

Improving juvenile dependency courts

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ABSTRACT

New federal support for improvement in the handling of child welfare cases has made it possible for juvenile and family court judges to assess how well courts are implementing the Adoption Assistance and Child Welfare Act of 1980. This article first describes the purposes of the Act, and then suggest 23 steps to consider in attempts to improve the court process.

With the passage of the Family Preservation And Support Act, also known as the Federal Omnibus Budget Reconciliation Act of 1993,¹ juvenile courts across the country have had a unique opportunity to assess their operations and make improvements in the way child welfare cases are

administered. This legislation marks the first time since the passage of The Adoption Assistance and Child Welfare Act of 1980 (the Act)² that courts will have supplementary funding and technical assistance to examine whether implementation of the Act can be improved.

This article first describes the purposes of the Act. It then suggests 23 steps which each juvenile court system should consider when evaluating its operations and making decisions about what changes will improve the court process.

Congress passed the Act in 1980 in response to congress-

sional findings that the child welfare system was serving neither children nor families well. Congressional hearings revealed that children were often unnecessarily removed from parental care, that insufficient resources were devoted to reuniting children with their families,

and that for those children who were unable to return to their parents' custody, permanent homes were seldom found.³ Instead, many of those children drifted from foster placement to foster placement never finding a permanent home.⁴

Congress' response was to promulgate the Act. Its major tenets are as follows:

1. To qualify for federal funding, a state must prepare a state plan describing the services it will provide to prevent a child's removal from parental custody and to

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reunite parents with their children after removal.⁵ The plan must include a provision that the social service agency will make foster care maintenance payments in accordance with section 472 of the Act.

2. The social service agency must provide services to prevent removal of a child from parental custody and to reunite a removed child with a parent or guardian.⁶
3. When a child is involuntarily removed from parental custody, the juvenile court must make a finding that continued placement of the child with the parent or guardian would be contrary to the child's welfare.⁷
4. The juvenile court must make "reasonable efforts" findings in each removal case, indicating whether the state has, in fact, provided services to eliminate the need for removing the child from the parent.⁸
5. The juvenile court must also determine whether the state has made "reasonable efforts" to enable a removed child to be reunited with his family.⁹
6. The juvenile court must determine whether the agency developed a case plan to ensure the child's placement in the least restrictive, most family-like setting available in close proximity to the parent's home, consistent with the best interests and needs of the child.¹⁰
7. The juvenile court or administrative review board must review a foster child's status at least once every six months. At each review the court or administrative body must determine the continuing need for and appropriateness of placement, the extent of compliance with the case plan, and the progress which has been made toward alleviating or mitigating the causes necessitating placement in foster care. The court or administrative body must also project a likely date by which the child may be returned home or placed for adoption or legal guardianship.¹¹
8. The juvenile court must hold a hearing no later than 18 months after the original out-of-home placement to determine a permanent plan for the child. The court must determine whether the child should be returned to the parent, should continue in foster care, should be placed for adoption, or should (because of the child's special needs or circumstances) be continued in foster care on a permanent or long term basis.¹²
9. The juvenile court must also assure that these judicial determinations are made in a timely fashion. The invol-

untary removal of a child must be reviewed, usually within 48 or 72 hours. Thereafter, the status of the child must be reviewed at least every six months. The child must be returned home or have a permanent plan (adoption, guardianship or long term care) in place within 18 months of the removal.¹³

10. The juvenile court must approve any voluntary, non-judicial foster placement within 180 days of the original placement.¹⁴
11. The juvenile court must ensure that parents are provided procedural safeguards when their children are removed from the home or are moved into different foster homes.¹⁵

The Act places major new responsibilities upon juvenile courts requiring them to oversee child welfare cases more rigorously than ever before. In order to implement the Act, juvenile court judges need to understand the workings of social service agencies and be aware of the ways in which social services are delivered in their communities.¹⁶ Moreover, the Act places increased demands upon juvenile court resources. The number of hearings relating to child welfare cases has expanded dramatically in the nation's juvenile courts.¹⁷ In some jurisdictions abuse and neglect calendars take up as many judicial hours as juvenile delinquency calendars.¹⁸

Now, 17 years after passage of the Act, certain principles and insights have emerged which seem to form the foundation of a successful abuse and neglect court. These principles and insights are discussed below, comprising 23 steps for court improvement. Efforts to improve court operations should include consideration of each of these principles.

These principles, however, must be reviewed within the context of the purposes of our child welfare system as expressed in the tenets of the Act listed above.¹⁹ The Act rests upon the assumption that courts are necessary for the oversight of agency intervention into families where child abuse or neglect is alleged.

There are many reasons why court oversight of child welfare cases appears appropriate.²⁰ First, the court system is arguably our best check to ensure that significant societal decisions are made within legal guidelines. Removing children from parents, deciding whether there has been abuse

or neglect, returning children to their families, and terminating parental rights are critical societal decisions. Courts can oversee these decisions, ensuring that children and their families are fairly treated.

Second, child welfare cases often involve the temporary transfer of legal responsibility for the child to a non-parent. The creation and dissolution of legal rights and responsibilities relating to child custody is legal work requiring court oversight.

Third, when children are removed from their parents, they have a right to be raised in a family-like setting. The framers of the Act recognized that social service agencies are not capable of ensuring that goal. The courts, on the other hand, have demonstrated that they are capable of monitoring the progress of children in out-of-home care and making certain that children's needs are met in a timely fashion.

Fourth, parents sometimes do not acknowledge their need for improved performance in caring for their children. The courts can explain parental responsibilities and provide direction for parents who wish to have their children returned to them. Court authority is greater and more effective than any the social service agency can provide.²¹

Fifth, there has been intense public criticism of alleged social worker aggressiveness and over-reaching.²² The juvenile court is society's designated check to make certain that children are not improperly removed, that parents are provided with due process, and that families are fairly treated. The court, unlike a social service agency, is more visible and accountable to the public in performing these functions.

Sixth, the reasonable efforts provision of the Act has enabled the court to be an effective monitor of agency performance. Agency compliance with timely and effective service delivery to families frequently falls below standards set by the Act.²³ The court, however, under the Act's direction, ensures that agencies use reasonable efforts in providing services so that children will not be removed unnecessarily and that once removed, they can be promptly and safely returned to their parents.

Seventh, it is an important role of the court to meet the goals of the Act within statutory time limits. Parents and children need to have immediate review of agency decisions to remove a child; they also need a setting in which allegations of abuse and neglect can be carefully reviewed. When children cannot be returned to their parents within the legal

time limits of 6 to 18 months, children need a permanent home promptly. Courts can provide an effective means of accomplishing these goals.

Participants in the court process acknowledge that while courts serve important functions, court proceedings can also be counter-productive, unpleasant, and even traumatic to children and to their families.²⁴

First, the court system is very expensive. Communities utilize scarce resources to fund the court process, resources which might better be utilized providing social services to families.

Second, the court process takes time, often inordinate amounts of time. Crowded dockets and under-resourced court systems mean that participants wait for their court hearings over long periods of time often only to find that the case must be continued. Social worker preparation and participation in court hearings takes precious time away from providing professional services. Waiting can be more than an inconvenience; it can mean the loss of time at work for parents or school for children.

Third, legal professionals who make decisions within the court process may not have the clinical skills or expertise to make good decisions about the child and family.²⁵

Fourth, the court process brings its own forms of abuse to family members. Children and families can be interviewed numerous times by various professionals.²⁶ These professionals, through investigations and evaluations, can discount family strengths and weaken families. Moreover, court delays can leave families helpless to get on with their lives. A proper balance is necessary. While court involvement in child welfare cases is necessary, it should be guided by a purposeful examination of all aspects of the court process.

The following 23 steps for court improvement will ensure that courts operate effectively and efficiently without further abusing the children and families they are meant to serve.²⁷

STEP 1 — State legislatures, supreme courts, and judicial councils should ensure that juvenile court judges have equal status within the judicial hierarchy as judges of the highest ranked trial court. This status is necessary to attract qualified jurists who are willing to spend a substantial part of their judicial careers working in the juvenile court.²⁸

The significant challenges facing the nation's juvenile courts as a result of the Act and the complex and compelling demands of this workload require a qualified juvenile court bench, with judges committed to remaining in the juvenile court for substantial periods of time. Child welfare cases can last for many years and the juvenile court's judicial and administrative duties in these cases require consistent attention and leadership over long periods of time.²⁹ In order to ensure that highly qualified judges preside over these cases, state legislatures, supreme courts, and judicial councils must affirm the importance of juvenile court judges by including them in the highest rank of state court trial judges.³⁰ Similarly, presiding and administrative judges must give careful attention to the needs of the juvenile court, affirm the high status of those who sit in the court, and assign to this court their ablest jurists. That status will increase the probability that these judges will remain in the assignment for sufficiently long periods of time.³¹

STEP 2 — Legislators, supreme courts, judicial councils, presiding trial court judges, and other governmental leaders must ensure that adequate numbers of judges and administrative staff are available to hear juvenile court cases within each jurisdiction such that each case receives sufficient time to be heard fully.

Many juvenile courts are understaffed judicially and administratively.³² In order to complete the demanding work of the court, there must be enough judicial officers so that each case can be fully heard in a timely fashion. Based on the ratio of judges to cases, courts with the least resources have the longest case processing times.³³ It is also difficult to estimate the time courts must allocate in scheduling each of the various hearings in child welfare cases. Recently the National Council of Juvenile and Family Court Judges completed a thorough time study of abuse and neglect cases in several jurisdictions. The results are summarized in "RESOURCE GUIDELINES: Improving Court Practice in Child Abuse & Neglect Cases," a reference book which should be utilized by every juvenile court in the country.³⁴

In summary, the GUIDELINES recommend that a juvenile court allocate one full time judicial officer for every 200 to 250 filings each year.³⁵ This allocation of judicial resources permits the juvenile court to calendar cases with

the expectation that the court can hear each case on schedule and give each case adequate attention.³⁶ Additionally, the GUIDELINES indicate that juvenile courts need to have adequate administrative staff.³⁷ Court systems should compare their own allocation of judicial resources to those recommended by the guidelines publication.³⁸

The GUIDELINES also offer examples of how hearings should be conducted, the time which should be allocated for each court hearing, and the number of judicial officers necessary to operate the court effectively.³⁹ A number of jurisdictions follow the GUIDELINES while other jurisdictions are either considering their adoption or have identified them as a goal for their court improvement efforts.⁴⁰

Juvenile court judges cannot accomplish the goals set out in the RESOURCE GUIDELINES without adequate staffing. Courts are not run by judges alone. In addition to the traditional courtroom team of a judge, bailiff, clerk and/or secretary, there should be adequate staff to address fiscal, managerial, facility, and data collection issues. In the best juvenile courts, administrative staff address the goals of the juvenile court as a part of their daily work. In Kent County, Michigan, the juvenile court has created a Permanency Planning Department as part of its court administration.⁴¹ Headed by Supervisor Ron Apol, the department focuses on the issue of permanency for children. Mr. Apol and the Permanency Planning Department staff meet with other persons within the child welfare system to deal with gaps identified either through court hearings, data collection, or suggestions from judges and others. They consult with judicial officers, social workers, court administrators, and service providers, and help coordinate training for all participants in the child welfare court process.

