

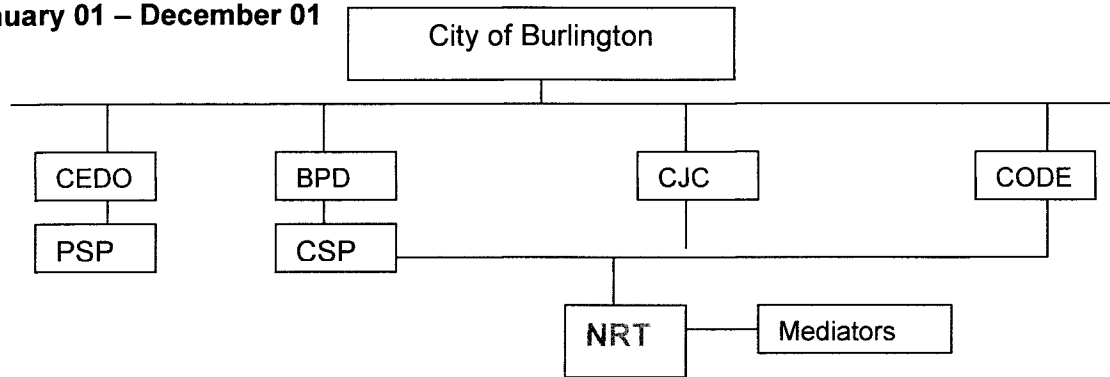
APPENDICES /ATTACHMENTS

- 1.0 Neighborhood Response Team Organization Chart
- 1.1 Neighborhood Response Team Protocol Chart
- 1.2 Neighborhood Response Team Brochure
- 1.3 Community Justice Center Program Booklet
- 1.4 Community Justice Newsletter, December 2001
- 1.5 Map of Downtown Burlington, Households in Poverty
- 1.6 NRT Power Point Presentation
- 1.7 Susanne Terry Associates, Mediator's Training Manual, selected pages

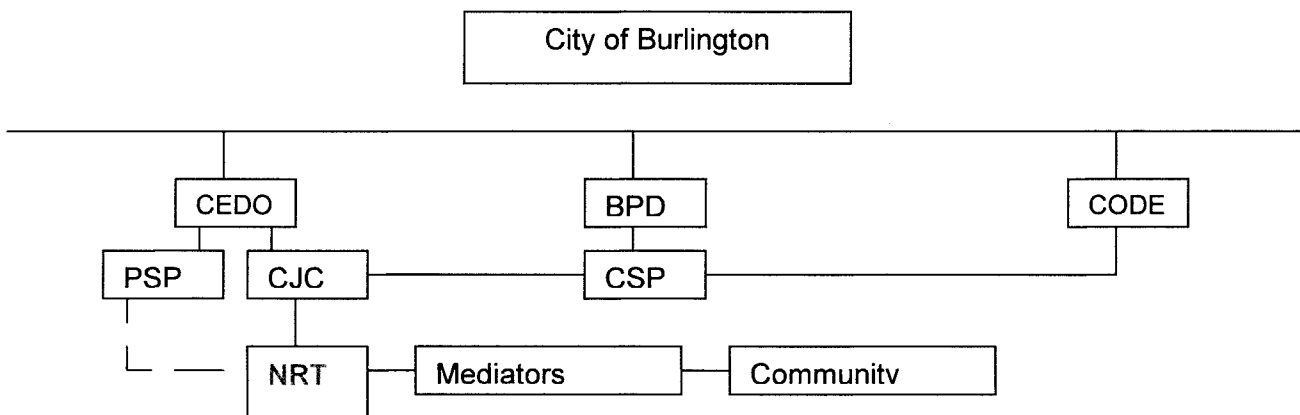
1.0

Neighborhood Response Team Organization Chart

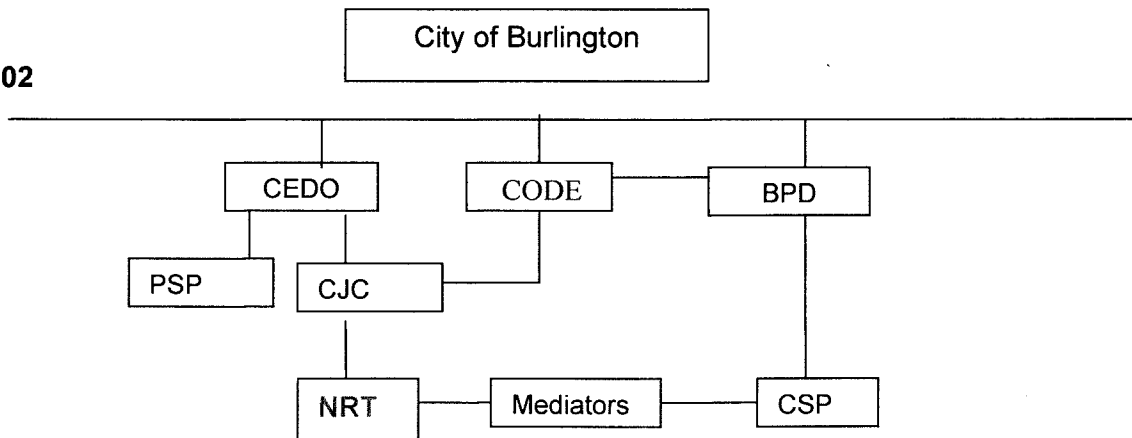
January 01 – December 01



January 02 – March 02



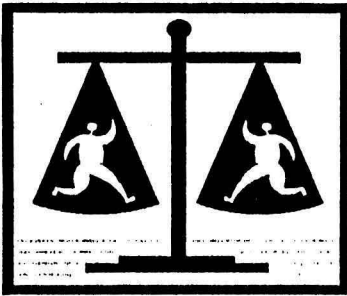
April 02



1.1

Neighborhood Response Team/ City of Burlington (Pre-Adjudicated) Protocol for NRT Pilot Project 2000 – 2001 - number of cases = 12

Source	Referral	Monitoring	Follow-Up	Evaluation
Police	Refers to NRT Supervisory Team			
Code	Refers to NRT Supervisory Team			
Supervisory Team Code Office CSP CJC	Refers Cases to Community Facilitators	Supervises Facilitators, Case management	3mo. & 6 mo. Disputant contact	Pilot Project Evaluation, Facilitator evaluations CGC evaluations
DOC				Technical Assistance, Training support, steering committee
Citizen (Self Referral)	Direct calls to Code, BPD, CJC, CSP	Restorative Action Plan	Participates in restorative conference	Participant Survey
Citizen Facilitators	Contact disputants	Restorative Action Plan w/in 30 days	2 week check-in w/ disputants	Facilitator Survey



**Volunteers
facilitating
dispute
resolution and
similar
referrals from
the Code
Enforcement
Office in a pilot
project for**



**Sponsored by the
Code Enforcement Office
City of Burlington, Vermont**

(802) 863-0442

In cooperation with the Vermont Department of Corrections, the City of Burlington City Attorney's Office, the City of Burlington Community Justice Center, the Burlington Police Community Support Program, and other friends and community organizations.

