

Courtroom Preparation

Preparation

- Simple yet demanding review of case files until important and relevant facts are committed to memory.
- Meeting with the legal representative prior to the hearing to ascertain:
 - Strengths and weaknesses in the case;
 - The information that must be presented in court to support the petition;
 - Questions that will be asked under direct examination;
 - Identify possible questions that will be posed under cross examination; and
 - Determine whether it is permissible to refer to notes or case record.
- Engage in anticipatory planning with their supervisor and/or legal representative prior to the court hearing to identify the child welfare professional's ability to communicate in court.
- Welcome feedback regarding their strengths and weaknesses in their speaking and testimony style.
- Identify strategies to enhance those strengths and reduce the weaknesses.
- Professional attire and conduct in and out of the courtroom.
 - Appropriate clothing and grooming.
 - Calm tone and voice.
 - Avoidance of slang terminology and unclear professional jargon.

Child Welfare Professional's Interaction with Attorneys

- Solicitor

The County Children Youth Service agencies and the child welfare professional are typically represented by attorneys referred to as a "solicitor." This individual represents the position of the CYS agency through its representative, the child welfare professional. However, the duty of the solicitor is to the agency and its position, not the individual child welfare professional. As a client of the solicitor, the agency through its representative identifies the position of the agency based on its clinical assessment using the various assessments discussed throughout the CTC. The solicitor's role is then to provide legal advice and counsel as to what is legally feasible, what evidence is required to support CYS position and then to present this evidence in court on CYS's behalf. Specific activities between the child welfare professional and the solicitor were described in the previous section on preparation.

- Guardian *ad litem*

Typically, the guardian *ad litem* will have access to the child welfare professional's records and documentary evidence. If there is any concern about what can be said to or provided to the guardian *ad litem* the child welfare professional should consult with the supervisor and/or legal representative. The child welfare professional should welcome questions and scrutiny from the guardian *ad litem* as it can provide

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important insight as to the scrutiny that may come from the judge or master at the hearing. Specific information regarding the role of the guardian *ad litem* was presented in an earlier section.

- Parent's Attorney/Advocate

Explain to the participants that the parents' advocate may wish to speak with the child welfare professional in advance of the hearing. Again, child welfare professional should seek the advice of their supervisor and/or legal representative to determine whether a conversation should take place and if so, whether the child welfare professionals' legal representative should be present.

Testifying

- Listen carefully to the question and answer only that question that is being asked. This practice will convey competence and reliability to the judge or master. Answering questions that were not asked can communicate poor listening skills, evasion, unreliability and possibly bias that can undermine your credibility as a witness.
- Answer questions slowly and deliberately. Take the time to reflect on the answer to questions by taking a breath before answering.
- Accuracy and Impartiality The child welfare professional must strive to provide accurate and truthful information by including in testimony facts that support both the strengths and weaknesses in the dependency petition and in the parents' response to delivery of services.
- The judge or master will give greater weight to the child welfare professional's testimony and recommendations when it is apparent that your testimony is objective and accurate.
- The attorneys and guardian *ad litem* will view the child welfare professional's testimony and recommendations with greater credibility when it is apparent that the testimony is objective and accurate.
- Parents' resistance will be minimized when the child welfare professionals' testimony is accurate and free of bias and embellishment.

Direct Examination

- Direct examination is the initial questioning of a witness by the party who called the witness.
- The purpose of direct examination is to present testimony containing the facts that support the allegations in the dependency petition.
- The witness is expected to be familiar with the fact that leading questions, those questions that suggest an answer, are generally not permitted.
- Child welfare professionals typically are the first witness called and will be asked questions by their own legal representative referred to as direct examination.

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Cross Examination:

- Cross examination is the questioning of the witness by the other attorneys and/or guardian *ad litem* (or the party, if the party is not represented by counsel) other than the one who called the witness.
- These questions are about the information that was already presented in the direct examination.
- The purposes of cross-examination questions are to **clarify** or **discredit** the direct testimony.
 - Patiently listen to the question before answering.
 - Remain calm.
 - Resist the temptation to interpret the question as a personal or professional offense.
 - A composed accurate response that ignores any intended or unintended offense will impress the court with your professionalism and increase your credibility.
- Leading questions are permitted in cross examination.
 - *Isn't it true that Crystal Smith previously was cooperative and completed everything asked of her including a very demanding substance abuse program? So unlike the previous worker you were unable to engage Ms. Smith, correct?*
- Many times cross-examination questions are designed to require a “yes or no” answer.
 - If you believe, a yes or no answer does not fully answer the question, you may politely say so.
 - If you are directed by the court to answer yes or no, then provide the most accurate answer.
 - The agency attorney will, if necessary, to ask you clarifying questions regarding your yes or no answer during the redirect examination.

Redirect Examination:

- Redirect examination is the questioning of the witness by their own attorney after cross-examination.
- The purpose of this questioning is to clarify or rebut any damaging testimony elicited on cross-examination.
- Redirect examination is limited to any information brought out on the cross-examination.