Mr. Apol notes, "As the supervisor of this department it is my responsibility to oversee court/judicial activity in neglect/abuse cases, to monitor/review agency treatment efforts, and to initiate policy and programming for temporary and permanent wards that will ensure permanency for children. The most important role and function of this department as it relates to foster care is to be accessible and to assertively address any issue or barrier that impedes either a child's return home or termination of parental rights and adoptive placement."⁴²

Some juvenile courts are so under-resourced that their court administrators and other governmental leaders will not

be able to consider implementation of the GUIDELINES at this time.⁴³ However, as more and more jurisdictions adopt the GUIDELINES and acknowledge the importance of giving adequate attention to each child welfare case,⁴⁴ the GUIDELINES should become the national standard for the allocation of resources to abuse and neglect courts.

STEP 3 — Judges should encourage social service agencies to establish protocols which permit parents to receive voluntary in-home services or, in appropriate cases, out-of-home placement services prior to the filing of a formal petition. By creating a period of time prior to the filing of an abuse and neglect petition, the social services agency has the opportunity to offer intensive services to a family in an effort to resolve the crisis without formal court proceedings.

Although most child welfare cases are resolved with the first contact between child protective services (CPS) and the family,⁴⁵ many cases unnecessarily reach the court system usually because the social service system is unable to provide timely services to the child and family. Intensive services delivered before court proceedings commence can often make legal proceedings unnecessary.

All members of the family and court system would benefit from this process. Intensive in-home services can protect children while making it possible for families to modify the conditions which brought the child to the attention of the children's services agency. Even when immediate removal of the child is necessary, voluntary placement with a relative or in foster care may offer an opportunity for the agency to work effectively with the family.

In most communities a petition must be filed and a shelter care hearing held within 72 hours of the child's removal.⁴⁶ Once the court proceeding is underway, the case becomes more adversarial, and it can become more difficult for the social service agency to work with the family. However, if the parent agrees to a voluntary placement of the child for 60 to 120 days (in no case greater than six months),⁴⁷ the agency can work with the family to remove the harm, rehabilitate the parents and stabilize the family.

The child welfare systems in Hamilton County (Cincinnati), Ohio,⁴⁸ and in Kent County (Grand Rapids), Michigan,⁴⁹ have been using this approach effectively for

several years with excellent results. Based on their experience, far fewer cases result in petitions and far more cases are satisfactorily resolved without court proceedings.⁵⁰ Of course, if the services are unsuccessful and a petition must be filed, the court can make meaningful reasonable efforts determinations and, if appropriate, move to permanency much more promptly.⁵¹

Voluntary placements do not always serve children and families well. Many case situations require immediate juvenile court intervention and oversight. Moreover, in some court systems large numbers of children remain in voluntary placement for extensive periods of time.⁵² To prevent possible abuses, the presiding juvenile court judge should meet with agency leaders and ask for a description of how voluntary services are being utilized. Judges should thereafter monitor the use of such services so that these placements benefit children, are fair to parents, and do not extend beyond the legal time limit.⁵³

For jurisdictions considering the use of mediation and family group conferences,⁵⁴ the period of time prior to filing can give the family an opportunity to address the presenting problems before becoming involved in the adversarial process. Of course, this strategy cannot be utilized without a knowing, intelligent, and voluntary decision by parents to place their children with a relative or in foster care while they have an opportunity to work with social service agencies. The agency must provide parents full and fair notice of the voluntary placement procedures, restrictions, and parental and child rights.⁵⁵ If a parent does not wish to participate in a voluntary placement, the matter should proceed to court immediately for judicial review.

STEP 4 — Presiding judges should assign judges to the juvenile court for a minimum of three and preferably for five years. Additionally, presiding judges should assign child welfare cases to the same judicial officer from start to finish.

Child welfare proceedings can be long and complex. Parents are normally offered up to 18 months of reunification services, and some children may remain under the supervision of the court for years. Acknowledging the length and complexity of these cases, presiding judges should assign judges to the juvenile court for substantial periods of time,

preferably from three to five years.⁵⁶ Only with assignments of this length will judges be able to monitor cases from beginning to end and to understand special issues such as service delivery within the community and child development.

In order to ensure that a case is well managed, that a child is returned home or reaches permanency in a timely fashion, and that one person has all of the information regarding the child,⁵⁷ the judicial officer who hears the shelter care hearing should hear all subsequent hearings until the child is returned home or reaches a permanent plan.⁵⁸ Courts which choose not to follow this suggestion increase the risk for children. As a case passes from one judge to the next, important information may be lost resulting in poor decision-making.⁵⁹

With different judges hearing a single case, there may be significant delays in the legal decisions surrounding a child's permanent placement. These factors have led many presiding judges and court administrators across the country to adopt the "one judge" model in their courts.⁶⁰

STEP 5 — Judges should ensure that all child welfare cases in the court system begin with careful attention to locating family members as well as the timely provision of social services and due process for the child and family members.

At the outset of every case, judges must make certain that the matter is properly addressed by the agency and by the legal system. The court must check to determine that the agency has located both parents, as many relatives as possible, and has determined whether the child is a member of an Indian tribe.⁶¹

The location of the child's father is a particularly important task at the beginning of each proceeding. Many cases appear before the juvenile court without an appearance from a father. Some mothers do not know who or where the child's father is, while others are reluctant to disclose information about him. Yet the law necessitates that the court identify the father and give him notice of the proceedings. This identification of the father may expand placement opportunities with him or his relatives as well as facilitate child support, health insurance, and similar resources for the child.

When the parents or other caretakers first come before the court, the juvenile court judge should impress upon them the importance of the proceedings, explaining to them that they could lose custody of their child and even their parental rights. The judge should emphasize to the parents that the court's first objective is to reunify the child safely with them. At the same time, judges must explain to the parents the nature of the legal proceedings, the allegations which brought their child before the court, their right to a trial and to see and hear the witnesses who claim they have abused the child or parented inadequately, and their right to tell their side of what has happened.

The judge should also explain to the parents their responsibilities. To this end the court should provide to the parents, before they leave each court proceeding, a copy of any court orders describing services in which they are expected to participate. Additionally, judges must also make certain that the social worker understands his or her responsibilities regarding the identification and prompt delivery of those services.

STEP 6 — Judges should make certain that their courts are well managed, accessible to the public and safe. Judges should conduct timely calendars, ensure that all reports are filed on time and that all parties are present, and avoid unnecessary continuances or delays of court proceedings.

Juvenile courts should be operated professionally. Court calendars should be called one case at a time, preferably with a fixed time for each case.⁶² Waiting time before a scheduled case is heard should be brief to minimize inconvenience to everyone and curb unnecessary costs for professional services. Judges should send a clear message that scheduled hearings will begin on time and that obtaining a continuance of a hearing will require strong justification.⁶³ Reports should be completed and distributed several days before the time of the hearing so that all parties have time to prepare. Attorneys and guardians ad litem should be available and prepared for these hearings. When the proceedings commence, the courtroom should include only the parties and family members from the case before the court.

Good calendar control also means hearing longer cases in a continuous proceeding.⁶⁴ Unfortunately, it is the practice

in many juvenile courts to hear long cases on a piecemeal basis, one afternoon a week or month, until the case is completed.⁶⁵ These juvenile courts schedule so many cases each day that they cannot find the time to hear the remainder of a long case until additional time can be found, usually days or weeks in the future.

This practice would not be tolerated in criminal or civil litigation. It is equally unacceptable in child welfare cases where a child's needs must be determined as soon as possible.⁶⁶ Some courts have sufficient resources to permit a judge to hear a long case from beginning to completion.⁶⁷ Other courts have a local practice that such matters be heard in continuous sessions regardless of other pending matters.⁶⁸ Still other courts have arrangements with the presiding judge of the court to have lengthy cases heard by judges on the civil or criminal trial calendar.⁶⁹ Another possibility is that the state judicial council make available to local courts senior or retired judges with experience in child welfare cases who could hear such cases.⁷⁰

The juvenile court should be accessible to the public, near public transportation, and have adequate public parking. The court should provide sufficient waiting facilities with enough space for the large numbers of persons who attend child welfare cases. There must also be sufficient conference room space for attorneys and social workers to discuss individual cases confidentially with each other and with clients. Courts should provide separate, specially designed waiting rooms for children and a staffed nursery for toddlers if space is available.⁷¹

Juvenile courts must make certain that court facilities are safe. Violence and threats of violence can and do occur in the context of child welfare cases, but they can be prevented or substantially reduced if courts take precautions. First, there should be a metal detector or other screening device at the entrance of the juvenile court facility. Second, there should be security personnel available to monitor waiting rooms and court rooms at the juvenile court. Third, there should be a separate, secure entrance for children and others who need to gain entry to or leave the court without having contact with persons who are in the waiting rooms.

STEP 7 — Judges must ensure that there is a trained guardian ad litem and/or attorney for every child.

The child who is the subject of child welfare proceedings needs an independent advocate.⁷² No one else in the

legal process can adequately speak for the child.⁷³ The duties of the advocate should include: 1) representation of the child's wishes and needs; 2) an independent investigation of the facts of the case which bring the child before the court,⁷⁴; and 3) full participation in all legal hearings involving the child. If there is a conflict between the child's needs and desires, the court should make certain that both a guardian ad litem and an attorney represent the child.⁷⁵

The juvenile court must ensure that advocates receive specialized training and are committed to work within the child advocacy profession for a significant period of time.⁷⁶ The court must also make certain that the advocate is a party to the proceedings and thus receives notice of all judicial hearings. The court must ensure that the advocate has access to all court reports and other case-related information. The court should appoint the advocate early in the proceedings, preferably before any shelter care (detention) hearing, so that he or she will be prepared to appear at the first hearing and all hearings thereafter until completion of the case.⁷⁷

STEP 8 — Judges must make certain that indigent parents receive competent legal representation in child welfare cases. Judges should also encourage social service agencies to retain competent counsel for these cases.

Parents whose children have been removed by the state need legal assistance. The loss of a child is of the same magnitude as the loss of liberty. When parents do not have the financial resources to retain counsel, the government should provide legal representation at government expense. Because of actual or potential conflicts of interest in many cases, separate counsel for each parent may be required. The juvenile court judge should insist that counsel for parents are accessible, well-trained, and competent. The judge should work with government and Bar association representatives to ensure that these attorneys have caseloads that permit them to devote sufficient time to each client.⁷⁸

The legal work surrounding child welfare cases requires that the social service agency also have competent legal representation. Agency counsel are necessary to present legal positions in court, to provide legal training for social workers, and to assist agency work with the court on legal and administrative problems.⁷⁹ Social service agencies should demand that their attorneys are well-trained, have adequate staff and

technical support, and are committed to working in child welfare law for a substantial period of time.⁸⁰

STEP 9 — Judges must know what services are available for children and families within the community.

In child abuse and neglect cases judges must make decisions about the timing and adequacy of services provided by social service agencies. These so-called “reasonable efforts” determinations require that the judge knows what services are available within the particular community and what would be reasonable to expect a service provider to deliver.⁸¹ For example, the judge should know what alcohol and drug assessment and treatment services are available as well as domestic violence intervention and support programs, mental health services, housing, child support, and parenting programs. The judge should also be able to refer parents to such programs before they leave the court and ensure that the services are immediately available.

