STATEWIDE INITIATIVES TO ENCOURAGE ALTERNATIVE DISPUTE RESOLUTION AND ENHANCE COLLABORATIVE APPROACHES TO RESOLVING FAMILY ISSUES

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Over the past 27 years, since the concept of the multidoor courthouse was first introduced, methods for resolving family issues have increasingly focused on less adversarial and more collaborative approaches. Infrastructures have developed in a variety of ways in different states to initiate, support, and promote these approaches, and pilot projects have provided an invaluable avenue for testing and implementing changes. This article will describe some of the current statewide initiatives to develop infrastructure and implement change through creative pilot projects and will propose strategies to sustain these changes.

Keywords: *Alternative Dispute Resolution; collaborative approaches; statewide initiatives; mediation programs; mediation; conflict resolution*

Over the past 27 years, since the concept of the multidoor courthouse was first introduced,[1] methods for resolving family issues have increasingly focused on less adversarial and more collaborative approaches. A web of infrastructures has developed in a variety of ways in different states to initiate, support, and promote these approaches; examples include statewide offices of dispute resolution, statewide mediation associations, collaborative efforts among professional associations, academic programs, and multidisciplinary advisory groups. Pilot projects have provided an invaluable avenue for testing and implementing changes. Although many examples exist of infrastructure development, pilot projects, and sustained systemic changes, there are still many gaps. Further infrastructure development is needed; more pilots can test new applications and ideas and lead to more institutionalization of change. There are many ways that states can develop, encourage, and sustain less adversarial and more collaborative approaches to resolving family issues.

This article will describe some of the current statewide initiatives to develop infrastructure and implement change through creative pilot projects and will propose strategies to sustain these changes. The authors will draw on examples from their states, Ohio and Colorado, while recognizing that many examples can also be found in other states.

BUILDING INFRASTRUCTURE

Statewide initiatives to encourage alternative dispute resolution (ADR) and enhance collaborative approaches have tended to mirror the processes they have advocated, in that they have typically developed through collaborative efforts of government, nonprofit, and private sector organizations. The following examples illustrate that regardless of which organization leads initially, specific accomplishments are the result of collaboration rather than resulting from the efforts of one actor. The key ingredient is communication among all of the

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players in a state, so that duplication and turf battles are avoided and multiple interests are taken into account. State offices of dispute resolution are in a particularly good position to ensure that this communication happens.

STATEWIDE AGENCIES AND ORGANIZATIONS TO PROMOTE AND SUPPORT ADR

State offices of dispute resolution: Judicial, executive, legislative, and academic. There are currently 35 state offices of dispute resolution, residing in the judicial, executive, or legislative branches of state government or housed in academic institutions.[2] These state offices play a major role in encouraging and sustaining the growth of ADR in their respective states. Often they also play a role beyond ADR in designing and promoting collaborative frameworks.

In Ohio, for example, the Ohio Commission on Dispute Resolution and Conflict Management (Commission), an independent body with appointing authority from the judicial, executive, and legislative branches, supports dispute resolution in communities, schools, courts, and state and local government. The Commission was established in 1989. Its stated purpose is to provide Ohioans with constructive, nonviolent forums, processes, and techniques for resolving disputes.[3] The Commission works to affect the lives of all Ohio citizens in a positive way. It provides dispute resolution and conflict management training, consultation, and technical assistance in designing dispute resolution programs and facilitation and mediation services.[4] The Commission's work has enabled Ohio to make great strides in conflict resolution, particularly in the area of education. The Commission works with a range of education programs, including head start programs and university colleges of education and all grades in between.

Ohio has a second statewide dispute resolution program office located in the Judicial and Court Services Division of the Supreme Court of Ohio. The Dispute Resolution Programs Section, with the assistance of the Supreme Court Advisory Committee on Dispute Resolution, provides technical assistance, training, and grant support to mediation programs in trial and appellate courts. The section has maintained a clear focus on assistance to courts that handle family matters.[5] Both Ohio programs are funded by the Ohio General Assembly.[6]

The Colorado Office of Dispute Resolution (ODR), created by statute in 1983,[7] is housed in the Colorado Judicial Branch. ODR establishes or makes available dispute resolution programs throughout the state, and in the course of doing so works with the courts on policy development, program design and implementation, educational efforts, and research and evaluation, as well as providing mediation and other ADR services. ODR also reviews ADR-related legislation and collaborates with community mediation centers, state and local bar associations, the state mediation organization, academic programs, and other organizations on numerous ADR-related projects. In these collaborative efforts, ODR acts to initiate projects, represent the interests of the judicial branch, and help organize and facilitate ongoing communication among the various partners. ODR is an example of a cash-funded statewide office and receives no legislative appropriation or judicial branch funding other than some limited judicial branch in-kind resources. ODR began by providing mediation for family disputes in 1984-1985. Currently, although ODR's mediators and ADR professionals provide services in a wide variety of disputes, the majority of cases still involve family issues.

