

**Together We Can  
Mastering the Courtroom:  
Effective Testimony Techniques**

2024

Simulation Exercise  
for

**Continued Custody Hearing**

## CASE SCENARIO

Cast of Characters	
Anthony Michaels	Age 10
Ashley Michaels	Age 6
Aden Michaels	Age 11 months
Cynthia Michaels	Mother
Christopher Michaels	Father
Pauline Blue	Paternal Aunt
Officer Frank Williams	Responding Officer
Rena Jones	Agency Child Protective Services (CPS) Investigator
Stephanie Shaw	Agency foster care caseworker
Becky Ross	Agency caseworker assigned to supervise visits
Annie Santosky, LCSW	Family therapist

**\* Note:** For purposes of this training, we will use the term “State’s Attorney” for both the Bureau of General Counsel and Assistant District Attorney.

### Removal

On September 16, 2020, at approximately 1:47 am, while on patrol, Police Officer Frank Williams, Badge No. 2855, observed two children playing on the playground at 14<sup>th</sup> and Watson Street. There was no adult present with the children. The children were later identified as Anthony Michaels, age 10, and Ashley Michaels, age 6. The children told Officer Williams that they lived across the street from the playground, and he walked with them back to their house. When they arrived at 1533 Watson Street, the door was open. As Officer Williams entered the home, he could hear a baby crying. The only adult present was a woman who appeared to be in her 30s and unconscious. When Officer Williams was able to rouse the woman, she identified herself as Cynthia Michaels, but was not oriented to time or place. Ms. Michaels told Officer Williams that she did not have any children, became very upset with him, and started to curse at him. Officer Williams noted that her eyes were bloodshot, and she was unable to stay standing. Officer Williams determined that he needed to take Ms. Michaels to the hospital for an assessment. He called the Department of Children and Family Services (hereafter referred to as the “agency”) hotline to make a report so that they could come and get the children to safety.

When the agency Child Protective Services (CPS) Investigator Rena Jones arrived at the home, Officer Williams was in the room with Ms. Michaels, who was still having difficulty standing. His partner was sitting on the back stoop with Anthony, Ashley, and their younger sibling, 11-month-old Aden Michaels. When she entered the home, Ms. Jones saw many items thrown around, including several cans and bottles on the floor. A soiled mattress was in the middle of the living room floor near piles of clothes and some trash. Several opened prescription pill bottles were on a coffee table within reach of the children. She took pictures of the home.

All three children had dirty, uncombed hair and were wearing soiled clothing. Ashley smelled of urine, and Aden had an unchanged dirty diaper. Ms. Jones spoke with Anthony and Ashley separately. Anthony told her that sometimes he and Ashley walk to the park at night because it is “more fun” and that he did not check the time. He also told her that his mother “acts weird sometimes.” While Ms. Jones was speaking with Ashley, the only thing that Ashley kept telling her was that her mother is “nice.”

Ms. Jones attempted to speak with Ms. Michaels to get the name and information of a viable relative to use as a

possible placement resource. Ms. Michaels told her that she didn't have any relatives and that she didn't have any children. She denied knowing Anthony, Ashley, and Aden. Ms. Jones spoke with the children and explained to them that she was going to have to take them to another house while their mother went to the hospital. Anthony stated that he wanted to go with Aunt Paulie. When asked further about this aunt, Anthony told her that they used to spend nights at her house, but they don't anymore. But he did not know her address or telephone number. The children were placed in separate foster homes as there were no homes available that could accommodate all three children. Anthony and Ashley were inconsolable during removal. Both children were crying, kicking, and reaching for their mother.

During her investigation, Ms. Jones discovered that the Michaels family had previously been involved with the agency. On October 20, 2019, the agency received a hotline call from Lakeview Hospital when Aden tested positive for marijuana at birth. The hospital social worker reported a concern that Ms. Michaels was not bonding with the newborn and often relied on nursing staff to provide all his care. Ms. Michaels reported to the CPS Investigator that she had two other children, her husband was recently incarcerated, and she was feeling overwhelmed. Agency in-home services worker Diana Murray was assigned to the family at that time. Ms. Murray told Ms. Jones that Cynthia Michaels has been on the waitlist for intensive outpatient services at Mercy Home Recovery Center (substance use services) for several months.

