

BRIDGING DIVIDES: A VIEW FROM THE MINNESOTA STATE OFFICE FOR COLLABORATION AND DISPUTE RESOLUTION

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It was 9:30 p.m. and the pastor of the small church we were using for our community conservation was standing near the door. The church did not have any staff to close up. The pastor had to do it herself. I wanted her to be able to go home to her family, but John Thompson, Philando Castile's close friend, and St. Anthony Police Chief Jon Mangseth were also standing near the doors, deeply engaged in conversation.

On July 6, 2016, Philando Castile was killed by a police officer during a traffic stop in Falcon Heights, Minnesota, a small city at the edge of the capital city Saint Paul. The next few Falcon Heights City Council meetings were attended by lots of concerned citizens — many of them angry. Among them was John Thompson who, along with others, passionately expressed frustration that their voices were not being heard. The Council abruptly ended the meeting. In response to the outpouring of concern and the City Council feeling ill-equipped to productively address the concerns, the City Council created the Task Force on Inclusion and Policing and a series of community conversations to create a forum for the City and Community to work together to improve policing and make the community more inclusive. The City asked the Minnesota State Office for Collaboration and Dispute Resolution (along with partners including the Center for Integrative Leadership at the University of Minnesota, the Dispute Resolution Institute at Mitchell Hamline School of Law, and Metropolitan State University), where I work, to design and facilitate the task force meetings and community conversations. It was at these community conversations that Mr. Thompson and Chief Mangseth got to know each other. Mr. Thompson said about the experience,

I never wanted to come to the Community Conversations. I thought the City was just checking a box. Mayor Lindstrom and (Task Force co-chair) Melanie Leahy kept calling me asking me to go. Finally, I said ok, ok and everything that I thought about it was totally different. I was seated at a table with (police) Chief Mangseth and I got to talk to him. Now I don't agree with him on everything but I said let's work on this thing. Am I mad? Yes I am mad, but I got to tell him. And I was seated at a table with Mayor Lindstrom. I

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had never talked to him before. I just yelled at him. Now I see he is crying and I realize that he is young and a new mayor and now I realize I have some things to figure out. I lost Philando and that was all I was thinking about. I didn't think about how Mayor Lindstrom was young and a new mayor. If I hadn't been at the Community Conversations, I would still have these feelings.

The media is filled with stories of how divided we are including police-community relations in Falcon Heights and around the country; demands for confederate era statutes to be removed and protests against removing them; NFL players engaging in a variety of symbolic gestures to demonstrate their concern about the treatment of black men in America and the booing of these gestures; liberal college students protesting conservative speakers and conservative students protesting their protests — the list goes on. While these events are difficult, I wonder if we aren't any more divided than we have ever been, but rather that we have gotten so much better at managing our differences that we are choosing to take on issues that we have long avoided. As the increased awareness of killing of unarmed black men by police and sexual harassment in the workplace illustrate, divisions have always existed. We just were not talking about them.

Talking about difficult public issues is positive because this is how we will make progress on these challenges. Unfortunately, the way we talk about them is not always so positive. As was the case in Falcon Heights initially, the discourse is often divisive. Our difficulties at having productive conversations about divisive issues creates a negative spiral in which we end up even further apart due to the way in which we talk about them.

When we struggle to understand each other, our rhetoric can become hurtful and harmful. We see too much of this today. In my job at the Minnesota State Office for Collaboration and Dispute Resolution, I bring together stakeholders who have reached an impasse over contentious public issues and help them build consensus. I have worked with not only the City of Falcon Heights and concerned citizens, but on many other contentious public issues including:

- 1) Former Minnesota Governor Mark Dayton's Capitol Preservation Commission Subcommittee on Art about what to do with controversial art featuring Native Americans at the state capitol;
- 2) A multi-year conflict involving the Minnesota Department of Human Services, the Governor's Office, labor unions, families of patients, mental health advocates and others about the care of the mentally ill and criminally dangerous at our state's security hospital;
- 3) A decade long legislative conflict as to how to amend child custody statutes that included accusations that the system is biased against fathers.

All of these issues were complex, long-standing, and deeply divisive. Yet, like John Thompson, participants in these processes came to understand each other better and were able to identify solutions that they all could support. Based on these experiences and others, I offer ten suggestions on how to have productive conversations on divisive public issues.

