

# Transformative Mediation at the United States Postal Service

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## Abstract

This article reviews the results of a 12-year longitudinal research program on transformative mediation of employment discrimination complaints at the United States Postal Service. The research employed mixed methods, including quantitative and qualitative survey methods, interviews, and archival data. This article focuses on how that research examined facilitative and transformative mediation styles. The research illustrates that organizational context can shape the effects of a mediator's style. It also indicates that the transformative style – by emphasizing the goals of disputant empowerment as well as recognition and by preventing mediator evaluation – may heighten disputants' perceptions of interpersonal justice (i.e. between the disputants) and reduce the perceptions of structural bias.

In 1994, the United States Postal Service (USPS) had more than 900,000 employees; it was the largest civilian employer in the world. It had a serious problem with grievance arbitration case backlogs under union contracts. In addition, its employees filed more than 24,000 individual informal employment discrimination complaints annually. Of these, roughly half proceeded to a formal administrative hearing, and many of these resulted in litigation. Ultimately, the USPS prevailed in more than 95% of all cases, because many did not actually involve prohibited employment discrimination but instead arose from other workplace conflicts. In response to the number of disputes, the USPS created REDRESS (Resolve Employment Disputes, Reach Equitable Solutions Swiftly), a conflict management program providing employees who filed discrimination complaints with free, outside neutral mediators. The USPS used the facilitative style in its pilot program from 1994 to 1997; however, for its national employment mediation program, it switched to the transformative style in 1998.

These mediations created an opportunity for quasi-experimental field research. Indiana University (IU) served as the sole outside evaluator of the mediators from 1994 to 2006; during these 12 years and tens of thousands of cases, my colleagues, students, and I used mixed methods to collect data including more than 270,000 exit surveys, 100 qualitative

surveys of dispute resolution specialists, 1,500 surveys of mediators, 250 interviews of employees, and archival records of case filing rates. We initially studied the facilitative style, then the transformative style, and then whether USPS dispute resolution specialists – who observed mediators – could distinguish between the transformative style and the more evaluative (directive) style. More recently, we explored the effect of the transformative style on disputants' perceptions of justice and upon settlement. Lastly, we explored how the program affected complaint filing rates and workplace climate.

In general, we found that most employees and supervisors were satisfied with both facilitative and transformative styles, but we concluded that the transformative style held greater promise for improving conflict management at the workplace in a program designed and managed by the employer. This article summarizes our research on the facilitative and transformative styles in USPS workplace disputes. Subsequently, it discusses lessons for future mediator style research and addresses the vexing questions of research on mediator style proposed by the editors.

## **Designing a Mediation Program in a Public and Political Context**

Generally, researchers have failed to explore the institutional contexts (Ostrom, 2006) within which mediators and disputants enact a mediator style in a system intended to provide some form of justice (e.g. distributive, procedural, organizational, restorative, and others; Bingham, 2009). Ury, Brett and Goldberg (1988) suggested that organizational context will shape the Dispute System Design (DSD), which in turn will shape how mediators practice a style. Our research on REDRESS suggests that the institutional context does shape how disputants respond to mediator style, their satisfaction, and perceptions of justice. As a public organization dealing with political forces, the USPS decides what cases to mediate, how to structure its program, what data to collect, what style to adopt, and how to measure program impact.

### **The USPS Dispute Context**

The USPS created REDRESS for individual employee complaints of discrimination arising under federal Equal Employment Opportunity (EEO) laws, including Title VII of the Civil Rights Act of 1964 (42 U.S.C. Sec. 20003, *et seq.*), Americans With Disabilities Act (42 U.S.C. Sec. 12101, *et seq.*), and Age Discrimination in Employment Act (29 U.S.C. Sec. 621, *et seq.*). The private sector National Labor Relations Board has jurisdiction over USPS's labor relations, not the public Federal Labor Relations Authority. It has at least seven collective bargaining units (including clerks, postal workers, rural and other letter carriers). The USPS has a history of sometimes acrimonious labor management relations, into which congressional oversight committees routinely inquire.

