INTERPRETING THE FEMALE VOICE:
An Application of Art and Media Technology

by
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Thank you.
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ABSTRACT

This thesis is composed of two parts: this document, and
an interactive movie, MARITAL FRACTURE: A MORAL TALE. My
interest is in the documentation of women's lives, a process I
explored with five major goals:

1. Document the experiences of women. The lives of women
are not represented to the extent that men's lives are.
Equitable social policies must be based on an accurate
perception of society; therefore women must be added to the
equation.

2. Examine divorce as a crisis of communication. Marital
mediation is a new solution which attempts to avoid the
negative aspects of litigation. Imbalances for women often
result, due to the continuing practice of separating issues of
relationship and emotion from financial and legal
responsibilities. Since mediation is often chosen to establish
joint custody, it is antithetical to overlook communication
problems in what must be a continuing co-parent relationship.

3. Use visual ethnography to portray the subject. The use
of a medium like video allows for the melding of three voices:
those of participant/observer, subject, and audience. This
provides a fertile ground for the gathering of cultural data,
and a sense of reality absent from academic abstraction.

4. Interpret the female voice. The conflict between the
male and female 'morality of relationship' in marriage is
typified by contrasting emphases on dialogue and respect.
Untangling these moral frameworks creates a reflective context
in which the observer becomes artist. A vivid portrait is
transformed into a cultural artifact.

5. Use new media technology to disseminate the findings.
Media can speed the process of cultural self-perception. The
accurate representation of female experience in a period of
rapid social change has the potential to effect the quality of
women's lives and their family relationships. Video, computer,
and videodisc technologies can be used as tools to mix
portrayals of events, behavior, and ideas in a common
presentation, where they can be scrutinized and evaluated in
greater detail than is possible with other media.

Thesis Supervisor: Sharon Traweek
Title: Assistant Professor
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To Sammy and Betty

The search to understand relationship starts at home.
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The first thank you must go to Judy and Alan. Because of their generosity, I was able to initiate the most profound reflection of my own life. It is apparent to any one who reads the interviews that Judy and Alan gave willingly of their time with little indication of what they would receive in return. It took years before I could materialize the transcripts or show meaningful portions of edited video. They are clearly collaborators. My thanks also to Carol Gilligan for reviewing the edited video. Her participation in the movie lends credence to my work and illuminates the material. I benefitted greatly from her insight.

In romance there is illusion, projection, and dreams to fill. In friendship there is deep regard, ever-lasting love, and dreams realized. I am indebted to my friends Russell Sasnett and Sarah Griffith for helping me realize a dream.

On a winter's day in 1982, I made a list of what I would like to do in the near future. A documentary project had come to a close and a new proposal was at first rejected for funding because I wasn't a "registered humanist." I added to my list of future endeavors, initiation into the academic circle of humanists, matriculation at M.I.T, and receiving a Ph.D. for work of personal importance, making sense of American values.

Sharon Traweek provided professional guidance and genuine enthusiasm. She welcomed me as a colleague when most every one else was still asking "But what is she?" Other individuals like Len Buckle, Glorianna Davenport, Richard Leacock, Karen Polenske, Jeanne Richard, Louise Dunlap, and Michael Wheeler took a look at what I proposed to do and helped in whatever way they could. Perspective, a place to work, a sense of comradery, and acceptance are not to be underestimated during the trials and tribulations of a doctoral program.

I must also thank the Department of Urban Studies. I was a bewilderment for them from the start. The Chairman of the Department recommended me, though there was no program for what I proposed to do: mixing media technology and social change. I entered in an "odd ball" catagory. The opportunity for interdisciplinary studies and financial support is difficult. Gary Hack, Bob Fogelson, and Larry Susskind provided opportunities, and I pursued my own course of study. It was made possible with perseverance and much appreciated assistance from the Hugh Hampton Young Fellowship Committee.
Introduction

INTERPRETING THE FEMALE VOICE
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"Among the most pressing items on the agenda for research on adult development is the need to delineate in women's own terms the experiences of their adult life..."

Dr. Carol Gilligan
IN A DIFFERENT VOICE, 1982

The most daunting aspect of delineating adult experience is the global, impressionistic size of the project. The complexity of a person's experience encompasses remembered and unremembered events, socialization and individualism, emotion and thought. Do the "experts" actually improve understanding of the "tangled web we weave" or "lives of quiet desperation?" Both the quantitative and qualitative techniques of ethnography seem insufficient to capture the texture of real life. How much can we expect to truly understand about the complications that make up an individual?

This written thesis is supported by a wealth of material in other media: videodisc, transcribed audiotapes, and digitally stored data, in an attempt to delineate the experience of one woman, Judy Hodson. The event which I
chose to explore was her divorce from Alan Hodson, which led to an almost equally complicated attempt to understand his experience.

I have the idea that a history can be made of the present for use by one's present society or for the information of future groups or individuals yet unborn. My method is to document the image and voice of the living within the context of surrounding relationships. Call it ethnography or art, it is the making of cultural artifacts and historical records.

Charles Olsen defines history as personal life. "It is that one does have a life to live, exactly that much. And that because it is that much, and it is one's own, it has a scale. That is, it isn't more of same, or so much 'humanity' and all that." [Olsen 17].

The research that has been done on the subject of divorce has been quantitative, accumulating data about who divorces and when. Qualitative data has answered questions about changes in society. Almost exclusively, these questions have been asked of men and explored men's experience. Significant studies such as Season's of a Man's Life by Daniel Levinson chose men, "because I wanted
so deeply to understand my own adult development" [Levinson 9]. Men occupy the research positions of stature. Funders support their interests. The results are obvious.

In the introduction to Women Culture and Society, the writers believe that anthropology has suffered from a failure to develop theoretical perspectives that take into account women as social actors [Rosaldo and Lamphere 2]. Gilligan articulates in her book a need for research on adult development which "elucidates effects of differences on marriage, work, and family." In our private conversation, she sadly expressed that funders do not support research on adult women's lives. The experiences and lives of women are not documented to the extent that men's are or to the extent anthropologists and social scientists would desire. Olson's history comprised of individual lives have been mainly men.

This thesis is not just the concern for divorce and mediation as social issue and solution. It is about discerning distinctive voices in the context of society and change. Participant/observers can describe human relationships in the terms of the subjects. Women's views need to be added to the body of knowledge.

Why should we find out who contemporary women are? Because our ideas about women remain out of date with
reality. Each evening millions of TV images reinforce an idea of woman that does not exist in everyday experience. As the new political right proclaims to foster the nuclear family with a wife and mother at home and the husband and breadwinner at work, they are referring to 6% of the American population [Nottman]. The traditional family was the majority model only briefly, from after World War I through the twenty years after World War II. Such a picture is a very brief moment when placed on cultural time line of human beings. Issues of public policy are decided based on our self-image; it is therefore important to have an accurate self-image.

The question asked of Judy, "Why did you divorce?", has interesting implications for ethnography. The technique was not quantitatively or qualitatively rigorous. However, volumes of data were gathered. Through careful, unprejudicial listening, I was able to elicit an understanding of Judy, and a description of her experience which was unique to the literature.

In order to understand Judy's decisions, I searched for an ethical rationale. Discovering it turned out to be the crux of understanding her relationship with Alan for two reasons. As could be presumed, her code of appropriate behavior in a relationship was quite different from Alan's. More interestingly, it was very difficult to
perceive Judy's code of ethics, and easy to see Alan's. Alan is supported by social systems, by law, by religion, by society's mores. Judy, if she is supported at all, finds her support in the trivial pages of women's magazines.

The written thesis purports to discuss Judy's experience in divorce thoroughly. The topic of divorce itself is large and major theories will be discussed in light of Judy and Alan. The fact that they tried to mediate their divorce is important and enters into the discussion in Chapter One. The second chapter describes the observational method, and interpretation through editing the videotapes. Detailed analysis of Judy and Alan's history and of the final Judy and Alan movie is given in Chapter Three. The application of the video as a teaching tool in a law class at Harvard is the final chapter and conclusion to the thesis.

If we are to provide guide posts to the next generation, we must disclose the struggles in our own development so we can better understand the varying relationships within the family, and our responsibilities to ourselves and our society. We cannot effectively teach what we haven't yet learned. We cannot positively share insight unless thoughts emerge to consciousness and are communicated fairly. I hope that further documentation along these lines will eventually add to the understanding about women's
development and how women view themselves, their relationships, and their responsibilities.
HISTORY OF THE FAMILY AND DIVORCE

Since I am interested in the human motivations behind the high divorce rate and changes in attitude toward intimate relations and the consequences this has for marriage and the family, it is helpful to review the literature on the history of the family. It is useful to construct the thesis from comparative research and details from documents for a deeper understanding of life and processes of change.

In review of selected literature on the history of the family by Aries, Degler, Shorter, and Rothman, there are varying opportunities to consider the evolution of women's social roles and responsibilities over the last five centuries. People, as social animals, are generally submissive to the power of society to shape their destinies.

In order to distinguish the characteristics of the 'living present,' Aries, in *Centuries of Childhood*, looks for the differences which separate the past from the present. In the case of the family, he thought the study of manners and feelings extending over a long period (his references go as far back as the Middle Ages) would
reveal the changes in structure once thought to be invariable due to biology. Although he uses iconography as evidence rather than description, a method I find problematic, his conclusions are relevant. His attention is on the "history of the idea of the family." For example, using iconography as evidence of the medieval family, Aries concludes painting did not represent "the home and family" as a concept because it was the collective society which was important, as seen in art. Sentiment about the family unit may in fact be different because of the structure of society in the 15th century. I don't accept that the iconography is evidence of the lesser importance of family in society. His other comments about the reality of family life taking place in a two room house and communities being densely populated lead me to wonder if there simply was no room physically for a 'documentary style' painter to do the sort of work that might describe a household thereby giving it status. In addition, there was no middle class to support such work.

Iconography, particularly when accompanied by background information about the circumstance of the art-making does provide rich description. Its value is in the artistry, the particularity of the subject who is accessible for describing, and the relationship between artist and subject. It serves less as evidence about a past society and is best used to interpret a subject. At the time of the invention of photography, there is both a
middle class to support the making of images about themselves and the larger homes to accommodate the imagemaker. But it isn't until the invention of portable equipment that artists like Louis Hine and Jacob Riis could gain access to industrializing America and the tenements, Bill Brandt to the conditions of the English classes, Dorthea Lange to the plight of the migrant farm worker, and Roz Gerstein to family relationships [plates 2-6].

Aries's thesis is based on defending the significant place family occupied in industrial society regardless of individualism or divorce. That is its relevance. In fact, the family had never before exercised so much influence over the human condition.

Reflections on the specifics in iconography, literature, and documents of the sixteenth and seventeenth centuries reveal an important turning point in the "history of feeling" as parent's attitudes toward children change. Until concern for the child's soul, between the thirteenth and sixteenth century, childhood in the middle ages appeared to be unimportant. It is as if there was no need to keep a record if the risk of a child's early death was so high. "The family was a moral and social, rather than a sentimental, reality" [Aries 369]. Children were valued for the contribution they made to the common task. Iconography
Plate 2: Louis Hine 1908 [Szarkowski]

Macon, Georgia
Plate 3: Jacob Riis 1888 [MOMA]

Baxter Street Alley, New York

Baxter Street Alley in Mulberry Bend, New York, 1888. Print by Alexander Alland from original negative in the Museum of the City of New York. 20x40 cm.

"As to Baxter street itself, it walks in from the sidewalk with tenements on either side standing so close as to almost shut out the light of day. On the one side they are brick and on the other wood, but there is little difference in their squalor and squalor. This is shown in the color and the lines of the and houses and paper shorn are gathered by these people, despite the laws and ordinances and the constable." — Jacob A. Riis in New York, Feb. 12, 1888.
Plate 4: Dorothea Lange [MOMA]

Migrant Mother, Nipomo, California, 1936, MOMA Gift

"Camped on the edge of a pea field where the crop had failed in a freeze. The trees had just been sold from the lot to buy food. She was 42 years old with seven children." — Dorothea Lange, field notes.

Migrant Mother 1936
Plate 5: Bill Brandt 1937 [Sćarkowski]

Young Housewife in Bethnal Green
Plate 6: Rosalyn Gerstein

Mr. and Mrs. Jesca White
Twilight, West Virginia 1978
represented public life. Children worked alongside adults and were represented in paintings as adults on a smaller scale [Aries 368]. Subject portraits and anecdotal paintings of the child and his family in the sixteenth and seventeenth century replace static representations of symbolic characters. A new emotional relationship emerges with physical intimacy. Etiquette books recommend that a husband is not a wife's lord and master and "should not read her letters or discover her secrets and avoid jealousy" [Aries 382]. Primogeniture had been favored in order to keep property intact until the seventeenth century. Children began to have equal claims to family affection, and this shows in their representation of themselves. The appearance of a portrait of deceased child on the parents tomb is an important mark in the "history of feeling" [Aries 40].

Under common law the family is identified with an estate and a reputation [Aries 406]. The child's welfare was protected through an orderly transmission of property and loyalty to professional tradition. Before the seventeenth century, girls were brought up at home, with only a few attending the convent or "little" school for primary education [Aries 298, 370]. Aries gives little attention to what the quality of their lives was like, and how it differed from boys'. When girls become teenagers, they are the objects of courtship and marriage, and Aries limits his discussion to that subject.
The modern family owes its existence to liberal individualism, a steady extension of private life, and industrialization, all beginning in the late eighteenth century. "Old social relationships and sociability retreat. The family advances to preserve people from moral solitude." Aries' thesis is established that the "history of modern manners can be reduced in part to the long effort to break away from others, to escape from a society whose pressures had become unbearable in the nineteenth century. As commerce and industry changed, preparing a child for his or her future meant a family used its energy in "helping the children to rise in the world, individually, and without collective ambition" [Aries 404]. Aries is "tempted to conclude that sociability and the concept of the family were incompatible and could only develop at each other's expense [Aries 407]. Perhaps it is not the individual's preference, but pressures from capitalist consumerism and productivity which force people to focus on the family foursome.

Degler agrees with Aries that the transition from traditional to modern family took place at about the time of the American Revolution. With the weakening of parental controls, free choice by partners became the basis of family formation. Degler cites the Puritan's stress on affection, intimacy, and loyalty in marriage, and philosophy that "time could be expected to bring love
into a couple's relationship." Marriage as a contract, which implies equality, not sacrament, improves women's position slightly. Divorce in New England became a public policy, not a religious doctrine. The idea of love as the cement of marriages begins to figure into Western marriage custom [Degler 15].

As an industrial society in which wealth was sufficiently available to permit personal feelings to be the basis of choice of marital partners, the emotional demands upon a married couple intensify [Degler 18]. Degler, referring to O'Neill's research in Divorce in the Progressive Period, notes that prior to the nineteenth century expectations were lower, people more readily accepted whatever relationships could be worked out. A wife's role was primarily the maintenance of the home, and rearing offspring was a major responsibility. By the nineteenth century, Degler sees divorce as a sign of women's drive for greater autonomy within the family, and notes the increase in the expectation of affection in marriage.

With the change from Patriarchy to Domesticity, the wife was at home and the husband was at work. The woman gave emotional support to the husband in his struggle over his professional future, and women gained influence within a family based upon affection and mutual respect between
partners. Divorce could then be justified and accommodated if there was a loss of affection [Degler 18].

This "growing acceptance of affection as the primary ground for family formation was an important stage in the evolution of women's place within the family." Social custom assigned functions and the division of labor of husband and wife and created "separate spheres." But companionship within marriage is cited by Good Housekeeping in 1886 as important to women [Degler 163]. "Marriage," said one woman, "was a companionate relationship and not one in which men were to receive all the support." Friendship and mutual helpfulness were expected.

Once families were the center of social organization, intimacy could become "suffocating, demands unbearable, expectations too high to be easily realizable." Divorce then becomes the safety-valve that makes the system workable." In 1867-1906, 60% of divorces did not involve children. "Divorce was not a flaw in the system, but an essential feature of the system. Without it the new affective family could not work" [O'Neill 67].

Degler's aim to integrate women's studies and the study of the family through statistical data and personal accounts does not give us a theory. But At Odds is an enlightening interpretation addressing tensions between
women and the family that have existed for at least two centuries, if not always. Degler notes the "family's existence assumes that a woman will subordinate her individual interest to those of others, the members of her family." So at odds are the equality of women and the institution of the family.

By the end of the eighteenth century women's emancipation emerges at the same time as the modern American family. Degler's thesis, that the "modern family, ever since its emergence at the beginning of the nineteenth century has been changing, often under the influence of women's push for autonomy and individuality" [Degler 450]. And over the last 200 years, the family has been shedding "all the functions it fulfilled in the previous centuries." The family is no longer the principal place of learning for the child, neither medical nor psychological care, not religious life; it's not an economic unit with members working to earn a collective living. Instead women rear children, and provide a haven, rest, spiritual replenishment, and affection [Degler 451].

"The Cult of True Womanhood" and "The Doctrine of Two Spheres" uses phenomenological description for an ideological construction. Degler's examination of correspondence, diaries, and journals kept by women of the past reveals values, attitudes, motives, and actions.
Women in the early twentieth century continued to be understood as a special, disadvantaged group, needy of protection. As women increasingly entered the workforce and gained a sense of personal accomplishment and an independent income, they could escape from unsatisfying marriages.

The source of marital disruption (emerging at the end of the eighteenth century) can scarcely be blamed on women working, as Shorter also doubts. Degler believes it was the heavy emphasis upon affection between spouses. "A diminution of affection naturally leads to thoughts of dissolution." There is no longer a "justification for a marriage when love and companionship have fled." Degler point out that remarriage is keeping pace with the divorce rate [Degler 458]. The charge is that "marriage is being shaped to individualistic purposes, a change in priorities away from children." Degler uses history to face up to the diminution in importance of fertility, as well as to understand how Americans arrived at this point. Judy is sorry her children have to suffer, but states that separation has been better for her.

For Degler, "the relationship between women and the family is today...on the verge of potentially fundamental change, but the extent of that change and therefore the future of women's emancipation and the future of the
family are quite unclear." Needless to say, the changes taking place within the contemporary family may be due in part to the limited position of the wife in such a structure.

Rothman, in *Women's Proper Place*, recognizes that the past called for common welfare, "whether the well-being of children, or future of the family, or stability of society have too often abridged women's freedom of action." At the close of the nineteenth century, two contradictory images appear: the period was filled with innovations and technical advances, but the sense of opportunity and creativity conflict with the rigid and traditional man's worlds. Electricity and plumbing freed some women from a portion of their household drudgery, and women's colleges offered a new experience to the upper classes, and new occupations in offices, public schools and department stores were created. However, women were nonetheless in the narrow role of "virtuous womanhood." Women were first and foremost to be their husband's helper.

Rothman believes "an understanding of the past and present does not chart future directions," but she does see a strength to the dynamic of pressure generating counter pressure. Whatever the interaction between opportunity and obligation, social reality and ideology,
women are asserting their right to choose for an influence on the structures in the world and decisions made. It is clear to Rothman that interests and values are in conflict between men and power. But we hope the woman as an individual affects the next generation of public and social policies.

Shorter, in The Making of the Modern Family, agrees with the findings of his colleagues on how social change transformed people's lives, arguing further the importance in the surge in sentiment and the close connection between sexual and sentimental patterns. Just as the other historians did, Shorter notes the same three areas of change which helped to dislodge the traditional family: "1) courtship and romantic love unseated material considerations in bringing couples together 2) mother and child relationship made the well-being of the child more important than the mother's and 3) the boundary line between the family and surrounding community changed so that the production unit became an emotional unit, for men differently than for women. As Shorter sees it, as the ties to the outside world weakened, the ties binding family members were reinforced [Shorter 5].

Shorter sees capitalism as the driving force behind the shift from the traditional to the nuclear family. A better standard of living brings a change in the material
conditions in life and diet, and therefore fecundity. Local guilds, once economically sealed units in regions, opened to new marketplaces, replacing the traditional "moral" economy with a modern marketplace economy that changed the values and behaviors of village people thoroughly. And a third consequence of capitalism was the recruitment of an industrial proletariat. Capitalist production, laissez-faire marketplace organization, and the start of a proletariat are most important in the "spread of sentiment" according to Shorter.

"Women participated in the free market labor force and the marketplace demanded individualism: the system succeeds if each participant pursues his or her own self-interest, competing with fellow citizens. An economic egoism is internalized, and humanitarian or communitarian considerations do not influence economic behavior or the marketplace would be inefficient. Egoism learned in the marketplace changed conscious attitudes and then transferred into the community obligations and standards, to ties to family and lineage, to the whole domain of cultural rules that regulated familial and sexual behavior." Shorter accounts for the sexual and emotional "wish to be free" directly coming from the capitalist marketplace. In the domain of male and female relationships, the wish to be free emerges as romantic love.
The essence of sentiment as defined by Shorter is that spouse and child are prized for what they are rather than what they represent or can do. The "companionate" marriage is seen as a hallmark of contemporary family life, husband and wife as friends rather than superordinate and subordinate.

Therefore, Shorter uses "Domesticity" as a sentiment of modern times, used to demarcate the modern family from the traditional, i.e. "the family's awareness of itself as a precious emotional unit, "protected with privacy and isolation from outside intrusion. Shorter claims romantic love became the criteria for choosing marriage partners in the late eighteenth and nineteenth centuries and was the first sexual revolution. Spontaneity and empathy beat down sex roles and sexual division of labor that had customarily separated lives and emotions of men and women. By the nineteenth century the nuclear family was "the nest" in which women could pull back from farm and mill work to devote themselves to childcare [Shorter 279].

By the twentieth century, Shorter accounts for the second sexual revolution in which couples definitively reject the pressures from surrounding social networks and "unlink ... coitus and lifelong monogamy." Unlike Degler, Shorter believes the changes in the nuclear family are more complex than women's "wish to be free," or women's
liberation: referring to changes in a couple's erotic life, changes of adolescence experience, and the likelihood of married women working [Shorter 280].

Shorter adds "reshaping of the family currently underway has two components: an inherent instability of the couple itself, and a loss of control by parents over adolescent children." In the nineteen sixties, Shorter notes children are pulled away from the family by an outside subculture and that no control is exercised over adolescent mating and dating [Shorter 279]. Self-realization, accomplished through sexual gratification, has taken command of courtship and established "serial monogamy." Child rearing is more efficient and as children need less attention, and women's well-being demands more attention.

Though affection between spouses and the care of children still remain the center of the modern American family, "by the second half of the twentieth century, the center of gravity of the family has shifted from children to spouses." Shorter suggests two causes at least: both sexes live longer and women bear fewer children closer together. In 1880, a woman would have spent 20 years in childbearing and rearing, until age 42, when the last child left for school. This equaled 51% of her married life because her husband died at 56, 4 years before her own death. In comparison, women in 1959 spent less than
20% of married life in such activities. A husband lived until 68, 20 years after the marriage of the last child. Therefore according to Shorter, the modern parents have a quarter of a century of life unoccupied by childrearing. Economic resources of women have altered the balance of power within the family, but Shorter also doesn't consider it a cause in the breakdown of the family. It is here that I will present a theory of my own.

Shorter does not "believe there is a growing lack of communication between spouses....Romantic love in the nineteenth century brought openness in communication along with "domesticity." Expectations of good communication are greater for equal partnership.

I believe society has never had cause before to teach many of its children the art of communication, listening, or negotiating change. Socialization and the three R's leave the human being to its ability to adapt to affective situations. Individuals concede to others for varying reasons, people influence, accommodate, change, survive, and succeed. Recent research in social psychology (by Carol Gilligan of Harvard) confirms my thinking that in a male dominated culture, women's voices are rarely heard and brought into the social equation. When women cannot be heard, they are silenced. So how are we to know why women leave marriage and the family? Women often leave long term
relationships and have done so because of lack of communication between spouses. It could be outside pressures, as historians have noted, like women's liberation. But women's liberation only provides the social approval for individual action.

The social scientists, part of the emerging class of professionals in the late nineteenth century, made the first efforts to explain the rising failure of marriages. In Great Expectations, a study of marriage and divorce in post Victorian America, Elaine Tyler May writes: "Mistaken assumptions concerning the causes of divorce also inhibit the effectiveness of efforts to deal with the problem" [May 3].

Studies on divorce did not attend to the personal motivations of the partners, but on external forces. Professor Walter Willcox of Columbia University claimed it was the "emancipation of women." He thought "marriage emphasized the differences between the sexes" and "so far as women's work has become masculine, her ability to make and keep a home happy is diminished" [May 3]. As one half of the partnership changes expectations and meaning of fulfillment, the inevitable conflict of values arises. By the first decade of the twentieth century, feminists and reformers viewed homemaking and emancipation favorably, "freeing a woman from dependence, and the
tyranny of a husband whose conduct is a menace to her health and happiness" [May 3]. Repeatedly though, from the 1930's until recently, "vast social forces" were attributed to marital difficulties.

Not yet added to the equation was a woman's own psychological makeup, moral development, and values. I suspect developmental reasons were also at work which influenced women's reevaluation of their marriages. But since psychology was still focusing its attention on the male of the species, women's voices and values were not heard, rendering women "a 'dark continent' for psychology" as Freud stated [Freud 212; Gilligan 24].

In various decades, moral pleas, media blitzes, and stringent laws were used to restrain, in contrast to the efforts of liberals and women's rights advocates seeking ways to help women escape bad marriages. Since it was deemed women's role to be both wife and mother, the cultural picture of the middle class girl was to raise her for homemaking, in spite of any other aspirations she might have. In the first decade of the twentieth century the social status of the average middle class white wife did not allow her to hold a job.

In a capitalist marketplace, success comes as each participant pursues his or her own self-interest,
competing with fellow workers. In order for the market to be efficient "economic egoism" is internalized. Community obligations and standards no longer regulate behavior as people pursue their own desires. Economic growth in the nineteenth century did transform marriage and childcare. Men and women were free to marry for romantic reasons. Familistic values and domesticity also emerge coinciding with the decline of the infant mortality rate and the rise of middle class husbands and wives. Women became the primary caretakers as men strive in the world and receive comfort from home and hearth. The nuclear family is the primary means to find comfort and purpose through procreation, economic partnership, and companionship. In time the demands become apparent that marriage must accommodate the changing development of two individuals, both the husband and the wife. Becoming a wife and mother in contemporary society is one aspect of realizing a women's potential. For some females it is a biological instinct to bear children providing a sense of purpose in their lives. But just as one would not say men's only role is limited to husband and father, it must be possible for women to realize their other dreams of social contribution, personal satisfaction, leadership, and professional expertise.

As noted by psychologist Daniel Levinson, "Marriage and family provide the man with a way to make an
"essential contribution to the survival of the species, giving his labor to the economy and welfare of the 'tribe'..." [Levinson 22]. With a world at risk, I believe society needs the values women represent. Their participation in all spheres of society is crucial, and the family needs assistance to adapt.

The development of advanced industrial society effects the trends in marriage and divorce. Just as "emancipated" woman filled the demands for factory labor, the divorce rate made its slow but steady climb. More women have higher educations, remain in the workforce, delay childbearing by socially acceptable contraceptive methods, and lead longer productive lives. Society now condones divorce under many more circumstances. As the mortality rates declined, the annual rate of death for married persons declined, and the divorce rate has risen [Cherlin 25].

Traditional attitudes which kept women at home in the past were swept aside for the period during World War II, when two million women were persuaded by public relations campaigns to be patriotic and enter the job market. In a period of four years, more than six million women entered the job market, increasing the female labor force by 75%. By the end of the war, 36% of all women were employed though women remained in the workforce, values
of the prior generation did not change [Chafe]. Evidence reveals working women do not undermine the strength of the family [Nottman], however, many women were pushed from the work place with just that rationale.

Despite fluctuations in the rate of divorce, some scholars note the total rate of marital dissolution, the number of marriages which end in either divorce or death in a given year per 1,000 existing marriages, has changed little in the last century. From 1860-1864 the combined rate of marital dissolution was 33.2 per 1,000. In 1978, the combined rate was 40.5. In the mid-nineteenth century most dissolution was caused by death of one spouse. By mid 1970's, the end of a marriage was most likely from divorce. Of the 40% of all marriages which end in divorce, remarriage occurs at a rate of 76% for women and 83% for men. As late as the 1920's, those people remarrying were more likely to have been widowed than divorced. The increase in divorce and the decline in mortality have altered the balance." Under 15% of those who remarry do so as a result of being widowed today [Cherlin].

A cause of the breakdown of the family is the inability of people to communicate feelings and negotiate autonomy and change within the family. Both negotiating and communication are changes in expectations of women. Both necessitate acquisition of a skill. I might suggest
the cause for the change in expectation accompanies the preeminence of psychology and the public acceptance of it by "healthy" people as a tool for initiating personal change. Certainly therapy is dependent on intimacy acquired in a unique method combining trust, honesty, and verbal expression of emotional states. Anyone who has experienced therapy knows the difficulty of communicating feelings with accuracy and negotiating a change in his or her life. If this is the added requirement in marriage, it is a high expectation to meet. At the very least, consciousness of the expectation is crucial for the future success of many families.

Were women expressing their need for autonomy when they left families? Families don't break up on a moment's notice, they deteriorate. It may be when the selection of a partner is made based on sexual attraction, affection, "love," as all the historians pointed out, it is not enough to sustain a marriage over time. As the Puritans pointed out as early as 1776, responsibility and loyalty play a part in marriage. The women interviewed in Good Housekeeping a century later suggest friendship and companionship must be mutual. The institution of marriage has historically favored men in accomplishing their life's potential, a nest to support the male in his worldly accomplishments. But how is this accomplished for women? What are the indications that family life has
failed women? What caused conflict in a relationship which started with mutual affection? What inability on the part of the spouses made negotiating change impossible? The internal motivations of Judy's experience in a mediated divorce will be explored in the following pages.
Chapter I. Looking at a Societal Issue - Divorce

The family group exists in any society for common reasons: the rearing of children; the teaching of basic cultural values to the next generation; and the providing of intimacy necessary for most people's sense of well-being and self-esteem. Society therefore has an interest in better understanding the institution of marriage and in providing for the satisfaction of its participants. This interest in divorce involves many areas of society: legal, educational, social support, and procreation. When family and marriage break down, society supervises this event just as it does the marriage contract. Social policies affect the lives of individuals.

Society's institutions are expected to guide its members in the responsible care of the next generation and foster the human development of its citizens to ensure a productive culture. In its attempts to better comprehend a phenomena such as separation and divorce, academics provide studies which influence policy making. In the past, the focus was on identifying external forces. If we are to truly help the family unit, this thesis recommends we look at the phenomena as it affects the personal lives of the individual. The concern of this paper is to examine
separation and divorce in a family, particularly from the woman's point of view.

One million two hundred thousand divorces occur in the United States every year [Wheeler Interview]. It is projected that of those marriages contracted in 1980, 40% will end in divorce [Jones 214]. In the last generation, the young adults of World War II, women and men married younger, lived longer lives, and stayed married longer. When the divorce rate rose dramatically from the 60's to the 80's, the contrast in family image was striking. When "Father Knows Best" was replaced by "One Day at a Time," it contributed to a picture of doom for the great American family of the 50's. But the baby-boomer generation is well aware of the difficulties experienced in many of the households which 'stayed together for the sake of the children.' Judy recalls her parents in a "destructive relationship," and finding her mother passed out on the floor of the kitchen from too many sedatives to her treat migraines. Her father delayed his departure from the family until the very day she turned eighteen. Financial pressure or legal complications kept many unhappy people together. It is unlikely that the strain on relationships was any less in the past than it is today. Though national calamities such as war and depression effect the divorce rates of cohort groups from the civil war to post World War II, the
The divorce rate has made a very steady and understandable increase since the rate was recorded in 1867 [Cherlin 23].

Divorce has financial impact within and without the couple's relationship. Billions of dollars are paid to lawyers and therapists to negotiate separation every year. An uncontested divorce can range from $500 – $3500 in legal fees alone. A contested divorce the sky is the limit. Attorney Sanford Dranoff charged $250 an hour for the first ten hours and $100 an hour thereafter in an uncontested divorce case in 1983 [Dranoff Interview]. Divorce can influence, over a period of several years, all financial aspects of one's life for the worse.

The crisis of separation is generally compounded for women in this society because of financial problems. Only half of all adult women work. The majority of women work out of economic necessity. In 1979, nearly two-thirds of all working women were single, widowed, divorced, or separated, or had husbands whose earnings were under $10,000 [US Dept of Labor 1980]. Working women earn 64% of what men earn [National Public Radio 12/21/1985], leaving the salary gap in the same place it was in 1955, despite women's protests for over a decade. No matter whether she is part of the unskilled labor force or in a field from broadcasting to academia, her contribution to every aspect
of American life is economically devalued, making a woman dependent on a man for raising her standard of living.

With the addition of inflationary times, there is less purchasing power with two incomes at home than there was by a male head of household just a generation ago [Stoltenberg 74]. In 1978, two income families comprised 56.2% of the nation's households [Direct Mail in Focus]. By 1990, it is projected that 90% of women will be in the workforce [Special Report to Women in Advertising Age]. In a Ms. Magazine article on the "Effects of No Fault Divorce in California," Marianne Takas reported on a ten year follow up study. A man's financial equity, including assets and liabilities, will increase 73% upon divorce and a woman's will decrease by 42% [Takas 48].

Divorce also affects children emotionally and financially. Unlike a century ago, when death and separation caused children to be shipped off to relatives and orphanages, or left on the street, now children remain cared for by at least one parent. Currently, there are 11 million children in single parent households. Single parents increasingly head households. 5.3 million women headed households that included their own children. [Cherlin 27] In 1979, 75% of all children living with one parent were living with the mother, 7% with the father, most of the rest with a relative. [Cherlin 35].
The President of NOW reported that one out of three female single-parent households lives in poverty [Eleanor Smeal 1979]. The following chart reveals the degree to which women suffer the consequences of being single parents [U.S. Dept. Labor Aug 1978]:

<table>
<thead>
<tr>
<th>Families Headed by Women</th>
<th>Husband/Wife</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Family 1978</strong></td>
<td></td>
</tr>
<tr>
<td>Median Family</td>
<td></td>
</tr>
<tr>
<td>Income, Total</td>
<td>$6,300</td>
</tr>
<tr>
<td>Mother in Labor Force</td>
<td>8,100</td>
</tr>
<tr>
<td>Mother not in Labor Force</td>
<td>4,400</td>
</tr>
</tbody>
</table>

Divorce can be viewed as a societal problem when it affects the well-being of families. When a marriage fractures, a life cycle event is intercepted by society's policies and professionals. In 1983, I became one of these professional interveners when I was asked by Judy and Alan to mediate their marital conflict.

A. SOCIETIES CAUSES

The question arises as to why women would dissolve partnerships when they face such financial hardship in this society? I am not so much concerned that
marriages end, because many relationships genuinely threaten the emotional and physical well being of people. What I am particularly interested in is the consequences of Judy leaving her marriage. In a culture that values individual growth and personal welfare, divorce is a mechanism to end unsatisfactory marriages. Since marriage is an economic and emotional partnership, divorce is accompanied by financial problems and personal crisis. What could we learn about marital problems by listening to one couple? Why was Judy unable to negotiate the changes necessary for her to remain in that family setting?

Social scientists and demographers published endless reports identifying the social forces which made it possible for women to leave marriages, but the research does not account for the reasons WHY women separate and divorce. We recognize the obvious answers to why women leave. Women have a perception of economic opportunity which now makes it seem possible to financially leave the family structure. Although the statistics given belie this perception, it is more possible in this era for a woman to survive economically on her own than it was in the nineteenth century. In addition, there are few remaining sanctions from one's peers, the community, or one's family to prevent one from leaving a marriage. Companionate marriage is the ideal description of marriage in the
According the Andrew Cherlin, in his research on Marriage, Divorce, and Remarriage, "very little is known about separation...as the divorce rate has risen, so has the rate of separation; but we can't go much beyond this simple generalization" [Cherlin 27]. In the sixties, Betty Friedan's book, The Feminine Mystique described why the household might be perceived as a prison by those women unable to articulate their frustrations and dissatisfactions. "I felt trapped being in the household," explains Judy. Sociologist Jessie Bernard chose communication between the sexes as her major theme in 1968 in The Sex Game. "The breakdown in communication was the essence of it," explains Alan. Psychology books of the seventies advised focusing on family members "patterns of communication" [Rogers]. And protesting women demanded to be "listened to" [Bernard]. We are now aware that remaining in a bad marriage can have just as adverse an affect on children as the process of divorce. Some women face extreme circumstances of verbal or physical abuse, or a situation of neglect that obviates the name of marriage.

However, I am not satisfied with these reasons. With the exception of Shorter's description, which hints at a more complex circumstance, these answers only tell me what
makes it possible for a woman to leave. None of them describe the complex motivations which cause an individual female to leave her marriage. It would seem appropriate to learn what men's and women's circumstances and expectations are in order to better understand the motivations to divorce.

In a study by George Levinger, "Sources of Marital Dissatisfaction among Applicants for Divorce," 23% of middle class couples and 40% of working class couples gave physical abuse as the primary reason [Levinger]. University of New Hampshire sociologist Murray Straus validated the perception with facts in a presentation to the International Institute on Victimology, and stated that the structure of contemporary society "makes the marriage license a hitting license." With few shelters for battered women, many women do remain in unsatisfactory relationships with little alternative but the street [Kamisher 115]. In the 1970 census report, 1,317,670 women said they were separated from their husbands [Cherlin]. Unfortunately, no numbers are available on how many people separate because of pathological behavior or how many couples reconcile. The cost to women staying in unhappy marriages can be very high resulting in alcolism, depression, and substance abuse. Marital counseling and family practices are ever-growing
professions attempting to assist families in resolving marital disputes constructively. When physical abuse is indicated, the reason for separation is apparent.

What I am concerned about in this thesis is why women leave marriages when the reasons are less obvious to observers and to the couple themselves, in particular why Judy left hers. When a couple does decide to separate, there is self-blame and guilt for disrupting the family, and the belief that you are the cause of everyone's unhappiness and pain [Weiss xi].

In examining the case study of Judy's departure from Alan, some particular answers will arise which may be used by others, particularly in family counseling and marital mediation, to understand why a woman may justifiably choose to leave.

1. Social Policy and Professionals Involved in Divorce

When a marriage fractures, the event is one of the life-cycle crises in which social policy and professionals take part. The sheer number of divorces can make the phenomena seem very acceptable. But a focus on the pain often experienced could guide professionals and policy makers to a position of responsibility and care which is crucial to improving family affairs in the future.
Lawyers, accountants, judges, extended family members, friends, therapists, career counselors, and now mediators are some of the groups which provide the social context in which a divorce occurs. In surveying these groups, I am interested in professional's impact on the emotional costs to individuals and children unable to comprehend their grief. I'm also concerned about the issues of fairness and physical and financial reorganization. Society, through its policies and professionals, has a great deal of influence in determining how difficult the divorce process is on family reorganization.

I am also concerned, because as Alan points out, there are consequences to a woman leaving a marriage [Marital Fracture Chapter 1]. These consequences seem more severe for women.

2. Listening to People's Voices - Judy and Alan

a. The Model

In reviewing the literature on the subject of marriage and divorce from diverse fields such as anthropology, sociology, urban studies, psychology, and the study of gender difference, there is a sense of reality absent from the academic abstraction. What is missing from the literature and the demographics is the experiences of
people as they are going through separation. For this reason I am presenting evidence from four years of Judy's and Alan's lives, during the period of separation, from which to draw conclusions.

3. Mediation in Vermont

The concept of marital mediation was generally unknown in Judy and Alan's small rural community in southern Vermont. Divorce among Putney's population of 1853 people seemed higher than the national average if only because most people I spoke with had been through the experience.

One example I heard about was a woman who spent $10,000 in legal fees and was still without a settlement agreement. She was completely absorbed by the adverserial process, and felt manipulated by her husband and the attorney. Another client cried that her husband had taken her soul and she wanted the house as vindication. Yet another person in the throws of divorce was a man of fifty-five who married his thirty-five year old stepdaughter as a result of incestuous pregnancy. He claimed his wife was mentally insane and had no rights to the farm she had worked on or the apple cider business she ran during seventeen years of marriage because she left him and the two children. She got her divorce. Without a cash settlement, skills, or equity, she returned to the farm to live. She
got a room of her own in the farmhouse and continued to care for the children and to run the cider business.

Judy and Alan were married for twelve years at the time that I became close to them [Judy Interview 1983]. Alan is a college teacher and Judy taught art in school for a few years until the first of two children was born. They also had spent years building a house in the country themselves, a house which because of its sentimental value became a source of contention between them. Alan worked late many evenings and weekends and traveled some on business. Judy attended the children.

Judy felt she was unable to negotiate changes in their relationship. Alan felt Judy's requests were "prescriptions, and no small step to meet her needs was enough." Their marriage was cracking and after four years of unresolved problems they were only beginning to look for help. For many individuals, divorce is the only way to bring about change, though it involves a year or more of adjustment to emotional trauma and loss. For others, like Judy, she no longer felt like a "victim of circumstances." She has accepted responsibility for the quality of her life and taken action. Judy was unable to negotiate her needs for relationship with Alan. Now she is in a more satisfactory and communicative relationship with Will.
2. MEDIATION AS A SOLUTION

With overburdened courts and exhorbitant costs, an initiative to find an alternative to litigated divorce has been underway in America for over a decade. In the seventies, the field of marital mediation emerged to assist couples in dealing with differences as they attempt to find the best answers for both of them in the dissolution of a marriage. Mediation itself is not a new idea. It is based on a strategy of "creative problem solving" which was the very foundation of my design school lectures by the futurist Buckminster Fuller during the experimental sixties. Fuller's sentiment was that one could not change human nature. People generally, unavoidably, hit crisis ill prepared. Fuller's concepts was to use foresight and think of the solutions to those problems which we can forecast, many which result from man-made dilemmas. This thesis allows reflection on a particular dilemma. As an intervenor, my observation assist people in their critical situation.

"Creative problem solving" came to be applied to everything from educational reform to business, by the early seventies. As part of everyday life we all problem-solve and negotiate to varying degrees of satisfaction. Organizations such as Harbor Associates in Boston made teaching negotiation techniques to businesses a successful
consulting operation in the 1970's. Mediation strategy to identify a common problem and a solution arrived at cooperatively was the basis of negotiation techniques fostered by Roger Fisher and William Ury of the Harvard Negotiation Project [Fisher, Ury]. Labor, of course, has negotiated formally with management for a century.

1. Youthful Enthusiasm: An Advocate of Mediation

a. What is Mediation?

Mediation, or negotiation, is defined as the process between parties in which they bargain in search of a mutually satisfactory agreement or settlement of a matter of shared concern. Each party has an opportunity to present its own goals, assess the position presented by the other, and adjust their own positions in response to the viewpoint presented. A successful conclusion is an agreement in which self-sacrifice has not been the burden of one party. Self-sacrifice results in an inequitable settlement. The arrival of a mutual agreement is seen in the best interests of both parties. Mediation is thought to bring about a higher degree of compliance to a divorce agreement than those handed down by a judge, because the participants devise solutions to problems which they can live with and which meet their goals.
I.

Mediation is fast being incorporated into public policy on the basis of its theories. The National Organization of Women reports, "California was the first state to have a court-ordered mandatory mediation program [Avner, Herman]. As many as sixteen states have initiated or are considering court-related mediation programs for family-related issues." Promoting compliance in child support is considered a great improvement because of the concern over the financial burden to women who become the single parent heads of households.

b. Mediation Seemed to be the Answer

Divorce clearly represents the inability of two people to be responsive to both one's own needs and those of another person. I believe we can gain an understanding of what it means to negotiate differences and change. The skills of a mediator can unlock damaging behavior patterns, and lead the way to solving the divorce problems of emotional relationship, custody, and financial settlement. The concept of a "win-win" situation is the appealing slogan pronounced by mediators, who compare it to the winner and a loser in a court battle. It is with this positive attitude towards mediation that I began working with Judy and Alan in 1983.
Judy approached me to mediate her relationship with Alan. At the time, their reason for entering mediation sessions was to avoid expensive legal battles and a fight over custody. Judy states in retrospect, "immediately we were going to go to our own corners with our own lawyers, and then, and if they had gotten a hold of things, it would have been out of our control in a sense" [Marital Fracture, Mediation Critique].

Judy was again living at home after a trial separation of several months. She felt "attached" to Alan, but unable to give up her lover for the sake of "the new beginning" which Alan asked for. She was still "sitting on the fence" as Alan put it. Unable to avoid blaming each other for marital problems, they couldn't discuss the realities of the separation. As Alan remembered it in 1985: "We were thinking of divorce, but it was really quite unreal...that whole thing about splitting up property ... about how joint custody would work. Those kind of things did not crop up in our conversations." Instead the arguing had become "intolerable."

Judy was frightened when the tension infected her entire family. She intercepted her five year old son chasing his ten year old brother with a carving knife, and was justifiably worried that the children were affected by
the previous few weeks of physically violent arguments with her husband.

2. The Work Begins

For weeks, I sat between Judy and Alan and listened. I imposed a structure on the discussions, so that an agenda of creative problem solving could be used to express a current dilemma which needed to be addressed. Judy and Alan had an opportunity to empathize and paraphrase to the satisfaction of the other. An exercise in brainstorming possible changes followed.

In the course of mediation, I was personally transformed by both what I saw and the process itself. As a professional, I had followed guidelines along with my own instincts. Every attempt was made to maintain neutrality, promote fairness, and facilitate communication. But a central issue to mediation arose: how can an intervenor foster genuine understanding between parties? One could say mediation as a process allows for bargaining. Does it really matter if the parties genuinely understand each other's positions? If poor communication was a factor which contributed to the failure of the marriage, how can it be changed at these few sessions?
I.

3. Mediation Shows Its Seams

Marriage is the state a couple enters into in order to sanction their relationship and take a place in the social structure. There are three areas in which this contract is made, and questions about mediation arose in all three. The first area is the vow between the two individuals involved to become married to one another, as they each define it. The second area is the relationship between society and the couple, including the changed social status of the couple and the cultural obligations they are now expected to fulfill. The final area is the marriage contract under law, the governing body which decides economic standing and family status. These specific questions arose in the aforementioned areas:

The Couple: In divorce, sympathetic emotional life dies between the couple, their mutual vow is broken. Can mediation alleviate blame, and resolve conflict? Could mediation enlighten the couple, at least so similar patterns would not be repeated in the future? How can this couple attempt to continue to parent together?

Society: Social definitions of marriage abound and conflict. Society recognizes several functions
for marriage, but does not logically follow through in defining divorce. Sexual life is also seen as essential for marriage, and yet many families are in fact formed by a mother and child bond.

The Law: Divorce is the legal breaking of a contract. Laws which discriminate against women, from community property to insurance and pension benefits require a sweeping constitutional recourse such as the Equal Rights Amendment to put them to rest.

The Couple: A Man and Woman in Mediation

Most members of a couple blame themselves or blame the partner for the breakdown. Coping with this crippling emotion was a major area which mediation did not resolve. I also question how well mediation actually does resolve conflict, especially between unequal partners. Finally, is mediation a learning process? Will the couple continue to make the same mistakes?

Blame: Blame does not have pleasant consequences. Marital separation is experienced as a great crisis by most individuals. The extremity of the situation prevents participants from reflecting on each person's role in the failed relationship or getting on with negotiating the
continuing relationship. Without a truce to reach some resolution, a process which could be transforming is spent with retribution, recriminations, court battles, and bickering over child custody. Children experience hateful arguments between parents they love equally and get caught in custody battles that scar them for life. Alan continued to blame Judy for their problems because "she left." Judy blamed herself, but also blamed Alan because he was not responsive to her needs.

Conflict Resolution: The problems which can effect mediation can be subtle and that is the merit of having a record and actual case study to refer to. It is not easy for a young mediator to be aware of exploitation which may involve all the parties unconsciously.

I found that mediation did not adequately address power imbalances in negotiation. The power and weakness of each party is of particular concern since it directly affects the bargaining process. As Michael Wheeler stated in our interview, it is an extremely difficult situation for the mediator when one party is in the position of emotional or financial dependency. Depending on the amount of guilt the other party feels, each party may feel disempowered. Wheeler feels a mediator's obligation is to fully inform the parties so they are conscious of their choices and find an
agreement that is an improvement over life without an agreement.

"If there is great disparity of bargaining power, disparity in sophistication, so that one person could manipulate the process, and the other didn't know how to respond, I would not be comfortable being exploited by one side to his or her advantage" [Wheeler Interview].

In the case study presented to him, Wheeler noticed Alan's loss of control over his family circumstances and Judy's loss of her home. Alan may be in a stronger position in the eyes of the law and Judy may have to justify her position. Judy, as most women in society, may be at a financial disadvantage by divorcing. Wheeler feels that Judy's skill as a listener could give her an advantage in mediation, if finding points of agreement moves the negotiation along.

Wheeler also defines a successful agreement in his eyes. Above all, you want a solution that is going to be flexible, meaning that it is responsive to changing circumstances, yet definite enough to provide some sense of certainty. Agreement is not an end in itself. Wheeler views the search for 'mutual gain' through a creative process as more efficient and less damaging to human relationships than adversarial settlement. He qualifies this statement by
I.

adding that mediation is a means to arrive at a fair settlement of joint property, not a substitute for legal counsel, but a method which fosters compliance and avoids litigation. [Wheeler Interview]

I agree with much of what Wheeler says, and his stance makes neutrality easier to achieve on the negotiator's part, but my personal experience leads me to question further. In fact, in my negotiation with Judy and Alan, the "win-win situation" slogan begins to seem unrealistic. At this date in 1986, no agreement has yet been reached between the couple. Judy's financial status has nosedived while Alan remains quite comfortable in the house which they built together and with his higher salary. Judy appears to accept slightly more responsibility for the two boys even though ostensibly there is a joint custody arrangement. There is still emotional frustration and misunderstanding between the two [Marital Fracture, Judy and Alan 1985].

Conflict Resolution Critique: There is a question raised from studying the video material. Judy and Alan arrived at a temporary flexible agreement in their mediation sessions. Granted an agreement is necessary inorder for Judy and Alan to separate. The point of the mediation for Judy is not to accept the blame for the ending of the
I. marriage. In order to receive a fair division of their property so she can live separately from Alan, there are many ways to look at the problem.

Typically, Alan could say he is not responsible for Judy's little earning capacity. Why should Alan pay a higher percentage toward childcare cost because of a social injustice beyond his control? If Judy counts on Alan for substantial financial assistance won't that discourage her initiative?

In fact, Judy earned $163 a week at her first job working full time. When she moved to a second job at $250 without deductions, it lasted for only six months. It appeared to be a better situation because the money was paid "under the table." She was doing phone sales. She does not have unemployment coverage or health benefits. Judy was recently laid off with one week's severance pay and no prior notice. The business owner has financial problems. One day he chose to hire Judy's closest friend as his executive secretary at Judy's recommendation, the next day he fired Judy to better manage his cash flow.

If Judy chose to leave Alan, should she be expected to start over with any assistance from Alan? On an examination of their marital history, Alan was able to
advance his career and study for his Ph.D. while married. Judy took care of the children and the home. In addition, Judy suspects Alan took a large part of an $11,000 cash gift from her father to pay a portion of his school debt. This disclosure came out several years later in an in-depth interview with Judy and not in the initial mediation sessions. Full financial disclosure is required at the start of mediation. What can be done about the faulty memories of two clients? The mediator would need to spend a substantial amount of time as the ethnographer has done in open-ended interviews to find out what transpired in twelve years of marriage.

Custody: A primary agenda of mediation is provision for co-custody. As a concerned professional, I would not like to be a party to a co-custody agreement which will not serve both parties well. I realized a part of the process should be to foster the listening and communication skills necessary to genuinely co-parent. If past destructive patterns are not altered, the process is likely to be a disservice to all involved.

To make mediation a therapeutic process requires a great deal more of mediators. If a couple is divorcing, there is generally a critical and profound breakdown in relationship. It is paradoxical to expect deep behavioral changes to occur so a couple can solidify a partnership as
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parents while their companionate relationship has disintegrated. But this is exactly what would most benefit the future relationship. In an interview, matrimonial attorney Sanford Dranoff said a "Divorce is a death,...and the kindest thing to do is quickly bury it." That is easier to do if you never have to see a spouse again after the decree.

Mediation procedures could be viewed as a realistic way of opening a client's eyes to the responsibilities of a joint custody relationship. If a couple is in mediation because they desire more than visitation rights and desire what is truly best for their children, then it is important for adults to recognize the responsibility includes respecting the connection which will remain between the two parents.

Redemption: As a mediator I was conscious of my personal agenda to facilitate change in Judy's and Alan's lives. I wanted to affect them in such a way that they would become conscious and reflect on their relationship and misunderstandings. For a long time I found myself hoping they could work at their relationship again. Now I hope that their new relationships will be unlike the old one. I wanted to use mediation as a redemptive tool, a tool to teach people to remedy a situation in which they became unresponsive and cruel.
During the process, I wondered whether the inability of a couple to negotiate changes in their relationship was due to insufficient knowledge about each other's experiences, or a misunderstanding of the references, terms, and language that was unique to each person. At the point that I mediated between Judy and Alan, it was apparent that their misunderstanding certainly impeded the communication necessary for negotiation.

Judy, as the better listener, was more adept at understanding Alan. She could understand his protective involvement with the house and in fact acquiesced to his desire to continue to live there. She has been generous in allowing him to share equal time with the two boys. Though privately critical of Alan as a parent, she respected his love for the children. Alan, however, does not seem to evidence respect or really understand what Judy's demands are. He belittles her desire for a certain type of conversation, he remains emotionally aloof from her financial struggles to support herself and the two children, and he miscasts her sexual needs as overwhelming. He found Judy's conversations "boring and repetitive." Judy says "Alan wasn't responding to me as a sexual person."[Marital Fracture, Marital Problems]
At different times Alan and Judy define marriage on videotape. Alan expresses his definition of marriage as a "long term commitment and respect for each other as people." Judy says, "Stability is not enough, marriage must be a dialogue and growth."

As a mediator, I was frustrated by my understanding of what each party is saying, unable to reflect the couple's image back to them. I thought of Daniel Levinson's *Season's of a Man's Life* a hundred times throughout the months listening to Alan. His statement of the importance of a "base" to him is mentioned in Levinson's book as the significance of marriage as a "center on which he establishes his place in the community and his changing relationships with friends, parents and extended family. It provides a vehicle for traveling a particular path in early adulthood. Traditionally marital relations are formed with a wife who supports his aspirations and is ready and able to join him on HIS journey...and can coexist compatibly at the center of HIS life." [Levinson 83]

Unfortunately Alan was unable to take an active role in the realization of Judy's dream. They shared a dream at one point in time to have children and a family. Being a mother may define family, but it is not sufficient to define a marriage. When Judy said stability was not
enough for a marriage, I thought about Shorter’s research into the development of companionate marriage in American society.

"A man at around 40 has the experience of arriving at a culmination, a turning point [Levinson 31]. The culminating event has great significance. Symbolizing the outcome of youthful strivings, divorce represents a terrible blow to a man at this age. Ready for a period of "rejunvenation" and "individuation," his focus was on the quality of his life. "Marriage, occupation, residence and style of living" have defined "his place in the world" [Levinson 22].

When Alan is filmed amongst friends at a spiritual meeting he states, "In relating to people it didn't always do much good to be right...what I was missing of course was...the connection in the relationship...that's when it's not right to be right" Alan was able to recognize his own limitations and admit to them in a supportive atmosphere. But he could not change his behavior towards Judy, as we see in the final custody discussion on the videotape. Again, the same is true of Judy. In her divorce group she tells a "funny" story about being afraid to turn up the heat in her own house because of "what Alan might say." Within her support group she can see that her inability to fill her
needs within the relationship and take responsibility for her own comfort was ridiculous. And yet she is so cowed by his cool when making her child support demands in 1985 that she can no longer do simple math.

My final conclusion on this topic is an age-old one: people change when they want to change. People regress in a situation that reinforces old behavior. My influence on their changing appeared minimal.

Society: Mediation and the Social View of Marriage

Nature and the Law: Perhaps the most troubling aspect of society's definition of divorce is the conflict between the law of nature and the laws of the land. Marriage, as a kinship relationship, is dually defined by its generative purpose (nature) and as an economic and social partnership (law)[Schneider 29]. Divorce, on the other hand, is perceived as a legal termination of the partnership and of shared emotional life, when in fact the generative function, at least through parenting, continues.

If this double bind were acknowledged, much confusion would be laid to rest. Matters are made worse by the fact that babies and children need extensive care which
women provide. Robin Fox in *Kinship and Marriage* points out that the system should take this fact into account, but does not. "Kinship is the most central of all social processes." The mother and child are the "irreducible and elementary social grouping" [Fox 43]. Because no economic (and little social value) is given to the job of homemaker, the parental function of the family-maker "disappears" along with the dissolved legal state. This makes it doubly hard for a woman to demand adequate child support when there is no social definition for the continuing primary relationship or social sanction to support it.

Judy had discontinued a traditionally female career (and therefore underpaid and deadend) as a teacher in order to take on the chore of raising Bryce and Nicky, her two boys. Because of this long absence from the job market she was underemployed attending to plants in a nursery upon reentering the work world. Alan and Judy have co-custody on paper. They share time and responsibility for the children equally. Alan asked Judy regularly in the first year of the separation to take the children on a number of 'his days.' They agreed to do that for each other 'at no charge' for up to 5 days every three months. Since Alan was requesting additional caretaking from Judy, thereafter they agreed Alan would pay her six dollars a day on the days she keeps Bryce and Nicky. Alan is suppose to pay the additional sum at the
end of each quarter year and make up for the disparity in their incomes. Alan is required to pay $2/3$ of the children's outside expenses to Judy's $1/3$. In short, she has real financial difficulties. There is a subtle assumption that this is her "fault," not the fault of a sexist society. This assumption leads to Alan's relaxed attitude towards her anxious attempts to receive payments promptly and in full.

Society's dualistic recognition of marriage allows women less economic opportunity and men less responsibility for their offspring. Judy's situation underlines this problem.

The Sexual Definition of Marriage: According to David Schneider "sexual intercourse" is also a central symbol of marriage. "A man or women uninterested in copulation cannot be regarded as a good husband or wife." Both the members of the family as relatives and the family as a cultural unit are defined and differentiated by this symbol.

Judy and Alan had had obvious marital problems for the previous four years to mediation. In the last two, an affair turned into a significant relationship for Judy. She thought it best to move out of their home, but she was afraid the action would jeopardize her legal rights to the
shared property. At the time mediation began she had left once for a brief period of time and lived alone.

A key element for Judy in determining that their marriage was in trouble was, "Three months would go by without sexual intercourse." After several years of trying to get Alan to go to marital counseling, Judy "fell in love" with someone else.

A husband and wife do produce a dependent child to make a "domestic unit" under one roof. But though this is a valuable arrangement, mates change, and the "family" as described by man, woman, and child is descriptive only. According to Robin Fox, the assertion that the "conjugal family" is the elementary unit of social organization and the basic unit of kinship system is dubious. "Birth produces children and the lasting mother-child bond, the most fundamental of all social bonds." Throughout the child's life, "the mother-child" is then the most basic unit of American kiship. Neither definition appears to be completely invalid, but exists at different times.

Although Judy has a new lover, it is plain from the videotape material that he did not represent a new family. So while she had broken off the relationship with
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Alan based in part on the fact that he was no longer responsive sexually to her, the new family definition she adopted was Fox's mother-child arrangement. Judy's children become her family when she feels Alan emotionally and sexually forsakes her. Her agenda is to be responsible for her sense of fulfillment in a creative life, as a mother, and in a relationship which provides dialogue, growth, and sexuality.

Increasingly, claims for co-custody exhibit men's desire to sustain the symbol of family in spite of divorce. Men now ask for substantial, if not equal, amounts of time with their children. The demands of divorce can be viewed as positive if they result in men becoming more nurturant because of the single parent experience. My fear is that it will be at the financial expense of women and be justification for insufficient aid to the mother in the costs of childrearing.

The Law: Mediation VS. Adversarial Divorce

Women are still not considered equal under law. Concern human rights and equitable treatment have clearly been the focus of attention over the last twenty-five years, until the Reagan administration. The Women's Movement fought for reform on many fronts and once again lobbied for the passage of the Equal Rights Amendment.
Divorce laws vary from state to state, falling into two camps: community property or equitable distribution. When men are required to pay child support or alimony, they traditionally leave the states where the divorce occurred. A national study in 1975 showed that alimony was awarded in only 14% of divorces and was paid regularly in less than half the cases. Child support was awarded to only 44% of divorced mothers who were granted custody of their children, and of these, less than half received payments regularly [Briggs 52].

In the mid seventies, attorney Michael Wheeler advocated divorce reform in his book No-Fault Divorce [Wheeler]. Results in states like California demonstrated the benefits to the many couples who had unhappy marriages. In a state where fault had to be demonstrated, sufficient grounds were required by law. In most states fault is no longer a required condition for a divorce, stating instead "irreconcilable differences." The primary benefit is false or exaggerated causes are not named in public.

Co-custody is another current trend promoted by the therapeutic and legal professions. In response to the growing number of parents who wish to remain actively involved with their children, co-custody is an arrangement among people who are expected to grow, change, and form new
bonds. It is difficult for a judge to decide what these rules should be. A much better idea is that the parents, as mature, responsible adults, will rise to their obligations generously.

Would Judy or Alan been better off with an adversarial divorce? Certainly if speed is a goal, an adversarial decision might have been made long ago. Because of the power imbalance between Judy and Alan, and given a good lawyer, Judy may have had a more favorable financial settlement. But the animosity that would arise could effect co-parenting. Judy accepted more responsibility for the children in the past even though Alan shares custody with her. As of this writing, Alan is becoming a "more" responsible parent according to Judy. This may be due to Alan's girlfriend moving in and a reorganization to a stable family life once again. In interviews with Alan, he exhibited equal concern for the children's well-being, though his approach to child care differs from Judy. He is just as critical of Judy's style of parenting as she is of his, but they co-exist.

One contrast of marital mediation to adverserial divorce is that it is informal in comparison to the legal proceedings in court. Disputes are discussed among the two
parties and the mediator with expert opinion from lawyers or accountants available as a resource. The act of advocating on behalf of a client is assumed to escalate many disputes before a settlement is reached. Sometimes, the animosity of the clients leads him or her to use the courts for revenge. On other occasions, lawyers may inhibit compromise. Toughness becomes part of the negotiating technique to frighten people into compromise. The stress due to expenses, delays, and a possible trial are known to have serious repercussions on the couple's future relationship.

Mediation is therefore viewed as an alternative particularly when children are involved because the act of co-parenting involves a long term relationship. In order for the courts to accept co-custody, the parents ability to cooperate with each other must be made evident to a judge. A preliminary study done on mediation versus adverserial divorce indicated greater compliance to the divorce agreements in mediated cases [Wheeler Interview]. Generally men are the ones who must contribute towards a mother's expenses as custodial or primary parent. Economically the claim of success translates to more women actually receiving payments. Women outnumber men as single parent heads of households. As primary caretakers and underpaid wage earners, they found themselves on welfare or living near poverty. It becomes obvious why proponents of mediation
I. would find approval from the many existing social institutions.

C. ETHICAL ANALYSIS

There is yet another way in which to analyze divorce, and that is to step back from the practical issues to be solved and question the ethic of divorce. What is the basis on which the mediator or the couple decide to solve these problems?

1. The Moral Problems in Divorce

All of our decisions to act or not to act are based on an experience and understanding of the world. I will refer to this understanding as a "framework," terminology shared by Carol Gilligan, Associate Professor of Education at Harvard's Graduate School of Education [Gilligan Interview]. Dr. Gilligan has researched the differences arising in ethical decisions based on possible differences in moral development. Such differences must be consciously appreciated by couples if they are to negotiate a relationship. In our culture, research into human development proposes that the male gender identity is threatened through intimacy because masculinity is defined through separation. Female gender identity on the other
hand is threatened through separation because femininity is defined through attatchment [Gilligan 8].

While psychologists have for years applied this kind of study to groups of young people, the outcome indicated failures on women's parts to develop. Gilligan applied the theory to young women. Rather than equate male development with child development in which males were made the model of development, Gilligan makes a different representation of women's development in her book, In a Different Voice. In brief she has found that framework does indeed radically affect moral decision making. For women intimacy goes along with identity. "The female comes to know herself as she is known through her relationship with others." Therefore when Alan goes silent in his relationship with Judy, there are profound effects. Alan said he loved Judy, but in his way, "I showed I respected her." He would support Judy in her search for independence when she first said to him that she needed to know herself better. He did not understand that she needed to learn about herself through relationship. Alan projected what he valued, autonomy. At the same time, he did not consider it in direct conflict with the role of help-mate. He needed Judy to remain primary caretaker, sensitive to the needs of others, non-judgemental, nurturant in order for him to have his "stable base." She provided that until she realizes her
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own needs are not being met. Resentment grows. As a man, Alan lived in both spheres. He had his autonomy, establishing his career and coming home to a family created by Judy. Judy prepared substantial home cooked meals, entertained friends and relatives, and played with the children. But her need for something more made Judy feel "trapped." Alan was not cognizant of the consequences of his dispassionate and sexually unresponsive behavior. Alan believed, "...What happens in any relationship...the sexual part of it...it's not going to maintain that kind of excitement after a year or two or three years, and I think that she wanted it to stay that exciting, that same way...I guess I shifted some of what was important to me in the relationship to more family, house, job....Maybe that was part of Judy's liability in the sense that...she didn't have some of the same ways of being able to get positive feedback through work, because she was in the house with the kids a lot." What Judy required was an intimate relationship with Alan which he could not provide. Alan became frustrated as well, "It was like a perscription and no small step to meet her needs was enough" [Alan Interview April 1984].

Unfortunately, Judy did not know how to present the problems to Alan in such a way as to make them solvable. Only when she resorts to replacing Alan and finds fulfillment through another relationship, does Alan consider working actively towards individual change.
Another result of Gilligan's research is that some frameworks are accommodated and recognized by the formal systems (law, developmental psychology, mediation, therapy, and others), and some widely held frameworks are not. Not surprisingly it is mainly women who have frameworks which are not recognized by the formal structures. Not only are women's frameworks not recognized, but women's individual moral decisions are then deemed less mature by prevailing standards. That women are less moral than men is not just a medieval religious concept, but a current test result when women take men's morality exams [Gilligan Interview].

Alan believes he got corroboration from their male therapist indicating Judy had not yet arrived at the mature definition of relationship, one which fits Alan's framework. She can't love "in the same way." The (therapist) said to her that maybe you're not capable of loving this way now, of loving in a way that has that stable base to it." Alan's interpretation is, it is Judy's failure that "she doesn't have the base I am talking about." It is not apparent to Alan that the base she needed had to include a responsive relationship. Alan's assessment is that "she has a lot of growing up to do." In an interview in 1984, he says he no longer loves her, "She hasn't changed anything about what's important to her, and that seems to be mutually exclusive to a new beginning for us." It does not occur to
Alan that Judy's definition of relationship is an acceptable and mature one. Their divorce is because Judy and Alan may have made no room for learning from each other's view of the world. I can't help but speculate that if Alan had made room to integrate Judy's definition the marriage may have offered her a sufficient "base" on which to grow.

Gilligan is careful to disclaim that she is not proving women are inherently different from men, or that all women and men fall into general categories. Her technique has been to listen carefully to women, avoiding stereotypes and trying to analyze their statements on their own terms. Through this effort she has discovered a cohesive moral framework of connection. In her research the conception of morality in women is concerned with the activity of care and centers around understanding of both responsibility and relationship. Men's conception of fairness ties moral development to understanding rights and rules. Alan and Judy argue from two frames of reference. According to Alan, "there are consequences" because Judy broke the rules of marriage as Alan sees them. He can not see the separation as having actually occurred four years before the separation. Alan continues to misunderstand the form of negotiation Judy proposes, which is in the context of responsibility, care and continuing relationship as parents. Since a mediator's job is primarily to listen and
aid couples in making a moral choice, I found Gilligan's work congenial to mine and offered to show her the footage of Judy and Alan.

2. Gilligan's Analysis of the Film Footage

As described above, Judy and Alan did not seem to understand each other's language, and this misunderstanding impeded communication. Gilligan immediately pointed out that Judy speaks of dialogue and Alan speaks of respect [Gilligan Interview].

Alan has a socially sanctioned desire: the desire of a man for a base of security from which to operate. Judy understands Alan's need for a base. In mediation, she acquiesced to his desire for the house quite easily, and agreed to be bought out. Alan wants respect, or an atmosphere in which restraint is practiced in dealing with people. Some assumptions of a morality of respect are that adults are capable of handling their own affairs without interference, that not every aspect of one's life should be the property of another (property in the sense of information), and that a certain amount of silence increases the stability of the base of security.
Judy, on the other hand, has a desire for dialogue. Alan describes "the kind of conversation that Judy wants and needs is just tremendously boring and repetitious" [Marital Fracture, Marital Problems]. Judy says "with just persistence that I was able to get you to talk about what you felt." There's something slightly odd in the picture of a divorced couple continuing to talk with one another. One thinks of divorce as an inability to grow together, to accept change and be responsive to each other's needs. (People gossip, "She's still seeing her 'ex'? Can't she realize it's over?") Alan's last line of the movie is "I don't think you've accepted it," and the look on Judy's face tells us she is fatigued, frustrated to the point of surrender, and suppressing anger. Judy recognizes that in parenting, the relationship continues.

What is Judy's framework? Dialogue is the "morality of listening," in Gilligan's words. It is the commitment to spend time listening carefully to a person, encouraging them to speak, and sharing one's own experiences. Some other assumptions of a morality of dialogue are that people's lives hold nothing shameful, that nothing is gained by hiding information, and that talking promotes intimacy and personal change. The respect elicited by silence and remove is seen as a false value.
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A brief observation as to why these two different frameworks may arise and are certainly reinforced is that Judy and Alan spent their married time together quite differently. Alan had a career as a college professor, intellectual stimulation, status in the world, and friends and colleagues outside the home. He operated in two separate worlds, one in which he needed to appear as a competent professional. Open dialogue would not help him launch his career in the political battleground of a college, although it may have helped him at home. Judy's life was centered at home, devoted to child-rearing and to her crafts. The conversation she has with Nicky and Bryce on the videotape demonstrates conclusively the importance of good dialogue in conducting her affairs. Her craftwork also required an attitude of openness and self-criticism.

3. Critique of Mediation

Understanding these differing frameworks took about four years of intensive listening and analysis. I took the conversations home with me on videotape and audiotape to study. Mediation does not inherently allow for understanding frameworks. There was no 'introduction to frameworks' when I studied mediation. In 1981, I was able to introduce into the process an empathy for both their views because of my own understanding of life-cycle studies from two
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perspectives: developmental psychology and feminist studies. At the time we were actually mediating the separation, I adhered to recommended guidelines, addressing issues of agreement. The effort to move the process along and resolve the differences over property and physical custody arrangements left me with a question that was only addressed months later in the development of the ethnography. What is the morality of relationship? How does that effect future divorce mediation?

Even though a mediator should strive for neutrality, self-examination reveals a more complicated set of motivations for entering into mediation. As I described above, I hoped to redeem Judy and Alan from their marital mistakes by allowing them to understand their behavior. To redeem is to make up for, make amends, change for the better, correct, rectify. In a religious context to do harm to another person is a sin. In a moral or ethical sense, a culture is held together by its values and principles which it establishes for human conduct. If people felt love ended in pain and all generosity was accepted and not returned, then trust and intimacy would seem a frightening proposition. Through some understanding of why choices are made, hope is restored. In turn, I felt I would achieve some sort of understanding into my own relationships with others. It is from this framework that I mediated.
A. ETHNOGRAPHIC BACKGROUND

1. What an Ethnographer Does

Anthropologists have not always been as aware as they might be of this fact: "that culture exists in the trading post, the hill fort, or the sheep run, but anthropology exists in the book, article, lecture, the museum display, or, sometimes nowadays, the film" [Geertz]. In other words, there is a difference between the data gathered and its interpretation, and the existing, changing culture itself. It is with this awareness that I chose a method for documenting my work with Judy and Alan.

Ethnography is a branch of anthropology that describes people. According to Clifford Geertz, culture is a group's shared set of meanings. Human behavior is interpreted as symbolic action - an action that signifies meaning within the culture. The role of the ethnographer is to ask what is said or done and what the significance of the action is. In order to gather data, the practitioner uses a method to "establish rapport, select informants, transcribe texts, take geneologies...and so on.... What defines it is the kind of intellectual effort it is: an elaborate venture in...'thick discription'" [Geertz 3].
Different aspects of human culture may be emphasized in an ethnography by providing information about domains of human action. The following four domains are often used to systematize analysis of a group's culture. These are: 1) the ecology - how people support themselves and what the material culture looks like in the process; 2) the social organization - how the group structures itself formally and informally so it can accomplish such things as work or resolve conflicts; 3) the developmental cycle - the stages of the life cycle and a person's attributes at each stage; and 4) cosmology - the group's system of knowledge and beliefs which includes a value system.

All four of these domains are necessary for answering the questions set up in the first chapter. Judy and Alan are certainly facing changes in their material world, and Judy must find a way to support herself and the two children for the first time. Their society interacts with them in both formal and informal ways, not the least of these being mediation itself. Divorce has become a part of the life cycle in many American's lives. Finally, the manner in which Judy and Alan individually solve their problems rests on their beliefs about the world and provides the major clue as to why Judy leaves Alan.

I needed a method of exploration which would fulfill several criteria. Preserving an atmosphere of
intimacy was essential. Because I was trying to construct a model of emotional life, my method should record subtleties of communication. I needed both to observe unobtrusively my informants and to interview them in a nonthreatening way. Particularly because of the emotional nature of the subject matter and the inherent lack of distance caused by observing someone in my own culture, I needed a perspective on my method.

The ethnographer 'inscribes' social discourse; writes it down, and in so doing, "turns it from a passing event, which exists only in its own moment of occurrence, into an account...[which] can be reconsulted" [Geertz 19]. In other words, the data must be reliable and stable, while interpretation can change over time.

Visual ethnography, inscribing with a camera, adds dimensions which writing cannot encompass. The technology records a wealth of detail both visual and aural, and allows the ethnographer to respond instantaneously to events. The camera crew captures much more data than the note writer, for written transcripts can be made for study, and yet gesture is preserved to add subtlety and depth. I did not yet know whether it would fill my other criteria.
2. Documenting the Case Study

History of Film and Interpreting the Photograph

Daguerre's public announcement in 1839 of a miraculous invention to capture images from the world of visual perception and fix them in time was an advance to both science and art. For the majority of people in times past, the preservation of ideas was kept in memory, and passed from person to person. If "all enquiry and all learning are but recollections" [Plato, Meno], then photography was an aid to the thinking person's reflections.

Initially the photographer could best focus on architecture, landscapes, and exotic places, which would remain motionless before the lens [plate 7]. Portraiture followed soon after. By 1850, families were acquiring a visual description of its members. Photographs were looked at within the context of family life, then inherited by relatives as yet unborn. Generations later, strangers gaze into photographically preserved faces, such as "Mother and Child" [plate 8], pondering likenesses or differences from their own lives. "We perceive, in the particulars, kinds of things, general qualities, rather than uniqueness," wrote Arnheim. One might feel a profound connection to past
humanity or the opportunity to differentiate another life history from one's own in looking at a photograph.

The true documentary photographer of the late nineteenth and early twentieth century "created photographs alive with the spirit of inquiry and revelation" [Thomas 135-162]. More portable camera equipment allowed Jacob Riis to approach the New York tenements and sociologist Lewis Hine to highlight the plight of the immigrant, industrial worker, and child laborer in still photographs. [plates 2, 3, 9-11].

Photograph Example: Mother and Child

In "Mother and Child," the example shown in plate 8, the delicate clasp of two hands becomes a gesture telling of connectedness between family members. A relationship is specified in the context of a photographic session, but the message moves beyond the lives of two people. After more than a century, a gesture familiar to every mother's child continues to elicit meaning.

Though the women's actual sentiments are unknown to us, and there is no accompanying history of their day in the photographer's studio, these women represent a moment in social history which transcends the specific event.
Plate 7: DuCamp 1852 [Newhall 43]
Plate 8: William Shew 1845-1850 [Szarkowski]

Mother and Daughter
Plate 9: Jacob Riis [Szarkowski]

Police Station Lodger,
A Plank for a Bed 1890
Plate 10: Louis Hine  [Newhall]

Italian Family
Seeking Lost Luggage

Ellis Island
1905
Plate 11: Louis Hine  [Szarkowski]

Carolina Cotton Mill 1908
Photographs allow all events to have "particular" meaning even though they are secondary experiences. An unremarkable event becomes transformed. When a photograph is held in someone's hand, if only for a short time, it becomes an "internalized" moment and therefore unforgettable.

By the end of the 19th century, further developments in technology show its affects in imagemaking. Photography began to move with the advent of motion pictures. Several dozen films of one minute duration were available from Louis Lumiere to accompany the 25 "cinematographs" to project them. A film showed the "Arrival of a Train" from long shot to close up. [Barnouw 7] A new medium was being developed which could record even more data about our perception of reality.

The Moving Documentary

Although there are several theories of what constitutes a "true" film documentary, a well-accepted one, and the one promulgated here at M.I.T., is the theory of cinema verite. In cinema verite the filmmaker interferes as little as possible with the filming process (gathering data), but imposes an interpretation of events in the editing process. The films of Ricky Leacock, John Marshall, and Jean Rouch demonstrate this technique, although only the last two refer to themselves as ethnographers. Other
conditions of cinema verite are that the camera crew becomes so familiar to the subject that the subject accepts them as part of the environment. No direction is given the subjects. An attempt should be made to make the camera work handheld and reactive to events.

The cinema verite technique has been used successfully for ethnographic purposes. The atmosphere of intimacy can be maintained. Subtle gesture can be recorded. The camera crew can respond quickly to a changing situation and still preserve data in such a way that it can be reinterpreted again and again.

Documentary, seeing real people doing real things, has an uncanny power to affect an audience. Beaumont Newhall stated that the importance of documentary "lies in their power not only to inform us, but to move us" [Newhall]. Gregor Goethals expressed a belief that, "the imagemaker"...[can turn]..."a selected bit of experience into an 'object of contemplation'" [Goethals 33]. Because of the importance of education to me, it is significant to know other documentaries made a profound impact on their audiences.
Mead said "the anthropologist is the main instrument of observation" [Sanday]. Although there is a popular idea that a mechanical device can record without distortion, film in fact records what the camera person chooses. Ethnographers may be conscientious in making inquiries into human behavior in cultural contexts, but anthropologist Karl Heider suggests accepting a "goal of truthful understanding, and the notion that there may be different ways to approach truth" [Heider 2]. Metraux said the ethnographer "depends on this ability to respond - and to respect that response - as a whole person" [Sanday].

"If the picture fails to state the relevant propositions perceptually, it is useless, incomprehensible, confusing, worse than no image at all," says Arnheim. "In order to do its job, the subject must conform to the rules of visual perception, which tell us how shape and color determine what is seen." An ethnographer will add that the rules of visual perception are designed by the culture. "To become aware of it is to realize that the line between mode of representation and substantive content is as undrawable in cultural analysis as it is in painting." [Arnheim 16].
Interpretation enters into the development of a work from the moment the camera person chooses to attend to one event rather than another, or to focus on a single gesture, editing out the surrounding scene. However, because I was interested in Judy and Alan, it did not make much sense to point the camera elsewhere in the room. Because I had a focus to my interests I could react appropriately to filming a given event.

A two camera crew might make reconstruction of a conversation as a series of one shots possible in the editing room; however, the ethnographer must take into consideration whether some sense of intimacy is jeopardized with a larger crew. "Making the image" depends on the rapport established between the subjects and the ethnographer. For every camera person there is an accompanying sound person. An ethnographer needs to consider what effect an intrusion of that scale would have on the tenet of cinema verite that the camera crew should become almost invisible. Clearly, a smaller crew is desirable to maintain a normal sense of comfort and intimacy between the ethnographer and subject.

Audience members are the final arbiters of genuiness when they judge the film. "Framed within a social context, it is a distinct genre in which its content is, or
II. is assumed to be, actually true." [Erik Barnouw] The qualifier, "within a social context" is an important one, as true cinema verite, with absolutely no voice over narration or other clues for the viewer, may not translate well from one culture to another.

3. Using Cinema Verite for the Task of Marital Fracture

A fracture in intimate relationships or marriage can be viewed as a failure of connection between a man and a woman. For this reason the research is done as a portrait of the husband and the wife in the context of their marriage, using appropriate tenets of cinema verite. Transcripts were made of many of the tapes for word by word insight. Further analysis was done in the process of editing.

Using the audio portion of the tapes as transcriptions deserves further attention. Transcription of interviews has been an extremely popular anthropological and sociological technique. In conjunction with the videotapes, transcriptions were valuable aids, but poor substitutes for the words and picture. Spoken conversation is highly dependent on inflection and gesture to convey meaning. Even so articulate and brilliant a professor as Dr. Gilligan was hard to interpret straight from transcript.
The method I chose, of cinema verite documentary and transcription of the spoken material filled my criteria and enabled me to begin on the project.

B. THE CASE STUDY APPROACH

1. Definition of a Case Study

The phenomenological approach used views the subjects within their own society and tries to see the world in the terms of the informant. Human behavior is seen as a product of how people interpret their world. Therefore, open-ended interviews were conducted over a period of several years. These provide data which is descriptive of the world as the subject sees it, qualitatively rather than quantitatively. In addition, "real life" footage was shot of Judy and Alan interacting with each other, trading the kids for the weekends, each in their own peer groups and at work. Nicky and Bryce also had their moments under the lights. This footage provides a counterbalance by showing the informants conducting their lives as well as talking about it. An attempt was made to examine all aspects of the lives of the Hodson's over a period of several years.
Psychologists use subjects in experiments, sociologists count respondents in a survey, psychiatrists describe patients, anthropologists use informants to discover something about a culture. No surveys, questionnaires, or demographic analyses were done.

