

FACILITATED SOLUTIONS

MEDIATION SKILLS 2 TRAINING MANUAL

302-1200 PORTAGE AVENUE
WINNIPEG, MANITOBA
CANADA R3G 0T5

PHONE: 204.774.5389
FAX: 204.453.6082
WEB: WWW.FSCANADA.ORG
EMAIL: INFO@FSCANADA.ORG

EMPOWERING PEOPLE TO MANAGE DIFFERENCES AND BUILD RELATIONSHIPS

MEDIATION SKILLS LEVEL 2

2008

Prepared by

FACILITATED SOLUTIONS

EMPOWERING PEOPLE TO MANAGE DIFFERENCES AND BUILD RELATIONSHIPS
302 – 1200 Portage Avenue, Winnipeg, Manitoba, R3G 0T5

T: (204) 774-5389 • **F:** (204) 453-6082 • **E:** info@fscanada.org
W: www.fscanada.org

MEDIATION SKILLS LEVEL II COURSE INFORMATION

Workshop Description

Participants will build on and strengthen their capacity to make use of the comprehensive model for conducting interpersonal mediation that was introduced in level one. Skills related to conducting initial interviews, co-mediator planning, follow-up preparation/coaching, and carrying out mediation in situations where parties have an ongoing relationship will be strengthened.

Additional frameworks and skills related to restorative justice, screening and assessment, and for addressing a host of other challenges that inevitably arise in the course of mediation will also be explored (see below for details).

Experienced mediators will provide coaching and feedback throughout.

(Prerequisite: ICR + MSI)

Workshop Objectives

This three-day workshop provides participants with the opportunity to:

- Deepen their understanding and capacity to use the comprehensive model for intervening in multi-incident conflict introduced in level one (from initial assessment, to coaching, mediation, and closure);
- Strengthen their capacity to conduct both case development and mediation processes that, in turn, draw heavily on skills and concepts learned in ICR and MSI;
- Explore new frameworks related to restorative justice and screening and assessment;
- Learn additional skill sets for addressing challenges which surface in mediation such as negotiating one level up when there are concerns about the leader who called you in, prioritizing which pinches/crunches to explore when there are a great many, responding to disputant reluctance to participate in mediation, and coaching disputants who are failing to “hear” one another or are “backsliding” between sessions; and
- Continue to improve interpersonal listening, leadership, and assertiveness skills in the role of a third-party mediator.

TABLE OF CONTENTS

MEDIATION SKILLS LEVEL II	1
MEDIATION SKILLS LEVEL II COURSE INFORMATION	3
TABLE OF CONTENTS	4
OVERVIEW OF THE MODEL	7
INTERPERSONAL MEDIATION: A DEFINITION	8
FORMS OF DISPUTE RESOLUTION: ADR SPECTRUM	9
INTERPERSONAL MEDIATION IN HISTORICAL RELATIONSHIPS	10
A TYPICAL FLOW OF KEY ACTIVITIES.....	12
THE MEDIATION PROCESS: A GENERAL GUIDE TO JOINT SESSIONS	13
THE MEDIATION PROCESS IN DETAIL	15
INTENT-ACTION-EFFECT MODEL (WITHIN THE FLOW OF THE MODEL)	17
INTERVIEWS AND ASSESSMENT	25
INTAKE CALL	27
THE INTERVIEW PROCESS: AN OVERVIEW	28
THE INTERVIEW: A CHEAT SHEET	29
THE SLICES OF CASE DEVELOPMENT	30
CO-MEDIATOR PLANNING “CHEAT SHEETS”	31
MAPPING THE PROBLEM.....	33
INTENT - ACTION - EFFECT	36
THE ANATOMY OF A PINCH.....	37
FOLLOW-UP CALL TO LEADER WHO CONTRACTED YOU	38
THE INTERVENTION	39
SECOND INDIVIDUAL MEETING: PREPARING FOR FIRST JOINT SESSION (PURPOSE)	41
SECOND INDIVIDUAL MEETING: PREPARING FOR THE FIRST JOINT MEETING (HOW TO).....	42
PRE-SESSION CONSIDERATIONS	43
INTRODUCTION “CHEAT SHEET” FOR FIRST JOINT SESSION	44
FIRST JOINT SESSION (HOW TO)	45
CLOSING JOINT SESSION #1.....	46
TOUCH BASE MEETING / PHONE CALL	47
BETWEEN SESSIONS #1 & #2.....	47
SECOND JOINT MEETING (HOW TO).....	48
CLOSING THE SESSION #2.....	49
MEDIATOR CONTROL BY CONSTRUCTIVENESS OF DIALOGUE	50
EMAIL TO PARTIES PRIOR TO FINAL JOINT SESSION	51
COACHING FOR FINAL JOINT SESSION: AN OVERVIEW	52
COACHING / TOUCH BASE MEETING	53
PRIOR TO FINAL JOINT SESSION: A “CHEAT SHEET”	53
FINAL JOINT SESSION (HOW TO)	54
MEMORANDUM OF UNDERSTANDING: FOUR KEY PRINCIPLES.....	56
MEMORANDUM OF UNDERSTANDING – DRAFT SAMPLE	57
ADDITIONAL DEFINITIONS & FRAMEWORKS	59
RESTORATIVE JUSTICE	61
THE FOUNDATION OF MEDIATION	61
DEFINITIONS.....	65
IS MEDIATION APPROPRIATE?	66
POSITIONS AND INTERESTS.....	69

QUESTIONING EXERCISE	70
“TRAINING WHEELS EXERCISE”	71
APPENDIX	75
TAMING THE PARROT	77
CASE STUDIES / ROLE PLAYS	79
VIDEO CASE STUDY – DEPARTMENT OF HEALTH.....	80
PROVIDING CONSTRUCTIVE FEEDBACK	81
PERSONAL REMINDERS	82
EVALUATION FOR MEDIATION SKILLS LEVEL II.....	83

OVERVIEW OF THE MODEL

INTERPERSONAL MEDIATION: A DEFINITION

Mediation is a voluntary, collaborative, problem-solving process in which a third party seen to be fair and balanced by all parties assists the parties in dispute in clearly defining and understanding the events and concerns which have contributed to the tensions.

The mediator also helps the parties reach resolutions that are acceptable to everyone involved in the conflict.

FORMS OF DISPUTE RESOLUTION: ADR SPECTRUM

“**Conflict Resolution**” is a very broad term used by many professionals involved in the field and refers to **many** forms of dispute resolution. “**Alternative Dispute Resolution**” (ADR), or “**Alternative Dispute Resolution Methods**” (ADRM) is usually used in the legal context. Several specific forms of dispute resolution are defined below. Third-party intervention and control increases as one moves from negotiation to adjudication.

NEGOTIATION

Disputing parties agree to solve their problem by talking about their concerns face-to-face and working together to find a solution that is mutually acceptable. It is in this form of intervention that the disputants maintain the greatest degree of control.

COACHING

A coach is a third party who encourages disputing parties to solve their problem. For example, s/he may make suggestions on how to approach the other party to the conflict, help the person understand her or his underlying interests, and/or provide shuttle diplomacy (act as a “go-between”).

MEDIATION

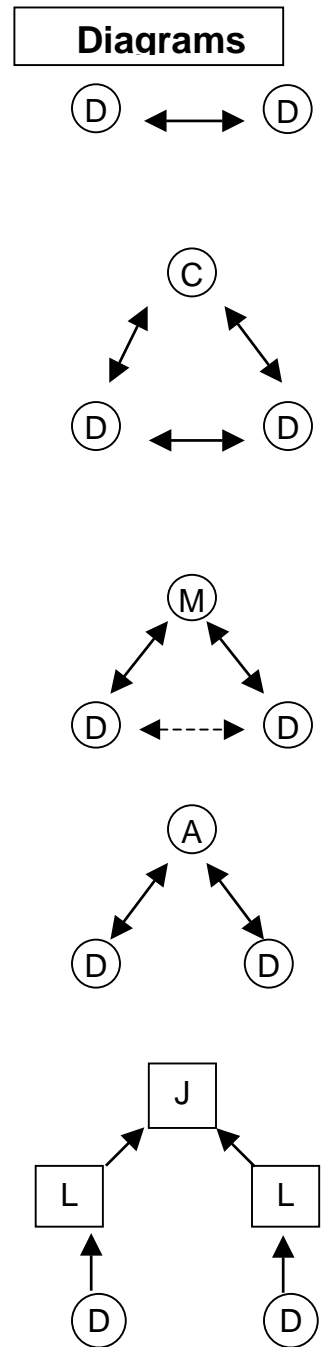
Mediation is a voluntary, co-operative, problem-solving process in which a person acceptable to all parties assists those in dispute to clearly define the events and concerns which have contributed towards the tensions and helps them work towards a resolution that is satisfactory to all concerned. The mediator has primary responsibility for guiding the parties through the process whereas the disputants maintain primary responsibility for solutions to -their conflict.

ARBITRATION

An arbitrator is a person appointed by two disputing parties to settle their dispute. In arbitration, the third party makes a judgement after hearing both sides of the dispute. Disputants no longer have decision-making power.

ADJUDICATION

The courts are well established as a form of dispute resolution in North America to the point that their popularity in the public mind is reflected in statements such as: “*You’ll hear from my lawyer!*” or “*I’ll take it to the highest court!*” Such popularity often makes it difficult for people to think of alternatives. In adjudication, disputants are represented by lawyers and, as a result, their control is minimal.



INTERPERSONAL MEDIATION IN HISTORICAL RELATIONSHIPS

An Overview

PHASE A: CONTRACTING

1. Initial Contact

- receive intake call (get a basic picture of the situation)
- discuss services
- negotiate the contract for the initial interviews/assessment
- check-in with union rep (if in a unionized workplace)
- arrange for interview times and location between the parties and the mediator

PHASE B: INTERVIEWS & ASSESSMENT

Gain Consent of Parties

- contact the parties to describe process and gain consent to continue (optional)

2. Individual Interviews

- interview individuals for 45 to 75 minutes in length
- gain consent of parties to continue process

3. Follow-Up Call to Leadership/HR

- follow-up call to person who called you in to inform regarding whether case is suitable for mediation (may also make follow-up call to union rep at this point)
- if case is suitable, share issues heard and make process recommendations

PHASE C: THE INTERVENTION

1. Intervention Options (in interpersonal cases)

- Interpersonal Mediation
- Facilitated Feedback Meetings
- Individual Coaching
- Training
- Management Coaching (including policy development & dispute systems design)
- Other (some combination of the above)

2. Participants/Leadership Choose Option to Pursue (or not) & Mediators Engage Accordingly

- negotiate contract for first stage of intervention (e.g. up to 3 mediations + coaching)
- carry out intervention option as chosen
- check-in on progress with the person who called you in, negotiate additional components if they become necessary

PHASE D: FOLLOW-UP

1. Gain Commitment to Follow-Up

- negotiate timing and manner of follow-up & carry out accordingly (often no charge).

A TYPICAL FLOW OF KEY ACTIVITIES

1. Intake Call

(generally from leader or manager/HR representative)

2. First Mtg/Interview with Each Party

(to gather info, build rapport)

3. Follow-Up Call

(to leader or manager/HR rep to report your findings + recommendations)

4. Second Mtg/Phone Call with Each Party

(to prepare for first joint session)

5. Mediation Session #1

(to share stories, explore differences)

6. Touch Base Meeting/Phone Call with Each Party

(to debrief first session and prepare for second session, including coaching for acknowledgements if appropriate/ready)

7. Mediation Session #2

(to clarify + continue to share stories, explore differences)

8. Follow-Up Email & Touch Base Meeting/Phone Call to Each Party

(to reflect on offers/needs + get ready for final session)

(to coach for acknowledgements + presenting offers/needs)

9. Mediation Session #3

(to explore acknowledgements, needs, and offers)

10. Results Summarized To Parties Via Email

(to fine-tune and finalize into an agreement/MOU)

THE MEDIATION PROCESS: A GENERAL GUIDE TO JOINT SESSIONS

The Introduction to Joint Session #1

In brief, the major components of the introduction to the first joint session include:

- 1. Welcoming Comments**
- 2. A Review of the Session's Purpose**
 - To understand what has happened from other person's point of view ("Since you know your own story inside out..."). That is, to understand one another versus achieve an agreement.
- 3. Mediators' Role**
 - Is as a process guide, not problem-solver.
- 4. Guidelines**
 - Be patient (participants may write ideas/questions on paper so as not to lose thought but notes from each session must remain in mediators' file and are destroyed afterwards)
 - Confidentiality (will discuss and agree at the end of meeting what, if anything, will be shared with others)
- 5. Other Points of Process**
 - "As we said in the initial interviews many mediations are 2 to 3 sessions. The first conversation is to share some specific incidents that have been challenging and after that we will talk about what each of you need to find a more effective working relationship."
 - "Sometimes it helps to take a break during the meeting. Anyone can call for a break. If someone does we will touch base with each of you to see how it is going. It is normal to take a break and it is normal not to."
 - Review/teach intent-action-effect and leave visible (remind parties they can share actions, share personal impacts, share intentions related to their own actions, but can not share speculations regarding the other's intentions).
- 6. Questions? Ready to proceed?**
- 7. Other possible additions, depending on the level of tension**
 - Speak directly to us: "Given how challenging the situation has been for both of you we would ask that at the beginning you speak directly to us rather than to one another."

