

CONTINUING UPWARD FROM THE SUMMIT

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An E-newsletter Highlighting Implementation
Accomplishments & Events Throughout the Country

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A "THINK TANK" ON CHILD WELFARE DECISION MAKING

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When the use of mediation and related dispute resolution procedures to deal with child welfare decision making was first introduced 25 years ago, it seemed to many a rather outlandish idea. How could mediation, facilitated decision making, or other consensus building processes be used for such complicated problems with seriously disrupted families and troubled parents in a system that was overburdened, underfinanced, and where the stakes were so high? Just getting child protection agencies and service providers to consider trying it was no easy task. But the reasons for using dispute resolution processes in child protection and permanency planning were also compelling. Bringing parents and extended families into the decision making processes, obtaining their genuine agreement to intervention plans, creating a greater sense of teamwork among all the many players involved in these processes, and allowing much more extensive dialogue among parties who need to cooperate but are set up to be adversaries is critical to the effectiveness of child protection. Therefore, slowly but surely more and more child welfare systems began to introduce some form of cooperative decision making procedures. Today, the use of mediation, family group decision

every time they are introduced somewhere new, the case still has to be made), but how best to provide them. During the past twenty-five years, much has been learned about how to make child welfare mediation and related processes work in different settings. What we have not been able to adequately accomplish, however, is to create a mechanism for consolidating and disseminating the best wisdom these programs have to offer about effective alternative approaches child welfare decision making.

A series of informal conference calls was held between experts in the field of alternative dispute resolution in child welfare cases over a period of several months. This group collectively expressed an interest in working collaboratively across states and with national organizations to further explore the use of ADR in child welfare cases and plan ways to improve the knowledge base for others who might benefit from the lessons learned in the past.

Simultaneously, the National Center for State Courts, with a grant from the Pew Foundation, convened a Summit on Children hosted by Chief Justice Katz in New York City. The Summit brought together Chief Justices and court administrators to continue the emphasis on child protection cases in the courts that began at the Summit on Children in Minnesota. At the Summit on Children, the attendees heard from many experts in the field of child welfare and the courts. It served as a "Call to Action" for each state's Chief Justice to make cases of children and families affected by abuse and neglect a priority in their states. The Summit raised awareness of the courts role in promoting safety, permanency and well being for children. One session at the Summit gave attendees the opportunity to learn about the use of alternative dispute resolution and its effective use in child protection cases.

Each state was asked to articulate an Action Plan for how the judicial authority would implement strategies for making child protection cases a priority and how each would collaborate with the child welfare agency in its particular state. A number of states identified the use of mediation as a part of their planning efforts. (Continued)



making, facilitated case planning and placement review, and related procedures is widely recognized as a valuable service by child welfare systems around the world. The questions we have to ask now are not whether these procedures are a good idea (although



"...THINK TANK..." CONTINUED

Given this identified effort, the National Center for State Courts, through the Pew Upward from the Summit Grant initiative, joined with the Association of Family and Conciliation Courts (AFCC), the National Council of Juvenile and Family Court Judges, the Werner Institute for Negotiation and Dispute Resolution at Creighton University School of Law, and several Court



Improvement Programs (New York, Connecticut, and Alaska) to undertake a project to better understand the best practices, lessons, challenges, and opportunities of child protection conflict resolution.

In order to obtain data from programs across the United States and Canada, a survey of leading child welfare dispute resolution practitioners was conducted last summer and followed up by a series of intensive interviews. The survey and interview included questions regarding the basic functioning of the particular program, the factors which contribute to a successful conflict resolution, the factors which serve as obstacles to a successful conflict resolution, and the programs major successes and challenges, and the program's attempts to deal with those obstacles.

The results of this effort became a working paper that informed the discussion of 30 leading practitioners who gathered for a two day "Think Tank" on child welfare conflict resolution held in conjunction with the AFCC regional conference in Columbus, Ohio on September 25-26, 2007. Professionals from across the United States and Canada attended this gathering, including senior program staff from the National Center for State Courts, judges, program directors/coordinators, and researchers. Picking up on the themes that emerged from the survey, the Think Tank attacked the broad range of issues that child protection mediation and family group decision making programs face. Of particular importance to everyone was how to balance the pressure to obtain agreements in a timely and efficient manner with the importance of empowering families, giving them a powerful voice at the table, and creating family centered and family driven processes. Lively discussion occurred about the appropriate role of professionals, particularly lawyers in this process, the

fundamental purpose of these efforts, how to define and measure "success", and how to obtain professional support, particularly in view of the initial resistance many programs face. Participants also grappled with the way child protection mediation and family group decision making processes could be integrated into an effective spectrum of child welfare decision making services.

