

**TRANSFORMATIVE MEDIATION:
AN ANNOTATED BIBLIOGRAPHY
OF INSTITUTE RESOURCES**

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Introduction. This Annotated Bibliography is offered as a resource for the conflict resolution field. It contains the most up-to-date listing of books, articles, chapters and working papers authored by one or more members of the Institute for the Study of Conflict Transformation, and provides a central reference point for authoritative works on the theory and practice of transformative mediation.

Organization. This Bibliography is organized in four sections. The first section is **alphabetical** by author. In this alphabetical section, an annotation is provided that describes each work in sufficient detail to inform and guide an interested reader's choices. The second section contains only **collections**, that is, books and special issues of journals that contain a collection of diverse articles on the topic of transformative mediation. The third section is **topical**. In this section, works are grouped according to their dominant theme, including *theory*, *practice implications*, *training implications*, *research*, and *policy implications*, in order to assist readers who have a more focused area of interest. The final section is **chronological**. Here, the works are listed in reverse chronological order by date of publication, to assist readers who are interested in the history and development of the transformative framework, or trying to find particular works by their publication dates.

Invitation. This Bibliography collects only those works that have one or more Institute members as authors. There is, of course, a much broader base of literature that addresses the transformative framework. The Institute is planning to compile a comprehensive bibliography of all such works in the future. If you know of works that you would like to see included, including works that you have authored yourself, please let us know by contacting Dorothy Della Noce at ddellanoc@att.net or (804) 364-8276.

SECTION 1

ALPHABETICAL ANNOTATED LISTING

Antes, J.R., Folger, J.P. & Della Noce, D.J. (2001). Transforming conflict interactions in the workplace: Documented effects of the USPS REDRESS™ program. Hofstra Labor & Employment Law Journal, 18 (2), pp. 429-467.

This article reports the results of a focus group study conducted with mediators and REDRESS™ specialists who participated in the United States Postal Service transformative mediation program. Mediators and specialists from three different geographical regions were asked to describe specific cases they mediated in

which positive changes in the parties' communication occurred. Analysis of these cases revealed eight change themes that captured the diverse ways in which empowerment and recognition unfolded during sessions and transformed parties' conflict interaction. Each of the eight themes is described and case illustrations from REDRESS™ cases are provided for each theme. Challenges were identified that mediators face, including personal, professional, and institutional. Implications for the further development of transformative mediation practice are discussed.

Antes, J.R., Hudson, D.T., Jorgensen, E.O. & Moen, J.K. (1999). Is a stage model of mediation necessary? Mediation Quarterly, 16 (3), pp. 287-301.

Although stage models of mediation have dominated theory and practice in mediation, several aspects of mediation practice are not fully consistent with a stage model. This article makes explicit several stage model anomalies and offers an alternative conceptualization of the mediation process. This emergent-focus model is compatible with Bush and Folger's (1994) view of mediation as a transformative process.

Antes, J.R., & Saul, J.A. (in press 2003). What works in transformative mediator coaching: Field test findings. Pepperdine Dispute Resolution Law Journal, 3 (1).

A process for the formative assessment (coaching) of mediators practicing from the transformative orientation was field tested at six different sites. Specifically varied were whether or not the mediator's original training was in the transformative orientation, the mediator's amount of experience practicing from the transformative orientation, and whether the role-play mediation sessions were live or videotaped. We drew conclusions about the qualifications necessary for a coach and the pros and cons of videotaped sessions versus live stop-action sessions, and developed guidelines for structuring the coaching process. We also identified a range of possible uses of the process.

Antes, J.R. & Saul, J.A. (2001). Evaluating mediation practice from a transformative perspective. Mediation Quarterly, 18 (3), pp. 313-323.

A process for the formative evaluation of mediation from a transformative orientation is presented in this article. Fundamental to the process is the understanding that mediator activities reflect and derive from basic premises the mediator holds about people and conflict. During a live role-play mediation or while viewing a videotape of themselves mediating, mediators are asked to reflect on the intent of their interventions. A coach-trainer helps the mediator assess the appropriateness of the interventions by inviting consideration of the context of the moment, the intended purpose of the intervention, and the probable empowerment and recognition effect on the parties.

Antes, J.R. & Saul, J.A. (October 1999). Staying on track with transformative practice: How do we know if mediators have internalized the framework? Hamline University Symposium on Advanced Issues in Conflict Resolution—"Moving to the Next Level in Transformative Mediation: Practice, Research and Policy," St. Paul, MN. Available from the Institute for the Study of Conflict Transformation.

A process for the formative evaluation of mediation from a transformative orientation is presented. Fundamental to the process is the understanding that mediator activities reflect and derive from basic premises the mediator holds about people and conflict. During a live role-play mediation or while viewing a videotape of themselves mediating, mediators are asked to reflect on the intent of their interventions. A coach-trainer helps the mediator assess the appropriateness of the interventions by inviting consideration of the context of the moment, the intended purpose of the intervention, and the probable empowerment and recognition effect on the parties.

Beal, S. & Saul, J.A. (2001). Examining assumptions: Training mediators for transformative practice. In J.P. Folger & R.A.B. Bush, Designing Mediation: Approaches to Training and Practice within a Transformative Framework, pp. 9-19. New York: Institute for the Study of Conflict Transformation.

Mediators and trainers interested in transformative mediation need a clear and deep understanding of the premises upon which it is built. Clearly articulating these premises and the ways in which they influence practice leads to changes in a mediator's role. To incorporate these changes, mediators need to cultivate an attitude of openness and self-reflection, constantly questioning their practice and its link to these premises. Those preparing mediators to practice need to rethink the design of training, moving beyond a focus on skill and techniques to include exercises that allow mediators to build self-awareness, consider their beliefs and values about people and conflict and appreciate the connection between what they do and their motivation for doing it. Trainers who are able to create an open and trusting environment in their training allow both beginning and experienced mediators to move toward clarity about what transformative mediation entails and whether or not they choose to practice it.

Brodrick, M. (1999). In *people we trust: The essence of mediation*. SPIDR NEWS, Fall, Volume 23, No. 4. Response to Hoffman, D. A. (1999), Confessions of a problem-solving mediator, SPIDR NEWS, Summer, Volume 23, No. 3.

