



ASSOCIATION OF
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eNEWS

President's Message: The Next Wave of Change

By Nancy Ver Steegh, JD, MSW, St. Paul, Minnesota

Earlier this year, AFCC celebrated its 50th Anniversary with a conference entitled, *Riding the Wave of the Future: Global Voices, Expanding Choices*. Since the conference, I've been thinking about the waves of reform that seem to periodically reshape the family court landscape.

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There's No Place Like Two Homes: The Complexities of Separation, Divorce and Co-Parenting

AFCC Regional Training Conference

Westin Crown Center, Kansas City, Missouri

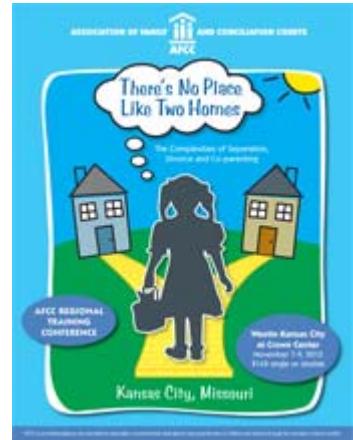
November 7-9, 2013

There is still time to register! Make your conference check-in even smoother by pre-registering online. If you are already registered, be on the lookout for attendee emails, which contain important information for accessing session handouts before the conference and helpful information about onsite logistics.

[Register now](#)

MONTHLY E-NEWSLETTER
VOL. 8 NO. 10
OCTOBER 2013

Upcoming AFCC Conferences



AFCC Regional Training Conference

*There's No Place Like Two
Homes: The Complexities of*

Custody Evaluation and PC Trainings in December

AFCC, in collaboration with University of Baltimore School of Law's Sayra and Neil Meyerhoff Center for Families, Children and the Courts, will hold two training programs in December at the University of Baltimore School of Law. This the first time David Martindale, PhD, ABPP, will present *The Model Standards and Beyond: Custody Evaluations and Risk Management*. The training will be held, December 2-3, and is designed for custody evaluators, lawyers, judges and other professionals who are involved in custody evaluation. Debra Carter, PhD, will present *Transforming Family Dynamics: Fundamentals of Parenting Coordination*, for parenting coordinators, mediators, custody evaluators, lawyers, judges, therapists, parent educators and other professionals who work with high-conflict families, December 4-5. Each training program is eligible for up to 12 hours continuing education. AFCC members receive a discounted registration rate.

[More information](#)

Ask the Experts

Ten Tips for Developing and Drafting Effective Parenting Plans in Mediation

By Donald T. Saposnek, PhD, Family Mediation Service, Aptos, California

A mediation process that is thoughtful, respectful, and paced to fit the communication style and needs of the parents will increase the chances of crafting a clear and comprehensive parenting plan. Such a process offers a supportive and cooperative context, promotes direct communication between the parents, empowers the parents to make their own decisions, remains sensitive to their unique couple dynamics, and maximizes a tone of flexibility for future modifications to their agreement. While this context is very important, even more is needed to develop an effective parenting plan. The following ten tips will ensure a well-drafted product.

[Read more](#)

AFCC-AAML 2013 Conference Wrap-Up

The AFCC-AAML Conference was a great success. Attendance increased by 20% from the 2011 inaugural conference to 335. Special thanks to AAML and the Conference Program Committee: Kenneth Altshuler, Gaetano "Guy" Ferro, Maria Cognetti, Harold Mayerson, and Arnold Shienvold. We will look forward to the next AFCC-AAML Conference in 2015.

Conference Audio and Materials Available

Separation, Divorce and Co-parenting

November 7-9, 2013
The Westin Crown Center
Kansas City, Missouri
[More information](#)

AFCC 51st Annual Conference

May 28-31, 2014
The Westin Harbour Castle
Toronto, Ontario, Canada
[More information](#)

AFCC 11th Symposium on Child Custody Evaluations

November 6-8, 2014
Westin La Cantera Hill
Country Resort
San Antonio, Texas

AFCC 52nd Annual Conference

May 27-30, 2015
Hilton New Orleans Riverside
New Orleans, Louisiana

AFCC Regional Training Conference

November 5-7, 2015
Hyatt Regency Columbus
Columbus, Ohio

AFCC 53rd Annual Conference

June 1-4, 2016
Sheraton Seattle Hotel
Seattle, Washington

AFCC Chapter Annual Conferences

Wisconsin Chapter Annual Conference
Social Media, Electronic Evidence and the Resolution of Family Conflict in the Digital Age
December 6, 2013
Delafield Brewhaus
Delafield, Wisconsin
[More information](#)

Access to audio recordings of the conference plenary sessions is a benefit of AFCC membership. AFCC members can log in [here](#) to listen to the Opening Plenary, *Daubert and the Mosaic of Child Custody Assessment*, presented by Jonathan Gould, Gary Nickelson, Mary Vidas, and moderated by Gaetano "Guy" Ferro; and Plenary Session, *Transparency and the Rights of Clients*, presented by Harold Mayerson, Larry Fong, Dianna Gould-Saltman, Andrew Schepard, and moderated by Arnold Shienvold.

