

NEGOTIATING THE LEGAL DIVORCE PROCESS: MOTHERS' PERCEPTIONS
AND EXPERIENCES OF THE LEGAL SYSTEM

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PERCEPTIONS AND EXPERIENCES OF THE LEGAL SYSTEM

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DEDICATION

To Drs. James E. and Julia A. Malia, my beloved parents, lifelong mentors, and best friends. I am so fortunate and grateful for you both and proud to be just like *both* of you. The Malias make a heck of a team. I learned from you how to utilize available resources and strategies to manage even uncontrollable situations. Thank you for your lifelong support and protective care of me as well as your enduring wisdom, sense of fair play, and respect for me as an independent person. You have provided me with both roots and wings. Whatever insight I might reveal in this paper, I gained from your teachings.

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ACADEMIC ABSTRACT

This study explored divorcing mothers' perceptions of the legal system and divorce in order to develop a grounded theory based on their experiences of this complex process. Divorce in the U.S. often places a disproportionate burden on women and children. Around half of all first marriages are expected to end in divorce, and nearly 40% of all children will experience parental divorce before age 18.

Based on participants' interviews, I developed a Divorce Control Efforts Framework and found that navigating the unfamiliar, intimidating legal system contributes to divorce-related stress, uncertainty, and sense of powerlessness that many divorcing women experience. Mothers actually negotiate their divorce issues with both their ex-spouse and the legal system, and they seek to establish a sense of control through legal and nonlegal resources and methods. Their approaches to divorce can be described along a continuum from private/personal to legal/professional divorces. Mothers' satisfaction with the legal system and divorce outcome depends on the extent to which they achieve their divorce goals and gain or maintain a sense of control throughout the process. Although many aspects of legal divorce process remain out of women's hands, those women who generally believe and expect they should be and are in charge of their divorce process (rather than external legal system supports) will more likely experience a satisfactory divorce.

Chapter 1

Introduction and Literature Review

In the mid-19th century, only about 5% of first marriages in the U.S. ended in divorce (Preston & McDonald, 1979). Currently, around half of all first marriages are expected to eventually be voluntarily dissolved (Cherlin, 1992; Teachman, Tedrow, & Crowder, 2000), thereby involving many couples' and families' lives with the divorce legal system. Domestic relations legal cases, most of which arise from marital dissolution and separation, comprise both the fastest-growing segment and the bulk of state court civil caseloads (Schepard, 1998). The legal process of divorce persists in offering policy dilemmas and clinical challenges to both legal and family service practitioners and scholars (Garrison, 1994; Pruett & Jackson, 2001).

Marital dissolution is a discrete legal event as well as a complex psychosocial process that extends over time, significantly shaping subsequent individual adjustment and family dynamics (Amato, 2000; Ganong & Coleman, 1997). Bohannan (1970) conceptualized the process of divorce as multiple overlapping phases, including emotional, legal, economic, co-parental, community, and psychic "divorces." Bohannan's depiction of the legal divorce is described as the court-ordered termination of marriage; that is, a legal process culminating in a distinct event (divorce decree). Thus, divorced spouses are permitted by civil authorities to remarry if they wish and are legally independent of each other, no longer sharing joint marital interests as well as not accountable for the other's conduct (e.g., debt obligations). However, economic and co-parental divorce issues also may be at least partially resolved during the legal divorce process. And, lastly, unresolved emotional divorce issues, such as intense feelings of hurt and betrayal, often may be expressed through words or actions in the legal divorce process (Bohannan).

The purpose of this study was to explore, using grounded theory methods, mothers' perceptions of and experiences with the legal system during the divorce process. The topic of this study targeted a largely overlooked aspect of a prevalent phenomenon in U.S. family life. A

qualitative research approach is appropriate for initial, comprehensive exploration of social science topics. Perceived control over a situation and one's behavioral outcomes has been recognized as an important determinant of a person's response to stressful experiences (Dohrenwend, 2000; Sweeney & Horwitz, 2001). Divorce has been identified as one of life's most stressful events, and a time when individuals feel out of control (Dohrenwend; Holmes & Rahe, 1967). Managing the divorce process requires utilizing coping strategies and resources (Amato, 2000). Seltzer and Garfinkel (1990), in their study on divorce settlement inequities, asserted that researchers need to examine more systematically differences in available resources for divorcing men and women, which of them make the best bargaining tools, and variations in how effectively they utilize the same resources. Boss (2002), examining family stress in general, echoed this sentiment: "The qualitative study of *how* and *why* families use their coping resources . . . [is still] definitely needed to understand the complexity of how families and individuals manage stress" (p. 89). Grounded theory was appropriate for this study to delineate a complex social process, using women's own words, in a new area of research.

The present study gathered information from mothers who had children under age 12 when they experienced the legal divorce process. A little over half of all U.S. divorces involve minor children (Cherlin, 1992), and nearly 40% of all children will experience parental divorce before age 18 (Bumpass, 1990). An extensive body of social science research has been dedicated to examining the effects of divorce on children and adults, including potential societal, family, and individual level divorce predictors, deterrents, and consequences (Emery, 1999; Gottman & Notarius, 2000; Thompson & Amato, 1999; White, 1991). Economic deprivation and related social disruptions experienced by many divorced families have been linked with negative psychological and achievement outcomes for children (Amato, 2000).

Mothers were the focus of this initial inquiry because divorce occurs most frequently in younger families (Gottman & Levenson, 2000) and often places a disproportionate burden on women and children (Emery, 1999; Garrison, 1994). Due to financial need and emotional turmoil,

it has been estimated that at least 25% of women have returned home to coreside with their parent(s) during or after divorce (Ward, Logan, & Spitze, 1992); the authors noted, however, that it is difficult to survey such transitory cohabitation arrangements. Also, a vast majority of children reside primarily with their mothers after divorce (Thompson & Amato, 1999). In 1992, 86% of custodial parents were mothers (U.S. Bureau of the Census, 1995). Many custodial mothers bear the brunt of parenting and financially supporting their children (Garrison, 1994). Even after excluding mothers of the 25% of children from divorced families who do not associate at all with their noncustodial fathers, it has been found that only about 33% of the remaining divorced and remarried custodial mothers actually receive any child support or maintenance (alimony) from former spouses, and the amounts received are small compared to the costs of rearing children (Mason, 1998). The stakes involved in legal divorce are high for the mothers of dependent children, warranting exploration of their sense of whether the process is navigable and fair for them.

This research was guided by the following questions: What were divorced and separated mothers' impressions of and experiences with the legal system during the divorce process? What factor(s) affected mothers' satisfaction with the legal system and legal divorce throughout the divorce process? For purposes of this study, *legal system* is broadly defined as any family-services, government, or legal professional or process (e.g., events, courses of action, behaviors) involved in completing a legal divorce. I also clarified for participants some common examples of professionals, such as lawyers, mediators, and guardians ad litem (GALs), who can assist divorcing individuals and that the *divorce process* comprises the steps a person has to go through to get a legal divorce.

I first considered such women strictly as *insiders*, personally experiencing the legal divorce process (consistent with Pruett & Jackson, 2001); then it occurred to me that they also often are *outsiders* to the legal system, rarely otherwise directly involved with the courts or related family services agencies. A review of legal and social science research literature found no

articles that recognized the distinctive insider-outsider dual perspective divorcing individuals can share as legal consumers. The review also revealed few in-depth studies exploring divorcing or divorced women's (and/or men's) perceptions of and experiences with the legal system or how they have managed divorce negotiations and the legal divorce process as a whole.

Instead, a substantial number of the articles reviewed were related to particular facets or aspects of the present topic of study, such as the role of perception in bargaining and negotiation (Babcock & Loewenstein, 1997; Freshman, Hayes, Feldman, 2002; Rachlinski, 2003), procedural justice issues, attorney-client interactions (Hillary & Johnson, 1989; Sarat & Felstiner, 1986, 1988, 1989), divorce settlements and outcomes (Bay & Braver, 1990; Emery, 1995; Rettig & Dahl, 1993; Seltzer & Garfinkel, 1990), and qualitative studies of women's (psychosocial) divorce experiences and adjustment (Eldar-Avidan & Haj-Yahia, 2000; Fox & Halbrook, 1994; Lonsdorf, 1991; Molina, 2000). Impressions and critiques of the legal system and policy change recommendations have been made, but generally these are based on the perspectives of attorneys, judges, mediators, and critical scholars offering professional-generated interventions on behalf of legal clients/parties/consumers and their families (Felstiner & Sarat, 1992; Garrison, 1994; Hensler, 2002; Madoff, 2002). Few inquires have examined in-depth legal divorce negotiation impressions and experiences of lower income individuals or parents, who may be more likely to rely on limited or no legal representation due to having few property issues to resolve and/or prohibitive costs of legal assistance (Garrison), and, thus, rarely or minimally interact with legal professionals.

Subsequent chapter sections will examine further extant social science and legal literature relevant to the present study. After a brief introduction to divorce law and its potential impact on settlements and family outcomes, divorce negotiation research related to the "shadow of the law," mediation and divorce settlements, and attorney-client interactions will be examined, and then the chapter will conclude with a review of the few existing studies that relate to women's perceptions

of and experiences with the divorce legal system. Treatment of divorcing women as either insiders or outsiders to the legal system will be noted.

Divorce Law, Private Settlement, and Family Outcomes

A unique characteristic of divorce is that each one requires some type of court action (Jacob, 1992). Thus, all parties petitioning for marital dissolution to some degree must become involved with law (Jacob), and legal divorces only occur when a judge orders final judgments. However, divorce law is not really unique when considering that other types of disputes do not necessarily require court action yet often produce negotiated agreements that later may be enforced in court by parties and that the divorce court process in many cases now is solely ritualistic (Jacob), with a court role akin to state licensures, diminished to solemnization and recording (Singer, 1992).

Most divorce court appearances now entail only brief hearings at which parties answer a few inquiries to satisfy court jurisdiction (i.e., show a party is a resident in the county where the court is located to establish the court's authority to preside over the divorce) as well as assure authenticity or validity of a separation agreement (Singer). Privately negotiated separation settlements are treated as stipulations or agreed orders (i.e., private contracts will be included in their entirety). Judges often merely hold brief hearings to check and establish for public record that all required provisions are present and that settlement agreements are not inherently unfair or unconscionable to involved parties, a high legal standard rarely met, before they sign divorce decrees incorporating the agreements in whole as stipulated (Jacob, 1992; Singer, 1992).

“Consequently, the core of the divorce process, as with all disputes or problems that are not submitted to trial, lies in the negotiations that produce the agreement” (Jacob, 1992, p. 572). In any case, legal divorce processes principally concern two issues: (a) disposing or distributing marital property and/or debt (Arthur, 1991) and (b) severing and/or altering family relationships (Buehler, 1995; Jacob, 1992). When the marital relationship is severed through divorce, parent-

child relationships also may change with the court's assignment of parental rights and obligations for minor children (Katz, 1994).

Most divorcing couples privately negotiate or mediate settlement agreements directly or through attorneys (Garrison, 1994; Mnookin & Maccoby, 2002; Pearson, 1993). Madoff (2002) has argued that three core features of current divorce law encourage private resolution: (a) vague standards with broad judicial discretion govern divorce law issues (e.g., *best interests of the child*, *equitable distribution* of marital property; Garrison, 1996, and Wallace and Koerner, 2003, offer research on judicial discretion in divorce); (b) the inquiry is focused on solutions for future events (i.e., it is primarily forward-looking in nature), in contrast to traditional backward-looking legal claims; and (c) the opportunity for quasi-criminal moral vindication with fault divorces largely has been eliminated. In theory at least, modern divorce law encourages a less adversarial, more efficient termination of marriage than the exclusive use of fault divorces did (Buehler, 1995; Katz, 1994). Consistent with the no-fault system that respects individual autonomy to seek divorce at spouses' convenience, a majority of states allow divorcing couples to make binding and nonmodifiable separation agreements now regarding maintenance and property division (Singer, 1992). "Moreover, although courts are required in theory to review . . . child support and custody, courts typically rubber-stamp [spousal] agreements, even in divorces involving children" (Singer, p. 1475).

Pearson (1993) reported that multiple empirical studies have found that only about 30% of divorce cases involved two attorneys and 35-40% of cases involved no legal representation at all. Although attorney involvement may not be feasible or practical for many divorcing parents, a significant concern is that extensive reliance on court services and child support agencies for family law issues will fail to most effectively protect families' interests. "Divorce court personnel cite filing errors, confusion, and misinformation by [unrepresented] pro se litigants as major problems. . . . Hope [may lie instead] with public sector interventions like divorce education

programs, guideline calculation assistance, and mediation” (Pearson, p. 282). Courts typically do not intervene unless agreements reach the level of unconscionability.

The question of whether divorce law perpetuates the feminization of poverty is a highly controversial issue among social science and legal advocates and academicians (Jacob, 1992; Katz, 1994; Mason, Fine, & Carnochan, 2001; Mnookin & Maccoby, 2002; Shepard, 1998), who have debated (a) how the legal system may influence families and (b) the necessity, proper means, and potential effects of reforming divorce law policies. Many critics of modern divorce law (Buehler, 1995; Garrison, 1994; Lichtenstein, 2000) have cited it as a major cause of poverty among women who experience divorce and, as a result, their children. Furthermore, there is much debate about gender bias affecting divorce processes (e.g., legal rules and procedures, mediation process, divorce outcomes) and whether and how gender power imbalances result in inequitable settlements and/or women may less effectively negotiate—objectively or subjectively—the divorce process (Bryan, 2000; Grillo, 1991). Most studies have shown that custodial mothers fare substantially worse financially post-divorce than do fathers (Amato, 2000; McLanahan, 1992; Smock, 1993; Teachman & Paasch, 1994). Stewart (1991) also provided a concise list of respondent-generated policy recommendations related to single custodial mothers’ need for information on financial matters during the divorce process.

Braver (1999), however, has contended that mothers’ and fathers’ economic circumstances after divorce are basically similar, neither are significantly worse off than before divorce, and that women often gain from custodial parent tax benefits and child support enforcement rules. Braver’s findings and conclusions have remained the exception though. His calculations were based on noncustodial fathers’ reports of support. Even so, he found gender gap estimates similar to mainstream literature (about a 40% gap in standard of living) using the usual needs adjustment income method. Even when estimates were adjusted to be more accurate according to Braver’s thinking, he still identified an allegedly “vanishingly small” (p. 111) gender

gap of 3% to 18%. Additional contrasting perspectives are provided by Coltrane and Adams (2003), Dingwall, Greatbatch, and Ruggerone (1998), and Gray and Merrick (1996).

Finally, Garrison (1994) critiqued existing divorce research and concluded that divorce law perpetuates the feminization of poverty. She showed that (a) unfair results are imposed by divorce law, disproportionately affecting women and children, and (b) this unfair, externally imposed economic hardship, rather than preexisting poverty, occupational segregation, or gender wage inequality, is a significant cause of poverty for divorced women. Even though it was clear, for instance, that many women who are poor after divorce also were poor before divorce, after accounting for such confounding factors, discriminatory legal divorce outcomes remained.

Although Garrison found that maintenance awards were more predictable than property distribution awards, significant problems still applied with unfair (i.e., inconsistent and irrational) outcomes; variation was “largely inexplicable” (p. 17) and *not* based on expected factors such as marital duration, employment, income, or child custody. Also, the likelihood of alimony has been reduced for unemployed and low-income wives—despite greater need—as much as for higher-income divorcing wives. “Available evidence suggests that divorce law has failed to ensure that like cases are treated alike or that the burden of divorce is rationally distributed based on legitimate case differences” (Garrison, p. 18).

Garrison concluded from her critique of the literature that divorces typically involve couples with limited economic resources. She contended that many couples cannot afford attorneys or litigation even if they wish to utilize them. She emphasized the consistent findings that rarely are both parties to a divorce represented by lawyers in a court setting, many utilize an attorney solely for drafting or clerk purposes or use published divorce forms and represent themselves, and most divorce cases settle before trial. She also documented research that both legal representation and judicial involvement in divorce awards have a positive impact on reaching fair, predictable alimony and property settlements and other outcomes for divorced wives. Garrison concluded that the real problem appears to exist more in a legal system that

requires attorney and judicial assistance to effectively navigate it. “Divorce law, in most states, is vague, complex and highly discretionary. . . . [It] cannot cure the feminization of poverty or the problems of single-parent families, but it can ensure outcomes that impose the burden of divorce fairly upon all family members. That is the goal for which divorce reform should strive” (p. 22).

Shadow of Law or Bargaining?

As each couple’s divorce experience is uniquely stressful and personal, it can be a challenge to grasp the influence of societal forces that are involved in divorce and divorce outcomes, particularly how social and legal factors may influence individual divorce transitions and negotiations. Researchers have contested the extent to which divorce law influences (“shadows”) divorce options and negotiations or, on the flipside, the extent to which private, individualistic bargaining practices influence divorce resolutions and outcomes.

Mnookin and Kornhauser (1979) used the divorce context to make the argument that what they called *bargaining in the shadow of the law* implicitly influences perceived options and bargaining chips in private negotiations and settlement agreements: “We [the authors] see the primary function of contemporary divorce law not as imposing order from above, but rather as providing a framework within which divorcing couples can themselves determine their post-dissolution rights and responsibilities” (p. 950). The central assumption the authors made is that law is the principal norm by which people define problems and formulate claims. Mnookin and Kornhauser’s conceptualization has been widely alluded to and applied in a variety of bargaining and dispute resolution situations in which a court hearing might arise if negotiations fail (Jacob, 1992; Madoff; 2002; Mnookin & Maccoby, 2002).

