



# NEWSLETTER

## Association of Family and Conciliation Courts

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

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Fall 1996

## AFCC California Chapter to Co-Sponsor Second World Congress

**A** FCC's California Chapter has signed on as a co-sponsor of the **Second World Congress on Family Law and the Rights of Children and Youth**, to be held in San Francisco, June 3-7, 1997 in association with the AFCC Annual Conference. The California Chapter joins a growing number of organizations that have contributed \$10,000 dollars to support this important undertaking. Co-sponsoring organizations include: AFCC California Chapter, American Academy of Matrimonial Lawyers, American Medical Association, American Bar Association Section of Family Law, Children's Health Fund, Canadian Bar Association Family Law Section, International Academy of Matrimonial Lawyers, LAWA-SIA, Law Council of Australia Family Law Section, State Bar of California Family Law Section and United Nations Population Fund

### World Congress Program Update

The World Congress Program Committee has developed a spectacular array of sessions that span the week-long Congress. More than five hundred presentations have been proposed. World Congress events begin on Monday, June 2, with Special Colloquia for Judges, Bar Association Representatives, Family Court Services Directors and Law School Delegates. Tuesday's program will offer a choice of 12 Special Institutes. The World Congress runs through Saturday, June 7, and includes six additional plenary sessions and more than ninety workshops on the Congress' five programmatic themes.

- Children in a Violent World
- Family Law, Family Forms and Family Functions

- The Effects of Poverty
- Health Issues for Families and Children
- The Impact of Culture and Education

The Friday, June 6, plenary session will premier Dr. Judith Wallerstein's presentation of her follow up research on children whose parents were divorced in the early 1970's. World Congress featured presenters will also include U.S. Attorney General Janet Reno; Honorable Patricia Schroeder, U.S. House of Representatives; H.R.H. Princess Firyal of Jordan; Canadian Minister of Justice Honorable Allan Rock; Senator Landon Pearson, Ottawa, Canada; Professor James Garbarino, author of *Children in Danger*; Dr. Penelope Leach, pediatrician and author; Dr. Nafis Sadik, Under-Secretary General, United Nations Population Fund; The Honorable Claire L'Heureux Dube, Supreme Court of Canada; Aiko Noda, former Chief Judge of Sapporo High Court.

(Continued on page 4)

## Northeast Regional Conference Draws Record Numbers to Boston

**A**n outstanding program, a fabulous location and a hard working local committee propelled AFCC to record breaking attendance as more than four hundred registrants attended AFCC's Northeast Regional Conference, **Facing Up to the Complexities of Family Violence: No Simple Solutions**, held September 19-21 in Boston, MA. Conference Chair and AFCC Vice President Hon. Arline Rotman and Massachusetts Chapter President Rita Pollak spearheaded a local conference committee effort which resulted in attendance of more than 180 Massachusetts residents and the addition of nearly 60 new AFCC members.

AFCC's Mediation, Custody Evaluation and Professional Development and Technical Assistance Committees joined forces to offer two popular and successful Pre-Conference Institutes. *Mediating Child Protection Cases*, a first-time AFCC offering, was co-chaired by AFCC Vice President Christie Coates and Board Member Greg Firestone. *Advanced Applications in Child Custody Evaluations* was chaired by Philip Stahl, Chair of AFCC's Custody Evaluation Committee.

Conference highlights included the opening session, *Violence, Gender, Parenting and Politics*, and the two-part plenary session *Facing Up to the Complexities of*

*Domestic Violence in Family Court: No Simple Solutions.*

AFCC would like to thank the many people and organizations who put forth the behind the scenes effort to make the Northeast Regional Conference a success:

AFCC Massachusetts Chapter Conference Committee, Massachusetts Families for Kids, Massachusetts Bar Association Family Law Section, Massachusetts Psychological Association, Lisa Band, Thomas Carr, Carolyn Cartelli, Jodi Conners, Mary Ferriter, Charles Kendrigin, Catherine Klinger, David Medoff, Steven Nissenbaum, Mary O'Connell, Rita Pollak, Hon. Arline Rotman and Liz Tobin Tyler.



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Half page (7½" x 4½") ..... \$300  
Quarter page (3½" x 4½") ..... \$175

# President's Message



by  
Linda Hahn,  
Dallas, Texas

Standing in front of our courthouse is a sculpture of the goddess Justicia, securely blindfolded (in the tradition of the United States), supported by books symbolizing knowledge, raising the double-edged sword of truth in one hand and a perfectly balanced scale of justice in the other. What a strange and complex juxtaposition of symbols—blindness, truth, knowledge and justice. Integrating those symbols is essential to the work of the AFCC membership.

