

TO INVESTIGATE BEST
PRACTICE IN PARENTING
COORDINATION AS A
DISPUTE RESOLUTION TOOL
AFTER DIVORCE/SEPARATION

BY ANNE-MARIE CADE
2020 CHURCHILL FELLOW



I acknowledge the Traditional Custodians of country throughout Australia and recognise their continuing connection to land, waters and community. I pay my respects to Elders past and present.

Indemnity clause

TO INVESTIGATE BEST PRACTICE IN PARENTING COORDINATION AS A DISPUTE RESOLUTION TOOL AFTER SEPARATION

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Anne-Marie Cade

Anne-Marie Cade

October 2023.

info@divorcerright.com.au



“
CO-PARENTING IS NOT A COMPETITION.
IT IS A COLLABORATION OF TWO HOMES
WORKING TOGETHER WITH THE
BEST INTEREST OF THE CHILD AT HEART.
WORK FOR YOUR KIDS, NOT AGAINST THEM.
”

—DR. ANNE BROWN

7
COUNTRIES

3
UNIVERSITIES

16
CITIES



48+
MEETINGS

17
COMMERCIAL
FLIGHTS



Dedication

When I received my Fellowship, I wished my aunty Thelma (who brought me up after my mother passed away) was around to share the incredible news. Getting this Fellowship was a huge honour and privilege and I feel a sense of personal achievement too. But life has not been easy over the last few years. I have learned the hard way that a divorce challenges a person on every level and shakes your very foundations. The months leading up to my getting the Fellowship were some of the most challenging months of my life and I would not have made it through if not for the strength and resilience that my aunt taught me. So much of what I have achieved in my life is because of the grounding and the guidance I have received from her, from the time I was 5 years old. She instilled in me the value of hard work and taught me to never give up even when faced with challenging situations.

I know she would be proud of how far I have come. She was always my proudest supporter from the time I graduated high school, to winning an American Field Service (AFS) exchange scholarship at 17, to my law school admission, to my university graduation and my career highlights. I am so grateful to have had her love and support in my life.

Thank you and I miss you.

Acknowledgements

Firstly, I would like to thank everyone around the world across four continents who took the time out of your busy schedules to meet with me and share your knowledge with me so freely. I had the opportunity to meet with thought leaders, researchers, academics, parenting coordinators, mediators, lawyers, psychologists and social workers who have contributed in no small measure to the practice of parenting coordination worldwide and who continue to work tirelessly to help improve the lives of their clients and shield children from ongoing interparental conflict. I would also like to say a special thank you to all the Association of Family and Conciliation Courts (AFCC) members who I met and spent time with, learning about the work they all do in the parenting coordination space. You are all far too important to meet with me, but you all made the time and were incredibly generous with sharing your expertise and practice experience with the sole aim of providing me with all the necessary information so that we in Australia can get this right and develop a model parenting coordination practice to improve the lives of divorced/separated parents and their children. Meeting you all was a true honour and was a huge inspiration too. A heartfelt Thank You.

I also acknowledge the Winston Churchill Trust, the Victorian and national selection committees for seeing the value in my proposal and choosing to invest in me. You gave me the most incredible opportunity so that I was able to travel to sixteen cities in seven countries to do the research that needed to be done in this very important area of parenting coordination. The Fellowship

for me was a life-changing experience. I can never thank the Trust enough for believing in me. I still can't believe I was fortunate enough to get the Fellowship. Thank you also to Sonia Jennings at Campus Travel for making sense of my very complicated itinerary, making all those last minute changes and responding to all my questions. Thank you also to Toby Bradshaw, Meg Gilmartin and Rose Clapham at the Winston Churchill Memorial Trust for all the help in making the Fellowship actually happen.

My sincere thanks to the Honourable Diana Bryant (former Chief Justice of the Family Court, Australia) and Ms Jennie Pakula, (Manager, Innovation and Consumer Engagement, Victorian Legal Services Board and Commissioner, Victoria) for being my referees and for your support of my Fellowship application. Thanks too to my dear friends Shamima Esufally, David Jilla and Katrina Koo McCarter for helping me with my Fellowship application, helping me research the direction of the project, write it out, helping me structure interview questions, giving me tips on how to prepare for the interviews via mock panels etc. You were all incredibly generous with your time for which I am grateful. Katrina Marston, Andrea Perry-Petersen and Jon Graham, all Churchill Fellows who gave me a wealth of practical advice and encouragement as well as some invaluable tips on how to navigate a very rigorous interview process – thank you.

My thanks too to my many friends and colleagues who have put up with my endless questions during our catch ups and for listening to my

Acknowledgements continued...

musings on how we can do coparenting better. To my clients who navigate their way through challenging coparenting relationships every day, you all continue to inspire me to look for better ways in which I can help separated/ divorced parents navigate the conflict and do divorce right or a little better. My friends Jehan and Nirmal who in the course of those very long conversations we often have, shared with me your own coparenting experiences and challenges, thank you. You both gave me a lot to think about.

Thank you to my ex-husband Sherhan Caderamanpulle. I know we don't often see eye to eye, but you were there when I needed you most, when I fell ill (halfway through my Fellowship) with kidney stones in Barcelona. You hopped on the next flight and were by my side within 24 hours, taking me to doctor's appointments, ensuring I had my morning coffee (ha-ha) and meals (all whilst I was writhing in pain), staying with me in the hospital and right through the operation till I recovered and was able to take the next flight 10 days later to Africa to continue my Fellowship travels. I would not have been able to complete the Fellowship if you had not come to help me in

Spain and I am grateful. A very special thank you to Connie Capdevila Brophy from Barcelona too who was with me when I fell ill at dinner, rushed me to the hospital and stayed with me that night until my condition stabilised.

I owe a debt of gratitude and will always be incredibly thankful for the sage advice and support I receive from my aunty Caryl (White). You continue to inspire me every day and have shaped my thoughts and beliefs on so many things, more than you will ever know. Thank you also for all the stories you have shared with me on the life of Winston Churchill which have inspired me to strive to achieve more. And yes, I will remember to always keep celebrating the achievements and also ensure that they are properly celebrated.

Biggest thanks to my three children Michael, Arik (Tiger) and Rai. You three continue to inspire me every day and I love you all more than I can ever express and I am grateful for the three of you. You three fill me up and make me complete and remind me every day of how lucky I am.

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About the Author

Anne-Marie Cade is a lawyer, a nationally accredited mediator and a family dispute resolution practitioner with a Masters in Law in family dispute resolution and negotiation, a certified divorce coach and a parenting coordinator.

She has many years of experience working as a lawyer and then as a family mediator and divorce coach. She assists parents manage the inter-parental conflict so they can coparent peacefully and she sees the value in adopting alternative methods of dispute resolution to resolve family law disputes particularly when it comes to coparenting. When she was researching alternative dispute resolution processes a few years ago she discovered parenting coordination and wanted to learn more about the practice so a good model could be implemented in Australia which spurred her on to apply for a Churchill Fellowship. She has been advocating for the appointment of parenting coordinators in parenting cases with lawyers, mediators, family report writers and psychologists and in November 2019 obtained one of the first orders for parenting coordination in Victoria.


Over the years she has won many industry awards and has been recognised as a Thought Leader and an Innovator for her innovative approach to helping clients deal with life crises. In 2023 she was named Australian Mediator of the Year at the Australasian Law Awards and was also recognised as one of the Top 50 Professional & Career Women at the Global Economic Forum and Awards 2023 for Leadership in the field of Law.


She was awarded a Churchill Fellowship in 2020 undertaking her travels in late 2022.

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Receiving my Winston Churchill Fellowship from the Governor of Victoria Hon Linda Dessau

Project Overview & Description.

Parenting coordination is a child focused post-divorce/ separation dispute resolution process where a professionally trained Parenting Coordinator (PC) assists parents manage on-going inter-parental conflict and implement what is set out in their court orders/ consent orders (and in some jurisdictions are also authorised to make decisions for the parents on minor issues). When parents work with a PC they do not have to keep returning to court to have their disputes resolved. It is an established practice in the USA, Canada, South Africa and is gaining ground in Spain, Italy, the Netherlands, Israel, Hong Kong and Singapore but is still in its infancy and little used in Australia.

According to the Australian Bureau of Statistics, 47.8% of the divorces granted in 2021 were of couples with children under 18 years. About 20 to 25% of divorcing parents remain engaged in conflict for many years after separation.¹ When parents experience conflict and cannot manage their coparenting relationships, many return to court. The ongoing conflict between the parents has a detrimental effect on the children and leaves the children at risk of short and long-term adjustment problems.

The Australian Institute of Family Studies (AIFS) Court File Study reported that there is a high rate of repeat litigation in relation to matters involving children.² A 2015 report by the AIFS found that almost four in ten judicially determined cases had previously been before the courts.³

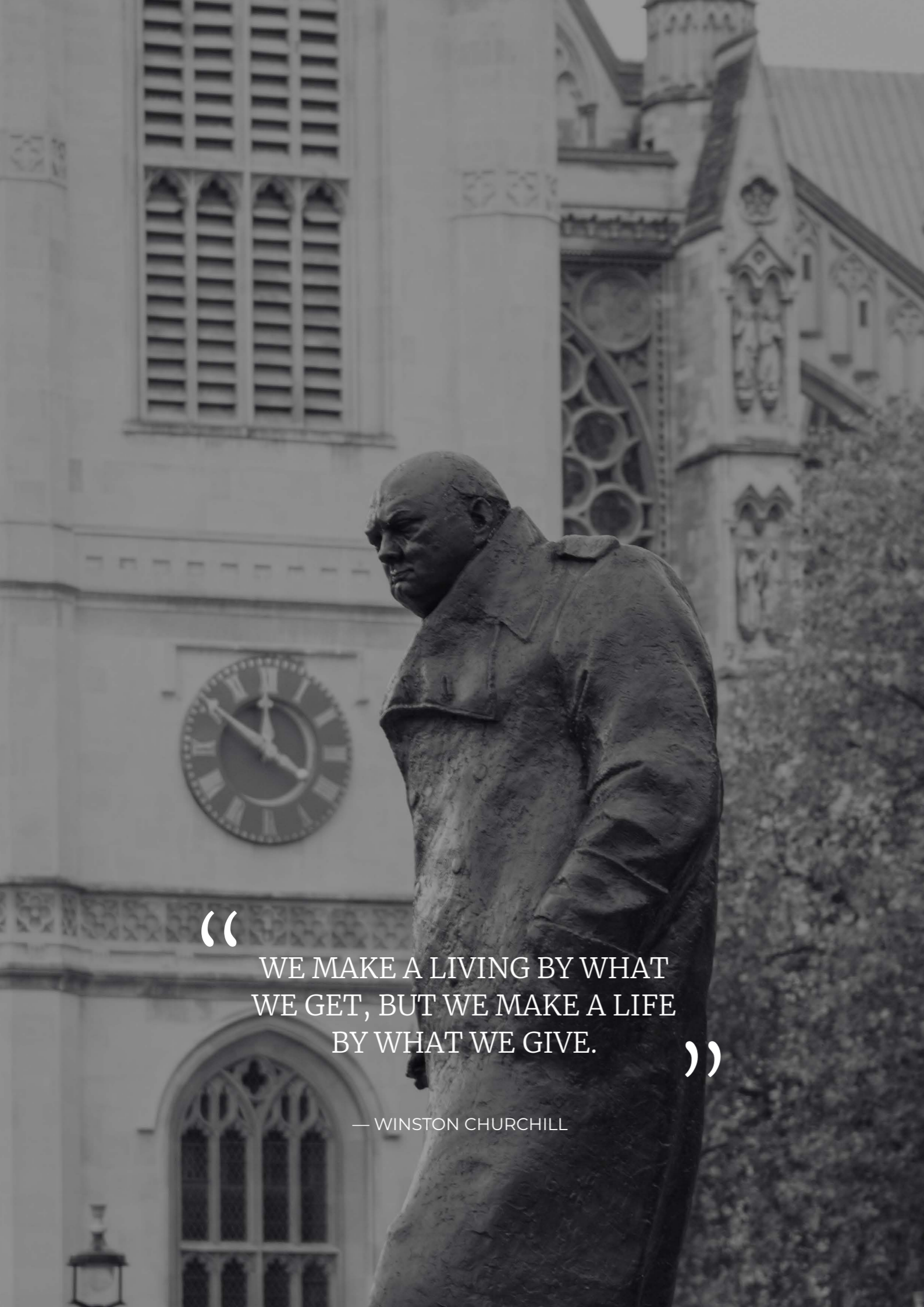
Parenting coordination is a form of alternative dispute resolution which follows (not precedes) the determination of a family law dispute by court order or agreement and is an intervention that assists parents to navigate conflict effectively and apply their parenting orders or agreements without acrimony by learning the skills to resolve future disputes without the need for lawyers and

having to go back to court.

Overseas investigation of best practice in parenting coordination is necessary because that is where the expertise and experience is. To arrive at a model that is best suited to the Australian context it is useful to look at models used in established jurisdictions around the world. At present without Australian Standards of Practice or enabling legislation, it is difficult to define the scope and authority of a parenting coordinator. An examination of other systems and processes around the world and how they manage the parenting coordination process is desirable and important.

At present the Australian approach is based on international experience. Post order support for divorced/separated parents to implement what is set out in their orders and help them navigate the conflict is an area that has long been neglected in Australia whilst funding and resources have generally been applied to mediate disputes before litigation. It is equally important that the resolution of issues post-orders is supported as this will both avoid further proceedings and assist the parents to learn to resolve their disputes themselves and navigate the interparental conflict. The ability to examine many different models overseas, learn from their experience and understand the pros and cons of the various systems will help determine what is best for the Australian community. This kind of wide-ranging analysis has not been available to date.

This report identifies some of the people I interviewed by name. I refer to others I interviewed who work in family law and related fields of mediation and parenting coordination as 'professionals', in recognition of the professional nature of their experience regardless of their specific role or position. Where it is necessary to identify particular roles, expertise or experience, specific reference is made.



“

WE MAKE A LIVING BY WHAT
WE GET, BUT WE MAKE A LIFE
BY WHAT WE GIVE.

”

— WINSTON CHURCHILL



LA - ARIZONA - CALGARY - VANCOUVER -
TORONTO - BOSTON - NEW YORK - WASHINGTON
DC - OHIO - PENNSYLVANIA - SPAIN - MILAN - ROME -
JOHANESBURG - CAPE TOWN - SINGAPORE

Keywords.

Abuse – in relation to a child in section 4(1) of the Family Law Act 1975 (Cth) states that abuse, includes causing the child to suffer serious psychological harm, including (but not limited to) when that harm is caused by the child being subjected to, or exposed to, family violence.

Consent order – an agreement reached by the parents which is approved by the court and becomes a court order.

Contravention – when the court finds that one person has not followed what is set out in a parenting order, that party is in breach of (has contravened) the court order.

Contravention application – an application made to the Federal Circuit and Family Court of Australia (FCFCoA) to seek remedies against a party who has breached a court order.

Courts – Federal Circuit and Family Court of Australia (FCFCoA)

Court order – the actions that the parties must do to comply with the decision that is made by the court. A court order can be either an interim order or a final order.

Divorce – the order made by the court to end the marriage.

Ex parte hearing – a hearing when one of the parties is not present in the court and notice of the application has not been given to the party.

Family dispute resolution – (FDR) this is the process that occurs outside the court where a Family Dispute Resolution Practitioner (FDRP) assists the parties resolve some or all of their disputes relating to parenting and property following divorce/separation.

Family dispute resolution practitioner - (FDRP) – an independent person who helps parties affected by separation or divorce to resolve their parenting and property disputes.

Family Law Act 1975 (the Act) – the law in Australia that covers family law matters.

Family violence/Domestic violence – is any violent, threatening, coercive or controlling behaviour that occurs in current or past family, family, domestic or intimate relationships.

Final order – an order made by the court bringing the case to a close.

High conflict - a pattern of behavior that increases conflict rather than reducing or resolving it.

Independent children's lawyer – (ICL) – a lawyer appointed by the court to represent the children's interests.

Interim orders – are temporary orders which are

put into place until final orders are made by the Court, which brings the matter to an end

Intimate Partner Violence – (IPV) - Intimate partner violence is one of the most common forms of violence against women and includes physical, sexual, and emotional abuse and controlling behaviours by an intimate partner.

Judicial officer - (JO) - a person who has been appointed to hear and decide cases like a judge.

Parents - refers to the parents or carers of the children

Parental conflict - disagreements about parenting that creates anxiety, places a child in the middle or forces a child to choose between their parents.

Parenting plan – a written agreement entered into between the parents setting out the parenting arrangements for the children. It is not approved or filed in the court in Australia but in some jurisdictions around the world it is filed with the court.

Parenting Coordination - Parenting coordination is a child focused post-divorce/ separation dispute resolution process where a professionally trained parenting coordinator assists coparents manage on-going conflict and implement what is set out in their court orders/ consent orders (and in some jurisdictions are also authorised to make decisions on minor issues) so the parents do not have to keep returning to court to have their disputes resolved.

Parenting Coordinator - (PC) – is a professional who is a court-appointed with legal or psychology training, who manages ongoing issues in high-conflict parenting matters and helps the parents resolve disputes and implement what is set out in the parenting orders, makes recommendations and in some jurisdictions makes decisions as well.

Parenting Plan Coordinator – (PPC) is a parenting coordinator in California.

Parenting orders – order made by the (FCFCoA) or a Family Law Court which sets out details relating to the care and living arrangements of a child. These orders can either be made by consent of the parents if they have reached an agreement or the court can hear a matter and make an order.

Parenting time – the right of a parent to spend time with their children made by consent of the parents or by order of the court.

Parties - refers to the parents or carers of the children

Acronyms.

AAPC - The Australian Association of Parenting Coordinators

AFCC - The Association of Family and Conciliation Courts is an interdisciplinary and international association of professionals dedicated to the resolution of family conflict.

AFCC members - are the leading practitioners, researchers, teachers and policymakers in the family court arena.

AIFS - Australian Institute of Family Studies.

ALRC - Australian Law Reform Commission

FDR - Family Dispute Resolution

FDRP - Family Dispute Resolution Practitioner

FCFCoA - Federal Circuit and Family Court of Australia

FLA - Family Law Act 1975 (Cth)

FRC - Family Relationship Centres

IPV - Intimate Partner Violence

JO - Judicial Officer

PC - Parenting Coordinator

PPC - Parenting Plan Coordinator

RPCA - Registered Parenting Coordinator and Arbitrator

Executive Summary.

The aim of my project was to research best practice in the field of parenting coordination. Parenting coordination is a child focused post-divorce/separation dispute resolution process, where a professionally trained Parenting Coordinator (PC) assists parents manage on-going inter-parental conflict and implement what is set out in their court orders/consent orders (and in some jurisdictions PCs are also authorised to make decisions for the parents on minor issues). Parenting coordination is in its infancy in Australia and the practice is now gaining more interest among family law professionals and judges. I have always had a keen interest in exploring alternative methods of dispute resolution to assist parents navigate an often challenging coparenting dynamic post- divorce/separation and I came across parenting coordination in my research around 2018 and wondered why this process was not used widely to assist Australian families going through divorce/separation.

While I continued to investigate this dispute resolution process I soon realised that the work of a PC was difficult and challenging because the parents who require the services of a PC have very complicated issues and are very high conflict and to be effective in the work that they do, PCs need a high skill level and comprehensive training to achieve the competencies necessary to do this work. PCs have to often work collaboratively with other professionals like psychologists, counsellors, mediators and lawyers to help the divorcing/separating parents work together and avoid further litigation in the best interests of their children. The role of the PC is not the traditional therapeutic role or a legal role but rather a hybrid one that includes a number of factors such as assessment of disputes, conflict management, mediation, parent education as well as case management to name but a few. Also, the parenting coordination process is usually non-confidential unlike mediation.

In order to implement a model parenting coordination system in Australia it was necessary to investigate best practice overseas and learn about the different systems around the world as that is where the expertise lies. Hence the reason I applied for a Winston Churchill Fellowship. The purpose of my research was to investigate the most established and innovative approaches in parenting coordination in jurisdictions around the world. I selected the

US and Canada primarily because parenting coordination originated in these two countries over 20 years ago and many thought leaders and researchers in the field of parenting coordination are from the US and Canada. I was eager to see what I could learn so I could adapt it to the Australian context. In addition to these two countries I also chose to visit South Africa as parenting coordination has been evolving there over the last twelve years and it also has an established practice. I also conducted extensive research in Spain, Italy, the Netherlands, Israel, Singapore and Hong Kong as these countries have implemented parenting coordination in their jurisdictions more recently.

My research included:

- a study of the practice of parenting coordination
- implementation in the court systems around the world
- guidelines for the practice
- practices and processes used by PCs
- the impact of family violence on the role of the PC
- coparenting conflict analysis and interventions
- a study of the competencies necessary for the PC role
- ethical considerations

I had the opportunity to meet with professionals working in the field who are using innovative approaches when working with high conflict parents. They shared their insights with me on how their practices have evolved, how parenting coordination has been adopted in various jurisdictions around the world, the potential pitfalls, barriers to success, their experiences and their advice on how to implement it having worked in the field for many years. I came away extremely inspired after every meeting, excited about sharing what I had learned to help implement a good system of parenting coordination in Australia.

My Churchill fellowship project seeks to contribute to our understanding in Australia of how parenting coordination should work and I am making recommendations for the consideration of the Australian judiciary and legislators who will hopefully consider them for the broader implementation of parenting coordination in Australia.

My recommendations will broadly cover the following –

1. Establishing an Australian Association of Parenting Coordinators (AAPC) that will engage in advocacy and educational activities to develop the practice of parenting coordination.
2. Set up a Steering Committee to draft Standards of Practice and Training Standards for PCs
3. Drafting Family Law Practice Directions for Parenting Coordination.
4. When a PC should be appointed.
5. How a PC should be appointed.
6. Recommendations or proposals made by PCs.
7. Competency requirements of PCs
8. The court order and the PCs engagement agreement
9. Information to be provided to parents about parenting coordination
10. The court involvement in the PC process
11. Confidentiality
12. Domestic violence and Intimate Partner Violence
13. Ethics and grievance procedures
14. Training and education of PCs, judges and family law professionals
15. Minimum qualifications of PCs
16. Training providers and training requirements
17. Continuing professional development for PCs.
18. Supervision of PCs
19. The involvement of the Mediator Standards Board
20. A pilot project in parenting coordination
21. Funding for parenting coordination
22. The need for legislation for parenting coordination
23. Co-parenting coaching

See full list of my recommendations on pages 131 - 145.



Meetings.

Country	Date	Location	Individual/organisation
USA	Sept 2022 - via zoom	Los Angeles	Lyn R. Greenberg , Ph.D., ABPP, forensic clinical psychology
USA	Sept 2022	Arizona	Annette T. Burns - attorney at law, parenting coordinator
USA	Sept 2022	Arizona	Retired Judge Bethany Hicks - Maricopa County Superior Court - PC
USA	Sept 2022	Arizona	Justice Bruce Cohen - Family Court Presiding Judge at Maricopa County Superior Court
USA	Sept 2022	Florida - zoom	John A. Moran, Ph.D. (Jack) who is a licensed forensic/clinical psychologist
USA	Sept 2022	California	Robin Sax clinical therapist, lawyer, author and PC.
USA	Sept 2022	California	Dr. Matthew J. Sullivan , Ph.D, a clinical psychologist and PC
USA	Sept 2022	Colorado	Kathleen McNamara , licensed psychologist & PC
USA	Sept 2022	Illinois	Brigitte Schmidt Bell , collaborative attorney, mediator and PC
USA	Sept 2022	Illinois	Nancy Chausow Shafer , collaborative attorney and PC
USA	Sept 2022	Massachusetts	Dr. Robin Deutsch is a Board Certified psychologist (Couple and Family) and PC
USA	Sept 2022	Massachusetts	Tony Pelusi , lawyer, certified professional co active coach (CPCC) and PC.
USA	Sept 2022	Massachusetts	Dr. Marsha Kline Pruett Ph.D., University of California, M.S.L., Yale School of Law.
USA	Oct 2022	Ohio	Marya Kolman - Manager at the Supreme Court of Ohio
USA	Oct 2022	Ohio	Anna Tyrrell - a counsellor, mediator, and PC
USA 0	Oct 2022	Florida	Dr. Debra K. Carter , Ph.D. is a clinical and forensic psychologist, certified family mediator and a PC
USA	Oct 2022	Florida	Linda Fieldstone , M.Ed, Florida Supreme Court certified family mediator, PC
USA	Oct 2022	Pennsylvania	Dr. Arnold Shienvold clinical psychologist, family mediator and PC.
USA	Oct 2022	New York	Tracy Callahan is a certified divorce coach, Florida Supreme Court certified mediator and New York unified court mediator.
USA	Oct 2022	New York	Dr Peter T Coleman - Professor of Psychology and Education at Columbia University- renowned expert on constructive conflict resolution and sustainable peace.
Canada	Oct 2022	Alberta	Dr. Larry Fong psychologist, family mediator, arbitrator and PC.
Canada	Oct 2022	Alberta	Sharon Crooks KC mediator, arbitrator and PC

Country	Date	Location	Individual/organisation
Canada	Oct 2022	Alberta	Hon. Nancy A. Flatters , QC, (Rtd.), high conflict evaluative mediator, coach & ADR trainer
Canada	Oct 2022	Alberta	Dr. Lorri Yasenik , registered clinical social work supervisor, family mediator, PC/ arbitrator.
Canada	Oct 2022	Toronto	Jared Norton , social worker, family mediator, PC/arbitrator
Canada	Oct 2022	Toronto	Hilary Linton , family lawyer, family mediator, PC/arbitrator
Canada	Oct 2022	Toronto	Dr. Barbara Fidler , family mediator, PC/ arbitrator
Canada	Oct 2022	Toronto	Dr Michael Saini , researcher
Canada	Oct 2022	Toronto	Dr. Rachel Birnbaum , researcher
Canada	Oct 2022	Vancouver	Joan Cotie , chartered mediator, chartered arbitrator, and registered social worker
Canada	1Oct 2022	Vancouver	Stephanie Fabbro certified family law mediator, collaborative lawyer and PC.
Canada	Oct 2022	Montreal	Dominic d'Abate Pd.D family mediator, coparenting coach, PC.
Spain	Oct 2022	Barcelona	Connie Capdevila Brophy , clinical psychologist, psychotherapist, mediator and PC.
Italy	Oct 2022	Milan	Dott.ssa Elena Giudice PhD in Applied Sociology and Social Research Methodology Curriculum Social Work, PC, family coach,
Italy	Oct 2022	Milan	Sara Pelucchi PC
Italy	Oct 2022	Rome	Prof. Silvia Mazzoni
Netherlands	Oct 2022	Amsterdam	Brigitte Chin-a-Fat , PC
South Africa	Oct 2022	Johanesburg	Prof Madelene (Leentjie) de Jong . Mediator, PC
South Africa	Oct 2022	Johanesburg	Heidi Reynolds , social worker
South Africa	Oct 2022	Johanesburg	Kaamilah Pause , lawyer
South Africa	Oct 2022	Cape Town	Esna Bruwer , social worker
South Africa	Oct 2022	Cape Town	Craig Schneider , lawyer, mediator and PC.
South Africa	Oct 2022	Cape Town	Dr Astrid Martalas , psychologist and PC
South Africa	Oct 2022	Cape Town	Acting Judge Diane Davis SC, practising advocate, Member of the Cape Bar
Singapore	Nov 2022	Singapore	Kevin Ng District Judge & Head, Family Dispute Resolution Division
Israel	Feb 2023	Israel	Yoa Sorek Ph.D, senior researcher and the children & youth team leader at the Myers-JDCBrookdale Institute
Hong Kong	Feb 2023	Hong Kong	Maureen Mueller , PC
USA	Apr 2023	Ohio	Amy Armstrong , Family Therapist, Coach and PC

Parental Conflict.

CONFLICT IN DIVORCED/SEPARATED FAMILIES

Those working in the trenches in family law witness almost daily the destructive nature of interparental conflict and the adverse effects it has on the wellbeing of children. This can be disheartening to witness and lawyers are sometimes at a loss as to what to do. Resolving parental disputes is a complex problem.⁴ The complicated nature of the problem is often related not only to the scale of the problem, but also to their increased requirements around coordination or specialised expertise.⁵ Every parental conflict and family system is unique and a parenting coordinator must act cautiously and not react to what parents do and say and apply interventions based on poor diagnosis which will escalate rather than de-escalate the conflict.⁶

I had the opportunity to talk to John A. Moran, Ph.D. (Jack) who is a licensed forensic/clinical psychologist with 35 years of experience serving as a court-appointed expert in the US about his work in conflict management and promoting the concept of peace psychology for parents in conflict who are unable to manage their coparenting relationship. He told me that as the conflict gets more embedded there are predictable outcomes. At the lowest level what happens is that when one parent cuts off coparenting communication, then third parties like lawyers, counsellors, the police get involved but sometimes are unable to defuse the conflict and untangle the problems. The ongoing conflict between the parents leads to coparenting paralysis where the parents develop negative coparenting mindsets about the other parent, there is a problem processing information that is shared and it results in a stalemate. There is then a necessity to get a third party to intervene to assist with a resolution of the issues or make an application to court to try and de-escalate the issues. He told me that what makes the conflict intractable is the attitudes and emotional dynamics of the parents.

So, in his view when working with these parents it is necessary to introduce them to new perspectives and use new interventions to address these child contact problems. He said when parents go through the divorce process there is an emotional injury that results in an oversimplification of the issues resulting in blame, rumination about what went wrong and the parents develop an unforgiving mindset as they feel that they were treated unjustly. They then search for the truth and want justice and reparation for the wrong they suffered and may

also want an apology for the hurt that was caused to them by the other parent. If an apology is given it may assist in moving the parents to a new position of been able to cooperate.