Audio recordings of all conference sessions are available for purchase either as a discounted package or individually through [Digital Conference Providers, Inc.](#)

AFCC has a limited number of USB drives containing conference session handouts available for purchase, \$20 for members and \$40 for non-members with no fee for standard shipping. Call the AFCC office at (608) 664-3750 or email [Carly Kreger](#).

AFCC 51st Annual Conference in Toronto Navigating the Waters of Shared Parenting: Guidance from the Harbour

May 28-31, 2014, at The Westin Harbour Castle

AFCC is pleased to announce a distinguished guest, the conference keynote speaker, plenary speakers and institute presenters. The [Honourable Beverley McLachlin](#), Chief Justice of the Supreme Court of Canada, will give a luncheon address, Thursday, May 29, 2013. Chief Justice McLachlin is the first woman in Canada to hold this position, which she was appointed to in 2000. **Fiona Sampson**, co-founder and executive director of [the equality effect](#), will deliver the conference keynote address. The equality effect is an organization that uses human rights law to improve the health, safety and the standard of living of women and girls in Ghana, Kenya and Malawi. [Read The Guardian's coverage](#) of the 160 Girls Project and a follow up piece from [The Globe and Mail](#) on its success.

[More information](#)

Sponsorship, Exhibit and Advertising Opportunities

Sponsoring the AFCC annual conference, exhibiting onsite or advertising in the conference program brochure are excellent ways to share your products and services with an interdisciplinary community of family law professionals. December 3, 2013, is the deadline for advertisements to be included and sponsors to be listed in the conference program brochure. [More information](#) or contact [Erin](#)

Arizona Chapter Annual Conference

Exploring Innovative Paths for Families in Conflict
January 31-February 2, 2014
Hilton Sedona Resort and Spa
Sedona, Arizona
[More information](#)

California Chapter Annual Conference

*Back to the Future:
Serving California's Changing Families*
February 7-9, 2014
InterContinental Mark Hopkins
San Francisco, California
[More information](#)

Louisiana Chapter Annual Conference

*Restructuring the Family:
Incorporating Different Needs and Perspectives into Your Practice*
March 27-28, 2014
Hampton Inn & Suites
New Orleans, Louisiana
[More information](#)

Massachusetts Chapter Annual Conference

March 28, 2014
Regis College
Weston, Massachusetts
[More information](#)

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AFCC Chapters

Network and share your interdisciplinary view of family court matters on a local level. There are currently chapters in the following states and provinces:

[Sommerfeld](#) .

Passports Needed for US Residents Traveling to Canada

Canadian law requires that all persons entering Canada carry both proof of citizenship and proof of identity. A valid US passport, passport card, or NEXUS card satisfies these requirements for US citizens. Routine passport applications are being processed in approximately 4-6 weeks from the time of application. US residents visit travel.state.gov for more information.

Member News

Nicholas Bala, Kingston, Ontario, has been named a Fellow of the Royal Society of Canada. Fellowship in the RSC, granted on the basis of peer nominations and selection, is one of the highest recognitions for Canadian academics in the arts, humanities, and the social and natural sciences.

Jeffrey Wittmann, Albany, New York, has written a new book, [Evaluating Evaluations: An Attorney's Handbook for Analyzing Child Custody Reports](#). It provides a comprehensive and detailed step-by-step system that family law attorneys can apply to custody reports to discern their strengths and weakness. A companion workbook, [Custody Assessment Analysis System Workbook \(CAAS\)](#), is also available.

Welcome to New Chapter Presidents

Illinois: Nanette McCarthy, JD, BSBA, Chicago

Ontario: Honourable Justice Debra A. W. Paulseth, Toronto

AFCC Members Receive NIJ Grant

Indiana University, in collaboration with the University of Arizona and the DC Superior Court's Multi-Door Dispute Resolution Division, received a four-year grant from the National Institute of Justice, the research, development, and evaluation agency of the US Department of Justice. The grant will fund empirical research on whether family mediation is a safe alternative to court-based litigation in cases with a history of intimate-partner violence. **Connie J.A. Beck** is a co-principal investigator and associate professor in the University of Arizona's Department of Psychology. **Amy Holtzworth-Munroe** is a co-principal investigator and professor at IU's Department of Psychological and Brain Sciences. **Amy G. Applegate**, a member of the research team, is a clinical professor of law, and director of the Viola J. Taliaferro Family and Children Mediation Clinic at the IU Maurer School of Law.

[See the press release for more information](#)

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Ask the Experts

Is there a topic you would like to see covered by an AFCC Ask the Experts piece?

[Email your suggestion](#)

About AFCC eNEWS

Readers are welcome to forward this e-newsletter to interested colleagues. All opinions expressed are those of the author and do not necessarily reflect those of AFCC.

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editor@afccnet.org



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Welcome New AFCC Staff

Carly Kreger is the new program assistant. She began working for AFCC in August and is in graduate school at the University of Wisconsin-Madison in Library and Information Science. **Nicole Ellickson** is the new meeting manager. She began working for AFCC at the beginning of October. Nicole is originally from the Madison area and returned here from Chicago, where she was a senior event manager at the Oak Brook Hills Marriott Resort.