A friend phoned me recently, reeling from intense conversations she had just had with two colleagues. One was Caucasian, upper class, old Dallas money, bright, reasonable and educated. The other was African American, native Dallasite, low income childhood, currently middle class, bright, reasonable and a Ph.D. My friend is Caucasian and in her first year of teaching in a predominantly minority school. She had consulted with each of these colleagues regarding her disappointment that not a single person had kept appointments with her for scheduled parent-teacher conferences and her fears that she had done something wrong.

The responses of her two friends were radically different and she learned something from each. However, she realized from listening that both had enormous blind spots. Her primary learning from the two conversations: "Then I must have blind spots. What do I do?"

Justice with blind spots about the life experiences of diverse peoples, especially in family courts, is justice at risk of providing inappropriate services to those families. In a court setting, Justicia with blind spots is justice with insufficient support from truth and knowledge. Without truth and knowledge, Justicia's blindfold renders her "ignorant" and "unaware,"—synonyms provided by my computer thesaurus—rather than impartial.

In order to identify and eliminate AFCC's blind spots, to ensure that our programs and educational materials address the needs of the diverse populations served by our members, and to increase the diversity of the membership, I have appointed a Diversity Task Force.

The task force will study the present state of the association and make recommendations. Currently, one of our brochures, "Parents Are Forever," is available in English, French and Spanish. We regularly have workshops directed toward improved understanding of cultural and ethnic diversity,

special needs children, various family styles, etc. We hold conferences in hotels that are accessible to individuals with special needs. That is a start. However, a cursory glance at the crowd at any AFCC meeting documents that there is minimal ethnic diversity in the membership. What do we need? Please send your suggestions to the task force.

How we address the needs of our diverse clients and strive to increase the diversity of association membership is at the core of how we do our work. We cannot just briefly visit this issue this year, tinker around a bit and move to the next trendy topic. In the interest of serving justice we are also inherently committed to truth and knowledge. In the interest of serving children we need to understand and value the uniqueness of their needs and of their families. In the interest of a vital future for AFCC we need the contribution of a diverse membership.

### Diversity Task Force

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808-244-2700

Rosemary Vasquez, L.C.S.W.  
1221 Oak Street, Room 260  
Oakland, CA 94612  
510-272-6030

## Condolences

AFCC wishes to extend condolences to AFCC Past President John Kydd and his family on the loss off his wife Marianne, who died of cancer on October 27, 1996. John will be creating "a haven for harried parents" in Marianne's memory at a park near his Bainbridge Island home. Contributions may be sent to:

Mariane Kydd  
Memorial Garden Fund  
American Marine Bank  
One on the Square  
Bainbridge Island, WA 98110

Condolences may be sent to John at 1616 Bank of California Center, 900 4th Ave., Seattle, WA 98164.

## MEMBER PROFILE:

# AFCC California Chapter President Jan Shaw

California member Jan Shaw has put together an impressive list of accomplishments in her career with the Orange County Superior Court. Perhaps more impressive, however, is her boundless energy as Director of Orange County's Mediation and Investigative Services, AFCC Board Member and AFCC California Chapter President.

Jan is always looking for ways to change and improve services to families. "I want courts to be more client-focused," she said. "We need to ask for information from clients about how to do our job better. We need to do everything that we can to help people resolve their disputes rather than further their chance to be oppositional."

Born and raised in Boise, Idaho, Jan was a ranked junior tennis player as a teen. She fled the cold winters of Idaho to attend the University of Arizona in Tucson. There, Jan gave up tennis and devoted her competitive energy to bridge, which she still plays at AFCC meetings with California Chapter members Larry Lehner, Patricia Foster, Patty Chavez-Fallon and Marsha Wylie.

Jan graduated from the University of Arizona with a B.S. in Social Welfare and a Master's in Correctional Counseling. She also met her husband Charlie, a pharmacy student, on a blind date. Charlie and Jan left

Tucson when Jan accepted a job with the Orange County Probation Department.

Jan became Orange County's first mediator in 1978. "I was doing custody evaluations for the Probation Department when our judge attended a program on mediation. My supervisor came to me on a Thursday and said 'how would you like to be a child custody mediator?' I said 'starting when?' He said 'Monday.'"

