Introduction: An Intentional Conversation About Public Engagement and Decision-Making: Moving from Dysfunction and Polarization to Dialogue and Understanding

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AN INTENTIONAL CONVERSATION ABOUT PUBLIC ENGAGEMENT AND DECISION-MAKING: MOVING FROM DYSFUNCTION AND POLARIZATION TO DIALOGUE AND UNDERSTANDING

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The Dispute Resolution Institute (DRI) was founded in 1991[1] under the leadership of Bobbi McAdoo and its first symposium,

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1.   The Dispute Resolution Institute was founded at Hamline University

1439

Moving to the Next Level in Transformative Mediation: Practice, Research and Policy, was held in 1999. Over the course of the next sixteen years, DRI developed and refined a particular methodology for its symposia, captured by the common title of "An Intentional Conversation" which is then followed by a specific theme for each symposium.[2] The intent behind this can best be captured by the following:

> DRI symposia bring together scholars and practitioners to engage in purposeful conversation around critical issues in the field of conflict studies and dispute resolution. Each symposium theme is different, but all share a unique and intimate in-the-round format that intentionally supports engaged and focused conversation and exploration in the symposium's area of focus and whose role is to frame, open up, and promote dialogue in which all attendees fully engage . . . .[3]

The 2015 Symposium, *An Intentional Conversation About Public Engagement and Decision-Making: Moving from Dysfunction and Polarization to Dialogue and Understanding,* took place October 23–24 (with a pre-conference reception the evening before at the James J. Hill House).[4] While DRI Symposia have consistently operated under the "intentional dialogue" theme, this one was unique in

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School of Law, which merged with William Mitchell College of Law in December 2015 to form Mitchell Hamline School of Law. When the DRI hosted the Symposium, the law schools had not officially merged. Mitchell Hamline Law Review, however, is publishing this issue.

2. DRI Symposia include: *An Intentional Conversation About Race, Mediation and Dispute Resolution* (2001); *An Intentional Conversation About Restorative Justice, Mediation and the Practice of Law* (2003); *An Intentional Conversation About the Globalization of ADR* (2005); *Intentional Conversation About Conflict Resolution in Health Care* (2007). From 2008 to 2011, DRI paused in its symposium activity to organize three international conferences and publish four volumes of scholarship as part of the *Rethinking Negotiation Teaching Project. See generally* DISPUTE RESOL. INST., *Symposium on Advanced Issues in Dispute Resolution*, MITCHELL HAMLINE SCH. L., http://mitchellhamline.edu/dispute-resolution-institute/symposium-on-advanced-issues-in-dispute-resolution/ (last visited Aug. 11, 2016).

3. DISPUTE RESOL. INST*., Symposia on Advanced Issues in Dispute Resolution*, MITCHELL HAMLINE SCH. L., http://mitchellhamline.edu/dispute-resolution-institute/symposium-on-advanced-issues-in-dispute-resolution/ (last visited Aug. 11, 2016).

4. DISPUTE RESOL. INST., Symposium, *An Intentional Conversation About Public Engagement and Decision-Making: Moving from Dysfunction and Polarization to Dialogue and Understanding*, MITCHELL HAMLINE SCH. L. (Oct. 23–24, 2015), http://open.mitchellhamline.edu/dri_symposia/2015/.

that it was an "intentional conversation" about conversation (or dialogue). This meant that we had the added opportunity not only to have the substantive conversation about engagement, but also to reflect on the ways that we were engaging and to demonstrate different options.

Another unique feature of DRI's Symposia is that participation is by invitation only. In order to have the type of rich conversation organizers envisioned, it was critical to ensure that a range of perspectives were in the room. In the first phase, the planning committee, which included DRI Director Sharon Press, Associate Director Kitty Atkins, Professor Emerita Bobbi McAdoo, Professor Ken Fox, Professor Jim Coben, DRI Senior Fellow Aimee Gourlay, and Office of Collaborations and Dispute Resolution Director Mariah Levison identified appropriate "theme leaders." The role of theme leaders was not to present a paper or fully formulated idea, but rather to "tee-up" the conversation that would follow amongst the participants. In addition, theme leaders were invited to use the Symposium to further refine their ideas and to write articles for this Symposium Issue of the Law Review.

In planning the Symposium, we decided that this theme would lend itself to a series of symposia and that initially we would focus our attention on Minnesota as a microcosm of what was happening nationally (and perhaps internationally, as well). Minnesota's story is an interesting one because it went from a legendary period in the 1970's when "people worked together across party lines to pass needed legislation to a much more polarized environment for local and state decision-making."[5] In identifying theme leaders, the planning committee focused primarily on Minnesota with a small number of nationally recognized individuals who would add to the perspectives in the room.

