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The author is a sociologist who has published in the area of the sociology of law, particularly violence, capital punishment and victimology. He is a trained mediator with the Neighborhood Justice Center of Honolulu and with the Community Mediation Service of the University of Hawaii. He has trained mediators for both groups and for other mediation centers.

This paper is based on the experience of the author as one of the founding mediators with the Community Mediation Service (CMS) of the University of Hawaii. This project was initiated by Chris Slayton and Ted Becker of the Political Science Department in October 1979 and has since become affiliated with The Neighborhood Justice Center of Honolulu, a non-University mediation program which started at the same time.

COMMUNITY MEDIATION IN A UNIVERSITY CONTEXT

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Background

Disputes and conflicts are endemic to social life. In traditional society mechanisms for their resolution were naturally imbedded in the social fabric. Many of these conflict reduction features of kinship and community are enfeebled in modern society, and structured alternatives have evolved to replace them. Local government agencies, civil courts, and administrators in most organizations devote large and increasing amounts of time and energy to containing and resolving disputes and conflicts. Criminal prosecutions sometimes result from the criminalizing of interpersonal conflict, or are the tragic result of unresolved disputes.

Courts are costly and time consuming. Therefore, only a small proportion of the population has access to them for minor dispute resolution. In addition, where disputants have a continuing relationship a court-imposed resolution may have limited value. A decision from a judge about who was right may embitter the loser and provide little protection in the future to the winner. A formal dispute resolution proceeding, such as a court, necessarily takes much of the psychological and interpersonal history of a dispute and excludes it as irrelevant. Stripped of its social meaning and context, imposed resolutions may be illegitimate, unsatisfying and ineffective.

It is now the case that most so-called minor disputes between people are unresolved. Because of the cost, delay, and unsatisfactory quality of the formal dispute mechanisms in society, most disputants either endure continuing conflict, avoid contact with adversaries if they can, or muster threats and intimidation from friends and relatives for protection.

Since the mid-1970s there have been efforts to revitalize one traditional form of dispute resolution, mediation, in North American communities. In over 100 locations, neighbourhood justice centers have been established with the goal of bringing to citizens a legitimate, free, speedy, informal, effective means to resolve interpersonal disputes.

These programs vary a great deal in detail, but most have the same basic form and philosophy. They provide volunteer citizen mediators who have been trained in communication and negotiation techniques to help two or more disputants resolve their differences voluntarily. They create an administrative structure and setting which makes successful resolution likely. The mediators are trained to be absolutely impartial and non-judgmental. In many programs they do not even suggest alternative solutions to the disputants, believing that only the disputants can create a resolution which will be effective for them. Most centers are able to schedule a mediation within a few days of both parties agreeing to try it. Sometimes mediation sessions take many hours because of the need for disputants to reveal their concerns and feelings to each other. Mediation is a context which turns these expressions into constructive rather than destructive events.

The record of these programs over the past five years is impressive. Generally, a resolution rate of 85% and up can be expected from disputes in which both parties voluntarily agree to try the process. Follow-up research indicates that well over 75% of these cases continue to be successfully resolved several months after the agreement was forged. Most mediation is provided free. Much is decentrally organized into local neighbourhoods and communities.

Community Mediation Services and the University

Mediation programs provide a unique opportunity for students of social science and academics in the field to accomplish three general goals. A university-based mediation program provides the community with a proven useful service which meets a real need. It provides students with practical skills and experience in addition to academic opportunities in the field of human conflict reduction. And it provides both professional social scientists and students with research opportunities which can deepen our understanding of human conflict, its causes and cures, as well as an ongoing critical examination of the role and practice of dispute mediation in our society.

Community Service.

In the hundreds of programs which have been started across the U.S. in the past decade the record of service is strong. Thousands of disputes which could have festered unresolved have been permanently and voluntarily ended. They continue to divert thousands of minor disputes which would otherwise clog court calendars, and provide an alternative to the formal and often ineffective dispute resolution systems currently available.

In October 1979 the first university-based mediation service in the United States was born in the political science department of the University of Hawaii. Student and faculty volunteers developed an administrative system in facilities donated by the university. Mediation trainers were brought in to train the first 18 mediators who represented a cross section of the community including both students, faculty and others from the community. Student and faculty volunteers conducted outreach to citizen groups and agencies, the arranging and staffing of mediations, the collection of case materials and records, and the training of new mediators.

