TRANSCRIPT OF NEUTRALS CERTIFICATION
PROGRAM TELESEMINAR
HOW TO LEARN MORE FROM EVERY MEDIATION

PRESENTER: ZEKE REICH

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MR. REICH: Hi, everybody.

MS. TOBE: So I wanted to take this opportunity -- this is Judy Tobe, an ADR Specialist with ORM, and I want to take this opportunity to welcome everyone to the Neutral Certification teleseminar, How to Learn More From Every Mediation.

Just a little few housekeeping tips before we get started with our speaker. I want to make sure that you're all on live meeting as well as on this telephone call. And if you are not sure how to do that, the link to live meeting was in the email that was sent to you. If you don't have the link for any reason, you can email me, and I will send it to you as soon as I finish my opening remarks. And you can send it to judy.tobe@va.gov, T-o-b-e, Tobe, and I'll send out that link.

There are no handouts for this call, just the PowerPoint that Zeke is going to show on live meeting. And when you're finished this call, make sure that you do send your name and your TMS ID to Roy Ferguson so that you can get credit for attending this call. And again, that information -- that contact information is on the email that you sent. Make sure you do the evaluation, again with the link being in the email.
Right now everyone is on mute, and after Zeke has finished his presentation, you'll be able to ask some questions. And to unmute yourself to answer the questions, just press star six. As you know, this is being recorded. Everyone had to agree to that, I believe, when you called in.

And before I turn it over to our presenter today, Zeke Reich, I want to tell you just a little bit about Zeke. He's the -- an ADR specialist at the Department of Veterans Affairs with ORM, and he's also the coordinator of the Neutral Certification Program. He's based in D.C. and he serves as a mediator and a coach for employees in conflict at VA Central Office and managers -- manages projects to support the VA ADR program nationwide.

On a personal note, I'm sad to tell you that this will be Zeke's last call, or he may be around for one more. But Zeke is going to be leaving the VA in August to go back to school full-time. He's going to be getting his Master's in social work. He'll be greatly missed at ORM, I know, but at the same time I'm excited for him as he takes the next step in his professional life. And like I said, I know he'll be missed by a lot of people.

So now, I want to turn it over to Zeke.
MR. REICH: All right. Thank you so much, Judy.

Hi, everybody. It is great fun to be on the other side of this table, so to speak. As Judy said, I've coordinated some of these calls in the past, but I had had the opportunity over the last few months to go a little bit more into a topic that I've always found really interesting. And so I thought I would kind of share some of that, what I found.

I got to do a detail into the mental health process -- Mental Health Service of the D.C. VA Medical Center, and I spent a few months there. And I hung out with clinicians, social workers, and psychologists, and I got to ask them about their work. And one of the things that's always fascinated me as a mediator is how can we learn from our mediation experience.

So I asked these people, these clinicians, how do you learn from your own clinical experience? How do you put that to good use and improve as a social worker or as a psychotherapist? And we talked about it a lot, and I ended up doing a bunch of reading. And I read about also in -- within mediation and negotiation how people have encouraged us to learn from our own experience.

So I wanted to share the results of what I
found with you all. And Judy was gracious enough to help me kind of coordinate this and to do the teleseminar. Hold on one second.

Hey, Rob, can you turn your audio down? Rob Talley, my office mate has got a speaker that I can hear. So I was getting little echoes of my own voice. Thanks, Rob. Small little world here in D.C.

Okay. So the aim of my presentation is to talk about how we can learn more from our mediations. This is something that I'm passionate about. We go through life, and things are happening to us all the time. We go through our mediations, and the mediation itself may be successful. It may be something that the parties walked away satisfied from. There may have been better communication or what have you. But we sometimes go through mediations, as with a lot of other experiences, that we don't necessarily improve from those experiences.

I love this quote by the American novelist, Henry James. He says, "Try to be one of the people on whom nothing is lost." All right. How can we go through our mediations and experience them as a kind of development opportunity all the time?

So one way to think about this a lot is to look at how people practice in all kinds of areas...
outside of mediation. How do people get better at things?

When researchers have studied experts, top elite musicians, athletes, they found that the people who are the highest in their own fields in music or in sports are distinguished from people who are just pretty good at -- because of the quality of their practice. It's what's called deliberate practice. They found that the most elite musicians and athletes in the world aren't practicing more than other people because plenty of people practice the same number of hours, but they practice in a different way.

They deliberately challenge themselves in each minute of their practice to improve by setting goals, by trying to constantly push those goals, by looking at how well they may have met or not met their goals, revising their goals all the time. They're deliberate and focused in a way that sets them apart from everybody else.

The football coach, Vince Lombardi, put it pretty well. He said, "Practice doesn't make perfect; right," –right?– "Only perfect practice makes perfect."

So we want to take that inspiration as mediators to be deliberate in our own mediation practice, to bring a level of focus, intentionality,
goal setting, and challenge that is going to allow all of us to go through our mediations. And when we're done with that session or done with thinking about that session, we're going to come up with -- you know, we're -- we're going to develop as mediators more than we would have otherwise. We're going to be someone who -- on whom our mediation sessions are not lost.

So I'm going to present some concrete tools that will help us, hopefully, do some of this kind of learning from our experience. The ideas for this are not mine at all. I have a bunch of references at the end. The -- the thing that I'm trying to do, though, is to distill a bunch of ideas from other people into something that can be practical for a single mediator who's dealing with their own mediations and they're alone while they're doing it.

