

Testifying in Court

Testifying is typically a concern for volunteers as most have never done this before. Most people get nervous about testifying, even those who are seasoned.

We are going to share a few tips to make it easier.

1. Always be honest. If you are honest no one can trip you up. Focus in your mind on helping the child.
2. Know your case. You can have your report and notes up with you when you testify. If you do not take up your notes / report and need to refresh your memory on dates, etc. you can still ask the court if it is okay if you go back to your seat to get your notes to help refresh your memory (or your supervisor can bring the notes to you). You do not have to memorize everything! No one can remember everything, and questioning is typically general for the most part. You will use your report or notes as reference for dates and facts. Please do not read from your report!
3. If you do not know the answer to a question, be honest and say you do not know. If you need time to think, it is okay to say, "Please give me a minute to remember." If you don't understand the question or can't hear the question, it is okay to ask for the question to be repeated or say that you don't quite understand what they are asking. Remember, silence is okay for a few seconds if you need that time to think. You can always repeat the question back to make sure you understand what they are asking, and that will give you time to think.
4. You want to avoid giving opinions, give specifics based on facts or observations. For example, if you are asked, Q: "How did mom appear to you when went to the home for her visits?" and you respond, A: "Mom seemed out of it. Maybe she was high. She wasn't really interested in the kids and they were not interested in her." **This is an example of Opinion – Do not answer this way!**

Instead, use details and facts like this:

*A: Mom kept nodding off during the visit. During the hour I was there, she nodded off 4 times. I asked her why she was nodding off and she said she was up all night with a friend who had to go to the hospital, she was not willing to give me details though. She also slurred her words on multiple occasions, which caused me not to always understand everything she was saying to the children. I also observed that she was fidgety. She rubbed at her face and arms repeatedly. She spent about ½ of the visit looking at her phone during the hour I was there. When she was on the phone, she would tell the children she was busy and leave her alone for right now. Eventually the children did not attempt to engage her. Mom stayed on the couch the entire length of the visit. I never saw her get down on the floor to play with the children. The baby was crying, and she did not immediately have any response to address the cries. At one point, she said, "Damn it, what the hell is wrong with you?" in response to the baby. **This is an example of a fact-based response. Answer this way!***

5. Don't talk too quickly. Take your time and speak in a voice so people can hear you. It is sometimes best to look at the person who is asking the questions of you, instead of looking all around the court room. Keep your head up so it is easier to hear you. If you are participating virtually, make sure there is

no background noise when you are speaking. Speak even more slowly to allow for a delay with technology.

6. Keep from saying too much or trying to justify your answers. Answer as briefly as you can, unless you are describing something, like a visit or a home. **Do not answer a question that was not asked.** You may have a lot of other information on the case, but your job is to focus only on the question that is asked.

Example of what NOT TO DO:

Q: Have you had any discussions with the parents?

A: No, I called and left 2 messages asking them to return my calls and I did not get any return phone calls. I gather the information I need from people who will talk to me. The caseworker tells me they change their phone number over and over again. The grandmother told me it is because they don't have enough money to pay for their service.

Instead, answer like this:

A: No. I called and left 2 messages asking them to return my calls and I did not get any return phone calls.

8. Don't over prepare, you want your testimony to be spontaneous, authentic and fact-based. Simply go over your report or the file and try to remember the key points of the case, just remember, no one can remember everything. It is also essential that if you have concerns to meet with your supervisor for guidance and to talk over your concerns.

9. Never be discourteous to counsel or the court. As a CASA volunteer, you represent not only the children in your case, but you are also representing the entire CASA program. Don't let them get you flustered. We had a case one time, where an attorney kept asking a witness about their qualifications as a therapist and said to the witness about 5 times, "So you don't have a master's degree?". The witness finally lost her composure and started yelling at him. Hopefully and usually the judge or hearing officer steps in and supports the CASA if this appears to be happening.

10. Please dress professionally for court.

11. If an objection is made to a question, do not answer the question until the Court gives further direction. "Sustained" means that the Judge agrees with the objection, and you will not be permitted to continue your answer. "Overruled" means that the Judge does not agree with the objection, and you may continue to answer.

12. Although hearsay is not allowed in most courtroom situations, this rule is relaxed in the dependency court. You can testify as to information you were told by someone else. However, if that person is in the courtroom, it is always best if you defer and say you "spoke to the parenting instructor, Ms. Jones, and she discussed concerns regarding the ability of the parents to implement what they had learned during their parenting instructions, however, Ms. Jones, the parenting instructor is in the courtroom and could give more details".

Direct Testimony

Typically, when you are called to testify, the person who calls you will be the one who starts the questions. Generally, you are called by either the CYS Solicitor, or the GAL. This is called direct examination. The first question always asked is for you to say your name. Sometimes, the court asks you to spell it as well. Then you may be asked how long you have been the CASA on this case. From there, the questions will typically vary. At the end of the questioning, a final question asked might be “Is there anything else you want the Court to be aware of?” This is your opportunity to say anything you may not have been able to discuss from direct questions. **Again, keep it brief, fact-based and honest without personal opinion.**

Cross Examination

This is the opportunity for the other attorneys in the room to ask follow-up questions to the direct testimony. It is often the role of the opposing attorneys to discredit you, if there is evidence in dispute. Do not take the cross-examination questions personally. Remember that opposing attorneys are merely doing their job. All lawyers, regardless of their personal feelings, must zealously represent their clients. Legal ethics require them to do everything in their power, within the limits of the law, to accomplish their clients’ goals. If you view cross-examination as a personal attack, then you will seem defensive and unprofessional to the Judge.

Do not show prejudice or bias as opposing counsel might try to discredit you as a witness insinuating you are biased or hostile toward his or her client. For example, the attorney may suggest that because the parent was uncooperative, you are holding a grudge. Such suggestions should be met with the truth. CASA Volunteers are used to dealing with uncooperative people. If this is true for you, you should simply explain that your personal feelings about the parent did not influence your recommendations. You can explain that your recommendations are based on what you have learned and what you have possibly observed if your recommendations are based solely or in part from those observations.

Sometimes, an opposing attorney may try to get you to change your opinion and get you to admit that the parent’s view has some merit or that you overlooked some important facts in your investigation. You should try to avoid conceding a point (e.g., don’t say, “That’s possible”). Instead, you should stick to the facts and let the judge decide whose position is correct.

Virtual court reminders

1. Please do not eat or drink on camera.
2. There should not be any other people present on camera or listening to hearing.
3. Once you are let in from the hearing, please mute your microphone until called upon.
4. You will need to be sworn in to testify, please raise your right hand and unmute.
5. The Judge/Hearing Officer may ask you to turn off your camera to save bandwidth. Please do that until you are called upon to testify, then turn on the camera.
6. If you scroll your cursor across center of screen there is a symbol of multiple people, if you click on that you can see all participant names, usually.
7. Please try to watch parents if their camera is on to see body language.

8. Your supervisor may text you and you can text them anything you want them to know during the hearing. They may text the GAL if we have information that they need to know. (If we were in court the supervisor may whisper to the GAL or give a note.)
9. If the court asks if CASA would like to add anything or has something to bring to the court's attention, that is a question for you. Please respond one of two ways- 1) No the previous testimony has covered all our concerns and/or say something positive about the kids or 2) Yes, we are concerned about ... and state the facts.