He also sees the breakdown of trust as an important issue that is facing these parents and the necessity to get an assurance from the other parent as to their commitment to the reconciliation process so they can coparent peacefully. There are many complications that arise when there is an unforgiving mindset characterised by anger, resentment, bitterness, vengefulness, and a desire to avoid the person who hurt you so it's important to motivate the parents to negotiate for the sake of the children. He said it's easy for parents to get sucked into the hopelessness of the situation and the grievances that have been caused as well as the blame cycle. If one parent has a personality disorder it can further complicate the issues. He said it is necessary to get the family out of the conflict trap and into a peacemaking process. In his view that should be the message to parents – to stop the conflict so the children can have inner peace and ask parents to think about whether the children can have this inner peace when they have anger towards the other parent. He sees it as a complex problem that is further complicated by the ongoing narrative about the issues amongst the family members, extended family, friends as well as the lawyers and the court process. The amount of provocation and conciliation that is going on in this system and the problems within the systems is very complex.

He told me that in this complex system the PC has an important role to play to help contain the issues and keep the family moving in the right direction. Hence training and experience is very important for PCs. There is a necessity to focus on specific interventions that are going to get results for the family. When dealing with these parents who are in conflict there are two parts to the problem, the psycho legal part and the clinical part and the PC is primarily on the legal side of the wall. The parents are so mired in distrust and scepticism it is very difficult for the clinicians to maintain neutrality and regain confidence of the parents. If the clinicians make the mistake of trying to make a decision when parent A wants x and parent B wants y, if they make a decision they set themselves up for perceptions of bias, so those decisions are best left to the PC.

As he sees it the idea of peacemaking will resonate



with families as they want the conflict to be over and peacemaking involves intervening in active conflicts to quell the active conflicts and keep those conflicts from restarting.

Both Fidler and Epstein have noted that high conflict parents argue about issues that range from the mundane to the critical and as a result are in disagreement and are unable to resolve their disputes over day-to-day issues and using a PC to assist them resolve these day-to-day issues can enhance the effectiveness and the efficiency of the judicial system.⁷

However, there can be limitations on the effectiveness of a PC and how appropriate the service is for high conflict cases and Barbara Fidler notes that -

“Parenting coordination is unlikely to be appropriate for cases involving coercive controlling violence, incompetence due to severe mental illness, uncontrolled substance abuse, or ongoing child maltreatment. Other contraindications include the parents having had multiple prior [parenting coordinators], making one or more complaints to a licensing board or engaging in criminal activity, such as vandalism or theft. In addition, cases involving chronic violations of the PC Agreement, parenting plan or orders are unlikely to be appropriate and may require supervision of the court.”⁸

The Effect of Conflict on Children.

Not all parents manage conflict and interpersonal pressures very well. There is strong evidence that a child's wellbeing after separation is impacted by the level of persistent parental conflict. (Cummings & Davies, 2010; Emery, 2012). Creating and maintaining child focused dialogues between the parents when there are still high levels of emotions as well as disappointment and anger resulting from the breakdown of the relationship is a challenge for divorced/separated parents. Robert E. Emery Professor of Psychology and Director of the Center for Children, Families and the Law at the University of Virginia argues that because of the inherent difficulties associated with making the transition from an intimate partnership to a separate state, adoption of a cooperative stance about post separation parenting even using processes like mediation can be a counter intuitive process.

Conflict between parents can be subtle, such as tone of voice, hostile body language, eye rolls, ignoring, jokes and sarcasm, or overt such as threats of violence, verbal attacks and physical abuse.⁹

The term "high conflict" has been used to describe a variety of case types, including where:

- there are high rates of litigation and re-litigation;
- there are high degrees of anger and distrust, and difficulties with communicating about the children;
- there are serious domestic violence issues, perpetrated primarily by one abusive spouse and continuing after separation; or
- there is alienation of the child as a result of the conduct or attitude of one parent.¹⁰

Courts and mental health professionals report that high conflict cases involve approximately 10% of disputing families, however they take up almost 90% of the court's time.¹¹ These cases pose a challenge to an already overburdened court system and use up an inordinate amount of time and resources which is for the most part ineffective because of the high level of conflict as evidenced in the high rates of non-compliance with parenting orders. For about one tenth of all divorcing couples, the unremitting animosity will shadow the entire growing-up years of their children.¹² It is widely accepted that children's exposure to chronic hostility and animosity between their parents is damaging.¹³ Specifically, continued intense conflict following separation

and divorce is associated with a substantially greater risk of children developing behavioral, social and emotional problems.¹⁴

Carla B. Garrity and Mitchell A. Baris in 1994 wrote the first book on parenting coordination, titled "Caught in the Middle: Protecting the children of High Conflict Divorce" and in their book they identify some key factors as to why conflict is so harmful to children. In the book the authors state that¹⁵

- a. "nothing matters, not custody decisions, parenting time, whether the child is a boy or a girl, as much as whether parents can minimize fighting. Over time parental wars take a greater toll on a child's development than any other single factor.
- b. conflict immediately and profoundly weakens the parents' fundamental protective role in the life of their children. Children look to their parents to keep them safe and secure. So when parents are out of control and fighting with each other that faith is shaken and the world becomes a scary place.
- c. Parent's conflict forces children into the middle. There are only two choices. The children must take one side and risk losing a parent or they must choose the middle. For most children losing a parent is the most dreaded possibility of all.
- d. Why the parent's inability to get along is so crucial is that they are a child's first and most important role models. Children look to their parents to help them solve problems, restore equilibrium and manage strong emotions. When parents are unable to manage their own emotions, are out of control, it is very frightening to children to witness such intense conflict and are unable to stop it. This is confusing and scary for children.
- e. And the most important reason why ongoing parental conflict hurts children so much is that it denies them permission to love both their parents."

The Role of the Parenting Coordinator PC

As a consequence parenting coordination is an important if not essential service for these highly litigious parents and for judges.¹⁶ Parenting coordination is defined by the AFCC in their Guidelines for Parenting Coordination 2019 as “a hybrid legal-mental health role that combines assessment, education, case management, conflict management, dispute resolution, and, at times, decision-making functions. Parenting coordination is a child-focused process conducted by a licensed mental health or family law professional, or a certified, qualified or regulated family mediator under the rules or laws of their jurisdiction, with practical professional experience with high conflict family cases. The parenting coordinator (“PC”) assists coparents engaged in high conflict coparenting to implement their parenting plan by: (1) facilitating the resolution of their disputes in a timely manner; (2) educating coparents about children’s needs; and (3) with prior approval of coparents or the court, making decisions within the scope of the court order or appointment contract. A PC seeks to protect and sustain safe, healthy, and meaningful parent-child relationships.”

Parenting coordination is essentially a non-confidential process that is child-centered to help divorced/separated parents. The goal of the PC should be to –

- **monitor parent’s behavior and ensure compliance with court orders**
- **shield the children from conflict and reduce the child’s stress,**
- **help improve the coparenting relationship**
- **increase the parent’s cooperation and respect**
- **teach parents effective communication and conflict management skills**
- **mediate minor disputes and help reduce future litigation.**
- **reporting non-compliance to lawyers and the court**
- **referring the parents to additional services as they need.**

The Australian Context.

COMPLIANCE WITH PARENTING ORDERS

The report on Family Law for the Future; An Inquiry into the Family Law System released by the Australian Law Reform Commission (ALRC) in 2019, highlighted the concerns raised by stakeholders about the high rate of families who were returning to court due to the non-compliance with parenting orders and the related costs and stress caused to families as a result.¹⁷ There were 331 submissions made to the ALRC from people who had gone through the family court process.¹⁸ A significant number of those surveyed highlighted the frustrations encountered by people going through the family law system particularly because it was slow, expensive as well as difficulties with non-compliance and enforcement of parenting orders even after spending years in litigation.

Submissions were made calling for measures to support high conflict parents implement what was set out in their parenting orders so parents can develop positive post-order communication.¹⁹ It was recognised that it was common for interpersonal conflict to escalate during the court process and parents were ill-equipped and lacked the skills necessary to manage the coparenting relationship post-orders.²⁰ There is significant information and evidence supporting the detrimental effects of conflict on children and some of the submissions made showed that entrenched conflict that is ongoing between the parents impacts on their ability to coparent peacefully.

Hence supporting compliance with parenting orders was seen as necessary both after interim orders and final parenting orders were made, whether they were by consent or were judicially determined orders.²¹ Some of the reasons for non-compliance by parents as set out in the submissions was a lack of understanding of what was set out in the parenting orders particularly when complex language was used, poor communication, entrenched conflict, a lack of skills on how to be a child-focused parent, ongoing relationship issues and not having moved

past the breakdown of the intimate relationship.²² In October 2017, the Centre for Family Research and Evaluation released an evaluation of the Parenting Orders Program Enforcement Pilot (POPE Pilot).²³ The intention of this POPE Pilot was to provide support to parents experiencing high and entrenched conflict who had received interim and final orders. Some of the key findings by the Centre was that a key element of the intervention used was to clarify what was in the current orders as well as teaching parents the practical strategies in psycho-education to improve their communication and conflict resolution skills.²⁴

It was also set out in the report on "Family Law for the Future; An Inquiry into the Family Law System" that there is recognition for post-order supports for families and the rationale and need for this support for families has even been recognised by former Chief Justice of the Family Court, the Hon Diana Bryant AO QC where she has stated as follows: "In my view many families who have their parenting cases determined by a judge (and potentially many who settle their cases before a hearing) would benefit from assistance from a professional after the orders have been made. It is in my experience, naïve to think that parties who have been in conflict for months and years will suddenly be able to communicate well simply because a judge has made final orders. Usually, their conflict has a deeper conflictual basis than just the orders that are in dispute in the litigation; that is one of the things that makes family law litigation so complex. Hence left to their own devices, disputes arise and one or other party wants to vary orders, or does not comply with orders, giving rise to further litigation."

A study was recently conducted by Australia's National Research Organisation for Women's Safety. In this study there was an examination of the issues surrounding the non-compliance with family law parenting orders and two reports were released in April and October 2022 on Compliance with and enforcement of family law

parenting orders. What was ascertained from the experiences of the surveyed parents, carers, professionals and judicial officers was that there was a significant problem with the way the parenting orders were developed in that they did not meet the needs of the children and young people and the circumstances of the family and secondly the options addressing these problems were inappropriate and insufficient as most of the identified problems arose because of relationship dynamics which included the inability to manage the ensuing conflict and poor communication skills.

It is evident that there is clearly a need to provide support so parents can navigate their co-parenting relationship peacefully post orders, to assist them resolve disputes that arise from time to time, implement what is set out in their parenting orders as well as provide parents education around navigating conflict and improving communication to ensure the children are shielded from the conflict. Parenting coordination is a dispute resolution process that would be appropriate and useful for Australia.

PARENTING COORDINATION IN AUSTRALIA

Parenting coordination is in its infancy in Australia but is gaining traction and there is opportunity to develop it further and use it more broadly to assist parents manage interparental conflict, resolve disputes and implement what is set out in their post-divorce/separation parenting orders in order to get better outcomes for children when their parents' divorce/separate. Currently PCs in Australia look to the AFCC Guidelines for Parenting Coordination (2019) for guidance in their practice but there is no regulation or Australian Standards of Practice around the practice of parenting coordination.

Since the information about the practice is sparse there is an hesitancy on the part of judges to make orders for parenting coordination. However,

there is a growing interest among judges, lawyers, family mediators and family report writers to learn and understand more about how they can use parenting coordination to assist high conflict families.

A PARENTING COORDINATION PILOT CONDUCTED BY RELATIONSHIPS AUSTRALIA WESTERN AUSTRALIA (RAWA)

A parenting coordination pilot program was run very successfully by RAWA. The pilot was started in April 2018 with the understanding that it would be funded by the Family Court of Western Australia but that did not eventuate so the pilot ended in February 2022. The staff I spoke to at RAWA told me that they worked closely with the Family Court of Western Australia, the Chief Justice and the Principal Registrar of the Court to introduce Parenting Coordination in Western Australia and the court was supportive and acknowledged the need for the program. Template orders were provided to the Courts and several cases were referred by the courts to the parenting coordination program.

It was found that the services offered by the PCs were complementary and supported the Independent Children's Lawyers (ICLs) who were involved in the cases as it freed up the ICLs to focus on what was in the best interests of the children. 70% of PC matters that RAWA handled were referred to it by the Family Court of WA and 30% of cases were self-referred with no orders or outdated orders and they were families that did not want to return to the Family Court. The primary issues that the PCs assisted parents with were disputes around time sharing, safety concerns and conflicting parenting styles. It was observed by the RAWA staff I spoke to that there was a reduction in court applications and a timely resolution of issues faced by the parents engaged in the parenting coordination pilot program.

Project Details.

RESEARCH INTO BEST PRACTICE
IN PARENTING COORDINATION

With a view to examining best practice in parenting coordination I travelled to the USA, Canada, Spain, Italy, South Africa and Singapore to study their systems and learn more about how parenting coordination is practiced in these countries. I also had the opportunity to research the systems in the Netherlands, Israel and Hong Kong and I have set out my findings in this report. I had the opportunity to meet with PC practitioners, mediators, lawyers, judges, court officials, academics, researchers and legislators in these various countries who shared information with me about the practice of parenting coordination in each of their jurisdictions.

MY RESEARCH INCLUDED:

- a study of the practice of Parenting Coordination
- implementation in the court system, emerging statutes and case law
- a study of court and local rules and regulations governing parenting coordination practice at the local jurisdictional level
- guidelines for the practice
- practices and processes used by PCs
- the impact of family violence on the role of the PC
- including the voice of the child in the parenting coordination process
- coparenting conflict analysis and interventions
- decision making by the PC
- a study of the competencies necessary for the parenting coordinator role
- record keeping and case management
- ethical considerations

Parenting Coordination in the USA.

HISTORY

Parenting coordination has evolved over the last 20-25 years and was first developed as a service in the USA to assist the courts with high conflict cases and the repeat litigation of child-related matters. The first parenting coordination model was designed in the mid 1980s in California and the model drew on the statutes developed previously for mediators and Special Masters and the first detailed order for the appointment of a PC was also subsequently developed in California.²⁵ The late 1980s and early 1990s saw the emergence of the Special Master program in California and the mediation-arbitration model in California.²⁶ Around 1992 a group of mental health professionals and family lawyers in Denver, Colorado grouped together to further clarify the role of the PC.²⁷ The first parenting coordination case was in 1993 and the term Parenting Coordination was coined as well.²⁸ In September 2000 the American Bar Association Family Law Section released a report and action plan that recommended that professionals trained as coordinators or masters manage chronic recurring disputes of coparents and that this service be written within the court system.²⁹

THE ASSOCIATION OF FAMILY AND CONCILIATION COURTS – AFCC

The AFCC an international, interdisciplinary organization of judges, lawyers, mediators and mental health professionals working in the family law area, recognized the need for the development of model standards of practice and has also taken a leading role in defining the role of a PC . The AFCC originally developed Guidelines for the practice of parenting coordination in 2006 which were widely used to guide the practice of parenting coordination around the world. An interdisciplinary task force on parenting coordination comprising members of the AFCC was formed in 2019 to update the 2006 Guidelines for Parenting Coordination. Members who were on the Task Force who I spoke to, told me that they saw the need to update the Guidelines because with the expansion of parenting coordination around the world there was a variation in the manner in which parenting coordination was practiced and implemented. The Task Force of 2019 worked on updating and expanding the Guidelines to reflect changes in the practice of parenting coordination since the previous Guidelines had been drafted.

THE AFCC GUIDELINES ON PARENTING COORDINATION

The AFCC is a leader in examining issues pertinent to the practice of parenting coordination around the world and when updating the 2006 Guidelines the Task Force looked at emerging issues in the practice of parenting coordination. Some of the issues that were addressed was the effective use of parenting coordination, the use of technology in the practice, the use of parenting coordination when there was intimate partner violence, multicultural competencies of PCs as the practice was been used more widely around the world, legislation, rules and statues and training and education of PCs.

The AFCC Guidelines -2019 on parenting coordination sets out a standard of practice and outlines the competencies required to engage in the role of a PC. The purpose of the Guidelines as set out in the Overview of the Guidelines is to provide guidance on –

- the practice for PCs,
- ethical obligations and conduct of PCs,
- qualifications, education and training for PCs
- and assistance to courts, professional organisations and professionals that use parenting coordination.

They also provide guidance on other aspects of the practice such as the necessity for impartiality, conflicts of interests, multiple roles, confidentiality, scope of authority, roles and functions, informed consent, fees and costs, communication and record-keeping, decision-making, privacy related to the use of technology, as well as recommendations for training and education for PCs.

The AFCC Guidelines are used in countries where parenting coordination is practiced as the standard for the practice and many jurisdictions have adapted the Guidelines to suit their systems. The American Psychological Association (APA) also appointed a Task Force and developed formal Guidelines for the practice of parenting coordination.

Parenting Coordination is practised widely in the US in about 50 States but there is no uniform standard of practice for parenting coordination or standard training requirements either. Some States have Statutes, some have Rules. Other States rely on Guidelines. I researched the practice of parenting coordination in California, Arizona, Colorado, Illinois, Massachusetts, Ohio, Pennsylvania and Florida.

Parenting Coordination Practice in California.

I started my journey in California and had the opportunity to meet with and talk to Matthew J. Sullivan, Ph.D, who specializes in forensic child and family psychology. He also works as a PC, is an author and researcher in parenting coordination. I also met Lyn R. Greenberg, Ph.D., and Robin Sax PC.

THE LOS ANGELES COUNTY BAR ASSOCIATION STIPULATION & ORDER

I learned that in Los Angeles County, Parenting Coordinators are appointed by stipulation of the parties as there is no statute or state-wide court rule providing for same.³⁰ In my research into the process followed in California I found that a revised Stipulation and Order appointing a Parenting Plan Coordinator was developed by the Family Law Section of the Los Angeles County Bar Association and is designed to provide a standard template for general use when there is a detailed court ordered parenting plan. It is used throughout the courts in the county.

This stipulation sets out that the Appointment of a Parenting Plan Coordinator- PPC (Parenting Coordinators are referred to as PPCs in California) can be made with the consent of the parents. The PPC is also referred to as the Child Custody Special Master. In clause 2 of the Stipulation a PPC is defined as a quasi-judicial officer of the court appointed by the Court by stipulation of the parents to –

- a. Coach the parents on effective co- parenting,
- b. Help the parents make joint parenting decisions, and
- c. Resolve disputes between the parents concerning the clarification, implementation and adaptation of a court-ordered parenting plan through the informal process described in the order.

By virtue of this Stipulation in clause 3 the parents agree to submit disputes about clarification, implementation and adaptation of the court-ordered parenting plan to the PPC to make decisions under the terms and procedures set out in the stipulation and order. The Court may then adopt those decisions of the PPC as court orders that have the same force and effect as orders made by the Court in a contested court proceeding.

In Section B of the Stipulation upon the parents signing the stipulation the Court finds that

the parents have knowingly, intelligently and voluntarily agreed to the terms of the stipulation after having consulted with a lawyer of their choice. They have read and understood the stipulation, they choose the PPC process as an alternate method of dispute resolution to reduce future custody and visitation litigation and waive the right to formal court litigation over the issues assigned to the PPC by the stipulation and order but subject to the Court's power to review the PPC's decision. They also understand that no California Court can appoint a PPC without the consent of the parents and that no California statute or court rule authorizes the appointment of a PPC. By signing the stipulation the parents agree that the PPC will resolve certain disputes between the parents without a court hearing and will issue some decisions that will become court orders automatically and others that are recommendations for court orders.

The parents also agree that they cannot sue the PPC, that the PPC process is a quasi-judicial process, that the participants including third persons are protected from civil liability by the Civil Code as well as common law civil immunity from lawsuits to the broadest extent permissible under the law. They agree that the procedures set forth in the stipulation and order for addressing grievances about the PPC's decision- making process and decisions are the sole remedy for complaints about the PPC available to the parents.

The parents also agree that the PPC is an officer of the Court not a professional engaged by the parents by private contract to provide services at their expense. Any legal duty owed by the PPC is only to the Court and not to the parents, child or to the third parties except as expressly ordered by the court.

The PPC's fees are considered an additional child support obligation and that a parent who has advanced the other parent's share of the PPC's fees and costs may offset such payment against any sums owed to him or her by the other parent. According to Section C of the Stipulation the Court appoints the PPC and the appointment is accepted by the PPC. By entering into the stipulation, the parents give the PPC some authority ordinarily reserved to the Court to make decisions clarifying, implementing and adapting the court-ordered parenting plan

when the parents disagree. The order defines the decisions that the PPC may make and reserves major decisions modifying the parenting plan to the Court. The PPC may however make recommendations to the parents and to the Court about those major decisions to the extent that the order authorises such recommendations. The PPC only has the powers granted by the stipulation and no others.

Section C also sets out that the PPC must disclose any conflicts of interest to the parents, counsel and the Court before accepting the appointment and the PPC may designate a substitute PPC for a period not exceeding 60 days if the PPC is unavailable. The PPC's term begins upon appointment and ends on the date set out in the Order but usually no more than three years. However the PPC may resign having given ten days written notice. The PPC's term can come to an end if both parents sign a written stipulation terminating the appointment.

The parents can also agree to extend the term of appointment to a specific date by written stipulation and court order or the Court can order the termination of the appointment. The PPC shall submit his or her recommendations or decisions made under the terms of the order to the Court in writing with copies to the parents and counsel. The PPC may also submit written findings, opinions and reports to the Court (with copies to the parents and counsel) addressing matters that arise in the course of the PPC process. Before making a decision a PPC will give each parent a reasonable opportunity to be heard and all decisions of the PPC shall be made in the best interests of the child. If the child has a court-appointed minor's counsel, the PPC must consult with the minor's counsel in the same manner in which the PPC consults with the parents. The PPC shall not act as a psychotherapist, child custody evaluator, counsellor, attorney or advocate for the parents, child or family.

The PPC can direct how the parents are to communicate with each other and with the PPC and the PPC is entitled to get copies of all pleadings, documents relating to custody and visitation, reports of the custody evaluator and orders of the Court within 5 days of receiving the order and the parents must also give the PPC any subsequent documents requested by the PPC. Section D of the Stipulation sets out the limitations on the PPC's authority – the PPC can

only make decisions or recommendations to the Court upon the request of a parent but may make informal recommendations to the parents on any topic related to the child's well-being without a parental request. The Court retains the jurisdiction to review decisions of the PPC and over all other issues relating to the parenting plan. The Court also retains the jurisdiction to make specific orders regarding the amount of services to be provided including the use of consultants and their fees, based upon economic or other factors.

THE THREE LEVELS OF DECISION-MAKING

In Section E this stipulation sets out three levels of Decision- Making for PPCs.

Level 1 issues –

These are issues that involve short-term practical matters and are often time sensitive. If one parent requests the PPC to make a Level 1 decision, the PPC shall give both parents a reasonable opportunity to be heard. The PPC will communicate Level 1 decisions directly to the parents and counsel orally or in writing and the decisions become effective once it has been communicated to the parent even though Court may not enter them until later. The decision is also submitted to the Court using the Notice of Decision form.

Either parent may seek a review of a Level 1 decision by order to show cause which must be filed within 30 days after the court's entry of a Level 1 written order and if a parent fails to do so on a timely basis that parent waives the right to seek a review. The court may reverse or modify a level 1 decision if the parent shows the PPC exceeded his/her authority and exceeds the jurisdiction of the Court or is erroneous as a matter of law or proves that the PPC's decision is not in the best interests of the child.

Level 2 issues –

These are issues that have a long-term effect but do not make changes to the roles of the parents as decision-makers or significantly change the percentage of time that the child is in each parent's care. When one parent requests the PPC to decide a Level 2 issue the PPC must give the other parent a reasonable opportunity to state his or her views about the issue and to provide information before the PPC makes a decision. The PPC shall make a written decision on a level 2 issue and transmit the decision to the parents.

Decisions are effective when transmitted to the parents even though the Court may not enter them until later.

Decisions are memorialized in written orders and sent to parents, counsel and the Court for entry using the Notice of Decision form and as in the case of Level 1 decisions parents can seek review and the court may reverse or modify the decisions.

Level 3 issues –

These are issues that involve major changes to the parenting plan and the PPC can only make recommendations but not orders in respect of these matters. The parents may agree by stipulation to make a change and that may be transmitted to the court by the PPC for entry as an order. When one parent requests that the PPC make a recommendation about a Level 3 issue, before the PPC makes a recommendation the PPC must give the parents a reasonable opportunity to state his or her views and to provide the PPC with information. The PPC can also decline to make a recommendation on Level 3 issues. If the PPC makes recommendations, the Court shall admit the written findings and recommendations of the PPC into evidence as expert opinion/testimony subject to the right of cross examination.

Under Section F the Stipulation and Order appointing a PPC also sets out in detail the scope of authority of the PPC for specific issues and the parents can agree on which types of decisions the PPC can assist them with by ticking off the relevant boxes. There are 40 specific issues set out in the Stipulation. Parents are able to tailor the agreement to suit their circumstances and requirements.

Under Section G the stipulation also sets out in detail the process to be followed by the PPC when making decisions. If the parents refuse to participate in the process the PPC will make decisions based on the available information. The PPC will work with the parents and also meet with other members of the family as well as school and educational personnel, health care providers for the children etc.

The PPC shall maintain records, summaries of conversations with parents and others concerning each decision or recommendation of the PPC. Section I of the Stipulation sets out that no information, observations of the PPC or communications made to the PPC are protected by any legal privilege and are not confidential as all communications are made with

the expectation that they may be disclosed in the decision-making process.

All communications shall be made with the expectation that they may be disclosed in any findings, decisions and recommendations made by the PPC.

Section J sets out detailed information on compensation to the PPC, the hourly rates, responsibility for payment, when payments need to be made, the ability for the Court to determine the reasonableness of the PPCs fees and costs, Section K sets out information on when a PPC can be called to testify as an expert witness notwithstanding any other provision of the law. Section L sets out the process to address grievances when the parents have concerns about the behaviour of the PPC but parents can make reasonable efforts to try to resolve the issues with the PPC before making a motion to have the issue adjudicated and this section also sets out that the PPC can withdraw from service at any time upon 10 days written notice been given to the parents and the Court.

CONVERSATIONS WITH PCS

The PCs I met told me that that in spite of having the authority to make decisions for their clients as provided for in the Stipulation, they were usually able to work with their clients to enable the parents to make the decisions themselves and the PCs preferred that approach rather than having to use their decision-making powers. They rarely made the decisions for the clients.

They saw the role of the PC as getting involved when “parents were at war” and unable to agree on anything. The whole idea in having a PC appointed was to assist the parents to resolve disputes and keep the matter out of the Court. It was necessary for the PCs to be involved and assist the parents in a timely manner even when there were minor disputes because if these issues were not resolved then the conflict could escalate and adversely affect the children. The PC was promoting the making of compromises by the parents and more often than not the parents were able to resolve differences and make the decisions themselves once they have gone through a process of parent education with the PC. In some instances the PC would make recommendations to the parents and this guidance was useful for the parents and they could then make their own decisions.

Under the Level 1 authority the PC addresses the

minor matters related to day-to-day issues that come up where parents have differing views. When the PC intervenes, the issues are addressed in a timely manner and the judge does not have to be involved. The PC works on promoting a compromise between the parents so they can resolve the dispute and move on.

The PCs use communication protocols so the parents have a structured process that they have to follow when communicating with each other. The PC does not work on processing feelings, emotions and does not deal with trauma but may deal with developmental child issues, attachment issues and provides information and educates parents. The PC sometimes does script writing with the parents on how to communicate information to the children.

In my conversation with Dr. Sullivan who was on the Task Force involved in the creation of this Stipulation, he told me that he found that having the three levels of authority in the Stipulation was noteworthy and useful. He also talked about the fact that sometimes parents reach the point of “hurting stalemate” where all the efforts of one parent in fueling the conflict is to get rid of the other parent and that approach often comes back to bite that parent. Lawyers don’t want to deal with that level of conflict on an ongoing basis and parents have to deal with it so lawyers promote parenting coordination to their clients. And under the California stipulation once parents consent to the PC process they are locked in and can’t get out because they don’t like the process. According to Dr. Sullivan once separated, when parents are engaged in intractable conflict and are transitioning from the nuclear to the bi-nuclear family, coparenting is the linkage between the parents and the parallel parenting model (where each parent has their own parenting approach when the children are with them) is more suitable in these instances because engagement will result in increased conflict which is damaging to the children’s development. The linkage between the parents is supported by means of communication, accountability, information sharing and decision-making. Setting boundaries and maintaining them for these parents is important as well as teaching these parents how to cope with violations or breach of the protocols for management of the conflict that have been put in place. It is important to support the implementation of what has been set out in the parenting plans and this is done by the PC by

moving parent’s engagement into a structured, accountable and supported framework.

There are no training guidelines set out in the Stipulation for PCs in California so they follow the Guidelines set out by the Association of Family and Conciliation Courts (AFCC) 2019.

I also spoke to Dr Matthew Sullivan about PC in a virtual world and he talked of the benefits of conducting PC sessions via zoom and also how email can be used as a useful form of communication to train parents to “get the job done” which included information sharing and implementing what was set out in the parenting plans.