Many researchers, however, have found contrary evidence as to the centrality of law in resolving disputes (Jacob, 1992). Melli, Erlanger, and Chambliss (1985, p. 12) argued that “rather than a system of bargaining in the shadow of the law, divorce may well be one of adjudication in the shadow of bargaining.” Melli et al. (1985) and Erlanger, Chambliss, and Melli (1987) concluded from their research that divorce negotiation agreements determine court rulings and

that courts and judges have no direct influence over divorce settlements. However, their challenge did not tackle the extent to which legal considerations influence bargaining negotiations (Jacob, 1992), including whether negotiating couples are aware or believe courts will defer to their negotiated agreements. Other challenges have gone even further to argue that social norms may govern how disputes or claims are formulated, framed, and handled, particularly within the context of closely-knit groups (Ellickson, 1991; Jacob, 1992) such as families. For instance, Merry (1990) studied the perceptions of law in a working-class community and found that, in disputes involving romantic partners or roommates, the language of social relationships, not of the law, was used within as well as outside the courts.

Legal vs. social divorce norms. Jacob (1992) examined, based on his *a priori* model, the use of legal versus social norms in divorcing parents' child support and custody divorce negotiations. The author focused only on child support and custody issues because he assumed both have particular potential for revealing divorcing individuals' legalistic versus relational framing. *Social norms* refer to standards for conduct by which people mold their behavior in accordance to relational interests and social or community sanctions (i.e., peer-demanded conformity) rather than concern for or intervention by formal, official institutions. In contrast, *legal norms* include codified laws as well as living law (i.e., commonly accepted interpretations of the rules apparent from how a law has been applied in cases).

Jacob (1992, referencing Merry, 1990) defined *choice of norms* as divorcing individuals consistently articulating either one norm type or the other, as revealed through vocabulary usage and inferred from what they emphasized for resolving their grievances. He described evidence of legal norms as including the use of legalistic terminology, even though the person may not understand full meanings, and emphasizing legal rules or property rights in divorce disputes and negotiations (e.g., focusing on agreement enforcement). Evidence of social norms includes the use of affiliative vocabulary and emphasizing family and parenting needs in resource divisions and custody arrangements as well as interdependent relationships (e.g., focusing on conciliation).

Legal and social norms also can be distinguished by persons stressing, respectively, that understanding the law is highly important or only peripherally significant in working out divorce provisions. In sum, choice of norms captures the unique manner in which individuals perceive their problem; that is, how they experience the divorce process.

Interviewing recently divorced fathers and mothers, Jacob coded structured responses as to whether legalistic or social norms were revealed to be predominantly influencing individuals' negotiations through final resolution. Almost two-thirds gave responses that were either consistently legalistic or relational, but about one-third of participants gave split responses coded as either legalistic or relational according to strength of their responses to particular relevant questions. According to Jacob's calculations, 58% of participants framed issues primarily in relational terms; 42% primarily framed issues in legalistic terms. Six participants who could not be clearly coded and placed in one of the two categories apparently were excluded from analyses, but, in a footnote, Jacob acknowledged that a mixed-framing category might exist. Contrary to expectations, an almost equal proportion of fathers (56%) and mothers (59%) chose a relational framework. Women who were economically self-sufficient seemed less likely to frame issues legalistically or to expect child support. Apparently endorsing the recent anti-alimony trend, Jacob then suggested "one might speculate that self-sufficiency helps to marginalize the legalistic framework for some women by freeing them *not* to think about their legal rights or making those rights peripheral to their situation" (p. 578).

One-third of those participants who initially chose either a legalistic framework or a relational framework ultimately reported using the law in their negotiations, and the ultimate use of legal norms depended on a complex process, contingent on several conditions. Consistent with participants in other research, respondents in Jacob's study rarely used attorneys as negotiators or representation in court litigation, although attorneys were involved to some extent in each divorce. Participants most often used their attorneys both as an information source about child support guidelines and various custody arrangements and as a clerk who converted settlement

agreements into legal stipulations submitted to the court. Among participants using a legalist framework, information from personal networks made little difference in later use of the law in negotiations; however, for “relationists,” personal networks were shown to encourage the use of legal norms (almost twice as likely).

Jacob unsurprisingly found that those participants who both framed issues in a legalistic manner and used their attorneys as negotiators were the most likely to consciously use the law. “In those situations the law cast a sharp shadow on the negotiations” (p. 584). Child support guidelines, however, seemed to remove some legal issues from negotiations, and attorney representation had a smaller effect on respondents who initially framed issues using a relational framework. Jacob concluded that his findings revealed “how dimly the shadow of the law [was] cast” (p. 585) on respondents’ bargaining during divorce settlements. Negotiations regarding children and support payments seemed to occur with “little awareness or concern about law” (p. 585). Jacob’s position was that the attorney’s role is constrained in divorce cases and that the range of the law’s impact on bargaining is significantly curtailed in most divorces.

Revisiting the shadow of the law. Mnookin and Maccoby (2002) stated that they remain persuaded that two key components of divorce law in many states have had “a deep and continuing influence on the agreements parents arrive at in negotiating their settlement of custody, visitation, and financial issues” (p. 68). The two components are (a) custodial parents must allow noncustodial parents (unless they have been shown to be unfit) reasonable visitation with their children and (b) noncustodial parents must pay child support, adjusted in relation to the respective incomes of both parents. Mnookin and Maccoby acknowledged “the existence of legal obligations and the threat of legal sanctions hardly results in full compliance”(p. 69). Some uncooperative parents may be persuaded through extra-judicial self-help remedies and reciprocity to bargain for support amounts in exchange for visitation even if there were not legally enforceable rights. Nevertheless, the authors asserted that parents still tend to negotiate in the shadow of legal standards for child support and visitation.

As a caveat, Mnookin and Maccoby (2002) emphasized that the role and power of law in changing behavior is a complex issue, limited by “deeper forces—cultural, economic, and, some would claim, biological” (p. 70). Consistent with Garrison’s (1994) perspective, Mnookin and Maccoby cautioned against holding unrealistic expectations regarding divorce law reform because there likely are “critically important concerns that are either too big or too small to be substantially affected by legal policy changes” (p. 71). On the other hand, the authors also stressed that legal policy reforms are not *unimportant* and, in particular, that the adversarial legal system can make parental relations worse, to the detriment of children and families involved.

Clearly some sort of interplay appears to occur between social forces and legal system rules and norms, though it seems to be a matter of perspective and issue framing to suggest which and how each predominates and has brought about changes in the legal divorce system and process. Madoff (2002) has offered a relevant illustration. Based on interviews with divorce and probate lawyers, judges, and mediators, Madoff, a legal scholar, constructed a thorough, persuasive case for ways in which legal doctrine (*the shadow of the law*) does affect dispute processes, outlining ways in which legal doctrine structures disputes and their resolution. He then contrasted (a) how probate law still encourages parties to seek judicial resolution by requiring court approval of wills and estate accountings by administrators in disputes to (b) the divorce no-fault revolution. He asserted that the no-fault trend led to an ensuing shift toward private resolution as well as influenced all aspects of substantive divorce law, including (a) the grounds for divorce, (b) the standards for post-divorce alimony and property distribution, and (c) child custody arrangements. In sum, there are significant emotional, psychosocial, and economic ramifications for parents and children regarding how divorce negotiations and settlements play out that justify continuing research efforts to tease out nuances of how legal and social norms are revealed in parents’ divorce negotiations.

Divorce Negotiations: Mediation, Divorce Settlements, and Attorneys

Much of the research done on divorce settlements is within the context of mediation and alternative dispute resolution (ADR; Beck & Sales, 2000). Divorce mediation is a facilitated-conflict resolution approach designed to help spouses negotiate divorce agreements in a nonadversarial manner that increasingly has become mandated, or at least strongly encouraged, in many state court jurisdictions (Mason et al., 2001). Benjamin and Irving (1995), Kelly (1996), and Beck and Sales (2000) reviewed and critiqued divorce mediation literature in general and concluded that in comparison to traditional litigation and negotiation approaches, divorce mediation consistently has been found to (a) generate positive outcomes, including high levels of satisfaction with the process, greater compliance with mediated agreements, and lower relitigation rates (Emery, 1995; Emery, Matthews, & Kitzmann, 1994; Kelly, 1989), and (b) without increasing co-parenting conflict, encourage mothers and fathers to remain involved in their children's lives post-divorce (Emery, Laumann-Billings, Waldron, Sbarra, & Dillon, 2001).

Not everyone agrees, however, that mediation or ADR necessarily is either fair or beneficial for divorcing couples (Guthrie, 2002; Guthrie and Levin, 1998; Hensler, 2002). Procedural justice theory arose in large part from the work of Thibaut and Walker (1975, 1978), which demonstrated that a procedure can be judged fair even when it yields unsatisfactory outcomes (Lind, Maccoun, Ebener, Felstiner, Hensler, Resnik, & Tyler, 1990). Although not specifically examining divorce settlement processes, research in this area has concerned the perceptions of citizens and disputants (as lay legal system *outsiders*) regarding fairness of diverse legal and institutional procedures, why and how procedural justice is important, and under what circumstances people may prefer one procedure to another (O'Barr & Conley, 1988; Rettig & Dahl, 1993; Tyler, 2001). Both Tyler and Rettig and Dahl, as well as Stolle, Robbennolt, and Wiener (1996), provide concise reviews of procedural justice theory and study.

Feminist scholars contend that existing ADR options—or any private negotiations, likely, that exclude legal representation—provide insufficient process or procedural protections against negotiation power imbalances that disadvantage women as well as other marginalized parties or

groups and lead to unfair, disparate settlement outcomes (Brinig, 1995; Bryan, 1999, 2000; Grillo, 1991; Lichtenstein, 2000). Kelly (1996), however, has asserted that limited conclusive empirical evidence exists as to these claims. In any case, criticisms include that mediation favors men because they have more power than women and because mediation is based on the assumption that spousal fault should be left out of the divorce process, which advantages men who may have oppressed or abused their wives (Bryan, 2000; Grillo) and/or who had benefited from career support provided by their wives (Mason et al., 2001). Also, women tend to be socialized to value and emphasize personal relationships versus legal rights (i.e., social rather than legal norms; Jacob, 1992) as reflected in gender communication and conflict style tendencies, which further exacerbate power imbalances in mediation (Grillo, 1991). Divorcing mothers who want sole custody lose bargaining power given the present norm of joint custody and, thus, often trade financial support they may need and deserve for sole custody and personal control or autonomy (Lichtenstein, 2000). Finally, some feminists argue that divorce and custody issues are primarily political because the institution of the family is seen as “the source and site of oppression” (p. 20) for women; therefore, such cases become improperly reduced to idiosyncratic private events when dealt with in mediation or negotiations rather than in the public court process provided by the legal system (Lichtenstein).

Emery (1995) pointed out, however, that it is women who have been found to be more satisfied than men with both litigated and mediated divorce agreements. He suggested that it is not that women fare badly in mediation but rather that men are disadvantaged in litigation; thus, men may gain more in mediation than in litigation, leading them to report greater satisfaction with mediated settlements. And as women have been found to usually fare as well in both mediation and litigation, this explains perhaps why women have reported similar levels of satisfaction with each approach (Emery).

Divorce settlements. Trends found in mediation research seem consistent with findings from other studies on divorce settlements in general. Teachman and Polonko (1990) examined

National Longitudinal Study of the High School Class of 1972 data regarding divorce settlement outcomes and found evidence consistent with the notion that parents, in order to maximize their preferences in divorce settlements, made trade-offs between different issues connected to their children, including child support, visitation, and custody. However, as the authors acknowledged, their results were not based on actual observations of divorce negotiations.

Seltzer and Garfinkel (1990) studied property and child support awards using a representative sample of then-recent divorce cases and determined that only among couples with similar incomes did the final outcomes reflect trade-offs between child support awards and property settlements (worth on average between one- and two-thirds of the child support award). A majority of divorce settlements seemed to be the product of unequal power negotiations and/or altruistic concern for children's needs, resulting in one spouse acquiring both a favorable award of child support and a favorable property settlement. The authors apparently assumed that couples differ in the degree to which husbands have power over wives, despite unequal access to economic resources. The relationship determined between legal representation and child support awards also generally was consistent with views of gender bargaining inequality and concerns for children's material well-being. Namely, when both parents had lawyers, child support awards were higher, but when no attorneys were involved or just the father had a lawyer, men's bargaining advantage was enhanced and custodial mothers received reduced support. The authors concluded that, particularly when mothers' predivorce income levels were lower than the fathers', reliance on informal, private negotiations detrimentally affected support amounts for children.

Additionally, Bay and Braver (1990) interviewed a representative sample of divorcing couples with children soon after filing for divorce and found that mothers' *and* fathers' perceived control over divorce settlement issues was positively correlated and couples'—especially men's—perceived lack of control over the settlement process was related to both parents' reports of distressful interparental conflict. The authors concluded from their results that one divorcing partner's "gain need not be the other's loss" (p. 386). Rettig and Dahl's (1993) study revealed that

individuals (again, with men expressing more distress than women) in actual divorce situations, when reflecting on the existing child support system, were very much concerned with procedural justice factors (including fair, ethical, and consistent principles and procedures), such as in setting and applying ground rules and information processing decision-making. Lastly, Sheets and Braver (1996) determined, contrary to their expectations, that divorcing women indicated greater satisfaction than men with custody, visitation, financial (except child support), and property settlements. After 2 years, though, women did report lower satisfaction relative to men with their financial settlements. Consistent with mediation and procedural justice research, their findings suggested that a perceived inequitable process (i.e., sense of lack of control over or bias in the settlement process), rather than a perceived inequitable outcome, most contributed to dissatisfaction with a final divorce settlement decree.

Divorce attorney-client interactions. Outside of mediation and divorce settlement research, studies limited to the divorce negotiation context seem particularly concerned with attorney-client relationships—even though many divorcing couples interact very little, if at all, with lawyers. Sarat and Felstiner (1986, 1988, 1989) and Felstiner and Sarat (1992) offered accounts of interactions and power dynamics between divorce attorneys and their clients when discussing marriage failure, legal process education and problems, and when planning strategy. For instance, lawyers emphasized the need for clients to separate emotional from legal issues and to disengage from their spouses. Based on analyses of observed and taped divorce attorney-client conferences in California and Massachusetts, Sarat and Felstiner found that lawyers encouraged informal resolution procedures and settlements much more than legal rights or substantive law. Yet, attorneys stressed the importance during divorce negotiations of being represented by a legal system insider (versus the client as *outsider*), often justified as the best means by which to navigate the complicated, erratic, incomprehensible legal divorce process. This orientation seemed to be related to attorney-client power negotiations (and attorneys asserting how necessary they are), yet this approach in turn raised/reinforced serious concerns and negative stereotypes

about the legal system, actually damaging and demoralizing societal faith and trust in the legal system. The authors explicated lawyers' and clients' different agendas, expectations, and senses of justice, as well as how they possess different types of information and needs to fulfill.

Additionally, Hillary and Johnson (1989) examined divorcing individuals' perceptions of the ways in which their attorneys attempted to influence their actions and how these attempts related to clients' evaluation of attorney competence and satisfaction with their lawyer. Although individuals indicated their attorneys most frequently employed expert and legitimate power (i.e., clients perceived their lawyers as asserting expert knowledge and/or a right or duty to advise them), the less frequently used coercive power (i.e., clients perceiving their lawyers as able or seeking to mete out punishments if noncompliant) was the strongest predictor of—and negatively correlated with—both outcome measures. Attorneys' interaction style that reflected a positive orientation toward the client (i.e., stressing positive regard and concern as well as mutual understanding) was found to be positively associated with both client satisfaction and perceived attorney competence. In contrast, a socio-emotional distancing orientation (e.g., aloof disengagement from clients) was found to be negatively correlated with both measures; this was distinct from a task orientation, which was found to be unrelated to client evaluation.

Women's Perceptions of and Experiences with the Legal System

Diverse extant literature exists regarding people's perceptions of the legal system. Few articles were found, however, that were specifically relevant to women's divorce experiences with and impressions of the legal system.

Perception and conflict resolution. Hopper (1993, 2001) and Walzer and Oles (2003) have conducted research focused on rhetorical uncoupling narratives during divorce that contribute to polarizing couples' perceptions of their ending relationships and divorce conflict. They found that individuals' memories of the relationship deterioration process would become revised and set through repeated iterations into an increasingly persuasive version, subtly shaped by perceived reactions of their audiences.

Although not specifically examining legal divorce perceptions and experiences, some relevant insights can be drawn from legal-psychological research that has focused on systematic cognitive illusions and errors as well as emotions affecting dispute participants' interactions and negotiations. For example, Baker and Emery (1993) found that a majority of both law students and marriage license applicants had skewed, self-serving expectations and perceptions of divorce statute provisions. Babcock and Loewenstein (1997) studied self-serving biases in negotiations and found that, while seemingly not deliberately or strategically fostered by parties, disputants' different interpretations of a situation shaped personal conceptions of what fair, impartial settlements would be and contributed to bargaining impasses. Freshman et al. (2002) investigated how disputants' positive and negative moods relate to negotiation outcomes, and Rachlinski (2003) summarized how cognitive psychology of judgment and choice research relates to legal scholarship and policies. He also argued for ways in which individuals can—and cannot—learn better decision-making strategies and make good choices without legal interventions or restrictions.

Qualitative study of women's divorce experiences. A handful of studies have used in-depth interviews to explore women's and/or men's experiences of the divorce process, including the legal system. However, most qualitative research concerning women's divorce experiences have emphasized the complex psychological, emotional, economic, and family/social changes that are required (Eldar-Avidan & Haj-Yahia, 2000; Fox & Halbrook, 1994; Lonsdorf, 1991; Molina, 2000), seemingly consistent with divorce adjustment literature (Amato, 2000). The articles generally explored interviewed mothers' emotional and financial problems associated with divorce and how cultural and social factors seemed to play a role in their adjustment (Eldar-Avidan & Haj-Yahia, 2000; Lonsdorf, 1991; Molina, 2000). Fox and Halbrook (1994) focused on divorcing women's process of role disruption and reconstruction, including dismantling "happily ever after" family assumptions during a disorienting period of "shattered dreams" before reforming new personal identities for "future realities" (p. 147). In these articles, legal issues

were mentioned mostly in passing, glossed over as another stressor, treated as tangential to adjustment, or essentially ignored. Qualitative studies more directly related to consumers' perceptions of the legal system focused on *fathers'* negative legal system experiences and post-divorce distress and bitterness (Arditti & Allen, 1993; Mandell, 1995).

