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## Working with the Courts in Child Protection

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### Chapter 7 Going to Court

Most child protective services (CPS) caseworkers are prepared to interview family members, to conduct home visits, to document cases, and to work with other social service providers. However, there is one component of casework practice that leaves some caseworkers anxious and ill-equipped—preparing for and conducting themselves in court. Simply knowing the different types of court hearings and mastering legal terminology do not demonstrate a caseworker's competence in juvenile court. Skillful courtroom presentation, well-documented court reports, and a collaborative style also are necessary to maximize constructive family, agency, and court outcomes. This chapter presents practical guidelines to help CPS caseworkers prepare themselves for going to court, to help them work with children who also may be called to testify, and to improve their working relationships with the judges.

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#### The Rules of Evidence

The rules of evidence determine what information can be introduced in court and for what purposes. They are intended to ensure that the court's decisions are based on reliable information.

#### Types of Evidence

Evidence takes different forms, specifically:

- **Direct evidence** is based on personal knowledge, such as the testimony of an eyewitness;
- **Demonstrative evidence** includes items such as documents, photographs, or x-rays;
- **Circumstantial evidence** is indirect evidence from which an inference can be drawn, such as a child with an oddly shaped bruise on her back.

For example, a CPS caseworker's record might contain the following types of evidence:

- The log kept by a teacher of the days the child came to school with noticeable bruises;
- Documentation that a neighbor heard the child's screams;
- The record of the physician who examined the child reporting that she had multiple bruises of different ages and severity on her back and buttocks;
- Photographs of the bruises taken by police;
- Documentation that the child told the CPS caseworker that she lives alone with her mother and that her mother hits her with a belt;
- The belt.

In court, the child's testimony would be direct evidence. The teacher's log, the photographs, and the belt would be demonstrative evidence. Living alone with her mother, coupled with the screams and the bruises, would be circumstantial evidence identifying the mother as the abuser.

All evidence must be both material and relevant to be admitted. To be material, evidence must have a logical connection to an issue in the case. To be relevant, evidence must increase the likelihood that a particular fact is true.

The more caseworkers know about the rules of evidence, the better they can prepare for a case. The burden of proof for the particular stage of the proceeding or type of case determines how much evidence is enough.

The judge or jury will decide whether the credible evidence presented satisfies the burden of proof. (See [Chapter 4, \*The Juvenile Court Process\*](#), for a discussion on adjudication and the burden of proof.)

### The Hearsay Rule and Exceptions

The hearsay rule excludes evidence that is unreliable. Hearsay is defined as an out-of-court statement made by someone other than the witness, which is offered for the truth of that statement. For example, the hearsay rule would prevent a caseworker from testifying that a neighbor told the caseworker that she saw the mother hit the child with a belt. For that information to be admitted, the neighbor would have to testify in court. The rule, however, does not exclude out-of-court statements that are not offered for the truth of what was said. For example, a statement by the neighbor that she heard the mother yell, "I'm going to kill you," just before the child's screams would be admitted not for the truth of the statement but to show that the mother said it. The neighbor would not be testifying as to whether the mother actually attempted to kill or to abuse the child, only that she made the statement.

There are numerous exceptions to the hearsay rule that admit evidence that otherwise would be hearsay. These exceptions are based on the existence of other indications that the statements are reliable. Exceptions that are particularly relevant to child abuse and neglect cases include:

- **Admissions.** The mother said to the CPS caseworker, "I know I hit her too hard, but I will not do it again." The caseworker would be allowed to testify to what the mother said, even though it is an out-of-court statement offered for its truth, because it was also the admission of a party. Such an admission is thought to be reliable because it was against the mother's interest to make it.
- **Excited utterances.** An out-of-court statement that is made spontaneously under extreme emotional excitement also may be admissible as an exception to the hearsay rule. An excited utterance is viewed as trustworthy because the speaker's excitement at the time it was made is thought to prevent him or her from reflecting long enough to fabricate the statement. The length of time between the event and the statement is a critical factor in determining the admissibility of such statements.
- **Regularly kept records.** Records are hearsay because they contain second-hand information, but their contents will be considered reliable and, therefore, admissible when they are kept regularly, systematically, and routinely. The regularity of the record-keeping process by persons with a duty to supply accurate data ensures trustworthiness. The foundation for the admission of records is established by the testimony of the person who made the record or the custodian of the records. This exception may be applied to medical records, police reports, school records, and CPS files. Caseworkers must be careful to record accurately the statements of others and their own observations. The record must be as factual as possible.

