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A Case Study Investigating the Interpretation and Implementation of the Transformative Mediation Technique

Chuks Petrus Nweke
Walden University

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Walden University

COLLEGE OF MANAGEMENT AND TECHNOLOGY

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Abstract

For decades, unresolved conflicts have negatively influenced the general public through increased violence, overwhelming the judicial system. A literature review suggested that between 15% and 20% of conflicts result in an impasse. This study was designed to understand how the implementation and application of the transformative mediation technique (TMT) is used to resolve conflicts. The purpose of this qualitative case study was to investigate the interpretation and implementation of TMT. This qualitative case study was grounded in the conceptual framework of interest-based negotiation (IBN) principles. The research questions focused on mediators' perceptions, interpretations, and depth of knowledge, as well as the effectiveness of the transformative mediation technique (TMT) as an improvement over evaluative or facilitative techniques in resolving conflicts and reducing impasses. Twenty face-to-face interviews were conducted with purposefully selected mediators. Data were coded and analyzed to identify recurring themes: *interests, needs, responsibility, relationship, empowerment, problem solving, and negotiation*. The findings of the data analysis revealed that mediators were familiar with TMT; interpretation and implementation varied with mediator style. Moreover, most mediators were not highly educated in TMT. In addition, it was found that simply having knowledge of TMT did not prepare mediators to apply the technique appropriately. Mediators were more attracted to the hybrid transformative mediation technique (HTMT). This study has the potential to create positive social change by reducing the number of litigations, giving relief to the overburdened justice system, and thus decreasing the use of limited courts resources.

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Dedication

To my lovely, beloved, understanding, and caring wife, Grace Nene, for her unconditional love and support, and our beautiful children, Adaobi, Chuks Jr., and Onyienyechukwu.

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Chapter 1: Introduction to the Study

An ever-present experience in all human relations, conflict is inherent in society. The use of formal mediation to resolve conflicts has expanded worldwide, and its practice has grown into all areas of human interactions. Evidence suggests that unresolved conflicts negatively affect the general public through increased violence and an overwhelmed court system (Moore, 1996). In this chapter, the following subtopics are articulated: the background of the study, problem statement, nature of the study, research questions, purpose of the study, conceptual framework, operational definitions of terms used in the study, assumptions, limitations, scope and delimitations, significance of the study, social change implications, and transition statement.

Background of the Study

Conflict has been present in all relationships and societies: at places of employment, sporting events, hospitals, schools, and playgrounds. Wherever humans gather, a potential for conflict exists. According to Moor (2008), conflict may be viewed cognitively (perception), emotionally (feeling), and behaviorally (action). Psychologists consider these three as the only dimensions of human experiences (Dana, 2001). When two individuals are in conflict, each has the conviction that his or her own personal interests, wants, needs, or values are contrary to those of the opponent. Sometimes one person feels in conflict with another, even though the other person does not reciprocate those feelings.

Dana (2001) stated that conflict results from actions individuals take to express feelings, to communicate perceptions, and to meet their needs by potentially interfering

with the ability of other individuals to get their needs met. Furthermore, conflict can be categorized as objective or subjective. An objective example was played out between a supervisor in the El Paso county planning department in Colorado and a land developer. The developer wanted to convert the area in dispute into a housing community, while the county wanted to preserve the land as open space. This conflict was seen as objective because it involved land utilization. In other words, everything about land, wealth, and power are all objective ideas; in this context rational behavior was stressed and the interests of the disputing parties were the focus. For the most part, desirable lands are in short supply and it is impossible to fulfill all interests unless an independent observer like a mediator decides the outcome.

A subjective conflict is associated with irrational behavior produced by feeling, temperaments, interpretations, opinions, and preferences of the subject. An example of a subjective component is a situation in which a husband and wife have incompatible parenting philosophies. Their judgments on parenting are assumed to be heavily influenced by personal considerations like emotions, passions, perceptions, experiences, ideologies, misconceptions, and cultural and societal biases. These conflict behaviors may be derived from human mental activities (Dana, 2001).

Levinson (1994) provided a broad summary of aggression and conflict. He defined conflict as “a dispute between two or more individuals or groups over access to or control of resources,” and conflict includes economic, political (power, leadership), social (prestige or status), and personal esteem in the description of resources. Levinson

based the definition upon a global survey of 3,000 cultures. Selected listings relevant to this study are discussed:

Advisors: The first section discusses advisors using the example of the San of Botswana who relied upon advisors to settle disputes. In other words, advisors for the most part play the role of mediators.

Apology: Levinson (1994) cited the work of Hickson (1986) in which only 14% used apology as a means of resolving conflict, but where it was applied, there were specific requirements (e.g. Korea, Japan, Taiwan, Iran, Fiji) for how the apology was to be offered.

Avoidance and Withdrawal: Levinson (1994) also cited the research on the Javanese use of *satru*, in which people cease talking to one another, and to the Thai who consider withdrawal to be an appropriate response to resolving conflicts. Another study found that Jamaicans withdraw and focus their anger on others or themselves in silence because preserving relationships is more important than not.

Conflict Resolution: Levinson (1994) cited the work of Newman (1983) who defined eight types of legal systems for resolving disputes: self-help, advisor, mediation, elder's council, restricted council, chieftainship, paramount chieftainship, and state level systems (judicial systems and courts). Levinson noted that complex societies like the United States use all eight types.

Humor: Levinson said that humor is culturally universal and can play a role in controlling aggression. Levinson noted that psychological interpretations reveal that humor is a mechanism for meeting human needs to express aggressive drives and

feelings. Examples provided include the San of Botswana who use joking as an alternative to losing one's temper; Chicanos use word play as a sort of cultural indictment.

Brislin and Liu (2004) cited the work of Pettigrew (1998), who identified four key components for positive (no conflict) intercultural contact: equal status, common goals, cooperative effort, and support from authority figures. According to the authors, cross-cultural education is the key to avoiding and managing conflicts. They recommended that people use critical incidents or stories to force themselves to face up to the conflicts that can arise. Therefore, it would serve mediators well to focus on these three strategies for dealing with conflict: defer to power, focus on existing rules or laws, or seek a solution that satisfies self-interests.

Agee and Kabasakal (1993) studied American and Turkish students to determine how they manage conflicts. First, they reviewed the literature on conflicts by citing the work of Habib (1987) on overt conflict action in international corporations, and Filley (1978) on problem solving as a dispute resolution technique. Agee and Kabasakal cited the work of Ruble and Thomas (1976) and their five conflict management modes as:

1. Competition: Focused on one's position while neglecting the others' desires.
2. Avoidance: Failure to satisfy either one or another's needs.
3. Consideration: Failure to satisfy one's own needs in order to satisfy those of others.
4. Collaborating: Focuses on problem solving, information exchange, mutual decisions.

5. Compromising: The opportunity for parties involved to each give up something to make a mutually acceptable decision.

Grisham (2005) argued that conflict is an integral part of human interaction among peoples, groups, cultures, sects, firms, and countries. Grisham added that if conflict can be guided, it can be healthy and fruitful. The incentive to communicate in an appropriate way makes all the difference between conflict and resolution. Inappropriate communication or ineffective mediation may also lead easily to unfortunate consequences and the deterioration of relationships. For example, disputants that adopt effective communication principles have respect for each other and give each other the opportunity to speak throughout their conflict situations.

Relationship conflict, an awareness of interpersonal incompatibilities, includes affective components such as feeling tension and friction. This study focused on an in-depth application and understanding of the transformative mediation technique (TMT) and its correlation to interest-based negotiations (IBN). Mediation has had a long and diverse history in almost all cultures of the world, and had been widely practiced in Japan, China, and other Asian countries; in the United States and many indigenous cultures; and in Christian, Islamic, Hindu, and Buddhist faiths. In addition, the mediation process is often preferred over other available means of conflict resolution, especially legal methods, because mediation saves both time and money. This study drew on the experiences of mediators in Colorado, as well as my own experiences. As a result, possible strategies and tactics are recommended to best understand and implement TMT.

Problem Statement

Little research has been done on the implementation and application of TMT to resolve conflicts in Colorado. Moore (2003) stated that TMT is currently underused because mediators are not aware of it, or they lack the necessary knowledge on applying and implementing TMT appropriately to resolve conflicts. Furthermore, Moore advocated for additional research on mediation tactics to enhance the mediation profession.

Purpose of the Study

The purpose of this qualitative case study was to identify and develop the best practices of TMT and alleviate impasse during the mediation process. Most important, the study sheds more light on the high effectiveness of TMT. The qualitative tradition was appropriate, as the research topic called for an exploratory study because theories did not exist to explain the phenomenon, variables were not easily identifiable, a need existed to present a detailed account of the topic, and I needed to learn more in order to provide a narration and the viewpoint of participants (Creswell, 2007; Singleton & Straits, 2005; Strauss & Corbin, 1990; Trochim, 2001). The study was qualitative research with a descriptive and inductive approach with triangulation of data collection. Data consisted of 20 individual in-depth face-to-face interviews with open-ended questions with mediation professionals. The findings add to the knowledge base of current and future Colorado mediators.

Nature of the Study

I compared various research methods and designs to use for this study and chose to conduct this qualitative case study design using a purposeful sampling, resulting in participation by 20 mediators with 2 years experience with TMT. All participants provided their individual views and unique perceptions on the technique. In addition, I wanted to tell the story of Colorado mediators in this study in a readable and concise manner. One of the main uses of qualitative case study is to paint a picture that describes an event, which was one reason to use case study design in this dissertation. Other reasons included the way information was collected and how this information could best be integrated into a study that made the most sense to those who could benefit by it.

This study included a review of literature and archived documents, along with an analysis of participant interviews in an extensive 10-week data collection timeframe. Although Stake (2005) stated that case study research was not a methodology but a choice of what was to be studied (i.e., a case within a *bounded system*), others presented it as a strategy of inquiry, a methodology, or a comprehensive research strategy (Denzin & Lincoln, 2005; Merriam, 1998; Yin, 2003). Using Stake's approach, I explored a bounded system (case) over time, through detailed, in-depth data collection that involved interviews and documents. The answers to the research questions explained action, process, or interaction on a topic (Creswell, 2007). This approach of case study typically allows the researcher to conduct interviews with 15 to 30 participants to collect data until a category of data was saturated. Data were aggregated in response to the research

questions and the related problems of this study. My interest in this study emanated from his experience as a mediator and from concerns from other mediators in Colorado.

Research Questions

The following research questions guided the investigation:

1. How familiar are Colorado mediators with TMT?
2. How do Colorado mediators interpret and implement TMT?
3. How much training or experiences do Colorado mediators have in TMT?

Conceptual Framework

This qualitative case study was grounded generally in the conceptual framework of interest-based negotiation (IBN) principles when adopted by mediators to resolve conflicts. For the purpose of this study, interest-based negotiation assumes agreements in conflict situations are resolved and achieved when each side's interests are satisfied. Interest-based negotiation is also called "mutual gains bargaining, a win-win proposition" (p. 9). According to McKersie (1965), the process focused "on understanding and building on interests" and uses "problem-solving tools" to avoid "positional conflicts and achieve better outcomes" (p. 155). A number of skills and techniques are associated with interest-based negotiation, which include active listening and translating positions into needs or interests.

This qualitative case study focused on unmasking the challenges that confront Colorado mediators in the implementation and interpretation of TMT to resolve conflicts. The conceptual framework that justified this research was seen through the lens of interest-based negotiation (IBN) when used in the context of resolving conflicts. In other

words, the basic principles of TMT, empowerment, and win-win are similar to that of IBN. Also, the study examined the critical factors necessary for the adaptation of interest-based negotiation principles to resolve conflicts before conflicts reach impasse. Responses to conflicts can be in the form of aggression, suppression, avoidance, apathy, compromise, collaboration, surrender, and dialogue according to Brett, Goldberg, and Ury (1989).

According to McKersie (2000), IBN asserted that if people present their concerns to each other in a constructive way and they are receptive to understanding each other's interests, they are most likely to make progress in working their way through a conflict situation. The process focuses on understanding and building upon interests, both tangible and intangible, and uses problem-solving tools to avoid positional conflicts and achieve better outcomes. Interests are violated during conflicts when tangible things like money, terms and conditions are dishonored by either one or both parties. The intangible things include needs, desires, concerns, fears, and aspirations. All of these interests are also fundamental and sometimes get in the way of resolving the conflicts.

Definition of Terms

These operational definitions are only used in the context of this study to clarify their meaning:

Conflict: a situation in which two or a group of individuals disagree on an issue. It can be perceived or material in nature (Moore, 1996).

HTMT: used as an acronym for hybrid transformative mediation technique (Nweke, 2011).

Impasse: refers to a situation in which reaching an agreement is a challenge because one or the other disputant is unwilling to change positions (Nweke, 2010).

Mediation: an extension or elaboration of the negotiation process that involves the mediator, an impartial third party who guides disputants to a voluntary resolution (Moore, 1996).

Resolution: a situation in which both disputants reach an agreement without reservations.

TMT: used as an acronym for transformative mediation technique (Nweke, 2010).

Assumptions

The study worked from three basic assumptions. First, it was assumed that competition exists over scarce resources, which include, but are not limited to, money and leisure. Competition rather than consensus is a characteristic of human relationships, and peaceful resolution of conflicts becomes secondary to that competition. The second assumption was that revolutionary changes occur because of conflict between competing social classes rather than through the peaceful resolution of conflicts. The final assumption from which this study worked was that the 20 mediators were knowledgeable about or possessed experience with TMT and they also responded to interview questions according to their perceptions (see Appendix D).

Limitations

A major limitation of this qualitative case study was that I am a member of the mediation association and familiar with the participants in the study. In addition, I was mostly the instrument for data collection, analysis, and interpretation. When speaking of

research validity, one usually refers to research that is plausible, defensible, trustworthy, and credible. I used a list of strategies to mitigate prejudices and biases. I searched for evidence by developing an understanding of data through careful consideration of potential causes and by systematically eliminating duplications. To minimize the possibility of bias, participant's accounts were recorded verbatim. The participants actually participated in discussions for verification and insights during their feedback. I utilized purposive sampling, a non-probability sampling design, because it targeted mediators. The success of purposive sampling depended on the availability of participants who are knowledgeable about the topic or subject matter being studied, and my knowledge of the population and ability to make decisions in that regard (Singleton & Straits, 2005). I was also aware of reflexivity, which is self awareness and critical self-reflection of the process and the impact of the research. Prior to study, as a mediator, I was already familiar with the population and was able to make appropriate decisions to solicit knowledgeable participants for the study. The mediators who participated in the interviews were representatives of the sample, and their views did not differ much from other mediators who did not participate. Because the research was conducted in Colorado, all the information used was considered geographically specific.

Finally, peer review was used, as I discussed my interpretations and conclusions with other people including discussion with a disinterested peer. This peer was skeptical and played the devil's advocate, challenging me to provide solid evidence for any interpretations or conclusions. Discussion with peers with whom I was familiar also helped to provide useful challenges and insights.

Scope and Delimitations

This study was delimited to the population that was used, the state selected for the study, and the available literature for the study. This study was restricted to Colorado and mediators with a minimum of 2 years of professional experience. This study included professionals who had mediated cases in Colorado and had some knowledge of TMT when the study commenced. I, the researcher and a mediator, was the only individual who conducted the study.

Significance of the Study/Social Change Implications

Conflicts are destructive and disruptive to communities and societies, and are inherent in everyday dealings with people. Reducing conflicts requires disputants to seek an alternative dispute resolution known as mediation. To be successful, mediators are required to have a clear understanding of TMT. Research shows that between 15% and 20% of disputes in Colorado go unresolved because Colorado mediators lack a clear understanding of TMT and its application. Developing a better understanding of TMT encourages mediators to increase using TMT over other mediation models to resolve conflicts. Through reductions in an impasse and a better awareness of the appropriate use of the mediation models, the gap in the literature was filled.

The lessons learned from the study will help to enhance the mediation profession and will encourage disputants to increase their use of mediation services to resolve conflicts instead of going through the court system. The study also contributes to positive social change by reducing unnecessary conflicts and violence; eases some of the burden on society's overloaded court system, and decreases impasses caused by conflicts.

Further research may be needed to determine the extent to which lessons learned in this study can be generalized to other states or countries.

Summary and Transition

This study investigated how Colorado mediators interpret and implement TMT in their practices. In doing so, the conceptual model that was derived from their experiences in the process of this research will help to enhance the mediation profession in Colorado and other states or countries. The lessons learned from the study will help to enhance the mediation profession and encourage disputants to increase using mediation services instead of going through the court system to resolve conflicts.

The relevant literature on TMT is reviewed in chapter 2 and its rubric is examined to develop the appropriate mechanism for increasing its usage to resolve conflicts in Colorado. The methodology that guided the study, especially the qualitative approach, procedures, coding design, and sample population are scrutinized in chapter 3. Here, the qualitative case study approach will be identified as the appropriate methodology for this dissertation. Also in chapter 3, the use of purposive sampling is illuminated with available data and interviews as methods for data compilation and analysis. The results and findings, especially data analysis, are addressed in chapter 4. Finally, in chapter 5 are compiled the research overview, interpretation of findings, recommendations for action, implications for social change, recommendations for further research, reflection, and conclusions.

Chapter 2: Literature Review

In chapter 1, the challenges confronting Colorado mediators were outlined and why it was necessary to investigate how mediators implement TMT was discussed. Mediators' perceptions of TMT were summarized, leading to the formulation of a qualitative case study to address the research questions. The conceptual framework derived from this research will lead to developing best practices, improve existing practices and enhance the ability of Colorado mediators to resolve conflicts, reduce impasse in conflicts, and reduce violence in the community. Contained in the literature review presented in chapter 2 are the conceptual framework and empirical studies that provide the background explanation on how Colorado mediators implement TMT in their practices.

The purpose of this literature review is to scrutinize, investigate, and synthesize literature on TMT from Colorado mediator's perspective. A wide range of literature is reviewed on the conceptual framework of mediation through the lens of interest-based negotiation (IBN) principles when used in the context of resolving conflicts. In addition, an analysis on the social implications or consequences of not resolving conflicts is offered. Specific assumptions are scrutinized and investigated to inquire if these assumptions support the reasons for conflicts and the challenges confronting mediators, conflict management practitioners, and researchers in the professions. Finally, gaps in the literature are identified for further research.

