

CASEWORKER CORE

MODULE 3

HANDOUT 1

NOTE TAKING GUIDE

LEGAL ASPECTS OF FAMILY-CENTERED CHILD PROTECTIVE SERVICES

- ✓ LEGAL FRAMEWORK
- ✓ LEGAL RIGHTS OF ALL INVOLVED
- ✓ USING THE LEGAL SYSTEM
- ✓ THE COURT SYSTEMS, PROCESSES & PROCEDURES
- ✓ AVOIDING LEGAL LIABILITY
- ✓ WORKING THROUGH THE COURT PROCESS
- ✓ PREPARING FOR COURT
- ✓ TRIAL BY FIRE:

TESTIFYING IN COURT

Resources for Caseworkers



CWTP

Ohio Child Welfare
Training Program

Key



Take Notes



Group Activity



Watch Video

Getting started....

- You can view and download **ALL** the Handouts and Resources from this workshop by scanning this QR code with your smart phone or tablet, or by going to the link below:
<https://tinyurl.com/CW3Legal>
- Additional QR codes are throughout the guide



Section 1: Welcome and Introductions



True/False Quiz

1. ____ PCSAs and Juvenile Court have the same goal of only removing children from their homes when absolutely necessary for the child's welfare or in the interest of public safety.
2. ____ Any corporal punishment of children constitutes abuse.
3. ____ If the parents cannot care for their children, but have made adequate arrangements with relatives for care, the children are neglected or dependent.
4. ____ Since the purpose of a trial is to win, the parties need not disclose witnesses and evidence to each other.
5. ____ At adjudication, to determine whether a child is neglected, the child's best interest is the paramount issue.
6. ____ The burden of proof in an abuse case is beyond a reasonable doubt.
7. ____ Caseworkers do not have to know the Ohio Revised Code or Ohio Administrative Code as that is the responsibility of the prosecutors, attorneys, and judges.
8. ____ If disposition is not made within 90 days of removal, the case is dismissed and cannot be re-filed.
9. ____ Permanent custody for adoption may be sought only after the PCSA has had custody for more than two years.
10. ____ There are no limits on the number of six-month extensions of protective supervision.



Section 2: The Legal Framework for Child Protective Services

Sources of Child Welfare Rules and Laws



The U. S. Constitution and Amendments

Federal Law

State Law (Constitution, Statutes,

State Rules

Case Law

O.R.C.



O.A.C.



Laws and Daily Practice Activity

Child Abuse Defined [O.R.C. § 2151.031](#)

Out of Home Care Child Neglect [O.R.C. 2151.011 \(30\)](#)

PCSA requirements for completing the family assessment <http://codes.ohio.gov/oac/5101:2-37-03v1>

PCSA requirements for intra-familial child abuse and/or neglect assessment/investigations
<http://codes.ohio.gov/oac/5101:2-36-03>

Orders of disposition for abused/neglected/dependent children <http://codes.ohio.gov/orc/2151.353>

Intake and screening procedures for child abuse, neglect, dependency, and family in need of services reports; and information and/or referral intakes <https://codes.ohio.gov/oac/5101:2-36-01>

Requirements for PCSA case plan for in-home supportive services without court order
<http://codes.ohio.gov/oac/5101:2-38-01>

PCSA case plan for children in custody or under protective supervision
<http://codes.ohio.gov/oac/5101:2-38-05>

Provision of services to unmarried minor parents <http://codes.ohio.gov/oac/5101:2-42-70>

Selection of a placement setting <http://codes.ohio.gov/oac/5101:2-42-05>

PCSA and PCPA approval of placements with relative and nonrelative substitute caregivers
<http://codes.ohio.gov/oac/5101:2-42-18>

Children's rights <http://codes.ohio.gov/oac/5101:2-5-35>

Caseworker visits and contacts with children in substitute care <http://codes.ohio.gov/oac/5101:2-42-65>

Exit interviews when a child in custody leaves an out of home placement
<http://codes.ohio.gov/oac/5101:2-42-65.1>

