

Transforming conflict and restoring justice

Madeline Maher / Guest Column

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At Community Dispute Resolution Center, two beliefs underlie all of the agency's work. With apologies to Benjamin Franklin, we hold these things certain: that conflict is a normal part of life, and that, in times of conflict, talk works.

One thing not often remarked upon, however, is the type of "talk" we employ. The transformative model of mediation was first outlined in "The Promise of Mediation" by Robert A. Baruch Bush and Joseph P. Folger. Judy Saul, the center's executive director, became an early proponent. Conflict is "part of the basic dynamic of human interaction in which people struggle to balance concern for self with connections to others." An imbalance creates a "crisis in human interaction" causing people to feel vulnerable and self-absorbed but "despite conflict's ... destabilizing impacts on interaction, people have the capacity to regain their footing and shift back to a restored sense of ... (self)-confidence ... and openness ..." Therefore, as mediators help parties notice the opportunities where such empowering shifts can happen, the value is in mediation's "potential not only to find solutions ... but to change people themselves for the better, in the very midst of conflict."

The simplicity of the phrase "talk works" belies the depth of transformation that this practice can bring forth. As mediating parties make agreements, they allow room for needs other than their own. That the individual can begin to appreciate the perspective of even those with whom they are in conflict shows a growth of empathy that can liberate us from feeling victimized or stuck in anger and free us to find real resolution. On a community level, similar transformations can result in a society when it moves from a punitive approach to conflict to a reparative one.

At the center, we are known for our work with individuals creating parenting plans for their children, but we often facilitate other challenging conversations. When young people are in trouble, family-school conferences can be held where family members, school staff and others gather to create goals for positive change all can participate in. Occasionally, we hold victim-offender conferences where those affected by a crime may willingly face their offender, engage in a truthful dialogue about the crime's effects and decide how restitution may be made. These are all examples of a more group-based response to conflict, embracing the idea of a community taking responsibility for a resolution they all then agree to work toward. Thus, engaging in transformative mediation can lead to practicing the principles of what is known as "restorative justice."

In the U.S., justice is most often a punitive process. Crime is considered an act against the state, not the victim. As we rely on an often overburdened system, this adversarial process can leave us feeling drained, powerless and wondering how we might better help ourselves. Even when the system grants some relief to the victim, the injurious effects of crime are not always remedied. In a cycle of prosecution, the offender is cast out; restitution to the state, not the victim, becomes the focus; indirectly affected members of the community have no means to be heard; and neighbors may shut themselves off from each other, retreating in fear of more crime. Assigning blame is not necessarily the salve that heals us, as crime rates continue to rise, recidivism rates remain high and our communities fragment and divide. What options do we have when our justice system does not offer the kind of resolution that we seek?

Dissatisfaction has led to a growing movement that embraces alternative forms of justice around conflict and offense. Localities, prisons and schools are embracing forms that are less about punishment and more about restoring the affected community. This participatory, peaceful group approach mirrors systems used among some indigenous communities here in the U.S. as well as around the world. These are all versions of what we'd call restorative justice.

As we begin our 25th year, the center is part of a larger effort to look at the potential that restorative justice holds for our own community. Is this kind of transformative process realistic or possible outside of the mediation room? Can we change our own attitudes about how to "do" conflict? Having grown up in our current litigious system, can we instead become allies in forgiveness for the sake of restoring the circle of community? In our next installment, we will look at these questions and talk to some people who are beginning to affect this kind of change at a local level.