This two-article dialogue explores the differences in beliefs and practices between a problem-solving and a transformative mediator. David Hoffman describes his practice in integrating transformative and problem-solving techniques and his belief that providing the best of both approaches, as guided by the mediator's judgment, is to the benefit of the mediation participants. Melissa Brodrick counters that a transformative approach is guided by a mediator's belief in the

parties' capacity to do their own work at all times during a mediation session. She argues that is this consistent belief that directs technique away from problem-solving approaches and provides greater benefit to the parties.

Bush, R.A.B. (2001). Handling workplace conflict: Why transformative mediation? Hofstra Labor & Employment Law Journal, 18 (2), pp. 367-373.

This article is the introduction to a six-article symposium focused on the use of transformative mediation in the U.S. Postal Service's workplace mediation program, known as REDRESS™. The symposium includes an article describing the establishment of the REDRESS™ program by its founder, Cynthia Hallberlin, as well as two research studies that document the "transformative impacts" of the program. This introduction, besides describing the other articles in the symposium, gives a useful, short summary of the transformative model; it also explains why managers find the model valuable -- because it handles conflicts in a way that restores ongoing workplace productivity of both supervisors and employees, rather than simply "closing cases". The article (and the others in the symposium) can help mediators and administrators understand and explain the value of the transformative model in workplace conflict.

Bush, R.A.B. (1996). The unexplored possibilities of community mediation. Journal of Law and Social Inquiry, 21, pp. 715-736.

This is an extended review of a book that studied one of the most well-known community mediation programs in the U.S., the San Francisco Community Board Program (CBP). The book, edited by social scientists Sally Merry and Neal Milner, argues that the CBP failed in its stated purpose of not merely settling cases but supporting community change and development. Furthermore, the book concludes that the mediation process in general cannot succeed in achieving goals such as "community change". This review takes issue with that conclusion, and points out that a careful reading of the study reveals why the CBP did not succeed in its "transformative" goals: the model of mediation used by the program, despite transformative rhetoric, was firmly transactional or settlement-oriented in practice. The author suggests the program might have had greater success in its original goals if the transformative model of mediation had been used in practice. The review challenges the view that mediation can never produce transformative impacts, suggesting that no such conclusion can be drawn until the transformative model is given a serious and fair practical trial.

Bush, R.A.B. (1996). "What do we need a mediator for?" Mediation's value-added for negotiators. Ohio State Journal of Dispute Resolution, 12, pp. 1-36.

In this article, the author answers a question often posed by lawyers and other negotiators: what value does a mediator add that they cannot accomplish by themselves? The article summarizes two important bodies of research: negotiation studies that identify "barriers to settlement" and "procedural justice"

studies that identify the features of conflict intervention processes that parties value most highly. Taken together, these studies suggest that mediators can (1) increase the level of party participation in decision-making and (2) improve the character and quality of inter-party communication, and that these contributions are the ones most highly valued by both parties and lawyers. This is the “value-added” from mediation. The article then shows that transformative mediation is the model of practice most likely to provide these benefits to negotiators, since its focus on empowerment and recognition relates directly to the kinds of assistance parties are most likely to value. The article is a good resource for transformative mediators faced with questions about what their model of practice has to offer clients.

Bush, R.A.B. (1994). The dilemmas of mediation practice: A study of ethical dilemmas and policy implications. Journal of Dispute Resolution, 1994, pp. 1-55.

This article reports on a unique and award-winning study of mediator ethical dilemmas conducted by the author for the National Institute for Dispute Resolution (and originally published by NIDR in 1992). The study, based on interviews with over 80 practicing mediators, describes dozens of specific situations that mediators saw as presenting “ethical dilemmas” and organizes them in a “typology” of dilemmas that consists of nine major categories. Based on the study, the article outlines the difficulties mediators face in resolving their dilemmas in the absence of clear and coherent guidance from policy on ethical standards. The author includes a proposed set of ethical standards, which is based on the transformative framework and which was subsequently used as the basis for the U.S. Postal Service REDRESS™ Program’s ethical code. The article is a good resource for teachers and trainers, and for those interested in policy on mediator ethical standards.

Bush, R.A.B. (1993). Mixed messages in the *Interim Guidelines*. Negotiation Journal, 2(4), pp. 341-347.

In this short comment, the author analyzes and criticizes a report from the “Test Design Project” (TDP) that proposed a set of criteria to use in “performance competency testing” of mediators. In the author’s view, the TDP criteria reflected the premise that the primary if not sole goal of mediation is settlement production. As a result, many mediators might be judged incompetent by these criteria, although their practices were entirely appropriate in light of aims other than settlement production – such as empowerment and recognition. The author argues that, before competency testing is initiated based on such limited criteria, there must be more discussion of the underlying question of the goals of mediation, about which there are important differences. In light of the continuing debate over skills testing for mediators, this early critique of one important effort to create a skills test is an important resource for those interested in the issue.

Bush, R.A.B. (1989). Efficiency and protection, or empowerment and recognition? The mediator's role and ethical standards in mediation. Florida Law Review, 41, pp. 253-286.

In this article, the author presented the concepts of “empowerment and recognition” for the first time, based in part on the work of earlier scholars in the mediation field. The context is a critique of then-existing codes of mediator ethics, all of which failed to ground themselves on a coherent conception of the mediator’s unique and essential role. The author argues that, while other processes can promote efficiency and protect rights, only mediation can foster self-determination and mutual understanding. These unique capacities of mediation, it is argued, should be viewed as the core values of the process and the anchoring point for the mediator’s responsibilities. While the “transformative” terminology is not used in this article, those interested in the historical development of the transformative framework will find this article valuable.

Bush, R.A.B. & Folger, J.P. (1994). The Promise of Mediation: Responding to Conflict Through Empowerment and Recognition. San Francisco: Jossey-Bass.

This book is the primary resource on transformative mediation. In it, the authors articulate the transformative model of mediation for the first time, contrasting it with the problem-solving model (a conception they were also the first to articulate clearly in these terms). The book starts out by tracing the way in which mediation practice gradually drifted, in the U.S., away from its “transformative” roots into a more instrumental, settlement-driven mode. To counter this drift, the authors offer a clear theoretical framework for understanding the “transformative” vision of mediation, and its advantages over the settlement-driven, problem-solving model. They explore the contrast between the models with case studies, and describe key patterns of practice central to the transformative model. Finally, they illuminate the deep, underlying, ideological roots of both visions of practice, and show how the transformative model reflects an emerging, “relational” view of human life that is visible in many realms of current thought and social action. While work on transformative mediation has certainly progressed in the years since it was published, this book remains the starting point for serious study of the transformative framework.

