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Practice Note

Sociologists as Mediators: Clinical Sociology in Action

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ABSTRACT

Clinical sociology is receiving increasing attention at the undergraduate and graduate level and among practicing sociologists. Much has been written about how the undergraduate and/or graduate curriculum can be modified to respond to the demands for a more applied or clinical approach. Little, however, has been written about how a department might involve its current and future faculty in a clinical program.

One program which has successfully integrated a strong liberal arts based program with an active clinical emphasis is the University of Arkansas at Little Rock's Humanist as Mediator program. This program is instructive in that it has achieved a high level of programmatic success and at the same time enjoys the support of participating faculty. This program is discussed as a prototype for those interested in initiating or enhancing a clinical sociology program for faculty.

Clinical sociology is receiving increasing attention at the undergraduate and graduate level and among practicing sociologists. In light of the changes which have occurred among potential employers of sociology graduates, changes among students and changes in opportunity for Ph.D. and M.A. graduates in sociology, the modifications under way in the discipline are not surprising. The increasing interest in applied and clinical sociology is a rational response to the changes going on in our society and among both undergraduate and graduate students.

Much has been written about how the undergraduate and/or graduate curriculum can be modified to respond to the demands for a more applied or clinical approach (Freeman and Rossi, 1984; Miller, 1983; *Teaching Sociology*, 1983). Little, however, has been written about how a department might involve its current and future faculty in a clinical program.

As Howery points out (1984), it is especially important for a department, as a collective, to develop programs which are supportive of the department's mission. I am not arguing against individuals involving themselves in applied

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or clinical action. In the academic marketplace of today, however, departments rise and fall as collectives.

As I have noted elsewhere (Miller, 1983), the perspective of sociology is a powerful tool in empowering students. This is also true in the case of faculty. Sociology emphasizes the clinical skills of communication, research, administration/application and classification. Specifically, sociologists are trained to pay attention to the impact of ethnic, sex role, age, and family differences. Our methods emphasize seeing, questioning, reporting, and listening. Our practice includes empathy, interpersonal communication, interpretation, and involvement.

The mediation program of the University of Arkansas at Little Rock is successfully involving liberal arts faculty in a clinical setting. This program is instructive in that it has achieved a high level of programmatic success and at the same time enjoys the support of participating faculty and the justice system.

A Pioneering Program

Nationally, mediation is increasingly available as an alternative to litigation for the resolution of disputes. Mediation Centers—complete with professional mediators and a corps of administrators—exist in most major metropolitan areas. New pilot programs get announced monthly.

The mediation program at the University of Arkansas at Little Rock (UALR) is part of this trend. However, it uses volunteer mediators, liberal arts professors whose training and experience suit them for efforts at reconciliation. This use of voluntary mediators distinguishes our program from most others which rely on salaried mediators and full-time administrators. Our administrative costs are born by the College of Liberal Arts. Consequently, the administration of the project is lean and efficient, and the cost-per-case for mediation is extremely low. In times of tight budgets and close administrative scrutiny of new programs, the mediation program discussed here can be launched and maintained on a minimal budget.

Sociologists as Mediators

Since 1980 UALR's College of Liberal Arts has provided mediation services to the County Small Claims and Juvenile Courts. Funding for this unique program has come from the Arkansas Endowment for the Humanities, Aetna Life and Casualty Foundation, and the County Quorum Court. The funding pays faculty mediators \$30.00 a case and supports a student intern at minimum wage.

The primary assumption of this project is that the liberal arts, especially disciplines such as sociology and psychology, teach skills useful for the resolution of disputes. The project began with this assumption, and it has been proven

accurate over the years. Sociologists, who have a concern for people and a desire to increase understanding among people, are a natural ally to the courts, where often litigation occurs because of failed communication. More specifically sociologists with an understanding of small group dynamics—especially the “triad” (Simmel, 1955) and symbolic interaction, or the ability to “take the role of the other” (Mead, 1962)—have proven effective mediators.

