



CASA Court Observation Reference Guide

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I. Who is in the Courtroom?

- **Judge/Magistrate:** The Judge or Magistrate is the judicial officer presiding over a court case. In practice, a Magistrate fulfills similar duties to a Judge in Dependency and Neglect and Truancy cases; however, a magistrate does have more limitations. For example, a Magistrate cannot preside over a jury trial, and a final appealable decision made by a Magistrate can be appealed to a Judge, adding an extra layer to the appeals process.
 - Example: If a Judge terminates parental rights, the parents can appeal the decision to the Colorado Court of Appeals. If a Magistrate terminates parental rights, the decision would be first appealed to a Judge before the Colorado Court of Appeals.
 - If a case is headed toward termination of parental rights, the Assistant County Attorney will request that the case be transferred to a judicial division
 - Tip: Always address the Judge or Magistrate as “your honor”
- **Assistant County Attorney (ACA):** The ACA is the lawyer representing the County’s Department of Human Services. They are the ‘petitioners’ filing the case to the Court and bringing about allegations against the parents. The ACA speaks on behalf of the Department and the caseworker. They generally get all their knowledge on the case from the caseworker, and request what the caseworker is recommending.
- **Caseworker (CW):** The Caseworker is an employee of the County’s Department of Human Services. They are assigned to the entire family involved in the case. They have regulations related to seeing the child(ren) in person monthly and maintaining contact with different family member. They also manage treatment planning and getting the family connect to resources, if needed.
 - The caseworker does not generally speak in court, unless the Judge specifically addresses them, but they do write court reports similar to CASAs
- **Guardian ad Litem (GAL)/Counsel for Youth (CFY):** A GAL is a lawyer for children under the age of 12 and a CFY is a lawyer for children 12 and older

- GALs represent the child’s *best interest*. Their recommendations and requests to the court are based on what they believe is in the child’s best interest
- CFYs are client-directed and represent the *child*. Their recommendations and requests to the court are based on what the child wants
- 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):** SPRs are people who are made a party to the case by choice for the Court to have jurisdiction over them to issue court orders.
 - Cases are not filed against SPRs, but once they are made a party to the case they legally must abide by court orders
 - SPRs are usually grandparents or other relatives with whom the child(ren) are placed. When a child is placed with a family member, the Court will read them their rights as a SPR and if they agree, they will be made a party to the case
 - This does not apply to foster parents. When a child is placed in foster care, custody is given to the county’s Department, and the foster parents are monitored by the Department. Foster parents have to abide by the child protection agency that ‘employs’ them, meaning they already must abide by court orders
- **Respondent Parent Counsel (RPCs):** RPCs are lawyers representing the respondent parents on the case. An RPC is provided by the Court if the parent meets minimum income requirements to qualify and cannot afford an attorney on their own. The Office of Respondent Parent Counsel (ORPC) is a statewide agency that employs attorneys who are paid by the state to represent parents. Parents may also choose to hire their own attorney or forgo having an attorney represent them by proceeding ‘pro se’

II. Order of Proceedings

- **The 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.
- **The case goes on the record** (meaning that everything is being recorded into official court record):
 - The Judge/Magistrate will usually address the parties to make their records, starting with the ACA
 - **ACA will make a record:** ACA will provide an update with how the family has been doing. Dependent on the circumstances, they may not ask for any changes. If there are concerns and/or new changes, the ACA may request the Court enter certain orders (i.e change of custody, modification of parenting time, etc.) They will generally end their record by requesting to set a next hearing
 - **GAL/CFY will make a record:** They will provide their update to the court regarding the child’s safety/wellbeing and/or the child’s requests (age dependent)
 - They may request orders similar to the ACA, or different orders
 - Example record: “I just saw the children last week. Tommy is doing well; however, Lisa is still wetting the bed. We are concerned about this for XYZ reasons, and because of this, I’m requesting that RF’s visitation’s be supervised”

- **The CASA will make a record:** The CASA will want to provide any updates since the court report was written, any points from the court report they would like to emphasize, or recommendations regarding the best interest of the child/ren
 - Keep in mind that the Court is often overloaded with cases, so CASAs should keep their records relatively brief
 - That being said, the judicial officers very much value the CASA's perspectives and want to hear updates
 - It is helpful to state whether you agree or disagree with the requests of the ACA and GAL/CFY as well
 - The Judge will then turn to address the side of the room where RPC is seated
 - **RPCs will make a record:** Both ATRF and ATRM (when applicable) will make a record regarding updates on their client, and objections to what has been said or requested by the ACA, GAL, or CASA, and requests for the court
 - They will often not be in agreement with the Department, and they will be advocating for their client
 - Parents generally do not speak in court, rather their attorney speaks on their behalf. However, the Court will sometimes speak directly with a parent at this time as well.
 - **The Judge/Magistrate will enter orders:** The to all of the requests and records made
 - The Judge will decide whether to grant or deny any requests made, and they will enter any orders that are applicable at this time
 - The Judge will then set the next hearing. There can be challenges with finding a time/date that works for all parties. If the CASA isn't able to attend a hearing, the advocate supervisor will attend on their behalf
- **Court Etiquette:**
 - The Judge/Magistrate should always be referred to as "Your Honor"
 - Everyone stands when they are speaking to the Court, and this includes the CASA
 - Never approach the bench without permission. This includes approaching the clerk. If a CASA or attorney has a document that needs to be handed to the Judge/Magistrate or clerk, they will request "permission to approach"