FLAFCC Task Force on Social Investigations and Parenting Plan Evaluations: Survey of Florida Circuit Programs and Processes

By Linda Fieldstone, MEd, and Debra K. Carter, PhD

Courtesy of the Florida Bar Family Law Section's Commentator
Courts often require extensive information regarding parents and children in high conflict parenting plan cases to make the most appropriate decisions for families. In 2008, the Florida Chapter of AFCC (FLAFCC) created a task force on Social Investigations and Parenting Plan Evaluations (SIPPE Task Force) in an effort to explore the various programs and processes which inform courts about the dynamics of families and the best interests of children.

[Read more](#)

ABA Task Force Releases Draft Report on Future of Legal Education

By Alli Gerkman, courtesy of Educating Tomorrow's Lawyers, IAALS Online

The ABA Task Force on the Future of Legal Education has released its draft report, which highlights proposals and conclusions related to changes in the pricing of legal education, liberalizing or eliminating certain accreditation standards, speeding the pace of innovation and practical-skills training at law schools, and using non-lawyers to achieve broader delivery of law-related services.

[Read more](#)

Family Law in the News

Divorce After 50 More Common

By Sam Roberts, courtesy of The New York Times

So much for "till death do us part." For the first time, more Americans 50 and older are divorced than widowed, and the numbers are growing as baby boomers live longer. Sociologists call them gray divorcees.

Barbara Wingate and her husband of 34 years divorced in 2009—after the marriage of their daughter. Both were 58 and they had tried for a

year to resolve their differences.

[Read more](#)



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1. Set the stage for the mediation process. Explain to the parents the purpose, contractual and functional nature of the parenting plan, and that a judge will sign the agreement and that it will become a court order, enforceable by the court. Help them understand that they can control the outcome of the mediation, while you will control the process. Inform them that a parenting plan is an organic document that can (and should) be modified as the children get older and as their respective life circumstances change over time. Let them know the logistics of the ways in which they can modify their agreement in the future. Request that they follow basic rules of good communication; e.g. use "I" statements and active listening, no interrupting, no cursing at each other, etc.

2. Gather essential information. Reduce gathered information to behavioral and observable form, as much as possible. Base any recommendations on specific information included, rather than on vague "impressions." The information gathered should separate that which is essential from that which is non-essential. For example, essential information might include questions about the parents' work schedules, the child's adaptability, and the pre-divorce parental pattern of time-sharing with the child. Non-essential information is usually offered spontaneously by each parent in hopes of positioning himself or herself with the mediator in a more favorable light. Non-essential information includes such things as how many affairs he/she had, how he chose bowling over spending time with the children, or how she didn't feed the children healthy foods. Distinguishing essential from non-essential information can be accomplished by asking the right questions (with relevant focus on developing a parenting plan for the future) and deflecting wrong answers. Essential information requires getting *both* parents' views on *everything*.

3. Incorporate the developmental needs of the children. This includes the ages of each child and the developmental, psychological, physical, social, and emotional functioning of each child, before the parental separation and currently. It is also important to ask about any special needs of each child (i.e. medical, developmental disorders, psychological/ behavioral disorders); these are often overlooked by mediators (and judges) when developing parenting plans (Saposnek, et al. 2008). Asking also about unique temperament differences and challenges of each child (Saposnek, 1998; 2006) can help guide a discussion that leads to creating a maximum "goodness of fit" with each parent. For example, it may lead to more time with a parent who has greater tolerance for standout temperament challenges, such as a child with a very high activity level. Or, it may lead to less school-day time in a household with lots of people and noise, for a child with a very sensitive temperament who would be overwhelmed trying to do daily homework in such a setting. Interviewing the child, who may well know what is in his or her best interests, can assist these inquiries. While only a minority of mediators ever interview children (Saposnek,

2004), it is very helpful in gathering accurate information. In fact, judges have been interviewing children quite successfully (Birnbaum and Bala, 2010).

4. Assess information for feasibility and enforceability. The clauses in parenting plans need to be feasible, that is, realistic in a way that parents can actually carry out what they intend to carry out, and enforceable as a court order. For example, including a clause that states something like, “In five years, Little Richard will live with Father full-time” or, “Mother agrees to never drink alcohol again,” are non-feasible clauses. For one, the best interests of Little Richard will realistically need to be re-assessed in five years and, at that time, living with Father full-time may not be in his best interests. Such a clause is not feasible since the statute can override the parents’ best intentions. And, alcoholics cannot promise to never drink alcohol again; perhaps they can agree to not drink *today!* Again, such a clause is not feasible and does not belong in a parenting plan. A mediator can include a clause that states the parents’ intent, but the parents should be very clearly informed that some clauses cannot and will not be enforceable by the court. For example, a court cannot enforce clauses like, “No bad-mouthing of each other in front of the children.” However, the parents should be informed of the consequences to their children in doing so.

Feasible clauses that can be documented and enforced are ones that describe things such as factual pick-up and drop-off times, each parent’s rights to contact the child’s school and to obtain educational, medical, and psychological records of the child, etc.