Many sociologists have training, experience, and an interest in working with people and solving human problems. Sociology provides them with the skills to analyze a situation objectively, while not losing sight of the individual. Attention to the symbolic interaction occurring and the dynamics of the “triad” within the mediation setting is combined by the sociologist-mediator with the transferable classroom skills of listening, probing, moderating, summarizing, speaking, explaining, evaluating, and balancing. Sociologists also report that familiarity with the social meaning of roles and status such as age, sex, race, and ethnicity have aided them in “taking the role” of both the plaintiff and the defendant and in their helping plaintiff and defendant understand each other’s position.

In addition, we have found the academic sociologist acting as a mediator has more time to nurture better interpersonal communication than does a judge, who is often overworked and under pressure to dispose of cases quickly. Furthermore, judges by definition must act according to law, even when the law does not prescribe what might be the best solution. The sociologist as mediator, on the other hand, can mediate each case on its own merits and needs. When participating in a mediation, the mediator can encourage the two parties to engage in a lively give and take, while in court, communication is between the judge and defendant or plaintiff, never between plaintiff and defendant. In court, defendant and plaintiff are discouraged from speaking unless directed to do so by the judge.

In the past year, UALR’s mediation project began to work with criminal cases as well as civil. Recurring neighborhood disputes, continuing disagreements between children and parents and/or stepparents, and long-lived arguments between individuals lend themselves to mediation by a disinterested mediator. The mediator’s involvement over a prolonged period of time, working closely with both parties, has gotten these cases out of the judicial system.

In civil cases, the project has been equally successful. In 1984 the number of cases mediated increased by over 25% to a total of 390 cases, with no diminution in success rate—currently 77%.

Existing Mediation

A project director coordinates the workings of the courts, their representatives, the student interns, and the mediators. It is his or her responsibility to assure the integration of the mediation program into the courts, to supervise the training

of the interns and mediators, and to help evaluate the program as it progresses and expands.

A paid student intern serves each court to choose cases appropriate for mediation. Appropriate cases are those that fall within the small claims statute and those referred to the project by the various courts. The intern contacts plaintiff, defendant, and mediator, arriving at a mutually agreeable meeting time. Criminal cases, because of their prolonged nature, are handled somewhat differently. The judge suspends the criminal charge for six months, referring the case to mediation. The mediator arranges an initial meeting between both parties and airs the dispute. Over the six-month period that ensues, if a problem arises between the disputants, they contact the mediator rather than the court. Meetings are arranged and continued dialogue occurs. At the end of the six-month period, the mediator sends the court a report. The judge decides final disposition of the criminal case, in large part according to the mediator's recommendation.

Process Example

While each case is different, the mediation process follows a fairly routine course. Mediation begins with introductions and an explanation of the program by the mediator. The advantages of mediation are explained to plaintiff and defendant, such as no court costs, less rules, and compromise as a possible outcome.

The mediator then hears from the plaintiff and the defendant. Discussion might begin with broad diagnostic questions from the mediator such as, "What is your view or interpretation of your disagreement with Mr. Smith?" Synthesis questions can be used as follow-ups such as, "How does this relate to your complaint or your response to Mr. Smith's complaint?"

Next, the mediator applies his or her skills in searching for points of agreement or disagreement, focusing in on the root of the problem. This is where the sociological skills of "taking the role of the other" and the definition of the situation as to age, sex, race, income, prestige, etc., comes into play. The mediator must be able to "see" the problem from the point of view of both plaintiff and defendant. Sensitivity to real or perceived power differentials based on sex, race or age must also be exercised.

The mediator must often use the skills of questioning, summarizing, probing and moderating to reach agreement on exactly what the issue is. Questions of clarification as to "Who did what, when and why?" are crucial in making sure everyone is talking about the same things. Questions asking the parties to summarize their position or their view of the situation are useful at this point. The mediator can close this phase of the process by summarizing the two points of view—their agreement or disagreement—in his/her own words such as "What I hear you saying is . . ."

