

**CASE MANAGEMENT ORDER FOR DEPENDENCY AND NEGLECT PROCEEDINGS IN
COMPLIANCE WITH CJD 98-2**

PEOPLE OF THE STATE OF COLORADO IN THE INTEREST OF:

IT IS THE ORDER OF THIS COURT that the following case management order is in effect for all dependency and neglect cases:

1. **APPOINTMENT OF GUARDIAN AD LITEM AND RESPONDENT COUNSEL:** A guardian ad litem for the child(ren) shall be appointed and, unless excused by the Court, shall appear at all hearings in this case, including the Preliminary Protective Proceeding ("PPP"). If the GAL is unable to appear at any hearing after the PPP hearing, a written report shall be filed three (3) days prior to the hearing. If it appears that respondent(s) are requesting and are entitled to court appointed counsel, the court will appoint counsel at the earliest opportunity and counsel shall be required to attend the PPP. Respondent(s) will be required to submit a financial affidavit if they request court-appointed counsel.
2. **INTERIM TREATMENT PLAN TO BE AVAILABLE:** The Department of Human Services (DHS) shall have an interim treatment plan available to the court and the parties at the PPP or within 30 days of the removal of the child(ren), whichever is earlier. Any treatment or assessments ordered at the PPP shall serve as the Interim Treatment Plan.
3. **PETITION DUE:** A petition alleging dependency and/or neglect shall be filed at the PPP hearing. The parties may not waive this provision unless an Informal Adjustment is filed at the PPP. The parties may elect to proceed under an Informal Adjustment in lieu of proceeding with the Petition in Dependency and Neglect prior to entry of an adjudication or at the first Pretrial Conference. DHS may move to waive this requirement if the child(ren) are not removed from the home and the parties all agree that the DHS's involvement with the child(ren) is primarily for the assessment for services or the family is voluntarily cooperating with DHS. The Court will exercise its discretion in ruling on such request.
4. **TRANSFER TO DISTRICT COURT JUDGE:** Any party requesting a transfer to the District Court Judge for a court or jury trial must request such transfer in accordance with C.R.S. Section 19-1-108(3)(c).
5. **MEDIATION:** The parties are ordered to contact the Office of Dispute Resolution to schedule a date for mediation immediately following a request for a contested hearing.
6. **PRETRIAL CONFERENCE:** The first court appearance after the advisement on the petition shall be the pretrial conference. This appearance shall occur within 14 days of the advisement. The purpose of

the pretrial conference shall be to determine if the case will be transferred to the district court judge for trial. Any or all of the respondents at the pretrial conference may enter an admission in open court. If an admission is entered and the court sustains an adjudication of the child(ren), the matter shall be set for a dispositional hearing within thirty (30) days. For any respondents not entering an admission, the matter shall be set for trial within 60 days.

7. **DISCOVERY:** Discovery shall proceed as informally as possible. At a minimum, the following items shall be exchanged or made available for inspection and copying when a party makes a written request. A formal discovery motion shall not be required pursuant to this order.
- a. DHS Transfer Summary
 - b. Caseworker notes and contact sheets
 - c. Family Visitation Center (or other supervised visitation) reports
 - d. Law enforcement reports in DHS custody or control
 - e. Reports of expert witnesses unless privilege is asserted
 - f. Relevant medical records of the child(ren) in the possession of any party
 - g. Correspondence between DHS and therapists or other experts
 - h. Videotapes, tape-recordings, or written interviews
 - i. Photographs in the custody or control of DHS
 - j. Any other item any party intends to use at any hearing

A party desiring to obtain discovery from DHS shall follow the procedure set forth in the attached Memo from the County Attorney. Any finding of indigency by the court shall be sufficient for the respondent's counsel to obtain discovery free of charge from DHS. *Pro se* respondents who have been determined indigent by the court will also be entitled to obtain discovery free of charge from DHS. All non-indigent respondents will be required to pay for discovery at \$.25 per page. The party from whom discovery is requested shall have seven (7) days from receipt of the request to provide discovery.