You know, it's -- some of us are lucky enough sometimes to have supervisors, colleagues, peers, co-mediators, people who can help us debrief after a mediation and talk out what it was that happened. And that's great, but we're not always so lucky to have other people to talk to -- about this with.

So I wanted to try to just present a way that an individual, like getting in your car after the mediation sessions' over or the day after, that you...
yourself can do some reflecting on the mediation session in a way that brings more learning and more development from it.

You can use the things I'm talking about in conversation with other people. You can have a group conversation about a mediation, and I hope that this will potentially inform that. But the real aim is that it can be done just by yourself.

So deliberate mediation practice is going to take place at — at all the times around the mediation, before, during, and after the mediation. The bulk of what I'm going to talk about, though, is about the after the mediation, a reflection on the mediation that we've just gone through.

So I'm just going to pause now before I jump into the actual tool, and I want to say, are things going well from a technical standpoint? Can people hear me? Am I speaking too fast or too quietly or too slowly or anything like that? Do you have any initial questions to get us going?

Like Judy said, what you can do, if you want to speak, is you can press star six, and that will unmute you. And while you're unmuted, you should be able to speak. So if you have something pressing to say, press star six right now. You can unmute
yourself.
Not hearing anything. So I think we're good.
If -- if you're trying to speak but for some reason
aren't able to, you can also send me an email or send
Judy an email because we're all just checking our
messages as they come in as well.
Also, feel free -- feel free to press star six
as I go. This is going to be a little bit dense. If
you know me, you might not be surprised. This may be a
little bit more wordy than it needs to be. And if it's
confusing, I apologize in advance. I'm still trying to
work out ways of talking about all this stuff. So I
will appreciate anybody jumping in with a star six to
say, this doesn't make sense. Could you slow down?
Could you repeat? Or just ask any kinds of questions
that I'm doing.
Okay. So I'm going to walk you through a
five-step process about reflecting on moments in our
mediation session. I'm going to be talking about a
fictionalized mediation that I did recently.
Hopefully, you can see how this might be able to apply
to a mediation of yours, and potentially we can talk
about some of your own situations maybe in the Q and A.
The first step that I'm going to talk about is
after the mediation. It is what I call choosing a
critical event to focus on. So this is going to be a
five-step process where the first step is take a single
event of the mediation, and then everything is just
going to be reflecting on every -- on things around
that one event.

When you're done with the five steps, we can
go back and pick another critical event. I mean, so
there may be tons of critical -- and I'm going to
explain what that term means, but there may be tons of
different critical events that are worth pausing over
and reflecting on after the mediation. I'm just going
to do one, and then you can go through it. But you can
call it an iterative process. You can do it once, and
you can do it again and again and again for all the
different moments that -- that struck you in the
mediation.

Well, that's what a critical event is. A
critical event is just some moment in the mediation
that struck you. It's not necessarily something you
did. In fact, usually the things that strike us are
things that other people did.

So could be a -- a moment when the mood
improved. Could be a moment when somebody got angry, a
moment when your co-mediator looked at you in some kind
of puzzled way like they were confused by what was
happening, broadly speaking if somebody -- something unexpected happened, or just overall if you felt surprised by anything at all in the session, whether it was one hour or six hours.

Was there some moment in which you felt a sense of surprise? And if you can recall that moment, that's going to give us a good way in to this larger process of reflection that I'm describing.

So if -- if you want to try to follow along at home, you can think about a recent mediation and think about some time when you felt surprised. But there's no need to do that and -- and it may be hard to try to flip back and forth between my example and yours. So at the very least, I'm going to tell you about my critical event.

There I was in a recent mediation with Alan and Bob, and we were just a few minutes into the session. We were really just kind of making small talk. I was just sort of talking to Alan a little bit, and, unexpectedly, Bob threatened to walk out of the session. That's my critical event because the next thing that happened was of course that I was surprised.

Just this -- in my memory just seems it was really surprising that Bob threatened to walk out. That makes it a critical event. That's all that we
need right now. We're just going to pick on that moment, and we're going to do all of our reflections around that. So I've chosen that critical event.

Now, what we want to do is what I will call finding a move that I made that in some way led to that event. Okay. Right. We've got the thing that was surprising. I haven't told you any more about the context of it, but what we're going to do now -- what I'm going to do now in reflecting is to try to find something, a move that I made. I'm going to tell you more about that word move but something that I did or said that contributed to that event.

So let me back up a little bit and just in a very larger way talk about what a mediation session is or really what any human interaction is. What it is is a series of people doing and saying things; right? Someone says something or does something and then someone else does something and someone else does something. This -- it's a mediation session, or it's just any old human interaction.

And what we want to do is take the critical event, this moment when Bob threatened to walk out. We want to put it into context of the events around it, and what we want to do is we want to be as accurate as we can in our recollection of what happened. I
sometimes call it we want to be as rigorous as possible in really spelling out all of these different events. And the key reason for being rigorous here is because it can be very hard to really try to honestly look at our own actions in a mediation.

You know, we're going to find -- you are going to watch me find some unflattering things that happened that I did or said in a mediation. And we're not always so good - you know what I mean? we're not always so good at acknowledging the things that we could have done differently and the things that are unflattering to us.

So the idea of rigor, about being as honest and accurate as possible in all of these steps, and we're going to be really painstaking and really slow this stuff down just so that I can make sure I'm being really honest and saying, yes. You know, here's something that I did that, in retrospect, I wish I hadn't done, we’ve got counteract our own tendencies to pat ourselves on the back and say, no. No. No. It wasn't really me. It was -- it was the fault of, you know, the parties or my co-mediator or whatever, fate or something. We -- we need to be rigorous and accurate because that is where learning is going to take place.