2. **Case Study Applied to Judy and Alan**

Barbara Myeroff, the sociologist characterized humankind as story-tellers [Myeroff]. In the act of storytelling, we convey our own attitudes, but in addition to presenting our unique selves, we also represent the values which were transferred to us by the general culture.

From my professional viewpoint, an ethnography is storytelling about storytelling. Events recounted by the informants are the first filter of reality. The film itself and transcripts made from these conversations can be examined. What I perceive and document of the world is interpreted through my own filter.

One couple cannot be used to generalize about marriage, divorce, or attributes of men or women. However, close reading of one specific example provides a prototype with which to understand other cases and can lead others in the direction of future research. It is with this
perception that I reconcile the matter of focusing on a single case in my data gathering method.

C. THE MEDIA TECHNOLOGY

1. Video

Camera and Production History

I asked Judy and Alan if they would consider being interviewed both on camera and on audio tape. They agreed. I began by making audiotapes of the mediation sessions in the summer of 1981, moving on to filming them in the winter of 1982.

In addition to the taping mediation sessions I began to interview Judy and Alan separately and together on camera. To investigate the fracture of a relationship necessitated questions ranging from tactful to explicit, but I never used an aggressive style. Though asking questions is of itself not a cinema verite technique, for the sake of gathering their history, interviews were necessary. I tried very hard to let the subjects guide a substantial amount of the discourse. I place a great deal of value on Judy's and Alan's interpretations of events. I posed many of the same questions to each of them. My first experience with them in
mediation inspired the formal ethnography, as I listened to two people talk past each other. If I was to "put them back in sync," I needed in depth conversations which reflected their views on the same themes.

The movie of Judy and Alan was dependent on the emergence of technology that could capture a likeness of everyday existence [plates 10]. My first attempts to portray Judy and Alan were with a Leica M5 35mm for still photographs and a Merranzt Superscope for audio tapes. A Canon 1014 Super-8 camera was used for the first movie segments. The scene at Judy's first apartment, as well as mediation are done as "one person shoots" to allow the subjects the most comfort. In later segments, once Judy and Alan were at ease with the process, I added a sound person and changed to video for improved recording quality. The film was then transferred to one inch videotape.

In the summer of 1983, I began using an Ikegami 350 with a JVC 4700 videodeck. Both boom microphones and lavaliers were used as the situation demanded. ENG (Electronic News Gathering) equipment proved appropriate for this use due to its portability and reliability. Mood and atmosphere can be depicted in personal environments with little more than available light. Although color is more saturated on film, graininess is reduced by originating on video.
I was most often the person recording. When I shared the camera work or became the subject, the recording remained under my direction. Because I had been a still photographer, I was used to working alone, and the transition to depending on a camera crew was somewhat difficult for me. Eventually I found that a two person crew, other than myself, was optimal. A sound person, camera operator and grip were the roles filled.

Filming went on for three years. At that point I had an opportunity to make a prototype videodisc with other students at M.I.T., "Elastic Movies" [Gerstein] published in May 1984. For this project I was only allowed ten minutes of time, and much relevant material had to be excluded. It was an important experiment to lay down video on disc and do the initial programming, and gave me insight into what to film in the coming year. As Judy and Alan established lives of their own I could film their relationships with their peer groups, and their changed relationships with the two boys. After Judy and Alan separated for over a year, a final discussion of custody was taped which seemed to sum up the state of the relationship.

Editing and Post-production History

The process of editing is analysis, analysis as to what the essential elements are and how they fit together.
II.

Editing the data into a communicative product is a way of thinking about my role as an interpreter and reflecting on what transpired over the two years in the lives of the informants. The process of editing would establish a dialogue that could not take place in real time. The story is once removed from the subject and retold. The value of the retelling for the ethnographer and audience is in the effort to make the ethnographer's observations understandable.

Editing took place in two long periods of time. For "Elastic Movies" an initial short cut was made of the first two years of movie material, as stated above. At this point my sympathies wavered between the two subjects. I found myself identifying who was "right" and who was "wrong". The material for the videodisc was developed as if it were a mystery. Small pieces of the story are presented alternately by Judy and Alan. The viewer was given a sense of unravelling a marital failure. What emerged for me from that cut was a total intimacy and deep feeling for the material, so that I could understand both Judy and Alan, even if I couldn't yet articulate it in depth.

Starting in May 1985, I began the second edit after a further year of filming. It was at this point, as Judy and Alan became clearer in their differing positions
that I was able to portray my understanding of these positions. The second period of editing took six months.

All material was transferred to one inch videotape. Time code from the one inch was then burned into the 24 hours of work dubs. Off-line editing was done with a VideoMedia controller and edits were recorded manually. The fine cut was performed one inch to one inch using a program written by Russ Sasnett as the controller. Edits were entered into DBase III, and Life Boat integrated the database into the application program. Only a parabolic equalizer was used for sweetening.

The edited twenty five minute movie is now a clear statement of the ethnographer's interpretation. The thesis submitted presents both the edited video, and transcripts of many of the significant unedited video tapes. The completed video can be used as the results of fieldwork, while the accompanying transcripts demonstrate how facts are gathered and meaning made from the data, and assist in the analysis of the work by others.

2. Computers

Computers are integral to most work done at M.I.T. Especially with the advent of Project Athena, it was
II. important for me to ask what impact computers could have on ethnography. Certainly, it was an excellent word processing tool, but could it be more than a fancy typewriter?

Having the written document was essential for several reasons. First of all doing a "paper cut" of the video helped me to organize material without constantly shuttling through hours of material. Prior to expressing my own understanding of a gesture or a phrase, many activities we so often take for granted occur, such as the act of perception and articulation. Since actual experience is too transitory to grasp many complexities, there is security in documenting what one wishes to continue to think about. Because of my familiarity with the material, I was able to study the transcripts with my memory of the videotape for word-by-word meaning.

Typically, readers of cultural accounts are at a disadvantage in that they must take interpreted material at face value. The contribution of this particular work is in the presentation of sufficient material so that the readers can study the construction of the work and better understand the various influences which make up a visual account. To allow the user of this study to account for my own bias, I have included many hours of transcribed interviews to be compared to the final analysis. Fieldwork in its entirety is rarely made available.
It is possible for readers to consider the ethnographer's role in constructing the representation and interpreting the behavior of the people portrayed by making comparisons between the edited and unedited versions. In addition to presenting observations about human relations, this thesis takes advantage of new media technologies to archive and access the substantial amounts of data. Full transcripts of important video interviews can be presented as part of the written thesis. The most meaningful use of the computer is the manner in which it makes reconstruction of data possible when used with the interactive videodisc.

3. Videodisc – A means of distribution, organization, and research

As I continued to work with pictures and words, I realized that videodisc was the medium which combined television and text. Although it had never been used for portraiture or documentary material before, I was thrilled by the potential application to my own material. In 1984, I conceived of "Marital Fracture" for videodisc. In 1985, Russell Sasnett and I developed "Marital Fracture" into an "electronic book," a confluence of media on a common ground, the optical videodisc. Sasnett's software allows a viewer/user to take advantage of his innovations such as: outliner, dictionary, or thematic index. These software
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features provide instant access to linking images, bibliographic data, movie dialogue, transcripts of unedited interviews, and analysis. The intention was to provide a relational database for truly exploratory learning.[Sasnett].

Linking Picture and Text – Background

It was only after 1830, with the introduction of the power press, that uniform messages were cheaply produced and mass media developed in a modern sense. The camera and printing press were linked as early as 1842, when illustrated weeklies modeled their wood engravings from new photographs, and war and catastrophe reached the public regularly. The early social impacts of the printed work established, for example, in the free distribution of ideas bringing a coalescence of political groups and changing communities.

Mass media is a phenomena of our industrial age. Social scientists identify mass media as bringing about shared values, homogenizing knowledge and opinions. The Carnegie Commission on Educational Television looks problematically at the medium, asking that "What confronts our society is the obligation to put (communication) technology into the full service of people, so that its power to move images and sound is consistently coupled with
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a power to move mind and spirit." In between the lines of Carnegie's creative challenge is acknowledgement of the public acceptance of media as an object and a powerful process. It is my hope to answer this challenge by continuing to link picture and text, but also to force "viewer" to become "reader", to take an active role in absorbing the information presented.

Videodisc as Read Only Memory

A videodisc is a twelve inch metal alloy platter covered with clear plastic. In the metal alloy are burned tiny pits of digital information. Constant Angular Velocity (CAV) is the name of the format which survived market forces of the seventies and early eighties, and it refers to the fact that all vertical interval sync pulses are lined up on the disc. Particular frames can therefore be accessed rapidly. One side contains 54,000 frames of video, or about 30 minutes. Each frame, or two fields, is written in one circumference of the disc, meaning that to still frame one image, the laser reader halts under the rapidly spinning disc. Because of the rapid frame access disc provides, it can be considered a computer memory peripheral.

The most original contribution of this thesis to anthropology is making the process of construction
transparent to others. The task of interpreting, analyzing, and constructing meaning by the visual ethnographer is an act of editing. By putting the picture information on videodisc, software programs could be written to either guide the viewer along particular themes, or to allow the viewer to make their own edited version of the movie.

Because information on videodisc is stored digitally, anything that is stored digitally can be put on the disc and accessed by computer. Therefore, full transcripts of the original can be stored digitally on videodisc. Software programs make searching to specific video segments, words or themes efficient. Several methods of digitally storing text as Read Only Memory on disc are on the market, and it remains to be seen which will prove most popular.

For those scholars uncomfortable with visual language, and students who wish to study the construction of a visual ethnography, this written document and support material should prove useful.

D. CONSTRUCTION

Because of the power of interpretation, it is important to include information on the construction of the
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analysis, so the reader can better evaluate the merit of the ethnography. The camera person, the subject, and the viewer of the image know the codes from which meaning is derived because they all belong to the same mass media trained society. Graphic symbols describe nature as well as the human condition. The act of recording as well as editing are "interpretations of what is going on" before the lens. "To SEE is an experiential state, to interpret is to think" [Hanson]. The photograph provides a particular experience in which one thinks back to a time before and brings it forth from memory triggered by the recognizable. The image makes aspects of our lives thought provoking and memorable.

Since 1890, along with the publication of William Jame's Whole and Complete Science of the Mind, a professional class identified consciousness of intellect and intuition and chose to study the phenomena of inner life and the relationship to the outer world in psychology [Neisser]. Since Descarte's Meditations on First Philosophy, western thought had divided our relationship between the internal and external worlds. Scientists considered themselves objective, drawing understanding from observable phenomenon, while humanists sought awareness through intuition and sensitivity to internal experience.

There are three participants in the construction of this videotaped material, the subjects, the photographer
and editor, and the viewer of the videodisc. The elements of a documentary portrait include the way the ethnographer presents herself to the subjects and what that relationship is like. In response to the ethnographer, the subjects then present themselves. The subjects chose, consciously or unconsciously to represent themselves in a particular way. The viewer can interpret the story, or can actively participate in editing his or her own movie version using the technology as an aid.

1. The Subjects/The Voices

Throughout the documentation there was mutual respect between the subjects and the ethnographer which made the research possible. The relationship was established years before the formal study was initiated. The subjects were acquaintances at first, then photographic subjects, later mediation clients, and eventually friends. The account presents only my analysis, and does not adequately describe these people. I am concerned that the limitations of the movie may not do justice to such generous individuals. Separation and marital conflict inevitably touch the most intimate aspects of a person's life.

Many first time viewers responded to the movie by wondering how the subjects "could they have told you that?"
"They must be actors" [Nancy Griffith 1985]. Material of such a personally revealing nature was provided because the relationship between the ethnographer and the subjects was founded on trust. The subjects had as much desire to understand the circumstances surrounding the separation as I did. On two occasions both Judy and Alan said they hoped to learn something from the video material. It is difficult to present only a 25 minute portrait knowing my own impressions are built on twenty four hours of video.

This was not material to distribute on Sixty Minutes and this study was never viewed as more important than the relationship with the subjects. Though the subjects nearly always made themselves available to me on my own work schedule, I respected their wishes when they had to refuse a request. We videotaped primarily on my weekends and vacations from graduate school.

2. The Crisis

The Event in Social Context

My documentation is a visual ethnography of one particular family in the process of a legal separation after twelve years of married life. "Cultural analysis is guessing at meanings, assessing the guesses, and drawing
explanatory conclusions for the better guesses, not discovering the continent of meaning..." [Sanday]. The thesis is about interpretations made richer by the culture's interest in probing beneath the surface.

There is the addition of the third party - the viewer of the video and photographs. The photographic presentation invokes a presence which is actually part of the past. Recognition is generated from prior experience; thought has been there before. A modern notion of abstraction involves an increasing distance from immediate experience, making it possible to "read" a photograph as if it genuinely reflected life [Arnheim].

A "detail," [Barthes 6] transforms the image from a sign to the thing itself. There is a process by which media mediates between emotion, values, events, and other concrete representable things and the mind. So beyond the commitment to represent women in industrial society, there are several considerations: how a participant-observer of that culture chooses to represent it, how informants present themselves to the ethnographer and how deliberately achieved knowledge affects a change in thinking. Therefore the interpretations others make of my work is important.
3. The Interpretation

The Artist/Ethnographer

By describing my own relationship with the subjects, I reflect on my neutrality in gathering the original data and where selective perception and artistic liberties are part of the search for truth. "Thinking consists...of a traffic... in significant symbols....Man [Woman] is so in need of symbolic sources of illumination to find his (her) bearings in the world because the nonsymbolic sort that are constitutionally ingrained in his (her) body cast so diffused a light" [Geertz 45].

When I construct a portrait looking at the world through anthropological lenses that means a search for an understanding of reality as well as an attempt at art. The understanding is produced in a communicative form for retelling. My documentary eventually has relevance to all women, but starts with this woman, "Judy" and this condition, "Divorce." "If we wish to encounter humanity face to face, we must descend into detail [Geertz 53].

The Portrait

In the early stages of the project, I brought several photographs to Judy. I asked her to recall her
experience in the photographic session. The following are excerpts from interviews in 1982 and 1983 after she looked at the photographic prints.

"...Your photographs have a reality about them that is different from a lot of other photographs, not necessarily pretty photographs. I think for one thing, especially when you took the photographs with Will, the way you made us comfortable together had a lot to do with what we could show you in terms of the photograph. I have seen your photographs of people. They were real...just kind of gutsy portraits that somehow or other seemed not superficial." 

Photograph of Judy and Will: "....I think in the back of my mind was the idea...I wanted to capture a special moment in time that I could hang on to, that may not be there again because of the nature of our relationship. I couldn't count on him being there a week, two months, a year later...When I look at them...I feel...nostalgic, just for that moment...That was a very close moment for Will. We talked about it afterwards because we felt comfortable with you, and we could be cozy together and feel right about it. It was a nice feeling and when I look at the photographs the nice feelings come back [plate 12].

Looking at the family photograph: "It seems to me that Alan, in spite of all the woes, remains somewhat optimistic, and has a residual happiness...comfort....That just seems really apparent to me in that photograph of us. Alan has always described himself as being of a much more positive nature...."[plate 13]

Family portraits: "Both kids in the family photograph are very much like me....Alan's smiling - it's sort of a forced smile but not all that forced. Bryce is hanging out in the back....he had that kind of brooding look. Its hard to know what I am reading from the photographs and what I know about Alan...You can't really separate the two...."

(The photographs) "certainly made me aware of my behavior. I really do look sad or really have put myself apart from the...family group....I did not want to appear close and intimate with Alan because I had been close and intimate with Will in the photographs, and I didn't want to appear that way with him."
Plate 12: Rosalyn Gerstein 1982

Judy and Will
Plate 13: Rosalyn Gerstein

Hodson Family 1982
Plate 14: Rosalyn Gerstein

Judy and Alan Hodson
Plate 15: Rosalyn Gerstein

Judy and Alan Hodson 1982
Photograph of Judy and Alan: "I remember thinking that (Alan) looked attractive in most of the photographs. And that I looked unattractive. Old and tired.

"In all the ones with Alan...you arrived on a day on which Alan and I were having a very hard time....and I wanted to be as far away from him as I possibly could...[plate 14] until that last photograph [plate 15]...I looked so unbelievably sad in this. It was just such a conscious thing that we were not touching. It was like...this is ridiculous, and touching that little bit of a very tentative thing (Judy with her head on Alan's shoulder). Alan looks relatively happy, in spite of everything....It did make me think something...I felt I was the problem in the relationship. I was the one who was not satisfied...filled with sadness and anger...."[plate 13]

The power of documentary is how it seems closest to the truth. Though it is interpretation, it creates a vivid record which appears to capture all one needs to reexplore meanings as if one were there again.

Art (Photography and Video)

This work should be viewed as a personal statement, in addition to its value as an ethnography. The artist and the subject in collaboration contribute to the meaning of the work. At least, it is helpful to identify those actions which the ethnographer and artist had a large part in creating from those in which the subjects took over the situation and their behavior was most natural.

One example of this is the last shot and sound of the movie. Although the audio and video come from different
original footage, together they said what I wanted to say at that juncture. Judy becomes voiceless, haggard, misunderstood. Alan is disembodied, voicing "sensible", independent, respectable thoughts. "I don't think you've accepted it." I find a certain magdalene beauty in Judy's face, while the care in Alan's tone conflicts with his words, communicating precisely the positions of the two individuals.

The photographic tool extends our sensibilities, and a relationship between what is seen and how it is seen makes the picture. The personal nature of picture making is in the "seeing." As the pen has done for writing, the camera is the mechanical device which makes the individual expression more spontaneous.

Ethnography - What is Anthropological

As a case study, Marital Fracture touches on all the ethnographic domains mentioned in the introduction to this chapter. Through concern for the particular, there is an examination of culture at close quarters. Judy is experiencing part of a life cycle common to many American women. In progressing with her through it, we are able to note the psychological processes of love, loss, blame, and resignation. Marriage and our expectations of marriage, the
association of failure with divorce is part of our society. Cultural patterning of both Judy and Alan are reflected in their differing priorities and modes of communication. "The claim to attention of an ethnographic account does not rest on it’s authors ability to capture primitive facts in faraway places and carry them home like a mask or a carving, but on the degree to which (s)he is able to clarify what goes on in such places, to reduce the puzzlement" [Geertz 16]. In Chapter Four on Findings, a written analysis of the data will further understanding of the data. The documentary leads to further research and narrows the questions to be asked.

The story each of us tells may constitute but one more piece of data gathered. Even if there are but two attitudes to consider, they can exhibit external influences, views held by others in their society, and indicate a direction for further research.
III.

Chapter Three: Analysis

A. INTRODUCTION

Analysis of Judy and Alan's divorce and their actions in response to this life crisis take place in two parts. First their personal histories, as well as the history of the mediator, are outlined to give background to the current situation. Demographics are included to give perspective. Secondly, each segment of the movie is analyzed for content and context.

B. HISTORY OF THE PROJECT

1. Putney's History

Only in the last decade is Putney emerging from its agricultural past to become a community of young professionals. No different than the Lynds' Middletown, "the rise of large-scale advertising, popular magazines, movies, radio, and other channels increased cultural diffusion from without are rapidly changing habits of thought as to what things are essential to living" [Lynds 82]. A unified small town in which politics and family are the central forces begins its process of adaptation as the
organ factory and papermills close down and the sale of farmlands make way for outsiders and shopping centers. Colleges built in response to the baby boom attracted young people to the area in the sixties. They remained after graduation hoping for a better life.

College graduates became carpenters, the easiest profession to establish in an expanding rural community. The pay scale in Vermont is below most states. When I moved to Vermont, a bartender said to me, "Well, if you're settling here, you're either comin' with your own money or you're bringin' your work with you." In recent years, there are a proponderance of craftspeople, school teachers, artists, specialty retailers, and now therapists.

The churches and town hall were once centers of social life, touching work, education, and leisure time, but no longer have a large membership. The old predominate the congregations. As in all communities the social function of the community was undermined by technology. As said by an eighty year old Putney resident, the Widow Bryant, "How do you expect couples to stay together nowadays? He goes his way and she goes hers. In my day only the husband had a car. If you wanted to go someplace, you went together!" Getting wood each fall, managing through a long winter, and making money dominates the lives of the young working class. A wife has
her friends and job and a husband has his. Individuals are further isolated by establishing the couple as the unit of community and intimacy. Few social forces hold or help struggling couples stay together.

Culture does not remain intact. Communities adapt to external forces. Populations expand with new births and people relocating. People like Judy and Alan stayed after college to take advantage of the semi-rural life. They could afford to buy land and be an owner/builder within the first few years of married life. They gave up anonymity for a sense of community in which people are known for their contributions as teachers, artists, town selectmen, business persons, and regular attendance at town meetings each March.

2. Judy and Her Generation

Judy, born in 1944, is part of a cohort group of American women who share a common experience. Born a few years prior to the baby boom, Judy benefitted along with the other young women born in the decades of affluence occuring after World War II. Judy's life cycle experiences differed from the generation before her. Record numbers of young adults attended college. Television brought a global environment into the living room each evening, not a small influence on large numbers of young people who expanded their horizons and expectations beyond those of their parents.
The Big War itself "produced unprecedented migration, social instability, and the break-up of families" [Chafe]. However, the generation marrying after World War II saw more stability in marriages than ever before. Couples of that generation married earlier and remained together longer and more often than any other time in American history. They had good health, and women could expect to live to nearly 80, so that motherhood occupied only a small portion of the woman's lifespan. Demographers feel this population responded to their childhood during the Depression and war with firm commitments to family. Their expectations were lower and their appreciation for family was higher.

To restore society, women in the 1940's were literally instructed via the mass media to subsume themselves in the role of wife and mother, expecting a husband to provide. Sociologists and psychologists made it clear in print that natural instincts should bring about motherhood. In Modern Woman: The Lost Sex, Lunberg and Farnham advised female employment and "male imitation" would bring about neurosis. It seemed to many sons and daughters, however, that their families staying together simply "for the children." Years of watching parents bickering and fighting made for a cautious generation. Technology affected personal reproductive choices. Large numbers of
baby boomers were either divorcing in record numbers or simply delaying marriage.

The first generation of truly media babies, they also took their global consciousness off to college for career education. The women's education included both social and intellectual development. Judy's early adulthood during the turbulent sixties offered mind expansion, social consciousness, personal growth, and sexual freedom on the one hand, with freedom marches, anti-war demonstrations, and the questioning of traditional ways of conducting life on the other.

3. The Hodson's

Judy had a middle class upbringing on Long Island, N.Y. She lived with her father, a psychiatrist, mother, and older brother who became a doctor. As soon as Judy turned eighteen, her father moved out and filed for divorce.

Judy went off to college in 1961, matriculating at Boston University and transferring to Windham College, a small liberal arts school in Putney, Vermont. Judy became pregnant within three months of entering Windham. She married her lover, eleven years her senior, even though she had only known him for four weeks. Abortion was illegal at the time, so their options were limited.
Judy had hoped her father could assist her in obtaining an abortion. He did not because "he could jeopardize his situation" while obtaining the divorce from Judy's mother. Judy gave up the child for adoption. She remained with her husband for several years, accompanying him to South America where he worked in the Peace Corps. Judy decided to return to the United States without him. As with many marriages of the mid seventies, divorce was a solution preferable to personal dissatisfaction [1983 Interview].

In 1965, she returned to Windham College to complete her degree program, majoring in Art. Upon receipt of her B.A. she taught at the college for a year. The following year she accepted an art teaching position at a public school. In 1969 she decided to attend Antioch College in Putney and received a Master's degree. She was still legally married, but was planning a divorce.

In her last year she met Alan, an incoming graduate student. Judy says when they met there was "an intense attraction." Judy became aware that Alan was married only after they had slept together. Alan said he had "an open relationship." Both he and his wife were "exploring other relationships." Judy told him soon after that an open marriage is "going to have a lot of problems. [She] could
III.

not be involved until he worked out his situation." His wife was also seeing someone and she chose to end the marriage. Alan recently told Judy that he thought the "lack of communication" was also responsible for the end of his first marriage.

Alan lost his father in an accidental death when he was a young man. He maintains a good relationship with both his mother and sister. Alan's first wife, a childhood sweetheart, was also "up-front and open about her emotions." Alan was not. "Getting feedback verbally was very strong for her as well" [Alan Spring 1984].

Judy pursued her art and for the next few years taught third and fourth graders. They moved in together, continuing a very romantic and passionate relationship. "The relationship was pretty intense" and getting married "seemed the next logical step." In 1971, partly because she was teaching in a small town, Judy thought they should marry. She desired the "stability and security" of marriage.

Through Alan, Judy became interested in weaving. She achieved public recognition, exhibited and sold her work. In 1985 she designed a three banner installation for the atrium at the Aetna Life headquarters in Connecticut. Alan went for his Ph.D., and soon after got a job at a local college. He has been working on a book the last few years.
The first year they were married, Judy says Alan was a "ski bum" until she urged him to get a job. He launched his own business. In 1973, Judy and Alan bought 17 acres of land for about $675 an acre from a friend at 7 1/2% interest. They "scraped together" a thousand dollars for a down payment and obtained a bank loan of $16,000. Alan became the builder and within one year, they were living in a house, albeit a tar papered one. Alan estimates that in addition to his sweat equity, they put $15,000 of their income into construction.

Alan accepted more financial responsibility once Judy was pregnant with Bryce. They struggled with earning money in Vermont. After Bryce was born in 1973, Judy remained home. She continued her weaving when Bryce was a baby. Once Nick was born, it was much more difficult because he was a more demanding and active child.

4. My Background in Documentation and Mediation

Rosalyn Gerstein's History

Combining an interest in education and social change with a career as a documentary photographer, I originated a sourcebook for women in 1971 with a group of Boston area women. The Women's Yellow Pages was created in response to
the difficult times women faced in receiving fair and equitable treatment in all areas of society, from employment to health care [Gerstein].

As an independent publisher, I was able to relocate to Vermont in 1979, after completion of a New England edition of the Women's Yellow Pages. In 1979 The Vermont Council on the Arts granted me funds which I used to create a series of photographs on relationships [plate 16]. It is here that my current concerns began to take shape. The community resembled the infamous Peyton Place of the 1950's, inspired by an incestuous New Hampshire town just across the river from Putney. The striking things about Putney after its scenery were the rumors of adultery, the numbers of divorced men and women, and the short duration of relationships. I photographed and interviewed many couples during that year and found myself in sensitive discussions between husbands and wives [plates 17-23].

By 1981, the very beginnings of the Marital Fracture project emerge. My photographic portfolio over the ten previous years reflected my interests in describing both women's lives and intimate relationships. My photographs were exhibited locally and nationally.
Plate 16: Rosalyn Gerstein

Bert and Florence 1981
Married 60 years
III.

Plate 17: Rosalyn Gerstein

Legally Separated 1979
III.

Plate 18: Rosalyn Gerstein

Artist Chuck Ginnever and Liason of Fifteen Years, Lily
Plate 19: Rosalyn Gerstein

Chuck and New Girlfriend
1982
Carol and Paul Before Divorce 1975
Plate 21: Rosalyn Gerstein

Carol and Steve, Winter 1980
Putney, Vermont
Plate 22: Rosalyn Gerstein

Pam - Relationship Problems 1982
Plate 23: Rosalyn Gerstein

Pam - Putney, Vermont 1982
Plate 24: Rosalyn Gerstein
Plate 25: Rosalyn Gerstein

Larry and Daughter, Tagan 1981
Plate 26: Rosalyn Gerstein

Larry and Daughter
and Son from Previous Marriage 1981
Plate 27: Rosalyn Gerstein

Mary and David with Tagan
Putney, Vermont 1982
Plate 28: Rosalyn Gerstein

Chuck and Lily 1981
Plate 29: Rosalyn Gerstein

The Hodson Family
Plate 30: Rosalyn Gerstein

The Hodsons' House
Mediation Background

I was asked by an acquaintance, in 1981, if I would mediate between he and his wife [plate 24]. She was asking for a divorce and they would invariably end up in a terrible fight at any discussion of a property settlement or custody agreement. He did not understand what had gone wrong in their marriage and resented her inability to explain to him in terms that he could understand. In mediation she cried, "he had taken her soul." Now she wanted the house. At that point mediation meant facilitating communication between husband and wife and stimulating discussion so they could arrive at an equitable solution to their current problems.

Their love for their child and equal desire for custody was a major issue [plate 25]. The man had lost custody in his prior marriage and paid alimony for the last 10 years [plate 26]. He was both discouraged and angry, as well as confused about how to proceed. His wife had already taken a lover whom she hoped to marry [plate 27].

He had planed every board and put it in place himself in the house he built back in the remote woods in Putney. The thought that she would live there with someone else made him furious. Her career was due to money he had put up to midwifery school. He felt she had taken advantage
of his generosity in the past and now had little concern for his feelings about the family.

The husband thought I understood both his and his wife perspectives. As a feminist, he knew his wife would trust me. He had experienced the animosity of adverserial divorce in his previous marriage. This time he wanted to avoid the heartache and expense if he could. After half a dozen meetings, they went to an attorney with an arrangement acceptable to both of them. Financial details of custody were worked out with the attorney. The wife bought out the husband's share of the house with some creative financing scheme we divised. Though it wasn't a great deal of money, it was sufficient to start the husband in a new business enterprise which realized an old dream of his. I recommended the husband apply for a low interest subsidized mortgage from Farmers Home Administration once he was legally separated. He established himself in Brattleboro where he could also pursue his business. He married a woman with two children within a year. His ex-wife married her lover.

Mediation was not yet institutionalized, and there was no publicity to promote its value. In 1979, at the time I found myself facilitating communication between husbands and wives, I was unaware of the formal expansion in the field of negotiation from labor to marital conflict. Not
long after my first success, I heard a spokesperson on the TODAY SHOW interviewed about the process of mediation used in dispute resolution. I studied all the literature I could find on the subject. I was soon approached to mediate in several other relationships.

The Hodsons as Clients

Judy and I could see each other's houses across a valley separating us by about three miles. We shared a few mutual friends, and I was an invited guest to several of their parties. I interviewed and photographed a couple neighboring the Hodsons for several months [plate 28]. Polaroid Corporation supplied me with a larger format camea and film to continue my intimate portraits. I asked to photograph Judy and Alan [plate 29]. Judy asked me to photograph her and Will [plate 12]. In the summer of 1982, Judy Hodson asked me to assist her in the process of separation by acting as a mediator. In prior conversations, Judy said she found my viewpoint entirely different from her own. It was helpful to her in sympathizing with Alan's experience. The resentment for past and present behavior prevented her from empathizing with Alan or seeing any chance for change.

Alan and Judy would invariably end up in heated discussions at best or physical battles at worst when they
tried to solve their problems, never getting closer to an understanding of how to proceed. When their five year old son chased his ten year old brother with a knife, Judy realized she could not let the growing animosity at home affect the children.

As their mediator, I met with them six times in the summer of 1983, for several hours late into the evening. At first the meetings were meant to deal with the current situation, seeking some temporary solution. Separation necessitates working out practical matters of division of property and child care responsibilities. They both wanted the house and custody. Judy was in another relationship. The entire meaning of the marriage was in question.

Their conversations reflected underlying feelings about the marriage and ambivalence about divorce. Interpreting what was said while in the midst of a fast moving two hours of mediation was complex. Though no decisions were rushed, adequate reflection was not an integral component of the process as structured. The couple tried out their agreement over the next year. They abandoned the effort to answer questions about their marriage jointly in therapy. Not long after I began the Ph. D. program at M.I.T, I asked Judy and Alan if they would allow me to make a movie of their stories and interpret the marital conflicts they experienced.
Social Psychology

Social Psychology as a field concerns itself with relationship between the individual and the social environment. Individuals are both social object and social actor. A social system is a patterned set of activities which have some definition, regularity, and continuity beyond the particular individuals involved with them at a certain time. Mediation is part of social system. All social interaction is a mediating process. To engage in the study of mediation is to engage in the study of social interaction or the relationship between psychological processes and societal processes. Analysis of social interaction can help place both social and individual phenomenon in a context.

As the movie opens, Alan presents a forceful explanation of why Judy left the marriage. Infidelity labels her the one who is "bad." There is no place in the system to justify her leaving the marriage except as an adulteress. Alan accuses her of having "bagged the whole thing" for her "sexual freedom."

At the point of mediation in Judy and Alan's relationship each actor responds to the behavior of the other. Consciousness is a distinctly human phenomenon in
which people take each other into account, make assumptions of the other and has expectations, and assumes the other person is like-minded and operates as we do. We make inferences from how others behave, from verbal and non-verbal clues and it guides our interaction on this basis. In the interviews with Judy and Alan it is clearly apparent that Judy and Alan define situations differently.

Psychology allows for resocialization: A person is prepared for a role in life through socialization by parents and a variety of people, different agents and messages. A reciprocal process allows variation and preservation of individuality.
III.

C. ANALYSIS OF THE MOVIE TRANSCRIPTS

1. Introduction

The challenge of an ethnographer, a mediator, and a photographer is the task of "making sense" of the realities presented. The experience of doing a portrait of a separation is the realization that it is difficult to make a case for one party over another. Implicit in the title Marital Fracture: A Moral Tale, is the search for an ethic of relationship.

In each video segment in which Judy and Alan meet they become a microcosmic social system. We see them as having socially defined roles as mother and father, husband, and wife, and as being of a certain class, race, and sex. Norms and expectations are interpreted. A participant in a social interaction with them must take culture into account to respond to cues.

Transposition can alter the facts of a story. Viewers should recognize that the movie is not the only truth of Judy and Alan, but is an answer to the ethnographer's questions about relationship. According to Geertz, anthropological accounts are fictions in the sense that they are "something made". "We begin with our own
interpretations of what our informants are up to, or think they are up to, and then systematize those" [Geertz 15]. Twenty-four hours of video appears to be a lot of material to a moviemaker when in the editing room. It is not a lot of coverage of two lives. Editing reduced it further to twenty four minutes.

The role of mediator is significantly different than that of ethnographer. As a facilitator, my intention was to foster understanding between the parties. As a practitioner, I served my clients by improving their current situation. A short term contract meets certain identifiable goals. The ethnographer on the other hand has a long-term involvement and can reflect more deeply on the couples's situation. I learnt about past history, accounting for possible reasons for the marital problems. I placed their situation in the larger social context, and wanted to understand how mediation affected them as time progresses.

A complex web of events seems to entangle people so that clarity is only possible long after they are free from the push and pull of circumstances. How many times have people said, 'if I could only try again knowing what I know now.' Particularly when the events involve deep pain to the individuals, the observations and perception which people have after the fact are tragic. At the time of the crisis,
thoughts have yet to be shared, experience externalized as well as internalized. It was in the making of the video that each of us was able to reflect on the years leading up to the marital fracture. Judy and Alan were caught up in a relationship in which everything from different definitions of marriage to different requirements for comfort caused conflict rather than growth.
2. Movie Transcript and Analysis of MARITAL FRACTURE: A MORAL TALE

Chapter one: Judy and Alan 1984

Background:

The video is excerpted from a 40 minute interview with Judy and Alan. On this occasion I brought a colleague, Benjamin Bergery, to assist. Benjamin asked Judy and Alan questions, while I recorded the video and asked questions occasionally. I told Judy and Alan the purpose of the interview was to obtain more information for my thesis project. My intention was to record the dynamics between Judy and Alan as they reflected on their marital problems.

They had been living separately for almost a year. The mediated agreement draft provided Judy with co-custody and continuing equity in the house. Judy and Alan had yet to develop a final agreement with their attorney, though at this point Judy thought divorce was likely.

Judy was unhappy with her present living situation. When the children were at her apartment they slept in sleeping bags. She was working full time at the Putney Nursery, a greenhouse and landscaping business, and
taking home $163 a week. Her one bedroom studio cost $250 a month. In a matter of weeks she had to find a new place to live. Alan was taking home $300 a week. She took the opportunity during this interview to raise the question of exchanging living situations and having six months at the house [plate 30]. Judy and Alan had not talked for some time and their conversation became emotional once the subject turned to the house [excerpted from tape "Judy and Alan April 1984"].

Setting:
Judy and Alan are seated on the sofa in the living room and facing the interviewer. They look at each other only occasionally even when the discussion is directly between the two of them.

Segment: "Consequences"

Analysis:
The first segment introduces the predicament as Alan sees it. Alan has formulated what the consequences of Judy's actions are. Up until now Alan was reserved in my presence and in the mediation sessions. Judy perceives Alan's behavior towards her as punitive. Alan says he
doesn't blame Judy for what happened, he none the less contradicts himself as the conversation get more emotional. Judy used the occasion as an opportunity to bring up the idea of her moving back into the house.

The conversation parallels the course of the relationship. They become angry with each other and can't reach a resolution. Alan says what the house means to him, but cuts Judy off long before she expresses her feelings. (The meaning of the property to Judy is apparent in the final segment, Judy and Alan 1985.) Judy backs down despite her claim that the house is just as significant to her. In this scene it is apparent where Judy got the feeling that Alan, "denies the other person's perception." In order for Alan to hold onto "the base," he must stay firmly committed to the idea that he is right.

Judy had supplied Alan with his "base." She raised their children, prepared elaborate meals, cared for the home, and entertained their friends [nursery interview with Judy 1983]. In return for staying at home much of her time, she required a source of growth from her "significant other" as a psychologist would term Alan. Being "trapped by the household" necessitates reciprocity requiring Alan to supply Judy with some of what she needed: adult engagement, emotional connection, and physical satisfaction. Only in
couple's therapy could they judge whether a dynamic existed which made Judy more demanding and Alan more withdrawn than they might have been.

Transcript:

Alan: You chose to leave, you did not want to work it out here with me, you did not want to try to make a new beginning. You wanted to strike out on your own. You wanted to go to another relationship.

Judy: You're being a little punitive to say that because I left I've given up my... my right to be here, and that is what... that bothers me...

Alan: All I'm saying is you chose to leave rather than to work things out here, that's, you know, that's part of what I'm saying, yeh.

Judy: But I also feel when you're saying that, that you're putting some sort of blame on me, that...

Alan: No, I said that directly...

Judy: But then, but then what you're saying is...

Alan: ...I'm not putting any blame on you

Judy: ...then I feel like what you're saying then is that there are consequences, because I made that decision ...

Alan: Of course there are consequences. One person decides to leave and go do something else, yeh, I think there are consequences.

Segment: "Not Here, Not Now"

Analysis:

For Judy to establish herself as an individual she saw her only course of action to be physical separation from Alan. She is then empowered by feeling "in control" of her
environment. She articulates in the second segment her desire to be out of the relationship with Alan, but does not relinquish her rights to the home. That is the punishment Alan can impose for disrupting his stability and threatening his 'base.' He is holding onto his place of power.

At this point, the viewer is unfamiliar with accusations. My intention was to create for the viewer some of my first impressions, allowing Alan to gain sympathy. Alan appears to be a loving father and committed husband. In reading Daniel Levinson's life cycle study of men, it becomes understandable why at age forty Alan would be emotionally invested in his home. The house is the symbol of his stability, achievements, and family. Alan makes Judy's needs sound antithetical to family, "It's more important for you to have your sexual freedom and what not." He focused on what makes her bad in this culture, adultery. He ignores her need for liberation from the unhappy circumstances of being his wife in a family which suited Alan, but was insufficient for Judy.

Judy did not abandoned the family, only Alan. As Robin Fox stated, the basic family unit in our culture is mother and child. Judy felt the responsibility for establishing a sense of family was hers over the years. She cared for the children physically and emotionally.
Indirectly Judy contributed financially to the children's welfare through the generosity of her parents: all the children's clothing, camp, music lessons, and building the addition for the children's bedrooms was accomplished through gifts from her parents. From the past Judy still considers Alan a negligent parent, always preoccupied, working late, traveling, or studying for his Ph.D. Judy came to resent his general routine [Interview Judy 1985]. "He would come home from work at 5:30...and all hell would break loose....The kids were full of energy, eager to see him. I was trying to get dinner ready." Alan would put his feet up on the coffee table, read his newspaper, watch the nightly news, and shush the kids. If Alan felt pressures, he did not show it. It was not Alan's style to express his concerns.

Later segments indicate her relationship with another man is not the need for simply gaining sexual freedom, though a legal separation frees her from her obligation to Alan. Her relationship with Will incorporates friendship and deep communication along with sexual expression. Alan does not admit here that Judy's leaving was finally the only way for her to take action and provide for herself those things which she could not find in a marriage with Alan: self-esteem, "engagement," and sexuality.
Transcript:

Alan: I still want to maintain a base for myself and for the kids; that's what's important to me. (pause)

Interviewer: The base? I'm sorry...

Alan: (long pause) I, I mean Judy has, um, you know, things that she wants to work out and do and being a parent and, and, um...

Judy: Just because I had to leave, doesn't make this living here less important to me...

Alan: That's part of what we talked about, you know, when you said, yes, I am willing to essentially bag the whole thing.

Judy: When did I say that?

Alan: Well, when I kept asking you, you know, you mean that it's more important for you to, you know, leave so that you can have a, your, your sexual freedom and whatnot, than, than to have a family and you said, yes, you know, that's, that is more important to me.

Judy: Well I think you can't use this occasion to...

Alan: So you can't now just come back and say, well, but, but, heh-heh...

Judy: But I don't think that has anything to do with the house; that has to do with the relationship...

Alan: Well, I do, I do.

Judy: No, I think it has to do with the relationship, and not the house. Because as I said, if you had...

Alan: Well, I don't think we're getting anywhere, so let's just stop this.

Judy: Well, but we have to, something we have to deal with and resolve...

Alan: Well, maybe, but not here and now.

Judy: Well, it's got to be dealt with, because I...

Alan: Not here and now.

Judy: All right, well, we'll have to find another time to do it.
Chapter Two: Marital Problems

Background:

Interviews were conducted with Judy and Alan individually in April 1984. The edits were created to build a file of short succinct stories giving reasons for the failure of the marriage. Rebuttals happen too fast in reality to fully absorbe their ramifications. This is the opportunity to hear how two different people interpret what happened.

Setting:

Judy is sitting in her studio apartment. Alan is seated outside his front door.

Segment: Introduction to Marital Problems

Analysis:

Alan described the start of their relationship:
"We were certainly active and happy, involved in our separate and together things. I think our relationship, from the beginning was an attempt on each of our parts to fulfill something that we couldn't get directly...through ourselves....It enriched our lives for any number of years. But it also had some very real differences in terms of the way we communicated" [Alan Interview 1983]. "I think
obviously when we first met, we put forth our best, not only our best sides, but also our best ears...we were much more tolerant and open and much more able to think the best and act accordingly...In some ways, some of that changed a couple of years after we were married. We didn't know each other for a whole long time before we were married. I guess because of my sense of continuity...having sort of a base, across time and people and situations. I always felt...that it was simply a matter of working things out and giving things time. I always tried to listen to her, sometimes obviously not successfully... and to incorporate what she was saying she wanted and needed and felt. If we had an argument, and one of the things which always puzzled me...Judy would...just say...'I've had it, I'm leaving...this is an example of how it could never work for us.' My response was, I thought we have something of a long-term understanding, liking for each other, respect for each other...what to me seems like a sort of a temporal surface problem...for you, why does that mean that the whole thing goes down the drain? Eventually, I stopped asking the question. She really depended upon the relationship for her sense of who she was and a sense of worth."

As this transcript from another portion of the original footage shows, Alan believed there was
communication and connection in the early years of their marriage. He does add that it was never easy for them.

Judy also attributes the end of the marriage to feeling undesirable. He makes an emphatic accusation about her past sexual history, then qualifies it. Judy makes her needs seem basic. Alan makes them seem extraordinary, casting her in the role of the "bad woman" in a culture that values women and mothers only if they are virtuous.

Transcript:

Alan: The breakdown in communication is the essence of it.
Judy: Alan wasn’t responding to me as a sexual person.
Alan: She has a, an extraordinarily active, you know, sexual history, and Will was not the first affair she had by any means, I don’t think.

Background:

In the "Interview with Judy March 1983," she interprets the photograph and recalls her feelings on the day it was taken.

Setting:

Comments are 'voice over' a family photograph taken by Gerstein in 1983 [plate 27].
Segment: Marital Definition

Analysis:

Judy and Alan have two fundamentally different definitions of marriage. In Alan's understanding based on respect, differences are expected. "For a long time they enhanced both our lives." Implicit is accommodation for each other as separate beings. Alan found stability in the combination of home, wife, and children. Daily problems did not threaten his commitment. He was conscious of the sense of security he gained from the total life-style. It was his "base" of operation from which he could make his way in the world. He projected future benefits as well from the comfort of his family.

Judy's life up until very recently has centered around the home. Bryce, born in 1973, and Nick in 1978 gave her the job of primary caretaker. She had her loom at the house so she could pursue her craft while still tending to the needs of the boys. She was mother and hostess. According to Gilligan a woman's identity is defined in relation to others. Judy's primary source of adult companionship was her mate. Because Alan and Judy had difficulty communicating, Judy lost a significant means for being aware of herself, her knowledge, and her worth. In dialogue there is a means to measure her growth and negotiate for her own needs in the context of partnership.
Alan defines family as consisting of two parents and their progeny. Once Judy leaves he redefines it as a home and children, but that is temporary. The wife is replaceable. Within a year he no longer loves Judy, "She has not come back...to make a new beginning." He says he will probably remarry.

Transcript:

Alan: I guess my definition of marriage is some sort of long-term commitment and respect for each other as people.

Judy: An active, ongoing verbal dialogue is what I need to grow, is what I need to be able to relate to the other person, and just the stability really isn't enough.

Analysis:

Individuals can both be party to the failure if they are conscious of what is happening. In a time when therapy is publically accepted, I find it interesting that the party most discontent couldn't find the forum to address dissatisfaction. It is possible that prior behavior over the years gave Judy little confidence that she could find the "base" she also was looking for. The best model of
relationship is one of mutual regard and consideration rather than mere tolerance of differences. Judy might have seen herself less a 'victim of circumstance' and able find a place as an assertive and equal partner.

"When the balance shifted to more problems than not, or more problems than positive aspects...I would have to put that about maybe four years ago. We had the normal arguments and trying to work them out as far as different tastes or different ideas about the house or... kids." There were many things about Judy and about myself that made for some difficult incidents."

Segment: Conversation

Transcript:

Alan: A lot of the kind of communication that Judy wants and needs, to me is just tremendously boring and repetitive. It's just like, you know, I said that yesterday, why do I have to say that again today, you know, nothing's changed.

Segment: Communication

Setting:

Judy and Alan on Sofa, April 1984
Analysis:

In this scene it appears neither was sensitive to the two frameworks which existed. Judy's attempts to resolve issues that bothered her led to a label as a "complainer." When Alan expressed his thoughts and feelings to Judy, he felt "seriously misinterpreted." Without an ability to verbalize and negotiate the emotional and physical reality of their relationship, Alan saw accommodation as a means to preserve family life.

With Alan's disinterest in Judy's need for an ongoing verbal dialogue, she was isolated and unable to accommodate Alan's need for separation. But Judy felt "powerless to make decisions, because Alan almost always made the decisions." They had arguments over childrearing that were barely resolved over a period of years. The same was true of Judy's sexual frustration. They agreed "it might be a good idea" to go to a counselor. They "never followed up on it." Judy recognizes that Alan may have been under pressure, but he didn't talk about it. In order for Judy to learn how Alan was feeling she "had to drag it out of him." After a while Judy "just went silent."

Transcript:

Judy: With just persistence, you know, I was able to get you to talk about what you felt. Um, you know, I mean I felt like I was like pulling teeth in a way to get you to say what was on your mind, whether it be worry about work, or...
Alan: I think you're right, you know, that, and that's partly just the way things take a long time for me to come to that conscious state, partly. Partly, it's a matter of habit. I can remember many times, you know, getting really excited about talking with you about who I am and what I feel, and...

Judy: In the very beginning?

Alan: No, no, throughout, throughout, you know, the first five, six, seven years.

Judy: I feel I have been labeled as a negative person and a complainer by Alan; and that may be true, in fact, but I also have been just as out front with my good emotions. What I think I needed was not his being so accommodating, but more, you know, having it all out.

Alan: I felt I was being seriously misinterpreted often, I mean that, that Judy was ascribing feelings to me that I didn't have and, and, you know, judging what I was saying or not saying, um, in a way that I would violently object to, and, and she simply wouldn't accept it.

Segment: The Base

Analysis:

Alan withdraws from the relationship with Judy. Without a meaningful connection to Alan, there is less opportunity for Judy to be fulfilled and grow while preoccupied with the obligations of wife and mother. Alan has stimulation outside of the home. He overlooked the support his own needs for growth were given by his colleagues and students. Judy's role as primary caretaker necessitates her voluntary confinement to the house for much of her day during ten years of their marriage. There is a link between his statement that Judy was left at the house and his finding her repeated conversations boring. Judy was
in a struggle for a sense of self esteem that was not sufficiently supplied by outside stimulation. She just no longer wanted to live with Alan. She clearly left Alan and not the family if one accepts Fox's definition of family as the smallest cultural unit of mother and child. Judy took her children with her for half of the time once she relocated in an apartment, in spite of the inadequate space.

Transcript:

Alan: I guess I had shifted some of what was important to me in the relationship to more family, house, um, uh, job...

Judy: I felt kind of trapped by being in the household and I just felt sexually unsatisfied in my marriage.

Segment: Sexual Problems

Analysis:

Judy's first assessment of the marital fracture centered on their sexual problems as well as their communication problems. Alan sees them as connected, and "would add a third thing which is...the ability of either one of us to be supportive or sympathetic if you will disappeared.... I ended up feeling like there was nothing I could do" [Alan Interview 1984].

Transcript:

Judy: Very often we cuddled a lot, but in terms of lovemaking, um, there was very little of it. And I also felt
that in order to have love-making, I had to be real aggressive.

Alan: She was very clear about how she wanted me to behave, you know, it was like a prescription. Um, what she, she sort of set it up so that no, no small step towards meeting her needs, so to speak, was, was enough.

Judy: He has since told me that he was always ready to make love, but I never got that feeling from him.

Alan: What I recall is essentially agreeing that, you know, might be a good idea if we'd been able to talk to somebody else, but neither one of us followed up on it.

Segment: Lover

Analysis:

Judy eventually established a friendship with Will which met her needs for dialogue, self worth, growth, and, after a year of friendship, sexual desirability. Once she no longer felt "trapped by the household" she went into therapy to deal with her ambivalence about her marriage, her confusion about her childhood, her hopes for her future. While Alan and Judy both describe that year and a half as "sitting on the fence," she was in an active process of considering her responsibilities to herself and others.

Transcript:

Judy: Will was real receptive to hearing about me and what I thought and what I felt, and he also gave me a lot of feedback.

Alan: It was becoming somewhat obvious if not conscious.

Judy: I was kind of terrified to tell him; I was afraid of what the consequences would be.
Alan: I always thought, you know, that it was the next step would, you know, would bring it back together.

Judy: One of the ways my therapist had put it was that it, he called it the two-by-four technique, where in order to get Alan to realize yes, there were problems and, um, I wasn't just talking, uh, that he had to be clobbered over the head.

Alan: I felt that at last, you know, it's out and, and, um, you know there's, we can go from here.

Will: I always felt that, you know, she should just figure out her relationship with Alan and, and if she wanted to stay with him, stay with him and if she didn't want to stay with him, leave.

Judy: I really was still very attached to Alan, and um, was unwilling to say, well it is over and I'm sorry, and really, I sat on the fence for a long time, probably a year and a half.

Alan: The essence of all our fights, I think was, was just that she, um, you know, she felt more allegiance to Will than she did to me or the family, and she said that point blank.

Judy: It wasn't just the good sex. It was the...

Will: Yeh, well, it's...

Judy: It was really sharing a lot of thoughts and, uh, communicating.

Judy: Nothing would have kept me at home to work out my problems. Even though I said that I was willing to make a commitment, I really in my heart was not.

Segment: Judy Moves Out

Setting:

Judy rented a two room apartment from a recently divorce woman which adjoins her house. It was previously used as a pottery studio. Judy has set up her loom in one room and uses a loft platform for sleeping quarters. (Super 8 footage, Gerstein interview and film, summer 1983)
Analysis:

The scene allows observation of Judy and also shows an interaction with Alan, rather than "talking about" an action in the past.

Transcript:

Judy: (outdoors with a wounded bird in her hand) I don't think he's ready to fly away. I don't think he's ready to go yet.

(Judy walks inside cuts to Judy weaving a basket) I was thinking how much I really love basket weaving and I just was imagining last night, of just filling the place with baskets, you know, that I make and not even worrying about where I'd sell them. Two over, two under, looping the ends inside... Maybe it's almost finished?

(Alan arrives bringing Nick and a few of Judy's things. Nick is visiting for the weekend. Judy and Alan unload the car.)

Judy: Hi, Nicka-tick.

Nicky: Hi.

Alan: A lot of boots you have there.

Judy: What?

Alan: A lot of boots you have there.

Judy: I don't have a lot of boots. What do you mean, I have a lot of boots? I don't have... just workboots. (Opening car door and unloading) Did Nicky pick these out?

Alan: Yeh, yeh.

Setting:

Gerstein continues filming on back porch.

Transcript:

Alan: It's nice to, you know, be away from a lot of the tension. Be able to do things that I haven't been able to do in quite a while.
Chapter Three: Mediation

Segment: Mediation

Background:

After six mediation sessions of several hours, the couple tried out a temporary agreement. The following factors were brought into question as I listened to Judy and Alan during the months prior to and during mediation:

1) neither could entirely empathize with the other's situation at this juncture. Judy because of Alan's past behavior towards her; Alan because of Judy's present relationship with another man.

2) Alan was in a position to punish Judy for their current situation. Negotiations proceeded with Judy at a disadvantage. She felt as if she had been the one to cause the family's pain, instability, and uncertainty by taking action. Judy
felt guilty and afraid of the consequences of taking a lover and that leaving home would jeopardize her equity in the property. She had internalized the role of the bad woman. Alan may have agreed that his actions over the last few years contributed to the separation, but he was unwilling to share the consequences equally, because he wanted to "make a new beginning" and Judy did not. He was making certain that Judy became aware of the consequences of her actions.

3) Mediation claims to go only forward and not deal with the complexities of the past emotional problems between the couple. It is unlikely that a couple chooses mediation to resolve their behavioral problems or ambivalence. Therapy is suited for that.

Setting:

This particular mediation session takes place in Gerstein's Home in Putney, VT. in early 1984. It is a one year review of the separation agreement.

Analysis:

In mediation sessions, we focused on their desire for a separation agreement. Judy was the one choosing to leave home. She was having difficulty managing financially, and her living accommodations were inadequate. Neither Judy nor Alan was seeking a divorce at that time. When the
mediator suggests a temporary solution for living arrangements in which the inconvenience would be shared equally for the time being, Alan shows resistance. Alan interrupts as if to say a temporary solution about the house will not meet with his approval. Reading between the lines of the mediation transcript, the conversation signifies the importance of the house to Alan.

At every mediation session, each said they better understood the other, but I wondered how deep the understanding went when I played back my tapes. The couple seemed out of sync. Two sound tracks which should be heard together were playing separately. In fact it was not possible for this couple to reunite on any common ground.

When the mediator suggested seeing a counselor to address the issues surrounding their marital problems, they halfheartedly try. They each chose a therapist and then disagreed on whose approach was best. Therapy lasted a few months. Though Judy's and Alan's emotional feelings may be ambiguous, they are strong. Their problems are evident in the communication difficulty that stands in the way of reaching any clarity about their separation. Judy is essentially forced into making a settlement on the house and property for financial reasons, not because Judy and Alan have come to a clear understanding that divorce is inevitable because of
irreconcilable differences. Instead of acknowledging that the marriage is over, Alan blames Judy for not "working" on their relationship. What is apparent in the mediation sessions is that the divisions in the marriage are set in motion again at the mediation table.

Transcript:

Judy: I thought, like through the last couple weeks that this is it, I'm really getting divorce, I want it over and done with and da-da-da-da-da-da-da, but I'm not so sure that's true. I don't know, you know.

Gerstein: How have you been feeling?

Alan: Somewhat the same, you know, not feeling the need to get a divorce; um, but on the other, feeling, I guess, as neutral as I've ever felt.

Judy: Well, let's say I wanted to buy a house. Somehow or other I, I connected divorce and being able to do that.

Gerstein: We could say there's two problems, just mentioned: one is, the emotional relationship of being married, and whether the two of you should proceed with a divorce. Somehow I feel that that issue might be best addressed with the two of you talking to a counselor who's dealt with your emotional relationship. (cut to shot of Judy raising eyebrows, looking downward)

Judy: It's not good for me, it's not good for the kids, and whether or not Alan and I either at a later date got back together, or had some kind of a, a, you know, different relationship, um, my living situation has to be changed.

Gerstein: And you're here because, am I correct in thinking you want Alan's help in trying to figure out how you can do that?

Judy: I just need a house, you know, and we'll just have to hash that out. Right now I suppose.

Gerstein: There are situations where people take turns having the house. Six months on, six months off. Instead of going off and buying a second house, is that maybe you...
Alan: (Alan interrupts) Except that that's also a temporary solution.

Judy: I refuse to continue renting on a long-term basis, you know, I want home. So, either the house would have to be sold to someone else, and I would much rather Alan have it.

Gerstein: Mm-hmm.

Judy: 'Cause I know what it means to him. But it's either sell the house, and we both come out of it with, you know, with an equal share, or he will have to find some way to buy me out so that I can afford to live somewhere else...

Gerstein: Ok. So that's another idea, keep the house but buy out... Judy in this case would be more likely. (Gerstein writes on large newsprint pad with their list of ideas)

Judy: I sometimes feel like I should be living in the house.

Alan: It's not an easy house to maintain. And so to some extent, uh, you know, quite frankly, I think it would be, well it would be a relief not to have to deal with it, especially if it was part of, of, you know, your buying me out, so that I have the resources to do that.

Gerstein: Well, suppose you sold the house and each had enough money to get a smaller place. I mean that's something that you could pursue that...

Alan: (Alan interrupts) Yeh, but I'm not saying that. It is my home, and I'm still very attached to it...

Gerstein: Right; but I mean we could throw it out here as idea number three...

Alan: Yes.

Segment: Critique of Mediation

Setting:

Judy and Alan are interviewed sitting on living room sofa at Alan's house, March 1985.
Analysis:

The couple was asked to comment on mediation two years later. Alan remembers his naivety about the fiscal and parental aspects of marriage, while Judy, in keeping with the material to date, speaks of wanting to avoid conflict.

Transcript:

Alan: When we were seeing you for mediation, I mean, yeh, we were thinking of divorce, but it was, was really quite unreal. That, that whole thing about splitting up property, and the whole thing about you, you and, you know, reaching an agreement about, about how joint custody would work. Those kinds of things really hadn't cropped up in our conversations.

Judy: The first things that happened to us is, is immediately we were going to, uh, go to our own corners with our own lawyers and then, and if they had gotten both those things, it would have just been out of our control in a sense.

Segment: Alan Working on the House

Analysis:

Over the years Alan has continued to make improvements on the house. Judy's mother gave them $2,000 in 1980 to build a bedroom for Nick, but instead Alan began work on a four story tower, which is still incomplete. The video provides a glimpse of Alan doing carpentry and enjoying his handywork. This sequence juxtaposes to Judy and her gardens. It is an opportunity to see Alan take pleasure in working on the house and see him as an active and capable person.
Chapter Four: Family Reorganization 1985

Segment: Judy at Home

Background:
The Putney Nursery opens at 8am, so Judy must leave the house in the morning before the children.

Setting:
Judy sublet an apartment which is part of the private home of a widow in Putney. She is happier here than in her last apartment. Each of the children has a bedroom. Her loom is once again set up in the livingroom and she is working on a few commissions when she has time.

Analysis:
Judy is looking better and feeling in control of her life in spite of being tired. She is proud of her efforts to become independent. She is seen here trying to manage as a single parent. It is 7 am and unfortunately Judy must leave for work before the children go off to school. The school bus will pick them up and drop them in the afternoon. They are left at home alone until Judy finishes work at 5:30.
Judy: (talking to Bryce in the kitchen) Do you think that you can remember to catch the bus? I'll try to call, ok?

Judy: (voice over - Judy loads the wood stove) This is sort of a crucial time I've got a full-time job, I've got all these weaving commissions to do, in my spare time I'm going to graduate school at night, all my course work is due in another week. In fact, Will came over last night, and he was sort of depressed, but he was very sympathetic to what was happening, and even suggested that he would be more than happy to watch the kids both Tuesday and Thursday night when I go to class, which I thought was really nice. (Judy gets up from the kitchen table) Well I think I'll go up and wake him....

(Judy goes upstairs and wakes up Nicky): How's the kid doing? You can stay in bed a little bit longer, but I have to go to work. Yeh? Ok, you know what you have to do. You have to wash your face, 'cause it's really gross. Ok? Will you remember? Promise? Ok, 'cause it's all full of sticky, ucky stuff. And change your shirt. Ok? And have breakfast. And catch the bus.

Nicky: When is Bryce going?

Judy: Bryce is going to catch the same bus with you, the 9:00 bus, so you have a lot of time.

Nicky: Yup.

Judy: All right, come give a kiss, give me a kiss.

Segment: Judy's Job at the Putney Nursery

Analysis:

Judy is proud of her new found independence.

Though she is struggling on a poor salary, she feels healthier and happier earning her own living.
Transcript:

Judy: (voice over) As soon as I got my job, my whole outlook changed. I just love to go to work.

(Judy assists a customer)

Customer: We like, uh, plants that thrive on ignorance and neglect.

Judy: Ok, this one should do the trick.

Customer: (laughs)

Judy: (voice over) I love getting a paycheck, being able to count on it. It's a good feeling.

(Nicky is at the store waiting for his mother to take him home after work. Bryce is at a friend's house. Alan will occasionally drop the children off at the store when they are making the change in custody. Nicky has just had a haircut and tells about the occasional conflict both boys have with their Dad.)

Judy: Neither of the kids like to have Alan cut their hair. Why is that?

Nicky: Because he's always mak-... messes it up and then when we go to your house, it's like Oh!, who cut that hair? And then I'll go, Dad. And she'll go, oh that's ugly, let me fix it. And she'll fix it, then I'll go to Dad's, and Dad will go, oh, that's not, that's not how I cut it, and he starts cutting it again.

Judy: Sometimes that happens, and sometimes Alan accidently poking him with the scissors, and Bryce is more sensitive than he should be, so it turns into an event.

Segment: Preparing Dinner

Background:

Jaimie, an ex-student of Alan's is living at the house since Judy left. He shares in the household chores and is good with the two children. He also assists Alan in
carpentry work on the tower. This evening Jaimie is preparing dinner and involving Bryce. Alan is making some audio tapes and plays with Nick a while before helping with the dinner.

Setting:
Alan's House, March 1985

Analysis:
Alan does his best not to have Judy's departure alter his sense of family. His claim to co-custody and possession of the home will diminish his loss and therefore the trauma of the separation. He does not have to start completely over again. At this point he already believes he will marry again.

In his interview that same weekend, he says he no longer loves Judy as "she has not come back in any way to try for a new beginning" [Alan interview April 1984]. After twelve years of married life, he essentially minimized his loss.

Transcript:
Bryce: Meatballs!
Jamie: Want to make meatballs?
Bryce: Yeh! (making dinner)
Alan: (voice over as they are seated at the dinner table) I think it was a lot easier for the kids once the separation happened, you know, it was just, things were pleasanter, they had a better time with me, they had a better time with Judy. And maybe it was even somewhat of a relief to me really... uh, certainly turned out that way. Together we told them that, you know, Judy was gonna live someplace else for a while.

Segment: Judy and the Children

Setting:
Judy's apartment, March 1985

Background:
It's Sunday and Alan is coming to pick up the children and Bryce doesn't want to go. The family started seeing a therapist because they were concerned about the effects of the divorce on the children. In therapy, the psychologist recommended Bryce have private sessions because he appeared more troubled and introverted.

Analysis:
Judy is able to elicit Bryce's feelings from him, and attempts to make sense of them. More practically, she acknowledges a solution from Nicky which allows the younger boy to participate.

Judy states in a 1983 interview, "One of the sad things...because of the emphasis placed on failure, that children have a real hard time...with divorce often because
there is so much hostility and fighting and anger involved. But if their parents are loving and caring about them and don't involve them in those kinds of situations,...still, they are brought up with the sense of failure rather than of a new beginning."

Transcript:

Judy: Why are you upset?
Bryce: Mm-hmm.
Judy: He's just talking, he doesn't want all the kids at the violin recital to see that he's got his pack, and that he's packed up for the weekend to go to Daddy's. You want to, what do you think that they'll think?
Bryce: I don't know.
Nicky: I'll bring the violin and everyday he can...
Judy: I mean, you could get him to pack. He's going with you and he can pretend it's his if you don't want anybody to know that you have to pack up and leave on the weekend. I mean, is that what is bothering you?
Bryce: Uh-huh.
Judy: I mean, if you don't tell Daddy how you feel then how's he going to know? 'Cause if I tell him, do you think that will work as well? I mean, he'll get upset with me, and he'll think maybe I'm making something up. And that's one reason we're going to therapy, Bryce, is so that you can tell these things.

Chapter Five: Reflections 1985

Background:
Judy's and Alan's lives have become separate and taken new form. Judy meets every other week with a group of
women friends. Alan meets weekly with a group of students from the college where he teaches.

Segment: Alan's Spiritual Meeting

Setting:

Analysis:
In the scene at Alan's spiritual meeting he says "It didn't do much good to be right". Alan acknowledges he may have broken the connection by asserting himself when he was right. In spite of his self awareness, he nonetheless still sees himself as right. In other words, a story isn't a story without the facts. Alan has learned one lesson about the effects of his behavior on others in relationship. He has yet to open up to the possibility that he may not be the only one who is right.

His new girlfriend is more understanding of his philosophy. Alan tells me at his spiritual meeting that he wrote to her, "We say very little so much can happen."

Transcript:
Alan: In relating to people, it didn't do much good to be right. Uh, and because of my abilities with memory and
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rational thought, uh, I could be right most of the time. But that, you know, what I was missing, of course was, was the connection in the relationship. And, you know, that's when it's not right to be right.

Segment: Judy's Women's Group

Setting:


Analysis:

There were numerous events which drove Judy out of her marriage. In her interview in 1985, she refers to Alan as an "energy fanatic." In this segment she tells the kind of incident that she found so frustrating. Judy was the person at home and yet Alan controlled the house from its design and construction to the temperature of the hot water. If Judy found the house uncomfortably cold, "the idea was put forth that if he wasn't uncomfortable then it wasn't worthy of attention." She felt Alan would "deny the other person's perceptions." By the last four years of their marriage, Judy referred to Alan as "tyrannical" about energy conservation. Alan referred to Judy as a "negative complainer." Financial pressures accompanied frustrations over the differences in lifestyle.

The women began to meet as a general support group. Only after talking did they discover that all of them
were divorced. Their discussions help Judy fill her need for talk, and their experience in relationships lends perspective to her life. The brief edits introduce insights several of the women have through their own painful experiences in relationships.

Transcript:

Judy: I said to Alan, you know, would it be okay if I built a fire in the fireplace, and he said well, it's not energy efficient, you know, you'll build a fire and it might feel warm but the house is actually getting colder because the cold's going up the chimney. It was so cold in the house, they sat there with their coats, and Linda every once in a while would put on her gloves. I just, it was like I was angry, but I went and I asked his permission, and then I suffered the consequences. Everyone else there is cold. It never occurred to me that I could go out and build a fire, and fuck him if he didn't like it, you know, I wanted to be warm, my company wanted to be warm, and so what if we were only superficially warm.

Woman 1: When you start wanting them to be a certain way to meet your needs, then all of a sudden you're angry at them.

Woman 2: You have expectations that are not based on what that person is all about, and so then you create your own misery.

Woman 3: The relationships I was getting in were so meaningless and offered nothing that I stopped even hoping or expecting, cause every man I'd meet is like, because I was so more powerful I think. And I don't think men liked that. Powerful, meaning I, I didn't, I felt ok about myself, all by myself, even though I would certainly like to have a sexual life, and even though I would like the companionship, you know, the soul-mate thing, I just haven't found it.

Segment: Judy's Reflection

Setting:

Judy's voice over the children playing baseball.

Cut to Judy sitting at kitchen table
Analysis:

Alan's behavior towards Judy in the years of the marriage undermined her sense of self-esteem. She says, "Everyone's bad habits are hard to break." But Alan exhibited more than bad habits. He displayed a lack of regard for Judy's needs that did more than undermine their relationship. Her only way to experience some control over her life was to leave. She reflects on the past year in an interview in February 1985.

When a couple does not negotiate well, I wonder about the model of relationship that is presented to children. If parties retreat into their own positions and go silent, there is no example of perserverance and patience. Change in which both will benefit seems impossible. As Judy says "we just stopped communicating" or "I went silent". It is a picture of the U.S. - U.S.S.R. cold war brought down to a microcosmic scale. Divorce might be seen as constructive criticism of a marriage if a couple confronted the issues that broke up the marriage.

Transcript:

Judy: One thing that's very regrettable is that the kids had to, uh, have this happen to them, and to have their lives so torn apart, and will be for a long time.

Judy: There's a lot of pain, a lot of unhappiness, but I think ultimately I think it's really good for me. I don't feel so much a victim of circumstances.
Chapter Six: Judy and Alan 1985

Background:

Judy visits Alan's to talk about co-custody issues. She has not been back to the house in a long time. She takes a walk on the property looking at her gardens before going into the house. Alan has bought out Judy's equity in the house for $27,000. The house was appraised in 1984 at $64,000 with the 17 acres of land. Alan's and Judy's attorney deducted the outstanding balance of $10,000 on the 7% mortgage before finding the buy-out price. In addition, Judy provided Alan with a cash discount as an incentive to borrow the full sum of money and pay her in total. He borrowed $20,000 from his family and the balance was obtained from the

Judy recalled in 1985, "how little I was actually listened to about ... financial matters. We would be behind three mortgage payments ... or always behind two electric payments, always behind two telephone bills. I think I helped finance his work. In 1980, Judy's father gave them $11,000 which was gone in three months. Judy recollects that they used $1800 for a trip to Mexico. "Their first real vacation." She was surprised when Alan told her that the balance of $9200 went to pay bills. She was unable to get any detailed accounting. Alan does not remember precisely how the money
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was spent. Judy suspects that it went primarily towards Alan's college debt, the total cost of which Alan no longer recalls. He knows he borrowed $6,500 from the bank for the last year of his program on which he pays $60 a month. He subdivided and sold one acre of the land for $7,000 in cash.

Setting:
Judy visits Alan's House 1985

Segment: Judy in the Garden

Analysis:
This is the first opportunity to see how much the house and gardens means to Judy and understand her emotional attachment to the property. Her sense of loss is evident when she sees her gardens unattended.

Transcript:
Judy: Alan doesn't want me to come back year after year to get thing from here, which I understand, and you know if I dig up my daylillies or primroses, I certainly won't take all of them, I'll only take half of them.

To me this is such a sad part, because I, you know, it's like, I mean I built this out of nothing, out of rock ledge. Oh well.
Segment: Custody Arrangements

Analysis:

Alan's comment that Judy "hasn't accepted it," meaning the divorce is the key to this section. Even though he can now pay lip service to their continuing relationship, his ability to participate in parental activity with her is minimal. He continues to intimidate her with looks and gestural remove when she is humiliated by her lack of financial resources. If she were to accept the divorce, from Alan's point of view, she would no longer resent the past and she would sign the divorce papers. Judy views this present connection as a fact of their lives.

This thesis looks at marital separation in an effort to understand what caused the fracture in a marriage and the consequences. The most obvious answer is a common one in divorce cases - infidelity. If a marriage of 12 years began with love and passion, and included a shared commitment to family life and stability, the question must be asked what preceded the infidelity?

The reason I raise this question is because this case study of mediation followed closely a commonly prescribed path in which the structured process assists a couple in reaching a workable separation agreement. It was
not a form of legal counseling. Even if the mediator is an lawyer, consulting attorneys bear the responsibility of advocating the legal rights of the individuals. The mediator facilitates communication when a couple must assess what is in the best interests of their children and when one or both parents desire joint custody. In order for a court to agree to joint custody, the judge must have an indication that parents are capable of cooperation. There are cases in which co-custody is granted as part of an adversarial action in which lawyers negotiate the details on behalf of their clients. These are cases which most likely did not make it to litigation. Sometimes the threat of expensive and harmful custody battles push clients into an agreement begrudgingly.

Transcript:

Alan: The trouble with that is it comes at the exact time, I mean it happens exactly wrong for, you know, for my going away the end of June.

Judy: Uh-huh. You're planning a vacation in which I have to take care of the kids for a week and I haven't been consulted. I mean, can you understand that?

Alan: Yeh, yeh, but can you understand that, that, that I haven't set anything, and I haven't done, I don't have reservations, I mean I haven't even set anything.

Judy: Well, I just got the impression though, when you were flipping through the calendar that, and you looked at it and you said oh, but the only problem is those are the two weeks I'm going away. So you have...

Alan: I want to go away...

Judy: Oh. But it's not definite.
Alan: No. It could be, you know, a week earlier or a week later.

Judy: I mean, basically if you go away the last two weeks of June, and I work full time, and the kids are out of school, then that wouldn't be good. You know, because that's two weeks that two children have, are home all alone.

Judy: One thing we have to figure out, I think, is a sys-, a practical way to figure out the money end of the children's expenses. And I feel like there are probably more hassles this time, though it wasn't real bad than need be.

Alan: I agree, it all ought to happen within...

Judy: Because otherwise it just creates a lot of needless problems...

Alan: You know, that's the first time we've done it, and, and...

Judy: Well I know, but I'm just wondering if maybe there would be a better system so that we don't run into that problem, more than...

Alan: Can we just talk about what we want to talk about...

Judy: I feel like I have four days that I said I have the children and you, on your calendar said I didn't. Over a three month period, right?

Alan: Mm-hmm.

Judy: And supposedly, I'm, I'm supposed to get six dollars a day for, well, it's five dollars, if it's, for every five days in three months... sorry, let me start again.

Alan: If you just take the three month period, just by the fact that I have the first week in January and you have the second, and I have the last week...

Judy: Except I worked it out on a daily basis. I added the number of days in each month, that's how I figured it out.

Alan: Well, ok, what you did...

Judy: I didn't go by weeks...

Alan: Wait a second, what you did is you took the number of extra days each month you, you remember having them.

Judy: Well I guess so...
Alan: I'm not trying to confuse you, I'm not trying to...

Judy: I guess that something about it bothers me, I mean mathematically you're probably right, but, um. See, 'cause I'm not sure if that's fair. I have such a little income, you know, I make a, I bring home a hundred and thirty dollars a week. You know, and if I'm spending forty-two dollars a week, which is I think a low figure, just on kid's food, you know, and I take the kids nine extra days in three months, that's ridiculous.

Judy: I mean, I think that if I had gone to a lawyer, I may have wound up with more. Maybe I wasn't clear enough about what I wanted for myself. I wanted to be reasonable, and I wasn't sure what the reasonable expectations or options were. I don't want to think about what I could have had or should have had or wished I had. I feel like I was put in the role for quite a number of times or a long period of time of being, well I was the guilty person who, I wanted to leave and so therefore I had to give up these things, and I sort of got to feel that well, maybe, you know, I didn't have any right to expect anything else.

Alan: It is a little bit upsetting to me, you know, uh, for Judy to come back now with this, feeling like perhaps she's been screwed.

Judy: I didn't say that.

Alan: Oh, yeh, yes you did.

Judy: No I didn't. There's a very difference between feeling that I've lost a lot and feeling like I've been screwed. And so if you want to see it that way, that's your perception, that's not what I said.

Alan: Ok. All right.

Judy: I didn't really want to talk about the negative parts of things, and I, you know, was ready and willing to just go on with the way things were, but if you can interpret what I just said as that I feel like I've been screwed then you're not listening to what I've been saying.

Alan: No, I, I fully accept and couldn't agree more...

Judy: So then how could you come to that conclusion...

Alan: Wait, wait, let me finish please. I fully accept and agree with what you're saying about the greater gain being, you know, having a good, uh, whatever you call it, divorce relationship, but what I'm getting at, I guess, is that I don't feel like you've accepted it.
D. Transition to Application

As stated in Chapter Two, the film is a story told about the subject's stories. According to Amalie Rorty, "characters in times of great social change are likely to be tragic. Their virtues useless; their motives misunderstood" [Rorty]. So it first appears with Judy. As the movie opens she is cast as a woman forsaking her family. Never does Alan admit that Judy is leaving for his failure to negotiate a satisfactory relationship.

A person is socially defined by the choices made within a structural system. The woman who leaves a stable marriage when her husband appears to be a hard working family man, though uncommunicative, for the attention of a 'communicative' and younger man is seen as foolish, spoiled, romantic, ungrateful, even bad.

In current society messages about the characters we value becomes mixed. Expectations of female characters do not change so easily after generations of domesticity. No matter that 'real' women are and have always been complex and unique, they remain fixed by literature and iconography. The advantage of participating in a media revolution is the variety of messages which are generated and the fast pace of communicating change among an entire population. The
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predicament is the conflict raised when one is brought up in a generation different from the last.

"Interest in the dispositional traits of characters is primarily social and practical; it is concerned with the allocation of responsibility." Interest in persons is moral and legal, arising from problems in locating liability. "...any complex society must have a variety of roles to be filled" [Rorty]. It is the formation of intention rather than the habits of action which are crucial to the moral education of a person.

According to Herbert Kelman [Professor of Psychology and Social Relations at Harvard] for there to be changes in attitudes there often must be structural changes. Certainly there are internal sources of resistance to change rooted in the external social structure. Alan has a definition of marriage which is supported in traditional concepts of sex roles. He prides himself as a man who should have been born at an earlier time; that he was "Eastern" in his thinking. Alan is judgmental when he states, "Judy didn't have the base I'm talking about. She has some growing up to do," that she couldn't do within the marriage. He is again considering Judy not as an equal partner, but as a child in comparison to his wisdom.
Morality defined by silence does not provide for relationship. Judy and Alan each represent part of what an ethic of relationship would entail, but both respect and dialogue must be present, one cannot supercede the other. Judy and Alan in the end of their marriage tried to protect their self-interest by accommodation and withdrawal from conflict rather than negotiating a place for differences. Alan appears to dominate the house. Judy is closed out of decision making. Judy did not see room for growth in relationship with Alan. An ethic of silence can also be used to hide the truth, particularly when relationship is eroding as it was for Judy.

Life long partnership requires skills of which most of us are ignorant. How to communicate and resolve conflict are not required courses. Certainly with long life expectancy, a marital commitment until "death do us part" is asking a great deal of people in this day and age. People have adapted to having 'more time' by late marriage or divorcing in spite of their previous commitment to family.

Was the "inability to negotiate changes in relationship due to insufficient knowledge about each other's experiences, terms, and identities" the reason for the failure? Empathy is derived from being able to identify with another person. After several years of listening to
couples discuss failures, I did find that the connection between people both develops and erodes over time. "The misunderstandings further impede communication and limit the potential for cooperation and care in relationship" [Gilligan]. Eventually withdrawal from engagement separated the couple.
Chapter IV: Applications

As with all forms of communication, written or visual, the particular understanding which held and motivated the observer passes from experience. Every person reads or views information selectively [Klapper]. The ethnographer loses control of meaning when the observation is presented. Some elements will be understood by all viewers, but details have specific meaning only to one viewer.

A. TAKING THE OBSERVATION (THE MOVIE) OUT INTO THE WORLD

In addition to the process of representation and interpretation, I communicated the information - fact, value and sentiment - in a classroom application. There are facts recounted by my informants and as I presented them, the sentiments of the subjects and as I felt them, and the values as I interpreted them and as the subjects performed them.

1. Communication Through Media

The Need to Communicate

I did not want to generalize Judy and Alan, but to make their voices distinctive enough so we could learn from
their experience. The choice of video was made for instructive purposes as well as for preservation. I did not want students to learn from abstraction, but by responses to real human situations. In addition “our conception of human social life will be improved and broadened when they address women's loves and interests along with those of men” [Rosaldo, Lamphere 2]. The teaching of perceptions on love from the pop culture or the poets places value on romance and intensity. The emancipation of women places value on equality, so that persons are not love objects or domestic slaves.

The Means to Communicate

Video is vivid enough to sustain student attention. An example of the communication power of video is apparent to viewers when they listen to the informants say something that the viewer had previously felt or thought. The video brings an emotion to articulation.

Example: Ten minutes of MARITAL FRACTURE was presented at a photography conference in 1985. Two men in the audience literally held their hands over their hearts. They were filled with emotion and barely able to speak. I expected verbal feedback on the spot about the quality of the portrait, but got none. A month later I received a phone call
from one man to tell me the tape was so powerful that he and his friend could not speak after watching it. Both were having marital problems. The wife of the man who called had recently separated from him after 20 years of marriage. His bitterness and shock were clarified by seeing the video. Until he saw it, he did not understand what his wife was saying to him, and he could not articulate his feelings. "It was as if I was the Alan in your movie, he said everything I thought. Judy said what my wife had said to me." It was a profound experience which propelled him forward to deal with the relationship. He and his wife are in divorce mediation and he continues with individual therapy.

