

COURT IMPROVEMENT FOR CHILD ABUSE AND NEGLECT LITIGATION: WHAT NEXT?^{*i}

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INTRODUCTION

The Court Improvement Program (CIP) is a federal grant program designed to improve the quality of court proceedings in child abuse and neglect cases. Over eight years have passed since CIP was enacted in 1993.ⁱⁱ

State CIP projects have worked to improve child abuse and neglect litigation since the mid 1990s and some have made stunning progress. This article discusses CIP accomplishments, describes continuing barriers to court improvement, and recommends future directions for the program.

CIP projects can help practitioners achieve excellence in various ways. For example, they can reduce delays; improve practitioners' skills and knowledge; and improve workloads, thus allowing practitioners to better prepare for hearings making possible more thorough hearings. Ultimately, court improvement projects strengthen court decisions in child protection cases, thereby improving the lives of abused and neglected children.

This article will provide a national overview of child protection court improvement projects, describe what such projects are doing throughout the country and suggest future directions. In describing CIP accomplishments and new

directions, this article provides examples of CIP activities throughout the United States. Because of space limitations, however, only a few examples are presented. For a more comprehensive description of CIP activities, see D. Rauber, *Court Improvement Progress Report 2002* (ABA).

Key dimensions of CIP efforts include improving timeliness of judicial decisions in abuse and neglect cases, enhancing judicial expertise, improving legal representation quality, refining the judicial process, and upgrading judicial administration. For each topic, this article examines what CIP has achieved in the eight years since its enactment and

Sidebar #1

CIP Basics

Funding

- State CIP projects are funded by federal grants to state courts, supplemented by state funds. Federal authorization for CIP funds appears in Title IV-B of the Social Security Act. 42 U.S.C. §§629f-629h.
- Federal funding goes to the highest court of each state, which administers the CIP funds and directs the project.
- All 50 states plus the District of Columbia and Puerto Rico receive federal CIP grants.
- The amount of the grants is based on a \$85,000 minimum plus additional funds based on the total number of children in the state. In FY 2002, grants ranged from approximately \$99,000 for Wyoming to \$1,071,000 for California.
- In 2002, Congress reauthorized CIP for another five years.

Use of Funds

- Each state has wide discretion in how to use CIP funds. The state must use the funds to improve litigation for abused and neglected children.
- Each state must have a strategic plan for improvement, including a comprehensive new self-assessment of courts' performance in child abuse and neglect cases.

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** Mark Hardin is the director of the National Child Welfare Resource Center on Legal and Judicial Issues at the ABA Center on Children and the Law. The Resource Center is funded by the U.S. Children's Bureau. Views expressed in this article have not been endorsed by the ABA Board of Governors or House of Delegates and therefore do not necessarily reflect official policies of the American Bar Association. In addition, they do not represent the views of the U.S. Department of Health and Human Services, Children's Bureau.

suggests new directions for court improvement.

“Achievements” mean positive changes that have taken root in many courts and appear to have momentum. “New directions” mean changes that show great promise but are challenging or have not yet gained widespread momentum.

TIMING OF DECISION MAKING

Reducing judicial delay was a key goal of the original CIP legislation.ⁱⁱⁱ Reducing judicial delay supports an overall goal of federal foster care legislation and accomplishes two important purposes in child abuse and neglect cases: (1) abused and neglected children are more quickly placed in permanent homes rather than spending large parts of their childhood in unplanned foster care; (2) children are spared painful, frightening uncertainties about their future. That is, while a court hearing and decision is pending, an abused and neglected child may be fearful of the judge’s decision. The delay – although reasonable or necessary to the attorneys and judge – can be highly stressful and seemingly endless to the child.

Current CIP Achievements and Activities

Timelines. Nearly every state CIP project has tightened state deadlines for child abuse and neglect litigation. Many of these efforts have focused on implementing the Adoption and Safe Families Act of 1997 (ASFA), which created tighter deadlines for permanency hearings and set a deadline for filing termination of parental rights petitions. Many CIP projects have led efforts to set deadlines that are stricter than those required by ASFA.