Legal divorce process experiences. Over 25 years ago, Spanier and Anderson (1979) examined the impact of the legal process on adjustment to marital separation and divorce; however, their study focused on *fault* divorce because the state in which they collected data (Pennsylvania) at that time still required an adversarial ground for divorce. A significant number of the then-recently separated men and women interviewed reported not only that they or their spouses exaggerated problems, lied, or trumped up statements in hearings to help ensure the desired divorce outcome but also that their attorneys advised them to do so, including aggravating their estranged spouse with adversarial behaviors such as refusing to talk or seizing or withholding marital funds. A vast majority desired a change in state law to permit no-fault divorces. However, the researchers found no significant relationships between the wide range of identified problems with the fault-based legal system and poorer adjustment following separation. These results seem to indicate that it is more likely that other factors, such as predisposing variables, account for divorce adjustment outcomes.

Finally, Pruett and Jackson (2001) investigated White, primarily middle-class divorcing parents' perceptions of the legal system as consumers or insiders as well as the system's impact on family relations. Semistructured in-home interviews were conducted with 20 former couples and one additional mother who had divorced within 6 months of contact and at least one minor child 6 years or younger. The researchers examined participants' perceptions of the legal system with regard to their family's level of legal involvement during divorce and categorized families from low to high levels, based on their reports of the extent of their involvement with legal system activities and utilization of legal and family services-related professionals during the process. The categories ranged from (a) settle with little outside support/professional consultation

or after a few mediation sessions, (b) settle after extensive attorney negotiation or court-ordered evaluation, (c) trial, to (d) trial plus frequent postjudgment actions in court (associated with chronic, intense hostility).

Pruett and Jackson's interview questions focused on parents' positive and negative expectations of and experiences with law-related professionals involved in their case as well as of the legal system in general, ways in which the legal process affected family relations with (ex-)spouses and children, and future recommendations for improving legal system services and programs. Although the researchers stated that they used a grounded theory approach in their study, they reported only descriptive data (i.e., summarized responses from parents and frequencies of similar legal system-related divorce perceptions). The authors found that, although many parents started the divorce process with hopes for a fair and reasonable experience and outcome, only 12% of the participants ended the process maintaining positive expectations. Participants in general conveyed that they believed they lacked power and control over divorce outcomes. Parents who indicated higher levels of legal involvement in particular expressed greater feelings of frustration with the process, while parents with lower legal involvement reached more satisfactory divorce resolutions. It was not clear from the article whether the greater frustration reported was because of higher legal involvement or whether there was higher legal involvement because of greater family divorce conflict. In the end, Pruett and Jackson did not include any explanation of theory development or data-generated hypotheses or models, but they did offer general recommendations for legal-related professionals for change toward a more family-focused legal system and that the parents interviewed advocated for a collaborative divorce process.

Summary

In conclusion, few researchers to date have examined the unique insider-outsider perspective that women who have experienced divorce can share as legal consumers about the legal system. Although the shadow of the law conceptualization has been commonly inferred

(Jacob, 1992; Mnookin & Kornhauser, 1979; Mnookin & Maccoby, 2002), relevant literature has not clearly addressed the question of whether and how (under what conditions) the legal system and legal norms influence divorce negotiations and settlements. In addition, it is clear that little attention has been given to learning how women perceive and make meaning of the legal system as they negotiate the divorce process. As Mason et al. (2001, p. 874) have pointed out, “Because the law tends to be more involved when families are undergoing transitions (e.g., divorce and adoption), the influence of social scientists has been greatest during these periods of change.” Thus, the present study contributes important, needed information from divorcing mothers in order to generate recommendations for effective client-based changes in the delivery of legal-related education and services empowering and satisfying from the clients’ perspective (Pruett & Jackson, 2001).

Chapter 2

Methods

For the present study, data collection and analysis procedures were modeled from guidelines and recommendations from Glaser (1992) and Charmaz (2003). The goal of grounded theory research is to generate social process theory directly from data (Glaser & Strauss, 1967), in order to understand change and socially constructed meanings that shape people's actions and decision-making processes (Glaser, 1992; Morse & Richards, 2002). It is commonly understood that sociologists Glaser and Strauss (1967) developed this particular approach to qualitative research in reaction to positivism, or logical empiricism (Barnett, 1960), the then-predominant view of scientific research and knowledge, in order to (a) avoid relying on a priori hypotheses that inhibit the induction of theory regarding the phenomena of interest and (b) take into account how research participants themselves view reality (Charmaz, 2003). However, Glaser (1992) has pointed out that quantitative methods of analysis also shaped grounded theory and its assumptions. As Glaser described, the aim is not to test or replicate theory; "the yield is just hypotheses" to be tested in the future (p. 16). Data collection, analysis, and theory construction occur concurrently and reiteratively (Glaser; Charmaz, 2003). Generating grounded theory is not a linear process and requires flexibility both in collecting and analyzing data (Charmaz).

Charmaz largely has adopted Glaser's (1992) flexible, systematic emergent grounded theory methodology. However, Glaser has emphasized an objectivist approach (Charmaz, 2000). Yet, Glaser and Strauss (1967) have acknowledged that the researcher does not approach the phenomenon of interest as a blank slate, and analysis is primarily interpretive. Crucial for Glaser has been that a "grounded theory stands on its own" and reflects the data rather than any preconceived ideas or theories (1992, p. 15). Charmaz (2000, 2003) would not disagree but has argued for a constructivist approach that explicitly acknowledges the active role a researcher's own subjective worldview plays in shaping the data, evolving analysis, and theory construction development. Thus, consistent with the present study, analysis and theory generation are the

result of a continuous interchange between the data and the researcher and his/her evolving conceptualizations (Charmaz).

From Open and Selective Coding to Integration

The pivotal link between data gathering and theory development is studying emerging data through coding (Charmaz, 2003; Glaser, 1992); rich data should be obtained that reveal multiple layers of meanings (and effects) of participants' thoughts, feelings, (unstated) assumptions, intentions, and actions as well as context and structure (Charmaz). *Coding* includes labeling, connecting, fracturing, and putting interpretative structure on data (i.e., the process of category refinement; Morse & Richards, 2002). Theory-building is achieved through coding procedures that help research analysts simultaneously be systematic and creative in managing masses of unstructured data and considering alternative meanings of phenomena while identifying, comparing, discarding, delineating, refining, and relating properties and dimensions of categories and themes conceptualizing phenomena of interest (Glaser, 1992).

Open coding refers to the initial, neutral examination of transcription text, tentatively developing and labeling concepts interpreted to be of potential relevance to the problem being studied, then likely recoding as further data are collected and analyzed (Glaser). Concepts often recur in succeeding paragraphs or transcripts as coding continues; however, the aim with analysis is not to record as a counting exercise *all* of the instances of a recurring concept but rather to seek out concept *diversity*—different, unique indicators or facets of potentially relevant concepts (Pidgeon & Henwood, 1997). More concretely, generating emerging categories requires reading and rereading interview transcriptions (Belgrave, Zablotzky, & Guadagno, 2002), labeling data, looking for patterns across and within cases, and writing analytic memos (Charmaz, 2003).

Memos document a researcher's data interpretations, codes, and analysis ideas and decisions; they may range from observations or insights gleaned from interviews to detailed definitions and analysis of specific concepts or linkages among categories (Charmaz; Glaser, 1992). Memos allow researchers to be self-reflective and reflexive about the research process and

to trace evolving analysis and prompt further analysis (Charmaz; Glaser). Theoretical memos are treated as data—constantly revisited and growing, sorted and compared as the theory becomes streamlined (Morse & Richards, 2002). Finally, the end collection of analytic memos also creates an *audit trail*, or record, of the analysis process that can be used by others as a trustworthiness check of good fit to determine whether the write-up of research methods, analysis, and findings is a reasonable interpretation of the data (Charmaz; Glaser).

Initial coding continues until a considerable number of concepts and some strong analytic directions—ideally an emerging core category that has what Glaser (1978, 1992) called *theoretical grab*—have been identified (Charmaz, 2003). *Focused coding* involves using the most relevant and significant earlier codes to examine further material in a more directed, selective, and conceptual (abstract) manner in order to refine, extend, and integrate (link) coded concepts and themes around a core category (Charmaz; Glaser, 1992). Researchers are required to *constantly compare* tentative ideas, concepts, and themes within and across participant cases, using any inconsistencies to further hone an understanding of the phenomena of interest, and adjusting data gathering and analysis techniques to fully discover (Glaser) or construct (Charmaz) emerging categories and connections that form the building blocks of theory (Morse & Richards, 2002). Social theory construction is accomplished by (a) generating theoretical categories and linkages that *fit* (i.e., provide a recognizable description of the data; Glaser & Strauss, 1967) and (b) achieving *theoretical saturation* (i.e., reaching the point at which further data gathering and analysis do not contribute new insight; Glaser, 1992).

Present Study

In the present study, grounded theory methods were well-suited for analyzing divorced mothers' accounts of negotiating the divorce process within the legal system, with the aim of moving from a rich set of unstructured data materials to a refined collection of theoretical codes, concepts, themes, and interpretations (Charmaz, 2003; Glaser, 1992; Glaser & Strauss, 1967). I obtained data for this study through face-to-face interviews. Theory generation was the end

product for this research study as detailed in this thesis write-up, including a theoretical model and propositions based on the results describing ways in which identified concepts relate to one another. Again, data gathering, analysis, and theory construction occurred concurrently and reiteratively (Glaser); however, for ease of reading, research phases are outlined below as follows: (a) participant selection, (b) description of participants, (c) interview procedure and protocol, and (d) analytic process, tools, and techniques used.

Participant selection. As is typical in grounded theory and other qualitative methodologies (Creswell, 1998; Morse & Richards, 2002), nonprobability, convenience sampling procedures were employed in this study. The primary means of sample selection was to recruit eligible adult daughters from a larger qualitative divorce coresidence project that examined the perspectives of grandmothers and their adult daughters regarding the fairly common, yet usually considered non-normative, experience of daughters returning home to coreside with their parent(s) during the daughters' divorce transition (Goldscheider, Goldscheider, St. Clair, & Hodges, 1999). Even though the focus of the coresidence interview protocol was not on the legal aspect of divorce, during initial participant interviews several grandmothers and adult daughters, without being solicited, shared stressful legal-related issues that significantly affected their families' options, resources, and decisions (e.g., valuing freedom from the ex-spouse over property rights; military family policies delaying separation and divorce; moving home to establish residency under different state law to expedite divorce). In listening to these women's family situations, the need to further explore their legal divorce experiences was recognized.

Respondents for the present study were sought in order to examine experiences and phenomena associated with mothers of younger children negotiating the legal divorce process. Inclusion criteria were as follows: (a) a separated or divorced woman over 18 years of age, (b) the biological/legal parent of at least one minor child of the marriage under 12 years of age during the legal divorce process, and (c) she coresided with her own mother/parents for at least 1 month during or following the divorce (with one exception, discussed below). Study criteria were

limited in these ways (a) to remain consistent with the related coresidence project, (b) to focus on the often-ignored legal experiences of divorcing mothers with relatively limited financial resources, and (c) based on the assumption that both spouses of the divorcing couples would retain an interest and investment in their shared child(ren) as well as control over all legal divorce negotiations and decisions.

For this thesis project, I contacted participants from the original study, and five of them agreed to participate in my research. Additional respondents also were sought to expand the range of experiences and processes assessed related to the legal divorce process, and four more women agreed to participate, including the one mother who did not fit the coresidence project criteria. Respondents were recruited through court-mandated educational programs for divorcing parents; university advertising for faculty, staff, and students; and snowball sampling. Although it was not the intent of this study to achieve a representative sample so that statistical inferences could be made (Belgrave et al., 2002), variability was capitalized upon as possible for comparative analysis purposes and consistent with grounded theory's inductive approach (Charmaz, 2003). Both divorced and divorcing women were interviewed in order to explore diverse perspectives and varying experiences (present/current, recent past, and retrospective) across the divorce process. Respondents were sought of differing ages and backgrounds as well as having experienced varying levels of legal involvement during their divorce (from privately-negotiated divorce settlements to chronic conflict requiring repeated legal assistance or intervention).

Description of participants. The sample was nine White, lower to upper-middle class separated or divorced mothers between the ages of 28 and 50 ($M=38.2$ years) living in Missouri (see Table 2.1). The sample size for this exploratory grounded study took into account a number of factors related to theoretical saturation, including time available for concurrent data collection and analysis, the clear topic of inquiry, the scope of the research question, and the substantial amount of useable data (richness) obtained from each participant (see Morse, 2000, for a discussion of qualitative study sampling).

The women's ages at separation and divorce ranged from early 20s to mid-30s, with half in the latter range. Each respondent had at least one child of the marriage under age 12 at the time of separation or divorce. Two mothers had three and four children, respectively, when divorcing; the remainder had one or two young children. Two women had experienced prior divorces in their early 20s but no children were involved. Another participant had been divorced twice and had children with both ex-husbands (plus a stepson with the second husband). One woman was remarried, and two were cohabiting; the remarried woman had another child with the second husband and gained a residential stepson, too.

Table 2.1. *Demographics of Participants*

Initials & Present age	HE 28	SH 33	PA 42	AN 49	BR 41	SU 40	BE 31	JE 30	MA 50
Current marital status	Divorced	Re-married	Cohabit	Divorced (2x)	Divorced (2x)	Divorced	Divorced (2x)	Legally separated	Cohabit
Time (yr) since last divorce/separation	Few months	12	5	12	6	7	1	5.5	9
Divorce jurisdiction (general location)	Central MO (rural, small town)	Central MO (mid-sized town)	Central MO (rural, small town)	Central MO x 2 (small town)	Central MO (mid-sized town)	Central MO (mid-sized town)	KC area, MO (urban/suburb)	N/A	STL area, MO (urban/city)
Indicated* socio-economic status (SES)	Lower	Middle	Lower	Lower-middle	Middle	Middle	Lower	Lower-middle	Upper-middle
Sex (F/M), number, & ages (yr) of children at separation	2 Ms (3, 5)	1 M (6 mo) **	3 Ms (11, 13, 18)	1 M (5 mo) 1 F, 1 M (5 mo, 3) ***	1 F (19 mo)	2 Ms (2, 4)	2 Ms (6 mo, 3)	1 F (2.5)	1 M, 3 Fs (20 mo, 6, 7.5, 9)
*Based on reported annual incomes and education attainment.									
**SH also has an older stepson & younger daughter with 2nd H.									
***AN also has an older stepson from 2nd H.									

The ninth mother interviewed did not meet the criteria of moving home with her parents (they live outside of Missouri) during the divorce process. She was referred to me from an attorney-mediator I know because of her more extensive divorce legal involvement, and I

believed her experiences could add to variability and richness of the study results. I found that even with greater financial and legal resources than most other participants, many of her personal and legal experiences were consistent with others'. There was great disparity between her own and her husband's earning potential (i.e., homemaker with a graduate degree but limited work experience versus established attorney), and she described feeling trapped in Missouri because her ex would not consider letting her move away (with their four children) as well as confused and unsupported by the legal system.

Half of the ended marriages had lasted 4 or 5 years, with the remainder ranging from 1 to 19 years. Time since separation and divorce varied greatly. One participant had been legally separated for over 5 years (still married technically and not pursuing divorce currently), and another was separated for almost 5 years before the divorce was finalized. Otherwise, the women were physically separated for approximately 6 months to a year before they were divorced. Timing from divorce *filings* to final decrees ranged from 30 days to 1 year (in two cases each), with an average of 6 months. Some women were legally (two) or physically (three others) separated in other states, but all divorces were filed in Missouri. Divorce jurisdictions (presumably with multiple family judges in each county) ranged from rural to urban/city, with most divorce filings in central Missouri (rural area, with small to midsized towns).

Respondents were generally highly educated (only one had no college experience) and in a wide-range of occupations (during marriage and post-divorce), including homemakers, college students, nurse, administrative staff or clerks, and sales representatives. Annual income levels for the mothers (with one to four children each) immediately post-separation generally ranged between \$15,000 to \$30,000. All discussed experiencing financial problems and pressures as a result of divorce (one major factor why eight of the women coresided with their mother or parents during this time), but around half described similarly lower income levels during marriage. Three mentioned receiving public assistance post-divorce, and two have had to file bankruptcy. Four women's annual household incomes had increased significantly since their divorces due to either

remarriage (one woman) or to acquiring additional work experience and training. Although two other mothers indicated having received more extensive post-divorce support (maintenance and child support mix) compared to the other participants, both of their household incomes had markedly declined compared to when they were married (7 and 9 years ago). Despite often limited financial resources, all nine respondents utilized attorneys to some extent in their divorces, ranging from sharing a lawyer with their ex for scrivener (i.e., agreement drafting and checking) purposes to full representation.

Interview procedure and protocol. Potential new informants were screened by phone to see if they fit the study criteria. Mothers who chose to participate were presented with an MU Internal Review Board (IRB)-approved informed consent form (see Appendix A; the consent form was modified to incorporate this study within the original divorce coresidence project and was approved by IRB on February 23, 2004). I also first completed a practice pilot interview with another mother; however, the pilot data were not analyzed or included here. Participants were interviewed face-to-face in a private or semi-public setting (meeting rooms, coffee houses, or residences) between October 2004 and June 2005. Interview sessions took between 1 to 3 hours to complete (M=2.5 hours per participant).

The interview guide (see Appendix B, approved by IRB on September 24, 2004) was developed after reviewing extant literature and adapted from Jacob (1992) and Pruett and Jackson (2001) and focused on the participants' feelings, perceptions, and experiences regarding the legal system (defined in Chapter 1) during their divorce process. I employed a relatively conversational and flexible interview style, with more directive follow-up questions and probes to elicit more elaborate and detailed responses. Interviews loosely followed a chronology of a participant's (a) former marital relationship and other relevant introductory background; (b) positive and negative impressions, expectations, and experiences of the legal system; and (c) reflection on the roles of legal and family services-related professionals involved in the legal divorce process as well as her own role through the process. In addition, some questions were designed to reveal the extent, if

any, that legal/property rights norms versus social/relational norms influenced divorce negotiations and settlements. Finally, respondents (as insiders and outsiders to the legal system) were asked what divorce advice they might offer to a hypothetical friend considering divorce as well as what recommendations they had to improve legal system services or policies.