Termination of substitute care and custody of a child <http://codes.ohio.gov/oac/5101:2-42-87>

Preparation of lifebook <http://codes.ohio.gov/oac/5101:2-42-67>

Obtaining permanent custody: termination of parental rights <http://codes.ohio.gov/oac/5101:2-42-95>

PCSA requirements for completing the case review <http://codes.ohio.gov/oac/5101:2-38-09>

PCSA requirements for completing the semiannual administrative review
<http://codes.ohio.gov/oac/5101%3A2-38-10>



Section 3: Legal Rights of All Involved



Take a few moments to reflect on the rights of caregivers:

1. Freedom

2. Justice

3. Social Responsibility

4. Human Dignity

4th Amendment:



Consent

Walsh v. Erie
County (CAPTA)



**Confidentiality of Reporting
Sources**



Sharing Case Information



**Release of
Information**

Drug and Alcohol
Treatment
HIPAA

5th Amendment:



Know the allegations/concerns
(Reporting sources are confidential)



**Notice of all hearings and
rights**



Counsel



Language services



Consent

14th Amendment:



Protects rights against state
infringements



Prohibits states from interfering
with privileges and immunities



Requires due process and Equal
Protection

Protecting Parent's Rights



Federal Laws and Child Welfare



The Child Abuse Prevention and Treatment Act (1978)



The Indian Child Welfare Act (1978)



The Adoption Assistance and Child Welfare Act of 1980

Social Security Act of 1980

The Multi-Ethnic Placement Act of 1994 (MEPA)

The Adoption and Safe Families Act (ASFA) (1997)

Fostering Connections to Success and Increasing Adoptions Act of 2008

Family First Prevention Services Act (2018) (FFPSA)



O.R.C. Statutes

O.R.C. 2151.031 Abused Child Defined

1. In your own words, what is the definition of an abused child?

O.R.C. Chapter 2907

2. According to this chapter, how is “sexual activity” defined?

O.R.C. 2151.031 Abused Child Defined

3. How is O.R.C. 2151.031(C) different than O.R.C. 2151.031(D)?

O.R.C. 2919.22

4. In your own words, what acts constitute “endangering children?”



O.R.C. Statutes

Subsection C: Physical or Mental Injury O.R.C. § 2151.011

Subsection A: Sexual Abuse O.R.C. § 2151.031

Subsection D: Actions of Caregivers O.R.C. § 2151.031(D)

Subsection B: Endangerment O.R.C. § 2151.031

Subsection E: Out-of-home care O.R.C. § 2919.22

CPS Worker Manual – Use Volume 2





Definitions....