The basic REDRESS dispute system design allows an employee who files a discrimination complaint to request mediation at USPS expense, which is conducted during regular work hours within about 4 weeks of the request. The USPS assigns independent contractor mediators from among 1,500 names in a screened, diverse national roster. Employees may bring any representative they choose, and mediation occurs during paid work time. While

voluntary for the complainant, mediation is mandatory for the supervisor. Mediation sessions generally last two to 3 hours (see Bingham, Kim & Raines, 2002, which contains a discussion of settlement rate and perceptions of fairness by role and representative type).

### **Negotiating What Data to Collect**

A USPS Law Department team headed by Cynthia Hallberlin designed REDRESS. Sensitive to organizational realities, the team knew it had to make a business case for expending resources on the program and hired Indiana University as the outside evaluator. From the outset, collecting any disputant demographic information was off the table. There were concerns that data would be subject to discovery in litigation; therefore, data had to be anonymous and confidential. Moreover, there were related serious concerns about having researchers observe actual mediation sessions. As a result, at no point during the 12-year program did we conduct observational studies. All data on mediator style were indirect, through participant surveys, mediator self-reports, or USPS specialist observations.

The USPS wanted employees to learn better conflict management skills, and its research question was whether mediation would help employees learn how to resolve their workplace disputes early in the life of the conflict, before it ripened into a complaint. As for the researchers, we had twin goals: providing real-time and useful program evaluation information to the USPS and publishing refereed field research to build the body of scholarship on mediation. IU's research contract expressly provided full freedom for researchers to publish results. We agreed to collect satisfaction data, the most common way to evaluate dispute resolution. We collaborated on the exit survey drawing on procedural justice research and drafted a simple mediator case report that contained the outcome (full, partial, or no resolution) and number of participants. Participants mailed the anonymous surveys directly to IU in a postage prepaid envelope. There were no follow-up surveys. The overall response rate generally ran at 75%. Although the exit survey went through several revisions, we collected this exit survey data and mediator case reports from the inception of the pilot in 1994, throughout the national program, until we ceased data collection and the IU-USPS contract terminated in 2006.

### **Research on the Facilitative Style**

During 1994-1997, Edie Primm and the Justice Center of Atlanta (JCA) provided facilitative outside neutral mediators for the first USPS pilot programs. JCA basic mediation training entails a 40-hr course that covers the mediation process, including units on listening, the language of resolution and neutrality, referrals, opening statements, caucus, evidence, agreement writing, negotiation practice, diversity, legal and ethical considerations, trouble-shooting, escalating tensions, question-asking and rapport-building skills (Justice Center of Atlanta, 2012). In an article evaluating neighborhood justice centers using mediation, Primm (1993) lists the following as indicators of success: resolution, implementing agreements, satisfaction, and progress in understanding how the conflict occurred. Beyond these elements, the JCA website does not define, label, or characterize its style.

For these mediations, IU exit surveys employed five-point Likert scales (5 as very satisfied) about satisfaction with process (the fairness, information, opportunity to present views, control, treatment, understanding, and participation in the process with a 35-point maximum); satisfaction with the individual mediator (preparation, respect, knowledge, impartiality, performance, skill, and fairness, a 35-point maximum); and satisfaction with the outcome (outcome, speed, outcome relative to expectations, control, and long-term effects of mediation, a 25-point maximum).

In general, both employees and supervisors were highly and similarly satisfied with the facilitative process (employee average process index, 30.9; supervisors 32.2) and the mediators (employee average mediator index, 31.8; supervisors 32.9); employees were slightly less satisfied than supervisors with the mediation outcome (employee average index, 18.5; supervisors, 20.2; Bingham, 1997).