Okay. So if we want to find this thing that I
did that led up to the critical event, let's start by looking at my critical event. Bob threatened to walk out. I've already told you that. I've already told you that after that happened, I was surprised. And you might guess that the other thing that happened after that is that, you know, Alan was unhappy because Bob threatened to walk out, and then the mediation, needless to say, went south from there; right? More stuff happened.

If I stopped here, I could be back in my car or driving away from the mediation session thinking, "God, Bob threatened to walk out, and that was surprising. And it was just really bad. God, you know what, I know what I learned today. Bob had a really short fuse. Gosh, and, you know, man, VA employees have such short fuses. God, we're in this culture, this blame culture, and, God, it's so hard to mediate here at VA. And, you know, it's just such a crazy organization," and blah, blah, blah, blah, blah, blah, blah, none of which had to do with me and what my role in the situation was. It's just looking at Bob and my surprise and that's it.

Now, what we want to do is find my move, find the thing that I did that helped contribute to the situation. So let me tell you a little bit more about
what happened. Well, before Bob threatened to walk out, what happened was that Alan said, "Yes." Why did Alan say yes? Because I kind of put words in Alan's mouth. I said -- well, first, we were all speaking. You know, we were kind of making small talk, and I was talking a little bit more to Alan.

And I said, "Alan, what brings you here today?"

And he said, "I really don't know. I don't think this is going to be helpful at all. You know, I'm really just here because our supervisor told us to come. And I don't know what I'm doing here, and it's not going to be useful."

And so I wanted to kind of empathize with him a little bit and sort of bring him in because he sounded a little disengaged. So what I said was, "Oh, it's kind of like you're just here to check the box. Is that it?"

And Alan said, "Yes."

And then just a minute later Bob said, "Wait. I can't believe this. Alan -- did you hear? Alan just said he's here -- just here to check the box. He has no respect for this process. I can't believe this."

And he threatened to walk out, and that's how we got to the critical event.
You know, so there's events that led up to things. Then there's what I did, which is what I call Zeke's move, and then that led up to the critical event. So I'm going to talk a little bit more about "move" and what I mean by that.

So everything I do or say in a mediation can be called a move. A move is just an action, an action just meaning something that someone did or said that was aimed at some kind of goal. Another way to say it is it's an action with an intention. So -- and maybe even every action has some intention behind it; right? I -- if I'm doing something in order to have something else happen, if I'm reaching for the faucet, it's to turn on the water. But let's talk a little bit more about some examples of that just in a -- in a more general way outside of the mediation.

So if I say, "Hi, Rob. Hi, Rob," in the morning, what's my intention? If I am just coming in in the morning and say, "Hey, Rob." Rob Talley, my office mate and I often say hello to each other. And if you ask me, I might say, "Well, my intention in saying, 'Hi, Rob,' was I want to be friendly." Right? That seems pretty straightforward. I want to build the relationship with Rob. I want to be friendly towards him.
There's other things, though, to say about intention. So intentions can actually either be conscious or implicit. So a conscious intention, like if you ask me, "Why did you say, 'Hi, Rob'?" I would probably say, "I want to be friendly." But there's also some implicit intentions in what I said. There's some other things going to that maybe, if I had thought about it for a while, if I really paused, that was also one of the reasons why I said, "Hi, Rob."

So this is really good to kind of spell out. You know, maybe on some other level I'm saying hi to Rob because I'm hoping that he's going to say hi back to me. And then he's going to say, how are you? And then I'm going to get to vent about how bad my morning commute was; right? You can maybe imagine that's also part of my intention there. Only it's an implicit intention. I want to talk about my morning. I might not think about that consciously, but then if you ask me afterwards and really press me on it, I might.

So here's another implicit intention. Maybe I'm saying, "Hi, Rob," not just to be nice but kind of to make him like me and maybe even just because I want him to come back tomorrow and say hi to me again. Like, I don't know that I would say consciously that's my intention, but there is a part of me that really
just wants Rob to come by so I'm not lonely in the morning; right? I mean, do you know what I mean? And that's also an implicit intention behind me saying, "Hi, Rob."

So that's one important piece about intentions. Another important piece is -- again, we're turning to the intention of "I want to be friendly" -- that specific intentions at a moment fit into our larger models of how to act. So we have guiding values, guiding models of how to be as a person or as a mediator that kind of govern us and lead us to those specific intentions.

So at that moment when I said, "Hi, Rob," it's because I wanted to be friendly. Well, why do I want to be friendly? Because I have a general value or a general model that says I should be a nice person. As a person, I want to be a nice person. As a mediator, I have a model, like I'm supposed to be facilitative and inclusive and transparent and empathetic, whatever it is. Those general guiding models or values that lead me to a specific intention in a given moment, which is, to say, that lead me to the move, for example, of saying, "Hi, Rob."

So looking at this basic nature of intentions, we can go back to looking at my critical event.
Remember that in step one of my five-step process I identified that I was surprised by Bob threatening to walk out. That was my critical event.

Then we found my move, and I wanted to stress here that the point of step two -- another way to say it is I'm going from an event over which I personally had no control. Bob threatening to walk out was not something that I did. That was a really great starting point for my reflections, but the point of step two is we went from something that I had no control over to something that I did have control over, to me and something that I did. That's where the learning takes place.