***The
Neighborhood
Response Team:***



**A Community
Dispute-Resolution
Project**

**What's it all
about? →**

**Resolving
simple code
related disputes
between
neighbors*

**Facilitating
neighborhood
restorative action
plans in cases
of safety
violations*

**Promoting
collective
resolution with
interested parties*



**ARE YOU INTERESTED IN
BEING A VOLUNTEER
"PEACEMAKER"?**

A training and orientation (with pizza) will be held on Wednesday, January 24 at 5:30 to 8:30 p.m., at the Community Justice Center at St. Paul Street, Burlington Vermont. A second training (with waffle breakfast) will be held Saturday, January 27 at 9:00 to 12:00 p.m..

The City of Burlington Code Enforcement Office is charged with protecting public health and safety and supporting neighborhood quality of life for all citizens.

We are committed to the use of the *restorative justice* model as the preferred mode of compliance with community regulations and standards. Restorative justice is a process whereby all the parties with a stake in a particular offense come together to resolve collectively how to deal with the aftermath of the offense and its implications for the future.

**WHAT ELSE SHOULD I
KNOW?**

The Neighborhood Response Team is a six-month pilot project. Volunteer facilitators may expect one or two cases in close collaboration with the Code Enforcement Office during the study. For more information, call 863-0442.

Neighborhood Response Team

A community response to conflict to improve the quality of life in our neighborhoods.

Take a look at these real life scenarios:

At midnight, you investigated strange noises on your front porch. You were scared. And, here's what you found. A college student drank too much, got lost, and mistook your front porch for his bed. Problem is this sort of thing happens way too often. Year after year, college kids get tickets, pay the fines, and go on drinking. Nighttime noise continues and generally, the quality of life you desire suffers.

Or maybe...

You have new neighbors and they are too noisy! You are tired of listening to them yell at each other and their kids. Besides, you have seen these kids getting in trouble on the street. Calling the police doesn't get the results you want and you are afraid to confront their parents. Now, your house is for sale and you are moving to a (hopefully) quieter street.

Does this sound familiar to you? We guess that it does since city departments receive over 1,000 neighbor based complaint calls a year!

"I received a generous amount of support from the (city) supervisors, this NRT is a very powerful experience."

-NRT Community Facilitator

Mediating Neighborhood Conflict



- Works to improve quality of life in the city
- Builds neighbor relationships
- Improves community safety

"We used to be friends with our neighbors. Our children still play together but we don't talk anymore."

-NRT program participant

Neighborhood Response Team

The CJC collaborates with the Municipal Code Enforcement Office, the Community Support Program, and with community members.

Cases are referred for mediation

As community peacemakers, the Neighborhood Response Team helps resolve neighbor-to neighbor conflicts in our community.

NRT mediators contact their neighbors

With our support, NRT community "peacemakers" are trained in conflict resolution and mediation.

Neighbors create a plan for action

Whether by negotiating, mediating, or in community group conferences, the NRT facilitator's goal is to foster dialogue that builds mutual agreement, creates accountability, and enhances community safety.



Susan Weiss, Jen Otis, Dave Duré, Mari Segris-Jones
MEMBERS OF THE NRT

We see the Neighborhood Response Team as an opportunity for City residents to come together and make decisions that affect the quality of life on their street - and in their lives.



It is our collective goal to reinforce old relationships, to help to build new friendships, and to strengthen our concept of community life. Join our team!

Community Peacemakers

***"I received a generous amount of support from the [city] supervisors,
"this [NRT] is a very powerful experience."***

NRT community facilitator

Neighborhood Response Teams

*A community response to conflict to
improve the quality of life in our neighborhoods*

At midnight, you investigated strange noises on your front porch. You were scared. And, here's what you found. A college student drank too much, got lost, and mistook your front porch for his bed. Problem is this sort of thing happens way too often. Year after year, college kids get tickets, pay the fines, and go on drinking. Nighttime noise continues and generally, the quality of life you desire... suffers.

Or maybe...

Last summer, you threw a party. On that same day, your neighbor decided to chainsaw the large oak tree in his backyard. Problem was – and still is, he does this all the time! You and your neighbors have been talking and are angry. In fact, all of you have been thinking about ways to get back at him for all the inconvenience -and annoyance he has created on the street. Everyone wants him to move. Let's face it; your neighborhood has a conflict!

Or maybe...

You have new neighbors and they are too noisy! You are tired of listening to them yell at each other and their kids. Besides, you have seen these kids getting in trouble on the street. Calling the police doesn't get the results you want and you are afraid to confront their parents. Now, your house is for sale and you are moving to a (hopefully) quieter street.

