



Overview of Court Improvement Program (CIP)

In response to a dramatic increase in child abuse and neglect cases and the expanded role of the courts in achieving stable, permanent homes for children in foster care, Congress created the Court Improvement Program (CIP) in 1993.

The Court Improvement Program aims to improve court practice in child abuse and neglect cases so that the three goals of safety, permanence, and well-being for each child are achieved in a fair and timely manner. (Well-being is defined by the Adoption and Safe Families Act of 1997 as factors that relate to a child's current and future welfare, most notably the child's educational achievement and mental and physical health.)

The program is federally funded by the Children's Bureau of the U.S. Department of Health and Human Services' Administration for Children, Youth, and Families Division. The CIP is the federal government's attempt to understand what works best in the court arena. The Children's Bureau supports courts in their efforts to ensure secure, permanent homes for children in foster care and to improve their effectiveness in achieving permanency.

Active Montana CIP Projects

Attorney Standards of Practice

The Court Improvement Program (CIP) began a quality legal representation (QLR) project about two years ago. We determined that drafting Standards of Practice for parents and children's attorneys would be a high priority for this project. A team of individuals with expertise in this area of legal representation was assembled from CIP, judicial officers, and private and OPD attorneys from around the state. OPD leadership in dependent neglect (DN) case representation has been intimately involved throughout the development of these Standards.

With the American Bar Association's permission, we initially relied upon their Standards of Practice as a basis for a Montana model.

The Standards of Practice committee was broken into subcommittees to develop the language for various sections of the Standards. A scribe and editor were selected to draft language agreed to by the subcommittees for incorporation in the multiple drafts of these Standards.



When draft sections were completed and approved by subcommittees, those sections were provided to the entire committee for their comments, review, and input.

At this time, an initial final draft of the Standards of Practice has been completed and edited for review by the whole committee on April 3rd in Helena. The Standards are currently approximately 100 pages long and include the following sections:

1. Introduction
2. General Duties
3. Attorney-Client Relationship with a Parent as a Client
4. Attorney-Client Relationship with a Child as a Client
5. Duties Concerning a Client's Diminished Capacity
6. Interviewing a Child as a Client
7. Investigation
8. Discovery
9. Case Preparation
10. Handling Court Hearings
11. Specific Court Hearings
12. Post-Hearing Actions
13. Preparation for Appeal

During our preparation of these Standards, a new 2023 law was passed requiring OPD to provide Standards of Practice specifically for children's attorneys. There is no specific requirement of Standards of Practice explicitly for parents' attorneys. However, a general requirement exists for OPD to provide quality legal representation from all its attorneys.

Also, during our preparation of these Standards of Practice, another new 2023 law was passed requiring the appointment of attorneys for all children in dependent neglect (DN) cases. Previously, judges had discretion on whether to appoint an attorney for children. As such, a diligent effort has been made to include the specific requirements from these new laws into the Standards of Practice, not only for children's attorneys, but, equally importantly, for parents' attorneys.

Statewide Rollout of Pre-Hearing Conferences (PHC)

Since the passage of a new 2023 law requiring PHC's to be made available to all parents in Montana involved with a DN case, CIP has been diligently working to ensure that occurs. Prior to the 2023 legislature, PHC's were only available in pilot courts, dating back to 2013 in one jurisdiction and expanding to multiple jurisdictions during the intervening years. CIP has worked closely with judges, CFSD, OPD, the Attorney General's Office, and County Attorneys to make this statewide expansion possible.



Meetings have been conducted statewide in person and through video conference to discuss how PHC's and Emergency Protective Services (EPS) hearings can be scheduled and then held within five days of a child's removal and before an EPS hearing in every jurisdiction in Montana. CIP has drafted recommendations and proposed orders for all jurisdictions and stakeholders for disclosing notices of removal, scheduling PHC's and EPS hearings, sending notifications of PHC's to the parties and participants, and holding PHC's. A PHC Scheduler has been hired part-time to ensure that PHC's are scheduled and that a PHC facilitator is available to mediate or facilitate. The PHC scheduler also ensures the facilitators have the documents they need to prepare and facilitate. The process of working with various jurisdictions and their stakeholders to ensure this procedure is efficient is ongoing.

eLearning Modules

For the past few years, CIP has worked closely with the University of Montana Center for Children, Families, and Workforce Development to create eLearning modules for specific DN case topics. These modules are available online and can be linked through the CIP website at cip.mt.gov. Modules contain video, audio, images, charts, and text content designed to educate people concerning each module's topics. It is believed that by providing an interactive process for learning, participants will be more engaged in their education.

Modules have been designed for Pre-Hearing Conference (PHC) facilitators and DN case stakeholders. PHC facilitators are the individuals who mediate or facilitate PHC's for the CIP. In addition to in-person and video conference training for PHC facilitators, these modules are used partly to train and educate those facilitators. While specific modules are designed for facilitator training and continuing education, all of the eLearning modules are accessible to anyone interested in the subjects or wanting to understand the training of PHC facilitators.