1. Recognize and focus on shared values

While individuals in public life hold different positions on controversial issues, regardless of their different backgrounds, political affiliation, hometown, etc., they are motivated by the same core set of values which often include such things as integrity, community, accountability, and compassion. In the midst of a difficult issue, remind yourself that the other side is not bereft of values, and in fact probably shares many of the same values as you.

2. Talk about interests not positions

The book *Getting to Yes*² introduced the world to the concept of interest-based negotiation. In interest based negotiations, negotiators strive to move from positions — what they say they must have — to interests — “the why” behind the what they want. For example, in the recent debates over historical monuments, the positions are usually tear it down versus leave it as is. When focusing on positions, only one side can win. The statue stays up or it comes down.

The interests on one side include dignity, justice, and harmony. The interests on the other side include a self-determination, preservation, and a desire to grapple with history. A solution that addresses these interests could be to leave a statue where it is but add more interpretive information that explains the complexity of the history that the statute represents or add many more statues depicting underrepresented groups and stories.

Here in Minnesota, the state Capitol recently was renovated. As a part of the process, the Governor formed the Capitol Preservation Subcommittee on Art to assist him in making difficult decisions about existing and new art in the Capitol. I had the honor of facilitating a process with the subcommittee and the greater public to develop recommendations on the art. Almost no art had been added to the Capitol since it was built in the 1800s. As one might imagine, there were very few depictions of women or people of color. Two paintings, located in prominent locations, were of special concern. They depicted Native Americans in ways that some found offensive or inaccurate. Some stakeholders’ position was that they should remain in the Capitol for historical reasons. The position of other stakeholders was that they should be moved. The subcommittee, with substantial feedback from the public, began by identifying their shared interests. The interests included that art in the Capitol should challenge the public to grapple with difficult and complex issues and should create an environment that is affirming and welcoming to all Minnesotans. Based on those shared interests, they recommended the paintings be moved to another location in the Capitol where they could be better contextualized. They also recommended adding new art which would tell the stories of more Minnesotans and reflect the increased diversity of the state. Both of these recommendations were accepted and implemented.

When you are engaged in a controversial public issue try to identify both your own interests and the interests of the other side. Ask yourself (and if possible “the other side”), “What’s behind the outcome you and the other side are demanding?” At the deepest level, interests often include the core human motivations of a sense of security, belonging to social groups, recognition, and efficacy.

² Fisher, R. and W. Ury. 1981 *Getting to Yes*. Westminister: Penguin Group.

3. Explore the other side's perspective

You may have seen an image that looks to some like an old lady and to others like a young woman. The lesson the image and others like it is that while we cannot always see it, what others see is valid. This does not mean that other people's point of view is scientifically provable, factually accurate, or that we agree with it, but it does mean that it is as real for them as our point of view is for us. The reality is that contentious issues are usually more complex than either person can see. We have a tendency to assume that we know everything we need to know and just need to convince the other side of our position. It is more likely that each of us is bringing different information and experience to the table.

This is important for a few reasons. First, if we dismiss the perspectives of others as wrong, crazy, or irrational, they will be unwilling to engage in resolving the issue at hand. Second, to resolve the issue you will need to identify a solution in which both sides get some of their most important interests addressed (see number two above). If individuals' interests are not included in the proposed solution, they will keep fighting the issue one way or another — at the legislature or courts or through public opinion. Trying to understand their point of view will enable you to identify their interests which must be included in the solution. Even in cases where an issue cannot be resolved in a mutually acceptable manner, taking each other's point of view increases mutual respect and fosters civil disagreement.

For example, in the debate over immigration, we can recognize that many individuals who support restrictive immigration policies think that immigrants are not respecting the law by coming illegally, are undermining wages by working for less than U.S. citizens, and creating a strain on public goods and services such as roads and schools. Individuals that support open immigration policies think that every individual, regardless of country of origin, deserves the relative safety and opportunity that the United States provides. We can not slip into thinking that the other side is just mean or irrational. While neither side is necessarily "right", we need to first understand where they are coming from before we can start to develop solutions.

To apply this approach, challenge yourself to find out the other person's or group's perspective. No matter how difficult this process is for you, do not proceed to the next phases of problem solving until you can identify their perspective. You can do this by listening to them, asking open ended questions and challenging the assumptions you hold about them.