So so far, in just kind of spelling out steps one and two, we've talked about critical events, moves, actions, intentions, and models or values; right? So since I've already laid out a bunch of words and stuff, I wanted to stop right here and see are there any questions. Does any of this not make sense? Is there anything I can be going over better?

And again, you can press star six, if you want to jump in. And if, for some reason, your star six isn't working, you can shoot me an email.

I got one message from someone that says, "Coming in loud and clear." So thank you.
Now that we've looked at steps one and two, we can look at step three, which I call mapping the move. This is about spelling out all the events that we're talking about in even greater detail, even more precision.

So the first question within mapping the move -- there's two basic parts of it. The first one is I'm going to ask the question, what impact did the move have? What's the complete chain of events that led from the move to the event?

You can think of this a little bit as kind of checking your work. You see, we already came up with the event and the move, and we're already tentatively saying, yeah. My move led to my event. But I want to just go back over that whole chain to make sure we've got it clearly, to make sure we're being really precise and accurate, and to really allow ourselves to think through everything that happened.

So what I told you was there was my move. I said, "Just checking the box." Alan said, "Yes." Bob threatened to walk out. To be a little bit more specific, I said, "Just checking the box." Alan said, "Yes." Then Bob heard both of us; right? That's -- I'm assuming. Let's say that Bob probably heard what I said and what he said. And then I'm also assuming that
then Bob thought Alan doesn't care about the mediation.
And then that led to what I call the critical event.
Bob threatened to walk out.

I hope this series of events is clear, and of course I didn't put it on the slide but remember what happened right before that was Alan was saying, "I don't think this is going to be useful. I'm just here because our manager told us to come."

So spelling out all the different pieces is nice. It lets us see what we can call the impact of our moves; right? These are the real events that followed my making the move. And in checking our work, something else that this is useful for is it's good to see that there's no other move between checking the box -- me saying, "Just checking the box," and the critical event itself.

Imagine if, after Alan said, "Yes," I said, "Bob, did you hear? Alan said yes." Well, that would be like another move that I had made; right? And that would actually be -- have a much more direct relationship to the critical event than this thing where I said, "Just checking the box." Then we should be more, like, reflecting on that move, not this one. But that's why it's nice to see, you know, that there's nothing else that I did in between just checking the
box and Bob threatening to walk out. All that other stuff just followed.

Another thing that could be really useful here, while we're trying to do very clear rigorous thinking about the past, is we can be clear about what we know versus what we infer; right? What I know in life is what I directly observe and what I feel personally, internally.

What I infer is a lot of other stuff, like, about what other people are feeling. Like, we don't know what someone else feels. We just infer it, and it could be a very good assumption. It could be on the basis of really good evidence, but we also have to know that that's not a hundred percent knowledge in the same kind of way; right?

I know that I said, "Just checking the box."
And I know that Alan assented to that, and I know that Bob threatened to walk out.

I'm just inferring about what Bob heard and thought. I'm not in his head, and I'm not in his ears. So that's kind of just something to always keep in mind, when we're reconstructing the past. It's useful to just be very mindful. What do I -- what do I really know happened here? And what do I infer?

It's still fine to put down what I infer.
because, honestly, I think it's a pretty good assumption here that Bob did hear us; right? Otherwise, why would he threaten to walk out? But I like to make that distinction and just keep it crystal clear in my own mind.

For each step here you can be asking, do I know this, or am I just assuming it? And if I am assuming it, you know, how good is my assumption? So that's the first part of mapping the move; right? I'm mapping out the move to -- by saying what impact did it have? How did it lead to the event?

The second question that I want to ask about my move is, what were the intentions behind it? Remember an intention leads to a move, either consciously or implicitly. So let's check out my move. I said, "Just checking the box." That was basically a sort of paraphrase of Alan after he said, "I don't think this is going to be helpful."

So what was my intention here? Well, when I think about -- if you just ask me, "Zeke, why did you say that?" I would say what I already said. I was trying to build rapport with Alan. All right. After he said that, I wanted to build rapport. So that's why I tried to paraphrase him. That's a conscious intention.
Like I was saying, there's also implicit intentions. So another implicit intention we could say here was that I was trying -- when I said, "Just checking the box," I was trying not to alienate Bob. That's not, like, my conscious intention. Like, that's not the first thing that I would have thought of, if you said, why did you do that? But along the way, yeah. That was one of my goals. I mean, of course; right? When I said, "Just checking the box," I did not want that to be something that would alienate the other party; right? Obviously. So I would call that one of my implicit intentions here.

And then there's another implicit intention, and here's where we get back to being really honest about ourselves because I have to admit that there's an implicit intention here that doesn't make me look so great; right? You may have thought of this already, if you're thinking along with -- with me and this situation, which is that when Alan said, "This isn't going to be helpful," I think I probably took it a little too personally. And I think I probably felt a little bit defensive, and I was kind of cringing a little bit. And I was almost apologizing to Alan. And kind of one of my intentions here was trying to make Alan like me; right?
The conscious intention of I want to build rapport with Alan, that's great and that's -- that was there too, and that sounds really hunky dory. But it's a little bit different; right, to be acting on I want him to like me? That's not really where we're supposed to be come from -- coming from as a mediator.

So you -- so you can see I'm trying to show why -- why it could be so useful to force yourself to think about these different intentions. I wouldn't have admitted that intention, if you'd just asked me. But now that I'm working backwards from the move, I'm really forced to -- to acknowledge that those are my intentions here.

Remember that also, along with intentions, I was talking about values and models; right, the larger values or models or what lead us to specific intentions in a given moment? So we can look at my own values here.

