writings or personal work I wanted to learn from and felt particularly drawn to. While not all accepted, I have had the privilege to meet with some exceptional peacemakers and to share their insights and suggestions with the reader.

INTRODUCTION OF THE PARTICIPANTS

What is it about the work of mediation that attracts those in the field? Mayer (2004) makes the following statement about how important he believes the work of mediation is:

Mediators do this work ... because they believe mediation is contributing in an important way to improving our world many mediators speak of using mediation to transform people, empower participants, open up new ways of communicating, and help promote a more peaceful world. (p. 105)

The most common motivation I discovered in the peacemaking community is a desire to be of service: to facilitate healing and positive change, and to interact with others in a meaningful way that reaches the soul. Those who do this work may meet people when they are vulnerable, frightened, angry and/or grief stricken, and guide them through a process that has the

potential to provide healing that can ripple outwards from the participant's lives into the world around them.

My interviews with participants provided a kaleidoscope of richly woven images of their passion and desire to see mediation, as a profession, reach a higher level of effectiveness. I introduce them now, with their respective specialties and self-identified mediation styles, so that I may share some of that richness with the reader by quoting them throughout this paper, rather than just in the study conclusions. I encourage the reader to review more detailed biographies for each participant found in Appendix D.

Avi Tal brings the perspective and enthusiasm of a mediator who, as he puts it, “started not too long ago ... and feels really dedicated and excited about doing this every day.” Avi has worked for five years at the South Island Dispute Resolution Centre. He is one of their Senior Mediators and specializes in family mediation. He provides basic mediation training and has acted as a co-facilitator in advanced mediation training. He describes his style as being that of a “transformational mediator.”

Marc Souliere holds the designation of Advanced Practitioner & Educator with the Association of Conflict Resolution. Marc's speciality is group intervention and advanced mediation training. Marc describes his style of mediation as “restorative mediation.”

Gary Harper is the author of *“The Joy of Conflict Resolution: Transforming Victims, Villains & Heroes in the Workplace and at Home”* and is a popular speaker and trainer within the conflict resolution community. Gary refers to his mediation style as “narrative light.”

Larry Axelrod is the co-author of *“Turning Conflict into Profit.”* Larry and his business partner, Rowland (Roy) Johnson, provide a variety of conflict resolution services through their company The Neutral Zone. Larry specializes in working with highly conflicted groups. He also provides organizational consultation, conflict assessment and intervention, and training for public and private sector organizations. He describes his resolution style as “strategic facilitation.”

Gordon Sloan is a partner in ADR Education and is known for his expertise as a mediator, trainer, and consultant. His mediation practice includes complex civil and commercial mediation, family mediation, victim/offender mediation, organizational conflict, and multi party processes. Gordon teaches conflict resolution courses at the Master’s Degree level at the University of Victoria. Gordon describes his mediation style as “relaxed, highly facilitative, curious, highly experimental ... going with intuitive senses of what needs to happen next ... not as tied to any particular models including my own.”

Michael Fogel was the first Chartered Mediator in Canada and has been a mediator and trainer for 18 years. He is a Senior Instructor with the Justice Institute of B.C. He designs and presents advanced mediation courses and post-graduate conflict resolution courses to

numerous groups and organizations. Michael views his mediation style, as “what’s needed in the moment ... the style is one that I adapt to the needs of the parties and the circumstances.”

Sally Campbell has a general mediation practice and is also a Senior Trainer for the Justice Institute of BC (JIBC). Sally works across Canada designing and delivering entry to advanced level training in mediation, negotiation, multi-party processes, and consensus-building. Sally is passionate about her work within the First Nations communities delivering Peacemaking or Talking Circles training. She describes her style as “facilitative, fluid, and client-centered.”

THE PROBLEM

A preliminary review of conflict resolution courses offered in Canada reveals numerous programs that provide training in basic mediation skills, strategies, and models. Advanced mediation courses are dramatically fewer in number, availability, and show a wide divergence in subject matter. Initial discussions with a small sampling of experienced mediators elicited a diverse variety of opinions regarding what they believed were key topics and components of advanced mediation training. To add to the confusion, a review of advanced mediation courses offered by academic postsecondary institutions (universities and colleges) versus non-academic training programs (Justice Institute of British Columbia and private practitioners etc.) revealed a wide variance in consistency with the course material offered in the respective curricula.

Oberman (2005, Electronic version) asserts that “the scholarship on mediation points out the disturbing lack of clarity among mediators about what we are actually doing; this has been an ongoing problem in establishing mediation as a profession and in setting criteria for training and evaluating mediators.”

My personal belief is that a problem cannot be addressed until it is first identified, and as my research sponsor, Gordon Sloan, so aptly put it: “I don’t know if anybody understands what’s currently being taught. I’m in this to find out.”

Gordon was not alone in his curiosity to discover the topics and components of advanced mediation training courses that were being offered by other trainers. Michael Fogel, who is a good friend and professional colleague of Gordon’s, also acknowledged that “I don’t have an expansive handle on what is being offered other than what I am offering.” Michael went on to elaborate:

Well, we have a tendency ... the busier we are to engage less and less with one another. Gordon and I had a chance several years ago to talk more about what we were doing and how we were doing it ... so I don’t know ... anything that I would say about that [since then] would be based on assumptions, based on what I hear others’ experiences are of mediation training programs out there.

Larry Axelrod, whose training does not include advanced mediation, could only speculate on the gaps in advanced mediation training from feedback he has had from colleagues in the field:

What I believe is likely not being taught is something more about the psychology of people and situations ... I’m not sure that much about body language is taught and how to use your body language as a facilitator ... and while I think they teach inquiry skills, I wonder how far they go in teaching discrepancy confrontation skills and how to do that effectively?

Gary Harper made reference to the lack of clarity within the training community in terms of designating courses as basic or advanced mediation training:

I tend to think of basic [training] as being the first forty hours ... I tend to think of advanced in terms of people who have been practicing for a while ... but it could be the second forty hour course is advanced ... I almost see there's three types ... the really, truly capital 'A' advanced would be what Michael Fogel does in Mediation III: 'let's talk about what goes on for you ... let's talk about being present' ... so to me there's some training that's called advanced but it's just reinforcing the basics ... I guess it's just in people's desire to call it advanced ... I think that they're really teaching the basics in more depth.

Marc Souliere, who has done close to two hundred mediations, fifty group interventions, and teaches advanced mediation training, spoke of his own personal frustration: "For the last two years I'm supposed to make a training plan ... well, I can't do a training plan because I can't find any training that's going to be useful to me."

I find it ironic that, as I search for advanced mediation training for myself, the same challenge that I face is equally true for an experienced mediator and mediation trainer such as Marc.

The *problem* identified so far is as follows:

- a lack of consistency in setting criteria for [mediation] training and evaluation that might have a negative impact on establishing mediation as a profession.

- a lack of clarity within the mediation training community about what is being taught in advanced mediation training programs and courses. I propose that such a lack of clarity will no doubt have an impact upon consistency between training programs and courses.
- a lack of knowledge of discrepancies between current training and what is recommended by practitioners and trainers.
- a lack of information to identify what advanced mediation training is available and where such training might be found.
- a lack of advanced mediation training that will meet the needs of experienced mediators.

RATIONALE FOR THE RESEARCH

From Deutsch comments in 1995 to Bronson's remarks in 2000, there has been an ongoing call for research into the area of mediation training. Lang (2000) recommended "the professional organizations in our field should take an increased role in professional development. Current approaches, such as encouraging continuing education ... and setting standards for training programs are important contributions" (p. 237).

Moore (2003) pointed out that mediation has only become formally institutionalized since the early twentieth century with the modern practice becoming expanded into a profession within the last twenty-five years. (p. 23). In that context, the development of mediator training is still in its infancy when compared to other disciplines such as law or social sciences. If one considers the many areas of overlapping skills and knowledge between the three disciplines, it is

not surprising to find many disparities between training programs. If the profession is to expand and become more unified, I believe concerns relating to the lack of clarity within the community in terms of best practices and training will need to be addressed.

BENEFITS OF THE RESEARCH

The likely benefit for the researcher will be to identify training that will enhance existing competencies. The research will benefit the mediation training community by providing a framework in which advanced mediation training offered is compared to the training recommendations of experienced expert mediators. This will allow mediation trainers across the country to contrast their own programs with the training recommendations of their peers; to learn from others' experience; and to affirm their own training curricula, or become aware of additional curriculum components they might wish to incorporate.

Lastly, this research has the potential to advance mediation as a profession by improving training standards and mediator competencies.

CHAPTER TWO - LITERATURE REVIEW

NEED FOR THESIS RESEARCH

In 1995, Deutsch voiced his concern that “there is an appalling lack of research on the various aspects of training in the field of conflict resolution” (p. 128). Eleven years later, I feel compelled to voice my concern that I believe there is an appalling lack of research on the various aspects of advanced mediation training. There is ample literature in the area of basic mediator skills, knowledge, attributes and what topics should be included in basic training. There is literature that speaks to the knowledge and attributes required of an advanced mediator; however, a search of academic literature revealed a scarcity of resources that speak to the area of advanced mediation training. In the context of Deutsch’s concerns, I find it interesting, although somewhat discouraging, to discover that there has been little research into what is being taught in advanced mediation training, what needs to be taught, or comparative studies conducted of advanced mediation training courses or programs. This is especially puzzling in that mediation training continues to be a topical issue within the practicing conflict resolution community.

Cresswell (1994) defines a research study as being a study that “advances a research question and reports data to answer the question.” Cresswell further states that “if no ‘research’ can be found, as indeed may be the case when one studies a narrow topic, the investigator can review literature broadly related to his or her topic” (p. 51).

The biggest challenge with this research study has been the lack of empirical research on the topic of advanced mediation training. Mediation research has mostly focussed on aspects of basic mediation skills, process, and training. The few references to advanced mediation training found in literature are framed within the context of a discussion that deals with mediation training in general.

Cresswell suggests that, when there is a deficiency of research literature, a broader based review of literature is appropriate even if it relates only indirectly to the study at hand (1994, p. 51).

A review of advanced mediation training curricula shows that most advanced mediation training is either taught as a stand-alone course, clinic or workshop, which varies in length from one to five days, or it is included as one of numerous course offerings in a mediation certificate program. While the following literature does not always specifically refer to advanced mediation training, the points made are equally valid for advanced as well as basic training programs.

In 1996, Slaikeu pointed out that “training programs range from excellent to very poor, but the person seeking the training will not know the difference because one seldom takes more than one course of training. That is why it is so important to research courses before choosing one” (p. 162). Slaikeu’s comment begs the question: Without comparative research of what is offered in different advanced mediation training programs, how can the consumer know if some are better than others?

Many mediation trainers have websites containing advanced mediation course descriptions or program curricula. I utilized this resource to compare programs and course offerings provided by different educators. Generally, I notice that most advanced mediation training programs have similar core courses, although the learner's choice of elective courses varies significantly. For example, I compared two advanced mediation certificate programs: one required 'Shifting from Positions to Interests' as a core course, while the other program had the same topic as an elective. At another institution, I counted over one hundred elective courses that students could choose from. With that degree of variation in course material, I can't help but wonder what the impact might be in terms of mediator competence emerging from program to program or, for that matter, the competence of graduates of the same program. Without research into advanced mediation training needs, how is a learner supposed to determine which elective courses might be more applicable to their personal or career goals?

Not only is there an extensive variety in training courses offered a learner also has numerous training options or "paths" to choose from. Moore (2003) highlighted the degree of inconsistency between different mediation training programs when he proposed "there are six paths that an individual may take to obtain knowledge and skills in mediation theory and practice" (pp. 452 – 453). Moore identified the paths as follows:

- 1) Short courses on mediation and other dispute resolution procedures offered by associations and conferences, some in the dispute resolution field and some not.
- 2) Longer training programs (several days to one or more weeks) on general mediation processes or on particular topics, offered by experienced public or private mediation practitioners, organizations, and firms.

- 3) Conflict management certificate programs composed of multiple courses, offered by a number of colleges and universities and continuing education programs.
- 4) Courses in professional schools.
- 5) University degree programs in conflict theory, analysis, and practice.
- 6) Mentoring programs in which prospective practitioners learn mediation skills and practice as apprentices to experienced mediators. (pp. 452 – 453)

Moore's description of the different paths is congruent with the advanced mediation training programs I reviewed for this research. Advance mediation training does indeed range from certificate programs to graduate degrees, with each program having possible differences in program length and content. There are variances in the qualifications and backgrounds of the respective instructors. The different options, in terms of the individuals or organizations that offer advanced mediation training, underscore a lack of standardization, cohesiveness, and consistency within the mediation training community that this research proposes to explore.