? Physical harm to persons _____

? Serious physical harm to persons _____

? Risk _____

? Substantial Risk _____



Neglect Statutes

ABANDONED

PARENTAL FAULTS OR
HABITS

CARE OR TREATMENT

MENTAL CONDITION

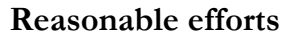
PLACED OR ATTEMPTED
TO PLACE

OMISSION CAUSES OR
THREATENS HARM



Dependency Statutes

No
Fault



- NEED TO ACTION:**
Using Abuse/Neglect/Dependency Statues When Assessing Safety

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Safety Plan Continuum



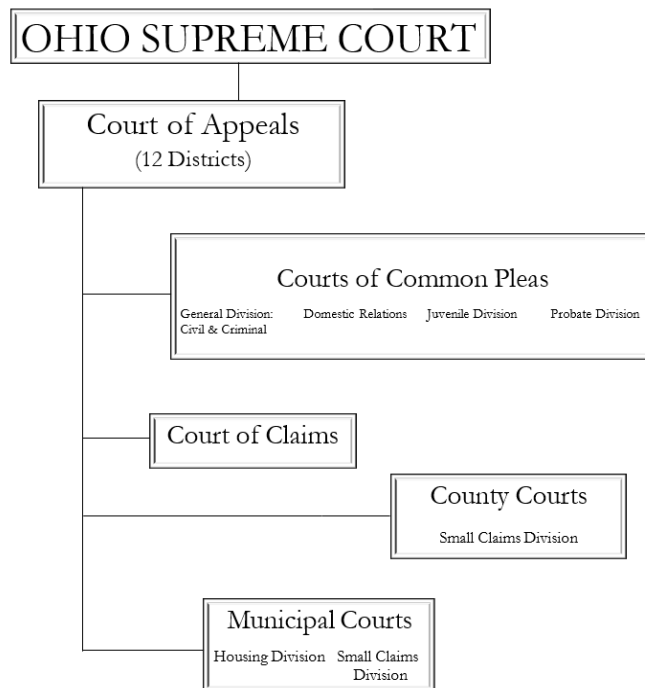
Removing a Child

Court order

Emergency court order

No court order

Section 5: The Court Systems, Processes, and Procedures

