WHAT WORKS IN CUSTODY MEDIATION? EFFECTIVENESS OF VARIOUS MEDIATOR BEHAVIORS[1]

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This study uses behavioral observation and pre-and post-mediation questionnaires to measure the impact of mediator behaviors on participant attitudes and case outcomes in 130 court-connected custody mediations involving 270 participants and 30 mediators. As a quasi-experimental design, regression analysis controlled for a broad range of participant attitudinal and case characteristics. Mediator reflecting and eliciting strategies were associated with positive outcomes, while directing strategies had significant negative effects. Proportionally greater time spent in caucus was associated with increased participant trust in the mediator but more negative attitudes among participants. The article considers implications for mediators and court mediation programs.

Key Points for the Family Court Community:
- Mediator reflecting strategies are associated with positive short-term impacts on parents' attitudes toward each other and positive long-term impacts on their ability to work together.
- Mediator reflecting strategies alone decrease the likelihood of reaching agreement unless combined with mediator eliciting solutions from the parties.
- Mediator directing strategies are associated with increased likelihood of participants' filing adversarial motions in the long-term.
- Greater proportional use of caucus has mixed results, increasing participant trust in the mediator but making parties more hopeless about resolution with the other parent.

Keywords: *Caucus; Custody Mediation; Eliciting; Mediator Strategies; and Reflecting.*

Custody mediation has many benefits (Baily & Robbins, 2005; Emery, Laumann-Billings, Waldron, Sbarra, & Dillon, 2001; Kelly, 2004; Pearson & Thoennes, 1984) but less is known about the specific mediator techniques that promote positive outcomes. This study is the first conducted in a custody context to measure the impact of observed mediator behaviors on changes in party attitudes, the probability and content of agreements, and process experiences, regardless of whether the parties reach agreement.

It is difficult to compare results across existing literature because process definitions, methodology, and context vary. Most research treats mediation like a black box, focusing on settlement rates and party satisfaction, but ignoring what mediators actually do during the session (American Bar Association [ABA] Section of Dispute Resolution, 2017, p. 7). Yet mediators vary widely in their training or practice framework and specific techniques used (Charkoudian, de Ritis, Buck, & Wilson, 2009; Riskin, 2003).

Rigorous empirical research of authentic court-connected mediation is difficult to do because of confidentiality concerns and the intensive administrative undertaking involved. Some studies therefore rely on simulated scenarios, which may provide more control over certain variables (Gale, Mowery, Herrman, & Hollett, 2002) but may not capture the unique interplay between mediators and real disputants (Wall & Chan-Serafin, 2009).

Only a handful of studies analyze the effectiveness of specific mediator behaviors during custody mediation. The limited literature about the effects of mediator techniques on outcomes in real cases does not reveal any specific behaviors that have clear, uniform effects across all studies (ABA Section of Dispute Resolution, 2017, p. 2). An analysis of 32 custody mediations found that mediators tend to have either a settlement-oriented style or a problem-solving style (Kressel, Frontera, Forlenza, Butler, & Fish,

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1994). Although they found that the settlement-oriented style "was not necessarily bad," the problem-solving approach (which includes the mediator asking questions, having a sense of strategic direction, and searching for parties underlying needs) "produced a more focused, structured, and vigorous approach to conflict resolution and joint problem solving *during* mediation, more frequent and durable settlements, and a generally more favorable attitude toward the mediation experience" (p. 79).

One theme of studies in the family and custody context is that mediators need some facility with attending to the emotional and relational aspects of the dispute (Wissler, 1999). Parties who settle in family mediation are more likely to report that "they had a chance to express their views, they were treated with respect, their dispute was handled seriously" (Wissler, 2006, p. 137) and that the mediators attended to feelings and built understanding. An analysis of two different samples of transcripts from custody, visitation, and support mediation found that the more mediators ignored the disputants' relational concerns and focused on facts, the more difficulty they experienced in reaching an agreement (Donohue, Drake, & Roberto, 1994, p. 272). Although the authors cautioned against a causal link, they concluded that "replication of these findings across two samples suggests that the absence of an opportunity to vent emotional concerns may have contributed significantly to decreased client satisfaction" (p. 272). A study of videotaped mediators working with actors in a simulated divorce scenario found that the most successful mediators had a holistic approach that attended to three factors: "the structural organization of the session, the parties' socioemotional issues, and the substantive details of issues" (Gale et al., 2002, p. 414).

Although attending to party emotions or relational concerns generally has been found to promote positive outcomes in domestic mediations, findings about other mediator behaviors has been mixed. Mediator tactics of offering suggestions, recommendations, evaluations, or opinions has either increased, decreased, or had no effect on settlement (Wissler, 1999; Slaikeu, Culler, Pearson, & Thoennes, 1985; Donohue, Allen, & Burrell, 1988) and has had both positive and negative effects on disputants' relationships and perceptions of the process (ABA Section of Dispute Resolution, 2017; Depner, Cannata, & Ricci, 1994; Wissler, 1999). Structuring the discussion agenda during a mediation likewise has been found to have no effect (Donohue et al., 1988) or positive effects (Vanderkool & Pearson, 1983).

Few studies have examined the impact of caucuses or private sessions between the mediator and one party. Premediation caucuses used to build trust and rapport between the mediator and the parties increased the likelihood and quality of settlement and reduced relationship and goal conflict between the parties in employment and labor matters (Swaab & Brett, 2007). Conversely, premediation caucuses used to discuss substantive issues reduced the likelihood of settlement and increased relationship and goal conflict. In family and labor mediations, caucusing during the mediation was associated with increased postmediation relationship conflict between the participants (Swaab & Brett, 2007). A study of a simulated divorce mediation by four different mediators found that the top-ranked two mediators spent more time in formal caucus rather than dialogue with all parties, but those mediators also attended to interpersonal issues and substantive details more effectively than the mediators who used more joint sessions (Gale et al., 2002).

This study seeks to fill the gap in the literature about what works in real custody mediation. We use a comprehensive quasi-experimental design, modeled on that proposed by Herrman, Hollett, and Gale (2006). This model encompasses a range of inputs and processes and considers four points in time: (1) antecedent conditions, such as presession characteristics, beliefs, and attitudes of the parties and the mediators; (2) the mediation itself, including the actual behaviors of both the mediator and the parties; (3) immediate, postsession outcomes and party attitudes; and (4) long-term impact of mediation on party beliefs and attitudes and case outcomes.

I.   METHOD

A.   DESIGN

Data were collected in a unique and comprehensive way, including questionnaires with the parties before, immediately after, and approximately 6 months after the mediation; live observation

and coding of mediator and participant behaviors; and review of court records. We used regression analysis to hold case characteristics, participant attitudes and behaviors, and other confounding factors constant so that we could isolate the impact of mediator strategies.

B. PARTICIPANTS

Two hundred seventy participants in 130 court cases were recruited. Approximately 90% agreed to participate; 50% were male, 56% were White, 70% had no prior experience with alternative dispute resolution (ADR), 80% had attended a parenting class, and 64% were represented by or had consulted an attorney in the case prior to mediation. Maryland law prohibits attorneys from attending custody mediations, but parties may consult with counsel in advance of the session and prior to signing any agreement reached at mediation.

Thirty mediators participated, with nearly all mediators who were approached agreeing to participate. All mediators satisfied the qualifications for court-appointed mediators (Maryland Rules of Procedure, 2018, Rule 17–205).[2] Self-reported mediator frameworks included 2% evaluative; 50% facilitative; 27% inclusive; 17% "no style"; and 0% transformative, analytical, or narrative. In 34% of cases, the mediator(s) were male. They had mediated an average of 151 cases in the previous 12 months ($SD = 97$) and were members of the Maryland Program for Mediator Excellence (MPME) in 84% of cases.

C. MEASURES

The "Meditator Questionnaire" consisted of questions about mediator's background, mediation philosophy and framework, and demographics.

The "Participant Presession Questionnaire" collected demographic data (age, gender, race, income, disability, income, languages, military status, educational background, relationship to other party), prior attendance at parenting class, prior preparation for mediation and trial, and prior police involvement with the custody or visitation conflict.[3] The questionnaire included eight questions about the participants' level of preparation; knowledge about mediation, court procedures, and their legal rights; and attitudes about mediation on a Likert-type scale (1 = *strongly disagree*, 5 = *strongly agree*) (Administrative Office of the Courts, Court Operations [AOC], 2014, p. 69). To measure changes in attitudes about the case, the conflict, and the other party, participants answered 18 questions on a Likert-type scale (1 = *strongly agree*, 5 = *strongly disagree*) (AOC, 2014, p.70). Participants responded to the same questions pre- and postmediation and in the 6-month follow-up interview. These answers were used to create a difference score, with positive scores indicating an increase in agreement with the statement. A table defining the attitudinal difference scores appears in Appendix A.

The "Participant Postsession Questionnaire" contained 20 questions designed to capture participants' attitudes about the mediator and the mediation process on a Likert-type scale (1 = *strongly disagree*, 5 = *strongly agree*; for the full survey, see AOC, 2014, p. 73). The participants were asked whether they reached full, partial, or no agreement and whether the issues of custody and visitation were resolved (yes, partially, no). They expressed agreement or disagreement with whether: the outcome reached was fair, they could implement the outcome reached, and their children's needs were met by the agreement reached on a Likert-type scale (1 = *strongly disagree*, 5 = *strongly agree*).

On the "Long-Term Follow-Up Questionnaire" participants responded to the following questions using a Likert-type scale (1 = not at all, 2 = a little, 3 = partially, 4 = mostly, and 5 = completely): How well is the outcome you reached working for you? How well is the outcome reached working for your children? How well do you think you followed through on the outcome? How well did the other/s follow through on the outcome? How likely are you to recommend mediation to others involved in a disputed custody situation? Participants were also asked about the relationship: In the last 6 months, have you had any contact with the other person/people involved in the custody/visitation decisions? (If above answer is yes) Are the interactions worse, the same, or better than 6 months

ago? Since the final outcome was reached, have new problems arisen between you and the other person/people?

