

DISSERTATION APPROVED BY

8/26/2020

Date

W. Wayne Young, Jr., Ph.D.

W. Wayne Young, Jr., Ph.D., Chair

John R. Baker

John R. Baker, J.D., Committee Member

Jennifer Moss Breen Kuzelka

Jennifer Moss Breen Kuzelka, Ph.D., Director

Gail M. Jensen

Gail M. Jensen, Ph.D., Dean

A TRANSCENDENTAL PHENOMENOLOGICAL STUDY ON HOW
EXPERIENCED MEDIATORS ELICIT ENHANCED CAPACITY FROM PARTIES
DURING UNSCRIPTED ASPECTS OF MEDIATION

By
KILEY FLEMING

A DISSERTATION IN PRACTICE

Omaha, NE
August 26, 2020

Abstract

This Dissertation in Practice examined how experienced mediators elicit enhanced capacity from parties during unscripted aspects of mediation. The need for the study became evident to the researcher due to lack of fully-aligned curriculum and professional literature available regarding the potential impact that unscripted aspects of mediation could have on eliciting capacity from parties during conflict management efforts. Therefore, in this study 20 experienced mediators from certified mediation programs representing 22 states were interviewed telephonically using semi-structured, open-ended questions from a phenomenological, bracketing approach. Textural and structural descriptions were coded using concept coding methodologies and the findings resulted in seven thematic areas: Unscripted Actions, Unscripted Beliefs, Capacity Actions, Capacity Beliefs, Mediator Imagery, Mediator Background, and Mediator Motivation. Proposed recommendations from the findings included creating an Imagery Approach to Conflict model, and a Conflict Imagery Charting exercise for training resources, and development of theories outside of conflict management that further explain the need to bridge the abstract, unscripted aspects of mediation with the concrete, scripted aspects to help elicit enhanced capacity among disputing parties.

Keywords: mediation, conflict management, capacity, unscripted aspects, imagery

Dedication

The best teaching comes to fruition through lived experiences incomparable to any other type of learning. My children are my greatest living experience as they are extraordinary opportunities for me to witness joy, patience, grace, support, and kindness. They are daily teachers of what I aspire to become. Zebulun David: Thank you for teaching me about the sensitive, caring, witty, supportive world. Keziah Elizabeth: Thank you for teaching me about the creative, unique, helpful, tenacious world. Jamin Matthew: Thank you for teaching me about the intellectual, social, relaxed, independent world. The best parts of me have been refined through the presence of your three souls. May I always be a student to your bright, burnished lives.

My lifelong teachers have, and continue to be, my parents. My dad taught me that our thumbprint on the world lasts long beyond our final breath. Dad: Thank you for understanding me in a way that allowed me to feel fully safe and accepted; I am grateful you found delight in me. My mom is perhaps the greatest teacher I am blessed enough to know. She demonstrates a resounding ability to be true to her inner compass, serve the marginalized, challenge necessary conventions, and appreciate what people from various walks of life offer the world. Mom: Thank you for the unwavering and steady support you provide me; I am humbled by the grace you wholly pour out to me.

Iowa Mediation Service provided me the foundation for learning about mediation. I can hold my staff up against any mediator and know they set the standard of excellence. To every person involved in the success of Iowa Mediation Service: Thank you for teaching me that mediation is an artful science. You are the reason I pinch myself every morning at the opportunity to partake in the greatest career in the universe.

Acknowledgements

A dissertation is not conquered by way of a sprint. Rather, it is a marathon requiring support along the way. The faculty and staff of Creighton University stood alongside me during this doctoral endeavor. Specifically, Dr. Wayne Young helped my efforts by infusing positive energy into the process; he provided necessary perspectives to refine and enrich my final product. Lastly, John Baker, J.D., helped with the final polish to create the nuances needed to enhance my writing. It is only fitting that the man who opened the door to my mediation career is the one who helped bring my dissertation to completion. Thank you both for seeing this through with me.

In countless ways, Iowa Mediation Service supported this epic journey. This organization and its people are second to none. A notable pillar from this outstanding group was Kathy Hall-Eckert. She taught me the practice of mediation and was an unending fountain of professional, academic, and personal support. Words fall short to convey my gratitude for what her belief in me did to change my entire universe. This study is our work; I thank you.

Table of Contents

Abstract.....	iii
Dedication.....	iv
Acknowledgements.....	v
Table of Contents.....	vi
List of Tables.....	x
CHAPTER ONE: INTRODUCTION.....	1
Statement of the Problem.....	3
Purpose of the Study.....	4
Research Question	4
Aim of the Dissertation in Practice.....	4
Definition of Relevant Terms.....	5
Methodology Overview.....	8
Delimitations, Limitations, and Personal Bias.....	9
Reflections of the Scholar-Practitioner.....	11
Summary.....	13
CHAPTER TWO: LITERATURE REVIEW.....	16
Conflict and Mediation.....	17
Understanding the Conceptualization of Conflict and Mediation.....	17
History of Alternative Dispute Resolution.....	19
Civil Mediation Model.....	20
Power Dynamics and Conflict.....	21
Dependency within Relationships.....	23

Creating Power Balance.....	24
Perceptions and Conflict.....	25
Expectations and Conflict.....	26
Prior Experiences.....	26
Trust and Neutrality.....	27
Intuition and Agility.....	28
Leadership, Conflict Management, and Mediation.....	30
Capacity Enhancement during Conflict.....	33
Unscripted Aspects of Mediation.....	35
Qualitative Research and Transcendental Phenomenology.....	44
Significance of Effective Mediation Efforts.....	51
Summary.....	53
CHAPTER THREE: METHODOLOGY.....	55
Research Question.....	56
Method.....	56
Research Design Overview.....	56
Participants	57
Data Collection.....	60
Data Collection Procedures.....	60
Data Collection Tools.....	63
Data Analysis.....	66
Methodological Integrity.....	66
Ethical Considerations.....	68

Summary.....	70
CHAPTER FOUR: RESULTS AND FINDINGS.....	72
Results and Findings.....	73
Mediator Language.....	73
Unscripted Actions and Beliefs; Capacity Actions and Beliefs of Mediators.....	79
Connections between Emotion and Mediation.....	84
Mediator Imagery.....	85
Mediator Backgrounds.....	87
Mediator Motivation.....	88
Discussion.....	89
Summary.....	91
CHAPTER FIVE: PROPOSED SOLUTIONS AND IMPLICATIONS.....	92
Aim Statement.....	93
Proposed Solutions.....	94
Practical Applications.....	94
Solution One: Conflict Imagery Charting.....	95
Solution Two: Imagery Approach to Conflict Management.....	96
Evidence that Supports the Solutions.....	98
Theoretical Applications.....	99
Evidence that Challenges the Solutions.....	102
Implementation of the Proposed Solutions.....	103
Factors and Stakeholders Related to the Implementation of the Solutions.....	103
Timeline for Implementation of the Solutions.....	105

Evaluating the Outcome of Implementing the Solutions.....	105
Implications.....	106
Practical Implications.....	106
Implications for Future Research.....	107
Implications for Leadership Theory and Practice.....	110
Summary of the Dissertation in Practice.....	113
References.....	116
Appendices.....	128

List of Tables

Table 1. Journal Inquiries on Unscripted Mediation.....	38
Table 2. Articles and Authors related to Unscripted Mediation.....	39
Table 3. Demographic Information of Interviewees.....	58
Table 4. Summary of Interviewee Demographics.....	59
Table 5. Top Key Word Count.....	75
Table 6. Notable Key Word Count.....	77
Table 7. Broader Conceptualized Key Word Count.....	78
Table 8. Identified Codes Associated with Unscripted Actions in Mediation.....	80
Table 9. Identified Codes Associated with Unscripted Beliefs in Mediation.....	81
Table 10. Identified Codes Associated with Capacity Actions in Mediation.....	82
Table 11. Identified Codes Associated with Capacity Beliefs in Mediation.....	83
Table 12. Mediator Emotions Associated with Mediation.....	84
Table 13. Mediator Imagery.....	86
Table 14a. Mediator Background Influencing Mediation Approach.....	87
Table 14b. Mediator Background Influencing Mediation Approach.....	88
Table 15. Imagery Approach to Conflict.....	97

CHAPTER ONE: INTRODUCTION

The complexity surrounding conflict lends itself to a myriad of potential strategies for managing disputes that may be utilized. One intentional approach is the practice of mediation, which is the process of overseeing communication among disputing parties using methods based on philosophies of neutrality which are reliant upon an interdependent balance of both mediator empathy and impartiality (Malizia & Jameson, 2018). Trust in the mediation process is critical to ensuring potentially positive conflict resolution outcomes; therefore, the consideration of intentional and sensible approaches is important for industry credibility (Druckman & Wall, 2017).

Because conflicting parties seeking mediation services have imbalances somewhere among the relationships or conflict settings, the mediator must be aware of what variables will likely present themselves within the mediation process. While there are varying approaches to mediation, the general consensus of modern mediation theory is to humanize the mediation process by using person-centered techniques that create environments ripe for constructive dialogue whereby conflicting parties will voluntarily negotiate their issues and create their own constructive action plans and outcomes (Lewis & Umbreit, 2015).

Trained mediators are taught the steps believed to be best practices for successful outcomes. Like other readily available mediation models, in the Civil Mediation Model there are defined steps that convey the outlined process mediators follow. Specific to the Civil Mediation Model, there are five steps exemplifying core components of mediation: 1. Preparation, 2. Introductions, 3. Issues, 4. Interests, and 5. Solutions (Blackstock, 2001). Within the Preparation step, participants become oriented to the mediation

process during what is commonly known as mediation intake. During Introductions, the first attempts at setting the tone are made, and during the Issues step, participants engage in dialogue to tell their story. In the Interests step, participants determine their priorities so that optimally during the Solutions step, a settlement is reached. This 5-step mediation cycle, similar to other models, is common practice among practitioners regardless of whether mediators use facilitative, evaluative, or transformative mediation philosophies (Zumeta, 2018). The facilitative philosophy uses a structured process to get parties to a mutual point of agreement; whereas the evaluative philosophy uses mediator influence to direct outcomes by steering the course of participants' positions. The transformative philosophy embraces the notion of empowering participants to develop their own interests and values that shape the agreement. Regardless of the mediator's preferred philosophy, the structured nature of prescribed mediation steps is routinely practiced, because every step is a well-defined part of the process that is instrumental to reaching a successful outcome. However, there is a lack of fully-aligned curriculum regarding the aspects of mediation that fall outside of these prescribed components. As chapter two demonstrates, little information exists about the nuanced role unscripted aspects of mediation could have on eliciting enhanced capacity from parties involved in conflict management efforts.

Conversely, research is readily available on the necessity for neutrality during mediations to address power dynamics and conflict resolution approaches (Cislak, 2014). A great deal of information also exists about best practices and outlined steps for actual mediation services (Walden, Javdani, & Allen, 2014). For example, literature discusses the initial intake of mediation cases and the resulting mediation sessions, but literature

does not appear to cover philosophies regarding mediator decision-making during unscripted aspects of mediations. Determining best practices for how successful mediators navigate the unscripted moments within mediations to elicit enhanced capacity from parties would improve industry knowledge, resources, and training protocol. Creating awareness and coping strategies in response to the unscripted aspects of conflict management empowers both mediator and participants to achieve heightened potential and outcomes.

Statement of the Problem

While many aspects of mediation protocol are either standardized or theoretically supported, there was a lack of fully-aligned curriculum regarding the potential impact that unscripted aspects of mediation could have on eliciting capacity from parties during conflict management efforts. Furthermore, professional literature and practitioner feedback provided to the researcher prior to the inception of the study did not adequately cover philosophies on decision-making regarding the way mediators navigated unscripted aspects of mediation. Exploring how experienced, successful mediators use their skills to elicit enhanced capacity among parties develops industry knowledge, resources, and training protocol. Additionally, creating awareness and designing coping strategies regarding the unscripted aspects of conflict management empowers both mediator and participants to achieve heightened potential. The viewpoints from experienced mediators of certified programs augments conflict management strategies by creating mindfulness about eliciting enhanced capacity from parties during the moments that fall outside of the defined scope of prescribed mediation steps but are crucial to successful outcomes.

Purpose of the Study

The intent of this qualitative study was to describe how experienced mediators navigate the unscripted aspects of mediation to elicit enhanced capacity among parties involved in conflict. Mediators from various disciplines within certified mediation programs across the country were interviewed to explore their views on how they identified and responded to unscripted aspects of mediation to elicit enhanced capacity among parties in conflict. Examining these perspectives to create awareness and coping strategies empowers both mediator and participants to achieve heightened potential. The viewpoints from experienced mediators of certified programs augments conflict management strategies by creating mindfulness about eliciting enhanced capacity from parties during the moments that fall outside of the defined scope of prescribed mediation steps but are crucial to successful outcomes. Furthermore, any individual; especially a leader, benefits by identifying their accountability and responsibility in developing capacity when dealing with situations involving conflict.

Research Question

To contextualize the interdependent relationship between capacity and conflict, an understanding about the creation of environments that are conducive for positive mediation outcomes was important. As such, the resulting research question for this study was: How do experienced practitioners of certified mediation programs elicit enhanced capacity from parties during unscripted aspects of mediation?

Aim of the Dissertation in Practice

The aim of this study was to improve current mediation understanding and programmatic offerings by exploring how experienced practitioners of certified

mediation programs elicit enhanced capacity from parties during unscripted aspects of mediation. The resulting framework serves as a benchmark to create curriculum and resources that incorporate this conceptual understanding to better address the unscripted aspects of mediation that fall outside of standardized aspects of the prescribed mediation steps. In exploring these unscripted variables, the profession gains a fuller understanding of the nuanced side of mediation. By articulating how experienced mediators capitalize on the unscripted aspects of mediation to elicit enhanced capacity from parties, the profession also has fuller understanding for how to equip and train practitioners who wish to develop their own role with eliciting enhanced capacity during unscripted moments within mediation. Examining these perspectives to create awareness and coping strategies empowers both mediator and participants to achieve heightened potential. The viewpoints from experienced mediators of certified programs augments conflict management strategies by creating mindfulness about eliciting enhanced capacity from parties during the moments that fall outside of the defined scope of prescribed mediation steps but are crucial to successful outcomes. Furthermore, any individual; especially a leader, benefits by identifying their accountability and responsibility in developing capacity when dealing with situations involving conflict.

Definition of Relevant Terms

Many philosophical concepts are used within the field of mediation that either help differentiate components of conflict management services or provide points of clarification. Because there are several approaches to mediation, understanding the conceptual and operational viewpoints framed the research in a practical manner.

The following terms were used operationally within this study as defined by the author:

Agility: Nimble and flexible movement.

Alternative Dispute Resolution: Practices outside of formal legal systems designed to mitigate conflict.

Capacity: Ability of parties in conflict to exercise agency by identifying, articulating, and acting upon interests through collaborative behaviors.

Conflict: Discord or disagreement.

Conflict management: The process of handling a dispute or disagreement.

Conflict resolution: Actions involved with solving a dispute.

Dispute: Disagreement.

Expectation: A belief that a specific end-result will likely occur.

Experience: Familiarity and understanding that is derived through firsthand involvement.

Evaluative mediation: Assistance-based mediation approach where the mediator points out weaknesses and makes predictions.

Facilitative mediation: Process-based mediation approach where the mediator uses established and structured procedures.

Fair: In accordance to established, multifaceted standards that may be individually and/or collectively held.

Imagery: Description or symbolism that facilitates understanding of a concept.

Impartiality: Fair and just treatment.

Influence: Ability to effect outcomes due to power, role, or assignment.

Intuition: Internal, instinctive response based in mindful awareness of personal values, understandings, and tenets.

Just: Concern with what is morally right.

Mediation: Short-term intervention provided by a neutral third-party to address conflict.

Mediation outcome: Results of a formalized mediation process.

Mediator competency: Blend of professional experience, skill, intuition, and knowledge that lends itself to successful mediation outcomes.

Neutrality: Having neither positive nor negative associations to a person or process.

Perception: The way of interpreting that is based on individual background, history, values, and temperament.

Power: The capacity to influence or direct.

Power dynamics: The way in which people interact with one another that affects control.

Power imbalance: Inequity of real or perceived influence among people.

Transformative mediation: Empowerment-based mediation approach where the mediator engages in an open-ended methodology.

Unscripted: Not formally planned or named.

The aforementioned terms are often used interchangeably by professionals within the field, and these operational definitions were created with the spirit of capturing the general understanding of practitioners, along with the author's personal philosophical mediation approach.

Methodology Overview

The methodological approach for this dissertation in practice was qualitative using transcendental phenomenology. Specifically, epoche was applied to consider the phenomenon of how experienced mediators elicit enhanced capacity during unscripted aspects of mediation. The goal was a perspective where the research was explored from the viewpoint of the lived experiences of the practicing mediators and not the researcher (Creswell & Poth, 2018). This approach was appropriate, because rather than using a narrative from a singular perspective, the lived experiences and insights of multiple practicing mediators provided more holistic insights into this conflict management concept.

Because the author is a practicing mediator, taking an epoche approach helped reduce potential research bias by attempting to set aside personal experiences to capture how and what the practitioners reported to be their involvement with eliciting enhanced capacity during unscripted aspects of mediation. Because the opportunity to navigate unscripted moments of mediation exist for every mediation session, it was a universal topic all tenured practitioners of certified mediation programs were able to describe from their experiential vantage point. Additionally, the goal of eliciting enhanced capacity among parties in conflict is a global goal of all mediators regardless of the philosophical mediation style employed. Therefore, this generalizability and transferability made it well-suited for a phenomenology study.

To capture the essence of how they internalized these mediation experiences, textural and structural descriptions were derived from the reports made by the mediators during telephonic interviews between the researcher and the participant. Twenty

experienced, certified mediators representing 22 states participated in semi-structured, open-ended thematic interviews over the course of a two-week interview period. The interviews ranged from 31 to 65 minutes in length and were recorded, transcribed, and analyzed using Recordator and Nvivo respectively. The information provided by the participants was coded using concept coding methodologies and resulted in seven thematic areas: Unscripted Actions, Unscripted Beliefs, Capacity Actions, Capacity Beliefs, Mediator Imagery, Mediator Background, and Mediator Motivation.

Delimitations, Limitations, and Personal Biases

As with all research endeavors, there were limitations, delimitations, and personal biases of notability. While efforts were made to reduce the likelihood of these issues in all three categories, aspects affecting reliability and validity always realistically exist. As such, the credibility of research hinges upon the transparency of these findings.

While the research approach was rigorous and deliberate, the study was limited to a small sample size of 20 mediators selected with input from representative directors of certified mediation programs across the United States. Generalizability exists, but within the reasonable context of understanding the information was geared towards a particular demographic group of practitioners. Because the research aim was original, no established interview questions existed to specifically address the topic. Instead, semi-structured, open-ended thematic questions were asked of participants with the focus on the overarching subject-phenomenon of capacity, unscripted aspects of mediation, and conflict management outcomes (Englander, 2012). The goal of these research endeavors was to establish baseline understanding of how experienced mediators identify and

respond to unscripted aspects of mediation to elicit enhanced capacity among parties so that subsequent research can be conducted.

Limitations to this study were primarily due to the qualitative, phenomenological methodology. Because this non-experimental method is steeped in a philosophical tradition, no correlation-based inferences should be drawn from the research (Creswell & Poth, 2018). Instead, the information provided was contemplative and narrative, which allowed for participant-based perspectives on eliciting enhanced capacity during unscripted aspects of mediations that impact outcomes.

Additionally, whether or not the author was fully bracketed from the research was a subjective component of the research given the interactive nature of the thematic, semi-structured interview methodologies, which made the approach more idiosyncratic in nature compared to other measures. Because the author is a practicing mediator, the risk of personal bias was relevant to this study. The author's experience, tenure, and philosophy towards mediation as a successful type of Alternative Dispute Resolution could create perceived issues regarding objectivity and research neutrality. In response to this, the study utilized a bracketing or epoche approach to address potential for researcher bias (Creswell & Poth, 2018). This was accomplished by using interview techniques such as semi-structured yet flexible questions. Recording the interviews through Recordator created a checks-and-balances with a third-party transcription software, Nvivo, which assisted with the pursuit of neutral interview practices. Additionally, two pilot interviews were conducted with member checking for feedback prior to the start of the research interviews. Lastly, using coding techniques following the guidelines of

Raymond (1992) helped ensure a merited and consistent method for assessing the interview.

Reflections of the Scholar-Practitioner

The Dissertation in Practice was a uniquely challenging and rewarding process, as the initial concept intended for research grew and evolved into something greater than I could have initially imagined on my own. Through the insightful direction of Creighton instructors and peers, this project took on greater meaning. Additionally, the prompting of my doctoral studies helped me finally articulate something that has resonated within me for some time, but I had previously struggled to verbalize concisely. Throughout my tenure as both a practicing mediator and director of a mediation organization, I believed there was a gap in literature and training materials about the unscripted, undefined aspects of mediations. In other words, there are facets of mediation not easily placed into clear and concise parts of prescribed steps or practices. However, these components are invaluable and crucial, because a person observing a mediation can almost see and feel the transformation unfold during a mediation session, and yet these aspects fall outside of the readily described mediation training materials. In fact, it is not uncommon for participants of mediation to be amazed by the process and yet not be able to fully describe how or why the process worked. They just know through their experience that it worked. Many participants have described to me that it seems like skilled mediators just seem to know how to fluidly move people through difficult conversations and dispute resolution efforts. Participants describe the “gut-instinct” components of their mediation experience that are difficult to articulate into words. Therefore, this Dissertation in Practice was an attempt to better understand how and why mediators use the unscripted

aspects of mediation to best elicit enhanced capacity of parties in what appears to be an almost magical way.

The Dissertation in Practice process was instrumental to me in thinking through the terminology and concepts to convey the intentions of my research. The staff at Iowa Mediation Service, specifically my Development Director, worked closely with me to ensure I was intentional about my efforts. She helped me land on the following terms: intuition, agility, and capacity. Mediators truly are “bridge builders.” We help guide challenging circumstances from one point to another point using artful instinct and nimbleness to make this reciprocal process flow for those within stressful situations. Watching the Development Director’s efforts as a remarkable mediator and exceptional trainer showed me the malleable nature of conflict management that is important to honor and pass along to others who deal with human interactions of all fashions. She continually demonstrates the reciprocal design that makes mediation distinctly different than other approaches that tend to be more hierarchical and unilateral in nature. She was the inspiration that served as a catalyst for me to explore the topic of capacity enhancement.

My hope is for these research endeavors was to shed light on the unscripted opportunities and create awareness around how mediators elicit capacity during those moments. The concept of neutrality has earmarked mediation as a unique part of the alternative dispute resolution world, and yet this concept has created some misconceptions about the role of the mediator. Neutrality does not need to be mutually exclusive from capacity enhancement efforts. The two camps can resonate and survive together. In fact, the best mediators are adept in both arenas. It was my goal to learn

more about how these gifted mediators elicit enhanced capacity while remaining expert neutrals within conflict management. The world continues to see conflict abound, and as a steward to this world, I believe this research has the potential to motivate those dealing with challenges to embrace and utilize the best of mediation even if they are not practicing mediators themselves. Anyone dealing with human struggles stands to benefit from skillful conflict management interventions.

Summary

To review, mediation is a short-term intervention using a neutral, third-party to manage conflict with an understanding of power dynamics, perceptions, and expectations that affect eventual mediation outcomes. Determining approaches towards environmental decision-making should enhance industry knowledge, resources, and training protocol by creating awareness around this aspect of mediation where variables are unscripted and serve as opportunities to elicit enhanced capacity among parties. While many aspects of mediation protocol are standardized, there is a lack of curriculum or training materials available regarding the aspects of mediation that fall outside of these prescribed components. For example, little information exists about the nuanced role unscripted aspects of mediation could have on eliciting enhanced capacity from parties involved in conflict management efforts. The unscripted moments in mediation are opportune times to create environments ripe for successful conflict management interactions that address conflict gaps whereby empowering anyone involved in mediations.

The intent of this transcendental, phenomenological study was to describe how experienced mediators navigate the unscripted aspects of mediation to elicit enhanced capacity among parties involved in conflict. It sought to analyze the following research

question for this study: How do experienced practitioners of certified mediation programs elicit enhanced capacity from parties during unscripted aspects of mediation? The aim of this study was to improve current mediation understanding and programmatic offerings by exploring how experienced practitioners of certified mediation programs elicit enhanced capacity from parties during unscripted aspects of mediation. The resulting framework serves as a benchmark to create future curriculum and resources that incorporate this conceptual understanding in order to better address the unscripted aspects of mediation that fall outside of standardized aspects of the prescribed mediation steps.

