

# EDUCATION & TRAINING *Services Section*

GEORGIA DEPARTMENT OF HUMAN RESOURCES  
DIVISION OF FAMILY & CHILDREN SERVICES



## **Legal Issues 2: In Court Training**

### **Participant Guide**

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**Prepared by the Barton Child Law and Policy Clinic at Emory University  
School of Law in collaboration with the Georgia Department of Family  
and Children Services**



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## Training Overview

Welcome to the training Legal Issues 2: In Court Training. This training is an active preparation and practice training rather than a passive listen and learn lecture training. Most of your time in the next two days will be spent as follows:

- Working on case assignments;
- Working within time limitations;
- Working within groups;
- Working on effective and efficient case preparation;
- Working on creating and modifying case strategies;
- Working on your responses to direct and cross examination;
- Working to develop models for case preparation and presentation in your jurisdiction; and
- Having fun doing this.

You have already had training on legal terminology, legal procedures and court etiquette through Legal Issues 1 for Social Services Case Managers. You will be expected to have the base of legal issues knowledge contained in that document.

Some of you have already had significant experience in getting prepared for court hearings and testifying. Others have had less experience in the courtroom. You know the court vocabulary, you have worked with challenging clients, and you know what “reasonable efforts” means in theory and in practice.

*Some important questions....*

*What makes us better in our professions?* Answer: Practice and learning from our mistakes?

*What makes us more confident in our work?* Answer: So much practice that you can handle any surprise thrown your way calmly and competently.

*What is one of the factors that make our job more enjoyable? Answer: Knowing that we can perform with competence under any kind of pressure.*

Preparing and testifying in court is something that takes practice from even the most seasoned lawyers. Almost every case has a surprise or two and some are full of surprises. Therefore, we should anticipate them and incorporate them in our preparation. Finally, having confidence in your competence is assuring to the families you serve and to you as a professional.

**Focus of this training:**

- This training **will** focus on the following:
- A short review of your previous legal training to make sure we are all on the same page;
- A determination of what is particularly challenging to you in your courtroom preparation and presentation;
- Practicing working alone and with your attorney or Special Assistant Attorney General (SAAG) at all stages of court preparation and presentation;
- Preparation of direct examination and cross examination questions;
- Practicing identification and preparation of all forms of evidence which you may need to effectively prepare and present your case;
- Practicing case strategy or case theme thinking;
- Practicing putting yourself in the roll of the other parties, including the judge, in preparation and presentation of your case;
- Practicing “best practices” models of hearing preparation and presentation for your particular court.

You will work on two cases many parts of which may seem familiar to you. You will have surprises thrown in. Just as in your real professional life, you will work with other case managers to both prepare and present your case. Unlike your real professional life, you will be asked to step into the shoes of the other parties. You will think, prepare and present like they do. In performing this latter exercise, you will begin to anticipate surprises and the surprise questions and gain the confidence you need to handle any question asked of you in court.

The point of this training is to know enough about the other parties' role and the role of their attorney to prepare your case well. If you can understand and speak some of the legal vocabulary, your comfort and understanding of what is going on in court will be enhanced. If you can begin incorporating some of the components of case preparation and presentation naturally into your investigative function, then your case preparation and presentation will be much easier and less stressful.

Remember, most people generally learn best by from their mistakes. Don't be afraid to make a mistake! The more you make in the training, the less you likely will make the next time you are in court.

**Not a focus of this training:**

This training will **not** focus on the following:

- DFCS policies and procedures;
- Services available in your jurisdiction;
- Federal and state funding issues;
- In-depth review of types of hearings, types of evidence and court procedure; and

The above topics are covered either in your college or masters courses, through specific training by your agency, or through on-the-job training. While this training will not review the above, you will be expected to apply and demonstrate your knowledge of policy in the evidence collected and the assessments completed to promote decision making. You will also incorporate knowledge of these topics in your preparation and presentation skills over the next 2 days.

## **A word about your trainers:**

One of your trainers is a Special Assistant to the Attorney General (SAAG) with significant experience in deprivation cases. The SAAG is contracted by DFCS to represent DFCS in juvenile court cases. The other trainer has been specially trained to perform as an attorney in this training to provide you with a realistic experience as a witness. Your trainers will tell you when it is permissible to pause in the middle of a case presentation and ask a question, or the trainers may insist that you stay totally within the “real hearing mode.”

Your trainers have been chosen for their special skill sets. The SAAG trainer will sometimes provide a short lecture on a specific topic, answer questions that arise during your preparation and presentation practices, and critique your preparation or presentation. Both trainers will act as facilitators by organizing you into work groups, provide groups with assignments, and set up the training area as a courtroom for in-court presentations. Then, the trainers will provide experience to each participant in witnessing as a case manager on both direct and cross-examination. Remember, not all of your cases will be presented from the view of a case manager. You already have significant skills in that area.

The best way to anticipate what the other party will ask you on cross-examination is to get into the roll of that party. This exercise is more than showing empathy for the other party. This exercise is to provide you with the ability to get outside of your case and into the mind of the other party and dissect your own case as the other party might. Therefore, your trainer will continually remind you what role you are playing for any given exercise.

## **Summary:**

We will be working and practicing. We will be critiquing each other. We will have fun. Once you begin preparing a case for court and then step in the courtroom, your thinking will naturally shift into court mode.

After this training, when you attend court you will not be tense or anxious because you will know intuitively how to prepare and present. You will not be surprised or caught off guard by unexpected twists in cases because you will come to not only expect them but be prepared for them.

Nothing can shake your confidence.

You can focus on being the best that you are.

Now, let's get to work.....

## Early Preparation

ONE OF THE KEY ELEMENTS TO GOOD PREPARATION IS TIME MANAGEMENT.

*Good early preparation:*

- Use investigation AND THE COURTROOM to conduct investigations at the detention hearing especially; in some cases diligent relative searches, permanency plans, new findings of facts, etc., may be completed
- Use excellent early preparation to improve public relations with the families and agencies DFCS works with
- Use excellent early preparation to set the stage for clearer and sometimes shorter future hearings
- Use excellent early preparation to set clear expectations of each party
- Use excellent early preparation to move a case more efficiently through the system, relying on fewer continuances, and lowering workload
- Review the Safety Assessment (455A) and determine the rationale for the safety decision of Unsafe
- Use the risk assessment tool as a valuable ally in delimiting areas of concern (Concepts) and how they may or have been minimized through intervention and court action
- As part of your preparation apply your critical thinking skills: the discipline of actively and skillfully conceptualizing, applying, analyzing, synthesizing and/or evaluating information gathered from or generated by, observation, experience, reflection, reasoning, or communication as a guide to belief and actions.

## **Learning Objectives**

- Participants will demonstrate the skills and demeanor necessary in preparing a case for presentation in court
- They will show clear understanding of the types of evidence to be presented and how such evidence should be entered
- Participants will show understanding of evidentiary matters including laying a foundation for admission of a photographs, records; the admission of a court order and general knowledge of hearsay
- Participants will be able to present to the court an account of personal, educational, and professional qualifications and experience to enhance credibility
- Participants will collaborate with the SAAG in the preparation of case information
- Participants will present case information clearly, truthfully, specifically and with relevant responses to show they are cognizant of the burden of proof and evidence required to show such burden
- Participants will show the skills and demeanor necessary for presenting a case in court for both direct examination and cross examination
- Each participant will work collaboratively in their assigned groups to gather information to promote effective decision making and overall learning

## **Group Activities**

### **Group Work and Division of Responsibilities**

We are going to divide into four groups. Each person in the case manager group is expected to be a case manager witness in one of the four hearings to be held each day of the two day training.

All of the groups will be provided with the same general case scenario. However, each group will be asked to approach the case scenario from a different viewpoint during each hearing. Each group will be given time to prepare for the hearing designated by the trainer.

The trainer will have discretion on the assignment of the groups. But it is the intent to provide everyone an opportunity to participate in and prepare for the various legal interests in a hearing as well as to take the lead within your group. It is an expectation of training that regardless of assigned role, individuals will take responsibility for both learning and participation.

The groups will represent the following interests:

- DFCS – case manager (one or more case manager (s) will testify from this group at each hearing)
- Parent or parent attorney (members of this group will prepare cross examination questions for the parents side)
- Child or child advocate/Guardian ad Litem (members of this group will prepare questions to ask the DFCS case manager)
- Judge (entire group will serve as judge panel) will complete the activity packet assigned

The trainers (one an experienced DFCS SAAG) will act as the attorney for the parent and the case manager groups and present direct testimony and cross-examine opposing witnesses. The trainers will assist the witnesses for the parties in preparing for the trial and will provide assistance to the Child Advocate and Judge group prior to and after the hearing. The point of the training is to apply the information learned in the “Legal Issues 1 for Social Services Case Managers,” by viewing the juvenile court case from many vantage points, to become more comfortable with appearing as a witness in juvenile court hearings and to make mistakes in a safe environment.

Case manager group: The case manager group in each exercise will be responsible for preparing strategy and tactics for the case, suggesting witnesses for the presentation of their case, suggesting direct examination questions, anticipating cross-examination questions and preparing responses to those questions. Lead by a trainer, the case manager group will also be responsible for determining the types of evidence to be presented in the hearing. The case manager group will assign each member a turn to prepare and testify in one of the four hearings.

Parent Group: Lead by a trainer, the parent group in each exercise will be responsible for suggesting direct and cross examination questions for the case managers called by the parents’ attorney—one of the trainers. The trainers may provide this group with a surprise fact to test the ability of the case manager group to think on its feet.

Child Advocate Group (CASA or Guardian Ad Litem): The child advocate group will be responsible for determining how to best represent the interests of their client in the courtroom. This group will be responsible for developing a position under the given facts. One of the group members should be designated as a lay child advocate to ask limited questions to clarify or highlight evidence which will help to present the child’s interest in the proceeding. At the close of the evidence, the child advocate group must make a recommendation to the court. One of the questions this group should consider is what weight to give to the child’s wishes in making that recommendation. They should complete the activity assigned in their packet.

Judge Group: The group which is assigned the judge's position will have the opportunity to observe the scope of conflicting views presented and to make determinations on whether the burden of proof in a particular hearing was met. The judge group will be called upon to make quick decisions about whether to grant: the finding of deprivation, the extension of a court order or an order terminating parental rights, the approval of the case plan, the calling of the child as a witness, etc. The judge group can make their own decisions outside the information provided, i.e. – at the end of each exercise, the judge group may order something not contemplated in the text of the training. Nonetheless, for purposes of this training, the groups will move to the next exercise. They will complete the activity assigned.

The case manager and parent group, may produce documentary evidence. Any evidence submitted has to meet the legal standard for admission into evidence. For instance, you may use a copy of prior conviction of a party but it has to be a certified copy. You will not be able to obtain an actual certified copy of a document for the training but you must place a fake certification on the document and note in testimony that it is certified before presentation to the court for admission into evidence.

In the questioning by the parties, the parent group may make reasonable assumptions from the facts expanding the fact scenario.

Be creative. Keep the other parties on their toes. Make them anticipate surprises. Watch them squirm or watch them calmly and professionally respond to any question that is thrown at them.

## Case Information Pressley

In the center of all of this is.....



*Ginger Pressley, Age 4*

CASE: In the interest of: Ginger Pressley (4 years old)

This case was investigated as a physical abuse case. As you will see, there are other issues suggested along the way. The Case Manager group and the Parents group each have a set of facts known to them. Some of these facts will be a surprise to the other group.

Here are the main parties:

Parties:	Child:	Ginger Pressley
	Mother:	Ms. Pressley
	Possible father 1:	Jerry Stinger
	Possible father 2:	Mr.T
	Day care staffer 1:	Ms. Pip
	Day care staffer 2:	Ms. Knight
	CPS Case manager:	Ms. Madonna
	Another case manager:	Mr. Hanks
	Placement Case Manager:	Ms. Placement
	Doctor:	Dr. Jolie
	SAAG:	Mr. Mason
	Mother's attorney:	Mr. Seinfeld
	Judge:	Judge Thomas
	Therapeutic Placement:	TP
	1 <sup>st</sup> Foster Parents:	Mr. and Mrs. Excellent
	2 <sup>nd</sup> Foster Parents:	Mr. and Mrs. Foster

At every stage of the case, the Case Manager group will be provided 452s with the facts available to them. The Parent Group will be provided the notes of Mr. Seinfeld to use in presenting Ms. Pressley's case. The Child Advocate group will sometimes be given facts in their instructions. The judge group will listen to the evidence and will not have knowledge of any of the facts until they are presented in court.