Measures of attitudinal changes about the conflict and the other parent were calculated as a difference score from the participant pre-session ADR survey and the long-term follow-up survey questions.

Live behavioral observation coding of both mediators and parties was conducted to isolate the impact of mediator actions while holding constant party behaviors, such as displays of hostility or cooperation. The behavioral codes measure the percentage of total mediator or participant strategies that fit specific definitions, defined in the table in Appendix B. The researchers (two for mediator codes and three for participant codes) received extensive prior training in the applicable behavioral codes, defined in a 37-page coding book (for the complete code book, see AOC, 2014, pp. 86–123) and practiced during recorded and live mediations. Behavioral codes were refined during training to address any points of confusion or inconsistency among coders. Training continued until inter-rater reliability reached at least 80% (see Yoder & Symons, 2010, p. 161). After 6 months in the field, researchers were reconvened to test for any drift from original code definitions and inter-rater reliability. Together, all coders watched both live mediation sessions and video simulations and their results were again examined for level of agreement. No measurable drift occurred.

Case and mediation characteristics were also tracked. Researchers recorded the following variables: was an agreement signed and submitted to the court (no, partial, yes); was a consent order submitted to and accepted by the court (no, partial, yes); did any participant report the police had been called as a result of the custody or visitation dispute; the total time in minutes spent in mediation across all sessions, and the percent of time spent in caucus.

To measure long-term court outcomes, for those cases in which a mediated parenting plan agreement existed, one researcher who had significant experience as a family lawyer and mediator reviewed and scored the agreements for their level of personalization. Of the 80 cases resulting in a full or partial agreement, 76 agreements were reviewed for personalization (four were missing from the court's record and two had not been retained by the mediator). Each agreement was scored along five categories, resulting in a total score of 0–7. The categories included naming the parents throughout the agreement, naming the children throughout the agreement, specifying holidays beyond standard federal holidays, covering topics beyond physical and legal custody, and using personalized rather than generic language.

We calculated postmediation progress (positive or negative) as participants going from having no agreement to having a consent order postmediation or having an agreement to having no consent order entered.[4] Finally, case files were reviewed 12 months after the date of the custody decision to track the number and type of motions, hearings, and contempt filings related to custody or visitation.

D. PROCEDURES

Data were collected in the family court mediation programs in three Maryland jurisdictions. Two counties (one suburban, one primarily rural) refer cases to a roster of private mediators who receive payment from the parties at court-established rates. The court refers indigent parties to a free community mediation center. In the third county (mixed suburban–urban), parents receive free mediation through court staff mediators. The mix of programs and mediation approaches allows sufficient diversity to measure the impacts of different components of the process.

Eligible cases consisted of those involving an initial custody or visitation filing, contested by the other side (modifications to existing orders or agreements were excluded). Maryland mandates mediation for all child access cases except those involving child abuse or intimate partner violence, so the study excludes such cases. Researchers coordinated with individual mediators and court staff to identify eligible cases scheduled for mediation. Researchers then attended the mediation sessions, dependent on geography and staffing.

1.   Questionnaires

For each case, both participants and mediators completed questionnaires prior to the mediation. To capture changes over time, mediators who were observed more than once answered surveys each time about their role within the court system, their experience, and training. Two researchers met with the participants prior to the mediation session to review the research protocol and obtain informed consent. If both parties consented, the researchers administered the presession questionnaire, recording answers on a laptop computer. The parties were separated for all interviews. During this time, mediators completed the mediator survey.

Immediately following the mediation, parties were again separated and answered the questionnaire. If the case involved multiple mediation sessions, researchers attended all of them and administered the presession questionnaire prior to the first session and the postsession questionnaire after the last session.

2.   Live Behavioral Observation Coding

Immediately after the presession questionnaire, the researchers (all of whom were experienced mediators and trained extensively in the behavior codes) observed the live mediation, unobtrusively sitting away from the mediation table. One coded mediator behaviors and the other coded participant behaviors directly into The Observer® program (Noldus) on laptop computers.

3.   Long-Term Follow-Up Questionnaire

Approximately 6 to 8 months after the mediation, researchers called participants for a follow-up interview. Participants who completed the interview received a $10 incentive check. After five failed attempts to contact, the participant was considered unreachable. The standard timing for the follow-up call was 6 months after the mediation, with the majority of interviews conducted 6–8 months postmediation ($M = 7.03$; $SD = 1.85$). The minimum amount of time was 2 months (by error) and the maximum was 20 months (an outlier).

II.   PRELIMINARY RESULTS

A.   CASE-LEVEL STATISTICS

Ninety-seven cases had one mediation session and 28 had more than one (20 cases had two, 5 cases had three, 1 case had four, and 2 cases had five). Total time in mediation averaged 107 minutes ($SD = 77.3$). Of the 270 cases, 31% reported that the police had previously been called to intervene in the custody conflict between the parents. The average number of children was 1.5 ($SD = 0.8$), 25% had a related case, and 34% of mediators were male. As seen in Table 1, 60% of cases reached a full or partial agreement in mediation and 86% resulted in a full or partial consent order.

Table 1
Percentage of Cases Reaching Agreements and Consent Orders

Outcome	None	Partial	Full	Total
Mediated Agreement	54 (40%)	16 (12%)	64 (48%)	134
Consent Order	18 (14%)	4 (3%)	105 (83%)	127

B.   CREATING NEW COMBINED VARIABLES

Using factor analysis, we considered the combination of similar mediator behavior variables based on the idea that mediators have some underlying theory holding together their actions. Using principal component analysis, we combined the various sets of participant variables with the idea that while there may be patterns connecting the variables, participants have no underlying theory tying their answers together in a predictable way. For both analyses, the minimum eigen value was set at 1, and varimax was used for the factor matrix rotation. The outputs were reviewed with settings to report loadings greater than 0.4 and determined to be either consistent with theory or at least not very inconsistent with theory. New variables were created using the factor loadings associated with each of the variables. See Appendix C for the tables defining the new variables with the variables that compose them.

The factor analysis of mediator behavioral codes identified four sets of strategies. The first set, mediator reflecting, includes heavy use of reflecting or repeating back the participants' emotions, values, and interests and identifying the topics or issues they want to discuss during the mediation. This set is characterized by negative loadings on strategies that include a mediator telling their own ideas and solutions to the parties. The factor loading on inclusive indicates that mediators who identified themselves as inclusive mediators were found using these strategies more often than other mediators.

The second set, mediator offering perspective, includes the mediator sharing ideas or suggestions about the situation such as: opinions, ideas about topics the parties should discuss, and advocacy for perspectives coming from either or both participants. The negative loading on reflections indicates those strategies were not generally used together with offering perspective.

The third set, mediator eliciting participant solutions, consists of mediator strategies that involve asking participants what solutions they would suggest, summarizing those solutions, and checking in with participants to see how they think those ideas might work for them.

The fourth set, mediator directing, includes strategies used to direct the flow of the conversation, including introducing and enforcing guidelines for behavior, explaining one party's position to the other, and providing their opinion and advocacy for one party or the other.

These new variables measure the percentage of mediator strategies that fall within the set of strategies, with a positive coefficient indicating that greater use of these strategies increases the outcome of interest, while a negative coefficient indicates that greater use decreases the outcome of interest. These sets do not necessarily identify types of mediators or mediation frameworks. Most mediators use multiple strategies in the same mediation.

C.   BUILDING THE MODEL

The short-term analysis seeks to understand the impact of mediator strategies and experience on a range of outcomes, including agreement and consent-order rates and participants' attitude toward the other party, the situation, the process, and the court. To isolate the impact of mediator strategies and experience, we used ordinary least squares (OLS) multiple regression analysis and ordered logistic regression analysis. We controlled for a wide range of confounding factors that could affect participants' experience, including participant demographics, premediation attitudes, and case factors gathered from the presession surveys and participant actions at the mediation recorded through live behavioral coding.

Several models were considered. To avoid problems associated with multicollinearity, we reviewed correlation tables for each possible set of independent variables, with the goal of only including variables in the equations if the correlation between them was less than .5. For those variable pairs with a correlation coefficient of .5 or greater, the variable considered more central to the analysis was kept. Before discarding the other variable, the equation was run with that variable to see if it was significant. If it was not, then it was not used and the more key variable was used. Variables with several missing observations were removed.

For all participant-level data, the equation included whether the participants reached an agreement in mediation. This isolated the impact of the other variables on the outcomes of interest,

regardless of whether the participants reached agreement. When building the long-term impact model, a similar process was followed to avoid problems with multicollinearity; however, the variable "P Wrong" was considered important because it measures the degree to which participants disagree with one another and was not removed despite it having a correlation coefficient of −.53.

