



FROM POWER TO RIGHTS TO INTERESTS

By Jack Mahler, BNMP volunteer mediator



On March 13, 2008, Kenneth Cloke gave a luncheon presentation to a combined group of the King County Bar Association's Collaborative

Law and Alternative Dispute resolution Sections and the King County Collaborative Law Civil Practice Group. Many of us in the Bellevue Neighborhood Mediation Program are familiar with Kenneth Cloke from attending his workshops at Antioch University and the Northwest ADR Conferences. Our book club has studied at least two of his books, *Mediating Dangerously* and *Crossroads of Conflict*. Both the Parent-Teen and the Neighborhood Mediation Program make good use of his handouts with suggested questions to ask during difficult mediations.

Ken presented an historical overview of conflict including the interesting tidbit that when Neville Chamberlain and Adolf Hitler were "negotiating" at the Munich Conference, the "mediator" was Benito Mussolini! Naturally, the people they were negotiating about were not present to represent themselves. As we all understand, laws came into being to limit the exercise of power, yet a rights-based process often leaves a minority with negative feelings that can come back to undermine the process. This leads us to a more interest-based focus where consensus and collaboration gives people more of a stake in the outcome and thus more willingness to support the decisions. As this presentation was directed at people involved in Collaborative Law, this is an alterna-

tive to litigation, in both Family Law and Civil cases. See www.kingcountycollab.org for more information.

He further explained that as mediators in an interest-based process, we should recognize that it is impossible to be neutral or impartial, but that we should strive for "omni-partiality" or being on *both sides*. We do that by active listening, especially reframing and making sure each side is hearing the other. Ken re-iterated that we need to ask questions he presented in his books and previous lectures, such as:



"What kind of relationship do you want to have with each other?"
"What's preventing you from having this?"
He stressed asking "authentic" or "from the heart" questions, such as:
"What would you tell the other person about *why* you would like this relationship to work?"
"What would you be willing to do for or say to the other person?"

Some other books that may be of interest by Kenneth Cloke include *Resolving Conflicts at Work*, *The Art of waking people Up*, and *Resolving Personnel and Organizational Conflicts*. He is also a founder and leader of Mediators Beyond Borders – Partnering for Peace and Reconciliation.



Notes from the Book Club



By Barb Miller

For January the group read *The Making of a Mediator*, by Michael D. Lang and Alison Taylor, but because of schedule conflicts in January we did not discuss it until March. The book, subtitled *Developing Artistry in Practice*, explores mental processes mediators can use in their practice to go beyond their basic grounding in mediation skills to achieve what the authors refer to as artistry, where mediators engage in reflective practice in order to smoothly combine the elements of interactive process. (Here “reflective” refers to the mediator reflecting on their own process, as distinct from the “reflecting” that we do in listening to the parties).

Lang and Taylor describe four stages of a mediator’s professional development, beginning as a Novice (which we all were when we took the Basic Training), proceeding through Apprentice (which corresponds to our Practicum experience), to Practitioner (an experienced mediator with polished skills and a good grounding in theory), and finally to Artist, for whom the skills are second nature and seemingly intuitive, allowing them to experiment and stretch themselves as they practice.

Those of us who discussed the book were between the Apprentice and Practitioner stage and found the book most helpful in its methods for moving beyond basic skills in order to explore the elements of the interactive process. In particular, the authors discuss “critical moments,” when the interaction requires a response from the mediator, multiple responses are available, the mediator senses that it is important to make a decision quickly, and the direction, focus, or tone of the mediation is likely to be significantly affected by the mediator’s choice of strategy or intervention.

When the mediator becomes aware of the critical moment and acknowledges this perception, the “path of artistry” would be to describe (to oneself) why the moment is a critical one (what is different, what is the mediator personally feeling as a result), then consider whether this interpretation is constructive and what in one’s theories of mediation could explain the phenomenon of the critical moment. At this point one would experiment to test the validity of one’s idea (a transparent way to do this would be to ask the disputants for feedback to see whether they also feel that things are stuck or not working). The next step would be determined collaboratively with the parties: the mediator would share one’s inclination at this point and see whether they agree with that direction—if not, put them in charge of finding the next step and see where and how they will take the interaction.

A reward for the artistic mediator is the experience of the psychological state known as “flow”, described as “that sense of deep concentration, absorption, joy and accomplishment that are some of the best benefits of being human.” This phenomenon was explored throughout the 90’s in a number of books by Mihalyi Csikszentmihalyi. We decided to explore this further by reading his 1991 book entitled *Flow: The Psychology of Optimal Experience* for our next discussion, which will be held on May 14.