LEADERS AND SPEAKERS

The national theme leaders included:
- Lisa Blomgren Amsler, Keller-Runden Professor of Public Service, School of Public and Environmental Affairs, Indiana University;
- David Matz, Professor, Department of Conflict Resolution, Human Security, and Global Governance,

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5.   DISPUTE RESOL. INST., 2015 HIGHLIGHTS 5 (2015) (on file with author).

McCormack Graduate School, University of Massachusetts—Boston;

- Bernie Mayer, Professor of Conflict Resolution, The Werner Institute, Creighton University School of Law;
- Tina Nabatchi, Associate Professor of Public Administration and International Affairs, Faculty Research Associate at the Program for the Advancement of Research on Conflict and Collaboration, Maxwell School of Syracuse University;[6] and
- Robert Stains, Senior Vice-President for Training for the Public Conversations Project.

The Minnesota theme leaders and moderators included:

- Public Officials: Toni Carter, Ramsey County Commissioner; George Latimer, former St. Paul Mayor and former Hamline School of Law Dean; Roger Moe, former Majority Leader of the Minnesota State Senate and current lobbyist;[7] and Jaime Tincher, Governor Dayton's Chief of Staff.
- Professors/Academics: Jim Coben, Mitchell Hamline School of Law; Ken Fox, Hamline University School of Business; Tadd Johnson, American Indian Studies Department Chair, University of Minnesota—Duluth; Sharon Press, Mitchell Hamline School of Law; Kathy Quick, Humphrey School of Public Affairs, University of Minnesota; and Wyman Spano, Director, Masters in Advocacy and Political Leadership, Metropolitan State University.
- Minnesota Department of Human Rights:[8] Commissioner Kevin Lindsey; Hector Garcia, Council on Latino Affairs former Executive Director; Annamarie Gutsch, Indian Affairs Council former

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6. Due to personal reasons, Professor Nabatchi was not able to join the Symposium but did contribute a piece co-authored with Professor Amsler.

7. Moe was elected to the Senate in 1970 and served as the Senate Majority Leader for 22 years before stepping down in 2002. Michael Khoo, *Profile: Roger Moe*, MINN. PUBLIC RADIO (Sept. 16, 2002), http://news.minnesota.publicradio.org /features/200209/12_khoom_moeprofile/ ("During his tenure, Moe . . . developed a reputation as a master negotiator, earning respect from those who sat across the table from him.").

8. The Executive Director of the Council on Disability was not available to participate in the Symposium so a board member attended as a participant.

Executive Director;[9] Sia Her, Council on Asian Pacific Minnesotans Executive Director; and Edward McDonald, Minnesotans of African Heritage former Executive Director.[10]

- Governmental Agencies: Colleen Landkamer, USDA Rural Development State of Minnesota Director.
- Foundation Representative: Kristen Martin, Wilder Center for Communities Vice-President.
- Print Media: Gail Rosenblum, Minneapolis *Star Tribune* Columnist.
- Activist: Rashad Turner, Black Lives Matter—Saint Paul Organizer.[11]

The invited participants also represented a range of backgrounds and perspectives.[12] In addition to the categories listed above, the planning committee invited:[13] teachers and civic educators, community mediation program directors, religious leaders, League of Cities, public process practitioners, and law students. Attention was also given to standard diversity concerns to

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9.   Currently with the Center for American Indian and Minority Health, University of Minnesota—Duluth.

10.   The DRI invited Hector Garcia and Edward McDonald to participate in the Symposium as the Executive Directors of these organizations. After the Symposium, they stepped down from their roles.

11.   It is useful to note that in the period of time leading up to the Symposium, the Black Lives Matter Movement had become active across the country. In Minneapolis and St. Paul, the movement included: protest at Mall of America that had led to arrests; protest at the State Fair; and a "die-in" protest blocking the light rail prior to a Vikings football game. As an organizer, I felt it was critical to have someone from Black Lives Matter as one of the theme leaders. In order to have a real conversation about these issues, we need to consider the voices and perspective of those for whom dialogue has not proven to be effective.

12.   A missing perspective was that of individuals who align themselves politically with Republican philosophies. The planning team made many attempts to identify and invite such individuals but ultimately was unsuccessful. It was noted as a missing voice in the room.

13.   For a complete list of the participants and their affiliations, see DISPUTE RESOL. INST., *Symposium Participant List, An Intentional Conversation About Public Engagement and Decision-Making: Moving from Dysfunction and Polarization to Dialogue and Understanding*, MITCHELL HAMLINE SCH. L. (Oct. 23–24, 2015), http://open .mitchellhamline.edu/cgi/viewcontent.cgi?article=1027&context=dri_symposia.

ensure a good mix in terms of race, ethnicity, and age, as well as, including individuals who lived in Greater Minnesota.