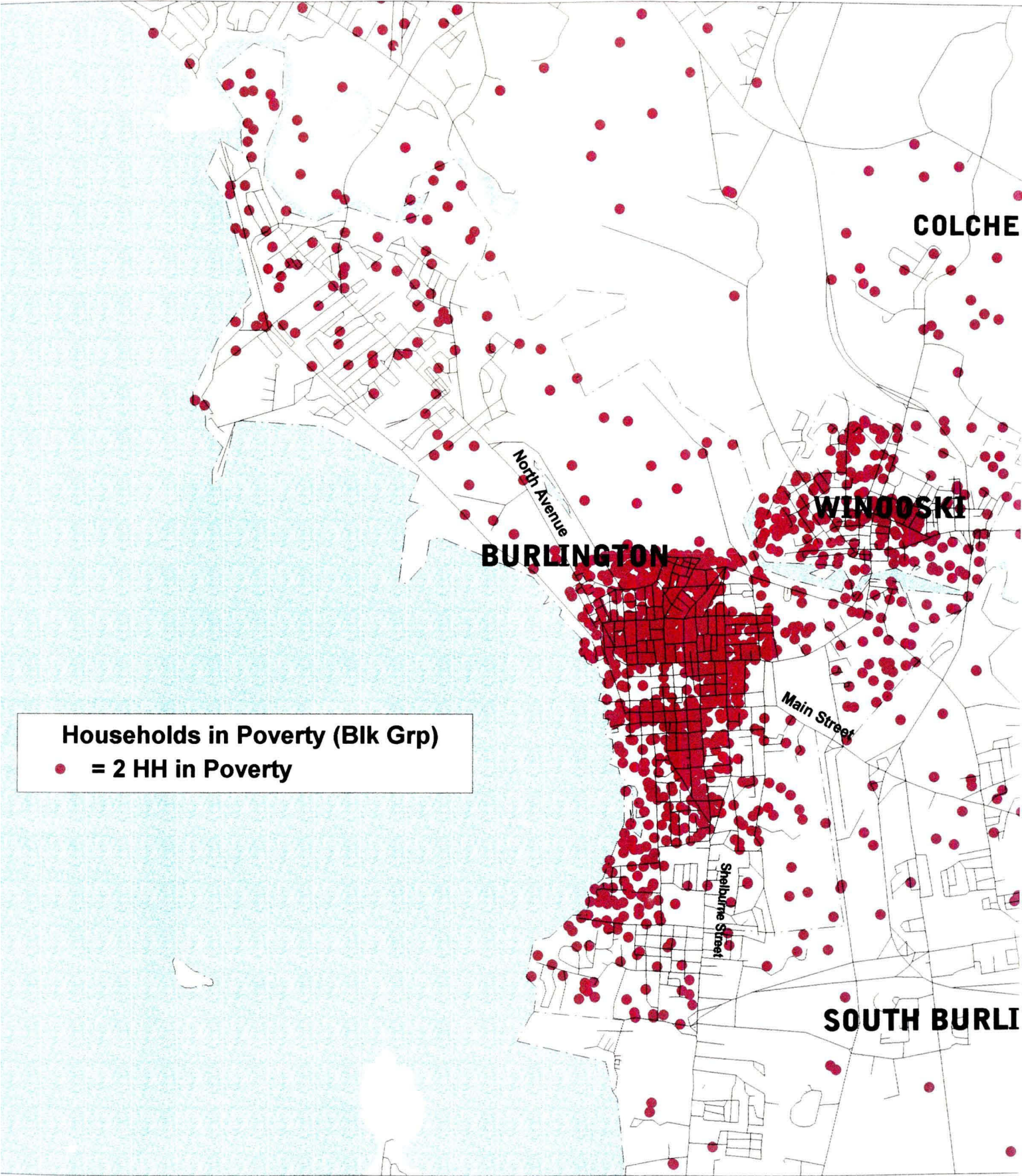
All these scenarios are real. Do they sound familiar to you?

My guess is they probably do since city departments receive over 1,000 neighbor based complaint calls a year.

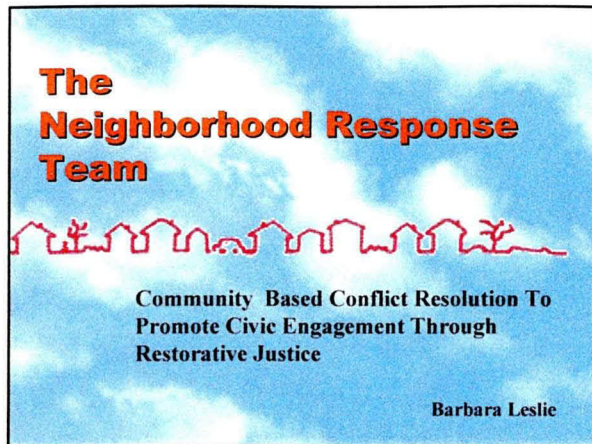
In response to complaints the Community Justice Center, in collaboration with the Municipal Code Enforcement Office and the Community Support Program now recruit, train, and supervise community members who are Neighborhood Response Team (NRT) "peacemakers." It is their role to help resolve neighbor-to-neighbor conflicts in our community.

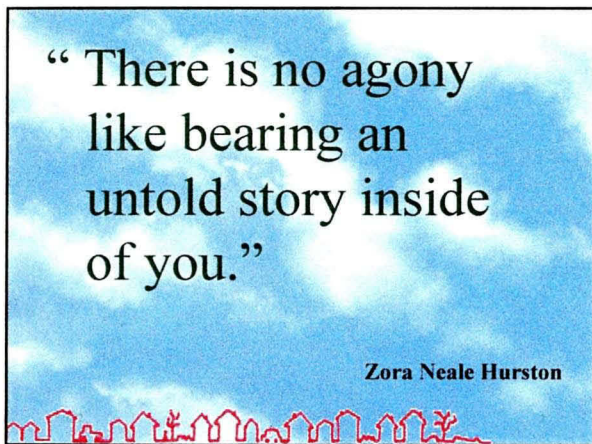
With our supervision and support, NRT "facilitators" talk with their neighbors and make an "action plan" that will reinforce old relationships and help to build new friendships. Whether individually, in small groups, or in community group conferences, the NRT facilitator's goal is to foster dialogue that builds mutual agreement, creates accountability, and enhances community safety.

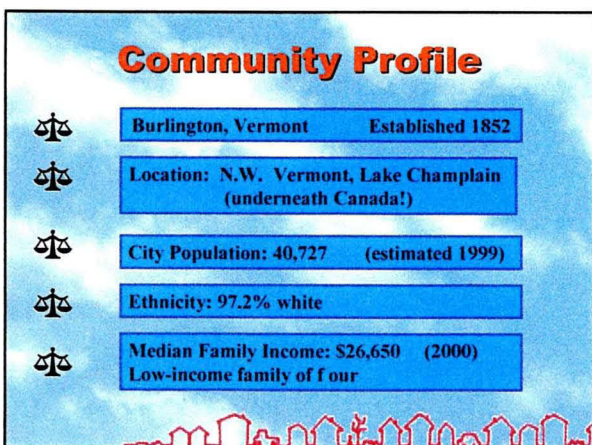
NRT community "peacemakers" work closely with city departments to respond to neighbor conflict and safeguard our community right now. And – they are successfully accomplishing their mission! We all see (and are experiencing) the Neighborhood Response Team as an opportunity for neighbors to come together and make decisions that affect the quality of life on their street – and in their lives. Join our team!