The duty to disclose shall be a continuing one and the parties shall have a continuing duty to timely supplement or correct the information provided. Disclosure shall be completed no later than 15 days prior to trial. Failure to comply with discovery may result in the court not allowing the undisclosed items into evidence.

8. **LIMITATIONS ON DISCOVERY:** Except upon order of the court, for good cause shown, discovery shall be limited as follows:
- a. A party may serve on each adverse party twenty (20) requests for admission, each of which shall consist of a single request. Any requests for admission shall be served on the answering party no later than ten (10) days following the date trial is set. Any party receiving requests for admission shall serve its answers upon opposing counsel no later than ten (10) days from the date of service of the requests. The scope and manner of proceeding by means of requests for admission and the use thereof shall otherwise be governed by C.R.C.P. 36.
 - b. A party may serve on each adverse party thirty (30) written interrogatories, each of which shall consist of a single question. Any interrogatories shall be served on the answering party no later than ten (10) days following the date trial is set. Any party receiving interrogatories shall serve its answers upon opposing counsel no later than ten (10) days following service of the

interrogatories. The scope and manner of proceeding by means of written interrogatories and the use thereof shall otherwise be governed by C.R.C.P. 26 and 33.

- c. A party may (at such party's expense) take one deposition of each adverse adult party and two other persons without leave of the Court. However, no child named in the petition shall be deposed without leave of the Court. The scope and manner of proceeding by means of deposition and the use thereof shall otherwise be governed by C.R.C.P. 26, 28, 29, 30, 32 and 45.

9. **MOTIONS FOR SUMMARY JUDGMENT:** Any motion for summary judgment shall be filed no later than thirty (30) days following service of the Petition or Motion for Termination. The opposing party shall be allowed ten (10) days following service of the summary judgment motion to file and serve a response and any opposing affidavits. No reply to the response need be filed. Failure to file for summary judgment in accordance with this paragraph shall constitute a waiver of the summary judgment remedy. Failure to file a response to a motion for summary judgment will result in a default judgment entering against the non-answering party.
10. **MOTIONS FOR APPOINTMENT OF EXPERT FOR TERMINATION TRIAL:** All Motions for Appointment of Expert for termination trials shall be filed within ten (10) days following the filing of the Motion for Termination.
11. **PREPARATION AND EXECUTION OF ORDERS; OBJECTIONS TO ORDERS:** Unless the Court otherwise directs, the County Attorney shall prepare a written order reflecting the findings and orders of the Court and shall submit the same to the Court for approval no later than fifteen (15) days following the Court hearing or appearance review. Upon written request during the fifteen (15) day period, the Court may grant a reasonable extension of time to the County Attorney to prepare and submit the written order to the Court. Any such request must be based upon exceptional circumstances. The Court may act on any request for extension without waiting for a response from other parties. Any objections to the written order must be filed within ten (10) days from its entry.
12. **TRIAL/CONTESTED HEARING PROCEDURE:** No later than five (5) days prior to trial or any contested hearing, the parties and/or their counsel shall meet to make a good faith attempt to stipulate to all non-disputed facts. The attorney(s) for the respondent parent(s), or the deputy county attorney if a respondent appears *pro se*, shall then prepare a Stipulated Trial Management Order that contains the following:
 - a. **PRETRIAL MOTIONS AND LEGAL ISSUES:** The parties shall list any pretrial motions that may be pending. All pretrial motions shall be filed and heard before trial. Further, the parties shall list any legal issues that are in dispute, with appropriate citations to statutory, case or other authority. Trial briefs, if any, shall be filed with the Trial Management Order.
 - b. **LAY WITNESSES:** Each party shall attach to the Trial Management Order a list containing the name, address and phone number of any person whom the party intends to call as a witness at the trial. A brief statement of the anticipated testimony of the witnesses shall be included. Failure to identify a lay witness shall result in the Court not allowing the witness to testify.

