

CHAPTER 8

Practicing the CASA/GAL Volunteer Role—Gathering Information



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CHAPTER 8

Practicing the CASA/GAL Volunteer Role—Gathering Information



Getting in Gear

You have been using the Community Resources Reporting In form provided in Chapter 3 to gather information on one community agency and its services. In this chapter, you will use the materials and information you have gathered. At the debriefing session for this chapter you will be asked to submit your completed Community Resources Reporting In form to CASA/GAL program staff so they may use it to update the CASA/GAL program's resource files.



Goal

In this chapter, I will learn about the elements of a child's court case, become familiar with court forms, and practice the skills necessary to gather the information needed to be an effective advocate.



Objectives

By the end of this chapter, I will be able to...

- ✓ Describe how a CASA/GAL volunteer is appointed to a case.
- ✓ Develop a plan to gather information about a case.
- ✓ Practice conducting a CASA/GAL volunteer interview.
- ✓ Identify community resources that might be effective in addressing the needs of children and families.
- ✓ Apply the requirements of the Indian Child Welfare Act to a case.



Reporting In

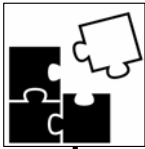
In this chapter you will find one or more assignments identified by the “Reporting In” heading (as seen above). You will need to complete, copy, and submit these assignments as prearranged to CASA/GAL program staff for review at the debriefing session for this chapter.



Parking Lot

At the end of this chapter you will find a page designated as the “Parking Lot.” Find and bookmark this page now, and use it throughout the chapter to note any questions, ideas, or concerns that you wish to discuss with CASA/GAL program staff.

UNIT 1: How a CASA/GAL Volunteer Is Appointed to a Case



Activity 8A: CASA/GAL Volunteer Appointment & First Steps

Part 1: Read the following material about the initial steps of CASA/GAL volunteer appointment. Note any questions you have. Program staff will explain how your local CASA/GAL program assigns cases in this district.

The Petition

The petition is the document that Child Protective Services files to initiate a child abuse or neglect court case. A juvenile petition contains the (1) name, (2) date of birth (DOB), and (3) address of the juvenile; (4) the name and (5) last known address of his/her parent, guardian, or custodian (including Indian custodian, if applicable); (6) the name of the juvenile's tribal affiliation, if any; and, (7) the alleged facts that invoke the court's jurisdiction over the juvenile.

The Order to Appoint a CASA/GAL Volunteer

The appointment order is the official court document that assigns a CASA/GAL volunteer to a child abuse and/or neglect case. A judge signs the order, which authorizes the CASA/GAL volunteer to perform the duties required by federal and state statutes. The order also states that the CASA/GAL volunteer is ordered not to disclose to anyone any confidential information about the child or family in the case unless authorized by court order or law. The appointment order allows the CASA/GAL volunteer access to the information he/she needs in order to perform his/her role.

How a CASA/GAL Program Assigns Cases to Volunteers

Each local program has its own protocol for assigning cases. Part of your initial training includes learning how you will be assigned to your first case. After a case has been assigned to you, the staff of the CASA/GAL program will provide some basic information about the child and the family. Some of the first information that you will receive may include the forms listed on the next page. Not all court jurisdictions use all of these forms. State and local laws and procedures dictate what forms are used. The local program will share the forms with which you should be familiar.

- ✓ Juvenile petition;
- ✓ Affidavit as to status of minor child;
- ✓ Court order regarding custody (if the child is taken into CPS custody);
- ✓ Juvenile summons;
- ✓ Notice to the parent(s) regarding the right to a lawyer;
- ✓ Notice to the tribe;
- ✓ CASA/GAL volunteer appointment order; and/or
- ✓ Order on the need for continued custody (if the child is taken into CPS custody).



Activity 8A: CASA/GAL Volunteer Appointment & First Steps

Part 2: This chapter includes a summary of a second training case, an outline of the hearings in the case, and information from the court forms that will provide you with the background you need in order to understand and perform your role. The case is designed to unfold throughout this chapter as you learn and practice the steps that you will take as you start on your own first case—from the initial investigation through the monitoring stage and ending with permanence for the child. Copies of court forms relevant to each stage are found in the Resource Materials section of this chapter. It is helpful to review these forms so you will be familiar with their appearance when you work with them on your own cases.

Please read the material on the Brandi Underwood case. As you read, consider what potentially helpful information is found in each document. Use the margins to note pieces of information that seem particularly useful or important. Also note any questions that you have. Take note of the allegations of what happened, the people who might be resources in the case, and the family's history with Child Protective Services. CASA/GAL program staff will address your questions during the debriefing session for this chapter.

(Note: It may be helpful to create a system for yourself of margin notes with a check (✓) indicating an important point and a question mark (?) indicating something that is not quite clear.)

Introduction to the Brandi Underwood Case

This case is about a child, Brandi Underwood (DOB January 29, 1997), who came into the custody of Child Protective Services on November 11, 2001, when she was almost five years old. The allegations in the petition were for abuse and neglect. The child had multiple bruises, a dislocated elbow, and a broken arm. The injuries occurred while she lived with her father, David Underwood, and his live-in girlfriend, Trisha Scott, who is the alleged perpetrator. Ms. Scott was seven months pregnant at the time of the petition.

David Underwood and the biological mother, Geneva Underwood, separated six months earlier, when the mother became aware that the father was seeing Ms. Scott. The mother and father had lived together in North Carolina since August 1999, and there was one previous substantiated referral to CPS for neglect by the mother. The family received case management services for a period of six months (November 2000 to May 2001), and the mother refused to cooperate with CPS throughout. The case closed when the mother agreed that the father, who had cooperated with CPS, would have primary caretaking responsibility for Brandi. At the time of the petition, the mother, who is Native American, was living in Oklahoma to be near her own mother and other relatives and tribal members of the Big River Nation. When she left North Carolina, she had agreed to a placement for Brandi with Mr. Underwood in order to have time to get on her feet in hopes of having the child with her at a later date. At the time the petition was filed, she had not seen the child in six months.

Upon the filing of the current petition, the initial plan for this child is for her to remain in foster care while CPS works with the mother and father toward reunification with one of them. As a concurrent plan, Child Protective Services plans to investigate relatives or tribal members for possible placement if the parents are not able to ensure the child's safety and provide a minimum sufficient level of care in a reasonable amount of time. Child Protective Services has identified Millie Hansen, the maternal grandmother in Oklahoma, as a relative interested in caring for this child. The CASA/GAL volunteer will start with the assumption that reunification with one parent is the best plan. The CASA/GAL volunteer will also independently investigate alternatives for permanence, respecting the child's sense of time and cultural identity, if the parents do not respond to the requirements for reunification.

The Brandi Underwood training case is a composite piece, based on a case shared by Iris Derrick, NC GAL District Administrator, and Carol Williams, NC GAL Program Assistant, with adaptations for training use made by the NC Eastern Region Program Supervisors—Kathleen Foreman, Clair Jacobi, Eva Rogers, Chris Stokes, Sue Adams, Laurie Strickland, Danda Frady, Anna Hamburg, and Ruth Kravitz. Additional ICWA adaptations (including references to the fictitious Big River Nation) were made by Marion Hallum, of Alaska CASA, for the Curriculum Advisory Committee. All names and identifying information have been changed.

HEARING DATE CHECKLIST

Case Name: Brandi Underwood

File #: 01J167

Emergency Custody Hearing Date: 11/15/01 (first emergency custody hearing held within 7 days of order being signed, unless continued for up to 10 business days with consent of parent & CASA/GAL volunteer)

Continued Custody Hearings: 11/22/01 (within 7 business days, unless waived)

12/20/01 (within 30 days, unless waived)

 (30 days if adj. postponed)

12/28/01

Adjudication Hearing Date: (contd.) (within 60 days of custody)

2/7/02

Disposition Hearing: 2/7/02 (no time frame, often held immediately following the adjudication)

First Review: 3/28/02 (within 90 days of disposition)

Second Review: 5/30/02 (within 6 months of 1st review)*

Third Review: (every 6 months thereafter)*

**Generally replaced by permanency planning hearings*

Permanency Review: (within 12 months of custody)

Permanency Hearing: (30 days after order)
(required as a result of an order ceasing reasonable efforts)

Second Permanency Review: (within 6 months)

 (every 6 months thereafter)

Termination of Parental Rights:

Post-TPR: (within 6 months of TPR)

 (every 12 months thereafter)

Review of Placement Plan: (within 6 months of relinquishment by parent or when TPR is pending or when no placement is found and TPR petition filed, and every 6 months thereafter)

Upon receiving news of the petition, CASA/GAL program staff contacted a CASA/GAL volunteer, Michael Howell, and he agreed to take the case. An appointment order was obtained and a case file was prepared by the CASA/GAL program office. It contained the following documents:

The Petition

The petition in the case contained identifying information about Brandi and her parents and caretaker. Brandi is believed to be an Indian child within the meaning of the Indian Child Welfare Act (ICWA). Her tribal affiliation (through the mother) may be the Big River Nation of Oklahoma. She has no tribal affiliation through her father. The following allegations of abuse and neglect were contained in the petition:

The juvenile is an **ABUSED JUVENILE**, in that the juvenile's parent, guardian, custodian, or caretaker:

- ✓ Has inflicted or allowed to be inflicted on the juvenile a serious physical injury by other than accidental means; and
- ✓ Has created or allowed to be created a substantial risk of serious physical injury to the juvenile by other than accidental means.

