Why Case Consultation/Reflective Practice Groups Matter for Mediators

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Introduction

While mention of reflective practice in the field of mediation has grown in recent years[i], its use is still not standardized in the work of most mediators. In part, this is a result of insufficient knowledge of both the meaning and practical application of a reflective practice orientation. It may also be due to a lack of understanding most mediators have about the direct connection between reflective practice and expertise.

Research in the development of expertise tells us that there is a weak relationship between years of experience, reputation, and actual observed mastery[ii]. In other words, doing something repeatedly for a long time does not automatically make you good at it. Most individuals who learn a new practice experience a steep learning curve involving considerable conscious effort before ultimately plateauing once the practice is acceptable and performed more easily. The moment we plateau, we risk entering the zone of "unconscious competence"[iii] in which we are no longer paying close attention to our interventions and their impact. Yet, improving one's practice can only happen through maintaining awareness of what we do and why.

As with similar skills found in other fields, like therapy or social work, no amount of telling can fully convey how to do something. We must try it for ourselves, and very often we must also rely on ourselves to know how well we performed. Practitioners who are able to reflect-on-action, as reflective practice pioneer Donald Schön termed it[iv], are better equipped to advance beyond the stage of "good enough" to become real experts in their practice.

Reflective practice groups (also called Case Consultation or Advanced Practice groups) are composed of mediators who support one another in non-judgmentally exploring the assumptions and motivations that underlie their interventions. The following is an introduction to the point and functioning of reflective practice groups, based on our experience, in order to stimulate greater interest in systematizing their use within our field.

What practice challenges are case consultation/reflective practice groups intended to address?

1. Mediation is necessarily a private and confidential endeavor. Our actions are observed only by the parties (and their counsel, in some cases) in order to protect confidentiality. With notable exceptions, mediators seldom solicit feedback from the parties or their attorneys. As a result, we struggle to assess whether our efforts were effective and responsive. Perhaps more importantly, we cannot explain why an intervention succeeded or failed. Mediators often speak of settlement rates. However, this gauge of success is as likely to reflect the parties' determination to resolve their dispute as to validate a mediator's skill and knowledge.

2. Mediation is most often conducted by a single mediator. There are no outside observers to comment on our work or provide feedback. We seldom seek or receive collegial support. Opportunities for input are limited by the commitment to protect confidentiality. We are solitary beasts, prowling the savannahs of conflict, not part of a herd (or practice group).

3. There are limited opportunities for experiential learning that utilize actual practice situations. In mediation training courses and in professional development programs, experiential learning in almost all instances involves the use of exercises and role-plays created by educators. And, in these exercises, participants test skills and strategies in response to practice challenges defined by the trainer. The objectives of these activities are to impart knowledge and to develop practice skills. Participants seldom if ever have the opportunity to work with individualized their own practice dilemmas that fall outside the trainer's agenda. Moreover, even in training programs that rely on extensive use of role play activities, opportunities to play the mediator are limited depending on the number of participants and length of the training. Thus, much of the learning is passive—that is, through observation.

4. Often mediators sense they are in a groove when in fact they may be operating on auto-pilot. Their decisions and interventions can become habitual, not purposeful. They are based largely on prior experience and not the unique circumstances of the parties and their interactions. The result is complacency not mindfulness; competence, but not excellence. Learning from experience requires a commitment to candid self-assessment.

Who will benefit from a reflective practice/case consultation (RP) group?

• Experienced practitioners: With several years in active mediation practice, these mediators are accomplished practitioners, with significant success.

At this level, mediators have developed a pattern of practice, a routine that has yielded reasonably consistent success—at least as measured by their

"settlement rates." Practitioners at this stage in their careers are confident in

their skills, adept at helping parties with complex and highly conflicted situations.

However, the patterns of practice that yield success have become rigid

templates. They are impatient, sometimes bored, and frequently sense that they

operate on auto-pilot.

Experienced practitioners are looking to re-invigorate their practices, learn to

utilize their intuition purposefully, question the underlying assumptions of their

approach, and enhance their resilience and responsiveness.

• Apprentices: Mediators who reach this level have a solid understanding of mediation principles and techniques. They have limited experience as practitioners.

Apprentice mediators who will benefit from participating in peer groups recognize the limits of their knowledge and skills. While performing with competence and effectiveness, they frequently experience confusion when faced with behaviors that are surprising, unexpected and disruptive. The limits of their skills and knowledge are frequently challenged by increasingly complicated and unique conflict situations.