"So I went to the library over the weekend and read what little I could find about mediation. Monday morning the judge announced to the courtroom that anyone with a custody or visitation dispute should follow me and I would mediate. The judge said that if there was no agreement he would ask me for my recommendation, which would likely become the order of the court.

"Well, a lot of people followed me out of the courtroom. I posted a sign-up list and took them one at a time—about 15 cases. A lot of cases settled because the attorneys didn't really know what would happen otherwise. It was a real fly-by-the-seat-of-your-pants show. I just rolled up my sleeves and thought of something to do."

Jan subsequently received additional mediation training, and in 1986 was promoted to Director. She has had many

rewarding experiences, including the opportunity to develop a graduate curriculum and teach mediation at Chapman College. "It made me challenge myself," said Jan. "Instead of just mediating, I had to ask myself why things worked and why things didn't."

Jan and Charlie have two children. Jennifer, 21, is studying to be a Physician's Assistant at San Diego State University. Suzanne is 18, and a freshman at Hofstra University, where she plays on the volleyball team and plans to attend law school.

Jan's family enjoys spending leisure time boating on the Colorado River in Laughlin, Nevada (her e-mail address begins "jsr-rivrat"). Jan said, "The river is my getaway. I can go there and relax. I work on the drive up and back in the car, but once we get there my work is contraband."

Although she jokes about her hours, Jan loves her work. "I don't think about work being something to dread. I see it as an opportunity to explore new frontiers and new visions. I have a passion for my work and I try to make it fun. If my staff could do anything, however, it would probably be to put an 'off' switch in my brain." Given the importance of Jan's contributions to AFCC, that is something her AFCC colleagues hope never happens.

## ADA Mediation Training Offered

The U.S. Department of Justice has extended a grant to the Key Bridge Foundation for Education and Research to train professional mediators to mediate Americans with Disabilities (ADA) complaints referred by the Department of Justice. The Key Bridge Foundation is inviting experienced mediators who are interested in mediating these disputes to apply for training and to become a member of the mediator pool for the ADA Mediation Program.

Training consists of a one-day session from 8:15am–5:30pm. Sessions will take place at the following locations:

March 2, 1997—Baton Rouge, LA  
March 4, 1997—Houston, TX  
March 9, 1997—Las Vegas, NV  
April 4, 1997—Minneapolis, MN

Additional training programs in Charlotte, NC and northern California are also planned.

After completing training, mediators will be assigned approximately eight ADA complaints to mediate *pro bono* within one year. There is no fee for the training; however, participants are responsible for travel and all related expenses. If you are interested, please contact Ms. Roshni Paul at (703) 528-1609.

## Board of Directors Nominations

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

Nominations must be received by February 1, 1997 in order to be considered by the committee prior to election at AFCC Annual Conference in San Francisco, June 1997.

If you or another member you know is interested, please forward their name, contact information and resume to:

Dr. Russell Schoeneman  
Chair, Nominating Committee  
Conciliation Court of Maricopa County  
201 W. Jefferson  
Phoenix, AZ 85003  
(612) 506-3298



## Family Law Matters: A Report from the AFCC Northwest Regional Conference

by Hugh McIsaac, Director,  
Multnomah County Family Court Services, Portland, OR

At the site of origin of the great Missoula Floods from the last ice age, seventy-five judges, attorneys and mental health professionals gathered to explore another shift in tectonic plates—families in conflict and the response of courts and professionals. The event was AFCC's Northwest Regional Conference, October 24–26, in Post Falls Idaho.

AFCC Past-President Jerry Lecovin welcomed participants to the conference and Idaho Supreme Court Justice Cathy Silak gave the Luncheon Address. Justice Silak stressed the importance of family law and praised AFCC for its work.

Featured topics and presenters included:

- *Child Custody Evaluation Institute*, with Nancy Olesen, Ph.D.;
- *Healing Remedies for Children*, with Elizabeth Hickey, MSW;
- *Family Law Reform* with Attorney Bill Howe, Chris Fox, Editor, Washington State Family Law Report, Attorney Sue Flammia, Judge Patricia Young, Lesley Bar, British Columbia and Hugh McIsaac.

Special thanks to Sue Flammia and Hon. Patricia Young for their conference planning. AFCC Northwest members are already looking forward to next year's Northwest Regional Conference at the Skamania Lodge at the Columbia River Gorge, on the border of Oregon and Washington. Future sites under consideration for the Northwest Conference are Seattle and Vancouver.