The conceptual and operational terms used within the field of mediation were defined to provide clarity surrounding the practical application of terminology within the profession. Additionally, areas of concern were addressed. For instance, the phenomenological methodology of the study limited causality, and the sample size and boundaries tied to certified mediation programs restricted generalizability. Furthermore, personal bias could have potentially affected objectivity. All that withstanding, the research established checks-and-balances to account for these variables.

Transcendental phenomenology using epoche and bracketing was used to study the overarching subject-phenomenon of capacity, unscripted aspects of mediation, and conflict management outcomes. Textural and structural descriptions were derived from the reports made by the mediators during telephonic interviews between the researcher and the participant. Twenty experienced, certified mediators representing 22 states participated in semi-structured, open-ended thematic interviews. The information provided by the participants was coded using concept coding methodologies and resulted

in seven thematic areas: Unscripted Actions, Unscripted Beliefs, Capacity Actions, Capacity Beliefs, Mediator Imagery, Mediator Background, and Mediator Motivation.

CHAPTER TWO: LITERATURE REVIEW

To begin understanding the practice of mediation, there needs to be an understanding of the concept of conflict. Because conflict is a broad concept encompassing many components and facets, this paper assessed conflict from the framework of how disparate or incongruent interest-based, right-based, or power-based actions, perceptions, expectations, and beliefs create environments for potential or actual disputes (Jameson, 2001; Ridley-Duff & Bennett, 2011). Next, exploring the defining characteristics of mediation from the lens of standardized mediation models, like the Civil Mediation Model, provided measurement benchmarks for mediation services and outcomes (Blackstock, 2001).

Appreciating that there are a variety of ways of assessing conflict and mediation practices, this paper focused on the relationship among power dynamics, perceptions, and expectations on conflict management. Within the framework of power, first assessing the role of position, knowledge, and resources took place. Next, the literature review concentrated on the concept of dependency within relationships. Finally, assessing the idea of creating power balance concluded the review of conflict tied to power (Cobb & Rifkin, 1991). After deliberating the role of power, the focus shifted to the topic of perceptions, expectations, and conflict. Initially, the literature considered pro-self versus pro-social perception attributes (Cislak, 2014). Then, it pondered the topic of intention and the resulting assumptions (Valle & Frieze, 1976).

Nuclear to mediation is neutrality, trust, and expectations. By addressing power and perception dynamics from a position of neutrality and trust, subsequent expectations are more likely to be in-line for successful mediation outcomes. Opportune moments to

instill trust and increase positive expectations occur during the unscripted aspects of mediation where a professional can navigate the nuanced facets of conflict management that allow for enhanced capacity among all those involved in mediation efforts to bridge whatever is necessary to create empowerment for change. The confidence built during these points within conflict creates potential for openness towards what mediation has to offer.

The following literature review presents the conceptual framework, background and historical context around the field of mediation; findings about power dynamics, perceptions and expectations related to conflict; followed by an assessment of the overarching concepts of intuition and agility. The way in which capacity was defined for this specific research was reviewed, and an assessment of the unscripted aspects of mediation was conducted. The paper provides a review of qualitative research and transcendental phenomenology, and it ends with an analysis of the practical implications of mediation on leadership during situations involving conflict.

Conflict and Mediation

Understanding the Conceptualization of Conflict and Mediation

For there to be opportunities to manage disputes, conflict must be evidenced by two or more people with real or perceived differences in actions, beliefs, attitudes, values, preferences, goals, or resources (Jameson, 2001; Rahim & Bonoma, 1979). In turn, these disparities form consciousness of disrespect because violations of behaviors, rituals, or social standings have occurred that impact compatibility or impede desired outcomes (Moule & Wallace, 2016; Witteman, 1992; Jameson, 2001). Furthermore, focally categorizing these disconnects into either task-conflicts or relationship-conflicts creates a

framework for dealing with disputes during conflict management efforts (DeChurch, Hamilton, & Haas, 2007). The methodology to deal with either of these conflict categories tends to involve interest-based, right-based or power-based efforts to remedy disagreements (Jameson, 2001). Attempts at managing conflict can occur in a variety of settings, with self-driven efforts, legal systems, or alternative approaches such as mediation being the primary methods of resolving conflict. While self-driven efforts are the preferred way to deal with disputes, parties in disputes also consider mediation as an ideal way to deal with conflict over more formalized, legal systems.

From a technical standpoint, the definition of mediation is the process of overseeing communication among disputing parties using methods based on a philosophy of neutrality that relies on a balance of both mediator empathy and impartiality (Malizia & Jameson, 2018). While there are varying approaches to mediation, the general consensus of modern mediation theory is to humanize the mediation process by using person-centered techniques that create environments ripe for constructive dialogue whereby conflicting parties will voluntarily negotiate their issues and create their own constructive action plans and outcomes (Lewis & Umbreit, 2015). Contemporary mediation practitioners widely accept three forms of mediation approaches. The facilitative philosophy uses a structured process to guide parties to a mutual point of agreement; whereas the evaluative philosophy uses mediator influence to direct outcomes by steering the course of participant positions (Zumeta, 2018). Alternatively, the transformative philosophy embraces the notion of empowering participants to self-develop their own interests and values that shape the agreement.

History of Alternative Dispute Resolution

Although contemporary definitions surrounding alternative dispute resolution and mediation are used today, the general concepts have been historically present for thousands of years (Barrett & Barrett, 2005). In fact, documentation exists demonstrating the use of negotiations in 1400 BCE when Mediterranean Sea and Persian Gulf kings approached trade, peace, and war decision-making. The Mari Kingdom – now modern Syria - used alternative dispute resolution formats in 1800 BCE to deal with other kingdoms. Liberia, Hawaii, the former Soviet Union, Greeks, Catholic popes, and Native Americans have a long history of using negotiations in preference to formal legal systems. Additionally, as the United States developed as a nation, Benjamin Franklin, Thomas Jefferson, and John Adams all employed negotiations in their respective roles, and Jefferson specifically credited conflict resolution tactics with his interactions between France and the United States.

Most modern mediation practices find their origins in English legal development (McManus & Silverstein, 2011). During the Norman Conquest in England, the king used respected laypeople to make decisions surrounding community discord. Later, similar approaches were used during Dutch and British colonial periods in New York City. The Pilgrims made strong efforts to keep decisions out of court systems because of attempts to protect faith-based beliefs regarding harmony. Members of these communities would hear claims, determine fault and damages, and oversee reconciliation efforts.

Formalized alternative dispute resolution mandates are shown throughout the development of America's governmental history. The Patent Act of 1790, the Arbitration Act of 1888, the creation of the Board of Mediation and Conciliation for Railway Labor

and the Federal Mediation and Conciliation Services all serve as points of reference to the importance of conflict management systems in the United States (McManus & Silverstein, 2011). Additionally, during the 1980's, institutes of higher education began teaching courses and providing degrees in topics related to alternative dispute resolution, including law schools that began embracing the nondual approach to conflict management. Today, most of these educational models teach an iteration of the Civil Mediation Model as an effective model for approaching mediation because of its proven success (Blackstock, 2001).

Civil Mediation Model

Because conflicting parties who seek mediation services have imbalances somewhere among the tasks or relationships within the conflict settings, the mediator must be aware of what variables will likely present itself within the mediation process. Skilled mediators rely on a variety of signals from disputing parties to guide the process. As such, mediation is an invaluable tool to deal with conflict, because it is a resource that saves participants and systems involved in disputes both time and money (Malizia & Jameson, 2017). Moreover, mediation has been proven to improve organizational climates and other intergroup relations. Using agreed-upon ways of moving through the conflict management process, mediation has become the standard-bearer for alternative approaches to dispute resolution (Blackstock, 2001).

While labeling the steps involved in mediation services may vary depending on the venue, the Civil Mediation Model is an internationally accepted model used as the contextual backdrop for describing mediation services in this paper. In the Civil Mediation Model, five steps are core components: 1. Preparation, 2. Introductions, 3.

Issues, 4. Identifying Interests, and 5. Solutions (Blackstock, 2001). Within the Preparation step, participants become oriented to the mediation process during what is commonly known as mediation intake. During Introductions, tone is established through the use of ground rules, and during the Issues step, participants engage in dialogue to tell their story. In the Identifying Interests step, participants determine their priorities so that during the Solutions step, reaching settlements occurs. This 5-step mediation process is common practice among practitioners regardless of whether they use facilitative, evaluative, or transformative mediation philosophies (Zumeta, 2018).

While there are varying approaches to mediation, the general consensus of modern mediation theory is to humanize the process by using person-centered techniques that create environments ripe for constructive dialogue whereby conflicting parties will voluntarily negotiate their issues and create their own constructive action plans and outcomes (Lewis & Umbreit, 2015). Determining best practices for how successful practitioners navigate unscripted aspects of mediation to elicit enhanced capacity would increase knowledge, resources, and training protocol as it seeks to orchestrate a framework for empowering parties during conflict management efforts. Creating awareness and coping strategies in response to the unscripted aspects of conflict management empowers both mediator and participants to achieve heightened potential by recognizing the capacity within each individual.

Power Dynamics and Conflict

To contextualize the interdependence between capacity and unscripted moments in mediation, an understanding of power in interpersonal relationships and tasks is

important to frame in the context of creating foundational environments based on holistic reciprocity that are conducive to positive mediation outcomes.

The role power dynamics plays in mediation sessions has been studied since the inception of formalized mediation practices (Twomey, 1977). Often described using Equity Theory, power within interpersonal relationships relies on the level of dissonance, distributive justice, dependency, and the availability of alternatives to determine where power inequities reside and the potential outcomes that could result (Twomey, 1977). Furthermore, professional evaluations demonstrate a structural tendency that encourages power disparities, such as the patient-physician relationship, and therefore the impact on negotiations are more positive when bargaining power is equitably distributed (Pauley, 2011). Pauley (2011) found that not only does equal bargaining power produce more successful negotiations, but when both parties have considerable power, the resulting outcomes are more mutually beneficial.

Powell and Hickson (2000) researched the impact of power during conflict resolution and found that dissatisfied partnerships are three times more likely to focus on the role of power than those of satisfied partners. Different communication and competition styles result when there are perceived power imbalances (Powell & Hickson, 2000). Conciliatory styles are more prevalent when partners hold the perception that power is equitable. This reveals that not only does the context of conflict impact outcomes, but the nature of the relationships also affects potential results tied to conflict management efforts.

Dependency within Relationships

Powell and Hickson (2000) maintain that the “Principle of Least Interest” will drive the conflict resolution process as the individual with the least investment in the relationship holds the most power. During these situations, partners will focus on the cues from the other person to assess if the conflict is resolvable, whereas during equal power exchanges, partners will make assessments using multiple cues to evaluate if conflict resolution can occur. Ironically, those with the most at risk in a conflict may hold the most power outside of the conflict - such as a boss, parent, or spouse - but within the context of conflict they hold the least amount of resolution power if they stand to lose the most (Greer & Bendersky, 2013).

Perceived decision-making power is an important part in determining where dependency resides within interpersonal relationships. Walden, Javdani, and Allen (2014) have identified that people use organizational membership as a tool to create collaborative settings, but this membership status is also framed by the status the individuals bring into the setting. For example, individuals who have higher levels of legitimate power outside the organizational membership – such as an attorney or doctor – will be viewed with more perceived power than others within the organizational setting who have less legitimate power – such as a secretary – even if their assigned roles within the organization are not intended to be of higher power and are not associated with their external status. Therefore, it is advantageous for negotiators to consider the external factors related to status even in the context of assigned membership roles.

Creating Power Balance

According to Cobb and Rifkin (1991), a widely accepted and important part of conflict resolution is creating power balances, and therefore this becomes a critical responsibility of the mediator. One way to deal with power is through disciplined efforts towards impartiality. Mediators have an obligation to neutrality through justice, power, and ideology. Neutrality can imply detachment, and yet the expectation is that mediators will proactively shift through the issues of justice, power, and ideology to address imbalances within the relationships they are serving. Using the constructivist philosophy, mediators develop strategies to transform justice, power, and ideological issues within relationships to create environments that will allow for the resolution or management of conflict (Cobb & Rifkin, 1991).

The Dual Concern Model (DCM) says people will utilize one of five strategies to deal with issues of concern: obliging, dominating, avoiding, compromising, or integrating (Davidson, McElwee, & Hannan, 2004). Integrating is the desired strategy for a negotiator to encourage from participants as this demonstrates efforts towards mutual goals satisfying the needs of both parties. Dominating and avoiding are the least desirable behaviors for dealing with concerns as they are positions of extreme that are least likely to create mutually advantageous results. A key element for determining the strategy utilized by participants is the degree of trust and power within the relationship. Both factors have a significant impact on the type of concern strategy used and the satisfaction regarding the conflict resolution outcomes. However, participants were unaware that levels of trust were associated with outcome satisfaction; therefore,

participants may be unhappy with results and not know how their perceptions impact their outlook.

Perceptions and Conflict

Perceptions tied to intentions shape conflict dynamics in that those who are pro-self tend to be concerned with efficiency whereas those who are pro-social are more concerned with fairness (Cislak, 2014). When power asymmetries occur, it can manifest perceptions of objectifying others, because attention becomes selective to specific aspects of social information that are important to that individual. Furthermore, communal traits of bosses influence perceived desirability, but agency traits of subordinates also influence perceived desirability. The context surrounding perceived intentions will shape the way a person views the other.

Within teacher-student relationships, perceptions surrounding conflict reflect the way both sets of participants believe society portrays conflict, which typically is a negative association with the belief to avoid conflict (Longaretti & Wilson, 2006). As a result, these shared perceptions tied to the negative association with conflict drive how participants behave during situations of conflict. Interestingly, though, within subordinate-leader roles there is little agreement regarding which perceived leadership style is employed by the leader, and neither party is able to agree on the perceived level of leadership management occurring with conflict scenarios (Richmond, Wagner, & McCroskey, 1983). This reveals that factual accuracy is not necessarily a measure of what participants of conflict will perceive, regardless of whether the individuals are in leader or follower roles. Both roles misattribute intent to leadership behaviors, which impacts the way in which they formulate their perceptions of conflict. Hierarchy plays an

inborn role in perception-building because of the opportunities leaning more favorably towards leaders due to greater access to resources and the power derived from position and knowledge (Greer & Bendersky, 2013).

People create their perceptions of justice based on concepts tied to distributive rules of equity and equality (Kabanoff, 2019). Assuming intent to behaviors becomes a cornerstone to perception-making. Katz and Kahn's (1978) justice principle suggests people form perceptions of fairness from either the lens of economic/task goals or relational/social goals. Kabanoff (2019) maintains that different types and levels of both social and task situations will steer which distributive rules are utilized, because people hold perceptions about justice outcomes that are congruent with behaviors tied to equality or equity goals. In summary, experience drives perceptions which manifests behaviors. These behaviors reinforce expectations so that perceptions become salient and consistent.

Expectations and Conflict

Prior Experiences

People shape their decision-making based on expectations, and these expectations stem from perceptions involving prior experience (Valle & Frieze, 1976). When an outcome confirms expectations, people attribute it to a consistent trait, whereas when an outcome does not confirm expectations, people attribute it to chance. The perceptions tied to outcomes demonstrate the necessity for professionals to understand the background to which participants enter mediations, as these experiences shape the perceptions that guide subsequent expectations. While expectations are difficult to shift, if a person expected to perform poorly can demonstrate a stable trait of consistent

performance, the expectations and perceptions can change to an attribute instead of tied to luck or chance.

Perspective-forming is closely tied to the development of expectations, because both serve as aspects of anchoring during decision-making (Boca, Garro, Giammusso, & Abbate, 2018). For example, in a study conducted by Sims and Keon (1999), supervisor expectations were significantly related to the personal decision-making of organizational ethical practice. This would suggest that values held by leaders' expectations become anchoring points for subordinates. Additionally, the dependency upon the task or relationship outcomes develops the perspectives of those involved (Rong & Yang, 2017). If interdependence is high, then the perceived importance of resolving issues and the correlating behaviors will be reflective. In other words, the behaviors are outward manifestations of internally held expectations.

Trust and Neutrality

If a goal of mediation is to have participants voluntarily vested in the process and empowered to achieve self-driven outcomes, then these participants need to have positive expectations of the process. Trust in mediation is a critical component to ensuring potentially positive conflict resolution outcomes (Druckman & Wall, 2017). Research consistently echoes the necessity for neutrality during mediations to address power dynamics and conflict resolution approaches to ensure trust (Cislak, 2014; Blackstock 2001). The ideology around neutrality, however, is often debated in terms of how it manifests itself when emotionality, asymmetry, bias, and empowerment issues arise during mediations (Garcia, Vise, & Whitaker, 2002). Because neutrality is portrayed in a

variety of ways, it behooves the mediator to explain philosophies surrounding neutrality and impartiality to participants so that trust is established through transparency.

The complexity of both trust and neutrality with mediation services is demonstrated because cognitive styles play a large role in how the mediator and participants view the process. What is valued as neutrality from one perspective, whereby creating trust, can be viewed as biased from another cognitive lens. According to Mello and Delise (2015), individuals hold a relatively stable preference for either a rational-analytical style or an intuitive style. Since rational-analytical cognition relies on a large volume of external data steeped in linear, organized information, whereas intuitive cognition relies on internal instincts tethered to big-picture, nonlinear information, the two styles can be at odds with one another during attempts at neutrality. As such, one cognitive style may trust the mediation approach presented, while the other cognitive style may perceive partiality that creates dissonance.

Understanding that perceptions and expectations stem from beliefs about neutrality and trust creates a mindset for mediators to strive to be holistic and not assuming in mediation approaches. Using a variety of methods and philosophies to flexibly interpret the needs of each mediation session and its participants will garner greater opportunities and likelihood for mediation success driven by the voluntary efforts of the participants who are self-governing their mediation agreements and outcomes.

Intuition and Agility

To help efforts on the part of conflict management participants to self-navigate their own intentions and interests, there is often a necessity for guidance that supersedes the rote steps of the prescribed mediation process. Instead, adept professionals rely on

forms of intuition and agility to sense the best way to move parties away from power disparities and align with healthy perceptions that lead to open expectations of the mediation process and potential for collaborative outcomes. In essence, intuition is an inferential tool that unconsciously recognizes patterns, feelings, and knowledge in an expeditious way that relies on developed instinct (Williams, 2012). Agility, however, is comparable to movement based on situation-action matching and context-bound steering that is demonstrated in naturalistic decision making (Lipshitz, Klein, Orasanu, & Salas, 2001). This decision-making is rooted in comfort with less formal ways of processing environments and through the realization that what “ought” to be is not necessary what will unfold. Therefore, agility is founded upon flexible nimbleness. When the skills tied to intuition and agility are married, creative problem-solving can ensue. Creativity has been demonstrated to outperform deliberative processing decisions and is therefore a prudent goal for mediation professionals to pursue (Zhu, Ritter, Muller, & Dijksterhuis, 2017).

Dynamic, creative decision-making which stems from intuition and agility is cultivated through expertise, training, and self-reflection (Donovan, Guss, & Naslund, 2015; Salas, Rosen, & DiazGranados, 2010). Field, domain proficiency is what equips practitioners to know when to harness and rely on instinct to create intended outcomes that go beyond prescribed processes and maximize unscripted moments that afford meaningful opportunities (Dane, Rockmann, & Pratt, 2012). In the world of conflict management, these unscripted aspects of mediation are what create openings for enhancing capacity potential.

Leadership, Conflict Management, and Mediation

Traditional views of leadership make decisions based on the assumption that a top-down, hierarchical model is the best suited route for operational success. However, Koonce (2017) maintains that a binary lens on the world is ill-suited for the positive mindset required of healthy organizations. For instance, no mediation organization could exist without participants seeking these services nor could the organization exist without staff to serve those people. A reoccurring theme within contemporary servant-leader models of leadership is the holistic approach of the development of others by the leader for the primary purpose of the betterment of community (Lydon, 2009).

To achieve this non-dual approach to mediation, the theory of Conscious Leadership is relevant (Ward, 2016). This theory is based on the notion that leadership is best exemplified through mindfulness of thought, emotion, and experience in the present moment without judgement. A leader skilled in Conscious Leadership will demonstrate clear communication, ownership of decisions and actions, neutrality, open discussions, and positive leadership outcomes. This is achieved through expanded consciousness using observer-self perceptual filters that reduce duality and afford thoughtful future decision-making. Hallmarks of Conscious Leadership are “reverence, willingness, humility, perseverance, compassion, faith, courage, intention, kindness, harmony, and love” (Ward, 2016, p. 6). In turn, the outcome of these leadership efforts should reveal more equanimity.

Transformative Leadership dovetails with Conscious Leadership because both create authentic, servant philosophies and actions focusing on collective goals through procedural justice, trust, and open exchange among the community (Zhang, Cao, &

Tjosvold, 2010). Taken together, these two leadership theories help the reputation of the industry as a whole, those employed by mediation organizations, the patrons of these services, and stakeholders invested in the success of mediation efforts (Choudhary, Akhtar, & Zaheer, 2013). This holistic approach is what leaders of mediation organizations embark upon as stewards challenged to help the marginalized, those in the throes of conflict, and people who are seeking last efforts at hope. The premise which makes mediation successful is the notion that when people move beyond self-interests to collective goals through leader-follower exchanges, both organizational and individual performance outcomes are augmented (Zhang, Cao, & Tjosvold, 2010). The role of the mediator during unscripted aspects of mediation to elicit enhanced capacity opportunities is both a theoretical and practical component of mediation that stands to bring greater excellence to the field of conflict management.

The benefits of improving mediation practices uniquely dovetail with leadership and in fact transcend more than mediation practices, because conflict exists in all environments where human interactions occur. Leaders who wishes to employ transformational leadership techniques promote coordination and cohesion by embracing the belief that conflict management mutually benefits those involved through greater individual and group communication, performance, and goal-achievement (Zhang, Cao, & Tjosvold, 2010). These ideologies are in keeping with the merits of mediation, because transformational leadership imparts the psychological support necessary to encourage change commitment through empowered environments (Yang, 2011).

Servant leadership is another facet in keeping with mediation practices because the notion that social-interests, as opposed to only self-interests, and the betterment of

community are hallmarks of both approaches (Lydon, 2009). Similar to mediation efforts, leadership success hinges upon trust because the development of trust must occur before implementing action plans for change (Yang, 2016). Lastly, both mediation and leadership require demonstration of wisdom shown through the integration, embodiment, and positive effects that flow from the actions of the leader (Yang, 2011). Because mediation participants view mediators as leaders, the theories and practices gleaned through the study of mediation services and leadership efforts stand to mutually benefit both disciplines. Traditional theory and practical experience come together in a way that promotes individuals and groups alike. Accountability to the end-user is the ultimate calling of both mediator and leader. As such, the study of mediation and leadership parlay into each other and stand to augment each role. Leaders of any institution, profession, or industry profit from integrating mediation practices into their environments. Specifically, the ideas surrounding the role that unscripted moments have on eliciting enhanced capacity offer new insights into conflict management that have potential to create environments more conducive for productive conflict outcomes. A Conscious Leadership philosophy can assimilate this information into their conflict management framework by taking into account the findings of phenomenological research. Because phenomenology is based on lived experiences, the dual nature of approaching the topic of mediation with the additional intention of imparting leadership wisdom to the field from an experiential standpoint enriches overall research efforts.

Theoretical understanding of psychological components related to conflict management also benefits the areas of social and business psychology, organizational management, human resource development, and negotiation administration (Keefe &

Koch, 1999). Mediation is a unique profession that requires both practical experience and theoretical mastery to identify and respond to the subtle and underlying aspects of conflict that play a large role in the outcomes resulting from mediation (Johnson, 2011). Lastly, creating awareness, philosophies, and standards tied to this nuanced component of mediation strengthens the conflict management profession as a whole and enlightens leadership of all disciplines as well.

Capacity Enhancement during Conflict

In the context of this study, capacity enhancement is one of the main intentions of an effective conflict management practitioner. By bridging gaps related to power dynamics, perceptions, and expectations, the participating parties can work towards common goals and understanding. Additionally, by utilizing the unscripted aspects that inevitably arise during conflict, professionals can connect disparities to real-world solutions by moving parties through the formal aspects of mediation procedures while still honoring the voice and tenor of the situations and people involved. The nuanced and finessed skills required to sense the underpinnings and undercurrents of conflict are what make negotiation practices successful. These practitioners are able to navigate both the structural and situational variables involved to exercise a mental model that serves as capacity empowerment throughout the conflict management experience in all facets presented, both prescribed and unscripted (Bazerman, Curhan, Moore, & Valley, 2000).