There are other exceptions to the hearsay rule, but they are used less commonly in child maltreatment cases.

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### Expert Testimony

Expert testimony is opinion testimony about a subject that is outside the judge or jury's knowledge or experience. The witness needs to show that she is qualified to testify as an expert on a particular subject. These qualifications may be based on experience; education and training; professional accomplishments, recognition, and memberships; prior testimony as an expert; or familiarity with the relevant professional literature. After each party has the opportunity to question the witness, the judge will decide whether the witness may testify as an expert and on what specific subject. Expert witnesses are common in child maltreatment cases. Examples of expert witnesses include:

- Medical doctors who have expertise in the causes of physical injuries or conditions, such as spiral fractures, Shaken Baby Syndrome, failure to thrive, or Munchausen syndrome by proxy;
- Mental health professionals who can diagnose mental illness or can explain issues of bonding and attachment;
- Domestic violence specialists who have the expertise to explain the debilitating effects on a child of witnessing the physical abuse of a parent;
- Specialists in child sexual abuse or substance abuse.

To be admitted into evidence, the expert's opinion needs to be relevant, which means that it needs to increase the likelihood that a particular fact is true or that a particular condition exists. The expert's testimony also needs to have a sound scientific basis. Application of these rules can be complicated. It is the CPS attorney's responsibility to identify the need for expert testimony, to prepare the witness to testify, and to demonstrate in court that the witness is qualified and that the testimony is admissible. <sup>58</sup>

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### Court Reports

Court reports afford caseworkers some of the best opportunities to communicate information to the court and to influence its decision. If CPS or the court has a standard format for such documents, the caseworker will need to use that. Some formats may be ineffective vehicles, however, for quickly imparting critical information. Poorly organized reports frustrate judges and other participants and are less likely to be influential. Caseworkers should consider adding a cover page that summarizes key decisions to be made and the CPS position with respect to each of them, including references by title and page number to any attached documentation. References to documents in the court's file should be noted by the title and date of filing.

Case plans and reasonable efforts reports also are valuable for conveying information to the court. As with the court report, they should be comprehensive, concise, and written as directly and clearly as possible. If the document is an updated version of an earlier one, the new material should be highlighted. The goal is to present the material in a manner that is easily understood. In addition, it should be simple to locate any supporting documentation. Judges will appreciate receiving reports that satisfy these criteria and will be able to understand more clearly CPS positions and the reasons for them.

The content of the court report will depend on the type of hearing for which it is presented and the status of the case. (See [Chapter 4, \*The Juvenile Court Process\*](#), for further information on the issues to be addressed at various hearings over the course of a child maltreatment case.)

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## Testifying

Speaking to the court and other participants in a case is another excellent opportunity to communicate information that may affect the court's decision. Relatively few child maltreatment cases are adjudicated by trial, but when one is tried, the caseworker invariably will be called to testify or to give answers under oath. Caseworkers also may be called to give formal testimony at other stages of the court process, particularly the permanency hearing, and usually at any trial related to the termination of parental rights.

More commonly, caseworkers will have the opportunity to testify informally regarding case plans, the child's well-being, reasonable efforts, visitation, parental performance, and needed services at each hearing in the case. This testimony is not under oath and usually is delivered from the CPS counsel table rather than from the witness stand.

### Preparation for Testimony

Before every hearing, the caseworker should review the case and be prepared to answer questions about it. The nature of the hearing will determine the types of questions that may be asked. In order to prepare to testify, the caseworker should:

- Become thoroughly familiar with the facts of the case and with the case file;
- Meet with the CPS attorney to discuss the case and the particulars of the testimony, especially any troublesome aspects;
- Identify key facts or points that the attorney will want to elicit;
- Discuss with the attorney the expected cross-examination questions;
- Outline the history of the case, including important dates and events;
- Summarize the services offered, the response, and the outcomes;
- Prepare to answer questions about reasonable efforts;
- Talk with any previous caseworkers about their involvement with the family.