He found that when working with these high conflict parents it is important to set out a protocol that parents could adhere to and at each subsequent meeting with the parents there was a reinforcement and summary of what was agreed to so parents make the agreement and protocol their own. This he said fostered respectful communication and timely responses between the parents where and when necessary. He stressed that working on improving communication between the parents was an important aspect of the work PCs do. As part of the protocol he found it useful to set up the rules for “the relationship” between the parents so that they set the rules and ensure the parents stick to them and there is little wriggle room so they are forced to comply or pay a penalty if they fail to comply. A structured system was useful to set up and maintain for interactions between the parents. When working with the parents the PCs used coaching techniques, problem solving techniques and solution focused therapy. In California they also include the voice of the child as part of the work they do in parenting coordination and the PC can talk to the child’s therapist to get the child’s views.

In Arizona there is a Rule that guides the practice of parenting coordination. Under Rule 74 of the Arizona Rules of Family Law Procedure, parents must stipulate for the Court to appoint a PC in their case.

RULE 74 OF THE ARIZONA RULES OF FAMILY LAW PROCEDURE

The Court may appoint a PC after a Court has entered a legal decision, making a parenting time Order and if the parents agree to appointment of PC. So it's important that there has been a parenting order made by the court prior to the appointment of a parenting coordinator.

The Rule in clause (a) defines Parenting Coordination as a child focused alternative dispute resolution process and the purpose of appointing a parenting coordinator being to protect and sustain safe, healthy, and meaningful parent-child relationships by assisting parents to implement and comply with what is set out in their parenting plan orders and also assist parents to resolve conflicts in a timely manner.

The terms relating to the appointment are set out in clause (b) (2) of the Rule and both parents agree to be bound by decisions made by the PC that fall within the PC's authority and relate to issues submitted to the PC for decision. The parents also agree on a set term to work with the PC, they agree to release documents to the PC, have an understanding of the fees to be charged and agree to the fee that is charged,

The Rule in clause (c) (1) sets out who may be appointed as a PC and these persons include an attorney, a psychiatrist, a person licensed to practise independently by the Arizona Board of Behavioural Health Examiners, professional staff of the court's conciliation services and a person with education, experience and expertise who is deemed qualified by the judge.

The Rule also sets out the option for the parents to use Conciliation services – rather than use a privately paid PC - parents may request court to appoint PC assistance through conciliation services which is a service through the Courts.

The initial term of a PC is one year unless all parties agree for the term to be longer. The reappointment of the PC is by agreement. The PC may resign by court order and following notice to each parent. The parents may also

agree to discharge the PC but disagreeing with the decision of the PC is not a good reason for discharge.

As per clause (e) Parenting Coordination services are a non-confidential process and communications between each parent and the PC, the child and the PC and between the PC and other relevant parties to the parenting coordination process as well as the PC and the court are not confidential.

Scope of the PC's authority is set out in clause (f) and some of the issues the PC assists the parents with are addressing disputed issues, reducing misunderstandings, clarifying priorities, exploring possibilities for compromise, developing methods of collaboration and assisting parents with complying with parenting orders.

In addition to the above the PC can make decisions regarding implementation and clarification of court orders and make minor adjustment to parenting time orders and can also make decisions regarding parenting challenges on day to day issues that the parents may be faced with and are unable to resolve themselves. The PC can also request the parents or the child to engage in ancillary services provided by the court or third parties if it will be of use to them to do so. The PC also facilitates agreements on disputed issues between the parents in a timely manner and will make decisions on disputed issues if the parents are unable to reach a decision.

There are limits on authority set out in the Rule and PCs can't deal with child support, change legal decision-making authority or substantially change parenting time.

As set out in clause (h) the PC must file a report with the Court of any decision made in the Form 9 – Parenting Coordinators Report that is set out in the Rules and it is sent to the parents as well. The Court files the report. The Court can adopt the decision as an Order of the Court or reject it and affirm the current order or set a hearing regarding the decision. Parents can object to a decision and file an objection no later than 20 days after the PC files a report.

Clause (k) deals with fees and the PC must disclose to the parents all fees and charges and the PC can also sanction and reallocate fees if the PC feels one parent is using the PC's service

Parenting Coordination Practice in Arizona.



excessively. Complaints about PCs can be made to the licensing or regulatory Board. The Committee that worked on this Rule noted the comment at the end of the Rule that states that "The appointment of a parenting coordinator is appropriate when parents have ongoing conflicts related to enforcement of legal decision-making and parenting time orders, which without a parenting coordinator would result in protracted litigation....."

Parenting Coordinators are used throughout the country to assist in the effective resolution of the ongoing conflicts and for purposes of example only, and not by limitation, such short- term, emerging, and time-sensitive situations might be: 1) temporarily changing exchange day, time, or place due to an immediate need; 2) attendance at or participation in an unexpected special event or occasion by the child or a parent; 3) responsibility for care of a sick child or accompaniment to medical treatment; or 4) another unpredictable and significant need of the child or a parent." This aptly sets out some of the day-to-day issues that can cause conflict in families and timely intervention is key to getting a good outcome for children, so the role the PC plays is critical in helping parents manage the interparental conflict and getting disputes resolved quickly and effectively.

CONVERSATIONS WITH PCs –

In Arizona I met with Annette Burns, Attorney at Law & PC and Retired Judge Bethany Hicks who is recently retired from the Maricopa County Superior Court and who now practises as a PC. They told me that parenting coordination is practised more by lawyers than mental health professionals in Arizona and that it is more of an arbitration focused practice. Coaching and education is a big part of the work they do with their clients. They coach and teach the parents on how to write respectful emails to each other addressing issues that need to be discussed to handle ongoing disputes that arise. A lot of the parenting coordination work with the parents is done via email and the PCs work with their clients to teach them the skills on how to resolve disputes. Even though they have the power to make decisions they use this power sparingly and only when absolutely necessary. They preferred to teach and encourage the parents to resolve their own disputes and make decisions about the children themselves but if parents are unable to reach agreement then the PC will make the

decision for them. The PCs told me that some parents who have PCs appointed do not even see the PC as they sometimes don't have disputes they need to resolve. The PCs report to the Court when they make a decision as it is important to set out the decision that has been made in writing. PCs encourage the parallel parenting model with high conflict parents. They also include the voice of the child in their work but find some PCs are reluctant to do this as they feel it "puts the child in the middle." In their view the strength of the voice depends on the age of the child. If it was necessary to hear the voice of the child the PCs said they preferred to have a therapist involved in the PC process who would talk to the child and report back to the PC but the PC will talk to teachers, school principals, school counsellors, doctors, grandparents and extended family members when they needed clarification on issues relating to the children.

The PCs described to me the parenting coordination process that they use when working with the parents. They initially conduct an intake session with each parent separately in order to gather as much information they can about the issues the parents are having in respect to coparenting, identify trigger points and do screening for IPV. If they feel it is necessary the PCs will talk to the lawyers for the parents to get clarification on issues as well. The PCs told me that they notice a variance in the levels of conflict they see with the parents they work with and depending on the severity of the level of conflict they may decide to do the PC work with the clients via zoom or by the shuttle method where the parents are in separate rooms and the PC moves between the two rooms. If they find that one of the parents needs individual coaching to address personal issues that they may have which are impacting on the PC process, the PC will recommend that they engage in individual coaching or therapy sessions as the PC works with both parents together and the process is non- confidential. In Arizona lawyers encourage their clients to engage in the PC process. There are no specific training requirements for PCs set out in the Rule but Rule 74(c) sets out who may be appointed as a PC and the court can set out additional requirements to be met by a professional to work as a PC. In Arizona PCs are appointed on temporary (interim) orders as well. There needs to be some court order for parenting time in place before a PC can be appointed, and it can even be a temporary order.

There is no procedure for the appointment of a PC by agreement, outside of a court order. It is necessary to have a court order in place to ensure immunity from lawsuits. If there are no orders in place it is recommended that parents attend co-parenting counselling or coaching by agreement, but the process would not be a parenting coordination process nor would the professional appointed have the authority of a PC.

I also had the opportunity to meet with Justice Bruce Cohen who is a Family Court Presiding Judge at Maricopa County Superior Court in Arizona. He told me that there is a recognition that there is the necessity to create a post decree referee system for parents, so the parents don't have to keep going back to court to get the finer points of their custody orders enforced or when they need clarity if there is a lack of detail in the orders. He said parents sometimes have legitimate differences of opinion and they want someone to be the tie breaker. He saw the role of the PC as a substitute for going back to court.

The parents agree that this is going to be their problem-solving mode, they have a right to it and a judge can order it. If parties challenge the PCs recommendations, then the court must be available to hear the parties out. I also asked the PCs I met with what their thoughts were on appointing PCs by private agreement rather than by a court/consent order. They said they have never taken a private PC appointment without a court/ consent order and they think it's a very bad idea. The primary reason they would not take an appointment without a court / consent order is liability. Doing PC by court/consent order gives the PC quasi-judicial immunity, so that the PC cannot be sued for actions taken as PC. If a lawsuit is filed , it would be quickly dismissed based on the immunity granted by order.

Without an order, the PC contract is just another contract and could result in civil liability.



With Judge Bruce Cohen

Parenting Coordination Practice in Colorado.

LEGISLATION

There is Statute that guides the practice of parenting coordination in Colorado. The Colorado Revised Statutes 14 -10-128.1 sets out how the appointment of a PC is made.

APPOINTMENT OF A PC

By virtue of this Statute after order made by court concerning parental responsibilities and after notice is given to the parties the court may by its own motion, a motion by either party or an agreement of the parties appoint a PC. A PC is a neutral third party who assists the parties with the resolution of disputes concerning their parental responsibilities and the implementation of the court ordered parenting plan. The role of the PC under the Statute is more like a parenting coach, the PC does not make any decisions, it's an educational and facilitative role.

The statute sets out in clause (1) that the PC shall be a person with appropriate training and qualifications and within seven days of appointment the PC shall comply with disclosure requirements as set out in the legislation. An important aspect of this legislation is that there is a requirement for the court prior to making the appointment to check on any claim or documented evidence of domestic violence by the other party and the impact it may have on the other party's ability to participate in the PC process. Clause 2 sets out that if there is no agreement of the parties, the Court will not appoint a PC unless parties failed to implement what was in the parenting plan, mediation is deemed inappropriate or was unsuccessful and if it is in the child's best interests. The duties of the PC are clearly set out in clause 3. A PC may be appointed to assist the parties in implementing the terms of the parenting plan as well as assisting the parties to set out guidelines for the implementation of the parenting plan, develop guidelines for improved communication and providing the parents with resources to assist with this, educate parents on improving parenting skills as well as teaching the parents conflict management skills.

The term of appointment will be for two years according to clause 5. Upon agreement of the parties this term may be extended, modified or terminated. The court may terminate the appointment for good cause at any time and may allow the PC to withdraw at any time as well.

The court order will also set out information on the parent's responsibility for fees. The PC must comply with any applicable provisions of the Chief Justice Directives, as well as with any other practice or ethical standards that regulate the PC. If the PC is an attorney, he or she must abide by the Colorado Rules of Professional Conduct. If the PC is a mental health professional, he or she must abide by the applicable professional standards. PCs appointed under this section do not make decisions or resolve disputes that the parents are unable to resolve.

APPOINTMENT OF A DECISION-MAKER - DM

In Colorado the Colorado Revised Statutes 14 -10-128.3 sets out how the appointment of decision-maker is made. In addition to the appointment of a PC under 14 -10-128.1 or the appointment of an arbitrator under 14 -10-128.5, at any time after the entry of an order concerning parental responsibilities and upon written consent of both parties the court may appoint a qualified domestic relations decision-maker and grant the decision-maker binding authority to resolve disputes between the parties as to the implementation of the parenting orders and this decision-maker can make binding determinations. This person may be the same person as the PC. The parents must consent to the appointment of this decision-maker. Although a parenting coordinator can be very useful, some high-conflict cases require more intervention and a firmer hand than that of a PC so the appointment of a decision- maker is considered more suitable. These decisions must be in writing and filed with the Court and sent to parties. Parents may object and file a motion to modify the decision. The DM makes decisions within the scope of the existing order with minor modifications. The DM will not make any binding decisions that modify the substantive order that already exists or that changes the substantive rights the parties have under the Court order.

APPOINTMENT OF AN ARBITRATOR

The person appointed must be a qualified arbitrator – and parents have the choice to choose their own arbitrator too. The arbitrator can change parenting time and the Judge can sign off on the arbitrator's decision. Parties need to file a motion in court to make the decision of an arbitrator an order of the Court. The consent of the parents

is needed to appoint a Level 3 arbitrator. The arbitration process is more formal and modifies parties' rights.

CONVERSATIONS WITH A PC

I spoke with Kathleen McNamara a licensed psychologist in private practice in Fort Collins, Colorado who works as a PC. She told me that the Statute sets out three levels of authority in Colorado – the Parenting Coordinator, the Decision-maker and the Arbitrator and that often appointments for PCs and Decision-makers are made together as one person can do both roles but are appointed under two statutes.

The goal behind implementing this statute was a desire to provide resources for intervention and assistance to parents in high-conflict cases in the hope that these parents will not resort to formal court proceedings to resolve every single dispute or disagreement that arises regarding the implementation of what is set out in their parenting orders. The statute is structured in a way so as to provide three levels of intervention in a high-conflict case, from the lowest level of intervention which is the appointment of PC to the highest which is the appointment of the arbitrator. This allows an individualized approach to each case.

The first level is the PC and the PC has no decision-making authority. It's like the role of a parenting coach and the PC educates the parents and tries to help the parents understand their conflicts and the effect it has on their children, helps them improve their communication, sets up protocols and policies for the engagement with the PC, but no decisions are made by the PC. At the lowest level of intervention PCs can be appointed without the consent of the parents, but PCs have no binding authority over the parents. Their role is to try to facilitate more cooperative parenting.

As set out in the statute the PC shall not be required to produce documents or testify in a judicial proceeding, administrative proceeding or other similar proceeding between the parents. The PC is required to inform the parents of the confidentiality and the limitations on confidentiality in the parenting coordination process and the PC shall not be called to testify in actions between the parents. The notes kept by the PC shall not be disclosed in any proceeding except as required by statute and the PC shall not share any information outside the PC process

except for professional purposes. The PC shall maintain confidentiality regarding the sharing of information outside the scope of the Parenting Coordination process which is obtained by the PC except as provided by court order or by written agreement of the parents. So if both parents have agreed in writing to authorize PC to testify the PC has to then do so.

The directives for PCs in Colorado were drafted but never adopted because PCs have no decision-making authority in Colorado. Only the Decision Maker directives were signed off on. Interestingly, the proposed educational qualifications for PCs were quite high in the directives. But proposed educational training requirements for PCs are not complied with as the directives were not adopted. The second level of authority is that of the Domestic Relations Decision Maker (DM) who is allowed to make decisions within the scope of the existing court order. The DM can make decisions to resolve disputes between the parents as to the implementation and clarification of existing orders but are not limited to disputes concerning parenting time, disputed parental decisions and child support. A DM has the authority to make binding determinations to implement or clarify what is set out in the court order.

When making decisions the DM needs to give reasons for decisions – parents must be given an opportunity to be heard before decisions are made.

Level 3 is used for the highest conflict cases. Colorado has moved towards the idea of not custody but allocation of rights and responsibilities so one parent has the final decision on education the other can make the final decision on medical issues, but they both need to confer with each other about creating a continuum of possibilities.

In Colorado they also include the voice of the child sometimes when the PC feels it is necessary to hear from the child. Also the PC may want the child to know who the person is that their father and mother come to when they have a disagreement and it may sometimes be better when the PC explains the role of the PC to the child rather than the parents explaining the PCs role to the child.

The PC may also coordinate with therapist if the child is seeing a therapist.

Parenting Coordination Practice in Illinois.

There is now a new Illinois Supreme Court Rule 909 dealing with Parenting Coordination that came into effect on May 24th 2023. This rule establishes guidelines for the State's courts to use "parenting coordination" to resolve minor issues that are causing conflict in family law cases.

ILLINOIS SUPREME COURT RULE 909

Rule 909 provides a framework that allows each judicial circuit, if it chooses, to adopt local rules "for the conduct of parenting coordination" that are consistent with Rule 909. This includes "specialized parenting coordination protocols, screening, procedures, and training in cases involving intimate partner violence." The new rule was initially proposed by the Illinois State Bar Association and approved unanimously by the Supreme Court Rules Committee. Chief Justice Mary Jane Theis noted that the "rule will improve the lives of children whose parents are going through a divorce." "Parenting coordination" is defined under clause (b) of the Rule as a child-focused alternative dispute resolution process conducted by a licensed mental health or family law professional appointed by the court to assist coparents who are unable or unwilling to cooperate in making parenting decisions or complying with parenting agreements and orders. The parenting coordinator assists parents in working out minor disputes.

As set out in the new Rule the parenting coordination process combines assessment, education, case management, conflict management, dispute resolution, and decision-making functions and the purpose in appointing a PC is to assist coparents who are unable or unwilling to cooperate in making parenting decisions, communicate effectively with regard to issues involving their children, implement and comply with parenting agreements and orders, or shield their children from the impact of parental conflict and protect and sustain safe, healthy and meaningful parent-child relationships.

The PC helps the parents who are high conflict with clarifying, implementing and complying with what is set out in their parenting orders, help parents reduce misunderstandings, clarify priorities, explore possibilities for compromise and develop methods of collaboration. The PC will also educate the parents about the children's needs to make timely decisions and resolve conflicts that arise between the parents in a timely manner.

According to the Rule in clause (c) a PC is appointed after the entry of a parenting plan and sometimes prior to approval if approved by a court after considering any allegations or

evidence of intimate partner violence where one coparent has exhibited or continues to exhibit patterns of threat, intimidation, and coercive control over the other coparent and when deemed to be in the best interest of the child(ren).

Under the Rule the parents shall comply with recommendations made by the PC until and unless the court after a hearing on the motion rules that the recommendations are in contravention of the children's best interests or outside the scope of authority granted to the PC. The duties of the PC are set out in clause (e). A PC facilitates the resolution of conflict between coparents regarding an existing parenting plan or post-judgment case to:

1. monitor parental behaviors, including their compliance or lack thereof, with orders entered in their case by the court;
2. mediate and make recommendations with respect to disputes between the coparents upon request of a coparent or court order;
3. make recommendations to the coparents for outside resources as needed and/or guidelines or rules for communication between the coparents;
4. document allegations of noncompliance for the court; and
5. make recommendations to the court upon proper notice and petition.

Under clause (f) a PC is authorized to make specific recommendations regarding the existing parenting plan including but not limited to:

1. the time, place and manner for the pickup or drop-off of the child(ren) in relation to the coparents' designated parenting time or nonparent visitation;
2. disputes regarding the extent and nature of the child(ren)'s participation in existing educational and extracurricular activities, including payment of expenses;
3. minor alterations of parenting time or non parent visitation to accommodate changes in schedule or availability of the child or a coparent, including make-up time if permitted by prior court order;
4. holiday scheduling; discipline and problematic behavior issues;
5. health and personal care issues; and
6. any other specific issues assigned to the parenting coordinator by the court or agreed by the coparents that does not exceed the authority under the Rule.



The limitations on parenting coordination are set out in clause (g). A PC shall not make recommendations as to:

1. allocation of parental responsibilities for decision making;
2. initial allocation of parental responsibilities for parenting time and any allocation of parenting time beside minor alternations described in paragraph (e);
3. relocation;
4. establishing visitation by a nonparent; or
5. child support, spousal maintenance, or the allocation of property or debt of the marriage.

The PC shall provide his or her recommendations in writing to the coparents within 14 days of the receipt of all information necessary to make a recommendation and the coparents may submit the recommendations to the court for entry as an agreed order. Clause (k) of the Rule states that the coparents shall comply with the recommendations made by the PC until and unless the court after a hearing rules otherwise. If PCs are unable to resolve the conflict, one or both parties may petition the court for a review of the PC's recommendations. Communication with the PC shall not be confidential under this Rule. The Rule in clause (o) also sets out that each of the judicial circuits will have rules pertaining to the training that PCs must have to undertake this work and have set out minimum qualifications in clause (o). This Rule has been drafted very comprehensively and sets out information on the scope and authority of the PC as well as other details pertaining to the appointment of the PC and training.

CONVERSATIONS WITH PCs

I initially met with two PCs in Chicago, Brigitte Schmidt Bell Collaborative Attorney, Mediator and PC and Nancy Chausow Shafer, Collaborative Attorney and PC. Chicago is in Cook County so they gave me a background of parenting coordination in Cook County, Illinois. In Cook County the authority to act as a PC comes from a local rule – Cook County Rule 13.10. Under this Rule the Court may appoint a PC when it finds the following: 1. The parents failed to adequately cooperate and communicate with regard to issues involving their children, or have been unable to implement a parenting plan or parenting schedule; 2. Mediation has not been successful or has been determined by the judge to be inappropriate; or 3. The appointment of a PC is in the best interests of the child or by agreement of the parents.

Under the Rule communication with the PC is not confidential except if the Court deems a part of the communications as confidential if in the best interests of the children. The Rule also sets out in clause (b) minimum qualifications and training requirements for PCs which is that the PC must possess minimum qualifications of a mediator with Family Mediation Services. Clause (c) deals with confidentiality – all communications with the PC shall not be confidential, except that upon the agreement of both parents and the PC, the court may deem all or any specific part of the communications with the PC to be confidential.

In clause (d) the duties of the PC are set out in detail. Broadly the PC shall educate, mediate and make recommendations to the court as necessary and may assist the parents with managing conflict and improving communication and managing disruptive parental behaviors. In addition, the PC may recommend approaches that will reduce conflict between parents and reduce unnecessary stress for the children, monitor parental behaviors and mediate disputes concerning parenting issues and report any allegations of noncompliance to the court, if necessary. The PC shall also recommend outside resources as needed, such as random drug screens, parenting classes and psychotherapy. The PC may recommend detailed guidelines or rules for communication between parents and if necessary act as a conduit for information.

The PC shall work with both parents to attempt to resolve the conflict and, if necessary, shall recommend an appropriate resolution to the parents.

The PC shall not be permitted to give a recommendation or opinion concerning the ultimate issue of fact, law, or mixed issue of fact and law, as to allocation of parental responsibilities, visitation by a non-parent, or relocation of the child and the PC will have no decision-making authority which is the sole province of the Court.

The PCs told me that some judges make orders for parenting coordination more than others, and sometimes lawyers may want to have a PC appointed and sometimes clients want a PC appointed. The PCs I spoke to observed that though the divorce may be over the clients keep coming back to court to resolve disputes they have in respect to coparenting issues. So most lawyers recommend that they add a provision in the Separation Agreement to have a PC appointed to assist the parents if future disputes

arise. The question came up as to whether a judge can appoint a PC before the case is over. They told me that some judges see it as a way of keeping the bickering parents out of court. The issues the parents are disagreeing about are trivial and important to the parents in the moment. The parents could consent to having a PC appointed and then it would be by agreement but a Judge can appoint a PC without the consent of the parents too. The judge may tell the parents to go find someone they can work with and the judge would be willing to appoint that person as the PC. Often the Attorneys for the two parents decide together who to appoint as the PC.

Both PCs told me that often it's the lawyers that draft the orders and lawyers decide which powers to give the PC. But this is not ideal. Once an order is made the PCs can't go back to court and say they want the order changed. The order sets out what can be done by the PC so it's important that the the scope of authority of the PC is set out clearly in the order. The better approach would be for the lawyers, the PC and the parents to have a discussion regarding the specific issues the parents need assistance with, discuss the scope and authority of the PC and then draft the orders setting out information that is specific to the family's needs. It is important that parents get timely assistance from a PC to help them resolve their disputes over parenting issues sooner rather than later so children are shielded from the conflict.

The PCs try to get parents to make the decisions for themselves. If a PC makes a recommendation, it is set out in writing and it is sent to the parents and they can take it to court. PCs tell the parents that their attorneys can turn the recommendation into a court order. Sometimes the parents agree to temporarily deviate from the schedule to allow a child to attend a family event like a wedding for example. The issues the parents raise are usually around day- to-day parenting issues.

CONVERSATIONS WITH THE PCs GROUP IN COOK COUNTY - ILLINOIS

I also had the opportunity to meet with a group of PCs in Cook County (who hold a monthly meeting to discuss issues relevant to their practice) and they spoke to me about their processes when working with clients. They reiterated the fact that parenting coordination work is hard work and it is not wise to have an abundance of parenting coordination cases. Parenting coordination cases are also time consuming and clients take up more time because they are in high conflict. There are both lawyer PCs and mental health

PCs but some mental health professionals find the work stressful and don't want to do a lot of PC work. PCs find the extent of the time commitment needed for this work to be extremely demanding as well. When starting work on a new parenting coordination matter, the PCs worked on getting the clients socialized to the process, establishing better communication by setting protocols to teach parents the skills to improve their communication and the initial work is around stabilizing the parents and getting them acquainted to the parenting coordination process. The PCs told me that establishing healthy boundaries and parameters for families was important. They found that having a detailed and thorough intake process was essential. The Cook Count Rule says the PC can make recommendations. In the PC appointment order it states that the PC recommendation is binding until the court says otherwise. So there is some finality. Decisions are immediate in nature. If one parent challenges it and court agrees with the PCs decision then the parent who challenged the decision will need to pay the associated costs of other parent as set out in the appointment order.

There is a requirement for PCs to complete a 40-hour family mediation training as in clause (b) of the Rule it states that the PC shall possess the minimum qualifications of a mediator with Family Mediation Services as set forth in Rule 13.4 of the Rules of the Circuit Court of Cook County. The PC Group has also recommended continuing education options for PCs to augment their skills with regular trainings so they can continue to improve. There has also been some training for judges in Cook County to educate them on PC and it has been well received.



With Nancy Chausow in Illinois

Parenting Coordination Practice in Massachusetts.

In Massachusetts under the Probate and Family Court Rules there is a standing order that deals with Parenting Coordination - the Probate and Family Court Standing order 1-17: Parenting Coordination. It came into effect on the 7th of January 2017. After the decision in the case of *Bower v Bournay Bower* (2014)³¹, the Probate and Family Court convened a committee to develop uniform standards for Parenting Coordinators. In 2017, that committee issued Standing Order 1-17, which is now the uniform guidelines and standards for Parenting Coordinators throughout the Commonwealth of Massachusetts. The Standing Order further clarifies the Bower decision, and also addresses when a PC can be appointed in a divorce or family law case.

PROBATE AND FAMILY COURT STANDING ORDER 1-17: PARENTING COORDINATION

The Standing Order clarifies that the Probate and Family Court can appoint a PC over the objection of one parent as long as the parent requesting the PC agrees to pay for 100% of the PC's fees. However, in this circumstance, any decision by the PC cannot be binding on the parents, and is always subject to review by the Probate and Family Court.³² The judge noted in this case that that the authority of the judge was not unlimited and cannot be used to undermine the constitutional rights of parties if they don't agree to the appointment of a PC.

The Standing order applies to the appointment of a PC pursuant to an order of the court (that establishes a parenting plan, custody or parenting time) with the agreement by the parties. The parties agree to engage a PC that is approved by the court. A PC may also be appointed by the court without the agreement of the parties in limited circumstances if it is in the best interests of the children, the parties have failed to successfully implement the parenting plan and the level of parental conflict is detrimental to the children. This rule does not apply to the appointment of a PC without order of the court.

Parenting Coordination is defined in this Rule as a child- focused process in which the parties work with a PC in an effort to reduce the effects or potential effects of conflict on the child or children involved in the parenting plan. The qualifications for undertaking the work of a PC is set out in clause 3. An attorney with at least four years'

experience licensed in Massachusetts, a licensed psychiatrist, a licensed psychologist or a licensed independent clinical social worker with at least two years' experience, a licensed marriage and family therapist or a licensed mental health counsellor with at least four years professional experience. The professional undertaking parenting coordination work must have insurance cover of US\$100k or more. The training requirements are also set out in the Rule under clause 3 (b) and are approved by the Administrative Office of the Probate and Family Court and includes at least 30 hours of training in a mediation training program and at least 6 hours of training in intimate partner abuse and family violence dynamics to be established by the Probate and Family Court in conjunction with the Trial Court; and at least 35 hours of accredited specialty training in topics related to parenting coordination around communication, conflict management, dispute resolution skills, developmental stages of children, dynamics of high conflict families parenting skills and problem solving skills.

The PC is also required to complete a minimum of 6 hours of continuing professional development once a year which is approved by the Administrative Office of the Probate and Family Court. A PC who has the qualifications listed in this Rule may apply to the Administrative Office of the Probate and Family Court to be included on the Parenting Coordination list of qualified PCs. PCs can be appointed by the court and incorporated in the order of the court when there is agreement of the parties.

The agreement of the parties must be in writing and signed by the parties and the PC, set out the PCs qualifications, the duties of the PC and whether the PC has binding decision- making authority and scope of that authority, the term of the PC and the amount of compensation that the PC is to receive and that the appointment is in the best interests of the children.

An order or judgment appointing a PC without the agreement of the parties shall include written findings as to why a PC is being appointed, the name, business address, e-mail address, and telephone number of the PC, the duties of PC, the period of time that the PC will serve in the role and written findings regarding parenting coordination fees.

However the Rules state that if neither party agrees to pay to use the services of a PC, the court is not permitted to enter an order or judgment requiring the use of a PC. In the Standing Order there is reference to the case of *Bower v Bournay Bower* – and that case sets out that if neither party agrees to pay to use the services of the PC the court is not permitted to enter an order or judgement requiring a use of a PC. Here the mother filed an appeal and said she could not pay the PC's fees.