MEDIATION TRAINING CONCERNS

Picard, Bishop, Ramkay, & Sargent (2004) made the following observations regarding mediation training in general:

- Mediation practitioners have no single set of legal or national educational requirements. Training programs vary greatly, and, unlike other professions, the discipline has no governing body mandated to establish and enforce minimum training requirements.
- As a minimum requirement, many institutionalized professional programs suggest forty hours of training ... given the requirements of other recognized professions, the forty

hour (or five day) training standard seems far from sufficient to realize the larger social and more holistic visions of mediation. (pp. 324 – 325)

These observations are consistent with the outcomes of this study. The authors are concerned about the variations in basic training programs and believe forty hours of basic training is insufficient. These concerns become amplified when we consider the challenges of advanced mediation training. With such variability in basic mediation training, how does one build upon such a weak foundation in providing the advanced mediation training needed to produce competent mediators? If there is, as I suspect, a gap between training recommended by practitioners and what is actually being taught, what impact might that have on the credibility of the profession?

MEDIATION RESEARCH

Research in the area of mediator skills has included some of the following studies:

1) In 1989, *The Society of Professionals in Dispute Resolution*¹ (SPIDR) Commission on Qualifications conducted a study of skills needed for competence as a neutral service provider. The study determined that formal academic education was not a necessary prerequisite for competence. “Well designed training programs, which stress the specific skills and techniques of mediation and arbitration, are of critical importance” (Moore, 2003, pp. 452 – 453).

The Society for Professionals in Dispute Resolution ("SPIDR") was established in 1973 to promote the peaceful resolution of disputes and the idea that resolving disputes through negotiation, mediation, arbitration and other neutral interventions can be of great benefit to disputing parties and to society. In 1983, the SPIDR Board of Directors charged the SPIDR Ethics Committee with the task of developing ethical standards of professional responsibility. The Committee membership represented all the various sectors and disciplines within SPIDR. This document, adopted by the Board on June 2, 1986, is the result of that charge. The purpose of this document is to promote ethical conduct and a high level of competency among Members, including honesty, integrity, impartiality and the exercise of good judgment in their dispute resolution efforts. It is hoped that this document also will help to (1) define the profession of dispute resolution, (2) educate the public, and (3) inform users of dispute resolution services. In 2001, SPIDR merged with the Academy of Family Mediators ("AFM") and the Conflict Resolution Education Network ("CREnet") to form the Association for Conflict Resolution ("ACR"). Retrieved August 8, 2006 from <http://www.acrchicago.org/standards.html>

A further study, conducted in 1992, focussed on qualification issues for neutral service providers. One outcome of this study was the recommendation that input should be solicited from “consumers, practitioners, program administrators, educators, researchers and others to identify needs and develop standards of competence and excellence in practice” (Society of Professionals in Dispute Resolution, 1995, p. v).

The final SPIDR Commission report, issued in 1995, continued to focus on the development of competency and included the following recommendations for trainers and training programs:

Training alone is never sufficient for establishing competence and should never be promoted as such. Training programs should include coverage of ethics, practice, theory, and, when appropriate, substantive knowledge, as well as an experiential component that appropriately engages trainees in role-plays with supervision, feedback, and assessment ... Training should address issues of cultural differences and the skills necessary for working in conflicts across cultures, and trainers should have the necessary qualifications regarding such issues. (Society of Professionals in Dispute Resolution, 1995, pp. 21 – 22)

The foregoing literature speaks to the need for this research on several fronts: Firstly, the critical importance of well-designed training programs was recognized as far back as 1989. Secondly, the 1992 study supports the methodology I am using for this project in seeking input from practitioners and educators to identify current training needs in order to develop better

mediator competence and excellence in practice. Lastly, the 1995 report makes suggestions regarding program content and pedagogy that are equally applicable today.

2) *The Mediator Skills Project*, convened in 1998, was a two-year study conducted by The Vinson Institute of the University of Georgia. The project was a collaborative research effort of mediation practitioners and advisers who conducted a survey of their peers to determine the knowledge areas and skills that were most important for mediator competence. The study produced a list of eighteen knowledge and thirteen skill areas. (Herrman, Hollett, Eaker, & Foster, 2001, p. 139)

The knowledge and skill areas identified were then ranked based on what the mediation practitioners found most useful. The following are the thirteen areas noted in the study:

Communication; Critical Thinking; Dealing with Information; Mediation Process Management; Ethical Issues; Information Gathering; Relationship Management and Encouragement; Power and Control; Problem Solving; Mediator Error Correction; Cultural Diversity and Competency Skills; Education and Dissemination of Knowledge; and Administrative [functions].

While mediation skills were surveyed, and input provided to rank key skills and knowledge deemed useful to mediators, there was no differentiation between basic skills and advanced mediation skills. Furthermore, the study did not examine the availability and content of training courses. This thesis proposes to clarify the differences between basic and advanced mediation training and provide the reader with a review of available advanced mediation training currently offered.

In 2004, Michelle Le Baron and Colleen Brown undertook a study “to determine what Conflict Resolution, Dispute Resolution, and Peace Studies degree-granting programming” was being taught in English-speaking Canadian post-secondary institutions. A total of sixteen universities and seventeen law schools were included in the study. Data was collected in the following areas: program & program name; location & function; funding & advertising; accreditation; characteristics of a successful student; program reception & perception; teaching methods; subsequent employment of students after successful program completion; perceived program uniqueness; perfecting program; five year trends in Alternate Dispute Resolution programming and reasons to enter the program. While course curricula were identified for study no data was collected. Of particular significance to this research project is the recommendation by Professor Le Baron that this is an area that deserves investigation and follow up. (LeBaron & Brown, 2004, Electronic version).

For over eleven years, experts have recommended that research be conducted in the area of mediation training. To the best of my knowledge, this paper is the first compilation of expert’s views of critical components that should be included in advanced mediation training. It is also the first comparative study that I am aware of to examine the specifics of advanced mediation training currently being offered.

CHAPTER THREE – RESEARCH METHODOLOGY

This research project used both qualitative and quantitative research approaches. I will first explain the rationale for using each approach and then describe the respective study conduct.

RATIONALE FOR QUALITATIVE ACTION RESEARCH

Royal Roads University recommends students use action research methodology and provides the following description on its website:

Action research is a form of field research in which the researcher builds a collaborative relationship with a group, agency or organization in order to collect information that bears on a problem, decision, policy or action that is of interest to that social institution. While the research has a conceptual foundation or context, its purpose is to enhance decision and/or policy making through fact finding, problem diagnosis, problem evaluation, model building or some other form of action-relevant information gathering. Retrieved May 31, 2006 from <http://modules.royalroads.ca/macam/>

Qualitative action research methodology was a natural fit for this study. Field research was conducted by way of personal interviews with mediation experts. The interviews were designed to elicit the participant's views about advanced mediation training needs and to gather relevant information by way of their recommendations of topics and components that might enhance current training offerings.

The research objective is also consistent with action research characteristics defined by Zeni (1998) in that it involved “practitioners studying their own professional practice” (p. 3). Based on pilot interviews, it appeared that there might be differences between the curricula taught in advanced mediation training courses and topics or components recommended by practicing professionals or trainers. Identification of such gaps was of great interest to my sponsor, who wanted to improve his own course offerings and compare the material he taught in his advanced mediation training to other programs.

QUALITATIVE STUDY CONDUCT

With twenty years of interview experience, the qualitative approach of gathering information through one-on-one, context-bound interviews was a natural fit for me. Cresswell (1994) describes this as “an inquiry process of understanding a social or human problem based on building a complex, holistic picture, formed with words, [and] reporting detailed views of informants” (pp. 1 – 5).

One of the most enjoyable aspects of the research was having the opportunity to elicit the views of mediators whose work held personal interest for me. Seidman (1991) observes, “at the root of in-depth interviewing is an interest in understanding the experience of other people and the meaning they make of that experience” (p. 3). The shared experience and mutual interest of wanting to find and address potential gaps in advanced mediation training appeared to resonate with the participants, who enthusiastically responded to the interview questions.

According to Seidman, interview studies pose the following dilemma:

In interview studies ... it is not possible to employ random sampling true randomness would be prohibitive in an in-depth interview study. Furthermore, participants must consent to be interviewed, so there is always an element of self-selection How best to select participants who will facilitate the ability of others to connect if random selection is not an option? The most commonly agreed upon answer is purposeful sampling ... the range of people and sites from which people are selected should be fair to the larger population. (1991, pp. 41 – 42)

My research sponsor, Gordon Sloan, and I used purposeful sampling to make up a list of potential research participants. The sampling took into consideration the need to have a diverse cross-section of mediation styles, experience, and perspectives, so that patterns revealed were more likely to be reflective of opinions of the mediation community in general. Selection criteria included the following considerations: mixed gender split (not necessarily equal but diverse), experience in mediation training, a variety of mediation styles, a variety of different mediation areas of practice and specialties, a variety of expertise in other fields, and accessibility to the researcher.

After Gordon and I had agreed upon a list of prospective candidates that we felt met the selection criteria, Gordon, as my sponsor, sent each candidate a written invitation to participate in the study (see Appendix C). Attached to each invitation was a copy of the research questions (see Appendix A) that would be put to the participant.

We received seven favourable responses to the research study invitation. The diversity within the group of seven research participants is shown in their individual biographies (see Appendix D). The following is a brief overview to illustrate how the participants represent a cross-section of the mediation community:

Name	Gender	Mediation Style	Specialty	Related Expertise
Avi Tal	M	Transformational	Family & Parent/Teen	
Marc Souliere	M	Restorative	Group & Organizational	HR Specialist
Gary Harper	M	Narrative Light	Trainer & Speaker	Lawyer
Larry Axelrod	M	Strategic Facilitation	Organizational Assessment Group, Multi-Party, Family	Ph.D. Social Psychology
Gordon Sloan	M	Facilitative	Civil & Commercial Organizational, Multi-Party	Lawyer
Michael Fogel	M	Whatever is Needed	Senior Trainer JIBC Designs Adv. Mediation Training	Lawyer/Judge
Sally Campbell	F	Facilitative & Client-Centred	Family & Civil Intercultural	Lawyer

All of the participants provide conflict resolution training in various topics. Five out of the seven provide advanced mediation training: Avi Tal, Marc Souliere, Gordon Sloan, Michael Fogel, and Sally Campbell.

Interviews were arranged and conducted at a mutually agreed upon time and location. Most interviews took one hour to complete and were tape-recorded, with consent, for later transcription. Six of the interviews were conducted in person while the seventh interview, with Marc Souliere, was done by telephone and also recorded for transcription.

The interviews consisted of semi-structured open questions (see Appendix A). In addition to identifying topics and components that the participants believed were important for inclusion in advanced mediation practice and training, I also wanted to learn their rationale for defining the identified subjects as advanced.

How many participants are enough? Seidman (1991) asserts there must be a sufficient number of participants to reflect the range of diversity within their group or community so “others outside the sample might have a chance to connect to the experiences of those in it” (p. 45). Seidman goes on to cite the work of Douglas (1976); Glaser & Strauss (1967); and Lincoln & Guba (1985) to support his second criterion that an appropriate saturation point has been reached once the researcher “begins to hear the same information reported” (p. 45).

I was surprised how quickly similarities emerged between research participants with regard to their recommendations for advanced mediation training topics and what their perceptions were of gaps in current advanced mediation training venues. While participants were interviewed in isolation to each other, I noticed the same subject areas were recommended on a recurring basis throughout the interviews. There was sufficient consensus by a majority of participants to identify twenty-eight subject areas that were later ranked for comparative analysis

to course offerings by advanced mediation training providers. While seven participants comprise only a small sampling of the mediation community at large, I feel comfortable that a saturation point was reached in the interviews that is sufficient for others in the community to relate to them. (Seidman, 1991, p. 99)

The interviews were transcribed and sent to the research participants to be vetted for accuracy. Once I had confirmation from each participant that the transcript was correct, the information collected during the interviews needed to be organized. The methodology used was what Kirby & McKenna (1989) describe as dividing data into “bibbits” or “sections of data ... that are manageable” (p. 135). A bibbit is defined as:

A passage from a transcript, a piece of information from field notes, a section of a document or snippet of conversation recorded on a scrap of paper that can stand on its own but, when necessary, can be relocated in its original context. (p. 135)

According to Kirby & McKenna, the underlying purpose for dividing the data into bibbits is to allow the information to be referenced so that it can later be sorted into categories or themes. “Each bibbit needs to be copied for sorting so that it can be put into as many category files as its content and context require The bibbit must be identified in such a way that it can be quickly and easily relocated” (1989, pp. 135 – 136).

I photocopied each transcript, and went through and highlighted what I felt were comments relevant to the research project. I started by first cutting out participant responses to the research questions taking care to ensure I noted the participant’s name on each bibbit. Some

of the bibbits were quite literally a snippet of conversation while others were several pages in length. The bibbits were then tacked to one of four large poster boards under the respective research question the quote applied to. I affectionately nicknamed the poster boards my “bibbit boards.” The bibbit boards took up an entire wall in my study. This system of grouping the responses allowed me to use the research questions as themes that served as a starting point from which subject categories and participant quotes on specific issues were later drawn.