2. The Setting – Harvard Law School

Individual change within a social system necessitates favorable conditions for attitude change. Four of these conditions have been identified by Kelman [Kelman Social Influence]

1. New information must be challenging.
2. Norms are shared by the group.
3. The group is motivated to grapple with the information.
4. Sufficient ambiguity about the subject must exist so that the information is acceptable to the person.
A classroom is perhaps an ideal forum in which to achieve these goals. At least, this group of students from the Harvard Law School Program on Negotiation were eager to see the tape and discuss the issues. Marital mediation itself is a young enough profession to allow for ambiguity in all but the most biased practitioners.

3. Their Responses and Role Plays

In 1985, MARITAL FRACTURE: A MORAL TALE was used in a class from the Harvard Program on Negotiation. I observed the students as they role played Judy and Alan. A problem from real life was presented to the class of twenty men and women:

Judy and Alan had yet to sign a divorce agreement. Judy is afraid the agreement drafted by their attorney is not quite right. Though it is based on the settlement which Judy and Alan negotiated, Judy fears she will regret signing it in haste. Judy asks Alan to return to the mediation table to discuss the settlement agreement.

The task of the class was to help the couple renegotiate the changes necessary for a signed divorce agreement. Ten students became co-mediators and ten became clients. Students based their responses on the case study presented to them in the movie.
In the short time alloted to the game, the predicament which caused both the marital problems and the mediation difficulties was not addressed by the students. The mediators responded to what appeared to be two sets of demands and made attempts to help each person out of a stalemate.

The following is excerpted from the transcript of "Group 3" of the mediation exercises [addendum]:

"'Judy': Because I think we did agree that the relationship is also important. That is definitely an issue.

'Mediator': I'm just trying to keep us focused on one...

'Judy': But where the kids are concerned, it's very difficult if I can't communicate with Alan. We really can't address these things openly.

'Mediator': So communication with Alan about issues relating to the kids. Is that what you're saying?

'Judy': Well, you interpreted that. I mean, it's also about our relations, as far as communication is concerned. Being able to be open and honest.
'Mediator': I understand. I think what we're trying to do here is, we have to come down to some very specific agreements, details. Like where are the kids going to live, for how long, and so on ...

'Alan': I think Judy has a point, though, that I feel very strongly about. And that's part of our problem with the kids is our relationship. And that's basically our biggest problem. Because in the past, there's been some things that I haven't done. My reliability. And things which Judy brings up at various times ... I feel that our communication is not very good. And I feel that we both react by treating each other poorly in our relationship, and that affects the kids."

The co-mediators quoted above did not alter their agenda from a custody and child support agreement to respond to the client's request to address their communication problems. The "mediators" did not see their role as teaching communication skills. As a result of the mediators' own bias, are they doing a disservice to the couple? Mediators must be aware of damaging behavior patterns in themselves as well as those of their clients. How can fairness be realized which moves mediation from an intellectual ideal to a process responsive to deeply felt experiences?
4. Summation

The video provides an opportunity to look at the construction of mediation. Rather than trying to grasp an abstraction, playing at the practice of mediation, then critiquing it exhibits pitfalls. An agreement can always be assessed after the fact. But the delicate actions of the participants fade. People bring their own bias to a mediation table and once the process ends, there is little opportunity to dissect how the mediator practiced his or her craft.

Video could become a crucial part of training because of the constructive feedback it offers to the practitioners. Mediators need to be quick to incorporate both frameworks into their analysis and to teach communication skills if they are supervising a custody agreement.

B. CRITIQUE OF MEDIATION

The criticism Carol Gilligan had of the mediation is: "Will this forum serve Judy's interests? We know what has meaning for Alan, the house and children" [Gilligan Interview]. Alan can negotiate what matters most to him in this context. The process ignores what most troubles Judy, the consequences of Alan's attitude toward Judy, in the past, present, and now projected into the future. There is
IV.

no forum in which to deal with the issues that matter most to Judy.

C. CONCLUSIONS TO THE THESIS

Mediation is a complex topic, touching on every aspect of people's lives, just as ethnography does. This thesis has followed a long pathway, using ethnographic methods to examine marital mediation. Along the way Judy Hodson's story appeared as an important comment on mediation and an untold piece of ethnographic data.

1. There is Power in Media to Communicate

Media is a way of connecting people within society. Mass communication, particularly television, has established itself as a way to convey particular social values, moral beliefs, and provide conventions for solving interpersonal problems, however superficial [Blumler and Katz]. In American society, the average adult takes in four hours of TV each day [Neuman]. Since 1961, television led the surveys as the most believable and often used news medium [Roper, 1973]. A video documentary presented on a monitor adopts the same power and quality of truth.
Relationship on television is possible without commitment. The search for deep meaning and connection between human beings is given superficial treatment in entertaining 25 minute portions. Strangers meet on Love Boat and within a single cruise marry. Men and women on the soaps trade mates every month. Infidelity is a daily storyline. With people watching an average of 4 hours of television a day, it is no wonder there is a conflict between reality and fantasy. Our lives no longer mesh with our expectations or aspirations. We have little awarenesss or few models for negotiating our way until painful experiences teaches us.

How people may connect to material is a matter of how they identify symbols. A symbol "is used for any object, act, event, quality or relation which serves as a vehicle for conception. The conception is the symbol's 'meaning' ...tangible formulations of notions and abstractions from experience are fixed in perceptible forms". In the application of the ethnography, the construction of symbolic forms, their apprehension and utilization are social events like any other [Geertz 91]. The distribution of the movie to professionals and the general public encourages a deeper understanding of both men's and women's life cycle issues and the need for expanding interpersonal communication skills.
Videography and photography as a research method allows women's experiences of adult life to be recorded. It makes it possible to study the process and patterns of male and female interdependence and relationship (Will and Judy) and its counterpart, the breakdown in communication (Alan and Judy).

This thesis develops because the potential also exists in a mass media culture to affect human behavior by appealing to public opinion, institutions of learning, and individual consciousness. Though we know a great deal more about human development in this century than in the last, the diffusion of scholarly research remains very slow.

2. Mediation is New Enough to Account for Women's Experience

Sigmund Freud referred to women as the dark continent. How are we to expect men within marriage to listen and respect women's knowledge and needs when the culture as a whole devalues any participation beyond nurturance and caregiving? Judy and Alan's marriage fails because two people could neither communicate effectively nor respond to each other's needs and couldn't negotiate compromise or mutual understanding.
The circumstances in our own culture affecting human behavior include institutions in law, public opinion, and individual satisfaction. In the context of marriage and divorce, these three areas interconnect. Laws define the economic and social parameters of marriage, and public opinion promotes the family unit of mother and father and child founded on a relationship of love. Individual satisfaction is influenced by ideals from early education. It is a complex issue to determine what morality of relationship would be beneficial to individual happiness and well-being of society. Companionate marriage is reinforced in our society by more lenient laws controlling marriage and providing for divorce.

One of the complaints I have about public policy formation is its unresponsiveness to individual need. The fact that untold numbers of women died from illegal coat hanger abortions in this country did not change policy. Those women's lives were removed from the men in power who make policy. They were inconsequential to the business of politics because it was primarily a problem for poor women. In the sixties, when issues such as rape and abortion were brought to the public attention of policy makers through women's testimonies, a response was forthcoming, but only after thousands of women unified their voices in protest in the street.
Marital Fracture: A Moral Tale was chosen as the title to indicate that there might be a lesson to learn from the experiences of Judy and Alan. Certainly there are questions in the minds of feminists, social critics, and the public about how well mediation serves individuals. There also continue to be questions about gender roles and human development. We may understand male and female behaviors, but our formal institutions of law, medicine and mediation are built only on our understanding of the male developmental cycle. Our society teaches ideal human behavior from one generation to another. The movie's structure creates some of those questions which arose in listening to Judy and Alan. The course of Judy's and Alan's lives should not be viewed as either good or bad. We learn and grow from pain as Judy indicates. But since marriage and divorce cross the boundaries of law, social policy, and mental health practices in this culture, I ask, are we doing the best we can for the members of our society?

I raise this concern not solely as an educator or change agent who would prefer people learn for the better from their experiences, but as a feminist concerned about the consequences of misunderstanding and blame as women make efforts to reach equal status in this culture both under the law and in the minds of a male dominated society. As a mediator I could not rectify the marital situation which fell
apart because of a lack of mutual understanding. But as an ethnographer, I could try to both understand and redeem a very sad situation in the hopes that my insights would be of value to other people.

3. Mediation Ought to Include Attitudinal Change

I question the merits of a mediation process which does not incorporate attitudinal change into its agenda, particularly when children are involved and clearly a relationship is to continue for a substantial number of years.

The basis of mediation should be to bring about conditions for individual change. Marital mores are in a state of flux, adapting to economic and generative changes in our society. Women have little bargaining strength in this reorganization. Women are at an economic disadvantage. That is a loss of power. They are needed for the nurturance and care of offspring, a job which has no tangible rewards other than the children themselves. Adults now ask for co-custody so they have rights to their children but limit the obligation to the mother. Attitudes co-parents have towards one another must evolve along with the changes in length of marriage.
Marital Fracture could be useful in the diffusion of new knowledge about women and marital behavior. Women in the process of divorce are in a crisis in which their behavior did not work to sustain a relationship. Their beliefs are called into question. At this point in defense they can resort to resentment and hatred of the other person and assume the marital failure was the other persons fault. Or they can be confronted with their role in contributing to the breakdown of relationship and look for a new model of behavior. Gilligan's theories have public acceptance sufficient to make my own material part of a growing movement to listen to women. This is the opportunity to influence individuals. In a growing environment receptive to women's views, there is a first opportunity to influence future behavior.

As Levinson points out, in this period of history if a couple cannot merge two dreams, they are in trouble. Individuals become victims of a culture that fosters the illusion that romance is a life sustaining force. Sex is marketed as if it had solely to do with individual satisfaction without responsibility. Adults find themselves without the skill to negotiate relationship.

The mediation process is one of those solutions for negotiating divorce that is still in a state of refinement.
Mediators as yet have no prescribed curriculum or licensing procedures [Avner, Herman]. An intervenor affects the course of someone else's life. How does the mediator discern inequalities? What are the ethical responsibilities? A therapist must be in therapy and have supervision in practice before they can counsel people. As professions emerge with knowledge of social psychology, therapy, and mediation more attention can be given to women's experience of interdependence, life cycle stages, and resolving conflict.

4. Mediation is a Metaphor for Learning to Negotiate Differences - Because the Future of the Earth Depends on It

Families are a cultural resource. They are a major factor in instilling cultural values in the next generation. The well-being of individual members benefits society as a whole. The inability to negotiate change in relationship was due in part to the lack of skill to resolve conflict constructively and listen effectively. On a deeper level, there was also insufficient regard and knowledge about each other and any sense of the responsibility to a relationship. Misunderstanding eventually led to the "breakdown in communication," the cooperation, and care which marriage requires. The cost is high to a society which assists its citizens only after the problems arise.
To redeem is to make up for, make amends, change for the better, correct, rectify. In a religious context to do harm to another person is a sin. In a moral or ethical sense, a culture is held together by its values and principles which it establishes for human conduct. Through some understanding of the precepts of ethical choices, hope is gained. If people felt love ended in pain and all generosity was accepted and not returned, then trust and intimacy would seem a frightening proposition.

The male and female relationship is reflective of a relationship between any two "different" people. We have arrived at a place in our social and biological evolution which provides a larger place for women's participation in all areas of intellectual and social arenas. The female morality of relationship may be the necessary influence to build a more ethical world based on interdependence.

An ethic is the belief that certain "good" human behavior is to be valued over "bad." Dishonesty, deceit, and violence are devalued. Honesty, openness, and harmony are valued. In times of social change and instability our values are called into question as they were when Judy and Alan were young adults in the sixties. Murder is illegal, war is condoned for the right cause. Openness is praised if a person is a healer; foolish if in business. Kennedy was praised in
spite of the Bay of Pigs deceit, Nixon was impeached for dishonesty. Values are flexible when applied to human behavior. There is the ideal ethic and then the real action. In a situation which describes not heroes and heroines, but real people, we have an opportunity to place our ideals in juxtaposition to reality.

Society presents its ideal marriage through stories. Attempts never cease to grasp the virtues and pitfalls of relationship because our society depends on it. Progeny are the future of a culture. But unfortunately the representations are rarely invested with considerable research and the same cliches reappear. Our mass media spend more time trying to grasp the battles between the sexes than it does the battles in the mideast.

In our culture, informal and formal education is a means of preparing for the difficulties and responsibilities of adult life. Generally our school systems focus on preparing people for the world of work and social contribution. Families take a large measure of the responsibility to prepare children for their future roles as fathers and mothers. Divorce therefore is viewed as a threat to family preservation and the welfare of children, rather than a transformative process. The common attitude is fear for the survival of the family as a cultural unit. Up until
recent history, divorce was made difficult to obtain in the hope that such external pressure would keep the family together. Two parents were viewed as better than one to provide for children. The prevailing attitude now is the environment of a bad marriage is not beneficial to children either. In a permissive society, adults are given the right to reorganize their lives.

Prevention is the motto of the 1980's. Prevent heart disease by jogging, stagnation by actualization, boredom with continuing education, stress by meditation. Public education campaigns have affected general health. Why not add prevention of family crisis to the trend? My suggestion is education should include more than training for fit bodies and well paying jobs. Teaching the concept of interdependence, communication skills, and methods of conflict resolution should be part of our institutions responsibility in preparing each of its members in contemporary society. No one method is sure fire for preventing any of these human dilemmas.

The story of divorce is a metaphor for world conduct. The moral tale: if we cannot sustain commitments to those whom we profess to love, how can we sustain commitments to future generations. An ethic of interdependence must be part of socialization and education of a young population as part of general knowledge.
Questions surrounding morality of relationship are central to life. Society is built on connections which go beyond co-existence. The nuclear age makes each of us aware of our inability to confine war. In a media age our actual global interdependence is evident to us. Yet few models exist for appropriate behavior for co-existence. The constant threat of annihilation is embodied in nuclear weapons and the political leaders whose hostile stance is interpreted as strength. Only in recent decades have we come to recognize the wisdom in strategies such as Fisher and Ury and Fuller built on ideals of "win-win" and "designing for humanity's success."

If further research continues to indicate women gain their sense of identity through connection and men through separation, the origins could be both biological and sociological. As more women are socialized to enter the work force and achieve, they may build the very same traits conducive to achievement which men exhibit. They may bring their biological function of nurturing with them, or they may not. Women may experience a similar personal conflict in interpersonal commitment as a result of needing "to become their own person" and separate from the crowd by also reducing obligations to others for the sake of achievement. It seems such behavior is not supportive of the development of a healthy world community, family, or individuals. People
should be made conscious of the developmental stages they are in to better cope with the points of crisis and develop empathy for those who surround them.
Bibliography


Part 2...........Addendums
Roz: get the photographs first and maybe talk about whether the photographs, if you think the photographs, reveal any truth about your role in a relationship, or of how you see Alan's role in it.

Judy: Well just looking at it I'm sort of amazed that since Alan and I had a fight moments before you arrived that he looked so appealing to me because I was so angry at him and so cold. And looking at these now for the first time, I've really felt him looking appealing it's amazing. Because neither one of us would even let our arms touch, it was just the kind of thing we just kept our total distance from one another.

Roz: He really looks good.

Judy: Amazed.

Roz: Had you been going through a period of time where the...

Judy: He's been looking awful to me, totally unappealing, and he looks good, it's a shock. Even last night that's the first night I was home for a week, and I was feeling so distant it was almost like I was just feeling totally turned off even as to looking at him as a human being, I just felt very far away.

Roz: What causes that?

Judy: I don't know, that's what I'm trying to figure out, that was really an awful day yesterday, I couldn't even look at him without feeling angry at him, at his presence.

Roz: Was that because of the ultimatum he gave you?

Judy: Not really, I don't know what it is, it's just a very strange feeling, but somehow extremely, I think that the pictures of me are really revealing, I'm not sure of what now, with the exception of this one, which I look pretty good in. I feel like I look very hard and very cold, old, not very appealing to me, not the way I'd like to look.

Roz: Compared to the photographs of you and Will?

Judy: Somehow I seem softer there, certainly more comfortable.

Roz: What's made you uncomfortable in your relationship? What do you think brings comfort in the relationship with Will that is not present at home, here?

Judy: Well, a certain kind of love. When I was with Will, it was
just like I was very comfortable with him and very loving, whereas with Alan and I, we've done so many painful things to one another. There's been so much anger and so much hurt that's passed between us that I don't know if you can come back, if you recover from that, those kinds of hurtful things that you say to one another. That's what I'm dealing with right now. I mean I'm really just supposedly, I say supposedly because I've just ended my relationship with Will, it was a sexual relationship, but my feelings are still with me. I slept on the couch last night and Alan woke me up about 5 o'clock this morning and wanted to talk to me. I think he was in the worst state he's ever been in through all of this. He told me some things that were very upsetting, but yet somehow or other emotionally I couldn't feel too moved by them. So I'm really worried from the kind of conversation we had. It was mostly his talking about his feelings in which he said for the last ten days since I had made the decision, to end my relationship with Will, that I was away for a week, he went through some major changes. Part of that major change was a lot of negative feelings about me. Before he had always felt loving and caring and desperately wanted it to work between us, he felt love and attraction for me, and was basically on his own without me for the last week. He said that he changed those feelings and that he feels so hurt and so devastated that he's not sure he even likes me. I can't even remember what he said, but just that he thinks that somewhere deep inside is still a reservoir of good feeling about me.

Roz: Can you say that about Alan?

Judy: He asked me if somewhere deep inside me I felt something toward him and I couldn't even answer. It just, it scared the hell out of me in a way because every time I thought of it, I thought of Will. I couldn't, I just couldn't separate those feelings from Will, and so I lay there just staring at him and not being able to comfort him when he was crying and desperate. He said, he's never been at this point in his life, ever, so desperate, so depressed, so completely unable to function, function at work, and I couldn't reach out to him.

Roz: And why do you suppose you couldn't?

Judy: I don't know. I don't know why. It doesn't have to do with him it has to do with me, I really don't understand it. I don't know if I'm afraid to reach out to him because maybe there's a feeling of betrayal of my love feelings for Will. That somehow or other of I reach out to him that means I love Will less. I don't know, it could be one of the things that Alan has been saying to me for a while. It has a certain element of truth to it, is that I've wanted it to fail for some reason, I've wanted my relationship with Alan to fail. I don't know if that's true. I think that it sounds like it strikes a familiar note to me. I think it's a pattern in my life, and I don't understand much about it. That's why I first started therapy because I wanted to
change some of those patterns of feeling – that I didn't deserve better than that, a feeling... a martyr kind of feeling. Not that I was meant to suffer, but that, I don't know, I'm really at a loss. At a point where Alan is saying to me I've been unhappy all along with this situation, but this is it, this is really it.

Roz: Isn't there any point at which you're both able to say things have to change. Can't you both try to help and understand each other, since you know each other so well?

Judy: Alan's able to do that and for some reason I'm, I don't know, I don't know if it's because of the pain of what I'm feeling about Will, and I just need time. I don't hate Alan, but yesterday when I came home I had a lot of feelings of hatred. I was very bitchy to him. When Lani and I were just talking about it, she said, you were just so bitchy to him. You were just so nasty. It's true, and maybe I blamed him that I had to come back, and that I had to give up my relationship with Will.

Roz: And you were unable to be direct?

Judy: You mean in speaking?

Roz: Yes. You were unable to say, to just get angry, and let it go?

Judy: Well, I have a hard time letting things go, I think that's part of it. I don't know. Really, I just don't know, but alan is in a very desperate place right now. If he doesn't even get from me some inkling that there is any spot in my being that feels any kind of love for him, he will just give up.

Roz: Why wouldn't you try to be more kind to Alan, given that you've spent so much time together and have kids together? Why do you suppose you can't be more kind to Alan, given that you both have children together, and a house together, and so much?

Judy: I don't know why. I don't know why. I don't know if it has something to do with what Alan says id my need to, or some need that I have to, like fail, or if I hold him responsible for having helped create this situation. Alan said this morning that grudges don't do anything to help people in any way, and I have to let go of that need to blame.

Roz: Because it's such a complicated circumstance, it can't be one thing?

Judy: No, I know that. I know that it isn't. I don't know why. Even this morning, when he was as pathetic and as tormented as I've ever seen him, and as he describes it, the most unhappy and depressed, and shaky to the very core he's ever been in his life, I could barely do anything to reach out and touch him. It
just made me feel so bizarre, and finally I just, all I could do was to take my fingers and gently stroke his cheek for maybe thirty seconds. That was all I felt I could do, and I don't know why. I think a lot of it has to do with the fact that I'm so wrapped up in Will.

Roz: Alan doesn't understand that? He doesn't understand those feelings?

Judy: I think he understands the feelings, but what he's saying is, I can't hold on any longer, I can't hold on any more.

Roz: What's his alternative?

Judy: His alternative at this point? In the past, the last three months since he knew about the situation, he was willing to hang on and give me the time I needed to work things out. At least he said he was willing to do that, and he was from time to time. Sometimes he wasn't capable of doing it, 'cause of what he was feeling, but now he's to the point where he can not function at work and that frightens him. He doesn't feel that he can deal with the children.

Roz: How could it be better without you here?

Judy: Because, what he's saying is what he can do then is try to start a new life.

Roz: That doesn't happen in two months. That could take two years or so.

Judy: I think what he's saying is that it's a mental outlook. That he would at least, if he wanted to seek someone else out, another partner, that he would at least be able to be dependent on himself. This is how he's describing it. He feels that he still does need me, although I think he also was saying that this time he's not sure he even likes me. I think that he's saying that he loves me in some way deep down inside, that he has some kind of need for me and a love for me that he still does have, but that on the surface he feels that I've hurt him tremendously, that I've been cruel.

Roz: Do you feel that before you were seeing Will he was being cruel to you in any way?

Judy: I don't think Alan has ever been cruel to me. I think that Alan, one of the problems was that he didn't take some of the things I was telling him were problems in our relationship seriously. He never took me seriously. It always took something as monumental as what happened in my relationship with Will to make him realize that I really was serious, and that there really were problems. When I told him for many years, over a period of many years, not really as a threat, more as a plea,
more as a warning, more in fright and pain on my part, that
certain changes had to be made, that he had to consider my
feelings, that he had to, mostly about sexual problems that we
had, that I did not want to turn to someone else. I was afraid
that I was going to need to turn to someone else unless he was
able to meet some of those needs. Even a couple of months before
I got involved with Will, even the very beginnings of my
involvement with Will, I pleaded with him to go to therapy. I
talked to his mother, I talked to his sister, about just saying
that we have problems we've got to deal with. He just even at
that point would say, well, yeh, I'm sure we have problems, but
he never understood that it was so serious for me.

Roz: Do you think he just is a man that doesn't quite understand
a woman's sexual prime?

Judy: I think intellectually that he understands that, I think
one of alan's major problems that he's had was, at least
according to some of the things his mother has said, is when his
father was killed a plane crash when he was about ten years old,
that there was a whole emotional side of himself that he
completely turned off. And it became very important for Alan to
be successful. Very very important for him to give people the
image of great success and that everything is fine and that he,
to many people, he always appeared the eternal optimist.
Everything was always fine and just thinking good thoughts could
cure problems.

Roz: Was this his first marriage?

Judy: No, this is his second marriage. His first marriage was to
the girl next door who he'd gone to school with, literally the
girl next door. I met Alan after they'd been married a few
years, and we had an affair, him and I, when he was married. So
he's been through it from a different point of view before.

Roz: So when you first were together he was how old? How old were
the two of you when you met?

Judy: Oh, let's see, oh, I don't remember exactly, twenty-seven,
twenty-eight. Something like that.

Roz: You are both about the same age?

Judy: Yes, I'm about six months older.

Roz: Was your sexual relationship and was your relationship based
on passion or friendship?

Judy: Well, in the beginning it was, and this always amazes me
now, very sexual relationship, it was, in the early days of our
marriage. I would always describe it as love at first sight, it
was very intense sexually. It has amazed me over the years that
Alan was so incredibly sexual at that point.

Roz: Do you think as he's grown older he's put his energy elsewhere?

Judy: I don't know if it's that, I really don't know. I think that sexually Alan does have some problems, and I think he's aware of it. He is very passive sexually, and that was something that was possible for me to deal with from the beginning, because I was very turned on by Alan. I was very excited, so it was much more of a mutual coming together of feelings. The over the years, for some reason, I'm sure it had a lot to do with what my needs were, where I came from, I needed to know, to have some kind of reassurance periodically that I was desirable, that I was someone that he wanted, some reinforcement of my sexuality with him. I've had a lot of sexual relationships, and it's always been very important to me, it's been necessary for me to feel sexually desirable. It's been a very strong need of mine. For the first few years of our relationship it was pretty sexual, and then I think a lot of it had to do with my needs changing and needing some kind of proof from Alan that I was still desirable.

Roz: By his making overtures rather than you?

Judy: Right, right, and Alan felt that he was, because he would, you know, we cuddled in bed a lot. We've always been big cuddlers, and he would feel that if he just had both hands on my thigh that was an indication that he wanted to make love. There were times, mostly when it was just not enough. I wanted to be told, I wanted to and, um, not necessarily all the time, but I needed that every once in a while to feel, particularly, when I was about 35, the major thing seemed to have taken place for me that my sexuality became very important to me, to feel desirable, and because I was feeling older. I think I've placed more importance on that than a lot of women have. I think that what I have to do also is to find my worth in other kinds of things within myself. One of the things that's come out in therapy is that I define myself in terms of my relationships and hung on to relationships and tried to get from relationships my sense of worth. One of the things that I think became a problem was that after a while I think I was looking for proof from Alan. That really it became a thing that I held out for him, and I started to understand really exactly how it worked, but not that it was a game. But it was a manipulative situation in which I would wait and see how, what kind of response I got, and that would be proof of something to me. But along with that also were genuine efforts to say, I'm not being satisfied here. I'm unhappy. I just need you to tell me what you want, even if you can't make love, just tell me that I'm desirable to you, tell me you need, tell me you want me.

Roz: Why didn't he go to counseling? Were there no sexual
counsellors in town? Is it an issue of privacy?

Judy: I don't know. I think the reality of, yes, I want to change this situation and we need help, didn't really come about until last year. That was after I'd had a few relationships.

Roz: Does he feel totally responsible?

Judy: No, he doesn't. I think that he feels that he had some problems but that he feels that he was also reacting to me. I can't really see it from that point of view. I have to accept the fact that I can't be ALL right, just because no one's ALL right, just as I have to accept the fact that he really can't be all to blame. But for all those years at least, I feel that I made some kind of attempt to say, I'm unhappy this way, you've got to do something, can't you give me this, I'm desperate. Can't you give this to me. And it would go, I mean, we, I'd spend an hour or two crying with him, and he'd finally come to some realization that he could understand where I was coming from. He would make an effort and so for the next couple of lovemaking sessions, or whatever, he would make some kind of effort as subtle as it was. So I had to become the initiator, and so in order to maintain, to have some kind of sexual relationship, I was able to do it for months at a time, be the initiator of sex. Then a point would come where I'd feel lost again and desperate again and unhappy. Then we'd go through the same thing again.

Roz: It's sort of ironic in the twentieth century, given the idea of women as being passive and men having to always initiate, for you to reverse roles. Maybe because of women being much more verbal about their emotions anyway, when a dissatisfaction occurs it gets voiced.

Judy: Alan's always been affectionate with me. He has a hard time reaching out to anyone else. But with me, he's always been affectionate, but somehow or other I guess it's partly because of what I needed, I needed more, I needed a richer sexual life. I needed some confirmation of my own sexuality. It just really was very important to me.

Roz: Well, is that something that you can negotiate, after talking to him? It occurs to me, sometimes you don't always get it all anyway. You might get a good lover, but it's no one you'd trust twenty years down the line.

Judy: Right. I trust Alan for twenty years down the line. Sexually, he says that he's changed, that he's willing to change, and I have seen some indications of that, but I think that he has changed incredibly in the last three months since he's known about the situation with Will. I think he's had some soul-shaking, whole being, shaking things that have happened to him. And as his sister put it, I think this is the best thing
that's ever happened to him. I hate to see him suffering the way he's been suffering, but it's the best thing that has ever happened. He needed to be shaken up, down to the very core.

Roz: So he could express some emotions?

Judy: So he could just get in touch with a part of himself that is totally unfamiliar. That's one of the things that Alan said to me this morning. He said that he just didn't know that he had this part of him existing. Right now it's terrifying to him. It's horribly frightening to him, that there's a part of him that maybe feels like he can't be totally dependable, he can't be reliable, and can't be totally positive about everything. And Alan, like I said, has always needed to paint that picture of complete reliability and stability. He didn't even want his sister to know the kind of problems we were having because, even with her, he needed this picture of all things being good.

Roz: What were your expectations of the relationship that you wanted?

Judy: With Alan?

Roz: Yes, where did it succeed and where did it fail? j: I guess I don't know. That's a hard question to answer. I think that one of the things that I've always needed is some kind of stability. With Alan I certainly have stability. I certainly have had, at least up until this point, the promise of forever with someone that deeply loved me. I have also been willing to throw that away, give it all up, for something very temporary, which is what the relationship with Will will probably be. A few months, a year, at the most, and yet the one thing, throughout this whole three months ordeal, that I've been sure about is my love for Will. The only thing that I have been sure of.

Roz: It's lasted for a year?

Judy: We've had an intense love relationship, Will and I, for the last year.

Roz: How many times were you able to see each other?

Judy: Certainly for the first eight months of it, until I told Alan that we were involved, we saw each other just about daily.

Roz: Sexually daily?

Judy: Sexually, daily, sexually. making love three, four times a day, every day, except for the weekends. It was during a period of time when Alan was away a lot, even overnight, so that we had an incredible contact with one another. I think during that period of time I really closed off all my feelings with Alan, and gave them all to Will.
Roz: Would it be a lasting relationship with Will?

Judy: I think a lot of that has to do with, almost all of it has to do with where Will is coming from. I mean he's fourteen years younger than I am, he's twenty-four. I'm thirty-eight, and he has certain needs that he needs to fulfill in his life and some of them have to do with having other kinds of relationships with women. I think that's a very important thing for him, too. This has been the first major relationship he's ever had with a woman. I think he needs to know that he can have other relationships and find out what they'd be like. He really needs to discover himself. He needs to have experiences that he doesn't feel he can have in a long-term relationship right now.

Roz: Do you believe that?

Judy: I do. I've thought about it like crazy.

Roz: What could he get out of other relationships?

Judy: I don't know, I think that his sexuality is a big part of it. Out of all the lovers I've had over the last twenty years, I guess that period of time when I've had a sexual life, he's the best lover I've ever had.

Roz: That's with him having almost no experience?

Judy: Yes, that's with him having almost no experience.

Roz: Does he act twenty-four, or, he also has no inhibitions? Is that what he brings to it?

Judy: Well, I don't think inhibitions are so much a part of it. I think that, well, when Will and I came together we'd known each other for a year. He had spent a great deal of time up in his house just as friends. We later learned that during the whole year he was enormously attracted to me and had a lot of love feelings for me which I was totally unaware of. But the point at which we came together I had not even thought about what I wanted from this relationship. I just became enormously attracted to him. I think it was partly his demands for a relationship that made it what it became. At least in the beginning, partly jealousy, partly just an enormous need to be with me, to share things with me, not have a shallow relationship. I think for Will a sexual relationship doesn't have that much meaning to him, I mean, well, I think he needs to have a relationship of really deep, involved, getting to know a person on all levels, touching on all levels, a respect, a love, a caring, a dialogue, a deep communication. He's really demanded that of me from the beginning, and then it just became something we demanded and needed from one another.
Roz: Did you realize what it would do to your marriage? B: No, I guess I didn't. Really, I didn't think about it. There was a point when things really weren't good with Alan, and I was willing to, I didn't think about the consequences that much. I was willing to do, to sacrifice it all not even knowing what that meant.

Roz: So this last year you haven't done a lot of your own art work?

Judy: I've given up a lot of my own work and I've given up pretty much my own independent life. I mean I have done some weaving, but I've given up a lot.

Roz: And just managed two households?

Judy: I've been extremely devoted to Will, he would come home from work and he would have a meal waiting from me, even though I didn't live with him. He'd have goodies, he'd have treats, he'd have a pie waiting on the table, or flowers, or something special almost all the time. I did feel totally devoted to him. Yet, I never felt, I haven't felt that devotion to Alan maybe since the very first years. I have had five or six affairs or slept with five or six different men in the last few years, and I never felt I was cheating on Alan. I, intellectually, I realized I was, but emotionally I didn't feel that I was giving something away, and yet, I would never even have considered sleeping with another man when I was with Will. Never even consider it. I felt so devoted to him. I was that in love with him.

Roz: Do you think after a few years with Will it could change?

Judy: I guess it could change though I have just refused to accept the fact that it could. Still, at least at this point, I feel that I could be devoted to him.

Roz: Forever?

Judy: Yes, and that's probably a certain amount of fantasy on my part. At this point I feel, and I'm not really sure, my sense of what's real is not, it's a little mixed up now. But I do feel that with Will, I've really felt it, if he were ready to have a long-term relationship with me, that I would go and devote myself to that. And I don't know if I'm saying that because it's not possible, it's safe to say. But I have a certain trust, that if I really felt he believed that that was what he wanted, then I think I would be able to do that.

Roz: Do you believe in the idea that there are mates that are kindred spirits, and one special person for you, and that other people just may be the wrong mate?
Judy: I don't know. Throughout all of this, I've still maintained the thought that Alan was very good for me. When I first met Alan, I was in a very confused mental state. I was having a lot of sexual relationships which were momentarily satisfying, but not ultimately satisfying, not satisfying in a deeper way. And there was something about his stability, his love, and his, it was a quality about him that I felt I needed. We talked about it, Alan and I then, and he said that he felt when we first met that I really needed him. That was one of the things that was such a great attraction. Even through all of this, there's a part of me that really does feel that I need Alan, that he would be good for me. And yet somehow or other I am fighting that. One of the things that's come out in therapy, and I'm not sure I totally accept this, but I think there's an element of truth, is that many of the men I've been with, well, that's not really true... that Alan, his ability, and his sort of his qualities, are very father-like, are very tied up with that. In therapy we've just began to touch upon that. So, I don't know that much about it, but there is certainly a familiar note to it. And one of the things that the therapist said to me was that my relationship with Will, out of all my relationships, is probably the most real relationship I've ever had. It seemed to be free of the need for a father. It was more filled with emotions and jealousies, real-life feelings between people, and less with my feelings of needing a father.

Roz: When you were a young girl, do you think you were brought up particularly dependent? Do you consider you should be more independent?

Judy: Well, I have almost no memories of my childhood. That makes it very difficult for me. Almost nothing. That was one of the reasons why I began therapy. I've blocked it all out, I guess.

Roz: Is your father still alive?

Judy: My father and mother are alive. They are divorced. My father has remarried. My mother hasn't.

Roz: When did they get a divorce?

Judy: My father left my mother on my eighteenth birthday, when legally I wasn't a custody problem. Things were miserable when I grew up. They were very unhappy, my father's a psychiatrist, and I think a very mixed-up person. I don't really know him very well.

Roz: Does he make any attempt to know you?

Judy: No, I don't think so. He appears to me to be cold. I'm a little frightened of him. I seem to need his approval to some extent. I don't know if it's a love – hate relationship, but I
don't feel love feelings for him.

Roz: Do you get love feelings from him?

Judy: No, I get analytical, concerned feelings. My mother, emotionally, I know, loves me deeply. She and I have had a very stormy relationship, wrought with emotion and feeling, and very volatile.

Roz: Do you blame one parent or another for the divorce?

Judy: Not really. I remember so little about any of it. I remember so little about growing up, I just know that I wasn't very happy.

Roz: You don't remember taking sides?

Judy: I remember when I was, when they began divorce proceedings, that I had to take sides. I mean, legally, both my parents were after me to testify.

Roz: Can you recall the most memorable positive experience with you and Alan?

Judy: That's a hard question. Not easily.

Roz: Any memorable experience?

Judy: No. (laughs)

Roz: Name a good time?

Judy: I couldn't tell.
Judy Hodson March 1983

Judy: I was born in Brooklyn in 1944 and lived there until I was nine years old and my family moved to Long Island. My father was a doctor and my mother helped him at least in the early years in his practice. I went to high school and grew up on Long Island until I went to college and left home. I graduated from high school in 1961 and spent one year at Boston University School of Fine Arts and switched to Windham College which is what brought me to Putney.

Roz: How old were you when you came to Windham?

Judy: I was eighteen. Within probably two or three months of being at Windham I met a man that I married. I probably only knew him three or four weeks... Oh dear, I was pregnant, and hardly knew the man. We tried to get an abortion, and it didn't work out. He was about to go into the peace corp.

Roz: Why didn't it work out?

Judy: Well, we went to Puerto Rico, and we were both very naive about doing that kind of thing and really didn't know anyone who could help us. It was more because we were unable to get an abortion for me that we got married.

Roz: It was still illegal in this country?

Judy: Right. And even though my father was a doctor, he was unwilling to put himself in any kind of position that might jeopardize his situation because he was going through a divorce. So Sam and I decided we would get married though we hardly knew one another. He was eleven years older. We got married and we moved out to California and had a very good life out there, lived off in the Redwoods, pretty isolated.

Roz: What was he doing?

Judy: Well, he was actually at the Experiment training for the Peace Corp, and it was a major disruption in his life and his dreams for himself. It was very hard for him. We had a lot of problems subsequent to that because he felt trapped by circumstance. But about three weeks before I gave birth, I decided that I wanted to give the baby up for adoption. It was something I had never contemplated before consciously, but one morning I woke up and said to myself, I'm going to give the baby up for adoption, and yet I had never consciously thought it out. It was as though my mind had been working on it subconsciously for quite a while, feeling that I was not in any way, shape, prepared to become a mother. I didn't even know what it all meant. I was very naive about it and I guess somewhat frightened and also had indeed, in many ways, trapped this man. It seemed...
like the right answer when it popped into my head, never questioned it. I've also never regretted the decision. Although, in the last few years I've thought more I think out of curiosity, because now I would have a twenty-year-old daughter somewhere in this world. It's been more that I would just love to see what she is, who she is.

Roz: What did Sam say to that?

Judy: Well he came home from work and I told him. He was shocked but I think he was extremely relieved. He had some doubts as to whether or not he was the father because we had only been together a very short while. I still believe that he probably was. But without him feeling convinced that he was, it was very hard for him. During that period of time, we fell very much in love. After he was able to fulfill his dream of going overseas and working in some kind of economic development in another country, we worked out a lot of our problems, or his problems of being frustrated. We cared very much about one another. I guess a point came when I was living with him in South America and Chile that I felt I had to grow in ways I couldn't do with him. He was very out-going, very warm, friendly, affectionate. The kind of man after you meet once, he would give you a big hug and a kiss. He was very demonstrative and very expressive of his ideas and feelings. I tended to be very shy and unaggressive and always shrank to the background and not because he overpowered me in any way, but because I felt that I found it hard. I allowed him to do my thinking for me. Not that he chose to do it. It was a pattern that I established more than anything else. It wasn't that it was his fault. I had just come back to the States for just a couple of months to visit my family after a year and a half, two years. It was the first time I had ever been on my own and developed friendships with people. I found myself relating to people. People were listening to me, people liked me. That was such a shock that I could function. That was in 1966-67, twenty-two years old. I felt that I had, well, the first time that I was on my own and it felt very good. I went back to South America and with every intention of staying, but very protective of my new-found self. Sam was very defensive and very frightened 'cause he thought that this might happen to me. I wound up staying only about a week. It was partly that I gave up without really trying. I think that probably if I had put the effort into it, or if we both had, I would have been able to find my own identity, if you want to call it that, in that relationship. I chose not to do that.

Roz: Do you know why you felt free to leave?

Judy: I don't really know. It was a very painful decision because we both loved one another. I would decide I was going to stay. We would look for a house together to live in. I had some real gripes. I'd lived out of a suitcase for almost two years and one of the things he said was, I would have some kind of
home even though I wasn't fussy what it was. When I came back, there would be someplace where I could grow my plants, do the things I would do, the things I wanted to do. He hadn't done it, so I felt disappointed. Rather than try to work it out, I decided that I would leave. Then we would become so unhappy with that decision, we would cry and make love and feel close. Then I would live with that decision for a day and change my mind. We did it with loving, caring, sharing and crying. He had a sense that I needed to be on my own to grow.

Roz: What were the things you envisioned would make you grow on your own? Did you have any sense of what you were going towards?

Judy: Not really, no. I think my sexuality, exploring the further had something to do with it, a real need to explore other sexual relationships was part of it. I don't know that I really thought too much about it. It was more that I acted on a feeling level, what felt right to do, and didn't really consider what the consequences would be. I came back to this country and got a job at windham teaching which was wonderful for me. I taught art. I taught two courses. I had come up with the idea that maybe I could just model in the art department to make some kind of living but David offered me a nice job. After I got married to Sam and had the child and gave it up for adoption, we came back from California to Putney. I worked very hard doubling up on all of my courses and got my degree. Windham probably only offered a B.A., but I was an art major. I had never had any teaching experience and this was a thrill for me to be able to teach at a college.

Roz: Where did you know David from, were you his student?

Judy: Yes, so that worked out very well for me.

Roz: Can you recall what marriage meant to you in those days? What your definition of marriage had been? And what it might be now?

Judy: I don't think I thought very much about it. I think I chose a man - although part of that was just chance, (laughs) - who was a protector, a nurturer, something that was very comfortable to me. Although we had quite a number of problems, it was very comfortable. In some ways it was a very parental kind of relationship.

Roz: Was it anything like the kind of care you had gotten when you were younger at home?

Judy: I don't think so, really. I have very little memory of my childhood, so I don't know. In fact I have almost no memory of growing up. That's been a major problem for me. I have been recently working on trying to fill in a lot of gaps, so I don't know what to compare it to. I honestly don't think I thought too
much about it. Even that period of my life, while I do have
stronger memories than of growing up, I was in many ways
immature, confused, all of those things.

Roz: How has your definition of marriage changed over the years?
What do you think of when you think of marriage?

Judy: That's a hard question to answer. When I married Alan,
again, I think I was looking for a protector, a nurturer. Because
I had been on my own for several years, and in and out of one
heavy-duty relationship and many brief superficial relationships.
I met Alan and my sense was that he was very good for me at a
time when I was upset and confused and not satisfied. I was
attracted to brief relationships with men, but not very
satisfied. Alan was someone who would care for me, who would
respect me, would nurture me, and who in retrospect, I see, I
could be dependent on.

Roz: How would you characterize yourself? How long had you been
on your own between the relationship with Sam and Alan?

Judy: Well, probably a good three years. I was teaching as
Windham for the first year. I taught art in the public schools
for a year. Then, I decided to go back to school and get my
master's in teaching. I went to Antioch / Putney, which is where
I met Alan. In that time I taught part-time as part of my
internship and then I taught third and fourth grade for two
years.

Roz: Would you characterize yourself as responsible for yourself
in those few years?

Judy: Mostly.

Roz: Were you following any particular dream you had for
yourself?

Judy: No. I think that is one of the problems I have in my life
is that I haven't really thought out, until very recently, what
I might want to do with my life. I responded more towards what
felt good, an intuitive sense of what I should be doing, but not
really even in the long term.

Roz: Do you recall as a little girl, having a dream?

Judy: Never. I may have had one but I don't have any
recollection.

Roz: Do you remember what your first dreams for yourself were?

Judy: Not really. I think at the point at which I met Alan, I
did want to get married. I'm not sure I thought about why or
what it would mean. Family and children at that point wasn't
something that interested me. I also wasn't a very career-oriented person either, although my artistic, creative energies were important in things that I pursued. I don't think I consciously made, oh that's not right. I was going to say, I'm not sure I made too many conscious decisions about what I wanted for myself in my life and then set about to fulfill those.

Roz: When you were teaching art were you also creating? What kind of work were you doing?

Judy: I was doing a lot of paintings and woodcuts.

Roz: When did you start weaving?

Judy: After I met Alan. In fact, I got my first loom because he was interested in weaving but he never did weave. I totally gave up painting at that point.

Roz: How do you relate to the weaving? Is it employment, fun...?

Judy: It's not employment, that would be the lowest thing on my list of why I do it. Although, I would like to become more self-sufficient at it. As far as it being fun, sometimes, most of the time, it's not fun. It's very hard work. For some reason I have a need to do it. I love color. The kind of weaving I do now has a lot to do with the kind of painting I either did or was interested in doing. I am working a lot with color.

Roz: Do you know what satisfaction you get from the color?

Judy: Well, I think that I again relate to color, and the aesthetic things, on an intuitive, gut, feeling level, rather than be consciously aware of what kind of colors I'm using to create what kinds of effects on people, what kind of response and so on. It's almost a physical sensation with me. When I weave certain colors that I think look good together or create a certain impact, I can feel it in my gut. It would be hard for me to define in words, what and why. Much more of a feeling level.

Roz: How was it the first few months when you weren't doing any weaving?

Judy: I did do a little weaving occasionally. I was so obsessed with other things that it, well, it was frustrating not to be doing something creative.

Roz: What did the weaving fulfill in you?

Judy: That's a hard question to answer. I have a creative drive. I have creative energy that I have to be doing something with, but for me it isn't necessarily weaving. I am sure that I will paint again. Recently, I have been doing some drawing which I feel good about. And I have put lots of energy into doing
photography. In fact the past three or four months, photography has loomed very big for me.

Roz: Had you ever craved public recognition of the work that you were doing?

Judy: To some extent, it's nice on two levels. It's nice to sell work because it enables me in a practical sense to continue working because I can afford to. I need input, I need a response to my work. Making it in a big way isn't necessarily important to me.

Roz: That was never part of the motivation?

Judy: Not really. Oh, I would occasionally fantasize about being famous, but I don't think that's real important. I would like to be able to make more of a living doing the kind of weaving I enjoy. I would never become a production weaver because I would rather have another kind of job. It's very hard for me to do more than one of a kind pieces.

Roz: How would you characterize your priorities in a hierarchy, then? Consider a private life, a public life, a work life - socially responsible, individually responsible - those kind of terms. What are the things that are part of your values and what have you invested your time in?

Judy: Well, I think a private life or relationships with people would be at the top, as far as a priority. Part of that, a very important part of that, probably even higher up than relationships with people, though they are inextricably linked, would be my own understanding of myself and my own development. That really is at the top. That's crucial to me.

Roz: When did that priority emerge?

Judy: I think I've always had it, I've always had a need to find out who I was.

Roz: When you say, always, do you mean from high school?

Judy: Well, I don't know when it first began. When I became conscious of it, well that's hard to say. Let's put it this way. The point at which it became crucial to me was in the last three to four years, and especially in the last year, extremely crucial. I wanted to figure out who I was, why I didn't have much of a memory, how I related to my parents, what effect they've had on me, on my thinking, on my behavior, on my hangups, on my problems, on my hopes and dreams for myself, why I behave the way I did and why I got myself involved in what kinds of relationships. That's, I'd say, along about the time I met Will. And that really became very crucial to me.
Roz: Would you say that that emerged after you met Will or that was how you met Will?

Judy: When I met Will, I'd been married to Alan for twelve years and a lot of that time we had a very good relationship, but not a very communicative one about feelings, so that I don't know that I was able to put into words a lot of my frustrations. I had no one to share it with. I became restless. I had a couple of brief relationships with men and seemed to crave something crucial that I wasn't getting with Alan. When I met Will, I had known Will for almost a year, but hadn't had any kind of sexual relationship. He was almost a member of the family. Other than a strong physical attraction, there was also a need to explore some other kind of relationship. Because of the kind of person he is, he demanded from me that I talk about what I was thinking about and feeling and no one had ever done that. No one has ever confronted me with my actions and asked me to think about, Well, why did you do that, and, how did you feel? Well, Will has put it that I've made so many decisions and acted on the basis of feeling level almost exclusively and never, not never, but rarely did I think about what I was doing and why I was doing it. Also, not feeling real responsible for my actions, and sort of almost aimlessly drifting. Because of the kind of person Alan was, I could have drifted in and out of a couple of dozen affairs without either Alan knowing or being real concerned. I never thought about why was I doing this. What was I looking for?

Roz: did you ever think of what it would do to Alan if he found about it?

Judy: No, not really. Partly because Alan never demanded fidelity from me. He just assumed that that was what would take place. Even if I flirted blatantly in front of him with other men, he never questioned it. He may have felt something, but never said anything.

Roz: Were you asking for a response from him by your actions?

Judy: I don't know. Not on a conscious level, because I didn't want him to stop me from doing what I was doing. Yet there may have been another level, something that was saying, show me you really care. I don't know, because in many ways one of our biggest problems id that Alan has always been very passive. Occasionally I've said to him, don't you ever get jealous? He would say, No, I assume that if something was going on, you'd tell me about it.

Roz: So, what would you say his definition of marriage was? Sounds like fidelity was one of them.

Judy: Well, probably, yes, I think that's so. I think Alan has talked about needing someone to grow old with and share his life
and his dreams and his hopes and his ideas with, and someone to raise a family with.

Roz: And for you? What was marriage?

Judy: I really don't know. I think one of the problems was that I never really defined for myself what it meant to me. I don't really know.

Roz: What do you expect from a partnership? Or would you call a marriage a partnership? Would you call a lover a partnership?

Judy: I guess I would call marriage a partnership. Gosh, it's hard to really say. I know that, although Alan says that I've had an incredible independence and done lots of things on my own in this marriage, and yet, I think I let myself fall again into some kind of dependent relationship with Alan.

Roz: How would you characterize dependence and independence?

Judy: You ask some tough questions (laughter). I don't know, because these are things that I am just trying to deal with now. I'm not really sure because one of the things that Alan has said to me very recently is, why do you need to be off on your own to develop your independence? I'm perfectly willing to accept the idea that you want to be more independent. I'm perfectly willing to help you if that is what you want.

Roz: I'll help you be independent?

Judy: Yes, I'm perfectly willing to support you. I'm not talking financially, but support the idea. I think it's wonderful for you to be able to do that, to have either a career or something that is meaningful to you that you want to pursue.

Roz: Well, do you know what independence might mean? Why does Will represent independence?

Judy: That's a good question. Sometimes I say he does, and I think I fool myself into thinking that. Again, maybe I'm choosing another dependent relationship. I don't know. I think there is a lot of confusion about that. Probably even the words "dependence" and "independence" aren't really the right ones to use now.

Roz: When you say you were dependent upon Sam or Alan, what kind of dependence did you have besides a roof over your head? What did you depend on?

Judy: I don't think at that point, at least with Sam, I had any hopes and dreams of my own. I was fairly creative during that period of time, but I never ventured out. He was off working every day. I just stayed home and was a homebody and was lonely.
I was afraid. I was quite shy, and I was afraid to meet people, to talk to people, I was terrified that nobody would like me.

Roz: So independence meant friends of your own and an outside world of your own?

Judy: And a feeling that I could survive on my own, that I could... See, I think that is one of the reasons why, right now in my life, I have a better sense of well-being. I feel that if I leave Alan and live with Will, even if that doesn't work out, I've come to a place where I fell that that is all right. I can survive on my own and that I might very well even be happy. Whereas before, I felt that if it didn't work with Alan, and if it didn't work with Will, I would be devastated. I would be alone, I couldn't survive. I'm starting to realize you can be very involved with someone and be independent, and you can be on your own and be independent. Why I felt that I had to be out of a relationship with Alan to be independent, I think, is a little ridiculous, really.

Roz: Were you, at any point in the marriage with Alan, economically independent?

Judy: No, never. I've either been dependent on my parents, my father, or on a man that I was with. Well, that's not true. There was a period of time when I partly supported myself, and my father helped me out with the rest of it.

Roz: It sounds like independence has something to do with feeling that you can be financially independent?

Judy: I think financially is part of it.

Roz: And emotionally?

Judy: Emotionally is part of it. Although relationships with people will always be important to me, even love, man / woman relationships will always be important. In my current predicament, in many ways Alan provides for me everything I need on a certain level. Yet, it's hard to explain. My therapist said something that was really interesting to me. I began to talk to him about all the reasons why I either should or it would be nice, to stay with Alan. I gave this list of things to him. Alan is this, and that. He nurtures me and supports me, and he's a very loving, caring, devoted man. We have a wonderful home, children, a social life, friends around us, so on and so forth. Then I talked about the plusses about my relationship with Will in which I said that we have a very very deep, incredibly intimate communication level and a growth level. I talked about that, and I talked about lovemaking with Will. I talked about how I could sit on his lap for an hour or two looking through an art book, and how we had a dialogue about paintings and creativity, and both our needs to express ourselves in that way,
and that was just a very wonderful sharing. Then when I was all done, one of the things that my therapist said to me was, I don't know if you are aware of it, but all of the things you listed in Alan's column had to do with things other than a man-woman relationship. All the other kinds of things that Alan could provide for you, or who he was, but not who you were together. Everything you listed for Will—he probably will not supply any of the other things, or very few of them, the security, etc—all had to do with man-woman relationship things. He just found that was kind of interesting to point out that I was talking about the relationship between the man and the woman with Will, and its importance to me. With Alan, reasons for staying were the fact that Alan loved me and was devoted to me, we had a good family life and that sort of thing, and not that I grew from Alan or that he grew from me, or with me. I thought that was kind of interesting.

Roz: One can't help but wonder, what is marriage? Is marriage an economic social partnership? Is marriage an intimate partnership? Should it be both?

Judy: I think it should be both, and I think it can be both. That's part of my dilemma and a little bit of my sadness because I think that if Will were not in my life at this particular point in time—not three weeks ago, and I don't know about three weeks into the future—but I think that Alan and I, with a lot of work, might get to a point where we have more of those, the full picture working for us. And yet because of my need for Will, I'm not going to give it that chance. That's really incredibly sad and confusing to me. Yet I can't seem to let go of Will long enough to really allow myself to explore.

Roz: Have you told that to Alan?

Judy: Yes. I think that last week in our therapy session, I said to him that I felt the potential sometimes. I qualified it, occasionally I feel the potential with Alan. The major block was my feeling for Will, and my inability, if you want to call it that, to let go of Will long enough to put more of myself into my relationship with Alan. That's a very strange thing for me. I don't know what to do with that information.

Roz: You don't know why?

Judy: I don't know what it is. I am terrified of, about letting go of Will. I know that it is hard to let go of anyone. I know that time would work on some of those things, but for some reason for me, there is even a bigger block. It's that I can't say to myself, even with a promise from Will that he will be there in a month, I will take this month and devote myself to seeing if there is anything left of Alan and I.

Roz: What comes to mind, not to play psychotherapist, if I think
about myself, I'm always full of dreams. I don't want to impose, but when I think about what a new affair represents, it's the unknown, it's the dream with all the accompanying excitement, and hope for new discoveries and growth. You don't know what might happen with Will and that, to some extent, after twelve years with somebody, you might sense the dream with Alan possibly fulfilled and growth no longer seems possible. Then the person comes along who offers growth and it's the exciting unknown. MIT, the Women's Yellow Pages, a film project, were unrealized and exciting dreams. For me, it's hope for growth and social contribution and the motivation for continuing. Learning from and about an unknown generates energy. In a new endeavor or a new relationship, I hope to understand new things about myself and other area of life. I know what may have created the bond I feel towards Bruce. Recently I thought I'm going to settle down in order to have stability in my personal life. I can grow but also continue to channel my energy into public works. I don't want to put energy into changing partners. That's not the kind of excitement I want. It lacks depth. Marriage represented the stability, a sense of security at home while I continue to feel challenged by a creative life, with a dialogue with the outside world. I gain strength from the caring and intimate personal relationship. Certainly excitement and personal frontiers can be experienced through both work and relationships. I can't help but think that Will is your exciting unknown, your future growth, and your dreams offer you a new hopefulness that you didn't have with Alan.

Judy: Which, in a way, I guess is real exciting and appealing to me. But what Alan keeps saying to me is that, I'm no longer a known quantity because I've changed, and I'm willing to change even more. You haven't given me a chance to see what it could be.

Roz: When Phil and I broke up, that was the way I felt. How can you end the relationship so abruptly without negotiating changes. I asked him to stick by me long enough to see what other exciting things would emerge. It had been wonderful learning about each other through tough times.

Judy: I think that Alan probably has changed and grown in some ways. Yet, at one point I think I felt so critical of Alan. He was this and he wasn't this and he wasn't that. Now, it's more that in order for me to grow, I feel that I have to be in a different set of circumstances. I think some people, especially my father who is a psychiatrist, and lots of people I know, would say that that is a cop-out. You're not just putting the energy into trying to do it within the context of the relationship, particularly since there were so many plusses in the relationship with Alan. It's not that it's a bad relationship, although it's been bad from time to time. So in a sense I think that I even agree with that, that I am copping out, that I am leaving something. Another way to put it, that
Gary said to me, when I said to him, why can't I make a decision? I've been in this position for over a year, why, what is it? And he said to me that the way he sees it, both relationships provide something very crucial to me, something of very great importance to me. Now, they are very different to me. With Will, it has a lot to do with my incredible romanticism; with Alan, it has to do with my incredible need for security and stability. And that no matter which decision I make, I lose something of utmost importance. On another level, the situations are equal I the sense that it would take just as much energy to make my relationship good with Alan as it will be to make a good relationship with Will. So that's also equal, which makes it hard to decide. So... I don't know, I just don't know. And it was really easier when I was not liking Alan and hating him. The nicer he is to me, the harder it is.

Roz: What triggered the change into liking Alan again?

Judy: Well, I think it happened, surprisingly, when Alan decided that it was over between us, because of my being truthful with him about why I came home. I admitted that I came home to protect myself legally. That unburdened him. It relieved him, and he was no longer under the false expectation that I came home because I really wanted things better, and a good relationship, though there were aspects of that. He just began to relax and when he did that, he was happier, less uptight. I didn't get that horrible tone of voice from him that used to just drive me up the wall. At the end of the week things were relaxed and nice enough so that again, he had his expectations, see, things can be nice. Then that set him up to be hurt again. So the next week, when we went into therapy together, he went in feeling that I was the one unwilling to give it hope, and he was the one that was sad. The whole thing beginning again.

Roz: I was approaching this project as a question of women's changing expectations in marriage. I can't help but think as you reflect on your past dependency of a relationship for security that you are at a point in which you are establishing new expectations. These expectations, which you exhibit for partnership, are to share what each other is about and to invest in what each other will become. It seems like that wasn't an expectation to start with. You may not have felt Alan invested in your growth and development.

Judy: I think that is true. One of the big problems, of course, was that I was very interested in talking about my feelings and expressing my feelings and being out front with my feelings, whereas Alan never was. He couldn't. He just didn't seem to have access to his feelings, and he didn't seem to know how to talk about them. I think that was one of the major reasons why we had a breakdown in our relationship. And I think that he realizes that now. He's trying very hard to be able to express himself. See, Alan had been married before, too.
Judy: How long had he been married?

Judy: Oh, three or four years, I think, about the same time that I was with my first marriage. He married the girl next door, he had had very few, if any, sexual relationships with women before he got married.

Roz: Was he single when you met him?

Judy: No, he was married. In fact, I was married, but only legally. I had been living with his wife, and they were both going through graduate school together. When I asked him, only fairly recently, what he felt the most important reason why he felt his relationship with her had broken up, he said that he thought a lot of it had to do with his lack of communication, and that she is a very verbal, very expressive, communicative, outgoing person. And Alan wasn't.

Roz: Alan wasn't communicating?

Judy: I think about feelings, maybe. I don't really know too much about it. Alan has really said very little. I know his ex-wife well enough to know that she is very intellectual.

Roz: What does she do now?

Judy: She has gotten married. She dances in a folk dance group that goes all over the world.

Roz: did they have children?

Judy: They never had children. She still doesn't have children. We just received a very long letter from her. She went to India. They have a guru, and she has gone to India for several months to live in an ashram. She is very verbal about expressing what importance it has in her life, how she has grown, and concepts of love and understanding, and reaching out to mankind. I see the same pattern with me. Alan would not have been the one to leave that relationship. She was the one to leave.

Roz: Subsequently you two had an affair?

Judy: No, we met while they were still married. When we first met it was extremely intense sexually, extremely intense. I can't even think that Alan is the Sam person now. He was a new student, and I was just finishing up at Antioch. We barely knew each other's name, and we slept together. I didn't even know he was married until the second time we were together. He had told me, which really I don't think was true, that he and his wife had an open relationship. They had decided that they should explore other kinds of relationships. But I felt really that that seemed to me to be indicative of a relationship that was
going to have a lot of problems. Ultimately I told him that I
couldn't be involved in that until they worked out their
situation. The way it worked out was that his wife decided to
leave. She was involved with somebody else also. It seemed to
me, at least in the beginning, that she encouraged Alan and I to
be together. She was aware of it. Even when I've tried to press
Alan for information on it, he has told me very little. So I
don't know how she felt. I think she was very hurt, yet
sometimes it seemed like she encouraged it. So I don't know, I'm
very confused about what happened.

Roz: Were they wanting permission to get out of their marriage?

Judy: I think Alan would have hung on. I think he would have, he
tends to be a real one-woman man.

Roz: Why doesn't that ethic apply to your own marriage? Of
thinking that people should resolve their problems before one
party leaves and goes into an affair.

Judy: Feeling that way served a dual purpose for me. It was a
period in my life when I was very unhappy, going from brief
relationship to brief relationship, and Alan seemed so very
good. I think all my life, for some reason. certainly my dating
life in high school, I was attracted to the guy that wasn't
necessarily good for me, either the slight misfit, or the
slightly unconventional, but not real wild.

Roz: Do you know why?

Judy: I don't know. I am sure that a lot of my behaviors and my
needs with men are very tied up with my father. I'm only
beginning to understand what they are now. My father was very
passive in his relationship with my mother, which was a very bed
relationship. He didn't stand up for what he wanted. Hard to
explain really.

Roz: Do you think that you are working in reverse and standing
up for what you want?

Judy: I don't really know. This is what I'm trying to find out.
One of the things when I was going to marry Alan, my father wrote
me a letter because he wasn't sure that Alan was the man for me,
and one of the things he wrote in the letter was that he was
worried about Alan's passive nature. I didn't know exactly what
he meant by it at the time.

Roz: Maybe when you go home to break the news, you better bring
that letter with you!

Judy: I don't know how much of it had to do with rebelliousness,
how much of it had to do with looking for a man that was
different than my father. I think I have always felt that my
father, how to put it, he wasn't there for me. Only very recently, when I told my father that I was having a lot of problems with Alan, I also told my father that... We never discuss personal things. My father doesn't like to discuss anything personal.

Roz: He's a psychiatrist.

Judy: That's right. He doesn't ever develop that kind of relationship with me. Sometimes, he would be very opinionated with me and give me what he would say, forgive me for acting like a father, but... But he never reached out to me, and never asked me what I felt, what I thought, never. I don't feel like he ever tried to get to know who I was. Recently I had a long conversation in which I told him that I didn't have much childhood memory, that I was dealing with all kinds of things about my mother. He assumed that most of what I was dealing with in therapy had to do with my mother, and I had to tell him that a lot of it has to do with him.

Roz: Now, you started this by saying that recently you spoke to him about your problems with Alan. What did he say?

Judy: Well, I think for the first time that I can recall, he wanted to know how I felt. He expressed to me, I understand, your mother has been this, that and the other thing, and I'm sure that is what you have to deal with in therapy. I said that that was true, but I said, to tell you the truth, I'm also dealing with my relationship with you. I said that, I don't feel that you've ever really been there for me. And this was like a horribly frightening thing to say to my father. I've never said anything like that. I said, when I was growing up, and in recent years, when I've reached out to you, when I've been in enormous need for something that only my father could give me, it was never convenient for me to come down and visit. It was never convenient. He was remarried to another woman who he had a half-way decent relationship with, but she was very threatened by me.

Roz: Why?

Judy: I don't really know. She had never had children. They had been married for almost twenty years.

Roz: What did you think that a father could give that a mother couldn't?

Judy: I don't know. I'm not really sure. I just felt that he had always stood in judgement of me. I don't know. I just needed him. I just know that I needed him. I needed to know that he cared. I still don't know quite what it was. It was never convenient for him. Well, I'm sorry, we've got a concert this weekend, etc, etc, it's not convenient for you to come down. I
finally, without a lot of anger, told him that, you weren't there for me when I needed you. I've often felt that he wasn't there when I needed him, and all the times that I've come down to visit with the kids and Alan or whatever, he has always created a situation in which we weren't alone. If we had a conversation, he never said to me, hey, how are you doing, are you happy, are things going well? It was never that. It was always either gardening, or weaving, or something. He totally avoided any kind of personal thing with me. I said to him, it's been a problem. And he admitted it. One of the things he said to me was that, one of the biggest regrets of my life was that I wasn't there for you.

Roz: Does he know why?

Judy: It had a lot to do with his unhappiness with my mother, and therefore he wasn't home a lot.

Roz: Do you know what went wrong with his relationship with your mother?

Judy: It's so complex. It was a very destructive relationship.

Roz: What went on when you were growing up?

Judy: I don't remember.

Roz: Destructive in what way? Did they argue?

Judy: Yes, they argued. Again, I think I've blocked out an awful lot, because it was horribly unhappy. In fact, my father recently sent me something that he had used in his divorce case, and I have to read it with that in mind. But, at any rate, he talked about incidents in my childhood. He sent this to me hoping to jar some memories, but it was quite extraordinary. In fact, it was foreign to me. That I woke up one morning and found my mother on the kitchen floor, she had passed out there and slept all night there.

Roz: Did she drink?

Judy: No, she didn't drink, but apparently she was on lots of sedatives. She had lots of problems, migraine headaches, etc.

Roz: How is your relationship with your mother now?

Judy: Well, I had run away from home after my first year at college. I decided to come home and live with my mother for the summer. My father had just recently left and she was going through absolute hell. She demanded things from me that I wasn't able to give. She had just totally fallen to pieces, and I think she wanted me to be a mother to her. I had, I guess, some kind of a real love-hate relationship with my mother, because she,
and this is not necessarily from memory but because I've been told it, that she was very destructive with me. She was very hard on me for the most minor kinds of infractions, what her expectations were of me. My father told me things, this is after my first year in college, things that happened between my mother and I that I have no recollection of. Finally, I ran away from home at two or three in the morning, barefoot, and ran to a phone booth and called my father. He came all the way out from Brooklyn, and I lived with him for the summer. I had no contact whatsoever with my mother until I got married the first time. Our relationship has steadily gotten better.

Roz: Has she remarried?

Judy: She never remarried. I think one of the major problems I have with my mother now is that there are times when I really want to reach out to her and be able to say, mom, I love you. Or in any genuine way, kiss her and hug her. I can't do it. Now, one of the things, one of the reasons is that when I was growing up, my father had told me, and this is one of my few memories, not to get close to my mother because she was crazy and she was destructive. Do not get too close to your mother, she will hurt you. so growing up with the idea of wanting to be close because mothers and daughters were in some ways, and also holding back because I had been told this, that and the other. Not only told, but my mother's actions to me were like that. I don't doubt that my mother loved me, but I think she was so confused and so unhappy in her life.

Roz: What made her unhappy?

Judy: She had a horrible childhood. I mean, this pattern repeats itself.

Roz: What happened?

Judy: Oh, she was the unwanted child. Her mother got pregnant again after having two sons, and she claimed that her husband never slept with her afterwards and it was my mother's fault. She had a mother who was very cruel to her, would do physically cruel things to her as well as constantly degrading her. In every family picture, my mother is always sitting way off in the background, and everyone else is there with the family. Or my mother, as a young girl, is sitting up in a tree and the rest of the family is together. I think she had been sexually abused by her uncle. There were a lot of things.

Roz: And how was her father?

Judy: I don't know that he ever stood up for her, or got involved. And so my mother entered into the relationship with my father very needy, very angry, very hurt, and my father tends to be a very cold individual.
Roz: Was it a marriage for love?

Judy: I think so. Only my father has recently said that she was a very attractive, vivacious woman. I don't know what my mother's need for my father was, what the attraction was there.

Roz: How old were they when they married?

Judy: I really don't know. My father was going through medical school, and my mother was a labor organizer.

Roz: College educated?

Judy: My mother was not, which was one of the major problems that she always had in her life. She never felt adequate, whereas my father was very well educated. She had such a poor self-image. She never felt adequate at all.

Roz: Did Sam and Alan make you feel adequate?

Judy: I think they could have. I think I inherited that, so to speak, from my mother, feeling a lack of self-worth.

Roz: How has your sense of self-worth changed within the context of these three relationships - Sam, Alan, and now Will? Is your self-worth a function of the relationship?

Judy: I think mostly me, really. I think certain things can act as catalysts to get you to reevaluate yourself and begin thinking about these things. I think it's happened to me over the last few years. I think Will certainly has had a lot to do with it because he's given me some kind of, I don't know what the right word is, arena or something, in which to even address these questions... because there was someone there that I could talk to, and who was extremely interested, obsessively interested almost, never letting it slip by, always questioning, always making me question, always asking me to think about it and to wonder. It was Will who encouraged me to go into therapy.

Judy: What is it about Will? It raises an interesting question about what good age-mates are. I reflect back to twenty-five, I was curious about who I was with and had endless time to ask. Is it a function of Will's age, or Will's character?

Roz: I think it's definitely a question of his character. I think it's also a question of having been alone a lot of his life, with a lot of things he's been struggling with. He hasn't gone through the same struggles that Alan has about being responsible, and having a job, and that kind of thing. We match on the personal level very well. I think that is a good way to put it. I think that is one of the most crucial ways in which we match, at least for me now. It seems that for my personal
growth, that is real important to me now.

Roz: Someone to grow old with seems to be important to Alan, his wanting to stay married, and isn't that important to you at this time, finding someone to grow old with?

Judy: I guess it's not quite so important, not to say that I wouldn't want that to happen at some point. I think that I still have a lot of unexplored area that I have to deal with before I can focus on other kinds of things. I know that part of what I have to deal with is relationships with men. Somehow or other not feeling satisfied with one relationship, always looking. In the past, I think it has just been an incredible need to be loved and to feel love by men, even more than the actual sex. The whole attraction thing, the whole desirability, the whole, as it's been put to me, power thing.

Roz: To have the power to make somebody love you?

Judy: Yes, and that is almost hard for me to accept and deal with.

Roz: If one goes to describe most men, one tends to say their power in the world is important. If I were to describe myself and my relationship with work, my preoccupation has been with my influence in the world. I come from a family where I've never had any doubt about how loved I was. My attention has been on a relationship with a larger social world, not a family. I wonder when I reflect on the obvious characterizations of women as passive, nurturers, non-assertive, and I think, no, that doesn't describe me. And I'm female. Men and women are capable of becoming any mix and all of those characteristics. It may have more to do with what influences they had as they grew.

Judy: What you just said is really interesting for me, because you felt you had no doubts about how loved you were at home, that you were able to concentrate. To seek love and to find proof all the time wasn't such a burning need. So you were able to direct your energies to other kinds of things. Most of my energies, or a good deal of my energies are directed toward finding that fulfillment of being loved.

Roz: With Bruce, and with my past relationship with my friend Paul, it's been tempting to stay in a relationship because of feeling so loved. Saying, my god, this is what it was like at home, I ought to hold onto this relationship... this feels wonderful to be loved... I understand what you mean by the incredible power of being loved. But most often, I haven't stayed for that reason alone, because I felt loved by my parents also. My family wasn't going to stop loving me. In this film I've just been doing with my mother, the one thing you noted was my mother saying that her mother was the same with her as my mother is with me. Her mother was very supportive of her. My
mother was going to be an artist and a writer, and she was going to go to college even though there wasn't much money. She couldn't do that because my grandmother became an invalid, and my mother took care of her. My mother passed on to me - well, you be what you want... I wanted to be these things, you're allowed to want to be those things.

Judy: Oh, that's wonderful.

Roz: It is interesting that there may, in fact, be just a passing on of good and bad fortunes. There were bad things that were passed on. But my mother and I didn't focus on those in this particular interview. That's what analysis is, an understanding that things are in fact passed on. What are those things?

Judy: Well, see, neither of my parents would ever question that they didn't love me, and love me incredibly and totally, especially my mother. I mean, my mother has gone on and on and on about her undying love for me, yet for some reason, I didn't have that sense. I heard the words, but didn't have the sense. I think that it was because she had so many problems, she was never able to make me feel that way. Also, I think that she never truly accepted me for who I was and my nature.

Roz: It was interesting to me that you also said your mother was hard on you for every infraction. When I interviewed my mother, she said they were just the opposite.

Judy: Although my mother would say now that she so lenient with me, and she would let me get away with murder, I think part of it was that there was no real consistency. I grew up with asthma. My father, a psychiatrist, has done a lot of research on asthma. He has pointed out to me that asthma is repressed crying, to a large extent. What you do is bottle up inside yourself instead of getting it out either with anger and tears, or hurt, or whatever. You keep it within. One of the things that would happen to me is that when I had asthma, when it was its worst, my mother would be angry with me, and it would always make it even worse.

Roz: Do you have asthma now?

Judy: I still do, and it's a drag.

Roz: As often?

Judy: Yes. Now it's triggered by different kinds of things, not necessarily emotional things, although I can usually tell what is triggering it. Sometimes just having these cats around, that will do it. Sometimes, almost always, I get asthma with a cold.

Roz: So how did your father deal with his knowledge of why you
might have asthma?

Judy: He never really dealt with it. One of the things that kind of upset me in later years was when I was married to Alan, he would say to me, you don't have to have asthma, you have asthma because of these psychological reasons, etc, etc. It used to just burn me up because he knew that first of all, I couldn't afford therapy, I had no money. So here he is, I would suffer horribly with asthma; not being able to breathe is one of the most horrible things you can possibly imagine. And yet he would say to me, you don't have to have it. Yet he never made it possible for me to try to get rid of it. That always struck me as being so strange.

Roz: He loaned you money for other things, when you needed money?

Judy: Yes, right. He's always been there with presents here and there, a couple hundred dollars. I never really asked. At one point I only went three times, and it was to look at a very specific problem that I had. I was having an immediate problem in a particular relationship, so I went for that. Again, that was a way in which I felt that he wasn't there for me. He knew there just wasn't the means. I suppose I could have taken the initiative and just said, I want therapy and I can't afford it and will you pay for it?

Roz: Why didn't you?

Judy: I don't know really. Partly, I wasn't ready for it, and partly I was rejecting my father's saying that to me... you don't have to have asthma, and here I am unable to breathe and taking all this medication and suffering.

Roz: Why did you allow me to take the portraits of you and Alan?

Judy: Well, I think a couple reasons. I think I was curious or interested in having this particular point in time recorded. Well, more than two reasons, but one is having a very poor memory even now. Photographs are important to me because they tie into something that I don't have real good access to. I'm a real visual person, extremely visual.

Roz: Meaning?

Judy: I think visually. In many ways, my visual memory is far better than my auditory memory. If I see something, I'm very apt to remember it. Also, I thought that I might see in the photograph that would give me a new insight.

Roz: What made you think that?

Judy: Well, I don't know if I can put it into words, really.
Looking into the mirror isn't the same, somehow, as having a photograph in front of you, in terms of what you might see in yourself or looking at your eyes. Or maybe because it's fixed in time, so it doesn't go away two seconds later. You're not preoccupied with something else. You can go and look at it again and again, no matter what your mood and maybe see something you hadn't seen before. So it's not so transient. Plus you might see some subtlety of how you stand in relation to other people around you. I've found that in photographs that I've looked at of yours, and these particular ones that you did of Alan and I, and Will and I, you seemed to have brought out things that I don't think that anyone else would have, in the same way. It's not mechanical shooting of what was there. I think that there was an awful lot of your input. I'm not quite sure if I could define it.

Roz: Could you try to characterize what you think you felt during the session? How I might have altered your situation and what I may have invested in the situation.

Judy: I know that I have a sense of that having happened. I don't know. That's something I'd have to think about for a while. I know that a lot of your photographs have a quality that are different from other people's. I'm not quite sure, in terms of specifics, what you said to direct us to pose for the pictures, or what it was. I don't know that I can state it from that basis. I can say that your photographs have a reality about them that is different from a lot of other photographs, not necessarily pretty photographs. I think for one thing, especially when you took the photographs with Will, the way you made us comfortable together had a lot to do with what we could show you in terms of the photograph, especially with Will, that really worked out.

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Roz: Any photo can have the ability to make us reflect.

Judy: I think that is true, too.

Roz: Do you know what made you believe in photographs being able to do that? I mean if you allow me to take your picture, and you have an attitude of, well, maybe this photograph can show me something. Do you know where you came to believe that photographs could do that? I mean, is it tied immediately to having seen my photos, and my photos of what?

Judy: I have seen you photographs of people. They were real, I don't know how to put it, just kind of gutsy portraits that somehow or other seemed not superficial. I don't know how to describe it really.
Roz: What photographs do you remember historically? Think back about photographs that are part of your memory, in this day and age of ours, including family pictures.

Judy: Right, not a specific photograph, I guess. I think it's also that I'm so familiar with the medium because I take a lot of photographs.

Roz: What do you photograph?

Judy: I've rarely photographed people. Mostly I photograph things. What I'm attracted to is intimate situations, intimate landscapes, close-ups of certain kinds of things, well, I could show you some afterwards.

Roz: Well, I know when I was here one day you went up close to a plant.

Judy: Right. I do plants. Oh, I have a really nice photograph of a porch with beautiful light coming on it, and a clothesline. That just seems intimate. It's someone's personal place. One of the things I've become increasingly interested in, in terms of what I want to photograph — and this is something that is new for me because I used to just walk around and take photographs of what inspired me — but now I'm specifically interested in taking pictures of intimate scenes either through window, reflections of things, double images.

Roz: What's making you want to photograph those things?

Judy: I'm not sure.

Roz: Have you seen pictures like that before?

Judy: Yes, I've seen some pictures before Dorothy Hyakywa's photographs. I think she photographs a lot of intimate situations, what I would call intimate, not seeing the whole picture but part of the picture that gives you the feeling of a special place. Generally speaking, beautiful landscapes don't really appeal to me that much. I mean, sure, there are incredible landscape pictures, but it's the more mysterious pictures that appeal to me. The one that makes you think about it. I have a photograph that I really like of a close-up of a deer's head. Of a wet dear, and it's looking right in the eyeball and it's real personal, a real intimate kind of situation. Yet, I avoid people. It's not something that I feel comfortable with. Or even that appeals to me that much in terms of my wanting to take pictures of people.

Roz: So when you say intimate...

Judy: Intimate in terms maybe of, oh gee that's, ah, maybe it's
a place that was meaningful, or something that could be not necessarily dream-like, intimate in terms of a close-up of something, maybe. I have a photograph upstairs of wet sand, of glistening, just incredibly glistening, almost like mud, and I would consider that as intimate photograph. It's very sensual. It's very tactile. Like I have a photograph also that I'll show you which is a lock on a gate. I have a photograph that I took in moonlight which is two New York trucks side-by-side in a vacant lot. Another one that I did in moonlight which is very shadowed is a stairway, with beautiful shadows that lead to some unknown place. I consider that to be an intimate shot.

Roz: What kind of feeling did it conjure up, when you saw the trucks side-by-side?

Judy: Well, I think I, I don't know if this is the right word, anthropomorphised. They weren't necessarily trucks. Visually I liked it, it seemed slightly mysterious, and slightly playful, these two trucks together, as if they were lovers or whatever. Photographs have a great deal of appeal to me. I've seriously done photography since my last year in high school, I mean working in dark rooms. I was self-taught, teaching myself how to print properly and roaming all over the lower east side in New York all my myself, taking photographs.

Roz: What was the appeal?

Judy: In those days, it was more people photographs, curiosity, about people, liking the image, liking the process. In fact, when I think of it now, a lot of photographs, most of my first photographs were of people, and that's since changed. In fact, I just bought the biography of Steiglitz, because he's a very, I have a warm spot for him as a human being, and a photographer, and also Georgia O'Keefe. I admire and respect them, and am also interested in their incredible love affair.

Roz: How early on were you aware of other photographs?

Judy: Probably quite early, because I was what I would call a serious painter or artist in high school, where I was taking life-drawing classes with adults one or two nights a week, where I was as a junior in high school stretching five foot canvases and doing big attractions, this was in the late '50s and 1960 and that wasn't really done. You know, that often, studying privately.

Roz: What images do you remember historically, like on TV? How do you recall historical events? In your history, what was important?

Judy: How do I recall, you mean, in my own personal life?

Roz: What do you recall as the major historical events?
Judy: That's a hard one. I have no idea.

Roz: J. Edgar Hoover resigning from the FBI? Anything?

Judy: I don't know. I didn't have much of a consciousness. I must say that I only began to have any kind of consciousness when I went to college as to the world outside me.

Roz: And of that world outside?

Judy: The peace movement, probably when I went to college, was the first thing I got involved in, superficially and briefly.

Roz: What made you get involved in that?

Judy: It happened, I think in some ways, I think it was accidental. I'm not really even sure. I knew a bunch of people, or it was a way to get out of class. I don't really even know. Someone said, hey, do you want to go on this peace march? I decided, sure. I didn't know what it was. I didn't know what it all meant. I'd never thought about it, never thought about nuclear war. I went on this march. I didn't know it was between five and ten miles out from Cambridge, out to some other place carrying a placard about, stop nuclear war for the sake of the world's children, or something like that, and even felt, oh my god, I bet my parents will kill me for being involved in something like this. Then when I told them, they said, oh that's great, oh I'm so glad you did something like that. I was just shocked. It was one of the first decisions to do something that I wanted to explore. Again, I didn't get terribly involved in it but I was at least aware.

Roz: Did you watch TV as a kid?

Judy: Yes.

Roz: What shows did you watch?

Judy: Nothing that was outstanding. We would just watch TV. My parents always watched the news. The news was on, the six o'clock news and the eleven o'clock news, and they were very interested in what was going on in the world.

