



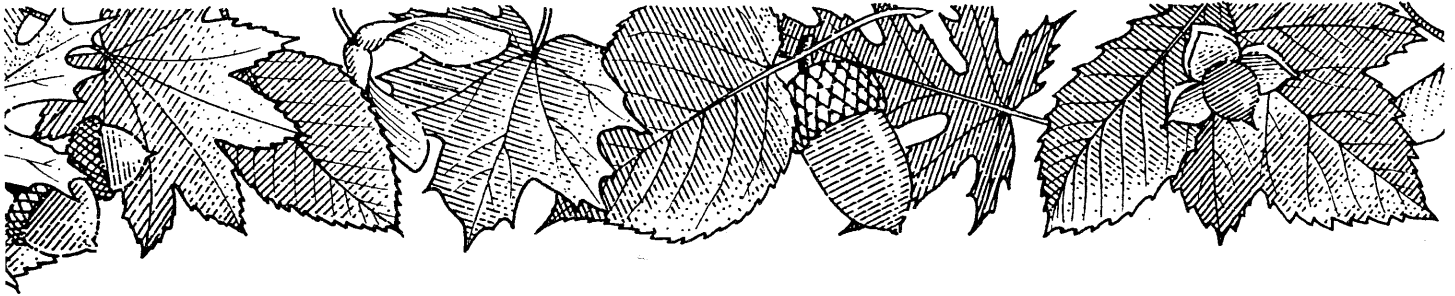
NEWSLETTER

Association of Family and Conciliation Courts

An international association of judges, counselors, court evaluators, mediators, and lawyers

Volume 10, Number 4
Fall, 1991

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Rebecca Greenlee



Ethical Dilemmas in Mediation Involving Juveniles

Parent-child mediation programs have been expanding since the early 1980's. However, standards of practice, program policies, and training programs have failed to address the ethical dilemmas posed in mediation involving juveniles. While similar dilemmas confront mediators in other contexts, parent-child mediators must deal with unique factors as the result of the family structure and because juveniles are involved. The tension between protective values and educational values is most intense.

Robert A. Baruch Bush, Associate Professor of Law, Hofstra University School of Law, explores these ethical dilemmas in a publication produced by the Center for the Study of Youth Policy. The report is the result of discussions with parent-child mediators about cases they encountered for which they felt the need for guidance by professional standards and program policies.

The following is a sample of some of the ethical dilemmas presented:

Act I, Scene 1: Mediator and child in private caucus in mediator's office. Child tells mediator she has a fear of violence by her father, although no violence has yet occurred. The father is out of the home now after the divorce. Child doesn't want the mediator to tell anyone and says she felt betrayed when a counselor reported fears that she had confided in the past.

Act I, Scene 2: Mediator meets with child's mother who reports the child's fears are exaggerated; that the father is a threatener and does not act on his threats.

Mediator Dilemma: Should the mediator maintain confidentiality or report? Does the mediator keep the child's confidence and not report her fear, perhaps risking the child's safety and violating state law? Does the mediator report and risk damaging

the child's already damaged capacity to trust? If the mediator reports and halts the mediation process does this sacrifice the potential benefit of mediation for what may be a frivolous allegation? What should the mediator do?

Act II: Mother and Daughter disagree about whether the daughter should have an abortion. Mom asserts that she could take her daughter to court and force an abortion. Mom asks the mediator, "Isn't that right?" Mother and daughter turn to the mediator for an answer.

Mediator Dilemma: Should the mediator provide information? Any answer will make the mediator appear to take sides and will tend to confirm the importance of the law (or expert opinion) as the criteria for resolving the dispute. Deflecting the question and inquiring about each party's concerns, unfairly ignores each party's request for information, resulting in resentment and a lack of confidence in the mediation process and may subject them to less reliable sources of information.

Act III: A 13 year-old child stays out until 4:00 a.m. and has been truant from school because he cannot get up in the morning. During mediation the parents and child resolve that the child can stay out until 2:00 a.m. but no later. The mediator asks if this will really solve the problem. The parties say they are agreed on this. Based on personal and professional judgment, the mediator believes this is a poor solution.

Mediator Dilemma: Should the mediator abandon the nonjudgmental posture and be more directive? Can the mediator maintain impartiality and promote empowerment of the parties at the expense of a "better" solution?

Act IV: A family with a history of child abuse by the father, already reported and under investigation, is in mediation regarding other problems in the home, unrelated to the abuse. The father is still in the home. The mediator is aware of the abuse history, and views the father with suspicion and contempt even though abuse is not an issue in mediation.

Mediator Dilemma: Has the mediator's reaction to the father sacrificed the impartiality of the process? Should the mediator withdraw if he has any question whatsoever about his own reaction? Should the mediator abandon impartiality and move to some sort of advocacy? Will whatever the mediator does to engender the child's trust make the father suspicious and will this contaminate the mediation process?

Act V: Mediator, child and parent are present during the mediation session. Child's response to everything said by parents and mediator, is a non-committal "YES," "UH HUH."

Mediator Dilemma: Is the child capable of consent to the agreement? Is the child intimidated, incompetent or manipulating the process to get it over with? Is consent real and this is only a personality trait? Will giving the child special attention to determine his understanding and consent to the agreement alienate the parents?

Act VI: Mediator sees family with unemployed single parent, several children and a truant child who may be involved with drugs and alcohol, living in substandard living conditions. Mediation involves the child's behavior at home and truancy from school.

Mediator Dilemma: Will mediation on presenting issues create detrimental reliance by the family on an illusory solution?
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Guidelines for Parents

Many parents who are referred to family court programs lack basic information about the divorce process and the effects of divorce on children. Practical information on the needs of children at different developmental stages and guidelines for residence and access can help parents work out time sharing arrangements for their children. The **Spotlight Series** continues with a focus on written materials prepared by family court programs for distribution to parents. Newsletter Editors encourage other court programs to send in guidelines that have been developed.

Family Center of the Conciliation Court Pima County, Arizona

Hon. Margaret M. Houghton initiated a revision of Pima County's guidelines for sole custody families. The guidelines were developed by a committee of the Pima County Domestic Relations Bench, the Pima County Family Law Section, the Family Center of the Conciliation Court, child development experts and representatives of other community groups. The committee was chaired by Milt Harden of the Pima County Conciliation

Court. The guidelines incorporate recent child development research and provide parents with specific information to promote the best interests of the child. According to Judge Houghton, the former guidelines did not take into consideration the complex needs of the contemporary family and did not provide enough direction to parents.