Table 2
Ordinary Least Squares Regression Results for Postintervention Measures

		P No Respect	P Understand/ Listen	P Recommend/ Satisfied	P Clear Understand
	Agreement	−0.17	1.02**	0.34**	0.58**
		(−0.92)	(6.58)	(2.61)	(4.62)
Case Characteristics	Police Called	−0.07	−0.33	−0.21	0.32
		(−0.25)	(−1.30)	(−1.00)	(1.57)
	Represented or Consult	0.12	−0.07	−0.29	−0.02
		(0.39)	(−0.26)	(−1.34)	(−0.08)
	Parenting Class	0.26	−0.10	0.21	−0.55*
		(0.70)	(−0.32)	(0.81)	(−2.20)
Participant Attitude	Participant Knowledge	−0.21*	0.10	0.13*	0.09
		(−2.28)	(1.20)	(1.98)	(1.45)
	Participant Want Trial	0.19*	−0.03	−0.13*	−0.02
		(2.12)	(−0.38)	(−1.97)	(−0.32)
	Participant Prepared	0.02	−0.11	−0.14	−0.07
		(0.13)	(−0.91)	(−1.39)	(−0.77)
Participant Strategies	Participant Care Need	−0.21	0.24*	0.05	0.07
		(−1.81)	(2.47)	(0.57)	(0.83)
	Participant Won't Work	0.02	0.03	−0.11	0.05
		(0.13)	(0.32)	(−1.24)	(0.59)
	Participant Not Engaged	−0.00	−0.18	−0.07	−0.14
		(−0.04)	(−1.80)	(−0.86)	(−1.75)
Mediator Strategies	Mediator Reflecting	−0.68	0.37*	−0.01	0.04
		(−0.38)	(2.51)	(−0.11)	(0.30)
	Mediator Offering Perspectives	−0.03	−0.00	−0.03	0.10
		(−0.22)	(−0.00)	(−0.30)	(1.03)
	Mediator Eliciting Participant Solutions	−0.34	0.48**	0.17	0.27*
		(−1.87)	(3.12)	(1.31)	(2.21)
	Mediator Directing	0.37*	−0.14	0.00	−0.05
		(2.15)	(−0.98)	(0.02)	(−0.43)
	Percent Caucus	−3.90*	−1.05	−0.09	1.00
		(−2.16)	(−0.69)	(−0.07)	(0.81)
	Mediator Number Cases – 12 months	−0.00	−0.00	0.00	−0.00
		(−0.71)	(−0.97)	(0.07)	(−0.67)
Participant Demographics	Gender	0.03	0.40	−0.06	−0.06
		(0.11)	(1.69)	(−0.31)	(−0.30)
	Age	−0.02	−0.02	0.00	0.01
		(−1.09)	(−1.47)	(0.17)	(1.28)
	White	−0.48	0.15	0.28	−0.24
		(−1.77)	(0.64)	(1.45)	(−1.33)
	Match My Gender	0.17	−0.18	−0.15	−0.31
		(0.61)	(−0.76)	(−.075)	(−1.62)
	Constant	0.82	−0.18	−0.37	−0.24
		(1.00)	(−0.27)	(−0.64)	(−0.43)
	Number of Observations	206	206	206	206
	Adjusted R^2	0.10	0.37	0.13	0.27

*$p < .05$;
**$p < .01$.

III.   SHORT-TERM RESULTS

A.   PARTICIPANT-LEVEL OUTCOMES

Table 2 reports the results of the OLS regressions for post-mediation variables. Variables with "P" refer to participant data.

Participants' reporting that the mediator respected them and did not take sides was negatively associated with a greater percentage of mediator directing strategies, and positively associated with a greater percentage of time spent in caucus. Participants' knowledge about mediation and the court process also had a positive effect on their likelihood of reporting that the mediator respected them and did not take sides.

Participants are more likely to report that they listened to each other and increased understanding through the process when: they reach an agreement or partial agreement, the mediator uses a greater percentage of reflecting strategies, or the mediator uses a greater percentage of eliciting participant solution strategies.

Reaching an agreement or partial agreement has a positive effect on parties reporting they were satisfied and likely to reuse mediation. A party's premediation preference for trial over mediation and sense that mediation is a waste of time had a negative effect on reporting satisfaction and likelihood of reusing mediation.

Participant reports that they became clearer about their desires and that the underlying issues came out was positively associated with a greater percentage of eliciting participant solutions, and with reaching an agreement and negatively associated with attending the parenting class.

Table 3 reports the results of the OLS regressions, analyzing the difference in participant (P) attitudes from before to after the mediation (Diff).

None of the mediator strategies had a significant impact on the participants' shift in attitude about getting their and the other participants' needs met. Reaching an agreement or partial agreement in mediation had a positive effect on participants feeling less hopeless from before to after the mediation. The greater the percentage of time spent in caucus, the more likely the participants reported a sense of hopelessness about the situation and potential resolution from before to after the mediation.

Participants' dismissing the other parties' needs and perspectives was negatively associated with a greater percentage of reflecting strategies and reaching an agreement. An increase in participants' belief that they could work together to resolve their conflicts with a range of options was positively associated with reflecting and eliciting participant solutions, and negatively associated with a greater percentage of time spent in caucus.

B.   CASE-LEVEL OUTCOMES

Table 4 reports the results of the ordered logistic regressions of case-level data in terms of how the variables of interest affect reaching an agreement, reaching a consent order, progress between mediation and a consent order, and the personalization of the agreement.

The greater the percentage of reflecting strategies, the less likely the case was to reach an agreement, but reflecting did not have a significant impact on reaching a consent order. The participants were more likely to reach agreement during mediation when the mediator employed a greater percentage of eliciting participant solutions and when the participants indicated that the location of the mediation was convenient.

The case was more likely to result in a consent order if: the mediator employed a greater percentage of strategies seeking solutions and reactions from participants; participants used strategies of engagement with each other, such as expressing their needs and taking joint responsibility; participants had premediation knowledge of the court and mediation process; or participants were White rather than another race.

Table 3

Ordinary Least Squares Regression Results for Differences in Attitudes

		P Diff Hopeless	P Diff Our Needs	P Diff Other Doesn't Matter	P Diff Child Focus	P Diff Together Options
	Agreement	−0.65**	0.13	−0.42**	0.26*	0.20
		(−4.74)	(1.11)	(−3.48)	(2.28)	(1.70)
Case Characteristics	Police Called	−0.09	−0.24	0.21	0.17	−0.03
		(−0.39)	(−1.31)	(1.07)	(0.89)	(−0.15)
	Represented or Consult	0.17	−0.27	0.27	−0.18	0.14
		(0.74)	(−1.40)	(1.35)	(−0.94)	(0.71)
	Parenting Class	0.11	−0.02	0.15	−0.12	0.26
		(0.40)	(−0.09)	(0.65)	(−0.51)	(1.14)
Participant Attitude	Participant Knowledge	0.12	−0.09	0.06	0.01	0.00
		(1.70)	(−1.51)	(0.89)	(0.08)	(0.07)
	Participant Want Trial	−0.03	0.01	−0.04	0.00	0.02
		(−0.35)	(.20)	(−0.64)	(0.07)	(0.30)
	Participant Prepared	−0.17	−0.12	−0.16	0.02	0.06
		(−1.65)	(−1.36)	(−1.76)	(0.24)	(0.67)
Participant Strategies	Participant Care Need	−0.12	0.16*	0.02	0.13	−0.09
		(−1.38)	(2.20)	(0.30)	(1.83)	(−1.20)
	Participant Won't Work	0.08	−0.06	−0.08	0.11	0.01
		(0.84)	(−0.73)	(−1.00)	(1.38)	(0.18)
	Participant Not Engaged	0.07	−0.12	0.02	−0.14	−0.10
		(0.76)	(−1.65)	(0.26)	(−1.87)	(−1.33)
Mediator Strategies	Mediator Reflecting	−0.13	−0.11	−0.33**	0.02	0.26*
		(−0.97)	(−1.01)	(−2.84)	(0.17)	(2.37)
	Mediator Offering Perspectives	−0.04	0.11	0.15	−0.12	0.06
		(−0.39)	(1.20)	(1.55)	(−1.28)	(0.60)
	Mediator Eliciting Participant Solutions	−0.23	0.16	0.09	−0.16	0.33**
		(−1.83)	(1.54)	(0.81)	(−1.49)	(3.06)
	Mediator Directing	−0.09	−0.13	0.16	0.18	−0.06
		(−0.67)	(−1.22)	(1.47)	(1.71)	-(0.61)
	Percent Caucus	2.67*	0.18	0.02	−0.82	−2.55*
		(2.04)	(0.17)	(0.01)	(−0.75)	(−2.33)
	Mediator Number Cases - 12 months	0.00	−0.00*	−0.00	0.00	0.00
		(0.45)	(−2.45)	(−1.10)	(0.13)	(0.82)
Participant Demographics	Male	−0.24	0.19	0.04	0.00	−0.15
		(−1.13)	(1.08)	(0.20)	(0.01)	(−0.84)
	Age	0.01	−0.00	−0.00	0.01	0.01
		(0.81)	(−0.18)	(−0.72)	(0.69)	(0.67)
	White	0.17	−0.05	0.19	0.02	−0.02
		(0.83)	(−0.30)	(1.10)	(0.13)	(−0.15)
	Match My Gender	−0.15	−0.17	0.16	−0.18	0.19
		(−0.68)	(−0.95)	(0.84)	(−1.02)	(1.07)
	Constant	0.22	0.57	0.36	−0.20	−0.88
		(0.36)	(1.13)	(0.67)	(−0.38)	(−1.74)
	Number of Observations	191	191	191	191	191
	Adjusted R^2	0.20	0.10	0.44	0.04	0.16

*$p < .05$;
**$p < .01$.

No mediator strategy set had a significant impact on progress from agreement to consent order. Participants were more likely to move from having no agreement or partial agreement to getting a partial or full consent order either when participants used strategies of engagement with each other or when participants had premediation knowledge of the court and mediation process. If the police had intervened in the custody conflict prior to the mediation, participants were more likely to get an agreement in mediation that did not result in a consent order.

