

Paper presented at the Wellchi Network Conference 1
**CHALLENGES AND OPPORTUNITIES FACED BY EUROPEAN WELFARE
STATES: THE CHANGING CONTEXT FOR CHILD WELFARE**

St. Anne's College, University of Oxford
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**Professional intervention in litigated contact disputes:
an international review**

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Abstract

The background. In the UK, since the Children Act 1989, it has not been necessary to obtain a court order in order to establish contact arrangements after separation or divorce. Indeed the legislation positively discourages parents from bringing these matters to court, which can only make an order if this is shown to be in the best interests of the child.

The limited amount of data available suggests that only a minority of parents (around 10%) do use the court process and many will do so only once. However in recent years there has been increasingly vocal dissatisfaction with the way such disputes are handled. Organisations representing victims of domestic violence and children contend that the courts have prioritised contact over safety and ignore children's wishes. Organisations representing non-resident parents argue that the courts are biased against fathers, both in the orders they make and their reluctance to enforce orders against intransigent mothers. Senior Judges have publicly expressed frustration at the ineffectiveness of the powers the courts have to facilitate and enforce contact. A Parliamentary Select Committee is currently holding an inquiry into the operation of the family courts with a focus on the handling of private law disputes. Two consultation exercises have been carried out by a Committee set up to advise government and in July 2004 the government issued its proposals for change. A key element in these proposals is legislation giving the courts powers to order defaulting parents to programmes designed to deal with contact disputes.

The review. The aim of the review is to investigate how a number of other jurisdictions handled litigated contact disputes and in particular, to examine what evidence there is that any of the interventions used 'worked'. While it was hoped to include some other European countries the primary focus has been on North America, Australia and Canada because of the similarities in legal systems and language and also the paucity of information from other countries on innovative approaches and their effectiveness. The research is 'library'-rather than 'fieldwork' based using bibliographic data-base and internet searches. Direct contact is also being made with other researchers, programme organisers and government agencies.

Findings. This presentation concentrates on interventions in 'high-conflict' cases and modes of intervention which are not yet part of the system in the UK nor, as far as can be ascertained, the rest of Europe. It therefore excludes standard mediation, at one end of the spectrum, and supervised contact at the other.

Education in post-separation parenting. Broad-based education/information programmes for all separating parents are widespread in the US and Canada. There are now a small number of educational programmes directed at high conflict parents. For example:

Parents Without Conflict. California. Parents in contempt of court/at risk of contempt. Mandatory both parents. 6 x 2hr large group sessions., lectures; vignette-based small group discussion; videos; role play; skill practice sessions. Positive post-class client evaluations. 9 months on both parents report improvement on all measures of conflict and cooperation. But compared to file control no reduction in litigation rates. No information about impact on children

Parents Apart. California. 1 x 5 hour class. Handbook, video, role play. Teaches 'parallel' rather than cooperative parenting'. Detailed parenting plan & no direct parental contact for 2 yrs. Not researched

Parental Conflict Resolution program. Arizona. Entrenched long-term cases, court-ordered. One x 4 hour class. Handouts, videos, vignette-based small gp discussion. Focus parental alienation: what each parent contributes and what each can do. Appeal to self-interest. Positive post-class evaluation, esp men. 6-15 months on both parents report improved understanding, behavioural change, children improved. No control or direct evidence. No data on impact on litigation.

Group-based impasse/therapeutic mediation.

The Alameda Project, California. Entrenched conflict, 2 x failed mediations. Goal help family through transition, not settlement-focused. 8 x 2hr parent groups; children's group; feedback to parents. As effective as individual programme, more cost-effective. Compared to *Parents Without Conflict* programme: less popular; outcomes similar or better. Reduced litigation. More costly. No data on children's outcomes/views.

Multi-method interventions.

The Australian Contact Orders pilot. 3 sites. To be extended across Australia. Includes court-ordered. Programmes vary but may include: group work; education; counselling; modified mediation; supervised contact; overall case management; telephone support; children's groups. Research limited to parental satisfaction.

Post-order telephone monitoring

Arizona. Court-ordered. No parental contact; monitor acts as intermediary; follows up each contact; documents complaints, can report to court. No evaluation.

Parenting coordination

Unique hybrid role combining parent education, mediation and often arbitration. Spreading rapidly across US . Interest in Canada and Australia. Court-appointed professional. Parents have to agree and pay. Very limited research: Clinical and anecdotal evidence that conflict reduced and parents learn to negotiate for themselves; lawyers/judges report satisfaction; most parents said to be satisfied and report reduced conflict. Some evidence of dramatically reduced litigation. No data children's outcomes.

Enforcement services

Expedited Visitation Services. Arizona. Service for unrepresented parents seeking enforcement/court referred. Goal to provide rapid response. Both parents required to attend non-confidential conference before Special Master within 7 working days. Mediation; recommendations to court; 6 month telephone/e-mail follow-up (now ceased). High compliance rates reported; moderate parental satisfaction; reported improvement; some increase in contact; reduced litigation. Significant reduction in children's perceptions of conflict; no evidence adversely affected child adjustment. But problems continue & comparison with non-treatment group suggests little evidence improvements attributable to programme.