Now, again, the point is not to just ask on the abstract, hey, what are my values, because odds are I'm going to tell you a story that is really, really self-serving and self-gratifying. My values are to be inclusive and transparent. And, oh, by the way, you know, my resolution rate is amazing, and I'm spectacular and, you know, we -- we -- we short of get
pretty proud of ourselves, if we start trying to think
about what our values are. But no. That's not the
point.

The point is to have to describe our own
models and values based on what we see here as our
actions and as our intentions; right, the values as
they showed up in practice? All right. Looking at how
I actually acted and what that shows my own working
models to be, even if I don't really like every aspect
of that working model.

So here, you know, on a positive note, I would
say there was probably a value of empathy as the
mediator, which led to my specific intention to try to
build rapport with Alan, which is what led to the move.

Not wanting to alienate Bob, you know, we
might call that impartiality; right? There's some
other kind of governing value as a mediator that I'm
trying to sort of keep all the parties interested and
excited and -- and, you know, not feel like there's any
kind of bias type of a situation. And maybe I wouldn't
use the word impartiality, but let's -- we can call
that.

And then finally; right, this is where I have
to be honest about my values or my -- my working model?
Probably there's a model here about being liked.
There's something there that I, going about my business as a mediator, kind of want to be liked. And that leads to the specific intention here. Okay. So that's great to get out in the open.

Now, we filled the picture in. You know, we can say -- we can sort of describe it like Alan first said these things that preceded me engaged in these values having those intentions and then having that move. So that's kind of the complete map of the second step.

Listen. I'm going to pause for a second because I -- I see in my live meeting that there's some questions and Q and A. And I hate to say it, but I've never done this before. So I need to -- oh, good. All right. I've got one question here. I don't know if you all can see it.

The question is, "Being deliberate requires increased awareness what's going on, but sometimes there's a lot of noise." That's a good question. A lot of noise, like during the mediation, it can be really hard to actually pay attention to all of these things. It's one of the reasons why we reflect is to try to improve our ability to -- to notice and observe what happened during the session. And let's talk a little bit more about that in the Q and A at the end.
I think it's a great question.

Now that I've come up with the map of part one and the map of part two, we're still, remember, in the step called mapping the move. So I'm going to put it all together and find this giant map; right? A pretty complete map, I hope, of the values, the intentions, the actions, and the impact of my move. So that's what I'm calling mapping the entire move.

Again, this is a fine place to jump in. If anybody's got a question, star six.

Now that I've got all three steps so far, we've done this mapping. Now, we want to go to the fourth step, which is really about learning, where the learning takes place here. We've got an accurate map, as accurate as possible. And what we've got to do is we've got to assess that particular move. We want to evaluate it in light of its impact.

So this assessment can also be broken down into two questions. First question, did the impact of the move match the intentions that were behind the move? All right. Looking again at this map, the impact of the move, did that match the intentions that were behind the move? The impact, did it match the intentions? That's the first question.

Now, this is really a question about learning,
and in particular it's really about learning about the move; right? This is a question, did my move accurately translate my intentions into the impact that I was hoping that they were going to have? Did my intentions get realized by my move? So that's the first question.

If you think about it for a second, you look at my move. You can think obviously the answer is no. One of my intentions was not to alienate Bob, but my actions resulted in him threatening to walk out. So because I -- the particular way that I said, "Just checking the box," and putting words in Alan's mouth and that led to Bob feeling alienated.

So there is a big mismatch here between my intention and my impact, and that's not a surprise, of course, because the only reason we found the critical event at all was because it was something that surprised me, which is basically saying that it's something that I wasn't really intending. It's the whole reason why we're focusing on this critical event is really because it didn't match my initial intention. If it did match my initial intention, then we probably would be doing something wrong.

I also just want to say something, which is that the critical event doesn't have to have been a bad
thing. It could be a good critical event, like we're trying to figure out how my move led to something that worked really well in the mediation. Well, still. Maybe the intentions that I had for that move didn't -- weren't to have exactly that impact. There still might be a mismatch between my intentions and my impact. So I can still be learning from that -- the experience, even if I ultimately like the impact that I had.

So now that I see that there is something about this move, that it didn't really translate my intentions into reality, now I'm in a place to learn because now I can think very clearly, what could I have done differently that could have lived up to my intentions?

So maybe if I had restated what Alan said more closely, like if I had just said, "Alan, it sounds like you don't think this is going to be helpful." So maybe that would have both met the intention of building rapport with Alan while also running less of a risk of alienating Bob; right? Maybe it could have met both of those intentions at once a little bit more closely. And I don't know for sure that I definitely could have done that in a way that would have met both those intentions.

But the more I turn it over in my mind, the
better I'm going to get at trying to find the most skillful possible move in that situation. Given those intentions, the best possible move that could have realized those intentions. And that's something you can practice or you can talk about with -- with peers or colleagues or you can sit around with a mirror and even just try to work on, how would I say that in a way that would best build rapport while also not alienating? And that's why we look at the first question, to practice new ways of potentially bringing in a move into -- a different move into the same situation.

The second type of assessment is a related question, but it's different. It's looking at the impact of the move. Am I satisfied with the intentions and the models that lay behind it? So this is a question also about the impact of the move, but it's not looking, we're not looking at the move itself with the second question.

Now, we're looking about -- is there something about the intentions themselves that sort of led to that impact? Am I actually satisfied with those intentions? And also, am I satisfied with the overall model that led me to those intentions?