Table 4
Ordered Logistic Regression Results for Outcome Measures by Case

		Agreement	Agreement (testing interactive effect)	Consent Order	Post-Mediation Progress	Personalization of Agreement
Mediator Strategies	Percent Caucus	−1.50	−0.98	3.22	1.17	5.80
		(−0.21)	(−0.02)	(0.42)	(0.30)	(1.30)
	Mediator Reflecting	−0.80*	−0.79*	−0.61	0.30	4.44**
		(−2.40)	(−2.45)	(−1.22)	(1.06)	(5.15)
	Mediator Offering Perspectives	0.26	0.21	0.81	0.13	0.44
		(0.66)	(0.51)	(1.29)	(0.36)	(1.07)
	Mediator Directing	−0.11	−0.13	−0.38	−0.08	0.67
		(−0.32)	(−0.40)	(−0.82)	(−0.26)	(1.71)
	Mediator Eliciting Participant Solutions	1.65**	1.97**	1.64**	−0.45	0.62
		(4.16)	(4.45)	(3.17)	(−1.69)	(1.15)
	Mediator Reflect * Mediator Elicit		−0.70			
			(−2.06)			
Mediator Characteristics	MPME	−1.71	−1.34	−0.29	1.25	3.23*
		(−1.50)	(−1.23)	(−0.20)	(1.14)	(2.23)
	Mediator gender male	0.40	0.09	0.77	0.60	−2.73**
		(0.56)	(0.12)	(0.77)	(0.90)	(−2.69)
	Mediator Number Cases − 12 months	0.00	0.00	−0.00	−0.00	0.00
		(0.52)	(0.55)	(−0.22)	(−1.46)	(0.57)
	Need Agreement	−0.02	0.20	−0.40	−0.29	1.80**
		(−0.04)	(0.38)	(−0.48)	(−0.62)	(3.31)
Participant Attitude	Participant wants trial	−0.22	−0.18	−0.07	0.30	0.38
		(−1.21)	(−0.95)	(−0.27)	1.77	(1.69)
	Participant Prepared	0.07	0.14	−0.56	−0.14	−0.08
		(0.27)	(0.49)	(−1.38)	(−0.60)	(−.025)
	Participant Knowledge	−0.16	−0.19	0.71*	0.43*	−0.11
		(−0.84)	(−0.97)	(2.33)	(2.25)	(−0.43)
Participant Strategies	Joint Participant options	0.14	0.19	−0.04	−0.00	−0.08
		(0.85)	(1.07)	(−0.14)	(−0.03)	(−0.42)
	Joint Participant Not engaged	−0.45	−0.38	0.35	0.31	0.26
		(−1.33)	(−1.22)	(0.75)	(1.39)	(0.51)
	Joint Participant engaged	0.19	0.22	1.34**	0.58**	−0.77*
		(0.79)	(0.89)	(2.64)	(2.55)	(−2.02)
	Joint Participant Acknowledge	0.01	0.06	0.02	−0.14	−0.04
		(0.06)	(0.26)	(0.06)	(−0.66)	(−0.16)
Participant Characteristics	Number of children	0.06	−0.01	0.94	0.16	−0.03
		(0.16)	(−.03)	(1.45)	(0.46)	(−0.07)
	Age	0.04	0.05	0.01	−0.03	−0.10*
		(1.18)	(1.34)	(0.16)	(−1.16)	(−2.15)
	White	1.30	1.29	2.70*	0.39	3.15**
		(1.57)	(1.54)	(2.19)	(0.53)	(3.04)
Case Characteristics	Police Called	0.62	0.97	−1.62	−1.14*	1.72*
		(0.98)	(1.47)	(−1.86)	(−2.00)	(2.03)
	Parenting Class	−1.21	−0.98	0.08	1.73	4.16**
		(−1.25)	(1.01)	(0.06)	(1.82)	(3.09)
	Related case	−0.96	−1.17	1.31	0.73	−0.85
		(−1.20)	(−1.45)	(0.97)	(1.06)	(−0.90)
	Attorney − consult or represented	−1.15	−1.42	0.96	1.07	−0.91
		(−1.47)	(−1.79)	(0.96)	(1.52)	(−1.02)
	Location Convenience	1.14**	1.17**	−0.31	−0.51	0.17
		(2.95)	(2.97)	(−0.60)	(−1.51)	(0.39)
	Number Observations	116	116	110	110	66
	Pseudo R^2	0.34	0.35	0.33	0.20	0.44

*$p < .05$;
**$p < .01$. MPME = Maryland Program for Mediator Excellence.

Table 5

Summary Statistics of Key Attitudinal Measures at 6-Month Follow-Up

Attitudinal Measure	Mean (SD)
Satisfied with Outcome	3.62 (1.26)
Outcome Working	3.46 (1.45)
Outcome Working for Children	3.62 (1.40)
I Followed Through	4.73 (0.73)
Other Person Followed Through	3.36 (1.40)
Would Recommend Mediation	4.28 (0.91)
Issues Resolved	3.21 (1.24)

For those cases that settled, the agreement was more likely to be personalized if: the mediator used a greater percentage of reflecting strategies, the police had been called prior to mediation, mediators were members of a mediator ethics program, parents had attended a parenting class, and the mediator had a philosophy that reaching agreement is important. The more engaged participants were, the less likely the agreement was to be more personalized. Male mediators were less likely to have personalized agreements than female mediators. Older participants were less likely to have a personalized agreement than younger participants. White participants were more likely than participants of other races to have a personalized agreement.

Eliciting participant solutions was the only strategy that increased the probability of agreement. Reflecting was the only strategy that increased the probability of a personalized agreement for those cases that reached agreements, but reflecting alone had a negative effect on the probability of reaching agreement. Given this, we sought to understand the joint effect of eliciting and reflecting strategies. The second column in Table 4 shows the results of using interactive variables to see the effect of eliciting participant solutions together with reflecting. To understand whether there is a net positive or negative effect on reaching an agreement, we add the coefficients to each other (1.97 [Eliciting Participant Solutions] - 0.79 [Reflecting] - 0.7 [Mediator Eliciting*Mediator Reflecting] = 0.48). Combining eliciting participant solutions and reflecting resulted in a positive effect on reaching an agreement. However, eliciting participant solutions has a stronger effect on reaching an agreement than the combined variable.

C. LONG-TERM IMPACT OF MEDIATOR STRATEGIES

Participants from the short-term analyses were included in the long-term study. Out of the original 270 participants in the short-term study, long-term data exists for 117 individuals. Attrition occurred primarily because many people did not return calls from researchers. Other reasons included: party contact information changed, the final custody hearing had not yet occurred (those cases were dropped from the analysis), and circumstances changed significantly (e.g., one participant passed away and another couple reunited).

Although some attrition is expected in any study that follows participants over an extended period of time, we used a difference-of-means test to be sure that the attrition did not result from the factors being studied or that the individuals who were lost did not have a different experience in mediation than those who remained in the study. There was a statistically significant difference in means for four variables. Individuals who were more likely to be included in the follow-up data set included: plaintiffs, those who expressed an increased sense of their ability to work with the other party from before to after the mediation, and those who reported an increased sense that both their and the other party's needs should be met from before to after the mediation. Individuals from Charles County were less likely to be included in the follow-up data set. All remaining variables, including mediator strategies, party attitudes and behaviors, demographics, and other mediation outcomes were not significantly different. Therefore, the short and long-term samples were not substantively different.

Table 6
Ordinary Least Squares Regression Results for Long-Term Difference in Attitude

		Diff–Work together-L	*Diff–Not Good for Child-L*	*Diff–Getting Our Needs Met-L*	*Diff–Frustration-L*
Case Characteristics	Agreement	.12	.04	.14	.03
		(0.45)	(0.17)	(0.58)	(0.14)
	Attorney	−.12	.22	−.27	.11
		(−0.27)	(0.55)	(−0.67)	(0.34)
	Police Called	.15	−.85*	−.49	−.33
		(0.36)	(−2.28)	(1.33)	(−1.06)
	Parenting Class	−.07	.46	−.44	.82
		(−0.13)	(0.90)	(−0.87)	(1.93)
Participant Attitude	P Want Trial – L	−.02	.00	.12	−.06
		(−0.13)	(0.03)	(1.08)	(−0.62)
	P Knowledge – L	.08	.04	.08	−.05
		(0.66)	(0.33)	(0.74)	(−0.51)
	P Prepared – L	−.17	−.04	.16	.10
		(−0.99)	(−0.27)	(1.02)	0.77
Participant Strategies	P Wrong	−.09	−.12	.00	.01
		(−0.61)	(−0.93)	(0.00)	(0.13)
	P Acknowledge	−.03	.01	−.10	−.07
		(−0.23)	(0.09)	(−0.81)	(−0.67)
	P Caring	−.04	−.01	.04	−.22
		(−0.21)	(−0.08)	(0.23)	(−1.44)
Mediator Strategies	Mediator Directing – L	−.05	−.24	−.18	−.09
		(−0.24)	(−1.16)	(−0.88)	(−0.50)
	Mediator Telling – L	−.16	.01	−.09	.11
		(−0.83)	(0.08)	(−0.51)	(0.76)
	Mediator Eliciting – L	.07	.01	.18	−.16
		(0.30)	(0.07)	(0.89)	(−0.93)
	Mediator Reflecting – L	.46*	−.22	.25	.13
		(2.·00)	(−1.08)	(1.23)	(0.73)
	Percent Caucus 2	.55	−2.84	−.375	−.70
		(0.17)	(−1.00)	(−1.33)	(−0.30)
	Mediator Number of Cases – last 12 months	.00	.00	−.00	.00
		(0.86)	(−0.08)	(−0.05)	(0.10)
Participant Demographics	Male	−.21	−.58	−.27	.13
		(−0.60)	(−1.85)	(−0.87)	(0.50)
	Age	.00	−.01	.00	.00
		(0.21)	(−0.36)	(−0.12)	(0.24)
	White	−.50	.49	.12	.24
		(−1.39)	(1.53)	(0.38)	(0.91)
	Months between custody decision and follow-up	.08	−.07	−.14	.03
		(0.92)	(−0.92)	(−1.83)	(0.45)
	Constant	−.43	.25	1.39	−1.20
		(−0.40)	(0.25)	(1.43)	(−1.47)
	Number of Observations	95	95	95	95
	Adjusted R^2	−0.0864	0.0658	−0.0358	−0.0520

*$p < .05$,
**$p < .01$.

D.   LONG-TERM SUMMARY STATISTICS

In the long-term, 25% of cases reported that the police had been called for the custody conflict, 18% of cases had an adversarial motion filed, and cases had between 0 and 3 adversarial motions filed ($M = 0.29$, $SD = 0.69$). Researchers conducted the follow-up phone interview, on average, 5.07 months following the custody decision ($SD = 2.06$ months). While 32% reported that new

problems had arisen since the mediation, when asked to rate if the relationship since the mediation was better (3), the same (2), or worse (1), the average response was 2.26 ($SD = 0.77$). At the long-term follow up, participants also reported that they would recommend mediation ($M = 4.28$, $SD = 0.91$) and that they followed through on the mediation agreement ($M = 4.73$, $SD = 0.73$). *See* Table 5 for summary statistics on participants' attitudes.