5. Create a comprehensive structure of the parenting plan. Minimally, the essential elements of a comprehensive parenting plan should include the following sections: designation of legal custody, a regular school-year schedule, a summer schedule, a holiday and vacation schedule, a series of special, specific clauses and conditions. These special clauses can include statements that describe the agreed-upon rules of communication and conduct between the parents (e.g. “The parents agree to use text messaging for regular scheduling matters and phone calls for emergency situations, such as...”). This section can also contain agreements about offering the first option for childcare to the other parent, who the parents agree can and cannot care for the child if neither parent is available, etc. A procedural statement should be included for how future modification of the plan will be made (“Both parents agree to return to mediation before taking any future separate legal action”). Within each of these sections, varying degrees of detail and elaboration can be added as needed for the particular case dynamics. Remember that mediation agreements frequently breakdown because of the inclusion of inappropriate, insensitive, imbalanced or unfeasible clauses, the omission of appropriate and necessary clauses, and the absence of an agreed-upon format for making future modifications of the plan. A comprehensive parenting plan can reduce the chances of an agreement breaking down for these reasons.

6. Use child-centered wording. While many parenting plans still are written using traditional legal language such as, “Primary physical custody to Mother and reasonable visitation to Father,” it is time to begin using language that specifically focuses on the child. This requires the mediator to make the conceptual shift from *parent-focused* wording, such as: “Mother shall have primary physical custody of Ricky, and Father shall have visitation rights on alternate weekends, one weekday evening, and a month in the summer,” or, “Mother will have custody during Thanksgiving, and Father will have custody during Christmas,” to *child-focused* wording, such as: “Ricky will share time with his parents according to the following schedule: He will be with his Father (or, “Father will be responsible for him...”) from Friday at 5:00 p.m. until he returns to school on Monday, weekly. He will be with his Mother from Monday after school until Friday at 5:00 p.m., weekly” or, “Ricky will share time with his parents during holidays according to the following schedule: On Thanksgiving, he will be with Father from... and with Mother from....” This requires the mediator (and the parents) to shift from thinking of parents as “owning their children” to thinking of children as “sharing their parents.”

7. Use clear wording. Many mediation agreements break down because of the use of vague wording in the clauses, such as “Primary custody to Mother, and alternate weekends to Father.” Such wording does not help the parents to know when exactly the child will be with each of them. For example, Dad may interpret this to mean that the alternate weekends begin on Thursday night and end Monday morning, while Mom may interpret it to mean “Saturday at noon until Sunday at 5:00 p.m.” Such vagueness of wording can cause more conflict between the parents than they had before coming to the mediator!

In contrast, a clearly worded clause might read, "The children will be with Father on alternate weekends beginning the weekend of October 30, 2013. On the weekends in which they are with him, Father will pick up the children from Mother's house on Friday between 4:00 p.m. and 4:15 p.m., and Mother will pick them up from Father's house on Sunday between 8:00 p.m. and 8:15 p.m. During transfers, both parents agree to remain in their cars while waiting for the children." Such verbal clarity will reduce conflict over the rules of engagement and is likely to be much more enforceable, if the need for enforcement arises.

8. Match the degree of detail needed with the degree of inter-parental conflict. A good rule of thumb regarding the degree of detail is to utilize Connie Ahron's (2004) original typology of post-divorce spousal relationships: Perfect Pals, Cooperative Colleagues, Angry Associates, and Fiery Foes. This typology provides a simplified and meaningful grid for determining the degree of detail needed for a particular set of parents. In general, the lower the level of conflict, the fewer details are needed, and the higher the level of conflict, the more details needed. Some examples follow:

Perfect Pals need: "Ricky will share equitable time between his parents each week, with details to be arranged between his parents."

"Ricky will share all holidays with both parents, with details to be arranged between his parents."

Cooperative Colleagues need: "Katie will also share time with Father, weekly, in mid-week, in the following alternating pattern: Following a weekend in which he does not see Katie, she will be with him from Tuesday at 9:00 a.m. until Wednesday at 1:00 p.m. Following a weekend in which he does see Katie, she will be with him on Wednesday from 9:00 a.m. until 7:00 p.m."

"During the Christmas holiday period, in even-numbered years, Katie will be with Mother from December 20 at 5:00 p.m. until December 24 at 5:00 p.m., and then with Father from December 24 at 5:00 p.m. until December 28 at 5:00 p.m. In odd-numbered years, this pattern will reverse between the parents."

Angry Associates need: "Each parent agrees to have a separate set of clothes, diapers, carrying bags, car seats, and other care-giving supplies for beginning each 'on-duty' time with Angela, in order to eliminate disputes over misplaced, lost or insufficient clothing and supplies available to her. Moreover, the parents agree to maintain a 'transfer outfit' that Angela can wear only during transfers between parents, which effectively eliminates complaints about 'lost clothing.' Upon receiving Angela from the other parent, each parent will carefully place the 'transfer outfit' by the door, and upon returning to the other parent, Angela will once again be dressed in it."

Fiery Foes need: "All transfers of Russell will take place at the Main Street Police Station, with the parent who drops off Russell leaving the premises 20 minutes before the picking-up parent arrives. Father will arrange for the police secretary to retain Russell for those 20 minutes, so that the parents never see each other during transfers of Russell."