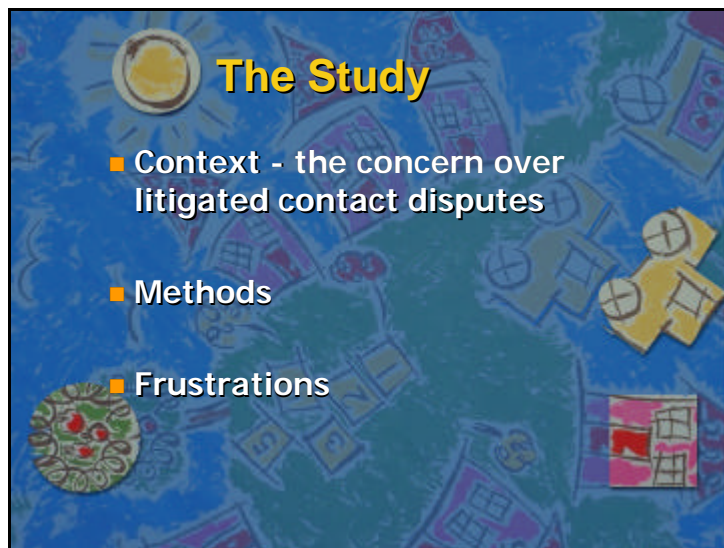
Co-parenting mediation program. Utah. Applications to enforce orders. Compulsory mediation within 15 days. Plus other services: repeat mediation; supervised contact /neutral exchange; parent education; 6 month follow up: tel calls, e-mails, letters or meetings. Only initial mediation evaluated: agreement rates; parental satisfaction.

Conclusions: Interventions for high conflict families are at a very stage of development. There are a number of interesting ideas but as yet little robust evidence of efficacy. Service development and research need to proceed in tandem; avoid proliferation of poorly-evidenced innovations. Need to develop and trial a spectrum of services; develop understanding of what works for whom and how to match services to need. Crucial to incorporate evaluation of impact on children. Expectations need to be realistic: some interventions appear to 'work' for some people, not others and some families may be resistant to everything. When should efforts be abandoned?

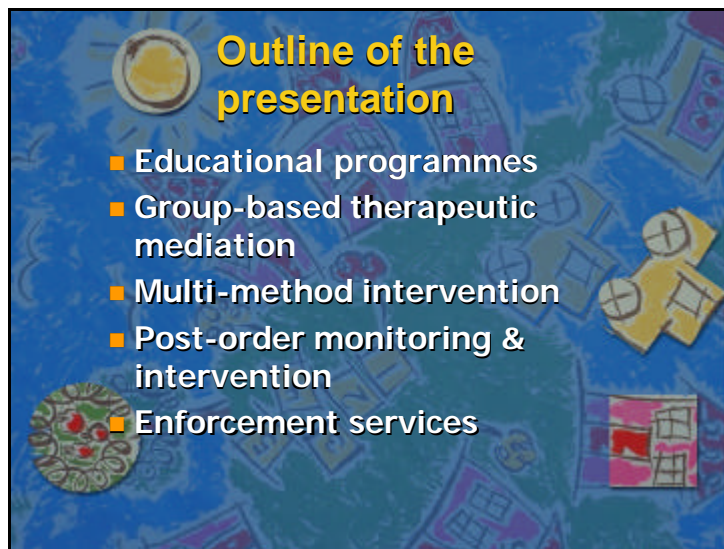
Slide 1



Slide 2



Slide 3



Outline of the presentation

- Educational programmes
- Group-based therapeutic mediation
- Multi-method intervention
- Post-order monitoring & intervention
- Enforcement services

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Slide 4



Educational programmes

- Parents Without Conflict, California
- Parents Apart, California
- Parental Conflict Resolution Program, Arizona

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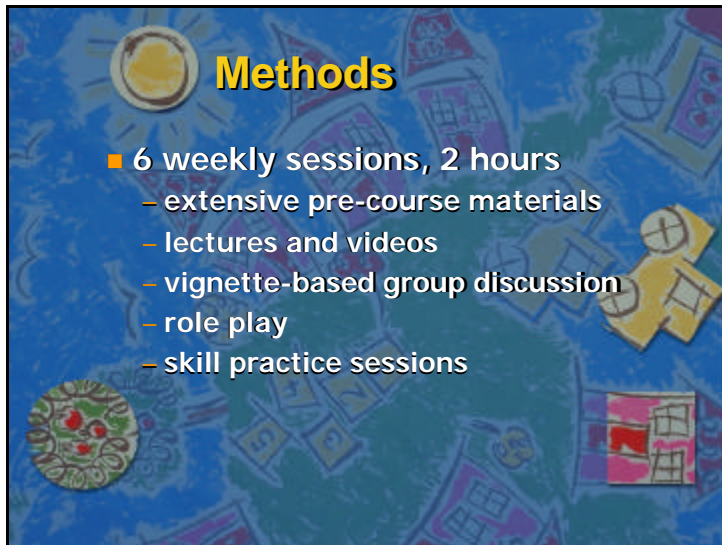
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Parents Without Conflict

- Violation court orders/risk of contempt
- Goals:
 - Accountability to law
 - Increase awareness:
 - effect of parental behaviour on children
 - children's developmental needs
 - Develop skills:
 - conflict resolution
 - communication
- **Both** parents required to attend

