



ACR Environment and Public Policy Section Newsletter

July 2005

Trends in the Field

Changing of the Guard

The founders of many of the larger public policy dispute resolution organizations are looking to pass the baton to the next generation. While these organizations ponder the “how” of semi-retiring their founders (can anyone in this field truly retire?), they face the challenge of redefining conflict resolution in a new era.

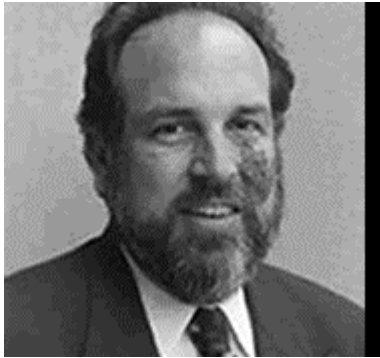
The topic of leadership change was discussed at the ACR Annual Conference in Sacramento in October 2004 by a panel comprising: Chris Carlson, Executive Director, Policy Consensus Initiative, Portland, Ore.; Lucy Moore, Lucy Moore Associates, Santa Fe, NM; Julie McKay, Program Manager, CDR Associates, Boulder, Colo.; and Merrick Hoben, Senior Associate, Consensus Building Institute, Washington, D.C.

Among the perspectives that were shared about the “New Generation” in the field were these:

- People new to the field should have a mentor.
- The younger generation comes out of school with degrees in conflict resolution, as opposed to the older generation who “evolved into mediation from other professions.”
- With these degrees, practice areas are becoming more specialized within the conflict resolution field; therefore some have fear of being tied to one specialty.
- Sole practitioners are also going through these changes associated with specialty, and new directions in the field.

For a new series in the EPP Newsletter, we will carry on the dialogue of that panel, and ask some of the founders about the challenges of transition, their perspective on the field at its inception, the progress and changes in the field today, and advice for the future. We will start the series with one of the newer public policy conflict resolution groups, The Consensus Building Institute.

Leadership Transition at the Consensus Building Institute, By Mary Orton



Dr. Lawrence Susskind, the founder of the Consensus Building Institute, is a man who has lot of time on his hands – time he has not had for twelve years. This is because he and the CBI Board of Directors have successfully transitioned the management functions of the organization from Larry to the second generation of leadership at the Institute.

What does Larry Susskind do when he suddenly has more available time than he has had for more than a decade? More on that below. Meanwhile, the story of how they executed the transition may be useful to other organizations facing the same challenge.

Along with several colleagues, Larry founded the non-profit CBI in 1993 to provide fee-based public sector dispute resolution and assisted negotiation services in the United States and overseas. Several years ago, he asked the CBI Board to address the transition issue, and recommended that several of the senior staff be given the management responsibilities. Over the course of three years, these were gradually turned over to Patrick Field and David Fairman, who now serve as managing directors as well as full-time mediators. The transition was completed this past January. He says that the two key elements of the successful transition were the existence of a strong second tier of leaders with more than a decade's experience within the organization, and the lengthy transition period.

The typical founder finds the weaning of the "child" organization exceedingly difficult. How hard was it for Larry to let go? Not hard at all, he

says. When pressed, he insists that he does not miss his old role at all. In fact, when asked how the transition is working, his response was, "I think it's going great – but I'm not that close to it."

He remains at the Institute in the role of founder and senior advisor, and still teaches full-time at MIT. He works with CBI staff in an advisory and coaching role and takes some consulting jobs, as before. In addition, he continues to generate substantial fees for CBI through corporate training in negotiation, income that allows the Institute to cross-subsidize meaningful work for parties who cannot pay.

Larry came to the EPP field via city planning in the 1970s, when "maximum feasible participation" by the people affected by governmental decisions was the watchword in the new federal anti-poverty and urban development programs. He says that once the planners got people together, however, they did not know how to reconcile the different points of view. These days, practitioners have access to many tried and true methods for such work, but this evolution did not occur without making some mistakes. One of the biggest, he says, was the notion that the activists who stepped forward should actually make the decisions. Instead, the goal became *informed consensus* involving both the affected people and those in positions of responsibility: not replacing representational democracy, but supplementing it with input from knowledgeable community members.

The future of the EPP field holds many challenges, according to Larry, including obstacles to the continued success of the larger EPP firms. Solo practitioners, he says, do not have the capacity to take on many of the large, important projects that are emerging, and cannot promote the field like the high-profile, national firms can. Therefore, he believes it is of the utmost importance that the leadership transitions in large firms be successful.

