

Building Identity

State Programs Meeting to Feature Legislation

The 2001 PCI annual meeting for state dispute resolution programs is scheduled for Wednesday, October 10, in Toronto, Ontario. Like past years, the meeting is being held just prior to the Association of Conflict Resolution (formerly SPIDR) annual conference, which is scheduled for Oct. 11 through 13 in Toronto.

The one-day meeting will open with a panel discussion on dispute resolution legislation—a topic that has grown in significance for many states during the past year.

As ADR continues to advance into the mainstream, a growing number of jurisdictions have been passing legislation specifically addressing ADR use by agencies, courts, and other governmental bodies. In some instances, these ADR-related bills have been a boon to states and state programs. In others, the bills, or portions of them, have been poorly informed and even detrimental.

For example, in Kansas, the state legislature began a process to allow judges wider discretion in referring cases to dispute resolution, and to have all state and legislative referrals to dispute resolution fall under the guidelines and ethical requirements of the Dispute Resolution Act administered by the state supreme court.

According to Art Thompson, DR Coordinator for the Kansas Judicial Center, the process went through the Special Interim Federal and State Affairs committee, then to the Senate Judiciary Committee, which passed a bill that was close to what the interim committee and a number of mediation advocates had encouraged. But when the bill got to the House Judiciary Committee, Thompson said, all of the existing and proposed approval processes for mediators were eliminated.


In a conference committee to discuss the Senate and House versions, members decided to leave in the approval process, but allow licensed attorneys *not* to have to go through the process. Supporters of this change said they felt the change was necessary for the areas in the state in which there were not enough approved mediators.

The panel discussion at the Toronto meeting will discuss the evolution of the Kansas situation in greater detail, and highlight a number of approaches states have taken toward drafting and monitoring DR legislation. The discussion also will include how states can take advantage of the movement to introduce the

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VERY ALTERNATIVE DISPUTE RESOLUTION

TECHNIQUE #32: LOCK THE DISPUTING PARTIES IN A ROOM, LET THEM TANK UP ON LEMONADE, AND DON'T LET THEM OUT UNTIL THEY REACH CONSENSUS.



Laugh Track...

PCI welcomes Steve Mitchell to its small (and sometimes-a-little-too-serious) newsletter staff. An attorney working in entertainment law in Los Angeles, Mitchell recently sold a cartoon to the Harvard Business Review. The New Yorker is probably next in his portfolio, but in the meantime, this newsletter welcomes his artistic lighter side.

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Training Focuses on Science, Politics & Problem Solving

Through its newly established Policy Consensus Center, PCI is developing and pilot-testing a seminar for state scientists and program managers on the analysis, management, and resolution of problems related to scientific and technical issues.

The seminar is based on materials compiled in *Managing Scientific and Technical Information in Environmental Cases*, a report developed collaboratively by a working group of professional mediators and facilitators who work on science-intensive environmental conflicts. The report is available on the web sites of the report's sponsoring agencies—the U.S. Institute for Environmental Conflict Resolution; the Western Justice Center Foundation; RESOLVE; and the Environment and Public Policy Sector of the Society of Professionals in Dispute Resolution. The report is also available on PCI's site, <www.policyconsensus.org>.

The workshop being developed at the Consensus Center examines, among other things, the following assumptions about scientific and technical information in environmental cases:

1. Environmental disputes are rarely caused by scientific or technical information *per se*. Most often, they tend to be about (a) perceived or actual competition over interests; (b) different criteria for evaluating ideas or behaviors; (c) differing goals, values, and ways of life; (d) misinformation, lack of

information, and differing ways of interpreting or assessing data; and/or (e) unequal control, power, and authority to distribute or enjoy resources.

2. In environmental conflicts, scientific and technical issues are inevitably political issues requiring value choices. Values are the lenses through which decisions are made and serve as the ultimate arbiter of decisions, even when a plethora of scientific information is available. Value choices cannot be finessed by substituting scientific and technical information. However, information can more fully inform the value choices that must be made.



3. Not every environmental case is science-intensive, nor is scientific and technical controversy the primary “story” in many seemingly science-intensive cases. Parties often use scientific and technological issues as a strategic or tactical “weapon.” Even when it is not a camouflage for other issues, parties typically bring information to the table that bolsters their position. However, consensus-based environmental conflict resolution is a search for jointly “usable” information, which requires a joint inquiry.

4. Jointly usable information requires trust in information and the methods by which it is produced. Trust tends to diminish when parties perceive that the science has been generated from a particular point of view or with a particular outcome in mind. Conversely, trust can often be built if the questions asked and the methods employed in information gathering are jointly negotiated.

These and other assumptions are manifest in disputes ranging from objections by community and environmental groups to new high voltage electric lines to the uncertainties of building oil pipelines across the pathways of migratory animals.