The specific facts alleged are:

- That on or about September 30, 2001, the named minor suffered various injuries, including bruises on her right and left arm, bite marks to right arm, bite mark to right hand, marks to left hand, cut upper lip, bruises to left and right side of her face near her neck, bruises to her lower back and buttocks, bruises to her right and left knees and legs, and bruises to her right and left shoulder blades. That the named minor's injuries are not consistent with the explanations by the named minor's father and caretaker.
- That on or about November 10 or 11, 2001, the named minor suffered a dislocated elbow and a broken upper right arm.
- That on or about November 10 or 11, 2001, the named minor suffered various injuries, including bruises on her buttocks, both sides of her face, both of her shoulders, and her right arm.
- That the Petitioner requests that an Order to Assume Custody be assigned placing the named minor child in the emergency custody of the Dunlap County Child Protective Services Agency. Removal from the parents' care is necessary to prevent imminent danger of serious emotional or physical damage to the child.
- That this Petition has not been filed to circumvent the provisions of Chapter 50A, the Uniform Child Custody Jurisdiction and Enforcement Act.

The juvenile is a **NEGLECTED JUVENILE**, in that the juvenile:

- ✓ Does not receive proper care, supervision, or discipline from the juvenile's parent, guardian, custodian, or caretaker; and
- ✓ Lives in an environment injurious to the juvenile's welfare.

The specific facts alleged are that the named minor has received injuries that cannot be adequately explained by the father or the caretaker (*see abuse allegations*).

The Affidavit as to the Status of the Minor Child

This document names the places the child has lived during the past five years and the people with whom she has lived. It is not found in every case file, but if it can be obtained, it is a useful document for locating names and addresses of relatives and kin (people who may or may not have a biological relationship but are concerned about the child's well-being).

FROM	TO	ADDRESS	Name of Person Lived With	Present Address of Person
5/01	Present	Rt. 9, Box 1267, Ravensford, NC	Father and girlfriend	Same
10/99	5/01	Rt. 9, Box 1267, Ravensford, NC	Mother and father	Mother—918 Corvallis Ave, Pawnee, OK 74058
8/99	10/99	1402 Major St, Ravensford, NC (apartment; looking for house)	Mother and father	See above
4/99	8/99	4975 Walnut Hill Rd, Pawnee, OK 74058	Millie Hansen and parents	Millie Hansen—same
1/98	4/99	Camp Riverside Military Base, OK	Parents	See above

The Order for Emergency Custody

This court order was signed by the judge on November 11, 2001, and authorizes CPS, law enforcement, or others authorized by local statute to assume custody of Brandi. It allows the child to be placed in a licensed foster home, a home otherwise authorized by law to provide temporary residential care, or a facility operated by CPS. This order can be used to place a child with a relative if that relative is named in the order. The plan for Brandi is for foster care, as no member of the child's extended family is immediately available for placement. The order for emergency custody also sets an emergency custody hearing for November 15, 2001. In addition, this order authorizes CPS to arrange for and consent to any medical, surgical, remedial, educational, psychological, or psychiatric testing, treatment, or evaluation, including CME (Child Medical Evaluation) or CMHE (Child Mental Health Evaluation), that CPS determines to be appropriate for the juvenile.

The Summons (or Notice)

This court document notifies the parent(s)/caretaker(s)/Indian custodian about any prehearing conference that is scheduled; the date, time, and place of the emergency custody hearing; and the date, time, and place of the hearing on the petition. It is served on the parent(s)/caretaker(s)/Indian custodian by law enforcement to ensure that he/she is aware of the situation involving the child and to inform him/her of the right to an attorney.

The summons states:

- ✓ A Petition has been filed alleging that the juvenile named above is abused and neglected.

The notice to parent(s) about the parent's right to a lawyer¹ states:

- You have a right to be represented by a lawyer at all stages of the proceeding. If you want a lawyer and cannot afford to hire one, the court will appoint a lawyer to represent you. You may hire a lawyer of your choice at any time, or you may waive the right to a lawyer and represent yourself.
- You may contact the Clerk of Court immediately to ask for a court-appointed lawyer.
- If you want a court-appointed lawyer, you are encouraged to contact immediately the following lawyer who has been temporarily assigned to represent you. At the first hearing, the court will determine whether you qualify for a court-appointed lawyer. If you do not qualify, the lawyer named below will be released.

¹ The right to an attorney is not the same in every court jurisdiction. If state or local law does not provide for the appointment of counsel for an indigent parent, ICWA provides a means for payment of appointed counsel for the parent of an Indian child.

Additionally, the summons notifies the parent(s) about what might happen as a result of this court action.

If the court determines that the allegations of the petition are true, the court will conduct a dispositional hearing to consider the needs of the juvenile and enter an order designed to meet those needs and the objectives of the state. The dispositional order, or a later order, may:

- ✓ Remove the juvenile from the custody of a parent, guardian, or custodian, stepparent, adult member of the juvenile's household, or adult relative entrusted with the juvenile's care (if the child was not removed at an earlier stage);
- ✓ Order the parent to pay child support if custody of the juvenile is placed with someone other than the parent;
- ✓ Place legal or physical custody of the juvenile with the parent, stepparent, adult member of the juvenile's household, or adult relative entrusted with the juvenile's care on the condition that that individual undergo medical, psychiatric, psychological, or other treatment;
- ✓ Require that the juvenile receive medical, psychiatric, psychological, or other treatment and that the parent, guardian, custodian, stepparent, adult member of the juvenile's household, or adult relative entrusted with the juvenile's care participate in the treatment;
- ✓ Require the parent, stepparent, adult member of the juvenile's household, or adult relative entrusted with the juvenile's care to undergo psychiatric, psychological, or other treatment or counseling;
- ✓ Order the parent, stepparent, adult member of the juvenile's household, or adult relative entrusted with the juvenile's care to pay for treatment that is ordered for the juvenile or that individual; and
- ✓ Upon a motion in the cause and a hearing, order termination of parental rights.

The Notice to the Tribe

In any involuntary proceeding in a state court, where the court knows or has reason to know that an Indian child is involved, the party seeking the foster care placement of an Indian child must notify the Indian child's tribe of their right to intervention. The notice informs the tribe that CPS is seeking to adjudicate the child an abused and neglected juvenile and notifies the tribe of the time, date, and location of the next hearing as well as how and where to inform the court if the tribe wishes to intervene.

The Order to Appoint the CASA/GAL Volunteer

This order specifically appoints the CASA/GAL volunteer and the program to the case and lists the duties as assigned by law or court rule. This order allows the CASA/GAL volunteer to obtain information about the child and his/her family, whether or not that information is considered confidential.

The Order for Continued Custody

This order is issued by the judge at the first emergency custody hearing. In Brandi's case, the court made findings of fact that active efforts were made by CPS to provide remedial services and rehabilitative programs to prevent the breakup of the Indian family and that these efforts proved unsuccessful.

- ✓ Both parents received previous case management services from November 2000 to May 2001 with a focus on parenting skills. The mother did not cooperate with this intervention.
- ✓ A protection plan was signed by the father and girlfriend after CPS opened this investigation on September 30, 2001.
- ✓ That plan was violated on or about November 10 or 11, 2001.
- ✓ The mother has been contacted in Oklahoma and will come to North Carolina as soon as she can make arrangements. She may not be an appropriate caretaker due to concerns that arose in the course of previous involvement with her by this agency. The result of that work was to place primary caretaking responsibility with the father, as the mother refused to cooperate with the agency.

Also, the court found that there is a reasonable factual basis to believe that the matters alleged in the petition are true, and

- ✓ The juvenile has suffered physical injury or sexual abuse.
- ✓ The juvenile is exposed to substantial risk of physical injury or abuse because the parent, guardian, custodian, or caretaker has created conditions likely to cause injury or abuse, or has failed to provide or is unable to provide adequate supervision or protection.

There is clear and convincing evidence, including testimony of qualified expert witnesses, that continued custody of the child by the parent is likely to result in serious emotional or physical damage to the child.

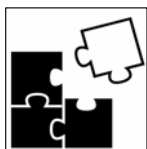
Based on the above findings of fact, the court concluded as a matter of law that grounds for continued emergency custody do exist.

Finally, the court concluded that the best interest of the juvenile would be served by continuing the juvenile in the custody of CPS pending further hearings.

UNIT 2: Planning the Investigation & Gathering Information

Sources of Information

The chart that follows lists possible sources of information and the type of information and assistance that you might receive from each. Every case is unique and unfolds in its own way, requiring different information in order to meet the needs of that child. The work of the CASA/GAL volunteer—conducting interviews, gathering facts, writing reports, testifying in court, advocating for the child, monitoring the case—has a significant impact on the case outcome. Each piece of the work is important. You will now see how each aspect will help you fulfill the mission of finding a safe, permanent home for the child, respecting the child’s sense of time.



