



NEWSLETTER

Association of Family and Conciliation Courts

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

Volume 13, Number 4
Fall 1994

Editor: Peter Salem



AFCC's Fall Conferences Surpass All Expectations



AFCC finished 1994 with a bang as over 1,100 domestic relations professionals attended three outstanding conferences sponsored by the association this Fall. AFCC's international and interdisciplinary nature was evident as judges, lawyers, custody evaluators, parent educators, mediators, counselors and others attended from the United States and Canada as well as Japan, Scotland, Israel, Australia, South Africa and Puerto Rico.

First International Congress on Parent Education Programs

The **First International Congress on Parent Education Programs** was the first special topic conference developed by AFCC's Professional Development and Technical Assistance Committee. Over 400 participants came to the Hyatt Regency Chicago in late September to take part in this historic meeting.

Congress participants were treated to a wide variety of plenary sessions, workshops, pre and post conference institutes and networking opportunities. Regional networking and professional issues discussion groups were well attended.

AFCC President Hon. Douglas McNish affirmed the association's commitment to the support and development of parent education programs by announcing the creation of AFCC's Parent Education Committee. Professor Andrew Schepard, AFCC member from Hofstra University Law School and co-founder of New York State's P.E.A.C.E. (Parent Education and Custody Effectiveness) program, was appointed to chair the committee.

AFCC's Academic and Research Committee, co-chaired by Dr. Sanford Braver and Dr. Jennifer Mastroski, took the opportunity to gather information about existing programs for divorcing and separated parents. **Congress** participants were surveyed on a variety of operational and curriculum areas. A Directory of Parent Education Programs which will offer site profiles of all programs surveyed will be available from AFCC in January 1995.

AFCC looks forward to a great deal of future activity in support of parent education programs including:

- Publishing an operations manual for parent education programs.
- Sponsoring regional conferencing opportunities and international meetings.
- Providing information and materials to parent education programs.
- Offering technical assistance.
- Continuing to serve as an umbrella organization for parent education programs.

AFCC Southwest Regional Conference

Nearly 300 participants attended AFCC's **Southwest Regional Conference and Arizona Chapter Meeting** in Tucson, AZ November 3-5. The program was titled "Collision of the Best Interest of Children with the Rights of Third-Parties: An Interdisciplinary Debate." Featured presenters included attorneys Richard Victor and George Russ, who offered behind the scenes perspectives on the highly publicized cases involving Baby Jessica, Kimberly Twiggs and Gregory K.

An added highlight of the **Southwest Regional Conference** was the whimsical luncheon presentation of Tucson political cartoonist/satirist David Fitzsimmons. Mr. Fitzsimmons' quick wit, supplemented by his creative cartoons, made for a lively and memorable occasion.

AFCC extends a very special thank you to Kathleen McCarthy, Frances Bernfeld and the conference planning committee. Their hard work, dedication and planning skills made the event a delight from start to finish.

First International Symposium on Child Custody Evaluations

Over 450 people attended AFCC's **First International Symposium on Child Custody Evaluations** in Tucson, immediately

following the **Southwest Regional Conference**. The **Symposium** offered an integrated curriculum as general sessions were followed by in-depth workshops on related topics.

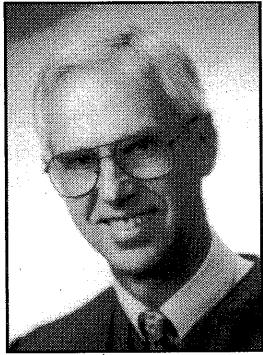
General sessions focused on the core skills for custody evaluators: interviewing, assessment skills, developing a framework for making recommendations; and presenting the data. General sessions were presented by several featured members of the faculty including: Carole Brown, Ph.D., Sydney Australia, Daniel Hamoline, MSW, LLB, Saskatoon, Saskatchewan, Pamela Langelier, Ph.D., S. Burlington, VT, Lorraine Martin, MSW, Toronto, Ontario, Robert McWhinney, MA, MSW, Toronto, Ontario and Rosemary Vasquez, LCSW, Oakland, CA.

The **Symposium** offered 24 workshops on a wide variety of topics including Gender Issues, Psychological Testing, Court Preparation for Professionals, Controversial Issues in Custody Evaluations and Multidisciplinary Perspectives on Custody Evaluations.

The **AFCC Resource Guide for Custody Evaluators**, edited by Dr. Phil Bushard and Dr. Dorothy Howard, made its debut at the **Symposium**. The sixteen chapter manual was provided to each participant. Additional copies of the **Resource Guide** are available at a cost of \$35 each. The **Symposium Proceedings and Participant Directory** is available for \$15.

AFCC is contemplating plans for a **Second International Symposium on Child Custody Evaluations** in the Southeast in the Fall of 1995. Regional programs in 1995 are being planned for Vancouver, British Columbia and Madison, WI.

For further information on these and other upcoming AFCC events, contact AFCC, 329 W. Wilson St., Madison, WI 53703. (608) 251-4001; FAX (608) 251-2231.



President's Message

by Hon.
Douglas McNish
Maui, Hawaii

I write this having just returned from a most amazing event. The AFCC **First International Congress on Parent Education Programs** in Chicago will, I believe, be an historic marker in the future development of parent education programs. When AFCC embarked on this project, expectations were that 150 people might attend such a single subject conference. The fact that 400 people attended is a credit to the outstanding work of our Madison staff: Ann Milne, Peter Salem, Victoria Metz and P.J. White. It is also a deafening statement of a need that demands recognition.

A sea of hands raised on opening night when AFCC Past President Bob Tompkins asked which audience members were involved in existing parent education programs. Congress participants overwhelmingly reported how important the **Congress** was for them.

Describing the evacuation of Dunkirk, Winston Churchill once said, "This is not the

end, it is not even the beginning of the end, but it is the end of the beginning." The **Congress** will also be remembered as the end of the beginning. What is it that began at the **First International Congress on Parent Education Programs**? A network has begun that will connect people who have established programs and those who want to establish them; a network that will keep them in touch and provide opportunities to come together to share new ideas and to support each other. The development of a directory of programs and their components was initiated through an excellent survey prepared by AFCC's Academic and Research Committee, co-chaired by Sandy Braver and Jennifer Mastrofski. The concept of a "How To Manual" for establishing parent education programs began at the **Congress**.

We began to visualize a time when parent education is considered not as a burden to be borne by parents, but as an *entitlement* of every child. We began to visualize a time when the requirement of parent education is no more questioned than inoculation against childhood disease or laws on compulsory education. We began to visualize a time when there is a parent education program in place for every child.