Regardless of the type of issue involved, the essence of good consensus building lies in a skillfully applied choreography in which information—technical, legal, cultural, economic, political, and interpersonal—is engaged by the parties as they search for workable solutions to some of our toughest and most far-reaching problems.

After the pilot training is completed in Oregon, Florida and California state agencies, PCI will offer the two-day workshop to agencies and elected and appointed officials throughout the country. To learn more about the workshop, contact chris1250@aol.com, or call PCI at 505-984-8211.

State Programs Meeting...

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Uniform Mediation Act; dealing with issues of public records laws, open meetings, and confidentiality.

Also as in past years, a number of concurrent sessions are planned. A team of planners from several state DR programs helped PCI select this year's breakout sessions, based on current events and issues of importance within their own states. The enclosed registration form includes descriptions of the breakout sessions.

Cost of this year's meeting is \$100 per person. This includes a hospitality suite Tuesday evening, Oct. 9, for early arrivals; continental breakfast, breaks, lunch, a happy-hour reception, and the meeting itself on Wednesday, Oct. 10. Please use the enclosed form to register. For more information on the meeting or logistics, contact the PCI office in Santa Fe.

STATES USING DR

This summer, Dispute Resolution Magazine will feature five articles, guest edited by PCI, on topics in state dispute resolution. The magazine is published quarterly by the ABA Section of Dispute Resolution. Below are excerpts from two of the featured articles—Bob Jones' report on a study of ADR in Florida state government, and Mike Niemeyer's article on coordinating DR efforts in Oregon. The other articles appearing in the magazine are Rachel Wohl, describing the Maryland Mediation and Conflict Resolution Office; Andy Bowman, a member of PCI's "Barriers Workgroup" and Charles Pou, a mediator and DR consultant in Washington, DC, discussing how to think about the role and content of DR legislation.

Assessing Barriers to Delivering On The Promise of ADR In Florida

By Robert M. Jones

Florida Conflict Resolution Consortium

Following the success of mediation in the Florida courts, the Florida Legislature amended the Administrative Procedures Act (APA) in 1996 to encourage more mediation in disputes over state agency actions. While these amendments, and the uniform rules implementing them, did not mandate the use of mediation in administrative disputes, it did call for state agencies to include notices about whether mediation is available in all matters subject to review by the Department of Administrative Hearings. The amendments also established provisions for the use of facilitated rule development and negotiated rulemaking.

In 1998, in response to bipartisan concern about the limited implementation of APA

mediation provisions, the legislature created and provided funding for the State Agency ADR Project administered by the Florida Conflict Resolution Consortium at Florida State University. The Consortium was asked to study the impact of the new mediation provisions for administrative disputes. The project's objectives included documenting the experience to date, identifying barriers and demonstrating through case examples and training how mediation and facilitation may be integrated into the management and budgeting of state agency administrative litigation. In July 2000 the project issued its policy report to the governor.

Lessons Learned in Florida

The report and recommendations to the governor addressed the barriers to greater use of mediation for

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Resolving Conflicts Over Building a Statewide Program in Oregon

By Mike Niemeyer

Oregon Department of Justice & Governor's Dispute Resolution Steering Committee

In the 1980s in Oregon, ADR initiatives were sprouting like fungi in a temperate rain forest. The Oregon Dispute Resolution Commission (ODRC) was created. And state laws were passed encouraging the use of mediation.¹ Court filing fees were allocated to the ODRC to support community dispute resolution programs.

Much of the attraction of ADR was the flexibility it offered state agencies in developing creative dispute resolution processes tailored to their particular disputes. In most cases, these creative processes had been successful, but there were also some problems. Standard "agreements-to-

mediate" were often not appropriate for mediations involving public bodies. In some cases, the lack of agency expertise, or of a thoughtful assessment, resulted in resources wasted on unproductive processes. Sometimes a process was referred to as "collaborative" or "mediation" when, in fact, it was advisory or adjudicatory in nature.

Most of these problems could be remedied with proper advice and guidance, but who would give this advice? What was the appropriate advice to give? A state agency might get "process advice" from mediators or state ADR coordinators and "legal advice" from the Department of Justice (DOJ). In some cases this advice might be conflicting. Some of this conflict was due to the different information and expertise available to state agencies. And some of it was due to the goals of ADR at

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that time and to conflicts that were happening at a higher level between those who were promoting greater use of ADR in state government and the DOJ's role.²

Much of the early success in obtaining funding for ADR programs was based on an assumption that mediation and arbitration were less expensive than litigation and, if used more routinely, would save the state money by reducing its legal costs. The purpose of ADR, as stated on ORS 183.502, was to: *"(a) Increase agency efficiency; (b) Increase public and agency satisfaction with the results of dispute resolution; and (c) Decrease the state's litigation costs."*³ (Emphasis added.)