So this question also -- this is a particularly good question, if you didn't like the
impact that you had, but it still might be a relevant
question, even if you thought it was a good impact.
This is still a good opportunity to kind of reassess
our own working model and our own intentions.

So we can look at kind of broader questions
now than just about did I choose the right move; right?
Here's where, now that we've really honestly said these
are my intentions and these are the values, even if I
don't like them and I wish I didn't have them, that's
what they are. Now, we can say, well, what do we think
about them?

So here's one, my intention to build rapport
with Alan. Did anybody look at this earlier and think
that in some ways this sounds a little bit strange? I
mean, maybe -- maybe rapport wasn't really the -- the
right intention at that moment. So not just, like, oh,
I wanted to build rapport, but I also needed to not
alienate Bob, and how could I do that better? But maybe
just rapport was out of place there. Maybe my
intention, while we're just having small talk and
stuff, could have just been, like, be polite. You
know, like, don't alienate Bob, and be polite.

So I could have just said, "Oh, Alan, you
know, thanks for sharing." Then we're not caught up
in, did my paraphrase go exactly correctly or not?
That's more of a question about the move. But if I want to reassess my intention, I might think rapport just wasn't really right then, and then I would have obviously done a different move following that intention. Okay. That's one thing we could reassess.

Another thing we could reassess, basically, is this, if there is a value that I'm not satisfied with. So remember I was saying that being liked was probably a value here, but I'm not super thrilled by the fact that that was my governing value here. So this question then -- this period of assessment helps me say, no. I don't really want to be acting on needing to be liked in a mediation so I've got to do whatever psychological work I've got to do in order to not have to happen. And don't lose the pattern, I have to do that with Rob first, and then later I can do that with the mediation parties, you know, but I'm working on it.

The second question, just broadly speaking, is about looking at all of our intentions and all of our models in light of that critical event. So that helps us do the assessment of the intentions and the models.

Those are the two basic questions of assessment, and I think once you've done that, you will really have been wringing a lot of assessment, a lot of
reflection out of your mediation. Wringing, like
wringing a towel; right? We're trying to just wring it
dry and gain as much insight as we can from the
session.

The final step then is to take that assessment
and to make instructions for next time, so really the
way we put our insight into practice. The instructions
to myself, I -- I advocate trying to do this in a very,
very specific way. Instructions for next time are
like, given what I've just said, the next time I'm in a
similar situation to where I just was, I'm going to try
to do something different.

So like, literally, for example, the next time
I'm trying to build rapport but also want the other
person to stay present, I am going to stick more
closely to the party's words, when I paraphrase; right?
That's kind of like an instruction. I'm going to work
on that for next time.

I'm going to -- next time I'm there, if I'm in
that same familiar situation, you know, last time your
paraphrase was a little too loose. You said these
things you shouldn't have said like, "check the box,"
and that was inflammatory. Don't say anything
inflammatory. Stick more to the party's words. Great.
Okay.
The next time I start a mediation, I'm going
to make more small talk early on. That's kind of
coming more from if I want to reassess that value of
empathy. Maybe the next time I'm going to try, you
know, just being polite instead of super empathetic
early on. Or the next time I feel myself acting in
order to make somebody like me, I'm going to try to
catch myself and just whatever it was that I was doing,
I'm going to stop doing that because it's obviously
coming from the wrong place in me.

So formulating these kinds of really specific
instructions helps us practice. It's a way of setting
our own goals and our own targets for next time. And
then we're going to really try to be able to assess,
you know, did I live up to those intentions the next
time?

Every time you mediate, you're going to tinker
with your own instructions. You're going to be seeing
new limitations for the last instructions, but each
time you're refining your ability to act skillfully in
a variety of situations.

So that's the fifth step. It's made of
practical advice. After we found the event, picked a
single event and we found the move connected to it, we
mapped it. We assessed it. We made instructions. And
the great thing is now that we've done this once, we can do it again.

We've gotten as much learning as we could from a single critical event, but now we can go back and just see was there something else that happened in that mediation that was also striking? And then you can do this whole process again to try to get something from that moment too. And I'll bet you that there's at least half a dozen surprising moments during each mediation session.

So all of this has been focused on what you do after the mediation session. I want to just go back very quickly and talk about this overall idea of deliberate mediation practice. The basic work of being deliberate, in my view, is -- comes in after the mediation, but there's some things you can do before and during that can support that kind of reflection.

So before the mediation, well, guess what. Remember the instructions you gave yourself; right? That's the whole point. That's why we did it in the last mediation. We came up with some instructions. So before the mediation, you know, actually go back to that list and try to think, okay. Well, remember if I get into a situation where such-and-such happens, I'm going to try to paraphrase more accurately or whatever.
Second, one more generally, I think, is to think about your own model and values before you go in. Are you going to try to be empathetic? What does that look like? You know, are -- are you going to try to being inclusive? What does that mean? Are you worried about being governed by the wish to be liked?

The more you prepare yourself explicitly with your own values, the more you're going to act on the values you want to act on, the more you're going to formulate the specific intentions that you hopefully won’t have second thoughts about, and the more you're going to make moves that match your intentions.

So during the mediation I don't think there's that much to do. I don't think you should think too hard about these things because you'll just trip yourself up, I believe, if you get too weighed down by am I doing the right action and intention and blah, blah, blah. I think that what you need to do here is just to observe everything.