Prior to the Symposium, each participant was sent an e-mail which included the list of participants, the Symposium Agenda, a starting set of working definitions for "public engagement, collaborative governance, and civic engagement,"[14] and an article by theme leaders Tina Nabatchi and Lisa Blomgren Amsler, entitled *Direct Public Engagement in Local Government,*[15] in which they introduce a framework for exploring variations in direct public engagement in local government and then use that framework to examine what is currently "known" and where more research is needed. The planners also took the opportunity to model good practice for public engagement events by including the following questions:

> To make the most of the time we have together, please consider the following questions in advance. It is not necessary for you to send us your answers (unless there is something you believe we should know in advance as we finalize the structure for our time together):
>
> - What could happen in this symposium that would leave you feeling that it had been a worthwhile investment of your time? What can you do to contribute to making that happen?
> - What could happen in this symposium that would leave you regretting that you had participated? What can you do to prevent that from happening?
> - What three questions would you most like to pose during the symposium? What questions would you like people to ask of you?

SYMPOSIUM AGENDA

The Symposium was organized into three sessions. The first session, *Setting the Context,* was moderated by Ken Fox and was described as one in which the group would "collectively develop

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14. *See* DISPUTE RESOL. INST., *Pre-Symposium Materials*, MITCHELL HAMLINE SCH. L., http://open.mitchellhamline.edu/dri_symposia/2015 /pre_symposium_information/ (last visited Aug. 11, 2016). The e-mail also indicated "[t]hese definitions are offered not as definitive statements, but rather as a starting point for our discussion."

15. Tina Nabatchi & Lisa Blomgren Amsler, *Direct Public Engagement in Local Government*, 44S AM. REV. PUB. ADMIN. 63S, 68S (2014).

the questions and themes which contribute to making 'public engagement' dysfunctional and/or polarizing."[16] The "theme leaders" included Hector Garcia, Commissioner Kevin Lindsey, Roger Moe, Gail Rosenblum, Robert Stains, and Rashad Turner. Each theme leader was asked to answer very briefly what s/he saw as the biggest/deepest challenges related to public engagement, what one challenge related to public engagement would s/he want to tackle, and why was that challenge selected.

After the Theme Leaders spoke, each participant was invited to identify, on post-it notes, what issue(s) relating to public engagement each found "most vexing" or "in need of being addressed" that they wished to explore in greater depth. Over the break, the post-it notes were grouped into the following nine themes and participants were asked to join whichever group they wished:[17]

1) Including the Middle and Extremes in Dialogue—Process.
2) Using Technology to Advance Engagement and Dialogue.
3) Story: Understanding Story, Values, and Beliefs.
4) Establishing Trust.
5) Anonymity.
6) Addressing Systemic and Power Barriers to Engagement and Dialogue.
7) Capturing the Human/Relational Elements of Engagement Given Our Fast-Paced Individualistic Society.
8) Embodying the Values of Engagement—Way of Being.
9) Why "Do" Public Engagement—Goals?

Each group had a re-assigned facilitator and the discussion was captured on flip chart paper. After lunch, during which

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16. DISPUTE RESOL. INST., *Symposium Agenda, An Intentional Conversation About Public Engagement and Decision-Making: Moving from Dysfunction and Polarization to Dialogue and Understanding*, MITCHELL HAMLINE SCH. L. (Oct. 23–24, 2015), http://open.mitchellhamline.edu/cgi/viewcontent.cgi?article=1026&context=dri_symposia.

17. For a list of issues included in each theme, see DISPUTE. RESOL. INST., *Session One Notes, An Intentional Conversation About Public Engagement and Decision-Making: Moving from Dysfunction and Polarization to Dialogue and Understanding*, MITCHELL HAMLINE SCH. L. (Oct. 23–24, 2015), http://open.mitchellhamline.edu/cgi/viewcontent.cgi?article=1030&context=dri_symposia.

participants were encouraged to continue their conversations, the facilitators shared with the full group a synthesis of the key themes from each of their small groups.

The second session was entitled: *Rethinking Public Engagement: What Have We Learned and What Can We Do Better?* Sharon Press served as the moderator and the theme leaders included: Professor Lisa Blomgren Amsler, County Commissioner Toni Carter, Professor Tadd Johnson, Colleen Landkamer, Professor David Matz, Professor Kathy Quick, and Wyman Spano.

Press framed Session Two by highlighting that the first session was the "what" of public engagement and for Session Two, the group would turn to the "how" of public engagement. The theme leaders were asked to identify public engagement processes and activities where the concerns raised in the first session were and were not addressed effectively. Through large and small group work, participants explored what could be learned from their collective experiences and what work remains to be done. Specific questions the theme leaders were asked to explore included: What does it mean to be heard? How do we achieve "real" engagement as opposed to show engagement? How do we most effectively impact decision-makers? How do we engage those who don't want to be there? Is there a role for "intentional disruption" and how do we ensure voice for those who are disenfranchised?