In addition, separate modules are explicitly designed for review by stakeholders in DN cases. This group includes judges, lawyers, CPS's, CASA's or GAL's, and parents. These modules were created to provide information about these subjects to those stakeholders interested in learning about them. Again, these modules are also available to anyone who is interested.

eLearning modules currently address the following topics:

- Pre-Hearing Conferences
- Emergency Protective Services Hearings
- Indian Child Welfare Act (ICWA) Basics
- A Guide for ICWA Qualified Expert Witnesses (QEW)

Since the passage of multiple new laws in 2023 impacting DN cases, an effort is underway to update these modules to reflect the changes in the law. That process is ongoing. For instance, an effort is currently underway to update the ICWA Basics and QEW modules based on the passage of a Montana state version of ICWA (MICWA).



Parent's Guide to Dependency and Neglect Cases

CIP is developing a guide to DN cases for parents involved with a court case. CIP is currently working with OPD to create this guide. The goal is to create a written guide available for any parent in a DN case so they have a written resource available to better understand and prepare for what might occur during their case. This guide should provide an additional resource of general information for parents, not replace their attorneys' expertise, legal advice, and professional guidance.

This guide will address the following subjects for parents:

- Parents rights
- Parents duties
- People involved in the court case
 - Their Lawyer
 - Child Protection Specialists (CPS)
 - Judge
 - County Attorney or Attorney General
 - Court Appointed Special Advocate (CASA) or Guardian ad Litem (GAL)
 - Child's Lawyer
- Process for a DN case getting to court
- Indian Child Welfare Act (ICWA)
- Court Hearings, Conferences, and Meetings
 - Generally
 - Pre-Hearing Conferences (PHC)
 - Emergency Protective Services (EPS) Hearings
 - Show Cause Hearings
 - Adjudication hearings
 - Dispositional Hearings
 - Treatment Plans
 - Family Engagement Meetings
 - Status or Review Hearings
 - Termination of Parental Rights

Moving the Dial trainings

CIP, in partnership with CFSD and the Casey Family Programs, hosts what has become an ongoing online training called "Moving the Dial: How Judges, Attorneys, GAL's, and Social Workers Can Improve Child Welfare Together". The purpose is to promote best practices and learn how to work together to prevent and respond to child abuse and neglect.

Attendance is by invitation and consists of 10 judge-led teams comprising public defenders, county attorneys, CPS workers, guardians ad litem and/or CASA's, and tribal representatives.



The first session took place in November 2020, and the most recent one in December 2023. So far, there have been a total of six "Moving the Dial", all of which have been on Zoom.

Some of the topics covered have been the Department's SAMS safety model; the impact of substance abuse on parenting; how judicial and attorneys' safety decision-making practices help strengthen families; concurrent planning; the nuts and bolts of ICWA; and permanency.

Approximately 100 people have participated in each training, which takes place over two half days once or twice a year.

The idea for this series of training was hatched at the National Judicial Leadership Summit in Minneapolis in Fall 2018.

ICWA Community of Practice (CoP) project

CIP launched a new initiative, called a "community of practice" in October 2023 to address the disproportionate representation of Native American children in foster care in Montana.

According to the National Indian Child Welfare Association (NICWA), American Indian/Alaska Native (AI/AN) children are overrepresented in the child welfare system nationwide, especially in foster care. This means that higher percentages of these children are found in the child welfare system than in the general population. Nationwide, AI/AN children are overrepresented in foster care at a rate 2.6 times greater than their proportion in the general population. In Montana, the rate is even higher at 3.2.

Preceding the first meeting in October 2023, CIP had been working with a small group of tribal representatives, Child and Family Service Division staff, and Yellowstone County ICWA Court attorneys to figure out how best to address the disproportionality of American Indian children in Montana's child welfare system.

CIP decided to create something called a "community of practice" around ICWA.

Communities of practice (CoP's) are designated networks of people who share information and knowledge, build relationships, share stories and experiences, and learn from each other. CoP's are held together by a common purpose, which usually focuses on sharing experiences and insights related to a topic or discipline. In CIP's case, it's ICWA.

The CoP's meet every other month for 90 minutes online and are facilitated by a professional facilitator (Shannon Patterson of Connection Works in Seattle). After each CoP, participants are asked to volunteer to design the following meeting. That way, the content of the meetings is created by different people each time.

CoP's are less about doing, and more about learning and sharing. For example, if group members wanted to learn more about how to create an ICWA Court in their judicial district, the



CoP could invite people who have already created an ICWA court to share their experiences about developing one. But the CoP would not actually *create* an ICWA court. Planning members were firm in stating that they wanted the CoP to be a forum in which to learn and share, and not create work for people outside of their regular jobs.

The purpose statement of the Montana ICWA CoP is: *to improve meaningful collaboration among Montana ICWA legal, social work, and tribal stakeholders to maintain and preserve Indian families.*

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