## **Section One 72 Hour/ Detention Hearing Pressley Case**

### ***72 Hour Hearing/Detention Hearing***

#### **Detention/72 hour hearing:**

What happened at court before the detention hearing began:

Only the mother appears at the hearing. She appears in time for Ms. Madonna to speak with her. However, Ms. Pressley says very little of help to Ms. Madonna. Soon, the case is called. On the way into court, the child advocate, Ms. Winfrey, says there is no way this child is going home, no matter what the child says she wants.

The SAAG, Mr. Mason, is new. He smiles at Ms. Madonna as they sit down in front of Judge Thomas. Mr. Mason, when asked by Judge Thomas whether DFCS is ready, responds, "Yes, your honor." Ms. Madonna knows she will have to "feed" him questions.

Ms. Pressley already has an attorney appointed to represent her. His name is Mr. Seinfeld. He is seen introducing himself to her as they sit down.

Activity	
Preparation for 72 hour/Detention Hearing <u>Pressley Case</u>	
<b>TIME:</b>	30 minutes
<b>PURPOSE:</b>	To prepare for the 72 hour/Detention hearing
<b>MATERIALS</b>	<p>452's given to Case manager group.</p> <p>Pre-Detention Hearing Notes given to Parent Group</p> <p>Participant guide instructions for each group</p> <p>Resume Handout</p> <p>Court Hearing Preparation Handout</p>
<b>INSTRUCTIONS:</b>	<ol style="list-style-type: none"> <li>1. Read all information titled "For All Groups" in the participant guide</li> <li>2. Then read your assigned groups activity listed below to prepare you for the 72 hour/Detention hearing</li> <li>3. If you are in the Case Manager group, one person will be the case manager witness. Case Manager witnesses will be assigned alphabetically so that everyone will have an opportunity to testify at one of the four hearings.</li> <li>4. The other three groups will complete the activities in the folders provided to you and will prepare questions and provide feedback.</li> </ol>

## For All Groups

- Refer to Courtroom Etiquette and types of evidence you will need for this hearing based on Legal1
- Refer to Case manager Resume and witness tips in Appendix A
- Refer to Resume Handout
- Refer to Court Hearing Preparation Handout
- Note that a detention hearing done exceptionally well can save time on the back end of a case
- Consider what type of evidence is allowed in a detention hearing
- What would a Safety Assessment (455A) conclude about this case?
- Have you carefully considered your Justification of Findings from the risk assessment instrument to support your concerns? This allows you to articulate your concerns of risk indicators to the family clearly so they and the court will understand changes needed. Your testimony is strengthened when supported by facts as to risk concerns
- Were the reasonable efforts guidelines met?
- Consider what witnesses you will need to call, if any
- Consider what kind of medical evidence you will need and how you will get it into evidence; how can you assist your SAAG on this?;
- Consider whether you need to take pictures and how you will assist the SAAG in having them admitted into evidence;
- Consider what notes you may need to make to refresh your recollection.
- What is the purpose of the 72 hour hearing and when is it held?
- Who has the burden of proof at the 72 hour hearing?
- What does the term deprived child mean?
- What kind of fact evidence will support a finding that a child is deprived?

### Case manager group

Assign one member of your group to prepare the complaint which will be used as the basis for the 72 hour hearing. All members on the team should participate in determining what allegations should be included in the Complaint. Give a copy of the complaint to the other parties no later than ten minutes into the preparation time. One member will testify as the case manager witness. Witnesses are assigned for each hearing alphabetically. The members should work with the trainer on preparing the direct examination questions, documentary evidence, other witnesses and responses to anticipated cross-examination questions or surprise questions. In suggesting questions for the trainer who will play the role of SAAG, try to think of the information you will need to make your case easier to handle. Do you need to know diligent search information? Do you need information about what reasonable efforts you might make to reunify? Do you need to tie the mother's story down about a particular part of your case?

### Parent group

The group should determine what the parent wants and how to present the parent's position. The group should determine whether the complaint states a claim for deprivation, determine what evidence will be needed to substantiate it, and determine what evidence it can offer to counter that evidence. This will require that the group consider questions that could be asked during the direct examination of the parent. The members should begin discussing cross-examination questions for the case manager group. These should include "reasonable efforts" questions. Remember, this child was taken from school before actually speaking to the mother or visiting the mother at her home. Remember, from Legal Issues 1: for Social Services Case Managers, you have more latitude in cross-examination than in direct examination; How can you counter the allegations given that the hearsay is allowed and burden of proof in a 72 hour case is low?

## Child Advocate group

Maybe the first question here is how you represent a 4 year old child? What outcome does the child want? What outcome would be best for the child. You know that the law states a preference for every child living in their own home if possible. What is the harm to this child if she is removed from the only family she has. What are the risks in returning her? Should she be returned now so that DFCS can begin services directly with the child and mother together or is more investigation warranted? Why not put the mother up in a motel room with a parent mentor and keep the child in the same day care? You need to ask some questions of the case manager which determine whether the case manager, as representing the agency who wishes to take physical and legal custody of this child, has thought through these issues and has a plan which clearly balances risk and safety and child well-being. What questions can your court representative ask to drive home your position. Members of this group will be allowed to ask questions during the hearing. You should assume that Ginger wants to go home, says she loves her mother, and cries for her.

## Judge Group

The judge group should examine the complaint and start making a mental list of what elements have to be demonstrated by probable cause to justify removal of this child from the home. The judge group should decide whether they will simply listen to the evidence provided, no matter how poorly or well it is presented, or whether the judge group wishes to ask some questions on its own.

The judge group should also note the body language of the witnesses and attorneys, their apparent confidence in their case presentation, their organization and their professional demeanor. This information will be used for a critique of the presentation at a later time. Make notes about what happens during the hearing so that you will not forget anything that is important to deciding the case or to critiquing the participants. Remember compliments can be as important as criticisms.

At the close of the detention hearing that judges must be prepared to determine whether there is reasonable cause to believe that Ginger is deprived based on the evidence heard at the detention hearing. Be prepared to explain your decision.

## Case Presentation for 72 hour hearing Pressley Case:

Activity	
Mock Trial for 72 Hour Hearing/Detention Hearing	
<b>TIME:</b>	30 minutes for the case manager group to testify. The trainer has discretion to limit or expand these time limitations.
<b>PURPOSE:</b>	To provide testimony for the 72 hour/Detention hearing
<b>MATERIALS:</b>	Witness Observation Checklist
<b>INSTRUCTIONS:</b>	<ol style="list-style-type: none"><li>1. The case manager group will go first and will have 30 minutes.</li><li>2. The child advocate group will have an opportunity to ask the case manager witness questions.</li><li>3. As you observe the witness please complete the Witness Observation Checklist</li><li>4. The judge group will have an opportunity to debrief and share what they observed during the trial.</li><li>5. The SAAG will debrief using the following questions listed below.</li></ol>

## **Debrief 72 hour/Detention Hearing:**

- How did preparation support your testimony?
- What were the challenges encountered in direct/cross examination?
- What was observed about our own skills in presenting?
- What was done well and what might have been improved and how?
- What were the legal issues reviewed or learned during the hearing?
- Was there optimal use of the detention hearing to get information that the parties needed for use in later hearings and for case management?
- Was there substantial credible evidence to support the judge's findings?
- What is the result to the case of failing to provide that evidence?

After the 72 hour hearing presentation and the discussion, the groups will rotate. The next task will be to prepare for the adjudication hearing using the additional information found in section two.

## Section Two Adjudicatory Hearing Pressley Case

### ***Adjudicatory Hearing***

Assume for this section that the court in the 72 hour hearing ordered a petition filed and you are headed toward the adjudicatory hearing. There are some new developments.....

#### **Preparation for the Adjudicatory Hearing:**

Assume the court made a ruling that there was probable cause to file a petition alleging that the child was deprived. Some of the preparation for the Adjudicatory Hearing will be influenced by what facts were determined at the Detention Hearing. However, the trainers may ask the groups to disregard some of the facts for purposes of the exercise.

#### **At the Adjudicatory Hearing:**

What happened at court before the adjudicatory hearing began:  
At the adjudicatory hearing, Ms. Pressley shows up with a man she identifies as her friend, Mr. T. She explains that Mr. T has taken care of Ginger off and on and can verify her story that Ginger “likes to wrestle.” Ms. Pressley also shows up with a woman she identifies as her sister. “Well, like a sister,” she says. The sister and Mr. T are seen rubbing each other’s arms in court.

While Mr. Thomas is introducing the case, Mr. Seinfeld advises the court that the father of the child is Jerry Stinger, who is thought to be incarcerated in Chatham County. The judge notes that information on the record. He says he will not continue the hearing for Mr. Stinger, but will ask Ms. Madonna to look for him and publish so that he can be served and notified of the court proceedings.

Ms. Madonna makes a note of that but still has a funny feeling in her stomach about this case. After the hearing has begun, before the Case Manager group presents its evidence, one of the trainers will state the following assumption: We will assume that at the adjudicatory hearing the first witness for DFCS was Dr. Jolie. She needed to be back at the hospital by 11:30 A.M. and the court allowed her to testify first. She testified, using x-rays, that she examined Ginger Presley on 10/16/06 and found that her right arm was fractured just below the elbow and that x-rays showed the left arm had been fractured in the same place. Both these injuries were consistent with Ginger's being thrown down to a hard floor or against a hard surface, most likely a wall. On cross-examination she also admitted that the fractures could have resulted from Ginger's falling on her arm from a height of four feet or more. Dr. Jolie also testified that she saw five round scars on Ginger's thighs that resembled cigarette burns. She also testified that, based on a reasonable medical certainty, these scars are from six months to a year old. On cross-examination she admitted that the scars might have been infected bug bites. Dr. Jolie was excused with the thanks of the court and all parties.

Activity	
Preparation for Adjudicatory Hearing <u>Pressley Case</u>	
<b>TIME:</b>	30 minutes
<b>PURPOSE:</b>	To prepare testimony for the Adjudicatory Hearing
<b>MATERIALS:</b>	452's provided to case manager group Pre-Adjudicatory Hearing Parent Group Information Activity Folders for the Judge and Child Advocate group
<b>INSTRUCTIONS:</b>	<ol style="list-style-type: none"> <li>1. Read all information titled "For All Groups"</li> <li>2. Then read your assigned groups activity listed below to prepare you for the Adjudicatory hearing</li> <li>3. If you are in the Case Manager group, two new people will be the case manager witnesses. Case Manager witnesses will be assigned alphabetically so that everyone will have an opportunity to testify at one of the four hearings.</li> <li>4. If you are in one of the other three groups, complete the activities in the folders provided to you and be prepared to ask questions and provide feedback.</li> <li>5. Prepare for the case accordingly</li> </ol>

## For All Groups

- Refer to Courtroom Etiquette and types of evidence you will need for this hearing based on Legal1
- Refer to Case manager Resume and witness tips in Appendix A
- Note that an adjudicatory hearing it is not unusual for testimony to reveal pertinent new evidence about the substance of the case. How can you prepare for these surprises?
- Consider what type of evidence is allowed in an adjudicatory hearing. Hearsay is NOT allowed at this hearing!
- Consider what witnesses you will need to call, if any
- Consider if you need to obtain a copy of the birth certificate; could you have obtained a copy at the detention hearing and solved an issue that is now presented?
- Consider what kind of medical evidence you will need and how you will get it into evidence; how can you assist your SAAG on this?
- How can you get the doctor at the hearing; how soon in advance do you have to notify your SAAG in advance that you may need him or her;
- What alternatives might there be to getting medical evidence into the record; how can you work with your SAAG to have medical evidence stipulated into the record? Is that always a good idea?
- Did you speak with the doctor in person? Is he or she a very compelling witness?
- Consider what notes you may need to make to refresh your recollection.