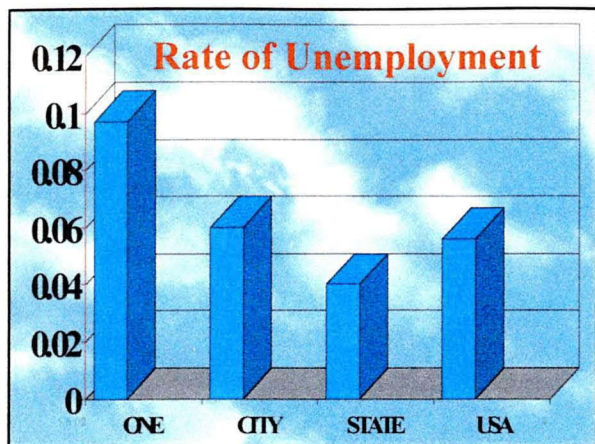


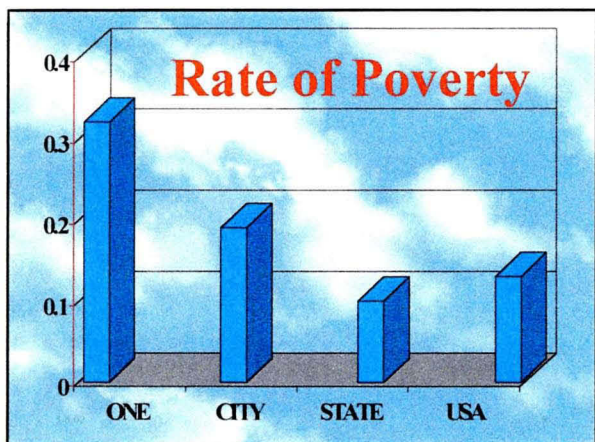
1.6 The Neighborhood Response Team Power Point Presentation

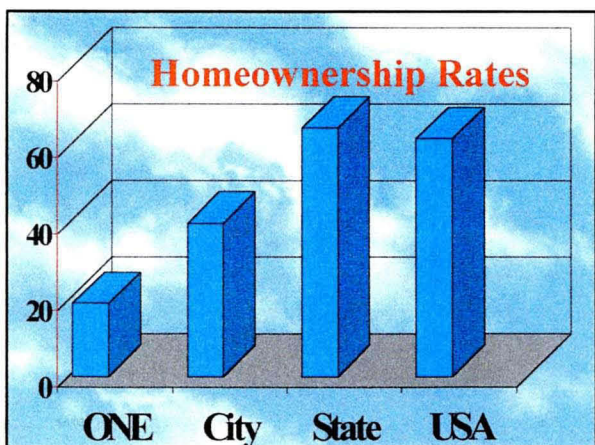


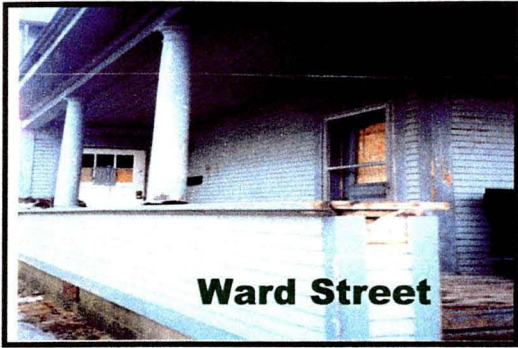






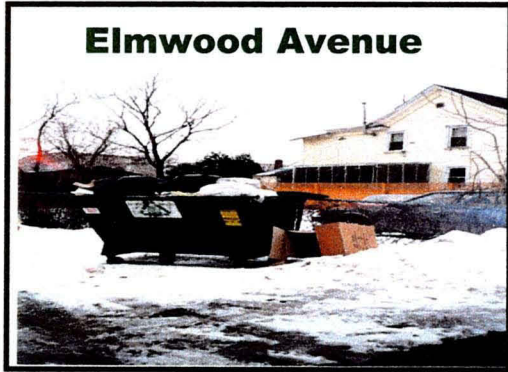






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9

Quality of Life Crimes

City Statistics

66% Residents identify public safety & crime as #1 issue

21% Report tension among residents

32% Perceive blight and less inter-personal interaction among neighbors

192 Incident based calls to police in ONE

183 Arrests in ONE

1,300 Noise Complaints

CITY WIDE QUALITY OF LIFE CALLS:

4,730

CED Theory

The NRT builds social capital by empowering residents to restore the social fabric of their community. And in partnership with government, to actively participate to resolve problems they identify as contributing to a deterioration in the quality of their lives.



Project Goals



To empower residents to improve the quality of community life



To promote conflict resolution as a means of building community relationships



To foster working relationships between citizens and government to improve public safety



NRT Project Outputs

Beginning Outputs:

Establish Policy and Protocol
Identify indicators of Success
Formalize Evaluation criteria

Expected & Actual Outputs:

Recruit and train community mediators
Complete 12 cases during Pilot Project
Begin project in Franklin Square

NRT Project Inputs

BJA, Community Prosecution Grant

Steering Committee, Policy & Protocols

Municipal Department Supervisory Team

Surveys, Action Plans, trainings

Phases of Program Operations

Phase I - Policy & Protocol Development
Phase II Pilot Project; Program Analysis
Phase III Program Operations - Revised

Jan '01 – May '01

PHASE I

June 01 – Dec '01

PHASE II

Jan '02 – June '02

PHASE III

Project Objectives

- ⚖ To recruit and train residents in RJ and Conflict Resolution
- ⚖ Community residents mediate disputes between conflicting neighbors
- ⚖ Residents create accountability; negotiate an action plan agreement
- ⚖ Complaints to city departments are reduced and residents provide direct service

