This workshop was held at the 2017 Equal Justice Conference in Pittsburgh, Pennsylvania

Title:
Court-led Access to Justice Initiatives for Vulnerable Populations

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This session will demonstrate how courts have taken leadership in creating initiatives promoting access to justice for vulnerable populations. The session will highlight the work of the Supreme Court of Pennsylvania’s Advisory Council on Elder Justice, and its multi-disciplinary partnerships with legal aid, law enforcement, legislators, private bar and advocates to increase access to justice for elders. It will also feature the NYC Housing Court Guardian Ad Litem (GAL) Program, a court-based program that provides judges with trained GALs for appointment when a mentally or physically impaired litigant is "incapable of prosecuting or defending his rights."
CATEGORIZED RECOMMENDATIONS OF THE ELDER LAW TASK FORCE

RECOMMENDATIONS TO THE SUPREME COURT OF PENNSYLVANIA

Recommendation 1: The Task Force recommends that an Office of Elder Justice in the Courts (“OEJC”) be established to assist the Supreme Court in implementing the recommendations in this Report, and that the Director of the OEJC, research, grant-writing, legal analysis, information technology and secretarial services be provided by AOPC staff. This Recommendation has been approved by the Supreme Court, and the OEJC will be established in January 2015. See Overarching Findings and Recommendations, §§I.C.1 and 2.

Recommendation 2: The Task Force recommends that an Advisory Council on Elder Justice in the Courts (“Advisory Council”) be established to serve as a liaison to the executive and legislative branches, and to communicate with the AOPC and the Supreme Court regarding the implementation of the Task Force’s recommendations and other matters involving elder justice. This Recommendation has been approved by the Supreme Court, and the Advisory Council will be formed in January 2015. See Overarching Findings and Recommendations, §§II.C.

Recommendation 3: The Task Force recommends that the AOPC Judicial Education Department and the OEJC develop training for judges and attorneys handling guardianship matters. See Guardians and Counsel Committee Report, §X.C.1.a.

Recommendation 4: The Task Force recommends that training for Judges and attorneys developed by the AOPC Judicial Education Department and the OEJC include information on ascertaining when a limited guardianship would be appropriate, and how to make a limited guardianship effective when it is appropriate. See Guardians and Counsel Committee Report, §X.C.1.i.

Recommendation 5: The Task Force recommends that the AOPC Judicial Education Department and the OEJC, in consultation with interdisciplinary groups or practicing professional and non-professional guardians, develop a guardianship bench book to assist judges. See Guardians and Counsel Committee Report, §X.C.1.j. See also Overarching Administrative Findings and Recommendations, §IV.C.
Recommendation 6: The Task Force recommends that the AOPC Judicial Education Department and the OEJC develop training for judges and financial institutions on the use of emergency guardianships. See Guardians and Counsel Committee Report, §X.C.1.k.

Recommendation 7: The Task Force recommends that a standardized deposition form be implemented to ensure consistent quality and quantity of pertinent information that should be considered by judges when determining capacity. See Guardianship Monitoring Committee Report, §I.C.1.

Recommendation 8: The Task Force recommends that, in cases where the qualified individual recommends a limited guardianship and the judge and counsel may need additional information to determine the areas a partially incapacitated person can handle without a guardian, a best practice be adopted for judges to request that a deposition take place by telephone, videoconference, or in-person to allow for follow-up questioning and cross examination. See Guardianship Monitoring Committee Report, §I.C.2.

Recommendation 9: The Task Force recommends that the AOPC Judicial Education Department train judges who hear guardianship cases on the components of the assessment process to determine capacity, and that the information from training materials be summarized into a bench card and provided to every Orphans’ Court Judge. See Guardianship Monitoring Committee Report, §I.C.3 and 4.

Recommendation 10: The Task Force recommends that judges be informed when the AIP was previously involved in a case under OAPSA, and that the guardianship petition be assigned to the same judge who heard the protective services case. See Guardianship Monitoring Committee Report, §II.C.1.