The chapter is organized around various aspects of conflict and mediation as follows: operational definitions and conceptualization of TMT, examination and analysis

of a mediation, origination of conflicts, the use of negotiation principles that are relevant to mediation, a review of the conceptual framework, the methodology of past studies, assessment, and conclusions. In developing the conceptual framework for this study, this chapter contains literatures relevant to conflict resolution, conflict management, mediation, interests, and negotiation. The review includes articles obtained from the following sources: *Dispute Resolution Journal*, *Conflict Resolution Quarterly* (formerly *Mediation Quarterly*), *Journal of Conflict Resolution*, the SAGE and EBSCOhost databases, Academic Source Premier and Business Source Premier, as well as relevant material from nearby university libraries, ProQuest Dissertations and Theses-Full Text databases, and the Google search engine. The search was conducted using a subject-based technique. Search terms included but were not limited to *mediation*, *decision making*, *problem solving*, *conflicts*, *disputants*, *conflict management*, *stalemates*, *standoff*, *responsibility*, *persuasion*, *trust*, *conflict resolution*, *perception*, *interests*, *accountability*, *blame*, *emotions*, *good faith* and *negotiations*.

Review of Related Literature

Researchers on conflict resolution tend to view coping approaches as products of purely rational choices, thereby discounting the impact of the emotional state of the disputants (Brodtker & Jameson, 2001; Jones, 2000; Kolb & Bartunek, 1992; Putnam, 2001). This observation happens more so in the mediation process. Moreover, research on the role of emotions in resolving conflicts is meager (Barsade, 2002; Kelley & Barsade, 2001). With the growing popularity of mediation as alternative dispute resolution, mediation and conflict management professionals recognize the need to

improve quality, increase efficiency, and ensure that conflict management is regarded as a vital asset to society (Alper, Tjosvold, & Law, 2000; DeDreu & Weingart, 2003).

Anderson and Polkinghorn (2008) examined the importance of conflict resolution skills and techniques when managing complex relationships and offered conflict intervention techniques. As Mayer (2004) pointed out, new practical challenges have arisen as the field evolves in regard to who mediators said they were and what services they rendered to society. According to Anderson and Polkinghorn (2008), over the last 25 years, formal conflict resolution practice has moved well beyond established areas of public decision making in fields such as environmental conflict resolution (Lewicki, Gray, & Elliott, 2003; O'Leary & Bingham, 2003), public policy (Carpenter & Kennedy, 2001; Susskind, McKearnan, & Thomas-Larner, 1999; Thomas, 1995) and international conflict resolution (Lederach & Jenner, 2002; Nye, 2007) into other areas of public concern that are less well known. Without much fanfare, conflict intervention practice has moved into highly specialized public and private arenas, as industry insiders incorporate basic conflict resolution skills into their occupational skill sets. These applications are making great developmental strides, yet the lessons and insights they impart are not readily visible to the larger conflict resolution community. These parallel developments deserve more observation in order to advance the field as a whole. One such arena of specialized conflict intervention practice rests within the construction industry, a venue that can be highly complex, exceptionally technical, scientifically driven, and until recently, legally dominated. In other words, mediation has been given serious consideration as a practical substitute to legal action.

In most studies on conflict-management patterns, the dual concern model has been adopted as a theoretical framework (Blake & Mouton, 1964; Pruitt & Rubin, 1986; Rahim, 1983). The basic principle of this model is that the conflict-management mode adopted by an individual stems from two underlying motives: concern for self and concern for the other party. The strength of each of these two motivational orientations, according to Blake and Mouton (1964), Pruitt and Rubin (1986), and Rahim (1983), may vary as a function of the particular conflict situation, with differing emphases yielding five major conflict-management patterns: (a) dominating (high concern for self and low concern for the other); (b) obliging (low concern for self and high concern for the other); (c) avoiding (low concern for self and low concern for the other); (d) integrating (high concern for self and high concern for the other); and (e) compromising (moderate concern for self and moderate concern for the other, in Rahim's 1983 version of the model). Most of the existing research on conflict management has dealt with active and open attempts by disputants to deal with their differences. Yet, some research findings, notably those emerging from qualitative studies, have indicated that members of work groups often resort to passive approaches in conflict management. For example, Ayoko et al. (2002) showed a 75% avoidance rate in the reactions of members of work groups to communication breakdowns. In a similar vein, Kolb and Bartunek (1992) and Roloff and Ifert (2000) found that avoiding disputes, for example, refraining from direct confrontation with conflict issues in formal or public sphere, is a prevailing mode of conflict management in organizations, especially by low-status individuals and members of minorities. Notwithstanding this apparent pervasiveness of a passive approach to work

team conflict, its underlying features, antecedents, and outcomes have seldom been investigated (Roloff & Ifert, 2000; Tjosvold & Sun, 2002).

Researchers have shown that the emotional state of an individual constitutes an important determinant of their conflict-management preference, which is very important to all professionals in conflict resolution and mediation. Three underlying components of individual emotional states have been revealed: behavioral, physiological, and cognitive (Brodtker & Jameson, 2001; Jones, 2000). The behavioral element refers to the way individuals express their emotional reactions. The physiological element pertains to the bodily experience of emotion. The cognitive component entails the perception and appraisal of the particular situation that prompted the emotional state.

Interests may affect performance through their influence on the choice to acquire the knowledge and skills required to successfully perform job tasks (Barrick et al., 2003; Lent et al., 1994; Sullivan & Hansen, 2004). That is, individuals whose interests are harmonious with the knowledge and skill requirements of a given conflict may be more motivated to acquire the knowledge and skills, which, in turn, may lead to better mediated outcome relative to individuals whose interests are not congruent with expected outcome. For example, if disputants' interests are recognized by each other, the disputants have high realistic motivation for a better outcome. In an employment example, a relationship between interests and job knowledge and skills may be particularly evident in work environments with evolving or changing work demands, where continual learning is critical and informal and where self-directed learning is important to effective performance (Pulakos, Arad, Donovan, & Plamondon, 2000).

Despite the number of articles proposing to study effects with intervening variables, less than a third of the subset included any test of significance of the intervening variable effect. Traditionally, causal mediation analysis has been formulated, understood, and implemented within the framework of linear structural equation modeling (LSEM; e.g., Baron & Kenny, 1986; Hyman, 1955; James, Mulaik, & Brett, 1982; Judd & Kenny, 1981; MacKinnon, 2008; MacKinnon & Dwyer, 1993).

Conceptual Framework for the Study

In Flinders and Mills's (1993) work, the philosophical and conceptual lenses of qualitative research include broad perspectives, such as epistemological and ontological assumptions. Added are ideological stances such as postmodernism and critical perspectives as well as narrowly defined theories composed of concepts, propositions, and hypotheses found in the social sciences.

According to Creswell (2007), five assumptions guide the research design that are central to all qualitative research studies, which are "the multiple nature of reality, the close relationship of the researcher being researched, the value-laden aspect of inquiry, the personal approach to writing narrative, and the emerging inductive methodology of the process of research" (p. 76). Qualitative researchers approach their studies with a certain paradigm, or philosophical assumptions to guide their research inquiries. These assumptions according to Creswell are related to the nature of reality (ontology), the relationship of the researcher to that being researched (epistemology), the role of values in a study (axiology), and the process of research (methodology). For the qualitative researcher, the ontological issue that addresses the nature of reality is constructed by

individuals involved in the research situation. Therefore, Creswell pointed out that multiple realities exist, such as the realities of the researcher, those being researched, and those of the reader interpreting the study. On the other hand, epistemological assumptions deal with the relationship and the interaction between the researchers and those they study.

Creswell, Guba, and Lincoln (1988) wrote that the researcher tries to minimize the distance or objective separateness between the researcher and those being researched. Therefore, the closeness of the researcher and those being researched has implications for the axiological assumption. Researchers should admit the value-laden nature of the study and actively report their values and biases as well as the value-laden nature of information gathered from the field.

Creswell (2007) surmised that the researcher conceptualizes the entire methodological assumption process from the distinctions arising from reality, which gives rise to the relationship between the researcher and individuals being researched as well as the role of values and the rhetoric of the study. In qualitative methodology, the researcher starts inductively. This inductive approach to developing the qualitative narrative shows that the process is one of an emerging design. The researcher may also elect to use ideological perspectives to draw attention to the needs of people and social action.

The Origin of Conflict and Mediation

Davidheiser (2006) cited the work of Nader (2006), an anthropologist, in support of mediation as a viable alternative dispute resolution to resolve conflicts. Data from the

study in Gambia, West Africa, indicated that processes such as mediation had a wide range of social functions and was used to challenge as well as reinforce hierarchies. In The Gambia, alternative methods of settling disputes outside the courts offer a vital forum for local citizens to seek redress and solve problems. These methods are due in part to the evaluative and normative approach of Gambian mediators, who act to offset power imbalances. Harmonious ideology and mediation not only serves to maintain inequality, but also provides a means by which disputants seek redress and enact change. The full range of outcomes that are produced by mediation highlights challenges that are considered by scholars, practitioners, and policymakers. Nader suggested that while social scientists have portrayed harmonious ideology as indigenous to other societies, in actuality, the West had been instrumental in its evolution. Studies of African societies and others have described customary dispute resolution as a historically developed tool of social cohesion. In Nader's view, the prevalence of harmonious ideologies and their use in dispute resolution has been linked to Western intervention in other parts of the world like Africa. To the more commonly accepted examples of the role anthropology has played in this interaction, Nader added the contribution that the discipline has made to the widespread belief in historical traditions of conciliatory forms of dispute settlement in Africa and elsewhere.

As cited by some of the classic works on customary law in Africa such as Gibbs' (1963) work among the Kpelle and African societies featured prominently in the literature on non-Western dispute resolution, Davidheiser (2006) continued to cite Nader (2006), revealing classic studies that describe African methods of managing disputes as

historical institutions for maintaining peace and balance in the social system. Africans are usually portrayed as harmonious and reconciliation oriented, and African dispute settlement is often described in terms similar to those used for the *win-win* model of Western alternative dispute resolution. According to Nader, as cited by Davidheiser, harmonious ideology had been exported from Western countries to other nations as a method of control employed by powerful interests. Nader's portrayal of Western society as relatively harmonious oriented contradicted an enormous body of work that argued the exact opposite. Many analysts perceived Westerners as more comfortable with disputing than members of other societies. In Western countries, conflict is often seen as a natural component of society, and was sometimes recognized as potentially productive (Davidheiser, 2006).

A recent contributor to *Conflict Resolution Quarterly*, Morgan (2003) cited Nader's view and referred to social groups found in the Pacific Basin as examples of societies where conflict tolerance was greater than in Western cultures. However, other scholars have described conflict avoidance as a behavioral pattern found in some *peaceable* societies of that area, as described by Hollan (1997) in relation to the Toraja of Indonesia. From an Africans' point of view, Nader's suggestion that American society is characterized by relatively high levels of conformity strikes a dissonant note, at least in terms of its comparative component. The same is true for the relationship of mediation to social change as that relationship was tied to macro and micro level situational factors. Societal and situational dynamics can moderate the effects of power imbalances in ADR.

Problems of inequality applicable in North America did not always translate well in other contexts.

Maxwell's (1998) article on mediation between present or former spouses with a history of domestic violence elucidates the hurdles faced by mediators in situations of drastic power imbalances. Maxwell offered a persuasive argument that mediation may be inappropriate in such cases. The author noted, however, that this inappropriateness may not be true in settings in which the community was involved in the process because the involvement of kinfolk and community members can help level the playing field.

Conflicts are inherent in our everyday interactions with people; consequently, mitigating conflicts may require disputants to seek an alternative dispute resolution known as mediation, a conflict resolution process that typically takes place when legal action is not a viable option. From time to time, conflict resolution is not achieved and the involved parties may become hostile toward each other. Therefore, it is in the interest of the population to prevent such hostility, and communities will benefit tremendously if mediators can acquire and develop intervention strategies to reduce conflicts. Preventing and averting hostility in the mediation process may reduce violence and may lead to positive social change. To that end, mediators from time to time employ negotiation and win-win principles to resolve disputes, which for the most part are caused by the distribution and exchange of scarce resources; to develop a consensus about political and organizational goals; and to resolve social conflicts (Bazerman, Lewicki, & Sheppard 1999; Brett, Goldberg, & Ury 1999; Katz & Kochan, 1998).

According to Dana (2001), conflict includes feelings (emotions), perceptions (thoughts), and actions (behaviors). Psychologists consider these three elements as fundamental to all human experience, which is the reason conflict is rooted in all three dimensions. In another perception, Fisher (2000) described conflict as rooted in resources, values, power, and needs of individuals and within the group. In addition, Fisher supported the argument through research on groups and social identity theory to emphasize that the self-esteem of people is linked to group membership; and that group membership can lead to ethnocentrism, nationalism, or professionalism. The possible excesses that can occur lead easily to groupthink, a type of flawed decision-making in a group and the desire to escalate the conflict. Fisher suggested that in such conditions, the guidance of an independent third party is the most practical alternative to finding resolution. The relevant point of this definition as related to positive social change has been summarized in the phrase *contradictory interests*. Of all the definitions in various literatures, these definitions, “a clash or disagreement between two opposition groups or individuals and an incompatibility of two things that cannot be simultaneously fulfilled” (p. 33) as explained in March and Simon (1958), captures the essence of conflict. Therefore, mediation is foundationally necessary in resolving conflicts. Understanding the problems in these terms gives meaning to the win-win concept used in mediation practice to resolve conflicts.

In addition, a major theory that has a bearing to this study was publicized by McKersie (2008) advocating applying interest-based negotiation (IBN) principles, which assumes that agreements in conflict situations are resolved and achieved when each side's

interests are satisfied, to resolving conflicts. IBN, according to McKersie (2008), is the process of conflict and negotiations focused on understanding and building on interests and in the process applying problem-solving skills to resolve or to reduce conflicts.

According to LeBaron (2003), conflict emerges when people have difficulties dealing with differences. Dealing with differences is at the heart of mediation, an alternative conflict resolution process which typically takes place when legal action is not an option or is circumvented. According to Levinson (2007), a conflict is a dispute over resources; and Rahim (2002) suggested that conflicts are either interpersonal or task-oriented. The concept of differences is perhaps a better starting point, because it allows for the diversity of conflicts that takes place as a consequence of relationships. For example, at one extreme, consider two people in conflict over the appropriate way to greet each other in any setting, and in the other, a confrontation over the ownership of a property. Clearly, differences in culture, religion, customs, folklore, music, art, literature, philosophy, language, history, geography, ethics, power, and economic status cause friction, and friction causes conflict. Similarly, LeBaron (2003) suggested that conflicts can be considered as material, communicative, or symbolic. According to Lederach (2000), metaphors, stories, and conflict wisdom of various cultures helps to educate people in the richness of a culture when discussing conflict. Similarly, mediators and conflict resolution professionals can learn from the metaphor of resistance as a fundamental element of conflict. Furthermore, in the physical world, resistance changes the speed at which water and air flow, the fuel efficiency of an automobile, or the ability of a person to climb rocks. Resistance is often used to describe interpersonal

relationships as well. It can be a good thing in the case of climbers, and a bad thing in the case of low fuel economy. In the practice of Yoga, individuals strive to eliminate resistance blockages and thus improve the laminar flow of energy. Pondy (1967) described conflict as disequilibrium; Nader (2006) described the opposite of disequilibrium as harmony. Other authors suggested that conflict is "the interaction of interdependent people who perceive incompatibility and the possibility of interference from the others as a result of this incompatibility" (Folger, Poole, & Stutman, 2005, p. 4). Therefore, conflict is comparable to change because it has been with humankind for thousands of years, and will be with us for thousands more. It cannot be eliminated; rather, societies can only hope to manage and benefit from the advantages and reduce the drawbacks.

Grisham (2005) argued that conflict is an integral part of human interaction among people, groups, cultures, sects, firms, and countries. He continued that conflict can, if guided, be healthy and fruitful. Consequently, the insensitivity to communicate in an appropriate way among disputants may be the wedge between conflict and rejecting conflict. Consequently, communication according to communication experts is a function of trust, and not of technique. Nevertheless, lack of communication may also lead easily to disastrous consequences and the deterioration of relationships between disputants in conflict.

Mediation Techniques

Mediation is the process by which an impartial third party mediator attempted to assist disputants settle a dispute or conflict through improving the communication

between the disputants. According to Zumeta (2003), there are typically three basic styles of mediation: evaluative, facilitative, and transformative mediation. For the most part, nearly all mediators approach conflicts from the prism of one of the three styles or a combination of all three as a result, disputants, and conflict resolution professionals were confused about what style of mediation was appropriate to resolve conflicts. The outcome of this study may among other things, adding the missing link to a better understanding of TMT. Among mediators, there was the general assumption suggesting that a better understanding of the styles may enhance the resolution of conflicts and reduce impasse.

Evaluative mediation technique emerged out of court-mandated or court-referred mediation. There is an assumption in the evaluative mediation technique that the mediator has vast expert knowledge in the area of the dispute. Because of the connection between evaluative mediation and the courts, and because of comfort level with settlement conferences, most evaluative mediators are attorneys. The main characteristics of the evaluative mediation model include but are not limited to mediators assisting disputing parties to bring out the weaknesses and strengths of their disputes. The model is suited for court mandated mediation and the mediator's role is dominant. Mediators give advice, analyze disagreements, and take charge of the situation.

Continuing, Zumeta (2003) said that in the 1960s and 1970s, there was only one type of mediation being taught, which was known as Facilitative Mediation. In this type of mediation, according to Zumeta, mediators assisted the disputing parties to achieve a mutually agreeable outcome. Mediators accomplished the outcome by asking questions,

validating parties' points of view, searching for common interests instead of positional stances, and assisting the parties to achieve a mutually agreeable outcome. The facilitative mediator does not make recommendations to the parties, give his or her own advice or opinion as to the outcome of the case, or predict what a court would do in the case. The mediator is in charge of the process while the parties are in charge of the outcome. Facilitative mediators, for the most part, encourage agreements that are based on information and understanding of the parties.

Bush and Folger (1994) described TMT as the newest model of the three mediations and are based on the values of empowerment and recognition by each of the parties of the other parties' needs, interests, values, and points of view. According to Bush and Folger, the most important difference between TMT and the other two models is the potential transformation of all parties or their relationships may be transformed during the mediation process. The principles of TMT to an extent parallel those of early facilitative mediation practices, in which a full transformation of society with the pro-peace technique is expected. At the conclusion of this study, it would not surprise me to discover that TMT is favored as the best alternative to resolve conflicts. A major characteristic of TMT is that the disputants play a prominent role in the outcome. Mediators such as I favor TMT because disputants are empowered and motivated to take responsibility for their own disputes and the resolution of the disagreements. However, critics of TMT have problems with the amount of time it takes to reach an outcome. They are concerned that outcome can be contrary to standards of fairness and that mediators in these approaches cannot protect the weaker party. I was unable to find any

evidence in the literature to support this claim. Bush and Folger, on the other side of the discussion, saw transformative mediation as ultimately flexible and suited to all types of disputes.