Sharing Experiences/Stories (Sessions #1 & #2)

There are two ways of facilitating this process. They are as follows:

#1. Incident Based Conflict

This model is used when there has been one significant event, often with a series of other events related to the critical event over a period of time. One way of viewing this is that the event is one drama with a series of acts and scenes.

Using Intent-Action-Effect

In these cases the mediators would use the Intent-Action-Effect model beginning at the critical event and unpacking significant related events, especially where there are impacts or intentions that have been misunderstood. The process can unfold as follows:

- a) The mediators identify the place to begin;
- b) The mediators invite one party to share the action and impact;
- c) The second party is invited to respond by clarifying intent or seeking clarification;
- d) The mediators then identify the next event and the process cycles through b and c until the intentions and effects of all the significant events have been clarified.

The Use of Reflective Listening Skills

The mediators summarize or paraphrase as needed. Some of the reasons the mediators would choose to interject would be to:

- a) Slow down the process so people have time to reflect on what they have heard;
- b) Simplify the key events if the person sharing has been unclear or is using too many words;
- c) Highlight the difference between from intent and impact; and
- d) Highlight something that would be useful to amplify, for example, statements about regret, positive intentions, or emotional impact or if one party is having a hard time letting go of negative assumptions or is minimizing the impact of their actions etc.

Questions/Discussion of Clarification

During the unpacking of the events participants are invited to ask questions of clarification. In a critical incident with many related events and feelings/assumptions it is not unusual that exploring two or three stories will take the better part of two hours. At the end of the sharing involved in the first session, the two parties are invited to reflect on what they have heard. They also be encouraged to integrate what they have heard into the story they recall and - with this new information - begin to reflect on what they may need to put the situation in the past.

THE MEDIATION PROCESS IN DETAIL

(chapter draft for forthcoming book)

“Seeing is believing. If I hadn’t believed it I wouldn’t have seen it.”

We have often identified the mediation process as a series of learning conversations, in which we expect to have two to four two-hour sessions. In this section we will see some snap shots of these conversations and the process that surrounds them.

Tony and Sara need to move beyond the surface of their disagreements. Their tensions, like most workplace conflicts, arise primarily from unmet expectations, which are complicated by perception and, ultimately, judgement. The journey on which they are about to embark will give them the opportunity to understand the relational dimensions of their conflict and in so doing provide them with a way forward.

By the time Sara and Tony meet for their first mediation session, they have each participated in an hour-long interview. As well, the mediators have had a telephone conversation with each of them just before the session to clarify what situations will be explored in the first session. Both arrive knowing what situations will be addressed. Mediation sessions are often scheduled at the end of the workday or just before lunch to allow both parties some time before they are expected to be back at work. This is especially important if the two parties work closely together or if other colleagues know about the mediation process.

SESSION 1

Introduction

As in all mediation processes, the first session begins with a brief overview of the larger mediation process and the session in particular. The first few minutes of the mediation session are critical in setting a hopeful tone (“this can be solved”) and a safe place for the parties to talk about sensitive issues.

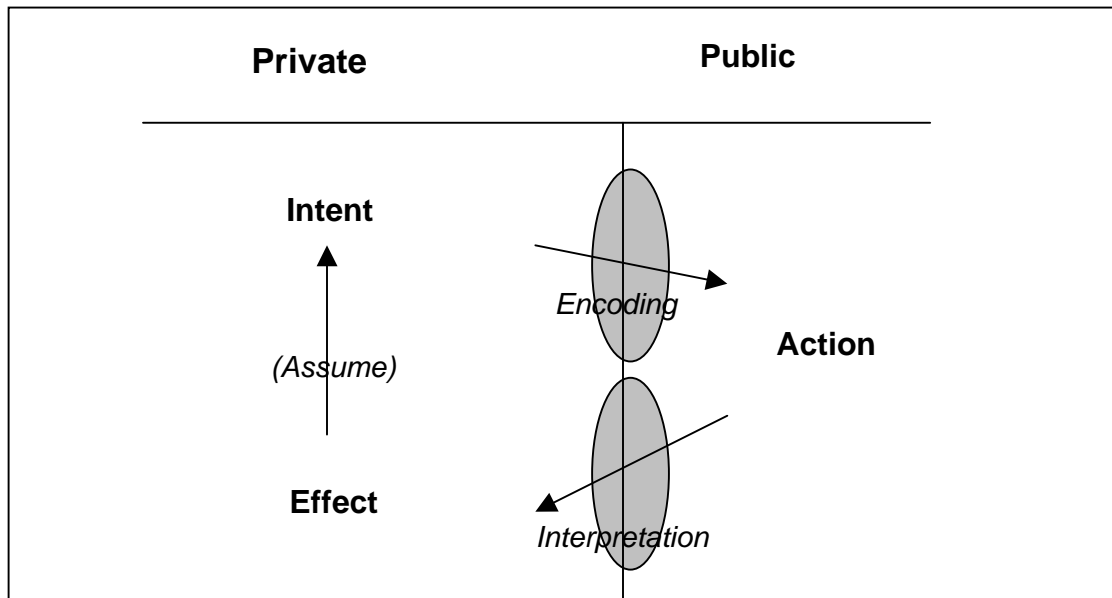
Mediator: *This is really an opportunity to see the situation from the other’s point of view. We are generally very familiar with our own understanding of events because we review them in our minds and sometimes even tell them to others. Today you will hear how the other person views the same events. We ask that during the meeting you listen to understand the other’s point of view. After the meeting you can decide what part you will accept.*

These words are an invitation to move beyond simply rehearsing one's own version of events and to enter a listening frame of mind. Ultimately these situations are resolved when people "re-story" the significant events that currently define the relationship. By the time a situation comes to mediation, it is not unusual that the parties have heard excerpts of each other's story through other colleagues, and they come to the mediation believing that the other person is distorting the truth or lying outright. Therefore, establishing a listening environment is essential. In the first mediation session this listening happens in a fairly prescriptive way, and it is important that the participants know what process the mediators will use to guide the session.

Mediator: *During our initial conversations we talked with each of you about sharing the events that happened, and we used the language of effect and intent. On the white board behind us we have drawn out the model that we will use to guide this. Actions are what everyone sees. They are what a camera in the corner of a room would pick up. This includes not only words but also tone and body language. What we don't see is the effect that our actions have on others, nor the intention – the reason why – the person took those actions. Often we make assumptions about others' intentions based on the personal effect of their actions. Today we are going to invite you to share specific actions that have taken place. We will invite you to share 1) actions (public) and 2) the effect that the actions had on you. Then 3) the other person will be given an opportunity to share his intent. We ask you **not** to share your assumptions about each other's intentions. It is assumptions that often hurt in conflict.*

INTENT-ACTION-EFFECT MODEL (WITHIN THE FLOW OF THE MODEL)

While misunderstandings are common in all communication, they become more likely as we have increasingly different filters through which we encode and decode our communication. My intentions are put into action in a way that is colored by my filter. You interpret my actions in ways that are colored by your filter. These filters consist of our beliefs, values, assumptions, and expectations, which are shaped by our personal, familial, socio-economic, and cultural backgrounds.



Tips:

- *Do not jump to negative assumptions*
- *Disclose your intentions*
- *Share the effect of the other's actions*
- *Test your interpretations*
- *Explain your filters (sharing beliefs, values, expectations)*

The revised Golden Rule – Treat others the way they would like to be treated... because that is how you would like to be treated.

This level of openness about the process has a number of benefits. First, the parties begin to self-monitor their behaviour during the session. Second, by the time most parties arrive at the mediation process, they generally believe their assumptions to be real. Openness about the process helps them see that an assumption is simply that – an assumption – which may or may not be true. Third, it is our belief that if the parties understand this model, it will help them in their working relationship long after the mediation process has ended.

Following the introduction, the parties are invited to share their goals for this process. In cases where the mediators are not confident that the parties will be able to share their goals in a positive frame because of their stress, the mediators will summarize what they heard from the parties and ask for confirmation.

Checklist: Introduction to a mediation conversation

- Welcome
- Goal of Mediation Process: *to renegotiate work relationship*
- Purpose of Session: *to understand (versus agree with) other person's point of view*
- Mediator's Role: *process guide*
- Guidelines:
 - be patient (invitation to write ideas/questions on paper so as to not lose questions/thoughts. Notes from session stay in mediator file and are returned in next session; these are destroyed at end of process)
 - confidentiality (will discuss at the end of meeting what, if anything, participants will share with others)
 - optional: add other guidelines depending on unique dynamics of mediation (i.e., if tensions high, start by having participants speak directly to mediators)
- Process: *two to four sessions*
- Breaks: *(Anyone can call for a break for any reason. If a break is called, the mediator will confer with each party before resuming. It is normal to take a break and it is normal not to.)*
- Review/teach intent-action-effect model and leave it visible (remind parties they may share actions, personal impacts, intentions of actions, but may not share speculations on the other's intentions).
- Questions? Ready to proceed?

Exploring Issues

After the participants share their goals for the session, the mediators immediately guide them into the first situation. Frequently the process begins with the event that has resulted in the parties' being invited to participate in a mediation process. If such an event did not occur, then the mediators would strategically pick the stories in a way that would create some momentum and understanding. Invariably these stories fit into certain themes that exemplify relational dynamics that have contributed to the difficulties the parties have been experiencing. During the conversations, the mediator would highlight these themes and patterns to assist the parties in making sense of their relational dynamics. It is important to alternate between events that are significant to each of the parties.

Mediator: *Following the model, we would like to explore the first situation that ultimately ended up in our being called in. Tony, can you start us off by sharing what happened (pointing to the “action” on the chart) the day that you and Sara had the confrontation?*

Tony: *(shares his version of events)*

Mediator: *(summarizes) Let me take a moment to summarize some key points. You were feeling overwhelmed with work – both by the requests from Sara and from your team. This was further complicated by a personal crisis outside of work. It was in this context that Sara came to you and requested that you.... What I’m hearing is that you weren’t at your best and that you are not happy with how you handled the conversation with Sara. I’m wondering if you can share a bit more of the impact (pointing to the model) of Sara’s coming to your desk.*

Tony: *Well, I felt completely overwhelmed. It didn’t seem like I could ever make Sara happy. I was frustrated by my inability to get everything done and was feeling very frustrated at Sara and her ongoing requests.*

Mediator: *Thanks, Tony. I’m wondering if we can turn to you, Sara. Thanks for listening. I know it isn’t always easy. I’m wondering if you can speak about your intention (pointing to the model) in making that request?*

Sara: *(shares her intention)*

Mediator: *So, in essence you were trying to be proactive this year so you would have time to work with the numbers before you had to report to your Director. I’m wondering if you can share the effect that the conversation with Tony had on you?*

Sara: *Well, quite frankly, I was very surprised by Tony’s reaction. I knew there was tension in our relationship, but I didn’t expect this. I was also very angry that he threatened to talk to the Director.*

Mediator: *Sara, I’m wondering if you can say more about the aftermath of this exchange?*

Sara: *Well, I went home that night and didn’t sleep very much at all. At first I was hurt, and then embarrassed because others may have heard the exchange, and then I became angry....*

Mediator: *Sounds like it was very difficult and that some of the words that were exchanged are still ringing in your head.*

Beginning with the event that resulted in the mediators’ being called in can be helpful because often people are still very focused on this event. It is not unusual for them to have spent hours replaying and retelling the event. Often parties arrive believing that their point of view is the only perspective. If they are going to move forward, parties need to appreciate that others have experienced the event differently.

It is not unusual that the first two-hour meeting will consist mostly of describing and analyzing the crisis event and its aftermath, including the organizational responses that resulted in the mediators' being called in to assist the parties. As time permits, participants may be invited to use the intent-action-effect model to share one or two other stories that begin to highlight themes and patterns in the parties' working relationship.

Closing the Session

It is important to initiate the close of the session at least ten minutes before the time agreed. This allows time to agree on the next steps as well as to make sure parties agree about confidentiality.

Mediator: *We have a few minutes left, and I'm wondering if we can talk about confidentiality. It is not unusual that a number of work colleagues may know you are meeting today. I'm wondering if you can agree on what will be shared with them. Does anyone have a suggestion?*

Sara: *I haven't told anyone about this other than the Director. What I would suggest is that I, we, just say that it was a good beginning and we are continuing to talk.*

Mediator: *Tony, is that okay with you?*

Tony: *Yes, I'm okay with that.*

Mediator: *I know both of you will need to process what you have heard, and quite likely you'll want to do that with another person. It sounds like both of you have agreed that if that is needed the "other person" will not be a work colleague? (Both nod). Is it okay to take advantage of all of us being in the room to set another meeting time for next week? How about...*

Just before you go, one of us will be in touch with you before the next session to debrief and to clarify the agenda for the next meeting. If you need to talk to one of us before then, please feel free to call us.