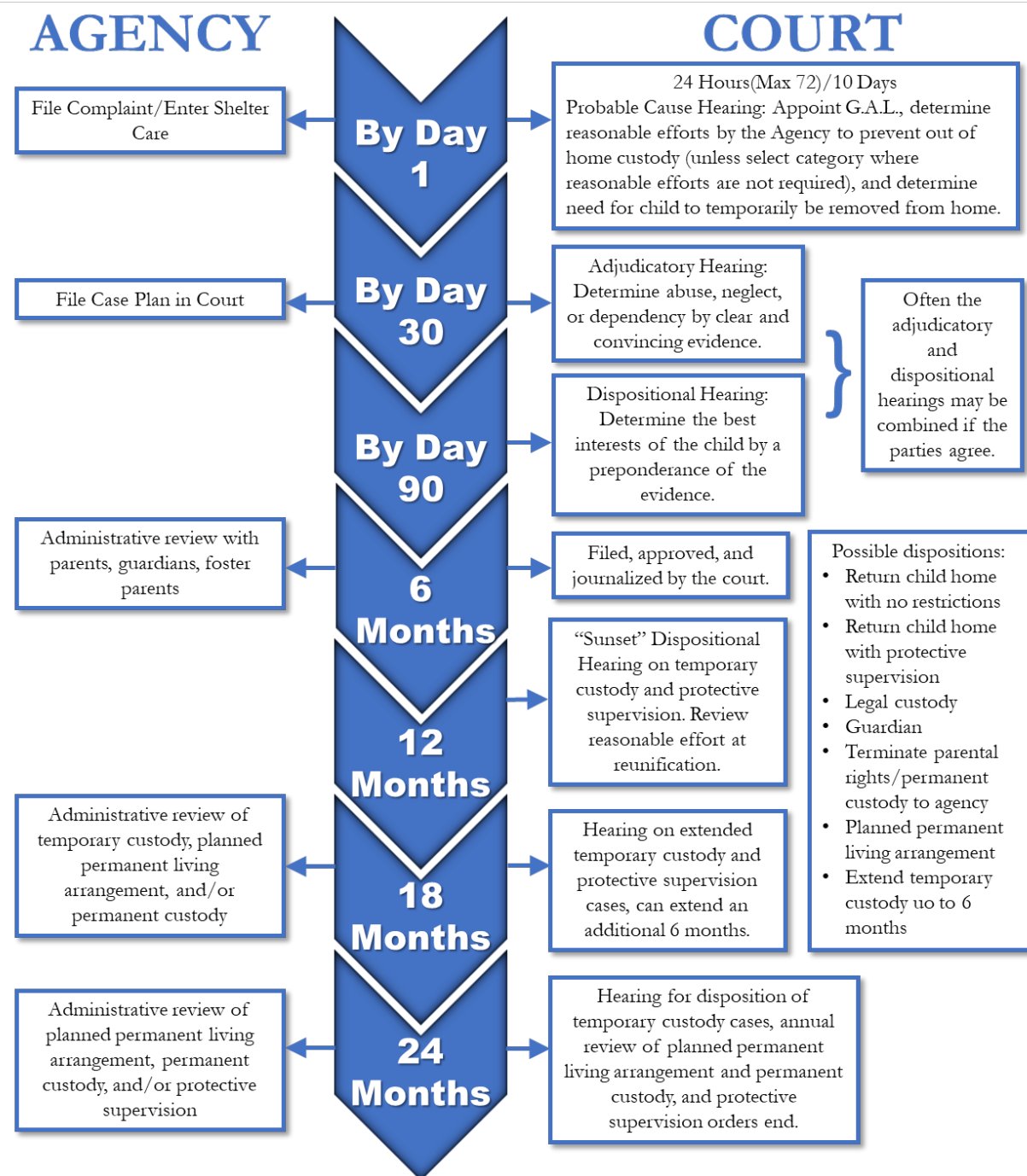


- DOMESTIC COURT -

- JUVENILE COURT -

- CRIMINAL COURT -

TIMELINE OF A CASE THROUGH THE COURT AND AGENCY





Section 6: Avoiding Legal Liability

► Qualified immunity:



Mandated Reporting

Caseworkers must report
ALL suspected abuse or
neglect when on duty



Documentation

Records can be a part of
Discovery

Enter and update
information in SACWIS
each workday

(O.A.C. § 5101:2-33-70)

Section 7: Working Through the Court Process

The Filing of the Complaint:

Obtaining Court Orders



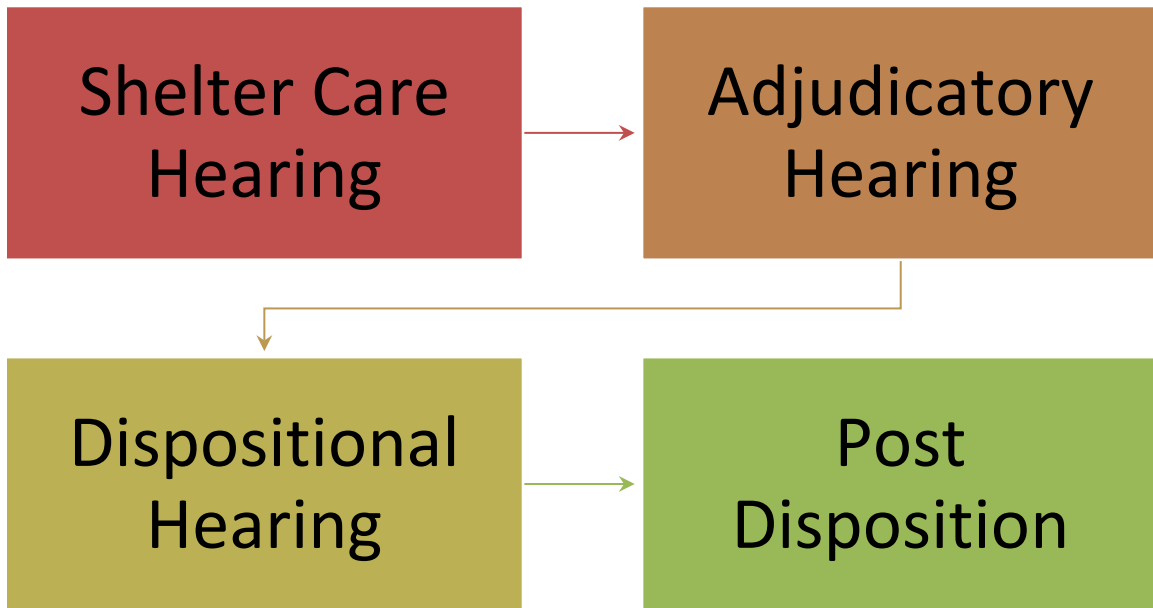
Order compelling
parents to comply with
investigations



Protective Supervision



Shelter Care (including
Emergency Orders)