Four participants met with me again and were asked follow-up interview questions in order to (a) clarify points from the initial interview, (b) verify (member check) whether I accurately had grasped respondents' understandings of their own lives, and (c) explore more extensively some issues related to the evolving theory and themes. The interview protocol was modified as needed during the course of the study, particularly for the follow-up interviews (see Appendix C, follow-up interview guide). All interviews were audio-recorded and transcribed verbatim. I also took notes during the last few interview sessions to facilitate ongoing analysis and theory construction.

Analytic process, tools, and techniques for theory construction. Several analytic tools and techniques were utilized during the course of this study to (a) facilitate the data *winning* (reduction) and integration process, (b) provide me as the researcher with additional devices for thinking critically about the data and analyzing interrelationships among the data (Charmaz, 2003), and (c) help assure the rigor of the qualitative research process (Charmaz; Creswell, 1998). In the end, memo-writing has served as the most critical means of explicating how my own unique reactions (interpretations) and attitudes interplayed with the data over time, affecting the analysis process and derived conceptual account.

To help ensure that data collected were examined from other perspectives in addition to my own, peer review and member checks (Creswell, 1998) were incorporated. For member checks, follow-up inquiries were requested with some participants in order to solicit their views of whether I had grasped respondents' understandings of their own lives as well as the accuracy and credibility of (evolving) findings, interpretations, and conceptualizations (Pidgeon & Henwood, 1997). Also, each participant indicated she would like an e-mailed copy of this final

write-up, which may elicit further feedback in the future. *Peer reviewers* offer a fresh perspective and essentially play the role of devil's advocate, challenging interpretations, meanings, and conclusions the investigator has drawn from data, with the intent of helping push analysis forward to lead to new, more robust conceptualizations that the researcher alone might not have considered (Creswell, 1998). Peer reviewers, primarily my thesis advisor as well as the principal investigator for the divorce coresidence project, have scrutinized decisions I made during the research process and added essential insights regarding emerging concepts and themes.

Initial coding analysis began after the first interview was transcribed. Interview transcripts were examined and important passages marked or highlighted. Initial coding was done paragraph-by-paragraph. I asked myself neutral questions, such as "What category or property does this incident indicate? How is it unique? What label(s) are needed to account for what is of importance here?" (Charmaz, 2003; Glaser, 1992). I regularly reminded myself to look for concept diversity and assorted factors potentially relevant to process variation (i.e., how mothers differently negotiate/manage/cope with the legal divorce process). When possible, I relied upon respondents' own words (*in vivo* codes) in creating labels, categories, and properties.

Again, analytic memos (Charmaz) were utilized of ongoing insights, reflections, comparisons, summaries, and questions about the data. Records have been kept to provide an audit trail documenting project development. Consistent with the inductive research process, *constant comparative methods* were used to compare findings in various ways both across and within cases (Glaser, 1992). At times I would focus on intensely reviewing data for a certain respondent, then shift to examine related data across participants; shifting between different approaches helped stimulate my thinking when identifying patterns and concepts. Subsequent recoding occurred as interpretations of the data developed and evolved, and each new participant's data were compared with previous material to seek confirming and disconfirming evidence of emerging concepts (Glaser).

As coding progressed, I sought to tell a generalized story regarding factors that seemed related to participants' satisfaction level with the legal system and divorce process. Analysis then shifted mostly to theory development and focused, selective coding to synthesize and explain larger segments of data and fill in gaps. Brief member checks tentatively confirmed the fit and relevancy of evolving concepts. When the core category remained unclear and unfocused, returning to the data (rereading transcripts) and peer reviewer critiques helped ensure I was not forcing the data and encouraged ongoing analysis in a more grounded (not overly abstract) manner (Glaser). Building theory has required continuous interaction, back and forth, between examining the data, constructing conceptual schemes, and further data gathering (Charmaz, 2003).

Finally, some concrete strategies (see Morse & Richards, 2002) were utilized to facilitate data winnowing and to identify emerging legal divorce process variations, patterns, and themes. For instance, I drafted participant timelines (sequencing major events, emotional responses, turning points, and strategies described in the data), and I charted the trajectory (or course) of each respondent's story and compared and contrasted major events to identify any patterns, then looked for common antecedents and consequences. Lastly, I used diagramming and chart matrixes to explore the effects of the presence or absence of emerging concepts (variables) in combinations that appeared to contribute to the variants (dimensions) of the phenomenon of interest in order to construct typologies and theoretical models (Glaser, 1978, 1992). As analysis continued, this strategy repeatedly has been relied upon to check themes and findings and strengthen the eventual theoretical model and propositions.

Chapter 3

Results

The purpose of this study was to generate a grounded theory of separated and divorced mothers' perceptions of and experiences with the complex legal divorce process. The core theme that emerged was *divorcing mothers seek means of control throughout the legal divorce process*. Further exploration of the core category gave rise to emergent factors describing how mothers tried to manage legal divorce negotiations to gain control and their resulting degree of satisfaction with the legal system and divorce process. This factor list, which I refer to as the Divorce Control Efforts (DCE) Framework, is outlined in Figure 3.1. The DCE Framework contends that gaining or maintaining a sense of perceived control is critical for mothers to satisfactorily navigate and manage the legal divorce process. Mothers negotiate their divorce issues with both their ex-spouse and the legal system, and their general methods or means to help establish a sense of control in the divorce process can be delineated along a continuum from private/personal to legal/professional divorce approaches.

In this study, the term *private/personal divorce approach* refers to primarily utilizing nonlegal or personal (social) divorce resources and methods in seeking a sense of control and resolution, with only minimal interaction, if any, with legal professionals. As a caveat, each divorce contains some legal and public action or element because divorces must be filed in family courts as well as separation or dissolution agreements become a part of public record in divorce decrees; this holds true even for divorcing mothers classified under the DCE Framework as taking the private/personal divorce navigation path. In contrast, the term *legal/professional divorce approach* refers to utilizing primarily public or legal divorce resources and methods in seeking a sense of control and resolution. The scope of the terms *public* and *legal* here is consistent with this project's broad definition of *legal system* that includes not only attorneys and the court system but also other government, military, and social welfare agencies. Although some legal and social science academicians and practitioners consider judicially-determined, contested court

*DCE Framework: Factors Relevant to How Mothers Approach Legal Divorce and
Their Satisfaction with the Legal System and Divorce*

- Core category: Mothers seek means of control throughout the legal divorce process.

- Mothers negotiate a legal divorce with the ex and/or the legal system. Their general methods or means of seeking control can be delineated along a continuum from *private/personal* to *legal/professional divorce approaches*. Two interconnected, key factors were found that generally relate to how mothers frame the legal divorce and shape their perceptions and appraisals of legal divorce process experiences, interactions, and final decree:
 - Mothers indicated divergent themes regarding their *divorce control beliefs and expectations* as to who should be and who actually is in charge of managing their divorce process. That is, respondents expressed varying beliefs for divorce control role and strategy expectations they held for self in relation to the legal system. Three subcategories were identified regarding control expectations: *internal personal*, *external supports*, and *mixed/ambivalent*.
 - Mothers' evaluations of how to accomplish effectively key *divorce control goals* predicted their employed approach to divorce. *Divorce control goals* refer to mothers' specific objectives and intentions for how to establish a sense of control and get what they want throughout the divorce process.

- Related outcomes: Degrees of perceived control and satisfaction with the legal system and divorce
 - Respondents specified their overall level of satisfaction with the divorce process and legal system, and the emergent core category revealed that satisfaction relates directly to perceived control.
 - *Perceived control* is defined as successfully gaining or maintaining a sense of control and achieving key divorce control goals. Mothers' satisfaction depends on the extent to which the process and final decree fulfill their expectations and need for control.
 - Mothers' divorce control beliefs and expectations do not relate to their divorce approaches but do relate to their outcome perceived control and satisfaction levels. Mothers' employed divorce approach (i.e., the general means/way they try to meet goals) has little to do with whether or not they perceive gaining control, except as such indirectly influences evaluations of goal outcomes.

Figure 3.1. Divorce Control Efforts (DCE) Framework

cases as the only actual public divorce method (see Lichtenstein, 2000), divorcing couples' private negotiation settlements may be influenced significantly by legal resources or procedures

(e.g., the use of court-endorsed mediation programs or lawyers representing parties in negotiations); thus, the legal/professional divorce category encompasses all of these possibilities.

Results below are organized under two main sections to discuss interrelated key themes and findings relevant to (a) the core category of mothers seeking means of control throughout the legal divorce process and then (b) specific aspects of the DCE Framework. As final caveats, consistent with grounded theory methodology, no quantitative inferences from the sample distributions are being made to population characteristics of divorcing mothers as a whole (Charmaz, 2003). Although comparative adverbs (such as many and more) may be used, study results show a range of alternative processes that are illustrative of the developed core category and proposed framework. Also, to protect participants' and their families' identities, any names regarding quotes have been edited out, and ages at time of interview have replaced respondents' names. Similarly, time references to the present signify time at data collection and analysis.

Core Category: Mothers Seek Means of Control Throughout the Legal Divorce Process

Participants described a shared sense of the legal system as “scary,” “unfamiliar,” “intimidating,” and “anonymous.” They already felt stressed or “emotional wrecks” (e.g., ages 40 & 50), so when faced with having to confront such a scary or unfamiliar system, the mothers described seeking ways to try to gain a sense of control throughout the legal divorce process. Among the women interviewed, most expressed both positive and negative divorce experiences with and high expectations of the legal system. Mothers described perceiving the legal system as both a supportive resource and a stressor or barrier in divorce. However, participants varied considerably as to types of legal and nonlegal coping resources and strategies they relied upon as well as their general degree of satisfaction with the legal system and divorce.

Respondents commonly suggested that they found the legal system or their ex—one or the other—much easier to deal with and handle. Available data regarding negotiations with ex-partners indicated mothers viewed—similarly to the legal system as a whole—the ex-partner as a compatriot/resource or a hindrance/stressor through the legal divorce process. As one might

expect, the women typically emphasized their ex as a hindrance. One participant (age 49) pointed out, “You want the [legal] system to be your advocate, and by this time your ex certainly is not.”

Consistent with the mothers’ complex experiences, they at times expressed contradictory, paradoxical expectations of the legal system. Respondents agreed that the legal aspects of the divorce process were confusing, often overly complicated, and expensive. Thus, they again indicated experiencing the system as unmanageable and implied that they wished it would be more controllable. The mothers differed, however, as to whether the process should occur more quickly or slowly, with most believing it should be more accessible, easier, and quicker.

Following is a conceptual description of the core category of mothers seeking means of control throughout the legal divorce process. The conceptualization relates to different aspects or dimensions of legal divorce, that is, the divorce process, divorce outcome (final decree), and/or the ex-spouse. Respondents wanted to gain or maintain a sense of control throughout the legal divorce process, describing diverse divorce goals related to control as well as different means or ways of establishing control. The various divorce control interests and strategies outlined here also exemplify interconnections among mothers’ needs for control and DCE Framework factors related to their divorce approaches and outcome degrees of satisfaction and perceived control.

Diverse goals related to control. Participants described diverse divorce goals related to gaining perceived control in order to re-establish a life of their own with their children. Women’s varying divorce goals stemmed from control concerns related to (a) custody preferences and prohibiting or encouraging ex’s access (protecting children); (b) minimizing or avoiding conflict; (c) physical safety or distance from ex; (d) financial stability (e.g., child support, maintenance, marital debts and property); (e) fears of inequitable divorce bargaining and decree terms; (f) closure, resolution, or clarity; and/or (g) power and authority over ex (including punishment and accountability). Respondents consistently sought physical and/or legal custody and emphasized that their children’s best interests was their main concern in divorce. All continued as residential mothers, but two (ages 31 & 50) agreed to share physical custody with their ex-spouses.

Respondents' accounts often referenced the terms fairness, protection, and control interchangeably. Actually, power/authority/control as well as security/protection first emerged in analysis as relevant when I coded mothers' responses clarifying what they meant by the often-mentioned expectation for legal divorce fairness. Themes of fairness, protection, and control expectations and efforts initially were refined and treated as distinct constructs, but further data analysis led me to the realization that seeking control formed the core category most salient to participants' experiences. That is, where mothers described feeling unprotected and experiencing unfair treatment in the divorce process, they really were describing feeling out of control; conversely, where mothers described experiencing fairness and protection, they also would describe feeling in control through the divorce process and decree outcome. Some examples of mothers' diverse divorce control goals identified above are included here as follows.

(A) Across the board, participants shared the goals of retaining custody of children and regulating (prohibiting or encouraging) ex-spouses' access. For example, "I understood that [the kids] cared about [their father] and would love him, but I wanted the children with me. I felt that was the best" (age 49). As another respondent (age 41) stated, "I've got the most maternal instinct in the world. . . . [My ex] loves [our daughter] but has no paternal instincts." Finally, the 31-year-old mother volunteered her take on the common "mothers are best" assumption and why she wanted to facilitate her ex's relationships with their children:

[With divorced parents], the mother should have custody of the kids. That's what I thought when I was first getting divorced. But then I thought, "Wait a minute. He's a good dad. Who am I to say that I'm the best person to raise them alone?" . . . I think that [my mom] thinks maybe I'm giving up part of being a parent by allowing him to have some of that responsibility. . . . My biggest issue was the boys' relationship with their father. Because my dad wasn't in the picture, to me that is something very important.

(B) Several mothers mentioned the goal of avoiding or minimizing conflict, often in relation to retaining control of children. For instance, "I just wanted to get out of it the least amount of

conflict. . . . My kids, that's my big deal. Property was nothing. . . . I let him have the horses, the house, most of the stuff. I don't care" (age 28). (C) And illustrating the goal of gaining safety from the legal system, the 33-year-old mother stated, "My husband was very abusive. . . . I wanted [the system] to defend [and] protect me . . . and my son. To make him stay away."

(D) Regarding goals to (re-)gain financial stability, a mother (age 49) described, for instance, "I wanted the ability to keep my home so that I could afford to take care of four children." "To not be bound to anything he's had going on [regarding] my credit history" (age 30). And "I wanted to [financially] protect me and the kids, . . . concerned my ex would 'screw me,' [had] to be able to take care of the kids and get by" (age 40). (E) In relation to this were women's perceptions and goals concerning equitable divorce negotiating and decision-making power. For instance, the 31-year-old mother stated, "Without [my lawyer's] protection, I'd have to go with whatever [ex] said." "It's not about getting it all; it's about what's fair" (age 50). And "I tried to compromise with a lot of things, like joint custody, . . . but I still have the upper hand on things, I think. . . . Because I make more of the decisions. I have more knowledge of what needs to be done [with] the kids. . . . I should have more say so, and he knows that" (age 28).

(F) Respondents also described goals for gaining closure, resolution, or clarity. One woman (age 40) said she filed for divorce because "I felt like we needed to have closure." Another mother (age 41) lamented her ongoing sense that she has "Never had any real clarity from the legal system, . . . what exactly are his parental rights [vs. mine]." And the 28 year old described, "I would just rather be done and things be set the way they're going to be set, and that'd be it. . . . I don't want to be around my ex anymore. . . . I wanted out." (G) Lastly were some mothers' goals related to gaining power and authority over ex. For example, "The judge was tired and frustrated with [my ex]; he scolded him; that was the good thing" (age 41). And the 50-year-old former homemaker with four children, said,

He made decisions about busting up our family and doing pretty illegal things or immoral. Whatever. I think they're on the edge of being illegal. If he knew from Day One

that if he did that shit it would come out in front of a judge, he'd think twice. I don't think he thought about it at all because he knew there was no consequence in the scheme of things. . . . Not to punish him, . . . but [my ex] should be held accountable for his choices, admonished. . . . No-fault divorce is bullshit. . . . His decision changed everyone else's lives except his own, . . . should face the consequences.

Diverse means of control. Participants described negotiating directly with their ex and/or using the legal system to negotiate and resolve their divorces, with legal attorney assistance ranging from brief consultations to full legal representation. Mothers would seek legal education and advice from diverse legal and nonlegal resources, including attorneys, counselors, and personal/social networks. They described different ways of establishing control to try to meet one or more of their divorce goals. Some related examples are included here as follows.

Gatekeeping. Participants described efforts related to goals for custody preferences and gatekeeping or regulating access and distance between ex and children. As an example of prohibiting access, the 28-year-old mother made an agreement with her ex that "I'll take less child-support and he can see them less. . . . I don't want them to be exposed to him any more than necessary because of how he is." In contrast, another respondent (age 40) described encouraging closeness (e.g., by complaining and intervening), "He wasn't consistent in taking the kids. . . . I started being more unyielding, requiring him to step up more. . . . It's like he's never made a home for them, so how are they going to feel they belong or are a priority in his life? Anytime I say those kinds of things, then 'I'm meddling; it's got to be my way.' . . . I navigate [the kids'] relationship with him."

Gaining distance: Safety, closure, and "forum-shopping." The respondents also described control efforts related to establishing and maintaining distance between themselves and their ex. For instance, the 33 year old stated, "The self-empowerment of moving away [from ex] and standing on my own two feet—sort of—with Mom and Dad [*laugh*—helped my confidence come back and to feel in control again." Several mothers discussed physically leaving their ex

and/or filing for separation or divorce in efforts to gain safety and/or closure. Actually, four women (nearly half) moved back to Missouri at separation from other states to return to their extended families but also to file for divorce because they had heard or “knew” it was easier to divorce in Missouri and that the courts were pro-moms (as of 7-25 yrs ago). As a 41-year-old woman stated regarding “forum-shopping” and making the smart move to come home, “I know [this county] court system, . . . and it still favors the mother.”