On the other hand, mediators who support TMT have argued that those who use facilitative mediation techniques and evaluative mediation put too much pressure and wield too much influence on disputants to be able to resolve their disagreements. Experts in the mediation profession are inclined to feel strongly about these techniques of mediation. According to mediation experts, most mediation schools still teach the facilitative mediation technique, and Folger and Bush (1994) have advocated for teaching TMT. There seemed to be more concerns about evaluative mediation model and TMTs than the facilitative mediation model. The facilitative mediation technique seems acceptable to almost everyone, although some find it less useful or more time consuming. However, much criticism had been leveled against the evaluative mediation technique as being coercive, top-down, heavy-handed and not impartial. Transformative mediation technique has been criticized for being too idealistic, not focused enough, and not useful for the court system. Riskin (1996), an expert in mediation, claimed these models constitute more of a continuum than ones of distinct differences, from least interventionist to most interventionist. Folger and Bush (1994) saw more distinct differences in models, particularly the difference between *top-down* and *bottom-up* mediation. In other words, they argued that the evaluative mediation model and facilitative mediation model may take legal information too seriously, and that resolutions coming from the parties are much more important. However, in informal

discussions, many practitioners who utilize TMT have stated that they combine the facilitative mediation technique and TMTs rather than used one or the other entirely.

The Emotional Stages of Mediation

Lieberman (2006), an employment mediator, discussed the emotional stages that most disputants experience as they progress throughout the mediation process.

Lieberman suggested that mediators must understand the emotional stages experienced by most disputants and how understanding the role of emotions help lead to a successful outcome. Without this knowledge, mediators or practicing conflict resolution practitioners would have difficulty assisting disputants in moving through the different emotional stages of the mediation process. Continuing, Lieberman listed the emotions as anxiety, anger, awareness, adrenaline, acknowledgement, accommodation, acceptance, active participation, and agreement. Also, Lieberman discussed these emotions and offered several suggestions to address them.

Anger

Lieberman (2006) suggested that anger often goes hand in hand with disagreements. Individuals in dispute always believe their position is correct; the other side must be erroneous and unreasonable in failing to agree to the other side's demands. In addition, while conflicts remained unresolved, disputants can become obsessed and relive it over and over, thereby increasing their stress level and anger towards the opposition. Also, negative feelings like anger can cause individuals to become less productive professionally and greatly harm personal relationships. Individuals may know intellectually that displaying anger is unlikely to help those individuals achieve a

resolution of the conflict; yet, they may be unable to prevent an angry outburst or other negative expressions that could derail the mediation process and go into impasse.

Lieberman recommended that mediators use *we* to discuss anger with disputants in mediation because anger is universal. Also, mediators must encourage disputants to acknowledge its existence and that it is normal for individuals to feel angry and resentful when *they* believe they have been unfairly treated. While disputants need to know that it is okay to feel angry, they also should be made to realize that it is not okay to let anger get the best of them by acting on it. The mediator should explain that anger could block disputants ability to get where they want to go, resolution of their conflict, and that it is the mediator's job to detect if that was happening and assist them by validating their anger and helping them to set it aside so that they can move ahead. For example, a mediator should be able to prevent the mediation from going into impasse if one side angrily threatens to walk out of the mediation.

Anxiety

Lieberman (2006) revealed that anxiety was the most common emotion experienced by disputants before and during the mediation process. For the most part, disputants are aware of their own views of the conflict and strongly believe in the rightness of their positions. They each believe the other is being unreasonable and fear that the conflict will escalate to the level of resolving the dispute in mediation will not be achieved. The anxiety comes in the form of body language, such as clenched hands, arms held across the abdomen, or hunched carriage, and facial expressions. To diffuse the tension during the mediation process, Lieberman recommended asking the disputants if

anyone has been through mediation before. Almost always, it is at least one person's first time. At this stage, mediators may ask the indulgence of the other disputant in order to spend at least 10-15 minutes describing the mediation process. Furthermore, mediators may inform the disputants that one day of mediation may seem stressful, yet it is far less so than being in a court case for one or two weeks. In addition, mediators should emphasize that mediation is a voluntary process, that no one can be forced to mediate or forced to agree to anything that does not seem fair or acceptable to him or her. Continuing, mediators should assure the disputants of the integrity and respectful environment in which each person to the dispute can share his or her perspectives, concerns, and goals. These assurances are helpful in alleviating anxiety, but even more so is the opportunity for caucuses.

Beardsley (2008) agreed with Lieberman (2006) and suggested that mediators can try to directly confront time inconsistency problems during the mediation process by emphasizing and reminding disputants that mediation is voluntary and the expectations of mediating in good faith. For example, UN mediation efforts often naturally evolve into monitoring or peacekeeping once the conflict is over, as was the case when the UN mission to the Democratic Republic of Congo (MONUC) was involved in mediation prior to conflict termination and then in peacekeeping afterward. While monitoring and enforcement are qualitatively different from mediation, a mediator can promise to stay involved after settlement as a vehicle to encourage the settlement in the first place (Bercovitch 1997; Lake & Rothchild, 1996; Touval & Zartman 1985; Young 1972; Zartman & Touval, 1985). A third party who can maximize costs of renewed conflict in

the future may decrease the incentive to cheat or renegotiate by either increasing the probability of cheating detection or increasing the costly consequences of cheating (Walter, 2002). The same is true for the relationship of mediation to social change as that relationship is tied to macro and micro level situational factors.

Adrenaline

According to Lieberman (2006), when individuals argue their positions, beliefs, and feelings to those who disagree with them, their bodies are likely to produce adrenaline. Also, this hormone is produced by the adrenal glands when the body is in a state of high anxiety, fear, or excitement. In a sense, it enhances alertness and prepares the body for battle. Continuing, Lieberman suggested that too much adrenaline can be detrimental to the mediation process. If emotions take control, the understanding in individuals, which allows for choices to be made to achieve desired goals, will take a back seat. According to Lieberman, one way a mediator deals with the existence of adrenaline is to remind the disputants of the consequences of not reaching an agreement. This tactic always diffuses the effects of too much adrenaline and allows the mediator to focus on the needs and interests of the disputants. Redirecting the conversation provides the disputants with an opportunity to cool down.

Awareness

According to Lieberman (2006), mediation often provides the first opportunity for disputants to become fully aware of each other's views. Also, McGuigan (2009), in citing the work of Bowling and Hoffman (2003), highlighted what the authors characterized as the third stage of the mediation process in which the disputants develop a

better awareness of the other person's views. Before mediation begins, disputants usually know their respective positions but not what led to those positions or the underlying interests or needs of the other side, which is especially true when communications break down between the involved individuals. Even when communication exists, the disputants are often unable or unwilling to really listen to what the other has to say. According to Lieberman, most disputants learn new information that the disputants did not know before they came to the mediation. The new information could be a document, a statement someone made or heard, or an e-mail someone sent. It could be how someone feels about something that happened, or a legal argument not previously thought of, or a fact not previously considered. It is typically this new awareness that leads to the *magic* of mediation. The magic is the willingness of disputants, based on new information, to view the conflict in a different light. It was this willingness that opens the door to a successful outcome. To increase the odds that this magic happens, the mediator must set the stage at the beginning of the mediation process by informing the disputants that most people learn something new in mediation, and that they can too if they mediate in good faith. This information gives the parties permission (not that it is needed, but it saves face) to later move from a deeply held position and have a way to explain to themselves and others the reason for the change. One key to a successful mediation as suggested by Lieberman is instilling in disputants the prospect of a good outcome. Continuing, a mediator does this by sharing with the parties statistics that show the success of mediation in resolving disputes. According to Beardsley (2008), one of the ways a mediator helps disputants resolve their conflicts is through reducing barriers to

information and enhanced communication. In recent scholarship, it has been formally considered how mediators enable disputants' prior expectations of costs and outcomes to converge on appropriate offers and concessions (Kydd, 2003; Rauchhaus, 2006). As an example of informational mediation, in a 1990 crisis between India and Pakistan, the United States sent Deputy Director of the CIA, Gates, along with Haass (National Security Council aide for the region), to the region as mediators. These intelligence experts attempted to reduce tensions by providing Pakistan a realistic estimate of the military imbalance and warning India about Pakistan's potential for nuclear use. The mediator can also emphasize when progress had been made during the mediation. Therefore, it is necessary for the mediator to remain positive, even when the disputants are feeling pessimistic, and persist in looking for unspoken needs and interests and ways to satisfy them. When the disputants have long been mired in conflict and negativity, a positive mediator can help them navigate through and beyond their emotions to a successful outcome.

Methods of Resolving Conflicts

Bordone and Sanders (2005) outlined the principles of *dispute system design* (DSD), the process of diagnosing, designing, implementing, and evaluating an effective method of resolving conflicts within an organization. They claimed that advocates of the conflict resolution process save thousands of dollars have better success in resolving conflicts and reduce unnecessary stress to society by incorporating the principles of DSD, negotiation, mediation, and arbitration in conflict situations. Also Beardsley (2008) adopted the widely cited definition presented by Bercovitch and Houston, which revealed

that mediation is a reactive process of conflict management whereby disputants seek the assistance of, or accept an offer of aid from individuals, groups, or organizations to change their behavior, settle their conflicts, or resolve their problems without resorting to physical force or invoking the authority of the law (1996). These conceptions of mediation include numerous styles ranging from mere facilitation of negotiations to more involved positive and negative inducements. Framing how mediation interacts with the negotiating environment in similar terms of the often used bargaining model explicated by Fearon (1995) and Powell (1999) helps to clarify what mediation does. For the most part, mediation offers disputants with the necessary platform to gain the required information from the other person, leverage of conflict costs, and promises of better outcomes.

For the most part, disputes are generally managed by one or all of the preceding choices: individuals may assert their rights through the legal system, use power directly or from a superior, or take into consideration the other individual's interests, concerns, goals, desires, and needs. In other words, the DSD process reduces the traditional emphasis on rights and power by advocating a more interests-based, collaborative approach to conflict that is the central conceptual framework of this study.

According to Bartos (1967), negotiation is one of the outstanding mechanisms by which social and political conflicts can be resolved. Therefore, a detailed study of the process of negotiation would yield information which would help to ease some of the world's more threatening tensions. For example, the current wars between the United States and Iraq may be resolved through negotiations, according to pundits. Bartos

discussed some of the reasons that accomplishing the objective is more complicated than may seem at first glance. In order to explore the reasons that the results of empirical study of negotiation may not always help to resolve social conflicts, Bartos suggested that negotiators must consider the conditions under which they may advise a practicing negotiator on how to proceed. It is clear that such advice is justified only if one can demonstrate that one followed it and will fare in one way or another better than one who ignored it. An attempt was made in this study to show that negotiations can be readily conceptualized as games having optimal strategies only if the behavior of the opponent is predictable and that the behavior of the opponent in such games cannot be predicted.

Rubin and Jones (2007) wrote an article that focused on the elements that hindered peace in some parts of the globe and in the process examined the United Nation's (UN) doctrine of conflict prevention as a tool to strengthening the organization's function to prevent armed conflicts. The former United Nations Secretary General Annan, according to Rubin and Jones, engaged in three types of conflict prevention during his tenure: (a) operational, referring to relatively short-term efforts using political or military tools to forestall initial or escalating violence; (b) structural, referring to efforts to address the so-called root causes of conflict, and (c) systemic, seeking to reduce conflict on a global basis with mechanisms not focused on any particular state. For the most part, serious political and institutional obstacles continue to frustrate the UN in preventing wars between powerful states or managing internal conflicts in some states, especially in developing countries. However, the renewed prevention agenda offers an opportunity to the current Secretary-General Ban Ki-moon and his team to refocus the

UN's efforts to take advantage of the organization's potential as a catalyst and strategic center of political action while maintaining a realistic outlook of the UN's capabilities to perform conflict prevention in different circumstances. According to Rubin and Jones, the UN was founded primarily to prevent interstate wars, for which it had a mandate and tools to perform. The UN used a preventive diplomacy strategy during the Cold War for the most part to prevent wars between smaller powers. The broader prevention paradigm that developed between the end of the Cold War and September 11, 2001 focused on prevention of civil wars, ethnic conflicts, state failure, gross violations of human rights including but not limited to war crimes and genocide, and humanitarian emergencies. Contrary to some political commentaries diminishing the role of the UN in global peace, the UN played an important role in the disputes between Turkmenistan and Azerbaijan, Nigeria and Cameroon. The UN also helped neighboring states resolve disputes over oil-related boundary issues. In these cases, evidence suggests that the secretary-general played a classic mediating role of preventive diplomacy. In the conflict between Israel and Lebanon, the UN helped prevent a clash between Hezbollah and Israel, possibly leading to renewed war, after the Israeli withdrawal from southern Lebanon in June 2000.

As long as politics exist, the UN will continue to face resistance from those States trying to control their egotistical agendas. In operational terms, conflict prevention in West Africa requires the UN to act much more as a coordinator of bilateral and multilateral actions and as the focal point for action by other organizations, rather than just an implementing organization. In addition, the lack of cooperation and consent by some member States hinders the UN's ability to perform a mediation role, even when

dealing with fairly weak states. Rubin and Jones (2007) showed that in many cases, there was no procedure, or set of criteria, by which a sub national group can claim recognition or inclusion in a political process. Some turn to violence expecting not to achieve victory but of provoking international intervention.

Bresnahan, Donohue, Shearman, and Guan (2009) analyzed the construct validity of two new measures designed to assist mediators in the mediation processes. The authors studied 557 participants to determine, the attitudes toward conflict scale and their mediation level. According to the Bresnahan et al., every day, mediators in the United States are charged with intervening in a multiplicity of conflict situations, from playground bullying incidents in educational institutions to facilitating neighborhood disputes; to intervening in workplace and public policy conflicts, and court referrals. Not only are the situations challenging but the disputants involved in the conflict are also from racial or ethnic groups different from those of the other disputants or from the mediators. Alternative dispute resolution program administrators and practitioners, often with little lead time, must be prepared to deal with a number of problems and a diverse body of people.

According to Bresnahan et al. (2009), part of the challenge in understanding the meaning of conflict in these demanding situations is that numerous studies have documented that Americans from diverse racial and ethnic groups experience and react to conflicts differently from each other and from members of other groups. Continuing, for example, compared to European Americans, African Americans were described as showing preference for highly expressive, affect-laden conflict style (Hecht, Jackson, &

Ribeau, 2003). Asian Americans are shown to prefer avoidance and used a trusted go-between to mediate conflicts (Ting-Toomey & Chung, 2005). Mexican Americans are characterized as sensitive to other-oriented face rituals (Garcia, 1996), while restraint and use of third party elders is described as a hallmark of Native American conflict orientation (Ting-Toomey & Chung, 2005). Given these differences in conflict orientations on the basis of race or ethnicity, it is reasonable to predict that there would also be interethnic differences in attitude toward conflict and in willingness to seek mediation, especially in situations in which mediators and Alternative Dispute Resolution (ADR) program administrators are representatives of the dominant group or are from a different group compared to disputants in the conflict.

There would be an advantage for mediation practitioners to be able to assess in advance the amount of comfort or pain that disputants experience with conflict and how they regard the prospect of mediation. Particularly in situations in which conflict is viewed negatively, with this awareness mediators would be able to formulate culturally sensitive interventions to alleviate thoughts of aloofness from the mediator, or the shame, powerlessness, and stigma that are experienced in having to ask for help when a problem comes to the attention perhaps of the broader community. For example, when a party expresses misgivings about an outsider entering into management of conflict, a mediator might include a trusted community leader as a consultant in the mediation. Some disputants in conflict welcome the opportunity to get help, but others see mediation as intrusive into their privacy, face-threatening, embarrassing, and unwanted. People embracing this view of mediation would not be likely to voluntarily seek third-party help

and might be privately or openly resentful of and resistant to any form of alternative dispute resolution, especially court-related interventions. It would be useful for ADR administrators and practitioners to know in advance how sponsors of proposed mediation and disputants conceive of conflict and how they regard the process of mediation. Therefore, this study was designed to assist ADR administrators and mediation practitioners to screen attitudes toward conflict and mediation so that potential barriers to the effectiveness of mediation can be identified in advance and in so doing avoid impasse.

Interest-Based Negotiations and Mediation

A case study of the 2005 national contract negotiations between Kaiser Permanente and the Coalition of Kaiser Permanente Unions highlighted the basic principles of interest-based negotiation, the conceptual framework of this study. Given the scale and complexity of these negotiations, their successful completion provided an example for collective bargaining in the United States. According to McKersie (2008), in 1997 Kaiser Permanente and the Coalition of Kaiser Permanente Unions formed a labor management partnership, and negotiations were structured around the principles of IBN. Drawing on direct observation of all parts of the bargaining process, interviews with individuals from Kaiser and the Coalition of Unions, and surveys, were conducted after bargaining was completed. It was concluded that the parties employed a combination of interest-based and traditional negotiation processes across an array of integrative and distributive issues. The researchers found that IBN techniques were used extensively and successfully to reach mutually satisfying agreements when the parties shared interests.

When interests were in greater conflict, the parties resorted to more traditional, positional tactics to reach resolution.

Strong intra organizational conflicts limited the use of IBN and favored the use of more traditional positional bargaining. While a high level of trust enabled and supported the use of IBN, tensions that developed limited the use of IBN and required surfacing and release before either IBN or more traditional positional processes could proceed effectively. McKersie (2008) concluded that IBN tools helped the parties apply the principles underlying the partnership in which these negotiations were entrenched. Therefore, I see IBN as a technique of bargaining theory or practice that shows considerable promise for helping collective bargaining to address the complex issues and challenges found in contemporary employment relationships as this study endeavors to apply these principles in the context of the mediation process.

Moreover, in their ground-breaking work on the design of effective dispute resolution systems, Ury, Brett, and Goldberg (1988) provided a graphic description of the level of *lumping* of workplace problems in a hypothetical, representative coal mine story, which is in marked contrast to the richness of new approaches to negotiation skill-building that focuses on strategies for creating and claiming value that enhance "working relationships," and have been characterized by Fisher and Brown (1988) as relationships in which the parties can deal effectively with differences. Fisher and his colleagues advanced the integrative negotiation model (renaming it *principled negotiations*) by splitting the issue identification stage into two parts: first, by separating people from the problem and thereby highlighting substantive issues, and second, by understanding

underlying interests. The model includes generating and evaluating options to satisfy those interests. The authors also developed the use of objective criteria to help parties decide on issues whenever conflicting perspectives were present in resolving disputes. Fisher and Brown wrote that principled negotiations helped settle issues on their merits rather than through a negotiation process that focuses on what each side said it would and would not do. They suggested that those entrusted with the task of resolving conflicts must look for win-win situations between the disputants wherever possible, and that when the disputants' interests conflict, mediators should persist in the notion that outcomes must be based on some fair standards independent of the will of either disputant and as such take full advantage of interest-based negotiation principles.