Twenty years from now when someone reviews the history of parent education programs at a luncheon address, it will be said that the birth of this movement occurred in Chicago at the **First International Congress on Parent Education Programs**. To those who attended, congratulations! You

will be remembered as the pioneers, the creators of the movement that accomplishes the visions of the **Congress**. You will help each other, you will move forward, you will overcome obstacles and you will succeed. Along the way, you will brush the wings of angels.

Board of Directors Nominations

The Nominating Committee is seeking names of individuals to serve on AFCC's Board of Directors. Recommended individuals must be AFCC members and have an interest and a knowledge of AFCC and its work.

Nominations should be received by February 1, 1995 in order to be considered by the committee prior to election at the AFCC Annual Conference in Montreal in May. If you or another member you know is interested, please forward their name and resume to:

Russell Schoeneman, Ph.D.
Nominating Committee Chairperson
Conciliation Court Maricopa County
201 W. Jefferson
Phoenix, AZ 85003
(602) 506-3298

AFCC Conference Audio Cassettes

First International Congress on Parent Education Programs

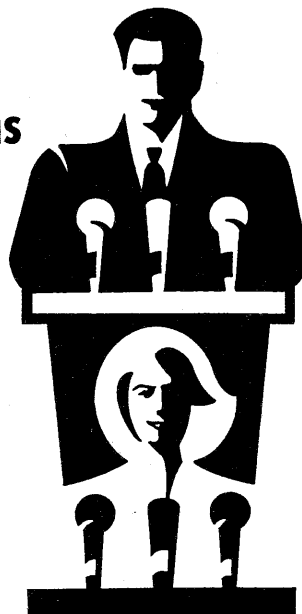
Conference # 962-994

Contact: Audio Transcripts, Ltd.

(800) 338-2111

(703) 549-7334

FAX (703) 549-3073



First International Symposium on Child Custody Evaluations

Southwest Regional Conference

Contact: Aaztec Seminars

(800) 582-3999

Montreal Conference Offers Something for Everyone

A FCC's 32nd Annual Conference, May 17-20, 1995 in Montreal, will offer several special institutes and a wide range of interesting workshops.

AFCC's Mediation Committee, in cooperation with the Quebec Family Mediation Association, will offer an advanced mediation institute. Institutes are also being planned on parent education, supervised visitation, an institute for judges and custody evaluators, lawyers and those interested in methods of evaluating court services.

The 1995 Annual Conference will take place at Le Centre Sheraton, \$123 Canadian single/double (approximately \$90 U.S.) located in the heart of downtown Montreal. The local planning committee, co-chaired by Justice Pierette Sevigny and Attorney Richard McConomy, is hard at work planning exciting and stimulating conference activities. Spring is just around the corner, so make your

travel plans soon. An early bird conference announcement with further information will be mailed to members in the near future.

Quebec City Awaits

Immediately following the conference, AFCC will be sponsoring a weekend trip to Quebec City. A three hour train ride will bring travellers to Chateau Frontenac, one of the most beautiful hotels in North America. Participants will be hosted by Justice Ross Goodwin, a local domestic relations judge. Tours of the city and restaurants will be available for AFCC members to enjoy. Join AFCC for this wonderful excursion.

For further information, contact AFCC, 329 W. Wilson St., Madison, WI 53703, (608) 251-4001, FAX (608) 251-2231.

AFTER MONTREAL . . .

AFCC Visits Budapest, Prague and Vienna

Submitted by Margaret Taylor, AFCC International Committee, San Francisco, CA.

Mark your calendars now for the remarkable trip to Budapest, Prague and Vienna being planned by AFCC's International Committee following the Montreal Conference.

Travellers will depart on Saturday evening, May 20 and arrive in Budapest the following day. They will proceed to the historic country town of Siofok on Lake Balaton, site of the Annual Conference of the International Commission on Marriage and Interpersonal Relations (IUFO).

The conference, presented in conjunction with the Pro Familia Hungarian Scientific Society, is entitled "Who Pays?" It will address changing patterns of employment and unemployment and implications for couples and families. The commission has chosen these dates and this site to coordinate with AFCC's Annual Conference and to give our delegation a taste of the "real Hungary." AFCC participants will have the opportunity to take part in small workshop sessions with European colleagues.

Following the three-day conference, the AFCC group will return to Budapest on May 24, moving on to Vienna on May 27, and to Prague on May 30. In each city, AFCC members will have the opportunity to meet with local colleagues, tour historic sites and spend private time exploring. We will return to the U.S. on Friday, June 2.

The tour cost will be approximately \$2,000 and includes round-trip air fare from the East Coast, land transportation, first-class hotel accommodations, all breakfasts and some other meals and tours of Vienna and Prague. Registration, room and meal costs associated with the IUFO conference are not included. These costs will be approximately \$500 U.S.

The IUFO Budapest conference can probably accommodate no more than 20 AFCC participants. Spaces will be reserved on a first-come, first-served basis. AFCC members may choose to participate in the tour and not attend the IUFO conference. Participants not attending the conference will be on their own for the first three days of the tour.

For further information please contact International Committee co-chair Byrnece Gluckstern at (303) 730-7227; FAX (303) 794-4671, committee member Margaret Taylor at (415) 431-5772; FAX (415) 552-3942, or Pat Williams at Burkhalter Travel at (800) 556-9286.

France Trip is Underway

Submitted by Richard McConomy, co-chair of AFCC's 1995 Annual Conference, Montreal, Quebec

A group of AFCC members will be spending one week visiting France following AFCC's Annual Conference in Montreal. The trip is intended to give an opportunity to see three distinct regions of France: Paris and the surrounding area; Bordeaux and wine country; and the Atlantic Coast, between Bordeaux and LaRoche. Each of these areas will showcase family mediation programs or other programs in areas such as supervised visitation, that will be of interest to the members of the AFCC.

We will be spending some time in Paris, however participants desiring a more comprehensive visit may want to consider planning more extended (and less serious) vacation time in Paris after the tour is completed.

The trip will include arrival in Paris with a day visit to the city of Versailles and the suburbs of Paris. The "Palais de Versailles" is well-known as one of the most fascinating pieces of French architecture, the reminiscence of the glorious Marquis of France. At the "Palais de Justice" there will be a short conference concerning family mediation and related projects that have been initiated in the Versailles area.

The group will visit Paris on the second day and be received by members of the local mediation community. The tour will include a 2-3 day trip to Bordeaux, where we will visit such local points of interest as the "Ecole de la Magistrature" (Judges School), the "Point Rencontre," (France's first supervised visitation project). From there, the party will spend a day at one of France's Bordeaux wineries. The group will then travel to the Atlantic Coast of France, potentially as far as LaRoche and some of the ancient naval installations on the Atlantic Coast.

