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AFCC eNEWS

MONTHLY E-NEWSLETTER

VOL. 3 NO. 9

DECEMBER 2008

Season's Greetings from AFCC

As 2008 winds down, we are pleased to be able to reflect on a successful year for AFCC. At the same time, we know there are challenges ahead for the association, our members and our colleagues around the world, and perhaps much greater challenges for many of the families we serve. So it is especially important to remember to be thankful for what we have (and who we have). At AFCC, we are both fortunate and grateful to be working with members who are not only extraordinarily talented and dedicated to their work, but are so supportive of one another. AFCC members are leaders in their communities. And when leaders come together—whether through conferences, newsletters or the *Family Court Review* and whether on an international, national or local level—the accumulation of energy, wisdom, intellect and creativity is something to behold. Truly, the whole of the work of AFCC members is greater than the sum of the parts. And for that, many children and families around the world are also, no doubt, very grateful.

Wishing you peace, health and happiness for 2009.

Peter Salem
Executive Director

NEW ORLEANS PLENARY SESSION SNEAK PEEK

The Child's Voice in Process: Which Way is Forward?

The role of children in family court processes has been vigorously debated. Some argue that children's participation is crucial and in some jurisdictions children have the right to speak directly to a judge. Others suggest that children have no place in judge's chambers or as witnesses in court, and some argue further that granting children additional or special rights will undermine parents' ability to resolve their disputes. Should children have a voice in the court process? By having their own lawyer? In mediation? In custody evaluations? What factors must be considered, and what is the most effective way to include the voice of the child without compromising their well-being? This panel will grapple with these and other challenging questions. **Presenters: Hon. Peter Boshier, Daniel Goldberg, LL.B., Mindy Mitnick, M.Ed. and Moderator Jana B. Singer, J.D.**

[Read more about the presenters...](#)

[See the entire conference program...](#)



See Complete New Orleans Program [here](#).

UPCOMING CONFERENCES

46th Annual Conference

Children, Courts and Custody: Back to the Future or Full Steam Ahead?

May 27-30, 2009

Sheraton New Orleans
New Orleans, Louisiana

[Conference program...](#)

AFCC Regional Training Conference

Interventions for Family Conflict: Stacking the Odds in Favor of Children

November 5-7, 2009

Peppermill Resort
Reno, Nevada

AFCC Trainings

[Training schedule & brochure](#)

**Parenting Coordination:
Working with High Conflict Families**

RESEARCH UPDATE

Teens Evaluate Their Parents' Discipline Strategies

Courtesy of J.M. Craig Press, Inc.

Motions to modify may arise in a post-divorce context when teenagers complain about how they are treated by their other parent. This article delves deeply into this question to try to determine which maternal disciplinary behaviors may be helpful and harmful for adolescent development.

[Read more...](#)

Parenting Coordination Trainings in New Orleans

Parenting Coordination: Working with High Conflict Families will be presented by Robin M. Deutsch, Ph.D. on February 9-10, 2009 and *Attachment, Alienation and Access: Advanced Interventions for Parenting Coordinators* will be presented by Arnold Shienvold, Ph.D. on February 11-12, 2009. If you are a parenting coordinator, work with parenting coordinators or want to be a parenting coordinator, these programs are not to be missed.

[More information...](#)

RECOMMENDED READING

This month Connie Beck, Ph.D., University of Arizona, recommends "the most comprehensive book ever published on the topic of relationship dissolution."

Fine, Mark A. and John H. Harvey, eds. (2006) **Handbook of Divorce and Relationship Dissolution**. New Jersey: Lawrence Erlbaum Associates, Publishers.

[Table of Contents...](#)

Connie also recommends an article that was just published: Holt, S., Buckley, H. & Whelan, S. (2008). **The impact of exposure to domestic violence on children and young people: A review of the literature**. *Child Abuse and Neglect*, 32, 797-810.

[Read the abstract...](#)

CONFLICT RESOLUTION QUARTERLY

Association for Conflict Resolution has made the current issue of their journal, *Conflict Resolution Quarterly*, available for free as an early holiday gift to our AFCC eNEWS readers!

[Read CRQ...](#)

ASK THE EXPERTS

Ten Risk Management Techniques for Custody Evaluators

By David Martindale, Ph.D., ABPP, St. Petersburg, FL

Risk is most effectively managed when we practice well and practicing well requires that we set the bar not at the lowest acceptable point (defined by enforceable standards and regulations) but at the highest point (found in the guidance that is offered by respected colleagues and by professional organizations). Risk reduction procedures are, in many respects, anger reduction procedures.

Robin M. Deutsch, Ph.D.

February 9-10, 2009
New Orleans, Louisiana

Attachment, Alienation and Access: Advanced Interventions for Parenting Coordinators

Arnold Shienvold, Ph.D.

February 11-12, 2009
New Orleans, Louisiana

Advanced Issues in Child Custody

Nancy Williams Olesen, Ph.D.

June 22-23, 2009
Chicago, Illinois

Parenting Coordination: Advanced Practice and Skills

Joan B. Kelly, Ph.D.