Druckman (2005) points out that “content analysis techniques help to organize material systematically for ... comparative analysis” (p. 257). Since the research goal was to do a comparative analysis between the topics recommended by the participants, and the topics offered by academic and non-academic training providers, the last step was to identify, extract, and organize the participant’s recommendations into a format that would allow such a comparison. I went back through the bibbits and listed every topic or component of advanced mediation training that was recommended by participants under the name of the participant who mentioned it.

Kirby & McKenna (1989) describe analysis as “moving data from category to category (constant comparative) looking for what is common (properties) ... The data is arranged and rearranged until some measure of coherence becomes evident ... a good place to start looking [is] for categories which ‘go together’” (p. 146).

I arranged the participant recommendations by grouping topics and components that I felt went together into the subject categories shown in Appendix E. The inclusion of different

subjects in each of the categories was a choice made by the researcher. The compilation is solely intended to provide the reader with the subject matter included under each subject category.

A total of twenty-eight subject categories were identified. I felt that a review of course offerings of academic and non-academic trainers for this number of subjects was not realistic in light of time restraints for thesis completion. For this reason, I decided that I would only use topics and components that were recommended by a majority of participants in my comparisons to courses offered by mediation trainers. A “majority” for the context of this paper, is defined as being four out of seven participants or 57%.

Druckman (2005) mentions the “variety of approaches that fall under the content analysis rubric; they range from simple mechanical word counts to broad-gauged interpretations of themes” (p. 257). Ranking the subject areas was done via a simple name count of how many participants recommended that particular topic or component. This analysis brought the number of subject categories for comparative analysis down to a total of fifteen shown in Table 1.

RATIONALE FOR QUANTITATIVE RESEARCH

As mentioned earlier, this research project used both qualitative and quantitative approaches. Cresswell (1994) refers to this process as a “mixed-methodological design study ... where the author collects both qualitative and quantitative data. The end result is that “both themes and statistical analysis are presented” (p. 184).

The quantitative portion of this research project conforms to Cresswell's definition of a study as "an inquiry ... measured with numbers, and analyzed with statistical procedures on the ontological issue of what is real, the quantitative researcher views reality as 'objective', 'out there' independent of the researcher" (1994, pp. 2 - 4).

In the context of this study, searching "out there" involved conducting an objective search of the Internet to find Canadian post-secondary academic and non-academic educational facilities that offered advanced mediation training. Once training providers were identified, the researcher then searched each training program and noted which of them covered the top fifteen ranked subject areas recommended by the research participants.

QUANTITATIVE STUDY CONDUCT

An Internet search was conducted to find Canadian post-secondary academic and non-academic educational facilities located in English speaking provinces that offer advanced mediation training. It is important to note that the research did not include institutions within the Province of Quebec (see Study Limitations).

The search words that were typed into Google included: conflict, conflict resolution, conflict resolution training, dispute(s), dispute resolution, dispute resolution training, mediation, mediation training, and advanced mediation training. Only courses self-identified as "advanced mediation" training were included in the study. I found that most sites provided sufficient curriculum specifics to extract topics and training components. As a cross check, I obtained the course manuals from two non-academic institutions and two academic institutions in order to

compare their outlines to the course descriptions found on the respective websites. I found there were no significant differences.²

Course outlines and descriptions were printed and filed for later review. The data was organized according to the type of training organization (academic or non-academic) in alphabetical order. A total of fourteen academic institutions were identified as a provider of advanced mediation training (see Appendix B).

The primary source for locating academic institutions that offered advanced mediation training was the Canadian Information Centre for International Credentials directory (Electronic version). The Centre lists all recognized post-secondary or higher education institutions in Canada and includes Universities, Colleges, Technical Institutes, and Theological Institutions. I also searched The Association of Universities and Colleges of Canada website as well as the Peacemakers Trust site listing of Canadian University-Based Conflict Resolution Research or Educational Programs.

I searched all of the sites listed for mediation training courses that were clearly identified as “advanced.” If the course description did not specifically state that it was advanced mediation training I did not include that institution in the study.

² The two non-academic programs that I compared to course outlines on the Web were the Justice Institute of British Columbia’s *Mediation III* course and *Advanced Mediation* through South Island Dispute Resolution Centre (Diamond Management) Victoria, BC. The academic courses compared were *Advanced Conflict Resolution & Mediation* through Carleton University and *Advanced Mediation Skills* at Conrad Grebel University.

In searching for non-academic advanced mediation training programs, I accessed over 2000 Canadian websites and related links. While I have strenuously endeavoured to provide a full listing of non-academic trainers who offer advanced mediation training, I suspect it is unlikely that all have been identified. The following is a list of web resources searched:

- Google search engine for conflict, conflict resolution, conflict resolution training, dispute(s), dispute resolution, dispute resolution training, mediation, mediation training, and advanced mediation training
- Peacemakers Trust's website for general conflict resolution training
- 1800 websites listed as mediation trainers in the Canada wide 411 yellow pages
- Conflict Resolution Network Canada's Directory of Trainers & Practitioners and related practitioner links
- Alternate Dispute Resolution Institute of Canada
- Association for Conflict Resolution
- Provincial Arbitration Rosters and Societies
- Family Mediation Canada
- Provincial Arbitration and Mediation Rosters and Societies

ANALYSIS OF STUDY DATA

Once I had identified the institutions that offered advanced mediation training, I searched their websites to determine if that particular institution offered course content recommended by the research participants. The results for academic and non-academic training organizations were graphed separately so that comparisons for the number of each type of institution that offered

each subject training category could be made to the recommendations of the participants (see Table 2 and Table 3).

A final analysis was completed to determine what differences [if any] existed between training recommended and training offered (see Table 4 and Table 5).

ETHICAL CONSIDERATIONS

Royal Roads ethical policies were carefully adhered to. Each participant was sent a written invitation to voluntarily participate in the study to share his/her experiences and perspectives on the research topic (see Appendix C). Included with the consent letter was a copy of the questions to be asked (see Appendix A). Interviews were conducted in person, whenever possible, or by phone at a mutually agreed upon time and location. Issues of confidentiality and consent were addressed up front. Without hesitation the participants agreed to be identified so that I could quote them by name. The interviews were tape-recorded and transcripts of the interviews were sent to each participant to be approved for accuracy. Lastly, pursuant to Royal Roads University ethical policy, each research participant was sent a copy of Chapters Four and Five for their feedback prior to submission of the Thesis to the University.

CHAPTER FOUR - STUDY FINDINGS AND OBSERVATIONS

RESEARCH QUESTION #1

What are the key topics and components of advanced mediation training recommended by experienced mediation practitioners and trainers?

As mentioned in Chapter Three, the interviews with the seven research participants were transcribed and a content analysis was conducted to determine the topics and components that each felt was most important to be included in advanced mediation training. Participant recommendations were then grouped into subject categories as shown in Appendix E.

Table 1 shows the complete list of subject categories ranked in order by frequency distribution. This is shown as a percentage of the number of participants who included these subjects in their recommendations. In order to keep the study from becoming too unwieldy, I decided to compare only those subject categories that were mentioned by a majority of participants to the course offerings of academic and non-academic advanced mediation trainers. A “majority” for the context of this paper, is defined as being 57%, which is four out of the seven participants. This cut-off is shown as a vertical grey bar on Table 1 that separates the top ranked fifteen categories from topics recommended by less than a group majority.

Table 1
Subject Categories Identified by Research Participants – Ranked in Order by Frequency Distribution of the Number of Participants who Included Them in Their Recommendations

All subject categories recommended by research participants	Number of participants who recommended this subject category	Percentage of participants who recommended this subject category
Dealing with Emotions	7	100%
Challenges & Curveballs	7	100%
Practicum Opportunities	7	100%
Mediation Models	6	86%
Strategy	6	86%
Communication Skills	6	86%
Reflective Practice	6	86%
Confrontation	5	71%
Conflict Analysis & Assessment	5	71%
Culture	4	57%
Power	4	57%
Pre-Mediation	4	57%
Process & Procedure	4	57%
Psychology	4	57%
Real-Life Examples	4	57%
Mediator Role	3	43%
Co-Mediation	3	43%
Impasse	3	43%
Mediator Neutrality	3	43%
Conflict Complexities	2	29%
Multi-Party & Group	2	29%
Process Design	2	29%
Current Topics	2	29%
Caucusing	1	14%
Apology & Forgiveness	1	14%
Emotional Intelligence	1	14%
Questioning Skills	1	14%
Conflict Theory	1	14%

Although the interviews were conducted in isolation from one another, there was consensus by a majority (over 50%) of participants on fifteen of the twenty-eight subject categories. Three categories were deemed sufficiently important that they were mentioned by 100% of participants: *Dealing with Emotions, Challenges & Curveballs*, and *Practicum Opportunities*.

RESEARCH QUESTION #2

To what extent are the topics and components recommended by expert practitioners covered within academic and non-academic advanced mediation training programs in English speaking Canada?

Results for Academic Institutions

As mentioned in the methodology, fourteen academic institutions that taught advanced mediation training were identified by using information found on their web sites (see Appendix B). Curricula content were reviewed to determine how many of these facilities provided course offerings that fell into the top ranked subject categories mentioned by a majority of research participants.

Table 2 shows the list of the top fifteen subject categories identified by research participants followed by the number of many academic institutions that indicated these subjects were included in their curricula. The frequency distribution of the number of academic institutions offering the training has been calculated as a percentage of the total number of organizations surveyed.

Table 2
Subject Categories Included in Academic Institution's
Advanced Mediation Curricula

Top subject categories recommended by research participants	Percentage of participants who recommended this subject category	Number of academic institutions out of 14 that offered this category	Percentage of academic institutions that offered this category
Dealing with Emotions	100%	4	29%
Challenges & Curveballs	100%	6	43%
Practicum Opportunities	100%	3	21%
Mediation Models	86%	4	29%
Strategy	86%	4	29%
Communication Skills	86%	9	64%
Reflective Practice	86%	4	29%
Confrontation	71%	0	0%
Conflict Analysis/Assessment	71%	9	64%
Culture	57%	3	21%
Power	57%	5	36%
Pre-Mediation	57%	1	14%
Process & Procedure	57%	6	43%
Psychology	57%	4	29%
Real-Life Examples	57%	4	29%

It is interesting to note that twelve of the fifteen subjects categories recommended are offered by five or fewer of the institutions (approximately one third).

While 70% of research participants recommended *Confrontation* techniques be taught, I was unable to find any reference to *Confrontation* as a specific topic included in any of the fourteen academic institutions' curricula.

Pre-Mediation is another subject category in which there was a significant gap between training recommended and training provided. While 57% of the participants strongly

recommended that *Pre-Mediation* be included in advanced mediation training, I was able to find only one academic institution that showed this as a separate course on their website.

Results for Non-Academic Institutions

Fifteen non-academic institutions that taught advanced mediation training were identified by using information found on their web sites (see Appendix B). Curricula content were reviewed to determine how many of these facilities provided course offerings that fell into the top ranked subject categories mentioned by a majority of research participants.

Table 3 shows the list of the top fifteen subject categories identified by research participants followed by the number of how many non-academic institutions indicated these subjects were included in their curricula. The frequency distribution of the number of non-academic institutions offering the training has been calculated as a percentage of the total number of organizations surveyed.

Table 3
Subject Categories Included in Non-Academic Institution's
Advanced Mediation Curricula

Top subject categories recommended by research participants	Percentage of participants who recommended this subject category	Number of non-academic institutions out of 15 that offered this category	Percentage of non-academic institutions that offered this category
Dealing with Emotions	100%	5	33%
Challenges & Curveballs	100%	9	60%
Practicum Opportunities	100%	3	20%
Mediation Models	86%	7	47%
Strategy	86%	3	20%
Communication Skills	86%	12	80%
Reflective Practice	86%	7	47%
Confrontation	71%	3	20%
Conflict Analysis/Assessment	71%	3	20%
Culture	57%	7	47%
Power	57%	9	60%
Pre-Mediation	57%	4	27%
Process & Procedure	57%	7	47%
Psychology	57%	3	20%
Real-Life Examples	57%	4	27%

In this case, twelve of the fifteen subjects recommended are offered by seven or fewer of the institutions (slightly less than one half). This compares favourably to academic programs where only one third of those surveyed provided training in the recommended areas.

The subject of *Confrontation* techniques was recommended by 70% of the participants. Non-academic trainers did not fare much better than their academic counterparts with only 20% of these providers including *Confrontation* techniques in their curricula compared to 0% of academic trainers.

While 57% of the participants strongly believed that *Pre-Mediation* was an important area for inclusion in advanced mediation training only 27% of non-academic trainers offered advanced training in this category. Only one out of fourteen academic training facilities clearly indicated they offered this subject as a stand alone course on their website.

Comparisons of Participant Recommendations to Academic Curricula

Table 4 shows a comparison of the percentage of research participants who recommended a subject category (shown in Table 1) to the percentage of academic institutions offering them (Table 2). The difference was calculated by simple subtraction. The greater the difference between percentages indicates the degree of discrepancy between the subject matter recommended by the research participants and what is being taught.