Roz: Do you remember anything in particular that came on over the news as being influential to your life?

Judy: No.

Roz: Do you have any fond memories of any particular show that you watched weekly?

Judy: I think I watched a lot of things weekly, but I don't even
remember what they would be.

Roz: Can you name some?

Judy: Oh, I probably watched, that, oh let's see...

Roz: Do you remember characters?

Judy: Characters?

Roz: A hero or a heroine?

Judy: I probably watched the Lone Ranger.

Roz: Do you remember it?

Judy: Probably a little bit, but I don't know if I've seen reruns that Bryce has watched.

Roz: Do you remember...

Judy: I was never a Leave it to Beaver fan. I can't remember some of the shows. Jerry Lewis...

Roz: Who were your favorite stars?

Judy: Stars? The sexy men. I had photographs on my wall and let's see, oh in those days it was Rory Calhoun. My father had a patient who had worked for some publicity, actually those were all original photographs now that I think of it. They'd be worth a fortune, of all those famous movie stars, and many of them were autographed to me and they were all eight-by-ten, Veronica Lake, and all these real famous. This is something I just remember now, for the first time since I left home, that I had this incredible, very precious to me, glossies.

Roz: What did you think about these?

Judy: I romanticized them incredibly, and on my wall I had photoplay magazines and so on. I had James Dean pictures, or what's his name, Elvis Presley, up on the wall.

Roz: How did you feel about those photos? Do you remember what you thought about those photos? Whether those were the real people or not, or whether you knew they were publicity?

Judy: I don't think I really thought too much about it. I just loved having them.

Roz: Were you an only child?

Judy: No, I have a brother who is four years older. We lived apart. There was almost a night and day difference almost to the
point where it was very hard to communicate. Because I think that all of the issues that I deal with consciously, unconsciously he has stuck them away in a closet and said, I'm going to get on with my life and what do I want all this shit for?

Roz: What does he do?

Judy: He's a very successful doctor, with a very successful marriage, really, so it seems, and I think probably is. He was determined I think to make his marriage work, not like my parent's marriage.

Roz: And what does that mean?

Judy: Well, I'm not really sure what it means except that it seems that they seem to have a good relationship. He's a very devoted family man, a very devoted husband, also they lead in many ways a very good life. I mean, they are physically active, they camp, they canoe, they have a social life, every moment in their life is planned, every moment is planned, their vacations, their outings, everything.

Roz: Did you ever want to be a doctor?

Judy: No, I think what appealed to me at one particular point was to be a medical artist because I really loved to do very fine drawings, pen and inks and so on, and so that interested me. But no, I never did.

Roz: It seems that he chose a career that would give him income. Did he make a conscious decision to go be a doctor?

Judy: Yes, I think so. Well, I don't know. My father was a doctor. I don't know exactly why he chose it, we've never really discussed it. I think it was probably, I don't know how early he came to that realization.

Roz: did you have to make any decisions based on how you were going to provide for yourself?

Judy: No. I think it was assumed. We never really talked about it. First of all it was assumed that I go to college. It was never even considered that there was any other possibility for me.

Roz: Go to college... to get a career, to make an income?

Judy: Money was never an issue with me in terms of what I ever thought about or what ever was impressed on me as being important, that you might have to be out on your own supporting yourself. I guess it was assumed that I would meet a man and get married and have a family, although it wasn't really consciously
a desire or drive to fulfill that. I don't think I ever really, that's one of the things that sometimes gets me. I know I must have thought about my life and what I wanted to do, but I really don't have any recollections of thinking about all those things. I think that I tended more to function on a daily basis or a weekly basis or a monthly basis, but not in terms of hopes and dreams for my life.

Roz: Well, except if you thought about being a medical artist, a medical illustrator?

Judy: But I didn't think seriously. Seriously, I never changed any action in my life so I could do that.

Roz: Your parents never brought to mind that you might have to make a living?

Judy: No. Or if they did I don't recall, but I don't recall most of everything that happened to me.

Roz: When you saw pictures of Veronica Lake what did you think? For example, when I saw pictures of Barbara Stanwyck, I remember imitating cowgirls, imitating their actions to some extent, like they were movie stars and they worked. They represented independence. I'd see a picture of Ginger Rogers, and I would think of the working woman. I would think I wanted to grow up to be Ginger Rogers. I wanted to dance like Fred Astaire.

Judy: See, I don't know, I may have had those thoughts. I don't remember any of it.

Roz: When you had pictures of Rory Calhoun and James Dean, do you remember thinking about them as mates?

Judy: Well, always part of a romantic fantasy is about falling in love. A real preoccupation, which it still is, falling in love, and being an artist. I guess that really was the driving force. But I never thought in terms of well, would I support myself? How can I do it, make a living, and still be an artist.

Roz: How was that nurtured?

Judy: My mother really nurtured that. That was something for which I gave her lots of credit. In some ways she pushed me.

Roz: Why?

Judy: Well, I think she thought I was very talented and that she felt that would be good for me. She wanted me to be successful with something. That would be a question to ask her. She took it upon herself to go to my art teacher at school and ask him if he would take me on as a student privately. My mother was so pushy. He didn't want to, probably because I hadn't exhibited any great
talent in school. So he was thinking, oh geez what am I getting involved in this for, this rich suburban kid, da-da-da-da. But it turned out, I mean after even the first time I was there, I did incredible work. He was most impressed, and it just began to blossom into something very serious for me.

Roz: How old were you?

Judy: I think I began at the beginning of my junior year, and one of the things I do recall is that I was supposed to be in bed at nine-thirty or ten or whatever it was. And my parents would be watching TV, and our studio was in the basement. I would sneak down and paint or draw until one in the morning and then go back to bed.

Roz: Without them ever knowing?

Judy: Without them knowing. Or, you know, maybe I would tell them after I had finished some incredible painting that I really liked. I was doing really gutsy paintings then.

Roz: That's incredible that you would be so involved.

Judy: I guess so, yes, I guess it was. I guess I don't know why I would give it such importance now, but I guess it really was.

Roz: And what kind of feedback did you get from the teacher?

Judy: Very good feedback. He was a real understated kind of guy. But I mean when he gave me a certain look, or said, yes I think you're coming along, that meant a lot. He was also a, quote, serious painter, at least at that point, but has given it up for real estate, which was one of the biggest crushing blows when I went back to see him years later. It was: oh no. That was a real burning urge in me. It's true. I don't know why I don't give it more importance. It's funny.

Roz: Did you expect then to be a painter? Did you expect to be married as well?

Judy: Yes, probably. I don't know that I thought a lot about homemaking. I thought a lot about men. But I don't know that I thought in terms of homemaking.

Roz: Do you remember when you were in high school, how you pictured your future?

Judy: No, not at all, no, nothing about it. I know that being an artist was an important part of it, but in what context I don't know.

Roz: Were you different from the other women in high school?
Judy: Yes, very different I think. Which is something that my mother, I know, had a hard time dealing with because I wasn't one of those girls that had, I mean, I would spend Saturdays alone. It would kill my mother. I would either be in my room or just what she would call brooding. It was like I wasn't terribly happy, but I think it was also very important to me. She wanted me to be like the girls who always would have sleep-overs with half a dozen friends and would go to the movies and go do this and that and the other thing.

Roz: Did you miss not doing that?

Judy: I think a part of me missed it, but a part of me didn't make it possible to have that. Except for one or two very close friends. And my mother always said that I got involved with friends that weren't good for me. Just like she would say I got involved with men that weren't good for me.

Roz: Who were the people?

Judy: They were more misfits, a little bit outcasts.

Roz: (?)?

Judy: I had one friend who eventually my mother forbid me from seeing because she had read my diary in which I must have been talking about men and making out and heavy petting and that sort of thing. I could never see my friend again. See, my mother would make this proclamation, and then I would sneak and do it anyway. But she frequently forbid me.

Roz: How would you describe your friend, other than misfit?

Judy: Vivacious and boy crazy, but really not the usual suburban girl, maybe from slightly lower economic base, another friend of mine who in many ways wasn't very good for me, but I was aware of it. I was probably a junior or senior in high school, and was enough aware of it to want to reach out to this girl anyway. She had no friends at all.

Roz: Why?

Judy: Because she was wierd. I think she was very strange, and it turned out when I got to know her better that she was a kleptomaniac. She had a very wierd mother. She lived in a totally dull enormous house somewhere, and her mother was a very, oh, I mean a very wierd situation. I don't think there was any father, I don't even know, and her mother left her totally alone and was like probably paranoid schizophrenic and eventually stole something from my mother. She stole some beautiful leather gloves and two other little things and from that point on I was forbidden from seeing her. And that really hurt me.
Roz: Did you understand her?

Judy: Well, there was something. I understood something. There was something about her that appealed to me. Then my social studies teacher said to me, what happened with — I don't even remember her first name — what happened with you and what's her name? And I said my mother didn't want me seeing her anymore. He wondered why, and I told him the full story of her being a kleptomaniac and so on and so forth. And this guy said to me, well, she probably needs you as a friend, can't you explain to your parents just because she is a kleptomaniac you're not going to become one? And that you have the need to reach out to this girl and to befriend her? And so forth. It was kind of a, I didn't have the courage to do it, and I always felt guilty about it. I always felt like I let this girl down.

Roz: She never knew why you stopped seeing her?

Judy: Oh, I may have told her, but basically it was like I was forbidden and that was it. Actually, when my mother discovered these things missing, I don't know, it was eight or nine at night. She and my father went and stormed over to this place and went into this house, and it was totally dark and almost no furniture.

Roz: So did you find the gloves there?

Judy: Yes, my mother found the things. It was an attitude of, look what this person did to me. Instead of, this poor girl, she needs, oh, let's help her. Nothing. It was like someone had done something to my mother. My mother was real strange that way sometimes, too. I remember sometimes going shopping with her. That was the one thing she was really good at doing with me. She'd take me out of the school for the day and say, let's go shopping. We'd go bargain hunting for all these clothes and often I'd feel so pressured into getting what she wanted me to get, and then I wouldn't wear it. She'd get really angry at me. Really angry, and how ungrateful I was, and this came out in this thing my father gave me. That was a major problem because she would buy me stuff I never wanted, and she would get angry at me when I couldn't wear it. And so she was like really freaked and be angry. But I remember being in this department store with my mother and she was buying something, and I remember just hanging around. She steeped back and stepped on my toe, which really didn't hurt very much, but then she got angry at me that I was in her way and yelled at me in front of the service people that were standing there. I felt that was a kind of injustice that frequently happened to me with my mother. I really grew to be mistrustful of her. Whether it actually happened that way or not, that's the impression I have.

Roz: Do you ever wonder, as you point out, why she didn't
understand this little girl, this kleptomaniac, did you ever think about your trying to understand why your mother was so...

Judy: I don't think I thought too much about it because I think for a lot of reasons it was just too painful. I blocked it all out, you know, and I just recently read in an autobiography how nighttime was so frightening to this author. He talked about his mother who also had enormous problems, psychological problems. So there was something about reading this that made me suddenly realize the desired. I've had a real problem with the nighttime. I'm terrified of being alone at night, obsessively so. I wouldn't do a lot of things. It restricted my activities. I was always afraid to walk down the driveway or to get out of the car when no one was home, and it was dark, and come in the house. If Alan would be away at night and I was alone, I would sit hovered in a corner just huddling unable to sleep. There was something about reading that, that made me realize that nighttime for me must have been terribly frightening, too. Because that's when all this stuff went on between my parents, all the stuff that I blocked out. And so nighttime is the time to be afraid. I'm sure there were other things, psychological things involved about it, just something that struck me about that because a lot of bad things happen at night it was a time to be feared.

Roz: In the photographs I gave you, do you recall whether having the photographs changed your subsequent behavior? Did any of your thinking change as a result of having the photographs, before and after, so to speak?

Judy: You mean just the process of being photographed, the experience of being photographed?

Roz: Actually, once it was a real object, and once you had the image of yourself, can you think of something, the experience, as well as having the image, that was interesting?

Judy: Well, I know it had, it was an experience that had a lot of effect on both Will and I, being photographed.

Roz: In what way?

Judy: Well, I think we both felt extremely close to one another. I think we felt because of the kind of undercover relationship that we had, that we would, with someone that we trusted, we cared to be able to express those feelings. The tenderness, the sadness, the intimacy, all the caring that went on, and that was a growth thing, I think that definitely had an effect.

Roz: When you were subjects, did you find yourself doing anything for the photo session?

Judy: No, I felt in a way that Will and I latched onto one another physically a little bit more, just like in this
photograph, really hanging on to him.

Roz: Do you know why?

Judy: Oh, I think a little bit of it had to do with the nervousness of being photographed, and also probably to some extent, desire to have those very passionate tender close moments captured.

Roz: So was there any sense that the experience of being photographed was a collaboration? Did you feel in control of what you were expressing.

Judy: I don't know, that's sort of vague, but I think I was in control. Yes.

Roz: And the time that you asked to be photographed, or did I ask you? I has asked to photograph you and Alan .

Judy: Right, and I asked if you'd be willing to photograph Will and I.

Roz: At that point, did you know what you were going to use the photographs for?

Judy: Well, I think in the back of my mind was the idea if, I wanted to capture a special moment in time that I could hang on to, that may not be there again because of the nature of our relationship. I couldn't count on him being there a week, two months, a year later.

Roz: Have you referred to the photographs since?

Judy: Yes, Will has them, because I just felt since Alan didn't know, it was unwise to keep them. I've looked at them a few times now.

Roz: Does it have any continuing effect?

Judy: Well, when I look at them, I feel I was going to say nostalgic, just for that moment, that was a very close moment for Will. We talked about it afterwards because, like I said, we felt comfortable with you, and we could be cozy together and feel right about it. It was a nice feeling, and when I look at the photographs the nice feeling comes back.

Roz: Are those photographs on display at Will's?

Judy: No, he has them in an envelope, a brown envelop.

Roz: How often have you looked at them?

Judy: Probably three times. I know he showed them to a few
people, and I've looked at them at least three times. I mean, I
had them here for a while and I think I've looked at them quite
a bit for the first week.

Roz: And each time, what did you think of? Was each time
nostalgic, or what?

Judy: Well, yes, in some of them, how incredibly sad I looked.
It just seemed like a lot of sadness. Although some of them, I'm
smiling and happy. It was the ones I like the best actually, in
terms of how I look, to put it that way, were the ones that
looked the saddest.

Roz: Did they affect any of your behavior, any of your actions,
because of what you thought of them?

Judy: Not really, directly. Nothing that really comes to mind,
being strong.

Roz: And with the photographs of you and Alan?

Judy: Oh, I never saw that.

Roz: You never saw this one? Those are the ones with a Polaroid.
I guess I must not have processed it.

Judy: Right. Oh, there was a problem with the Polaroid. No, I
never saw this. In all the ones with Alan, of course, you
arrived on a day on which Alan and I were having a very hard
time. I think we'd had a big fight or something, some major
thing, and I wanted to be as far away from him as I possibly
could, to not want to touch anything. And until that last
photograph that we had anything physical to do with one another.
I looked so unbelievably sad in this. It's just incredible. In
almost all of them, Alan looks relatively happy, in spite of
everything. I noticed that about the others that are happy.

Roz: What did it make you think?

Judy: It definitely did make me think something. I'm just trying
to put it into words. Oh, I felt like I was the problem in the
relationship. I was the one who was not satisfied. I was the one
who was so filled with sadness and anger or whatever. I was the
one holding down.

Roz: Did those thoughts make you change any of your behavior?

Judy: I don't know if it made me change my behavior, it
certainly made me aware of my behavior.

Roz: Had you not been aware of that in particular at that time?

Judy: Well, I think maybe we had a sense of it, but somehow
being able to see it, I'd say, geez, look at me. I really do look sad or really have put myself apart from the group, the family group.

Roz: Did you try consciously to set that up when I was photographing you. Do you recall?

Judy: Well, I don't really think that I did, but I think that I do remember feeling... because we had had a fight that I didn't want to go anywhere near Alan, really. And probably actually now that I think of it, I think that I did not want to appear close and intimate with Alan because I had been close and intimate with Will in the photographs, and I didn't want to appear that way with him.

Roz: Now in the last photograph, you put your head on Alan's shoulder.

Judy: I think that was for several reasons. Probably it just seemed so absurd that is was just such a conscious thing that we were purposely not touching. It was like, oh boy, you know, this is ridiculous, and touching that little bit of a very tentative thing.

Roz: I remember that photo. I think I gave you that one as well. Now, did you talk to Alan about this photograph?

Judy: No, we never discussed this. Never.

Roz: Did you ever discuss the photographs with anyone?

Judy: I think Will looked at them. I don't think we really discussed them. No, I don't think so. I definitely did not want to discuss it with Alan.

Roz: Do you know why?

Judy: It probably had to do with the kind of dialogue we were, or were not having at the time. And to talk about my sadness, and to talk about what went on that day or whatever, or whatever it might be, was just something I didn't want to do. Because it all meant talking about the relationship. It wasn't just the photograph. We just couldn't say something about the photograph, because it was a statement about where we were at.

Roz: Did you do anything with that awareness that you got from the photograph? You finally put your head on his shoulder and then when you got the photograph, I remember you said, gee, I didn't know Alan was so attractive. That's what you said to me.

Judy: I know. (laughs) Oh, that's funny. Yes, I think I remember thinking that he looked attractive in most of the photographs. And that I looked unattractive. Old and tired.
Roz: Do you know what you did with those thoughts? Did you put them away? Did you act on them?

Judy: No, I stuck them away. I didn't want to think about his being attractive, at that point. I didn't want him to be attractive, at all. I tucked it away.

Roz: So you chose which photographs to use then, like you used the one of Will and you.

Judy: It's funny, because both kids in this family photograph are very much like me. And Alan 's the smiling - it's sort of a forced smile, but not all that forced. Bryce is hanging out in the back, looking kind of persnickety. He was totally uncooperative, but he had that kind of brooding look.

Roz: How would you read the photographs? Would you consider the photograph an accurate description of you? And everybody?

Judy: Probably. Certainly at that point in time.

Roz: So, how would you read...

Judy: I don't know. It's, well it's, you know, in terms of what I see in people as they were, or I see Alan as being... see, it's hard to know what I'm reading from the photographs, and what I know about Alan and think about him. You can't really separate the two because these aren't strangers. So I mean what I see there.

Roz: Well, let's describe it two ways. Describe what you think you know about the characters and how they're depicted. Then if you can, add on what you think it says.

Judy: Well, I guess it seems to me that Alan, in spite of all the woes, remains somewhat optimistic, and has a residual happiness, peace or comfort or something. A lot of residual stuff works for me. Most of my residual stuff is not the positive stuff, but it's the pain and anger. And that just seems really apparent to me in that photograph of us. Alan has always described himself as being of a much more positive nature, me being a much more negative person, complaining a lot, and finding fault and not thinking of the good aspects of things, dwelling on the bad. For years that was a major problem and it still is for Alan, though because of the way I've attacked him on those choice of words, he no longer uses them. But he gets the same idea across. It's that I'm so negative. I don't really see it that way. I can see how he sees it that way. I think I'm getting off the path here, but I feel that in the photograph, he has that residual positiveness, and I don't.

Roz: What do you think the photograph might say about culture,
our generation, a couple? In other words, if you were to look at this as an artifact not just a description of that reality, but as an object?

Judy: Oh, I don't know. When you told me what kind of questions you were going to ask I was having trouble with that one, then.

Roz: Like what made you move to Putney?

Judy: Well first, college. But what made me stay, which is probably more important, because it was chance that I wound up here, is the lifestyle, being close to the land. That's really what's kept me here is my enormous love of nature.

Roz: Did you have that growing up?

Judy: No, not in the slightest bit. No, I don't know wherever it came from and that was one of the things in myself that I felt I never got any recognition or appreciation for. I felt and I still do feel, although a little bit less because it doesn't concern me quite so much, that my parents never appreciated that more sensitive side of myself. A sensitive side that wanted to bring home a robin with a broken wing, but couldn't because my mother wouldn't have it in the house. The part of me that wanted more than anything to build a fire in the fireplace and just sit by it. But my mother said, oh, it would just make a mess in the house. You know that kind of thing, just a whole other part of me that was so very very real, that never, well, we never went on outings. We did go on a trip around the country and saw all the canyons and that whole business.

Roz: Was that the first time you felt like that about nature?

Judy: No, I think that I've always had a feeling for it. I don't know that I ever had real exposure. I don't feel like I've had the recognition of what it was I was feeling. It was feeling more that I was not satisfied with what I had. And it was kind of lonely, more another part of me that when I first came to Vermont. It was like I, oh, look at those cows and aren't they beautiful. And just feeling overwhelmed by the beauty of it, and feeling finally, I had found the right place for me.

Roz: And the same for Alan?

Judy: I think Alan was brought up - because his mother was artistic - with a whole different sense of things. I couldn't really answer that for him, but I think it was different for me. It was a much more caught-up-in-people kind of life, and competition and suburbia. The girl across the street dyeing her hair blonde, and she was in high school, and then my mother going out and getting my hair dyed blonde. You know that kind of thing, and dressing properly and shopping and not that whole other world. As soon as I knew that there was something else out
here, this is where I'll be. I wouldn't give it up for anything.

Roz: And that's still true?

Judy: Oh, very much so. I love the city and I go down to be inspired, and it really works. But in terms of what makes me happy and where I find myself at peace, it's very much in the country, nature and those kinds of worlds. It's not the world of people except on a very one-to-one basis.

Roz: Let's see, what else can we talk about?

Judy: The only thing I can really say about at least this last year of my life is it's been this enormous growing year for me, now that I feel mentally healthier or more stable. I can really look at it through all the pain and everything, a very good thing. It's been all and all, no matter what the outcome, something I had to do, and will continue to do, discovering who I am and where I've come from. What things I want to keep, what I've gotten from my parents, and what I want to keep and what isn't good for me to have around. And I think in the past, I've tended to keep the things around that weren't good for me. I don't know if that's, my father has again a psychiatric term, called me masochistic. That I've chosen or made decisions in my life, especially with men that weren't good for me, which is I'm sure immediately what he would say about Will. Without even questioning why he's so important, what does he mean to you, that kind of thing. And what woman in her right mind gives up what I'm giving up, a devoted, loving, caring husband, the nurturer, the good father?

Roz: Well, right now it seems to me I feel that life is for me growing personally, spiritually, in my development. Someone recently said something to me which I thought meant an awful lot. I just met him at the hardware store and he says, how's it going? And I said, well, you know, the same old stuff, same old men in my life and I don't know what to do. And he said, well, I'm not going to give you any real advice, but I'll just tell you one thing that has been important in my life is, it doesn't matter where on this earth I am, or who on earth I'm with, I ask myself in terms of why I want to be there, one question: can I grow from it spiritually? If I can answer yes, then that's where I'll be for that time. Because he said to me, growing spiritually is the most important thing in my life.

Roz: Don't you think that's saying we're responsible to ourselves first and foremost. It doesn't necessarily say that, it says that that's one of the questions. What do you think about responsibility to the larger community, the larger culture, the mate you're with? What is required of a person?

Judy: Well, I think that's a really good question, and one that I don't often think about. But I think for me at least, before I
can reach out to the larger community, or whatever, I often happened to be - even if it's a brief period of time - comfortable with myself in the immediate. I have to feel comfortable, because I tend to be, I don't know, I'm not expressing this well... but I tend to be introspective and not able to reach out when things aren't going that well for me. I do think that we have responsibility certainly to our mate, and to our children if we have them, and to people we relate to, to relate well and loving, in a caring way.

Roz: What are you like if you say you're responsible to your family? What are those responsibilities to yourself? Are they consistent?

Judy: Well, for my children at any rate, to give them a sense of being loved, to give them a sense of being important. Important to me and important to themselves. A sense of all things are possible and a sense of incredible well-being.

[Judy Hodson March 1983 (tape 3)]

Roz: I was reading this book by Elizabeth Janeway I got as a review copy. I guess there is a real curiosity on her part of why we don't learn from our history. In other words, you have a history and that life is very much your own making. It extends beyond your immediate family to your community, your friends. There are patterns we repeat. There are actions that are influenced by the society that we live in. I guess now more than ever, I want to know how women are going to do. I guess to some extent, I am bogged down in everybody else's detail. But when you talk about, in your relationship with Will, that you are able to grow and learn, I'd just always assumed that I'd learn and grow and change by knowing about people, a variety of things, not necessarily on a one-to-one basis. That may be some difference. I wonder how many people learn from a one-to-one relationship, how many people tend to learn from the big picture? Do men generally go out and learn from the big picture and women from intimacy? Do some women and some men? I guess I'm more concerned over the past generalizations made about women. I really want to know how true they are. We commented on the divorce issue as seeing it not necessarily as a failure, but as maybe an opportunity, one opportunity to grow. When it's not possible to grow any more the way you want, you move on to another relationship. That's probably a new way of thinking about coupled lives.

Judy: I think it is.

Roz: And maybe an important one.

Judy: Yes, just thinking of that made me suddenly flash on my
kids. One of the sad things that I think is that because of the emphasis placed on failure, that children have a real hard time. Well, they have a hard time with divorce often because there is so much hostility and fighting and anger involved. But if their parents are loving and caring about them and don't involve them in those kinds of situations, still, they are brought up with the sense of failure rather than of a new beginning. You know what I mean. There are so many negative connotations. The thing that worries me sometimes is that my kids, coming from an unsuccessful marriage, will hopefully not repeat that same pattern.

Roz: Well, one psychiatrist that I interviewed said something like, the effect was fifty-fifty. Some children repeat their parents, whatever they learned. And some children do the opposite. So you don't know.

Judy: Well, my brother and I certainly are fifty-fifty. He was determined not to repeat the pattern, and he is doing it very successfully.

Roz: My mother was from a broken home, and she was determined to have a successful marriage. I, in turn, haven't got married. So it is not necessarily that I will go and make the perfect marriage, even though I lived in what I perceived as a traditional successful home.

Judy: You're avoiding it... (laughter)

Roz: What I'm avoiding is what I think I perceived as a marriage in which there are endless compromises. And being rather uncompromising is my choice of art as a field. Well, you don't compromise a photograph. It's either good and may be better, but you never just make it acceptable. There is that striving for quality which could be described as uncompromising. I try not to do things half-well. I do it as well as I can. Now that is an ideal which may carry over to relationships. I don't want to be compromised. That is the way I often perceive my mother's situation with my father's. Rather than negotiate the marriage in which I am the one compromised, I stay away from such a relationship. On certain levels, I can see where I learned a certain meaning to marriage that wouldn't suit me. Rather than invent a new meaning, I stay clear of it until the point where maybe I am able to invent a new meaning for marriage which is satisfactory. Bruce is interesting to be with in the sense that he is young, which means negotiating a new definition might be possible. Might be.

Judy: Even being so conservative?

Roz: Certainly I'm set in my ways. I certainly recognize that. Somebody else my age might also be set in their ways. It may just be an interesting partnership right now because I'm in
Judy: Right. So he's not pressuring you into living together, or getting married, or why don't you want to? What about your sense of fidelity?

Roz: His attitude has been, he wouldn't ask that of me given that I'm in Boston. I don't ask it of him. But he has said that he would want to know. It's one thing if I slept with an old friend. It's another thing if I establish another relationship. He'd want to know right away, more because of ego than because of anything else.

Judy: So that he wouldn't be so bothered?

Roz: Well, because no commitment has been made. If a commitment is made, then yes, he is bothered. And I recognize that, because all the times that I've said, well sure you can sleep with somebody else because it's an interesting experience, I've later regretted it. I've been deeply hurt. It means that someone you love can transfer affections. By virtue of experience, I now know that if you have a second relationship, you share yourself. If you're not callous, you share yourself. Therefore, less is available to the first relationship. Therefore things can change for the worst. And if I need somebody to talk about work, then I better look for associates. But if I want to have a family and kids, then I have to protect that environment, because it obviously, in this day and age, needs protection. It can't exist without some real design. I certainly did everything possible to protect my book projects, my commitment to my work. I would never do anything that was going to jeopardize its being created, and it took eight years to develop and succeed. The same would be true of anything, and endeavor. I would assume that's true of any partnership and therefore any marriage. I was thinking that I was never in a position to share that much energy with much more than work and one loved one. I think, yes, with Bruce it would definitely be the case, you have to have fidelity in order to secure the relationship.

Judy: Would that be hard for you?

Roz: I don't know. I mean, given that I've been around, so to speak. So many kinds of people, some passionate, and some not so passionate. Some for this reason, and some for that reason. One guy's a mentor, one guy's a friend, one guy understands photography, one guy understands my business inclination. Nobody has ever been everything. Maybe knowing that, it means that I know I don't have to have a romantic relationship with everybody. Maybe, I can find the guy who nurtures my art, that
is my need for self-expression, and respects what I do and who I am. And I can do the same and care for their growth. I don't know whether that will be the case. I'll see. I don't know what ingredients are in a marriage that works and whether everybody else can tell me. But I assume the reason Bruce and I work on the relationship is because I think we're both assuming that each other has the character that would make a good marriage. Whether in fact we both decide we can be married to each other is the question. If I change my mind and I don't want kids, would I ever marry? I just might not marry. But the issue of children and having a child means making an environment for the child. On one level I look and say, well you've had your children and maybe now that is part of what is triggering wanting the other needs in your life met.

Judy: Oh, you mean for me?

Roz: Yes. You are in a society where you know be example, kids grow up in households that break up and they live through it. You don't have to stay married just for the sake of the children any more.

Judy: Yes.

Roz: I mean, that was part of the reason many couple say, I'll stay together.

Judy: Well, that was what happened to my family. My father left the day I turned eighteen. It wears me out.

Roz: I hope I understand better at the end of this project what a good relationship is, and what I define as a good marriage.
Judy Interview 1983 (from video)

Judy: I get uncomfortable. I, when I think about staying here I start to get real antsy. You know, feeling trapped or feeling that I haven't completed something that I started out to do.

Roz: What do you mean...

Judy: Like leave.

Roz: And that, that you can't um...

Judy: I can't back down. It's almost like a stubborness, partly. But it's also that there are real issues between Alan and I still.

Roz: That have just haven't been resolved...

Judy: Yeh, I mean I think... I don't know. I think that probably I don't, I'm not in love with him. I don't, I don't know. I mean I, I don't feel like I love him, but... I don't know. It's wierd. I mean I...

Roz: But do you remember when you first knew him?

Judy: Oh yeh, I was crazy for him.

Roz: Same as now, I mean same feelings that you have for Will, same kind of...

Judy: Yeh, except that's even changing because my relationship with Will isn't quite what it was. You see, I think one of the things that's happened is in this two years of having two relationships, and the one year of having Alan knowing and having it all out in the open, that the kinds of emotions and ordeals we've all had to go through have put such a strain on my relationship with Alan, that a lot has been lost, that I don't know that we can ever get back. And a lot has been lost with Will and I, just because of the... the confusion of our, my relationship. It's like Will doesn't get enough of me and he gets angry at me. He begins to feel like, well, I'm just ar-, here at your beck and call, you know. You just come when you can get away, when you used to come and see me three or four times a week, now you, if I see you once or twice a week it's a lot. What am I supposed to do, just sit around and wait for you? And then you come and say, I can't stay long, I only have an hour. Or, and so he's beginning to feel horrible And so, Will and I mostly spend our time hassling. So that's not what it was, although I'm still very very attached to him. It's become much more of a hassle situation. We fight and we argue and he yells at me and I cry and... you know, it's, it's not good. But yet... and sometimes I look at Alan and he looks handsome to me. And
then sometimes I, we have an orange juice at the (?) and then I get really pissed at him and say, why do I want this, you know, listening to him whining at me. I've got two kids whining at me. I don't need him whining at me.

Roz: Can you repeat the orange juice episode again? (?)...

Judy: (laughs)

Roz: It's a perfect example...

Judy: Sure. I don't care. Uh, it's funny, like I said yesterday there's still tenderness with Alan and I and I just overheard him talking to his mom. All I could overhear was one sentence... which was, it seems as though Judy and I really need to go through all this stuff. I never heard him say that to me. But he said it to his mom, and I was, it would have been... that's why it's so interesting. I'd really like to know what he says to other people and maybe doing the video would be an interesting way to learn something new, it's like, if I were to eavesdrop on Alan's conversation with his mom or with you or (?), maybe I would learn something that he wouldn't dare say to me. But all I hear is, you know, you mixed four plus containers of water with the orange juice instead of three, and I take it as an accusation and uh, instead of... It's very strange.

Kids: (noise)

Judy: What's wrong with you guys? Did you have fun swimming?

(child): Yes.

Judy: Yeh?

(child): No.

Judy: (?) Oh you, why are you so crazy about frogs?

(child): I found two (?), throw them in the water.

Judy: Yeh, but you thow them gently?

(child): Yeh.

Judy: ...you don't hurt them.

(child): I just, I just put them in the water like that.

Judy: Why are frogs your favorite thing in the whole world?

(child): Because I like to keep them.

Judy: Are they cute?
(child): Yes. (?)

Judy: Did you go swimming?

(child): Yes.

Judy: Good. Take off your wet, your wet things...

(child): No big frogs...


(child): What?

Judy: Ok.

(child): (?)

Judy: Nicky, off the chair with your wet stuff and take 'em off! Yes.

(child): I didn't get my underpants wet.

Judy: Wonderful.

(child): I'm not, and I didn't poop in my pants...

Judy: Do I get a kiss today? Do I get a kiss?

(child): And I didn't poop in my my pants.

Judy: Lovely. Do I get a kiss?

(child): I didn't poop in my pants.

Judy: Ok. Come on, come on come on come on.

(child): I want to sit on...

Judy: No, take... (?), you're not going to sit on me because you're wet. Come on.

Roz: Being a nut(?) in the house for so long... I mean, did you ever have a job?

Judy: I've always, well I pretty much always worked. In fact, the first year that I was married to Alan, he kind of was a ski bum and I supported him. Which is funny to think back on, but he would drop me off at work when I was teaching school and he'd go off and ski for the day at Mt. Snow, and pick me up when he was done and um, and then I made him get a job. And the only time I
didn't work was when I was actively having kids or the first year or so, but I always either had a part time job, substitute teaching or I was managing a clothing store. (?) works, I've always... or if I wasn't doing that and I was at home, then I was doing my weaving. but this is the first real job-job I've had in a while, in which I, it's a real full-time job. And it's just done wonders for me. I mean I think of it as my salvation, really, but um... from thinking about my problems for twelve hours a day, day and night, now I, I think about other things and much more exciting things.

Roz: What's more exciting?

Judy: What's more exciting? Plants. I love being around plants. And I found that I really like dealing with people, uh, on the retail end. So that part has been really good and I, I can see my accomplishments readily and I don't get into feeling all kinds of feeling sorry for myself and constantly analyzing how I'm feeling about who at what particular moment and what am I going to do and my, oh poor me, and my predicament and... it just became an obsession that I, I couldn't do anything else but think about it for a while. And as soon as I got my job, my whole mental state changed and I just would get up and be excited and would just love to go to work and would almost be disappointed when I had a day off and, so it's been very uplifting. It's made me feel really good about myself and, I like being busy. And I like having all that responsibility and (?). And it's in a field that I just love. I love working with plants. I love being outdoors. I... And it's tapped all the things I kind of knew and little pieces of information that have been on my mind but I haven't had to pull all together for one specific job, so that's been really good.

Roz: How has it affected your relationship with (?), your having a job.

Judy: Well... he, well, I don't think I see him very often. And he thinks that I'm getting a little more independent and that's threatening. So it's... but also he's real proud of what I'm doing. And it makes me feel good.

Roz: Ta-da! Yeh?

Judy: I just was, as comfortable as could be. I mean I was almost not even making sense and talking, you know... But, that was, cause I didn't even know (?)...

Roz: That's (?) plants (?)...

Judy: I know it. It likes us. (pause) The ghost with the one black eye...

(child): Oh no!
Judy: Now, I don't know. He might know some ghost stories that I haven't heard. I'm not sure.

(child): I don't feel like (?) cause I don't like talking to him. It really all started when, when (?), and he goes, it probably started when I had um, two ghosts in my room.

Judy: You had two ghosts in your room?

(child): Yeh! I'm serious. Proud of it...

Judy: You're proud of it! Did anyone else see them, or just you?

(child): No, you don't see them!

Judy: Oh, you just know they're there...

(child): (?) here, and his mother there. I haven't told you yet, I know e.s.p.

Judy: So you have e.s.p...

Roz: Why don't we put the mike right there? Good.

Judy: How do you know you have e.s.p.?

(child): Well, cause I can predict things.

Judy: Well, that's a pretty special thing to have. I wouldn't mind having a little... I think everybody has a little bit of e.s.p.

(child): Yeh.

Judy: Some people a little more than others, right?

(child): (?)

Judy: Oh, you're a funny kid.

(child): (?) You know, this, this...

Judy: Hey Nick, you have no clothes on!

Nicky: I know. I don't care. See that (?) in the (?)? Someone left this for me.

(child): Oh, yeh, come on!

(child): Stop, you got these two glasses, just a second.

Nicky: No way!
(child): Just a second!
Judy: Hey!

(child): You don't have all (?)

(child): (?) take them so I can carry em outside.

Nicky: You said you were going to...
Judy: Nicky, get your own cup and you can...
Roz: How would you characterize your priorities in life? The place of marriage, family, work, you know, sort of...

Alan: Well...

Roz: Well?

Alan: I guess, it's only recently I've thought about it in terms of, you know, a way of looking at, at the world, so to speak. But, I do tend to have a lot of continuity about the way I see myself and how, how I see myself being interrelated with, um, a lot of different things. I mean, I've always done a lot of different things, and I guess that, in a way that's how I define myself a lot, um, is through, you know, everything from work to, certainly to the kids now and to, um, relationship with Judy and, any number of other interests and things that I'm reading at the time or whatever. I tend to be very interconnected with all that.

Roz: What did you, um, when you were, sort of envisioning your life, or reflecting on it, when did you, sort of, um, get more committed to work, or less committed to work, I mean, like how did things happen for you, when did you get more involved in what you perceive as your, you work, your career, um, at what point in your life was family more important or less important...

Alan: Mm-hmm. That's real hard. Um, I'm still not sure I have a career, to tell you the truth. I mean, you know I'm doing something that I can, I can, to some extent, I can see a year or two ahead, you know, what I think I'm going to be doing, or want to be doing, but, um, I don't really have a, you know, five-year plan or anything like that. Maybe you don't have to have that to have a career, but, um...

Roz: Like when you were building this house, um, this environment reflects such a comfort, a sense of comfort?

Alan: Mm-hmm. Mm-hmm.

Roz: Um, when you chose to settle down in Putney and get married and start constructing all this, do you have a sense of what comfort meant to you, what you were building?

Alan: Yeh, I think I had a lot of visions about, about that. I think is a sense that that, that's probably the thread that's run through life since I can remember it. I can think, for example, when I was very small, of thinking that I would never let, you know, a job or, um, or what I was doing, you know, outside of, of, uh, my sort of immediate interests and
relationships, that I wouldn't let that become so important as I saw it be for other people, so that I, you know, I would always try to, to do things for myself and for other people that um, what as you say would be comfortable and would, and give a sense of, of uh, interest at the moment. Um, sort of the idea of, of um, I don't know, somebody said to me the other day that you should, you should dress according to where you want to be ten years from now, you know? And I just, I thought that was kind of interesting, but I knew I could never do that. Um...

Roz: Then you don't plan in a linear fashion?

Alan: No, not at all. Not at all. There are too many options, I guess, there's too many things that I'm interested in. I mean it's, it's also one of my sources of frustration, you know, that I, eh, you know one of the things I think a lot about is, is not doing one thing consistently and, and well or, or however you're going to put, you know, at one time. Um, that I tend to be doing a lot of different things.

Roz: Now has, has that, um, when you answer try to incorporate either a full sentence or a little bit of my question so that I can edit me out. But um, what do you think has differed in your values from Judy's, in the, either from the begin-, what, what held you together maybe from the beginning, and what maybe, what are the, what are the difference that maybe have um, proved to be a problem twelve years later? I mean...

Alan: Mm-hmm.

Roz: ...what's the difference in your priorities and construction of comfort compared to hers...

Alan: Mm-hmm.

Roz: Or how have you bben similar up to now.

Alan: Yeh. Um, well, I guess in a lot of respects Judy and I are indeed very different, and I think that, that our relationship from, from the beginning was, was an attempt on each of our part to, uh, fulfill something that we couldn't get directly. You know, through our, through our selves. Um, and I think that that enriched both of our lives, uh, for any number of years, and I think still does, um, but it also had some very real differences in terms of the way we communicated, um, the kinds of things that, that Judy just couldn't understand, you know, about...

Roz: Like? Give an example?

Alan: Um, like if, you know... I mean I'll give you a classic example I guess for us, is, is that I would act in such a way, um, you know, to show that in a sense I respected her and her opinions and what she was saying and what she sadi she wanted
and all that kind of stuff, you know I would, I would act on what she was saying, but I wouldn't give her the verbal, you know, reinforcement, necessarily. I wouldn't say something like, yes, I think that's a great idea and, um, you know, get all excited about it at, at the time, uh, the same thing with um... I guess there was a lot of tradition in that respect, you know, of, in Judy's family or, or uh, the people that she's known, I guess, of sort of the immediate and, and sort of forceful expression of emotions that eh, is not necessarily, or wasn't a part of, of, of my family's traditions, so much.

Roz: Now when you first met, were you both more demonstrative, were you any different twelve years ago?

Alan: Well, sure, I, I think obviously when we first met we were each putting forth our best, not only our best sides, but also our best ears. I mean, I think we were, you know, much more tolerant and open and much more able to think the best and act accordingly, you know, of what the other person was thinking or feeling or, or what their intentions were, etcetera.

Roz: So, when, when um, when did things change?

Alan: I don't really know. Um, I suppose, in some ways, some of that changed, you know, a couple of years after we were married. Um, and we didn't know each other for a whole long time before we were married...

Roz: Ok. So, at what point does communication start to change, I mean could you tell when you were, when things might have ended up this way in the midst of sort of a crisis in how you communicated. (?)

Alan: Yeh, I, it's real hard for me to put my finger on any time or example or symbolic realization, um, I guess because of my sense of continuity and my sense of, you k'now, of having sort of a base which, which operates both in a broad sense, you know, across, across time and people and situations and also across time in a linear sense that, I guess I always felt that things, since I have that and since that was important to me and since I thought I was being consistent with that, um, that it was simply a matter of working things out and giving things time and, you know, trying to say as best I could that, to Judy, both verbally and otherwise that, you know, I'm always there for her (?), you know that I always, always tried to listen to her, you know sometimes obviously not successfully, but I always tried, I mean it was always a conscious thing that I would do, you know, it's just literally to try to listen and try to incorporate what she was saying she wanted and needed and felt and what-not...

Roz: So how do you think you two... differ from your sense of um, commitment to the marriage? I mean, how-, what's your definition of marriage?
Alan: Mm-hmm. I guess my definition is, is, you know, just some sort of long-term commitment and respect for each other as, as people and for some kind of common understanding of a, of the world. You know, a world which includes spiritual values and, and um, I guess a world-view, if you will, you know, just in terms of what is important in... what you value or don't value. Um, and that, you know, most of the day to day problems and conflicts and hassles that are inevitable in life, um, are just that. They are indeed more or less surface things that, and one of the ways that, that I deal with those is to be able to stop and say to myself, you know, this is indeed a something of a surface problem, I mean it's, it's either part of the personality or it's part of circumstance, or it's part of, you know, something which is not a threat to the long-term base, to the continuity. And I think Judy is very different in that respect. I think she's very much more immediate, um, in the way she sees reality or, or the way she feels about whether or not she's happy. You know, I mean that one of the things that would happen essentially without fail if we had an argument, and one of the things which always puzzled me and I, and I remarked on it very often, is that if we would have a disagreement, you know, one of the things Judy would do is was essentially to, to, to literally just say, you know, well, I've had it, this is it, I'm leaving, or you know, um, or you know, making inferences about, about, you know, the marriage being over with or, um, you know this being an example of how, uh, you know it could never work for us or something like that. But you know what I'm saying, that's just, essentially giving up, essentially saying, this is it, you know, and...

Roz: But why do you think, how do you think that different way... why do you think you're both so different, I mean that's a very different way of relating...

Alan: Mn. Certainly is.

Roz: And why, was it perceived as something that had to be talked about way back, I mean when you noticed those differences, what's your response to her throwing her hands in the air?

Alan: Well, usually my response was, you know, that I, you know, I thought we had, I thought we had something of a long-term understanding, uh, liking for each other, respect for each other, that kind of thing, and that, you know, why those what to me seems like a sort of a temporal surface problem, why does that, for you, why does that mean, uh, that the whole thing goes down the drain? I guess, eventually I stopped asking that question simply because I never got an answer, and...

Roz: And...
Alan: ...you know, it was just because, that's how I feel, which, you know, now especially I, I realize that that's her way of looking at the world is, you know, how do I feel? Not, not, you know, and so what she can do, which is kind of interesting, she can almost instanteously, instantly create a vision for herself of how she wants to have things for herself tomorrow or five years from now. But that vision will change, you know, at the drop of a hat. Uh, whereas I don't have that ability to say how I want things in the future, except that I know that it'll be part of, you know, some part of a continuous uh, outgrowth of what I have and know and feel and think at this point. Um, but for her, it's not hard for her to flip a lot, about how and why and when it changed, you know, from, from in a sense thinking the best to um, to assuming the worst. Which I think is, is, certainly for Judy what, what happened. I mean, um, I think she would be the first to say that, you know, for years and years she was just real negative about, not only about our relationship but about a lot of the ways she saw life. Um, and that's one of the things that I guess that I'm real grateful for now that, you know, that she's been able to get out of that. But I think part of what happened is that she began to believe what, what she was saying, you know, about the relationship, I mean you know, how many times can you say that it's over or that you don't like it or that you don't believe in it or feel that it's right without sort of having to say to yourself, maybe that's true, you know. Um, and I think that, uh, Judy had a lot of things about herself which were unresolved, uh, a lot of issues, a lot of questions, a lot of self-doubts, um, I'm not saying I didn't I didn't have those, I'm just saying that for her they were, they were more on the surface and more, uh, that maybe my, my sense of continuity, my sense of that base that I've talked about, um... not that she was envious of that, that's not the right word, but, but that maybe she, I sensed that she began to say, um, for herself, well, where is that for me, you know, how come, how come I don't have that same sense of, of a base or a continuity of, of something I know I believe in from day to day? Um...

Roz: Why do you think it is...

Alan: Why did I think...

Roz: ... that Judy doesn't have that sense?

Alan: I think, partly she, she never had... I don't know why she doesn't have it, or didn't have it, I mean she has it more now than, than she ever has had. I think it's to a large extent because of a lot of unresolved questions and a lot of um, issues with, you know, with her family that, that um, and with earlier relationships where in a sense she really depended upon the relationship for her sense of who she was and a sense of, of worth. Um, and of course, uh... (phone rings)
Roz: Want to answer it?

Alan: I guess so...

Roz: Ok. Uh, it seems to me Judy didn't have that same sense of continuity and that same sense of a stable base, um, largely due to, to her own feelings of insecurity and, and her own um, lack of experience with, with, you know, who Judy is and, and what's important to her.
BB: Um, I guess, where we started yesterday was just with a rough chronology, of the, of your marriage. And I guess we can try and have you both talk, or whatever. I know you've already answered these questions...

Judy: Uh-huh...

BB: ...so this might be strange, but. What was your marriage together like, in the beginning?

Both: (nervous laughter)

Judy: I wonder if I can remember what I said yesterday. (laughs)

BB: That's good, if you'll say something good, we (?) (Judy laughs)

Alan: Pick and choose...

Judy: Um. Well, I think I described it yesterday, and I would still describe it today as, um, very nice and romantic. Um, very comfortable. (pause)

BB: Take a while. I understand...

Alan: Well, yeh, it was, you know, I guess, pretty intense in the beginning and, um, uh, each seemed to meet a lot of the needs that the other one had for expression, stability, (?). In many ways, we were quite different then. Um, but seemed to want what the other could give, it was very sort of complimentary-type relationship.

BB: You want to say more about that complimentary and personality, or complime-... If at any point either of you feel like qualifying what the other says, I think that come all right too..

Alan: Well, what would you say about that.

Judy: Well, I think that's a good way to put it, I think we... Certainly you had qualities that were things that I needed to be around, or, um, that I needed. And I think we, I guess it was you who described, um, when we met that, well not when we met, when we were beginning to have a relationship that you felt that I really needed you, which I think was really very true.

Alan: Mm. Well, uh, I think it was mutual.

Judy: Yeh, yeh, su-, yeh.
Alan: (?) thing about your expression and, you know, and emotionalism and artistic expression and all that.

Judy: (laughs)

BB: Sorry, I just have to laugh as I hear this...

Alan: Really...

Judy: Guttural sound...

BB: Right. Um, let me ask you... why did the two of you get married?

Alan: Um, I suppose in the immediate sense because Judy wanted to. Heh. Um, I mean, in the long, broader sense because, you know, because of the relationship, because of the value that we were both getting out of it. (?) I think we better not do all this.

BB: So again, the more you can talk to each other about it, or qualify what each other's saying, the better it is. I'm just here to, you know, to talk about topics... I came from Boston to (?) Yeh, we were talking about why you guys got married, and it seems to me you both agree about it?

Judy: Yeh, I think that's pretty much the answer that I gave yesterday. We're agreed?

Roz: When you said that you filled needs that each other had that are different now, you said that you're different people now, something like that, like...

Alan: Mm.

Roz: ...you had needs and you do different now. What kind of needs do you think you fulfilled for each other then and how are you different now if you're not the same? I mean, how did you compliment each other?

Alan: Mm-hmm... Um, I mean, other than how I'd said, uh...

Roz: You know, how to annecdote...

Alan: I don't know how to put it; what would you say?

Roz: What were you doing in those days? I mean...

Judy: Well, I was teaching school. Uh, I had just finished graduate school when Alan finished up shortly after I did, and he spent, oh, part of a year ski-bumming. And um, but we lived together, at least, somewhere along the line there before we got married. And I think I, I really needed to settle down because I
was very scattered and also very insecure. Um... I don't know... I don't know how to compare that really with my needs now. I think my needs now are probably to be more independent, before I think my needs were to be more dependent. And maybe to create something more on my own. Be part of a growing up that I never got to do because I went from my parents to my first marriage to, well, they were, I had a heavy relationship for a couple of years, and then to marrying Alan. And there were things that I never dealt with in my life about myself, that I'm doing now... and for some reason found it hard to do within a relationship, because I, I think that I have real, it's very easy for me to become dependent. It's something I have to fight... in myself.

Alan: Mm. Yeh, I guess some of the... development or the growing in terms of, um, you know, what a long-term relationship needs to have other, um, other reasons for being, you know, the, the base of, of the family and the, and the, um... I (?) but I mean the long-term support within, you know, changes in each other, um, which, you know, I guess were, I think, I was more settled and happy and content with that and Judy was still fighting with things within herself that, that didn't fit into that framework.

Roz: How come you, wasn't there anything you could do to help negotiate those changes? I mean, how come you...

Alan: Well, I guess, you know...

Roz: What could you have done?

Alan: I don't know, I mean, it's hard to say. I would, one of the things that, that, you know, one of the therapists said is that Judy chose, you know, to work out some stuff in another relationship rather than to try to work it out, you know, in therapy, as, you know, as a couple. You know, and, and what happened before that, uh, i can't even begin to think of why or what, you know, how that could have worked differently. I think is some ways, you know, some of what was complimentary in the beginning also turned into communication blocks, I mean uh, you know, in terms of not reading signals and not seeing what the other one was saying or needed or what have you?

Roz: But didn't, I mean I obviously know your history a little more, but when you both recollected an early problem, like you wanted to go to counseling, a long time ago, right, and you, then you guys didn't go, right?

Judy: Well, initially...

Roz: (?)

Judy: ...I felt that Alan was, you know, reluctant to go, or didn't, thought we could work things out, you know, with the two of us and I was interested in going.
Roz: How long ago?

Judy: Well, that was even before I had told Alan that I was involved in another relationship. I don't know, how long ago it was.

Roz: What were those issues that you wanted to use a counselor for?

Judy: Initially?

Roz: Yeh. Way back, before the break-up.

Judy: Well, I think there were a lot of personal issues for me that I wanted to deal with, but I think also I felt that we had sexual problems that I, or at least that's how they manifested themselves, you know, the problems, and I just felt that we needed to work those things out, and that they were serious problems that I felt needed to be tended to. And um, I don't think Alan felt that the need was as pressing as I did. Or maybe he didn't, I didn't explain well enough how seriously I felt about it or, how great a problem it was for me. I don't know.

Alan: Yeh, I mean, what I recall is essentially agreeing that, you know, it might be a good idea to talk to somebody else, but neither one of us (?). You know, that, I guess, it's probably what I was talking about before, you know, that essentially my, um, my needs were being met a lot more than Judy's were, you know by the family, by just having the nuclear family. Um, and I certainly recognized problems and we certainly talked about a lot of problems, um, but...

Judy: Well, I think the point came, and I don't know where it came, at what point it was that we just, the, the little communication we were doing about our feelings stopped happening.

Roz: Why?

Judy: Um, I don't know, I think in many ways I, I felt that Alan was unresponsive to, I mean because I think Alan doesn't vocalize his emotions the way I do, and so if I'm unhappy I say it, or I complain, or it comes out in some other way, either, you know, by just being pissed off and stomping around, or by being happy and jumping up and down or whatever it is, and I, I just think after a while I just stopped, I just kept a lot more inside. Because I think part of what I felt was that we weren't communicating, at least on the level that I wanted to. And so I think to some extent I just closed it all off.

Roz: Alan, can you remember how you were then? I mean, how you felt when Judy was complaining and bitching and...
Alan: Well...

Roz: Where were you?

Alan: Yeh, I guess... uh, essentially that, you know the history is so long and involved and I mean that, she was that way from the beginning, so that it wasn't, it wasn't much of a change of character, so to speak, um, you know, I, I've always been very accommodating in my personality. Um, you know, I was trying to work things out and make things better, smooth things over, um. You know you bend every which way, you're going to, you know, to make things better, and I guess to some extent that, that was probably a mistake. Um, you know, not to, not to sit back and take more stock of what I felt and wanted and needed and, and whatnot.

Roz: What were those things you didn't say that you wanted and needed and felt?

Alan: Um... Well, uh...

Judy: Maybe while Alan thinks for a second, I think one of the things that I felt is hard to respond to is the fact that he didn't tell me how he really felt and thought and, and to a large extent, that, except to describe me as a negative person. Um, which was a word that came up over and over and over again, that he was a more positive person and I was a negative person.

Roz: What did you mean by that?

Alan: Mm?

Judy: Well, I don't know, I think he mean that I saw the bleaker side of things, I don't know, maybe he can describe what he meant by it, but that sort of epitomized, at least for a period of time, how the feedback that I was getting from Alan, that I was being negative. And um, I think what I needed was not his, in retrospect, what I think I needed was not his being so accommodating but more, you know, having it all out, about how he felt and what he wanted, even if it was that he was pissed at me for this, or loved that, or whatever. I, I just feel like I needed some, a more dynamic interaction, an explanation of feelings, even if it were battling it out for half an hour or an hour, but then something wouldn't be...

Roz: What would you battle about?

Judy: Well, just that he was annoyed at me for being a complainer all day, or for stomping around or doing this or, you know, I mena just, in other words, instead of smoothing things over and Alan being so accommodating, that maybe we would have had it out, whatever the incident was, or those feelings...
Roz: What did you complain about?

Judy: Well, I don't know, I mean I, maybe I complain about the weather, or feeling shitty, or, I don't know, but I mean that's how I feel that I got labeled. I feel that I had been labeled as a negative person and a complainer by Alan. And um, and that may be true in fact, but I also have been just as out front with my good emotions, with my enthusiasm, with my excitement, with my, sometimes just incredible bubbling over where, you know, in some ways I'd be hyper. I'd be happy and jumping around and dancing around and... I don't know...

BB: Do you agree with that, Alan, or, you...

Alan: Yes and no. (Alan and Judy laugh)I guess one of the things that I really felt frustrated about and voiced at that time was that, I felt I was being seriously misinterpreted, often, I mean that, that Judy was ascribing feelings to me that I didn't have and, and, you know, judging what I was saying or not saying, um, in a way that I would violently object to, and, and she simply wouldn't accept it. Um, and, and a lot of the feedback that she said she wanted, um, I would try to, to say, and point out that a lot of my way of expressing is just different from hers.
Addendum 1.f  Interviews: Judy & Alan, 1984 (video)  300

Interviews with Judy and Alan, 1984 (from unedited videotape)

BB: ...we'll need...

Judy: I mean, meeting with you (?) can be a problem...

Roz: ...(?) up here, right? No? Just through here..

BB: We'll just... Huh, so there's (?) two things.

Judy: Yeh.

BB: Interesting... Great! They'll, they'll be part of the background. Ok, so for this test, since we're, we're just...

Judy: Ok.

BB: We're just testing this, we're not really doing it.

Judy: This (?), this makes me nervous, I have, it's going to be a little hard.

BB: I'm sorry. It's very strange for me, too, because I don't know you at all.

Roz: But he will soon.

(Judy laughs)

BB: Uh, ok, why don't we start out. I, I thought what, what we would do, just because for the disk, it would, it's important to have real short replies, for, I mean, what we'll need, not that your reply has to be short, but we'll try and, and get very short statements, so just so you know...

Judy: Ok.

BB: ...about that. I don't want to (?) any more than...

Judy: (?) (laughs) No, that's, ok... I just think it might take me a while to get going because it's, I do feel real, inhibited.

BB: Yeh, yeh, sure, sure.

Roz: (?)

BB: Do you want something to drink, or...

Judy: (laughs) No, no it's just uh, I just feel inhibited, that's all. I'll see what happens.

BB: Um, so just for the sound (?), I'll ask you some just basic questions.
Judy: Ok.

BB: When did you get married?


BB: When were you separated?

Judy: Oh, let's see, um, well the first time was about a year and a half ago, and then I went back home, and then the last time was seven months ago.

BB: So, you were living together for how many years?

Judy: You mean being married and living together?

BB: Yeh, yeh.

Judy: Oh, dear, let's see, this will be our fourteenth anniversary, so, thir-, basically, twelve and a half years. And then I did move back in for another six months or so.

BB: So you've been separated for seven months.

Judy: Yeh.

BB: Um, let me just play that back, and we can see...

Roz: You want it about three, right?

BB: (?) Actually, don't worry about it.

Roz: Ok.

BB: We'll just mess with what we have. Um, let's see. So... um, what made you decide to get married with Alan?

Judy: Whew! Heh. Well, when I first met Alan it was a kind of confused time in my life and I had been seeing a lot of different men, um, which I was enjoying, but also I was feeling a need for some kind of relationship. I think I have have always been real needy in terms of having someone that I can depend upon, and someone that I could trust and fall in love with, and um, he just came at the right time. At a time when I needed him, and he was very gentle, and very sweet and very kind. And that, uh, that just seemed like the right ingredients at that point.

BB: Did, uh, he ask you to, proposals vary...

Judy: Well, I think at that point, we had lived together for a while, but I think that I felt the need to get married. I think to him, we had both been married before, marriage as such wasn't
very important, but I think that I stated that it was important for me, and he was willing to go along with that.

BB: So, you proposed.

Judy: Well, not as such. I think, it came about in a lot of different talks that we had and, um, and it was also that I was teaching school at the time in a little community that, at least ten or fifteen years ago, really frowned upon people living together, so I thought that might help, and we were thinking of having children.

BB: Ok. Um, I just wanted to check... oh, it is good. Um, um, when did you have your first child?

Judy: Oh, let's see, um 1973, that's when he was born, yeh.

BB: And so that was, I'm sorry, I, uh, I'm...

Judy: We got married in '71, and I had Bryce in '73. And then I quit teaching school after that.

BB: Um, how was the beginning of the marriage? How were the first few years?

Judy: Um, very romantic, we were loving and very close, uh, they were good.

BB: Um, what, uh, when, when in the marriage did you start to feel that there was a problem?

Judy: Oh, boy, I at this point am still not sure. Um, I really can't, I don't know. Uh, probably, I didn't feel any pressure from problems, um, until maybe, my second child was, uh, maybe two years old. Um, let's see, I mean I think there had, had been problems throughout the marriage that never really got dealt with, but, um, to the point where I felt dissatisfaction. I mean, we were probably all set for eight years or so, I'm not sure.

BB: What were the problems?

Judy: Sigh. Let's see. Well, I think we had sexual problems. I think that I, um, it depends upon who you talk to and at what point in time. I think that when we started to have real severe problems I've looked upon them more as being sexual problems, now in retrospect I see that, uh, that was a symptom of lots of other problems, lack of communication, and, um, Alan's very different than I am and he keeps most of his feelings to himself and I think that, and I'm much more open about my feelings, and out front about them, whther they be happy feelings, or anger, or depression, I, I tend to let people know how I feel, and he keeps it all inside, and, um, I think that is the major area
BB: I've noticed in, in, in my relationships, at least, that sometimes there are certain arguments that keep coming up again and again, is that something that you had, and did, did you argue at all?

Judy: Um... yeh. But, not in a big way until the last few years in which case we had horrible arguments and even violent arguments, um, in which we really did physically abuse each other to some extent. I mean, he more than me, but, uh, of course those circumstances were a little bit different because he realized that I was having another relationship, and...

BB: Was that mostly what you would argue about?

Judy: Um... I guess so, yeh. Well, we would argue about lots of little things, but I think it was partly that he was under a lot of stress and I was under a lot of stress, and so we'd argue about almost anything.

BB: So (?)

Judy: Um, well there were a few themes that always came up, and I'm sure that Alan could describe his point of view pretty well. He always described me as a very negative person and that he, that was the hardest thing he had to deal with with me, and um, I always felt that he in many ways was (?) too positive a person, didn't look realistically at what was happening.

BB: So you, he w-, you would argue about you being negative, I'm just trying to think thus out now. He would say, you're negative, and you'd say, you're...

Judy: Right, I'm always seeing the worst in everything, and um, oh, it, it's hard to, hard to say really what it was, but I mean we did argue quite a bit, and I think also we didn't tell each other an awful lot for many years, and that was one of the problems is, uh, we just stopped communicating, and I found my interest going elsewhere. And, a lot of my inter-, needs, or what have you, were sexual needs that he was not willing or interested in responding to, or uh, he was unable to, or, whatever, and so...

BB: So, uh, you, you got a, you got a lover, right? Do you want to describe how that happened a little bit, or, I mean, not in all the gory details. I don't mean how it happened...

Judy: Right. Um, well I think for, oh it's hard to pinpoint time, but for several years before I actually took a lover, I had a lot of interest in that area. I just felt sexually unsatisfied in my marriage. I felt kind of trapped by being in a
household and felt also that Alan wasn't responding to me as a sexual person, and um, I mean we had, sex was almost at a standstill, I mean we just, it wasn't part of our life, really. And I think a lot of my need were, you know, that kind of need, um, a need to feel desireable and wanted and attractive, which I, you know, I didn't feel. Um, so that I was ready for a relationship, or an affair, or a one night whatever for quite a while, and in fact I, I have had over the years, even being married, an occasional lover, um, I have someone that I've seen on and off for twenty years. And there are even more than that, and it's not an involved relationship, it just happens periodically without any, um, commitments or need for commitments. So I think that I was very needy and then the circumstances came about in which my needs were real great, and I just met someone that brought it into being.

BB: Uh, did Alan know about these affairs?

Judy: No, he didn't. It's partly that they really didn't in an obvious way intrude into our lives until uh, this other relationship I got involved in. Um, it was more a trip down to New York and, and meeting an old lover, an old friend, or meeting someone new and just having a, one nice evening. Um, but until this happened, and actually, I had quite an intense affair with this person, uh, with Will...

BB: (?)

Judy: ...uh, for a whole year before I told Alan. And we spent almost every waking moment together, just because my life was such at that time that I did have a lot of free time. And then I told him.

BB: Can you describe that a little bit...

Judy: The telling him?

BB: ... or was that a traumatic moment...

Judy: It was very traumatic, yes. Um, well, I think it's partly that I suspected that Alan knew, and I think that was what made me realize I had to face it, finally. And um, I, even, I told him I had something to tell him but we had a major family thing that we had to do together, so I held off until that was taken care of and then I did tell him. And um, I think it came as a big shock, but not a shock. Um, I think he was real devastated and real hurt by it, and I was kind of terrified to tell him. I was afraid of what the consequences would be, and um, it was real scary. But, and I had been going to therapy for some time, which Alan at that point was not interested in going to, and I felt that, well, one of the ways my therapist had put it was that it, he called it the two-by-four technique, where in order to get Alan to realize yes, there were problems and, um, I
wasn't just talking, uh, that he had to be clobbered over the head, and this was what this information did, it clobbered him over the head, and then, suddenly he was really willing and ready to deal with a lot of the problems that we'd had, which before I felt that he was saying well, we can solve them ourselves, or, I'll try harder, but wasn't really willing to make that kind of commitment. But at that point, by the time I told Alan it was really too late for me to make that commitment to solving the problems.

BB: So that was a real turning point.

Judy: Well, I think the turning point for me came even before then, uh, because I was so emotionally involved with Will that I, uh, I mean, short of Will's getting married and leaving the country or, you know, some unfortunate acc-, you know, death, um, probably nothing would have kept me at home to work out my problems, even though I said that I was willing to make a commitment, I really in my heart was not.

BB: How long after you had your affair with Will did you separate?

Judy: Well, I left briefly that summer for just a couple of weeks, and then went back, and that was a very emotional time, because I really was still very attached to Alan, and um, was unwilling to say, well it is over and I'm sorry, and really, I sat on the fence for a long time, probably a year and a half going back and forth. And I would make a decision myself and talk to Will about it, and say, ok, I'm not going to see you for a couple of weeks, I've really got to go back and I've got to deal with this, and um, Alan and I would begin counseling and family therapy, or, you know, couples counseling, and then it would become clear after a couple of visits, that I wasn't willing to do what was necessary to heal our relationship, and that was to give up Will entirely. And um, because after a week or two I'd start seeing him again.

Roz: Why couldn't you give up Will? What was it?

Judy: I was unwilling to, I just needed him so bad.

Roz: What was it that you needed?

Judy: I don't know, I'm not really sure I, I'd, whew, that's, I'm not even sure I know the answer to that one after all this time. Um, I needed the love, I needed to be needed real bad, which I think that I felt from Will that he really needed me, and I'd like that feeling, whereas with Alan I guess I didn't feel that kind of need that he had for me, or desire for me. And plus it was very sexually satisfying and uplifting for me. Um, it was just something I was unwilling to give up. And uh...
BB: Did it become a secret again, after you...

Judy: Only periodically where I was supposedly not seeing Will, and we'd start counseling, and then I'd have lunch with Will. Or, you know, one day I'd sneak up there, and then that happened for a little while, and then, but I mean not a major secret like it had been before. But, um, I mean, even Will told me that, you've got to go deal with this, you know, you just have to go back and figure out what you want to do, and um, but easier said than done.

BB: Sounds like you had a difficult year and a half.

Judy: Well, it was a very difficult year and a half. It was incredible.

BB: Is there anything that made you finally decide to separate, or was that Alan's decision, or your decision, or both?

Judy: It was my decision. Um... well, the first time I left in a major way, I mean not the two weeks, um, Will had spent an evening with someone else, and we had been really exclusive in our relationship. I hadn't slept with anyone else besides Will and he hadn't either and that just blew me away, and I couldn't deal with it at all, and I just said, I don't want any of 'em. I've just got to get out of here, and I made a split-second decision, the next day I was out of the house, and living by myself. I had already rented a place, and uh, I didn't even deal with the children at that point, it was like I got to get out of here and, within three or four days I was seeing Will again, and we spent a great deal of time together. Well, we spent three months together, although we didn't really live together, we spent, was almost like living together. And the, in March my house, the house I was renting, was sold, and I had to make a decision as to what to do, and I was also feeling very guilty about the whole situation, very guilty about what I was doing to Alan, and so I moved back home. Again, not supposedly, not seeing Will, which I think I tried to do. And within a couple of weeks we saw each other again and then I told Alan about two months later, look, I've got to move out, this can't work, um, and uh, spent the next couple of months looking for a place to live, which was very difficult to find. And then just decided to move out, with the idea, I think originally, when, was, and Alan and I talked about it, that maybe I would rent a place that was a studio space and I would have my privacy and be able to work things out with Will, but also have family time, and I think as the time drew nearer to leave, that became clear to me that that really wouldn't work very well. And um, so I just moved out. And at that point, almost immediately after moving out, my relationship with Will started to have a lot of problems. Well, it had been having problems before, um, but it, you know, even more so, and that was a very scary time for me.
BB: Um, what happened vis-a-vis your, what were your thoughts vis-a-vis the children, did they, what happened to them throughout this process?

Judy: Well, they stayed with Alan, uh, partly because I, I mean I really felt that they needed the stability of the home, and the first time that I had left, I didn't see them, well, I saw them a fair bit, but not as much as I, now we have equal time with the children.

BB: No I meant, during the process of the, of the kind of separation before you actually left, were they, did the children feel some of this...

Judy: Oh, yeh, I think it was really difficult for the kids, um, because they couldn't help but hear Alan and I talk and argue and also see some pretty horrible situations with Alan and I, I mean just awful fights and, I mean they were very upset by it. Um, and I think that was one of the reasons why I also felt I had to get out, because I didn't want them to see that, and it seemed to me that...

BB: Ok, um, I wanted to back a little bit in time before we go forward in time.

Judy: Ok.

BB: Um, about the nature of the problem, it's interesting, there's a, did you ever see Scenes From A Marriage', Ingmar Bergman?

Judy: No.

BB: Anyway, one of the lines is that when the sex in the relationship goes bad, it's the first warning sign that, you know, the relationship is, is doomed, or, or whatever, and you mentioned that, as, as you talked about the problem that's the one thing that kind of came up was that the sex was uh, I guess, either bad or inexistent or, whatever. I...

Judy: Uh, right.

BB: I don't want to probe too deeply in a, in a sense that...

Judy: No, that's ok...

BB: I, I'm interested in your...

Judy: Well, it wasn't that it was bad, in fact, it was usually quite enjoyable, but it was very infrequent, I mean it was not unusual to go three or four months without making love, although very often we'd cuddled a lot, but in terms of love-making, um, there was very little of it. And I also felt that in order to
have love-making I had to be real aggressive, um, and Alan tends to be a lot more passive, and much more subtle. I mean he, he has since told me that he was always ready to make love, but I never got that feeling from him. And um, I needed to have that feeling, at least every once in a while. So I just gave up really trying, and replaced him sexually with someone else.

BB: Would you say that was a major problem, or that that was just a symbol of another problem?

Judy: Sigh. Well, it was a major problem, there's no doubt about it, but um, uh, I don't know if it was symbolic, like of other problems, or, that's hard to answer.

BB: Um, let's talk about the, the kids a little bit. Uh, as they went through this process, uh, maybe, maybe you can tell us a little bit about (?) each, each of your children, describe them to us, and then maybe we can talk a little bit about what their journey is.

Roz: And how was living with the kids when the marriage was fine, when the marriage wasn't fine, how, how'd the kids change?

Judy: Right. Well, Bryce was uh, the first child. He was the oldest. He was very easy to be with. Um, I could leave, I could do almost anything I wanted and he was real easy. Uh, Nicky, from day one, wasn't easy. Uh, he's real vocal, right out there, I think in many ways, Bryce is very much like Alan in terms of keeping his feelings to himself, and you never really know what he feels and how intensely, um, whereas Nicky is very much like me. Emotionally, he's right out there. If he's, if he loves you, he will tell you, I love you, and if he hates you, he'll tell you, he hates you, and if he wants to hit you, he'll tell you, if not do it. I mean, he's, uh, real open about his feelings, which I respond very well to. Um, and most of his feeling are loving feeling, which is really nice. Whereas Bryce, he's a mystery to me. I don't really know what he thinks and feels, and he's very reluctant to express himself.

BB: Did, um, did the kids say anything during the uh, during the separation process, or, or, uh, did they make any comments that, that hit home, or didn't hit home, or say anything, or act in any way that...

Judy: Uh, not that much really. I think both the kids wanted to come with me, um...

Roz: Why?

Judy: Well, I don't know, I think Nicky is of the age where he's still very needy of his mother. I think, uh, Bryce maybe is going through a latency period where he also needs his mother.
BB: Latency period?

Judy: Well, I don't know, I think that's how I heard a therapist describe it, you know, before they reach their adolescence, uh, there's a period of time when they also need their, to be with their mothers. I may be wrong about that, I'm not sure, but, I think they both needed me quite a bit, um, also um, I feel a little awkward saying it, but I think that the kids, at least I don't want to put Alan down at all as a father, because in many ways he's a very, very good father, but I think that both the kids think that they have more fun with me, or that, um, I don't know, I, it, it's awkward even to talk about. I'm, I know that they need to be with me, and they tell me that, so, but they may tell Alan the same thing. I don't know.

Roz: How did they respond to some of the violence when it was going on?

Judy: Well, I think Nicky acted out his violence. He, um, became a lot more aggressive, and um, and angry and, he's um...

BB: Became aggressive after...

Judy: Well when Alan and I were going through a hard time and highting a lot, and being real vocal about it, Nicky would be very aggressive and fight with, with Bryce, or even be belligerent or testy with Alan and I both. I mean, I did notice that it affected him.

Roz: What did he do at his worst?

Judy: Um...

Roz: Want to give some examples?

Judy: Nothing all that bad, just uncooperative, wouldn't listen, you'd ask him to do something, he would do just the opposite. Um, not a major problem, I mean nothing that got out of hand, but I could really see that it had some effect on him.

BB: When you and Alan, um, decided to separate, or when you told Alan you wanted to go off on your own, did you, um, talk with the kids together about it, or how did you cope with that problem?

Judy: Well, I thought it would be best if I talked to the kids separately, and um, I think I did. I really can't remember now how that worked out. I, I think there was a time, Alan wanted me to tell them, oh gosh, I can't remember, he wanted to make sure that he was around, or that the kids would be with him after I had told them, um, but I think I also felt that I thought the kids ought to be with me after I told them because I didn't want them to feel that they were being deserted, here I'd tell them...
that and move out or leave. And I can't remember how it all worked out, um, I think that it was no great surprise, in fact, I had taken the kids with me to therapy, um, for a couple of sessions, uh, so that they could talk about some of their feelings.

BB: What were their feelings when you talked to them?

Judy: Well, Bryce wouldn't really talk about it other than to say that he felt that he wished I would spend more time alone with him, private time for the two of us, uh, because, when he's with Nicky, the two of them are real competitive and uh, neither of them get very good time from me, partly because I'm breaking up fights or uh, things are real hectic. Um, Nicky, at the first therapy session acted as though, um, well, he just colored in a coloring book, and drew pictures and looked at books and, while I was talking to the therapist, and acted, I thought that he hadn't heard a word that was being said, not in, a word, and it was clear by his behavior afterwards that he had heard everything, and that uh, in fact, he acted in ways I've never seen him act before. He started crumpling up paper, he started to poke holes in paper, like that, you know, just jabbing holes in paper, and uh, yet I, I mean I'm sure that was in response to what was being said, but he didn't talk about it. I mean it's, I don't know.

BB: How did you explain the, or how do you explain the separation to the kids.

Judy: Well, I told them that we weren't getting along, and that I didn't like fighting with, with Alan, and that I thought that wasn't good for them to be in a situation like that, and it wasn't good for me, and I wanted to live on my own, and um, it was very simple, I mean it wasn't very involved. They knew that I had been seeing Will. Um, Bryce, in fact, knew it way before Alan knew it, I think. He, one snowy morning I was out very early in the morning for a walk, which is one of the things I had done and Bryce got dressed and followed my footprints right down to Will's, which was very, very awkward. But I think he, he knew real early on, uh, not because he had actually seen anything, I think he really just picked up on the vi-, you know, just what was happening between us. But um, I think enough of Bryce's friends come form parents that are divorced and separated that he, uh, you know, that he can relate to the, it's not unfamiliar to him.

BB: Let's pause for a second.

Roz: Alan.

BB: Yeh, there's three statements about Alan here. (Judy laughs)
Roz: Telling what Alan's like... let's get a (?)

Judy: Right, right, well, he does have a good memory, there's no doubt about that, but, um, he remembers different things than I remember.

[tape change]

Judy: I guess that's true of everyone, but, uh, in terms of accuracy, he, so it was always very hard to argue with...

(blank tape)

Judy: Often, I won't say usually, but...

(blank tape)

BB: The house, money, whatever...

Judy: Um, well, we decided that we would, um, share the children equally...

Roz: Not going to make it... see it flicker?

BB: Yeh; may be the battery.

BB: Which, um, I was asking which is, to just summarize what the separation agreement, uh, that, you know...

Judy: Uh huh. Well, we agreed upon joint custody of the children, um, so, what have we agreed upon. (laughs) I can't remember...

BB: Well, let me ask questions. What joint custody?

Judy: Uh, that we would share the, our time with the children, that he would take the chil- I don't know if we even arranged, uh, the specifics, I think it was just that we would each, um, share them.

BB: What about money? Was...

Judy: I haven't taken a cent from Alan since I left, and he hasn't offered any money, um. That he would maintain the house, um, and I would pay my own expenses. Um...

BB: Any expenses for child support or is that something you share...

Judy: No, that's something that we share; when the children were with me I paid the expenses, when they were with Alan, he did, um. I guess if there was any major work done on the house he would have to consult with me and we'd determine if that was necessary, and then I would, I guess, pay a percentage of that.
Um, it wasn't really clear to me if I was supposed to pay fifty percent of things like land taxes, you know, or, or taxes and insurance, um, Alan's keeping track of all that, and, um... I think that's the only part of the agreement that I've since had some second thoughts about is, I wish at the time that I had left that we'd had the house appraised, and at that particular point in time I would know what my equity was on the house. Um, rather than to keep it ongoing I think the idea was that if I paid fifty percent of expenses above and beyond what would be considered living expenses, that would maintain or keep my equity current, and I'm not sure that I think that w-, I think that was not a good idea to do that, partly because I don't have the income to be paying it and I'm not really, um, I don't know that it's doing me any good...

BB: What's the, um, the hardest part about the divorce issue. Or, but it's not a divorce, I'm sorry, it's a separation...

Judy: Um, the hardest...

BB: Is it a divorce...

Judy: Well, I think it will be. It's not a divorce yet. And we have that yet to negotiate. Um, the hardest part... whew... I don't know what the hardest part is...

BB: Maybe it's a dumb question.

Judy: Well, no, it's, I think having to rely upon myself is a very hard part, but it's also a part that I look forward to and know that I have to do. I think I've always had very dependent relationships and I think...

(blank tape)

Judy: I think I've always had very dependent relationships, and I think one of the things I'd like to do is be able to, um, be more independent, be able to know that I can rely upon myself, and um...

BB: I was going to ask if you were, if you thought you would ever get back together again with Alan.

Judy: I think I've thought that the whole time, a little bit, over this year and a half.

BB: You thought what exactly...

Judy: Well, that even up until a couple months ago, every once in a while thinking, gee, maybe things would work out, or maybe I could work things out, or maybe it wouldn't be so bad, or um, but that is, was almost always when I wasn't in Alan's presence. Just being here alone at night, or just feeling nostalgic or
reminiscing or thinking of Alan's good qualities, uh, but then when ever I've been with him, it's always been a different story. It's always been, I know this is not what I want. I know that I couldn't deal with him in a relationship anymore.

BB: Do you think you'll get married again?

Judy: I've no idea. I can't see it in the forseeable future.

BB: You mentioned a previous marriage, um, was that, the, that separation there in any way related to the separation here, or is that...

Judy: Um...

BB: ...was totally different.

Judy: It was...

BB: Not that I want to get into that.

Judy: No, it was very different. I think it's related only in the sense that I really needed, I had a very dependent relationship then, as well, and I really neede to be off on my own and grow up a little bit and I felt that I couldn't do it in that relationship.

BB: What are Alan's good qualities? Briefly...

Judy: Let's see... I think he's very gentle, I think he's, um, generous. See I have to separate all these things from how he's been with me lately, or, because, then it gets into another thing, 'cause I've seen a lot of anger and violence from him, too, and I've also seen a lot of stinginess and holding back, but I think all-in-all that he is a, a knid, gentle person, very intelligent, um...

BB: What are your good qualities?

Judy: Huh, god... well, I think I'm a very caring person, and a loving person. I think I'm gentle, and responsive and, I think I'm pretty sensitive to people.

BB: I'm not going to ask you what your bad qualities are.

(laughter)

Roz: Well, I'd be curious to know what, what you thought where your quality, where each of your good qualities went...

Judy: What do you...

Roz: ... in the relationship.
Judy: What do you mean, went?

Roz: When you, when you talk about the breakdown in the relationship, and the violence, and the arguing and the pettiness and everything else, um, what happened to the generosity and the caring, and what made the caring go away.

Judy: I don't know what made it go away, but I think, um, fear...

Roz: Did what? What?

Judy: Fear has a lot to do with it. Um...

Roz: With...

Judy: Being unforgiving, laying guilt on people, um, makes...

Roz: (?)

Judy: Yeh, who did what...

Roz: And who did what?

Judy: Well, yeh, who did what to who, you know, um, the need that people have to lay guilt on someone else, uh...

BB: Like Alan on you, you mean, or...

Judy: Yeh, or me on him.

Roz: But can you think of an example, like of what's, I mean I remember of course the orange juice story of, he didn't put enough water in the orange juice and I, I mean when you talk about things changing, can you remember the...

Judy: Gosh, I didn't even remember the orange juice story...

(laughs)

Roz: ...the real things...

BB: (a real chronicle of the relationship...?)

Judy: In fact, didn't you get that...