This trip will combine education and pleasure. The group itself will serve as a resource for professional stimulation, in addition to meeting with representatives of local organizations interested in exchanging information on subjects of mutual interest.

For further information contact: Attorney Richard McConomy, 1253 McGill College, Suite 550, Montreal, PQ, H3B 2Y5, CANADA, (514) 875-5311, FAX (514) 875-8381.

MEMBER PROFILE

AFCC Member in Motion—Rosemary Vasquez, Oakland, CA



Whether she is climbing mountains, skiing, running, travelling, or making things happen in her career, family or community, AFCC Board Member Rosemary Vasquez seems to be in perpetual

motion. Of course, as a dedicated mother, grandmother, world traveller, athlete, family court custody evaluator/mediator and private therapist, Rosemary needs to keep moving just to meet all of her commitments.

Rosemary began moving when she was two years old, coming to northern California from her birthplace in Mexico. The youngest of six children, Rosemary became the first in her family to graduate from high school and started college at the University of California in Berkeley. Before completing her degree Rosemary became a military wife, which found her moving to West Berlin, Germany. She then returned to Berkeley with her daughter Kristen, and began working as a legal secretary while taking courses and raising a family.

Rosemary's next move took her to Honolulu, Hawaii where she continued work and school, as a single parent. Remarriage and two subsequent children, David and Mara, changed Rosemary's plans from a brief stay in Hawaii to one which lasted eight years. While in Honolulu she completed her BA at the University of Hawaii, initiated a Big Sister Organization and earned her MSW. After leaving Hawaii to live in Door County, Wisconsin and spending six months travelling, Rosemary returned to northern California and has been living in Oakland for the last fifteen years.

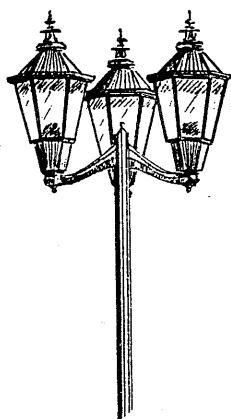
In her work for Alameda County Family Court Services and as a private therapist, Rosemary maintains a focus on children and family. "The family is central to Latin families," she said, noting that two of her older sisters each have nine children. "Ever since I was born I've had a lot of family around so it seemed like a good focus for my work." As a bicultural and bilingual counselor, Rosemary provides an important link between Family Court Services and the Latino community. She also offers low fee services to the Spanish speaking in her private practice and is a member of a Bay Area association of Spanish speaking therapists.

Rosemary's own family members (Kristen is now 30, David 20 and Mara 19) have followed their mother's path to higher edu-

cation and have also inherited her wanderlust. Kristen graduated from Stanford in engineering and is living with her husband and son in Amsterdam. David attends the University of California at Davis and spent the summer at a camp in Newport Beach, Rhode Island. Mara is at the University of California at Santa Cruz after travelling in Europe over her summer break.

With the nest now empty, Rosemary has time to focus on both work and play. She camps and travels extensively, has climbed Mount Shasta and Mount Whitney (both over 14,000 feet) in the last two years, and in 1992 spent a month trekking in Nepal.

Rosemary was elected to the AFCC Board at the 1993 Annual Conference in New Orleans. Not surprisingly, she is actively involved as a conference presenter, a member of the International, Nomination and Custody Evaluation Committees and is a chapter author for AFCC's **Resource Guide for Custody Evaluators**. She was a featured faculty member at AFCC's **First International Symposium on Child Custody Evaluations**. Said Rosemary, "AFCC members are a very dedicated group of people and I am looking forward to being a contributor."



Montréal

AFCC ANNUAL CONFERENCE

May 17-20, 1995

Early Bird Registration

(Prior to January 31, 1995)

Gender Issues in Family Law

Name _____

Street Address _____

City _____

State/Province _____ Zip _____

Country _____ Phone _____

PRE-CONFERENCE INSTITUTES

May 17, 1995 9 a.m.-5 p.m.

Please select one:

- ☐ 1. Custody Evaluation Institute
- ☐ 2. Judges Institute
- ☐ 3. Mediation Institute
- ☐ 4. Supervised Visitation Institute
- ☐ 5. Lawyers Institute

EARLY BIRD RATES

	US	CAN
<input type="checkbox"/> Pre-Conference Institute	\$75	\$100
Annual Conference		
<input type="checkbox"/> AFCC Member	\$240	\$320
<input type="checkbox"/> Non Member	\$260	\$350
<input type="checkbox"/> Spouse/Guest	\$100	\$130
Institute and Conference		
<input type="checkbox"/> AFCC Member	\$300	\$400
<input type="checkbox"/> Non Member	\$325	\$435

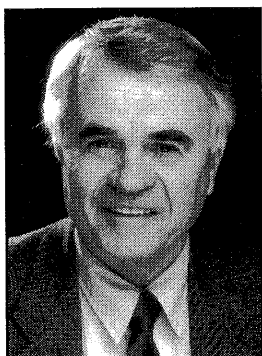
NEW MEMBER SPECIAL

- ☐ Membership & Annual Conference \$325 \$435
(Regular Cost \$345)
- ☐ Membership & Institute & Conference (Regular Cost \$420) \$395 \$530

☐ US ☐ CAN
TOTAL ENCLOSED \$ _____

MAIL TO: AFCC, 329 W. WILSON STREET, MADISON, WI 53703 (608) 251-4001 FAX (608) 251-2231

Award Winning Mediator Hugh McIsaac



For **Hugh McIsaac**, Director of Multnomah County, OR Division of Family Services, 1994 has truly been an award winning year. Mr. McIsaac received the Academy of Family Mediators' award for Distinguished

Contributions to the Field of Mediation and the Los Angeles County Bar Association awarded him the Spencer Brandeis Award for Contributions to Family Law.

Mr. McIsaac started with the Los Angeles County Conciliation Court in 1971. In 1977 he became Director of the Conciliation Court and in 1981 Director of the Los Angeles County Family Court Services, overseeing a staff of nearly one hundred. In 1992 Mr. McIsaac accepted his present position in Multnomah County. His home alternates between his boat on the Multnomah Channel, his house in Manzanita on the Oregon coast, and his commuter home in southern California, where his wife Chris works with the Orange County, CA Children's Services Department.

Mr. McIsaac earned a BA in English Literature at Dartmouth College and an MSW at the University of Southern California. He has three daughters. Heather is working on her Ph.D. in Psychology at the University of British Columbia, Vida-Marie is studying to be a chef at Portland's Western Culinary Institute and Candace is in the Peace Corps in Kazakhstan.