Table 4
Comparison of the Percentage of Participants who Recommended Subject Categories with the Number of Academic Institutions that Offer them in their Curricula

Top subject categories recommended by research participants	Participants	Academic	Difference
Dealing with Emotions	100%	29%	71%
Challenges & Curveballs	100%	43%	57%
Practicum Opportunities	100%	21%	79%
Mediation Models	86%	29%	57%
Strategy	86%	29%	57%
Communication Skills	86%	64%	22%
Reflective Practice	86%	29%	57%
Confrontation	71%	0%	71%
Conflict Analysis & Assessment	71%	64%	7%
Culture	57%	21%	36%
Power	57%	36%	21%
Pre-Mediation	57%	14%	43%
Process & Procedure	57%	43%	14%
Psychology	57%	29%	28%
Real-Life Examples	57%	29%	28%

In seven of the fifteen Subject Categories the difference between how often they were recommended to how often they were offered exceeds 50%. It is also noteworthy that no subject was offered as often, or more often, than was recommended.

Comparisons of Participant Recommendations to Non-Academic Curricula

Table 5 shows a comparison of the percentage of research participants who recommended a Subject Category (shown in Table 1) to the percentage of non-academic institutions offering them (see Table 3). The difference was calculated by simple subtraction. The greater the difference between percentages indicates the degree of discrepancy between the subject matter recommended by the research participants and what is being taught.

Table 5
Comparison of the Percentage of Participants who Recommended Subject Categories with the Number of Non-Academic Institutions that offer them in their Curricula

Top subject categories recommended by research participants	Participants	Non-Academic	Difference
Dealing with Emotions	100%	33%	67%
Challenges & Curveballs	100%	60%	40%
Practicum Opportunities	100%	20%	80%
Mediation Models	86%	47%	39%
Strategy	86%	20%	66%
Communication Skills	86%	80%	6%
Reflective Practice	86%	47%	39%
Confrontation	71%	20%	51%
Conflict Analysis & Assessment	71%	20%	51%
Culture	57%	47%	10%
Power	57%	60%	-3%
Pre-Mediation	57%	27%	30%
Process & Procedure	57%	47%	10%
Psychology	57%	20%	37%
Real-Life Examples	57%	27%	30%

It is worth noting that three subjects: *Communication Skills*, *Culture*, and *Power*, are found in non-academic course curricula about as often as they were recommended by the participants. There are however significant differences in many other subjects such as *Practicum Opportunities*, *Dealing with Emotions*, and *Strategy*.

When the recommendations of the participants for *Dealing with Emotions* were compared to actual course offerings, it was discovered that only 29% of the academic institutions and 33% of non-academic institutions provided training in this area. When the subject of *Challenges & Curveballs* was reviewed it was determined that only 43% of academic institutions and 60% of non-academic trainers covered this topic. While 100% of the research participants recommended *Practicum Opportunities* only 21% of academic programs and 20% of non-academic training providers had this in the curricula.

OBSERVATIONS

The data clearly confirms that courses being offered by both academic and non-academic institutions are not meeting the real-world needs of advanced mediation training as recommended by the research participants.

To my knowledge this is the first time the recommendations of a sampling of respected mediation professionals have been tabulated and compared to course offerings available.

Non-academic institutions fare more favorably than academic institutions; however there is still a significant gap between subject matter being recommended and what is available for those seeking advanced mediation training.

There is a noticeable difference in the focus between the research participant recommendations for advanced mediation training, academic course offerings, and non-academic curricula. The following shows the top ranked subject areas for each:

Participants

Emotions
Practicums
Challenges

Academic

Communication
Analysis
Challenges
Process

Non-Academic

Communication
Power
Challenges

STUDY LIMITATIONS

- It is acknowledged that the research project engaged a small sample size of mediation trainers that was not large enough to warrant statistical analysis.
- It is assumed that information taken off academic and non-academic Internet websites are a true reflection of course offerings.
- The aggregate score for academic advanced mediation training providers does not reflect individually on any university or college. The same is true for non-academic training providers.
- While the writer has attempted to include all known academic and non-academic advanced mediation training providers it is unrealistic to assume the institutions surveyed comprise an exhaustive list.
- Advanced mediation training institutions within the province of Quebec were not included due to the author's lack of fluency in the French language.
- The recommendations of the research participants were elicited from free flow thoughts; thus, lack of consensus on certain topic recommendations might simply reflect that participants hadn't thought of that particular area, rather than being in disagreement about the importance of including that subject in advanced mediation training. A future study might request that participants rank their recommendations in terms of their importance.
- Only one female accepted the study invitation to participate. The results may have been different had there been a better balance in gender of research participants.

CHAPTER FIVE – RESEARCH IMPLICATIONS

FINDING THE GAP

Where once I suspected – now I am sure. At the beginning of this thesis, I shared my suspicion that I suspected there might be a gap between advanced mediation training recommended by practitioners and what is actually being taught. I was also curious to know if my personal challenge to find advanced mediation training might be related to such a possible gap.

The conclusion I have reached at the end of this project is yes – there is a gap. Is the challenge of finding advanced mediation training related to this gap? I strongly believe that it is. I also think it is unlikely that the results of this study will surprise many experienced mediators. When I interviewed the research participants there seemed to be a sense amongst them that a wide range of advanced mediation training needs were not being met. Without the results of this kind of study that sense was more of a suspicion than a certainty. This study begins to shed light on the gap between recommended training and the training available for those seeking advanced level education in mediation.

REASON FOR THE GAP

I believe the gap identified in this thesis is the natural result of the maturation process that mediation, as a profession, is experiencing. Moore (2003) maintains, “only since the turn of the twentieth century has mediation become formally institutionalized and developed into a

recognized profession. The modern practice of mediation has expanded exponentially worldwide, especially in the last twenty-five years” (pp. 22 – 23).

When I interviewed Marc Souliere, he mentioned how “mediation, as a tool for conflict resolution, is still relatively new.” Marc continued by sharing his frustrations with being unable to find training for himself:

I’m still on the lookout for training that’s going to, from a practical sense, help me be better at what I do and that’s where I find it very hard to find anything for anybody who has had twenty or thirty mediations under their belt to get advanced stuff ... there’s just nothing out there ... they’ve probably learned what’s out there through their practice.

As Michael Fogel reflected back on his own career, he described his early mediation learning as “bootstrapping”:

I didn’t have practicums ... I didn’t have mentors ... we bootstrapped each other. We would co-mediate once in a while and we would talk once in a while ... we would create courses together once in a while, but it was bootstrapping ... it was self-mentoring ... and mentoring each other.

Many practitioners who came into the field in its early stages did not have the training now offered. In many cases they were self taught and developed their skills through trial and error in their own practice or by sharing experiences with other mediators. They were the pioneers who developed the basic mediation training that is available today.

My sense is that, as the field has grown and newcomers have come on board, the interest, need, and desire for training has expanded to the point that available mediation training does not address an emerging level of mediator experience.

EXPLORING THE GAP

What is Advanced Mediation Training?

Picard, Bishop, Ramkay, & Sargent (2004, p. 325) point out that “to reach their full potential, mediators should consider basic or introductory training as only the beginning of their journey to becoming competent practitioners.”

As mentioned in Chapter Two, there has been very little research conducted on advanced mediation training and what research there is focuses mostly on basic training and does not distinguish between advanced and basic training.

I have also noticed there is no clear boundary to define where basic training stops and advanced training starts. Most advanced training goes back into basics and includes many of the same topics or components. In order to explore the gap between advanced training recommended by the participants and the training currently offered, it seemed logical to first identify how advanced mediation training differs from basic mediation training and by doing so, get a better understanding of how experts define advanced mediation training.

I posed this question to the research participants: What is the difference between basic mediation training and advanced mediation training? The following responses are representative samples of those I received:

Avi Tal:

Basic mediation training just focuses on the model: beginning, middle, [and] end. [It] helps people understand what the issues are; it doesn't necessarily require a whole bunch of other skills. Advanced [training] goes deeper into developing a [personal] style ... your approach ... you're who you are and have a life long range of experiences ... so combining [these] into a mosaic of our own style.

Larry Axelrod: "It means, to me, that you're comfortable with going beyond the model; that you are adaptable and flexible in the moment and able to draw your skills into situations that are not standard."

Gary Harper:

In basic training you give them the toolbox, the model, and you teach them how to do a basic intervention. I think the advanced training would focus more on the 'what if's?' They can look at the situation and consciously say 'I've got five different ways I can intervene so if the one way I'm looking at it [the situation] doesn't seem to make sense what's another lens? Advanced [mediation training] is more how do you deal with difficult situations? ... How do you deal with curveballs? ... How do you deal with impasse? How do you apply the basic principles when the heat gets ratcheted up, when

the resistance gets higher or you deal with a lot of unusual things? ... So that, to me, would be the advanced versus the basic.

Marc Souliere:

Basic mediation is taught in a very rigid way whereas in advanced mediation we teach that the process doesn't have to be followed in a linear way ... that you can jump some steps and come back to them ... that you can go around certain areas and then come back to them ... so we're teaching that mediation isn't a rigid process ... that the flexibility is there and to be open to different ways of doing it.

Marc also mentioned how advanced mediation training needs to provide mediators with theory that will build understanding of different types of conflict, multi-layered conflicts, interrelationships between conflicts, conflict analysis, and strategy:

Well, the most deep-rooted, complex cases have many different levels, many different types of conflict involved in that same relationship [and] unless you are advanced in your practice, I don't think you can handle something like that ... many mediators can't. They will be overwhelmed by the complexity and they won't understand the interrelationships that you can have between different conflicts ... it's understanding that what appears to be a simple conflict may be a series of inter-related conflicts that are of a different nature and have roots in different instances. An advanced person in this field will know straight off that there may a whole bunch of different types of conflict in the process and that one solution will not cure all so you may have a phased approach and you may have several steps involved in the intervention because there are areas that need to be dealt with

differently ... and being able to ... through your analysis to categorize them. I know mediators who only know mediation and they recommend mediation for everything when mediation may not be the best action. I know people who do group intervention and will take a textbook approach all the time which you've got to be able to vary depending on the group's needs: it's that ability to stray from the textbook approach and innovate and take new approaches and try them out and have them succeed that is the advanced process.

In summary, basic training leans towards covering the “how to do” mediation. Most courses will only teach one mediation model that is presented within a linear framework. Advanced training teaches that a mediation process is neither rigid nor linear – that mediators can jump steps in the process and come back to them. Advanced mediation training encourages the use of different mediation models so that the mediator can adapt the process to the challenges or needs of the moment. Advanced mediation training not only covers the “how to do” mediation but also includes the “when and why” of using certain techniques and the conscious mental strategy involved. The research participants also stated that advanced mediation training should include conflict theory, conflict analysis, and strategies for dealing with the unexpected.

Most importantly, advanced mediation training speaks to the heart of how to be a mediator, being present with parties and the application of personal insight, intuition, and reflective practice that makes up our own individual style. Many of the respondents described advanced mediation practice as having a sense of fluidity – a choreography of interpersonal interaction between the mediator and mediation participants that is achieved when the

practitioner is able to apply skills, techniques, theory and a variety of models in a consciously competent manner.

BRIDGING THE GAP

Introduction

Michael Fogel describes the difference in going from basic to [advanced] training as being “developmental.” Michael went on to state:

I think that’s how we human beings operate generally: we kind of develop from one place to another place and so I think that’s where basic [mediation training] is ... it’s taking people where they are, building from where they are, and then [in advanced mediation training] they continue developing further.

If the difference in going from basic training to advanced mediation training is developmental, I propose that the same is true for the content contained in the respective programs. Gary Harper referred to an analogy used by Victoria mediator, Arthur Ridgeway: “You learn the scale and then you learn jazz.” A similar analogy may be found in academic education: a student starts out taking elementary English or Math and will develop their skills in that subject through learning more complex material in high school and advancing further with curricula offered at the College or University level. I believe the same developmental progression applies to students going from basic training into advanced mediation training. There will be certain subject areas taught in both basic and advanced mediation training – the most significant difference will be in the complexity as well as the depth and breadth of training provided.

In this regard, the results of the Mediator Skills Project, 1998, referred to in Chapter Two are of particular significance to this thesis. The project identified and ranked thirteen knowledge and skills areas that experienced mediators found were the most useful in their practice. As previously noted, the following are the thirteen areas that received the highest ranking in the study: “*Communication; Critical Thinking; Dealing with Information; Mediation Process Management; Ethical Issues; Information Gathering; Relationship Management and Encouragement; Power and Control; Problem Solving; Mediator Error Correction; Cultural Diversity and Competency Skills; Education and Dissemination of Knowledge; and Administrative [functions]*” *[italics added]*. (Herrman, Hollett, Eaker, & Foster, 2001, p. 139)

When I compared the top ranked thirteen skills identified in the Mediator Skills Project to the topics and components recommended by the thesis research participants, I found a match to eleven out of the thirteen areas mentioned in the Mediator Skills Project. While the wording and description of each area was slightly different, the context was sufficiently similar to be able to conclude they were fundamentally the same subject areas. I believe the results of the Mediator Skills Project support the subject recommendations made by the thesis research participants and validate the research focus of this thesis.