Discussions, Analysis, and Conclusions

A significant assessment of the literatures under review showed that literature on TMT did not present a comprehensive overview regarding Colorado mediators' interpretation and implementation of TMT. Furthermore, it is suggested that Colorado mediators must have a clear understanding and appropriately apply TMT in mediating disputes to resolve conflicts successfully. To that end, current and future mediation professionals in Colorado experience setbacks when called upon to resolve conflicts. Consequently, it may be necessary to seek a better understanding of how Colorado mediators interpret and implement TMT in their practices to resolve such disputes.

This research was grounded in the qualitative paradigm because there are no theories on TMT from which variables can be derived for examining the experiences and perceptions of mediators. Therefore, understanding of the phenomenon must be sought

through interviewing mediators—those who know about it and experience it (Creswell, 2007; Goulding, 2002; McReynolds, 2001; Polkinghorne, 2005). The literatures justified TMT mostly in description and entirely explanatory process, with very little normative and philosophical underpinning for it as a concept. The logic, evidence, and facts presented by the articles seem to indicate that a transformative mediation model has contributed to resolving conflicts, but these claims are yet to be verified. The strength of the literatures, however, is in the fact that they provide an overview and implications of the challenges facing Colorado mediators involved in applying TMT in their practices. Chapter 3 offers a detailed discussion on the research design used for the study, which includes but is not limited to the theoretical custom of inquiry; research sample and population; method of data collection and procedures; reliability; validity; data management procedures; method of data analysis; issues of quality and ethical considerations; the researcher's role; and dealing with researcher subjectivity.

Chapter 3: Methodology

Chapter 3 describes the research design; conceptualization tradition of investigation; research sample and population; technique of data collection and data management procedures; method of data analysis; and ethical considerations. Before the research began, I abided by the Institutional Review Board (IRB) of Walden University guidelines, policies, and procedures for conducting research (approval number 10-13-10-0183401). The following copies were attached: a copy of the IRB form, a copy of the authorization for the interviews (see Appendix A), a copy of the consent form (see Appendix C), and other required forms. When permission to commence the study was granted, a letter was sent to prospective participants requesting interviews (see Appendix B). After this process was completed, interviews were scheduled and records of the interview compiled. As suggested in the IRB process, I kept a journal of events outlining the progress of the study (see Appendix E).

The critical research questions that guided this study centered on the challenges of interpreting and implementing TMT in resolving conflicts are reiterated in this section as follows:

1. How familiar are Colorado mediators with TMT?
2. How did Colorado mediators interpret and implement TMT?
3. How much training or experiences do Colorado mediators have TMT?

For the most part, this research led to more understanding of TMT, and the outcome of the study tremendously improved the mediation profession in Colorado and other states or countries.

Research Design and Approach

The purpose of this qualitative case study was to evaluate and improve the understanding and the best practice situations to use TMT to resolve conflicts and to determine if improvements may be made to augment its effectiveness. The target population were Colorado mediators with two years experience in mediation. A purposeful sampling strategy was used to select participants because they can inform an understanding of the research problem; finally, an in-depth face-to-face interview with experienced mediation professionals was chosen.

Conceptual Method of Inquiry

Creswell (2009) defined research as the process of making claims and refining or exploring and understanding the meanings individuals or groups ascribed to social or human problems. As long as there are many different types of problems, different types of research methodologies are used to study them. Glatthorn and Joyner (2005) concluded that research problems and how to investigate them are intimately knotted, and they wrote, “The identification of the problem and the choice of methodology may be seen as an interactive process, with each influencing the other” (p. 46). In other words, deciding on the appropriate methodology for a research problem is much like a carpenter selecting the right tool out of a toolbox; he or she completes the job correctly with a screwdriver, but using the screwdriver is neither effective nor efficient if the carpenter actually needs a hammer. Using the same logic, mediating conflicts requires mediators to apply the appropriate mediation model to the appropriate conflict. The outcome of this study alleviated the dilemma of appropriateness.

Creswell (2009) explained that research and its purpose, especially a case study, is a strategy of inquiry from which I derived a general, abstract theory of a process, action, or interaction grounded in the views of participants. Most importantly, I listened, collected data, and learned during the process (Charmaz, 2006; Strauss & Corbin, 1990, 1998). In this study, I sought to have an in-depth understanding of how Colorado mediators implemented TMT. A better understanding will improve their ability to resolve conflicts and reduce impasse.

Research Overview

Qualitative research is a field of inquiry that crosscuts disciplines and researchers aspiring to collect an in-depth understanding of human behavior. The research approach investigates the why and how of decision making, not just the what, where, and when. Consequently, minor but focused samples were more often needed rather than large random samples as I performed in this study. Qualitative methods have traditionally been preferred by the disciplines of sociology, political science, anthropology, and history. On the other hand, disciplines like economics have tended to rely more on quantitative research methods.

According to Singleton and Straits (2005), the study of research methods provides more immediate and useful information than any other single course of study. Researchers have found means of complementing their preferred methods, though several challenges still confront these research methods like social methods, business methods, and feminist methods, to mention but a few. These challenges include the selection of methods, the process of selection, and the research designs.

According to Goulding (2002), supporters of the quantitative paradigm “perceive qualitative research to be exploratory, filled with conjecture, unscientific, value laden and a distortion of the canons of ‘good’ science” (p. 11). Supporters of qualitative research also maintain that “positivists in the social sciences were pseudo-scientific, inflexible, myopic, mechanistic, outdated and limited to the realm of testing existing theories at the expense of new theory development” (pp. 11-12). In addition, Goulding credited the quantitative and qualitative split largely to the misconception of their respective origins, the metaphor that framed them, and the ontological differences of the two. Goulding maintained that each of these paradigms has its strengths and weaknesses.

The qualitative tradition is recommended for research that is exploratory in nature given that no theories and variables exist to test the phenomenon, which is new or unique. It was important to study the phenomenon in detail to provide understanding (Creswell, 2007; Goulding, 2002). The purpose of qualitative research is to describe, clarify, and explain human phenomena (Polkinghorne, 2005). This dissertation proposes to investigate the challenges faced by Colorado mediators in interpreting and implementing the TMT phenomenon. Also, within the qualitative paradigms, different traditions exist and the purpose of research dictates the choice of a tradition, which is the reason for choosing a qualitative case study tradition for this dissertation proposal. Trochim (2001) defined a case study as “an intensive study of a specific individual or specific context” (p.161). Creswell (2007) defined case study as “an exploration of a bounded system or a case (or multiple cases) over time through detailed, in-depth data collection involving multiple sources of information rich in context” (p. 341).

The methodology is similar to what Johnson (2005) adopted for a dissertation on differences in perceptions of factors influencing the advancement of African-American women in the workplace. Johnson's case study examined factors affecting African-American women's perceptions in organizational settings just as this study investigated mediators' perceptions of TMT in their practices. Johnson utilized the historical approach, interviews, and archival sources for data collection. In addition, Johnson believed that the qualitative approach provides a deeper understanding of the issues being investigated. For the purpose of this study, mixed methods would not have been appropriate.

Qualitative Versus Quantitative Research

Many researchers suggested that distinctions existed between qualitative and quantitative research methodologies. Onwuegbuzie and Leech (2005) suggested that the differences among these three perspectives relate to the extent to which each believes that qualitative and quantitative approaches coexist and can be combined. According to Onwuegbuzie and Leech, the three camps can be conceptualized as lying on a continuum. The purists and pragmatists are on opposite ends while situationalists are situated between purists and pragmatists.

Creswell (2007) stated that pragmatists advocated integrating methods within a single study while Sieber (1973) articulated that because both approaches have inherent strengths and weaknesses, researchers should utilize the strengths of both techniques in order to understand social phenomena. Singleton and Straits (2005) made important distinctions between qualitative and quantitative variables. According to Singleton and

Straits, a variable is qualitative if it is categorized or designated by words or labels and non numerical differences between categories, while in a quantitative variable, the values or categories consist of numbers in which the differences among its categories can be expressed numerically.

Conceptual Framework of Inquiry

This investigation was a qualitative case study as seen from Creswell's (2009) definition of qualitative research as a means for exploring and understanding the meaning individuals or groups ascribe to social or human problems. I analyzed the data inductively, built from particulars to general themes, analyzed words, reported details of the interviews, and interpreted the meaning of the data (p. 232). The qualitative tradition of study was recommended in which the research topic called for exploratory work as in this case study because theories did not exist to explain it, variables were not easily identified, and a detailed account of the topic needed to be presented. Therefore, I had to learn more in order to provide a narration and the viewpoint of the participants (Creswell, 2007; Singleton & Straits, 2005; Strauss & Corbin, 1990; Trochim, 2001).

Rationale for Case Study over Other Qualitative Traditions

According to Yin (2003), case study is used in many situations to contribute to our knowledge of individuals, groups, organizational, social, political, and related phenomena. Given that this study falls under individuals rather than culture, case study is the best plausible choice. Creswell (2007) wrote that "qualitative researchers had a propensity to embrace the rhetorical assumption that the writing needed to be personal and literary in form" and to "take on qualitative research required a strong commitment to

study a problem and demanded time and resources” (p. 18). Creswell argued that qualitative research shared good company with the most rigorous quantitative research and should not be viewed as an easy substitution for a *statistical* or quantitative method. Creswell hypothesized that qualitative inquiry is for the researcher who is prepared to do the following:

- Commit to extensive time in the field;
- Engage in the complex, time-consuming process of data analysis with the ambitious task of sorting through large amounts of data and reducing them to a few themes or categories;
- Write long passages, because the evidence must substantiate claims and the author needs to show multiple perspectives; and
- Participate in a form of social and human science research that does not have firm guidelines or specific procedures and evolving and changing constantly.

In a quantitative research study, research questions often start by describing what is going on. By contrast, the quantitative research design inquires why and looks for a comparison of groups or a relationship among variables. The goal of establishing an association, relationship, or cause and effect is usually the mark of quantitative case study. Therefore, the nature of the research questions often dictates the research approach. For the most part, the qualitative research inquiry is generated from the research questions.

According to Creswell (2007), the qualitative research design precedes beyond the philosophical assumptions, perspectives, and theories into the introduction of a study.

This introduction, Creswell hypothesized, “consisted of stating the problem or issue leading to the study, formulating the central purpose of the study and providing the research questions” (p. 94). The research questions for the most part formed the foundation for the research, and researchers must pay attention to them.

In the design phase of the research study, several qualitative paradigms or traditions were examined to determine the appropriate methods. These qualitative traditions included case study, narrative research, ethnography, grounded theory, and phenomenology. In addition, the survey questionnaire method was considered. The selection of an appropriate design was based solely upon the purpose of the study and the types of data that must be collected.

Ethnographic research involves the study of an intact cultural group or groups in a natural setting over a prolonged period of time. Interviews and observations are a major data collection process. This study was about gaining more knowledge or understanding a phenomenon and not about the behavior of any particular group because other sources of data would be required (Creswell, 2007). Furthermore, the study was not meant to understand the culture of any group of persons but to gain in-sight or understand a phenomenon. The purpose of this study was not to generate a theory but to have an in-depth, detailed narrative of the phenomenon, TMT.

Phenomenology concentrates on real life activities, experiences, or situations in order to explain or describe a phenomenon (Creswell, 2007). In phenomenological study, participants are carefully chosen to ensure that they have experienced the phenomenon being studied. From the responses obtained, a general meaning is produced.

Narrative/Autobiography research studies the entire life of a person yet is apparently inappropriate for this study in terms of scope and purpose. It would be difficult to determine whose life should be studied, and studying another's life would not provide the necessary data required for what this study sought to establish.

In qualitative observations, I took field notes on the participants' behavior and considered their activities as a possible data collection option for this study. Clients of participating mediators objected to having observers at their mediations, and the mediators stopped using this method. The clients saw this method as intrusive, and most importantly, private information was observed that I did not report. Therefore, this method was inappropriate for this study.

This researcher also considered a questionnaire as a possible method for data collection for this study; but the method was unsuitable because employing a questionnaire would not yield the detailed information needed to allow mediators to express freely their understanding of TMT. I preferred case study over ethnography, grounded theory, phenomenology, or biography because of the purpose of the study and the types of data required to answer the research questions.

Population and Sample

I selected units that represented mediators in the State of Colorado. The sample consisted of eight mediators from Jefferson county, three mediators from Denver county, two mediators from Longmont county, three mediators from Neighborhood Justice Center, (NJC), and four mediators from the Office of Dispute Resolution, Colorado Springs and Denver. Because mediation is a relatively new profession, it was important

to solicit the services of experienced mediators who added value to the study.

Consequently, an important requirement was that all participants had two years of mediation experience.

Each of the participants had to have met the following criteria: (a) have 2 years experience with mediation, (b) be 20 years of age, (c) reside and practice mediation in the State of Colorado, (d) have knowledge of mediation techniques, (e) be willing and able to participate in the study, and (f) have knowledge of TMT. The study covered a total sample of 20, of a total population of the number of mediators in Colorado. The participants were selected using purposive sampling. After 10 days, 26 potential participants responded to the invitation. I selected three of these potential participants for a pilot study. Three more were eliminated because they did not meet the criteria for the study, leaving 20 participants for the main study.

The research sample consisted of 20 professional mediators in Colorado. In the qualitative research tradition, sampling referred to the selection of participants and documents that were relevant for a given study (Polkinghorne, 2005). This qualitative method is distinguished from a quantitative one, in which claims are made about samples and the outcome is generalized to the whole population. Creswell (2007) recommended purposeful sampling in situations in which the researcher chooses participants who add more in-depth understanding of the phenomenon being studied.

For the purpose of this study, I chose to select sampling purposefully; specifically selecting a group of mediators with a minimum of two years experience mediating conflicts. These participants had the expertise to provide useful insights into mediation

models, especially TMT, and they helped me answer the research questions (see Appendix D) (Creswell, 2009; Goulding, 2002). Several strategies have been developed for the purposeful selection of participants and they include but are not limited to maximum variation, a diverse form of experiences; homogenous sampling, the same kind of similar experiences; and extreme and deviant cases known as experience which was typical of the phenomenon or deviant from it. Others are critical sampling, experiences which are significant to the phenomenon; criterion sampling based on predetermined criteria considered relevant; theory based sampling, which are experiences that contribute to theory development; and confirmatory sampling, otherwise seen by most researchers as experiences that confirm or disprove earlier findings (Creswell, 2007). According to Creswell (2007), any of the above alternative strategies could be used in a qualitative case study.

Sample Size

The sample size question is an important decision to sampling strategy in the data collection process. A general guideline in qualitative research as in this study is not to study a few individuals but also to collect extensive detailed information on each individual. A purposive sampling was used. The purposive sampling involved my selection of participants, targeting particular individuals or groups. The number of participants in this study can range from 1(Dukes, 1984) up to 325 (Polkinghorne, 1989). Dukes (1984) recommended studying 3 to 10 individuals, and in one study, Riemen (1986) studied 10 individuals. A sample size of 20 professional mediators in Colorado was chosen for individual face-to-face interviews. This format was useful when

participants cannot be observed directly, and it allowed me to have control over the line of questioning. Creswell (1998) did not specify a required number of participants for a qualitative case study tradition. However, he recommended a large sample size in which the outcome of a study is expected to be a theory. Nonetheless, the purpose of this study was not to develop a theory but to seek an in-depth understanding of how Colorado mediators interpret and implement TMT.

Access to Participants

Developing rapport and gaining access to participants was very crucial in the research process. In order to create rapport with potential participants, I was able to build trust by doing the following: informing the participants about the importance of the study and discussing with the participants how gratifying the interview process might be for them (Nachmias & Nachmias, 1987). In building trust, I communicated personally with prospective participants through telephone conversations, face-to-face visits, and email messages. I explained the purpose of the study to the participants during the initial contact and why they were selected for the study. Participants were assured of absolute integrity throughout the process. In terms of benefits, I explained to participants that they were selected because they had demonstrated knowledge about mediation models; the study presented an opportunity to make known their opinions and views on TMT. In addition, their experiences on mediation techniques may contribute to or enhance the mediation profession in Colorado and possibly other states. Through these approaches, I gained direct personal contact and determined their willingness to participate in the study. I obtained all participants' consent before the interviews began (Creswell, 2007). These

measures built trust between the participants and me and as such gained access to required data (see Appendix C).

Data Collection and Analysis

Creswell (2007) stated that data collection is described as “a series of interrelated activities aimed at gathering good information to answer emerging research questions” (p. 118). Data in this study were collected through face-to-face interviews with 20 experienced profession mediators and audio recorded for accuracy. Yin (2003) suggested open-ended questions can be used but cautioned against using them excessively to avoid missing important information. As revealed by Singleton and Straits (2005), in-depth interviewing offered me the opportunity “to clarify or restate questions that the respondent did not at first understand” (p. 320). In-depth interviewing was designed to gather as much information as possible from the perspective and judgment of the participants. In addition, “the response rate, the proportion of people in the sample from whom completed interviews are obtained, is typically high, approximately 80 percent” (p. 238). The high percentage response encouraged me to lean towards this method. The face-to-face interviews with participants generated raw data for analysis. The data analysis stage should more accurately be thought of as a reflection process. The intent is to interact with the information obtained from the participants in a deeply personal way. Then themes or concepts from the interviews that are common to all, as well as the significant variability, can be extracted. Miles and Huberman (1994) defined this view as interpretivism. To follow this view, I carefully summarized the text to gain an accurate understanding of the interviews. Once the concepts of the one-on-one interviews were

identified, I clustered them according to themes. Theme identification is one of the most fundamental tasks in qualitative research. Themes are abstract constructs that researchers identify while they collect data, and the themes come from a review of the interviews or literature and from the characteristics of the phenomenon being studied (Denzin & Lincoln, 2000). The analytical technique used included but was not limited to the transcription of the raw data, but it included the validation of data through cross-verification for validity of the findings used to support the data.

Data Coding

According to Flick (2009), coding is the primary systematic process used to develop a theoretical conceptualization from the data. Coding is the process of combining the data to form themes, ideas, and categories and then marking similar passages of text with a code label so that they can easily be retrieved at a later stage for further comparison and analysis. Coding the data makes it easier to search the data, to make comparisons, and to identify any patterns that require further investigation. For the purpose of this study, codes were based on the themes developed from the interview data. The coding process for this study began when the interviews were transcribed. I listened to the tapes several times for common and similar themes among the participants. The themes were consequently separated and assigned to the respective research questions. To enhance the accuracy of the coding process, the qualitative research computer program X Sight was used for the data analysis stage. The transcriptions that developed from the interviews became the direct evidence for justifying the development of each theme.