State mediation associations. Many states have statewide mediation associations that provide networking and other support to individual and/or organizational members. These

associations can also initiate, participate in, and provide support for collaborative efforts. State mediation associations have played a particularly strong role in the areas of public education and enhancing mediator quality through dissemination of information regarding availability of training and education, development of ethical codes, and providing conferences and other educational programs. Associations can also develop proposed legislation and lobby regarding proposed legislation. For example, the Ohio Mediation Association (OMA), created in 1989, serves as a forum for mediators to network and provides mediator education and information to the public.[8] OMA maintains a Web site that was developed with assistance from the Commission. It also sponsors meetings and an annual education event. The work of OMA is supplemented by three regional mediation associations that also sponsor networking and education events. In addition, the Ohio Community Mediation Association (OCMA), established in 2002, works with community mediation programs to support new and existing programs.[9] Beginning in 2003, OMA and OCMA have partnered to offer regional forums for discussion of the Uniform Mediation Act.

The Colorado Council of Mediators and Mediation Organizations (CCMO) was created in 1983. CCMO provides an ethical code for its members and a variety of educational programs, including an annual statewide conference. CCMO has a Web site that includes information about mediation training and education and internship opportunities. CCMO and the Colorado Bar Association ADR Committee worked together to develop voluntary Guidelines for Mediator Education and Training that were endorsed by CCMO and the Colorado Bar Association in 1992, and CCMO maintains a list of mediators who have met these guidelines.[10] CCMO has initiated and/or participated in numerous other collaborative efforts, including cosponsoring an annual "Attorney-Mediator Dialogue" conference with the Colorado Bar Association (CBA) Family Section for the past 14 years and participating in an unsuccessful effort to establish a regulatory process for mediators that instead ended in the development of the Colorado Voluntary Standards of Conduct for Mediators.[11] CCMO's membership includes attorney and nonattorney mediators from a variety of professional backgrounds, as well as people who are interested in mediation but not yet trained as mediators. As in Ohio, the CCMO works to support new and existing community mediation programs.

COLLABORATION WITH AND AMONG PROFESSIONAL ORGANIZATIONS

State bar associations. State bar associations are important potential partners in encouraging less adversarial and more collaborative approaches to resolving family issues. Although the number of pro se parties is increasing across the country, particularly in family cases, attorneys still play a big role in representing and advising people regarding family issues, both in and outside of court. Without their support, efforts at increasing the use of ADR and other less adversarial, more collaborative approaches will fail through either the failure to develop the approaches or potential resistance and even sabotage if attorneys are not included in the development process. State bar ADR and Family Committees and Sections can be particularly helpful.

The Ohio State Bar Association's Dispute Resolution Committee is one of the largest committees in the Association.[12] It developed and maintains a comprehensive dispute resolution Web site for consumers that includes a statewide directory of dispute resolution providers.[13] The Dispute Resolution Committee collaborates with other committees and

sections—including environmental law, family law, and women in the profession—to provide continuing education programs, and also opens its meetings to all mediators in the state.

Similar to Ohio, the CBA ADR Committee provides an on-line directory of ADR providers. The CBA ADR Committee has initiated and/or been involved in numerous collaborative efforts such as the development of guidelines for mediator education and training, outreach to executive branch agencies to promote the use of ADR, addressing unauthorized practice of law issues in mediation, and the unsuccessful regulation effort described above, as well as public and bar educational and lobbying efforts. The CBA Family Section collaborates with CCMO on an annual conference as described above, and other CBA Sections have collaborated with the ADR Committee to provide educational programs.

In addition to state and regional organizations, dispute resolution professionals supplement interdisciplinary approaches through state and regional chapters of organizations, such as the Association of Family and Conciliation Courts (AFCC) and the Association for Conflict Resolution (ACR). The multidisciplinary structure of these organizations helps them encourage new collaborative approaches to education and programming. In New York, Florida, California, and Arizona, for example, AFCC chapters hold annual multidisciplinary conferences.

Centers, foundations, institutes. Several law-related organizations in Ohio have also joined the effort to make mediation a visible and viable alternative for Ohio's citizens. The Ohio Judicial Conference (OJC) is the official organization for Ohio judges. It has an ADR Committee that promotes judicial awareness of, and education about, ADR.[14] In 2002 the Judicial Conference partnered with the Ohio Center for Law Related Education to offer a mock mediation program for middle school students. The pilot effort was funded by the Ohio State Bar Foundation. The Commission staff and staff from the Dispute Resolution Programs Section of the Supreme Court also participated in this effort.[15] The Judicial Conference's ADR Committee also supports students at the Moritz College of Law at The Ohio State University who publish *Pass the Gavel*, a newsletter for judges about ADR.[16]

