



# NEWSLETTER

## Association of Family and Conciliation Courts

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

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Editors: Ann L. Milne  
Peter C. Salem

### 700 Attend New Orleans Conference

**A** FCC's 30th Anniversary Conference was more than a birthday celebration it was also a record breaker! The 1993 annual conference set an attendance record with 700 individuals registering for the conference and pre-conference institutes. Over 100 new members joined AFCC during the conference registration.

Conference attendees represented 42 states, 7 provinces, and 7 countries including the U.S., Canada, Guam, Puerto Rico, Australia, New Zealand, and England.

Over 140 faculty members shared their expertise at the 34 workshops, 6 institutes and 4 plenary sessions. Conference evaluations cited Sylvia Ann Hewlett's Friday plenary presentation on "When the Bough Breaks: The Decline of Our Most Precious Resource" as one of the most outstanding presentations of any conference.

The Saturday evening Mardis Gras Birthday Celebration was fulfilled and made memorable by the New Orleans Jazz Band Parade which accompanied the flaming Baked Alaska birthday cake.

New Orleans provided the perfect venue for AFCC's celebration. This celebrated city kept conference attendees entertained and appetites appeased with many asking "When will AFCC will be returning to New Orleans?" You can bet we won't wait another 30 years!

### Special Thanks

Many individuals and organizations contributed to the program and planning for the New Orleans conference. AFCC extends its appreciation to the following:

Family Mediation Council of Louisiana, Inc.  
The Family Law Section of the American Bar Association  
National Council of Juvenile and Family Court Judges  
The National Institute for Dispute Resolution  
Loyola University

Staff of the Connecticut Superior Court  
Joanne Ventre  
Diana Preice  
Orysia Kostiuk  
Aza Butler  
Francine Segai  
Sharon Zingery  
Conference Shepards

#### Local Conference Committee:

Hon. Larry Green  
Nina Broyles  
Nell Lipscomb  
Edith Morris  
Helen Sims Miller  
Bud Goodwin

And special mention to AFCC's staff Victoria Metz and Shani Handel who put in many behind the scenes hours before, during and after.



### 1993 International Scholarship Winner

**D**r. Carole Browne, Principal Director of Court Counselling, Sydney, Australia is the 1993 recipient of AFCC's \$1,000 International Scholarship to attend the annual conference. Dr. Browne and several of her colleagues from the Family Court of Australia presented a workshop on "The Impact of Divorce on Families: The Australian Experience."

Australian research on the impact of separation and divorce on children and their families has consistently shown that although separation is a stressful event in the lives of families, the long term prospects for these families is encouraging.

AFCC is pleased to offer support to our international members to attend our conferences. Scholarship proposals for the 1994 conference in Maui should be sent to conference chair Hon. Douglas McNish, 2145 Main Street, Wailuku, HI 96793, (808) 244-2116.



AFCC Past Presidents: Tim Salius, Tom Bishop, Larry Kaplan, Gerald Lecovin, Jay Folberg, Susan Snow, Russ Schoeneman, Don Moir; Front: Betty Barteau, Nancy Holman, Solie Ringold.

# AFCC NORTH CENTRAL REGIONAL CONFERENCE AND BOARD MEETING

## Negotiating Troubled Waters: The Professional's Role in Helping the Family

October 7-9, 1993  
Toledo, Ohio  
Marriott Portside

Co-sponsored by Ohio  
Continuing Legal Education Institute



### **Featured Speakers**

Stephanie Coontz, Author  
*The Way We Never Were*

Nancy Rogers, JD  
Ohio State University, College of Law  
**"What Mediation Research Indicates for the  
Professional Working With the Family in Crisis"**

The Honorable Thomas P. Moyer  
Chief Justice, Ohio Supreme Court  
**"Judicial Support for Alternative  
Dispute Resolution"**

### **Workshops Include**

- Court Mandated Education Programs
- Mediation/Arbitration of Joint Custody Disputes
- Cross Examination of Expert Witnesses
- Mediation Strategies for Lawyers
- Spousal Compensation for Economic Loss
- Mediation With Difficult Couples
- Best Interests and Parenting Plans

### **Pre-Conference Institutes**

- 1) **"Problems and Pitfalls in Interviewing Children"**  
Anne Graffam Walker, Ph.D., Forensic Linguist  
(Back by popular demand; this will be  
Dr. Walker's 3rd AFCC appearance!)
- 2) **"Mediating Intractable Parenting Disputes"**  
Robert Benjamin, MSW, JD
- 3) **"Mediating in Domestic Violence Cases"**  
Peter Salem, Director, AFCC Research Project  
& Director Rock County Mediation and Family  
Court Services  
  
Sharon Zingery, Cook County Marriage and  
Family Counseling Services  
  
Kris Koeffler, Director, Rock County Domestic  
Violence Intervention Program
- 4) **"Supervised Visitation Services"**  
Tim Ballew, MSW  
Visiting Nurse Association, Indianapolis

Contact: Denise Herman McColley  
105 W. Main Street  
Napoleon, Ohio 43545  
(419) 592-0010



# AFCC Presidential Message: It's the Family ...

For AFCC's new President, Bob Tompkins, this year it will probably be difficult to forget that the message *is* the family. Not only will Bob serve as AFCC President for the 1993-94 term, he will also celebrate his twentieth year with the Family Division of the Connecticut Superior Court and his twenty-fifth year of marriage to his wife Peg.