### Case manager group

Assign two members of your group to review the adjudicatory petition within 20 minutes. Give a copy of the petition to the other parties. The other members should work on preparing the anticipated cross-examination questions and responses to anticipated cross-examination questions or surprise questions. Once the petition is prepared, consider what two new witnesses (case managers) you will call and in what order. The evidence presented by your group at the hearing should support the allegation that Ginger is a deprived child. You may select a case manager witness from the main parties list at the beginning of the case scenario. You should consider what questions the case manager witnesses should be asked during direct examination. The trainers' will lead the discussion of direct and cross-examination questions.

### Parent group

The group should determine what the mother wants and how to articulate that to the court. Should she be called? How do you prepare the mother if she is the first witness to be called by the Case Manager group? What questions should you ask to challenge reasonable efforts in this case? What can DFCS really prove? The group should begin suggesting direct examination questions for mother, cross-examination questions for the case manager, and anticipated cross-examination responses for the mother and other witnesses who may be called. The trainer will lead this discussion. Remember, from Legal Issues for Social Services Case Managers, you have more latitude in cross-examination than in direct examination. Review the petition together to determine any flaws. Does it state a case for deprivation even if all the facts were true? Remember that DFCS has to prove its case by clear and convincing evidence. See if you can find a way to attack the clarity and convincing nature of the evidence presented by DFCS.

## Child Advocate group

The child advocate attorney has to decide whether to represent the child's best interest or whether to represent what the child wants as the child articulates her interest. How does one represent a 4 year old? One way the child advocate might approach this situation is to decide that the child should absolutely remain in care. The risk of placing a child with a mother who has allowed the child's safety to be at risk and who is avoiding the case manager is considerable. But wait. If there is a reunification plan, the child is coming home one day, hopefully within 12-18 months. What does a removal from the biological mother do to the child now and when and if he is reunified with her mother. Your job is to prepare cross-examination questions that probe this dilemma and state your position to the court. Represent the child as if you will have to explain to the child why you did what you did when the child is old enough to ask. Assume that you go into the adjudicatory hearing believing that Ginger should be returned to her mother with services provided so that she can be safe in her home. You may want to ask how the first few visits between Ginger and her mother went.

## Judge Group

The judge group should watch the preparation of the parties. The judge group should examine the petition and start making a mental list of what elements have to be demonstrated by clear and convincing evidence to justify removal of this child from the home. The judge group should decide whether they will simply listen to the evidence provided, not matter how poorly or well it is presented, or whether the judge group wishes to ask some questions on its own. Remember, one of your jobs is to determine the truthfulness of the parties. You may note their expressions, body language and attitude in making those decisions. But you have to decide what the appropriate attitude of a mother should be if her child has been removed. Is her age a factor in her emotional maturity? Is her emotional maturity a deprivation issue? How do you note someone's attitude for the court record when the only official record of the hearing is a tape record or CD recording? What finding of facts will you make after hearing all of the evidence?

You will need to state those findings for inclusion in an order and for development of a case plan if you order one. At the close of the evidence the judge group should be prepared to state findings of fact and conclusions of law to support its finding and to announce a temporary disposition.

**Case Presentation for Adjudicatory hearing Pressley Case:**

Activity	
Mock Trial for Adjudicatory Hearing	
<b>TIME:</b>	30 minutes. The trainer may limit the time due to the dynamics of the testimony.
<b>PURPOSE:</b>	To practice testifying at the Adjudicatory Hearing
<b>MATERIALS:</b>	Witness Observation Checklist
<b>INSTRUCTIONS:</b>	<ol style="list-style-type: none"><li>1. The case manager group will be direct examined first and then cross examined by the parent's attorney.</li><li>2. The child advocate group will have an opportunity to ask the case manager group questions.</li><li>3. As you observe the witness please complete the Witness Observation Checklist.</li><li>4. The judge group will have an opportunity to debrief and share what they observed during the trial.</li><li>4. The SAAG will debrief using the following questions listed below.</li></ol>

## **Debrief: Adjudicatory Hearing**

- What were your observations of this hearing?
- What was different about testifying at this hearing?
- How was the purpose of the hearing accomplished?
- How prepared were the witnesses for testimony?
- What was done well and what might have been improved and how?
- What were the legal issues reviewed or learned during the hearing?
- Was there optimal use of the detention hearing to get information that the parties needed for use in later hearings and for case management?

After the adjudicatory hearing presentation, the judge and child advocate groups will rotate. The next task will be the Motion to Extend Custody/ Permanency Hearing.

## **Section Three *Hearing on Motion to Extend Custody and Permanency Hearing Pressley Case***

### **Motion to Extend and Permanency Hearing**

#### ***Between the Adjudicatory Hearing and the Hearing on Motion to Extend Custody and Permanency Hearing:***

Assume that at the adjudicatory hearing, Ginger was found to be deprived as to Ms. Pressley. Mr. T. denied being Ginger's father and the court continued the adjudicatory hearing as to Mr. T. and permitted the county department to amend its petition to add allegations of deprivation against an unknown father, in addition to Mr. T. The unknown father was served by publication and, at a later hearing, a DNA test demonstrating that Mr. T. is not Ginger's father was introduced into evidence by his attorneys. Ginger was adjudicated deprived as to her unknown father and prior disposition order remained in place.

Refer to the two case plans and the Motion to Extend Custody and Permanency Hearing Court Report to follow the progress of the case following the adjudicatory hearing.

#### **At the Hearing on Motion to Extend Custody and Permanency Hearing:**

At this hearing the parties take the following positions respectively:

DFCS requests that the custody order be extended because Ginger remains deprived and an extension is necessary to accomplish the purposes of the original custody order. DFCS wants to keep working with her on a reunification plan despite the challenges. They are also requesting a concurrent plan of termination of parental rights and adoption, though DFCS hopes it will not have to follow this route.

The Child Advocate's position will not be known until the time of the hearing.

Mr. Seinfeld, is asking that the motion to extend be denied and that Ginger be returned to her mother.

Judge Thomas listens to all of this.

Everyone sees Ginger embrace Ms. Pressley on the way into the courtroom and say, "Can I come home today, Mommy?"

Activity	
Preparation for Extension and Permanency Planning Hearing <u>Pressley Case</u>	
<b>TIME:</b>	30 minutes
<b>PURPOSE:</b>	To prepare testimony for the Extension and Permanency Planning Hearing
<b>MATERIALS:</b>	<p>Custody Extension and Permanency Hearing Court Report for all groups</p> <p>Activity folders for each group to prepare for the hearing.</p> <p>All groups will follow instructions in participant guide</p>
<b>INSTRUCTIONS:</b>	<ol style="list-style-type: none"> <li>1. Read all information titled "For All Groups"</li> <li>2. Then read your assigned groups activity listed below to prepare you for the extension and permanency planning hearing</li> <li>3. According to the group you are in, determine who will be the main character and who will be the witness.</li> <li>4. Prepare for the case</li> </ol>

All Groups

For

- Refer to Courtroom Etiquette and types of evidence you will need for this hearing based on Legal1
- Refer to Case manager Resume and witness tips in Appendix A
- Consider the purpose for the hearing on the motion to extend and the permanency hearing.
- Consider what type of evidence is allowed in a permanency planning hearing.
- Consider what witnesses you will need to call, to present your case.
- Consider what kind of evidence of progress by the parents or lack thereof you will need and how you will get it into evidence;
- Consider what notes witnesses may need to make to refresh their recollections.

### Case manager group

Assign two members of your group to prepare a motion to extend custody in fifteen minutes and serve it on all parties. All parties have already been provided a copy of the proposed case plan. In the meantime, the other members of the group should be considering the case manager witnesses that need to be called to support the motion and concurrent case plan. Decide who your two case manager witnesses will be and what evidence they should be prepared to present. What case manager witnesses may Ms. Pressley call and what cross-examination questions should be asked? Food for thought: In her heart, Ms. Placement wants this child to return home. However, will Ginger be safe in her mother's care? Has anything changed? It's been suggested that this case go to termination. Is this child really any better off with adoptive parents and can an adoptive family be found for her? What about Ginger's attachment to her mother? The judge must be wondering about these same questions.

## Parent group

Remember this is the hearing where DFCS will ask for custody to be continued and make a recommendation about whether to continue on with reunification or adopt a concurrent plan that will include termination of the rights of the mother. Buying some more time is one strategy. Consider taking the offensive this time. There is not much you can do if the case manager presents accurately what the mother has or has not done. Or is there? Why not focus on the still strong bond of the child with the mother. Note that the child came in with a broken arm and that has healed? Why not return the child now? Is there any deprivation lingering. The mother apparently is not living with those that probably harmed the child. But will that scenario repeat? If you choose, within the limits of the Court Report, you can decide to disclose where Ms. Pressley is living.

After you choose a strategy, decide what evidence is needed to present and consider cross-examination questions for the DFCS' witnesses.

## Child Advocate group

The child advocate group will be given a card with their position and instructions. These will be a surprise for the other participants.

## Judge Group

The judge group should watch the tension between the parties. How long does this child have to remain in limbo? If it was my child, how long would it take me to get my act together? Is that really relevant to this case? All the mother did was visit her child and she didn't make all her visits. What about her attachment to her mother? Is there some alternative out there that I can consider that will provide some safety for this child, both emotionally and physically? What kinds of questions should I ask? Is anyone telling me the truth? Or is my job to read between the lines and try to figure out the truth?

Activity	
Mock Trial for Hearing to Extend and Permanency Hearing:	
<b>TIME:</b>	30 minutes. The trainer may limit the time due to the dynamics of the testimony.
<b>PURPOSE:</b>	To testify in the motion to extend/permanency hearing
<b>MATERIALS:</b>	Witness Observation Checklist
<b>INSTRUCTIONS:</b>	<ol style="list-style-type: none"> <li>1. The case manager group will be direct examined first and then cross examined by the parent's attorney.</li> <li>2. The child advocate group will have an opportunity to ask the case manager questions about the case.</li> <li>3. As you observe the witness please complete the Witness Observation Checklist</li> <li>4. The judge group will have an opportunity to debrief and share what they observed during the trial.</li> <li>5. The SAAG will debrief.</li> </ol>

## **Debrief: Extend and Permanency Hearing**

- What are the significant issues to be raised at this hearing?
- How was the evidence that was presented supportive of the conclusions made?
- What was done well and what might have been improved and how?
- What were the legal issues reviewed or learned during the hearing?
- Was there optimal use of the Extend and Permanency Hearing to get information that the parties needed for use in later hearings and for case management?

After the Extension and Permanency Hearing, the groups will debrief and then rotate. The next task will be to prepare for the termination of parental rights hearing using the following additional information in section four.

## **Section Four *Termination of Parental Rights Hearing (TPR)***

### **Pressley Case**

#### ***Termination of Parental Rights Hearing (TPR) Stinger Case***

#### **Between the Extension and Permanency Hearing and the Termination of Parental Rights (TPR) Hearing:**

The events between the Extension and Permanency Hearing and the Termination Hearing are found in the Termination Hearing Court Report. Ginger had been in DFCS custody for 15 out of the last 22 months on January 16, 2008. A decision was made to file a petition for termination of parental rights on January 5, 2008 and the petition was filed in early February, after the termination packet was provided to the SAAG. The hearing was delayed for service upon Ginger's unknown biological father and a hearing was scheduled in April, 2008. DFCS continued to provide services under the reunification plan while concurrently working toward finding an adoptive placement for Ginger.

#### **At the Termination of Parental Rights Hearing:**

DFCS sought to have the parental rights of the Ginger's unknown biological father and Ms. Pressley terminated.

