

Report on Survey and Interviews Conducted in Preparation for the September Think Tank on Child Protection Conflict Resolution

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I. Introduction

In order to consolidate the lessons learned about conflict resolution in child protection during the past 25 years a group of concerned organizations and individuals¹ have organized a two-day Think Tank planned for September 2007 in Columbus, Ohio. This meeting is to include approximately 30 professionals from the field, including judges, mediators, program directors/coordinators, and researchers. In order to make the most of those two days, an on-line survey was conducted of 110 child protection professionals, along with 14 follow-up phone interviews. The surveys and interviews were completed from June-August 2007 and yielded a great deal of information that is included in this report. The survey was made available to a broad group of professionals who administer, conduct, refer to or utilize child protection mediation, family group conferencing and related approaches. We have not attempted to obtain a representative sample of all users or programs, however, and the results related in this report should be viewed accordingly. However, we believe the questions, insights, and concerns that emerged from this process represent widely held views that can frame the discussions at the September meeting. We thank the participants for their thoughtful responses and the time that they spent on this effort.

II. Executive Summary

Decision-making processes in child protection, which have traditionally been dominated by professionals and adjudication, have often been at cross-purposes with the goals of family empowerment and reunification. For at least 25 years, there have been a variety of alternative approaches to decision making that have sought to give parents and families a more effective and collaborative voice. Especially prominent have been the use of child protection mediation (CPM) and family group conferencing (FGC). Many lessons have been learned over this time about how to best structure and implement these approaches, but there have been only sporadic efforts to pull this wisdom together in a coherent manner. The survey and interview results reported in this document are one effort to take stock of the major lessons, insights, obstacles, and opportunities that face collaborative decision making efforts in child protection. While we were interested in both CPM and FGC, the primary focus of the survey and interviews was on CPM.

¹ Sponsoring organizations are: the Association of Family and Conciliation Courts (AFCC), the National Council of Juvenile and Family Court Judges (NCJFCJ), the Werner Institute for Negotiation and Dispute Resolution at Creighton University School of Law, the National Center for State Courts (NCSC).

The on-line survey was particularly directed to program administrators and supervisors, but quite a few of the 110 responses came from mediators as well. We made a specific effort to reach beyond program administrators in the 14 interviews we conducted and were able to have discussions with judges, mediators, researchers, and advocates in addition to administrators.

One general conclusion that was very clear from the response we received to the survey and interviews is that efforts like this to share insights and approaches are sorely needed. Program managers and third parties want to be able to talk about their experiences and learn from each other, and few opportunities to do so exist. Many people were very eager to take the survey and participate in interviews.

Based on the survey, the typical CPM program has been in existence between 1 and 10 years (74%), conducts over 51 mediations a year (52%), is court administered (66%), and serviced by court mediators (40%) or private mediators (27%). Only 13% of the mediators volunteer their services. The professional background of mediators is diverse, although having child welfare or counseling background seems especially likely. A high percentage of programs report that CP mediators are likely to have experience as family mediators. Mediations are likely to last 2 to 3 hours (average for 78% of programs) and are likely to be concluded in one session (67%) and very unlikely to last more than two sessions (9%). Typical mediations will involve parents, child protection workers, agency lawyers, children's guardians (GAL), and parent's lawyers. Children, other family members, representatives of other agencies, foster parents, and child protection supervisors occasionally attend, but not on a regular basis, and in a substantial minority of programs only rarely attend. While some programs provide extensive opportunity for the parents to meet with the mediator before the session (41%), most do not, and of those that do not, most (56%) do not provide other pre-mediation education services either. This is an interesting finding when weighed against the concern about parent empowerment.

Remarkably mediations are evenly distributed throughout the child protection process, although most individual programs have a particular point in time that they emphasize. The most likely subjects to be discussed are parental visits, living arrangements, permanency plans and treatment plans. Relinquishment, kinship care, and adoption are much less likely to be the focus. Regardless of the time or the focus, most mediations result in full agreement or partial agreement, with full agreement being the most common result (76% report full agreement in at least 51% of mediations).

Family Group Conferencing is less prevalent, at least in this group of respondents (34% reported having FGC programs), and they are a relatively more recent development, with over the half the programs being less than five years old. An interesting bi-modal distribution of frequency was reported, with 49% reporting less than 30 a year, and 38% more than 100. It appears that when FGC is embraced, it is very fully utilized. Many of those interviewed suggested that CPM and FGC ought to work well together and enhance each other's benefits, but that in practice it was awkward and confusing to try to coordinate these approaches.

The greatest obstacles to a successful CPM effort appear to be overcoming the obstacles to parent empowerment and dealing with system resistance and support issues. Of special concern were empowering parents and families to participate as equals (90% reported this as a significant concern), dealing with substance abuse issues (84%) and informational disparities (60%). Resistance from professionals was a very significant concern to many respondents (59%), but even more significant was the lack of consistent sources of funding (70%) and needed treatment resources (75%). Respondents and interviewees pointed especially to the need for better substance abuse treatment, programs for fathers, and residential programs which parents could attend with children.

Three elements emerged as central to dealing with these problems: 1) well trained mediators with a specific knowledge of the child protection system (mediators need more than process skills); 2) support of key systems players, especially judges; and 3) a program administrator who is given the time and support to work with stakeholder groups and oversee the mediation process. Successful programs have worked extensively to recruit, train, and support experienced mediators and to obtain the support of the court, legal professionals, and child protection agencies that are repeat participants in mediation and conferencing. Interestingly, as challenging as the issues themselves can be and as complicated as it might be to work with people who are struggling with addiction, mental health or cognitive impairment, most people believe that the mediations themselves are not where the most difficult barriers are located. Once people get to the table good things can happen, even with severely dysfunctional participants. Obtaining the support and resources to get the right people to the table is the more essential challenge and respondents repeatedly emphasized the importance of devoting energy to working with stakeholders in planning, developing, and monitoring their programs.