Perhaps the most significant benefit of this process was the opportunity it provided for a group of passionate professionals to network and come together to learn from each other, understand the many different ways that mediation and conferencing processes could be structured, and build a supportive network for future collaboration

This was very much a first step in what is to become an ongoing effort. The group created the beginning of a communication infrastructure and is planning on holding discussions in the future, including a plan to gather, in conjunction with AFCC's annual conference in Vancouver. The January, 2009, Family Courts Review (FCR) will be devoted to child welfare conflict resolution and decision making.



The National Center for State Courts continues to lend its expertise and administrative support to the ongoing effort. Hopefully these efforts will lead to a viable, ongoing forum for continued communication among child welfare mediation and family group conferencing programs, mediators, facilitators, and the community of stakeholders that participate in these efforts.

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PERMANENT JUDICIAL COMMISSION FOR CHILDREN

The Supreme Court of Texas has created the Permanent Judicial Commission for Children, Youth and Families to help courts better serve children in foster care and move them more quickly into permanent homes. Courts play a critical role in determining these children's future. No child is removed from his or her home, is returned home, or does anything significant in between without a court order. A judge decides where the child will live, with whom, and for how long. A judge decides whether the child will be allowed to see siblings and other family members, how often, and under what circumstances. A judge approves family service plans and monitors progress to determine whether the family can stay together. Also a judge will decide whether a child's relationship with his or her parents will be terminated forever. Clearly, courts have a profound impact on children and families in this state, and the stakes are exceedingly high. (See [Order Creating Commission](http://www.supreme.courts.state.tx.us/MiscDocket/07/07919300.pdf) at <http://www.supreme.courts.state.tx.us/MiscDocket/07/07919300.pdf>)

"We want to make our system more efficient and fair and protect our children with greater care," Chief Justice Wallace B. Jefferson said. "We've been told that children in foster care are often referred to as forgotten children. Today, we demonstrate by creating this commission that we have not forgotten these children."

In its order creating the 14-person commission, the Court appointed Justice Harriet O'Neill as its chair. "To champion the



needs of children, we must foster collaboration among courts, Child Protective Services and other participants," Justice O'Neill said. "No other vehicle exists that brings this many high-level stakeholders together from both public and private sectors."

The commission's creation followed a September hearing on a proposal by a consulting group of judges, lawyers and others who work in child-protection courts that a permanent body tackle challenges posed by exploding caseloads involving children in foster care. Numbers of foster care children in Texas increased by more than two-thirds over 10 years, from 11,808 in 1996 to 19,942 in 2006.

The law has become more complicated and requires more hearings, the inclusion of multiple parties and participants in each case and numerous judicial decisions ranging from whether a child should be removed from the home to whether their parents' rights should be terminated forever.

"...Today, we demonstrate by creating this commission that we have not forgotten these children."

Court resources have not kept up with the demands on the courts' responsibility to balance protecting children while respecting the rights of their parents and families – and do it within subscribed time periods. Texas courts and the attorneys representing the parties before

them need more training, and better case-management and data collection tools are a must.

The 14-member Commission will function as an umbrella group for court-improvement efforts, including sharing best practices among courts and improving their accountability. It will:

- ◆ develop a strategic plan for strengthening courts and court practice in the child protection system
- ◆ identify and assess current and future needs for the courts to be more effective in achieving child-welfare outcomes of safety, permanency, well-being, fairness and due process
- ◆ promote best practices and programs that are data-driven, evidence-based, and outcome-focused
- ◆ improve collaboration and communication among courts, the Department, attorneys, and partners in the child-protection community
- ◆ endeavor to increase resources and funding needed for improvement, and maximize the wise and efficient use of available resources
- ◆ promote adequate and appropriate training for all participants in the child protection system
- ◆ institutionalize a collaborative model that will continue systemic improvement beyond the tenure of individual Commission members
- ◆ oversee the administration of designated funds, including the Court Improvement Program grants
- ◆ provide an annual progress report to the Court

