

Evaluation Conference Courts Group

Courts Evaluation session 1 (thurs. Nov. 8)

- any questions?
 - background...to what extent are the courts unified?
- How alternative dispute resolution came to be involved in courts?
- What are the Goals for ADR in the court systems?
 - How did it get institutionalized?

I. Groundwork Discussion on Courts and ADR

- A. district court is the only unified system.
 - 1. some places keep minor stats others don't.
 - 2. what is types of stats are keep.... minimal info.
 - a--no feedback from participants.
 - b--mediation is free.

-Cases are screened before trial and chosen for mediation (district).
- B. circuit courts are not unified
 - 1. each district is independent/ autonomous
 - 2. four major systems... Montgomery, Prince Georges, etc.
- C. Uniform court system is a misnomer.
 - 1. part of the problem is that data needs to be collected separately.
- D. in 1998 family divisions were established in 5 largest jurisdictions.
 - 1. along with a couple of divisions to cover the remaining districts (13-19)
 - 2. individual courts have began to evaluation their family mediation systems in those main divisions.

a--unfortunately lots of these programs where started before the technology was available to take records.

II. State of ADR in court systems

- A. no legislation about alternative dispute resolution in Maryland courts.
 - 1. only a small set of rules and procedures.
- B. there are state wide standards for who can be a mediator.
 - 1. standard forms
 - a--that must be provided to all the courts clerk.
- C. the court can choose to send anything to mediation.
 - 1. each party has the ability to opt out.
 - a--but particular judges can make this more difficult.
 - 2. in custody mediation this can be over ridden.
- D. Court of appeals does not have mediation program.

- E. Alternative dispute resolution started as a means for case reduction.
1. at first there was some opposition from the judges.
 - a--now more judges are gaining a better understanding.
 - b--while some are still not convinced.
 - c--better data would aid Judge Bell in attempting to change the trend
- (above)
- F. Smaller jurisdictions have more trouble implementing alternative dispute resolution because of cost prohibitions.
1. It has taken a long time to get to this point.
 2. Judge Bell has helped act as a catalyst towards the expansion of Alternative dispute resolution.
 3. the judges are vital to the success of alternative dispute resolution.
 4. there are custody programs in every jurisdiction.
 - a--there have been tensions between the non lawyer/ lawyer dynamics in alternative dispute resolution.

who we are addressing:

we are doing this for group B

-certain assumptions need to be made about the goals of alternative dispute resolution.

questions.... *where do these goals come from?(workbook)*

-answers from the alternative dispute resolution commission.

-THREE GOALS FOR GROUP B

1...build unified system

2...improve their programs

3...capture the benefits of their ALTERNATIVE DISPUTE RESOLUTION programs

-what do we have to figure out to accomplish our goals?

-This group does not have to reach a consensus.

-attempting to create ideas to enable group B to reach their goals.

questions based on the workbook page 3....

-what do we need to know about Md.'s court alternative dispute resolution programs?

-how are court programs outside of Md. collecting info?

general questions...

-how is it envisioned over the next year what type of time and frequency will group B meet?

-who is it going to consist of?

-what should group A be doing?

-a lot of this framework should be decided for group B during this conference.

-step 2 (in the workbook) should be changed...

-The info should be gathered by group A and group B should analyze.

-how are we going to find out what the stakeholders want to know?

-stakeholders should be included in the process of developing the evaluation process?

-the people who are going to be using the data.

-what do they want to know?

-what do they want to use the info for?

-it is important to know what the stakeholders want to know.

-the use of surveys would be helpful.

-individual interviews.

-do not bring them to the table (with group B).

III. Who are the stakeholders?

-how do we tap their brains?

A. In order for the programs to survive the stakeholders (those in power- judges & attorneys) need to be taken into consideration.

1. the clients are less vital to the survival of a program.

a--plus they are harder to collect their input at this stage.

B. Identifying the Stakeholders

1. legislatures

a--staff

2. public

3. focus groups

4. researchers of various types

5. program administrators

6. IT folks

7. organizations that have done projects like this one in other fields

8. policymakers (data apprecial)

9. the bench

10. educators

11. trainers

12. attorneys

13. judges

14. client of services

15. different process, different groups

16. diverse communities (social justice)

C. Process to ID stakeholders

1. surveys

IV. Things to Consider in Creating ADR program

A. Looking to create a structure that involves the collection of data that may not be emphasized today but could become more important later down the line.