Recommendation 11: The Task Force recommends that the training requirement for judges on the assessment of capacity include recommended practices for determining if conflicts of interest are present or if there is evidence of elder abuse underlying the AIP’s weakened capacity. See Guardianship Monitoring Committee Report, §II.C.2.

Recommendation 12: The Task Force recommends that judges receive education on representative-payment and fiduciary programs such as those administered by SSA and the VA. See Guardianship Monitoring Committee Report, §II.C.2.

Recommendation 13: The Task Force recommends that judges determine if there is involvement from agents under a power of attorney, SSA representative payee, or VA fiduciary in order to uncover potential conflicts of interest. See Guardianship Monitoring Committee Report, §II.C.3.

Recommendation 14: The Task Force recommends that guardianship files be sealed to protect personal information included in the revised forms. Interested parties who are named in the case should have the ability to access the file by presenting a copy of the Certificate of Filing. In order to assist investigative agencies in their task of researching allegations of abuse, it is recommended that the proposed request form be used. See Guardianship Monitoring Committee Report, §III.C.5 and Appendix H thereto.

Recommendation 15: The Task Force recommends that guardians be provided with oral instructions and a packet of written instructions from the judge or administrative staff at the time of appointment. See Guardianship Monitoring Committee Report, §IV.C.2.

Recommendation 16: The Task Force recommends that if a guardian does not respond to the delinquency notice in Recommendation 64, it is a recommended best practice for the judge to conduct a review hearing with the guardian present. See Guardianship Monitoring Committee Report, §IV.C.4.

Recommendation 17: The Task Force recommends that Clerks of the Orphans’ Court or the court administration office be responsible for determining the reasons for failure to file required reports and addressing those reasons with appropriate instruction to the guardian. See Guardianship Monitoring Committee Report, §IV.C.5.
Recommendation 18: The Task Force recommends that judges hold periodic review hearings, either on a regular basis or at random, to monitor the status of the guardianship. See Guardianship Monitoring Committee Report, §IV.C.7.

Recommendation 19: The Task Force recommends that judicial staff or court administration staff be available to answer a guardian’s question(s) or assist a guardian with completing forms, and that resources for guardians be centrally located on a statewide website which includes training materials, forms, and instructions on completion of those forms. See Guardianship Monitoring Committee Report, §IV.C.8.

Recommendation 20: The Task Force recommends that counties adopt a volunteer monitoring program leveraging local/regional resources to assist the courts in their monitoring responsibilities, using The Orphans’ Court Guardian Program in Chester County and the Pro Bono Guardianship Monitoring Program in Dauphin County as models. See Guardianship Monitoring Committee Report, §IV.C.9.

Recommendation 21: The Task Force recommends that adequate funding be provided to support the Judges and Clerks of the Orphans’ Court in fulfilling their guardianship monitoring responsibilities. See Guardianship Monitoring Committee Report, §IV.C.10.

Recommendation 22: The Task Force recommends that courts, particularly those in counties with limited access to bonding sources, consider online bonding as an alternative, providing that the online bonding companies are on the list of approved sureties. See Guardians and Counsel Committee Report, §V.C.1.e.

Recommendation 23: The Task Force recommends that, to establish an accurate inventory of active guardianships, each county purge inactive guardianships from its case management system, and complete the Orphans’ Court e-form, noting the number of guardianship terminations which occurred during the purge. See Guardianship Monitoring Committee Report, §V.C.5 and Appendix K thereto.

Recommendation 24: The Task Force recommends that the AOPC’s judicial automation plan for an Orphans’ Court module include a monitoring tool capable of web-based applications, monitoring and auditing tools for court staff, financial accounting, automated reminders to both guardians and court staff, and interface with the Orphans’ Court Common Pleas Court Management System (“CPCMS”) application to provide guardianship monitoring data to court staff. See Guardianship Monitoring Committee Report, §V.C.6.

Recommendation 25: The Task Force recommends that adequate funding be provided to support the Clerks of the Orphans’ Court in their ability to implement a local case management system. See Guardianship Monitoring Committee Report, §V.C.9.