The court should encourage the social services agency to provide intensive home-based services for families in which there is a risk of removing the child. Several types of services have proven particularly effective, including family preservation services⁸² and wrap-around services.⁸³ Children and families are well served when these types of services are available.

The court should make certain that adequate supervised visitation resources exist to permit regular visitation in a family friendly setting.⁸⁴ Some family members cannot safely visit children without supervision. Yet visitation is a critical part of all reunification plans because it helps maintain the continuing parent-child relationship.⁸⁵ Too often supervised visitation is not frequent enough and takes place in a sterile or even hostile setting.⁸⁶

Judges must be prepared to make “no reasonable efforts” findings when certain services are not provided.⁸⁷ A “no reasonable efforts” finding means that the agency has not fulfilled its obligation to the federal government to provide adequate services to the child or family. A finding can result in the loss of federal funding to the social service agency.⁸⁸ The court can use this finding or the threat of making this finding to motivate social service agencies and governmental entities to create needed services, make services more acces-

sible, or provide them in a more timely fashion.⁸⁹

Services, however, are useless unless parents learn where they are and how to get to them. Juvenile court judges should make certain that information about all services is available at the courthouse for family members and all other members of the court system.

STEP 10 — Judges should hold court reviews of the child’s status at least every six months and preferably every ninety days after entering a dispositional order.

Court reviews are necessary to make certain that the child and family are receiving services, that progress is being made on the service plan, and that court orders are being fulfilled. Judges should insist that the agency provide written progress reports at these hearings, that the parents appear, and that all legal representatives are present. If the agency is not providing adequate services, judges should make “no reasonable efforts” findings. Not only are reviews sound policy, they are required by the law.⁹⁰ While six months is the minimum, more frequent reviews are preferable. Michigan requires reviews every three months⁹¹ and many judicial officers in California are ordering three month reviews, particularly in cases involving infants.⁹²

STEP 11 — Juvenile Courts should be automated so that the court is able to manage case flow, gain aggregate information about trends regarding children under court jurisdiction, and keep track of information concerning the status of each child who is under court protection.

Judges and court administrators cannot accurately determine how well their court system is functioning and whether it is meeting statutory time lines without technological support. Good technological systems enable judges to know where each child is placed, the date of each hearing, the parties and attorneys in the child’s case, and other critical information. Court technology should also enable judges and court administrators to understand trends for all children under the protection of the court, including the timeliness of hearings and the court’s success in reaching permanency within legal time lines.⁹³

Courtroom technology should also provide for the instant entry of court orders by clerical personnel. In this

way parents and other parties to the proceedings can receive court orders before they leave the courtroom.⁹⁴

STEP 12 - Judges should ensure that every child reaches permanency in a timely fashion.

Permanency for children is fundamental to the Act.⁹⁵ If children cannot return to their parents within 12 to 18 months, it is the duty of the court to make certain that a permanent placement is found for the child, preferably an adoptive placement.

Unfortunately, permanency for many children is an unrealized goal. In spite of federal and state laws, thousands of children remain without permanency, in limbo years after a court has determined that they cannot return to their parents.⁹⁶ This is a national disgrace. Juvenile courts and court systems must take their share of the responsibility and blame.⁹⁷

In some court systems the large numbers of cases that judges must handle is the principle reason for delay.⁹⁸ However, regardless of the case load, judges can accomplish a great deal to reduce the time it takes for a child to reach permanency. Judges should manage cases so that they are heard within statutory time lines. Judges should also control unnecessary continuances,⁹⁹ prevent late social service reports, and ensure that all parties are notified of court hearings in a timely fashion.¹⁰⁰ Judges should also encourage promising strategies such as concurrent planning. Concurrent planning permits the social service agency to plan for adoption during the reunification period.¹⁰¹ If reunification fails, a permanent plan can be immediately implemented.¹⁰²

In most court systems there are significant delays in termination of parental rights hearings.¹⁰³ After the court has determined that adoption is the legal goal for a child, it often takes years before that goal is reached.¹⁰⁴ Courts must monitor cases in which termination of parental rights has been identified to see that legal and clerical work is completed promptly. Additionally, courts should examine the state statutory framework to determine whether modifications would reduce unnecessary delays.¹⁰⁵

STEP 13 — Judges should ensure that local court rules and forms are drafted and implemented covering the administration of child welfare cases within the court system.

Local rules regarding local court policies and procedures guide participants in the child welfare system. These rules fill in details where state statutes and state rules leave off. Local rules can address issues such as discovery, pre-trial settlement conference procedures, access to juvenile court information by non-parties to the proceedings, the timing of hearings, distribution of reports, the appointment of counsel, the appointment and oversight of guardians ad litem and Court Appointed Special Advocate (CASA) volunteers and much more. Local rules anticipate and prevent problems in case management, court administration, and access to confidential case material.¹⁰⁶

Legal forms can also greatly assist court operations. Forms should be available for the recording of court orders, petitions, the appointment of counsel, and service plans as well as for the waiver of rights. Forms ensure that critical information is recorded in the court file and that such information is available for reference and data collection.¹⁰⁷

STEP 14 — Judges should ensure that all judicial officers, attorneys, and other members of the child abuse and neglect system regularly participate in cross-training regarding all aspects of child welfare law.

Training is critical to the continued development of competence and expertise among all participants in the juvenile court.¹⁰⁸ Training for judges, attorneys, social workers, and court staff can be conducted within each discipline. However, cross-training offers the additional opportunity for the participants to learn together while simultaneously building working relationships with one another.¹⁰⁹ Judges should authorize and convene such training and ensure that all participants in the juvenile court have input into its content and form.

STEP 15 — Judges should meet regularly with agency representatives and other members of the court system to discuss administrative and court operation issues as well as matters of general concern to the participants in the juvenile court system.

For juvenile courts to run efficiently, communication among various participants is essential. Holding regular meetings with the director and other representatives from the

social service/child welfare agency, the administrative heads of legal offices, the court clerk's office, mediation services, child advocate offices, court administration, and other key persons within the juvenile court system, will ensure that the system's problems are addressed in a timely fashion.¹¹⁰ These meetings offer an opportunity for the court to inform all participants of new rules or policies, to resolve on-going problems, to suggest improved policies and procedures, to introduce new participants in the child welfare and court systems, and to address current issues such as new legislation or appellate decisions. These meetings permit members of the court system to focus on matters such as delays in the court process and late court reports, and to seek remedies for these problems. These meetings can also be the site of information sharing concerning issues critical to child welfare cases including child development, service delivery, alternative dispute resolution programs and substance abuse. Participants can also plan trainings and conferences which would be of interest to all members.¹¹¹

In addition to these general administrative meetings, some courts have found it useful to form committees concerning special issues such as the services necessary to support families in which children have been removed,¹¹² problem cases,¹¹³ children in institutional care,¹¹⁴ children whose special problems make adoption more difficult, long range planning,¹¹⁵ foster care,¹¹⁶ permanency planning for younger children,¹¹⁷ housing, services for drug addicted women and their children, and funding for services.¹¹⁸ These courts have found that committee work is an effective means of identifying solutions to complex problems within the court system.

STEP 16 — Judges should promote a culture of patience, dignity and courtesy throughout the court system so that professionals treat each other with respect and follow local rules.

Child welfare cases involve emotional, highly charged issues which have a profound impact on the lives of children, parents and family members. The timely and appropriate resolution of these issues demands that participants be able to work together to solve complex problems on a daily basis. In order to create this environment, judges should set a non-adversarial tone as well as a climate of mutual respect and

dignity throughout the court system.¹¹⁹

The non-adversarial tone can be established in a number of ways. Regular court meetings and the development of local rules send an important message to all participants of the court's expectations. Additionally, the court should watch out for and take steps to resolve personality conflicts which may arise between attorneys, social workers or other persons in the court system. Such conflicts can have a negative impact on the work of the court. Sometimes a meeting with the persons involved can resolve difficulties. Courts should suggest that bar associations enact the professional standards for attorneys recently adopted in Santa Clara County, California, and Hawaii.¹²⁰ These standards address the courtesy, dignity, and professionalism expected of attorneys in all legal proceedings.

Although these professional standards are an excellent beginning, creating a climate of respect and dignity must start with the ways in which judges deal with litigants and other members of the court system. Judges can usually establish the standards to which others will aspire. Nonetheless, the non-adversarial tone is not appropriate for all situations. Juvenile courts must remain accessible for adversarial proceedings when necessary.

STEP 17 — Judges and all other participants in the juvenile abuse and neglect process should treat each case as though it were an emergency.

It is difficult for participants in the juvenile court to remember that every case before the court is an emergency for the families involved. Children and families are in trauma as the result of social service and court intervention.¹²¹ The longer the process takes, the more extensive the trauma.

Children cannot wait for adults. Their sense of time demands that decisions be made immediately and not just when the adults are ready. For this reason all participants must view each case as an emergency demanding immediate action. Judges must remind all parties of the importance of timely decisions so that a child's sense of time will be acknowledged.¹²²

The lateness of court reports and frequent hearing continuances seem to be the two most frequent reasons for delay in the court process.¹²³ Courts should not permit delays in the preparation of court reports. Frequent violations should

be addressed to determine whether the problem relates to an individual report provider, to the process of preparation and delivery of the report or to resources for the entire system. Judges should carefully examine all continuance requests and deny them unless clearly necessary.¹²⁴ Other matters which frequently delay juvenile court proceedings include the failure to give proper notice to parties, the unavailability at hearings of attorneys, social workers or other critical persons, and delays in service delivery to parents or children. Judges may find it necessary to convene meetings with the professionals concerning these and other matters which persistently cause delays.

STEP 18 — Juvenile Court judges should reach out to the media and make it possible for them to get to know how the juvenile court works.

Because of confidentiality constraints, the abuse and neglect calendars in the juvenile court remain the least accessible court proceedings to the public.¹²⁵ Yet the public needs to know how the juvenile court works. Judges should take steps to permit some public access to juvenile court proceedings and to allow responsible media representatives to report on the workings of the juvenile court. Judges should invite media representatives to have the opportunity to view court proceedings, interview all participants and have access to judges on an as needed basis.¹²⁶ Judges should not permit the media to publish identifying information on individual cases without first gaining approval from the parties or after a hearing giving all parties an opportunity to be heard.¹²⁷

These judicial efforts will provide context to the media on how the normally confidential juvenile court actually operates, and will demonstrate that the juvenile court is not attempting to hide its operations from media scrutiny. All of these efforts will go a long way to prevent the media from attacking the juvenile court when a crisis arises and media representatives are searching for more information. Frankness and openness will also more likely render publicity about the juvenile dependency system informative and accurate rather than uninformed and destructive.¹²⁸

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STEP 19 — Court systems should utilize trained volunteers to speak for and support children and families.

The work of the child welfare system, preserving families and protecting children, is complex and expensive. Public resources are often

inadequate to accomplish these tasks. A juvenile court system seeking to improve its operations should resort to volunteers to assist in some of the important work facing the court and the parties.