Further, some CIP projects have focused on imposing or shortening deadlines not explicitly required by ASFA. For example, North Dakota has adopted stricter deadlines for adjudication hearings. Others, such as Oregon and Texas, have enacted laws limiting the duration of efforts to reunify children once removed from home.

Continuances. A number of states have tightened criteria and procedures for continuances. For example, a West Virginia court rule bars judges from granting continuances except for compelling reasons, and Oregon law requires special findings when judges grant continuances. Other states have discouraged the use of continuances through training (e.g., Washington) and other states have done so through educational materials such as benchbooks.

Caseflow management. States are also increasingly applying caseflow management principles to child protection cases. For example, a number of projects (e.g., Connecticut, Maine, Georgia, Indiana, Massachusetts, North Carolina, Rhode Island, and Washington) conduct case management conferences before the court hearing to decide whether to grant a temporary custody order. Many local courts have implemented pretrial hearings to speed adjudication and termination of parental rights proceedings.

Judicial compliance. States are increasingly recognizing the need to measure judicial compliance with deadlines. Utah and Michigan enacted laws requiring courts to measure their adherence to deadlines in child abuse and neglect cases. Several jurisdictions, such as Arizona, Colorado, Oregon, and Utah, have made impressive documented improvements in the timeliness of the judicial process.

Appellate process. A number of state appellate courts are working to reduce delays in appeals. These include Alaska, Arkansas, Idaho, Louisiana, Minnesota, Missouri, Ohio, Oklahoma, Rhode Island, South Dakota, Utah, and Wisconsin.

Iowa has sharply reduced the time of appeals, with appeals now typically taking about 3½ months from the trial court order to the appellate decision. To accomplish this, Iowa thoroughly redesigned its appellate process for child protection cases.

New Directions to Improve Timeliness

Automation. A few states are using automated systems to measure judicial timeliness. Arizona is setting up a computerized system to measure timeliness and expects to issue the first reports during 2003. Colorado, Maryland, and Oregon, among others, also have automated systems that generate data on timeliness. Nationwide, however, progress in implementing such measurement is difficult and slow.

Using computers to project future hearing deadlines and inform parties of deadlines is another way courts are avoiding delays. For example, during early hearings, parties are informed when the permanency hearing is due and when, if the family reunification plan does not succeed, the agency will be expected to file a petition for termination of parental rights. Washington state CIP pilot projects have used computers for such purposes.

Cooperative Delay Reduction Projects. Another promising development is cooperative delay reduction projects in which state child protection agencies work with courts, attorneys, and other agencies to identify and correct delays. Such projects have been successful in New York and New Jersey, for example, and some states may initiate them through state Child and Family Service Review (CFSR) Program Improvement Plans (PIPs). Oregon, for example, has included such projects in its PIP.

Comprehensive Deadlines. A logical development in establishing deadlines is to make them complete and systematic for dependency cases. This means (a) establishing deadlines that govern every step of the judicial process, ensuring that there will always be a deadline for the next hearing and (b) setting deadlines for completing as well as initiating hearings. Michigan has gone far in establishing such comprehensive deadlines, setting statutory deadlines for initiating and completing all major stages of the court process in child protection cases.

JUDICIAL EXPERTISE

Child protection cases are complex and share several unique characteristics:

(1) **Unique legal hearings** – typically including shelter care, adjudication, disposition, review, permanency, termination of parental rights, post-termination review, post-termination permanency, and adoption. Each hearing has a distinct purpose and differs procedurally. It takes time, effort, and experience for judges to understand how each hearing should work to achieve positive results for abused and neglected children.

(2) **Serious, complex family problems** – A rough analogy might be that child protection cases are to family law as homicide is to criminal law. Abusive and neglectful parents typically have severe dysfunctions and abused and neglected children typically have acute special needs. It is challenging for agencies, mental health experts, and courts to know whether to try to preserve a family with such dysfunctions and special needs. It takes time and effort for judges to learn how to hear and resolve these issues and to know how such issues should affect decision making at each stage of the process.