And this gets to that question that had been asked in the live meeting Q and A feature, which is it can be really hard to cut through the noise. And I agree. I think the more we reflect afterwards, the better we get at noticing what happens during the session, but really that's the limit of what we can do.
And even that is a skill that takes time and practice just to observe what happened, remembering how accurate we're going to try to be after. Remember how precise we're going to try to be later on. Try to observe at a level that's going to facilitate that.

And then finally, of course, after the mediation, we're going to reflect, reflecting as many times as possible, depending on how many critical elements we find in that reflection process. Again, choosing a critical event, finding a move, mapping the move, assessing it, and making instructions for next time.

So just to wrap up, I'm going to quickly flash some further reading. These are just a bunch of resources that I have seen over the years that touch on these things that I think are great. I can send out this list. It's also -- eventually, this course will be on TMS. So this reading list is going to be available, like, via slide handout.

I want to, in particular, note that the top one and the bottom one are the people who are organizational development consultants who have done a lot of thinking about how to reflect, and it really informed me.

I also want to mention that there's a DVD
available through our office, which touches on some of these things. It's called Coaching the Mediator Student, and it's more for if you're a coach, like, if you're a supervisor of a mediator and you want to help them go through the process of reflection. But it's really related in the theme, even though it's not aimed directly at the mediator, and we have those DVDs available and can send them out.

And now, I want to turn to questions and see if there is anything that I can clarify or if we want to talk about anybody's own situation or if you have any observations or feedback for me. I'm going to let Judy moderate this. And as you all know, push star six, if you want to unmute yourself, and then you can speak.

MS. TOBE: Thanks, Zeke.

Does anyone have any questions to start with?

MR. NELSON: Hey. This is Ray Nelson [ph] from Dorn VA in Columbia, South Carolina.

MS. TOBE: Yes.

MR. NELSON: I think he just said that we can order some DVDs from him.

MR. REICH: We have a DVD available. It's called Coaching the Mediator Student.

MR. NELSON: Right.
MR. REICH: Yeah. Exactly. It's for, like, program managers or other people who are like mentors.

MR. NELSON: Okay. Thank you.

MR. REICH: Sure.

QUESTION: Hello.

MS. TOBE: Yes.

QUESTION: Yes. I'm from Coatesville VA, and how does one get a DVD?

MR. REICH: You can contact either of us, either Zeke Reich or Judy Tobe, and we can make sure one of those gets sent down to you.

QUESTION: And how long can one borrow it for?

MR. REICH: Oh, I think we have copies. Now, just a second. That DVD is not directly connected to this. It's not so much for an individual mediator. It's more for somebody who supervises mediators.

QUESTION: Okay. Now, let's say I'm a coach, but I am not supervising mediators.

MR. REICH: Like, a coach to other mediators. Like, if you -- if you sit around with your colleagues, other mediators, and it's -- it's to help ask good questions about reflection, what happened, what do you think you could have done differently, that kind of thing.

QUESTION: Yeah. Okay. But, again, though, I
don't have -- I'm not coaching mediators, but I'm a coach. I think I'm still -- I can still learn something from it; right?

MR. REICH: Yeah. We can talk about it over email, but it sounds like it could be very helpful.

QUESTION: Yeah.

MR. REICH: Follow up with one of us over email, and we'll definitely make it happen.

QUESTION: Okay. Great. Thanks.

MR. REICH: Thanks. That's great.

MS. TOBE: Zeke, I have a question for you. I'm wondering what -- before you go into a mediation, what -- what type of time do you take to kind of prepare yourself mentally using the information that you gleaned from other mediations? What do you do?

MR. REICH: If I've done a kind of good reflection after a recent mediation, it could be as simple as just looking over some notes from that session. Like, could just be five minutes, even ten minutes just to sort of jog my memory. Oh, yeah. I struggled with that in my last mediation. You know, that's something to be attentive to this time. But I don't think it has to take very much time at all to prepare.

MS. TOBE: But I think it speaks a little to,
as mediators, maybe not rushing -- you know, rushing, showing up for the mediation at the moment it's going to start or five minutes before it starts kind of to take some time to prepare ourself mentally.

MR. REICH: Yeah. Yeah. I mean, so there's something really wise in what you're saying. Even -- what I'm talking about right now is very cognitive; right? It's very much about taking the thoughts that you had and reflect on them, and that's important.

I think there's a broader sense of preparation that I try to do as a mediator, which is more like slow down. You know, take a few deep breaths. Kind of get present, connect with myself, you know, and then take five minutes to refresh the instructions that I've given to myself. But if you're going to have to do one of those, I would say personally just try to be present really just at that point.

MS. TOBE: Okay. Any -- any other questions for Zeke from anyone out there?

BJ: Zeke, this is BJ. How are you today?

MR. REICH: Hey, BJ.

BJ: I just wanted to let you know this was a great presentation that you provided today. I appreciate you taking the time to do this. One thing that I was just -- not necessarily a question but a
comment to share with those on the call.

One of the things that I quite often use because there are times where the individuals that are coming into the session are, you know, maybe angry with whatever the situation is that brought them there, or there's anxiety that's related to being in the room, and one of the things that I use to sort of -- an opening comment when I do sessions is I just -- I -- I thank everybody that's there for the service that they provide in caring for our veterans, and I ask if there are anybody in the room that also may be veterans themselves. And it's just sort of a way of putting -- you know, it's completely separate from the mediation process.

It's certainly just -- in -- in some ways, the reason why I do that is to -- to sort of make that human connection with the parties that are in the room, as opposed to getting right into the -- sort of the -- the meat of the discussion. It changes the tone. Quite often, it sort of defuses any tensions that might be in the room and -- and it sort of refocuses those that are there to remind them as to why we work for the Department of Veterans Affairs.