Getting prepared. Lastly, mothers described ways of seeking control related to goals for financial stability and negotiating equitable divorce terms. Respondents' efforts to feel empowered and better prepared in divorce negotiations included, for instance, the experiences of the 30 year old when she “had been testing out things with friends, talking to a lawyer [about] budgets and custody. Trying to come to a conclusion, ‘Well, if I do this, is he going to fight me? Even if he does, what is the likelihood that he stands a chance?’ Once I made the calculations best I could, I approached [ex about separating].” Another woman (age 31) explained, “[My ex] was irritated that I [got a lawyer], but I had to make sure that I was protected too. . . . My attorney was there to . . . support [me], let me know I can do this, just make sure that everything was ok.”

In sum, separated and divorced mothers’ efforts to seek control throughout the legal divorce process underlay and pervaded interview data regarding how they navigated and managed the intimidating, unfamiliar legal system and legal divorce. Results reported in the initial portion of this chapter also contribute supportive weight and grounding to the DCE Framework.

Divorce Control Efforts (DCE) Framework Factors

Consistent with the described complexity of participants’ experiences, the DCE Framework (see Figure 3.1) identified key, interconnected variables relevant to how mothers approach navigating and managing the legal divorce process. Mothers’ satisfaction with the divorce outcome was dependent on the extent to which they met their specific expectations for gaining or maintaining a sense of control. Although respondents shared a desire for control in legal divorce, they took varying approaches in attempting to achieve their unique goals. Results

relevant to DCE Framework factors are outlined below. Additionally, the family context and level of support seemed to relate to divorce approach, perceived control, and divorce satisfaction. See Table 3.1 for an overview of how participants were classified for key framework variables.

Divorce control beliefs and expectations. The mothers indicated divergent beliefs regarding divorce control role expectations they held for self in relation to the legal system. That is, mothers' divorce control beliefs and expectations consider their legal divorce beliefs and expectations as to who should be and who actually is in charge of managing their divorce process. For this study, participants generally can be delineated into three categories regarding control expectations: internal personal, external supports, and mixed/ambivalent. Individuals with *internal personal control expectations* believe that accountability for personal circumstances and managing legal divorce is attributed chiefly to oneself as well as that they have considerable self-efficacy (agency) to manage divorce. In contrast, individuals with *external supports control expectations* believe that accountability for personal circumstances and managing legal divorce is attributed chiefly to the legal system as well as that they have little self-efficacy to manage a divorce. Lastly, individuals within the third mixed category demonstrated aspects of both and/or ambivalence about internal personal and external supports control.

Internal personal control expectations. Three participants (ages 31, 33, & 49) seemed to believe that the legal system was an institutional resource or tool for them to utilize (at their discretion). The women consistently indicated believing that they should be and were in charge of the divorce process and negotiations, but legal professionals and authorities to varying degrees were expected to assist them. For instance, one respondent (age 31) described,

With my lawyer, [I did] not really [get] a whole lot of advice. I went in there with what I wanted, or acted like I knew what I wanted, whether or not it was the best thing for me. . . . I didn't expect miracles from [the system] or [for] them to figure something out for us. . . . I expected them to be okay with what we came up with.

Table 3.1. *Participants' Employed Divorce Approach, Satisfaction Level, and Related Factors*

Specified Degree of Satisfaction (Whether gained/maintained sense of control & met divorce goals)	Present Age & Initials	Employed Divorce Process Approach: Legal/Professional vs. Private/Personal		Internal Personal/ External Supports/ Mixed Control Beliefs & Expectations (I, E, M)	Weight of Key Divorce Goal(s): Toward the Legal/ Profess or Private/ Personal Divorce Approaches (LP, PP)	Attorney Investment & Experience (Related to family context/support)
		Legal/ Profess	Private/ Personal			
Dissatisfied overall with legal system & legal divorce	40 – SU		X	M	PP- avoid conflict & (quick) closure; co-parent in recent yrs (ex resists outsider intervention)	Scrivener only, cheap lawyer
	28 – HE		X	E	PP- avoid conflict & (quick) closure; co-parent at 1st, then authority over ex	Cheap, supposedly fine lawyer*
	50 – MA	X		M	LP- authority over ex (unequal bargaining power w/ legal insider ex)	Very expensive, experienced lawyers
	42 – PA	X		E	LP- authority over ex & financial stability	In-experienced lawyer*
Satisfied overall with legal system & legal divorce	33 – SH	X		E to I	LP- safety & distance	Experienced lawyer
	49 – AN (div x 2)	1st div	2nd div	E to I	1st – LP- safety 2nd – PP- co-parent & avoid conflict	“Very good” lawyers (pre- & post-1st div)
	31 – BE		X	I	PP- avoid conflict & co-parent	Low-cost, honest lawyer
	41 – BR	X		E	LP- resolution, clarity, guidance, & authority over ex (resigned ex erratic w/ debts; hoped LS collect)	Retained multiple, experienced lawyers**
	30 – JE		X Sep only	M	PP- distance & avoidance (ex dishonest & unreliable)	Experienced lawyer, trusted family friend

*More than HE and PA really could afford and felt overcharged and underrepresented.

**BR has switched law firms if she felt they did not fit her needs and would not fight for her interests.

In the other two cases, young age at divorce, limited experience with the legal system and negotiating, and/or safety concerns that were involved in both women's first divorces seemed to

affect their control expectations and beliefs and divorce negotiation strategies. The mothers' reported initial divorce stances overall fit not feeling in charge and relying on external supports, yet, as time continued and they matured, underlying expectations and preferences for internal personal control and staying in charge became evident through post-divorce negotiations. As the 33-year-old respondent revealed,

I felt like my job was to do what [my attorney] told me to. . . . That's where maturity comes in [*laughing* as she says, "No, *I'm* paying *him*"], but . . . he was the quote expert, . . . [and] I couldn't go forward until he filed the paperwork. . . . Now, I think it would really fall on me because I'm personally responsible for [me]. . . . I can choose to hire someone to help me, or I can choose to do it myself. But it's ultimately my responsibility.

External supports control expectations. Three participants (ages 28, 41, & 42)

consistently suggested believing that the legal system was an institutional authority, and professionals (as experts and enforcers) ultimately should be in charge of the divorce process and would or should protect them. Exemplifying this category, for instance, one mother (age 28) observed that divorce was "a more complicated [process] than what I thought. . . . I just thought . . . you put whatever . . . property you had [and] what you wanted with the kids in writing, . . . give it to the judge, and he would split things in half, and that would be that." Another respondent (age 41) emphasized that in divorce, "You don't really think. You just let the lawyer take care of it. . . . But it's okay—as long as you have a good lawyer. . . . Even though they might not want to, [lawyers] have to hold your hand through the whole thing." She also declared, "Everything I did was right exactly what I was supposed to do, legally. I did not deviate. I followed everything [my attorney] told me to do." In addition, the 42 year old asserted,

A judge needs to know some things and to ask instead of waiting for attorneys to put forth that info because, in my case, there was a lot my attorney did not. My kids paid for it. . . . With just a few simple questions the judge would have found out a whole different side of the story. . . . I think that each side can present their side and what they want, but

then the judge should ask questions [and] make a decision. . . . He's the finalizer.

Mixed/ambivalent control expectations. Finally, a few respondents' descriptions (ages 30, 40, & 50) revealed a mixed or ambivalent control beliefs category. Consistent with predominant cultural values of internal control and independence, most mothers suggested believing they should and wanted to feel in charge and in control, whether or not that seemed possible or actually occurred. But a few women, in particular, communicated mixed messages about what they really expected in the divorce and from the legal system and/or explicitly acknowledged ambivalence toward control. For instance, the 40 year old plainly expressed her hesitancy in "confronting issues" regarding whether and how much legal control and guidance are needed and desirable. "On the one hand, I think it's easier to live with gray area. On the other hand, it isn't." Another mother (age 50) stated wanting control of the divorce process but repeatedly emphasized she expected her attorney to have more clearly guided her in decision-making:

I felt like I had no control [over the legal process]. . . . What did I know [about selecting a lawyer]? . . . When an emotional wreck and scared, my listening and processing skills become very poor. . . . I thought about bringing [someone in] who can break stuff down into very simple terms . . . interpret what the lawyer is saying. 'This or that is what you should do, because, no, you can't do that.' Ultimately, it does have to be your decision. [But] I couldn't negotiate with my ex. So ultimately it was better through the legal system for me. . . . They would explain [ex's offers]. But my attorney never said, 'I think we should do this.' I felt like whatever negotiating being done was on behalf of [ex].

Control beliefs and expectations, divorce approaches, and satisfaction. One might expect clear differences between mothers' control beliefs and expectations trends and the private/personal and legal/professional divorce approaches groups. However, in this sample of nine women, no such differences were revealed in respondents' accounts. Mothers' control beliefs and expectations did not seem related to their utilized approach to divorce but did seem clearly related to degrees of perceived control and satisfaction with the legal system and divorce.

Most of the respondents who expressed believing the legal system should be and was in charge of their divorce or mixed/ambivalent control expectations indicated dissatisfactory legal divorce experiences that were associated with a sense of helplessness, powerlessness, or feeling trapped. These mothers' accounts indicated ambivalent, contradictory legal system expectations that could not be met and/or high expectations for protection from legal professionals that were unfulfilled, and they were left disappointed. It makes sense that mothers who, for example, suggested that their family situation was out of control or felt deserted and betrayed by their ex might be more likely to turn to the legal system, expecting it to instead protect them (also, at times, punish or control their ex-spouses) because they, essentially, were unable to protect themselves with their ex.

In contrast, the respondents who expressed believing they should be and were in charge of their divorce each indicated satisfactory legal divorce experiences. Moreover, satisfied mothers' accounts suggested that they took effective measures, appropriate to their unique circumstances and legal divorce expectations, to increase their sense of preparedness and empowerment in managing the divorce process to the best of their ability. These measures included obtaining sufficient legal and nonlegal guidance and support from trusted sources to whatever extent was needed and desired. Cognitive strategies, such as reframing and letting go, also were utilized to aid in coping; for instance, one mother (age 49) repeatedly remarked "one cannot control others" when referencing her second husband with whom she tried to reconcile, but he apparently was not receptive.

Divorce approaches and satisfaction trends. Participants were classified as taking either the legal/professional or the private/personal approach to divorce, as defined previously. Divorces categorized here as legal/professional (five in total) generally were described as private settlements with some outside legal consultation or support. Respondents indicated utilizing attorneys primarily as shuttle negotiators (i.e., communication conduits between ex-spouses) and scribes, with limited direct representation in court or face-to-face negotiations. Only the 50-

year-old former homemaker with four children described relatively extensive legal system professional involvement in her case, denoting in this sample the extreme legal/professional end of the divorce approach spectrum. The mother received full representation in her divorce settlement as well as when she took her ex back for a court hearing years later, with a different attorney, over divorce decree disputes. Other women chiefly negotiated directly with their ex-husbands with little outside legal support, classifying their divorce approach as within the private/personal category (also five in total). Epitomizing the private/personal approach, one woman (age 31) worked out a parenting plan with her ex over lunch. Although this participant also hired an attorney to check over the agreement, she described relying mostly on her psychologist for her legal divorce education.

Despite limited financial resources in many cases, lawyers were utilized to some extent in every participant's divorce, with one or both spouses being represented. Respondents also touched on valuable interactions with other legal system members, such as Child Support Enforcement (CSE), Focus on Kids (a divorcing parent education program), and court clerks. For better or worse, participants suggested that judges generally played only nominal roles in their cases. All of the mothers' divorces did settle privately prior to court, with agreed divorce terms incorporated into the final decree. However, one woman's first ex-husband had contested their divorce, resulting in a brief hearing before the divorce went through as expected, and a few other mothers indicated that their divorce agreements had not been finalized until "on the courthouse steps" (figuratively or literally), when final concessions were made regarding previously unresolved support or property conflicts (thus strongly suggesting lack of true shared agreement).

Satisfied (five) and dissatisfied (four) mothers were evenly split between the two divorce approaches (as the 49 year old specified she was satisfactorily divorced twice, utilizing each approach once). Half (five) of the participants' divorces generally fit within the legal/professional divorce approach, with two respondents consistently expressing dissatisfaction with their legal divorces and the legal system (ages 50 & 42). The other three mothers (ages 49, 41, & 33)

indicated they were fairly to very satisfied overall, although one (age 41) gave a few mixed messages about this. The 49-year-old mother's second divorce, in contrast, was private/personal, as were those of four other participants. The satisfied, private/personal group also included the 31 year old as well as the 30 year old who had remained legally separated after 5 years and, thus, had not progressed far in the legal divorce process, continuing to rely on a mostly private, partial resolution (i.e., physical distance and avoidance) to end her marriage. Two other mothers, again, were dissatisfied with their private/personal divorce experiences (ages 28 & 40). But the 28 year old suggested in her initial interview that she felt a moderate level of satisfaction with her divorce at the mid-point, then expressed acute dissatisfaction in her post-divorce follow-up interview.

Interestingly, six of the nine divorces filed were initiated by the mothers, including the three satisfied women who took a legal/professional divorce approach (while for the satisfied women in the private/personal group, both of their ex-spouses filed). Three of four dissatisfied women also filed, but two were done "in defense" as a last resort or preemptive strike, with the control intent of protecting themselves. All five of the women who indicated overall satisfactory divorce experiences were separated or divorced (with or without children) by their early to mid-20s; for the three who were divorced a second time (all with children), their separations occurred by their early to mid-30s. The other four mothers, who indicated consistently dissatisfactory divorce experiences, were divorced only once, and their ages ranged from late 20s to early 40s (specifically, 28, 34, 38, & 41, although the last was separated at 36). Additionally, relationship lengths (time together with ex) for the satisfied women all were 5 years or less, but relationship lengths in the dissatisfied group ranged from 7 to 19 years, indicating greater marital investment.

Divorce control goals and divorce approaches. *Divorce control goals* are defined as mothers' specific objectives and intentions for how to establish a sense of control and get what they want throughout the divorce process. Mothers' evaluations of how to accomplish effectively key divorce control goals seemed to predict their employed approach to divorce and indirectly influence their divorce process experiences. As indicated previously, participants consistently

expressed divorce control goals related to retaining custody of their children and (re-)establishing financial stability, but they demonstrated varying preferences in utilizing legal guidance and protection in order to try to achieve these goals.

However, certain divorce goals emphasized by mothers did seem related to divorce approach preferences. For instance, respondents in the private/personal divorce approach group commonly indicated divorce control goals regarding (a) avoiding or minimizing conflict with their ex, (b) quick divorce closure or resolution, and (c) ongoing co-parenting relationship with their ex. In contrast, respondents in the legal/professional divorce approach group commonly indicated divorce control goals regarding (a) physical safety, (b) clarity or resolution of legal/property rights, and (c) power and authority over ex.

The case of the legally separated mother (age 30) most clearly illustrates how participants' key divorce goal(s) influenced their employed divorce approach and indirectly related to resulting satisfaction levels. This participant had extensive post-separation work experience in law enforcement as well as legal training, and she seemed confident in her ability to manage the legal system and protect her rights. However, she still displayed great reluctance to take charge of the divorce, relying instead on avoidant strategies like physically distancing herself from the ex. Only if and when there were signs that her ex may re-enter the lives of she and her child did she consider divorce to be a pressing issue. A key element in this case was that apparently her ex did not believe in responsible financial planning, or even filing income taxes, and had proven to be both unreliable and dishonest. The respondent's own pregnancy was quite a surprise for her considering her ex had said that he had had a vasectomy before they became a couple. As she put it herself,

If I could just do it [the divorce] by myself, it would be done. . . . [There's nothing from our marriage] that he could challenge me on, that I was ashamed about. . . . I don't have apprehension of going into the system and getting what I want out of it. I start to freak out about . . . dealing with him and the system [because he will] not show up, not sign

things, come up with weird, crazy excuses [*visibly tensing up*]. . . . I'd as soon he just went [and stayed] away. Eventually, [I'll] have to get it legalized, but . . . I'm hoping he will want to remarry . . . because then he'll want [it] to happen.

Thus, this mother's key divorce goal was gaining distance from her ex (rather than closure, etc.), and she apparently determined that utilizing the private/personal approach of legal separation and physical avoidance was most effective. Moreover, her divorce control goal has been met (to date) as long as her ex has continued to cooperate by staying a great distance away.

Family context and level of support. A final distinction between the legal/professional and private/personal divorce approaches relates to cost. The former approach logically requires comparatively greater financial resources be available and invested in legal assistance. In contrast, for women who take the latter approach, they may deem attorney costs as unnecessary or a non-issue and/or prohibitive to divorcing. In this sample, all but one of the participants' families directly and/or indirectly contributed support for their legal assistance, potentially influencing the women's selected divorce approaches and certainly affecting mothers' divorce process experiences and sense of control.

In general, participants consistently referenced the critical importance of helpful family, friends, and religious/spiritual communities for successfully managing the divorce process. Such social networks provided ongoing emotional, psychosocial, and practical support. The mothers indicated that helpful resources were perceived as providing aid in a caring and respectful manner and without strings. Unhelpful assistance was described as a significant stressor, exacerbating divorce process problems and strain. One dissatisfied mother (age 28) consistently emphasized how conflicted-family relationships hindered her ability to manage or control the legal divorce. She described feeling trapped, with no trusted legal or nonlegal resources to turn to for help.

I think I'm going through a worse time putting up with my mom than the whole divorce. It's actually worse living with her than [expected] [*laughs*]. I thought she would be a little more supportive, but no, she talks in front of my kids like I have no common sense, tries

to override me, or doesn't agree with anything that I have to say. . . . But I have nowhere else to go. I could care less about my ex, didn't upset me to leave him. Still, financially it's a mess, [had] to file bankruptcy. [I really need] some support, any positive support. Lack of support or perceived resources seemed to hinder coping and negatively affected divorce process experiences and, in turn, outcome satisfaction levels. Otherwise, preexisting family conditions or mothers' demographic characteristics (e.g., education, SES) did not appear in this sample to influence participants' divorce approaches or degrees of satisfaction.

Perceived control: Legal education, divorce process, and final decree experiences.