(3) **Large bureaucracies** – Not only is the state of local public child protection agency intensively involved, but also other government agencies such as law enforcement, substance abuse treatment, and mental health. Judges have to learn how these bureaucracies function in these cases, to be able to perform their child protection oversight role assigned by Congress and the state legislature.

A key purpose of CIP is to better prepare judges to cope with these complexities. CIP programs in every state have focused on improving judges' understanding of these difficult cases.

Current Achievements and Activities

Growing awareness and appreciation. A striking achievement of CIP is a growing judicial understanding of the challenges of child protection litigation. In courts throughout the United

States, child protection cases are no longer the invisible area of litigation that they were when CIP was first enacted.

Educational opportunities. Because of CIP, a wide range of educational materials on child protection cases is available. There are now benchbooks on child protection law in at least 16 states (e.g., Arkansas, Hawaii, Idaho, Iowa, West Virginia, and Wyoming) and several states produce specialized newsletters (e.g., California, the District of Columbia, Georgia, Maryland, Nebraska, New Mexico, Tennessee, and Wyoming) and reports on child protection laws.

Because of CIP, judges also receive more frequent and consistent training on child protection issues. Nearly every state CIP program is providing more judicial training, and state courts are including more child protection presentations in their judicial education programs than before CIP.

Overall, although increases in judicial expertise are incremental in child protection cases and vary by state and locality, such increases are impressive given the relatively few years since CIP's enactment.

New Directions

Systematic training. To help judges gain expertise, courts need to develop more systematic training. Judicial training programs should ensure all new and experienced judges receive essential information about child protection litigation. State judicial educators can play a role by identifying basic information judges need in child protection cases and by developing a system to give them this information. At the same time, judicial educators can provide more in-depth information for judges who sit exclusively in family or juvenile court.

Specialized judges. Given the complexity of child protection cases, it is desirable to have specialized and highly trained judges to hear them. Several states are developing statewide family courts. In Texas rural areas, most child protection cases are now heard in "cluster courts," by judges who specialize in child protection cases. There is not yet a clear

national trend toward specialized judges hearing child protection cases, however.

Specialized dockets. A number of courts (e.g., in Montana, Nevada, and San Diego) are experimenting with sub-specialized "problem solving court" dockets such as "family [child protection] drug courts" and "mental health courts." In drug court experiments, a judge sets aside a period of time to hear child abuse or neglect cases involving parents whose substance abuse led them to abuse or neglect their children. Careful evaluation of these and other specialized courts are needed to determine their effectiveness.

LEGAL REPRESENTATION

Advocates largely control the flow of information to the court. Advocates present testimony, frame issues, and present arguments to the court. Without diligent, skilled attorneys, the court misses vital facts and does not consider important legal and factual arguments. In short, it is very difficult for judges to make sound, timely decisions without competent attorneys.

Attorneys need knowledge, motivation, and time to present the cases properly. Because family problems are generally tangled and complex, the attorney, like the judge, needs to understand the basic language and concepts used by social workers and mental health professionals. The attorney must spend time investigating cases and arrange expert testimony when needed.

Unfortunately, many judicial self-assessments conducted in the late 1990s demonstrated significant deficiencies in the quality of legal representation in child protection cases. Some assessments reported that attorneys were frequently unprepared, took too little time to present their cases, and were replaced by other attorneys while cases were pending.^{iv}

Current Achievements and Activities

Training and mentoring. State courts are expanding their training and mentoring for attorneys handling child protection cases. Nearly every state CIP provides training for attorneys. The number of attorneys interested and

committed to child protection cases is also rising. CIP activities, by increasing the visibility of dependency practice, are contributing to this trend.

Many courts mandate training for court appointed attorneys. For example, many attorneys must participate in training to remain eligible for paid court appointments to represent parents and children. In some courts, such as in Massachusetts, San Francisco, and West Virginia, attorneys must assist a more experienced attorney in child protection cases before becoming eligible for such appointments.