Different understandings of confidentiality can further erode trust, so it is important that everyone agrees on what will be shared and with whom. In our experience, this is best done at the end of the sessions because the parties can sometimes start a disagreement about confidentiality based on hypothetical scenarios that are caused more by their fears than by what will actually transpire. Clearly outlining next steps, future meetings, phone calls, and communication lines reduces anxiety and normalizes the parties' different needs to debrief and process information. In many cases the mediator will also inform the parties that he will send an email to inform the person who made the initial contact that the first session has taken place and that it was a good beginning.

Coaching Between Sessions

A between-sessions coaching session to help Tony apologize for the way he handled the crisis event might proceed as follows:

Mediator: *Tony, I'm wondering what you're thinking about what Sara said the other day at our meeting regarding the incident between the two of you – particularly in terms of how she felt about it afterwards.*

Tony: *Well I feel a bit bad, actually. Obviously it upset her. And I never really thought about the stuff about other people hearing it... yeah... that was a good point. My whole reaction was probably out of line.*

Mediator: *It sounds like you regret what happened.*

Tony: *Yeah...*

Mediator: *Do you think you could acknowledge that to Sara when we meet next time?*

Tony: *Maybe, but she has to understand how she bugs me and how mad I was that day.*

Mediator: *So, if you're going to acknowledge that you regret what happened, you're worried that your concerns might get lost.*

Tony: *I guess that's it...*

Mediator: *Okay. Well, my job is to make sure they don't get lost. What I am going to ask you to do, though, is to not tie those concerns into whatever you might say about regretting the incident, otherwise the regret will get lost and all she'll hear is the concerns about her. So, what do you think you would say to her?*

SESSION 2

Identifying themes

After clarifying the details of the crisis event, the rest of the mediation process brings to light situations that represent the themes in the relationship. Some of the themes in this session would include: Tony's workload, the way in which Sara makes requests, and Tony's lack of responsiveness.

Mediator: *Welcome back to both of you. I appreciated the conversations we had on the phone. As you can see, we have put the intent-action-effect drawing back on the white board to help us be mindful of how the conversation will proceed. Before we start with another situation, I'm wondering if either of you have any questions or comments from the last meeting?*

Tony: *This is probably as good a time as any (turning to Sara). Sara, I want to apologize for the comments I made and, well, quite frankly, how I handled the situation that we talked about last week. I never really thought about what that was like for you. I was out of line, and I know it, and it won't happen again.*
(silence)

Sara: *Thanks, Tony. I appreciate this. I'm hopeful that we can find a way of working more effectively together.*

Mediator: *Thank you. (pause) I'm wondering if we can explore some situations that would help us understand the theme of....*

All follow-up sessions begin with the opportunity for people to share additional information or ask questions of clarification from the previous meeting. It is not unusual that this is when the sincere apologies occur – often as the result of some coaching between the sessions.

The session then continues with the parties describing and analyzing situations that help each to see what has not been working for the other person. As the stories unfold, the mediators assist as necessary – more and more letting the parties follow the model themselves. The mediators' role is to ensure that at least one story from each specific theme has been shared so that when it comes to creating an agreement Tony and Sara know what elements would need to be included. A variety of transitions can be used between the examples.

Numerous intentions were clarified during the sharing of events that paved the way for the last part of the conversation, including: Sara's need to have information in a timely way because expectations on her had changed; Tony's struggle with meeting Sara's needs and those of his team workers at the same time; and Tony's tendency to regard issues related to his team workers as having a higher priority than those related to Sara.

Transitions between stories

- 1) Briefly summarize, highlighting key elements of the conversation.
- 2) Ask parties if they have any questions of clarification before they move on.
- 3) Ask parties to reflect back what they have heard the other person say.
- 4) Ask parties to share observations now that the "private" has been made "public."

Each session ends with a quick review of the issue of confidentiality.

Problem Solving

After situations from each of the themes have been raised and the parties seem to have a good grasp of what was not working for the other party, the mediators move into problem solving. In preparation for this part of the conversation, the mediators invite the parties to start thinking about this at the end of the last meeting before the final one.

Mediator: *We are going to invite both of you to reflect on three questions between today and the next meeting (which probably will be the last). Reflect on what you have heard and what you have learned about the other person, and answer the following questions:*

- *What other situations do you need to understand better?*
- *What do you need from the other person in the future?*
- *What can you offer the other person?*

We will email these questions to you and again be in touch with you before the next session.

NOTE: Other questions or elements are sometimes included at the discretion of the mediators.

SESSION 3

Solving Problems/Moving to Needs and Offers

At the beginning of the session the mediator checks to see if anything needs to be clarified from the last meeting. Often the mediator will also provide an opportunity for the parties to reflect on the meetings thus far, which could include statements of regret, hopes for the future, or observations about their patterns. Then the meeting moves very quickly to the “homework assignment” given to the parties.

Mediator: *We left you with three questions to think about. I’m wondering if you can begin sharing some of your thoughts. Just so you know, we will be tracking the needs and offers, and at the end of the meeting will email each of you a copy of the summary for your editing. At the end of the meeting we will also need to talk about who else (if anyone) needs a copy of the summary. Are you ready? Let’s start with the question, “Knowing what I know now, what can I offer the person?” I think we talked about Sara starting us off here. Sara?*

Sara: *Sure I will go first. The first thing I would like to offer is that if Tony is overwhelmed with work, I would like him to tell me so we can see if there is a way that I can make the load more manageable.*

Mediator: *Tony, how does that sound?*

Tony: *Works for me.*

The exchange of offers continues until both of them have finished their list. It is only then that the mediator shifts to needs.

Mediator: *So the offers are finished. Can you go over your needs list and let me know what else you would like to put on the table?*

Tony: *Actually, my list is finished.*

Mediator: *What about you, Sara?*

Sara: *(rather hesitantly) I have only one left. It's about what we are going to say to people about the incident between Tony and me. I'm sensing some of Tony's team workers are quite uncomfortable with me these days. I'm suspecting that some of them heard what happened. I would like this situation addressed in some way.*

Usually the “offers” address most of the “needs.” This is affirmation to both parties that they have been heard and the other person is willing to make changes. The list is then reviewed (if not too long or complicated), and parties are invited to begin to explore who will have a copy of the agreement.

Mediator: *So, now that we have a summary of reminders going forward, let's talk about what will happen next. First we will draft what we have heard and email it to both of you for fine-tuning. One of the questions is, does anyone else need a copy of the agreement? It is not unusual for someone to have a copy to support the work that you have done. Any thoughts on this matter?*

Tony: *Well I think that the Director should have a copy, given that she started this process and Sara reports directly to her. Other than that, I don't think anyone needs a copy.*

Sara: *I'm okay with that, I guess, but I would like to see it before we make the final decision.*

Mediator: *Okay, we will send out a draft to you by Monday. If both of you can review it with the idea that the Director may get a copy, then we'll see what makes sense.*

The mediator then closes the final face-to-face session, again ensuring that everyone knows what the next steps will be and revisiting confidentiality one last time.

INTERVIEWS AND ASSESSMENT

INTAKE CALL

Initial Considerations

1. What is the motivation and role of the person making the initial contact?

- Are they the person responsible for the group?
- Are they a person who is involved in the conflict?
- If they are involved in the conflict, you need to negotiate contact with someone “one level up” (i.e. someone at a higher level of leadership who is:
 - a) not involved in the conflict, and
 - b) can provide a good balance of support and accountability for those who are).

Ideally, this is a person with strong emotional intelligence, a balanced perspective, the ability and willingness to face into the conflict, and a basic level of trust with all parties involved in the dispute. Unfortunately, as mediators we rarely get to choose who we will deal with in this regard! Sometimes, however, there are a number of possibilities and if we sense that some persons would be more helpful to the mediation process than others (e.g. members of a board), we can negotiate for their inclusion.

2. Are other parties aware of this contact?

- (union, board, manager)

3. Contracting arrangements

- Part A - Collecting information
- Part B - Identifying options for intervention
- Part C - Negotiating fees

4. Clarifying role

- Process consultant versus investigator

5. Attaining access to possible interviewees

Gathering Initial Information

- flow chart of organization(s) (if appropriate)
- identification of individuals to be involved & identification of who will make initial contact with them
- names and telephone numbers of participants
- mission statement of organization (optional)
- recent studies done for organization (optional)

THE INTERVIEW PROCESS: AN OVERVIEW

Negotiate Entry into the Conflicted Context

- Who is the contracting authority?
- What is their relationship to the perceived issues? (if they are involved in the conflict, you need to negotiate contact with someone “one level up”)
- What will be the communication strategy to inform the parties involved in the conflict of the decision to explore mediation?

Individual Interviews

Welcome

- Review Purpose and Process
- Questions for clarity

Getting Started

- How long have they been in their role?
- What do they enjoy about their job? What is working?

Identifying Themes/Issues (VENT)

- What are the issues that need to be addressed?
- Allow for free description of the issues/problems/concerns
- Dig into issues with open-ended questions
- Be sure to ask for specific examples (**CLARIFY**)
- Be on the lookout for specific “pinches” and “crunches” that relate to the themes; take good, full notes on these pinches!
- Consider a teaching piece like *Intent-Action-Effect* or *Pinch-Crunch Map*

Identifying Goals/Hopes (IMAGINE)

- What would you like to see happen?
- Three months from now if things were better what would have changed?

Identify Strategies (IMAGINE)

- What needs to happen so that the unit (and or you) can move forward?
- Coach person on coping in the interim (if needed)

Closure

- Anything else that you think would be helpful for me to understand?
- Thank the person for their time
- Normalize post interview “second thoughts” and open the door for them to contact you if they would like to add anything else or qualify any of their comments.

THE INTERVIEW: A CHEAT SHEET

The first interview with the parties in conflict can be conducted in person or over the telephone. Generally, an in person interview is a more effective way to establish rapport. Here, the facilitator establishes credibility with the participants and prepares them for the process. Interviews typically last one hour, but may last anywhere from 5 minutes to two hours.

Purpose

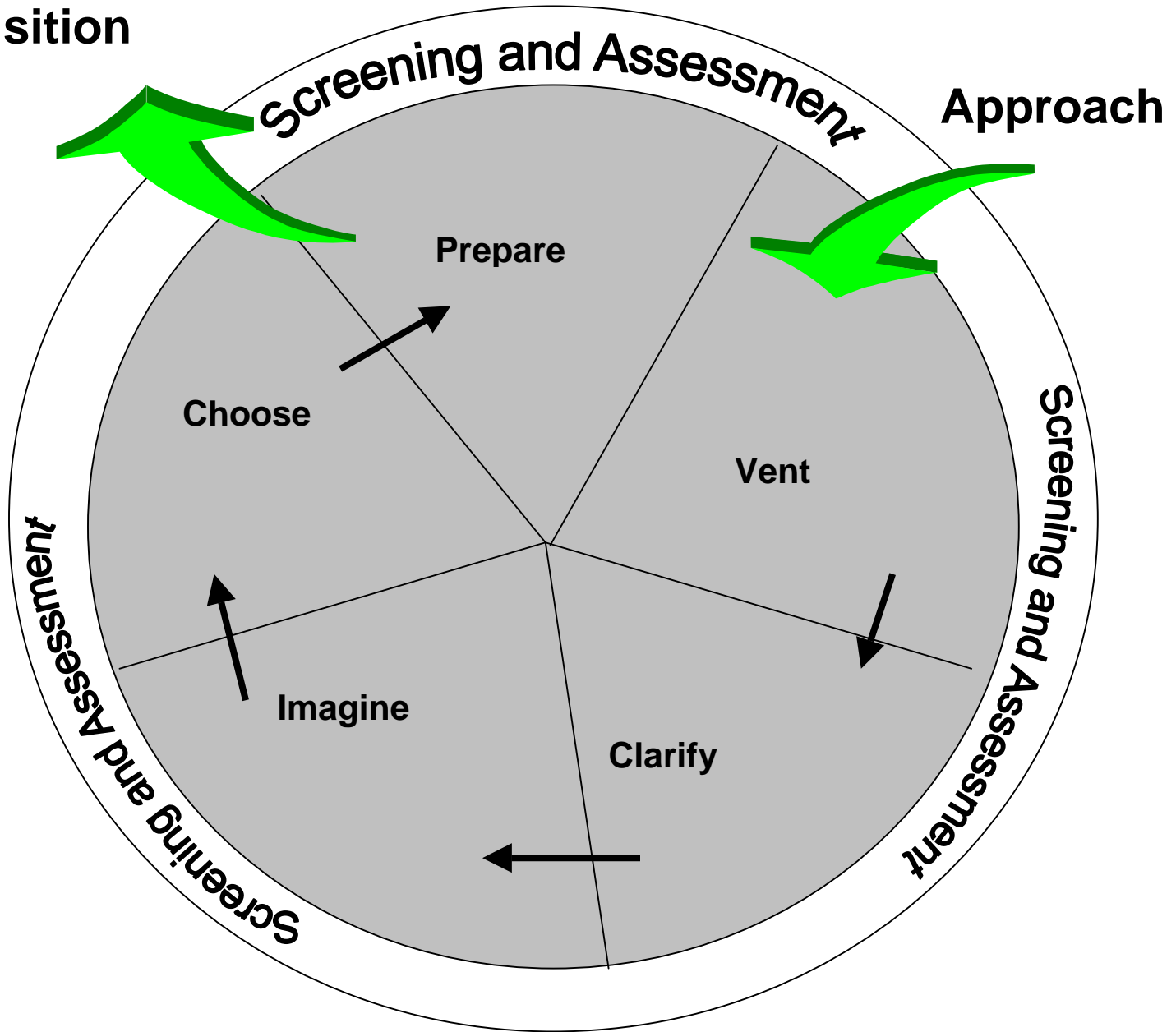
- assess the level of emotion
- identify the issues
- hear individual's goals
- develop trust
- collect data for process recommendations
- clarify role of mediator
- begin to prepare participants for possible intervention

Possible Interview Questions

- 1) **Getting Started:** How long have you been a part of this workplace/group? What is your role? Do you enjoy your role?
- 2) **Concerns (VENT):** What are your concerns with your workplace/group? What are the issues that need to be addressed?
- 3) **Pinches/Crunches (CLARIFY):** Can you give me some specific examples of events and situations that illustrate your concerns? Events that stand out for you? (*write notes!*)
- 4) **Efforts to Resolve (CLARIFY):** What efforts have been made to address the problems? (*be aware there may be nothing significant offered here*)
- 5) **Hopes/Ideals (IMAGINE):** What are your hopes/goals for your group? If you could wake up in three months time and things were radically better, how would they be?
- 6) **Strategies (IMAGINE/CLARIFY):** How can we, as mediators, be helpful? What else do we need to know?
- 7) **Consent to Proceed (CHOOSE):** If we proceed with mediation, would you be willing to participate? Do you have any questions about this process?