Colorado Judicial Institute (CJI), a nonprofit organization whose membership includes the judiciary, the legislature, the bar, and the private sector, seeks to improve the judiciary and judicial branch operations in Colorado. CJI has been involved with many efforts to promote the use of ADR in Colorado, usually initiated through the efforts of its ADR Committee. In the mid-1990s, the ADR Committee created an advisory coalition knowledgeable about ADR to make recommendations to the legislature. In the mid-1990s, CJI also became involved in the efforts, along with CCMO, ODR, the Colorado Attorney General's Office, and the CBA ADR Committee, to examine possibilities for regulation of mediators in Colorado (as described above). In March 2001, CJI was the major sponsor of the CJI ADR Forum, which took stock of the state of ADR in Colorado in four areas: courts, government, business, and community.[17] And in 2003, CJI joined the University of Denver, the Colorado Community Mediation Coalition (CCMC), ODR, and Jefferson County Mediation Services as cosponsors of the conference "Demonstrating the Impacts of Community Mediation in Colorado," which took the initial steps toward developing a uniform statewide instrument for collecting data that would demonstrate these impacts.

ACADEMIC PROGRAMS

Academic programs can be another invaluable partner in statewide efforts to encourage ADR and enhance collaborative efforts to resolve family issues. Academic programs can

help train mediators and other ADR professionals, assist with program evaluation, sponsor and house conferences, provide an avenue for locating and securing grant funding, and enrich policy dialogues concerning ADR and collaboration.

In Ohio, each of the nine law schools offers dispute resolution courses. At least five law schools partner with local courts or prosecutor's offices to provide mediation experience to students and mediation services to citizens. In Columbus, the two law schools have ventured well beyond these limited partnerships. Both offer a significant number of dispute resolution courses and partner with courts and other entities to provide externships as well as practical mediation experience. Both schools offer lectures and symposia to further thinking and discussion about dispute resolution. The Moritz College of Law at The Ohio State University also offers a public service project that pairs law students with selected Columbus middle schools to teach a six-segment dispute resolution training program for students.[18] The Capital University Law School Center for Dispute Resolution offers a variety of training programs for dispute resolution professionals and has partnered with a local insurance company to develop negotiation training materials for insurance adjusters.[19] Over the last 10 years, the law schools have provided many hours of free mediation services to small claims litigants.

In Colorado, the University of Colorado offers academic ADR classes to its law students, and some students intern with the Boulder Community Mediation Services.[20] The University of Denver (DU) has three different ADR programs. The DU law school program trains law students to mediate and educates law students about ADR, the Graduate School of International Studies houses an interdisciplinary master's degree program in dispute resolution, and University College offers an ADR Certificate Program that trains and educates adults through its continuing education program. Professors involved in these programs, as well as other professors at the University, have been involved in many collaborative efforts, including through the CBA ADR Committee, participation in presentations addressing issues of domestic violence and mediation, and sponsorship of the Demonstrating the Impacts of Community Mediation Conference mentioned above.

MULTIDISCIPLINARY ADVISORY GROUPS: COMMITTEES, COMMISSIONS, AND TASK FORCES

Multidisciplinary advisory groups have been enormously important to efforts to think outside the adversarial box. Lawyers and judges, trained and practiced in adversarial approaches to resolving family issues, frequently find it difficult to move very far from those premises. Adding members from other professions, including mental health and ADR professionals, can transform a discussion into a multidimensional conversation, leading to greater innovation. In addition, multidisciplinary advisory groups provide a forum for mutual education about interests and issues and development of the commitment to work toward mutually beneficial goals.

In Ohio, multidisciplinary approaches have been used in several instances to develop, implement, and sustain specific projects. Two successful initiatives in Ohio involved critical issues facing dispute resolution practitioners and courts. Staff in the Dispute Resolution Programs Section of the Supreme Court of Ohio saw a need to encourage diversity among mediators and other dispute resolution professionals. Networking and meeting opportunities provided by the section resulted in the creation of Ohio Minority Professionals in Dispute Resolution and the opportunity for the Section to provide limited financial and staffing support to conferences for minority dispute resolution professionals in 2002 and 2003.

A second initiative gathered a multidisciplinary work group to look at issues surrounding referral of cases involving domestic violence to mediation. The work group worked together for more than a year to develop policy recommendations that have been incorporated into Domestic Abuse Issues in Mediation: A Training for Professionals. The training teams are multidisciplinary, and courts are required to send multidisciplinary teams to participate in the 2-day training program. This multidisciplinary approach has resulted in increased communication about the services, problems, and success stories among individuals and organizations. Services to citizens have been improved by this sharing of information and knowledge as well. Specific outcomes that have benefited courts, their mediation programs, and citizens include enhanced tools and processes for screening for domestic violence, development of safety protocols when mediation of parenting time is possible, and a better understanding of what cases to exclude from mediation. Additional multidisciplinary approaches in Ohio are discussed below.