Upon further investigation it was determined that the father of all three children, Christopher Michaels, was incarcerated and had served ten months of a twelve-month sentence at a parish Correctional Facility after pleading guilty to possession with intent to distribute a controlled substance.

Later that day, Ms. Jones notified the State that the Michaels children had been taken into protective custody. The State filed an Affidavit in Support of Instant Order soon thereafter and requested an Instant Order for Removal.

The Continued Custody Hearing was held on September 17, 2020. Ms. Michaels had been discharged from the hospital and was present for the hearing. At discharge, Ms. Michaels was referred for substance use treatment and a mental health evaluation. During her hospitalization, Ms. Michaels reported a history of depression and heroin use in her late teens and early twenties. She denied recent use of any substances other than marijuana; however, she tested positive for opioids upon her admission on September 16. The court made an Indian Child Welfare Act (ICWA) inquiry and Ms. Michaels stated that the children were not Indian children. The CPS Investigator testified, and the court found reasonable grounds to believe the children are in need of care per Article 606(A)(2) and (3) and that continued provisional custody is necessary for the children's safety and protection. The court placed the children in provisional agency custody pending adjudication.

The foster mother took Anthony and Ashley for their initial health screening, and they were found to have a severe case of lice. Ashley told her that her head had been itching forever. The children were prescribed medication and she used it to treat their scalps. Aden's foster mother took him for his initial health screening, and he was found to be underweight with a severe diaper rash that appeared to have been present for a while. When he came to her home, she was not given any medication to treat his diaper rash.

Stephanie Shaw was assigned as the agency foster care caseworker for the Michaels case. Ms. Shaw met with Mr. Michaels at the jail within a week of removal. During their meeting, he provided contact information for his sister, Pauline Blue, and said that he wanted all three children placed in her home. He stated that he could not care for the kids until he "figures his stuff out" but would support them in any way he could.

Ms. Shaw contacted Ms. Blue shortly after her meeting with the dad and confirmed that she wanted all three children in her home. She stated that the children used to spend every weekend with her until about two months

prior to their removal from their mother. She explained that Ms. Michaels started refusing to let her see or talk to the children. She thought that perhaps Ms. Michaels and her brother were once again fighting, and that Ms. Michaels was taking her anger with Mr. Michaels out on her. Ms. Blue found out that the children were removed when her brother called her. Ms. Blue explained that Mr. Michaels is her older brother and they have always had a close relationship. Ms. Shaw explained to her that the agency would have to perform a home study and child welfare and background check prior to being able to recommend placement in Ms. Blue's home, and that Ms. Blue would have to pursue certification. Ms. Blue reiterated that she wanted all three children placed in her home so they could be together with family. She assured Ms. Shaw that she loved the children and would do whatever she could to support them and make sure they were safe until their parents could get them back. Ms. Shaw inspected Ms. Blue's home, found it adequate, and Ms. Blue passed the child welfare and background checks. Ms. Shaw planned to recommend placement with Ms. Blue as soon as possible.

When Ms. Michaels learned that the agency was exploring placement of the children with Ms. Blue, she told Ms. Shaw that she did not want her children placed with Ms. Blue because she had been trying "to take her kids" for years and she didn't trust her. She also stated that Ms. Blue drinks often, works long hours, and has spanked Ashley before.

## CONTINUED CUSTODY HEARING

### Direct and Cross Examination of DCFS Investigator Rena Jones

Agency Child Protective Services (CPS) Investigator, Rena Jones, responded to a call from Police Officer Williams regarding the Michaels children. Based on the mother's need for hospitalization and the unavailability of another responsible adult, the children were removed and placed in separate foster care homes overnight. The agency has determined that continued removal from the home is necessary.

**State's attorney conducts direct examination:** As the State's attorney, conduct a direct examination of the CPS Investigator to show the need for a continued custody order. Ask questions so that the investigator can testify to the appropriateness of the removal and that it is not safe to have the children return home right now. Enter the photographs taken by the CPS investigator into evidence and ask her to circle the open pill bottle and broken glass in the photographs. Demonstrate that reasonable efforts were not made due to emergent circumstances.

