

CASA Court Observation Reference Guide

(revised 5.1.20)

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Video Resources:

Adams County Court Advisement Video for Parents:

<https://www.youtube.com/watch?v=873P-ntEXpQ>

Ohio Dependency and Neglect Court Procedures (not completely accurate for CO laws, but gives a nice idea of the process):

<https://www.youtube.com/watch?v=81H->

[OURiHKE&fbclid=IwAR1IPe9hPS22AZc0z9sl_pJ416BJ8KrNkedZ5C9bdiK7yiFTz2iifJZ1otA&app=desktop](https://www.youtube.com/watch?v=81H-OURiHKE&fbclid=IwAR1IPe9hPS22AZc0z9sl_pJ416BJ8KrNkedZ5C9bdiK7yiFTz2iifJZ1otA&app=desktop)

Who is in the courtroom?

- **Judge/Magistrate**

- A Magistrate essentially fulfills all the duties of a Judge on a case. They just aren't as "official". For example: there are certain constitutional limitations to the role of a Magistrate. A Magistrate cannot hear a jury trial. Also, a final appealable decision from Magistrate can be appealed to a judge. So it adds an extra layer to the appeals process.
 - Example Scenario: If a Judge terminates Parental rights, and then the parents appeal that decision (which the attorneys for the parents do for every case now), it would be appealed to the Colorado Court of Appeals. If a Magistrate Terminates parental rights it would first be appealed to a District Court Judge and then could go up the appellate court ladder to CO Court of appeals.

- What this means is when a case is nearing needing to change the goal from returning home to moving to termination and then potentially adoption, the ACA will request the case be transferred to a judicial division.
 - All of the cases (the shelter hearings) start in front of a Magistrate.
 - *always address a Magistrate as “your honor” just as you would for a judge
 - Our Judges/Magistrates include:
 - Division D1 (courtroom 604): Magistrate Varmo
 - Division D (courtroom 602): Judge Pugh
 - Division S(courtroom 601): Judge Delgado
 - Fun fact: In October 2008, she was recognized as the Colorado CASA Judge of the Year!
- **Assistant County Attorney (ACA)**
 - The ACA speaks on behalf of the Department and the caseworker assigned to that case. The state and Department are the ‘petitioners’ bringing this action. And think of the Assistant County Attorney as the attorney for the caseworker. (they get all of their knowledge on the case from the caseworker and their requests are often made pursuant to what the caseworker wants/suggests)
- **Caseworker (CW)**
 - The Caseworker works for the Adams County Department of Human and Family Services. They are assigned to the entire family in the case and manage treatment planning, getting the family resources if needed,
 - The Caseworker doesn’t speak in court (unless the Judge/Mag. Addresses them specifically) But they do write court reports similar to those of a CASA.
- **Guardian ad Litem (GAL)**
 - The GAL is the child’s attorney and makes recommendations to the court in the best interest of the child.
 - A GAL may also be assigned to a respondent parent in the case if there is evidence of a cognitive impairment which may hinder the parent from properly understanding their rights in the case.
- **Special Respondents (SPRs)**
 - Special Respondent’s are people who are made a party to the case because the court needs jurisdiction over them (the court needs them to, legally, have to abide by court orders).
 - SPRs usually are grandparents or other relatives with whom the children are placed.
 - A child cannot be placed with an individual unless they are made a SPR.
 - This is different than if the child is placed in foster care. Foster parents are not made SPRs. This is because they have to follow the rules of their child protection agency that ‘employs’ them. And the Department contracts with that CPA (child protection agency) so they legally must abide by all court orders already.
- **Respondent Parent Counsel (RPCs)**
 - RPCs are the attorneys for the Respondent Parents on the case. Each has the right to have individual legal representation, provided by the court if they cannot afford it on their own. If they so choose they may forgo having an attorney represent them and they can represent themselves. When a parent represents themselves they are proceeding “pro se”.