1. how do we not screw things up for the future.

2. need to take into consideration info that we may not deem important today but could be vital to the success of the programs in the future.

3. how do we capture data that has some permanence?

B. the dynamics of the bench vs the policy makers.

C. justifying the research.

1. justifying the need for the particular info.

2. justifying the costs.

3. there are justifications beyond the money.

- D. one mediator could possibly undermine the process and the programs.
- E. this whole project could be overwhelming if we do not prioritize the importance of each set of goals.
 - 1. along with the prioritize the importance of each of the particular stakeholders we need to determine...
 - a--who are the most important stakeholders to focus on?
- F. what needs to be evaluated can vary based on the particular goals and the particular focus of the various stakeholders.
- G. alternative dispute resolution is an efficient use of resources.
 - 1. therefore the goals and the data set must continue to be concerned with the continuous emphasis on efficient use of resources.
- H. money is not the sole concern for the reasons of pursuing the use of ADR.

SESSION 2

V. Groundwork Discussion on Logistics of ADR program

- A. how to ID stakeholders?
- B. how to organize stakeholders?
 - 1. be wary of conflicting input by too many stakeholders.
- C. is there a need to educate the stakeholders?
- D. group B should be focused on their goal.
 - 2. other stakeholders should be at an advisory level.
 - a--possibly thru the use of surveys.
 - 3. stakeholders advisory groups.
 - a--focus groups of stakeholders w/ specific tasks.
 - 1--tasks i.e. goals of evaluation programs.
- 4. get the stakeholders invested in the overall process while preventing them from becoming a hindrance.
- E. differentiate the process from the task
- F. group B should first prioritize their goals
 - 1. define stakeholders goals (list)
 - 2. have group B refine their stakeholders list.
 - a--what issues presented to each stakeholder group.
 - b--skeptics of alternative dispute resolution should be included.
 - 3. mechanism for reaching out and involving the stakeholders, advisors.
 - 4. work with the stakeholders throughout the process.
- G. what needs to be considered when discussing the goals
 - 1. efficiency as a goal is a dangerous trend.
 - 2. prioritizing the goals is a vital step.
 - 3. it will be hard to develop universal goals.
 - a--there needs to be a cornucopia of goals, in other words a salad@ of goals.
 - the salad should articulate and prioritize the goals for the process.

you can't evaluate if you do not have a solid understanding of what your goals are.

4. data gathering should be inclusive.
 5. we need to think beyond just data.
 6. two lists:
 - a--what is the salad of goals (to pick from)?-provide a second salad (how do other programs use this goals, how do they determine whether you are successful.
 7. what do you want to know?
 - a--what do you want to use the evaluations for?
 - in order to evaluate the programs.
 - b--what tool are going to get us the information?
 8. questions.
 - a--if you achieve your goals what would the outcome be?
 - b--how do you determine whether or not you are successful?c--What authority is there going to be to coax all of the programs to buy into using the same basic set of goals and therefore the same set of methods of evaluation?
 9. There should be a common subset of goals.
 - a--but beyond that there can be more particular goals for particular areas.
 10. should there be consistence between the goals.
 - a--if so how much consistency?
 - b--there needs to be a buy in.
 11. One of the goals should be consistency and uniformity (careful)
 12. the goals are broken down into two categories:
 - qualitative.
 - quantitative.
 13. what should group A want as far as goals are concerned?
- H. What needs to be considered to make ADR universal
1. must be universal reporting tied into funding.
 - a--pull money if systems don't use the process.
 2. if there is success in the use of a particular model overtime the remaining courts will adopt it or buy in the process.
 3. this is the type of language that needs to be used...
 - a--this is the model, this is the pilot.
 4. accountability
 5. it will be easier to maintain consistency the simpler the evaluation process is.
 - this will make the process more reliable.
 6. it is important that the system be able to adapt to the changing needs of the programs.
 - a--how are we going to keep the process aware of changing trends and how the programs adapt to those changes?
- I. what is it that we need?
1. a database that could be accessible.

a--a database that could be used to explore various aspects of the data field.

-may not be possible in all areas in the state.

2. cost benefit analysis.
3. benefits of an integrated system.
4. another option

a--create multiple systems that can in fact communicate between each others

Are the five steps good steps for group B?