The purpose of this study was to address the research question and investigate the underpinning concepts. The face-to-face interviews formed the foundation that established how the findings were related to the research questions. I compared and contrasted the categories for common themes, and applied the themes to answer the research questions how Colorado mediators implemented TMT in their practices.

Reliability and Validity

Singleton and Straits (2005) discussed the qualitative approach to research as achieving “an insider’s view of research as achieving ‘an insider’s view of reality’” (p. 308). Therefore, evaluating the validity of qualitative research design through participants’ views is specific to their own interpretation or information. Yin (2009) outlined four tests that are commonly used to address the issue of quality in social research, as well as the more specific areas of case study research: (a) reliability, (b) construct validation, (c) internal validity, and (d) external validity. Yin (2009) defined construct validity as the identification of “correct operational measures for the concepts being studied” (p. 40). Yin suggested three tactics for use in increasing construct validity: (a) using multiple sources of evidence, (b) establishing a chain of events, and (c) obtaining peer review of the case study report.

Internal validity covered the question of how research findings matched reality, and more specifically, how a particular event leads to a certain outcome. Yin (2009) claimed that internal validity is most important in those studies in which a causal or explanatory relationship is under investigation. However, internal validity is a problem in case studies when inferences are made about events that cannot be directly observed,

as in this study. In addition, case study researchers consider four ways of addressing internal validity: (a) matching patterns, (b) building explanations, (c) addressing rival explanations, and (d) using logic models. In pattern matching, the researcher predicts a pattern of specific dependent variables prior to conducting research. In the analysis stage, the researcher then seeks to match outcomes with the independent variable. In explanation building, the researcher explains the causal links related to a phenomenon, most commonly in narrative form: “The case study evidence was examined, theoretical propositions were revised, and the evidence was examined once again from a new perspective” (p. 143). Of these four suggested analytical techniques, explanation building is the one best suited for this study.

Reliability refers to the extent to which findings of the study is replicated. If the study is repeated, the same results are revealed. According to Yin (2009), “A good guideline for doing case studies was to conduct the research so that an auditor could in principle repeat the procedures and arrive at the same results” (p. 45). Yin recommended two methods of increasing reliability for a given case study, one of which was part of the design for this research, use of case study protocol. Use of case study protocol allowed me to stick firmly to predetermine methods of data collection and analysis. Furthermore, such use of protocol in effect provides a roadmap whereby future research of the same type might be conducted.

For the purpose of this study, the reliability of the new instrument was first measured during the pilot study stage (see Appendix D), so that interpretations based on current and future use of the instrument could be made with assurance. The reliability

estimate was an indicator of the instrument's stability and accuracy. If it is highly trustworthy, then repeating the study with the same or similar groups of people should replicate the outcome assuming the conditions that were being assessed had not been altered. The reliability analysis, then, demonstrated evidence of an instrument comprised of several scales, each of which was reliable.

According to Yin (2009), one of the strengths of case study research is that data collection typically comes from multiple sources of evidence. In this study, individual interviews were the main source of data. A data collection instrument was designed and used for the individual interviews. In a strategy recommended by Rubin and Rubin (2005), the list of interview questions used for the individual interviews was first developed in a pilot study. In this pilot study, questions were developed based on the specific research questions that guided the study. An interview was conducted as a pilot study with three mediators. It should be noted that these three participants did not take part in the final study as indicated in Appendix D. Subsequent to the pilot interviews, the list of interview questions were edited and revised to better reflect the core research questions, also indicated in Appendix D.

To assure research reliability, participant checks were included but were not limited to follow-up interviews and to verify and substantiate my interpretation in person. I took notes when necessary during the in-person follow up interviews. In addition, data collected were put into a word processor and attached to the participants' transcribed interview data. The data were put into themes as part of the entire interview data. These steps ensured research reliability for the study.

Additionally, individual participants received a copy of their comments for review and gave feedback to me. The informal double checking with participants helped to establish quality and accuracy of the research data. In addition, bracketed notes helped separate researcher impressions and descriptions from those of the participants (Hatch, 2002). Of vital importance were the detailed accounts of the participants' experiences that were free from my emotions, predispositions, and bias. To further establish credibility and reliability of data, I used rich thick description of data. To verify and corroborate evidence and to ensure interpretive validity of data, I used triangulation by using my reflective journal, using handwritten field notes, and enlisting the services of the three pilot study participants for peer debriefing. I used a researcher's journal to record personal reflections and personal biases. The journal provided a context for *filling in the original notes* (Hatch, 2002). For additional validation of data, I enlisted the services of the three mediators who participated in the pilot study to review transcripts of the interviews and to develop themes for comparison with those I identified. Furthermore, this study was internally valid given the following strategies: peer review, the dissertation committee review process for checking the data collection processes, and research methodology.

Pilot Study

The purpose of a pilot study is to refine the interview questions and respond to the research questions. Sampson (2004) recommended using a pilot study to refine and develop research instruments, to frame questions, and to adapt research procedures. In addition, Yin (2003) recommended a pilot test to refine data collection plans and to

develop relevant lines of questions as I had chosen in this study (see Appendix F) for additional explanation. The decision to adopt the snowball sampling strategy was made by interviewing three mediators who were identified from other mediators who had the required years and experience in TMT. The information that was provided by the three participants helped me to modify some of the follow up questions so that I better understood the apprehensions and remarks of the final study respondents. In order to obtain the maximum benefits of this pilot study, I took advantage of the pilot study by including all information necessary to answer sufficiently the research questions vital to the case study (see Appendix D) for more clarification. In addition, I asked the pilot study participants the following questions: (a) Were the interview instructions legible, clear, and easy to understand? If not, what should change? (b) Were there questions that you found offensive or you resisted answering? If so, how would you rewrite the question? (c) Is the question format varied enough to retain your attention throughout the interview? If not, what would you change? (d) Do you think the interview time was too long or too short? What would you consider adequate time? I had anticipated that the pilot study conclusions would be consistent with the eventual findings of the case study. The challenges faced by mediators were not always predictable because of the uniqueness of mediation, and they had a large effect on the success of resolving a conflict.

Verification

Many kinds of research studies exist, and the choice of whether a study can be internally or externally corroborated is determined by the established guidelines for validation. In addition, the quality of the data collection and analysis procedures is

measured by different techniques. For the purpose of this case study, verification occurred through the following approaches:

1. The pilot study conclusions ensured that the interview questions were aligned to answer the research questions; mediators identified as having experience of TMT to test all aspects of the study were included in the final interview questions.
2. I incorporated the participants as a check by taking the conclusions of the study back to the participants for the purpose of establishing credibility and authentication.
3. The permission to complete the study granted by the Walden University Institutional Review Board (IRB approval number 10-13-10-0183401) ensured participant safety, ethical research practices, and careful review of the data collection measures in accordance with the guidelines.
4. The dissertation committee review process served as an external check of the data collection processes and research methodology.
5. My biases were clarified before the commencement of the case study.

Summary

In chapter 3 qualitative research traditions were reviewed and why a qualitative study was the most appropriate model for this study was explained. In addition, it examined the conceptual framework of inquiry and design for the study. Consequently, in this study Colorado mediators asked how they implemented and interpreted TMT in their practices. According to mediation experts, resolving conflicts, for the most part, reduces or eliminates violence in the general public. However, additional study is needed

to better understand how to appropriately apply TMT to resolve conflicts and reduce impasse. I utilized the qualitative case study approach for this study because it offered an in-depth contextual perspective on the issues. I purposefully selected 20 mediators from Colorado through confirmatory sampling strategies to participate in face-to-face interviews with open ended questions in this study. Data were analyzed through detailed description, direct interpretation, and development of naturalistic generalizations. In qualitative case study, generalization in data is used as intent not to generalize findings to individuals, sites, or places outside of those under study (see Gibbs, 2007). The findings were validated through peer review, the participation of selected mediators, and the use of multiple sources of data related to TMT. Chapter 4 includes the results and the data analysis.

Chapter 4: Results

Chapter 4 presents the findings and data analysis. The qualitative process of data analysis in this study is an inductive one, in which the data are examined from a bottom-up approach (Creswell, 2007). The specific data are examined to identify the more general themes that will be used to understand the meaning of the data.

Data Organization

In this chapter is a brief presentation on how data were generated, gathered, recorded, and transcribed. I managed the study in two phases: a pilot study that was conducted after IRB approval (# 10-13-10-0183401), followed by qualitative data collection in face-to-face interviews. A few days before the interviews, I purchased a microcassette audio recorder and XSight software. In early October 2010, I began the pilot study, which took 7 days to complete. The main study began in late October and was completed in December 2010 (see Appendix E). For the purpose of this study, participants in the pilot study were only identified as PS1, PS2, and PS3, and participants in the main study were identified as M1 through M20 to protect their identities. It was necessary to interview mediators with knowledge of the topic because the unit of analysis was experience rather than individuals or groups. As a result, experience was the selection criterion of importance rather than representativeness (Polkinghorne, 2005). I conducted interviews first with three mediators in the pilot study and then the 20 mediators in the main study. The participants were all Colorado mediators with knowledge of TMT.

The specific data were examined with XSight software to identify more general themes that I then used to understand the meaning of the data. In qualitative research, the major instrument of the inquiry is the researcher. I transcribed the interviews (see Appendix G) and interpreted the data based on what was recorded during the interviews. Recording, analyzing, and reviewing of data collection used in this study provided the basis for thick description (Geertz, 1973).

Instrumentation and Materials

To measure the reliability of a new instrument so that interpretations based on current and future use of the instrument can be made with assurance, I tested the proposed interview questions in a pilot study (see Appendix D, Table 1). The reliability estimate is an indicator of the instrument's stability. If it is highly trustworthy, then over repeated administrations with the same or similar groups of people, the results should be consistent, assuming the conditions that are being assessed have not been altered.

Data for this case study were collected from individual interviews, and strict data collection procedures were followed in order to enhance the reliability and validation of this study as described in the following sentences. Prior to the planned interviews, participants were contacted as indicated through e-mail to schedule the individual interviews (see Appendix A for more explanation). In order to enhance the comfort level of the mediators and to insure privacy, I offered to conduct each interview in the participant's office or a place of his or her choosing. Face-to-face interviews lasted no more than 60 minutes. All of the interviews were audio recorded and afterwards transcribed into a Word document for easy translation (see Appendix G) for more

explanation. Consideration was extended to mediators that did not honor the one-on-one interviews. An alternative arrangement was made through an e-mail format, in which questions were submitted electronically, answered, and returned. However, this aspect of the exception was never utilized. A different tape was used to record each interview and identified with alphabetic letters rather than the mediator's names to ensure confidentiality.

Pseudonyms were used in the transcription process to replace identifying names. For simplification, all pseudonyms begin with the given alphabet assigned to the audiotape. For example, when interview one was transcribed; the interviewee would be given the pseudonym *MI* to hide his or her identity. In the interview questions (see Appendix D), I used an open question interview format to allow me to capture as much information as possible. However, there was also flexibility in the type and number of follow-up questions that were asked, depending on the participants' responses. As suggested by the pilot study outcome, probes were used whenever the participant's initial response to one of the questions was lacking in clarity or depth. At the end of each interview, I thanked the participants. The tentative findings for the study were shared with the mediators for peer review and feedback.

Data Collection

Data were collected using face-to-face interviews with 20 professional mediators with knowledge of the TMT (see Appendix E for further explanation). There were various types of interviews, and the particular interview approach chosen for data collection in a qualitative study depended upon the research question (Creswell, 2007).

As recommended by Creswell (2007), researchers can conduct interviews using different media or formats: e-mail; face-to-face; focus groups; online focus groups; and telephone interviews (p.130). Over a 10-week period, I conducted individual interviews, using open-ended questions as listed in Appendix D to gather information from mediators regarding their perceptions of TMT. The face-to-face interviews allowed me to examine intensely the phenomenon being studied and to control the interview process for questions answered in an appropriate sequence. Further, it allowed for flexibility in the process of probing for details; clarifying ambiguities and issues for appropriate responses; and collecting supplementary data (Singleton & Straits, 2005).

Interviews

Individuals who showed interests were sent the introductory email (see Appendix B), and then I scheduled the face-to-face interviews. At all of the interviews, I presented the participants with the consent form for them to sign before commencing (see Appendix C). The interviews included no one other than the participants and me, and they took place over a 10-week period. The location of the face-to-face interviews was mutually agreed upon, usually at the participants' offices, the participants' homes, or in Starbucks. All of the participants were willing to share and discuss their expertise in TMT without reservation, and each answered all the interview questions. I assured the participants that their responses were confidential, which gave them the freedom to express their opinions openly. The interviews lasted between 35 and 60 minutes, depending on the willingness of the individual participant to elaborate or share beyond the standard interview questions. For the purpose of this study, the participants were

identified as M1 through M20 to mirror the number of participants in the study. I then selected three mediators from the list of respondents based on the recommendations of other mediators to participate in the pilot study. The three mediators had the most experience with TMT and were identified as PS1, PS2, and PS3 for confidentiality. I made another phone call to pilot study participants to notify them of their role in the case study. They served as peer reviewers by scrutinizing the interview transcripts to determine whether the responses were accurately reflected in the study.

Data Analysis

I analyzed the interview data using XSight software according to the specific interview questions (see Appendix D). The analysis reduced the raw data to a form that allowed the phenomena represented by the data to be described, examined, and interpreted (Long, Convey, & Chwalek, 1985). My intention was to interpret the data, which is to assess their meaning related to the purpose of the study and to ensure that the method of analysis was consistent with the objectives and design of the study. Based upon the nature of this study, I used a narrative approach in which large amounts of text were used to answer the research questions. Using XSight software, I developed codes and categories in which each participant's response was classified. The coding process in this study commenced as soon as the initial interview was conducted and transcribed. I performed the coding process by reading all of the interview transcripts and attributing a code to sentences or groups of sentences in the transcripts, using words recommended by Charmaz (2006). For example, the codes *very familiar*, *interest*, *communication*, *relationship*, *negotiation*, *empowerment*, *opportunity*, *needs*, and *problem solving* were

applied to data from numerous participants. Using the constant comparative method, I reviewed the codes for all participants for similarities and differences in order to determine the major categories for each interview questions.

Discrepant Data

In a case study, discrepant data are important to consider relative to the development of potential adversarial explanations that might challenge the theoretical proposition. For this study, discrepant data emerged during the analysis of the interview responses. For example, during the interviews with the participating mediator, the issue about familiarity of TMT was raised by several participants. Mediators seemed confused about what familiarity actually meant in the context of the interview question. The majority of the participants, 12 out of 20 were concerned that their responses would not be acceptable by me. In each case, I had to explain that the research is focusing on their insight rather than my own views. Also, regarding the issue of implementation, one or two mediators were concerned that implementation is so varied that respondents, in their opinion, would not do justice to the question. These discrepant data about familiarity and implementation could possibly affect my interpretation of the findings and or affect my conclusions.

Findings

Interview Question 1

IQ 1 asked, “How familiar are you with TMT?” In response to this question, 12 out of 20 interviewees said, “very familiar,” while 8 out of 20 said, “I would say fairly familiar.” This ratio translates to 60% of mediators interviewed being familiar with TMT

while 40% were somewhat familiar. However, when asked to elaborate, only 10 out of 20 mentioned Bush and Folger's (1994) brand of transformative mediation technique.

Interview Question 2

IQ 2 asked, "How did you implement TMT?" M2, M5, M9, M11, M13, M14, M15, M17, M18, and M20 added, "But in terms of implementing, I always come into any mediation that I do, whether in the legal system or in the criminal or civil system, always come into that with the intent of being as transformative as possible as you can find."

Continuing with the same interview question, 14 out of 20, 70%, of the respondents said that they apply a combination of facilitative, evaluative, transformative, and other variations of techniques to resolve conflicts. However, respondents revealed that applying TMT exclusively is appropriate in most civil conflicts but not in criminal cases.

Interview Question 3

IQ 3 asked, "How did you interpret TMT in your practices?" Each mediator had his or her own interpretation and implementation of TMT. According to some respondents, their interpretations of TMT focus mostly on transforming the *communication* of disputants and through that process reaching a resolution. Similarly, M1, M6, and M19 said, "The *problem solving* technique is used to transform the conflict through empowerment and recognition." All these responses indicated that no universal interpretation or implementation exists. Mediators interpreted conflicts and implemented solutions according to their experiences and knowledge.

In response to this question, M1, M3, M4, and M12 responded that their interpretation is that it is based on a foundational belief that each one of us is responsible

for what our lives look like and what our conflicts look like. And TMT is a beautiful, gentle way of reminding people of that and to create the space for them to come back into themselves and into their own personal *responsibility*. Lonergan (1957), a Canadian philosopher, supported the implementation finding, saying, “Mediators who apply TMT usually search for direct and inverse insights into what the conflict meant to each disputant by discovering what each party cared about and how that threatened the other party” (p. 38).

Interview Question 4

IQ 4 asked, “In your view point, how would you define, describe, and explain TMT? Would you recommend it as a technique to other mediators? Why?” The response from this question was interesting because each mediator defined and described TMT in terms of how they apply it. The common response was articulated by M5, M6, M9, M12, M13, M18, M19, and M20:

Transformative mediation technique help parties come to an agreement through *empowerment and recognition*. The mediator assumes an even more neutral role than in the facilitative or evaluative techniques, attempting to empower each party as much as possible to guide the mediation process themselves and to search out their own solutions.

In addition, they said, “I would recommend TMT as opposed to evaluative or facilitative techniques because it focuses on *empowerment, interests, and needs* of each disputant.” The responses revealed that 18 out of 20, 90%, are successful when they use TMT in their cases. M9, M12, and M17 summarized the feelings of the majority of respondents:

“I can freely use [the] transformative framework to facilitate mediation, which means that I hope to use the conflict as a highway to transform disputants’ *relationships*.”

Interview Question 5

IQ 5 asked, in your opinion, what percentage of your mediation cases would you attribute to TMT? Why do you have such an opinion? M7, M8, M14, M15, M16, M18, M19, and M20 said that it is used 100% in postal service employment cases. The majority of interviewees said between 80% and 90% of their cases were resolved when transformative techniques are used.

Interview Question 6

IQ 6 asked, “How effective do you think of TMT? Why?” M7, M8, M14, M15, M16, M18, M19, and M20 said, “As you can see from your previous interview question, it is very effective when used in civil cases.”

