

# **Conflict Without Chaos:**

## **A Look Back at Conflict Intervention Initiatives During the Nation's Civil Rights Era**

### From the Preface

. . . we might conclude that negotiation has something of a universal interest and application. We as individuals seeking to be successful negotiators in our daily relationships can likely benefit from examining the definitive concept presented here—the resolution of intergroup conflict through third-party neutral intervention—primarily within a framework of the relatively narrow process we call mediation. I will on these pages try to set forth the parameters within which a somewhat formalized intermediary procedure can contribute significantly to the narrowing of diverse perceptions, to the facilitation of effective communication between adversaries, and ultimately to the reduction or elimination of differences among parties with opposing viewpoints, objectives or values.

This book is also written for those who would revisit the crescendo days of the civil rights movement with an eye toward ways in which turbulence was moved toward productive dialogue and resolution. It is intended to attract the interest of those who would examine a slice of our history that was, in many respects, a treasure trove of experimentation in the human condition. If the past is prologue, it should also be of special interest to present-day professionals and volunteers who engage in third party assistance in helping to resolve ruptured domestic relations, neighborhood antagonisms, individual allegations of discrimination, and other types of interpersonal and collective discord.

This account is intended to offer new insights into contemporary intergroup belligerency and the resulting tensions that arise when one group's interests and welfare are perceived to be incompatible with those of another group. Since the field experiences described in this chronicle are drawn from the watershed years of civil rights ferment, the lessons it produced were taken from a context of racial

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unrest and a national preoccupation with self-examination in coping with diversity. For purposes of developing insights and drawing comparisons, however, it is clear that the mediation concepts and processes in this milieu are very closely akin to the practice of mediation in other settings and circumstances. It is with that recognition in mind that those readers who are involved in parallel applications of third party intervention are invited to examine the group conflict model found here.

### **From the Introduction**

. . . This was a period when our country was in the midst of accommodating and adjusting to a new law of the land—the Civil Rights Act of 1964. This legislative harbinger of a changing social order was certain to create tensions and divisions. It called upon major community, political and economic institutions to consider and implement substantial reforms, striking forcefully at interracial attitudes that had been part of our society since its beginnings. The new reforms would transform the very cultural moorings that shape our everyday lives.

. . . Racial turmoil in the United States had impacted the judiciary in unprecedented ways. The courts, from state to federal levels of jurisdiction, were being inundated with litigation that caused serious docket backlogs. Prison inmates with access to institutional law libraries were aggressively pursuing broad prison reforms. Civil rights organizations were pounding on courthouse doors, seeking relief from inequities in education, employment, law enforcement, housing and public accommodations. Barriers to equal opportunity in these crucial conditions of citizenship, all granted under the sweeping federal legislation of 1964 and later years, became the bedrock for claims of non-

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compliance with the laws of the land. The courts under considerable docket strain were highly motivated to examine innovation and nontraditional remedies.

By the early 1980s, mediation as an alternative to traditional methods of dispute settlement had taken on a life of its own, impacting a variety of professional disciplines. Social workers and family counselors were scrambling for mediation training, visualizing a new tool to help clients in domestic relations squabbles. . . .

. . . Many attorneys in civil practice however were turning a wary eye toward the fledgling voluntary settlement process. Early on, there was skepticism of, and resistance to, the widespread application of mediation as a dispute settlement device. Many lawyers, at first exposure, felt threatened. They saw this upstart movement as an intrusion on their turf, if not an outright threat to their livelihoods. Some resented what they perceived to be an attempt to side-step their rightful professional domain and as an attempt to subvert the legal process. There were cries of "justice denied."

. . . Inevitably, a dichotomy developed. On the one hand there were those who viewed legal orientation and practice as incompatible with neutrality. After all, they contended, lawyers are necessarily advocates by the essential nature of their attorney-client relationship. It is their mission and obligation to help one party prevail over another by taking advantage of whatever the law would allow. By training, and more often than not by temperament as well, the attorney prepares his/her client for combat. Was that not the antithesis of the mediator's third party neutrality? Would it not be expecting too much for the tiger to change its stripes? They would make poor neutrals, went the reasoning.

On the other side of the coin, legal practitioners pointed out that no other profession was better equipped to deal with adversaries and bring them to

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settlement without recourse to litigation. Very often, they emphasized, the pretrial phase of litigation results in just that outcome. Furthermore, knowledge of the law would be crucial in framing agreements designed to hold parties to their commitments, while the enforcement of voluntary agreements might in some instances ultimately rely on statutory recourse. Finally, went the counter-reasoning, lawyers were adept at negotiation between adversaries, helping them prepare positions and protect their legal rights, important considerations even in connection with a nonbinding procedure.

. . . There is no presumption that the specific techniques, definitions, procedures and practices set forth on these pages necessarily should be applied universally to the many modes of mediation found in today's diverse practice environment. Clearly, however, the neutral intervention role in one milieu has meaningful parallels to those found in a different setting. Nuances drawn from one scenario bring worthwhile insights to another, regardless of the dissimilarities of the parties and circumstances. This book proposes to offer the professional intervener or conflict manager the benefit of such analogues.

### **From Chapter 5**

. . . The fabled jailhouse lawyer had become more than merely an irritant to corrections administrators. Inmates who sought to engage the legal system to overcome perceived injustices and to assert guaranteed constitutional protections had become a force to be reckoned with.

It was in such a setting, early in 1972, that a few undaunted federal district judges were persuaded to turn to mediation as a possible alternative to the rising tide of inmate civil actions then pending on their dockets.

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### **From Chapter 8**

. . . Port Arthur City Manager Dibrell by this time had become a staunch advocate of the mediation process. His grasp of its potential for resolving serious problems of citizen discontent with governmental services had become a subject about which he was now inclined to share with counterparts across the state. As then regional President of the Texas City Management Association, he was in a good position to bring the subject to the attention of his colleagues. He did so in mid-May, before mediation in his city had concluded, so confident was he that the results would be of significant interest and value to other municipal administrators. . .