June 24-25, 2009
Chicago, Illinois

AFCC Chapters

Arizona Chapter Annual Conference

January 30-February 1, 2009
Hilton Sedona Resort and Spa
Sedona, Arizona
www.azafcc.org

California Chapter Annual Conference

February 6-8, 2009
The Mark Hopkins Hotel
San Francisco, California
www.afcc-ca.org

Florida Chapter Annual Conference

February 27-28, 2009
Renaissance Hotel
Tampa, Florida
www.flafcc.org

Missouri Chapter Annual Spring Conference

March 12-13, 2009
Sheraton-St. Louis downtown
St. Louis, Missouri
www.afccnet.org

Massachusetts Chapter Annual Conference

April 3, 2009

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FEATURED ARTICLES

Yes, No or I'll think About it

By Bill Eddy, courtesy of Mediate.com

Whether in a divorce, a workplace dispute, or a conflict with a neighbor, it's easy to get caught up in defending our own behavior and point of view. This is especially true when we are dealing with a high conflict person (HCP).

[Read more ...](#)

Second Thought on First Right of Refusal

By Annette Burns

It seems the most logical thing in the world: in a parenting plan, the parents agree that if the parent who has parenting time with little Jason (the Custodial Parent, or CP) has to be away from him for a given number of hours (say, 6 hours), the other parent (NCP) should be offered the first right to take care of Jason before someone else is asked to do it.

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NEWS FROM FAMILY COURT REVIEW

Giuseppe Aguanno, managing editor of Family Court Review, announces that January 2009 will bring us a special issue of FCR on Mediation and Conferencing in Child Protection Disputes. The special guest editors are Kelly Browe Olson and Bernie Mayer.

[Table of Contents...](#)

AFCC THANKS OUR SCHOLARSHIP FUND CONTRIBUTORS

[List of contributors...](#)

AFCC will offer nearly 40 scholarships to the 46th Annual Conference in New Orleans. Each year AFCC has increased the number of scholarships awarded to our conferences. This year additional scholarships have been put aside for some of those professionals who have suffered through Hurricanes Katrina and Rita. If you would like to be part of the generous group who help make these scholarships possible, [click here to donate](#).

AFCC PRESENTS TWO NEW BOOKS

Innovations in Family Law Practice and Innovations in Interventions with High Conflict Families

These books represent the latest developments in the field and will help keep you up to date.

[Innovations in Interventions with High Conflict Families...](#)

[Innovations in Family Law Practice...](#)

INTERNATIONAL NEWS

News From Across the Pond

Regis College
Weston, Massachusetts
www.maafccnet.org

Ontario Chapter Annual Conference

April 3, 2009
130 West Event Center
Toronto, Ontario, Canada
www.afccnet.org

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ABOUT AFCC eNEWS

AFCC eNEWS is a monthly e-newsletter published by the Association of Family and Conciliation Courts (AFCC). *AFCC eNEWS* provides professionals with time sensitive and up-to-date topics including practice tips, research innovations and international news.

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Editor:

Leslye Hunter
editor@afccnet.org

AFCC welcomes your comments, questions or feedback. Please email the

By Karen Mackay, Chief Executive, Resolution, Kent, England

Famously Bette Midler remarked that when it was 3:30 in New York, it was 1950 in London. That sometimes feels very true in the family law/family justice field.

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editor by [clicking here.](#)



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Teens Evaluate Their Parents' Discipline Strategies

Courtesy of J.M. Craig Press, Inc.

Padilla-Walker, L. M. [2008]. Domain-Appropriateness of Maternal Discipline as a Predictor of Adolescents' Positive and Negative Outcomes. Journal of Family Psychology, 22, 456 - 464.

Motions to modify may arise in a post-divorce context when teenagers complain about how they are treated by their other parent. This article delves deeply into this question to try to determine which maternal disciplinary behaviors may be helpful and harmful for adolescent development.

The author studied 133 adolescents whose average age was 16; 54% were girls and one-third lived with a single parent. Each completed a number of different questionnaires regarding how they were disciplined by their mothers and their values and behavior towards others. The author questioned the participants related to four different domains: understanding the rights of others and avoiding harm to them; understanding of proper social behavior; attentiveness to their own physical wellbeing; and awareness of their personal/emotional welfare.

The author found that:

- Girls reported having more understanding of and respect for the rights of others than boys. On the other hand, boys' scores on anti-social behavior were only slightly higher than those of girls.
- Parents reacted less by yelling and more by talking with their teens when issues arose regarding their personal/emotional welfare. Parents were more inclined to punish, however, when teens misbehaved in areas regarding their physical safety and understanding the rights of others.
- The teens felt it was not appropriate for their parents to do nothing when issues regarding understanding the rights of others and avoiding harm arose. For the other two areas, talking was seen as appropriate whereas yelling and punishment were not.
- Teens were more likely to behave in a positive way when they viewed their parents' response to their behavior as appropriate and reasonable (e.g., when the punishment fit the crime).

The author concluded that how parents discipline their teens is less important than the degree to which their children view their responses as appropriate.