E. CREATING NEW COMBINED VARIABLES

As with the short-term data, factor analysis (for mediator behavior variables) and principal component analysis (for participant variables) were applied to the long-term data. The factor analysis of mediator codes led to four sets of strategies used in combination with each other. These groupings are similar to those of the short-term data set, with a few differences. The similarities in the patterns of behaviors that group together reinforce our conclusion that we have identified some underlying latent construct of behaviors that mediators tend to use together. The analysis uses "L" to indicate "Long term."

The set "Mediator Directing-L" consists of strategies that involve the mediator directing the flow of the conversation including: introducing and enforcing guidelines for behavior, explaining one participant's position to the other, providing their opinion, and advocating for one party or the other. These strategies also include rejecting topics that participants raise for discussion, and they are negatively associated with strategies that attempt to narrow the participants' perspective of the topics for discussion.

The set "Mediator Telling-L" consists of strategies that involve the mediators sharing their ideas, opinions, suggestions, and legal assessments about the case. This set also includes the use of closed-ended questions to establish facts.

The set "Mediator Eliciting Participant Solutions-L" is characterized by asking participants what solutions they would suggest, summarizing those solutions, and checking in with participants to see how they think those ideas might work for them.

The set "Mediator Reflecting-L" includes the strategies of reflecting back to participants what they said, identifying their emotions and interests, and asking open-ended questions to invite participants to share their perspectives about the situation.

F. BUILDING THE MODEL

This portion of the research aimed to understand the impact of mediator strategies and experience on the parties' ability to co-parent and the parties' perspective on their child's well-being 6 months after the mediation. To isolate the impact of mediator strategies and experience, OLS multiple-regression analysis was used to control for other factors that may affect the participants' experience. To evaluate the long-term impact of reaching agreement, as well as the impact of various mediator strategies regardless of whether the parties settled, the analysis included the variable measuring whether participants reached a full, partial, or no agreement in mediation. In addition, the analysis held constant for the number of months between the date of the final custody decision by the court and the date of the follow-up interview. This approach allows the consideration that as parties settle into a new routine over time, they may find the situation more acceptable or new problems may surface.

Finally, a number of variables had several missing observations and no crucial theoretical reason for inclusion, and were dropped. Because a related behavioral observation study of small claims mediation found the variable "Number of Cases–12 Months" to be significant, it was included (Charkoudian, Eisenberg & Walter, 2018). We averaged the value for the obtained observations and used that to impute the missing observations.

IV.   LONG-TERM RESULTS

A.   PARTICIPANT-LEVEL LONG-TERM OUTCOMES

A greater percentage of mediator reflecting strategies was positively associated with an increase from before the mediation to 6 months after the mediation in the participants' report that they could talk about concerns with the other parent and work as a team in raising their children. No mediator strategies or mediation program structures were significantly associated with the 6-month change in participants' sense that: the child was doing well, the parents could make decisions together in the best interests of the child, it was important for both parents to get their needs met in the situation, or they felt hopeless about the situation. *See* Table 6.

An increase from before the mediation to 6 months after in the participants' commitment to prioritizing the children's needs, a desire to have a positive relationship with the other parent, and a willingness to consider the other parent's perspective was positively associated with: a greater percentage of reflecting, prior participation in parenting classes, and a greater number of months from the date of the final court order and the time of the interview.

No mediator strategy or mediation program structures were significantly associated with participants reporting that things were working well or that new problems had arisen. However, participants reporting that they followed through on the agreement and that new problems had arisen was positively associated with being represented by or having consulted an attorney (prior to mediation) and negatively associated with both male participants and the number of months between the court's final custody determination and the time of the interview. See Table 7.

As seen in Table 8, the likelihood of returning to court in the 12 months after mediation for an adversarial motion was positively associated with greater use of directing strategies.

V.   DISCUSSION

This study provides a glimpse into the black box of mediation. It is the first in the family court context to combine real-time observation and coding of what mediators actually did during the mediation with pre- and post-session questionnaires. It also digs deeper than post-mediation settlement and satisfaction evaluations by asking a broad range of attitudinal and case characteristic questions of participants before, immediately after, and 6 months after the mediation. The breadth of information collected about pre-mediation attitudes, case characteristics, and actual participant behaviors during the mediation permitted us to hold constant for these factors and isolate the impact of various mediator strategies alone.

One reason for the nearly universal support of child access mediation is that parents must work together to co-parent their children regardless of their relationship status. The results of this and similar future research can assist mediators and family mediation programs to adopt strategies that better promote desired program goals.

One goal, of course, is to encourage parents to resolve custody and visitation disputes collaboratively without the need for court intervention. Among all mediator strategies tested, eliciting participant solutions (asking participants what solutions they would suggest, summarizing those solutions, and asking participants how they think those ideas might work for them) had the broadest positive impacts on outcomes of interest. Most striking, a greater use of eliciting participant solutions was the only set of strategies associated with an increased likelihood that the case would result in an agreement and consent order as well as with several positive outcomes in terms of participants' shifts in attitude toward each other and the conflict.

In addition to increasing the likelihood of settlement, greater use of eliciting participant solutions strategies was positively associated with participants saying that they became clearer about their own desires, that the underlying issues came out, and that the other party listened to them and increased understanding of them through the process. Eliciting participant solutions was also

Table 7

Ordinary Least Squares Regression Results for Long-Term Difference in Attitude and Long-Term Outcomes

		Diff–Working Together For Child's Needs-L	Things Are Working–L	New Problems-L
Case Characteristics	Agreement	.26	.02	.09
		(1. 45)	(0.05)	(0.51)
	Attorney	−.40	−.58	.66*
		(−1.33)	(−1.19)	(2.59)
	Police Called	.35	1.02*	.24
		(1.24)	(2.03)	(0.92)
	Parenting Class	.88*	−.08	−.20
		(2.33)	(−0.13)	(−0.63)
Participant Attitude	P Want Trial – L	.25**	.08	.03
		(3.14)	(0.56)	(0.43)
	P Knowledge – L	−.07	−.07	−.02
		(−0.87)	(−0.48)	(−0.20)
	P Prepared – L	−.17	−.32	−.16
		(−1.44)	(−1.57)	(−1.50)
Participant Strategies	P Wrong	.00	−.33	.14
		(0.04)	(−1.89)	(1.57)
	P Acknowledge	−.03	.23	−.07
		(−0.34)	1. 34	(−0.79)
	P Caring	−.04	.60*	.17
		(−0.27)	(2.35)	(1.27)
Mediator Strategies	Mediator Directing – L	−.02	.51	−.11
		(−0.12)	(1.86)	(−0.75)
	Mediator Telling – L	.00	.01	.13
		(−0.01)	(0.05)	(1.10)
	Mediator Eliciting – L	−.17	. 25	−.22
		(−1.09)	(0.87)	(−1.47)
	Mediator Reflecting – L	.41*	.12	−.27
		(2.62)	(0.42)	(−1.81)
	Percent Caucus 2	−1.99	−1.48	−1.98
		(−0.93)	(−0.38)	(−0.99)
	Mediator Number of Cases – last 12 months	.00	.00	.00
		(0.62)	(−0.64)	(1.17)
Participant Demographics	Male	.23	.05	−.43*
		(0.99)	(0.12)	(−2.00)
	Age	.00	.02	−.02
		(−0.29)	(0.64)	(−1.88)
	White	.53	.07	−.30
		(0.22)	(0.17)	(−1.33)
	Months between custody decision and follow-up	.12*	. 06	−.15**
		(2.06)	(0.63)	(−2.79)
	Constant	−1.56*	−.58	1.37*
		(−2.14)	(−0.45)	(2.04)
	Number of Observations	95	98	98
	Adjusted R^2	0.1187	−0.0057	0.1471

*$p < .05$,
**$p < .01$.

associated with an increase in parents' belief that they could work together to resolve their conflicts with a range of options after the mediation.

Although not significant for any of the long-term measures, the short-term findings suggest that eliciting participant solutions may be a powerful strategy in custody mediation. It may be that eliciting participants solutions had such significant short-term impacts because it promotes party problem solving by encouraging participants to propose their own solutions and think through whether and

Table 8

Logistic and Ordered Logistic Regression Results for Adversarial Motions Filed and Number of Adversarial Motions Filed

		Adversarial Motion	Number of Adversarial Motions
	Agreement	−.07	−.04
		(−0.15)	(−0.09)
Case Characteristics	Police Called	.83	.57
		(1.02)	(0.73)
	Represented or Consulted	.33	.17
		(0.34)	(0.18)
	Parenting class	−.19	−.71
		(−0.21)	(−0.81)
	Related case	1.14	1.62
		(1.17)	(1.67)
Participant Attitude	Participant Knowledge	.31	.25
		(1.36)	(1.13)
	Participant Want Trial	.30	.18
		(1.47)	(0.94)
	Participant Prepared	−.34	−.40
		(−0.88)	(−1.05)
Joint Participant Strategies	Joint Participant Options	−.21	−.16
		(−0.97)	(−0.76)
	Joint Participant Not Engaged	.23	.26
		(0.84)	(1.02)
	Joint Participant Engaged	−.39	−.53
		(−1.34)	(−1.84)
	Joint Participant Acknowledge	−.45	−.40
		(−1.46)	(−1.37)
Mediator Strategies and Characteristics	Mediator Reflecting	−.32	−.27
		(−0.73)	(−0.61)
	Mediator Eliciting	−.43	−.58
		(−0.95)	(−1.30)
	Mediator Telling	.54	.36
		(1.37)	(1.00)
	Mediator Directing	.71*	.89**
		(2.33)	(3.00)
	Percent caucus	−4.30	−3.08
		(−0.99)	(−0.76)
	Number of Cases – last 12 months	.00	.00
		(0.36)	(0.81)
Participant Characteristics	Age	−.07	−.11*
		(−1.54)	(−2.20)
	White	−1.00	−1.16
		(−0.87)	(−0.98)
	Married	.67	.61
		(0.99)	(0.93)
	Constant	−.28	
		(−0.13)	
	Number of Observations	121	121
	Pseudo R^2	0.2815	0.2341

how those options might work for them. The findings are consistent with prior research that joint problem solving by the parties in mediation is associated with better long-term relationships between the parties 4–8 months later, after controlling for prior conflict escalation and hostility (Pruitt, Peirce, McGillicuddy, Welton, & Castrianno, 1993).