Interviewed mothers indicated quite diverse understandings of legal rules and procedures and divorce options for support, custody, and visitation. Many received anecdotal legal advice and information from nonlegal sources, especially friends, relations, and other divorced parents. Overall, the women's narratives suggested they had received limited reliable legal divorce education prior to or during their legal divorces. Even when respondents retained lawyers for full representation, the women generally negotiated divorces with their ex-spouses without extensive education regarding rights and options. At least at the time of their divorces, most did not seem overly concerned about this, partly because they relied on their lawyers to protect them but also because a few suggested that they were more concerned with relational interests and goals rather than legal or property rights. For instance, the 28-year-old mother stated during her initial interview (mid-divorce),

I think [my lawyer's] more hard up on getting stuff [*laughs*] to benefit me than I actually was, which is good. . . . I mean I had to talk her into coming down on the child support.

She said, "No, you really need to keep it up here, and I wouldn't give him this [or] that."

[But] I'm not going to be that greedy and leave with him with nothing. It is the kids' dad.

However, limited and sometimes skewed available comparison information likely affected control efforts by (a) helping shape the women's legal system expectations (lowering or raising them); (b) contributing to negotiation challenges in gauging what to expect for their

children or themselves as fair, right, reasonable, or protected under law; and (c) potentially influencing later satisfaction degrees. And one participant (age 49) aptly pointed out that advice-seeking often can be self-selective and reinforcing, rather than educational reality-testing: “I spoke a lot with my preacher [and] my parents. There were friends that would be supportive of whatever I would decide [and] didn’t try to give me impressions one way or the other too much. There were some that pushed for this or that. At the time, you gravitate toward what you’re wanting to do versus anything else, so I remember sometimes avoiding some people [laughs].”

Attorneys typically were described as too busy and expensive for the women to ask many of the legal or divorce-related questions that they had (or still have). Only a couple of respondents in the legal/professional divorce group described being carefully prepared for what to expect through the divorce process and while in court, including potential obstacles or setbacks. On the other hand, most of the women could not afford (even with family assistance) expensive legal advice and hired attorneys whom they had found in the phonebook or had heard about from a friend—generally without interviewing them first regarding their experience and competence in divorce law (or lack thereof). But almost all of the women who took either approach recalled some helpful piece of advice or information offered by their attorneys to make better informed decisions and avoid some likely future potential problems.

However, two mothers (ages 28 & 50) expressed strong distrust of the legal process and their attorneys prior to divorce as well as described considerable dissatisfaction with their divorce outcomes linked to failing to gain a sense of control. The women’s narratives indicated their divorce experiences and outcomes were tainted (affected) by reported legal system distrust, yet the distrust did not seem to significantly influence their divergent selected divorce approaches. The 50-year-old respondent acknowledged in her case the important compounding factor of “How [could] I trust my attorney? I don’t trust my husband [a lawyer].” The 28 year old indicated her perception of perceived control actually changed—for the worse—during divorce process experiences, as reflected in that her very negative descriptions of attorneys and the legal system

significantly increased post-divorce. But as a twice-divorced, 49-year-old mother (who placed herself in the trusting category) pointed out about the legal system, “It’s all or nothing. From what I have been exposed to, either you really have a big faith and trust in it, or you think it’s the world’s worst, people are always against you and out to rip you off.”

Most respondents across both divorce approaches did not suggest that legal system professionals, or the legal divorce process, specifically changed their relationships with their ex, for better or worse. However, available data included some limited evidence that divorce process experiences with attorneys and courts did seem to affect mothers’ perceived degrees of control and satisfaction with the divorce and legal system—even when they would have no effect, either positive or negative, on the decree outcome. The “human factor,” as one woman (age 33) described it, seemed to play a critical role in mothers’ interpretations of interactions with legal system members. That is, legal professionals and staff who could build rapport, communicate interest and respect, and listen carefully to the respondents and their concerns were seen, unsurprisingly, as the most competent and helpful (and vice versa for those who could not).

Satisfied mothers focused on positive control goals or efforts achieved in the divorce process and final decree, such as gaining closure or resolution, desired custody arrangement, and/or physical distance and separation from their ex-partners. One mother (age 49), however, suggested that her first divorce attorney exacerbated problems between herself and her first ex until he became immovable.

Though the attorney was very, very good, he pushed me to get more than what I really wanted. I know that sounds stupid, but . . . money was not the object. The object was the safety of my family and . . . for them to have joy in their life, be happy. . . . My lawyer was quite adamant, . . . and it furthered heightened the problems between my ex-husband and myself. [So] problematic in fact [that] . . . he was like, “I’m not giving you another dime. It’s not happening.” [It] bothered me that I couldn’t get things worked out to where we could be amiable, as a man and woman; that’s hard on the children.

But this mother also described this attorney as very good as well as indicated positive court process experiences. “The judges were pretty straightforward [in both divorces], and I think they paid attention.” And “I appreciated that I felt safety there” when her first ex apparently became very upset and unruly and the judge enforced court decorum.

Yet, women in the dissatisfied category emphasized or implied that, even though the legal system did not change or worsen their ex-spouse relationships, legal professionals failed (in relation to their ex) to properly protect them or their children. Dissatisfied respondents described feeling ill treated or disrespected by lawyers or judges, who apparently did not listen to or express genuine interest in their underlying needs. For instance, dissatisfied mother (age 42) from the legal/professional group focused on how indifferent the judge seemed each time they were in court (before finally settling). “Several times I thought, ‘This was crazy.’ When does the man even look up? We could’ve been dressed like Bozo the Clown or walked out, and he wouldn’t have known it. ‘Wow, these people are sooooo interested.’” Lack of protection (i.e., lack of perceived control) in divorce generally was attributed to inadequate or nonexistent legal guidance from representation and/or the court failing to intervene to prevent unfair and improper divorce settlements and legal decrees.

Summary

In sum, the women indicated a broad range of both positive and negative legal professional interactions and divorce process experiences. Respondents who took either the private/personal or the legal/professional divorce approach found that it led to satisfying as well as dissatisfying legal divorce and legal system outcomes. Although women’s approach to divorce did not in itself directly predict satisfaction levels, mothers who seemed to have followed a divorce path they were comfortable with expressed higher legal system and divorce satisfaction (i.e., approach preferences matched actual divorce experiences). Whenever mothers gained a sense of control in managing the divorce process, it increased their satisfaction degree. Also,

respondent narratives demonstrated that legal process experiences—particularly the quality of attorney interactions and representation received—contributed to their satisfaction level. Lastly, whether mothers' expected goal outcomes were met through divorce process experiences and the final decree consistently affected satisfaction levels with the divorce and legal system.

In conclusion, relevant results grounding DCE Framework factor variables have been outlined. All participants demonstrated seeking means of control throughout the divorce process but in varying degrees and ways. Mothers' divergent divorce goals and approaches to divorce did not seem to necessarily predict resulting degree of legal system and divorce satisfaction. Yet, participants' accounts suggested these factors, along with women's divorce control beliefs and expectations, reflected preferences for how the divorce process should be navigated to establish a sense of control and contributed to their appraisals of their divorce experiences and final decree as to whether their expectations and needs for control were met. Discussed variables help explain what approaches divorcing mothers will take as well as how the factors regarding control efforts interactively influence mothers' outcome level of satisfaction with the divorce process and the legal system as a whole.

Chapter 4

Discussion and Conclusions

This study explored divorcing mothers' perceptions of the legal system and divorce in order to develop a grounded theory based on their experiences of this complex process and culminated in the construction of the Divorce Control Efforts (DCE) Framework. Women negotiate divorce seeking to establish a sense of control. I have found that navigating the unfamiliar, intimidating legal system contributes to divorce-related stress, uncertainty, and sense of powerlessness that many divorcing women experience. Although many aspects of legal divorce remain out of their hands, mothers can successfully gain or maintain perceived control.

DCE Framework: Theoretical Factor Framework and Propositions

An important finding of this study is that mothers actually negotiate their divorce issues with both their ex-spouse and the legal system. Their approaches to divorce can be delineated along a continuum from private/personal to legal/professional divorces. Mothers in the legal divorce process seek to establish a sense of control through legal and nonlegal resources and means. In general, internal personal control beliefs and expectations more likely will lead to gaining or maintaining perceived control, in turn increasing outcome divorce and legal system satisfaction. In order to describe some key factors affecting how mothers may navigate legal divorce, I have developed the following DCE Framework propositions, based on (i.e., grounded in) participants' accounts, to be tested or explored with further study inquiries:

1. Mothers seek control throughout the legal divorce process.
2. Mothers' satisfaction with the legal system and divorce outcome depends on the extent to which the process and final decree fulfills their expectations and need for control.
3. Mothers' divorce control beliefs and expectations as well as their divorce control goals relate to how mothers frame the legal divorce and shape their perceptions and appraisals of legal divorce process experiences, interactions, and final decree.
4. Holding internal personal control beliefs and expectations is more likely to lead to perceived

- control in divorce and a satisfactory divorce outcome than holding external supports or mixed/ambivalent control beliefs and expectations.
5. Either the legal/professional or the private/personal divorce approach can lead to a satisfactory divorce outcome as perceived by mothers.
 6. Mothers' evaluations of how to accomplish effectively key divorce control goals predict their employed divorce approach.
 7. Mothers will experience increased outcome satisfaction when their preferred divorce approach is consistent with the actual approach utilized and process experiences in their divorce.
 8. Mothers' access to and use of available helpful in/tangible family support is positively correlated with their degree of satisfaction with the legal divorce process.
 9. Although the presence of children may affect mothers' negotiation goals and strategies with ex-spouses, the number, age, or gender of children will not affect their mothers' approach to divorce or satisfaction outcomes.

Finally, some general assumptions and caveats to the DCE Framework, based on extant divorce literature and consistent with applicable, available project data, are as follows. As indicated in Chapter 3, respondents were classified according to predominant patterns indicated in the data (through words spoken, actions described, and interview nonverbals). Each participant indicated some degree of positive and negative experiences with the legal system during the divorce process, and all respondents at least consulted with an attorney through their divorces. Identified framework factors are guided by subjective perception, so the strength of a variable's influence depends on how an individual mother frames a situation or the circumstances surrounding it. Final divorce decree terms may be objectively comparable, yet subjectively judged based on personal expectations. Perceptions of divorce satisfaction level outcomes may vary over time, particularly with subsequent legal or private divorce (re-)negotiations and other legal system experiences. Individual and family characteristics and available resources represent

preexisting circumstances that relate to psychosocial coping, legal divorce outcomes, and divorce adjustment in general.

Research Implications

The mothers' narratives support extant literature (Dohrenwend, 2000; Holmes & Rahe, 1967; Sweeney & Horwitz, 2001) that divorce is a complex, stressful process, especially when it seems like an uncontrollable experience for those involved. As analysis for this project progressed, more and more codes emerged related to the central importance of perceived control for the women—both over situations and a sense of personal mastery (Dohrenwend; Sweeney & Horwitz). Fairness and protection needs seemed key as well, but seeking control persisted as the core category. Logically it makes sense that divorcing women, as they are separating their lives from their ex-spouse's (except perhaps with children-related issues) and no longer are bound by husband-dominated or joint decision-making limitations (i.e., having to answer to—or for—him), thus, are particularly preoccupied with clarifying changes in family-self roles, responsibilities, and boundaries. However, there are aspects of the legal divorce process that remain outside women's realm of control. Conversely, there are aspects of mothers' psychosocial divorce process that the legal system has no control over.

The patterns reflected in the DCE Framework propositions emerged in analysis as salient to participants' legal system perceptions and experiences through the divorce process. To follow is a discussion of the DCE Framework as a whole and the related core category that divorcing mothers seek means of control throughout the legal divorce process. Issues relevant to mothers' divorce approaches and outcome satisfaction levels are included throughout. Study limitations and suggestions for future research are incorporated as well.

Divorce Approaches, Control Beliefs/Expectations, Satisfaction, and Perceived Control

This study has shown that perceived control gained by the mothers throughout the divorce process increases their legal system and divorce satisfaction. A sense of actual personal control consistently has been found in empirical studies to be related to motivation and

performance indicators (Dohrenwend, 2000; Sue & Sue, 1990). Similar to results found by Bay and Braver (1990) and Sheets and Braver (1996), I found that the mothers in my study have suggested that their satisfaction levels were greatly affected by perceived control of the divorce process as well as whether they obtained their desired custody arrangement (decree outcomes). In contrast, a sense of helplessness or powerlessness or lack of control was strongly associated with legal divorce dissatisfaction.

Important results of this study regarding legal/professional and private/personal approaches to divorce include that (a) participants consistently indicated similar underlying needs to establish control, (b) this pattern held across both divorce approach groups, and (c) either approach can lead to satisfactory divorce outcomes. Mothers in each divorce approach, however, generally utilize diverse strategies and resources (i.e., legal versus nonlegal) throughout the process to achieve their similar needs for control. Data from this sample support predicting women's divorce approaches based on their evaluations of how to effectively accomplish key divorce control goal(s). Participants expressed sharing the goal of retaining custody of their children. But mothers who want, for instance, to facilitate ongoing co-parenting seem to prefer the private/personal divorce approach, while mothers who seek physical or emotional safety in divorce seem to prefer the legal/professional approach to divorce. Commonly described unmet goals linked with legal divorce dissatisfaction include seeking quick closure and clarity in divorce as well as power and authority over ex in order to punish him or hold him accountable for perceived misdeeds. In addition to affecting divorce approach, mothers' divorce control goals seem to indirectly influence evaluations of divorce process experiences and, thus, their outcome perceived control and satisfaction levels. Results suggest that in order to better guide (perhaps even redirect) and advise clients, attorneys need to understand mothers' unique goals for control.

Study data included inconclusive evidence as to whether mothers' evaluations of how to best meet their goals was affected by what I call the "ex-factor" effect. That is, the "ex-factor" refers to a woman's negotiation expectations for herself in relation to her ex-spouse, which in turn

influences her divorce negotiation approach or strategies in an effort to more effectively accomplish divorce goals. Thus, either a mother's first choice of divorce means is reinforced or she is motivated to adopt the less preferred choice in order to maintain control. Determining such conclusively fell outside the scope of this study's data. But my best assessment is that mothers' accounts support the "ex-factor" variable as significant in explaining how mothers approach divorce, parallel to considering legal system and self role expectations with women's divorce control beliefs and expectations. Future inquiries may explore this concept further.

The present study also has found that legal divorce control beliefs and expectations strongly relate to mothers' outcome satisfaction levels but does not predict their approaches to divorce. Again, internal personal control beliefs are associated with gaining or maintaining perceived control and satisfaction with the legal system and divorce, while mixed/ambivalent and external supports control beliefs are associated with a lack of control and legal divorce dissatisfaction. Thus, results support the notions that women may gain or retain a sense of self-efficacy while utilizing legal assistance and that others who take a more private/personal approach may still expect legal professionals, especially judges, to take the lead in resolving divorce disputes.

In relation to this, the women in my study who believed they should be and were in charge of their divorce process also were three of the five satisfied participants. The satisfied exceptions include the separated-only mother (age 30) who, in the face of her unreliable ex, apparently came up with a workable (to date) solution of refraining from taking charge of the divorce. Her solution seems to have generally satisfied her divorce goal of distance from and avoidance of her ex. In addition, although the 41 year old stated not feeling in charge and relying on her attorney to guide the process, she seemed to prefer this approach and took an active role in finding lawyers over time she felt she could trust and would properly "fight for her and her child's interests." Thus, it appears that, for women to experience satisfactory divorces, they either need to take charge themselves—or perhaps strategically let go and reframe—or find someone

they can trust to take charge for them. Again, understanding mothers' particular divorce goal(s) in addition to their divorce control beliefs and expectations seems to influence mothers' perceptions and evaluations of divorce process experiences as well as their outcome perceived control and satisfaction levels.

Limited study data also suggest a tendency for previous neutral or positive legal system experiences to strengthen some women's sense of control and agency in managing subsequent legal divorce-related issues. For instance, the 33 year old, after experiencing a very satisfactory divorce, stated feeling competent and ready to take charge and represented herself mainly in post-divorce legal matters, such as a parental rights termination hearing concerning her ex. It makes sense that successful experiences would build one's confidence to handle future issues. In addition, the three previously-divorced participants (ages 31, 41, & 49) likely gained some experiential basis of comparison from which to draw, even though two did not have children in their first divorces, so "that was nothin'" (age 41) and likely did not involve as many control needs and goals. In any case, they each reported overall satisfactory experiences in their second divorces. Their previous experience also might have contributed to holding lower, realistic expectations regarding the legal system's role in divorce as well as what they actually could control throughout. As the 31 year old dryly noted regarding her second divorce, "I pretty much knew what I wanted from the start, which wasn't a whole lot." Again, data are insufficient to assess these tendencies fully, but, in sum, there is some evidence that past neutral or positive exposure to the legal system improves women's assertiveness with legal system members and/or even urges them along the divorce approach continuum more toward the private/personal end.

Pruett and Jackson (2001) similarly indicated increased divorce satisfaction for their participants who maintained a sense of control and agency. For instance, the authors described that conflict subsided for some parents when they took their divorce "back in their own hands" (p. 24). And similar to a few mothers in my study, Pruett and Jackson's participants suggested that, when they felt helpless in face of their partner's perceived unreasonableness, they expected the

legal system to protect them or intervene on their behalf and usually were disappointed if they had expected the judge to play a more central role in resolving divorce issues.

Unlike what I have found in my study, Pruett and Jackson found that a majority of their participants' legal system perceptions and experiences were negative and conveyed a distressing "lack of power and control over their own destiny" (p. 26). They reported that most participants felt that their attorneys were in charge and left them out of the decision-making. Their study results seem to suggest that much of participants' divorce angst is attributable to the legal system and legal professionals. A likely contributing factor for the authors' discouraging results was that 62% of their sample indicated a high level of legal involvement in their divorces, including a significant number of divorcing participants who engaged in chronic, intense conflict. For both my study and Pruett and Jackson's, dissatisfactory experiences were reported with greater intensity and frequency compared to reports of legal divorce satisfaction.