After growing up in Plainville, Connecticut and graduating from Boston's Tufts University, Bob worked as a Psychiatric Case Worker and a Psychiatric Social worker at state hospitals in Connecticut and New Jersey. Upon returning to Connecticut in 1974, Bob began working for the Family Division of the Superior Court as a Family Relations Counselor. He was promoted to Supervisor in 1983 and then to his current post, Deputy Director, in 1985, from which he oversees seventeen Family Service offices statewide, including 117 professional staff.

Bob became involved with AFCC as a conference participant in Hartford in 1981. Following his appointment as Deputy Director, then AFCC President Tim Salius brought Bob to the Vancouver conference

where he was immediately elected to the Board of Directors. Bob recalls "diving head first" into conference planning after being asked to help coordinate a change in conference venue from Philadelphia to Boston, along with organizing a post-conference trip and joint conference in London, England with that country's National Family Conciliation Council.

Bob moved on to co-chair the conference planning committee with Ruth Pearson Urban while working toward and witnessing the growth of AFCC. From approximately three hundred registrants at the 1986 Boston conference, over 700 participants found their way to New Orleans only seven years later. Bob points to the regionalization of AFCC, including regional conferences, as making AFCC more accessible and receptive to the needs of local court communities and contributing to its growth as an organization.

"It is exciting to see so many new people come into AFCC with a sense of having found a professional home," said Bob, noting that 25 of his staff members from Connecticut attended the New Orleans con-

ference at their own expense. "Having a chance to form relationships with others in the same profession and being able to help create opportunities for others to experience that same stimulation though my involvement with AFCC have been personal highlights for me."

Bob's home life is as active as his work. He recently completed a Master's degree in Counseling at St. Joseph's College, where Peg works as coordinator of vocational services. Peg and Bob have two sons; Jeff, who will be a senior in college this fall, and Jason, who enters his senior year in high school. Bob is a golf enthusiast, enjoys jazz and has recently rediscovered his love of literature. He also enjoys his yard, where he grows apples, peaches, blueberries and Christmas trees.

As Bob looks to next year there are some significant events on the horizon. Between his wedding and workplace anniversaries, the graduations of his sons from high school and college and Bob's service as AFCC President, one thing is certain. He'll have no trouble remembering the presidential message: it's the family.

*Note:* Bob Tompkins may now be reached at his new address:

Family Division Administration  
225 Spring Street  
Wethersfield, CT 06109  
Phone: 203-529-9655  
Fax: 203-529-9828



## Message From the President

by Robert Tompkins  
Hartford, Connecticut

In May The Association of Family and Conciliation Courts celebrated the 30th anniversary of its birth at its annual conference in New Orleans, LA. And what a celebration it was, setting new AFCC benchmarks for attendance, new member recruitment, and professional stimulation. With the co-sponsorship of the American Bar Association's Family Law Section, The National Council of Juvenile and Family Court Judges, The Mediation Council of Louisiana and the National Institute of Dispute Resolution, the interdisciplinary representation was stronger than ever.

Like most celebrations, the New Orleans conference provided an opportunity to reflect on our past accomplishments and contemplate the challenges of our future. With the strong and capable leadership provided by our past-presidents — most immediately and notably Jerry Lecovin — our association finds itself in a healthy, vital and energized position as we are about to pass from "early-adulthood" into our "prime years." We have a solid and consistent membership base. We have established liaison relationships with the other major professional organizations of the various disciplines that comprise our membership.

Our opinion on matters of public policy is sought and respected by government leaders. And, interest in establishing state chapters and developing other AFCC regional activity is at an all time high.

Undoubtedly the major accomplishment of our first thirty years has been the focus we have provided court systems toward a more humanistic approach to the constructive resolution of family conflict. Thus, the art of family mediation, custody evaluation, and pre-trial settlement conferences have all been directly enhanced by AFCC and its membership. Most recently we have seen more pro-active services evolve with the support of our court systems, such as parent education programs and supervised visitation services. But where to from here? Clearly, great challenges lie ahead as AFCC and the services offered by its members continue to evolve together. These challenges are numerous, but in particular, three stand out as needing our attention over the next several years.

First, there are simply too many individuals and court systems that have not yet experienced the support and stimulation that AFCC provides. We are a highly specialized field of professionals — whatever our discipline — and we all need the energy and nurturance that AFCC offers. Our missionary task is incomplete and remains a challenge for all of us. As an organization and as individual members we must focus our efforts in this area.

