

## REPORT 2

### EXECUTIVE SUMMARY

Awareness of the potential for gender bias in the process of court-based child custody mediation has activated interest in the accounts of mothers and fathers who use the service. This report reviews reactions of over 6700 mothers and fathers who form a cross section of all parents who use California court-based mediation to create custody and visitation plans for their children. Data are taken from three different statewide studies. The 1991 California Family Court Services Snapshot Study sampled 2504 mothers and fathers across California family courts immediately following their mediation sessions. In the 1993 California Statewide Followup Study, 1532 of these same parents were recontacted up to learn about the fate of their custody agreements and their long-term reflections about the process of forming them. In 1993 Snapshot Study, an additional 4088 fathers and mothers were interviewed following court-based mediation. The 1993 was designed to address new questions in several areas, including gender issues.

Corroborating findings from earlier small-scale investigations, the statewide statistics do not support the notion that gender is a powerful determinant of client satisfaction with mediation process or outcomes. A high proportion of mothers and fathers rate mediation services favorably. Differences between assessments of mothers and fathers are usually not statistically significant; when they are, the gender gap is typically only a few percentage points and average scores for parents in both groups remain at the positive end of the continuum. Although the gender difference framework may be appealing for advocacy purposes, the rhetoric does not appear to be supported by research.

#### **Highlights from the Snapshot Studies**

Table 1 summarizes findings from the 1991 and 1993 Statewide Snapshot Studies, that measure client satisfaction immediately following the mediation session.

**On a series of 16 indicators, nine measured in both of the snapshot surveys, a high proportion of both mothers and fathers consistently assigned favorable ratings immediately following the mediation session.**

Reactions of mothers and fathers were compared statistically using a procedure capable of detecting systematic differences, even if the gap between the groups is quite small.

**On 12 of the 16 indicators, ratings by mothers and fathers were identical or not significantly different.**

- At both time periods, nine clients in ten confirmed that mediation procedures were described clearly (In 1991, 92 percent of the mothers and 91 percent of the fathers; in 1993, 90 percent of the mothers and 90 percent of the fathers).
- More than eight clients in ten regarded mediation as a good way to come up with a parenting plan (In 1991, 88 percent of the mothers and 87 percent of the fathers; in 1993, 84 percent of the mothers and 86 percent of the fathers).
- In 1993 only, clients were asked whether they would recommend mediation to friends who had a custody or visitation problem. Eighty-six percent said that they would (86 percent of the mothers; 87 percent of the fathers).

- Nine clients in ten reported that the mediator tried to keep them focused on their children's interests. (Asked in 1993 only, the breakdown was 91 percent of the mothers and 90 percent of the fathers.)
- Eighty seven percent of clients felt that their role as a parent was taken seriously in mediation. (Asked in 1993 only, the breakdown was 88 percent of the mothers and 86 percent of the fathers.)
- Ninety-two percent of clients said that the mediator treated them with respect (Asked in 1993 only, the breakdown was 93 percent of the mothers and 91 percent of the fathers).
- Six clients in ten reported that mediation made them aware of help in the community for their families. (Asked in 1991 only, the breakdown was 59 percent of the mothers and 60 percent of the fathers.)
- Nine out of ten parents reported that the mediator had some good ideas for to them to think about for the sake of their children (In 1991, 91 percent of the mothers and 90 percent of the fathers; in 1993, 90 percent of the mothers and 90 percent of the fathers).
- Up to seventeen percent of the clients felt rushed by the mediator (In 1991, 14 percent of the mothers and 17 percent of the fathers; in 1993, 16 percent of the mothers and 17 percent of the fathers).
- Thirteen percent of the clients complained that the mediator pressured them to go along with things that they did not want (In 1991, 13 percent of the mothers and 14 percent of the fathers; in 1993, 13 percent of the mothers; 14 percent of the fathers).
- Approximately seven clients in 10 said that mediation helped them to see more ways to work together as parents (In 1991, 75 percent of the mothers and 75 percent of the fathers; in 1993, 67 percent of the mothers and 71 percent of the fathers).