Activity: <u>Pressley Case</u> Preparation for the Termination of Parental Rights Hearing	
<b>TIME:</b>	30-45 minutes depending on time needed by participants
<b>PURPOSE:</b>	To prepare testimony for the Termination of Parental Rights Hearing
<b>MATERIALS:</b>	<p>Termination Hearing Court Report for the case manager group</p> <p>Pre-termination Hearing information for the parent group</p> <p>Termination Hearing position for the child advocate</p> <p>Participant guide instructions for “all groups” and your specific group</p>
<b>INSTRUCTIONS:</b>	<ol style="list-style-type: none"> <li>1. Read all information titled “For All Groups”</li> <li>2. Then read your assigned groups activity listed below to prepare you for the termination hearing</li> <li>3. According to the group you are in, determine who will be the main character and who will be the witness.</li> <li>4. Prepare for the case accordingly</li> </ol>

## For All Groups

- Refer to Courtroom Etiquette and types of evidence you will need for this hearing based on Legal1
- Refer to Case manager Resume and witness tips in Appendix A
- Consider what type of evidence is allowed in a TPR hearing.
- Consider what witnesses you will need to call, if any; Can you rely on the testimony of previous witnesses now? Should you consider presenting certified copies of all previous orders of this court into evidence so it will go up with the case if the case is appealed? Why?
- Consider what notes you may need to make to refresh your recollection.

## Case manager group

You need to decide first what grounds for termination exist which you can prove given the evidence you have. Perhaps you should review the termination packet to get ideas. Then, work together as a group on going over the case from start to finish – from when the case first came in up to the present. You should consider the value of getting a copy of the earlier termination case against her from Chatham DFCS as a part of a thorough case review. Be extremely methodical. Write down dates, visitation times, names of parties, places and events to refresh your memory. Get the evidence together that will support the termination grounds you have chosen. Other than the termination grounds, what else must you prove? What about relatives who are willing and able to care for the child? What about whether termination of parental rights is in the child's best interest?

You know from the previous hearings what kinds of questions the parties will ask. You already know their positions. They want more time. Perhaps with more time, the mother could reunify successfully. Is that likely or not? What not? What will be your response if you are asked that? What does the law say about whether deprivation will continue? What if a party says she is not deprived today? What is your response going to be? Will harm likely come to the child if reunified? Will the child be harmed by remaining away from the mother? How will you balance those two competing ideas? How will you respond to questions about them? Will you be convincing? What other witnesses should you call?

Note that a termination of parental rights hearing, particularly if contested, is likely to bring out all of the flaws of the case, from the initial investigation all the way through to this hearing. However, it is also a time where you DFCS can really shine in presenting a very organized case, where every reasonable effort was made, where communications were well maintained and where a clearly defined strategy was followed. What evidence will best showcase all that DFCS did in this case? Some matters you may want to think about include:

- Consider with your SAAG what the parents have said to you in the past. Did you make a notation of that in your records? Should those records come into evidence? How?
- Consider with your SAAG if calling the parent first is a good strategy? Has the parent attorney prepared her for that? How can you prepare your SAAG about what the parent will say? Will the parent be hostile? Should you advise your attorney of that? If so, how should you act to contrast your testimony to that of the parent?

## Parent group

Down to the wire. The mother has not really done anything more than last time. Explore some of the possible reasons for this including any lack of support by DFCS or failure on their part to amend case plans to address steps in the plan that have not worked. So what is the strategy? Doesn't the fact that this is a final decision make this a very different hearing? Can you try to buy some more time? The mother says she now has a job and a place to stay. Shouldn't we at least postpone this hearing to find out more? And what if we find that it all bogus? That's certain termination of parental rights. My client seems depressed for some reason. I'm not sure I would want her to take the child home. Should I put her on the stand? Can I trust her to perform? I have to believe my client and fight for her. This might be me and my child.

## Child Advocate group

The position of the Child Advocate is known only to this group.

## Judge Group

The judge group should make sure that each and every element of the termination of parental rights statute is met and check it off as the evidence is being given. Is the evidence this time clear and convincing? And what if a relative shows up at the last minute? Someone we didn't know about, nobody knew about? That will make my decision harder. Shouldn't we see if the relative can take the mother in? Everything will be all fine then. What kind of relatives does this mother have I wonder? Is Mr. Seinfeld going to finally rise to the occasion and ask some probing questions? That will make my decision harder too.

## Case Presentation for the Termination Hearing Pressley Case:

Activity	
Mock Trial for Termination of Parental Rights Hearing:	
<b>TIME:</b>	45 minutes. The trainer may limit the time due to the dynamics of the testimony.
<b>PURPOSE:</b>	To testify in the termination of parental rights hearing
<b>MATERIALS:</b>	Witness Observation Checklist
<b>INSTRUCTIONS:</b>	<ol style="list-style-type: none"><li>1. The case manager group will go first and will have 45 minutes</li><li>2. The child advocate group will have an opportunity to ask questions.</li><li>3. As you observe the witness please complete the Witness Observation Checklist</li><li>4. The judge group will have an opportunity to make a decision and debrief and share what they observed during the trial.</li><li>5. The SAAG will debrief.</li></ol>

## **Closing Debrief Questions**

What things could the case manager have done in the investigation of this case to better prepare for the questions he/she would have been asked at the detention hearing? At the termination hearing?

What could the case manager have done to prepare for direct examination questions he/she will be asked?

What things can a case manager do to prepare for cross-examination questions he/she will be asked from all the parties?

What were other possible strategies the case manager might have used at the termination hearing? If so, what? Would another strategy have been more effective? Why?

What were the critical points in this case where the case manager could have assisted the SAAG? What does she know that he does not?

What could the case manager have done to find out in advance what the positions of the parties was going to be?

Should the SAAG also consult with the lawyers for the parties to ask what their client's position will be?

How could the case manager and SAAG work together on developing and strengthening a case strategy? When should this be done?

How can you prepare for questions which imply that you are covering for the liability of your agency?

In what circumstances might it be appropriate to exhibit displeasure or even anger at the questions you are being asked?

At what point can you stop the proceedings and ask for a conference with your attorney? What are the consequences, good or bad, by doing that?

Is it appropriate for you to whisper to your attorney during the questioning of other witnesses or to hand your attorney notes during the questioning of another witness?

If the judge asks you a question directly, should you respond on your own or through your attorney? Are there exceptions to this general rule?

## Case Information Alloff:

In the center of all of this is.....



*Fatima, Age 4*



*Mickey 5 mths*

CASE: In the interest of: Fatima Alloff (4 years old) & Mickey Alloff 5 months

This case was investigated as a neglect case. As you will see, there are other issues suggested along the way. The Case Manager group and the Parents group each have a set of facts known to them. Some of these facts will be a surprise to the other group.

Here are the main parties:

Parties:

Children:

Fatima and Mickey Alloff

Mother:

Ms. Cinammon Alloff

Possible father 1 of Fatima:

Mr. U.N. Known

Possible father 2 of Mickey:

Mr. Dru G. Uzer

Hotel Night manager/ reporter:

Mr. Al Knight

Hotel neighbor:

Mr. John Dogooder

Hotel neighbor:

Mr. Bob Slob

CPS Intake Case manager:

Ms. Jane Quick

CPS Investigating case manager:

Ms. Dee Facts

CPS Investigating case manager:

Ms. Eager Beaver

Placement Case Manager 1:

Ms. Sarah Homefinder

Placement Case Manager 2:

Ms. Ima Placement

Doctor:

Dr. Sams

SAAG:

Mr. Handle

Mother's attorney:

Mr. Cheatam

Judge:

Judge Jones

Friend of mother:

Ms. Exotic Dancer

Sister of mother:

Ms. Joy Happy

Foster Parents:

Mr. Mrs. Good Placement

At every stage of the case, the Case Manager group will be provided 452s with the facts available to them. The Parent Group will be provided the notes from the perspective of the mother. The Child Advocate group will sometimes be given facts in their instructions. The judge group will listen to the evidence and will not have knowledge of any of the facts until they are presented in court.

## Section One 72 Hour/ Detention Hearing Alloff Case

<p style="text-align: center;"><b>Alloff Case Detention Hearing</b></p>
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### **Alloff Detention/72 hour hearing:**

#### What happened at court before the detention hearing began

Cinnamon Alloff appears at the court house 30 minutes before court. She wore chartreuse spandex pants with a lime green blouse that had a plunging neckline. Cinnamon was displaying her assets to her advantage but inappropriately for court. The clerk of courts advised her if she went into the court like that the judge would cite her for contempt. She returned five minutes before the hearing began in a plain black dress with a Mandarin collar. She was then accompanied by her friend Ms. Exotic Dancer.

Ms. Alloff was appointed an attorney, Mr. Cheatam. She told the court she was “just a hard working mother and a victim of circumstances.”

She had initially seated herself at the back of the court room behind the case manger and SAAG and was advised by her attorney where to sit. She fidgeted with her dress collar and appeared as if she had not slept in a while having rings around her eyes. She also picked at the skin along her right arm and with glazed eyes and flat affect tried to focus on the judge.

Activity: Alloff case Preparation for 72 hour/Detention Hearing	
<b>TIME:</b>	30 minutes
<b>PURPOSE:</b>	To prepare for the 72 hour/Detention hearing
<b>MATERIALS:</b>	452's given to Case manager group.  Pre-Detention Hearing Notes given to Parent Group;  Participant guide instructions for each group  Resume Handout  Court Hearing Preparation Handout
<b>INSTRUCTIONS:</b>	<ol style="list-style-type: none"> <li>1. Read all information titled "For All Groups"</li> <li>2. Then read your assigned groups activity listed below to prepare you for the 72 hour/Detention hearing</li> <li>3. If you are in the Case Manager group, one person will be the case manager witness. Case Manager witnesses will be assigned alphabetically so that everyone will have an opportunity to testify at one of the four hearings.</li> <li>4. If you are in one of the other three groups, complete the activities in the folders provided to you and be prepared to ask questions and provide feedback.</li> <li>5. Prepare for the case</li> </ol>

## For All Groups

- Refer to Courtroom Etiquette and types of evidence you will need for this hearing based on Legal1
- Refer to Case manager Resume and witness tips in Appendix A
- Note that a detention hearing done exceptionally well can save time on the back end of a case;
- Consider what type of evidence is allowed in a detention hearing.
- Have you carefully considered your Justification of Findings from the risk assessment instrument to support your concerns? This allows you to articulate your concerns of risk indicators to the family clearly so they and the court will understand changes needed. Your testimony is strengthened when supported by facts as to risk concerns
- Were the reasonable efforts guidelines met?
- Consider what witnesses you will need to call, if any;
- Consider what kind of medical evidence you will need and how you will get it into evidence; how can you assist your SAAG on this?;
- Consider whether you need to take pictures and how you will assist the SAAG in having them admitted into evidence;
- Consider what notes you may need to make to refresh your recollection.
- What is the purpose of the 72 hour hearing and when is it held?
- Who has the burden of proof at the 72 hour hearing?
- What does the term deprived child mean?
- What kind of fact evidence will support a finding that a child is deprived?

## Case manager group

Assign one member of your group to review the complaint which will be used as the basis for the 72 hour hearing. All members on the team should participate in determining what allegations should be included in the Complaint. Give a copy of the complaint to the other parties no later than ten minutes into the preparation time. One member will testify as the case manager witness. Witnesses are assigned for each hearing alphabetically. The members should work with the trainer on preparing the direct examination questions, documentary evidence, other witnesses and responses to anticipated cross-examination questions or surprise questions. In suggesting questions for the trainer who will play the role of SAAG, try to think of the information you will need to make your case easier to handle. Do you need to know diligent search information? Do you need information about what reasonable efforts you might make to reunify? Do you need to tie the mother's story down about a particular part of your case?

## Parent group

The group should determine what the parent wants and how to present the parent's position. The group should determine whether the complaint states a claim for deprivation, determine what evidence will be needed to substantiate it, and determine what evidence it can offer to counter that evidence. This will require that the group consider questions that could be asked during the direct examination of the parent. The members should begin discussing cross-examination questions for the case manager group. These should include "reasonable efforts" questions. These children had a neighbor who was willing to watch them at some point. Could he have mitigated the risk and become a safety resource? Was this an emergency type situation? Were there other ways to control for safety? Remember, from Legal Issues 1: for Social Services Case Managers, you have more latitude in cross-examination than in direct examination; How can you counter the allegations given that the hearsay is allowed and burden of proof in a 72 hour case is low?