Another trend for the future is globalization. While there are people in other countries who are eager to learn from us, the challenge is how to transfer what we know about public dispute resolution given all the relevant cultural constraints.

In addition, he says, the constant turnover of government managers and the increasing politicization of the bureaucracy make it difficult to build champions for ADR in public agencies. We must find ways to institutionalize the demand for dispute resolution, through statute, regulation, and training.

Finally, we need to find new areas to which to apply what we know about dispute resolution. This may entail working for little or nothing in some high-profile cases, in order to demonstrate and publicize the worth of our services.

Meanwhile, those of you who look forward to each new Larry Susskind publication will be pleased to know that he is devoting all his extra time to his scholarly work. He is completing two books: *Breaking Robert's Rules* offers an alternative to parliamentary procedure for groups that prefer to work by consensus. *America's Best Hope* explores possible changes in the way we elect members of Congress, from geographic to interest-based representation. Larry is also co-managing an internship program at MIT that places graduate students in various Department of Interior offices to promote the use of joint fact finding and other mediation-related strategies for resolving science-intensive policy disputes.

Despite the changes at CBI, it is clear that all of us in the field will continue to benefit from Dr. Susskind's significant contributions to EPP dispute resolution.

You can learn more about Dr. Susskind's work at <http://www.lawrencesusskind.com/>, and about CBI at <http://www.cbibuilding.org/>.

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Dr. Larry Susskind, on the leadership transition at CBI, in his own words:

"Over a three-year period, I cut back the number of my 'billable days' and thus the amount of revenue CBI could count on from me. As I did that, the senior staff at CBI had to step up, take more responsibility for generating and following

through on contract work. More specifically, I reduced my revenue target each year by about 25 percent.

"While I still commit a day a week to CBI during the academic year, that's significantly less than half of what I was, in fact, devoting to CBI administration and contract assignments for the previous 12 years. In addition, over a three-year period, responsibility for helping each staff member at CBI set and meet individual revenue targets shifted from me to the new Managing Directors. Now I have no role in that at all.

"Similarly, over the same period I stopped attending long-range planning meetings and summer staff retreats so that it was clear that the new management had assumed full responsibility for these tasks. When the staff decided to move from our original location to new offices at a new site, I played almost no role in that decision. In sum, I peeled away additional oversight or leadership responsibilities each year until the new management team had assumed them all.

"Now my title is Founder and Senior Advisor. While I am still a member of the Board of Directors (and attend quarterly meetings), I have tried to extricate myself from all management decisions. I'm glad to say that the new management team still asks for advice on occasion."

Resources Review

"blink" by Malcolm Gladwell

Review by Carie Fox

Malcolm Gladwell's bestseller, *"blink,"* is packed with useful information for mediators. In an artful blend of research results, anecdotes, and personal stories, Gladwell presents ideas that could inform our theoretical approach to mediation, provoke self-assessment, and raise questions about mediation assessment. At first blush, the book appears to be about instantaneous thinking. Underneath that, it is really about the 'adaptive unconscious' — what we used to call intuition.

A sampling of what the book offers for mediators:

A Framework for Discussing Racial Bias

Gladwell explains a test designed to get at attitudes resting within our adaptive unconscious. You can take one of these tests at www.implicit.harvard.edu. This type of test was the basis for one of the most thought-provoking presentations at the recent ECR conference, "Surveying our Values and Considering Neutrality". Gladwell's description offers an approach to race that is both inescapable and forgiving. (Try the demonstration, you will see what I mean.) It is not forgiving in the sense of accepting racism, but forgiving in the way one might forgive an illness that must be cured.

The racism Gladwell describes lies in a place within us to which we do not have easy access. That feels hopeless. Yet Gladwell consistently empowers the reader. Throughout the book he emphasizes strategies for integrating the conscious mind and the adaptive unconscious. In the Section on racism, he describes how one of the developers of the Harvard test managed to change his score: He was a cross-country fan and had watched the Olympics on the morning he took the test. On that day, he scored lower for racism. Exposing oneself to positive experiences of others makes a difference. Talking about it doesn't make a difference.

