

EXERCISE ONE

Pre-Training Quiz

Instructions: Read each statement and mark "T" if the statement is true and "F" if the statement is false. Bring this assignment with you to class. The quiz will be used throughout the training.

- ____ 1. **The sole purpose of Juvenile Court is to act in the best interest of children.**
- ____ 2. **Corporal punishment of children always constitutes abuse.**
- ____ 3. **If 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. **The formal rules of evidence apply at dispositional hearings.**
- ____ 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 two years of temporary agency custody have expired.**
- ____ 10. **There are no limits on the number of six-month extensions of protective supervision.**

EXERCISE TWO

CASE SUMMARIES

Read these two case summaries. Both of the cases involve the question of whether children are dependent under O.R.C. § 2151.04 (C) which states: a dependent child is one “whose condition or environment was such as to warrant the state, in the interest of the child, in assuming his guardianship.” Think about the policies of why or why not children should be found to be dependent.

CASE 1: In Re Burrell, 58 Ohio St. 2d 37 (Supreme Court of Ohio 1977)

Franklin County Children Services Board alleged that the two minor daughters of Mary McDaniel were dependent children under the provisions of O.R.C. § 2151.04 (C) on the basis that the children lacked proper parental care and supervision, essentially because the mother was living with her boyfriend in the presence of the children, Carla, age nine years, and Tina, aged six years, and that she refused to legalize or make any change in this relationship.

The evidence established that the children appeared to be normal, healthy, clean and well dressed, with no evidence of abuse. There was testimony from the caseworker that she found no effects upon the children as a result of the mother living with a man not her husband. The children's teachers testified that the children were average or above average students, regular in attendance and properly dressed, with no specific behavioral problems except that the older child was somewhat “defensive” when corrected. There was also testimony by the mother that the older child was defiant, but that this characteristic predated the extra-marital relationship of the mother.

The trial court determined both children to be dependent children. Upon appeal, the Court of Appeals affirmed the judgment of the trial court.

The Ohio Supreme Court reversed. It found an absence of “clear and convincing evidence” that the children were dependent as there was no evidence showing a detrimental impact upon the children of the relationship. Parental conduct is only significant if it can be demonstrated to have an adverse impact upon the child sufficiently to warrant state intervention. That impact cannot be simply inferred in

general, but must be specifically demonstrated in a clear and convincing manner.

CASE 2: In Re Darst, 117 Ohio App. 374 (Court of Appeals, Franklin County 1963)

The father of three minor children appealed from an order of the Juvenile Court of Franklin County finding his children to be dependent within the meaning of O.R.C. § 2151.04. The father had left the children with their maternal grandmother after his first wife died during the birth of their third child in November 1952. The father moved out of state in 1954 to attend college and later remarried. While he did not send support money between 1954 and 1956, after that time he made regular payments to the maternal grandmother. When he returned for his children in 1961, the maternal grandmother filed a complaint seeking to have the children declared dependent children. The grandmother testified that during the time the children were with her and her husband, "I never complained. *** I feel that we were able to take care of the girls as well as we did." In reversing the trial court, the appellate court held that "the state's interest under *Section 2151.04, Revised Code*, arises only if there is no one who is meeting the obligations of care, support and custody which are owed by the parent. ***The fact that relatives are providing that care and support is immaterial to determination of dependency."

Consider the following facts. How will the court decide the case, and why?

CASE 3: In the matter of Billy Crisp, 1981 WL 2983 (Court of Appeals, Franklin County 1981)

Billy Crisp was born to Deanna Crisp on April 12, 1980. Deanna Crisp took the baby from the hospital to the home of her mother, Janice Crisp, with whom the child continued to live, with the exception of one brief interruption. Maternal grandmother filed a complaint on June 10, 1980, alleging that Billy Crisp was a dependent child as defined in O.R.C. § 2151.04 (C).

At the hearing Deanna Crisp testified that for several years she had not had any drug problems as alleged by her mother; that Billy Crisp had been living with the complainant since his birth; that she (Deanna Crisp) had bought clothes and bottles for the child; that she gave her welfare checks to her mother for Billy's support; and that her mother had taken the child for medical check-ups.

Grandmother testified that she had seen to the child's medical care; that his mother had visited him infrequently, and that on those occasions she only cared for the baby when asked to do so by her; that in her absence her daughter had taken the child but had returned him within a day; that she had received two welfare checks from her daughter of \$131 each, and had given \$70 to her daughter within the same time period; that Billy Summers had visited the child on several occasions in the company of her daughter; that while she (Grandmother) was providing any care necessary for the child, and was supporting him with the help of her husband and her daughter, she still needed some assistance; that her home was of adequate size to house Billy along with others who resided there; that she did not get along well with Billy Summers; and that she felt the child's mother was incapable of caring for him.

Billy Summers testified that he was the child's father; that he had bought "clothes and stuff" for the child; that he earned money by fixing cars; that he wanted the baby to live with him; and that although he and Deanna Crisp had looked for a place to live with the child, they would have to live temporarily with his father if they had Billy with them.

Caseworker for the Franklin County Children Services Board, testified that she had visited with Billy and Grandmother in the latter's home while she was feeding him; that the baby "appeared to be normal and healthy and the home was clean"; that she visited the home where Billy Summers was living with his father and seven others, and that it appeared to be clean but cluttered; and that she was told the home had two bedrooms.

EXERCISE THREE

When Does Parental Discipline Cross the Line and Become Abuse?

Billy Deep's father hit him once on the buttocks with a 2 x 4 board. Billy, who is 15 years old, had taken his father's wallet and spent \$100 at a local store without permission. Mr. Deep used the board as a means of punishment.

INSTRUCTIONS FOR THE EXERCISE:

- From your caseworker core training and what you have learned in your agency thus far, discuss what unacceptable "corporal punishment" is, so that it amounts to abuse.
- Draft the language of the child endangering statute which defines unacceptable corporal punishment, without looking it up in the materials.
- Using your group's definition, is Billy Deep an abused child in Ohio?
- If Billy's father would ask you for advice as to what he can do to control and/or punish his son's behavior, what would you say?

When you have completed the exercise, after the instructor indicates, you may look at the child endangering statute in Relevant Statutes and Rules page 11.

DO NOT LOOK AT IT BEFORE YOU COMPLETE THE STEPS ABOVE.

EXERCISE FOUR

LEGAL DEFINITIONS OF ABUSE, NEGLECT, AND DEPENDENCY

Problems for Discussion¹

Consider the State's abuse, neglect and dependency statutes. For each of the following scenarios:

- *Would you initiate a Juvenile Court action on behalf of the child or children in question?*
 - *Under which statutory provision(s) and what sub section(s) would you file for each child? See O.R.C. §§ 2151.031, 2151.03, 2151.04. See Relevant Statutes and Rules pages 6-8.*
 - *What would you recommend the court should do to temporarily protect the child, if needed? See O.R.C. § 2151.33. See Relevant Statutes and Rules pages 22-23.*
 - *What more permanent solutions would you suggest? See O.R.C. §§ 2151.353 and 2151.354. See Relevant Statutes and Rules pages 33-37.*
1. Martin Smith is a 14-year-old boy born with cleft palate and cleft lip. His parents oppose surgery to correct their son's facial deformity. Instead, they believe in mental healing by letting "the forces of the universe work on the body." However, both deny that their belief is in accordance with an established religion, but rather their own philosophy. The Smiths are very strong-minded about this and, since Martin's childhood, have inculcated in him a distrust and fear of surgery.

The deputy commissioner of the county health department has petitioned the Family Court to have Martin declared a neglected child and to have his custody transferred from his parents to the Commissioner of Social Welfare for the purpose of consenting to such

¹Reprinted with revisions from Cunningham, C., and Horowitz, R., Child Abuse and Neglect, (American Bar Assoc., 1989).

medical, surgical, and dental services as may be necessary to correct his condition.

Cleft lip and palate is a split or opening in the oral-facial region of the body. It results from lack of proper development and fusion of the upper lip and the palate (roof of the mouth). As the child with cleft lip and palate matures, he faces speech problems, as well as the possibility of hearing loss, and dental problems, including the need for orthodontic and prosthodontic treatment, and additional surgeries. The surgical treatment of cleft lip and palate can produce dramatic results, especially when performed early in a child's life.

In Martin's neglect hearing, medical experts testified that birth defects such as his are almost always surgically treated at a very early age, normally between the ages of one and three years. The older the patient is, the less favorable are likely to be the results. A year and a half has already passed since instigation of the proceeding. The surgery the plastic surgeon recommended for Martin consists of three operations: 1) repair of the cleft lip by bringing the split together; 2) closing the cleft in the rear of the palate, since Martin is already too old to have the front part mended by surgery, and; 3) repairing the front part by dental appliances. The risks of mortality are minimal and are primarily due to the use of anesthesia. The operations would be spaced a few months apart and six months would be required to complete the work, two years in the case of difficulty.

Even after the operation, however, Martin would not be able to talk normally, at least not without an extended period of concentrated speech therapy. Martin's problem is complicated by the fact that his school system's emphasis on speech training is directed toward children at the grade school level, so it is important that his surgery be performed before he enters high school.

An expert testified that in 20 years of plastic surgery, he had never encountered a child with Martin's defects who had not been operated upon by his age. There are certain recognized phases of a child's life when the importance of defects such as Martin's become of greater significance. The first, when children enter grade school, is past; the next is the period of adolescence when social interests, such as physical appearance arise, in secondary school.

Nevertheless, such surgery can conceivably be performed during adulthood.

In the surgeon's view, the boy's increasing social contacts require that he be made to look and to speak normally as he approaches adolescence.

Everyone who has interviewed Martin agrees that he is very likeable. He has a newspaper route and his grades in school were very good during the last year. However, his father did testify that his son has recently withdrawn a little more from his friends. He further stated that, if Martin decides to have an operation, he would not be opposed-- but his son needed to decide for himself.

Thus, the various surgical procedures have been explained to Martin by plastic surgeons and orthodontists. Before and after photographs of other children who had undergone similar remedial surgery have also been shown to him. He was also taken to a speech correction school where he heard the reproduction of his own voice, as well as records depicting various stages of progress of other children. Although Martin was pleased with what was shown him, he has come to the conclusion that he should try for some time longer to close the cleft palate and lip himself through "natural forces." Should Martin be declared an abused, neglected, or dependent child, and, if so, to what degree should the state intervene?