Order of Proceedings

- **Assistant County Attorney (ACA) or Judge/Magistrate calls the case. Listen for your case number—they don't necessarily go in order of the cases listed on the docket (the piece of paper posted outside of the courtroom). They call the hearings based on when the attorneys are ready for that case.**
- **Once the case is being held on the record, the ACA will stand up and state what they are requesting of the court today.**
 - For example: ACA will do a quick update with how the family has been doing. If things are going well they may not ask for any changes. But depending on the circumstances, they might be asking to remove custody and place with the Department. Or they could ask to suspend visitation until the parent shows up to court, etc. They will end by asking to set the next hearing (see below for an explanation on what the different types of hearings names mean)
 - *everyone always stands when they are speaking in court and addressing the judge. This includes when the CASA speaks
 - *reminder never approach the bench. This includes approaching the clerks. You'll hear that the attorneys need to ask permission before they walk up and hand a document to the judge or the clerks.
 - (the clerks sit to the right or left of the judge)
- **Usually, the GAL then gets to provide their update to the court. They may have a request as well. Often, they are in agreement with what the ACA said or requested but sometimes they disagree.**
 - They usually say something like: I just saw the kids last week. Little Tommy is doing well. However little Lisa is still wetting the bed.. we are concerned about this because of xyz and because of that I'm asking to make father's visitation supervised at the department.
- **If there is a CASA on the case, the CASA would then provide his or her update.**
 - You don't want you update to be very long. – we want to be mindful of the court's time. They are often overwhelmed with cases.
 - That being said, the Judge very much cares about what you have to say! They want to hear directly from you. Most of the time the Judge only gets to hear from attorneys. And all of the attorneys we work with are truly good people that are in the work for the right reasons.. but let's face it... they are lawyers who know how to put a good spin on things. The judge values your honest and upfront update.
 - But remember to keep in mind that you also will be writing a court report for every hearing. Since you write a court report you might be asking yourself what should I say in court?
 - Anything new or updated since you wrote your court report.
 - Anything you want to emphasize.
 - Anything particularly relevant based on the updates and requests made by the ACA/Atty for RPs or GALs.
 - Ex) if you agree or disagree with suspending visitation
- **If there are SPRs (Special Respondent's) present. They would now usually be given the chance to speak.**

- Once everyone on that side of the room (at the same table as the ACA) has spoken. The judge will look to the other side of the room → The Respondent Parent Counsel now have a chance to defend their clients (the parents) and respond to the requests made on the other side of the room.
- The judge hears all opinions and all 'sides' and makes a decision and then enters orders accordingly. And then they set the next hearing.
 - *when they are figuring out the dates for the next hearing.. you'll hear attorneys calling out saying "that doesn't work for me"
 - Don't worry, you don't need to clear the next date on your calendar. If you aren't able to make it your SPC will attend on your behalf.
 - This is because the docket is overwhelmed and we don't want to be another barrier.

Types of Hearings:

- All of these hearings are pursuant to the Children's Code: this is a set of statutes that speak to this area of the law. There are also deadlines set within the code for when these hearings need to be heard. (ex) the hearings can't be held too far apart. It is the ACA's job to ensure that the dates and times aren't set outside of the statutory guidelines.
- **Shelter Hearings**
 - The first hearing that gives rise to the case.
 - This is where the petition will be filed and the judge will review the allegations contained within. Ultimately, they will determine the case is appropriate to have open.
 - Often at these hearings **Adjudication** will happen. But sometimes the parents aren't ready to 'plead' during that first hearing and they need more time. If that is the case then the hearing gets set over for pre-trial conference (PTCF).
 - This is where the judge will ask the respondents (the parents) to 'admit' or 'deny' these allegations. (think of this as pleading 'guilty' or 'not guilty'. The lingo is different because these case (Dependency and Neglect -D&N-) are civil cases not criminal cases.
 - This is also where personal jurisdiction is obtained by the court.
 - Side note about jurisdiction in general: subject matter jurisdiction (the courts ability to hear this case) is obtained by the nature of the abuse. The fact this is an abuse or neglect case of a child means that the court can hear it. But then the court needs to make the respondent's parties to the case so that they are subject to the court's orders. When a parent 'admits' the court then has personal jurisdiction over them. If a parent 'denies' then we must go to **Trial**.

- This is the only stage in D&N cases where the parent has the right to a jury trial. (they do not have this right at the Termination of Parental Rights stage)
- At this hearing the ACA will have to prove by a *preponderance of the evidence* that the allegations in the petition are true. (this just means that the allegations more likely than not did occur) this is the lowest burden of proof that exists in law.
 - The highest burden of proof is : *beyond a reasonable doubt*. That is what they use in criminal proceedings.
 - Even at the stage of Terminating Parental Rights they don't use that high of a burden. The burden at this stage is: *Clear and convincing evidence*. Which is in the middle. (*Unless your case is an ICWA-Indian Child Welfare Act- case. Ask you SPC about this)
- The goal in these courtrooms are reconciliation and healing families. The goal is not punitive. Sometimes there are concurrent criminal cases and that is where doling out punishment would be appropriate.
 - CASAs (at least within the 17th Judicial District which is Adams and Broomfield Counties) are not appointed to any criminal cases, even concurrent ones.
 - EX) D&N case is opened because Dad sexually abused his 12 year daughter. In the D&N case we work on how we can help this child/family. There would most likely be a concurrent criminal case as well where dad may be facing criminal charges.
 - Keep in mind, the standards for being able to bring a case to D&N is much easier than being able to move forward with a criminal case. So often there is not concurrent case because there just isn't enough evidence.
- **Dispositional Hearing**
 - At this hearing the 'Treatment Plan' is being approved of by the court.
 - The Treatment plan is a document that contains everything the parent(s) need to do in order to satisfy all of the concerns. The idea is that once the parents do everything in the plan then they will be safe, appropriate and protective parents.
 - The parents need to agree to this plan at this hearing in order to move forward.
 - If not everyone agrees there could be a contested dispositional hearing that will be held. (kind of like a trail) but this very rarely occurs
- **Permanency Planning Hearing**
 - A 'Goal' needs to be adopted for these cases.