THE SLICES OF CASE DEVELOPMENT

Transition



CO-MEDIATOR PLANNING “CHEAT SHEETS”

Meeting Your Co-Mediator After Initial Interviews

1. Who did you meet with in your in person interview?
2. What did you learn? About facts? About perceptions and feelings?
3. What does your co-mediator need to know? About your party's state of mind?
4. What stories/pinches/crunches do you think will need to be shared in the first joint mediation session? What are the related expectations for each party that have not been met?
5. What challenges do you anticipate at this early stage?

Co-Mediator Planning for Second Joint Session

A) Prior to Touching Base:

1. Which mediator will call which party (it might be helpful to switch at this stage)?
2. What is your sense of how each party is doing after the first joint session?
3. What, if anything, appeared to “shift” for them? Where do you, as mediators, need them to make a shift?
4. What other stories/pinches/crunches do you think need to be shared in the next session?

B) After Touching Base:

1. So, how is your party doing/feeling after first joint session? What does your co-mediator need to know about your party's state of mind?
2. What has “shifted” for them, if anything?
3. What does your party need clarified, if anything, at outset of session #2?
4. What, if anything, is your party prepared to acknowledge at this stage?
5. How will you open the next joint session? In what order will you take the remaining stories/pinches/crunches?

Co-Mediator Planning for Final Joint Session

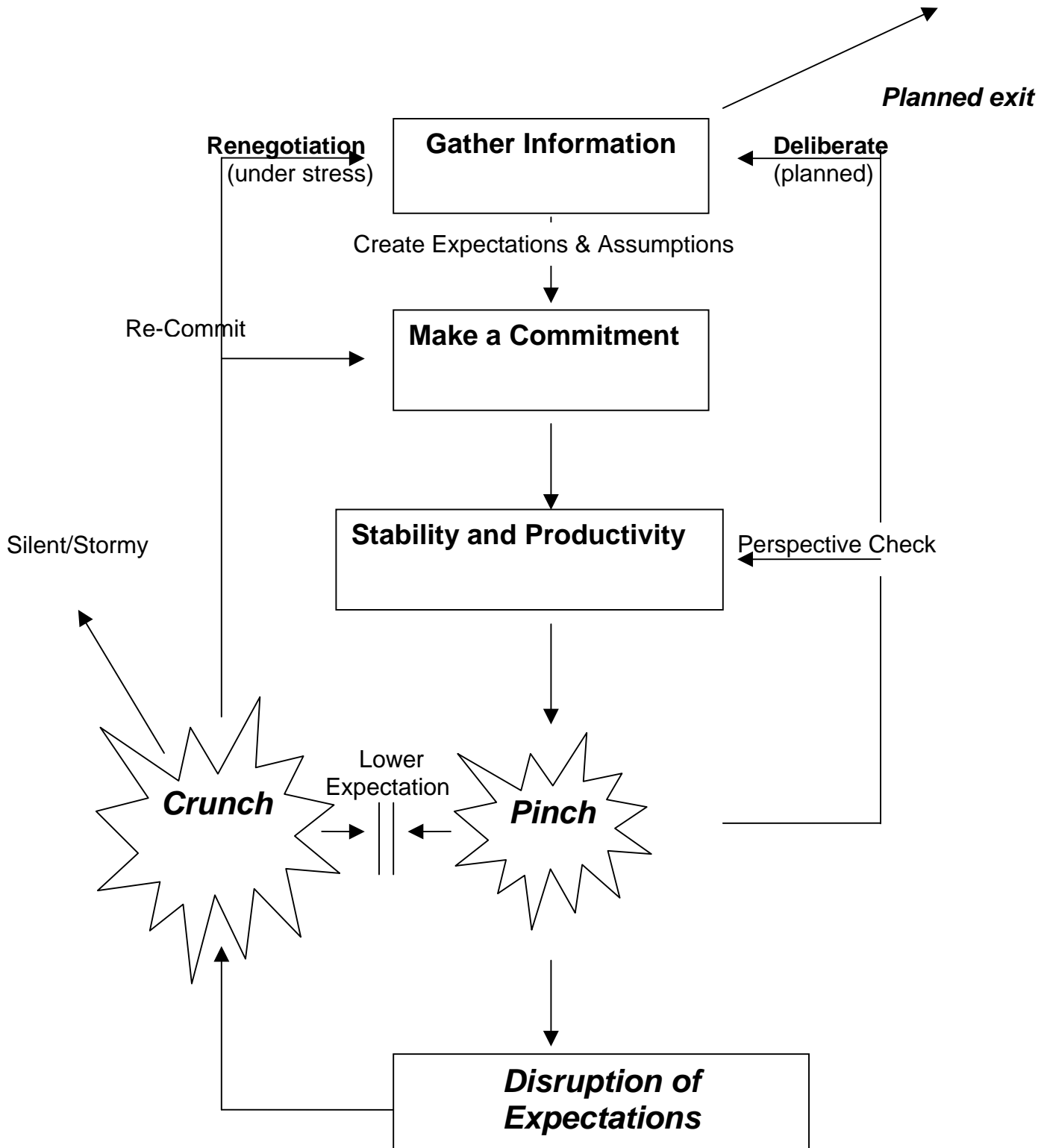
A) Prior to Touching Base:

1. Which mediator will call which party?
2. What is your sense of how each party is doing after the second joint session?
3. Where do parties appear to be “shifting” for the better? Where else do you, as mediators, still need them to make a shift?
4. As you contemplate ending the mediation process, what do each of the parties seem to need to be able to move forward in their relationship? What might each of them be able to offer

B) After Touching Base:

1. So, How is your party doing/feeling after second joint session?
2. What does your party need clarified, if anything, at outset of the final session?
3. What are your party’s offers as we move toward concrete commitments/agreements for the future? What are their needs?
4. How will you open your final joint session? How can you start on a positive note? To this end, is there a particular person and topic that make sense to begin with?

MAPPING THE PROBLEM



MAPPING THE PROBLEM

Information Gathering: All relationships begin and develop through the gathering and sharing of information.

Expectations & Assumptions: We create expectations and assumptions from the information that we have gathered.

Commitment: We choose to make commitments based on the information that we have gathered and our belief about the relationship's ability to meet enough of our expectations/goals to make it workable. Commitments can be formal or informal, articulated or kept private.

Stability and Productivity: This is the period where things are going as we expected they would.

Pinch: A pinch is something that is done or not done, that violates one of our expectations/assumptions. Pinches are private. We feel them though the one who caused the pinch may not be aware that we are disappointed or have been offended.

Disruption of Expectations: By not acting, we may come to doubt our initial judgment of a situation. We are not sure if we can trust our operating expectations and assumptions because we have been disappointed already. Tension and stress builds as our situation becomes increasingly unpredictable.

Crunch: A crunch is open conflict. Both parties are now aware that there is a problem. However, if I have been suffering silently, my crunch may be my partner's pinch.

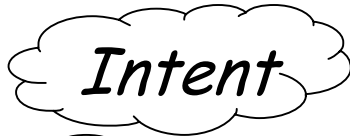
Crunch Management Options:

- **Silent Ending:** This is where one party terminates the relationship after the fight without any further communication.
- **Re-Commitment:** This is where we smooth things over and play nice (kiss and make-up) with each other, with the hope that the relationship will return quickly to stability and productivity. The pinch, however, remains private and unresolved.
- **Lower Expectations:** By lowering our expectations and just "putting in time," people hope to reduce the number of pinches and crunches that they are experiencing with each other. Eventually, this can lead to apathy and cynicism.
- **Re-Negotiation:** By engaging in a difficult, honest conversation after a crunch, information can be gathered, expectations and assumptions clarified and parties can either renew their commitment to their relationship or agree to disagree and explore the final option of a planned and/or agreed upon ending/transition to the relationship.

Intent Action Effect



Private



Public

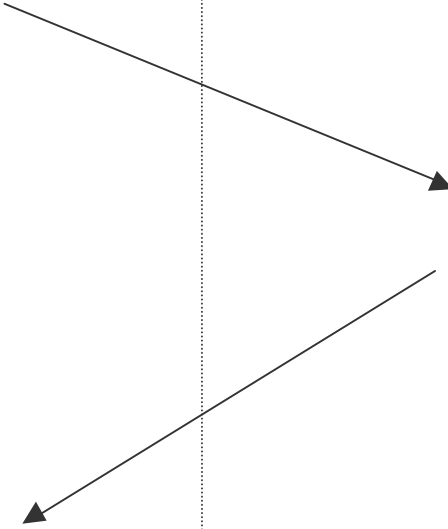
Intent



Effect



Effect



Action



Action

INTENT - ACTION - EFFECT

We don't see things as they are, we see things as we are.

Anais Nin

In our daily interactions we often misinterpret the behaviour of others. The assumptions we make are a major contributing factor in the breakdown of communication and the escalation of conflict. When people are under the stress associated with conflict, the tendency to misinterpret each other is greatly increased.

We often assume the other's intention from the effect that their action has on us. If I am hurt by the actions of another person I will tend to assume s/he intended to hurt me. On the other hand, we assume that the other person will correctly interpret the intent of our action. If our intent was to help, we may assume the other person feels helped and appreciates us.

Usually the action itself is the only part that is public. In conflict situations the gap between our intentions and the effect of our actions can become wider and wider. An effective approach in resolving conflicts is therefore to make "public" more of what is usually "private."

Check out statements like, "I thought that..." Such phrases may be indicators of assumptions that need to be clarified. Similarly, if you are negatively affected by the behaviour of another person, do not simply make assumptions about his/her intention. Instead, inquire about the intent and/or inform the person of the effect his/her actions have had on you.

In a study conducted by Dr. Albert Mehrabian at UCLA, the act of communication between individuals was divided into three categories and the degree to which each aspect affects the total message received was explored. In a given act of communication, what percentage of the total message received would you attribute to each of the following categories?

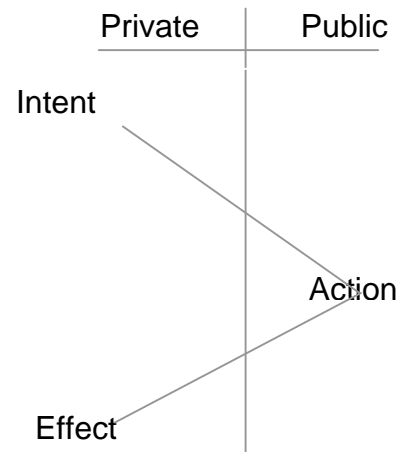
Verbal (Words)	<u> </u> %
Vocal and Tonal (Tone)	<u> </u> %
Visual (Body Language)	<u> </u> %
TOTAL MESSAGE	<u>100 %</u>

THE ANATOMY OF A PINCH

A pinch is action that we interpret in a way that has a negative impact (pinch effect) on us. The action can be looked at in terms of the words, tone and body language that we perceived. It is usually a combination of external and internal factors that cause us to feel negatively affected by the action.

EXTERNAL FACTORS

1. Misunderstandings
2. Style / temperament differences
3. Cultural differences
4. Disagreements – conflicting expectations
5. Different ways of doing tasks
6. Miss-steps / errors (intentional or unintentional)
7. Reactive or intentional aggression (pinch back)



INTERNAL FACTORS

1. Body
 - Physical tensions, hunger, energy level, health, general state of being.
2. Heart
 - Insecurity regarding my competence, my value, my self-worth and other identity issues.
 - Envy: The wish that I had something they have (i.e. position, personality, relationships, influence).
 - Negative associations: They remind me of someone I have unresolved issues with.
 - Loneliness.
3. Head
 - Anxiety/Fear regarding the safety and security of my: job security, career opportunities, position, rank, pay/benefits, office, reputation.