One element for maintaining quality and making the case for supporting CPM and FGC that appears to be largely lacking is effective evaluation procedures. Most evaluations are anecdotal and very few efforts were reported to do a systematic program evaluation, yet participants frequently reported how critical it was to have effective and credible evaluations of program effectiveness.

As we look forward to the “Think Tank” in September, the following issues warrant special attention:

- How best to prepare and empower parents and families to have an effective voice in the decision making process.
- How to coordinate FGC and CPM
- How to obtain buy-in from stakeholders and systems, particularly the courts, the legal community, and child protection agencies.
- What is the appropriate role of children and extended families in CPM and FGC
- How to promote more effective evaluation
- How to recruit, train, and retain high quality mediators

- How to gain access to more effective intervention services (a challenge for the entire child welfare system, but of particular importance is how to use CPM and FGC to make optimal use of available resources)
- How to create an ongoing forum for communication among child welfare consensus building programs

III. Survey Results

Respondent Information

The on-line survey was conducted during June and July of 2007. Invitations to participate in the survey were sent to lists from the following databases: the Court Improvement Program, the National Center for Juvenile and Family Court Judges, the Association of Family and Conciliation Courts, the ABA Center for Children, the Law, and the National Center for State Courts. Recipients were encouraged to forward the invitation to others whom they felt would be appropriate respondents.

In all, 110 surveys were completed including responses from: Alabama, Alaska, Alberta, California, The District of Columbia, Hawaii, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maryland, Massachusetts, Michigan, Minnesota, Missouri, Mississippi, Montana, Nebraska, New Hampshire, New Jersey, New Mexico, New York, North Carolina, Ohio, Oklahoma, Ontario, Rhode Island, Texas, Utah, Vermont, Virginia, Washington, and West Virginia. There were 11 surveys in which no contact information was provided. Out of the 99 surveys that did provide contact information, the state represented most frequently was California with 25.5% of the total surveys completed.

Responses to Survey Questions

1. Does your organization conduct or participate in child protection mediation?

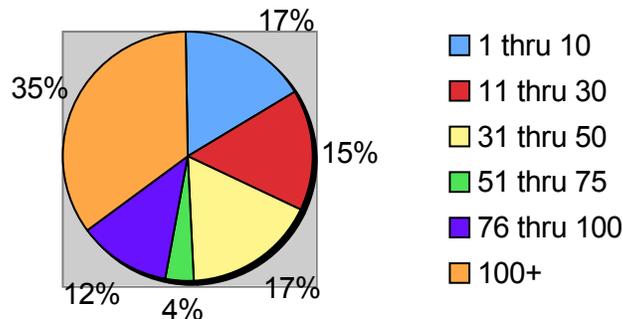
84 of the respondents do conduct or participate in child protection mediation, while 26 do not.

2. If you answered yes to #1, for how long have you been conducting or participating in child protection mediation?

5 programs have been in existence for less than a year. On the other hand, 19 programs have been conducting or participating in child protection mediation for 10 or more years. The bulk of the programs are within these two ranges though. 34 programs have been in existence for 2-5 years and 32 programs have been in existence for 6-10.

3. If you answered yes to #1, how many child protection mediations per year?

A large number of the responding programs, 37%, conduct or participate in over 100 child protection mediations per year. The rest of the programs are scattered between 1



and 100 mediations per year.

4. Does your organization conduct or participate in family group conferencing?

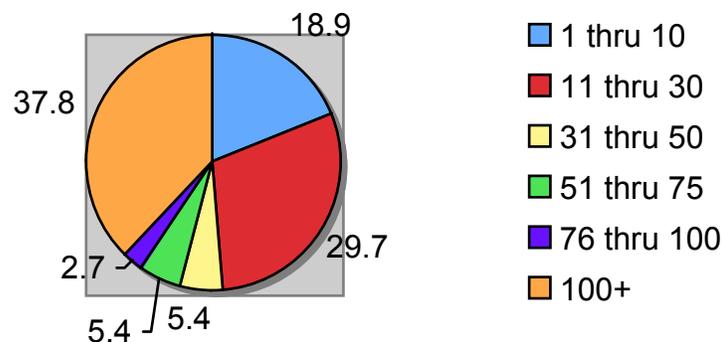
A much smaller number of respondents conduct or participate in family group conferences. 37 do, while 73 do not. According to these respondents, child protection mediation is utilized more than family group conferencing.

5. If you answered yes to #4, for how long has your organization been conducting or participating in family group conferencing?

16 programs have existed for 2-5 and 11 programs have existed for 6-10 years. Only a handful programs have existed for either less than a year and 8 for more than ten years.

6. If you answered yes to #4, how many family group conferences per year?

Most programs conduct or participate in either 11-30 family group conferences per year or more than 100.



7. Under whose auspices is mediation conducted?

The greatest number of programs were court administered (66%), with child protection agencies (9%), conflict resolution programs (9%) and other (15%) also mentioned

8. Who conducts the mediation?

Mediators on the staff of a court conduct the bulk of the mediations. 40% of the respondents reported that mediators are court staff, 27% were private mediators, 9% were on the staff of conflict resolution programs and only a handful were either on staff at a child protection agency or some other type of public agency (<6%).