Mr. McIsaac is a Past President of AFCC, Editor of the *Family and Conciliation Courts Review*, and Chair of the AFCC Awards Committee. He is also coordinating AFCC's 1995 Northwest Regional Conference, November 2-4 in the Columbia Gorge, OR.

AFCC: Your first mediation was nearly twenty years ago. Is it the same process now as it was then?

Hugh McIsaac: Mediation today is quite similar to when Justice Donald King in San Francisco and Judge Christian Markey in Los Angeles began referring cases in 1976. Back then we copied a labor negotiation model. We knew it wasn't counseling and it wasn't about compromise. A number of people—Isolina Ricci, Jeanne Ames in San Francisco, Murray Bloom in San Diego, members of the court staffs—really brainstormed and invented the process as we went along. It was helpful and gratifying to read works such as Mnookin's "Bargaining

in the Shadow of the Law" and Fisher and Ury's *Getting to Yes* affirming the principles that we were employing.

There have been changes of course. The language, for instance, is different. Now we talk about "parenting plans" and "spending time with parents" not custody and visitation. Another important change is in the way custody evaluations are conducted. It isn't so much a contest between Mom and Dad anymore, but a consultation which is intended to provide information and address the needs of the family. The primary users of the information are parents, not the courts. This focus helps settle many cases around the evaluation. In today's divorces we are starting to see the emergence of a new family system, paradoxically, somewhat like the old extended family.

AFCC: Even while administering a large program you made it a point to maintain a caseload. Can you recall a particularly satisfying case?

HM: One of my early mediations involved a family where the father was living in California and the mother had for several years been living in Lake Tahoe with their 17 year old son and her second husband. The son was spending summers with his father but was starting to have some differences with his step-father and wanted to come back and stay in California. Working with an attorney, Dad brought the son in from Tahoe and without notifying Mom that he was going to do so, filed a motion to change custody. Judge Markey immediately referred them to mediation. It was very tense and hostile but we managed to work through it to come to an agreement. What I remember most about this case though, is just as we were working out the details of the agreement the father turned to the step-father and said, "I just want to thank you for the good job you did raising my son." For me that really confirmed that mediation is a problem solving process, not a place where people win or lose.

AFCC: Family mediators have come a long way in their struggle to gain acceptance by the legal community. Is that acceptance complete?

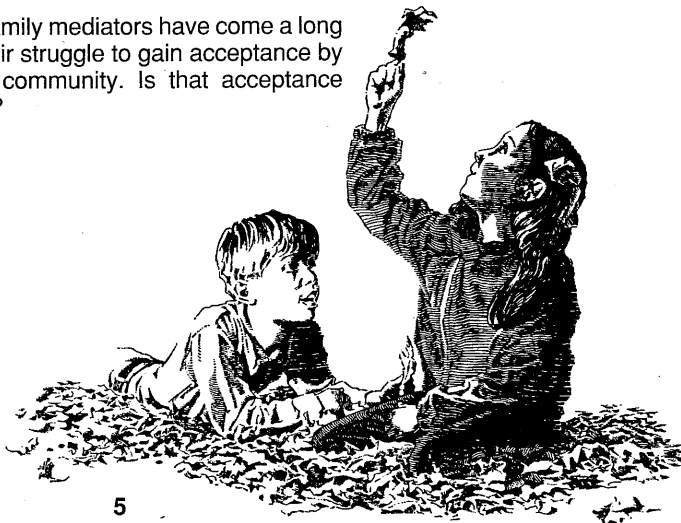
HM: In L.A. and in much of California the acceptance was fairly quick because there was support from the judiciary. In Portland the acceptance is also strong for much the same reason. In some places it is spotty. There remain areas where there is a great deal of resistance. There are some attorneys who haven't gotten the message that you don't get anywhere by jamming your people into court. But most good attorneys either find ways to settle cases or use mediators to help. The problem with a custody dispute is that it is a process, not an event. The legal system is not a good forum for dealing with it in the early stages. It is an appropriate system if there are children who need protection, if there is abuse or drugs. That's when the courts are needed.

AFCC: You have won two important awards this year. It must be nice to have your work recognized.

HM: It is, but the greatest gratification is to have participated in a major shift in the way custody disputes are handled. There is enormous satisfaction in being invited to the high school graduation of a child whose family you worked with when he was two years old, and to realize that in some way you touched their lives and they are better for that.

AFCC: You seem to keep an eye on the future. What do you see in the future of the family court?

HM: I think there will continue to be a greater focus on collaborative parenting and sharing of responsibilities. There will be more preventative education in conflict resolution and other areas, such as parent education. There is also an enormous need for the courts to relate to diverse communities and we will have to deal with that. This will all be helpful, but it cannot be a substitute for a social policy that supports families. I am troubled that our nation seems more concerned with building prisons than supporting schools and families.



One Professional, One Process

*Submitted by Barbara Chisholm, MSW,
Chisholm, Gafni & Block, Toronto, Ontario*

As the use of custody evaluations (a.k.a. assessments) and mediation have gained acceptance, a blurring of their boundaries seems to have developed. In some jurisdictions, mediators failing to guide parties to an agreement make a recommendation to the court. In others, custody evaluators routinely attempt to facilitate settlement. Practices such as these have planted the notion that the processes are interchangeable and can be replaced—one by the other and by the same professional. It is my experience that such is not the case. Custody evaluation and mediation are distinctly different, as is the role played by each professional. Therefore, a custody evaluator should not confuse an evaluation with a process resembling mediation by attempting to facilitate a settlement. It's tempting, but we shouldn't do it.

Confusing the Processes

Although custody evaluation and mediation have some factors in common, it is the many differences between the two that are germane here. For example, evaluation reports are directed to the court, mediation results are directed to the parties. The professional sets the structure and process in the evaluation while the parties set the structure of the content in mediation. Full disclosure of all data is required in evaluation reports. All data may not be expressed in mediation. Recommendations contained in an evaluation report are only that, whereas any agreement developed in mediation constitutes an agreement to be observed by the parties. The evaluator's recommendations are an expression of his or her professional judgement, while the points agreed upon in a mediated settlement are arrived at by the parties.

Evaluation, then, is an essentially vertical process. Mediation is a horizontal process. The evaluator directs the process, the mediator guides it along with the parties. To use an evaluation to direct a settlement is inconsistent with the definition of a custody evaluation and confuses the two processes and, potentially, the parties.

The Role of the Custody Evaluator

In a custody evaluation, the parties remain clients of their lawyers. The evaluator's role, while important and potentially of great use, is subordinate to the attorney/client relationship. Attorneys remain responsible to advise and represent their

client in any activity or negotiation subsequent to the evaluation.