Interview Question 7

IQ 7 asked, “What is your background and experience with TMT?” M7, M8, M14, M15, M16, M18, M19, and M20 said, “My background and experience came from the postal service training I received.” M6 responded, “I have taken some classes in TMT.” “I have been trained in TMT many years ago and I also use the transformative model in some of my mediations.” The rest of the respondents said that their background came from reading *the Promise of Mediation* by Bush and Folger.

Interview Question 8

IQ 8 asked, “In your opinion, what would you say are the advantages and disadvantages of TMT?” M6, M12, M14 and M19 summarized the sentiment of the

respondents when they said, “The goal of transformative mediation is to transform the disputants by focusing mostly on their *communication* using *problem solving*, *empowerment*, and *recognition* in the participant, and through that process an agreement is reached.” M3 and M20 added,

Advantages; increased awareness, again it’s going to a deeper level of communication, which allows for more sustainable resolution.

Disadvantages, it’s just some more – it's just a conflict that is not interpersonal. So I think a transformative mediation technique is very successful in interpersonal relations and conflict; in family conflict, in workplace, I have seen it – with co-workers, work based conflict. I think that transformative mediation does get the parties a lot more power and control. It does allow parties a lot greater freedom in expressing themselves and taking the direction of the mediation however they would like. It definitely restricts them and it disengages the mediator from the kind of controlling to where the process goes and how the parties respond. And in this case, I think it is a great technique, I think it taught me a lot about letting go. Self determination is a key ingredient and as a matter of fact, it's one of the ethical standards of mediators. And I think taking of course, of practicing transformative mediation, it has taught me that – however, in its purest form, I'm not sure that parties know how to use their power. And I think at times they can use some guidance in making up

their own mind, and at least clarifying what their options are. So, I think it has more wonderful benefits than drawbacks.

Interview Question 9

IQ 9 asked, “How many years have you practiced mediation? Describe your training?” The responses ranged from 5 years to 25 years in experience and training. Here are responses on this subject: “I have been working in the field for 7 years,” indicated M2, M3, M6, M8, M12, M14, M16, and M19. Moreover, M1, M4, M5, M7, M13, and M18 said that they have been mediating for 15 years. Seventeen out of 20 respondents received training in the 40-hour mediation course but were not specifically trained on the appropriate use of TMT. M6 responded, “I have taken some classes in TMT. I have been trained in TMT many years ago and I also use the transformative model in some of my mediations.”

Interview Question 10

IQ 10 asked, “Is there anything you want to say about TMT?” For the most part, 15 out of 20 respondents expressed with this sentiment,

I think that somewhat unfairly but not totally unfairly, transformative mediators, those who relay almost exclusively on this methodology, are referred to humorously as potted plant mediators, meaning that they basically don't seem to be doing a deal. I don't think that's fair, but I think that they are analyzing, what the parties are doing, they are waiting for the right time to try and help the parties to find that ability and those moments of revelation if you will, if the parties can reach while they are discussing and go ahead and realize that ability to get to that

next level. I think sort of recapitulating what you and I discussed that as a tool in your mediator's toolbox, I think that it can be valuable but I think that it can be overused, it can be generalized like anything else and I think becoming an advocate of a technique saying it's my job to see that this wonderful technique of transformative mediation is used everywhere. I don't think we're serving our clients, we are serving perhaps our people, and I think that we need to remember it.

Evidence of Data Quality

I used a number of approaches to address the challenges of reliability and validation of this case study. First of all, the data in this case study were triangulated through the use of in-depth, face-to-face interviews with mediators. Reliability refers to the extent to which findings of this study can be replicated (Johnson & Christenson, 2004). In this case study, I used strategies that enhanced the internal validity, external validity, and reliability. Merriam (2002) noted that internal validity is associated with the question of how the research findings match reality, and she suggested the following basic strategies to enhance internal validity: (a) triangulation, (b) member checks, (c) long-term observation, (d) peer examination, (e) participatory or collaborative modes of research, and (f) researcher bias. For this case study, I used triangulation by collecting and analyzing data from interviews to corroborate the findings. I also used member checking by requesting that the pilot study participants to whether the findings were plausible. Peer review allowed the participants the opportunity to express their concerns and recommendations about the findings of this study. Generalizing from case studies is

less of a problem than is usually assumed. The generalizability of a piece of qualitative research can be increased by purposive sampling guided by time and resources and theoretical sampling as used in this study.

Yin (2009) claimed that “a good guideline for doing case studies is to conduct the research so that an auditor could in principle repeat the procedures and arrive at the same results” (p. 45). I used member checking and peer review as shown in Appendix E, and preliminary findings for the study were made available to pilot study participants for feedback and then included in the study for more explanation (see Appendix E). Yin recommended two methods of increasing reliability for a given case study, one of which is part of the design for this research, the use of case study etiquette. The case study etiquette allowed me to firmly stick to predetermined methods of data collection and analysis. This study is reliable because of the trustworthiness of the instrument and pilot study participants participation in developing the interview questions and acting as double checking agents (see Appendix D, Table 2 for explanation).

However, for qualitative studies, reliability refers to whether the findings are consistent with the data collected. Merriam (2002) explained that “reliability lies in others’ concurring that given the data collected, the results make sense; they are collected, the results make sense; they are consistent and dependable” (p. 27). Merriam also noted that the strategies that a qualitative researcher can use to obtain more reliable results include triangulation or the use of multiple sources of data, clarification of his or her position, and an audit trail. I used all of these strategies to improve the reliability of this study. In the analysis stage, I looked for the causal links related to a phenomenon,

most commonly in narratives: “The case study evidence is examined, theoretical propositions are revised, and the evidence is examined once again from a new perspective” (p. 143). Of these four suggested analytical techniques, the narrative technique was the one best suited to this study. Merriam (2002) defined external validity as “the extent to which the findings of one study can be applied to other situations. Merriam suggested that the following strategies be used to protect the external validity of a study: (a) rich, thick description, (b) typicality or modal category, and (c) multisite designs. The rich thick description is incorporated in the current study.

Researcher Bias

Qualitative research is liable to be influenced by the bias and subjectivity of the researcher. Merriam (2002) maintained that safeguards can be put in place to reduce this bias, such as following specific data-analysis protocols, using the constant comparison method, and writing memos. Against this background, I personally recruited participants and sought the necessary consents to conduct the interviews and collect the data. I also made telephone calls to potential participants. I used audio tapes for the interviews and transcribed all interview responses (see Appendix G) for a sample transcript. Because I was exclusively responsible for data collection and analysis for this study, the issue of researcher bias needed to be addressed. Merriam defined researcher reflexivity as “critical self-reflection by the researcher regarding assumptions, worldview, biases, theoretical orientation, and relationship to the study that may affect the investigation” (p. 31). In this study, I took specific measures to address the possibility of subjectivity or researcher bias by trying to exercise objectivity at all times. Because I am a mediator, I

kept a record of my feelings and attitudes about this topic during data collection and analysis. This record of my personal reflections allowed me to take into account how my personal reactions and experiences may have influenced the data collection and analysis. I also selected participants for this study who did not have any prior relationship with me.

Summary

This chapter described the process used to collect and analyze the data through interviews, and organize data. I analyzed data using XSight software according to the responses. Clustering is a system for arranging the themes. The interviews were recorded so that the interviewees' words could be transcribed verbatim. I then transcribed the tapes to identify the themes of the responses and organized the information to reflect each participant's perceptions. The common themes found included *empowerment, problem solving, interests, needs, communication, familiarity, and value to the conflict, opportunity, relationship, trust, and good faith.*

In addition, this chapter described specific strategies that were used to improve the reliability and validity of this study. The findings from the data analysis addressed each of the research questions that guided this study. As supported by the findings, it is common in the mediation field to categorize the diversity of approaches to practice using transformative mediation (Exon, 2007; Roscoe, n.d.; Zumeta, 2000; see also Bush, in press; and Della Noce, in press, for additional evidence that this particular categorization of practice is now in common use). Although the term *transformative mediation technique* is generally credited to Bush and Folger (1994, 2005), the terms *facilitative mediation* and *evaluative mediation* are generally credited to Riskin (1996). In fact, as

Kovach and Love (1998) observed, Riskin put evaluative mediation *on the map* of the mediation world. Also, data from this study suggest that Colorado mediators use and implement a hybrid technique.

This research was designed as a case study to respond to the three research questions that guided it. For the most part, qualitative research involves an attempt to find out how people make meaning or interpret a phenomenon (Merriam, 1998). The term *case study* is indeed a mystery. As Lincoln and Guba (1985) noted, while the literature is replete with references to case study reports, there seem to be only modest agreement about what a case study is; there is no simple taxonomy within which various kinds of case studies might be classified (pp. 360-361). According to Yin (2003), a case study is an empirical inquiry that investigates a contemporary phenomenon within its real life context (p. 23). I used a rich, thick description to express mediators' perceptions of the effectiveness of the transformative mediation technique. The mediators that provided the background for this study in Colorado are similar to other mediators across the United States. Therefore, findings from this study should have applicability to other mediators regardless of their state of residence. Generalizing from case studies is less of a problem than is usually assumed. The generalizability of a piece of qualitative research can be increased by purposive sampling as used in this study guided by time and resources and theoretical sampling. Chapter 5 will present my interpretation of the findings, implications for social change, recommendations for action, recommendations for further research, researcher reflections, and conclusions.

Chapter 5: Discussion, Conclusions, and Recommendations

This chapter presents the summary of the study, the interpretation of the findings, implications for social change, recommendations for action, recommendations for future study, my reflections, and conclusions. The purpose of this qualitative case study was to identify and develop the best practices of TMT and to alleviate impasse during the mediation process. To this end, I examined in detail how Colorado mediators implemented and interpreted TMT in their practice. I engaged all of the participants in interviews that each lasted for 1 hour or less to discuss their experiences and perceptions regarding TMT in their practices. I used a qualitative approach with a case-study design. This research was grounded in the conceptual framework of negotiation principles. I did not intend the research to test any particular theory or theories. Negotiation principles constituted the lens through which I viewed and examined TMT in resolving conflicts. Due to the nature of the interview questions, responses from participants were specific. The findings from this case study reflect lessons learned from the experiences of mediators in Colorado. The study may contribute to the knowledge based on conflict resolution and assist society in reducing violence.

Summary of the Study

This qualitative case study was grounded generally in the conceptual framework of IBN principles adopted by mediators to resolve conflicts. For the purpose of this study, interest-based negotiation assumes that disagreement in conflict situations is resolved and mediation is achieved when each side's interests are satisfied. According to McKersie (1965), the process focuses “on understanding and building on interests” and

employs “problem-solving tools” to avoid “positional conflicts and achieve better outcomes” (p. 27). A number of skills and techniques are associated with interest-based negotiation, which include active listening and translating positions into needs or interests. In this study, I investigated how Colorado mediators interpret and implement TMT in their practices. A possible outcome for the results of the study is that the conceptual model that is derived from their experiences in the process of this research may help enhance the mediation profession in Colorado and other states or countries. The lessons learned from the study may enhance the mediation profession and encourage disputants to use mediation services instead of going through the court system to resolve conflicts.

The relevant literature on TMT was reviewed and its rubric was examined in chapter 2 to develop the appropriate mechanism for increasing its usage to resolve conflicts in Colorado. In chapter 3, the methodology that guided the study was scrutinized, especially the qualitative approach, procedures, coding design, and sample population, and the qualitative case study approach was identified as the appropriate methodology for this dissertation. In chapter 3 the use of purposive sampling was illuminated with available data and interviews as methods for data compilation and analysis. The research findings, data organization, data analysis, researcher bias, and summary were addressed in chapter 4. Finally, the discussion, interpretation of findings, implications for social change, recommendations for action, and recommendations for future research, researcher experience, and conclusion are all included in chapter 5.

Interpretation of Findings

The ten (10) interview questions (see Appendix D, Table 2) were designed to specifically map the research questions. The data generated from the interviewees are the basis for interpreting the findings. The following research questions guided this study:

1. How familiar are Colorado mediators with TMT?
2. How do Colorado mediators interpret and implement TMT?
3. How much training or experiences do Colorado mediators have in TMT?

Research Question 1

Responses from interview questions 1, 4, 5, 6, and 7 (see Appendix D, Table 2) were used to generate information used in answering Research Question 1, which inquired about Colorado mediators' knowledge and familiarity of TMT. The findings of the data analysis revealed that Colorado mediators were somewhat familiar with the technique. However, most of the participants were not very clear about the technique advocated by Bush and Folger (1994). Also, a major finding of the data analysis revealed that most mediators were comfortable with a *hybrid* technique—a combination of *facilitative, interest-based empowerment and acceptance of responsibility* as an appropriate technique to resolve conflicts. Another finding of the data analysis revealed that the mediators were uncomfortable using what they characterized as the purist form of TMT, as defined by Bush and Folger. Bush and Folger strongly suggested that mediators should play a lesser role during the mediations process. In conclusion, findings of the data analysis suggested that 19 out of 20 participants strongly favor a hybrid technique as the most effective and preferred mediation technique for resolving conflicts. The next

section discusses findings derived from Colorado mediators' interpretation and implementation of TMT.

Research Question 2

The responses to interview questions 2, 3, and 5 were used to answer Research Question 2 in which understanding was sought about how Colorado mediators interpreted and implemented TMT in their practice. The findings of the data analysis to this Research Question were the most revealing and came as no surprise. The data analysis revealed that Colorado mediators interpreted and implemented TMT differently. This finding of the data analysis revealed that TMT is a technique that assumes that everybody is capable of communicating his or her needs, is capable of creating options, is capable of coming to a rational agreement, and is capable of sticking to that agreement.

Data analysis also revealed that TMT is a very interactive process of recapping and reframing what the disputants try to communicate during mediation. In addition, TMT is a process wherein the mediator has little or no influence over the process or with disputants. Furthermore, throughout the process, disputants make their own decisions and dictate the direction of the mediation more than in evaluative or facilitative mediation. The responses to Question 2 further suggested that TMT focuses mostly on transforming the communication of disputants and using problem solving techniques to bring people together to increase communication so that they feel empowered and recognized in their perspective in order to reach a mutually acceptable outcome. In conclusion, findings of the data analysis suggested that the philosophy behind TMT is that all disputants in mediation have their own inherent abilities and innate competency to

navigate through the mediation process and resolve their conflicts if they are put in the right situation in which they can be creative. The philosophy inherently assumes that people do have the capability and competency to reach mutually desirable resolutions. In the next section, findings are discussed that were derived from discussions on how much training or experience the Colorado mediators have in TMT.

Research Question 3

The responses gathered from interview question 9 were used to specifically generate enough information to properly answer Research Question 3 which was formulated to inquire about Colorado mediators' years of practice and experience involving TMT. The findings of the data analysis revealed that Colorado mediators are highly trained and experienced in TMT. For example, 12 out of 20 had over 15 years of experience, which translates to 60%. Also, the findings revealed that 18 out of 20, which is 90% of respondents received the required 40-hour mediation training, and participating in a lot of conflict work on different levels, which included courses in transformative mediation technique. Also, the findings revealed that 14 out of 20 which translate to 70% of participants have read *The Promise of Mediation* by Bush and Folger (1994).

Implications for Social Change

This study is vital for social change because the findings provide solutions to combat violence. Evidence suggests that an unresolved conflict negatively affects the general public by means of increased violence and an overwhelmed system (Moore, 1996). Unresolved conflict is one of the most complicated social problems in the United States and the world over. The implications for positive social change include a decrease

in the number of lawsuits, relief for the overburdened justice system, and a decrease in the use of limited courts resources as more cases can go through mediation, which is very inexpensive compared to litigation. The supporters of mediation claim it is more than an intervention that attempts to resolve a specific conflict issue. They suggest that it is a generalizable process that may increase communication, improve stability, and result in an overall reduction in violence.

Recommendations for Action

Looking at the findings that emerged from this study, I would suggest a few recommendations for immediate action. The first recommendation for action is that trainers in Colorado need to offer more information on TMT to improve the poor awareness that exists now. The second recommendation for action is that mediators should understand the concepts of positions and interests in any conflict situation. As one expert suggested, “All conflicts are as a result of lack of needs” (Dana, 2001, p. 109). Therefore, professional trainers in Colorado should act immediately to include hybrid transformative mediation techniques in their course outlines. In addition, mediators are encouraged to join professional organizations that offer opportunities for members to improve their knowledge base. To aid the education of mediators, transformative mediators might get articles published in professional periodicals. Last, Colorado mediators could organize to invite a well-known transformative mediator from out of state as an expert to provide them with professional training.

Recommendations for Further Study

Because this study focused on Colorado mediators, further research should be performed in other states of the country to establish whether mediators in those states have different perceptions of TMT. For example, mediators in other states may have been ahead of Colorado mediators on TMT. Thus, I recommend that this study be replicated using a multiple case-study design. In addition, further research should focus on using different sample sizes to determine whether a larger sample would lead to a different outcome. The findings of this study provide a foundation for additional research. Another recommendation for further study is for researchers to look into opening the study to all mediators. This study focused on individuals with knowledge of TMT, which raises the question, what would a study look like if it were extended to all mediators? Future researchers should also consider using quantitative methodology or mixed methods. Finally, further research should be performed using the Internet to collect data as opposed to the method used in this study.

Reflection of the Researcher

As one who has been in the mediation profession for 6 years, I was aware of my personal bias about TMT. The technique has served me very well in my practice. I was particularly careful about keeping an open mind during the data collection process so that my perception would not be a hindrance. I enjoyed the company of the participants during the data collection process. My interest in this study came as a result of my opposition to Bush and Folgers' (1994) strict characterization of the technique.

Therefore, I began to look into incorporating some of the elements of Bush and Folger, specifically acknowledgement and empowerment with negotiation principles.

I felt that the mediators were very respectful of the process, and I felt a spirit of cooperation and willingness from the pilot study and main study participants. Although I was not aware of any other bias on my part, I did embrace the suggestion that TMT is superior to evaluative and facilitative techniques. In the beginning, this study focused on impasse during the mediation process, but after having difficulty with research material, my mentor and chairperson advised that I seek a different direction, mediation techniques. During the data collection, I learned that biases must be suppressed in order to preserve the reliability of the research. In addition, I learned that there is a chance that participants may not be completely truthful in their responses because they are aware that I am also a mediator. For example, a mediator may want to impress me by embellishing his or her response.