In Colorado, the multidisciplinary approach has been comprehensive. A series of multidisciplinary advisory groups in Colorado played critical roles in developing and promoting less adversarial, more collaborative approaches to resolving family issues. The 1984 Families and Courts report of the proceedings of the Family Law University, followed by the 1992 Colorado Courts in the Twenty-First Century: The Final Report From Vision 2020, Colorado Courts of the Future, both suggested that the court system take a more active role in case management. The Vision 2020 report stated specifically that "the adversarial process is generally inappropriate for family cases."[21] Next came the Task Force on Responsible Fatherhood, convened by then-Governor Roy Romer in October 1995, followed by the Judicial Action Committee (JAC) that issued its report in 1997, "Supporting Fathers & Families in the Judicial System." The JAC report advocated discouraging litigation, and offered as one example the multidoor courthouse. In 1998, then–Chief Justice Anthony Vollack responded to the JAC report by issuing a new charge to the Domestic Relations Multidisciplinary Committee (which had been reconvened in 1997) to identify "best practices" for processing domestic relations cases within existing resources. On July 12, 1999, the committee submitted its Recommendations for Best Practices in the Resolution of Domestic Relations Cases Involving Children to Chief Justice Mary Mullarkey, with the stated goal of encouraging resolution of domestic cases involving children outside of the adversarial model. In response to the JAC report, Chief Justice Vollack also created the Domestic Relations Study Group, charged with thinking outside the box to explore new ways of reducing the adversarial nature of domestic relations cases. After a lengthy and thorough evaluation of current practices, the Study Group concluded, among other things, that a new system should minimize the use of the adversary system and establish the expectation of cooperative dissolution and subsequent parenting.[22] Based on the Study Group's recommendations, Simplified Dissolution pilot projects were developed in three Colorado courts. These projects are described in more detail below.

Subsequently, in January 2001, Chief Justice Mullarkey created the Commission on Families in the Colorado Courts to examine the ways in which Colorado courts serve families and recommend changes to improve the system. The Commission held public hearings as well as special meetings with family law practitioners. The Commission's recommendations, among others, included amending statutes and court rules to provide nonadversarial alternatives to current procedures and supporting programs to build collegiality among attorneys practicing family law.[23]

The work to create better systems for resolution of family issues, including non-adversarial approaches, continues currently with the input of the Supreme Court Standing Committee on Family Issues, created after the conclusion of the work of the Commission on Families.

PILOT PROJECTS

PARENTING EDUCATION PROGRAMS FOR DIVORCING AND NEVER-MARRIED PARENTS

Mandatory education programs for divorcing and never-married parents are an excellent example of the leadership and collaboration necessary to institutionalize new services for parents. From a single, grant-funded parent education program in 1992, programs to promote civility and consideration of children's interests in divorce have grown so that now more than 50 of Ohio's 88 counties require parents to complete a parenting course before a divorce is granted. These courses foster cooperation between parents by helping them focus on the needs of their children and learn to avoid patterns of action that can harm children during the process of divorce and after.

Collaboration among judges and mental health professionals, county extension agents, and others have resulted in a variety of courses that meet the needs of parents in rural and urban settings. When judges expressed concern that they might not have authority to order participation in the courses, they undertook a successful effort to have enabling legislation introduced and passed.

ODR has used funds from the federal Access and Visitation Grant Program to expand the availability of parenting education in Colorado in rural and other areas not served by commercial providers. ODR developed three types of specialized parenting curricula for coparenting, parallel parenting (for high-conflict parents), and never-married parents. ODR subsequently has and continues to provide training for interested nonprofit providers and works with interested judicial districts to implement programs.

DIVORCE AND POST-DECREE

Post-Decree Multi-Door Project, Colorado. One of the best practices recommended by Colorado's Domestic Relations Multidisciplinary Committee was the Second Judicial District Domestic Post-Decree Multi-Door Pilot Project (located in Denver), developed for possible use as a model for the state to increase the effective processing and resolution of these disputes.[24] Two of the stated goals of the project were to increase collaboration and cooperation between the parties and decrease adversarial relations. Colorado's first multidoor approach to post-decree domestic relations cases began operations in Denver District Court on March 24, 1998, with the first case referral to the first "door" to open. Door Number 1 provides child support worksheet conferences with the help of volunteer attorneys through the Metro Volunteer Lawyers. Door Numbers 2, 3, and 4 provide ADR Settlement Conferences with a senior judge, mediation with public or private sector mediators, and parenting coordination with subsidized or private parenting coordinators. The fifth door, negotiation for child support arrears, is offered by the county. The sixth door, litigation, is the door of choice for some disputes and backup for those unable to resolve through alternative approaches.

An advisory committee was established to assist with the project design, planning, and implementation. Committee members included the two Denver District Court Magistrates who handle postdecree motions; the CODR director; the CODR ADR coordinator for the project; a well-known, experienced family law attorney; the director of a parenting education provider organization; the Denver Bar Association; a representative of the Colorado Judicial Institute ADR Coalition[25]; the director of Metro Volunteer Lawyers; and a representative of the Governor's Responsible Fatherhood Initiative. A smaller version of the advisory committee continues to meet regularly to revise and fine-tune procedures. The advisory committee works to make the project realistic, practical, accessible, and affordable and is particularly cognizant of the need to make sure procedures are easy to understand and use by the increasing numbers of pro se parties filing post-decree claims.