2. Jason is a six-year-old boy being educated at home by his parents. He is rarely seen outdoors. On one occasion he tells a neighbor that, several times a week, he is forced to get up at 5:00 a.m. to begin his studies and must stay at the computer for 10 hours a day. He is not permitted to go to the toilet except at scheduled breaks once every four hours. Jason complains that he is hungry and has a sore back from sitting at the computer all day. Is state intervention appropriate in this case? If so, what type of state action should be taken?
3. Two-year-old Mark was born with health problems requiring that he be fed a special diet, be given prescribed medication daily, and that particular attention be paid to his hygiene. Without these precautions, Mark risks contracting a serious infection that could result in his death. Mark currently lives with his parents and six siblings in a two-bedroom apartment in a public housing project. The

apartment is dirty, smells of urine, and is littered with food, clothes, and trash.

On four occasions Mark has been brought to the hospital emergency room for adverse reactions to food prohibited by his diet. Mark's parents admit that they sometimes forget to give Mark his medication and adhere to his dietary restrictions. Should the state take any action concerning Mark? Concerning Mark's siblings? If so, what action(s) should be taken?

4. Based on Ken's class work and interaction with other fourth grade students, his teacher believes that Ken has a severe learning disability and recommends that he be evaluated by the special education staff at his school. Ken's parents refuse to allow Ken to be evaluated and state that they will never consent to placing their son in a special education class. Ken continues to fall further behind in his class work and his classmates make fun of him. Is Ken a dependent, neglected, or abused child?
5. In the thirty-ninth week of Ms. M's pregnancy, her physician determines that Ms. M has a complete placenta previa (i.e., the placenta is blocking the birth canal); it is unlikely (although not impossible) that this condition will correct itself prior to delivery. The physician advises Ms. M that there is a 99% chance her child will not survive a vaginal delivery and that the chances of Ms. M surviving are no greater than 50%. The physician further advises that delivery by caesarian section prior to the onset of labor would have an almost 100% chance of preserving the lives of both Ms. M and her child.

Ms. M informs her doctor that, based on her religious beliefs, she will not consent to a caesarian delivery, nor will she consent to any blood transfusions.

Can the soon-to-be-born baby be considered a child under the state's abuse, neglect, dependency, and child endangering statutes? Should the hospital be permitted to perform the caesarian without Ms. M's permission? Would your opinion change if the mother was terminally ill and all medical experts agreed she would die before reaching term?

6. Ms. R's live-in boyfriend, Mr. N, disciplined Ms. R's three-year-old daughter by striking her hard enough to cause a handprint on her buttocks. Ms. R witnessed this incident but did nothing to stop it. Should the state intervene to protect the child? If so, should the action be brought against Mr. N and/or Ms. R?
7. Due to his mother's drug dependency during pregnancy, a child is born addicted to heroin. Should the local child welfare agency file a petition claiming the child was abused and seek custody of the child? Why or why not? Suppose an expectant mother drinks alcohol excessively during pregnancy, despite her doctor's warnings about the potential harm to the fetus. Or, suppose the expectant mother refuses to adhere to dietary restrictions during pregnancy which her doctor advises can be critical in order to avoid potentially life-threatening complications at delivery? Should the state be allowed to intervene? If so, at what point is state intervention appropriate (e.g., during pregnancy before actual harm to the child has been proven; after birth when harm has been established)? What if there were other siblings? If not, why not? What type of intervention would be appropriate?
8. CPS alleges that a mother intentionally harmed her child by repeatedly causing her to ingest a quantity of laxatives sufficient to cause severe diarrhea, blood infections, dehydration, and hospitalization over a four-month period. The agency claims that the respondent suffers from Munchausen Syndrome by Proxy (MSP), a psychiatric disorder in which a parent causes or fabricates a child's illness and subjects the child to unpleasant and potentially harmful medical procedures. Factors commonly found in case histories of MSP include the following:
 - a.) The child's prolonged illness, which presents confusing symptoms defying diagnosis, and is unresponsive to medical treatment
 - b.) The child's recurring hospitalizations, surgery, and other invasive procedures
 - c.) The child's dramatic improvement after removal from mother's access and care
 - d.) The mother's training as a nurse or in medically related fields

- e.) The mother's unusual degree of attentiveness to the child's needs in the hospital
- f.) The mother's unusually supportive and cooperative attitude toward doctors and hospital staff
- g.) The mother's symbiotic relationship to the child

Each of these factors exists in the present case, yet the mother denies ever doing anything to harm her child.

Is the child abused, neglected, or dependent under this set of facts? What additional information, if any, would you seek?

9. A CPS investigation revealed the following facts concerning the Dorwins. Is state intervention appropriate in this case? As the parents' attorney, what arguments would you make? As CPS's attorney, what arguments would you make? As the judge, how would you resolve the case?

The Dorwins²

Mr. and Mrs. Dorwin were reported to a child protective agency in a large metropolitan city. They had moved to the city from a farming community. Mrs. Dorwin, who was twenty-eight years old, had been reared in a poverty-stricken rural area. She had completed six years of formal education. Her family had lived in a shack without electricity or plumbing. Both her father and sister had been hospitalized several times because of mental illness. Mr. Dorwin was thirty-one years old and was raised in an urban area of a predominantly rural state. Because of his mother's mental illness and his father's alcoholism and abusive treatment of his children, Mr. Dorwin and his brothers and sisters lived with and were raised by a relative. Mr. Dorwin completed eight years of formal education. An

²Katz, S., When Parents Fail, Boston: Beacon Press, pp. 53-54 (1971).

auto mechanic, he had a criminal record for drunkenness and assault and battery on his wife and children. He seldom worked steadily. The Dorwins were married when Mrs. Dorwin was six months pregnant.

Mr. and Mrs. Dorwin had moved into an attractive, well-kept apartment, later to be evicted for nonpayment of rent and causing damage to the residence. The walls of their present apartment were dirty, with large holes where plaster had been removed. The floors were uncared for; garbage and feces were spread throughout the rooms. The house had a strong urine odor. The five Dorwin children (ages ten, nine, seven, five, and four) were dirty, poorly clothed, and malnourished. Frequently they were seen begging in the streets for scraps of food. Neighbors reported that the children were often left alone at night or with an alcoholic uncle as a baby sitter. Often the children slept on sodden mattresses without sheets. Sometimes they all slept in the same bed with their mother. Neighbors said that the parents frequently swore at their children. The children, themselves, said they were afraid of their father, who often struck them in the head with his fist. The children were also witnesses to physical battles between their parents.

The children were absent from school between 50 and 60 days during the year. When they did attend, they were dirty. Their peers rejected them and they had few playmates. Frequently they were without money for lunch or for recreational activities. Teachers reported that they fell asleep in class. Although they exhibited average intelligence on standard psychological tests, they consistently failed in school. David (age seven) was sent home from school after seven days because he, like his sisters Donna (age five) and Sonia (age four), was not toilet trained and could not control himself in the classroom. The three older children had severe visual problems, but the Dorwins never followed through with an ophthalmologist's recommendation for treatment. Nor did the Dorwins

cooperate with a physician who was treating Donna for a painful bowel disease that could have been cured by their supervising a simple program of diet and medication for the girl.

EXERCISE FIVE

ABUSE, NEGLECT, AND DEPENDENCY: Additional Scenarios

For each scenario, determine 1) whether or not you would initiate a juvenile court action on behalf of the child or children in question; and 2) under which statutory provision(s) you would file for each child. See Relevant Statutes and Rules pages 5-7.

1. In April, mother became nervous and emotionally unable to care for her children and placed Mary (age 4) and Dennis (age 6) in succession with their father, their paternal grandmother, and finally in August with mother's sister, Priscilla, and her husband, Charles. In October, Priscilla took Mary to the School House day care center, where a worker observed that Mary had been injured and was in need of medical care. Mary was four years old at the time; she had many visible scrapes and bruises, as well as five distinct fractures in various stages of healing. Priscilla indicated that Mary had fallen off a swing. Dennis shows no evidence of any similar injuries.
2. Lucy was born December 31 to Norma and Luke. Lucy was estimated to be at 35 weeks gestation at birth (mildly premature). Her birth weight was 4.0 pounds—somewhat low for her age. Mother was an admitted heroin addict who reported that she had used heroin intravenously in the last two weeks prior to delivery. Lucy's urine screen tested positive for cocaine and opiates (heroin). This finding led to a diagnosis of neonatal drug withdrawal. Lucy had several symptoms which included irritability, pronounced jitteriness, hypertonicity, diarrhea, and initial feeding difficulties. Medical treatment reduced the irritability, jitteriness and feeding problems, but tremors and irritability persisted after 10 days.
3. Mother talked to her aunt four months ago and asked her to care for her two-year-old daughter, Renee, because the mother had a drug problem and wanted to get into a drug rehabilitation program. The aunt has cared for Renee in her home for the past four months. She has provided Renee with any care needed, including adequate food, clothing, shelter, supervision and health care without any monetary assistance from the mother. Renee is in good health. During this period, mother has only visited three times. Two weeks

ago, mother admitted to still “shooting” drugs. Aunt's apartment consists of two bedrooms, a kitchen, bath and living room.