Bush, R.A.B. & Pope, S.G. (in press 2003). Transformative mediation: Principles and practice in divorce mediation. In J. Folberg, A. Milne & P. Salem (Eds.), Mediating Family and Divorce Disputes. New York: Guilford Press.

Why do parties come to divorce mediation? What is the mediator’s role? How does the mediator work with the parties? Clear articulation and understanding of the theory of conflict and the principles of the mediator are essential to understanding the mediator's practices. The mediator assists the parties to make changes in the conflict interaction to make it

productive and positive rather than negative and destructive. The essential skills of the transformative mediator are explained in some detail: how to listen for empowerment and recognition opportunities and how to respond in ways supportive of empowerment and recognition steps by the parties. Particular responses long associated with divorce mediation, such as normalizing, are also discussed as directive responses to be avoided by the mediator.

Bush, R.A.B. & Pope, S.G. (in press 2003). Changing the quality of conflict interaction: The principles and practice of transformative mediation. Pepperdine Dispute Resolution Law Journal, 3 (1).

This article is part of a 5-article Symposium. The authors believe that what most people find hardest about conflict is not that it frustrates their satisfaction of some right or interest or project, no matter how important, but that it leads and even forces them to behave toward themselves and others in ways that they find uncomfortable and even repellent. They become alienated from their sense of their own strength and their sense of connection to others, and this disrupts and undermines the interaction between them as human beings. Help in overcoming that interaction, and its negative and destructive spiral, is a major part of what parties want, and is supported by transformative mediation. The keys to the transformation of conflict interaction are the empowerment and recognition shifts that the parties themselves make with the support of the mediator. Specific skills used by the transformative mediator are set forth and their connection to the principles and beliefs of the mediator is explained.

Charbonneau, P. (2001). How practical is theory? In J.P. Folger & R.A.B. Bush (Eds.), Designing Mediation: Approaches to Training and Practice within a Transformative Framework, pp. 37-49. New York: Institute for the Study of Conflict Transformation.

This chapter challenges mediation educators to think more deeply about theory and make explicit its preeminent and indispensable role in giving meaning and direction to the practice of mediation. Theory is about the vision and values that take hold of mediators and anchor them solidly and clearly in their orientation to practice. Readers will find practical ways to involve mediation students in experiencing the dynamic and practical power that is the vision-building work of effective education in mediation practice.

Della Noce, D.J. (2002). Ideologically Based Patterns in the Discourse of Mediators: A Comparison of Problem Solving and Transformative Practice. UMI Dissertation Services (UMI #3057068). Ann Arbor, MI: ProQuest Information and Learning.

This dissertation examines the relationship between ideology and discourse. Bush and Folger (1994) suggested that the discourse of mediators was shaped by their ideological commitments. They proposed that two different ideological groups constituted much of the mediation field: an Individualist group that privileged problem-solving practice, and a Relational group that privileged transformative practice. In the body of literature that has developed in response to Bush and Folger's analysis, what has been missing is any direct exploration of the distinctions Bush and Folger drew, through empirical comparison of the discursive practices of mediators who privilege each approach. Such a comparison is presented here, using Teun A. van Dijk's (1998) theoretical framework, the methods of discourse analysis, and data from mediators' in-session practices as well as interviews with mediators about those practices. This study identifies certain similarities and differences in the discourse of the mediators studied. In particular, it illustrates that, although the mediators from each group oriented to a shared dilemma of agency, they employed distinct interpretative repertoires to address that dilemma. It also illustrates that, despite some apparent similarities in the mediators' in-session practices at the level of decontextualized discursive moves, distinct patterns of practice emerged at the more contextualized levels of discourse strategies and positioning episodes. The findings of this study support Bush and Folger's analysis and also provide previously unavailable insights on the distinct contours and patterns of transformative practice. At the same time, through this study, key dimensions of van Dijk's theoretical framework are elaborated, including the definition of an ideological group, the identification of discourse strategies likely to implicate ideology, and the relationship between empirical description and ideological critique.

Della Noce, D.J. (2002). Mediation theory & policy: The legacy of the Pound Conference. Ohio State Journal on Dispute Resolution, 17 (3), 545-558.

This article is part of a 9-article *Symposium on the Impact of Mediation: 25 Years after the Pound Conference*. The Pound Conference was organized around the premise that society was dissatisfied with the state of the justice system, and the task of the Conference was to explore the sources of dissatisfaction as well as possible remedies. Mediation was offered as one promising remedy for the particular dissatisfaction that arose from the cost, delay, and inaccessibility of adjudication attributed to a burgeoning judicial caseload. Despite the clear recognition of the unique social value of mediation in various dimensions of human interaction, the potential value of the mediation process to the justice system was cast primarily in terms of improved case management efficiency. The author traces the impact this framing has had on the subsequent development of

the theory, policy and practice of the mediation field. She traces the growth of court-connected mediation, the growing instrumentalization of the mediation process, the increasing scrutiny directed toward mediation by researchers and critics, and a more recent trend toward articulating the theoretical base of mediation as a social process in its own right. The author suggests that the field is now at a critical point of self-assessment, particularly with respect to the development and clarification of theoretical frameworks. She also projects that the coming challenge for the mediation field is to face the growing differences in theory, practice and policy in a respectful and thoughtful way.

Della Noce, D.J. (2001). Mediation as a transformative process: Insights on structure and movement. In J.P. Folger & R.A.B. Bush (Eds.), Designing Mediation: Approaches to Training and Practice within a Transformative Framework, pp. 71-95. New York: Institute for the Study of Conflict Transformation.

In this chapter, the author discusses why the standard stage models of the mediation process --- which picture the process as a linear sequence of discrete stages that progress toward the ultimate goal of agreement --- are incompatible with the relational principles and premises of the transformative framework. She explores why and how relational assumptions suggest different ways of thinking about the structure and dynamics of the mediation process, and hence, different models. She offers a cyclical model that captures (1) the micro-level dynamics of mediation, (2) the interactively-constructed patterns of discourse that characterize mediation, and (3) the centrality of empowerment and recognition.