Eliciting enhanced capacity differs from the concept of capacity building in that capacity building assumes a one-directional, hierarchical design, whereas capacity enhancement infers a two-way, continuous pattern. The distinction is important to conflict management efforts, because capacity enhancement acknowledges that gaps in

values, desires, and rights are best addressed through reciprocity rather than submission (Ackermann, Fleib, & Murphy, 2016; Duddy, 2017). Furthermore, recent community-based research efforts have begun to develop language surrounding capacity to communicate the reciprocal and relational-accountability nature of relationships that wish to encompass a less Western-driven mindset in favor of a broader picture for looking at how gaps can be met (Capacity bridging, 2018; Duddy, 2017). Because people tend to respond more favorably to factors that align with their personalities, it is important to consider conflict management contexts that afford the most opportunities for positive alignment with conflict gap assessment and resolution efforts (Park & Antonioni, 2007). Bundy, Vogel, and Zachary (2018) extend this view to organizational environments where stakeholder relationships benefit from compatibility through organization-stakeholder cooperative behaviors aligned with values and priorities resulting in greater trust and exchange. In essence, this new approach to organizational conflict management fits within the framework of the reciprocal and empowering aim of eliciting enhanced capacity.

Research has demonstrated that the internalized reciprocity norm exists within most cultures, and it is largely measured by interpretations of kindness (Li, Zhu, Yu, Zhang & Zhang, 2017). Perceived kindness enacts favorable, altruistic behaviors among participants, even when these participants are strangers. Moreover, reciprocity expectations govern reciprocity behaviors as demonstrated in interactions among participants who only engage in a singular interaction with others. There is an innate understanding among people that two-way channels of kindness and mutual exchanges of help are some of the best ways to bridge human connections.

Taken together, integrating capacity enhancement related to power dynamics, perceptions, and expectations during all aspects of mediation, including the unscripted moments, will serve anyone touched by the realities of conflict. No one is exempt from the experiences and consequences tied to conflict, so heightened awareness, understanding, and implementation of best practices stands to benefit society as a whole.

Unscripted Aspects of Mediation

While great efforts have been made to standardized conflict management efforts, especially those tied to mediation, unscripted aspects of conflict management are inevitable due to the human interactions that comprise conflict. It is not reasonable or realistic to believe that all facets of mediation practices are tied to prescriptive measures or steps. As such, it is important for practitioners to understand how unscripted aspects of mediations affect power-dynamics, perceptions, and expectations and the ways in which mediators respond accordingly.

Curriculum in the field of mediation, negotiation, conflict resolution, and conflict management strive to provide methodologies and techniques to impart neutrality, active listening, and perceived empathy (Lincoln, 2001). Druckman and Wall's (2017) extensive assessment of the 60-year progression of mediation and negotiation gives models, sequences, contexts and steps where mediation and negotiation have occurred. However, while this in-depth research provides information on the approaches and impacts of conflict resolution efforts, it does not focus on the aspects that are unscripted or undefined during conflict management. Additionally, materials on mediation in serving professions such as nursing and primary education often describe the elements of mediation like self-driven agreements, empowerment, and problem-solving but not how

adept practitioners elicit these outcomes (Cheng, 2015; Baraldi & Iervese, 2010). These authors discuss equity, impartiality, and collaborative dialogue but not in the sense of how mediators bring these traits to conflict management sessions.

A general literature search using Creighton University's Reinert-Alumni Library revealed no matching articles with the following key search phrases:

Unscripted aspects of mediation

Unscripted aspects of conflict resolution

Unscripted aspects of conflict management

Unscripted aspects of negotiation

Unscripted aspects of Alternative Dispute Resolution

Undefined steps in mediation

Undefined steps in conflict resolution

Undefined steps in conflict management

Undefined steps in negotiation

An additional query elicited 12 articles having relatable, although often not precisely matching, outcomes to the following key search phrases:

Instinct in mediation

Informal mediation techniques

Creative mediation

Decision-making and mediation

Decision-making and conflict resolution

Decision-making and alternative dispute resolution

Intuition and mediation

Intuition and negotiation

Intuition and conflict resolution

Intuition and conflict management

Intuition and Alternative Dispute Resolution

Kressel (2013) suggests that while formal mediation models have grown, with at least 25 new models identified in the 1990s, little understanding exists about how mediators actually implement the models. The following 12 articles found during the key phrase literature review inquiry mirrored similar sentiments and revealed the need for exploring the unconscious, unplanned, instinctual aspects of mediation which need consideration, because mediation is no longer viewed as new to the world of alternative dispute resolution methods. The literature review search produced the most citations from the *Negotiation Journal*, although a total of seven peer-reviewed journals provided insights into the need for more substantive information on the topic of the unscripted aspects of mediation as evidenced in Table 1.

Table 1*Journal Inquiries on Unscripted Mediation*

Peer-reviewed journal queries produced 12 citations from 1990 – 2020 using the following key-word searches: 1. Instinct in mediation; 2. Informal mediation techniques; 3. Creative mediation; 4. Decision-making and mediation; 5. Decision-making and conflict resolution; 6. Decision-making and alternative dispute resolution; 7. Intuition and mediation; 8. Intuition and negotiation; 9. Intuition and conflict resolution; 10. Intuition and conflict management; 11. Intuition and alternative dispute resolution:

Journal Source	Citations
Conflict Resolution Quarterly	1
Dispute Resolution Journal	1
Journal of Applied Social Psychology	1
Journal of Research in Personality	1
Mediation Quarterly	1
Negotiation Journal	6
Ohio State Journal on Dispute Resolution	1

While the 12 articles provided insights into the topic of the unscripted aspects related to mediation, none of the studies aligned exactly to the objectives of this research. For instance, the articles had a bend towards the philosophical nature of mediation and negotiation rather than exploring the practical and tangible ways in which the unscripted aspects of mediation are understood and manifested during the mediation experience. Given the broad 30-year query parameters, Table 2 shows the deficiency of fully-aligned materials for professionals to utilize from a practical standpoint.

Table 2*Articles and Authors related to Unscripted Mediation*

Articles and authors generated using key-words referenced in Table 1 with publication date parameters from 1990 – 2000:

Article	Author (Date)	Journal Source
The use of intuition in mediation	Rooney, G., (2007)	Conflict Resolution Quarterly
Integral mediation: A proposal for a pragmatic adaptable, open-source approach to mediation	Jarrett, B., (2013)	Dispute Resolution Journal
Emotional Intelligence and dispute mediation in escalating and de-escalating situations	Boland, M.J., & Ross, W. H. (2010)	Journal of Applied Social Psychology
Are some negotiators better than others? Individual differences in bargaining outcomes	Elfenbein, H.A., et al., (2008)	Journal of Research in Personality
The art of family mediation	Saposnek, D.T., (1993)	Mediation Quarterly
Improvisation and negotiation: Expecting the unexpected	Balachandra, L., et al., (2005a)	Negotiation Journal
Improvisation and teaching negotiation: Developing three essential skills	Balachandra, L., et al., (2005b)	Negotiation Journal
Intuition or counterintuition? The science behind the art of negotiation	Druckman, D., (2009)	Negotiation Journal
Stage development theory: A natural framework for understanding the mediation process	Holaday, L. C., (2002)	Negotiation Journal
Transformations and critical moments in negotiations	Putnam, L.L., (2004)	Negotiation Journal
A decision-making perspective to negotiation: A review of the past and a look to the future	Tsay, C.J., & Bazerman, M.H., (2009)	Negotiation Journal
How do mediators decide what to do? Implicit schemas of practice and mediator decisionmaking	Kressel, K. (2013)	Ohio State Journal on Dispute Resolution

Each of these authors provided narrow aspects of insights into the nature of the unscripted aspects of mediation, but none of the articles holistically described how mediators identify, navigate, or develop the unscripted features of mediation. The following summaries of the 12 articles revealed that a gestalt approach to the unscripted

aspects of mediation was found deficient from the literature query efforts of the researcher. Instead, each article provided partial perspectives which could provide limited perspectives to a mediation practitioner.

Rooney (2007) maintained that theory and practice conjoin during the point in sessions where the mediator makes decisions. This can be done through hypothesis, pre-mediation planning, or the synthesis of theory and technique derived from formal training and lived experience. This was echoed by Jarrett (2013) who stated that integral mediation proposes a mixed-method approach to conflict using an interdisciplinary perspective creating a reflexive practice leaning on sociology, social psychology, and cultural anthropology. However, because the social field constantly shifts, traditional models are too entrenched in structure to address the need for contextually-relevant understanding.

Another concept related to the social field of mediation that ties to the potential success of a mediator is emotional intelligence. According to Boland and Ross (2010), mediators with high emotional intelligence were more likely than low emotionally intelligent mediators to seek mutually satisfactory agreements. Additionally, the practitioners with high emotional intelligence were more likely to report a willingness to use more mediation strategies to create compromise than practitioners demonstrating lower emotional intelligence. Lower emotionally intelligent mediators were more likely to use pressing, compensating, and inaction tactics than higher emotionally intelligent mediators, which typically does not lend itself to facilitative or collaborative mediation outcomes.

Cooperative mediation outcomes were considered a hallmark of skilled negotiators, according to Efenbein, et al. (2008). These researchers conducted an experimental study which revealed that the greatest trend among trait associations was with negotiation-related expectancies and beliefs. Additionally, confidence improved success, and yet success also improved confidence. Therefore, an interdependent relationship among both individual differences and training provided for greatest negotiation performance. Saposnek (1993) also explored the traits associated with mediation, but moved away from the linear aspects of mediation. Saposnek maintained that the prescriptive mechanics of mediation have already been widely accepted, but the artful components have been only nominally conveyed. It was suggested to shift from individual, problem-solving, mechanistic perspectives to systems, healing, and compassionate perspectives to successfully navigate mediations. The traditional scope of mediation prescribes four levels of analysis: solving a problem, developing a dispute resolution system, integrating conflicting forces, and viewing conflict as an opportunity rather than a negative. It was also proposed to move beyond traditional frameworks to more artful approaches which involve reframing conflict, moving energy in the process, and recognizing the importance of timing.

Moving from traditional frameworks requires an ability to improvise, according to Balachandra, et al. (2005a). New information constantly unfolds during negotiations; therefore decision-makers should improvise to deal with the unexpected. The researchers compared this improvisational process to the imagery of musicians. For instance, the concepts jazz musicians and actors follow is a framework of using improvisational skills to best react and respond to information. Skilled negotiators are adaptable and respond to

sudden changes like an improvisational artist would in the fields of theater, business, and psychotherapy (Balachandra, et al., 2005b). These types of negotiators become better adept at understanding nuanced offers, moves, and turns found in given scenarios.

Druckman (2009) further developed the concept of the artfulness of mediation as related to negotiation skills. It was proposed that negotiation involves both art and science, which results in often counterintuitive findings by the negotiator. Therefore, the negotiator must be comfortable with the counterintuitive facets that may arise during conflict management efforts. Issues to consider at the table are: to negotiate or not, alternatives, information exchanges, flexible bargaining, and emotional expressions. Issues to consider around the table are: the role of the representative, risk perceptions, the medium, furniture configuration, and third-party influence. Issues to consider away from the table are: interests, values, needs, and equality. Both scholars and practitioners provide applicable insights into the disciplinary spectrum providing both scientific and artful contributions to the field.

Because little literature exists about the theoretical frameworks for what occurs during mediation, Holaday (2002) proposed that the five stages of adult psychological development theory could be used to better understand mediation behaviors. The five stages are physical, hedonistic, conformist, rational, and integrative, which Holaday (2002) considered to be an accurate perspective for how skilled mediators navigate their work. Putnam (2004) echoed the sentiment of Holaday (2002) that literature related to certain aspects of mediation are scarce. Specifically, Putnam (2004) maintained that transformations are both the process and the outcome of mediation efforts, and conceptually have been widely unexplored in literature. Furthermore, both internal and

external factors exist that foster transformation, and more potential for transformation occurs when conflict is complex and unpredictable.

Interestingly, one research finding suggested that mixed beliefs exist regarding the role of intuition in negotiation (Tsay & Bazerman, 2009). Tsay and Bazerman (2009) maintained that some experts are stronger proponents of the role intuition plays in decision-making, while others said access to information and time are important for the quality of decisions. In other words, those with a scientific approach to mediation will use objective resources such as data and processes to achieve mediation success, which indicates intuition is not a critical necessity to proper mediation outcomes. However, others experts maintained that intuition is an essential, albeit subjective, aspect contributing to mediation success.

Lastly, Kressel (2013) indicated that tactic knowledge, which is often labelled as “mediator ‘styles, mental models, or schemas of practice’,” vary according to the complexity and range used by the mediator (p. 732). In other words, those who used schemas of practice or mental models steeped in tradition with transformative or facilitative mediation frameworks produced similar mediation outcomes to practitioners who stylistically relied on intuition. As such, it was difficult to determine when intuition or mediation framework and processing contributed to mediation outcomes and success. Kressel (2013) proposed that these findings demonstrated a need to further explore more about the catalysts of mediation achievements.

In summary, a common theme among these 12 citations were the traits demonstrated by skilled mediators, such as the ability to be flexible and improvise during mediations. Additionally, at varying levels these researchers indicated that theory

implementation, training, and emotional intelligence augmented the likelihood for mediator success. Nonetheless, these findings did not clarify how mediators practically and tangibly hone these skills and how they should draw upon these artful skills during the aspects of conflict resolution efforts that fall outside of the prescriptive steps of the mediation cycle. Furthermore, these citations did not expand upon how mediators even know when they are in the moments that are not part of the prescriptive steps, and they should therefore rely on the flexibility and improvisation skills these researchers deem necessary for best outcomes.

Due to the lack of information surrounding the concept of unscripted and undefined aspects of mediation and the limited information about the ways mediators identify and elicit enhanced capacity, the research design and methodology was important to consider. The demonstration of the appearance of the novel nature of this subject matter suggested the benefits of an exploratory perspective in designing the research plan.

Qualitative Research and Transcendental Phenomenology

The decisions surrounding research methodologies can be difficult because the variety of options offer different benefits to the research endeavors. It requires careful deliberation to decide what the core objectives are for the study as it is not practical to broadly spearhead. Therefore, upon weighing the risks and rewards of the choices available and after contemplating the intentions of this research project, it became apparent that a qualitative research design was most advantageous to the project. Steeped in the social sciences, qualitative research provides a framework for revealing and narrating the investigative findings in a way that experimental designs do not (Bradbury-

Jones, Taylor, & Herber, 2014). For instance, the researcher of qualitative work becomes “the instrument through which persons speak,” which was a philosophical footing for this research (Florczak, 2017, p. 296). Additionally, qualitative methods help answer ‘what’ questions when an issue is in the beginning phases of understanding or the topic requires a new perspective, which was another fundamental aspect of this project. Furthermore, qualitative research provides descriptive characteristics not found in quantitative methodologies, which is explained in more subsequent detail.

Because quantitative research is designed around the framework of attempting to predict and control variables, it affords necessary quantifiable data that does enlighten research in a specific and important way due to the casual explanations provided. The detached nature of the data collection provides invaluable evidence regarding calculations and impartial information (Campbell, 2014). However, qualitative research is equally important, because the information gleaned from the approach of qualitative researchers is exploratory in nature. Using open-ended, emerging procedures allows for an interpretative narration of the topic being considered. Qualitative research, although admittedly more subjective in nature, documents subject matter in a rich, descriptive manner that helps validate the experiences and phenomenon being studied through interactive, humanistic, and natural research conditions not found in experimental designs. Gair (2012) suggests that a vital aspect of qualitative research is the ability to share experiences from a perceptive and empathic lens that helps describe the true, lived experiences through insightful interpretations. These accounts create empathy for the phenomenon under consideration which stands to complement and not compete with quantitative methods. Both methodologies give important contributions to inquiry, so the

choice of qualitative design is based on the best fit for the philosophical underpinnings sought for this research.

Since the topic of this specific research project was novel, a qualitative design was well-suited due to the exploratory goals of the study (Campbell, 2014). All five of qualitative approaches available could have provided value to the research efforts. Therefore, the next step was determining which best aligned with the objectives of the investigation. Creswell (2014) suggests considering the research focus, type of research problem, background of the discipline, data collection forms and strategies, and unit of analysis to decide if narrative, phenomenology, grounded theory, ethnography, or case study is the preferred qualitative method to employ. To best understand the topic of capacity enhancement during unscripted aspects of mediation, the phenomenological approach appeared most united with the intentions of the study. Specifically, the goal was to understand the essence of the lived experiences of the mediators regarding the phenomenon of how and why mediators navigate the unscripted parts of mediation that create the ability to elicit enhanced capacity among those involved in conflict management efforts. Because mediation is a philosophical endeavor, phenomenology provided the discipline and history to consider the topic. For example, phenomenological research has been described as an artful process of bringing together words and images to explore the lived-world of participants, which was in keeping with spirit of this project (Groenewald, 2004). To explore this topic through the mindful process of refraining from pre-given assumptions is a core value that aligns with phenomenology and this research endeavor. Additionally, this study aimed to reflect the lived experiences of a small group of practitioners, whereby making it well-suited for a phenomenological lens.

Eliminating the other four qualitative research design methods was based on a variety of factors. For example, while narrative qualitative analysis provides interpretation, it is typically through identifying patterns and chronology (Creswell & Poth, 2018). Grounded theory yields information through coding and matrix-building, and ethnography is steeped in findings that demonstrate how the culture operates. Lastly, case studies are based on a singular circumstance to create generalizations. A textual approach striving for the essence of the mediator's perspective on their own personal experience while conducting his or her work was the operational goal of this study, whereby making phenomenology the design methodology selected. Additionally, collecting data from various mediators provided an overarching spirit of what collective mediators might expect during the unscripted aspects of mediation whereby equipping practitioners with approaches to elicit enhanced capacity among parties.

Because it was important to gather information from more than one experienced mediator, an approach suggested by Groenewald (2004) is to implement a phenomenological research design with participants selected using snowball sampling. One individual, often called the gatekeeper, serves as the person to recommend others for interviewing. These individuals are called key actors or key insiders. The gatekeeper is someone with has the authority to designate additional participants, and therefore they have a unique capacity to steer the research outcomes. Consequently, it is critical that gatekeepers understand the intentions of the study and appreciate that the key actors are those who can adequately provide insights on the lived experience of the phenomenon under consideration so the essence of the topic is conveyed. In doing so, the gestalt and

holistic sense of the phenomenon is captured (Holloway, 1997). This helps accurately portray the meaning behind the research and phenomenon (Crowell, 2013).

Crowell (2013) contends that the meaning derived by phenomenology occurs through the normative questions asked throughout both the contemplation and the actual research of the subject matter. In other words, it is seeking to understand the norm in such a way that the meaning evoked helps create a picture for the standard of success or failure related to the topic at hand. The norm should reflect an authentic depiction of a practical account in which the phenomenon occurs so the research is not just a theoretical philosophy, but also an accountability to practical and applicable philosophy as well. Crowell (2013) further posits that the study of meaning requires a transcendental methodology, because phenomenology should not rely solely on first-person authority as the final reasoning. However, challenges to transcendental phenomenology are founded in the notion that pure epoche is not feasible due to human nature. Therefore, Crowell (2013) presents a more contemporary viewpoint than traditionally provided by Husserl and Heidegger. Instead, it is proposed for the researcher to understand that first-person influence is indeed an influencing factor in phenomenology, but the discipline of bracketing demonstrates intentionality and commitment towards reductionism while not fully eliminating the presence of the researcher, which is both impractical and impossible. This viewpoint towards transcendental phenomenology creates a better understanding of the goal of this form of qualitative research, the merits behind it, and the responses to criticisms of this approach.

Henriques (2014) also echoes the importance of intentionality in phenomenology whereby uniting the perceived subjective and objective components together. When the

“biographical subject, who knows the world and gives attention to its objects,” it “produces the objective meaning through perception” (p. 453). When multiple accounts are brought together these “communities share similar ways of experiencing the objective world through common meaning as culture” (p. 455). By gaining access to individual narratives of the context and then bringing those holistically together, the collective context forms. Intentionality is important, because the researcher creates expectations at various points, so bracketing helps ensure the inquiry is honed in on the participant’s experiences and meanings. This methodology acknowledges the role of the researcher while attempting to describe the collective experience through the process of progressing from the individual level to the social level.

In order to best develop the social understanding of the context and to further strengthen the transcendental phenomenological methodology, a suggested approach is to use multisite analysis (Jenkins, Slemon, Haines-Saah, & Oliffe, 2018). While this methodological philosophy was originally designed for case studies, it has been expanded to other qualitative methodologies due to the transferability and trust-worthiness multi-site analysis creates for the findings. It is argued that single-site efforts often too narrowly contextualize information, and therefore multi-sites provide a social constructivist context absent from singular perspectives. The multi-site approach provides depth of analyses, which increases generalizability through the process of comparing demographics and responses. An inherent weakness of single-site data is the risk of the context inappropriately being applied to larger communities. In doing so, the suggestions and interventions derived from the research might not produce the desired outcomes and changes. In essence, the multi-site approach instills qualitative rigor

“contributing rich context-specific understandings, and maximizing applicability” (p. 1975).

An additional way to contribute to qualitative inquiry rigor is through the practice of triangulation (Carter et al., 2014). Triangulation denotes the use of more than one method or source to better augment the understanding of a phenomenon. This approach is often demonstrated in one of four ways: method, investigator, theory, and data source triangulation. Method triangulation is the use of multiple methods for data collection around a singular phenomenon, such as interviews, field notes, and direct observations (Carter et al., 2014). Investigator triangulation utilizes more than one researcher within the same study to provide multiple observations, whereas theory triangulation uses various theories to construe data (Creswell & Poth, 2018). Lastly, data source triangulation is the process of collecting data from a variety of sources to glean multiple perspectives (Creswell & Creswell, 2018). All four types of triangulation offer depth to research endeavors, and more than one approach can be used within a study.

Because many qualitative researchers decide to study participants through the use of interviews, this is an avenue to which triangulation makes sense to explore (Englander, 2012). Conducting in-depth individual interviews from more than one participant at more than one site provides a framework for conducting phenomenological qualitative research. Notes and observations can augment the interview process if awareness is made with the goal of pursuing reductionist bracketing. Coding software aids this process by using outside metrics to assess data (Sohn, 2017). This software does not necessary interpret the data, as this is the role of the researcher in traditional phenomenology, but it helps assign labels to relevant information produced during

interviews. Known as in vivo coding, this approach helps with both the bracketing and triangulation of the research data. Once considered antithetical to phenomenology, qualitative data analysis software has recently found its place with this research as a guide to help facilitate analysis. It does not replace the necessity of becoming entrenched in the interview texts through familiarization that only comes by rereading texts, but it can serve as a functional method of identifying meaning units within documents. The utilization of coding software and observation notes with the in-depth individual interview techniques at multiple sites provides data and method triangulation that enriches the research.

Significance of Effective Mediation Efforts

To create climates conducive to successful mediation outcomes, practitioners must understand nuances regarding power and prior expectations that shape perceptions (Rong & Yang, 2017). Because these perceptions steer the way participants view the cues around them, creating the environmental context during unscripted moments within mediations is important. Interventive techniques to create neutrality and balance in these sessions must be founded in either behavioral or structural modifications (Rahim & Bonoma, 1979). These modifications can be optimized during the points in the mediation cycle where moments are unscripted and enhancing the capacity of parties would elicit more successful mediation outcomes. Development of awareness, approaches, and philosophies surrounding conflict management strategies to create environments that lay the groundwork for eliciting enhanced capacity among parties should result in more successful mediation outcomes. In turn, improving conflict management curriculum and

other supporting resources by better understanding the variables influencing the unscripted aspects of mediation will help strengthen the profession as a whole.

Creating balanced, neutral environments is an important part of conflict resolution, and therefore becomes the responsibility of the mediator according to Cobb and Rifkin (1991). Mediators have an obligation to pursue neutrality and trust through justice ideology. Neutrality can imply detachment and yet the expectation is that mediators proactively shift through the issues that create imbalances within the relationships they are serving. Using the constructivist philosophy, mediators develop strategies to transform justice, power, and ideological issues within relationships to create environments allowing for the resolution or management of conflict (Cobb & Rifkin, 1991). The unscripted points in the mediation cycle are opportune moments to preemptively address issues surrounding inequities to lay the framework for conducive conflict management environments that allow for avenues to elicit enhanced capacity among parties in conflict.