In the first nine months of operation the Community Mediation Service received more than 200 cases of disputes from a variety of sources (see table 1). Since participation in mediation is voluntary a large number of these disputes were not resolved by the service. In 44% of cases one of the disputants refused to meet with the other side for a mediation hearing. A few of these cases did not involve a dispute which was appropriate for mediation, and the intake volunteer referred the matter to more suitable services. A significant number of cases (38) were resolved when the intake volunteer was able to conciliate the dispute, usually by acting as the communication link between the disputants. During the first nine months 42 hearings were held in various community locations, and in 38 the disputants arrived at a written agreement.

Disputes ranged from single issue disagreements between people who did not know each other well (e.g., landlord tenant disputes over a

security deposit) to multiple issue conflicts between people who were very intimate (e.g., life style disputes between divorced parents over childrearing). Some disputes involved communication problems between neighbours, co-workers and others who had widely different backgrounds in age, ethnicity or social class.

In the follow-up research done on the resolved cases in the first nine months it was found that 92% of the parties said they were satisfied with the process, and over 70% said that if they had a similar dispute in the future they would try mediation. The underlying issues in the disputes seem to be resolved to 89% of the disputants, and 92% said the other side was keeping their side of the agreement in a satisfactory way. Finally, 100% described the mediators as open-minded, and 92% said the mediators were helpful, with no disputant saying that mediation made matters worse (see table 2).

These results are consistent with the results when similar follow-up research is done on other mediation services around the country. So mediation services meet a real need in communities; they are tangibly successful in helping people remove conflicts with others from their lives; the people who use the services appreciate them; and the agencies who refer cases to mediation find the service effective.

Student training.

Many professors and almost all students agree that practical experiences within higher education are valuable both for future occupations and to infuse academic studies and research with relevance and vigour. The students and faculty associated with the Community Mediation Service

at the University of Hawaii found it a successful experience in this respect. Undergraduate students took high levels of responsibility for running an important service for people with disputes who depended on them and only them. There was no paid professional staff to fall back on. Graduate students found new and practical challenges in doing relevant research, unobtrusively, with clients they knew as people. Both participated in developing research questions which would be grounded in the questions which continuously arise about types of mediation problems, administrative and policy matters which confronted the group. All staff and mediators in this program were members of the policy making board. The motivation to do good academic work associated with the center was immediate and high. The faculty did not find it necessary to cajole or coerce.

In addition, students and faculty began a positive working relationship with ordinary citizens who volunteered to be mediators. Many of these people had not had advanced education, and so the challenge for students was not only the need to relate well in the work of scheduling and doing mediations together, but also to communicate their problems as students on the project to others who were not students. This worked very well, with the distinction between the university and the non-university people virtually disappearing in their working relationship. This was particularly impressive because the non-students were sometimes of very different ethnic and social class origins than those of the students, and most were much older than the students.

In addition to learning to work effectively with the other volunteers and with people who have important problems in their lives, students learned a great deal about their communities. All citizen disputes occur in a social context which the mediation process uncovers. Student mediators acquire a detailed understanding of how kinship, occupation, schools, neighbourhoods and other facets of the community affect the lives of people in important ways.

In an effort to acquaint community agencies with the mediation service, students spent time in various government and private social service and legal agencies, understanding their decision making and case flow. This permitted a practical approach to suggestions to these institutions on the means and desirability of diverting some of their cases to mediation. As a result of this experience the students acquired an in-depth understanding of many important community agencies.

Research.

Mediation is an ideal setting to conduct unobtrusive research on conflict, the natural history of interpersonal disputes, and the origins of potentially violent interaction. Among many other topics, disputants' notions of acceptable compromise, equity and justice become clear to the mediator as a resolution is worked out.

In the process disputants are encouraged to fully express their understanding of the issues in dispute, and their needs and desires in resolution of the disagreement. In no other "natural" social setting can large numbers of ordinary people articulate what is just and equitable to them in their own personal or cultural style. While encouraging

clarification and specification of these notions the mediation process is unobtrusive to their unfolding. Mediators listen, rephrase, ask leading questions, and encourage practical compromise, but are trained to refrain from judging or allowing their own values to intrude into the process.

In most mediation centers participation is voluntary and relatively free from coercion. Mediation in most centers is closed to the public, and the mediator is bound by requirements of confidentiality. So participants can be candid about their situation and feelings. Finally, disputants in mediation are frequently if not always motivated to participate in the process which holds the possibility of resolving an unwanted conflict. If sociologists could invent an ideal field research situation it would put ordinary people in a situation which was natural and conducive to frank articulation of their views in their own words, about a subject they were motivated to think about, and would give them practically limitless time to discuss it. Thus mediation is in many ways an ideal and unique setting for basic research.

Applied research on policy, techniques and training in mediation is also enhanced when a mediation program is located within a university context. The ordinary intake and follow-up records allow an evaluation of the effectiveness of mediation for various types of disputes and various types of people.