-are there other steps that need to be addressed?

-these need to be addressed before we can really make recommendation.

step 1

-getting to the goals

step 2

-getting to the indicators

step 3

-exact tools used to get the indicators

step 4

-how do we implement the goals, how do we make this work (computer systems used, etc.)

-adaptability, promotion

can=t get to 4 until we know what 1-3 are...

-steps 1-3 should be the focus on this summit.

the group should agree on a specific flow.....

-create a time line and determine a end product.

VI. Steps Suggested for Laying Necessary Groundwork for ADR

A. Step 1: Determine Key Goals and Objectives

1. Group A along with others provides group b with:
 - a >salad= of program and evaluation goals
2. group B takes >salad= of program goals to:
 - stakeholder groups (add, prioritize)
3. group B synthesizes results
4. group B chooses key program and evaluation goals
5. strategic planning

B. Step 2: determine key indicators

1. group A (others) educate group B
 - re.... indicators used for key goals
2. it/case management folks educate group B
 - re.... IT realities/possibilities
3. group B picks >salad= of indicators for key goals
4. group B takes >salad= to appropriate stakeholder groups
 - add?
 - prioritize?
5. group B synthesize results

- 6. group B choose indicators for key goals
- C. Step 3: Determine
 - 1. group A (others) educate group B about tools used for collection/extraction
 - 2. IT/ case management folks educate again
 - 3. group B chooses tools
 - 4. group B requests feedback from stakeholders
 - re: proposed tools
 - 5. group B chooses tools
- D. Step 4: Implementation- Present and future
 - roll out (with help from stakeholder groups)
 - educate
 - plan for re-visiting evaluation
 - how use and extract and analyze the data

VII. Who is group B

- A. who is group B?
 - general principal...
 - in any group of stakeholder the person that you most want to invite can also be the one who is the deal breaker.
 - clerks (3 or 4) should be involved (important to the success any program)
 - possible deal breakers.
 - who is going to make the process work?
 - these people need to be represented at some level.
 - AJIS
 - some lawyers
 - what types of lawyers
 - what type of representations
 - public defenders, etc.
 - some judges/ masters
 - students in programs (possible data entry, data collect, etc.) Legwork
 - doesn't need to be represented in group B.
 - ADR coordinators
 - ADR neutrals (i.e.-mediators)
 - legislative representatives, including staff.
 - AOC (administrative office of the courts)
 - OAG (office of attorney general)
 - B. *group B should be dominated by those who are making the decisions*
 - the stakeholders should be represented as voices of the various perspectives
 - C. the particular type of stakeholders could vary depending on the particular emphasis.
 - 1. the suggestion is that subgroups of the above list of stakeholders (pgs. 3-4) be used to emphasis the particular court system.
 - this should be decided by group B.

Advice/suggestions:

- each of the different types of court may need different subgroups.
 - district, civil, family, criminal juvenile, OAH(office of Admin Hearings).
- group B has to be small
 - need to be able to work well together.
 - they will need to decide who they are going to have to consult.
- what kind of buy-in is necessary?
- steer clear of the language of commanding, or saying that group B is in charge of this project.
- should use language that emphasis= the need of influence and input from the stakeholders.
 - what is the product and how do we get here?
 - what is the end product?
- what do we really want from this evaluation process?
 - set up a time line (prior to step one).
 - come up with a end product.
 - evaluation model
 - including tools, the collection, and the presentation.
 - client surveys, attorney surveys, etc.
- considerations should include critics (survey).
- collect only the data that you need.
 - encourage pilot projects.
 - consider conflicting/inconsistent goals.
 - research design consultant should be.
 - what info is already being collected.
 - resources to input information.
 - alternative dispute resolution services include case management plan.
- Abaseline@ data comparisons.
- group B inform itself: Re-MACRO=s mediator qualification.
 - mediators quality tied to program.
 - based on goals and object.
 - what indicators do courts want.
 - how to evolve and grow the evaluation process.
 - does Maryland have a good evaluation model already (possibly in other fields)?

questions:

- in the end what do we want out of the process (say a year done the line)?
 - what is the functions of group B?
 - is group B just setting the policy or is it doing the work or both?
 - got to make sure that we present the policy as a model?
 - why are people choosing not to mediate?