The most widely utilized volunteer organization in child welfare cases is the Court Appointed Special Advocate (CASA) program.¹²⁹ CASA programs train volunteers who are then appointed by the juvenile court to speak on behalf of children who are under court protection. CASA programs exist in all 50 states and the District of Columbia, and child advocates represent over 38,500 abused and neglected children.¹³⁰ Their work is widely acknowledged by juvenile court judges as very helpful to meeting the special needs of children under court jurisdiction. Indeed, some states utilize CASAs as guardians ad litem for all abused and neglected children.¹³¹

Other volunteer organizations assist juvenile courts including Boys and Girls Clubs, Big Brothers, Big Sisters, service clubs (Rotary, Elks, Junior League), YMCA, and YWCA. These and other organizations provide support for juvenile court projects and for the children and families before the court. An important role for the juvenile court judge is to reach out to these organizations and to offer opportunities for them to assist the court and the child welfare system.¹³² Nonetheless, few, if any juvenile courts have sufficient CASAs to assign to every dependent child. Judges should therefore strongly support enlarging the number of CASA volunteers within their jurisdiction. The juvenile court judge also should encourage the development of citizen advocacy for children and private-public partnerships formed to benefit children.¹³³ All participants in the juvenile dependency process should be aware of the value of volunteers to their clients. For example, attorneys should be encouraged to utilize these volunteers to assist their clients in taking advantage of services. Student interns from local colleges, univer-

sities and law schools can also be useful to legal offices appearing in the juvenile court.¹³⁴

STEP 20 — Juvenile Court judges should dismiss cases which no longer present child protection or permanency issues.

A frequent shortcoming of juvenile court systems is the failure to dismiss cases when the work of the court has been completed.¹³⁵ Many courts are tempted to retain jurisdiction based on the belief that continuation will not harm anyone and that it might help the child or family members complete some collateral service which arose after the initial jurisdictional hearing.

This failure to dismiss leads to unnecessary intrusion into the family's life and a waste of social service resources. Many families do improve and children can be safely returned to them. When a safe parent or permanent placement has been found, the court should be prepared to dismiss the case so that scarce social service resources can be utilized for more serious matters and so that the family can get on with its life free from state intervention and control.¹³⁶

Dismissal need not be abrupt nor need it leave families entirely without support. The juvenile court can provide assistance to families at the time of dismissal. The court can identify services which might support the family during the period after dismissal as well as giving referrals to resources to which the family could turn if difficulties should arise.

STEP 21 — Judges should encourage long term assignments and specialization for all professionals in the child welfare system.

Child abuse and neglect cases often take years to complete.¹³⁷ In most jurisdictions the average case remains under court supervision for years. Moreover, child welfare work presents complex and demanding problems including legal and social issues.

Children and their families will be best served if the professionals they encounter in the child welfare system are experienced persons who have spent a substantial period of their working life doing this work.¹³⁸ Attorneys, social workers, and service providers all should be given the opportunity to choose, specialize, and remain in the child welfare

and juvenile court for a significant portion of their careers.¹³⁹

STEP 22 — Judges and court administrators should create a coordinated court system such that decision makers, investigators, case managers, and service providers in each legal setting know about related legal proceedings for each family and coordinate with those proceedings.

The larger a court system, the more likely that a family will have legal business in multiple settings before more than one judge. Families and their children will be well served by the court system when the different investigators, case managers, service providers and judges know about related legal proceedings.¹⁴⁰ Preferably, all courts should have information systems that allow a judge to learn of other family cases when a dispositional hearing is conducted. Several courts have addressed this issue by forming unified or coordinated family courts.¹⁴¹ By coordinating all family-oriented calendars these courts enable judges and investigators to know about related proceedings. This communication can be further improved with the support of technology.¹⁴²

STEP 23 — Judges should utilize alternative dispute resolution techniques such as mediation, settlement conferences, and family group conferences to resolve child welfare issues.

Most legal issues resolve without a trial.¹⁴³ Juvenile courts should acknowledge this fact and develop strategies which enable meaningful settlement to take place at all stages of the proceedings including before legal papers are filed.

Mediation offers the parties an opportunity to work with a trained mediator to resolve child welfare issues in a confidential setting. Mediation is a proven, effective means of producing resolutions that many participants agree are superior to those reached through litigation.¹⁴⁴ It can and has been utilized at every stage of abuse and neglect cases from pre-filing to termination of parental rights.¹⁴⁵

Settlement conferences and pre-trial hearings enable courts to address pending legal issues and possibly resolve them without the need for trial. Some courts set a settlement conference before any contested hearing is heard.¹⁴⁶ The

time spent at these hearings is more than recouped by the settlement of cases and the increased efficiency of court time.

First utilized by the Maori people in New Zealand, the Family Group Conference has become law within that country.¹⁴⁷ The Family Group Conference offers families the opportunity to meet and resolve child welfare issues privately among family members. The family's proposed resolution is presented to representatives from the social service agency and possibly the judge for approval.¹⁴⁸ Family Group Conferences have proven very successful in New Zealand and initiatives are underway in numerous jurisdictions across the United States to utilize a similar model. Oregon,¹⁴⁹ Santa Clara County, Calif.,¹⁵⁰ Cook County, Ill.,¹⁵¹ Kent County, Michigan,¹⁵² Stanislaus County, California,¹⁵³ Honolulu, Hawaii,¹⁵⁴ and Kansas¹⁵⁵ have developed family group conference programs and many other jurisdictions are considering implementing the model.¹⁵⁶

Some participants in the juvenile abuse and neglect process may resist alternative dispute resolution techniques such as mediation and family group conferencing. Attorneys, social workers, and even judges may believe that they will lose control of the case by permitting the family members to devise solutions to the presenting problems.¹⁵⁷ However, the benefits of alternative dispute resolution techniques far outweigh this risk. For any court system to adopt and successfully implement these techniques, it will be necessary for the presiding or administrative judge to take a leadership role, working with all members of the court system and stressing the importance of these techniques to the court process.¹⁵⁸

Conclusion

In the almost 20 years since Congress passed the Adoption Assistance and Child Welfare Act, juvenile courts have experimented with many different policies and procedures in an effort to improve the effectiveness and efficiency of the court. Certain knowledge and successful practices have developed. The 23 steps outlined above highlight many of these best practices.

Some of these practices are not easily implemented, while others can be more quickly accomplished. Some may involve changing systems, laws, administrative procedures, and legal cultures. Yet all of these changes can be made. Jurisdictions across the country are making similar

changes, not overnight, but through deliberate planning and leadership usually provided by a presiding juvenile court judge.¹⁵⁹

Indeed, most of these recommendations can only be accomplished through strong judicial leadership. Other leaders within the court system, including the bar and the community, must join with the court to attain these goals. However, without judicial leadership, court improvement will remain illusory.¹⁶⁰

Fortunately, technical assistance is available for courts wishing to learn more about how to implement these practices. In addition to helpful literature¹⁶¹, the Permanency Planning for Children Project at the National Council of Juvenile and Family Court Judges provides technical assistance for courts across the country on request.¹⁶² The Permanency Planning Project has also been working with the Edna McConnell Clark Foundation developing a Model Court diversion project. Information about the progress made in those courts is also available on request.¹⁶³ The National Center for State Courts also offers assistance to courts seeking to make improvements.¹⁶⁴ The American Bar Association Center on Children and the Law can also provide help to courts wishing to improve their operations.¹⁶⁵ Because the Court Improvement Project has been underway for approximately two years, individual state efforts have identified ways in which their local courts can be improved.¹⁶⁶ For example, in California, a court improvement report identifies numerous strategies for change.¹⁶⁷ Courts seeking technical assistance should contact one or more of these organizations or states and find out what materials and staff assistance are available.

Improving our juvenile courts will greatly benefit America's children and families. Child welfare proceedings are arguably the most important cases that judges engage in on the bench. These cases have a profound impact upon our nation's most vulnerable children. Children's lives can be saved or dramatically redirected. The Act has given judges and courts an awesome responsibility over these children's lives. By addressing the operations of our juvenile courts, we can ensure that children are protected and reach permanency in a timely fashion, that parents are provided due process, and that social service agencies are given the opportunity and mandate to provide the service delivery that children and families need.

End Notes

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1. Family Preservation and Support Act (Omnibus Budget Reconciliation Act of 1993, P. L. 103-66).
2. 42 U.S.C. §670 et seq. (1989).
3. Adoption Assistance and Child Welfare Act of 1980, P.L. 96-272, Legislative History (U.S. Congress, Washington, D.C.) 1980, at 1464.
4. "Foster care drift" describes the situation of children lost in the child welfare system who move from placement to placement without ever reaching a permanent home. See, Marsha Garrison, "Why Terminate Parental Rights?", 35 *Stan.L.Rev.* 423 (1983).
5. 42 U.S.C. §670(a)(1989).
6. 42 U.S.C. §§670 and 675(5)(1989).
7. 42 U.S.C. §672 (a)(1)(1989).
8. 42 U.S.C. §671 (a)(15)(1989).
9. *Id.*
10. 42 U.S.C. §675(5)(A)(1989).
11. 42 U.S.C. §675(5)(B)(1989).
12. 42 U.S.C. §675(5)(C)(1989).
13. *Id.*
14. Social Security Act §§472(a)(1)(e)-(g); 42 U.S.C.A. §672(a)(1),(e),(f),(g)(West Supp. 1994).
15. In most jurisdictions these safeguards include the right to notice of the proceedings, the right to be represented by counsel, the right to a hearing on the issues before the court, and the right to appeal the decisions of the court. Social Security Act §§427(a)(2)(B), 471(a)(16), 472(a)(1), 472(e), and 475(5). See also, 42 U.S.C. §675(5)(C)(1989).
16. Edwards, Judge Leonard, "Improving Implementation of the Federal Adoption Assistance and Child Welfare Act of 1980", *Juvenile and Family Court Journal*, 1994, Vol. 45, No.3, at 3 (hereinafter "Improving Implementation").
17. "One Court That Works," American Bar Association, ABA Center On Children and the Law, Washington, D.C. and National Conference of Special Court Judges, Chicago, Ill., at 9-11 (hereinafter "One Court That Works"); "Reinventing the Juvenile Court Dependency Unit," by Mark Hardin, ABA Center on Children and the Law, Washington, D.C. 1992, at 1-13.
18. Rubin, H. Ted, "The Nature of the Court Today" in *The Future of Children*, Center For The Future of Children, The David and Lucile Packard Foundation, Los Altos, CA, Vol.6, No.3, Winter 1996 at 50. Additionally, the author bases this statement on his personal knowledge of the assignment of judicial resources to the delinquency and abuse and neglect calendars throughout California and in many other states.
19. See, *supra* 1-3.
20. See "Improving Implementation," op. cit. footnote 16 at 19-21 and "How to Work With Your Court: A Guide for Child Welfare Agency Administrators" by Mark Hardin, ABA Center for Children and the Law, Washington, D.C., 1993 at 83-84 (hereinafter "How to Work With Your Court").
21. "The Importance of Adjudication in the Treatment of Child Abusers: Some Preliminary Findings," by David A. Wolfe, John Aragona, Keith Kaufman and Jack Sandler, *Child Abuse and Neglect*, 4(1980) at 127-135; "Court-Ordered Voluntary Treatment of Abusive and Neglectful Parents" by Ana Maria Irueste-Montes and Francisco Montes, *Child Abuse and Neglect* 12(1988) at pp. 33-39; "Law and the Abuse of Children" by Donald Ross, *The World and I* (June 1990) 472-488, 480. And see "The Use of Authority" by Paul V. Nyden, found in *The Battered Child: Selected Readings*, ed. Jerome Leavitt, General Learning Corporation (1974) at 128-134.
22. Wexler, Richard, *Wounded Innocents: The Real Victims of the War Against Child Abuse*, Buffalo, Prometheus Books (1990); Goldstein, Solnit and Freud, *Before the Best Interests of the Child*, Free Press (1980), 13 and 64; and Pride, Mary, *The Child Abuse Industry*, Westchester, Illinois, Crossway Books (1986); "Abandoned To Her Fate," by Epperson, Sharon and Rivera, Elaine, *Time*, December 11, 1995, at 33-36.
23. "Improving Implementation," op.cit. footnote 16 at 6-11.
24. Sagatun, Inger and Edwards, Leonard, *Child Abuse and The Legal System*, Nelson-Hall, Chicago, Ill., (1995) at 171-2; (hereinafter *Child Abuse and the Legal System*) Whitcomb, Debra, *When the Victim Is A Child*, 2nd Edition, U.S. Department of Justice, Washington, D.C., 1992, at 135-142; "Final Report,"

California Child Victim Witness Judicial Advisory Committee, Office of the Attorney General, Sacramento, CA, 1988.