Priming

Of the many wonderful ideas in this book, priming may be the most transferable to mediation. Watching the Olympics before taking the test was an example of priming. Gladwell describes an experiment in which subjects are asked to do word games. The exercise included several words associated with courtesy (such as 'respect', and 'appreciate'). Subsequently, those students were more courteous when executing an unrelated task. What stunned me was the subtlety of the exercise and the strength of the effect. This presents a new aspect of reframing. As mediators, we are reframing a person's cognitive functions and affect, and not just for the topic that is under discussion.

The Great Integrator

There are some interesting parallels between *blink* and *The Wisdom of Crowds*, which was reviewed in this column (EPP Newsletter, November 2004). *Wisdom's* central premise is that good information

comes from the integration of myriad opinions from disparate, relatively well-informed, non-experts. The integration of these separate pieces of information is more accurate than expert opinion. Gladwell has a similar theme: The conscious mind has its strengths, but when it comes to making an evaluation or decision, the adaptive unconscious often does a better job – not just quicker, but better. The adaptive unconscious behaves much like *Wisdom's* crowd. Like the crowd, it does not do a perfect job – as the example of racism so painfully illustrates. But, in many ways, to a remarkable degree, it is more accurate than the 'expert' in our conscious mind.

The Effective Adaptive Unconscious

Whether they are diagnosing marital relationships or performing triage in Cook County Hospital, evaluating risks in the midst of a fire or working the floor at the stock exchange, the most effective decision-makers are the ones who (a) have developed the skill of their adaptive unconscious and (b) listen to it. I think mediation is much like these professions. We must make split-second decisions under sometimes very stressful conditions, and a lot can ride on those decisions.

Here is the secret: Lots of experience, the ability to discriminate between useful data and less useful data (what decision scientists call 'sensitivity analysis') and faith in the instantaneous advice generated by the adaptive unconscious. Cultivate the relationship between your conscious and your adaptive unconscious. Call this an area of mediator competence. And worry that the stunning overall accuracy of your decisions may include some material that is neither accurate nor ethical.

What We Don't Know that We Know

In a recent Psychology Today article on one of Gladwell's favorite themes – how we read faces – mediators were singled out as some of the 'super face readers.' Face-reading supports Gladwell's theme about the distinction between what our adaptive unconscious knows and what our consciousness knows. Very successful mediators read faces more quickly than their conscious mind can track. If they were to look at a videotape of the person whose face they had 'read,' they would have to play it in slow motion in order to find the tell-tale signs – if in fact they could consciously articulate the basis for their hunch even then.

Naturally, as a mediator, I would like to enhance my adaptive unconscious' skill, not just about face reading but at all levels. But what of the parties' skills? Because the adaptive unconscious is not accessible to us, it is hard to reach it and teach it and change it. Yet as mediators we must already succeed at this somewhat—or rather succeed at helping the parties to reach and teach and change one another's adaptive unconscious. This must be part of the magic of mediation. It would be worthwhile to unpack that magic.

One of the lessons of Gladwell's book is that unpacking magic is difficult. In fact, when people are asked to analyze how they make a *blink* assessment, their competence goes down. Not only that, but when they explain how they make assessments, they are unreliable—simultaneously completely incorrect and completely confident of the correctness of their analysis (this latter effect has been documented by decision psychologists for decades). This raises some concerns about mediation assessment. If the shifts that occur within a mediation occur at the level of the adaptive unconscious, when we ask people (using the techniques we now have at our disposal) what made a mediation work or not work, we may be asking for balderdash. Worse, for confident balderdash. Worse yet, if the questions are asked during the mediation, they may actually interfere with the capacity to shift. This troubles me.

Read This Book

Why would a mediator read this book? Because:

- In increasing your parties' collaborative capacity, you must pay attention to the adaptive unconscious; both its bright side and its dark side. This book will help you do that.
- Mediators are often called upon to make *blink* decisions. This book provokes us to unpack what happens in the *blink* so that it becomes stronger, more reliable, more transferable, and less likely to have unwanted things lurking in the shadows.
- The book suggests caution about our present approach to mediation evaluation.

Let me know what you think.

Carie Fox, a mediator based in Portland, Ore., can be reached at www.foxmediation.com.

In Memory

GREGORY SOBEL

June 23, 1957 - May 4, 2005



On May 4, 2005, Gregory Sobel died after a long struggle with complications from serious injuries sustained in an automobile accident in 1996. He will be sorely missed.