In addition to using facilitative mediation, the USPS during 1994–1997 experimented with various program designs by using employees of the USPS as inside neutral mediators. Both inside and outside neutral mediators had the same JCA training in the facilitative style. These upstate New York program structures were the same, apart from the mediator. However, the inside mediators had easier cases because USPS referred cases to them that specialists felt were more likely to settle. In other words, cases were not randomly assigned; there was selection bias in favor of inside mediators. We used analyses of variance of the same exit surveys to compare inside and outside mediators on each of the process, mediator, and outcome procedural justice indices (Bingham, Chesmore, Moon & Napoli, 2000, p. 14).

There were significant differences in perceptions of the mediator and outcome. The inside neutral mean process index was 30.51, while outside was 31.78 (marginally significant at .07 level); inside mediator index was 22.98 and outside 24.23 (significant at .01 level); and inside mediator outcome index was 18.39, while outside was 19.98 (significant at the .05 level). Also, outside mediators resolved more cases fully or partially (75%) than insiders (56%). We found that employees were less satisfied with the fairness and impartiality of inside mediators, probably because as fellow employees, they were more subject to USPS control and perceived as biased. It is of course possible the insider mediators were less skilled; however, they also had easier cases.

These findings are quite significant because they indicate that mediator style was not the only factor driving disputant satisfaction: program structure mattered.

## Choosing the Transformative Style

In 1994, Robert A. Baruch Bush and Joseph P. Folger published the first edition of *The Promise of Mediation* (1994) advocating the transformative style. I met Baruch Bush at the Law and Society conference (Toronto 1995) and called USPS attention to transformative mediation as a way to frame USPS goals to improve conflict management. Cynthia Hallberlin and the USPS design team began to consider the transformative style. During this period, practitioners were just beginning to differentiate and name varying mediator styles, and there was wide variation among individual practitioners. An evaluative mediator was generally considered to be one who would provide an opinion on the substantive, legal

merits of a discrimination complaint, who used pressing tactics with the disputants. A facilitative mediator was one who used interest-based negotiation strategies, active listening, and communication skills including reframing. Both evaluative and facilitative settlement mediators saw the primary goal as settlement.

In contrast, transformative mediators sought to foster communication between the disputants, empower them, and help them recognize each other's perspectives; settlement was merely a byproduct. A transformative mediator might help disputants identify resources and help them to get the information they needed to make decisions. Transformative mediators, if practicing appropriately in the style, would never evaluate the merits of a claim or its legal strengths and weaknesses, nor give an opinion on the likely outcome before an administrative law judge or in court.

In 1996, IU conducted qualitative, open-ended interviews of 42 employees and supervisors who had participated in facilitative mediation. The majority of employees and supervisors reported listening to each other, and being listened to, in mediation (Anderson & Bingham, 1997, pp. 606–607). This report prompted the question as to whether transformative mediation might produce more communication.

In 1997, IU presented pilot survey data and interview results to the Postmaster General and Management Committee. The USPS decided to use REDRESS nationally, and this required one consistent dispute system design. USPS Law Department system designer Cynthia Hallberlin argued that the transformative style was better in principle. It was consonant with the USPS goals to move conflict management upstream by structuring mediation in a way that would foster individual learning of better communication skills.

My role was director of the National REDRESS Evaluation Project, not designer. I agreed we should use the transformative style for different and purely instrumental reasons: an employer's control over the dispute system design can create the perception and/or reality of structural bias in organizational conflict management (Bingham, 2002a,b, 2009). By federal law, the USPS could not legally mandate that the employee complainants participate in mediation; REDRESS had to be voluntary for the complaining party (but not respondents as agents of the defending USPS).

When cases were handled through the traditional adversary process, the USPS prevailed in more than 95% of all complaints against it. This meant that in most cases, a mediator giving an opinion would probably tell complainants they had a weak case. Moreover, other federal agencies had put out requests for proposals seeking mediators who had an 80% or higher settlement rate. This created an incentive for mediators to press employees to drop their cases so as to achieve a high personal settlement rate and get more business from the agency as the repeat player paying the bills. Employees could quite reasonably conclude that mediators who expressed opinions on case merits were biased in favor of the USPS. Therefore, the system would fail in its chief goal to help employees and supervisors learn how better to manage conflict.