After the theme leaders each shared some thoughts, the participants met in small, pre-assigned groups with a facilitator. Groups were assigned in a manner to provide a mix of background and experience in each group. Each person in each group was asked to answer each of the four questions orally. One person per group was assigned to collect (in writing) the answers for each question (so that four different people in each group were collecting answers—one person for question one, one person for question two, and so on). The four questions were:

1) Identify public engagement process techniques that you have found to be productive.
2) Identify skills needed to effectively manage public engagement processes.
3) Identify constraints that impede the ability to run effective public engagement processes.
4) What would public engagement look like in a perfect world (if there were no constraints)?

In the next phase of this small group work, all of the people (from each group) who collected answers to question one met together, all of the people who collected the answers from question two met together and so on. For this small group work, we were interested in collecting the information and also in demonstrating a technique that enabled everyone's contribution to be heard and added to the mix. The compilation of answers to each question was posted on flip chart paper for everyone to view during the informal reception prior to the working dinner.[18]

Participants were pre-assigned to tables where one person had been asked to facilitate the conversation. The facilitators collected responses from the participants as to insights from the day and key takeaways, as well as, given the conversation, "collectively, what can all of us do to improve public decision-making." The information from each table was collected, put onto flip charts, and reviewed in order to shape the final session that took place the next morning.

When participants arrived the next morning, they were invited to do a "gallery walk" to see all of the responses from the prior sessions (including the dinner conversations). Session Three, *Where Do We Go From Here?,* was moderated by Professor Jim Coben. The theme leaders were: Annamarie Gutsch, Sia Her, George Latimer, Kristine Martin, Bernie Mayer, Edward McDonald, and Jaime Tincher. The room was set so that participants were seated in a single large circle. The session began with opening reflections from each of the theme leaders and then participants were invited to share their own reflections and personal post-symposium plans. The Symposium concluded with remarks from Symposium hosts Sharon Press and Mariah Levison.

While the final official outcome of this Symposium is the special issue of the Law Review, the Dispute Resolution Institute expressed a commitment to continue working on issues of public engagement and decision-making. In the conclusion to this introduction, some of the actions that have already begun will be described.

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18. A compilation of the answers from these questions can be found at DISPUTE RESOL. INST., *Post-Symposium Materials*, MITCHELL HAMLINE SCH. L., http://open.mitchellhamline.edu/dri_symposia/2015/post_symposium_informat ion/ (last visited Aug. 11, 2016).

SETTING THE CONTEXT

The essays and articles authors submitted to this issue reflect the richness of the dialogue at the Symposium, the lingering questions and challenges posed by the conversations had, and the insightful application of the substance of these conversations. In this collection of writings, the authors reflect on public engagement issues or scenarios that they have researched, experienced personally, and addressed practically. Notably, the authors address the dysfunction and polarization in U.S. society during the political season in which the Symposium took place and use this context to posit an even greater need for "something more" real than show public engagement processes, which we discussed during the Symposium. The authors uniformly posit that traditional processes are not enough, especially in the polarized society existing today, and provide suggestions to foster real engagement.

A heavily contested presidential election campaign season was garnering increasing national attention when we gathered at Hamline University for our conversation about public engagement and the barriers to it. Through a multitude of debates, stump speeches, and interviews, the apparent Republican frontrunner, Donald Trump, drew divisive lines between people in American society based on religion, ethnicity, language, sexuality, and gender.[19] His messages angered and confounded attendees; however, even more alarming to us, his messages drew large crowds of supporters.[20] During the winter and spring, when authors worked on their essays and articles, Trump's apparent frontrunner

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19. *See, e.g., Here's Donald Trump's Presidential Announcement Speech*, TIME (June 16, 2015), http://time.com/3923128/donald-trump-announcement-speech/ (including a video of the announcement and transcribed text, which includes his description of Mexican immigrants as "rapists"); Jenna Johnson & David Weigel, *Donald Trump Calls for 'Total' Ban on Muslims Entering United States*, WASH. POST (Dec. 8, 2015), https://www.washingtonpost.com/politics/2015/12/07/e56266f6-9d2b-11e5-8728-1af6af208198_story.html.