VIII. Brainstorm: what should the goals of ADR be

- A. Evaluation Goals (brainstorm)
 1. consistency (data elements)

- a--understanding notations and language
- b--making the data universal
- 2. simplicity
 - a--for people who administer
 - b--simplicity for those who fill out surveys
 - c--easy to interpret the data
- 3. adaptability to future needs
- 4. desire for integration into existing data collections (in part)
- 5. sustainability of evaluation system
- 6. include the purpose of the evaluation goals
- 7. allow for local flexibility
- 8. perceived response to stakeholders concerns
- 9. burden to parties
- 10. perceived quality of data
- 11. making best use of technology

purpose:

-internal

-external

- 12. accessibility
- 13. efficient measurement system
- 14. creative evaluation processes

B. Program Goals (brainstorm)

- 1. reducing case loads
- 2. increasing public perception
- 3. empowerment
 - a--families as decision makers
- 4. better outcomes(1)
 - a--save time and money
 - value of case
 - b--customize lasting solutions
 - c--preserve relationships
 - d--win-win solutions
 - e--improve conflict resolution skills
 - f--high satisfaction
 - g--perceptions of justice
- 5. improve the courts(2)
 - a--more options
 - b--increase efficiency
 - c--decrease judicial burden
 - d--reduce delays
 - e--improve public trust and confidence
 - f--save time and money
- 6. quality program and process
- 7. decrease # of litigants

- 8. reduce recidivism
- 9. lasting solutions
- 10. quality program management(3)
 - a--effective screening
 - b--quality of mediators
 - c--appropriate assignment
 - d--appropriate orientations/ preparation
 - e--timeliness of ADR event after assignment
 - f--characteristics of mediator
 - 1--underlying professional Response to:
 - the party
 - the program
 - g--distribution to mediators
 - h--payment rates
 - who pays
 - i--time between assignment and ADR event, disposition
 - j--value of complaint
 - k--complexity of complaint

Friday Nov 9 morning session

topics...

-indicators

-tools

-implementation

-we have not talked about the need for a regular revisiting of why these programs have been created in the first place.

-people tend to forget the original purpose for the creation of the field itself.

-to prevent that there needs to be a revisiting of those goals.

-maybe there should be a statement of the fundamental goals of the programs

-question: whether or not we are creating bureaucracy?

IX. Indicators.

A. save time and money (for litigants)[goal]

1. calculation of litigation costs

a--attorney=s fees

b--time

c--expert fees

d--time of filing to time of resolution

e--compare cases referred to mediation and non-mediation

-cases _____

-same types

f--treatment/perceptions of litigants

a--a meeting w/ lawyers

ators (*criminal*)....

b--time to disposition

3. indicators (*civil*)...

a--effect on discovery

4. other things (intervening factors) that impact on time

a--pre-filing mediation.

b--magistrate referrals to mediation.

c--number of types events.

d--do people come back to mediation?

-are people satisfied enough with the process that they will reuse it.

e--number of motions for modification.

-a--disposition

f--physical impact on litigants.

g--number of cases filed.

B. Improve courts (*indicators*)

1. public trust and confidence.

2. to what extent do litigants have >voice=?

a-->voice=...ability to say something, ability to speak their peace.

3. to what extent is their >voice= considered.

4. fair and even handed treatment.

5. dignified and respectful treatment.

6. should be compared to traditional settlement.

a--non ALTERNATIVE DISPUTE RESOLUTION settlement.

-need to know what information is already being collected for non-

ADR.

7. *court efficiency*

a--recidivism/ repeat cases.

b--allocation of resources.

c--settlement rate.

d--time judges spend on the case.

-amount of freed up time the judge non spends on non-ADR cases.

e--time the clerks spend on each case.

-alternative dispute resolution vs non-ADR.

f--number and type of non-trial events.

-motions

-prep timeetc.

h--actual time

i--lapse time

j--number of motions filed

k--compare w/ non-ALTERNATIVE dispute resolution cases

l--number of cases filed

C. Quality programs and management

1. quality mediators (*indicators*)

a--baseline: amount of training.

b--experience.