**Mother's attorney conducts cross examination:** Decide whether to object to the admission of the photographs. As the mother's attorney, conduct a cross examination of the CPS investigator. You should attempt to elicit testimony that continued custody is not necessary as no imminent risk exists today. You should also attempt to elicit testimony that reasonable efforts were necessary and were not provided.

**Children's attorney conducts cross examination:** Decide what position you should take in this hearing – supporting removal, reunification or other possible outcomes (i.e. return home with court ordered safety plan or custody to a relative). As the children's attorney remember that you must represent their expressed interests if they are old enough and capable of expressing those, otherwise you must represent their best interests. You should attempt to elicit testimony that supports your position.

#### For this exercise, review:

- Case scenario - Background/Removal
- CINC Affidavit in Support of Instant Order
- Instant Order for Removal
- Photographs
- Continued Custody Hearing Worksheet

#### Attorney Role Tips:

- **For direct:**
  - Meet with your witnesses in advance and let them know what to expect during their testimony to prove the need for continued removal.
  - When preparing your witness, discuss the theory of your case regarding reasonable efforts to prevent removal.
  - Use your witness to highlight safety concerns shown in photographs.
- **For cross:**
  - Be sure to ask questions about appropriate services for the parents and children. Were there services the agency could have provided that could have allowed the children to remain safely in the home.
  - In addition to your questions regarding the incident leading up to removal, please include questions on the present care of the children – where are they, visitation, medical needs, possible placements, present caseworker.

STATE OF LOUISIANA

DOCKET NUMBER: J20-1026-01;02;03

IN THE INTEREST OF

SECTION: 5

Anthony Michaels DOB: \_\_\_\_\_

JUVENILE COURT

Ashley Michaels DOB: \_\_\_\_\_

PARISH OF ABC

Aden Michaels DOB: \_\_\_\_\_

**AFFIDAVIT IN SUPPORT OF INSTANTER ORDER FOR REMOVAL AND PROVISIONAL CUSTODY TO THE DEPARTMENT OF CHILDREN AND FAMILY SERVICES\***

**BEFORE ME**, the undersigned authority, personally came and appeared, Rena Jones, who being duly sworn, did depose and state:

**I.**

That affiant is an employee of the Department of Children and Family Services in the Parish of ABC, State of Louisiana;

**II.**

That affiant's responsibilities include investigating reports of possible child abuse and/or neglect and/or of supervising families;

That on the 16th day of September, 2020, a report of alleged neglect and inadequate supervision was received by said office concerning the following child(ren):

**Anthony Michaels** Date of Birth: 06 / 10 /2010

Race: C Gender: M;

**Ashley Michaels** Date of Birth: 02/ 01 /2014

Race: C Gender: F;

**Aden Michaels** Date of Birth: 10 / 20 /2019

Race: C Gender: M;

**III.**

That **Cynthia Michaels** is a parent of said child(ren), whose date of birth is March 3, 1990, and current address, email address, and telephone number are 1533 Watson Street, cynthiam@abc.com, 000-000-0000;

That **Christopher Michaels** is a parent of said child(ren), whose date of birth is June 2, 1985, and current address, email address, and telephone number are Parish Jail, cm@abc.com, 000-000-0000;

#### IV.

That, as a result of that report, affiant conducted an initial investigation and is continuing in that investigation;

#### V.

That during the course of said investigation, affiant has acquired personal knowledge of the following facts: Officer Williams reported that on a late-night patrol, he found Anthony Michaels, age 10, and Ashley Michaels, age 6, playing on the playground at 14th and Watson Streets. It was approximately 1:45 a.m. and the children were without supervision. Officer Williams reported that the children told him they lived across the street at 1533 Watson St. The officer walked the children back to the home and observed the door ajar. A baby could be heard crying loudly upon entry and the home was in a deplorable condition. One adult was present, a woman who appeared to be in her 30s, but appeared to be unconscious. Officer Williams was able to rouse the woman, later identified as Cynthia Michaels, but she was not oriented to time or place. Ms. Michaels stated that she had no children and began to express severe agitation with the officer and used profanity. She had bloodshot eyes and had difficulty standing. Officer Williams stated that he was taking the mother to the hospital for an assessment.