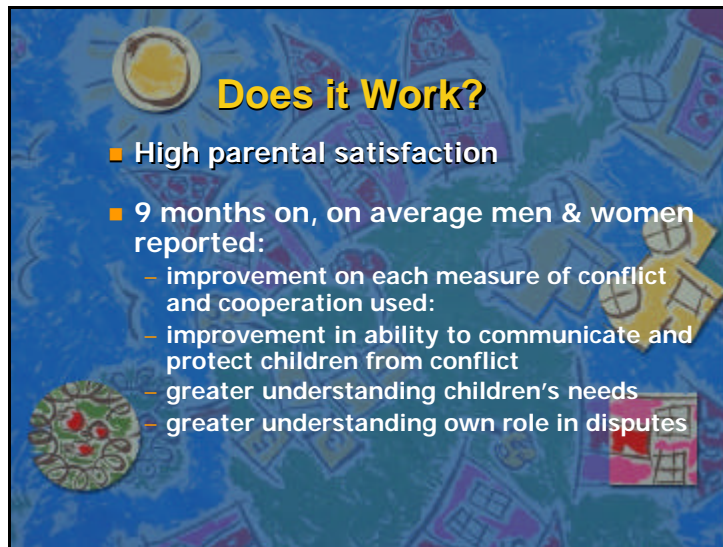
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Methods

- 6 weekly sessions, 2 hours
 - extensive pre-course materials
 - lectures and videos
 - vignette-based group discussion
 - role play
 - skill practice sessions

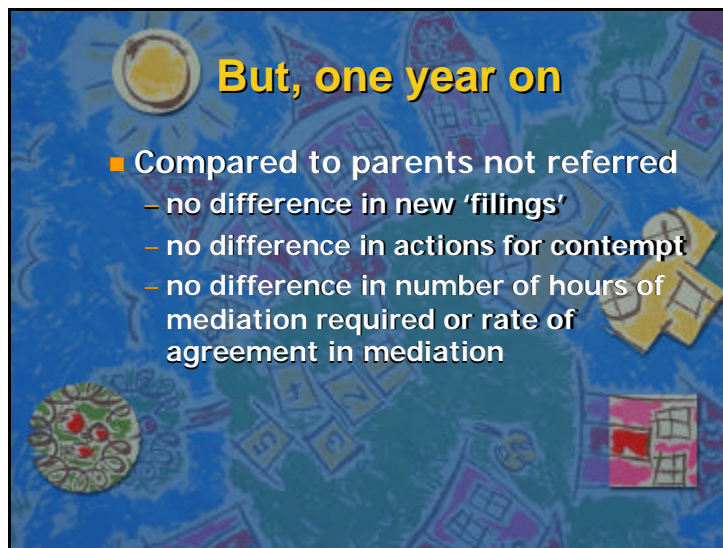
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Does it Work?

- High parental satisfaction
- 9 months on, on average men & women reported:
 - improvement on each measure of conflict and cooperation used:
 - improvement in ability to communicate and protect children from conflict
 - greater understanding children's needs
 - greater understanding own role in disputes

Slide 8



But, one year on

- Compared to parents not referred
 - no difference in new 'filings'
 - no difference in actions for contempt
 - no difference in number of hours of mediation required or rate of agreement in mediation

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Limitations of the research

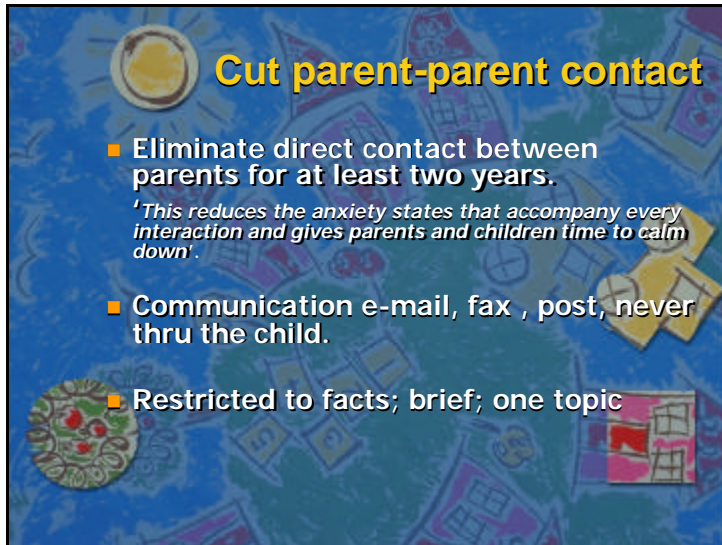
- Control group limited to file analysis
- No direct measures
- No information about impact on children

Slide 10

Parents Apart, San Diego, California

- 5 hr class:
 - handbook,
 - slides
 - video,
 - role-play
 - hypothetical situations
- Goal parallel not cooperative parenting
- Detailed parenting plan minimum 2 years

Slide 11



Cut parent-parent contact

- Eliminate direct contact between parents for at least two years.
'This reduces the anxiety states that accompany every interaction and gives parents and children time to calm down'.
- Communication e-mail, fax , post, never thru the child.
- Restricted to facts; brief; one topic

