PLANNING FOR P.E.A.C.E.: THE DEVELOPMENT OF COURT-CONNECTED EDUCATION PROGRAMS FOR DIVORCING AND SEPARATING FAMILIES

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This Article contains material that originally appeared in an informal interim Report on the P.E.A.C.E. Program by the P.E.A.C.E. Advisory Committee submitted to Chief Judge Judith S. Kaye of the State of New York. No final report has yet been submitted to Chief Judge Kaye. The views expressed in this Article are solely those of the authors.

P.E.A.C.E. is a collaborative interdisciplinary project to which many people make contributions. They cannot all be acknowledged here without making the dedications page longer than the Article. We are grateful to the numerous members of the P.E.A.C.E. Advisory Committee who graciously shared their expertise and views with us. We are also grateful for the research help of Trecia Di Bias, Maria Serrano Schwartz, and David Schultz, Hofstra Law School, class of 1995 and Eileen Biondi and Michael O'Malley, Hofstra Law School, class of 1997.
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I. INTRODUCTION

A recent national survey indicates that 463 court-connected programs, most of which were in existence since 1992, are beginning to fill a previous vacuum in educating divorcing and separating parents.\(^1\) The Association of Family and Conciliation Courts ("AFCC") recently sponsored the First International Congress on Parent Education Programs which was attended by approximately 400 people from thirty-nine states and several foreign countries.\(^2\)

This grass roots movement is a flickering candle of hope in a depressing landscape. The emotional, educational, and economic decline of children whose parents divorce or separate is well-documented, as are the enormous difficulties that overwhelmed courts face in dealing with family reorganization in late twentieth century America.\(^3\)


\(^2\) The Congress was held in Chicago from September 29th to October 1st, 1994. ASSOCIATION OF FAMILY AND CONCILIATION COURTS, CONGRESS PROCEEDINGS AND PARTICIPANT DIRECTORY, FIRST INTERNATIONAL CONGRESS ON PARENT EDUCATION PROGRAMS (1994) [hereinafter AFCC CONGRESS PROCEEDINGS] (on file with the Hofstra Law Review).

\(^3\) See Andrew Schepard, War and P.E.A.C.E.: A Preliminary Report and a Model Statute on an Interdisciplinary Educational Program for Divorcing and Separating Parents, 27 U. MICH. J.L. REF. 131, 139-49 (1993); CHILDREN AND DIVORCE, THE FUTURE OF CHILDREN, Spring 1994 (Center for the Future of Children, the David and Lucille Packard Foundation). As the editors of the foregoing collection of research reports state in their introductory overview and analysis to all of the articles:

Of primary importance, there is need for education about divorce . . . Parents need to be educated about the effects of family conflict on children. They need a range of educational and mediational services to diminish rather than escalate conflicts, to focus on what is best for their children at various developmental stages, and to increase the chance for mutual agreement between parents about custody, visitation, and the financial arrangements for their children.
Experience accumulated in what might be called their pilot program phase establishes that education programs can help parents, children, and courts cope with the challenges they face if carefully integrated into the legal system's processing of divorce and separation. We thus write this Article to encourage courts to convert the flickering candle into a powerful and permanent beacon of light.

This Article grows out of the founding of Parent Education and Custody Effectiveness (P.E.A.C.E.), an experimental, interdisciplinary educational program for divorcing and separating parents. P.E.A.C.E. is a court-connected program in the sense that much of its support and referrals come from the judges who hear cases arising out of divorce and separation.

P.E.A.C.E. is the creation of a coalition of lawyers, judges, court administrators, and mental health professionals. The core belief of P.E.A.C.E.'s founders is that children are more likely to cope with the transitions of parental divorce or separation if parents reduce their conflict and take responsibility for creating an effective parent-child relationship. Prolonged conflict between parents, in contrast, significantly increases the risk that divorce or separation will result in a deterioration of their child's emotional, economic, and educational well-being.

As we will describe, P.E.A.C.E.'s program experience validates the premise that education is a valuable tool to promote parental conflict reduction. It suggests that courts should develop a strategy to give all divorcing and separating parents access to similar educational programs and to encourage their use.

That strategy requires the transformation of P.E.A.C.E. (and all parent education programs) from an experiment, to a permanent institution. The purpose of this Article is to describe the shape of that permanent institution. We hope to further encourage the creation of interdisciplinary public-private partnerships, sparked by the judiciary, to achieve the goal of widespread availability of high quality educational programs for parents and children.

This Article is divided into several parts. First, we discuss the background and findings of P.E.A.C.E.'s pilot programs. Next, we analyze why the grass roots movement to create court-based educational programs, of which P.E.A.C.E. is representative, has evolved so rapidly. Then, we address the concerns that some groups have raised.

Richard E. Behrman & Linda Sandham Quinn, Children and Divorce: Overview and Analysis, in CHILDREN AND DIVORCE, supra, at 8.
that P.E.A.C.E. may have a disparate and negative impact on women. Finally, and most importantly, we outline an administrative structure that a state judiciary can create to promote the development of parent education programs.

II. FINDINGS FROM P.E.A.C.E.'S PILOT PROGRAMS

A. What is P.E.A.C.E.?

P.E.A.C.E. is an interdisciplinary program for divorcing and separating parents which provides education on three topics: (1) the legal process for making child-related determinations; (2) the adult experience of divorce and separation; and (3) the child's experience of divorce and separation and how parents can help their children cope with this transition. P.E.A.C.E. is a joint project of the Hofstra University School of Law and the Hofstra University School of Education's Graduate Programs in Marriage & Family Counseling. P.E.A.C.E. is co-sponsored by the Interdisciplinary Forum on Mental Health and Family Law, an umbrella organization of leading mental health and family law groups in New York. P.E.A.C.E.'s development has been guided by the advice and support of a Statewide Interdisciplinary Advisory Committee.

Local programs are organized by volunteer Local Advisory Committees of judges, court administrators, lawyers, and mental health professionals. The Local Advisory Committee is responsible for identifying volunteer lawyers and mental health professionals to serve as presenters.

P.E.A.C.E.'s pilot program experience indicates that judicial districts can organize parent education programs at a modest cost. All that is needed is a group of committed volunteers and short-term consulting help to provide curriculum, training, evaluation, and organizational expertise. Each local advisory committee is supplied with curriculum materials, training, consulting, and evaluation support from the P.E.A.C.E. Program at Hofstra University. With the help of a State Justice Institute grant, P.E.A.C.E. has developed: (1) a manual describing program organization and curriculum;4 (2) a forty-five minute documentary videotape which informs parents about how they can help their children cope with the stresses of parental divorce and separation. The videotape is based on extensive interviews with chil-

of divorce and separation. Excerpts from these interviews are interspersed with comments from judges, lawyers, and mental health professionals; and (3) a Parents Handbook designed to give divorcing or separating parents helpful information about the legal and emotional processes associated with divorce and separation.