## AFCC Says Farewell to Victoria Metz

Victoria Metz, AFCC Office Manager, has accepted a position as Executive Administrative Assistant with General Bindery Corporation in Madison, Wisconsin.

Victoria is known to AFCC members as the friendly problem-solver in the Madison office and at the registration desk at conferences. Victoria was the recipient of the 1994 President's Award and has been with the association since 1989. AFCC extends our best wishes on this well-deserved promotion.

## AFCC to Serve on Advisory Committee for Domestic Violence and Custody Mediation Training

by Linda Girdner, Ph.D., Director of Research,  
American Bar Association Center on Children and the Law, Washington, D.C.

Doneldon Dennis, AFCC Board Member from Minneapolis, MN, will serve on an advisory committee to develop curricula on domestic violence and custody mediation according to the National Council of Juvenile and Family Court Judges Model Code on Domestic and Family Violence. The project is sponsored by the American Bar Association Center on Children and the Law and the Academy of Family Mediators.

The project will develop and test curricula on domestic violence and custody mediation for mediators, judges and court administrators. Materials will include a participant's and an instructor's manual.

- A two-hour curriculum will focus on the dynamics of domestic violence, particularly in the context of marital separation, reasons why mediation is often not appropriate, and the importance of domestic violence screening. This curriculum will be designed for mediators, judges and court administrators, to enable court systems to apply a coordinated approach to the problem.

- A 16-hour skill-based curriculum will be designed for experienced mediators. Specific topics will include screening for domestic violence, determining whether a case is appropriate for mediation, adapting the mediation process, use of special skills to enhance safety when a victim chooses mediation, connecting with court and community resources that assist victims and building safety into custody and visitation agreements.

For further information, contact Dr. Linda K. Girdner, Project Director, ABA Center on Children and the Law, 740 15th St. NW 9th Floor, Washington, D.C. 20005-1009. tel: 202-662-1722, fax: 202-662-1755, and e-mail: lgirdner@staff.abanet.org

## World Congress (Continued from page 1)

### AFCC Conference Within the World Congress

Concerned about missing out on AFCC's "classic" Annual Conference? Don't worry! The **Second World Congress on Family Law and the Rights of Children and Youth** will offer a wide range of workshop choices on topics including mediation, custody evaluation, children and divorce, child support and domestic abuse. For those wishing to focus strictly on classic AFCC topics, there will be more than sixty sessions from which to choose.

### Register Early and Mark Your Calendar Now

Early bird registration rates for the World Congress are available until December 31, 1996. AFCC members are entitled to a savings of \$25 off the regular conference rate of \$425. Non-members receive an early bird

rate of \$455 discounted from the regular non-member rate of \$480. For a registration form, contact AFCC, 329 W. Wilson Street, Madison, WI 53703, phone (608) 251-4001; fax (608) 251-2231.

### Choose Your Hyatt Soon

To guarantee the special group rate, reserve your hotel room well in advance of the World Congress. Room rates are being held for conference participants at a substantial discount from the hotel's regular rates. After May 1, 1997, reservations will be accepted on a space available basis only. For hotel reservations, contact:

Hyatt Regency (415) 788-1234  
(\$145 single or double)  
Grand Hyatt (415) 398-1234  
(\$145 single or double)  
Hyatt Fisherman's Wharf (415) 563-1234  
(\$139 single or double)

Park Hyatt (415) 392-1234  
(\$175 single or double)  
Hyatt Reservation Center (800) 233-1234

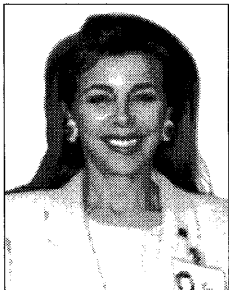
### Cruise Alaska

Join AFCC and the Second World Congress on a wonderful seven day post-conference Alaskan cruise. Tour leaders will be Chief Justice Alastair Nicholson, Family Court of Australia; Hon. Betty Barteau, Indiana Court of Appeals; and Ian Kennedy, Editor, *Australian Family Lawyer*.

Cruise the Inside Passage from Vancouver to Ketchikan, Juneau, Haines and Skagway. The cruise departs on Monday, June 9, and returns to Vancouver on Monday, June 16. Professional continuing education credit programs will be available on the cruise. Prices begin at \$999 per person, double occupancy. For additional information, contact Adventures At Sea Travel at (800) 852-2009 or (910) 855-8502.