Sometimes, too many details can be as bad as too few details, as it can set expectations for inflexibility and non-cooperation between the parents. The mediator needs to make a judgment call regarding this on a case-by-case basis.

9. Balance parental concessions. Because of the frequent heightened sensitivity of parents in mediation, the mediator needs always to be monitoring the agreements to make sure that the concessions are balanced between the parents. Too many concessions by one party are likely to result in a flare up of anger and resistance. There is an art to balancing the concessions of the parties. It requires vigilant awareness of the reactions of each party while the other asserts a need.

An example of an imbalanced, one-sided concession likely to get a flare up from Dad is: "Father agrees to refrain from using cocaine and alcohol while driving the children, or while in the presence of the children." But, re-written as a balance concession (assuming that Mom can tolerate it), it would read: "Both parents

agree to protect their children by not exposing them to any use of illicit drugs or alcohol while the children are in the care of either parent, and they agree not to drive the children while under the influence of alcohol or any illicit drug.”

10. Consider partial and/or short-term agreements. Rather than accepting an impasse in mediation as a failure of the process, it is often the case that a couple will accept a partial agreement rather than no agreement. The final wording of a partial agreement (preceded by all the clauses that they did agree to) could read as follows: “Because the parents are unable to reach agreement on the issue(s) of... they agree to request that the court make the decision(s) for them on this/these last issue(s).”

Or, a partial agreement with options could read: “The following possible plans for sharing the children were developed by the parents (Plan A; Plan B). Because the parents were unable to decide between these options, they are requesting the court decide on one of these options for them.”

A short-term agreement of three or six months is often an impasse-breaker, allowing each party face-saving and giving time for the emotional process of divorce to do its magic and soften the parties so that they are more ready to reach agreement when they next meet in mediation.

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- Donald T. Saposnek, PhD**, has been a clinical-child psychologist and family therapist since 1971, a child custody mediator and trainer since 1977, a long-time member of AFCC, a founding board member of the Academy of Professional Family Mediators and editor of *The Professional Family Mediator*. He is the author of *Mediating Child Custody Disputes: A Strategic Approach*, and co-author of *Splitting America: How Politicians, SuperPacs and the News Media Mirror High Conflict Divorce*. He has been teaching on the psychology faculty at the University of California, Santa Cruz since 1977. His website is: www.mediate.com/dsaposnek/.



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President's Message: The Next Wave of Change

By Nancy Ver Steegh, JD, MSW, St. Paul, Minnesota



Earlier this year, AFCC celebrated its 50th Anniversary with a conference entitled, *Riding the Wave of the Future: Global Voices, Expanding Choices*. Since the conference, I've been thinking about the waves of reform that seem to periodically reshape the family court landscape.

During the 1960s and 1970s, expectations and values related to families changed dramatically. As the stigma attached to divorce receded, no-fault divorce took center stage and the best interests standard replaced earlier more gender-based notions of parenthood. Change was so rapid that some people in long-term relationships married under one set of economic expectations and divorced under another.

By the 1990s, expectations and values related to the court system also began to transform. Alternative dispute resolution processes, many of which were developed by AFCC members in the preceding decades, weren't "alternative" anymore, as mediation and other processes became the norm. In addition to providing a neutral decision making forum, some courts became coordinators or providers of services in an effort to enhance family functioning.

I believe that we are on the cusp of another wave of reform and that a key area of focus will be: *How can the family court system most effectively meet the needs of a wide variety of families?*

There is no doubt that when it comes to families, one size doesn't fit all. Families vary in terms of marital status, income levels, and cultural background. They vary based on the needs of children, parenting capacity, safety, and logistical challenges. Some have access to representation and processes that others do not. If that's not enough, families also change over time, as they navigate separation.

Meeting the needs of real families requires us to embrace complexity and honor difference in the face of substantial pressure to cut and streamline. How can we promote outcomes that are child-focused, family-specific, and information-based? How can we empower families to make informed choices with respect to participation in processes and services available to them? When hard choices have to be made, which families should be given priority terms of system design?

Responding to questions like these will require us to critically examine our values, expectations, and assumptions. It's a good time to take stock of where we've been, make an honest appraisal of our current approaches, and prepare for a future that is likely to stretch us in ways we haven't fully imagined. I invite you to contribute your ideas as AFCC and some of our companion organizations contemplate the next wave of change.

NIJ Grant General
Press Release
10/1/2013

Indiana University, in collaboration with the University of Arizona and the DC Superior Court's Multi-Door Dispute Resolution Division, receives \$763,686 grant from National Institute of Justice

Indiana University, subcontracting with a co-principal investigator and research partners at the University of Arizona and the DC Superior Court's Multi Door Dispute Resolution Division (Multi-Door), has been awarded a four-year, \$763,686 grant from the National Institute of Justice (NIJ), the research, development, and evaluation agency of the U.S. Department of Justice.

The grant will fund empirical research on whether family mediation is a safe alternative to court-based litigation in cases with a history of intimate-partner violence (IPV). "Some experts argue that family mediation is a useful alternative, while others raise concerns about whether parties with a history of IPV can be adequately protected from physical and emotional harm in mediation," said Amy Holtzworth-Munroe, co-principal investigator and professor at IU's Department of Psychological and Brain Sciences. "Our research will provide new evidence to help weigh the risks and benefits of mediation in these cases."