9. What is the professional background of the mediators providing services to your program?

The mediators in the responding programs have a wide array of backgrounds. The options listed in the survey were: legal training, counseling or social work training, child welfare background, family mediation background, court services background, and "other." A minimum of 62 respondents indicated that some of the mediators came from each of these backgrounds. The most prevalent background of child protection mediators, not surprisingly, is family mediation, but of course most family mediators have other professional training as well.

10. What is the average length of a mediation session?

While 8 respondents reported that mediations lasted for only one hour and 12 said it lasted four or more hours, the large majority described mediations as lasting either 2 or 3 hours. 44 responded that mediations, on average, lasted 2 hours. 28 responded that most mediation sessions lasted 3 hours. Thus about 78% of the respondents reported that child protection mediation sessions last 2-3 hours

11. What is the average number of sessions?

Very few respondents indicated that the average mediation lasted more than 2 sessions (a total of 8). 60 respondents, or 67.4%, stated that the average mediation required 1 session. 21 respondents, or 24.4%, stated that the average mediation required 2 sessions.

12. Who typically attends the mediation?

To summarize, the persons present at mediation sessions can be many and various. This question offered a lot of answer options. Respondents could report that the following potential attendees were always, usually, sometimes, rarely, or never present.

- Parents are always (70%) or usually (30%) present at the mediation sessions.
- Child protection workers are usually or always present (86% of responses), but there is a possibility that he/she is not present.
- Child protection supervisor is sometimes present, but is not normally there as a matter of course.
- Child protection agency lawyer is usually or always present in the 57% of the responses and in 24% of the responses is rarely or never there.
- Other public agency lawyers are rarely present.
- Children's guardians are almost always present 60% sometimes there, 24%, and rarely or never 15%.

- Other lawyers for children are almost always there 40% of the time, sometimes there 27% and rarely or never there 30%.
- Parent's lawyers are almost always present (65%) sometimes present, 22%, and rarely or never there 14%.
- Placement agency staff is sometimes present at the mediation table but not there as a matter of course.
- Foster parents are sometimes present at the mediation session in most programs and are usually there in about 27%.
- Other family members are sometimes present at the mediation sessions in 67% of the programs, and usually there in about 21%
- Children are sometimes present at the mediation sessions in 45% of the programs, and rarely or never there in about 50%.
- Other unspecified persons also sometimes attend mediation sessions.

13. When does mediation occur?

According to this survey, child protection mediations can occur at any point in the process. The responses reported a fairly even distribution of cases at intake, after abuse or neglect has been verified or adjudicated, during regular review of progress, during permanency planning, at termination, after termination, or at other non-specified points in the process. Programs are obtaining cases at a wide variety of stages across the country.

14. What issues are covered in mediation?

Just as the mediations occur at many points, so do they cover a broad variety of issues. Parental visits was the most likely to be discussed issue (usually or always in 85% of the cases), followed by living arrangements (usually or always 72%), permanency planning (usually or always 62%), treatment plans (usually or always 57%), kinship care (usually or always 32%), relinquishment (usually or always 25%), adoption (usually or always 18%) and other issues (usually or always 42%). But virtually all of these issues are likely to arise in some mediations. Perhaps the most interesting result of this question was that almost no programs ruled any of these issues off the table.

15. Do parents have an opportunity to meet with the mediator prior to joint session?

38 respondents (41%) said that parents have the opportunity to meet with mediators prior to a joint session. On the other hand, 54 respondents (59%) said they do not.

16. If you answered no to question #15, are there other pre-mediation education services provided to parents?

The responses to this were interesting. 54 people answered "no" to #15, but 57 people answered this question. Out of these 57, 32 (56%) do not provide other pre-mediation services to parents. 25 (44%) do. This became an interesting piece of information because many respondents (in some of the open-ended questioning later in the survey) established parental empowerment and engagement as one of the most significant concerns in the field of child protection work. Many programs and/or mediators who responded are not educating parents prior to any joint session.

17. If you answered yes to #16, describe the educational services (open ended question).

Respondents providing pre-mediation education do so in several different ways. Responses included: attorney preparation of clients and agency staff or caseworker discussion of the process with parents. Several programs have informational videos playing in the waiting areas. Mediators sometimes contact the parents via telephone to discuss the process. Occasionally, there is a brief orientation prior to commencing the mediation session. Pamphlets, handbooks, and/or questionnaires are sent to the parental home. To summarize, programs are utilizing a wide variety of ways to inform the parents about the mediation process.

18. Please indicate whether you think the following are highly significant concerns, significant concerns, minor concerns, or not concerns:

- Mediating with parents who have substance abuse problems is a significant or highly significant concern for most programs.
- Empowering parents and families to participate as equals is a significant or highly significant concern for most programs.
- Involving extended family members appropriately is a significant or highly significant concern for most programs.
- Getting parents to participate is a significant or highly significant concern for most programs.
- Getting child protection workers to participate ranged from not a concern to a highly significant concern.
- Getting lawyers to participate ranged from not a concern to a highly significant concern.
- Informational disparities are a significant concern.
- Resistance from professionals is a significant concern.
- Different cultural beliefs about child rearing and families are a significant concern.
- Ethnic or cultural differences between mediators and families are a minor concern.
- Ethnic or cultural differences between child protection workers and families are a minor concern.
- Ethnic or cultural differences between lawyers and families are a minor concern.
- Attaining gender and ethnic balance in mediation is a minor concern.
- Coordinating mediation with other processes such as family group conferencing is a minor concern.
- Availability of treatment resources is a highly significant concern.
- Adequate and secure funding for mediation services is a highly significant concern.