Greg was a much loved and highly respected leader in the field of environmental mediation. His intelligence, warmth, and humor sustained many of us, both professionally and personally. He gave of himself as a mentor to many people throughout his career. Greg had boundless energy for our professional community, and was a leader in the Environmental and Public Policy (EPP) Section of the Association for Conflict Resolution. He worked tirelessly to develop the EPP Leadership Council and to build a long-term plan for Section conferences.

Greg grew up near Baltimore. He was student body president at Western Washington University, and went on to earn two graduate degrees, a Juris Doctorate from Northeastern University School of Law and a Master in City Planning degree from the Massachusetts Institute of Technology. He was licensed to practice law in

New York and Massachusetts, and taught negotiation and conflict resolution skills in Russia, Ukraine, Thailand, and graduate schools and professional conferences across the United States. He served as chair of the Boston Bar Association's Committee on Alternative Dispute Resolution and was active with the American Bar Association's Dispute Resolution Section.

Greg's interest in the environment began at Essex Community College in Baltimore. He majored in environmental studies at Western Washington University and specialized in environmental dispute resolution at MIT. He was a pioneer in the use of mediation to resolve complex environmental and public policy disputes, mediating numerous high profile disputes. After serving as the Director of Environmental Mediation Program for the Massachusetts Office of Dispute Resolution, where he helped design innovative mediation programs for the state's Department of Environmental Protection, he founded Environmental Mediation Services, based in New England, providing dispute resolution services nationwide.

Greg worked on issues such as hazardous waste cleanup, natural resource damage claims, land use, habitat and endangered species protection, brownfields redevelopment, and federal facility closure and remediation. He served as mediator for the restoration of the Housatonic River in Western Massachusetts, the conversion of Fort Devens, and the environmental cleanup of the Massachusetts Military Reservation on Cape Cod.



Those who wish may share their thoughts and memories about Greg, read what others have written, and see some photos at the website that was developed in his memory: www.gregsobel.net.

Professional Development

Committee Begins Development of Advanced Practitioner Designation

By Harry Manasewich

An Environmental and Public Policy Section committee has been exploring the question of establishing an Advanced Practitioner (AP) designation for the Section's members, and is now ready to begin the next phase of the exploration.

The ACR Board had asked each Section to decide if they want to adopt an AP designation for its members, and EPP members have indicated a wish to further explore the feasibility and desirability of an AP designation.

Responding to that indication of interest, the EPP Interim Leadership Council (ILC) formed a committee to consider whether and how to proceed. The AP Committee is chaired by me, and includes members Susan Schiller and Gina Bartlett, with Gail Bingham serving as a resource.

For the next phase of this issue, which is very important, the committee is looking to expand its membership.

ACR's reasons for establishing an AP member category are to better serve members who see a marketing benefit to such designation, and to protect the public by communicating differences between advanced and other mediation practitioners.

While ACR does not intend AP to certify mediator competence, it realizes that the public may see it that way. So they have aimed to establish advanced practitioner membership criteria that, taken together, will result in few, if any, designations as "advanced" of mediators who provide poor-quality services. While the basic criteria has been established by ACR to build in cross-Section consistency, each Section has some ability to decide on factors such as relevant competencies, knowledge needed, and levels of experience.

Based on past efforts, the committee believes that the EPP membership will want to know more about an AP designation and its implications in order to decide whether and how to proceed. To

accomplish this, the committee will review pertinent documents and conduct member surveys to distill Design Elements that would form the core of an AP designation. These Design Elements might include: What are the issues we have heard? What are the pros and cons? What are members worried about? What would the designation achieve? What should be avoided? What do members need?

The committee has adopted a multi-stage process:

1. Preparation of a draft of the Design Elements that would form the basis for an AP designation program. (Susan Schiller is working on this and welcomes your input. She can be reached at susan@theschillergroup.com.)
2. Circulation of the draft to the membership, with a request for feedback.
3. Review and analysis of responses from members, to determine if a more detailed proposal could be developed *that respects and responds to membership preferences*. If the committee does not feel such a proposal could be developed, it would recommend to the ILC and membership that no further work be undertaken on the AP designation at this time. If the committee feels such a proposal could be developed, it would proceed to develop it.
4. If the committee chooses to develop the proposal, it would be drafted and circulated for further feedback from the membership.
5. The committee would then consider the members' input and modify the proposal appropriately, and submit it to the membership for a final decision.

The process may involve additional consultative steps, depending on the responses at any given stage.