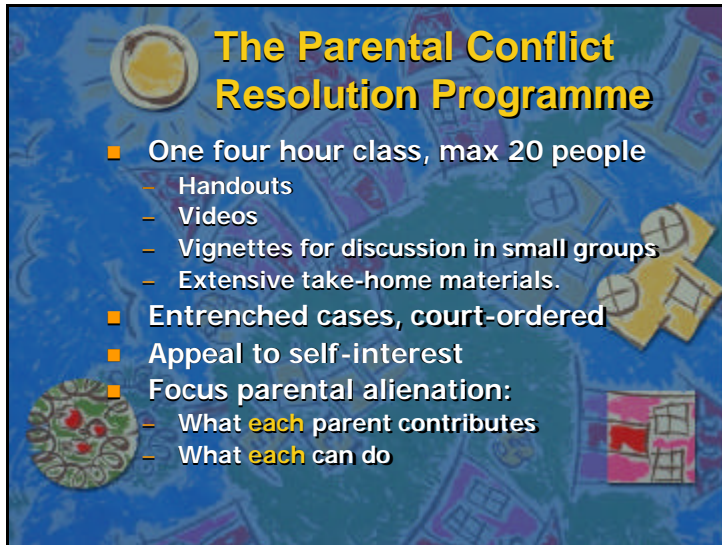
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Does it Work?

No research as yet

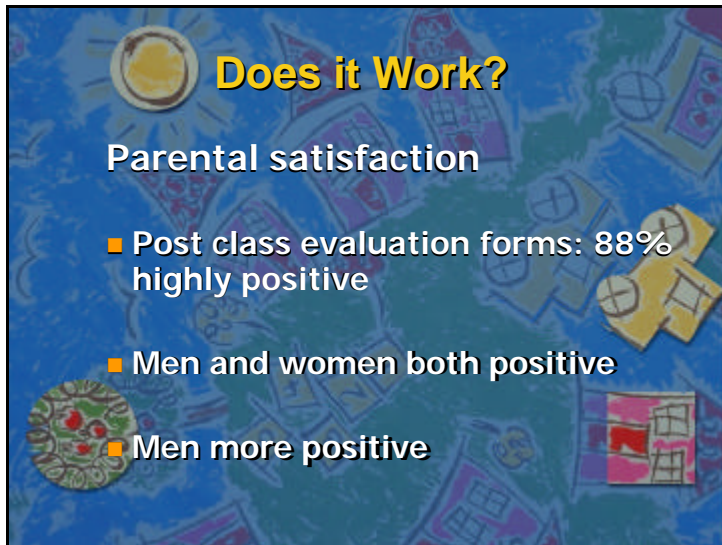
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The Parental Conflict Resolution Programme

- One four hour class, max 20 people
 - Handouts
 - Videos
 - Vignettes for discussion in small groups
 - Extensive take-home materials.
- Entrenched cases, court-ordered
- Appeal to self-interest
- Focus parental alienation:
 - What **each** parent contributes
 - What **each** can do

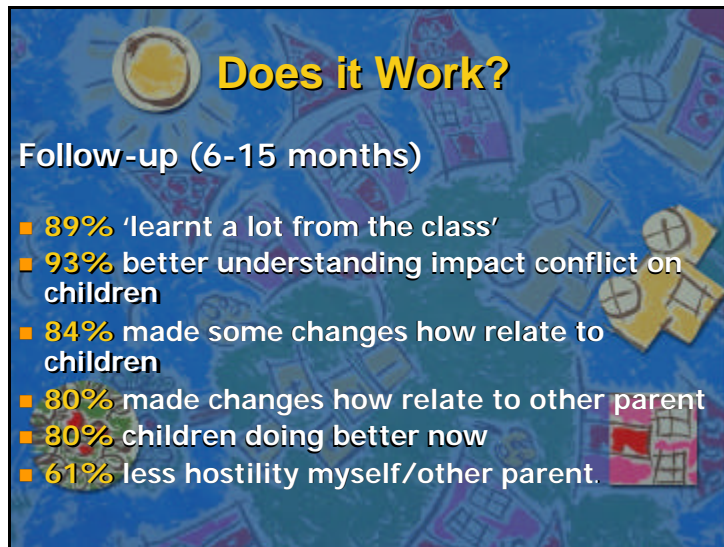
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Does it Work?

Parental satisfaction

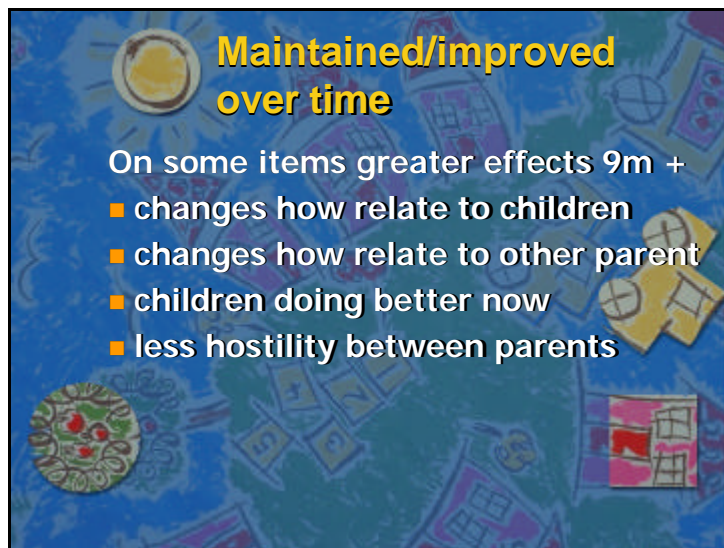
- Post class evaluation forms: 88% highly positive
- Men and women both positive
- Men more positive



Does it Work?