BB: (?) ask which was whether you felt that you still love Alan?

Judy: Oh, boy, I mean there's so many different kinds of love I, I think I love him as a person, as a human being. I don't feel romantic love, or... I don't know what I feel towards him right
now, I mean, sometimes I'm very angry, could strangle him... (laughs). Um, sometimes I feel when he's hurting, then I, I feel love and tenderness towards him. But, um, I don't know. I think it varies.

BB: Does he love you, you think?

Judy: I think on one level I think he does, when he's not angry at me, or, feeling hurt or, by me, you know?

BB: I guess I was (?) that (?) were still in love (?)

Judy: I think he was for an awfully long time after I left, and um, I know he's had a relationship with someone else, uh, who's since gone away. Um, and I don't know anything about that relationship. But I've, I've often wondered if i were to say to him, Alan, I've really decided if you're ready and willing, that I've made a commitment to see what would happen, I feel like, there's still a chance that he might go along with that. But I don't really know. We have not talked about our feelings about one another uh, in a long time.

Roz: Why?

Judy: Well, partly because there was almost no point, since my feelings were all still so tied up with Will. I mean, that was, didn't seem any reason, reason to, I don't know.

Roz: What... what was the marriage for? I mean, if you had to think about being married to Alan, and it ending in twelve years, um, and in a sense, you know, words like loyalty come to mind, or, I mean, you mentioned romantic love and the old story is, well how often does that stay?

Judy: Uh-huh.

Roz: So it's like I wonder if you've thought about what, what marriage was for, is for, why, what you thought about marriage that you left it. That you were able to leave a husband and two kids. And did you, I mean, is there such a sense of taking care of yourself...

[new tape: Alan and Judy]

BB: What I'm saying about hearing different statements from both of you is, um, that the style so far is you say, well this thing and then you demur, and then you say your thing and you, you demur and, I guess, um, that that's good, but to some extent it would be nice to see if you two would, um...

Judy: I'm not really disagreeing with Alan...

BB: Yeh, yeh, you both agree, I guess, uh. You're saying things
differently. I mean, in a sense, uh, the one thing that, uh, that I'd like to get a handle on is, uh, in terms of the problem, when it popped up, or the problem in your relationship, um, you seem to, you say, you're saying that you weren't communicating, or you felt that you weren't communicating.

Judy: Mm-hmm.

BB: And you're saying I think something a, a little different. That you felt that you were aware of the problem, but that, that it was a matter of, of style, or... is that...

Alan: Well...

BB: ...sort of right, or...

Alan: Yeh, I mean, in other words...

BB: ...I mean, it seems like you have different views on that, on that particular...

Judy: Uh-huh, yeh, that, I can see...

BB: Is that right, I, I don't know.

Alan: Yeh. I mean, heh, it is hard to, to put into a short, heh... dialog...

Judy: Well, I think for me one of the things I think that I do either in, in relationships with friends or lovers or whatever is having an active, ongoing, verbal dialog is what I need to grow, is what I need to be able to relate to the other person, and just the stability, um, really isn't enough, because I'm always questioning myself, I'm always wondering about myself and I guess I need real active feedback. Be, and that being not just that there is that base of love that I know I can always count on, or that stability, but more a sense that I can really communicate verbally in a, like I said, in a real active way about, you know, what are you feeling, how are, you know, um...

BB: Is this something that, that, does this communication happen in the, early on in the marriage and then it stopped happening, or was it just...

Judy: I don't think it ever really happened to that extent, to, you know, to the extent that I like it to happen, or need it to happen or want it to happen, no, I think that it was never really there, but there were enough other things that were things that I really needed, uh, (?) kinds of things...

Alan: Yeh, I just, I don't, I don't quite agree with that. Um, you know, in a sense that, uh, I can remember many times, you know, getting real excited about talking with you about, you
know, who I am and what I feel, and.

Judy: In the very beginning?

Alan: No, no, throughout, throughout, you know, the first five, six, seven years. Um...

Judy: But that's probably the, I mean I think things were pretty, I'm maybe not recalling that well, but I think that things probably, that was the better time in our relationship.

Alan: Right, but, but I, what I'm not agreeing with is that it wasn't there ever. I don't think that's true.

Judy: Oh, well, that's...

Alan: And I also don't think that it's, that it's true in the, in the sort of absolute way that you're saying it, you know, that, that I'm not able to do that at all. I don't think that's true.

Judy: I didn't say that you weren't able to do it at all...

Alan: Well, I heard you say that. I mean...

Judy: Well, I don't think I said it. I didn't mean to say it.

Alan: I mean, 'cause, 'cause it is a matter of, of difference of style, and especially in terms of, sort of the repetitive reinforcement, that I couldn't agree with more, you know, that, that I don't, um, I don't know, I'd, I guess I don't feel the need either to hear it or to say, um, you know, the continual what I'm feeling or thinking or, or doing, um...

Judy: Well I just remember many times where if I sense that you were feeling something, and I think, I mean, I, we, I even used these words, I just had to draw it out of you, it would just be I'd have a sense that you were feeling something that you weren't communicating, and sometimes it would go on for days and finally I think with just persistence, you know, I was able to get you to talk about what you felt. Um, you know, I mean I felt like I was like pulling teeth in a way to get you to say what was on your mind, whether it be worry about work, or, or, you know, my behavior or attitude, you know, about something, I just, I really felt that I had to work very hard at... I think you've...

Alan: Well I, I think...

Judy: ...really gotten better at it, but I think in the begin--, you know, for me it's always been a problem.

Alan: Yeh, and, and I think you're right, you know, that, and
that's partly just the way things take a long time for me to, to come to that conscious state, partly. Partly, it's a matter of habit, you know, of, uh...

(phone rings)
Judy: You want to get it?
Alan: I guess so...
Roz: Making believe you're listening?
(laughter)
Alan: (on phone) Oh... huh...

BB: I thought it might be good to jump ahead to the present a little bit, and then, we can cut back and forth instead of it being just a straight chronology, and, talk a little bit about um, something that I don't know too much about which is what, what your, what are the issues you're struggling with now in terms of just very practically. Um, you're separating. Um, there's a, I guess there's this house, there's custody of the children, and there's money. I guess those are the three things that people usually think about.

Alan: (And property?)?
BB: Yeh. So, um, what, what is the arrangement?

Alan: Well, we got, you know, we've got a, an essentially a, a, understanding about custody at this point which i think we'll carry through whatever else happens, just to, you know, try to share them. Heh. Right now, we're just doing a week here, a week there. Um. The house is, is probably the biggest hassle, if you will, um, we're talking to a realtor now about the possibility of selling some land, or possibly even refinancing the house, so that Judy could have some, some capital to, you know, have her place, have a place of, for herself. Um...

BB: Is, is the notion, then, that the house is both of yours?
Judy: Yes.
Alan: Uh, sure.
Judy: We share equity equally on the house. Yep.

BB: What, uh, was it, I'm just totally (?). I know you're presently living in the house, and not Judy. I was wondering...

Alan: How that happened, you mean?
BB: Yes, I just... it doesn't seem natural.

Alan: Well, she decided to leave. (pause)

BB: Ok, I guess that make sense. (laughter)

BB: You leave the house, you leave the house...

Judy: Right. No, I mean I think leaving the house was very difficult, is, was really the relationship that I wanted to leave, I mean I, I love the house. And I, it wasn't that I had to, I didn't want to be in this house. It was a question that, partly alan was unwilling to leave the house, and my...

Alan: I didn't have any reason to leave.

Judy: My need was to be away from the realtionship, and since...

Alan: Well, and to another relationship.

Judy: Yeh, but also the idea of developing my independence, which was stated over and over again that that was something I wanted to do, because when I left the house, I didn't lea-, live with Will, and so I wasn't lea-, livin-, moving to live with somebody else. I led, lived by myself. (pause) And, um, if Alan had said, you know, well I'll find a place for six months, I would have been happy to stay here. (pause)

BB: So is the, um, is that a thorny issue between you, or, or is that something that's... I, it looks like the children, the sharing the children doesn't seem to cause any, any tension that I see.

Judy: Well, minor tension, only about scheduling, I mean nothing, nothing major, uh, thank goodness.

BB: Yeh, that seems very good. But, but the house does seem like a thornier issue, or is that right, or I don't know...

Judy: Yeh, I think it is. (pause) Partly because I'm living in a place that's, doesn't accomodate me and the children, and I feel, that it's a real handicap for me and the kids to be where we are. I can't leave when the children are there. They have to sleep on the floor, and they have no privacy at all. And I think it puts a lot of stress on us, they really can't have their friends over for any extended period of time, to sleep over, or, whatever, and it's mostly that they, they have no place to put their toys, or, and when, I mean I think that it's a very pressing need.

Alan: There, but (?) which presumably we're doing something
about.

Judy: Well, yeh, now, um, yeh... what are we doing about it?

Alan: Trying to find a way to get you some money to get you another place.

Judy: But there is also the possibility which I wanted to talk about of um, which we had brought up when we talked with Roz the last time, was that I would move back into the house for a period of time, whether it be six months or two months if I were find a house to buy. And that you would rent a place for a period of time.

Alan: Yeh, regardless of how it happens, you still have to find another suitable place.

Judy: Who would have to find another suitable place?

Alan: Either or both.

Judy: Well, I'm, I have a constant search for a house, and um, what I would like to do is, unless I can find one in the next couple of months which is when I have to be out, I would like to move back here for a six-month period or, or whatever.

Alan: And what does that mean for me?

Judy: Well, then you would have to rent a place, I mean, that's what we had talked about.

(pause)

BB: So that doesn't, that does seem to make a major source of um, disagreement, I, I'm not acting as a mediator, so I'm not even going to try to jump in here, I'm just asking questions and I see that it is indeed...

Judy: It is.

BB: ...a source of, of um, tension. Uh, I don't know, is there anything more that you'd like to say about that?

Alan: I, all I can say is I don't like it. Uh.

Judy: But I also...

Alan: It doesn't seem right to me.

Judy: Well, but I also feel...

Roz: Why?
Judy: Oh, go ahead...

Alan: Why? Um, it's hard to explain, I guess, primarily because, I guess because of the base, you know, that's, that's what's important to me.

BB: The base? I'm sorry...

Alan: I, I mean, Judy has, um, you know, things that she wants to work out and do and be independent, and, and, um, however else you want to say it, you know, be on her own, and...

Judy: (?)

[blank tape]

Roz: Um, when you, I was just going to ask Judy if she understood what Alan meant.

Judy: Well, the last thing he was saying, I think what he was saying was that because of my needs to be independent and work a lot of things out and so on and so forth, I was not sure if he was then going to come to the conclusion that I didn't need this home, I mean that it was not, I mean I feel that I can do that as well here as living in an apartment somewhere. I mean why can't I find my independence and my, my self, and my...

Alan: Well...

Judy: Why can't I do it here? Because I'm living in an inadequate situation with our children half the time...

Alan: Sure, but, you know, ok, so it's e--, you know, it would be easier presumably for you to come back here than, than to find another place, maybe, but what I'm talking about is something quite different, you know, in the sense that, for whatever reason, for whatever needs, you know, for whatever, I'm not trying to lay blame or fault or cause or anything, but you chose to leave. You did not want to work it out here with me, you did not want to try to make a new beginning. You wanted to strike out on your own. You wanted to go to another relationship. Um, you know, what, so that's what you wanted to do, and what I still want to do is essentially to maintain a base for myself and for the kids. Um, and, you know, it would be extraordinarily difficult for me to do that, um, without being here.

Judy: I don't understand why it would be extraordinarily difficult to maintain a base somewhere else.

Alan: Because, this is, this is where, this is where that base has been for twelve, thirteen years, you know, and, you know, I don't have that need to, to strike out and, and do something different and be independent in that way. Um...
Judy: Well, then, maybe you're not understanding what my being independent means...

Alan: I have much more of a need to, to maintain some kind of, of stability, and for me to go out, you know, and find a new place to live and, and uh, you know, try to work out some other living arrangement and, and the whole bit, uh, is just, isn't in keeping with what I want to do at this point. Um, you know, and I sort of also feel like, you know, because it's more convenient for you now to come back, that that's what you want to do, but that, you know, presumably if you'd found a really nice place, you know, a place that, that met your needs, you know, for another, for a good place to live, um, you know, that, that you wouldn't be coming back. I don't know, it's just, it's upsetting.

Judy: Well, I'm certainly not doing it or saying it or requesting it to be, to upset you, but i also am very attached to this home, and I also, you know, would like to be here for a lot of reasons, you know, which are very real reasons to me, and i also feel that just because I had to leave, it doesn't make this living here less important to me. I mean, I, I mean I understand what you're saying, but I also feel that I do still share the equity in the house, it's still as much my...

Alan: But nobody ever said you didn't...

Judy: No, but I feel that for a period of time that it's a fair thing to ask that we make a switch. And I want to, I would like to spend a spring here, a spr-, one more spring and summer, you know, to enjoy the gardens, to enjoy the things that mean a lot to me, that I've built over a twelve or thirteen year period of time that are very dear to me, and that I miss very much. And I don't think that that is contradictory to my needs to find my own independence because to me my own independence is from within, and my own feeling of my own sense of power and my own sense of self is, comes from within me. And I also feel that...

Alan: True, but, you know...

Judy: ...in a way that you're being a little punitive to say that because I left I've given up my... my right to be here, and that is what... that bothers me...

Alan: Only since you chose to leave rather than to work things out here, that's, you know, that's part of what I'm saying, yeh.

Judy: But I also feel when you're saying that, that you're putting some sort of blame on me, that...

Alan: No, I said that directly...
Judy: But then, but then what you're saying is...

Alan: ...I'm not putting any blame on you

Judy: ...then I feel like what you're saying then is that there are consequences, because I...

Alan: Of course there are consequences...

Judy: ...made that decision...

Alan: ...there are always consequences to anything you do.

Judy: But if you look at it strictly in terms of a home, that's owned by two people, uh...

Alan: Sure, and one person decides to leave decides to leave and go do something else...

[new tape]

Alan: That's part of what we talked about, you know, when you said, yes, I am willing to essentially bag the whole thing.

Judy: When did I say that?

Alan: Well, when I kept asking you, you know, you mean that it's more important for you to, you know, leave so that you can have a, your, your sexual freedom and whatnot, than, than to have a family and you said, yes, you know, that's, that is more important to me.

Judy: Well I think you can't use this occasion to...

Alan: So you can't now just come back and say, well, but, but, heh-heh...

Judy: But I don't think that has anything to do with the house; that has to do with the relationship...

Alan: Well, I do, I do.

Judy: No, I think it has to do with the relationship, and not the house. Because as I said, if you had...

Alan: Well, I don't think we're getting anywhere, so let's just stop this.

Judy: Well, but we have to, something we have to deal with and resolve...

Alan: Well, maybe, but not here and now.
Judy: Well, it's got to be dealt with, because I...

Alan: Not here and now.

Judy: All right, well, we'll have to find another time to do it.

BB: Um... yeh, at your request, maybe let's just talk about something, something else, if you still feel like talking at all.

[blank tape]

Alan: Mm-hmm.

BB: Is that ok, or...

Alan: Yeh, I guess so, sure... I'm not sure what...

BB: Oh, what the point is?

Alan: No, no, I, you know, how much I can, (laughs), spontaneously say.

BB: Uh-huh, yeh, ok. Um, when did you get married?


BB: Why did you get married?

Alan: Oh. um, essentially because it seemed to be the next logical step in terms of what Judy wanted, and what she felt she needed and what, um, you know, the relationship was, was pretty intense, I mean it was sort of (?). It seemed to make sense and, and seemed to feel right, and we were both uh, you know, we didn't have any, any, uh, reason not to, so to speak, uh, we'd been living together for a while, and it seemed to work relatively well. Um...

BB: Were you, in, like, I, it's a dumb question but I assume you were, you were in love with each other and..

Alan: Sure. I mean, uh, a lot of our friends used to sort of complain about how lovey-dovey we were, you know... embarrassing, or whatever.

BB: Mm.

Alan: Uh, yeh, you know, it was definitely, uh, romantic and, and, you know, a loving relationship.

BB: Um, so how was the, how were the early years of, of the marriage? Did it work out well, or...

Alan: Yeh, I think so. Um, you know, in, we were certainly uh,
active and happy and, you know, involved in, uh, our separate and, and together things and, and um, was, I think I could say it was certainly very satisfying for both of us. Um, there certainly were, uh, the roots, I suppose of, of the later problems, I think were also there, uh. Retrospect is, is easy but, you know, there were many, many things about Judy and about myself that, uh, you know, made, made for some difficult incidents and, and, um...

BB: Do you mean arguments, or...

Alan: Well, yeh, arguments, but more, um, I suppose more uh, Judy blowing up essentially, not, not so much arguing as, as just her, heh, you know, flying off the handle type of thing because, um, I wouldn't, I mean, argument I think is relatively constructive, and, and what was even then bothersome to me was just, uh, well, what I used to call the one-to-ten syndrome, you know, where it seems like you're somewhere around one, one or two, in, in the way I looked at it and then all of a sudden it would be, you know, the whole ball of wax was down the drain essentially, it was, so that, you know, there, we couldn't even talk at that point.

BB: Whe, when did you, um, first start to feel that there was a, a problem with, with the relationship? I mean, a serious problem...

Alan: Um. Sigh, um... I'd, I'm not there's any answer to that, I, it, you know, because I think there were problems right from the beginning. Um, you know, when the balance shifted to more problems than not, or more problems than positive aspects, um, I, you know, I guess I would have to put some kind of about, maybe, maybe four years ago, or three, four years ago or something like that. Uh, just...

BB: If, uh, if you did, uh, did you argue about things, uh, or...

Alan: Oh sure, I mean, yeh, we had the normal, um, you know, arguments and, and trying to work things out as far as different tastes or different ideas about the house or, um, different ideas about the kids, or...

BB: Mm-hmmm.

Roz: The battery light's flashing. Does that mean it's the end?

Alan: ...am I glad were getting towards the end of this, heh...

BB: Ok. Gee, I wonder why... Ok, um, I guess one of the major things in, in the relationship was, um, Judy's affair with Will...
Alan: Mm-hmm.

BB: What, um, when did you first find out... about... her... affair...

Alan: Um...

BB: Do you remember that, or...

Alan: Yeh, I'm just trying to remember what the date was, I think it was sometime May of '82, I guess. Something like that, hm, I think that was when it was. Just about two years ago.

BB: And, uh, what was that like, how did, how did you find out, I mean, can you describe the...

Alan: Well, um, I guess it was becomming somewhat obvious if not conscious to me, um, in spite of the fact that she would, you know, deny it and, and, uh, you know, reassure me, heh-hm. Uh, you know, and then, so she just, you know, it's, one, just one point said she had something to tell me, and, I essentially knew what she was going to say, um. What really surprised me was that, you know, she did, that didn't change anything for her. I mean, um, you know, she didn't, she didn't want to do anything different from what she was doing, I mean she didn't want to try to do counseling, she didn't want to try to, you know, uh, separate from that for a while, she, she just essentially, just wanted to keep on doing what she was doing. Um...

BB: Do you remember what, what she said exactly, or how she put it or, I mean I'm, not in her exact words, but do you know...

Alan: Well, something to the effect that, you know, that she had a, a, I don't know, yeh, I can't remember either, but I mean, what it amoun-, I mean, uh, she probably just said something like she, you know, that she'd, uh, had a relationship with Will. You know, I think just simply as that. Um, you know, and that, uh, it was very important to her and that she was, you know, very much involved and uh, yeh, that, that she felt, uh, you know that she felt it was very difficult, and that she knew that, you know, it would, things would be very hard because of it. Um, you know, it felt, I was, I, I'm almost sure she, you know, she said that she felt, that she was sorry or, you know, that, um, didn't... that she was very uncomfortable, you know, with, with, uh, the uh...

BB: What were your reactions to that? I mean, jealousy, um...

Alan: Well I, um... yeh, I was obviously very upset, uh, you know, right, my immediate reactions, uh, were relatively positive in the sense of, of, you know, something which turned out not to be true, but I, I guess I felt that well at last it's out and, and, um, you know, there's, we can go from here, I mean
uh, that, that, uh, this means we can talk about it, work something out, you know, uh, uh, you know, see what can be done, make a new beginning, etcetera, etcetera, um, I, and that was essentially the conflict for the next year or so. Uh, you know, that, that, I guess again in retrospect if, you know, if I had to do it all over again I probably would have wanted to, to tell her to go, you know, do whatever she had to do, but, you know, uh, you know, not, I mean and then to, to come back if, if she wanted to come back at some later date, you know, and, and, you know, I, you know, uh, at that time at least I would have said, you know, that I hope I'm still there, you know, when you come back, but, but, you know, I kept trying to, again following my personality if you will, of trying to, you know, work it out and, and, be a base for both of us, um, and, you know, to try to, to find a way to, uh, make a new beginning. Uh...

BB: Mm-hmm. Um, so, what happened after that in terms of trying to make the new beginning and, and so on, and so forth...

Alan: Well, I mean we...

BB: There was a year, I guess, where, what happened, did the relationship continue, or...

Alan: Well, we did go to counseling, she was going to counseling before that. She started counseling about in April or so, and so by the end of May, you know, when she told me about the relationship, you know, formally, um, she'd been going to counseling, and then I started um, also seeing the same counselor and, and we started seeing that same counselor together for a little while. Um, you know, we tried all kinds of things, uh, in terms of, uh, you know, her having a night or two out and um, you know, unobtrusive time, and a few other things I can't even remember. Um, and, you know, I think Judy was indeed and still is, I suppose, going through some, some relating, some growing up, if you will, uh, and, uh, but it just, it was never possible, I mean I think that again if somebody seeing it from outside could have seen that, um, I couldn't see that, and, and, or, if I could see it I always thought, you know, that it was the next step would, you know, would bring it back together or, you know, would be more effective or, or allow us to work stuff out. Um, but essentially, Judy just literally never, um, never wanted to make a choice either way, I mean she'd, you know, she would try for a week or, or sometimes maybe even two weeks, you know, not to see Will, but she essentially wasn't willing or able to make any kind of a, you know, a, a stab at a new beginning.

BB: What, um, what was the, what finally led to the separation, what, what was the actual circumstance of the second per-...

Alan: The second one?
BB: Um...

Alan: Um, 'cause she left once before...

BB: Describe both, I guess, I mean, what, what, I mean what...

Alan: I guess it was essentially the same that, that, um, you know, that, that, eh, our situation was intolerable essentially, I mean it was just full of uh, fighting [sic], fighting and bickering and, and, uh, disagreements about everything you could imagine and, uh, you know, real serious fights, I mean, just, um, unbelievably unpleasant, a-huh, circumstances, and uh, that coupled with, you know, the essence of it, I mean the essence of all our fights, I think, was, was just that she, um, you know, she felt more of an allegiance to Will than she did than she did to me or the family, and she said that point blank. Um, you know, that it was more important for her, as she put it, to have her sexual freedom than, than to try to, you know, work things out in therapy and I think, I mean that's the, the same thing came out in therapy all the time, I mean that, um, uh, that Gary and, and later Sam and later Dario, you know, would say to her, listen Judy, you realize that, you know, you're not going to be able to, to work, uh, out anything in terms of, you know, a, a relationship with Alan if you don't get off the fence, you know, if you don't uh, make a choice essentially...

BB: So, given the fact that she couldn't make her decision, what actually led to the actual separation, I mean what, when was there an event that, that finally...

Alan: Well, no, there was no particular event, I mean, I...

BB: What it your decision, her decision...

Alan: No, it was her decision, I mean, she said, you know, I can't take this any more, I, I, uh, you know, I have to have more time with Will, I need to strike out on my own and be independent, I need to, you know, my freedom, etcetera, etcetera, I'm leaving. And that was, heh, essentially it. Uh...

BB: Did you try and, and, and, and stop her, or, or tell her to stay or, tell me you reaction...

Alan: Well, no, not at that point, um, uh, I mean I had all along been, I mean she'd been, we'd been talking about that for months, I mean uh, so by, you know, when she's, both times when she'd stated that decision, um, and maybe was even somewhat of a relief to me, really, heh, uh, certainly turned out that way, I mean, you know it was, uh, I felt a lot better after that, I think that, that I, you know, um, i had a lot better time with the kids after that, um, you know, it just, it seemed better, uh, no question about it. Um, you know, so it was, no, I didn't,
there was no I mean, it was just sort of a culmination, I guess, it was just sort of her following through on things that she'd been saying for a long time.

BB: So you can't think of anything that might have triggered it, finally, or just...

Alan: Not that I know of, no, mm-mm, no, uh...

Roz: Over time, Alan, do you know what you're part has been in, driving your relationship apart?

Alan: You mean in terms of responsibility, or in terms of uh...

Roz: There's two people living together. One decides to leave, but it's not just the behavior, I mean she's reacting to something.

Alan: Oh, sure, well, um, I think by that time that, that the possibility of communication was almost non-existant, I mean uh, yeh, I think you have to back up considerably in terms of what, you know, what the dynamics were in the relationship, and, um...

BB: Well, just to back up for, for a second, I guess Judy mentioned two things when she talked about the problem that she saw, one was communication, the other was sex...

Alan: Mm-hmm.

BB: Is it, uh, is that the way you see the problem also, or...

Alan: Well, I see them as much more connected, to tell you the truth. I also see another, I would add a third thing which is, um, heh, uh, I don't know how to say it, it's just the... the ability of either one of us to, uh, be supportive or, um, sympathetic if you will, uh, you know, disappeared. I don't know what huh-huh, category that comes into, but, uh...

BB: You felt like you were no longer supporting her-, being supportive of her, and that she was no longer being supportive of you, or...

Alan: Well... yes, yes, absolutely. Um, I mean she, she saw things very much in sexual terms, um, and she wanted me to, she was very clear about how she wanted me to behave, and it was like a prescription, huh. Um, but she, she sort of set it up so that no, no small step towards meeting her needs so to speak, was, was enough, I mean it was, uh, you know, I felt like I did try and I felt like, you know we did have times when things were better, and, uh, but they weren't good enough. I mean this, maybe things by that time had just gone too far and maybe it's partly unfortunately part of Judy's personality, you know, just that, um, it's either great or it's horrible, you know, it's,
there's kind of no in-between, uh, and I felt caught a lot of time in, in, like I said once before, of her ascribing to me things that I felt were totally untrue and unfair, uh, and, and, and a lot of times I would, I would explain to her, or, you know, just, just tell my side of the story, so to speak, and, and she would then agree with me, and she would say, well, yes, I guess you did try that, and I guess you did, you know, respond to me, but I, you know, it's enough, I, you know, I, I, and so it was, you know, huh, it was essentially nothing I could do, I ended up feeling like there was nothing I could do to, I mean that, that...

(blank tape)

BB: ...from you in a sense is that you were feeling that she was setting up a situation where no matter what you did it wasn't good enough. Is that...

Alan: Right, right. That wasn't just my opinion, that was also the therapist seemed to be saying the same thing, and, and she'd realize it, I think, and, and, but by that time, you know, her, you know, it was clear of what her ulterior motive was so to speak, not that it was so ulterior, but that, just that, um, things had gone too far or whatever, and, and plus, well, I think that, that, putting myself in her shoes I can see why and how that was true, you know, just that she really did, her allegiance really was somewhere else at that point.

BB: Oh, I was, I was, actually, my question had to do with before her relationship with, with Will...

Alan: Oh, oh, oh... Um...

BB: That, that she meant towards, at, as, as she describes it...

Alan: Oh, I, yeh, ok, right, ok, yeh...

BB: ...you know, she was saying, there was a breakdown in communication, there was a kind of, uh, uh, a breakdown in, in sexual communication or whatever, and then she drifted, I don't, I don't know, I'm just presenting her stor-, side, I don't know if that coincides with your side of the story or not...

Alan: Well, yeh, I, uh, hmm... yeh, there was, I think the breakdown in communication is the essence of it, uh, you know, she, she's just, she's very sexual and the, yeh, that she expresses herself that way a lot, and, um, you know, she has a, an extraordinarily active, you know, sexual history. And Will was not the first affair she had by any means, I don't think.

BB: During your marriage...

Alan: Right.
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BB: Oh.

Alan: No, she had several others, none of which I knew about, um, until after I knew about Will. Um, so you know, I mean, I, uh, I think for whatever reason she just needs that kind of sexual adventure, and, and, you know, maybe now she's just, she's coming to terms with it, not that it's any different, but that she sort of, you know, setting it up so that can be the way it is for her. Um...

Roz: But in the early part of your relationship you both had that same kind of sexual intensity, didn't you?

Alan: Sure, you mean together, yeh.

Roz: So, yeh, so where did it go from, like, your side. What, what made you back off? I mean, if there was sexual communication and she always stayed demanding, how did it change (?)...

Alan: Well, I think, I think that's what happens in any relationship, with, you know, the sexual part of it. Um, it's the, it's not going to maintain that kind of excitement after a year or two year or three years, and I think that she wanted that to, to stay that exciting that same way.

BB: So was that...

Alan: I mean, it, the, eh, I mean in other words, I don't know, it sounds sort of silly to say, but I mean, you know, from my perspective, we were still talking, we were still, um, you know, it wasn't as if we had one set routine, or anything like that, uh, there was still give and take, there was still variation, there was still, um, you know, development of different fantasies and all kinds of stuff, uh, but it simply wasn't what Judy wanted, uh is what it comes down to, I think, um. Uh...

BB: And it, it sounds like you were saying also there's a side of you where just naturally it seems like it's, sort of like the honeymoon's over or something, and, and it, it...

Alan: Well, yeh, I mean I was, right, I was, I was, um, huh, how to say it, I guess I had shifted some of what was important to me in the relationship to more family, house, um, uh, job, um, etcetera, etcetera, and, and maybe that was part of Judy's liability in the sense that, you know, that she didn't have some of the same ways of being able to, to get positive feedback through work, because she was, um, you know, in the house with the kids a lot. And so, um, I'm sure that was a factor, you know, that, that, you know, this, that, that her world so to speak was, was not big or exciting or, or fulfilling enough for her. Um...
BB: Let me, let me shift over to the kids now, and, and uh, one of the things I'd like for you to do briefly is just, could you describe your two children and, and how you, just their characters?

Alan: You mean, as individuals?

BB: Yeh, yeh.

Alan: Well, Bryce is a, a super kid. Um, he's, he's uh, extremely imaginative and, and uh, smart and, fun to be with, uh, I think he's, he's got, um, he's got problems in, in that partly from his size, he's very, very small for his age and, and, you know, he gets a lot of, of teasing and, and unkind remarks that people don't even think about, you know, in terms of, adults included, or, a-heh, you know, people will say how old he is, he's ten, oh, my god, he's really small, isn't he, huh, and people don't even think when they say stuff like that, you know, um, so he, he's having to live that, and that's just one of the things he has to deal with and that's, that's a lot, he's also extremely sensitive, I mean he's, and he does tend to keep things inside himself, uh, he doesn't express his emotions, um, ver readily, um, and, uh, you know, but, and, and I guess still is very much, and I think he, he's concentrating on being socially accepted, maybe because of trying to get a, around, uh, the liability of being small and, and...

BB: Mm-hmm, mm-hmm...

Alan: ...and therefore not strong, as strong as his peers, either. I also think that he has certain kinds of, of, um, well, his, one of the things about Bryce is that he, he's, uh, he's delayed in many, many ways, he, uh, he's delayed physically, he's delayed intellectually, he's delayed, uh, um, socially to some extent, and, I mean I think I was, too, I mean I don't think there's anything wrong with that, it's just that, um, you know it's going to take him a while to catch up, so to speak, um, and it's hard, you know, that he does have a little more difficulty with school than a normal kid and, and whatnot, Um, but, you know, he's, he's a super kid and, huh-um, everybody who knows him, you know, likes him, and he's, I think he'll, I think he'll do just fine, um, I think, you know, he, there's just a few things he's got to learn, and, and, uh, it's actually one of the problems that I have with Judy, uh, you know, does relate to the kids, especially to Bryce, um, that, you know, it's, well, she's carrying on a pattern that, that, uh, was true for her that, that in an objective sense she can say she doesn't like, but it's, as she puts it, she just sort of can't help it, I mean, she, she um, she wants to make things easy for Bryce, essentially, and, and doesn't, uh, doesn't see what that does as far as him developing his own discipline, you know, self-discipline.
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BB: Mm-hmm.

Alan: Um...

BB: What about Nicky?

Alan: Nicky's, uh, very different, huh, I mean he's also loveable, he's also, you know, uh, imaginative and, and, uh, fun to be with just like Bryce, um, but he, he, I don't know, he's just, he's the reverse of Bryce, I mean, the sen-, if Bryce is delayed, Nicky's advanced, huh, and maybe that's partly because he has Bryce, you know, to, to use as a role model, so to speak. I think he has tremendous advantage because of that, I just, I just, that has become so incredibly evident to me, at least between them, I don't know if it works for all siblings that way, but, 'cause I was the oldest to, so I don't, uh, I don't have any way of judging that personally. Uh, but he is just, he's very up front with his emotions, he's smart as a whip, I mean, you know, just intellectually, he's way, way ahead of his class and, and, uh, and emotionally very mature and, and um, uh, just very expressive and, and very easy with almost anything he wants to do, very, very perceptive, extraordinarily perceptive, um...

BB: Do you um, do you recall, uh, telling the, the kids, uh, about the separation and, and uh, how that was like, what that was like?

Alan: Well, sure, I mean, I, in different times or, or to some extent daily, you know, um, you mean personally rather than together, and...

BB: I mean at, at the very beginning of the separation, how, how did you, wh-, how did you deal with it...

Alan: Personally, how did I deal with it, rather that how did Judy and I deal with it...

BB: Or, either way, I mean how, did you tell them...

Alan: Well, yeh...

BB: What did you tell them?

Alan: ...uh, together we told them that, you know, Judy was going to live someplace else for a while, um that the kids would be going back and forth, that the reason for it was because, you know, we weren't getting along and, and, uh, um, you know, we, that, I don't know whether it was directly put, you know, to stop the fighting, but I mean that was the essence of it. Uh, you know, that we simply weren't, weren't able to, uh, live together, at least not for now, and that, uh, Judy was going to
go live someplace else, um, that, you know, they would, that, uh, it had nothing to do with them...

[new tape]

BB: What's, what's been their reaction to the separation, would you say, emotionally, you know, or...

Alan: That's really difficult...

BB: ... have they said anything, have they...

Alan: ... it's, it's, it seems crazy to say, but, uh, well first of all, I think it was a lot easier for the kids once the separation happened, you know it was just things were pleasanter, they had a better time with me, they had a better time with Judy, individually. Uh, and so in that respect, I think it was, it was kind of a relief for them as well, and it was, uh, to some extent, there was no surprise, either, uh, um, you know, it was sort of the next logical thing, uh, emotionally, for them, I think, as well. Uh, they both have, or especially Bryce has experience with some of his friends, you know, with mother and father living relatively close in separate, um, and as a matter of fact, one of his best friends, uh, is an extraordinarily well-adjusted, neat kid in that res-, you know, I don't know because of that, but I mean in spite of it, or however you want to put it. Um, I don't really see, other than, you know, some concern at points in time about, you know, what is set, what is the routine, what is the, uh, story so to speak, but, uh, I, I really don't see any, any strong, um, emotional reactions.

BB: Is there, uh, is it, does the question of allegiance come up, do they sometimes, do you feeling closer to one kid than to the other, or do they feel closer to you or to Judy or does that arise as an issue at all?

Alan: It hasn't arisen as an issue as far as I know, certainly not for me, uh, um... you know, I guess I've been working with Bryce because of, you know, his needs at this point, uh...

[blank tape]

BB: ... yeh, let's start with that, your previous marriage, or...

Alan: Oh, yeh, that, I mean I was married once before, uh, to a woman who in some respect was similar to Judy in that she was very up-front and open about her emotions and that that was very, very important for her, the, the whole thing of, of working things out and stating things verbally and getting feedback verbally was very, very strong for her as well. Um, and I guess what I'm realizing now, uh, especially um, you know, in, in, in seeking out other relationships now, um, is that the kind
of communication that, that I have and, or my mode, if you will, of communication, um, not that it can't be verbal, but that there is, there's just a lot of non-verbal, a lot of, of, uh, base, uh, base development, which is, which I rely on heavily. And I find that the people I communicate best with on a, on a very intense level, that the communication is, that, that, well, I just wrote a note to somebody in which I said, you know, um, we say very little so that much can happen. It, and I don't know how to, to put it otherwise, it's just, um, I guess, you know, I, heh, I think I'm, I'm, I think I must have been born (?) or at some other point in history because it, a lot of what I feel about communication and, and I must say a lot of the kind of communication that Judy wants and needs, to me, is just tremendously boring and repetitive. It's just like, you know, I said that yesterday, why do I have to say that again today, you know, nothing's changed, ah, you know, I still feel the same way, you know. Because I brought home a flower yesterday, today you're upset 'cause I didn't bring home a flower. It's, it's, I, you know, it's just, it's, it was mind-boggling to me and, and so that is the essence, for me, of the mis-communication, or the lack thereof, and just that, what, what to me I was able to, to, to, uh, rely on and go with and, and maintain, you know, a feeling, um, for Judy needs to be reinforced, you know, needs to be verbally reinforced...

BB: Would, um, this is kind of a s-, odd question, probably a dumb question, but uh, um, do you st-, are you in love with Judy still, or do you still love her?

Alan: I was for a long time, I mean I think I was in love still, very much in love with her um, you know, at least a year, maybe a year and a half after, you know, she told me about Will. Um, I still had the base. I don't, it's not clear to me whether Judy ever had this kind of base that I'm talking about in terms of our relationship. Uh...

BB: You mean it's not clear that she loved you as much as you loved her, or...

Alan: In the same way, in the same way. Uh, I mean her therapist once said something to her which I thought was rather shocking, actually, and, and, um, you know, that, he said to her that, maybe you're not capable of loving this way now, you know, of loving in a way that has that stable base to it, and um, it seems, you know, it seems to be true. Uh...

BB: So are you still...

Alan: But, I can, no, I think, I think what I'm, you know, the other answer to the question is that, no, I don't think I am in love with her at this point. Um, you know, there's just been too much, she hasn't come back, I mean, in any way shape or form, she hasn't, um, she hasn't made any effort, as far as I'm
concerned to, to start a new beginning, you know, that she hasn't said anything resembling that she wants to do that, and she hasn't, um, uh, she hasn't changed, as far as I know, she hasn't changed anything about what's important to her, and that seems to be mutually exclusive, to a, to a new beginning for us.

BB: Will you marry again?

Alan: I imagine I will, yeh, yeh, I imagine I will.

BB: How can I, how can I do anything but stop?
Roz: I brought you some up-dated, cleaned-up transcripts that are easier to read. I edited the ehs and uhs out of Gilligan so that it's readable. What did you think of her perceptions?

Judy: Well, like I said, I haven't even gone back to listen to the other half, unfortunately. I thought for sure I could do it before I saw you next. But I'm never here by myself, or rarely.

Roz: So what was your revelation about?

Judy: I wouldn't even call it a revelation. It's just that, when you listen to the tapes, Gilligan's perceptions, and when I read and listen to the things that I said, nowhere did I really pinpoint some of the things that were bothering me a lot. Maybe I did, but it just didn't come through as much as other things. There's this amorphous little, general lack of communication. But I never seem to go into the details. Nowhere is there a description of what I meant by problems in terms of Alan not listening to me, Alan not taking my needs and interests into account. And basically running a household and making a budget to give all appearance of living together.

(noise on tape)

Judy: Actually it was eleven thousand. Six thousand before the first of the year, and five thousand afterwards. And how - other than a trip to Mexico, which was our first trip in twelve years, and that was under two thousand dollars... sixteen hundred dollars or something for the trip - I never had a say in how the money is spent. Yet I had a few protests that were never seriously taken into account, and I didn't push it. Because Alan always had all these rational reasons for why we had to do certain things. And I know some of it went to his doctoral thing, but it was like the money disappeared. Not in any suspicious way, but it disappeared into bills, and it disappeared into things that I don't know where they went. And that's a lot of money in two months or three months to disappear. It wasn't just that. That was a big thing that brought it to mind the other day. I was thinking in terms of how little I actually had to say, or was listened to about, other financial matters. In many ways, I think I helped finance his work, run in a very screwy manner. We would be behind three mortgage payments, or two mortgage payments, or always behind two electric payments, always behind two telephone payments.

Roz: Where did the money go?

Judy: I don't really know where it went. Certainly the income at that point wasn't that fantastic.
Roz: What was it for him? You're talking like seven years ago? The tower was five years ago. Maybe two.

Judy: Whatever it was. But even my mother paid for the part of the tower. She invested in that.

Roz: Does he have any loans from college?

Judy: I can't remember what the situation was with his PhD.

Roz: So what time frame are you remembering back to?

Judy: Oh, the last few years. The last four years.

Roz: So your father's trying to give you money for fixing up the house, like around '82.

Judy: Yes, my father gave this money because he was away at his settling some of his financial situation, so he had a lump sum. I'd give anything to have it now. But I was also thinking about the other struggles that I had with Alan, especially in the latter years when he became kind of a fanatic about certain things, an energy fanatic. So it wasn't just, oh lack of communication. In some ways when I hear some of these things again I feel like, god, not that I'm a dumb cluck, but that, like Gilligan said, what am I actually saying? And some of the things were real specific. You can't take any one of those things and say, this is where the relationship (?). Things like, feeling powerless to make decisions, because Alan almost always made the decisions.

Roz: I think it needs to come out in a subtle way, like in the women's group, it's the first time that you get to see that fanaticism, playing with their gloves on.

Judy: Right. I talked to a therapist a few days ago because we were trying to decide what my concerns were if the kids were to live with Alan as a full-time parent. And I began to listen to these things, and basically what I was saying, I don't know that Alan is doing these same kinds of things with the kids. But I know that this is what the pattern was with me, and I've seen enough of it with the kids to be concerned about it. They were things like denying the other person's perceptions, such as, gee it's cold in here, or I'm cold, or however it was phrased, god I'm freezing. Oh, it's not cold in here, would be Alan's response. And then later when I attacked that, he would say, well if you're cold go put on another sweater. But basically the idea was put forth that if he wasn't uncomfortable then it wasn't as worthy of attention. The same thing happened with the hot water in the house. He decided to save money and turned the heat down, so the hot water wasn't so hot. I couldn't even take a bath without him boiling water on the stove. And that's not a way I chose to live. Part of it's my fault in the sense
that, instead of going down to the basement and figuring how to
up the heat on the hot water heater, I complained and got upset
with him. Because he said, oh I'll do it next weekend. Then
he wouldn't. And that would be me nagging him to do it. Finally,
he would turn it up a tiny bit, but not a lot. So I think it was
a lot of things like that. And certain things that I know he was
aware of that he put a certain effort into changing, like - and
maybe I do mention this somewhere - my telling a story and not
getting a fact or figure exactly right, but getting the point
across... and right there while I was telling it, he interrupted
me with the correct figures. Although it was the right population
or the right number or whatever it was he would correct me, and
that would stop the story. It would be enough to just get ticked
off.

Roz: It's like being treated like a child.

Judy: Yes. I mean I made him at least think about it, that he,
after a while, would catch himself doing it. But I began to
think that whatever this lack of communication was, it really
was a lot of other things.

Roz: Well, Gilligan says something interesting. She says, the
problem with having it perceived as well, they obviously had
sexual problems - when we have that piece with Will where it's
not just the good sex, it's the communication - well, you have
to imagine what it would be like for this woman to go back to
that marriage when she's got a sense of engagement. That was the
word she used. And I thought, that's right. There's somebody
that engages you, and is engaged by what you say, at least at
that point. So that why would you go back if you could compare
and know that there wasn't any of that. That's what you're
talking about. There's none of that. Maybe it's that after five
years, people's true nature starts to come out.

Judy: That's probably partly true, too. But I think also, I was
looking at some old photographs of Alan recently that I had
here, and even looking at him, he really has changed. He changed
over the years, I think, in a way that was much less appealing.
Physically, although maybe not in a way that would be noticeable
to someone else, but in a quality way he changed. Which probably
I did too. But I reflected on it recently when I looked at this
picture that was a favorite way that he looked me, and he's not
like that any more. And that's not just romanticism.

Roz: Compare the two. What do you mean? How did he look compared
to now?

Judy: Softer, less dogmatic. It would be hard to put it into
words. Something that was much more appealing and less of a
rational approach to everything.

Roz: A more sensual or feeling person? Sensitive?
Judy: Yes.

Roz: Responsive?

Judy: Probably. I'm not saying he doesn't still have those qualities. But I looked at the photograph with a little nostalgia about how I felt about him at that particular point in time. Because every once in a while, I sort of wonder, gee did I ever really feel these good feelings? I must have, but I don't remember. But looking at this one photograph it did bring back, yes I did use to feel that way, and it was different.

Roz: I made out this little chart. I made a little X, here's the divorce. Here's the separation. I was chronicling. You both talked about being infatuated and this and that. Then somewhere hidden on some tape is a line about after Nicky was born. Then you talk about the quality of your life changing. How much care-taking had to be invested. Also, Alan traveling a lot. I don't even feel like I know Alan well enough to even broach the subject, but I remembered from other sources when women have babies, women change. Women are no longer sexual creatures. They become the mothers of children. They take a year, two years to get back in shape. And on and on and on.

Judy: Although that didn't happen after having Bryce. I mean, I had Bryce after we were married only a year and a half or so.

Roz: So everything was fine the first five years, he says. Five to seven years. I just thought maybe the dynamics changed enough after Nick was born.

Judy: Maybe for him. My opinion would be that it probably didn't change that much because of having had another baby, other than the fact that time and expenses and pressures and so on, were different.

Roz: Because a lot of men, a lot of people get less sexual under pressure. Could you notice that it was at that point that sexuality changed?

Judy: I didn't notice it. I couldn't say that I tie anything directly to, or even probably to... not that would... I mean maybe it happened sort of at that particular point in time.

Roz: What was the year Nicky was born?

Judy: '78.

Roz: And what was the year Alan started his PhD program?

Judy: I don't know. Probably about that time. Maybe Alan was under lots of pressures with the PhD, I mean I have no idea.
Roz: I just think all the hype, he getting withdrawn into his intellectual life and this and that. And then he says something like, well I just changed what was important to me to my, quote-unquote, house, family, job. And it's like the whole consciousness of that relationship would have to be worked on the way every else was. It just didn't seem like it was part of his consciousness.

Judy: In many ways, Alan, even though he says that the family was the most important thing, in some ways I think he really tuned out.

Roz: You just made the family exist for him.

Judy: But arguments over the children was a major source of problem with us, which is another reflection I could talk about now. Let me just go back one second to say that up until maybe the last six months or so, that's an arbitrary figure, but recently the whole situation with Alan and I was still very much wrapped up with emotional observations. And most of the material on the tapes, the videos and the audios, have to do with those kinds of things. Not with the things that I've been thinking about more lately.

Roz: Examples...

Judy: ...Of a lot of the problems. This is one of the reasons why we have a problem. And this is. I mean those issues were just not talked about. Arguments over the kids were definitely increasing to the point where it was a real strain. Our approach was totally different, mine being more permissive, Alan's being more - I don't even know how to describe his approach.

Roz: Structured.

Judy: Except that it wasn't. It was very erratic. Mine might have been erratic, but that was by my own admission, because I'm an emotional person. So I can be in a rage at the kids over something they do, but I could also say to them, god what a jerk, I'm sorry I got so mad, I hope you're not mad at me, let's kiss and make up. Probably because of Alan's pressures - which he didn't share with me so I didn't know how bad they actually were - his general routine which I am sure I resented, was he would come home from work at five thirty. That was the time that all hell was breaking loose in the house because the kids were full of energy, eager to see him. I was trying to get supper going, so I was not able to give them what they needed. And Alan wasn't able to, because Alan would come and put his feet up. He would greet them, and that was that. And then he would go into his own world. Take his shoes off, put his feet on the coffee table, take out the paper, open it up, and then get mad at the kids if they were noisy. And this happened night
after night after night after night. At six o'clock the news would go on, and then no one was able to talk. If you talked, it had to be in a low voice. Otherwise it would be, shh! shh! shh! And someone would say, daddy, and it would be shh! shh! I'm trying to hear the news. It was like no time for them when they needed it the most. The news would be on till seven thirty. The news would be on throughout supper, sitting at the table. If one of the kids tried to say something, Alan would say to them, shh! Be quiet, I'm trying to hear her. Or god damn it Bryce, I'm trying to hear the news. Well, finally I put up enough of a stink so that the news didn't go on until it was six twenty-five, when the weather went on. When I really struggled with him over it, finally the news would go on at seven to seven thirty. Hopefully by then we had already eaten, otherwise the news was always on during dinner. Which meant you couldn't have a conversation. That's the way it was for several years. It was really when Annie started living with us—Alan's sister—that she began to see the same thing of Alan, and she would jump on Alan's case about it. And say, for god sakes, can't you just go up to the kids and give them a hug and just say I love you. And my mother would get so upset when she would visit because she could see it really clearly, and even though my mother has her own way of seeing things that I don't always agree with, her main things was that she could see exactly what was happening there. And she would get so frustrated and angry because as soon as Alan came home, yes he was very tired, but she felt the kids came first. Even before me, in a sense. She felt that if he came home, threw away his paper for half an hour, and just gave them... she would say to me, even if you gave them fifteen minutes of wrestling on the floor and total attention as soon as you came home, and then said, ok now I'm going to sit down and read the paper and you give me fifteen minutes. But he never gave it to them, so it was always them finding ways to get it, which were always ways that would annoy him. They were always intrusions that he would get angry about. I don't mean just that he would ignore, but he would get angry at them. Then there was the struggle of my yelling at Alan for yelling at the kids when the kids were trying to get attention from Alan. And so, that's what it was like.

Roz: And he's not being negotiable. Alan would never sit down and talk about it?

Judy: Well, if I would get angry enough, it would create an incident in which something like that happened. But it was mainly, I think, through Annie, because somehow or other if his sister's also saying it, that he would make more of an effort. But I see those as real undermining activities that really rocked the whole foundation. And maybe when I said, lack of communication, I almost object to that term because, what do you mean? And that's what Gilligan says in a way. I mean, I'm not sure what she's saying, I don't know what this quality is that she's talking about.
Roz: What's interesting is that you say lack of communication, Alan say's breakdown in communication, and Gilligan hits the mark by saying, I don't know if it ever existed. At the very end of her piece she says, you'd have to convince me that he ever was communicative and responsive. She says that he didn't show any of that quality as a person in the material.

Judy: What I'm saying now, I think it's important because it's not just this person, myself, who has this romantic whim of what a relationship should be and leaves something that on the surface appeared to be intact. There were real genuine reasons that were pretty hard to live with. I would be doing the dishes... I did all the dishes. Maybe Alan did dishes every month-and-a-half, two months. That was fine with me, that wasn't an issue. But I would be doing the dishes and Alan would come and turn down the volume of water coming out of the faucet because I was wasting water. If I had the water running too hard, he'd just come over while I was doing it and turn it down. And those are insidious little things. What I should have said is, you do the dishes. And just let them pile up, to make my point. But instead, it just used to bug the hell out of me. Or the lights being turned off. I think I mentioned that somewhere on the tape. I'd go in the bathroom to do something and I'd come out for a minute to get something, and he's go in the bathroom and turn off the light. Because I was wasting electricity. And believe me, I was real tuned in to that. I mean, I wasn't being blatant that way. I was tuned in to it. Who wants anyone doing that do him. Practically, there were a lot of reasons.

Roz: Were you ever able in the course of the problems to sit down and say, Alan, our relationship's being eroded. Don't turn off the water on me. Don't shut the light off on me.

Judy: Not that way, no. It was more like complaints when it happened, and maybe an occasional talk about it.

Roz: And after a talk, would anything change?

Judy: Well, yes it would, for a period of time. The talk that I had about being interrupted when I was telling a story, that did change. It happened lots of times after the initial conversation, until finally I was just so pissed off that he stopped himself from doing it. So he did change that.

Roz: If you knew somebody else was in the same situation - needless to say it's a story that rings so true, I must have heard it a hundred thousand times in my lifetime - what would you tell them? How would you do things different?

Judy: I don't know. The thing is, way back at that point, when I was not involved with anyone else, one could make the case that
maybe it would have been savable had both people realized the seriousness and the repercussions. Being involved in an alternative relationship, I didn't even want to bother working that out. Working that out meant fighting continually, and I wasn't sure that there was much hope. Alan never gave me too much reason to believe that he was willing to change the things that were really bugging me. I don't mean change the kind of person he was, but to change the things that were intruding on me. I think I found that everyone's bad habits are hard to break. But his seemed a little harder to break. Like the issue over the wood going into the wood stove. It was only when I started to go a therapist and was already involved with Will that Alan cut the wood short enough to be noticeable, whereas the years before he always claimed he did, but never did. It was an issue. I'm home all day. I wasn't working full time. And I am the person who stokes the stove. And if the three-quarters of the wood is so long that you have to bash it in with another piece of wood, you get pissed off.

Roz: Life is just made harder for you.

Judy: Then you're baby-sitter comes, and you have to go out in the wood pile and pick out the pieces that you know the baby-sitter can easily get in, without having to hassle. Alan's arguing, well it's hard to cut it the right length. But I would say, well cut it so that it's too short and then we don't have to worry about it.

Roz: Did you recommend going to a therapist, after you had enough complaints, at any point?

Judy: Being honest, not in a way that was really pushing for it.

Roz: Did you already suspect you wanted out, when you were having problems?

Judy: I don't think I thought about that real consciously, like other women have.

Roz: So you just thought that it was an ordeal that you just kept experiencing?

Judy: Well, of course there were good moments, too.

Roz: At what point did you think about getting out of the marriage?

Judy: Oh, not until I was out.

Roz: So not in the tenth year, but maybe till the twelfth year after you started seeing Will?

Judy: Yes, I probably didn't really think about it until after
I'd been seeing Will for quite a while.

Roz: What did you think? That you were the one who had to just get used to it?

Judy: I didn't think about it that much. I would just get angry and pissed off. Maybe I entertained fantasies or thoughts of leaving, but I don't really think so.

Roz: You're comment about being a victim of circumstance...

Judy: Well, I made myself a victim.

Roz: Well, but up until that time you had accepted these were your circumstances?

Judy: I don't know if I would even put it that way.

Roz: I'm trying to think what your consciousness was like.

Judy: I'm not sure. Honestly. Except, you know, we had nice friends. We had people over a lot. There was still a lot of fun around us, that we involved ourselves with.

Roz: Was he your best friend?

Judy: No.

Roz: Was he ever you friend?

Judy: Probably.

Roz: Is Will a good friend?

Judy: Yes.

Roz: The way you describe him those first two years of knowing him, it sounded like a friendship.

Judy: Oh definitely. I don't know if I can answer that about Alan. I suppose he was. It wasn't the kind of communication, but there are all different kinds of friends. I'm sure Alan was a friend.

Roz: You mean you liked to share his company, you did stuff together, and all that. Would you suggest that people do therapy or counseling or bail out? If you had it to do over again, what would you do?

Judy: I don't know if there's a real answer to that question. Obviously if there had been another alternative I probably would have tried it. Given my state in that situation it was all I could do. Otherwise I would have tried something else probably. I
certainly was intelligent to know there were other alternatives to working out problems. I don't know at what point a person confronts himself [sic] and says, this is the point at which if you don't get help, it's all over. I don't know if you ever have that realization. Maybe you do.

Roz: I think Bruce did, and didn't say it. And I knew something was wrong for a couple of years and kept implying that counseling would let us find out what it was. So I understand that it's two people, but it seems to me I was real conscious that it needed an outside... that something was wrong that I had no influence over, because he couldn't say. And knew I wanted a third person. But yes, there has to be a sense that...

Judy: ...That two people say, look, we've got a problem here. And we've got to solve it one way or the other. Let's do what we need to do.

Roz: And if one person doesn't acknowledge the problem, (?)

Judy: That's right. But I also didn't articulate the problem in such a way that he was aware that I don't like the way things are going, this is what I'm feeling about it. I mean, I did do that about sexual problems. But we never resolved those. We just talked about it, and I made him aware of what my feelings were, and he said he would try.

Roz: When did he start changing?

Judy: I don't know.

Judy: There should be one parent who has the primary residence for the kids. I wouldn't want to even hear Alan's reaction to this statement, but I noticed a change in his parenting. To the better. Which I'm glad for. But I did notice a change, and I noticed a change in the kids' attitude about being over there. They enjoy it more. So all of that is really good, except there's a part of me that resents it and doesn't trust it, because for one thing, well maybe he's frightened about losing control of the kids and he realizes he's got to get his shit together. And I really mean this, anything that will help him be a better parent I'm glad for. But I do resent the fact that when this issue has come up that he's suddenly becoming a better parent. I don't mean better than me, but better than he was. And I do object to that. It annoys me.

Roz: Because you don't know how sincere it is or how long it will last?

Judy: Plus, why did it take him so damn long to do it?
Roz: No one changes unless threatened.

Judy: Well, I feel like he felt threatened when we had our first talk about the possible change in living arrangements. It was a good talk. He listened to me, I listened to him. But one of the things I said to him, look, if the kids are going to live with you, you're going to have to make some changes. I said, because as far as I'm concerned you're too busy to be a good parent. You have too many meetings, too many commitments, too many extra people in your life that hang around. I don't know this personally, but I know it from the kids. That I'm not comfortable with it. I'm not going to have the kids picked up at seven o'clock at night, or forgotten to be picked up from camp because you spaced it out, or not taken for stitches that time because you don't have time to take them and mom can do it three hours later. That's how I feel about it. And now, I've noticed he picks the kids up on time, much more often than he used to. He does more things with them. Things have changed. And now they seem more interested in going there.

Roz: His girl friend lives there now. Do they like her?

Judy: Yes.

Roz: So do they feel taken care of by both of them?

Judy: I don't know. I asked Bryce the other day. I said, how much does Lisa do with you? He said, you know, sometimes she does, sometimes she doesn't. That's all fine.

Roz: They don't relate to her like a mother.

Judy: No. Which is more of a problem for Nick than it is for Bryce, probably. They still do enjoy being with me, and probably would still prefer to be here. But it's much more equal now. For Bryce, not for Nick. But I think it's a little more equal.

Roz: Would you consider splitting the kids up?

Judy: No. Definitely not. The therapist said he would think that would be a harmful thing to do at this point.

Roz: Does the therapist have a recommendation?

Judy: No. He doesn't. Alan recently asked him for one. He said what he would do is — after talking to Alan he talked to me — if it becomes clear that one way of doing it is better than another, he'll let that be known. But he wants us to work that out.

Roz: How do you feel about giving them up, if that were the case?

Judy: Not very good. I think what will probably happen is we'll come up with a compromise situation. That's what I would push
for. The therapist was thinking, a minimum of a year, a year-and-a-half with unlimited visitation by the other parent. Not just visitation, but weekends, weeks, it could be a fair amount of time. And I don't feel good about that. And Alan doesn't feel good about that. We're going to meet with the therapist in a few weeks, Alan and I. My point of view would be, I'd rather try it - even though this may not be what the therapist thinks is ideal - for a limited period of time, like three months. Two to three months.

Roz: Who would try it first?

Judy: I don't know, we'd have to decide that. But the kids would be with me for three months, two to three months, and with Alan two to three months. Because I don't want to lose the kind of influence that a loving parent has with their child, nor does Alan. Also, when the kids aren't living with you, you really have to make an effort to see them and spend time with them. It's not quite the same. You're not tied into, well how are they really doing? And what's really happening to them. For me, that's really important to know that. Those little things are important to me to know about the kids. So I think that we'll come up with a compromise that will be different than two weeks, for sure. But it may even be a couple of months.

Roz: And see how the kids like it, and all that?

Judy: And see what happens. I think I would fight any proposal - even if the kids were with me for a year - if Alan said... Well, if Alan didn't care that much and he said, let them be with you, that would be fine.

Roz: Could you afford to carry it?

Judy: No. He would have to pay. He would have to pay for certain child care, and however we got it we'd get it.

Roz: Be very careful about whatever agreement. Even if comes out of his paycheck, do it that way, the secretary writes two checks. Something extremely creative, because otherwise eighty percent of fathers do not care. So you would be so encumbered.

Judy: Oh, yes. I'd have to have something set up in the beginning. At any rate, that's where we're at.
Roz: We're going to try to update each other on how the agreement worked out over the past six months, and talk about the quality of the custody arrangement, and the living arrangements. So how's it been the past six months?

Judy: I think it's better. It took some getting used to, particularly working out the situation for the children. At first, we started out every two, three days, and would get into hassles over that. We went onto one week on and one week off and that seems to work better.

Roz: It's fine with the kids?

Alan: Oh, yes. Sometimes we want to go one place or the other. I think in general it's worked out. I also think that just for me the quality of time is good with the kids.

Alan: We just see what needs to be done. I guess I feel that long-term, the house is obviously the biggest question mark. And potentially custody arrangements.

Roz: For a legal separation or for a final settlement agreement?

Alan: I'm just talking functionally. Just what we have to work out now and in the future. And if it comes to a formal agreement, the first thing has to be divorce.

Roz: Are you both thinking now that you want to go ahead with the divorce, or not? Is it the division of the property? That could be worked on. (film reel ends)

Roz: You can each alternately identify problems that you are experiencing and we can use the technique we used in the past. You can say, ok, here's a problem that I want solved. And we can jointly brainstorm the varied ways you could act on it in search for one that seems best. Do you want to do it that way? It's what we did last time.

Judy: For me it seems hard to work on this without deciding real specifically why we're here, other than just to talk about it. I feel like somehow or other we have to say, well, we want to get a divorce, or I want to get a divorce, or he wants to get a divorce. Or one of us has to say, I don't want to get a divorce right now but I want to work the specifics out again. Renew the agreement.
Alan: (to Judy) What would you suggest?

Roz: (to Judy) What do you want?

Judy: Most of the time I think we've got to finalize it, and I guess that means divorce. But I'm also reluctant to do that. I don't know that there's any point continuing the way it is.

Roz: Do you think it would help if, between this session and another session, you do see the counselor that you worked with to emotionally deal with divorce?

Judy: Part of what I feel is, I have no idea what Alan feels at all. I've tried to fill him in a little bit about my life and my situation, my thoughts, and a couple of conversations about what I was going through. But I have absolutely no idea whatsoever about anything that he feels or thinks.

Roz: (to Judy) How are you feeling about the marriage? The term, settling things, for you a lot has had to do with your expressing a need for having a place to live.

Judy: One of the prime reasons for getting on with something is that my living situation is very unsatisfactory. It's not good for me, it's not good for the kids. And whether or not Alan and I, even at a later date, got back together or had some kind of a different relationship, my living situation has to be changed. I think it's an unhealthy situation for the kids in any longer situation than six months. It's not good. So I feel that is a prime thing, whether or not we actually divorce, or make that decision right now to divorce. I thought we needed to discuss divorce and a settlement in order for me to make a change in my living situation. Let's say I wanted to buy a house. Somehow or other I connected divorce and being able to do that.

Roz: Well, we can separate those problems, though. We could say, there's two problems, that you've just mentioned. One is the emotional relationship of being married, and whether the two of you should proceed with a divorce. I feel that issue might be best addressed with the two of you talking to a counselor who's dealt with you emotional relationship. And that's not really something that I am qualified to do. I don't offer advice. All I'm prepared to do is facilitate your conversation with each other. (film reel ends)

Roz: If we talk about the Farmer's Home Administration mortgage in which Judy would qualify for a one percent mortgage because she's low income, the question comes up do you have to be a divorced single person to do that? Chances are that would be the case.

Judy: Rather than separated.
Roz: I don't think you could just be legally separated. I think you would have to be divorced when you got an FHA mortgage. Because I did pursue it with the director of FHA. I wanted to clarify what my previous clients did. So that's one avenue in which, yes, you'd have to divorce.

Judy: So even if we weren't emotionally ready to get a divorce, we would have to get a divorce if I wanted a low-interest loan.

Alan: Through FHA.

Roz: I believe so, because you, as a married couple, have a home. And they're not going to finance a second home. If you went another route, if Alan got money together, and Alan bought out your equity with a certain amount of cash so that you had a down-payment, you could get a bank loan. It means you're both saddled with higher mortgage payments because you both have commercial loan mortgages. It also means, if you talk to somebody who's a financial person, he'd say, well that's no problem. Because if Judy bought a place that had income-producing property on it, that would help in the mortgage payments or if you got back together, you just make sure that the income is higher than the expenses. Maybe it means that one of the ideas is she doesn't buy a single-family home, or just studio. That the only way Judy could do it is if a house could carry itself. So there are certain solutions, depending on if in fact you do or don't want a divorce, that we could come up with. For a divorce, there's marital property and you need to disclose what your assets are, and the division of the house is the major property and asset.

Judy: Emotionally, that (the divorce) is not a burning desire on my part.

Roz: The burning desire on your part is getting more satisfactory living accommodations.

Judy: There's no one I want to remarry. There's no relationship that is important, so that I get all this settled.

Roz: (to Alan) How does that affect you?

Alan: Is part of what you're saying the opposite as well? That you're not emotionally ready to get a divorce?

Judy: A little bit, yes. I thought in the last couple of weeks, this is it. I'm ready to get a divorce. I want it over and done with and da-da-da-da-da-da-da-da-da. But I'm not so sure that's true. I don't know.

Roz: (to Alan) How have you been feeling?

Alan: Somewhat the same. Not feeling the need to get a divorce, but on the other, feeling about as neutral as I've ever felt. Essentially, it not being a concern, literally, one way or the
Judy: I'm pretty neutral.

Roz: So the only pressing problem is that you want to improve your living accommodations. And you're here because, am I correct in thinking that you want Alan's help in trying to figure out how you can do that?

Judy: I guess so. Although I did come assuming that we would say to one another, well we want a divorce and we want to settle everything. I can't quite account for my state of mind right now about it.

Alan: Is that something that's likely to change?

Judy: Why are you not asking for divorce?

Alan: Essentially for the same reasons. I don't have anything else. I suppose if there was something else pressing I wanted to do.

Roz: (to Alan) Have any problems surfaced for you that need addressing? You do have the one agreement standing.

Alan: I don't think so. Not really.

Judy: I think we have to get the situation with the kids a little bit better. I'm not quite sure how. At least that's what I feel. Not just the living situation. The only hassle Alan and I have had recently, the only fight that we've had recently was over: I took them this many days, you took them that many days, it's your turn, it's my turn, and Alan counts the days differently than I do. And it turned into sort of a mini-argument. It wasn't bad really, but I feel we have to talk about that a little bit.

Roz: So, exchange of the children.

Judy: Yes. And I'm not sure that a week on and a week off - while it's good for both of us in many ways - Alan seems like he's really busy, he has got lots of nights he has meetings or goes out or whatever, and the same with me. So it's nice to have that week without the kids, but I'm not sure that it might not be better to go to two weeks. Or even three weeks with one of us taking the kids on the weekend, I don't want to go three weeks without seeing the kids at all. And I don't think they want to. (film reel ends)

Alan: Part of the problem is going to be, meeting your needs in respect to what you want to do. To some extent, you have to know what you want to do.

Judy: I have some ideas about what I would want.
Roz: Why don't you talk about them.

Judy: I have been thinking of buying a house. I would like to have our house. I feel like it is a hard house for me to maintain.

Roz: When you say you'd like to have our house, do you mean keep it and not sell it?

Judy: No. I mean I sometimes feel like I should be living in the house. I just need a house, and we'll just have to hash that out. Right now, I suppose.

Roz: Let's say that one idea is, there are situations where people take turns having the house. Six months on, six months off. It means that the kids aren't inconvenienced. The kids stay in the one house. The parents move in and out.

Alan: They wouldn't stay in the house for six months.

Roz: Not literally, but in a sense, when they go to one parent, they visit the less-than-adequate quarters, but the majority of their toys and things...

Judy: I think they consider it a home base, the house, very definitely. Even if they spend even more time with me than there. It's their home base. They've been there for many years.

Roz: So that's one idea. That instead of going off and buying a second house before you have resolved your married relationship...

Alan: Except that's also a temporary solution. That can't go on very long.

Alan: I've been playing with the idea of what it would mean not to be there, because it's not an easy house to maintain, it's not an easy house to get to and from, it would take a lot of money to get it to be finished in a way that probably either of us would want finished. And so, to some extent, quite frankly, it would be a relief not to have to deal with it, and to have some smaller, more natural, more finished place. Especially if it was part of your buying me out so that I have the resources to do that. But the other side of that is, yes, I still do feel extremely attached to it. I feel like it is my home, at this point, for years and years.

Roz: It's interesting in that this is the first time that the house doesn't seem to be a sore point, but in fact I hear you both saying, indirectly, that you'd consider a different residence... well suppose you sold the house and each had enough money to get a smaller place, with easier access to and from it, possibilities of the kids feeling comfortable in each place... that's something we could pursue as another option.
Alan: But I'm not saying that. I said I've been toying with that idea. The last thing I said is that I am still very attached to it.

Roz: But we could throw it out here as idea number three.

Alan: I'm just saying, I don't quite agree with the way you put it. That that's an option.

Judy: You mean it's not an option, you're saying.

Alan: I haven't thought of it as one of two or three things that we could do at this point, no.

Roz: In other words, it came to you as an idea but it's not an idea that you're ready to act on?

Judy: If Alan wanted the house, let's say, then he would have to make it possible for me also to have a house. So either the house would have to be sold to someone else, and I would much rather Alan have it. Because I know what it means to him. But that would only be possible in my mind if I could have enough equity out of it, however he has to do it, to start all over again myself. I'm not going to rent. I refuse to continue renting on a long-term basis. I want a home. So, it's either sell the house, and we both come out of it with an equal share, or he will have to find some way to buy me out, so that I can start all over again somewhere else.

Roz: So that's another idea. Keep the house but buy out Judy.

Alan: I don't even know how I would feel about it, but this is an idea: that we could split the land and could easily build another house on that land. Either as a spec house, so to speak, that we would sell to somebody else, or that one or the other of us would have.

Roz: That's a very good idea, and consider that it's also one way - if only the land were sold - of having cash up front for you to walk away with without Alan necessarily going to a bank for a large fifteen percent mortgage. It could serve as a temporary measure to get you a place to live.

Alan: Well, we do still owe money on the land.

Judy: Well that comes as a big surprise to me.

Alan: No, I've said that before.

Roz: wait. Let's go over this one more time. The mortgage you have with the bank, how does that read? Does it say that it's a mortgage against the house and seventeen acres? How much is that
mortgage for?

Alan: Originally? Sixteen thousand.

Roz: How much have you paid on it?

Alan: Well, we paid twelve years, but on the principle we still owe about ten thousand.

Roz: So that's not a lot. Very often you could talk to your banker about — I'm not sure about this but you could check — whether they could release a certain amount of the land as lien-free, as having been paid for, or refinance the mortgage.

Alan: The trick of that is that it's a seven and one-half percent mortgage. And that a banker had made an offer previously to buy us out essentially, at ten percent off the principle.

Judy: What? I don't understand that.

Alan: You know, that we've gotten a couple of letters over the years — I'll show them to you — where they offered us ten percent off on the principle if we would somehow or other, settle the mortgage. Either refinancing it or paying for it ourselves, whatever. For them to come out from under it, in other words.

Roz: Great. One of the initial ideas you had meant that Judy could build a place on the land.

Judy: So wait, I don't quite understand it. How would I get that land?

Roz: You own the land together. Therefore, you could build on a piece of that land if you wanted separate accommodations from Alan. You wouldn't have to go out buying land.

Judy: But then, who would own it?

Roz: You would.

Judy: Just me?

Roz: Yes. You could work something out.

Judy: So we would still have to get some kind of settlement.

Roz: And maybe rather than Alan being burdened with a large bank mortgage, maybe that settlement could be that Alan gives you a certain amount of money every month, to keep buying you out. Instead of him paying a bank every month.

Alan: To some extent, part of your expenses in getting a new home would be the land as well as the house. So it's a way of using
an asset that we have in common, to take care of a way to get you some of that up-front money. Some of the capital that you need to get a new place.

Roz: You'd need about twenty thousand dollars cash to buy a piece of land. At one point you talked about buying a nice piece of land. (film reel ends)

Roz: ...This means refinancing the balance of the loan, which the bank is dying to do since it's only a seven percent loan. The third option is Judy or Alan take that land and build a house. Alan's saying, well it doesn't bother him, because Alan can build himself. He doesn't have to worry about being intimidated by the labor of it. For you it may be a hardship. It means you have to contract somebody else to do it.

Judy: I should just say at this point that I'd be more interested in buying another house, building another house, but not keeping the existing house for myself.

Roz: A lot of the ideas that get put forth really have to be played out as a series of options.
Dranoff: A divorce is a death. That's what it is. And Judge (?) who was a former chief judge of the Court of Appeals, in the Jackie Gleason case, Gleason against Gleason, said, when the marriage is dead the kindest thing to do is to quickly bury it.

Gilligan: Well, you have a problem here. I mean the mediation would have been fine if you said, look this marriage just isn't working for either of you. There are obviously strong feelings between these two people, but also just immense anger and frustration.

Wheeler: In some ways, I think, being in divorce mediation is a little bit like practicing medicine in geriatrics. You know, it requires a person who is dedicated to trying to make the best of a bad thing.

Gilligan: So in some sense, look what you've done, inadvertently perhaps, or maybe even just use this as an example. We've taken the thing that his feelings are tied up with, i.e. the house, and agreed to put aside what her feelings are tied up with, i.e. the relationship.

Dranoff: They don't want to be, they don't want to share with this person. A woman puts on twelve pounds suddenly he doesn't love her any more. You hear the excuses. The top of the refrigerator is dusty. She made me a salami sandwich, I mean such crap!

Gilligan: You know, there's a house and you need some money, and we're just not going to talk about the marriage. Just talk about these issues. I think the problem is that there are children involved. And what that means is that the marriage will never dissolve. In a sense, the children are a living embodiment of the fact of the connection of these two people.

Wheeler: I haven't looked at the latest statistics, but something like one million two-hundred thousand couples divorce every year. It's something of that order.

Gilligan: Maybe when we're having difficulty understanding what we were needing, rather than rushing to the stereotypes that women are confused and they don't really know what they want, and they can't really say clearly, and that they're indecisive, you can ask, what is she trying to say?

Wheeler: The power of this tape, or this disk, comes from being able to see actual people at various points in their separation so that we understand, when we know that there are a million two-hundred thousand people who divorce that it's not just a raw statistic, these are actual people.
Gilligan: What is the study that you would have to do of males and females in this country, in other countries, that could possibly support a statement: women, men... and the other thing is why do you want to divide the world this way? But if you ask a different question, which is, whose experience has defined our understanding of human experience, marital problems, family relationships, as they are really worked into the formal interpretive systems in counseling, in law and so forth. Then you have to say, well, women's experience really has not been seriously considered. From my own point of view, you ask a very different question. You don't ask, are women different from men, unless you're about to embark on the study I suggested of millions of people. But you say, is there something we could learn by listening to women, that perhaps would give us new angles on how to think about these problems?
Wheeler Interview

Roz: Can a divorce mediator maintain neutrality?

Wheeler: The neutrality question isn't unique to divorce mediation. It's one that an environmental mediator asks. It's one, to a lesser extent, I suppose, that labor mediators ask. In a divorce case you may well have people with different economic power, varying degrees of sophistication or responsibility in the family. I think it's an acute issue. There's ultimately a philosophical choice that the mediator has to make, and that is: one, do I leave the parties as I found them, do I play the hand as it has been dealt, or do I have a larger social responsibility to advance fairness? If you follow the first school, neutrality isn't a problem as long as you treat each side the same. That is a neutral principle. The people in the other school would say that if you treat people in inherently different positions of power equally, that is not neutral. That's why I say it's a philosophical question.

I guess I would have trouble being in the situation where I felt there was a great disparity of bargaining power. At least, I'd have trouble with situations where I felt that there was a disparity in sophistication, so that one person could manipulate the process, and the other didn't know how to respond to that. At that juncture, personally, I'm not comfortable being exploited by one side to his or her advantage. I'm not sure that there are any neat tricks that redress imbalances of that kind of power.

If the mediator feels that Judy, in that case, or anybody, male or female, is being too reasonable, is giving in too much, I don't believe that calls for advocacy on the mediator's part. But what I do believe is that it requires the mediator, in private consultation with the party, to make sure that the party understands that those trades are being made. Now there may be, in one instance or another, places where a person is willing to trade money for respect, or is willing to trade money for a certain deal, or is willing to pay for not being hassled. What you don't want to see is that trade being made unconsciously.

But it is ultimately for the party to determine how much piece of mind and how much respect is worth. Now there are some mediators who wouldn't even do that, who feel that we're dealing with consenting adults, and that as long as you make it clear that you're not the advocate for the other side, that it's the person's responsibility to make their choices. And if that elicits some skepticism, the mediator who takes that position would say, well, if you ask the party whether they're conceding too much, and trying to be too reasonable, you're working at cross purposes, because your goal is to reach an agreement.

Roz: What should a mediator do about power imbalances?
Wheeler: Let's talk about the imbalance issue, because it seems to me it can take different forms. Under old fault-based law, it could simply mean that there was somebody like Judy, who had committed adultery and as a consequence, who, if she went to court would be on the wrong end of the law. That's one kind of power imbalance. Another sort of power imbalance comes when a person has resources that the other side doesn't have. The resources might be financial, they might be intellectual. Another kind of imbalance, I think, can be of an emotional sort. And you're more likely to see that in a matrimonial setting than in other cases.

Now, in the first instance, where there's a disparity of position if you will, I don't have any great trouble with that. It seems to me that if we say that Alan's in a stronger position legally than she is, I don't think that mediation needs to correct that situation. One, I don't see how it does; second, I don't see why it should, in the same way as if we're talking about mediating between somebody who's the victim of a crime and a criminal. I don't know that they necessarily have to get to positions of parity. Much harder question, however, if you've got a mediation going on where there's a perhere there's a person in the position of dependency in an emotional context or a dependency on a financial basis. There, I think it is extremely difficult. And it's important when we talk about power imbalances to distinguish those three kinds.

I have trouble when I look at the tape here, of saying which way the power imbalance goes. Obviously, Judy feels disempowered in that she's no longer in the house. She feels that she is the one who has to justify her actions. But Alan on the other hand feels disempowered in that he has lost control over his family circumstances. I don't think it's unusual in a case for each person to assume that they're in the position of bargaining weakness. Bargaining power is an elusive concept, as I think that shows us. I don't see agreement as an end in itself. It seems to me that you're seeking to find if there is an agreement which both parties, if fully informed, chooses over not having an agreement. And I think that the mediator has some obligation to make sure that the parties are re fully informed and fully conscious of the choices that they're making. But once they make them, if she wants to renounce all her worldly goods, that is her decision.

Roz: Is there greater compliance to an agreement in mediated cases?

Wheeler: I am convinced that there are negotiated and mediated agreements that may be identical, provision to provision, to those that would have been ordered in court, and yet which are more likely to be honored, because the people have an investment in it, because they understand why their standard
of living has to go down. It's because, even if two can't live as cheaply as one, they can live more cheaply than two apart can. And as a consequence, having gone through that whole process of education about the other person's interests and needs, they have a better appreciation about what the agreement is, they have a better understanding of how fragile the agreement is. So I'm only half with the lawyer in that context. And as a consequence believe that you can be a superb litigator, that that doesn't per se make you a good negotiator.

There are some studies that indicate that there is a higher degree of compliance with mediated agreements than with those that are court-imposed. Those are preliminary, but there have been some serious studies. There's one in Denver that's been run by Jessica Pearson, looking at a large number of cases, where they've taken care not to compare apples and oranges. The notion is that these mediated cases really look quite the same as those that went to court, on every other dimension other than the fact that they were mediated. And there seems to be a higher degree of compliance in the mediated cases. There are also degrees of compliance, as well. So that it can be fairly subtle in terms of measuring effectiveness in this regard.

One thing that is striking is that there are studies that show that even in so-called uncontested cases... where after a period, perhaps a fight even, the negotiating people are able to submit a proposal to a court, and the court rubber-stamps it. Even in those cases, agreement frequently come unglued, typically in a form of non-payment of support. So that there's strong impulse here to find another way of doing business. I mean, any kind of objective look at what happens after people leave the courtroom, in an adjudicated setting, even when cases are uncontested, is pretty discouraging. The other side of the coin is that mediation doesn't have to be a panacea to be a significant improvement over what we've got.

Roz: It appears that Judy and Alan, without the aid of a mediator, are able to negotiate their continuing problems? Is that a positive result of the mediation experience?

Wheeler: I'm not sure that I'm as sanguine as you are about the way that they are negotiating. Perhaps the hostility has been brought down. They are more civil in terms of acknowledging that the other person has a point of view. But I see that as more a matter of courtesy than a matter of true acknowledgement. I haven't seen, as I watched the tapes, an awful lot of creativity on the parties' part, or a notion of, boy we really do have a problem here. We have very few resources that have to be put to an aw to be put to an awful lot of needs, let's think if we can come up with all different ways of solving it, and not be judgmental about them at this juncture, but let's throw them all out and see how we would rate them and on what sort of scale we would... They aren't at that point. It seems to me that they're
both quite defensive with one-another, and to my ear, the negotiation still sounds rather positional. Yeh, that is an advance from throwing pots and pans, but it's a long way from consensus.

Roz: What are the stages of divorce?