Certain features of all P.E.A.C.E. pilot programs are standard throughout New York. All local P.E.A.C.E. presenters participate in a training program arranged by the P.E.A.C.E. Program at Hofstra. All P.E.A.C.E. programs prohibit volunteer presenters from soliciting or accepting business for professional services from parents who participate in that particular session of the program. In P.E.A.C.E. sessions, divorcing or separating parents are not assigned to the same small groups in an effort to avoid face-to-face discussion.

Within broad guidelines, the local P.E.A.C.E. Advisory Committee is responsible for setting policy for program administration in their communities. This policy of local control and administration enables communities to adapt the P.E.A.C.E. concept to their needs by permitting format flexibility. In Nassau County, for example, P.E.A.C.E. is presented in three two-hour sessions over a three week period. In contrast, Erie County (Buffalo) presents its P.E.A.C.E. program in a five-hour Saturday session. Erie County decided on this format after finding that it was most convenient for the majority of parent participants.

Most P.E.A.C.E. pilot programs combine large group presentations with small group discussions, following a standard curriculum. Some, however, use a small group format throughout.

B. What P.E.A.C.E. Produces

1. Positive Parental Reactions

[Parents thinking about divorce should go through this—everyone. And maybe even parents thinking about starting a family should see this first.]

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5. P.E.A.C.E. PROGRAM, IN THE BEST INTERESTS OF CHILDREN: DIVORCE EDUCATION FOR PARENTS (Victor/Harder Productions 1995). The P.E.A.C.E. videotape for parents won a Telly award for outstanding non-broadcast television production. We greatly appreciate the cooperation of the Family Law Section of the State Bar of Michigan, who permitted P.E.A.C.E. to use material from its parent education videotape, LISTEN TO THE CHILDREN (1993), in the creation of the P.E.A.C.E. videotape.


7. This quotation is from an interview with an anonymous parent participant in a
I am a better person and parent for having had exposure to this program. I used to feel that the legal environment did not care about individuals who are going through this [divorce and separation] but now I know better. I could not thank you enough. Thank you and God bless you all.\(^8\)

P.E.A.C.E.'s pilot programs produced overwhelming enthusiasm from parents. The findings we present here are based on a significant amount of data. The Erie County P.E.A.C.E. pilot program has been preliminarily evaluated by independent outside consultants who analyzed confidential questionnaire responses from participating parents.\(^9\) We have also collected numerous additional evaluation questionnaires and data from parents in other P.E.A.C.E. pilot programs. We have reviewed reports on P.E.A.C.E. from the judges, lawyers, and mental health professionals who have organized and staffed the pilot program efforts.\(^10\) We have also compared the data that we assembled about P.E.A.C.E. with data from other parent education programs, such as Dutchess County's Helping Children Cope, and programs in other states.\(^11\)

All of this data strongly supports the finding that parents who participate in P.E.A.C.E. highly value the experience. Parents report that participation in P.E.A.C.E. helps them to focus on the best interests of their children during the reorganization of their family. They believe that they receive valuable information and perspective that will help their children cope with the difficult transitions that are required during divorce and separation. Parents who attend P.E.A.C.E. report a more favorable view of the court system and the legal process after attendance. Indeed, parents who attend P.E.A.C.E. believe

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\(^8\) This quotation is from an anonymous parent evaluation of the Erie County P.E.A.C.E. Program. See Andrew Schepard Memorandum to P.E.A.C.E. Statewide Advisory Committee (Jan. 3, 1994) (available from the P.E.A.C.E. Program).


\(^10\) We have summarized this less numerically oriented data in an informal document entitled Report from P.E.A.C.E.'s Programs, which is available from the P.E.A.C.E. Program at Hofstra University.

\(^11\) The data from Helping Children Cope can be found in Schepard, supra note 3, at 198-200. Other preliminary program data can be found in AFCC CONGRESS PROCEEDINGS, supra note 2, at 8-18, 39-42 (comparing data from Connecticut and Utah respectively).
overwhelmingly that participation in a parent education program should be mandated for all divorcing and separating parents.

For example, the P.E.A.C.E. Interim Evaluation Report provides the following responses of a sample of ninety-three parents who attended the Erie County P.E.A.C.E. Program:

—Over 90% of participating parents either "agree" or "agree strongly" with the statement that "I will use what I learned at the P.E.A.C.E. seminar."\(^{12}\)

—Over 70% of the respondents "agree strongly" with the statement that "I would recommend the P.E.A.C.E seminar to others." An additional 20% "agree" with the statement.\(^{13}\)

—60% of parents surveyed "agree strongly" with the statement that "the P.E.A.C.E. seminar should be mandatory" for divorcing and separating parents. Another 20% "agree" with the statement.\(^{14}\)

—Over 80% of responding parents "agree strongly" or "agree" with the statement that "my knowledge about families and divorce has increased" as a result of my participation in P.E.A.C.E.\(^{15}\)

The significance of these numbers is magnified by the nature of the surveyed parent audience, which was both potentially hostile to participation in the Program and already served by legal and mental health professions. Most of the surveyed parents participated in the Erie County P.E.A.C.E. Program on the recommendation of the court, and thus felt some degree of compulsion to attend. Despite initial feelings of being coerced into the Program, parents felt positive about it after completion. In addition, parents benefitted from participation in P.E.A.C.E. even though the majority of them retained counsel, over half of them sought the services of a mental health therapist for themselves, and almost half sought such services for their children.\(^{16}\)

In other words, parents value participation in P.E.A.C.E. even if they have retained their own lawyers and mental health professionals.

Numerical and non-numerical data suggest that participation in P.E.A.C.E. helps divorcing or separating parents in several ways. First, it reminds parents about the primacy of their children’s needs at a time of great stress in family life and encourages communication between them. This communication encourages parents to voluntarily

\(^{12}\) P.E.A.C.E. Interim Evaluation Report, supra note 9, at 26 (figure 10g) (emphasis added).

\(^{13}\) Id. at 26 (figure 10d) (emphasis added).

\(^{14}\) Id. at 26 (figure 10e) (emphasis added).

\(^{15}\) Id. at 26 (figure 10f) (emphasis added).

\(^{16}\) Id. at 13 (figure 4).
develop a workable post-divorce or separation parenting plan for their children, rather than have the court impose one on them as a result of litigation.

Second, P.E.A.C.E.'s content provides parents with helpful information and perspective. They learn more about how the legal system works, and about their own and their children's responses to divorce and separation.

Third, participation in P.E.A.C.E. reduces parental isolation and encourages reintegration into the community. P.E.A.C.E. groups divorcing and separating parents together, thereby reducing the sense of isolation and frustration that parents experience when they divorce or separate. The group process seems to provide parents with a source of support. The parents who participate in P.E.A.C.E. seem to have a more positive view of the court system after participation, and seem to get a sense that the court system and professionals care about them and their children's problems. Parents who attend P.E.A.C.E. also seem to be more receptive to accepting help from community resources to ease their family transition.