⚖ Project Indicators ⚖

Residents are trained in conflict resolution

Residents facilitate NRT process

Communities are involved

Complainants needs are addressed

Respondents are responsible

Neighborhoods are restored

Team and Resources

- ⚖ Supervisors: Collaboration between Municipal Code Office; Community Support Program and the Community Justice Center
- ⚖ Facilitators: Trained ten community mediators
- ⚖ NRT meetings at neighborhood sites
- ⚖ Referrals to the Public Safety Project

Monitoring and Evaluation

Participatory Program Design & Evaluations:

Needs Assessment; Phase I, based on secondary resources, Phase 3 based on resident input

Mediator Surveys

Participant Surveys

Action Plan Agreements

Monitoring:

Weekly Meetings

Case Reviews

Mediator supervision, & case evaluations

Pilot Project Results

City Wide

13 Mediators Trained

16 Case Referrals

12 NRT Interventions

2 Action Plan Agreements

3 Neighborhoods get organized w/ PSP

Pilot Project Results

Franklin Square Needs Assessment

5 of 6 Experienced conflict with neighbors or management

3 of 6 Residents did not call management to negotiate conflicts

2 of 3 Residents did NOT get results w/ management intervention

6 of 6 Would participate in NRT if neighbor mediated

6 of 6 Said resolving conflict would make FS a better place to live

3 of 6 Said they would take NRT mediator training

NRT Tipping Factor Project Projections




	Mediators	Cases
In year #2	20	200
In year #3	40	400
In year #4	80	800

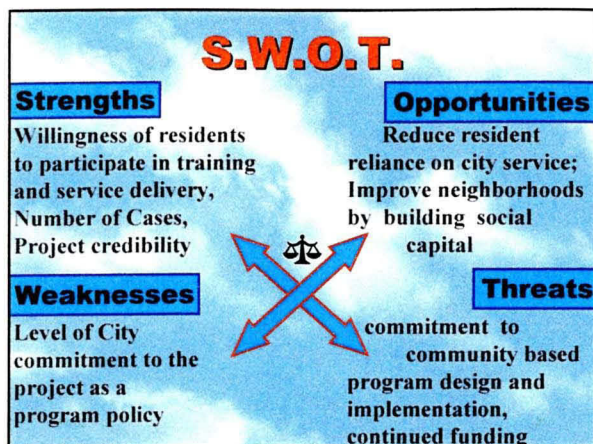
Based on 10 cases per mediator and
10% of people involved take training –
assuming nobody drops out

Project Barriers Institutional Resistance

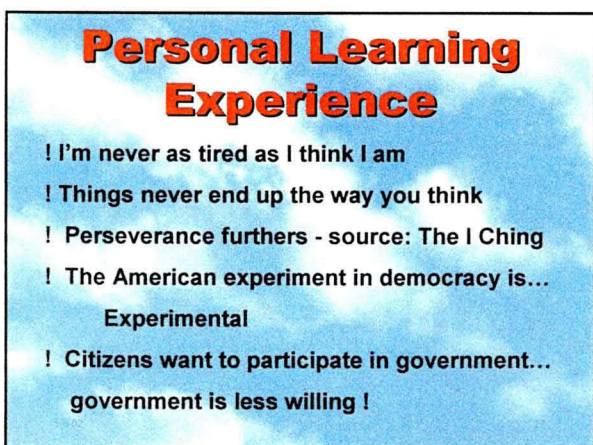
- Phase I** Potentiality of
administrative burdens
- Phase II** Commitment to
community involvement
& program ownership
- Phase III** Institutional Resistance

Overcoming Project Barriers

-  Phase I response: collaboration between
Municipal Code, Community Support and
Community Justice Center
-  Phase II response: restate goals and
objectives re: building community
capacity and increasing #s of cases
-  Phase III response: create a coalition of
stakeholders to advocate for adoption of
program as city policy







Acknowledgments

In general:
 Mayor Peter Clavelle, the City of Burlington and all
 community members who participate in the project

In particular:

Ken Schatz	Assistant City Attorney
Ray O'Connor	Chief Code Enforcement Officer
Brooke Hadwen	Community Support Program Coordinator

My classmates & professors



The End

1.7 The Neighborhood Response Team Mediation Skills Training

**The NRT paid to use this training
If you find it informative, please contact Susan Terry for
Permission to use it – or better yet,
Pay her to train you too!**

The following inserted pages do not represent the entire training manual.

Susanne Terry
Conflict Mediation Center
Woodbury College
660 Elm Street
Montpelier, Vermont 05603

Introduction to Mediation

CONFLICT: ASSUMPTIONS AND DEFINITIONS

- Conflict is a natural occurrence
- Individuals and groups can grow through conflict
- Social structures frequently cause conflict
- Generally, we should not allow conflict to build up
- Conflicts have predictable dynamics and cycles
- Feelings are an integral part of conflict

"A struggle over values and claims to scarce power, status and resources in which the aims of the opponents are to neutralize, injure or eliminate the rivals."

Lewis A. Coser

"Conflict exists whenever incompatible activities occur..."

Morton Deutsch

"...two or more parties...position of scarcity...or resource scarcity...and behaviors would destroy, injure or thwart other...one party can gain only at the other's expense."

Raymond Mack & Richard Snyder

"Conflict exists when the parties involved agree in some way that the behaviors associated with their relationship are labeled as 'conflict' behavior."

Fred E. Jandt

"Conflict is an expressed struggle between at least two interdependent parties, who perceive incompatible goals, scarce rewards and interference from the other party in achieving their goals (and needs). They are in a position of opposition in conjunction with cooperation."

Joyce Hocker & William Wilmot, *Interpersonal Conflict*

Introduction to Mediation

DEFINITION

CONCILIATION

Bringing the parties together to discuss, mediate, arbitrate or engage in whatever process is appropriate. The conciliator may not be present at the meeting.

NEGOTIATION

The interplay between two or more parties in attempting to settle a dispute. A third party may or may not be present.

MEDIATION

Dispute resolution process using a third party to facilitate a process which might bring about an agreement.

ARBITRATION

Dispute resolution process in which the third party (usually chosen by disputants) makes the final decision.

ADVOCATE

One who speaks or acts for and on behalf of disputant.

LITIGATION

Legal dispute resolution process, in courts.

CRISIS INTERVENTION

Action taken during 'hot conflict' to keep dispute in 'safe area'. Can separate parties, propose process, act as intermediary.