Della Noce, D.J. (2001). *Recognition* in theory, practice and training. In J.P. Folger & R.A.B. Bush (Eds.), Designing Mediation: Approaches to Training and Practice within a Transformative Framework, pp. 96-111. New York: Institute for the Study of Conflict Transformation.

In this chapter, the author clarifies the definition of “recognition” and its role in transformative practice. She discusses recognition as a particular form of empathy between the parties and as an accomplishment between the parties that is valued in itself in transformative practice. She concludes with implications of this analysis for both mediation practice and mediation training.

Della Noce, D.J. (1999). Seeing theory in practice: An analysis of empathy in mediation. Negotiation Journal 15 (3), pp. 271-301.

Bush and Folger (1994) in *The Promise of Mediation* articulated distinctions between individualist and relational ideology, and linked them to specific theoretical orientations to mediation practice: problem-solving and transformative, respectively. Yet, a question persists as to whether these distinctions produce any material difference in practice. This question is approached here through an examination of a single construct in the mediation

literature - empathy. The author proposes that the individualist and relational ideological frameworks have material implications for the concept and practice of fostering empathy between the parties to a mediation. The problem-solving framework fosters a social interaction that can be understood as *transactional empathy* while the transformative framework fosters an interaction described as *relational empathy*. The author illustrates her analysis using transcriptions of mediation discourse from role-plays conducted for a Plenary Session of an Academy of Family Mediators' conference.

Della Noce, D.J. (1999). Mediation policy: Theory matters. Mediation News, 18 (4). Academy of Family Mediators.

In this article, prepared as a working paper for the Policy Workgroup of the Practice Enrichment Initiative, the author identifies the trend in the mediation field of treating mediation as if it were a unitary practice. She argues that it is important to take account of fundamental *differences* among mediators' theoretical frameworks, and attendant practices, in the policy-making process.

Della Noce, D.J. (June 1997). Mediation *could* be the practice of law, but it doesn't have to be. Forum, 33, 16-21. (Special Issue: Is Mediation the Practice of Law?) Washington, DC: National Institute for Dispute Resolution.

The question of whether mediation constitutes the practice of law has captured the attention of scholars, lawyers, mediators and critics of the mediation field. The author suggests in this article that the answer may lie in the *kind* of mediation being practiced.

Della Noce, D.J., Bush, R.A.B. & Folger, J.P. (in press 2003). Clarifying the theoretical underpinnings of mediation: Implications for practice and policy. Pepperdine Dispute Resolution Law Journal, 3 (1).

The impressive growth in the *use* of mediation in the U.S. stands in marked contrast to the slower growth in the *explanation and understanding* of mediation practice. The mediation field has been criticized by more than one scholar for its lack of an articulated theoretical framework: a coherent explanation of "the when and why" of mediator intervention. Without such explanation, practitioners lack grounded guidance for their interventions, and the mediation process is open to many criticisms. In this article, part of a 5-article Symposium, the authors examine developments in explaining and understanding "the when and why" of mediation practice, from the "lay theories" that have informed much of the field, to Bush and Folger's articulation of three distinct and coherent ideologically based theoretical frameworks: the problem-solving framework, the harmony framework, and the transformative framework. They then trace the development of the transformative framework since its articulation in 1994, and share the insights that have been gained along the way regarding the impact of increasing theoretical clarity and differentiation in the mediation field. They conclude with a

discussion of the implications of ideologically based theoretical distinctions for mediation practice and policy, and recommendations for a fresh, theoretically informed, approach to policy initiatives.

Della Noce, D.J., Bush, R.A.B. & Folger, J.P. (2001). Myths and misconceptions about the transformative orientation. In J.P. Folger & R.A.B. Bush (Eds.), Designing Mediation: Approaches to Training and Practice within a Transformative Framework, pp. 50-54. New York: Institute for the Study of Conflict Transformation.

A great deal has been said and written about the transformative approach to practice ever since *The Promise of Mediation* was published. The conversation that has unfolded about the framework has been useful in clarifying the underlying premises of the work as well as articulating what the approach looks like in practice. Although there has been significant clarification (and development) of the ideas over the past six years, several important misconceptions persist about the transformative framework and the form of practice that flows from it. These misconceptions often surface during training sessions when participants discuss their sense of what the transformative approach is and what can be expected from it. In this chapter the authors briefly discuss seven frequently heard myths about the transformative orientation. They present each myth as it is often stated and then explain why each myth is based on a misconception about the theoretical framework or the way mediators practice within it.

Della Noce, D.J., Folger, J.P. & Antes, J.R. (in press 2003). Assimilative, autonomous, or synergistic visions: How mediation programs in Florida address the dilemma of court connection. Pepperdine Dispute Resolution Law Journal, 3 (1).

This article, part of a 5-article Symposium, is based on a benchmarking study of court-connected mediation programs in Florida conducted by the authors. The authors discuss the rationale for using benchmarking to assess program “goodness” and the practices that support it, given the unsettled nature of definitions of “success” in the mediation field and the range of programs studied. The remainder of the article elaborates key insights that emerged from the study, including the fundamental institutional and ideological dilemma of “court-connected mediation,” three different approaches to addressing this dilemma by which mediation programs and the courts have forged their relationship in Florida, and some implications for practice and policy. Notable among these implications is that assimilation is not an inevitable consequence of institutionalization, but is a matter of program choice, reflected in day-to-day program practices and whether the program grounds itself in the traditional vision of mediation as a distinct social institution.

Folger, J.P. (in press 2003). Mediation goes mainstream: Taking the conference challenge. Pepperdine Dispute Resolution Law Journal 3 (1).

This article, part of a 5-article Symposium, is based on the keynote address Folger delivered at the 2002 Southern California Mediator Association conference. In it, Folger discusses the theme of the conference -- "Mediation Goes Mainstream". He identifies the benefits and disadvantages of mainstreaming mediation and shows how the institutionalization of mediation raises key questions about what role mediation can and should play across sectors of practice. He also discusses the difficulties the field faces when it tries to discuss and evaluate different forms of practice and different visions of taking mediation into the mainstream.