These conclusions are supported by data like the reaction of one couple who participated in Westchester P.E.A.C.E. and was later interviewed for a New York Times article. To the couple, P.E.A.C.E. emphasized the importance of allowing their daughter, Lauren, to see that her father and mother respect each other's new lives. Lauren's father summed up the message of P.E.A.C.E.: "They steer you 150 percent away from the idea that I'm going to go in and win, to saying [instead that] I am going to go in and get the best results for my children."¹⁷

Lauren's mother said that:

The classes really opened my eyes a lot. . . . There you are in court battling for divorce or custody, and its costing you umpteen dollars. It made me realize that this was not what I wanted for my daughter. Bill and I both always wanted the best for her from the minute she came into this world, and making her choose would not be the best.

. . . .

You want your children to grow up with the same values that you had when you and your husband were together—to be honest and respect others. . . . When you are going through a divorce you

don't realize that they see you crumbling all those things you taught them. Now Lauren sees that her father and I respect each other's new lives. And even though we are going down separate roads, we still have a connection—our daughter. She is the one we will always love.\(^{18}\)

In addition, the positive conclusions are supported by the reports of a number of attorneys about a client who attended P.E.A.C.E. For example, one attorney reported:

I do not speak to my client every day now. There is not nearly the animosity that existed before the program. And, finally, and most importantly, the two parties for the first time are sitting down and coherently discussing some sort of an agreement leading to a custody and dispute resolution, without trying to kill each other.\(^{19}\)

When asked what was “most helpful” about P.E.A.C.E., the parents' responses included:

- Information about shared custody
- Learning to focus on the child’s best interests
- Learning to communicate
- Coping with single parenthood
- Asking questions
- Realizing the importance of cooperation
- Realizing the need for individual counseling
- Information on the child’s experience of divorce
- Guidelines for giving children a normal life

When asked what was “least helpful” about P.E.A.C.E., responses ranged from a desire to spend more time discussing problems in the “break-out groups,” spending more time on the legal issues, and changing the format of the sessions so that they were less like a lecture. Parents repeatedly emphasized the importance of participating in P.E.A.C.E. as early as possible in the life-cycle of their divorce and separation experience, before positions hardened through the courtroom process.

Comments from parent participants in the Dutchess County Helping Children Cope Program mirror those of P.E.A.C.E. participants, as shown by the following responses to the question, “The two most important things I learned from this seminar were”:

\(^{18}\) Id. at 1, 4.

\(^{19}\) This quotation is from an informal evaluation sheet on file with the P.E.A.C.E. Program at Hofstra University.
Children should be put first; put aside anger for ex-spouse where children are concerned; ... that I am not the only one going through this; not to blame the [other parent]; not to blame the child; the effects of divorce on children can be minimized; ... [and] divorcing parents have to communicate ...

2. Extensive Volunteer Involvement

In addition to positive parental reactions, P.E.A.C.E. has generated extensive involvement and cooperation by the bench, bar, and mental health communities in furtherance of children’s welfare. While we have not done a precise calculation, it is fair to say that hundreds of volunteers in communities around New York State have devoted thousands of hours to organizing and presenting P.E.A.C.E. to divorcing and separating parents. An example is the participation of the Erie County matrimonial bar in P.E.A.C.E. as recently described:

[A]t a time when the legal profession is experiencing increasing public skepticism, it is important to emphasize for the public that, for almost a year, among the volunteer professionals [who have presented P.E.A.C.E. to parents] each month have been two matrimonial lawyers.

They have been representative of the matrimonial bar in general, with both senior and relatively new lawyers devoting unpaid time in preparation and formal presentation, followed by informal discussion groups.

The 21 lawyers who volunteered as presenters have all been members of either the Matrimonial and Family Law Committee or the Family Court Committee of the Bar Association of Erie County.

In Nassau County, where the P.E.A.C.E. program has been presented over a dozen times, it has led to the first interdisciplinary forum of

20. See Schepard, supra note 3, at 165, n.75. The principals of the Dutchess County Program actively participate as members of the Statewide P.E.A.C.E. Advisory Committee, consistent with the authors’ view that P.E.A.C.E. is a concept, not a particular kind of program. See infra part V.

21. Paul D. Pearson, Local Attorneys Come To Rescue Of Children Of Divorce, THE BUFFALO NEWS, Oct. 24, 1994, at C2 (letter to the editor). The founder of P.E.A.C.E. in Orange County, New York, the Hon. Richard Mandell, recently received a Law Day award from the local bar association for his efforts. One of the authors, Andrew Schepard, was awarded the 1994-1995 Chairs Cup of the Family Law Section of the American Bar Association for his work on P.E.A.C.E. and the other author, Stephen W. Schlissel, received a special for his work from the Family Law Section for his efforts. We are very proud of these awards.
its kind in that county. The Nassau County Interdisciplinary Forum now regularly provides programs relating to the family and greatly enhances the exchange of information by those professionals working on behalf of the family.

It is important to emphasize that this extensive volunteer involvement in P.E.A.C.E. is not the result of economic motivation. Volunteer presenters are prohibited from soliciting or accepting referrals from parents who attend their particular group.

III. WHY COURTS ARE CREATING PARENT EDUCATION PROGRAMS

Findings from P.E.A.C.E.'s pilot programs parallel those from other programs around the country and identify reasons why courts are creating parent education programs.

A. **High Levels of Parent Satisfaction**

A few court systems began to organize parent education programs in the 1980's. Recently, a large number of court systems have joined the effort, and some states have enacted legislation authorizing parent education programs. The widespread participation in the recent AFCC Conference and survey data indicate a significant nationwide upsurge in interest in the P.E.A.C.E. concept.

P.E.A.C.E. is distinctive for its extensive inclusion of legal material in the educational program and reliance on volunteer presenters. Although they differ somewhat in their intended audience, content, and administrative structure, all parent education programs presented at the AFCC Conference share educational aims similar to those of P.E.A.C.E.

By legislation, Connecticut has adopted a statewide model which requires that all divorcing parents participate in an educational program organized on a county level and provided by an agency awarded a contract after a competitive bidding process. Louisville, Kentucky organizes programs for both parents and children. Baltimore,
Maryland has organized an education program aimed at unmarried parents.\textsuperscript{27}

Despite differences in structure and content, preliminary results from all of the different programs reported at the AFCC Conference confirm widespread parent satisfaction with participation in educational programs.\textsuperscript{28} Programs from all over the country report results similar to those of parents who participate in P.E.A.C.E. and give us additional confidence that our preliminary results are indicative of a need for such a program.

In light of these findings, we turn to the question of why parent education programs like P.E.A.C.E. are emerging all over the country—virtually simultaneously—and why parents are enthusiastic about them.