4. Infant Johnny is one month old. His mother suffers from chronic schizophrenia and fails to take her medication. Johnny's four older siblings are in long-term placements with different relatives. At the hospital where she gave birth to Johnny, hospital staff observed that his mother had no knowledge about how to feed the baby, and that she herself was sucking on the baby's pacifier. Upon being released from the hospital, Mom and Johnny moved into maternal grandmother's home. One week ago, Mom was admitted to a psychiatric institute; however, two days later she left against medical advice. Grandmother has contacted your agency stating that she cannot care for Johnny on a long-term basis.
5. Your agency received a call from the school counselor at John Brown elementary school. 14-year-old Sheila told the counselor that her stepfather had been fondling her “private parts.” When you interviewed Sheila, she repeated the allegation. Stepfather denies the allegation; however, after a police investigation, he is facing criminal charges. Mother is furious with Sheila, and told the worker that the child is a liar and a troublemaker who was angry with Stepfather for “making her toe the line.” Mother refuses to tell stepfather to move out of the home.
6. 14-year-old mom, Cindy, had planned to relinquish her newborn daughter for adoption at birth. Yesterday, after giving birth to a healthy baby girl, Cindy changed her mind and now intends to keep the baby. Mother and infant are scheduled to be released from the hospital tomorrow. Your agency has been contacted by concerned hospital personnel. Upon investigation, you learn that prior to her hospitalization, Cindy had been living with her parents in their mobile home. However, they have told her that if she does not relinquish the infant, she cannot return to their home and will be “on her own” to care for the infant. Cindy's plan is to take the baby and live in the home of one her eighth-grade classmates, who lives with her mother, three siblings, and her mother's 20-year-old brother in a three-bedroom apartment.

EXERCISE SIX

EMERGENCY REMOVAL OF CHILDREN

PROBLEMS FOR DISCUSSION

In the following hypothetical cases, was emergency removal of the child(ren) justified? Was adequate attention given to the parents' right to keep the child(ren) at home? Was sufficient consideration given to the emotional trauma of separation the child(ren) might experience? Could the child(ren) have been protected without removing them from the parents? See Relevant Statutes and Rules page 21.

1. A sixteen-year-old runaway gives birth to an underweight but otherwise healthy child. The young mother admits she has no source of income, but plans to live in an apartment with three teenage friends who have jobs. She refuses to identify any of her family members, claiming that even, if they knew where she was, they would not provide any emotional or financial support for her or her child. Should the child be removed? What should be done about the mother?
2. In response to a neighbor's report, the CPS worker goes to Ms. J's apartment where she learns that Ms. J is a prostitute who regularly brings clients to the apartment while her four-year-old and six-year-old children are at home. Ms. J admits that, on occasion, her children have seen her having intercourse. She explains that she never graduated from high school and believes she must work as a prostitute in order to earn enough money to support her children. She cannot afford to pay a babysitter to care for the children while she has clients in the apartment. Although the children appear reasonably well cared for, the CPS worker removes them from their mother's apartment. Was the worker's decision correct?
3. The school nurse notified CPS that five-year-old Jason came to school with a severe black eye but Jason would not explain how the injury occurred. Several weeks earlier the same child had multiple bruises on his arms and neck, which were also never explained. Upon visiting Jason's home, the CPS worker learned that Jason had sustained the injuries as a result of his father's corporal punishment. While Jason's mother believed her husband sometimes overreacted in disciplining Jason, she did not think she should contradict him. Should Jason be removed from his parents' home?

4. CPS receives a report of loud music, adults yelling, and children crying in a nearby apartment. Arriving at the apartment, the CPS worker finds Mr. and Mrs. Y, both of whom appear intoxicated, with their three children, ages two, five, and seven. Neither Mr. Y nor Mrs. Y is able to answer the worker's basic questions concerning the children's health, school, or daytime care. The children appear thin and inappropriately dressed for the weather but show no visible signs of physical abuse. The apartment is littered with clothes, newspapers, and food. Broken glass is laying on the kitchen floor. Should the worker remove the children?

EXERCISE SEVEN

ADJUDICATORY AND DISPOSITIONAL EXERCISE

For the facts below, what complaint would you file, if any; what adjudication would be made; what disposition is appropriate; and what would be the main objectives of the case plan? (Small group discussion)

1. A family lost their home in a fire nine months ago, and has been staying with various friends and relatives on a temporary basis. The children are healthy but have not been in school since the fire.
2. A fifteen-year-old minor has severe mental health and substance abuse problems, engaging in violent behavior toward parents and peers, and posing threats of self-harm. The parents have sought treatment for minor, unsuccessfully, and have no health insurance.
3. A stepparent sexually abused a minor and is serving a lengthy sentence for it. The parent has instituted divorce proceedings against the stepparent.
4. A single parent is crack-addicted. The absent parent is whereabouts unknown. A 70-year-old grandparent is willing to care for the child, but had an open neglect (dirty home) case 20 years ago.
5. A mother leaves her newborn infant in a hospital and is not heard from again. One older sibling is in custody of his/her father, and another older sibling has been adopted.
6. A family is from a foreign country, where holding a hand over a candle was an acceptable form of discipline for theft. Their child steals gum from a store, and the parents hold the child's hand over a candle, causing 2nd degree burns.

EXERCISE EIGHT

DISPOSITION: TERMINATION OF PARENTAL RIGHTS

PROBLEMS FOR DISCUSSION

See Relevant Statutes and Rule pages 29-36 for a summary of the termination of parental rights statutes.

1. Two-year-old Marilyn was adjudicated a neglected child by the family court. Under the terms of the case plan signed by her parents and CPS at the time, Marilyn was allowed to remain at home as long as her parents attended parenting classes and utilized homemaker services in order to assist them in learning how to better care for their daughter and their home. Over the course of two years, the parents attended their classes sporadically and showed minimal progress in improving their parenting and homemaker skills. Marilyn currently is behind her peers physically and emotionally. CPS now seeks a termination of parental rights. Should the petition be granted? Why or why not? If the petition should not be granted, what action would you recommend?
2. Ms. N and her boyfriend were convicted of criminal abuse of her two children. While in prison, Ms. N gave birth to a third child. Custody of the third child was immediately given to the state child welfare agency and a petition to terminate the mother's parental rights was filed shortly thereafter. Should the petition be granted? What arguments would you make on Ms. N's behalf?
3. Ms. L, a single parent, voluntarily placed her six-month-old child in foster care as a result of personal and financial difficulties. The child remained with the same foster parents from six months until age two-and-one-half, when Ms. L asked that her child be returned to her. During this two-year period, Ms. L visited her child approximately twice a year. The child seemed to enjoy Ms. L's visits, but said he wanted to continue living with his foster parents. The foster parents wish to adopt the child. Should Ms. L's rights be terminated? What arguments would you make on Ms. L's behalf?

EXERCISE NINE

RELEVANCE EXERCISE

See Relevant Regulations and Rules page 36

Minor resides with Parent. They have lived here for over 10 years, having fled from a war-torn foreign country. It is alleged that Parent has whipped Minor with an extension cord, leaving open wounds on Minor's back, requiring 2 days hospitalization.

Trial to determine whether Minor is abused has commenced. For each item of proposed evidence below, decide whether it is relevant, and, if so, whether it is admissible. Why/why not?

1. Testimony from intake worker describing injuries to Minor's back observed by worker.
2. Testimony that Parent has refused to undergo psychological evaluation and has refused to speak to investigators.
3. Testimony that Parent served on the interrogation squad for the homeland's secret police 20 years ago.
4. Testimony that Minor had been skipping school, violating curfew, and engaging in premarital sex.
5. Testimony that physical discipline of children with objects frequently occurs in Parent's home country.
6. 25 photographs, all showing the injuries to Minor's back.

EXERCISE TEN

HEARSAY EXERCISE

See Relevant Statutes and Rules pages 37-38 regarding hearsay and exceptions to the hearsay rule

A trial has commenced on a complaint that a parent has sexually abused a minor through intercourse. For each proposed item of testimony below, an objection is lodged on the grounds of hearsay. Should each objection be overruled or sustained, and why? (Discuss appropriate exception to the hearsay rule; discuss possible witness response when an objection is made.)

1. Neighbor: "Three weeks after this happened, the minor was having a soda in my kitchen. She seemed a bit nervous. She said, 'The parent did me wrong.'"
2. Classmate: "On the same morning, right after it happened, the minor said, 'It hurt a lot when I went to the bathroom this morning.'"
3. E.R. Nurse: "That same morning the minor came into the ER, complaining of pain in her genital area. When I asked what happened, she said, 'I got screwed.'"
4. Supervisor of caseworker: "This documents our record of when the initial referral of abuse was called in. Under our regular routine, the person taking the call notes the date, time, and substance of the referral as the information is received. We are required to keep this information in our records."
5. Police Officer: "I interviewed the parent 12 days after the initial report. When I asked if there had been intercourse with the minor, the parent nodded his head up and down."

EXERCISE ELEVEN

ADJUDICATORY HEARING ROLEPLAY

OPTION ONE

The State Information Packet

Caseworker's Role:

Your Background: You are the Intake worker who conducted the initial investigation on the Smith children. You have worked at your agency for [supply your own length of service]. Your educational background is [supply your own education]. Your experience is [supply your own actual experience].

Additional information not included in the narrative summary:

- During your phone call with Alicia's mother she stated that she was not surprised that Alicia had "abandoned" her children.
- You have had concerns about the interaction between Alicia and her children during her visits with the children. Although the children seem pleased to see their mother, the mother and children are not very affectionate with one another. They play games and color together, and Ms. Smith sometimes reads to the children. Ms. Smith has occasionally allowed Marissa to sit on her lap; however, you have not seen Ms. Smith kiss or hug either of the children. Your assessment is that the relationship sometimes seems cool and non-nurturing.
- Alicia has told you that she has been looking for job since her boyfriend left, but has not yet found employment. She has been illegally living on temporary assistance checks from Georgia, forwarded to her by her mother.

Why You Are Asking the Court to Declare Missy and Joey Abused, Neglected and/or Dependent Children: You are asking the court to find Joseph and Marissa to be declared abused, neglected and/or dependent children for five reasons:

First, Alicia failed to make an adequate plan for her children when she left them with a fifteen-year-old babysitter for three days. You were able to speak with the babysitter, Lanie, by phone, and she told you that Alicia had asked her to baby-sit for only one day. After almost four days she "couldn't take it anymore" and left the house after locking the children in their bedroom. Lanie has since left town to live with her grandmother and could not be present to testify at trial. In your conversations with Alicia, she has been unwilling to acknowledge any responsibility for this situation.

Second, when Joey and Marissa were brought under care, Joey had a large, purple bruise on his forehead above his eye. It appeared to be a week or two old; however, when questioned about this, Ms. Smith became extremely defensive, stated that she would never hit her child, and insisted that the child had not been bruised when she left for Atlanta. Because of her subsequent refusal to engage in meaningful discussion about this situation, you have been unable to rule out abuse, and are concerned about Joey's safety.