H.R.H. PRINCESS FIRYAL

# Street Children Advocate



H.R.H. Princess Firyal

*The Second World Congress on Family Law and the Rights of Children and Youth is pleased to announce that H.R.H. Princess Firyal, of Jordan, has agreed to serve as UNESCO Ambassador to the Second World Congress and Chair of the Children's*

*Trust Fund. The Princess, a staunch advocate for children, described her challenges in a speech presented at the World Congress' New York Colloquium on September 12, 1996.*

Through my work with UNESCO, the United Nations agency in charge of education, I have become aware of the plight of 100 million street children. One hundred and twenty million children live, work and sleep on our streets. Allow me to tell you about them and about the International Hope Foundation for working and street children. While there may be doubts about the accuracy of this global figure, it is certain that the number of street children is growing rapidly, overtaking even the most dramatic estimates. Seventy thousand street children are reported in Manila; 130,000 in Nairobi; 100,000 in Mexico City; and 20,000 on the streets of New York. For Brazil the latest estimates stand at eight million street children. No country or city is spared. They are in the streets of large cities, in both the industrialized north and the poverty stricken south. The drama of the inner cities in the United States is only too well known. In Eastern Europe, the upheavals of recent years have driven large numbers of poor children onto the streets. The dignity and sheer survival of many millions of children is at stake.

Forced labor is the daily lot of millions of children, in both urban and rural areas, who must work in illegal, dangerous and unhealthy conditions. Children are often forced through organized crime into begging, stealing, drug peddling and prostitution. They work many hours in markets, factories, fields and mines. Other forms of abuse are less visible, such as domestic exploitation or paedophilia.

The extent of childhood prostitution throughout the world is impossible to assess. Prostitution is a means to make fast money. It often becomes a regular trade controlled by organized crime.

The child is then reduced to slavery, which is associated with drugs, prostitution and diseases, particularly AIDS. The majority of street children are threatened by drug

addiction. The streets in which they work, live and sleep are the most favorable market for drugs. The larger the city, the greater the supply, the wider the choice and the easier the access. Even before cocaine, crack and heroin, children used stimulants such as tobacco, alcohol, cannabis and solvent glue. The life expectancy of most street children addicted to drugs is limited to a few years of suffering.

Life on the street is a constant threat to the safety and survival of children. They are victims of traffic accidents, street fighting, organized crime, police harassment and para-military brutality. The death of street children is a daily occurrence. Street and working children are frequently arrested and jailed on charges of vandalism and robbery. They suffer extreme brutality, rape and may be induced to commit crimes. Once imprisoned, children suffer irreversible traumas and may hate society for the rest of their lives.

The root causes of these traumas are manifold. Street children are both the victims and the mirror-image of the ills and evils of modern society. Some of the main driving forces include rampant urbanization and rural exodus; unemployment; growing poverty and the need for child labor; the breakdown of families, with many men migrating abroad for work; divorce and single parent families; conflict and wars within and between countries, leading to incessant streams of refugees and displaced people; and the breakdown of common services in many cities.

These children are denied the right to learn. Most have never been to school or have received a poor education. The universal declaration of human rights proclaims that everyone has the right to an education, but I believe that governments and bureaucracies are often limited in their capacity to address the difficult problems that these children confront.

You should now understand why my colleagues and I are searching for alternative methods to address the problem. Something that will reach these children in their usual circumstances and will offer them the opportunity to experience a safe childhood and to enter into a productive and satisfying adulthood.

*More must be done!* That is why an American-based foundation has been established. The International Hope Foundation is committed to supporting programs that will reach these children at the grassroots level: in the streets, the slums and the villages of the world's under-developed countries. The primary mission of The International Hope Foundation will be to implement educational programs to reach and address the needs of children in their communities.

The Foundation has been formed in close cooperation with UNESCO Special Education Program, which was launched in 1990 to develop innovative methods to educate children not reached by the traditional school system. The Foundation, with the backing of UNESCO, is unique. No other organization is engaged in implementing such work on the scale that we envisage.

UNESCO projects that, with aggressive support, we can eliminate illiteracy and the potential for exploitation of these children by the year 2030. Through literacy these children might be offered the hope and the skills necessary for becoming valued members of society.