\textbf{B. A Useful Tool for Parental Conflict Management}

First, parent education programs are a positive step toward coping with the problems for families and children created by the revolution in family law and attitudes during the last generation. Over the last thirty years, parents have taken significant advantage of greater freedom, both legal and social, to divorce and separate.\textsuperscript{29} The result has been traumatic for their children. On every comparative measure of well-being, today's children are less well-off than their parents. Today's children have suffered a collective decline in the three “e's” that determine their quality of life—emotions, economics, and education. They experience more serious emotional distress, suffer more economic difficulty, and endure more educational failure than previous generations.\textsuperscript{30}

Some part of this decline must be attributed to parents who are caught up in the turmoil of divorce and separation and who are temporarily—and sometimes permanently—distracted from focusing on their children's needs and the demanding tasks of parenting. Research suggests that children generally need both parents to work together after divorce. Two parents are more likely to provide the time, emo-

\textsuperscript{27} See P.E.A.C.E Program, Summary Description of Selected Parent Education Programs from Around the Nation 18 (1994) [hereinafter P.E.A.C.E. Summary Description] (on file with the Hofstra Law Review).

\textsuperscript{28} See discussion supra part II.B.1.

\textsuperscript{29} See U.S. DEPARTMENT OF COMMERCE, STATISTICAL ABSTRACT OF THE UNITED STATES 75 (1994).

\textsuperscript{30} See supra note 3 and accompanying text.
ional commitment, and financial resources necessary to effectively raise a child than either parent alone. Too often, divorce and separation leave a child with parents who try to shut the other out of the child's life or with only one involved parent.

Children need parents to reduce their conflict, not to escalate it. Divorce and separation often result in a nuclear arms race of bitterness and anger between parents or alienation from each other. Children are emotionally torn apart by parents in continuous combat. They either blame themselves, or choose sides. Their models for future relationships are negative, not positive. Their sense of security is shattered. Their economic support is not paid. Conflicted divorce and separation can undercut the basic stability of family structure which is necessary for children to thrive.31

Easily available divorce and separation may be a positive step for parents, but it creates problems for children. One response to this dilemma, advocated by some, is to restrict parental freedom to divorce, perhaps by returning to the fault system. Restricting divorce for parents is a regressive idea that will promote the evasion and disrespect for the legal system that were the prominent features of the fault system.32

As a society, we have moved past the idea of protecting children by seriously restricting the right of parents to divorce and separate. Keeping unwilling adults in unhappy, sometimes violent, marriages is not going to help them help their children cope with family turmoil. The problem is not that parents divorce or separate, but that they do not manage the effects of their conflict consistently with their children's best interests. Parents should be encouraged to recognize that their marriage is over but their parental relationship is not and to avoid extending their marital conflicts to the parental realm. Rather than restrict divorce, the urgent task of social policy must be to find ways to help divorcing and separating parents help their children cope with family reorganization.

Parents find that education programs are an effective way to remind themselves of the primacy of their children's interests during divorce and separation. Parent education programs assume that mar-

31. Numerous children who experienced the divorce and separation of their parents were interviewed for the videotape for parents produced by the P.E.A.C.E. Program. See supra note 5 and accompanying text. The excerpts from the interviews included on the videotape are an eloquent confirmation of the quality of their experiences. See id.

32. See Schepard, supra note 3, at 184-86.
riages may end but that parental relationships continue. They also assume that parents who divorce and separate are just like other parents—in that they want what is best for their children—and simply need information and encouragement to achieve that goal. Education aims to direct parents away from anger against the other spouse and towards responsible behavior with respect to their children while still preserving parental freedom to divorce and remarry.

C. A Useful Source of Information for Informed Parental Decision Making

Education programs are emerging around the country for a second reason—the legal system needs help in enabling parents to help their children. The volume of family law related filings has exploded without an increase in resources to help courts cope. Most families do not have the emotional energy, financial resources, or time to resolve their child-related disputes in court. In addition, for many families, the adversarial courtroom process adds further hostility and discourages parents from working together.

The last few years have also seen a dramatic increase in the number of pro se divorce petitions. Pro se litigants need the perspective that an educational program provides even more than parents who retain counsel as they have no source of objective advice about what is in their and their children’s best interest. As legal fees escalate and court dockets become more crowded, the need for all parents to have help that reduces the likelihood of courtroom conflict becomes ever more pressing.

Parent education programs are emerging because communities everywhere increasingly recognize what research and common sense suggest—in most cases, court trials should be a last resort for solving family problems. The problems of children after divorce and separation are generally best addressed by informed agreements between

33. See Rudolph J. Gerber, Recommendation on Domestic Relations Reform, 32 ARIZ. L. REV. 9, 10 (1990).

Courts are overwhelmed by family law demands. Matrimonial actions comprise over half the cases filed in trial courts. Approximately 10 percent of divorce cases go on to full-scale legal battles over custody. Many court systems are so overloaded that no-fault divorces often have delays of nine to ten months. Contested divorces may wait for over a year to be scheduled.

Id. at 10 (footnotes omitted).

parents. Court decrees cannot create quality parenting; only parents
themselves can.

D. A Service for Incorporating Reorganized
Families into the Community

The third, and perhaps most important, reason that parent educa-
tion programs are emerging is that they are part of a larger need in
American society to reassert the mutual responsibility of parents and
the larger community to support each other in raising children. The
most accurate single word to describe a typical P.E.A.C.E. program
parent is "isolated." This quality was summed up by a parent who
attended a P.E.A.C.E. session: "It is a sea of confusion, anger, and
fear out there. And most of us don't know how to swim. . . . For
me, the P.E.A.C.E. Program was the missing link."

Divorcing and separating parents can experience a roller-coaster
of turbulent emotions. Many believe their problems are unique and
that no one cares about them or can help. They want to be good
parents, but sometimes feel that they face insuperable challenges and
obstacles created by others—their ex-spouse or lover, their lawyers, or
the courts. They have a great hunger for information that can help
them and their children cope. They want to sense that their commu-
nity—their courts, their lawyers, their mental health professionals, their
educators—cares about their problems and wants to help. Above all,
divorcing and separating parents want reassurance that they are not
alone and can cope with the challenges that divorce and separation
present.

Parent education programs are a sign that the community, and
especially its legal system, cares about parents and children and can
respond positively to their needs. Divorcing and separating parents
can be helped to learn how to swim by focusing on their strengths as
parents, not just their problems. If they learn, more children will stay
afloat. The entire community is stronger as a result, because ultimate-
ly, whether we all drown or swim depends on the well-being of our
children.

IV. GENDER DIFFERENCES AND POWER IMBALANCES BETWEEN SPOUSES

The results of P.E.A.C.E.’s pilot programs are thus generally positive, and parallel the results from parent education programs from around the country. When P.E.A.C.E. began, however, concerns were raised about P.E.A.C.E.’s possible disparate impact on women. Those concerns are identified in the 1993 Report of New York’s Committee on the Conduct of Matrimonial Lawyers (“Committee Report”).