"One of the greatest assets available to the mediator is the seething passions among the negotiators. It is this passion, when lifted up out of the chaos and successfully harnessed, which fuels the dynamism that smashes the stagnant configuration and motivates the new representative negotiators to build anew."

- Susan Podziba, *The Human Side of Complex Public Policy Mediation*..

"To begin with, everyone in conflict has a different perception of what happened, who caused it, and why. Each side tells stories that are accurate and honest – for themselves, as requests for communication, empathy, and authenticity. Both sides also tell stories that are inaccurate and dishonest – for each other, as literal facts, and as requests for surrender or acceptance of blame.

In other words, everyone in conflict views the world from the inside out, and finds empathy and honesty difficult with those they detest or by whom they feel detested. Their willingness to accept responsibility is distorted by their need for sympathy and support, or their desire to make themselves appear right by making others appear wrong."

- Kenneth Cloke, *Mediating Dangerously: The Frontiers of Conflict Resolution* (Jossey-Bass 2001)

2008 Basic Mediation Training

***Our Basic Mediation Training is happening again/
Tell all your friends and neighbors to register .***

425-452-4091.

***Free. Fun. Educational. Life long skills.
April 24,26,27 ,May 2,4,5.***

Parent—Teen Update

By
Cathy Goldman

Spring is here, but it sure doesn't feel like Spring! I know it is Spring since I have started to recruit for the June Parent-Teen Mediation Training. The year has flown by and here I am inviting new volunteers to become part of our dynamic mediation team. I will be recruiting at five high schools in Bellevue. I am also looking for adult volunteer mediators interested in working with teens and parents in conflict. Let me know if you know anyone who may be interested in this exciting program.



Our training dates are June 23 to June 27th and the training will take place at Bellevue City Hall. I will need your help with coaching, presenting, role playing and demonstrating, so I hope you will have time to be a part of my training team! It's great experience and fun as well!

Our next in-service training will take place on Tuesday April 22nd from 6 to 8pm in room 1e-112 at Bellevue City Hall. We will dig deep to find the needs/interests that drive the conflict. Please plan to attend!

Thanks for your continued dedication to the program!

BNMP Training Opportunities For Mediators and Conciliators

Parent/Teen In-service Training:

Digging for Underlying Needs

Tues., Apr. 22, 6:00 PM to 8:00 PM, Room 1E-112

Trainings:

Basic Mediation Training— Room 3W-119

Thurs., Apr. 24, 6:00 PM to 9:00 PM

Sat., Apr. 26 & Sun., Apr. 27, 8:30 AM to 5:00 PM,

Thurs., May 1, 6:00 PM to 9:00 PM

Sat., May 3 & Sun., May 4, 8:30 AM to 5:00 PM

Book Group:

Next book: **Flow: the Psychology of Optimal Experience** by Mihaly Csikszentmihalyi. Wednesday, May 14th at 5:30 p.m. Meet at mediation office.

Snohomish County Dispute Resolution

Questions? Contact Matt at Snohomish County DRC: 425-339-1335 ext.2325, mphillips@voaww.org, or www.voaww.org/drc

Family Mediation Training

April 11-13 (Everett)

King County Dispute Resolution

Questions? Contact Jessica at KCDRC: 206-443-9603, ext. 107, jessicad@kcdrc.org, or www.kcdrc.org/

Mediation Training:

Each day is 8:30am-5:30pm. Fee \$675, lunches provided. April 17, 18, 21, 23 & 25

Program Staff:

Program Co-Manager:	Cheryl Cohen	-	452-5222
Program Co-Manager:	Andrew Kidde	-	452-5288
Program Assistant	Gwen Jones	-	452-2897
Parent-Teen Coordinator:	Cathy Goldman	-	452-4091

City of Bellevue website: <http://www.bellevuewa.gov>
(Look for the Mediation Program under "Neighborhood Information")

Volunteer Profile:

June Jordan



Hi. My name is June Jordan and I volunteer as a conciliator. Volunteering as a conciliator has afforded me the opportunity to give back to the community that I have been a part of for many years. I raised my children here, I owned my business here, and I choose to live here. I am originally from Washington, D.C. I lived in New York for 3 years before moving to the Seattle area. I didn't know a soul here at the time but was up for an adventure. Now I would not consider living anywhere else. My view of BNMP is that of a learning organization focused on providing a way to help improve the world of our citizens through learning how to deal with conflict productively and effectively. It is perhaps my love of the area and the people here that wants me to do my part to make this a better community.



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