Activity 8B: Sources of Information

Review the following chart, which lists sources of information on a case. It will be helpful to refer to this chart as you plan your investigation. Based on what you already know about this training case, make a check mark (✓) by any source of information or assistance that might be helpful as you begin your investigation of the Underwood case.

	SOURCE	TYPE OF INFORMATION/ASSISTANCE
Child...	Child Interviews <i>(Please note that it is not the role of the CASA/GAL volunteer to interview a child about the allegations; many of the children have been interviewed many times and additional interviews may be harmful to the child and to any potential criminal prosecution.)</i>	<ul style="list-style-type: none"> ● If verbal, children can: <ul style="list-style-type: none"> ▪ Discuss history of their family situation; ▪ Provide information about relationships (parents, families, foster families); ▪ Discuss wishes and desires for future; ▪ Identify challenges or areas in need of help; ▪ Share likes/dislikes; and ▪ Discuss visits with parents, siblings, other family.
	Child Observations <i>(visits with parents, visits with siblings, child in current setting, child at school or daycare, etc.)</i>	<ul style="list-style-type: none"> ● All children’s behavior can be observed for information relating to: <ul style="list-style-type: none"> ▪ Affect; ▪ Moods, mood changes; ▪ Developmental stages; ▪ Verbal ability; ▪ Relationships, interactions with others; and ▪ Intellectual ability.

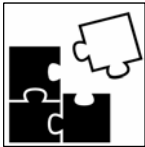
SOURCE		TYPE OF INFORMATION/ASSISTANCE	
Parents & Family...	Parents	<ul style="list-style-type: none"> ● Advise them that you have been appointed to the case. ● Ask them to express their version of the events stated on the petition. ● Let them describe any omissions or extenuating circumstances they feel are important. ● Ask them about their child's developmental milestones, joys, fears, etc. ● Ask for specific information about the child's behavior related to: <ul style="list-style-type: none"> ▪ Visitations with parents and siblings; ▪ Adjustments in school; ▪ Behavior problems and strengths; and ▪ Medical concerns. ● Adjustment to separation/loss. ● Ask about background of parents. 	
	Family	<ul style="list-style-type: none"> ● Can describe what they saw happening as it relates to the life of the child. ● May be able to identify potential resources for the child and family. 	

SOURCE		TYPE OF INFORMATION/ASSISTANCE	
Tribe* ...	Tribe	<ul style="list-style-type: none"> ● Advise the tribe you have been appointed. ● Discuss potential service resources. ● Find out who you should talk with to discuss enrollment issues. ● Determine who you should talk to regarding potential transfer of jurisdiction. ● Find out if anyone is going to appear for the tribe and if the tribe is going to formally intervene, send a representative, or make a written recommendation. If so, discuss recommendations. ● Ask if there is anyone you can talk to about potential cultural responses to the current family problem. ● Talk with any of the extended family or members of the tribe who may be a potential placement alternative for the Indian child. 	

* Applies only if you are working with an Indian child as defined by the Indian Child Welfare Act.

Professionals...	SOURCE	TYPE OF INFORMATION/ASSISTANCE
	Child Protective Services Caseworkers	<ul style="list-style-type: none"> ● Documentation, case record. ● Case plan within thirty days of placement. ● Names, addresses, and phone numbers of other principals in the case. ● Advice on how you might make contacts (e.g., with foster parents). ● Discuss your observations. ● Discuss community or educational resources. ● Discuss progress of case plan.
	Attorneys for the Parents <i>(If the CASA/GAL volunteer is represented by counsel, the attorney should contact all other attorneys for the volunteer.)</i>	<ul style="list-style-type: none"> ● Advise him/her that you have been appointed. ● Advise how you can be contacted. ● Make arrangements through attorney how to talk to his/her clients.
	CPS Agency Attorney/ Prosecutor	<ul style="list-style-type: none"> ● Advise him/her you have been appointed to case. ● Advise him/her how you can be contacted.
	Attorney for CASA/GAL Volunteer or for the Child* <i>(* if there is one appointed)</i>	<ul style="list-style-type: none"> ● Assists you with the legalities of the case. ● Addresses complex legal situations particular to the case. ● Works with the other attorneys on the case. ● Assistance in negotiating settlements in preparation for trial. ● Files legal documents. ● Subpoenas witnesses.
	Foster Parents	<ul style="list-style-type: none"> ● Specific information about the child's daily life and about the child's behavior related to: <ul style="list-style-type: none"> ▪ Visits with parents and siblings; ▪ Adjustments in school; ▪ Behavior problems and strengths; ▪ Medical concerns; ▪ Contacts made by parents through letters, phone calls, etc.; ▪ Child's daily functioning; and ▪ Adjustment to separation/loss.
Legal Personnel	<ul style="list-style-type: none"> ● Criminal records, other court records. 	

Professionals...	SOURCE	TYPE OF INFORMATION/ASSISTANCE
	Child's Teacher	<ul style="list-style-type: none"> ● Child's behavior at school. ● Educational problems or delays, strengths. ● Changes in behavior. ● Child's appearance. ● Peer relationships. ● Grades. ● Parental involvement. ● Likes/dislikes. ● Attendance prior/post removal. ● School nurse reports. ● School counselor reports.
	Medical Personnel	<ul style="list-style-type: none"> ● Child's medical condition as related to the abuse. ● Past medical history, medical records. ● Follow-up services that may be required to address medical conditions resulting from abuse and/or neglect. ● A particular medical condition that should come to the attention of the caseworker, foster parents, courts, etc. ● Contact with parent(s), if any.
	Psychological/Psychiatric Professionals	<ul style="list-style-type: none"> ● Nature of referral information they received. ● How they came to a particular conclusion. ● What the diagnosis means in practical terms and how progress is measured. ● Discrepancies in opinion. ● Possible counseling or therapeutic models being recommended for the child, parents, family, etc.



Activity 8C: Planning Your Investigation

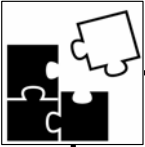
The petition, the affidavit as to the status of the child, the emergency custody order, the order for continued custody, and the appointment order all provide information that will help you plan your investigation. Following is a form that can be a helpful tool for listing the questions you will want answered during your investigation, brainstorming all possible sources that might be able to answer your questions, and prioritizing the questions based on what you think you need to know first. When you work on a case, organize your materials in whatever way works best for you. The plan for your investigation will be different in every case because every child's situation is unique.

Complete an initial investigation plan for the Brandi Underwood case using the form on the next page. Refer to the Sources of Information chart and the information from the documents on the preceding pages to plan your investigation. List the questions you want answered during your investigation in the first column. Consider all possible sources that might be able to answer your questions and write those sources in the second column. Then prioritize the questions based on what you think you need to know first.

Initial Investigation Plan...

Date of Next Court Hearing:		
Type/Purpose of Hearing:		
Court Report Is Due:		
Questions I Would Like Answered	Possible Sources of Information	Priority #
A)		
B)		
C)		
D)		
E)		
F)		
G)		
H)		
I)		
J)		

(Note: A copy of this form is provided for future use in the Resource Materials section of this chapter.)



Activity 8D: Obtaining Documents & Reports

Make a list of the information sources from your initial investigation plan (both people and other sources) that you do not know how to access. During the debriefing session for this chapter, ask CASA/GAL program staff to describe how to access each source in your area.



Activity 8E: Organizing Your Time

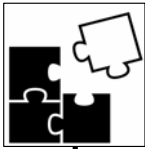
Imagine that you received a call today asking you to take a case. Your investigation must be completed in two weeks in order to turn in your report to the CASA/GAL program office in sufficient time for the staff to read it, give you feedback, allow you to make changes, and copy and distribute it to the parties in the case, all before the court hearing.

Given the personal and professional commitments you have already made for the next two weeks, decide how much time you have for your investigation. Determine whether you can make the commitment to take the case. If you can, using the Brandi Underwood training case, complete the chart that follows, indicating the time you have available and how you plan to spend your investigation time.

In the space provided here note one thing that surprised you as you completed your chart.

DAY	TIME AVAILABLE	WHAT I PLAN TO DO...
Day 1		
Day 2		
Day 3		
Day 4		
Day 5		
Day 6		
Day 7		
Day 8		
Day 9		
Day 10		
Day 11		
Day 12		
Day 13		
Day 14		Submit final court report to office (fax, mail, email, or deliver).

UNIT 3: A Successful CASA/GAL Volunteer Interview



Activity 8F: Talking with Children

The Chapter 7 Looking Ahead assignment asked you to think of any child you know (including your own child) whom you would see before starting this chapter. On a chart like the one below, you listed three things you wanted to learn about the child (such as how his/her day has been) and how you thought you would learn each thing. Turn to the chart in the Chapter 7 Looking Ahead section, and compare your expectations to your actual interview experience.