c. **EXPERT WITNESSES:** Each party shall attach to the Trial Management Order a list containing the name, address, and phone number of any expert witness whom the party intends to call as a witness at trial. The qualifications of the expert and a concise summary of the anticipated expert opinions to be offered shall be included. Failure to identify an expert shall result in the Court not allowing the expert to testify. Rebuttal experts shall be endorsed and reports exchanged. Failure to do so will result in the expert being stricken.

d. Each party shall attach to the Trial Management Order a list of all physical or documentary evidence which the party intends to offer at trial. Objections by any party to the authenticity or admissibility of any exhibit are waived unless the objection and the grounds therefor are specifically stated in the Certificate. **ALL EXHIBITS SHALL BE MARKED PRIOR TO TRIAL OR HEARING WITH THE CASE NUMBER AND DATE OF THE HEARING.** Additionally, all exhibits are to be marked as follows:

1. Petitioner's Exhibits shall be marked as Petitioner's Exhibit with a number.
2. Respondent Mother's Exhibits shall be marked as RMO- and the number of the exhibit.
3. Respondent Father's Exhibits shall be marked as RFA- and the number of the exhibit.
4. Guardian Ad Litem Exhibits shall be marked as GAL- and the number of the exhibit.
5. Interested Party Exhibits shall be marked as IP- and the number of the exhibit.

All exhibits shall be exchanged among the parties no later than the date the Trial Management Order is due. If the matter will be tried to a jury, counsel shall provide sufficient copies of the exhibits for inclusion in the jury notebooks.

e. **STATEMENT OF THE CASE, LIST OF WITNESSES AND LIST OF EXHIBITS:** No later than the date set for filing of the Trial Management Order, counsel shall meet and prepare a Statement of the Case, List of Witnesses and List of Exhibits for inclusion in the jury notebooks, if the case will be tried to a jury.

f. **JURY INSTRUCTIONS:** No later than the date set for filing of the Trial Management Order, counsel shall file a stipulated set of jury instructions with the Court. Any disputed instructions shall also be filed with the Court.

12. **DISCRETION OF THE COURT:** The deadlines set forth in this Case Management Order may be amended for only for good cause by order of the Court.

BY THE COURT:

District Court Judge/Magistrate

DISTRICT COURT, COUNTY OF EL PASO, STATE OF COLORADO

CASE NO: _____

DIVISION: _____

ORDER

People of the State of Colorado in the Interests of:

The Court having received a written report from the El Paso County Department of Human Services makes the following findings:

_____ The department maintains **legal and physical** custody of the child(ren),

_____ The Department has legal custody of the child(ren), **physical custody** is with

_____ The Department exercise **protective supervision** of the child(ren) with legal and physical custody vesting in:

_____ **Reasonable efforts** were made to prevent placement or placement was done on an emergency basis for the protection of the child(ren).

_____ **Continued placement** of the child(ren) is necessary and exigent circumstances exist which makes it contrary to the child(ren)'s welfare to return home at this time.

_____ **Reasonable efforts** are being made and will continue to be made to avoid the need for placement of the child(ren). Discretion is granted to DHS and GAL to return custody of said child(ren) to the Respondent.

_____ Placement is in the **least restrictive and appropriate** facility which meets the needs of the child(ren) and is as close as possible to the child(ren)'s home.

_____ **Reasonable efforts** are being made to reunite the family.

_____ **Reasonable efforts** were made to reunite the family but were **unsuccessful**.

_____ **Reunification with the parents (is) (is not)** part of the case plan.

_____ **Emancipation** from the department is part of the case.

_____ **Reunification with the parents is no longer a legal option.**

THE COURT THEREFORE ORDERS:

THAT: the recommendations of the Department of Social Services are adopted. Custody of the child(ren) remains as set forth until further order of the Court.

THAT: The requests of D.H.S. shall not be granted until the County Attorney files a prepared order with the specific requests contained in the most recent written review. The matter will be reviewed by the bench on _____.

THAT: D.H.S. do a Notice to Set for _____.