Wheeler: One thing to recognize in terms of the stages of divorce legally is that divorce litigation really is different from the kind of case that we see in the movies or on television. It is fractured into small pieces. There is seldom the three-week trial that is definitive. There are instance in contested cases where you have a beginning and an end of that litigation, but even there, it's been preceded, often by months if not years, of pre-trial activity that is in all likelihood more significant. Hearing on who gets temporary custody, subsequent hearings on modification, discovery in terms of who has what assets and where they are. So that there's not one discrete event where you start with everything that's unresolved, and you end with everything nailed down. It's much more (?). And to confuse matters further, in many states, those aspects of the case aren't necessarily heard before the same judge. They get handed from judge to judge, depending who is sitting and what kind of case in a given day. And as a consequence, there can be inconsistency as you wind your way through the litigation path.

I think that, and this isn't limited to divorce litigation, there's often an initial phase where the parties don't really appreciate the length of the journey that they're embarking upon. Where they assume that it's going to go faster, where they certainly assume it's going to be cheaper, both in terms of money and emotion, and it is only after a long period of time that they come to realize how expensive the process can be.

Roz: Is mediation less expensive than litigation?

Wheeler: Well, again, it depends how you count. I think that good mediation isn't cheap. I think that it's a cost-benefit equation. Investing a fair amount of money up front, and good mediation that produces an agreement that holds is in the long run a whole lot cheaper than a quickie divorce that comes unravelled. But I think those who are proponents of divorce mediation do a disservice by suggesting that it's cheaper somehow. I think that if it's done well, it's often as expensive as at least an uncontested divorce where there are lawyers on both sides.

Roz: What are the qualifications of a good mediator?

Wheeler: First and foremost, it almost goes without saying, but we shouldn't forget it, is that the mediator has to be acceptable to both parties. And the most highly-credentialed, ethical,
responsible mediator, who is chosen by one party over the opposition, or even with the skeptical approval of the other, will likely just crash and burn.

The parties must determine for themselves what they need and what sort of mediator they have to have. I think at the outset, in any preliminary discussion, it's a mediator's obligation to describe different forms of mediation, and what it is that this particular individual can provide, what the pros and cons of those other forms are, so that the people can make an informed choice about what it, what is appropriate for them. People who either aren't carrying a lot of emotional baggage, or don't choose to resolve it at that juncture, may want to have a lawyer or an accountant, or somebody who has those skills, who can very quickly come up with a workable agreement. People who recognize that they're part of a complex system, and that they've got to understand that system if they're going to function as whole individuals, will have to go to someone else. But I don't think that it's a matter of having one universal type of mediator who's appropriate for everybody.

I do think that the key is that people understand the range of mediation services are available, and then jointly choose what they need. This may change over time, too. You know, it may be that there is a need to have some kind of interim resolution and you do it on a quick-and-dirty basis, and that works out whatever separation arrangement has to be reached. Long-term, they may need something that is more therapeutic.

The choice that's made today doesn't necessarily constrain you in terms of what you're going to do tomorrow. Maybe the most important element, good judgement, in a mediator or a lawyer is the hardest for a perspective client to test. I think one thing that clients in both instances frequently forget, is that the lawyer or mediator is their employee. Sometimes if the relationship isn't working well, the best thing to do is to terminate it. Yes, you may regret that you wasted time, yes you may regret that there have been some fees that have been wasted, but there's no return in spending good money after bad.

There are two schools of thought as to what mediation is about. Whether it is a discreet, problem-solving process, or whether it's a larger process addressed at resolving inter-personal conflict. If it's the latter, than clearly you need somebody who has mental-health and therapeutic skills. If it's the former, having those skills I don't think gets in the way, but you could be a lawyer, an engineer, a teacher, but somebody who is perhaps above all else, a good listener and someone who is imaginative about seeing possible accords that just aren't apparent to the parties themselves.

There's also the question as to whether somebody in this
field needs to have specialized knowledge about the sum and substance of divorce. My view is that information has to come into the process someplace, whether it’s through the mediator — and if the mediator is a lawyer or accountant, that information is provided that way — or whether it’s as a consultant to the parties coming in. The parties have to feel some have to feel some measure of respect and understanding if they’re going to establish trust with you, which will ultimately transfer to the mediation process, and finally to enough trust so that they can build an agreement on it. That, in some ways, may be the biggest challenge to people who are practicing in this field. To maintain that balance of interest and compassion. At the same time, to keep enough distance so you’re not consumed. To be able to do that for a long period of time is a test both of character and emotional resilience.

Roz: For divorce counsel, in which expertise is needed in such varied areas as tax law and civil procedures, do you recommend an individual find a matrimonial firm?

Wheeler: If you cast the choice between one young general practitioner and a matrimonial firm that has a host of experienced people, that’s an easy choice. But I do think that you can get very good assistance from one experienced, responsible person. I don’t think that it has to be in a law firm context. You do have to have expertise, from a legal point of view, on civil procedure and tax, real estate, those sorts of things. Those aren’t subject that one learns in a week or two, but by the same token, we aren’t talking about heart transplants here. You can be quite good at this and still be relatively young. Indeed, it’s probably easier to assimilate the substance of this, than it is to develop the interpersonal sensitivity and judgement — there aren’t any courses that I know about in good judgement — that’s required to be good in this.

Roz: Describe the mediation process.

Wheeler: There are, to speak in gross terms, two quite different conceptions of divorce mediation. One comes from, if you will, the mental health professions, from the therapeutic tradition. The other comes from a legal tradition.

The therapist would say that, until you can work on the pathology of the couple, until you can get people to understand their own personal needs, that it’s futile to be working through the nuts and bolts of an agreement.

To characterize the lawyer’s point of view: these people have problems about where they’re going to live, who’s going to be responsible for the kids, who pays what in the way of taxes and support, and the like... and that those specific problems can engender pathologies.
Roz: Are women generally at a financial disadvantage in divorce?

Wheeler: It's beyond doubt that women are at a financial disadvantage in divorce. I think that's true whether you're talking about divorce litigation, divorce negotiation or divorce mediation. The reason they're at that disadvantage is one: that their economic opportunities are less, in part because of gender, and that's compounded by being married in many instances. It also has to do, frequently, with who has had responsibility for the assets during the marriage. It's not always true, but it may be that the husband has been the one who's handled all the money matters and has a better sense of what is where, and how it can be managed.

Roz: An individual's concern may be who can get the best settlement, the mediator or the litigator?

Wheeler: I worry about people who cast the issue in terms of, is mediation better than litigation, which should we do? I don't think that we have to answer that. We've already seen that ninety percent of these cases are negotiated, are settled out of court, the parties attempt to reach resolution. There's a lot of encouraging evidence that negotiation, at least in some instances, can be facilitated by mediation. Let's work from that basis, as opposed to saying that we're going to change the world and move it entirely from litigation to mediation. We're most of the way there, already. So the question is, how do we do something that we've done for a long time, how do we it better? I certainly understand his (Drannoff's) argument, and that is that because I'm known - I'm paraphrasing it - to be a very good litigator, then people are more willing to talk settlement with me.

But I think that he (Dranoff) is saying, if I hear him correctly, that people are willing to concede more to me because they know what I can do to them in court. Ultimately what we don't know is whether those agreements, in which people have made concessions under the threat of a particularly brutal court experience, whether those agreements hold or whether they do not. Maybe they do. But it's also possible that they don't. And if they don't, then I'm not sure that we can give him the title of being the best negotiator.

Obviously there are instances where cases are non-negotiable and you have to go to court, and you want to be skillful when you do that. But the notion of holding that as a club which promotes a good settlement, no, I don't see that. A negotiator has to do far more than make it clear that they've got a good alternative. They have to be very creative about, not merely the substance of an agreement, but the manner in which it is reached.

Roz: Do lawyers escalate animosity?
Wheeler: There's an atrocious book, called The Lion's Share, where a divorce lawyer advises his male clients to deplete all of the bank accounts at the instant of separation, on the ground that you can always put the money back. Well, you can put the money back, but you can't put the trust back. That kind of action often precipitates not merely an opposite reaction, but an opposite and escalated reaction, and it's very easy to get in an arms race. It isn't necessarily lawyers who do this, or who feed this. People are at their worst in these cases, and even the best of lawyers sometimes have a hard time tempering the hostility that exists. It requires restraint on both the client's part and the lawyer's part to avoid that kind of legal arms race.

Roz: When is mediation appropriate?

Wheeler: Depending on which model you adhere to, or where in the spectrum between those poles you locate yourself, the decision about what case is appropriate for mediation is affected by your outlook. There clearly are cases that are non-negotiable, because people want radically different things. One wants a divorce and one does not. Or a situation where a person needs, or feels they need, some kind of public vindication that's going to come through a contested divorce. Those attitudes can change, of course, over time, and frequently they do.

But not all cases are negotiable and not all are amenable to mediation. I think in the last analysis, the parties tell you either directly or indirectly. Bear in mind, too, that even in the gray area case, where it's not clear that you can get complete resolution of every issue, there may be short-term things that can be worked out while the long-term battle is going on. It's the rare case where some kind of preliminary mediation is not worthwhile. But it may be that the gains there are quite modest.

Roz: Was mediation appropriate for Judy and Alan? After two years they have not finalized an agreement.

Wheeler: The negotiation goes on and on and on, even after an agreement is signed, because it has to be implemented and in some instances revised. The fact that discussion is continuing, I don't regard that as being bad. What is discouraging in that case is that there are still some rather large issues, both financial and emotional, that are clearly left hanging. I'm not ready to fault the mediator for that. As I said in an earlier context, not all of these cases are negotiable. You really have to ask the question that an economist would ask, and that is, as compared to what? Where would these people be without a mediator? And it's conceivable they'd be even further from a resolution than they are in this instance.

Roz: Can specialists help people with little assets and income?
Wheeler: There are some people who think that you only bring in the accountant or the tax specialist in cases where there's a lot of money at stake and you can play fancy games with trusts and the like. My view is that where you need that person the most is where the resources are small. If you can somehow or other save another ten or fifteen dollars a week, that may be critically important to the way in which people are living.

We're in a period where tax law is potentially going to be revised in Congress and possibly simplified. But at present there are enough wrinkles that you need some degree of expertise. Frankly, I don't think it's the most complex area of law. It is not like securities registration, or something of that sort. It is something that a non-lawyer can master in time. But it's not something that you do off-the-cuff. As I say, often it's very very hard to find those trades that will lead those parties to a position where they're a little better off, from their point of view, in agreeing than not agreeing. And you've got to squeeze out of every possible tax-saving and other kind of advantage, every possible benefit that's going to sweeten the pot enough to make it big enough to divide in two.

Roz: Compare mediation and litigation.

Wheeler: If your goals are to resolve the emotional issues, then for mediation to work it has to be a long-term and very serious commitment with a very good professional. Success is hard to come by on that score. But by the same token, it's hard to see how those issues are addressed in any constructive way in litigation. So any attempt in that direction is to the good. In terms of resolving the more narrow dispute... who gets the house, is the house sold, how is income going to be divided, it strikes me that mediation clearly has an advantage over litigation. No matter how well intended and how experienced a judge is, even on questions of tax law and the like, a judge can't know the preferences of the parties and the needs of the parties as well as the parties do themselves. The parties are the ultimate experts in terms of which they would rather have. All of the house with the mortgage in order to buy out the other person? Or whether they would rather live in a smaller house without that kind of burden? And in a quick hearing before a judge, it's hard for true preferences to get out. Mediation is vastly superior in terms of tailoring something that's going to be useful for the parties.

The plus on litigation is where somebody needs the seal of court approval in some way. Where there is, for emotional reasons, for personal reasons, the need to tell one story and to get it out. That really does exist in some instances. Lawyers have waved that flag too often, and lawyers have spoken about litigation as a cathartic process, where lawyers are self-interested in the propagation of law suits. I'd rather hear
that argument made by somebody who knew more about emotional catharsis than lawyers do.

Roz: What is the contradictory opinion on whether divorce mediation helps or hurts women.

Wheeler: There is a feminist argument that divorce mediation is bad for women because it's co-optive, that it tends to suppress conflict when there ought to be conflict. I understand that argument politically, but I worry in individual cases that it basically is predicated on the notion that a woman has to fight for a larger cause and has to be a martyr for a larger cause. If there really is a resolution that will improve her life in some way, she must make an election of whether she wants to make it a cause or not. I don't think that we should suppress divorce mediation because we're worried that it's co-optive in some sense. But I understand the nature of that argument. I'd rather see that feminist issue addressed through other means. To the extent that women in any kind of divorce situation or power-imbalance, because of economic factors, then those economic considerations ought to be addressed and it's better to do that directly, than try to do it through the wagging tail of mediation. I think you've got to go to the beast itself. There is that argument, however, and I think it should be acknowledged.

Whether women are at an emotional disadvantage in divorce mediation, I don't think so, but I can imagine that other people might. I don't have any doubt that women frequently negotiate differently from men do. There's a whole literature on this, that Carol Gilligan book, In A Different Voice. There are certain kinds of things that men often though not universally have an advantage in, analytically. There are things that women do in terms of listening that are, as a rule to which there are many exceptions, far superior to what men do. Whether these have anything to do with chromosomes, hormones or whether it's nature or nurture, no one knows at this juncture. I hesitate to characterize the difference that exists in the way that men and women negotiate as one which puts women in a position of weakness. I think that it may be that in those transactions, men often appear to be more aggressive and more certain.

If we think back to this thing between Judy and Alan, he sees himself as a person with strong analytic skills, and he refers to the memory that he has, and he knows where everything is. I have a feeling there's a little tape recorder there in which if Judy has said something today which contradicts what she had said last week, he is good at calling her on that contradiction. But is that a virtue? Even if it's true? It seems to me that if he were a very effective negotiator, rather than calling her on the contradiction and putting pressure on her that way, he would try to find in the contradiction some opportunity for choosing that part of the contradiction that
will lead to agreement and disregarding that which is not. It was just one small bit of that negotiation but there was something that was, I would ascribe in an intuitive way, as being male in his characterization. Now I may be in a double loop here, you see, by being smart about his smartness, but that was just a reaction to what I saw in that instance. If people are looking to mediation to cure something which is a much broader social phenomenon, they're asking far too much of it. Just can't be done.

Roz: Characterize a good mediated agreement.

Wheeler: There are to me, a number of dimensions of agreements that beyond efficiency, even beyond equity where we've been talking about power imbalances, you want an agreement that is going to be workable. There are some mediators in other fields who say that the sole goal of mediation is to get people to sign something, and if there are a hundred grievances that follow from it, that doesn't matter. I find that being rather short-sighted and disingenuous. It strikes me that a workable agreement is clearly better than one that is not. And in the divorce area, workable agreement means one that - and this is a little bit of as paradox - that is consistent and predictable enough that people can order their new lives. They know what their obligations are, they know what their rights are, and they can plan accordingly. But at the same time, circumstances tend to change so quickly after divorce, a good agreement is one also that is flexible enough to accommodate those changes. There's no right answer. But there's inherently a trade-off between that amount of certainty and that amount of flexibility that's going to serve the interests of the parties. I think that that's really a key element.

I think that if you compare what we're talking about here, negotiated agreements or mediated agreements, with what happens in court, in court you always get an order. You always get a resolution. But if you look at the studies of what happens to those court orders after a year or so, and you see the frequency with which those people are back in court, you can't give those court orders very high grades. It's very easy to have contingent agreements. It's in the same way that you can have an employment contract for a period of years, you can have a separation agreement that covers a specific term. You can also have an agreement that is long run, but which has flexible formulas in it. Or which in the case of a dispute, refers the people back to mediation or to binding arbitration as opposed to going to court. So there are a number of different ways that one could go.

I think it is common early in divorce negotiation for people to feel somehow that they have all these things that have to get settled, and they have to work out a life plan that's going to cover everything, and that they're uneasy with the notion that
they're going to work very very hard to create some kind of set of rules that are going to govern their relationship for the next twelve months. In time, living and perhaps a lot of uncertainty, twelve months of clarity begin to look better and better. And frequently a shorter-term perspective can have a salutary effect, because people feel that they can try things on experimental basis, that they're not committing for life, they're not signing off on custody one way or another for life. As a consequence it's easier to make concessions, and the concessions in turn elicit concessions the other way. But it takes (?) of people I think to assume that perspective of being more short term.

There's the cliche that most divorces end in marriage. And it really is true. The percentage of people who remarry after divorce is very very high. And that is a radical change in circumstance. It can have a bearing on a wage earner's capacity to support, it can have a bearing on somebody's need, it can open new custody options. No one at the moment of divorce, or few people at the moment of divorce, can be certain about what their marriage prospects are. And yet within one, two, three years, there can be somebody new on the scene. To try to plan in such a way that is blind to that likelihood, not merely that possibility but that likelihood, seems to me to be inviting problems down the line.

In the case like Judy and Alan's, where there's so much emotional baggage, where there's so little in the way of resources, you can almost say that any agreement that is minimally acceptable to both of the parties is a good agreement, because I think there's such a small area of potential resolution. I think that when you talk about efficient agreements in terms of maximizing joint benefit, you're in the case where there are more resources, where there are more imaginative things that can be done with the parties.
Dranoff: Step by step matrimonial: send a letter; response from the other lawyer; sending out an exchange of financial information between the attorneys; reviewing that; meeting between the attorneys to see if some basic understanding can be agreed upon; meeting between all four parties, two lawyers, two clients, to see if they can agree; cannot be done, starting litigation; go through all the processes of litigation, discovery, and depending on what happens, did he stop paying money, did he hit her, these are things that occur during the course; eventually trial; those are the steps of the case.

Dranoff: Most cases start with a letter from another attorney. A man comes in. He says, I got a letter from my wife's attorney, she wants a divorce. Or they'll come to you and say, I want a divorce, please start it. So the only difference between that is whether you're answering a lawyer's letter, or initiating by sending what's known as a lawyer's letter. The letter is a stock form-letter. "Dear Sir, or Dear Madam, please be advised this office has been retained by your spouse in connection with your marital difficulties. In order to reach some equitable solution, please have your attorney contact me as soon as possible. Very truly yours." You'll notice certain things in that letter that are very interesting. Number one, in no place in that letter do I set force the word divorce or separation. I just say marital difficulties, because sometimes you're able to put people together. When someone comes to you, and just from speaking to them you know this is an incident, a blow-up, you don't even want to get the case started. So I say we don't talk about anything other than a matrimonial dispute, and to please have your attorney contact me as soon as possible. Very truly yours." You'll notice certain things in that letter that are very interesting. Number one, in no place in that letter do I set force the word divorce or separation. I just say marital difficulties, because sometimes you're able to put people together. When someone comes to you, and just from speaking to them you know this is an incident, a blow-up, you don't even want to get the case started. So I say we don't talk about anything other than a matrimonial dispute, and to please have your attorney contact me. I will not speak to the other side directly. (?) of ethics provide that you can not speak to a layman who's represented by an attorney. I won't even talk to them beforehand; first, because I don't need the screaming and shouting and yelling which usually takes place, or the threats they're going to come down and bop me in the nose... you'd be surprised what goes on over these ears. I say, go get yourself a lawyer, and I'll speak to the attorney. Generally, what will happen if I receive the letter, if I represent the party who received the letter, I will send the letter to the other side saying, I'm the attorney on the other side, and please contact me. Eventually, the two lawyers speak, and we exchange what's called Net Worth Statements, to see what property we're talking about.

Dranoff: ...most cases are settled some time before trial, but most cases are settled after litigation begins. Our position is this: we will give our adversaries anything they want, tax returns, we'll open up all the books... We have to litigate sometimes for two reasons: from the very nature of what the law is, and B, to get information. If the other side doesn't want to
give us the tax returns, I have to start a matrimonial action with divorce before I can get those papers. I can't just start an action to get those papers.

Other lawyer(?): As a matter of fact, recently, I think we're just about sending off the net worth statements filled out before we even serve a summons against...

Dranoff: Automatic. You see, one of the things that we deal with is the mores of society at a particular time. And what's going to happen, we're going through a tremendous revolution in matrimonial law. In ten years from now, you won't even recognize it. Mediation's going to be here, whether you like it or not, most...

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Dranoff: ...knowledge of taxation, a knowledge of basic accounting principles, he has to know the laws as it deals with pensions, he has to know the basis of matrimonial law and he has to know how to litigate. And those are the four, five basic qualities. You've got to speak to the people in the community and find the type of lawyer that you're interested in getting. Do you want a tough litigator; do you want someone who's a hand-holder, but who also knows how to go to court; or do you select the firm that has all of these? That's our position, where you have different people doing different things.

Judge(?): If you have an attorney who's afraid to litigate, who's afraid to get into the courtroom and cross swords, there's a good chance that you're not going to get your due, because the other side's going to pick up on that, and they're going to use that to their best advantage, and you're going to get a poor settlement.

Dranoff: Fifty, sixty, seventy percent of the applicants who want to go into matrimonial law are women. They talk more to the other women. Yet, when it comes to the courtroom, there are more men. Male attorneys.

Judge(?): Well, they want a female attorney who acts like a man in a courtroom.

Dranoff: Tough.

Dranoff: It's a matter of not being pushed around. You have to understand, you're dealing with high emotions. Court itself is a very tension-creating situation. Most people have no idea what a courtroom is. Most lawyers have no idea. Young kid lawyers walk into a courtroom, they turn purple...

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Dranoff: ...number one, he's got to understand that a lawyer is
not god. Nor does a lawyer walk on water. Nor can the lawyer change the law for them. They're stuck within the framework of what the law is. Also, you've got to deal with the economic situation. So what he should, or she should expect from an attorney is that the attorney will get the best possible deal for them, within the framework of the facts that are presented in a particular case. The way I put it to them, if the support is somewhere between a dollar a week and a dollar-twenty a week, my job when I represent the wife is to get her closer to the dollar-twenty; when I represent the husband, to get it closer to the dollar. But not to get, for when I represent the husband, thirty cents, or when I represent the wife, two and a half dollars. The biggest problem that I see amongst the clients is the misinformation that they get from the groups that they sit with... their coffee-clatches, and the discussions, or Cosmopolitan magazine: they're half-truths.

Dranoff(?): ...got to let your client know the realities of life. One of the biggest problems with lawyers is that they don't let the clients know realities. I have a lot of clients walk out. I tell them the truth right off the bat, what they're facing...

Dranoff: When I was a baby lawyer, I used to wonder why people went to the bigger firms and hire the more expensive lawyers, and I see it now after thirty years, because we're not pushing cases. Young lawyers have a tendency - without any rapping them, this is a learning process - of taking on cases that should not be taken on...

Dranoff: One of the advantages of using a matrimonial firm, you've got the gamut, you've got the best of all possible worlds. Judge, he has the patience of Job. He could sit for a client with hours and talk with them; I don't have that patience. My mind's going in seventy-two directions at once, because I am preparing for court, I am constantly in a war.

Dranoff: ...for the attributes that a good mediator should have, number one: must know the law. If you're dealing with the economic end of a divorce, they've got to know what they're doing. They can not be the physician who doesn't know how to diagnose. How do you prescribe medicine if you don't know what's wrong with someone? Well, how can you, Joe, just sit down at a table, and say, well, we're going to split everything up fifty-fifty, without knowing what's owned? And what's knowing what's owned, you got to dig into it...

Dranoff: ...New York still is a fault state; you cannot get a divorce in New York, unless someone is at fault. Except if you sign an agreement, and then a year later you convert that separation agreement into a divorce decree. But there's no such thing as no-fault in New York. But there's very little discussion today, regarding fault, because under the old law, fault would...
be a bar to the woman getting support, and that was unbelievable. The man could have gone, and been beating the wife up on a daily basis, being a drunk, a pervert, slept with every woman from here to Timbuktu, and if the wife on one occasion committed adultery, and got caught, they both would get divorces against each other, and she could not get one cent of support, and was thrown out of the house.

Dranoff: Up until July in 1980, New York had a common-law situation with respect to property, which said in effect, anything that was in the husband's name belonged to the husband. And anything that was in the wife's name belonged to the wife. Anything that was in both names they shared equally. The husband had the obligation for supporting the wife for her entire life, unless she remarried, or resided with an unrelated male, and held him out as her husband; just living alone wasn't sufficient. The property was not divided unless it was in both names. And New York was a common-law state, and most states were common-law states. What happened in effect, was that the husband as a matter of course, would be accumulating the family wealth and putting everything under his name, particularly if he knew he started to plan a divorce a number of years before. So he would leave his wife, and own the business, and the wife had no claim to the business. He would have a pension if he worked for someplace, the wife would have no claim to the pension, and all she can get is support. He would leave the state, and half the people never collected the alimony that they were awarded in the first place. All these inequities then led to the Equitable Distribution Laws to be carried out in the various states: Illinois, Pennsylvania, New York, Connecticut had it for many years, Jersey has it for about sixteen years, and it gradually spread all over the country, and this is now the type of divorce that we have.

Dranoff: My function is to go to court, and to get from the husband, if I represent the wife, enough property to secure the wife. My job is to get her sufficient maintenance so that she could rehabilitate herself to get a job in the future other than being a typing secretary or working in Woolworth's. Because we have now what is in effect, rehabilitative maintenance. If we get her support for five years, at the end of five years, she's still where she is, she can go right back to court to extend it.

Dranoff: What happens today, is the woman is going to rehabilitate herself. But for a number of years the husband has the obligation to support her, and the court recognizes that. They said, very recent case, that where a woman put her husband through medical school - originally the lower court said she had an interest in his license - they said, no, not in his license, but now he has an obligation to support her, for her to train herself into something. That is what the law's obligation is, not to worry about the fact if she makes the wrong selection, that's
her choice, not the lawyer's problem. My job is to get her sufficient moneys, where she doesn't have to make that crazy choice to run to the first job and be tied up selling string in Woolworth's. Rather than going in, this may be a woman who graduated high school with a straight A average, but got married a year later and had babies. For that she's going to go to college, and she's going to go maybe for a master's, and maybe for a doctorate. And I've had them go the whole gamut, and make a life for themselves where they don't need the husband.

Judge(?): The problem is, Sandy, on a large percentage of the cases, in which their total income is forty thousand dollars a year, that just can't happen.

Dranoff: That's the problem.

Judge(?): Those are problems...

Dranoff: ...should I go to work during the pendency of the trial, and my answer's this: if you can get yourself a good position, or a good start, why not? So you get twenty-five dollars a week less than your husband. Are you in this only to be supported by your husband, or redo your life? I had that recently. A woman got a fantastic offer, something like thirty thousand dollars a year; based upon her education, she wouldn't get a job more than eighteen. She just got a break at the right place at the right time. Now, she said, what happens, I won't get any support from my husband? I said, so what? Are you here just to grab from your husband, here you're gonna have thirty thousand dollars, no question about it, you're not going to get any maintenance from your husband because you can support yourself, and your child support's going to be cut down, because you're going to have to help support your child. But she didn't know if she wanted to take this job, because she would get less from her husband. Now, your job as a lawyer is to say, hey, that's not that important thing. So what? See, years ago, when you spoke about support forever, it was a little different than you're talking now, and you're talking short term anyway.

Dranoff: ...you also have today, reconciliation agreements, where people go back together, and enter into agreements, and then if they split in the future they don't have to go through this battle. It's sort of like the old pre-nuptial agreement, except it's made after the marriage. We can do that today in New York.

Dranoff: ...I found out generally that many women in the middle class are being hurt by the Equitable Distribution Law. Let me explain to you why. Under the old system, women were able to be supported for life. Under the new system, they have, in effect, rehabilitative support. If people have a lot of money and a lot of property, in theory, you can divide it and everybody's happy. But when you have just a house in the suburbs, and a pension
that won't be due for eight or nine or ten or twenty years, what have you got to split? Before, even if she had to split the house fifty-fifty, in most cases as long as she was the innocent spouse, she wasn't called bad', she could live in that house until the child became eighteen, and then they'd sell the house and they d split it and then the husband would have to support her. What's happening today, the amount of support has been reduced, the length of time has been reduced, and she's still winding up most times with fifty percent of the house and nothing else, because there's nothing else to divide. When you have a business, usually you're trading off a business for a house or a pension, what do you do with the people who own a fifty thousand, thirty thousand... Say it's a cop and fireman, they're making thirty-two thousand a year, all they've got is a house and a pension that's eighteen years down the road. Women are not doing that well under it, but that's inequities and you can't help that. Women have, over the last number of years, given up a lot, in exchange for the equality provisions.

Dranoff: Who is the best settler, the tough litigator, or someone who doesn't litigate. I feel that I get a lot of settlements that other people don't get because people don't want to go to court against me. My reputation is such that most people are told I'm very difficult to deal with. And they tell them that right off the bat, and I tell them that. But if you need someone to go to court for you, then I'm the one to go to court, so...

Dranoff: They say their lawyers cause many of the problems. Sometimes you get the easiest case that can be settled almost immediately, and because of the way that the clients are acting, whether it's your own, or the other side, they create a complete war. And what could have been settled inside of three months, becomes a dragged-out, one-year battle that requires court proceeding, that may take weeks and weeks. We have to do the proper job. How do I know if someone is getting a good settlement? A woman comes in to me and says, my husband has offered me a thousand dollars a week and the house, how do I know that's good or bad? You can take the best business man in America, who'll buy a shopping center without blinking and eye and spend three million dollars, and yet refuse to give his wife an extra twenty-seven cents a week, to buy wrapping paper.

Dranoff: My x-rays are network statements, income tax returns, and examinations of businesses, and I have to bring in accountants, pension evaluators, stock evaluators, real estate appraisers, possibly, depending on what property is owned.

Dranoff: Most people, or most women - they're the ones who generally don't want the divorce - will accept it after a while. One thing I can't do, and that's almost heartbreaking, is to get the husband back. That's not my function. I can't do that. I'm not a psychiatrist. I'm a...
Dranoff: Most lawyers push joint custody today. Joint custody's almost a norm today. Understand the position of joint custody. Very few judges say, and the court of appeal says that, you don't give joint custody after a court battle, you only give joint custody if people can work things out together. But from the very fact that they're in court fighting with each other, how are they going to agree on whether the kid's to go to ballet or football?

Dranoff: Most men, if they really care about their kids, want the wife to take care. They really feel the wife is the better one. And most men don't want to and wouldn't know how to take care of the kids.

Dranoff: It's interesting, most agreements are followed; it's when you litigate that they're not followed. People love to feel that they've made the decision, rather than some guy in a black robe who may not have any knowledge at all of matrimonial laws. The judge was in family court; you go into Supreme Court, you may have a judge who hasn't been in a matrimonial part in twelve years. Not in Rockland, but maybe in New York county.

Judge: You had decisions come down in those cases. We've had decisions, we had a decision came down recently on a (pendenti liti?) case, a temporary support order, which came in at six hundred odd dollars, which should have been maybe between three and four hundred dollars. A week. The result is our client, husband, that got that order; it's an impossible order to meet. He doesn't make enough money to pay that much; it just can't happen.

Dranoff: The judge was inexperienced.

Dranoff: The argument that the men give: I want to give what I want to give. Don't worry, I'll take care of my kids.

Roz: Do they?

Dranoff: No. But that's their argument, because at that moment they believe it. Understand that, when that split take place, the husband, the father takes the position that I'm the best father in America, the kids have nothing to do with the split. The mother and the father have their own problems, it doesn't have any effect upon the kid; maybe it doesn't at that moment. And then Shirley comes into the picture, and a new family develops. The attitudes gradually change...

Dranoff: Most attorneys feel that mediation has its place, but that the mediators are not qualified. Most attorneys feel that the mediators should be attorneys... because of the lack of knowledge of the mediator. It's a paradox. We want lawyers to be mediators, because you know the technical end of it. Yet I feel that most lawyers are not good at mediation because they're
advocates. However, most of the lawyers who are going into mediation are not trial lawyers. It is a very difficult thing for a lawyer who is used to being an advocate, to go in there, and to be non-advocate...

Dranoff: ...custody. And that has always been the blood-letting of the legal profession.

Dranoff: ...custody, sometimes I wonder about the advocacy system in the custody proceeding. Probably, mediation, when it's a proposal by the way, has its place in a custody situation. If it can be worked out by mediation, I'm all for it. If it can't then it has to go on to litigation, but I think there ought to be an attempt first to mediate through good, professional mediators. I don't care about lawyers now, because you're not dealing with property, but I don't want to have a shrew(?) make a final determination. I don't think that it should be, well, the psychiatrist says that the woman is better than the man. You know, it's very funny when you get someone who professes to be women's movement and she wants this and she wants that and equality. You say, well, you realize, you and your husband will have joint custody. What do you mean joint custody, I'm the mother. Suddenly she reverts to twenty years ago. Well, the mediator can point that out to her... quicker than a lawyer can. When a lawyer does it, we tell, we don't try to have them understand. And I think that's where the basis of mediation comes in. But there are times, you can mediate until you're blue in the face...

Dranoff: ...people have nothing, the best thing is mediation. Because you're not going to divide anything, what are you going to mediate? You're going to mediate custody. And a case like that should be mediated. The more money, the easier it is to settle. Because everybody's happy. You know, you may get into a point of contention of when you're going to get it, but the numbers that you start with are usually the number that is sufficient. If the husband is straight! It's when the husband suddenly becomes sick with instant poverty that you have the problem. But if he's straight, he has money, I'd rather have a case with people with money for the obvious reasons. But in addition to the obvious reason, I still think it's easier to settle that case.

Dranoff: ...what you're doing, you're trying to channel the people into a spot where they themselves can make a determination. A mediator doesn't tell them what to do, it's to make them realize, what are you fighting about?

Dranoff: Mediation is not a determination, so mediation, you can sit with a psychiatrist, or therapist who can communicate with both sides, make them fell at ease. Lawyers generally do not make people fell at ease. Particularly courtroom lawyers, from the very nature of what we are, we're gladiators, we're in a
courtroom, we're hired guns. That's our job. Someone was doing a much more subtle way, someone got a smile on a face, some of them are very charming. Others are very hard-nosed. And I'm known as a hard-nosed lawyer in a courtroom.

Roz: So, when you've had an opportunity to mediate, how do you switch hats?

Dranoff: I've only mediated once, in my whole life, and I won't mediate. I'm not equipped to be a mediator. I mean, I had two people come to me, they were not too apart. By the time I got to them, they were at each other's throats. I am an immediate advocate. I make a judgement on the side that I'm going to be with. I can't mediate. I don't want to mediate. That's not my function.

Dranoff: Are you going to eliminateanimosity, for someone getting an inequitable distribution of the property, or a bad deal, that's where the measurement has to be. Yes, you can have peace and quiet, a la Chamberlain at Munich, "Peace in our time". Do you exchange that for the law of the courtroom, when you're going to get hurt financially? I don't know; mediation hasn't been around that long. I think if you have trained mediators, maybe a panel, two lawyers, but then the lawyers are in a position of giving advice, and a lawyer can't give advice to both sides. Because, then the purpose of mediation now has ended. You're now telling them, rather than asking them. So, I think, other than custody, I don't know enough about it, to go in to make a determination. I know I could not mediate.

Dranoff: Sometimes the expense of lawyers acts as a deterrent to litigation. And towards settlement. My wife and I got married, I got eleven dollars in the bank, and that's it. I got married and I went into the army three months later. I spent the first two years and came out of the army and my wife was pregnant. So, we never really had to save money. All the plans, my wife was gonna work, and she was working in television and things like that, and nothing ever materialized. But she went back to college after. She was nineteen years old, I was twenty-one when we got married. We were babies. I consider myself a man's man in one respect, I like fishing and I like going up to the woods, and I love football. Very macho, in every thing that I've done. I'm an ex-football player. All that is my way of existence. My wife, as I told you before, is an artist. Well, where do you think I was three weeks ago? In the Museum of Modern Art with my wife, looking at green paintings with little red dots. But I went, and I went with her. I mean, I don't know what she saw, and I sat there and once fell asleep, but I made no comments. At one time, I would have sulked in the corner, and ruined everybody's day. But yet, I'll drag my wife up to Indian Lake, New York with me, and she'll sit there, not being able to do anything. She doesn't want to go in the boat, but she'll try to participate to satisfy me. Or she'll say to me, go, and I'll go myself. Last
weekend I went myself. And she went to take photographs of flowers. And that's what I'm talking about. If you feel secure enough in your marriage, you can go away for your weekend, and leave your wife home, and you wife feels secure enough that you're up there, that's what marriage is all about. One of the problems of marriages of my generation, is there was a senior partner and a junior partner. And I think that is melting away with the kids. And I think you're going to find divorce rates going down. Because they're able to talk and there's no boss in the house. They're partners, in every sense of the word. The husband doesn't make these decisions. I can't visualize my younger son making a determination without clearing with his wife. All these things is, you can't lose thirty-one years of being together, there's a lot there. But it was stormy, it was an education to me, my fault, most of it. Any problems was caused by me. My wife was a very understanding person, and I was rigid, and I think in the last ten, twelve, fifteen years, I mellowed a great deal, I think, in direct relationship to the amount of success I have in law. And my frustrations and my hostility is taken out in the courtroom. I don't take my problems home. If I'm going to battle, I'll battle there. And I think that's where the change was. What keeps a good marriage together? Compromise.
Roz: Do you think divorce can be viewed as a situation of moral conflict and a choice between responsibility to one's self and responsibility to the other person?

Gilligan: I think divorce is a decision that can raise moral questions for people, about what are their responsibilities to other people. How can those responsibilities be fulfilled under certain circumstances of relationship. Particularly where there are children involved, how can they deal with the connection between them, represented by the child, in a way that's responsive to that relationship? I mean that obviously the relationship includes themselves, and their own needs as well as the needs of the other and the nature of the connection between them. But, when divorce decisions shape conflicts involving responsibilities to oneself and others, then divorce raises moral questions. How does one think about how that's to happen in such a situation?

Roz: When you look at the piece with Judy and Alan specifically, it seems that they both have very different definitions of marriage.

Gilligan: Yes, he defines marriage as respect, she defines it as dialogue. In a sense, those are such really different definitions of what marriage entails, that you could imagine precisely the kind of difficulty that they encounter in trying to speak to one another.

Roz: Do you think that's a problem specific to those two personalities, or do you think in some way they're generalizable to male/female?

Gilligan: Well, when you start talking about generalizable to male/female, you start to have to imagine, what is the study that you would have to do of males and females in this country, in other countries, that could possibly support a statement: women, men... and the other thing is why do you want to divide the world this way? But if you ask a different question, which is, whose experience has defined our understanding of human experience, marital problems, family relationships, as they are really worked into the formal interpretive systems in counseling, in law and so forth? Then you have to say, well, women's experience really has not been seriously considered. From my own point of view, you ask a very different question. You don't ask, are women different from men, unless you're about to embark on the study I suggested of millions of people. But you say, is there something we could learn by listening to women, that perhaps would give us new angles on how to think about these problems?
In that sense, Alan's description of the essence of marriage as respect, and family, and home, and so forth, that gives you one view of what marriage is about. And certainly the word respect keys in with central notions of what is morality, respect for persons. And to show respect for persons. And he says to Judy a lot of things that follow from that concept, which is, you must take the consequences of your action, you must see yourself as responsible for what you do. Facts are facts and this is what's happened: you wanted to leave, therefore, you must now pay the price for that decision. And you see her as, at once, coming in from a totally different angle and saying, marriage is a dialogue. Now, I think you have to stop and you have to try to say to yourself, what does she mean? Then you see her having a very difficult time speaking within a framework that he has set up. He says, you're unwilling to pay consequences, you're unwilling to be responsible. She's trying to say, or at least this would be my interpretation, that's not quite right. It doesn't quite get at what I'm saying.

To me, where the male/female question would come in is to say, maybe when we're having difficulty understanding what women mean, rather than rushing to the stereotypes that women are confused and they don't really know what they want and they can't really say clearly and that they're indecisive, you might ask, what is she trying to say? In other words, what is the logic of her position?

And now you talk about marriage as dialogue. Well, what is the morality of dialogue? If the morality of respect is to accord each person equal respect, what's the morality of dialogue? It's the morality of listening. And how do you listen? When we see Alan at his spiritual meeting, his face looks different at that point. For a moment, there's a whole different expression on his face. You have a sense that he has, at least in that context, started to listen differently to his experience perhaps, and others, I don't know. That's what I see. In that sense I think the notion of equal rights for men and women misses the point, because I think it is more difficult to listen to women, in a context where women's experience really has not been rendered articulate.

To me one of the most striking things was I saw Judy as someone speaking a different language, trying to be coherent within a framework where everything she said seemed to mean something different from what she started out to say. And then she says, well we could perhaps keep on talking. Alan says, no more talking. She says, we'll have to find some other time to talk. Because it's only through this process that she thinks they can work things out. And that may be true, but it's only possible if she can find a way to make coherent what she has to say, and transposes the framework so that it becomes understandable to Alan.
In some ways I think you could probably look at this film and say, Judy's setting a framework in which Alan can't speak coherently.... He says, I feel like (uoyr saying) I've screwed you. And she says, that's not really it... I feel like I lost something. I wouldn't say this is the prototypic... Alan represents all males, Judy represents all females. You couldn't possibly say that. I think that Judy exemplifies, in her difficulty to find a way to speak, problems that are experienced by many other women.

Roz: Why do you think it's so difficult for her to say what she means and for him to understand and vice-versa. I don't think she understands Alan any better than Alan understands her.

(pause)

Gilligan: Why do I think it's so difficult for her? Because I think behind his statement, for example, marriage entails respect, is a tradition that makes sense of that. Her statement, marriage is dialogue, I think that's very common now, too. Relationships are dialogue and da-da-da, how do you have communication in relationships? When she tries to enter that dialogue and talk about her own needs, I have a sense that in the portions of the film I saw, I knew her at any moment. I got a clear sense of her. Her inability to say to Alan what it was that she needed in this marriage or relationship that had any meaning to him. I think he was satisfied with the status quo. She had a clearer sense of what he meant, because he meant, the way things are is all right with me.

Roz: There is a definition of kinship in American culture in which marriage is defined as much by the conjugal relationship as it is by law. If Alan and Judy no longer have a satisfactory sexual relationship, one could say there is a marriage in jeopardy. I wonder whether, in that definition of intimacy then, Judy may have broken the legal rule of marriage, she had an affair, but Alan broke the marital relationship long before by not working on the sexual relationship with Judy or even the quality of their communication, either would have provided a sense of intimacy. She established a new relationship, and it was then hard to go back to the one that didn't have either satisfactory sex or communication.

Why couldn't Judy go back to Alan when he says he will change? My interpretation is she was in a relationship as meaningful as a marriage, and she found it difficult to betray Will. Alan's perception would be correct, she did feel more alligiance to Will.

Gilligan: Just to talk about Judy, when Alan says he'll change, I think unless she has a sense that he understands what kind of change, she couldn't see how this was going to happen. She couldn't see the change.
I think the discussion of sexuality is tendentious in this film. That's become the word for a feeling of connection and intimacy. But even when Judy describes her lover, it's not just the sex. It's a sense of involvement and engagement between them and, having found that, that may have defined for her what was not present with Alan. And she may really genuinely not know how it would be possible for her relationship with Alan to move from where it is as she has known, it to include that kind of interchange which she knows she likes, which gives her pleasure. You could turn around your question, why would she want to leave that? And you say, because Alan is the father of her children, and it would give her a house and a lot of other things. But I think that's the issue for her.

If you look at the quality of her relationship with the children, the sort of ease and frankness of dialogue with them. Then you can say that there's something very important at stake, not only for Judy, but for the children, too, and her ability to sustain this kind of relationship with other people, in the sense of impediment between Judy and Alan. And there's the anger between them. And finally, no way to get beyond it. Or even to make it productive rather than just corrosive. So when he says, come back, if I were to infer, that there must be a sort of blank in her mind as to: and then what would happen?

The other way you could ask your question, did she have to break a rule in order to leave? In other words, did she have to give him a way to condemn and reject her, so that she could have what she wanted, which was a relationship with somebody who... the only word that comes to my mind is simply engaged her, where there's a kind of back and forth. Alan's descriptions of marriage - I can imagine easily this could be reversed for men and women - his descriptions of marriage are very static. You have women who say, marriage is a house and children and it's defined by things, or a sort of state. But she's looking for a process. There are many who have the same feeling. What seems the impediment to this process here is the sense of two very different images of what the relationship is and consists of.

Roz: Do you think that in a relationship like this, mediation or therapy could have been an effective process for them?

Gilligan: Could mediation and therapy be effective?

Roz: Be effective in moving them along.

Gilligan: Moving them toward what goal?

Roz: Toward a relationship responsive to both their need. They couldn't seem to negotiate it by themselves.

Gilligan: That's right. They clearly had reached an impasse.
Roz: I wonder whether a third party can enter a relationship and restore it, or whether someone like myself as a mediator has to say, that's not my role, this relationship is not able to be restored, all I can do is help them separate their property.

Gilligan: Well, I would raise a question. You made that decision: I will help you separate your property and I'm going to separate the division of property from the emotional questions. And I thought, Judy, afterwards came back to that issue. And in the discussion of getting screwed, she said, I separated my property, but I lost something. And I think that what was lost for her in that discussion was the sense that the property issues and the emotional questions were in some sense inseparable.

I think that that's symbolized by the child. And by the ambivalence about the child as property to be divided, according to rules of fair and equitable division of property... which is clearly the case, and vividly shown in your film there were very strong feelings in focus for a lot of the feelings between the parents. If you talk about the house, even the property and his feelings about the house, she's very sensitive to those. You're talking about option one, option two, option three, he doesn't want to sell the house, and yet she needs a house to live in.

About mediation and therapy, the first question is, what is the goal? Secondly, what is the framework? Is her statement at the end: it's not that I was screwed but I lost something... was it because in the process of resolving this marital conflict or fracture she lost her own framework, and resolved it in a framework that really was alien to her? And so, what she lost was not money or property in that sense, though money has turned into a problem, but what she lost was some sense of herself and her own integrity, in terms of agreeing to a process that didn't fully represent her way of looking it. And that that would be the question.

Roz: There are pros and cons, right now, regarding mediation. There are lawyers who say, use the legal process to separate property and use therapist/mediator to resolve custody. It seems there is a conflict over what skills are needed. If mediation doesn't represent Judy's interests, the mediator should not have separated emotional issues from property. And if it were to suit Alan, that might also be said to be the case. Does the mediator, if you're not trained in some kind of therapy, do a disservice?

Gilligan: Well, I guess I have another point of view, which is whether you're trained in mediation or therapy or law or whatever, the question is, what framework are you trained to cast these problems in? I would think that if Judy's going to deal with an alien framework, it would probably be better that it be labeled adversarial when it's not consentual. When she says, I wanted to be reasonable, who's terms are reason being defined on?
Carol S.: Why is the framework alien?

Gilligan: ... in one sense, all those things are true, she did all those things. So she goes down that road, and she keeps saying, but there's more to be said, there's something else that's not being said here about what happened. If you stay within that framework, that's the only way to look at her actions, and then she is, classically, a bad woman.

Carol S.: So what would be another framework? How should one look at it?

Gilligan: I think what she's saying is, marriage is a dialogue, and there was no dialogue here, this was her marriage. What are the consequences? Of no connection? In terms of the relationship, the family? What kind of family? Because that problem was invisible to Alan, he didn't see that something was missing or wrong. He had defined it as Judy had sexual needs which were excessive, and coercive, and in the absence of his meeting them, she decided to leave, and now she was going to pay the consequences, and he was going to be reasonable and so forth.

Roz: I wondered in this case, if you saw that she was at a distinct disadvantage at the mediation table, because of the way Alan defined her as the one who was wrong, and he was the wronged party.

Gilligan: Part of the issue, that is, when do you start the camera running? At the point where she has the love affair and decides to leave? Or at the point where she — and I hate to use the word relationship — she says relationship is dialogue and there's no dialogue here, so she's saying, this is no marriage, this is no relationship.

Roz: So she might define the fracture as being evidence by what Alan says, "I talked to you for the first five years, ...." and when Alan stopped talking...

Gilligan: Look, The framework question is so clear. He says, these terribly boring discussions, over and over again the same thing. I mean he does not imagine that perhaps those were interesting discussions to her. And you have to say, from what point of view were those discussions interesting? If she is squeezed out of the marriage in the sense, that what's interesting to her, there's no room for it, then what does she do? She turns to somebody else. It was a way to deal with the problem. Then he says, this way has very serious consequences. And that fits with a lot of other notions.

But you have to play out the other script. What are the consequences of Judy staying in the marriage where there is no dialogue, to use her term. You see their life in her
relationship with the children, I mean, that's what I saw in this film. In her ability to talk with the children: the very sensitive discussion with the older child who didn't want to take the knapsack to the violin recital; her ability to talk about the feelings that he wasn't quite talking about, until he could say, yes, that was it; and then to work out a solution involving the younger child; then who should tell the father about the feelings and, saying to the child very subtle things, saying, statements said by two different people will be heard in one case and not the other. Well, I would think those are very valuable qualities in Judy. That those qualities are precisely what's at risk for her to stay in a relationship where her attempts to make that kind of connection keep falling into dead space. As though they didn't exist, as though they weren't interesting.

So, what's the consequences for Judy? One of the things you would want to talk about then is, depression in women, the effects on children, the cost to society, the cost to women, the cost to men. And an alternative is action, and Judy took action. So she's bad, rather than depressed. Now that's a very good example, in my mind, of two different frameworks. Within the framework I just outlined, Judy's actions start to make a lot of sense. You might still say, there might have been other things she could have done. Perhaps there weren't in those circumstances. Perhaps she did the best she could under the circumstances.

That's very different from the framework that says you have an enormous sense of entitlement, you think your sexual needs should be met, you think you should act without having any consequences. Do you see the transposition? That's what I see as going on. Now, if a therapy session and the mediation session and the courtroom session is not sensitive to that kind of transposition, the problem is not going to be adequately represented. And I would say that because of the nature of understanding different kinds of systems that I saw Judy through the course of this sequence becoming increasingly frustrated and angry in her dealings with Alan. Now maybe that's inescapable.

Roz: It would seem that it would be very crucial to the training of the mediators, then, to be able to transpose what someone's saying, and at least keep a dialogue going until somebody's able to grasp what the other party's saying.

Gilligan: I think that you have a nice film for doing that. You could show your initial sequence and then say, first of all, do you understand Alan's perspective on what Judy did? That's easy. From what perspective does Judy's actions make a different kind of sense? What would be needed for Alan to understand what Judy was doing, seen not as falling into stereotypes with women having a sense of entitlement? And so forth and so on. And then you would see the problem that you raised.
Why is it difficult for Judy to speak, in the sense almost everything she says seems to compound the accusation against her. I think you could see it if we looked at those initial frames with the struggle of someone who's not being understood in some way that's important to her, to try to make herself heard... trying to accommodate saying to him, yes-yes-yes-yes, this is all correct, but we really must keep talking, and he says, there's nothing to talk about. And she sees it's hopeless. After all, if her notion is dialogue, the avenue of resolution is called into question, jeopardized.

I think the same thing could be said about the mediation. We say, now we're going to talk about property, and we're not going to talk about feelings. And yet, even the discussion of property is infused with feelings because, it has to do with understanding Alan's feeling for the house. When he starts to talk about, well, it's a difficult house to maintain, that's not the issue. The issue is that the house has special meaning to him. She recognizes that, and says it. She says, but I also need a place to live. The mediator says, ok, we have three options and option three is you both lose, a lose/lose situation. You get a smaller house, you get a smaller house. But it's clear that there are a lot of feelings about the house. Where is this line now? I think that's the question. You've just agreed not to talk about emotional issues, and you're talking about a house, and he had said earlier, a marriage is a house.

Roz: His home and his children became the marriage. He says something like, "I shifted what was important to me from the relationship to the house, family, work."

Gilligan: It clearly had a lot of meaning to him. So in some sense, look what you've done, inadvertently perhaps, or maybe even just use this as an example. We've taken the thing that his feelings are tied up with, i.e the house, and agreed to put aside what her feelings are tied up with, i.e. the relationship. Now this is the grounds for mediation. So, look at what she has agreed to do. And then she says, years later how ever many, I lost something in this process. The answer is, you sure did. You agreed to talk on the grounds that had meaning for him, where his feelings were, about the house, about money. And you agreed not to talk about where your feelings were, which is, what would be the relationship between you, that was going to be the glue, to work out this joint custody arrangement.

If that's the case, if that is the way in which the ground for mediation's defined, in the sense of both people's agendas are not included in the setting of those grounds, where the grounds are set on terms that are close to one person's terms and really more distant from another's, then I'd be inclined to say, let's call it an adversarial situation, and see if you can force your terms on the other person.
But that's not even part of what she's after. That wouldn't satisfy her either. She's not out to defeat him. She's out to find some way, as she says for the moment, "to resolve this... I can't see living together," or I want to settle this now, maybe later it will be possible. I think she needs to see the way. To say to her, things will change, I think it's meaningless, unless she sees the potential for change. And as long as he defines conversations as a waste of time, I think she doesn't see the avenue. And as long as he defines sexuality as something that she is coercing him, that her demands are really coercion, rather than her demands are her demands. Her wishes are her wishes. As long as that's true, I don't think she sees the avenue of change.

Roz: When Judy and Alan appear not to be ready for a divorce, but Judy expresses a real need for better living accommodations, and the mediator suggests taking turns in the house, Alan responds defensively, "but that's a temporary solution." There is definitely several impressions, that Alan isn't about to give up the house and also he is not looking for a temporary solution, but a permanent resolution.

Gilligan: Right.

Roz: And so, someone would have to be very careful to dig further, to find out what was behind every time she acquiesced, possibly private conversations with Judy. Because she gives in awfully easily to, well, Alan wants the house, he can have the house as long as I have a house.

Gilligan: See, I guess I'm not so sure that private sessions about her acquiescence are going to solve the problem. Because if you look at her acquiescences as I would look at it, which is the ground for mediation has been set on terms that are not hers, and in some sense, whether she acquiesces or not, it really almost doesn't matter. And her easy acquiescence is much more a sign that this is not really the issue that's important to her, rather than a tendency to acquiesce. Or, perhaps they believe that if she's responsive to his needs, even in this situation, he will be more responsive to her needs.

Now, it's clear to an observer watching, who's not involved in this marriage and doesn't live through its frustrations, that her way of approaching Alan is not going to work. She's going to push him, he'll become more and more and more reticent and quiet. And so you can see the frustration of this situation, for both of them.

Roz: What would work, hypothetically, with a personality-type like Alan, where dialogue is not what would work? It's very difficult to figure out what would work...
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Gilligan: Even without going to into Alan's personality, you want to say, can this marriage work? Where she's looking for a much more active interchange, and he's looking for a kind of stable framework that will be the structure of his life, house, family, wife and so forth. The answer may be, no.

So then you have the problem of divorce. Divorce may arise because two people are really looking for something that they can't find with one another.

Roz: That's as much the question when someone approaches mediation, someone who's having marital difficulty...the question becomes defining what they each want, and if it's impossible.

Gilligan: The mediation would have been fine if you said, look, this marriage just isn't working, not working for either of you. There are obviously strong feelings between these two people, but also just immense anger and frustration. You can see the tension on Alan's face, and you can see Judy. They both are kind of frustrating and enraging the other. So you say that this marriage isn't working, let's dissolve it. There's a house, and we need some money, and you're just not going to talk about the marriage. Just talk about these issues. I think the problem is that there are children involved. And that means the marriage will never dissolve, in the sense the children are a living embodiment of the fact of the connection of these two people.

The question may be the tension between Judy and Alan. I think Alan is saying, the marriage is over, you left. I didn't want it, you made the decision, the consequences of leaving are, maybe you could come back, but you've left. I think Judy may be saying, I can't leave this marriage, it's embodied in these two children, it's part of my life, I can't leave it, the question is I can't live in it at this moment, either. How do you work that out?

Roz: And it's evident from the last sequence, that even though a year has gone by, they still aren't addressing the fact that they cannot negotiate over a single difficulty effectively. In this case, it's the cost of the children.

I gave them a tape and I suggested that they go to therapy as divorced people, because they had an ongoing problematic relationship that they still hadn't addressed.

Gilligan: That's right. That strikes me as good suggestion. They have to deal with each other.

(pause)

Gilligan: ...and so the money is a real problem for her. His sort of casual way of addressing it may be concealing the
differences in power there. For her it's a matter of some urgency, and for him he can sit back. The literalness of the need for money, the real problems of raising children without adequate resources to care for them, is just immense. Clearly you have a problem that's faced by a lot of women in this society. One would need to have more information on this tape.

Roz: Do you think in a relationship like this or a hundred others - in a relationship that's having trouble, at what point do you think therapy is useful? I think of Judy and Alan specifically where it didn't even occur to them until the problem was so far along, that they should see someone. But I wonder about the restorative qualities of therapy.

Gilligan: Well, I think it depends on what therapy and with whom. Clearly that relationship had to change or end, in terms of it had reached an impasse. You back up from the impasse, could it have been averted? What form of therapy could have helped it and how? Those are the issues. Clearly, if you could have avoided the impasse, it would have saved a lot of grief, in terms of seeing all the difficulties you people are going through. On the other hand, for them, they had reached a point where this difficulty was preferable to what they were living with.

Carol S.: It has to do with this idea of articulation, and how women in a relationship that's either thriving or crumbling or in any other situation, can begin to understand what their own individual frameworks might be, can come to grips with the facts that those frameworks may somehow differ from what society has defined for them. How that difference can even evolve. I really do think that articulation is the means through which those understandings can come about, and also the means through which some kind of change can come about, if that is what is in order, for an individual.

Gilligan: I would agree with you. The question, what do women want, can be a very facetious question, because it says tell me you want in my framework. A perfectly legitimate answer is, I cannot talk about my wants in the framework that you have set up for me to talk in. Because they are totally incoherent within that framework. The extent to which they tend to become stereotyped, and Judy's sexual needs begin to make her look like a stereotype of the bad woman, the nymphomaniac, the unfulfilled woman, the fisherman's wife, you know, all of these kind of images.

And yet, you begin to listen and you feel like, could she articulate a need for a certain kind of experience of relationship, with other people that to just talk very simply, gives her pleasure. By which I don't mean just sexual pleasure, but the pleasure of feeling in connection with another person, that one is able to have an effect on another person, that one
is moved by another person and moved them. And then the deadness of her relationship with Alan. And he says, tell me what's the problem, and then I will redefine it for you in my terms. Well, I would be very leery of encouraging Judy to talk within that framework, because she's going to experience that context as nullifying what she's saying. It's like talking in an echo chamber where the echo comes back distorted.

Carol: How does his side differ so dramatically from hers?

Gilligan: I have to pick up the couple of examples you give me in the film. To me, the person who says, what marriage is to me is respect, and the person who says, what marriage is to me is dialogue, I'll tell you a whole slew of words that will take on totally different meaning. Responsibility. Responsibility in terms of respect: as, I have a responsibility to treat you as equal to myself. I'm trying to give you how both of these can be expressed in very positively-valued terms: I will not have a double-standard; I will accord to you all the rights I claim for myself, because I respect you as a person, as an individual, whom I care about. Responsibility in terms of dialogue: I will not be silent when you want to speak to me; I will respond; I will try to articulate my own feelings and respond to yours and try to understand, so I don't define, I mean it becomes played out sexually here, which is a very dangerous ground for Judy to play it out because of all the stereotypes. She says, this is what I would like in sex, presumably, and he says, this is a series of demands and I feel coerced. Just, the word, what is responsiveness, what is responsibility? She says, he's not responsive to my needs. He says, I respect you as a person.

When I talk about different frameworks, it comes down to that kind of dialogue on an every day level. He says, you made a choice, everything was fine with me. Does he ever see his not wanting to talk as a choice? To cut off the dialogue that she seeks? Does she see her seeking closeness with somebody else as a choice that's going to cut off certain possibilities with Alan, and create feelings in him that will make it more difficult for him and her to reach...I mean, that kind of thing.

Her framework challenges some assumptions that tend to be taken for granted, such as that you can separate discussion of property from discussion of feelings. And that the therapist will deal with feelings and the lawyer will deal with property. Now, if you could say, I as a lawyer am unqualified to deal with feelings, then I would say, you shouldn't be dealing with houses, because people have tremendous feelings about houses, or you shouldn't be dealing with money, because people have intense feelings about money. So if you tell me as a lawyer, I'm not trained to deal with feelings, I would say stay out of the entire area. If you tell me as a therapist you're not prepared to deal with the consequences of unequal divisions or equal divisions of money and power, I'd say, stay out of divorce.
Because you talk about feelings without talking about where's the property and where's the money, and many women have gone down that road, only to realize that they talked about feelings for years, and in the end they're without money and without property and it's not easy to live.

The kind of understanding that's required for people to work in this area, I don't think we've really worked that out very well. How would you train somebody - well, I guess the usual term is to intervene, because all of these people are intravenerers - in these kinds of situations where lives are at stake, families, children and so forth, in ways that will be minimally harmful and maximally beneficial, which I don't think has a programmatic ending. I don't mean that every couple that doesn't get divorced, that's a good outcome. It may be because the woman is finally and effectively and definitively silenced or so threatened, that she decides that it's better to stay within a marriage that is to her no marriage or a relationship which is no relationship, than to be punished by being ostracized and condemned and deprived of money and property. I see Judy in that sense.

If I talk more about Judy, it's not because I'm not sympathetic with Alan and don't feel that this misunderstanding goes both ways, but rather because I think Alan's position is more easily recognized, is more easily understood, and is more at one with the structures. Such as the assumption that guides the mediation, you're talking about houses, you're not talking about feelings. Alan's control: I have no feelings, I'm just going to talk about how to deal with this, is the assumption that guides everybody who deals with the situation.

In fact, to come close to this film is to be drawn in to the very kind of raw sense of feeling of the loss of these people, and then to be drawn in to the children and to realize this is, at best, a bad situation. And the questions is not, what's the right thing to do, there's probably no right thing to do. The question is, how to act in the situation in a way that will be the least harmful. And of course you can't know, because any time you do one thing you don't do something else. So it's tremendously indeterminate, provisional... one has to feel one's way. Now, Judy, in some sense is trying to do that. The danger is that she will appear indecisive in the situation where decisiveness is valued and rewarded, but she may be revealing the fact that - when she says, I don't know what will happen in the future - feelings can change. She's right, they can. Anyway, that's why I focus on her, because I think that at least I hear in her the attempt to articulate a set of perceptions about the nature of relationships and life and so forth, that are not easily rendered coherent. She's in constant danger, to me, of becoming enraged and looking like a crazy woman.

Carol S.: How is it that it happens to so many women? I think
it's not only our culture in which that happens, but even if we look only in our culture, at what point...

Gilligan:...It's a truism that culture has been created by men. ...And it's particularly public structures which people come into if they're getting divorced. Do these public structures tend to reflect men's experience? I'm not prepared to talk about differences between men and women until I feel we understand women's experience better. Then, I think we can talk about differences, when we have a broader set of categories. My question constantly is, what can one learn from women, that one doesn't know already because women's experience really hasn't been looked at.

And here, I would say the first lesson from this film is what the attempt to separate property from feelings and deal with houses ignores. We bring a woman in and she'll show you very quickly that the issues about houses has to do with feelings. And if you tell her, suppose you told Judy, that Alan's feelings about the house were irrelevant. Now, I would see that would go against all her sense of how to think about people.

Roz: I wondered about, in the breakdown of this relationship, one of the qualities lacking is empathy.

Gilligan: For whom? To whom?

Roz: Well, in this case, it's mostly Alan exhibiting a lack of empathy for Judy. Judy does exhibit empathy when she acknowledges how much the house means to Alan. And that's the basis for her making a decision that there are enough problems with the house for her to just get another. But at no point, even towards the end, does Alan acknowledge what Judy gave up, the gardens for example.

Gilligan: Oh, now that's a perfect example, Roz, that's exactly right. When he says, I don't want you coming around here and bothering me. I don't think you want to generalize from this case. I don't think you want to make statements about Alan represents men and Judy represents women at large. I do think it's reasonable to say that women's experience, in general, has not been adequately represented, and therefore one has to be doubly cautious about rushing to interpret it, and doubly aware of the possibility you're talking about. I guess rather than empathy I would talk about responsiveness.

In retrospect, you have to go back and say, why wasn't there space in that discussion, or encouragement that brought forward that she also (?) to her. Her needs are defined as sexual needs. That's the only source of need that you really see clearly identified for her. And yet, her need to be connected to the things she (cares about?), was something very hard to articulate.
She can speak articulately about the children's needs, and her need for money and those needs. And she can speak defiantly about her sexual needs, because that's the discourse of bad women. To be free, and to be a bad woman in a structure where being a woman is so confining, that means having needs. But the other dimensions that make Judy three-dimensional, her weaving, her gardens, there's no room to speak about that. So you have to think back, to really ...(?) in detail.

Roz: In wondering about the breakdown in communication that took place...

Gilligan: I guess the question is, did communication ever take place? Before you talk about breakdown... Was this ever a marriage in her terms? Ever, from the beginning? Even the term, 'marital fracture,' in a sense you've taken his point of view. There was a marriage and one day it fractured. Judy had an affair and said she wanted to leave. Tell it from her point of view, there was never a marriage. There was never any dialogue. For five years, or how ever long, she tried to start a conversation with Alan, and finally she gave up. It didn't seem possible. You want to address her needs, you say, Judy, maybe it would be possible to have a conversation with this man, but first you have to start, what would make it possible for him to listen to what you're saying, and hear you? What would make it possible for him to see your needs as other than coercive demands? Or standards against which he feels he will fail, if it's sexual performance, and so forth? It's a whole different set of questions.

Roz: As they defined their own relationships, way back when, when they came together, Judy wanted stability and family. She had not developed a definition of marriage. In a state of infatuation, they Alan felt they communicated in the begining.

Gilligan: Again, before I believe that Alan withdrew, I'd have to see him present, and I haven't seen it on the film. And before I believe that she wanted marriage, family and so forth, I have to believe that she didn't imagine that this relationship wouldn't have communication.
Addendum 4.a Mediation Role-Playing 1985: Introduction

Introduction to Mediation Role-Playing Session

Hall: ...had started mediation back in 1982, and they had yet to divorce. From the facts that you've been given, as you can see, they've exchanged the children, initially on a fairly frequent basis. One week they would stay with Judy and with Alan, back and forth. And that was extended to two weeks at a time. And now, on the recommendation of a therapist, they're considering having them stay with each parent for three months at a stretch. Or alternatively, for one or the other of the parents to have primary custody. And for the other to have very frequent visitation. In whatever role you have tonight, whether it's a mediator or Judy or Alan... Is anyone here now who was not here last week and so did not see the videotape? Ok, so that's three of you. It means that the fact patterns that you'll have then, will be considerably less rich. Because what we saw in the videotape - which was made by Roz Gerstein - is pretty much the history of this couple, a little bit of the circumstances surrounding the situation. And although the facts that we've given you are a lot drier than the tape, the facts as they're written are pretty much what we want you to be addressing now, remembering all the things that you've seen on the tape. And that kind of emotional view is not something you usually get from the fact patterns. I think it was Deb who said that unlike a lot of the problems we had, what she liked about it is that it went on and on and on, and you saw them saying the same thing many, many times over and then changing over the years in certain ways. That is what happens when you're dealing in this kind of mediation. But if you are a mediator, or if you are Judy or Alan, I'd like you to think about what Roger Fisher always calls giving the party the best advice, or acting in your best interests. So don't act merely as you think Alan would act, but as what would be in his best interests, and using the new skills, or the enhanced skills or whatever you have from here, in terms of negotiation techniques. That will be really helpful. And then, when it's over and we talk about the problem, we also have the transcripts of Carol Gilligan and Sandra Dranoff, and Mike Wheeler's views of the tape and the kind of advice that they gave. And you can take copies of those transcripts home with you to read. Any advice that you'd have on this problem would be really welcome, too, in terms of the case that we're just developing as a problem to be used both in courses, and one that's currently still going on in the real world. So it's a double challenge. Now the people who were not here last week should make sure to get into teams with people who were here, and maybe we will make you co-mediators in that case, so that you definitely have that role.

(Man): Are you going to assign roles, or do you have a preference?

Hall: We're going to assign roles. Basically, if you could get
into groups of four, that would be good. A couple of you have asked whether you could be a mediator or whatever, and the reason why I'm saying that the co-mediator should be the ones who weren't here last week is that they won't have had the experience and all the material from the tapes. Very simply—and I guess that we still do need to develop further material for this case—but one of the things that you all do have is a budget, is a sense of what income is relative to the parties. There are two major questions that we'd like you to address. The property's been divided up already. You know what she got for the house. You know what the land was appraised at. You also know the post-agreement circumstances of the husband selling off an acre and a half of the fourteen acres for seven thousand dollars. And whether you are Judy or Alan or the co-mediator, you should have some sense of what each party would feel about that as benefit of the bargain and circumstances... remembering though, the situation is not over. There is still the issue of child support. And to date, basically, Judy and Alan have had this informal kind of agreement saying that they would divide things up with child support, he paying two thirds, she paying one third, because of the disparity in their incomes. And as you've seen from the facts, Judy's had a lot of trouble collecting that money. From the facts you've been given, you can also see that she's gotten an awful lot from her folks to keep things going, paying music lessons, various things. This is one of those messy, real-world situations that's probably all too common. But the two major areas that we want you to be thinking about is what kind of child support and ongoing arrangement can you have, again given that the children are now seven and twelve years of age, and what kind of custody arrangement can you think about in terms of shared custody or primary custody with one family. As far as custody goes, the trend in the law, for those of you who don't do this kind of work all the time, is to allow joint custody in an increasing number of situations. The traditional rule was that the mother usually got primary custody. But at least in a large number of states, even if one or the other parent has primary custody of the child, there is very, very frequent visitation privilege granted in most circumstances. And that's being defined as at least every other day where possible. So keep that in mind, too, as you're thinking about it. And also keep in mind, if you do this kind of work, the reality is often quite different from that. I hope you'll find it an interesting problem to work on. So maybe what we should do now is just divide up into groups of four. Deb?

Deb: I'm wondering about women feeling that they need to take Judy's role, men feeling like they shouldn't take Judy's role. Do you have any guidelines about that?

Hall: I'll tell you how it's been done—and ( ) and I both took Roger Fisher's course last year—usually the roles were assigned pretty arbitrarily, so that a man could play a woman's role, a woman could play a man's role. And I would sort of prefer that
we just do that. And again, if you wind up in that role, that you try it on. If you feel real uncomfortable with it, under the circumstances of knowing that we could not assign everything before hand because we didn't know who would actually be here tonight, I can't feel that you have to take it. But I thought it was pretty interesting when you'd still be negotiating with a person who was the wife, or in the role of an advocate for the wife, even if it was a guy or vice-versa, and it was actually pretty interesting.

(Man): I would agree with that. I think it's pretty illuminating to try and play an alternative role. Doesn't mean you have to. The other question, just on people - I'd have to put myself in the category - like to practice mediation. I don't know whether that's going to be feasible, and everybody may want to do that, in which case...

Hall: How many of you would like to be the mediators? One, two, three, four, five, six, seven, eight, nine, ten, and you have to be because you ( ). So eleven people. Why don't we do this? That those of you who want to be mediators, just stand here, and we'll just take as many as we can.

(Woman): This never worked on the softball team...

Hall: Now you know that we'll make you a mediator. That's called ( ) positional bargaining.

(Man): I have a couple of questions about just the financial information. Is now a good time to ask them?

Hall: Now is a good time to ask them, because then what we're going to do is let you caucus in your different roles for several minutes. And I'll meet with each of you. So you can ask me questions that way. But you want to ask me ( ), and Roz is really the person who put a lot of these facts together.

(Man): I'm not sure yet this is needed or not, but can you give us some idea of what tax brackets they're in? They're married, so they're probably still filing jointly.

Roz: No. They started filing separately after she moved out that first year. And they were advised to meet with an accountant, and then didn't. Alan's salary at the time was about twenty-two thousand dollars, and he just got a raise to twenty-two thousand eight hundred dollars just in the past two months. They each take one child as a deduction. Her salary has varied, but has generally been closer to six to eight thousand dollars a year, and only this year has it gone up to an expected twelve thousand. It's not a secure job. But she's paid weekly without withholding. So she will have to pay taxed.

(Man): Do they take FICA? Or nothing's taken out?
Roz: Alan has everything taken care of. He works for the Experiment in International...

(Man): But for her, they take out FICA, or...

Roz: Nothing.

(Man): Ok. So we're talking like a third ( ) taxes.

(Man): What is it that he does?

Roz: You wanted to know what he did. He works for a college, teaching alternative energy technologies and strategies for developing countries.

(Hall: Tom, you didn't hand out all the yellow sheets to all those people, did you?)

Roz: And Judy is a craftsperson who does commissioned weavings and wall hangings, and gets work occasionally doing that, and now is doing telephone marketing for an agent who sells crafts.

(Man): Is Alan's salary likely to increase...

Roz: Over time. I asked him if he felt secure at the college, and he does. And so I assume he'll get incremental raises.

(Man): Are the housing costs you gave in here net of the money he gets from his friends living, or is that not figured in?

Roz: Those are expenses that do not include the friends' contributions.

(Man): So they are the total expenses of the house?

Roz: Yes. Those are the total expenses of the house that he bears.

(Man): Subtracting out what he gets from the other people...

Roz: No.

Hall: That's on top of that. Right?

Roz: The income from his friends is additional and not figured in.

(Man): So these are his expenses and he makes a salary, plus he gets the income from his friends which is not on this sheet.

Roz: Right. Because it's considered unreliable because he's sensitive to his friends' income.
(Man): Is that ( )?

Roz: No.

Betty: Does he cover her medical and the children's medical expenses?

Roz: Yes. As long as they're married, he has agreed, since it's so inexpensive, to carry her with his policy. He's not sure what he would do once they're divorced.

Hall: But that should be a consideration. That's a very question, Betty's question... that would be a child support-style question. And there is also the issue of to what extent you should add this so-called unreliable income that seems to be coming in fairly consistently at the rate of fifteen hundred dollars a month, or a hundred fifty a month...

Roz: It's a male friend and a female friend. The male friend often does some bartering and does construction on Alan's house, so that the house is getting a new addition. The tower.

Hall: I see one of the lawyers here shaking his head.

Roz: The woman is his girlfriend. And it's a serious relationship. And she does some of the child care now, picking up the children. And her work varies. She's working as a waitress now. But she does have...

(Man): The girlfriend is Alan's girlfriend, not the friend's girlfriend.

Roz: Alan's girlfriend. Right. So Alan has the two friends.

Hall: Now are there any other immediate questions? Then I really want to start rushing you into groups, because otherwise we won't have time at the other end to do this and for us all to talk about it. Lydia?

Lydia: I just wanted to know who makes the judgement as to whether that marriage will have to end in divorce ought to be worked out? Does the mediator make a decision? Do the people make a decision?

Hall: I think on the facts on this case, and from the latest things that you've seen, there is a sense in which both partners are now living with other people, that things were not good for quite a while. And I think, taking the circumstances as they are, it's reasonable to assume that they are moving towards a divorce, some kind of separation. And one of the problems that they have had in making things more concrete than they are is that they did do things in this sort of vague, casual, we'll
just deal with this little issue at the moment. And one of the questions we've talked about in terms of fairness, efficiency, stability of agreements, is as a mediator using some of these techniques presuming that they are going towards divorce. That what you as a mediator are helping them to do is to define what it would be best... given the fact that she has now accepted twenty-two thousand dollars as her share of the property - and for those of you who are Judy, I think that's going to be an issue, for those of you who are Alan that's an issue - for property that in less than six months has been really dealt with or seen very differently by another buyer of land...

Roz: And also to mention, I think Alan knew the worth of the land prior to the settlement agreement. Judy was informed of it, but Judy's major concern was how am I going to have some finances to start a new life and new housing? She made that concession, but...

Hall: Yes. Cash discount. And then what you'd say is how much of a discount was this?

(Man): Did she receive no advice as to run that through with a professional?

Roz: Yes. She was told to do so. She did not. She had a consulting attorney. I was at the very early stages just trying to get them back to a table talking, at which point they had a consulting attorney. There's one attorney. Alan chose not to have an attorney, because the consulting attorney for Judy was their friend.

(Man): And was the attorney's field domestic relations?

Roz: In Vermont, I don't think you specialize. And he has done many divorces. And my advice was that they should get separate council, and also that she should consider a different attorney. And the reason she has not signed a divorce settlement, a final settlement, is she's had reservations. She thinks something's wrong. But she doesn't know what. That's why she's ( )?

Hall: So as a mediator the interesting thing is what advice - given the fact that there have been these stages that have been passed through and that this is the situation - would you give as to two major areas that still have to be settled before a divorce can go into effect.

(Woman): There's something sort of murky about the way you people operate, ( ) subdued. And I was just wondering if there's any information on substance abuse.

Hall: Alan's maybe a little laid back from hippie days. But neither one, I would say, has a substance abuse problem.
(Man): No alternative sources of income?

Roz: They've had a little alternative source of income. A little agriculture.

Hall: So Steve is Judy, and...

Roz: Does anybody object to my taping the groups?

(general hubbub)

Hall: I was just asked if you could ( ) as you want, as many caucuses as you want. The answer is yes. You can. You have limited time. And what I'd like to do as soon as you're in your team and looked at each other and talked just for a minute, is to then ask you to go and have a chance to brainstorm with everybody in your role. And I'll come around and answer any ( ) you may have...

(hubbub)

Hall: You're all seeing each other. What I'm going to try to do is just, with Tom, is figure out where you can go for a minute in your roles...

(hubbub)

Hall: Could all the Judys go in back by the xerox machine...

(Man): Alans will go into the hallway by the receptionist's desk.

Hall: The purpose of you being separated, I thought it was clear, was to give you all a chance to caucus in the role. All the Judys, all the Alans.

(hubbub)

(Woman): All of you, the mediators should all caucus together.

(Man): Not as teams, but as roles.

(hubbub)
(Man): ...so much the better for you. I doesn't sound like we're willing to say to her, all right I'll talk.

(Man): ...that we get from selling the land, which is obviously going to be a boon for Alan.

(Man): According to our confidential information, it seems like when we saw Alan it's not altogether clear that he feels that this fairness argument about her getting half the property and all of that is something that's been resolved in at all a satisfactory way. That it's going to recurring. That it's going to always be out there. And it's going to be the nickels and dimes for the child support. Or it's going to be big bucks whenever a piece of land is sold. Or whatever. So from Alan's point of view, I think that however we feel about what's gone on in the past, we have to try to come to some conclusion - and the sooner, the better - of this type of fairness argument that has to do with property. In other words, they get a fair settlement that both sides could agree, I think this is fair and I'm ready to sign on it now. And maybe give up some of what we have, might be a way of resolving this long-term uncertainty.

(Woman): It seems to me that if they have divided the land, and then at a subsequent point he is able to sell it for more, that that's just the way life is.

(Man): But apparently he knew before they made a settlement on the land that he could in fact do this. So he was sort of not being very honest.

(Woman): Well, on the other hand, she could have researched it herself. And there's nothing to say she couldn't have researched...

(Man): But we have to be careful. It's not who's right or wrong.

(Woman): We should come to a decision.

(Man): Yes. I think he would be willing to split the amount that he gets for the extra land, or give thirty percent to Judy, if he gets primary custody of the kids for a long time.

(Man): We also don't know how she is going to feel about a continuing relationship and all of that. There is a lot of information in the general packet that talks about his unreliability and everything. And there seems to be some feeling that it's best to tie this whole thing up and be done with it. There's a contingency in there that if in fact he gets ten thousand dollars more than he had anticipated, that she's going
to get X percentage of that. There's a need to monitor and watch what happens. And although the kids will be involved, I don't know if either of them are really going to be willing to use the kids to be the conduit between the two of them.

(Man): Also, as Alan, I can't help but feel in the back of my mind, that this fairness issue is going to come up again and again. Because I feel like I'm paying two thirds of the child support now because I can afford it. What if Judy's situation improves? What if Nelson Rockefeller Jr. comes along and her situation, her income, her family income changes drastically. That's the problem with the monitor and an ongoing thing. I think we need to be able to resolve this in a way now, so that these situations like the land I won't always feel open to renegotiation of an area that I thought was settled. So I can see that would be a very high priority to me, that if I could resolve that in a very clean or solid or fair or whatever way.

(Woman): The land.

(Man): Well, the issue with ( ) that as situations and circumstances change - you can never forecast what's going to happen in the future - and yet it seems to open it up for renegotiation. And the land is just the latest example in that. So if we could find a way to keep that situation from arising over and over again, whether that's a fair settlement now with twenty-twenty hindsight where people agree, like with native land claims, that this is going to be it. If you agree to this, that's it.

(Woman): Are you also including the child support in this thing that you're talking about? Or just the land?

(Man): I looked at it as a separate issue. And I have a feeling that we'd probably then fight over custody of the kids. To the extent that we have differences over custody and primary custody and reliability and stuff, we may want to make some trades between those two. But keep them separate.

(Man): That's where I think they're tied in. To the extent that she comes back and says, well you know a change in situation might very well then mean a change in support, not necessarily custody. That's something that we can sort of play off of. If she is insisting that aspect be left open, or that aspect rather is closed now with the two third/one third split, then it seems to me that we can come back and say, well you know the land is a similar type of situation. That we have a value at this point in time. Is it not worth while for us to just close this now and move on. So in a sense, you're treating them separately, but you can play them off one another.

(Woman): A problem is, what if she says, no that doesn't work for me. And if we don't have something to fall back on, if that's our
only position, we're going to be in a deadlock.

(Woman): I see the difference between child support and child custody.

(Man): I do, too.

(Woman): Yes.

(Woman): Ok. I think that someone, the counselor, has recommended the children stay with one of the parents for a year and a half, or something.

(Man): That was a little confusing. That they stay with one of the parents for a year and a half, then it would mean that it would be ok to do it for three months. So I didn't...

(Woman): But it seemed to me that exchanging the children every two weeks is a bad idea to begin with.

(Man): We're trying to find a solution or an agreement now that is pretty much final. That won't be able to be opened up in the future.

(Woman): Except on child support.