25. See the discussion in Part One, "The Ambit of Professional Competence" found in *In the Best Interests of the Child* by Joseph Goldstein, Anna Freud, Albert J. Solnit and Sonja Goldstein, Free Press, New York, 1986.
26. "Final Report," California Child Victim Witness Judicial Advisory Committee, Office of the Attorney General, Sacramento, CA 1988, at 20-33; *Child Abuse and The Legal System*, op. cit. footnote 24 at 170-173; "Final Report: Senate Task Force on Family Relations," California State Senate, Joint Publications, Sacramento, 1990, at 17-19 (hereinafter "Senate Task Force"); "The All-Important Investigative Interview," by Lucy McGough, J.D. and Amye Warren, Ph.d., *Juvenile & Family Court Journal*, 1994, Vol. 45, No. 4, pp. 13-29 at 22.
27. "Applying the Law Therapeutically," by David Wexler, *Applied & Preventive Psychology*, 5:179-186 (1996); "Therapeutic Jurisprudence and Preventive Law: A Combined Concentration to Invigorate the Everyday Practice of Law," by Dennis Stolle and David Wexler, *Arizona Law Review*, Vol. 39, No. 1, 1997, at 25-33.
28. "The Juvenile Court and the Role of the Juvenile Court Judge, by Leonard Edwards, *Juvenile & Family Court Journal*, Vol. 43, No. 2, 1992, at 36-37 (hereinafter "The Role"); "Deprived Children: A Judicial Response, 73 Recommendations," Metropolitan Court Judges Committee Report, National Council of Juvenile and Family Court Judges, Reno, Nevada, 1986 at p. 13 (hereinafter "73 Recommendations").
29. "The Role," op. cit. footnote 28 at pp. 36-37; Senate Task Force, op. cit. footnote 26 at 27-31.
30. "The Role," op. cit. footnote 28 at 33-34.
31. *Id.* at pp. 34-35; "Final Report," State Task Force on Family Relations Court, op. cit. footnote 26 at 27-31.
32. "The Role," op. cit. footnote 28 at 40-41; "Reinventing the Juvenile Court Dependency Unit," by Mark Hardin, ABA Center on Children and the Law, Washington, D.C., 1992, 1-13. "Pathfinders Committee Report," 125 *New Jersey Law Journal*, 1/4/90, at 44-52. See also "The Juvenile Court and Serious Offenders: 38 Recommendations," National Council of Juvenile and Family Court Judges, 35 *Juvenile and Family Court Journal* 35.2 (Summer, 1984) at 21. "How to Work With Your Court," op. cit. footnote 20 at 87. Also all court systems should examine the utilization of administrative staff in Kent County, Michigan, and Hamilton County, Ohio. See "A Second Court That Works: Judicial Implementation of Permanency Planning Reforms," by Mark Hardin, H. Ted Rubin, and Debra Ratterman Baker, ABA Center on Children and the Law, Washington, D.C., 1995, at pp. 31-33 (hereinafter A Second Court That Works,) and "One Court That Works," op. cit. footnote 17 at 19-36; "73 Recommendations," op. cit. footnote 28 at 15.
33. "Informal Sources of Delay in Child Management Proceedings: Evidence from the Kentucky Court Improvement Project," by Knepper, Paul and Barton, Shannon, *Juvenile & Family Court Journal*, Fall, 1996, Vol. 47, No. 4, at 28 (hereinafter "Informal Sources of Delay").
34. "RESOURCE GUIDELINES: Improving Court Practice in Child Abuse & Neglect Cases", National Council of Juvenile and Family Court Judges, Reno, Nevada (1995) (hereinafter "RESOURCE GUIDELINES"). The RESOURCE GUIDELINES were adopted by the Conference of Chief Justices on August 3, 1995, and by the American Bar Association on August 9, 1995.
35. *Id.* at 125-130; A Second Court That Works, op. cit. footnote 32 at 24-28; "One Court That Works," op. cit. footnote 17 at 20-25.
36. *Id.* at 20-21. See also "A Second Court That Works," op. cit. footnote 32 at 31-33 and citations at footnote 32.
37. *Id.* at 20. See also "One Court That Works," op. cit. footnote 17 at 25-33 and "A Second Court That Works," op. cit. footnote 32 at 31-33.
38. As a part of its own court improvement project, the California Judicial Council compared the allocation of judicial resources in its 58 counties to those in Hamilton County, Ohio, and Kent County, Michigan. See "California Court Improvement Project Report," California Judicial Council, April, 1997, at p. 60. (hereinafter "California Court Improvement").
39. RESOURCE GUIDELINES, op. cit. footnote 34 at 125-130.
40. "Child Victims Project: Model Courts Status Report" Draft, National Council of Juvenile and Family Court Judges, Reno, Nevada, July, 1997; "California Court Improvement," op. cit. footnote 38 at 5-9.
41. The Permanency Planning Department was created in 1990 in an effort to develop more consistency in working with all child protective court wards and more efficiency in the transition of cases as they move through the child welfare system. These changes are resulting in a legal and service system that must promote a permanency plan from the day a child comes to the court's attention. The Permanency Planning Department primary goal is to achieve this goal with every child in our child welfare system. "1995 Annual Report," Kent County Probate Court, Grand Rapids, Michigan, March, 1996, at 9. See also "A Second Court That Works," op. cit. footnote 32 at 31-44. There are seven FTE employees in the Kent County Permanency Planning Department.
42. "Legal Perspectives: A Child Welfare Training Manual," Kent

- County Juvenile Court, Grand Rapids, Michigan, (no date), at 6. See also "A Second Court That Works," *op. cit.* footnote 32 at 32.
43. For example in the California Judicial Council Court Improvement Report Los Angeles County would need from between 53 and 67 judges in order to meet the standards set in Kent or Hamilton Counties. "California Court Improvement," *op. cit.* footnote 38 at 60.
44. *Id.*, Recommendations 4 and 13. The State of Utah has adopted much of the GUIDELINES. See Utah Rev Statutes 78-31-301—319, 78-3a-401-414 and "Utah Rules of Juvenile Procedure," section I-XIII, West, 1997. As of July 1, 1997, Virginia adopted the Resource Guideline statutory framework. See Senate Bill No. 947 which includes changes to Section 16.1-252, -253, -266, -278.2, -281, -282, -282.1, and -296. Virginia Annotated Statutes, West, 1997. See generally, "Report of the Advisory Committee for the Virginia Court Improvement Program - Foster Care and Adoption: 1995-1996 Assessment," Richmond, 1997.
45. "Child Abuse and Neglect in California," by Elizabeth Hill, Legislative Analyst's Office, Sacramento, CA, 1996 at 20-21. For example, in Santa Clara County, California, with a 1990 population of approximately 1,500,000 the child abuse hotline receives approximately 24,000 calls a year. From this only 1,300 cases (children) are petitioned in the juvenile court. The great majority of cases are resolved after one contact with the family. For a California county by county breakdown of these figures, see "California Court Improvement," *op. cit.* footnote 38 at Appendices A-1 and A-2. In Kent County, Michigan, there were 4,300 reports of child abuse and neglect in 1993 which resulted in 1,700 field investigations and 250 juvenile court petitions on behalf of approximately 500 children. See "Improving Implementation," *op. cit.* footnote 16 at 17-18.
46. See, for example, the chart of times for shelter care (detention) hearings collected in Child Abuse and the Legal System, *op. cit.* footnote 24 at 79-86.
47. Social Security Act sections 472(a)(1)(e)-(g) and 42 U.S.C.A. section 672 (a)(1),(e),(f),(g), *op. cit.* footnote 14. Voluntary agreements can serve useful purposes. In cases where a short-term placement is necessary for a defined purpose, such as when a parent enters in-patient hospital care, a voluntary agreement can allow the temporary placement of a child without unnecessarily involving the court and expending its scarce resources. Voluntary placements can provide a method of immediately placing children in foster care prior to initiating court involvement. This can avoid the need to petition the court for emergency removal. "Resource Guidelines," *op. cit.* footnote 34 at 25.
48. See One Court That Works, *op. cit.* footnote 17 at 88; and the author visited Hamilton County and discussed voluntary placements with leaders within the court and social service agency.
- They stated that voluntary placements were utilized in a majority of cases which were processed by the court system. These placements permitted the agency to deliver intensive services prior to court involvement and gave parents an opportunity to resolve the matter without court intervention. They reported that the average stay of a voluntary placement was 30 days. After 30 days the agency was required by law to file in the court an application for a 30-day extension. Sixty days of voluntary placement is the maximum permitted by law in Ohio. (Interview with Lisa Pardon, Dependency Supervisor, Hamilton County Juvenile Court, in Cincinnati, Ohio, September, 1996, and May, 1997, and by telephone on June 10, 1997.)
49. "A Second Court That Works," *op. cit.* footnote 32. In spite of the language at 97-99, Judge Steketee reported to the author that Kent County does utilize voluntary placements but usually for only a 30 day period. In addition to the provision of intensive services this period of time is also used for family group conferences. Telephone interview with Judge Steketee, May 14, 1997.
50. Hamilton County reports a reduction in children under care since their adoption of their approach to child welfare cases including intensive services and voluntary placements. From approximately 1987 to 1997 the children under court supervision decreased from approximately 4,500 to 1,300. Interview with Judge David Grossmann, May, 1997. See also "How to Work With Your Court," *op. cit.* footnote 20 at 49-51.
51. By the time a petition is filed, the family has been given a wide array of social services. Those are well documented. Filing a petition clearly becomes a last resort. The result is that in Kent County more than 50% of the petitions which are filed result in a termination of parental rights and an adoption. All parties agree that social services has offered whatever services were appropriate, but the family was not in a position to take advantage of them. Phone call between Judge John Steketee to Judge Len Edwards (February/April, 1994) cited in "Improving Implementation," *op. cit.* footnote 16 at 18.
52. See "Termination Barriers: Speeding Adoption in New York State Through Reducing Delays in Termination of Parental Rights Cases ("Final Report," 1991). Mark Hardin of the ABA Center on Children and the Law reports that the great majority of child abuse and neglect cases in New Jersey start with voluntary placements and that court review of those placements is perfunctory. E-Mail from Mark Hardin, May 28, 1997.
53. Agreements between parents and a child protection agency which voluntarily place a child out of the home should be in writing, filed with the court and reviewed by the court within 30 days. "73 Recommendations," *op. cit.* footnote 28 at 26. Administrative oversight could take place in the context of the regular court meetings with the social service director or at court system or committee meetings between various members of the court process. See STEP 15 *infra* at p. 24. See also "Setting Limits on Voluntary Foster Care," by Mark Hardin, found in

Foster Children in the Courts, Ed. by Mark Hardin, Butterworth Legal Publishers, Boston, 1983 at pp. 70-84.