It could be assumed that every dollar paid to promote mediation would save many more dollars in litigation costs by reducing the need for legal services, presumably from the DOJ. Put simply, ADR was promoted as a cost effective, popular and politically correct thing to do. DOJ appeared to be in the business of promulgating expensive, adversarial forms of dispute resolution, like litigation. This focus set up an obvious conflict between the Commission, principally responsible for promoting ADR, and DOJ, the legal advisor and advocate for the state. The problem was exacerbated by the fact that DOJ billed agencies on an hourly basis, while advice from ADR coordinators, such as those in the Public Policy Dispute Resolution Program, was free.

New Structures and Superordinate Goals

Two actions significantly improved the coordination of ADR in Oregon and created a more collaborative environment for resolving high-level organizational and policy issues. The first action involved a structural change. ORS 183.502, the statute that gave agencies authority to use ADR in a wide variety of situations, also directed DOJ, ODRC, the Department of Administrative Services (DAS) and the Governor's Office to work together to coordinate ADR in a state government. By 1996 it was apparent that this coordination was not going to happen without a forum for resolving policy and resource questions. That year, the governor created, by executive order, the Dispute Resolution Steering Committee. In his executive order⁴ the governor cited the need to develop an integrated public policy dispute resolution program and a "framework for coordination between the Governor's Office, ODRC, DOJ and state agencies." The committee was directed to operate by

consensus in providing coordination of collaborative processes within state government.

The second improvement to ADR in the state involved a reassessment of the statutory goals for state ADR programs. As noted earlier, the goal of *"decreasing the state's litigation costs"* put the focus on the costs of a single dispute resolution process, litigation. Deputy Attorney General Tom Balmer, proposed an alternative goal, adoption of the term "appropriate dispute resolution." This term emphasized the need to reduce the costs of dispute resolution and placed on agencies and parties a burden to use a dispute resolution process appropriate to the dispute. A revision to the goals for ADR in state government was considered by the Steering Committee the following legislative session, and ORS 183.502(7) was amended to read: *"The purpose of the agency alternative dispute resolution programs is to: (a) Increase agency efficiency; (b) Increase public and agency satisfaction with the process and results of dispute resolution; and (c) Decrease the cost of resolving disputes."* (Emphasis added.)

This new emphasis on appropriate dispute resolution moved the focus of the State ADR program from "less litigation and more mediation" to a search for ways to reduce the costs of dispute resolution. State agencies are involved in thousands of disputes each year involving everything from driver's license renewals to complex natural resource issues. Usually these conflicts are resolved efficiently. There are times however, when the process used to resolve conflict is costly and inefficient. Agencies may sometimes use the most familiar, rather than the most appropriate dispute resolution process.

The right dispute resolution process

State agencies have more dispute resolution options now than ever before. To help them select an appropriate process, one that will lead to an efficient, durable and satisfactory resolution, the state ADR program ensures that state agencies have practices and systems that make ADR available in appropriate matters. Some of these systems include:

- A state mediator roster, improved mediator procurement process and model personal services contract for ADR providers.
- ADR model rules for state agencies, including rules for case assessment, the use of collaborative processes in rulemaking and contested cases and ADR contract clauses and agreements to mediate.

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- Mediation confidentiality rules. Pursuant to ORS 36.244, the Attorney General has developed rules that allow agencies to keep mediation communications confidential while protecting the public interest in open government.
- Full-time, ADR coordinators, who provide assistance to agencies that are grouped into “clusters” of a dozen or more similar agencies (i.e. all natural resource agencies are in one cluster).
- An agency ADR needs assessment and the designation of an agency ADR coordinator for each state agency with over 50 FTE.⁵

These systems have been developed collaboratively, usually with considerable discussion and occasionally, passionate debate. We now have elements of a common language in these rules, procedures and policies and a forum in the Governor’s Dispute Resolution Steering Committee.

ENDNOTES

¹ ORS 36.100 (1989) “It is the policy and purpose of ORS 36.100 to 36.245 that, when two or more persons cannot settle a dispute directly between themselves, it is preferable that the disputants be encouraged and assisted to resolve their dispute with the assistance of a trusted and competent third party mediator, whenever possible, rather than the dispute remaining unresolved or resulting in litigation.”

² In Oregon, the Attorney General heads the Department of Justice which is charged, among other things, with providing general counsel advice to state agencies and with defending the state in court.

³ 1995 Oregon Revised Statute 183.502(5).