**On four of the 16 indicators of client feedback, statistically significant differences between mothers and fathers were found in at least one of the two statewide studies.**

- By a two percent margin, more women than men felt that the mediator listened to their concerns. Overall impressions were favorable for both men and women. In each year, 91 percent of the mothers and 89 percent of the fathers felt that the mediator listened.
- In 1991, women were more likely than men, by a 7 percent margin, to say that they felt too intimidated to say what they really felt in mediation. By 1993, the gender gap had closed enough so that men and women were no longer statistically different in their reports; but only because, by 1993, a higher proportion of men also felt intimidated. Subsidiary analyses suggest that feelings of intimidation are prompted less by gender dynamics than by clients' financial and information resources.
- Fathers were more likely than mothers to feel that the other parent had an unfair advantage in mediation. On a measure in the 1993 Snapshot only, sixteen percent of the mothers, but 23 percent of the fathers felt that their partner had an unfair advantage.
- On an indicator included in the 1993 snapshot only, sixteen percent of clients said that they would have felt more comfortable with a mediator from their own background. This was more common for fathers, at 19 percent, than mothers, at 14 percent.

## **Highlights from the Followup study of 1991 clients**

Table 2 summarizes followup feedback from two categories of mediation clients interviewed initially in 1991: (1) those who reached agreements about custody in mediation; and (2) those who reached impasse in mediation and determined custody and visitation using subsequent court services. Up to two years following the initial interview, each group was asked to evaluate the procedure they ultimately used to form plans for child custody and visitation.

**Previously published results confirm that long term satisfaction is higher for clients who form mediated agreements than for those who reach impasse in mediation and determine custody and visitation using other methods. Mothers, particularly, rate mediation more favorably than other court methods, by a wide margin. The difference is statistically significant on all followup measures. On six of the seven indicators, fathers rate mediation more positively than other court methods, although the gap between fathers' rating of the two services is not as great as that found between the mother's ratings.**

**Reactions of mothers and fathers were compared statistically using a procedure capable of detecting systematic differences, even if the gap between the groups is quite small. On three of the seven indicators, no statistically significant differences were found between answers of mothers and fathers.**

- Comparable proportions of mothers and fathers in each court category agreed that the court method they used was a good way of coming up with a parenting plan. No statistically significant differences were found between mothers and fathers in either court user category. Parents who used mediation were more likely than those using other methods to say that the procedure they used was a good way to come up with a parenting plan. Mothers and fathers rated mediation higher than other methods, each by a 16 percent margin.
- Mothers and fathers in each court user category were also in agreement as to whether the plan for custody and visitation written in the legal papers turned out to be good for their children. Parents with mediated agreements were significantly more likely to say that the plan was good for the children; mothers by a 15 percent margin and fathers by an 8 percent margin.
- Regardless of the method used to form the parenting plan, no gender differences were found in parental assessments of whether the plan for custody and visitation offered sufficient detail. Parents with mediated agreements were more likely to find the plan adequately detailed; mothers rated mediated agreements more favorably by a 9 percent margin, and fathers rate mediated plans more favorably by a 14 percent margin.

**On four followup indicators, statistically significant gender differences were found in at least one of the two court user categories.**

- Regardless of the method used to form plans for custody and visitation, a higher proportion of fathers than mothers reported that their relationships with their children have suffered over time. Forty-five percent of the fathers in each court-user category report deterioration of their relationships with their children. Mothers with mediated agreements report the fewest problems, at 30 percent; and mothers using other methods report more, at 45 percent.

- Fifty-seven percent of the mothers with mediated agreements feel that the procedure helped them to work together with the other parent. The proportion is significantly higher than fathers with mediated agreements, at 52%. Once again, parents with mediated agreements rate the service more favorably than other methods; mothers by a 26 percent margin and fathers by a 16 percent margin.
- When families that resort to court-based procedures to resolve custody, many parents conclude that the process had adverse effects on their relationship. Parents with mediated agreements were less likely to report that their relationships were negatively affected and no statistically significant gender differences are found. Parents who used other methods were more likely to report adverse effects, particularly fathers, with a significantly higher proportion than any other parents, at 55 percent.
- Seventy two percent of mothers with mediated agreements say that the plan in the legal papers was fair. This is a significantly higher percentage than fathers with mediated agreements, at 63 percent. It is also significantly higher than mothers who used other arrangements, at 56 percent. Fathers who used other methods are least likely to find the plan fair, at 54 percent.