Although none of the mothers in this study would seek out or enjoy divorce, more than half have indicated overall satisfaction with their legal divorce and the legal system. Even those respondents who were generally dissatisfied and/or did not feel in charge of the process have discussed particular legal system aspects or interactions in a positive manner. Because the women in this sample—in comparison to Pruett and Jackson's participants—generally had fewer property assets and issues to resolve and, thus, attorneys were less involved, it perhaps ironically resulted in the women expecting and experiencing a greater sense of being in charge of their divorces.

As a couple of general caveats, Boss (2002) and Sue and Sue (1990) have cautioned against an often misguided tendency in our culture to blame individuals—especially those who demonstrate high generalized externality expectancies—for their present bad condition or problem. Focusing on external forces and supports actually may be motivationally healthy if it has resulted from assessing one's chances for success not against unpredictable fate (capricious luck or chance) but rather in terms of real and systematic external obstacles (Boss; Sue & Sue). This may be the case with the legal system at times. Also, perceived control in divorce literature

generally seems to have relied on crude measures such as who filed for divorce or physically left first (see Bay & Braver, 1990; Dohrenwend, 2000; Sweeney & Horwitz, 2001). Results in my study suggest that perceived control is much more complex and subtle than such measures, especially in relation to divorce satisfaction levels, and my findings seem to concur with Hopper's (1993, 2001) results that indicate individuals' memories of the relationship deterioration process become revised over time and transformed into rhetorical uncoupling narratives.

Lastly, most mothers in my study seem to have concurred as to who *should be* and *is* in charge (i.e., themselves or the legal system, for both) of their divorce process, but a few expressed mixed ambivalence as to their legal divorce control beliefs and expectations. Future research inquiries using different samples or alternative methods may refine these classifications or clarify whether distinctions can be made within the mixed/ambivalent category. Some of the mothers in my study have suggested contradictory wishes to feel in charge of the process and keep attorneys and judges at a distance, yet then expect their attorneys to guide their decision-making and/or the court to intervene and change outcome decrees. This paradox also was implied in Pruett and Jackson's results. Thus, the wish for both autonomy and protection—and the right to control when each is in effect—results in an ironic ambivalence for some divorcing women.

Family Context and Level of Support

As mentioned, one distinction between the legal/professional and private/personal divorce approaches relates to cost. In this sample, family resources played a critical role in contributing support for divorce and attorney fees. The data, consistent with common sense, do not indicate that greater available funds and investment in more expensive (experienced) legal assistance directly lead to more satisfactory divorce experiences. However, monetary investment (to whatever extent) in attorneys who are perceived as trustworthy and competent does seem related to increased divorce and legal system satisfaction. Within the private/personal approach, data are insufficient to assess fully whether mothers' divorce experiences were different or unique depending on whether they deemed attorney fees (a) unnecessary or a non-issue versus (b)

prohibitive. Limited, preliminary evidence suggests nominal differences.

Where families serve as stressors rather than resources, they seem to exacerbate legal divorce problems, hinder women's coping, and decrease outcome satisfaction. Otherwise, preexisting family conditions or mothers' demographic characteristics (e.g., education; SES) do not appear in this sample to influence participants' divorce approaches or their perceptions of control.

Divorce Process Experiences and Legal Decree: "Shadow of the Law?"

Participant accounts suggest some limited support for the "shadow of law" in divorce negotiations. For instance, a few mothers mentioned that legal professionals or certain legal system rules directly influenced divorce negotiations, such as the 33-year-old mother who mediated her separation agreement under different state laws than her subsequent divorce decree, influencing what types and amounts of support she was eligible for at each stage. Consistently expressed and employed interests in legal and property rights (i.e., legal norms; Jacob, 1992) were evident by a few of the women and, like Jacob, easiest to discern. On the other hand, informal negotiations with ex-partners with little concern for legal rules were indicated for some mothers too (i.e., social norms). Most of the mothers (six) seemed to frame divorce issues in a legalistic or mixed-legal manner, yet their accounts suggest that divorcing women generally do not understand "the law," nor are they likely educated as to the range of available options (with respective pluses and minuses) to address their divorce issues.

Jacob concluded that the "shadow of the law" was dim in divorce negotiations. Overall, I would concur based on the present study's results. However, Jacob suggested that highly valuing understanding the legal rules was the strongest indicator of legal norms, and I question whether "knowing the law" is directly synonymous with an interest in divorce rights. A few women in my study emphasized hiring lawyers for legal protection and control rather than necessarily understanding the rules themselves. Some indoctrination of the divorce law system (Mnookin & Maccoby, 2002) is suggested considering that each respondent discussed commonly held

assumptions about divorce rules and custody and support expectations. But the interviewed women's narratives suggest, consistent with Grillo (1991), that women generally are socialized to value and emphasize personal (social) relationships over legal rights in their divorce interests and goals. This was evidenced by repeated references to wanting to be accommodating and cooperative with their ex and a few downplaying property interests or accepting reduced support offers in favor of control of their children.

These results are consistent with Kranichfeld's (1987) argument that "women's power is rooted in their roles as nurturers and kinkeepers" (p. 48) and that women will do whatever it takes to sustain their investment and power in parent-child (vertical) bonds as a means of maintaining control of the internal family domain and as a basis of support that reduces dependence on the marital (horizontal) tie. However, these results also fit Lichtenstein's (2000) contention that divorcing mothers who want sole custody lose bargaining power given the present standard of joint custody and, thus, often trade financial support they may need and deserve for sole custody and personal control or autonomy. Furthermore, in this sample, attorneys usually played a relatively minor (protective) role in guiding divorce negotiations. So, mothers' divorce goals may get in the way of divorce agreement fairness. Whether or not participants in my study were bothered by such depended on when I asked them and time since divorce.

As a final related note, Waldman (1993) pointed out that over time the use of legal norms in divorce mediation has become disfavored and discounted. She focused on a critique of divorce mediation literature, but I contend her arguments apply to divorce settlements and divorce law in general (see Buehler, 1995; Katz, 1994; Madoff, 2002; Singer, 1992). She asserted that "a hostile attitude toward judicial processes and results" (p. 90) currently is generally evident and that concerns about legal issues have been diminished as tangential in favor of seeking private, personalized justice for divorcing couples through mediation and the like. Waldman concluded that the informality of mediation (and private settlements) may allow the "opportunity for

exploitation and domination” (p. 115), arguing for the return to legal norms inclusion in divorce. I would agree.

In addition, a few women in my study have recognized that their general confusion and anxiety regarding the legal system, coupled with any emotional trauma related to their ending marriages, has made it even more difficult to process information about their legal divorce and has accentuated their need for decision-making assistance. Attorneys themselves apparently contribute to mothers’ legal system process apprehension and control needs—whether deliberately or inadvertently is speculative. As one 49-year-old participant, reflecting on her first divorce, has put it,

I think the whole process . . . was very scary and uncertain, simply because my attorney, though very knowledgeable, . . . was not always as kind and sympathetic to me as he could’ve been. I think maybe a part of that can be because as an attorney you don’t want to get in a situation where [clients] can rely solely on you. I understand that. But it was like, “Need some support here. Need to know what’s going on.”

Respondents consistently recalled being advised by their lawyers to carefully consider their parenting plan arrangements upfront to avoid high financial, emotional, and time costs and the inherent uncertainty involved in returning to court to modify agreements. For example, a 28-year-old woman has reported that her attorney “advised me to . . . anticipate what things might happen. They said modifying is just going to be a lot more money and a lot more hassle down the road, so try to get what I think will happen and what I want to be set in stone in paper, you know, before we actually finalize on stuff.” Another 41-year-old mother of one child repeatedly has mentioned being warned away from the courts: “My lawyer keeps saying ‘Don’t open up a can of worms.’”

In conclusion, both satisfied and dissatisfied participants across the board advise other divorcing individuals to retain control and carefully protect themselves and their interests. The women’s experiences demonstrate it generally is not effective to assume that legal professionals or others involved should or necessarily will provide protection or a sense of control.

Participants' recommendations consistently included increased public legal education to decrease the scary system aspects as well as more information processing and long-term legal and life planning assistance and guidance. In other words, divorcing mothers expect legal system members to help clients gain or maintain a sense of control throughout the process.

The women's diverse divorce experiences and limited overall seem to support the need for stronger legal or procedural justice protections in divorce settlements (Bryan, 2000; Grillo, 1991; Hensler, 2002; Waldman, 1993). At the same time, findings of the present study support the notion that increased legal system and divorce satisfaction is linked to mothers' sense of personal control. Thus, a delicate balance continues to need to be maintained between legal divorce procedures that provide sufficient information and protections, while respecting autonomy and fostering a sense of self-efficacy.

Study Limitations and Strengths

Several study limitations should be acknowledged. First, the sample was nine mothers only from Missouri who were selected through nonprobability, convenience sampling, so quantitative inferences and causal relationships could not be determined. Yet, it is important to remember that the intent of the present study, consistent with grounded theory methodology, was not to determine generalizability or theory-test (Glaser, 1992). Instead, I developed a series of propositions based on respondents' accounts of divorce experiences rather than *a priori* models as did Jacob (1992), although he never specified what methodology framed his qualitative study. And reported results have focused on concept diversity, relevance, and fitness (see Chapter 2), going beyond simply summarizing the frequency and intensity of mothers' legal divorce frustrations and suggestions, as did Pruett and Jackson (2001).

Available data collection methods necessitated (for hypothesis development purposes) some extrapolation of causal factors from resulting, subsequent variables (e.g., assuming that control beliefs and expectations may be revealed through described successive divorce negotiation choices and behaviors). Peer reviewers and I reviewed and questioned repeatedly

obtained data and findings to assess their trustworthiness and fitness to respondent accounts, relevant extant research, and common sense. However, other follow-up interviews and additional participants obtained through theoretical sampling (Glaser, 1992) would provide more member checks, further strengthen results, and ensure that theoretical saturation would be reached.

The mothers' self-reported accounts were retrospective. Thus, participants' memories and perceptions of the legal system through the divorce process admittedly were fuzzy at times and may have been changed by the passage of time or subsequent experiences or otherwise distorted (biased). Only one mother, age 28, was in the midst of divorce when I first interviewed her, and notably her general framing of legal experiences seemed to change (worsen) in our follow-up session just a few months post-divorce. Additionally, actual divorce negotiations were not recorded, and data did not include direct observations of legal and family interactions. Divorce process data were collected from only one perspective (i.e., the mothers'), prohibiting examination of interactive power dynamics or contrasting experiences of those involved in the same (complex) events. On the other hand, taking an in-depth interview approach permitted open-ended inquiries and exploratory probes to clarify responses, while yielding detailed, context-based (rich) data concerning the evolution of mothers' legal divorce expectations and negotiations. I wanted to understand women's legal experiences from *their own perspective* in order to begin to fill a recognized gap in divorce and psychology of law research literature.

The sample in the present study included both demographic and legal process variation. Briefly, participants were all White, lower to upper-middle SES custodial mothers residing in Missouri who were in their early 20s through mid-30s at divorce (or separation for one case). Only two women split physical custody with their ex-spouses, but others shared legal custody of their minor children. Attorneys were consulted in all divorces, but legal representation and interaction levels varied extensively. The mothers represented a broad range of state court jurisdictions (rural to urban), as well as diverse experiences from different parts of the legal process, ranging from being in the midst of divorce to long-term retrospective perspectives.

Finally, it should be noted again that all but one of the respondents coresided with their own mother or parents for a time during the divorce process. Although this experience is fairly common, it is not generally considered normative (Goldscheider et al., 1999), and so having such a high proportion of this one group as participants could have affected the findings. Also, during interview sessions with most mothers, I would ask questions regarding the related divorce coresidence project, followed by questions for my study (or vice versa). My sense is that the detailed family background information obtained for the coresidence project enhanced understanding the women's legal divorce experiences, but doing a stand-alone study in the future would eliminate any possibility that participants' responses would be affected by a related project. Actually, a unique strength of this study is that the mothers at the time of their divorce, as a whole, possessed low income levels or limited financial resources relative to their married life (contributing to their decisions to return home). Conversely, another study strength is that participants from diverse family circumstances and SES levels described consistent relevant divorce experiences and concerns.

Future Research

Future inquiries should test both the grounded-theory DCE Framework and the propositions identified in the present study, as well as evaluate ways in which mothers seek a sense of control throughout the legal divorce process, including related concepts of fairness and protection. The results and implications I have discussed warrant further empirical exploration, including examining the role of perception and expectations in legal divorce in general, legal system process experiences as well as power and control in divorce negotiations and how they relate to each other as well as to settlement outcomes and satisfaction levels, and divorce control goals in relation to divorce approaches.

In general, whether and how the DCE Framework resonates with the general population of divorcing parents or individuals should be tested. Future research using different methods or larger samples should further explore nuanced dimensions or properties of divorce control beliefs

and expectations, divorce means and strategies, and divorce control goals as well as explicate the interrelationships suggested among these key concepts and their separate and combined impact (if any) on divorce approach or outcome divorce and legal system satisfaction. For example, inquiries should address: Why do divorcing mothers take the legal/professional or private/personal approach to divorce? If and how do preexisting conditions (e.g., education, SES, age) account for differences? Additional studies also are needed to examine control efforts made by women and men in divorce negotiations and settlements as well as assessment of whether divorcing fathers and/or mothers suffer from inadequate legal and procedural process protections.

Also, one dynamic that should be better explored is client expectations for attorneys, both within the family law context and across different areas of law (e.g., contracts, business, trusts and estates, torts). On the flipside, further scrutiny of attorney expectations for clients is needed, including whether and how they perceive differences between the men and women they represent. For example, do lawyers start with the same questions for both genders in consultation interviews? If and how (under what circumstances) have their guidance and advice changed for various clients? In addition, exploring how attorneys understand and evaluate clients' goals for divorce and gaining control is warranted.

Future study designs should address the present project's limitations by building on and testing the findings. Specifically, similar to Pruett and Jackson (1999, 2001), interview data should be gathered from multiple, diverse perspectives (e.g., divorcing parents, their children, attorneys, judges). Studies should utilize representative sampling for generalizability purposes or broader sampling from mothers and other groups to assure appropriate diversity in capturing how divorcing individuals experience the legal process (e.g., noncustodial mothers, divorcing fathers, divorcing women and/or men with older/adult children or none at all, multiple ethnicities, broad SES range, *pro se* to highly conflicted/contested divorces). In addition to collecting self-reported data, projects should include in-the-moment observational data of attorney-client interactions and divorcing couples' negotiations, as well as longitudinal follow-up family assessments (see Jacob,

1992, pp. 586-587, for a concise discussion of pros and cons of three methods for studying negotiations: simulations, direct observations, and retrospective interviews). Ideally, newly married couples would be tracked to better appraise differences between stable and conflicted relationships and the role of predisposing family characteristics affecting the legal divorce process and divorce adjustment.

Finally, mothers' legal divorce perceptions, experiences, and control efforts should be examined through different theoretical frameworks. For instance, inquiries could frame women's legal system experiences in terms of family stress theory, such as the ABC-X model (Hill, 1958), the more elaborate contextual model of family stress (Boss, 2002), or the resiliency model (McCubbin & McCubbin, 1991), to assess to what degree the legal system is perceived or functions as a resource or a stressor. Also, mothers' legal divorce experiences could be considered through a social exchange framework model (see Boss, Doherty, LaRossa, Schumm, & Steinmetz, 1993; Levinger, 1979) to assess how legal system costs, rewards, barriers, and available alternatives relate to women's approaches to divorce and their outcome satisfaction levels.

Conclusion

In conclusion, this grounded theory study examined women's perceptions and experiences of the legal system and how they attempted to gain control during the divorce process. Separated and divorced mothers' efforts to establish control throughout the legal process underlay and pervaded their interview data regarding how they navigated and managed the system and the stressful divorce process. Echoed by respondents' own recommendations as legal system insiders-outsiders for better measures and procedures to increase their sense of control, the study results revealed valuable insights for others experiencing divorce as well as for legal and family practitioners and the legal system as a whole. Further study is needed to build on discussed findings and implications.

Appendices

- A. *Consent Form*
- B. *Interview Guide September 2004* (adapted from Jacob, 1992; Pruett & Jackson, 2001)
- C. *Follow-up Interview Guide Summer/Fall 2005*

Appendix A: Consent Form

Note: Approved by IRB on February 23, 2004.

Consent to Participate

Thank you for thinking about participating in our research study. This project is designed to help us gain a better understanding of women's experiences during the divorce process. We hope that the information gained from this study will help families in a number of ways.

Each participant in this project will be interviewed. This first interview is expected to take between 1-2 hours, and it will focus on your thoughts and impressions about your family relationships during the divorce process. We also will contact each participant at least one more time with questions to help us understand what we discussed during the first interview. For participants who have experienced divorce themselves, they may be asked to participate in a follow-up interview that includes questions about their experiences with the legal process of divorce. A participant will NOT be asked to engage in more than 5 contacts, or to be interviewed for more than 3-5 hours total.

If you participate in the interviews, we expect that you will be quite comfortable while being interviewed. However, it is possible that the interview will touch on some unpleasant family or legal experiences and that you might become upset. We do not expect that this will happen, but if it does, you can go on to another less upsetting topic or stop the interview at any time. If you do become upset and would like to talk to a professional, staff at Behavioral Health Response (800-811-4760), or the Mid-Missouri Crisis Line (888-761-4357) are available to talk with you at any time of the day or night.

We will provide you with a check for \$20 for participating in this study. You will be entitled to this compensation even if you decide to stop the interview or withdraw from the study at a later time.

Because the information shared during the interview is so valuable, we would like to audiotape each interview. We will use the audiotapes to later transcribe each interview. Each participant's responses will be held in strict confidence and not shared with others we interview, or with anyone else. Each person will be assigned a unique numerical code, and these codes (not names) are recorded on the audiotape. The list that matches the codes to names will be securely stored in locked files. You will only be identified by a numeric code, and only we will be able to know which names go with which codes. Therefore, there is no way the information you provide will be linked to your name in the study, or after the tapes have been erased. The audiotapes will be kept for a period of 3 years after the closure of the project.