The new guidelines provide specific residential, vacation, holiday and phone access recommendations for children in seven major developmental categories from early infancy to high school age.

Unique features of the guidelines include a breakdown of infancy into two stages (birth-9 mos. and 9 mos.-18 mos.) and a recognition of employment and extra-curricular needs of adolescents. A controversial feature of the guidelines is a recommendation that overnight visits do not take place until a child is 18 months of age unless the non-custodial parent has been actively involved in child-rearing. Some child development literature recommends that overnight visits should not begin before three years of age. Former Pima County guidelines recommended overnights at one year of age. The 18 month recommendation was the result of a committee compromise. The guidelines

also recommend mid-week visitation for elementary school age children to provide for alternate week overnight visits with the non-custodial parent. This recommendation addresses the concern of custodial parents that mid-week visits are disruptive to home-work and routine, while allowing the non-custodial parent to be more involved.

According to Linda Kerr, Director of the Family Center of the Conciliation Court, the guidelines have been successful because family law attorneys were active in developing them and the domestic court bench is actively supportive.

Domestic court judges use the guidelines along with evidence presented in the case when issuing a decision as to residence and access. According to Kerr, the guidelines provide a resource and are not intended to be inflexible rules. Guidelines are also distributed to parents who want information on re-structuring arrangements for their children.

For additional information or copies of the Pima County Guidelines, contact Linda Kerr, Director, Family Center of the Conciliation Court, Great American Tower, 32 N. Stone, Suite 1704, Tucson, AZ 85701-1403, (602) 740-5590.

Court Appointed Special Advocates (CASA)

A growing number of victims of emotional abuse are children whose parents are involved in bitterly contested divorce proceedings. Several studies have indicated that approximately one-third of divorced parents continue to be bitter and actively hostile 2-5 years after the divorce. Children in these families find themselves caught in the middle of custody and visitation disputes and are often used as legal leverage and as instruments of vindictiveness. The ongoing bitterness can result in allegations of physical abuse, sexual abuse and kidnapping.

In such cases, it is the goal of the court to help children maintain a relationship with each parent whenever possible without compromising the safety of these children. Supervised visits are often the result. Unfortunately, however, it is extremely difficult to obtain an objective party from within a parent's family or church to supervise such access.

Johnson County, Kansas CASA Volunteers Advocate Child's Best Interests in Domestic Cases

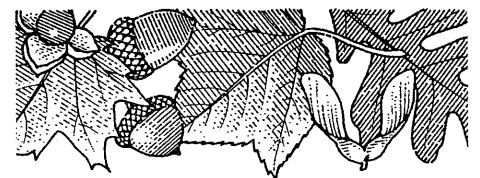
In 1989, the Johnson County, Kansas, Court Appointed Special Advocate program

(CASA) developed a pilot supervised visitation program. Today, the program is in full-swing, providing CASA volunteers as advocates for children involved in custody or visitation disputes and to be present to supervise weekly, one-hour visits with a non-residential parent. The CASA's role is to be an independent advocate for the child's best interests, with a goal of eliminating or lessening the emotional abuse or ill effects which children experience in a divorce.

Key components of the CASA Supervised Visitation Program are education/support sessions that both parents are required to separately attend during the course of a visitation evening. These sessions are facilitated by a Master's level mental health professional and are designed to teach parents communication and coping skills and ways to keep their children out of the middle of their disputes. These sessions also provide parents with referrals to other programs to stop any abusive behavior.

The program has experienced tremendous success in Kansas' Tenth Judicial District. Referrals and financial support have been significant as the organization has worked to educate the legal community about the program. Families that have successfully completed the program have been able to move to a standard order of visitation.

For more information about the program contact Charlene Whitney, Supervised Visitation Coordinator, P.O. Box 31, Olathe, Kansas 66061, (913) 782-0918.



Board of Director Nominations

The Nominating Committee is seeking names of individuals to serve on AFCC's Board of Directors. Suggested individuals must be members and have an interest in and a knowledge of AFCC and its work. Nominations should be received by February 1, 1992 in order to be considered by the committee prior to election at the annual conference in San Diego in May. If you or another member you know is interested, please forward their name and resume to Nominating Committee Chairperson Dr. Russell Schoeneman, Conciliation Services, 201 W. Jefferson, Phoenix, AZ 85003 (602) 262-3298.

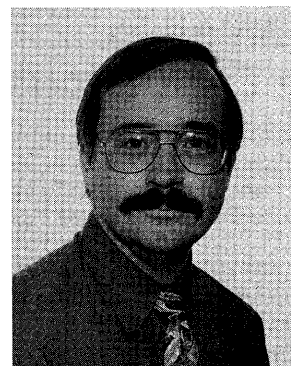
Phil Bushard Receives President's Award

Phil Bushard, recipient of the 1991 AFCC President's Award for Outstanding Service, has a ten-year history of membership and service to AFCC. Phil attended his first AFCC conference in Indianapolis in 1981. He served as chairperson of the conference planning committee for AFCC's meeting in Scottsdale, Arizona in 1984 and in 1987 he became chair of AFCC's Publications Committee. This committee has been responsible for the development of many of AFCC's pamphlets and publications, including AFCC's two newest pamphlets on visitation/ access and successful marriage. Phil has also been active in the Arizona AFCC chapter, serving as its Treasurer. He says he's always had an interest in looking for new ways to get involved and resolve problems.

After receiving his Masters Degree in counseling from Arizona State University, Phil worked for several years in juvenile probation in Maricopa County, Arizona. That experience helped shape his view of the family as the initial focus of intervention for juveniles. In 1979 he transferred to the Con-

ciliation Court where he performed custody evaluations and marriage counseling and helped implement the mediation program. He continued his graduate studies while working at the Conciliation Court and in 1989 received his Doctorate in Public Administration. He remained with the Maricopa Conciliation Court until his recent move to Reno.

Prompted by the potential to develop a model family court program, Phil moved to Reno, Nevada (The Biggest Little City In The World) in January 1991 to set up the first family court mediation program in Washoe County. Since his arrival, Phil has been a jack-of-all-trades, serving as the program's administrator and providing direct services. Due to the overwhelming success of his efforts, two part-time mediators were recently added to the program. He expects to expand the program to include custody evaluation services in the near future. Within the next year the Second Judicial District will create a separate family court and Phil's program will serve as the cornerstone in that expansion.



