



The Purpose & Benefits of Mediation Intake in Family Cases



Following the model of the Community Mediation Center
Knoxville, Tennessee



Presenters

- Jennifer K. Comiskey, J.D.
Juvenile Programs Director, CMC
- Jacqueline O. Kittrell, Esquire
Rule 31 Listed Civil and Family Mediator
& as trained in Domestic Violence Screening
Executive Director, CMC

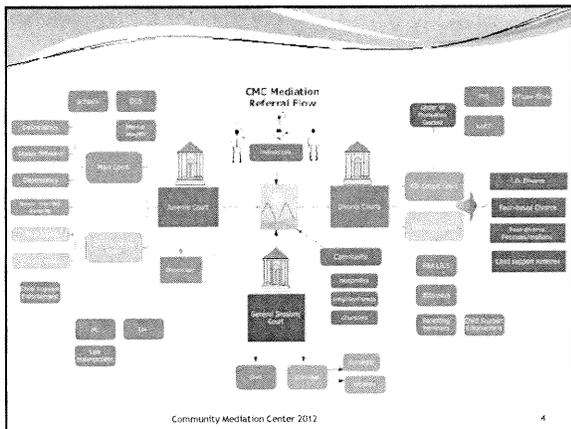
Community Mediation Center 2012 2



Community Mediation Center

- Chartered as a Tennessee non-profit community mediation center since 1994.
- Grew out of a collaboration with UT College of Law, Legal Aid of East Tennessee, Knoxville Bar Association, and the Knox County General Sessions and Juvenile Courts.
- Receives ~800 referrals each year, both court and non-court, and mediates ~700 cases using over 50 active volunteer co-mediators.
- Sessions Civil small claims, Neighborhood, Juvenile Court delinquency, unruly, dependency and parenting, agency, nonprofit, small business, divorce and post-divorce.
- Trains community volunteers and law students each year, provides observation and mentoring to all trainees.

Community Mediation Center 2012 3



Our 6-step facilitative mediation model

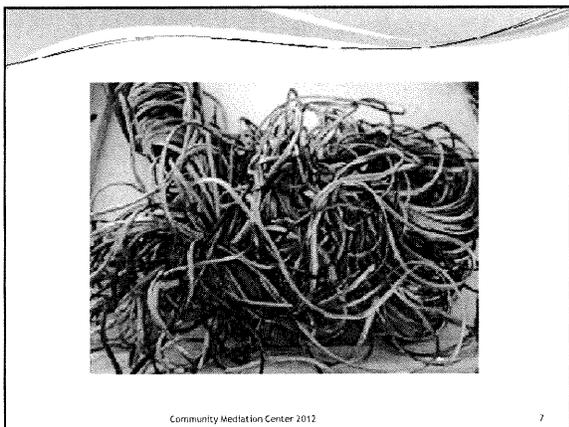
1. Introducing the Mediation Process
2. Presenting Viewpoints
3. Creating a Task Statement
4. Generating Options (Brainstorming)
5. Evaluating Options
6. Concluding the Mediation:
Scribing the Agreement or Safe Termination

Mediation is done in joint session with both co-mediators present at all times; mediators meet with each party in caucus as a part of the process.

Community Mediation Center 2012 5

Why conduct a pre-mediation intake?

Community Mediation Center 2012 6



Purposes of intake:

- To provide information to clients that they will need to proceed through mediation;
- To get information from clients;
- To make mediation more productive;
- To begin the shift of perspective by the client;
- To build rapport and trust;
- To screen for power imbalances;
- To create a safety plan for DV victims;
- To decide if there is capacity to mediate.

Community Mediation Center 2012 8

Providing Information Ahead of Time

- Policies and procedures;
- Roles of participants (mediators, attorneys, parties);
- The mediation model that will be used;
- To establish clear expectations and clear up misconceptions;
- When people hear things multiple times, it has a greater likelihood of sinking in.

Community Mediation Center 2012 9

Getting Information to Better Prepare for Mediation

- Where the case comes from;
- Current status quo;
- Main issues, positions, concerns;
- Contact (and alternate contact) information;
- Power and communication dynamics.
- Advance information about these elements can help you identify common interests and develop strategies beforehand.

Community Mediation Center 2012

10

Making Mediation More Productive

- Make sure participants can find the location;
- Allow venting in advance;
- Help clients organize their thoughts;
- Help them to FOCUS on the tasks of mediation;
- Provide worksheets, blank paperwork;
- Identify homework tasks;
- Identify areas where people need to seek legal advice;
- Give them things to think about in the meantime.