The duties of the PC is set out in clause 7 and includes assisting the parties in resolving disputes and reaching agreement about implementation and compliance with the court orders regarding the children and the PC may assist with making minor changes to the existing parenting plan, exchanges of children, education or day-care matters, extracurricular activities, children's travel and passport, clothing and equipment, means of communication by a party with the child when in the other parent's care, contact with significant others and other family members, psychotherapy and mental health care assessments of the children and religious observances. The PC will also educate the parents about making decisions in the best interest of the children, how to improve communication between the parents and adopting parenting strategies to reduce the conflict.

When the parents come to an agreement with the PC's assistance modifying or amending the court order, the PC will inform the parties that it is not enforceable unless it is submitted to court for approval and incorporated into the court order. The duties the PC is not permitted to carry out is set out in clause 9 and includes a reference to the fact that the PC can't facilitate an agreement by the parties that would change the legal custody or parenting plan in a way that would impact on child support. The PC cannot make any binding decisions for the parties without the parties' express written agreement that has been incorporated into an order or judgment.

A PC may produce documents and testify in the action as a fact witness in response to a subpoena issued at the request of a party or an attorney for a child of the parties, or upon action of the court and if concerned that a party or child is in imminent physical or emotional danger, file a motion or complaint to request an immediate hearing; and file a motion or complaint for the appointment of a guardian to assert or waive a

child's privilege according to clause 10. With respect to confidentiality in clause 11 it states that the PC shall have access to all non-impounded case records in the action. If a document or any information contained in a case record is impounded, the court shall determine whether the PC may have access to it and shall specify any conditions to that access. Only the court may address access to an impounded document. A PC may not require the parties or an attorney for the child to release any confidential or privileged information that is not included in the case record.

Information acquired in the course of a parenting coordination appointment is confidential. The PC shall use such information only for the benefit of the parties or the child or children involved in the parenting plan. Such information may be disclosed by the PC to a party or parties, to an attorney for the child, to an attorney for a party. But under clause 11(c) a party may release to the PC his or her own educational, medical, and other third- party information and such information of the child or children involved in the parenting plan.

In Massachusetts a psychotherapist, counsellor or social worker can't waive the child's privilege without the Guardian ad Litem (GAL) giving a waiver of the privilege. So the PC will need to file a motion for the appointment of a GAL to assert or waive the child's privilege. Once parents are in the legal system, therapy for the child is privileged and is no longer just confidential. Parents can sign a release but can't waive privilege, they need a waiver of the privilege from the GAL. So it is advisable to get waiver of privilege in advance if information from the psychotherapist, counsellor or social worker is required by the PC. It is important for the PC to have this option available because if there are therapeutic or clinical issues that the PC wants information about, the PC will need to talk to the therapist and having obtained the waiver in advance will not cause any delays.

The Rule sets out in clause 13 that if there are findings of domestic violence committed by a party against the other party or the children, the court shall offer the opportunity to each party to consult with an attorney before accepting the appointment of the PC and a PC will not be appointed over the objection of one party. This is an important provision to ensure the safety of the

parties in the parenting coordination process. The Rule also sets out that if the parties want to extend the term of the PC the parties and the PC must agree in writing to the extension and to be enforceable by the court the order must be submitted for approval and incorporated into an order of the court. The circumstances for termination of the appointment of the PC is detailed in clause 14(b). The Rule also has provision for the parties to agree to replace the PC with a different PC. To be enforceable by the court, the agreement must be submitted for approval and incorporated into an order. A PC may resign at any time by written notice sent by first- class mail to each party and any attorney for the party, the child or children. The notice shall state the effective date of the resignation and inform the parties that they may ask the court to appoint a different PC. The parties may agree to the appointment of a different PC.

CONVERSATION WITH A PC

I had the opportunity to meet with Dr. Robin Deutsch in Massachusetts who is a practising PC and has done extensive research in this area. She was also on the committee that developed the Massachusetts Probate and Family Court Standing Order 1-17: Parenting Coordination. In her view when the conflict is intense and there exists issues of coercive control the appointment of a PC may not be a suitable intervention as sole custody may be more suitable in that situation. If there is joint legal custody then the parents may need a PC when there is interparental conflict. In Massachusetts parents may by agreement engage a PC but for that agreement to be enforceable by the court it is necessary to file a motion to the court to have the agreement incorporated into the order.

She also told me that a person can be appointed as a PC even if their names are not on the list maintained by the Court as sometimes parties privately ask someone they know to be PC and don't enter the appointment in the court order though this may not be the ideal manner of appointment.

In her view it was important to have the provision in the Rule that gives the PC the option to resign. If one of the parents is not following the PC agreement, is frustrating the process, refuses to cooperate and resolve disputes then no progress can be made and it gives the PC an opportunity to remove himself/herself from the process.

Another restriction on the role that a PC can play in this State is that they can't make any decisions regarding changing legal custody. If the parents want changes made to the existing arrangements they will need to go back to the court and sometimes parents need to do this as the needs of the children change as they grow older. PCs may sometimes be asked to testify as fact witness's to verify facts pertinent to the case.

CONVERSATION WITH ANOTHER PC

I also met with Tony Pelusi another practising PC who gave me information on the parenting coordination process that he adopts when working with his clients. He initially establishes a communication protocol for the parents and encourages them to use of the parenting app Our Family Wizard (OFW). He sees the education function of the PC as very important and a very necessary part of the process to teach parents the skills on how to manage the conflict as well as the skills on how they can engage with each other more effectively. Conversation facilitation and email monitoring is very important he said as well as mediation to help the parents resolve disputes as they arise and if all these techniques fail then the PC can exercise the decision-making power as provided for in the agreement.

He sees the work of the PC as helping parents work together to design a "partnership alliance" so they can coparent peacefully. Clients become polarized because they have been entrenched in the adversarial court process over an extended period of time. He also said that in his view it is important to consider the family system in the work the PC does.



With Tony Pelusi in Boston

Parenting Coordination Practice in Ohio.

REVISED PARENTING COORDINATION RULES – 2023

The Supreme Court of Ohio has approved the revised Parenting Coordination Rules of Superintendence 16.60 – 16.66 that will replace Rules of Superintendence 90 – 90.12 and came into effect on January 1, 2023. Parenting Coordination is defined in the new Rule as “ a child -focused dispute resolution process ordered by a court of common pleas or division of the court to assist parties in implementing a parental rights and responsibilities or companionship time order using assessment, education, case management, conflict management, coaching or decision-making. Parenting Coordination is not mediation subject to R.C Chapter 2710 or Sup.R.16.20 through 16.25.

A Parenting Coordinator is an individual who conducts parenting coordination. Parenting Coordination was established in Ohio in 2014 and the Supreme Court adopted Superintendence Rule 90 through 90.12 establishing guidelines for the practice of parenting coordination.³³ Parenting coordination plays an important role in assisting parents resolve disputes that arise as they struggle to adhere to parenting orders and communicate effectively. A survey was conducted by the Supreme Court of Ohio in 2020 on dispute resolution services and it was reported that 46 courts in Ohio were using parenting coordination but that only 25 courts had local rules governing the process. This prompted the Supreme Court to initiate a review and examination of the existing parenting coordination Rules of Superintendence. So the committee looked at the new AFCC guidelines, addressed issues voiced by PCs and the courts using PCs when conducting the review of the existing Rule.

These revised rules provide consistent guidance to maintain high quality Parenting Coordination programs throughout the State and provide the courts with a flexible structure to use parenting coordination to meet their needs.³⁴

The rules also address common issues in the practice of Parenting Coordination that were not addressed in the prior rules, such as parenting coordinator fees and invoices and the duty to maintain financial records. The revised rules set forth requirements applicable

to court-connected parenting coordination that encompass:

- a. local rules - decreasing the amount of local rule requirements to make the rule-making process simpler for courts;
- b. additional requirements added to the parenting coordination appointment order;
- c. responsibilities of PCs;
- d. addresses confidentiality as part of the local rule provision;
- e. updates PC education and training and no longer specifies that PCs shall have a Master’s degree or higher;
- f. eliminates annual court reporting requirements of courts set out in Sup. R 90.04; and addresses the issue of public access to PC files.

A court or division that elects to use parenting coordination are required to adopt a local parenting coordination rule. As set out in Rule 16.61 the local rule must include the following:

1. The types of cases eligible for parenting coordination and the types of cases precluded from parenting coordination, if any.
2. Procedures for selection and referral of cases to parenting coordination. The court may choose to refer cases to parenting coordination any time after an interim or final parental rights and responsibilities or companionship time order is filed.
3. A provision that communications made as part of parenting coordination are not confidential or privileged.
4. A prohibition against using parenting coordination in domestic violence criminal cases or civil protection order cases. This prohibition does not include subsequent divorce, custody, or juvenile delinquency cases.
5. Procedures for referrals to attorneys, counselling, parenting courses and other support services for all parties, including victims and suspected victims of domestic abuse and domestic violence.
6. Any other issues the court wishes to address.

According to this revised Rule a court may order parenting coordination when the parties have disagreements about the implementation of parental rights and responsibilities as set out in the order, there is a history of parental conflict unresolved by previous litigation, the parenting

time schedule needs frequent adjustments and parents have been unable to reach agreement on their parenting time schedule, where the child has a medical or psychological condition or disability that requires frequent decisions and the parents have been unable to reach a decision, one or both of the parties suffers from a medical or psychological condition that results in an inability to reach agreements as set out in more detail in R 16.62. A.

A court may not order parenting coordination to determine changes to residential parent or legal custodian, changes in school placement of a child, substantive changes to parenting time and modification of child support. Other provisions in the Rule relate to the PC not serving multiple roles and that the PC cannot give legal advice. The PC is required to also keep and maintain records to document charges for services and expenses and shall issue invoices for services and expenses to the parties.

The section relating to training of PCs is very comprehensive and PCs must meet the training requirements and qualifications as set out in the Supreme Court Rules 16.64 as well as the Local Rules adopted under the Supreme Court Rule. Some of the requirements are that the person must be an independently licenced mental health professional or authorised to practice law, possess extensive experience with situations involving children which may include casework, counselling, legal representation in complex family law matters and also have family mediation training, complete specialised domestic abuse issues training and complete the parenting coordination training approved by the Supreme Court. PCs are also required to provide the court or division with documentation indicating compliance with all training and education requirements. It is also stated in the rules that PCs shall decline or withdraw from an appointment if the facts and circumstances are beyond the skill and scope of the PC.

These extensive education and training requirements for PCs are set out in the Rule.³⁴ There are also requirements as to ongoing and continuing education for PCs which includes education relating to children, mediation or diversity relating to cultural and racial diversity as well as the effects of a PCs, biases, values and styles on the parenting coordination process. Rule 16.65 sets out the responsibilities of the Court and the Court is required to ensure that only qualified individuals undertake this work, that PCs

establish screening procedures to ascertain the capacity of the parties to participate in the process and the Court has to also develop a process and designate a person to consider complaints regarding the performance of PCs.

The process to deal with complaints is clearly set out in 16.65 (A) (3) of the Rule. If a complaint is received about a PC, a copy of the comments and the complaint submitted to the court will be handed over to the PC and the PC may submit a written response to the complaint. This is then forwarded to the administrative judge of the court for consideration of appropriate action to be taken. Dispositions by the court shall be made promptly and a written record of the nature and disposition of any matter will be maintained on the PCs file by the court.

The revised proposed rules also add a provision that a Court making a parenting coordination order shall include a provision that orders the parties to contact the PC within the time period specified by the Court.

If there is domestic violence or abuse then PC work can only be conducted if the screening procedures set out in 16.65 (A) (5) of the Rule are followed to ensure the safety of parties.

If an order for a PC is made by the Court the court shall issue an appointment order that sets out the information as set out in 16.65 (B) of the Rule and it is imperative that among other things the scope of authority of the PC as well as the terms is clearly set out in the appointment order.

The appointment order will also set out the procedure for decision making. According to what is set out regarding decision making by the PC in the Court of Common Pleas Division of Domestic Relations Cuyahoga County, Ohio Local Rules of Practice, the PC shall first attempt to assist the parties to reach an agreement that resolves the dispute. If the parties are unable to reach an agreement, the PC shall issue a written decision that is effective immediately. The PC shall provide copies to the parties and their attorneys, if any. The decision shall be promptly filed with the Court. This Local Rule affords the parties an opportunity to file written objections to a PCs decision with the Court and serve all other parties to the action within fourteen (14) days of the filing date of the decision. A hearing may be scheduled and a judge shall issue a ruling on the objections.

If there is no hearing then the matter will remain on file and there is a stalemate.

CONVERSATION WITH A MANAGER AT THE SUPREME COURT OF OHIO

I had the opportunity to meet with Marya Kolman, who is the Manager at the Supreme Court of Ohio. She was able to provide me with information around the revised Parenting Coordination Rules of Superintendence 16.60 – 16.66. She told me that there is no unified court system in Ohio and each County makes its own rules. If a County wants to do parenting coordination they will need to now adhere to what's set out in the revised Rule and the Local Rule has to be consistent with what is set out in the new revised Rule. She also told me that the Dispute Resolution Section of the Supreme Court of Ohio is working on a Toolkit and other information for courts that have or want to establish parenting coordination programs. Some of the information included in the Toolkit is the relevant Rules, the AFCC Guidelines, Parenting Coordination Documents and Forms which PCs need to run a practice. This will ensure uniformity in the practices that PCs adopt when doing a PC matter.

A PC survey was sent out to PCs practising in Ohio and 40 responses were received in March 2023. This information is useful in ascertaining the needs of PCs and will be used when developing the Toolkit which will have information for the courts and PCs.

A majority of the PCs surveyed were lawyers and mediators. The PCs indicated that they facilitated agreements between the parents mostly and rarely issued decisions. Some of the common obstacles to the process that PCs identified were that they found parents to be stuck in dysfunctional dynamics, some had un-addressed mental health conditions that impacted on their ability to participate in the parenting coordination process, one or both parents did not cooperate in the parenting coordination process and did not pay fees too. In some instances they found that parents had been given incorrect information about the parenting coordination process by their attorney as attorneys had a limited understanding of parenting coordination, hence the parents came into the parenting coordination process with the wrong expectations. Most of the PCs surveyed said they found the work challenging and exhausting and one of the biggest issues with clients was a lack of communication skills.

She told me that Ohio is a leader in dispute resolution. PCs in Ohio have to be appointed by a court order otherwise they have no authority. The

Supreme Court also provides training for PCs via zoom and this is provided free. Private agencies can also offer training but they need the approval of the Supreme Court to run their program. Once PCs complete the training that the Court offers they are issued a certificate which confirms that they have completed the program which they can then show to their local courts to confirm that they have satisfied the training requirements.

CONVERSATION WITH A PC

I had the opportunity to chat to Anna who is a Counsellor, Mediator, and PC in Northeast Ohio. She is a recognised leader in the field of parenting coordination in Ohio. Anna was the first court-employed PC for Lake County's Domestic Relations Court. She told me that most Countys adopt the Supreme Court Rule and may make a few minor changes to it as they think necessary. Some courts have in house PCs where staff from the court offer the service. There can be limitations to this service as the service is restricted to only particular times depending on the availability of the PC. In Henry County in Ohio there are PCs who are independent contractors who offer the service through the court.

She also told me that when PCs make a decision they write it up like a court order and file it in the court but the filing is optional. It depends on the issue. She found that in her practice if the parents were forced into the parenting coordination process there was resistance to comply. In her view the parents referred to parenting coordination are struggling to manage their coparenting relationship and need the support of a PC. She saw the role of the PC as an advocate for the relationship that the parents have post-divorce and part of their role was to promote a solid family relationship and promote good memories for the children. She also told me that she thinks the term of the PC should be around three years as it takes the parents around six months to settle into the parenting coordination process and comply with the boundaries that are set. In the second year there is a reinforcing of the skills that are been taught and the third year is ideally a time to provide the family with the support they need to practice and use the skills they have learnt and change their behaviors. She also thought that the ability of the PC to talk to the judge about the case may be useful.

Parenting Coordination Practice in Florida.

As set out on by the Office of the State Courts Administrator on the Florida Courts website parenting coordination is described as a non-adversarial dispute resolution process that is court ordered or agreed upon by the parties.

SECTION 61.125 FLORIDA STATUTES

In 2009 the Florida legislature enacted section 61.125 Florida Statutes establishing parenting coordination as a form of dispute resolution. The statute was amended in 2019 to add provisions regarding confidentiality, definitions, immunity and limited liability and clarify the Florida Supreme Courts authority to establish minimum standards and procedures for the training, ethical conduct and discipline of PCs. Section 61.125 refers to parenting coordination and sets out information in respect of what parenting coordination is, it's purpose, addresses domestic violence issues, qualifications and disqualifications of a PC, the fees for parenting coordination and issues of confidentiality.

The purpose of parenting coordination is to provide a child-focused process in which a PC assists parents in creating or implementing a parenting plan by facilitating the resolution of disputes between the parents by providing education, making recommendations and with the prior approval of the parents and the court making limited decisions within the scope of the court's order of referral.

In any action in which a judgment or order has been sought or entered adopting, establishing, or modifying a parenting plan, except for a domestic violence proceeding under chapter 741, and upon agreement of the parties, the court's own motion, or the motion of a party, the court may appoint a PC and refer the parties to parenting coordination to assist in the resolution of disputes concerning their parenting plan.

If there is a history of domestic violence the court may not refer the parties to parenting coordination unless both party's consent and the party's also have the opportunity to consult with an attorney or domestic violence advocate before accepting the party's consent. The court will also order safeguards if there is a history of domestic violence to protect the safety of the participants. PCs are subject to ethical standards and a disciplinary process under the Rules for Qualified

and Court-Appointed Parenting Coordinators. In 2016, the Court established the Parenting Coordinator Review Board to perform investigate and adjudicate complaints filed against parenting coordinators. By Administrative Order the Supreme Court of Florida adopted the Rules for Qualified and Court-Appointed parenting coordinators (Rules) pursuant to its rulemaking authority under article V, Section 2(a), Florida Constitution. The Rules set out standards that PCs must comply with when working with clients. Part II of the Rules titled "Discipline" provides that "any complaint alleging violations of the Rules for qualified and court appointed PCs shall be filed with the Dispute Resolution Centre which shall be responsible for enforcing the Standards."

According to the Administrative Order in order to fulfill the Dispute Resolution Centre's responsibility and implement the disciplinary process the Parenting Coordinator Disciplinary Review Board (Board) was established to perform investigations and adjudications of grievances against PCs. The Board will review grievances against PCs, determine the probable causes, conduct hearings in relation to grievance proceedings and sanction PCs. The Board is comprised of ten qualified members – three county/circuit court judges who are assigned to family court cases, five PCs and two attorneys. The members will serve a four year term.

There is no Supreme Court of Florida certification for PCs. They are recognised when they have been qualified by the local circuits to serve. To practise as a PC a person must be a licensed mental health professional, be a licensed physician, be certified as a family law mediator or be a member of the Bar. Every two years qualified PCs must renew their qualification(s), which includes completing 16 hours of continuing parenting coordinator education (CPCE). The training requirements for PCs are a minimum of 24 hours of parenting coordination training in parenting coordination concepts and ethics, family systems theory and application, family dynamics in separation and divorce, child and adolescent development, the parenting coordination process, parenting coordination techniques and Florida family law and procedure, and a minimum of 4 hours of training in domestic violence and child abuse

which is related to parenting coordination. The court shall determine the allocation of fees and costs for parenting coordination and cannot order the parties to parenting coordination without their consent unless it determines that the parties can pay the PCs fees and costs. The court also has the right to determine if a party has the financial ability to pay the PCs fees and costs.

All communications made by, between or among the parties, the participants and the PCs during the PC sessions are confidential. There are exceptions set out in Section 61.125, Florida Statutes – clause 8. It was felt that with this approach parents will feel freer to interact with the PC and share information. In addition to the Florida Statute to implement the use of PCs in Family law proceedings, in 2010 the Florida Supreme Court adopted Family Law Rule of Procedure, and the Family Law Forms: Order of Referral to Parenting Coordination, Response by Parenting Coordinator, Parenting Coordinator Report of Emergency and Request for Status Conference. According to the Florida Family Law Rules of Procedure Rule 12.742 which deals with parenting coordination, an order referring parties to parenting coordination must be in compliance with these rules and the order must specify the role, responsibility and authority of the PC. The Rules further state that parties may agree in writing on a PC subject to the court's approval. If the parties cannot agree on a PC the court shall appoint a PC qualified by law. So the consent of the parties is not necessary and the court can appoint a PC if it deems it appropriate to do so. The PC must file a response accepting or declining the appointment and the terms of service shall be specified in the order but the initial term should not exceed two years. The PC may also submit a written report or other written communication regarding any non-confidential matter to the court.

There are other forms on the courts website as well to inform the practice of parenting coordination such as the Parenting Coordinator Application, the Parenting Coordinator Renewal Form, Parenting Coordination Operating Procedures, Continuing Professional Development Reporting Form as well as a Grievance Form.

Florida has a highly motivated dispute resolution centre as part of the Supreme Courts.

CONVERSATION WITH A PC

I had the opportunity to talk to Dr. Debra Carter who was involved in the development of parenting coordination in Florida. She is a thought leader in the field of parenting coordination in the US, a sought-

after trainer and was on the task force of the AFCC when they updated the AFCC Guidelines for Parenting Coordination in 2019. She told me that Florida is one of the 6 States in the United States where parenting coordination is a confidential process but there were exceptions listed in the Statute. It was envisaged that there would be a problem if the process was deemed to be fully confidential as it was necessary to balance the aspect of confidentiality with the ability to have access to the courts if parties were non-compliant. Florida has a well-defined parenting coordination process and the Florida Dispute Resolution Center, Office of the State Courts Administrator has a handbook that is a central depository of all the information including the statutes, rules, forms relating to parenting coordination in Florida and this material is regularly updated for practitioners. In Florida they have an integrative model of parenting coordination rather than a mediation arbitration model and it is more consistent with what is set out in the AFCC Guidelines 2019.

As set out in the Florida Family Law Rules of Procedure, PCs do not have binding decision making powers on a permanent basis but rather only on a temporary basis on de minimis issues but the PC cannot significantly change the quantity or decrease the quality of time a child spends with either parent or modify parental responsibility. The temporary decision-making authority is for the PC to resolve specific non-substantive disputes between the parents. The PC can make recommendations to the court concerning modifications to the parenting plan or time-sharing.

The parents can give the PC temporary decision-making power but the matter needs to then go back to the court for review. The PC can request a status conference if one or more of the parents disagrees with the PC's decision and then the usual legal process continues. The judge may affirm what the PC decided. The judge may in some instances decide to change the PC too.

She said that it is not recommended to accept a parenting coordination case without a court order or a consent order as this ensures that the parenting coordination process has the backing of the court. The reason is because at any given point in time but certainly more a risk at the beginning of the PC's work when the PC is still trying to get the parent's emotional conflicts de-escalated and prior to when parents may have had time to build/practice communication/conflict resolution skills and when the PC is still working to set up the infrastructure to accomplish both of these goals. One or both of the

parents may not be compliant with the “agreement for services” (if it is just a professional services agreement or a stipulated agreement by the parents) and the PC needs the back up and “teeth” of the court to set/enforce boundaries to maintain the integrity of the PC process and not allow one or both parents (or involved outsiders) to sabotage the process.

She went on to say that the term “parenting plan” is intended to be a generic term to refer to whatever document/agreements (mediated, informal, temporary or interim time-sharing plan, permanent time-sharing/decision-making document, etc.) and the PC facilitates agreements on details or clarifies elements or builds in temporary arrangements or changes elements to meet the family's changing needs, etc.

In my conversation with Debra Carter she told me that during the parenting coordination process it was necessary for the PC to help the parents de-escalate the emotional intensity of the conflict and teach the parents skills on constructive communication. PCs help their clients pivot from intimate partners to coparents. The Florida model of parenting coordination may be different to other parenting coordination practices in terms of its goals, interventions and terms of outcome and the PC provides the parents with more holistic help. When parents work with a PC the PC works with them to addresses issues around the emotional tie and letting go of the intimate relationship so the parents can work as coparents when they are no longer intimate partners. When this approach is taken PCs can make substantial changes not only in the way clients see their former partner but it can change the emotional experiences the parents have with their ex-partners as well as their children and extended family network which is beneficial to the children. It is important for PCs to work on peace building and help parents improve the quality of their parenting as they can't do it on their own.

PCs generally serve for a two-year term. Parents can petition the court to have a PC removed at the end of the 2 year period or a PC can withdraw. Sometimes a PC's term can be renewed and no term limit is set once the new term commences. Once parents get in a regular pattern, become more self-reliant and are able to manage the conflict themselves they may not need to see the PC as frequently but the PC may check in to ensure that the clients are doing ok. It is important that the PC meets with the clients at least twice a year as the PC has an obligation to the court

to ensure that the parents are managing their co-parenting relationship.

Debra Carter also talked to me about the process she adopts when she sees clients. She begins with the parents signing the retainer agreement. They have an initial meeting with the PC so the PC can do an orientation process with the parents and get them acquainted with what parenting coordination is. This is an important step in the PC process as the parents may not have agreed to the appointment of a PC but may have been ordered into the process by the court. It also gives the PC the opportunity to observe the dynamics of the parents and how they relate to each other.

If the PC is aware that there are domestic violence issues then the PC may have a second meeting with the parents individually to explore that issue further, do screening and ensure the safety of each parent. It may be necessary for the PC to modify the process they adopt when working with the parents in order to address the dynamics at play. She also told me that she meets with clients more frequently at the beginning of the engagement as there is more conflict and the parents need to learn the skills on how to manage the conflict and engage more effectively. Initially it is about identifying their specific goals, setting specific timelines for reaching those goals, and choosing the specific interventions to address the issues at play. It is also necessary to build a support team of other professionals if the PC thinks it will be helpful to them. Detailed communication and engagement protocols also need to be set at the beginning of the process and the PC will monitor how the parents implement and practise these new methods of communication and engagement. It is also important to give the parents homework where they can continue to practise the skills that they learn in the joint sessions. This is stage one of the engagement process where the boundaries are set. Stage two of the process is the “containment stage” as Debra Carter calls it. This is the skill building stage of the process where there will be more practising of the skills that have been taught, there is development of parental insight, enforcing the necessity of responsibility taking by the parents and understanding the impact that the conflict has on the children.

CONVERSATION WITH ANOTHER PC

I also had the opportunity to meet with another PC Linda Fieldstone who is a researcher in parenting coordination and a practising PC too. She said that by the nature of these cases, we know that the parents

are already high conflict and unable or resistant to working together cooperatively. She said she did not believe they would have the same level of accountability to the process if they are not court ordered as the court order keeps people in the process and more focused on the children. However, she noted that in Canada some PCs there have no problem having parents sign up professional services agreements and sticking with it without a court order. In her experience, a court order would be preferred, even if it is by consent, rather than no order at all.

She also noted that there is value in the parenting coordination process been confidential because if the PC keeps reporting to court through the parenting coordination process it could undermine the PC process and the PC may lose the ability to protect the children and help the parents and the parents may also lose trust in the process. She said that she rarely makes decisions for the parents and even when she does they are of a procedural nature. Most times the parents can decide and make their own decisions, after she tells them what she would do in the circumstances. The process that she follows is that she conducts her intakes, explains the process to the parents, does screening for domestic violence and safety issues, substance abuse, mental health problems and also talks to the lawyers for the parents.

If there is a history of domestic violence she will see the parents separately and focus on assisting them develop a parallel parenting model. Parents like this can be resistant to working together and want to continue the dance of conflict. She also told me that the 2 PC model can be useful as long as both are named in the court order. The PCs could bifurcate what they do when assisting the parents and the model is also useful when one PC is away. It is necessary for both PCs to adopt similar approaches as well and it is important for the parents to understand that it is a unified PC model that is been used.

She also told me that coaching and education on coparenting was an important part of the work that she does and teaches the parents on how to coparent in a productive way. She works with them to help them improve their communication skills and teaches them how to respond rather than react and do things

differently. She sees the coaching part of the work that the PC does as very important and necessary as otherwise parenting coordination becomes an administrative process. The idea is to help the parents build the skills and have better strategies to work with the other parent so they can focus on the children and make their own decisions. If she feels that one of the parents has unresolved issues she will refer them out to other professionals who will work with them individually. She also told me that families in conflict need different processes to parents who can work together. If they can and are willing to resolve their issues mediation is a good option but if their intention is to perpetuate the conflict, they need a PC to assist them navigate the inter parental conflict and help them resolve the disputes that arise over day-to-day over non-legal issues.

Parenting Coordination Practice in Pennsylvania.

Prior to the abolition of parenting coordination in Pennsylvania in 2013, lawyers developed the practice of parenting coordination as and when they needed it by appointing a professional to help high conflict parents resolve their disputes. A group of lawyers and psychologists decided to do parenting coordination work and charged their services out at lower rates. They also made changes to parenting orders and custody arrangements and this practice was seen as PCs overstepping their authority not just implementing what was in the parenting orders. There were no rules in place and no parameters were set. Dr. Arnold Shienvold, psychologist and PC who specializes in dealing with high conflict families told me that the PCs were serving a valuable purpose in certain cases that were unmanageable from the court's view such as those that did not have complex legal conflicts.

However the judiciary was not providing sufficient oversight and not reviewing the competencies of the PCs who were doing the work and the PCs were left to to define their own scope of authority. In 2013 the Supreme Court in Rule 1915.11-1 eliminated parenting coordination and the Rule set out that only judges can make decisions in child custody cases and that the courts shall not appoint any other individual to make decisions or recommendations or alter a custody order in child custody cases. The Rule further set out that any order appointing a PC shall be deemed vacated on the day the rule came into effect. Local rules and administrative orders authorizing the appointment of PCs were also deemed vacated. Families were taken unawares as they needed the service and a PC to help them deal with the day-to-day crisis that arose when coparenting with a high conflict coparent. Dr Shienvold told me that the decision to end parenting coordination in Pennsylvania was driven by consumer complaints about the work of PCs who were overstepping their authority and also that judges were not holding de novo hearings when parents wanted to appeal the decision of a PC.