What I Wanted to Learn

1. _____
2. _____
3. _____

How I Learned It

1. _____
2. _____
3. _____

Interview Stages & General Interviewing Principles

The National Court Appointed Special Advocate Association (NCASAA) suggests the following interview stages and general interview principles for volunteer court advocates to use in planning and conducting their interviews.

Greeting

- Identify yourself and clarify or confirm the role of the CASA/GAL volunteer;
- Create a cooperative, respectful, and professional climate; and
- Have your goals clearly in mind.

Opening

The opening provides the interviewee with a clear understanding of what to expect. In the opening, you set the context for the interview by:

- Explaining the reason for the interview;
- Agreeing with the interviewee how much time will be allotted to the interview; and
- Summarizing what you hope to learn during the interview.

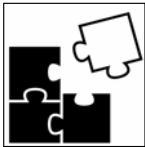
Body

In this stage, you explore for information and responses related to your goal for the interview. The interview develops through dialogue and questioning:

- Begin with broad, general, open-ended questions to facilitate participation and responses. An example of an open-ended question would be, “How would you describe your family?” or “Why do you think your children are in foster care?” Such questions don’t have a right or wrong answer and encourage open sharing of information—perhaps very different information than the interviewer anticipates.
- Move to more specific, closed questions to sort and refine information and zero in on a topic. An example of a closed question would be, “Is your aunt still living nearby?” or “When do you expect to have a job?”

Closing

- Recap information learned and review any agreements you have made with the interviewee; and
- Let them know if and when they may expect to hear from you again, when requested.

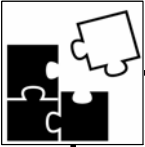


Activity 8G: CASA/GAL Volunteer Interviews

As a CASA/GAL volunteer, you make initial contacts with the child, the parents, and the foster parents—in whatever order is most relevant to the case. In almost every case, the CPS caseworker will be one of the first people you interview. You will also often include the child’s teacher and the child’s therapist (although this resource may not be part of your initial plan if the child has not been in therapy prior to coming into care). In cases involving an Indian child, you will also interview the tribal representative.

Consider the Brandi Underwood training case and list three questions for each of the following people in the chart below.

	QUESTION 1	QUESTION 2	QUESTION 3
CPS Caseworker			
Tribal Representative			
Daycare Teacher			



Activity 8H: Preparing Your Questions

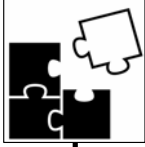
As you plan your initial investigation, you will often identify one person as an information source for more than one question. In planning an interview with that person, it is helpful to write down your questions so that you cover all of the topics that seem important for your investigation. To better prepare you for this situation, turn to your initial investigation plan. Select one person you listed as an information source for more than one question. Plan an interview with that person. Write your questions on the following Interview Questions form. Remember to use language that is clear and nonjudgmental. Ask open-ended questions rather than questions that can be answered with a “yes” or “no.” Avoid leading questions (e.g., “You wouldn’t leave your child alone, would you?”). Remember the age, maturity, and/or intellectual level of the person being interviewed. Review your list of questions to be sure you covered all the information you hope this person can provide.

Interview Questions...

Person to be interviewed:

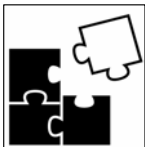
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UNIT 4: Community Resources



Activity 8I: Community Resources

In the Looking Ahead section of Chapter 3, you selected a community resource and began to gather information about that agency using the Community Resources Reporting In form provided. Finish preparing this worksheet so you can submit it to CASA/GAL program staff at the debriefing session for this chapter.



Activity 8J: Resources for Brandi

Part 1: Review the material that follows this activity, which includes excerpts from the Child Protective Services file and other documents that were gathered as part of the initial investigation in the Brandi Underwood case. As you read these materials, note in the margins the questions you will want to answer as you carry out your investigation. Also, identify Brandi's needs and the resources in her family, her tribe, and her community that are available to meet her needs.

Excerpt from Child Protective Services Case Notes: Dunlap County Child Protective Services

Record Name: Brandi Underwood
Date of Birth: 01/29/97
Report Date: 09/30/01
Case #: 057700

History

One previous referral (October 16, 2000) substantiated for neglect. Child left unsupervised in the home by mother. Case open for case management services to caseworker Lakeitha Colbert from November 2000 to May 2001. Focus of work on helping mother understand the child's needs based on her stage of development. Mother is immature and doesn't fully understand the responsibility of caring for child. She is an enrolled member of the Big River Nation of Oklahoma; this is the first time she has lived anywhere other than on or near the Big River Reservation. Father works long hours and spends his time with friends, leaving mother isolated with no phone or car. Mother refused help, insisting that she knew everything there was to know about her child. The father was cooperative with CPS and, as the case closed, he agreed to assume primary caretaking responsibility for the child.

Background

Received report on September 30, 2001, (*see Protective Services Incident Report*) that child had bruises on her neck resembling finger marks, under her chin, along her waistline, and on her arms and legs. The child also had what looked like bite marks on her right arm. The bruising occurred while Trisha Ann Scott, David Underwood's live-in girlfriend, was trying to wash Brandi's hair in the shower. Both Mr. Underwood and Ms. Scott admit that they bite Brandi when she bites them. They both signed a protection plan saying they would not use corporal punishment and that Ms. Scott would not be left alone with the child. Abuse by Ms. Scott was substantiated, as was neglect for inappropriate discipline of Brandi by her father. The case was transferred to caseworker Elizabeth Livingston for case management services on November 9, 2001.

November 11, 2001

TC from Ann Crutchfield, Wee Care Daycare

Received report that Brandi was having difficulty using her arm the previous day and appeared to be in pain. The reporter had advised the father to take the child to the hospital. He did not take her and made light of the child's obvious pain. He said she is a liar and a great little actress. Ann thinks child needs to be seen at the hospital.

3:00 PM

Caseworker met dad at the daycare and accompanied him and the child on a trip to the hospital emergency room. At that time, it was discovered that the child had a dislocated elbow, a broken right arm, multiple bruises on her face, neck, shoulders, lower back and bottom. This was a clear violation of the protection plan. Dunlap County CPS assumed temporary custody of Brandi and she was placed in a non-native foster home with Peter and Lucy Bennett, 983 Sandy Ridge Ct., Archway, NC 22362 (598-7787). (*Note: In some jurisdictions CPS has the authority to assume custody on a temporary basis while in others the petition must be filed first and a court order granted for the agency to assume custody.*)

November 12, 2001

TC to foster mom

Brandi is making a good adjustment to the home. She is interacting well with the other children. She has stated to the foster mom that she does not want to go back home. She is favoring her arm but is improving. Child saw Dr. Putnam at Indian Health Services earlier today accompanied by a social work intern.

TC to mother

Informed mother that Brandi was taken into custody and that there is a hearing on November 15. Mother confirmed that she is a member of the Big River Nation of Oklahoma. I told her I would call the tribe to notify them of the hearing and that my attorney would send official notice to the tribe. Mother says she will be present at court.

TC to Big River Nation

Spoke to the tribal representative for child abuse/neglect cases, Jean Moore. Jean will call to participate in the hearing on November 15. She says the tribe will file a formal notice of intervention with the court. I asked Jean to let me know about relatives or Indian foster homes that may be placement options for Brandi.

TC from Dr. Putnam

Dr. Putnam recommended that Brandi's arm continue to stay in a sling and heal with the help of gravity.

November 15, 2001

Court

Emergency custody hearing held today with both parents and Ms. Scott present. The Big River Nation representative participated by phone. Ms. Scott had retained her own attorney and both parents were appointed attorneys by the judge. Ms. Scott is seven months pregnant with Brandi's father's child. She has admitted to law enforcement that she caused the injuries and has been charged with misdemeanor child abuse. The stories remain highly inconsistent. Brandi to remain in CPS custody. Judge asked for a second opinion about the child's injuries to be certain that the medical plan is sufficient. Father was very preoccupied with wanting more visits. The mother was upset that the court would not send the child with her today. After she calmed down, she met with caseworker and arranged for a short visit today. Mom drove to CPS and caseworker went to get child and met mom at CPS.

Child visit with biological mother

Following the court hearing, mom went to CPS to see child. The caseworker talked to child on the way and explained that she would see her mom. Child said she wanted to see only Grandma Millie, the maternal grandmother. Although the child didn't seem interested in seeing mom and was initially very shy and quiet, she warmed up eventually and let mom read her a book. Scheduled another visit for November 23 at 11:00 AM at CPS.

November 19, 2001

Child visit with father

When the caseworker arrived at the foster home, Brandi was in the corner crying that she did not want to go. The foster mother told the caseworker that this had been going on since she got up in the morning. The caseworker explained to Brandi that she would not have to go home today and that the caseworker would stay with her through the entire visit. Brandi was sobbing so hard she was choking, while at the same time crying that she did not want to see her daddy. It took the caseworker and the foster mother about twenty minutes to get her in the car. She cried all the way to Ravensford. She also asked the caseworker several times not to tell her daddy she did not want to see him. When Mr. Underwood came in the room for the visit, Brandi acted like things were fine. After the visit was over, the caseworker asked Brandi if she wanted to visit with her dad again sometime and she said, "No!" She could not tell the caseworker why.