Therefore, evaluators are not "in charge" of the file. They are agents of the situation, asked to assist in the resolution but not responsible for the final outcome. Professionals typically asked to undertake an evaluation—social workers, psychologists and psychiatrists—see themselves as change agents. Their mandate is to assist in the process of change, to facilitate reduction of inner or outer turmoil, and the "empowerment" of the client to make self-chosen decisions. Their sense of success often relates to the extent to which positive change has occurred. It is understandable, then, that they would want an evaluation to have a result similar to a successful mediation. But it is not "our" case. At best we share it, we do not own it.

Serving the Family

Settlement-oriented evaluations, like mediation, have been sold as a way to avoid the adversarial legal process and court. The message is this: an agreement facilitated by the custody evaluator (or through mediation) may achieve goals not available through the court system, and do so faster, more nicely and with less cost. While true in some cases, this is often not so.

Some parents can negotiate, and they do. But for some it is not a level playing field, whether out of fear, anger or pain. Many parents are unable to negotiate, even in the presence of a skilled professional. For some the notion of compromise is unacceptable, the past history of the couple continues to dominate and negotiation fails.

It is tempting to want to believe that most parents can use and understand a transition between systems as indicated (i.e., moving the process from an evaluation to a mediation orientation) so long as whatever is being done brings results. My experience has demonstrated otherwise. For many parents a change of horse in mid-stream is confusing, upsetting, alarming and harmful. Even though they agreed to the change it is later often demonstrated that they "went along with" the professional and did not raise their protest loudly enough. Such is our power, our "parental" image as knowing what's best.

Maintaining Objectivity

The credibility of the evaluator as professionally objective is the basis of useful evaluation reports. If the evaluator has unsuccessfully used the process as an opportunity to guide the parties to agreement, he or she may have formed an opin-

ion (usually not articulated) as to why it failed. In other words, which party was more difficult or responsible for the failure. How can a "neutral" report be completed without that opinion in the script? If the recommendations that follow do not support or favor that "difficult" party's position, surely competent counsel will raise the question of bias in any subsequent court hearing. Was the evaluator subtly retaliating for not being allowed to create a successful agreement? We are, alas, human too.

Sometimes the experience of really being listened to in the evaluation process helps to improve the parties' attitudes. If this seems to be so, it should be mentioned in the report. If they appear more prepared to negotiate rather than quarrel, the report should indicate this and suggest possible next steps. The parties and their counsel should then decide on what those next steps should be and initiate action. But such a development does not free the evaluator from the responsibility to give cogent professional advice to the decision-maker, the attorneys and the parties concerning the future arrangements for the care of the children.

We are all anxious to be of use in the complicated world of child custody. No one system—legal or mental health—can do it all. That much we have learned. We know we need each other if we are to be effective co-planners with hurt parents for the continuing parenting of the children. We need to consider new ways, of course. One-stop-shopping in custody and access issues is not the best approach. Dialogue, discussions and debate are still needed.

Proceedings Available from Parent Education Congress and Symposium on Child Custody Evaluations

AFCC is making available a limited number of conference proceedings from the **First International Congress on Parent Education Programs** and the **First International Symposium on Child Custody Evaluations**.

Both volumes are packed with handouts and essays, forms and other invaluable materials. Also included is a directory of faculty, participants and exhibitors.

The price for the Congress Proceedings is \$12 plus shipping and handling; the Symposium Proceedings is \$15 plus shipping and handling. For ordering information contact P.J. White at AFCC at (608) 251-4001.

Facilitating Agreements in Custody Evaluations is not Settling for Less

*Submitted by Robert Tompkins, M.A.,
Deputy Director, Family Division,
Connecticut Superior Court,
Wethersfield, CT.*

Following the **First International Symposium On Child Custody Evaluations**, I welcome this opportunity to participate in AFCC's version of "Point-Counterpoint" with my distinguished colleague from Canada, Barbara Chisholm. It was made clear at the **Symposium** that custody evaluations are undergoing an evolutionary process. With the recent emphasis on mediation, custody evaluations have almost become a neglected service, a second cousin to its more popular relative.

Although mediation is a valuable and effective service to divorcing families, not all cases are appropriate for mediation or respond to the mediation process. Courts, attorneys and clients, confronted with the increasingly complex issues involved in contemporary custody disputes, continue to depend on the information, insights and assessments provided by professional evaluators. While Ms. Chisholm and I may differ on several issues relative to custody evaluations, we share a common desire to enhance the professionalism of a specialized and unique service to families and the courts. Hopefully, this format and these thoughts will promote the continued evolution of our profession.

In thinking about the future direction of custody evaluations, I find myself being guided by three basic principles that, when fully considered, should have a significant impact on the form of all custody evaluations.

Custody Evaluations as ADR

The first principle derives from the fact that the vast majority of disputes involving a custody evaluation do not result in a trial. Instead, the dispute ends with a negotiated settlement and the evaluation plays a pivotal role in resolving the dispute. The evaluation provides parents and attorneys with the information needed to reach a resolution at some point between the completion of the evaluation process and the beginning of a trial. Therefore, custody evaluations become a legitimate form of alternative dispute resolution in most situations. Parents view them as an opportunity to express their concerns and fears to someone who will listen,

assess their family situations objectively and then feed back to them an analysis of their situation and recommendations concerning the future parenting of their children. Attorneys view them as a form of a mental health pretrial process resulting in an opportunity to obtain objective and professional information that is useful in determining how to advise their clients regarding their custodial concerns.

If custody evaluations are accepted as a form of alternative dispute resolution, we then need to consider how this impacts the evaluation process itself. We should look at such significant components of an evaluation as its format, the relationship of the evaluator to the parents and attorneys and methods of presenting the analysis to parents and attorneys. When viewed from this perspective, an evaluation can and should become something quite different from the traditional series of informational interviews culminating in an eagerly anticipated written report.

Who is Our Client?

The second principle relates to the question all evaluators should be asking themselves, "Who is our client... the court, the attorneys or the parents?" While an evaluation must always have the capacity to result in a product that will provide information and professional judgement to the court and attorneys, we must not lose sight of the fact that the family is our client first and foremost. In the end it is the family that must be assisted by an evaluation that provides them with meaningful information and professional analysis. It is the family, in consultation with their attorneys, who must be the first users of the information since, as previously stated, this information rarely reaches the judge.