There was a concern that the PC's decisions were final and that it would infringe on the due process rights of the parents as they would not have "their day in court." There were also concerns about the lack of uniformity of the process adopted by PCs who were doing the work and how

recommendations were to be enforced which is why the practice of parenting coordination was halted so suddenly.

The situation was then reviewed by Judge Daniel Clifford of the Montgomery County Court of Pennsylvania. He marshalled through to get the Supreme Court to make a rule reinstating PC as an acceptable process.

THE PENNSYLVANIA RULE OF CIVIL PROCEDURE 1915.11-1

Recognising the benefits of parenting coordination, it was reintroduced to Pennsylvania effective March 1st 2019 and a new Rule was created. The Pennsylvania Rule of Civil Procedure 1915.11-1 which sets out strict guidelines providing for how a PC was to be appointed by the court, who can be appointed to the role, how the appointment is to be made, the issues the PC will deal with, how the process will be carried out, the costs of the service and training for PCs. The Rule also sets out that the PC will not be appointed in every case but may be appointed by a judge after a final custody order has been entered "to resolve parenting issues involving repeated or intractable conflict between the parties affecting implementation of the final custody order."

Dr Shienvold also said that now in Pennsylvania PCs are very cautious about making big decisions regarding health issues and they are also precluded from making big decisions like changing parenting schedules although they can tweak them to suit particular one-off situations and make temporary changes if required by the parents. PCs can't make decisions that will affect child support payments. However, PCs may make decisions about small issues like attendance at extracurricular activities ,sports etc but these issues can sometimes have financial implications. Different dilemmas can arise. It may seem a small issue on the surface but it can have financial implications.

Each County in the State has the responsibility of administering their own parenting coordination program. The New Rule states that every judicial district implementing parenting coordination is required to maintain a roster of qualified PCs and establish the hourly rate at which PCs are to be compensated. It also sets out how the appointment of a PC is to be made. The PC is appointed at the request of a parent or by the court. PCs are not appointed where there is a

finding of domestic violence unless the parents consent and safety measures are put in place. PCs are appointed for a period not exceeding 12 months but this term may be extended by one of the parents. The PC shall also at the beginning of the process set out in the agreement with the parents the terms of engagement as well as information about fees and the parenting coordination process.

The PC may be either a family lawyer or mental health professional with a master's degree or higher, who has practiced family law for at least 5 years or has post degree experience if a mental health professional and has specialized training in parenting coordination, family mediation, domestic violence training and each two year period after appointment complies with the continuing professional development requirements as set out in the Rule. The PC has to file an affidavit with the judge of the judicial district confirming that they have met the training requirements.

The PC assists the parents with implementing what is set out in the parenting orders and can recommend resolutions to the court about issues that the parents are in dispute about. It is set out in the Rule the types of issues the PC can assist the parents with and it also lists the issues that the PC cannot assist the parents with.

The PC can only communicate with collateral sources or speak to the children with the consent of the parents. Communication between the PC, the parties and their attorneys is not confidential. The judge shall also allocate fees between the parties and the PC and it is also required that a waiver of fees or reduced fees are provided for, to enable low income parties to participate in the parenting coordination process. There is a requirement for PCs to do pro bono work with clients for every two fee paying parenting coordination clients and this is set out in the Rules. When the PC makes a recommendation it is filed with the court. Recommendations are subject to review by the judge and the court retains its decision-making power. Parents can file an objection within five days from service. If parents do not file an objection to the recommendation of the PC, the judge reviews the recommendation and either approves it, amends it or decides not to approve it.

CONVERSATIONS WITH PCS

Each County is required to implement a local rule to give effect to what is set out in the State Rule.

This Local Rule is approved by the Domestic Relations Rules Committee of the State. To begin the parenting coordination process with the parents the PCs schedule a separate intake session with each parent, then complete the screening for domestic violence and also do a conflict check. Sometimes parenting coordination is conducted only via email. The process adopted by the PC is that an email is sent telling the other parent about the issue that was raised copying in the other parent. The parent is given 48 hours to respond. Once a response is received the PC gives his/her recommendations on an informal basis around the issue. Mediation within the PC process is also conducted via email and the PC will provide the parents with his/her assessment of the issue guiding them to a resolution.

As set out in the Rule during the parenting coordination process, the parents must copy each other in on all written communication that is sent to the PC, and the PC must give both sides notice as well as an opportunity to be heard on the issues. If there is no agreement between the parents after communication with the PC, then the PC must enter a written Summary and Recommendation, which must be sent to the court to be reviewed. They only file recommendations with the court if requested to do so by the parents.

Each County is also required to establish a committee to receive complaints about a PC and shall also recommend the removal of a PC from the Roster if required after the complaint is made. The training of PCs is important and judges in each County approve the training that is done by the PCs. The Bar Associations in each County overlooks the training component to ensure it meets the requirements as set out in the Rule. The PCs I spoke to were of the view that parenting coordination serves a good purpose as one of its benefits is that it frees up court time so the court can focus on more important issues.



With Dr. Arnie Shienvold in the US

Parenting Coordination Practice in Canada.

Parenting coordination started emerging in Ontario in the late 1990s following the development of the practice in the USA. ³⁵

When the Task Force was convened by the president of AFCC in 2003 to formulate Guidelines for Parenting Coordination, it included two Canadian members to ensure that the resulting guidelines would be appropriate in both the American and Canadian contexts. ³⁶

Most provinces in Canada utilize a common law system and in Quebec there is a Civil Code which does not allow for the delegation to a third party any power to arbitrate in matters of family law. ³⁷

The role of the PC has been acknowledged by the Canadian courts and it has also endorsed the AFCC's guidelines. ³⁸

I looked at the practice of parenting coordination in Alberta, British Columbia, Ontario, Quebec Montreal and Saskatchewan. I learnt that the parenting coordination processes, scope and authority of the PC guidelines and regulations varies from Province to Province.

Parenting Coordination Practice in Alberta.

Formerly under the Family Court of Alberta Practice Note 7 (PN7), specifically under clause 37(c), the Court could delegate decision-making to a PC where both parents consented to the appointment. PN7 was removed in 2019 and PC was eliminated as a Court directed parenting intervention.

Parents must now voluntarily consent to parenting coordination and submit to the PCs decision-making authority which is governed by the Arbitration Act. The Provincial Working Group on parenting coordination in Alberta is currently working on developing a proposal for the practice of parenting coordination in Alberta.

The Alberta Family Mediation Society provides a designation for PCs and they are referred to as Registered Parenting Coordinators and Arbitrators (RPCAs). The role of the RPCA is to assist in dispute resolution.

An RPCA's jurisdiction over which issues they may decide will be governed by the Arbitration Act of Alberta and/or as set out in the parenting coordination agreement or consent order. In Alberta, PCs are now appointed with arbitration power to assist parents decide parenting issues, act as a mediator when parents encounter conflict and exercise their powers of arbitration to make decisions if necessary. Parties need to consent to be bound by the decision of a PC and the decision is subject to court review. The PC is regarded as a friend of the court and is responsible to the court and not responsible to either parent.

The order sets out that the PC assists the parents to develop effective communication, develop detailed parenting plans and coach and educate the parents. If no agreement can be reached on issues that the parents are in dispute over then the PC can make a decision and the parties are bound by the decision pursuant to the Arbitration Act of Alberta 2000.

CONVERSATIONS WITH PCs

I had the opportunity to meet with two PCs and they told me that informed consent of the parents was necessary in Alberta to appoint a PC/ arbitrator. In the recent case of *SSG v SKG*, 2022 ABCA 379 (CanLII) the Court of Appeal reiterated the established law that if there was no

agreement of the parties or statutory authority, a judge does not have jurisdiction to order parties to submit their disputes to arbitration.

A judge appoints the PC/arbitrator and if an award is made, the parents are given the option of coming back to court to enforce the arbitration award. The order appointing the PC/ arbitrator sets out the scope of authority of the PC. The Judges order parents into parenting coordination as the PC fills the gap after mediation for these families who are in conflict. The practitioners told me that the Provincial Court judges appoint a PC/arbitrator but there are no Rules or Practice notes on parenting coordination in Alberta.

PCs can be appointed with or without court orders. There are PCs who have a legal background and some PCs are mental health professionals who adopt a therapeutic approach to their work and mental health professionals are appointed by a court order unlike lawyer PCs. The practitioners told me that parents who use PCs want their issues settled and want results, so the PC can issue a consent arbitration award in some instances. PCs also educate their clients on conflict management and also mediate disputes for the parents. They observed that it was possible to bring parents to agreement with this approach.

If there is no agreement by consent then there is an arbitration award made and the parents can take the matter to court to get it set out as a court order. While the matter is with a PC the parents agree to put the jurisdiction of the court on hold and court action is at a standstill. Judges are likely to appoint PCs in Alberta as the issues families have are complicated and complex and PCs have the knowledge and training to help families deal with these issues. Using the parenting coordination process is seen as valuable by some judges as they are able to get unbiased information about the families from the PCs. It is also important for PCs to have an awareness of cultural issues that affect the parents too.

There are no formal training requirements for PC/ Arbitrators in Alberta. However, RPCA's who meet the training requirements as set out by the Society are included on the list of PCs on the Society's website.

Common issues that an RPCA would mediate and/



or areas of decision making would include:

- Daily routines and parenting schedule
- Parenting time sharing arrangements, e.g. holidays, summer vacations
- Discipline issues
- Child care/babysitting
- Transportation and exchange of children (drop off/pick up)
- Medical, dental, vision care and other medical issues
- Psychological counselling and assessment
- Extracurricular activities and special events
- Education, e.g. school choice, tutoring, special needs issues.

The RPCA must be a member of a regulated professional body (e.g. Alberta College of Social Workers, the Law Society of Alberta, the College of Alberta Psychologists). If there are grievances/complaints, they may be made to the professional body. AFMS only certifies the education requirements of its members and does not address grievances.

In order to meet the qualifications to be a Registered Parenting Coordinator and Arbitrator, an applicant must fulfill all of the requirements as set out on the Alberta Family Mediation Society website which includes education and experience in conflict resolution, negotiation, communication and mediation skills.

Parenting Coordination Practice in Ontario.

CONVERSATIONS WITH PCS

I had the opportunity to meet with many PCs. There is no legislation governing the practice of parenting coordination in Ontario and there is no official regulatory body either. Parenting coordination in Ontario includes an arbitration component and falls under the Arbitration Act 1991 and PCs have decision making power. If PCs are not granted the arbitration function then the work they would do as a PC would be like co-parent coaching. Ontario also relies on the AFCC Guidelines to guide their parenting coordination process. PCs are appointed with the consent of the parents. All awards made by a PC must be filed in court as provided for under the Act. The scope of authority of the PC is set out in the court order appointing the PC. The service agreement that the PC enters into with their clients sets out what the PC can and cannot do. So the PC can take on jurisdiction that they decide to take on and decide together with the parents what the scope of their authority will be. It is important that the parents are clear about what they are agreeing to and a structured PC process is important. If the PC decides that they are going to exercise their decision-making power in respect of an issue that is raised by the parents, the PC will terminate the mediation process and then commence the Arbitration process and comply with the requirements as set out in the Arbitration Act such as setting out the process for submissions to be made by parents and the PC will also provide reasons for the award.

Courts can order parents to the parenting coordination process by court order with the agreement of the parents. The PCs told me that in some instances they act for parents without a court order. The Agreement that the PC has with the client is important and sets out clearly the terms of engagement and scope of authority of the PC and it is the PC agreement that gives the PC jurisdiction.

At the beginning of the parenting coordination process screening is done to ascertain if the matter is suitable for parenting coordination and the PC can make a decision to screen clients out if the PC thinks it is appropriate to do so and that parenting coordination is not appropriate. Screening for power imbalances and family violence is mandated by Regulation under the Arbitration Act. The regulation requires arbitrators

and PCs to certify that they have screened both parents separately for power imbalances and family violence before commencing the PC process and throughout the process as well and it is necessary to explain to clients and the lawyers the purpose of screening and that screening for suitability is essential even though parents have consented to parenting coordination .

In Ontario there is an organisation called (FDRIO) – Family Law Dispute Resolution Institute of Ontario and they provide a designation for PCs. The intent of providing a designation is to give the public the assurance that the professional has been trained using a best practice model. FDRIO sets out requirements for the certification of PCs. All training organisations providing parenting coordination courses in Ontario must be certified by FDRIO.

The PCs I spoke to observed that Ontario does not have the parameters when it comes to the practice of parenting coordination like other jurisdictions have. All professionals acting as PCs have their best practice guides but everyone practices so differently was the observation of some PCs. In respect to the steps and what occurs during a parenting coordination session there is some similarity. How much attention each practitioner gives to each aspect of the process is different and how they manage the file is different too. As there is no legislation governing the practice of parenting coordination, PCs can tailor the process to suit the family they are working with. The mental health professionals who do parenting coordination work with parents tend to focus on coaching and educating the parents on child development, the effect of conflict on children, how to improve communication and case management. Whereas the lawyers focus less on the coaching and education aspect and are more likely to make a decision when the parents are unable to do so and employ the mediation arbitration model in their work as PCs.

The scope and authority of the PC is outlined in their service agreement. Some judges, lawyers and parents have little understanding of the role of a PC and in some instances the order appointing a PC outlines matters that PCs can't assist parents with. Or alternatively the orders dictate processes that completely handcuffs the PC and the parenting coordination process.

Some PCs I spoke to observed that it is important that what is set out in the parenting coordination agreement is simultaneously clear and specific but also broad. Some PCs prefer not to exercise the arbitration function within the PC role and focus instead on the education, coaching and the mediation aspect of the work. Some of the PCs I spoke to told me that it is difficult to move between the roles of coach / educator and arbitrator as it can damage the relationship the PC has with the parents when a decision is made as the decision may not favour one of the parents. PCs may make decisions for parents on day-to-day issues that arise when the parents can't reach agreement. PCs also educate and teach parents to change the dynamic and interrupt the conflict. It is envisaged that when working with a PC the parents make small changes to the manner in which they interact with each other and things can improve and the interactions between the parents can be more positive in time compared to what it used to be. If parents decide to voluntarily extend the term of the PC it is seen as a positive sign that they want to continue to work together and continue to seek assistance from the PC to help them resolve disputes as and when they arise. It is an indication of the satisfaction rate of the parents with the PC and the process, The PCs I spoke to said that a temporary pause in the conflict is valuable and can have a good impact on the mental health of the parties. The parents who decide to work with a PC are those that construct a narrative around the conflict and the problem saturated narrative dominates everything they do. PCs see success over time so it is important for parents to have a longer term of engagement with a PC.

OPEN AND CLOSED PARENTING COORDINATION

In Ontario there is open and closed parenting coordination. Closed parenting coordination is confidential, much like mediation. In essence everything that takes place between the PC and the parties from intake straight through to termination is private. All the notes, the correspondence cannot be talked about and cannot be used in Court. There is no reporting mechanism from the PC back to the court. But if the PC is ordered to appear in Court the PC will need to comply. The PC decides whether to use a closed or open process.

The Open PC process provides more authority and leveraging for the parenting coordinator

because of the reporting aspect. Closed parenting coordination is better for those who want coaching, want to talk about issues, and have a dialogue without fear.

THE CO-PC MODEL

The Co-PC model is where two PCs work on the one case. The purpose of the model being to get another practitioner to step in and assist when necessary.

This model is used when parenting coordination is used in the therapeutic context to support the family in the way they needed to be supported and another PC steps in and assists as and when necessary. So both PCs work with both parties. The PC I spoke to in Ontario who uses this model told me that since there is no legislation in Ontario regulating the practice of parenting coordination she can model how she does parenting coordination work.

I also had the opportunity to talk to other PCs who use a "2PC model." They told me that this model evolved applying the collaborative divorce "two coach intervention" model.

The two PCs were appointed to work with the parents/carers post orders and the court order sets out that two PCs be appointed and that each client would work with his or her own individual PC who will help the client navigate the emotional terrain of the co-parenting process. The PC and the client meet individually to address areas that are in dispute. Each PC focuses on identifying the parent's most important concerns and goals. The two PCs then work together to understand the couple's dynamics and work through the emotional roadblocks while helping the parents create action plans.

TRAINING OF PCS

To practise in Ontario PCs are required to take the basic parenting coordination training course. The 14 hour advanced PC course is optional. Other courses that are recommended are family relations training, domestic violence and power imbalance training, mediation and family law training and arbitration training. Also, the PC should be an accredited family mediator either with mental health or legal background.

CONVERSATION WITH A RESEARCHER

I had the opportunity to chat with Rachael Birman who is an academic and a researcher. She was researching the issue of the necessity of having the consent of the parents to appoint a PC. In her

view the issue of needing parental consent to appoint a PC can be problematic for children. She sees the parent's rights as not been absolute and must be tempered by the responsibility of the court to make decisions in the best interests of the children. Children have an internationally recognized right to participate in important decisions affecting their own futures by virtue of what is set out in the UN Convention on the Rights of the Child. She said it was important to have timely and affordable means to protect children's best interests and the Divorce Act of Canada puts children's views and preferences front and center and it is necessary to hear from children. The Department of Justice Canada, statutes, international conventions and the common law emphasizes the importance of hearing from children about their views and their preferences. Children have rights to express opinions on medical and education issues and should have a right to express opinions about what is happening during the divorce. The PC can engage children's voices in the process.

As she sees it there is a gap in legislation and few judges and many cases. Therefore, PCs can work with the courts to assist these parents as opposed to just having the courts making decisions. The PC plays an important role in resolving disputes and promoting the best interests of the child and it is necessary to have access to this service that benefits children.

Parenting Coordination Practice in Saskatchewan.

Legislation has been adopted in Saskatchewan for implementing parenting coordination. The parties can agree to appoint a PC and can enter into a written agreement with a PC. This is called a Parenting Coordination Agreement. In Saskatchewan, under s. 31(1) of the Children's Law Act 2020 the court is permitted to make an order for PC on an application by an applicant or a respondent. In the Act a PC is described as a person who is recognized by the Minister as meeting the prescribed requirements for PCs. Parenting coordination is voluntary unless the court orders parents to use parenting coordination services.

The legislation and the Children's Law Regulations 2021 set out the scope of the PC role. A PC may assist the parties if there is a parenting coordination agreement or order is in place and for the purpose of implementing what is in the agreement or order. The term of the PC is set out as been 2 years in the legislation and the term may be extended and each extension will be for a further two years.

As set out in section 34 (1) of the Act a PC may assist by helping the parents build consensus including creating guidelines around communication, respecting how an agreement or order will be implemented; identifying, and creating strategies for resolving conflicts and providing information and resources to the parties for the purpose of improving communication or parenting skills; and also by making determinations in accordance with section 35 of the Act.

The Children's Law Regulations 2021 sets out the criteria that the PC must meet to be recognised as a PC and it also sets out the training requirements for PCs.

Parenting Coordination Practice in British Columbia.

The courts in British Columbia (BC) have been empowered by legislation to appoint a PC. The practice of parenting coordination in BC drew on the experience in California where a Special Master was appointed by the court and provided input and recommendations to the court on parenting issues. The Family Law Act of British Columbia includes provisions for parenting coordination (Part 2, Division 3) and authorizes the court to appoint a PC with or without the consent of the parents. The engagement of the PC is either voluntary or court ordered. Parenting coordination in BC has an arbitration component under the Family Law Act.

LEGISLATION RELATING TO PARENTING COORDINATION IN BC

Section 15 sets out when parenting coordinators may assist.

Section 17 of the Act sets out how a PC may assist the parties, that is (a) by building consensus between the parties, including by (i) creating guidelines respecting how an agreement or order will be implemented, (ii) creating guidelines respecting communication between the parties, (iii) identifying, and creating strategies for resolving, conflicts between the parties, and (iv) providing information respecting resources available to the parties for the purposes of improving communication or parenting skills and (b) by making determinations respecting the matters prescribed for the purposes of section 18.

Furthermore in terms of the legislation the parties are bound by the determinations made by the parenting coordinator but the determinations are subject to judicial review or appeal as set out in the Act in s 18 (5) (a). There is also the Family Law Act Regulations which sets out as to who may act as a PC, practice standards that apply to a PC and matters in respect of which a PC may make determinations.

A white paper published by the government of BC in 2010 sets out the scope of the powers granted to a PC - "Parenting coordinators will be given the authority to decide disputes involving the implementation of existing parenting arrangements, but not make decisions that will fundamentally change the governing agreement or order. The idea is not to replace judges, but to deal with day-to-day disputes not appropriate for

the court process".³⁹

In "Ten Years Later: Parenting Coordination in British Columbia", Neville R Craig comments about positive strides made by British Columbia PCs. "There is little doubt that over time the savings in court time and costs, the easy access to a parenting coordinator, prompt resolution of disputes and use of a decision-maker who knows the family will prove to be a worth-while package of benefits for separating families. The onus is on us as lawyers, mental health professionals and parenting coordinators to get that message out."⁴⁰ R. Craig Neville in his article also noted that PCs use mediation and arbitration skills which PCs refer to as "consensus building" and "determination making" to manage the implementation of parenting plans for parents who have separated and "settled" their parenting issues. He goes on to say that issues between these parents is rarely "settled" as the conflict remains high.

THE BC PARENTING COORDINATOR'S ROSTER SOCIETY

This society was established by a group of family lawyers and mental health professionals to train and organise the practice of parenting coordination in the Province. Parenting coordination is described as a child-focused dispute resolution process for separated families. Family lawyers, social workers and psychologists can be PCs and have special training in mediating and arbitrating parenting disputes. According to the information on the BC Roster Society website parenting coordination is a process that gives parents who are in conflict with each other access to a neutral decision-maker who can resolve day-to-day parenting conflicts as they arise, with the goal of minimizing further conflict and additional appearances in court. In BC parents can retain a PC on their own initiative or be referred to a PC by the court.

In early 2006, a steering committee composed of three family law lawyers and mediators began to work toward establishing parenting coordination as a new legal mechanism in BC to deal with the unique issues facing high-conflict parents. After a series of interdisciplinary workshops with Dr. Joan Kelly, the committee established a number of subcommittees to explore the practical, ethical and legal issues involved in parenting coordination, promote the

use of parenting coordination in British Columbia and plan further seminars and workshops on topics such as arbitration and interviewing children. An initial roster of parenting coordinators, composed of the professionals who had attended the workshops with Dr. Kelly, was launched. PC has been used in BC for about 10 years. The Society was incorporated in 2009, has a Board of Directors and promotes the effective use of best practices by roster members. It also provides continuing education opportunities and encourages the expanded use of PCs by the Bench and Bar in BC. The Board of Directors is responsible for the continuing operations of the Society and establishing and populating committees which addresses policy and operational issues relating to PC as well as promoting the use of PC in BC. PCs can become members of the BC Roster Society once they meet the training and experience requirements as set out by the Society. Membership in the Society is determined by the Board of Directors on the recommendation of the Membership Committee. The present minimum criteria for membership are membership in one of the specified lists of professional organisations like the Law Society or College of Psychologists, maintenance of professional liability insurance, experience in the practice of divorce and separation, training in parenting coordination, mediation, arbitration and dispute resolution processes and awareness of the issues relevant to parenting coordination such as skill development in communication, high conflict personality disorders, gender dynamics and childhood development. The Family Law Regulations of BC in s 6 also sets out who may act as a PC and details the type of training and experience needed.

The standard PC contract published by the BC Parenting Coordinator Roster Society (BCPCRS) has a clause that the parties will not return to court to litigate matters that are within the PC's scope of practice. In BC the parenting coordination process does not usurp the role of the courts and while parents are in the parenting coordination process they are expected not to apply to the court for an order different to the decision made by the PC. If they do decide to go to court over an issue that has been decided by a PC they will be required to contribute to the other parent's costs of responding to the application and there is the risk that the court will

hold with what the PC decided in the matter. The PC process is not confidential for communications between the parties, their children, the PC and other relevant parties, or the PC and the court subject to the legal limits on confidentiality, permitted professional services, and the express provisions of the authorizing instrument (BCPCRS, 2012, p. 5). The guidelines are explicit in that the PC must not communicate with the court without the knowledge of all parties to the PC contract. In respect to the issue of fees and payment for the services of a PC in *Silverman v. Silverman*, 2013 BCSC 601 [Silverman], the Court said at para. 22 said "I do appreciate that a parenting coordinator costs money, but I cannot believe that such a service could possibly cost more than the parties have seen fit to spend on battling in court. Indeed, I would expect a significant saving. If they can manage to be sensible and reach agreements in the best interests of their children without requiring the services, then the expense will be minimal. But most importantly, I am satisfied that the intervention of a parenting coordinator is essential to the children's welfare. It follows that the parents will just have to reprioritize their expenses.

As will be seen, they are not entirely without financial resources.....Parenting coordinators may be costly but the parties should be able to minimize these charges if they can adopt a more measured response to concerns of the other spouse"

The Society has different committees to deal with different issues. They currently have an education committee, a membership committee, a governance committee, a policy and practice committee, a client relations committee and a finance committee.

CONVERSATION WITH A PC

I had the opportunity to speak with Joan Cottie a chartered mediator and arbitrator, social worker and PC. The majority of PCs who do parenting coordination in BC are members of the BC Roster Society. There is a PC Agreement that has been accepted by the Roster Society and all PCs are required to use it and this ensures uniformity. If there is a complaint to be made against a PC it is made to the PCs regulatory body but there is a dispute resolution process adopted by the Roster Society to deal with the complaint and an attempt is made to resolve the issue before it gets to the complaint stage. When a complaint about a PC

is made, a committee looks at it and they try and resolve it and try to ascertain what can be done to resolve the issue.

PC work in BC is a non- confidential process. As per the requirements set out by the Roster Society PCs are required to take a minimum of 40 hours training and have 10 year's experience as a family lawyer before they can practice as a PC. They must also have experience working with high conflict families. The Roster Society organises trainings to be held for PCs. Members are encouraged to also follow the AFCC Guidelines for PC.

PCs can make determinations if required to do so but must let both parents know before a determination is made. PCs can be appointed without the consent of the parents but the majority of the time they are appointed with the consent of the parents. One of the parents can ask that a PC be appointed and the judge can appoint a PC and order it.

CONVERSATION WITH ANOTHER PC

I also had the opportunity to chat with PC, arbitrator, family law mediator and collaborative lawyer Stephanie Fabbro. She told me that she has developed a particular structured method for the conduct of her parenting coordination matters. She meets with the parents over zoom every 6 weeks and an agenda is set for each meeting. She does not deal with problems that arise on an urgent basis. She encourages the parents to plan for the meetings with her. She deals with a set number of issues at each meeting. She sets the rules and requires both parents to be in the same room. Her work is focused on education, consensus building and if an agreement can't be reached by the parents then she will make a determination. She helps them learn the skills to sort things out and get out of the conflict. She is hesitant to assist parents when they have interim orders as the parents are still spending money on lawyers and engaging in an adversarial court process so teaching them to disengage and manage conflict effectively can be a difficult process while still embroiled in the court process. To make positive change it is ideal if the litigation process has ended and final orders issued. Parents can be appointed by court to engage with a PC against their wishes. Judges are very receptive to working with PCs in BC.

Parenting Coordination Practice in Quebec

Quebec makes use of a Civil Code and does not allow the delegation to a third party any power to arbitrate in matters related to family law. In other provinces in Canada which have a common law system they have a mediation/ arbitration model for parenting coordination. In Quebec, the prohibition of arbitration in family matters significantly changes the way parenting coordination is practiced in the Province when compared to the other Provinces in Canada. In 2012, the first pilot project for parenting coordination was launched at the Superior Court of Montreal with the objective of evaluating the impact of this intervention on the families who participated.

CONVERSATION WITH A PC

I had the opportunity to speak with Dominic D'Abate who was involved in the PC Pilot that was run in Quebec and we spoke about the practice of parenting coordination in Quebec. Parenting coordination is mandated by the courts in Quebec after provisional or final orders are made, with the specific objective of helping parents become more effective as coparents, empower them to work together and connect them with support services.

In his view the model of parenting coordination that is adopted dictates the success of the process, otherwise it is family therapy. He told me that what defines parenting coordination is that it has certain objectives, a defined process and a set of rules or guidelines. PCs in Quebec have no decision-making power. He told me that he sees parenting coordination as an intervention suited to high conflict families. In his view if families have a low level of conflict, mediation is an appropriate intervention and if the conflict between the parents is medium to high then coparent coaching is more appropriate.

After the conclusion of the Pilot program in Quebec a Working group was appointed and they were tasked with adapting the AFCC guidelines to the specific legal context in the Province and formulating Guidelines for the practice of parenting coordination in Quebec. Dominic told me that parenting coordination does not necessarily reduce the conflict between the parents because high conflict is complicated, and a PC cannot reasonably address all the

issues a person may be faced with particularly where there are personality disorders and mental health problems. Changing people is difficult but parenting coordination assists parents by making them more functional as coparents and assists in managing interparental conflict. It also does reduce contravention litigation and it benefits children. It is a service that is valued by other professionals like lawyers as well as judges. He said that in his practice he uses the solution focused and family narrative approach when working with families and keeps them future focused.