Critical Analysis

A major value of this study is that it provides us some idea of how teens view the disciplinary behavior of their mothers. It also tells us something important about the consistency of disciplinary behavior. In terms of limitations, there are no data regarding the disciplinary behaviors of fathers in comparison to mothers, or whether there were any differences when teens were reared by both parents as opposed to one. Second, the

author did not address the long term results of the teens' behavior. Therefore, we do not know the extent to which the teens' perceptions led to better or worse outcomes for them.

Recommendations

Teens do not appreciate lack of discipline and may view it as unresponsive on the part of their parent. We can only wonder if such reactions may prompt acting out behavior on the part of the teen in order to gain a more appropriate parental reaction. When teens wish to change residence, interviewers might not necessarily get information from them related to these issues. If they were to do so, the teens' desires might make more sense if, for example, it is learned that the parent whom the teen wished to leave was too lax or too stern in his/her disciplinary behavior.

Another value of this article is that it reminds us that teens can be astute observers and exhibit good judgment regarding their best interest. Sometimes in the heat of a custody dispute, their voices can get lost. This article reminds us about how important it is to take the time to listen to them carefully.

This article emphasizes that when it comes to discipline, one size does not fit all. While the author does not pursue this matter in detail, it is reasonable to conclude that teens will view the behavior of their parents differently based on their own point of view. Good parents make adjustments in how they deal with their children based on their individual personalities; a one size fits all approach is never an effective childrearing formula.

Finally, this article reminds us of much research we have previously reviewed [See Digests: 6, 2, 3, 4, & 6; 7, 2, 5, 6, 7, & 10; and 8; 2, 6, 7, & 10] that authoritative parenting is most important for raising healthy children.

For this as well as other valuable research visit J.M. Craig Press online at www.jmcraig.com or call (877) 960-1474. AFCC members receive a 25% discount on all J.M. Craig Products.

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Hon. Peter Boshier

Judge Peter Boshier is the Principal Family Court Judge of New Zealand and was appointed to that role on 12 March 2004. It is an appointment for a term of 8 years.

Judge Boshier was born in Gisborne in 1952 and was educated at Gisborne Boys High School and then Victoria University of Wellington where he graduated in 1975 with the degree of LLB (Hons). He joined the Wellington firm of Macalister Mazengarb Parkin & Rose as a law clerk in 1973, became a partner of that firm in 1979 and practised in the areas of criminal, civil, tribunal and family law. He was a council member of the Wellington District Law Society in 1987 and was appointed as a District Court Judge to Auckland in April 1988. His designated areas of specialisation were Family and Youth Courts.

In 1993, Judge Boshier completed a Committee Report reviewing the Family Court. A number of changes to the practice were suggested and have been implemented, over the years. Some of that report's recommendations feature in the Law Commission's "Dispute Resolution in the Family Court" Report No. 82 published in March 2003.

Judge Boshier has long had an interest in Pacific youth justice and in child offenders. In 1999, he wrote, at the request of the then Principal Youth Court Judge David Carruthers, a Child Offenders Manual, giving a practical guide to successful intervention with child offenders. Since then, he has taught extensively in this area of the law.

In July 2002, he was seconded by the New Zealand Government to join the Pacific Judicial Education Programme based in Suva and teaching law to judicial officers of the Pacific. In 2003 he attended the University of the South Pacific and completed a graduate certificate in tertiary teaching.

Upon his return to New Zealand he was appointed to his present position and has a commitment to working with Government to continue to reform the Family Court so that its processes provide efficient and economic access to justice.

In October 2006 Judge Boshier was nominated by the New Zealand Listener, as being in the top fifty outstanding New Zealanders.

Daniel Goldberg, LL.B.

Dan Goldberg is Senior Counsel, Office of the Children's Lawyer and is Chair of the Ontario Ministry of the Attorney General of Ontario's Articling & Summer Law Student Committee.

For over twenty-two years, Dan has represented children in custody/access and child protection cases. Dan received his Bachelor of Arts (B.A. Honours), 1976; Bachelor of Common Laws (LL.B.), 1979; and Bachelor of Civil Law (B.C.L.), 1980, all from McGill University. He was called to the Ontario Bar in 1982. Dan has organized and spoken at numerous Ontario Bar Association (OBA), Law Society of Upper Canada and Association of Law Officers of the Crown (ALOC) educational programs. Dan has been a

guest lecturer on Family and Children's Law at McGill University, Queen's University, University of Toronto, Osgoode Hall Law School and at the Bar Admission Course.

Dan was a presenter at the 2005 Annual AFCC Conference (Seattle). For the past nineteen years Dan has been a member of the Executive Committee of the Family Law Section of the OBA during which time he has, among other functions, chaired the Liefk Competition for Excellence in Academic Writing in Family Law. Dan is a member of the North York Legal Aid Area Committee and the North York Bench and Bar Committee. Dan has appeared before the Supreme Court of Canada in *Gordon v. Goertz*, successfully arguing on the issue of relocation rights of custodial parents. Dan has written articles on parental alienation, relocation rights, grandparent-grandchild access, the impact of religion in custody/access disputes and on the legal representation of children in both child protection cases as well as custody/access disputes. Dan authored a chapter on *Representing Children* in the book, *Canadian Child Welfare Law: Children, Families, and the State (2nd ed.)*, published in 2004.