Furthermore, this need for mediation continues today at a global level, as demonstrated by the world-wide increase in dispute-related issues. For example, the Italian government recently paid litigants 600m due to trial delays, and the backlog of legal cases in India is projected to take until 2330 to clear the docket (McManus & Silverstein, 2011). Additionally, within the United States there was an uptick in certain federal appeals reported between 2018 and 2019 (Federal Judicial Caseload, 2019). For instance, firearm, immigration, and patent appeals rose 5, 6 and 18.6 percent respectively. It is also notable that 9,279 more civil case filings, or an increase of 3 percent, were reported during this same timeframe as well (Federal Judicial Caseload, 2019). These

international and domestic concerns might be addressed through skilled mediation efforts that help empower participants involved in conflict. Additionally, as court systems become more burdened, underfunded, and understaffed, the need for competent, effective, and timely mediation services will continue or even accelerate. Building capacity among mediation participants through the unscripted moments provides credibility and merit for use of conflict management solutions in a variety of settings outside of legal constructs.

Summary

In summary, this literature review assessed the relationship between power and perceptions found in conflict management within the framework of the impact that unscripted aspects of mediation have on eliciting enhanced capacity among parties. Within the context of power, the roles of position, knowledge, and resources were evaluated to better understand power dynamics. Next, the concept of dependency within relationships and the idea of creating power balances was considered. Then, the topic of perceptions and conflict was evaluated, and the literature review moved to neutrality, trust, and expectations as an important facet in the resulting mediation outcomes. The role of leadership theory was then applied to conflict management; next, the paper reviewed intuition, agility, capacity enhancement was explored. Lastly, the growing stress on legal systems was assessed to create an understanding of the growing need for effective conflict management solutions.

Gaps in literature, research, and professional curriculum regarding how and why mediators navigate the unscripted aspects of mediation provide opportunities for exploration to promote both practical implications for mediation services along with

leadership approaches involving conflict management. Additionally, fuller understanding of the capacity enhancement phenomenon promotes the betterment of mediation as a whole, along with increasing awareness to anyone wishing to integrate best practices and philosophies for dealing with all types of conflict scenarios.

CHAPTER THREE: METHODOLOGY

While many aspects of mediation protocol are either standardized or theoretically supported, there is a lack of fully-aligned curriculum regarding the potential impact that unscripted aspects of mediation could have on eliciting capacity from parties during conflict management efforts as found in the literature analyses in chapter two. Furthermore, literature does not adequately cover philosophies on decision-making regarding the way mediators navigate unscripted aspects of mediation. Exploring how experienced, successful mediators use their skills to elicit enhanced capacity among parties would further develop industry knowledge, resources, and training protocol. Additionally, creating awareness and coping strategies regarding the unscripted aspects of conflict management empowers both mediator and participants to achieve heightened potential. The viewpoints from experienced mediators of certified programs could augment conflict management strategies by creating mindfulness about eliciting enhanced capacity from parties during the moments that fall outside of the defined scope of prescribed mediation steps but are crucial to successful outcomes. Moreover, any individual; especially a leader, will benefit by identifying their accountability and responsibility in developing capacity when dealing with situations involving conflict.

The intent of this qualitative study was to describe how experienced mediators navigate the unscripted aspects of mediation to elicit enhanced capacity among parties involved in conflict. Mediators from various disciplines within certified mediation programs across the country were interviewed to explore their views on how they identify and respond to unscripted aspects of mediation to elicit enhanced capacity among parties in conflict.

Research Question

How do experienced practitioners of certified mediation programs elicit enhanced capacity from parties during unscripted aspects of mediation?

Method

Because of the novel nature of the research topic, qualitative methodologies were deemed to be the best fit for the research efforts. By using exploratory assessment tools, the study was designed to gain better understanding of unscripted aspects in mediation affecting capacity enhancement.

Research Design Overview

The methodological approach for this dissertation in practice was qualitative using transcendental phenomenology. Specifically, epoche was applied to consider the perspective of the lived experiences of practicing mediators, and not the researcher's perspectives, about the phenomenon of how experienced mediators elicit enhanced capacity during unscripted aspects of mediation (Creswell & Poth, 2018).

This approach was appropriate because rather than using a narrative from a singular perspective, the lived experiences and insights of practicing mediators provided more holistic insights. Because the researcher is also a practicing mediator, taking an epoche approach helped reduce potential research bias by attempting to set aside personal experiences to capture what the mediators reported to be their involvement with the phenomenon of how experienced mediators elicit enhanced capacity during unscripted aspects of mediation. To capture the essence of these lived experiences, textural and structural descriptions were made from the input offered by the mediators (Creswell & Poth, 2018). Because the opportunity to navigate unscripted moments of mediation exist

for every mediation session, it was a universal topic all tenured practitioners of certified mediation programs were able to fully describe from their experiential vantage point. Additionally, the goal of eliciting enhanced capacity among parties in conflict is a global goal of all mediators regardless of the philosophical mediation style employed. Due to the phenomenology-based research approach, the participants of this study had at least five years or more experience in the field of mediation. This ensured the participants had enough exposure to a variety of mediation contexts to speak about the unscripted moments where a mediator might elicit enhanced capacity among parties. This generalizability and transferability made it well-suited for a phenomenology study.

Limitations to this approach were primarily causality, because this non-experimental method is steeped in a philosophical tradition (Creswell & Poth, 2018). Additionally, whether or not a researcher can entirely bracket oneself from the study is sometimes debated, which made the approach more subjective in nature compared to other methodologies.

Participants

The population for this research was any self-identified mediator within the United States; the sample included 20 practitioners who were part of certified mediation programs within the United States having at least five years of experience in the field of mediation. Across the country 42 of the 50 states have federally recognized and solely designated mediation organizations from which the practitioners were selected (Coalition of Agricultural Mediation Programs, n.d.). The USDA certifies these 42 state organizations as authorized to offer agriculture mediations, although each entity offers mediation services beyond the scope of agriculture (United States Department of

Agriculture, 2018). Because every organization is qualified to offer agriculture mediations and is regulated by the same federal agency, this provided consistency among the 42 state organizations. Conversely, because every organization conducts mediations beyond the scope of agriculture, this provided varied and diverse experiences for the mediators. This helped ensure credibility that the selected practitioners had similar, diverse, and holistic mediation experiences.

The 22 mediators who participated in this study well exceeded the five-year professional tenure threshold established for the study, along with their wide geographic representation from 20 states spread across the United States as shown in Table 3.

Table 3

Demographic Information of Interviewees (in interview order)

Gender	Mediation Cert. Date	Mediation Years	Primary Mediation State	Primary Mediation State	Primary Mediation State	Primary Mediation State
M	1990	16	Vermont	Hawaii	California	New Hampshire
M	1995	15	Iowa			
M	1993	10	Iowa			
F	2001	19	Iowa	Nebraska		
F	2003	15	Virginia	North Carolina	Maine	
M	1997	12	North Carolina	Virginia		
F	2000	16	Wyoming			
F	2010	10	Nebraska	Wyoming		
M	1988	26	Oklahoma			
M	2000	20	Wyoming			
F	1995	25	Hawaii	Oregon		
F	1994	25	Iowa			
F	1999	20	Iowa			
F	2008	12	Massachusetts			
F	2011	10	Illinois			
F	1993	18	Maine	New Hampshire	Massachusetts	
F	2003	21	Washington	Oregon		
M	2002	18	New York	Minnesota		
M	1986	34	Arizona	New Mexico		
M	1977	33	Hawaii	Colorado		

Additionally, the study had balanced representation regarding participant gender, mediation certification dates, and years of experience as demonstrated in Table 4.

Having participants certified over four decades and having a relatively even mix of males and females in the study provided a depth to the participant pool by helping to ensure a broad range of professional experiences and backgrounds were contributed to the interview data.

Table 4

Summary of Interviewee Demographics

Mediation Years	375 years among participants	18.75 years/ participant	10 - 34 years range of experience
Cert. Dates	Four decades of completed certifications	1970s - 1 1980s - 2 1990s - 8 2000s - 9	1977 - 2011 date range of certifications
Gender	11 Females	9 Males	
States	35 total states among participants	2 states/ participant average	22 different states represented

The process of selecting the participants began by identifying the directors associated with each of the USDA certified state programs. The names of the directors were provided by the Coalition of Agriculture Mediation Program directory (Coalition of Agricultural Mediation Programs, n.d.). Through a snowball sampling process, these directors – also known as the gatekeepers – were the catalyst for initial recommendations for whom to interview (Groenewald, 2004). Directors from each of the 42 programs were asked via email by the researcher to select a practitioner whom they deemed to be a competent and successful mediator based on their internal performance measurement constructs. Among the 42 potential practitioners, 20 participants were identified by their

directors for selection into the study. These participants – also known as key actors – were reviewed and determined by the researcher to represent geographic, tenure, and mediation-type diversity. In doing so, an enriched and holistic phenomenological approach was achieved, as demonstrated by the broad demographic background of the 20 experienced practitioners shown in the tables above.

Data Collection

The data from this study was gathered from 20 experienced mediators of federally certified mediation programs using recorded, telephonic interviews and field notes taken during the interviews. Semi-structured, open-ended questions provided responses about how experienced practitioners of certified mediation programs elicit enhanced capacity from parties during unscripted aspects of mediation.

Data Collection Procedures

The research question for this study was novel, and a standardized interview template did not exist. Because the questions generated for the study were new and did not have reported validity or reliability, a pilot interview protocol was conducted prior to the start of data collection. An experienced mediator from Eastern Iowa Mediation Service and from Iowa Mediation Service were interviewed for the pilot. Eastern Iowa Mediation Service was selected because it has constructs similar to the 42 certified mediation programs utilized for this study; Iowa Mediation Service was selected because it is one of the 42 state certified programs. Using two separate organizations allowed for the comparison of responses and any notable discrepancies. Upon completion of the pilot interviews, the test-group provided feedback about the questions to elicit perspectives about whether or not the questions accurately assessed the topic of capacity enhancement

during the unscripted aspects of mediation. After conducting the pilot interviews and receiving participant feedback, it was determined that modifications were not needed to the interview questions or interview protocol as the test-pilot participants understood the intent and operationalization of the terminology and questions used in the study.

Next, recruitment efforts for the study began by identifying state certified programs across the United States. Nationally, 42 of the 50 states have a federally recognized and solely designated mediation organizations for that respective state where the practitioners would be selected (Coalition of Agricultural Mediation Programs, n.d.). The USDA certifies these 42 state organizations as authorized to offer agriculture mediations, although each entity offers mediation services beyond the scope of agriculture (United States Department of Agriculture, 2018). Because every organization is qualified to offer agriculture mediations and is regulated by the same federal agency, this provided consistency among the 42 state organizations. Conversely, because every organization conducts mediations beyond the scope of agriculture, this provided varied and diverse experiences for the mediators. This helped ensure credibility that the selected practitioners had similar, diverse, and holistic mediation experience.

The process of selecting the participants began by identifying the directors associated with each of the USDA certified state programs. The names of the directors were provided by the Coalition of Agriculture Mediation Program (2020) directory, and each director of the 42 programs was asked via email by the researcher to select practitioners whom they deemed to be a competent and successful mediator based on their internal performance measurement constructs. Through this snowball sampling process, they provided initial recommendations for whom to interview (Groenewald,

2004). Among the 42 potential practitioners, 20 participants were identified by their directors for selection into the study. These participants – also known as key actors – were reviewed and determined by the researcher to represent geographic, tenure, and mediation-type diversity. While the initial goal of the research was to identify 12 – 15 participants for the study, a decision was made to include all 20 recommended participants because of the various backgrounds of each participants. In doing so, an enriched and holistic phenomenological approach was achieved.

Upon selecting the participants, research documentation was disseminated to the subjects. Participation in the study required directors to sign a State of Permission from the Director (Appendix A), which was provided to the participants prior to conducting the interviews. Subjects also received the Information Letter to Participants that contained the Bill of Rights (Appendix B). These documents ensured the supervisors of the participants and the subjects were aware of the research intent, terminology, nature of the recorded interviews, and protections under the study.

The primary data source came from personally interviewing 20 experienced mediators of certified programs. With the knowledge of the participants, the researcher conducted the interviews using an internet-based recording company called Recordator that recorded the interviews over a designated internet-streamed phone line. The recorded interviews were stored on the encrypted website until transcription occurred through a separate online qualitative software analysis company, Nvivo. Interviews were scheduled directly with participants over the course of two weeks. No more than three interviews were conducted on any individual day so that interviews could be conducted, recorded, transcribed, and reviewed by the researcher on the same day. The

secondary data source came from field notes that were simultaneously gathered by the researcher to memorialize research observations that might not translate well from transcription materials. The transcribed interviews and field notes were compared for consistency and any discrepancies among the materials were reconciled by listening to the recorded interviews so necessary amendments could be made. The resulting transcribed interviews and field notes were deemed an accurate reflecting of the accounts made by the interview participants.

Data Collection Tools

The primary data source came from personally interviewing 20 experienced mediators of certified programs, and the secondary data source came from field notes gathered simultaneously during the recorded telephonic interviews. The structure of the interview questions was open-ended and the field notes were gathered with an open-framework of documenting general observations made by the researcher. Using open-ended, emerging procedures was appropriate because it allowed for an interpretative narration of the topic being considered. Qualitative research, although admittedly more subjective in nature, documents subject matter in a rich, descriptive manner that helps validate the experiences and phenomenon being studied through interactive, humanistic, and natural research conditions not found in experimental designs. Gair (2012) suggests that a vital aspect of qualitative research is the ability to share experiences from a perceptive and empathic lens that helps describe the true, lived experiences through insightful interpretations. These accounts create empathy to the phenomenon under consideration which stands to complement and not compete with quantitative methods.

Using open-ended interviews and unstructured field note methodologies accomplished the goal of the phenomenological nature of the study.

Because the questions generated for the study were new and did not have reported validity or reliability, a pilot interview protocol was conducted prior to the start of data collection. An experienced mediator from Eastern Iowa Mediation Service and Iowa Mediation Service were interviewed for the pilot. Eastern Iowa Mediation Service was selected because it has constructs similar to the 42 certified mediation programs utilized for this study; Iowa Mediation Service was selected, because it is one of the 42 state certified programs. Using two separate organizations allowed for the comparison of responses and any notable discrepancies. Upon completion of the pilot interviews, the test-group provided feedback about the questions to elicit perspectives about whether or not the questions accurately assessed the topic of capacity enhancement during the unscripted aspects of mediation. After conducting the pilot interviews and receiving participant feedback, it was determined that modifications were not needed to the interview questions or interview protocol as the test-pilot participants understood the intent and operationalization of the terminology and questions used in the study.

Semi-structured and open-ended questions were asked of participants after they had been apprised of the nature and topic of the research (Appendix C). The participants were presented four questions suggested by Moustakas (1994) for phenomenological research:

1. Describe the practices or skills you use during the unscripted aspects of mediation.
2. How do you elicit capacity in and among parties?

3. What is the relationship between the unscripted parts of mediation and your effectiveness in eliciting enhanced capacity in and among the parties?
4. What contexts or situations have influenced your experience or perspective regarding the unscripted aspects of mediation? What contexts or situations have influenced your experience or perspective with eliciting capacity among parties?

The following three questions were used as supplemental questions, depending on the breadth of information provided by the interviewees in the initial four traditional phenomenological questions:

5. How do you assess the unscripted aspects that develop during mediations to determine the practices or skills you will utilize?
6. Describe a mediation case reflecting how you elicited capacity from parties during unscripted aspects/moments in the mediation.
7. What else would you like to share about your viewpoints on the unscripted aspects of mediation and capacity as it relates to your experiences as a mediator?

With the knowledge of the participants, the researcher conducted the interviews using an internet-based recording company called Recordator that recorded the interviews over a designated phone line. The recorded interviews were stored on the encrypted website until transcription occurred through a separate online qualitative software analysis company, Nvivo. Using recording, transcription, and qualitative analysis software contributed to the intention of triangulated researcher to ensure bracketing of the researcher from the study so the lived experiences of the participants was the primary focus (Creswell & Poth, 2018).

Data Analysis

The interviews were conducted over the course of two weeks in March 2020, and no more than three interviews occurred on any individual day whereby ensuring that analysis of the interviews and field notes occurred on the same day. This timely analysis helped with comparing and contrasting the transcribed interviews and the field notes to the recorded interviews. The researcher conducted the interviews using an internet-based recording company called Recordator that recorded the interviews over a designated internet-streamed phone line. The interviews ranged from 31 to 65 minutes in length, and they were stored on the encrypted website until transcription occurred through a separate online qualitative software analysis company, Nvivo. The transcribed interviews and field notes were converted to Word documents for analysis through hand coding by the researcher. The Word documents of the interviews were further analyzed with the qualitative analysis software, Nvivo.

Methodological Integrity

To begin the analyzing process, the researcher read and reviewed all interview responses entirely before beginning any coding. The goal of the initial review was to gain a holistic perspective on the information provided by the respondents to determine conceptual and operational definitions and ideas as presented from the perspective of the participants as mediation practitioners. The interviews were read a second time under the lens of finding key-words-in-context (KWIC) where the goal was connecting the identified key words to their context in order to provide a framework for understanding the intent of the respondent. This strategy was utilized as the field of mediation uses a variety of terms to describe similar concepts, so using the KWIC model helped winnow

down the terms to a handful of ideas that captured the overall conceptualization and operationalization of terms provided by the mediators (Creswell and Creswell, 2018). Upon completion of the general KWIC exercise, statistical coding software was used to analyze the data.

Nvivo was selected as the coding software to both transcribe and analyze the interview data. This program was utilized due to its rigorous capability at chunking, organizing, and coding large contents of verbal data. The coding method applied was Concept Coding, as it considers the thoughts behind research rather than the directly observable or tangible aspects of research (Saldana, 2016). Since mediating is a philosophical endeavor as much as it is a literal process, using Concept Coding served to highlight the conceptual ideas that were the primary focus of this study. Furthermore, because this research was phenomenologically based, the notes taken during each interview were compared and contrasted to the findings presented through Nvivo (Appendix D).

The intended goal for using Concept Coding in this study was to highlight the conceptual ideas that best revealed the essence of the mediators' experiences during unscripted aspects of mediation where mediators elicited enhanced capacity from parties. Concept Coding assigns macro levels of meaning to information by acknowledging the concept that symbolically represents a suggested meaning beyond the singular item. In other words, it creates a "bigger picture" beyond merely the apparent or literal (p. 119). For example, the mediation agreement is the literal item and 'consensus framework' is the concept. The mediation agreement can be physically seen and touched, whereas the 'consensus framework' is both a process and an outcome. To create conceptual

information, analytic lumping was applied. Saldana (2016) considers this method appropriate when there is a focus on theory development and when the researcher wishes to study abstract contexts. Concept Coding is viewed as a transcendental application, because it seeks to move beyond the particulars of the study to more generalized utilization. The analyst serves an identifier of the data that evokes comprehensive meaning. For these reasons, it was an ideal framework for this phenomenological research.

Because this research was phenomenologically based, the notes taken during each interview were used to gauge common threads thereby capturing the essence of the mediators' perspectives (Sohn, 2017). This triangulated approach created credibility with the reliability and validity of the transcendental phenomenological methodology of this research. In summary, the data collection framework helped assure the following components were achieved: proper bracketing, development of textural descriptions, effective movement to structural descriptions, and conjoining the information together to present the essence of the lived experience (Creswell & Poth, 2018). The compilation of interviews analyzed resulted in seven thematic areas: Unscripted Actions, Unscripted Beliefs, Capacity Actions, Capacity Beliefs, Mediator Imagery, Mediator Background, and Mediator Motivation. At the root of transcendental phenomenology is studying the lived experiences of others to better understand the essence of the topic from a practical and real lens, and the analytical methodology of this research accomplished this (Sohn, 2017).

Ethical Considerations

The merits of all research hinge on the pursuit of methodological integrity and ethics. A primary marker of these efforts was demonstrated through the IRB review

process. IRB approval was granted for this research project within the exempt category, further demonstrating the minimal potential risks of the study (Appendix E).

Participation in the study required directors to sign a State of Permission from the Director (Appendix A), which was provided to the participants prior to conducting the interviews. Subjects also received the Information Letter to Participants that contained the Bill of Rights (Appendix B). These documents ensured the supervisors of the participants and the subjects were aware of the research intent, terminology, nature of the recorded interviews, and protections under the study.

While there are no obvious ethical concerns related to this research, the participants were encouraged to express any concerns they noted in the interview introductory statement. Additionally, participants were promised confidentiality with their interview responses. Confidentiality was highlighted to participants by disclosing that 20 participants among 42 certified mediation organizations were to be interviewed and the identities of these participants would not be disclosed. Because similar certified mediation programs were used, it also provided greater likelihood for anonymity. While anonymity could not be guaranteed, the format of the interviews and the similar nature of the certified mediation programs helped create a uniformity in interview environments making it more difficult to ascertain who the interview participants were for the research. Additionally, any identity revealing information disclosed during the interviews were removed in the data analysis process.

Potential researcher bias was accounted for by conducting trial interviews using two third-party editors who were experienced mediators at Mediation Services of Eastern Iowa and Iowa Mediation Service. Additionally, utilizing a recording software company,

Recordator, and a software transcription and coding system, Nvivo, to analyze the interview responses also created a checks-and-balances to diminish potential research bias.

The research format complied with the principles of ethical conduct: 1. Respect for participants, 2. Beneficence; 3. Justice (Roberts & Hyatt, 2019). The subjects were voluntarily participants, and prior to starting the interview process they received the Information Letter to Participants that contained the Bill of Rights discussing the protection of privacy and confidentiality and the permission to withdraw from the study anytime at will. Additionally, this study was not conducted with vulnerable people and those participating in the study stand to benefit from the research findings. In summary, the research design had minimal risks and addressed potential bias whereby ensuring any potential pitfalls were outweighed by benefits.

Summary

This Dissertation in Practice research was conducted using a transcendental phenomenological framework achieved through telephone-based, recorded interviews with so experienced practitioners from certified mediation programs. The interviewees were asked four semi-structured, open-ended questions about the unscripted aspects of mediation and their efforts to elicit enhanced capacity among parties. Three optional follow-up questions were asked when more information was warranted. Ethical considerations and potential limitations were proactively addressed using a variety of accountability techniques. Using Concept Coding derived from hand coding and Nvivo software, the essence of the topic was gathered using a triangulated approach in the spirit of transcendental phenomenology with seven conceptual themes that emerged:

Unscripted Actions, Unscripted Beliefs, Capacity Actions, Capacity Beliefs, Mediator Imagery, Mediator Background, and Mediator Motivation.

The next chapter provides the feedback from mediators about the identified themes derived from their lived experiences on how they navigate the unscripted aspects of mediation that impact their efforts at eliciting enhanced capacity among parties whereby augmenting conflict management outcomes. These themes will serve as benchmarks for curriculum development and future research endeavors across the general field of conflict management, so presenting the findings in ways that transcend just mediation to apply to conflict management from a more holistic and generalized lens is the intention.

CHAPTER FOUR: RESULTS AND FINDINGS

The intent of this qualitative study was to describe how experienced mediators navigate the unscripted aspects of mediation to elicit enhanced capacity among parties involved in conflict. To contextualize the interdependent relationship between capacity and conflict, an understanding about the creation of environments that are conducive for positive mediation outcomes was important. As such, the resulting research question for this study was: How do experienced practitioners of certified mediation programs elicit enhanced capacity from parties during unscripted aspects of mediation?

Twenty experienced mediators from various disciplines within certified mediation programs across the country were interviewed to explore their views on how they identify and respond to unscripted aspects of mediation to elicit enhanced capacity among parties in conflict. Recorded, telephonic interviews and field notes taken during the interviews were the methods used to formulate the results. Semi-structured, open-ended questions provided responses about how experienced practitioners of certified mediation programs elicit enhanced capacity from parties during unscripted aspects of mediation. Using these flexible, emerging procedures was appropriate because it allowed for an interpretative narration of the topic being considered, which was in keeping with the transcendental, phenomenological methodology employed in this study.

The coding method applied was Concept Coding, as it considers the thoughts behind research rather than the directly observable or tangible aspects of research (Saldana, 2016). Since mediating is more than a literal system of processes and procedures using Concept Coding served to highlight the conceptual ideas that were the primary focus of this study. The compilation of interviews analyzed resulted in the

discovery of seven thematic areas: Unscripted Actions, Unscripted Beliefs, Capacity Actions, Capacity Beliefs, Mediator Imagery, Mediator Background, and Mediator Inspiration. The following sections provides a presentation of the findings for each of the seven thematic areas identified through the research endeavors.