Case Plan – Father

Caseworker returned to the office and met with father regarding the case plan and a plan for visitation. He signed it after making comments (*see the excerpt from CPS case plan and the visitation agreement that follow these notes*).

November 20, 2001

Interview with child

Brandi does not talk about the incident specifically except to say, "Trisha and Daddy said it is okay to say I don't know what happened." When specifically asked by this caseworker what has happened, she gets very upset and says she doesn't want to talk about it, she wants to talk about happy things. She has said several times that she does not want to see her daddy or Trisha again. She always follows that statement with, "But don't tell them I said that or I will be in trouble." It appears to the caseworker that she recognizes she is in a safe place and doesn't want to leave.

Appointment with Dr. Worth (for second opinion). Doctor took an x-ray and agreed that gravity would heal the arm. Scheduled follow-up appointment on November 24, 2001.

November 22, 2001

Court

All parties present and represented. Judge LaGrande plans to preside over all hearings regarding this case. She was pleased with the second opinion and talked about how resilient children are in both their bodies and their spirits. CPS custody continued and both parents ordered to comply with CPS case plans. CASA/GAL volunteer will attend visit with mother tomorrow.

November 23, 2001

Child visit with biological mother

Child was initially hesitant for this visit but did not cry or make a big fuss. The visit went better than the first. Brandi and Ms. Underwood seemed to display affection for each other. When it was time for Ms. Underwood to leave after the second visit, Brandi became very upset and was crying for her mom to stay. Brandi had a difficult time leaving and cried all the way back to Archway. Mother agreed to come in later that day to work on a case plan. She plans to return to Oklahoma tomorrow because she gets too upset being around the father and his pregnant girlfriend. She says she will get counseling there and fix up a home for Brandi. We will discuss those issues when she completes her plan.

Case Plan – Mother

The mother was willing to agree to anything that the caseworker suggested and felt that it was all “a piece of cake.” Caseworker reminded her that she had some difficulty complying with case management services previously and always said the right thing. Now it was time to follow through. Caseworker called CPS in Pawnee County, Oklahoma, and learned about resources available for therapy and parenting classes. They will assist mom in arranging for services as a courtesy to the Dunlap County CPS. Mom will have Millie Hansen contact this caseworker to be considered as a possible placement if the parents do not succeed in regaining custody of Brandi. Mother switched between blaming herself, blaming her husband, blaming CPS, and how easy it would be to get Brandi back, how unfair we were, etc. She seems very immature. I stressed again that this child needs one of the parents to be ready to make a home for her soon. I also explained the Interstate Compact process and that we would have to go through those procedures before placing the child with either her or her mother.

November 24, 2001**Child visit with father**

The foster mother reported that Brandi had been complaining that she did not want to go on the visit. The foster mother also noted that whenever Brandi thinks she is going to see her father, she develops a stomachache. The CASA/GAL volunteer accompanied the caseworker to pick up Brandi for this visit. At first, she stated that she did not want to go and pouted, but did get in the car. Brandi was fine during the visit. Mr. Underwood asked Brandi if Trisha could come next time and Brandi told him no. Brandi later told the caseworker and CASA/GAL volunteer that she did not want to see Trisha.

Scheduled appointment with Janet Lentz (child therapist at Pearson MHC) for therapy screening for December 4, 2001.

DATE: 9/30/01

Protective Services Incident Report
DUNLAP COUNTY

PAGE 1

INCIDENT #: 4906
TYPE REPT: Abuse, Neglect
RESPONSE TIME: 24 hours

SOURCE OF REF: Daycare Personnel
(not provided in all jurisdictions)

ALLEGED VICTIM(S): (see attached if additional victims)

ADDRESS:

1. Brandi Underwood **AGE:** 4
DOB: 01/29/97
RACE: Biracial
(Caucasian/Native American)
SEX: Female
Rt. 9, Box 1267
Ravensford, NC 22357
2. None **AGE:**
DOB:
RACE:
SEX:

PARENT/GUARDIAN(S):

ADDRESS:

1. David Elder Underwood **AGE:** 26
PHONE #: 762-4975
Rt. 9, Box 1267
Ravensford, NC 22357
2. Geneva Underwood **AGE:** 23
PHONE #: (912) 663-7441
918 Corvallis Ave
Pawnee, OK 74058

ALLEGED PERPETRATOR(S):

ADDRESS:

1. Trisha Ann Scott **AGE:** 20
DOB: 10/09/78
RACE: Caucasian
SEX: Female
Rt. 9, Box 1267
Ravensford, NC 22357
2. None **AGE:**
DOB:
RACE:
SEX:

ALLEGATION NOTES:

Reporter called saying that child came to school today with multiple bruises resembling finger marks on her neck, under her chin, along her waistline, and on her arms and legs. She also has what appears to be bite marks on her right arm. The father dropped the child off at the center in the morning; he stated that his girlfriend, Trisha Scott, had tried to wash Brandi's hair in the shower and had left some finger marks. The child was holding her arm and whimpering but the father did not appear concerned about these signs of physical discomfort. After he left, the child stated, "Trisha hurt me bad and made me cry."

DATE: 9/30/01

Protective Services Incident Report
DUNLAP COUNTY

PAGE 2

INCIDENT #: 4906
TYPE REPT: Abuse, Neglect
RESPONSE TIME: 24 hours

SOURCE OF REF: Daycare Personnel

Where is the child now?	Daycare Center.
Is the child in immediate danger? Describe:	No.
Other relative, persons, agencies involved?	Mother lives in Oklahoma. Previous CPS treatment case for leaving child unattended (open 11/00-5/01)
Who else has firsthand knowledge of the situation?	Unknown.
Are records or documentation available?	CPS, Case # 057700 (see 10/00 Incident Report # 2005)
Has reporter discussed concerns with family? Response?	Mentioned concern this morning about child feeling sore and looking pretty bruised. Father seemed more interested in getting to work.
Does family know report is being made? If yes, how?	No.
What has been done to resolve the problem?	Past investigation and case was in Treatment Unit focusing on parenting skills for 6 mos.
How long has the problem been going on? CPS history/previous record?	Past investigation and Treatment Services.
Is the family violent? How?	Unknown. Referral raises concerns.
When was reporter's last contact with family?	This morning when father dropped child at daycare.
What prompted the report being made today?	Reporter thinks child was hurt since she left school yesterday, although it is not the first time bruises have been noted.
Where do parents work?	Father does construction work for Brian Link, Link Building Co., 762-1199.
Others in home?	Unknown. It sounds as if girlfriend lives there. No other children known to reporter.
Directions to alleged victim's home?	See front for address. About 4 miles out on Rt. 9 on left—white trailer with large green mailbox.

Family Services Case Plan & Visitation Agreement (with Father)

The family services case plan that was signed by the caseworker, the father, and Trisha Scott on November 19, 2001, stated that the permanent plan was for “reunification with a parent.” The alternative permanent plan (or concurrent plan) was for placement with the maternal grandmother, a placement that would require a home study through the Interstate Compact on the Placement of Children (ICPC), as would a placement with the mother. The father stated his opposition to either option but couldn’t come up with an alternative and agreed to the plan. Following is the information contained in the plan:

This agreement is made for the purpose of assisting both the agency and the family to identify needs and achieve changes to assure the goal of a safe and permanent home for this child. All parties will talk about this plan and the progress made toward achieving the objectives on a regular basis. Changes may be made when the family circumstances change or a court order is issued. At that point, and at points where progress is assessed, the plan may be continued, rewritten, or discontinued. The goal will be achieved when the family is able to provide a safe home. This agreement will last until February 19, 2002.

If these objectives and activities have not been successfully completed, then other steps to ensure protection and permanence for the child will be discussed and other action will be taken. It should be understood that the concurrent plan is the obligation of the agency in order to achieve permanence for the child. The alternative plan is appropriate because the maternal grandmother would keep the child within her family and culture. She has expressed an interest in this child and the child asks about her grandmother often and fondly. There is, however, a concern that she does not see Mr. Underwood in a positive light. (*Note: The child’s sense of time must be respected as CPS assesses the parents’ individual progress toward reunification.*)

On November 10, 2001, a case decision was made by CPS that the child is abused and neglected. The specific reasons for this are:

That the child’s injuries were not adequately explained by the father or caretaker. That their (father and girlfriend/caretaker) stated forms of discipline are inappropriate. Additionally, the father failed to protect the child from the girlfriend/caretaker or to see a need for protection.

On November 11, 2001, the child was removed from the home. The specific reasons for this are:

That the child was severely injured during the course of this investigation in violation of the protection plan that was signed on October 1, 2001. The mother’s history with this agency precludes immediate placement with her.

Family Strengths

Both parents have expressed an interest in parenting this child. The mother has extended family and members of her tribe willing to assist in the care—or to raise the child if the parents cannot. The parents both express a willingness to enter into this agreement and participate in parenting class, therapy, and any other recommended services.

The family services case plan spells out the conditions or needs, the objectives, the activities that are to be completed by the parent(s), the services to be provided by CPS, target dates, and the person responsible for each activity. For Brandi, her case management plan included:

CONDITION/NEED: For the child to be provided with a safe and permanent home.

