

APPOINTED TO ADVOCATE

**STRENGTHENING YOUR
COURTROOM PRESENCE**

Carolyn Altman, CWLS
Judge, Paulding County Juvenile Court

BEST PRACTICES: EVIDENCE

Three Kinds of Evidence:

1. Stipulations of the Parties
2. Sworn Testimony
3. Properly admitted documents/exhibits

CONTENT OF THE REPORTS

The guardian ad litem shall provide written reports to the court and the parties on the child's best interests, including, but not limited to, recommendations regarding placement of such child, updates on such child's adjustment to placement, DFCS's and respondent's compliance with prior court orders and treatment plans, such child's degree of participation during visitations, and any other recommendations based on the best interests of the child.

- Carolyn Altman, expert at law

- OCGA §15-11-105(C)(15)

**CASA
Reports**



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- OCGA §15-11-105(C)(15)

**A GUARDIAN AD LITEM
SHALL ADVOCATE
FOR A CHILD'S BEST INTERESTS**

OCGA §15-11-105(a)

**PURPOSE OF THE REPORT IS TO
MAKE RECOMMENDATIONS**

- Placement: Is it appropriate?
Are there any recommended changes to the placement? If so, why?
- Needs: What assessments does the child need?
What services does the child need?
Tangible goods – glasses, new book bag, clothes, etc.
- Parenting time: Maintain as it is. Expand it. Recommend supervision.
- Permanency: What is the recommended permanency plan?
Continue reunification? Permanent Guardianship?
Termination/adoption?

CONNECT FACTS & RECOMMENDATIONS

- Placement: The placement be changed to a therapeutic foster home.
WHY? What **FACTS** support this recommendation?
- Services: Child needs trauma focused play therapy.
WHY? What **FACTS** support this recommendation?
- Visitation: Visitation should return to supervised.
WHY? What **FACTS** support this recommendation?
- Permanency: Permanency plan should be Termination & Adoption
WHY? What **FACTS** support this recommendation?

REVIEW HEARING FINDINGS

1. Whether the child continues to be dependent.
2. Whether the existing case plan is still the best one, or what changes need to be made. Whether a concurrent case plan is appropriate.
3. Extent of compliance
4. Appropriateness of any recommended changes to the placement
5. Whether appropriate progress is being made on the permanency plan
6. Whether all legally required services are being provided to the child, foster parents, and parents.
7. Whether visitation is appropriate
8. If 14 or older, what services are needed to assist the child to transition from foster care to Independent Living
9. Whether reasonable efforts continue to be made to prevent or eliminate the need for foster care.
10. Whether DFCS intends to proceed with TPR

OCGA §15-11-216

PERMANENCY HEARING FINDINGS

1. Whether DFCS has made reasonable efforts to finalize the permanency plan
2. Continuing necessity for and the safety and appropriateness of the placement
3. Compliance with the permanency plan by DFCS, parties, and any other service providers
4. Efforts to involve appropriate service providers in addition to DFCS staff in planning to meet the special needs of the child or parents.
5. Efforts to eliminate the cause for the placement outside of the home and toward returning child safely to his or her home or obtaining permanent placement for the child.
6. The date by which it is likely that a child adjudicated as dependent will be returned, placed for adoption, placed with a permanent guardian, or in some other alternative placement.
7. If child is out of state, whether the out of state placement is appropriate.
8. If 14 or older, what services are needed to assist the child to transition from foster care to Independent Living
9. If APPLA, whether DFCS documented intensive, ongoing, and to date, unsuccessful efforts to return child to home or identify committed placement. Whether DFCS ensuring that placement is following reasonable and prudent parent standard & child has regular activities. Whether the child has been consulted on child's desired permanency outcome.
10. If 14 or older, whether the permanency plan was developed in consultation with the child.

OCGA §15-11-232

WHEN REPORTS ARE NOT ADMISSIBLE:

A guardian ad litem's report shall not be admissible into evidence prior to the disposition hearing except in accordance with the rules of evidence applicable to the specific proceeding.

- OCGA §15-11-104(l)

PRACTICE POINT:

If unsure about admissibility, always put it in the report.

PRACTICE SUGGESTION:

Ask Angela Tyner & Jerry Bruce to facilitate *Advocacy Guide* training in your jurisdiction and invite the judge.

Ask the child's attorney to admit the report into evidence.



**TESTIFYING
IN COURT**

- The court, a child, or any other party may COMPEL a guardian ad litem for a child to attend a trial or hearing relating to such child and TO TESTIFY, if appropriate, as to the proper disposition of a proceeding.

OCGA §15-11-104(j)

- The court shall ensure that parties have the ability to challenge recommendations made by the guardian ad litem or the factual basis for the recommendations in accordance with the rules of evidence applicable to the specific proceeding.

OCGA §15-11-104(k)

- A guardian ad litem who is not also serving as an attorney for a child MAY BE CALLED AS A WITNESS for the purpose of cross-examination regarding the guardian ad litem's report, even if the guardian ad litem is not identified as a witness by a party.

OCGA §15-11-104(m)

**CASAs SHOULD TESTIFY
AT ALL CONTESTED HEARINGS**

ADJUDICATION; NON-REUNIFICATION; TPR

Recommendation & Then Reasons:

- Example: I recommend that termination of parental rights is in the best interest of the child BECAUSE:

Reasons & Then Recommendation:

- Example: Based upon the child's young age, length of time in foster care, the minimal compliance with the caseplan and the parents' continued drug use, I support termination of parental rights.

SUBJECT TO CROSS EXAMINATION

**CASAS ARE ADVOCATES
NOT FACT WITNESSES**

- Court's witness: Not a witness *for or against* any party!
- Court calls upon *CASA* at every hearing to **give a recommendation** on what is in the child's best interest.
- **NOT** there to testify about what did/did not happen. (Testifying about *facts* destroys impartiality.)
- But you **can** be asked about the **factual basis** for your recommendation.
- Also, you may have heard evidence during the hearing that *changes* your recommendation.

AVOID:

- Being overly subjective:
 - “I've never heard of anyone who ...”
 - “I just feel the mother can do better than this”
- Being overly emotional. Getting defensive
- Align too closely with the foster parent
- “Gotcha” information
- Arguing about the facts
- Talking after an objection is made

DO:

- Listen to the question
- Answer the question that was asked
 - not the one you *want* to answer
- Be factual
- Acknowledge the good
- Be clear. Short answers; longer explanations
- Don't be afraid of silence

QUESTIONS YOU SHOULD ALWAYS BE PREPARED FOR ON CROSS-EXAMINATION

- When was the last time you saw the child?
- How often have you seen the child?
- Have you ever observed the child and parents together?
- What were your observations about the child and parents together?
- Did you consider the relatives?
- Did you consider [parents' positive] compliance with the caseplan? Were you aware of?

- Can CASA ask questions of witnesses?

NO

- Why not?

The unauthorized practice of law: examining witnesses, making objections.

- CAN ask the Judge for information & the Judge can ask the question.

Ct: *Are there any questions CASA would like the Court to ask [Witness]?*

CASA: I would like to know ...

Just to clarify ...

[PAUSE]

Example: I would like to know what medications the child is currently taking.

Ct: *Ms. Smith, what medications, and what are the dosages, the child is prescribed?*

CASA: I would like to know when was the last doctor's appointment.

Ct: *Mr. Jones, when did Carter last go to the doctor?*

Do NOT ask questions directly

CASA: Where are you living? When is the next visit scheduled?

Do not violate O.C.G.A. §15-19-80 and §15-19-81 & will also avoid objections.