While generally supporting the future development of P.E.A.C.E., the Committee Report articulated three areas of concern to be addressed in its future development. These areas of concern all relate to the potential impact that parent participation in P.E.A.C.E. may have on the disparity of negotiating positions between the spouses: physical or emotional abuse; refusal to pay support; and the general imbalance of power between a monied spouse and a non-monied spouse.

The concerns identified by the Committee Report raise issues with which any court considering the creation of parent education programs must deal. To win community support, parent education programs must be perceived as gender-neutral, and educational, not propagandistic. P.E.A.C.E.’s pilot program experience indicates that, with dialogue and good will, concerns about disparate impact can be addressed and both fathers and mothers can benefit from participation in P.E.A.C.E. We therefore think it important to comment on the problems raised in the Committee Report and to describe the steps that P.E.A.C.E. has taken to respond to the Committee’s areas of concern.

A. Mothers and Fathers Equally Value Participation in P.E.A.C.E.

First, we should recognize that the concerns expressed in the Committee Report have not, so far, been supported by the reactions of women who participate in P.E.A.C.E. Preliminary data suggests that

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36. COMMITTEE TO EXAMINE LAWYERS CONDUCT IN MATRIMONIAL ACTIONS REPORT (1993). This Committee is informally referred to in New York as the Milonas Committee, after its Chair, Judge E. Leo Milonas, the current Chief Administrative Judge of the New York State Unified Court System.

37. Id. at 35.

38. Id. at 47.
both mothers and fathers share the same favorable view of participation in P.E.A.C.E. without regard to gender. In testing parents' attitudes towards participation in P.E.A.C.E., the P.E.A.C.E. Interim Evaluation Report states that "[t]hough more women (59%) than men (41%) returned both surveys (n=93) there are no statistically significant differences in the attitudes of men and women across these findings."\(^9\) Perhaps the absence of gender differences in the reactions to P.E.A.C.E. so far are a result of a deliberate policy to involve—in so far as is feasible—both male and female professionals at every session as joint presenters. The broad-based Statewide Advisory Committee also constantly reviews P.E.A.C.E.'s curriculum for gender bias.

B. Coping with the Problems of Domestic Violence

P.E.A.C.E.'s curriculum emphasizes that its focus on parental conflict reduction and post-divorce and separation cooperation may not be appropriate in all family circumstances, particularly when serious incidents of domestic violence or child abuse are part of the family history. In such families, a parent or child has a need for physical safety that outweighs the importance of parental cooperation.

Relying on the advice of many concerned with domestic violence, P.E.A.C.E. has taken a number of steps to cope with the problem:

1. Warnings

All of P.E.A.C.E.'s curriculum materials (the Manual, the Video, and the Parents' Handbook) contain explicit statements that:

—domestic violence may render the Program's emphasis on cooperative parenting inappropriate;
—physical safety of parent and child is the highest value;
—divorce may be an appropriate response to a violent marital relationship and may, in those circumstances, promote the well-being of a child who witnesses violence or conflict; and
—a parent who believes he or she or a child is a victim of violence should discuss the situation with counsel and bring it to the attention of the court.

2. Information
Local P.E.A.C.E. Programs are encouraged to provide parents with a list of non-profit community resources, including programs for victims of family violence, that can help them and their children.

3. Referral Criteria
P.E.A.C.E. advises courts not to refer parents to P.E.A.C.E. pilot programs if their family history contains documentation (such as a permanent order of protection) of serious incidents of family violence.

4. Safety and Security
Parents are never assigned to the same small group discussion as their former, or soon to be former, spouse or co-parent. Further, parents are not required to attend the program together. In many P.E.A.C.E. pilot programs, where resources permit, parents are given the option of attending different sessions on different evenings than their spouses. Finally, security is provided at most P.E.A.C.E. sessions by uniformed court officers.

C. Child Support Education
P.E.A.C.E. strongly discourages the use of economic coercion because of the damage to children that results from a spouse’s refusal to pay support. P.E.A.C.E.’s videotape and curriculum include explicit statements that failure to pay court-ordered child support is irresponsible and legally punishable behavior. It further highlights the devastating impact on the well-being of children of such behavior. For example, one video segment features a child who, when asked how she felt when her father failed to pay court-ordered support, responds with words to the effect that, “It is like he told me to sit in the corner and die. It shows he doesn’t care about me.”

A judge subsequently ap-

40. IN THE BEST INTERESTS OF CHILDREN, supra note 5. The P.E.A.C.E. videotape and curriculum advise parents that they should generally not create loyalty conflicts for children by involving them in discussions of child support payments. A significant proportion of the children interviewed for the P.E.A.C.E. video were, however, fully informed of the status of child support payments (or lack thereof) in their families, and the subject was a source of great contention in many parent-child relationships. Thus, without identifying the children or parents involved by name, the P.E.A.C.E. videotape includes statements from these children on child support and other matters as a learning tool for parents other than their own. Appropriate releases and consents were obtained from all children and adults who appeared on the videotape.
pears on the screen and reminds parents of the importance of paying support and describes legal sanctions for failure to do so.

P.E.A.C.E. seeks to educate parents with respect to *all* aspects of how divorce and separation affects their children, including their support obligations. It is a goal of P.E.A.C.E. to provide parents with an understanding of how essential payment of support is, and the consequences resulting from the failure to pay it.

P.E.A.C.E. does not, however, limit its concerns about potential coercion by parents to failure to pay support. The P.E.A.C.E. curriculum also emphasizes the child's need for an emotional relationship with both parents, the right of visitation, and the parent's responsibility for facilitating the other's relationship with the child.

**D. Information is Power**

The general imbalance of power between monied and non-monied spouses cannot be equalized by an educational program. The core of this problem is the disproportionate control over marital funds and assets by the monied spouse who refuses to comply with court orders voluntarily.

Ultimately, the solution to this problem is in fairer laws and stronger judicial enforcement of them. P.E.A.C.E. can only address this issue from an educational perspective and from the perspective of children. In doing so, its focus is on the equal distribution of, and access to, information and resources.

The P.E.A.C.E. curriculum emphasizes that parents have choices. For non-monied spouses, information about the legal and mental health processes of divorce and separation and the options available are crucial. Non-monied spouses often start out with less information available to them than their monied spouse. In this respect, P.E.A.C.E. provides non-monied spouses with additional information about the choices available to them. In doing so, non-monied spouses are equipped with information necessary to choose appropriate counsel and with which to evaluate the advice they receive from the lawyers and mental health professionals who serve their interests. This information will help enable them to understand the choices they face, and to make them on a more informed basis.