Thus, a custody evaluation should be designed to meet the needs of the parents first and, secondarily, to meet the needs of the court. Too often custody evaluations are conducted in a manner governed by a preoccupation with meeting the needs of the court while ignoring an opportunity to assist parents in assessing their own situation. Both can be accomplished by rethinking the evaluation process while retaining its product, a cogent written report. Evaluations can be client focused by engaging parents in the evaluation process and by framing the evaluation as an opportunity for the parents to join the evaluator in a journey that helps

them look at their family historically, currently and prospectively. This experience should begin with the evaluator helping the parents to conjointly identify the specific issues that constitute their custodial dispute, mutually agree upon what information needs to be gathered to assess those issues and how that information will be shared, evaluated and used.

Meeting the Needs of Each Family

The third basic principle that should be considered is the simple but meaningful notion that all families are different. Although they share a common struggle with the trauma and disruption of divorce, parents and their children differ in their levels of adjustment to the divorce, their capacities to manage the changes in their lives and their responsiveness to professional interventions. Therefore, a custody evaluation should not be a rigid and regimented process in which all families are forced through the same mold. Rather, it should be a flexible process, capable of responding to the unique capacities and needs of each family.

Clearly, the basic components needed to assess a custodial dispute must remain intact. However, an evaluation can also include other components that correspond to the individual circumstances and personalities of the family members. Viewed this way, an evaluation could include varying degrees and combinations, a counselling component, an education component or a mediative component as well as the traditional evaluative component.

The professionalism and expertise of the evaluator becomes truly challenged when the evaluation process is accepted as a form of alternative dispute resolution, is client focused and is flexible. It is far too seductive and comfortable for an evaluator to maintain a detached and judgmental posture with clients. It is much more difficult to roll up your sleeves, enter the world of the clients and their conflicts and maximize the opportunity to move the evaluation process beyond being just another component of the adversarial process to that of an interactive, educational and healing experience for the parents. It is when an evaluation and the role of the evaluator is viewed in this manner that custody evaluations become an art.

Book Review

Mediation Across Cultures

Reviewed by Diana R. Wright,
Mediation Program Manager,
Office of the Arizona Attorney General

Mediation Across Cultures, an 81-page handbook about culture and conflict, is co-authored by Selma Myers, an Intercultural Consultant, and Barbara Filner, Director of Training at the San Diego Mediation Center. Overall, the book is a good read and would make a good primer to basic mediation training.

Mediation Across Cultures examines the basics of both mediation and intercultural communication. The book focuses on issues such as the use of language, incorrect assumptions, expectations, biases and values. *Mediation Across Cultures* includes chapters on: (1) Conflict and Culture: An Overview; (2) Mediation Concepts; (3) Impact of Culture in Mediation, and (4) Conflict Scenarios.

The chapter on conflict scenarios uses case examples to explore intercultural conflicts. The authors speculate on how the conflicts *might have been* resolved had mediation not been available, as well as the actual resolution of the dispute as achieved

through mediation. The analysis of each case examines the "cultural overlay" (i.e., cultural issues) involved, and its impact on the mediation and the resolution.

Mediation Across Cultures is an "active" book. The reader is offered the opportunity to take a cultural awareness quiz and evaluate his/her cultural IQ. A summary chapter provides a series of checklists for mediation behaviors, including "Tips for Communication With Non-native Speakers of English," and "Ten Commandments of Intercultural Sensitivity for Mediators."

While *Mediation Across Cultures* provides a useful overview, there is too much material on the basics of mediation and not enough attention paid to specific cultural issues. One should always be cautious when discussing culture and diversity so as not to influence the reader by presenting "stereotypical" situations. Nonetheless, more specific information on, for example, verbal and nonverbal sources of miscommunication between cultural groups would have been helpful.

Overall, this book is a useful tool for those starting out in mediation. *Mediation Across Cultures* is recommended reading for those interested in basic mediation training.

Mediation Across Cultures is available for \$27.50 from Intercultural Development, Inc., 755 San Mario Dr., Solana Beach, CA 92075, (619) 755-3160, FAX (619) 755-8637.

The AFCC Newsletter is a publication of the Association of Family and Conciliation Courts. The **Newsletter** is published four times a year in January, April, July and October. All news items and written copy must be received by the 1st of the month preceding publication.

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Madison, WI 53703
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DIRECTOR OF FAMILY COURT SERVICES DIVISION

Alameda County Superior Court, Oakland, CA

DUTIES: Plans, organizes, directs and coordinates division activities and operations; selects, trains, evaluates and supervises 30 professional and support staff directly and through subordinate supervisors; provides clinical direction to counseling staff; conducts direct services (e.g., mediation, evaluation, dissolution counseling, pre-age marriage requests, etc.) as requested by the court; serves on committees and task forces; acts as liaison between the Family Law departments and other agencies; reviews and analyzes legislation; develops, interprets and implements policies and procedures; prepares and monitors division budget; makes recommendations and develops implementation plans; prepares, monitors and analyzes management and statistical information and reports.

MINIMUM QUALIFICATIONS: Graduation from an accredited college with a Master's Degree in social work, psychology, marriage, family and child counseling or other discipline related to marriage and family interpersonal relationships AND three years of experience in counseling or psychotherapy AND one year of administrative management experience. A licensed Ph.D. is preferred. **SALARY:** \$56,742-69,056 plus benefits.

APPLICATION PROCESS: A resume, supplemental questionnaire and three letters of reference must be received by 5 p.m., Friday, December 30, 1994 in Superior Court of Alameda County-Personnel Services, 1225 Fallon St., Rm. 105, Oakland, CA 94612. (510) 208-3906 AA/EOE. Supplemental Questionnaires may be obtained by calling (510) 208-3906.

What is Best for the Children?

*Submitted by Hon. Shelly Gaylord,
Madison, WI*

Pat and Chris are separating after ten years together and do not agree on placement of their two children. The children have strong bonds with Pat and Chris and want to see them both a lot. However Pat is adamant that Chris spend absolutely no time with the children.

Todd and Mary are divorcing because Todd has chosen to leave the relationship. Mary is hurt. Even though Todd has been an excellent parent, Mary does not want the children to have anything to do with their father.

Pat feels strongly and is hostile, but there is no apparent reason for her wanting Chris out of the picture. Mary is fearful and feels that the children would be better off if they had nothing to do with Todd. In most cases, family court judges would not look kindly on the demands made by Pat and Mary. However, both could get what they want.

In Wisconsin, for example, Pat's biological children can be cut off from Chris, her lesbian partner, regardless of any prior contracts or agreements between the two women. In fact, the children's best interests are not ever investigated or heard. In other states, visitation may be possible but full legal custody rights are not.