Mindy Mitnick, M.Ed.

Mindy F. Mitnick is a Licensed Psychologist practicing in Minneapolis. She received a Master of Education from Harvard University and a Master of Arts in psychology from the University of Minnesota. She specializes in work with families in the divorce process and with victims of abuse and their families. Ms. Mitnick has trained professionals throughout the country and abroad in identification and treatment of child abuse, the use of expert witnesses in child abuse and divorce cases, effective interviewing techniques with children, interventions in high-conflict divorce, and the impact of psychological trauma. She has been a speaker for the National Center for Prosecution of Child Abuse, National Association of Counsel for Children, the Office of the Children's Lawyer in Toronto and numerous statewide multidisciplinary training programs. Ms. Mitnick is one of the training faculty at CornerHouse Interagency Child Abuse and Training Center. She has written and taught extensively about the assessment of child sexual abuse allegations during custody disputes and is a contributor to [Investigation and Prosecution of Child Abuse](#), published by Sage. She has served as an expert witness in both child abuse and divorce cases.

Jana B. Singer, J.D.

Jana Singer is Professor of Law at the University of Maryland School of Law, where she teaches family law, contracts and constitutional law. She has written widely on family law and family dispute resolution issues and recently co-edited a volume on Resolving Family Conflicts (Ashgate, 2008). Professor Singer is a member of the American Law Institute, a liaison member of the American Bar Association Commission on Women in the Profession, and a past Chair of the Family and Juvenile Law Section of the American Association of Law Schools. She has also served on the Family Law Section Council of the Maryland State Bar Association and on the Divorce Roundtable, an interdisciplinary group of lawyers, judges, mediators and mental health professionals.

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Second Thoughts on First Right of Refusal

By *Annette Burns*

CHILD CARE FOR CHILD AND FIRST OPPORTUNITY TO OTHER PARENT. *When a parent has residential responsibility for the child that parent will be responsible for providing childcare or supervision. However, if that parent is unable to care for the child for more than six (6) consecutive hours, the other parent will be afforded the first opportunity to care for the child.*

It seems the most logical thing in the world: in a parenting plan, the parents agree that if the parent who has parenting time with little Jason (the Custodial Parent, or CP) has to be away from him for a given number of hours (say, 6 hours), the other parent (NCP) should be offered the first right to take care of Jason before someone else is asked to do it. It seems so simple. The other parent is ALWAYS the preferred caretaker of choice—right?

Since I've been doing parenting coordination work, my view of the first Right of Refusal (ROR) (more appropriately called "first opportunity to care for little Jason") has been turned around and changed many, many times. I've seen the provision that the other parent should always care for the child abused so many times, its initial good and logical purpose has lost most of its meaning.

I have had parents, and sometimes attorneys, argue to me that the other parent is always, always, ALWAYS the most appropriate person to care for the child, when the CP is unavailable. I'm always wary of "always" arguments. So, the NCP is the preferred caretaker, even when the period of time is four hours, the NCP lives more than one hour's drive away, and there is a stepparent available to care for Jason in Jason's own home? Or, the CP has to work 7pm to 4am, meaning that the child will only be at the NCP's home during sleeping hours, and custodial parent would have been home before the child wakes in the morning?

One thing is clear to me: the issue of first ROR does not discriminate based on gender. The majority of parenting coordination cases I have are either 50-50 shared parenting time or darn close to it. Mothers are asking for unconditional and unlimited first ROR as often as Fathers are. Both genders are using and abusing the first ROR equally.

Consider the following situations when a first opportunity to care for Jason can be abused.

Stepparents. I started parenting coordination work with the notion that a parent is a parent is a parent, and a parent always trumps a stepparent's time. I'm wavering on that. We live in a society of stepfamilies, and the stepmothers and stepfathers that I've dealt with are for the most part caring, loving, and helpful with their spouse's children. I have yet to meet a stepparent who I felt was trying to steal someone's child away.

I'm ready to confess that in some situations, I believe that a child staying with step-dad for a few hours while Mom is away at work is preferable to putting the child in a car and trucking him off to Dad's home for that short period of time.

Grandparents. Is a child really not allowed spend an overnight with a grandparent? Can Father's Mother really not care for the child while Father goes out for a few hours, or even overnight? Does a child lose all right to stay with a grandparent because of a divorce, unless the other parent gives up his/ her right to have the child first? I can't sign off on that interpretation of a first ROR.

School friends. More than one of my parenting coordination cases have brought me the issue of a child spending an overnight at a friend's home, and the complaint that this should not have occurred without offering the other parent the overnight first.

Test yourself. See what you would do with the following situations. In each situation, the parenting plan calls for a first ROR to the other parent for periods of three hours or more.

1. On Jason's weekends with Mom, Jason is enrolled in a soccer activity on Saturday afternoons from 1-5. Father was offered the opportunity to be involved in the activity, but declined to do it on his weekends. Father now objects that Jason is sometimes taken to the soccer activity by his stepfather, who stays there for the 4-hour activity. Father asserts that he has to be offered the opportunity to take Jason to the soccer practice on Mother's Saturdays, if Mom is not taking Jason herself.