Concern about power imbalances resulting from parent participation in P.E.A.C.E. must also be put in context. P.E.A.C.E. is an educational program only. It is not a mediation program, an arbitration program, or any form of dispute resolution which affects spousal legal or financial rights. P.E.A.C.E. does not attempt to dissuade parents
from pursuing their legitimate rights through litigation. Rather, it urges them to try to do so in a manner which inflicts the least possible damage to parental relationships and their children. P.E.A.C.E. attempts to provide information about the costs and benefits of litigation, arbitration, and mediation in as balanced a manner as possible. The curriculum emphasizes that alternative dispute resolution is an option to be considered, but is not appropriate in every case, and that parents should weigh its value carefully with their lawyers and mental health professionals.

P.E.A.C.E. does not replace lawyers for those spouses who have them, nor does it act as one for those who don’t. It only supplements a parent’s existing resources with additional information and perspective helpful to understanding the legal system and divorce process as it affects children. The assumption of the Program is that a participant will discuss the information and impressions received during the program with his or her lawyer or therapist. By providing information to participants, P.E.A.C.E. has the potential to increase the non-monied spouse’s capacity to provide direction on objectives to counsel and improve lawyer-client relationships.

V. A Structure for P.E.A.C.E.’s Future

Peace must be dynamic, not static, changing to meet the challenges confronting it, for peace is a process, a way of solving problems.41

While President Kennedy was speaking of peace between nations, he could just as easily have been speaking of the P.E.A.C.E. Program for parents and children and parent education programs everywhere. P.E.A.C.E. too “is a process, a way of solving problems [that] must be dynamic . . . to meet the challenges confronting it.”42

The next step in the evolution of P.E.A.C.E. and parent education programs is to move from an experiment to a routine part of the process of resolving disputes between parents. The challenge is to create an administrative structure to give every divorcing or separating parent access to a parent education program in the near future while assuring quality control.

41. President John F. Kennedy, Commencement Address at American University (June 10, 1963).
42. Id.
A. Judicial Support

The key to the next stage of P.E.A.C.E.'s evolution is judicial support. We have found that if the judiciary supports parent education programs, court administrators, lawyers, the mental health community, and parents also will support them. Judges are viewed as community leaders on child-related matters. P.E.A.C.E. has been most effective in those localities in which judges have been visible and vocal leaders of the program.

Judicial willingness to assume leadership in organizing parent education programs will be increased if doing so is a manageable task. Judges also need to be assured that the quality of the program is high, and that it will receive support from the local mental health and legal communities and affected constituencies. Judges also need to be assured that they will retain a significant degree of control over the content and operations of the program.

B. Local Organization and Control

Given these realities, the core unit for organizing parent education programs should be the local judicial district. Local judges can mobilize people and resources to create programs and adapt them to the special needs of a community. While educational programs should have a consistent core curriculum, they need not be identical everywhere.

Every judicial district that wants to organize a parent education program should receive the administrative and financial support from the central judicial administration necessary to do so. A statewide educational effort for judges on the benefits and methods of organizing parent education programs should be undertaken to encourage judicial districts to organize and support them.

C. A Statewide Interdisciplinary Task Force

Local organization is not, however, enough. A judicial district's organization of a parent education program requires consulting help and support from people with experience in that task. Some costs are thus involved. Manuals and brochures have to be printed and curriculum materials updated and distributed. Local advisory committees need to be formed; trainers have to travel to locations to train pre-
senters, and evaluations must be conducted. A statewide support service is necessary for these purposes.

The support services required to initiate and maintain local educational programs requires the creation of a statewide body. We recommend that the statewide body take the form of an Interdisciplinary Task Force ("Task Force") on parent education programs comprised of judges, court administrative personnel, lawyers, mental health professionals, and educators. Each locality that implements P.E.A.C.E. should create a parallel local interdisciplinary task force.

The purpose of the Task Force is to oversee the future research and development effort required to integrate parent education programs into the judicial process. The Task Force should not operate local programs, but rather should provide support to local task forces who do. Subject to approval of the Task Force, the local judicial organizing committee should be empowered to contract with educational institutions or other appropriate agencies to provide parent education services. The Connecticut statewide program of parent education may provide a useful model for this purpose.43

The Task Force will need administrative support to operate. It will also need a budget to support new program development and evaluation. A possible alternative is to base the Task Force at a university with faculty and students from relevant disciplines providing staff.

D. The Task Force's Agenda

In addition to providing support for local programs, the Task Force should undertake activities in support of the development of court-related parent education programs.

1. Education

All segments of the professional community who deal with children caught in the process of parental divorce and separation need education about the needs of those children and the role that parent education programs can play in helping the community meet those needs. Lawyers receive very little special training in that subject in law school or in continuing education courses, and mental health professionals do not necessarily focus on the subject in their training. The Task Force should create educational programs which will en-

43. See generally 1993 Conn. Legis. Serv. 93-319 (West).
courage both professions to give the needs of children the priority they deserve.

There are several special audiences within the legal community at whom educational programs concerning parent education and needs of children should be directed:

a. Lawyers for Children (Law Guardians)

In New York, as in other states, lawyers are often appointed to represent children in disputes between their parents. In New York, such lawyers are often called Law Guardians.44

Lawyers who regularly serve as Law Guardians for children in New York have been especially receptive to participating in P.E.A.C.E. programs and have repeatedly reaffirmed the value of parent participation in performing their tasks. They also have a special need to understand how parents can help children experiencing divorce and separation.

The Task Force should organize educational programs aimed at Law Guardians. While we believe it should primarily be a judicial function to encourage parents to attend P.E.A.C.E., Law Guardians, too, can play a role in this process through consultation with lawyers for the parents and the courts.

b. Hearing Examiners

Hearing examiners who initially resolve many child support disputes should be made aware of the role parent education programs can play in the dispute resolution process. Support and visitation issues are often intertwined and need to be resolved to create a workable post-divorce or separation environment for children. Hearing examiners should be encouraged to refer cases to parent education programs.

c. Lawyers Specializing in Matrimonial and Family Practice

Lawyers who specialize in matrimonial and family practice should be encouraged to recognize the potential value of parent edu-

cation programs to children and to refer clients to them even before the court does. Bar Associations with matrimonial and family law committees should be encouraged to organize educational programs and perhaps to require their members to attend and volunteer to present at a local parent education program as a condition of membership on such committees.

2. Research and Evaluation

The variations in each P.E.A.C.E. Program format, as well as the variations between P.E.A.C.E. and other parent education programs in New York and elsewhere, suggest that the concept is still in a developmental stage. All of the available evidence suggests that parents find education programs valuable, no matter what their form. No "right" way to organize and present a parent education program has yet emerged, and may never do so. P.E.A.C.E., and other parent education programs, are moving through a stage of experimentation and development in which the education provided is improving due to feedback from presenters and participants.