Parenting coordination is a non-confidential process in Quebec and he described the PC as the lighthouse that steers the family away from the rocks. He described the process that he adopts when working with clients and said that it is important to give the clients summary notes from each session to keep them moving forward. Keeping the best interest of the child at the forefront is necessary. The communication must be productive and the PC assists the parents to resolve conflicts they have. In the process he teaches the parents tools and techniques to reduce conflict. In each session he looks at problems the parents have when it comes to implementing what is in the parenting plan as often there is ambiguity in what has been provided for in the parenting plan. He said parents tend to focus on the problem and want to blame the other parent. The initial assessment of the parents is also important in order to screen for risks and other safety issues.

He emphasized that the parenting coordination process is not client driven but rather it is PC driven and court driven. The judge can mandate that the PC make recommendations and parents are expected to follow the PCs recommendations although they are not binding. This maintains the sovereignty of the parents to make decisions. He said that sometimes the scope of authority of the PC as mandated by the court is unclear so it is important to ensure that the mandate of the court contains sufficient detail. It's responsibility of the PC to ensure that he/she is performing his/her duties within the framework of a formal court order. The order issued for this purpose endorses or acknowledges the parents' consent to enter into a parenting coordination

process. The scope of the mandate is important. The function of the PC is to make recommendations when parents cannot decide or resolve their differences by compromise or agreement. The PC may make a recommendation on the matter in dispute, depending on the scope of the mandate given to the PC by the court and the consent signed by the parents. The PC's recommendations should be sent in writing to the parents and copied by email to their respective attorneys. In the event that either parent disagrees with the recommendations made, they may refer the matter to the Court. Judges expect parents to carry through on recommendations made by PCs.

It is important that lawyers are on board and kept informed of what is happening in the PC process and when the PC makes a recommendation a copy of the recommendation is sent to the clients as well as to the lawyers. In Quebec parents have to agree to the appointment of a PC and if parents agree, the judge will order it. Another pilot is due to commence in Quebec in 2024. What was learned in Montreal from the Pilot has been applied in other civil law systems like Spain and Italy. In Quebec PCs will need 45 hours of training in parenting coordination and mediation training is a pre-requisite. In the event that they don't have mediation training they will need an extra 30 hours of training in mediation and will also need to do 10 supervised parenting coordination cases before they can be licensed to practice as a PC.

THE PILOT PROJECT ON PC IN QUEBEC

The Pilot Parenting Coordination program took place in the judicial district of Montreal between December 2012 and December 2014 and a Research Report was prepared.⁴¹

Parenting Coordination was practiced in Quebec from the early 2000s and the pioneers of the program were Dr Dominic D'abate and retired judge Anne-Marie Trahan and it was only offered in private practice. Guidelines were set up by the professionals who were in the working group that was set up to assist with the implementation of this pilot program at the Superior Court of Montreal. There was financial assistance received from the Ministry of Justice to cover the professional costs of the PCs involved in the project and families were referred to the Pilot by the judges of the Superior Court of Quebec. When a judge had a case that met the selection criteria he would discuss with the parties about their participation or the lawyers acting for the parties could suggest the option to

the judge.

The families who participated in the pilot exhibited high conflict dynamics, had refused mediation and attempts to reach agreement had been unsuccessful. However families with a history of serious domestic violence, abuse, neglect and serious mental health issues or personality disorders were not referred to the program.

According to the report the inclusion criteria was:

1. Cases involving previous psychosocial expertise;
2. Judgments not respected regarding parental authority, custody, access rights;

The exclusion criteria was –

1. Cases including one or more DYP assessment(s) following one or more reports (sexual abuse, physical abuse, neglect) whose facts have proven to be founded, with the exception of reports in 38C (psychological violence), which may be included.
2. Cases of serious domestic violence (crimes against the person) with declaration of guilt and sentence and
3. Cases with serious mental health problems diagnosed by a psychiatrist (cases of schizophrenia or personality disorders with paranoid traits.)

The families who were selected to participate had been in litigation for at least two years and the average time of litigation was around 6 years. 20 families took part in this Pilot.

According to the Report submitted to the Ministry of Justice there were a number of recommendations made. The relevance of this dispute resolution process of parenting coordination was seen as a credible alternative to the traditional judicial process for some disputes.

OBSERVATIONS ABOUT THE PILOT

1. Parents found that the parenting coordination intervention has relevance and that it should be accessible to Quebec families experiencing conflict.
2. The experience of children who participated in the Pilot was positive and they reported improvement in terms of parental communication and conflict management.
3. Judges mentioned the relevance of having the valuable expertise of professionals like a PC.
4. PCs who were involved in the Pilot observed that progress was made by parents and agreements were reached however minimal around issues of daily life of the children and minor decisions that could not be handled by the courts.
5. It was recommended that clear Guidelines that frame the practice of parenting coordination were necessary and should be established. It was also necessary to set out the role of

the various stakeholders and how communication among them should be managed.

6. Another recommendation was that the objectives of the parenting coordination process be identified and set out such as the intervention strategies, roles and responsibilities of judges and lawyers, the functions and skills of the PC, ethical rules governing the practice. Also clarity around when parents could return to court, how communication with the court was to occur and when can there be recourse to the courts in the event of an impasse.

7. Guidelines be established for the practice of parenting coordination as this will provide professionals with a clear, explicit and detailed framework for interdisciplinary collaborative work to be done based on ethical rules.

8. Continuing professional development for PCs and supervision group and ongoing support in practice.

9. Meeting with the children was an essential part of the parenting coordination process as children in the Pilot expressed their wish to express their point of view. Hence adequate training and experience in conducting interviews with children was essential.

10. The term of appointment of the PC was 18 months to 24 months.

11. An analysis of court files after the intervention was completed showed that judicial activity was less during the year following the end of the intervention than during the year preceding the start of the intervention. They observed that there was the propensity to see a decrease in litigation one year after the end of the intervention.

It was observed during the Pilot that before the start of the intervention parents were given an explanation pamphlet, the parent's signed a consent form consenting to their participation in the parenting coordination process, there was a letter of commitment received from the lawyers to the parties and although the information had been conveyed there was little understanding of the parenting coordination intervention. It was also found to be necessary to set up strategies for communication and management of disputes as the intensity and extent of conflicts that affect parents was so intense that the parents were not able to appreciate the accomplishments however small when in the process.

It was observed after the pilot that it was important to clarify the role of the judge in the parenting coordination process, for one judge to be seized of the case in its entirety during

the parenting coordination process and the advantage of that would be that the judge can ensure that when a parent comes before the court there will be accounts of the behavior of the parent outside the court and the judge has a better understanding of the family dynamics from the information provided by the PC. It was also observed that the cooperation of the lawyers was important and collaboration between the PC, the lawyers and the judges was a crucial element of parenting coordination. Matthew Sullivan in 2014 observed that "a collaborative relationship with the lawyer helps to contain the client at times when he may be tempted to return to litigation." Sullivan in 2013 said that "parenting coordination is not a panacea for high conflict co-parents but an intervention that falls on a continuum of services to families involved in the courts. The realistic goals of the process is the management of high conflict not the resolution of the underlying parental psychopathology."

After the conclusion of the Pilot a Working Group was established in 2015 – 2018 to draft Guidelines to inform the practice of parenting coordination in Quebec. The Working Group comprised of a lawyer, social worker, psychologist, PCs, researcher and parenting expert. They wanted to ensure high standards of practice and ensure the harmonisation of the practice of PC.

THE GUIDELINES FOR THE PRACTICE OF PARENTING COORDINATION IN QUEBEC 2019

The Guidelines that were drafted set out the necessity for PCs to continue to develop their skills, maintain impartiality when working with parents and withdraw from the process if they were unable to do so. The role of the PC was to facilitate the resolution of disputes with the goal of reducing conflict and reach agreement on issues raised by the parents. The PC was to make recommendations on issues that were in dispute between the parties where the parents were unable to reach agreement. Parenting coordination was not a confidential process with respect to communication between the parent, children and the PC and others relevant to the process or the court.

The Guidelines also set out that the PC must ensure that he/she has a court order to make recommendations based on the scope of the mandate and shall not begin the services without the court order. The PC must also obtain the signature of the parents and lawyers on the

consent form before commencing work. The PC should be sure to clarify with the judge his/her expectations regarding the frequency of reporting on the progress of the intervention.

The PC will also review all information and documents to have a good understanding of the case and make a comprehensive assessment of the matter. The PC carries out an educational function, a conflict management function, a coordination and case management role and works with other professionals involved with the family including extended family.

In respect to confidentiality a PC must inform parents of the limits to confidentiality associated with the parenting coordination process. The PC shall maintain the confidentiality of information obtained during the course of the intervention and shall not share it outside the process, except as provided for in the court order, for supervisory purposes or as a result of a court order. It is non-confidential in that information may be shared between parents, other family members and with the professionals who are involved with the family with the consent of the parents. In order for the PC to operate freely and effectively in resolving disputes, the necessary provisions to do so must be included in the written consent signed by the parents, as well as in the mandate of parental coordination issued by the court. Thus, the parents sign a document authorizing the disclosure of information, which means a waiver of the privileges and rules of evidence and the usual rules regarding confidentiality.

The PC can make recommendations as set out in the mandate given by the court and the consent signed by the parents but parents are not bound by the recommendations. However there is implicit expectation that the parents adhere to what is set out in the recommendation. If there is disagreement with the parents or if there is dissatisfaction expressed by one or both parents during the process the PC may contact the lawyers to find the best solution to the issue and if unable to resolve the issue the PC can request the judge to resolve the dispute.

According to the article by Dominic D'abate on "An Integrated Ecosystemic Approach to Parenting

Coordination Practice: The Montreal Model", he says that Montreal utilizes an integrated and ecosystemic parenting coordination model with a solution focused and family narrative approach to deal with the issues the family is facing. This approach in his view empowers the parents to search for the solutions and for the parents to improve communication and learn problem solving skills while focusing on enhancing effective family functioning. There is the collaboration of psychological and legal professionals that work closely together with families in transition. He says that it is important to have a framework within which the service is delivered and that it must be solidly grounded in the professional, social and legal system that surrounds it and it's important to have a solid framework within which to structure a viable program that can address the needs of families entangled in high conflict court litigation.

As part of this approach it is important to first define what this service is about, then set the objectives and expectations for the family, determine the goals of the PC and the court (which is set out in the mandate of the court) and structure the parenting coordination process to determine the outcome. This entails having a common vision for all the stakeholders and avoids any confusion and misrepresentation.

In his article he draws reference to the fact that "the role of the PC is not to resolve the underlying issues fuelling the high conflict but rather to structure and monitor the engagement of the parents and improve their ability to exchange information and focus on the best interests of the children." (Hayes 2010; Sullivan 2013.) And he says that the manner in which this is done and accomplished is all important. The process needs to be detailed and the PC needs to have a roadmap of the process to be followed.

This is what distinguishes PC from other alternative dispute resolution processes.

Parenting Coordination Practice in Spain

CONVERSATION WITH A PC –

Parenting coordination first began in Catalonia in 2013. There was no regulation around the practice of parenting coordination so judges were hesitant to order parents to participate in the process. On the other hand there were some judges who saw value in the process and a framework to protect children and were more willing to make orders for parenting coordination. Some parents objected to participation in the process on account of the cost of the service. A parenting coordination pilot program was run for around one year in Catalonia in 2015. The service was state funded.

Connie Capdevila Brophy a PC observed that very high conflict cases were referred to the pilot parenting coordination program at the time. In Spain there are a few services that are publicly funded from municipalities and regional governments. A few other pilot projects have also been undertaken without cost to parents to allow PCs to experiment with this service and access the usefulness of parenting coordination for high conflict families. In Valencia legislation was approved to give PCs 600 Euros for each parenting coordination process.

The Alternative Conflict Resolution Section (ARC) of the official Psychology College of Catalonia appointed a Working Group comprising parenting coordinators who had received training and experience in the field of parenting coordination to set up a framework for good practices for psychologists so they can practice ethically and competently. These Guidelines were developed based on a review of the existing literature on parenting coordination as well as on the AFCC guidelines for parenting coordination and the Guidelines for parenting coordination developed by the American Psychological Association. These Guidelines were updated in late 2020 and these were the first Guidelines for parenting coordination in Europe. They were drafted to fit within the social and judicial context of Spain. The Guidelines suggest or recommend behavior, conduct and ethical practice that PCs should follow. There were requirements for training set out in the Guidelines but as these are only Guidelines and are not mandated or regulated there is no obligation to follow them. Therefore, processes adopted for the practice of parenting coordination is different among practitioners as

there is no uniformity in the training. Parenting coordination is about intervening in high conflict families with high levels of complex issues and assisting them manage the inter-parental conflict so they can co-parent effectively. To do this PCs need to have a broad range of skills and knowledge and ongoing professional development. A PCs functions range from assessment, to conflict management, parent guidance, consulting, case management, referrals to other professions etc.

THE SPANISH GUIDELINES

The Spanish Guidelines sets out training requirements for PCs. PCs are required to have extensive experience in interventions with families in difficult situations such as high conflict. They must also have training and experience in family mediation. The Guidelines set out in detail the competencies that must be included as part of the training and also that PCs must participate in case supervision. There is also a requirement for continuous education for their professional growth. The PC is also required to have diversity awareness and take into account key cultural identities such as race, ethnicity, religion, gender and socioeconomic status.

The PC is required to assist families with reducing the conflict so as to work in the best interests of the children and get the best outcomes for children. As per the Guidelines the PC will investigate and gather information and evaluate the matter to assess the suitability of the case for parenting coordination. It then goes on to set out the role and functions of the PC which are case coordination/management, conflict management, assisting parents with communication by setting protocols in place to promote respectful communication between them, making recommendations and decisions provided the PC is authorised by the court or the parents as well as to prepare reports. The topics that a PC can assist parents with are set out in detail in the Guidelines. The PC is also required to maintain impartiality and objectivity and avoid any conflicts of interest. As per the Guidelines the PC is appointed by agreement of the parties or by a court order and must not commence work with the parents without the court order or the contract signed by the parents. The parameters of the PCs role

and functions must be defined in the court ruling. In addition to the court order or the agreement between the parents to appoint a PC, the PC will also have the parents sign a professional services agreement setting out in detail the parameters of the parenting coordination process such as the start and end date of the process, the main objectives, the process to be followed, the functions of the PC, the limitations of the role, topics for discussion, confidentiality, the responsibility of the PC and fees and payments.

The PC can help the parents develop or review a parenting plan and also provide clarification on parental responsibilities and parenting time. Topics to be discussed revolve around making minor changes to schedules, one off temporary variations on the parenting calendar, temporary variations to parenting plan, procedures for transitions and exchanges of children, medical or health care issues, psychotherapy, tests and evaluations on children, child rearing issues, education or childcare, participation in extracurricular activities, religious education, agreements on passports etc, clothes and personal possessions, verbal or written communication, but the list is not exhaustive. According to the Guidelines, in respect to the decision-making function of the PC, the PC must only make decisions that have been delegated to the PC by means of a judicial resolution or by parental consent under the parenting coordination contract and these decisions are on very minor matters. There are exceptions and limits to the PC's decision making process.

There is also a provision in the Guidelines that address how the safety and capacity of participants in the process are to be managed as well as a provision dealing with issues of privacy, security and confidentiality when using information technology to conduct parenting coordination.



Connie Capdevila Brophy in Spain

Parenting Coordination Practice in Italy.

THE MODEL

The first appointments for parenting coordination were made in Milan and Rome. There is no legislation for parenting coordination in Italy and no official framework for the appointment of a PC. Article 337 of the Italian Civil code provides for the appointment of experts in certain instances. Child protection services in Italy have not adopted parenting coordination as an intervention which is why it is not available across Italy. It is available through local initiatives.

There are two models of parenting coordination in Italy. Parents can access PCs through the private and public services. Appointment of PCs in the private context is based on parents and the lawyers agreeing to the appointment instead of having a PC appointed and initiated through court approval. The parents choose a PC and follow their lawyer's advice on this. PCs can also be appointed by a judge within the public system of public social services that have the authority to protect children and monitor high conflict parents or alternatively social services may propose a PC from within the private or public network of services after the appointment by the judge.

Parenting coordination in either the private or public sector works closely with the child protection services that has the power to make decisions and define the duties of coparents. The public social services system has to protect children and monitor high conflict. If the judge has a problem with a high conflict family the public social service is tasked with finding resources like appointing a PC to help the family.

When intimate partner violence is considered to be a risk the case is more likely to be referred to social services for child protection because protection of the victim is important. Once the power imbalance is re-balanced and better managed through the public social services, the judge can delegate the decision-making authority to social workers. Once protection is assured coparenting is then addressed by the social worker in the public context or an independent PC is chosen by the parents, lawyers and the child protection professionals. PCs in either the private or public sector work closely with the child protection services.

The PCs roles and functions are clearly clarified in the referral order that the PC receives. Child

Protection Services have created a contract to begin PC work and the PCs role and functions are set out there. Sometimes drafting the parenting plan is one of the PCs tasks. There is no delegation of judicial authority to the PC.

But parents can give some decision-making power to the PC when other options have been exhausted and this is specified in the contract. Parenting coordination in Italy is a non-confidential process. The PC provides a report on the results of the intervention before every hearing of the court or within the time frame stipulated by the parents. This report is sent to the parents, to the lawyers and when court appointed it is sent to the court as well. The report will cover information around the PCs observation of behaviours of the parents and obstacles encountered. When a PC is referred by the child protection service the summary of the session and agreements reached by the parents is shared by the PC with the lawyers as well as social services. The PC will work closely with child protection service that has the power to make decisions.

The public social services may agree to cooperate with a private PC chosen by parents. Judges may approve agreement reached by the parties to engage in PC.

THE ITALIAN ASSOCIATION OF PARENTING COORDINATORS (AICOGE)

The Association was created in 2018. They have adapted the AFCC rules to their justice system and Italian PCs are working to inform judges and lawyers about parenting coordination and disseminating information about the availability and usefulness of this dispute resolution tool. The Association is working to ensure a better standardised practice of parenting coordination and it sets the standard for courses and training in parenting coordination. Lawyers, social workers, psychologists, psychotherapists, as well as mediators with a degree in law or the humanities and other professionals with a Masters qualification in the educational sciences or training sciences can be members of the Association as well as those professionals who meet the requirements as set out in the statute of the Association and meet the PC training

requirements. Courses that meet the standards that are set by the Association are listed on the AICOGE website and training agencies can request recognition of their courses. PCs need a minimum of 70 hours of training. Members who have complied with the PC training requirements can have their names listed on the site.

The Association has an Operating Protocol which members of the Association are required to comply with. The objectives of the Association as set out in the protocol is to standardise the training requirements for PCs, promote the practice of parenting coordination, collect and compare data to determine the effectiveness of the intervention. The protocol also sets out that the members conduct PC according to the translated international Guidelines, engage in training in keeping with the regulations and abide by Association's Code of Ethics. The protocol also sets out the process for meetings with the child.

Once an agreement is signed between the parents and the PC setting out the informed consent of the parents to engage in the process, the PC will meet with the parents and the lawyers together to explain the process, understand the client's expectations of the parenting coordination process, clarify and clear any doubts of the parents and ask questions.

Parenting coordination is a non-confidential process. The PC sets the rules of engagement for the process. The PC can make recommendations to the parents if they are unable to reach agreement but it is upto the parents whether or not to follow the recommendation as it is not binding. Case management is an important part of the work that the PC does liaising with other professionals who assist the parents.

Because there is no legislation a person with an academic background with no PC training maybe appointed. Italian PCs are working to inform judges and lawyers about parenting coordination and disseminating information about the availability and utility of this dispute resolution tool. There is no immunity for PCs and they can be exposed to complaints.

Parenting Coordination Practice in Netherlands.

CONVERSATION WITH A PC -

The practice of parenting coordination was started recently in the Netherlands and a process was designed to fit within the Dutch Civil Code. Guidelines were also drafted which were based on the AFCC guidelines of 2019 and adapted to suit the Dutch context. Training of PCs started around 2019. A parenting coordination Association was formed and a Board was set up comprising of volunteers who drafted the Rules of the Association. A committee was also appointed comprising lawyers and psychologists to assist with drafting guidelines. Lawyers encourage their clients to include a PC clause in their consent orders so they have the option of calling on a PC if later down the track there is conflict between the parents and they need to get assistance from the PC. Lawyers encourage clients to engage PCs.

PCs can make proposals, recommendations and also decisions if the parents request it. So far no decisions have been made as parenting coordination is relatively new in the Netherlands. Parenting coordination is considered to be a useful dispute resolution process in the Netherlands and the PC plays a useful role because timely decisions are made when disputes between the parents arise, instead of needing to go back to court as court hearings take a long time. A judge can't order parenting coordination without the consent of parents but can recommend that a PC be appointed.

THE DUTCH PC GUIDELINES

I have had the opportunity to also look at the Dutch Guidelines for parenting coordination where it describes parenting coordination as a form of conflict resolution for parents. The PC is seen as the professional who helps parents when they are unable to make a decision and assist parents resolve disputes in a timely manner. PCs use mediation techniques to assist their clients resolve disputes. If the parents are unable to resolve the dispute themselves the PC will make an oral proposal, make a recommendation or a binding decision on the matter. When making an oral proposal the PC will first ask the parents whether they want to hear about how the PC would resolve the issue and if they agree the PC will give them his/her perspective. The PC can make an oral proposal in writing or in a conversation with the parents. A PC can also make a recommendation that is not binding on the parents. In limited circumstances a PC can make a binding recommendation if both parents are agreeable to this and ask the PC to

make a binding decision. The PC makes binding decisions on minor issues and around temporary arrangements for the children and does not make binding decisions around the main residence of the children or about the final care arrangements for the children. Binding decisions can be submitted to court for review.

PC CLAUSE TO BE INCLUDED IN ORDER

On the website of Parenting Coordination Netherlands there is also a clause that is recommended to be included when making an order for PC. The clause sets out who a PC is, what the PC is authorised to do, the dispute resolution process to be adopted by the PC when working with the parents, child participation and the process as well as information as to costs. According to this clause the PC is a professional with at least 10 years' experience as a lawyer, psychologist or behavioral psychologist and is appointed for a term of two to three years. The PC assists parents to make joint decisions and resolve disputes. The PC's term maybe extended by agreement of the parents. The PC will continue to act until the he/she resigns or until both parents agree to terminate the appointment or the appointment is terminated by the court.

The PC will make recommendations or proposals in the best interests of the children, that affects their care and contact arrangements or contribution to costs of the children though the latter shall be non-binding on the parents. The PC can call on the assistance of a professional for expert advice in relation to the welfare of children. The clause also states that the PC can give binding advice too on minor issues as set out in the clause but not on major matters.

The dispute resolution process to be adopted is also set out in detail in the clause. The PC will use mediation skills to help the parents resolve disputes as well as coaching and expert advice. All meetings with parents are jointly held and if one parent meets with the PC then that is non-confidential. The PC can communicate with other professionals assisting the family as well.

The clause also sets out that in the event that a complaint is made about a PC, the parents will try and resolve the matter with the parenting coordinator and in the event that they are unable to do so the matter will be referred externally to the relevant body of parenting coordination Netherlands.



TRAINING FOR PCS

To undertake the training to become a PC it is necessary for a person to have an academic background as a lawyer or a mental health professional. The training includes coursework and assignments related to theory and role play and case studies are also included. Part of the training is focused on how to write directives. The students have to complete three assignments at the end of the course. These assessments are related to the theory of parenting coordination, the role plays, case studies and they are also required to write directives. These assignments are marked through the university. In Holland they look for learning outcomes so students are evaluated.

The parenting coordination course is run through the VU Law Academy in Amsterdam. They have trainers from outside the university and they prepare material too. About 60 people trained so far as PCs but there is very little PC work in the Netherlands as parenting coordination is still in its infancy.

What I found interesting about the approach they have taken in the Netherlands is that they have initially got the PCs trained, have drafted Guidelines that suited their system and only after that are they building the practice of parenting coordination and educating parents on its usefulness as a dispute resolution tool post-divorce/separation unlike in other countries where they trained the professionals as PCs and started the practice based on the AFCC Guidelines and then when they found that the AFCC Guidelines did not address all the issues that were coming up in practice, they considered drafting Guidelines that suited their particular jurisdictions.

Parenting Coordination Practice in South Africa.

Parenting coordination as an alternative dispute resolution mechanism has grown in popularity in South Africa over the last decade. PC was introduced to SA to help alleviate the detrimental effects on of ongoing high conflict between parents on their children. There are also various court decisions in SA dealing with parenting coordination which provide some guidance for the practice and there were Guidelines drafted.

SA GUIDELINES ON PC

The Guidelines on PC in South Africa have been developed drawing from the AFCC Guidelines on Parenting Coordination of 2005 and the American Psychological Association (APA) Guidelines on Parenting Coordination. As set out in the SA Guidelines, even in the absence of an agreement between the parties the courts have the authority to appoint a PC to act if the appointment is in the best interests of the children. The Guidelines make reference to the case of *Hummel v Hummel (SGJ)* (unreported case no 06274/2012 of 10 September 2012) where it has been argued that a court has inherent authority as upper guardian of all children to ensure that the best interests of children are maintained, then parenting coordination could be sustained. So the High Court as upper guardian of all children (Children's Act 38 of 2005) may make any decision and appoint a PC to minimise the impact of ongoing conflict on children.

The Guidelines also state that further support for the appointment of a PC can be found in section 38 of the Constitution that addresses the need for a court to craft a remedy for every right that the Constitution confers upon an individual.

In the Guidelines parenting coordination is described as a quasi-legal, quasi-mental health, dispute resolution process which combines assessment, conflict management, education, facilitation, case management, mediation and limited decision- making functions. The process of parenting coordination is described in the Guidelines as been reactive where parents initiate the process when a dispute arises unless the best interests of the child requires a pro-active approach by the PC. The objective of parenting coordination is to help the parents by educating them on the child's needs, educating parents on how to work together, implementing what's set out in the court orders or parenting plans and help parents resolve conflict about the children. A PC is generally appointed by the court and may

issue directives where one of the parents refuses to cooperate with the PC. A PC may also be appointed by agreement of the parents and may issue directives that are not binding when parents cannot reach an agreement. The PC may be requested by the court to provide a written report or oral report to it.

As per the Guidelines the parenting coordination process is child-focused and practiced by experienced mental health and/or legal professionals, with specialised training and experience in conflict management, working with high conflict personalities, facilitating child participation, mediation and the issuing of directives. A PC must regularly screen for domestic violence and must decline those cases if the PC has no specialised training to manage cases involving domestic violence.

The Guidelines set out the training requirements for PCs and also require PCs to undergo continuing professional development and participate in a peer consultation/supervision group.

The Guidelines set out the scope of authority of the PC. Before commencing work with a PC a written PC agreement between the PC and the parents must be entered into. The Guidelines also provide for Coparenting coordination where a PC team of more than one PC (usually from different disciplines) works with the parents. The Co-PCs work together effectively to assist the parents, divide responsibilities between the two of them and also set out decision-making procedures on which decisions are to be made jointly and which are to be made together. Sometimes a lawyer PC and a psychologist PC will work together.

The Guidelines also set out the scope of work of the PC, specific details of the engagement with the PC, how the PC will be assisting the parents, services provided and also the fees payable. In respect to selection of a PC the parents have the option of appointing a PC by agreement but if they can't reach an agreement together on the choice of the PC the court may select a PC for the parents or may nominate an appropriate organisation to select a PC.

As per the Guidelines at the beginning of the process the PC needs to explain to the parents the parameters of the appointment and the nature of the role of the PC. The PC needs to maintain impartiality and must withdraw if unable

to maintain impartiality. Parenting Coordination is not a confidential process for communication between the PC and the parents their children and the PC as well as other persons relevant to the process, the PC and the court. The PC must maintain confidentiality outside the PC process.

If one parent refuses to cooperate with the PC in the process after notice is given, the PC may withdraw from the process. The PC carries out an assessment function and must be alert to any reasonable suspicion of domestic violence, will interview the parents and the children, also has a conflict management function, a dispute resolution function and an educational function. The PC's term is generally two years and the parents can agree to extend for a term not exceeding another two years.

THE PROPOSED LEGISLATION ON PC AND CASE LAW ON PC

The South African Law Reform Commission published the draft Family Dispute Resolution Bill, 2020, which deals with the process of parenting coordination in Chapter 7. This bill also deals with other dispute resolution processes and is attempting to create some certainty around ADR processes like mediation, arbitration parenting coordination and collaborative law.

However, the SA Guidelines, the provisions of Chapter 7 of the Bill and the court decisions are not always aligned and provide different answers to important underlying theoretical questions about various issues, such as the circumstances under which a PC should be appointed; the issues that could be dealt with by a parenting coordinator; who to appoint as a PC; the approach to be followed in the parenting coordination process; the inclusion of children in the parenting coordination process; the nature of the parenting coordination process; confidentiality in the process; and a PC's relationship with the court and the parties' legal representatives.