Phil Bushard

Phil's wife, Nancy, and their three children, Aimee, age 15; Danielle, age 11; and Jeremy age 3; finished up school and sold their home in Phoenix and have now joined Phil in Reno. They're all looking forward to new recreational activities, including skiing and hiking in the Lake Tahoe area.

Best wishes to you Phil in your new position. Washoe County is very lucky to have you and so are we! Thanks for your outstanding service.

Member News

Frances Bernfeld was recently elected President of AFCC's Arizona chapter. Frances is a mediator and counselor with the Family Center of the Conciliation Court of Pima County, Tucson, AZ. The Arizona chapter will be hosting its annual meeting in Sedona, AZ, February 14-16, 1992. Frances has many exciting projects planned for the chapter and is looking forward to strengthening AFCC's involvement in domestic relations in the Southwest.

Linda Hahn, Director of the Dallas Family Court Services, announced that the agency has moved to new quarters. The new address is Government Center, 600 Commerce Street, Seventh Floor, Dallas, Texas 75202. The phone number remains (214) 653-7674.

Hon. Lewis Kapner, West Palm Beach, FL has retired from the bench and returned to the practice of law.

Hon. Kristena LaMar, Circuit Court Judge, Portland, OR, was recently awarded the Willamette University 1991 Individual Award for Excellence in Dispute Resolution.

Anne Menard, Executive Director of the Connecticut Coalition Against Domestic Violence, was awarded the 1991 Distinguished Service to Families Award by the Connecticut Association for Marriage and Family Therapy. Anne has consulted with the Connecticut Family Court Services and has participated in several AFCC conferences.

Kathleen Metcalf and **Robert McWhinney**, Toronto AFCC members, presented their slide show dramatization of "Carnage and Compassion: Reflections on Conflict in Human Nature" and "Toward a Feminine Concept of Justice" at the annual meeting of the National Association of Women Judges in Chicago. They were joined by

AFCC President Hon. Susan Snow who was also a featured presenter.

Marie Meyer, Director of the Fourth District Court Mediation Services, Boise, Idaho, writes that her program is one of the recipients of the Federal Child Support/Access Grants from the Office of Child Support Enforcement. Marie and staff colleague, Kristie Browning, attended AFCC's recent conference in Albuquerque. They were excited about the contacts they made at the conference and returned home with many new ideas. How about a regional conference in Idaho?

Ruth Urban Pearson has been selected from the 96 applicants as the Manager of the newly instituted Neighborhood Justice Center in Las Vegas, Nevada. Ruth is leaving her position as the Director of the Child Custody Division in Las Vegas after having been there for the past seventeen years. She has been an AFCC Conference Coordinator and chaired AFCC's meeting in Las Vegas in 1987. Her new address and phone are Neighborhood Justice Center, 651 Shadow Lane, Las Vegas, NV 89106 (702) 455-4221. We wish Ruth great success in her new position and hope that she will be able to stay active in AFCC.

Hon. Michael Voris, Domestic Relations Court, Batavia, OH recently published two articles on domestic violence. "The Domestic Violence Civil Protection Order and the Role of the Courts" was published in the *Akron Law Review*, Vol. 24, No.1. "Civil Orders of Protection: Do They Protect Children, the Tag-Along Victims of Domestic Violence" analyzes the issue of visitation within the context of a domestic violence civil action. This article was published in *Ohio Northern Law Review*, Vol. 17, No. 3.

Dr. Susan Zaidel, AFCC member and clinical psychologist in Haifa, Israel is the author of the first English-language book about divorce mediation in Israel. A Hebrew translation will be published next Spring. The book is written for the general public and professionals in the mental health and legal fields. AFCC's pamphlets, *Parents Are Forever* and *Twenty Questions Divorcing Parents Ask About Their Children* are reproduced in the book. The book may be ordered for \$22 (US, includes shipping) from Divorce with Respect, P.O.B. 7668, Haifa 31076, Israel.

AFCC Sympathies

AFCC members extend their thoughts and sympathies to Lois Gold on the death of her daughter, Elana, who was killed in an airplane accident. Lois is a mediator and counselor and former AFCC Board member from Portland, OR and a Past President of the Academy of Family Mediators.

Friends of Dorothy Huntington, PH.D. recently gathered at the office of Jeanne Ames to celebrate her life. Dr. Huntington died of cancer July 27, 1991. A Memorial Lectureship is being established in Dr. Huntington's name. Contributions may be sent to J.T. Ames, 203 Willow Street, San Francisco, CA 94109 and made payable to Dorothy S. Huntington, Annual Memorial Lecture Fund.

AFCC also extends our sympathies to the colleagues and family of Henry Colada, Director of the Santa Clara, CA Family Court Services.

Using Games in Custody Evaluations

Upcoming AFCC Newsletters will feature a series on the use of games to assist in gathering and evaluating information in a custody evaluation. Linda Hahn, Director of the Dallas County Family Court Services contributed this review of *The Family Relations Test*.

Children whose parents are in dispute over custody are often confused, pressured and anxious. So are the parents. Probably both children and parents have apprehensions about what the child will say to the custody evaluator. Responding to the family's suffering, the child may be protecting a parent or self; by providing only guarded and screened information during the verbal interview.

A custody evaluator's use of games can establish a non-threatening environment, build rapport, and provide a common ground for adult-child and counselor-family interaction. The play interview utilizes a child's natural form of expression.

A favorite tool used by the Dallas Family Court Services staff is *THE FAMILY RELATIONS TEST*. Although some three-year olds are mature enough to play the game, it is most effective with children ages four through ten.