- By Federal initiative and by state law all goals must start out as ‘Return Home’
 - This just means that we must start out by trying to reunify families. We can’t just take kids away without first trying to help the family.
 - It is possible for the ACA to move forward right away with a goal of ‘terminating parental rights’ but only if they can prove that no treatment plan could benefit this family. This is incredibly rare so for all intents and purposes just remember that we always start with ‘return home’
- The goal will change throughout the course of the case: for example) if the parents fail to work their treatment plan the goal changes from return home to termination.
- After **Termination of Parental Rights** the goal would most likely then need to be ‘Adoption’
 - If the parents contest this then this would be a court trial. (remember no jury—just the judge who makes this determination)
 - Keep in mind: Termination of Parental Rights is NOT the end of the case. No permanence has been achieved for your child yet. The case is still open and therefore the CASA is still on the case and working it.
 - If your case eventually goes to **Adoption** then the case is over. Jurisdiction is released and the CASA is therefore no longer on the case.
 - Sometimes our kiddos don’t end up getting adopted. Kiddos over 16 are hard to get adopted. When that is the case the goal is usually “OOPLA” and this is where we work with the kids to obtain the skills necessary to become emancipated.
 - This is very complicated and In depth talk to your SPC if your case is headed in this direction

- **Review**

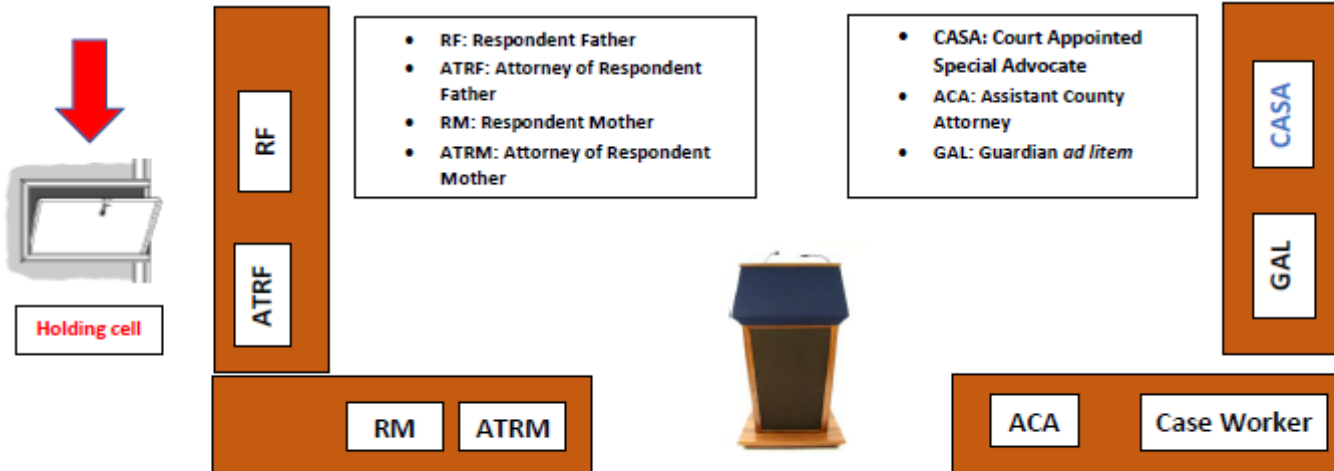
- Most of the hearings will be review hearings.
- These are just status updates. Usually last less than 10 min
- Always plan to be in court for about an hour however based on how the docket is called

Courtroom Layout and Seating Chart

- The metal door is the holding cell for the defendants who are incarcerated.
- Anytime you see the metal door, this will be the Respondent Parent's side of the courtroom.



- Special Respondents also sit on this side of the courtroom
- CASAs sit on the opposite side of the metal door



Your SPC will be sitting on these benches for every hearing. The only time the SPC sits at the table is when a CASA can't make the hearing.