Another goal of many family mediation programs is to improve the co-parenting relationship between the parties to promote the best interests of children. Regardless of whether the parties

reached agreement, reflecting strategies had significant short-term positive shifts in participants' attitude toward the other parent. Greater use of reflecting was positively associated with participants' indicating that the other parent listened to them and gained an increased understanding of them through the mediation process and with an increase in their belief that they could work together to resolve their conflicts and consider a range of settlement options. Greater use of reflecting was also associated with a decrease in the rejection of the other parent's perspective, when compared from before to after the mediation.

Although associated with many positive shifts in relational attitudes, the greater use of reflecting alone decreased the likelihood of reaching an agreement. One possible reason is that reflecting strategies seek to help the parties understand each other's perspectives (by repeating back the parties' emotions, interests, and statements and clarifying desired discussion topics) but do not involve problem-solving strategies. It is possible that some mediators combine some other type of problem-solving strategy with reflecting. The original analysis did not permit testing for this, but combining reflecting together with eliciting participant solutions resulted in a positive association of reaching an agreement. Even when the mediator used only reflecting strategies and no agreement was reached, participants remained as likely to reach a consent order.

Reflecting was the only set of mediator strategies tied to more personalized agreements. There are at least two ways to understand this outcome. First, because reflecting entails listening to the other party's perspective, the resulting mediated agreements are more likely to connect directly to those perspectives. Second, mediators who use strategies focused on listening and understanding the participants' perspectives are more likely to help the participants develop agreements tailored to their needs and interests.

Finally, reflecting was the only set of strategies that had a significant impact on long-term outcomes. Specifically, reflecting was positively associated with an increase from before the mediation to 6 months later in the parties reporting that they can talk about concerns with the other parent and work as a team in raising their child as well as with a long-term increase in the participants' prioritization of their children's needs, a desire to have a positive relationship with the other parent, and a willingness to consider the other parent's perspective. This finding suggests that reflecting may be a promising mediation strategy to promote the ability of parents to work collaboratively to resolve future conflicts. It is consistent with prior research finding a positive effect of mediators addressing emotions or relationships in domestic mediations.

Directing strategies (introducing and enforcing behavioral guidelines, explaining one party's position to the other, and providing their own opinion and advocating for one participant or the other) did not have significant impacts on most outcomes of interest. In the short term, the greater the percentage of directing strategies used, the less likely the participant was to indicate that the mediator respected them and did not take sides. It may be that directing strategies make the parties feel like the mediator is not neutral or is pressuring them in a way favorable to the other parent. In the long term, the greater the percentage of directing strategies used, the more likely the participants are to file an adversarial motion.

In the short term, caucus had mixed results. The greater the percentage of time spent in caucus, the more likely the party indicated that the mediator respected them and did not take sides. At the same time, the greater use of caucus was associated with an increase in participants' sense of hopelessness about the situation from before to after the mediation and a decrease in their belief that they could work together with the other parent to resolve their conflict or that there was a range of options that could resolve their conflict. In other words, greater use of caucus may increase faith in the mediator but decrease faith in problem-solving potential with the other party. The percentage of time spent in caucus had no statistically significant impact on reaching an agreement or consent order or on any long-term measures.

Note that these findings are statistically significant even after holding constant the intensity of conflict and hostility between the parties before and during the mediation. Furthermore, parents were asked the same questions about their ability to work with the other parent before and immediately after the mediation, measuring an actual shift in the participants' attitudes rather than a static question at one point in time.

The context of custody mediation may be important here. By court rule, attorneys were excluded from the mediations studied. When a mediator meets privately with one parent, trust between the

mediator and that parent may increase, but the other parent is likely sitting alone wondering what is happening in the caucus, is not engaged in problem solving, and may become less hopeful about a resolution. Future research should examine how the presence of legal counsel at the mediation influences the process and party attitudes.

In addition, the analysis examined the impact of a greater percentage of time spent in caucus and not the specific actions of the mediator during the caucus (which are included in the analysis of other strategies studied). It may be that caucus could be detrimental or beneficial depending on the tactics the mediator employs during the caucus (Swaab & Brett, 2007).

In addition to mediator strategies, a few program components had significant impacts. Reaching an agreement was more likely if the participants felt that the location of the mediation was convenient for them. Participants' sense of convenience may make them more open and willing to engage and stay with the process until an agreement is reached.

Prior attendance at a parenting class increased the likelihood of a more personalized agreement but decreased the likelihood of participants indicating that mediation helped them become clearer about their desires and that the underlying issues were discussed in the mediation. This is somewhat puzzling. One potential explanation may be that the parenting class helped parents feel clearer about their goals and gave them the opportunity to discuss underlying issues, so mediation did not serve that purpose to the same extent. Parties who attended parenting class were also more likely to report an increase from before the mediation to 6 months after the mediation in their sense of the need to prioritize the children's needs, a desire to have a positive relationship with the other parent, and a willingness to consider the other parent's perspective.

Mediators who were members of the MPME, a voluntary mediation quality assurance association, were more likely to have personalized agreements. Personalized agreements are consistent with the self-determination ethic of mediation, which the MPME emphasizes.

The primary limitation of this study is the small sample, particularly in the long-term analysis. The intense and thorough method of data collection is a strength of the study, but this level of analysis has a high cost in terms of personnel and financial resources. Consequently, fewer cases were observed than might be ideal. A larger sample size could reveal other statistically significant relationships.

Further, given the novelty of research using behavioral observation in mediation, this study is largely exploratory. As such, one limitation is the inclusiveness of variables, potentially inflating the Type I error rate. Ideally, future studies with similar methods will further refine variables of interest and allow for comparison across a number of studies in different settings.

A lack of diversity among the mediators and lack of attorneys in mediation sessions are other limitations. Attorneys are excluded from child access mediations in Maryland, and their presence could alter mediators' behaviors and their effects on the parties. In addition, many mediators were observed several times, partly because one county uses only six staff mediators and the community mediation center had a few mediators who conducted most of their sessions. Because the research examined how the strategies actually used in every session impacted different families, observing the same mediator in different mediations still provided for variability. Having a larger pool of mediators might have resulted in other statistically significant impacts. Future studies should focus on including a broad range of mediators and mediation sessions with and without attorneys present to further the generalizability of these findings.

Finally, this research measured what mediators did but not whether they did it well. These outcomes indicate which general strategies are associated with various outcomes. The skill level of the mediator and quality of the process also matter but could not be measured here.

VI.   CONCLUSION

This study is an important first step in providing more rigorous empirical analysis of the impact of specific mediator strategies in custody matters. The findings related to mediator strategies positively associated with an increase in parents' sense of hope, clarity, and understanding of each other

and their belief that they can work with the other parent to resolve conflicts, are especially relevant to family court mediation programs. Reflecting and eliciting participant solutions are positively associated with many outcomes of interest, while directing and greater percentage of time spent in caucus had significant negative effects.

Replication and refinement of the research model used here, with a larger and more diverse sample of cases, will result in more confident and informed recommendations about effective mediator strategies and court mediation program structures.

NOTES

2. The initial research design also included facilitators, who also mediate custody cases. There were so few facilitators observed that they were removed from the data set.

3. For the full survey, see Participant Pre-Session ADR Survey, Maryland Judiciary, Administrative Office of the Courts, Court Operations (AOC), 2014, pp. 68–72.

4. A consent order allows the court to enforce agreements presented by the parties and reflects their consent to the contents of the order. Parties could also reach a partial consent order, with any remaining issues resolved at trial.

5. Variables with "P" refer to participant data; variables noted with "Diff" are difference scores from short to long term. Variables with "M" refer to participants' opinions about the mediator.

6. This table was created by combining the codes used by both participants in the case.

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APPENDIX A. PRE- AND POSTMEDIATION QUESTIONS USED TO MEASURE CHANGE IN ATTITUDES

Difference in Level of Agreement or Disagreement from Before to After Mediation. (Positive indicates an increase in agreement with the statement.)	
Diff-Number of Ways	I think there are a number of different ways to resolve our issues related to custody and visitation.
Diff-Child's Needs	It's important that my child(ren)'s needs are met in our issues related to custody and visitation.
Diff-My Needs	It's important that I get my needs met in our issues related to custody and visitation.
Diff-Important to Understand Other	It's important that I understand what the other person/people want in our issues related to custody and visitation.
Diff-Learn They Are Wrong	The other person/people need to learn that they are wrong in our issues related to custody and visitation.
Diff-Their Needs	It's important that the other person/people get their needs met in our issues related to custody and visitation.
Diff-Positive Relationship	It's important for me to have a positive relationship with the other person/people involved in our issues related to custody and visitation.
Diff-No Control	I feel like I have no control over what happens in our issues related to custody and visitation.
Diff-Wants Opposite	The other person/people involved in this custody and/or visitation dispute want the exact opposite of what I want.
Diff-Can Talk Concerns	I can talk about my concerns to the person/people I have conflict with.
Diff-No Difference	It doesn't seem to make any difference what I do in regard to our issues related to custody and visitation, it'll just remain the same.
Diff-Conflict Negative	In general, conflict is a negative thing.
Diff-Court Cares	The court system cares about helping people resolve disputes in a fair manner.
Diff-Children Doing Well	The children seem to be doing well with our current arrangement.
Diff-I Can Decide	I have the ability to make decisions in the best interest of our child(ren).
Diff-Other Parent Can Decide	The other parent has the ability to make decisions in the best interest of our children.
Diff-We Can Decide	We are able to make decisions together that are in the best interest of our children.
Diff-Work As Team	We work well together as a team when it comes to raising our children.