Statistical evaluations, as well as feedback from the magistrates, confirm that a substantial number of cases are settled through the nonadversarial doors offered by the program. Preliminary results also indicated a reduction in time to resolution by as much as one third.

Simplified Dissolution, Colorado. The Simplified Dissolution Pilot Project was the product of many statewide initiatives and committees in the area of family law and was developed by the Colorado Supreme Court's Domestic Relations Study Group.[26] The work of the Study Group commenced in 1998 in response to recommendations made through the Responsible Fatherhood Task Force that litigation in family cases should be discouraged in favor of more productive, less expensive alternatives. The Study Group undertook a lengthy and thorough evaluation of current practices nationally and internationally to gain as wide a perspective on the dissolution process as possible. This research identified the Divorce With Dignity Program as meeting the goals set out by the Group for minimizing the use of the adversary system:

- resolving conflict;
- being faster, cheaper, and simpler;
- maintaining responsibility for decision making in the family;
- establishing the expectation of cooperative dissolution and responsible parenting during and after dissolution; and
- invoking the system to resolve conflict only when a party requested assistance or to protect a party or a child.

For pilot implementation and evaluation purposes, the Study Group modified the Divorce With Dignity Program. Beginning in January 2000, three of Colorado's twenty-two judicial districts randomly selected pilot and control cases from all dissolution, separation, and allocation of parental responsibility cases filed in the participating courtrooms. Two courtrooms used the modified Simplified Dissolution model, whereas the third used the Divorce With Dignity model. The following general rules applied to both versions of the pilots:

1. Early informal initial status conference with the court (within 30 days of filing if possible) and continued expedited access to the court through the court facilitator.
2. No written motions shall be filed unless authorized by the court.
3. Compliance with Rule 26.2(a)(1) providing that initial disclosures shall be exchanged by the parties.
4. No formal discovery beyond initial disclosures unless authorized by the court.

5. Absent good cause shown, one expert per disputed issue as agreed to by the parties or, if no agreement, as appointed by the court as special master pursuant to C.R.C.P. 53.

The process of initial conferences, follow-up conferences, and permanent orders on the record was virtually identical in all three districts.

Based on the initial data collected (approximately 725 cases), it appears that the Simplified Dissolution/Divorce With Dignity Pilot Project has been successful in meeting its primary goals of efficient and appropriate case resolution. Overall, the most common resolution in pilot cases was one in which the parties appeared with a stipulated agreement (34%). Also, in 25% of cases in the pilot group, the parties filed a nonappearance affidavit after having met with the judge and/or court facilitator.[27] The initial and subsequent conferences educated parties regarding the dissolution process and the impact of their decisions. The conferences also helped the parties identify issues in need of resolution and facilitated their collaboration on reaching a resolution. Where appropriate, conferences included referral to third-party ADR services. These outcomes suggest that parties who meet with the judge and resolve their own disputes will make more informed and appropriate decisions.

In addition, the time to resolution is less in the pilot cases. It seems that these time savings can be attributed to early identification of cases that do not require court attention beyond simply ensuring that paperwork and timelines are met. This prevents cases from becoming "lost" and freeing judge time for those cases that do require oversight and assistance in resolving issues with the least adversarial means possible, as well as providing hearing time if necessary.

Currently, Simplified Dissolution has moved beyond the pilot project stage and is being implemented in many more judicial districts in Colorado. Efforts are under way to establish a new rule, C.R.C.P. 16.2 Amended, to govern case procedures.

CHILD PROTECTION

Child protection mediation programs, Ohio. Child protection mediation programs in Ohio are an example of small but effective efforts to promote high-quality mediation services. Begun in 1996 with a multidisciplinary approach and support from key state and local leaders, there are currently seven programs serving counties that range in population from 40,000 to 1 million. Child protection mediation programs illustrate the best kind of collaboration that is needed to implement effective, sustainable mediation initiatives. Participants representing courts, child protection agencies, prosecutors, and guardians actually spent time at the initial workshop about child protection mediation identifying those individuals and organizations that would be supportive and those that would be barriers to implementing the new mediation model. Then, back at home, they created task forces that included the supporters and detractors. The task forces engaged in the work of designing and building the mediation programs for several months, and in one case for a full year, before cases were mediated. After the mediation programs were established, the task forces continued to meet and engage in planning and trouble shooting for the programs. Each program supported by a task force demonstrated a high level of satisfaction from mediation participants, support from judges and other key leaders, and sustainability.[28]

Child Welfare Mediation in Colorado. Child Welfare Mediation in Colorado is called "Dependency and Neglect" Mediation, pursuant to Colorado's statutory scheme for addressing child welfare issues.[29] A pilot project began in Colorado's Fourth Judicial District in

1996, in collaboration with the El Paso County Department of Social Services.[30] The pilot succeeded not only in resolving cases without the need for further judicial intervention but also changed the working relationships between attorneys and social workers providing services in this area. Relationships between professionals, which had previously been quite adversarial, became collaborative as the new procedures demonstrated success and gained acceptance. Currently, fewer cases are referred to mediation because the professions tend to work collaboratively to resolve issues prior to referral.