Embarking on this study has undeniably been a wonderful learning experience for me. Because of my experience with TMT and my familiarity with the participants, I thought that the processes involved in this venture would not be too different or difficult; I definitely underestimated the scope of the study. Although all my expectations were not met, all my thinking and assumptions in these areas were not false. Meanwhile, the demands and requirements to carry out the research process were more involved, broader, and intricate than initially suggested. Nonetheless, it was a rewarding academic exercise. For the most part, the study afforded me the opportunity to interact with wonderful and

knowledgeable mediators. I learned about several important tools that would help me in my professional mediation.

Conclusion

I prepared the case study and research design to explore the perception of mediators in Colorado and to answer the research questions. I designed each research question to specifically seek responses from participants who would answer the research questions. IBN principles served as the conceptual framework for this study. For the purpose of this study, I contemplated the belief that most disputants focus on the wrong things, which invariably adds to the conflict they are undergoing. As reported in the literature review, I was unable to locate any direct study of the best practice of TMT. My objective was to offer information through this study to lay the foundation for further study of the TMT experience. I chose to focus on TMT for this study due to my own knowledge and experiences as a mediator. The participants felt comfortable speaking to me about their perceptions because I am also a mediator. I put aside my biases and always focused on the participants in my interviews rather than allowing their personalities to shape the interview procedures.

The primary sample consisted of 20 Colorado mediators with experience in TMT. Their responses provided the relevant information to answer the research questions for the study. In research Question 1, I sought to investigate how familiar Colorado mediators are with TMT. The consensus among the participants was that the mediators were uncomfortable using what they characterized as the purist form of TMT as defined by Bush and Folger (1994). The findings also raised the issue of clarity of mediators'

true understanding of the TMT. However, the findings of the data analysis indicated that Colorado mediators were familiar with TMT.

Colorado mediators' interpretation and implementation of TMT were investigated in Research Question 2. The findings of data analysis revealed that Colorado mediators interpreted and implemented TMT differently. Some said it was a technique that assumed that all people are capable of communicating their needs, creating options, coming to a rational agreement, and sticking to that agreement. Yet others said TMT was a very interactive process that allowed the mediator the flexibility of recapping and reframing what the disputants tried to communicate during mediation. This finding is supported by Melchin and Picard's (2007) work, which indicated that mediation seeks to change the way disputants relate to the issues and to each other.

In addition, Melchin and Picard (2007) found that the transformative approach to mediation has been positioned as an alternative to the interest-based approach that has dominated mediation practice, especially in business and legal matters. Melchin and Picard argued in support of recommending additional training in TMT so that mediators could become better practitioners. In Research Question 3, the findings of the data analysis revealed that the level of training and experience of the mediators with TMT varied from between 5 years and 25 years. The study revealed that Colorado mediators lacked the necessary training in TMT. In addition, a small number of mediators are experienced in the technique because of United States postal training. This finding was supported by the fact that transformative, evaluative, and facilitative techniques are used as a way to distinguish various approaches to mediation practice and the fact that a

substantial body of observational research about mediator practices has accumulated (Alfini, 1991; Cobb, 1997; Dingwall, 1988; Donohue, 1991; Garcia, 1991, 1995, 2000; Greatbatch & Dingwall, 1989, 1994, 1997; Heisterkamp, 2006; Shailor, 1994; Silbey & Merry, 1986; Tracy & Spradlin, 1994). It remains remarkably difficult to locate research that specifically identifies practices characteristic of each approach, but see Della Noce, 2004; Della Noce, Antes, and Saul, 2004 and Della Noce, Antes, Bush, and Saul, 2008 for studies specific to the practices of transformative mediators.

Finally, the findings supported the conclusions that Colorado mediators were satisfactorily familiar with TMT and that familiarity helped enhance the mediation process. Also, having knowledge of TMT does prepare mediators to apply the technique appropriately to resolve conflicts better. However, some participants strongly suggested more training in TMT to all mediators in Colorado. This research was designed as a case study to answer the three research questions that guided it. Finally, most mediators use a technique characterized as a hybrid, transformative mediation technique. The hybrid transformative mediation technique incorporates a combination of interest-based negotiation principles to resolve conflicts. In other words, it is a technique empowering disputants to move from their own positions to a consideration of the other person.

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Appendix A: Email Letter Inviting Mediators to Participate in a Case Study

Are you interested in participating to share your views on whether your knowledge of TMT experience helps make you a better mediator and improves your conflict resolution skills? If so, read further.

Chuks Nweke is performing his doctoral research in a couple weeks and his study focuses on TMT. He is interested in conducting confidential interviews with experienced mediators to get insight into their transformative mediation technique experience. The title of his study is, "A Case Study Investigating the Implementation of the Transformative Mediation Technique." The purpose of this qualitative case study is to evaluate and improve the understanding and the best practice situations to use TMT to resolve conflicts and to determine if improvements may be made to augment its effectiveness.

Chuks is looking for volunteer mediators to spend a maximum of two hours with the individual to answer some questions and get your perspective. Should you choose to participate, anything that you share with him is confidential and you will not be identified to other mediators, or to his university. Please take a moment to read his attached invitation, and contact him directly by phone (719-000-0000) or email if you can assist him in his effort. Thanks for your support.

Appendix B: Invitation Email to Participants

My name is Chuks Nweke and like you, I'm a practicing mediator and mediate for NJC. Also, I'm a doctoral student at Walden University. I would like to invite you to participate in a research study as part of my doctoral program, and I am contacting you and other mediators in Colorado to request your participation in my study. You were selected as a possible participant because of your experience, training, and knowledge associated with mediation.

The purpose of this case study is to conduct confidential interviews with mediators like you to investigate among other things, how mediators implement and interpret TMT in their practice as well as if your familiarity with the model adequately prepared you to better resolve conflicts.

If you agree to be in this study, I will arrange to meet with you for one and half hours interview in an office location that is convenient for you. The interview will be audio taped so that I will be able to accurately capture your views, experiences, and comments. You will have access to the audiotape if you wish to hear it, and I will not share these tapes with anyone without your consent.

The records of this study will be kept private. In any report of this case study that might be published, I will not include any information that will make it possible to identify you or any other participant. Research records will be kept in a safe box file, and I will be the only one that will have access to the recordings. The tapes will be erased after five years.

Your participation in this case study will enable me to gather important information regarding the experiences of mediators. As a consequence of the information that I collect, I may be able to recommend ideas on how the understanding of TMT may improve impasse in mediations or conflicts.

Thank you for your anticipated consideration, and I would appreciate it if you would advise me of whether or not you agree to participate by _____.

If you have any questions, feel free to contact me.

Appendix C: Study Consent Form

Consent Form

The mediators' viewpoint: Does having knowledge of the transformative mediation technique prepare mediators to appropriately apply the model to better resolve conflicts?"

Walden University

You are invited to participate in a research study regarding TMT. You were selected as a possible participant because of your familiarity and experience associated to the topic.

Please read this form and ask any questions you may have before acting on this invitation to be in the case study. This study is being conducted by Chuks Nweke, a doctoral student at Walden University.

Background Information

The purpose of this case study is to conduct confidential interviews with mediators like you to investigate among other things, how mediators interpret and implement TMT in their practice as well as if your familiarity with the technique adequately prepared you to better resolve conflicts.

Procedures

If you agree to be in this case study, you will be asked to participate in a two hour interview with Chuks Nweke in an office location that is convenient for you. The interview will be audio taped so that Chuks will accurately capture your opinions, experiences, and comments. You will have access to the audiotape if you wish to hear it, and Chuks will maintain the tape for five years. These tapes will not be shared with anyone without your absolute consent.

Voluntary Nature of the Study

Your participation in this case study is strictly voluntary. Your decision whether or not to participate will not affect your current or future relationship with Chuks Nweke. If you initially decide to participate, you are still free to withdraw at any time later without affecting any relationships with the researcher.

Risks and Benefits of Being in the Study

There is no risk associated with participation in this study. Your participation in this study will make it possible for Chuks to collect important information regarding the training experience of mediators. As a consequence of the information that he collects, he may be able to recommend ideas on how the in-depth understanding of the transformative mediation technique may improve better mediation outcomes in conflicts and reduce impasse.

In the event you experience pressure or apprehension during your participation in the study, you may terminate your participation at any time. You may refuse to answer any questions you consider insidious or demanding.

Compensation

You will receive a \$5.00 Starbucks coupon as compensation for your participation in this study.

Confidentiality

The records of this study will be kept private. In any report of this study that might be published, the researcher will not include any information that will make it possible to identify a participant. Research records will be kept in a protected box file; only the

researcher will have access to the records. No one except Chuks will have access to the recordings and the tapes will be erased after five years have passed. However, participants may receive a copy of the findings if they so choose.

Contacts and Questions

The researcher conducting this case study is Chuks Nweke. His adviser is Dr. Godwin Igein. You may ask any questions you have now at godwin.igein@waldenu.edu. If you have questions later, you may contact him.

The Research Participant Advocate at Walden University is Dr. David Gould; you may contact him at david.gould@waldenu.edu if you have questions about your participation in this case study. If you have other privacy concerns, you may contact Dr. Leilani Endicott, Director of Research Center at 800-925-3368, ext. 1210. You will receive a copy of this form from the researcher.

Statement of Consent

I have read the above information. I have asked questions and received answers. I consent to participate in this case study.

Please Print

Name of Participant:

Signature:

Signature of Researcher:

Appendix D: Interview Questions

Prior to the field test, 10 interview questions were proposed (Table 1) and would be modified for the final instrument (Table 2) depending on the feedback from the pilot study.

Table 1

Interview Questions Used in Pilot Study

The design of the instrument for the most part draws on the effective communication between the participants and the researcher. This pretest is intended to provide answers to clarify; (a) Are there questions that respondents resist to answering? (b) Are the questions format varied enough to retain respondents' attention? (c) Are the instructions and level of language clear to respondents? (d) Are the responses to open questions impossible to analyze? (e) How long does the interview take? (f) What was the interview completion rate? With your consent, I would like to tape record our discussions so that I can capture your words accurately.

1. How familiar are you with TMT?
2. How did you implement TMT?
3. How did you interpret TMT?
4. In your view point, how would you define, describe and explain TMT? Would you recommend it as a technique to other mediators? Why?
5. In your opinion, what percentage of your mediation cases would you attribute to TMT? Why do you have such opinion?
6. How effective do you think TMT is? Why?
7. What is your background and experience with TMT?
8. In your opinion, what would you say are the advantages and disadvantages of TMT?
9. How many years have you practiced mediation? Describe your training?
10. Is there anything you want to say about TMT?

All comments will be kept confidential and I will provide you with a copy of the transcript of our discussion for your review, modification, and for your records. Again, thanks for your kindness.

After field testing feedback and deliberations with pilot study participants, the interview questions were revised to map the research questions (Table 2).

Table 2

Final Version of Interview Questions

Questions 1, 4, 5, 6, and 7 were used to answer Research Question 1 which inquires about Colorado mediators' knowledge and familiarity of TMT. Questions 2 and 5 were used to answer Research Question 2 which seeks to understand how Colorado mediators interpreted and implemented TMT in their practices. Question 9 was used to answer Research Questions 3, which seeks to inquire about Colorado mediators' years of practice, and experiences of TMT.

1. How familiar are you with TMT?
 2. How did you implement TMT?
 3. How did you interpret the transformative mediation technique?
 4. In your view point, how would you define, describe and explain TMT? Would you recommend it as a technique to other mediators? Why?
 5. In your opinion, what percentage of your mediation cases would you attribute to TMT? Why do you have such opinion?
 6. How effective do you think of TMT? Why?
 7. What is your background and experience with TMT?
 8. In your opinion, what would you say are the advantages and disadvantages of TMT?
 9. How many years have you practiced mediation? Describe your training?
 10. Is there anything you want to say about TMT?
-

Appendix E: Tasks Project

Appendix E describes the three study stages: (a) preliminary activities, (b) implementation and analysis, and (c) distributing findings.

Stage 1: Preliminary Activities

1. I discussed with potential mediators on network ethical issues, proposed interview questions, and overall approach (in-person and e-mail).
2. I obtained and completed Institutional Review Board (IRB) forms.
3. I started journal log.
4. I obtained Institutional Review Board (IRB) approval to commence data collection.
5. I obtain formal agreement to participate from mediators (15 minutes, in person).
6. I discussed and confirmed with mediators the key individuals to select for pilot interviews (30 minutes, in-person or e-mail).
7. I develop invitation and consent forms (Pilot interview questions).
8. I purchased XSight software.
9. I purchase audio recording (Microcassette audio recorder).
10. I generate numerical coding list for pilot and participant names.
11. I distributed pilot study consent, interview questions, and feedback forms.
12. I conducted pilot study to generate interview questions (2 business-days, excluding holidays; 50 minutes for each participant)

Stage 2: Implementation and Analysis

1. I received pilot study participant feedback (in-person).
2. I discussed pilot test results and feedback with mediators and adjusted approach to reflect final study questions (1 hour, in-person).
3. I scheduled implementation with pilot study participants (30 minutes, in person).
4. I embarked on development of final report (ongoing process).
5. I informed mediators on completion progress (in-person or email).
6. I scheduled in-person interviews with participants and issues consent letters.
7. I purchased appropriate interview resources (paper, audio tapes) and pre-tested them to make sure that they are in working condition.
8. I conducted interviews (90 minutes maximum, in-person).
9. Post-interview, I completed a journal and reflective log.
10. Audio cassette interviews were transcribed by a transcriptionist company.
11. I entered transcription/audio into XSight software.
12. I confirmed transcript contents with pilot study participants (e-mail).
13. I analyzed interview transcript findings for patterns/themes that emerged from interviews.

Stage 3: Distribute Findings

1. I developed presentation materials (using pseudonyms) for mediation community.
2. I discussed presentation (content and logistics) with pilot study participants.
3. I scheduled presentation meetings with pilot study participants and participants (including meeting venue).
4. I will finalize draft report (including assumptions, biases, reflections, etc.).
5. I and participants will discuss final report (via telephone).
6. I will distribute final draft report to participants to review within 14 business days.
7. After I receive participant feedback, I will adjust report as appropriate, and issued final report.

Appendix F: Pilot Study Sample Transcript

- Host: All right, today is Thursday, November the 4th, 2010, and I am conducting my third interview for the pilot study. Thank you for coming.
- I have ten questions, and like I did share with you, your response will help me modify, clarify, and validate the final interview question for the main study. You'll also participate in validating my report.
- So the first question to you is, how familiar are you with the Transformative Mediation Model?
- Guest: Very.
- Host: Okay. Very familiar, when you say very, what does that mean; could you elaborate a little bit more on very?
- Guest: It's probably the most common form of mediation that I use.
- Host: Okay.
- Guest: And I have done a lot of study on it,
- Host: Okay. Having said that, the second question has to do with implementation; so now that you are familiar with it, how do you implement it in your practice?
- Guest: A combination of things. First would be setting the tone of the mediation, from the first moment, to take these questions, to -- I think there is an important value in a mediator -- I think the job of the mediator is to create a space for conversation to happen and to unfold. And the beauty of Transformative Mediation is that it's essential that a lot of attorneys use this.
- So I think it first shows up in questioning and minimizing the biases of the mediator, identifying new clients.
- Host: Okay. So the third question has also to do with the interpretation. Now you have described it, how do you implement it, how do you interpret it, how do you interpret it, or how do you generally interpret that?

- Guest: Interpret the Transformative Technique?
- Host: Yes, how do you interpret it?
- Guest: I am not sure of that question.
- Host: Okay. All right, let's go to the next one. In your view, how would you define, describe, and explain the Transformative Mediation Technique? Would you recommend it as a technique to other mediators? Why?
- Guest: I would describe the model as providing an opportunity for parties to deal with their conflicts and be in a safe place where they can express what they need. The transformation occurs in that the conversation is the parties, the mediator is simply there to facilitate dialog and to hold the space for the dialog.
- Host: Define how -- describe it, how do you define it, so if somebody were to ask you, what is your own definition of transformative?
- Guest: I think to improve relations among some other techniques. Give parties an opportunity to improve their communication.
- There's lots of different styles of mediation, evaluative, to facilitate. There are facilitative models; they are supporting parties to come to their own decisions.
- And the difference between the transformative and facilitative is that, the transformative mediator allows the parties the opportunity to interact and to give them a way to identify needs, and instead of finding a solution, finding a resolution.
- Host: I see, okay. All right, then having said that, would you recommend it as a technique to other mediators, and why would you do that, why would you recommend that, if you do recommend it?
- Guest: I recommend it but not as a technique per se, I recommend this as a present for -- and what I mean by that is, it's important for the mediator to understand that when you are invited into conflicts between parties, to honor it, and that when you come at it from honor and respect, you are not trying to achieve, you are simply allowing the parties to determine what is best for them.

They can have those kinds of conversations where they can get in touch with their roots. It's not everything. It's a password to identifying and clarifying the underlying needs. With that identification, comes the opportunity to learn, and that's what you need in an organization.

Yes, I do recommend it, but I recommend it as it would be for a mediator, not as a technique.

Host: Okay. All right, in your opinion, what percentage of your mediation cases would you attribute to the Transformative Mediation Model? Why do you have such an opinion?

Guest: I would probably say 99.9. Probably that 0.1% is in cases that, for whatever reason, are not workable. I find that by giving the parties the respect and the trust that they can resolve those issues themselves.

So parties come in oftentimes very fearful of the process, fearful of what might happen to them, fearful that another client is more powerful or that someone might take something from them. Like in a relationship it might be their beliefs that they now are competent. And those are truly reality, so when they come into the room and they come to the table, it's important to identify needs, and that's where oftentimes both parties need.

Host: Okay. Then, how effective do you think the Transformative Mediation Model is, how effective do you think it is?

Guest: I think its effectiveness -- I think it can be extremely effective, but I think its effectiveness is determined by where the mediator is coming from, because a mediator can say they are transformative and actually come in with a lot of biases. The mediation also depends on the parties; some parties don't want to go there, they are not comfortable. And if their typical approach to handling conflict is avoidance, Transformative Mediation is appropriate

Host: So what are your background and experience with the Transformative Mediation Model, background and experience? What is your background and experience with that? So as you said that about 99% of your cases are that way. So it looks like you have a lot of background in that area.

Guest: Probably close to I am guessing a 1,000 hours of mediation, as far as experience. Background I would say, I did have the knowledge, but I don't know.

Host: Okay. Well, that's good to know. That's good. So in your opinion, what would you say are the advantages and disadvantages of the Transformative Mediation Model?

Guest: The advantages are that it allows open communication it allows true resolution other than offering just a solution to a particular problem or conflict, because it moves parties from what is causing the conflict.

Host: Yeah, just the advantages and disadvantage. Yeah, you said those were the advantages.