## Child Advocate group

Maybe the first question here is how you represent an infant and toddler? What outcome do the children want? What outcome would be best for them. You know that the law states a preference for every child living in their own home if possible. What is the harm to these children from being removed from their mother? Could there be values related to her profession that may prejudice opinions in terms of her ability to care for her children? What are the risks of reunification? Could they be returned now with family preservation services being offered to this mother or is more investigation warranted? Why not evaluate whether there is a twenty four hour child caring facility/individual that could keep the children while the mother works at night? You need to ask some questions of the case manager which determine whether the case manager, as representing the agency who wishes to take physical and legal custody of this child, has thought through these issues and has a plan which clearly balances risk and safety and child well-being. What questions can your court representative ask to drive home your position. Members of this group will be allowed to ask questions during the hearing. Please assume that the children mostly Fatima shows great attachment to her mother and expresses love for her.

## Judge Group

The judge group should examine the complaint and start making a mental list of what elements have to be demonstrated by probable cause to justify removal of these children from the home. The judge group should decide whether they will simply listen to the evidence provided, no matter how poorly or well it is presented, or whether the judge group wishes to ask some questions on its own.

The judge group should also note the body language of the witnesses and attorneys, their apparent confidence in their case presentation, their organization and their professional demeanor. This information will be used for a critique of the presentation at a later time. Make notes about what happens during the hearing so that you will not forget anything that is important to deciding the case or to critiquing the participants. Remember compliments can be as important as criticisms. At the close of the detention hearing the judges must be prepared to determine whether there is reasonable cause to believe that Fatima and Mickey are deprived based on the evidence heard at the detention hearing. Be prepared to explain your decision.

**Case Presentation for 72 hour hearing Alloff Case:**

Alloff Case Activity	
Mock Trial for 72 Hour Hearing/Detention Hearing	
<b>TIME:</b>	30 minutes for the case manager group to testify. The trainer has discretion to limit or expand these time limitations.
<b>PURPOSE:</b>	To provide testimony for the 72 hour/Detention hearing
<b>MATERIALS:</b>	Witness Observation Checklist
<b>INSTRUCTIONS:</b>	<ol style="list-style-type: none"><li>1. The case manager group will go first and will have 30 minutes.</li><li>2. The child advocate group will have an opportunity to ask the case manager witness questions.</li><li>3. As you observe the witness please complete the Witness Observation Checklist.</li><li>4. The judge group will have an opportunity to debrief and share what they observed during the trial.</li><li>5. The SAAG will debrief using the following questions listed below.</li></ol>

## **Debrief 72 hour/Detention Hearing:**

- How did preparation support your testimony?
- What were the challenges encountered in direct/cross examination?
- What was observed about our own skills in presenting?
- What was done well and what might have been improved and how?
- What were the legal issues reviewed or learned during the hearing?
- Was there optimal use of the detention hearing to get information that the parties needed for use in later hearings and for case management?

After the 72 hour hearing presentation and the discussion, the groups will rotate, except for the case manager group. The next task will be to prepare for the adjudication hearing using the additional information found in section two.

## **Section Two Adjudicatory Hearing Alloff Case**

### ***Alloff Adjudicatory Hearing***

Assume for this section that the court in the 72 hour hearing ordered a petition filed and you are headed toward the adjudicatory hearing. There are some new developments.....

#### **Preparation for the Adjudicatory Hearing:**

Assume the court made a ruling that there was probable cause to file a petition alleging that the children were deprived. Some of the preparation for the Adjudicatory Hearing will be influenced by what facts were determined at the Detention Hearing. However, the trainers may ask the groups to disregard some of the facts for purposes of the exercise.

#### **At the Adjudicatory Hearing:**

What happened at court before the adjudicatory hearing began:

At the informal hearing, held on August 23, the judge finds that there is reason to believe that the two children are deprived and the children are placed in DHR custody until the adjudicatory hearing. The judge asks Cinnamon Alloff if she will take a drug screening test and she agrees. The judge suggests that she go to the testing facility at the court and give a specimen.

The SAAG prepares the petition and CM Eager verifies it and takes it to the juvenile court to be filed on August 28, 2006. The adjudicatory hearing is scheduled for September 7, 2006. The drug test comes back positive for cocaine. The adjudicatory hearing is continued due to the judge being ill. In the order granting the continuance, custody of the children is continued with DHR.

The adjudicatory hearing was continued until September 21, 2001. At the Adjudicatory hearing Ms. Alloff is represented by her court appointed attorney, Mr. Cheatam. She tells the attorney briefly about the case that this was a big misunderstanding and how much she “misses her babies and can’t live without them.” She explains that the one visit she had with her children “was so hard she sometimes just wants to run away and that Fatima now looks at her funny and is brain washed by the foster parent not to like her.”

Today Ms. Alloff is dressed “for church.” She talks briefly and angrily with a man identified as Mr. Dru G Uzer, Mickey’s biological father. They do not sit together. Before the hearing she announces to the case manager that her sister Joy Happy has agreed to take the children till she can “get her act together” and it is her hope that DFCS not “mess that up.” She said Joy agreed to do that late last night “not wanting strangers to raise her family.” Ms. Alloff is convinced Joy “will get there” before the hearing is concluded.

The case manager is doubtful about this new information based on her prior telephone contacts with Joy Happy. After the hearing has begun, before the Case Manager group presents its evidence, one of the trainers will state the following assumption: We will assume that at the adjudicatory hearing the first witness for DFCS was Dr. Sams. Dr. Sams needed to be back at the hospital by 10:30 A.M. and the court allowed the doctor to testify first. Dr. Sams testified, using several tests and blood work, that Mickey Alloff was examined on 08/21/2006 and when his medical records were checked including a review of his birth weight and progress on the growth chart Mickey was diagnosed with non-organic failure to Thrive. On cross-examination Dr. Sams admitted there were organic explanations to FTT like cancer, inflammatory bowel disease or cystic fibrosis but the tests done did not confirm any of these illnesses. He further explained that in non-organic FTT with physical characteristics of chronic hunger, distended stomach, discoloration of the skin, pinched face, poor hygiene, listlessness and the infant’s initial unresponsiveness to adult touch indicated more of a failure in parent child emotional attachment and bonding which would be exacerbated by drug and alcohol use.

Dr. Sams was excused with the thanks of the court and all parties.

The hotel manager Al Knight and the neighbor John Dogooder testify about the children crying and being found alone on August 21, 2001. They also testify about the condition of the apartment. John Dogooder testifies concerning the children's eating habits and the prior incidents when the children cried and no one responded.

The drug testing company expert testifies concerning the outcome of the drug test.

Cinnamon Alloff admits that she abuses cocaine and has been doing so for the last three months at least.

Alloff Case Activity Preparation for Adjudicatory Hearing	
<b>TIME:</b>	30 minutes
<b>PURPOSE:</b>	To prepare testimony for the Adjudicatory Hearing
<b>MATERIALS:</b>	452's provided to case manager group Pre-Adjudicatory Hearing Parent Group Information Activity Folders for the Judge and Child Advocate group
<b>INSTRUCTIONS:</b>	<ol style="list-style-type: none"> <li>1. Read all information titled "For All Groups"</li> <li>2. Then read your assigned groups activity listed below to prepare you for the Adjudicatory hearing</li> <li>3. If you are in the Case Manager group, two new people will be the case manager witnesses. Case Manager witnesses will be assigned alphabetically so that everyone will have an opportunity to testify at one of the four hearings.</li> <li>4. If you are in one of the other three groups, complete the activities in the folders provided to you and be prepared to ask questions and provide feedback.</li> <li>5. Prepare for the case</li> </ol>

## For All Groups

- Refer to Courtroom Etiquette and types of evidence you will need for this hearing based on Legal1
- Refer to Case manager Resume and witness tips in Appendix A
- Note that an adjudicatory hearing it is not unusual for testimony to reveal pertinent new evidence about the substance of the case. How can you prepare for these surprises?
- Consider what type of evidence is allowed in an adjudicatory hearing. Hearsay is NOT allowed at this hearing!;
- Consider what witnesses you will need to call, if any;
- Consider if you need to obtain a copy of the birth certificate; could you have obtained a copy at the detention hearing and solved an issue that is now presented?
- Consider what kind of medical evidence you will need and how you will get it into evidence; how can you assist your SAAG on this?
- How can you get the doctor at the hearing; how soon in advance do you have to notify your SAAG in advance that you may need him or her;
- What alternatives might there be to getting medical evidence into the record; how can you work with your SAAG to have medical evidence stipulated into the record? Is that always a good idea?
- Did you speak with the doctor in person? Is he or she a very compelling witness?
- Consider what notes you may need to make to refresh your recollection.

### Case manager group

Assign two members of your group to review the adjudicatory petition within 20 minutes. Give a copy of the petition to the other parties. The other members should work on preparing the anticipated cross-examination questions and responses to anticipated cross-examination questions or surprise questions. Once the petition is prepared, consider what two new witnesses (case managers) you will call and in what order. The evidence presented by your group at the hearing should support the allegation that Mickey and Fatima are deprived. The two case manager witnesses will be CM Dee Facts and CM Eager. You should consider what questions the case manager witnesses should be asked during direct examination. You may select a case manager witness from the main parties list at the beginning of the case scenario. You should consider what questions the case manager witnesses should be asked during direct examination. The trainers' will lead the discussion of direct and cross-examination questions.

### Parent group

The group should determine what the mother wants and how to articulate that to the court. Should she be called? How do you prepare the mother if she is the first witness to be called by the Case Manager group? What questions should you ask to challenge reasonable efforts in this case? What can DFCS really prove? The group should begin suggesting direct examination questions for mother, cross-examination questions for the case manager, and anticipated cross-examination responses for the mother and other witnesses who may be called. The trainer will lead this discussion. Remember, from Legal Issues for Social Services Case Managers, you have more latitude in cross-examination than in direct examination. Review the petition together to determine any flaws. Does it state a case for deprivation even if all the facts were true? Remember that DFCS has to prove its case by clear and convincing evidence. See if you can find a way to attack the clarity and convincing nature of the evidence presented by DFCS.

## Child Advocate group

The child advocate attorney has to decide whether it represents the children's best interest or whether it represents what the children want. How does one represent an infant and a 4 year old? One way the child advocate might approach this situation is to decide that the children should absolutely remain in care. The risk of placing children with a mother who has allowed the children's safety to be at risk and who is avoiding the case manager is considerable. But wait. If there is a reunification plan, the children are coming home one day, hopefully within 12-18 months. What does a removal from the biological mother do to the children now and when and if they are reunified with their mother. Your job is to prepare cross-examination questions that probe this dilemma and state your position to the court. Represent the children as if you will have to explain to them why you did what you did when they are old enough to ask. Assume that you go into the adjudicatory hearing believing that the children could be returned to her mother with intensive family preservation services provided so that she can be safe in her home. You may want to ask how the first visit between the children and their mother went.

## Judge Group

The judge group should watch the preparation of the parties. The judge group should examine the petition and start making a mental list of what elements have to be demonstrated by clear and convincing evidence to justify removal of this child from the home. The judge group should decide whether they will simply listen to the evidence provided, no matter how poorly or well it is presented, or whether the judge group wishes to ask some questions on its own. Remember, one of your jobs is to determine the truthfulness of the parties. You may note their expressions, body language and attitude in making those decisions. But you have to decide what the appropriate attitude of a mother should be if her child has been removed. Is her age a factor in her emotional maturity? Is her emotional maturity a deprivation issue? How do you note someone's attitude for the court record when the only official record of the hearing is a tape record or CD recording? What finding of facts will you make after hearing all of the evidence?

You will need to state those findings for inclusion in an order and for development of a case plan if you order one. At the close of the evidence the judge group should be prepared to state findings of fact and conclusions of law to support its finding and to announce a temporary disposition.