2. After his weekends with Mother, Father is to pick up Jason at Mother's home at 6:30 p.m. as Jason's bedtime is 8pm. Father's new job sometimes requires him to work until 8:00 p.m. on Sundays, so Father sends his live-in fiancé to pick up Jason at 6:30. Mother refuses to release Jason to Father's fiancé and insists that Father personally drive to her door to pick up Jason after he is off work at 8pm.

3. Mother, a flight attendant, worked a short flight to San Diego which was supposed to be a turnaround, bringing her back to Phoenix by late afternoon on the same day. Jason was in a school activity until 4pm, and Mother's return flight to Phoenix got in at 5pm. After arriving in San Diego, Mother was bumped from her return (same-day) flight and had to stay overnight in San Diego to work a flight to Phoenix the next morning. Mother was home the next morning by 8:30 a.m. Mother did not call Father from San Diego to give him the opportunity to pick up Jason from 5pm Saturday until 8:30 a.m. on Sunday. Jason instead stayed at his home with stepfather, who took Jason to a scheduled birthday party on Friday evening. Father requested sanctions from the PC.

4. Father properly offered Mother the first right to care for Jason when Father had to be out of town for an overnight, even though both grandmother and stepmother were available to be home care for Jason at Father's home. The parties live approximately forty minutes apart. Father returned to town at 9am the following morning and asked Mother to bring Jason home then so they could attend a family birthday party at Father's home at 10am. Mother refused, stating that Father must come and pick up Jason from her home on Saturday morning.

The use of first ROR has, in my opinion, gotten out of hand. It's gotten to the point where I cringe when I see a parenting plan with a first ROR clause of six hours or less. (The first-right cases involving an overnight are far easier, in my mind, to resolve.) While some derivation of a first right is probably appropriate in many cases, the abuse of it requires that when it is granted, specific exceptions must be listed. The grant of such a right carries responsibilities with it, and one of those responsibilities is that the child's interests be considered first. That's the element that I find missing most often in these cases.

What I'm asking attorneys to do is think outside the box when it comes to first ROR. Don't jump on the "other natural parent is always the best choice" bandwagon. Think about it. Think about your own family, and the caretakers your family used when you were growing up, and the caretakers you used for your own children, and think of what those outside caretakers added to your life experiences. Think of the logistical problems in always relying on one caretaker (the other parent) for every child-care need in excess of some minimal time period. And after thinking about it, talk with your clients about that provision and how it can possibly be used against him or her in certain situations.

Add to those thoughts the very high conflict that many of these parents continue to experience months and years after the divorce is final. If the parents are capable of working together on other issues, the first ROR is not likely to be a problem and common sense will probably prevail for those lucky couples. If the parents are high-conflict, need every holiday and special day defined down to the minute, and are doing exchanges of the child in public places, then the first ROR is likely to be just another opportunity for conflict.

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FAMILY COURT REVIEW Vol. 47, No. 1
January 2009

Editorial Notes
ANDREW SCHEPARD

SPECIAL ISSUE: MEDIATION AND CONFERENCING IN CHILD PROTECTION DISPUTES

Special Guest Editors' Editorial Notes
BERNIE MAYER & KELLY BROWE OLSON

Articles
Reflections on the State of Consensus Based Decision Making in Child Welfare
BERNIE MAYER

What We Know Now: Findings From Dependency Mediation Research
NANCY THOENNES

A Guide to Effective Child Protection Mediation: Lessons from 25 Years of Practice – What Makes Child Protection Mediation Work?
MARILOU GIOVANNUCCI AND KAREN LARGENT

Family Group Conferencing and Child Protection Mediation: Essential Tools for Prioritizing Family Engagement in Child Welfare Cases
KELLY BROWE OLSON

Child Protection Mediation: A 25-Year Judicial Perspective
THE HON. JUDGE LEONARD EDWARDS (RET.)

Child Protection Mediation: The Cook County Illinois Experience - A Judge's Perspective
THE HON. PATRICIA M. MARTIN

Building a Child Protection Mediation Program in British Columbia
M. JERRY MCHALE, IRENE ROBERSTON, ANDREA CLARKE

Empowering Parents in Child Protection Mediation: Challenges and Opportunities
GREGORY FIRESTONE

Trends in Child Protection Mediation: Results of the Think Tank Survey and Interviews
JOAN KATHOL

Student Note
Are We Really Looking Out for the Best Interests of the Child? Applying the New Zealand Model of Family Group Conferences to Cases of Child Neglect in the United States
JESSE LUBIN

Practice Innovations
Supporting Family Strength: The Use of Transformative Mediation in a Law school PINS Mediation Clinic

ROBERT A BARUCH BUSH, LISA HERSHMAN, ROBERT THALER,
AND CHRISTENA VITKOVICH

Student Notes

Out-of-Court Statements by Victims of Child Sexual Abuse to Multi-Disciplinary Teams: A Confrontation Clause Analysis