Recommendation 26: The Task Force recommends that the Bill of Rights of an Alleged Incapacitated Person be provided to the AIP, as well as to any family members or concerned parties, at the time he or she is served with the petition, and that the Bill of Rights of an Incapacitated Person be provided to the IP and interested family members or concerned parties, at the time the IP is adjudicated incapacitated. The guardian should receive copies of both the Bill of Rights of an Alleged Incapacitated Person and the Bill of Rights of an Incapacitated Person in the packet of instructions which the guardian receives upon appointment. It is also recommended that the OEJC create a separate document based on the specifics of the statute to be provided to guardians. See Guardianship Monitoring Committee Report, §VI.C.1.

Recommendation 27: The Task Force recommends that in order to provide the IP with access to justice, the court-appointed attorney be required to make contact with the IP on an annual basis to determine if a guardianship continues to be necessary and if the guardian is adequately performing his or her duties. See Guardianship Monitoring Committee Report, §VI.C.4.

Recommendation 28: The Task Force recommends that educational initiatives be undertaken to ensure judges are aware of 42 Pa.C.S. § 9728(e) and (f) to help ensure funds and assets are available
to satisfy anticipated restitution orders in appropriate cases. See Elder Abuse and Neglect Committee Report, §1.C.2.d.

**Recommendation 29:** The Task Force recommends that the Supreme Court consider authorizing a limited practice for pro bono service by retired and voluntarily inactive lawyers to work with elders. See Elder Abuse and Neglect Committee Report, §1.C.2.e.

**Recommendation 30:** The Task Force recommends that the Supreme Court consider providing continuing legal education ("CLE") credits to encourage active attorneys to provide pro bono services to elder Pennsylvanians. See Elder Abuse and Neglect Committee Report, §1.C.2.e.

**Recommendation 31:** The Task Force recommends that the AOPC Judicial Education Department, with the assistance of the OEJC, develop and distribute bench cards for judges on identifying and reporting elder abuse, provide information about the bench cards to judges at educational conferences, and make the information available on court websites. See Elder Abuse and Neglect Committee Report, §II.C.1.

**Recommendation 32:** The Task Force recommends that the AOPC Judicial Education Department, with the assistance of the OEJC, develop an Elder Abuse Bench Book and conduct educational sessions for the judiciary on its contents. See Elder Abuse and Neglect Committee Report, §II.C.2. See also Overarching Administrative Findings and Recommendations, §IV.C.

**Recommendation 33:** The Task Force recommends that the Supreme Court consider the creation of a Statewide Elder Justice Roundtable similar to the one created by Justice Max Baer and the Office of Children and Families in the Courts ("OCFC"), with administrative support provided through the OEJC. See Elder Abuse and Neglect Committee Report, §II.C.4.

**Recommendation 34:** The Task Force recommends that the Supreme Court suggest that a victim’s age be documented by police departments in all criminal complaints and that information be included in the CPCMS. See Elder Abuse and Neglect Committee Report, §III.C.1.

**Recommendation 35:** The Task Force recommends that the Supreme Court suggest that the plaintiff’s age in Protection from Abuse matters be documented and reported to the AOPC Research and Statistics Department. See Elder Abuse and Neglect Committee Report, §III.C.1.

**Recommendation 36:** The Task Force recommends that the Supreme Court consider if the Comment to Pa.R.Crim.P. 500 should be amended to help ensure the testimony of elder victims and witnesses in criminal cases can be preserved. It further recommends that educational efforts be undertaken to ensure judges and attorneys are aware of this Rule and its implications for cases involving elders. See Elder Abuse and Neglect Committee Report, §III.C.2.b.

**Recommendation 37:** The Task Force recommends that the Supreme Court consider authorizing a pilot “Elder Court.” See Elder Abuse and Neglect Committee Report, §III.C.4.b.

**Recommendation 38:** The Task Force recommends the implementation of a statewide Orphans’ Court case management system. In the interim, Clerks of the Orphans’ Court should make the necessary upgrades to their case management systems in order to comply with the Guardianship Monitoring Committee’s recommendations and as a precursor to migrating data into the statewide system. See Overarching Administrative Findings and Recommendations, §III.C.2.