In contrast, transformative mediators are ethically prohibited from opining on the merits of a claim *even when the parties ask them to*. USPS program designer Cynthia Hallberlin participated in Bush and Folger's Transformative Training Design Consultation Project in 1996. Together, they collaborated on developing uniform, consistent

training for the national program in 1997 and rolled it out over 18 months beginning in 1998.

### **The Politics of Measuring Mediator Style**

The transformative style required new measurement. For example, mediator preparation and knowledge were not appropriate measures for a style (transformative) that prohibited the mediator from telling parties who had the stronger/weaker case. Moreover, traditional procedural justice measures did not measure whether parties were experiencing empowerment and recognition. Not only did we need a new measure; we needed to develop a quantitative one because the USPS has a culture of national data collection to measure productivity. Management needed to collect population data in a way that will allow it to compare geographic areas quantitatively by zip code for program consistency. Observational studies were not feasible on a national scale. In sum, the context structured the nature of our measurement.

Not only did quantitative data permit systematic comparison across geographic areas and time periods; it also was less resource intensive and expensive, and it provided information in a form that USPS managers were more accustomed to seeing: numbers. Therefore, we decided to try to develop transformative indicators, similar to procedural justice indicators in that they would use five-point Likert scale survey items.

### **Measuring Comprehension of the Transformative Style**

The USPS trained over 3,000 mediators nationwide in the transformative style to create the initial roster. It also trained over 100 regional Alternative Dispute Resolution specialists, who were USPS employees who observed each newly trained mediator mediating one or two cases. Specialists also observed mediators periodically. Specialists were responsible for intake, assigning cases to mediators, and quality control. IU researchers conducted two process or formative evaluation studies to determine whether the program was being implemented as designed (Scheirer, 1994; Wise, 1994). Both studies measured comprehension of the transformative style; neither study measured or observed the extent to which mediators actually practiced it.

The first study tried to determine whether the USPS specialists understood and enforced the transformative style (Nabatchi & Bingham, 2001). We sent qualitative e-mail surveys to specialists asking them to describe what mediator behaviors they had observed which fostered empowerment and recognition or interfered with it. They were also asked to report the behaviors that they felt were directive or evaluative. We then used grounded theory and the Ten Hallmarks of Transformative Practice to code their responses as consistent or inconsistent with the transformative style (Folger & Bush, 1996; Nabatchi & Bingham, 2001, pp. 408-409). The study yielded descriptive data on mediator behaviors. We did not obtain data on how often the observed mediators departed from the transformative style.

Most specialists reported that (a) mediators fostered empowerment by describing the process in a way that allowed participants to structure it and take responsibility for its

goals, objectives, and outcomes; (b) mediators interfered with empowerment by focusing on settlement, telling a participant that they must do some particular action, or imposing ideas or standards of conduct on the parties; (c) mediators supported recognition by paraphrasing, or surfacing points made by one party about the other's good performance, or acknowledging emotions; and (d) mediators inhibited recognition when they stopped the mediation in the face of strong emotion or tears or ignored them, or when they told the parties they were going in circles and were not agreeing. These reports clearly showed that the specialists generally understood the transformative style and could correctly identify mediator behaviors they observed as being consistent or inconsistent with transformative practice. This gave us confidence that they could conduct reasonable quality control in their observations and assist USPS mediators in practicing the transformative style.