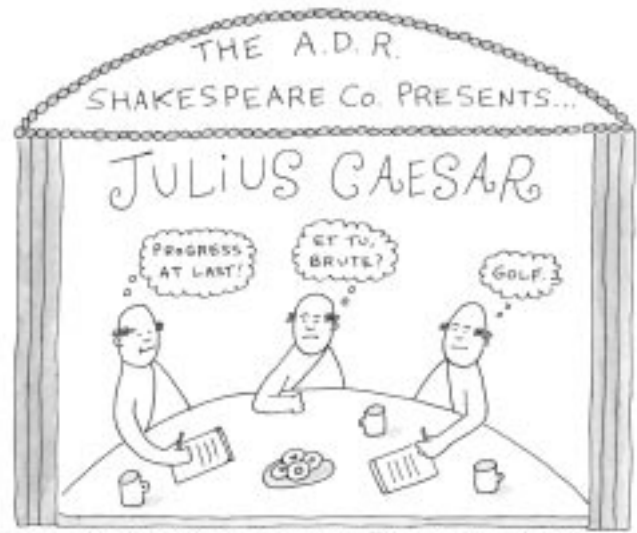
⁴ A copy of this Executive Order may be found at: <http://www.governor.state.or.us/governor/legal/execords/eo96-32.pdf>

⁵ Pursuant to Executive Order 00-09, <http://www.governor.state.or.us/governor/legal/execords/eo00-09.pdf>



SHYLOCK DEMANDS A POUND OF ANTONIO'S FLESH FOR FAILING TO MAKE GOOD ON HIS BOND. DISGUISED AS A NEUTRAL MEDIATOR, PORTIA FACILITATES A BRILLIANT SETTLEMENT UNDER WHICH SHYLOCK INSTEAD ACCEPTS SEVERAL POUNDS OF GRADE-A QUALITY LUNCHEON MEATS.

Mitchell



THE ROMAN SENATE FEARS THAT CAESAR HAS BECOME TOO POWERFUL. PARTICIPATING IN A CONSENSUS-BUILDING PROCESS, BRUTUS AND CASSIUS CONVINCE CAESAR TO LIMIT HIMSELF TO 2 FOUR-YEAR TERMS, FOLLOWED BY A HEALTHY PENSION AND A LUCRATIVE LECTURE TOUR.

Mitchell

Online “QA” Tool Kit Offers Best Practices

All dispute resolution programs face the challenge of how to ensure quality service. For state programs in particular, key issues center on how to enhance the likelihood that neutrals consistently provide high quality dispute resolution assistance, and how to ensure that the agency operating the DR program (or other DR provider organization) fulfills its responsibility to provide fair, high quality processes.

To help state programs design and implement the best approaches to assuring quality in their services, PCI has published a web resource that introduces a diverse array of ideas, policy documents, authorities, and other quality assurance-related materials. The resource, called “Quality Assurance,” is available on <www.policyconsensus.org>.

The resource materials were compiled in consultation with Charles Pou, a mediator and dispute resolution consultant in Washington, DC. Charles was a member of PCI’s working group examining the barriers to the use of DR in state government, and was a principal drafter of the federal Administrative Dispute Resolution Act.