Results and Findings

The interviews were conducted over the course of two weeks in March 2020, and no more than three interviews occurred on any individual day. This ensured that an initial, comprehensive analysis of the interviews and field notes occurred on the same day as the interviews. On average, the interviews were 45.7 minutes in length with a range from 31 to 65 minutes. Upon completion of the 20 interviews, a total of 914 recorded minutes were transcribed into written format for analysis. Nvivo was selected as the coding software to both transcribe and analyze the interview data. This program was utilized due to its rigorous capability at chunking, organizing, and coding large contents of verbal data. Along with the coding software, the notes taken during each interview were compared and contrasted to the findings presented through Nvivo. The goal was connecting words to context in order to provide a framework for understanding the intent of the respondent. Seven thematic areas emerged after careful analysis: Unscripted Actions, Unscripted Beliefs, Capacity Actions, Capacity Beliefs, Mediator Imagery, Mediator Background, and Mediator Motivation.

Mediator Language

The transcribed interviews were assessed in two ways: by key word and by grouped words, which were categorized by combining key words with stems and synonyms and generalized words associated with the key words. The key words of the

study were retrieved through Nvivo using a word count finder organizing words based on volume of use in the interviews. Derivatives of the words were added to the key words for ease of readability; words that did not add meaning to the construct were removed. The top fifteen key words used by the interviewees were think, want, time, feel, need, talk, agreement, believe, different, questions, help, process, experience, trying, and life as shown in Table 5.

While not used to the degree of frequency as the top key words, Table 6 provides a listing of notable key words used at least 50 or more times by participants that provided insights into their mediation conceptualizations, where the five most frequently used notable words were understand, room, heard, background and power.

To broaden the findings, the key words were compiled with their stems and synonyms, as demonstrated in Table 7. The top five concepts resulted: think, know, see, just, and work. Then, the words were categorized at the broadest level and resulted in five overall generalized words: change, think, make, act, and active.

Table 7

Broader Conceptualized Key Word Count (in order of frequency)

Key Words with Stems and Synonyms	Word Count	Generalized Words	Word Count
Think	32458	Change	19932
Know	4568	Think	12058
See	3078	Make	11562
Just	2944	Act	11165
Work	2346	Active	10470
Make	2184	Move	10068
Feel	2026	See	9512
Want	1650	Communication	9331
Way	1442	Know	8076
Need	1432	Tell	7266
Talk	1158	Concepts	6940
Questions	882	Talk	4226
Trying	868	Right	4060
Help	746	Want	3954
Time	692	Questions	1996

The word count assessment revealed the dynamic, emotive, and participatory elements that mediators consider important to the unscripted and capacity components of mediation. While there are technical, scripted, and formal parts of mediation, the

interviewees focused on the philosophical and nuanced actions that help elicit capacity among mediation parties during the unscripted aspects of mediation. Therefore, the unscripted actions, unscripted beliefs, capacity actions, and capacity beliefs were further evaluated.

Unscripted Actions and Beliefs; Capacity Actions and Beliefs of Mediators

Concept coding from the interview transcripts and field notes revealed that these mediators tended to describe their actions and their beliefs when asked about the unscripted aspects of mediation and the impact on eliciting capacity. The subjects conjoined behaviors and philosophies to define their approach to conflict management strategies. Specifically, the overarching perspective of these mediators was that a hybrid, and non-dual, lens on unscripted and capacity behaviors and philosophies creates better conflict management strategies. Further, the actions described by these mediators were informed by their beliefs so a marriage of the two (actions and beliefs) was routinely encouraged by the subjects of the interviews. The participants indicated that enhancing capacity was dependent upon the unscripted aspects of mediation, so this was evaluated first. The stated hallmarks of the unscripted actions were the observations of literal and metaphysical components, which is achieved through an incremental retrieval process and active listening. The participants indicated beliefs that the ability to achieve these actions is through both innate temperament and ability to move through the mediation process using forecasting.

Table 8 provides samples of interview quotes from participants that generated the four codes associated with the unscripted aspects in mediation: literal observations, metaphysical observations, balanced listening, and gradated elicitation.

Table 8*Identified Codes Associated with Unscripted Actions in Mediation*

Unscripted Actions	Quotes
<u>Literal Observations</u> Mindfully studying concrete elements, especially interactions and physical components, throughout the entire session	“Notice postures when people first come in.” [Interview 5] “You need to compare the first half of the session to the second half of the session to determine what differences have occurred. Consider how parties sit at the table.” [7] “Notice their postures. Observe reactions.” [8] “Look for physical gestures. Listen to voices.” [10] “Watch their eye contact. Watch faces.” [13] “See if they lean in or away from parties.” [14] Observe their faces, jaws, and arms for tension or relaxation.” [16]
<u>Metaphysical Observations</u> Mindfully studying abstract elements, especially the essence and energy projected, through nuanced awareness	“Consider the vibe...Feel for fear, sadness, and anger. Read the signs they project.” [Interview 5] “Feel for inequalities. Observe disengagements.” [6] “Look for what isn't being said.” [8] “Sense if parties are dancing around each other.” [10] “Pay attention to signals.” [14]
<u>Balanced Listening</u> Unified conjoining of the actual communication and the sublevel semantics for intended messages	“Listen for uneasiness.” [Interview 3] “Listen to the subtle linguistics used...and also hear the frequency of words repeated...notice if answers get shorter or repetitive.” [4] “Listen for the length of response to open-ended questions.” [7] “Pay attention to their choice of words.” [8] “Listen for tensions, emotions, and energy.” [12] “Actively listen with curiosity.” [16]
<u>Gradated Elicitation</u> Incrementally drawing out both the transactional and emotive components	“Try to push and prod a little bit.” [Interview 1] “Press far enough.” [4] “Know when to draw people out...Know when to shut your mouth. Encourage participants.” [6] “Dig down deep enough.” [9] “Push the parties a bit.” [11] “Tease out emotions a little bit.” [14] “Pull people out. Check in with parties along the way.” [15]

The sample participant quotes displayed in Table 9 showed the unscripted beliefs in mediation, which resulted in two codes: intuitive, instinctive movement and anticipatory mapping. In essence, experienced mediators believed agile, fluid decision-

making steeped in the ability to anticipate future direction was paramount to success during the unscripted aspects of mediation.

Table 9

Identified Codes Associated with Unscripted Beliefs in Mediation

Unscripted Beliefs	Quotes
<u>Intuitive, Instinctive Movement</u> Natural traits and characteristics equip and guide successful conflict intervenors	"...Be able to find what sits below the surface." [Interview 2] "Rely on an internal place that not everyone can do. Use instinct. Lean on intuition." [4] "It is a process in humanity. Pick up the essence." [6] "Use our energy to balance the energy from parties. Intuition and not just left-brained analysis is important." [13] "There is a finesse to mediation..." [14] "A lot of the gut is innate. Energy is nuanced." [15] "Heart is required. Use intuition and feel..." [19]
<u>Anticipatory Mapping</u> Preemptive ability to make calculated yet flexible predictions helps formulate strategy	"Be fluid....Go with the flow." [Interview 1] "Don't be consumed by form." [8] "Thinking ahead; where is it going?" [9] "Have a formula so you can act with clarity." [12] "Know how to get out of the way." [13] "Scattershot approach of trying to find connections." [16] "Use bumpers and guardrails so it is a flexible structure without a free-for-all." [18]

In addition to the unscripted aspects of mediation, the concept of capacity was a fundamental finding of the research. The stated features of capacity actions resulted in the identification of four codes. Table 10 provides the sample of participant quotes that supported the identification of these codes: threat mitigation, mindful inquiries, interactive reframing, and deliberate evolutionary process. Holistically, the sentiments of the participants regarding capacity were focused on the importance of actions related to the mitigation of threats to parties and using careful inquiry and reframing to create a conflict management platform that develops incrementally. A layered-approach to capacity was a reoccurring theme from the experienced mediators where they discussed the importance of a phased building approach to successful mediations.

Table 10*Identified Codes Associated with Capacity Actions in Mediation*

Capacity Actions	Quotes
<p><u>Threat Mitigation</u> Removing or addressing environmental, emotional, or physical obstacles</p>	<p>“Physically and emotionally protect parties.” [Interview 2] “Speak in simple English. Be a buffer.” [5] “Stay away from adversarial topics that aren’t relevant to the situation at hand.” [6] “Know who the stakeholders are.” [8] “Deal with imbalances that are brought up.” [9] “Assess the balance of power. Consider what basic needs are being threatened.” [11] “Avoid using acronyms. Clear communication.” [13] “Understand red-flags specific to the situation.” [19]</p>
<p><u>Mindful Inquiries</u> Balanced exploration primarily using open-ended questions whereby story-telling occurs</p>	<p>“Ask open-ended questions.” [Interview 1] “Frame questions openly and strategically.” [3] “Ask the questions they don't know how to ask themselves.” [4] “Keep the conversation flowing.” [5] “Share their story....have their points heard.” [6] “Use various and different questions. Use closed-ended questions to move parties forward.” [7] “Ask questions about their sense of self.” [11] “Use follow-up questions.” [12]</p>
<p><u>Interactive Reframing</u> Restatement of goals, feelings, responsibilities, and decisions to provide illuminating pivot-points</p>	<p>“Must reframe...” [Interview 3] “Bring them back to the reason they entered mediation.” [5] “Understand options available...Develop list of options.” [7] “Point out the issues related to interests.” [8] “List every item to create something to work from.” [9] “Repeat their words.” [11] “Summarizing back.” [14] “Recap and reframe key points. Use party language.” [18]</p>
<p><u>Deliberate Evolutionary Process</u> Interweaving pre-mediation practices, use of caucuses, and party participation at the table to ensure self-driven outcomes</p>	<p>“Get the right people at the table.” [Interview 1] “Use caucus to see if they share private needs.” [3] “Remind them of their goals. Bring them back to the reason they entered mediation. Keep conversations flowing.” [5] “Use caucus if people get stuck. Ask parties, and not their attorneys to speak. Use small agreements to create bigger agreements.” [9] “Use caucus to address negative energy.” [15] “Parties start to vocalize responsibility.” [17] “Language that reveals more clarity about what is important to them. Their solutions do not need to perfect.” [18]</p>

Another area revealed by these experienced mediators was related to capacity beliefs, where participants indicated the importance of having the mediation parties as the central focus and tenant of the process. These mediators indicated that self-driven decisions provide the foundation for capacity. As a result, Table 11 shows the three capacity belief codes that were extrapolated from the interviews: self-directed, sustainable outcomes, reciprocal hearing cycle, and informed empowerment.

Table 11*Identified Codes Associated with Capacity Beliefs in Mediation*

Capacity Beliefs	Quotes
<u>Self-directed, Sustainable Outcomes</u> Decisions rendered have practical, long-term elements that solely belong to the parties	“Reach an agreement that is mutually acceptable, lasting and durable, and anticipates foreseeable circumstances.” [Interview 1] “Fair but workable plans. The outcome is truly theirs.” [2] “Consider the longevity of the agreement.” [4] “Success is based on ongoing relationships.” [8] “Get them to think and act better in the long-haul.” [9] “Durable, lasting, and satisfied mediations come through transformations. Listen for consistencies.” [11] “Attitudinal shifts provide self-driven capacity.” [18] “Short-term changes without knowledge is bound for failure.” [20]
<u>Reciprocal Hearing Cycle</u> Mutual voicing and acknowledging of needs and points of interest	“Success is measured if they feel heard.” [Interview 5] “There is an acknowledgment of the other side’s perspective [7] “Have people truly hear each other.” [9] “Validate the parties. How is their sense of self affecting this?” [11] “Listen to the what of what they're saying. Ask parties to express themselves. People need to feel heard to feel respected.” [12] “If someone is repeating themselves, they don't feel heard.” [14] “Every conflict is a bid to be heard.” [16]
<u>Informed Empowerment</u> Clarity allows for authorizing choices that stem from tangible and emotional recognition	“Help them understand what is at the center of the dispute and what are the tentacles involved. Job of the mediator is not to determine the truth. It is their truth.” [Interview 4] “Success is measured if they feel heard. They walk away knowing their responsibilities.” [5] “Have their points heard so they can follow their justice.” [6] “Empowered to make their own decisions. List out options.” [7] “Consider the real nub of the issues that affect interests.” [8] “Informed, self-determination...They are the experts.” [12] “Information is an important part of productive conversation.” [14]

Connections between Emotion and Mediation

Throughout the course of the interviews, all of the participants conveyed language associated with emotions as evidenced in Table 12. Although not asked to explicitly describe mediations with emotion-based terminology, each participant shared adjectives and descriptions they believed made mediation successful in terms of the unscripted aspects of conflict management that help elicit capacity. The term “understanding” was used by every subject at some point in the interview to describe the importance and value of mediation services. Other terms used with a large degree of frequency were trust, connection, empower, and empathy. The common use of emotive-language suggested that the unscripted aspects of mediation are an essential component to successful conflict management efforts to enhance capacity among disputing parties.

Table 12

Mediator Emotions Associated with Mediation (in alphabetical order)

Emotion	Mediator use of the terminology
Calm	3, 8, 9, 18
Care	2, 3, 13, 17
Cohesion	8
Comfortable	1, 14, 15, 16, 18
Compassion	6
Concern	17
Confidence	12
Connection	1, 6, 12, 14, 16, 17, 18
Creative	4
Empathy	1, 5, 14, 16, 17, 18
Empower	2, 7, 12, 14, 15, 16, 17
Fairness	9
Grace	6
Honesty	9, 12
Hope	4, 14, 18
Humble	6
Kindness	6
Mercy	6
Recognition	12
Respect	8, 12, 13, 16, 20
Transform	7, 11, 13
Transparency	3
Trust	1, 8, 9, 11, 14, 16, 17, 18, 20
Understanding	1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20

Mediator Imagery

Beyond the emotion-based terminology expressed by the participants, 16 of the 20 mediators provided imageries, or interpreted sayings, that guide their mediation approach and philosophy. These imagery statements were provided without elicitation from the interview questions, which demonstrated that these experienced mediators had formulated their guiding principles from some previous source. Eighteen overarching themes that conceptualized these imageries were identified: Outdoors, music, travel, theatre, architecture, art, games, food, medicine, weddings, school, sports, animals, dance, technology, clothing, real-estate, and dating. These imageries were primarily shared when subjects attempted to describe how they navigate the unscripted aspects of mediation. These imagery-based phrases, as shown in Table 13, helped provide the framework for describing the unscripted aspects of mediation that proved difficult for participants to otherwise provide with exacting clarity or verbiage; these expressions were used to conceptualize and describe the nebulous nature of their conflict philosophies.

Table 13

Mediator Imagery (in interview order)

Theme	Imagery Concepts given by the Mediators (paraphrased by the researcher)
Outdoors Music Travel Theatre	<ul style="list-style-type: none"> - It's like gardening where we need to plant seeds. - Treat mediation like jazz – improvisation. - Go where the road takes you. Sometimes it will lead to a dead end and other times you find the best path. - Mediators are directors in a play that has some improvisation.
Theatre Architecture Art	<ul style="list-style-type: none"> - Set the stage. - Build your own dream; build your own future. - People will be colorful and sometimes color outside the lines.
Games	<ul style="list-style-type: none"> - People are like puzzles; we are tasked with figuring out the pieces.
Architecture	<ul style="list-style-type: none"> - We are the bridge.
Food Medicine	<ul style="list-style-type: none"> - It's like cooking from scratch. It's never exactly the same recipe. - Not everything fits into a mold. - It's like going to the doctor's office with a rash. You know there is a rash. You don't need to be told there is a rash. - You need options to treat the rash and prevent it from returning.
Art	<ul style="list-style-type: none"> -It's an art and it's an activity. -Know your medium. Are you working with charcoal, watercolors, canvas, wood, or metal? -We are crafting when we mediate.
Weddings School Architecture	<ul style="list-style-type: none"> -It's like a wedding where the orientation is the dress-rehearsal and the mediation is the recital. -Dealing with conflict during mediation is like the rules on the kindergarten board. -Build a bridge.
Sports	<ul style="list-style-type: none"> - Follow the Wayne Gretzky model of not skating to where the puck is but where the puck is going to be. - Be a poker player so you are unflappable and keep up with the cards played.
Animals	<ul style="list-style-type: none"> - People are like animals who want their basic needs met.
School Games	<ul style="list-style-type: none"> - Conflict ground rules are like the rules that kids use on playgrounds. - It's a game of connect-the-dots.
Games Animals	<ul style="list-style-type: none"> - It is the game of Twenty Questions. - Be the chameleon in the room.
School	<ul style="list-style-type: none"> - Mediation is like teaching and we are essentially tutors.
Animals	<ul style="list-style-type: none"> - Not my circus; Not my monkeys is the guiding principle of mediation.
Dance Food Technology Clothing	<ul style="list-style-type: none"> - It's like a dance; it's like the waltz. One person makes a move and the other person makes a counter move. - It's like an onion with many layers. - There are a bunch of wires going out, and you're trying to see which ones make the electrical connection with the other person. - Ask people to take their mask off to show they are human.
Real Estate Dating Outdoors Travel Sports	<ul style="list-style-type: none"> - It's like real estate: Buyer's remorse; change in ownership; exhaustion from all the options. A lot of time is spent looking for houses, and once the decision is made the options are no longer there. - Conflict is like dating. There is a back-and-forth and it's often hard to imagine the break-up and a life without it. - There will be a different landscape if conflict is settled. - Mediation explores pathways where different courses are discovered. - Conflict is like boxing. There are the elements of fighting, intensity, politeness. Eventually the gloves are taken down or put away.
Music School Technology Sports Clothing	<ul style="list-style-type: none"> - Mediation is like music where there is a need for command of the basic scales. Then you move to the variation. - It's like learning math where basic algorithms are used and then you move to other formulas. - Mediation is like jazz where there is tremendous room for improvisation and variance within set tolerances and boundaries. - Like jazz, there is a general sequence, solos, and playing together in mediation. - Dealing with conflict is like an accordion that moves in and out flexibly. - It's like a soap opera where the program is full of surprises and the best and worst of human drama. - It's the Wizard of Oz with no markers on the road or a perfect fork in the road. The yellow brick road might have broken stones, missing stones, demons, flying monkeys causing problems. It isn't a clean road. - Mediation is like asking a professional baseball player how they throw 100mph. They can explain some parts and others just happen. Some layers are based on knowledge, thinking and experience. Other parts operate below the conscious level. - Conflict is like getting dressed. There are many options for clothing, colors and styles.

Mediator Backgrounds

Upon questioning the mediators about how their conflict management style was developed, all 20 mediators pointed to something in their background or past that shaped their mediation lens. Several of the participants initially stated that nothing from their history shaped their mediation philosophy, and yet every mediator eventually described an influencing aspect from their background at some point in the interview. Table 14a and 14b demonstrate the six overarching categories that were identified: difficult personal history, prior professional experience, formal education, mediation preference, family dynamics, and personal values.

Table 14a

Mediator Background Influencing Mediation Approach

Experience	Mediator	Examples
Difficult Personal History	1, 3, 5, 6, 8, 9, 11, 12, 13, 14, 16, 17, 18, 19	Hard childhood Unemployed Reflect on my own worries Fighting parents School trauma Abusive parent Bankruptcy
Prior Professional Experience	2, 3, 4, 5, 6, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20	Social Worker Farmer Teacher Lawyer Government Official Mental Health Counselor Minister Military Writer Biologist Human Resources
Formal Education	2, 4, 6, 8, 9, 11, 12, 13, 14, 15, 16, 17, 19, 20	Undergraduate Degree Master's Degree Law Degree MBA Doctorate

Table 14b*Mediator Background Influencing Mediation Approach (continued)*

Experience	Mediator	Examples
Mediation Preference	1, 2, 3, 12, 16, 17, 20	Linear processor Transactional mediator Transformative mediator Facilitative mediator Avoids divorce cases Deals with finance cases Peace-keeping approach
Family Dynamics	2, 5, 7, 8, 9, 10, 12, 13, 14, 15, 16, 17, 18, 19, 20	Parent Divorced Siblings Married Immigrant household Adoption Foster Care
Personal Values	6, 7, 8, 9, 12, 13, 14, 15, 19, 20	Christianity Volunteer Catholic Asian Influences Geographic culture

Mediator Motivation

Field notes from the study revealed that most of the participants indicated a sort of passion that drives their mediator motivation. Beyond formal higher education and conflict management training programs, most of the participants indicated that their ability to deal with the unscripted aspects of mediation and ability to help elicit enhanced capacity from parties comes from an innate ability, an internally created compass from past experiences, and a core value and energy about the usefulness of mediation. Beyond a career, many of the subjects described mediation as a calling. This was revealed by examples of the following quotes:

- “It is important to believe in your heart, brain, and soul that mediation is a better way to settle disputes.”

- “This is my life’s calling.”
- “This is my calling based on my faith and beliefs.”
- “I am a true proponent of this.”
- “This is what I was bred to do.”
- “I can’t imagine doing anything else with my life.”
- “There is a magic to mediation. I truly love it.”
- “I just believe in what mediation is all about. I love it.”
- “I’m jazzed by it. I’m stimulated by the work. I love it.”

The majority of the mediators interviewed indicated that skills can be taught through training programs, but much of mediation success comes from a blend of instinctive temperament and motivation stemming from the passion for the practice of mediation. Every mediator indicated that the temperamental and motivational fit can not be universally prescribed, as the combination of these factors are unique to each mediator and must be capitalized upon according to the best integration for each practitioner.

Discussion

While there are varying approaches to mediation, the general consensus of modern mediation theory is to humanize the mediation process by using person-centered techniques that create environments ripe for constructive dialogue whereby conflicting parties will voluntarily negotiate their issues and create their own constructive action plans and outcomes (Lewis & Umbreit, 2015). This was supported by the qualitative assessment of interviews provided by 20 experienced mediators who echoed similar beliefs and philosophies that drive their conflict management practices.

Mediation is based on decision-making from practitioners who guide processes and parties who decide outcomes. Because people shape their decision-making based on expectations, and these expectations stem from perceptions involving prior experience, it is important to recognize these variables with the unscripted aspects of mediation and capacity enhancement (Valle & Frieze, 1976). If a goal of mediation is to have parties

voluntarily vested in the process and empowered to achieve self-driven outcomes, then these participants need to have positive expectations of the process. Trust in mediation is a critical component to ensuring potentially positive conflict resolution outcomes (Druckman & Wall, 2017). This concept was consistently confirmed by the statements made by the subjects throughout the interviews.

Commonalities were also found regarding the unscripted aspects of mediation, where mediators stated the importance of using intuition as an inferential tool that unconsciously recognizes patterns, feelings, and knowledge in an expeditious way that relies on developed instinct (Williams, 2012). While the subjects did not specifically use the term “agility” to describe their instinctive actions, the findings support that it is an essential component of enhancing capacity through unscripted moments. Agility, in this context, is movement based on situation-action matching and context-bound steering that is demonstrated in naturalistic decision making (Lipshitz, Klein, Orasanu, & Salas, 2001). Additionally, previous research states that capacity enhancement acknowledges gaps in values, desires, and rights are best addressed through reciprocity rather than submission (Ackermann, Fleib, & Murphy, 2016; Duddy, 2017). Field notes and interview records demonstrated that this was philosophically supported by these experienced mediators.

The literature and research previously established was supported by the phenomenological study of experienced mediators in this study. None of the practitioners debated the importance of the informal aspects of mediation efforts that help drive collaborative outcomes, which is considered the measure of conflict management success. The novel part of this research was the revelation that mediator emotive connections, background, imagery, and motivation were strongly associated with the

unscripted aspects of mediation that impact capacity enhancement. Furthermore, these elements were often subconsciously developed but had substantial associations with the actions and beliefs uniquely utilized by each mediator. Because of the qualitative nature of this study, further and enlarged research would benefit the exploration of this discovery to determine if there are casual relationships between these factors and conflict management outcomes.

Summary

Through the findings of this qualitative research it appears that the unscripted aspect of mediation plays an important role in the cultivation of capacity among disputing parties. Moreover, initial evaluation of mediator emotive connections, background, imagery, and motivation suggest a strong relationship between the unscripted aspects of mediation that impact capacity enhancement. The subjects consistently stated that much of mediation success comes from a blend of instinctive temperament and motivation stemming from the passion for the practice of mediation. Yet, every mediator indicated that the temperamental and motivational fit could not be universally prescribed, as the combination of these factors are unique to each mediator and must be capitalized upon according to the best integration for each practitioner. The following section explores potential contributions to the tangible and philosophical conflict management endeavors faced by mediators, leaders, and humanity as a whole.