Street children cannot call for help. The only voice they have is our voice. The only help is our ability to react. It is with a vision of a world in which we want our children to live that we must do our part to ensure that the international public is better informed about a desire to address the gravity of the crisis that threatens future generations.

Helping children around the world is a moral imperative, but also a wise investment in social stability and the planning of human resources. We have developed a world-wide plan for street children which is based on a very few simple principles. Street and working children require practical and immediate help, not just sympathy, alarming press reports or academic studies about their situation. We have engaged in fund raising and formally commit that every penny received will reach the children without the deduction of any administrative overhead. We focus on carefully selected model projects carried out by grassroots organizations in twenty-five of the world's largest cities. The competence and experience of these local partners is the best guarantee of success. All UNESCO projects are professionally evaluated on a continuing basis and are subject to a detailed financial report.

Most of the time, street children are locked away, taken off the streets and put into orphanages or homes for juvenile delinquents. But these are strategies of the past which do not work. We need to build on what is positive, both in the children themselves and in their environment. Many street children are survivors. They are intelligent, creative and strong-willed and we must build on their natural resilience. The street is a place of meetings with other generations and people different from themselves. It is a place of discovery, learning and practical problem-solving. We must not fight the streets, but use its resources in a positive way. Street children have their own surrogate families—the group or street-gang. The group is a source of safety, solidarity and friendship. We must not reject the group, but work with it.

# Professor Peter Nygh

**P**rofessor Peter Nygh has enjoyed a distinguished career as a judge and legal scholar. Born in Hamburg, Germany in



1933. He received his primary and secondary education in the Netherlands and emigrated to Australia in 1951. He holds law degrees from the University of Sydney and the University of Michigan and was a Fulbright Scholar and

W.W. Cook Fellow at Michigan.

Professor Nygh has served on the faculty of the University of Sydney, Macquarie University, Bond University and is presently Visiting Professor at the University of New South Wales. He was Chair of the Hague Commission I (on Future Policy) in 1994 and 1996 and a member of the Faculty of Hague Academy of International Law in 1995. Professor Nygh is a widower and resides in Kirribilli, a suburb of Sydney. He has three grown children and one grandchild.

**AFCC:** *What attracted you to international family law?*

**Peter Nygh:** I was first attracted to international law as a law student at Sydney University in the 1950's. It was then seen as a somewhat esoteric subject, but in today's world of rapid mass movement and the global economy, international law, both in its public and private law forms, is becoming vital. My first involvement with international family law came in the 1970's when I represented Australia at the 13th Session of the Hague Conference on Private International Law which prepared the Convention on the Law Applicable to Matrimonial Property Regimes and the Convention on the Celebration and Recognition of Marriage.

**AFCC:** *Why have you chosen to focus on children's issues?*

**PN:** I must hasten to say that children's issues are not my only focus. But as a Family Court judge in Australia from 1979 to 1993 I obviously spent a great deal of time dealing with children's matters. One of these aspects was the implementation and interpretation of the Hague Convention on Child Abduction to which Australia became a party in 1987. Not only did I deliver judgements in matters arising out of that Convention, but I also lectured and wrote extensively on the topic. I also represented Australia at the Second Review Commission on the Abduction Convention in the Hague. This year I was a member of

the Australian delegation to the 18th Session of the Hague Conference which has just completed a Convention on the Protection of Children.

**AFCC:** *Your work seems to address policy and legislative issues extensively. What kind of an impact has it had on children?*

I have always been interested in legislative policy which helps children. In the early 1970's I served as Secretary of an Australian Committee on Family Law Reform and helped draft the Family Law Act of 1975. As Chairman of the Family Law Council from 1986 to 1989, I was again concerned with advising the Attorney General on family law policy. Even as a judge, dare one say it, one is concerned with shaping policy. Thus, I was always concerned to ensure that child abduction matters be dealt with promptly and custody trials be avoided. I was also concerned to ensure that non-custodial parents be recognized as having a meaningful role with real responsibilities for their children.

As to the impact on children, this is hard to assess. I think a conscientious attorney must today advise a dissatisfied client that grabbing the child and running off to Australia is not a real option. I also feel that settlement of children's issues has been made easier because fathers do not feel that they are totally cut out of their children's lives. But I must admit that from time to time, I wonder how much "the law" impacts on the lives of ordinary people.