To guide its development efforts, the committee has identified four key principles to guide its work:

1. **Inclusiveness:** Encouraging and welcoming the participation of Section members who may have divergent views on whether the Section should have an AP designation and, if so, what form it should take;
2. **Transparency:** Ensuring that the work program is properly phased to provide

status reports to the membership, with ample opportunity for feedback and discussion before decisions are made on each phase;

3. **Clarity:** Ensuring that members understand the difference between AP designation and ACR's national intentions regarding voluntary certification on a national basis, and that any proposal regarding AP designation consider its potential fit with certification; and
4. **Sensitivity:** To the Section's diversity initiatives to broaden the pool of EPP practitioners while continuing to support excellence in the profession.

The committee has begun drafting the design elements, and will establish an overall timeline once the initial draft is circulated to the ILC for comment. Meetings are via conference call and email.

Please contact Harry Manasewich at 781-643-1812 or hfactorldr@aol.com, if you would like more information or to join the committee.

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EPP Section News

Section takes on Big Topics at USIECR Meeting

By Ed Moreno

EPP members attending the U.S. Institute for Conflict Resolution's 4th National Conference in May had a chance to kick around a lot of important issues that will be high on the Section's agenda for the coming year.

Much of the official action and reports occurred during a packed lunchtime meeting on May 25, whereas most of the discussion about EPP's relationship with its parent, the Association for Conflict Resolution, took place in the hallways and conference rooms of the Hilton Tucson El Conquistador.

For many, the meeting was an occasion to share their sadness over the death of Greg Sobel, an affable and beloved colleague who died recently after a long struggle with the effects of an

automobile crash in 1996. *Read more about Greg in this issue of the EPP Newsletter.*

Following are summaries of the major discussions:

Strategic Directions Committee

Tom Taylor presented the committee's report of an e-mail survey that was conducted of members before the meeting, which showed member interest in some new committees. The committee identified potential new committees dealing with Membership and Professional Development, Public Policy, Public Outreach, and Research and Knowledge Development.

The participants at the meeting fleshed out the topics, and the committee went to work. This summer, the ILC will review descriptions of the proposed committees and hear a report from Juliana Birkhoff, Dan Dozier, and Cindy Cook on the pros and cons of the committees, financial implications, and possible members, based on the number of volunteers who expressed interest at the meeting.

Diversity Mentoring/Coaching Pilot Project

The project has been officially launched, and the Diversity Mentoring Committee has set out its pilot-year program of five learning partners and five mentors. Along with applications from prospective mentors and learning partners, the committee has been working to arrange financial support in the form of money, in-kind contributions, rewards program miles, computer services, and clerical services.

Members will be asked to contribute to the program, which is expected to cost about \$30,000 a year. Recommendations for learning partners and mentors are being taken by Juliana Birkhoff and Mary Skelton Roberts. Also, check the ACR www.aCRnet.org website in the coming weeks for more information, at <http://www.mediate.com/acrepp/>.

ACR-EPP Relationship

The decision of the Hewlett Foundation to stop funding the field of Conflict Resolution has been reverberating through the organization for many months. The William and Flora Hewlett Foundation conflict resolution program has been

a long time supporter of the field of conflict resolution, and was the core founder of the merger that formed ACR in 2001. Having helped us transform through the merger into a successful organization, the foundation believes our field has matured to the point where we can stand on our own feet without further general operating support. ACR tells us they are fully committed to continuing to provide all Sections with top notch services and are confident the organizational strategic plan sets us on course to financial stability.

The Interim Leadership Council agreed to assemble a special committee to work on strengthening our Section and to begin identifying issues of importance to be presented to the parent organization. The leaders of that committee will be EPP Co-Chairs John Stephens and Mary Skelton Roberts.

Also emerging from the EPP meeting at Tucson were observations of leaders in the field, including Peter Adler in a letter to the ACR board, expressing the desirability of looking at ACR in a different light, given the growing public acceptance and understanding of mediation, as well as increasing specialization of the field, and what some believe to be decreasing benefits of cross-speciality interaction. Those trends are likely to have a great effect on ACR's role and services to EPP and other Sections.

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Poetry Corner

Thoughts

Awake we share a common world; sleeping each turns to his private world.
People must fight for their law as for their city wall.
Thinking is common to all men.
It is necessary to be guided by what is common to all although many a man lives as if he followed his own private reason.

Heraclitus