Children’s attorney standards. A number of states’ CIP projects have developed standards for children’s attorneys in child protection cases and this trend continues. Among these states are Arizona, Arkansas, California, Delaware, Florida, Georgia, Iowa, Kentucky, Louisiana, Maine, Maryland, Ohio, Oregon, Tennessee, Virginia, Washington, West Virginia, Wisconsin, and the District of Columbia. The standards for children’s attorneys specifically describe good practice in child protection cases.

Representation of all parties. Other projects have worked to make sure parties are represented at all stages of the court process. Some states, such as Florida, have taken steps to ensure that agency caseworkers do not have to represent themselves in important court hearings and others, such as Connecticut, ensure that indigent parents and children are represented at the critical initial emergency removal (“shelter care”) hearing.

New Directions

Parent and agency attorney standards. A few states are developing standards for parents’ and government attorneys in child protection cases. For example, Oregon has standards for parents’ attorneys, Georgia has developed guidelines for government attorneys, and the District of Columbia recently adopted standards for attorneys representing parents, children, and agencies. California law requires counties to develop standards.

Contracts. Another important development in improving the quality of legal representation is to more purposefully use contracts for such representation. Most states and counties that contract for attorneys to represent parents, children, or child protection agencies specify only that they are to provide legal representation.

Contracts for legal representation can go farther. They can specify minimum requirements for attorneys in representing their clients, as in Arkansas and Maryland as well as in Santa Clara and San Diego Counties, California. They can provide for judicial or peer oversight of attorney performance, as in San Francisco. They can also require attorneys for children and parents to meet with their clients before the day a case comes to court, and can specify minimum requirements for case preparation.^v

Law office management. Law offices for attorneys handling child protection cases can do much to improve legal representation. Better recruiting and hiring practices, stronger supervision and support, more methodical performance evaluation for attorneys, career tracks in child protection, and better pay and working conditions can make a great difference.^{vi}

Attorney ethics. Ethical guidance to attorneys can help clarify the outer limits of professional behavior in child protection cases. This includes ethics training and materials and bar association enforcement activities in extreme cases. If an attorney fails to take minimal steps to competently represent a child, parent, or agency, there should be practical consequences for such failure.

Compensation. It is difficult to expect full and competent representation by attorneys when compensation is grossly inadequate. There is great unevenness in attorney compensation in the United States, with some jurisdictions paying enough to attract and retain competent attorneys.

IMPROVED JUDICIAL PROCEDURES IN CHILD PROTECTION CASES

Over the last 25 years, the role of courts in child protection cases has changed dramatically. Court procedures have not always kept up with this new role, however. While Congress and state legislatures have directed courts to ensure timely permanent homes for abused and neglected children, most states have not developed procedures for judicial “permanency” hearings to help ensure a thorough and decisive process.^{vii} Likewise, while courts are directed to review case progress, many states have failed to organize review hearings to effectively provide such oversight. While courts have increasingly become involved in decisions affecting the rights of parents and children, procedural protections have remained underdeveloped.

In addition, in many courts, dependency cases still lack essential procedural protections for the parties. For example, parties – most notably noncustodial and putative fathers – do not consistently receive notice of the proceedings or have an opportunity to participate.

Current Achievements and Activities

National Standards. A major achievement of CIP is that there are now widely accepted, comprehensive national standards for child protection litigation, *i.e.*, the *Resource Guidelines: Improving Court Practice in Child Abuse and Neglect Cases* (NCJFCJ 1995). CIP has played a major role in advancing national acceptance of the *Resource Guidelines*.

The *Resource Guidelines* describe how to conduct hearing; outline characteristics of the judicial process that transcend specific hearing types; and address a wide range of important procedural issues, such as notice, who should be present, advice of rights, key judicial findings, and issues to address at different hearings.