OBJECTIVE: Brandi will be disciplined in an appropriate manner at all times.

ACTIVITIES: (include services to be provided by CPS)

1. Mr. Underwood and Ms. Scott will attend parenting classes arranged by CPS beginning on December 9, 2001, follow through with recommendations, and demonstrate an increased understanding of age-appropriate discipline techniques. By January 31, 2002. Father and caretaker.
2. Absolutely no physical discipline will be used on Brandi. Ongoing. Father.
3. Mr. Underwood and Ms. Scott will seek counseling to work on relationship issues as well as parenting issues. Ongoing. Father and caretaker.
4. Caseworker will provide information to Mr. Underwood and Ms. Scott concerning age-appropriate discipline and expectations. By December 17, 2001. E. Livingston.

The plan also allowed for comments by the caseworker and parent(s):

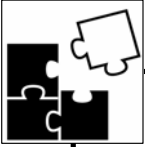
Caseworker Comments

“Mr. Underwood and Ms. Scott seem very eager to comply with anything that I ask. Their ability to follow through and to demonstrate their changed behavior in relation to Brandi is what I hope to see. We are setting a very short time period for this plan in order to find both safety and permanence for Brandi as quickly as possible.”

Father’s Comments

“I can’t imagine leaving Trisha, with her being seven months pregnant. I will go to classes and counseling as long as they don’t tell me I have to choose between Trisha and Brandi. Trisha will sign this agreement and work on it even though you say she is not required to. We are a team and we both want Brandi back. The caseworker seems fair. I do not want her mom to have her. She’s a meth addict and prostitutes herself to get drugs. I should know. You need to check it out.”

On the same date, the father signed a visitation agreement stating that he would visit one time each week at CPS in their Family Room for an hour and a half. Brandi is to be picked up by the caseworker and brought to the agency. The father to meet at agency. The foster mother is willing to supervise visits with the father at a public place like a park. This will be addressed at the next court hearing. Until then, the plan will be for visits supervised by the caseworker.



Activity 8J: Resources for Brandi

Part 2: Consider whether the community resource you researched for Activity 8I would be helpful in meeting some of Brandi's or her parents'/caretaker's needs. In the space provided below describe the reason it would or would not be helpful.

Part 3: Complete the worksheet below naming several resources that you think would meet some of the needs you identified for Brandi in Part 1 of this activity. Also name several resources that you would recommend for the mother.

THE NEEDS OF THE CHILD	RESOURCES FOR THE CHILD	RESOURCES FOR THE MOTHER
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(Note: One particularly helpful tool for a CASA/GAL volunteer is to construct a time line that begins when Child Protective Services first encountered the family and highlights all the significant events in the case. This will help you visualize the progress being made—and keep the child's sense of time in the forefront of your thinking about the case. Also, writing down the family tree is frequently very helpful in tracking down individuals.)



RESOURCE MATERIALS

Included in this section:

FORM

CASA/GAL Volunteer Interview with Child in Placement **8-39**

FORM

CASA/GAL Volunteer Interview with Parent(s) **8-41**

FORM

CASA/GAL Volunteer General Interview Form **8-43**

FORM

Initial Investigation Plan **8-45**

Indian Child Welfare Act (ICWA)

[25 U.S.C. §§ 1901-1903, 1911-1923, 1951] **8-47**

Although you wish to gather information from the child, it is important to build rapport first and not bombard him/her with questions. Make it more of a conversation that takes place over several visits.

Name of Child:	Date & Time:
Place of Interview:	CASA/GAL Volunteer:
Placement Phone #:	Case Name:
Name of Interviewer:	File #:

1. The child's feelings about...

- **This placement:**

- **Whether he/she feels safe here:**

- **His/her sibling(s):**

- **Being separated from his/her parent(s):**

- **Visitation and telephone contact with parents and siblings:**

2. The child's interests/hobbies/friends: (to establish strengths and to discover ways to support the child and normalize his/her experience in care)

3. This child has already discussed the allegations in the petition with the following persons:

(Note: It is not the CASA/GAL volunteer's role to re-interview the child about those allegations unless the child wants to discuss them—and even then proceed cautiously because the child may have already been traumatized by multiple interviews, and/or there may be criminal matters pending.)

Unsolicited, the child provided the following additional information about the underlying allegations:

4. The child would like the following needs to be addressed or options to be explored:

5. The other people living in this home are:

6. The child's sleeping arrangements are:

7. The child's after-school arrangements are:

8. The child has medical or mental health needs which are being addressed by:

9. The child's primary caretaker provided the following information about the child...

- Sleeping habits:
- Eating habits:
- Interactions with other family members:
- School performance and attitude toward school:
- Other:

10. Other relatives or family friends who might be resources on this case are:

11. My observations about this child are:

CASA/GAL Volunteer Interview with Parent(s)...

Prior to scheduling an interview with the parent, inform the attorney for the parent of your intentions to meet with his/her client. In the initial discussion with the parent, explain that the CASA/GAL volunteer does not work for CPS and is in a neutral, objective role. Acknowledge how difficult the situation is for the parent as well as the child/children.

Name of Parent:	Date & Time:
Place of Interview:	CASA/GAL Volunteer:
Name of Interviewer:	Case Name:
	File #:
<p>1. The parent provided the following general information about the child/children:</p>	
<p>2. The parent provided the following specific information about the child/children:</p> <ul style="list-style-type: none"> • School performance concerns: • Medical/dental treatment needs: • Special needs: • Other concerns: 	
<p>3. Information about the history of this family includes:</p>	

4. Events leading to CPS involvement include:
5. Services provided by CPS to the family include:
6. Services the parent believes would be helpful are:
7. The parent's goals include:
8. Tribal affiliation, and tribal advocates:
9. Other:

Initial Investigation Plan...

Date of Next Court Hearing:		
Type/Purpose of Hearing:		
Court Report Is Due:		
Questions I Would Like Answered	Possible Sources of Information	Priority #
A)		
B)		
C)		
D)		
E)		
F)		
G)		
H)		
I)		
J)		

INDIAN CHILD WELFARE ACT

[25 U.S.C. §§ 1901–1903, 1911–1923, 1951]

SECTION 1901. Congressional Findings

Recognizing the special relationship between the United States and the Indian tribes and their members and the Federal responsibility to Indian people, the Congress finds—

- (1) that clause 3, section 8, article I of the United States Constitution provides that “The Congress shall have Power ♦♦♦ To regulate Commerce ♦♦♦ with Indian tribes” and, through this and other constitutional authority, Congress has plenary power over Indian affairs;
- (2) that Congress, through statutes, treaties, and the general course of dealing with Indian tribes, has assumed the responsibility for the protection and preservation of Indian tribes and their resources;
- (3) that there is no resource that is more vital to the continued existence and integrity of Indian tribes than their children and that the United States has a direct interest, as trustee, in protecting Indian children who are members of or are eligible for membership in an Indian tribe;
- (4) that an alarmingly high percentage of Indian families are broken up by the removal, often unwarranted, of their children from them by nontribal public and private agencies and that an alarmingly high percentage of such children are placed in non-Indian foster and adoptive homes and institutions; and
- (5) that the States, exercising their recognized jurisdiction over Indian child custody proceedings through administrative and judicial bodies, have often failed to recognize the essential tribal relations of Indian people and the cultural and social standards prevailing in Indian communities and families.

SECTION 1902. Congressional Declaration of Policy

The Congress hereby declares that it is the policy of this Nation to protect the best interests of Indian children and to promote the stability and security of Indian tribes and families by the establishment of minimum Federal standards for the removal of Indian children from their families and the placement of such children in foster or adoptive homes which will reflect the unique values of Indian culture, and by providing for assistance to Indian tribes in the operation of child and family service programs.

SECTION 1903. Definitions

For the purposes of this chapter, except as may be specifically provided otherwise, the term—

- (1) “child custody proceeding” shall mean and include—
 - (i) “foster care placement” which shall mean any action removing an Indian child from its parent or Indian custodian for temporary placement in a foster home or institution or the home of a guardian or conservator where the parent or Indian custodian cannot have the child returned upon demand, but where parental rights have not been terminated;

- (ii) “termination of parental rights” which shall mean any action resulting in the termination of the parent-child relationship;
- (iii) “preadoptive placement” which shall mean the temporary placement of an Indian child in a foster home or institution after the termination of parental rights, but prior to or in lieu of adoptive placement; and
- (iv) “adoptive placement” which shall mean the permanent placement of an Indian child for adoption, including any action resulting in a final decree of adoption.