This study has identified subject areas that mediation experts recommend be included in advanced mediation training. While many of these topics are also considered to be integral to basic training, the research has determined that it is the depth, breadth, and increased complexity of course material that belies the most significant differences between basic and advanced mediation training.

Mediation experts were asked what they believe are the key topics and components of advanced mediation training. The following section comprises a summary of the recommendations and comments of the research participants regarding what they felt advanced mediation training should include in each of the top fifteen subject areas. Some of the sections include direct quotes while other sections simply summarize participant remarks.

Advanced mediation training requires that the mediator learn how to consciously chose to mix and match techniques to adjust to and meet the needs of the participants. As a result, the reader may notice that many of the subject areas overlap in terms of the skills and knowledge required. It is also important to note that the participant's remarks are a reflection of the first thoughts that came to their mind during a one-hour interview that covered a wide range of material. I view the following summaries as a snapshot rather than the full picture of their opinions.

Key Topics & Components of Advanced Mediation Training

Emotions

Marc Souliere maintains, “emotions are the grease that makes the wheels of mediation turn.”

All of the participants identified the need for in-depth training in understanding and dealing with emotions so that the mediator has the knowledge and skills necessary to effectively manage the emotional climate of the mediation. Participants recommended training that covers how to deal with people who are experiencing various degrees of grief and loss, frustration, sadness, and remorse. They emphasized the importance of developing advanced skill in dealing with angry and/or defensive mediation participants as well as those who are focused on hatred and revenge. They also brought up the need for the advanced mediator to learn to identify and have strategies available as to how they will work with people who might display symptoms of various forms of mental illness.

While dealing with emotions is closely linked to psychology, in the context of the interviews, I noticed that participants leaned towards separating the understanding of the root causes of emotions (psychology) from techniques used to support clients to work through emotions that might get in the way of resolution. For this reason I separated *Emotions* and *Psychology* into their own subject category, keeping in mind, that there are many instances where skills and knowledge in each category overlap. It is not uncommon for the psychological and emotional dynamics at play to present as challenges and curveballs that the mediator will be faced with.

Challenges & Curveballs

Research participants stressed the importance that advanced mediation training provide mediators with intervention techniques to deal with unexpected situations, behaviours, and challenges. Larry Axelrod put it this way: “things can go bad ... you’ve got to be ready.” In advanced mediation training mediators should learn how to recognize critical moments so that they can implement the techniques at their disposal to diffuse behaviour such as yelling, expressions of hatred or revenge, power grabs, defensiveness, and violence.

Michael Fogel made the following comment: “I think that where we, as mediators, often hit the wall is ... not necessarily knowing how to engage those [challenges] from a strategic perspective.” Recommended strategic intervention techniques to be included in advanced mediation training covered such challenges as: dealing with substance abuse; handling the person who wants their “pound of flesh;” encouraging the uncooperative individual to become involved; confronting someone who is lying; dealing with impasse; and working with power imbalance.

Participants further suggested that mediators learn how to deal with irrational clients who struggle with challenges such as depression, obsessive-compulsive disorder, borderline personality disorder, and be able to debrief clients after an emotionally charged situation to bring focus back to the mediation.

Practicum Opportunities

All participants, without exception, spoke of the importance of practicums and the mentoring that students get during a practicum as being a key component they would recommend

for inclusion in advanced mediation training. Gary Harper described practicums as an opportunity to provide “real-life experience with a degree of supervision.” Gordon Sloan views practicums as a valuable opportunity to develop competence and comfort in managing the mediation process, to learn different styles of mediation and to gain proficiency in handling challenges. Avi Tal shared how completing a small claims court practicum increased his professional competence and mastery of the mediation process.

In terms of training, Marc Souliere stated that he felt “practical guided experience” is “the best learning tool you can get in the field.” Marc continued by describing mediation as “a field that involves practice and as long as you’re learning from practice then you’ll get better. If you have someone with greater experience to mentor you through a process, you’re going to get that experience.” Marc also pointed out that a condition of obtaining “Advanced Practitioner” status as a mediator from the Association of Conflict Resolution requires mentoring mediators in the field.

Larry Axelrod was equally supportive of the value of including practicums in advanced mediation training programs:

I think they are really important and I think role-play, in some ways, is just as important. Practicum is good in terms of observation [however] if they [learners] can get more involved that’s good ... I could envision having groups like ours set up case examples and role play them out, as we know the [mediation] participants did ... and have the student mediate it. That allows a more real world experience ... it’s still mock but it’s more real world ... I think that would be a way of enabling mediation experience to come

about with recognizing that having practicum students involved in actual mediations with clients is a hard thing to actually create.

Gordon Sloan believes that in order to develop mediator competence, “there needs to be a pipeline of work” so that skill can be developed. Gordon went on to say that this “either implies practicum, working within an organization, working in a public mediation program or something where there’s going to be regular ‘tooth-cutting’ work to do so that there can be experimentation.” Gordon also referred to practicums as “hard to find” and went on to say he believes practicums are “vital, as long as you get feedback ... because if you’re not getting feedback you don’t know if you’re executing what you intended to do.”

Avi Tal envisions an advanced mediation training program that would have the learner gain practical experience by volunteering mediation services to the community. He believes that “there should be more organizations that are dedicated to help resolve conflicts in our communities and to allow access and affordability for us to bring [offer] it.”

While it is true that practicum opportunities are limited, I would be remiss not to point out that some do exist. In 1998, The British Columbia Dispute Resolution Practicum Society was founded, as a non-profit society, to provide opportunities for trained, but inexperienced, mediators to practice and develop their skills. The first initiative of the Society was “The Court Mediation Program.” Student mediators complete ten supervised Small Claims Court mediations over a period of eight to fifteen weeks. There are two difficulties associated with this program for learners: the first is that the practicums are only offered in Vancouver, Surrey, and Nanaimo

so travel might be a problem; secondly, the cost for the learner is \$2,140.00 which may present a financial obstacle.

In 2004, the British Columbia Dispute Resolution Society added “The Family Mediation Practicum Project” as a second initiative to provide mediation experience for novice mediators. In the family practicum, student mediators complete twenty hours of supervised family mediation that is followed by ten hours of feedback. While there are more locations that offer this practicum, the student is also faced with a fee of \$3,424.00. (\$2,568.00 if the student opts for a shorter practicum)

When the fees for the practicums are added to a cost of \$7,500.00 (the estimate given by the Justice Institute of British Columbia (JIBC) to complete a Negotiation or Mediation/Third Party Intervention Certificate), the total cost to the learner for the training and practicum is close to \$10,000.00.

Another practicum opportunity in British Columbia is offered by the Fraser Region Community Justice Initiatives Association that involves mediating minor criminal offences through the agency’s Victim Offender Reconciliation Program. Applicant criteria to qualify for this practicum includes completion of a JIBC certificate program in conflict resolution as well as being a registered student in a relevant course of study at a University or College. Practicum fees are \$700.00 plus a commitment to complete twenty to forty-five hours of additional training and 172 hours of combined training and casework within a four-month period.

While the foregoing practicums all require that the learner pay a fee, McMaster University offers what is described as a “field practicum” in their Family Mediation program and Carleton University offers the opportunity to its students to volunteer at the Campus Conflict Resolution Center and gain experience that way.

The main point that I want to make is that 100% of the research participants strongly endorsed providing the learner with practicum opportunities, but only 21% of academic trainers and 20% of non-academic mediation trainers offered this kind of experience. When this factor is added to the costs associated with some of the existing programs it would appear that the mediation training community is falling short in providing learners with practical, real-life, hands on experience.

Mediation Models

Participants maintained that knowledge and skill in a variety of models better equips a mediator to adapt the mediation process to best meet the needs of the parties. Participants suggested that learning how to mix and match parts from different models and even going outside the models is essential to the effective practice of mediation in the real world. Mediation models mentioned included the following: Interest-based, facilitative, evaluative, directive, transformative, narrative and insight mediation.

Larry Axelrod provided the following explanation:

You have a structure for mediation. The model, for example, that’s taught at the Justice Institute is a good model but it doesn’t necessarily apply well in all circumstances. You

have to go back to the principles of what you're there to accomplish. Sometimes telling the story may not actually work for the people ... they might just want to talk about the future relationship so you may skip the story telling. Advanced concept means that you're ready to adapt to the circumstances [to] the people you're working with, to their goals and their needs, and that takes a comfort with it beyond what the basic model uses.

Strategy

The research participants described strategy as the conscious choice of a particular mediation model, style, technique, or course of action. Strategy goes hand in hand with analysis of the conflict and comes into play from the beginning of the mediation process, often as early as the first contact with a client. Both are highly advanced skills and, as such, must be included in advanced training.

Strategy requires the mediator to consider knowledge of other subject areas that might apply to the conflict at hand such as: analysis and assessment of the conflict, the parties' emotional states, cultural implications or misunderstandings, power imbalance or abuse of power, handling challenges and curveballs, and how he or she might deal with any known psychological problems of the clients.

Other strategic decisions that participants would cover in advanced training include the following:

- making a determination if mediation is appropriate for the conflict
- deciding the mediation model that is best suited for the needs of the clients

- intentionally setting the tone of the mediation
- deciding when to call and use a caucus
- choosing the seating arrangements
- balancing speaking time between the parties
- deciding which of the parties speaks first
- shaping direction of the conversation and ensuring it is future focussed
- keeping conversation focuses on key issues and pulling out interests
- teaching and modelling communication skills
- conscious experimentation with models
- giving client's time out to absorb ah ha's
- deciding on how or whether to confront client inconsistencies

Communication Skills

Communication skills were identified as being a critical component of advanced mediation training to facilitate mediator success in gaining client's trust, garnering information, eliciting interests, addressing curveballs and challenges, providing emotional support, challenging clients when necessary in a manner that is non-threatening, and effectively managing the mediation process.

The mediator's ability to communicate effectively might well be the most important skill of all in that it is used to set the tone of the mediation; elicit trust from the parties for the mediator; guide and frame the mediation process; reign in inappropriate behaviour while also

being supportive of the underlying pain; garner information that is often key to successful resolution; and encourage insights.

Participants expressed a need for advanced mediation training to delve more deeply into active response listening skills to help the mediator know when and how to use empathy, acknowledgment, re-framing, normalizing, refocusing, reflection, restating and paraphrasing. The use of transparency and immediacy were skills identified as important in terms of appropriate mediator response to help resolve impasse.

Another area of communications training mentioned was the need for courses in advanced inquiry skills to help practitioners gain conscious competence in the strategic use of intense inquiry techniques that are posed in a positive and appreciative manner. Equally important was learning how and when to use open-ended questions to check out perceptions and assumptions, and other questioning techniques such as probing, clarifying, justifying, and reality testing questions.

Participants also made reference to the importance of mastering non-verbal communication skills and techniques such as the use of body language, eye contact, mirroring, tone of voice and inflection. Larry Axelrod volunteered how he consciously uses eye contact to encourage clients “to look at each other, to interact with each other, to talk with each other ... there’s more of a human touch to that.” Larry cautioned that the mediator needs to be careful not to force eye contact if it appears to be making a party uncomfortable. The mediator should also consider the possibility that this person might simply be an introvert or that eye contact might not

be a cultural norm. The important factor in that case would be to ensure that the party remains attentive to conversation.

Avi Tal points out that the ability to communicate and establish rapport with a client is “like a whole new language that we don’t often apply in our day to day style of communication.” Avi continued by saying:

It takes time to help them normalize sitting in the room with a stranger ... to be part of this intimacy [with] issues that are so personal and help them sort it out ... We are facilitating a process where we want to encourage that dialogue [and] get deeper and invite them to tell more and motivate them to listen ... It tells me where they are; it tells me where they’re coming from; what their strengths and vulnerabilities are; it tells me about their hopes and dreams Active listening skills need to be strengthened and people need to understand that they have to find a way to choreograph this process [conversation] in their own unique way ... to bring out their skills ... to bring out their humanity ... to blend all of their intuition and to have the confidence to bring all of those into a place where they will be willing to change course if they see that there’s a need for it.

Communication lays the foundation for the dialogue process between mediator and clients. The mediator, in a sense, provides a verbal bridge that will hopefully lead to understanding and reconciliation.

Reflective Practice

Reflective practice might be defined as a conscious state of mental, emotional, and spiritual awareness and attunement. It is considered to be an advanced mediation skill that requires significant personal acuity on the part of the mediator. In a sense it is an active state of *being* a mediator rather than simply *doing* mediation. As Sally Campbell says: “we have to go deeper into our own development in advanced [mediation] training.”