APPLICATION

In your situation what external factors have contributed to the situation?
What internal factors are at work?

FOLLOW-UP CALL TO LEADER WHO CONTRACTED YOU

WHEN:

- The last step in Phase B: Assessment
- Promptly after you have completed initial interviews

PURPOSE:

- To inform the person who called you in that you have completed interviews
- To inform regarding whether the case can be mediated (i.e. your decision in this regard)
- To identify major themes/issues that need attention and provide an overview of your strategy for moving forward and elicit any information that you may still be missing
- To provide an estimate re: number of sessions, timeline, future costs, and costs to date
- To review commitment to check-in along the way
- To gain consent to proceed

THE INTERVENTION

SECOND INDIVIDUAL MEETING: PREPARING FOR FIRST JOINT SESSION (PURPOSE)

WHEN:

- Part of Phase C: Intervention
- Promptly after you have gained consent from the person who called you in to proceed with mediation

PURPOSE:

- To gain consent from the parties for their participation in mediation (may involve reviewing what the other options are)
- To re-cap/summarize the key themes you heard from in your initial interview and confirm your understanding
- To provide a broad overview of the purpose of the first joint session: that is, to understand one another's story, not achieve resolution
- To elicit 2 to 3 stories/critical events which are illustrative of the themes/issues (i.e. 2 or 3 situations where the other party's behaviour "did not work" for the person you are meeting with)
- To teach the Intent-Action-Effect model (if not already done in first meeting) so as to shift away from evaluative language re: the other party's intent
- To clearly review expectations for how the I-A-E model will be used to frame the story-sharing in the first joint session

Notes from Demonstration:

Key Skills Demonstrated:	Things to Remember:	Questions:

SECOND INDIVIDUAL MEETING: PREPARING FOR THE FIRST JOINT MEETING (HOW TO)

HOW TO:

1. Welcome & Affirm

- encourage/offer hope

2. Explain Focus for Joint Session #1

- to share stories and share impact so others can understand
- to leave the session with a better understanding of each other's experiences

3. Identify Stories to be Shared

- confirm story(ies) you want person to share
- draw out additional story(ies) as needed

4. Teach Action-Intent-Effect

- have I-A-E model or paper/pen to sketch model on hand
- teach the model by using the stories the person will tell
- explain your expectations re: their sharing action + effect (not intent)
- explain that other person will share their intent

5. Explain that Other Person will also Share Stories

6. Do They Have Questions?

- stress management before session
- create interim arrangements/commitments for interaction between the parties
- other?

PRE-SESSION CONSIDERATIONS

Take up to 30 minutes before the mediation session to prepare the environment, review the conflict and put on your “mediator hat.” Focus your energy so that you are calm and relaxed, and ready to deal with whatever may transpire during the session, e.g. strong emotions..

Prepare Environment

The environment should be as comfortable and informal as possible. Make sure there is access to a washroom, smoking area, and rooms for separate meetings. Also, provide a beverage.

Arrange Seating

Seating can have a great impact on the session. Before the parties arrive for the session, plan where they will be seated. Seating arrangements should be non-confrontational and flexible. Parties should not be seated in chairs that are facing each other directly. A coffee table rather than a board table, for instance, provides for openness as well as a comfortable and “safe” distance between the disputing parties. A number of things should be considered when setting up the chairs.

- Does the seating arrangement distribute power equally between the parties?
- Are the chairs similar in style and height?
- Does the arrangement create a safe environment?
- Do all the parties have easy and equal access to the exits?
- Can the mediators see each other sufficiently to catch the other’s non-verbal cues?
- Does the arrangement foster open communication between the mediators and the parties?
- If there are guardians, advocates or other representatives present, where will they be seated? Beside the parties? Behind the parties?
- What will you have between the parties? Nothing? A coffee table or something else?
- Is there Kleenex available? A pen and paper should the participants want them?

Check-In with Co-Mediator

- Who will do the introduction, restate the stories or summarize the issues?
- How will the rest of the session be divided?
- Anticipate any special difficulties you may encounter during the mediation situation. (Remember that what you anticipate may or may not happen.)
- What will you do if you get stuck? What could you do?
- Discuss any “cues” to be used during the session. For example: “*Lee, did you have anything to add here?*” or “*Kim, could I add something here?*”

INTRODUCTION “CHEAT SHEET” FOR FIRST JOINT SESSION

Co-Mediator Prep:

- Lead mediator updates co-mediator on case (or co-mediators review basic case details as necessary)
- Mediators clarify which stories will be shared in session #1
- Mediators divvy up items to be covered in introduction

The Introduction:

- **Words of welcome** (warm + relatively brief)
- **Review of activities to date** (how we came to be sitting here together)
- **Purpose of today’s session** (to understand, not to resolve)
- **Notepad** (for notes so as not to interrupt one another; mediators collect at end and return for session #2)
- **Breaks** (*“It’s normal to take a break. It’s normal not to. Anyone can call a break. If we break, we will probably take a moment to touch base with each one of you...”*)
- **Mediator’s role** (as facilitator and guide; to help things flow)
- **Confidentiality** (*“We’ll agree before we leave what we will say to others if someone asks us about how the session went...”*)
- **Intent-Action-Effect review** (how we will use this to structure the session)

FIRST JOINT SESSION (HOW TO)

HOW TO:

- 1. Welcome & Introduction to Joint Session #1**
 - encourage/offer hope & normalize discomfort
- 2. Explain Focus for Joint Session #1**
 - to share stories and share impact
 - to leave the session with a better understanding of the other's experience
- 3. Re-Visit Intent-Action-Effect**
 - have I-A-E model on whiteboard or flipchart paper on wall
 - remind that they will share action + effect (but not intent)
 - other person will share their intentions
 - obtain consent to proceed
- 4. Identify Which Event to Begin With (sharp focus)**
 - invite one party to share a specific action that they found troubling
 - ensure that you are steering them away from loaded/evaluative descriptions of the action (i.e. observation without evaluation)
 - invite the same party to share impact (may draw out an emotion)
 - invite the second party to respond by clarifying intent
 - invite additional comments/clarifications (if tension low) OR provide re-cap of "new info" using I-A-E framework (if tension remains high)
 - invite parties to reflect on the new information and seek to integrate between now and the next joint session
 - please see p.36-37 for more on this step
- 5. Identify Next Event (sharp focus)**
 - repeat step #4 above until the effects and intentions of all the significant events have been clarified
 - this usually necessitates a second joint session with the same focus
- 6. Closing the Joint Session #1**
 - begin closing process at least 10 minutes before your total time expires
 - revisit confidentiality: develop consensus on what will be said if asked
 - discuss who you will be in contact with (e.g. the person who called you)
 - give instructions re: things to consider prior to next session
 - inform re: what they can expect from you (i.e. re: follow-up calls, emails, next steps etc.)

CLOSING JOINT SESSION #1 (ASSUMING THREE SESSIONS IN TOTAL)

Closing Joint Session #1:

- **Quick summary** of what has been covered (should be very broad strokes)
- **Acknowledge feeling of things “left hanging”** (no closure yet)
- **Reassure** that we will come back to these topics eventually
- **Request they reflect on what the other has shared** (between sessions) and on the reality that “our actions haven’t been meeting our intentions”
- **State that we will be discussing some additional events/themes** next session
- **Inform that we will be in touch** before next session (“a day or two before”) to figure out what yet needs attention/discussion
- **Remind them that they can initiate contact** sooner and how to do so
- **Negotiate how confidentiality** will be handled between sessions by both parties (get a verbal commitment from both parties)
- **Questions?**
- **Thank them** for their time and energy

TOUCH BASE MEETING / PHONE CALL BETWEEN SESSIONS #1 & #2

Some Possible Questions / Topics to Explore:

- 1) How are you feeling/doing after our first meeting?

- 2) What was new info for you? How does this change things?

- 3) What, if anything, needs clarification from last meeting?

- 4) Acknowledgements re: contribution? i.e. Knowing what you know now, what pieces of this can you take responsibility for? What might that sound like?

- 5) Review next steps, including what stories / "pinches" you would like them to be prepared to share at the next meeting).

Notes from Demonstration:

Key Skills Demonstrated:	Things to Remember:	Questions:

SECOND JOINT MEETING (HOW TO)

- 1) Welcome Back**
- 2) Explain focus for joint session #2** (more of same)
- 3) Allow for acknowledgements & left-over questions related to joint session #1**
- 4) Identify the next event (i.e. pinch or crunch) which will be explored in this session:**
(work it through using I-A-E with a sharp focus)
- 5) Identify next event**
(work it through using I-A-E with a sharp focus)
(repeat until all major themes explored)
- 6) Close the joint session #2**

CLOSING THE SESSION #2

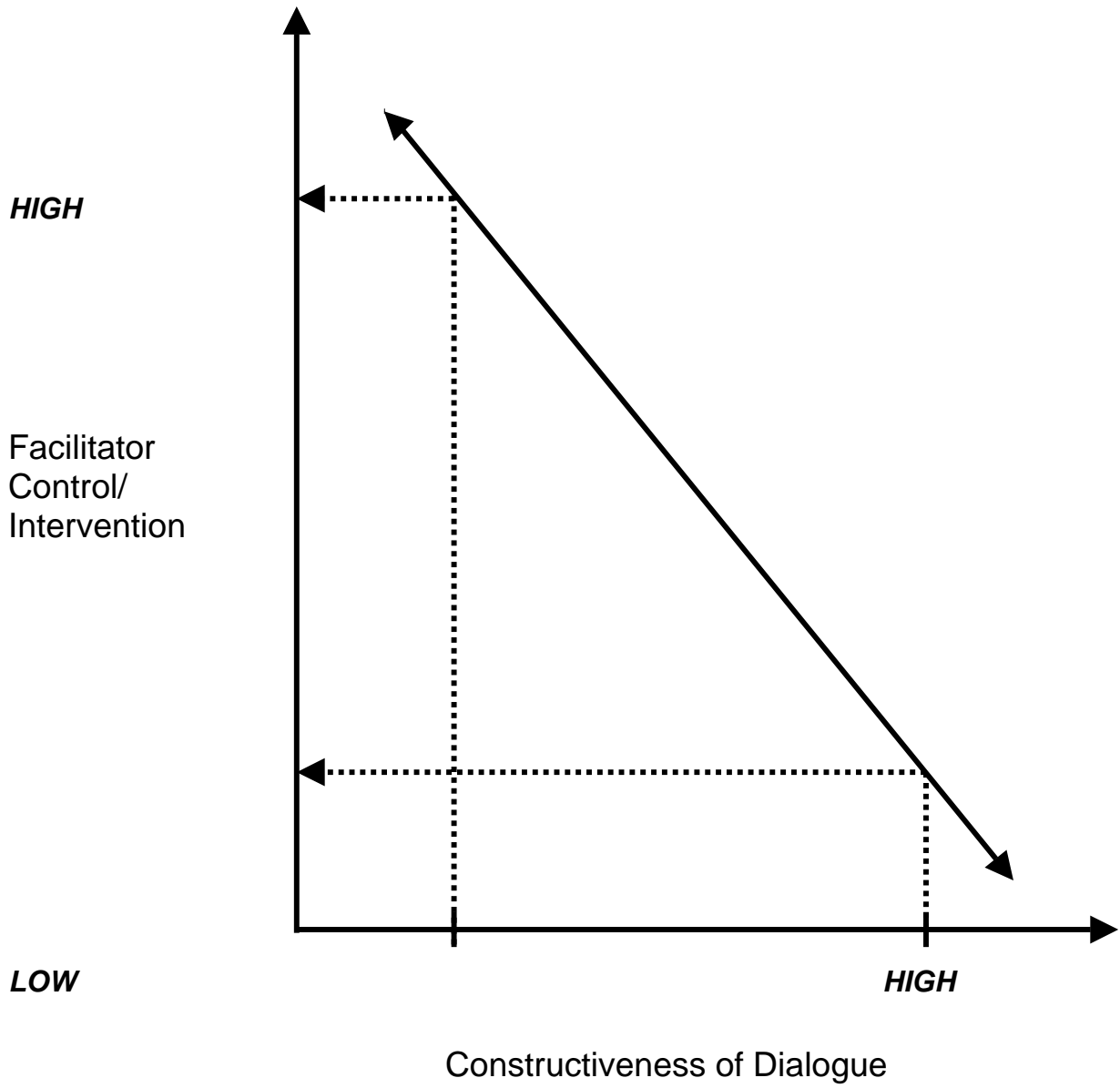
(Assuming Three Sessions in Total)

Closing Joint Session #2

(anticipating that session #3 will be the final session):

- **Quick summary** of what has been covered in second session (broad strokes)
- **Acknowledge “unfinished” feelings** and **reassure** re: eventual closure
- **Request to again reflect on what the other has shared** (before final session)
- **Inform that we will be in touch** before next session (“a day or two before”)
- **Remind them that they can initiate contact** sooner and how to do so
- **Briefly outline the switch to future focus that will take place during the final session; i.e. introduce “needs and offers” language and the related email they will receive**
- **Re-visit confidentiality** (ensure agreement still makes sense and remind that it is still in force)
- **Questions?**
- **Thank them** for their time and energy

MEDIATOR CONTROL BY CONSTRUCTIVENESS OF DIALOGUE



EMAIL TO PARTIES PRIOR TO FINAL JOINT SESSION

Read Message

From: <janets@facilitation.net>
Date: 2006/09/15 Fri AM 07:45:37 CDT
To: <sgalway@health.gov>
Subject: Your last session with Tony

Hi Louise,

Thanks again for the session last week. Again, I just want to reiterate that we remain very encouraged by the tone of the discussions and the progress you are making.