(As discussed below in the interview summary, there is substantial interest in further discussion of most of these topics. There are also countervailing statements to some of these. For example, several interviewees said that the integration of child protection mediation and family group conference is a wonderful idea that is incredibly difficult to actually implement smoothly.)

19. Describe any other issues that are of major concern (open ended question).

This open-ended question introduced a great deal of thoughtful and important answers, which helped shape the interview structure. The following were marked as major concerns in child welfare mediation:

- Hiring mediators with adversarial legal background and not those with treatment background
- Scheduling conflicts, especially with the involved professionals
- Courts are responding, but not providing full services
- Lack of available services
- Meeting the unique needs of children
- Adequate facilities that are appropriate for mediation
- The different parties in a mediation do not “come together”
- Mediator neutrality
- Availability to confer with different parties prior to mediation
- Maintenance of user-friendly judicial offers in juvenile court
- Competition for mediator time
- Competent attorneys accompanying the parents
- The child should have a voice at the table
- In volunteer mediator programs, there is the possibility of losing the volunteers
- Mediation is not utilized early enough in the process
- Resistance of the bar
- Parties attending mediation sessions without interruption
- Training and professional development is needed
- The dynamics between the different agencies participating in the mediation can often play a deleterious role. Agencies are often more concerned with covering their own bases than meeting the needs of a particular family
- In one respondent’s location, the mediator is unable to speak with the case carrying social worker which prevents this agency worker from fully participating in the mediation
- There is more request for mediation sessions than there are mediators available on staff. This leads to frustration in the courts and it wears on the over-all enthusiasm of the process
- Mediation should be mandatory for juvenile dependency matters
- The length of time a child is in the system is far too long
- Sharing of control by the different agencies involved
- An assessment is needed to determine which ADR process is appropriate for which cases
- Who will pay?
- All parties coming to the table prepared and knowing their role

- Stakeholder buy-in
- Developing a new way of integrating ADR process that naturally blend together anyways
- Doing what is absolutely, and most importantly, in the best interest of the child
- Agencies and courts are not always cooperative about referring and participating in cases
- Educating parents
- Instituting some kind of a feedback system
- There are issues of whether these processes should be mandatory or voluntary
- Recruiting and maintaining a pool of highly qualified, well compensated mediators
- Appreciation of how much these processes benefit the family
- Lack of understanding on the multitude of issues that can be referred to mediation
- There is really no availability of mediators on weekends/nights to accommodate potential participants

20. How does your organization attempt to deal with the problems discussed in #18 and #19 (open ended question)?

This question provided an opportunity for respondents to share what is working in the battle against what is causing the problems in the field of child protection ADR. The following are listed as ways of dealing with the myriad of issues affiliated with child protection mediation:

- Dialogue on an individual basis
- Attendance and networking at mediation trainings and roundtable events in efforts to develop relationships that encourage the appropriate use of mediation
- Protocol to have mediation take precedence over other court events
- Mandatory participation
- Male/female mediation teams
- Availability of Spanish speaking mediators
- Stakeholder meetings quarterly
- Regular joint meetings
- Preparation and orientation to all participants
- Ongoing education about mediation process and roles of those professionals involved
- Mediator recruitment and training
- Never stop creating an environment in which parties “hear” each other and are empowered to find creative solutions
- Have a mediation supervisor
- Maintain monthly meetings to discuss needed services with all involved
- Training staff on how to conduct dependency mediations
- Use interpreters and make cultural understanding an emphasis in creating a process that meets the needs of the participants
- Maintain a positive working relationship with child protection services
- Mediation is held on the same day of the permanency plan hearing to avoid several trips to the courthouse

- Replace volunteer mediators with paid staff members
- Engage in ongoing assessments of the effectiveness of the system by providing a forum for all participants to address concerns
- Mandatory provincial training, advanced mediation professionals, ongoing supervision, cultural training, lawyer education, workers education, and ongoing professional training
- Ongoing public relations
- Ongoing attention to efficiency and cost-consciousness
- Hire the best national trainers
- Help organizations break through barriers so constructive change can occur
- Attend Bench/Bar meetings and make services known
- Model a good process
- One-one-one preparations of parents, children, extended family members, and other stakeholders prior to the ADR process
- Assessment of process
- Workshops
- Building relationships between regional conflict resolution providers, child welfare providers, and legal system
- Convening with courts and Health and Human Services to examine funding approaches
- Have friendly, collaborative relationships with stakeholders
- Encourage referrals
- Get everyone to the table
- Involve all members of the “team” at the front end. People get positioned easily and this combats that problem
- Working to change legislation to allow mediation, among other ADR choices
- Bring community elders into the process
- Collaborate to decide which is the best ADR process for a case
- Regular contact with judges
- Always look-out for opportunities to grow the program appropriately and effectively

21. What percent of the cases that go to mediation reach: full agreement, partial agreement, and/or no agreement?

A large percentage of cases reach full or partial agreement. Over 75% of the responses indicated full agreement was reached at least 50 % of the time with a partial agreement being reached in most of the rest of the cases. 82% of the respondents reported that no agreement was reached in less than 25 % of the cases. This is a complicated way of saying that the vast majority of cases reach full or partial agreement.

22. If applicable, please describe the process your organization utilizes for evaluating the satisfaction and outcome of mediation (open ended question).