Todd and Mary are ending their marriage because Todd has discovered he is happier as a homosexual. Even as the biological father, Todd could be completely removed from the lives of his children in some states. In other states, children may spend time with a gay parent under such onerous conditions as having no contact with a gay partner. Most states have simply not yet addressed this issue squarely.

Family court judges understand the pain and damage that separation from a parent

Commentary

can cause children. However, custody and access decisions may be viewed in a different light when the issue of homosexuality surfaces. Increasingly, courts are grappling with these issues and decisions. As they do, several important factors should be considered.

First, the definition of "parent" is not as obvious as it might seem. Those who work closely with children know that a child defines a parent much differently than defined by the law. Children know who they can count on and we should listen. Relationships with parents like Chris are important ones.

Second, regardless of sexual orientation, children's biological parents remain just

that. Todd will always be his children's father and they will always know this. While they might be teased or uncomfortable with Todd's sexuality, that will happen no matter where the children live because Todd will always be their father and he is gay. Those facts cannot and should not be made to "disappear" by attempting to remove the children from their father.

Third, children experiencing parental separation have problems to handle. Dealing with adversity is part of learning self-confidence. Do we teach children to learn to deal with problems by providing competent adult help, or do we teach children to run from difficulties? It is helpful to have advance knowledge of the obstacles a child might face so we don't have to wait to deal with them later.

Finally, get back to basics. Factors such as the child's attachment to each parent, adjustment to school and community, and each parent's ability to meet the children's needs and facilitate a positive relationship with the other parent are most important. If necessary, find capable counselors to assist parents to learn how to help their children through various stages of the divorce. The most immediate problem the children face is probably dealing with the separation.

The message sent by the bench is a weighty one. With the guidance of knowledgeable and capable family court judges children can maintain vital family relationships and understand how prejudice can be handled.

AFCC Joins Women Judges' Fund for Justice to Develop Judicial Training

The Women Judges' Fund for Justice has invited AFCC to participate, along with the American Bar Association's Family Law and Individual Rights and Responsibilities Sections, in developing a new educational curriculum, *Contemporary Custody and Adoption Issues in Non-Traditional Families*. The AFCC Executive Committee and Board of Directors approved this cooperative venture at the Board meeting in Tucson.

The curriculum will be designed to teach judges effective approaches to exercising judicial discretion in determining "the best interest of the child" in custody and adoption proceedings where sexual orientation of a birth or adoptive parent is made an issue.

The concept paper submitted to AFCC notes that non-traditional families are widespread. There are between 6-14 million children being raised by 3-8 million lesbian and gay parents. Parents and children in custody or adoption proceedings may confront unfamiliarity with lesbian and gay families, lack of specific guidelines, unconscious judicial bias and myths about the effect on children of living with their lesbian or gay parents.

The Fund, in conjunction with AFCC and the other co-sponsoring organizations, plans to develop and disseminate a comprehensive training curriculum for judges. The training curriculum will include:

- A national survey of statutory and case law relating to interpretation of "the best interest standard" in custody and adoption proceedings, and specifically cases where sexual orientation of a parent is an issue.

- A bibliography and critical analysis of the legal, sociological and psychological literature concerning lesbian and gay families.

The training and materials will emphasize the spectrum of legal precedent and psychological and sociological data to enable judges to determine the best interest of the child, free of bias, with regard to the parent's sexual orientation.

Public Policy Committee Proposes Policies on Sexual Orientation and Parenting and Unified Family Courts

AFCC's Public Policy Committee, chaired by President-elect John Kydd, has developed two proposed policies which were presented to the AFCC Board of Directors in Tucson.

A proposed policy on sexual orientation and parenting and an accompanying position paper were developed by John Kydd. A draft policy regarding unified children and family courts was drafted by Dick Podell, AFCC's liaison from the ABA Family Law Section. Both proposals will be addressed at the AFCC Board of Directors meeting in May, 1995 in Montreal.

The Public Policy Committee would like to receive comment and feedback from members prior to the May Board meeting. To request a copy of the proposed policies and position paper, please contact:

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

Federal Funding of Supervised Visitation: Good News, Bad News and More

Submitted by Robert B. Straus, JD, DMH and Joanne Karolzak, MAEd

The good news is that the Crime Bill has passed, and with it a small paragraph which authorizes federal funding for supervised visitation centers across the nation. The bad news is that this paragraph creates only one program buried among a dozen others in the Crime Prevention Section of the bill. Up until the last days of Congressional wrangling, the larger and more encompassing Child Safety Act was still included in the Crime Bill. The Act, originally introduced by Senator Paul Wellstone (D-Minn.), fell casualty to President Clinton's efforts to revive the stalled crime legislation.

It is too soon to know the full meaning of the changes. Although \$75 million is authorized for the Local Crime Prevention Block Grant Program, beginning in 1996 and continuing through fiscal year 2000, there is no way of knowing how much money will be appropriated. Even then, the money will be divided among the fifty states. Local governments will need to decide how much

money to allocate for supervised visitation when there are important competing programs such as education, midnight sports, youth anti-crime councils and job programs. It isn't everything we'd hope for, but it is a vital first step. This bill marks the first national recognition of the importance of these services.

With government funding will come regulation. At a minimum, funding entities, such as the Department of Health and Human Services, will propose criteria for eligibility and will develop regulations on how programs are to be run.

In response to this anticipated requirement and to requests for guidelines, the Supervised Visitation Network has launched into the process of developing guidelines and standards for practice. A Standards and Guidelines Committee had been established and is chaired by Glynne Gervais, Chicago and Hedi Leveback, New York.

It is important that this discussion include and represent the views of as many people

as possible. As a member of AFCC, your views are important to this process. If you have thoughts about how supervised visitation should be conducted, training service providers, safety issues, fees, and handling domestic violence or abuse cases, we would like to hear from you.

The committee's work will be presented at SVN's 4th Annual Supervised Visitation Network Conference, to be held in beautiful Vancouver, British Columbia, April 6-8, 1995. For further information, please contact the S.V.N. office at.

S.V.N. National Clearinghouse
347 E. Speedway Blvd.
Tucson, AZ 85705
(602) 792-1785 phone
(602) 623-2443 fax

Note: The Supervised Visitation Network will be conducting a pre-conference institute at AFCC's Annual Conference in Montreal, May 17-20, 1995.

New AFCC Publications and Videos

Publications

Model Standards of Practice for Child Custody Evaluation

Developed by AFCC's Custody Evaluations Committee, the Model Standards address several areas including evaluation procedures, areas of evaluation, reports and ethical principles. Price: \$2.50.

AFCC Resource Guide for Custody Evaluators

A comprehensive sixteen-chapter practitioners manual which covers all aspects of custody evaluations. Chapters on interviewing, testifying in court and psychological testing are included in this invaluable resource. Price: \$35.