Folger, J.P. (2001). Who owns what in mediation? Seeing the link between process and content. In J.P. Folger & R.A.B. Bush (Eds.), Designing Mediation: Approaches to Training and Practice within a Transformative Framework, pp. 55-60. New York: Institute for the Study of Conflict Transformation.

Many mediators guide their practice by a well-known adage: "The mediator owns the process and the parties own the content." This distinction is built on a conception of practice that is inconsistent with the transformative framework. This article clarifies why the process/content distinction is misleading and actually does not hold in practice. It explains how choices made about process have a direct influence on the way a conflict unfolds. Recognizing the inter-relationship between content and process is a foundational principle of transformative practice. This article discusses why, in the transformative model, the parties need to take a hand in shaping their process in order to ensure their control over the content of the dispute.

Folger, J. P. (2001). Mediation research: Studying transformative effects. Hofstra Labor & Employment Law Journal, 18 (2), pp. 385-397.

Mediation was practiced for over twenty-five years before social science researchers actually studied what went on in the mediation room. This article discusses how the underlying ideology that shaped most of mediation practice also defined and limited the research on mediation and, as a result, provided very little knowledge about the communication that actually occurred during mediation sessions. When approaches to research took an ideological turn and focused on the mediators' and parties' communication rather than derivative outcomes, the groundwork was laid for studying transformative practice in a way that is consistent with its principles and objectives. Research conducted over the past ten years has captured the changes in parties' interaction that occur when mediation is practiced within the transformative framework. Examples of research conducted within this approach are summarized.

Folger, J.P. & Bush, R.A.B. (Eds.)(2001). Designing Mediation: Approaches to Training and Practice within a Transformative Framework. New York: Institute for the Study of Conflict Transformation.

This edited volume offers a set of articles derived from practitioners' insights about how to design mediation training and practice within the transformative framework. Although not a training manual, the volume offers a set of thought-provoking, practical pieces that can stimulate the development of training designs. The book also provides an "inside look" at transformative practice – what it means to work effectively with empowerment and recognition as conflict interaction unfolds. It advances any practitioner's understanding of the "how to's" of transformative intervention. (See "Collections," below.)

Folger, J.P. & Bush, R.A.B. (2001). Developing transformative training: A view from the inside. In J.P. Folger & R.A.B. Bush (Eds.), Designing Mediation: Approaches to Training and Practice within a Transformative Framework, pp. 168-182. New York: Institute for the Study of Conflict Transformation.

This article summarizes seven principles that have guided the development of new methods for teaching mediation practice skills within the transformative framework. The training themes are guideposts that can shape the development of more specific training elements (exercises, mini-lectures, role plays, etc.). They tie the underlying theory that drives mediator purpose to specific mediation practice techniques that have been developed for training. The seven principles focus a range of strategic emphases including: how to incorporate core purpose behind practice, how to illustrate a proactive but non-directive role for mediators, and ways to design and conduct mediation training that is consistent with the underlying relational values of the transformative framework.

Folger, J.P. & Bush, R.A.B. (1996). Transformative mediation and third-party intervention: Ten hallmarks of a transformative approach to practice. Mediation Quarterly, 13 (4), pp. 263-278.

The transformative approach to mediation and third party intervention is an increasingly attractive model for many practitioners, one that requires mastery of specific relationally-oriented skills. To further clarify the contours of transformative practice, this article describes ten patterns of practice that characterize the work of mediators who follow this approach. These hallmarks of transformative practice range from the content of the mediator's opening statement, to their attitudes about parties' competence and motivation, to their willingness to deal with emotion and the history of the conflict. Together, the hallmarks paint a clearer picture of this approach to intervention. They also help clarify several myths about the approach. This article is the lead article in a dedicated journal issue on transformative mediation (See "Collections," below.)

Folger, J.P. & Bush, R.A.B. (1994). Ideology, orientations to conflict, and mediation discourse. In J. P. Folger & T. S. Jones (Eds.), New Directions in Mediation: Communication Research and Perspectives, pp. 3-25. Thousand Oaks, CA: Sage.

This article explains how underlying ideological orientations to conflict shape expectations for mediator behavior and the communication that is enacted during mediation sessions. Traditional problem-solving mediation is based on a set of individualist premises that shape mediators behavior during intervention. Existing research on problem-solving mediation documents how mediators tend to enact directive, settlement-oriented practice. Transformative mediation is built on a relational ideology that focuses on empowerment and recognition. These alternative ideological premises give rise to a different form of mediation practice, one that avoids mediator substantive influence over the parties' dispute.

Folger, J.P., Della Noce, D.J. & Antes, J.A. (2001). A Benchmarking Study of Family, Civil and Citizen Dispute Mediation Programs in Florida. Conducted for Florida's Dispute Resolution Center. Available from the Institute for the Study of Conflict Transformation.

The Institute for the Study of Conflict Transformation reports here on a benchmarking study it conducted of selected mediation programs in the family, civil and community sectors. The overall goal of this study is to document the practices that contribute to the successful delivery of mediation service within the mediation programs studied. This study examines how different mediation programs define "success" and identifies factors that support its achievement. It documents innovations programs have made that have facilitated the satisfaction of court or client needs, achieved cost efficiencies, added value to the mediation service, or enhanced the public's understanding and use of mediation. It also describes some of the challenges that mediation programs face and the steps that have been or are being taken to meet them. The insights this study offers can serve several important purposes. First, benchmarking best practices can help to establish the overall value these programs have for the Florida court system, its clients and users, and the public at large. It can reveal unseen or undocumented effects of mediation and can suggest ways of tracking these outcomes in the future. By looking at the design and operation of several specific programs, the study can provide a general sense of the overall contribution ADR makes within the state. In addition, the outcomes can be helpful to court administrators and program directors in designing or redesigning programs, setting funding priorities, achieving cost efficiencies, supporting the broadest possible impact of the mediation process, or communicating more effectively with the public about available mediation services. These insights will also be helpful in the development of dispute resolution efforts in other states and in establishing the value of benchmarking research for the dispute resolution field at large.

Fox, K.H. (1999). Exploring the convergence of organizational and conflict theory: Can mediation support organizational learning? Alternative Dispute Resolution in Employment, 1 (3), pp. 30-36.