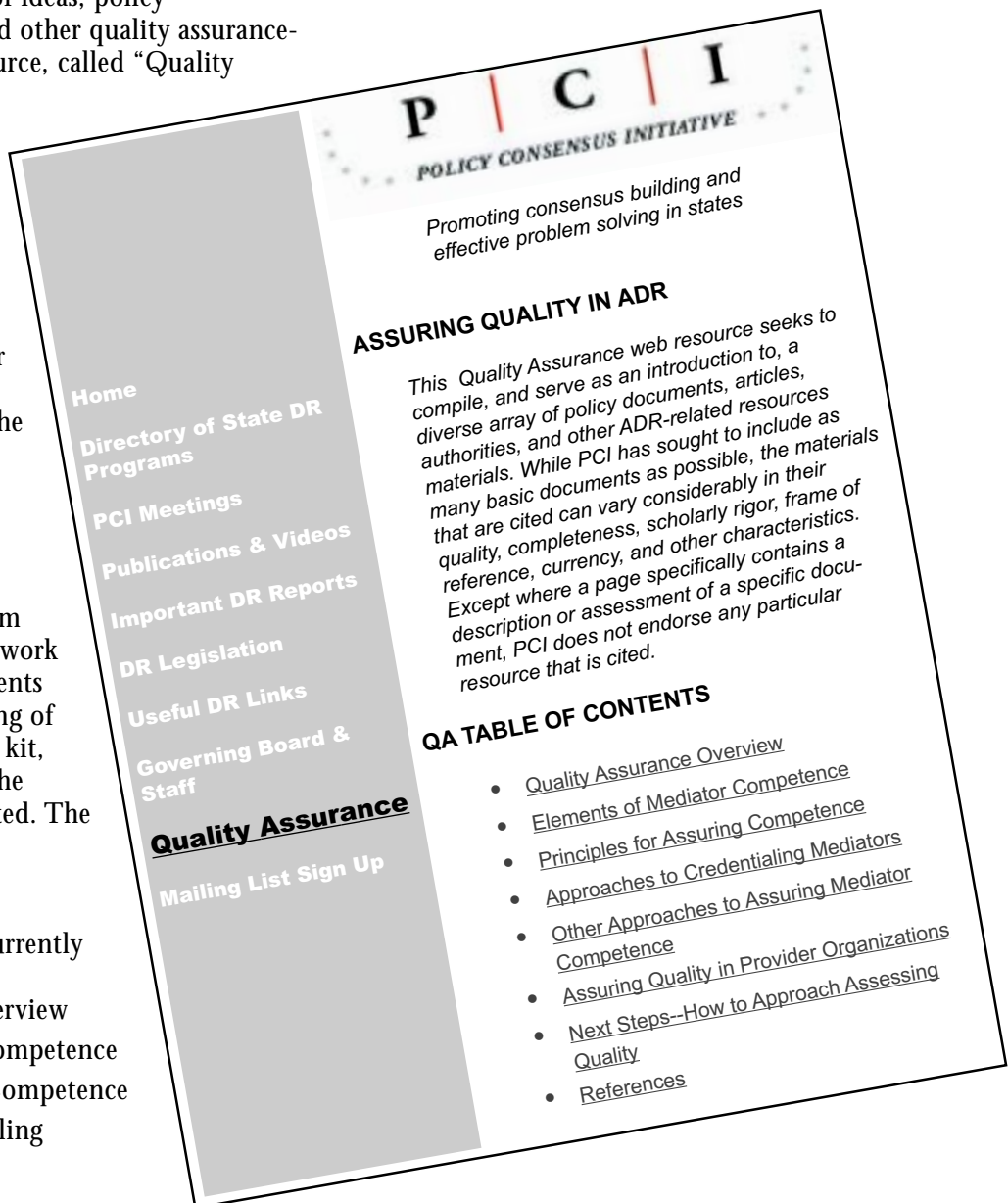
A number of people from the PCI state programs network provided invaluable comments and edits during the drafting of the Quality Assurance tool kit, some of which are still in the process of being incorporated. The tool kit will change as new materials and standards are developed.

The QA site resource currently includes:

- A Quality Assurance Overview
- Elements of Mediator Competence
- Principles for Assuring Competence
- Approaches to Credentialing Mediators

- Other Approaches to Assuring Mediator Competence
- Assuring Quality in Provider Organizations
- Next Steps-How to Approach Assessing Quality
- References and other reading on Quality Assurance

PCI welcomes any further suggestions on content, navigability, and references we may have missed.



Delivering On The Promise of ADR In Florida . . .

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administrative disputes and demonstrated how the concerted application of these approaches could successfully resolve administrative matters more quickly and at lower costs. In more than 18 months of program activity, the State Agency ADR Pilot Project worked to demonstrate the value of ADR and to encourage agency implementation of the mediation provisions in the APA. During this time, the project oversaw or provided mediations in 36 administrative cases, of which 31 were settled successfully. The project offered a series of training workshops on ADR, free of charge, to more than 300 agency staff involving 10 executive agencies. Among the mediated cases that settled, parties reported that potential savings in comparison to litigation costs exceeded \$3 million. The project report identified legal, organizational, budgetary, leadership and educational barriers to greater use of administrative mediation, and offered policy recommendations to reduce or eliminate these impediments.

The report provided a description of agency dispute resolution practice, the cases mediated and the training and education programs offered. It also offered policy recommendations using a "barriers framework" developed by the Policy Consensus Initiative to analyze the experience and provide advice on how to increase the use of ADR.

To address the legal barriers, the project examined confidentiality protection and recommended amending Chapter 120, F.S. to extend confidentiality and evidentiary exclusion protections for judicial mediation to agency use of ADR. The report stated that agency representatives at administrative mediation conferences must come to mediation with maximum available settlement authority, and suggested adopting legislative language for that purpose. Legislation could require state agencies directed by collegial bodies to send staff representatives to the mediation with the maximum available authority to recommend a settlement for ratification by the body. In addition, it urged the governor's office, or a designee, to review and seek to improve the record of agency compliance with the requirement that agencies notify parties to administrative disputes whether mediation is available.

To address and minimize budget barriers, the

project suggested adapting state funding formulas for administrative litigation to include direct consideration of alternative dispute resolution. This should include crediting ADR efforts that save agencies time and expense. There were also suggestions for streamlining agency procurement of mediators and facilitators for administrative disputes.