Michael Fogel provided this description of reflective practice:

A deeper understanding ... a deeper understanding of what I am doing ... how I'm doing it ... why I am doing it ... who I am becoming as I am doing it ... because I'm transformed ... it's not just the parties. I think that awareness is important ... how we're being changed by what we're doing ... and how, I believe we need to be open to being changed.

Michael shared his views on this recommended subject area:

I think the self-awareness [and] self-understanding personal work aspect is still missing in most mediation training programs. I think there is still a huge skills orientation. I'm not knocking that – I'm just saying this goes so way beyond skills What I believe needs to come in parallel with those skills is more self-awareness, [more] self-understanding.

When I say I want to mediate: who wants to mediate? I mean, where is that coming from?

What's precipitating the movement in that direction? So, I think that those are questions that need to be answered at the basic level along with people learning skills. And then the

difference in going from basic to advanced is seeing that it's actually much more about who is implementing the skills than the skills themselves.

Sally Campbell spoke of the importance of personal self-awareness as one of the reasons that reflective practice needs to be a topic in advanced mediation training and practice:

I really believe that ... if we don't deal with our own issues we kind of project them out, so mediators have to be aware of what their issues are and what their blind spots are and continue to try to do that work ... and be constantly assessing and self-assessing because you need to use everything as a good mediator ... you need to use your analytical and your intuitive skills ... you need to keep taking in data and you also have to help people come to closures and make agreements. So you have to be sensing, you have to be on the ground, and you have to be in your creative imagination.

Reflective practice in mediation has also been described as mediating consciously and includes the following mediator attributes and actions:

- Awareness: Includes self-awareness and other awareness (see beyond the person to where is their pain)
- Attentiveness
- Self-awareness; self-care; self-work; self-understanding; how am I getting in my own way
- Presence: mediator presence; open attitude; watching own ego; humility

- Awareness of mediator impact
- Inclusion of mediator's own inner wisdom and intuition
- Mindfulness
- Meditation
- Request feedback from participants about how you're serving their needs

Confrontation

In order for a mediation to be successful, a mediator may sometimes need to confront parties. This might involve encouraging clients to reflect upon underlying motives for their own actions or the actions of other individuals; requesting an explanation for inconsistencies or discrepancies between words and actions; or encouraging parties to take personal responsibility for their role in the conflict.

An advanced mediator needs to know how to confront in a manner that will not trigger a defensive reaction or inflame emotions. It requires an advanced level of communication skill, timing, and sensitivity to client's needs to be successful. Because confrontation involves knowing how and when to address specific matters during the mediation it was recommended for inclusion in advanced mediation training as a separate subject area.

Sally Campbell indicated that she often teaches the use of immediacy to confront inconsistencies in client's behaviours or statements. Sally suggested, "we want to be able to ask the right question at the right time that will unlock some kind of perception ... that will help people to perceive differently."

Larry Axelrod advocates the inclusion of intense inquiry skills in advanced mediation training as a method to handle confrontation:

How do you confront in a way that is descriptive and, prompt[s] reflection, when it also has the potential to be heard as criticism? That's the advanced communication skill: it's a listening skill; it's also a mirroring skill ... so really, really intense work with inquiry [and] open questioning and paraphrasing but in a mirroring way that builds reflection.

Analysis and Assessment

Sally Campbell maintains that “conflict analysis and assessment ... is a critical part of advanced mediation training and practice ... that you're really looking at what is going on here? What is different about this particular conflict? What's driving it? Who is involved? What is the best process to go into in order to assist the parties to work through it?”

One of the first steps in analyzing a conflict involves making a determination if the situation at hand is suitable for mediation or if other conflict resolution methods might be more appropriate. Research participants mentioned the following factors that a mediator would take into consideration in analyzing a conflict:

- What are the interests and issues of the parties?
- What are the real goals of the parties versus presenting positions?
- What is the history of the conflict and stories of the participants?
- What psychology is involved?
- Are there any emotional issues and challenges and how might these be best handled?

- Would it be useful to bring in a co-mediator? If so, is there a need to balance the genders of the mediators?
- Which conflict resolution process is best for the parties?
- What is the best alternative to a negotiated agreement for the parties?
- What is the worst alternative to a negotiated agreement for the parties?
- What preparation is needed?
- Are there different types of conflict and layers in same process?
- What cultural issues might come up in the mediation?
- What are the power dynamics between parties and how might these best be handled?
- Do the parties need to be accompanied or supported?

Culture

Sally Campbell referred to “cultural components, cultural sensitivity, and cultural fluency” as “an area that I think is an essential part of advanced training that we often neglect because we’re too afraid of it, and we don’t know enough about it. When many of us took training, the training was culture blind.”

Sally also provided the following analogy of culture:

Culture is like the water a fish swims in. It so permeates the atmosphere around us that we literally may not notice it and we often do not appreciate how differently those of another culture would approach the same problem. Recognizing and respecting cultural differences are fundamental to good process.

Participants felt that advanced mediation training should ensure that mediators recognize and respect cultural differences such as: hierarchal cultures within organizations; communication differences between cultures such the appropriateness of eye contact, silence, touch, and personal space; gender differences; religious differences; etiquette rules; cultural norms; and rituals.

Marc Souliere cautioned that mediators need to be careful not to stereotype individuals by their culture or to assume that, just because someone is of a different culture, they are necessarily going to behave like the general population of their culture. Marc used the metaphor of an iceberg when describing subcultures: “some things you can see but there is a huge list of things you can’t see.” He described subcultures as cultures within a larger culture that stand on their own with examples being age, race, geography, sexual preference, or spiritual affiliation.

Other research participants suggested that cultural training should help the practitioner avoid stereotyping, generalizing, ethnocentricity and improve respect, tolerance, and a willingness to adjust to cultural diversity.

Power

I found it rather interesting that, although four out of seven research participants included dealing with power as a separate and important topic to include in advanced mediation training, none of them spent any significant amount of time speaking about this particular subject area. Power issues came up mostly in the context of challenges and curveballs that a mediator might face. Nonetheless, because it is such a common challenge faced by mediators, it was recommended as a separate subject area in mediation training.

Training recommendations associated with this topic included the following: understanding the psychology of power, having a theoretical understanding of how people derive their power, dealing with “power grabs” or power imbalance between participants, and understanding power as a source of energy that can work for or against resolution.

Pre-mediation

The research participants described pre-mediation as a private meeting between the mediator and individual parties (and their representatives) that is convened before the formal mediation process. According to the participants, this meeting serves the purpose of introducing the mediator to the parties in order to establish rapport and build trust. It provides the opportunity for the mediator to determine if the conflict is suitable for mediation; explain the process and guidelines such as confidentiality to parties and answer any questions they might have; explore for possible challenges such as emotional problems or power imbalances; learn what the core issues and interests are for each party and encourage them to consider the other side’s possible issues and interests.

Marc Souliere recommends using pre-mediation “to the maximum ... There’s an opportunity there to start the mediation process.” Marc continued by saying:

You have to establish a link ... a trust link, if you will, with all of the parties and that’s when you do it ... one on one ... there are some techniques that I teach on how to get that person’s trust so that they are going to trust you in the process.

Marc also uses the pre-mediation meetings with clients to start “conditioning their mind before they come into the room for mediation.” He does this by encouraging the parties to clearly identify their needs and what their best alternative might be if the mediation is unsuccessful. Marc uses pre-mediation to get the parties asking themselves “why the other person is acting this way? What is their motivation?” For Marc, this means, “getting them to use their own innate emotional intelligence to try and figure out the other person ... something they haven’t done if they’re in conflict.”

Larry Axelrod advocated incorporating “a good component around pre-mediation meetings ... [and] using that as a way of both learning about the goals of the person but prompting the person to reflect on those goals and how they should approach the mediation.”

Gary Harper uses pre-mediation meetings to model transparency and to teach parties how to communicate with each other. He encourages clients to use “I statements”, to be specific, and “to tell their story assertively rather than aggressively.” Gary will tell clients that “it’s not going to be helpful in mediation if you say your boss is rude. What will be helpful is to [describe] specific incidents and [say] how they impacted you.” Gary explained further: “A lot of people ... get stuck. They know they’re angry. They’ll tell you what doesn’t work: “my boss is unsupportive.” [Gary will] help the parties start to flip it: “so what you really need is support ... what would that look like for you?” In this way Gary is able to help people become “aware of their needs and face towards the preferred future.”

Participants also mentioned the how the information garnered in pre-mediation is useful for doing an analysis of the conflict, explaining the process to parties, strategizing, and

anticipating possible challenges in order to be best prepared to deal with any curveballs that might arise.

Psychology

Closely linked to emotional training was the need for training in social and clinical psychology. According to the research participants, psychology is an important knowledge component of advanced mediation training in that it provides mediators with an understanding of possible root causes of emotional issues between parties. In particular, participant comments reflected a belief that the advanced practitioner would benefit from understanding the psychology of relationships, gender differences, personality styles, organizational dynamics that relate to behaviour, the psychology of power, as well as understanding the psychology of various emotional illnesses.

Larry Axelrod mentioned a few specific topics he thought were particularly important. He stated that useful concepts might include:

Attribution theory: why people make misattribution about the intentions of others. Role theory: Why people act as they do in a role because they believe that's what's required of the role, and the role becomes their justification for doing things in a way that aren't really effective; impression management, psychological defence mechanisms, projection, displacement and denial and why that's there. What the healthy function is of those and how to work with those so it's healthy goal doesn't undermine the healthy outcome...

Marc Souliere advocates teaching the use of “emotional intelligence” that he defines as “a complete understanding of the emotional state of the parties and [strategically] using it to the advantage of rebuilding the relationship.”

Real Life

Since advanced mediation training is geared towards preparing learners to facilitate real life mediations, participants advocated providing students with role-plays based on actual conflict scenarios (rather than the fictitious examples often used in basic training); sharing their own personal experiences of dealing with challenges (or those of colleagues); personally demonstrating techniques; and using real mediations for case studies. While this would entail changing some details to honour client confidentiality, participants felt the artificiality of imaginary scenarios was not as practical in developing mediator competence as using actual events.

Larry Axelrod made the following suggestions as to how real life scenarios might be included in advanced mediation training:

If they [learners] got real scenarios from practitioners and they [the practitioners] described the scenario ... and then went through a conflict analysis process with them ... and then they set up pre-mediation meetings with them ... and then they brought that together and mediated after going through the analysis part ... so what psychology might be involved? ... what history? ... what emotional issues? ... I have had mediations where someone was obsessive compulsive ... where someone was depressed clinically ... what do you do then? ... So, the advanced training which is what you're researching here,

needs to prepare the mediators to know what to do then ... to have options ... and not to react from a judgmental or a stereotypical perspective about those experiences... and so I think that's what would be helpful to infuse into advanced mediation training that ends up truly being effective and giving those tools.

Sally Campbell shared how she will often use real life case examples in the advanced mediation training she presents to family mediators. Sally stated that:

For advanced training I will still do some practical work ... a demo ... often people want that because they want to see what you're doing ... they want to see it done ... and then I invite others to join in [so they can get practice].

Avi Tal mentioned that "sometimes students would want to know what it's like to mediate in the real world? What has my journey been like? How's it been to actually start a practice? What are the approaches or ideas and recommendations that I might have?"

Avi also had the following recommendation:

I would recommend that there be a lot more videotapes and material for people to see real cases, complex cases, power imbalance, gender challenges ... I feel it would be important to get people more training in the different models ... a lot more training ... Show them what a therapeutic kind of model would look like ... What is, you know, a feminist model? ... What would it look like...How would transformative model look like in a real mediation setting? ... Let them go through it ... see the trainers do a piece ... give them more hands on experience now to see what these pieces might look like ...

what they might need to look for ... to screen these opportunities ... to look for power imbalances ... to look for opportunities to do something transformative ... that would be important ... I spoke again about pre-mediation ... I think there is a lot of stuff there that isn't being done that could be done.

The above comments and recommendations made by these skilled and experienced mediation practitioners present a solution to the frustration many mediation professionals have in finding training that will help them improve and hone more advanced skills and practices. Implementation of these recommendations is all that is required.

STUDY RECOMMENDATIONS

Recommendation #1

Mediation training programs vary greatly in their content. While a few components of basic mediation seem to be fairly ubiquitous there is a serious lack of consistency in both core course requirements and in electives offered. As a result, two individuals might successfully complete a mediation certificate program, and because they took entirely different courses, they will finish with a different set of skills and knowledge base. This means that two individuals could successfully complete a mediation certificate program and come out with very different understanding and skill sets because they took entirely different courses. This makes progressing to advanced training problematic since advanced mediation training opportunities are far fewer in number and these people tend to be funnelled into the same advanced courses with no common foundation to build on.

This study has identified the need for the creation of a more consistent set of standards for mediation certificate programs as well as more uniformity in pre-requisite electives for advanced mediation training.