MED - ARB *-contract*

Process whereby the mediator, if a settlement is not negotiated, makes a determination as an arbitrator.

Introduction to Mediation

UNDERSTANDING CONFLICT TACTICS

ASSUMPTIONS ABOUT CONFLICT TACTICS

Conflict tactics are not necessarily good or bad in themselves.
Tactics create feelings, which affect conflict.
Understanding a tactic gives the ability to use or respond it more effectively

AVOIDANCE

Postponement.
Resort to formal rules.
Changing physical environment.
Coordination: split the difference, predict votes, 'fairness'.
Precuing - 'If you say this, I'll stop talking'.
Coercion - 'Shape up or ship out'.
Linguistic manipulation.
Refusal to recognize conflict.
"Fogging" - acknowledge one issue to avoid another.

ESCALATION

Labeling - either the parties or the conflict.
Issue expansion.
Coalition forming.
Threats.
Constricting variables - time or access.
Breaking relational rule.

REDUCTION

Fractionating - dealing in small parts.
Negative inquiry - ask for more information.
'Metacommunication' - talk about feelings.
Facts and feelings important.
Position papers - absolute statements.
Reliance on outside criteria.
Compromise.

MAINTENANCE

Quid pro quo.
Agreements on relational rules.

Introduction to Mediation

THE MEDIATION PROCESS

A Definition

A voluntary process by which participants, with the assistance of a mediator, find a satisfactory outcome to a set of problems.

A process designed to meet the needs of the participants.

A facilitated method of empowering participants to find solutions to their own problems.

A method for participants exploring how they might handle similar situations differently in the future.

A way of working out (when necessary or desirable) how the relationship between the participants will look in the future.

Introduction to Mediation

PRINCIPLES OF NEGOTIATION

I. Separate the people from the problem. Keep an objective eye on the problem itself and detach any feelings about the person presenting it. Regardless of the behavior of other parties, your job is to keep trying to understand what the actual problem is and possibilities for settling it. Never attack the people in the situation. You might need that person's cooperation in another setting.

Blaming polarizes people.

What specific action or behavior is of concern?

How narrowly can the action or omission be defined?

What exactly would be the desired behavior or action?

Get in their shoes. What does the situation look like from their point of view?

Describe what their ideal situation or solution would be. What are you doing or omitting that is contributing to the conflict?

What assumptions are you making about reasons for their behavior? Are you willing to share your perceptions with them to check for accuracy?

Do you believe that the other party assumes anything incorrect about your motives? Can you behave otherwise to clarify your motives?

II. Focus on interests, not positions. What people demand is often the most limited way of meeting their wishes. While options, suggestions, or proposals are helpful in getting started, do not get trapped into the specifics before understanding the underlying rationale.

What basic physical or psychological human needs or wants are behind this conflict?

What unspoken feeling lies behind stated arguments?

What would each party separately like from this conflict?

What common interests do the parties have for an outcome?

How would the ideal situations for each party look?

How would the ideal situations mesh?

What interests are in conflict?

What are the possible causes, reasons for positions taken for each issue on the table?

Continued...

Introduction to Mediation

(Principles of Negotiation, cont'd)

III. Invent options for mutual gain. The best negotiation settlements are those in which both parties felt themselves satisfied. Try to create a solution that satisfies each party's needs and wishes.

Avoid the assumption of a fixed pie or limited resources. With creativity more solutions can be generated than may be apparent initially. Choose a relaxed setting for brainstorming, perhaps with refreshments and a pleasant outdoor place to walk during breaks.

Determine the objective of the brainstorming session. What do you hope to have accomplished?

Have a small enough group to share freely and fully, and large enough for a diverse spectrum of ideas. One person should facilitate.

Set ground rules, including "No criticism".

Uncritically brainstorm any ideas for resolution, even seemingly bizarre ones. Make no judgments or evaluations during this exhaustive initial listing.

Brainstorm together with other parties where possible.

Combine and improve ideas, listing advantages and disadvantages for each and set a date for evaluating them.

IV. Insist on using objective criteria. When you are either trying out a tentative agreement to see if it will work or when you are creating an agreement that depends upon long term satisfaction, determine now how you will know if it is satisfactory. If there are not existing regulations or standards, see if you can create guidelines, otherwise the agreement will be subject to whim.

The agreement is only useful if it can be easily judged as to its fulfillment.

Who is responsible for what?

At what intervals does monitoring take place?

How much of what resources will be used and how?

By what timeline will the agreement be carried out?

To what measurable degree of completion or perfection?

Under whose management?

What if it doesn't happen?

When do parties meet again to assess the situation?

Insist that reason prevails: principles above pressure.

Introduction to Mediation

ROLES OF A MEDIATOR

PROVIDER OF AN APPROPRIATE PROCESS

- While the parties themselves may be principally concerned with substance, the mediator is most concerned with a neutral process.

LEGITIMIZER

- Often parties will not come together to talk or cannot. The mediator provides a forum for discussions.

PROMOTE DISCUSSION/COMMUNICATION

- Parties often do not always know how to carefully discuss the issues that divide them. The mediator can assist by structuring meetings, increasing safety, encouraging the parties.

TRANSLATION/INTERPRETATION

- Parties often do not hear the other point of view--either because it is expressed poorly or because the feelings run so strong they cannot listen. Often, if the relationship and dispute are long-term, the parties will assume they have heard it all before and cannot identify changes in position.

FACILITATOR

- Keeps the process going. Controls pace, types of meetings (joint, caucus), breaks, agenda, etc.

Continued...

Introduction to Mediation

RESOURCE EXPANDER

- Identifies information on legal, factual, financial matters that will help resolve a dispute (sometimes). Also can help parties to come up with additional resources to their mutual benefit.

TONE SETTER

- Provide an atmosphere for creative exploration of new ideas and options for resolution of a conflict.

FACE SAVER

- In the mediation process, the mediator can, at times, take the 'blame' for a concession, providing a way for a party to move on an issue.

MOVER TO SETTLEMENT

- Parties will often stall for one reason or another. The mediator can use a variety of tools to help the parties move if it is in their best interest.

Introduction to Mediation

MEDIATION IS

FUTURE ORIENTED

While parties need to cover past ground, the mediator keeps the focus on what the parties would like to do now and into the future. This can be done even when parties disagree on what happened in the past.