I arrived at the scene as Officer Williams was placing restraints on Ms. Michaels, who was having difficulty standing. His partner was sitting on the back stoop with Anthony, Ashley, and their younger sibling, 11-month-old Aden Michaels. Upon entry into the home, I observed numerous belongings strewn about, including several cans and bottles on the floor. A soiled mattress was in the middle of the living room floor near piles of clothes and some trash. Several opened prescription pill bottles could be found on a coffee table within reach of the children.

Upon inspection, all three children were malodorous and filthy with dirty, uncombed hair and soiled clothing. Ashley smelled of urine, and Aden had an unchanged dirty diaper. I interviewed each of the older children separately. Anthony reported that sometimes he and his sister go to the park at night because it is "more fun" and that he did not know what time it was. He stated that his mother "acts weird sometimes."

Mr. Michaels is serving a twelve-month sentence at the parish jail after pleading guilty to possession with intent to distribute a controlled substance. He has served ten months of that sentence.

#### VI.

That there is good cause to believe that a safety plan, without removal, cannot control for the identified threat(s) of danger to the child(ren), who are vulnerable to the threat(s) and that said child(ren) cannot adequately be protected due to the following diminished parent/caretaker protective capacities, if known, and threats of danger that the child is vulnerable to: Threats of danger include parents who are unavailable to parent the children, opened prescription pill bottles within reach of the children, and Ms. Michaels' mental state. Diminished parent protective capacities include Mr. and Ms. Michaels are unable and/or unwilling to meet the children's basic needs, and child safety is of serious concern. There is a history of drug affected newborn for the youngest child. Child vulnerability is as follows: Aden is only 11 months old and cannot care for himself. Ashley is also a young child; she is 6 years old.

For the reasons stated above, the affiant believes that the continuation of the child(ren) in the home of

the parents/caretakers is contrary to their health, safety, and welfare and that it is in the best interests of the child(ren) to be placed in the temporary custody of the State of Louisiana through the Department of Children and Family Services.

## VII.

*(Please check the applicable boxes)*

The following preventative services and/or court interventions (Temporary Restraining Order, Protective Order, Instant Safety Plan Order, etc.) have been offered to prevent the necessity of removal of said child(ren) to no avail: On October 20, 2019, DCFS received a hotline call from Lakeview Hospital when Aden tested positive for marijuana at birth. Family services worker Diana Murray was assigned to the family at that time. Ms. Murray made a referral for Ms. Michaels for substance use treatment, resulting in placement on the waitlist for intensive outpatient services at Mercy Home Recovery Center.

Art. 626(C): The court may deem the department to have made reasonable efforts to prevent or eliminate the need for removal if the department's first contact with the family occurred during an emergency which precluded those efforts. The facts alleged above indicate that there is a substantial, immediate danger to the child(ren) herein which precludes the provision of preventative services or court interventions as an alternative to removal of said child(ren). Specifically, the Department's contact with the family was during an emergency, and preventative services would not have eliminated the need for removal pursuant to Ch. C. art. 626(C) due to: Ms. Michaels' hospitalization and her inability to identify relatives for placement and Mr. Michaels' incarceration.

## VIII.

The family provided the following information about relatives and/or fictive kin who are available for placement of the child(ren): An aunt was mentioned by one of the children but no last name or contact information was provided;

The family provided the following information regarding interpretation, translation, and/or language assistance needs and/or accommodation needs for physical, mental and/or other conditions: None known at this time;

## IX.

That there is good cause to believe that the child(ren) should be removed pending the completion of this investigation or filing of reports to the District Attorney's Office, and the resolution of this case, and that an Instant Order should be issued herein granting provisional custody of said child(ren) to the **STATE OF LOUISIANA** through the **DEPARTMENT OF CHILDREN AND FAMILY SERVICES**.



X.

That should an instanter order issue herein, the necessary steps will be taken to ensure the protection of the child(ren) in the least restrictive setting as soon as possible, to place the child(ren) together, if possible, to do so, and, if not, to afford reasonable contact and visitation with each other. THEREFORE, PURSUANT TO CH. C. ART. 619, IT IS REQUESTED THAT THE ABOVE-NAMED CHILD(REN) BE PLACED IN THE CUSTODY OF THE **STATE OF LOUISIANA** THROUGH THE **DEPARTMENT OF CHILDREN AND FAMILY SERVICES**.