### **Validating Transformative Style Indicators**

The second study attempted to develop questions for the exit survey that could be used to determine whether mediators on the national roster could correctly classify mediator behaviors as transformative or evaluative (Nabatchi, Moon & Bingham, 2010). We sent a survey to the 3,000 mediators on the initial USPS roster and asked the mediators to complete two tasks: to identify mediator statements as reflecting a more or less transformative mediation session and to categorize mediator tactics as transformative, evaluative or as neither. Mediators agreed that these statements reflected transformative practice: "I learned something new about the other person's point of view" (99.1%), "The other person listened to my views" (99.7%), and "The mediator helped me understand the other person's point of view" (84.8%, p. 273). In contrast, they agreed that statements such as the following were more evaluative: "The mediator told me who would win the case if we were in court" (93.5%), "The mediator pressed me to accept a resolution I was uncomfortable with" (95.6%), and "The mediator told me the strengths and weaknesses of the case" (90.1%).

Mediators' categorization of mediator actions also generally corresponded with the model. They categorized actions like "asking the parties what should be done" (93.9%), or "what the next step should be" (90.9%), or "allowing the parties to decide who should begin" (95.6%) as more transformative in practice. In contrast, "expressing a personal opinion about the dispute" (91.6%), "pressuring the parties to settle" (90.7%), "telling the parties when to speak" (90.2%), and "trying to direct the conversation to another subject" (89.1%) were categorized as evaluative or directive. These results gave us confidence that mediators had cognitive comprehension of the transformative style. Based on this study, we incorporated new items into the exit survey.

### **Measuring the Transformative Style's Impact on the Workplace**

In two other studies of the transformative style, we attempted to measure the impact of the program on the workplace more broadly. The first study used archival case filing data to examine formal complaint filing rates before and after the USPS rolled out the national transformative model of REDRESS (Bingham & Novac, 2001). We used a multivariate

regression with control variables for accounting period data on informal complaint filings by geographic district, employee census, and REDRESS implementation date over a five-year period. The dependent variable was formal EEO complaints. It took 18 months to complete the roll out, providing variability for date of implementation. We found that REDRESS implementation correlated with a substantial drop (more than 25%) in formal EEO complaints (Bingham & Pitts, 2002).

In the second study, we conducted exploratory research through qualitative interviews of a random sample of more than 200 employees (total for three cities) in New York City, Cleveland, and San Francisco before and after implementation of REDRESS (Bingham, Raines, Hedeem & Napoli, 2010). Perceptions of the EEO program appeared to improve after REDRESS. Overall satisfaction with the EEO process improved from 25% to 35%, and satisfaction with the fairness of the process improved from 20% to 44%. However, satisfaction with the fairness of the union contract grievance procedure process declined slightly from 47% to 38%.

### **Comparing the Transformative and the Facilitative Style**

Initially, we did not set out to compare facilitative and transformative mediators. However, in retrospect, we had some data to do so. Throughout the 1994–2006 period, IU collected national exit survey data using five-point Likert scale items (low, very unsatisfied as 1 to high of 5, very satisfied) adapted from the procedural justice literature (Lind & Tyler, 1988).

We found the transformative style generally produced the same pattern of procedural justice results as the facilitative style (Bingham et al., 2010; Moon & Bingham, 2007). Specifically, in analysis of more than 81,000 exit surveys completed between 1998 and 2003 (i.e. the transformation period), both employees and supervisors were equally and highly satisfied with the mediation process (the mean employee process index was 31.49 and supervisor process index was 31.79 of a maximum of 35, Moon & Bingham, 2007, p. 49). These were comparable to the facilitative model results of the previous 1994–1997 study (Bingham, 1997), which used a small sample of only 78 employees and 100 supervisors.

As we were conducting the national transformative and facilitative studies, we found it was considered politically very important that both complainants and supervisors were equally satisfied with the mediation process and the mediators. This did prove to be the case. In the final analysis of complete national program data on the transformative style (not including earlier facilitative data), we reported these following indices, using percent satisfied or highly satisfied (Bingham et al., 2010). Complainants were on average 91.2% and supervisors, 91.6% satisfied or highly satisfied with process. Complainants were 96.5% and supervisors, 96.9% satisfied or highly satisfied with the mediators. Complainants were 64.2% and supervisors, 69.5% satisfied or highly satisfied with outcome.