This article examines the principles that underlie the "Learning Organization" as an approach to organizational and management philosophy. It then explores whether the introduction of transformative mediation into an organization can actually support organizational learning.

Hudson, D.T. & Antes, J.R. (2001). Transformative mediation at work: A case study from the REDRESSTM program. The Journal of Alternative Dispute Resolution in Employment, 3 (2), pp. 41-47.

This article describes the transformative orientation to mediation and its use by the United States Postal Service's REDRESSTM mediation program. The underlying premises and goals of transformative mediation are discussed and contrasted with the goals of the more traditional and widely used problem solving orientation to mediation. The authors describe the benefits and appropriateness of the use of the transformative orientation to mediation in the workplace, and offer a case study of workplace mediation from the United States Postal Service, in which the transformative approach to mediation was employed.

Jorgensen, E.O., Moen, J.K., Antes, J.R., Hudson, D.T. & Hendrikson, L.H. (2001). Microfocus in mediation: The what and how of transformative opportunities. In J.P. Folger & R.A.B. Bush (Eds.), Designing Mediation: Approaches to Training and Practice within a Transformative Framework, pp. 133-149. New York: Institute for the Study of Conflict Transformation.

In training materials Bush, Folger, Della Noce & Pope (1998) proposed three overall steps for carrying out transformative practice: (1) identifying empowerment and recognition opportunities; (2) avoiding a directive impulse; and (3) enacting an empowerment and recognition response. This chapter elaborates the third component, describing possible mediator activities and their compatibility with the transformative orientation. Three categories of mediator responses are identified: *amplifying*, *inviting*, or *urging* either empowerment or recognition. The appropriateness of these responses may be evaluated by consideration of two issues: (1) the degree of interpretation in which the mediator engages; and (2) the likelihood that the response will enhance or interfere with empowerment or recognition.

Moen, J.K., Hudson, D.T., Antes, J.R., Jorgensen, E.O., & Hendrikson, L.H. (2001). Identifying opportunities for empowerment and recognition in mediation. In J.P. Folger & R.A.B. Bush (Eds.), Designing Mediation: Approaches to Training and Practice within a Transformative Framework, pp. 112-132. New York: Institute for the Study of Conflict Transformation.

In training materials Bush, Folger, Della Noce & Pope (1998) proposed three overall steps for carrying out transformative practice: (1) identifying empowerment and recognition opportunities; (2) avoiding a directive impulse; and (3) enacting an empowerment and recognition response. This chapter employs analysis of mediation transcripts to elaborate the first component, addressing the question of what empowerment and recognition opportunities look like. Three categories of opportunities are described: *lack of*, *requests for*, and *emerging* empowerment or recognition. Multiple examples are provided. The chapter concludes with several guiding principles about identifying opportunities for empowerment and recognition.

Pope, S.G. (2001). Beginning the mediation: Party participation promotes empowerment and recognition. In J.P. Folger & R.A.B. Bush (Eds.), Designing Mediation: Approaches to Training and Practice within a Transformative Framework, pp. 85-95. New York: Institute for the Study of Conflict Transformation.

Not only do parties control the results in transformative mediation, they also control the process, and control of the process begins with the opening conversation. In this article, each of the areas usually discussed in an opening “statement” of a mediator is reconsidered from the standpoint of transformative mediation. Parties in transformative mediation are encouraged to take control of the process and begin important and productive work in mediation in the very first few minutes as they discuss and set their own ground rules for discussion and guidelines for confidentiality and all other aspects of the process. Mediators will be able to construct their own openings with the assistance of this chapter as well as understand the reasons for their choices. Examples are provided of what mediators might say as they take this new approach.

Pope, S.G. (1996). Inviting fortuitous events in mediation: The role of empowerment and recognition. Mediation Quarterly, 13 (4), pp. 287-294.

Mediators making a transition into transformative practice will find much of interest in this article. The author describes how her own practices changed as a result of growing understanding of the transformative model and its implications for practice. Some long-standing practices of divorce and family mediators are questioned as a result. Specific case examples from divorce mediation practice illustrate transformative opportunities and events and aid understanding of empowerment and recognition in practice.

Pope, S.G. & Bush, R.A.B. (2001). Understanding conflict and human capacity: The role of premises in mediation training. In J.P. Folger & R.A.B. Bush (Eds.), Designing Mediation: Approaches to Training and Practice within a Transformative Framework, pp. 61-67. New York: Institute for the Study of Conflict Transformation.

Mediators disagree about how to mediate, but the real disagreement, usually not articulated, is the disagreement about their underlying beliefs and goals as mediators. Transformative mediation trainers make their premises explicit in training. As a result, trainees are better able to understand mediation and the role of the mediator. They have the opportunity to examine their own views and values for consistency with what is being asked of them as transformative mediators and to make choices about how they choose to practice mediation and why. This chapter sets forth the premises underlying transformative mediation and discusses how mediation trainers introduce those premises into training. Specific exercises are described as well as the rationale for this approach to training.

SECTION 2

COLLECTIONS

Symposium (in press 2003). **Pepperdine Dispute Resolution Law Journal**, 3 (1).

- What works in transformative mediator coaching: Field test findings.
J.R. Antes & J.A. Saul
- Changing the quality of conflict interaction: The principles and practice of transformative mediation.
R.A.B. Bush & S.G. Pope
- Clarifying the theoretical underpinnings of mediation: Implications for practice and policy.
D.J. Della Noce, R.A.B. Bush & J.P. Folger
- Assimilative, autonomous, or synergistic visions: How mediation programs in Florida address the dilemma of court connection.
D.J. Della Noce, J.P. Folger & J.R. Antes

Folger, J.P. & Bush, R.A.B. (Eds.) (2001). Designing Mediation: Approaches to Training and Practice within a Transformative Framework. New York: Institute for the Study of Conflict Transformation.

This edited volume offers a set of articles derived from practitioners' insights about how to design mediation training and practice within the transformative framework. Although not a training manual, the volume offers a set of thought-provoking, practical pieces that can stimulate the development of training designs. The book also provides an "inside look" at transformative practice – what it means to work effectively with empowerment and recognition as conflict interaction unfolds. It advances any practitioner's understanding of the "how to's" of transformative intervention. The volume is divided into the following three sections.