Such term or terms shall not include a placement based upon an act which, if committed by an adult, would be deemed a crime or upon an award, in a divorce proceeding, of custody to one of the parents;

- (2) “extended family member” shall be as defined by the law or custom of the Indian child's tribe or, in the absence of such law or custom, shall be a person who has reached the age of eighteen and who is the Indian child's grandparent, aunt or uncle, brother or sister, brother-in-law or sister-in-law, niece or nephew, first or second cousin, or stepparent;
- (3) “Indian” means any person who is a member of an Indian tribe, or who is an Alaska Native and a member of a Regional corporation as defined in *section 1606 of Title 43*;
- (4) “Indian child” means any unmarried person who is under age eighteen and is either a) a member of an Indian tribe or b) is eligible for membership in an Indian tribe and is the biological child of a member of an Indian tribe;
- (5) “Indian child's tribe” means a) the Indian tribe in which an Indian child is a member or eligible for membership or b), in the case of an Indian child who is a member of or eligible for membership in more than one tribe, the Indian tribe with which the Indian child has the more significant contacts;
- (6) “Indian custodian” means any Indian person who has legal custody of an Indian child under tribal law or custom or under State law or to whom temporary physical care, custody, and control has been transferred by the parent of such child;
- (7) “Indian organization” means any group, association, partnership, corporation, or other legal entity owned or controlled by Indians, or a majority of whose members are Indians;
- (8) “Indian tribe” means any Indian tribe, band, nation, or other organized group or community of Indians recognized as eligible for the services provided to Indians by the Secretary because of their status as Indians, including any Alaska Native village as defined in *section 1602(c) of Title 43*;
- (9) “parent” means any biological parent or parents of an Indian child or any Indian person who has lawfully adopted an Indian child, including adoptions under tribal law or custom. It does not include the unwed father where paternity has not been acknowledged or established;
- (10) “reservation” means Indian country as defined in *section 1151 of Title 18* and any lands, not covered under such section, title to which is either held by the United States in trust for the benefit of any Indian tribe or individual or held by any Indian tribe or individual subject to a restriction by the United States against alienation;
- (11) “Secretary” means the Secretary of the Interior; and
- (12) “tribal court” means a court with jurisdiction over child custody proceedings and which is either a Court of Indian Offenses, a court established and operated under the code or custom of an Indian tribe, or any other administrative body of a tribe which is vested with authority over child custody proceedings.

SECTION 1911. Indian Tribe Jurisdiction Over Indian Child Custody Proceedings

- (a) Exclusive Jurisdiction.** An Indian tribe shall have jurisdiction exclusive as to any State over any child custody proceeding involving an Indian child who resides or is domiciled within the reservation of such tribe, except where such jurisdiction is otherwise vested in the State by existing Federal law. Where an Indian child is a ward of a tribal court, the Indian tribe shall retain exclusive jurisdiction, notwithstanding the residence or domicile of the child.
- (b) Transfer of Proceedings; Declination by Tribal Court.** In any State court proceeding for the foster care placement of, or termination of parental rights to, an Indian child not domiciled or residing within the reservation of the Indian child's tribe, the court, in the absence of good cause to the contrary, shall transfer such proceeding to the jurisdiction of the tribe, absent objection by either parent, upon the petition of either parent or the Indian custodian or the Indian child's tribe: Provided, That such transfer shall be subject to declination by the tribal court of such tribe.
- (c) State Court Proceedings; Intervention.** In any State court proceeding for the foster care placement of, or termination of parental rights to, an Indian child, the Indian custodian of the child and the Indian child's tribe shall have a right to intervene at any point in the proceeding.
- (d) Full Faith and Credit to Public Acts, Records, and Judicial Proceedings of Indian Tribes.** The United States, every State, every territory or possession of the United States, and every Indian tribe shall give full faith and credit to the public acts, records, and judicial proceedings of any Indian tribe applicable to Indian child custody proceedings to the same extent that such entities give full faith and credit to the public acts, records, and judicial proceedings of any other entity.

SECTION 1912. Pending Court Proceedings

- (a) Notice; Time for Commencement of Proceedings; Additional Time for Preparation.** In any involuntary proceeding in a State court, where the court knows or has reason to know that an Indian child is involved, the party seeking the foster care placement of, or termination of parental rights to, an Indian child shall notify the parent or Indian custodian and the Indian child's tribe, by registered mail with return receipt requested, of the pending proceedings and of their right of intervention. If the identity or location of the parent or Indian custodian and the tribe cannot be determined, such notice shall be given to the Secretary in like manner, who shall have fifteen days after receipt to provide the requisite notice to the parent or Indian custodian and the tribe. No foster care placement or termination of parental rights proceeding shall be held until at least ten days after receipt of notice by the parent or Indian custodian and the tribe or the Secretary: Provided, That the parent or Indian custodian or the tribe shall, upon request, be granted up to twenty additional days to prepare for such proceeding.
- (b) Appointment of Counsel.** In any case in which the court determines indigency, the parent or Indian custodian shall have the right to court-appointed counsel in any removal, placement, or termination proceeding. The court may, in its discretion, appoint counsel for the child upon a finding that such appointment is in the best interest of the child. Where State law makes no

provision for appointment of counsel in such proceedings, the court shall promptly notify the Secretary upon appointment of counsel, and the Secretary, upon certification of the presiding judge, shall pay reasonable fees and expenses out of funds which may be appropriated pursuant to **section 13 of this title**.

- (c) Examination of Reports or Other Documents. Each party to a foster care placement or termination of parental rights proceeding under State law involving an Indian child shall have the right to examine all reports or other documents filed with the court upon which any decision with respect to such action may be based.
- (d) Remedial Services and Rehabilitative Programs; Preventive Measures. Any party seeking to effect a foster care placement of, or termination of parental rights to, an Indian child under State law shall satisfy the court that active efforts have been made to provide remedial services and rehabilitative programs designed to prevent the breakup of the Indian family and that these efforts have proved unsuccessful.
- (e) Foster Care Placement Orders; Evidence; Determination of Damage to Child. No foster care placement may be ordered in such proceeding in the absence of a determination, supported by clear and convincing evidence, including testimony of qualified expert witnesses, that the continued custody of the child by the parent or Indian custodian is likely to result in serious emotional or physical damage to the child.
- (f) Parental Rights Termination Orders; Evidence; Determination of Damage to Child. No termination of parental rights may be ordered in such proceeding in the absence of a determination, supported by evidence beyond a reasonable doubt, including testimony of qualified expert witnesses, that the continued custody of the child by the parent or Indian custodian is likely to result in serious emotional or physical damage to the child.

SECTION 1913. Parental Rights, Voluntary Termination

- (a) Consent; Record; Certification Matters; Invalid Consents. Where any parent or Indian custodian voluntarily consents to a foster care placement or to termination of parental rights, such consent shall not be valid unless executed in writing and recorded before a judge of a court of competent jurisdiction and accompanied by the presiding judge's certificate that the terms and consequences of the consent were fully explained in detail and were fully understood by the parent or Indian custodian. The court shall also certify that either the parent or Indian custodian fully understood the explanation in English or that it was interpreted into a language that the parent and Indian custodian understood. Any consent given prior to, or within ten days after, birth of the Indian child shall not be valid.
- (b) Foster Care Placement; Withdrawal of Consent. Any parent or Indian custodian may withdraw consent to a foster care placement under State law at any time and, upon such withdrawal, the child shall be returned to the parent or Indian custodian.
- (c) Voluntary Termination of Parental Rights or Adoptive Placement; Withdrawal of Consent; Return of Custody. In any voluntary proceeding for termination of parental rights to, or adoptive placement of, an Indian child, the consent of the parent may be withdrawn for any reason at any time prior to the entry of a final decree of termination or adoption, as the case may be, and the child shall be returned to the parent.

- (d) Collateral Attack; Vacation of Decree and Return of Custody; Limitations. After the entry of a final decree of adoption of an Indian child in any State court, the parent may withdraw consent thereto upon the grounds that consent was obtained through fraud or duress and may petition the court to vacate such decree. Upon a finding that such consent was obtained through fraud or duress, the court shall vacate such decree and return the child to the parent. No adoption which has been effective for at least two years may be invalidated under the provisions of this subsection unless otherwise permitted under State law.

SECTION 1914. Petition to Court of Competent Jurisdiction to Invalidate Action Upon Showing of Certain Violations

Any Indian child who is the subject of any action for foster care placement or termination of parental rights under State law, any parent or Indian custodian from whose custody such child was removed, and the Indian child's tribe may petition any court of competent jurisdiction to invalidate such action upon a showing that such action violated any provision of *sections 1911, 1912, and 1913 of this title*.

SECTION 1915. Placement of Indian Children

- (a) Adoptive Placements; Preferences. In any adoptive placement of an Indian child under State law, a preference shall be given, in the absence of good cause to the contrary, to a placement with 1) a member of the child's extended family; 2) other members of the Indian child's tribe; or 3) other Indian families.
- (b) Foster Care or Preadoptive Placements; Criteria; Preferences. Any child accepted for foster care or preadoptive placement shall be placed in the least restrictive setting which most approximates a family and in which his special needs, if any, may be met. The child shall also be placed within reasonable proximity to his/her home, taking into account any special needs of the child. In any foster care or preadoptive placement, a preference shall be given, in the absence of good cause to the contrary, to a placement with—
- (i) a member of the Indian child's extended family;
 - (ii) a foster home licensed, approved, or specified by the Indian child's tribe;
 - (iii) an Indian foster home licensed or approved by an authorized non-Indian licensing authority; or
 - (iv) an institution for children approved by an Indian tribe or operated by an Indian organization which has a program suitable to meet the Indian child's needs.
- (c) Tribal Resolution for Different Order of Preference; Personal Preference Considered; Anonymity in Application of Preferences. In the case of a placement under *subsection (a) or (b) of this section*, if the Indian child's tribe shall establish a different order of preference by resolution, the agency or court effecting the placement shall follow such order so long as the placement is the least restrictive setting appropriate to the particular needs of the child, as provided in *subsection (b) of this section*. Where appropriate, the preference of the Indian child or parent shall be considered: Provided, That where a consenting parent evidences a desire for anonymity, the court or agency shall give weight to such desire in applying the preferences.