During the next phase of mediation the parties are asked to suggest solutions

and negotiation often ensues. Again the sociological skills enumerated above come into play. Creativity may be called for at this point in the process. Specifically, questions of action and or decision can be raised by the mediator. For example, "What is the most important issue?" or "Which issue or issues should we address?" If that fails, the mediator can take the initiative and suggest, "From what you have told me . . . appears to be the key issue(s). Am I correct?"

Mediation is concluded in one of three ways. First, mediation can fail. If this occurs, the plaintiff has the option of going to court. Second, the case can be successfully mediated. Success means the two parties agree to a solution. Solutions can often be arrived at by encouraging the parties to think hypothetically. "Suppose that Mrs. Jones agrees to . . . Would that satisfy you?" If an agreement is made, it becomes the judgment of the court in small claims, while in juvenile and criminal court it becomes a recommendation to the judge. Finally, if for some reason more time is needed (such as when additional data is needed), the case can be continued and another mediation session scheduled.

Training

The success of the UALR program is partly based on the thorough training that each mediator undergoes. A mediation handbook has been prepared for each mediator (McNally, 1982). The handbook, authored by a participant in the program, discusses the purpose and philosophy of the program, the role of the mediator, and the mediation procedure and suggests some mediation strategies. Training is conducted yearly in a day-long workshop given by experienced mediators.

We have found that materials such as, short papers, descriptive case examples and descriptive materials about the justice system (Merritt, 1984; Miller, 1984) prepared by experienced mediators are much more effective in orienting new mediators than is a reading list of academic articles. Workshop topics include a description of the mediation program, the role of the mediator, and small group techniques. As mentioned above, the utility of understanding the dynamics of the "triad" and the importance of symbolic interaction is stressed by the sociologist and psychologist who lead the session on small group dynamics.

Consultants with expertise in mediation/arbitration are brought in to highlight general mediation strategies and skills. These individuals are drawn from the College of Business, the School of Law, and the Federal Mediation Service. Role-playing in a simulated mediation session completes the workshop.

Evaluation

The project director evaluates the success of the various components of the project on a day-to-day basis. It is the director's responsibility to make any

changes that are necessary in the workings of the courts, interns, and mediators. The project director is the problem solver, constantly evaluating and fine-tuning the project's administration. The mediators are asked for an evaluation of the program at the close of the budget year.

An advisory panel made up of court personnel and liberal arts faculty meets at least twice a year for a thorough evaluation of the program. The director makes contact frequently with court personnel as individual problems arise. Plaintiff and defendant also complete evaluation forms which are returned to the project director for analysis. Success is measured by the degree of satisfaction expressed by the clients of the program and by the percentage of cases resolved.

New Directions

The County Chancery Court envisions utilizing mediators in divorce cases. Initially mediators will help the parties divide property in an amicable manner. There are many cases where the parties need to talk to a disinterested third person so that photographs and items of sentimental value, as well as minor property items, are divided to the satisfaction of each litigant. Eventually we envision that more complex issues such as child custody and visitation will be handled by the mediators.

At the request of the County Judge, mediation is also available to disputing governmental agencies. This program provides disagreeing (often competing) governmental units with the means for resolving territorial disputes outside the expensive and time-consuming judicial process.

Clinical Sociology: An Opportunity

Applied work in sociology can include clinical practice, policy analysis, consultation to business and applied social research (Rossi, 1980). The mediation program described here is an example of sociology faculty involving themselves clinically. Mediation provides sociology faculty with a means to apply their sociological skills outside academe in a clinical setting.

A mediation program like the one described here, based in a department of sociology, is responsive to the needs of faculty to apply their sociological skills. Such programs result in faculty becoming intimately involved in the workings of an increasingly important community institution—the justice system. The program described has resulted in increased visibility for sociologists as “problem solvers” with “marketable skills.” Expanded opportunities for paid internships has also been a positive outcome. Although UALR's program is based and coordinated at the College level, the skills and perspective of clinical sociology seem especially congruent with a mediation program based in the department, which integrates a clinical emphasis and a liberal arts perspective.

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