We believe that, over time, the many forms of education will prove themselves to be a very valuable service on a continuum of services which courts should have available to serve the differentiated needs of separating and divorcing families. Continuous research and development is, however, necessary to define what the continuum of services should be and the role that parent education should play in it. The Task Force should undertake the development and implementation of such a research program with the help of experts. Again, the value of a university base for the Task Force suggests itself in performing this aspect of the Task Force's mission.

We should not, however, delude ourselves into believing that court connected parent education programs are a panacea to cure the ills of the family court system. They will not, in and of themselves, clear crowded dockets. Nor do we have any evidence yet that parental behavior is changed by participation in them.45

The enormous population of divorcing and separating parents contains a continuum of behavior that ranges from cooperative to

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combative in the extreme. A certain percentage of that population is litigious to the point of pathology; no educational program can effect their behavior towards their children and each other. Rather, more structured interventions (such as mediation) or coercive interventions (such as appointment of a special master to oversee parent-child relations for a period of time)\textsuperscript{46} are required to prevent their children from becoming casualties of parental warfare.

The aim of a parent education program is prevention, not remediation, of parental behavior that can damage children through disseminating information about divorce and separation. Education is not a magic bullet, but a modest, though important, step towards creating a family-friendly court system.

3. New Program Development

The Task Force should also be charged with engaging in new program development and experimentation. Our experience with P.E.A.C.E. and research into educational programs around the country has identified a number of program areas that should be considered for the future:

a. Children

A program should be designed to help children cope with parental divorce and separation. Several states offer programs for children at the same time as their parents.\textsuperscript{47} Reports at the recent AFCC Congress indicate that such programs offer children significant aid and comfort in dealing with the stresses of divorce and separation.

b. Domestic Violence and Child Abuse

This program would provide adults and children with information about domestic violence, child abuse, and resources for dealing with them. Court-based education may also be a useful tool for dealing with the problems of family violence. Battered spouses should be made more aware of what options are available to them in dealing

\textsuperscript{46} The California special master program for child custody cases is described in S. Margaret Lee, \textit{The Emergence of Special Masters in Child Custody Cases}, \textit{AFCC NewsL.}, Spring 1995, at 5 (1995) (describing the concept as useful when parents are unable to agree on ordinary decisions about their children, when there are serious allegations of abuse or neglect or parental fitness, or where the problem involves a very young infant whose welfare requires constant communication between parents).

\textsuperscript{47} See Di Bias, \textit{supra} note 26, at 8-17.
with their children and their spouses. We also note that a number of the education programs that offer services for children described at the AFCC Congress include education on parental domestic violence. They do so because they report that over fifty percent of the children who participate in their programs witness more or less severe incidents of domestic violence between their parents. Presenters at the AFCC Congress emphasized that children who witness domestic violence substantially benefit from participation in education programs.

c. Unmarried Parents and Their Children

This program should be directed at educating unmarried parents about the needs of their children during child support and custody proceedings. P.E.A.C.E. was initially designed as an educational program for divorcing parents. Most of the parents who presently participate in P.E.A.C.E. are currently or previously married.

As numerous judges with whom we have discussed P.E.A.C.E. have pointed out, an increasing percentage of the docket of the courts is devoted to cases involving disputes concerning custody, visitation, and child support between parents who have never been married. Many of these parents have been encouraged to attend P.E.A.C.E. Some of those parents have felt that P.E.A.C.E.'s emphasis on divorcing parents means the program is not appropriate for them.

Relatively few court-connected educational programs are directed at never married parents. One program from Baltimore, described at the AFCC Congress, does and reports preliminarily favorable results.48 We believe that unmarried parents have an equal need for education and information relating to their children. In order to meet this need, we recommend experimentation with an educational program targeted at this audience.

d. Minority Families

Education programs should also be created for diverse populations. Courts service parents and children who speak many different languages and come from many different cultural backgrounds. All, however, share the problems of coping with the legal system and family reorganization. Court-based educational programs can help them get oriented to their task.

48. See generally P.E.A.C.E. Summary Description, supra note 27, at 18 (describing a program for unmarried parents in Baltimore).
The Task Force should give consideration to whether and how court connected parent education programs can serve the needs of minority parents. For example, with the help of a Hispanic mental health agency, we have begun to consider how to adapt the P.E.A.C.E. model to the needs of Latino parents—a diverse and growing community. Similar exploratory efforts should be undertaken for Afro-American, Asian-American, and other distinctive populations.

4. Legislation or Court Rules

The Task Force should consider whether court rules or legislation are necessary to further the development of parent education programs. A number of problems have been identified which may be resolvable only by enactment of one or the other or both. We identify those problems here, with brief commentary.

a. Financing Structure

The need for a more secure financial base for present parent education programs and future program development has already been discussed. An obvious source of funds is fee charges to parents. So far, parents have not been charged a fee in most P.E.A.C.E. pilot programs. Doing so may require legislative authorization. Many education programs in other states charge modest fees to parents in the neighborhood of $30-$50 per parent to cover costs. Those fees are waived or reduced depending on a parent's ability to pay. For example, in the Louisville, Kentucky program, fees are waived for parents who present cards showing eligibility for food stamps. Many of the members of the P.E.A.C.E. statewide and local advisory committees believe that, in addition to raising revenues, charging parents a very modest fee for program participation helps establish their commitment to it. There is no indication that the charge of other parent education programs has in any way affected attendance.

Creative ways need to be found to raise the very modest amounts necessary to run an effective program. Indeed, in most localities, P.E.A.C.E. is entirely financially supported by contributions


50. See supra part III.C.

from the volunteers who organize the program. In lieu of fees, past participants might be asked to make voluntary contributions, although this has never been done. Small grants can be sought from community agencies like the United Way. Fund raising events are still another source.

b. Structure and Accountability

Structure and accountability are necessary for family related education programs at both the state and judicial district levels. As parent education programs expand, it may be desirable to establish a more uniform structure of curriculum, presenter qualifications, training, etc., while still maintaining local diversity. Again, the Connecticut statewide program may provide a useful starting point for considering methods to balance statewide uniformity with local diversity and control.\(^5\)

c. Early Dissemination of Information

Parents should be told of the existence of education programs early and should be encouraged to participate. Over and over, parents who participate in P.E.A.C.E. voice a desire to have the education P.E.A.C.E. provides as early as possible in their divorce and separation process. We suggest that parents be informed of the existence of parent education programs in their local communities at the time they file their first petition or complaint with the court and be encouraged to register. In addition, lawyers, mental health professionals, guidance counselors, religious leaders etc., should be encouraged to refer parents even before a complaint or petition is filed with the court. Finally, parents might be encouraged to refer themselves through a program of public service advertising.

d. Mandatory Attendance

The issue of "mandatory" parental participation in P.E.A.C.E. has been widely discussed among members of the various Advisory Committees. So far, P.E.A.C.E. has functioned effectively without a formal order mandating parents to attend. A number of judges have recommended that particular parents participate in P.E.A.C.E., but have not ordered parents, either individually or *en mass*, to do so. In other

\(^5\) See *supra* note 43 and accompanying text.
words, on an individualized basis, courts have recommended that parents participate in P.E.A.C.E. Parent participation is thus not a requirement for access to the court. Most parents take the recommendations of the court seriously and choose to attend P.E.A.C.E. (although many believe they have been ordered to attend, even if they have not). No parent has been sanctioned for non-attendance. In some local P.E.A.C.E. programs, referring sources are informed whether parents attend.