"Despite the use of protective measures such as shuttle or videoconferencing mediation, the appropriateness of mediation has been a source of controversy in cases involving IPV," said Amy G. Applegate, a member of the research team, clinical professor of law, and director of the Viola J. Taliaferro Family and Children Mediation Clinic at the IU Maurer School of Law. "The NIJ's generous grant also makes it possible to measure the effectiveness of mediation in these cases."

Connie J.A. Beck, co-principal investigator and associate professor in the University of Arizona's Department of Psychology, explained that the study will consist of a randomized control trial of family mediation with cases of IPV that Multi-Door would generally consider inappropriate for mediation. These cases will be randomly assigned to one of three study conditions: traditional court-based litigation, shuttle mediation or video-conferencing mediation. "We estimate 75 mediation cases for each study condition," Beck said, adding that no study of the outcomes of these approaches has ever been conducted.

The study will take place at Multi-Door. Immediate and one-year outcome measures have been established, and a one-year follow-up study will be conducted to evaluate continuing intimate-partner violence and fear-related issues. According to Multi-Door's Director Jeannie Adams, "Traditionally, the path forward for families with high IPV has been to court, where litigation has the potential to escalate violence. The Division's goal is to provide a safe method of dispute resolution when possible for families in high conflict situations; we can do this best by providing alternatives to the traditional mediation model, using shuttle and video conferencing mediation when appropriate. We are very excited about the study since it will provide us with evidence to support whether families with high IPV fare better in mediation or court." Data analyses will

test hypotheses, such as the hypotheses that mediation will not result in more fear or continued violence than court cases but will result in more flexible and customized safety arrangements to protect both parties and their children. In addition, cost-benefit analyses will be conducted.

In addition to Applegate, Holtzworth-Munroe, Beck, and Adams, other researchers involved in the study are Matthew Centeio-Bargasse, Darrell Hale, Jennifer Herman, Kitty Huggins, Roberta Mitchell, and other Multi-Door staff. Consultants to the project include statistical consultant Brian D'Onofrio, associate professor, IU Department of Psychological and Brain Sciences; cost-benefit analysis consultant Kerry Krutilla, associate professor, IU School of Public and Environmental Affairs; and Peter Salem, executive director of the Association for Family and Conciliation Courts, who will consult on dissemination and policy implications of study findings.

Results of the study will be published in interdisciplinary peer-reviewed journals, reports, and presentations to stakeholders, with a goal towards informing families, mediators, judges, and courts about the feasibility of special types of mediation as an option for separating parents who have a history of intimate-partner violence.

Applegate, Munroe-Holtzworth, Beck and Adams are available for further discussion of this study. Applegate can be reached at aga@indiana.edu or 812.855.8684, and Holtzworth-Munroe can be reached at holtzwar@indiana.edu or 812.855.8159, Beck can be reached at beck@email.arizona.edu or 520.626-4965, and Adams can be reached at adamsj@dcsc.gov or 202 879-1549.

FLAFCC Task Force on Social Investigations & Parenting Plan Evaluations: Survey of Florida Circuit Programs and Processes

By Linda Fieldstone, M.Ed. and Debra K. Carter, Ph.D.

Courts often require extensive information regarding parents and children in high conflict parenting plan cases to make the most appropriate decisions for families. In 2008, the Florida Chapter of the Association of Family and Conciliation Courts (FLAFCC) created a task force on Social Investigations and Parenting Plan Evaluations ("SIPPE Task Force") in an effort to explore the various programs and processes which inform courts about the dynamics of families and the best interests of children. The SIPPE Task Force consisted of a multi-disciplinary group including: judges, attorneys, parenting plan evaluators, mental health professionals, parenting coordinators and other court services.

The objective of SIPPE was to educate courts of the various processes that can help judges make the best decisions regarding children and families, and provide family law professionals, and the parties themselves, with the opportunity to select the most appropriate process or program available.

The SIPPE Task Force explored investigative studies ordered in various domestic relations (e.g. family, dependency, domestic violence) and Unified Family Court cases, including family, dependency, and domestic violence cases. A 2009 statewide survey identified and labeled each process conducted in domestic relations cases, as well as circuit-run programs in the courts. The survey found that not one of the circuits provided all of the processes described in this article. Additionally, the fees and procedures for each process varied by circuit.

Professional Standards and Guidelines

The processes and procedures for providing services are not only guided by state statutes and administrative codes, but by national standards and guidelines promulgated by professional organizations and oversight boards. In addition, national standards, such as the Association of Family and Conciliation Courts (AFCC) Model Standards for Child Custody Evaluations (2009) and Guidelines for Brief Focused Assessments (2009), were considered. Other services performed for the court by psychologists and other mental health professionals were outside the scope of this survey and article, including court involved therapists, Guardians ad Litem, parenting coordinators, mediators, and supervised visitation observers. This survey did not address services that may be provided in criminal or other civil litigation matters.