CHAPTER FIVE: PROPOSED SOLUTIONS AND IMPLICATIONS

Mediation is the process of overseeing communication among disputing parties using methods based on philosophies of neutrality which are reliant upon an interdependent balance of both mediator empathy and impartiality (Malizia & Jameson, 2018). Trust in the mediation process is critical to ensuring potentially positive conflict resolution outcomes; therefore, the consideration of intentional and sensible approaches is important for industry credibility (Druckman & Wall, 2017).

While many aspects of mediation protocol are either standardized or theoretically supported, there was a lack of fully-aligned curriculum regarding the potential impact that unscripted aspects of mediation could have on eliciting capacity from parties during conflict management efforts. Furthermore, as was demonstrated in chapter two of this manuscript, the researcher found a lack of current literature adequately covering philosophies on decision-making regarding the way mediators navigated unscripted aspects of mediation. Exploring how experienced, successful mediators use their skills to elicit enhanced capacity among parties develops industry knowledge, resources, and training protocols. Additionally, creating awareness and coping strategies regarding the unscripted aspects of conflict management empowers both mediator and participants to achieve heightened potential. The viewpoints from experienced mediators of certified programs augment conflict management strategies by creating mindfulness about eliciting enhanced capacity from parties during the moments that fall outside of the defined scope of prescribed mediation steps but are crucial to successful outcomes.

This chapter will address the aim of the study through the proposal of solutions, procedures for the application of the solutions, and discussion about the practical and

leadership implications for real-world utility during environments of disputes where conflict management strategies would be beneficial.

Aim Statement

The aim of this study was to improve current mediation understanding and programmatic offerings by exploring how experienced practitioners of certified mediation programs elicit enhanced capacity from parties during unscripted aspects of mediation. The resulting framework serves as a benchmark to create curriculum and resources that incorporate this conceptual understanding to better address the unscripted aspects of mediation that fall outside of standardized aspects of the prescribed mediation steps. In exploring these unscripted variables, the profession gains a fuller understanding of the nuanced side of mediation. By articulating how experienced mediators capitalize on the unscripted aspects of mediation to elicit enhanced capacity from parties, the profession also has fuller understanding for how to equip and train practitioners who wish to develop their own role with eliciting enhanced capacity during unscripted moments within mediation. Examining these perspectives to create awareness and coping strategies empowers both mediator and participants to achieve heightened potential. The viewpoints from experienced mediators of certified programs augments conflict management strategies by creating mindfulness about eliciting enhanced capacity from parties during the moments that fall outside of the defined scope of prescribed mediation steps but are crucial to successful outcomes. Furthermore, any individual; especially a leader, benefits by identifying their accountability and responsibility in developing capacity when dealing with situations involving conflict.

Proposed Solutions

The solutions proposed seek to provide practical and theoretical support to those involved in disputes. While the initial aim of the study was geared towards mediation efforts and the mediators who guide these processes, the recommendations set forth provide solutions that can be used in a wide variety of formats and specifically those related to training and curriculum development. The following solutions are appropriate for presentation at annual mediation conferences for experienced practitioners, introductory mediation training for emerging professionals, and statewide leadership workshops as described in the Implementation of Proposed Solutions to follow.

Practical Applications

The initial proposal is to create a framework surrounding the unscripted aspects of mediation and the enhancement strategies used by conflict managers. This framework is novel so further theory development and branding needs to occur to ensure generalizability beyond mediation platforms. Nonetheless, this research suggests that a pivotal discovery is the use of imagery to articulate concepts surrounding conflict that are abstract and difficult to convey through language. Therefore, the practical applications from this study are twofold: 1. A Conflict Imagery Charting model with corresponding Conflict Imagery Charting document to facilitate mediation and leadership conflict management training efforts, and 2. An Imagery Approach to Conflict Management graphic along with a corresponding practical example of the application of conflict imagery to serve as mediator or leadership development curriculum and training aids.

Solution One: Conflict Imagery Charting

The first solution proposed as the result of this study is having mediators, both tenured and emerging practitioners, determine their unique conflict imagery through a process of having them work through their history, backgrounds, and values. This model is born from the results of this study, and it is being called Conflict Imagery Charting (Appendix E) to reflect the necessity of having people work through their backgrounds and values to then create and communicate their unique imagery that captures the essence of their personal conflict perspective. The Conflict Imagery Charting process can be created as a document that can be used as a stand-alone paper or part of a larger body of work, like a manual or workbook.

Within the Conflict Imagery Charting worksheet, the readers will walk through steps that help them make concrete associations to the abstract components of their conflict perspective. For example, participants will be asked to list the emotions they associate with conflict. They will also complete an emotion-connection exercise where they circle the five primary emotional words in a word bank that they connect to conflict. The list will contain both positive and negative emotions, many derived from the words populated from this research along with terminology supported by mental health practitioners (Raypole, 2019). Next, readers will complete fields about their personal background related to conflict in the six areas discovered in this research: difficult personal history, prior professional experience, formal education, mediation preference, family dynamics, and personal values. Lastly, the participants will be asked to complete a visioning exercise where they think about areas in their life where they have interests, hobbies, or levels of comfort. The readers will be provided the eighteen overarching themes that were provided

by the mediators in this study: outdoors, music, travel, theatre, architecture, art, games, food, medicine, weddings, school, sports, animals, dance, technology, clothing, real-estate, and dating, along with a blank field for those who create themes beyond this list. The three components of this worksheet – emotional connection, personal background, and visioning – will come together to encourage the participants to create one or more conflict imagery statements or pictures reflective of their conflict management perspective.

Once the Conflict Imagery Charting is well-understood by the mediator, this practitioner could elect to utilize the charting process with parties involved in disputes. This model and the corresponding worksheet could also be used by leaders who wish to understand their conflict management approach or have individuals within their team who could benefit from the concepts of the conflict charting process.

Solution Two: Imagery Approach to Conflict Management

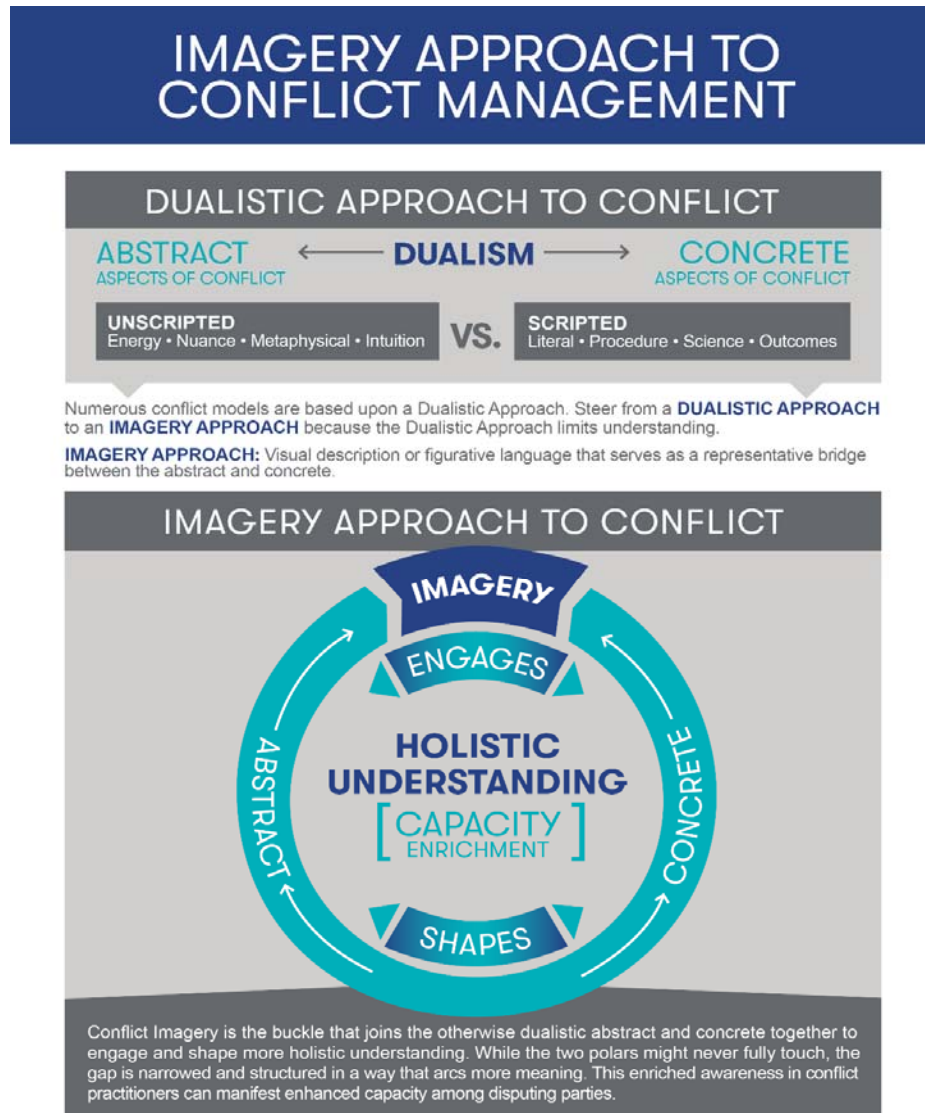
Another proposed solution is a visual aid (Appendix F) to help personify the importance of moving away from a dualistic perspective regarding conflict with the concrete scripted aspects on one end of the spectrum and the abstract unscripted aspects on the other end of the spectrum. Because both elements impact the enhancement of capacity among disputing parties, this visual aid will serve as a reminder that capacity, essentially a form of understanding, comes when abstract-unscripted and concrete-scripted components of conflict come together to create more holistic meaning that lends itself to the understanding needed to enhance capacity among disputing parties.

Table 15 is the compressed version of the imagery graphic found in Appendix F that is intended to be used by emerging and tenured mediators and by developing and seasoned leaders to get a clearer visualization of how conjoining the scripted-concrete

with the unscripted-abstract facets of conflict creates fuller, holistic understanding of conflict management that lends itself to greater capacity enhancement. In an effort to demonstrate how imagery can be an invaluable tool for gaining insights, awareness, and understanding, the Imagery Approach to Conflict Management visual aid is a practical document to model the impact of imagery for trainees.

Table 15

Imagery Approach to Conflict



Because mediators and leaders should tailor conflict management efforts to their specific audience and end-user, after the mediator and leader trainees understand the Imagery Approach to Conflict Management philosophy, they will move to practicing the creation of imagery tools for their respective places of utility. Appendix G provides an example of an imagery document created as the result of this research for the audience of workers in hands-on professions, such as construction, trades, mechanical, maintenance, and agriculture careers. The imagery of hand-tools connected with stress personality types creates applicable mental pictures for these specific consumers, which will be piloted in upcoming relevant training programs.

The aforementioned solutions were proposed out of the feedback from the participants of this research who indicated that articulating the role of the unscripted and capacity enhancement elements is hard to do, but necessary, given the impact these components can have on mediation outcomes. As such, having useful and applicable ways for practitioners and leaders to design their own methodologies for conceptualizing their perspectives on the unscripted and capacity foundations of conflict management should prove beneficial to all those involved with dispute modification efforts.

Evidence that Supports the Solutions

The general consensus of modern mediation theory is to humanize the mediation process by using person-centered techniques that create environments ripe for constructive dialogue whereby conflicting parties will voluntarily negotiate their issues and create their own constructive action plans and outcomes (Lewis & Umbreit, 2015). To create meaningful humanistic techniques requires a level of mindful consideration. Support for the proposed solutions is based on the Conscious Leadership Theory which

stresses the importance of expanded consciousness using observer-self perceptual filters that reduce duality and afford thoughtful future decision-making (Ward, 2016).

Pursuit of a model or theory beyond the traditional dualistic perspectives is important, because a binary lens on the world is ill-suited for the positive mindset required of healthy organizations (Koonce, 2017). The proposed Imagery Approach to Conflict and the Conflict Imagery Charting recommended tools are useful solutions, because both frameworks encourage a different, non-dual perspective on how to approach conflict. These tools seek to develop practitioners with a blend of abstract and concrete understanding of themselves. Efforts at personal awareness, development, and refinement should improve conflict management efforts of both practitioners and leaders. This is in keeping with leadership philosophies that strive to help all people, not just for self-serving pursuits of improvement. A reoccurring theme within contemporary servant-leader models of leadership is the holistic approach to the development of others by the leader for the primary purpose of the betterment of community (Lydon, 2009). This is the central theme and tenant of mediation. Any white paper, presentation, augmented theory or training curriculum with this as the focus serves to improve the world both at a macro and micro level.

Theoretical Applications

The results of this study provide initial insights into the similarities between the feedback from these experienced mediators and other existing theories in the fields of psychology and technology. One relevant field in psychology is Ecological Psychology. This is a school of psychology based in physical science advanced by Elaine Gibson in the late 1970s, which states that cognition comes from perception-action reciprocity.

Perception is an active process that is evolutionary in nature (Adolph and Kretch, 2015). It is flexible and exploratory through extraction of meaningful information. Ecological psychology is a discipline seeking to bring together human behavior and human understanding with the belief that perceptual learning requires an active perceiver (Lobo, Heras-Escribano, & Travieso, 2018). Possible responses, or affordances, to stimuli are developed through an ongoing meaning-loop between incoming senses and outgoing understanding.

Another branch of psychology worth considering is the Ecological Systems Theory within Development Psychology. Established in 1979 by Urie Bronfenbrenner, Ecological Systems Theory is rooted in development psychology as a social science and explains that interconnections among various environmental systems impact human development. It is a widely-accepted framework for community psychology (Sincero, 2012). This theory describes the interactive nature of ecology from a psychological lens where the definition of communal progression is “the dynamic and interactive balance maintained among individuals of different species in an environment” (Pam, 2013, Ecology section). In essence, this theory believes there is an interdependent relationship among psychological “species” in environments that impact how people develop their perceptions and understanding of the world around them.

An interesting connection to explore beyond psychology is the recent use of immersive theory with technology. In the field of technology, experts attempt to create immersive experiences through the blend of physical and intuitive components. The goal of immersive experiences is “draw you in, take you to another place, and keep you present in the moment. Immersive experience makes you focus, filter out noise, and be

part of the experience, rather than a passive observer” (“Driving the New Era of Immersive Experiences, 2015, p. 4). Creators of immersive, experience-based technology platforms attempt to balance visual, auditory, and intuition to create environments that are natural to the end-user. Participants of this immersive-based technology create better meaning and enriched experiences when an eclectic approach is made with the technology is being used.

These three disciplines provide insights into the ways in which people create understanding and meaning about the world around them. By exploring fields and theories outside of conflict management and mediation, the profession could gain fuller knowledge and better approaches to helping enhance capacity among disputing parties by 1. Creating frameworks for conflict management practitioners to recognize their conflict perspectives; 2. Revealing more about the way in which capacity and understanding manifests itself during conflict management efforts. This theory development would be ideal for a whitepaper or conference presentation to practitioners and leaders involved in conflict.

Blending together the practical and theoretical solutions previously suggested can create improved ways of educating and informing conflict management practitioners as echoed by the participants interviewed for this study. Johnson (2011) describes how the practicalities of mediation and the subtle components that are often difficult to identify in mediation are the intermingled facets to which success hinges upon. Ebner and Parlamis (2017) suggest addressing this through a four-dimensional approach to conflict management which is comprised of theory, research, practice and teaching. Curriculum and literature that provides tangible ways of exploring conflict from the lens of the

practitioner and the lens of the disputing parties should improve the outcomes achieved during conflict management efforts by creating awareness about the marriage between the practical and theoretical sides of mediation. Participants of this study indicated that concepts such as unscripted and abstract felt nebulous to articulate in precise words but were nonetheless a significant factor distinguishing successful mediators from those who struggle in the profession. Bringing the theoretical aspects of mediation, specifically those related to the unscripted and capacity aspects of mediation, with the practical utility found in training and curriculum formats creates a conceptual framework to which mediators and leaders can build upon.

Evidence that Challenges the Solutions

A consistent challenge to the field of mediation stems from the legal systems that often are deliberately, philosophically, or inherently in opposition to mediation services and other alternative dispute resolution approaches. This likely originates in part from the fact that mediation services pose a threat those who stand to financially or professionally gain from legal approaches to conflict. Additionally, there are those who reasonably object to the more nebulous nature of mediation, along with the fact that credentialing of mediations is very inconsistent across the nation and across the type of mediation services offered (Wassner, n.d.). There are strict standards to obtain an Attorney at Law designation, but there are no similar benchmarks mandated for mediators. The lack of consistent credentialing practices undermines the professional credibility for those who challenge the merits of mediation.

Additionally, there those in society who are uncomfortable with non-dual ways of approaching conflict. Some practitioners within the field of mediation, and some

individuals and leaders outside of the field of mediation, do not embrace non-dual philosophies towards conflict management efforts. The relative ambiguity of this Dissertation in Practice topic and the proposed solutions could be met with resistance by those who struggle with the abstract and nebulous aspects of human nature and conflict. This research suggests the importance of intuition as an inferential tool that unconsciously recognizes patterns, feelings, and knowledge in an expeditious way that relies on developed instinct (Williams, 2012). According to Mello and Delise (2015), individuals hold a relatively stable preference for either a rational-analytical style or an intuitive style. Since rational-analytical cognition relies on a large volume of external data steeped in linear, organized information, whereas intuitive cognition relies on internal instincts tethered to big-picture, nonlinear information, the two styles can be at odds with one another. Attempting to blend metaphysical and literal components together is a challenging endeavor.

Implementations of the Proposed Solutions

The solutions proposed as a result of this Dissertation in Practice are twofold: 1. a whitepaper or presentation on the development of current conflict models or even the creation of a new model, and 2. new or augmented curriculum materials for conflict management training. Therefore, the implementation of these solutions should occur in a phased and incremental manner.

Factors and Stakeholders Related to the Implementation of the Solutions

A variety of factors and stakeholders exist that impact the viability of the solutions coming to fruition. First, to develop a meaningful white paper or presentation means that time to research theories and philosophies in similar and competing fields

needs to take place. Additionally, access to journals and periodicals needs to be present. The researcher needs to be provided adequate resources and time to ensure a scholarly and rigorous demonstration of findings. Supporting the use of time during work and paying for online library sources helps mitigate these challenges.

Because this research involved both the directors and experienced mediators of certified mediation programs, the development of a white paper, presentation, or conflict management training curriculum material relies on these individuals to be stakeholders. The researcher might find it prudent to interact with these research participants and their respective directors to gather more information. To help facilitate this process, a statement of support from the USDA could encourage more participation from these individuals.

Recording software and qualitative coding software might continue to be a tool for developing the proposed solutions. Each of the software programs is set to expire within a year, and the associated costs move from a student rate to a professional rate. It is estimated that both programs will cost around \$2000.00 for an annual professional subscription. This cost can be covered under several grant programs afforded to Iowa Mediation Service.

Lastly, Iowa Mediation Service will need to ensure that access to computers, phones, printers, and office supplies will remain to produce quality training curriculum materials and worksheets. These costs can be covered under several grant programs currently in place. Travel costs associated with the annual Coalition of Agricultural Mediator Programs conference in the spring of 2021 is covered by a component of a USDA grant in place with Iowa Mediation Service. Travel costs associated with any

other presentation or conference can be covered by other grant programs afforded to Iowa Mediation Service.

Timeline for Implementation of the Solutions

Because most introductory mediation training programs that certify practitioners are conducted on a semi-annual or annual basis, the timeline to implement the proposed solutions hinges upon the dates in which an introductory mediation training is available. Iowa Mediation Service conducts semi-annual trainings, which typically occur in the spring and the fall. Therefore, a reasonable timeframe to explore the theories previously described and then develop the worksheets and curriculum would be the fall of 2021 or spring of 2022. This would help ensure that concise and meaningful training materials are created.

Every spring, the Coalition of Agricultural Mediation Program holds an annual conference for Executive Directors of the 42 programs across the United States. Presenting a white paper or a lecture at the conference would allow for the directors to be surveyed and for face-to-face interactions and field notes to be gathered regarding feedback on the solutions proposed. The next conference is anticipated to occur in April 2021 in New Jersey, so this would be an ideal time to conduct the initial proposal of a white paper or a lecture to this professional audience.

Evaluating the Outcome of Implementing the Solutions

The 20 experienced mediators who participated in this study, along with their directors, would be a reasonable source to evaluate if the solutions have an impact on their mediation efforts and conflict management programs. Additionally, the facilitators of the introductory mediation training program at Iowa Mediation Service would be a

reasonable resource to evaluate the solutions. Open-ended surveys are a constructive evaluation plan to review the theoretical and practical solutions provided in the Imagery Approach to Conflict whitepaper or conference presentation, the Conflict Imagery Charting process within developed curriculum, and the Conflict Imagery Charting worksheet and the Imagery Approach to Conflict model to be used within curriculum or as stand-alone documents.

Surveying the aforementioned individuals will be conducted prior to the introductory mediation training sessions, immediately afterwards, and then six to 12 months upon conclusion. This will allow an incremental evaluation about whether or not the solutions have provided a true impact on the development of conflict management ideologies and protocols. Surveying the audience of a whitepaper or conference will provide another perspective about the utility and usefulness of the implemented solutions.

Implications

Practical Implications

This Dissertation in Practice contributes to the greater good of mediators, conflict management practitioners, leaders, and all individuals who deal with the subject of conflict, because the nature of dispute is universal. All of humanity is impacted by conflict at some point; no one is exempt. How individuals deal with conflict, however, is what determines if that conflict has potential to help or harm those involved. By enriching the understanding that surrounds the topic of conflict, it helps normalize this often controversial topic. Normalizing controversy and naming elements in a meaningful way helps give people permission to deal with the situation at hand. Instead of shying away from conflict as something that is inherently bad, people will feel empowered to

use conflict for creative, helpful, different, and better outcomes than are achievable by avoiding conflict or using adversarial traditions, such as legal systems, to deal with conflict. Furthermore, leaders, practitioners, and individuals who deal with conflict constructively increase the likelihood for being respected, heard, and embraced in the present moment and in the future.

Implications for Future Research

The novel nature of this qualitative study and its findings lend itself to future research in a variety of areas. For example, because this new research does not have previous benchmarks available future studies could utilize different qualitative methods such as Grounded Theory to compare and contrast with these phenomenological results. Additionally, using quantitative methodologies to establish more credibility and to assess potential causal relationships between capacity and factors such as mediator background, imagery, and motivation would further develop this complex topic.

Future research could also reflect upon theories that fall outside the discipline of conflict, such as Ecological Systems Psychology and Immersive Technology approaches, that would provide other perspectives on how meaning and understanding is achieved. Interviewing practitioners in these fields about their procedures, methods, and perspectives could help bring new views into the field of conflict management. Additionally, interviewing conflict management practitioners and mediators specifically about theories outside of alternative dispute resolution could extrapolate information from fields not gathered previously.

Lastly, replicating this study with the same experienced mediators used in this research would strengthen reliability and validity of this study. Enlarging the study to

more mediators across the United States, mediators from other programs and other conflict focuses, and practitioners outside of traditional mediation who deal with conflict management in their respective professions is suggested to provide more depth of information.

Beyond the aforementioned areas where standard follow-up research protocol could be applied, an important aspect of future research is building upon the internal findings of this study. Because this study was novel in nature, the discoveries of this research should be further explored to determine if the findings are consistent. If so, then there is further potential to develop the benchmarks of the study. For instance, there is an opportunity to exam the area of mediation imagery. Finding patterns among mediators could create training curriculum concepts for new mediation practitioners who could benefit from using the imageries of seasoned practitioners to hone their emerging mediation skills, especially in relationship to the unscripted and capacity aspects of mediation processes. Imagery has the potential to bridge the objective-concrete and the subjective-abstract facets of mediation to create a more meaningful experience for the mediation parties. Because the feedback from the participants of this study indicate that background and history are distinguishing factors for tenured practitioners, using the imagery from these seasoned practitioners could help expedite the learning curve for emerging practitioners.

The key words extrapolated from the interviews are another area for future research consideration. The language and terminology from the mediators provides insights into the values and perspectives of experienced, practicing professionals. This study, however, only brings this language to light for the first time and does not delve

deeply into the conceptualization of the language. Conducting follow-up interviews with these research participants regarding the concepts they provided, interviewing additional mediators about the specific language found from this study, or conducting quantitative research – such as surveys – could offer ways to enhance training curriculum by ensuring that proper language and terminology is incorporated into training materials. Accurately integrating the language, thoughts, and terminology from experienced mediators could help people entering the field know how to use language in a way that reflects best practices and philosophical frameworks accepted within the industry. In doing so, credibility is enhanced within the profession by standardizing this facet of mediation training and curriculum.