Although dependency and neglect mediation has spread to other districts in Colorado, some efforts have unfortunately folded or been cut back for the time being due to lack of funding. Provision of family group conferencing by county departments of social services, to resolve dependency and neglect issues prior to filing in court, have also been scaled back due to lack of resources. There is widespread agreement among those who have used mediation and family group conferencing that these are the preferred approaches; a lack of resources has inhibited more growth in this area.

TRUANCY

Truancy Prevention through Mediation Project (TPtMP), Ohio. Another example of a collaborative effort that has led to increased services is seen in Ohio's TPtMP. TPtMP began as collaboration among the Ohio Department of Jobs and Family Services, the Supreme Court of Ohio, and the Lucas County Juvenile Court (Toledo, Ohio). The goal of the pilot project was to test whether a court staff mediator could mediate attendance and tardiness issues between parents and teachers with results that would increase days in school and, thus, opportunities to learn for at-risk elementary school students. The successful completion of the pilot project led to a second collaborative effort among the Supreme Court of Ohio and the Commission and additional courts. Using Office of Juvenile Justice & Delinquency Prevention (OJJDP) funds, the project has expanded each year so that currently nineteen courts and 290 schools participate. Evaluations of the programs in 2002-2003 reviewed more than 1,900 mediations. In all of the counties but one, a statistically significant reduction in absences or tardies was demonstrated for those families that participated in the mediations. These outcomes improved on similar reductions reflected in evaluations for the 2001-2002 and 2000-2001 school years.[31]

Furthermore, the courts and schools are required to use a collaborative model that includes a multidisciplinary advisory committee to develop and implement their programs. These collaborative efforts aid program implementation and promote stability in several ways. First, more stakeholders offer a larger "resource pie" from which to seek program funding. Access to Safe and Drug Free School grants, corporate sponsorship and court fees, or in-kind services can be used to provide staffing for the mediation programs. Second, "buy-in" and participation of policy makers in leadership roles provides credibility and visibility for the programs that can keep them at the front of the line for funding when cuts are imminent. Finally, the multiple perspectives on a multidisciplinary advisory committee lead to balanced solutions to problems. With such an approach, it is easier for the programs to maintain their primary focus of providing high-quality educational experiences for children.

Truancy prevention through mediation and family group conferencing, Colorado. As this article is being written, Colorado has one truancy prevention mediation pilot program in Boulder, and funds have just been awarded to implement a truancy prevention pilot program in Denver that will include the use of family group conferencing as well as media-

tion. The Denver proposal relies on collaboration between Denver Public Schools, the Colorado Foundation for Children and Families, ODR, and community service providers. Once again, it is hoped that demonstrable success in the pilot program will result in implementation of similar programs across the state. Already, Colorado Springs and Arapahoe County are seeking funds for truancy mediation projects.

STRATEGIES TO ENCOURAGE AND SUSTAIN COLLABORATION

What are the lessons that can be learned from these examples about how states can encourage ADR and other collaborative approaches to resolving family issues, and how can the growth of ADR and collaborative environments be sustained over time? The key elements to both seem to include the following:

Supportive public policy, including authorizing legislation. In Ohio, the law provides confidentiality for parenting mediation.[32] This statute was followed by a limited privilege statute and a Supreme Court Rule that governs court mediation programs.[33] In Colorado, the Colorado Dispute Resolution Act established ODR in 1983. The Act also authorizes courts to refer cases to mediation and other forms of ADR, provides for confidentiality in mediation, and limits mediators' liability.[34] In 1997, the Colorado Legislature passed a resolution encouraging the Judicial Department and the courts in each judicial district to find ways to expand the use of the Act as well as to implement other programs to encourage the resolution of disputes without the necessity for litigation.[35] Additionally, the Colorado Rules of Professional Conduct for lawyers provide that lawyers should advise their clients of ADR options in matters involving, or expected to involve, litigation.[36] Other types of supportive public policy include public education and awareness events such as mediation month or conflict resolution week. If examples of ADR are visible in one branch of government, such as the judicial systems, the seeds are planted for them to spread to the executive and legislative branches.

Establishment and survival of state offices of dispute resolution. For example, in Ohio, state offices have seen good and bad times with regard to funding. The ability of local courts to collect special project fees to pay for mediation programs has been a tremendous help in terms of local funding to sustain projects at the end of their pilot status. In Colorado, the Colorado Dispute Resolution Act established ODR in 1983. Although legislative funding for the office was never very great and was lost in 1991, a cash funding provision in the statute allowed the office to generate enough funds to survive.[37] Although adequate resources help, it is rare to find truly adequate resources in terms of ample, direct legislative funding. What seems to work, and perhaps even encourages collaboration, is a combination of cash funding, grants, matching funds, and in-kind and volunteer resources, in addition to legislative funding if it is available. As state offices are threatened, it is important to note that funding for dispute resolution programs—whether in courts, communities, or schools—is really funding an attempt at cultural change. Policy makers need to understand that these changes take time and that without funding for training, pilot projects and evaluation change will occur more slowly. There is hope, however, that with the relatively small costs of state offices, effective leadership, and appropriate research, evaluation, and public education, change will come more quickly.