THAT: the matter is continued for a written review on _____.

THAT: the matter is continued for **administrative review**, which is to take place no later than _____ . The Court is to review the matter on the child's eighteenth (18th) birthday _____.

DATE

JUDGE/MAGISTRATE

I, , certify that I have served the above order this _____ day of _____, 1999, by placing _____ copies in the courthouse mailbox for _____, DHS Caseworker to distribute to all parties.

DATE

BY: Deputy Clerk

CASE DEVELOPMENT CHECKLIST

(Use your judgment regarding whether each step is necessary in your case)

Client _____
Case No. _____

Date Appointed _____

INITIAL CASE DEVELOPMENT

- Obtain copies of all relevant pleadings
- Confirm appointment with Court Clerk or Court (if necessary)
- Clarify with Judge nature and scope of appointment
- Correspondence to counsel for each party requesting
 - Consent to interview client and speak with client on ongoing basis
 - Overview of case and issues from each clients perspective

THE CHILD/REN

- Gather background information as to special needs prior to 1st interview
- Meet with child as soon as possible after appointment. First interview is to establish relationship. Conduct several meetings rather than one long one.
Interviews should occur in:
 - Child's home
 - Other parent's home, and
 - Neutral setting if possible
- Possible topics for discussion:
 - Explain court process and your role in developmentally appropriate manner
 - Pets
 - Themselves
 - School/daycare/friends/activities/interests
 - Siblings
 - Mom and Dad
 - Daily routines in each home
 - What makes them happy/sad
 - Who are the relevant adults in their lives
 - Life before separation
 - Life now; how do they feel, how is schedule working, do they understand what is happening
 - Who cares for them when sick
 - What they would change if they could
 - Special issues; what they know and how they feel about it.
 - What have they heard or seen when parents fight
 - Frequently ask child if they have any questions
 - Give child business card with phone number circled
 - Anything I haven't asked that I should know

THE PARENTS

- Obtain written consent from each parent's attorney to interview his/her client. Clarify whether attorney needs to be present and whether you can contact parent on matters impacting children's welfare and scheduling, etc.
- Introductory letter to parents, explain role and plans
- Arrange appointment with each parent by telephone, and confirm by letter
- Meet with parent. Topics to cover
 - History of parenting responsibilities
 - Questions raised by investigation
 - Child's strengths and challenges
 - Parent's strengths and challenges
 - Spouses strengths and weaknesses as person and as parent
 - Why they chose their spouse
 - Favorite activities with and without their child
 - Current relationships and involvement with child
 - Concerns about child's exposure to conflict/violence; what has child seen/heard
 - Concerns about areas of child's functioning; school, emotional, social
 - View of what doctors, therapists and teachers say about their child
 - Any plans to relocate
 - People they would like me to interview
 - Obtain personal and professional references, including
 - Name, address, telephone, relation to parties
 - Particular area or incident known of which they have knowledge
 - Signed releases for each reference as appropriate
 - Offer general information about effects of divorce on children and how to help

OTHER SOURCES

- Review child's and family's records in the following areas, as appropriate (obtain releases where needed)
 - School
 - Psychiatric/Psychological/Social service
 - Drug/Alcohol
 - Medical
 - Law Enforcement
- Review court files of other related cases (abuse and neglect, delinquency, guardianship, protective orders)
- Obtain any additional releases needed
- Interview persons who would have particular knowledge (as appropriate and with sensitivity to confidentiality needs)
 - Teachers
 - School Psychologist or social worker
 - Therapist
 - Physician, if child has particular medical problem or injury
 - Sitter
 - Neighbor/ coach
- Determine need for (additional) mental health expert
- Special issues or allegations such as
 - Domestic violence
 - Physical/Sexual abuse of child
 - Chemical dependency
 - Mental health
 - Developmental, medical or educational needs of child
 - General evaluation on contested custody or visitation questions