- (d) Social and Cultural Standards Applicable. The standards to be applied in meeting the preference requirements of this section shall be the prevailing social and cultural standards of the Indian community in which the parent or extended family resides or with which the parent or extended family members maintain social and cultural ties.
- (e) Record of Placement; Availability. A record of each such placement, under State law, of an Indian child shall be maintained by the State in which the placement was made, evidencing the efforts to comply with the order of preference specified in this section. Such record shall be made available at any time upon the request of the Secretary or the Indian child's tribe.

SECTION 1916. Return of Custody

- (a) Petition; Best Interests of Child. Notwithstanding State law to the contrary, whenever a final decree of adoption of an Indian child has been vacated or set aside or the adoptive parents voluntarily consent to the termination of their parental rights to the child, a biological parent or prior Indian custodian may petition for return of custody and the court shall grant such petition unless there is a showing, in a proceeding subject to the provisions of *section 1912 of this title*, that such return of custody is not in the best interests of the child.
- (b) Removal From Foster Care Home; Placement Procedure. Whenever an Indian child is removed from a foster care home or institution for the purpose of further foster care, preadoptive, or adoptive placement, such placement shall be in accordance with the provisions of this chapter, except in the case where an Indian child is being returned to the parent or Indian custodian from whose custody the child was originally removed.

SECTION 1917. Tribal Affiliation Information & Other Information for Protection of Rights From Tribal Relationship; Application of Subject of Adoptive Placement; Disclosure by Court

Upon application by an Indian individual who has reached the age of eighteen and who was the subject of an adoptive placement, the court which entered the final decree shall inform such individual of the tribal affiliation, if any, of the individual's biological parents and provide such other information as may be necessary to protect any rights flowing from the individual's tribal relationship.

SECTION 1918. Reassumption of Jurisdiction Over Child Custody Proceedings

- (a) Petition; Suitable Plan; Approval by Secretary. Any Indian tribe which became subject to State jurisdiction pursuant to the provisions of the Act of August 15, 1953 (67 Stat. 588), as amended by Title IV of the Act of April 11, 1968 (82 Stat. 73, 78), or pursuant to any other Federal law, may reassume jurisdiction over child custody proceedings. Before any Indian tribe may reassume jurisdiction over Indian child custody proceedings, such tribe shall present to the Secretary for approval a petition to reassume such jurisdiction which includes a suitable plan to exercise such jurisdiction.
- (b) Criteria Applicable to Consideration by Secretary; Partial Retrocession.

- (1) In considering the petition and feasibility of the plan of a tribe *under subsection (a) of this section*, the Secretary may consider, among other things:
 - (i) whether or not the tribe maintains a membership roll or alternative provision for clearly identifying the persons who will be affected by the reassumption of jurisdiction by the tribe;
 - (ii) the size of the reservation or former reservation area which will be affected by retrocession and reassumption of jurisdiction by the tribe;
 - (iii) the population base of the tribe, or distribution of the population in homogeneous communities or geographic areas; and
 - (iv) the feasibility of the plan in cases of multitribal occupation of a single reservation or geographic area.
- (2) In those cases where the Secretary determines that the jurisdictional provisions of *section 1911(a) of this title* are not feasible, he is authorized to accept partial retrocession which will enable tribes to exercise referral jurisdiction as provided in *section 1911(b) of this title*, or, where appropriate, will allow them to exercise exclusive jurisdiction as provided in *section 1911(a) of this title* over limited community or geographic areas without regard for the reservation status of the area affected.
- (c) Approval of Petition; Publication in Federal Register; Notice; Reassumption Period; Correction of Causes for Disapproval. If the Secretary approves any petition under *subsection (a) of this section*, the Secretary shall publish notice of such approval in the Federal Register and shall notify the affected State or States of such approval. The Indian tribe concerned shall reassume jurisdiction sixty days after publication in the Federal Register of notice of approval. If the Secretary disapproves any petition under *subsection (a) of this section*, the Secretary shall provide such technical assistance as may be necessary to enable the tribe to correct any deficiency which the Secretary identified as a cause for disapproval.
- (d) Pending Actions or Proceedings Unaffected. Assumption of jurisdiction under this section shall not affect any action or proceeding over which a court has already assumed jurisdiction, except as may be provided pursuant to any agreement under *section 1919 of this title*.

SECTION 1919. Agreements Between States & Indian Tribes

- (a) Subject Coverage. States and Indian tribes are authorized to enter into agreements with each other respecting care and custody of Indian children and jurisdiction over child custody proceedings, including agreements which may provide for orderly transfer of jurisdiction on a case-by-case basis and agreements which provide for concurrent jurisdiction between States and Indian tribes.
- (b) Revocation; Notice; Actions or Proceedings Unaffected. Such agreements may be revoked by either party upon one hundred and eighty days' written notice to the other party. Such revocation shall not affect any action or proceeding over which a court has already assumed jurisdiction, unless the agreement provides otherwise.

SECTION 1920. Improper Removal of Child From Custody; Declination of Jurisdiction; Forthwith Return of Child: Danger Exception

Where any petitioner in an Indian child custody proceeding before a State court has improperly removed the child from custody of the parent or Indian custodian or has improperly retained custody after a visit or other temporary relinquishment of custody, the court shall decline jurisdiction over such petition and shall forthwith return the child to his parent or Indian custodian unless returning the child to his parent or custodian would subject the child to a substantial and immediate danger or threat of such danger.

SECTION 1921. Higher State or Federal Standard Applicable to Protect Rights of Parent or Indian Custodian of Indian Child

In any case where State or Federal law applicable to a child custody proceeding under State or Federal law provides a higher standard of protection to the rights of the parent or Indian custodian of an Indian Child than the rights provided under this subchapter, the State or Federal court shall apply the State or Federal standard.

SECTION 1922. Emergency Removal or Placement of Child; Termination; Appropriate Action

Nothing in this subchapter shall be construed to prevent the emergency removal of an Indian child who is a resident of or is domiciled on a reservation, but temporarily located off the reservation, from his parent or Indian custodian or the emergency placement of such child in a foster home or institution, under applicable State law, in order to prevent imminent physical damage or harm to the child. The State authority, official, or agency involved shall insure that the emergency removal or placement terminates immediately when such removal or placement is no longer necessary to prevent imminent physical damage or harm to the child and shall expeditiously initiate a child custody proceeding subject to the provisions of this subchapter, transfer the child to the jurisdiction of the appropriate Indian tribe, or restore the child to the parent or Indian custodian, as may be appropriate.

SECTION 1923. Effective Date

None of the provisions of this subchapter, except *sections 1911(a), 1918, and 1919* of this title, shall affect a proceeding under State law for foster care placement, termination of parental rights, preadoptive placement, or adoptive placement which was initiated or completed prior to one hundred and eighty days after November 8, 1978, but shall apply to any subsequent proceeding in the same matter or subsequent proceedings affecting the custody or placement of the same child.

SECTION 1951. Information Availability to & Disclosure by Secretary

- (a)** Copy of Final Decree or Order; Other Information; Anonymity Affidavit; Exemption From Freedom of Information Act. Any State court entering a final decree or order in any Indian child adoptive placement after November 8, 1978, shall provide the Secretary with a copy of such decree or order together with such other information as may be necessary to show—
- (1)** the name and tribal affiliation of the child;
 - (2)** the names and addresses of the biological parents;
 - (3)** the names and addresses of the adoptive parents; and
 - (4)** the identity of any agency having files or information relating to such adoptive placement.

Where the court records contain an affidavit of the biological parent or parents that their identity remain confidential, the court shall include such affidavit with the other information. The Secretary shall insure that the confidentiality of such information is maintained and such information shall not be subject to the Freedom of Information Act (5 U.S.C. 552), as amended.

- (b)** Disclosure of Information for Enrollment of Indian Child in Tribe or for Determination of Member Rights or Benefits; Certification of Entitlement to Enrollment. Upon the request of the adopted Indian child over the age of eighteen, the adoptive or foster parents of an Indian child, or an Indian tribe, the Secretary shall disclose such information as may be necessary for the enrollment of an Indian child in the tribe in which the child may be eligible for enrollment or for determining any rights or benefits associated with that membership. Where the documents relating to such child contain an affidavit from the biological parent or parents requesting anonymity, the Secretary shall certify to the Indian child's tribe, where the information warrants, that the child's parentage and other circumstances of birth entitle the child to enrollment under the criteria established by such tribe.