This pattern was consistent with the facilitative data and with basic procedural justice research findings that both complainants and supervisors are satisfied with the process, with the complainant being somewhat less satisfied with outcome.



## Changing the Way We Measure Organizational Justice

As noted previously, the transformative style differs from other styles in that the mediators' role is suppressed relative to the participants; it is essentially participant-designed mediation (Brett, 2000). Thus, communications between the disputants themselves become more salient. Most organizational justice research looks at the relation between a disputant and a neutral or higher level decision maker, not at the relation to the other disputant (e.g. Colquitt, 2001; Colquitt, Conlon, Wesson, Porter & Ng, 2001). Our theory was that disputants' satisfaction with their own interactions (i.e. disputant–disputant) would be an important factor in the perceptions of organizational justice.

To test this idea, we conducted a factor analysis using the redesigned exit survey including the transformative indicators, which were items intended to capture empowerment, recognition, and directive/evaluative mediators (Nabatchi, Bingham & Good, 2007). These were new items about the mediators' tactics (e.g. the mediator told you who would win this case in court; the mediator helped the other person understand your viewpoint). They also included items about the interpersonal communication between the disputants: (e.g. the other person listened to your views; the other person learned something new about your point of view).

Using confirmatory factor analysis, we found that a six-factor model for organizational justice best fit the data, and that the factors differed little for employees and supervisors. The six factors included distributive justice, procedural justice as to process, procedural justice as to mediator, informational justice, disputant–mediator interpersonal justice, and critically, a new factor for disputant–disputant interpersonal justice (Nabatchi et al., 2007). The presence of this last factor seems to indicate that disputants' satisfaction with their own interactions (i.e. disputant–disputant) is an important factor in the perceptions of organizational justice.

In the next step of our research, we examined the relationship between disputant–disputant interpersonal justice and settlement. We were able to use mediation date, zip code, and mediator number to match employee with supervisor exit surveys in a sample of 4,240 paired surveys. We found that disputant–disputant interpersonal justice and a separate corroboration variable (identifying when employees and supervisors in the same case agreed that they listened to each other) were strong predictors of settlement for both employees and supervisors.

This finding seems to indicate that the transformative style does a better job of fostering perceptions of disputant–disputant interpersonal justice, and thus possibly, settlement, than does the evaluative style. This is an important consideration because, in many states, the evaluative style is dominant in court-connected mediation: mediators routinely go straight to caucus after introductions (i.e. the disputants are placed in separate rooms and do not engage in face-to-face discussions). This does not allow for the development of disputant–disputant communication and might reduce disputant–disputant interpersonal justice. How these different practices might affect settlement is a question that will be addressed in future research.

## The Vexing Questions of Research on Mediator Style

The editors asked us to reflect on several vexing questions. First, *where does research on mediator style rank in importance relative to other topics on mediation or mediator behavior?* While I believe that the research on mediation style is important, it should be considered subordinate to studies of dispute system design. In some designs, the disputants will never get to mediation; therefore, the style of the mediators is irrelevant. For example, mandatory arbitration plans that shift attorneys' fees to the loser can entirely deter claim filing.

Within the context of a dispute system design that permits and encourages mediation, research on style can help us improve the quality of justice. Our research on organizational justice suggests that mediation using the transformative style may enhance disputant-disputant interpersonal justice, but whether it does so to a greater degree than a facilitative style is an open research question.

The second question is *why have we failed to make sufficient progress in research on mediation style?* Consider that style exists only in a dynamic interaction occurring among the mediator and the participants. Therefore, it is difficult to tease out and identify its effects. Important questions arise in this dynamic. I feel the primary one is how mediator style alters the relationship between the disputants. Survey data may allow for economical comparison of the impact of mediator style, although such data leave many questions unanswered.