**Recommendation 39:** The Task Force recommends that Orphans’ Courts and the AOPC collaborate and coordinate with federal agencies that administer representative-payment programs on the exchange and collection of data, training, and education on adult guardianships. See Overarching Administrative Findings and Recommendations, §VIII.C.

**Recommendation 40:** The Task Force recommends that, whenever possible, courts should favor the appointment of a family member as guardian of the person. Through amendment to the Orphans’ Court Procedural Rules, the definition of “family member” should be expanded so as not to be limited
to immediate family, but rather attempts to contact other relatives and friends should be encouraged. In addition, the Rules should be amended to encourage courts to look to the hierarchy in 20 Pa.C.S. § 5461(d)(1) for guidance. See Guardians and Counsel Committee Report, §I.C.1.a.i.

Recommendation 41: The Task Force recommends that, through amendment to the Orphans’ Court Procedural Rules, courts may favor the appointment of a family member to serve as a guardian of the estate when the estate of the incapacitated person consists of minimal assets or where the proposed guardian of the estate has the skills and experience necessary to manage the estate and is able to obtain a bond or provide other assurance of financial responsibility. See Guardians and Counsel Committee Report, §I.C.1.b.i.

Recommendation 42: The Task Force recommends that, through amendment to the Orphans’ Court Procedural Rules, a list of individuals and agencies qualified to act as guardian of the person or estate to serve if family and friends are not viable options be mandated. See Guardians and Counsel Committee Report, §§I.C.1.a.ii and I.C.1.b.ii.

Recommendation 43: The Task Force recommends that, through amendment to the Orphans’ Court Procedural Rules, training be mandated for all guardians. See Guardians and Counsel Committee Report, §II.C.1.c. This training should include, but not be limited to matters of liability and ethics. See Guardians and Counsel Committee Report, §III.C.1.a.

Recommendation 44: The Task Force recommends that, through amendment to the Orphans’ Court Procedural Rules, all individual guardians, family and professional, be required to undergo criminal background checks. See Guardians and Counsel Committee Report, §IV.C.1.a.

Recommendation 45: The Task Force recommends that the Orphans’ Court Procedural Rules be amended to require that in all guardianship matters where the court does not require a bond, the proposed guardian be required to submit a current credit report. This requirement should be ongoing and, after appointment, the guardian should be required to supply a current credit report each year together with the annual report. The guardian’s credit reports should be kept confidential and not be made publicly available. For good cause shown, the court may waive the requirement of a credit report. If the court waives the requirement of a credit report, however, it should still require an assurance of financial responsibility as recommended in Section V.C.1.d. See Guardians and Counsel Committee Report, §IV.C.1.b.

Recommendation 46: The Task Force recommends that the Orphans’ Court Procedural Rules be amended to require that in addition to not having any interest adverse to the AIP, the proposed guardian should have the willingness and ability to visit with the AIP on a regular basis and be available at all times to confer with the AIP’s physicians, nurses, and other care providers. If the proposed guardian is not a family member, he or she should have some education and/or experience in guardianship or in providing services to elders and/or the disabled. In lieu of adopting specific requirements concerning minimum education and/or experience for all guardians, the Task Force believes that the goal of assuring that qualified guardians are appointed would similarly be met by mandating that all guardians undergo training before assuming their duties. See Guardians and Counsel Committee Report, §IV.C.1.c.

Recommendation 47: The Task Force recommends that the Orphans’ Court Procedural Rules be amended to limit a potential guardian’s appointment to a guardianship of the person in appropriate circumstances to avoid potential intra-familial disagreements as well as any financial responsibility of a potential guardian. See Guardians and Counsel Committee Report, §VI.C.1.h.