POSITION/RECOMMENDATION

- Determine if any additional interviews or information are necessary
- Determine whether therapeutic counseling is appropriate for the children
- Form opinion as to parenting responsibilities which are in the best interest of each child and articulate reasons
- Propose plan to parents/attorneys
- Assist in settling matter
- Propose plan to court

SUBSEQUENT COURT PROCEEDINGS

- Attend all relevant hearings and motions
- Pretrial preparation for case (if necessary)

Checklist For Interviewing/Questioning Children
Anne Graffam Walker, Ph.D., Forensic Linguist
6404 Cavalier Corridor, Falls Church, VA 22044-1207
703-354-1796

I. Framing the Event

1. Did I tell the child my name and what my job is -- in non-technical words?
2. Did I help the child become familiar with the surroundings of the interview?
3. Did I tell the child the purpose of our talk, and why it is important, and what will happen afterward?
4. Did I give the child a chance to ask me questions about this talk? Did I try to establish a common vocabulary for the things we talk about? Was I listening to the kind of words and sentences that the child used?

II. Using Clear Language

5. Did I use easy words instead of hard ones? (Do I know what a "hard" word is?)
6. Did I avoid legal words and phrases?
7. Did I use words that mean one thing in everyday life, but another thing in law (such as "court"?)
8. Did I assume that because a child uses a word, he or she understands the concept it represents?
9. Was I as redundant as possible? That is, did I use specific names and places instead of pronouns (like "he" and "we") and vague referents (like "it", "that", and "there")?

III. Asking the Questions

10. Did I keep my questions and sentences simple? Did I try for one main (new) thought per utterance?
11. Did I avoid asking "DUR-X" questions? [Questions that begin, "Do you remember", followed by one or more full propositions. Ex. with propositions underlined: Do you remember telling me that somebody hurt you?]
12. When I shifted topics, and when I moved from the present to the past or vice versa, did I alert the child that I was going to do so?
13. Did I give the child the necessary help in organizing his or her story?
14. Did I avoid asking the child about abstract concepts, such as, "What is the difference between truth and lies?" Did I choose instead to give the child everyday, concrete examples and let him or her demonstrate, rather than articulate knowledge of truth and lies, right and wrong?
15. Did I use as few negatives as possible in the questions I asked?

Checklist For Interviewing/Questioning Children (cont'd)

IV. Listening to the Answers

16. Were the child's RESPONSES to my questions, ANSWERS to my questions?
Am I sure?
17. If the child's answers were inconsistent, did I ask myself if:
 - a. *I had looked first at the language of the question, or the child's response, to find a possible reason for inconsistency?*
 - b. I, or someone else, had asked the same question repeatedly?
 - c. I had changed the wording of a question I had asked before?
 - d. I was forgetting that children can be very literal in their interpretation of language?
 - e. The child's processing of language might not be as mature as mine?

V. Global Checks

18. Did I stay in the child's world by framing my questions in terms of the child's experience?
19. Did I take the child's understanding of language for granted?
20. Was I listening to my OWN language, my OWN questions?
21. [If applicable] Did I ask myself before I began: Am I gathering information, doing therapy, or perhaps conducting an interrogation?

Contact Checklist for Guardian ad Litem Investigations

1. Visit the child or children:

- In the home: ask for a private or semi-private setting – kitchen, living room; start the interview by talking with parent and child together – observe interaction, make sure child is comfortable talking with you before the parent leaves the room.
- Meet on the child's level: sit next to the child, not across a desk from him/her.
- Try to engage in casual talk at first: talk about games, TV, sports, play activity the child is interested in.
- Explain your role: lawyer sent by the judge to find out what is happening in his/her family and how he/she feels about it. Explain that the judge will be asking you what should be done and that it is your job to tell the judge what you think should happen.
- Consider the developmental level of the child – consult developmental info and info on interviewing children.
- Allow the child to express his feelings, LISTEN!, then acknowledge those feelings – do not discount or minimize, do not go into long, logical explanations.
- Arrange to see the child with each parent separately.
- Try to determine if the child's needs are being met: a) physical, emotional safety; b) food, clothing, shelter, c) medical attention, other special needs; d) guidance, supervision?