POSITIVE

The mediator is responsible for setting a positive tone. This is done by:

- Good paraphrasing of what parties are saying.
 - Issue identification
 - Interest identification
 - Legitimizing feelings without letting them bring mediation to a halt.
 - Keeping future oriented.
 - Identifying agreements and progress already made.
 - An encouraging tone.
 - Affirming that it is all right if parties do not reach an agreement, if they think that is best.
-

REALISTIC AND CLEAR

The agreements must be based on what CAN be done.
The written agreement should leave as little open to interpretation as possible.

Introduction to Mediation

THE MEDIATION PROCESS: COMPONENTS

GETTING STARTED SETTING THE TONE

Description of mediation
Establish ground rules
What happens at the end
Explain procedure and the role of
mediators

PROBLEM DESCRIPTION

Each party states goals for resolution
Each party describes situation from
their viewpoint
Agreement on identification of problem
areas

ISSUE AND INTEREST IDENTIFICATION

Mediator and parties identify issues to
be dealt with,
Mediator focuses questions so that
parties talk more about what is
fundamentally important, "whys"
of their wishes, and needs.
Interests are stated as common goals
of the negotiations.

Introduction to Mediation

CREATION OF OPTIONS

Mediator focuses on common goals
parties are trying to reach
Parties explore variety of ways of
solving the various problems
Focus on interests, not positions
Work first with issues that might be
more easily resolvable
Separate sessions often necessary
Work from a common list of options
No evaluation of options (by parties
or by the mediator)

MODIFICATION AND EVALUATION

Parties don't eliminate options -
Mediator helps parties to say
"This would work if..."
Parties describe to what degree
options meet their needs
Mediator continues to focus on
common goals and on meeting
interests of both parties
A delicate time in the mediation
because parties move back
into positional thinking and can
become "fixed" in their thinking
Explore "what if"..."What if you chose
this option--what problems do
you foresee?"..."What if you
could find a way to resolve this
obstacle--do other things fall
into place?"

Introduction to Mediation

FINDING THE COMMON SOLUTION

Parties choose which option suits both needs best
Mediator goes back to previously stated needs, issues, wishes, and interests--how do the parties feel about how they are being met?

Troubleshoot the solution. "When you say pay each month by the first of the month, do you mean he sends the check or you receive it by the first?"

"How would you like to handle it if you, for any reason should not receive the check by the agreed upon date?"

Restatement of the full agreement --
noting reservations or concerns.

DRAFTING THE AGREEMENT AND CONCLUDING

Does not assign blame.

Wording should reflect the tone of the mediation as much as possible.

Parties assist in drafting the language.

Often misunderstandings will arise in choosing language. Use this as an opportunity for refining work.

Must be specific. Who does what and when?

Agreement is balanced.

Signed by both parties - copies to both

Congratulations and directing parties to next step.

Introduction to Mediation

AIMS OF A MEDIATED AGREEMENT

CONTENT SATISFACTION

The parties must feel that what they agreed to is the best they could do and is in their own interest in some way.

PROCESS SATISFACTIONS

The parties must feel that the way they got to their agreement was one in which they participated rather than it being imposed in some way. Negotiators should 'own' the method or process in order to own the outcome.

PSYCHOLOGICAL SATISFACTION

In order for a mediation to be successful, there must be some amount of psychological satisfaction. The parties must feel that they have been dealt with in a way that was not manipulative and in some way respected them as a negotiator. A test of psychological satisfaction is whether the parties would be willing to negotiate with each other again.

THE MEDIATOR MUST KEEP THESE THREE AIMS BEFORE HIM OR HER AT ALL TIMES. IF ALL THREE ARE NOT KEPT IN MIND FOR BOTH PARTIES, THE SETTLEMENT:

- Could fall through
- Could result in a new, larger dispute erupting
- Could cause parties to distrust the mediation process

Introduction to Mediation

BASIC TOOLS OF EFFECTIVE MEDIATION

Listening

The ability to listen to what the people are saying is the foundation of all good mediation. This is especially true when you believe that you have heard all that they have to say. Careful listening:

- 1) communicates good will
- 2) communicates seriousness about their issues
- 3) will identify the interests
- 4) will determine the intensity of feeling
- 5) will give clues as to possible options

Rephrasing

This tool is the restatement of what the person is telling you. It:

- 1) Lets them know that you have heard what they said
- 2) Keeps the conversation on track
- 3) Prevents unnecessary repetitions
- 4) Gives you a chance to "clean up" or clarify what they are saying
- 5) Builds good will

Active Listening

This is the hearing the emotional content of what is being said. It identifies how the person feels about the negotiations. In doing Active Listening you:

- 1) Let them know that you are listening carefully
- 2) Identify for you both how important the negotiation is for them
- 3) Humanize the process
- 4) Legitimate feelings

Active listening is used prudently. It can be seen as "psychologizing" the parties or making light of the content of negotiations by identifying feelings. A good mediator uses Active Listening carefully and in a way that is respectful of the parties. Example: "I hear that you are quite angry that the school records are not available yet and it sounds as if you are also discouraged about the length of time that this has taken."

Continued...

Introduction to Mediation

"I" Statements

"I" Statements claim your own experience without blame to the other party. It moves away from the language of "You are...." to "I am feeling...". Mediators can help parties use "I" statements to help the other person understand the speakers experience and therefore modify their behavior to be more effective. Example: "I'm feeling very frustrated right now because I want you to understand what I have to say and don't feel that I have been able to do that."

Questions

The basis of good mediation is a question.

Questions have several functions: to get information, to make a request, to stimulate thinking, to set the tone.

Door Openers:

- Open ended - cannot be answered yes or no
- Exploratory - asking if someone thinks a certain thing
- Permission - requests permission to discuss a topic in a different way
- Serial - several questions to help the other party think through something you want them to explore

Door Slammers:

- Trick questions - the answer traps a client
- Closed - yes or no answers
- Leading - "isn't it a fact that you..."