There seems to be uncertainty and a lack of uniformity about various aspects of the parenting coordination process and the role and functions of a PC. It has given rise to diverse practices among professionals and confusion for all involved in the parenting coordination process. It appears that PCs are predominantly appointed in matters where the parents are regarded as high-conflict. There have been some interesting cases in South

Africa which has set the standard for the way parenting coordination is practised. In the case of TC v SC decided in 2017 the father brought an application to court for the appointment of a PC team to assist him and his wife with decision-making in respect of their two boys pending their divorce. I had the opportunity to meet with Acting Judge Diane Davis who handed down the decision in this matter and in the judgment she described parenting coordination, "as a non-adversarial dispute resolution service provided by mental health professionals or family law practitioners who assist high-conflict parents in divorce situations to resolve child-related disputes in an expeditious and child-focused manner, in order to minimise parental conflict with its associated risks for children." In this case, the mother opposed the father's application and particularly objected to the appointment of a team of two PCs without her consent. She argued that because the PCs would be able to make binding directives on coparenting matters, their appointment, without her consent, would constitute an improper delegation of judicial authority. On behalf of the husband, it was, however, averred that where it would be in the best interests of the children involved the court, as upper guardian of all minor children, and in terms of section 28(2) of the Constitution of the Republic of South Africa, 1996 (the Constitution) and sections 6(4) and 7(1)(n) of the Children's Act 38 of 2005, has the power to appoint a parenting coordinator notwithstanding the opposition of a parent. The court had to decide whether it has the power to impose the appointment of a parenting coordinator on parents in the absence of consent by both parents. Acting Judge Davis ruled that the court does indeed have such power provided that the conditions listed in her judgement are met and certain limitations are imposed on the appointment of and the powers conferred on a PC. The conditions set by the court are that:

- the welfare of the child or children involved is at risk due to high levels of parental conflict;
- mediation has been attempted and has been unsuccessful;
- the person appointed as parenting coordinator is suitably qualified and experienced and
- the fees charged by the parenting coordinator are fair and reasonable.

Acting Judge Davis concluded by saying that she was of the firm view that where there is a court- ordered parenting plan in place and there is

evidence which shows that the child is at risk due to a demonstrated inability or unwillingness of the parents to coparent amicably in the best interests of the child, then the circumstances are sufficiently exceptional to warrant the invocation of the court's inherent power in terms of sections 38 and 173 of the Constitution, both to enforce compliance with its own orders and to ensure protection of fundamental rights. Where the parties had not yet agreed upon a parenting plan and the parties did not appear to fall into the category of "high conflict parents", the court denied the father's application for the appointment of a PC team of two. Judge Davis also set out three limitations that need to be imposed on the functions and powers of the PC, even in circumstances where the parties agree on the appointment of a PC to avoid an impermissible delegation of judicial authority. (a) The first limitation is that the PC should be appointed after the parents have reached agreement on the contents of their parenting plan, whether interim or final, and the parenting plan has been made an order of court so that the PCs role would be limited to the implementation of an agreed- upon parenting plan and/or compliance with an existing court order. (b) The second limitation concerns confining the decision-making power of the PC to ancillary rulings which are necessary to implement the court order, but which do not alter the substance of the court order or involve a permanent change to any of the rights and obligations defined in the court order. Acting Judge Davis concluded that a PC's decision-making powers should be confined to minor day-to-day conflicts which do not trespass on the exclusive jurisdiction of the court to determine, amend and terminate parental responsibilities and rights. (c) The third limitation on a PC's powers is that all the directives made by a PC must be subject to comprehensive judicial oversight in the form of a full reconsideration of the decision.

In light of this decision the Family Dispute Resolution Bill's prerequisite of informed consent by both parents to the appointment of a PC seems to be out of touch with practice ,was the views of some PCs I spoke to. If consent of the parents were to be a requirement for the appointment of a PC, many high-conflict parents , who have great difficulty in reaching agreement about many issues, let alone a process that could cost them time, energy and money, would be denied the benefits of the parenting coordination process.

However in some instances when appointed without consent ,parents refuse to pay the PCs fees and this frustrates the process.

Some South African court cases allow PCs to develop parenting plans for co-parents. In the 2012 case of CM v NG in the Cape Town High Court and the 2015 case Centre for Child Law v NN & NS, PCs were appointed to assist parents to develop parenting plans. The express provisions of the Family Dispute Resolution Bill, the SA Guidelines and findings in other cases make it clear that PCs should only be appointed for the purpose of implementing parenting plans or court orders in terms of which parents' respective parental responsibilities and rights have already been determined – and never for the purpose of developing parenting plans. So in South Africa the position is clearer– only the parents by agreement or the court may determine or amend their respective parental responsibilities and rights and PCs should never be expected to create or substantially revise parenting plans.

INCLUDING THE VOICE OF THE CHILD –

As set out in the SA Guidelines, PCs are obliged to facilitate child participation in all disputes concerning the child. Similarly, in terms of the general provisions of the Family Dispute Resolution Bill, child participation in family disputes involving children should be actively facilitated in accordance with the provisions of the Children's Act.

It appears from research undertaken in South Africa that children are often not consulted in the parenting coordination process – whether directly or indirectly through a child specialist. My research showed that only about half of the PCs with a social work background consulted with children on a regular basis, while psychologist PCs consulted with children far less than social worker PCs and most PCs with a legal background hardly ever consulted with children. It therefore appears that children remain largely excluded from the parenting coordination process.

OTHER MATTERS -

The process adopted by PCs with high conflict families was to initially promote a parallel parenting model, where there was disengagement to reduce the conflict between the parents. The consensus building aspect of the parenting coordination process was good and it was not considered necessary to make directives as the PC had other options available to assist the family resolve disputes. The Office of the Family Advocate plays an

important role in family matters in South Africa and protects the rights and interests of children after family separation. All settlement agreements go through the Family Advocate to be endorsed before it gets sent to the court. They monitor settlement agreements and if they find that some cases keep getting referred back to them they may recommend a PC to work with the family. It was observed that it would be helpful for judges to get training in parenting coordination to understand the value that PCs can provide in difficult cases. Although the parenting coordination process is designed to operate outside the court, some PCs thought that it is advisable that there should be contact between a PC and the judge who is responsible for the PC's appointment, especially in circumstances where a case management judge has been appointed to a case, or where a PC is having a difficult time with one or both parties. To give the parenting coordination process the gravity it deserves, it was considered advisable that all directives made by PCs should be filed on court files for cognisance by the judges dealing with these cases.

Another view was that when PCs are appointed at the interim stage of a hearing it may be more appropriate for the PC to report to the court. But when final orders are made judges are reluctant to continue to be involved to monitor the PC as the rationale behind having a PC was to help the family avoid court. Also monitoring ongoing compliance is difficult from the Court's perspective.

A few other observations from PCs was that continued interference from lawyers in the parenting coordination process keeps litigation alive. The majority of PCs in South Africa are psychologists About 70% of consent orders now have a PC appointed.

FAMILY MEDIATORS OF THE WESTERN CAPE (FEMAC)

The Family Mediators of the Western Cape (FEMAC) is an organisation that runs trainings for mediators and PCs. The objective of the Association is to promote constructive resolution of family disputes through mediation, facilitation and parenting coordination and develop and maintain standards for the practice as well as offer trainings for those who want to qualify as PCs. To be members of the Association the members have to meet the criteria set out. The Accreditation

committee of FEMAC is responsible for approving applications for parenting coordination accreditations. The Ethics Committee of FEMAC will hear complaints against PCs if the PC is unable to resolve the issues with the clients. When parents can't agree on the PC they want to appoint, the order will usually state that FEMAC will appoint PC from their pool of PCs. There is no mandatory training requirements for PCs in South Africa so some PCs have insufficient training but still practice.



With PCs in Cape Town

Parenting Coordination Practice in Hong Kong.

Their model of Parenting Coordination in Hong Kong is similar to the US model. In Hong Kong it is recognised that the parents with advice are best placed to craft suitable arrangements for their children. Parenting coordination is seen as a service where parents are assisted with the re-organisation of the family. When mediation was introduced in Hong Kong it was seen as the first step towards helping parents make their own decisions in respect to parenting arrangements and parenting coordination is seen as a close second. PCs are drawn from two main streams, namely psychotherapy and the legal professions. Those with a psychotherapy background can perform some or all of the functions of a PC but may be unwilling to perform those functions that relate to non-confidentiality and court involvement.

In Hong Kong there is parenting coordination on a confidential basis and parenting coordination on a non-confidential basis.

PARENTING CO-ORDINATION LITE (PC 1)-

This is parenting coordination on a confidential basis. It is done early in the process to assist parents resolve issues soon after they separate and it is regarded as been extremely useful to assist them reach agreements early before things between them become too contentious. The PC Lite service can help parents with drawing up a parenting plan which is then attached to the mediated agreement. If parents are at pre-divorce counseling or early in the legal process or undertaking collaborative practice or mediation then parents may choose to engage a PC 1 to assist them. It's a confidential process at this stage. A PC 1's advice at this stage is informative and educative, it is not a recommendation or determinative, all choice and decisions remain with the parents. The PC Lite service is very effective in assisting parents to appreciate the need to modify their behaviors and practice compromise.

Once the parents decide on the parenting arrangements a Consent Order will be drafted and filed. Where over time it becomes evident that there are gaps in this plan and parents are unable to resolve these issues themselves or through mediation they may go back to PC 1 for assistance. The process is still confidential and a parent may choose not to accept what PC 1 has to say. Also PC1's advice is not shown to court.

PC PROPER

Before seeking assistance of the court, one intermediary step is to appoint a PC (PC2) – PC Proper to whom the parents give the authority to make a determination on the matter. Any determination will be made within the confines and spirit of the Mediation Agreement/Consent Orders and be made in a timely manner and it will cost less than having to go to Court. The PC 2 may also make a recommendation but one parent may still refuse to follow through and may decide to go to Court. As this part of the engagement with the PC 2 is a non-confidential process, PC2s recommendation may be shown to Court.

When a matter is in court a judge may recommend that the parents get the assistance of a PC. If the PC is assisting the parents draw up a parenting plan then a PC Lite is appointed and the work is confidential and it is a parent led process.

If the assistance that the PC is giving to the parents is to implement what is in an interim/ final Court order then the parents need the assistance of a PC Proper. The work with the PC Proper is non- confidential and the court may be provided with information that it requests.

In some instances when there is an Interim order in place as to the arrangements for the children but a more detailed parenting plan has to be drawn up the scope of the work for the PC must be specifically set out. Here two PCs may be appointed. One PC Lite to assist with drawing up the parenting plan and a PC Proper to assist with implementing what is set out in the interim orders. The PC Proper acting in a non-confidential capacity can then in the event there is non-compliance with the orders make recommendations or report breaches to the court. Once Final orders are made a PC Proper can be appointed to assist the parents implement what is set out in the Orders as sometimes tensions may still be running high especially for high conflict parents. Facilitation is used by the PC to assist the parents fill in the gaps and resolve disputes that may arise as reducing the stress and conflict between the parents is beneficial to the children and to the parents. If no agreement is reached by the parents then the PC is given the authority to resolve the minor issues for the parents that are causing friction in the family.

Decisions made by PCs may not be final.

Dissatisfied parents may apply to the Judge charged with the underlying court proceedings and the decision may be reviewed after evidence has been filed and parents cross-examined.

TRAINING FOR PCS

The earliest trainings in Hong Kong were run by the Hong Kong Family Welfare Service and the Catholic Marriage Advisory Council around 2013. Lately training has been organised by the Hong Kong Law Society. To qualify to be on the list of PCs of the HK Law Society the person must be a lawyer for at 10 years and have 5 years of family law practice.

The Law Society of Hong Kong (“LSHK”) maintains a panel of PCs to assist parents with parenting coordination. This panel is called the Panel of Parenting Coordinators of The Law Society of Hong Kong (“Panel”) which consists of Solicitor-Parenting Coordinators who have completed approved training in parenting coordination. The Solicitor-Parenting Coordinators are reviewed by the Mediator and Parenting Coordinator Admission Committee (“MPCAC”) of the LSHK which updates the Panel regularly. The Solicitor-Parenting Coordinators must satisfy certain requisite qualifications in order to be admitted on the Panel.

PARENTING COORDINATION SERVICES IN THE PUBLIC SERVICE AND NGOS –

Parenting Coordination used in the social work settings is done mostly by social workers and psychotherapists and the model used is therapeutic and counselling based. In 2019 the Specialised Co-parenting Support Centres (SCSCs) were set up. This is a government run service and the Specialised Coparenting Support Centre aims to provide one-stop child-focused coparenting support services for separated/divorcing/divorced parents having difficulties and conflicts in cooperating with each other relating to the issue of care and contact arrangements of the children and to provide child-focused intervention to their children. Five Specialised Co-parenting Support Centres (SCSCs) are set up across the territories to provide one-stop child-focused coparenting support services. Parenting Coordination is one of the services that they offer free of charge.

The SCSCs assist the parents to carry out parental responsibilities under the child-focused principles, strengthen parent-child connection and provide support to children affected by parental separation/

divorce and family change to promote their healthy growth and development.

The model adopted by the SCSCs is designed to provide parenting coordination services to assist parents develop their parenting plans and promote co-operative coparenting. The service is confidential and they prefer not to provide reports to court. It is considered the PC Lite service.

A BEAM OF HOPE – PILOT PROJECT ON “CHILD-FOCUSED” PARENTING COORDINATION & COPARENTING SERVICES FOR DIVORCED FAMILIES

This Pilot Project on “Child-focused” Parenting Coordination and Coparenting Counselling Services for Divorced Families is provided in various service delivery modes such as individual intervention, group work and community education.

It serves to educate parents on “child-focused” coparenting concepts and help coparents to redefine their boundaries and roles, disengage from the past marital relationship, learn to manage anger and conflicts, learn to negotiate on children’s matters and move towards effective coparenting with an ultimate goal to promote and maintain healthy relationships and contact for the children with both parents on a regular basis.

It is the first funded project by the Community Chest in Hong Kong with Parenting Coordinators accredited by the Cooperative Parenting Institute, U.S.A..

Parenting Coordination Practice in Singapore.

There is information about the parenting coordination program on the Singapore Courts website. The parenting coordination program (PCP) is a family support program in Singapore to assist spouses or former spouses resolve disagreements they may have that are related to parenting matters. A parenting matter is any matter related to the custody or care and control of a child, the right of access to a child and the welfare of the child. The PCP program does not apply to cases where the parties involved in the proceedings are not married to each other or if one party is a family member other than the spouse or former spouse.

A PC may be appointed by the Court following the making of a parenting order by the court or upon the request of one of the parties. The court will appoint a PC if participation by the parties in the process is in the best interests of the child, the parties will benefit from the PC's assistance and either or both parties are able to afford the PC's fees. The order will state the term for which the PC has been appointed, the frequency of the sessions and the total number of hours the parties have to attend with the PC as well as the PC's hourly fees. The role of the PC is to assist the parents resolve disagreements they may have on parenting matters. The court may request the PC to provide a report to the court if the parents file an application to court regarding the parenting matters and the court sees the need for a report from the PC in order to make a determination on the application. The report is confidential and will only be available to the court, not the parties or their lawyers.

The Court can make an order about remuneration of the PC. If parents can't afford fees then they will consider alternate programs. The fees for a court-appointed PC as set out on the Court website ranges from S \$250 per hour to S \$400 per hour. The court will take into account the financial ability of each parent before determining the exact fee and the proportion each parent should bear.

If parents or the PC wishes to terminate the PCP early, they will have to file a summons application together with a supporting affidavit stating the reasons for the early termination.'

Parenting Coordination Practice in Israel

A Pilot program for parenting coordination was conducted in 2016 in Israel on the initiative of the Ministry of Welfare and Social Affairs. 131 families participated and a total of 262 parents. The results of the pilot were very encouraging and significant improvements were noted in many of the desired outcomes that were set out at the beginning of the Pilot. The results demonstrated that parents who participated in the Pilot experienced significant improvement in desired outcome indicators. It was also reported that there was a significant reduction in both inter-parental and child directed violence. The pilot program was designed to offer families custom tailored solutions for resolving their conflicts outside the court. Families from all walks of life in Israeli society were picked or volunteered to participate such as those who were secular, religious, ultra-orthodox Jews as well as Arabs. The PCs used mediation and problem-solving skills to assist the parents and promoted respectful communication, helped them identify their parental responsibilities and prioritize the needs of their children. The outcomes reported were that by working with a PC the parents were able to shield the children from ongoing parental conflict, it improved the ability of the parents to reach child-focused agreements, there was an improvement in the co-parent relationship as well as improved communication, it helped reduce the parents negative attitudes about each other, there was a reduction in abusive parental conduct and a reduction in the applications made to court to resolve parental disputes.

The findings of the study showed that most of the parents reached some kind of agreement during the parenting coordination process. They were also able to reach agreement on how best to communicate with each other, improve their interaction and manage the child's daily routine. It was reported that about 50% of the parents who participated in the pilot reached one-time agreements regarding specific events and about 25% reached agreements on cardinal issues. The higher the number of sessions the higher the number of agreements reached.

High conflict parents who participated in the pilot reported that there was a significant improvement in the way they interacted with each other after working with a PC and an unexpected finding was that there was a significant reduction in the exposure to both inter-parental and child directed parental violence. The results of the pilot

demonstrate the efficacy of the approach adopted in maintaining and safeguarding the wellbeing of children entangled in interparental conflict. It was also reported that the parenting coordination process helped keep the conflict under control and helped maintain the status quo for the families and prevented further deterioration. It was also revealed that there was a 50%-60% reduction in parental applications to the court both during the parenting coordination process and upto 6 months after and this helped relieve the burden on an already overburden court system in Israel.

The model of parenting coordination that was used for the Pilot was based on the concept of therapeutic jurisprudence and on the model developed by the Cooperative Parenting Institute in the USA.

The pilot program ended in 2019 and PC has since been implemented in 10 different family courts across Israel.

Coaching as an intervention in parenting coordination

I had the opportunity to meet with Amy Armstrong who is a parenting coordinator and mediator in Ohio. She works directly with the Delaware County Domestic Relations Court as well as in her private practice. She also served on the Ohio Supreme Court Committee that recently amended the Parenting Coordination rule for the Courts of Ohio. Coaching is a significant element in coparenting interventions and many of the PCs I interviewed told me that they used coaching when working with their clients. Amy told me that in her view the connotation of coaching is often misguided as it is often confused with consulting/advising which actually interferes with the client's responsibility for their own progress and is not so helpful to clients.

In her view direct instruction results in behaviors on a continuum of compliance to rebellion. Human needs for autonomy, approval and order play out in the client's response to the specific suggestions. Coaching however in its purest form gets out of the client's way. As much as possible, the experienced coach asks what the client is noticing, desiring, willing and able to try to reach as the desired vision for co-parenting, without creating an artificial target expectation for new behaviors. She told me that these skills embody the paradigm shift from advising to, well, coaching.

It's coaching the person to discover their action steps that they are willing and able to take to reach their desired outcomes, and only the client can tap into their inner subjective experience to determine the specific steps needed. Parenting coordination is designed to help parents reduce inter-parental conflict. According to Amy "Coparents who receive coaching as part of the parenting coordination process have a focused opportunity to create a fresh interactional dynamic. Through reflecting on the questions and feedback of a skilled coach, the parents learn to amplify a positive vision for their children, rather than cling to narrowly fixated attachments to exact outcomes of what the other parent should or should not do. Transformation is at the heart of coaching; defined as an experience whereby a change in perspective results in a change in behavior. Clients shift how they see themselves and their situation as the coach offers a safe presence and asks questions, shares observations and gives feedback. Coaching links the desired outcomes with specific action steps to

reach the destination by tapping into what people are sincerely willing and able to do. Coparent coaching as part of parenting coordination sets up the parents well to learn new skills and behaviors that fit the parents' capacity to change. Thus, coaching taps into the HOW and the HOPE of change management. Parents often simply don't know how to stop bad-mouthing the other parent: they need the skill of noticing their burning desire to one-up or correct a child's perception of the other parent and re-direct their urges to responsible behaviors."

From other non-coach professionals, coparents may hear admonishments about how they "should communicate better," "must keep the child out of the middle" or "never say anything bad about the other parent." While these words reflect good intentions for supporting the best interests of children, no amount of scolding or even educating folks inspires change as personally as coaching inquiry does.

She sees three common mistakes of parenting coordinators that can be alleviated through coaching inquiry -

Mistake #1 is telling parties, "Don't focus on the past." This statement sounds reasonable, given that parenting coordinators are in place to help folks do better going forward. However, for clients to really forward focus, they need to tap into the obstacles keeping them from putting the past in the past. A parenting coordinator with coaching skills might ask, "What do you need for closure on the past?" Or, simply, "How do you want to move forward?" Mistake #2 is telling parties, "You are hurting your children; you have to learn to communicate." As with other inquiry, the right questions get to the root of the issues so they can be reconceptualized. Clients might be better served with, "How will good communication help you?" Or, "What is getting in the way of your communication?"

Mistake #3 is telling parties, "Just focus on the issues." As you may already know, the issues aren't the issues. The issues are the intense feelings, limiting beliefs, and attachments to the issues. Instead of focusing on the issues, a coach approach might sound like, "What do you want things to be like in 3 months?" Or, "How is this issue affecting you?" In Amy's view "an impactful bi-product of quality coaching as a part of the parenting coordination process is reduced burnout out of the PC. A PC who is able to allow the clients to do the

work for themselves is likely to have more energy and staying power for working with families in high conflict.

Additionally she said “a coach’s approach results in less emotional exhaustion for the clients. When the parents’ energy is freed up from trying to adhere to preconceived or unspoken expectations and the parenting coordinator adheres to releasing one’s own agenda and attachment to specific outcomes, more energy is left to hold space, listen, and tap into a posture of creativity and positivity.” She went on to say that “coparent coaching within the parenting coordination process can wake folks up to their real needs and values, uncovering solutions that are much more likely to last. Worst-case scenario thinking is replaced with cracks of hope, letting in the light of possibilities for a more positive future. Parents can feel proud of themselves as they take full responsibility for what they are willing and able to do to make things better for themselves and for their children.”

I also had the opportunity to talk with Tracy Callahan a Certified Divorce Coach, Florida Supreme Court Certified Mediator and New York Unified Court Mediator on the value of alternative dispute resolution (ADR) focused divorce coaching at the individual level to support the parenting coordination process

She told me that certified divorce coaches trained in alternative dispute resolution (ADR) play a vital role in minimizing conflict at the individual level, which can lead to better outcomes in parenting coordination.

She went onto to explain that since divorce is a stressful and emotional time for everyone involved, it can be difficult to transition the marital relationship which may be ending due to unresolved conflict to that of a parental focused relationship where conflict may be at an all time high. For a lot of people, conflict can be a very scary and difficult experience. Mostly, because conflict triggers strong emotions and those emotions can be overwhelming. But, what we do know about conflict is that although there may be two parents to the conflict, here, the coparents, it only takes one parent to change the dynamics of the conflict, thereby eliciting a different experience and outcome for both parents. When one parent can show up for parenting coordination prepared and managed, both parents and the children benefit. Unlike other

forms of ADR, a divorce coach works with one parent, supporting them in the development of strategies and techniques to engage in the divorce and coparenting process with the skills necessary to minimize conflict and reach a resolution in the most time efficient and cost effective manner. Here are some of the ways that divorce coaches can help to minimize conflict on the individual level:

- Provide emotional support. provide a safe and supportive space for a parent to express emotions and work through grief, anger, and other difficult feelings.
- Identify interests and needs. A divorce coach can help clarify the parent’s needs and interests, as well as the needs and interests of the children during and after their divorce. This can help to set realistic expectations, engage in empathetic problem solving, and negotiate more effectively and flexibly with their coparent.
- Develop effective communication skills. Divorce coaches can work with a parent to develop effective communication skills, such as active listening, expressing oneself clearly, and avoiding triggers.
- Help to manage conflict. Divorce coaches support a parent in understanding conflict, examining their conflict style as well as the conflict style of their coparent, with the goal of further developing their individual conflict management skills, identification of triggers and opportunities to de-escalate conflict, while engaging in principled negotiation. When divorce coaches are able to help individuals minimize conflict on the individual level, it can have a positive impact on the parenting coordination process. Parenting coordination is a process that helps divorced parents to resolve disputes and make decisions about their children. When parents are able to communicate and cooperate effectively, it is much easier for them to co-parent successfully.

Here are some specific ways that minimizing conflict on the individual level can lead to better outcomes in parenting coordination:

- Parents are more likely to reach agreements. When parents are able to communicate and cooperate effectively, they are more likely to be able to reach agreements about important parenting decisions, such as child custody, visitation, and support. This can help to reduce

the need for court intervention and save time and money.

- Parents are better able to focus on the needs of their children. When parents are not constantly fighting and bickering, they are better able to focus on the needs of their children. This can lead to improved relationships between parents and children, as well as better outcomes for the children overall.
- Children are less likely to be caught in the middle of conflict. When parents are able to minimize conflict, they are less likely to involve their children in their disagreements. This can help to protect children from the emotional and psychological damage caused by high-conflict divorce.



Conclusions and Recommendations

Conclusions.

I am privileged to have had the opportunity to meet so many incredible, inspiring people while on my Fellowship who so freely gave of their time to tell me all about the practice of parenting coordination. I have come away with so much knowledge and information and so many new ideas and it has been challenging to try to put it all down in this report and in a reasonable number of recommendations that are applicable to Australia. Since I was awarded this Fellowship my travel was delayed by Covid and there has been an uptake of parenting coordination by lawyers in Australia who are eager to get orders appointing PCs in high conflict parenting matters. I hope that my findings and recommendations in this report contribute to the evidence base for action in this area in the Australian context.

According to the recent reports released in January and October 2022 on **Compliance with and enforcement of family law parenting orders** released by Australia's National Research Organisation for Women's Safety, the study revealed that the complex interplay of interpersonal dynamics of parents were not addressed in the parenting orders that parents received. It was also noted that there was refusal and unwillingness by some parents to support the other parent's relationship with the child, some parents were behaving badly in a non-child focused way and there were limitations in the family law legal system's ability to address problematic interpersonal dynamics associated with sustained litigation over time. Sometimes the orders were misunderstood by the parents and resulted in inadvertent non-compliance and it was found that that legal action was insufficient to stop non-compliance and there was also a lack of financial resources to pursue litigation. It was also found in the study that there was a lack of mechanisms to monitor the implementation of parenting orders and insufficient opportunities for children and young people to participate and be kept informed about post separation decision making related to their care and living arrangements. The study did not indicate that punitive responses or enforcement mechanisms are more effective than non-punitive responses at reducing the incidence of non-compliance.

It was identified that more importance needed to be placed on case management, post orders support for parents that provided educative and therapeutic services to help enhance the parent's capacity to implement what is set out in their orders. Other reasons for non-compliance with orders was vindictive behaviors on the part of a parent and ongoing parental conflict was a commonly identified dynamic, parents been stubborn and inflexible as well as confusion between parents about what the orders meant.

There is clearly a problem and it is evident that parents need post-order support to help them implement what is set out in their parenting orders and help them also manage the interparental conflict so children are not detrimentally affected by exposure to ongoing parental conflict.

The need for a way to help parents with ongoing disagreements that are not really legal disputes, outside the formal court process, is undeniable. No one – parents, lawyers, or the Court – finds having



to resort to the court process for resolution of these non-legal disputes to be particularly productive. Parents want a more accessible forum to get help with parenting matters from time-to-time, and want to avoid coming back to court which they find costly, inefficient, and impersonal. The Court also needs to explore more creative ways to support these parents who are struggling to implement what is set out in their parenting orders.

From what I have learned in my research into the best practice of parenting coordination around the world, in my opinion many of the issues raised in the recent study that lead to non-compliance with parenting orders can be managed by appointing a PC to assist these parents. It is necessary that parenting coordination is distinguished from other alternative dispute resolution processes such as family dispute resolution and mediation.

Currently since parenting coordination is an unregulated profession and still in its infancy in Australia, little is known and understood about it and it is important for all the professionals to be on the same page and share similar goals. Therefore, it is imperative to develop at a minimum Standards of Practice and ideally legislation subsequently to ensure the protection of clients as well as PCs and to maintain a high standard for parenting coordination services.

Dominic D'Abate a practicing PC and mediator who was involved in drafting the Guidelines for parenting coordination in Quebec states that "unless there is clear definition and orientation, the parenting coordination intervention will lack direction and the necessary theoretical framework to guide the practice."⁴²

MY RECOMMENDATIONS FOR THE INTRODUCTION OF PARENTING COORDINATION INTO THE AUSTRALIAN JURISDICTION -

1. Establishing the Australian Association of Parenting Coordinators (AAPC) –

I will work with experienced PCs to establish an independent association called the Australian Association of Parenting Coordinators. Trained PCs throughout Australia will be eligible for membership of the AAPC. The Association will be a charity registered with the Australian Charities and Not for Profit Commission. AAPC will engage in advocacy and educational activities to develop the practice of parenting coordination and create awareness about parenting coordination. The AAPC will work to promote parenting coordination among judges, lawyers, family mediators and family law professionals. It will also be tasked with addressing policy and operational issues around the practice of parenting coordination similar to what is done by the Parenting Coordination Roster Society in British Columbia, Canada and the Italian Association of Parenting Coordinators. The model adopted in British Columbia could be replicated in Australia. The AAPC must also promote the effective use of best practice in parenting coordination in Australia, organise continuing professional development trainings and maintain a roster for PCs. They can also develop standard templates for use by PCs in their practices such as Court Orders for parenting coordination, PC Agreements, and other precedents as are required necessary for the practice of parenting coordination which will ensure a consistency in the way parenting coordination is practised.

The Association will have a Board of Directors to oversee its strategic direction and its day-to-day operations. The Board will also determine the number of membership options, the membership fee to join the Association, membership requirements as well as the application process. The Board will appoint committees to address certain important policy and operational issues relating to parenting coordination such as the Steering Committee, the Education Committee, the Policy and Practice Committee, the Governance Committee, the Finance Committee and the Membership Committee. The AAPC will establish and maintain a connection with the AFCC in the US. I intend applying for Impact Funding through the Churchill Trust to fund the setting up of the Association.