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To better respond to the increased queries about state commissions for child protection, the NCSC would like to hear what other commissions are doing. Please share with your colleagues, through NCSC, what issues your commission is addressing/has addressed, what publications have been produced and whether they are available electronically (please include the URL); and what advice and valuable lessons you have for new commissions. Please send the information to Mary Beth Kirven at mkirven@ncsc.dni.us We welcome you to write an article about your state's commission for inclusion in our newsletter. Thank you in advance for your help.

FLORIDA SUMMIT SUMMARY

The Florida Department of Children and Families held the seventh statewide Dependency Summit September 5th -7th. This summit has always been a collaborative planning effort between the Department of Children and Families and the Florida Office of the State Courts Administrator's Office of Court Improvement. Staff from the Department of Juvenile Justice, Department of Health, Guardian ad Litem Program, Florida Coalition for Children, and Florida Coalition Against Domestic Violence also assisted with planning this year's summit. The event was attended by over 1,500 participants including: case managers, child welfare administrators, attorneys, advocates, and guardians ad litem. In addition, the Office of Court Improvement sponsored teams of ten judicial officers and court staff from each of Florida's twenty judicial circuits. The theme of this year's summit was "Connecting People: Different Roles-Common Goal, Working Together for Stronger Families" and highlighted the importance of collaboration.

Governor Charlie Crist and the head of the Department of Children and Families, Secretary Robert A. Butterworth, opened the conference with the message that children are a priority of the current administration. Secretary Butterworth announced, "Today we are here to speak for those with the smallest voices, the biggest eyes, and the most grateful hearts. We are here to speak for the children." Governor Crist agreed, "Children are our highest priority because they have the right to grow up

with dignity in a safe environment and to know that someone will always be there for them." Justice Peggy A. Quince of the Florida Supreme Court delivered the keynote address the second day, along with David Lawrence of the Early Childhood Foundation Initiative, and Terie Dreussi-Smith, co-author of the book, *Bridges Out of Poverty: Strategies for Professionals and Communities*. The speakers delivered powerful messages on education, poverty, and the effects these issues have on Florida's children and their families.

The 2007 Dependency Summit offered a diverse collection of professional workshops as well as circuit and professional breakouts. The workshop topics included case law updates, court and media relations, and a child's voice in the courtroom. During the circuit breakouts, each circuit participated in identifying current challenges and developing action plans to improve the overall performance of the child welfare system. The professional breakout sessions provided an opportunity for brainstorming as well as an opportunity for individuals to network with other professionals from different jurisdictions. Overall, opportunities were provided for 13 different professions, some of which included judges and magistrates, court clerks, dependency case managers, parents' attorneys, and guardians ad litem.

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EXPERT ASSISTANCE SERVICES

The National Center for State Courts (NCSC), with support from The Pew Charitable Trusts, is pleased to announce the availability of statewide child protection expert assistance services.

This expert assistance is intended to help state court systems to (1) strengthen collaboration between courts and state child welfare agencies; (2) enhance strategic planning to improve the child protection process and outcomes; (3) develop and implement performance measures; (4) collect and analyze data regarding the child protection process and outcomes; (5) increase timeliness of child protection proceedings and appeals; (6) develop effective means for better informing judges, court and agency staff, and attorneys regarding the needs of neglected and abused children and the means for addressing those needs; or (7) otherwise address unique issues affecting state efforts to ensure timeliness of permanent dispositions in child protection cases, the fairness of the process, and the safety and well-being of children who require protection. The experts assigned to provide the needed support may be NCSC or NCJFCJ staff, practitioners from other jurisdictions, or independent consultants.

Selection of states to receive assistance will be based on a set of established criteria and subject to approval by the Trusts. To request expert assistance please complete the online application at:

http://www.ncsconline.org/d_consult/ChildProtection/form1.asp

For further information, please contact Mary Beth Kirven at mkirven@ncsc.dni.us or (303) 308-4307.

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