

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=sIFaHrahb1k>

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

Please read:

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

You are a new caseworker and you have been assigned a new case of an 8 year old girl who was separated from her mother due to allegations of abuse, she is currently in a foster home and doing well. You have been told by your supervisor that there is a court date tomorrow and you are suppose to present the plan for this child. You will need to report to the court about what reasonable efforts have you made for her and her family and what is her permanency plan? The judge is known to be very strict about caseworkers knowing their case and being prepared.

Vignette #2

John Paul is a 15 year old gay youth. He has been in 16 different placements and you are escorting him to court as his worker. How do you justify that he has been moved 5 times in the past six months? What do you recommend to the court as the best placement plan for John Paul. The judge is looking to you to make a solid recommendation. She is known to not be very open about LGBTQ+ issues, frequently stating – “I just don’t get it.”

How do you proceed?

Vignette #3

Jean Simmons age 20 has just given birth to her third child (one week old) and has told you that she wants to voluntarily sign to waive her rights as a parent. Jean has very little support, is on public assistance, intellectually impaired herself, and says she wants a better life for her newborn baby. You must escort her into court to justify why she wants to terminate her rights and the judge is adamant that Ms. Simmons have her other children placed in foster care as well. The judge is very opposed to terminating parental rights.
How do you proceed?

Vignette #4

Maria Vargas is a 28 year old mother of four children, ages 18 months, 3, 4, and 5 years. She has been abusing substances, mostly crack cocaine for the past two years. She abstained when she was pregnant with her last child. A neighbor called 911 because she heard the children crying all night long. When she investigated, the children were alone without adult supervision, unfed, and the baby was dirty. ACS separated the children, when the police called them and placed them in foster care. When Ms. Vargas returned two days later, she was told her children were in foster care and told she had to go to court. You are the caseworker, how do you work with Ms. Vargas and what do you recommend to the court on how to proceed?

Small Groups

Report Out

Role Play

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