(Man): Well, there's going to be things about the future that we can never anticipate. But to the extent that we could deal with some of these issues in a way that focuses on closure and give up further rights to reopen it or re-litigate it or whatever, I think we'd both be better off because it was pretty clear in our last little exchange that there's a lot of emotions that are continuing to get...

(Woman): It's better to finish that off than to keep raising that over and over again.

(Man): And frankly, I've had some questions all along about splitting the property in half. There's something about that that bothers me, even though I understand through the mediator that it's in both of our interests and we both got things...

(Woman): Are you speaking as Alan, or as Steve?

(Man): As Alan.

(Woman): You split the property. The property is split.

(Man): Right. But what I'm saying is I have some reservations about that, because if it would have been me to leave the family and shack up with somebody, then I wouldn't have expected to come back and get a reward for that type of behavior.
Addendum 4.b Mediation Role-Playing 1985: The 'Alans'

Hall: Do you have any questions that you want to ask me?

(Woman): What is the point of this meeting? Just everything or anything?

Hall: The caucus?

(Woman): No. The meeting that we're having. Are we supposed to discuss a particular issue?

Hall: Yes. The two issues that I defined for you. The custody and the support. And what you have as background is the fact that the property has been divided. That Judy basically had gotten twenty-two thousand dollars. And again, as Alan, you're going to have one view of it. Judy has another. And that's the basic exercise. If you're playing a role, to also be thinking about the mediator role, too, in terms of analysis. And the terms of the problem is what can be done now. And in terms of a final agreement, ideally a separation agreement that can be incorporated into a divorce decree, what kinds of criteria would you use. And again, in terms of objective criteria, you're Alan, and you have one standard of objective criteria that you're going to be using for property valuation, for what you're willing to pay in support, whatever your sense is about custody. And there well may be some give and take. I think ideally in this meeting, if you can, you'd like to come to some kind of agreement or at least principles of agreement.

(Woman): How do the Alans feel about Alan's lack of responsibility for paying bills?

(Man): I think it's partly a reaction to how I feel about paying bills. Paying bills that I know I've incurred, I pay right on time. But others, it's part probably my attitude. I have a problem being timely with things that I don't really have my heart in in the first place.

(Woman): So you would spend fifteen hundred dollars running off to Mexico, and...

(Woman): Well, Judy ran off with a man...

(Man): She also ran off to Mexico with him.

(Man): Aren't we missing the most important (. ). I would imagine the most important issue in this isn't really what's written on the paper in terms of money, but in the participant's satisfaction. Alan is probably very... if I were him, I would still be mad about what Judy did. And if I was Judy, I'd be mad at the way that Alan treated you with the land. So I think they both feel screwed in a way. And yet, to get a good agreement so they don't keep on doing this, I think it's in everyone's interest to have a fair agreement. Because then the kids won't
be happy enough to go. So if maybe we could both center on what's best for the kids... that's my own bias. Alan may, as soon as he has care of the kids, he'll ignore them again and read the newspaper and play somewhere else. I don't know.

(Man): Let me ask you something. Is it everyone's sense that Judy knew full well that the land was valued at sixty-four thousand dollars? And then settled for twenty-two?

(Man): Yes. She did settle for less, because she thought she'd get it in cash.

(Man): But that was for the house. And didn't really include any other value for...

(Man): She didn't know about selling off pieces. She didn't know about that.

(Woman): We checked that. I thought it was for the whole thing.

(Man): Ok. It was probably appraised at sixty-four for the whole thing.

(Woman): The house with the land was sixty-four. And it was appraised.

(Man): She'd get her cash quickly.

(Woman): Right. And an attorney gave her that advice.

(Woman): Judy has initiated this meeting. The one that you're in now. That's what Roz said.

(Woman): So she wants to come to an agreement about custody.

(Man): I have a feeling that what Judy wants, and what's bothering her, is more money. She goes for the money issue, and I go after things like the custody issue.

(Man): Who has custody now? What's the situation right now?

(Woman): Custody is joint. But the therapist has recommended a year and a half.

(Man): ( ) that the kids don't have responsibility because they can be obnoxious, and then go to the other parent's house.

(Woman): But you certainly feel, that I have more money, and therefore since they're my children and I care about them, I don't mind really giving more than she does. Do you have a feeling like that?

(Man): It's like, I've been unreliable in paying the bills for
the kids' summer camp, because sometimes I don't have the extra money around. But if its' not that, if I was perfectly reliable and I paid twenty-five percent more, then I expect that the demands for that money would be twenty-five percent greater than what I was paying on time and stuff. So I don't see any end to it. Even though I think there's a lot of good qualities in being on time paying bills. I think that reflects this fundamental difference between Judy and I, that I'm still pissed that we're separated because she left me. And she's still pissed, so she wants a better economic deal.

(Man): This is the second time that Alan was left. Because he doesn't do well with communication?

(Man): Well, it's probably time for some self-reassessment.

(Man): As Alan, we should just give all our money and go to a commune and let the kids have a nice life.

(Woman): I don't have the sense of this, if you're a mediator and you feel, say in this situation that Alan needs counseling, has personality imbalances or problems... do you say, Alan, go get some counseling?

(Woman): As a mediator? I think this mediator did recommend counseling.

(Woman): How active should you be? I think you should be quite active about it.

(Man): I think Roz just said that she recommended that Judy get another attorney.

(Man): I think we should refuse to go separate. I think we should stay as groups and say, we only talk to the mediators as a group, and to the Judys as a group, and we'll have like four (...)

(Woman): Which Alan would you guys like? I mean, would you ladies like, would you women like?

(Man): The general information said that the therapist had recommended that the kids spend a year and a half at one place?

(Woman): And it might be - what the therapist also said - was that it should be done in at least three-month intervals. So for at least the next year and a half. In other words, for the next year and a half, there should be a longer-term agreement, so that would mean they would only switch back and forth six times in the eighteen-month period.

(Man): What bother me about that is I have a feeling as Alan that the future's uncertain, and that that's bothersome especially to
Judy because she... We don't know what's going to happen in the future. But for example, if the kids went and lived with her for a year, I don't know if they came back to live with me, whether that situation would work out.

(Woman): I think it would be better if they stayed with one of the two parents for a year and a half, and visited the other one once or twice a month for dinner or lunch or something like that.

(Woman): That's not a role we're supposed to play.

(Man): ( ) you said, that what the therapist recommended is that in a year and a half period, instead of going two weeks/two weeks, you go three months/three months.

(Woman): That's also disruptive, though.

(Man): So the question is, in a year and a half, what's going to be the end result of three month/three month. The kids could very well say that after three months, they're just getting settled and they feel really good, and then they're uprooted and they go back...

(Woman): Would we be able to change those things in this role, or would we have to stick with it.

(Man): ( ) information says that Alan is just unwilling to give up daily contact. It doesn't seem to me like he necessarily wants the kids for a year and a half in his lifestyle.

(Woman): Daily influence. Well, that isn't defined. Does that mean that he talks to them on the phone, or...

(Man): They say in principle they have agreed that there will be frequent visitation. Just because one has custody for three months doesn't necessarily mean that...

(Man): What's wrong with Judy having custody for the year and a half, and just Alan visiting, calling every night and visiting every weekend.

(Man): Well, first of all, I think Bryce is probably upset that Judy's living with Will. And so, I don't know if these problems that the kids have... I agree that one of the solutions is to provide more stability with the kids. And that's something we could probably both agree on, that we have a joint interest. But it's not clear that this three months on, three months off, is a solution to it. So maybe we need something that nobody's really thought about yet. This thing with daily influence might be the key to it. But it's that we're still harboring some ill feelings about what that situation is. And the kids aren't comfortable either. Because people know we're separated, or some
of their friends do. So the kids are going to be affected one way or another by this.

(Man): They were at the video last week. They were clearly upset by the whole thing...

(Woman): Well, they were caught in the middle.

(Man): ...going to school and having to deal with all this.

(Man): I think that a long-term...

(Woman): I do, too.

(Man): Even looking at it from a more selfish Alan, which is kind of hard to do, I think that for his lifestyle - maybe he wouldn't actually be this self-reflective - but with his lifestyle and what he really wants I don't think is really the responsibility of the kids for a year and a half. Or at least I don't think it would be best for ( ).

(Woman): It would even be a better arrangement if they were with one parent for the whole school year and maybe in the summer ( ) vacation went with the other parent. (general agreement) That's a kind of natural break.

(Man): And as Alan, we might have some flexibility with the salary and the vacation we're accruing, to spend actually three or four weeks traveling with the kids or to help with the summer camp stuff.

(Woman): Which would be nice.

(Man): Because Alan wants security. And maybe knowing that he would have the summers...

(Woman): With the children...

(Man): And that way he wouldn't have the day by day...

(Man): And not having them full time for long periods wouldn't really tax our ability to deal with the kids either.

(Man): That would save the expense, too.

(Woman): What about support, though?

(Man): Well, as I imagine, there's some problems with this two thirds/one third I have. I don't know how we'd keep from turning all these things into economic issues. That seems to me to just escalate.
Hall: ...look at what has been done, at several layers at a time, over the past three years. And to try to think, given the circumstances and the agreements that have happened, what is the best advice and the best kind of agreement you can forge. And it may well be that in an hour you can't come up with any kind of real agreement. But what would be good is if you could at least come up with a set of principles, and a way of proceeding, that makes sense in this case. If you can come up with something that, in principle, the parties agree to - even if not in detail - that's great, too. But as you can see, this is complicated and not really unique, in the sense that this is a very common kind of situation. This is the couple without great assets, who are both quite educated people, who have been living - as I think Roz said - sort of a somewhat laid-back Vermont life. But they were both married. And they worked quite hard doing what they do. There are children whose lives are very messed up by the situation. And what as a mediator could you come up with as advice on these two main issues? Not wouldn't it be nice if they got back together again or whatever. It's really water under the bridge in a lot of ways. They are going towards a divorce, and the question is, how could you help them to do it as reasonably as possible.

(Man): Would it not make sense, from the mediator's standpoint, to deal with the custody issue first? Because the child support is potentially going to be based on that. Laying out the custody issue first?

Hall: And also you have a good frame to the custody issue, in the sense that the child care ( ) as an issue. And if they go to court and litigate this, it will certainly come up and the advice of the therapist will be looked at very seriously.

(Man): You're talking about they're in a separated situation, but sort of rumbling towards divorce. And any agreement that you make, may have to be remade during divorce. The question is, is it advisable to try and get a provisional agreement for separation purposes, or do you want to ( )?

Hall: They have in fact been separated for two and a half years. And I would say that the kind of agreement we'd ideally like to get would be one that would be integrated into the divorce decree. That's a trend that's increasing, which is that you try and find an agreement which incorporates all the terms that both parties agree is reasonable that can be integrated into the divorce decree itself. And that I think you can assume in this case, that's what we're talking about. And that might be a provision that we should recommend.

(Man): There's a tougher nut to crack than that one in a sense,
Hall: The real thing is that this is a situation where it seemed to be waffling around for three and a half years. And if you were a mediator, wouldn't you want to be helping them to get something that would be, at least in principle, \( \) Or something that \( \) try for a couple of years and then dies. But it wouldn't just be, let's wait and see. The terms that would determine that, you would spell out.

(Man): Can you say what their tax \( \) stance is?

Hall: Basically, what Roz has told us, is that since 1983 they have filed separately. Each claims one child \( \). It looks like in 1985, Alan's salary is twenty-two thousand, eight hundred. I am assuming he does not count the hundred fifty dollars a month as income, and doesn't pay taxes on it at all. And Judy is making a little over twelve thousand a year, but no taxes have been taken out of it. So neither of them is in a real high tax bracket. Probably what you'd want to do is talk about, again in principle, what would be better to do. And if it would be better for one party to take both kids as a deduction. Or if there is child support \( \). Again, you don't have to do it in pure dollars and cents.

(hubbub)

(Woman): I added it up on a yearly basis, the whole thing. And it's just over.

(Man): She is, but I don't think he is.

(Woman): No, he is. He's got seventeen thousand, nine hundred nineteen dollars if you just add up all his numbers.

(Man): That's very interesting. I get fourteen thousand, eight hundred sixty-seven dollars.

(hubbub)

(Man): The real \( \) is that they have children. And that a judge is not going to give them a divorce if the best interests of the children are not taken care of. So that we as mediators could agree, but they can't agree on some things. The best interests of the children will decide that particular point. Basically, I think that's an approach that we could effectively carry.

(Woman): I went to the numbers because that's how much he can give for child support, the maximum child support for the benefit of the children \( \). She didn't have to worry about that. And he wouldn't have a \( \). But she had an income securing her children.
(Man): You're assuming she's got the kids.

(Woman): I think when you give money for support, there is a discount for that in the tax bracket.

(Man): But remember, they're not divorced.

(Woman): I know. But that's one of the things you're going to bargain with. Use that as a...

(Woman): If we didn't have that number, we can't establish the amount, which is very important. Because it depends on that.

(Man): One of the things we have to see is ( ). I don't know if ( ) significant other relationship is divorced, singles, able to be married ( ).

(Man): Are all of us co-mediators?

(Man): Has anyone thought about procedurally how you're going to handle that?

(Woman): Why don't half of us do the numbers and half the custody.

(Man): I'm just wondering how others are going to handle that in terms of... it can make it very confusing if the two people are throwing out different ideas. How you're going to approach using two people for a single voice.

(Man): As mediators, it seems like we're primarily going to be listening. And asking key questions to draw them out. And then maybe after we build up enough information, we should caucus as the two mediators. And then say, ok we've got this information now, where do we go with this?

(Woman): But the base of everything's the money. And that's what we've got to get straightened out.

(Man): Not necessarily. I think the base of things is common interests and where the interests aren't common, trying to meet them. And some of those things are money. And some of those things are just the kids themselves, and security.

(Woman): The money doesn't seem to be primary.

(Woman): Well, you can't pay without it.

(Woman): Underneath money ( ). They're acting out all of ( ) and there's a lot of other ( ).

(Man): One of the things that kind of concern me in terms of reaching an agreement is that in a curious way, the future may
be something they can agree about more easily than, in a sense, what is accountable for the past. Judy feels like she's been had. Not over the house, which is certainly an argument that she took in the way of getting jam today and jam tomorrow. But the ( ) that Alan's, the money that the father gave them, eleven thousand dollars which disappeared in Mexico and some ( ). ( ) you don't know what that's for, and I don't know what ( ) this agenda, but some sense of redressing those assets I suspect is going to be sticky issue. And a way of trying to focus on that... Alan ( ).

(Man): Many people go to this. ( ) drug dealing, something like that. Sometimes people go to mediation so that they both ( ) in their mind ( )

(Man): ( ). It's more like he might have used this money to pay off some school loans so that he doesn't have to pay them now. And there's a question of does she have any...

(Man): And they're also sort of happy-go-lucky, and they just spent it in different places. We don't know.

(Man): There's no proof of anything.

(Man): In a way she's earning interest off of ( ). While his land's appreciating, she's getting interest off the money she has.

(Man): They may have some vested interest in not going to court, in not having all the facts come out.

(Man): Both have a desire to mediate, as opposed to going to court.

(Man): I think they'd like to agree, if they can agree. From the tape, anyway, which is the backbone ( ), this doesn't seem like a couple that really want to agree on a lot of anything. It seemed that each had a point of view, and they're willing to see if they can agree, but I don't have a sense of that reservoir of desire. ( ) to go to court and have it decided for them. Judy's very energetic in making demands, and Alan's very energetic in trying to tune her out.

(Man): The other question is, what do they think, or what do we think would happen if they did go to court. I think that's part of the process in terms of who would get the kid. What kind of custody arrangement is it that a judge might order? What kind of child support arrangement? That could cut either way.

(Man): Where I'm leading is this: what if we were mediators and we were just trying to anticipate them. These parties get an ( ), and they take it back and say, we're stuck you decide. ( ) an informal adjudication. You're trained to give ( ) to the
mediation. And we'll just see if ( ). What do you say in a situation like that?

(Woman): I think that's the idea. ( ).

(Man): It depends on your Alan and Judy, I would think.

(Man): Or maybe, if the focus is not the interest of either Alan or Judy, but the focus is on the children and what is best for the children, it becomes an outside problem that the three - the mediator and the two participants - are going to solve.

(Man): Really more of a process problem is the mediator ( ) divisions of mediators as wholly facilitating an agreement that the parties ( ), as opposed to changing that into a helper model ( ).

(Woman): I think you could really model some kind of communication thing by giving ( ). And allowing them to see the thinking process, so that you don't have to give them the alternatives, but you could prime and pump. And model some kinds of communication ( ), but obviously he hasn't dusted off ( ) not communicating. I also believe strongly that with these kind of people who ( ), that they have to state what they want to mediate. And unless they make that commitment to a statement that they want to work on either their money, their children, or the garden, or something, they're not committed to a mediation. And it's just a waste of their time. Also, I'd like to ( ), I like to tell them they're paying me. And therefore, I have an obligation ( ).

(Hall: I think what we're going to do is bring in the other people. What I'm going to suggest is that three teams work in here and two ( ), one in the back and one in the hall. Evidently, in some of our negotiations papers got moved around on people's desks. Understandably, they were upset about it. So we're just going to try...) 

(Woman): ...Because one hundred is too little for a year.

(Man): Well, I don't know. This is very cheap. It doesn't say, per year, I mean per month. My assumption is that it's right. Because there are other things they don't say.

(Man): Well, auto is certainly not twenty-five dollars a year in Vermont.

(Woman): That's it.

(Man): Can we just frame two questions for Roz or for you? The insurance premiums don't say per anything. They say a hundred dollars, seventy dollars, twenty-five dollars, they don't say per year...
(Woman): See, a hundred is what it costs ( ). What is it, a hundred dollars?

(Man): See, they say a hundred dollars for medical, seventy for life, and twenty-five for auto. When I see the numbers, since it didn't say per month or per... it was per year...

(Woman): It looks like auto is seventy.

(Man): It may be that Vermont doesn't require insurance. That makes a huge difference.

(Man): We're there to help them mediate a custody issue and the child support issue.

(Man): Right. But that might mean mediating other issues to get them ( ) that point.

(Man): Medical, life, and auto...

Roz: That's monthly.

(hubbub)
Group Session
Lyle Baker and Jeremy Freeman
(mike 2)

Mediator: I'm Lyle Baker and this is my colleague, Jeremy Freeman. And you're Judy?

Alan: I'm Alan Smith.

Mediator: Alan Smith.

Judy: And I'm Judy Smith.

Mediator: We understand that you would like us to talk with you a little bit about your current situation to see what agreements you might come to in a more formal way, about your arrangements, financial as well as the children. And were here to be as useful as we possibly can. I thought it would be useful at the beginning, is there something that each of you would like to tell us that we could hear from you at the outset about you're circumstances?

Alan: I think Judy ( )...

Judy: Well, I certainly would like something to change. Things just aren't going well at all. The children are in a state of turmoil. They go from one place to another. It's just awful. The burden on them to have to make these constant changes. If they don't get along with me sometimes, then they could just figure and wait till they go see their father. I just really think that they ought to stay in one place and I'm the one who can give them the care they need. I'm there at night, I'm there in the weekends, and I just, a mother knows how to do things for a child. And I think we would be a lot better off. The trouble is, I can never get money. We make these agreements about money, and I get shafted on the thing about the house. I got less than the fair-market value, and now he's sold just a little piece and making all kinds of money, And then there are little things on child support and he's always late, you don't get the whole thing. So I'm just getting desperate.

Mediator: Alan, do you have something you want to tell us?

Alan: Well, I agree with Judy that the children are in turmoil. And the counselor recommended that they, for at least a year and a half, they not have this merry-go-round. They're both boy children, and I don't want to not see them at all. So while I hear what you say, I'm wondering if we couldn't work out something so that they were with you during school year, and then during summer vacations they were with me. Maybe that would be a natural break, and that would mean once in the year, rather than every couple of weeks. I don't feel that I want to give up
custody completely, but I also don't think it's good for them to be running back and forth. They're difficult to get along with, they're not growing, so I agree with you on that. We just have to work out how that could be. Whether you'd be willing to let me have them in summer, ( ).

Mediator: Before we get there, just I hear both of you are telling me about, are concerned about the welfare of your children. There may be disagreements about how that welfare is best served, but you clearly, as I hear it, both of you are concerned about how the kids are adjusting to the difference in your relationship ( ), as well as how they will continue to adjust and grow in the future, around any new relationships you have either individually or outside this particular ( ). Is that a fair summary?

Judy and Alan: Yes.

Mediator: Well, let's focus on that, perhaps, for a minute. Just see where we go with the process. As I understand it, you have two children, one is seven, the other is twelve. Do you see any difference in how the kids are responding right now? Can you comment a little bit about what you see happening with each of the kids, respectively? Bryce is the older one, right?

Alan: As compared to what? As to the way they used to be?

Judy: Well, for a while, they were both having therapy. And now, ( ), who's not in therapy any more. So I think they're getting older, and maybe they're just getting used to this situation somewhat. It's still been very difficult for them. I certainly think they ought to be together.

Mediator: Would you both agree that it's best for both of them to be in the same household together.

Alan: I think they both should be in the same household, yes. And I think that we both should have a relationship with them. I just don't think they should move every couple of weeks. I think that they ought to stay with one parent.

Mediator: Right now your pattern is that every two weeks you take off?

Alan: Yes. I mean I couldn't live like that, every two weeks have to go somewhere else.

Judy: I'm glad he recognizes that these constant moves are not good for the children.

Alan: But I would like to, perhaps take them for dinner on a weekend now and then. I don't want to have them staying with me forever.
Judy: I never resisted visitation, and how you're coming over and spending time with them. That would be fine.

Mediator: So ( ) find some utility in ( ) the kids in a more stable locational situation. Whatever that is. You both agree that there's some utility in having a longer term rather than from one household to the other.

Judy and Alan: Oh, yes.

Mediator: So that is a starting point. As far as the kids' education, they're continuing to go to the same school. Is that right? ( ) place, near the household? And Alan, refresh my recollection. What's your daytime work situation? What are your work hours?

Alan: Well, I tend to stay at the office sort of late. I often don't get home till seven or so. So they would be alone for a longer period of time.

Mediator: Isn't there somebody who helps take care of them...

Alan: Well, my girlfriend is around, but not all the time. Now, if I knew they were going to come for the summer, I could arrange my work hours so that I'd be home much earlier. I'd very much like to have them for the summer.

Mediator: I understand that. But you have some flexibility, with enough advance notice, to adjust your work schedule to be at home more than you currently normally are.

Alan: I couldn't do that all year round, but for part of the year.

Mediator: And how about your work schedule? How much flexibility do you have in designing your day?

Judy: Well I work pretty regular hours...

Alan: I was going to say, you didn't work regular hours.

Judy: I was usually stuck at the office until around five o'clock, and I get a phone call. They both go home from school and they call me as soon as they get home. And I take care of any little emergencies. Bryce is twelve now, and I think he's old enough to take care of himself and Nicholas. They're pretty well-behaved kids. They have good judgement.

Mediator: But you're pattern has not been to have somebody in the house until you get home. Is that normal?

Judy: Well, now that it's getting kind of dark... it gets dark
earlier... but I would like to find somebody. The ideal situation. But I haven't really been able to find somebody.

Mediator: Now you have a friend, too. But does that friend stay with you? Will?

Judy: Yes. It's his house, really. Yes, he's there. And he has a good, he gets along well with the children.

Mediator: But he's not there during the... he works the same time you do.

Judy: Yes, he's not there during the afternoon.

Mediator: Now, your friend doesn't work during the same hours, so sometimes your friend is there, but not...

Alan: No, and she doesn't live there all the time.

Mediator: So it's a case where...

Alan: That sort of bothers me in a way, too. For the children to have the... I suppose I'm the father, and Judy is the mother, but then there are these other people who are sort of floating around. And I don't think that's very stable for the kids either.

Judy: Well it sounds to me as if the same kinds of things are going on in both the places where we live. We're both developing relationships, and I think the children just have to learn to adjust to that.

Mediator: So just to summarize where we are, you're both interested in a somewhat more stable situation for the kids for a longer term, however that works out. Now, Alan has mentioned the possibility of having the kids on a more regular basis in the summer school vacation period. Do you have any problem with that?

Judy: You know, Alan is so forgetful. He's really not reliable. He's getting a little better lately, especially...

Alan: What do you mean, I'm forgetful? I'm forgetful they're there?

Judy: The kids don't get picked up. There have been many, many occasions when they've had to wait. You forgot that you were supposed to go take care of them that day.

Mediator: That's at school. Now, in the summertime...

Alan: In the summer, they'll be there all the time, so it isn't a question...
Mediator: I'm not disagreeing with you, I'm just trying to find...

Judy: I just have... he's so hard on the kids. He really... I don't know why...

Alan: How am I hard on the kids?

Judy: You know, just, you seem to take things too seriously. You don't understand that kids need a chance to express themselves. I'm awfully... three... the whole summer... and to live regularly... I'd have to think about it. I don't know what more I can say. I'd just have to think about it.

Mediator: I just get a sense of your reaction...

Alan: I feel the same way with the reverse situation. I mean maybe we could come to that agreement... I'd like to come to some agreement about it for the kids sake.

Judy: I never really did focus on...

Alan: And we could maybe ask the mediator to monitor that, to see how that's working out. That I'm being responsible and not forgetting the kids. And that you're showing a little more discipline with them. They do whatever they want.

Mediator: Let me focus on this in a sort of curious kind of arbitrary, even-handed situation. Is it a situation where you both would feel that a six-month division, or the entire year, or three months at a stretch, but some interval longer but an equal division is good for the kids? Is that...

Alan: I feel that it's better not to send them places except for a natural division, like a summer vacation or winter school...

Mediator: Would you share that theory, or do you...

Judy: The winter and the summer? What I'd really like is to have them be with me. Obviously there could be joint custody in the sense that he could share in major decisions involving the children, but I'd much rather have them just have a stable permanent base year-round, if there's any way to do it. But I am... in view of... I never really thought very much about how his schedule changes in the summer, and maybe he could work out a better way of being responsible for the children during the summer. So I guess I'm willing to think about that.

Mediator: It certainly might be that, to date, some of the distractions and the lack of discipline that you talked about may be because of this every two weeks that you're changing routines, that you never get into a routine, and therefore never develop a pattern. And perhaps this, as one alternative, this summer vs.
school year...

Judy: Do you think that's a good idea? Do you think we should just divide up, nine months...

Mediator: Well you know your own kids better than we do.

Mediator: We're here just to give some help in thinking about the problem, but it's really your decision and your agreement. We're not a judge. We're not a ( ).

Alan: But I would like you to say... to take a more active role, and just say... You've talked to a lot of people, I assume, and you must have some sense about us, about the decision we're coming to. What is your sense? That it's sensible? That it's crazy? That we ought to try it? I want you to be less wishy-washy in your...

Mediator: As Lyle said, it has to be your decision in light of your circumstances, as you understand and perceive them. But what I think does make sense is that both of you recognize is that is in the best interest of the children that they have more of a routine, more of a solid foundation. So you should be looking for some natural, as opposed to unnatural sort of construct. And the one you posed is one alternative. The two of you should examine it, does it mean will your, Alan, schedule in the summer permit you to be able to develop the children in that period of time, to the extent that they should be using a summer? Or is your business such that your busier in the summer?

Alan: I'm going to arrange it for that. I think there probably ought to be a transition of a week or so between the time school is out and when they come to me. Because it won't be rushed and upset. And similarly, on the other end... I would schedule...

Judy: Well, there are some advantages to it. I have to say there are. Of course, it's November now, and it would be six months before we even get a chance to try it. I certainly think that having the children know they were going to be in one place for the next six months would be useful.

Alan: I do too.

Mediator: Well now, as far as just to respond to what ( ), I mean obviously you have the alternative of going to court and having a judge make an arbitrary decision. Our ability to recommend really is very limited, because we don't know your kids the way you do. And ultimately any agreement that you make is going to be more effective if you really both believe in it. And if we come out and say, wouldn't this be all right, and one of you said, well ok I'll go along with it, and the other said...

Alan: You want us to be very involved in the making...
Mediator: Yes, because you've got to live with this. We could propose something and say, you both say ok I'll sign here, but if it breaks up in two weeks, we haven't served you well. And so, if you don't mind, as a process, we'd rather defer sort of making suggestions completely or trying to resolve things like an arbitrator, as little as possible, and see how much agreement we can find that you already have or can have between yourselves. So it may mean that we won't be quite as active as you might prefer, but if you can just bear with that ambiguity for a stretch, and see what happens, then we can always retreat to more structure. Let's assume, for example, that you might find it attractive in an overall settlement - and nobody's doing it, obviously, at this stage we're just trying to get zones of opportunity - that you were to divide the residence, the children would have primary residence with one parent for a school year and with another parent for the school vacation. For an operating principle. With some visitation opportunity back and forth during whichever primary residence occurred. That's sort of a principle to start with. Is that principle a decision that you both think...

Alan: Yes!

Judy: I know we've got a lot of money things to talk about...

Mediator: Understood. None of that's locked up...

Judy: ...and we have to think of it in terms of some structure. So I don't mind... I suppose we could discuss it hypothetically, and get into the money and see how the money would work out. Because I'm awfully discouraged about the money.

Mediator: Sure, I understand. We've got to get into that. But the kids are obviously the players who are not party to this agreement. They're affected by it. And you both have obviously been concerned about it. Do you want to say anything about this part of the discussion?

Mediator: No, I think you laid out the parameters quite rightly, and given us a structure that, as we can best identify, help you identify where your joint interests are. And simply, at this point, ( ) identify...

Mediator: Let's talk about the finances, because you raised that issue. It's obviously a concern to you for the kids. There is, with the primary residence, comes the burden of taking care of the kids, feeding and primary clothing and things like that, the daily living expenses of child care. And whatever lump of money you might decide is available for the children, would it be an operating principle that you would have that lump of money, again, allocated on the same basis as the children's residence is concerned? In other words, if you said that a child would
cost X dollars a week to maintain and care for, however that works out in terms of numbers, you might consider that as a basis for starting a discussion about dollar cost.

Judy: I'm afraid I don't understand quite what you're saying. You mean I'd have to, if I were going to have them nine months a year, that I'd have to pay three quarters of their cost?

Mediator: No, then we start by seeing what the kids cost to take care of. Then the question is that, once you've got some sense of that, just of the factual ( ), you worry about how it's allocated between you in terms of who bears the cost and ( ) the ability to pay. But again, for both of your interests, regardless of what... what I guess I'm raising for you is... the principle that I articulated, one parent having custody during the school year, one parent having primary - not custody - but primary residence, the children's primary residence during the school year, and ( ) the summer... hasn't made a decision yet about which parent it is. There's a tentative thought that you might be the summer parent, you might be the winter parent.

Judy: I'd say it's probably strong that's the only way I would even want to consider it.

Alan: I don't know that it's the only way, but it would be very difficult for me to do it the opposite way. Now. Maybe ( ) it would be different.

Mediator: What I'm raising with you is that if you're trying to think through an agreement that you both can live with, you both want to be fair to the children and fair to each other as well. And so, one way to think about that is to think independently of how it comes out, what are principles that help you decide the situation. So just as a baseline question, how much does it cost to take care of each child ( )?

Alan: I don't know, I'd feel much better if we could come up with some formula, so that I knew what I was going to contribute to that. And you weren't always picking at me that I'm not paying this and not paying that, and you forgot about this and you forgot about the other. I don't like that arrangement at all.

Mediator: I understand that. And you feel that you're not getting...

Judy: Well, it's always late and it doesn't seem to be enough and we have these arguments all the time.

Mediator: So you both have a common interest, as I hear it, in having some sort of predictability, both ( ) and to the payment certainty.

Judy: I'd certainly like certainty of payment. I don't know what
in the world we could do about it, but I just wish there was some way I could count on the money.

Mediator: How much are we... how much does it cost to take care of the kids in a week?

Alan: I don't know, actually. Judy probably has to work out that more than I do.

Judy: Well, the food costs forty dollars a week, and then we have to...

?: ( ) a long time ( )

Mediator: So you got forty dollars of food...

Judy: It's at least that.

Alan: I don't even know how we should do these expenses. There's the daily stuff, food and rent. And there's the special stuff, school and medical things and camp. How is that sorted out?

Mediator: Rent is something that is... obviously you're going to both have space for the children. But let's just focus on the variable costs for a second, if we can, and then we can get to the fixed costs which might be allocated in one way or another. Specifically, if a child in residence costs forty dollars to somebody... right?

Mediator: Is that per child or is that for both of them?

Mediator: For both of them.

Judy: It seems to be total. It's about twenty a week. We really both... I know I scrimp a lot, at the supermarket.

Mediator: What else is...

Judy: Well, we got camps for the children. Bryce's camp costs two hundred and fifty dollars, and Nicholas' costs one hundred and fifty, and I ( ) that. Clothing, gee... some months it's only fifty, but some months it might be a hundred and fifty dollars a week.

Mediator: Would a fair amount be a hundred dollars a week on the average?

Judy: Well, I suppose we could plan ( ). I suppose.

Alan: What is it that you said?

Mediator: I'm sorry. The clothing, as I heard Judy, was fifty to one hundred and fifty dollars a week, and I was just trying to
get an average...

Roz(?): Clothing is a hundred and fifty dollars a week?

Judy: No, not a week. Every month. Just a hundred a month.

Mediator: Judy, does that include your part of the year, or is that just the total?

Judy: Oh, I see. That's difficult to answer.

?: One way to do it would be to look at the variable costs, as you say, and so that would be food, and I don't know what. Allowances and things that occur. And then the other things would be, they probably need a bunch of summer clothes and a bunch of winter clothes. So there are things that are not necessarily by the month. There's the winter's wardrobe and the summer's wardrobe. Maybe we should have those up as hunks, and divide it in some way.

Mediator: That's fine with me.

?: What do you think, Judy?

Judy: Well, if I can afford it. I suppose if there's some way we can make it more systematic and something that we both consider to be fair, then I suppose it's good.

Mediator: Ok. Well, let's leave clothing as a discreet question separately. What other things are regular, ongoing expenses the child ( ) in residence.

?: Babysitting.

Judy: Well, we drive more when the kids are... it costs twenty dollars a week in gas and oil, and certainly some of that, there's more activity when the kids are around, driving them around. And I guess the medical... that's probably... the drugs and things are probably not directly related to the children.

Mediator: You got some pocket money for the kids, right?

Judy: Yes. Five dollars a week for that. The daycare's forty a week. That's in the summertime, isn't it?

Mediator: If you have Alan with custody of the children in the summer...

?: You might have some babysitting expenses, though.

Mediator: What do we have here for numbers so far?

Mediator: Under food, we have forty dollars a week. For the
children, camp is four hundred dollars a month. I guess it's for
the duration of the summer.

Mediator: Do you both think that camp's a great idea for the
kids?

Alan: It depends. I don't know. I don't think I can make a
decision about that right now.

Alan: I'd want to make that decision on the basis of what's good
for them, that particular year, for each of them.

Mediator: ( ) one of those items that ought to be left that an
agreement be made in principle, and ( ) who would fund it or on
what percentage he would fund it if and when it was decided that
the children would go to camp.

Judy: Well, the trouble is then, chances are I'm the one who
would, can see the benefit of the camp, and if he decides and
doesn't see that benefit, I'm going to wind up...

Alan: Although the benefit would be... granted there may be some
benefit to you, but I think that the decision should be made on
the basis of the benefit to the child.

Mediator: We agree on that. It seems like a bit of an
extraordinary item, and it's not regular ( ) not knowing.

Alan: Well, it doesn't come up all the time.

Mediator: We're just trying to get the bare minimum that we're
trying to... ( ) move with the children, which is what we're
really trying to identify. Food makes sense. Transportation
shuttling costs make sense. Pocket money makes sense. These are
all things that are going to fall depending on where the children
are ( ) sixty-five dollars a week. We've got food, we've got
clothing.

Alan: What does a wardrobe cost for the fall? I mean, that's the
way it works.

Mediator: Or do you buy clothes on an as-needed basis?

Judy: Well, just that's really the only thing ( ) we can do.

Alan: Is what?

Judy: Is just pick things up from time to time and hope that some
of the things that I wore last year will carry over.

Mediator: And the children are growing, so ( ) needs...

Judy: Out of that hundred a month for the family, I think well
maybe a half of that is attributable to the two children.

Mediator: So at least fifty, you would say...

Judy: At least fifty a month. That would only give six hundred dollars for two children. That really seems very slight. As you can see, I don't spend very much on myself either.

Mediator: We're talking just about certain, what the ( ) costs would go to a fifth. Does that mean that there might not be ( ). We looked at just the maintenance. Since we've been talking in weekly terms, if we looked at maybe fifteen dollars a week, would you feel comfortable with that? That would be sixty dollars a month. ( ) for the year.

Alan: For a child.

Mediator: No, I think that's for both. Total.

Judy: Excuse me, how did you come to that figure?

Mediator: Well, it said a hundred dollars or so a month, right? And you felt that might be a little low. At this point you've been skimping a little bit. Let's face it. The kids are now getting at the age when clothes would perhaps be more important, and they're still growing. One of the kids is going to soon be in high school. ( ) is going to ( ) a little bit of a concern. So what I took was under the figure you asked for, fifty dollars a month. That's about twelve and a half dollars a week. So I rounded that up just a little bit, put on another, say, fifteen percent margin, ( ) obviously needs, to set as a ballpark. Fifteen dollars a week, for the purposes of budgeting.

Judy: Is that for the two children?

Mediator: That's for the two. On the assumption that the number we have...

Mediator: You don't buy that every week. It's just that works out to six hundred, ( ) four-week month.

Judy: I'm having trouble with these details. I'm very, very upset about the amount that I get paid for the house. He went out and got an appraisal...

Alan: That's another whole subject. Can we just stay on...

Judy: Well I don't really see how I can do that. How can I just... We've tried to stay out of court. We made what we thought was... I thought of as fair at the time I suppose in large part only because I was advised that I probably should take less than what was fair so that I could get it.
Alan: So we did that. Now what's the matter? This is what really bothers me.

Judy: I'm not so sure... I don't think that you can just do that. I just think that surely...

Mediator: May I just make a suggestion? I hear what you're saying. You feel that there is a potential residual and fairness out of a settlement you made about your property.

Judy: That's right. You understand.

Mediator: But regardless of how that's resolved, you still got to worry about what happens to these kids. And you have an immediate need for predictability about payment...

Alan: I have a need for that too.

Mediator: ...just as an operating principle. Not that that's not an important issue that you're raising. But to defer that for a minute just so we can get through a sense of what this all turns out, and then go back to that.

Judy: As long as we're going to get to it.

Mediator: We're not taking it off the agenda. Whatever you want to talk about we'll talk about. But as a matter of process, it's sometimes useful to bring a few things through the gate and get them...

Judy: Oh, that's fine.

Mediator: As a matter of process, we could look at, first of all, identify the uses of cash. And then we could address the issue of sources of cash... where will the money come from, whose responsibility. And that will raise the issue that you expressed.

Alan: So what have we come up with?

Mediator: At this point is looks like about ninety dollars a week...

Alan: Per child...

Mediator: No, that's total. That's for the two children, which, as I understand it, you both seem to feel that it's best that the two children be kept together.

Judy: Can you tell me what the elements of the ninety dollars are?

Mediator: Sure. Food at present is forty dollars per week. Clothing is fifteen dollars a week. Transportation and shuttling
costs are twenty dollars a week. Pocket money is five dollars a week.

Alan: And that comes to ninety?

Mediator: It does.

Mediator: We may want to put in a little bit. We've got drugstore, variety items, a few other things. There are certain miscellaneous catagories that are...

Judy: I'll tell you actually ( ), that transportation's a little high. It was only twenty dollars ( ). I don't want...

Mediator: If you set another ten dollars a week just for miscellaneous accidentals, is that a fair number?

Judy: Ok.

Alan: Yes.

Mediator: So what does that work out to?

Mediator: That brings us to a hundred dollars a week as the sort of ongoing location costs of where the children are.

Mediator: So that whoever has the children can expect that they're going to...

Alan: A hundred dollars a week.

Mediator: ...( ) in variable costs.

Judy: So it will cost a hundred dollars more when the children are under the roof.

Mediator: Now that doesn't cover medical, and it also doesn't cover...

Alan: I pay for all the medical stuff. That's all under my...

Mediator: And it also doesn't cover the shelter costs attributable to the kids. You're both living by yourselves, without.... Would you change your residence if you didn't have the kids. Would you have a different situation?

Judy: I can't even consider that. Because I want to have a place where the children could be.

Mediator: So that the shelter costs are going to probably stay the same, regardless of how the kids are divided in terms of ( ) rent. You're housing situation is pretty much stable regardless of the ( ). That's all I'm trying to get at. Now if that's the
case, then I think we need to focus on the problem on access to funds, and how that problem is handled. As we understand it, Judy, you've got a somewhat uncertain income, but currently running about twelve thousand dollars a year, or a thousand dollars a month, around that.

Judy: That's about what I get.

Mediator: But you have no deductions, I mean no withholding or any of that.

Judy: Well, they don't take it out, but I'm advised I'm going to have to pay a tremendous chunk of money in April.

Mediator: Have you paid any estimated taxes?

Judy: ( ).

Alan: Who advised you about that?

Judy: You know, I had a lawyer...

Mediator: You're both filing separate returns right now, even though you're still married.

Judy: We've been doing that for quite a while now.

Mediator: And Alan, your income is what? About twenty-two eight? Is that correct?

Alan: It's about thirteen hundred dollars a month. In other words, maybe about three hundred dollars more than Judy.

Judy: But he gets other money, too.

Mediator: But it's just as your earning right now. But yours is...

Alan: So do you.

(laughter)

Alan: Yes, I get thirteen hundred dollars a month. And then I might get a little more, because I have roommates who contribute a little something, not a whole lot. And I think Judy has a large amount of cash and some interest-bearing fund, and she gets extra money every month. I'm not sure how much that is.

Judy: That's from what I have invested. The money that my share of the house.

Alan: Yes, but you've got an income from that.
Judy: Well, I get about a thousand dollars a year.

Alan: So that's how much a month? That's about eighty dollars...

Mediator: Alan, are you getting any major tax refunds, or paying any extra taxes ( )?

Alan: Not that I know about.

Mediator: I have to consult my co-mediator here. What would Judy's income factor out, with an allowance for deductions?

Mediator: For Judy, it seems to me she's getting two-fifty a week gross. But she's going to have to pay taxes. When you factor it down, it's probably going to be in the... let's see, twelve thousand with her personal deduction, and depending on the dependents, how that is going to be claimed...

Judy: Well, we've both been taking one. I suppose we can ( ). Does it make sense to continue just doing that the easiest way?

Mediator: One of the things is that here it is in September. You still have the opportunity to file a joint return for the entire year, right?

Alan: You think that's a better thing to do?

Mediator: You both may save some taxes. Indeed, the marginal costs... Alan may end up paying... Judy's concern is that she's got a big chunk of dough that hasn't been withheld for. ( ). You're concerned, as Judy is, that you've got a chunk of dough that you're going to have to cough up. On the other hand, Alan, you file a joint return, and maybe we could have the wrong numbers, but it may be that the...

Alan: We both...

Mediator: Well, that Judy might end up being ( ) as far as her tax liability goes. In other words, you might unload some of that residual liability without Alan picking up any extra burden, simply by...

Judy: I agree.

Alan: Good. Let's look at that.

Mediator: We can't promise that. It may be that there is some extra that he would have to come up with, but it's at least worth thinking about. The second point is somewhat related to that. If you were to try and put both of your incomes on ( ), you're receiving, Judy, some income from the settlement that was made. Leaving aside your feeling about the validity of the settlement, you're getting a thousand dollars a year...
Judy: ( ) just get an appreciation for the house.

Mediator: I understand. And he's got the use of the place in the sense that his friends are doing something and ( ). So you've got a little collateral income, both from the ( ). But normalized, Judy, your income would probably boil down to more on the order of about a hundred seventy-five a week equivalent, which would turn into nine thousand a year. So, roughly speaking, your income, Alan, is about the equivalent of two and a half times Judy's income.

Mediator: ( )...

Alan: That's not the kind of figures that I have. Could I just look at them.

Mediator: Sure.

Mediator: ...take-home is fifteen six, right?

Mediator: He's got twenty-two eight.

Mediator: Right. But that's before tax. You'd have to compare that against this as twelve thousand. We're going to look at this nine as net, then this is net, fifteen six. So we're looking at Alan, your income is about forty percent higher on an after-tax basis, currently filing separate tax returns.

Alan: Forty percent higher...

Mediator: Yes. You're about fifteen six, after tax, and Judy, you're at about nine.

Mediator: Do you both agree with that? Does that make sense?

Alan: Well, I don't know. My figures are... I earned twenty-two eighty a year...

Mediator: And that's gross...

Alan: ...and I understand you, Judy, are earning twelve thousand.

Mediator: Right.

Alan: So your saying that your net...

Mediator: You're going to pay more tax.

Alan: Ok, and you figured that out, so that I get about fifteen...
Mediator: Let's round it to sixteen, and nine. So actually, you're getting seven thousand more on a base of sixteen. So that's sixty-two percent more, on an after-tax basis.

Alan: Sixty-two percent? Depends on how you do the percentages.

Mediator: Somewhere between fifty and less than one hundred difference between your ( ) depending on how the taxes work out.

Alan: So what do those figures...

Mediator: What do they mean in terms of the settlement? You both have, assuming that we talk about the variable cost of the children, going with the children, you have different abilities to earn, to support the kids and take care of them in a situation, take care of their needs. And I guess the question is there a principle for allocating these agreed costs of a hundred dollars that appears fair to both of you. So that you can feel that each is contributing to the extent of his or her ability, to the welfare of the kids.

Judy: Well, he's been taking care of about two thirds of the expense of the children. And I think that's fair because the basic income that I have... I can really only cover the bare essentials...

Mediator: Oddly enough, that comes pretty close to the relative earning capacity that you both have vis-a-vis each other. Would it be a principle if you could find congenial to maintain that concept and say that the variable cost of taking care of the kids would be borne two thirds by you, Alan, and one third by you, Judy.

Judy: If we could work out some kind of sure system for paying, and I think I'd like to continue...

Alan: How would it work out if I pay two thirds and Judy pays one third. How would that work on a weekly basis?

Mediator: You've got a hundred dollars a week. Fifty-two hundred dollars a year.

Alan: How about doing it on a weekly basis?

Mediator: Sixty-seven dollars a week...

Alan: Is what I...

Mediator: ...by you, Alan, and thirty-three dollars a week by you, Judy.

Alan: Well, supposing I sent two weeks worth, can I use you as a... I don't like her calling me up all the time and moaning and
groaning about this, that and the other. I would rather just send the money and be through with it, and have her manage that.

Mediator: Who's your employer? Don't you work for the Amalgamated Cheese Company in Vermont?

Alan: The Amalgamated Cheese Company?

Mediator: Whoever your employer is.

Alan: I could have my employer do that for me?

Mediator: Sure.

Alan: I didn't know that.

Mediator: I'm sure that you're employer would be particularly happy to do that...

Alan: And my employer would send that to...

Mediator: You just ask the accounting office to send...

Judy: That would be great. And then every time he got paid I'd get my money?

Mediator: That's right.

Alan: Ok. Well, I'm willing to do that, but then I don't want to entertain any... you know, if my company, that the mail is late... I don't want any complaining from you about that. I want you to deal with the company about that.

Judy: I don't think that would be a big problem.

Alan: Ok.

Mediator: You don't have to worry about remembering to send it...

Alan: It's just done.

Mediator: It's just done.

Alan: And that's less painful for me. I feel that Judy doesn't appreciate what I contribute. Every time, there are certain hassles about it. She sort of puts me down in some way or another.

Judy: How are we going to do this? Are we going to have the same system in the winter that we have in the summer? If we're going to have the children in one place at different times?

Mediator: What might make sense is that those periods in which
the children remain with Alan, the variable cost be allocated... we would figure this out, we'd have to sit down with a piece of paper...

Alan: Couldn't Judy just send me the third?

Mediator: That would be a simple way to deal with it.

Judy: So when my kids, when they're with me, he sends me two thirds; when they're over there I send him one third.

Mediator: Is there a joint feeling? Is that simple enough? As an operating procedure. There's one other thing besides medical ( )... you would continue to cover the family on your medical expenses...

Alan: Yes. I can do that.

Mediator: But related, there's an issue that occurs to me at least, that you may want to think about, and that is again, there may be extraordinary costs. The kids may have some particular costs. Would you all be agreeable to agree on a small fund to be allocated by you both jointly for emergencies?

Judy: We haven't even ( ). I thought we were...

Alan: What do you mean by a small fund.

Mediator: Five hundred dollars. Something like that. In other words, the problem that sometimes occurs is that you can take care of these day-to-day costs. And then, along comes an extraordinary expense. And as I hear you, you would like to have as much of this decided in advance. You could always agree to ( ) any time you have to. But if there were a way to agree to create sort of an emergency reserve...

Alan: We'd still be having arguments about how you allocated money from that.

Mediator: You might.

Alan: But at least it would be there, is that what you're saying?

Mediator: Rather than having to worry about it, pay into it a third for you, and two thirds from you, so that there'd be a ( ) fund there to protect the kids...

Judy: You mean about ten dollars a week?

Mediator: Something like that. Some modest...

Judy: Who would hold it?
Mediator: It's very easy. You could set up a small account in the bank, ( ), trust in the account, for the benefit of the kids.

Alan: And then either of us could... we both jointly...

Mediator: You'd have to both jointly sign it out, but you would both just pay it in.

Alan: That's all right. I wouldn't want to start with five hundred dollars.

Mediator: I would just let it build up. Say ten dollars a week in Judy's case, and twenty dollars from you. And you'd end up with... is that too much?

Alan: No, that's about right. That's two thirds, one third.

Mediator: That would be thirty dollars a week, which would work out to about fifteen hundred dollars for the year.

(Second side of tape)

Mediator: ...seven hundred and fifty dollars built up over the year.

Mediator: Which should be good to cover most of your contingencies.

Mediator: And then you can make a decision about camp. Or you can make a decision about extraordinary costs the kids have. You're going to have a reserve there.

Alan: That sounds fine.

Mediator: Is there some agreement in principle that some monitoring of costs should go on, so that you can make sure both of you are happy that in the time in which the children are with you, Judy, that costs are running about a hundred dollars a week... Alan, when they're with you, ( ). Because as time goes on, you don't know, but possibly...

Alan: Could you monitor that for us?

Mediator: You're in a better position to monitor, but one of the things that we sometimes are willing to do is to be available. This happens to be trying to resolve the set of differences you have right now. Other differences may arise in the future, and if you both feel it's useful to have one or both of us available, come back...

Alan: We always do, because one thing it does is it cuts down on the bickering and it comes up with a nice, sensible...
Mediator: You can agree to talk again.

Judy: We're running out of time and we haven't come up to those issues that...

Mediator: Now let's go to your issues. But we've agreed on the child support situation...

Alan: That's, to me, the biggest issue, is the child custody and support in terms of important.

Mediator: Judy, can you be a little more specific now about what your concerns are about the past in terms of...

Judy: Yes, sure. We have a house. My family put in most of the equity in the house. It built up. It was about the only asset of our marriage. It was appraised. I was given the figure...

(Hall: I'm sorry. In about five minutes, you can wrap up and get yourself coffee and tea, so that at eight we can begin debriefing together as a group.)

Judy: So, a value was put on of sixty-four thousand dollars, and then take ten thousand off for the mortgage, leaves fifty-four thousand to be divided between us. And I didn't even get twenty-seven thousand, I got twenty-two thousand. The check bounced. The first check bounced. I finally got my twenty-two thousand dollars. And then, at the time we made this deal, he knew that he could sell one and a half acres for something like seventy-eight hundred dollars. And if he sells off little pieces of acreage, he's going to get back the whole fifty-four thousand and he's still going to have the house. And I just don't think that's fair at all. I really feel as if I've been taken.

Mediator: Alan, do you have something you want to say?

Alan: Well, I just think that's the way life is. We had the house appraised. I didn't make up the value of it. The house and the land were appraised at fifty-four thousand dollars. You had an attorney. Your attorney...

Judy: Do you really think that's fair?

Alan: I don't know what's fair. It's the agreement we came to. Now...

Judy: I agree we made an agreement and we're trying not to go to court. But I really just feel I was taken...

Alan: How would you feel if the taxes on the house were so large that I had to sell off an acre to pay the taxes. Would you feel that you needed to reimburse me?
Judy: What especially gets my goat is that you knew very well you could sell off this acre and a half at the time we were...

Alan: I didn't know that. Any more than you did.

Mediator: Let me suggest... Here you have an asset which you both have contributed to over time. As I understand it, Alan, most of the mortgage payments you had made. Right?

Alan: Yes, and I did all the building.

Judy: Well, I had a joint income.

Mediator: But in terms of relative incomes...

Judy: But our income... I was taking care of the children.

Mediator: Right. I understand that. And there was a portion of the funds that came in ( ) from your side, as we understand it.

Alan: How much is that? I don't remember.

Judy: A lot. They kept giving us money. They gave us money for the one extra bedroom, and you built a four-story tower... you started.

Mediator: Well, it seems to me that, as I understand it, we understand it, my colleague here, you have divided the house based on an appraisal of what it's worth. And Judy, you took a little less than the appraised fifty percent value...

Judy: To get the cash.

Mediator: ...to get cash up front. On the other hand, that operated under an assumption that, at least as I hear you, that the property would remain intact.

Judy: Well, that's what I certainly had in mind at the time.

Mediator: And as I hear you, you had no anticipation at the time that the lot would be sold. Right?

Judy: No. I just needed money, which is why I sold it.

Mediator: I understand that. But at the time, you...

Alan: I mean I think I'd like to get away from this. It's this way now, what is it going to be like five years from now?

Mediator: Understood. But there's a point at which you would like to resolve... Obviously, you're still going to have a relationship with each other for a fair amount of time over the kids, regardless of what happens to your marital relationship...
over time. And to the extent that there's a residual bitterness, that does make it difficult, more difficult perhaps than needs to be. You don't have to agree on anything today. But if there were a way that you could agree to put this issue to bed, you might be able to see a difference.

Alan: Now what is Judy saying? How do you think that ought to work out? What do you want?

Judy: I don't know. Maybe we should take a new appraisal. Maybe a new appraisal...

Alan: But that was two years ago.

Judy: Well, do some kind of an adjustment.

Alan: Should we include in that the interest on the cash that you have?

Judy: Well, maybe we should. Maybe that's fair. I don't know.

Mediator: Let me suggest this. It seems to me that the change in circumstance was that, as I indicated, you both made the deal on the assumption that the property would remain intact. You didn't expect to sell off a piece. You didn't expect a piece to be sold. Right? Now a piece has been sold...

Alan: I didn't think we really talked about it actually. I think that's what happened.

Mediator: I'm just repeating what I heard you say a minute ago. That's all. So part of the problem is that you feel that there should have been, or should be, some participation in the appreciation over time. Right?

Judy: Yes.

Mediator: You've essentially traded appreciation for cash, and cash less than the then-current value. And Alan, we understand your interest in having liquidity at times, because you had to borrow money, we understand, in order to pay Judy off. Correct?

Alan: Mm-hmm.

Mediator: And so you want to try and resolve some of that. Is it a possibility here, as a way of trying to put the issue to bed, is to say that as far as this past sale is concerned, that there would be a sharing of some of the proceeds of that sale. Would that make you feel whole now, Judy, if there was some sharing? I don't know, Alan, whether you'd agree to that.

Judy: I would certainly... that sounds fair to me that there should be some sharing.
Mediator: But Alan also has an interest in having this issue of the house and what happens to it in the future put to bed completely. Would you be willing to essentially say that if there were an equitable sharing of that past sale, that you would forego any claim to anything in the future, so that he can forget about this now?

Judy: I have some reservations about my lawyer. He told me to go ahead with this other deal. And lots of my friends have told me I should get a different lawyer. I can see a possibility that if a new arrangement were worked out, and I had more competent professional advice and was told, go ahead, this probably is fair under today's circumstances, I think I would feel an awful lot better.

Mediator: What we're trying to do is help see if there is a possibility of resolution. Now, granted you both jointly contributed. What I was wondering, and neither of you have an obligation to do this, but one way to resolve the question is to say that as far as the sale of the acreage – produced what, ten thousand?

Alan: I think it was seven thousand.

Mediator: One way to deal with that is again to deal with it on the basis of your relative contribution in a cash sense. Now, Judy, you of course have put in a lot of time in sweat equity ( ) and everything. There's no gainsay there. On the other hand, on the advice you got so you had made a deal, that you really feel like you didn't get fair ( ). ( ) as far as the future of the house is concerned, that one way of framing it is to think that one third of the settlement representing your contribution might be a way of making you whole. Is that a fair way to proceed, from your perspective?

Judy: So that I would get another two thousand, or twenty-three hundred dollars, or something like that? Gee, I don't know...

Alan: What I was going to suggest is I think he did have a crummy lawyer. You ought to get another lawyer. But then I want included in that the interest on the cash that you had in the bank.

Mediator: I don't think it would be fair to Judy, Alan. You've had an opportunity to use the property in a rental sense. You had the friends in there, right? I mean, there's equivalent earning capacity. We both had agreed that there's something...

Alan: I'd like to take a look at that.

Judy: As long as we could agree to keep this issue open. I don't want to be foreclosed forever...
Alan: But I would like to take a look at it and come to...

(Hall: Let's get back together. And have one person who can talk about...)

Alan: ...a decision within the next three months.

Mediator: Maybe we should meet again on that issue.
Mediator: I'm glad that you've gotten here today. I understand you've got a bit of a problem. I would like to hear exactly for both of you what you'd like to accomplish here today.

Mediator: Judy, you asked for the mediation, so why don't you start?

(pause and smalltalk while waiting for Judy to come)

Judy: Well, first of all I would like to think that we both asked for this mediation. I think there are obviously problems in the agreements that need to be worked out. It hasn't really worked terrifically for either one of us individually. For us, in terms of maintaining any kind of relationship. And clearly, there are some problems for our children. So that I'd like to think that we both called this meeting and not just myself. But I'm happy to go first and sort of state some of the things that I'm most concerned about. And I think my concern clearly, first and foremost, is for our children. That they have been in therapy, and it's clear from the reports that we get from their therapist that... (tape ends)

Mediator: So your first concern, I hear you saying, is the custody issue. Do you have any others that you'd like to put out today?

Judy: My second concern, and one that I'm not sure that we will resolve today - although I'd like to set a framework for the resolution - is the financial situation. And it seems obvious to me that I have been bearing a greater financial burden than Alan has. For several reasons. One being that I earn less money. And Alan has been less than consistent in his payments. And therefore, I need to up-front lots of costs, and pay for, entirely for costs...

Alan: How much do I owe you now?

Judy: Right now?

Alan: Yes. Just eighty dollars.

Judy: A hundred and eighty or something?

Alan: No, I paid you. Not the exact date...

Judy: That's what I'm stating to you is an issue, is part of the financial problems for me, is that I earn less money, substantially less money than you do. And I have to front-end costs, because Alan is often not prompt in making his payments.
And Alan, I don't presume to say that you don't intend, or that you maliciously don't pay me on time. I just think that you haven't been responsible enough or consistent in your payments. And that has been and remains to be problematic for me.

Alan: I make twice as much as you do? And I pay two thirds.

Mediator: We can work on these facts and develop in the course of the mediation...

Judy: Thank you.

Mediator: ...but it's our understanding that you'd like to find a way of agreeing on what is owed. And whatever it turns out to be. And to be able to have both sides live up to that.

Alan: I just want to get the facts straight. That I make twice as much but I pay two thirds.

Mediator: When we get all of the income statements from both of you, when you fill out the 401 form, then we'll be able to be clearer as to what actually each of you are making. And we'll work on what the responsibilities are.

Judy: Alan, I think I started by saying I don't think that we will resolve the financial problems today. I hope that we begin to set a framework for the resolution of those problems in the future, Alan. Let me continue to state what I feel to be the problems in the financial settlement, or our financial agreements to date. And one is, as I mentioned, the lack of consistency in payments. The other issues are that, for me for income, I feel as though I have not gotten my equitable share in our property. And I would like to and intend to resolve that issue, with Alan.

Alan: What do you want?

Judy: Can I finish stating? This is why we're bringing in a mediator...

Alan: I was just asking...

Judy: I'd be happy to talk about that...

Alan: I tried to settle this...

Judy: I know you did. I think we attempted to do that. I think that it was incomplete and inequitable. And I would like to reopen that issue. It is my intention to reopen that issue.

Mediator: Any other financial problems?

Judy: No. We have this budget here that we could go through at some point ( ), and of course there are omissions and some
problems with that. But my main financial problems are the
day-to-day problem of cash flow, and the long-term problem of
equity in liquidating our property. Those are my really key
problems. And I think that they are difficult to resolve. And
again, I want to restate especially for Alan, that I think the
custody of the children is foremost at this point.

Alan: I think not the custody, but the health and well-being are
the best interests of the children. But it's another fact that we
did come to an agreement about the property, in that I was under
the impression that was settled.

Mediator: Did you live up to whatever the agreement was?

Alan: I think I was a couple of weeks late in payment, but it
was paid. We had agreement...

Mediator: We can go though...

Alan: I'm not saying exactly dates. Sometimes things come up in
everyone's life where they have to delay payment. But I've
always paid what I was supposed to.

Mediator: What would you like to get out of the meeting today?

Alan: I think my concern's for our, the kids. I think some
agreement ( ), some set pattern. Because apparently, the
psychologist says one of our kids is still having some problems.

Mediator: Can we have an agreement from both of you, that
custody of the children is something that you're both concerned
about? And also we could leave today with some clear sense of the
financial situation ( ), as you point out we can't solve today.
But maybe starting on the first ( ) discussion. And so it seems
to me, we need to zero in on the custody issue in full.

Mediator: As we do that, would it seem reasonable that in
areas where you might find it difficult to agree, that in the
best interests of the kids, you both set as primary in your mind
that a decision be based on the best interests of the kids? In
areas where it is difficult to find agreement. Does that seem
fair to you?

Alan: I want to get everything settled and get a divorce and...

Mediator: But being able to settle areas of difference, by
using the standard of what's best for the kids...

Judy: Yes. I would personally say that I think both Alan and
I set that as the standard. I think the difficulty is that...

Alan: ( ) we each feel something, maybe not. I don't know. But
apparently we each feel something, what's best for the kids is
Judy: I think it's also, clearly Alan and I have in the past thought we knew what was best. And evidently, we were wrong in the evaluation. But anyways, let's move into it, and let's talk about the custody.

Mediator: Let's take turns ( ), and lay out what your desires are ( ) and what would be the summer vs. school ( ) is your preference.

Mediator: Can I ask a question? We're talking about criteria, and the definition ( )... ( ) sense of your ( )

Alan: Not sure. Usually I think I'm right. What's most important here is that we get a resolution, and that Judy stops complaining to me about not getting a fair deal. And get a divorce and go on with ( ). I mean, I didn't ask for any of this.

Judy: Again, I really wish that you wouldn't say that. I really wish that you would say that you saw the need to resolve some of the emotional problems our children are having.

Alan: I do. ( )

Mediator: So you're saying that you have reservations about being in mediation?

Alan: No. I think that it's time that we resolve this whole thing.

Mediator: May I ask, what brings you to mediation? ( )

Judy: Hopefully it's to maintain a good relationship between us.

Alan: She just basically said it.

Judy: This has been always one of the problems...

Alan: ( ) go to court, and the court will not necessarily do what's best for the kids. And I think that our problems are not really a right and a wrong, but merely different personalities. And I don't see why it would be better if we went to court. We can get a divorce with an agreement already stated, as opposed to having a judge tell us what to do.

Mediator: I'm just concerned, as we're getting involved in the mediation process, and that also you know that the mediation process involves fees, and that our general fees are a hundred dollars an hour for both.

Alan: So that's fifty dollars each?
Mediator: That's right. And that these would be ( ) we continue to work together, that we will work out fee payments...

Alan: Are we going to pay that equally, or is she going to ask me for two thirds? Because let me just tell you something. I am tired of Judy's complaining that she isn't getting a fair deal. I wasn't the one who pushed for a separation, nor was I the one who had an affair. I'm not an emotional guy.

Mediator: It seems like we need to keep our focus on future and not the past. ( ) and then in conversations for a couple of years. And I think we're all very clear on what precipitated this situation. I think ( ), trying to focus in on ( ) custody issue. Alan, you said that ( ) children's well-being, but as of right now, without ( ), you don't have a strong feeling one way or the other about custody as far as ( ) visitation rights.

Alan: As long as I have daily contact, daily influence... and I'm not quite sure what that means.

Mediator: I was just going to ask you, what do you mean?

Alan: I just think that they should have a good father. And I think that the kids should not feel that I just went away. And they should always be able to feel free to talk to me. And I should feel free to see them. Just as I think that Judy would feel the same way.

Judy: Well, let me give you something to play off of, Alan, since you don't have a very clear emotion. I think I do. Let me state at the outset that I don't know what daily influence means either. But if it means, as I hear you state it, that you have the option of speaking to your children on a daily basis, of being spontaneous in your interaction with them, that I in principle have no problem with that at all. In fact, I want to see you continue to have an influence in their lives. But. I would like to structure the child custody in a certain way. And what I propose is that I have the children for nine months of the year, the school year as an example, and that Alan has the children for three months of the year. And during that time frame, as I just stated, Alan can come by and visit them and call them and interact with them in any way that seems natural to you. We've been doing this two week back-and-forth, and then we're thinking about three weeks, and the older son is saying, I don't want to take my backpack to school because I don't want to look like a fool. And clearly, he is having some severe problems right now. What he needs is to feel like he has a home, and to feel like he has some stability in his life. And I think that I'm the better person to provide that. That my life is much more stable. My schedule is not as erratic. And that's just how I live my life. So I would like to have the children full time, nine months of the year, with Alan having them full time three
months of the year, and during those nine months being able to interact in a way that seems natural to you.

Alan: Wouldn't it be a little odd if I just came over and knocked on the door and you were there with...

Judy: Will.

Alan: Oh, it's still Will? Ok. Wouldn't that be a little odd?

Judy: Yes. Of course it would. Of course it would be equally odd if I just popped in on you any time when you have a girlfriend that you live with, too. And I don't want to talk about your group home situation and what I personally think about that lifestyle. So let's not talk about my lifestyle.

Alan: What's wrong with my lifestyle?

Judy: I'm telling you that I'm not trying to interfere in your lifestyle, and I don't want to hear you make comments about mine.

Alan: I was talking about the kids, not about you.

Judy: But in terms of your just dropping...

Alan: She always does stuff like this. It drives me up the wall.

Mediator: What we need to do is to refocus. What you're saying, your interest is in settling things in the best interests of the kids. And that you have come to us to mediate this. I assume by the fact that you're here, that you want to reach an agreement, and that you're still not going to be fighting old issues of who did what wrong when. Because if so, we won't be able to work with you.

Judy: Ok. You're right. I just can't help sort of reacting at times.

Alan: That's perfectly natural to her.

Judy: Obviously dropping in at any point in time is a problem. But I think that working out how visitation - I don't like to call it that - but how you are able to be a parent... I like to think of it as parenting rather than visitation...

Alan: How about weekends?

Judy: During the nine months?

Alan: How about if I give you a week's notice, and it's not interrupting the kids - if they have the little league or
something, I fully understand - but if they want to, and I give you a week's notice, then I can take them on a camping trip or something? I wouldn't have to...

Judy: I would like you to take them on a regular basis on weekends during the nine months. I would like you to take them two out of the four. And I would do the same during the three months that you have them. I want that option to visit them, to take them on weekends when you have them full time.

Mediator: Let's back up just one step if we could, to your... we're getting down to discussing visitation on weekends. Are you in somewhat agreement with the nine- and three-month split?

Alan: Well, the therapist of the kids said that what we're doing now isn't working out. So what I'm looking for is the best situation for the kids. And I think I make just as good a parent as Judy. And I guess I'm a little schizophrenic about this, you know? Because part of me says, I make just as good a parent and I've been doing really well lately, and on the other hand something says, maybe having the kids really isn't what's best for the kids concerning my hours I work and things. So I have those two, almost like a split personality, like I'm trying to be somebody, and I'm trying to be somebody else.

Mediator: So you feel that you can live with a nine...

Alan: Like I'm playing a role, almost. You know how that is?

Mediator: It's scary.

Alan: It's scary!

Mediator: So you think you could live with a nine month and three month arrangement? Are we in agreement on this point?

Alan: I think whoever gets the kids, nine and three months does make a lot of sense. There's that summer. The kids get out of school. And it's a natural changing time. Are you bored? He's yawning. The mediator is yawning.

Mediator: Well, we've gone over this...

Judy: Well, I'm real happy to hear that. I'm real exited to hear that nine and three work.

Mediator: Yes, but specifically, are you agreeing to nine months for Judy and three months for you, with the three months being in the summertime?

Alan: With my having the thing about calling them every night? If they wanted to call me every night, that's fine? And if there's a problem at school I can interact? And if I want to go
on a weekend and I give you a week's notice, we can do that? I mean I want a secure, I want a predictable agreement. I don't like insecurity.

Mediator: It seems like we have some agreements. Let me just rewrite what these points are so that we're all clear. That Judy would have the children for nine months to be coinciding with the school. That Alan would have the children the other three months of the year, primarily in the summertime. That you have, Alan, the right to call the children, at reasonable hours, at any time during the week. And that on a week's notice, you can have access to the children at any time during that whole nine-month period.

Judy: I'd like something a little different on that piece of paper. I really would like us to exchange having the children on weekends twice a month. That I have the kids for twice a month, two weekends a month, and Alan has them two weeks a month.

Alan: Let's say we go away for a month, for the summer, me and the kids.

Judy: Well, then that would work out. I mean that would be ok. But in principle, I would like us to try to equitable divide weekends. Partly because I personally would like to - this is somewhat selfish - to have some weekends off, too. And I think that there needs to be some structure in your participation with them, some consistency and involvement during the nine months. And I would propose that alternate weekends be it. How does that sound to you?

Alan: But if the kids go with her for nine months, then I don't how she could complain about anything. I think that sounds like I'm giving her... and I think it's good for the kids, nine months and three months...

Mediator: So you both feel we've established a framework about custody at this point.

Judy: Yes, but I don't know what he means by complaining.

Alan: I mean it just sounds to me that there's this issue about the house. And I thought we had that settled.

Judy: These are separate issues. These are separate issues. The children and the financial part of our relationship are separate issues.

Alan: But don't they combine when we talk about it? I don't mind at all supporting the kids. I think it's fine. But if we involve this house, then money, my selling off...

Mediator: ( ) the major asset which you have together ( )...
Judy: Jointly. Thank you.
Alan: Didn't we already settle?

Mediator: We're really close here, it seems to having this banged out. It would be good to tie this down before we move on. So you're willing to accept dividing the weekends...

Alan: Yes. Except if I take them away to the Grand Canyon for a month, and she says she wants to go to the zoo in the middle of that, she would be able to complain about that.

Mediator: Do you want to consider ( ) there, so that you have some lead time to know...

Judy: That's a great idea.
Alan: That's what I said. A week's notice.

Judy: We need more than that, right? Think about it first.
Alan: What do you mean? I wasn't thinking about it before?

Judy: Alan, lookit. If, for instance, I want to go away in the middle of the winter to go on a ski trip...

Alan: That's the school year, though.

Judy: Right, right.
Alan: And the kids are with you. And you're going to go on a ski trip?

Judy: This is what I'm saying. This is the same thing as what you're talking to me about taking the kids to the Grand Canyon for a month...

Alan: But they're not going to be going to school.

Judy: We need to be able to be flexible about living our lives. I may do that. ( ) Our first vacation was Mexico. In eight years, we went on one. I don't go away a lot. So we're talking about the odd case, here. But, when the odd case does arise, I think that you might need more than a week notice.

Alan: In principle, I'm just saying that I want this to be best for the kids and have no... I don't want to end up being like it is now...

Mediator: We don't want to get rule-bound. You'd like to have a general agreement about how these will be handled. And the hard cases will be hard. But you would try to, if an emergency were to
happen or something like that, these would be worked out at that time.

Alan: I just want daily influence. I'm not quite sure what that means, still, but I just feel it's important that I have constant interaction with the kids.

Mediator: You would basically say, you want joint custody, but with the kids living time-wise in the framework that you've just set up. You'll jointly share the parenting responsibilities. And as part of that, you've determined how long the kids will spend at your house, and how long they'll spend at your house. Ok.

Judy: So it's nine months/three months. Alternate weekends throughout the year. And if one of us is going to take a vacation that involves the children, that's terrific. If one of us takes a vacation that doesn't involve the children, then we might need to work that out. But we're at least open to that possibility. And we'll try to give each other as much notice as we can. Great, Alan!

Mediator: We mentioned another issue, was the finances. And to see what the agreements that you had entered into before were, and to see whether they're really realistic ones as you face the future for both of your individual best interests, and ultimately for the best interests of the kids. You expressed that you thought an agreement was about the disposition of the house... the house has been sold?

Judy: No, the house wasn't sold.

Alan: I sold part of the land, for seven thousand.

Mediator: And there was an agreement made about...

Alan: Before that, we had agree that I gave her twenty-two - I had to borrow money to do it - and I gave her twenty-two thousand, and I got the house and land. Right?

Judy: No.

Alan: No?! That's what I was under... Are all our agreements going to be like this?

Judy: No, I hope not.

Mediator: But this is why you need to get into a formal agreement. I think part of the problem is that what you've reached what you thought were agreements between you, but they were not put into writing, or put into the formalized way that can be backed up and clearly understood by an outside person. And that's what we're trying to do here, is to reach that type of
agreement, and review what is was that you've agreed to in the past, and then try to measure how these agreements were lived up to. Or what areas need a bit of shoring up. Now you said that you felt that you lived up to your part of the agreement. And if you could talk about that a little bit, and then if Judy perhaps might say how she feels about that, we could ( ) some of the areas of difference.

Alan: I gave her twenty-two thousand dollars for a settlement to the house and the land. And now, she's... I'm getting the impression that she didn't think that was reasonable.

Mediator: Is the deed still in your name, in both of your names?

Judy: Yes. That's my understanding that it is.

Alan: I didn't think we needed to get formal. That's the whole reason we're here. Trying to avoid a court, and everything.

Mediator: A court will have to ratify the agreement that you make that ends your marriage. A judge has to feel that it's fair. And we should let you know if you haven't been told before that you have the right to an attorney to go over that agreement to see if it's fair, as do you have right to separate counsel...

Alan: What do you mean by fair? I mean, if we both agreed on something... I didn't make her do any of this...

Judy: Alan, Alan, Alan, Alan, Alan...

Mediator: You do not want the judge, after you've worked out something that may not be fair to either one of you, to have the judge look at it and say, it's not fair, and then throw it out.

Alan: Are you saying that what we did wasn't fair?

Judy: Yes.

Mediator: I'm not saying that. But if indeed...

Judy: I would say it was. And we have to be willing to talk about reopening the issue of the property. Because if we're not, I'll go to court. Because clearly any judge will look at that and say, hey this is inequitable. She was under duress. I was under duress. I was under severe cash-flow problems. And I gave you a bargain on top of it all. In my opinion, I was acting hastily. I was ill-informed...

Alan: Who built this?

Judy: ...And I want to reopen this. Let me just tell you up front what I think. You gave me twenty-two thousand dollars for
the house. Right? And I gave you a three thousand dollar break on that, just to give you an incentive to pay me on time what you owed me anyways. So I did that. You go off, and then you sell this tiny parcel of land for three thousand, seven thousand, whatever it was. What I estimate is that the value of our land is seventy-nine thousand, three hundred dollars. To be split equally, by you and I. And that the twenty-two thousand dollars represents my share of the house, not of the property.

Mediator: Could we get these feelings out so we can deal with them?

Alan: Let me just get some ( ). Who pushed for the separation?

Judy: What does that matter?

Mediator: You have to answer that yourself. I don't know.

Alan: What I'm saying is, this whole thing... Judy said all right, twenty two. And I said ok. Right?

Judy: You said ok. How could you not say ok?

Alan: It was self-imposed. I didn't duress you. She left. She ran off with an American gigolo. And she needed cash.

Judy: Alan, I don't want to jump to your bait. So what?

Alan: I mean I'm just saying I did not put you in that situation.

Mediator: We can't litigate the...

Judy: I'm saying if we went to court, it would be emotional duress, would be my case. Lack of information would be my second case...

Alan: What did I do to you?

Judy: I'd rather not go that route. I'd rather resolve with you the problem.

Alan: I am the victim.

Judy: You are the victim? I am the financial victim. You may feel like you're the emotional victim, which you are not. But I am the financial victim.

Alan: You are the financial victim?

Mediator: Everyone's assigning blame here and not reaching a middle road. I know it's kind of hard to stop. But if we are to look at the situation, ( ) a judge would only approve to end your marriage in an agreement that the judge, he or she, feels is
fair to both parties, that is would behoove us here to work out that agreement that is fair to both of you.

Alan: I have a great idea. I don't know what just came over me, but I just thought of a great idea. Why don't we do this? Why don't we say that if I sell more of the land, or we can agree that I will sell a certain amount of the land, that that money goes in a trust for our kids?

Judy: Excuse me. All of the money derived from the sale of property goes into a trust for the children. Is this what you just said to me?

Alan: Yes. What's wrong with that?

Judy: Well, nothing. It's a novel idea.

Alan: Well, I'm a novel kind of guy. I mean, that way, I will feel that the money is going towards a good cause. She will feel it's going towards a good cause. Because it's going to something that we both agree on, the well-being of the kids.

Mediator: I caution you. It sounds noble. I think that it's good that you're thinking in that way. But there may be some needs that you also might have of some of that money, yourself.

Alan: Well, I'll get half.

Judy: Excuse me?

Alan: I'll get half, and then the kids will get the other half in a trust.

Judy: Oh, Alan, Alan... You should be ashamed of yourself. Are you joking about that proposal?

Alan: What proposal? What? Why not?

Judy: That you get half and the children get the other half, and I get none?

Alan: All right. How much do you want to take away from the kids?

Judy: I want fifty percent of the share of the current value of the property.

Alan: How am I going to get that money? I don't have that money.

Judy: I don't know, Alan. I don't know. Be creative.

Alan: I can be creative? Who's the creative one here? I mean, you get in the situation and then you say, oh my gosh it's not
fair. Who created this? Now she's saying it's not fair. I didn't force you to take the twenty-two thousand. I mean now it worked out that I can sell off some of the land.

Mediator: What if we were to work out something in some other way? You received twenty-two thousand? What if you sell off the land and get twenty-two thousand, and then put the property in the name of the kids?

Alan: How could we sell off the land, then put the property in the name of the kids?

Mediator: Sell off twenty-two thousand dollars worth of land to somebody, and have the remainder so you're both equal.

Judy: The value of the property is closer to eighty thousand dollars.

Alan: Is that with the house and the land?

Judy: No. That's the land.

Mediator: But if you had twenty-two thousand dollars and you sold off twenty-two thousand dollars worth of the land, for example, just looking at the model, and then put what remains in trust for the children... put the house in the children's name, and then agree who gets to live there.

Judy: You know, I don't love it. I don't know about that. I'd like to keep it thrown out there, but it's just sticky. I don't want to necessarily kick Alan off the property, and I don't want Alan necessarily to be homeless. Necessarily. But I really am quite strong that I am owed my fair share of the property. And I consider that my fair share. And whatever we can...

Alan: What guarantee do I have if we come to some agreement of this, a year later she's not going to say...

Judy: Because we're going to get this agreement approved by a judge in court.

Alan: So what does that mean?

Judy: That means that it's a final agreement.

Mediator: You finalize it.

Mediator: But one of the things you need to do, and this is just a suggestion similar to what I made before... if she gets a certain amount of money that she feels she needs out of the property, and you get a certain amount of money that you need out of the property by land sales, that the remainder would go in trust to the children, which could be looked at in lieu of some
form of your other support. With words in the trust that you could live there until the property sold, and then once it's sold, the money would then go to the children. Or something along those lines.

Alan: I don't understand that.

Mediator: All right, it's too complicated to ( ).

Mediator: It seems to me that you're talking about an immediate situation and Alan is saying that over time the property might be sold. And then the money derived from that disposed of in some fashion, via a trust or whatever. There may be some common ground here that rather than demanding all this money up front, whatever amount that may turn out to be, that it basically comes in increments somewhat along the plan that you propose as property is sold, money goes into trust...

Judy: That's not what you proposed, though. Is that what you proposed? You propose that fifty percent goes into trust, and fifty percent goes to him. That's what I can't understand.

Mediator: Well, I'm not getting into that detail. I'm talking about the idea of, as property is sold, the money is dealt with. As opposed to dealing with the whole parcel of land now.

Alan: Just to ask for half of what she says the value of it is, that would force me to sell all the land to pay off her... That's crazy.

Mediator: So if in fact you structured it such that we would somehow... we've got two different issues, it seems like. We've got the house and the property the house is on, that at one point was appraised at sixty-four thousand, I believe. And then we have the land, which one and a half acres have sold for seven thousand.

Alan: How many acres do we have?

Mediator: You've got seventeen. Which means that this latter value would be a good bit more than the initial appraisal.

Alan: How about this? Just because I want a settlement. I want this resolved. I want to get a divorce. It looks like we got the children thing worked out. How about this? What I sell - if I sell, and I don't have to - if I sell any more of the land, I'll get a third. A third will go into - it doesn't even have to be a trust - but money for the kids, whatever their needs are, or if there are no immediate needs then we'll put it in the bank. And a third can go to you. I can't be more ( ).

Judy: Alan, honest to god, I really want to think about this.
Alan: Oh, if you don't accept that. I mean...

Judy: Well, it depends on lots of other things...

Alan: I'm not a real sensitive guy, but I think that's a fair deal.