Third, during your last visit to Alicia's home, one week ago, little had been done to improve the dirty conditions inside the home. Some of the dirty dishes had been cleared away, but that was about it. The dirt, clutter, and unpleasant odors still remained. Although you had spoken with Alicia during your first meeting about the need for her to ask the landlord to fix her broken toilet, she didn't call him until yesterday.

Fourth, Alicia appears to be isolated and overwhelmed. Only 20 years old, she moved to this area from Atlanta three months ago with her two children and a boyfriend who is not the biological father of the children. He deserted her a month ago. She has no family or friends in the area. Her only family is her mother, who lives in Atlanta, and is unwilling or unable to assist Alicia or the children at this time. Alicia has told you that she and the children's father never married. He has never visited the children nor paid child support, and his name is not on their birth certificates. The last she knew, he was living in their home town in Georgia. Attempts to locate the father have been unsuccessful.

Fifth, Alicia has been very uncooperative throughout your involvement with her. She has repeatedly demanded that her children be returned to her immediately, and has been generally angry, uncommunicative, and refused to speak with you about much of anything but her children's return. You have tried to offer homemaker services and transportation; however, she has angrily rejected all offers of help, insisting that she doesn't need you to interfere in her life.

You have scheduled four interviews with Ms. Smith since your first contact with her—three at her home and one at the agency. Ms. Smith failed to answer the door for one of the home visits. She insists that you came on the wrong day, but you had it written down on your calendar, and you are sure there was no mistake. She also failed to show up for the interview that had been scheduled at the agency. She says she had a doctor's appointment; you don't know if that's true or not—all you know is that she's missed half of her scheduled appointments with you.

EXERCISE ELEVEN-OPTION ONE

The State Information Packet

Points You Wish to Bring Out/Emphasize During Your Direct Examination of Your Client, the Caseworker (Remember, no leading questions!)

1. Your witness' name, address, and position at the agency (Intake caseworker).
2. The circumstances under which the children came under care.
3. The condition of the Smith home at the time of the witness' first contact, including the sleeping conditions of Joseph and Marissa.
4. The physical condition of the children, including the bump and bruise on Joey.
5. The lack of follow through by Alicia Smith (mother) in cleaning up the house(e.g., the house was still dirty, cluttered, and foul-smelling as of the caseworker's last visit to the home, one week ago.
6. That your witness spoke with Lanie, the babysitter, by phone. During that conversation, Lanie told him/her that Alicia had asked her to watch the children for only 24 hours. After almost three days she couldn't take it anymore and left the house after locking the children in their bedroom, where she figured they'd be safe.
7. That Lanie has since moved out of state to live with her grandmother, and could not be present to testify at this trial.
8. That Alicia Smith has shown little concern about the poor babysitting plan she made, instead blaming the babysitter for everything.
9. That the caseworker arranged for Alicia to visit her children twice a week, and that she has missed three of the nine visits scheduled since her return from Atlanta.
10. That for two of the three missed visits, Alicia called at the last minute to cancel the visit; and simply failed to show up for the third visit.

11. That Alicia has no family or reliable friends in this area, and that her only living relative is her mother, who lives in Atlanta. It is not known where Joey and Marissa's father lives.
12. That the caseworker spoke with Alicia Smith's mother by phone on August 12th, and she indicated that she is unable to care for Alicia or her children at this time.
13. That Alicia's mother stated during that conversation that she was not surprised that Alicia had abandoned her children this way.
14. That at the time the children came under care, Alicia was living on temporary assistance checks from the Department of Job and Family Services in Georgia, despite the fact that she had moved to Ohio over a month earlier.
15. That Marissa is underweight, and that Joseph has a speech impediment for which he has never received speech therapy and he has never attended preschool—as a result, Joseph's social skills are weak.
16. That Alicia has failed to keep two scheduled appointments with the caseworker—one a home interview, the other at the agency. She met with the caseworker on two occasions and was angry and uncooperative, refusing to engage in meaningful conversation until her children were returned.

EXERCISE ELEVEN-OPTION ONE

The State Information Packet

Points You Wish to Bring Out/Emphasize During Your Cross Examination of Defense Witness, Alicia Smith (Mother)

(Remember, the point of cross examination is to challenge the witness' credibility—memory, perception, sincerity, and narration)

(Don't forget to use leading questions!)

1. That Alicia's trip to Atlanta with her truck driver friend was nothing more than a joy ride, an attempt to have a good time and to forget, for a few days at least, that she was a mother with two young children to raise.
2. That Alicia had deliberately left her two young children with a girl whom she knew to be only fifteen years old.
3. That Alicia knew very little about Lanie's character or babysitting ability, having met her in a laundromat a few days before.
4. That Alicia told Lanie that she would only be gone for 24 hours, when she intended to be gone for at least three days.
5. That Alicia knew she could not make it to Atlanta and back in 24 hours, but lied to Lanie because that was the only way she would agree to watch the children.
6. That Alicia knew that a 15-year-old should not be entrusted with sole responsibility for two young children for three days.
7. That when Joey and Marissa were brought under care, Joey had a large, purple bruise on his forehead above his eye. It appeared to be a week or two old.
8. That the home in which Alicia and the children had been living at the time she left for Atlanta was dirty and very cluttered, filled with garbage and rotting food.
9. That Joseph and Marissa had nothing to sleep on but a dirty old mattress on the floor, with no sheets or covers.
10. That Alicia has done little to clean up the house, despite the fact that four weeks have passed since the children came under care—the

toilet is still clogged, the home is still dirty and cluttered, and the children still have no appropriate place to sleep.

11. That, although she has had four weeks in which to contact the landlord and ask him to fix her toilet, Alicia waited until yesterday to do this.
12. That Alicia doesn't really care about the condition of her home, and has no interest in doing the work necessary to make and keep it a safe and clean place for her children.
13. That Alicia continued to illegally accept financial assistance from the Atlanta Department of Job and Family Services after she moved to Ohio from Georgia.
14. That Alicia had no intention of getting a job to support herself and her children; rather, she intended to live indefinitely on the "temporary assistance" she was receiving from Georgia.
15. That the caseworker arranged for Alicia to visit with her children twice a week at the agency visitation facility.
16. That the children look forward to their visits with her.
17. That Alicia has missed three of the nine scheduled visits with her children.
18. That the third time she missed a visit she didn't even call to cancel it, later admitting that she had "forgotten" about the visit.
19. That this shows a lack of true concern on her part about her children's needs.
20. That, at the time of the caseworker's first visit to Alicia's home, there was no food except a jar of peanut butter, half a loaf of bread, and a quart of milk.
21. That there were no vegetables, no fruit, and no cereals or other dairy products in the home at that time.
22. That Marissa is only in the fifth percentile for her weight, and that this is a direct result of the lack of nutritious food in the home.
23. That Joey has a speech impediment, and that Alicia has never secured speech therapy for him.

24. That Joey has some problems in his interactions with other children his age, and tends to be aggressive, and doesn't like to share.

The Defense Information Packet

Parent's Role:

Your Background: You are a 20-year-old single parent, Alicia Smith. You live at 104 Cherrywood Lane. You moved to this town from Atlanta, Georgia, three months ago, with your boyfriend, Timmy Malone, and your two children, Joseph, age 4, and Marissa, age 2, whom you call Joey and Missy. Timmy had been offered a good job up here, and you had high hopes—it was the “fresh start” you had been hoping for. You and Timmy had fun furnishing the little house you rented. You bought two mattresses at a garage sale, and a kitchen table, chairs, and a sofa from a thrift store. It wasn't much, but you were happy.

A month ago, Timmy left you and the children—just walked out one day and never came back. You found out later that he had been fired from his job.

Additional Information Not Included in the Narrative Summary:

Problems with the Truck: On August 12th, you and Bobby were on your way home from Atlanta when his truck broke down, about 250 miles from home. He had to order a new part, so there was no way you could get back home until the next day. You couldn't call Lanie to tell her because you don't have a phone at your house. You didn't find out until later that she had already left Joey and Missy alone.

Joey And Missy Are Taken: You were very upset when you returned home on August 13th to find Joey and Missy gone. As soon as you learned that Children's Services had them, you caught the next bus and went right over there to get your babies, but they wouldn't give them to you! They told you you'd have to wait until the trial that had been scheduled for four weeks later. They wouldn't even let you see them that day. You had to come back the next day. Poor Missy, she didn't understand why you couldn't take her home with you. She cried and cried. It just about broke your heart. And Joey kept saying, “Don't cry, mommy, I'll be good.”

Your Dirty House: The caseworker says your house was dirty. Well, if s/he had two little kids who were always getting into things, her house would be dirty, too. Besides, not being a great housekeeper doesn't mean you're a bad mom. Love is more important than a clean house. And it wasn't all that bad when you left. A lot of what the caseworker saw that day was Lanie's fault.

You've been trying to clean it up; you got rid of a lot of the garbage that was lying around. But you haven't gotten as far as you would like, what with trying to visit your kids and looking for work and such. Yesterday you called the landlord about the clogged toilet; he promised to fix it in the next week or two.

No Food in the House?: The caseworker says there was hardly any food in your house when they found the children. It's true that there wasn't much in the refrigerator on the day you left—a jar of peanut butter, a loaf of bread, and a quart of milk. But you gave the babysitter \$30.00 for food and diapers on the day you left. She obviously didn't use the money for the intended purpose, but you shouldn't be blamed for that.

Joey's injury: When you saw the children at the agency on the day after your return from Atlanta, you noticed that Joey had a large purple bruise on his forehead. Although the caseworker as much as accused you or Timmy of inflicting that injury, that is outrageous. Joey was not bruised in any way when you left for Atlanta. You believe that he fell, or that Lanie inflicted the bruise while you were in Atlanta. You were so upset by the caseworker's implication that you abruptly left the interview and have been reluctant to talk with her since.

Looking for Work: You have also continued to look for work, but without a car or a phone that hasn't been easy either. You've taken a bus for a couple of job interviews, but mostly you've been asking around the neighborhood—at the 7-11, at the corner bar, at the gas station two blocks away. So far you've turned up nothing.