As promised, I am sending you the questions for what is likely to be our last session.

- 1) Do you have any remaining questions or situations you need clarified?**
- 2) What has become clearer to you about the past as a result of our conversations? What new information/learning has come about? What do you see differently now as a result? What do you own/acknowledge/regret?**
- 3) As you consider the future and what you and Dave need to establish a good working relationship, what do you need from Dave?**
- 4) Based on what you have learned in our meetings, what are you willing to offer Dave in order to establish a good working relationship going forward?**

I will be giving you a call in the next few days to chat about the above.

Talk to you soon.

Jan

COACHING FOR FINAL JOINT SESSION: AN OVERVIEW

HOW TO:

1. Introduction to Coaching Conversation

- encourage/offer hope
- if on phone, check to ensure that this is a good time to talk
- check-in with them as to their general impressions/feelings at this stage of the process (e.g. "So, what are your thoughts and feelings on where we are at this point?") - active listening!

2. Explain Focus for Final Joint Session

- to clarify anything that still needs to be clarified from previous sessions
- to allow a final opportunity to unpack any situations which still need to be discussed
- to explore needs and offers - what is required to move forward with the relationship or situation
- to, ideally, lay the foundation for an agreement/memo of understanding

3. Re-Visit the Questions from Email (& given at end of previous session)

- you may wish to use your email (see handout from last week) as a guide to this part of the conversation
- explore the questions as found in the email (active listening - paraphrase & probe for more as appropriate)
- use open questions to probe and reality test as necessary; examples:
- *So what needs to happen between you in this meeting to move forward?*
- *What do you really need her/him "to get" in order to have some peace about this and move on? How might we achieve this?*
- *What is it that you think s/he may need you "to get?"*
- *What are the consequences of not resolving this between you?*
- *What is it that you think s/he is going to need to hear from you with respect to _____? How might you say this? (give feedback)*
- *How might you name that particular need? OR How might you ask for that?*
- coach/encourage/support for taking responsibility as necessary

4. Closing the Coaching Conversation

- re-cap the basic outline of what you have heard in the conversation
- re-cap the basic outline of what will occur in the final session
- obtain consent to proceed (any final questions?)
- let them know where they can reach you if something comes up between now and the final session
- thank them for their time and continuing energy/commitment

COACHING / TOUCH BASE MEETING PRIOR TO FINAL JOINT SESSION: A “CHEAT SHEET”

Some Possible Questions / Topics to Explore:

- 1) How are you feeling/doing after our last meeting?

- 2) What was new info for you? How does this change things?

- 3) What, if anything, needs clarification from last meeting?

- 4) What do you need from the other party as we look toward the future and closing the mediation process? What can you offer?

Notes from Video / Demonstration:

Key Skills Demonstrated:	Things to Remember:	Questions:

FINAL JOINT SESSION (HOW TO)

HOW TO:

1. Welcome & Introduction to Final Joint Session

- encourage/offer hope, recap progress, & normalize any remaining nervousness as necessary

2. Explain Focus for Final Joint Session

- to clarify anything that still needs to be clarified from previous sessions
- to allow a final opportunity to unpack any situations which still need to be discussed and/or offer acknowledgements
- to explore offers and needs (in that order) with respect to future
- to, ideally, lay the foundation for an agreement/memo of understanding

3. Re-Visit the Concept of Offers & Needs (as necessary)

4. Identify Who Will Begin (which party) Sharing Offers

Option A

- invite one party to share their first offer (record)
- invite the other party to share their first offer (record)
- continue taking turns until all offers have been shared (con't recording)
- allow for clarifications/responses along the way as appropriate
- next, invite both parties to silently cross off any needs they had listed which have already been addressed by the exchange of offers
- only then invite both parties to share any needs which remain (again, taking turns)
- fine tune until consensus is achieved
- re-cap the joint list of accepted offers which has been created (and which now forms the basis of the MOU/agreement)

Option B

- invite one party to share their entire list of offers (record)
- allow other party to respond once list is complete (if tension is still high)
OR
- allow other party to respond to each offer along the way (if tension is low)
- repeat above process with the second party
- next, invite both parties to silently cross off any needs they had listed which have already been addressed by the exchange of offers only then invite both parties to share any needs which remain
- fine tune until consensus is achieved

- re-cap the joint list of accepted offers which has been created (and which now forms the basis of the MOU/agreement)

5. Closing the Final Session

- begin closing process at least 15 minutes before your total time expires
- revisit confidentiality: develop consensus on what will be said if asked
- inform the parties re: how the MOU/agreement will be developed
- inform re: what they can expect from you (i.e. when they will receive a draft of the agreement/MOU and what you need from them by when)
- discuss anyone else you will be in contact with (e.g. the person who called you) in terms of bringing closure to the case
- negotiate who else may need to receive a copy of the agreement/MOU (if anyone)

Notes from Video / Demonstration:

Key Skills Demonstrated:	Things to Remember:	Questions:

MEMORANDUM OF UNDERSTANDING: FOUR KEY PRINCIPLES

Summary of agreement documents should be S.W.A.N.:

Specific

Written

Attainable (realistic)

Non-Judgmental (and future focused)

MEMORANDUM OF UNDERSTANDING – DRAFT SAMPLE

Sara Galway and Tony Macpherson met on March 10, 17 and 23 to discuss the difficulties in their working relationship and make a plan for the future. Tony and Sara had the opportunity to share information with each other, ask and answer questions and make a concrete plan for moving forward. The purpose of this document is to clarify and make explicit their expectations of one another and to serve as a reminder of commitments made.

- Sara has offered to find ways to improve communication between her and Tony and to collaborate with Tony to help find ways to make the deadlines more realistic. Tony and Sara have agreed to experiment with brief, biweekly Monday morning meetings for the period of 3 months (beginning October 2, 9-9:30 AM) in an attempt to both increase communication and connection and to problem solve on deadlines.
- Tony will make deadlines a priority. If for some reason Tony is not able to meet a deadline he will inform Sara as soon as possible. If Sara needs to communicate with Tony about a deadline she will do it face to face or by voicemail. Both agree to use “CC” and “Reply All” rarely and not when there is tension around an issue.
- Sara and Tony agreed that their difficulties in communicating over the past 2 years have played a large role in the conflict between them. Sara and Tony are both committed to initiating face to face conversations early on when they have concerns or are feeling tension in their relationship. Tony and Sara agreed that they need to work at finding a balance between focusing on tasks and fostering relationships in the workplace.
- Tony and Sara are both hopeful that this plan is a positive step in their working relationship. And both have committed to addressing any future issues or needs proactively and as they arise.

In the event that there are concerns with this agreement that Sara and Tony can not address directly with one another, Tony and Sara are encouraged to contact Janet Schmidt (663-5998) or David Dyck (775-7312) for consultation and to explore options.

Draft: September 24, 2007

Signed:

Sara Galway

Tony Macpherson

ADDITIONAL DEFINITIONS & FRAMEWORKS

RESTORATIVE JUSTICE THE FOUNDATION OF MEDIATION

At Mediation Services, the practice of mediation is rooted in a restorative approach to conflict and crime. Restorative justice is a response that looks at the harm caused by an incident and seeks to repair or heal this harm. A restorative view of justice includes viewing crime as a violation of people and relationships. The persons who are harmed when a crime is committed are, firstly, the victim, secondly, the community as a whole, and thirdly, the offender her/himself.

A restorative approach asks: "*Who has been hurt?*" "*What are their needs?*" and "*Who is obligated to address these needs?*" Empowering the victim to have his or her perspective heard, and addressing the victim's needs and concerns are therefore primary concerns of a restorative approach. Restoring or creating a sense of safety or well-being in the community amongst all community members is also a key objective of restorative justice. Finally, helping the offender to begin to begin to understand his/her behaviour, begin to take responsibility for her/his past actions, and successfully reintegrate back into the community is also fundamental to restorative responses to crime. Restorative justice, then, aims to heal the victim, empower and transform the community as a whole, and reintegrate the offender back into the community as a healthy and responsible individual.

In contrast, a retributive approach asks: "*What rule has been broken?*" "*Who is to blame?*" "*What do they deserve?*" These questions are answered on the basis of a complex system of rules that are administered by the state or some other organization. Consequences for the guilty or blameworthy party are typically of a punitive nature. Most of our institutional systems for responding to violation and conflict, including our criminal justice and correctional systems, are primarily retributive in nature.¹

An underlying assumption of the retributive approach is that societies must ensure that their members' behaviour stays within certain prescribed parameters. Another key assumption is that punishment will most effectively deter further behaviour, which falls outside the prescribed boundaries. At its core, therefore, retributive justice is not concerned to investigate or address the root causes or possible aftermath of harmful behaviour. For example, retributive-based consequences rarely directly address the needs or concerns of the victim, offender, or the larger community.

¹ Zehr, Howard. *Changing Lenses: A New Focus for Crime & Justice*. Herald Press, 1990.

While still dominant, the basic assumptions and foci of retributive justice are increasingly being questioned within an ever-broadening array of institutions.^{2 3} While few would argue that it is not important to place limits on certain kinds of behaviour, there are an increasing number of conflict and criminal justice theorists and practitioners who are suggesting that a more holistic response that reaches the deeper, systemic roots of the problem is needed. Further, these individuals contend that the current system is proving largely ineffective even at achieving its more limited aims.⁴

By comparison, the philosophy of restorative justice upholds a deep sense of the need for accountability. Violations of relationships, individuals, contracts, community, etc. create obligations. At the same time, the obligations are not defined solely in terms of a punitive or blaming response. Restorative alternatives are identified and carried out by the instigator as a way of fulfilling the obligations incurred by his or her harmful actions. Ideally the response of the instigator will include remorse and a desire to do what is possible to repair the harm to those who were harmed, be they an individual victim, an organization, or the larger community. Restorative justice is also concerned to go beyond containing conflict to resolving the conflicts that gave rise to the crime in the first place and which are created by the crime. The people who have been involved in and affected by a harm are gathered to explore the source, impact, and aftermath of an incident with a view towards generating solutions which begin to address the root causes of the problem.

A restorative approach can be adopted in many situations beyond the criminal justice or legal system. For example schools, parents and families, organizations, and businesses at all levels can choose to respond to conflict and problems restoratively. When codes or rules are broken and disciplinary or punitive actions would normally be implemented to satisfy the need for accountability, mediation, conferencing, circles and/or other models can provide an alternative approach to the incident.

² Berzins, Lorraine. "Is Legal Punishment Right? The Answer is No". in *The National Prison Project Journal*. Spring, 1993.

³ Mohr, Renate M. "A Feminist's Analysis of the Objectives and Alternatives Regarding Punishment." Presented at a conference on Feminist Perspective on Criminal Law Reform, Ottawa, Canada, 1987.

⁴ Dugan, Maire (July, 1996). "A Nested Theory of Conflict." *In A Leadership Journal: Women in Leadership - Sharing the Vision*. Volume 1, pp. 9-20;

Dyck, David (2000). "Reaching Towards a Transformative Training and Practice of Restorative Justice." *In Contemporary Justice Review*. Volume 3 (3), pp. 239-265.

Mika, Harry (1992). "Mediation Interventions And Restorative Justice: Responding to the Astructural Bias." *In H. Messmer and H.-U. Otto (Eds.), Restorative Justice on Trial*. Netherlands: Kluwer Academic Publishers, pp.559-567.

Mediation and conferencing, for example, allow the victim, or those who feel victimized by a given incident, an opportunity to tell the instigator about the effect of her or his harmful actions. It also encourages the development of solutions that will ensure that the harm is addressed. In this way, mediation fosters a direct and personal sense of accountability. Healing Circles and Circles of Support and Accountability, on the other hand, are geared toward empowering the community to assist an offender in her/his journey towards taking responsibility for their behaviour. Where *appropriate and desired*, these models can also incorporate the victim and his/her needs by keeping them informed of their work, working co-operatively with victims' organizations, or directly involving the individual victim in their efforts with the offender. Victims' Services and other victims' advocacy organizations are also increasingly exploring models that seek to work with the victim's needs in a more primary way.⁵

Victim Considerations

Awareness of the common concerns or needs of victims are vital to helping the restorative justice practitioner or volunteer facilitate a fair and meaningful process. This awareness will also help prevent re-victimization. Following a violation, victims strive to regain their sense of security and identity, symbolized by autonomy, order and inclusion/relatedness. Hence, the victim (the recipient of harm) generally needs:

Meaningful *choice* with respect to how the situation is addressed (this includes the right NOT to give input or participate or to state a preference for the court process)

Her or his perspective *heard* and respected by the offender

To understand *why* the incident happened, why she or he was the target, etc.