The caseworker also should prepare a description of his professional experience and qualifications.

### Guidelines for Testifying

During direct examination, the attorney calls the caseworker to be a witness and asks questions. Generally, the rules for direct examination require open-ended questions (e.g., "What did you see?" or "What happened next?"). Leading questions that suggest the answer or questions calling for a "yes" or "no" answer usually are not permitted (e.g., "Didn't the mother tell you that she hit the child with a belt?"). When testifying, caseworkers should:

- Be confident and self-assured;
- Listen carefully to the question and answer it directly;
- Ask that a question be repeated if it is difficult to hear or understand, but not make a habit of doing so;
- State facts, not opinions or conclusions (e.g., instead of saying that the mother was uncooperative and rude, state exactly what she said or did);
- State whether an answer is unknown or cannot be recalled;
- Speak clearly, distinctly, and loudly enough to be heard;
- Make eye contact with the questioner and the judge;
- Refer to the case file only as necessary in order to recall information.

When an attorney objects to a question or moves to strike an answer, the caseworker should wait until the judge rules on the motion before speaking. If the judge overrules the objection, then the caseworker should answer the question. If the judge sustains the objection, then the caseworker should not answer the question; the attorney will ask another one.

Cross-examination is questioning by attorneys other than the one who called the caseworker as a witness. The purpose of cross-examination is to expose weaknesses, errors, inconsistencies, biases, or other deficiencies in the testimony of the witness. The attorney also may focus on the caseworker's lack of experience or qualifications and will try to show that the caseworker did not do a thorough investigation or exercised poor judgment. Cross-examination can be unpleasant, but it is important that caseworkers not take it personally and remain outwardly calm, confident, and respectful. If a caseworker becomes hostile or

defensive, the judge may discount the testimony.

Leading questions are permitted on cross-examination. Lawyers often will ask such questions, insist they be answered "yes" or "no," and before the witness can explain, ask another question. When a "yes" or "no" requires an explanation, the witness can ask permission to explain the answer.

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### **Ex Parte Communications**

*Ex parte* communications are verbal or written communications addressed to the judge in a case by one party outside the presence of another party without copying the other party. They are strictly prohibited.<sup>59</sup> The prohibition extends to representatives of a party, including CPS caseworkers. Thus, caseworkers must never attempt to communicate privately with any judge about an open case; however, communications that are not case-specific, such as those suggested in [Chapter 8, Working with the Courts](#), are not prohibited.

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### **Children's Testimony**

The courtroom can be an intimidating and traumatizing environment for most people, but especially for children, many of whom may be terrified by the prospect of testifying. They may become anxious or distraught. Some even freeze and are unable to respond to simple, preliminary questions. Younger children are more likely to have these types of reactions. Older children also are at risk of emotional trauma because they are more likely to be cross-examined aggressively by attorneys. For these reasons, children should not be called to testify, particularly against parents or relatives, unless the children's testimony is essential to proving critical allegations of the petitions or if the children want and need to testify for their own emotional well-being.

#### **The Decision To Call a Child To Testify**

Most child abuse or neglect cases can be proved by the testimony of other witnesses or by demonstrative or documentary evidence. In some cases, however, the child's testimony may be the only evidence. This is especially true of some sexual abuse cases.

The decision to call a child to testify should be made by CPS and its attorney, in consultation with the advocates and any therapists for the child. They need to weigh carefully the potential benefits of the child's testimony against the potential harm, both to the child from testifying and to the child, other family members, and the community if the charge is not proven.

Some CPS attorneys may not be sensitive to how a child can be affected by testifying. Consequently, the CPS caseworker (perhaps with the child's advocate and therapist) should be prepared to assert any concerns when deciding whether to call the child as a witness. It is critical that children never be put in a position of giving testimony against a parent or other caretaker unless they can be safeguarded against retaliation.

Every witness needs to be competent, which means that the witness must know the difference between the truth and a lie; appreciate the necessity of telling the truth; and be capable of observing, remembering, and describing events about which the witness will testify. This is a component of the *voir dire* process, a preliminary examination to determine competency of a witness or absence of bias of a juror. Under Federal law and that of many States, all witnesses are presumed competent, but some States have more restrictive requirements. If the issue is raised, the lawyers and judge may question the child to determine competency.