20. Seth McLaughlin, *Donald Trump's Comments Spark Poll Surge, Put 2016 Republican Hopefuls on the Spot*, WASH. TIMES (July 2, 2015), http://www.washingtontimes.com/news/2015/jul/2/donald-trump-comments-spark-poll-surge-put-2016-re/?page=all (reporting that Trump's popularity rose in the polls after his disparaging remarks about Mexicans).

status solidified as he won successive Republican primaries and his opponents dropped out of the race.[21]

In July 2016, Trump accepted the Republican presidential nomination. Several times this pre-election season, newscasts have reported confrontations between Trump supporters and opponents resulting in physical violence at campaign events.[22] Trump's messages of exclusion have become increasingly vitriolic, blaming Muslims, the immigration policies of President Barack Obama, and Democratic presidential candidate Hillary Clinton for a recent attack on a nightclub in Orlando, Florida.[23]

The nightclub, which attracted primarily lesbian, gay, bisexual, and transgender (LGBT) patrons, was the site of one of the largest mass shootings in the history of the United States.[24] The shooter was a young U.S. citizen of Afghan descent who proclaimed his affiliation with ISIS before carrying out the attacks.[25] Initial reports are that he attacked the people inside because this was a gay bar.[26]

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21. David A. Graham, *The 2016 U.S. Presidential Race: A Cheat Sheet*, THE ATLANTIC (June 8, 2016), http://www.theatlantic.com/politics/archive/2016/06 /2016-election/384828/ (providing a list of current and former candidates from all political parties nominating a presidential candidate).

22. *See, e.g.*, *Violence as Trump Brings Immigration Rhetoric to Border*, CBS NEWS (May 28, 2016), http://www.cbsnews.com/news/donald-trump-protesters-violent-california-rally-gop-election-2016/ (including video and report about violent clashes between Trump supporters and protesters at a San Diego campaign event); Ben Mathis-Lilley, *A Continually Growing List of Violent Incidents at Trump Events*, SLATE: THE SLATEST (Apr. 25, 2016), http://www.slate.com/blogs/the_slatest/ 2016/03/02/a_list_of_violent_incidents_at_donald_trump_rallies_and_events .html (chronicling various violent clashes at Trump campaign events).

23. Jonathan Martin & Alexander Burns, *Blaming Muslims After Attack, Donald Trump Tosses Pluralism Aside*, N.Y. TIMES (June 13, 2016), http://www.nytimes.com/2016/06/14/us/politics/donald-trump-hillary-clinton-speeches.html?_r=0 (arguing that Hillary Clinton cannot claim to support LGBT victims of the attack or the LGBT community because she supports immigration policies that bring "Islamic extremists" to the United States).

24. Cody Dulaney & John Bacon, *Islamic State Linked to Worst Mass Shooting in U.S. History*, USA TODAY (June 12, 2016), http://www.usatoday.com/story/news /nation/2016/06/12/shooting-orlando-club/85785254/.

25. Ralph Ellis & Michael Pearson, *After Outcry, FBI Releases Full Transcript of Orlando Nightclub Shooting Call*, CNN (June 21, 2016), http://www.cnn.com/2016 /06/20/us/orlando-nightclub-shooting/ (discussing the political debate around the FBI releasing the transcript of Mateen's 911 calls).

26. *Id. But see* Adam Goldman, *FBI Has Found No Evidence So Far That Orlando Shooter Targeted Pulse Because It Was a Gay Club*, WASH. POST (July 15, 2016), https://www.washingtonpost.com/world/national-security/no-evidence-so-far-to-

Importantly, before the identity of the shooter became known, the crime was publicized as a "shooting" at a "gay bar."[27] What looked at first to be a tragic hate crime turned into a "terrorist" attack when the ethnic identity of the shooter was reported.[28]

The shockwaves of this attack and the political responses to it illustrate how divided we are and how desperately we need authentic public engagement. Since the attack, opportunities abound to give sound-bite responses and to direct blame, but pitifully few to engage, converse, deliberate, and connect over the issues that this attack has raised. This tragedy has fed into our collective dysfunction and polarization. While communities that are identifiable based on ethnicity, language, or sexual orientation often converge and overlap, the dominant culture separates them and pits one against the other.

According to a dishearteningly popular view, immigrants, specifically Muslim immigrants and refugees, pose an ongoing threat to our country that must be contained through armed policing or by prohibiting entry to the United States at all.[29] Lost in the fervor over how best to "fight terrorism" are constructive conversations that we could engage in about experiences for sexual minorities and the violence perpetrated against them, the immigrant experience in the United States, and gun violence. Furthermore, most media have simply ignored the fact that the vast majority of the victims in Orlando were Latino, both originally

suggest-orlando-shooter-targeted-club-because-it-was-gay/2016/07/14/a7528674-4907-11e6-acbc-4d4870a079da_story.html (including law enforcement statements that the investigation of the attack on Pulse has revealed no evidence that Mateen targeted the bar because of its LGBT patrons).

27.   Eoin Higgins, *When Media Learned Killer's Ethnicity, Then They Knew to Call It "Terrorism,"* COMMON DREAMS (June 15, 2016), http://www.commondreams.org /views/2016/06/15/when-media-learned-killers-ethnicity-then-they-knew-call-it-terrorism.