It is difficult to conduct controlled experiments using random assignment and survey methods in the field. Even if it were easier, these designs do not peer inside the black box to tell us what effect mediator style is having upon the relationship between the disputants. Experimental designs using simulated conflicts are not the answer either. It is difficult to construct controlled laboratory experiments that recreate the authentic communication between real disputants in a way that would provide genuine insight into this dynamic. Only field observational studies can help us understand how style affects disputants' communication (e.g. Wall & Chan-Serafin, 2010). However, they, too, have limitations; once we are in the field, there is the Heisenberg uncertainty principle – does observation change what is observed? Moreover, field research on style requires cooperation from practitioners who may have strong views on what style is best or appropriate. It is politically controversial; if practitioners know researchers are comparing their style to others in a way that may come back to haunt them, they simply will not cooperate. Finally, junior scholars have a publication imperative, and observational data are expensive and time-consuming to obtain and analyze.

Another reason we have often failed to progress relates to reductionism. We need more research on mediator style in the context of dispute system design. We cannot examine the mediator's style in isolation from the corresponding behavior of participants in the context of their incentives and the institutional structures (Ostrom, 2006). A major lesson of the USPS research on mediation style is that the mediation action arena is shaped by its institutional home. When we fail to control for variations in the dispute system design in field research on mediation, we get inconsistent and confusing results that hamper our progress.

The history of court-annexed arbitration is illustrative on this point. Does court-annexed nonbinding arbitration help speed up settlement and hence benefit a court's crowded docket? It depends. If there is an automatic referral to arbitration with an opt-out and active judicial case management, probably yes. If there is a fixed rule that sets a six-month deadline for the arbitration hearing, the answer is definitely no. Why? Because parties who before the rule would settle bilaterally will instead use the six-month arbitration time limit as a focal point for timing their settlement talks (MacCoun, 1991).

There are plenty of opportunities to study mediation style in the field, if researchers are willing to structure their studies in ways that will provide useful information to the host institutions. Consider the work of Shestowsky (2008) and Shestowsky and Brett (2008). This work has disaggregated various features of dispute resolution procedures to examine what aspects of these processes are most important to disputants before and after they experience them, such as adjudicative or nonadjudicative procedures. Using this method, one could ask disputants about the mediator's ability or willingness to give a substantive legal opinion; this is one way to think about mediator style. Once we can control for features, we can look more carefully at their impact on participants' perceptions of justice.

With the tremendous growth in use and institutionalization of mediation, policy makers need scholars' help in determining how best to design, implement, and evaluate these programs. In short, we need more people studying mediator style.

## References

- Anderson, J. F., & Bingham, L. B. (1997). Upstream effects from mediation of workplace disputes: Some preliminary evidence from the USPS. *Labor Law Journal*, 48, 601–615.
- Bingham, L. B. (1997). Mediating employment disputes: Perceptions of REDRESS at the United States Postal Service. *Review of Public Personnel Administration*, XVII(2), 20–30.
- Bingham, L. B. (2002a). Why suppose? Let's find out: A public policy research program on dispute resolution. *Journal of Dispute Resolution*, 2002(1), 101–126.
- Bingham, L. B. (2002b). Self-determination in dispute system design and employment arbitration. *University of Miami Law Review*, 56(4), 873–908.
- Bingham, L. B. (2009). Designing justice: Legal institutions and other systems for managing conflict. *Ohio State Journal on Dispute Resolution*, 24(1), 1–50.
- Bingham, L. B., Chesmore, G., Moon, Y., & Napoli, L. M. (2000). Mediating employment disputes at the United States Postal Service: A comparison of in-house and outside neutral mediators. *Review of Public Personnel Administration*, XX(1), 5–19.
- Bingham, L. B., Kim, K., & Raines, S. S. (2002). Exploring the role of representation in employment mediation at the USPS. *Ohio State Journal of Dispute Resolution*, 17(2), 341–377.
- Bingham, L. B., & Novac, M. C. (2001). Mediation's impact on formal complaint filing: Before, & after the REDRESSTM program at the Postal, United States Service. *Review of Public Personnel Administration*, 21(4), 308–331.
- Bingham, L. B., & Pitts, D. W. (2002). Research Report: Highlights of mediation at work: Studies of the National REDRESS® Evaluation Project. *Negotiation Journal*, 18(2), 135–146.