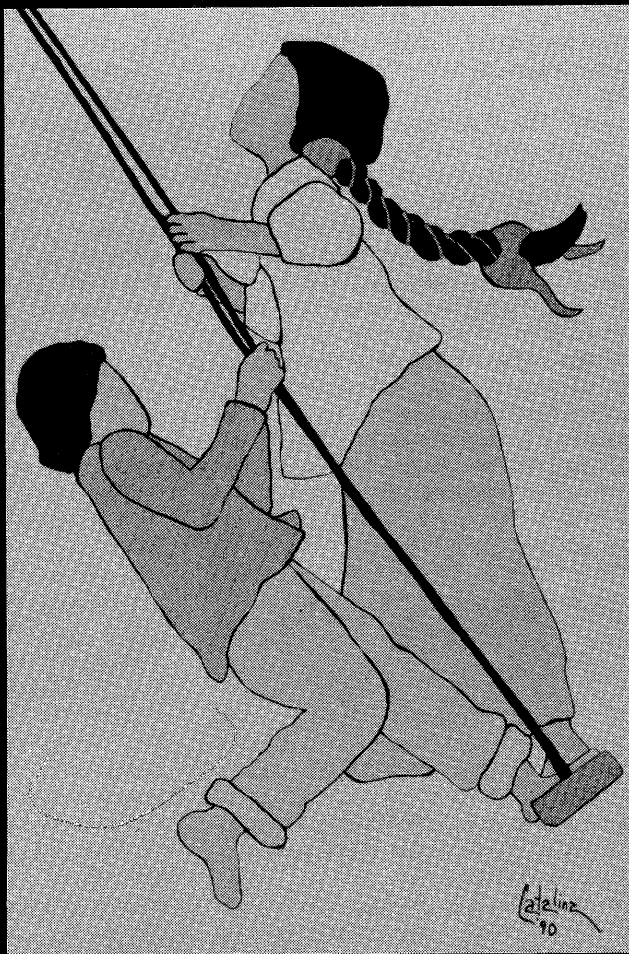
The game consists of twenty-one boxes with mail slots on top and a line drawing of a human figure on the front. The figures are representative of various age groups of male and female children and adults. Additionally, there are two different sets of cards that have statements on the back and drawings on the front to look like a letter. One set of cards is designed to be read to children too young to read; the second set to be used by children who can read. The child is asked to select from the group of boxes those that represent his or her own family. The child then sends messages to the appropriate family member by dropping each card in the respective family member box.

Statements on the cards include:

- This person in the family makes me feel afraid.
- This person nags sometimes.
- This person in the family makes me feel silly.
- This person likes to tickle me.
- This person in the family really understands me.
- This person in the family is very jolly.
- Sometimes I think I would be happier if this person was not in our family.

Further information about the *Family Relations Test* may be obtained from NFER Publishing Company, Ltd., Danville House, 2 Oxford Road East, Blocks SL41DF, Windsor, England.

DIVORCE



AFCC Poster Now Available

This beautiful full color limited edition commemorative poster, "Children On a Swing", was designed for the Southwest Regional Conference in Albuquerque and may now be ordered from AFCC. Anyone who attended the conference can attest to its attractiveness. The artist, Catalina, comes from a family of artists. Her father, Anthony Quinn, is an actor and accomplished painter and sculptor. Her maternal grandfather is the legendary film director Cecil B. DeMille. Posters may be ordered from AFCC for \$30, plus \$5.00 shipping and handling. Contact: AFCC, 329 W. Wilson St., Madison, WI 53703, (608) 251-4001.



FAMILY VIOLENCE AND THE COURTS

AFCC Activities

AFCC is among a select number of organizations that has taken a leadership position in focusing the attention of our nation's courts on family violence. AFCC recently responded to a request for proposals from the State Justice Institute to host a national conference on "Family Violence and the Courts." This conference will explore the implications of recent research findings regarding the effective methods for filing, screening, adjudicating or resolving and disposing of cases involving spousal or child abuse. If funded, this conference will likely be scheduled for early 1993.

AFCC has also submitted a research proposal to the State Justice Institute to study the effective resolution of custody and visitation disputes in divorce and post-divorce civil actions and actions between unmarried partners where there have been instances and/or allegations of domestic abuse. The effectiveness of mediation and traditional court procedures will be evaluated. SJI will be reviewing this proposal at its November Board meeting.

In 1989, AFCC served as the convener of a national symposium on "Mediation and Domestic Abuse." This conference brought together representatives from a number of constituent organizations to define the issues and concerns regarding the use of mediation in cases involving domestic abuse.

In 1981, AFCC produced the award winning film, "A Family Affair," designed to

inform judges and other professionals about the legal remedies and implications of spousal abuse. This film has been widely used by court systems and police agencies.

Linda Girdner, AFCC Domestic Abuse Committee Chairperson and AFCC members Tim Salius, Zena Zumeta, Michael Lang, Paul Charbonneau, Ann Milne and others including judges, attorneys, and domestic abuse prevention personnel have been participants in a two year dialogue directed by the Court Mediation Service of the Judicial Department of Maine. The committee is currently finalizing its report on the use of mediation in protection from abuse and divorce cases. For further information contact Project Director Paul Charbonneau, Court Mediation Service, District Court Bldg., P.O. Box 382, Belfast, ME 04915 (207) 338-3107.

Through the sponsorship of AFCC's Domestic Abuse and Mediation Committees and the respective committee chairs, Linda Girdner, Diane Bryner and Aza Butler, AFCC's national and regional conferences have and will continue to provide a forum for family violence issues.

For further information about AFCC's activities in this area contact Linda Girdner, (703) 329-9370; Diane Bryner (703) 358-4500; Aza Butler (301) 887-2920 or Ann Milne, AFCC Executive Director (608) 251-4001.

National Council Receives Grant

The National Council of Juvenile and Family Court Judges, Reno, NV recently received a \$900,000 grant from the Conrad N. Hilton Foundation to assist with the development of model state laws for domestic violence. Aimed at state-level reforms, the three-year project will include a multi-disciplinary advisory committee of national experts to produce a "Model Code Workbook" to assist state legislators, battered women's advocates, governor's offices and courts in preparing comprehensive state legislation.

According to current NCJFCJ's Family Violence Advisory Committee chairperson, Hon. Leonard Edwards, San Jose, CA, the project will be recruiting the assistance of national and state organizations, will host a summit meeting to unveil the proposed model code and will conduct follow-up training and technical assistance upon enactment of the model code. For further information contact Merry Hofford, Project Director, NCJFCJ, P.O. Box 8970, Reno, NV 89507 (702) 784-6012.

AFCC and National Council Have Much in Common

Hon. Salvatore T. Mule, Immediate Past-President of the National Council of Juvenile and Family Court Judges, attended AFCC's annual conference in Pittsburgh and announced that the two organizations have much in common. Each organization is attempting to assist with the improvement of the practices and procedures in family and juvenile courts. Judge Mule is from Louisiana and has agreed to help AFCC with our plans for the 1993 annual conference in New Orleans.

This summer AFCC President, Hon. Susan Snow, attended the National Council's annual conference in Rapid City, South Dakota. She was introduced at the opening ceremony by Judge Mule and extended her greetings to our National Council colleagues.