28.   Frederick M. Lawrence, *Why Calling the Orlando Shooting a Hate Crime Matters: Analysis,* MSNBC (June 15, 2016), http://www.msnbc.com/msnbc/mass-shooting-orlando-represents-both-terrorism-and-hate-crime-analysis.

29.   *See* Martin & Burns, *supra* note 23; *see also Watch CBS Hosts Chide Cruz for His "Impractical," "Anti-Muslim" Call to Police Muslim Communities,* MEDIA MATTERS FOR AM. (Mar. 23, 2016), http://mediamatters.org/video/2016/03/23/watch-cbs-hosts-chide-cruz-for-his-impractical/209482 (providing video and a transcript of a CBS Morning News interview with then-leading Trump opponent in the Republican primary, Ted Cruz, who advoated for targeted police surveillance of "Muslim neighborhoods").

from the United States and elsewhere.[30] Discussing this fact would require even more conversation about who is conceived of as "American" and further complicate our ideas of the LGBT community.

Shadowing this tragedy is the specter of historical amnesia in political speeches and news reports that refer to the Orlando attack as the deadliest mass shooting in the country's history without acknowledging violence perpetrated against thousands of Native Americans and African Americans. Many historians and journalists have responded with reminders about Wounded Knee and the Tulsa Massacre.[31] However, as with the attack in Orlando, to discuss this historical violence, we would have to collectively engage with each other in difficult conversations that require us to listen, deliberate, and connect through dialogue about painful "enduring conflicts"[32]—about racism and violence perpetrated by Americans against Americans.

Even more recently, after authors completed their work, our country has experienced the tragic deaths of several African

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30. Kevin Sullivan & Arelis R. Hernández, *Orlando's Latino Community Hit Hard by Massacre at Nightclub*, WASH. POST (June 13, 2016), https://www .washingtonpost.com/national/among-the-dead-in-orlando-massacre-many-from-the-latino-community/2016/06/13/8192e3a4-3186-11e6-8758-d58e76e11b12 _story.html.

31. Eyder Peralta, *Putting 'Deadliest Mass Shooting in U.S. History' into Some Historical Context*, NPR (June 13, 2016), http://www.npr.org/sections/thetwo-way/2016/06/13/481884291/putting-deadliest-mass-shooting-in-u-s-history-into-some-historical-context (explaining NPR's reporting that the Orlando attack was the deadliest mass shooting in American history by distinguishing between "mass murders that occurred before and after the 20th century. Before 1900, most mass murders were perpetrated by the 'haves' against the 'have nots.' After 1900, mass murders began being perpetrated by the 'have nots' against the 'haves.' Another difference is that before the 20th century, few mass murders were perpetrated by a single person. A gunman opening fire on a public space is what 'mass shooting' has come to mean these days . . . . We don't tend to put massacres involving military or quasi-military actors and those perpetrated by a group in that category."); Ariela Gross, *Orlando Mass Shooting Not Deadliest in American History*, WALL ST. J.: WASH. WIRE (June 14, 2016), http://blogs.wsj.com/washwire/2016 /06/14/orlando-mass-shooting-not-deadliest-in-american-history/ (discussing the Tulsa Massacre, among others, and arguing that "Omar Mateen may have been a member of a minority religion, and he may have expressed admiration for a foreign terrorist organization, but his despicable act is part of a homegrown tradition of hatred-inspired shooting and burning.").

32. *See* Bernie Mayer, *Community, Autonomy, and the Paradox of Public Engagement*, 42 MITCHELL HAMLINE L. REV. 1458, 1467-71 (2016).

American men at the hands of police and a retaliatory sniper attack on police officers in Dallas, Texas.[33] The deaths have prompted demonstrations and protests around the country, including in the Twin Cities.[34] In July 2016, Philando Castile, a black man and life-long resident of St. Paul, Minnesota, was killed during a traffic stop while sitting in the driver's seat of his car in Falcon Heights, Minnesota.[35] His killing prompted immediate public protest.[36] While predominantly peaceful, one demonstration in St. Paul became violent as demonstrators attacked police officers.[37] Although this is an undeniably tense, sad, and complex time in our country, many commentators have reduced these conflicts to the simplistic analysis of either-or thinking—either you are "black" or you are "blue"—you stand with those concerned with black lives or with the police.

It is within this context that the following authors discuss how traditional processes of public engagement have left people feeling more disconnected from each other and from their government, more angry and more entrenched in their disparate perspectives. We live in communities deeply divided over politics and morality where "public engagement" increasingly takes the form of confrontation and provides even less room for listening. The polarization felt at a national level also exists in neighborhoods where people often appear more inclined today to fight for their notions of political or moral correctness than to listen to each other. Importantly, however, the authors also express a thoughtful hopefulness that some processes can and do work, and propose how communities can use them.