2. Meet with the parents:

- Courtesy call to attorney if parent is represented.
- Observe home situation: who else lives here? Is it safe for the child?
- What are the parent's perceptions of the situation?
- What resources does the parent propose to help the family?
- Ask to complete a data base form (one for each parent).
- Observe interaction with the child; how does the parent describe the child on the form?
- What relatives are involved with the child? Helpful for parent?
- Can the parent recognize the child's needs? Can the parent meet those needs?

3. Talk with Relatives:

- What do relatives (both maternal and paternal) have to say about the situation?
- How do relatives describe the child? What are the needs as they see them?
- Is there one special relative who has an important relationship with the child?
- Are relatives a more suitable placement alternative?

- What family history will they share with you?
- You can talk with these people on the phone, but you will get more info in person.

4. Talk with Teachers, Counselors at School:

- Explain your role to the teacher (initial phone contact after mailing release with letter of introduction). Most teachers should recognize the term GAL; if not, you may need to speak with the principal to make the teacher feel comfortable talking with you. The release should be enough.
- Ask what the teacher's observations have been: Is the child getting along in class? Is the child having trouble academically? What has the attendance been like: excessive absences, illnesses? How does the child get along socially/emotionally? Does he/she have friends? What is his/her behavior: quiet, aggressive, etc?
- How have the parents been involved? Any contact with the school at all?
- Ask whether the child is in special education: If so, what is the handicapping condition, what does the "individual education plan" (IEP) require? What testing has been done? Get copies of evaluation reports, special education staffing summaries, progress reports, attendance records.
- Ask whether the child has changed schools often; are there other schools which would have information about recent history?
- Has the school ever made a report of suspected child abuse or neglect?

5. Talk with Child Care Providers:

- How long has the child been in care here?
- What are the caregiver's observations?
- Is the parent on time to pick up the child? How do the parent and child interact at pick up time?
- How does the caregiver describe the child: physically, emotionally, behaviorally?
- What special needs does the child have?
- Has the caregiver observed effects of domestic violence?
- Has the caregiver ever made a report of suspected child abuse or neglect?
- Who other than parent has come to pick up child?

6. Talk with Health Care Providers:

- Has the child received all immunizations, boosters, routine care?
- Which parent has brought the child in for care? What were observations of parent-child interaction on office visits?
- Have there been serious illnesses or injuries? Has the office ever made a report of suspected child abuse or neglect?
- Are there any special medical conditions which require on-going attention?
- Are there medical conditions which are related to parent behavior (ex: asthma-smoking)?

7. **Talk with coaches, scout leaders, other adults involved with the child:**
 - What are their observations of this child/family?
 - Has either parent been involved in the activities of this group?
 - Is there another child who is especially close to this child? Would that family be a resource for the child?
 - How does this adult describe the child: physically, emotionally, behaviorally?

8. **Talk with any Clergy members involved with the family:**
 - How long has clergy person known the family? What history does he know?
 - What have been the observations regarding parent-child interaction?

9. **Talk with safehouse staff:**
 - Ask staff members about parent-child interaction in shelter.
 - What support services have been offered utilized by the family?
 - What are their recommendations?

10. **Review Court Files:**
 - Are there previous dependency and neglect cases?
 - What were the allegations in those cases?
 - What was the treatment plan? How was the case ended?

11. **Review Police Records:**
 - What do police reports say about the precipitating event and other previous events?
 - Is there any mention of the child being present during domestic violence?

12. **Consult Other Attorneys of Record:**
 - What sources of information do they recommend?
 - What is their position regarding custody, visitation?

13. **Investigate Potential Resources for Appropriate Treatment:**
 - What are the needs of the children and parents?
 - Are evaluations necessary to determine the needs?
 - What kinds of treatment are indicated?
 - What resources are available for this family?

INFORMATION IS THE KEY TO CREDIBILITY AND EFFECTIVENESS!