Hon. Ninian Edwards, current President of the National Council, is from Clayton, MO. Ann Milne, AFCC Executive Director, recently had the opportunity to meet Judge Edwards who indicated his interest in furthering the ties between our two organizations. We look forward to working together and extending our mutual goals.

Wisconsin Mediators Meet With Battered Women's Advocates

Ellen Pence, Training and Technical Assistance Coordinator for the Domestic Abuse Intervention Project (DAIP) in Duluth, Minnesota, was the featured presenter at the 1991 annual meeting of the Wisconsin Association of Mediators (WAM). The eighth annual meeting, entitled, "Mediators and Domestic Abuse Advocates: Cross-Training and Dialogue," broached the controversial topic by bringing together professionals from both fields to exchange information and to dialogue. Ms. Pence provided training for mediators about domestic violence including a profile of an assailant, responses of women to violence, dynamics of a violent relationship and theories and causes of domestic violence.

AFCC Executive Director, Ann Milne, provided an overview of the mediation process for shelter and advocate participants. Role plays illustrated many of the concerns about mediation in domestic abuse cases and set the stage for beginning dialogue and understanding between mediators and advocates. A group of Wisconsin mediators, attorneys and advocates for battered women have been meeting to develop specific guidelines for mediators when working with parties who have experienced domestic violence. The Wisconsin Association of Mediators' meeting spawned interest among a wider audience to address the topic in a collaborative, problem-solving manner.

Legislation & Rule Round-Up

Alabama's Rule 16 of the Rules of Civil Procedure has been revised to allow the court to explore the voluntary use of alternative dispute resolution. The Rules promote a voluntary process to encourage the parties to attempt to settle disputes. Under the Rules, the parties or the court can move for mediation. The Rules provide for confidentiality of the mediation process, including not disclosing the reason for termination of mediation. The court appoints the mediator but the parties may also select a mediator by mutual agreement. The court determines the qualifications of the mediator depending on the subject matter of the mediation. Each party can bring legal counsel or other representation to the mediation session. Parties share the cost equally unless they otherwise agree or the court orders a different allocation of the fees and costs.

The Alaska Judicial Council was authorized by the Legislature to establish a pilot child visitation mediation project. Parties can request mediation only to alter an existing schedule. The Judicial Council will evaluate the program's impact on length of time to resolve the dispute and on payment of child support.

Amendments to Rule 1.760 of the **Florida Rules of Civil Procedure** revised the qualifications necessary for certification as a court mediator. The mediator application procedure includes: filing an application with the Florida Supreme Court, providing educational and experiential background, home and business address, training completed and conformance with the new mentorship requirement, if applicable. Applicants must include two references who can attest to moral character. A special provision covers retired judges from other states who seek certification as circuit mediators.

Divorce Mediation in Idaho

The Fourth District Court of Idaho Mediation and Orientation Program began in 1986 with a handful of volunteers and a part-time university student to oversee the process and paperwork. Parents involved in custody disputes were ordered to attend. The ninety minute video "In the Best Interest of the Children" with Dr. Judith Wallerstein was re-edited to include an opening segment featuring AFCC member, Idaho Magistrate Judge Patricia Young.

Over the past five years, the orientation program has evolved to include any individual having a concern about a child custody issue. This past year, over 700 persons attended the orientation program. The Wallerstein/Young video has been supplemented with a video, "Pain Games," pro-

Nevada Senate Bill 367 created pilot programs in certain counties for mediation of specified issues in domestic relations cases. The law also calls for the establishment of a Neighborhood Justice Center in Clark County (Las Vegas) modeled after the ABA Multi-door Courthouse. Senate Bill 395 created Family Courts as a division of District Court in certain specified judicial districts and expands the number of judges for those districts. This legislation provides for the creation of a model Family Court in Clark County in January, 1993. Assembly Bill 570 provides that law enforcement agencies give a high priority to the investigation of crimes involving missing children, including children abducted by a parent and enhances related existing laws including the custodial interference statute. Senate Bill 609 expands the rights of certain relatives (within the third degree of consanguinity) in matters involving custody, visitation and the placement of minor children. Assembly Bill 743 expands the contempt powers of the court in domestic relations proceedings for violation of certain restraining orders or injunctions issued in domestic relations proceedings. It requires that the court consider any occurrence of domestic violence in determining the best interest of the child.

Utah passed the Alternative Dispute Resolution Providers Certification Act in its 1991 General Session. The Act defines alternative dispute resolution and ADR providers, creates an Alternative Dispute Resolution Providers Certification Board to certify and regulate the provision of ADR services by ADR providers. The law also specifies procedures for court referral, how mediation shall proceed and requires the court administrator's office to report on ADR referral statistics.

duced by Wyandotte County, Kansas and a special session for pro se parents to help them review their paper work for errors and completeness. Mediation Service Director Marie Meyer, indicated that these programs have eliminated wasted court time and frustration on the part of parents and judges. The Mediation Service was recently awarded its second grant from the Office of Child Support Enforcement. This project will study the effects of the orientation program and parenting classes on the settlement of custody and visitation issues and child support. Further information may be obtained from Marie Meyer, Director, Fourth District Court Mediation Service, 514 W. Jefferson St., Boise, ID 83701 (208) 383-1270.

JOB OPENINGS

Pinal County (Coolidge, Arizona) is seeking a court counselor/mediator. Applicants should have a Master's degree with a major in the behavioral sciences; post-graduate counseling experience or a combination of training, education and experience which indicates potential ability to perform the duties of the position. Clarence Cramer, Director Conciliation Services, Pinal County, 119 W. Central, Coolidge, AZ 85228, (602) 723-3077.

King County (Seattle, WA) is seeking applicants for the position of Manager of the Family Court Services. Duties include managing 25 professional staff who provide mediation, domestic violence and adoption services and managing budgets, overseeing statistics and staff performance and developing policy and operation procedures. Qualifications include Master's degree in social work, marriage and family counseling and five years of professional work. Strong oral and written communication skills required. Annual salary \$37,735 plus benefits. Submit resume and three references to Personnel Manager, King County Superior Court, 516 Third Ave., C903, Seattle, WA 98104 by December 1, 1991. For more information call (206) 296-9355.