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33. ASSOCIATED PRESS, *A Recent Look at Police Shootings Involving Black Men*, STAR TRIB. (July 7, 2016), http://www.startribune.com/a-look-at-recent-police-shootings-involving-black-men/385828681/; Faith Karimi, *Dallas Sniper Attack: 5 Officers Killed, Suspect Identified* (July 9, 2016), http://www.cnn.com/2016/07/08 /us/philando-castile-alton-sterling-protests/.

34. Ashley Fantz, *Hundreds Arrested in Protests over Shootings by Police*, CNN (July 10, 2016), http://www.cnn.com/2016/07/10/us/black-lives-matter-protests/.

35. Sharon LaFraniere & Mitch Smith, *Philando Castile, Fatally Shot in His Car, Was a Magnet for Minor Traffic Stops*, N.Y. TIMES (July 16, 2016), http://www.nytimes .com/2016/07/17/us/before-philando-castiles-fatal-encounter-a-costly-trail-of-minor-traffic-stops.html.

36. *See* Fantz, *supra* note 34.

37. Mara H. Gottfried et al., *After Weekend Violence, Philando Castile's Family Calls for Calm*, ST. PAUL PIONEER PRESS (July 11, 2016), http://www.twincities.com /2016/07/09/amid-racial-strife-hundreds-seek-answers-in-protests-church-service/.

ARTICLES

The essays and articles in the following collection are arranged intentionally from more theoretical to more practical, from those that create a framework, to those that illustrate how people engage in different frameworks.

First, Bernie Mayer's article takes a bird's eye view of how public engagement processes affect people—they can alienate by failing to address what propels people to engage in the first place or they can serve as an antidote to polarization and dysfunction by addressing what creates conflict. Mayer explains that people engage because of competing desires to connect with others in a shared community, but also to set individual boundaries around what each wants for that community. Likewise, people engage over disputes that arise from deeply rooted enduring conflicts. Unfortunately, Mayer argues, traditional engagement processes do not allow people to address the reasons why they are engaging and can enhance feelings of disconnect. He proposes that effective public engagement processes can serve as an antidote to these feelings of disenfranchisement and allow for engagement over enduring conflicts.

Two articles following Bernie Mayer's article address how the problems associated with engagement processes, such as feelings of disenfranchisement and failure to address enduring conflicts, impact civic engagement in marginalized communities. Both Hector Garcia's article and Rashad Turner and Ken Fox's article discuss where control lies in public engagement processes, who has power to frame those processes, and how engagement takes shape in light of power imbalances in American society between dominant and minority political and ethnic groups. These reflections are important and timely. As already mentioned, the widespread divisive rhetoric of the presidential election, which seems designed to inflame the angst of dominant groups over a perceived loss of power to "others," will encourage those with institutional power to guard it even more closely.

Garcia's article discusses intractable disparities politically and culturally marginalized groups face. For these groups, Garcia sees a lack of public engagement as a "defining obstacle" to finding solutions to these disparities. Echoing Mayer's point about traditional engagement processes leading to disenfranchisement, Garcia explains that disillusionment and cynicism lead to decreased participation of marginalized groups. For Garcia, solutions lie in

1454   MITCHELL HAMLINE LAW REVIEW   [Vol. 42:1439

increased economic and educational opportunities, embracing what he considers to be a return to the democratic values of collaboration and communication.

Authors Rashad Turner and Ken Fox discuss the need to reexamine *who* initiates public engagement processes and how institutional actors can perpetuate existing power imbalances as the initiators of "engagement" and modes of engagement. Turner and Fox argue that, by virtue of their power to frame the conversation to be had and the mode of engagement, instigators who are the ultimate decision-makers over policy decisions firmly situate the locus of control over the engagement in the institutional actor. Conversely, Turner and Fox propose that community-based advocacy groups like Black Lives Matter, which shift the locus of control to the marginalized community itself, are a more authentic way for intractable disparities to be addressed—that is, *if* these organizations can reject existing models of non-profits typically run by traditional institutional actors.

The next three articles focus on process—how different dispute resolution and engagement processes can effectively address the roots of conflict in our communities, which, when ignored, can lead to enduring conflict and power imbalances.

Bob Stains begins with a reflection on the barriers to effective conversation that Symposium participants discussed, including increased feelings of fear coupled with decreased opportunities for meaningful connection with other people and the resulting dynamics of polarization that can destroy public engagement efforts. Stains explains how these barriers can be mitigated or eliminated through dialogue and proposes one approach—Reflective Structured Dialogue—as a way to engage people in a constructive way.