Section 1: Theory: Understanding the Framework

- Examining assumptions: Training mediators for transformative practice.
S. Beal and J. A. Saul
- Transformative mediation and third party intervention: Ten hallmarks of transformative mediation practice.
J. P. Folger and R.A.B. Bush
- How practical is theory?
P.G. Charbonneau

- Myths and misconceptions about the transformative orientation.
D.J. Della Noce, R.A.B. Bush, and J. P. Folger
- Who owns what in mediation? Seeing the link between process and content.
J.P. Folger
- Understanding conflict and human capacity: The role of premises in mediation training.
S.G. Pope and R.A.B. Bush

Section 2: Transformative Mediation Training: Tools for Instruction

- Mediation as a transformative process: Insights on structure and movement.
D.J. Della Noce
- Beginning the mediation: Party participation promotes empowerment and recognition.
S.G. Pope
- Recognition in theory, practice and training.
D.J. Della Noce
- Identifying opportunities for empowerment and recognition in mediation.
J.K. Moen, D. Turner Hudson, J.R. Antes, E. Jorgensen and L. Hendrikson
- Microfocus in mediation: The what and how of transformative opportunities.
E. Jorgensen, J.K. Moen, J.R. Antes, D. Turner Hudson, and L. Hendrikson

Section 3: Training Within a Transformative Framework.

- Reflective training: Matching educational practice with transformative intention.
R. Stains
- Developing transformative training: A view from the inside.
J.P. Folger and R.A.B. Bush

Symposium Issue (2001). Hofstra Labor & Employment Law Journal, 18 (2).

- Handling workplace conflict: Why transformative mediation?
R.A.B. Bush
- Transforming workplace culture through mediation: Lessons learned from swimming upstream.
C. Hallberlin
- Mediation research: Studying transformative effects.
J.P. Folger
- Transformative mediation in the USPS REDRESS™ program: Observations of ADR specialists.
L.B. Bingham and T. Nabatchi
- Transforming conflict interactions in the workplace: Documented effects of the USPS REDRESS™ program.
J.R. Antes, J.P. Folger and D.J. Della Noce

Special Issue: Transformative Approaches to Mediation. (Summer 1996). Mediation Quarterly, 13 (4).

- Transformative mediation and third-party intervention: Ten hallmarks of a transformative approach to practice.
J.P. Folger and R.A.B. Bush
- Respecting the struggle: Following the parties' lead.
T. Grillo
- Inviting fortuitous events in mediation: The role of empowerment and recognition.
S.G. Pope
- Directing and administering a mediation program: The transformative approach.
J.M. Fleischer
- Constructive confrontation: A transformative approach to intractable conflicts.
H. Burgess and G. Burgess
- From diatribe to dialogue on divisive public issues: Approaches drawn from family therapy.
R. Chasin, M. Herzig, S. Roth, L. Chasin, C. Becker and R.R. Stains, Jr.

- Reflexive dialogue as transformation.
J. Rothman

SECTION 3

TOPICAL LISTING

The resources listed in this section are organized by thematic topics of special interest to the conflict resolution community, including the topics *theory, practice implications, training implications, research, and policy implications*. Of course, some resources bridge several topics, and are therefore included in as many topical areas as are relevant. The Annotations of Section 1 are not repeated in this section. The reader is referred to Section 1 to learn more about the resources of interest.

If you are interested in THEORY...

Antes, J.R., Hudson, D.T., Jorgensen, E.O. & Moen, J.K. (1999). Is a stage model of mediation necessary? Mediation Quarterly, 16 (3), pp. 287-301.

Antes, J.R., & Saul, J.A. (in press 2003). What works in transformative mediator coaching: Field test findings. Pepperdine Dispute Resolution Law Journal, 3 (1).

Antes, J.R. & Saul, J.A. (2001). Evaluating mediation practice from a transformative perspective. Mediation Quarterly, 18 (3), pp. 313-323.

Beal, S. & Saul, J.A. (2001). Examining assumptions: Training mediators for transformative practice. In J.P. Folger & R.A.B. Bush (Eds.), Designing Mediation: Approaches to Training and Practice within a Transformative Framework, pp. 9-19. New York: Institute for the Study of Conflict Transformation.

Brodrick, M. (1999). In *people we trust: The essence of mediation*. SPIDR NEWS, Fall, Volume 23, No. 4. Response to Hoffman, D. A. (1999), Confessions of a problem-solving mediator, SPIDR NEWS, Summer, Volume 23, No. 3.

Bush, R.A.B. (2001). Handling workplace conflict: Why transformative mediation? Hofstra Labor & Employment Law Journal, 18 (2), pp. 367-373.

Bush, R.A.B. (1996). The unexplored possibilities of community mediation. Journal of Law and Social Inquiry, 21, pp. 715-736.

Bush, R.A.B. (1996). "What do we need a mediator for?" Mediation's value-added for negotiators. Ohio State Journal of Dispute Resolution, 12, pp. 1-36.

Bush, R.A.B. (1994). The dilemmas of mediation practice: A study of ethical dilemmas and policy implications. Journal of Dispute Resolution, 1994, pp. 1-55.