MR. REICH: That's great. I think it's a great example of how our -- our models or our values
can really help us, you know, act differently. So this is not just for the mediators but even for the parties.

You know, if -- if they are thinking about the fact that we're an agency that provides an extraordinary service to extraordinary people, you know, that may be kind of going to govern maybe some of their specific intentions. Some of their moves will be a little bit more civil or communicative with other people because they remember the larger spirit we're a part of.

CHARLOTTE: Zeke, this is Charlotte. I have a comment to what BJ just said, and I just tend to disagree with what he said because, depending on the parties in there, you may have a party who is not a veteran. Some of the issues may be that veterans are given more preference or something like that.

So I would think that you would just really still want to remain neutral and not give any more -- I guess, any more accolades to someone who's a veteran because they're really all employees at this point. We do understand we have a mission, but I just think that, if someone is not a veteran and you're giving a pat on the back to someone who is a veteran and that person is already having problems in the connection because of that, then it may tend to give a feeling of being left
out and impartial.

I'm a veteran, and I believe, you know, that's good. But I just don't think that that's, you know -- you want to include at that time.

MR. REICH: Right. That's -- that's very good.

CHARLOTTE: And it's probably going to be a case-by-case basis, but that's just my feeling.

MR. REICH: That's great. Here. Charlotte, before I answer, I just want to ask anyone who's so far said a question, if you can press star six again to mute yourself again. I'm hearing some background noise, and -- and I'm realizing that I don't want it to get in the way of other people hearing.

So, Charlotte, just, you know, I think let's take what you just said as a great case example of this whole process. It's a move to say I want to thank the veterans here or, you know, if you're a veteran, than I thank you for your service or to put it in any particular way. As a mediator, that's a move.

It should have specific intentions. BJ's talking about the intention that he would have in doing it. And that means the impact that he would hope it would have would be to make people feel proud or feel collaborative or whatever.
Charlotte's saying, well, what about the possible impact of doing that, which is that the non-veteran party is going to feel somehow lesser? You know, that may be -- even if you have a very good intention about it, maybe that impact is going to be negative. And I like what you said again, which is that maybe it varies from case to case.

And I think what all of us can do is to try to figure out which cases does it vary; right? When is that a really useful move versus when is it not? Or does it depend on me as a mediator, whether I'm a veteran or not or in how I say it or not or, you know, if -- if I -- only if I know that both -- both parties are veterans, am I going to do it? Or if I have no idea, I'm going to do it.

All those things are about formulating our own self-instructions. When in that situation, I'm going to try to do the following, and I'm hoping that it's going to have the following impact. And if it turns out after the mediation that it didn't, then I've got to go back and start revising my own instructions.

BJ: Hi. This is BJ again. Zeke, I just wanted to clarify because I think I -- you know, the way I presented it may have been a little bit misleading.
I don't ask if any of the parties are -- that
are there are -- are veterans -- I just -- what I do is
I -- I thank them for their service to our veterans,
and then I basically just leave it with just a closed
comment that, you know, and if anyone here in the room
happens -- is also -- you know, also was a veteran, I
want to just thank you from me as -- as BJ, not as a
peer. I always put that out and say it's coming from
me as a person. And I just say, I also thank you for
your service, and I just leave it at that because I
agree with you.

I don't want to -- I don't want to, you know,
present it as if I'm having any special preferences
with either party, regardless of, you know, whether,
you know, you're a football fan, as an example, or
whether you're a veteran. So I -- if I -- if it was --
if it sounded differently to begin with, I apologize.

I do ask -- you know, I just thank everybody
for their -- for whatever efforts they do on behalf of
the VA in service to our veterans and just leave it
with that simple comment. You know, if anybody here
happens to be also a veteran, I also thank you for your
service.

MR. REICH: Great. So, BJ, I mean, just to
restate part of what you're saying, you're saying,
well, if I ask everybody to share with me are they a veteran, then I think that would have a really unconstructive impact. But the way I'm doing it right now where I just, you know, in a closed way say, thank you for your service, I think it's got a -- a positive impact. And I think it would be interesting because there may be people out there who -- who might say to you, you know, even the way you're doing it, I'm kind of concerned about what that negative impact is going to be.

That's not really my view, but I just want to put out there we can keep having a constructive conversation using that language of what's the intention behind it? What do you think the impact is going to be -- likely to be? So these are exactly the kinds of conversations that we can get at by doing this reflection.

We're coming up to 2:00 p.m. So if you have any really pressing questions, I think in -- out of consideration to all the other mediators and employees who may need to get to other meetings or something, I'm going to ask that you send me an email. I'll be more than happy to keep talking about any of this over email, to -- to debrief, to reflect on the situations that you've been in, and to just try to, you know, keep
making these tools useful to the entire VA Neutrals program going forward.

TOBE: Thank you, Zeke. I appreciate it and just want to quickly remind everyone to fill out their evaluation and to make sure you send your name and TMS ID.

* * *

Peterson Reporting Video & Litigation
I, SARAH BAEZ-VASQUEZ, Certified Shorthand Reporter for the State of California, do hereby certify:

That the foregoing proceeding is a verbatim transcription prepared from the electronic sound recording provided to me of the proceedings; that the foregoing is a true and accurate transcript of said proceedings to the best of my ability.

Dated: This ______ day of ____________, 20__ at Murrieta, California.

SARAH BAEZ-VASQUEZ
CSR No. 13624