Programs evaluate and obtain feedback about their services in many ways, but it was striking how many responded that feedback and evaluation were limited to anecdotal evidence. Other forms of feedback/evaluation include:

- Evaluation forms
- Settlement statistics
- Litigation time saved
- Participant surveys
- Blind panel reviews
- University studies
- Blind panel reviews of mediated/non-mediation case plans based on established criteria
- Quarterly meetings with stakeholders to discuss service delivery, problems, policy, satisfaction, training and program development needs
- Satisfaction surveys
- Comments of lawyers and parties
- Follow-up phone calls to participants a day or two after mediation
- Follow-up meeting with all participants, excluding parents
- Mediators complete an outcome form
- Statistics maintained regarding outcomes
- A grievance procedure is in place
- Mediation questionnaires
- Monitor future involvement of the court
- Court reviews each agreement
- Follow-up with professionals
- Employing a professional evaluator

23. What treatment resources are most seriously lacking (open ended question)?

An overwhelming response to this question cited the lack of mental health and substance abuse resources. Some specified the lack of in-patient facilities. Others noted a lack of *quality* facilities and mental health professionals. A number of respondents expressed concern about the lack of mental health and substance abuse facilities for fathers. Several focused on the lack of residential facilities to which women can bring their children. Some respondents were also concerned with the timeliness of services. Many respondents expressed concern about the lack of visitation supervision and transportation resources.

24. How is your program funded (open ended question)?

Respondents reported a multitude of funding sources. The most frequent response was court funding. The way in which the courts funded it varied and includes: funding from the general budget, court improvement program funds, trial funds, and filing fees. The other ways in which programs are funded include: grants, child welfare agency funds, Health and Human Services, other government agencies, tax levies, state funds, county funds, donations, client-pay, Title IV reimbursements, and marriage license fees. Some programs are sustained by the use of volunteer mediators.

25. What are the factors that contribute to successful mediation (open ended question)?

According to this survey, there are many factors that contribute to a successful mediation. The characteristics fell into three major categories: mediators, parties, and sessions.

Mediators are:

- objective.
- professionally trained.
- receiving ongoing training and support.
- co-mediating.
- culturally and ethnically sensitive.
- respectful of each participants' perspective.
- able to interpret and understand what is really happening.
- utilizing group management skills.
- empowering parents.
- working from established ethical principles.

Parties are:

- screened for appropriateness of mediation.
- the right ones at the table.
- buying-in to the process.
- aware of the support of the presiding judge.
- prepared on mediation process.
- thoroughly understanding of the benefits of mediation.
- supported by involved staff.
- committed to the program.

The session/s is/are:

- attended by parties who have already had contact with the mediator concerning the mediation process, individual issues, etc.
- looking at the best interests of the children.
- taking place with timely and full attendance.
- promoting open communication and trust building.
- attended by the social worker.
- attended by the GAL.
- upholding the respect and dignity of all parties.
- a time to clarify goals and limits.
- concerned with establishing common goals and working to explore multiple options.
- held early in the case rather than too late.

26. What are the major obstacles to successful mediation (open ended question)?

One respondent, who said, "The opposite of #25." captured the relationship between success factors and obstacles. While there were a wide variety of responses, most answers focused on the mediation sessions. Problems within the sessions are:

- the limits of all or nothing agreements.
- a lack of time to communicate effectively with all parties prior to the first session.
- a lack of timely participation and insufficient time to complete a mediation with all parties in the room.

- the often adversarial nature.
- absent parties (including parents, lawyers, GAL, and social workers.)
- the unwillingness of parties to relinquish power/control.
- a presence of substance abuse or mental health concerns.
- overcoming the belief that there is no way to resolve the issues
- a refusal to compromise.
- an unwillingness to have a future-focused discussion about the children
- the existence of power imbalances.
- basic philosophical differences amongst the different parties.
- the presence of issues too extreme to mediate because of how late they came into the process.
- a general ignorance to the mediation process.
- pending criminal charges which make parents leery of talking about certain issues
- a lack of resources and facilities.

Other obstacles concerned the lack of well-trained mediators, lack of judicial support, changes in judicial officers, and the low number of referrals or inappropriate referrals.

27. Would you be willing to participate in a 20-30 minute follow-up phone interview?

85 of the respondents are willing to be contacted for follow-up interview. Several of those 85 were ultimately interviewed for the purpose of this Think Tank.

28. We are planning to put together a compendium on child protection mediation, conferencing, and related projects. Are you willing to be included in this resource?

78 respondents were willing to be part of a compendium. It became evident through this survey that people working in the field of child protection mediation want a way in which to communicate with each other.

29. Any other comments (open ended question):

The most frequent comment for #29 was “Thank you.” Respondents were excited that a group was pulling all of this information together. Some requested survey results. Other respondents mentioned their struggles in getting the program functioning or back on its feet. Several also mentioned the importance of evaluating programs from the beginning and throughout, in order to provide valid data.

30. If you are willing, we would appreciate your contact information.

Out of 110 respondents, 99 provided contact information. The contact information is available upon request.

Trends and Patterns from Surveys

- Most organizations are participating/conducting in mediation, rather than other ADR processes.
- Most child protection mediations reach full or partial agreement.