Younger children are more likely to not be allowed to testify due to lack of competency. Thus, age is a significant factor in determining whether to call a child as a witness. The reliability and credibility of children's testimony has been the subject of much research, some of it contradictory. It can be summarized by saying that younger children are able to recall events less accurately and are more susceptible to suggestion.<sup>60</sup> A recommended approach for assessing children's ability to tell the truth is presented in [Exhibit 7-1](#).

#### **Credibility of a Child's Testimony**

Decisions about children's credibility will depend mostly on their demeanor and the convincing force of their testimony. Other factors considered include whether the child's testimony is consistent with earlier statements or with any other credible evidence. The court also will be interested to know if there is any indication that the child has been coached or that the story is the result of intentional or unintentional influence by a parent, CPS, law enforcement, medical professionals, or others.

Care must be taken by all interviewers never to ask leading questions regarding possible abuse or neglect. Leading questions are those that suggest an answer, for example, "Didn't he grab your mother by the neck with his hands and choke her?" as opposed to "What did he do?" Any indication that the child's testimony may be the result of such suggestive questioning will undermine its credibility.

Likewise, repeated questioning of the child by the same or multiple persons, including professionals, about any abuse or neglect also will undermine credibility. CPS should have specially trained interviewers for children. CPS administrators are encouraged to develop protocols with police, prosecutors, medical personnel, and mental health treatment providers that minimize the number of interviews to which a child is subjected. Ideally, there should be only one interview, and it should occur in a safe, child-friendly environment. The interview should be videotaped to reduce the likelihood of subsequent interviews and to demonstrate that the interview was conducted appropriately.

### The National Children's Advocacy Center

The National Children's Advocacy Center supports a network of community-based facilities that use a multidisciplinary team approach to respond to child abuse. The center is a resource for information about how to best conduct interviews of child victims and how to establish a model program. See [Appendix B, Resource Listings of Selected National Organizations Concerned With Child Maltreatment](#), for more information on the National Children's Advocacy Center, or go to <http://www.nationalcac.org>.

#### Exhibit 7-1

#### Assessing Younger Children's Ability or Willingness To Tell the Truth

- Begin the inquiry by establishing a rapport with the child. For example, ask about her age or favorite activity. Use this information to guide the inquiry.
- Ask the child the following:
  - What does it mean to tell the truth?
  - Why do you tell the truth? Is it important to tell the truth? Why?
  - What happens when you tell the truth?
  - What is a lie?
  - What have you told a lie about or when have you not told the truth?
  - What happens when you lie or do not tell the truth?
  - Are there times when it is OK to lie or not tell the truth? When?
- Using information provided by the child, ask questions and reframe the child's comments to assess her ability to discern the difference between a truth or a lie, as well as her willingness to tell the truth or to correct inaccurate information.
  - For example, if the child said she was 5 years old, begin the inquiry with "So, you're 7 years old?"
    - Assess if the child will correct the inaccurate statement. If the child agrees, respond by saying, "Oh, I thought you told me earlier that you were 5 years old?" Frequently, children will confirm their original answer.
    - In this situation, ask the child if the statement that she is 7 years old is a lie or the truth. Explain to the child that if information is not correct, you want them to provide the truth or correct answer and that they must be sure to do this in any situation, including court testimony.
  - Another example would be, if the interviewer is wearing black shoes, to ask the child, "If I told you my shoes were yellow, would that be the truth or a lie?" Alternatively, "If I told you that my shoes were black, would that be the truth or a lie?"
- Proceed with similar questions or statements that will help with the assessment.
- Conclude the inquiry by praising the child for his participation and affirmative answers. Stress the importance of telling the truth in court.

#### Supporting Child Witnesses in the Courtroom

Supportive measures for young witnesses in child maltreatment proceedings might include videotaping depositions or allowing the child to speak to the judge in chambers, a common practice in child custody cases. Some States have relaxed hearsay rules for the statements of child witnesses and are more lenient in allowing leading questions of children.<sup>61</sup> When a child needs to testify, the CPS caseworker must decide whether utilizing one of these measures would benefit the child and facilitate the testimony. If so, the caseworker should confer with the CPS attorney in advance of the trial to file the necessary motions, to develop the required supporting evidence, and to make arrangements for whatever equipment may be required if the motion is granted.