Judy: Alan, it is, but it's sort of fair. Certainly it gives you the advantage of being able to live on a piece of property with seventeen acres of land, which I don't live on. Now that is a wonderful living.

Alan: So I'll leave.

Judy: Alan, let me finish. Alan, I'm telling you I don't want you to be thrown off the property.

Alan: I was being very reasonable. I even was giving in in a spot, for the benefit of getting a settlement. But I feel now that I am being violated.

Judy: Alan, let me finish. I'm saying one third, one third, one third could be a very workable solution for me. That could be just fine. Depending upon some of the other financial problems that we have to work out. And that has to do with cash flow on a regular basis. That is, custody payment... child care... child support payments.

Alan: What's wrong with the child support payments?

Judy: We jointly own the property. And when property gets sold off, the funds get divided one third, one third, one third... is possible a very good idea.

Alan: I'm giving you half. Because when I sell any piece of the property, excluding the kids, you get a third, but I get a third and you get a third... we get equal amounts. Under our previous agreement I don't have to give you anything.

Judy: That's not true at all, Alan. Because if we go to court, you can believe...

Alan: Do you care so little about the kids? Do you know what will happen if we go to court regarding the kids?

Judy: I don't want to go to court, either, Alan...

Alan: So don't threaten me. I keep being threatened.

Judy: Let me just finish. I'd like to continue working out the rest of the financial problems that we have. If they can be worked out, fine. And that means I have adequate cash flow to live on, to count on, now and in the near future, so that that
arrangement might work out. I don't need cash flow right now, because we've worked out the rest of the financial problems ok. I could probably live with the one third, one third, one third.

Alan: Let me just get this straight. We walked in here. And it's ended up she's getting the kids for nine months, she's getting a third of the property, the value that I sell off... right? I mean, I'm doing this for the kids, right? I thought maybe I was wrong. I have the feeling once in a while. Usually I'm right, but once in a while I'm wrong. But this seems to me like I'm being taken advantage of. And I think maybe you two should... what do you think? I think I'm being taken advantage of.

Judy: I don't think you are. I really don't. You're still upset at the emotional part. I think you're just getting...

Alan: She's what?

Mediator: She's not asking for alimony, is she?

Judy: Not yet.

Alan: Not yet?

Judy: I'm just joking.

(Hall: A few more minutes. Then by eight you can get yourself tea or coffee and sit down...)  

Judy: Alan, I have a current cash-flow problem. I'm happy to work out a solution of the property that allows you to remain in that property. I know you enjoy it. I'm not out to jerk you around just to jerk you around at all. You want to live there. I'm happy where I'm living right now. I have a cash-flow problem.

Alan: Doesn't Will have any money?

Judy: Part of the settlement of the property impinges in some way on how I can afford to live with two children on twelve thousand dollars a year.

Alan: Do you want more money for you, or do you want more money for the kids?

Judy: For the kids.

Alan: All right. Then let's make an agreement where I can give more money for the kids. I have no problem with that. I just don't want any more of this complaining.

Mediator: Isn't there a five thousand dollar differential, on what you thought that you were getting out of the house.
Mediator: That's back in the old issues.

Alan: How much am I giving you now for child support?

Judy: You give me eighty dollars a month, Alan.

Alan: Eighty dollars a month. And how much do you want for the kids?

Judy: We have to go through this list.

Alan: We're going to go through the list.

Judy: Alan, I haven't worked it out.

Alan: You're going to get married to Will? Or you're just going to live together.

Judy: I don't know what we're going to do. I'm going to marry the person that I ( ).

Mediator: Let's try to focus on a couple of issues here, so that we can reach an agreement. It seems like there are two issues we're talking about right now. We've somewhat resolved the payment on the property and the land, contingent upon, from Judy's perspective, a couple of things. From your perspective, you've already bent over backwards to do what you've done. But let's go ahead and explore these two contingencies. One, of child support payments. And secondly, the matter of consistency of payments. Those are really the things that were thrown out. Whether or not, Alan, they have any validity or not... We're not going to get into that right now.

Alan: I'll give her more money for the kids. I just want a solution here, so we can go on with our lives. It looks like we have a good set-up for the kids. I don't want to come back again in another year... there's a wild wildebeest farm on one of the acres of land and she wants a half of that or one of these things. I thought we had an agreement and then...

Mediator: Well, if we structure this now and both of you...

Alan: It's almost more an emotional issue. You know what I'm saying?

Mediator: I sure do. It's almost as if this time around... you've both in the past have talked separation, possible reconciliation. Now you're both pretty much talking about leading to the road of divorce and settlements and moving on. And since I'm getting nods from both of you, it seems like...

Mediator: ( ) structure of whatever agreement would come up here, you two, the legal frame of the divorce, and therefore it
will be taken care of. And I think it will cover your fear that Judy comes back in a year or two from now.
Mediation Role-Playing 1985: Group 3

Group Session #3
(Maria and Ted)

Mediator: Hi. I'm Ted. And this is Maria. You're Alan, Judy, right? You want to say a little bit about the mediation?

Mediator: What we're trying to do is see if we can help you. You are the ones who are making the agreements. We're just going to see if we can be of any assistance (...). We're just here as your helpers. We don't plan to interfere, because we think you know best what each of you want. We do want fairness, particularly for the children. Because we know that's what's most important to both of you. So if anything is done between you, I'm sure that's your (...).

Mediator: You've done some mediation a couple of years ago, that at least got you through a couple of years of the separation. And we've been assigned by our agency to work with you at this point. We have some background information that you've provided us. So we have a little bit of sense of what's gone on in the past. And basically, you've gone through the process, but just to reiterate some of the high points... just as a sort of a ground rule, we'd like to suggest to conduct this as courteous as we can, let each other speak when we are talking... if one of you says something, the other one, and makes you mad, it would be helpful if you'd not interrupt at that point. Make a note if there's something you want to say. You have plenty of time to say any of the things that you need to say. Also, I don't know if you did this in your other mediation, but we might find it helpful to talk with each of you separately at some point. The point of mediation is to look a little bit more at your side of things, to explore some alternatives that you might want to talk about without having the other person hear it. And those conversations would be confidential. We wouldn't be telling the other person unless you agreed to do that. And also, at some point, we might think it's helpful for just the two of us to talk together, to brainstorm how things are going. Basically, let me say that, at least the way we understand it, that you're here particularly to talk about two issues. And to see if I understand it correctly, it's got to do with custody of the kids, what kind of arrangements you're going to make in terms of where the kids are going to live and so on. And the second issue is the issue of child support, how much it's going to be, what kind of arrangement you're going to make for supporting the children, what kind of transfers of money and how much and so on. Do we understand that fairly correctly in terms of what you want to talk about?

Judy: I think that those are the issues.

Alan: I think our relationship's another issue. It's probably related to that. Right now, we're separated. We may end up with
a divorce if that's what we decide to do. And that may affect those other two issues. I think our relationship also affects our approach to how we feel about things in the past, and possibilities in the future. So to the extent that we can improve our relationship and have a better relationship than we have now, I think that might be the key to solving these other issues, too.

Mediator: So if I may ask... I don't want to jump into things... but what do you feel about the children, since that has to do with your relationship. Have you both decided how you're going to share them? Both depends?

Judy: We haven't really decided on that.

Mediator: Have you talked about it?

Judy: (hard to hear) It's fairly clear that Alan wants to share them. (...) I think the main reason is that they're back and forth too much, and that's not a stable situation. And there is nothing to prevent their seeing him at any time as far as I'm concerned. At this stage in their lives it's important to have one location, near their friends. (sentences hard to hear).

Mediator: Alan, what do you think about this?

Alan: I think that custody and child support are related issues. It's tough to tackle them that way and establish a position. I care about custody, too. But that doesn't mean that the most effective way for us to proceed is to argue over who should have custody. On the contrary, one of the things you mentioned about the kids that's important to you, that's important to me, is that there be stability. So we should talk about things that we have in common, that we can agree on, like stability for the kids. And then look at options for how we provide that stability. Rather than start with the solution, and have all of the impacts on both you and I fall out of that, I think the best way would be to see if we can find any other principles, more objectives besides stability where we think the kids would be better off over the long term. Which may seem like a different approach than deciding up front that I get custody, or we have joint custody, or that you get custody, which seems to be three possible choices that are out there.

Mediator: What do you suggest?

Judy: I'm not sure what you mean by other principles or objectives, because I see stability as a real interest. (...)
likely they are to succeed. I don't know exactly how we typify all of those things. But besides stability, I'm saying there's a certain amount of resources that go to the kids, that would improve their situation. And I think some type of environments would be better than other types. I'd rather see them live with two people than see them live with six, for example. So I don't know how we would typify the living situation, but there could be a principle to that, too.

Judy: In terms of living, there are only so many choices. I don't think living with six people is a choice. (sentences hard to hear).

Mediator: Let me interject something. What I understand you saying (...) is you got the choices that you agreed with. There are variations on those themes, too. And (...) come up with some criteria by which we can then look at the different possibilities, and see how the different options line up against what you think is important for the kids. So, for instance, you could compare without deciding who's going to get the kids... you might compare the situation of them living in one place vs. moving back and forth every so often, and how do those things stack up. And then whichever one seems better might then lead us to the next question.

Judy: I'd like to suggest (...) stability here (...). I think that's a criteria...

Mediator: But you're saying that for you stability's important. Why don't we just write down...

Judy: ...My definition of it perhaps varies from Alan's. And I think in principle we could agree on stability for the kids. But how we're going to achieve it is the issue.

Mediator: I realize that. But maybe if we do agree on some of the (...). What does stability mean to you?

Judy: Well, for the kids, it means for them to be in the same house. Not moving back and forth between two different homes every couple of weeks. As one definition of a home, I think it's on a psychological level too, and it comes with being able to count on a person. (sentences hard to hear). ...counting on another person to provide that, because I don't know if that's going to continue.

Alan: Could I ask a question on the ground rules? We're talking about criteria and the definition of what stability means to you, Judy, and I think that's important. But I think that if we're trying to come up with objective criteria that we can agree on, that's somewhat of a different issue than how we'd achieve it. And it's certainly a lot different than our assessment of how our relationship has been in the past. And
what it tends to do, is instead of aid our choice (...) criteria, it tends to augment some of the feelings that I have about our relationship. Some of them that are on my side of the story. And I'm wondering if that's really the most constructive way for me to interact, and then come up with a criteria and criticize how your behavior would effect how good that is for the kids. So I'm not arguing with the fact that maybe you have some legitimate (...) there, but just the appropriateness of discussing them as we define these criteria.

Mediator: (...). For Judy, stability means being in the same place for some period of time. Defined as also some psychological stability (...).

Mediator (woman): Could I just add a point there? Could we use as an objective, the children's education? What time's (...). While there at school. And let you both think about that a little while. See, you've got a time frame that requires a certain sense of whatever you define stability during the school year, and then you have the summer.

Judy: (...).

Mediator (woman): And then we also have the age brackets. There's a certain age where they're more (...), and should be with their mother. There are certain ages where their father has more interest, and they need him more.

Mediator (man): But I'm not sure that we know what those are.

Mediator (woman): Well, Judy just mentioned it. Judy just said that. I'm just repeating your words, except I put them in a different context. But you just said that right now they're very young and they need to be nurtured. And later on, they would be with their father. So that's something you both have to think about. When will this time span be? When will be these ages? And that's between you two.

Mediator (man): I think maybe that's getting a little ahead.

Mediator (woman): Well, she just talked...

Mediator (man): But that's one of several possibilities.

Judy: Perhaps we could set a limit on this agreement. We're talking, I think, in terms of three years, for example. You going to get to respond to that. I'm just saying we're (...) something indefinitely (...)."

Mediator (man): If I could get us back to... I think that's something we'll get to. We're in the middle of something that I personally think will be helpful in terms of looking at different options. So we've got stability, we suggested education. What
else are some of the things that are important to you in terms of thinking about the kids, and what you'd like the kids to have. Either of you.

Judy: Money.

Mediator: Money. Well, (...) the resources.

Judy: Was that what you were referring to when you said... I thought you meant something more by resources. (...) in your house.

Alan: I think that I could agree that stability's a prime criteria. And in fact I was going to suggest something like the school year. That may be premature. But what I was thinking of was that Bryce has been to see this therapist, and he's obviously got a lot of problems. A lot of them stem from our relationship, which isn't real good right now. So if he's going to do well in school, I'd agree it would be best for him not to be moving every other week. To have some continuity, something that he could count on. And I think money is also a necessary ingredient. The kids have some minimum needs. So we should jointly meet those needs. We can talk just like we were going to talk with stability, how long and how achieved, I think we should talk about resources and that kind of thing.

Mediator: Before we get into that, why don't we keep seeing what other principles there are. So we can just come up with that list, and then we can go back and talk about what are the various options.

Judy: In terms of our relationship, I (...) communication we seem to be having here now with you, because you're really encouraging this. But generally, our communication is not that...

Mediator: Can you put that in terms of... Right now we're really looking very much at the children and what is important to you in terms of developing an agreement relating to the children. So what can you put this in terms of, what you want for the kids. I'm not saying that you shouldn't want things for yourself, because I think we need to look at that, too.

Judy: Because I think we did agree that the relationship is also important. That is definitely an issue...

Mediator: I'm just trying to keep us focused on one...

Judy: But where the kids are concerned, it's very difficult if I can't communicate with Alan. We really can't discuss these things openly.

Mediator: So, communication with Alan about issues relating to
the kids. Is that what you're saying?

Judy: Well, you interpreted that. I mean, it's also about our relationship. (...) as far as communication is concerned. Being able to be open and honest. (...).

Mediator: I understand. I think what we're trying to do here is, we have to come down to some very specific agreements and details. Like where are the kids going to live, for how long, and so on. And at least what I think we're trying to do here is to come up with some ways to measure options as to the things that are important to you to what's going to be the best alternative. So we're trying to elicit (...) things that are important to you when you think about what you want for the kids. So we can then measure the different possibilities.

Alan: I think Judy has a point, though, that I feel very strongly about. And that's that part of our problem with the kids is our relationship. And that's basically our biggest problem. Because in the past there's been some things that I haven't done. My reliability. And things which Judy brings up at various times. And because I feel that there's no end to some of these requests for additional money for the kids, or this or that. Things that we can't foresee, but that come up. I feel that our communication is not very good. And I feel that we both react by treating each other poorly in our relationship, and that affects the kids. Now, that might be the wrong diagnosis. But it's similar to that diagnosis that Bryce had, that he's got problems because he's not sure about how his parents feel about each other. If we could resolve some things about our relationship, your relationship with Will, and my situation here at the house, that perhaps that open communication that you're talking about with the kids could be facilitated. Perhaps we could communicate better if we were on good terms as friends rather than as people across the table from each other or at the other end of the phone, with one request or another from something that has to do with the daily requirements of the kids.

Mediator: One thing I've written down here about that is maybe to look at the different options and say, how is this going to affect your relationship? Given that what you want is to improve the relationship, how is the custody and the child support arrangement, what kind of impacts might those have on your relationship? Some might make it easier to relate to each other than others.

Alan: We haven't really talked about this. But one thing about this mediation, we're going to meet for this session and see what we can come up with, really focusing on some very specific issues. But also maybe we can come up with some other future courses of action. I don't know if we can tonight do a great deal to help (...) communication. You can agree that's something
you want to do, and you may choose to do that. And hopefully, just by a process we'll do that. But if we get focused very much on helping you get more open with each other, I don't think we're going to get to some of the issues that I understand you'd like to work out, tonight, and get some clarity on so you can move forward on those. And then we can also talk about things that you might do together outside of mediation that might help you improve the relationship.

Judy: I think my communication is very open. And Alan has not been so open, and we could deal with that separately. I (...) like some sort of commitment is a part of the points (...) covered, but as far as actual commitment in terms of (...) of money that we're dealing with...

Mediator (woman): Right now, we can start with that by saying that Alan seems to agree that you keep the children – this is what I understand – during the school year.

Alan: I don't think I said that at all.

Mediator (woman): You didn't say in those words. That you said that was very good for...

Alan: Let's be very clear about this. When we started, we started talking about principles. Then we would then go on from principles to how achieved, and specific solutions. Now, by proposing the principle that the kids be able to go to school year – Bryce is in high school now – all I was proposing that the principle for deciding on stability be that he be in the same environment and go to the same school during the year. I didn't say that implied that Judy should get custody of the kids. Not at all.

Judy: Why don't we just talk about what we're concerned about, and let them figure out what the principles are, and then we can decide whether or not we agree with what they...

Alan: Well, I propose that we do principles first, and then deal with our relationship...

Mediator: I think principles are what you're concerned about.

Alan: And we agree on stability. That's the one thing that we've agreed about so far. You suggested stability. And I went one further and suggested a definition of stability that was even stronger than yours. You suggested that the kids shouldn't be moving out every week or two. And I suggested that they be in the same environment the whole school year. So that's just dealing with the principle.

Judy: But you didn't say which environment...
Alan: No, we didn't talk about how it was achieved...

Mediator (woman): That's what you both have to decide now.

Alan: Excuse me for butting in, but I feel that we should decide on those principles. Then try to best achieve them with the limitations and the assets that we both bring to the relationship. In other words, that we decide if that's the only principle, stability, and resources, then we could just find a way with our joint resources and that criteria of stability on how we work that out. But I don't think that those are the only issues. I think the issue is the relationship.

Mediator: You seem to imply that you have some other principles that are important to you. The kids.

Alan: I think that this has dragged on long enough. Frankly, I'm really feeling that this made an effort, and Judy is always complaining, and I shouldn't do this because I said we're only going to talk about principles. We shouldn't talk about each other. So let me backtrack a step. I apologize. I think that we need to find a way to be satisfied with our present situation, rather than take an uncertain future, and every time something comes up, then reopen issues and argue about them. For example, we had a property settlement, and it's still continuing to this day. And in a year something else may happen. And it may be brought up again. And part of the thing that's going to help the kids - maybe it's not directly a kid's issue - is this open-ended aspect of our ongoing relationship. I think we need to find ways to settle some things in an amicable way. And then decide that we're not going to keep dragging these skeletons out of the closet. I think it's counter-productive. It's counter-productive to your relationship with Will, and it's counter-productive with my relationship with the house. And I don't like it.

Judy: Well, I think you brought up the matter of the settlement. And I think I acted rather prematurely in that, because I needed the money. This is one of the main issues, is the money. And I simply do not really have enough. I'm getting money from my father from time to time to help with the kids, and he's really feeling pretty angry about that. You don't know that, perhaps, but he tells me. And if you want to just look over the list of our expenses... I mean, it's very nice he does it, but I've come to have to rely on that.

[short gap]

I admit that I acted (...). I'm not trying to reopen something. But when I'm talking the future, I want to have it so that I can be able to count on it. And I don't want to rely on some woman that you're with to provide any stability or anything. I think that's your responsibility as far as their concerned. And I
Alan: You brought up the issue of commitment, and that's why I brought up that issue with the principle, is that we don't constantly negotiate an issue, come to an agreement, and then next week say, I didn't agree to that. So that's a principle. And that's different than our relationship. I don't trust you in any kind of settlement that we have now. Because you've just shown with this example that you have no intention to abide by a principle that says, when things are settled, whether we come to closure, that you stick by those. Any time you felt that you could get a better deal by coming back to the table, you'd reopen up and issue. And if commitment is so important in our relationship, then why are you unable to agree to a principle? Your credibility is on the line when you accept something. And then you don't reopen it up. Or is that a principle that's not valid in a relationship?

Mediator: Folks, I think right now we need to take a break. Maria and I need a few minutes to talk to each other to see where things are at. This is a good time to take a couple of minutes...

Mediator: ...to think a little bit on where the children are going to study, where they might live while they study in school. I think that's an issue that should be foremost in your mind at this point, and I think you both should agree on that when we come back. I hope we make a decision on that. Because that is very important. It's their education.

Judy: I think we know that.

(everybody): (...) 

Judy: We know that. That's not the issue. We've been talking about money here. That's what we started talking about. Not the kids' schooling.

Mediator: At this point, we can just stop. There's some coffee around the corner, and some cookies. Why don't you let Maria and I have a couple of minutes, and we'll come out and let you know when we're ready to resume.

[break]

Maria: (...). And they're supposed to work on child support and custody. And he's evading custody. He wants custody. He doesn't even let it go.

Ted: I'm going to back up a second.

Maria: Forget the relationship for the moment.

Ted: That's what I was trying to do. Apparently they're not
Addendum 4.d  Mediation Role-Playing 1985: Group 3

ready to do that. The way I mediate, I wouldn't do some of the things that you've done. I just want to give you a minute of how I'm seeing it in terms of the mediation. My view of mediation is that we're here to help the process. We have to be very careful about...

Maria: Giving ideas.

Ted: Well, yes, about telling people what they ought to do and what's best for them...

Maria: What if they're just very vague. We can sit here for hours.

Ted: Then we have to try to focus them...

Maria: That's what I was trying to do...

Ted: I realize that.

Maria: You can't do it at the last five minutes.

Ted: I understand. All I'm saying is I think we need to be careful about making assumptions or suggestions to them. My sense at the end was - what you're saying is right - I got a sense that they didn't quite like having you tell them in that way. Then what happens is your credibility as a mediator gets undermined. And then they don't want to listen to you in other ways. I would just suggest that we try to be a little more careful in terms of making your feelings and my feelings known about things as opposed to trying to draw them out. That's all I'm trying to say. Right now, what's most important to them is their relationship and that's what we're going to have to deal with first.

Maria: The problem is, I don't agree in that sense about the relationship.

Ted: But it's not up to you to agree...

Maria: I know. Because we're getting nowhere. All they do is talk about each other. And we're talking about the children and the custody, because that's the issue that's going to go in front of the judge. The judge doesn't care what they say about each other. He's interested in the children and their welfare.

Ted: That's part of what he's interested in. But he's also interested in a fair distribution of the assets.

Maria: Exactly. And how are we going to get to that if we don't settle...

Ted: But she's talking about the fair distribution...
Maria: No, she's talking about the twenty-two thousand...

Ted: But that's part of the distribution of the assets...

Maria: I understand that, but that's gone. And he's not going to give it out.

Ted: The other thing is, you're talking about maybe actually bringing this to divorce. And that may be something that they want to get out front. See, you have to hear his concern.

Maria: He wants the custody, and she wants the custody, and that's what they're fighting for.

Ted: Of course. We know that.

Maria: So, one of them has to have the custody...

Ted: No, there's joint custody.

Maria: Well, they can have joint custody. That will take care of that. Then we have to settle up on the rights. This idea that they both agree on, having the stability for the children. And then from there, we go into the money matter. (...) she has very little money. He has a lot of money.

Ted: He doesn't. (...). More money that she does.

Maria: I know that. But if she has the children, she's vulnerable in the sense that...

Ted: But she may not be the one that has the children. She may not...

Maria: That's what we have to decide. Who's going to have the children for the school year. That's very important. But if we start into the relationship and this and that, I think they've talked that over for two or three years, and they're not going to end that. That's between them, and that's why they broke up. They can't get along.

Ted: So what do you suggest we do at this point?

Maria: At this point, settle the idea about the custody. Joint custody. But where are the children going to live in the school year? From then on, we go to the child support...

Ted: How are we going to help them? They agree that the kids should be in one place for the school year, but they each want them to be at their place.

Maria: That's what they have to discuss between them. And we
just help them. They're not our children.

Ted: But how do we help them get beyond, they're better off with me and she says...

Maria: Let's point out for example that she has had a more stable relationship with this guy she lives with, whereas he has three people in his house. And we can also say she can have them when they're young...

Ted: I strongly object to your interpretation of that point of view.

Maria: I know. I'm not going to use it. But I'm just trying to give them guidelines. Maybe that's wrong.

Ted: That's a guideline, but he's going to see it as something against him.

Maria: I don't want that to happen. I want him to come up with it, and we'll just be (...). But one of them has to give. Let's point out, if what you say if stability is so good, where are you going to have the stability?

Ted: Would it help if we talk the issue to them separately?

Maria: Why not? Then we can get a clear point of view how they feel about the stability. And that will make it easier than (…) here. That's a great idea.

Ted: Who should we talk to first?

Maria: Let's talk to Judy. He's very hazy.

[conference with Judy]

Mediator: Both of you have said some strong things about the relationship, but we both agree that you should focus in on the two issues that you came to talk about. About the kids, where are they going to live?

Judy: I totally agree.

Mediator: So, given what's been said at this point, do you have any more thoughts about how you two might come to some agreement about where they might stay.

Judy: I don't know. Alan said something about stability. I think he was not talking about the difference between their being in my house, and back and forth. I think he was thinking that maybe they would be (...), but I don't know that. I definitely would like to have custody of the children. I gathered that when he just said stability, we were interpreting it a little
differently. I don't know whether he was saying he wanted to have custody, or joint custody, but what I am interested in is having custody of the children. (sentences hard to hear). And at the time, I really wasn't. I was just saying that I had received much less than I think I was really entitled to, but that's what I had taken in order to get (...). I was just pointing that out as one reason why I thought it was very important that we map things out in the future about the children. But as a matter of fact, I would like to just speak about that before getting back (...), what kind of custody I want. I think that we should reevaluate the property and get a very clear-cut understanding of what that is worth. I think that was not done, and that has been the basis about settlement. I'm sure he doesn't want to reopen that.

Mediator: Can we get back to the custody first? Clearly, you'd both like to have the kids live with you full time. You'd like to have the kids live with you, and Alan would like (...). So the question is, since you both feel that way, how are we going to come to some decision about...

Judy: I think we need to know exactly how he's going to manage to do that. I mean, who's going to pick the kids up from school? I can't see our reaching some agreement on the basis of his friend doing that for him. I don't really think that's a reasonable kind of agreement. He's not married. If he had remarried, I might consider that.

Mediator: He can't remarry. You're not divorced.

Judy: That's what I meant. If we were divorced, and he had remarried, that's a different matter. But under the present circumstances, I don't see his counting on something else. (...) that kind of a continuous relationship.

Mediator: Could I just ask a question? It doesn't mean you have to answer yes or no. I just want to get your feelings. We plan to talk to Alan, too, separately. How do you feel if he insist that he wants to have the children during the school year? Would there be anything you could both trade, that you could have them for certain years, or...

Judy: No, I would get a lawyer and go to court. I think that I should have the children very concretely.

Mediator: So you have a feeling that if it went to court - though I know you would rather not, and that Alan would rather not - that the court would award you rather than awarding joint custody?

Judy: I think so.

Mediator: On what basis do you...
Judy: On the basis that I can provide them with care. That would be assuming that he would, however, contribute to their (...).

Mediator: Are you at home more hours than Alan is?

Judy: Yes. I'm not sure just what he's doing...

Mediator: Don't you work about the same hours? (long pause) The way I understand it is that with you the kids are latch-key kids, and therefore they come home and nobody's home for about two and a half or three hours until you get home. (...).

Judy: I don't get out of work until about 5:15, and then I do go home. But the problem with Alan is that he doesn't necessarily pick the kids up. He has not. So he has to rely on his friend to do that.

Mediator: Has he been better about that lately?

Judy: He has been better than he used to be. But it's only because he has somebody else doing it. And perhaps I could arrange something like that, myself.

Mediator: How does Will get along with both of them? The boys are growing, and their father is very important to them.

Mediator: How far are you to the school? They don't switch schools every two weeks, so obviously they must...

Judy: But I don't know that. I think they live close together.

Mediator: We do need to move on and talk to Alan. But what I was getting at with you, Judy, is that I know you have some very strong feelings about wanting to get the kids. But I would suggest that in terms of this mediation, that you think seriously. When you say that if you're not going to get custody, that Alan's not going to agree to custody, you're going to go to court, I would suggest that you take a hard look at that instead of looking at it through your own lenses and how you see it, look at it how a judge is going to see. That if it's really as clear-cut as you feel, (...). Maybe it is, and maybe it isn't. I don't know. But I'm just suggesting you take a closer look at it while we're talking to Alan.

Judy: I think a judge would look at his relationship and see the dependability for the kids is more from somebody who has no... We haven't even talked about money.

Mediator: We have to get to what we can get to.

Judy: The point I'm getting at is that with more money from him, that I could have...
[conference with Alan]

Mediator: How are you doing, Alan?

Alan: Fine. We talked briefly during the break, and we basically know that the problem with principles vs. talking about issues...

Mediator: Could we talk about the custody issue? Maria and I in our conversation decided that we thought we really needed to focus in on one specific issue. What's the issue that you have (...).

Alan: I think one of us should have the kids during the school year, and the other one should have the kids for, presumably, the summer.

Mediator: Do you have a preference for one or the other?

Alan: Yes. I'd like the kids for the school year.

Mediator: Supposing she'd like them during the school year, too.

Alan: Well, it's something I'm flexible on. If the rest of our relationship worked out to my satisfaction, I'd be willing to go with a joint custody arrangement where I basically take the kids for the summer and she takes them for the school year. Where I pay a certain amount, but a fixed share and not a variable share. And so that it's set. We have the two thirds/one third share now. But I think a fixed amount of money to cover the kid's needs...

Mediator (woman): You want a definite amount so that you know what to expect, which is reasonable. Alan, can I make a suggestion? Judy doesn't earn as much as you do. And the more Judy has to work and earn her living, the less she is with the boys. And I think you should think of that when we come up to it. It's very important.

Alan: I feel that the reason I've been criticized is that I used to work too much. So the fact that I can contribute more is related to how much I work. So there may be something there, but there's also the advantage to the kids. I mean, I've been able to provide for them and she can't. So that's an argument for why I should have responsibility for the kids, because I can obviously take care of them and she can't.

Mediator (woman): Well, if you provide sufficient for the children's needs - we will get to an amount that we will discuss with both of you - I think your relationship with Judy will be more open, and there will be less problems. Because it shows
your good faith. (...) past problems, financial problems that always spoils any relationship. So things would run more smoothly and it would be better for the children. And you could just (...) in the summer when they're with you.

Alan: What if her situation improves significantly. How might that affect the settlement? And what if there's no incentive to her to improve her situation? I feel stable in my job, and I feel I can continue. But I work hard. And I don't want to discount that. I look at it as being benevolent on my part, that I provide two thirds of the kid's support. Because frankly, if I was providing half, I would have more for other things. And if Judy marries Will, they could easily together provide for them.

Mediator: Let me just back up. You said that you were flexible if you got certain things. I think maybe we just need to get down quickly what some of those are. You said you want to know what is to be expected (...) rather than it be a percentage.

Alan: Right. I don't want to reopen the property settlement, for example. I consider that gone and finished with. And I want some kind of commitment that we aren't going to reopen issues, unless there's been a contingency on which we reopen them. The future's uncertain. But to the extent that we plan for the kids to go to school until they're of legal age, for nine months a year they're going to public schools, we could come up with a budget for them. And I don't want to find out before the year starts that I've got to come up with twenty-five percent more. Once we decide on what's reasonable, we stick to it and we don't reopen it. We don't say, the agreement we reached back in November of 1985 is now superceded by November of 1986.

Mediator: We talked earlier about a commitment to the agreement. I get the feeling you want to make a (...) agreement. Are you really talking about (getting a divorce)?

Alan: Yes. I see the problem with our separation is that it's lead to more uncertainty in the future and the reopening of these issues. And I know that I resented Judy quite a bit when she went to live with Will. And I know that she doesn't like it a bit that I've got new people living in the house with me. I think the kids are probably adversely affected by this animosity of feeling between us. And I think that if we could start our lives with a clean slate again, come to some kind of agreement, that I would feel more comfortable with being (...) to some kind of reopening of the whole...

Mediator: You realize, though, that in a divorce settlement, nothing is final. You settle the property finally, but when you've got kids, there are all these changes. There's generally no final resolution. Even in a litigated decision. So I understand you're wanting to get a commitment to an agreement for a certain period of time, and that a divorce would be
helpful for the imposing of certain things, but when you've got kids, those issues are always there as long as they're minor kids. Unless you can anticipate what the contingencies are in a divorce settlement, so that you know what will be reopened and where, and what can not be reopened.

Alan: I would like to minimize the number of things that can be reopened for various reasons. And I don't feel that Judy can back a strong commitment to that. I feel that this situation with the property settlement will come up again and again... well, you said that maybe they could go to summer camp not this year but the year after. She'll bring it up when it's time for them to go to summer camp. And then she'll borrow the money from her parents because she won't agree with the decision that we came to before. And we'll be constantly arguing about money. And enough will never be enough. That's one of the things I'm concerned about. I do understand that there's a realism to this, that the kids are going to live on, and things that we can't anticipate. But the things that we can anticipate, to the extent that we can both commit ourselves to having resolved them, I would feel more comfortable.

[joint conference]

Mediator: We have to wrap this up very quickly. He want a number, Judy, for your support, and you both have to agree on that. He agrees that you have the children the school year.

Alan: There are certain conditions. I proposed that you could have the kids during the school year, and I would have the summer.

Mediator: Plus you're going to have a monthly stipend for the children, which you will provide, and it will be binding in the sense that it will always be there.

Judy: This is very fast.

Mediator: Two thirds of the children's expenses he will provide, which amounts to the total sum of five hundred dollars per month for both children.

Alan: No, I didn't say that.

Judy: Five hundred a month for the children?

[end of mediation]
Group Session #4

Judy: The first thing I want to talk about is the issue of custody. And the second thing is the question of child support.

Mediator: Those are three different issues. One is custody. The second is child support. The third is...

Judy: It's child support. But it's also a more equitable share of the property issue, which I feel can either be dealt with as cash up front, or an ongoing alimony situation.

(pause)

Alan: You want me to respond to that, Judy?

Mediator: No, I think probably what the best thing for us to do is to figure out what your concerns are as well.

Alan: Well I'm currently concerned about what Judy's saying.

Mediator: But before we get to those concerns, let me see if I can understand what some of your concerns are.

Alan: Ok. I just want to get this thing settled. I'm most interested...

Mediator: What thing?

Alan: This whole thing that's going on.

Mediator: What thing?

Alan: She complains to me she's not getting a fair deal. You know, I'm not the one who walked out. I'm not the one who walked out of the house (...).

Mediator: You're primary aim is reaching settlement?

Alan: I want to reach a settlement on the custody and the child support questions. My position, however, on the house is that if I benefitted from selling the house at a higher price, well we had agreed together on...

Mediator: I think we're getting into details here. It seems to me there's three issues you have that are paramount. One is reaching settlement. The second is custody. And third is child support. Is that the order that you'd like to place them in? Are those in terms of your priorities? Do you have any priorities?

Alan: Let's put it this way. I think we need to settle the custody and support issues so that we can move on to getting a divorce and so that the relationship with the children is not
Mediator: Is divorce a fourth area in which you'd like to reach some sort of conclusion?

Alan: I don't think we can even think about those things until we settle some of the major bones of contention between us. For today, I'm most interested in custody and child support.

Mediator: Ok. I have you down for custody, child support, and a more equitable share of the property, either through alimony or a funding for the property.

Judy: That's right.

Mediator: Redistribution of the property. Ok. It seems to me maybe the first thing we should tackle is custody.

Mediator: I just want to do a little housekeeping, okay? I would like to just talk about some rules here. Is that okay? We might caucus. And we'd like to get paid at the end of this mediation session. And so that you are aware that you're using some time here. And I hope we use it fruitfully so that you could go away with whatever kind of settlement you want. I want you to know that we'd like to get paid right after whatever time you take, an hour, an hour and a half. Ok? Those are the conditions that you came in. Mediation is not covered by Blue Cross or Blue Shield, and so that's what you would have to do. I'm happy that we have started with an agenda. If there's any other question that you have around how we're going to operate as a team, I'm really quite comfortable just sort of listening. At this point, if you wanted some other kind of mediation set-up, I'm amenable to listen. Ok?

Alan: So you're supposed to run the session and you're supposed to listen?

Mediator: Yes, that's the way it's going to be.

Mediator: At least initially. You have custody and child support as your two key issues. Then reaching a settlement, you're now saying, comes along with those. Is that correct? Is there one of those issues that you prefer to deal with before the other? I understand that they eclipse each other.

Alan: Custody.

Mediator: Ok. And you have three issues, one which breaks down into two different issues. Is there one that you'd like to attack first?

Judy: Custody.
Mediator: Ok. It seems to make the most sense to me as well. We have the choice in terms of whether I ask you your feelings, and then I go to you and I ask you your feelings... does it matter how we do that? If I start with Judy, is that ok? Or do you want me to flip each time as we go to issues? I want to understand first what it is you're thinking of in terms of custody. What your desires are. And then I want to hear Alan's side of it. Does it make a difference who speaks first? To either of you? Then why don't we just start with you and see if I can get some understanding of what your concerns are in terms of custody.

Judy: First of all, the children don't seem to be doing well. The therapist has said so. The therapist has also suggested that the children need more stability, that they're not organizing their lives, that they're kind of deferring everything because they're always shifting about and essentially don't take care of any of the kinds of things they should be thinking about. And the therapist has suggested that the children stay in one place for prolonged periods of time. I think the children should stay with me. Essentially because Alan's really very negligent. He's got an awful lot of time commitments and he always has had. And I just see that he neglects the children a great deal as far as time and attention. And so I think I should be the primary custodian of the children.

Mediator: So you're saying that year round, the children should spend with you? Would you clarify what you mean by primary custody?

Judy: Well, for this time, until they seem more settled or until the therapist even thinks that it would be a good idea. Or something else that wouldn't hurt them at much. For this time, it would be year-long custody with unlimited visitation rights. Though something like a summer vacation, or a long summer might be ok, I think. And I think that would take care of what the basic concerns are about this?

Mediator: Could you be a little more clear on long summer? I don't understand what you mean?

Judy: The children normally go to camp part of the summer. But the other part, they could stay with their father. That seems...

Mediator: To make up for the time?

Judy: Yes. Also, it's non-school year and the demands aren't as great, and the pressures aren't as great. And therefore, if things are more relaxed or inconsistent, it doesn't seem to be such a terrible time, that they should be (... ) the household.

Mediator: When you say unlimited visitation, for what might the time be considered visitation?
Judy: He can take them out whenever he wants to.

Mediator: Over night?

Judy: I would say probably not on a school night. On a weekend night, yes, I don't see the problem in that now. As long as they're not spending every weekend night there, because weekends are the only time I have off. And if I want to do something, go skiing with them, then I end up only seeing them during the week and it's very rushed. But essentially, no. I have no problems for an overnight, as long as it's not a school night.

Mediator: So let me see if I understand what you're saying. The primary concern is for more stability. You'd like them to stay in one place for long periods of time. And by long periods of time, you mean that you have primary custody for them until the therapist feels that the situation is stabilized. You feel unlimited visitation is ok, and that the children can go overnight for weekends but not all weekends. And summers are ok after camp or before camp. Is that correct?

Judy: Yes. Except that there is one thing that I ought to have said. Which is that the therapist also doesn't find that they're doing really well in this current arrangement.

Mediator: But my understanding is that's your rationale for wanting to change this present arrangement.

Judy: Yes. But I'm also saying that the present arrangement is also really not good for the children. It's not an arbitrary decision. It's also based on the fact that it provides that the children have a more stable environment, rather than shifting every two weeks, as they have been constantly.

Mediator: And that's your rationale for wanting to change it.

Judy: Yes.

Mediator: Let me get to yours. Thanks for waiting so patiently.

Alan: I am also aware of the fact that the therapist has recommended that the kids have more stable living arrangements. I am not willing, however, to give up that daily influence I have over their lives. I think that the kids are upset, still, by your having moved in with Will. I think that they want contact with me on a regular basis, and need it. I don't know what else to say. But some way or another we have to find a way to resolve this. Judy's getting the children all the time doesn't seem to be satisfactory to me.

Mediator: Let me ask you what you mean by regular contact.

Alan: Well, first of all, I'd like to explore alternatives. I'm
not sure what I mean. I know that the therapist said that the kids could stay with one of us for three months, and then the other of us for three months. Now I want what's best for them. But I know that they feel torn apart when they have to leave me, too. And I know that this is not a good arrangement. I don't know what some of the options are. I am willing to consider other possibilities. I know we have to do something different than what we've been doing, but I'm not willing to just consider the one option of Judy getting the children all the time at her discretion. I want to be more involved than that.

Judy: Basically what I've said is that I suggested the school year, which breaks down into I have them nine months and you have them three. I feel, and I strongly feel, that three months for each of us is just too short a period of time.

Alan: First of all, your tone of voice, Judy, is really getting to me...

Mediator: Could I just ask some questions? I hear that. Did you make this arrangement with the therapist? Did you both decide on who the therapist would be?

Alan: Wasn't that recommended by the mediator? Or was that your therapist, Judy?

Judy: No, I think it was recommended by the mediator. Or by the school.

Mediator: Have you ever met with the therapist, Alan?

Alan: No.

Mediator: So you've met with the therapist, but you haven't met with the therapist. So that essentially, you took care of the children and their state of well-being by going to the therapist?

Judy: Well, it's usually asked that a parent does go to see a therapist when a child's being seen.

Mediator: Right. And you didn't go together.

Judy: No.

Mediator: Would you want to go together?

Alan: For what?

Mediator: Well, the recommendation that the therapist made is that the children shouldn't be flip-flopped. It sounded like they were getting a little scrambled. And you're objecting to that. So I was just wondering if you wanted to see the therapist.
Alan: So that the therapist can make the same recommendation?

Mediator: So that you find out what the rationale is that might be good for your kids. It might not be.

Alan: I don't quarrel with the fact that moving them around every two weeks is not good for them. There's no quarrel there. It's just that I don't think we generated enough solutions that are going to be ok with all of us.

Mediator: Would you like to do that now?

Judy: I would.

Alan: To do which?

Mediator: Generate some more solutions?

Alan: Ok.

Mediator: How about if we do just a little brainstorming for it? Would that be ok? Let's see how many solutions we could figure in three minutes. We'll use brainstorming. Let me explain that. Just say any kind of solution that has no value judgement to it, either good or bad. And just let your head go. You could pick up on somebody's solution and embellish on it.

Judy: Are we going to be the only two people...

Alan: Yes, I feel stuck... Right now, I'm kind of mad.

Mediator: I hear you.

Alan: So this is going to be hard to do.

Mediator: Well, maybe we could help you a little bit, all right? If it's really hard, we can stop.

Judy: I don't really have any...

Mediator: You like your solution. It was nine months with you and three months...

Judy: The other alternative which seems to make sense is six and six. But I find that three and three months is just too short.

Mediator: I'll write them down. Go ahead.

Alan: Part of it is financial. If I were to be able to have the children for three months over the summer, I would want enough money for the three of us to be able to go on a trip. And in order to do that, we have to do some shifting of the financial arrangements that we have. I want you to get off my back about
the house. As far as I could see, if I was able to benefit from selling the land at a higher rate than it was appraised at, so much the better for me. But we came to a definite agreement on it.

Mediator: It seems like we're switching problems...

Alan: But I'm not. I'm saying, I'm willing to go with summertimes and vacations if there's a way that I can really do something special with the kids. In order to do that, I need to do something about the financial arrangement that we have, so that I can afford to do that.

Mediator: If we're going to talk about custody, and obviously you've stopped brainstorming, you would go for a custody arrangement if there was a tag to it, which would be some other kind of financial arrangement.

Alan: Well, as I see it, that would be a way that we could spend some quality time and have a good time and get to know each other better. And a more relaxed environment.

Judy: Well, I don't really have a problem with modifying what I would initially think of as a more equitable distribution of the property, to deal with that recommendation. But as it stands, the current one I find ridiculous. So that I would be willing to modify what I think is more equitable, to allow for vacation that he suggested. So in principle I agree that there's some merit to the suggestion.

Alan: When you say ridiculous over something that we both knowingly agreed upon, it just makes me say, well I think you're being ridiculous about wanting the children all the time.

Mediator: I think we're going off the tangent here. Let's see if we can generate some other alternatives in terms of how time might be divided with the children. Even if you don't think at this point that they're good alternatives. Certainly one alternative is the present situation. Is that the way we...

Alan: No, that's not an alternative.

Judy: That's not an alternative.

Alan: I think we're all agreed on the fact that the kids' being moved every two weeks is not any good for them.

Mediator: Fine. So that's not acceptable to either of you. Are there other just ideas that you can think of? Don't get so hooked into thinking, is it the best idea? But just perhaps come up with some other alternative, rather than three and nine, and then two variations on that theme.
Judy: I said the only one I'd consider was six and six. But those are the only two.

Alan: What if the kids were to stay in the same house all year round, and Judy and I split living in the house six months and six months?

Mediator: So the kids stay where they are, and you...

Alan: That way we wouldn't have to continue fighting over the financial thing, which I still think should not be an issue.

Mediator: Let's just stick with...

Mediator: Fine. That's an interesting idea. Any others?

Mediator: I was thinking of one you might just want to put in a pile of ideas. Would you consider having the children live with an aunt or a grandmother?

Judy and Alan: No. No way.

Mediator: How about one year and one year?

Alan: Who gets them the first year?

Mediator: I think that would be up for grabs, but I'm just throwing out another possibility. Another possibility would be one child living with Alan, one child living with Judy?

Mediator: How about asking the kids what they want to do?

Alan: That makes more sense to me. The idea of splitting them up randomly, I think they've been moved around and ( ) enough already.

Mediator: How about you get them for vacation and you keep them for the whole year?

Judy: I think he's terribly negligent.

Alan: If you can recall an incident recently, I'd appreciate hearing about it.

Judy: I mean you are over-subscribed and over-committed with a number of activities at all time of day, evening and weekends with your schedule. You're not home at a regular time every day, and you're also not necessarily home on weekends.

Alan: So then maybe you should have the kids on the weekends.

Mediator: Well, what you're really talking about is the kind of care that Alan is giving the children, not the fact that he has
them. Right? And if the care were better? More attention paid to the children? Would you be in the same position that you're in now?

Judy: Possibly not. But I've seen this for twelve years.

Mediator: But let's just understand that. You're concerned about the care. Is there any way that when you take the children, they could get different kinds of carer than they've been getting? Somebody else in the house, somebody minding them?

Alan: Well, that is the case at this point. There is someone around who, if I'm not able to pick them up promptly from school, picks them up promptly from school and so on.

Mediator: Who is this?

Alan: My friend.

Mediator: Have you met her?

Judy: Yes.

Mediator: How do you feel?

Judy: Ambivalent. I don't know that this person's going to be there next week, next month, next year. And I would want to know that there was someone there next week, next month, next year. I don't know. I have no problems with the specific person, but we're talking about children that need care for a number of years. So I'm not really sure that's a solution.

Mediator: You're talking about, really, a big emotional attachment. I'm just talking about daycare with their father as the person they would ultimately see.

Judy: I suppose it's a possibility if there is some way of renegotiating this periodically if that changes, if those circumstances change and that the child still isn't being given enough care or that person's not there or...

Mediator: Do you hear an agreement?

Alan: What?

Mediator: Not at this point.

Alan: Do you? What is that?

Mediator: I was just checking it out with my co-mediator.

Alan: Well I'm hearing that she would feel ok about the care of the kids if she were guaranteed that there was a regular kind of
daycare situation provided for them.

Mediator: A regular, ongoing, same person daycare. Which would then mean what? So we have, it's ok, if the daycare were better. Could I just say that? Is that what you're saying?

Judy: In principle, yes. But...

Mediator: Let me ask you this. How would you feel about having the children only over the summer, and during, I assume, occasional weekends and vacations?

Judy: It would really depend on the kind of care they're getting.

Mediator: How would you make that determination?

Judy: I would want somehow to know for a period of time that the children were being picked up from school, that their homework was being supervised, that they were being fed, that they had sufficient amount of clothes, that the clothes were clean.

Mediator: Up till this point, you've had some problems with that, except for lately, is my understanding. And lately the situation has improved. Is that correct?

Judy: Lately it's improved, but it's been very, very lately. And from what I can tell, it's really based on his friend and not him. And since I don't know the reliability and the ongoing nature of his friend, I'm not quite sure how to assess the situation.

Mediator: Let me ask you, how have you been assessing it up till now?

Judy: I live in another house. I don't know what goes on.

Mediator: Do you phone? Do you visit?

Judy: No, I usually take the children out. Or they come to my house. So I don't really know about how ongoing that relationship is.

Mediator: I'm sorry. I must have miscommunicated. How have you been determining when Alan's care has been inconsistent? I'm just wondering how you made that determination.

Judy: Because the children have complained. They've complained that they've waited for hours after school, that he often forgets about them, I know that they've had dinner at odd hours, I know that he's not there to check on homework before they go to bed. I've seen them in dirty clothes. Either they've complained, or have not had supervision, or have not been well-taken care of.
Mediator: Let me ask you, Alan, is there some way you can think of that there's either some way to monitor it — and I think it's important that you be as honest as you can with yourself about this — whether you want to take this on as a responsibility, where you're going to need that consistency with the children. If you find that for the long term that's really going to be difficult, maybe then you'll want to think about that in terms of what sort of relationship the children have on a time basis. That's a serious thing to consider.

Judy: It's not terribly complicated. I finish work early and I'm home at 5:15 every weekday. I'm in all weekends. Alan has seminars and workshops and special classes and things that go on in the evenings, late into the night sometimes, and on Saturdays. I do my weaving in my studio in my house. Most of my activities are house-bound. His aren't. He's not necessarily in town for some of these workshops and things that he...

Mediator: So you're arguing basically that it's in the children's best interests for them to spend that nine months with you, with the exception of occasional weekends and vacations. Is that correct?

Judy: I think it make more sense.

Mediator: I'd like to come out of my listening role and ask a question. Is she a good mother?

Alan: Yes.

Mediator: She takes real good care of the kids?

Alan: She does all right.

Mediator: So, you have no problem when she takes care of the kids.

Alan: No.

Mediator: So that, all things being equal, the kids are very well taken care of when they're with her. What do you get from taking care of the kids?

Alan: Time with my children.

Mediator: But she's worried when you get time with your children. And there's been some history that they have been in some ways not taken care of as well as...

Alan: Let's put it this way. My lifestyle is such that I have not always been totally consistent. But I don't think that the solution to dealing with that is for her to take the children, for me to lose my children. That far I'm not willing to go.
Mediator: Do you want him to lose his children?

Judy: No.

Mediator: How are you going to let him keep his children.

Alan: Let me take it a step further. I'm not willing to give up daily influence.

Mediator: How can that be worked out?

Judy: We already established with the therapist that we can't both have daily input unless we're both living in the same house. So one of us has to have the children for prolonged periods of time.

Mediator: What about a daily phone call? Or a daily dinner? Or a daily something?

Judy: I have no problem with that. We live close enough.

Alan: I'm having a problem with the tone. It's very difficult for me to figure something out amicably that's going to work for the kids, when I feel like the basis of this argument is blame and finger-pointing. I'm just not into this at all.

Mediator: I did not pick up blame or finger-pointing. You must be tuned very carefully into this. So let's start it again, in a tone that you can hear. You want to hear each other. You're paying us a fortune for this, you know. And you're here to mediate. And you're here to take care of your children. So what we have in agreement is that she's a good mother and that she worries when you have the children. That shouldn't be too difficult to work. You want an ongoing influence with your kids. You want to make sure that they're well taken care of. You want to have some relationship with your children. Do you need to bathe them and help them with their homework and see that their fed? Is that an interesting in your...

Alan: No. But I need to have some contact with them on a regular basis. And I need to know that there's a chunk of time that we can have together, that's going to be a rich time. And that's why, if we negotiate this, we need to negotiate the house, because I'm going to need money for vacation in the summertime to take the kids...

Mediator: Do you need money for a vacation when you take care of them? You do the bread and butter things, and you get to do the cake things?

Alan: Pardon?
Judy: I don't understand the question.

Mediator: You're going to be with them nine months of the year. They're going to be going to school. You're going to take them on vacations and have a swell time. You want extra money for that.

Alan: That's right.

Mediator: OK. What do you want? For getting them for a longer period of time. There seems to be some kind of trade-off here.

Judy: Are we talking about the distribution of the property?

Alan: We're talking about the fact that we made a deal and we can't...

Mediator: Well, you're not talking about the kids well-being, I'll tell you that much. You're not talking about what's really good for the kids. You are talking about taking care of your children and seeing that they're well taken care of, and then it gets all mucked up with property. You're talking about quality...

Judy: I don't understand your question, then.

Mediator: What do you want to do with your children? What is important for you to do with your children?

Judy: I want to take care of them in their daily lives and make sure that their taken care of.

Mediator: OK. For this, you're going to have to give their father some privileges, too.

Judy: Fine. What?

Mediator: Three months out of the year.

Judy: I've agreed to that already.

Alan: But I want to take them...

Mediator: OK. That's it. Wait, we're going to use it. That's it. If it can be arranged, because you're going to put some tags on it, right?

Alan: Did you say it, or if?

Mediator: That's it. OK. Here's an if. She's going to have the kids if she stays alive. There are all kind of ifs. Nothing's a certainty. So she's going to get the kids nine months of the year. You're going to get the kids three months of the year. Now what are the condition that everybody's going to have with that?
Alan: I want to say that I still want some kind of contact with them on a daily basis.

Mediator: On a daily basis. And what does that mean?

Alan: It could mean dinner. It could mean a phone call. It could mean picking them up from school. It could mean taking them out for supper. I want to know that is absolutely my prerogative.

Mediator: I want to ask a question. Is he a good father at a Howard Johnson's or a MacDonald's. So they do have a good father.

Alan: I do care about my children.

Mediator: We have established that they have a good mother. They have a good father. That momma's willing to take them for nine months of the year. You're willing to take them for three months of the year. If. And a daily thing. So you've come to some kind of an agreement. Now there's a tariff. There's a charge that both of you have to work out for this. But you've already worked out a custody arrangement. Now try changing that if to when. Because we already know what we want to do. We just want to know how much it costs.

Alan: What it costs is coming to some kind of equitable solution that we can put to rest this house issue. And the child support question.

Mediator: It seems to me that those are Judy's top issues as well, past deciding custody.

Alan: See, it's got to be the whole package.

Mediator: Let me understand what it is you're now suggesting in terms of both alimony and understanding Judy's feelings that the property distribution is not equitable.

Alan: Let's start with the child support. Right now, I'm paying two thirds, Judy's paying one third. That's ok for now, but if Judy's income should increase, there's got to be some kind of an arrangement for our arrangement to become more equitable over time. And I don't know how to do that, but I know that I've been reluctant, that I haven't been as on time as I could be in terms of paying some of those child support bills... because it seems like a lot of our arguing comes out in these kinds of areas. Child support, my paying. This kind of thing. I want to know that this is happening in a fair way. And I want to know that it's not going to come back to haunt me every time she gets it in her head that something else should happen. I want some definitive decisions made. As far as I was concerned, we made a definitive decision about the house, and now she's coming back at me and telling me, no I don't like the arrangement we agreed upon and made, I want more. I can't live like that from now
until eternity.

Mediator: I've heard you say two things. One is that you'd like that as Judy's income increases, you'd like to change the percentage of support in some way. Is that one of the things? Second thing I heard you say is that you'd like to come up with some sort of definite agreement that's not constantly shifting. Is that correct? So that she doesn't come back and say, let's renegotiate.

Alan: Yes. I don't want to keep opening up things that we have definitely decided on. I want some things done.

Mediator: Are there any other issues?

Alan: The child support issue, I don't know what to do with that?

Mediator: Why do you want this house issue engraved in rock? Why can't it be opened up from time to time.

Alan: Because we made an agreement. She sold me her share of the house. I bought it. We agreed on the price. She consulted a lawyer. It's done. I own the property now. I'm not going to reopen that up for negotiation. There's no way.

Mediator: Why not? Supposing she loses a leg in an accident. And your property value goes up. And you are the father of her children.

Alan: Look, I'm not the one who walked out. And I'm not the one who had an affair. I'm not the one who started this whole thing.

Mediator: But considering the fact that you both put in a lot of time in the house, a lot of energy, you have two children at stake.

Alan: She did not have to sell me her part. You think every time couples get a divorce, when somebody sells their half of the house, if they change their mind or decide they need money, they should get the profit back from the value of inflation? That's ridiculous.

Mediator: I don't see it as ridiculous. I see it as an option.

Alan: I see it not at all as an option. Out of the question. Absolutely unrealistic.

Mediator: You keep putting value judgments on options. How do you feel about that?

Judy: I have several things to say about that. I will link the issue of the property to the issue of the summer vacations. But in dealing with the issue of house and property, Alan has sold a
one and a half-acre plot of the seventeen acres for seven thousand dollars. If he were to sell all of the acreage at that same amount, it would be seventy-nine thousand, three hundred. That's the acreage without the house. Now half of that is thirty-four thousand, six hundred and fifty. I feel that an equitable share of the property should be at least that. I settled for less previously because I have had a lot of problems with money and Alan in the past. And I felt that was very risky trusting him on the issue, and I felt the best thing to do was to take whatever I could get in a lump sum up front, because I was advised to do so and I've had experiences with him where things have bounced and things haven't been received on time. I did cut myself short on that end. I think it was a mistake. It hasn't been litigated. It hasn't been sent to court. He knew the appraisal of the land. I had no selling skills. He clearly did. He sold it for what it was worth and appraised for. And I think an equitable distribution would be half of what just the acreage would be without even including the house. I nonetheless am willing to take less than that, or at least a smaller difference between that amount and what I currently have, for him to be able to take these vacations that he wants with the children.

Mediator: What kind of money are you talking about?

Judy: The difference between what I got and what I think is an equitable sum, which is half the property — and I'm not even dealing with the house — is twelve thousand six hundred and fifty. I am open to suggestions on how to split that so he could have the summer vacations and do nice things with the children. I have no problems taking less and closing that. On the child support, I do not want to continue the system that I've had. Which is that I take the bills ( ) and then bring him the bills and then he splits it up two thirds/one third. It's not working out. I'm not getting the money back in time. I hate it. It causes a lot of frustration and friction. I want a monthly sum that is paid on X of the month, whatever date, and I want some kind of way of doing something if that money doesn't come in on time. I'm not going to pull the bills together every month.

Alan: That I can live with... just the latter part.

Mediator: The specific monthly sum. Let me throw this out as an option. My understanding is that I'm hearing three things that you're concerned with. One is the consistency of payment and security. Second is plus or minus twelve thousand six hundred and fifty dollars, but you're willing to at that point say that if that money is paid out, that no longer will become any sort of an issue, even if the value of the land jumps dramatically. Is that correct? Ok. The third thing is that you'd like some specific monthly sum. I'm wondering for the first and last thing, the consistency of the payment and the specific monthly sum, if there's a way of agreeing on some sum, and having that directly
go from his paycheck into your bank account. So that he doesn't have to worry about it and it's not something he has to contend with every month even thinking about sending. And that you will receive.

Judy: That's fine. I just want a cost-of-living...

[end of mediation]
Debriefing (mikes 1, 2 and 3)

Hall: ...that you can hear what each of you came up with. And then we'll talk about the whole process. Let's see. Ted, what about your group?

Ted: Where did we get to?

Hall: On the two major issues. Custody and child support issues.

Ted: We basically got to a conditional agreement on custody. Where that she would have the kids during the school year and he'd have them during the summer. But we didn't ever get to talk about the conditions he wanted for that to happen. That's where we ran out of time. And we didn't talk about money at all. Nancy was Judy and Steve was Alan, and Maria...

Hall: So Judy would have primary custody, and they would stay with Alan during the summer. So that was basically a nine-month/three-month split, and no finances discussed. Did you have anything about holidays or anything...

Ted: We didn't even get that far. Basically we were at the end of caucusing with the two of them, and that's what Alan had agreed to in the caucus. And we had presented it to Judy, and what his conditions were.

Maria: Well, Alan had agreed that he was willing to provide Judy with a monthly support for the children, and he would stand by it.

Ted: Right. But we hadn't talked numbers.

Maria: And he wanted a divorce.

Hall: They both wanted a divorce?

Ted: Well, we didn't get to... Alan said that...

Maria: He said so...

Ted: Alan said that. We didn't talk about it with Judy yet.

Hall: And your group was the two of you and Nancy. The next group, who wants to talk for... Ok. Jeremy?

Jeremy: First of all, the terms of the agreement was similar to group one, that at least in principle, we would divide up the custody. For the summer, and the school year to Judy. That seemed to be a principle that they were both willing to think about, take away and think about. But it seemed to heal both of them, being workable. In terms of support, both agreed that a budget of
about a hundred dollars a week represented the variable costs of the location of where the children would be. And that the cost of that, the burden of that should be borne in relation to their relative earning power on an after-tax basis, which approximated two-thirds from Alan's earnings and one-third from Judy's.

Hall: After taxes, this was.

Jeremy: That's right. And the way that the sixty-seven dollars that Alan would be responsible for on a weekly basis during the school year would be funded because Judy had a concern about the certainty of receiving that money. Both agreed that Alan's employer would directly pay that sixty-seven dollars every week out of, take it right out of Alan's paycheck and remit it directly. Both were very comfortable with that. Talk about the process ( ) the agreement up. They decided to also set up a contingency fund which would take care of any extraordinary expenses which would ( ) the children which might arise, so that neither party would feel under economic pressure if something arose that needed to be funded immediately. Let's say the children were with Judy at the time and she didn't have the funds to pay for it. So the way that was going to be funded was ten dollars a week would go into a trust ( ) account at the bank from Alan and five dollars a week from Judy. Once again the two-thirds/one-third relationship which would build up a fund of about seven hundred fifty dollars a year plus accrued interest.

Hall: So it's ten and five...

Jeremy: That was felt would sort of relieve the burden of circumstance, if you will.

Hall: Then how could they draw upon this fund?

Jeremy: It would have to be joint signature.

Hall: Then it could be for any purpose they agreed to for the children.

Jeremy: That's correct. But the issue of fixed cost for the children was like funding camp, or insurance or the other things, was left to be decided at a later time. The final item we were able to address, albeit briefly, was the agreement that had been made with respect to the joint interest in the house, previously. And the extent to which we were able to arrive at was that both parties were prepared to at least discuss the reopening of what had been before a closed agreement. And the concerns that were raised... Judy did feel that it had been somewhat inequitable on the basis that the information and counsel that she had received was not in fact accurate in light of later circumstance. And for his part, Alan, while making at first an argument that while we negotiated and a deal was struck, really didn't hold that position and felt that yes perhaps it was worth revisiting, and
what's more, that his concern was that the thousand dollars a year that was being earned in interest ought to at least then be readdressed. And be brought back into the discussion. And the agreement was made to have another session, at which myself and my co-mediator would once again try to resolve that issue. One of the things that was sort of kicked around as an alternative was once again this two-thirds/one-third split, or a fifty-fifty split...

Hall: Of the land?

Jeremy: Of the land, yes, of both past sale and perhaps the future sale of the pieces. But there certainly was no agreement. Some ideas were kicked around and some operating principles were discussed, and the agreement was made to meet again. Now in the process, first of all I should point out that Lyle did most of the mediating. And did just a tremendous job in the way he got the parties to really address the issues. And all three parties were just terrific. The first thing that Lyle did was, after the introduction had been made, said why don't we discuss things on a first-name basis and be very comfortable with that. And then asked each party to make an opening statement about what they were thinking, why they were here, what they were feeling about being in a mediation situation. He was able to then immediately identify joint interests, because both parties had in their opening statements talked about their concern about the children. So Lyle really emphasized that, and said, so at least we both know that what you're after is doing what's best for the children, and surely we'll keep that uppermost in our minds as we discuss the various issues here. So we really got off to a very good start in terms of the way people were about to discuss the issues, quickly identified that both agreed that it was good that both children be kept in the same place, and for a certain period of time. And that really facilitated the discussion about the summer vs. school year division, where the children would be. And every time the parties would talk, Lyle would continually come back and say, well what I hear you both saying is... this. And really focusing on the things that were common between them. At one point, Alan asked, well I'd be very comfortable if the two of us would be a little more directed in terms of what would be a fair settlement. And Lyle resisted that in a very good way by pointing out that they would feel more comfortable and would be happier with the arrangement that was struck if they, in a sense, owned that arrangement, rather than us come up with a suggestion come up with a suggestion, they go away and find after a few weeks that frustratingly it's not going very well. And then just say, well it wasn't our agreement anyway, and walk away from it. So we just said we could take a more active role perhaps later, but we'd like you to try to arrive at something yourselves. And as it turned out, they were able to do that. And use the idea that we could always retreat to more structure later, but right now let's just have the two of you really talk to one another through us, and kept setting out operating principles for that.
And the two parties who played the two roles - and they were switched, where male played the female and vice-versa - were just tremendous in being able to identify what was really important. And being able to sort of budge. And, in a sense, I don't think it was really compromise, it was really to arrive at things that were fair to both, without really compromising any of their principles.

Hall: Great. Ok. It sounds like you got an awful lot done. Let's just get all the groups in, and then save your questions ( ). The next? Could you just identify who was in your group?

(Man): Yes. Myself and Eric and Betty and Doug. And Doug and I were the co-mediators. And we came into it by asking them what they wanted to achieve during the course of our session, and what they wanted to walk away with. And the issue they identified was they both had an interest in the custody issue, of ( ) the children. And they both wanted to address the financial situation, yet neither one of them really felt like a final solution would be arrived at. So as far as the custody, we then focused in on the custody, and we came up with a similar arrangement in some of the early ones, nine months, the school year to Judy, the summer to Alan. However, the decision was also made for them to divide all the weekends through the year so that nobody would have the burden of the entire time during the nine/three months. Alan retained the right through the nine month period to call any time, and to be able to have some sort of a daily contact with them. And then, on the occasion that they were going to take the kids out of town during the other periods, other person's time, they would just try to work that out on an as-needed basis. So that's where we were on the custody. The financial situation was basically divided into two areas. One was the house and property, and secondly was the child support. And we tackled the house and property, as it turns out, first, and came up with a tentative agreement there, contingent upon the child support. And the tentative agreement was that if Alan, if and when he sold more land, a third of it would go to Alan, a third of it to Judy, and a third of it into some sort of trust fund for the children, so that any further or future sales would be equitably split amongst everyone. Now that's going to be contingent upon the child support payments, which we just really barely touched on before we ran out of time. But the general agreement was that the two-third/one-third split would be retained for the period of time that, for example from Alan's perspective, he would have to pay for that nine-month period. And they were going to come back next time having both trying to derive a figure of what they thought was reasonable for child support.

(Man): Did Judy have to split the twenty-two thousand?

(Man): That was kind of left contingent upon these other things being worked out. And as we looked more at the future sale of
additional land, rather than the old agreement...

Hall: So you looked at what happened as having happened and looking at future things... And you also then, in terms of where you left it, you currently left the expenses being settled as two-third/one-third, but with the idea that you relook at that.

(Man): Right.

(Woman): Well, that we would decide what the two-third/one-third was of.

(Man): Right. The next time they would mediate it as to...

Hall: Right. So you didn't come up with a rough figure that it was a hundred a week...

(Man): Right.

Hall: Ok. Now we have two more groups. So another group, Emily. And in your group was Jane, Harvey and Andy.

Emily: We didn't get as many agreements as a loot of people. We talked mainly about custody. And the closest we came to getting an agreement was saying that they would be at one parent's house for six months, and then a therapist would do an evaluation to see if they should continue there or be switched to the other parent's house. And that parent was going to be Judy, the first parent, but we didn't get a final agreement on that. Alan agreed to pay support every two weeks, but we didn't discuss the amount. And they also agreed that although the children were going to have a more permanent home at one parent's residence, that there would be joint parenting, and they'd share in the major decisions for the kids.

Hall: Did you discuss that in any further detail as what that process would look like?

Emily: I have to say that Judy and Alan were great. They get acting awards. And they related to the roles and we got sort of really hung up in a lot of emotional issues and things like that. But it was a good experience. We just didn't get that far.

Hall: That's fun. Ok, that's where you are. I mean we'll talk about it, then comparatively in the process that different groups used. Let's see, the last group is Bob, Natalie, Sue and ( ).

(Man): We came to a similar solution as did other people that the children will stay with Judy one week before school starts and until one week after school ends. The summers, they'll spend with Alan. The children will spend alternative weekends with
either of them. And the same thing will happen with alternative 
vacations, except that we haven't come to any sort of agreement 
on if one vacation or one weekend ( ), what will happen. So that 
still needs to be negotiated. There was a disagreement about the 
equitable distribution of the land and the house, and the 
agreement was that Judy will receive one acre of land to hold 
herself, depending upon what she wants to do with that. And it 
will permanently settle the disagreement so that it can't be 
brought up again. That will also permit Alan to feel that he's 
managed to save enough money so that he can take the kids away 
over the summer, and have quality vacation time with them, if he 
wants.

Hall: By selling that other acre?

(Man): Right. This way, because initially Judy was asking for 
twelve thousand dollars, or twelve thousand five hundred dollars, 
and he was saying, well but I want money so that I can take the 
children away. So he felt that this would meet her needs...

Hall: And she was satisfied by getting the additional land, 
that had a dollar value.

(Man): And the additional time with the children.

Hall: The additional time being that she gets the school year 
with them.

(Man): Right.

Hall: Ok.

(Man): Ok? She will receive bi-weekly child support in direct 
deposit from Alan's paycheck.

Hall: What does that mean... does that involve the agreement...

(Man): I haven't said what the amount is, but it's the same thing 
as the employee...

Hall: ...from Alan's paycheck to be taken out by the employer, 
right?

(Man): Right. And that ends over the summer. Every summer that 
stops. And the amount is that it's going to continue to be 
two-thirds of what it's presently been costing for the children. 
We still need to negotiate what it is they're presently spending 
on the children. We didn't even touch on that issue. And so 
that's another area of negotiation. That also will be reviewed 
each year, depending upon the salary changes they have. And 
whatever differences there are in percentage, in either Alan or 
Judy's salary, will change that amount accordingly.
Hall: Annually, meaning like in the summer, or at the time when they're exchanged?

(Man): It needs to be probably at tax time.

Hall: Tax time.

(hubbub)

(Man): We've just negotiated that tax time.

Hall: And the percentage based on current income, then.

(Man): Right.

Hall: Ok. Well, I mean this gives us a fair amount to look at and talk about.

(Man): We also still need to resolve... there are two other things that we need to resolve, one other thing. And that's, which piece of land, and that will have to be negotiated.

(Man): The one with the house.

(laughter)

(Man): ...This agreement both of them will take home for a week and think about, and then...

(Man): ...that may be of some relevance. Judy was concerned about her potential residual tax liability for the year, not having paid anything in withholding. And we tried to address that by having them agree to file a joint return for this year at least, with the theory that some of the savings that would be retrieved there would accrue, in effect, to her, because Alan wouldn't end up paying any more than he would otherwise. But she might pay a good deal less.

Hall: In other words, that will help her in this year, they hope... Ok. Again, looking at the agreements, you did address the alternatives. There are ways in which they're quite similar, but there's still a pretty wide disparity in the groups. I guess at least two of the groups got a fairer level of detail hammered out in their agreements, and the others were not able to get to that kind of detail. Process-wise, what was it like for you? I went around and heard all the groups. Emily was saying one of the groups really got into the acting out of the role. Did you find that you got so into the acting that you couldn't then get the task done, because you needed more time to be spent on that?

(Woman): Part of the problem was a lot of the acting went into making Alan feel bad. (laughter) I mean that was something that I think really prevented us from going forward, that he wasn't
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willing to look at that at all.

Hall: Well, it's interesting, because in fact, of course Judy has agreed to this twenty-two thousand dollars. At least in general principles, he's not obligated to give her anything further. She signed away her rights. But of course, if it does go into the courts and is litigated, or when a mediator really looks to what's likely to be a binding agreement, there is evidence that it's going to have to be addressed. Eric?

Eric: I found that throughout this whole role-playing, that there were certain moments where I had a real distinct choice of how to react or comment...

Hall: You were who?

Eric: Alan. Or how to proceed. And it just reinforced to me that the emotional, how important the personalities are. I mean you can read as many of these as you want, and even seeing the videotape of some of the people, during very specific times I had a real choice about if I could have made it more difficult for the mediators, I could have made it easier. And I found that you could have the same facts, but if you told half the class to be as difficult, or a little more difficult than they thought, and told the other half to be a little easier, then it would change completely the situation. The specific times really became very clear to me...

Hall: But that's the challenge in almost any of the problems that you've had on the facts that you're given, is whether you want to play it hard-nosed, or even if you have a hard-nosed role whether you incorporate other elements and your own personality into...

Eric: It seems to me, what I found out from it is that you can do as many of these role-playing as you want, but what it comes down to is when you go out and do it, that it really, you can have studied all the books, all the literature, but when you sit down with that unique mix of personalities in that specific day, that you're really left to your general ability to react to the people. We're not really being trained in the correct method, as much as...

Hall: That's a really interesting point. What Larry would say to that, I think is that your basic reaction pattern, your basic personality is not going to be changed, but that you can use some of these skills to make yourself more effective. What Jerry Williams would say, in the example where he said, if you're usually a calm person and you suddenly find yourself screaming at the top of your lungs over the telephone thirty seconds into the conversation, you get a pretty good idea that this is the kind of person who gets to you. (laughter) What you can do with that then is to learn what the most effective way of
reacting with that kind of person is. So that rather than screaming and responding because you're so frustrated, you can have some way to parry with that person, and to have them deal with you. Betty.

Betty: I thought that the role of the mediator was very interesting to observe. Because clearly there is enough material for Judy and Alan to baby each other whenever they wanted and to get off the point of bringing up all the hidden agendas at any point in time that you wanted to, which was ( ). And what was interesting was to watch the mediators not bite into that bait, not get baited by that stuff as well. And that they would in fact bring us back to the points that we had agreed to at the very beginning. That when we sat down, we said this is why were here, this is what we want to accomplish, and this will be our underlying goal, for the benefit of the children. And so the mediators constantly brought us back to that whenever we were baiting each other. And they let us bait each other. And they let us get to some degree of heated discussion. At some point, you as a mediator have to decide when you're going to jump into that, and how heated and how angry you're going to let it get. It's watching them play that role and thinking about how heated you let things get, and what things you let get thrown out there and be sure that they be dropped.

(Woman): Or maybe how long you let people wander in certain ways. In the history if these people, it just seemed like keeping the energy going in a certain direction has been very difficult.

(Man): It's interesting, when not playing a role that I'm definitely not familiar with playing, I just felt that I was the wronged wife. (laughter) I said, this time I'm not letting them tell me what's good for me. When it comes to the kids, I know what's good for me. And I said right at the outset, that's it, this is my position. And I felt I was controlling, because Jay said to me, well don't you want to wait to the end to make that decision. I said no, I've made that decision.

(Man): But it did in fact change. Because you did say that there would be a point in which it might be better for Alan to have the children.

(Man): Well, I also played a little game by saying, I'm prepared to give the children up after six months if the psychologist feels that they're not adjusting well, knowing full well that in those first six months they were going to have an adjustment... (laughter) He tried to bring up this so-called immorality issue, that I ran out. And I said, here he goes again bringing up the same old issue. And it stopped him in his tracks. He got right off at that point.

(Man): I was Alan. What happened at the beginning really shaped my view of everything, because as soon as the position came out,
I felt that sort of everything else that was said after that was to make the position sound appealing. But underneath it all, we still kept coming back to the same issue, which was that Judy felt that she was fit to be the kids' parent. I basically didn't believe. And we had an interesting situation...

Hall: You didn't believe that she was fit...

(Man): No, I didn't believe that she was genuine in her willingness to share the kids...

Hall: I see.

(Man): ...and all of that. What we finally got around to was that - Emily at one point brought up the point - that, of course, six months down the road, the kids are going to have a good adjustment. Of course the psychologist is going to say this is fine. And Alan gets left out in the cold, which is exactly what I was feeling.

Hall: It was fear.

(Man): And that it would ultimately be more disruptive and all of that. But Judy was so domineering. (laughter) I sort of sat back. I felt not only was she saying what was good for her, but also what was good for me. And I just at that point lost it. Here she had been going through this thing saying, are you getting better? And I replied, with the acknowledgement that my communication was difficult, and here right in front of us she was making it virtually impossible for me to express myself. (laughter) And that triggered in my mind that there's something funny going on here. (laughter) I didn't trust the whole process. And the mediator, Jay, got really involved and at one point was basically siding with Judy. I was fighting that as well. And it ultimately, although in my own mind I had two ways of working these things out, I felt I had to address everything that was going on. And I felt like I was just being sort of dragged under the table. That was a real problem.

Hall: If you had more time, do you think you could have held things to a more even distribution? Because that is a real problem that if one party does come in and is purely positional, you have to use an awful lot of skill to break it. Because even if he changes, if the other party feels that he's been completely trounced on throughout it, you don't have a very good agreement.

(Woman): Jay did most of the meeting. And my only criticism of that was because Judy was a strong person and because she had a position, he tended to take that position because Alan spent the whole time trying to save face, and not really getting to a position. That's how I felt.

(Man): We had a, I felt, somewhat interesting situation, because
Natalie and I had very different approaches toward the negotiation in the sense that... my way of dealing with things is just to see what we can get down on paper and then find out where the commonalities are and come back to that... and Natalie is somewhat more confrontational. And it was interesting. I think she modified it quite a bit, because we had talked about it beforehand, but in a way that permitted that energy to be released by putting both Judy and Alan on the spot under certain circumstances. And she would play that role. And then in other situations I would sort of play a role of, well let's see what we have here and let me see if I understand I'm hearing you correctly.

Hall: Did most of you tend to work from the point of defining what you agreed on, and then go into what you disagreed on? Or working on what were the so-called disagreements or issues where there were real problems?

(Man): I've gotten the feeling that during this course we've gotten into the habit of dealing with the nuts and bolts of the issues and I see a tendency where there's both the emotional custody and financial issues, to go right to the financial issues that deal with the legal matters. And I think that ( ), and those sort of things sort of promote that kind of habit.

Hall: Most people in the mediation group as a whole at the beginning when we were caucusing, agreed that they would deal with custody first, because in order to set the child support principles and other things, they would have to deal with custody. Now you may be right that because we've defined how to deal with problems to some extent, people are looking to quantify issues, that in a process normally might take longer. On the other hand, this is a couple that's been in this situation for three-and-a-half years.

(Man): One of the first things we did is we went through what are your issues and what are your issues? And then, are these in the priority that you need them in? And both Alan and Judy said that the first issue in terms of priority ( ) those contingent upon other issues, was custody.

(Man): What I'm speaking about is that because we have focused on the technical matters, that we tend - even though we mentioned custody - we tend to trivialize it. And what I felt that my group was more ( ) is the fact that custody is such an emotionally-laden problem. And I felt that most of the time would be practically spent with a mediator diffusing the emotional problems and the problem of custody.

Hall: The interesting thing to note, though, is that it is tied up with other issues. And as you saw in the videotape last week - although I think both parents love their children very much, and that does come out - they have different styles and
different ways of dealing with the kids. And one regards the other as too permissive. The other is too domineering or too concerned about certain things, too strict with the children. What you really have in this setting is the danger of using custody as a pawn to settle other property issues. That's really not uncommon.

(Man): Why is that a danger?

Hall: Of using custody? It's a trade-off. Except I think Tom's point about not trivializing something and what in a court standard would be the best interests of the child, is in a divorce mediation you don't want to think that could just be ignored. And of course, all this is subject to court review. So if something comes up that does not seem to meet that standard it could be subject to change. What I wanted to bring out in terms of negotiation theory, for you to think about, is whether process-wise - and there is no right or wrong answer to this - but whether you get better agreements by starting not merely the joint interests but also what the parties agree to, those issues on which there is no major disagreement, and then going towards agreement. Or working the other way through and thinking back to some of the multi-party games and some of the scorable games. There are ways in which if you begin too early not to package things and link things in a certain way, you just never get a very good agreement.

(Man): I wonder what her responsibility is toward bringing out other potential problems. For instance, the problem of whether Judy's too permissive never really came up. But one of the things I was wondering as a mediator, is it my role to bring up what I see are going to be potential conflicts down the road, that may in fact make the present negotiation a lot messier. Do you have any feeling on what the mediator's role in that situation is?

Hall: Well, looking at the history of this problem, what you can say is there have been things that were not dealt with that have definitely caused great problems down the road. And whoever the mediator is who unravels their situation now is going to have a fairly tricky time. Lyle, do you have a comment?

Lyle: It seemed to us that your question about point of entry, that's starting with the commonality... where people would be shooting at each other seems to be at least for our purposes a productive process. They've got enough differences dividing themselves. ( ) to try to get an agreement together in the habit of agreeing on something may not be a bad idea.

Hall: In this situation, there's a real reason to look for some little agreement that they could agree on and work on that.

(Man): Would you then bring up other potential problems after you hammered that out?
(Man): We did it. We tried that same approach.

Lyle: There is an implicit ( ) where you took the zone of common interest and tried to ( ) an agreement around that first, and then took the next most difficult issue and if you can get through that then you took the next most difficult issue. It seemed to us, I think, that the property division was the most difficult to ( ).

Bob: Who's defining those issues, though? Was it Judy and Alan or was it...

Hall: People are starting to leave. Can I just interrupt for a second? I just wanted to say that those of you who do have to leave, can. A couple more of you might want to talk a little longer. I hope you all have a wonderful Thanksgiving, and I will stay for those of you who want to ask more questions. Next week, Debbie Cole, who is a professor at Simmons College and has written a book called The Mediators, on mediation style in labor negotiators, will be here. She's doing a lot of work on intra-organizational conflict and how managers deal or don't deal with conflict. We will have a case, called The ( ) Case, in your packet. Please look at that because she is going to actually be asking you very much with her through that problem. So if you could be prepared for that, that would be really good.

Roz: Also, I'd love to get some feedback on the usefulness of the video material as a case study, and the game that you played. My address is on the second sheet there.

Hall: Or you can give them to me and I'll get them back to you. Also, if you...

Roz: Do a little rewriting, if you like, on the back...

Hall: And a few comments on how you'd like to see this edited, other facts you think would help you, please let me know. Thank you very much and thank you, Roz.