Another area for future research is how the background, experience, and motivation of mediators form and impact the stylistic approach of the mediator. Feedback from the participants of this study indicate that while neutrality is an important aspect of mediation services, the method to which mediators inform their practice stems from a myriad of their personal, contextual experiences. In other words, a singular method for achieving neutrality and mediation style does not appear to exist, because individual differences contribute to the formation of each mediator's practice. Therefore, researching ways to help both seasoned and emerging practitioners identify the unique contributing factors that impact their mediation practice would benefit the whole profession. From a philosophical standpoint, additional studies could shed light on if mediator background, experience, and motivation impact the application and utility of evaluative, facilitative, and transformative mediation practices. Understanding how mediator individuality impacts the philosophy and implementation for which of these

three accepted frameworks is eventually used in their practice could help create tools to expedite the assimilation for which framework an emerging mediator selects, whether that be the evaluative, facilitative, or transformational practice.

This Dissertation in Practice was specifically intended to create benchmarks for future research, curriculum development, whitepapers, and professional presentations due to the incipient topic being explored. Therefore, the scope of future research has a wide array of potential both within and outside of the field of mediation, and therefore, it would be prudent to continue endeavors to better understand relationships among the abstract-unscripted, concrete-scripted, and the enhancement of capacity among disputing parties.

Implications for Leadership Theory and Practice

A reoccurring theme within contemporary servant-leader models of leadership is the holistic approach of the development of others by the leader for the primary purpose of the betterment of community (Lydon, 2009). The benefits of improving mediation practices uniquely dovetail with leadership and in fact transcend just mediation practices, because conflict exists in all environments where human interactions occur. Leaders who wish to employ transformational leadership techniques promote coordination and cohesion by embracing the belief that conflict management mutually benefits those involved through greater individual and group communication, performance, and goal-achievement (Zhang, Cao, & Tjosvold, 2010). These ideologies are in keeping with the merits of mediation, because transformational leadership imparts the psychological support necessary to encourage change commitment through empowered environments

(Yang, 2011). This empowerment is steeped in a non-dual belief that the logical and metaphysical can coexist in a way that derives more meaning.

To achieve a non-dual approach to mediation, the theory of Conscious Leadership is relevant (Ward, 2016). This theory is based on the notion that leadership is best exemplified through mindfulness of thought, emotion, and experience in the present-moment without judgement. A leader skilled in Conscious Leadership will demonstrate clear communication, ownership of decisions and actions, neutrality, open discussions, and positive leadership outcomes. This is achieved through expanded consciousness using observer-self perceptual filters that reduce duality and afford thoughtful future decision-making. Hallmarks of Conscious Leadership are “reverence, willingness, humility, perseverance, compassion, faith, courage, intention, kindness, harmony, and love” (Ward, 2016, p. 6). In turn, the outcome of these leadership efforts should reveal more equanimity.

Transformative Leadership dovetails with Conscious Leadership because both create authentic, servant philosophies and actions focusing on collective goals through procedural justice, trust, and open exchange among the community (Zhang, Cao, & Tjosvold, 2010). Taken together, these two leadership theories help the reputation of the industry as a whole, those employed by mediation organizations, the patrons of these services, and stakeholders invested in the success of mediation efforts (Choudhary, Akhtar, & Zaheer, 2013). This holistic approach is what leaders of mediation organizations embark upon as stewards challenged to help the marginalized, those in the throes of conflict, and people who are seeking last efforts at hope. The premise making mediation successful is the notion that when people move beyond self-interests to

collective goals through leader-follower exchanges, both organizational and individual performance outcomes are augmented (Zhang, Cao, & Tjosvold, 2010). The role of the mediator during unscripted aspects of mediation to elicit enhanced capacity opportunities is both a theoretical and practical component of mediation that stands to bring greater excellence to the field of conflict management.

Servant leadership is another facet in keeping with mediation practices, because the notion that social-interests, as opposed to only self-interests, and the betterment of community are hallmarks of both approaches (Lydon, 2009). Similar to mediation efforts, leadership success hinges upon trust as the development of trust must occur before implementing action plans for change (Yang, 2016). Lastly, both mediation and leadership require demonstration of wisdom shown through the integration, embodiment, and positive effects that flow from the actions of the leader (Yang, 2011). Because mediation participants view mediators as leaders, the theories and practices gleaned through the study of mediation services and leadership efforts stand to mutually benefit both disciplines. Traditional theory and practical experience come together in a way that promotes individuals and groups alike. Accountability to the end-user is the ultimate calling of both mediator and leader. As such, the study of mediation and leadership parlay into each other and stand to augment each role. Leaders of any institution, profession, or industry profit from integrating mediation practices into their environments. Specifically, the ideas surrounding the role that unscripted moments have on eliciting enhanced capacity offer new insights into conflict management that have potential to create environments more conducive for productive conflict outcomes.

In summary, these findings provide exciting potential and insights to future conflict management resources, such as training programs and training manuals. Helping both experienced and novice practitioners understand how their blended emotions, backgrounds and motivations contribute to the development of the imagery used to guide their unique conflict management approach could serve the industry well. Furthermore, any person, especially managers and leaders in all professions, could benefit from exploring their connections to the emotions, backgrounds, and motivations tied to conflict (Keefe & Koch, 1999). Understanding that these elements inform, typically unconsciously, how they create themes and imageries for guiding how they address conflict could be an invaluable tool for how they then consciously decide to embrace or edit these variables in their conflict management efforts.

Summary of the Dissertation in Practice

This Dissertation in Practice examined how experienced mediators elicit enhanced capacity from parties during unscripted aspects of mediation. 20 experienced mediators from certified mediation programs representing 22 states were interviewed telephonically using semi-structured, open-ended questions from a phenomenological, bracketing approach. Textural and structural descriptions were coded using concept coding methodologies and resulted in seven thematic areas: Unscripted Actions, Unscripted Beliefs, Capacity Actions, Capacity Beliefs, Mediator Imagery, Mediator Backgrounds, and Mediator Motivation.

The thematic areas of unscripted actions, unscripted beliefs, capacity actions, and capacity beliefs were grouped together due to the generalizability of the constructs. The stated hallmarks of the unscripted actions were the observations of literal and

metaphysical components, which is achieved through an incremental retrieval process and active listening. The participants indicated beliefs that the ability to achieve these actions is through both innate temperament and ability to move through the mediation process using forecasting. The stated hallmarks of the capacity actions were the mitigation of threats to parties and using careful inquiry and reframing to create a conflict management platform that develops incrementally. The participants indicated beliefs that the measure of success related to capacity is not in the agreements reached through formal processes. Rather, participants believed that conflict management efforts are achieved when voluntary outcomes drawn from feeling heard and gathering information are evident.

Next the thematic areas of mediator imagery, backgrounds, and motivation were considered. Throughout the course of the interviews, all of the participants conveyed language associated with emotions. Although not asked to explicitly describe mediations with emotion-based terminology, each participant shared adjectives and descriptions they believed made mediation successful in terms of the unscripted aspects of conflict management that help elicit capacity. The term “understanding” was used by every subject at some point in the interview to describe the importance and value of mediation services. Beyond the emotion-based terminology expressed by the participants, 16 of the 20 mediators provided imageries, or interpreted sayings, that guide their mediation approach and philosophy. These imagery-based phrases, in essence, helped provide the framework for describing the unscripted aspects of mediation that proved difficult for participants to otherwise provide with exacting clarity or verbiage; these expressions were used to conceptualize and describe the nebulous nature of their conflict

philosophies. Next, field notes from the study revealed that most of the participants indicated a sort of passion that drives their mediator motivation. Beyond formal higher education and conflict management training programs, most of the participants indicated that their ability to deal with the unscripted aspects of mediation and ability to help elicit enhanced capacity from disputing parties comes from an innate ability, an internally created compass from past experiences, and a core value and energy about the usefulness of mediation. More than a career, many of the subjects described mediation as a calling.

Proposed recommendations from the findings are to create an Imagery Approach to Conflict model, Conflict Imagery Charting exercises for training resources, and development of theories outside of conflict management that further explain the need to bridge the abstract, unscripted aspects of mediation with the concrete, scripted aspects to help elicit enhanced capacity among disputing parties. Additionally, recommendations for future research include enlarging the number of interviews conducted, gathering feedback and insights from practitioners outside of mediation, using other qualitative methods such as Grounded Theory to compare and contrast findings, and utilizing quantitative research to establish more validity and reliability. Because the nature of this study was to study a novel topic, many opportunities for various research endeavors exist to augment the current research findings. This study proved to offer existing discoveries that benefit any individual, professionally or personally, who deals with conflict and wishes to better manage and create outcomes during situations involving disputes.

References

- Ackermann, K.A., Fleib, J., & Murphy, R.O. (2016). Reciprocity as an individual difference. *Journal of Conflict Resolution*, 60(2), 340-367. doi: 10.1177/0022002714541854
- Adolph, K. E. & Kari S. Kretch, K.S. (2015). *Gibson's Theory of Perceptual Learning*. NYU Psychology. <https://psych.nyu.edu/adolph/publications/AdolphKretch-inpress-GibsonTheory.pdf>
- Balachandra, L., Bordone, R.C., Menkel-Meadow, C., Ringstrom, P., & Sarath, E. (2005). Improvisation and negotiation: Expecting the unexpected. *Negotiation Journal*, 415-423. doi: 10.1111/j.0748-4526.2005.000074.x
- Balachandra, L., Crossan, M., Devin, L, Leary, K., & Patton, B. (2005). Improvisation and teaching negotiation: Developing three essential skills. *Negotiation Journal*, 435-441.
- Baraldi, C., & Iervese, V. (2010). Dialogic mediation in conflict resolution education. *Conflict Resolution Quarterly*, 27(4), 423-445. doi: 10.1002/crq.20005
- Barrett, J.T., & Barrett, J.P. (2004). *Snapshots of ADR history: A history of alternative dispute resolution*. Jossey-Bass.
- Bazerman, M.H., Curhan, J.R., Moore, D.A., Valley, K.L. (2000). Negotiation. *Annual Psychology Review*, 51, 279-314.
- Blackstock, M. (2001). Where is the trust? Using trust-based mediation for first nations dispute resolution. *Conflict Resolution Quarterly*, 19(1), 9-30.
- Boca, S., Garro, M., Giammusso, I., & Scaffidi Abbate, C. (2018). The effect of

- Perspective taking on the mediation process. *Psychology Research and Behavior Management, 11*, 411-416. doi: <http://dx.doi.org/10.2147/PRBM.S168956>
- Boland, M.J., & Ross, W.H. (2010). Emotional Intelligence and dispute mediation in escalating and de-escalating situations. *Journal of Applied Social Psychology, 40*(12), 3059-3105.
- Bradbury-Jones, C., Taylor, J., & Herber, O. (2014). How theory is used and articulated in qualitative research: Development of a new typology. *Social Science & Medicine, 120*, 135-141. doi: <http://dx.doi.org/10.1016/j.socscimed.2014.09.014>
- Bundy, J., Vogel, R.M., & Zachary, M.A. (2018). Organization-stakeholder fit: A dynamic theory of cooperation, compromise, and conflict between and organization and its stakeholders. *Strategic Management Journal, 39*(2), 476-501. doi: 10.1002/smj.2736
- Capacity bridging (2018). In *AHA Centre* (June 4, 2018 ed.).
https://www.ahacentre.ca/uploads/9/6/4/2/96422574/capacity_bridging_-_finaljune_2018.pdf
- Campbell, S. (2014). What is qualitative research? *Clinical Laboratory Science, 27*(1), 3.
- Carter, N., Bryant-Lukosius, D., DiCenso, A., Blythe, J., & Neville, A.J. (2014). The use of triangulation in qualitative research. *Oncology Nursing Forum, 41*(5), 545-547. doi: 10.1188/14.ONF.545-547
- Cheng, F.K. (2015). Mediation skills for conflict resolution in nursing. *Nurse Education in Practice, 15*, 310-313. doi: 10.1016/j.nepr.2015.02.005
- Choudhary, A., Akhtar, S., & Zaheer, A. (2013). Impact of transformational and servant

- leadership on organizational performance: A comparative analysis. *Journal of Business Ethics*, 116, 433-440. doi:10.1007/s10551-012-1470-8
- Cislak, A. (2014). Impact of conflict resolution strategies on perception of agency, communion and power roles evaluation. *Polish Psychological Bulletin*, 45, 426-433. doi: 10.2478/ppb-2014-0052
- Coalition of Agricultural Mediators (n.d.). *Mediation services for the agricultural community*. Retrieved August 4, 2020, from <https://agriculturemediation.org/>
- Cobb, S., & Rifkin, J. (1991). Practice and paradox: Deconstructing neutrality in mediation. *Law & Social Inquiry*, 16(1), 35-62.
- Creswell, J.W. (2013). *Qualitative inquiry and research design: Choosing among five approaches* (3rd ed.). Sage Publications, Inc.
- Creswell, J. W., & Creswell, J. D. (2018). *Research design: Qualitative, quantitative, and mixed methods approaches* (5th ed.). Sage Publications, Inc.
- Creswell, J.W. & Poth, C.N. (2018). *Qualitative Inquiry and Research Design: Choosing Among Five Approaches* (4th Ed.). Sage Publishing.
- Crowell, S. (2014). What phenomenology ought to be. *Research in Phenomenology*, 44, 281-300. doi: 10.1163/15691640-12341289
- Dane, E., Rockmann, K.W., & Pratt, M.G. (2012). When should I trust my gut? Linking domain expertise to intuitive decision-making effectiveness. *Organizational Behavior and Human Decision Processes*, 119, 187-194. doi: <http://dx.doi.org/10.1016/j.obhdp.2012.07.009>
- Davidson, J., McElwee, G., & Hannan, G. (2004). Trust and power as determinants of

- conflict resolution strategy and outcome satisfaction. *Peace and Conflict: Journal of Peace Psychology*, 10(3), 275-292.
- DeChurch, L. A., Hamilton, K. L., & Haas, C. (2007). Effects of conflict management strategies on perceptions of intragroup conflict. *Group Dynamics: Theory, Research, and Practice*, 11(1), 66-78.
- Donovan, S.J., Guss, C.D., & Naslund, D. (2015). Improving dynamic decision making through training and self-reflection. *Judgement and Decision Making*, 10(4), 284-295.
- Druckman, D. (2009). Intuition or counterintuition? The science behind the art of negotiation. *Negotiation Journal*, 431-448. doi: 10.1111/j.1571-9979.2009.00237.x
- Druckman, D., & Wall, J. (2017). A treasure trove of insights: Sixty years of JCR research on negotiation and mediation. *The Journal of Conflict Resolution*, 61(9), 1898-1924.
- Duddy, D. (2017, June 25). Capacity bridging: Reciprocity at work in research. *Pacific Aids Network*. <https://pacificaidnetwork.org/2017/07/25/capacity-bridging-reciprocity-work-research/>
- Ebner, N., & Parlamis, J. (2017). Weaving together theory, research, practice and teaching: A four-dimensional approach to negotiation and conflict management work. *Negotiation and Conflict Management Research*, 10(4), 241-251. <https://doi-org.cuhsl.creighton.edu/10.1111/ncmr.12107>
- Elfenbein, H.A., Curhan, J.R., Eisenkraft, N., Shirako, A., & Baccaro, L. (2008). Are

some negotiators better than others? Individual differences in bargaining outcomes. *Journal of Research in Personality*, 42, 1463-1475. doi: 10.1016/j.jrp.2008.06.010

Englander, M. (2012). The Interview: Data Collection in Descriptive Phenomenological Human Scientific Research. *Journal of Phenomenological Psychology*, 43, 13–35.

Federal Judicial Caseload 2019 (2019, March 31).

<https://www.uscourts.gov/statistics-reports/federal-judicial-caseload-statistics-2019>

Florczak, K.L. (2017). Adding to the truth of the matter: The case for qualitative research. *Nursing Science Quarterly*, 30(4), 296-299. doi: 10.1177/0894318417724466

Gair, S. (2012). Feeling their stories: Contemplating empathy, insider/outsider positionings, and enriching qualitative research. *Qualitative Health Research*, 22(1), 134-143. doi: 10.1177/10497323

Garcia, A.C., Vise, K., & Whitaker, S. P. (2002). Disputing neutrality: A case study of a bias complaint during mediation. *Conflict Resolution Quarterly*, 20(2), 205-230.

Greer, L., & Bendersky, C. (2013). Power and status in conflict and negotiation research: Introduction to the special issue. *Negotiation and Conflict Management Research*, 6(4), 239-252.

Groenewald, T. (2004). A phenomenological research design illustrated. *International Journal of Qualitative Methods*, 3(1). Article 4.
http://www.ualberta.ca/~iiqm/backissues/3_1/pdf/groenewald.pdf

- Henriques, G. (2014). In search of collective experience and meaning: A transcendental phenomenological methodology for organizational research. *Human Studies*, 37, 451-468. doi: 10.1007/s10746-014-9332-2
- Holaday, L.C. (2002). Stage Development Theory: A natural framework for understanding the mediation process. *Negotiation Journal*, 191-210. doi: 0748-4526/02/0700-0191/0
- Holloway, I. (1997). *Basic concepts for qualitative research*. Blackwell Science.
- Jameson, J.K. (2001). Employee perceptions of the availability and use of interest-based right based, and power-based conflict management strategies. *Conflict Resolution Quarterly*, 19(2), 163-196.
- Jarrett, B. (2013). Integral mediation: A proposal for a pragmatic, adaptable, open-source approach to mediation. *Dispute Resolution Journal*, 68(1), 59-96.
- Jenkins, E.K., Slemon, A., Haines-Saah, R.J. & Oliffe, J. (2018). A guide to multisite qualitative analysis. *Qualitative Health Research*, 28(12), 1969-1977. doi: 10.1177/1049732318786703
- Johnson, L. (2011). Addressing the real barriers to settlement: The keys to effective mediation. *Dispute Resolution Journal*, 66(4), 64-74.
- Kabanoff, B. (2019). Equity, equality, power, and conflict. *The Academy of Management Review*, 16(2), 416-441. doi: <https://jstor.org/stable/258869>
- Katz, D., & Kahn, R. L. (1978). *The social psychology of organizations* (2nd ed.). Wiley.
- Keefe, T., & Koch, S. (1999). Teaching conflict management in social work. *Journal of Teaching in Social Work*, 18(1), 33-52. doi: 10.1300/J067v18n01_06
- Koonce, R. (2017). The emergent nature of positive (and negative) organizing: Why

- mindset matters. In R. Koonce, P. Robinson, & B. Vogel (Eds.) (2017). *Developing leaders for positive organizing* (pp. 3-41). Emerald.
- Kressel, L. (2013). How do mediators decide what to do? *Ohio State Journal on Dispute Resolution, 28*(3), 709-735.
- Lewis, T., & Umbriet, M. (2015). A humanistic approach to mediation and dialogue: An evolving transformative practice. *Conflict Resolution Quarterly, 33*(1), 3-17. doi: 10.1002/crq
- Li, X., Zhu, P., Yu, Y., Zhang, J., & Zhang, Z. (2017). The effect of reciprocity disposition on giving and repaying reciprocity behavior. *Personality and Individual Differences, 109*(15), 201-206. doi: 10.1016.j.paid.2017.01.007
- Lincoln, M.G. (2001). Conflict resolution education: A solution for peace. *Communications and the Law, 23*(1), 29.
- Lipshitz, R., Klein, G., Orasanu, J., & Salas, E. (2001). Focus article: Taking stock of naturalistic decision making. *Journal of Behavioral Decision Making, 14*, 331-352. doi: 10.1002/bdm.381
- Lobo, L., Heras-Escribano, M., & Travieso, D. (2018). The history and philosophy of ecological psychology. *Frontiers in Psychology, 27*.
<https://doi.org/10.3389/fpsyg.2018.02228>
- Longaretti, L., & Wilson, J. (2006). The impact of perceptions on conflict management. *Educational Research Quarterly, 29*(4), 3-15.
- Lydon, J. (2009). Transmission of the charism: A major challenge for Catholic education. *International Studies in Catholic Education, 1*(1), 42-45.
doi:10.1080/19422530802605481

- Malizia, D.A., & Jameson, J.K. (2017). Hidden in plain view: The impact of mediation on the mediator and implications for conflict resolution education. *Conflict Resolution Quarterly*, 35, 301–318. doi: 10.1002/crq.21212
- McManus, M., & Silverstein, B. (2011). Brief history of alternative dispute resolution in the United States. *Cadmus Journal*, 1(3), 100-104.
- Mello, A. L., & Delise, L.A. (2015). Cognitive diversity to team outcomes: The role of cohesion and conflict management. *Small Group Research*, 26(2), 204-226. doi: 10.1177/1046496415570916
- Moule, R. K. & Wallace, D. M. (2016). An experimental investigation into perceptions of disrespect during interpersonal conflict. *Social Science Research*, 62, 134-149. doi: <http://dx.doi.org/10.1016/j.ssresearch.2016.008.001>
- Moustakas, C. (1994). *Phenomenological research methods*. Sage.
- Pam, N. (2013, April 7). *Ecosystem*. Personality Dictionary. <https://psychologydictionary.org/ecosystem/>
- Park, H. & Antonioni, D. (2007). Personality, reciprocity, and strength of conflict resolution strategy. *Journal of Research in Personality*, 41, 110-125. doi:10.1016/j.jrp.2006.03.003
- Pauley, M.D. (2011). Acknowledging and mitigating power disparities in physician patient/proxy negotiations. *Journal of Communication in Health*, 4(2), 139-144. doi: 10.1179/175380611X13022552566371
- Powell, L., & Hickson, M. (2000). Power imbalance and anticipation of conflict resolution: Positive and negative attributes of perceptual recall. *Communication Research Reports*, 17(2), 181-190.

- Putnam, L.L. (2004). Transformations and critical moments in negotiations. *Negotiation Journal*, 275-295. doi: 10.1111/j.0748-4526.2004.00000.x
- Qualcomm. (2015, October). *Driving the new era of immersive experiences*.
<https://www.qualcomm.com/media/documents/files/immersive-experiences-whitepaper.pdf>
- Rahim, A., & Bonoma, T. (1979). Managing organizational conflict: A model for diagnosis and intervention. *Psychological Report*, 44, 1323-1344.
- Raymond, G. (1992). *Basic interviewing skills*. Peacock.
- Raypole, C. (2019, September 10). *Big feelings and how to talk about them*. Healthline.
<https://www.healthline.com/health/list-of-emotions>
- Richmond, V. P., Wagner, J. P., & McCroskey, J.C. (1983). The impact of perceptions of leadership style, use of power, and conflict management style on organizational outcomes. *Communication Quarterly*, 31(1), 27-36.
- Roberts, C., & Hyatt, L. (2019). *The dissertation journey* (3rd ed.). Sage.
- Rong, Y., & Yang, B. (2017). Leaders' sense of power and team performance: A moderated mediation model. *Social Behavior and Personality*, 45(4), 641-656.
- Rooney, G. (2007). The use of intuition in mediation. *Conflict Resolution Quarterly*, 25(2), 239-253. doi: 10.1002/crq.206
- Saldana, J. (2016). *The coding manual for qualitative research*. Sage.
- Salas, E., Rosen, M.A., & DiazGranados, D. (2010). Expertise-based intuition and decision making in organizations. *Journal of Management*, 36(4), 941-973. doi: 10.1177/0149206309350084
- Saposnek, D.T. (1993). The art of family mediation. *Mediation Quarterly*, 11(1), 5-12.

- Sims, R. L., & Keon, T. L. (1999). Determinants of ethical decision making: The relationship of the perceived organizational environment. *Journal of Business Ethics, 19*, 393-401.
- Sincero, S.M. (2012, March 14). *Ecological Systems Theory*. Explorable.
<https://explorable.com/ecological-systems-theory>
- Sohn, B.K. (2017). Phenomenology and qualitative data analysis software (QDAS): A careful reconciliation. *Qualitative Social Research, 18*(1). Article 14. <http://nbn-resolving.de/urn.nbn.de:0114-fqs1701142>
- Tsay, C., & Bazerman, M.H. (2009). A decision-making perspective to negotiation: A review of the past and look to the future. *Negotiation Journal, 467-480*. doi: 10.1111/j.1571-9989.2009.00239.x
- Twomey, D. (1978). The effects of power properties on conflict resolution. *The Academy of Management Review, 144-150*.
- United States Department of Education (2018, January). *Agricultural mediation program*. https://www.fsa.usda.gov/Assets/USDA-FSA-Public/usdafiles/FactSheets/2018/agricultural_mediation_program_jan2018.pdf
- Valle, V. & Frieze, H. (1976). Stability of causal attributions as a mediator in changing expectations for success. *Journal of Personality and Social Psychology, 33*(5), 579-587.
- Walden, A., Javdani, S., & Allen, N. (2014). Engaging conflict: Supporting power sharing through constructive conflict resolution. *Journal of Community Psychology, 42*(7), 854-868.
- Wassner, B. (n.d.). A uniform national system of mediation in the United States:

Requiring national training standards and guidelines for mediators and state mediation programs. *Cardozo Journal of Conflict Resolution*, 4(1).