Pursuant to Ch. C. art. 620, all information relayed and attested to herein, is the same information previously relayed orally to the Court if an Oral Instanter Order was requested.

Rena Jones

AFFIANT

\_\_\_\_\_

SWORN TO AND SUBSCRIBED BEFORE ME THIS 16th DAY OF September,  
2022, in the Parish of \_\_\_\_\_, Louisiana.

\_\_\_\_\_, NOTARY

\_\_\_\_\_  
(Bar Roll # or Notary Public #)  
My Commission expires August 15, 2032.

\* **Note:** This affidavit has not been updated to align with legislative changes after February of 2021.

STATE OF LOUISIANA

DOCKET NUMBER: J20-1026-01;02;03

IN THE INTEREST OF

SECTION: 5

Anthony Michaels DOB: 06/10/2010

JUVENILE COURT

Ashley Michaels DOB: 02/01/2014

PARISH OF ABC

Aden Michaels DOB: 10/19/2019

Filed: 09/16/2020

DEPUTY CLERK: \_\_\_\_\_

**INSTANTER ORDER FOR REMOVAL AND PROVISIONAL CUSTODY TO THE DEPARTMENT OF CHILDREN AND FAMILY SERVICES\***

**THE COURT**, considering the Affidavit attached hereto and executed by Rena Jones on the 16th day of September, 2022, and being of the opinion and confirming that at present or at the time of the issuance of the Oral Instanter Order, and continuing to be present for the following children, Anthony Michaels, Ashley Michaels, and Aden Michaels, and the following parents, Christopher Michaels and Cynthia Michaels.

**I. REASONABLE GROUNDS AND CONTRARY TO WELFARE FINDINGS**

**THE COURT FINDS** that there are: *(Please check the applicable box for each child)*

reasonable grounds to believe the children, Anthony Michaels, Ashley Michaels, and Aden Michaels, are in need of care in accordance with Article 606(A) (2) and (3) and emergency removal is necessary to secure the child(ren)'s protection and the continuation of the child(ren) in the home of their parents/caretakers would be contrary to their health, safety, and welfare and temporary removal of the child(ren) from their parents/caretakers is in their best interest.

not reasonable grounds to believe the child(ren), \_\_\_\_\_, is in need of care and/or emergency removal is not necessary to secure the child(ren)'s protection.

**II. REASONABLE EFFORTS FINDINGS**

**THE COURT FINDS** that the Department: *(Please check the applicable box for each child continuing custody outside home)*

made the following reasonable efforts with the child(ren)'s health and safety as the paramount concern to prevent or eliminate the need for removal of the child(ren) and to make it possible for the child(ren) to remain with the parents/caretakers, including the following preventative services (mental health/substance abuse,

parenting, etc.) and/or Court interventions (Temporary Restraining Order, Protective Order, Instant Safety Plan Order, etc.) have been offered to no avail: On October 20, 2019 DCFS received a hotline call from Lakeview Hospital when Aden tested positive for marijuana at birth. Family services worker Diana Murray was assigned to the family at that time. Ms. Murray made a referral for Ms. Michaels for substance use treatment, resulting in placement on the waitlist for intensive outpatient services at Mercy Home Recovery Center.

was not required to make reasonable efforts to prevent or eliminate the need for removal of the child(ren) and to make it possible for the child(ren) to return home based on exigent circumstances articulated by the Department that the child(ren) were in substantial, immediate danger and/or the particular circumstances of the case occurred during an emergency in which the child(ren) could not safely remain at home even with reasonable in-home services provided to the family: Ms. Michaels was hospitalized, and she did not identify a relative for placement and Mr. Michaels was incarcerated.

failed to make reasonable efforts to prevent or eliminate the need for removal of the child(ren), \_\_\_\_\_, from the home.