Recommendation #2

As mediators we enter into people's lives and share with them intimate moments and experiences. We may even be engaged with parties at turning points in their lives - really key moments when decisions are made that might impact their future and also their extended relationships. The work is significant, and I believe advanced mediation training should reflect this significance. Some of the gaps noted in the study results are quite large. Granted, information can be found in books and other resources but first, learners seeking new skills must become aware of recommended subject areas in order to find information that will enhance their competency as a mediation practitioner. I believe it is important that the profession provide the best training possible by looking at the discrepancies between what is being recommended by practitioners and what is being taught and to bring those closer together.

It is recommended that both academic and non-academic institutions need to review and expand their respective course offerings to meet the advanced mediation training needs identified by the research participants.

Recommendation #3

As a student, who has taken extensive training from both academic as well as non-academic institutions, I have observed that academic courses tend to focus more on

understanding the theory, while non-academic training lean more toward practical learning. I believe both are equally important for advanced mediator competence. I also believe that both academic and non-academic trainers could benefit by developing collaborative programs that could improve the training they offer to mediators and mutually enhance their reputations.

Recommendation #4

The difficulties of providing adequate practicum opportunities have been well documented. To my knowledge no practical solution has been presented to address this problem. I believe that both academic and non-academic institutions have a responsibility to provide such opportunities as part of their training programs. I would suggest that institutions collaborate to create an organization similar to those used by law students where free service is provided to those with limited means by students, providing a service to the community as well as valuable experience to the students.

FUTURE RESEARCH RECOMMENDATIONS

When I first reviewed the literature relating to advanced mediation training I was astonished to discover how little research has been done in this area. I found articles that described the knowledge, skills, and personal attributes of an advanced mediation practitioner, yet failed to speak to the training needed to acquire these traits and skills. Equally astonishing was the lack of awareness on the part of mediators who provide advanced training as to the content covered by other trainers. It is my hope that this thesis will spark a dialogue within the mediation training community that will facilitate the expansion of current training offerings to meet the needs of newcomers to this growing profession.

Recommendation #1

My first recommendation for further research would be to carry this research forward and conduct a similar study but with a much larger sampling of mediation practitioners.

I would suggest interviewing the heads of faculty of the various institutions or requesting written confirmation of the subject areas offered in their advanced mediation training so as to ensure accuracy of the information elicited.

Such research would complement the findings of this project by adding documented confirmation of curricula and including a much larger sampling of research practitioners so that a full statistical analysis might be done.

Recommendation #2

To my knowledge this kind of research has not been done for Basic Mediation Training, Negotiation Training and Arbitration Training. Research projects, similar to this one, could be done in each of these areas.

Recommendation #3

This study has only focussed on Canadian based training. I noticed there is a wealth of information to be found globally in the area of advanced mediation training courses in other countries. Researching best practices from other countries would likely generate improvements or suggestions to improve the content of Canadian training.

CHAPTER SIX – PERSONAL LEARNING

INTRODUCTION

The process of writing this thesis has been a learning experience unto itself. I have come to the conclusion that a Master's thesis is as much about the self-mastery required to do the work, as it is about the knowledge gained from the research.

The first step on this journey was the choice of topic. Since the project required that I invest a year of my life, plus a significant amount of effort, I wanted a topic that would have a practical personal application as well as make a genuine contribution to academic research. In this regard, I feel that I have been successful in both of these areas with the project outcomes.

The research findings have confirmed that there is a gap between advanced mediation training currently offered and the recommendations of expert mediators regarding what they believe should be taught. This finding was also part of my own personal learning. At the start of this project, one of my personal goals was to identify training in advanced mediation skills, practice, and knowledge that would improve my competency as a mediator. Ironically, I have discovered that much of the training I was seeking to identify is part of the gap in advanced mediation training that was confirmed in the thesis findings.

PERSONAL LEARNING

I am now aware of how little I know about other cultures. As a result, I have been struck by how this lack of knowledge could create misperceptions in my thinking or outright gaffes in

approaching participants in a manner that is unintentionally disrespectful. My interviews with Marc and Sally were a timely reminder of different cultural rituals for healing and justice and how important it is to honour those traditions when mediating. I was particularly impressed by Sally's comments of how she has spent the last fifteen years "really deepening my [her] understanding of aboriginal culture and building bridges and trying to learn on many different levels." When I reflect upon the length of time it has taken Sally to feel she is conversant with aboriginal culture I suspect have a lot of learning to look forward to!

My mediation training thus far has focussed on the interest-based model. I intend to investigate and learn about different mediation models, other than the few I have been introduced to, so that I will have a broader array of remedies to try out. Several of the research participants have encouraged experimenting with mixing and matching parts of models. All have spoken of how important it is for the mediator to adjust the process to fit the needs of the participants. I am concluding the research with a sense of adventure as I look forward to exploring other mediation models, styles, and methods.

Perhaps one of the biggest personal insights came from Michael Fogel whose openness to inviting and accepting personal feedback allowed me to see feedback in the context as being constructive rather than critical. This has made a huge difference in framing my own receptivity to feedback.

Finding my own style

In the participant interviews I asked each to describe their own mediation style.

I wondered if they had any commonalities in style that I might identify and use as a role model. With so many different mediation styles described in literature (interest-based, transformative, evaluative, non-evaluative, directive, facilitative, restorative, narrative, etc.), I was interested to discover if there is any style that is better than others? What is my style and where does it fit? How do I define my style? I hoped that the participant's answers would provide some direction in searching for the answer to these questions. What I discovered was that each participant's description of his or her style was different from the rest.

What has this taught me? I've learnt that it is ok to have a style that is uniquely my own. I notice that the participants all mention using different mediation styles to meet and/or to adjust to the needs of the clients and how they will often use their intuition when choosing a style. To me, this speaks to the usefulness of having a skill set that includes a variety of mediator styles and that I am not stuck in sticking to just one style. It also confirms that I have been on track using my intuition to sense parties' needs and appropriate responses on my part. I definitely plan to learn more about different mediation styles and I plan to enjoy being curious and experimental.

Reflective Practice

I have learnt a great deal about the internal thought process and considerations of the mediator. The research participants spoke of subtleties in the role I had not previously thought about in depth such as the impact of the personal presence that the mediator brings. So the importance, in that context, of self-awareness and self-monitoring throughout the mediation to

ensure that I don't do more for the parties than they need me to do; and ensuring that the parties remain in charge of how a mediation unfolds.

I started the project thinking that further training was my next step towards becoming a better mediator. My interviews with the research participants have taught me that, while training is important, of equal importance is reflective awareness and attention to my own personal emotional, spiritual, and physical well-being. I have realized that I don't need to know everything or to have all the answers to be effective – that I can trust the mediation participants to find their own answers. Michael Fogel expressed this idea beautifully:

There's a story ... a wonderful story ... about the mother/father of creation wanting to hide the secrets of the universe. They went through this whole wonderful dialogue with each other about where they might hide them: the highest mountain or the deepest ocean and realized, for lots of reasons, that their children – human beings – would probably find those secrets before they were ready to find them and finally they looked at each other in amazement and simultaneously said: "let's hide them inside each human being – that will surely be the last place they look."

CONCLUSION

I am grateful to the participants for their openness, enthusiasm, and willingness to share. I feel privileged to have met each of them and to have experienced their passion for the work that they do. I opened this thesis by quoting Galton (2004): "being a mediator is an honor [*sic*] and privilege" (p. 9) and I would like to conclude on that note with one last additional thought.

In Chapter One, I made the statement that I strongly believe I have an ethical and personal responsibility to serve mediation clients to the best of my ability. Sally Campbell shared a comment that resonated with this belief:

We want to be empathic agents of reality in our work ... that is an important part of what we do. We only intersect for a brief time with parties on their road so we want to make it the very best moment of intersection possible.

When I asked Sally Campbell for her advice on how to become a better mediator she replied:

Get out in nature [and] walk the beach

... because for me, that's what feeds me ... we have to feed the spiritual and emotional aspects of our being ... we've got to feed those and pay attention to them ... we can't become workaholics, and a lot of mediators are, because there is just so much to learn and do, and so we get too busy into the *doing* and not enough into our *being*.

This academic journey has certainly included much to learn and do. I feel that the experience has enriched, stimulated, and fed the intellectual part of my being. As I bring this thesis to a close, I find myself reflecting upon how important it is that I also feed the spiritual and emotional aspects of my being. How do I plan to do this?

I believe I will start by taking a walk on the beach.

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APPENDIX A

PARTICIPANT QUESTIONNAIRE

- 1) Participant Background – request copy of brief biography or C.V.
- 2) What kind of Conflict Resolution work are you currently engaged in?
- 3) What is your area of speciality (if any)?
- 4) How would you describe your mediation style?
- 5) What is your background in providing mediation training?
- 6) What do you believe are the attributes of an advanced mediator?
- 7) In your opinion, what are the key components that define advanced mediation practice?
- 8) What does the term “advanced” mean to you?
- 9) In your opinion, what is the difference between basic mediation training and advanced mediation training?
- 10) What topics would you recommend be included in advanced mediation training and why?
- 11) What gaps (if any) do you perceive between the ideal advanced training program and what you understand is currently being taught?
- 12) What advice do you have for the individual striving to develop an advanced level of mediator competence?
- 13) How important do you believe practicum opportunities are?
- 14) How do you recharge or what do you do for self-care?
- 15) What concluding thoughts would you like to offer?

APPENDIX B

ACADEMIC INSTITUTIONS OFFERING ADVANCED MEDIATION TRAINING

Assiniboine Community College
Carleton University
McMaster University
Menno Simons College (College of the Canadian Mennonite University and is affiliated with the University of Winnipeg)
Mount Royal College
Mount Saint Mary's University
Queens University
Saint Paul University
University of New Brunswick
University of Northern BC
University of Prince Edward Island
University of Toronto
University of Western Ontario
Waterloo University (Conrad Grebel)
York University

NON-ACADEMIC INSTITUTIONS OFFERING ADVANCED MEDIATION TRAINING

ADR Education
ADR Institute Canada
Agree Dispute Resolution
Association for Conflict Resolution
British Columbia Arbitration & Mediation Institute
British Columbia Institute of Technology (BCIT)
Canadian International Institute of Applied Negotiation
Community Mediation Services, Saint John's, Newfoundland
Conflict Mediation Services of Downsview, Ontario
Conflict Resolution Canada
Continuing Legal Education Society of BC
Co-Op Solutions
Justice Institute of British Columbia
Mediation Training Institute International (MTI)
Mediation Services Winnipeg
South Island Dispute Resolution Centre (Diamond Management)
St. Stephens Community House
Stitt Feld Handy Group

APPENDIX C

CONSENT LETTER FOR RESEARCH INTERVIEW

Date:

Dear Participant:

My name is Margaret Nelson. I am writing to invite you to participate in a research interview for my Master's thesis titled: "Advanced Mediation Training: Discovering & Defining Components of Advanced Mediation Practice and Learning in Canada."

I am completing my Degree in Conflict Analysis and Management through Royal Roads University, Victoria, BC. My thesis sponsor is Gordon Sloan, ADR Education, who has provided you with a letter of introduction. My academic adviser is Dr. Tara Ney, Institute for Dispute Resolution, University of Victoria who may be contacted at (xxx) xxx-xxxx.

My primary research question is: "What are the key components that define advanced mediation practice, and to what extent are these components covered within advanced mediation training in Canada?" I plan to complete a comparative analysis of the training offered versus the training recommended by experienced mediator/trainers.

My research goal is to first, identify the components offered in advanced mediation training programs in Canada and secondly, to identify and then compare the components that practitioners believe are most effective for advanced training. I will do this by conducting a non-exhaustive survey of advanced mediation courses currently presented in Canada by post-secondary academic institutions, non-academic programs, and individual mediation practitioners. I then plan to conduct interviews with mediation practitioners/trainers to ascertain what topics they recommend be included in advanced mediation training and their rationale. Lastly, I plan to complete a comparative analysis of the training offered versus the training recommended.

My hope is that the findings of this research will evoke discussion within the mediation training community that will: a) provide both learner and practitioner/trainers increased clarity in defining and identifying advanced mediation practice, skills and competencies; b) identify potential training topics that the learner might wish to take and c) identify potential training topics the trainer might wish to teach

Participation in this study is voluntary and will involve an interview of approximately one hour to take place at a mutually agreed upon time and place. I have attached a copy of the interview questions. You may decline to answer any interview questions if you so wish. Further, you may decide to withdraw from this study at any time. With your permission, the interview will be tape recorded and later transcribed. If you do not wish to be taped, please feel free to say no and I will make notes of the interview. Shortly after the interview has been completed, I will send you a copy of the transcript to give you an opportunity to confirm the accuracy of our conversation and to add or clarify any points that you wish. Only my academic adviser and myself will review the raw data from our interview. Research data will be stored in a locked cabinet for a minimum of

one year after convocation. Any emails between us will be stored on a password-protected computer.