APPENDIX B. PARTICIPANT AND MEDIATOR OBSERVATIONAL BEHAVIORAL CODES

Participant Codes	
Interrupt	Any time a participant starts speaking while another participant is speaking. This should be coded even if not perceived as hostile. If there are a series of interruptions, *Interrupt* should still only be coded once for each participant in a one minute period.
Wrong	Percentage of total strategies that meet the following definitions: Any statement in which a participant: indicates that another participant is wrong about a specific issue; points out something that they consider to be negative that the other participant did in the past or in the mediation; indicates that another participant is lying about a specific thing; indicates that they do not trust the other participant; indicates that they don't care about the other person's needs.
Put Down	Percentage of total strategies that meet the following definitions: Any statement in which a participant: makes a generalization about the other participant's behavior and criticizes it. This applies to behavior either in the mediation or in the past. Includes adverbs of frequency (such as always, every time, constantly, everywhere, anyplace, any time, whenever, everything) or a negative adjective (lazy, crazy, ugly) and use of negative adjectives to make generalizations about the other participant's skills, property, etc.; makes an ironic/sarcastic comment about the other person. This is not defined by the tone used, but when the statement means the opposite of what was said; calls the other participant a name or uses a derogatory term to describe the participant.
Need/Want/Feel	Percentage of total strategies that meet the following definitions: Any statement in which a participant: expresses his/her needs, interests, feelings, or emotions; describes how what is occurring affects the speaker or someone they are speaking; expresses how s/he felt.
Care/Appreciate	Percentage of total strategies that meet the following definitions: Any statement in which a participant: expresses interest, concern, understanding, or empathy in the other participant's needs or feelings; expresses appreciation of other participant's behavior or characteristics or ideas; demonstrates acceptance of an apology, in response to an apology.
Question	Percentage of total strategies that meet the following definitions: Any question in which a participant solicits information from the other participant, with or without an edge in their voice.
Responsibility/ Apology	Percentage of total strategies that meet the following definitions: Any question or statement in which a participant: takes responsibility for some role in the conflict, including taking responsibility for actions within the mediation; apologizes for a specific behavior or action, including within the mediation.
Participant Solution	Percentage of total strategies that meet the following definitions: Any statement in which a participant makes a specific future-focused suggestion about what could solve the problem (including within the mediation). These are most often in present or future tense and can include hypothetical solutions or an if-then clause. A Participant Solution can involve a negative concept if it is specific.
Accept Solution	Percentage of total strategies that meet the following definitions: When participants formally accept a solution. This should be coded for all participants who are explicitly agreeing.
Reject Solution	Percentage of total strategies that meet the following definitions: Any statement in which a participant: explicitly rejects a solution that it posed to them, by the other participant or the mediator, in the previous speaking turn; indicates that a solution the other participant suggested will not work, or that they are not willing to accept it.
Silence	Percentage of total strategies that meet the following definitions: Any instance in which everyone (all participants and mediators) is silent for more than 10 seconds.
Process Complaint	Percentage of total strategies that meet the following definitions: A statement in which a participant complains about the process or the mediator's behavior in it.
Responsibility/Wrong	Percentage of total strategies that meet the following definitions: when a participant assigns mutual responsibility to both parties, including themselves (both *wrong* and *responsibility/ apology* simultaneously). NOTE: this is a combination code.
Mediator Codes	
Reflections	Percentage of total strategies that meet the following definitions: Any statement which: paraphrases what either participant has said about the main issues in the conflict and repeats it back, with or without checking for accuracy; the mediator repeats back what participants have said, with a questioning tone as if to check to see if they got it correct.
Emotions	Percentage of total strategies that meet the following definitions: Any statement from the mediator that: addresses participants' feelings; encourages participants to express their own feelings. Any

	statement in which a mediator reflects a feeling that a participant has indicated but not stated directly. Any statement or question in which a mediator begins with "feel…." and follows with an emotion or quasi-emotion word.
Interests	Percentage of total strategies that meet the following definitions: A reflection or paraphrasing in which a mediator tries to name the value or goal behind the position a participant articulates. This would include attempting to understand the interest or value that the participant has for their children or someone for whom they are speaking.
Open Question	Percentage of total strategies that meet the following definitions: Any question which attempts to get participants to talk about their perspective on the situation, generally open-ended questions. Questions which attempt to get beyond the surface position to an underlying goal or value. Includes hypothetical questions about things occurring differently in the past.
Fact Question	Percentage of total strategies that meet the following definitions: Any question: to which yes/no can be answered; that asks for one specific detail or attempts to establish a piece of information as true; attempt to determine who was or should be responsible for something that occurred in the past.
Summary of Facts	Percentage of total strategies that meet the following definitions: A summary of specific legal or technical facts in the case, which includes at least two facts and quantitative information.
Mediator Opinion	Percentage of total strategies that meet the following definitions: Any statement in which the mediator: talks about their own personal experiences or previous mediation experiences, as they relate to the situation; expresses their opinion about the mediation process, or the way they would describe the process; provides personal information about themselves or answers a personal question a participant asks of them in a way which provides information; expresses his/her opinion about the situation; brings up a piece of information they got from before the mediation, either from the intake file, the court file, previous conversations with the participants, etc. with an indication that they are bringing it from one of these places; expresses their opinion about a potential solution; expresses his/her opinion about what the group has said with some degree of certainty or conclusion; explains their analysis of the dynamics of the relationship; finishes a sentence for a participant; praises both participants' behavior in mediation.
Advocate/ Support	Percentage of total strategies that meet the following definitions: Any statement in which the mediator: indicates support for or agreement with one participant's position/ideas; advocates for one participant's position/ideas; praises one participant's behavior in mediation; criticizes one participants' behavior or approach; frames the topic in terms of one participants' view of the situation.
Behavioral Direction	Percentage of total strategies that meet the following definitions: Any statement in which a mediator: sets guidelines or rules for participants to follow during the mediation or tells participants how to act during the mediation; choreographs participants' behavior in a certain way; attempts to tell participants how to behave in response to swearing, cursing, yelling, interrupting, or insults, or breaking any other rules the mediator has established. Used when mediators repeat the participants' names over and over or say "ladies, ladies…" or "gentlemen, gentlemen…" in an attempt to get attention to restore order. Any time a mediator uses a private session or a break in response to swearing, cursing, yelling, interrupting or insults to a participant.
Common Ground	Percentage of total strategies that meet the following definitions: Any statement by the mediator which points out what participants have in common, a perspective they share, something they agree on, or identifies an issue both have in common.
Explain	Percentage of total strategies that meet the following definitions: Any statement in which the mediator: offers "re-interpretation" or explanation one participant's behavior or position to the other participant, using a name or pronoun in the commentary; states one participant's position to the other participant; asks participants to consider the other's perspective.
Focus/Narrow	Percentage of total strategies that meet the following definitions: Any comment by a mediator which repeats, clarifies, or focuses the conversation onto specific topics for discussion. Any formal action by the mediator involving making a physical list of topics. Includes questions that ask participants to prioritize the order of topics in which they want to work.
Introduce Topic	Percentage of total strategies that meet the following definitions: Any statement by a mediator which raises an issue that has not been raised by participants.
Reject Topic	Percentage of total strategies that meet the following definitions: A comment by the mediator which focuses on eliminating a topic from conversation.
Ask for Solutions/ Brainstorm	Percentage of total strategies that meet the following definitions: Any question in which a mediator: asks participants for a suggestion or solution to the conflict; asks participants to describe what they think or plan to have happen in any particular future scenario; attempts to

	get specifics related to a possible solution (open-ended question) or asks for some kind of clarification about the suggestion. These questions would be who, what, when, where, how as follow-ups to a participant solution, without introducing a new direction; asks participants for solutions using a plural—implying asking for more than one possibility; asks participants to select solutions out of a range that they have identified; Any procedural description of the brainstorming process.
Summarize Solutions	Percentage of total strategies that meet the following definitions: Any statement in which a mediator: verbally summarizes the solutions the participants have suggested; summarizes all of the ideas the participants have considered or are considering; summarizes agreements participants have made; Any action by the mediator involving listing the possible solutions. The act of handing participants a written agreement.
Suggestion Question	Percentage of total strategies that meet the following definitions: Any question in which a mediator: suggests a solution to the problem; steers participants towards a particular type of solution; steers participants towards mediation guidelines or in a particular direction for the mediation process itself.
Negotiation Question	Percentage of total strategies that meet the following definitions: Questions that encourage positional negotiation and splitting the difference. These generally use compromise language or language that assumes trade-offs.
Mediator Solution	Percentage of total strategies that meet the following definitions: Any statement in which the mediator promotes a solution that did not come from the participants.
Request Reaction	Percentage of total strategies that meet the following definitions: Any question in which a mediator asks participants for their thoughts on a specific suggestion of a solution to the conflict that was made by one of the participants. Any comment after a mediator has summarized a set of items participants have agreed to and asks participants if that will take care of the situation. Any reflection of participants' assessment with a questioning tone or a question attached to it, if the goal is to confirm that status of the possibility. Any comment in which a mediator asks participants to consider a list of possibilities and identify which ideas they want to remove from the lists.
Legal Assessment	Percentage of total strategies that meet the following definitions: Any statement in which the mediator: makes a prediction about what might occur in court; evaluates the strengths and weaknesses of the participants' case; instructs participants with legal information or asks questions which provide information about a legal situation.
Percent Time-Caucus	Percentage of total mediation time spent in a caucus session

APPENDIX C. SHORT TERM—CREATING NEW VARIABLES

The following tables show the creation of new variables that combine variables measuring similar concepts, using factor analysis for mediator variables and principal component analysis for participant variables. The new variables are listed across the top of Tables 1–6,[5] with the variables that comprise them listed below.