The Wedge In The Door:

- Actually listening to the response
- Repeating the most important information
- Identifying key points of what is being said
- Guessing at a dilemma that the person is experiencing
- Acknowledging the difficulty of the situation
- Appreciation for work already done
- Continuing to identify the issues and interests

Introduction to Mediation

Checking Assumptions

Checking assumptions of both parties:

- 1) Keeps the negotiations on track
- 2) Prevents wasted time
- 3) Reveals why progress is not being made
- 4) Uncovers a potential "snag" in any agreement that might be made
- 5) Is respectful of the people

Many negotiations have collapsed because of incorrect assumptions or failure to check assumptions at an early enough point.

Reframing

Interest identification

Introduction to Mediation

LISTENING SKILLS

OPEN STYLE

Questions that encourage talking, rather than a 'yes' or 'no' response.

'Tell me about ...' -- 'Share your ideas about...'

'I'd be interested in what you thing about...'

'Describe what happened.'

'How would you see an agreement...'

INFORMATION SEEKING

'How much was the amount of money you lost?'

PARAPHRASING/RESTATEMENT

Reviewing what a speaker has said without repeating their words exactly.

Does not involve -- interpretation, second-guessing, predicting.

IDEA GROUPING

Reorganizing random thoughts a speaker has said so they fit together.

Take care not to modify the thinking, just the order.

PRIORITY IDENTIFICATION

Nothing recurrent themes, implied importance, to highlight priorities.

QUESTION IDENTIFICATION

Noting questions or uncertainties in speaker's presentation.

continued...

Introduction to Mediation

FEELINGS

Acknowledging of topics or areas that have strong feelings.

By speaker's own signal -- verbal or otherwise.

Noting areas where parties both have strong feelings.

BODY LANGUAGE

Of listener -- open, relaxed, interested.

Observation of speaker -- communicates another level of information; seldom referred to by mediator.

SILENCE

Noting pauses, ellipses, areas of no conversation.

Resist the urge to fill air space.

Silence can be a form of expression as powerful as words.

Feel the emotion which fills silence.

Use silence to draw parties into doing their work.

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NEUTRALITY

NEUTRALITY:

- Keeps the focus on the parties as the central figures - they make the decisions.
- Makes it acceptable to both parties
- Allows us to be both supportive and to "push"
- Is not the same as being passive.
- Explores
- Sees the conflict as a puzzle
- Does not presume to know more than one parties
- Listens to the clues from the parties

QUESTIONS, PARAPHRASES, SUMMARIZATIONS AND REFRAMES THAT SUPPORT NEUTRALITY:

- Have no implied judgement
- Do not attempt to trap a party
- Don't "track" on a solution
- Frequently have to be acceptable to both parties
- Are attentive to process and the emotional atmosphere as well as the content
- Are frequently inclusive of both parties
- Are meant to help focus parties and not lead them
- Will sometimes lay a very difficult problem right at their feet

SOME NEUTRAL QUESTIONS:

- What do you mean by that?
- How did you reach that conclusion? (What led you to believe that?)
- What are some examples that would help me understand this better?
- Tell me why this particular point is important?
- Can you explain more about how you are interpreting his actions?

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Are the following questions neutral? If not, make them so.....

1. Why did you go back to the building after you explicitly told him you wouldn't?

2. Can you tell me more about what happened that afternoon?

3. He's offered to pay what he says were the actual costs of the damage, why don't you accept it?

4. Mrs. Smith, you've described Mr. Jones as being "unreliable" - just so I understand what you mean by that, could you say a bit more about what "unreliable" means in your experience with Mr. Jones?

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5. Mr. Kowalski, you have heard Mr. Tarkington's description of the events. Did you, in fact, deliberately shove your shopping cart into his?

6. George, can you explain the difference in your version of the story and hers?

7. Mrs. Tyson, help me understand more about why the principal's response to you felt offensive?

8. Karla, you've stated that point a number of times, can we move on now?

9. Mitch, I hear you say that you aren't angry, but each time this issue comes up you seem agitated - help me to understand how you are experiencing this topic.

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INTERESTS AND ISSUES

POSITIONS:

Party's statement about the desired outcome.
The "How" or specifics being asked for.
Can provoke an adversarial interaction.
Can provide tangible and pragmatic content for parties to work with.

Try not to begin by negotiating positions.

ISSUES:

Questions which define a dispute.
Statement of the problems which the parties are addressing.
The "What" is being negotiated.
Can provoke a yes / no response.
All issues have interests driving them.

Try to get issues clearly defined.

Issues are always tangible and quantifiable. You can trade one issue for another.

INTERESTS:

What a party seeks to achieve in resolving the dispute.
The underlying, often unstated goals of the negotiation.
The "Why" behind the issues.
Can provoke a problem-solving approach.
Can generate vagueness and confusion.

All good negotiated settlements must address at least one interest.

Interests are intangible and non-quantifiable.

Parties never trade interests although they may choose to ignore one if another is being met.

Introduction to Mediation

FRAMING REFRAMING

FRAMING

A frame is a cognitive construct within which the participants view an issue and interpret information.

Frames:

- are not fixed--they can be shifted.
- are determined by perceptions, personality and concerns.
- are frequently shaped narrowly.
- often the "political" turf of mediation.
- often are the "general" that create clients disagreements over the specific.

REFRAMING

Reframing:

- is moving the construct so that parties may approach their issues in a positive future-oriented manner.
- broadens, deepens or enhances the construct.
- is a positive connotation of clients concerns.
- reshapes positions into interest statements.

Three ways of thinking about reframing are:

1. Statement reframing
2. Issue Reframing
3. Platforming

Continued...

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1. Statement Reframing:

- is positive
- legitimates
- is interest based
- eliminates diagnostic, prejudicial or inflammatory language
- deletes blaming

Party: "I never dreamed I would have a daughter this lazy. She is so self-centered that she never notices anything that has to be done. The house is a mess because she is too shiftless to help me out."

Mediator: "Am I understanding correctly that you want to talk with Janice about her role in the house and to hear that you are concerned about how the house looks?"

2. Issue Reframing:

- is a process of reshaping the construct to a broader or more interest based description.
- is frequently sated as a "how to" or dilemma.
- may try to merge clients concerns.

Mother: "Yes, that's what I want. And I want her to not be so lazy."

Janice: "I'm not lazy--you are a fanatic! It doesn't matter what I do, it's not good enough. You criticize anything I do so why bother?"

Mediator: "Janice, if I am understanding correctly, you feel discouraged about your role around the house because your work doesn't seem to satisfy your mother?"

Janice: "Yea."

Continued...