4. Don't compromise – integrate

Despite the bad rap that "compromise" currently has, it can be wonderful. However, sometimes the values underlying public issues are so important that they cannot be compromised. And sometimes we default to a compromise solution when a more complex one is needed. Because interests, unlike positions, are not mutually exclusive, we can develop solutions that integrate (or address) the interests of both groups. Integrative solutions have the potential to be both more thoughtful and to satisfy more citizens (see number two above).

5. Don't fall prey to cognitive biases

Heuristics are mental shortcuts that ease the cognitive load of making a decision in our complicated world. (For more on heuristics see Daniel Kahneman's NYT bestselling book *Thinking Fast and Slow*³). Like most shortcuts, they are generally helpful, but like shortcuts, they have a tendency to lead us astray. Conflict increases our cognitive load and makes us more prone to these shortcuts. Two heuristics or biases frequently occur in conflict.

Attribution biases are the errors people make when trying to evaluate or find reasons for their own and others' behavior. When we make attributions about another person's actions, we are likely to overemphasize the role of dispositional factors, while minimizing the influence of situational factors. This is called the Fundamental Attribution Error. For example, if I run a stop sign, I am likely to attribute my action to being really stressed and rushed due to pressures at work and home. If I see someone else run a stop sign, I am likely to attribute the action to being a reckless, selfish jerk — especially if it is someone I am already in conflict with!

Confirmation Bias is the tendency for people to unconsciously seek out information that confirms their beliefs and disregard information that challenges their beliefs.

As we get overloaded by conflict, we develop a story that the other side (who we use to get along with) is doing what they are doing not because of some situational limitation but because they are a terrible person. We then look for evidence to confirm this and we disregard any evidence that contradicts this story. This dynamic has occurred with every group I have worked with. For example, a part of what could be happening in the case of college students protesting conservative speakers on campuses is that due to the polarization between political parties, college students make dispositional attributions about the speaker (i.e. she is evil, he is hateful) rather than situational attributions such as she is hawkish because of all the danger she perceives in the world or he is anti-immigration because he sees a situation in which some people who used to make \$30 an hour now cannot find jobs. Those students may then read liberal sources of news and information which reinforce those attributions and avoid conservative sources of news and information which would challenge those attributions.

When you find yourself in a difficult conversation, ask yourself, "why do I think he is saying this?" If the answer is a negative attribution about his character (he is a jerk, he is narrow minded, etc.), recognize that is unlikely to be the case and ask some questions to help you better understand his motivations. Then really listen and challenge yourself not to disregard things he says that counter your narrative about him. Then believe him. See # 9 Take People at Their Word..

6. Find the good in everyone

Very few people get up in the morning wondering, "How can I make the world a worse place today?" Most people, most of the time, do what they believe is best. Of course, people do things that are not kind, ethical, or productive. However, they generally do so not out of malfeasance, but out of a misguided attempt to solve a problem or because they are having a bad day (or decade) or because they are unaware of the negative consequences of their actions or for some

³ Kahneman, D. 2011. *Thinking Fast and Slow*. Farrar, Straus and Giroux.

other reason that is *not* that they are a terrible person with horrible motives. In order to solve a problem with someone, it is essential to find and connect with the goodness in them.

7. Acknowledge historical injustices and do not call each other racist

Social psychologists have volumes of research to demonstrate that humans have a tendency to form groups and favor the groups that they are a part of. Evolutionary psychologists theorize that human beings do so because membership in a group helps to ensure survival. So, the theory goes that we all have unconscious bias against people who are not members of our group.

Unconscious bias against people of color is particularly strong because it has been reinforced by history and culture. Well-intentioned white people (me included) rarely understand how profound these injustices are because we live in a segregated society and our schools failed to truly teach us about them. Since unconscious bias and current and historical injustices play a role in many divisive issues (think police-community relations and monuments), white people and members of other majority groups, must learn about and acknowledge the role that they play in the issue at hand and consider ways to right wrongs.

Unfortunately, acknowledging and exploring these topics is really hard. This is good and bad. It is good because part of the reason that it is hard is that it has become so unacceptable to be biased against another group that the mere implication that one is biased leads to defensiveness. It is bad because that defensiveness makes it hard for us to talk about and therefore hard to develop better understanding of each other and solutions to challenging public issues.