Taking frequent breaks and making the setting less formal are other measures a court can take to make children more comfortable in the courtroom and to facilitate their testimony. The judges can come off the bench, sit at the same level as the children and other participants, or not wear judicial robes. Some casual conversation with children can help relax them, as will excluding unnecessary participants from the courtroom. Permitting very young children to sit on the lap of a support person while testifying is another possibility. Some judges will take or authorize these measures on their own initiative, while others may need to be asked or encouraged to do so.

A child witness should not enter the courtroom until it is time to testify and should be prepared in advance for that moment and what will happen after. There will be people present in the courtroom whom the child has never seen, often including an armed bailiff. The child will be the center of attention, which may create or heighten anxiety or fear. CPS caseworkers (or the CPS agency attorney) should do what they can to prepare the child for this experience. At minimum, preparation should include visiting the courtroom when it is not in use, practicing being sworn in, sitting in the witness stand and answering questions (unrelated to the case),

speaking into the microphone, and seeing the view from the bench. Tell the child who will be present, and point out where each of those individuals will sit.

The CPS caseworker or attorney should familiarize the child with the court process, including:

- Explaining that different lawyers will ask questions and giving examples;
- Describing objections and explaining how the child should wait until the judge rules on them;
- Explaining the terms "sustained" and "overruled;"
- Role playing the competency inquiry (without telling the child the answers);
- Arranging for the child to meet with the CPS attorney (if this meeting has not yet occurred) and assisting the attorney and child so that they may interact comfortably.

While it is inappropriate to remind a child what to say or otherwise attempt to influence the child's testimony, it may be appropriate for the caseworker and attorney to review with the child any videotaped, audiotaped, or written statement that may have been made.

The advocates are particularly helpful allies in cases where children will testify. The GAL or CASA often may have a closer personal relationship with the child than others involved in the case and be in a better position to facilitate the child's ability to testify effectively.

### Standards for Testifying by Alternative Means

Many States have passed laws regarding child witnesses in the courtroom. These laws focus primarily on protecting a child from having to testify in the presence of the alleged abuser. One protective measure is the use of closed-circuit television in which the child's testimony is broadcast into the courtroom where the judge, jury, and defendant can see and hear what the child says. The lawyers are present with the child, and the defendant's lawyers can cross-examine the child while communicating privately with their client. This approach will be deemed constitutional regarding the right to face one's accuser, provided there is sufficient evidence for the judge to find that the child would be significantly traumatized by the presence of the defendant and, thus, unable to testify.<sup>62</sup> Expert testimony may be necessary to establish the basis for a request to protect a child in this way.

The most significant recent development regarding the testimony of child witnesses is the adoption of the Uniform Child Witness Testimony by Alternative Methods Act, drafted by the National Conference of Commissioners on Uniform State Laws and approved and recommended for enactment in all States.<sup>63</sup> In 2003, the American Bar Association approved the law. At the time of this manual's publication, three States had adopted it, and two more had legislation pending.<sup>64</sup> The Act applies to children under 13 years of age and to both criminal (including juvenile delinquency) and noncriminal proceedings. It establishes standards for determining whether a child witness may testify by alternative means.<sup>65</sup>

The Act also prescribes the content of the court's order and requires a full and fair opportunity to cross-examine the child witness. It does not dictate the alternative methods for receiving a child's testimony, but strongly suggests that only two current practices are likely to satisfy all provisions of the Act: closed-circuit television and courtroom arrangements that avoid direct confrontation between a witness and a particular party or the finder of fact.<sup>67</sup> See [Exhibit 7-2](#) for more information about the Act.