There are two possible limitations to your right to confidentiality. First, the interviewer and other project staff are required under Missouri law to report any reasonable suspicions of child abuse or harm to others to the proper authorities. Second, all information that you provide is subject to a subpoena by a court, but the chances of this happening are remote.

If you would like more information about the project or have any questions or concerns at any point in the study, please feel free to contact the principal investigator, Dr. Marilyn Coleman (573-882-4360). For additional information regarding the rights of research participants, please contact the MU Campus IRB (573-882-9585).

By signing below, you acknowledge that you:

- (1) are age 18 or older;
- (2) have been informed of the nature of the study and what would be expected of you;
- (3) have been given a chance to ask questions about the study;
- (4) have had an opportunity to consider whether you wish to participate when project staff were out of the room;
- (5) understand that participation is voluntary; and
- (6) may withdraw from the study or refuse to answer at any time without penalty.

Signature: _____

Date: _____

Appendix B: Interview Guide September 2004
(adapted from Jacob, 1992; Pruett & Jackson, 2001)

Note: Questions approved by IRB on September 24, 2004.

Study Introduction – BRIEF OVERVIEW OF ISSUES WILL COVER

As mentioned before, we're [also] interested in learning about the experiences and views of women dealing with the legal system during the divorce process.

Legal system is defined as any family-services, government, or legal *professional* or *process* (events, courses of action, behaviors, etc.) involved in completing a legal divorce. Legal system is defined *broadly* to include these kinds of things [*share attached list*]. However, we're also interested in how personal and work experiences, friends, family, co-workers, media, etc. may have influenced your legal system divorce experiences.

Participant Background Form (attached following interview guide)

1. Before we start the interview, it'd be helpful to get a bit of background on you, contact info, etc. I want to make sure I have key names and events clear in my head as we talk today.

[*Complete first page of form with each participant*, which includes selection criteria for study to confirm all requirements have been met. Contextual/demographic background and life-events chronology included on both pages of form may be explicitly sought from participants during this pre-interview intro, gleaned from later responses during the interview process, or simply observed by the interviewer, as deemed suitable.]

2. Any (more) questions before we begin? Remember to please feel free throughout to ask questions, make comments, take a break when needed, etc. Ready? Okay, here we go. [*Start recording*. Repeat interview date and assigned number and first name of participant.]

Circumstances Surrounding Divorce

1. To start, how long were you married to your ex-husband, and when did you first begin thinking about divorce (or find out your spouse was doing so)?

[Possible prompts/probes: Do you consider him/you/both particularly responsible for the break up? Did you separate/file for divorce more than once—in same/different location?]

2. In this time before you separated/filed for divorce, what were you thinking of with regard to things like where your child(ren) would live, who would have custody? What were you thinking of with respect to how they would be supported? What other major concerns and/or priorities do you recall considering?

Experience of the Legal System During Divorce

1. Once it was decided to separate/divorce, tell me your story about your experience with the legal system.

[Possible prompts/probes: Has your divorce been your first experience with the legal system? What are some of your thoughts about the legal and court system? What was it like for you (as a woman) dealing with the legal divorce process and issues?]

2. In general, who and what were good about the legal system? Who and what helped in your case? Who and what were bad about the legal system? Who and what did not help in your case?

Perceptions Change Over Time?

1. Going into the divorce, what did you want out of the legal system? What did you hope to have happen as a result of the process? What were your expectations?

2. Have your thoughts about the legal and court system changed through your divorce? If so, how? If and how have your thoughts and ideas about the divorce process changed over time?

Roles & Responsibilities of Professionals & Self

1. What legal system professionals have been involved with your family during the divorce?

[Possible prompts: Attorneys, legal aid society, judge, guardian ad litem, family relations officers, court clerks, mental health evaluators, mediators, accountants, domestic violence shelter, social service agency, state bar referral line, etc.]

2. Describe your interactions with these professionals. In what way(s) were you advised through the legal divorce process (on a limited basis to extensively)?

3. What did these professionals do for you? What was helpful about what the _____ did? What was not helpful, or was there anything you wished they could have done differently to better assist you?

4. How did you see your own role and responsibilities during the divorce process? If and how did your view change over time?

[Possible probe: Who would you say actually was in charge of getting the divorce finalized? Should they or someone else have been in charge?]

Getting to Settlement: Use of legal vs. social norms

1. Through the divorce process, were there other people, such as friends, relatives, your ex, or counselors, who gave you advice about divorcing? [If yes, probe to identify the source and kind of information provided.]

2. How important were these kinds of information in terms of what you finally decided to ask for in terms of settling the divorce (support, custody, property)?

[Possible prompts/probes: What if anything did the attorney/personal friends/media, etc. tell you about the law of child support and custody, marital property/debt, and/or alimony, and generally what to expect with the legal process?]

3. How were the final provisions of your divorce worked out? Did you work them out basically through attorneys, in court, direct negotiations between you and your ex-husband, or some other combination?

4. What was your primary concern/consideration when you went through the divorce process?

5. How did you define your child's best interests? On which factors did you put the most weight?

6. How much say or influence did you feel you had in deciding the amount of child support you would receive/pay?

[Possible prompts: Did you see the guidelines as set/rigid rules, minimum amounts, a starting point for bargaining, etc.?)

7. How much say or influence did you feel you had in deciding the custody arrangements for your children?

8. How much say or influence did you feel you had in deciding how to divide marital property/debt?

9. In divorce discussions, how important if at all was your understanding of the law in working out the final provisions? Did you make use of the law to get what you wanted?

[Possible prompts/probes: When your divorced was filed, what, if anything, did you understand about state divorce law? By the time your divorce was finalized, how did you understand divorce law differently? How significant of a consideration/priority was actual divorce law for you during negotiations with your ex? Do you think state divorce law clearly explains couples' rights and obligations; how and how not? Since the divorce was finalized, has your divorce agreement changed—formally or informally/privately?]

10. If and how did the legal process affect your relationship with your ex-spouse?

11. Did you ever find yourself using the legal system to hurt or get back at your ex-husband? If so, how? How did it turn out?

12. Did the legal process affect your relationship with your child(ren)? If and how did it change (in any way) your ability to be the parent you want to be?

Looking Back

1. If you heard that a friend was about to file for divorce, can you think of something that you'd share with them that you learned from the experience and wished you'd known beforehand? Would your advice be different if given to a female vs. male friend? If so, how?

2. Looking back, do you wish you had handled your divorce differently? If so, how?

3. Overall, how satisfied are you with how your legal divorce was conducted over time [i.e., process] and the outcome of the divorce [if finalized]?

[Possible prompts/probes: If and how did the legal divorce correspond with when you considered yourself divorced? Did the factors that affected your dis/satisfaction with the divorce relate to the legal system?]

Legal Consumer Feedback

Finally, as a [former] consumer of the system, you have an important contribution to make with your ideas about how well the system works and how things might work differently.

1. Which conditions/aspects of the legal system/process most helped you resolve problems and disputes between you and your ex-spouse?
2. Which conditions/aspects of the legal system/process most hindered resolving problems and disputes between you and your ex-spouse?
3. Recommendations to improve policies or services: What kinds of things would you like to see different about the role of the courts/attorneys/other legal-related professionals? What kinds of things would make the process work better for people in the future?

Interview Wrap-up

1. Is there any other information that you think it's important for me to know in order to understand your experiences with the legal system? Are there (other) questions or issues I didn't bring up that you think is important for me to ask future participants?
2. Do you have any questions now for me? [Any background/demographic info I still need to ask for participant form? If yes, do so.] *Thank you for taking the time to share your ideas and experiences with me today. I really appreciate it.*
3. I also want to double-check that it's still okay to contact you again with follow-up questions as needed? Lastly, are you interested in reviewing a draft of the final write-up?
[If she indicates she wants to "member-check," clarify how the draft will be sent to her, e.g., hand-delivered, snail mailed, e-mailed. If her mailing address is needed, add it to participant form.]

[If needed, also ask if she'd be willing to refer other women she might know who have been through a divorce (fit the study criteria), and, if so, whether they should get in touch with me or vice versa.]

Note: This was the handout shared with participants to help elicit memories.

Legal system is broadly defined to include not only the court system and the law but also other professionals who deal with legal issues.

Divorce process includes the steps a person has to go through to get a legal divorce.

Lots of different professionals may help a person get a divorce. Some examples include:

Attorneys

Legal aid society

State bar referral line

Judges

Court clerks

Court rules and courts in general

Guardian ad litem

Family relations officers

Mental health evaluators

Domestic violence shelter

Child support enforcement agency

Division of children's services

Police

Accountants

Tax advisors

Social security

Mediators/March mediation

Divorce education programs for parents (e.g., Focus on Kids)

Interview(ee) no.: _____

Date of session: _____

Preferred method of contact?

Phone no.: _____

E-mail: _____

1. Participant's name: _____

(General note: Only first names will be recorded and transcribed.)

Present age (required: over 18 yrs): _____ & age at divorce _____

Occupation:

Education (highest attained):

Household income during marriage _____ & post-separation _____.

Give participant an index card of average annual household income levels:

Under \$ 15K
\$ 15K - 29,999
\$ 30K - 44,999
\$ 45K & over

2. Child(ren)'s first name(s), sex,

& age at divorce (required: at least 1 minor

under 12 yrs & child of both participant & ex-spouse):

3. Coresided w/ mother/parents during &/or post-divorce (required: at least 1 month): Y N

4. Location/jurisdiction of (pending) divorce? _____

Live in town? Home area mostly: Rural / small town / midsized / suburb / urban

5. Month(s) & yr(s) filed _____ & finalized _____ divorce?

6. Ex-spouse's first name:

Occupation:

Education (highest attained):

Marriage & divorce history

1. Length of marriage?
2. Length of separation/legal divorce?
3. Consider him/you/both particularly responsible for the break up?
4. Who filed for divorce?
5. Done more than once (specify if same/different location)?
6. Level of legal involvement during divorce?
(Based on extent of legal system activity & utilization of legal & family services-related professionals during the process, from low to high – i.e., uncontested to contested.)
 - a. Settle with little outside support/professional consultation or after a few mediation sessions;
 - b. Settle after extensive attorney negotiation or court-ordered evaluation;
 - c. Trial; or
 - d. Trial plus frequent postjudgment actions in court (associated with chronic, intense hostility).
7. Children live with you (full/part-time)? Any custody changes during separation/post-divorce?
8. Other prior or subsequent marriages/cohabitations?

Family characteristics

1. Participant's ethnicity (visible indicators at least)?
2. Expressed spiritual/religious preferences (if any)?
3. Additional indicators* of family/household SES level pre- & post-divorce?

*In addition to occupation/education/household income, other (broad) indicators of SES levels include: Participant verbalizations during interview regarding finances; size, location, and upkeep of family house, if known; extent of attorney involvement in divorce; and other financial issues in a case.

Appendix C: Follow-up Interview Guide Summer/Fall 2005

Note: Updated initial Sept. 2004 protocol questions based on participant responses and extant analysis (revised June 2005; November 2005)

Fill out—or check—Participant Chart/Form** (& consent forms, defin sheet, etc. as needed).

START: “As mentioned before, we're interested in learning about the experiences and views of women dealing with the legal system during the divorce process. I'm finishing up collecting data and analysis (which are done at the same time). **My goal here is to ‘flesh out’ some key themes and patterns we’ve found related to separated or divorced mothers negotiating the legal system during the divorce process. **So, it may appear the questions seem disjointed or I’m jumping around**—but that’s because I’ve already collected a lot of data and just need to check my understanding and fill in gaps.” [*And as applicable: “Bear w/ me as taking hand-written notes throughout.”*]

1. If new participant, begin w/: “*Tell me your story about your experience w/ the legal system.*” If follow-up, begin w/: “*Anything changed or developed regarding divorce/Ex since last time we met?*”
2. *Legal system expectations:* What were your legal system expectations? What did you want out of the legal system—*i.e., what were your goals/what did you want to gain from the system?* Changes over time in your expectations?
 - a. What should the legal system/attorneys/judges/courts be doing to help people when divorcing? (What services/benefits should the legal system provide for people?)
 - b. *Fairness (control/protection):* Describe a fair divorce decree/outcome. Define how the legal system can and should be fair.
3. *Sources of advice/types of info:* What kinds of legal information or advice did you receive during the divorce process and from what sources (e.g., attorney, judge/court, family, friends)?
 - a. Specific examples of what learned over time? If and how did you rely on that info when the final divorce agreement was worked out? (*Focus on crucial advice and advice respondents wished they’d paid attention to but didn’t.*)
 - b. What legal system professionals have been involved w/ your family during the divorce? To what extent? What was un/helpful about what they did?
4. *Locus of control/responsibility:* How did you see your own role and responsibilities during the divorce process? If and how did your view change over time? Who would you say actually was in charge of getting the divorce finalized? Should they/someone else/you have been in charge (instead)?

5. *Attorney Selection*: If you had one, how did you select your attorney? How did you find them? Criteria used to select them? E.g., experience as family law practitioner, referral from friend, cost.
6. *Expectations/characteristics of professionals*: Describe a good/not good attorney/judge. (How do you know an attorney/judge is a good one or that you have a good attorney/judge?) *Advice* for attorneys/judges so that they can better serve and interact with clients?
7. *Sense of personal control*: What gave you a sense of control over the divorce process—or lack thereof? In what ways did you gain a sense of control—and/or experience the lack? How much say or influence did you feel you had in setting terms of divorce agreement? Why so?
8. *Negotiating with ex and legal system same or distinct processes?*: Would you say negotiating your divorce with your ex vs. through the legal system were similar experiences (about the same) or one or the other was much easier or harder? How so?
9. How important to you was understanding the law (or your legal rights) in working out divorce terms? To what extent? How so? / What was important (instead)?
10. *Parenting Plan details*: Please describe your parenting plan.
 - a. Share physical and/or legal custody? How was custody actually decided in your case? Tell me about discussions you and your ex had about custody. Visitation included in parenting plan? Did you get child support during your separation? Discuss such w/ your attorney? Your Ex? Others?
 - b. Did you consider other arrangements? Why/not? How in general do you think custody should be determined? When bargaining, ever a factor for either you or ex to negotiate more or less child support for custody/more time w/ the kids?
 - c. Any informal settlement changes (support, visitation, ppty)? How handle changing circumstances? I.e., any on-going negotiations or arrangements adjusted since divorce w/ ex (because of changing circumstances, hindsight realization, developmental needs of kids, cost of living/inflation, etc.)?
 - i. If anything, what worries you about your ex's rights? Clarify what "rights" were you anxious about your Ex holding?
 - ii. Did your kids (depending on age) have any say in arrangements?
 - iii. If and how should spousal mis/conduct (*own/ex's—not directly related to children*) impact their parental rights?
11. Some respondents have discussed their *difficulty in processing information* during divorce (b/c stressed, emotional wreck). Any suggestions for how that experience could be minimized/counteracted/helped—by professionals or others (specify please)—throughout divorce?
12. *Dis/satisfaction w/ the legal divorce process*: Would you say you were generally satisfied or dissatisfied with the legal divorce process and legal system/your divorce settlement? Describe ways you were dis/satisfied.

- a. Would you say the divorce process & outcome seem generally fair or unfair? How so/to what extent?
- b. Looking back, wish handled divorce differently? If so, how?
- c. At what point (if any) would you go back to the court re your divorce settlement?

13. Perhaps:

- a. Who do you consider part of the legal system for the divorce process? [Compare w/ professionals discussed by respondent(s) and legal system definition/list of professionals. **Legal system** is broadly defined as any person or process involved in completing a legal divorce. **To clarify, process includes events, courses of action, behaviors, etc.**]
- b. If not already done so, do you see yourself ever marrying again? Either way (Y or N), if and how is the legal system a factor in your decision? Please describe what is a good divorce and how it would be resolved over time.
- c. *Legal system's role in protecting kids*: All agree children's interests paramount—but what's legal system's proper role in determining such? How should attorneys/judges keep children's interests a priority and/or remind parents of their interests?
- d. *Conflict*:
 - i. Think of a time you were upset w/ your ex or there was something you two disagreed about, please tell me about how that was handled. I.e., if and how did you confront him about this and what was the result? (Conflict before or after divorce?)
 - ii. On-going conflict? Sources of post-divorce conflict? Parenting plan relate to these problems?
 - iii. Would you describe yourself as generally assertive, cooperative, passive, avoidant, etc. in conflict? Similar or different tendency across situations (e.g., friendships, family, work context, current or past romantic partners)?
- e. Any (further) key *advice* for a divorcing fe/male friend?
- f. Any (further) *recommendations* for improving the legal system?

14. *At end*: Have we covered the issues that are relevant to your experiences of managing (or dealing with) the legal system?

15. *Member-check* (using handout) key themes, findings to date.

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VITA

Sarah Elaine Catherine Malia was born March 7, 1977, in Ames, Iowa. She is an only child and shares the middle names of each of her grandmothers. She lived and attended elementary and middle schools in Iowa (Decorah and Ames) and Minnesota (Twin Cities), then moved with her parents south to Knoxville, Tennessee, and attended Farragut High School. Sarah left high school before her senior year to enter the honors program at the University of Tennessee (UTK). She graduated in 1999 from the UTK University Honors Program and as the Top Graduate in the College of Human Ecology, with a Bachelor of Science in Family Studies and a minor in Cinema Studies. From 2000-2005, Sarah attended the University of Missouri-Columbia (MU) and received her Juris Doctor from the School of Law as well as a Master of Science in Family Studies from the College of Human Environmental Sciences. Sarah was the *first* graduate of this joint-degree program. In addition, she served an unprecedented four terms at MU as student government treasurer in the Graduate Professional Council, providing key continuity, policy advice, and support on the officer board. For her service efforts, Sarah was inducted into The Rollins Society in 2004, the only MU honors society for graduate and professional students. And she has served as The Rollins Society co-chair for 2004-2005 and 2005-2006, spearheading the creation and establishment of certain society traditions to better unify incoming members and strengthen the membership network. Sarah's professional interests include estate planning and family business consulting, conflict management, and family law and social policy.