With your consent, I would like to acknowledge your participation in my introduction. I would also like to personally attribute excerpts from our interview to you in my thesis text, reference list and/or any publications (such as a PHD or book) that might come from this research. It is my hope that you will accept this invitation so that my research may include your wealth of expertise and experience. If you would prefer not to be identified, I can also offer you the condition of anonymity if you so wish.

This research study has received approval from the ethics committee at Royal Roads University. Please contact my faculty supervisor, Dr. Fred Oster, at (xxx) xxx-xxxx, extension xxxx or by e-mail to xxxxxx@xxxxxx.xxx if you have any questions.

A final copy of the thesis will be housed at Royal Roads University.

If you would like to reach me to discuss any questions or concerns you might have, please call my cell phone number (xxx) xxx-xxxx or contact me via my e-mail address at xxxx@xxxxxx.xxx.

If you are amenable to participating in this study please indicate your agreement and voluntary consent by return e-mail along with a phone number where I can reach you. Your return email is acceptable by Royal Roads University as your consent.

I sincerely look forward to hearing from you.

Margaret Nelson

APPENDIX D – RESEARCH PARTICIPANT’S BIOGRAPHIES

Avi Tal

Avi Tal brings the perspective of being a relative newcomer to the field of mediation. He started his practice as a mediator/trainer/coach with The South Island Dispute Resolution Centre five years ago and is now one of their Senior Mediators. Avi’s personal passion and expertise lies in the area of Family Mediation, Parent-Teen Mediation, Conflict Analysis, Conflict Management, and Co-Parenting He is a strong advocate for the rights of children and believes in taking a “child-centred and family friendly” approach to the conflicts he works with. Avi describes his style as being that of a “Transformational Mediator.”

Marc Souliere, C.P.P.

Marc Souliere has over thirty years of experience as a human resources specialist. He has worked as a mediator for the past fifteen years and holds the designation of “Advanced Practitioner & Educator” with the Association of Conflict Resolution. Marc has conducted over 180 mediations dealing with such matters as family disputes, estates, workplace conflict, group assessments, and has led over fifty group interventions. He is currently engaged as a private consultant and is the principal of “Resolve with Marc.” His specialty is group intervention and Advanced Mediation Training in a variety of settings including federal and municipal governments. He has taught Advanced Mediation courses at the University of Windsor, the University of Ottawa and is currently a guest lecturer in advanced mediation at the Canadian Institute for Conflict Resolution. Until his recent retirement, Marc served as the Senior Advisor, Alternate Dispute Resolution Services, within the Canada Revenue Agency and designed and

implemented the Agency's Alternate Dispute Resolution [ADR] Training Program and materials. Marc describes his style of mediation as "Restorative Mediation."

Gary Harper, L.L.B.

Gary Harper mediated for thirteen years until he restricted his practice to conflict resolution training. While he does some group facilitation, most of his time is spent teaching Basic Mediation Training at the Justice Institute of British Columbia [JIBC] and within organizations. His book, "*The Joy of Conflict Resolution: Transforming Victims, Villains & Heroes in the Workplace and at Home,*" has made him a popular speaker/trainer for professionals within the Conflict Resolution community. Gary refers to his favourite mediation style as "Narrative Light."

Larry Axelrod, Ph.D., CHRP

Larry holds a Ph.D. in Social Psychology and is co-author of "*Turning Conflict into Profit.*" He is the President of "The Neutral Zone" and has "provided organizational consultation, education and training, and direct case intervention (mediation, assessment, investigation) for public and private sector organizations ... He specializes in working with highly conflicted groups and teams to build understanding and find pathways that support individual and group achievement. In addition, Larry has presented at many professional conferences and seminars on topics including human rights and diversity, leadership, change management, effective communication, conflict resolution, and health care." (Retrieved May 30, 2006, from: <http://www.theneutralzone.ca/team.html>) Larry describes his resolution style as "Strategic Facilitation."

Gordon Sloan, L.L.B.

Gordon Sloan is a partner in “ADR Education,” a firm that offers nationwide conflict resolution services and training. For the past ten years, he has co-ordinated the curriculum for the Continuing Legal Society of B.C. and is the chair of the Family Mediation Subcommittee of the Professional Standards Committee of the Law Society of B.C. He is well known for his experience and expertise as a mediator/trainer/consultant in both Canada and the United States. His general mediation practice includes complex civil and commercial mediation, family mediation, victim offender mediation, organizational conflict and multi party processes. Gordon Sloan is an accomplished dispute resolution lecturer and trainer whose clients have included “Provincial and Supreme Court judges, Native groups, Provincial and Federal Ministry Personnel, Provincial boards, councils and panels ... University faculties and departments, professional groups ... industry and labour.” (Retrieved May 30, 2006, from: http://www.adreducation.ca/PDF/gord_full_cv.pdf) He currently teaches Conflict Resolution courses at the Master’s Degree Level for the University of Victoria. When asked to describe his mediation style his response was as follows: “relaxed, highly facilitative, curious, highly experimental ... going with intuitive senses of what needs to happen next ... not as tied to any particular models including my own.”

Michael Fogel, JD, L.L.B.

“Michael Fogel was the first Chartered Mediator in Canada and has been a mediator and educator on negotiation and conflict resolution in private practice for 18 years. Prior to his move to British Columbia in 1985, he practised law in Los Angeles, California for 16 years and served as a municipal and superior court judge ... Michael is a Senior Instructor in the Justice Institute

of British Columbia's conflict resolution certificate program and has been involved in that program for 17 years. He designs and presents post-graduate university programs in interest-based mediation and negotiation and presents advanced negotiation and mediation courses to community groups and leaders, law firms, provincial and superior court judges ... health care professionals, public and private sector management groups and union groups, aboriginal leaders and organisations and practicing mediators.” (Retrieved May 30, 2006, from: http://www.insuredclaims.com/popups/popup_michael_fogel.html) Michael Fogel views his mediation style as “ what’s needed in the moment ... I am facilitative when I need to be facilitative, and certainly more directive when it appears that’s what would serve the parties best ... so the style is one that I adapt to the needs of the parties and the circumstances ... that’s the style.”

Sally Campbell, B.A., J.D.

Sally Campbell is a mediator/lawyer who has been facilitating “difficult conversations” since 1985. Her mediation practice includes multi-party disputes of all types- organizational conflict between management and staff, family issues including separation and divorce, business litigation, community issues, and multi-cultural disputes. She is a member of both the Family and Civil Mediator Rosters in B.C, and recently completed 2 terms on the Mediator Roster Board. Sally works across Canada designing and delivering entry to advanced level training in mediation, negotiation, multi-party processes and consensus-building ... and is a co-ordinator and lead trainer in B.C.'s Continuing Legal Education Dispute Resolution Curriculum. She is a senior Trainer for the Justice Institute of B.C. She has worked extensively with First Nations

communities, lawyers, judges, and with B.C. and Federal governments, facilitating and teaching. Sally has a Certificate in Restorative Practices and works with aboriginal and other communities delivering Peacemaking/Talking Circles training. She describes her mediation style as “facilitative, fluid, and client-centred”.

APPENDIX E

PARTICIPANT RECOMMENDATIONS GROUPED INTO SUBJECT CATEGORIES

Analysis and Assessment

- What are the interests and issues of the parties?
- What are the real goals of the parties?
- What is the history of the conflict and stories of the participants?
- What psychology is involved/ emotional issues and challenges?
- Appropriateness of mediation?
- Co-Mediation?
- Which conflict resolution process is best for the parties?
- BATNA, WATNA
- Preparation for mediation
- Recognizing different types of conflict and layers in same process
- Analysis of critical moments and compartmentalize to see problem in context and respond appropriately
- Mapping conflicts

Apology and Forgiveness

Caucus (also under Strategy)

Challenges & Curveballs

- How to handle curveballs such as misbehaviour, outbursts and yelling
- Identification of critical moments
- Includes emotions such as hate and revenge; intense anger and rage (handling these in a strategic way)
- Emotion illness: how to handle obsessive compulsive, depression, borderline personality
- How to handle the person who wants their pound of flesh
- Impasse
- Lying
- Power grabs (also under Power)
- Substance abuse
- Violence

Co-mediation

- How to co-mediate; debrief between sessions; balance of time and roles;
- Usefulness of co-mediation

Communication Skills (Advanced)

- Active listening: mirroring; body language; tone of voice; inflections; non-verbal; listening critically
- Active response: empathy; acknowledgment; re-framing; normalizing; refocusing; reflection; increasing fluidity; restating; paraphrasing
- Inquiry skills: intense inquiry skills; positive inquiry skills; appreciative inquiry; questioning strategically; how to use open-questions to elicit information; challenging perceptions and assumptions; elicit information to peel through layers; types of questions (probing, clarifying, justifying, consequential); reality testing questions
- Model communication for participants: "I" statements

- Immediacy
- Transparency
- Choreograph conversation
- How to respond in critical moments (also under Challenges/Curveballs)

Complexity (more difficult situations, more problematic)

- Different types of conflict within same mediation
- Give real life examples/stories of situations and how they were handled
- Multi-party mediations
- Multi-layered conflicts with participants who have different conflict styles
- Parties accompanied by representatives

Confrontation

- Confrontation to prompt reflection; confront inconsistencies and discrepancies; encouraging parties to look at the other's point of view

Culture

- Cultural fluency, inclusiveness, and empowerment; "cultural components, cultural sensitivity and cultural fluency"
- Stereotyping, generalizing, ethnocentricity, fear
- Discussion of other worldviews
- Respect and tolerance
- Impact of gender differences
- Types of culture
- Willingness to adjust to cultural diversity

Current topics

Emotional Intelligence (also under Psychology)

Emotions (also under Challenges & Curveballs)

- Grief and loss; frustration; sadness, remorse
- Anger (often a separate course)
- Defensiveness (often a separate course)
- Emotional illness
- Hatred and revenge

Impasse (also under Challenges & Curveballs)

Models

- Teach different models: Interest-based; Facilitative; Evaluative; Directive; Insight Mediation; Transformative; Narrative
- Going outside of models to adapt to participant needs
- OK to stray from textbook
- Circle process
- Restorative Justice
- Encourage experimentation with models to deal with different situations

Multi-party Mediation (also under Complex)

Neutrality (also under Reflective Practice)

- Limits to Mediator Neutrality

Power

- Power grabs; power model; understanding power
- Intervention strategy to deal with imbalance
- Different kinds of power

- Power as Energy

Practicum Opportunities

Pre-mediation: establish trust; set the stage; set the tone; elicit information

Process Design

Process Management & Procedure

- A lot more detail than basic; how to manage the entire process (holistic)
- Timing (also part of Strategy – taking for breaks after ah ha moments)
- Setting and keeping ground rules
- Sticking points and how to handle
- Parties in control
- Moving from Positions to Interests
- Should include real life scenarios
- Trainers should do a simulation to model techniques for students to use
- Dealing with boredom
- Transitions
- Balancing content and process
- Closure
- Transitions

Psychology

- Includes emotions – what’s happening to people so you can adjust the process to handle the emotions
- Theories: attribution theory; role theory; impression management; psychological defence mechanisms; projection; displacement and denial; cognitive dissonance; sociology; organizational dynamics and how that relates to behaviour
- Emotional Intelligence
- Emotional Illness
- Gender differences
- Personality Styles
- Power
- Drama Triangle
- Relationships

Questioning Skills (also under Communication)

Real life scenarios, examples, and applications

- Trainers to model what they are teaching for real life simulation (see it done)
- Practical tips

Reflective Practice

- Mediating consciously – ongoing analysis to respond to critical moments
- Knowing what we are doing, how we are doing it, and who we are becoming
- Awareness: Includes self-awareness and other awareness (see beyond the person to where is their pain)
- Attentiveness
- Self-awareness; self-care; self-work; self-understanding; how am I getting in my own way
- Presence: Mediator presence; open attitude; watching own ego; humility
- Mediator Neutrality
- Awareness of Mediator Impact
- Inclusion of mediator’s own inner wisdom and intuition

- Mindfulness
- Meditation
- Deeper understanding of conscious strategy
- Don't be seduced by content
- Request feedback from participants about how you're serving their needs
- Transformative practice
- Understanding the difference between being neutral and impartial
- Debriefing
- Keeping a journal
- Artistry and creativity
- Style – finding own mediator style

Role of the Mediator

- How to sit with people
- Not there to fix things
- Impact of mediator presence
- Mediator Identity
- Mediator Influence
- Neutrality
- Mediator assertiveness and being directive
- Orientation and attitude (should be open)
- Must be real
- Immediacy
- Not there to be “Master of Ceremony”
- Bring out what parties want
- Set time limits
- Put responsibility for process onto participants to solve their problem and don't let them off
- Needs to watch own language and not use “we”
- Role model

Strategy

- Consciously choosing model, style, actions ...
- Conscious knowing what actions/ techniques they are using and why
- Timing
- Knowing when to call and use a caucus
- Handling complex and intense emotions
- Conscious experimentation with models to know when to use them

Theory

- Deeper understanding of the nature of conflict
- Types of conflict
- Dynamics of conflict resolution
- Conflict Models