Leaders and champions. These are not always leaders in the more traditional sense of authorities who dictate policies and procedures. Rather, the leaders must themselves believe in and lead through collaboration, using the very processes they are promoting. As the examples above illustrate, judicial leadership is critical, but it must be in collaboration with leadership from other professionals. It is particularly helpful, as in Ohio and Colorado, when judicial leadership comes from the Supreme Court and is supported by judges in the trial courts.

Training. There must be affordable and available sources to train mediators and attorneys and the public about mediation, most likely in a combination of private and public sector programs. A surplus of trained mediators can actually contribute to the development of collaborative efforts, as mediators look for additional avenues to practice their skills, and as long as competition between mediators does not detract from these efforts to develop new applications.

Research and evaluation. Research in itself promotes multidisciplinary efforts. The act of engaging a social scientist to evaluate a court program involves significant communication about and increased understanding of the goals and objectives of the program being evaluated. Furthermore, evaluation of a program demonstrates the court's commitment to providing high-quality services and enhancing professional and public perceptions of the court and its programs. Pilot programs must be evaluated to be promoted. Research legitimizes gains and helps generate support. Research that demonstrates success in a variety of ways has been critical in securing funding to move projects in Ohio and Colorado beyond the pilot phase. Especially in times of tight budgets, an evaluation that demonstrates high-quality services along with time or cost savings for the courts or the parties can be helpful in obtaining continuation or expansion funding.

Creation of interdisciplinary networks. The examples above are full of interdisciplinary committees, commissions, and other groups, which through their synergy can develop more creative alternatives and in the process can build support across a wide variety of interest groups and professions.

As the illustrations provided demonstrate, collaboration can take many forms and occur at many levels in states and among dispute resolution programs, professionals, and other interested parties. Experience shows that opportunities for citizens to engage in more collaborative, less adversarial approaches to family law are enhanced when courts and ADR professionals use cooperative and collaborative approaches to develop and implement programs and services for families.

NOTES

1. The concept of the multidoor courthouse was first suggested in 1976 by Harvard Law Professor Frank E. A. Sander at the Conference on the Causes of Popular Dissatisfaction with the Administration of Justice (commonly referred to as the Pound Conference). Sander proposed assigning certain cases to alternative dispute resolution processes, or a sequence of processes, after screening in a Dispute Resolution Center. Alternative approaches to case screening include screening by judges or administrators at the courthouse, the lawyers representing the parties in the case, or the parties themselves. Case screening can be categorical (e.g., by case type, age of case, amount of claim, or other common factor), individualized, or both. *See, e.g.*, E. Gray, *Multi-Door Courthouses*, A Working Paper for the

National Symposium on Court Connected Dispute Resolution Research, Oct. 15-16, 1993 (State Justice Institute, Sept. 1993).

2. The National Center for State Courts, *Court ADR Links to the 50 States*, *at* http://www.ncsc.dni.us/KMO/Topics/ADR/States/ADRusmap.htm (last visited Jan. 28, 2004); Policy Consensus Initiative, *Directory of DR Programs*, *at* http://www.policyconsensus.org/directories/statedirectories.html (last visited Jan. 28, 2004).

3. OHIO REV. CODE ANN. 179.02 (Anderson 2003).

4. Maria L. Mone, *Ohio Commission on Dispute Resolution and Conflict Management*, *at* http://www.disputeresolution.ohio.gov (last visited Feb. 3, 2004).

5. The Supreme Court of Ohio, *at* http://www.sconet.state.oh.us (last modified Jan. 18, 2004).

6. The Commission saw a significant decrease in its budget for fiscal year 2004. The Dispute Resolution Programs Section of the Supreme Court of Ohio is funded as part of the judiciary budget and received a 20% increase for the fiscal year 2004 (after significant decreases in fiscal year 2003).

7. COLO. REV. STAT. 13-22-301-313 (2003).

8. Ohio Mediation Association, *at* http://www.mediateohio.org (last visited Nov. 22, 2003).

9. The Ohio Community Mediation Association, *at* http://www.ohiocommunitymediation.org (last visited Nov. 22, 2003).

10. A subcommittee of the CBA ADR Committee, which includes CCMO representation, is currently reviewing the Guidelines for possible changes.