### III. RULINGS AND FINDINGS

Based upon the findings above:

**IT IS ORDERED BY THE COURT** that: *(Please check the applicable box for each child)*

children, Anthony Michaels, Ashley Michaels, and Aden Michaels, be hereby placed in the provisional custody of the **STATE OF LOUISIANA** through the **DEPARTMENT OF CHILDREN AND FAMILY SERVICES** pending the timely filing of a Child in Need of Care Petition and Adjudication, according to the priorities outlined in Article 622 and for the purposes of placement in the least restrictive and most appropriate setting, said child(ren) to be placed together, if possible, and, if not, to be afforded reasonable contact and visitation with each other.

child(ren), \_\_\_\_\_, not be removed from the parents/caretakers and that the request for an Instant Order of Provisional Custody is denied. The Court further orders (e.g., the case be dismissed, Protective Order be issued, etc.):

### IV. FURTHER ORDERS UPON GRANTING REMOVAL

**IT IS FURTHER ORDERED BY THE COURT** that the Oral Instant Order placing the children, Anthony Michaels, Ashley Michaels, and Aden Michaels, in custody, issued at 10 o'clock a.m., on the 16th day

of September, 2020, is hereby confirmed;

**IT IS FURTHER ORDERED BY THE COURT** that Child Advocacy Program, be and is hereby appointed to represent the children in these proceedings and that said program be given notice of appointment and served with a signed copy of the pleadings filed herein;

**IT IS FURTHER ORDERED BY THE COURT** that the District Public Defender Office shall provide representation for the parents at the Continued Custody Hearing, and such office shall be given notice of appointment and served with a signed copy of the pleadings filed herein pending further orders of this Court;

**IT IS FURTHER ORDERED**, pursuant to La. Ch. C. art. 424.1, that the local CASA program be appointed, subject to the assignment of a qualified CASA volunteer, to advocate for the best interest of the child(ren) in these proceedings and that the program be given notice of appointment and served with a copy of the pleadings filed herein;

**IT IS FURTHER ORDERED BY THE COURT** that the **DEPARTMENT OF CHILDREN AND FAMILY SERVICES** furnish a report of its investigation to the **OFFICE OF THE DISTRICT ATTORNEY** within fifteen (15) days of the date of the Continued Custody Hearing;

**IT IS FURTHER ORDERED** that if the Child in Need of Care Petition is not filed within 30 days of the Continued Custody Hearing, unless an extension is granted by the Court based upon a showing of good cause and notice to all parties, child(ren) be returned to their parent(s);

**IT IS FURTHER ORDERED BY THE COURT** that this matter be set for a Continued Custody Hearing at 1 o'clock p.m., on the 17th day of September, 2020, and that all parties of interest are hereby ordered to appear;

**IT IS FURTHER ORDERED BY THE COURT** pursuant to Ch. C. Art. 619(E) that the **DEPARTMENT OF CHILDREN AND FAMILY SERVICES** shall provide written notice to the parents/caretakers of the date, time, and location of the Continued Custody Hearing including the nature of the allegations; and, the Sheriff's Office or any peace officer is authorized to serve a summons upon parents/caretakers of the child(ren) to appear for the Continued Custody Hearing which, if so served, shall expressly notify the parents/caretakers that the Court may issue a binding order in their absence if they fail to appear; notice of the Continued Custody Hearing be made on CASA and the child and parent representation programs; and for any parent(s) incarcerated, arrange for the parent(s) to attend the hearing, either in person or remotely;

**IT IS FURTHER ORDERED BY THE COURT** pursuant to La. Ch. C. Art. 623 that the **DEPARTMENT OF CHILDREN AND FAMILY SERVICES** shall give notice to any foster parent, pre-adoptive parent, adoptive parent, and relative providing care for the child(ren) of the date, time, and location of the Continued Custody Hearing and that the recipient has the right to attend and be heard regarding the care and treatment of the child(ren);

THUS DONE AND SIGNED ON THIS 16th day of September, 2020, in Anytown, Louisiana.

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JUDGE

**DISTRIBUTION OF NOTICE**

**Please serve all parties and counsel of record as follows:**

**Parent:** Cynthia Michaels

**Parent's Attorney:**

**Parent:** Christopher Michaels

**Parent's Attorney:**

**Child(ren)'s Attorney:**

**Assistant District Attorney/Bureau of General Counsel:**

**Please send notice and copy of order as follows:**

**Department of Children and Family Services Staff/Representative:**

**CASA:**

**Other:** Role:

*\* **Note:** This order has not been updated to align with legislative changes after February of 2021.*

**Photographs  
Taken (9/16/20) by Rena Jones**



# CONTINUED CUSTODY HEARING PREPARATION WORKSHEET

**HEARING PURPOSE:** *After the Judge has issued an Instanter Order of Removal, a Continued Custody Hearing is held within 3 days to determine the need for continued custody. Hearsay is admissible at this hearing.*

## PRE-HEARING RESPONSIBILITIES:

**Absent/unknown parent(s):**

What diligent efforts have been made to identify and locate an unknown parent or to locate a parent whose whereabouts is unknown?