54. See STEP 23 *infra* at 33-34.
55. Social Security Act and 42 U.S.C.A. *op. cit.* footnote 14.
56. "The Role," *op. cit.* footnote 28 at 36-37; California Standard of Judicial Administration, Section 24(a), West, 1997.
57. A tragic example of the problems caused by multiple judges making decisions concerning the same child was reported by a committee convened to investigate the death of Joseph Wallace. The committee reported that five judges in Cook and Kane Counties made rulings concerning Joseph, but that they were not provided with critical information about previous court hearings. A court system which ensures that a child appears before the same judicial officer will substantially avoid this problem. See, Joel J. Bellows, et. al., "The Report of the Independent Committee to Inquire in the Practices, Processes and Proceedings in the Juvenile Court as They Relate to the Joseph Wallace Case," Chicago (1993). A copy of the report is available from the author. See also Michele Ingrassia and John McCormick, "Why Leave Children With Bad Parents?" *Newsweek*, April 25, 1994, at 52-56 and "One Court that Works," *op. cit.* footnote 17 at 55-56.
58. Once a case is begun, the same judicial officer takes the responsibility for subsequent stages of the litigation. This continuity is uniquely important in child protection cases, which involve an extended decision-making process and consist of a series of interrelated hearings. A "Second Court That Works," *op. cit.* footnote 32 at 61; "California Court Improvement Report," *op. cit.* footnote 38, Recommendation 13 at 58; "Policy Alternatives and Current Court Practice in the Special Problem Areas of Jurisdiction Over the Family," (hereinafter "Policy Alternatives"), National Center for Juvenile Justice, Pittsburgh, 1993, at 11-14. For the same reasons attorneys who represent children and parents in abuse and neglect proceedings should remain in their juvenile court assignment for significant periods of time. See STEPs 7 and 8 at 17-19 *infra*.
59. See footnote 57 *supra*.
60. "Resource Guidelines," *op. cit.* footnote 34 at 19; "Improving Implementation," *op. cit.* footnote 16 at 13; "One Court That Works," *op. cit.* footnote 17 at p. 55 and footnote 57 *supra*; "How to Work With Your Court," *op. cit.* footnote 20 at 88-89.
61. The identification of Indian heritage is critical because of the mandates of the Indian Child Welfare Act which require notification to a tribe when an identifiable Indian child with reservation ties or enrollment eligibility is before the court on an abuse or neglect proceeding. See 25 U.S.C.A. § 1901-1963. See also "Improving the Court Process for Alaska's Children in Need of Aid," Alaska Judicial Council, Anchorage, 1996, at 171-176. (hereinafter "Improving the Court Process for Alaska's Children").
62. "One Court that Works," *op. cit.* footnote 17 at 54-55; "Local Rules For Dependency Department," San Francisco Superior Court, San Francisco, CA, 1994; "How to Work With Your Court," *op. cit.* footnote 20 at 88-90.
63. "California Court Improvement Project," *op. cit.* footnote 38 at 32-34; Chief among informal practices resulting in case delay in child maltreatment cases is continuances. "Informal Sources of Delay," *op. cit.* footnote 33 at 29; "Resource Guidelines," *op. cit.* footnote 34 at 21.
64. "California Court Improvement Project," *op. cit.* footnote 38 at 56-58.
65. *Id.*, and see *Jeff M. v Superior Court*, 97 C.D.O.S. 6279 (Cal. App., 1997).
66. *Beyond the Best Interests of the Child* by J. Goldstein, A. Freud & A. Solnit, Free Press, New York, 1973.
67. "One Court That Works", *op. cit.* footnote 17 and "A Second Court That Works," *op. cit.* footnote 32.
68. Trials in progress shall proceed continuously on a day-to-day basis without interruption. Counsel shall be prepared to proceed with trials in this manner. Rule 17.24, "Dependency Local Rules," Los Angeles County Superior Court Local Rules, Los Angeles Superior Court, Los Angeles, CA, effective July 1, 1996.
69. Rule 3.2, 1.2.2, Master Calendar Referrals, Santa Clara County Superior Court Local Rules of Court, Juvenile Court Rules, Rose Printing, San Jose, CA 1996.
70. The Judicial Council, through its Chief Justice assignment powers, should make available visiting or retired, experienced senior juvenile judge resources to assist local juvenile courts with caseload reduction and bench coverage while local judicial officers are participating in mandatory educational programs. Recommendation 15, "California Court Improvement Project," *op. cit.* footnote 38 at 56-58.
71. The Judicial Council should conduct an assessment of local juvenile court facilities, and work with local counties to improve these facilities. Recommendation 25, "California Court Improvement Project," *op. cit.* footnote 38 at 82-84; see also "Resource Guidelines," *op. cit.* footnote 34 at 24.
72. This is the standard set by the Child Abuse Prevention and Treatment Act of 1974 (CAPTA), 42 U.S.C. section 5103(b)(2)(G) and all states have enacted legislation requiring some representation for children in child abuse and neglect proceedings. See also Child Victim Witness Report, *op. cit.* footnote

- 26 at 61; Edwards, L. and Sagatun, I., "Who Speaks For the Child?" University of Chicago *Roundtable*, Vol. 2, No. 1, 1995 at 67-94, 68; "Improving the Court Process for Alaska's Children," op. cit. footnote 61 at 157; ABA Standards of Practice For Lawyers Who Represent Children in Abuse and Neglect Cases, ABA, February, 1996, at 1 (Hereinafter, ABA Standards of Practice); and see generally "Recommendations of the Conference on Ethical Issues in the Representation of Children," 64 *Fordham Law Review* 1301, (1996) at 1320-1323.
73. "ABA Standards of Practice," op. cit. footnote 72 at 2. In some jurisdictions the attorney representing the agency also represents the child. This is a questionable practice since there may be conflicts of interest between the two. See *In re Patricia E.*, 174 Cal. App. 3d 1, 218 Cal. Rptr. 783 (3d D, 1985) discussed in "Who Speaks For the Child?" op. cit. footnote 72. See also "Making Reasonable Efforts: Steps for Keeping Families Together," National Council of Juvenile and Family Court Judges, et. al., Edna McConnell Clark Foundation, New York, 1988, at 31.
74. "ABA Standards of Practice," op. cit. footnote 72 at 9-10; "Who Speaks For the Child?" op. cit. footnote 72 at 72-74; See also California Welfare and Institutions Code section 317, West, St. Paul, 1997.
75. "ABA Standards of Practice," op. cit. footnote 72 at 4; "Resource Guidelines," op. cit. footnote 34 at 24; American Bar Association, "Standards Relating to Counsel for Private Parties," 3 (1980); American Bar Association, "Annotated Model Rules of Professional Conduct," 156 (1984).
76. "ABA Standards of Practice", op. cit. footnote 72 at 12-13 and 22-24; Judicial Administration Standard 24(c),(d), op. cit. footnote 56; "Resource Guidelines," op. cit. footnote 34 at 22.
77. Local juvenile courts should ensure that advocates for children and parents are present at the first court appearance. "California Court Improvement Project," op. cit. footnote 38 at 76; "Court Rules to Achieve Permanency For Foster Children: Sample Rules an Commentary," National Legal Resource Center, Wash. D.C., 1984, at 29; "ABA Standards of Practice," op. cit. footnote 72 at 20-21. See also "Final Report: Arizona Court Improvement Report," by Gregory Halemba and Gene Siegel, National Center for Juvenile Justice, Pittsburgh, 1997, at 99.
78. Parents often do not understand what child abuse and neglect proceedings involve. They believe that the state will do what it pleases with their children and that they have no rights. Even judicial explanation of their legal rights is often insufficient. Only with the assistance of counsel will many of these parents understand and exercise their legal rights. As Mark Hardin has stated, "Unrepresented parents are at a severe disadvantage in child protection cases." "Responsibilities and Effectiveness of the Juvenile Court in Handling Dependency Cases," in *The Juvenile Court, The Future of Children*, Center for the Future of Children, The David and Lucille Packard Foundation, Vol. 6, No. 3, Winter, 1966. at 118. Some jurisdictions provide written information for parents whose children come before the juvenile court. See "A Parent's Guide to Child Welfare Services and Dependency Court Proceedings in Santa Clara County," Social Service Administration, Department of Family and Children's Services, San Jose, CA, 1993.
- While parents may employ their own counsel, most parents cannot afford to retain counsel. The United States Supreme Court has held in the case of *Lassiter v. State Department of Social Services*, 452 U.S. 18 (1981) that there is no constitutional right to counsel, but only on a case by case basis, nevertheless, some states provide indigent parents with counsel either by statute (see California Welfare and Institutions Code section 317(a), West, 1997) or by appellate decision (*Danforth v. State Department of Health and Welfare*, 303 A.2d 794 [ME1973]).
79. "How to Work With Your Court," op. cit. footnote 20 at 91-100.
80. *Id.*
81. "Making Reasonable Efforts," op. cit. footnote 73 at 43; "Improving Implementation," op. cit. footnote 16 at 15; "How to Work With Your Court," op. cit. footnote 20 at 41-46; "Improving the Court Process for Alaska's Children in Need of Aid," op. cit. footnote 61 at 146.
82. "For Children's Sake: The Promise of Family Preservation," by Joan Barthel, The Winchell Company, Philadelphia, PA, 1991. "Keeping Families Together: The Case For Family Preservation," by Abigail Norman, Edna McConnell Clark Foundation, New York, 1985; "The Role," op. cit. footnote 28 at 39-40.
83. Wrap-around services are delivered in the community to a child or family to preserve the family unit. Participants in a wrap-around service will typically include the child and family members, professionals, extended family members, and neighbors. See *Journal of Child and Family Services*, Human Sciences Press, Inc., N.Y., Volume 5, Number 1, March 1996. For more information about this type of services contact Jerry Doyle, President, or Dr. Richard Clark, Vice President, Clinical Services Eastfield Ming Quong, 251 Llewellyn Ave, Campbell, CA 95008 or Karl Dennis, Executive Director, Kaleidoscope Inc., 1279 N. Milwaukee Ave, Chicago, Illinois 60622.
84. One of the most essential reunification services is visitation. "Making Reasonable Efforts," op. cit. footnote 73 at 40. In addition, both the safe discharge of children from care to their parents and the positive adjustment of children in foster care are related to the frequency of visitation. See "Issues Concerning Parental Visiting of Children in Foster Care," by Karen Blumenthal and Anita Weinberg, found in *Foster Children in the Courts*, Ed by Mark Hardin, Butterworth, Boston, 1983, at 372-398, 375-377.