Second, each of us has a continuing responsibility to enhance our professional

skills. While the services that our members provide to clients and families are far from a science, I believe that our consumers deserve state-of-the-art services based on the most current and sound research and the highest quality training and exposure to the most innovative techniques and programs. There is no organization better than AFCC to provide high quality and affordable professional development opportunities to fellow professionals. As an organization it is therefore our responsibility and our challenge to develop the capacity to make AFCC the professional development home for our profession.

Third, we are faced with the challenge of providing AFCC the administrative capacity to support our membership needs and our organizational evolution. We owe the past accomplishments of AFCC to the extraordinary spirit of volunteerism that has earmarked our organization, particularly that of committee chairpersons, regional coordinators and conference organizers. However we need to better support their efforts while ensuring that AFCC has the organizational capacity to carry us into the future. The expectations placed on the Executive Director's office have grown over the years and we must make sure the office has the tools to fulfill those expectations.

It is an exciting time for AFCC. From our position of strength we are poised to enter our prime. It is my privilege to be your President for the next year and I invite each member to join me in facing the challenges of the future.



# AFCC Distinguished Service Award to the National Council of Juvenile and Family Court Judges

AFCC's Distinguished Service Award was presented at the 30th Anniversary Conference in New Orleans to the National Council of Juvenile and Family Court Judges (NCJFCJ) in Reno, NV for its leadership and co-sponsorship of this spring's conference, **Confronting Violence in the Courts**. Accepting the award was Hon. Roy Willett, NCJFCJ President. Also participating at the New Orleans conference were NCJFCJ's Jeffrey Kuhn, Reno, NV, Hon. Robert Page, Camden County, (NJ) Family Court, Hon. Amy Davenport, Orange County Family (VT) Court, and Hunter Hurst, Director of the National Center for Juvenile Justice, all of whom teamed with AFCC Vice-President Linda Hahn to present a workshop on Family Courts sponsored by NCJFCJ.

**Confronting Violence in the Courts** took place in San Francisco, March 25-28, 1993. According to Project Director and NCJFCJ staff member Meredith Hofford, the four-day conference evolved out of five years of NCJFCJ work in the area of family violence. "We felt that it was time to bring the products of research to a larger audi-

ence," Ms. Hofford said. "Specifically, those who play a key role in the administration of justice." Toward that end, the conference brought together judges, prosecutors, academics and advocates from the field of family violence.

State Supreme Court Chief Justices from all fifty states and four territories appointed five conference participants to attend. Among those selected and serving as faculty were AFCC President-elect, Hon. Douglas McNish, member Holly Magana and AFCC Research Project Director Peter Salem. The AFCC members worked with Loretta Frederick of the Battered Women's Project at the Southern Minnesota Family Law Project to present a panel on mediation in cases of domestic abuse.

Participants from each state formed teams which attended workshops and began to develop state action plans for dealing with the needs of their state around the issue of domestic abuse. According to Ms. Hofford, the response was overwhelming. "Over four hundred people attended the conference," said Ms. Hofford noting that original projections were for 250 people.

"The state teams were enthusiastic and many have taken their plans home, met with their Chief Justices and continued their work."

Workshops were offered in a variety of areas including community responses to family violence, the impact on children, and child custody issues. The conference also presented a series of vignettes which depicted the challenges facing a victim in the justice system. An additional highlight was a videotaped message from U.S. Attorney General Janet Reno.

Ms. Hofford is quick to note that the success of the conference was a team effort. She points to the hard work of representatives from The Family Violence Prevention Fund and The Urban Institute as well as the State Justice Institute, which funded the effort. Conference Planning Committee members included Hon. Charles McGee, Reno, NV, Chair, Hon. Janice Brice-Wellington, Vice-Chair, Manassas, VA, and State Justice Institute Board Members Hon. John Daffron, Chesterfield, VA, Sandra O'Conner, Esq., Towson, MD, and Hon. Vivi Dilweg, Green Bay, WI. "The greatest challenge of putting together this conference was the balancing act required to meet the interests of the key groups involved," said Ms. Hofford, while noting that the diversity was also a strength. "The results thus far have been encouraging and the informal feedback has been positive. We are looking for the state teams to make a real difference."

## AFCC 30th Anniversary Commemorative T-Shirts



**Special  
Postconference  
Price  
\$10**



These multicolored commemorative T-shirts were designed by AFCC's Office Manager, Victoria Metz. The T-shirts are colorfast silkscreened on black 50/50 cotton polyester fabric. Quantities are limited. Special price ~~\$15~~ each. Available S, M, L, XL.

**\$10**

## Anniversary Fund

AFCC's Executive Committee has approved the establishment of an Anniversary Fund to commemorate 30 years of service to families and individuals. Donations to the fund are tax deductible and will be used to offset the expenses of the opening night video. "The BIG PICTURE—The Economic Impact of Divorce" at the New Orleans conference and to help fund other AFCC pamphlets and publications.