III. Types of Hearings

All types of hearings are pursuant the the Children's Code, which is a set of statues related to child and family law. There are also timelines set forth in the law for when these hearing need to be heard (Ex. The hearings cannot be scheduled too far apart). The Judicial Officer and ACA will ensure the dates and times are not set outside of the statutory guidelines

- **Shelter Hearing**
 - This is the first hearing when a case comes before the Court
 - The case petition will be filed, and the Magistrate/Judge will review the allegations contained within. Ultimately, they will decide if the case is appropriate and within legal limitations to have open

- Often, Adjudication will also happen at these hearings (explanation below). However, parents are not always ready to enter a plea during the first hearing. In this case, the case will be set over for a Pre-Trial Conference (PTCF)
- **Adjudication/Pre-Trial Conference**
 - A PTCF can be set prior to an adjudication is entered on the case
 - At these hearings, RPC may address concerns with the allegations, or move forward with adjudication.
 - Adjudication is when the Magistrate/Judge will ask respondents (parents) to ‘admit’ or ‘deny’ the allegations
 - If a parent fails to appear in court, a default admission may be entered for them, which gives the Court personal jurisdiction over that respondent
 - If a responded ‘admits’ the allegations, this means the case will move forward giving the Court personal jurisdiction over the respondent (This means they are required to follow all court orders)
 - A respondent can also enter a “no-fault” admission pursuant to the Children’s Code, which means they are allowing the Court to have personal jurisdiction through admitting to the allegations “at no fault of their own”
 - This is the most common admission in D&N cases
 - If a parent ‘denies’ the allegations, the case would move forward to a jury trial (explained below)
 - Note that the terms ‘admit’ and ‘deny’ are used rather than ‘guilty’ or ‘not guilty’. This is because D&N cases are not criminal cases, but civil. No criminal charges are involved in D&N cases. A respondent may have a concurrent criminal matter related to the allegations, but this case is separate. Admitting to the allegations in a D&N case does not mean they would be found guilty of the allegations in criminal court.
 - The goal in these courtrooms are reconciliation and healing families, the goal is not punitive
 - Keep in mind the burden of proof is higher in criminal cases, so there may not be criminal charges simply because there is not enough evidence to support a criminal case
- **Trial**
 - A trial occurs when a parent “denies” the allegations contained in the petition and decides to move forward with a 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 means that the allegations more than likely did occur, which 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.

- At the stage of terminating parental rights, the burden of proof is *clear and convincing evidence* (Unless the case is ICWA)
- **Dispositional Hearing**
 - At this hearing, a 'Treatment Plan' has been submitted to the Court for approval
 - Generally, the Treatment Plan has been reviewed by all parties prior to the hearing
 - The Treatment Plan is a document created by the Department that contains everything that a parent must comply with in order to satisfy the concerns of the case (i.e. therapy, substance abuse treatment, anger management, etc.)
 - The goal is that the parent(s) will be safe, appropriate, and protective if the treatment plan is fulfilled
 - The respondent parent(s) must agree to the Treatment Plan for the hearing to move forward
 - RPC will review the plan with their client and bring up any concerns
 - If there are disagreements, a contested dispositional hearing can be held, but this rarely occurs
- **Permanency Planning Hearing (PPHR)**
 - A permanency goal needs to be adopted in all D&N cases
 - By federal initiative and state law the goal for all cases must start out as 'Return Home'
 - This means that the Court's first goal must be to try to reunify families. The county cannot take away parental rights without first trying to support the parents and 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 would benefit the family. However, this is very rare.
 - The permanency goal may change throughout the course of the case. For example. If the parent(s) fail to work their treatment plan, the goal could change from return home to return home with a concurrent goal of adoption.
- **Termination of Parental Rights (TPR)**
 - If a case does move towards termination of parental rights, then a TPR hearing would be set
 - After termination, the goal would most likely then be Adoption
 - If the parents contest the termination, this matter would then be set for a court trial
 - Not a jury trial, the Judge is the sole decider
 - If parental rights are terminated, this is not the end of the case. Permanency still needs to be achieved for the child(ren)
 - If the case goes to adoption, the case would close when the adoption is finalized
 - For older children, adoption can be more challenging. The goal of these cases may be OOPLA, which means the goal is for the child to gain the skills necessary for emancipation
 - If a case is still open when a child turns 18, the case may become a Youth In Transition (YIT) case
 - Both 'OOPLA' and 'YIT' are complex, and CASA Advocate Supervisors can help navigate this

- **Review Hearing**

- Most of the hearings will be review hearings
- Cases are generally set for review after the Treatment Plan and Permanency Goal have been adopted by the Court
- These hearings are just status updates about how the family is doing and do not generally last long

IV. Courtroom Layout and Seating Chart