All Alone in the World: You have had to learn to become self-sufficient. Your only living relative is your mother. She lives in Atlanta, and has never been very supportive of you. You haven't heard from Joey and Missy's father since you learned you were pregnant with Missy, and don't know where he is.

Your Relationship/Visits with Your Children: You have visited Joey and Missy a total of six times in the four weeks since your return from Atlanta. You have only missed three visits. You missed one visit because you had a job interview; one because you missed the bus and couldn't find a ride, and a third because you simply forgot about the visit. Each time you had to miss a visit you felt very badly about it and made a point to call and talk with Joey and Missy on the phone to explain what had happened. The visits have gone very well. The children are always very happy to see you, and you them. You play games together, and color, and play on the swings, and sometimes you read to them. When it is time for the visit to end, both you and the children cry. The children cling to you and beg you to stay with them.

You love your children very much. In your four years as a parent, you have never before been investigated. You feel that you are a loving, attentive parent who needs your children as much as they need you.

The caseworker is concerned because Missy seems underweight for her age. You don't know what the fuss is about; Missy was born four weeks prematurely, and she has always been a tiny thing. It certainly has nothing at all to do with any failure on your part to feed her nutritious food—she eats like a bird, and it's all you can do to get her to eat a few bites at meals. As for Joey, there's nothing wrong with his behavior towards other children as far as you're concerned. His only problems are the ones the agency has caused by taking him away from you (bedwetting and nightmares).

Your Relationship with the Caseworker/Agency: You feel angry and mistrustful towards the caseworker for his/her accusations of abuse and neglect, and his/her refusal to return your kids, so you haven't been real eager to accept services from him/her. The caseworker has visited your home twice, most recently several days ago. Both times you let him/her in and allowed him/her to snoop around. You have only missed one interview with the caseworker—an appointment at the agency, which you couldn't keep because you got the flu and had to go to the doctor.

The caseworker says you missed another appointment, but that was the caseworker's mistake, not yours. The caseworker came out to the house on Thursday, when she had told you she'd be there on Friday. Anyway, as far as you can tell, there's nothing that that caseworker or his/her agency can do for you, so you're asking the court to give Joey and Missy back to you and to tell the agency to get out of your life. (But you'll do anything to get your kids back, so if you have to, you will cooperate with them.)

What You Want from the Judge: You want the judge to send your kids back home today, if possible, but at least as soon as the toilet is fixed. It wasn't your fault that the truck broke down. It wasn't your fault that Lanie left the children alone. It wasn't your fault that Lanie trashed your apartment. You're a good mother. You love your kids, and they love you. Anyone can see that. The three of you are really close. You're all each other have. No one can take care of them as well as you can.

EXERCISE ELEVEN-OPTION ONE

The Defense Information Packet

Points You Wish to Bring Out/Emphasize During Your Direct Examination of Your Client, the Children's Parent (Remember, no leading questions!)

1. That when your witness (Alicia Smith, mother) moved here with her children from Atlanta, she came with her boyfriend, Timmy, who had been offered a good job up here.
2. That she and Timmy had talked about getting married, and Alicia saw the move as a chance for a "fresh start" for herself and her children.
3. That Timmy was fired from his job after three weeks, and abandoned her and the children a week later—Alicia hasn't heard from him since and has no idea where he is.
4. That after he left, Alicia was alone in a strange town, with no family, very little money, and no friends except a 15-year-old girl (Lanie) and a truck driver she had met at the neighborhood laundromat.
5. That her only source of income after Timmy left was her monthly assistance check from Georgia, which her mother had forwarded to her.
6. That Alicia never intended to cheat the state of Georgia when she continued to accept her assistance checks after moving to this community and she had no idea that her assistance was supposed to stop just because she left Georgia.
7. That her monthly assistance check from Georgia was for \$450.00, and her rent and utilities totaled \$325.00 a month, leaving very little money with which to buy food and other necessities.
8. That she has been looking for a job ever since, but hadn't yet found one that earned enough to pay for childcare and all of her other expenses.
9. That when the truck driver she met at the laundromat offered to pay her \$200 if she would keep him company on his run to Atlanta (to keep him awake during the long drive), she felt she should accept, because she needed the money.

10. That she asked the other person she had met at the laundromat, 15-year-old Lanie, if she could watch her children for a few days and before leaving she gave Lanie \$30.00 for food and diapers, and told her she'd pay her \$50.00 when she returned from Atlanta three days later.
11. That, upon her return from Atlanta, she found Joey and Missy gone, and the house a mess.
12. That she was very worried until she found a note that the caseworker had left asking her to call Children's Services -- she called Children's Services immediately, and caught the next bus to meet the caseworker there later that day.
13. That the caseworker refused to allow her to see her children until the next day, although she (Alicia) begged to see them.
14. That when she saw the children at the agency on the day after her return from Atlanta, she noticed that Joey had a large purple bruise on his forehead. Although the caseworker accused her or Timmy of inflicting that injury, that is outrageous. Joey was not bruised in any way when she left for Atlanta.
15. That she believes Joey fell, or that Lanie inflicted the bruise while she was in Atlanta.
16. That she was so upset by the caseworker's implication that she abruptly left the interview and has been reluctant to talk with the worker since.
17. That she has visited the children a total of six times in the four weeks since her return from Atlanta.
18. That she has only missed three visits -- one because she had a job interview; one because she missed the bus and couldn't find a ride, and a third because she forgot.
19. That each time she had to miss a visit she felt very badly about it and made a point to call and talk with Joey and Missy on the phone to explain what had happened.
20. That the visits have gone very well—the children were always very happy to see her, they played games together, colored, and played on the swings, and sometimes she even reads to them.

21. That when it is time for the visit to end both she and the children cry and the children cling to her and beg her to stay with them.
22. That she has only missed one interview with the caseworker, an appointment at the agency which she couldn't keep because she got the flu and had to go to the doctor. A second appointment that the caseworker says she missed was the caseworker's mistake, (the caseworker came out to the house on Thursday, when she had told her she'd be there on Friday).
23. That Alicia loves her children very much. That in her three years as a parent she has never before been investigated and she is a loving, attentive parent who needs her children as much as they need her.
24. That she wants her children home, today if possible.
25. That she is prepared and willing to work closely with the agency after the children are returned home.

EXERCISE ELEVEN-OPTION ONE

The Defense Information Packet Points You Wish To Bring Out/Emphasize During Your Cross Examination of the State's Witness, The Caseworker

(Remember, the point of cross examination is to challenge the witness' credibility—memory, perception, sincerity, and narration)

(Don't forget to use leading questions!)

1. That s/he has been an intake caseworker for a relatively brief period of time.
2. That s/he has no advanced degree.
3. That s/he is not a psychiatrist or a psychologist, but is "only" a caseworker.
4. That s/he has investigated a relatively few cases since being hired to his/her current position.
5. That s/he didn't do as much as s/he might have to keep the children in their own home—(e.g., s/he didn't try to secure the services of a homemaker or a neighbor to care for the children, rather than immediately moving to bring them into shelter care).
6. That s/he doesn't like Alicia Smith.
7. That s/he decided early on that s/he did not approve of the fact that Alicia Smith was an unwed teenager.
8. That s/he didn't like the fact that Alicia is the kind of parent who chooses to spend more time loving her children than cleaning up after them.
9. That s/he resents Alicia because she has the courage to stand up for her convictions, even if that means disagreeing with someone whom has power over her, like the caseworker.
10. That s/he believes that Alicia abused Joey by causing the bump and bruise above his eye, refusing to consider Ms. Smith's explanation that it happened while Joey was with Lanie.
11. That these biases have interfered with his/her ability to work with Ms. Smith in a positive and supportive way.

12. That, instead of trying to help Ms. Smith succeed, s/he has—at best—sat back and waited for her to fail—and at worst—has deliberately thrown roadblocks in her way.
13. That s/he, for example, did nothing to secure any help for Ms. Smith in her efforts to clean up her home (e.g., s/he didn't provide her with a homemaker, or go to the home him/herself to help her clean it).
14. That the caseworker did nothing to help Ms. Smith in her efforts to find a job. For example, she did not give her any leads or provide transportation.
15. That the caseworker knew each time Alicia missed a visit with her children she had a valid reason, yet the caseworker chose to interpret the missed visits in the most negative and damaging light to the court.
16. That it was the caseworker who mistakenly went to Ms. Smith's home for an interview on a Thursday, when their appointment had been scheduled for the next day, and rather than admit his/her mistake and apologize, s/he tried to blame it on your client.
17. That, when Alicia has visited her children, those visits have gone very well—the children are very happy to see their mother, and very sad when she has to leave. That during the visits the three of them do lots of fun things together. That Alicia is very attentive and loving towards the children during the visits.
18. That Marissa screams when the caseworker comes to end the visits, and becomes listless and withdrawn for several hours afterwards; Joey has nightmares in which he cries out for his mother and, although he was potty trained, he is now wetting himself during the day as well as at night.
19. That these are clear signs that these children love their mother and that the separation from her has been very traumatic for them—all of these things point to the fact that Alicia is a good parent.
20. That Alicia has told the caseworker that she would willingly work with the agency if they would return her children to her.
21. That the caseworker is unwilling to work with Alicia and the children in their own home because s/he already has his/her made up about Alicia and would eventually like to place Joey and Missy for adoption.

EXERCISE ELEVEN -OPTION TWO and THREE

The State Information Packet

After Hours Crisis Caseworker's Role:

Your Background: You are the After Hours Crisis Intervention caseworker, or the on-call worker (use whatever title is appropriate for your agency), who conducted the initial investigation on the Smith children. You have worked at your agency for [supply your own length of service]. Your educational background is [supply your own education]. Your experience is [supply your own actual experience].

Circumstances Under Which the Children Came Into Care: On August 11th, at 8 p.m., your agency received a call from a neighbor of the Smiths, who had observed the two Smith children, 4-year-old Joseph and 2-year-old Marissa, looking out of an upstairs bedroom window of their home. The referral source reported that the children lived in the home with their mother, Alicia Smith, but was concerned that the children might be alone.