Much has been said and written this past year about the state of the family. This video will be a tribute to the families that we serve and will highlight the need to invest in "The Economy of Human Resources."

Please help us reach our goal of \$10,000 by sending your contributions to:

AFCC  
329 W. Wilson St.  
Madison, WI 53703

## Thank You to Fund Contributors

Thank you to the following members who made contributions to AFCC's Anniversary Fund this Spring.

Jeanne Ames  
Maxine Baker-Jackson  
Robert Benjamin  
Kay Bergman  
Bruce Callner  
Christine Coates  
John Conery  
George Czutrin  
Lawrence Gulino  
Warwick Jones  
Lawrence Kahn  
Patricia Kaplan  
Linda Kerr  
Gerald Lecovin  
Jean MacLean  
Lorraine Martin  
Robert Miller  
Helen Sims Miller  
Ann Milne  
Claire Purcell  
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Lita Linzer Schwartz  
Arnold Shienvold  
Nancy Stassinopoulos  
Ruth Pearson Urban  
Hon. Betty Vitousek  
Hon. Herbert Walton  
Pamela Britton White  
Anita White

## New Video



Contact: AFCC  
329 W. Wilson Street  
Madison, WI 53703  
(608) 251-4001  
FAX (608) 251-2231

## The Economic Impact of Divorce— It's More Than Dollars & Cents

The economic impact of divorce is more than child support, spousal maintenance and aid to families with dependent children. It's people ... children ... the court system ... society. This 10 minute professionally produced video graphically presents the BIG PICTURE economic consequences of divorce.

This video will be of special interest to:

- Judges
- Judicial Educators
- Lawyers
- Mediators
- Court Personnel
- Divorce Counselors
- CLE Program Providers
- Mediation Trainers

Copies of AFCC's video will be provided to anyone making a donation of \$100 or more (plus shipping and handling) to AFCC's Anniversary Fund. The Anniversary Fund was established by the Executive Committee to commemorate AFCC's 30 years of service to families and individuals. Donations will be used for the development of AFCC pamphlets, publications and videos. *Donations to the fund are tax deductible.*



# Guidelines for Mediation with Native Americans

*Submitted by Marsha J. Fields, Ed.D., Flagstaff, AZ  
and Professor Eugene R. Moan, Northern Arizona University.*

As more Native Americans use mediation, it is important that mediators understand Native American culture. Such great differences exist between the value systems of the Native American and that of the non-Native American that mediators must be knowledgeable about Native Americans in general and the tribe specifically. As with any group, one must also be aware of the variation among individuals within groups. Individuals may vary in response patterns due to personality characteristics, degree of cultural identity, gender, etc. Furthermore, the mediator must also have a strong awareness of his or her own value systems and how these may conflict with clients' value systems.

It is beyond the scope of this article to discuss all the individual tribes of Native Americans, however certain values and characteristics are consistent throughout Native American populations. Mediators are cautioned, however, that knowledge of the values of a particular tribe is necessary in order to ethically and effectively conduct mediation.

### Time

Native Americans tend to be oriented to the "here and now." This is often misinterpreted as a lack of time consciousness and may be reflected in tardiness for appointments as well as lack of concern for the future. If prompt arrival for appointments is necessary, the reason for this must be explained or it may be perceived as a lack of caring on the part of the mediator. A focus on the present rather than on the future will probably be more successful in the long-run.

### Giving and cooperation

Sharing and cooperating within the family and community are emphasized. Accumulation of goods is not a means of gaining respect for most Native Americans. Unless it can be viewed as an effort to help the group, recognition for an individual achievement is not welcome. Emphasis on what is best for the family as a unit would be preferable to a concern for individual needs.

### Harmony and health

Any problems, whether physical or emotional, are seen by the traditional Native American as resulting from a lack of harmony or balance in one's life. Often, these problems are accepted without an attempt to correct them. For instance, a child who is born with a surgically correctable birth defect will not receive medical help because

the parents may view the defect as caused by some taboo which was broken during the pregnancy. Such taboos may range from looking at a dead or lame animal to being in contact with someone outside the tribe. The handicapped child is not only accepted but among some tribes might be viewed as special in a positive sense.

### Family

The discussion of family members can be confusing to the non-Native American. Cousins are referred to as brother or sister, aunts as mothers, etc. Children are often reared by a member of the extended family. This large social network can provide both support and security. In mediation, the importance of this family must be recognized. When a Navajo couple has a traditional marriage, this means that the parents, especially on the wife's side, are very invested in the marriage. As such, they will be involved in all aspects of the marriage and will discourage divorce. Many Native American tribes are matrilineal; the father may not be considered as important to the raising of the children as the maternal uncle might be. This relationship should be clarified when discussing custody.

The use of the family as a support system should be encouraged. This could be accomplished either by having the parents (particularly the wife's) as participants in the mediation, or asking the couple to communicate with their families between sessions and to discuss what needs to be done.