**Notice of hearing to caretaker(s):**

Did DCFS provide notice of the right to appear at the continued custody hearing to the parent(s) and to any foster parent/pre-adoptive parent/relative providing care? If not, what diligent efforts were made to locate and notify them?

**Indian Child Welfare Act:**

Any reason to know that the child is an Indian child?

**Identification/location of family connections:**

What efforts have been made to identify each parent, any suitable relative or other suitable individual willing and able to offer a stable and safe home for the child, all grandparents, all parents of a sibling where the parent has legal custody of the sibling, all adult relatives?

## APPLICABLE COURT DOCUMENTS:

**Affidavit in Support of Instanter Order:**

If oral, written Affidavit must be filed within 24 hours of Judge ordering removal. DCFS is to provide the Affidavit to the children's and parents' attorneys. Court may require the Affidavit be sent by email to the attorneys. Be prepared to explain to the Judge any information that is different from or in addition to the information provided orally or in the Affidavit.

## ISSUES:

**CINC Grounds:**

Describe conduct and/or conditions that support grounds for abuse, neglect, abandonment, and/or crime against child.

# CONTINUED CUSTODY HEARING PREPARATION WORKSHEET

## ISSUES:

### Reasonable Efforts:

Be prepared to describe the efforts that were made to prevent/eliminate the need for removal and after removal to make it possible for the child to safely return home or explain how the first contact with the family occurred during an emergency which precluded those efforts.

### ***What services and supports were provided to prevent/eliminate the need for removal? Address:***

- individualized needs of each child and the family
- imminence and potential severity of threat of danger
- strengths of each child and the family
- community of support available to the family

### ***Why additional efforts (like a safety plan) would not keep the child safe from identified threats of danger***

## EVALUATION OF CORE SAFETY PRINCIPLES (CWADM):

### **THREAT**

Caretaker's behavior or family situation indicates imminent serious harm to the child

### **CHILD VULNERABILITY**

The extent that a child can protect herself from identified threats

### **CARETAKER PROTECTIVE CAPACITIES**

Strengths in the way a caretaker thinks, feels and/or acts that prevents or control threats of danger and guides case planning activities

### Is it safe for the child to return home today? If yes explain:

- There are no threats of danger OR
- The child is not vulnerable to a threat of danger OR
- The caretaker(s) possess sufficient protective capacities to manage any threat of danger

### Why is it not safe for the child to return home today?

- The threat of danger continues to exist (describe in detail) AND
- The child is vulnerable to the threat of danger (explain why) AND
- Caretaker(s) do not possess sufficient protective capacities to manage the threat (explain why)

**If DCFS is asking for the child to remain in care, what specifically will make it safe for the child to return home and when?**



# CONTINUED CUSTODY HEARING PREPARATION WORKSHEET

## RECOMMENDATION:

### What is the DCFS recommendation to the Court for the Continued Custody Hearing?

- Recommending custody to the parent: If so, are you recommending a protective order or safety plan order? Why or why not?
- If **not** recommending parental custody, be prepared to explain why continuation in the home is contrary to the health/welfare/safety of the child(ren).  
**Safety considerations for each child:**
  - The threat of danger continues to exist (describe in detail) AND
  - The child is vulnerable to the threat of danger (explain why) AND
  - Caretaker(s) do not possess sufficient protective capacities to manage the threat (explain why)
- Recommending custody to a relative or other suitable individual: If so, describe safety plan needed. If not, be prepared to explain why custody to a relative is not in the child's best interest.
- Recommending custody to DCFS: Be prepared to explain why custody to parent(s) or other suitable relative/individual is not feasible.

## OTHER INFORMATION:

- Visitation/Family time
- Whether there are prior custody/visitation orders
- Children's current placements including whether siblings are placed together
- Other placement possibilities
- School
- Services
- DNA Testing

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**Carefully review the Affidavit in Support of an Instanter Order  
and Form 10 before the hearing!**

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