**AFCC:** *Is there a single accomplishment of which you are most proud?*

I am very proud of the recently completed 1996 Convention on the Protection of the Child. That Convention builds upon the Child Abduction Convention by laying down a framework for international cooperation between national courts and authorities in relation to jurisdiction, applicable law and recognition of measures taken for the protection of children, including custody and visitation decisions. The Abduction Convention, of course, only deals with returning children to their homes at the habitual residence. The Protection Convention will ensure that the courts of the habitual resident will have jurisdiction, unless they remit that jurisdiction to a more appropriate court, and that their decisions will be recognized. This will ensure the stability of international visitation rights on which the Abduction Convention is rather weak. It will also mean international recognition of parental rights and responsibilities according to the law of the child's habitual residence.

The Convention represents a carefully crafted compromise between various

national interests, such as the European interest to safeguard the right of future intra-European closer cooperation, the U.S. interest in maintaining the "home State" concerns, and the Australian and Canadian concern in allowing children, even if originally abducted, to settle in a new environment if this is the decision of the court with proper jurisdiction. These interests were not always easy to reconcile, but were resolved in a remarkable spirit of cooperation. I am proud to have played a minor part in this.

**AFCC:** *What is the most daunting challenge facing family courts in the next century?*

To ensure that the voice of children will continue to be heard despite the trend to cut public expenditure, including legal aid funds. Article 12 of the Convention on the Rights of the Child, which virtually every country in the world, except the United States, has ratified, gives children the right to be heard and to be represented in matters affecting their interests. Even in the United States, it may now be regarded as a basic international human right. That provision is also incorporated in the new Protection Convention. But without adequate funding and the provision of separate representatives or guardians ad litem provided by the public purse, it is difficult to see how that right can be made real.

**AFCC:** *What did the First World Congress do to meet the needs of children?*

The main focus of the First World Congress was the sexual exploitation of children through so-called sex tourism. We can justifiably be proud that many First World countries, including Australia, have enacted legislation and initiated prosecutions to combat this evil. Vigorous action has also been taken in countries whose children were victims of this trade. But there is no room for complacency.

**AFCC:** *What potential is there for the Second World Congress?*

The Second World Congress will in the first place serve as a follow up on the message of the First. We will have a progress report on action taken to combat child sexual exploitation. But children are also exploited economically, particularly through child labor. Answers to this problem are not easy, only growing wealth and education can eliminate it. We will also focus on issues of poverty and health which adversely affect the majority of the world's children. We must try and revive the notion of a world community which inspired Americans in the period following World War II.



# Empowerment of Children in Mediation: An Intervention Model

by Ernest A. Sanchez, LCSW and Sherrie Kibler, LCSW,  
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As we review the chronology of the practice of mediation for parents who are involved in custody and/or visitation disputes, and the current literature which has been provoked by the uniqueness of the art and science of mediation, we find an array of viewpoints regarding the definition, the process, the "appropriate" participants, and of most concern, what constitutes the "best interest" of children. As we approach the new millennium, the theme of "best interest" and the question, "From whose perspective?" continue to resonate and cause debate in our profession. The impetus for methods that work with children is ever present, especially when considering their inclusion in mediation.

The mediation model we present utilizes a structured approach with a family systems theoretical orientation that may be used in both private and court-connected settings. This model goes beyond the child-centered interview for assessment of developmental needs and feedback to parents to assist them in making decisions. It provides a design and methodology to protect children. The model may be utilized and completed within a three to four hour session, however, two to three mediation sessions are preferable.

The model is based on the premise that children are empowered and benefit most when they are provided with information which will assist them in understanding their current situation and future plans. By design, empowerment is derived from the numerous reassurances given from parents to children, during the mediation session, of their commitment to cooperation and coordination of parenting and reassurances of their continued love, contact and support. Children are provided with parental acknowledgement, validation and permission to demonstrate love and affection to the other parent. Empowerment is also derived from direct involvement and input from the children in the creation of the parenting plan.

The model is designed for intervention with children between the ages of seven to 17 years. It supports the current California statute under Family Code Section 3023 which states that, "if a child is of sufficient age and capacity to reason so as to form an intelligent preference as to custody, the court shall consider and give due weight to the wishes of the child in making an award of custody or modification." Nonetheless, final decisions are made by the parents or the courts.