Finally, the report suggested that leadership and educational barriers could be lowered via an executive order directing executive agencies to evaluate all pending administrative cases and potential rule development for possible use of the ADR. It recommended that ADR functions be included as part of their agency's functional plan and corresponding budget requests. The executive order could also encourage ADR training for agency leaders, attorneys and managers to ensure that the state can fully benefit from ADR.



PCI Seeks Regional Partnership Projects

If your state public policy dispute resolution program has an idea for a regional project that crosses state or other jurisdictional boundaries, PCI would like to discuss it with you. We are seeking to launch new, joint collaborative projects among state programs or state, federal, and local agencies.

Recently, PCI sponsored a meeting jointly with the Florida Conflict Resolution Consortium to explore possibilities for collaboration on Gulf of Mexico environmental issues. Participants were from the Alabama Center for Dispute Resolution, the University of Texas Center for Public Policy Dispute Resolution, the U.S. Institute for Environmental Conflict Resolution and the Director of the Environmental Protection Agency's Gulf of Mexico

Program, the National Oceanic and Atmospheric Administration's policy program, and others.

Bringing together federal and state players for a discussion of environmental issues in the Gulf resulted in some concrete ideas for future collaborative projects. As one participant observed: "It's amazing how people who are involved in the same issues have never had an occasion to meet each other."

The framework for these collaborative projects must be issue-focused. An up-front assessment will help ensure that the key people are open to the idea and willing to participate. If your program is interested in pursuing an idea with PCI, please contact Chris Carlson <chris1250@aol.com> or Dick Gross <dgross@agree.org>.

▶▶ DR NOTES . . .

Udall Center Publishes Lit Review

The Udall Center for Studies in Public Policy at the University of Arizona has published a 33-page literature review titled *Collaborative Conservation in Theory and Practice*. Written by Alex Conley and Ann Moote, the collection brings together a selected, representative sampling of the literature on collaborative conservation, a term that refers to the many collaborative and community based approaches to natural resources management. The increasing number of partnerships, consensus groups, community based collaboratives, watershed councils, and similar groups that are involved in natural resources management has produced a broad body of literature. This report aims to help interested readers sort through the bewildering range of terms and approaches, and serve as a beginning upon which to base further investigations. The report is \$10. For information, contact Jen McCormack at jenmack@email.arizona.edu.

NCSL Site Updated

The ADR module of the National Center for State Courts (NCSC) website has been updated and now includes information on appellate court programs, arbitration, dependency, victim-offender, funding sources, and more. The link is <<http://www.ncsc.dni.us/KMO/Topics/ADR/ADR.summary.htm>>. More updates are in the works, so check back often.

Also note that the general NCSC site address is now <<http://www.ncsconline.org/>> <<http://www.ncsconline.org/>>. The old site still offers access for the time being, but you should change your links and bookmarks.

EPA Invites Online Participation

The U.S. Environmental Protection Agency is convening a national, online public discussion July 10 through 20 about improving public involvement in EPA decision making.

Hosted by Information Renaissance, the internet discussion will involve a broad cross-section of individuals sharing their thoughts and ideas with one other and with the agency.

Over the course of 10 days, the participants will discuss specific topics drawn from EPA's newly drafted Public Involvement Policy. EPA is now seeking your thoughts and ideas on how it should implement this policy. Because this will be a web-based discussion, you can select the topics that interest you and participate at your convenience.

To learn more about the Dialogue and to register to participate visit the Dialogue Web site at <http://www.network-democracy.org/epa-pip>

UMA Update

The Uniform Mediation Act is scheduled to go for an important vote in August, when the Act will be considered by the Committee of the Whole of the National Conference of Commissioners on Uniform State Laws.

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STATE PROGRAMS UPDATES

Thanks to a March training sponsored by the **Georgia Office of Dispute Resolution**, more than 100 Georgia mediators now know more about practicing mediation with a careful eye toward violence.



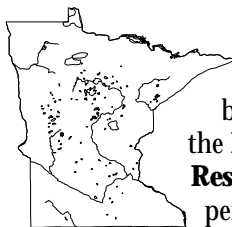
The four-hour training, held in metro Atlanta, was designed to focus mediators on the problem of escalating tension, anger, and violence in the mediation setting.

The topics covered included creating a safe environment; understanding the tensions that may lead to verbal abuse and violence; recognizing signs of escalating tensions; learning techniques for de-escalating tensions; handling difficult people; ending a mediation session safely; and handling participants who are under the influence. Domestic violence was deliberately not included.

“Our court program directors urged us to offer this training because they know that tension and anger can be components of any conflict, and violence can erupt unexpectedly,” said Office Director Leila Taaffe. “All mediators, no matter what kind of setting they mediate

in, can benefit from training that heightens awareness of these issues and provides tools to deal with them.”