### **Conclusions**

Three statewide studies of court-based mediation clients were analyzed to establish the extent of gender differences in client evaluations of court-based mediation services. On most indicators, there are no statistically significant gender differences in ratings of mediation services. Most mothers and fathers rate the services favorably. Immediately following mediation services, a minority of clients have complaints about the process, and a higher proportion of dissatisfied clients are male. Among the minority of fathers who are dissatisfied, a higher proportion of fathers feel that the other party had an unfair advantage, criticize mediators for not listening to their concerns, and report that they would have been more comfortable with a mediator from their own background.

**Table 1**  
**Evaluation of the Mediation Process**  
**Percentages of Mothers and Fathers Agreeing With Each Item<sup>1</sup>**

ITEM	MOTHERS <sup>2</sup>	FATHERS
<b>Mediation procedures were described to me clearly</b>		
1991 Snapshot	92%	91%
1993 Snapshot	90%	90%
<b>Mediation is a good way to come up with a parenting plan</b>		
1991 Snapshot	88%	87%
1993 Snapshot	84%	86%
<b>I would recommend mediation to my friends if they had a custody or visitation problem</b>		
1993 Snapshot	86%	87%
<b>The mediator tried to keep us focused on our children's needs</b>		
1993 Snapshot	91%	90%
<b>My role as a parent was taken seriously in mediation</b>		
1993 Snapshot	88%	86%
<b>The mediator treated me with respect</b>		
1993 Snapshot	93%	91%
<b>Mediation made me aware of help in the community for my family</b>		
1991 Snapshot	59%	60%
<b>The mediator had some good ideas for us to think about for the sake of the children</b>		
1991 Snapshot	91%	90%
1993 Snapshot	90%	90%
<b>I felt rushed by the mediator</b>		
1991 Snapshot	14%	17%
1993 Snapshot	16%	17%
<b>The mediator pressured me to go along with things that I did not want</b>		
1991 Snapshot	13%	14%
1993 Snapshot	13%	14%
<b>Mediation helped me see more ways to work together as parents</b>		
1991 Snapshot	75%	75%
1993 Snapshot	67%	71%
<b>The mediator listened to my concerns</b>		

<sup>1</sup>This percentage shown is the sum of responses labeled "agree" and "strongly agree".

<sup>2</sup>Item nonresponse is variable. For comparability, the full samples of mothers (1503 in 1991; 1447 in 1993) and fathers (1494 in 1991; 1339 in 1993) are used consistently as the denominator in percentage calculations.

1991 Snapshot*	91%	89%
1993 Snapshot*	91%	89%
<b>I felt too intimidated in the meeting to say what I really felt</b>		
1991 Snapshot*	18%	11%
1993 Snapshot	18%	16%
<b>The other parent had an unfair advantage in mediation</b>		
1993 Snapshot*	16%	23%
<b>I would have felt more comfortable with a mediator from my own background</b>		
1993 Snapshot*	14%	19%

\*Designates a statistically significant difference.

Source: 1991 Snapshot study conducted by the Statewide Office of Family Court Services

Table 2  
 Comparison of Parents Using Mediation and Other Methods  
 Percentages of Mothers and Fathers Agreeing With Each Item<sup>3</sup>

ITEM	MOTHERS (n=589)	FATHERS (n=512)
This was a good way to come up with plans for custody, visitation, and decision making about our child(ren).		
Mediation	66%	67%
Other Method	50%	51%
The plan written in the legal papers turned out to be good for our children		
Mediation	63%	61%
Other Method	48%	53%
The plan had enough detail		
Mediation	63%	66%
Other Method	54%	52%
My relationship with our children has suffered in the past year		
Mediation*	30%	45%
Other Method*	36%	45%
The procedure helped us to work together as parents		
Mediation*	57%	52%
Other Method	31%	36%
In the long run, the way we worked out custody had a negative effect on my relationship with the other parent		
Mediation	40%	44%
Other Method*	47%	55%
The plan in the legal papers was fair		
Mediation*	72%	63%
Other Method	56%	54%

\*Designates a statistically significant gender difference.

Source: 1993 Statewide Followup Study conducted by the Statewide Office of Family Court Services

<sup>3</sup> This percentage shown is the sum of responses labeled "agree" and "strongly agree".