

Handouts to the Legal Issues Two: In Court Training

Witness Tips and Pointers

Tips Before Going to Court:

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

Courtroom Tips:

1. Always be on time for court.
2. Stand whenever the judge enters the courtroom and remain standing until the judge says you may be seated (even if it's several minutes).
3. Always address the court as "Your Honor."
4. 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.
5. 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.
6. Always give careful attention to the courtroom proceedings. Do not look bored.
7. 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.
8. No weapons, food, drink, or gum chewing in the court building.
9. 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.

10. If the rule of sequestration is invoked, then the case manager cannot talk with other witnesses about the case.
11. 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.
12. 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:

1. How you appear in the courtroom affects your credibility as a witness.
2. 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.
3. Present a professional image by wearing clean, pressed shirts, pants or skirts. Clothing should be comfortable.
4. Women should wear hose with skirts or dresses and avoid open-toe shoes. Men should not wear sandals.
5. Skirts should be of modest length and no more than three inches above the knee.
6. No jeans, sunglasses or tennis shoes. All jewelry should be removed from facial piercings.
7. Hair should be conservative – nothing wild or outrageous
8. 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.” Specifically 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:

1. 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.**
2. Address opposing attorneys as Mr., Mrs. or Ms. when testifying even if you are on a first name basis with them.
3. 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.
4. 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.
5. 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..."
6. 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.
7. 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.
8. 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.

9. 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.
10. 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.
11. 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."
12. 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.
13. 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.
14. 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.
15. 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.
16. 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.

Witness Observation Checklist

Witness Name _____

Observation Areas	Demonstrated	Not Demonstrated, but should have	Needs Improvement	Not Applicable
1. Preparation for testifying				
Consulted with S.A.A.G prior to Hearing				
Had court report or notes				
Showed clear preparation/knowledge of case				
2. Courtroom Dress and Demeanor				
Dressed conservatively/professionally				
Jewelry was kept to a minimum not distracting				
3. Body Language				
Was relaxed, upright and leaned slightly forward				
Maintained eye contact with the judge when answering questions				
Appeared calm and unthreatened throughout				
4. Direct Examination				
Clearly presented resume/qualifications/credentials				
Listened carefully and answered clearly, directly, factually				
Testimony was descriptive, relevant, specific and truthful				
Waited to respond during interruptions				
5. Cross Examination				
Properly addressed opposing counsel and did not argue				
Was not intimidated by cross-examination tactics				
Gave yes or no responses when necessary				
Remained calm/responded candidly to challenges to credibility				
Avoided misstatements, patiently answered repetitive questions				
Told what was known, did not speculate				

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: _____

On the Job Training for Certification: _____

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

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) _____