### Acculturation/assimilation

Distinguishing between the traditional and the non-traditional Native American is often very difficult. Adult Native Americans may be reluctant to disclose that they are traditional out of fear of being ridiculed. Thus they may appear very westernized in their dress and speech, attend a Christian church, attend traditional ceremonies and seek advice from the traditional healers. These clients may very politely agree with the mediator but have their own beliefs as to the cause of a given problem and therefore what should be done to correct it. The code of ethics of the American Psychological Association encourages the use of traditional healing ceremonies as an adjunct to therapy. The effective mediator should inquire as to whether the family has considered a traditional ceremony. If so, the mediator may ask which ceremony, what is expected from it, when it could possibly take place and who will take responsibility for arranging the ceremony. It is also appropriate

to follow through and ask if the ceremony took place and if it was helpful.

### Communication

An additional concern for the mediator may be the reluctance of Native Americans to self-disclose personal issues to a stranger. There are many problems which arise as a result of face-to-face interactions. Long silences and heavy reliance on non-verbal communication are typical during early contact, particularly when the situation may be difficult to predict or control as is often found in a mediation setting. Avoidance of direct eye contact is often noted, especially among traditional Native Americans. This behavior may be perceived by non-Native Americans as indicative of being untrustworthy, shifty or withdrawn. Certain questioning behaviors may be considered intrusive and ill-mannered by the Native American. Thus, some questions may be met with silence or answers which provide little information. Because mediation is heavily reliant on the ability of the client to verbalize, these differences may create extreme difficulties.

### Alternative Techniques

In working with Native Americans, mediators may consider the following guidelines.

#### Self-disclosure

The mediator may share certain specific information with clients during the intake interview. A greeting with a slight handshake may be followed by disclosing a little about one's immediate family, sharing where one was born and who one's ancestors are. Mediators may then ask clients to introduce themselves in this manner.

#### Story telling

Following introductions, it is acceptable to discuss the mediation process. Story-telling is a traditional teaching technique which can be easily adapted to mediation. The mediator might tell about other families (preferably Native American) who have used mediation and what some of the expected outcomes might be. At this time, the topic of traditional background may be directly or indirectly mentioned by discussing both traditional and non-traditional families who have been through mediation. Explaining why it is important to know the client's backgrounds will help them feel more comfortable about disclosing this information. If this explanation is not offered, questions by the

*(continued on page 7)*



# New Publications

## Guidelines for Establishing Court Services Now Available

Following more than two years of thorough research, writing, editing and collaboration, the AFCC Publications Committee, under the leadership of Dr. Phil Bushard, Director, Washoe County Family Mediation Program, Reno, NV, presented the new edition of *Guidelines for Establishing Court-Connected Mediation, Evaluation and Conciliation Services* at the AFCC 30th Anniversary Conference in New Orleans, LA.

The comprehensive ten chapter manual addresses a vast array of issues including budgeting and funding for programs, community linkages, organizational fundamentals, service delivery and program monitoring, evaluation and research. The manual also provides comparative information, complete with sample forms, job descriptions, legislation, etc., on twenty court-connected programs in the United States and Canada. While it is designed for those initiating new programs, Dr. Bushard notes that the manual is also useful for those evaluating their existing programs, policies and procedures.

The work on the guidelines was a genuine committee effort, according to Dr. Bushard, who edited the manual. "It could never have been done without those who volunteered to write chapters and complete the surveys," he said. "What makes this

manual especially valuable is the perspective of the contributing authors. Each is a career court service professional with many years of experience." Those contributing their time and expertise as chapter authors were committee members Dorothy Howard, Linda Kerr, Linda Hahn, Bob Tompkins, Clarence Cramer, Mary Duryee, Aza Butler and Joan Massaquoi.

Copies of *Guidelines for Establishing Court-Connected Mediation, Evaluation and Conciliation Services* are available from AFCC. The cost is \$35.00 plus shipping and handling.

## Children & Divorce

Written for parents by The Family Center of the Conciliation Court located in Tucson, Arizona, this 26-page booklet provides information about the needs of children going through divorce. Practical information is offered about children's developmental needs at different ages and stages and how to help children adjust to divorce. A list of further suggested readings for parents and children is also included. Available from AFCC, \$3.00 each plus shipping and handling.

## FOCUS ON DIVERSITY (continued from page 6)

mediator may be considered rude or nosy. If the mediator is only slightly familiar with the culture, it is permissible to request to be informed by the clients should the mediator do something offensive or suggest a behavior which is inappropriate in the context of the clients' culture.

## Dialogue journal writing

This is a particularly useful technique which can be used outside of the office setting. The client is instructed to write in a loose-leaf journal. Entries are given to the mediator who writes back to the client. At the next session, the mediator's replies are exchanged for the next entry. Any issues raised in the journal may be discussed in the session if permission was first obtained from the client. This technique avoids the communication problems of eye contact and public disclosure. It also makes the mediator available 24 hours a day through the journal. If the client's first language is not English, writing the journal provides more time to translate his or her thoughts to English. The difference in wait time (silences of twelve seconds for Native Americans compared to three seconds for non-Native Americans) is also avoided.