State CIP projects have supported a variety of activities to implement the *Resource Guidelines*, such as incorporating key parts of the *Guidelines*

into benchbooks and procedural guides, and adapting judicial checklists from the *Guidelines*. Notably, New Hampshire has combined into a comprehensive manual of protocols, the *Resource Guidelines*, *ABA Sample Court Rules for Abuse and Neglect Cases*, and ASFA requirements. Missouri's pilot courts were specifically designed to implement the *Resource Guidelines*. Minnesota and Missouri have developed checklists for judges, patterned in part after the *Resource Guidelines*.

Laws and court rules. Most state court systems have improved laws or developed new court rules to improve the quality and sophistication of judicial procedure. Examples include:

- Earlier and more complete hearings following children's removal from home as recommended by the Resource Guidelines (Arizona and Philadelphia).
- Notice to noncustodial parents and putative fathers when children are placed in foster care (Massachusetts, Idaho, and Michigan).
- Timely steps to resolve paternity when a child enters state foster care (New Jersey).
- More complete and accurate judicial findings following hearings. This creates a clearer record upon which to make decisions later in the judicial process.
- Judicial forms designed to reinforce good practice in child protection cases. Such forms remind agencies, attorneys, and judges to address key issues in different types of hearings, and encourage judges to make a record of their key findings and decisions.

Finally, many state CIP projects are experimenting with mediation and increased involvement of extended families in case decisions (family group conferences). In some courts, as in Hawaii and Santa Clara, California, these experiments are being carefully evaluated, using such social science principles as the random case assignment and statistical evaluation of case results.

New Directions in Improving *Judicial Procedures*

Courts are beginning to develop and use electronic court forms, which both reinforce good practice and allow flexibility for individual case differences. Such forms also make it easier to prepare court orders rapidly and to distribute them while the parties remain in the courthouse after a hearing. For example, West Virginia has developed and piloted software for this purpose and the court in San Antonio Texas has used electronic court forms for this purpose.

In the future, electronic court forms should include templates allowing electronic filing of documents in child protection cases and avoiding the need to retype information already known to the court.

On-line bench books eventually should complement electronic forms. Such bench books will include automated reminders of deadlines and of the issues to address at each hearing.

IMPROVED JUDICIAL ADMINISTRATION

The role of courts in child protection cases in recent years is expanding. Courts must review and monitor the progress of child protection cases and make timely decisions in child protection cases. In addition, because courts interact constantly with child welfare agencies and with other key governmental and private agencies, court staff must meet with them to work out efficient processes for such things as scheduling hearings, subpoenaing witnesses, and receiving and reviewing court reports.

Changes in judicial administration are needed to enable courts to fulfill these new responsibilities. Accomplishing these tasks requires new administrative duties and job descriptions for court staff, as well as new administrative responsibilities for judges.

Current Achievements and Activities

Coordination with agencies. Many courts are expanding their coordination with child protection agencies and other

entities in addressing mutual logistical and administrative issues. California's judicial standards explicitly call for this type of cooperation.

Some courts have encouraged agencies to locate critical services at or near the court. For example, in Louisville, Kentucky, drug testing and child support referrals are available before parents leave the courthouse.

Assessments. Another critical development is that more courts are evaluating their performance in child protection cases, starting with the judicial self-assessments in the late 1990s. These self-assessments may cover a range of performance areas, including timeliness, legal representation, judicial expertise, procedural fairness, and considerate treatment of persons appearing before the court.

Recent self-evaluation has occurred, for example, in Utah (statewide), Kansas (statewide), Missouri (pilot courts), Virginia (statewide), and Colorado (pilot family courts). A number of other state courts have worked with the state agencies in examining specific cases to prepare for the state's Child and Family Services Review (CFRS). See sidebar.

A recent federal Program Instruction requires all state CIP projects to comprehensively reassess their progress in improving court performance in child protection cases since the earlier self-assessments in the late 1990s.^{viii}

Improved information for parties. Many courts have taken concrete steps to make sure parties better understand the court process. For example, Illinois and Iowa have produced brief materials explaining the court process to parents in English and Spanish. California, Maine, New Mexico, and Tennessee, among others, have produced materials for children. Vermont, Georgia, Tennessee, Minnesota, Mississippi, and Montana have produced videotapes explaining the court process.