You were assigned the case by 8:25 p.m. of August 11th, and immediately went to the home, where you were met by Sergeant Rick Gage of the [supply the name of your town/city] Police Department. You could see two children looking down at you from a closed upstairs window; however, no one responded to your knocks. Sergeant Gage tried to enter the home through the front door; however, it was locked and dead bolted. He was able to gain entry through a side door, and the two of you entered the home to find Joseph and Marissa alone upstairs in a bedroom that was locked from the outside. There was no one else present in the home.

The children seemed frightened but unhurt, although Joey had a bump and a large purple bruise on his forehead above his right eye.

The home in which Joseph and Marissa were found alone was very cluttered and dirty. Dirty dishes were stacked on the kitchen table and in the sink, and there was a strong, unpleasant odor in the kitchen. The toilet in the bathroom was clogged and not usable. There were papers and clothing strewn all over the house, which was sweltering hot and filled with flies. There was one jar of peanut butter and a quart of milk in the refrigerator, and a partial loaf of bread on the counter. Joseph and Marissa's only bed was a dirty mattress without sheets, lying on the floor in the upstairs bedroom in which they were found.

Emergency Custody Order: You telephoned the Juvenile Court and requested an emergency custody order, which was granted. Sergeant Gage transported the children to the emergency foster home, with you following in your vehicle.

Attempts to Locate Children's Mother/Relatives/Shelter Care Hearing: Prior to removing the children from their home you considered talking with neighbors; however, due to concerns about confidentiality, you did not do so. As you walked through the Smith home you found the phone number of the children's maternal grandmother on the refrigerator. The number had a Georgia area code. You telephoned this grandmother the next day. During that telephone call, Alicia's mother stated that Alicia and her children used to live with her in Atlanta, Georgia until about three months ago when she moved to Ohio to be closer to her boyfriend. She was not surprised to learn that Alicia had "abandoned" her children, and that she herself is unable take the children at this time. She indicated, however, that that she has a sister who lives an hour away from Alicia's current address who might be able to assist. You forwarded this information to the Intake Worker for follow-up. The grandmother also told you that her daughter had been receiving welfare in Georgia, and that she had been forwarding these checks to Alicia in Ohio.

A shelter care hearing (also sometimes known as a preliminary hearing) was held on August 12th, which you attended. At that hearing the court granted the agency a temporary order of custody, ordered that Joseph and Marissa remain in foster care, and scheduled an adjudicatory hearing for today (approximately four weeks after the shelter care hearing). After the shelter care hearing you transferred the case to Intake.

EXERCISE ELEVEN -OPTION TWO and THREE

The State Information Packet

Intake Caseworker's Role:

Your Background. You are the Intake Worker for the Smith family. You have worked at your agency for [supply your own length of service]. Your educational background is [supply your own education]. Your experience is [supply your own actual experience].

First Contact with Children's Mother: You were assigned the Smith case on August 12th. You immediately called Alicia's maternal aunt, whose name had been forwarded to you by the After Hours Crisis Intervention worker. There was no answer, so you left a message on the answering machine, asking that the aunt contact you. However, the aunt has never returned your call.

Ms. Smith did not surface until the evening of August 13th, when she called your agency frantic about the whereabouts and safety of her children. When she learned that they were under care, Ms. Smith immediately took a bus to the agency, where you interviewed her. Ms. Smith indicated that she had left the children in the care of her fifteen-year-old girlfriend, Lanie, while she had traveled to Atlanta with a friend of hers who was delivering a load of furniture (he is a moving van driver). Ms. Smith insisted that the children be returned to her immediately, since it was "not her fault" that Lanie had left them alone. You explained that the children would have to remain in foster care until the adjudicatory hearing, whereupon Ms. Smith became very angry and verbally abusive. She demanded to see her children, and became even more upset and hostile when you stated that it would be impossible to arrange transportation for the children until the following day.

You were able to arrange such a visit at the agency visitation center for the following day (August 14), which you supervised. At the visit you observed that mother and children were very happy to see one another. You felt that their interaction throughout the visit was very positive and appropriate. Joey and Marissa sat on their mother's lap as Ms. Smith read to them. At the end of the visit Joey and Marissa became very upset when they were unable to go home with their mother. After this initial visit, the foster home/visitation caseworker has supervised the family's visits, and your contact has been solely with Alicia.

Following that visit, you attempted to discuss with Ms. Smith her current situation and the agency. You also asked her about the presence of the bruise and

bump above Joey's eye. She had no adequate explanation. Moreover, she was extremely unreceptive and abruptly left the interview after a few minutes.

Why You Are Asking the Court to Declare Missy and Joey Abused, Neglected and/or Dependent Children: You are asking the court to find Joseph and Marissa to be declared abused, neglected and/or dependent children for five reasons:

First, Alicia failed to make an adequate plan for her children when she left them with a fifteen-year-old babysitter for three days. You were able to speak with the babysitter, Lanie, by phone, and she told you that Alicia had asked her to baby-sit for only one day. After almost four days she "couldn't take it anymore" and left the house after locking the children in their bedroom. Lanie has since left town to live with her grandmother and could not be present to testify at trial. In your conversations with Alicia, she has been unwilling to acknowledge any responsibility for this situation.

Second, when Joey and Marissa were brought under care, Joey had a large, purple bruise on his forehead above his eye. It appeared to be a week or two old; however, when questioned about this, Ms. Smith became extremely defensive, stated that she would never hit her child, and insisted that the child had not been bruised when she left for Atlanta. Because of her subsequent refusal to engage in meaningful discussion about this situation, you have been unable to rule out abuse, and are concerned about Joey's safety.

Third, during your last visit to Alicia's home, one week ago, little had been done to improve the dirty conditions inside the home. Some of the dirty dishes had been cleared away, but that was about it. The dirt, clutter, and unpleasant odors still remained. Although you had spoken with Alicia during your first meeting about the need for her to ask the landlord to fix her broken toilet, she didn't call him until yesterday.

Fourth, Alicia appears to be isolated and overwhelmed. Only 20 years old, she moved to this area from Atlanta three months ago with her two children and a boyfriend who is not the biological father of the children. He deserted her a month ago. She has no family or friends in the area. Her only family is her mother, who lives in Atlanta, and is unwilling or unable to assist Alicia or the children at this time. Alicia has told you that she and the children's father never married. He has never visited the children nor paid child support, and his name is not on their birth certificates. The last she knew, he was living in their home town in Georgia. Due to this father's historical lack of involvement or support, you have not attempted to contact him, although you know his name.

Fifth, Alicia has been very uncooperative throughout your involvement with her. She has repeatedly demanded that her children be returned to

her immediately, and has been generally angry, uncommunicative, and refused to speak with you about much of anything but her children's return. You have tried to offer homemaker services and transportation;

however, she has angrily rejected all offers of help, insisting that she doesn't need you to interfere in her life.

You have scheduled four interviews with Ms. Smith since your first contact with her—three at her home and one at the agency. Ms. Smith failed to answer the door for one of the home visits. She insists that you came on the wrong day, but you had it written down on your calendar, and you are sure there was no mistake. She also failed to show up for the interview that had been scheduled at the agency. She says she had a doctor's appointment; you don't know if that's true or not—all you know is that she's missed half of her scheduled appointments with you.

Alicia has told you that she has been looking for employment since her boyfriend left, but has not yet found it. She has been illegally living on temporary assistance checks from Georgia, forwarded to her by her mother.

EXERCISE ELEVEN -OPTION TWO and THREE

The State Information Packet

Ongoing Caseworker's Role:

You became the ongoing caseworker for Joey and Marissa on August 13th after they were placed in foster care.

Mother's Visits with Children: You have supervised all but the first visit between the children and their mother. Alicia has been scheduled to visit Joseph and Marissa twice a week at the agency visitation center. She has missed three of the nine visits scheduled during the four weeks since the shelter care hearing. On two occasions Alicia called on the day of the visit to cancel. On the third, she simply failed to show up. Joey and Marissa were extremely disappointed on each occasion.

You have had concerns about the interaction between mother and children during the visits that she did keep. Although the children seem pleased to see their mother; mother and children are not very affectionate with one another. The family plays games and colors, and Ms. Smith sometimes reads to the children. Ms. Smith has occasionally allowed Marissa to sit on her lap; however, you have not seen Ms. Smith kiss or hug either of the children. Your assessment is that the relationship sometimes seems cool and non-nurturing. Ms. Smith does cry when the visits are over and it is time to say goodbye. Joey and Marissa pick up on their mother's emotions and they too become tearful.

The children's foster mother reports that Marissa becomes listless and withdrawn for several hours after visits with her mother, and that Joey has nightmares in which he cries out for his mother. Although his mother reports that he is potty trained, Joey is now wetting himself during the day as well as at night.

Children's Condition: Both children have been seen by the agency physician, and are reported to be in good health. However, the foster mother believes, and you agree, that Marissa seems underweight for her age. You believe this is the result of a lack of nutritious food. Joseph has a slight speech impediment. At age four he has never attended preschool, and his social skills seem somewhat delayed. He has trouble sharing and, although he is protective of Marissa, he sometimes becomes aggressive with other children.

Children's Adjustment in Foster Home: Joey and Marissa are doing quite well in their foster home. They seem to be thriving under their foster mother's consistent and nurturing care. Their foster family has grown quite fond of the children. Marissa tends to cling to her foster mother, while Joey has formed a particularly close relationship with his foster father. They have enrolled Joey in preschool, where he is performing well academically.

EXERCISE ELEVEN -OPTION TWO and THREE

The State Information Packet

Points You Wish to Bring Out/Emphasize during Your Direct Examination of Your Client, the After Hours Crisis Caseworker (Remember, no leading questions!)

1. Your witness' name, address, and position at the agency (Intake caseworker).
2. The circumstances under which the children came under care.
3. The condition of the Smith home at the time of the witness' first contact, including the sleeping conditions of Joseph and Marissa.
4. The physical condition of the children, including the bump and bruise on Joey.
5. That Alicia has no family or reliable friends in this area, and that her only living relative is her mother, who lives in Atlanta (Joey and Marissa's father is whereabouts unknown).
6. That the caseworker spoke with Alicia Smith's mother by phone on August 12th, and she indicated that she is unable to care for Alicia or her children at this time.
7. That Alicia's mother stated during that conversation that she was not surprised that Alicia had abandoned her children this way.
8. That at the time the children came under care, Alicia was living on temporary assistance checks from the Department of Job and Family Services in Georgia, despite the fact that she had moved to Ohio over a month earlier.