- A great deal of resistance from professionals exists and this causes many problems in getting to the mediation table and causes problems when at the table.
- Buy-in from stakeholders is critical to the success of a program.
- Regular meetings of stakeholders are important to the continued success of a program.
- Ongoing engagement/training of all stakeholders promotes the program and continued referrals.
- Changing the culture from an adversarial one to a collaborative one is key for successful mediation programs.
- Time constraints are a significant obstacle to successful mediation sessions.
- Well-trained mediators are key to successful mediations.
- Mediator diversity is important in creating a culturally, ethnically, and gender-sensitive mediation.
- Continued training and support of mediators is important in continuing a successful mediation program.
- Concerns about stable funding/continued funding are a major problem for many programs.
- Feedback and evaluation are concerns for many programs because often they are not happening.
- A general lack of community within the field of child protection causes problems.
- Preparation and orientation of all stakeholders, especially the family, is important to successful mediation sessions.
- Parental empowerment and engagement is incredibly important to successful mediation sessions, but is also a significant concern.
- It is incredibly important to get parties to “think together,” but it can be incredibly difficult at times.
- Constant assessment of program with stakeholder input is critical to the continued success of a mediation program.

- Lack of mental health and substance abuse facilities causes significant problems when providing resources to families.
- Screening for appropriateness of mental health issues/substance abuse cases is important in creating a successful mediation session.

IV. Interview Results

Interviewee Information

In addition to the 110 surveys, 14 interviews were completed in July and August in order to obtain more in depth information about lessons learned and ongoing issues in child protection conflict resolution in preparation for the Think Tank. The interviewees were selected in two different way: some came from the pool of survey respondents who were willing to be interviewed and the others were recommended by members of the planning committee. Several types of professionals involved in child protection conflict resolution were interviewed: judges (2), program coordinators/directors (8), mediators (3), and a researcher (1). (These individuals often crossed over into other job descriptions, and these labels describe only their primary role.)

All the interviews took place over the telephone and took from 30 minutes – 1 hour. A template was used to direct the interview process, but was used as a guide rather than a formal interview schedule. The interviewees steered the conversations in many ways; the dialogue took a unique course in each phone conversation.

Interview Template

- I. Background questions
 - a. Role in system, professional background, and length of time
 - b. Why interested in child protection mediation or FGC

- II. How is CPM or FGC structured?
 - a. When (real and ideal)?
 - b. How do cases get to mediation?
 - c. Who (real and ideal)?
 - d. Do the mediators talk directly with parents without their attorneys?
 - e. Who determines general issues to be mediated? Are the issues limited to those referred?
 - f. How long (real and ideal)?

- g. Are time constraints an issue related to length of mediation or timing of mediation?
 - h. Style of mediation, background and training of mediators (get specifics about training—how long, who provides, what is covered)?
 - i. Referral Source?
 - j. Numbers conducted?
 - k. What is done with mediated agreements (are the “so ordered”)? Enforced? By who? How? Does the program have a compliance function?
 - l. Do mediators contact parties between session to follow up, review interim agreements?

 - m. Are there sub-group mediation sessions held? Are there ever meetings with one party and his/her attorney other than a regularly mediated session?
- III. What makes mediation work? What would make it work better?
- a. How to deal with parent empowerment (big concern raised)—probe for educating parents, getting parents to participate effectively, giving them an important voice?
 - b. How do they deal with substance abuse and mental health problems—probe for screening, criteria for when mediation is and is not appropriate?
 - c. Whose support is essential, how do they get it. Probe for dealing with resistance. Probe re: court relations, attorney support, and social work buy-in?
 - d. What role should lawyers play in the process?
 - e. Is the resistance from professionals based on principle or time constraint or?
 - f. What is working best currently, what most needs improvement?
- IV. Mediator characteristics
- a. Think of the best mediator you have worked with (or if you are a mediator—when you are working at your best). What do they/you do? What are their/your characteristics? What lessons can be learned from them/you?
- V. Questions and recommendations
- a. What 2 or 3 recommendations would you have for someone trying to start a CPM program or working to save a struggling one?
 - b. Do you have thoughts about integrating FGC and CPM?
 - c. What key questions would you like additional research to address?
 - d. What concerns would you like this project to tackle?
- VI. Other thoughts or comments?

Themes from Interviews

The interviews varied greatly in the course they took and the points covered. Each of the 14 interviewees discussed different best practices, challenges, and needed areas of research/discussion. Some important themes emerged from the interviews, mostly reinforcing the results of the survey, but going into more detail. Below are some key themes and a representative selection of statements made about them. Some of the statements have been edited for clarification.

1. *Obtaining buy-in from systems players is critical for the success of dependency mediation. Buy-in from judges is particularly important. A major responsibility and challenge for program administrators is to obtain this buy-in. Having stakeholders involved in planning and guiding programs is critical.*

Representative Statements

- Being a project coordinator requires/demands a lot of time devoted solely to educating the stakeholders on the value of mediation.
- There is an enormous discrepancy between the lawyers and mediation in our jurisdiction. New lawyers (who are hired the most there) want litigation experience, so they don't send cases to mediation because it prevents them from getting that experience.
- Continued stakeholder education is critical.
- Getting buy-in from all parties and all possible people involved is crucial: the judges, agencies, lawyers. It can't be just some of them. You have to build a culture to create a successful program.
- Stakeholder buy-in, especially judicial is critical. There should be regular meetings of the stakeholders too.
- Stakeholder input is critical to the process. This helps with buy-in by all parties.
- Judges are supportive of agreements, but not necessarily of the process.
- It is important to have all stakeholders provide input in their structure.