Guest: Yeah, the other advantages would be cost savings, there is increased privacy, and there is transformation in a sense, improved communication unlike in facilitative or evaluative mediation.

Host: Which one takes longer?

Guest: Transformative.

Host: Okay.

Guest: It's really easy to be an evaluative mediator.

Host: Okay. So I am hearing that that's a disadvantage, because it takes longer than –

Guest: Well, it takes longer than say an evaluative approach to mediation, but it takes less time than say arbitration. So I think it depends on the continuum that you have.

Certainly it allows an opportunity to improve the relationships.

The disadvantages that I see are, if there is no ongoing relationship, I run into you with my car. We don't know each other. This is a brief encounter situation type thing, we are not going to see after this conflict, that transformation is very brief and it may be even situation specific as opposed to long-term.

- Host: Okay. Good! All right! How many years have you practiced mediation? Describe your training?
- Guest: Training would be the basic 40 hours that everybody is required to take. Probably add 250 or so hours in the advanced mediation training, and then grad school. So hundreds of hours I would say.
- Host: Wow!
- Guest: Been a lot.
- Host: That's good, that's good! All right, going back to the question I talked about. I asked you about the interpretation. Again, interpretation, what I mean by this question is your understanding of it. How do you understand the Transformative Mediation Technique?
- Guest: Some other form of mediation?
- Host: Yeah, yeah. How do you -- let's say somebody who has no knowledge of it and comes up and says, what is your understanding of it, how do you interpret it when you say interpretation? In other words, interpretation has to do with making it a little bit clearer, talk to somebody who -- so that's what I am intending to get out of that question.
- Guest: So you would like to know how I define Transformative.
- Host: Yeah, exactly, and yeah. You have answered it somehow, but because of how my research question is framed, there is a lot of repetition on the question because you might elaborate more on one of the questions.
- Guest: Okay. So Transformative Mediation is to facilitate as opposed to evaluative. You have a continuum; you have evaluative on one end, facilitative on the other. So those are the two.
- I think is a deeper process than some types of facilitating you mentioned, but I think that it is really mediator specific. There are mediators who do transformative mediation and it's really very evaluative.
- Host: Okay.

- Guest: So I think there is a lot of misunderstanding about what it is.
- Host: And I think part of my goal for this research is to speak to people like you that have the experience, so that by the end of my research I should be able to have a better understanding, and maybe when I share the findings, then that would help our profession, that would help the mediation profession for individuals to think, yeah, let's look at this aspect of that, how do we -- if I find -- I don't know what I am going to find, so right now I am kind of fishing.
- Guest: The transformative mediation the present, because the present, and I am talking about present on live connection for you, on a level deeper than interacting. In other words, I am connecting with you on a heart level, on an empathetic level, from one human being to another human being. I am not thinking in the back of my mind what my next question is. If I am clearly present with you as an individual, this next question automatically falls into place.
- Some people call that following. There is a difference. Following is when I in my head, and you say something and I repeat it back to you, or I try to explain it or modify it in some way, when I am truly present in this, I don't even have to think, it just comes, because it's a natural interest, it's not an obligation for you to answer my question. You get that I am trying to get you, is that --
- Host: Yes, yes, yeah, it does, it does. Okay. So I'm almost coming to the end of the interview. My last question is this, is there anything you want to say about the Transformative Mediation Model that you haven't said that will help in the research, having shared with you the research questions, is there anything you want to add?
- Guest: Transformative Mediation allows parties to connect on a level. There are skills within the transformative mediation, but I don't think you can really be an effective transformative mediator without training.
- Host: Okay. Good! Well, that's what I have so far. I appreciate your time.
- Finally, I have asked you ten questions, is there any of the questions that I asked you that you think other mediators will find offensive or will not really respond to that you want me to change or rethink about what I have to do with that question or --
- Guest: Let me look at the questions. I think there is -- maybe number two.

Host: Okay, interpretation.

Guest: Yeah, maybe this one on the interpretation I think that --

Host: Okay.

Guest: Let's see, are you familiar with and how do you implement -- maybe what is your understanding of it as opposed to interpretation. I don't know, I don't know if that would make a difference.

And you are limited to ten questions, but I think that an important question would be, what do you think happens differently in transformative mediation versus say other consultative models or transformative versus evaluative or directive, because I think that's really where you are going to get into the heart of, for the parties how it's different, and we really focused on how it's different from a mediator, but I think what's even more important is how is it different from the parties.

Host: Okay. So if you can help me, again, frame that, rephrase that again so that I can cut through it. How do you --

Guest: If you have done different forms of mediation, how do parties respond differently towards when using transformative versus some other methods of mediation?

So that perception of what it is, because what I see is that mediators by and large are very uncomfortable with this space, that's what transformative is, it's affirming that space. So a mediator will come in wanting a solution, they don't like that discomfort of dealing with the feelings and identifying the underlying needs. So they think they are transformative, because they have got the solution, but it's not about solutions, it's about resolutions, and that's I think one of the key differences, but I am not sure the mediators would pick up --

Host: Okay. I mean, that's a very good suggestion, because as I explained to you, this is like the pilot study, so this is one of the recommendations which I am going to look through, look at that. And it looks like it's something that would help me respond to those questions. When I know or how the parties, how do they

respond to the transformative as opposed to all other model that they have used in their practice. Is that what I am getting at?

Guest: Yeah.

Host: Okay.

Guest: Let me give you an example, so they move into the mode of, oh, come on now, settle down, or it's okay, or something which is a very directive approach, and a mediator controlling the transformation.

So I saw one the other day. They got a solution and the parties followed that, but there was no transformation. The parties came in not wanting to discuss the feelings and the emotions of the mediator, both parties, so they didn't go there, and that's okay. As a transformative mediator, you have got to accept that, that may be where the parties are, you have got to meet the parties where they are. You can offer them opportunities, but if they choose not to, you have to respect what they want, but what I am seeing is that was not a transformative mediation, it was facilitative. There were elements that were a little directive, but nobody came out to me.

Host: Okay. Well, that's great! That makes a lot of sense, because that's part of what I am seeking in this research is to find out what elements of it, if there is any, what aspect of it, if there is any, that can help us as mediators by moving forward and use this model, because I technically love this model.

So it's a little bit bad, in the sense that that's why I got into research, because I love it, and I don't want my own opinions to cloud anybody's judgment at the end of the research, then I can -- hopefully during my recommendation I will say, well, this is what I found and this is my own experience, and what do we do.

Guest: I think you will find that people will think they are very transformative, when in fact they have a good outcome, but nothing came through the pilot study. They might come away a little more positive, because now they don't have to pay the fine and they don't have to have the conflict, there are all kinds of reasons why people will be complain about it, but you know when you see it. You know it when they say, I haven't thought of it. I didn't realize. Those are transformative words.

So another key element is, what are the words that parties use and where in the process do they say them? If they walk in and they say, I am sorry, my mistake, I don't want to talk about it anymore, that's a different transformation or lack of transformation than three quarters of the way through they say, I am really sorry, I have no idea. That's transformative.

Host: Okay. Great! Well, with that, thank you, and we come to the end of the interview. So again, I appreciate your time and I am very grateful.

Guest: So the difference between the facilitative and the category in the transformative model is that the transformative takes the evaluation or examination another layer deep. So there's a broad category of interest and interest includes position and goal and emotions and feelings. What's below that are the underlying needs; the status, the recognition, the respect, the autonomy, the safety, the trust, the connection, the sense of community. Those are needs.

So when you get to the need level, if I am in a mediation and I say to you, so you are excited about your schooling, your PhD program, but I sense that you are feeling a little frustrated by this process, and for some reason it's becoming challenging or there is some difficulty associated with that.

If I say, you want your PhD and an initial behind your name kind of thing, you are hoping to get a better job with it, those kinds of things, we are staying up here. But when I talk about this level of, you really want respect, you want acknowledgement of this hard work and effort that you have put forward, it changes the dynamics of the relationship and the connection, and that's where the transformation occurs.

Host: Occurs, okay. Well, that's great!

Guest: The other thing that may be helpful is that you go on to cnvc.org, because a lot of this work is Nonviolent Communication work. Are you familiar with Marshall Rosenberg?

Host: No.

Guest: His Nonviolent Communication, he is a PhD Psychology person for years and years and CNVC.

Host: N as in Nancy?

- Guest: Yeah. VC, so it's Center for Nonviolent Communication.org.
- Host: .org, okay.
- Guest: There will be a link on there to materials or research or something, and in that is a Feelings and Needs Inventory. If you take a look at those two pieces, go to the Needs Inventory, what feelings am I having when my needs aren't met, and really take a look and examine that, I think you will find a different paradigm shift for this project, because you have been in transformative mediation when you know it works, but you may not know why it works and that's why you are researching this is to say, why does it work sometimes and not others, how are these mediators defining it, and I think this is the key to it. This is what I found that's turned mediation on a dime, if I go back to my NVC models. So for what that's worth.
- Host: Okay. Well, I appreciate it, and I would definitely seek that out to include that and read through those inventories, all right?
- Guest: Okay.
- Host: Thank you so much.
- Guest: Oh, you are welcome.

Total Duration: 57 Minutes

Appendix G: Sample Transcript

- Host: So, today is December 7, 2010, and I'm here with a participant that is willing to share her views and her expertise on the Transformative Mediation Technique as described by the researcher. Good afternoon.
- Guest: Good afternoon.
- Host: Alright. First of all, I have shared with you the three research questions, that's guiding my study and I have some 10 interview questions that your responses will help me answer those questions.
- Guest: Okay.
- Host: The first question is, how familiar are you with the Transformative Mediation Technique?
- Guest: Well I'm pretty familiar with it. I was trained in the Transformative Technique by the U.S. Postal Service, that's how I got my first transformative training. And I was trained maybe ten years ago, about, and then I continued to read. I've been to other transformative trainings, I went back to Minnesota for a conference two or three years ago, that was specifically on Transformative Mediation. I like -- I would like to go to more transformative training, you know, a more advanced setting if they are a little hard to find or get in the way of things like that. So I would say I'm reasonably familiar with the model and I use it when I -- particularly when I mediate employment cases.
- Host: Okay. How do you implement it in your practice?
- Guest: When I mediate specifically for the post office and for TSA, because they like the Transformative Technique. In that, they are not -- I mean in some of the other cases or clients I have are looking more for an outcome as -- I mean as -- particularly with the divorce cases that they're looking for us to get an agreement so that there doesn't have to be a hearing by the Court. Where there is less of that kind of outcome focused with the clients, the employment clients, so it's easier to use the transformative model in a pure sense.

I think that I used the transformative, just having the training in Transformative Mediation means that it sort of seeps in to all that you do, because helping parties acknowledge and understand and be empowered in their own decision is part of that Transformative Model that you use in all -- and that I use in all of my mediation. It's just that there may be some other sort of models as well.

Host: Okay, thank you. How would you interpret it?

Guest: How do I interpret the transformative?

Host: Yeah, Mediation Technique, interpretation, what's your understanding of it?

Guest: That it's about -- that part of the basics of that is that the conflict of the parties, it's not the mediators, I don't guide or direct transformative, when you are doing Transformative that it's critical -- part of what I do is model some of that, empowering some of the listening, some of those skills, checking in with parties to see if this is what they want.

Are they -- you know which part of that empowering is. Helping people and what I like about Transformative Mediation too is focusing on the future, not that the stories or whatever has happened in the past is important information, but it's not the main thing. It is about how to change things and how to do it differently.

Host: Okay, great. In your view point, how would you define, describe and explain the Transformative Mediation Technique? So, if they different -- how would define -- you know first of all how would you define it? So that how would you describe it and how would you explain it?

Guest: I don't know if they are different. So, to define I guess the Transformative Technique is that it is for the parties to understand how to change their conflict or how they are looking, not so much at the problem, but their conflict and how they're handling it. Define, explain or describe, I guess is that the parties will actively look to shifting their approach to the conflict.

Host: Okay. Yeah, with your definition and understanding, would you recommend it as a technique to other mediators and why?

Guest: Oh I think so, I think that it's definitely a good technique, because it's easy in the midst of mediation, particularly if it's a divorce or if in this setting that I do things for a Court order, it's real easy to get too focused on the outcome and that doesn't necessarily change the next conflict that comes up and with the folks that we mediate with, you know I mean if they are parents, they are going to be having lots of conflicts as that child gets to 19.

So, at some level if there is a way in anyway help people understand or shift how they deal with their conflict, that's just invaluable I think. So, I think it's a great -- I think it's a very valuable technique that all new readers would actually help -- be good at things, know more about --

Host: Okay, great. In your opinion, what percentage of your mediation practice would you attribute to the Transformative Mediation Technique?

Guest: Probably it's just 70 or 85 maybe. But in all of my mediation I think that I use the transformative techniques, but I also use some other techniques along with evaluative and facilitative techniques.

Host: Along, okay. And that's, again like I said earlier, before we started this interview that one of the things that drew me into this research is the fact that this trick model as defined by Bush and Folger did not give me the satisfaction as a mediator that I was looking for. And as a result, I began to look into incorporating some of the elements of Bush and Folger, which are specifically the acknowledgement and the empowerment.

Guest: Right.

Host: So those are the only two things that I got from them and then expanded it with negotiation principals into that space and things along those lines. So, I understand what you are saying and I appreciate it, because that's where I'm gravitating towards making this model, this one that I just defined to be what I'm going to try to sell as a new model to Bush and Folger. So, alright, thank you. How effective do you think of the Transformative mediation technique? How effective do you think it is?

Guest: Well, how effective it is. It depends on how you define effective. If I look to conflicts that have been resolved, that I just used the

Transformative Technique on. I don't know tracking wise how many there are, certainly there is plenty that get resolved and I think that in that there is a deeper or a good satisfaction. I think when I used transformative techniques, but I think that -- I don't think that you can use just the Transformative Technique in all conflicts.

Host: Okay. Thank you for that. What is your background and experience with the Transformative Mediation Technique?

Guest: I was trained -- again I think about ten years ago and then for the last ten years I have done a number of Transformative Mediations every year. And so, that's my experience and I am a full-time mediator. I mediate; you know that's my only business that I have.

Host: Okay, Alright. In your opinion, what would you say are the advantages and disadvantages of the Transformative Mediation Technique?

Guest: Let me think, the advantages in the Transformative Technique are when you can get people to shift how they're looking at their conflicts. They can have new skills during the process because of their involvement, and then they are transformed. I don't know that you really get that other form of models of mediation as much, but the disadvantage is that, that's a pretty long process and it can take longer. Then sometimes you have when mediation and trying to figure out parenting for kids and child support and dividing the finances.

Host: Okay. How many years have you practiced mediation per se, describe your training, what kind of training did you have?

Guest: Okay. I've been a mediator since 1995. I have a mediation practice since 1997. Prior to that, I took mediation training that was basically an inter-space training, and then I did the post office training. I've done -- and because of continuing education over the last number of years, I kept that going. So I have hundreds of hours of training in a variety of different mediation modalities.

Host: Okay. In your opinion, how would -- or have you -- or in your own opinion would you say that plans of yours respond differently with each model that you use all. Are they aware of any particular model that you use?

- Guest: I don't think clients are aware of what model I use.
- Host: Okay.
- Guest: I don't think the attorneys are ever aware of what model I use. I think they do respond differently and that when I'm in a mediation I try to judge my -- how I'm going to do that mediation based on their issues, based on the level of conflict, the complexity of the issues, that sort of thing.
- Host: Okay. Having said that then, would you say or would or what is your take with the statement that getting to a resolution or reaching a resolution in a case might depend on the style of the mediator?
- Guest: Oh I think that's probably very true.
- Host: Okay.
- Guest: Yes. But it's the party's dispute, but I do think that is the party's dispute and not all cases probably could be -- well some maybe intervention of the Court, but I think the style of the mediator makes a big difference.
- Host: Okay, great, thank you. Well we've come to the end of the interview. The last question is, you've had an opportunity to look at the three research questions. Is there anything else you wanted to say about the Transformative Mediation Technique that might help with answering the research question or anything that you may want to suggest or you may recommend that I look into while I'm doing this research?
- Guest: Nothing that comes to mind, I think your questions have been thorough.
- Host: Alright, great. Well in that case, thank you so much for your time.
- Guest: You are welcome.
- Host: Thank you.

Total Duration: 45 Minutes

Curriculum Vitae

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- Education**
- University of Colorado, Colorado Springs; MPA, 2000
 - Metropolitan State College, Denver; BS, 1979
- Professional Experience and Work History**
- 2005–Present
- Colorado Mediation & Training Services, Inc.**
- Transformative and facilitative mediations
 - Conduct workshops in conflict management
 - Mediator: Neighborhood Justice Center, Colorado Springs
- 2001–2006
- Pikes Peak Workforce Center, Colorado Springs, CO**
Volunteer Coordinator/Workforce Development Counselor
- Developed job readiness workshops and training curricula to meet jobseeker’s goals and objectives
 - Reviewed job vacancies and matched applicants with appropriate job referrals.
 - Counseled jobseekers on local market, employment opportunities, and vocational training
 - Provided referrals to customers in need of other community services such as housing, childcare, and public assistance
 - Recruited and trained community volunteers to assist internal staff and customers at the Pike Peak Workforce Center
- 2000–2001
- Junior Achievement National Headquarters, Colorado Springs, CO**
Director of Volunteers, West/Midwest Regions
- Collaborated with the business community to mentor and develop future youth leaders
 - Conducted presentations to various businesses to promote Junior Achievement programs
 - Recruited and trained business volunteers on program

- requirements, goals, and objectives.
 - Developed marketing strategies for local regional Junior Achievement offices
- Positions of Responsibility and Leadership**
- Member: leadership team at PPWFC
 - President: Directors of Volunteers in Agencies, 2005-2006
- Research**
- *A Case Study Investigating the Interpretation and Implementation of TMT*: Doctoral Dissertation, Walden University
 - Developed an Annexation Manual for Graduate School of Public Affairs, MPA 2000
- Associations and Affiliations**
- Member: American Society for Public Administration Seminars, Workshops and Public Lectures Resourced: Partial list
 - Labor Market Information for Job Seekers – Colorado Department of Labor and Employment (2003)
- Honors and Awards**
- 2002 Kaleidoscope Award Recipient
- Special Training**
- High Impact Presentations – Dale Carnegie Institute
 - Customer Service Excellence – Dale Carnegie Institute
 - Facilitation and Training Techniques – Dale Carnegie Institute (2002)
 - Certified Trainer – Dale Carnegie Institute (2001)
- Areas of Specialization/ Interest**
- Conflict Management; Transformative Mediation; Facilitative Mediation; Alternate Dispute Resolution; Management, Relationship Building; Peace Process; and Negotiations