<https://cardozojcr.com/issues/volume-4-1/note-1/>

Ward, S. (2016). Conscious leadership. *AORN Journal*, 104(5), 1-9. doi:

<http://dx.doi.org/10.1016/j.aorn.2016.09.002>

Williams, K. (2012). Business intuition: The mortar among the bricks of analysis.

Journal of Management Policy and Practice, 13(5), 48-65.

Witteman, H. (1992). Analyzing interpersonal conflict: Nature of awareness, type of

initiating event, situational perceptions, and management styles. *Western Journal of Communication*, 56, 248-280.

Yang, Y. (2016). Examining competing models of transformational leadership,

leadership trust, change commitment, and job satisfaction. *Psychological Reports*, 119(1), 154-173.

Yang, Y. (2011). Leadership and satisfaction in change commitment. *Psychological*

Reports, 108(3), 717-736. doi: 10.2466/01.28.PRO.108.3.717-736

Yang, Y. (2011). Wisdom displayed through leadership: Exploring leadership-related

wisdom. *The Leadership Quarterly*, 22, 616-632. doi:

10.1016/j.leaqua.2011.05.004

Zhang, X., Cao, Q., & Tjosvold, D. (2010). Linking transformational leadership and

performance: A conflict management approach. *Journal of Management Studies*, 48(7), 1586-1614. doi: 10.1111/j.1467.6486.2010.00974.x

Zhu, Y., Ritter, S.M., Muller, B.C., Dijksterhuis, A. (2017). Creativity: Intuitive

processing outperforms deliberative processing in creative idea selection. *Journal of Experimental Social Psychology*, 73, 180-188. doi:

<http://dx.doi.org/10.1016/j.jesp.2017.06.009>

Zumeta, Z. (2018, November 25). Styles of mediation: Facilitative, evaluative, and transformative mediation. <https://www.mediate.com/articles/zumeta.cfm>

Appendix A

Statement of Permission from Directors

Address

Date

Dear Director,

I am a doctoral student at Creighton University, and I am conducting research for my dissertation. The study is called: "A Transcendental Phenomenological Study on How Experienced Mediators Elicit Enhanced Capacity from Parties during Unscripted Aspects of Mediation".

I am writing to ask for permission for me to interview a mediator within your organization. If your organization agrees to participate in the study, I am asking that you identify a mediator with at least five years of mediation experience who is deemed an effective mediator according to your organizational expectations.

For purposes of this study, these terms are defined as follows:

Capacity: Ability of parties in conflict to exercise agency by identifying, articulating, and acting upon interests through collaborative behaviors.

Unscripted: Not formally planned or named.

Not every mediator who is identified for participation will be interviewed. 12-15 participants will be determined by me, along with a third-party evaluator, to represent geographic, tenure, and mediation-type diversity. 42 organizations identified through Coalition of Agricultural Mediation Program (CAMP) have been contacted for participation, and the interview sample will be determined among this pool.

If your mediator is selected for participation, their comments will remain confidential. If there is any identity-revealing information disclosed during their interview, it will be removed during the data analysis to ensure confidentiality. Additionally, they will be furnished this signed statement of permission.

Organizations selected for participation will also be asked to furnish any of the following they are willing and able to submit: Supporting data (current or archived), such as mediation agreement rates, mediation agreement writing samples, and policies, procedures, and training resources that help exemplify practices and philosophies creating your organizational outlook on how experienced mediators elicit enhanced capacity from parties during unscripted aspects of mediation.

This research project has been reviewed and approved by the Institutional Review Board (IRB) for Studies Involving Human Subjects. For research problems or questions regarding subjects, the Institutional Review Board may be contacted through: Dr. C.C. and Mabel L. Criss Health Sciences Complex I, Room 133 & 134. Phone: 402-280-2126; Fax: 402-280-4766; Email: IRB@creighton.edu

This qualitative research project is intended to improve current mediation understanding and programmatic offerings by exploring how experienced practitioners of certified mediation programs elicit enhanced capacity from parties during unscripted aspects of mediation.

Name of identified Mediator: _____

Employment years with organization: _____

Contact information of Mediator (Email): _____

Contact information of Mediator (Telephone): _____

Signed consent by Director to allow participation: _____

Date of Signature by Director: _____

Please return this signed permission notice to me by DATE. This can be sent via email to KAM04646@creighton.edu or mail to: Iowa Mediation Service, 1441 29th Street; Suite 120, West Des Moines, IA 50266.

Please let me know at any point if you have any questions, comments, or concerns about this research project. I can be reached at: 515-360-4729 or KAM04646@creighton.edu. The overall findings that are compiled from this research project will be available to you upon completion of the study, which is anticipated around September 2020.

Again, I thank you for allowing your identified mediator to participate in this study.

Sincerely,

Kiley Fleming

Appendix B

Information Letter to Participants

DATE:

Dear Participant,

I am a doctoral student at Creighton University, and I am conducting research for my dissertation. The study is called: "A Transcendental Phenomenological Study on How Experienced Mediators Elicit Enhanced Capacity from Parties during Unscripted Aspects of Mediation". You have been identified by your director as a mediator who I may invite for voluntary participation in this study.

The intent of this project is to improve current mediation understanding and programmatic offerings by exploring how experienced practitioners of certified mediation programs elicit enhanced capacity from parties during unscripted aspects of mediation. For purposes of this study, these terms are defined as follows:

Capacity: Ability of parties in conflict to exercise agency by identifying, articulating, and acting upon interests through collaborative behaviors.

Unscripted: Not formally planned or named.

A benefit to you for participating in this study is that the overall findings compiled from this research project will be available to you upon completion of the study, which is anticipated by September 2020. This information may be useful in the development of skills and awareness associated with the practice of mediation.

Participation involves being interviewed by me, and the interview will last approximately 45-60 minutes. An audio recording of the interview and subsequent conversations will be made. This recording will be stored with a secure software vendor, NVivo. If you do not wish to be taped, you will not be able to participate in the study. Written notes will also be taken during the interview, and will be stored in a locked file at my employer, Iowa Mediation Service. There are no foreseen risks associated with participating in this study.

Your participation in this research is voluntary, and you will not be paid for my participation. You may withdraw and discontinue participation at any time without penalty. If you decline to participate or withdraw from the study, no one from your employer will be informed.

I will not identify you by name in any reports using information obtained from this interview, and your confidentiality as a participant in this study will remain secure. No individuals tied to your employer, my employer, or Creighton University will be present

at the interview or have access to raw notes or transcripts. This precaution will promote confidentiality practices.

You may contact me to answer questions about this research: 515-360-4729 or KAM04646@creighton.edu. If you have questions about your rights involving this study, contact: Dr. C.C. and Mabel L. Criss Health Sciences Complex I, Room 133 & 134. Phone: 402-280-2126; Fax: 402-280-4766; Email: IRB@creighton.edu.

Thank you for your time and consideration regarding your participation in this study.

Sincerely,

Kiley Fleming

Enclosure: Bill of Rights for Research Participants

Bill of Rights for Research Participants

As a participant in a research study, you have the right:

1. To have enough time to decide whether or not to be in the research study, and to make that decision without any pressure from the people who are conducting the research.
2. To refuse to be in the study at all, or to stop participating at any time after you begin the study.
3. To be told what the study is trying to find out, what will happen to you, and what you will be asked to do if you are in the study.
4. To be told about the reasonably foreseeable risks of being in the study.
5. To be told about the possible benefits of being in the study.
6. To be told whether there are any costs associated with being in the study and whether you will be compensated for participating in the study.
7. To be told who will have access to information collected about you and how your confidentiality will be protected.
8. To be told whom to contact with questions about the research, about research-related injury, and about your rights as a research participant.
9. If the study involves treatment or therapy:
 - a. To be told about the other non-research treatment choices you have.
 - b. To be told where treatment is available should you have a research-related injury, and who will pay for research-related treatment.

Appendix C

Interview Template

Topic: A Transcendental Phenomenological Study on How Experienced Mediators Elicit Enhanced Capacity from Parties during Unscripted Aspects of Mediation

Interview start time:

Date:

Interviewer: Kiley Fleming, Doctoral student at Creighton University

Thank you for taking the time to be interviewed for this research project on a concept I am calling “A Transcendental Phenomenological Study on How Experienced Mediators Elicit Enhanced Capacity from Parties during Unscripted Aspects of Mediation.”

This research project has been approved by the Institutional Review Board (IRB) for studies involving Human Subjects. I have been through IRB training and have two certifications of completion should you wish to review my research background. For questions or concerns, you may contact Creighton University’s IRB committee, and this contact information was provided in the consent form previously emailed to you.

Your comments will remain confidential as also detailed in the consent form. If there is any identity-revealing information disclosed during your interview, it will be removed during the data analysis to ensure confidentiality. Additionally, you have provided the statement of permission from your director.

This qualitative research project is intended to improve current mediation understanding and programmatic offerings by exploring how experienced practitioners of certified mediation programs elicit enhanced capacity from parties during unscripted aspects of mediation. For purposes of this study, these terms are defined as follows:

Capacity: Ability of parties in conflict to exercise agency by identifying, articulating, and acting upon interests through collaborative behaviors.

Unscripted: Not formally planned or named.

I ask you answer these questions to the best of your ability. If you need a break to pause or reflect, I am glad to accommodate this. Please let me know at any point if you have any questions, comments or concerns about this interview. The overall findings that are compiled from this research project will be available to you upon completion of the study, which is anticipated by September 2020.

Again, I thank you for participating in this research interview.

Interview Questions:

1. Describe the practices or skills you use during the unscripted aspects of mediation.
2. How do you elicit capacity in and among parties?
3. What is the relationship between the unscripted parts of mediation and your effectiveness in eliciting enhanced capacity in and among the parties?
4. What contexts or situations have influenced your experience or perspective regarding the unscripted aspects of mediation? What contexts or situations have influenced your experience or perspective with eliciting capacity among parties?

(The following questions may be used as supplemental questions, depending on the breadth of information provided by the interviewees.)

5. How do you assess the unscripted aspects that develop during mediations to determine the practices or skills you will utilize?
6. Describe a mediation case reflecting how you elicited capacity from parties during unscripted aspects/moments in the mediation.
7. What else would you like to share about your viewpoints on the unscripted aspects of mediation and capacity as it relates to your experiences as a mediator?

Adapted by Hawkins, P. & Ehrlich, J. from: Creswell, J. (2013). *Qualitative inquiry and Research Design: Choosing among the five approaches*. Sage, Los Angeles p.165.

Appendix D

Field Notes

Description	Reflective Notes

Adapted by Hawkins, P. & Ehrlich, J. from: Creswell, J. (2013). *Qualitative inquiry and Research Design: Choosing among the five approaches*. Sage, Los Angeles p.165.

Appendix E



Office of the Provost
Research Compliance

DATE:	06-Apr-2020
TO:	Fleming, Kiley A
FROM:	Social / Behavioral IRB Board
PROJECT TITLE:	A Transcendental Phenomenological Study on How Experienced Mediators Elicit Enhanced Capacity from Parties during Unscripted Aspects of Mediation
REFERENCE #:	2000873-01
SUBMISSION TYPE:	Initial Application
REVIEW TYPE:	Exempt
ACTION:	APPROVED
EFFECTIVE DATE:	06-Apr-2020

Thank you for your Initial Application submission materials for this project. The following items were reviewed with this submission:

- Creighton University HS eForm~

This project has been determined to be exempt from Federal Policy for Protection of Human Subjects as per 45CFR46.101 (b) 2-4.

All protocol amendments and changes are to be submitted to the IRB and may not be implemented until approved by the IRB. Please use the modification form when submitting changes.

If you have any questions, please contact the IRB Office at 402-280-2126 or irb@creighton.edu. Please include your project title and number in all correspondence with this committee.

Institutional Review Board
 • 402.280.2126 | • 402.280.5200
 Dr. C.C. and Mabel L. Criss Health Sciences Complex I
 2500 California Plaza Omaha, NE 68178

creighton.edu
creighton.edu/researchservices/researchservices/irb

Appendix F

CONFLICT IMAGERY CHARTING

These exercises will help navigate your perspective on conflict, with the end-goal of creating the imagery you tie to conflict. This imagery will guide your conflict management style/approach.

1. What are the initial thoughts and feelings you associate with conflict?

2. Circle the top five emotions you connect with conflict.

anger	discomfort	love	hurt	sadness	depression
fear	relief	anxious	acceptance	avoidance	tension
happiness	enjoyment	gloomy	lonely	compassion	peace
irritated	gladness	horrified	desperate	terrified	bitter
contented	hopeless	grieved	amusement	troubled	lost
mourn	confused	stressed	excitement	pride	joy
worried	heartbroken	panicked	satisfaction	nervous	miserable
connected	loathing	revulsion	dislike	disturbed	calm
aversion	offended	serene	withdrawn	horrified	resigned
controlled	disapproving	disturbed	annoyed	frustrated	mad
insulted	disappointed	cheated	composed	terrified	still
pleasure	doubtful	delight	uncomfortable	vengeful	contrary
infuriated	anticipation	peevd	eagerness	interest	unhappy

What do you think contributes to the emotions you hold about conflict?

3. Reflect upon your personal background and identify specific events, circumstances, or influences related to the following:

Difficult personal history: _____

Prior professional experience: _____

Formal education: _____

Mediation preference: _____

Family dynamics: _____

Personal values: _____

4. Consider the interests, hobbies, memories, or communities you are very familiar with and/or enjoy. The following are themes to help facilitate your thinking:

- Outdoors (e.g. Hiking): _____
 Music (e.g. The Beatles): _____
 Travel (e.g. Beaches): _____
 Theatre (e.g. Broadway Play): _____
 Architecture (e.g. Victorian) : _____
 Art (e.g. Picasso): _____
 Games (e.g. Poker): _____
 Food (e.g. Steak): _____
 Medicine (e.g. Heart attack): _____
 Weddings (e.g. Honeymoon): _____
 School (e.g. Playground): _____
 Sports (e.g. Football): _____
 Animals (e.g. Dogs): _____
 Dance (e.g. Ballroom): _____
 Technology (e.g. PlayStation): _____
 Clothing (e.g. Purses): _____
 Real-estate (e.g. Renovations): _____
 Dating (e.g. E-Harmony): _____
 Other: _____
 Other: _____

Now you are going to link these four steps together to create your Conflict Imagery, which can be a written statement or visual picture.

Example: 1. I engage in conflict and find it useful for change. 2. I believe this because my parents divorced and then later successfully remarried. 3. I used to be a teacher, so I am comfortable with people of all ages, abilities, and temperaments. 4. I traveled a lot with family...

CONFLICT IMAGERY: Conflict is like traveling by plane. You have a destination in mind, so you spend time packing, going through security, and waiting in line, which is necessary to get to your intended location. Along the way, you see different kinds of travelers and you might feel overwhelmed and tired, but eventually you arrive safely.

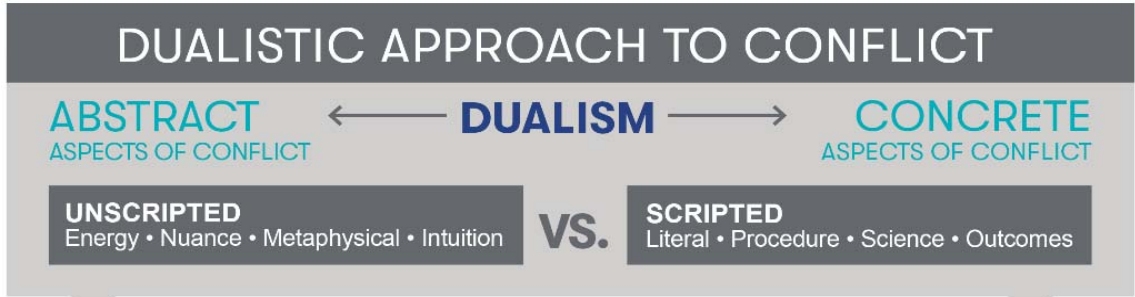


YOUR CONFLICT IMAGERY STATEMENT/PICTURE:

(Write or Sketch below)

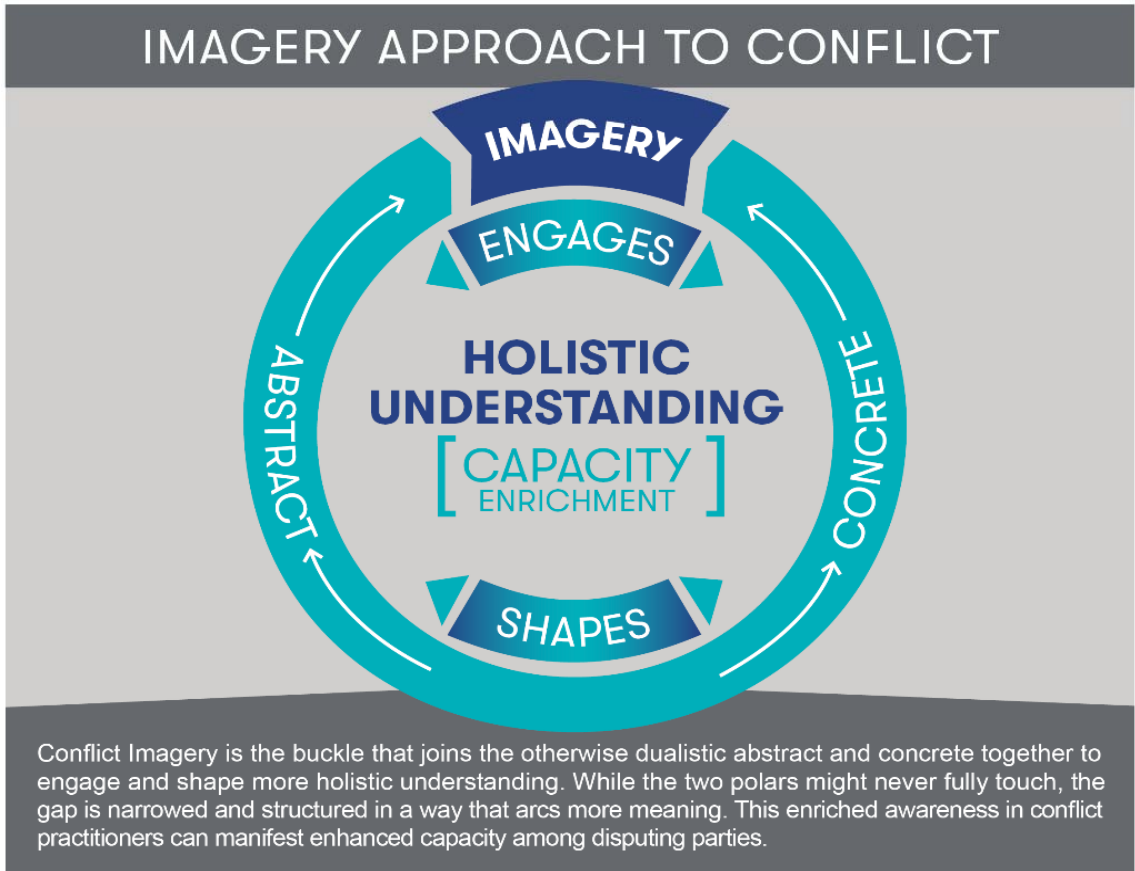
Appendix G

IMAGERY APPROACH TO CONFLICT MANAGEMENT



Numerous conflict models are based upon a Dualistic Approach. Steer from a **DUALISTIC APPROACH** to an **IMAGERY APPROACH** because the Dualistic Approach limits understanding.

IMAGERY APPROACH: Visual description or figurative language that serves as a representative bridge between the abstract and concrete.



Appendix H

Stress Personality Tool Types

Human nature propels us to cope with stress using five symbolic “tools” commonly used to “fix” discomfort: **The Tape Measure, Level, Hammer, Plier, and Screwdriver.** Each personality tool serves various - and important - functions when dealing with uncomfortable situations. Consider how you respond to stress:

- Are you **passive** or **active** in your actions?
- Are you **competitive** or **cooperative** with others?
- Is your decision-making **avoidant** or **engaging**?
- Is your approach **impulsive** or **analytical**?

*When stressed, the **TAPE MEASURE** is seen as the “Evaluator”

*How they primarily **function**: *Calculate and Gauge*

*What they **value**: Accuracy, plans, details, logic

*What they **need**: Information

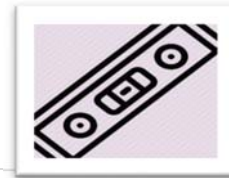
***Environments** they thrive in: Rules, systems, timeframes, instructions, agendas

***Difficulties** with this personality: Rigidity, emotionally unavailable, fixation

*Communication they do **not need**: Face-to-face [Option: Technology-based]

*Areas for **personal growth**: Flexibility, emotional openness, compromise

***Concerns** for this type: Paralyzed by need for perfection



*When stressed, the **LEVEL** is seen as the “Zhen”

*How they primarily **function**: *Balance and Align*

*What they **value**: Peace, order, stillness, pauses

*What they **need**: Calm

***Environments** they thrive in: Relaxed, harmonious, time, traditions, consistency

***Difficulties** with this personality: Avoid conflict, indifferent, paralysis

*Communication they do **not need**: Multiple interactions [Option: Breaks between]

*Areas for **personal growth**: Sense of urgency, understanding opposing points of view

***Concerns** for this type: Internalize instead of voicing concerns

*When stressed, the **HAMMER** is seen as the “Competitor”

*How they primarily **function**: *Drive and Deconstruct*

*What they **value**: Strength, energy, impact, power, tangibles

*What they **need**: Outcomes

***Environments** they thrive in: Movement, passion, major tasks, visuals, end goals, broad plans

***Difficulties** with this personality: Monopolize, harshness, disruption

*Communication they do **not need**: Indirect messages [Option: Clear communication]

*Areas for **personal growth**: Nuance, appreciating pauses, gentleness

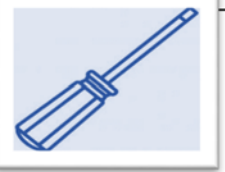
***Concerns** for this type: Guilt after being explosive with others



- *When stressed, the **PLIER** is seen as the “Mediator”
- *How they primarily **function**: *Grasp and Bend*
- *What they **value**: Negotiation, flexibility, compromise, understanding
- *What they **need**: Meaning
- ***Environments** they thrive in: Philosophical, communicative, emotional, forecasting, complex strategies
- ***Difficulties** with this personality: Personal veil, vague, transaction-adverse.
- *Communication they do **not need**: Technology based. [Option: Face-to-face]
- *Areas for **personal growth**: Individual identity, boundaries, conciseness
- ***Concerns** for this type: Their identity is confusing for others to pinpoint



- *When stressed, the **SCREWDRIVER** is seen as the “Networker”
- *How they primarily **function**: *Intertwine and Fasten*
- *What they **value**: Interactions, synergy, teamwork
- *What they **need**: Connection
- ***Environments** they thrive in: People-centered, events, consulting, brainstorming
- ***Difficulties** with this personality: Busyness, dependency, smothering
- *Communication they do **not need**: Sporadic meetings. [Option: Regular contact]
- *Areas for **personal growth**: Silence, individuality, space
- ***Concerns** for this type: Creating personal boundaries



Using the Tools

People respond to stress differently depending on their stress-tolerance ability and their general temperament. The variables that trigger stress are specific to each person, because individuals experience and process the world around them uniquely. Everyone has the ability to use all of the tools in the tool box, although we likely have a preferred one we rely on under pressure. During stress or conflict consider which tool you gravitate towards, along with observing which tools others around you use. Knowledge of both will increase constructive problem-solving and decrease burdens related to stress. With realistic expectations and acceptance, issues become easier to manage.

All tools have value and purpose. Try to see your approach and those of others as not being in competition with each other. Each has its own meaningful design to contribute.

**What can you learn from your tool type and those around you?
Use this imagery and awareness to improve self-recognition, relationships,
efficiencies, coping skills, and goal achievement.**