For mediation to be an effective process for the Native American community, mediators must have an awareness of the differences between their own values and communication styles and those of their Native American clients. While these guidelines are not intended to be comprehensive in that regard, they should provide mediators working with Native Americans with a place to start.

## Research Update:

## The Effective Resolution of Custody and Visitation Disputes Involving Domestic Violence

Following several months of subject recruitment, screening and modification of implementation plans, AFCC, The Urban Institute and the State Justice Institute have decided not to continue with the next stage of the research project, *The Effective Resolution of Custody and Visitation Disputes Involving Domestic Violence*. The revised project will yield an analysis of the characteristics of more than four hundred family court disputants who completed the pre-service screening instrument. A survey of court programs, policies and practices in domestic abuse matters and a state statute review will be completed by AFCC.

Despite the significant efforts by court staff at research sites in Portland, Oregon and Minneapolis, Minnesota, the number of cases meeting the eligibility requirements for the study remained low, it was impossi-

ble to implement the experimental design, and the level of uncertainty about the future subject recruitment was too great to justify continuation. According to David Tevelin, State Justice Institute Executive Director, "The circumstances in the two study sites have changed so dramatically as to make it impossible to execute the design as planned."

The challenges of implementing random assignment procedures (where parties are randomly assigned to either mediation or custody evaluation) at the research sites were heightened by several factors. Project staff found the widespread acceptance of mediation in Portland to be so strong that parties were unwilling to forego mediation and be assigned to a custody evaluation. In Minneapolis, the pool of eligible participants was far more limited than anticipated,

therefore, the number of subjects recruited was low.

"We are pleased that AFCC will be providing information about domestic violence and custody disputes to the nation's courts," said AFCC President Bob Tompkins. "At the same time, we are disappointed that we are currently unable, at this time, to offer as much as was originally intended."

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.



# Supervising Visitation: Establishing Court Orders

Submitted by Tim Ballew,  
Manager, Family Dissolution Program,  
Indianapolis, IN.

*The previous column examined the historical development of supervised visitation services. This article takes a closer look at issues which commonly arise in establishing court orders for supervised visitation, and ways in which courts and visitation centers can work in tandem to expedite visitation.*

It is uncommon for family members in need of supervised visitation services to work out terms of such visitation among themselves. In order to be effective, supervised visitation most often needs to take place under orders of the court.

When arranging supervised visitation through court order, there are five parameters that need to be established. These include: (1) the length of visits, (2) frequency of visits, (3) the party or parties who will be authorized to participate in visits, (4) the level or type of supervision to be provided, and, (5) the party or parties responsible for payment of any applicable fee. Failure to specifically address these concerns in the court order often results in needless delays.

In its order, the court may establish visit parameters directly or it may authorize the agency providing supervision to make such a determination when appropriate. Granting some flexibility to the visitation agency or supervisor can allow for selecting visit parameters which meet the demonstrated needs of the child. For example, a child's reaction to visitation might warrant reducing the length of visits, increasing the frequency of visits or providing additional agency staff.

Authorizing a visitation agency to make determinations about such matters can help assure the continuity of visitation without requiring ongoing court intervention.

The danger in granting excessive authority to a visitation agency is that it may undermine the agency's need to remain neutral with regard to the litigants' disputes. Given parents' differing needs, visitation staff may be put in an awkward position if they alone are responsible for decisions which one parent deems unpalatable. The ability of visitation staff to successfully facilitate visits is then greatly diminished.

An often used and successful alternative is for the court order to establish broad boundaries for visitation while allowing the supervisor to make minor adjustments. (See accompanying box for a sample court order.)

When establishing orders for supervised visitation, consideration should be given to the history and nature of the allegations made against the visiting party, the history of the relationship between the child and the noncustodial parent, and the child's age. Allegations of sexual abuse generally require greater levels of supervision, especially at the outset. In addition to attempting to protect a child from possible further abuse, monitoring all parent/child interaction throughout the course of a visit can also serve to protect a noncustodial parent from unwarranted additional allegations.

Generally, children require intensive supervision when they resist visitation, have a traumatic history with a noncustodial parent, or have had limited contact with the parent in the past. Such circumstances usually warrant beginning visitation in the controlled environment of an agency setting.

This allows parties an opportunity to address emotionally volatile issues in a safe and supportive environment.

Accommodating children's supervised visitation needs is a complex process. Establishing clear boundaries for visitation is most often the first task at hand. Making those boundaries flexible enough to accommodate the changing circumstances remains an ongoing challenge for courts and supervisory personnel.



## AFCC Extends Sympathies

AFCC extends its sympathies to Linda Girdner upon the death of her husband, Fred. Fred became ill with cancer this winter. Condolences may be sent to Linda at 2324 Maytime Dr., Gambrills, MD 21054 (202) 331-2667.