85. For specific court orders regarding visitation for parents and children see "Standing Order No. 201 - Visitation," Superior Court in and for the City and County of San Francisco, Juvenile Division, San Francisco, CA, 1994;
86. The frequency and location of visitation was the subject of a federal law suit in Cook County, Illinois. The petitioner parents argued that once-a-month visitation at the DCFS office building was both too infrequent and in an improper setting. The case settled in 1986 with the parties stipulating that the minimum standard would be weekly visitation and that such visitation would take place "in the parent's home unless inconsistent with the child's safety and well-being, as documented in writing in the service plan." "Agreed Order", *Bates and Sanders v Johnson*, No. 84-C-10054, United States District Court For The Northern District of Illinois, Eastern Division, filed April, 3, 1986. Apparently the "Agreed Order" has not resulted in substantial increases in visitation. See "Cook County Survey" by Smith, Jeanine, Monitor, Bates Consent Decree, et. al., January, 1995. For further information contact Bruce A. Boyer, Supervising Attorney, Children and Family Justice Center, Northwestern University Legal Clinic, 357 East Chicago Avenue, Chicago, IL 60611-3069.
87. "A Study of Major Issues Arising Under the 'Reasonable Efforts' Provision of the Adoption Assistance and Child Welfare Act of 1980," American Bar Association, Washington, D.C., 1995, at 30-32 (hereinafter "A Study of Major Issues"); "Improving Implementation," op. cit. footnote 16 at 19-23. "Improving the Court Process for Alaska's Children," op. cit. footnote 61 at 146.
88. "Improving Implementation," op. cit. footnote 16 at 10.
89. *Id.* and see the letter from Judge Leonard Edwards to Richard O'Neil, Director of the Social Services Agency in Appendix A of "Improving Implementation," at 22-23; see also "A Study of Major Issues," op. cit. footnote 87 at 9-15.
90. "How to Work With Your Court," op. cit. footnote 20 at 46-48; and see tenet #7 supra at 2; "Resource Guidelines," op. cit. footnote 34 at 14-15, 66-73. "One Court That Works," op. cit. footnote 17, at 65-66.
91. Mich. Comp. Law section 712A.19(3); Mich. Ct. R. 5.973(B)(2).
92. The author has consulted with judicial officers hearing child abuse and neglect cases in San Mateo, Santa Clara and Los Angeles Counties regarding this practice.
93. In each state and locale, every effort should be made to assess the data system needs of juvenile courts and child welfare agencies and to address these needs in a coordinated and complementary manner. "The Juvenile Court: Analysis and Recommendations," *The Juvenile Court, The Future of Children*, Center for the Future of Children, The David and Lucille Packard Foundation, Vol. 6, No.3, Winter, 1996 at 18. (hereinafter "The Future of Children,") See also "One Court That Works," op. cit. footnote 17 at 51, 91-2; "California Court Improvement Project," op. cit. footnote 38 at 65-67; "Termination Barriers," op. cit. footnote 51 at 9-11.
94. "One Court That Works," op. cit. footnote 17 at 51, 91-92.
95. See the Act's basic tenets numbers 7-9 at p. 2 supra.
96. "Improving Implementation," op. cit. footnote 16 at 7; "The Role," op. cit. footnote 28 at 21-22.
97. "Improving the Court Process for Alaska's Children in Need," op. cit. footnote 61 at 89-97; "Termination Barriers," op. cit. footnote 52 at 27; "The Role," op. cit. footnote 28 at 21-22.
98. See "Informal Sources of Delay," op. cit. footnote 33 at 28-29.
99. *Id.* and see references at footnote 33.
100. *Id.* at 30.
101. "A Second Court That Works," op. cit. footnote 32 at 81-82. Regarding concurrent planning see "Concurrent Planning: From Permanency Planning To Permanency Action," Linda Kate, Norma Spoonemore and Chris Robinson, *Lutheran Social Services of Washington and Idaho*, 1994 at 9-22; "Effective Permanency Planning for Children in Foster Care," by Linda Katz, *Social Work*, May, 1990, at 220-226; "Concurrent Planning: Fifteen Years Later," by Linda Katz, *Adoptalk*, Spring, 10996, at pp. 12-13. For further information about concurrent planning contact the North American Council of Adoptable Children, 970 Raymond Avenue, Suite 106, St. Paul, MN, 55114-1149.
102. See Judge Steketee's comments. op. cit. footnote 58.
103. Timely initiation and completion of severance proceedings are problematic in the majority of project sites. "Final Report: Arizona Court Improvement Project," by Gregory Halemba and Gene Siegel, National Center for Juvenile Justice, Pittsburgh, 1997, at 54, 54-63. Extensive delays in the completion of termination of parental rights proceedings are as commonplace throughout the United States as they are in Oklahoma. "Oklahoma Court Assessment Project," by Gregory Halemba, National Center for Juvenile Justice, Pittsburgh, 1996 at 14, 14-16. Kusserow, Richard, P., Inspector General, "Barriers to Freeing Children for Adoption," Office of Inspector General, Department of Health and Human Services, Washington, D.C. (Feb. 1991) at 13-15.
104. *Id.*
105. Oklahoma statutes and court rules do not establish any time

frames for the completion of termination of parental rights proceedings. Oklahoma is not alone in this regard. Many states do not place any time restrictions on these proceedings. "Oklahoma Court Assessment," *op. cit.* footnote 103 at 14. See also "Final Report: Arizona Court Improvement Project," *op. cit.* footnote 103 at 62-64; "Resource Guidelines," *op. cit.* footnote 34, at 92; Hardin, Mark, and Shalleck, Ann, "Court Rules to Achieve Permanency for Foster Children: Sample Rules and Commentary," American Bar Association, Washington, D.C., 1985, at 115. For model statutory frameworks see "One Court That Works," *op. cit.* footnote 17 at 89-90 and "A Second Court That Works," *op. cit.* footnote 32 at 108.

106. Juvenile and family court judges should advise and recommend to the rule making authority in each state adoption of new court rules which will improve the operation of their courts and changes in existing court rules which hinder the effectiveness of these specialized courts. "Judicial Authority and Responsibility: 18 Recommendations on Issues in Delinquency and Abuse/Neglect Dispositions," A Report by the Key Issues Curriculum Enhancement Project Faculty Consortium, National College of Juvenile and Family Law, National Council of Juvenile and Family Court Judges, Reno, Nevada, 1989, at 7.

For example see San Francisco Superior Court "Local Rules for Dependency Departments," *op. cit.* footnote 62 and Santa Clara County Local Rules of Court, San Jose, CA, *op. cit.* footnote 69. For copies of all of the local rules developed by California's Juvenile Courts, contact the California Judicial Council, Attention: Susie Viray, 303 Second Street, South Tower, San Francisco, CA 94107.

107. "How to Work With Your Court," *op. cit.* footnote 20 at 39-40; for a variety of useful forms in child welfare cases see "California Juvenile Court Laws and Rules," West, St. Paul, 1997, at 1401-1493.
108. All judges and other judicial officers serving in a juvenile division or juvenile court should be required to have intensive and ongoing training not only in the statutory and case law governing dependency matters but also in child development, cultural factors, resources for families, the court's relationship with and duties toward social welfare agencies, and research findings regarding rehabilitative interventions. "The Future of Children," *op. cit.* footnote 93 at 20. Also see "Improving Implementation," *op. cit.* footnote 16 at 11-12; California "Court Improvement Project," *op. cit.* footnote 38 at 55-56; "Final Report," Senate Task Force on Family Relations Court, *op. cit.* footnote 26 at 32-36; "Making Reasonable Efforts," *op. cit.* footnote 73 at 44; "Policy Alternatives," *op. cit.* footnote 58 at 18-20; "How to Work With Your Court," *op. cit.* footnote 20 at 9-11.
109. Such cross training is critical to change the legal culture. See "Informal Sources of Delay," *op. cit.* footnote 33 at 33-34.

110. "A Second Court That Works," *op. cit.* footnote 32 at 39. "Improving Implementation," *op. cit.* footnote 16 at 18. "One Court That Works," *op. cit.* footnote 17 at 32; "California Court Improvement Project," *op. cit.* footnote 38 at 79-81; "Senate Task Force," *op. cit.* footnote 26 at 32-36.
111. The "Beyond the Bench" state conference in California has over the past decade brought together juvenile court judges, social service administrators from state and county, line workers, attorneys, child advocates, and other interested participants in the child welfare system to discuss policy and practice issues. An important result of this conference has been the improved working relationships among all participants. For further information about this conference, contact the author and see "Improving Implementation," *op. cit.* footnote 16 at 12.
112. "A Second Court That Works," *op. cit.* footnote 32 at 40-41.
113. *Id.*
114. *Id.*
115. *Id.*
116. *Id.*
117. *Id.* The Santa Clara County Juvenile Dependency Court has also formed a Permanency Planning Committee to address issues relating to the permanent placement of children in a timely fashion. For further information contact the author. Permanency Planning Committees are also utilized in several New York Counties. See "Termination Barriers," *op. cit.* footnote 52 at 14.
118. Judge William Jones of Mecklenberg County (Charlotte) North Carolina, reports that the juvenile court there formed committees to address both housing and services for drug addicted women and their children. For further information contact Judge Jones at Criminal Courts Building, 700 E. 4th Street, Suite 3304, Charlotte, NC 28202
119. Judges should encourage a non-adversarial tone in CINA cases. "Improving the Court Process for Alaska's Children," *op. cit.* footnote 61 at 152. See also "Improving Implementation," *op. cit.* footnote 16 at 19.
120. "Code of Professionalism" adopted by the Santa Clara County Bar Association in June, 1992; for further information contact the Santa Clara County Bar Association, 2 North Second St., Suite 400, San Jose, CA 95113. These rules were also adopted by Standing Order issued by the First Circuit Family Court of Honolulu, Hawaii, on March 6, 1995. (Family Court General Memo No. 95-1), and later by the Hawaii State Bar Association. For further information contact Judge Michael Town, Presiding Judge, Family Court of the First Circuit, P.O. Box 3498, Honolulu, Hawaii 96811-3498.