Types of Evidence



Physical Evidence



Direct Evidence



Opinion Evidence



Circumstantial Evidence

Section 8: Preparing for Court

Trial Participants and Procedures

Judge

County Prosecutor/PCSA Attorney

Caseworker

Parents

Defense Attorney

CASA

GAL

Grandparents/Relatives/Foster
Parents/Caregivers

Additional Courtroom Participants:

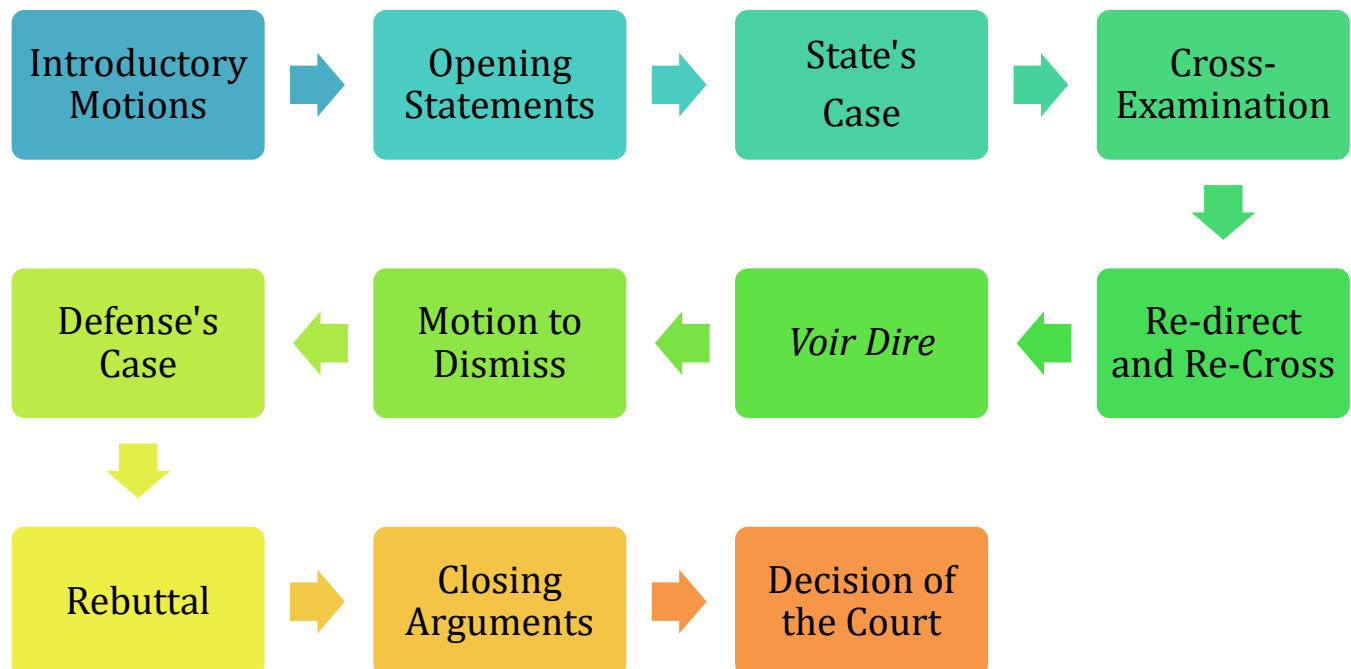
Bailiff –

Clerks –

Court Reporters –



Trial Procedures





Discovery



Working Cooperatively with Attorneys

Section 9: Trial by Fire: Testifying in Court

Guidelines for Courtroom Conduct and Testifying

1. Refer to the judge or magistrate as “Your Honor.”
2. Be civil and pleasant to all present, including Defense Counsel, parents, all court employees. This includes in the hallway, on elevators, in the waiting areas – you never know who is watching! Greet all parties equally and do not spend more time with one side than the other. Avoid the appearance of bias.
3. Treat the Court with respect.
 - Dress so you do not call attention to your dress. In general, wear long-sleeve, collared shirts, and close-toe shoes. Be aware of necklines and skirt lengths. (Some caseworkers find it helpful to keep a suit/jacket at their desk in case of emergency court hearings on days when they may not be dressed as professionally)
 - Do not chew gum, eat, or drink in the courtroom. (some courthouses do not allow these anywhere in the building)
 - When in the courtroom, ensure your cell phone is on silent or better yet - turned off (sometimes, even on silent mode a cell phone will ring, so it is safer to turn it off)
4. Be prepared and knowledgeable about the case.
 - Do not wait for the attorney to prepare you; do it yourself by reviewing the file and making notes of important facts, such as treatment recommendations and the number of visits scheduled and completed. **Note what efforts you have made to prevent removal of the child, and/or to remediate the situation. What services have been offered to the family and how have you worked to link them with those services.**
 - Be sure to review the case with your supervisor
 - Be prepared to talk about where the family is doing well, as well as their struggles.
 - Practice looking and sounding confident. Confidence equals credibility.
5. Be aware of your body language and facial expressions
 - Sit up straight
 - Make eye contact
 - Speak slowly, clearly, distinctly, and loudly enough to be heard by everyone in the courtroom.
 - Make eye contact with the person asking the question and the judge.
6. Think about your answer before you begin speaking.
 - Sometimes it helps to take a deep breath to allow yourself time to think.
 - Never allow the attorney to rush you and get you flustered.
 - The attorney can only ask questions as fast as you answer them.
7. Do not volunteer information - answer **ONLY** the question asked of you, even if your county prosecutor/agency attorney asks it.

- Respond to the question asked, then stop.
 - Be concise and complete without rambling.