Assurance that the violation will not happen again

A say or influence in the outcome or solution, i.e. how the obligations will be fulfilled

Compensation or *restitution* for the harm done, i.e. the acceptance of responsibility and a genuine expression of remorse which *sometimes* takes the form of an apology.

See also "Guidelines for Victim Sensitive Victim Offender Mediation" (Draft) Umbreit, Greenwood 1997

⁵ The Mennonite Central Committee Canada program, "Victims' Voice," which is coordinated by Wilma Derksen, is one such example of a victim centred organization.

Offender Considerations

It is often very difficult and even traumatic for an offender to come face to face with the aftermath of the harm that they have caused. Furthermore, in the dominant criminal justice system, offenders are often not assisted in exploring the underlying sources of their behaviour. In court, defence counsel often speaks for the accused and the offender rarely has to deal with the impact of his/her actions. Direct accountability to the victim is usually not a part of the response of the dominant, punitive system. Some things to keep in mind:

It can be a huge shift for the offender to be thinking about how he/she can take responsibility for what has happened in order to repair the harm done to the victim.

Taking responsibility is usually a process for offenders and rarely happens all at once. Sometimes the meeting with the victim is part of this process (see “Healing Journey” article in Appendix).

It is critically important for the volunteer or restorative justice practitioner to demonstrate respect for the individual in spite of what s/he has done. This is equally true whether one is working with the offender as a caseworker, mediator, facilitator, or in any other capacity.

DEFINITIONS

Retributive Approach to Incident of Violation

The incident is a violation of the school, workplace, or institutional policies, defined by rule breaking. Resolution involves looking at the incident, determining blame, and administering the consequences (generally based on systematic rules).

What rule has been broken?

Who is to blame?

What do they deserve?

Restorative Approach to Incident of Violation

The incident is a violation of people and relationships. It creates obligations to make things right. Resolution involves looking at the harm caused by the incident: harm to the person(s) who were victimized, harm to the instigator/aggressor(s), and harm to the larger community (e.g. school, workplace, faith community) and asks “How can this harm be repaired?”

Who has been hurt?

What are their needs?

Who is obligated to address these needs?

Who has a stake in this situation?

What is the appropriate process to involve stakeholders in an effort to put things right?

Adapted from Howard Zehr's *The Little Book of Restorative Justice*, 2002.

Transformative Approach to Incident of Violation

The incident may have occurred as a result, in part, of unhealthy relationships and social systems. It creates obligations to build new or better relationships. This must happen not only at an individual level but also at the level of social structures and policies. Resolution involves changing institutional and wider social systems in ways that help to prevent the occurrence and re-occurrence of harmful incidents.

What social circumstances promoted the harmful behaviour?

What structural similarities exist between this incident and others like it?

What systemic/institutional changes could prevent future occurrences?

IS MEDIATION APPROPRIATE?⁶

Mediation is not a panacea for all ills. Not every conflict is suitable for face-to-face assisted dialogue. After some initial information gathering as a caseworker, you will need to assess and make a clear decision about whether or not the conflict is suitable for mediation. Some general guidelines follow.

Factors that Often Make a Case Suitable for Mediation

- 1. The parties have expressed a desire to work on the problem and an openness to discuss the matter.** They have at least a degree of interest in a collaborative settlement and a willingness to work on the issues.
- 2. The matter is one in which both parties appear to share responsibility for the difficult dynamics and both are willing to accept some responsibility (or to at least “look at” how they may have contributed to the escalating dynamics).** That is, the case is rooted in a difference of perspective versus a matter in which one party has clearly violated another (the latter case may still be “mediate-able,” but should probably be referred through the official investigation/sanction system as a first step – see #3 on next page for more).
- 3. The issues or events are, or can be, clearly defined.**
- 4. It is clear who is involved in the conflict and the important players are willing and able to be involved** in efforts to resolve the matter and to come together for a session.
- 5. The parties are able to articulate their concerns** and speak reasonably clearly about what they need to have happen to resolve the conflict.
- 6. It is important to resolve the conflict to maintain a relationship,** e.g. between work colleagues, neighbours, family members, friends, etc. (or the parties intend to maintain a relationship).

Factors that Often Make a Case Unsuitable for Mediation

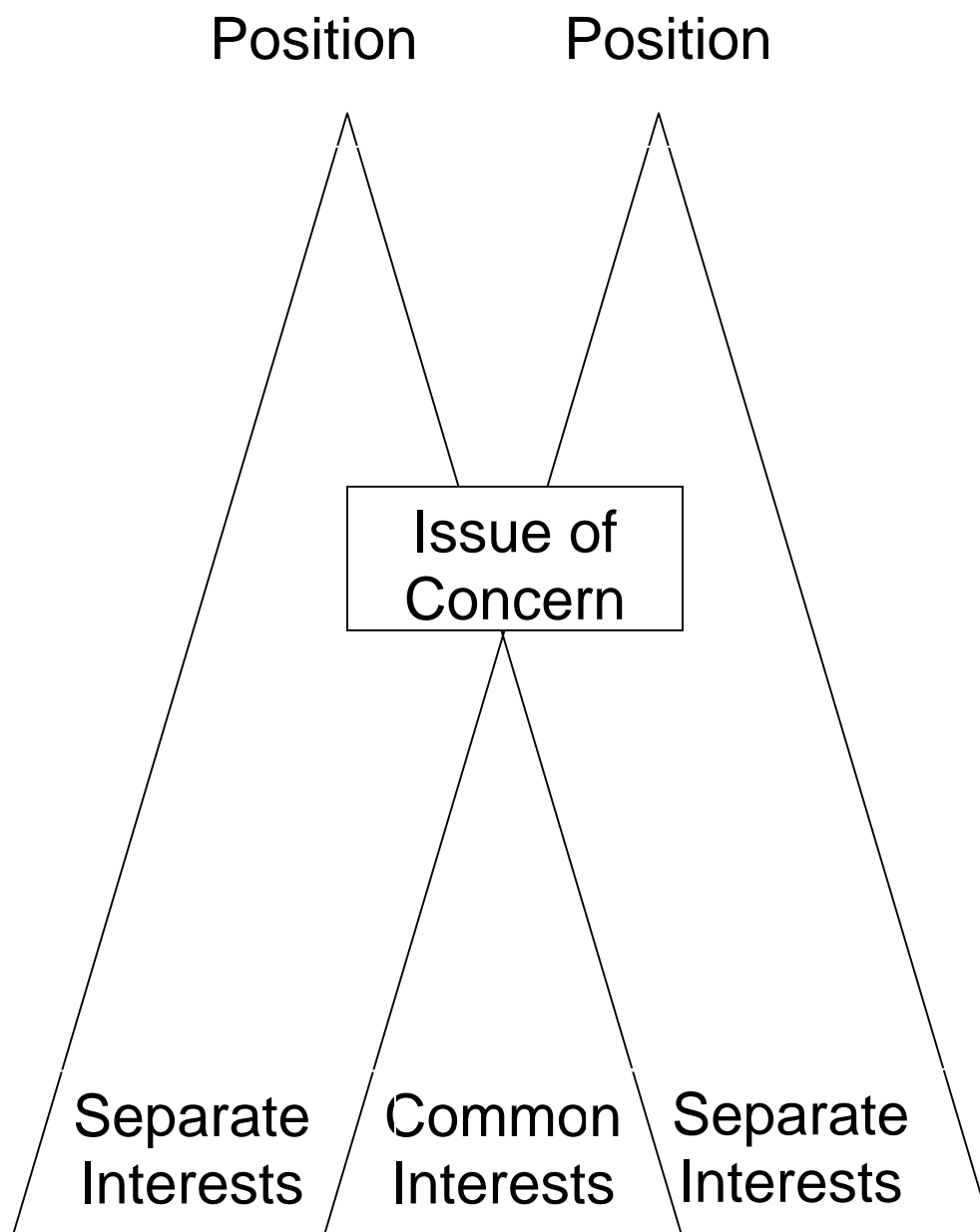
- 1. The safety of one of the parties may be jeopardized by meeting** (e.g. one party wants or threatens revenge).
- 2. One party refuses to engage in the process** (e.g. s/he refuses to meet with the caseworker, discuss options, or states a clear preference for not participating in mediation etc.).
- 3. There is evidence of a serious violation(s) of basic principles or policies by one party in relation to other(s), yet the party in question refuses to accept any responsibility for their actions and/or strictly maintains their innocence.** Examples include a physical attack or threat thereof, a racial or sexist slur, discriminatory behaviour, harassment, stalking, vandalism etc. In

⁶ These pages adapted and expanded from Mediation Services original training materials by David Dyck, 2003.

these situations, it is often wise to engage other more formal systems of investigation or sanction instead of or in addition to informal efforts that are engaged. This is important to our efforts to avoid re-victimizing persons⁷ or having our conciliatory efforts subverted into inadvertent collusion with either a perpetrator's pattern of avoiding accountability or a complainant's false accusation.

4. **One or both persons is unable to focus on the problem or identify what the conflict is about.**
5. **One or both persons is emotionally or mentally escalated or traumatized (by a recent incident, for example) to the point where you as the caseworker have serious doubts regarding their ability to participate meaningfully in the process.**
6. **A definite and serious power imbalance exists that will distort the process and prejudice any potential settlement** (i.e. the power imbalance is so severe that it can not be adequately balanced by the assistance of a mediator – e.g. you believe that regardless of what you do, the lower-power person will not feel free to be open about their concerns and feelings and/or will be at risk if they are).
7. **You have reason to believe that one or both parties are being unduly pressured by the other or others to participate in mediation and/or may be caught in a cycle of abuse** (such a cycle includes dynamics wherein a person is disempowered to the point that they are not sufficiently aware of their basic rights and options and/or is not in a position to attend to and protect their basic rights – i.e. they may not be in a position to make decisions which are in their best interests).
8. **One party appears to have ulterior motives or is coming in “bad faith”** (e.g. to gather information or to use a power advantage to threaten or intimidate).
9. **Inability to carry out agreement** (e.g. mental disability, chemical dependency, etc).
10. **There are deeper social or personal factors at the root of the conflict that you are not equipped to address** (e.g. addictions, mental health disorders, “abuser” attitudes, domestic violence, etc.)

⁷ “Re-victimization” here refers to the traumatizing experience a person often has when someone who has perpetrated an offence against them denies that offence in their presence. However, inasmuch as the alleged perpetrator is denying the accusations, s/he too can be victimized by informal efforts to “resolve” or make amends for a matter s/he claims has no basis in fact. This is why mechanisms of “due process,” for the sake of both the complainant and accused, remains very important in cases where allegations are being denied.



While a judgmental reaction to another's position often leads to gridlock and frustration, a curious attitude allows us to uncover both the issue and interest(s) from which the other person's position stems.

POSITIONS AND INTERESTS

“What is surface conflict, jagged peaks of icebergs facing off with each other, beneath may be joined when we have eyes to see.”

Tilden Edwards

One of the keys to conflict resolution, especially in a complex situation, is the identification of the **interests** of each party. Shifting from **positions** to **interests** is crucial for working towards creative solutions that will work for each person in the conflict.

POSITION:

- A person’s position is their solution to the issue.
- The reason people are in conflict is because the positions they hold address only their needs.

People can get locked into their positions, often referred to as “becoming positional”. Common motives for becoming positional are the desire to be taken seriously, fear, revenge, and expectations. Becoming positional can also be our historical pattern of reacting to conflict. In making the shift from positions to interests, it may be necessary to first acknowledge the position and then address the underlying issues.

ISSUE (topic) OF CONCERN:

The issue is the general topic of the disagreement. It is helpful to name the issue in language that both parties acknowledge is the issue prior to probing for interests. This usually enables a more efficient identification of the underlying interests. If you do not identify the issues you run the risk of receiving justifications for the other party’s position instead of their deeper interests.

INTEREST:

- Interests are the underlying wants, needs, fears, hopes, and/or concerns which motivate us to hold our positions. Interests reflect and are shaped by our values and priorities.

Discovering and stating interests allows each person in a conflict to understand what will be needed to create a mutually acceptable and lasting resolution. When people are able to express their interests they also may discover that they share many more values and concerns than they assumed and are subsequently less likely to perceive one another in purely adversarial terms.

Basic human interests, which often come up in disputes, are the need for **power, approval, justice, inclusion, identity, and security**.

QUESTIONING EXERCISE

The effective use of open-ended questions enables the mediator to access what lies behind ambiguous language, move from the general to the specific, and avoid critical misconceptions. Below are several examples of ambiguous language and the appropriate question or response of the mediator.

- a) **Generalizations**, e.g. *“He always comes in late!”* Options for mediator’s response could be: *“When does he come in late?”* *“What is he late for?”* *“How often does he come in late?”* *“What are your expectations/policies about starting times?”* or *“How has this issue impacted you?”* or *Can you be more specific?”*
- b) **Non-specific nouns or verbs**, e.g. *“I don’t like that sort of thing!”* Mediator’s response could be: *“What is it that you dislike? Say more.”*
- c) **Speaking for others**, e.g. *“I happen to know that no one else around here can get along with her either!”* Mediator’s response could be: *“Speaking from your own experience, could you tell us more about what upsets you?”*

A party during mediation made the following statements. Write an open-ended question that would elicit important information as well as remove the accusatory tone.