**Case Presentation for Adjudicatory hearing:**

Activity	
Mock Trial for Adjudicatory Hearing	
<b>TIME:</b>	30 minutes. The trainer may limit the time due to the dynamics of the testimony.
<b>PURPOSE:</b>	To practice testifying at the Adjudicatory Hearing
<b>MATERIALS:</b>	Witness Observation Checklist
<b>INSTRUCTIONS:</b>	<ol style="list-style-type: none"><li>1. The case manager group will be direct examined first and then cross examined by the parent's attorney.</li><li>2. The child advocate group will have an opportunity to ask the case manager group questions.</li><li>3. As you observe the witness please complete the Witness Observation Checklist.</li><li>4. The judge group will have an opportunity to debrief and share what they observed during the trial.</li><li>5. The SAAG will debrief using the following questions listed below.</li></ol>

## **Debrief: Adjudicatory Hearing**

- What were your observations of this hearing?
- What was different about testifying at this hearing?
- How was the purpose of the hearing accomplished?
- How prepared were the witnesses for testimony?
- What was done well and what might have been improved and how?
- What were the legal issues reviewed or learned during the hearing?
- Was there optimal use of the detention hearing to get information that the parties needed for use in later hearings and for case management?

After the adjudicatory hearing presentation, the judge and child advocate groups will rotate. The next task will be the Motion to Extend Custody/ Permanency Hearing.

## **Section Three *Hearing on Motion to Extend Custody and Permanency Hearing Alloff Case***

### **Alloff Motion to Extend and Permanency Hearing**

#### **Between the Adjudicatory Hearing and the Hearing on Motion to Extend Custody and Permanency Hearing:**

The judge finds the children to be deprived as to Ms. Alloff and Mr. Dru G Uzer and places them in the custody of DHR on September 21, 2006. Mr. U. N. Known Fatima's biological father whereabouts remained undetermined. Mr. U.N. Known was served by publication and Fatima was adjudicated deprived as to her father Mr. U.N. Known and prior disposition order remained in place

Refer to the two case plans and the Motion to Extend Custody and Permanency Hearing Court Report to follow the progress of the case following the adjudicatory hearing.

#### **At the Hearing on Motion to Extend Custody and Permanency Hearing:**

At this hearing the parties take the following positions respectively:

DFCS requests that the custody order be extended because Fatima and Mickey remain deprived and an extension is necessary to accomplish the purposes of the original custody order. DFCS wants to keep working with the mother on a reunification plan despite the challenges. They are also requesting a concurrent plan of termination of parental rights and adoption, though DFCS hopes it will not have to follow this route.

The Child Advocate's position will not be known until the time of the hearing.

The mother's attorney is asking that the motion to extend be denied and that Fatima and Mickey be returned to their mother.

Judge listens to all of this.

The Court was notified at the hearing through a message left for the judge that Ms. Alloff was again in California working to provide the home her children needed.

Activity	
Preparation for Extension and Permanency Planning Hearing	
<b>TIME:</b>	30 minutes
<b>PURPOSE:</b>	To prepare testimony for the Extension and Permanency Planning Hearing
<b>MATERIALS:</b>	<p>Custody Extension and Permanency Hearing Court Report for all groups</p> <p>Activity folders for each group to prepare for the hearing.</p> <p>All groups will follow instructions in participant guide</p>
<b>INSTRUCTIONS:</b>	<ol style="list-style-type: none"> <li>1. Read all information titled "For All Groups"</li> <li>2. Then read your assigned groups activity listed below to prepare you for the extension and permanency planning hearing</li> <li>3. The case manager group will need to choose new case manager witnesses according to alphabetical order.</li> <li>4. Prepare for the case</li> </ol>

## For All Groups

- Refer to Courtroom Etiquette and types of evidence you will need for this hearing based on Legal1
- Refer to Case manager Resume and witness tips in Appendix A
- Consider the purpose for the hearing on the motion to extend and the permanency hearing.
- Consider what type of evidence is allowed in a permanency planning hearing.
- Consider what witnesses you will need to call, to present your case.
- Consider what kind of evidence of progress by the parents or lack thereof you will need and how you will get it into evidence;
- Consider what notes witnesses may need to make to refresh their recollections.

## Case manager group

Assign two members of your group to prepare a motion to extend custody in fifteen minutes and serve it on all parties. All parties have already been provided a copy of the proposed case plan. In the meantime, the other members of the group should be considering the case manager witnesses that need to be called to support the motion and concurrent case plan. Decide who your two case manager witnesses will be and what evidence they should be prepared to present. What case manager witnesses may Ms. Alloff call and what cross-examination questions should be asked? Food for thought: In her heart, Ms. Homefinder wants to continue to work with Ms. Alloff. However, will the children be safe in their mother's care? Has anything changed? It's been suggested that this case go to termination. Are the children really any better off with adoptive parents and can an adoptive family be found for them? What about Mr. Uzer? Should we try to do more with him? The judge must be wondering about these same questions.

## Parent group

Remember this is the hearing where DFCS will ask for custody to be continued and make a recommendation about whether to continue on with reunification or adopt a concurrent plan that will include termination of the rights of the mother. Buying some more time is one strategy. Consider taking the offensive this time. There is not much you can do if the case manager presents accurately what the mother has or has not done. Or is there? Why not focus on finding a protective caregiver in Ms. Exotic Dancer who the children already know and trust? Could Ms. Alloff be encouraged to care for the children with identified adult supervision when she has to work and arrange child care during the hours she has to rest? Is there any deprivation lingering? Hasn't she done her drug tests? Did anyone tell her they should have come back negative for her to regain custody? What about housing assistance? Has the agency done all they could to revise the steps Ms. Alloff was having difficulty completing?

After you choose a strategy, decide what evidence is needed to present and consider cross-examination questions for the DFCS' witnesses.

## Child Advocate group

The child advocate group will be given information with their position and instructions. These will be a surprise for the other participants.

## Judge Group

The judge group should watch the tension between the parties. How long does this child have to remain in limbo? If it was my child, how long would it take me to get my act together? Is that really relevant to this case? All the mother did was visit her children and she didn't make all her visits. What else could be done for this mother? Have all options been exhausted? Is there some alternative out there that I can consider that will provide some safety for this child, both emotionally and physically? What kinds of questions should I ask? Is anyone telling me the truth? Or is my job to read between the lines and try to figure out the truth?

Activity	
Mock Trial for Hearing to Extend and Permanency Hearing:	
<b>TIME:</b>	30 minutes. The trainer may limit the time due to the dynamics of the testimony.
<b>PURPOSE:</b>	To testify in the motion to extend/permanency hearing
<b>MATERIALS:</b>	Witness Observation Checklist
<b>INSTRUCTIONS:</b>	<ol style="list-style-type: none"> <li>1. The case manager group will be direct examined first and then cross examined by the parent's attorney.</li> <li>2. The child advocate group will have an opportunity to ask the case manager questions about the case.</li> <li>3. As you observe the witness please complete the Witness Observation Checklist.</li> <li>4. The judge group will have an opportunity to debrief and share what they observed during the trial.</li> <li>5. The SAAG will debrief.</li> </ol>

## **Debrief: Extend and Permanency Hearing**

- What are the significant issues to be raised at this hearing?
- How was the evidence that was presented supportive of the conclusions made?
- What was done well and what might have been improved and how?
- What were the legal issues reviewed or learned during the hearing?
- Was there optimal use of the Extend and Permanency Hearing to get information that the parties needed for use in later hearings and for case management?

After the Extension and Permanency Hearing, the groups will debrief and then rotate. The next task will be to prepare for the termination of parental rights hearing using the following additional information in section four.

## **Section Four *Termination of Parental Rights Hearing (TPR) Alloff Case***

### ***Alloff Termination of Parental Rights Hearing (TPR)***

#### **Between the Extension and Permanency Hearing and the Termination of Parental Rights (TPR) Hearing:**

The events between the Extension and Permanency Hearing and the Termination Hearing are found in the Termination Hearing Court Report. Fatmina and Mickey have been in DFCS custody for 15 out of the last 22 months as January 15, 2008. A decision was made to file a petition for termination of parental rights on October 2, 2007 and the petition was filed November 1, 2007, after the termination packet was provided to the SAAG. Publications were done for both Dru G Uzer and U.N. Known. The hearing was held January 15, 2008. DFCS continued to provide services under the reunification plan while concurrently planning for the foster/adoptive placement for Fatima and Mickey.

#### **At the Termination of Parental Rights Hearing:**

DFCS sought to have the parental rights of the U.N.Known and Dru G. Uzer and Cinnamon Alloff.

Activity	
Preparation for the Termination of Parental Rights Hearing	
<b>TIME:</b>	30-45 minutes depending on time needed by participants
<b>PURPOSE:</b>	To prepare testimony for the Termination of Parental Rights Hearing
<b>MATERIALS:</b>	<p>Termination Hearing Court Report for the case manager group</p> <p>Pre-termination Hearing information for the parent group</p> <p>Termination Hearing position for the child advocate</p> <p>Activity folder for Judge group</p> <p>Participant guide instructions for “all groups” and your specific group</p>
<b>INSTRUCTIONS:</b>	<ol style="list-style-type: none"> <li>1. Read all information titled “For All Groups”</li> <li>2. Then read your assigned groups activity listed below to prepare you for the termination hearing</li> <li>3. According to the group you are in, determine who will be the main character and who will be the witness.</li> <li>4. Prepare for the case</li> </ol>

## For All Groups

- Refer to Courtroom Etiquette and types of evidence you will need for this hearing based on Legal1
- Refer to Case manager Resume and witness tips in Appendix A
- Consider what type of evidence is allowed in a TPR hearing.
- Consider what witnesses you will need to call, if any; Can you rely on the testimony of previous witnesses now? Should you consider presenting certified copies of all previous orders of this court into evidence so it will go up with the case if the case is appealed? Why?
- Consider what notes you may need to make to refresh your recollection.

## Case manager group

You need to decide first what grounds for termination exist which you can prove given the evidence you have. Perhaps you should review the termination packet to get ideas. Then, work together as a group on going over the case from start to finish – from when the case first came in up to the present. Be extremely methodical. Write down dates, visitation times, names of parties, places and events to refresh your memory. Get the evidence together that will support the termination grounds you have chosen. Other than the termination grounds, what else must you prove? What about Joy Happy in Texas could she with Adoption Assistance care for the children? What about whether termination of parental rights is in the children's best interest?

You know from the previous hearings what kinds of questions the parties will ask. You already know their positions. They want more time. Perhaps with more time, the mother could reunify successfully. Is that likely or not? Why not? What will be your response if you are asked that? What does the law say about whether deprivation will continue? What if a party says she is not deprived today? What is your response going to be? Will harm likely come to the children if reunified? Will the children be harmed by remaining away from the mother? How will you balance those two competing ideas? How will you respond to questions about them? Will you be convincing? What other witnesses should you call?

Note that a termination of parental rights hearing, particularly if contested, is likely to bring out all of the flaws of the case, from the initial investigation all the way through to this hearing. However, it is also a time where you DFCS can really shine in presenting a very organized case, where every reasonable effort was made, where communications were well maintained and where a clearly defined strategy was followed. What evidence will best showcase all that DFCS did in this case? Some matters you may want to think about include:

- Consider with your SAAG what the parents have said to you in the past. Did you make a notation of that in your records? Should those records come into evidence? How?
- Consider with your SAAG if calling the parent first is a good strategy? Has the parent attorney prepared her for that? How can you prepare your SAAG about what the parent will say? Will the parent be hostile? Should you advise your attorney of that? If so, how should you act to contrast your testimony to that of the parent?

### Parent group

Down to the wire! The mother has not really done anything more than last time. Explore some of the possible reasons for this including any lack of support by DFCS or failure on their part to amend case plans to address steps in the plan that have not worked. So what is the strategy? Doesn't the fact that this is a final decision make this a very different hearing? Can you try to buy some more time? The mother says she now has a job and a place to stay. Shouldn't we at least postpone this hearing to find out more? She also says that her cousin in Waco just heard about the children and is very interested in caring for them. She felt that the family abandoned Cinnamon and she was sorry about that and wanted to help. And what if we find that its all bogus? That's certain termination of parental rights. Ms. Alloff seems depressed so how could the therapist miss that dual diagnosis? I'm not sure I would want her to take the child home. Should I put her on the stand? Can I trust her to perform? I have to believe my client and fight for her. This might be me and my child.