JONATHAN SCHER

Recent Studies on the HPV Vaccine Gardasil: Addendum to October 2008 Note

GIUSEPPE AGUANNO

The Bookshelf

Julie McFarlane, *The New Lawyer: How Settlement is Transforming the Practice of Law*

REVIEWED BY CHIP ROSE

This issue of the *Family Court Review* is dedicated to the memory of Professor David Arthur Diamond. Professor Diamond taught in the areas of family law, procedure and trial practice, and in the externship program at Hofstra University. He was well respected and admired by his students and colleagues. In addition to his devoted work as a law professor, Professor Diamond was a dear friend to the *Family Court Review* and was dedicated to public service. He was a kindhearted and gentle man who made himself accessible to his students and was well respected for his incredible intellect and equally incredible wit. His service to the staff members of the *Family Court Review* was extremely insightful and helpful. He will be dearly missed.

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- » [Member Resources](#)
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News from Across the Pond

by Karen Mackay, Chief Executive, Resolution, Kent, England

Famously Bette Midler remarked that when it was 3.30 in New York, it was 1950 in London. That sometimes feels very true in the family law/family justice field. The last major overhaul of our divorce laws was in 1973; child law was substantially changed by the 1989 Children Act. Since then legislation has tinkered with family law – there has been no substantive change.

Resolution has been struggling for over a decade to get no fault divorce introduced in England and Wales. Currently if you have not been separated for five years, you have to allege fault – adultery, unreasonable behaviour – to get divorced. In 1995, the then Conservative government introduced the Family Law Bill, which introduced no fault divorce, but the bill fell foul of the dying days of the Conservative administration and was so mauled about by rebellious Tories that the resultant mess was never enacted in full and the no-fault section was finally repealed a few years ago.

The current Labour administration want to divert warring couples from the courts, but does not grasp the point that requiring divorcing couples to allege 'fault' only serves to enflame bitterness and disputes. Instead they view this reform as likely to lead to 'divorce on demand' and fear a backlash from the churches and the rightwing press.

Unlike in an increasing number of jurisdictions, the never married in England and Wales have no protection. Surveys show that the public still hold the common misconception that cohabiting couples are treated like 'common law' husbands and wives. Separating cohabitants are therefore shocked and horrified when they find they have no legal protection. *Resolution's* members see huge injustices amongst their clients and no legal remedies or only remedies, through trust law, that are so complex and arcane that pursuing them through the courts would more than wipe out the assets in dispute.

The Labour government asked the Law Commission, an independent law reform body, to review the law as it related to cohabitants, with a view to remedying some of the greater injustices separating cohabitants face. The Law Commission came up with some elegant – and complex – suggestions after a two year study of the issues. But by this point, the original minister who commissioned the report had moved on and the government took fright, retreating into research studies as a way of delaying any possible implementation.

Resolution has now joined forces with Lord Lester, a member of the House of Lords, our second chamber. He will be introducing a bill prepared by us which will, if successful, introduce limited rights for cohabitants. We don't expect the bill to succeed but it will force the government to address the issue.

In most jurisdictions, the family courts, like the civil and criminal courts, are open to all, but again we are still in an earlier era – our family courts are closed to all but the parties. There are the odd occasions when a family case is publicly reported – usually because there has been a high

level of press interest as in the Mills McCartney divorce. England's family courts used to be open to the press and the public, but after a particularly scandalous divorce case – the Duke and Duchess of Argyll (a case involving explicit pictures of the Duchess and her lover) - it was decided that the parties and their children should be afforded some privacy and the family courts were closed.

In recent years, the judges and the courts have been accused of bias in favour of mothers. Without any consistent data or reports, it has proved impossible to either prove or refute these claims. Further there have been several press stories alleging miscarriages of justice in cases involving children being taken into state care. Again it is impossible to know. Several years ago, the government proposed opening the family courts to the press, but an outcry from children's organisations and from children themselves convinced the government not to go ahead. Now it seems they are bending again to the pressure and we expect an announcement soon.

It is a commonplace in many jurisdictions for separating parents to attend information sessions to provide them with support on how to manage the separation process with least harm to their children. Again we have no such provision, but early in the New Year, we are bringing Christina McGhee, a well known US divorce information provider, over to England to train the first tranche of UK information providers and *Resolution* hopes to roll out a programme of workshops across England and Wales.

All this international experience to share! Next year from 1-3rd July, *Resolution* is hosting an international family law conference in London. This will be followed by a one day international conference on ADR – alternative dispute resolution. We already have delegates coming from Australia, New Zealand, North America and Europe – so put the dates in your diary! More information can be found on *Resolution's website* – www.resolution.org.uk.

I hope to see you all in July 2009 in London!

If you would like further information on these topics or other issues in England and Wales, please contact Resolution Chief Executive Karen Mackay at Karen.mackay@resolution.org.uk or visit www.resolution.org.uk.

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The impact of exposure to domestic violence on children and young people: A review of the literature

Holt, S., Buckley, H. & Whelan, S. (2008). The impact of exposure to domestic violence on children and young people: A review of the literature. Child Abuse and Neglect, 32, 797-810.