- Teaching future lawyers and judges about the ADR processes is important to the profession not being/feeling threatened by mediators, facilitators, etc.
- It is important to have the program be part of the system. Otherwise, it will be difficult to have court's support.
- Getting buy-in from agencies with a lot of turnover is incredibly difficult.
- It is important to get commitment from parties. She has them make first contact after referral so that they show this commitment.
- Stakeholder participation is critical when creating a program.
- There should be a stakeholders group that meets regularly. This group should constantly evolve the process as needed. If the process solidifies, it will not make it.
- People starting a program should reach out to those in the child protection mediation community.
- Judicial support is essential.
- Stable funding is an issue. How are we going to get it?
- It is important and necessary to have buy-in from judges. It is the mediation program's responsibility to get the rest of the people on board.
- Buy-in is important, but so is keeping judges aware of the process. They forget about it really easily.
- When you start a program, identify common issues and cases that will be typical ones.
- Programs should be attached to court. Otherwise, buy-in is far too difficult.
- Ghost issues between agencies play out in mediations. They cause many problems that have nothing to do with that particular family.

2. *Empowering parents and giving them a voice at the table is critical, and part of this involves advanced preparation and education of some kind. It is also important to structure the process in a way that parents don't feel overwhelmed by system constraints and the dominant role of professionals. Despite these obstacles, parents tend to be very satisfied with the process.*

Representative Statements

- The mediator should do everything to create a power balance, without bowing down to one party.
- Attorneys should prepare their clients, but the mediator should still speak with the parents prior to the mediation
- Mediation gives parents an opportunity to express themselves and also equalizes the parties. Everyone is held accountable.
- Educating people about the CPM process is important before the mediation begins.

- Pre-mediation education is important for the following reasons: it lets the participants know about what mediation is, it helps determine what the issues will be, and it allows the parties to vent prior to the mediation. This helps people to be focused.
 - Parties should create agenda.
 - Parental engagement and empowerment is the absolute essential part of the process.
 - It is the mediator's job to create a power balance and to serve as a "translator" by putting jargon into concrete terms.
 - Get commitment from the parties by having them make the first contact (once the social worker has referred all parties to the mediation.)
 - Speaking with the parties beforehand is important to nail down the important issues which must be discussed and also focuses the parties before mediation. This empowers and engages the parents especially.
 - Speaking with all parties prior to mediation is critical. It is a time for education, determining the issues which must be handled at the mediation table, and focusing emotions before the mediation.
 - It is important for the parents to feel as though mediation is their "turf." It might not be efficient, but it is necessary.
 - Even though a lot of pre-work is done in parental empowerment and engagement, it is something of which the program must always be aware.
 - Mediation is working because it gives each party an opportunity to tell their view of things.
 - Parents feel heard in mediation.
 - Anecdotally, parents are satisfied with mediation.
3. *The skill and experience of the mediator is central to the success of the process. Mediators can come from many backgrounds, but they need to be trained specifically in how to do dependency mediation. Knowing how the system works is critical—this is not an area in which process skills alone suffice. Nonetheless, the critical role of the mediator is communication. They need to help the parties hear each other, listen to the emotional concerns of the families, and provide a safe structure for communicating.*

Representative Statements

- Mediators need to know their mediation skills as well as knowing the "system." They need to know the legal issues and terminology. They should be patient. A bad mediator can leave a bad taste in people's mouths for a long time.
- The quality of the mediator (their training, their ongoing training, their passion) is key to the process
- Mediators should serve as the role models for how they want participants to behave. They should also be responsive to what is

being said, draw it out, and give the parties a common problem to solve.

- The background of the mediator is not important.
- Program directors and mediators need to have the knowledge and skills base that is unique to child protection mediation.
- Mediators should: listen attentively, pay attention to emotions and non-verbal cues.
- The process is often about removing communication barriers and the mediator must be really good at this: being responsive, sensitive to emotions and underlying issues, and being respectful.
- Mediators should: be able to pinpoint the conflict, humanize the process, and get everyone brainstorming and planning
- Training is key because of the needed knowledge and skills base.
- Mediators need to not pre-form judgments and should communicate to assist.
- Mediators should: have the same skills as classroom teachers and know the system and how it works.
- A mediator needs to have passion.
- Mediators should: know the system, know how to deal with people, be able to listen attentively, patient, compassionate, be ethnically similar to the clients, and be hopeful and positive.
- Professional background is not the key to being a good mediator (you don't have to be trained in social work or law.)
- A good mediator listens, is organized and organizing. They also slow down the process.
- In an ideal world, mediators are compassionate and have a genuine care for people.
- Training for mediators is important, on everything from safeguards to developing a discussion.
- Mediators should not be pulled from one field of mediation into child protection mediation because the skills and knowledge base are quite different.
- Mediation training is critical.

4. *Lawyers can be critical to the success of mediation, but they can also pose many challenges. There are widely different practices about the use of attorneys, from minimizing their presence to insisting on it. They can both empower parents and undercut their ability to have a voice at the table. Mediation programs need to carefully think through how to use lawyers effectively.*

Representative Statements

- Lawyers can be a vital part of the process when they are needed, and most in our state know when they should/can leave.
- A way to communicate with each other as professionals is needed.

- Lawyers are desired in the room, as long as they are collaborative.
- Lawyers can be an incredibly important presence at the mediation table, especially when it comes to legal issues.
- There is an absolute place for lawyers in mediation, but mostly in situations where legal issues are the topic at hand.
- Lawyers need to be educated on the process all the time.
- Lawyers are integral to the process, especially when legal issues are being discussed and to support clients when needed.
- Lawyers should not be at the table unless *absolutely* necessary.
- There are times where lawyers are necessary and others where they are not. The lawyers need to make sure they are representing their client well and sometimes this demands that they be in the room. Mediators cannot jump in and say that non-legal fact has been shared and then the mediation continues with this falsity in place.
- Confidentiality is an incredibly important part of the mediation process and the parents should know what is protected and what is not. The lawyers should also know because, if the case goes to trial, they should know about confidentiality too.