Follow-up (6-15 months)

- 89% 'learnt a lot from the class'
- 93% better understanding impact conflict on children
- 84% made some changes how relate to children
- 80% made changes how relate to other parent
- 80% children doing better now
- 61% less hostility myself/other parent.



Maintained/improved over time

On some items greater effects 9m +

- changes how relate to children
- changes how relate to other parent
- children doing better now
- less hostility between parents

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Limitations to research

- Parent report only
- No before-after direct behavioural measures
- No control group
- No evidence of effects on litigation
- No direct evidence of effects on children

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So some promising findings, but the research suffers from similar limitations to the Los Angeles programme.

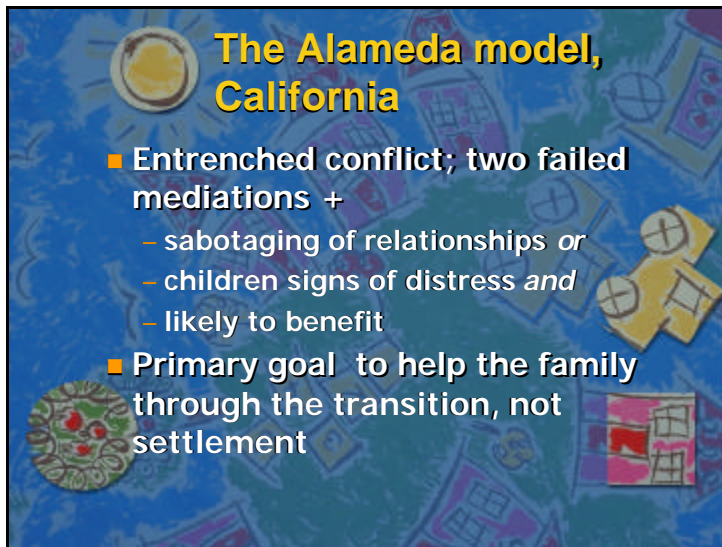
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Impasse/therapeutic mediation

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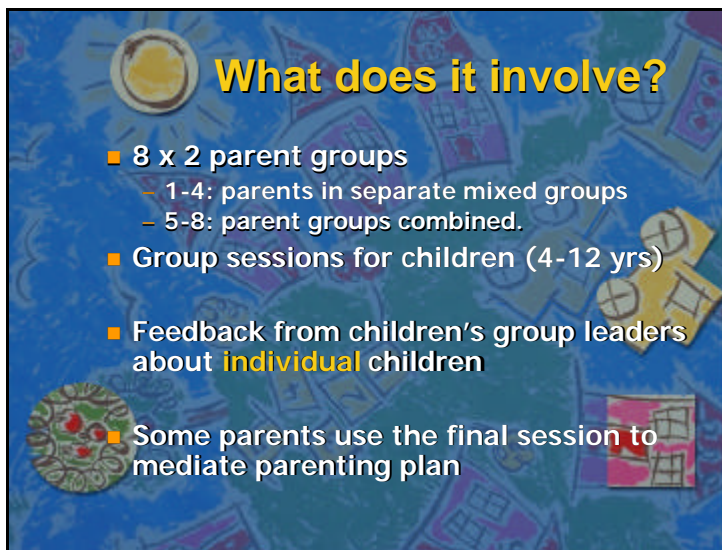
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The Alameda model, California

- Entrenched conflict; two failed mediations +
 - sabotaging of relationships *or*
 - children signs of distress *and*
 - likely to benefit
- Primary goal to help the family through the transition, not settlement

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What does it involve?

- 8 x 2 parent groups
 - 1-4: parents in separate mixed groups
 - 5-8: parent groups combined.
- Group sessions for children (4-12 yrs)
- Feedback from children's group leaders about **individual** children
- Some parents use the final session to mediate parenting plan

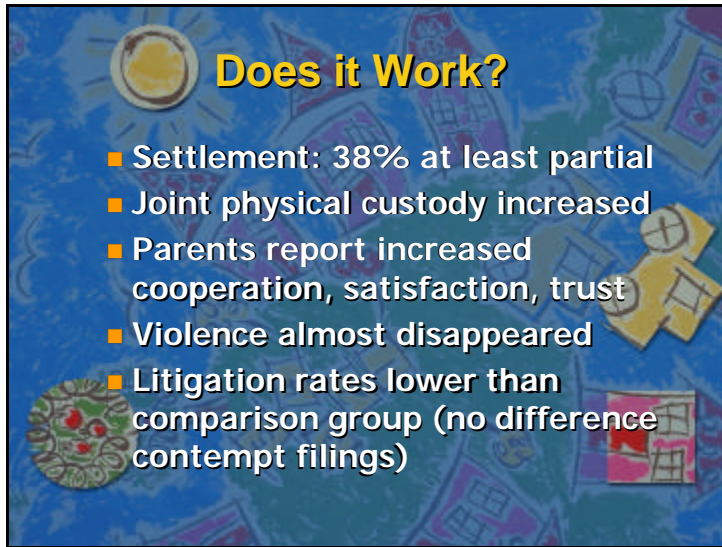
Unlike the programme mentioned so far, an essential component of this one is work with the children. These are not therapeutic groups, the aim is to support children. The groups are also used, however, to feed back what the children have said as a group and as individuals, and to convey what the group leaders have observed.