Multnomah County, (Portland, OR) announces a competitive examination for a marriage and family counselor to provide marriage and family counseling, clinical evaluations and family mediation and conciliation expertise. Qualifications include three years of increasingly responsible marriage and family counseling and mediation experience and a Master's degree in the behavioral sciences or a related field and licensure by the State of Oregon as a marriage and family counselor or any combination of experience and training that would provide the required knowledge and abilities. Apply using the standard Multnomah County application by November 15, 1991. Salary \$14.67/hr. Contact: Multnomah County Employee Services, Room 1430, 1120 SW Fifth Ave., Portland, OR 97204 (503) 248-5015.

Clark County, (Las Vegas, NV) will be hiring a Child Custody Supervisor and a Child Custody Specialist I. The Supervisor is responsible for administration of the Child Custody Division including supervision of professional staff in performing child custody and visitation mediation and evaluations. Position requires equivalent to a Master's Degree in social work or closely related field and five years of professional experience in court-related programs including mediation and evaluation services of which two years were in a supervisory capacity. Salary range \$36,250-\$54,250. The Division will also be hiring Child Custody Specialists to perform custody and visitation mediation and evaluations. Position requires equivalent to a master's degree in one of the behavioral sciences and three years of professional casework or counseling experience. Salary range \$30,518-\$43,466. Contact Clark County Personnel, 225 Bridger Ave., 9th Floor, Las Vegas, NV 89155 (702) 455-4565.



Arizona Chapter to Meet in Sedona

Resolving Ethical Dilemmas: Innovations in Family Dispute Resolution is the theme of the AFCC Arizona Chapter's conference to be held February 14-16, 1992 at the Poco Diablo Resort. AFCC's President Hon. Susan Snow will be a special guest. The opening forum will feature a panel of professionals sharing their views on how the process of family dispute resolution might be improved. Other presentations include a mock custody hearing and workshops on custody evaluations, conciliation court procedures, ethical and professional dilemmas when working with children and new developments in domestic law. There will probably still be snow in Flagstaff so conference attendees might want to add a ski trip to their plans for this President's Day holiday weekend. Conference information is available from Chapter President Frances Bernfeld, (602) 740-5590.

Arizona Chapter Officers

President: Frances Bernfeld
President elect: Bruce Cohen
Past President: Elizabeth Yancey
Secretary: John Fox
Treasurer: Joel Bankes
Board Members: Clarence Cramer
Linda Kerr
Russell Schoeneman

Children's Rights Congress

Montreal, Quebec, will be the site for The Organization for the Protection of Children's Rights (O.P.C.R.) Second International Congress, October 8-10, 1992. O.P.C.R. is a non-profit organization, founded in 1983, with the goal of uncovering the reasons behind child physical, mental and sexual abuse, incest, violence, suicide, delinquency and poverty and to find solutions to these problems.

The Congress will address "The Child and the Changing Family: Vulnerability and Adaptation." The multi-disciplinary group of 1500 North American and European doctors, psychologists, psychiatrists, social workers, educators, child care workers, lawyers, judges and law enforcement officers will present papers and participate in an inter-disciplinary dialogue on specific issues and problems that children face in today's society.

Topics areas include:

- Children and Their Environments: Family, School, The Street . . .
- Children and Families: Separated, Single-parent, Reconstituted.
- Children and Families: New Reproductive Techniques, Adoption.
- Children: Exploited, Traumatized, Traumatizing.
- Sex Roles: Traditional and Changing.

A call for papers has been published. Proposals may be sent to Riccardo Di Done, President, O.P.C.R., P.O. Box 248, Jean-Talon Station, St. Leonard (Montreal), Quebec H1S 2Z2 (514) 593-4303.

First World Congress in Family Law and Children's Rights

The First World Congress on Family Law and Children's Rights, to be held July 4-9, 1993 in Sydney, Australia will present a unique opportunity for the world's lawyers to discuss laws affecting marriage and divorce. Sponsored by LAWASIA (Law Association for Asia) and the Pacific Family Law and Family Rights Section, the Family Law Section of the Law Council of Australia, the American Academy of Matrimonial Lawyers, the International Academy of Matrimonial Lawyers, the Family Law Section of the Canadian Bar Association and American Bar Association's Family Law Section, the Congress will focus on such issues as the international recognition of marriage, the status of polygamous relationships, divorce havens, multiculturalism and the law, extra-judicial divorces, annulments, artificial procreation and surrogate parenting, medical treatment of minors and the mentally disabled, the right to access, international enforcement orders and inter-country adoptions. The Congress will also focus on sexual discrimination in family law systems and the role of alternative dispute resolution.

Membership and conference information may be obtained from The Secretary, Family Law and Family Rights Section, C/O PO Box 1989, Canberra ACT 2601, Australia.

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RESEARCH NOTES

Mandatory Mediation

The Center for Policy Research, recently completed a study of a pilot mandatory mediation program offered by the Domestic Relations Counseling Bureau of Marion County, Indiana. The study was funded by the State Justice Institute. It yielded some interesting results. Among them was the finding that most men (73%) and women (78%) who reported feeling a lack of power in mediation ended the session without reaching an agreement. Rather than producing an imbalanced agreement, men and women in this mandatory court setting removed themselves from mediation situations that felt uncomfortable or destructive.

Another surprising finding from the study is that men who mediated were significantly more likely to report feeling unequal and lacking in power relative to their ex-wives than was reported by women. This appeared to be related to the fact that most of the clients who kept their appointments for mediation were there to mediate child support issues.

The study also revealed that independent family law experts who evaluated the adequacy of 80 agreements generated in mediation and non-mediation forums were generally unable to agree about which ones were good or appropriate. They were also unable to guess with any degree of accuracy, whether an agreement had been generated in mediation or in a non-mediation forum. To the extent that they found differences between the mediated and non-mediated agreements, the experts tended to find custody arrangements as comparable; visitation arrangements as somewhat more detailed and creative in mediation; and mediated child support arrangements as less adequate and contrary to Indiana's child support guideline.

Finally, and not surprisingly, the study shows the difficulty of eliciting attendance at mandatory mediation without adequate legal authority and court imposed sanctions for those who failed to appear. More than 40 percent of the couples ordered to appear for a mandatory mediation intake failed to show and nearly another 40 percent failed to appear for a scheduled mediation session. Attrition from the mediation group was so high, it completely undermined the mandatory mediation intent of the project.

For further information, contact the Center for Policy Research, 1720 Emerson Street, Denver, Colorado 80218 (303) 837-1555 or Ellen Rudd, Director, Domestic Relations Counseling Bureau, City-County Bldg., Rm. #742, Indianapolis, IN 46204 (317) 236-3858.