New Directions in Judicial Administration

Quality assurance. Quality assurance – regular and periodic

evaluation of court proceedings – is essential for courts that want to consolidate and continue their improvement process.

In Arizona, the state CIP project is going beyond occasional self-assessment to establish quality assurance. A team of individuals from the Administrative Office of the Courts regularly travels to various courts to review compliance with rules, timelines, and statutes. Other states, such as Virginia, use a combination of statistics on court performance and teams to help local courts interpret the numbers, evaluate their practices, and identify needed improvements.

Improved workload analysis.

Courts have increasingly recognized the need for improved workload analysis – to determine how many judges, how many attorneys, and the numbers and types of court staff needed to fulfill national standards and to improve performance. Procedures, calculations, and standards are needed to objectively determine workload needs, taking into consideration both in-court and out-of-court time. Without objective and defensible standards for determining workload needs, it will be hard for courts to achieve excellence as described in the *Resource Guidelines*

Long-range vision for the courts.

Courts need a clear picture (“vision”) concerning the long-term objectives and directions of court improvement. Because raising the a court process to the level described in the *Resource Guidelines* is hard, there is a risk that such vision will fade. Courts can compromise their vision of the future is by concluding desirable changes are not really “needed,” impractical, or politically too difficult to achieve.

Minnesota courts are developing and implementing their vision of court improvement through their Children’s Justice Initiative. The Chief Justice has joined with the Commissioner of the Department of Human Services to set new goals in child welfare. To help accomplish this, the Chief Justice has designated a lead judge in 28 counties, and in turn, each lead judge has developed a multidisciplinary team to identify needs and improvements. The Children’s

Justice Initiative will be phased into all counties by 2005.

One key to establishing a vision for the courts is making explicit long-term plans for change and closely linking CIP efforts to these plans. In Minnesota, each county “Action Plan,” must follow a state template, which includes expectations regarding many practices set forth in the *Resource Guidelines*. Part of this planning also includes the uniform collection of data for each county, to be used in planning and evaluation.

Such long-range planning stands in sharp contrast to the practice of simply using CIP funds to pay for discrete small projects that are not designed to grapple with fundamental flaws in the court process. For example, instead of establishing small local “add on” projects that do not challenge current weaknesses in the court process, a state CIP should focus on its highest priorities.

The recent federal Program Instruction requires all CIP projects to engage in comprehensive strategic planning.

Another key part of long-range CIP planning is participation in federal-state Child and Family Services Reviews (CFSRs), which are comprehensive

reviews of overall state performance in child welfare. CFSRs, which began in the last several years, are important to CIP for several reasons: (a) CFSRs measure the performance of the state as a whole, including the courts as well as executive branch agencies; CFSRs will play a central role in reforming state child abuse and neglect interventions therefore will have an important influence on child abuse and neglect litigation; and (c) CIP legislation requires the courts to participate in Program Improvement Plans (PIPs) developed through the state CFSR. A number of CIP projects, such as Arkansas and Oregon, have played a significant role in their state’s CFSR.

The recent federal Program Instruction requires CIP projects to take CFSR findings into account in developing their own strategic plans. The Program Instruction also directs CIP projects to work toward CFSR outcomes related to children’s safety, permanency, and well being. Finally, the Program Instruction directs CIP projects to include in their own planning, court-related portions of the state’s PIP.

Sidebar #2

Involvement of State CIP Projects in Child and Family Services Reviews (CFSRs)

- Child and Family Services Reviews (CFSRs) are comprehensive federal reviews of state performance in child welfare.
- CFSRs are important to courts because:
 - CFSRs measure the performance of the state as a whole, including the courts and executive branch agencies
 - CFSRs play a central role in federal and state efforts to reform state child abuse and neglect interventions and therefore will have a substantial impact on child abuse and neglect litigation
 - In the 2002 reauthorization of CIP, Congress called upon the courts to participate in Program Improvement Plans (PIPs) developed through the state CFSR, as the courts “deem necessary.”
 - A recent federal Program Instruction outlines how courts should consider CFSR findings in developing strategic plans.