121. *Beyond the Best Interests of the Child*, op. cit. footnote 66.
122. Timing is a guiding principle in this court. It is integral to its philosophy as a juvenile court, and its interest in and concern for the welfare of children. "A Second Court That Works," op. cit. footnote 32 at 64; "One Court That Works," op. cit. footnote 16 at 47-51.
123. "One Court That Works," op. cit. footnote 16 at 54. "California Court Improvement Project," op. cit. footnote 38 at 28-34.
124. *Id.*, RESOURCE GUIDELINES, op. cit. footnote 34 at 21.
125. "California Court Improvement Project," op. cit. footnote 38 at 82.
126. Excellent examples of how juvenile court have worked to open their courts to the media in order to produce informative books about the juvenile court include *Somebody Else's Children* by Jill Wolfson and John Hubner, Crown, N.Y., 1996, and *No Matter How Loud I Shout* by Edward Humes, Simon & Schuster, New York, 1996.
127. To follow the approach of one judge who permitted the media to learn more about the court, see the prologue (pp vii to xiv) in *Somebody Else's Children*, op. cit. footnote 117.
128. For example, "As Mother Killed Her Son, Protectors Observed Privacy" by Celia W. Dugger, *The New York Times* 10 Feb. 1992, at A1 and A16; "Child Deaths Reveal Failings of System" by Celia W. Dugger, *The New York Times* 23 Jan. 1992 and see Hartmann, Francis "Conclusion" in "From Children to Citizens II," *The Role of the Juvenile Court*, ed. Francis Hartmann, N.Y.: Springer-Verlag (1987) at 390.
129. For more information on the National CASA Association and for locations of local programs contact: National CASA Association, 100 W. Harrison, North Tower - Suite 500, Seattle, Washington 98119-4123.
130. "Report of the National CASA Association: Program Survey," National CASA Association, Seattle, 1995.
131. N.C.G.S. §7A-586, 517, 489-493, West, 1997.
132. "The Role," op. cit. footnote 28 at 29-32; "Policy Alternatives," op. cit. footnote 58, at 31-32.
133. Judges should take an active part in the formation of a community-wide, multi-disciplinary "Constituency for Children" to promote and unify private and public sector efforts to focus attention and resources on meeting the needs of deprived children who have no effective voice of their own. "Deprived Children: A Judicial Response, 73 Recommendations," Metropolitan Court Judges Committee, National Council of Juvenile and Family Court Judges, Reno, Nevada 1986 at p. 12.
134. "Try a Student Intern Program," by Leonard Edwards, *The California Bench*, California Judges Association, San Francisco, CA, Vol. 37, No. 1, Winter, 1997, at 13. Often these students can gain credit for the work they perform in the courts. Local universities and law schools should be contacted for further information. See also "How to Work With Your Court," op. cit. footnote 20 at 25-26.
135. Judge Nancy Salyers, Presiding Judge of the abuse and neglect courts in Cook County (Chicago) Illinois reports that she has been working with her court to reduce the enormous case backlog. She states that the dismissal of cases which have been in the system for years has been a major focus of the court's work. Her estimate is that the case backlog has been reduced from approximately 42,000 to approximately 28,000 in less than two years time. Interview with Judge Nancy Salyers, May, 1997. Similarly Judge David Grossmann of Hamilton County (Cincinnati, Ohio) led an effort of his court system to review carefully all of the 4,500 children under court protection. After several years of purposeful work, the children under court care was reduced to 1,300. Interview with Judge David Grossmann, May, 1997.
136. "Improving Implementation," op. cit. footnote 16 at 14-15.
137. See tenet number 8, supra at 2.
138. "Judicial Administration Standards," Standard 24(c), op. cit. footnote 56.
139. *Id.*
140. All courts should work to better coordinate case processing by different branches of the general court that handle family-related matters including the juvenile court. "The Future of Children," op. cit. footnote 93 at 21.1; "The Unified Family Court: Therapeutic Justice for Children," *Families and the Law*, by Judge Michael Town, Denver, CO, February 24, 1995; "Final Report," Senate Task Force on Family Relations Court, op. cit. footnote 26 at 20-26; "Establishing a Family Court System," By William C. Gordon, *Juvenile Justice*, November, 1977 at pp. 9-17; "Courts Exercising Family Court Jurisdiction," by Linda A. Szymanski, National Center for Juvenile Justice, Pittsburgh, 1990; "Policy Alternatives," op. cit. footnote 57 at 1-11.
141. Page, Judge Robert, "Family Courts: An Effective Judicial Approach to the Resolution of Family Disputes," *Juvenile and Family Court Journal* (1993) 44: 3-60. "The Role," op. cit. footnote 28 at 37-39; "Children and Families First: A Mandate for America's Courts," National Council of Juvenile and Family Court Judges, Reno, NV, 1995, at 2-3.
142. See STEP 11, supra, at 21-22 ; "Court-Approved Alternate

- Dispute Resolution: A Better Way to Resolve Minor Delinquency, Status Offense and Abuse/Neglect Cases," A Report by the Key Issues Curriculum Enhancement Project, Faculty Consortium, National College of Juvenile and Family Law, National Council of Juvenile and Family Court Judges, Reno, NV, January 1989.
143. See "Improving the Court Process for Alaska's Children," *op. cit.* footnote 61 at 64-66.
144. "An Evaluation of Child Protection Mediation in Five California Counties," by Nancy Theonnes, *Family and Conciliation Courts Review*, Vol. 35, No. 2, April, 1997, at 186-195. Also note the following comment: *Juvenile courts should encourage the development and use of more alternative dispute resolution techniques.* "The Future of Children," *op. cit.* footnote 93 at 22. See also "Alternatives to Contested Litigation in Child Abuse and Neglect Cases," by Edwards, Leonard and Baron, Steve, *Family and Conciliation Courts Review* (July, 1994) 33,3: 275-285; also found in "Resource Guidelines," *op. cit.* footnote 34, Appendix B, at 131-138.
145. *Id.* at 283-284 and 136-137. And see, "Dependency Court Mediation: The Role of the Judge," by Leonard Edwards, *Family and Conciliation Courts Review*, Vol.35, No.2, April, 1997, at 160-163, 161; "Final Report: Arizona Court Improvement Project," *op. cit.* footnote 103 at 52-53.
146. *Id.* at 276-277 and 132-133 and Santa Clara County Superior Court Rules, Rule 3.2, 1.8, Juvenile Court Rules, San Jose, CA, 1996.
147. Wilcox, R., Smith, D., Moore, J., et. al. Family Decision Making: Family Group Conferences, Lower Hutt, New Zealand: Practitioner's Publishing, 1991; "Family Group Conferences in New Zealand," by Larry Graber and Jim Nice, *ABA Juvenile and Child Welfare Law Reporter*, Vol. 13:43, Fall, 1991.
148. *Id.*
149. Nice, J. "Family Unity Model: An Option For Strengthening Families," Sheridan, Oregon. For further information contact Jim Nice, Family Unity Project, 22095 Gooseneck Creek Road, Sheridan, Oregon 97378.
150. For further information contact John Oppenheim, Director of Family and Children's Services, 1725 Technology Drive, San Jose, CA 95110.
151. For further information contact Denise Kane, Inspector General, Illinois Department of Family and Children's Services, 2240 W. Ogden Avenue, Chicago, Illinois, 60612.
152. For further information contact Judge John Steketee, Presiding Judge, Kent County Probate Court, 1501 Cedar Street, N.E., Grand Rapids, Michigan 49503, or Ron Apol, Director, Permanency Planning Department, Kent County Probate Court at that same address.
153. For further information contact Lindalee Whipple, Director, Family Services Division, Department of Social Services, Stanislaus County, 251 E. Hackett Road, P.O. Box 42, Modesto, CA 95353-0442.
154. For further information contact Judge Michael Town, Presiding Judge, Family Court of the First Circuit, P.O. Box 3498, Honolulu, Hawaii 96811-3498.
155. For further information contact Kim Gillum, Kinship Care Coordinator, Kansas Children's Services League, 2053 South Kansas Avenue, Topeka, Kansas 66605.
156. For further information on other jurisdictions considering adopting the model contact Mary Mentaberry, Project Director, Permanency Planning Project, National Council of Juvenile and Family Court Judges, Diversion Project, P.O. Box 8970, Reno, Nevada 89507 or the American Humane Association, 63 Inverness Drive East, Englewood, Colorado 80112-5117.
157. "Alternatives to Contested Litigation," *op. cit.* footnote 144 at 283-284 and 136-137.
158. "Dependency Court Mediation: The Role of the Judge," by Leonard Edwards, *op. cit.* footnote 145 at 160-163. Juvenile court judges should be educators and spokespersons in their communities on behalf of abused and neglected children. Judges should advocate for adequate court resources and community systems to respond promptly and appropriately to child abuse and neglect. "The Future of Children," *op. cit.* footnote 93 at 19. And see "The Role," *op. cit.* footnote 28 at 25-32.
159. Judges must provide leadership within the community in determining needs and obtaining and developing resources and services for deprived children and families. "Deprived Children: A Judicial Response, 73 Recommendations," *op. cit.* footnote 28 at 10. It goes without saying that court improvement efforts in each state must be judicially led. Selection of a competent judge who can give leadership to the court specializing in children's cases is of the greatest importance, particularly in view of the wide discretion conferred on him by law. "Standards for Juvenile and Family Courts," by William H. Sheridan, U.S. Department of Health, Education and Welfare, Washington, D.C. 1966, at 103. Excellent examples of model courts improved through judicial leadership are Hamilton County, Ohio. and Kent County, Michigan. See One Court That Works, *op. cit.* footnote 17 and A Second Court That Works, *op. cit.* footnote 32. Other examples include Jefferson County, Kentucky (For further information contact Judge Richard FitzGerald, Jefferson District Court, 2902 Juniper Hill Road, Louisville, KY 40206), and Honolulu, Hawaii, (for further information contact Judge Michael Town, Presiding

Judge, First Circuit Family Court, P.O. Box 3498, Honolulu, HI 96813-3498). And see "Improving Implementation," op. cit. footnote 16 at 16-19; "The Role," op. cit. footnote 28 at 25-32. For a summary of how a number of juvenile courts are attempting to improve their administration and practices, see "Summary of States' Reports" Draft, State Court Improvement Project, Permanency Planning Project, National Council of Juvenile and Family Court Judges, Reno, Nevada, July, 1997.

160. *"To have a court that is responsive to the needs of children and families I am convinced the system must have: 1. leadership - This must come from judges, but it can be shared with and can emerge from a working partnership with social service administration, the bar (including prosecuting attorneys), and community (including funders). But it must have an activist judiciary."* —Letter from Judge John Steketee to Judge Leonard Edwards, April 14, 1997. A copy is available from the author.

Judges must take a more active role to meet the needs of the children in the CINA system. "Improving the Court Process for Alaska's Children," op. cit. footnote 61 at 143. See also "Children and Families First: A Mandate for America's Courts," National Council of Juvenile and Family Court Judges, Reno, NE, 1995, at 3-4; "Policy Alternatives," op. cit. footnote 58 at 14-18.

161. "Resource Guidelines," op. cit. footnote 33, "One Court That Works," op. cit. footnote 17; "A Second Court That Works," op. cit. footnote 32.
162. Contact Mary Mentaberry, Project Director, Permanency Planning Project, National Council of Juvenile and Family Court Judges, P.O. Box 8970, Reno, Nevada 89507 (702) 784-6012.
163. Contact Christine Bailey, Permanency Planning Project, NCJFCJ, P.O. Box 8970, Reno, Nevada (702) 784-6012.
164. National Center For State Courts, Court Services Division, 1331 Seventeenth Street, Suite 402, Denver, Colorado 80202, (303) 293-3063.
165. Mark Hardin, ABA Center on Children and the Law, 1800 M. Street, N.W., Washington, D.C. 20036, (202) 662-1750. Mr. Hardin also has a useful E-Mail line devoted to court improvement. Call him for details.
166. *Id.*
167. For further information contact Diane Nunn, Staff Attorney, California Judicial Council, 303 Second Street, South Tower, San Francisco, CA 94107, (415) 396-9142.