

## 2024 TN CASA Conference Session Handout: Social Workers and Other Helping Professionals as Witnesses in Court – How to Communicate and Testify in Court

### HOW TO COMMUNICATE

Probation officers and court folks like to hear , Yes or No, Good or Bad, Did or Didn't.

I encourage you not to rely on clinical notes to communicate to the court about a client. Provide for them information that they can use to document whether the child / family are cooperating and thus following the court order.

For example

Feedback on Child's attendance at appointments.  
Parents attendance at appointments

Child's participation in appointments—did he talk, did he disrupt  
Parents participation in appointments

Child has increased or decreased compliance with rules at home.

Parent has increased or decreased use of effective parenting skills

Parent/child communication pattern has or has not improved

You can use a number scale and include written comments as well. Just remember, what you write is going to be read by a non-clinical person.

Feedback that is concrete is readable and understandable to court personnel. Also, they can compare these weekly, semi-monthly, or monthly reports to the previous update to chart child's compliance.

Frequent contact with the probation officer is good. I would document all contact either with notes in file that summarize the conversation, an email to the P.O. that summarizes the conversation, or a letter mailed to the P.O. (copy in the file).

Also, ask if there are any staffings or meetings on the child being scheduled and ask to be included.

### WHEN TO TESTIFY

Testify when your client has signed a release of information form

Testify when your service is provided as part of a court order that you agreed to ( I would still get a release) and you are subpoenaed.

Testify after you have fully discussed with the client and the attorney what disclosure will mean and what is at risk for disclosure.

## HOW TO TESTIFY

When you testify there are key things to remember.

- 1) This case is the lawyers, not yours. You are not responsible for the outcome or for the case going one way or another.
- 2) Ask the lawyer what they are going to ask you. Make sure and tell them the positives and negatives about their client.
- 3) Don't try to minimize one aspect of the child and highlight another. Present the child as you would for a clinical review. If you try to minimize something, the court or lawyers may discount everything you say.
- 4) It is not your job to get a certain decision or determination on a case. It is your job to answer the questions put to you as best as you can, even if the question negatively impacts the child.
- 5) You are not an expert. You cannot testify to something that you are not qualified to answer. You cannot predict the future, don't try and don't feel like you have done something wrong because you can't.
- 6) Don't argue with the judicial officer or one of the attorneys.
- 7) When you are asked a question, take your time. Count to 10. Make sure you understand the question. If you don't understand say I don't understand what you are asking me.
- 8) When you answer the question, look at the judicial officer. That is who you are testifying to. You don't have to look at the lawyer when you answer the question.
- 9) Be very clear and confident about what you did, and why. It is best practice, it is your contract with your payee, it is the policy...
- 10) The lawyer may ask you questions that imply you have messed up, have done the wrong thing, are incompetent, haven't done a good job...don't get rattled...
  - a. It is your job to clearly state what you did
  - b. To indicate/say you did it because that is what best practice is, etc..
  - c. That what you did was reasonable and appropriate in the situation
- 11) Take your time when answering and answer fully. If they cut you off, ask to finish, ask to continue so that you can clearly explain your position.
- 12) Avoid clinical terminology unless you use it for a purpose. If you want to communicate and be understood, use terms people are familiar with or define the terms you use.
  - a. For example: What is the diagnosis? You say Mood Disorder
  - b. You need to add. The child has a mood disorder. A mood disorder is not a thought disorder. Thought disorders are when the persons ability to understand reality is compromised. A mood disorder is a physiological disease where the person is unable to maintain/ regulate their mood and it goes to such extremes that it interferes with major parts of their life. For example..
    - c. Then you would describe how it is manifested
    - d. Then you talk about how that disorder contributed to the client's current situation
    - e. Then talk about treatment, etc...meds, therapy, etc.. and the client's response
- 13) Remember, this is an adversarial system. Sides oppose each other. You are not on anyone's side, you are testifying about what you know