Book Offerings

Faith Kaplan, Barbara Landau and Robert McWhinney have compiled a 16 page booklet on **Custody/Access Assessment Guidelines**. The publication includes the underlying assumptions upon which the guidelines are based. The report is available from the Ontario Psychological Foundation, 44 Victoria Street, Suite 1300, Toronto, Ontario Canada M5C 1T2 for \$8.50 (US), includes shipping and handling.

Barbara Chisholm and H. Christina MacNaughton have written **Custody/Access Assessments: A Practical Guide for Lawyers and Assessors**. This book sets standards for effectively preparing and using assessment reports. Published by Carswell, may be ordered from US by calling 1-800-387-5143 or from Canada 1-800-387-5163; \$58.00 (Can).

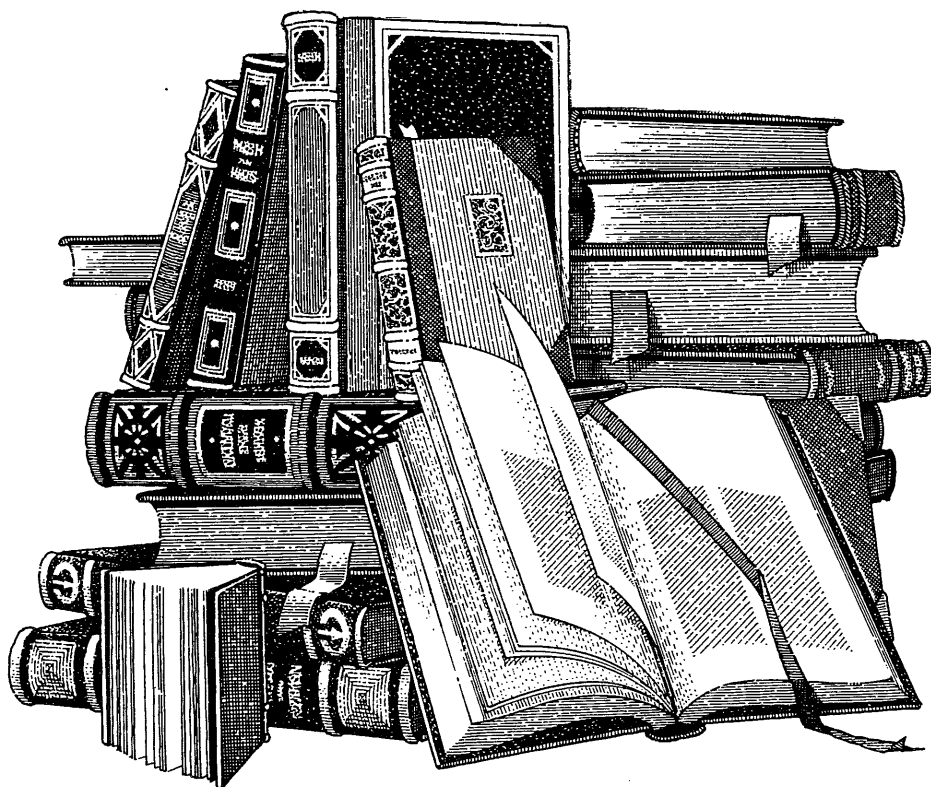
Equity of Mediated Divorce Agreements provides the results of a research project conducted by the Center for Policy Research and funded by the State Justice Institute. The report assesses the characteristics of mediated spousal support, division of property, child support and custody and visitation agreements compared to agreements generated in other forums. Copies may be ordered from the Center for Policy Research, 1720 Emerson St., Denver, CO 80218, (303) 837-1555; \$10.00 includes shipping and handling.

The ADR Digest is a state-by-state listing of ADR organizations. **The BPAP Directory** is a state-by-state listing of arbitrators and

mediators. These directories are published by the Binding Private Arbitration Panel (BPAP), an organization devoted to fostering the growth of Alternative Dispute Resolution. AFCC members may submit a one-page letter describing services for inclusion in the 1992 edition. Each publication is available for \$25.00 from BPAP, 86 Norwood Rd., West Hartford, CT 06117 (203) 232-3100.

The Matrimonial Strategist is a monthly newsletter from Leader Publications. Devoted solely to practical hints and workable solutions, the newsletter offers reports on tax, support, equitable distribution, drafting techniques, motion practice and trial strategy. An introductory free issue will be sent upon request. Introductory annual subscription rate is \$85.00. Contact Leader Publications, 111 Eighth Ave., New York, NY 10011, 1-800-888-8300, ext. 709 or (212) 463-5709.

Cultural Differences and Conflict in the Australian Community originated as a research project on cross-cultural mediation in multicultural societies generally and in Australia in particular. Written by Linda Fisher, Coordinator of Research and Training for Community Justice Centres in New South Wales and Jeremy Long, a private consultant and researcher, this manuscript is rich in the information it provides on the cultural aspects of disputing and resolving conflict. Order from the Centre for Multicultural Studies, University of Wollongong, P.O. Box 1144, Wollongong, NSW 2500 (042) 270780 or FAX (042) 286313.



Ethical Dilemmas

(continued from page 1)

tion? Will mediation create an illusion of relief that will discourage the family from seeking much needed help for more serious problems? Will the family think something significant has been accomplished through mediation but the real problems remain unchanged? Will the family end up worse off than if they had not attended mediation? Should this case be mediated?

The mediators who participated in this project demonstrated sensitivity to values issues and an interest in resolving them responsibly. The report provides the following rec-

ommendations to assure that mediation is practiced in the most responsible way:

Recommendations

1. Structural measures. A bifurcated process that provides for informational counseling *before* mediation by intake and education workers and therapeutic counseling *after* mediation by counseling professionals can release the mediator from acting as information provider or counselor.

2. Training and standards. Careful and systematic training of mediators including supervision and monitoring can sensitize mediators to the existence and importance of ethical dilemmas and allow an opportunity to grapple with such questions prior to medi-

ating these cases. A set of mediator standards would provide the mediator with guidelines to follow when confronting values dilemmas.

3. Research. Research is needed into the short and long-term impact of mediation in cases involving juveniles to assess the impact of mediation on individual disputants as well as on the structure and welfare of the family.

The full report, *Mediation Involving Juveniles: Ethical Dilemmas and Policy Questions*, can be obtained by contacting: Center for the Study of Youth Policy, Hon. Frank Orlando, Director, Nova University, Shepard Broad Law Center, 3100 S.W. 9th Ave., Ft. Lauderdale, FL 33315 (301) 462-8939.