 - On cross-examination, if a question can be answered “yes” or “no,” do so without elaboration.
8. If a question can only be answered with an explanation, ask the judge for an opportunity to explain your answer.
 9. Discuss with your attorney in advance how to communicate with her in the courtroom.
 - For example, whether she wants you to whisper in her ear, or write a note on a piece of paper.
 10. Respond truthfully even if you think the answer will hurt the case. You are under oath and are criminally liable for lying.
 11. If you do not understand a question, ask for the question to be repeated or rephrased so you understand it.
 12. If you do not know the answer to a question, say so. Never guess at an answer, for you risk the belief by the judge that other answers have also been guesses.
 13. Be exact and consistent, when possible.
 - Say “1:00 p.m.,” instead of “about noon,” or “nine visits,” instead of “many visits.”
 - When possible, quote direct statements made to you by the parent or child, rather than summarize or give your opinion.
 - But, only be as precise as your memory allows, if you do not remember specifics, do not give specifics.
 14. If you must refer to notes or records to refresh your recollection, say so. You will be able to make such reference.
 15. Be as objective as possible. Your role is to present evidence to the Court, not to “win” the case.
 16. Be confident about your professional abilities and try not to become nervous or defensive.
 17. Limit your testimony to factual observations and acts.
 18. If an attorney objects to a question, wait until the judge rules on the objection before you answer.
 - If the objection is sustained, you do not answer.
 - If the objection is overruled, proceed to answer.
 19. If you realize that an answer to a previous question was in error, ask to correct the mistake. Likewise, if an attorney misstates what you have previously answered, correct the misstatement.
 20. If, during cross examination, you say something that you’d like to clarify, signal that to your attorney, so he/she can ask about it during re-direct examination.
 21. If you have been requested to bring documents with you, keep them until the attorney asks to see them. If no reference is made to them, or the attorney never requests to see them, do not offer them. Take them with you when you leave.



Direct Examination _____

Cross-Examination _____

Re-direct Examination _____



Using CAPM as a Foundation for Court Testimony



Demonstration of Effective Testimony

- Caseworker establishing her credentials
- Hearsay
- Relevance
- Objections
- Direct examination
- Cross-examination
- Prosecuting attorney rehabilitating the witness after cross-examination
- Proper questioning
- Non-leading questions
- Proper language and demeanor during the trial



“Child Welfare Caseworkers Testifying in Juvenile Court”



Interactive Testimony



Section 10: Transfer of Learning and Close

Resources for Caseworkers



OCWTP.net