EXERCISE ELEVEN -OPTION TWO and THREE

The State Information Packet

Points You Wish to Bring Out/Emphasize during Your Direct Examination of Your Client, the Intake Caseworker (Remember, no leading questions!)

1. Your witness' name, address, and position at the agency (intake caseworker)
2. That your witness spoke with Lanie, the babysitter, by phone. During that conversation, Lanie told him/her that Alicia had asked her to watch the children for only 24 hours. After almost three days she couldn't take it anymore and left the house after locking the children in their bedroom, where she figured they'd be safe.
3. That Lanie has since moved out of state to live with her grandmother, and could not be present to testify at this trial.
4. That Alicia Smith has shown little concern about the poor babysitting plan she made, instead blaming the babysitter for everything.
5. The lack of follow through by Alicia Smith (mother) in cleaning up the house (e.g., the house was still dirty, cluttered, and foul-smelling as of the caseworker's last visit to the home, one week ago.
6. That Alicia has failed to keep two scheduled appointments with the caseworker—one a home interview, the other at the agency-- on the two occasions she did meet with the caseworker, she was angry and uncooperative, refusing to engage in meaningful conversation until her children were returned.
7. That because of her subsequent refusal to engage in meaningful discussion about Joey's injuries, the caseworker has been unable to rule out abuse, and is concerned about Joey's safety.
8. That Alicia appears to be isolated and overwhelmed. Her boyfriend, who is not the biological father of the children, deserted her a month ago. She has no family or friends in the area. Her only family is her mother, who lives in Atlanta, and is unwilling or unable to assist Alicia or the children at this time.
9. That Alicia has told the caseworker that she and the children's father never married. He has never visited the children nor paid child support, and his name is not on their birth certificates.

EXERCISE ELEVEN -OPTION TWO and THREE

The State Information Packet

Points You Wish to Bring Out/Emphasize during Your Direct Examination of Your Client, Ongoing Caseworker (Remember, no leading questions!)

1. Your witness' name, address, and position at the agency (foster home/visitation caseworker)
2. That the caseworker arranged for Alicia to visit her children twice a week, and that she has missed three of the nine visits scheduled since her return from Atlanta.
3. That for two of the three missed visits, Alicia called at the last minute to cancel the visit; and simply failed to show up for the third visit.
4. That Joey and Marissa were extremely disappointed on each occasion.
5. That the caseworker has concerns about the interaction between mother and children. Although the children seem pleased to see their mother; mother and children are not very affectionate with one another. The family plays games and colors, and Ms. Smith sometimes reads to the children. Ms. Smith has occasionally allowed Marissa to sit on her lap; however, the caseworker has not seen Ms. Smith kiss or hug either of the children.
6. The caseworker's assessment that the parent-child relationship sometimes seems cool and non-nurturing. Ms. Smith does cry when the visits are over and it is time to say goodbye. Joey and Marissa pick up on their mother's emotions and they too become tearful.
7. That the children's foster mother reports that Marissa becomes listless and withdrawn for several hours after visits with her mother, and that Joey has nightmares and is now wetting himself during the day as well as at night.
8. That both children have been seen by the agency physician, and are reported to be in good health. However, the foster mother believes, and the caseworker agrees, that Marissa is underweight, and that Joseph has a speech impediment for which he has never received speech therapy and he has never attended preschool—as a result, Joseph's social skills are weak.

9. That the caseworker believes that Joey and Marissa are doing quite well in their foster home. They seem to be thriving under their foster mother's consistent and nurturing care.

EXERCISE ELEVEN - OPTION TWO and THREE

The State Information Packet

Optional Role of the Mother:

Points You Wish to Bring Out/Emphasize on Your Cross Examination of Defense Witness, Alicia Smith (Mother)

(Remember, the point of cross examination is to challenge the witness' credibility—memory, perception, sincerity, and narration)

(Don't forget to use leading questions!)

1. That Alicia's trip to Atlanta with her truck driver friend was nothing more than a joy ride, an attempt to have a good time and to forget, for a few days at least, that she was a mother with two young children to raise.
2. That Alicia had deliberately left her two young children with a girl whom she knew to be only fifteen years old.
3. That Alicia knew very little about Lanie's character or babysitting ability, having met her in a laundromat a few days before.
4. That Alicia told Lanie that she would only be gone for 24 hours, when she intended to be gone for at least three days.
5. That Alicia knew she could not make it to Atlanta and back in 24 hours, but lied to Lanie because that was the only way she would agree to watch the children.
6. That Alicia knew that a 15-year-old should not be entrusted with sole responsibility for two young children for three days.
7. That when Joey and Marissa were brought under care, Joey had a large, purple bruise on his forehead above his eye. It appeared to be a week or two old.
8. That the home in which Alicia and the children had been living at the time she left for Atlanta was dirty and very cluttered, filled with garbage and rotting food.
9. That Joseph and Marissa had nothing to sleep on but a dirty old mattress on the floor, with no sheets or covers.
10. That Alicia has done little to clean up the house, despite the fact that four weeks have passed since the children came under care—the

toilet is still clogged, the home is still dirty and cluttered, and the children still have no appropriate place to sleep.

11. That, although she has had four weeks in which to contact the landlord and ask him to fix her toilet, Alicia waited until yesterday to do this.
12. That Alicia doesn't really care about the condition of her home, and has no interest in doing the work necessary to make and keep it a safe and clean place for her children.
13. That Alicia continued to illegally accept financial assistance from the Atlanta Department of Job and Family Services after she moved to Ohio from Georgia.
14. That Alicia had no intention of getting a job to support herself and her children; rather, she intended to live indefinitely on the "temporary assistance" she was receiving from Georgia.
15. That the caseworker arranged for Alicia to visit with her children twice a week at the agency visitation facility.
16. That the children look forward to their visits with her.
17. That Alicia has missed three of the nine scheduled visits with her children.
18. That the third time she missed a visit she didn't even call to cancel it, later admitting that she had "forgotten" about the visit.
19. That this shows a lack of true concern on her part about her children's needs.
20. That, at the time of the caseworker's first visit to Alicia's home, there was no food except a jar of peanut butter, half a loaf of bread, and a quart of milk.
21. That there were no vegetables, no fruit, and no cereals or other dairy products in the home at that time.
22. That Marissa is only in the fifth percentile for her weight, and that this is a direct result of the lack of nutritious food in the home.
23. That Joey has a speech impediment, and that Alicia has never secured speech therapy for him.
24. That Joey has some problems in his interactions with other children his age, and tends to be aggressive, and doesn't like to share.

EXERCISE ELEVEN -OPTION TWO and THREE

The Defense Information Packet

Points You Wish To Bring Out/Emphasize During Your Cross Examination of the State's Witness, the After Hours Crisis Caseworker

(Remember, the point of cross examination is to challenge the witness' credibility—memory, perception, sincerity, and narration)

(Don't forget to use leading questions!)

1. That s/he has been an intake caseworker for a relatively brief period of time.
2. That s/he has no advanced degree.
3. That s/he is not a psychiatrist or a psychologist, but is "only" a caseworker.
4. That s/he has investigated a relatively few cases since being hired to his/her current position.
5. That she is unfamiliar with the legal requirements for justifying an emergency custody removal of children.
5. That s/he didn't do as much as s/he might have to keep the children in their own home—(e.g., s/he didn't try to secure the services of a homemaker or a neighbor to care for the children, rather than immediately moving to bring them into shelter care).
6. That she did not call the grandmother immediately, but waited until the 12th.

EXERCISE ELEVEN -OPTION TWO and THREE

The Defense Information Packet

Points You Wish To Bring Out/Emphasize During Your Cross Examination of the State's Witness, The Intake Caseworker

(Remember, the point of cross examination is to challenge the witness' credibility—memory, perception, sincerity, and narration)

(Don't forget to use leading questions!)

1. That s/he didn't like the fact that Alicia is the kind of parent who chooses to spend more time loving her children than cleaning up after them.
2. That s/he resents Alicia because she has the courage to stand up for her convictions, even if that means disagreeing with someone whom has power over her, like the caseworker.
3. That s/he believes that Alicia abused Joey by causing the bump and bruise above his eye, refusing to consider Ms. Smith's explanation that it happened while Joey was with Lanie.
4. That these biases have interfered with his/her ability to work with Ms. Smith in a positive and supportive way.
5. That, instead of trying to help Ms. Smith succeed, s/he has—at best—sat back and waited for her to fail—and at worst—has deliberately thrown roadblocks in her way.
6. That s/he, for example, did nothing to secure any help for Ms. Smith in her efforts to clean up her home (e.g., s/he didn't provide her with a homemaker, or go to the home him/herself to help her clean it).
7. That the caseworker did nothing to help Ms. Smith in her efforts to find a job. For example, she did not give her any leads or provide transportation.
8. That the caseworker knew each time Alicia missed a visit with her children she had a valid reason, yet the caseworker chose to interpret the missed visits in the most negative and damaging light to the court.

9. That it was the caseworker who mistakenly went to Ms. Smith's home for an interview on a Thursday, when their appointment had been scheduled for the next day, and rather than admit his/her mistake and apologize, s/he tried to blame it on your client.
10. That Alicia has told the caseworker that she would willingly work with the agency if they would return her children to her.
11. That the caseworker is unwilling to work with Alicia and the children in their own home because s/he already has his/her mind made up about Alicia and would eventually like to place Joey and Missy for adoption.

EXERCISE ELEVEN -OPTION TWO and THREE

The Defense Information Packet

Points You Wish To Bring Out/Emphasize During Your Cross Examination of the State's Witness, The Ongoing Caseworker

(Remember, the point of cross examination is to challenge the witness' credibility—memory, perception, sincerity, and narration)

(Don't forget to use leading questions!)