11. *See* Sally K. Ortner & Merrill Shields, *A Report on the Development of Qualifications and Standards of Conduct for ADR Professionals*, 26 COLO. LAW. 49 (1997); Sally K. Ortner & Merrill Shields, *Colorado Now Has Model Standards of Conduct for Mediators*, 29 COLO. LAW. 45 (2000). Other organizations represented in this effort were the Colorado Office of Dispute Resolution, the Colorado Department of Law (Colorado Attorney General's Office), the Colorado Judicial Institute, and the Colorado Bar Association ADR Committee.

12. Interview with Kalpana Yalamanchili, Director of Bar Services, Ohio State Bar Association, Columbus, Ohio, October 6, 2003.

13. Ohio State Bar Association, *ADR Directory*, *at* www.ohiobar.org/conres/adr (last visited Jan. 28, 2004).

14. Ohio Judicial Conference, *Alternative Dispute Resolution*, *at* http://www.ohiojudges.org/index.cfm?pageId=18B2B724-A151-4ADD-9E9FC6DEAF09ECBE (last visited Jan. 28, 2004).

15. Ohio Judicial Conference, *Mock Mediation Forum*, *at* http://www.ohiojudges.org/index.cfm?PageID=F057587B-C09F-2715-733FA35409FF7E1C (last visited Jan. 28, 2004).

16. Ohio Judicial Conference, *ADR Newsletter for Judges*, *available at* http://www.ohiojudges.org/index.cfm?PageID=F06C46F0-C09F-2715-73B23892001CA223 (last visited Jan. 28, 2004).

17. *See* Jim Tarpey, *ADR Forum: One Step in an Evolving Process*, 30 COLO. LAW. 53 (2001).

18. The Ohio State University College of Law, *The Dispute Resolution Program*, *at* http://moritzlaw.osu.edu/dr (last visited Nov. 2, 2003).

19. Capital University Law School, *Center for Dispute Resolution*, *at* www.law.capital.edu/disputeresolution (last visited Jan. 28, 2004).

20. The University of Colorado School of Law also has a student group, "Colorado Law Mediation Program," which focuses on mediation and ADR. The group trains law students to serve as mediators, sponsors lectures and events, and participates in national ADR competitions.

21. COLORADO JUDICIAL DEPARTMENT, COLORADO COURTS IN THE TWENTY-FIRST CENTURY: THE FINAL REPORT FROM VISION 2020: COLORADO COURTS OF THE FUTURE 64(1992); *see also id.* at 8 ("[t]he recommendation is . . . to minimize the adversarial nature of proceedings in family cases . . . ").

22. The foregoing description is taken in large part from the Commission's Interim Report in February 2001.

23. *Final Report of the Commission on Families in the Colorado Courts* (Aug. 2002), *available at* www.courts.state.co.us.

24. For a more complete description of the pilot, see Cynthia Savage, *Post-Decree Multi-Door Courthouse: A Pilot Program for the State*, 27 COLO. LAW. 109 (1998).

25. *See* section on state mediation associations *supra*.

26. *See supra* text accompanying note 22, at 15.

27. COLO. REV. STAT. ANN. §14-10-120.3 (West 2003) provides that final orders in a dissolution of marriage proceeding may be entered upon affidavit, without the need for appearance, when the parties have no minor children, or where both parties are represented by attorneys and have entered into a separation agreement providing for allocation.

28. Richard E. Boettcher & Maara A. Fink, *Supreme Court of Ohio Mediation Institutionalization Final Report*, xii-xiii (2001) (on file with the Supreme Court of Ohio Dispute Resolution Programs Section).

29. COLO. REV. STAT. ANN. 19-3-100.5 to -703 (West 2003).

30. *See* NANCY THOENNES, DEPENDENCY MEDIATION IN COLORADO'S FOURTH JUDICIAL DISTRICT: FINAL REPORT (Center for Policy Research, 1999).

31. Ohio Commission on Dispute Resolution & Conflict Management, Truancy *Prevention Through Mediation Executive Summary for School Years 2001-2002, at* http://disputeresolution.ohio.gov/cc/truancyes2001.htm (last visited Jan. 29, 2004).

32. *See* OHIO REV. CODE ANN. 3109.053 (West 2003).

33. *See* OHIO REV. CODE ANN. 2317.023 (West 2003); *see also* Ohio Sup. R. Rule 16 (West 2003).

34. *See* COLO. REV. STAT. ANN. 13-22-301 to -313 (West 2003).

35. HJR 97-1020 (1997), *available at* http://www.state.co.us/gov_dir/leg_dir/res/HJR1020.htm.

36. *See* COLO. REV. STAT. ANN., Rules of Prof. Cond., Rule 2.1 (West 2003).

37. *See* COLO. REV. STAT. ANN. 13-22-305(3) (West 2003); *see also* COLO. REV. STAT. ANN. 13-22-310 (West 2003). Legislative appropriations ranged from a high of $95,600 in FY 1990 to a low of $0 from FY 1991-1995. ODR subsequently received $15,500 from the legislature and a contribution from the judicial branch until FY 2000, when ODR's cash revenues were sufficient to cover program expenses.

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