Ruth Jones, wife of Nolan Jones, Director of the Clackamas County Family Court Services died of cancer April 15, 1993. Memorials may be sent to Indralaya, c/o Orcas Island Foundation, Route 1, Box 86, Eastsound, WA 98435.

C. Rick Chamberlin, certified family law specialist and member of the California Chapter died May 30, 1993. Contributions in Rick's memory may be sent to Visual Aid, 530 Bush Street, #450, San Francisco, CA 94108 or to Kid's Turn, P.O. Box 192242, San Francisco, CA 94119.

The mother of Victoria Metz, AFCC office manager, passed away in May. Memorials may be sent to Victoria's sister, Nancy Beckingham, 1311 W. Second St., Dixon, IL 61021.

## Sample Court Order for Supervised Visitation

The court finds that the frequency of visitation and the type of supervision of the visitation will be determined by the staff of the visitation agency. The court specifically finds that the initial visits should take place bi-monthly and should be for no longer than one hour in duration. At the discretion of the visitation center staff, the visits can move to weekly sessions and the time can increase to a maximum of two hours.

The court finds that visitation should begin at the maximum level of supervision. As the visitations progress and the agency's staff believes it appropriate and in the best interest of the child, the level of supervision can be decreased.

The court further finds that fees for visitation services are to be divided equally between both the respondent and the petitioner. Visitation pertains only to the respondent with his child and if any other persons are to be involved in any form or fashion with the visitation agency it shall be only with the prior approval of the agency staff.

The court therefore orders the parties to enter into a contract for services with the visitation agency under the terms and conditions of this order for the furnishing of services at the center.



## Changes at the Academy of Family Mediators

The Academy of Family Mediators (AFM) has announced the selection of Linda Willkerson as new Executive Director. AFM's office has been relocated to Minnesota. Ms. Willkerson comes to AFM from the American Academy of Neurology and replaces Jim Melamed who resigned as Executive Director last winter after five years of service. Jim will be continuing his private mediation practice in Eugene, OR. AFCC extends best wishes to both Jim and Linda in their new positions.

New address: AFM  
355 Tyrol West  
1500 S. Highway 100  
Golden Valley, MN 55416  
(612) 525-8670

## Calling All Parenting Education Programs

*Focus on Children*, the Cook County, Illinois, Domestic Relations Division parent education program, would like to serve as a clearinghouse for similar programs across the United States. The purpose is to make available information for those who need to refer parents to a certified program in another area when parents live in different jurisdictions. The Cook County Domestic Relations Division would like to compile a list of these programs, complete with course information, so that courts may be aware of the alternatives for parents living in another state who must attend a parenting education program as a condition of divorce.

If you are involved with such a program, please forward the following information: name of the program, jurisdiction, contact person, telephone number, hours of attendance, days and times the program is offered, cost, content and format of the program and any other relevant information to:

P.K. Parker  
FOCUS ON CHILDREN  
1901 E. Daley Center  
Chicago, IL 60602

Telephone (312) 443-3405.

## Meyer Elkin Essay Contest Winner

Janet R. Johnston, Ph.D. and Linda E. G. Campbell, Ph.D. were awarded AFCC's Fifth Annual Meyer Elkin Essay Award for their article on "Parent-Child Relationships in Domestic Violence Families Disputing Custody." The award was presented at AFCC's Awards Banquet in New Orleans by Family and Conciliation Courts Review Editor Hugh McIsaac. Mary Duryee, Director, Family Court Services, Alameda County accepted the plaque for the winners.

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# To Promote the Best Interest of the Child — A Conference with a Difference

Submitted by Hon. Mary Ann Becker, Waukesha, WI

*This is the second article by members of the ABA Family Law Section Interdisciplinary Project to Promote the Best Interest of the Child. This report examines the "conference with a difference," held April, 1991 on the campus of Ripon College, Wisconsin, and the consensus derived from the four-day exchange of ideas.*

The "conference with a difference" included four days of interdisciplinary exchange. The forty invited participants brought to the conference experience and academic distinction in psychology, history, education, sociology, philosophy and anthropology. Also included were practicing lawyers, physicians, jurists, social workers and counselors.

Physicians, child psychologists, and behaviorists explained and demonstrated child development from prebirth through adolescence, concentrating on birth through three years. Historians and educators put the issues of the American family into perspective as myth, image, goal and actuality. What seemed evident to attorneys or psychologists was contradicted in historical analysis. The solutions of child development specialists were opposed by civil libertarians, ever-mindful of the rights of natural parents. Controversy abounded, solutions were scarce.