1. That s/he doesn't like Alicia Smith.
2. That s/he decided early on that s/he did not approve of the fact that Alicia Smith was an unwed teenager.
3. That, when Alicia has visited her children, those visits have gone very well—the children are very happy to see their mother, and very sad when she has to leave. That during the visits the three of them do lots of fun things together. That Alicia is very attentive and loving towards the children during the visits.
4. That Marissa screams when the caseworker comes to end the visits, and becomes listless and withdrawn for several hours afterwards; Joey has nightmares in which he cries out for his mother and, although he was potty trained, he is now wetting himself during the day as well as at night.
5. That these are clear signs that these children love their mother, and that the separation from her has been very traumatic for them—all of these things point to the fact that Alicia is a good parent.
6. That caseworker comes from an affectionate family, where affection is demonstrated physically—hugging and kissing.
7. That the caseworker's cultural bias has influenced her concerns about the interaction of the mother and children, and her opinion that the mother and children do not have “nurturing” relationship.

EXERCISE ELEVEN -OPTION TWO and THREE

The Defense Information Packet

Optional Parent's Role:

The Defense Information Packet

Parent's Role:

Your Background: You are a 20-year-old single parent, Alicia Smith. You live at 104 Cherrywood Lane. You moved to this town from Atlanta, Georgia, three months ago, with your boyfriend, Timmy Malone, and your two children, Joseph, age 4, and Marissa, age 2, whom you call Joey and Missy. Timmy had been offered a good job up here, and you had high hopes—it was the “fresh start” you had been hoping for. You and Timmy had fun furnishing the little house you rented. You bought two mattresses at a garage sale, and a kitchen table, chairs, and a sofa from a thrift store. It wasn't much, but you were happy.

A month ago, Timmy left you and the children—just walked out one day and never came back. You found out later that he had been fired from his job.

Additional Information Not Included in the Narrative Summary:

Problems with the Truck: On August 12th, you and Bobby were on your way home from Atlanta when his truck broke down, about 250 miles from home. He had to order a new part, so there was no way you could get back home until the next day. You couldn't call Lanie to tell her because you don't have a phone at your house. You didn't find out until later that she had already left Joey and Missy alone.

Joey And Missy Are Taken: You were very upset when you returned home on August 13th to find Joey and Missy gone. As soon as you learned that Children's Services had them, you caught the next bus and went right over there to get your babies, but they wouldn't give them to you! They told you you'd have to wait until the trial that had been scheduled for four weeks later. They wouldn't even let you see them that day. You had to come back the next day. Poor Missy, she didn't understand why you couldn't take her home with you. She cried and cried. It just about broke your heart. And Joey kept saying, “Don't cry, mommy, I'll be good.”

Your Dirty House: The caseworker says your house was dirty. Well, if s/he had two little kids who were always getting into things, her house would be dirty, too. Besides, not being a great housekeeper doesn't mean you're a bad mom.

Love is more important than a clean house. And it wasn't all that bad when you left. A lot of what the caseworker saw that day was Lanie's fault.

You've been trying to clean it up; you got rid of a lot of the garbage that was lying around. But you haven't gotten as far as you would like, what with trying to visit your kids and looking for work and such. Yesterday you called the landlord about the clogged toilet; he promised to fix it in the next week or two.

No Food in the House?: The caseworker says there was hardly any food in your house when they found the children. It's true that there wasn't much in the refrigerator on the day you left—a jar of peanut butter, a loaf of bread, and a quart of milk. But you gave the babysitter \$30.00 for food and diapers on the day you left. She obviously didn't use the money for the intended purpose, but you shouldn't be blamed for that.

Joey's injury: When you saw the children at the agency on the day after your return from Atlanta, you noticed that Joey had a large purple bruise on his forehead. Although the caseworker as much as accused you or Timmy of inflicting that injury, that is outrageous. Joey was not bruised in any way when you left for Atlanta. You believe that he fell, or that Lanie inflicted the bruise while you were in Atlanta. You were so upset by the caseworker's implication that you abruptly left the interview and have been reluctant to talk with her since.

Looking for Work: You have also continued to look for work, but without a car or a phone that hasn't been easy either. You've taken a bus for a couple of job interviews, but mostly you've been asking around the neighborhood—at the 7-11, at the corner bar, at the gas station two blocks away. So far you've turned up nothing.

All Alone in the World: You have had to learn to become self-sufficient. Your only living relative is your mother. She lives in Atlanta, and has never been very supportive of you. You haven't heard from Joey and Missy's father since you learned you were pregnant with Missy, and don't know where he is.

Your Relationship/Visits with Your Children: You have visited Joey and Missy a total of six times in the four weeks since your return from Atlanta. You have only missed three visits. You missed one visit because you had a job interview; one because you missed the bus and couldn't find a ride, and a third because you simply forgot about the visit. Each time you had to miss a visit you felt very badly about it and made a point to call and talk with Joey and Missy on the phone to explain what had happened. The visits have gone very well. The children are always very happy to see you, and you them. You play games together, and color, and play on the swings, and sometimes you read to them. When it is time for the visit to end, both you and the children cry. The children cling to you and beg you to stay with them.

You love your children very much. In your four years as a parent, you have never before been investigated. You feel that you are a loving, attentive parent who needs your children as much as they need you.

The caseworker is concerned because Missy seems underweight for her age. You don't know what the fuss is about; Missy was born four weeks prematurely, and she has always been a tiny thing. It certainly has nothing at all to do with any failure on your part to feed her nutritious food—she eats like a bird, and it's all you can do to get her to eat a few bites at meals. As for Joey, there's nothing wrong with his behavior towards other children as far as you're concerned. His only problems are the ones the agency has caused by taking him away from you (bedwetting and nightmares).

Your Relationship with the Caseworker/Agency: You feel angry and mistrustful towards the caseworker for his/her accusations of abuse and neglect, and his/her refusal to return your kids, so you haven't been real eager to accept services from him/her. The caseworker has visited your home twice, most recently several days ago. Both times you let him/her in and allowed him/her to snoop around. You have only missed one interview with the caseworker—an appointment at the agency, which you couldn't keep because you got the flu and had to go to the doctor.

The caseworker says you missed another appointment, but that was the caseworker's mistake, not yours. The caseworker came out to the house on Thursday, when she had told you she'd be there on Friday. Anyway, as far as you can tell, there's nothing that that caseworker or his/her agency can do for you, so you're asking the court to give Joey and Missy back to you and to tell the agency to get out of your life. (But you'll do anything to get your kids back, so if you have to, you will cooperate with them.)

What You Want from the Judge: You want the judge to send your kids back home today, if possible, but at least as soon as the toilet is fixed. It wasn't your fault that the truck broke down. It wasn't your fault that Lanie left the children alone. It wasn't your fault that Lanie trashed your apartment. You're a good mother. You love your kids, and they love you. Anyone can see that. The three of you are really close. You're all each other have. No one can take care of them as well as you can.

EXERCISE ELEVEN -OPTION TWO and THREE

The Defense Information Packet

Points You Wish to Bring Out/Emphasize During Your Direct Examination of Your Client, the Children's Parent

(Remember, no leading questions!)

1. That when your witness (Alicia Smith, mother) moved here with her children from Atlanta, she came with her boyfriend, Timmy, who had been offered a good job up here.
2. That she and Timmy had talked about getting married, and Alicia saw the move as a chance for a "fresh start" for herself and her children.
3. That Timmy was fired from his job after three weeks, and abandoned her and the children a week later—Alicia hasn't heard from him since and has no idea where he is.
4. That after he left, Alicia was alone in a strange town, with no family, very little money, and no friends except a 15-year-old girl (Lanie) and a truck driver she had met at the neighborhood laundromat.
5. That her only source of income after Timmy left was her monthly assistance check from Georgia, which her mother had forwarded to her.
6. That Alicia never intended to cheat the state of Georgia when she continued to accept her assistance checks after moving to this community and she had no idea that her assistance was supposed to stop just because she left Georgia.
7. That her monthly assistance check from Georgia was for \$450.00, and her rent and utilities totaled \$325.00 a month, leaving very little money with which to buy food and other necessities.
8. That she has been looking for a job ever since, but hadn't yet found one that earned enough to pay for childcare and all of her other expenses.
9. That when the truck driver she met at the laundromat offered to pay her \$200 if she would keep him company on his run to Atlanta (to keep him awake during the long drive), she felt she should accept, because she needed the money.

10. That she asked the other person she had met at the laundromat, 15-year-old Lanie, if she could watch her children for a few days and before leaving she gave Lanie \$30.00 for food and diapers, and told her she'd pay her \$50.00 when she returned from Atlanta three days later.
11. That, upon her return from Atlanta, she found Joey and Missy gone, and the house a mess.
12. That she was very worried until she found a note that the caseworker had left asking her to call Children's Services -- she called Children's Services immediately, and caught the next bus to meet the caseworker there later that day.
13. That the caseworker refused to allow her to see her children until the next day, although she (Alicia) begged to see them.
14. That when she saw the children at the agency on the day after her return from Atlanta, she noticed that Joey had a large purple bruise on his forehead. Although the caseworker accused her or Timmy of inflicting that injury, that is outrageous. Joey was not bruised in any way when she left for Atlanta.
15. That she believes Joey fell, or that Lanie inflicted the bruise while she was in Atlanta.
16. That she was so upset by the caseworker's implication that she abruptly left the interview and has been reluctant to talk with the worker since.
17. That she has visited the children a total of six times in the four weeks since her return from Atlanta.
18. That she has only missed three visits -- one because she had a job interview; one because she missed the bus and couldn't find a ride, and a third because she forgot.
19. That each time she had to miss a visit she felt very badly about it and made a point to call and talk with Joey and Missy on the phone to explain what had happened.
20. That the visits have gone very well—the children were always very happy to see her, they played games together, colored, and played on the swings, and sometimes she even reads to them.
21. That when it is time for the visit to end both she and the children cry and the children cling to her and beg her to stay with them.

22. That she has only missed one interview with the caseworker, an appointment at the agency which she couldn't keep because she got the flu and had to go to the doctor. A second appointment that the caseworker says she missed was the caseworker's mistake, (the caseworker came out to the house on Thursday, when she had told her she'd be there on Friday).
23. That Alicia loves her children very much. That in her three years as a parent she has never before been investigated and she is a loving, attentive parent who needs her children as much as they need her.
24. That she wants her children home, today if possible.
25. That she is prepared and willing to work closely with the agency after the children are returned home.