For more information about the role of courts in CFSRs see Hardin, *Child and Family Services Reviews (CFSRs): How Judges, Court Administrators, and Attorneys Should Be Involved* (ABA 2002), online at <http://www.abanet.org/child/rcfji/cfsr1.pdf>; reprinted in 5 Child CourtWorks, Issues 2, 3, and 4 (ABA, March, April, May 2002). Contact Yvonne Brunot, American Bar Association, 740 15th Street, NW, Washington, DC 20005; telephone 202/662-1746; fax 202/662-1755; e-mail: brunoty@staff.abanet.org.

When the economy inevitably improves, it will become possible in many states to secure resources for improving child protection litigation without taking away resources for other court proceedings. Achieving this will require both a strong vision for change and strong support from both inside and outside the judicial system. This, in turn, requires maintaining and strengthening partnerships with the child protection agency and the community.

Improved technology. Courts can use new technology to redesign internal processes. This may include routinely developing data for performance measurement as discussed above and

using computers to schedule and prepare court calendars, track cases, electronically file and transmit orders, and exchange data with other entities. To use automation more effectively, state CIP projects need to hire experts in the court process to determine the courts' technology needs in child protection cases. Such experts need not be experts in technology, but must be given time to identify the court's technology needs, learn basics about technology, and work closely with the court's information technology experts.

Cost effectiveness. Since CIP was enacted in 1993, very little has been done to focus on the cost effectiveness of

various court reforms. Documenting cost effectiveness is a useful way to improve efficiency and argue for needed court funding. Areas that should be studied include:

- Efficient use of court staff.
- How the organization of dockets affects the time and costs of attorneys and child protection agency staff.
- Cost savings of alternative dispute resolution in child protection cases.
- Costs savings for agencies resulting from court reforms that speed termination parental rights and adoption.

Sidebar #3

More Information About Court Improvement Activities

While this article describes many impressive examples of state and local CIP activities, there are far more examples than there was space to mention. The following sources provide further information about state and local CIP activities, as well as materials produced by CIP projects:

- **Child CourtWorks.** The National Child Welfare Resource Center on Legal and Judicial Issues (*Resource Center*) produces this free newsletter, which describes important new developments in court improvement. To subscribe, contact Lisa Waxler, 202/662-1743; fax 202/662-1755; e-mail: waxlerl@staff.abanet.org.
- **Annual Court Improvement Progress Reports** – an annual report summarizing state and national CIP activities over the previous year. Past reports are available in hard copy and future reports will be available both online and in hard copies.
- **Court Improvement Catalog.** The *Resource Center* collects and summarizes materials produced by CIP projects that are of interest to other states. Summaries of these materials are available online, both by state and subject matter, at <http://www.abanet.org/child/cipcatalog/home.html>. For many of the summarized materials, the catalog provides direct links, enabling the user to download them. For others, the catalog provides directions for ordering copies.
- **Court Improvement Website.** The *Resource Center* maintains a webpage at <http://www.abanet.org/child/rc/ij/home.html> with online articles, federal laws and regulations, publications lists and ordering information, links, descriptions of services available from the *Resource Center*, and other information. There is a special webpage on court improvement, which has many online court improvement articles. Its web address is <http://www.abanet.org/child/courtimp.html>.
- **Child-court Listserve Group.** The *Resource Center* operates a large national listserv group named child-court, which exclusively discusses court improvement for child abuse and neglect litigation. While membership in this group is open, all messages are prescreened, so that only messages with substantive information regarding court improvement are sent to the group. To join child-court on line, go to <http://www.abanet.org/child/discussion.html> or e-mail Yvonne Brunot at brunoty@staff.abanet.org and ask to join.
- **Child-case Listserve Group.** The *Resource Center* also operates a national listserv group named child-case, which, unlike child-court, discusses individual case situations and technical legal issues related to child abuse and neglect litigation. Membership in this group is open only to attorneys and judges. To join child-court on line, go to <http://www.abanet.org/child/discussion.html> or e-mail Yvonne Brunot at brunoty@staff.abanet.org and ask to join.
- **United States Children's Bureau.** The United States Children's Bureau, which is part of the U.S. Department of Health and Human Services, administers CIP. Among other things, the website includes information about CIP and CFRs and the text of federal regulations and written policies. The Children's Bureau website address is <http://www.acf.dhhs.gov/programs/cb/programs/index.htm>.