The strong recommendation of judges—as well as mental health professionals, lawyers, and others involved with parents and children—that parents attend P.E.A.C.E. is essential to the Program’s operation. It is highly unlikely that parents will attend without such recommendations. Moreover, if courts strongly recommend the P.E.A.C.E. program to parents, lawyers who appear before those courts will also do so.

By enacting legislation or court rules, other jurisdictions have mandated parental attendance at educational programs by issuing individual or group orders to that effect. Mandated attendance has several advantages. It symbolizes to parents that courts take the welfare of their children seriously. It insures that both parents receive the information and perspective that the program provides. Mandated attendance also eliminates strategic calculation by parents or their lawyers in evaluating attendance.

Mandated attendance has disadvantages too. Resources are required to service thousands of parents. Further, participation in an educational program may not be appropriate for every divorcing or separating parent. Lastly, participation in P.E.A.C.E. should not be used as a further weapon in adversarial divorce or separation proceedings.

In addition, if attendance is court-ordered, thought must be given to what sanctions will be applied to non-attending parents. In Utah, parents generally cannot be granted a divorce without attending an education program. In Georgia, parents can be held in contempt for non-attendance.

53. Cf. Schulp v. Mackoff, No. 94 CH 3853, 1994 WL 525526 at *4 (Ill. Cir. Ct. Cook County Aug. 12, 1994) (invalidating circuit court rule which required attendance of all parents with minor children to attend an education program to secure a divorce because not authorized by statute and thus “an additional mandatory requirement upon persons seeking dissolution of marriage who have minor children”).

54. UTAH CODE ANN. § 30-3-7(l)(a) (1994).

55. Seminar for Divorcing Parents, Order 8850854-99, § 4 (Super. Ct., Cobb County,.
The Erie County P.E.A.C.E. Program Advisory Committee has developed a sensible position on the "mandatory" issue:

1. The [P.E.A.C.E.] Program should not be mandated in all cases.
2. Where there is no voluntary attendance through, for example, attorney referral, the assigned judge in his or her discretion should be allowed to make a determination as to who should or should not attend. All . . . judges should be encouraged to make referrals where there are custody or visitation problems, or where the judge perceives the parties have the "wrong focus" and are not acting in the best interests of the children.
3. The determination should be made as early as possible in the case, such as at the first appearance or as soon thereafter as practicable.
4. The actual method of referral and the consequences of non-attendance was a topic of much discussion, and again a consensus was reached along the following lines:
   (a) There should be a standardized referral notice or order which is generated by and comes from the Court.
   (b) There was concern that calling the form an order would generate unwanted effects such as motions for contempt or sanctions, thereby adding to the acrimony of the process and taking away from the real purpose of the program. As such, an official "Referral Notice" may be preferable.
   (c) There was also agreement that failure to attend after a formal referral is made, absent a showing of good cause, is something which should be considered by the trier of fact when making the ultimate decision. That fact should be communicated to the litigants, in advance.

In summary, it is our recommendation that the trial judges be encouraged to make referrals to the P.E.A.C.E. Program, when in the Court's discretion it seems appropriate, as early as possible. The referrals should be made by way of a formal "Referral Notice" or other official court form, which bears a notice or warning to the litigant that non-compliance, absent good cause, is a factor which shall be considered by the Court upon making its ultimate determination.56

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56. The policy is set forth in a letter from Patrick C. O'Reilly, Esq. to Hon. James B. Kane, Administrative Judge dated September 28, 1994 and reflects the deliberations of a Subcommittee of the Erie County P.E.A.C.E. Advisory Committee established to consider the question. Other members of the Erie County Subcommittee included Hon. Vincent Doyle, Jr., Joseph Liebergall, Ph.D., Louis Swartz, Thomas R. Cassano, Esq., Karen Matthews, Esq., and others.
e. Security

It is essential that parents who attend court sponsored educational programs be assured of an atmosphere in which their need for physical security is respected and provided. Emotions may be volatile between divorcing and separating parents, especially when children are concerned, and one spouse may fear contact with the other. Many local P.E.A.C.E. sessions are held at the courthouse and security is provided by uniformed court officers. A statewide policy may be valuable to codify appropriate security measures as a mandatory practice.

f. Confidentiality

Parent education programs should not become another battleground for litigation between adversarial parents. To prevent this from happening, parents should be assured that what they say during a program will not be used against them at a later date. Presenters in parent education programs should also be assured they will not be subject to subpoena to testify about what was and was not said. The recognized evidentiary privileges—e.g., attorney-client, therapist-patient—apparently do not apply directly to parent education programs and confidentiality cannot be guaranteed under current law.

g. Immunity

Similarly, it is not clear that legal principles of immunity protect parent education programs and presenters from suit. Other than for willful misconduct, programs and presenters should have immunity from suits. A study should be made assessing whether court rules or legislation are needed to deal with this subject.

VI. CONCLUSION

Chief Judge Judith S. Kaye of New York said at the launching of the P.E.A.C.E. pilot programs:

Interdisciplinary efforts of this kind, to my mind, promise us and offer us a splendid model for addressing the sort of social problems, new societal problems that are increasingly coming into our courts.
Pervasive problems that reach far far beyond simply litigating and deciding an isolated finite dispute between two private parties. I've begun to think of the courts as sort of a reception center . . . a societal receiving center where people for the first time may subject themselves to the power of the State. But with so many well-intentioned dedicated individuals concentrating their expertise on a single objective [promoting the welfare of children], I should think we would just have to find ways, better ways to improve the judicial process. And no problem is more deserving of our attention. Throughout society we have been so remarkably slow to focus on the needs of family and suddenly the subject springs at us from every corner . . . .

. . . [N]ow at the conclusion of our initial rounds of [P.E.A.C.E.] pilot programs, we already know that we don't yet have the answers. We believe we have a promising start. We think we have a good beginning.57

We believe that the P.E.A.C.E. pilot programs have provided the "good beginning" for parent education programs described by Chief Judge Kaye. Our understanding of the benefits and problems of parent education programs has increased dramatically because of this experience. From our experience, a direction emerges for future development. We hope that progress will continue and move P.E.A.C.E. from an experiment to a permanent fixture to serve "the needs of family." We are both proud to have been part of the creation.