Definition of Terms/ Description of Process

The SIPPE Task Force considered pertinent variables within each process, as well as statutes, procedural rules, and professional guidelines, in creating the definition and protocols for the services described below. Variables considered included: (a) amount of time involved to conduct the process; (b) cost of the process; (c) professional qualified to conduct the process; (d) information or recommendations that may be gleaned through the process and reported to the court; (e) scope of each process as defined by Florida Statute, Court Rule, Administrative Order, and court's Order of Referral.

A court order for a social investigation should dictate the investigative process, describe the pertinent details and factors that should be evaluated to determine the best interests of the child, and the time frame to complete the process. Upon completion of the investigation, a written report is generally submitted to the court. The report includes the compliance or non-compliance of the parties in cooperating with the investigation, may include recommendations addressing the referral questions, any limitations of the study and procedures utilized, any incomplete or missing data, and suggestions for additional services or other issues of concern. Unless a statute or rule requires a report be submitted to the court, it is up to each parent, or their representative, to provide the report to the court,. Once submitted to the court, the report must be properly introduced into evidence. The investigator is also obligated to inform the appropriate agency of any concerns about abuse or neglect of a child or other party.

A. Social Investigation

The Social Investigation is also known as a parenting plan evaluation or custody evaluation. A social investigation is a process performed by an impartial mental health professional who is qualified by statute to provide the court, the parents, and attorneys with a thorough report addressing the best interests of the child.¹

A social investigation may or may not include psychological testing. If included, the psychological testing must be conducted by a licensed psychologist, even though the rest *continued, next page*

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of the Social Investigation may be conducted by other mental health professionals. Social Investigations should include:

1. Interviews with each child, parent, step-parent, or adult in a parenting role;
2. Visits to the homes of each parent;
3. Observations of each child with each adult in a parenting role;
4. Screening for domestic violence and abuse; all allegations are investigated;
5. Contact with others living in each home;
6. Contact with relevant collaterals, such as teachers, doctors and employers;
7. Interviews with objective character references submitted by each parent;

8. Background checks of relevant police and court records;
9. Findings of related cases, when identified;
10. Outcomes of relevant surveys and questionnaires, if administered;
11. Presentation of facts to the court, addressing all pertinent details relevant to a child's best interests, and addressing parental responsibility and time-sharing arrangements;
12. May include recommendations to the court.

The process usually requires a lot of time, but also provides the most comprehensive information decision makers. The report should be submitted within 45-75 days, depending upon the circuit, but in no event later than 30 days before trial.² The costs for a social investigation can range between \$650 to \$1,800 in circuits which have programs designed to service low-income litigants. If the

social investigation is provided by a private sector mental health professional, the cost can be considerably more expensive. In the private sector, social investigation fees can range between \$150 to \$400 per hour, depending on the investigator, or whether psychological testing is administered. A retainer is often required.

B. Brief Focused Evaluation

The referral question in the order will determine if the evaluation is either brief and broad in scope, or a focused, in depth evaluation. A Brief Evaluation is defined as a broad survey, and consists of screenings, interviews and surveys. Brief evaluations are intended to expedite the gathering of information, concentrating on the short term, rather than the long-term, needs of the family. A more focused evaluation, sometimes called an Issue Specific Evaluation, addresses narrowly defined referral questions identified in the order. Is-

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sue Specific Evaluations differ from more comprehensive evaluations in that their scope is very specific, and may be ordered because of an already identified area of concern. The focused evaluation may require the expertise of trained clinicians licensed by statute, depending on the referral question.

The cost of a Brief Focused Evaluation can vary according to the private practice rate of the mental health professional, or may be provided by court services for no fee if ordered by the court. Methods used for each may include:

1. Interviews of each parent or adult in a parenting role and each child;
2. Observations of parent-child interactions;
3. Screening for domestic violence and abuse;
4. Review of relevant records;
5. Findings of related cases, when identified;
6. A criminal background check of each parent or adult in a parenting role;
7. Consultation with relevant collateral sources
8. Limitations of evaluation and issues requiring further investigation;
10. Recommendations pertinent to the specific questions asked by the court.

The more focused evaluation may also include psychological testing, if required, when performed by a psychologist.

C. Home Study

A Home Study is designed to be an evaluation of the suitability of the home and environment in terms of safety and meeting the needs of the child. The period of time to complete a Home Study ranges from 45–75 days. Home studies are generally conducted by a mental health provider, or an individual as otherwise ordered by the court. A Home Study may be included as part of a Social Investigation, or may be conducted

independently. The cost of a Home Study will typically be less than a Social Investigation, since the range of services is not as comprehensive. A Home Study typically involves the following:

1. A minimum of one home visit to the residence of each parent;
2. Observation of the child(ren) with each parent or adult in a parenting role;
3. Inventory of individuals living in the home(s) and their relationship(s) with each child;
4. Screening for domestic violence and abuse; all allegations are investigated;
5. Criminal background check for all individuals living in the home;
6. Findings of related cases, when identified;
7. Written report of findings, which may include any relevant recommendations, including safety issues, and information regarding past or current domestic violence and abuse incidents involving any individuals living within the home.