ABSTRACT:

Objective: This article reviews the literature concerning the impact of exposure to domestic violence on the health and developmental well-being of children and young people. Impact is explored across four separate yet inter-related domains (domestic violence exposure and child abuse; impact on parental capacity; impact on child and adolescent development; and exposure to additional adversities), with potential outcomes and key messages concerning best practice responses to children's needs highlighted.

Method: A comprehensive search of identified databases was conducted within an 11-year framework (1995–2006). This yielded a vast literature which was selectively organized and analyzed according to the four domains identified above.

Results: This review finds that children and adolescents living with domestic violence are at increased risk of experiencing emotional, physical and sexual abuse, of developing emotional and behavioral problems and of increased exposure to the presence of other adversities in their lives. It also highlights a range of protective factors that can mitigate against this impact, in particular a strong relationship with and attachment to a caring adult, usually the mother.

Conclusion: Children and young people may be significantly affected by living with domestic violence, and impact can endure even after measures have been taken to secure their safety. It also concludes that there is rarely a direct causal pathway leading to a particular outcome and that children are active in constructing their own social world. Implications for interventions suggest that timely, appropriate and individually tailored responses need to build on the resilient blocks in the child's life.

Practice implications: This study illustrates the links between exposure to domestic violence, various forms of child abuse and other related adversities, concluding that such exposure may have a differential yet potentially deleterious impact for children and young people. From a resilient perspective this review also highlights a range of protective factors that influence the extent of the impact of exposure and the subsequent outcomes for the child. This review advocates for a holistic and child-centered approach to service delivery, derived from an informed assessment, designed to capture a picture of the individual child's experience, and responsive to their individual needs.

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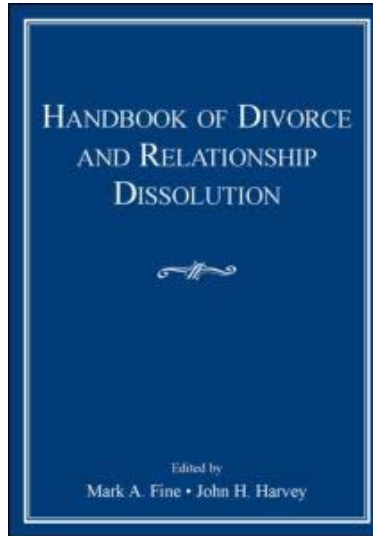


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Handbook of Divorce and Relationship Dissolution *Edited by Mark A. Fine, John H. Harvey*



About the Book

This *Handbook* presents up-to-date scholarship on the causes and predictors, processes, and consequences of divorce and relationship dissolution. Featuring contributions from multiple disciplines, this *Handbook* reviews relationship termination, including variations depending on legal status, race/ethnicity, and sexual orientation. The *Handbook* focuses on the often-neglected processes involved as the relationship unfolds, such as infidelity, hurt, and remarriage. It also covers the legal and policy aspects, the demographics, and the historical aspects of divorce. Intended for researchers, practitioners, counselors, clinicians, and advanced students in psychology, sociology, family studies, communication, and nursing, the book serves as a text in courses on divorce, marriage and the family, and close relationships.

Table of Contents

Contents: Preface.

Part I: Introduction. M.A. Fine, J.H. Harvey, Divorce and Relationship Dissolution in the 21st Century.

Part II: Demographic and Historical Aspects of Divorce and Relationship Dissolution. G.C. Kitson, Divorce and Dissolution Research: Then and Now. P.R. Amato, S. Irving, Historical Trends in Divorce in the United States. J. Teachman, L. Tedrow, M. Hall, The Demographic Future of Divorce and Dissolution.

Part III: Causes, Underlying Processes, and Antecedents of Divorce and Relationship Dissolution. A.E. Rodrigues, J.H. Hall, F.D.

Fincham, What Predicts Divorce and Relationship Dissolution. **M. Masuda**, Perspectives on Premarital Postdissolution Relationships: Account-Making of Friendships Between Former Romantic Partners. **A.L. Vangelisti**, Hurtful Interactions and the Dissolution of Intimacy. **J.H. Hall, F.D. Fincham**, Relationship Dissolution Following Infidelity. **S. Duck, J.T. Wood**, What Goes Up May Come Down: Sex and Gendered Patterns in Relational Dissolution. **J.H. Harvey, M.A. Fine**, Social Construction of Accounts in the Process of Relationship Termination. **K. Kayser, S.S. Rao**, Process of Disaffection in Relationship Breakdown. **S.S. Rollie, S. Duck**, Divorce and Dissolution of Romantic Relationships: Stage Models and Their Limitations. **K. Adamsons, K. Pasley**, Coparenting Following Divorce and Relationship Dissolution. **E. Lawrence, E. Ro, R. Barry, M. Bunde**, Mechanisms of Distress and Dissolution in Physically Aggressive Romantic Relationships.

Part IV: Consequences of Divorce and Relationship Dissolution. B.L.