Child Find Receives Grant

Five years ago, Child Find of America, Inc. began an innovative program to offer mediation as a way of resolving parental abduction cases. More than 100 children have been returned through the program's efforts. Recently, Child Find received a \$40,000 grant from the William and Flora Hewlett Foundation to increase the availability of mediation services. Mediators volunteer their time and services and all Child Find mediations are conducted by phone. Out of pocket expenses and long distance phone costs are reimbursed. Recently a successful Child Find mediation was featured on the

CBS program "America's Missing Children." The case involved the return of a child who was abducted ten years ago at her age of two.

Michael Lang, Child Find Mediation Consultant and AFCC member from Portland, ME says, "Each case presents unique and dramatic challenges for the mediator. The opportunity to help families in what otherwise seems to be a hopeless situation provides unique rewards for mediators." If you are interested in becoming a Child Find Mediator, contact Michael Lang, 75 Pearl Street, Portland, ME 04101 (207) 761-1817.

Robert Benjamin Receives Meyer Elkin Award

Robert Benjamin, lawyer and mediator from St. Louis, was the winner of the Meyer Elkin Essay Contest for his article "Mediative Strategies in the Management of Child Sexual Abuse Matters." Bob received his certificate and a check for \$250 at AFCC's annual meeting in Pittsburgh. Bob's article was published in the July 1991 issue of the **Family and Conciliation Courts Review**. Don't miss this outstanding article and don't forget to check out the topics for the 1992 Meyer Elkin Essay Contest.

1992 MEYER ELKIN ESSAY CONTEST

◆ Economics
of Divorce

◆ Children
in Court

The 4th annual Meyer Elkin Essay Award will be presented at AFCC's annual meeting in San Diego, May 1992. The winner will receive a \$250 cash prize and award certificate. The winning article will be published in the **Family and Conciliation Courts Review**. Articles may address any of the themes listed above. Articles must be received by March 15, 1992. Entries should be submitted to Review Editor Hugh McIsaac, Family and Conciliation Courts Review, 111 N. Hill Street, Rm. 241, Los Angeles, CA 90012 USA, (213) 974-5524.

Canadian Aboriginal Justice Inquiry

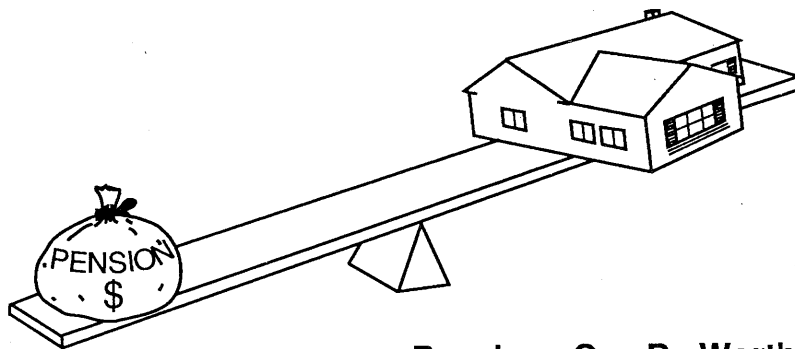
In 1988 the Canadian provincial government of Manitoba created a Public Inquiry into the Administration of Capital Justice and Capital Aboriginal people. The Commission was charged with reporting and making recommendations "on the relationship between the administration of justice and the aboriginal peoples of Manitoba." The scope of the commission was to include all aspects of the justice system, and to consider "whether there are alternative methods of dealing with aboriginal persons involved with the law." The Capital inquiry was undertaken by Associate Chief Justice A.C. Hamilton, a former member of the Board of Directors of the AFCC and Associate Chief Justice C.M. Sinclair who concluded that

Canada's treatment of its first citizens has been "an international disgrace." Among their many recommendations, perhaps the most significant and far-reaching are those that propose official recognition of aboriginal self-government and the establishment of an aboriginal justice system.

The two-volumes, nearly 1,000 page report, (which is available from the Capital Queen's printer of Manitoba; (204) 945-3101) is a unique and monumental study. Its 17 chapters include such titles as: Aboriginal Concepts of Justice, Aboriginal and Treaty Rights, Aboriginal Justice Systems, Court Reform, Alternatives to Incarceration and a Strategy for Action.



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Memorial Contributions

Should you have an occasion to make a memorial contribution on behalf of a friend or relative, consider making a donation to AFCC. The Association will notify the individual or family of your remembrance and send a confirmation of the gift to the donor. AFCC is a non-profit association and all gifts are tax deductible.

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The AFCC Newsletter is published four times a year in January, April, July and October. News items should be sent by the 15th of the month preceding publication to Newsletter Editor, Ann L. Milne, 329 W. Wilson St. Madison, WI 53703, (608) 251-4001.

AFCC INTERNATIONAL SCHOLARSHIP WINNER TO ATTEND THE ANNUAL CONFERENCE SAN DIEGO, CALIFORNIA • MAY 6-9, 1992

AFCC is pleased to announce that it will be awarding a \$1,000 scholarship to an international applicant to attend and participate in the 1992 annual conference in San Diego, California.

1. Scholarship applicants must reside outside of the North American continent.
2. The \$1,000 scholarship shall be used to defray travel and lodging costs to attend the San Diego conference. Conference registration will be waived.
3. Applicants shall submit a one-five page descriptive summary of the intended topic to be presented and a resume.
4. Presentations shall address the conference theme: **FAMILY COURTS OF THE FUTURE**.
5. Applications must be received by January 15, 1992. The scholarship award will be announced by February 1, 1992.

Direct all queries and applications to San Diego Conference Chairperson: Murray Bloom, Family Court Services, 1501 Sixth Ave., San Diego, CA 92101, (619) 557-2100.

AFCC is an international association of judges, lawyers, counselors, mediators and other professionals who are concerned with the constructive resolution of family conflict. AFCC was established in 1963 to develop and improve the practice and procedures of family court services as a complement to the judicial process and to promote and maintain professional and ethical standards in court-related services. The Association's annual and regional meetings allow members to share ideas and improve services, refine techniques and profit from exposure to the most recent research findings. Members receive the quarterly journal, **The Family and Conciliation Courts Review**, and the quarterly Newsletter.

MEMBERSHIP INFORMATION MAY BE OBTAINED FROM

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