CONCLUSION

What is Excellence?

Excellence in child protection cases is no mystery. Here are some obvious features:

1. Timeliness – courts promptly schedule hearings, complete them without delay, and make timely ultimate decisions in each case.
2. Skilled and knowledgeable practitioners – imagine a patent tribunal where judges and attorneys knew little or nothing about patent law and basic engineering principles.
3. Thoroughness – parties have the full opportunity to present their views, the court touches on all key issues, and the judge effectively communicates his or her decisions to the parties.
4. Procedural fairness – all parties receive timely notice, all have competent representation, and courts apply fair rules of evidence.
5. Fair treatment of parties – all receive courteous treatment, hearings occur

when scheduled, parties receive understandable information about the court process, communication in court is clear, and there are decent facilities for courtrooms and waiting rooms.

Many courts have progressed in these areas through CIP efforts, yet there is still much to do. In fact, courts such as those in Cincinnati and Grand Rapids, Michigan have demonstrated excellence in many ways. Achieving *state and national* excellence will require close attention to infrastructure issues, sufficient resources, and strong support from within and outside the court system.

An Overview Of Judicial Advances to Achieve Excellence

The following is a short list of key judicial advances to achieve excellence in child protection litigation:

- Quality assurance through periodic automated and qualitative performance measurement.

- Demonstration programs that receive enough funds to show results and be scientifically evaluated.
- Workable workload calculations and standards for judges and attorneys.
- Job and task descriptions for court staff accompanied by workload standards and calculations.
- Long-range planning to achieve excellence.
- Systematic approaches to achieve excellence in legal representation.
- Improved cost-effectiveness analysis of court improvement.
- Increased specialization and stability of judges, who are selected in large part based on their skills and knowledge related to child protection litigation.

Every one of these reforms is practical. Abused and neglected children deserve all of them and more.

ⁱ Information for this article is based on a variety of sources. First, during the early years of the CIP, when state courts were conducting their self-assessments, the National Child Welfare Resource Center for Legal and Judicial Issues prepared a compendium and analysis of self-assessment findings. (The Resource Center is an activity of the ABA Center on Children and the Law and is funded by the U.S. Children's Bureau.) Second, for the last five years, the Resource Center has interviewed all state CIP directors and has prepared a report on the progress of every state CIP program. Third, we systematically collect and disseminate materials developed by CIP projects. Fourth, staff of the Resource Center, including the author, provides training and consultation to state courts throughout the United States. In the course of our training and consultation, we are able to observe a wide range of CIP efforts.

ⁱⁱ Public Law 103-66, Omnibus Budget Reconciliation Act §§13711-13712.

ⁱⁱⁱ House Conf. Rep. No. 103-213, U.S. Code Cong. & Ad. News 1993, 103rd Cong., 1st Sess., Vol. 3, 1530-1533.

^{iv} M. Hardin, D. Boyd Rauber, & R. Lancour, *Volume 1, Representing Clients, State Court Assessments 1995-1998 Dependency Proceedings* 33-39 (ABA 1999).

^v See Sanders, *Using Contracts to Improve Representation of Parents and Children*, 5 Child CourtWorks, Issue 6 (ABA, November, 2002).

^{vi} See generally, M. Laver, *Foundations for Success: Strengthening Your Agency Attorney Office* (ABA 1999).

^{vii} See, e.g., M. Hardin, *Improving Permanency Hearings: Sample Court Reports and Orders* (ABA 1999, 2002).

^{viii} U.S. Department Of Health And Human Services, Administration on Children, Youth and Families, Program Instruction ACYF-CB-PI-03-04 (March 28, 2003).