At the conclusion of the conference, there were several points of consensus:

- A child develops quickly and after birth through the first three years of life, learns chiefly by the example of his or her early caregivers, usually his or her natural parents.
- Every child requires a secure, consistent, supportive, nurturing and loving environment provided by caring adults throughout its development.
- These needs must be more carefully defined and expressed in terms of psychological, moral and educational development.
- A child's first experience of community is in its family. Raising children within a natural family is expressly endorsed and promoted.
- Children are the building blocks of our society; each must enjoy the respect of the other and understand his or her role in interdependency.
- Parenting or child rearing must be elevated to national prominence; every member of society should bear a moral responsibility for the proper care of all the children of the community.
- All families require the support of the community, and some require intensive support. Where the methods of raising a child in a family are inconsistent with the child's developmental needs, it is appropriate that society intervene to safeguard the child through the informed efforts of the extended family, close community associations and/or welfare agencies respectively.
- Education regarding the physical, moral, intellectual and emotional developmental stages of a child should be widely disseminated, formally taught in schools and considered by all whose conduct affects the lives of children in order to avoid predictable developmental, intellectual, emotional, and moral damage.
- There are predictable developmental crises in a child's life and appropriate times (also predictable) to intervene on behalf of a child.
- Mindful that there are different methods to encourage the moral, intellectual and emotional development of the child, society must strictly avoid cultural, ethnic, gender or socio-economic stereotyping of children.
- When a child-centered issue, especially that of child custody, is before the court, the standard of best interests of the child must consider that:
  - Individual moral responsibility is as necessary to societal continuation as it is to the physical development of each individual in society. The individual moral development of the child is of equal importance with that of its physical well-being.

—Children learn moral responsibility primarily from the example of their parents or caregivers. Education as to moral responsibility is reinforced by repetition, verbal declaration and ongoing discipline appropriate to the child's developmental capacity.

—Moral behavior is culturally dependent; parental lifestyle will influence the moral development of the child. The child's moral needs are its right and are equal or superior to the rights of the parent.

—The best interests of the child must be supported and enforced by the work of other disciplines and cannot be determined by legal processes alone.

—Litigants in a disputed custody proceeding should be educated about the child's needs in an effort to separate that issue from other issues confronting the parties.

—Judges, lawyers, and other helping professions should be educated in child development and family dynamics as part of law school curriculum or continuing education.

As conference participants concluded their discussions, many resolved to continue multi-disciplinary efforts and their own personal efforts to promote public policy and to provide protection of all the needs of children, not only their financial needs. The participants felt the weight of their four days deliberations; yet, they were refreshed and encouraged by their fellow conferees, three-quarters of whom opted to accept the challenge to continue to work together to promote a multi-disciplinary effort for children both in and out of court.





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 August 17-21, 1993  
 September 17-21, 1993  
 October 11-15, 1993  
 November 15-19, 1993  
 December 3-7, 1993  
 Divorce Mediation Training  
 Contact: Carl Schneider, Ph.D.  
 & Zena Zumeta, JD  
 1-800-852-1432

August 19-22, 1993  
 September 10-12, 1993  
 September 16-19, 1993  
 October 1-3, 1993  
 November 11-14, 1993  
 December 15-19, 1993  
 Family Mediation Training  
 Gary Kirkpatrick  
 Contact: (214) 528-2830  
 or 1-800-888-8609

September 8-12, 1993  
 October 29, 1993  
 October 30, 1993  
 January 27-31, 1994  
 Mediation Training  
 Contact: Northern California Mediation Center  
 100 Tamal Plaza, Suite 175  
 Corte Madera, CA 94925  
 (415) 927-1422

September 9-12, 1993  
 November 11-14, 1993  
 December 16-19, 1993  
 January 20-13, 1993  
 Mediation Training  
 Contact: Lemmon Mediation Institute  
 5248 Boyd Ave.  
 Oakland, CA 94618  
 (510) 547-8089

October 7-9, 1993  
 AFCC Northcentral Regional Conference  
 & Board Meeting  
 Toledo, OH  
 Contact: Denise McColley  
 105 W. Main St.  
 Napoleon, OH 43545  
 (419) 592-0010

October 11-15, 1993  
 Divorce Mediation Training  
 Contact: CDR Associates  
 100 Arapahoe Ave. Suite 12  
 Boulder, Colorado 80302  
 (303) 442-7367

October 14-17, 1993 National Multicultural  
 Institute (NMCI)  
 Contact: NMCI  
 3000 Connecticut Ave., NW, Suite 438  
 Washington, DC 20008  
 (202) 483-0700

February 2-7, 1994 Education Forum and  
 International Men's Day Celebration  
 Kansas City, Missouri  
 Contact: Tom Oaster, Ph.D.  
 P.O. Box 10033  
 Kansas City, MO 64111

May, 11-14, 1994 AFCC Annual Conference  
 Maui, Hawaii  
 Contact: Hon. Douglas McNish  
 2145 Main Street  
 Wailuku, HI 96793  
 (808) 572-9642

November 2-6, 1994  
 AFCC South West Regional Conference  
 Arizona Chapter Meeting &  
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 Tucson, AZ  
 Contact: Frances Bernfeld  
 Conciliation Court  
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