It's clearly pretty challenging for parents but the group process is said to facilitate parents taking on board what is being said.

Whenever parents are told their child is not doing well they tend to want to blame the other parent but they are prevented by the group process from doing this'.

'In sum, it is usually more difficult in the group environment for parents to hang on to a strictly black/white perspective of their family situation'.

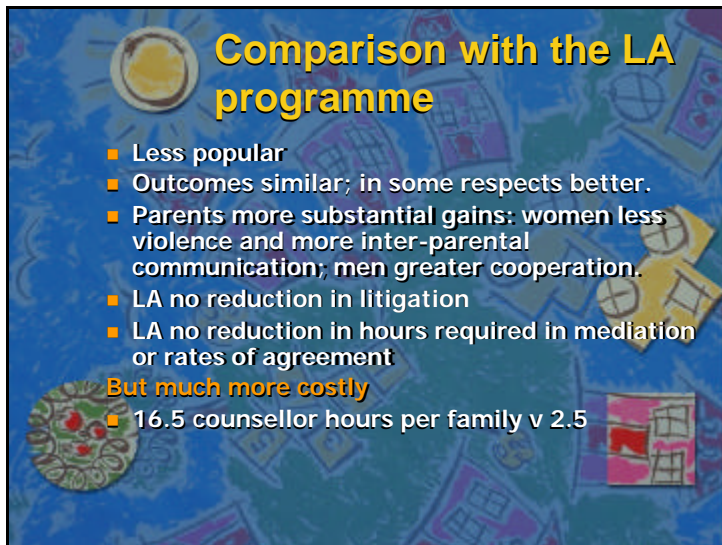
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Does it Work?

- Settlement: 38% at least partial
- Joint physical custody increased
- Parents report increased cooperation, satisfaction, trust
- Violence almost disappeared
- Litigation rates lower than comparison group (no difference contempt filings)

Slide 22



Comparison with the LA programme

- Less popular
- Outcomes similar; in some respects better.
- Parents more substantial gains: women less violence and more inter-parental communication; men greater cooperation.
- LA no reduction in litigation
- LA no reduction in hours required in mediation or rates of agreement

But much more costly

- 16.5 counsellor hours per family v 2.5

Slide 23



Limitations of the research

- No independent research
- No direct measures
- No data on impact on children

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Multi-method interventions

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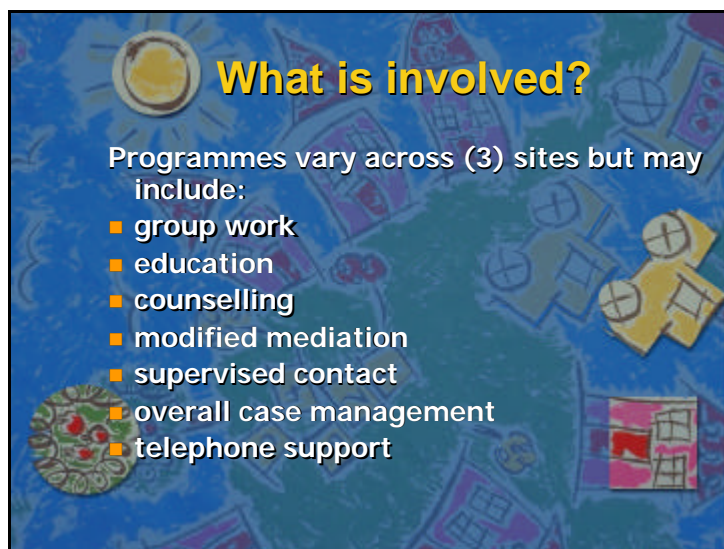


The Australian Contact Orders Pilot

Goals:

- reduce recourse to court
- reduce children's exposure to parental conflict
- ensure compliance with existing orders
- cheaper and quicker alternative to court procedures for breach
- more effective alternative to current penalties for breach

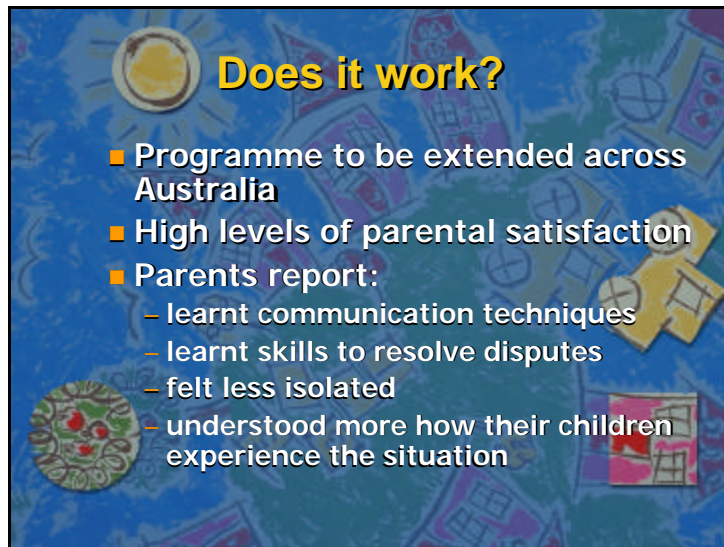
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What is involved?