TABLE C1: ATTITUDES PRIOR TO MEDIATION

P Knowledge	P Want Trial	P Prepared
"I feel prepared for a possible trial." (+ 0.35)	"I would prefer that we go to trial instead of being in mediation today." (+0.51)	"I feel prepared for a possible trial." (+0.45)
"I have a clear idea of what I want to get from today's mediation." (+0.37)	"I hope we can resolve this case in mediation." (−0.35)	"Have you done anything to prepare for a possible trial in this case" (+0.85)
"I have a clear idea of what a mediator does." (+0.43)	"I feel pressure to participate in this mediation." (+0.52)	

"I know my legal rights as it pertains to this case." (+0.50)

"I am aware of court procedures related to cases of custody and visitation." (+0.50)

"I believe mediation to be a waste of time." (+0.56)

TABLE C2: PARTICIPANT CODES SPOKEN DURING MEDIATION—PARTICIPANT DATA SET ONLY

P Options	P Care Need	P Won't Work	P Not Engaged
Wrong (−0.56)	Need / Want / Feel (+0.56)	Need / Want / Feel (−0.32)	Process Complaint (+0.63)
Put Down (−0.46)	Care / Appreciate (+0.46)	Care / Appreciate (+0.31)	Silence (+0.74)
Participant Solution (+0.46)	Responsibility / Apology (+0.57)	Responsibility / Wrong (−0.77)	
Accept Solution (+0.42)		Reject solution (+0.36)	

TABLE C3: PARTICIPANT CODES SPOKEN DURING MEDIATION—CASE DATA SET ONLY[6]

Joint Participant Options	Joint Participant Engaged	Joint Participant Acknowledge	Joint Participant Not Engaged
Wrong (−0.52)	Need / Want / Feel (+0.65)	Care / Appreciated (+0.37)	Process Complaint (+0.43)
Put Down (−0.44)	Responsibility / Wrong (+0.58)	Responsibility / Apology (+0.67)	Silence (+0.86)
Participant Solution (+ 0.49.		Reject Solution (−0.52)	
Accept Solution (+0.42)			

TABLE C4: PARTICIPANT EXPERIENCE DURING MEDIATION (ASKED POSTMEDIATION)

P M No Respect	P Understand / Listen	P Recommend / Satisfied	P Clear Understand
"The mediator listened to what I had to say without judging me or my ideas." (−0.40)	"Through the mediation, I think I understand the other person/people involved in this conflict better." (+0.43)	"I would recommend mediation to others involved in conflict." (+0.51)	"I was able to express myself, my thoughts, and my concerns during the mediation." (+0.33)
"The mediator seemed to take sides" (+0.43)	"Through the mediation, I think the other person/people involved in the conflict understand me better." (+0.42)	"I am satisfied with the *process* of the mediation." (+0.40)	"I think the mediator understood what I was expressing." (+0.47)

"The mediator treated me with respect." (−0.37)

"The mediator prevented us from talking about important topics." (+0.35)

"I feel like the mediator controlled the decisions made in the mediation." (+0.31)

"The other person listened to me." (+0.45)

"Together, the other person and I controlled the decisions made in the mediation." (+0.38)

"I am satisfied with my interactions with the judicial system during this case." (+0.64)

"Through mediation, I became clearer about what I want with regard to custody and visitation." (+0.41)

"I think all of the underlying issues in the conflict came out in the mediation." (+0.47)

TABLE C5: DIFFERENCE IN PERSPECTIVE FROM BEFORE TO AFTER MEDIATION

P Diff Hopeless	P Diff Our Needs	P Diff Other Doesn't Matter	P Diff Child Focus	P Diff Together Options
"I feel like I have no control over what happens in our issues related to custody and visitation." (+0.53)	"It's important that I get my needs met in our issues related to custody and/or visitation." (+0.69)	"It's important that I understand what the other person/people want related to custody and/or visitation." (−0.38)	"It's important that our children's needs are met in our issues related to custody and/or visitation." (+0.65)	"I think there are a number of different ways to resolve our issues related to custody and/or visitation." (+0.69)
"The other person involved in this custody dispute wants the exact opposite of what I want." (+0.38)	It's important that the other person/people get their needs met in our issues related to custody and/or visitation." (+0.61)	"The other person needs to learn that they are wrong, regarding our issues of custody and/or visitation." (+0.74)	"It's important that I understand what the other person/people want related to custody and/or visitation." (+0.31)	"We are able to make decisions together that are in the best interest of our children." (+0.36)
"I can talk about my concerns with to the other person/people involved in our issues related to custody and/or visitation." (−0.42)		"It's important for me to have a positive relationship with the other person involved in our issues related to custody and visitation." (−0.40)	"In general, conflict is a negative thing." (+0.53)	"We work well together as a team when it comes to raising our children." (+0.45)
"It doesn't seem to make any difference what I do in regard to our issues related to custody and/or visitation, it'll just remain the same" (+0.50)				

TABLE C6: MEDIATOR STRATEGIES EMPLOYED DURING MEDIATION AND SELF-REPORTED STYLE

Mediator Reflecting	Mediator Offering Perspectives	Mediator Eliciting Participant Solutions	Mediator Directing
Emotions (+ 0.79.	Reflections (−0.58)	Open Question (−0.37)	Mediator Opinion (+0.30)
Interests (+ 0.84)	Fact Question (+0.32)	Fact Question (−0.49)	Advocate/Support (+0.66)
Fact Question (−0.34)	Mediator Opinion (+0.57)	Ask for Solution / Brainstorm (+0.80)	Behavioral Direction (+0.53)
Mediator Opinion (−0.39)	Introduce Topic (+0.42)	Summarize Solutions (+0.84)	Explain (+0.59)
Common Ground (+0.35)	Mediation Solution (+0.36)	Request Reaction (+0.65)	Style – Evaluative (+0.61)
Explain (−0.34)	Legal Assess (+0.37)	Legal Assessment (−0.36)	
Focus/Narrow (+0.49)	Style – Facilitative (−0.53)		
Suggestion Question (−0.49)	Style – None (+0.78)		
Mediator Solution (−0.38)			
Style – Facilitative (−0.70)			
Style – Inclusive (+0.94)			

APPENDIX D. LONG TERM—CREATING COMBINED VARIABLES

TABLE D1: MEDIATOR STRATEGIES EMPLOYED DURING MEDIATION AND SELF-REPORTED STYLE

Mediator Directing - L	Mediator Telling - L	Mediator Eliciting Participant Solutions - L	Mediator Reflecting - L
Emotions (−0.66)	Reflections (−0.42)	Open Ended Question (−0.35)	Reflections (+0.55)
Interests (−0.68)	Fact Question (0.53)	Fact Question (−0.40)	Emotions (+0.36)
Fact Question (+0.44)	Mediator Opinion (+0.73)	Ask Solution (+0.81)	Interests (+0.32)
Mediator Opinion (+0.33)	Advocate (+0.62)	Summarize Solution (+0.82)	Open-Ended Question (+0.46)
Advocate (+0.35)	Introduce Topic (+0.62)	Request Reaction (+0.59)	Introduce Topic (−0.45)
Behave/Direct (+0.47)	Suggestion Question (+0.37)		Mediator Solution (−0.87)
Explain (+0.61)	Legal Assessment (+0.63)		

Focus/Narrow
(−0.52)
Reject Topic
(0.31)
Suggestion Question
(+0.37)
Request Reaction
(+0.37)

TABLE D2: PARTICIPANTS' PRETEST ATTITUDINAL MEASURES

P Want Trial – L	*P Knowledge – L*	*P Prepared - L*
I would prefer that we go to trial instead of being in a mediation (+0.44)	I feel prepared for a possible trial (+0.37)	I feel prepared for a possible trial (+0.41)
I hope we can resolve this case in mediation (−0.42)	I have a clear idea of what a mediator does (+0.50)	Have you done anything to prepare for a possible trial? (+0.88)
I feel pressure to participate in this mediation (+0.48)	I know my legal rights as it pertains to this case (+0.52)	
I believe mediation to be a waste of time (+0.53)	I am aware of court procedures related to custody and visitation (+0.51)	
I have a clear idea of what I want to get from today's mediation (−0.31)		

TABLE D3: PARTICIPANT CODES USED DURING MEDIATION

P Wrong	*P Acknowledge*	*P Caring*
Wrong (+0.52)	Need Want Feel (+0.62)	Care/Appreciate (+0.43)
Put Down (+0.45)	Reject Solution (−0.50)	Responsibility/Apology (+0.59)
Participant Solution (−0.42)	Responsibility/Wrong (+0.46)	Process Complaint (−0.41)
Accept Solution (−0.45)		Silence (−0.45)

TABLE D4: CUSTODY LONG TERM: PARTICIPANTS' ATTITUDE AT FOLLOW-UP

Things Are Working	*New Problems*
At this point, how satisfied are you with the final outcome reached? (+0.40)	I followed through (0.72)
How well is the outcome you reached working for you? (+0.44)	Since the final outcome was reached, have new problems arisen between you and the other person? (+0.57)

How well is the outcome reached working for your children? (+0.45)

How well did the other person follow through on the outcome? (+0.42)

Are the interactions worse, the same, or better than six months ago? (+0.39)

Since the final outcome was reached, have new problems arisen between you and the other person? (−0.30)

TABLE D5: CUSTODY MEDIATION LONG TERM: DIFFERENCE BETWEEN PRETEST ATTITUDE AND SAME QUESTION ASKED AFTER 6 MONTHS

Diff – Working Together - L	Diff – Not Good for Children – L	Diff – Getting Our Needs Met – L	Diff – Frustration - L	Diff – Working Together for Children - L
Diff – I can talk about my concerns with the other person (+0.65)	Diff – I feel like I have no control over what happens (+0.34)	Diff – It's important that I get my needs met (0.56)	Diff – There are a number of ways to resolve the issues (+0.70)	Diff – It's important to get the children's needs met (+0.65)
Diff – We work well as a team raising our children (+0.53)	Diff – The children are doing well with the current arrangement (−0.68)	Diff – It's important to understand the other person (+0.54)	Diff – The other person needs to learn they are wrong (+0.33)	Diff – The other person needs to learn they are wrong (−0.30)
	Diff – Together we can make decisions in the best interest of our children (−0.38)	Diff – It's important for the other person to get their needs met (0.54)	Diff – It's important to have a positive relationship (+0.38)	Diff – It's important to have a positive relationship (+0.49)
			Diff – I feel like I have no control over what happens (0.34)	Diff – The other person wants the exact opposite of what I want (−0.33)
			Diff – It doesn't seem to make any difference what I do (+0.30)	

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