The empowerment model emphasizes a structured, process-oriented approach whereby the mediator is always cognizant of the following: (1) the importance of an assertive, active and interactive facilitation approach; (2) the maintenance of impartiality with a positive, optimistic approach to the process; (3) the assessment of all participants to determine the applicability of the model; (4) the assessment of children's developmental needs; (5) the effective use of time; (6) the securing of children's physical and emotional safety in the mediation process; (7) the assessment of self-expression and dialogue between parents and children; (8) the acknowledgement and validation of each person; (9) the provision of an atmosphere for collaborative, solution-focused problem-solving; and (10) the creation of a process that will enhance the voices of children and provide them with information that will give them a sense of predictability about the future while in the transitional process of redefining the family and individual roles.

The model incorporates ten phases. The mediator must determine the appropriateness of the empowerment model during the first five phases. The determination of whether or not to utilize the model is reached through the critical assessment of all parties and of the circumstances presented to the mediator. The interview and assessment sequence includes the following: (1) meeting the

parents, children and any other participants; (2) orientation, gathering data and structuring the session; (3) inquiry regarding preferences and mediation of issues; (4) children's interview; (5) preparation of parents; (6) parent and child conjoint interviews, if indicated; (7) parental reaction to children's disclosures; (8) remediation of issues; (9) decisions/drafting of stipulation; and (10) family debriefing.

As mediators we must be extremely vigilant in our assessments and interventions to ensure that we do not contribute to the possible harm of children. There is a fine balance between an impartial facilitation of the mediation process and advocacy. We contend that the role of the mediator is to orchestrate a process that enhances the emotional and psychological empowerment of all parties involved so they may arrive at well-informed, self-determined decisions that foster positive parent-parent and parent-child relationships. The emphasis must be to encourage parents to engage in and begin the process of resolution and settlement, while maintaining strict impartiality to parental positions.

Although no empirical study has been conducted, we have experienced dramatic success in assisting parents to better understand their children's feelings and thoughts. The model has allowed direct dialogue and interaction between parents and children resulting in the resolution of extremely difficult issues. We believe that when this model is sensitively and appropriately utilized, the goals of protection of children, empowerment of children and parents and creation of child-focused outcomes is reached.

This model will be presented in more detail in a forthcoming publication. We look forward to future exchanges regarding the involvement and empowerment of children in the mediation process.

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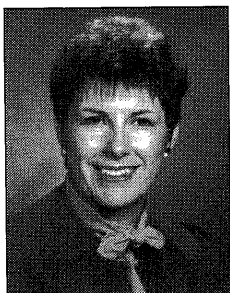
AFCC congratulates **Justice Donald King**, former AFCC California Chapter President, on his recent retirement. Justice King is known for his leadership in shaping family law and mediation practices in California.

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**Denise McColley**, AFCC Board Member from Napoleon, Ohio, has been appointed as Magistrate of the Henry County Common Pleas Court. Ms. McColley will hear juvenile and domestic relations cases and will develop a mediation program for the court. Her new contact information:

Henry County Court of Common Pleas  
Henry County Courthouse  
Corner of Perry and Washington Streets  
Napoleon, OH 43545  
Phone: (419) 592-5926, Fax: (419) 599-0803

### Award Winner



**Ann Milne**, AFCC Executive Director, is the 1996 recipient of the Wisconsin Association of Mediators (WAM) Distinguished Service Award. Ms. Milne received the award at WAM's Conference on Emerging Issues in Mediation, November 7, in Madison. She was recognized for her leadership role in the field of mediation both nationally and within Wisconsin and WAM.

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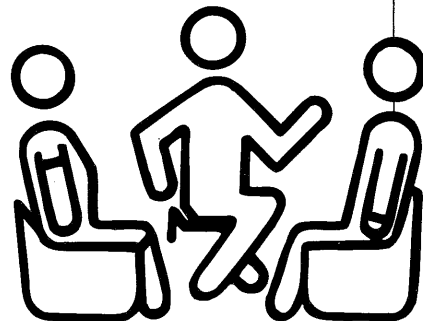


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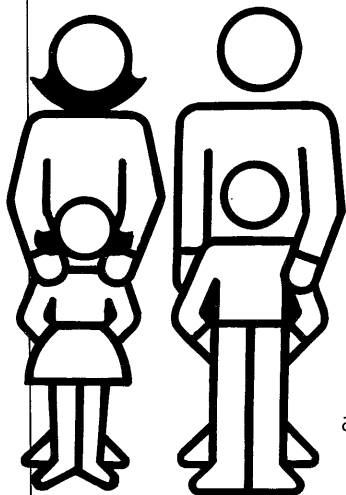
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