Elizabeth Kent, Director of **Hawaii’s Center for Alternative Dispute Resolution** and a member of PCI’s Board of Directors, has taken a leave of absence from the Center to serve as Deputy Director of the State Department of Human Services. Kent plans to return to her position at the Center for ADR in December 2002. She can be reached by e-mail at ekent@hawaii.edu.



Barbara Blackstone, who had been serving as Acting Director of the **Minnesota Alternative Dispute Resolution Division**, has been named permanent Director. Her new phone

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According to the Commission, the contributions of official observers throughout the past four years—including comments on more than a dozen publicly released drafts—have been vital to development of the Act. “Together, we have crafted an Act truly worthy of uniform consideration by the states,” reads an official correspondence from the Commission.

Copies of the UMA, with official reporter’s working notes and other information about the Act, are available on the UMA’s websites: www.pon.harvard.edu/guests/uma and http://www.law.upenn.edu/bl/ulc/ulc_frame.htm.

Improving Performance

Despite some initial reluctance to mention his recent trip to France (and knowing that U.S. state and local officials don’t “give a hoot” about how things work in other countries), Peter Harkness, Editor and publisher of *Governing Magazine*, remarks in the June 2001 issue: “You don’t have to spend a lot of time in France to realize that its physical infrastructure in most respects is superior to ours.”

Harkness wonders why the United States shouldn’t be able to achieve France’s level of performance in our own public sector.

“Part of the answer,” he says, “is in this country’s fragmented system, with its complicated intergovernmental structure where power has tended to ebb and flow up and down the political food chain for centuries. We also have dispersed authority every way possible—between branches of government, between governments at the same level, between cities and counties, elected leaders and professional managers and even cabinet officers within the same government.

“If we really want to improve public-sector performance, this is no longer affordable. We can’t make policy or regulate or manage effectively unless we start consolidating and collaborating. The prerogatives of states and localities are threatened unless they collaborate—not only on sales taxes but a wide range of regulatory and licensing issues. If they don’t, states could end up simply as administrative agencies of a central government, while business negotiates single standards in a political environment in Washington that it has mastered all too well.”

STATE PROGRAMS UPDATES

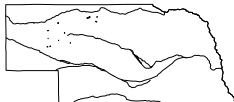
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number is 651-296-2633 and her new e-mail address is barbara.blackstone@state.mn.us.

Patricia McGinnis has joined the Division's staff as head of special education and vocational rehabilitation mediation programs. Since her arrival, the special education program has added facilitated Individualized Education Plan meetings to its offerings, using the special education mediators as facilitators. Agencies and governmental bodies requesting public policy mediation and/or facilitation are now given a list of outside providers and make their own arrangements.

The Western Consensus Council, in conjunction with the **Montana Consensus Council**, has published a 36-page booklet design-ed for legislators titled "Collaborative Problem Solving: Strategies for Western Legislators." The project was sponsored by the Council of State Governments-West. The booklet contains descriptions of the features of collaborative problem solving, roles for legislators and legislative staff, and the benefits of using collaborative problem solving. It also includes case studies and strategies for success, a four-step guide, and a brief discussion of the roles and responsibilities of a facilitator. "Not surprisingly," says the introduction, "legislators are looking for better ways to work together, to engage a broader range of public officials and citizens in policy discussions, and to resolve issues with informed, stable, and widely accepted solutions. Increasingly, they're turning to collaborative problem solving."

For copies of the booklet, contact Matt McKinney, Executive Director of the Western Consensus Council, at mmckinney@state.mt.us.



The **Nebraska Office of Dispute Resolution** has a new website, connected to the Nebraska Supreme Court's

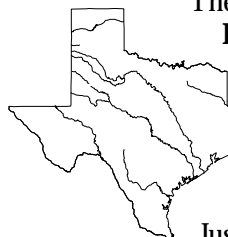
homepage at <http://court.nol.org/>. The ODR site contains a wide range of information, and is organized as a series of "books." Visitors can click on the "book" binder to find specific information on categories ranging from legislation and activity reports to training opportunities and special events.

The site also contains information on how Nebraska's non-profit mediation centers are structured, their locations throughout the state, and contact information. There is also an explanation of the various types of mediations that are currently being conducted across the state. The site is linked to other national alternative dispute resolution forums and organizations.

The **Oregon Dispute Resolution Commission**, the Department of Administrative Services, and the Department of Justice recently submitted their



Biennial Report to the state legislature on dispute resolution in state government. The report is required by state statute. Some of the accomplishments highlighted in the report include the use of collaborative processes in at least 22 state agencies; 65 trainings for state agencies and the public on ADR related topics; 107 collaborative processes involving state agencies and interests, many of which resolved complex public policy issues; and development of a handbook on collaborative approaches for use by state agencies. The report also mentions the appointment of 30 agency DR coordinators and initiation of agency needs assessments, as mandated by the state's recently enacted Executive Order.