Programmes vary across (3) sites but may include:

- group work
- education
- counselling
- modified mediation
- supervised contact
- overall case management
- telephone support



Does it work?

- Programme to be extended across Australia
- High levels of parental satisfaction
- Parents report:
 - learnt communication techniques
 - learnt skills to resolve disputes
 - felt less isolated
 - understood more how their children experience the situation



Limitations of the research

'If the program is to be successful, then separated or divorced families' management of relationship difficulties will be improved. Children's contact and relationships with both parents will be facilitated in a manner which encourages consideration of what is in the child's best interests, while ensuring the safety of all parties. The adversarial nature of family disputes will be reduced and there will be less use made of the Family Court or other legal processes in relation to issues about contact with children. Children's relationships with their non-residential parent will be established or maintained and a workable relationship will be negotiated between separated or divorced parents in relation to their ongoing parenting responsibilities'.

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Slide 30

Telephone monitoring
Greenlee County, Arizona

- Court-ordered
- Goals:
 - avoid parents interacting
 - scrutinise behaviour re contact
- Monitor handles all the mechanics, including changes, cancellations.
- Gets debrief from each parent after each session
- Documents complaints
- Available to court if litigation

This slide features a blue background with a collage of colorful, hand-drawn illustrations including a sun, houses, and abstract shapes. The title "Telephone monitoring Greenlee County, Arizona" is written in yellow text in the upper center. Below the title is a bulleted list of details about the program.

Slide 31

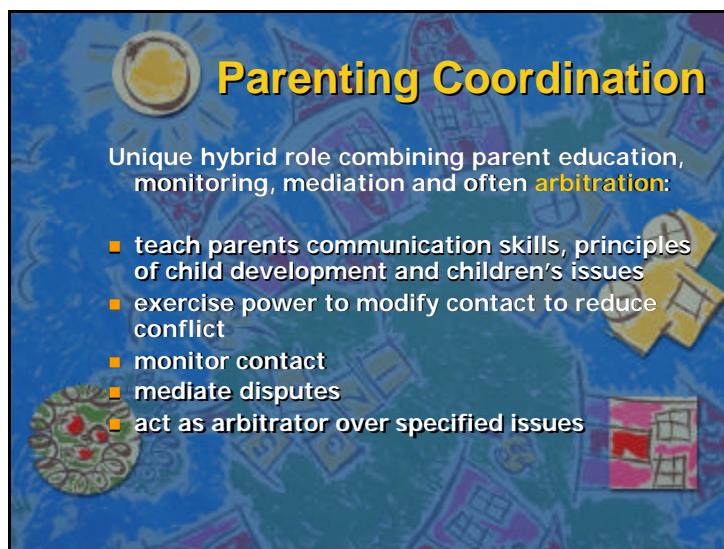


Does it work?

- No research as yet

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Slide 32



Parenting Coordination

Unique hybrid role combining parent education, monitoring, mediation and often **arbitration**:

- teach parents communication skills, principles of child development and children's issues
- exercise power to modify contact to reduce conflict
- monitor contact
- mediate disputes
- act as arbitrator over specified issues

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Scope of decision-making authority

- California 3-tier structure:
 - Minor disputes arbitrated by PC
 - Others (church attendance, substance abuse testing or therapy for child); PC makes recommendations to court which becomes order unless parent requests hearing
 - Issues reserved to court: eg substantial alterations to custody or time-share. PC may recommend.

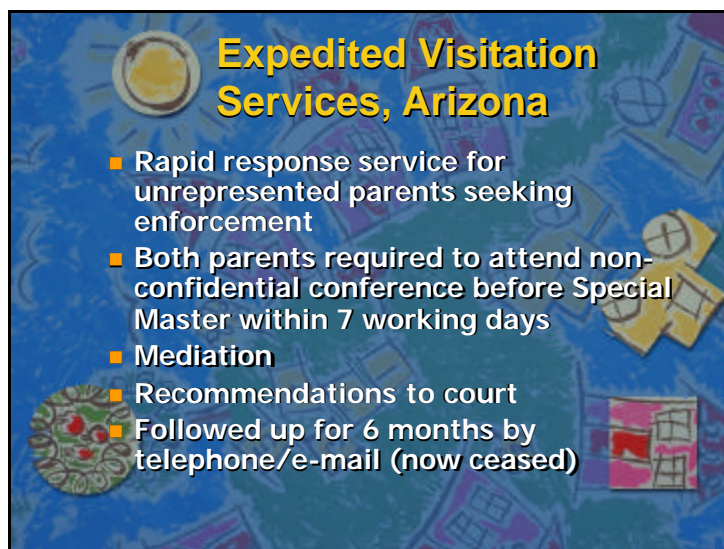
Does it Work?