So university-based mediation can contribute, perhaps uniquely, to our basic understanding of human conflict causes and cures. Additionally, applied social research on mediation can help to improve existing programs and chart new directions for the contribution of mediation in other areas of social conflict.

TABLE 1: CMS Results, First Nine Months of Operation

<u>Nature of Dispute</u>	<u># of Cases</u>	<u>Percent</u>
Domestic: Visitation	11	.5%
Domestic: Child Support	4	1.8%
Domestic: Family Dispute	28	12.7%
Neighbor Dispute	53	24.1%
Friend/ex-Friend Dispute	56	25.4%
Landlord-Tenant	28	12.7%
Consumer-Merchant	35	15.9%
Employer-Employee	5	2.3%

11 cases were not in office when tally made.

<u>Origin of Case</u>	<u># of Cases</u>	<u>Percent</u>
Family Court	13	5.8%
Prosecutor's Office	103	45.6%
Community Agencies	25	11.1%
Self-Referrals	41	18.1%
Legal Aid	20	8.8%
Military	11	4.9%
Neighborhood Commission	13	5.7%

<u>Our Record (Cases Closed)</u>	<u># of Cases</u>	<u>Percent (N=211)</u>
&Fail to Arrange/Screen-out	93	44.0% (rounded)
@Hearing Set/No-Show	8	4.0%
Hearing Held/No Agreement Reached	4	2.0%
*Hearing Held/Agreement Reached	38	18.0%
Telephone Conciliation	38	18.0%
Parties Reach Agreement Themselves	30	14.0%

 @ = Our No-Show/Cancellation Rate is 17%

* = Our Rate of Success in Hearings is 90%

+ = Some Agreement is Reached in 50% of Cases Coming into CMS

& = A few cases are referred to more appropriate agencies during the intake process. Most of the 93 cases involved one party who refused to try mediation or could not be reached by telephone or letter.

This table is reported in "Hawaii's Community Mediation Service: The University based Model of Neighborhood Justice Centers" By Christa Slayton and Ted Becker of the Political Science Department University of Hawaii. A paper read at the American Psychological Association national convention Los Angeles, August 1981.

TABLE 2: CMS FOLLOW UP-REPORT

1. How satisfied were you with the agreement reached at the CMS mediation hearing you participated in?
46% very satisfied 46% satisfied 0 unsatisfied 8% very unsatisfied
2. To what extent has the other party kept to the terms of the agreement?
50% completely 42% satisfactorily 6% not too well 2% broken it
3. In your opinion, is the problem which resulted in the complaint resolved?
89% yes, totally resolved 13% the problem is only partially resolved
0 the problem still exists.
4. If you have future problems resulting in disputes of a similar nature, what would you do?
0 I would try and ignore it and do nothing.
6% I would try to work it out myself.
71% I would file a complaint with CMS.
17% I would file a complaint in court or seek a lawyer.
6% Other (Specify).....

Now, if you don't mind, we'd like to ask just a few questions about our mediation process -- to help us improve it as much as possible.

5. If you had a choice, how many mediators would you have preferred to hear your case?
30% ¹ 40% ² 30% ³ 0 More than 3
6. How would you describe the attitude of your mediators?
100% very open-minded open-minded somewhat biased very bias
7. How helpful were they to you?
69% very helpful 23% helpful 8% not too helpful 0 made matters worse

*This table is reported in "Hawaii's Community Mediation Service: The University based Model of Neighborhood Justice Centers" By Christa Slayton and Ted Becker of the Political Science Department University of Hawaii. A paper read at the American Psychological Association national convention Los Angeles, August 1981.

Appendix

A Brief Note on Establishing a Mediation Program in a University

A Community Mediation Service (CMS) can be established with minimum cost within a university context, if it is integrated into an ongoing program of research and teaching. The costs of establishing the CMS involve an initial training of mediators, who should include both students and faculty from the university and volunteers from the community. An administrative structure can be set up within a university at very little direct cost, which at minimum requires space, a phone line and phone coverage (this should include either volunteers or answering machine), intake persons who explain mediation and set up the mediation sessions, a simple record keeping system for cases, and a community liason person to explain mediation and encourage its use by referral agencies (police, prosecuting or crown attorneys, consumer protection agencies, family, and juvenile courts, etc.) and some community education. A great deal of the conflict reduction and dispute resolution work is done over the phone by the intake workers (conciliation). Rooms for mediation can usually be secured free of charge in libraries, schools, and other community facilities.

For more information on the practical aspects of university-based mediation, contact:

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