#### Exhibit 7-2 Child Testimony

In noncriminal proceedings, such as child maltreatment cases, standards for child testimony are less rigorous. These differences are best demonstrated by reference to Section 5 of the Uniform Child Witness Testimony by Alternative Methods Act, entitled Standards for Determining Whether Child Witness May Testify by Alternative Method, which states:

- a. In a criminal proceeding, the presiding officer may allow a child witness to testify by an alternative method only in the following situations:
  1. The child may testify otherwise than in an open forum in the presence and full view of the finder of fact if the presiding officer finds by clear and convincing evidence that the child would suffer serious emotional trauma that would substantially impair the child's ability to communicate with the finder of fact if required to testify in the open forum.
  2. The child may testify other than face-to-face with the defendant if the presiding officer finds by clear and convincing evidence that the child would suffer serious emotional trauma that would substantially impair the child's ability to communicate with the finder of fact if required to be confronted face-to-face by the defendant.
- b. In a noncriminal proceeding, the presiding officer may allow a child witness to testify by an alternative method if the presiding officer finds by a preponderance of the evidence that allowing the child to testify by an alternative method is necessary to serve the best interests of the child or enable the child to communicate with the finder of fact. In making this finding, the presiding officer shall consider:
  1. The nature of the proceeding;
  2. The age and maturity of the child;
  3. The relationship of the child to the parties in the proceeding;

- a. The nature and degree of emotional trauma that the child may suffer in testifying;

Any other relevant factor, such as developmental delays.<sup>66</sup>

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## Judges' Expectations of Child Protective Services Caseworkers

Judges and CPS caseworkers generally do not have routine, direct contact with one another. Communication typically occurs in the courtroom and often is transmitted via CPS or the parents' attorneys. Judges may ask a question or make a request directly to caseworkers, but there is limited opportunity for caseworkers to become familiar with them. Many judges, however, are receptive to enhancing their relationships and to ensuring a positive experience for individuals who appear in their courtroom. CPS caseworkers can improve these relationships through improved awareness of courtroom rules, procedures, expectations, and the personalities of those involved.

Judges expect that CPS caseworkers will successfully:

- Engage clients in the court process;
- Work effectively with others;
- Arrive on time;
- Know the law and follow court rules;
- Prepare appropriate court orders.

Fulfilling these expectations, as described below, will help improve caseworkers' court experiences.

### Engaging Clients in the Court Process

The foundation for effective casework is the relationship between the caseworker and the client. Some clients are less appealing than others or are more difficult to engage. Some caseworkers' experiences or personalities equip them to perform this aspect of the work better than others. Regardless of these variables, engaging clients at the outset is one of the keys to successful outcomes and requires sincerely communicating concern for them and their children as well as a desire that the family be together. Caseworkers should be empathetic and sensitive to clients' feelings and needs and should take an approach that identifies the specific strengths of each client and that tailors interventions to those strengths. Caseworkers also should engage parents as a means of encouraging, motivating, and inspiring them to take the necessary steps to retain or to regain custody of their children. Caseworkers who experience the most success with families are the ones who work most effectively with parents. Insightful judges recognize this quality in caseworkers and value the results it produces.

Communication with the clients must be direct, honest, and unambiguous to avoid any misunderstanding of important information, including conveying possible case outcomes. Before the hearing, an explanation of the court process will give the parents some idea of what to expect. After the hearing, the caseworker should help parents understand key decisions, reinforce the outcome and expectations, and answer questions. Parents often leave the courtroom not knowing what happened or why, what will happen next, or what is expected of them. It is easy for those who are familiar with the court hearings, the terminology, and the consequences of a judge's decisions to forget how foreign the experience may be to others.

Most States require case and service plans to be incorporated into the court records for the judge to determine if they meet requirements regarding services and reunification efforts. In fact, discussion of the agency's actions and the parents' progress toward their goals comprises the largest part of the hearings. During testimony and in the documents, caseworkers should focus on the most serious issues that must be resolved to achieve reunification. (See [Chapter 4. The Juvenile Court Process](#), for more information about developing case plans.) Since the judge often will ask how the caseworker dealt with these issues, it should be documented that the caseworker:

- Made clear what the client needs to change and how;
- Identified and built on the clients' strengths and those of the extended family;
- Offered whatever services and resources were needed;
- Rewarded the clients' successes and encouraged further progress;
- Advocated for the client with CPS supervisors, service providers, and the court;
- Took care not to demand more of clients than was realistically possible due to limitations of time, transportation, resources, other responsibilities, or innate abilities.