- c--mediation efficiency.
 - timely manner of filing, etc.
- d--demonstrated capacity.
- e--competencies to mediate.
- f--demonstrated knowledge of area.
- g--number of cases resolved.
- h--party satisfaction.
- i--what happens to case if not resolved thru alternative dispute resolution?
- j--individual settlement rates.
 - compared with overall amount of cases going to trial.
- k-- Aobjective@ monitoring.
- l--post mediation/ pre-trial settlement.
- m--quality of mediator.
- n--mediation process itself.
 - is the mediation process: fair, helpful, respectful?
- o--mediator >actions=
 - suggest settlement.
 - push parties.
- p--peer review boards (suggestion).
 - body of experts.
 - maybe a need for monitoring.
 - deal with complaints against mediators.
 - needed to insure quality of mediators.
 - number of grievances filed.
- q--mediator draw out underlying interests.
- r--professional standards for mediators.
- s--was the issue streamlines or simplified by alternative dispute resolution?
 - were the issues narrowed?
- t--courts look at the agreement and compare them to traditional judicial decree/settlement.
 - *(*may not belong in this category*)
 - how much customization?
- u--who chooses the mediators?
- v--time it takes for mediator to draw up agreement.
- w--party self determination.
- x--attorney satisfaction.

Friday second session.....

X. Tools

- A. electronic data collection.
 - 1. existing and new fields.
- B. screening sheets.

- C. database.
- D. physical observations of mediations.
- E. questionnaires and post mediation surveys.
 - 1. disputations
- 2. attorneys
 - 3. neutrals
- F. survey of attorneys (aside from the mediation process).
- G. in-depth interviews.
 - 1. disputations
 - 2. attorneys
 - 3. pre-mediation interviews
 - 4. post-mediation interviews
 - 5. non-user interviews
- H. report from the mediators themselves.
 - 1. whether it was settled.
 - 2. to what extent it was settled.
 - 3. time spend in the mediation.
- I. mediators have subject expertise.
- J. number of complaints, grievances filed.
- K. docket entry and case file review.
- L. observations by trained court staff (peer mediation).
- M. number and type more informal complaints/grievances that may not be filed.
- N. interviews and/or questionnaires for courtroom staff.
 - 1. clerks, judges, technical people, etc.
- O. context materials
 - courts local rules.
 - case management process.
 - staff dynamics and resources.
- P. program guidelines and expectations.

XI. Agreement Quality

question.....How do you rate the quality of agreement?

- A. random sampling.
- B. judicial voire dir of litigants.
- C. characteristics of agreement.
- D. follow up surveys or post-mediation judicial events.
- E. complaints.
 - 1. i.e. was ADR agreements followed.
- F. longitudinal surveys.
 - 1. re: process and fairness.
- G. richness in the quality of settlements.
 - 1. similar types of cases.
 - 2. Arichness@- customization.
 - i.e: well written, or fall on face.

- H. district court cases.
 - 1. non-attorney.
- I. what is the percentage of ADR case agreements that are approved by the courts.
- J. reporting from follow-up.
 - 1. social work personnel.

XII. Implementation

A. issues:

- 1. re...integration of systems
 - i.e.-database
- B. design of database.
 - 1. change existing.
 - 2. create new.
- C. multiple databases or intergrating existing system
- D. analysis
 - 1. who?
 - 2. what?
 - 3. how?
- E. important to know what is already in the field (as far as programs)
 - 1. who coded it?
 - 2. who funded it?
 - 3. i.e. ability to adapt to current programs
- F. where to store data?
 - 1. who supports?
 - 2. who funds?
- G. develop a spreadsheet and send to program manager.
- H. Asnapshot@ review.
 - 1. case management.
- I. regular data collection vs random data collection.
- J. pilot studies.
- K. who will be able to input the information.
- L. data should be stored in a common data format.
 - 1. adaptability for future.
 - 2. **this is an important place for the stakeholders to be involved/consulted*
- M. is data collection already part of routine/ on-going collections?
- N. consider incentives for folks collecting and entering the data (in a timely fashion).
- O. litigants and attorney=s.
 - 1. ex. Return of portion filling fees.
- P. who sends out surveys.
 - 1. how promoted.
 - 2. letters of endorsement from courts.
- Q. format/ easy and simplicity of survey format.
- R. web-based systems.
- S. public users system.

advice and comments from group A to group B.

- impressed by the commitment from macro, etc.
- group A is not going away..
- don't think of this as an impossible dream.
- some of these things are going to be relatively do-able (others won't be feasible monetarily).
- look for academics to do some of the qualitative data dynamics (as a cost effective means of achieving one's goals)