Community Mediation Center 2012

11

Shifting Perspectives

- Start moving from positions/concerns to interests/goals.
- Start transitioning from past to "future focus".
- Help clients find a hopeful mindset before the mediation session.

Community Mediation Center 2012

12

Building Trust Between Both Clients & Mediator

- Show them that they will be heard and respected.
- Demonstrate impartiality and confidentiality.
- Reduce their anxiety about the mediation session by addressing concerns and answering questions.

Community Mediation Center 2012

13

Screening the Case

- Relationship history;
 - Fear, calls to the police, violence, Orders of Protection
 - Intimidation, harassment, stalking;
 - Threats (to person, property, animals, access to child);
 - Anger, volatility;
 - Comfort level being in a room together;
 - Ability to speak their mind around the other person, current levels of communication;
 - Need for legal services.
- Screening is an ongoing process; building trust early on helps people feel safe enough to open up later.

Community Mediation Center 2012

14

Safety Planning

- Work out a signal, advise of separate session options;
- Separate arrivals and departures;
- Escorts from parking lot;
- Secure location;
- Support person or DV advocate;
- Shuttle mediation options;
- Plan to NOT have a document signed right away until a victim has had time to think/reflect.

Community Mediation Center 2012

15

Is Mediation Appropriate?

- Are there insurmountable power imbalances?
- Is a party unable to obtain needed legal advice?
- Are the issues they need to deal with covered under the existing court referral?
- Should mediation be conducted in joint session or in separate rooms (shuttle-style)?
- Do any reports of harm need to be investigated?

Community Mediation Center 2012 16

How to conduct a pre-mediation intake

Steps & Challenges

Step by step

- **Step One: Provide Information**
Challenges:
Get them to the intake
Focus them
- **Step Two: Gather Information about the Case**
Challenge:
Disorganized or expansive narratives
- **Step Three: Give Feedback & Clarity**
- **Step Four: The Pep Talk**

Community Mediation Center 2012 18

Step One: Provide Information

- Set the tone for the mediation - control the process by **providing your information first**.
- Their **body language and demeanor** can give **important clues** about how they are handling the conflict.

Community Mediation Center 2012

19

Challenge: Get them to the intake

- Time and effort is expended (on both sides) in scheduling an additional meeting.
- Transportation can be a significant burden on clients.
- Frequent cancellations are common.
- Keep a flexible schedule.
- Meeting-places close to a bus stop can help.
- Be patient - remind yourself and the clients that it is an important step that will improve the chances of mediation going well.

Community Mediation Center 2012

20

Challenge: Focus them

- Clients will want to launch into their narrative right away. When parties start talking about their case, it is hard for them to stop and refocus.
- Any opportunity for them to ask a question can lead them to launch into their narrative (to explain why they have a particular question).
- **Sample scripts:** "Let me finish explaining the mediation process first, so I can make sure that you get all the same information as the other party gets."

"I want to get through my introductory material first so that we can really focus on your specific case for the rest of the meeting."

Community Mediation Center 2012

21

Suggestion: Create a checklist for yourself

- Previous experiences with mediation.
- Concepts and benefits of mediation.
- Role of mediators.
- Role of attorneys.
- Role of participants.
- The model that will be used.
- Potential outcomes.
- Schedule procedures, attendance policies.
- Logistics: location, parking.
- See handout of sample checklist

Community Mediation Center 2012

22

Step Two: Gather Info

- Scope and duration of both the conflict and the past relationship;
- Current levels of communication;
- Current parenting arrangements;
- Organize the information you hear;
- Observe their vocabulary, body language, how they express themselves;
- Watch for capacity issues;
- Notice how they speak about the other party.

Community Mediation Center 2012

23

Challenge: Disorganized or Expansive Narratives

- Use active listening throughout.
- Ask clarifying questions often.
- Develop a tool for organizing your intake notes (See 4-square handout for an example: It is helpful to sort into **Background, Concerns, Goals, and Observations** as they talk.)

Community Mediation Center 2012

24

Step Three: Give Feedback & Clarity

- Sort their narrative into a timeline and feed it back to them. Make sure you have it right, so they can hear an organized and focused summary.
- Organize and review concerns. Shift the focus to stated and unstated goals.
- Identify areas where they need to do homework or further organize their thoughts.

Community Mediation Center 2012

25

Step Four: The Pep Talk

- Are they empowered and prepared?
- Parties are often concerned that "this is never going to work." Focus on the possibilities, on the future.
- Remind them of the high success rate in mediation.
- Review the pre-mediation tasks so they are clear on the next steps.

Community Mediation Center 2012

26