5. *Timing issues are very important. The earlier a case is referred the better (although mediation can work at all points in the process). Taking enough time is also critical, and time constraints on mediation are a major obstacle to success. Even if people have a clear idea of what will be involved in mediation, it is important to devote enough time to the process to let issues emerge. When mental health or substance abuse is involved, taking adequate time is particularly important.*

Representative Statements

- Time constraints are a problem
- The early the case is referred, the better.
- Being willing to move a little slow at the beginning, before thinking that you can do all types of cases initially.
- Early in the case and conflict is better for obtaining a case.
- Don't shortcut; do what you say you want to do/believe in.
- The judge might give some indication of the issue, but the mediators really don't have any idea what the issues are until the mediation begins.
- If people are not visibly high, it is okay to proceed with mediation. When it comes to mental health issues, it usually takes multiple sessions before you can determine if they are able to negotiate or not.
- Time constraints are a significant factor, which contribute to unsuccessful mediation.
- The earlier a case is referred, the better.
- Mediators should slow down the process.

6. *Mediation works across a broad variety of cases and it is very hard to come up with hard criteria for when it should be used or when it should not. Nonetheless, it would be helpful if such criteria could be developed. The satisfaction with mediation is widespread despite the great variety of approaches to mediation.*

Representative Statements

- Mediation is always appropriate in any case, even domestic abuse or substance abuse cases. It is never a bad idea to get people talking.
 - Have protocols to deal with “problems” such as domestic abuse or substance abuse. Then, people know how to handle the situation.
 - There really are no criteria to determine if a case is inappropriate for mediation because of substance abuse or health problems.
 - There is a great variety between and within programs when it comes to the logistics of mediation.
 - Mediation creates happy parties and cases that are in system either for a shorter time or no longer than without mediation.
 - No case should be excluded based on categorizations such as substance abuse or domestic violence.
 - If parents are capable, regardless of substance abuse or mental health issues, mediation should continue.
 - In cases in which mental competency has been questioned, how do you increase that party’s competency?
7. *Family Group Conferencing and mediation ought to complement each other in theory, but in practice it is hard to integrate them. Mediation tends to be more owned by and located in the courts, FGC in agencies. More work is needed on how to integrate or coordinate these approaches. Flexibility about process is important—becoming rigid or ideological about which approach to use is not helpful.*

Representative Statements

- FGC and CPM are a struggle to incorporate because of the confusion about the two processes.
- It is important to develop guidelines and standards to determine what mediation and other types of ADR are.
- ADR processes should/can occur on a continuum.
- FGC is all about the family.
- Integrating FGC and CPM is a great idea because it allows for flexibility, but it is incredibly confusing to implement.
- Having a spectrum of ADR processes is important.
- Social workers must be trained on ADR.
- FGDM doesn’t have the support of the court, like mediation does.

- We should not be wedded to any one process.
- We need to know how to meld the different ADR practices in CP.
- The idea of integrating FGC and CPM is great, but it is very confusing.
- When do you use Family Group Conferencing versus Mediation? The answer is not easy.

8. *Better research and evaluation needs to occur, and programs should set up evaluation procedures from the beginning. Comparison group research is particularly important, but it is difficult to structure.*

Representative Statements

- Evaluating the successes and timeliness of mediation is needed.
- There should be a summary in place from the beginning. We really have an anecdotal one. We need one with substantial statistical information.
- Having statistics to back up success is really needed. It is really needed for buy-in.
- An evaluation is needed.
- We need to find out how successful CPM is
- An evaluation process for post-mediation outcomes is important to develop. It is important (most important) to know what happens to the kids.
- Research needs to be done on effectiveness of programs.
- Getting evaluations/follow-up to measure success is very important.
- It is difficult to create a comparison group in research, but they are certainly needed.
- A long term follow-up system is needed.
- There really is no research on recidivism in these cases.
- Research is needed on how to involve the child in the process
- Tracking and collecting data is important and needed.
- Evaluating the impact of mediation will help with funding and buy-in (but it is not clear how to do this).

9. *Better collaboration, communication, and coordination among programs would be very helpful. We need an ongoing way to share experiences and insights.*

Representative Statements

- A program collection of sorts is needed so that people can bounce ideas and learn from each other.
- We need to talk about the nature of issues in mediations. Are they all resolvable?
- Dependency mediation is struggling. What can be done to stabilize it in terms of funding, support, and policy?
- We need to find a way to communicate effectively with other programs.

V. Conclusion

The data collected from the survey and the interviews are generally consistent and reinforcing of some common themes. Overwhelmingly, the results pointed to systemic issues related to child protection conflict resolution. Issues at the mediation table did not come up nearly as much in either the surveys or the interviews. The surveys and interviews highlighted the importance of mediator training, stakeholder input and buy-in, and the timing in a case. Mediator training is critical, and it is important that they be familiar with the child welfare system. Issues of timing, funding, program support, and outside resources seem to be the most broadly expressed areas for concerns. Finding an effective way to use professionals, particularly lawyers, is challenging and important. Family Group Conferencing and Child Protection Mediation ought to complement each other and work together, but integrating them can be complicated in practice. More systematic research and evaluation would be very helpful, and better ongoing communication among different programs is also essential.

Mediation has been successfully used at all stages of the process and for the whole gamut of issues involved in dependency. Interestingly, although this is very controversial in other arenas, most programs felt that with the proper safeguard, substance abuse and mental health concerns were not contraindicative of mediation. We have a great deal to talk about in Columbus.