- Very little research
- Clinical and anecdotal evidence that conflict reduced and parents learn to negotiate for themselves
- Lawyer/judge satisfaction
- Most parents said to be satisfied and report reduced conflict
- Anecdotal evidence that parents rarely apply for review of PC's decisions
- File analysis indicates dramatic reduction in use of court
- No research using control; direct evidence; impact on children.

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Slide 36



Expedited Visitation Services, Arizona

- Rapid response service for unrepresented parents seeking enforcement
- Both parents required to attend non-confidential conference before Special Master within 7 working days
- Mediation
- Recommendations to court
- Followed up for 6 months by telephone/e-mail (now ceased)

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Does it Work?

'There is widespread sentiment that EVS fills a community need in that it provides rapid access to court, eliminates contact denial as rationale for non-payment of child support and offers lower-income families a mechanism for resolving problems'.

Johnston, 1998

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The good news

- 60% fathers and 62% mothers satisfied with process
- High compliance rates
- 69% nrf's reported situation better than a year ago
- 36% amount of contact increased
- Relitigation rates tended to decline
- Significant reduction in children's perceptions of conflict
- No evidence that enforcement adversely affected child adjustment

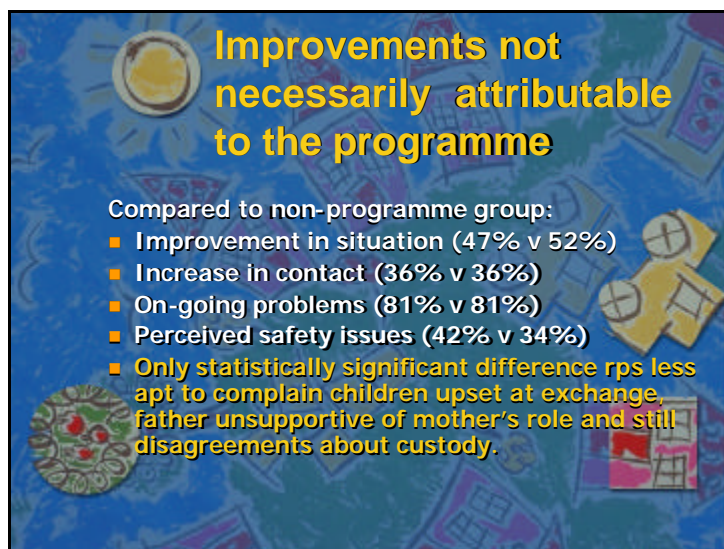
Johnston, 1998



But, problems continue

- One third no resolution of any kind
- One year on 81% reported problems in past few months
- 42% mothers safety concerns

AND



Improvements not necessarily attributable to the programme

Compared to non-programme group:

- Improvement in situation (47% v 52%)
- Increase in contact (36% v 36%)
- On-going problems (81% v 81%)
- Perceived safety issues (42% v 34%)
- **Only statistically significant difference rps less apt to complain children upset at exchange, father unsupportive of mother's role and still disagreements about custody.**

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Co-parenting Mediation Program, Utah

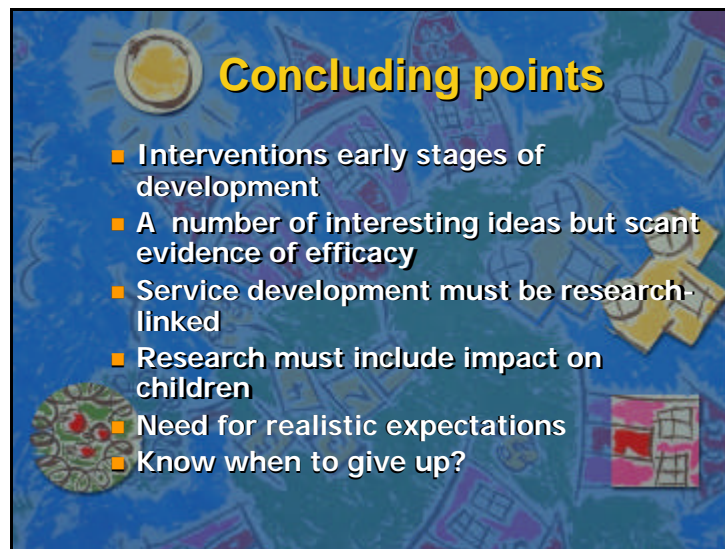
- Applications to enforce order +
- Compulsory mediation within 15 days
- Positive evaluation:
 - 51% full agreement ; 26% partial
 - 60% clients rated service as good to excellent
 - Strong support from bench and lawyers though no formal survey
- Talk of expanding programme state-wide 2005

Slide 42

Parent-time services

- Mediation
- Supervised contact /neutral exchange
- Parent education
- 6 month follow up: tel calls, e-mails, letters or meetings.

' Providers are required to identify the barrier to implementing the court's order and 'fix it' by meeting with parents monthly over six months to monitor implementation and help parents practise its successful conduct'.



Concluding points

- Interventions early stages of development
- A number of interesting ideas but scant evidence of efficacy
- Service development must be research-linked
- Research must include impact on children
- Need for realistic expectations
- Know when to give up?