### Child Advocate group

The position of the Child Advocate is known only to this group.

### Judge Group

The judge group should make sure that each and every element of the termination of parental rights statute is met and check it off as the evidence is being given. Is the evidence this time clear and convincing? And what if a relative shows up at the last minute? Someone we didn't know about, nobody knew about? That will make my decision harder. Shouldn't we see if there is a relative in Texas who can take Ms. Alloff in? Everything will be all fine then. What kind of relatives does this mother have I wonder? What if the defense gets better with more credible, convincing evidence? That will make my decision harder too. Complete the activity packet.

**Case Presentation for the Termination Hearing:**

Activity	
Mock Trial for Termination of Parental Rights Hearing:	
<b>TIME:</b>	45 minutes. The trainer may limit the time due to the dynamics of the testimony.
<b>PURPOSE:</b>	To testify in the termination of parental rights hearing
<b>MATERIALS:</b>	Witness Observation Checklist
<b>INSTRUCTIONS:</b>	<ol style="list-style-type: none"><li>1. The case manager group will go first and will have 45 minutes</li><li>2. The child advocate group will have an opportunity to ask questions.</li><li>3. As you observe the witness please complete the Witness Observation Checklist.</li><li>4. The judge group will have an opportunity to make a decision and debrief and share what they observed during the trial.</li><li>5. The SAAG will debrief.</li></ol>

## Closing Debrief Questions

What things could the case manager have done in the investigation of this case to better prepare for the questions he/she would have been asked at the detention hearing? At the termination hearing?

What could the case manager have done to prepare for direct examination questions he/she will be asked?

What things can a case manager do to prepare for cross-examination questions he/she will be asked from all the parties?

What were other possible strategies the case manager might have used at the termination hearing? If so, what? Would another strategy have been more effective? Why?

What were the critical points in this case where the case manager could have assisted the SAAG? What does she know that he does not?

What could the case manager have done to find out in advance what the positions of the parties was going to be?

Should the SAAG also consult with the lawyers for the parties to ask what their client's position will be?

How could the case manager and SAAG work together on developing and strengthening a case strategy? When should this be done?

How can you prepare for questions which imply that you are covering for the liability of your agency?

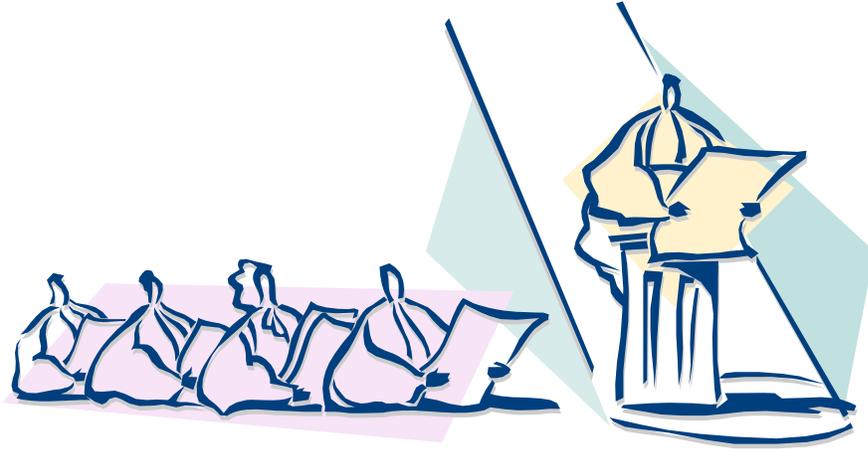
In what circumstances might it be appropriate to exhibit displeasure or even anger at the questions you are being asked?

At what point can you stop the proceedings and ask for a conference with your attorney? What are the consequences, good or bad, by doing that?

Is it appropriate for you to whisper to your attorney during the questioning of other witnesses or to hand your attorney notes during the questioning of another witness?

If the judge asks you a question directly, should you respond on your own or through your attorney? Are there exceptions to this general rule?

# APPENDIX A



## Witness Tips and Pointers

### **Tips Before Going to Court:**

- Review your record thoroughly.
- Express your concerns about the case and/or fears about your testimony to your SAAG before the hearing.
- If you do have a "skeleton" in your closet, tell your SAAG before the hearing so that s/he may evaluate it.

### **Courtroom Tips:**

- Always be on time for court.
- Stand whenever the judge enters the courtroom and remain standing until the judge says you may be seated (even if it's several minutes).
- Always address the court as "Your Honor."
- While in the courtroom, sit quietly when court is in session. Do not chat or whisper with friends, clients, or other case managers. The Court proceedings are being recorded and background conversation can interfere not only with the ability of the judge to hear testimony, but the accuracy of this important record. Courtroom chit chatting may result in a reprimand from the judge.
- Once a hearing or trial starts, you may not freely move around the courtroom. Continuously entering and leaving the courtroom disrupts the proceedings. Try to keep all movement to a minimum
- Always give careful attention to the courtroom proceedings. Do not look bored.
- Avoid reading newspapers or books in the courtroom, particularly if your use of such material is a distraction to others. Some judges are offended when books and newspapers are read in their courtrooms.
- No weapons, food, drink, or gum chewing in the court building.
- Turn off your cell phones and pagers. They may be confiscated if they interrupt court proceedings. Vibration setting, if at all audible, may result in confiscation as well.
- If the rule of sequestration is invoked, then the case manager cannot talk with other witnesses about the case.

- Nervous habits are distracting. Avoid pencil-tapping, finger-drumming, knuckle-cracking, nail-biting, teeth-grinding, paper-shuffling, change-jingling and knee-bouncing. They give the impression that you are impatient or anxious. You do not want to give the impression that you are unsure of your case or yourself.
- Remember that the judge can see you when you are not on the witness stand.
- Avoid facial expressions, noises or outbursts that are distracting or disrespectful to other court participants. Don't do anything that would affect your credibility as a witness.

### **Dress Requirements:**

- How you appear in the courtroom affects your credibility as a witness.
- Dress should be simple, modest, and professional. (Dress as if you were going to a job interview.) Sexy or revealing clothing is inappropriate. Follow practices of the particular courtroom.
- Present a professional image by wearing clean, pressed shirts, pants or skirts. Clothing should be comfortable.
- Women should wear hose with skirts or dresses and avoid open-toe shoes. Men should not wear sandals.
- Skirts should be of modest length and no more than three inches above the knee.
- No jeans, sunglasses or tennis shoes.
- All jewelry should be removed from facial piercings.
- Hair should be conservative – nothing wild or outrageous.
- Jewelry should be kept to a minimum and should not be distracting.

## Witness Tips and Pointers:

1. Preparation is important to good testimony. **Review your record.** Preparation will assure that your testimony is accurate and that you can testify with confidence and sincerity.
2. You may take handwritten or typed notes to the stand to help you remember dates, times and details. Be aware, however, that these notes may be reviewed by opposing counsel. **DO NOT BRING YOUR CASE RECORD TO COURT UNLESS YOUR SAAG HAS SPECIFICALLY REQUESTED YOU TO DO SO.** Carrying the entire file makes one susceptible to having it reviewed by the opposing party and entered into evidence.
3. Respond to the witness oath or affirmation clearly and affirmatively. If you wish to affirm your testimony, rather than swearing, please tell your SAAG before the hearing.
4. Listen carefully to each question. Make no assumptions. If you do not understand a question, ask for clarification.
5. Wait until the entire question is presented before answering. This will keep you from talking over the questioner and will give you time to consider your answer.
6. Answer out loud. It is difficult to write down a nod or other gesture.
7. Answer directly and clearly, at a normal rate of speed, so that everyone can hear and understand your words. Try to avoid work related jargon or slang
8. When asked a question, pause, think about the question and think about your answer before you start talking. Limit answers to the question asked. Keep answers short and to the point.
9. Answer in factual terms and keep opinion statements to a minimum.
10. Be specific and descriptive. (Describe the observations that caused you to conclude that the house was not only “dirty” but also “unsanitary.” Identify the risk and safety issues that resulted in court action and specifically identify any goals or steps in the case plan which the parents have failed to complete.)
11. If your testimony is interrupted for any reason, stop talking. This is especially true when it is interrupted by a question from the judge or an objection.

12. Avoid phrases such as “I think,” “I believe,” or “I am not sure, but...” They make you appear unsure of your testimony.
13. **Tell the truth.** If you do not know the answer to a question, say so! If you knew once and have forgotten, say that you do not recall or remember.
14. If during your testimony something causes your recollection to be refreshed (you remember the answer to a question whose answer you could not recall before), then say so. If you have inadvertently answered a question incorrectly, clear it up right away.
15. Be prepared to assert the fact that you as a case manager are an expert witness. Be able to list credentials, past experiences and training that make you an expert. A guide to use in listing your credentials is provided in this training. Fill it out and give a copy or a resume to your SAAG.

### **Tips for Cross-Examination:**

- Keep your cool when cross-examined. Stay close to the facts. Avoid humorous or inappropriate banter with opposing counsel. **Do not argue with opposing counsel.**
- Address opposing attorneys as Mr., Mrs. or Ms. when testifying even if you are on a first name basis with them.
- Sometimes an attorney will ask the same or similar question over and over. Do not show your impatience or point out that the question is repetitive. (Your SAAG will object if appropriate.) The attorney may be more interested in your getting you angry or irritated than in the answer. Patiently answer the question again and again in the same way, explaining that the answer you are providing is the one you provided before.
- Remember that you will be asked leading questions on cross-examination. Listen carefully to the question. There may be some questions that you cannot answer because of the way they are asked. (Ex. When did you stop beating your husband?) In those cases, explain that you cannot answer the question because to do so would provide incorrect information to the court, etc.

- Listen carefully to each question, and be sure that everything in it is true before adopting it as truth. For example be careful when asked: "Isn't it true that..."
- Sometimes an attorney will deliberately misstate your prior testimony to try to get you to agree with his or her position. Don't fall in this trap. Listen carefully to his characterization of your testimony. If there are inaccuracies, point them out.
- Other times an opposing attorney will quote some of your previous testimony and ask why you left that information out of a report or answer, etc. Answer truthfully. There is a good reason for everything you do and you cannot catch everything. Your response may be "I forgot" or "I put in the information I knew was important at the time." Perhaps the information from the testimony is not as important as other information in the report.
- At other times, opposing counsel may question your professional experience and training. Anticipate this. Take a written record of your training experience or a resume with you to court.
- Remember that you do not have to have children of your own to be a child welfare expert or to provide social services. You have had training and other experiences with children that give you both child welfare expertise and practical knowledge about children and child rearing.
- Opposing counsel may attack your credibility as a witness through some error in your report and/or exploiting your failure to recollect the facts of the case at that moment. Remain calm. Innocent mistakes are not uncommon. Acknowledge your innocent error or lack of recollection and straighten it out.
- If you are asked a question that requires you to speculate or testify to things that you did not actually see, hear or experience, do not answer by guessing or speculating about what might happen in the future or what might have happened in the past. You are there to tell what you know. Phrases such as "I suppose," "I think so," or "If you say that is correct" often appear in speculative answers. Avoid them. The evidence before the court does not need to be clouded with what might have happened before or what might occur in the future. The correct answer to such questions is usually "I do not want to speculate or guess about that."

- Don't respond, without clarification, to questions that use words like "generally," "slightly," "frequently," or "often" to avoid specificity. These words can mean different things to different people. Make sure your answer is specific.
  - Don't be intimidated when opposing counsel appears to be reading from a document and then asks you a question beginning with the phrase, "Isn't it true...?" Stick to what you know is the truth. The document may or may not have anything to do with the case.
1. If the attorney insists on a "yes" or "no" answer that will not fully respond to the question or will result in a misleading answer, insist on explaining your answer.
  2. Sometimes on cross-examination the questioner will let you finish your answer and wait for you to continue. Don't be baited into talking too much.
  3. If the answer to the question is "yes" or "no," give that simple response.

