

# Silberman School of Social Work

## Session 10:

## Preparing for Court

Please watch:

<https://www.youtube.com/watch?v=kCkVArsby5g>

<https://www.youtube.com/watch?v=nV6Wjr-qoFI>

Please read:

[https://practicenotes.org/vol12\\_no4/testifying.htm](https://practicenotes.org/vol12_no4/testifying.htm)

## Follow the Basic Rules for Court

As social workers, you are expected to be competent and professional.

Judges look to you as the experts in the area of child welfare.

**1. Always tell the truth, even if it hurts.** If you don't, it is sure to come back on you in some way. When you get caught in a lie, even a "small" lie, it forever hurts your credibility in the eyes of that judge. A lie will not only impact your credibility in the case at hand but in every case for which you testify from that point forward.

**2. Don't be afraid to admit you didn't hear or understand a question.** Most lawyers love the sound of their own voice, so chances are they won't mind repeating what they have said.

**3. Stop talking when someone says, "Objection."** The judge will tell you whether to answer the question. And just answer the question, don't elaborate unless you are asked to do so.

## **Make a Good Impression**

Remember your mother telling you that you can never take back your first impression? This is especially true for the professional testifying in the courtroom. Therefore, your first impression must be strong and positive.

**Dress appropriately.** Wear professional, conservative attire. Your demeanor during court proceedings should be equally professional.

**Behave properly.** While you are waiting for your case to be called, be attentive, quiet, and respectful. The judge is observing more than just the parties at hand. This is particularly true if you have a presiding judge who is a stickler for certain issues.

**Body language is key.** Stand and sit tall in the courtroom. Your body language can exude confidence or weakness. When people are teaching self-defense classes, it is often taught that muggers profile their victims. A person walking slouched over with his eyes cast to the ground is more likely to be prey than someone who is aware of his surroundings and walking upright. Let your body language signal to the opposing party that you are not going to be the next victim.

**Speak to the court with respect.** Even if you do not respect the judge or the attorneys on a given day, give the court the respect it deserves. The court is the best system we have for resolving controversies and administering justice in this country.

## Prepare for Court

**Do good work.** Although you may think your initial presentation to the courtroom is your first opportunity to impress the court, the truth is that you begin preparing your testimony the moment you begin working with a family. The best method for having good testimony is to follow best practices in your work. In addition to doing the right thing, you will feel more confident and secure knowing that your underlying work is thorough and can withstand the scrutiny of the opposing party.

**Review and make notes.** Prior to court, review your records. Reviewing the file and taking notes helps you to internalize information and keep it fresh. When a worker does not review the file prior to court, the testimony often comes across as sloppy, unorganized, and less credible. Put yourself in the judge's position: every time a question is asked, the social worker must take long pauses to flip through voluminous records. At some point, you will begin to think that this case is not important to the worker. Although a witness should feel free to think and take time when answering questions, taking long pauses can cause frustration for those waiting. Be prepared. Know your case.

## Prepare for Court

**Practice.** Practicing your testimony is key. Sit in front of a mirror or get a peer to help you go through some practice questions. When you are practicing, identify areas of weakness in your case. This will give you an opportunity to think through those weaknesses and develop an appropriate response. When you are reviewing a case and discover a huge flaw, bring that to the attention of your attorney immediately. Often it is better for your attorney to intentionally bring out a weakness than to have it brought out by the opposing attorney during cross-examination. This can also add to your credibility.



## OUR ADVERSARIAL SYSTEM

The U.S. has decided that by presenting strongly opposing points of view in a courtroom setting, the truth is likely to emerge. This is the basis of the legal system.

Lawyers are required by their own code of ethics to “zealously represent their client’s wishes and interests.” By this code, a lawyer cannot do what she believes to be best if that differs from what her client thinks is best.

This philosophical and ethical foundation puts the opposing counsel’s behavior in a different light. When a social worker asks, “How can this lawyer defend these parents when this family situation is so harmful to this child?” the answer is simple: it’s the lawyer’s job. If she did not question every decision the social worker made, every interviewing technique, and every personal bias, Johnny’s parents would be getting less than what every citizen of the United States is entitled to—a competent and zealous defense.



## In the Courtroom

Now you are on the witness stand. What should you do?

**Stick to the facts.** The court wants facts. Do not share your opinions unless asked to do so. The facts should not be clouded by your emotion or feelings. If you do give an opinion you should be able to back it up with facts.

**Do not be afraid to say you don't know or do not remember** when asked a question.

**Avoid jargon and acronyms.** Assume your audience knows nothing. If you do use social work lingo, explain what it means so everyone will be educated and understand. This is also significant when you consider that the case could be reviewed by another court on appeal. When you explain a term in court your explanation enters the record of the proceedings; this ensures the appeals court will understand what you are talking about.



## In the Courtroom

**Do not fear cross-examination.** If you have taken all the steps above to prepare, you are prepared for cross-examination. During cross-examination you must keep your composure and professional demeanor.

**Don't take things personally.**

**Take heart.** No one is comfortable on the witness stand. However, you should never feel alone on the witness stand. Your attorney is your ally. He or she will help jog your memory when you get lost and try to guide you back when you go astray. You are not alone.

Remember, every time you testify you are crafting your art so that you will be better the next time. You will mature and improve with time. You will learn what to expect and how to handle situations. Do not be afraid to self-critique after you testify or ask someone where you did well and what areas could use improvement. Believe it or not, attorneys do this as well.

## Vignette #1

**Mrs. Sanchez, a single mother with a history of mental health problems, had her children ages 6 & 8 years old separated from her when there were allegations of abuse leveled against her by a neighbor. Upon investigation, it was found that Mrs. Sanchez did inflict physical abuse upon her two children. After 12 months, Mrs. Sanchez has does everything she was asked to do in her treatment plan including receiving mental health treatment for herself and gradual home visits have started with her children. In the past month she has missed two of her four parenting classes. You think the children should be reunited with their mother. How do you proceed to close out the case?**

## Vignette #2

**Peter Paul is a 22 year old gay sex worker who has been seeing you weekly, for the past 18 months on a voluntary basis. Peter has made a great deal of process in your work together, but as soon as you brought up possible termination, he skipped the next two sessions with you. Upon calling him to re-schedule, he tells you since you have already quit on him, he doesn't need to see you anymore. You convince him to come in for one more session.**

**How do you proceed?**

## Vignette #3

**Martin Etienne is a 22 year old Haitian man who was court ordered to participate in weekly sessions to focus on anger management with you as a result of assaulting his girlfriend. Mr. Etienne has been a difficult client to work with as he is frequently angry with you, misses every other session and tells you repeatedly that you are wasting his time. When you inform him that you must inform the court of his behavior in your report for an upcoming hearing, he becomes very upset and begs you to give him another try – this is very out of the ordinary for him. How do you proceed?**

## Vignette #4

Yolanda Rivas is a 30 year old female batterer. She and her girlfriend were arrested for domestic battery. Yolanda was assigned to work with you in individual and group sessions. She is compliant in sessions, but your clinical instincts are telling you that things are not as smooth as Yolanda makes them seem. After you confront her, she seems to become more forthcoming and after 10 more sessions, you think that she is ready to move towards termination. Two weeks before ending your work together, she tells you that she is dating her former girlfriend. This is not a violation of the court agreement as no order of protection was filed, but you are concerned, especially since your work together is ending. How do you proceed?

**Small Groups**

**Report Out**

**Role Play**

**Feedback – what was good, what needs to be improved?**