Howard Vogel also tackles the effect of polarization on public engagement through the talking circle process. After an in-depth exploration of the Circle process and its assumptions, Vogel argues that it can be an answer to both the lack of engagement and disappointment felt after participating in traditional means of public engagement. Vogel argues that, instead of "giving an opinion" and retreating from further engagement, Circle process involves collaboration and on-going connection to others. Like Reflective Structured Dialogue, in Circle process, conversation is itself valuable.

Given the divisive political context and dysfunction of current political dialogue, Sharon Press and Ben Lowndes explore the ethical and practical considerations involved when ADR practitioners want to participate in social justice movements. The authors describe the journey each has undertaken to discover for themselves how, if at all, ADR practitioners can play a role in social justice movements. Struck in Session One by Rashad Turner's discussion of the important role allies play in social justice movements, Press and Lowndes posit that ADR practitioners can use their specialized skills to serve as allies and peace builders, while remaining committed to the ADR value of neutrality.

Finally, the last four articles address different manifestations of public engagement in Minnesota. In their article, Dan Greensweig, Aimee Gourlay, and Irene Kao discuss the benefits and drawbacks of the myriad of state laws and local rules in Minnesota that foster transparency about how the government works. These regulations include the Minnesota Open Meeting Law and the Minnesota Government Data Practices Act. They argue, however, that the existing framework prioritizes traditional public engagement processes and notice of decision-making rather than dialogue or deliberation. The authors explore how more deliberative processes can lead to deeper connections among participants and mitigate the effects of political polarization.

Tina Nabatchi and Lisa Amsler explore Minnesota's legal framework for collaborative governance. The authors introduce the concept of collaborative governance and explore how Minnesota's existing legal frameworks provide challenges and opportunities to create and use more deliberative processes rather than traditional public notice and comment models. In particular, the authors discuss how the State can be a leader in adopting legal frameworks that support "inclusive, democratic public engagements in public decision making."[38]

This collection of articles concludes with two case studies of public engagement in Minnesota that occured in the last few years. Mariah Levison discusses the successful efforts of the Minnesota Child Custody Dialogue to change Minnesota child custody law and argues that it serves as an example of how to resolve polarizing

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38. Lisa Blomgren Amsler & Tina Nabatchi, *Public Engagement and Decision-Making: Moving Minnesota Forward to Dialogue and Deliberation*, 42 MITCHELL HAMLINE L. REV. 1629 (2016).

issues in a collaborative way. Tadd Johnson, Gail Kulick, and their co-authors explore how a failure of communication and lack of understanding among county officials about the traditional religious practices of Anishinabe Native Americans precipitated legislative action. The process of creating and passing legislation to legally recognize religious objections to autopsies began with a profoundly dysfunctional interaction between county medical examiners and the Native American families of recently deceased. As Johnson and Kulick explain, in refusing even to talk to the families, county officials failed to acknowledge, let alone accommodate, religious practices that the officials did not understand. As the authors describe it, however, the legislative process itself required these polarized groups to listen to each other's concerns, learn, and compromise.

LOOKING FORWARD

As part of the Dispute Resolution Institute's on-going commitment to community engagement, after the Symposium, all participants were invited to join a group convened by the Office of Collaboration and Dispute Resolution (OCDR), the Dispute Resolution Institute, and the Mediation Center for individuals who do "public convening" work. The group meets quarterly at OCDR and several Symposium participants have joined. In addition, DRI and OCDR collaborated on a grant, entitled *Talk with Purpose: Using Dispute Resolution to Engage Communities and Foster Relationships for Constructive Change,* that has been funded by the American Arbitration Association Foundation to:

> engage in a transformative project to produce qualitative change in the type of engagement currently taking places between dominant and non-dominant communities in Minnesota. . . . This project will serve as a demonstration of the viability of dispute resolution mechanisms for these types of serious equity issues and conflicts. Through the pilot, we will 1) help to establish dispute mechanisms as a "go to" tool for challenging conflict in the community; 2) build capacity in and among organizations working to address these issues; and 3) build relationships between organizations (including those groups often in adverse positions).[39]

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Six months after the Symposium, DRI invited the participants to a post-Symposium meeting.[40] Those attending shared what they have been working on since the Symposium, which included a wide-range of projects which are under way individually and in some cases, collaboratively, growing out of relationships made or strengthened at the Symposium.

Given the events following the Symposium, there is no doubt that developing meaningful ways to engage is a critical goal for society. We are pleased to be taking the first steps in contributing to positive discourse that will enable true dialogue and understanding.

Purpose: Using Dispute Resolution to Engage Communities and Foster Relationships for Constructive Change (Awarded April 8, 2016) (grant application on file with author).

40.   One of the suggestions from the participants at the Symposium was for everyone to "make a commitment to engage and check back in six months."

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