1. *“John is so irresponsible.”*
2. *“No one cares how I feel.”*
3. *“They are always yelling at our kids.”*
4. *“She just bugs me.”*
5. *“You never co-operate with anything I want to do.”*
6. *“That’s just the kind of person he is.”*
7. *“Everyone has trouble working with her on committees.”*
8. *“They are jealous, that’s the problem.”*

“TRAINING WHEELS EXERCISE”

Getting Set Up:

- Form groups of 4 (2 to play disputants, 1 to mediate, 1 to observe)
- Decide who is playing the disputants, who is the mediator, and who will observe

Using Probing, Paraphrasing, & Summarizing (Focus on Intents & Effects)

Practice – Round 1:

- 1) First disputant makes statement alluding to effect without revealing (see flipchart or powerpoint)
- 2) Mediator asks open question to pull out effect (disputant responds)
- 3) Mediator paraphrases the effects s/he has heard (disputant responds)
- 4) *Mediator has option to ask another open ended question to deepen understanding (disputant responds)*
- 5) *Mediator has option to paraphrase the deeper effects she has heard*
- 6) Mediator asks other disputant to speak about their intent behind the action.

Practice – Round 2:

- 1) Second disputant makes statement alluding to their intent without revealing (see flipchart or PowerPoint)
- 2) Mediator asks open question about intent (disputant responds)
- 3) Mediator paraphrases the intent s/he has heard (disputant responds)
- 4) *Mediator has option to ask open ended question to deepen understanding (disputant responds)*
- 5) *Mediator has option to paraphrase deeper intents she has heard*
- 6) Mediator summarises for both parties (i.e. new info, common ground, things to “chew over”)
- 7) Mediator has option to “park” issue before moving to another.

Brief Pause for Debrief before Repeating

-What's working well? (first participants, then mediator, then observer)

-What could be improved? (first mediator, then participants, then observer)

Continue Practising

-switch roles and then resume practice with someone new in the mediator's chair

MIRRORING

Mirroring is a communication technique that can often be helpful when the parties are not able to “hear” one another or do not believe that the other party has understood their viewpoint. When mirroring works, it can powerfully move the person towards “hearing” and understanding of the other party. It can also demonstrate to the other party that they have been understood.

Purpose:

- To encourage parties to listen to each other
- To help people understand the other person's point of view
- To break a "not listening" and "yes, but" pattern of communication
- To demonstrate for one party that the other party is listening to them and has understood them.

Method:

- Ask one participant to repeat what the other person has said in their own words
- Then check with the second person to verify that was what s/he was intending to communicate
- If the second person indicates it is not what s/he was attempting to communicate, then ask her/him to clarify what she was saying
- Sometimes you may then re-invite the first person to re-articulate what s/he heard the second time. This is often not necessary.

APPENDIX

TAMING THE PARROT

Interpersonal conflict actually always involves at least *two encounters*: there is the *encounter with the other* (of which we are usually more conscious) and the *encounter with the self* (of which we are often only dimly aware at best).

The Encounter with the Other

The struggle with the other is usually to be heard, to be understood, to be respected, to be taken seriously, to live well together. This encounter is an external engagement; something that takes place outside myself, manifesting in the ongoing, visible interaction between the other and myself. The challenge, to which the lion's share of this manual is dedicated, is to conduct myself in a way that does not just beget more of the same. For most of us, this would be enough!

But an even greater challenge awaits. In fact, it is this second challenge we must tackle first. This is the challenge of the encounter with the self. Like the first encounter, the encounter with the self involves struggle, only this struggle is internal. That is, my sense that I am not being respected – while usually beginning with an external momentary encounter with the other – can only ultimately take root and continue grow inside of me, out of sight, apart from the other *in my own heart and mind*.

The Encounter with the Self

This second struggle is between me and my feelings, me and my thoughts. And the question is, who will win? Will I see my thoughts and feelings for what they are – worthy of attention to be sure but ultimately no more real than any other momentarily arising phenomena, as a cloud passing in the sky? Or will I lose my mind-fullness (awareness of mind's capacity for delusion), collapse the distance between my thoughts and reality, and thereby allow those thoughts to run me around? To take me over?

Too often, I lose the battle. The internal dialogue of recrimination, defense, and counter-attack continues unabated (often largely or even completely apart from the encounter with the other). This can go on for days, weeks, months, even years. As it does so (with my full if unconscious cooperation), it gnaws away at both my own sense of identity and my sense of the other as fully human, as a person worth of respect and dignity. It is this, ultimately, that brings me to the extremes of silence or violence, of de-selfing or striking out. It is via this process that we arrive at war, against the self, against the other.

The Parrot – Befriending and “Taming” the Mind

The internal struggle exacerbates the external and vice-versa. Both are critical to engage intentionally if interpersonal “peace” is to be built. But because it is in the mind that the seeds of enemy are first planted and germinate, it is there we must begin. The mind – and its inner patterns of self-dialogue – creates the fertile conditions for enemy making or not. One simple way to think of the conditions you create within your mind is in terms of a parrot sitting on your shoulder.

Why a parrot? A parrot is a clever animal. A tricky animal. It can mimic a seemingly human voice like no other. And yet, in the end, a parrot is not a human voice. And it is not in a dialogue. Indeed, all the parrot does is repeat the lines that it has heard. Over time, it develops the capacity to repeat these same lines without even being prompted. Yet this is *still not* a dialogue, only mind-less repetition of the things we have been saying to it over the days, weeks, months, and years. The parrot sits on our shoulder and repeats to us the thoughts and feelings we have said to it. Many of us mistake this “voice” for something real and – even worse – come to base our decisions, actions, attitudes, and interactions with the others in our life on this so called “reality.” This is very dangerous.

So, what do you say to your parrot? After an encounter within another that began with a pinch moment, a very specific moment-in-time that was not comfortable, our parrot talk usually begins. It might sound something like:

“Can you believe that?! What a &^%#! To speak to me like that at a meeting!”

or

“I can’t believe I didn’t put him in his place. I should have told him where to get off! Next time I’m going to...”

or

*“Sh**! I am so stupid! I can’t ever get anything right. And now she’s mad at me!”*

Over time, our parrot takes over. Our mind, with all its fears, projections, and insecurities continually reinforced, begins to have its way with us. We are no longer in control. The parrot is controlling us. Its dialogue may not be real but its consequences will be.

So what can we do? We must work at mindfulness. We must explore our thoughts and feelings to be sure, but without always taking them utterly seriously. You have heard the expression, “Don’t believe everything you hear.” When it comes to our parrot, we must remember instead, *“Don’t believe everything you think!”* We must approach ourselves with compassion and humour, seeing our parrot for what it is: an interesting companion to be sure, but ultimately just a funny little bird that does not have the wisdom to dictate our major life decisions and relationships.

CASE STUDIES / ROLE PLAYS

Role Play Instructions – Please Read Carefully:

- 1) **All training participants are responsible to read and become familiar with the basic details for both cases.** To this end, please read through all case study material carefully.
- 2) **Each training participant will be assigned one of three roles** with respect to each case study: **mediator, disputant, or observer.**
- 3) **If you are assigned to play the disputant, you will be given additional role play material specific to your character.** Again, the expectation is that you have a good, basic familiarity with this material.
- 4) At the same time, **professional acting is not required.** Please remember that the information you have been given is not a script, so try to avoid reading from it or getting too caught up in the details. Instead, simply do your best to “get into” the overall role you have been assigned by really trying to think and feel what it might be like to be this person.
- 5) At the same time, the details do matter! So please **do not add details to the role that are not consistent with the written descriptions.**
- 6) At the conclusion of role plays, **it is important to do something symbolic to move out of role, such as removing name tags and shaking hands.** It is surprisingly easy for many people to get deeply into role. Please enjoy yourself to this end, but do remember that you *are only playing a role*. Try not to take anything personally and remember that the point is for people to practice the mediation process and, ideally, have success.
- 7) Finally, **the coaches/trainer are experienced mediators who are present to guide and enhance your learning experience. Please allow them to do so.** To this end, you can expect them to help you get set-up and rolling, stop the role play if they believe some attention or discussion out of role would be helpful, elicit your reflections at the conclusion, and provide you with specific feedback on both your strengths and things to work on.

VIDEO CASE STUDY – DEPARTMENT OF HEALTH

General Background

Sara (aged 34) is a Manager. She works with Tony (aged 51) who is a supervisor with the organization. He has worked with the organization for 15 years. Sara has been employed with the organization for approximately 7 years. Tony is one of four supervisors who report to Sara.

Sara and Tony started having difficulty approximately two years ago when Sara moved into the position of a manager (prior to that they were peers and got along well). Sara feels Tony resists her leadership and stonewalls her attempts to implement a clearer, more accountable reporting process. She also feels he has undermined her authority throughout the department. Tony disagrees with Sara over the realism of her deadlines. He also disagrees with the manner in which she has been using email and, like Sara, has felt disrespected along the way.

Sara’s “Pinches” (Manager)

As an example annual reviews are due at the end of February. Sara did not receive them from Tony until mid-April. In the previous year the report was provided in May. The quarterly reports are also not timely. The last one came in two months after it was due. Sara’s attempts to offer gentle reminders to Tony by email have, in her opinion, been rudely rebuffed. Sara recognizes that Tony has made positive contributions, but knows this can not go on indefinitely.

Tony’s “Pinches” (Supervisor)

Tony reports that since Sara’s promotion, she is not in touch with the reality of the workplace. He indicates that he is not able to meet Sara’s deadlines as they are unrealistic given other commitments. He has been particularly piqued by her increasing use of email and, in general, reports feeling “nagged to the extreme.” He also believes that Sara has been talking behind his back about her grievances with him with others in the workplace.

The “Crunch”

Recently, Sara approached Tony to remind him of when the next quarterly report was due. Tony looked very exasperated and blurted out: “Back off, already, lady! What *is* your problem, anyway?” He then threatened to report her to regional upper management for constantly bothering him.

Regional Management Gets Involved

Donna is the Director for the region. After hearing from both parties following the crunch, Donna takes the decision to place a call to a professional mediator specializing in workplace intervention to “feel out” what the possibilities might be. She is feeling a bit desperate.

PROVIDING CONSTRUCTIVE FEEDBACK

The reason for giving feedback is to help a person understand the effect of her or his behaviour on another person, in the case of this training, the effect of the mediator on the disputant(s). This information will help mediators fine tune their skills. Giving effective feedback that includes an honest and "critical" dimension, i.e. feedback that is useful, requires a great deal of sensitivity and careful wording of the information so that it will be heard, understood, and acted upon by the recipient. The same communication skills that are essential for the successful mediator are also helpful when providing feedback.

The following guidelines may assist you in providing feedback to other participants during the role plays and other skill-building exercises that are part of this workshop.

- Give the information in a caring manner so that the recipient will be able to hear it, understand it, and do something with it.
- Don't overload the person with too much information at one time.
- Describe the behaviour that you saw, not your assumptions about its cause or your theoretical analysis of it.
- Emphasize the person's positive actions and responses. Highlight the strengths--where he or she was on target. We all need to hear what we did right so that we can build on it and keep on doing it!
- Focus on something the person can change about her or his words or actions.
- Be specific and concrete rather than general or vague, eg. "During stage 2 when you said that you thought she was lying, I noticed that the other disputant looked surprised and reacted defensively. How might you have worded that differently?"
- Check frequently to see that the recipients of your feedback understands what you are saying and give them the chance to respond to what you have observed.
- Provide feedback in the way you would like to receive it, i.e. in the way you would be able to hear it and act on it!

PERSONAL REMINDERS

The following page is for you to jot down the comments and ideas that you want to remember from participating in role plays. (To be used in conjunction with the "checklist.")

What I learned as the Mediator. As the mediator, you will experience first-hand what it is like to guide the process. What was effective? What skills and techniques do you want to develop further?

What I learned from the Disputants. The role play allows you to learn about how your actions and style affect the disputing parties. They are your teachers. Ask them what you need to learn to be more effective. Respect their experience of the mediation. Ultimately, that's what really matters!

What I learned from the Coaches/Observers. Those viewing the mediation will be able to provide you with overall impressions about the progress made during the role play. The coaches' previous mediation experience is a tremendous resource too.

What I learned as a Disputant. There is great insight into the "Do's and Don'ts" of mediating to be gained from playing the role of the disputant. What habits and skills are essential to being an effective mediator?

EVALUATION FOR MEDIATION SKILLS LEVEL II

We would appreciate any comments you have that would help us develop our training manual and workshop. Thank you for your comments. (Please use the back if you need more space).

What was helpful?

What are the one or two specific things that you learned or reinforced in this workshop that seems most critical or helpful to you in your training/work as a mediator?

What is one way to “fine tune” this workshop?

What should we have spent *more* time on?

What should we have spent *less* time on?

Other comments:

Name

Thank you for your assistance.

**BACK OF EVALUATION
DO NOT USE FOR NOTES**