D. Mental Health Assessment or Psychological Evaluation

A mental health assessment is limited in scope to a party's general mental health functioning, and may result in recommendations for more in depth psychological or psychiatric evaluations. It may be court ordered for the purpose of identifying the presence of a mental condition, and indication for therapeutic intervention. Assessments should be conducted by licensed mental health providers who will select the protocols and instruments to be utilized commensurate with their licensure and training. A psychological evaluation is for the purpose of identifying the presence of a mental disorder, cognitive impairment, neurological dysfunction, and differential diagnosis. It will generally involve the use of psychological testing instruments and can only be conducted by practitioners who are licensed.

The cost of a mental health assessment may vary according to the mental health provider, but is generally less than a psychological evaluation, since psychological testing is not included. Psychological evaluations may be covered by health insurance if the diagnosis or condition is health related. Psychological evaluations which do not address health related issues, such as parenting and partner conflict, are not covered by medical insurance. Dissemination of the report is governed by Florida Family Law Rules of Procedure 12.365 and 12.363.

The standard Mental Health Assessment should include:

1. Clinical interview(s);
2. Relevant review of records (may include background check);
3. Findings of related cases, when identified;
4. Screening for domestic violence and abuse;
5. Interviews of collateral references;
6. Inventory and/or questionnaires relevant to the reason(s) for referral (e.g. alcohol or drug use, personality or behavioral issues, etc.);
7. The reason for referral, history and presenting problems, mental status exam, findings from assessment, and a summary
8. Specialized assessment protocols, which are utilized when indications or allegations of substance abuse, domestic violence, or sexual abuse are present;
9. Indications for therapeutic intervention and/or any other type(s) of specific interventions required;
10. May include recommendations to the court, including need for further psychological evaluation.

In addition to the above, a psychological evaluation includes: an investigation of pertinent allegations; standardized measures of assessment relevant to the presenting issue for referral (e.g. alcohol or drug use, personality or behavioral issues, etc.); a

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five axis diagnosis, with Global Assessment of Functioning score); and specific recommendations to the court.

E. Psychiatric Evaluation

A psychiatric evaluation focuses on biological causes of mental health issues and biological interventions. Psychiatric evaluations include a history of the illness crucial to the understanding of the condition, the symptoms, and the course of the illness which establish a diagnosis. A Psychiatric Evaluation is conducted by practitioners who are licensed under F.S. 458, and may be covered by insurance. Psychiatric evaluations are generally completed in 30 to 90 days. Fees for psychiatric evaluations vary depending upon the medical provider. The standard evaluation and report follows a basic medical model.

Impact of FLAFCC SIPPE Task Force Project

The goal of the SIPPE Task Force was to educate the courts about different programs and processes available to them. When considering matters related to children's best interests, it is important to understand the various tools available to obtain necessary information. When judges are made aware of what services are offered in their jurisdictions, they have an opportunity to order the most appropriate and least costly process. In addition to educating circuits about the programs and processes used in Florida, the SIPPE Task Force also sought to improve the consistency and results of differing procedures, and increase their availability throughout the state.

Impact for the Court, Attorneys, and Practitioners

It is essential for courts to understand the minimum standard pro-

cedures and training necessary for professionals ordered to provide these services. The background, training, and practice protocol of an individual provider will influence the procedures used, the information obtained, and the manner in which this information is presented to the court. Defining the minimum standard procedures to be used by the providers also allows the intended readers of the reports to more easily understand time-frame, cost parameters, and the minimum level of training and experience for the provider.

Moreover, providers must adhere to standardized procedures to obtain information that is valid, reliable, and non-biased. A more efficient review of the resulting reports occurs when standardized procedures are followed. However, some of the procedures described in this article do not have national standards or guidelines. When circuits develop a list of community providers, and a method of referral for the court, judges do not have to become referral agents themselves.

Affordability/Accessibility Issues

Unfortunately, in some circuits there are no programs or processes available to assist parents and families at an extremely vulnerable time in their lives. The parents' finances must be taken into consideration when ordering any court program or process. When there is no court operated or affiliated program, the parents are dependent upon private providers to facilitate court ordered services. Availability of low cost services may be limited due to the number of psychologists or other professionals willing to perform these processes at reduced rates.

Conclusion

FLAFCC SIPPE Task Force understood that it is vitally important for parents, their attorneys and the courts to know the options available to resolve, evaluate, or manage child-related issues. When parents under-

stand the options, they can select the best process or program available. Attorneys who are knowledgeable of the processes offered in their communities can better assist their clients with selecting the most appropriate procedure. Additionally, professionals who follow standard procedures ensure that the information provided addresses the needs of the court. When courts choose the best process or program to meet the unique needs of a family, the best interests of children are served.

Acknowledgement and appreciation to FLAFCC SIPPE Taskforce Members: Michelle Artman-Smith, Esq., Ruth Angaran, LCSW, Jill Conti, Esq., Richard Dehmer, LMHC; Leslie Haswell, Esq., Hon. Mark Moseley, Myrna Neims, LCSW, and Robert Wernick, Ph.D.; more information is available on the Florida Chapter of the Association of Family and Conciliation Courts website: <http://flafcc.org/parenting.cfm>



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Endnotes:

- 1 See §61.20, Fla.Stat. (2012).
- 2 See §61.20, Fla.Stat. (2012).