2. Establishing a Steering Committee to draft Standards of Practice and Training Standards for PCs

The Board will oversee the appointment of an interdisciplinary steering committee with a clearly defined mandate to draft Australian Standards of Practice for parenting coordination as well as Training Standards for PCs. . The Steering Committee should comprise of a Judge and a Senior Judicial Registrar from the FCFCoA, an experienced PC with a legal background, an experienced PC with a psychology background, an experienced trainer in parenting coordination, a coparenting coach, an independent children's lawyer, a social worker, a researcher, a psychologist, as well as a practising family lawyer and family mediator with experience dealing with high conflict clients. As a first step the Steering Committee will work to adapt the AFCC Guidelines on parenting coordination (2019) to suit the Australian Family law context.

The Australian Standards of Practice will create a foundation for the practice of parenting coordination and will offer clarity around the role of the PC, set out important details about the practice both in terms of process and objectives and will ensure the development of quality parenting coordination services and the protection of the public who engage a PC. The Australian Standards of Practice and Training Standards need to be drafted keeping in mind that the role of the PC may be filled by people from different professions and backgrounds and the purpose of the Standards is to provide guidance to PCs and to the courts that are appointing PCs as to the responsibilities of each when a PC is appointed.

In Australia we can replicate the approach taken in Quebec, where following the end of the parenting coordination pilot project, a Working Group was formed around 2015 (comprising members from the professional orders of lawyers and psychologists), who worked on adapting the AFCC guidelines and implementing parenting coordination more broadly in the Province. Parenting coordination is currently unregulated in Quebec and PCs don't have decision making powers so a similar model to theirs could be adopted in Australia.

3. Goal of the parenting coordination process -

The Standards of Practice should also establish the goal of providing parenting coordination services to families and set out the expectations of the court. The suggested goal is to assist high conflict families implement what is set out in their parenting orders, monitor adherence to the orders, assist the parents to resolve disputes and manage conflict in a timely manner, reduce re-litigation of parenting matters, assist the parents improve their coparenting relationship and focus on the best interests of the child.

4. Family Law Practice Directions for Parenting Coordination -

Until such time that there is legislation drafted relating to parenting coordination in Australia, I also recommend that there be Practice Directions issued by the Chief Justice of the FCFCoA setting out explanations on practice issues relating to parenting coordination and advocacy can be undertaken by the AAPC to drive this initiative.

5. When a PC should be appointed -

The Standards of Practice should set out when a PC may be appointed and when a PC should not be appointed. It is recommended that a PC may be appointed when

- the parents have disagreements about the implementation of the parenting orders and need assistance managing their disputes.
- when there is a history of parental conflict that remains unresolved by previous litigation and other interventions.
- When the parenting time schedule needs minor adjustments so the child can maintain

- appropriate contact with both parents.
- d. Any other factors as determined by the court.

A PC should not be appointed to -

- a. develop a parenting plan or negotiate changes to existing orders
- b. make substantive changes to parenting time that reduces or increases the child's time with a parent
- c. make a change to the guardianship of the child
- d. change of residence of the child
- e. relocation of the child
- f. the division or possession of property
- g. make any decisions for the parents

6. How a PC should be appointed-

A PC should be appointed by the Court after interim or final orders, whether such orders are made by Consent or following judicial determination. The PC will assist the parents implement what is set out in the orders in respect to parenting matters and the parents will agree to remunerate the PC for his/her fees. I would however caution against appointing a PC after interim orders have been made. Although it may assist the parents address issues that are restricting parenting involvement, ideally the appointment of a PC should be made after final orders as continuing litigation and the involvement of lawyers can fuel further conflict between the parents. This is likely to impede the PCs ability to assist the parents to build their skills to manage conflict and build consensus so they can navigate the conflict effectively and improve their coparenting relationship. A final order makes the PC process more efficient and effective.

It is my recommendation that a PC should only be appointed with a court /consent order (not merely by agreement of the parents) because if one of the parents tries to frustrate the parenting coordination process and does not comply with what is set out in the order there is no recourse to the court. Therefore if the parents require assistance to navigate the inter-parental conflict prior to the making of interim or final orders, the parents should be referred to family dispute resolution or coparenting or divorce coaching but not to parenting coordination.

The PCs I spoke to while conducting my research told me that in some jurisdictions where they have gone in the direction of appointing PCs at the request of the parents without the court/consent order they have regretted doing so and have sometimes drawn the erroneous conclusion that PC doesn't work. Without the court/consent order, the process is at significant risk of being sabotaged by the parties and once the integrity of the process has been compromised, the PC cannot be effective and high conflict parents end up back in court. It also defeats the purpose of using a PC.

7. Recommendations or proposals made by the PC –

The Standards of Practice should set out when the PC can make recommendations or proposals to the parents in respect to parenting of the children. When making recommendations or proposals the PC will take into consideration the best interests of the children. The orders should also detail the matters that the PC can make recommendations or proposals about. In Australia under section 65L of the Family Law Act, family consultants who work with high conflict families, supervising or assisting them with the compliance of their parenting orders sometimes make recommendations to the court and it is useful to make provision for this in the parenting coordination process as well. In the order appointing the PC provision can be made that a PC can make recommendations or proposals if requested to do so by the parents when they are unable to reach agreement or resolve a dispute themselves.

As the parents have agreed to the appointment of a PC, the recommendations or proposals of the PC must carry some weight. The PCs recommendations or proposals are not binding on the parents and should be sent in writing to the parents and to the lawyers acting for both parents. If the parents disagree with the PC's recommendations or proposals, they may decide to not comply with them. Each parent should be at liberty to apply to the Court if the other parent decides to not comply with

the PCs recommendations or proposals and the dispute cannot be resolved. The Court will determine the matter if the parents are unable to reach an agreement. In Australia we can replicate the approach adopted in Quebec in respect to recommendations made by a PC.

Under section 13D of the FLA if a party fails to comply with an order under section 13C of the FLA the provider of the service must report the failure to the court. It is my recommendation that in the event that the parents are unable to resolve a dispute the PC files a report to the court and sends a copy to the parents and the lawyers so that the Court can then make such further orders as necessary.

8. Competency requirements of PCs –

To be appointed as a PC the professional must meet the minimum competency requirements as set out in the Australian Training Standards of Practice. PCs also have a duty to inform the parents if they recognise that they do not have the experience or expertise to deal with certain issues that need to be addressed so that a referral may be made to a PC who has the required expertise and experience. The PC should also then inform the court and request that the order of appointment be amended to reflect any changes made.

9. Consent of parents to engage a PC -

It is my recommendation that the PC be appointed with the consent of the parents. If the parents do not agree to the appointment the court should be able to appoint a PC if one of the following exceptions apply – if the parents failed to implement what was in parenting orders, mediation is deemed inappropriate or was unsuccessful and if it is in the child's best interests.

10. The court order –

The order appointing a PC should be detailed as to the scope and authority of the PC. Poorly drafted orders makes interpretation more difficult, is costly and gives rise to conflict.

A PC must receive a detailed order prior to commencing work. The information on the order of appointment should include but is not limited to the following:

- a. the appointment of the PC, an overview of the parenting coordination process, the name of the PC and any contact information for the PC the court may choose to include;
- b. the role of the PC including assisting the parents to implement what is set out in the parenting orders, help them reduce conflict, develop effective communication strategies, coach and educate the parents, case management and assisting and teaching the parents strategies to resolve future issues and prioritizing the best interests of the child. The PC has the authority to interview the child, other members of the family and other professionals, have access to all relevant information including court orders, reports of family report writers, school teachers, medical records of the children, drug and alcohol testing reports of the parents if relevant. The PC will also provide information and resources to the parents for the purpose of educating them.
- c. the scope and authority of the PC – to assist the parents resolve disputes about issues including but are not limited to transitions between households, temporary variation from a schedule for a special event or particular circumstance, minor school issues and participation in extra- curricular activities, child care arrangements, children's clothing, equipment, toys and personal possessions, information sharing and communication with or about the children, coordination of existing or court ordered services for the children, behavioural management for the children and any other issues the parents agree to submit to the PC
- d. all matters that are excluded from the PC's authority
- e. meetings, the term of the appointment and extension of appointment



- f. the request for release of information to the PC
- g. agreement on non-confidentiality
- h. when the parties are to contact the PC to commence working with the PC
- i. the parent's responsibility for fees and expenses for services rendered by the PC.
- j. domestic violence safeguards and legal advice
- k. the PC's terms and conditions
- l. record keeping of the PC
- m. the PC's obligation to report to Court.
- n. the process for making recommendations to the court.
- o. enforceability of PC's recommendations
- p. any other provisions that the court considers fit to include.

11. Conflicts in the parenting coordination order

If there is a conflict between the order appointing the PC and the PC's professional ethical obligations requiring the PC to act beyond the scope of his or her competence/perform multiple roles, the court and the lawyers should be informed and steps taken to resolve that conflict.

12. PC agreement with the parents

Once appointed by the court the PC must enter into an agreement with the parents which sets out information including but not limited to the following

- a. details of appointment
- b. the PC's policies and procedures.
- c. the role and function of the PC
- d. the term of appointment and termination process
- e. information about screening procedures
- f. the services the PC will and will not offer
- g. information gathering and consensus building process
- h. privacy and confidentiality, complaint procedure
- i. the PC's qualifications, fees and billing procedures
- j. PC's reporting obligations to the Court
- k. the process for making recommendations to the court.



- l. obligations of the parents
- m. independent legal advice prior to signing agreement
- n. remote participation and use of information and communication technology
- o. any other matters that the PC considers to be relevant

13. Parenting plans -

PCs should not assist parents with developing parenting plans as it is not a process intended for the development of parenting plans. A PC should be appointed once comprehensive and detailed parenting plan has been developed.

14. Information for parents –

The FCFCoA must ensure that the parents are fully informed about the parenting coordination process and have comprehensive information about the service before making an order. This will ensure that the parents do not have unrealistic expectations that will lead to frustration with the process. Having information will ensure that parents will continue with the process with an improved quality of life for the family. Brochures and pamphlets about the process can be distributed to parents and information should also be set out on the court website. Advocacy for funding is necessary at a federal government level. Australia can draw on the approach that has been adopted by the Ohio Supreme Court and the Florida Courts who provide comprehensive information relating to parenting coordination on their websites which are accessible to lawyers and clients.

15. Collaboration among professionals who are assisting the family –

This was an important finding from the parenting coordination pilot project in Quebec. There should be clear guidelines mapping out how this collaboration should take place in the Australian Standards of Practice.

16. The court involvement in the PC process -

Having a single judge seized of the case from start to finish ensures the effectiveness of the parenting coordination process. Court oversight is necessary. Protocols should be established detailing the process to be followed by the court when making parenting coordination appointments and how follow up/check ins will be carried out. The relationship of the PC with the court is important. It is necessary for PCs to be able to request a judicial conference to discuss issues relating to impasses that threaten the PC's ability to continue the PC process. Judges can support the PC process by acting in a timely manner when the PC makes a request for judicial intervention or makes a recommendation to the court as an expedited process will assist the coparents in continuing to make progress. PCs should be required to report to the court as to the usage of parenting coordination, the progress made and problems encountered.

17. The PC's duty to report to Court –

In any instance where a PC has reasonable grounds and knowledge that the child is in need of protection or is at imminent risk the PC must report the fact to the court without delay.

18. Confidentiality -

Currently parenting coordination is a non-confidential process in Australia and a PC can submit a report to the court. It must be clearly set out in the Standards of Practice in what instances a PC is required to file a report to the court. At a minimum, the report of the PC must set out the summary of the interventions undertaken, the progress made by the family, information on impasses and disagreements that remain unresolved and recommendations of the PC.

19. Domestic Violence or Intimate Partner Violence -

The parents must have the capacity to participate in the parenting coordination process without fear and the court must take reasonable precautions to create a safe parenting coordination environment for the parents. The parenting coordination process needs to be terminated if there is threat of domestic violence, abuse or coercive control.

If there has been a history of domestic violence, it should be set out in the Australian Standards of Practice that court may not refer the parents to parenting coordination unless both parents consent. A person who is a victim of domestic violence is to be fully informed about the parenting coordination process and has the right to decline participation. Also, the court shall offer each parent an opportunity to consult with a lawyer before making a decision to participate and the court must determine whether each parent's consent has been given freely and voluntarily.

20. PC's fees -

Prior to appointing a PC the judge must ascertain whether the parents are able to afford the services of a PC and are agreeable to paying the PC's fees. If the parents are not agreeable to paying the PC's fees a PC should not be appointed. Under section 13C of the FLA the judge can order the parties at any stage of the court proceedings to participate in a program or service which the judge considers to be useful to the parents. It is my recommendation that the court maintains a roster of PCs and has in-house PCs where staff of the court are trained as PCs and are able to offer the PC service to parents particularly when orders for PCs are made on an interim basis. This process will ensure that more high conflict families who need assistance can access the services of a PC through a Court run program. A similar model was adopted and run by Lake County's Domestic Relations Court in Ohio and advocacy for funding from the federal government for this is recommended.

21. Ensuring uniformity in the practice of parenting coordination -

As PCs come from different backgrounds and have different levels of training measured in hours rather than years as observed by Marianne Cottingham a social worker and researcher in parenting coordination in BC, Canada, there is a variation in the manner in which parenting coordination is practiced by different practitioners in the same jurisdiction which can be problematic. She told me that there is a necessity to set out best practices for the role of a PC and detail a step-by-step process that PCs can follow when working with clients to ensure uniformity. PCs need to be given greater guidance as to the process to be adopted so they work effectively with high conflict families. In my conversation with Marianne Cottingham she suggested that that it was essential that the model of practice should also include assessment, goal setting and steps for re-assessment of the progress made by the parents in order to get better outcomes for high conflict families. Some PCs I interviewed told me that they were reactive in the approach they took when working with their clients, addressing issues and helping parents resolve disputes as and when they arose whereas other PCs were more proactive in their approach and implemented a planned approach to dealing with issues seeing clients at regular intervals rather than only when a dispute arose. Having a standard framework that details the process that all PCs can use rather than leaving it to the PCs to determine how they carry out their work will be beneficial. and will provide uniformity too.

22. Collaboration with lawyers –

The lawyers for both parents and the PC should consult together prior to the appointment of the PC to clarify the goals of the process, identify issues that are challenging, provide the PC with relevant documentation, discuss the PC's fees and billing processes and provide any other relevant information. Exchange of information between the lawyers and the PC is important as lawyers can assist in managing client expectations and joint conference calls with the lawyers is recommended.

23. Ethics and grievance procedures –

The Australian Standards of Practice should set out the ethical and professional considerations that guide a PC when working with clients. It is necessary to ensure that parenting coordination services are conducted in a professional manner so it is not harmful to parents and children. There must be a procedure set out for a party to file a complaint about the PC or the process. Complaints about unethical or unprofessional conduct can be the cause for termination of the services of the PC. If issues are raised about the competency of the PC the court should inquire and provide an opportunity to the PC to remedy the inappropriate or unethical conduct. I also recommend setting up a grievance committee/PC review board to perform investigate and manage complaints filed against PCs and also investigate the possibility of incorporating disciplinary processes similar to what is in place for lawyers and family dispute resolution practitioners. The principles surrounding the ethical practice should be enhanced to ensure risk to vulnerable families is minimised. When a complaint against a PC is filed the PC must receive a copy of the complaint. The PC may be given the opportunity to submit a written response to the complaint's committee/judge for consideration and a timely decision made. In Australia we can replicate the model adopted by the Florida Courts to address complaints against PCs and establish grievance procedures and also draw on the approach taken by the BC Roster Society in British Columbia, Canada when dealing with complaints made against PCs.

24. Training and education on parenting coordination for professionals -

Ongoing training for judges, registrars and lawyers on parenting coordination so they are more familiar with the process, its benefits and limitations, how PC appointments are to be made and the duties and responsibilities of PCs. Here again Australia can draw on the approach that has been adopted by the Ohio Supreme Court and the Florida Courts in providing comprehensive information and detailed forms relating to parenting coordination on their websites which are accessible to PCs and lawyers. This initiative will have to be federally funded.

I recommend that the National Judicial College of Australia as well as the Judicial Colleges in each of the States include training on parenting coordination in their judicial education programs.. Also the law societies in each of the States should include training and continuing professional development programs on parenting coordination to educate the family law professionals.

25. Professional diversity of PCs –

It is my recommendation that in addition to lawyers who train as PCs, psychologists and professionals with a social science background with expertise in conflict resolution be encouraged to train as PCs. This diversity of professionals will ensure greater choice for the parents when choosing a PC and will also ensure that parents have the choice to work with a PC who has the requisite expertise and experience that suits the unique needs of each family.

26. Minimum qualifications for PCs –

To be appointed as a PC an individual must meet these minimum qualifications –

- a. be a family lawyer, family mediator or family dispute resolution practitioner or a psychologist with a minimum of 5 years' experience working with high conflict families. The experience may also include counselling, family dispute resolution or legal representation in complex family law parenting matters,
- b. have training as a nationally accredited mediator.
- c. have completed comprehensive training in domestic violence abuse issues.
- d. have completed the basic parenting coordination training.
- e. have completed no less than 15 hours of continuing professional education training in relevant areas every two years.
- f. maintain professional liability insurance that covers the person's practice as a PC.



27. Training of PCs –

PCs need extensive skill training and enormous expertise to take on parenting coordination matters. Presently in Australia there are no training standards and no endorsed training programs in parenting coordination but there are a few organisations who are providing training in parenting coordination. Parenting Coordination Training Standards must be set out in the Australian Standards of Practice for Parenting Coordination and ideally approved by the court. Training providers must have their courses approved as meeting the Australian Parenting Coordination Training Standards. Once PCs complete the required training they will be deemed to be “qualified PCs”, rather than having an accreditation or endorsement.

Training providers

It is my recommendation that parenting coordination training be offered through Registered Training Organisations (RTOs) or Universities and the course is set up to meet the requirements for a graduate certificate or equivalent formal certification which will ensure a comprehensive curriculum and will also ensure that those who wish to complete the training can obtain Fee Help to fund their training. Fee Help is a loan for eligible domestic fee paying students studying any type of course at an approved provider and ensuring that those doing the parenting coordination training can access Fee help will ensure that the training will be accessible to a broad range of professionals (who meet the eligibility requirements of the course) wanting to qualify as PCs. In Australia when designing the training model we can draw on the models for parenting coordination training adopted in Rome, Italy, the Netherlands and Massachusetts where the training is offered through Universities and Colleges as well as the training models in Florida and Ohio.

Training requirements -

Mental health professionals who are wanting to train as PCs should have parenting coordination training that includes specialised training in family law, family mediation, family violence and report writing . Family Lawyers who want to practice as PCs should have parenting coordination training that includes specialised training in family mediation, conflict management, family systems theory, family violence and child developmental psychology.

Training in parenting coordination should be provided by a training provider that is recognized as providing high quality training in the field of alternative dispute resolution.

Since parenting coordination work is one of the most challenging, difficult and highly specialised roles in the family law system , specialised training in both the legal and psychological/social issues is essential for professionals who want to practice as PCs.

Basic and Advanced Training in parenting coordination -

PCs should achieve competence through a combination of education, specialised training, supervision, consultation and professional experience. The training should be divided into two components – Basic and Advanced Training.

The Basic Training should at a minimum cover the following areas -

- a. the historical context
- b. an understanding of the parenting coordination guidelines and training requirements
- c. PCs functions and practices.
- d. setting up and beginning a practice- the nuts and bolts of the process
- e. intervention strategies.



- f. ethical, legal and risk management challenges and inappropriate cases
- g. writing reports and recommendations
- h. research into parenting coordination
- i. drafting parenting plans for high conflict parents
- j. psychological dynamics of high conflict families
- k. management of a parallel parenting model including use of email, parenting coordination sessions,
- l. case management,
- m. an understanding of the FCFCoA processes
- n. the effects of divorce, single parenting and remarriage on children adults and families
- o. the voice of the child – the research on the benefits, ways to include the voice of the child, interviewer bias and how to manage it, an interviewing protocol.
- p. domestic violence and it's implications for parenting coordination
- q. divorce coaching training which includes skill building around conflict management, managing high conflict parents, active listening, questioning, clarifying, defining points of agreement and generating options.
- r. solution focused brief therapy & family narrative approach
- s. role playing

The Advanced Training should at a minimum cover the following areas

- a. dynamics of high conflict and managing interpersonal relationships
- b. parental alienation
- c. family dynamics and dysfunction
- d. family systems theory
- e. attachment theory
- f. child development knowledge including cognitive, personality, emotional and psychological development
- g. trauma informed approaches
- h. mitigating bias
- i. motivational interviewing techniques
- j. complex case management
- k. diversity issues

l. including the voice of the child and interviewing techniques

m. role playing

Solution focused brief therapy and the family narrative approach should be included as part of the training for PCs as using these interventions empowers the families to look for solutions to problems and resolve disputes more effectively. Coaching should also be included as part of the training for PCs. When developing the course content we can draw on the models for parenting coordination training in the US, Canada, Italy and the Netherlands.

28. Continuing professional development of PCs –

To perform the duties of a PC it is my recommendation that PCs be required to complete a minimum of 15 hours of continuing professional development education over a two year period. The continuing professional development may be continuing education that is approved for lawyers, mediators, psychologists or other licensed mental health professionals. If the PC fails to complete these continuing professional development requirements as set out in the Australian Training Standards, the PC shall not be eligible to continue to practice as a PC.

29. Roster of PCs -

The AAPC will maintain a roster of all PCs appointed including the names, addresses telephone numbers and email addresses and the PC is required to notify the AAPC of any changes to these details. A system has to be developed to evaluate minimal PC competence prior to referral and a roster of qualified and approved PCs must be maintained. PCs on the roster must maintain current accurate records of training and on-going education and provide the records of training including name of the trainer, date of training that has been completed during the previous year. If a PC fails to comply with the continuing professional development education requirements the PC shall not be eligible to serve as a PC until the requirement is satisfied. Alternatively the Court may also maintain a roster of qualified PCs.

30. Selection of PCs -

PCs must be appointed to the role depending on the unique needs of the family and the PCs competencies assessed to ensure this. Cases that have a history of long-standing intractable conflict may need a more directive approach by a PC skilled in managing high conflict clients whereas recently separated families that need to learn the skills on how to communicate effectively will benefit from more education and skill building in conflict management.

31. Supervision of PCs –

It is recommended that ongoing peer consultation groups for PCs to provide support, mentoring and training by experienced professionals needs to be encouraged. In Washington DC there is a supervision and mentorship model similar to what there is for training in law and mediation. The PCs had a mentor and could sit in on parenting coordination sessions. The AAPCs could be tasked with managing the supervision program.

32. Screening of PC clients -

Screening for IPV and related safety issues, power imbalances and to ascertain the general suitability of the parties for the parenting coordination process must be undertaken prior to commencing work with the parents. Failure to do screening can result in risk to a vulnerable parent. PCs should familiarise themselves with the screening tools available and establish these screening procedures in their practices.

Screening may also be conducted during the parenting coordination process to ascertain the capacity

of the parents to continue with the process. Parents who are ordered to parenting coordination should also be screened for serious mental health issues or personality disorders as well. A process for screening can be included in the Australian Standards of Practice and relevant information provided on the AAPC website.

33. The Mediator Standards Board (MSB) -

The MSB is responsible for the development of Australian mediator standards and the implementation of the National Mediator Accreditation System (NMAS). The MSB is currently reviewing the new Australian Mediator and Dispute Resolution System (AMDRAS) Standards and there is provision in the draft standards for the creation of different levels of accreditation for mediators. Section 17 of the draft standards refers to a “Specialist Practitioner” and criteria is set out in the standards that have to be met to qualify as a Specialist Practitioner. It is my recommendation that once the new standards are adopted an application be made to the MSB for recognition of PCs under AMDRAS under its Specialist Practitioner program, as a qualification/accreditation in mediation is a pre-requisite to be a PC.

34. A Pilot program in parenting coordination –

I recommend that a parenting coordination pilot program funded by the federal government be developed and run by one of the Family Relationship Centres like Relationships Australia. The FCFCoA should work closely with the FRC and refer parents to parenting coordination. Parents who are economically disadvantaged should be able to access this service. The families referred to the service need to be carefully selected and an inclusion and exclusion criteria set. Successful pilot programs that were government funded have been run in Catalonia in Spain, Quebec and Israel and we can adapt these models in Australia. When setting up the Pilot program we can also draw on the model used by Relationships Australia Western Australia (RAWA) in their Pilot that was successfully run till 2022 and referred to earlier in this report. Upon completion of this new Pilot, I recommend that a comprehensive analysis be undertaken to identify what worked well and then parenting coordination services at a subsidised rate be made available across Australia through the FRCs. I propose that this service be federally funded and made available to families across Australia much like the mediation services that are available through FRCs across Australia. RAWA in their submissions to the Inquiry into the Federal Circuit Court and Family Court of Australia Bill 2018 noted that an important outcome achieved from their Pilot was a reduction in the demand for court services and their discussions with the Family Court of Western Australia indicated that there is consistent need for the parenting coordination program to continue.

35. Funding for parenting coordination -

Supporting families to implement what has been set out in their parenting orders is an area that has long been neglected in Australia as funding from the Federal government has been applied to support services like mediation before litigation. However it is equally important to fund services like parenting coordination so families are supported post orders and parents avoid having to return to court to resolve their disputes. As set out previously the report released by the ALRC set out submissions calling for measures to assist high conflict parents post orders because of the difficulties with non-compliance with parenting orders. Supporting compliance with parenting orders was seen as necessary and was recommended and subsequently even more research has been conducted which further highlights the difficulties faced by parents when trying to implement their parenting orders.

Hence it is critical that the government allocates funding for the implementation of parenting coordination and facilitates the provision of parenting coordination services through the FRCs across Australia so more families under precarious financial circumstances and who are unable to afford the services of a private PC can get access to the government funded service. Having researched best practice in parenting coordination in over seven countries across the world and seen the benefits of utilising the services of a PC to assist parents navigate inter-parental conflict post-orders I will use my

report as well as the knowledge I have gained to advocate and lobby for federal government funding to support the implementation of parenting coordination in Australia.

36. The need for legislation around parenting coordination -

Once the practice of parenting coordination is better established in Australia, legislation needs to be drafted and passed to ensure its success long term. There should also be Regulations setting out the standards for training that have to be completed by those who want to train as PCs. Ideally the qualification for PCs could also be managed by the Attorney General's Department, similar to the process followed for the accreditation of Family Dispute Resolution Practitioners. A list of qualified PCs could then be maintained by the Attorney General's Department.

37. A word of caution when implementing parenting coordination as an alternative dispute resolution process in Australia -

I have seen orders been made appointing a PC after interim parenting orders or the appointment of a PC purely with the consent of the parents without court order and PCs are sometimes also tasked with assisting parents develop parenting plans. It is my recommendation since we are at the stage in Australia where we are introducing parenting coordination as a dispute resolution process and attempting to set up a model that will work well for the courts, the professionals, the parents and vulnerable children, that the PC is appointed after final detailed parenting orders are made and with the consent of the parents.

I take this approach having gained an understanding of the pitfalls of not doing parenting coordination properly from the many conversations I have had with PCs around the world.

To further meet the needs of families who require assistance with managing conflict, addressing parental disputes and developing parenting plans etc while they are still in the litigation process I suggest that professionals set up a separate agreement (not a PC agreement) to assist these parents as parenting coaches.



Dissemination and Implementation

My plan to disseminate my findings focuses on engaging, stakeholders, key organisations and sectors with the capacity to influence action. To this end, I have already leveraged some of my existing stakeholder networks within government and the judiciary in disseminating my findings. Several high-level stakeholders from key sectors have expressed interest in my findings.

This report will be shared directly with key stakeholders including the Chief Justice of the Family Court of Australia the Honourable William Alstergren, the Family Court Judges of The Federal Circuit and Family Court of Australia and Senior Judicial Registrars. I will also continue to share my learnings and recommendations with federal ministers, the Attorney General's department, politicians, government officials, policy makers as well as the Family Relationship Centres across Australia.

I will share my information with the wider legal community in Australia through the law societies in each of the States as well as family law barristers, family lawyers, family mediators, independent children's lawyers and family report writers.

I will provide my report to the professional associations such as the Mediator Standards Board (MSB), the ADRA – Australian Dispute Resolution Association, AIFLAM – Australian Institute of Family Law Arbitrators and Mediators, AMA – Australian Mediation Association, Mediation Institute, Resolution Institution and VADR – Victorian Association for Dispute Resolution. I will also provide my report to key organisations like the Australian Institute of Family Studies, The Family Law Section of the Law Council of Australia and Relationships Australia who have the capacity to influence change and I will continue to engage with them.

I have conducted a few webinars on the topic and there is interest in learning more about my research. I presented my research at the National Mediation Conference in early September 2023 in New Zealand. I will be presenting to groups of judges, lawyers as well as mediators in the upcoming months and have a few appointments lined up already.

In addition to the above I will continue to leverage existing stakeholder networks within the legal and mediation profession and the Victoria Bar to disseminate my findings.

I will run workshops and webinars for the judiciary, lawyers and mediators to provide them with more information and disseminate my findings and will identify upcoming legal conferences and present at these conferences.

I plan to contribute to academic journals, as well as to harness existing and new media connections to contribute to the dissemination of my findings in the public sphere.

I will also use social media channels like Linked In and Instagram to create awareness campaigns on the benefits of parenting coordination.

From an international perspective, I presented my preliminary findings at the Association and Conciliation Courts (AFCC) conference in Los Angeles in May 2023. Many attendees at the conference have sought my findings in order to inform and further develop the practice of parenting coordination in their own jurisdictions. I have connected with international stakeholders over the course of my Fellowship, who are also interested in my findings and my research. International recognition of my findings may also contribute to their credibility within the Australian context.



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