### **Body Language Tips and Pointers:**

1. **Relax!** Don't fidget. Keep your hands away from your face, even if you have to sit on them. Don't slouch.
2. Don't talk through clenched teeth and relax your hands and shoulders (don't hunch). Don't cross your arms or legs. Loose, easy, expansive gestures are usually associated with truthfulness.
3. Being nervous is normal! You will be more relaxed a few minutes into your testimony. If your hands are shaking, place any documents in your hands on the witness box in front of you.
4. **Lean slightly forward** toward the person asking questions and make eye contact with the questioner. When answering questions, remember to make eye contact with the judge. The judge is the person you are trying to convince.
5. Don't look down when testifying. Looking down gives the impression that you are being untruthful or evasive. On the other hand, don't look up to the ceiling when thinking about an answer. You don't want it to appear as though the answer is written on a teleprompter on the ceiling.

## **Tips while you are Visiting in The Courthouse:**

1. Remember that courthouse employees are the colleagues and co-workers of the judge. These people talk to each other. Always be polite, honest and courteous to everyone at the courthouse. You don't want to get the reputation of being dishonest, unprofessional or difficult to deal with.
2. Always dress and act professionally when you are in the courthouse. You want your reputation to support your being viewed as a competent and credible professional.

**RESUME OF EXPERIENCE AND TRAINING FOR DFCS CASE MANAGERS**

(This information will add to your credibility and qualify you as an expert witness.)

**I. EDUCATION**

Undergraduate Degree(s):

Degree: \_\_\_\_\_ Major: \_\_\_\_\_

University or College: \_\_\_\_\_

Graduate Degree:

Degree: \_\_\_\_\_

University or College: \_\_\_\_\_

Other Post Graduate Study/ Licensure Relevant to Child Welfare Services:

Courses Taken	Date Completed	Hours	Credit
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____

**II. CHILD WELFARE AGENCY TRAINING AND CERTIFICATION**

DFCS Certification and Training:

Certification: \_\_\_\_\_ Date of Certification: \_\_\_\_\_

Training Required for Certification (list time periods):

\_\_\_\_\_  
\_\_\_\_\_

On the Job Training for Certification(list time periods):

\_\_\_\_\_  
\_\_\_\_\_

Training, Certification in Other States:

Certification: \_\_\_\_\_ Date of Certification: \_\_\_\_\_ State: \_\_\_\_\_

Training Required for Certification:

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On the Job Training for Certification:

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List all Training in Child Protective Services and Foster Care that you have taken since being employed as a case manager or supervisor:

Course	Date Completed	Course	Date Completed
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____

(If necessary list other training on back of this sheet)

### III. EXPERIENCE

Experience as CPS Case Manager (Investigator or General CPS Case Manager)

Years & Months	State	Approx. Cases:	Per Year or Month
_____	_____	_____	_____
_____	_____	_____	_____

Experience as CPS Case Manager (Ongoing only)

Years & Months	State	Approx. Cases:	Per Year or Month
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____

Experience as Foster Care or Placement Case Manager (Including Adoptions)

Years & Months	State	Approx. Cases:	Per Year	or Month
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____

Experience as CPS Supervisor

Years & Months	State	Approx. Cases:	Per Year	or Month
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____

Experience as Foster Care or Placement Supervisor (Including Adoptions)

Years & Months	State	Approx. Cases:	Per Year	or Month
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____

**IV. OTHER WORK EXPERIENCE RELEVANT TO CHILD WELFARE SERVICES** (e.g. Teaching in Child Welfare Area, Social Work Positions)

Experience	Years & Months	Location
_____	_____	_____
_____	_____	_____
_____	_____	_____

**V. MEMBERSHIP IN PROFESSIONAL SOCIETIES, PROFESSIONAL ACTIVITIES/ HONORS AND AWARDS**

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## SUMMARY OF CHILD WELFARE EXPERT RESUME

(After filling out the resume of training and experience, complete this summary to use in courtroom testimony. Strike out the portions not applicable to you.)

1. I received a B.A. in \_\_\_\_\_ from \_\_\_\_\_ in \_\_\_\_\_. I have a \_\_\_\_\_ (graduate degree) in \_\_\_\_\_ which I received in \_\_\_\_\_.

2. I was certified as a case manager through the Division of Family and Children Services of DHR. This required that I take \_\_\_\_\_ months of training, including \_\_\_\_\_ months of class room instruction and \_\_\_\_\_ months of supervised on the job training. My certification also required that I pass a test or #\_\_\_ or tests prior to being certified.

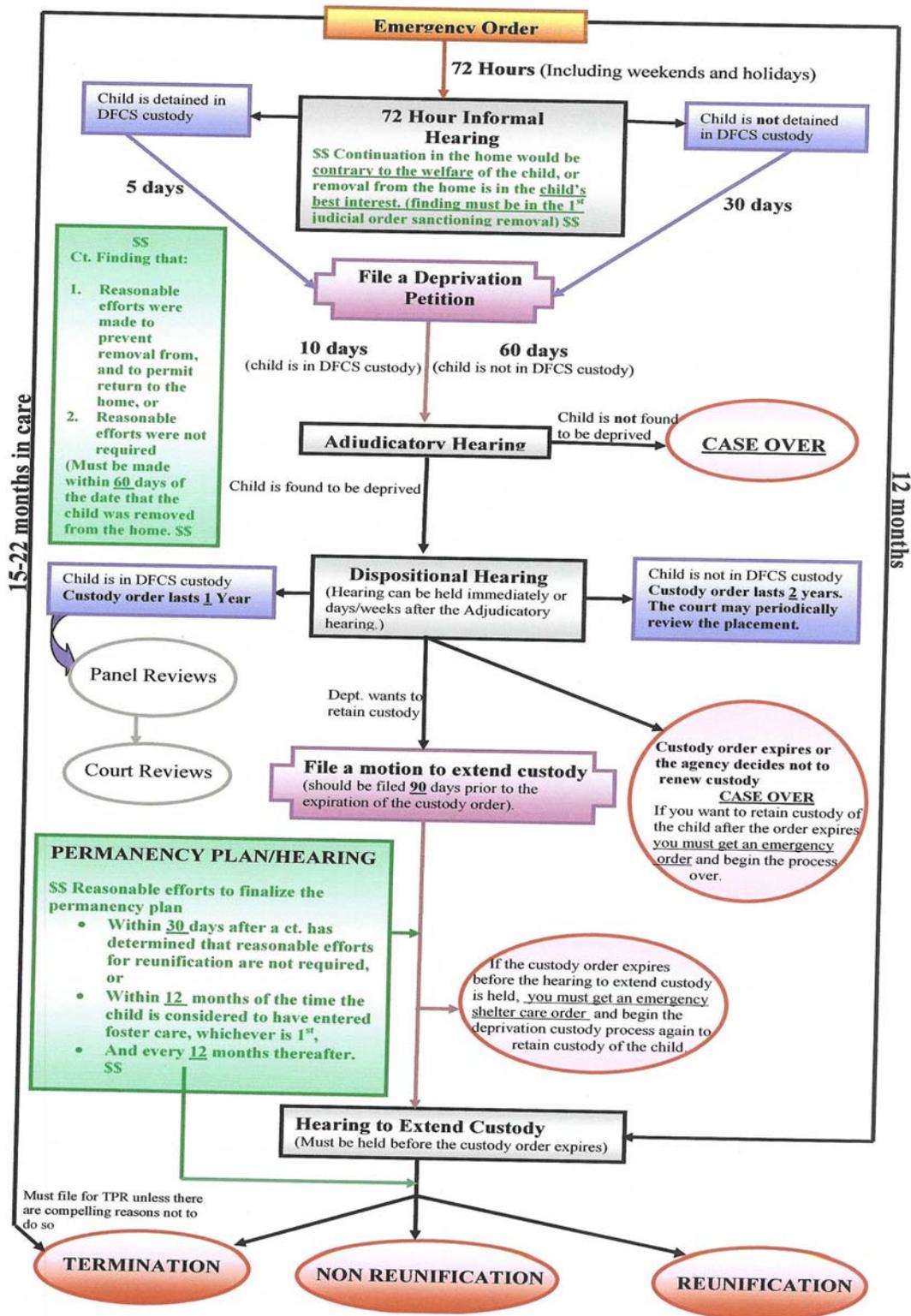
3. I have been employed by DFCS as a \_\_\_\_\_ case manager since \_\_\_\_\_. During that time I have investigated (or handled) approximately \_\_\_\_\_ cases per year. I also worked for DFCS as a \_\_\_\_\_ case manager for \_\_\_\_\_ years. During that time I was the case manager for approximately \_\_\_\_\_ cases per year.

4. I have taken approximately \_\_\_\_\_ weeks of ongoing child welfare training since I have been employed by DFCS.

5. I was previously employed for \_\_\_\_\_ years as a \_\_\_\_\_ case manager at \_\_\_\_\_ in the State of \_\_\_\_\_. While there I investigated or was the case manager for approximately \_\_\_\_\_ cases per year. I had approximately \_\_\_\_\_ weeks of child welfare training while employed at the child welfare agency in \_\_\_\_\_.

6. I have been employed as a \_\_\_\_\_ supervisor with DFCS for \_\_\_\_\_ years. I supervised \_\_\_\_\_ employees who investigated (or handled) \_\_\_\_\_ cases per year. I was employed as a supervisor at the child welfare agency, \_\_\_\_\_, in \_\_\_\_\_ for \_\_\_\_\_ years. During that time I supervised \_\_\_\_\_ employees who investigated (or handled) \_\_\_\_\_ cases per year.

7. I was also employed as \_\_\_\_\_ at \_\_\_\_\_ in \_\_\_\_\_ for \_\_\_\_\_ years. My job responsibilities included (list past job responsibilities helpful to child welfare expertise) \_\_\_\_\_



**Deprivation Flow Chart**

## **Case Manager Testimony and Evidence that must be admitted at a Termination Hearing**

### **1. Provide all relevant details of the factual history of the case in short form.**

- When did the Department first become involved with this family?
- Why?
- What efforts/services/assistance did Department provide family prior to removing child(ren)?
- When was/were child(ren) removed by Department?
- When was the Department granted temporary legal custody? (date of order)
- When was reunification case plan developed?
- What was/were parent(s) required to do under plan?
- How did parent(s) fail to comply?
- Was/Were parent(s) counseled/warned re: noncompliance?
- What was basis of termination petition? (i.e., why was TERMINATION eventually sought by Department)?

### **2. Provide all relevant details of the procedural history of the case:**

- Deprivation/Termination Order entered on \_\_\_\_\_
- Hearing on same conducted by juvenile court on \_\_\_\_\_
- Reunification Case Plan(s) developed/signed by \_\_\_\_\_
- Case Review Panels conducted on \_\_\_\_\_
- Recommendation(s) of Same:
- Judicial Case Reviews or Citizen's Panel Reviews conducted on \_\_\_\_\_
- Findings of Same:
- Extension Order(s) entered on \_\_\_\_\_
- Requirements of Parent(s) under Same:
- Other Relevant Procedural Facts:
- Previous Deprivation Orders entered on \_\_\_\_\_
- Previous Termination Orders (if any) \_\_\_\_\_

- Any Previous Orders vacated or set aside?
- If yes to #3 then on what grounds/why?
- Was there a Permanency Hearing? If so when? Who attended?
- Efforts/services/assistance prior to removal of child(ren)
- Review your form 455A (safety assessment) and reasonable efforts previously used at prior hearings

**3. Investigation re; relative placement /adoption options**

**4. Problems of child(ren) due to parents(s) deprivation**

- ✓ Psychological testimony
- ✓ School reports/teacher observations
- ✓ Case manager Observations
- ✓ Foster parents observations
- ✓ Medical Evidence
- ✓ Police records
- ✓ Neighbors complaints
- ✓ Collateral Information

**5. Provide a list of all material or key exhibits in trial transcript or documents in record (include transcript and record citations):**

- ✓ Criminal convictions (obtain certified copies of parent(s) 's convictions)
- ✓ Case plans
- ✓ Previous orders
- ✓ Contempt Order
- ✓ Others