Domestic Violence and Empowerment in Custody and Visitation Cases

This publication reports on the results of an AFCC study of over 400 parents who were referred to mediation for custody disputes. The study examines the relationship between domestic abuse and perceived empowerment when dealing with the court system and the other parent. Price: \$12.50.

Mediation and Domestic Violence—Current Policies and Practices

This article reports on a survey of domestic abuse screening, policies and procedures of 200 court programs. This project was a collaborative effort with the Center for Policy Research. Price: \$7.50.

Videotapes

Children: The Experts on Divorce

This video features children who have experienced divorce discussing their fears, concerns and hopes for the future. Price: \$125.

Children in the Middle (Second edition)

This useful video offers four role plays demonstrating constructive and destructive post-divorce parenting behaviors. On-screen facilitators provide discussion questions for parents. Price: \$125.

For a Publication and Video Order Form or information on all AFCC publications, pamphlets and videos, contact P.J. White at AFCC, 329 W. Wilson St. Madison, WI 53703, (608) 251-4001, FAX (608) 251-2231.

Member News

Tom Bishop, former AFCC president and longtime member, has accepted an appointment as Superior Court Judge for the State of Connecticut Superior Court. Judge Bishop was appointed to the bench in late October, having practiced family law for over 25 years. Another positive development for the Bishop family is that Judge Bishop's daughter, Cassie, continues her promising recovery from a serious automobile accident last June. AFCC extends the Bishop family congratulations and continued success.

Mary Duryee, director of Family Court Services of Alameda County, CA is leaving her position with the court. Dr. Duryee will continue her private practice as a mediator and therapist and will continue her teaching and writing. AFCC wishes Dr. Duryee best wishes in her new pursuits.

Byrnece Gluckstern, co-chair of AFCC's International Committee, has announced her retirement after 26 years as chief domestic relations counselor of Colorado's 18th Judicial District. Ms. Gluckstern assures the Newsletter that this is not her retirement from AFCC. She will be continuing her very active participation on AFCC's International Committee.

Linda Kerr, of the Family Center of the Conciliation Court in Tucson, AZ, left her position in November after nine years as director. Ms. Kerr is taking some time off and has relocated with her husband to Boulder, CO.

John Lemmon, AFCC member from Oakland, CA was recently appointed to the California State Bar's Family Law Advisory Commission. Dr. Lemmon is also publisher and editor-in-chief of a monthly newsletter, the *Lemmon Mediation Report*. For further information on the newsletter, contact (510) 547-8089.

Linda Wilkerson, executive director of the Academy of Family Mediators, and her husband Gary welcomed their second child on October 7, 1994. Nicholas Wilkerson weighed in at 7 pounds, 11 ounces. AFCC congratulates the sleep-deprived mother and father.

Call for Information

Safety Policies and Procedures

Family Court Services of Dallas, TX is in the process of developing policies and procedures involving issues of safety and security. Family Court Services is interested in obtaining any information on existing policies and procedures which have been developed to provide protection of staff, clients and confidential documents.

Please contact:

Linda Hahn, Director
Family Court Services
Government Center
600 Commerce St. Suite 7-176
Dallas, TX 75202
(214) 653-7674
FAX (214) 653-7449

Services for Children

The Center for the Study of Social Policy (CSSP) is seeking information about services provided to young children in courthouses. Young children increasingly find themselves in courthouses as the focus of a custody or child abuse proceeding or as witnesses to crimes. Courts in several states are providing alternative settings for children while their parents are in court.

CSSP has received a grant from the U.S. Department of Justice to determine the prevalence of children in courts around the country, to examine child care programs already existing in courthouses, and to provide training to additional states interested in offering court-based child care. If you know of any jurisdiction offering services to children in courthouses, please write or call:

Lucy Hudson
National CourtCare Demonstration Project
Center for the Study of Social Policy
1250 Eye Street, N.W., Suite 503
Washington, D.C. 20005
(202) 371-1565
FAX (202) 371-1472

UPCOMING EVENTS

January 12-15, 1995

February 16-19, 1995

March 16-19, 1995

Location: San Francisco, CA
Contact: John Lemmon, Ph.D.
(510) 547-8089

January 23-27, 1995—Boulder, CO

Divorce and Child Custody Mediation
Contact: CDR Associates
1-800-MEDIATE

January 27-28, 1995—Tampa, FL

Advanced Family Mediation Training
Contact: University of South Florida
Mediation Institute
(813) 975-2403 ext. 82

February 2-5, 1995—Washington, D.C.

Building Personal and Professional Competence
in a Multicultural Society
Contact: National Multicultural Institute
(202) 483-0700

February 8-12, 1995—Corte Madera, CA

36-Hour Divorce Mediation Training
Contact: Joan B. Kelly, Ph.D.
Northern California Mediation Center
(415) 927-1422

February 12-16—Ann Arbor, MI

Mediation Training & Consultation Institute
Basic Divorce Mediation Training
Contact: Zena D. Zumeta, J.D.
(800) 535-1155 or (313) 663-1155

March 9-10, 1995—Madison, WI

Conducting Child Custody Evaluations
Contact: AFCC
(608) 251-4001 or
Professor James Campbell
University of Wisconsin
(608) 262-2352

March 10, 1995—Cleveland, OH

Advanced Mediation Training
Contact: Phyllis Hulewat
The Center for Divorcing Families
(216) 292-3999

April 11, 1995—Madison, WI

Developing Parent Education Programs
Contact: AFCC
(608) 251-4001 or
Professor James Campbell
University of Wisconsin
(608) 262-2352

May 17-20, 1995—Montreal, Canada

AFCC Annual Conference
Contact: AFCC
(608) 251-4001

November 2-4, 1995—Columbia Gorge, OR

AFCC Northwest Regional Conference and
Board Meeting
Contact: Hugh McIsaac
(503) 248-3189

May 8-11, 1996—San Antonio, TX

AFCC Annual Conference
Contact: Linda Hahn
(214) 653-7674

Fall 1996—Boston, MA

AFCC Northeast Regional Conference and
Board Meeting
Contact: AFCC
(608) 251-4001

May 1997—San Francisco, CA

AFCC Annual Conference
Contact: AFCC
(608) 251-4001

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Peter Salem, Associate Director, AFCC
Alan Kahn, Director, Palm Beach ADR Center

For Registration Information Contact:

School of Continuing Education, University of South Florida, 4202 E. Fowler Ave. MGZ 144,
Tampa, FL 33620-6610, Phone (813) 974-2403 ext. 82; FAX (813) 974-5732



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