Calling people racists makes it extra hard to have these conversations and develop mutual understanding and mutually acceptable solutions. Ta-Nehisi Coates⁴, an eminent thinker on racism, writes about the narrowing of the term racist. He says, “the racist is not so much an actual person but a monster, an outcast thug who leads the lynch mob and keeps *Mein Kampf* in his back pocket.” The idea of a racist as an inhuman monster rather than a complex human being who does some good things and some bad things, harbors unconscious bias, and has failed to learn about systemic racism, etc. has the effect of stymieing needed, difficult conversations. Hard conversations are needed, contempt is not.

8. Presume positive intent

In conflict people become convinced that the other side has negative intentions. For example, advocates of universal health insurance coverage assume that people who do not want to expand Medicaid feel this way because they do not care about poor people versus because they believe that a larger deficit will cause greater harm than lack of health insurance. Or people who support unrestricted access to guns assume that people who want to enact strict background checks really want to take away all of their guns rather than that they want to keep guns out of the hands of people who cannot or will not use them responsibly. While we might not agree with someone else’s intention, it is rarely nefarious. Literally every single group that I have worked with has made negative assumptions about each other’s intent. They have to spend a

⁴ <https://ta-nehisicoates.com>

lot of time in difficult conversation challenging these assumptions before they are able to start developing mutually beneficial solutions.

9. *Take people at their word*

Almost all mediators that I know have a policy of believing the parties at the table. Why? Because it works. Questioning whether the parties at the table are telling the truth leads to defensiveness and dead ends every time. Even if what they are saying is not 100% true, it is almost always true that on the whole they are good people who are struggling with a problem, that they do not really enjoy the state of conflict that they are living in, and that they would like to resolve the issue at hand. So rather than question their veracity, we mediators move forward in the problem-solving process of identifying interests and developing mutually beneficial solutions. The same strategy will work for you too.

10. *Collaborate (putting it all together)*

Competition works great in sports but not on contentious public issues. In today's world of thinly distributed power, a defeated group or point of view will only remain vanquished for a short period of time before they start an influence campaign, get a friendly official elected, challenge a regulation in court, etc. When it comes to resolving contentious issues, sometimes the only real option is to collaborate. Competing is pursuing one's own interests. Accommodating is prioritizing the interests of others over your own interests. Compromising is meeting in the middle. Collaboration means pursuing *both* one's own interests and the interests of others. It is identifying solutions that address the most important interests of everyone involved. How does one do such a thing? Start by really understanding your own interests and then listening to the other side's perspective so that you can identify their interests. Finally, brainstorm options that address the interests of everyone involved.

An example of collaboration in action:

Public institutions across the country including schools, hospitals, and prisons are being charged with shifting from a punitive to a treatment based approach to addressing the behavior of violent individuals. The Minnesota Security Hospital (MSH) houses the mentally ill and criminally dangerous. The facility has a long history of conflict. In 2011, MSH was placed under a conditional license due to overuse of restraint and seclusion. However, the shift from a punitive to a treatment based approach was hindered by a lack of professional staff (psychiatrists, psychologists, etc.), an existing staff that lacked a human services background and had worked for many years in the security-focused environment that characterized the facility, and lack of successful training in "patient centered" approaches to addressing violent behavior. As a result the number of serious patient and staff injuries rose.

The Minnesota State Office for Collaboration and Dispute Resolution conducted a collaborative problem solving process with staff, management, patients, mental health advocates, union leaders and others. More than 100 individuals participated in collaborative problem solving groups to develop solutions to these issues. Participants worked together to understand each

other's perspective, articulate their interests and develop solutions that addressed the interests of everyone involved.

The result was that participants developed an understanding that staff safety and quality patient care are inherently linked — when patients have high quality treatment, they are less likely to become violent and require restraint and isolation or harm other patients or staff. This shared understanding enabled unions and management to agree on the types of staffing increases needed and therefore make a joint case to the legislature. In 2017, the legislature appropriated \$23 million to increase staffing at MSH by 146 employees. The increased treatment provided by these individuals led to a nearly 50% reduction in staff injuries. Furthermore, the process developed the trust and relationships needed to ensure quality patient care and staff safety at MSH.

Conclusion

Making progress on contentious public issues is messy. The outcome of a consensus building approach is seldom a clear-cut solution but rather the development of relationships, trust, and communication channels to enable progress. Building consensus takes time, hope, a deep commitment to a collaborative approach, and a leap of faith to trust each other. Nonetheless, these approaches reliably produce progress.