- Bingham, L. B., Raines, S. S., Hedeem, T. K., & Napoli, L. M. (2010). Mediation in employment and creeping legalism: Implications for dispute systems design. *Missouri Journal of Dispute Resolution*, 2010(2), 129–150.
- Brett, J. (2000). *Personal communication at Hewlett Foundation Theory Centers Conference*. Evanston, IL: Northwestern University.
- Colquitt, J. A. (2001). On the dimensionality of organizational justice: A construct validation of a measure. *Journal of Applied Psychology*, 86(3), 386–400.
- Colquitt, J. A., Conlon, D. E., Wesson, M. J., Porter, C., & Ng, K. Y. (2001). Justice at the millennium: A meta-analytic review of 25 years of organizational justice research. *Journal of Applied Psychology*, 86, 425–445.
- Folger, J. P., & Bush, R. A. B. (1996). Transformative mediation and third party intervention: Ten hallmarks of a transformative approach to practice. *Conflict Resolution Quarterly*, 13(4), 263–278.
- Justice Center of Atlanta. (2012). Training agenda. Retrieved August 27, 2012, from <http://www.justicecenter.org/JCA-training.htm>.
- Lind, E. A., & Tyler, T. R. (1988). *The social psychology of procedural justice*. New York: Springer.
- MacCoun, R. J. (1991). Unintended consequences of court-annexed arbitration: A cautionary tale from New Jersey. *Justice System Journal*, 14, 229–243.
- Moon, Y., & Bingham, L. B. (2007). Transformative mediation at work: Employee and supervisor perceptions on USPS REDRESS program. *International Review of Public Administration*, 11(2), 43–55.
- Nabatchi, T., & Bingham, L. B. (2001). Transformative mediation in the United States Postal Service REDRESS™ program: Observations of ADR specialists. *Hofstra Labor & Employment Law Journal*, 18(2), 399–427.
- Nabatchi, T., Bingham, L. B., & Good, D. H. (2007). Organizational justice and workplace mediation: A six-factor model. *International Journal of Conflict Management*, 18(2), 148–176.
- Nabatchi, T., Moon, Y., & Bingham, L. B. (2010). Evaluating transformative practice in the USPS REDRESS program. *Conflict Resolution Quarterly*, 27(3), 257–289.
- Ostrom, E. (2006). *Understanding institutional diversity*. Princeton: Princeton University Press.
- Primm, E. (1993). The neighbor justice center movement. *Kentucky Law Journal*, 81, 1067–1083.
- Scheirer, M. A. (1994). Designing and using process evaluation. In J. S. Wholey, H. P. Hatry & K. E. Newcomer (Eds.), *The handbook of practical program evaluation*. San Francisco: Jossey-Bass.
- Shestowsky, D. (2008). Disputant's preferences for dispute resolution: Why we should care and why we know so little. *Ohio State Journal on Dispute Resolution*, 23, 549–625.
- Shestowsky, D., & Brett, J. (2008). Disputants' preferences for dispute resolution procedures: A longitudinal pre- versus post-experience study. *Connecticut Law Review*, 41, 63–107.
- Ury, W. L., Brett, J. M., & Goldberg, S. B. (1988). *Getting disputes resolved: Designing systems to cut the costs of conflict*. San Francisco: Jossey-Bass.
- Wall, J. A., & Chan-Serafin, S. (2010). Do mediators walk their talk in civil cases? *Conflict Resolution Quarterly*, 28, 3–21.
- Wise, C. R. (1994). *Personal communication at Indiana University School of Public and Environmental Affairs*, Bloomington, IN.

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