Barber, D.H. Demo, The Kids Are Alright (at Least, Most of Them): Links Between Divorce and Dissolution and Child Well-Being. **S.L. Braver, J.R. Shapiro, M.R. Goodman**, Consequences of Divorce for Parents. **D.S. Bartell**, Influence of Parental Divorce on Romantic Relationships in Young Adulthood: A Cognitive-Developmental Perspective. **T. Tashiro, P. Frazier, M. Berman**, Stress-Related Growth Following Divorce and Relationship Dissolution. **L.C. Sayer**, Economic Aspects of Divorce and Relationship Dissolution.

Part V: Coping With Divorce and Relationship Dissolution. L. Ganong,

M. Coleman, J. Hans, Divorce as Prelude to Stepfamily Living and the Consequences of Redivorce. **T.D. Afifi, K. Hamrick**, Communication Processes that Promote Risk and Resiliency in Postdivorce Families. **S. Sprecher, D. Feinlee, M. Schmeekle, X. Shu**, No Breakup Occurs on an Island: Social Networks and Relationship Dissolution.

Part VI: Variations in Divorce and Relationship Dissolution Patterns

and Processes. **T.L. Orbuch, E. Brown**, Divorce in the Context of Being African American. **R.F. Oswald, E. Clausell**, Same-Sex Relationships and Their Dissolution. **A.J. Umaña-Taylor, E.C. Alfaro**, Divorce and Relationship Dissolution Among Latino Populations in the United States.

Part VII: Policy Issues Pertaining to Divorce and Relationship

Dissolution. **M.M. Mahoney**, The Law of Divorce and Relationship Dissolution. **D.A. Sbarra, R.E. Emery**, In the Presence of Grief: The Role of Cognitive-Emotional Adaptation in Contemporary Divorce Mediation. **K.R. Blaisure, M.J. Geasler**, Educational Interventions for Separating and Divorcing Parents and Their Children.

Part VIII: Commentaries. R.S. Weiss, Trying to Understand Close

Relationships. **E. Berscheid**, The Changing Reasons for Marriage and Divorce. **A. Booth**, Proposals for Research on the Consequences of Divorce for Children.



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Ten Risk Management Tips for Child Custody Evaluators

By David Martindale, Ph.D. ABPP (forensic), St. Petersburg, FL

Risk is most effectively managed when we practice well and practicing well requires that we set the bar not at the lowest acceptable point (defined by enforceable standards and regulations) but at the highest point (found in the guidance that is offered by respected colleagues and by professional organizations). Risk reduction procedures are, in many respects, anger reduction procedures. Litigation exacerbates anger, and anger often gives rise to complaints. Litigation-related anger is reduced when litigants and others involved in the evaluative process are treated fairly.

1. Be fair

Evaluators are fair to litigants when the evaluators provide clear, complete, written information to the litigants concerning the evaluators' policies, procedures, and fees and employ a balanced approach; are fair to children when the evaluators provide children with age-appropriate information concerning the process; are fair to family members and to collateral sources when the evaluators make clear the ways in which information gathered will be used and identify those to whom the information is likely to be disclosed; are fair to attorneys when the evaluators provide information reasonably needed by attorneys in order to effectively counsel their clients; and, are fair to judges when the evaluators offer advisory input that has been developed in a sound manner.

2. Have a data base for your opinions

Evaluators offer only those opinions that are based upon sufficient facts or data and are the product of reliable principles and methods that have been reliably applied to the facts of the case.

3. Keep records

Evaluators create records the completeness and quality of which reflects anticipation of their scrutiny in an adjudicative form and take reasonable steps to maintain those records.

4. State your limits

Evaluators describe the known limitations to their data without awaiting requests that they do so.

5. Know your local legal environment

Evaluators acquire knowledge of the legal and professional standards, laws, and rules applicable to the jurisdictions in which their evaluations are performed.

6. Avoid dual relationships

Evaluators recognize that objectivity is impaired when an evaluator currently has, has had, or anticipates having a relationship with those being evaluated. The dynamics of cognitive bias that characterize concurrent relationships also operate in sequential relationships.

7. Don't make interim recommendations

Evaluators refrain from making interim recommendations. Temporary orders often written in response to interim recommendations transform previously level playing fields into precarious slopes. Evaluators who have

all the information needed in order to responsibly offer recommendations should conclude their evaluations and prepare their reports. Evaluators who have not yet obtained all the information needed in order to responsibly offer recommendations should not offer recommendations. Information needed by the court in order can be imparted without opinions being offered.

8. Do not speculate

Evaluators do not speculate. Carefully developed inferences may be useful when appropriate emphasis is placed upon the limits of such inferences, but speculation offered by experts in the course of giving testimony may be assigned weight that is not warranted, with harmful results.

9. Focus on parenting skills

Evaluators conceptualize parenting as a job; utilize peer-reviewed research to ascertain what attributes, behaviors, attitudes, and skills have been reliably associated with the demands of the job; focus attention on those characteristics; and, demonstrate that their opinions rest upon the knowledge base of the mental health fields by citing in their reports the research upon which they have relied.

10. Support your statements

Evaluators base the opinions contained in their recommendations, reports, and diagnostic or evaluative statements, including forensic testimony, on information and techniques sufficient to substantiate their findings and provide opinions of the psychological characteristics of individuals only after they have conducted an examination of the individuals adequate to support their statements or conclusions.

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