### Working Effectively With Others

Another critical skill for caseworkers is the ability to establish good working relationships with others, including service providers, throughout the legal process. Some communities have multidisciplinary team meetings to discuss cases, particularly complex ones, which may involve experts who have no direct involvement with the case. Other communities commonly have "staffings" at which all service providers and those involved in the court process meet to discuss a case and to strategize ways to address the needs presented.

Whether or not these structures are in place, resolving child maltreatment cases successfully almost

invariably involves a team approach, with the caseworker both the coach and a key member of the team. Success often will depend on the caseworker's collaboration skills or ability to cooperate with the other team members, particularly the child's advocates and the parents' attorneys. Working effectively means:

- Treating the other team members with respect;
- Involving them in identifying the issues the case presents;
- Thinking collectively about how to resolve those issues;
- Sharing information;
- Communicating about new developments as they arise.

Establishing good working relationships within the team is more likely to result in positive case outcomes. As working relationships become more effective, conflicts will be less likely, and future interactions in other cases will be more constructive. Judges appreciate the efforts of caseworkers who facilitate constructive interactions and who achieve consensus about the course of cases.

In some cases, service providers may have to testify about the services and the families; therefore, it is important for caseworkers to establish good relationships with them. Judges may have questions for the caseworker about the service providers, so caseworkers will want to make personal contacts with them to understand what they do, whom they serve, and their criteria for providing services and to determine the quality of their work. Service providers also should be participants in team discussions about the case.

Similarly, a good relationship between CPS and the public mental health agency is important. Unfortunately, this relationship can be acrimonious in many communities. If CPS depends on the mental health agency to perform evaluations or to provide treatment or placements, including hospitalization, CPS should take the initiative to establish a good working relationship between the two agencies. Defining each agency's responsibilities, setting timelines for completion of evaluations or other tasks, and establishing lines of communication for sharing information are just a few of the issues that need to be addressed. Discussion of these issues should involve the heads of each agency and the court. Individual caseworkers, however, can contribute to this process by identifying problems that arise between the agencies in specific cases and documenting how those problems affected the child or CPS's ability to comply with timelines established by the Adoption and Safe Families Act (ASFA) (P.L. 105-89). Sharing that information with supervisors might lead to the initiation of a process to improve communication and cooperation between the agencies. In the absence of such a process, the relationship between the caseworker and a mental health counterpart can produce good results, even in a flawed system. The ability to access quality services on a timely basis distinguishes caseworkers in the eyes of judges.

### **Arriving on Time**

Some judges are habitually late, while others are always on time. All of them, however, will expect timeliness from caseworkers in the performance of their duties, including:

- Attending court hearings;
- Filing court reports;
- Following up on the requirements of court orders;
- Transferring cases between caseworkers;
- Keeping cases on track for resolution within the ASFA timelines.

### **Knowing the Law and Following Court Rules**

Agency and court practices and procedures in child maltreatment cases must comply with Federal and State laws. It is essential, therefore, that caseworkers have good knowledge and understanding of the key principles, mandates, and purposes of these laws.

Many courts have rules governing the filing of court reports, discovery, distribution of experts' evaluations, continuances or postponements, notice of placement changes, notice of hearings, and conduct of hearings. Caseworkers will be expected to know these rules and to abide by them. They also should expect others in the process to do likewise and, when they do not, should notify the CPS attorney.

### **Preparing Court Orders**

Court orders in child maltreatment cases should be prepared at the conclusion of the hearings, then distributed to the parties and other participants. They are more accurate and complete if written or dictated while the court's decisions and directives are fresh in the minds of all participants. Any disagreements or misunderstandings can be resolved immediately, and the parents can depart with a written statement of the court's expectations of them and of CPS.

Orders need to be clear and easy to understand. The use of forms is essential, and a clerk, a lawyer, or the judge can complete them. For ease of understanding and distribution of sufficient copies, it is preferable that they be prepared on a computer and printer in the courtroom. Objections to this approach are based on the time it takes to discuss and prepare the orders. Nevertheless, it will save time that often is spent debating and clarifying what the court ordered. Lack of technology may be an impediment in some courts, so this approach to order preparation is not yet common. Where it is implemented, it contributes significantly to improved understanding and outcomes. CPS can encourage courts, and perhaps assist them with necessary hardware, to implement this practice.

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