• Novices: These are beginning practitioners who have received some training, have participated in role play exercises, and have no practical experience.

Having a basic knowledge of conflict and mediation as well as skills untested in actual conflict situations, novice mediators are likely to default to the approaches they have observed or those that innately seem useful. Testing their naïve assumptions, they will become reflective about their attitude and approaches to conflict, and thus more purposeful and thoughtful in their interventions.

Here's how a reflective practice (RP) group functions.

A group utilizing the methods and principles of reflective practice[v] is a unique learning environment. The reflective process utilizes the participants' knowledge and experience, stresses individualized learning, encourages self-determination, and emphasizes self-discovery. Lessons from each debrief also benefit the other group members.

We know from adult learning principles and from those who have studied reflective practice methods, that a deeper and long-lasting type of learning occurs when the learner identifies a surprising or unsettling practice situation, struggles with the problem, and discovers a solution that is particular to

the learner[vi]. Lessons gained from this process are relevant, responsive, practical and durable.

Within a reflective practice framework, this learning process (we use the term Reflective Debrief, coined by Susan Terry) begins when a participant (the presenting mediator) identifies a surprising or puzzling moment in a mediation. The group facilitator asks questions in order to encourage the presenting mediator to describe what occurred, and in particular focuses on why she/he finds the situation remarkable—surprising, awkward or confusing. What might seem confusing to one mediator might seem trivial or unremarkable to another. Becoming aware of the reasons for one's discomfort is an essential (and first) step in helping the presenting mediator search for the lessons from the experience.

Group members assist the presenting mediator to resist the tendency to minimize the importance of searching for the underlying cause of her/his uneasiness and uncertainty. Searching for our own answers can be discomforting. We may be tempted to turn to others for solutions to our dilemma. As mediators, we are committed to the principle of party self-determination. And we know the most effective solutions come from the parties themselves. Reflective debrief is based on the same fundamental notion. With guidance, the mediator can discover why the situation was puzzling and learn how to respond effectively when similar challenges occur.

Questions by the facilitator (and often from group members) are never intended to second-guess the presenting mediator. Group members do not make judgments about the situation or the mediator's decisions; nor do they offer advice or solutions. Instead, the goal is to help the presenting mediator engage in a process of self-discovery—to arrive at learning that is personal, relevant to the situation, and enduring.

Group members must restrain their impulse to express an opinion or offer solutions.

Just as they can never fully understand why the situation was so troubling or surprising, they cannot discover an intervention that's just right for the presenting mediator. The facilitator and group members resist the impulse to give advice.

Just as mediators believe in the principle of self-determination—that parties to a conflict are capable of and best suited to making choices for themselves—that ideal is honored in the Reflective Debrief. Success is achieved when the presenting mediator gains insight into and learning from the disquieting situation.

For additional information on this approach, see an article Michael co-authored with Susan Terry, Excellence: Using Reflective Debrief to Build Competence (ACResolution, Spring, 2013). This article describes the reflective practice method and explains how Reflective Debrief is used to help mediators improve the quality and effectiveness of their practices.

ENDNOTES

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[i] ADR conferences such as the Association for Conflict Resolution and the Dispute Resolution Section of the American Bar Association have both included workshops about reflective practice in the

last two years. Reflective practice groups, both loosely and formally, are on the rise. Additionally, references to reflective practice and its benefits are increasingly found in journal articles about improvement of mediation training and practice.

[ii] K. Anders Ericsson, "Deliberate Practice and Acquisition of Expert Performance: A General Overview," Academic Emergency Medicine 15, no. 11 (November 1, 2008): 988–94, doi:10.1111/j.1553-2712.2008.00227.x.

[iii] Timothy Hedeen, Susan S. Raines, and Ansley B. Barton, "Foundations of Mediation Training: A Literature Review of Adult Education and Training Design," Conflict Resolution Quarterly 28, no. 2 (Winter 2010): 157–82, doi:10.1002/crq.20018.

[iv] Donald A. Schon, The Reflective Practitioner: How Professionals Think In Action, 1 edition (New York, NY: Basic Books, 1983).

[v] Ibid.

[vi] Malcolm Shepherd Knowles, The Adult Learner: A Neglected Species, 4 Sub edition (Houston: Gulf Publishing Co, 1990).
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