The **Center for Public Policy Dispute Resolution** at the University of Texas

is assisting the state's Department of Protective and Regulatory Services in obtaining feedback on a number of pilot projects being administered by the Children's

Justice Act Project. The statewide pilot project has been using mediation to reform Child Protective Services, and to resolve the highly difficult and emotional cases that CPS manages. The Center's feedback protocol uses survey instruments and interviews in the participating counties. The Center

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Check the PCI *Directory of State Dispute Resolution Programs* at www.policyconsensus.org to verify that your program's information is current and correct.

STATE PROGRAMS UPDATES

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also has completed an annual review on implementation of the mediation pilot projects to assess the success of mediation in resolving CPS cases, and to examine implementation methods across sites to identify best practices. Participating counties employ a number of service delivery approaches, and mediate cases at various stages of the CPS case timeline. The review indicated that mediation is an effective method of resolving these cases, and may offer a number of benefits over adjudication, including fewer contested court hearings and more effective treatment plans. For information on the project, contact Tracy Tarver, the Center's Program Director, at TTarver@mail.law.utexas.edu.



Vermont observed its second Conflict Resolution Month in May, with more than a dozen featured events throughout the state—including speakers, a proclamation by Gov. Howard Dean, and a conference titled “Building Stronger Communities through Alternative Dispute Resolution.” The day-long conference included a town meeting to discuss the future of ADR in Vermont. Members of the American Bar Association hosted a session early in the month titled “ADR Can Control Your Litigation Costs; Here's How!”

Among the eight overarching goals of Conflict Resolution Month, according to organizers, are creating a preference for, and increasing the use of, nonjudicial conflict resolution; educating and training more people in the benefits of conflict resolution, increasing cooperation and understanding in communities, and supporting existing conflict resolution programs and initiating new ones. Early

A coalition of groups, including state and judicial agencies and departments, colleges, community groups, the Vermont Bar Association, and regional and national organizations (including PCI), joined together to organize the event.

A new web site for the **Community Based Collaboratives Research Consortium (CBCRC) in Virginia** is now accessible at <http://www.cbcr.org>. The website, funded by the Hewlett Foundation, has a searchable database of projects and research concerning

collaborative approaches to managing environmental resources. It also contains a searchable database of books, periodicals and other resources concerning collaborative management approaches. The databases are designed so people can enter their own book, resource or project, and join and/or contact the Consortium.

Background about this project can be found on the site. There is no fee to join the Consortium or to access any of the site's features. If parties have appropriate resources or projects to add to the site, they can enter them on their own. Karen Firehock, Senior Associate at the Institute for Environmental Negotiation, serves as the webmaster so all entries come to her to approve before listing. They encourage parties to add links to Consortium's site from their web sites as well.



States With EOs Meet to Harvest Lessons Learned

Four states with Executive Orders (EOs) met recently at the Policy Consensus Center in Portland to harvest lessons learned about what it takes to implement an EO and successfully integrate dispute resolution in state government.

Representatives from Massachusetts, Minnesota, New Mexico, and Oregon are finding it is a big task to bring systems change to the ways their states do business. The EOs in these states all require agencies to appoint DR coordinators and to assess and develop plans for using DR in their agencies.

As a result of this meeting, PCI will develop a number of resource materials to continue assisting states.

PCI Offers EO Assistance

PCI is interested in identifying and convening states that are interested in using EOs and who may be in a position to get an Order adopted in the next year. PCI will work with those states to help them take advantage of what has already been learned about successfully employing EOs. Contact PCI if your state would like to learn more about available assistance.

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*PCI gratefully
acknowledges the
support of the
William and Flora
Hewlett Foundation.*

Upcoming Events

OCTOBER 10 — PCI State Programs Meeting. In conjunction with the International Conference of the Association for Conflict Resolution (ACR, formerly SPIDR). Toronto, Ontario. Shearton Centre. Agenda to be announced in June.

OCTOBER 11 - 13 — International Conference of the Association for Conflict Resolution (ACR). Toronto, Ontario. "Coming Together: Community, Connection, and Conflict." Sheraton Centre. For information call 202-667-9700 or e-mail spidr@spidr.org.

ENCLOSURE

PCI State Programs Meeting Info and Registration Form

*The enclosed registration form must be returned to PCI by **Friday, August 31**.
For additional copies of the registration form, contact PCI by phone or e-mail,
or feel free to make copies (front and back) on your local copier.*

Text versions of PCI Newsletters are available at <www.policyconsensus.org>.

To submit feature articles or reprints about your state DR program initiatives, contact PCI at 505-984-8211 or send e-mail to <katek@policyconsensus.org>