- Bush, R.A.B. (1989). Efficiency and protection, or empowerment and recognition? The mediator's role and ethical standards in mediation. Florida Law Review, 41, pp. 253-286.
- Bush, R.A.B. & Folger, J.P. (1994). The Promise of Mediation: Responding to Conflict Through Empowerment and Recognition. San Francisco: Jossey-Bass.
- Bush, R.A.B. & Pope, S.G. (in press 2003). Transformative mediation: Principles and practice in divorce mediation. In J. Folberg, A. Milne & P. Salem (Eds.), Mediating Family and Divorce Disputes. New York: Guilford Press.
- Bush, R.A.B. & Pope, S.G. (in press 2003). Changing the quality of conflict interaction: The principles and practice of transformative mediation. Pepperdine Dispute Resolution Law Journal, 3 (1).
- Charbonneau, P. (2001). How practical is theory? In J.P. Folger & R.A.B. Bush (Eds.), Designing Mediation: Approaches to Training and Practice within a Transformative Framework, pp. 37-49. New York: Institute for the Study of Conflict Transformation.
- Della Noce, D.J. (2002). Ideologically Based Patterns in the Discourse of Mediators: A Comparison of Problem Solving and Transformative Practice. UMI Dissertation Services (UMI #3057068). Ann Arbor, MI: ProQuest Information and Learning.
- Della Noce, D.J. (2002). Mediation theory & policy: The legacy of the Pound Conference. Ohio State Journal on Dispute Resolution, 17 (3), 545-558.
- Della Noce, D.J. (2001). Mediation as a transformative process: Insights on structure and movement. In J.P. Folger & R.A.B. Bush (Eds.), Designing Mediation: Approaches to Training and Practice within a Transformative Framework, pp. 71-95. New York: Institute for the Study of Conflict Transformation.
- Della Noce, D.J. (2001). *Recognition* in theory, practice and training. In J.P. Folger & R.A.B. Bush (Eds.), Designing Mediation: Approaches to Training and Practice within a Transformative Framework, pp. 96-111. New York: Institute for the Study of Conflict Transformation.
- Della Noce, D.J. (1999). Seeing theory in practice: An analysis of empathy in mediation. Negotiation Journal 15 (3), pp. 271-301.
- Della Noce, D.J., Bush, R.A.B. & Folger, J.P. (in press 2003). Clarifying the theoretical underpinnings of mediation: Implications for practice and policy. Pepperdine Dispute Resolution Law Journal, 3 (1).

- Della Noce, D.J., Bush, R.A.B. & Folger, J.P. (2001). Myths and misconceptions about the transformative orientation. In J.P. Folger & R.A.B. Bush (Eds.), Designing Mediation: Approaches to Training and Practice within a Transformative Framework, pp. 50-54. New York: Institute for the Study of Conflict Transformation.
- Folger, J.P. (2001). Who owns what in mediation? Seeing the link between process and content. In J.P. Folger & R.A.B. Bush (Eds.), Designing Mediation: Approaches to Training and Practice within a Transformative Framework, pp. 55-60. New York: Institute for the Study of Conflict Transformation.
- Folger, J. P. (2001). Mediation research: Studying transformative effects. Hofstra Labor & Employment Law Journal, 18 (2), pp. 385-397.
- Folger, J.P. & Bush, R.A.B. (2001) (Eds.). Designing Mediation: Approaches to Training and Practice within a Transformative Framework. New York: Institute for the Study of Conflict Transformation.
- Folger, J.P. & Bush, R.A.B. (2001). Developing transformative training: A view from the inside. In J.P. Folger & R.A.B. Bush (Eds.), Designing Mediation: Approaches to Training and Practice within a Transformative Framework, pp. 168-182. New York: Institute for the Study of Conflict Transformation.
- Folger, J.P. & Bush, R.A.B. (1996). Transformative mediation and third-party intervention: Ten hallmarks of a transformative approach to practice. Mediation Quarterly, 13 (4), pp. 263-278.
- Folger, J.P. & Bush, R.A.B. (1994). Ideology, orientations to conflict, and mediation discourse. In J. P. Folger & T. S. Jones (Eds.), New directions in mediation: Communication research and perspectives, pp. 3-25. Thousand Oaks, CA: Sage.
- Fox, K.H. (1999). Exploring the convergence of organizational and conflict theory: Can mediation support organizational learning? Alternative Dispute Resolution in Employment, 1 (3), pp. 30-36.
- Pope, S.G. & Bush, R.A.B. (2001). Understanding conflict and human capacity: The role of premises in mediation training. In J.P. Folger & R.A.B. Bush (Eds.), Designing Mediation: Approaches to Training and Practice within a Transformative Framework, pp. 61-67. New York: Institute for the Study of Conflict Transformation.

If you are interested in PRACTICE IMPLICATIONS...

- Antes, J.R., Hudson, D.T., Jorgensen, E.O. & Moen, J.K. (1999). Is a stage model of mediation necessary? Mediation Quarterly, 16 (3), pp. 287-301.

- Beal, S. & Saul, J.A. (2001). Examining assumptions: Training mediators for transformative practice. In J.P. Folger & R.A.B. Bush (Eds.), Designing Mediation: Approaches to Training and Practice within a Transformative Framework, pp. 9-19. New York: Institute for the Study of Conflict Transformation.
- Brodrick, M. (1999). In *people* we trust: The essence of mediation. SPIDR NEWS, Fall, Volume 23, No. 4. Response to Hoffman, D. A. (1999), Confessions of a problem-solving mediator, SPIDR NEWS, Summer, Volume 23, No. 3.
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If you are interested in TRAINING IMPLICATIONS....

Antes, J.R., Hudson, D.T., Jorgensen, E.O. & Moen, J.K. (1999). Is a stage model of mediation necessary? Mediation Quarterly, 16 (3), 287-301.

Antes, J.R., & Saul, J.A. (in press 2003). What works in transformative mediator coaching: Field test findings. Pepperdine Dispute Resolution Law Journal, 3 (1).

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- Pope, S.G. (2001). Beginning the mediation: Party participation promotes empowerment and recognition. In J.P. Folger & R.A.B. Bush (Eds.), Designing Mediation: Approaches to Training and Practice within a Transformative Framework, pp. 85-95. New York: Institute for the Study of Conflict Transformation.

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If you are interested in RESEARCH....

Antes, J.R., Folger, J.P. & Della Noce, D.J. (2001). Transforming conflict interactions in the workplace: Documented effects of the USPS REDRESS™ program. Hofstra Labor & Employment Law Journal, 18 (2), pp. 429-467.

Antes, J.R., & Saul, J.A. (in press 2003). What works in transformative mediator coaching: Field test findings. Pepperdine Dispute Resolution Law Journal, 3 (1).

Antes, J.R. & Saul, J.A. (2001). Evaluating mediation practice from a transformative perspective. Mediation Quarterly, 18 (3), 313-323.

Antes, J.R., & Saul, J.A. (October 1999). Staying on track with transformative practice: How do we know if mediators have internalized the framework? Hamline University Symposium on Advanced Issues in Conflict Resolution—"Moving to the Next Level in Transformative Mediation: Practice, Research and Policy," St. Paul, MN. Available from the Institute for the Study of Conflict Transformation.

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