Recommendation 48: The Task Force recommends that the Orphans’ Court Procedural Rules be amended to require that in all cases where the AIP does not have private counsel, counsel should be appointed. Private counsel for an AIP should be required to enter his or her appearance as soon as possible to allow the court to quickly identify when counsel needs to be appointed. Counsel fees should be paid by the AIP whenever possible and, if resources are insufficient, then by the Commonwealth, as under the existing approach. See Guardians and Counsel Committee Report, §VII.C.1.a b and c.
Recommendation 49: The Task Force recommends that Clerks of the Orphans’ Court have the capability to produce a standardized list of data items for each active guardianship (including Case Management and Caseload Reports). To ensure uniformity across all counties, this practice should be implemented through a statewide Orphans’ Court Procedural Rule. See Guardianship Monitoring Committee Report, §V.C.1, 2, 3, and 4 and Appendix J thereto.

Recommendation 50: The Task Force recommends that the Orphans’ Court Procedural Rules and/or Disciplinary Rules be amended to require attorneys serving as guardians to complete the same training and other requirements as professional guardians, unless the court specifically waives that obligation, and that CLE credit, including ethics credit, be made available to attorneys for this training. See Guardians and Counsel Committee Report, §VIII.C.1.b. and §X.C.1.h.

Recommendation 51: The Task Force recommends that the Orphans’ Court Procedural Rules and/or Disciplinary Rules be amended to require attorneys to clarify to the client, the court, and all other involved parties which role or roles counsel is assuming and to clarify those role(s) through a letter of engagement stating who is being represented and describing counsel’s role. It should also be required that these role(s) be restated to the court when entering an appearance with the court. See Guardians and Counsel Committee Report, §VIII.C.1.d.

Recommendation 52: The Task Force recommends that the Orphans’ Court Procedural Rules be amended to require that where the court appoints counsel to represent an AIP, the court indicate whether, except for pursuing rights of appeal, counsel for the AIP is discharged or is to continue representing the person now under guardianship in the event the petition is granted and a guardian is appointed. See Guardians and Counsel Committee Report, §VIII.C.1.e.

Recommendation 53: The Task Force recommends that, through amendment to the Orphans’ Court Procedural Rules, model language be developed pertaining to retention or discharge of counsel which can be inserted into a final decree of incapacity and appointment of a guardian. See Guardians and Counsel Committee Report, §VIII.C.1.f.

Recommendation 54: The Task Force recommends that, through amendment to the Orphans’ Court Procedural Rules, guardians and IPs have access to legal counsel for consultation following adjudication. See Guardians and Counsel Committee Report, §VIII.C.1.g.

Recommendation 55: The Task Force recommends that the Orphans’ Court Procedural Rules be amended to require that the assets of the IP be used for the purpose of maintaining the best possible quality of life for the IP. See Guardians and Counsel Committee Report, §IX.C.1.e.

Recommendation 56: The Task Force recommends that the Orphans’ Court Procedural Rules be amended to require that fee disputes be resolved in a timely, efficient manner. See Guardians and Counsel Committee Report, §IX.C.1.h.

Recommendation 57: The Task Force recommends that the Orphans’ Court Procedural Rules be amended to require that professional guardians, i.e., those guardians with more than two guardianships at the same time, should be certified by the professional guardian certification program referred to in §II.C.1.f. See Guardians and Counsel Committee Report, §X.C.1.b.

Recommendation 58: The Task Force recommends that guardians be required, through amendment to the Orphans’ Court Procedural Rules, to complete the inventory (as revised per Appendix C to the Guardianship Monitoring Committee Report) 90 days after appointment. See Guardianship Monitoring Committee Report, §III.C.1.

Recommendation 59: The Task Force recommends that guardians be required, through amendment to the Orphans’ Court Procedural Rules, to complete the Annual Report of the Person (as revised per Appendix F to the Guardianship Monitoring Committee Report, and/or Annual Report of the Estate as revised per Appendix E to the Guardianship Monitoring Committee Report) one year after appointment. See Guardianship Monitoring Committee Report, §III.C.2.
Recommendation 60: The Task Force recommends that guardians be required, through amendment to the Orphans’ Court Procedural Rules, to complete a Firearms Search (Appendix D to the Guardianship Monitoring Committee Report) within 90 days of appointment. See Guardianship Monitoring Committee Report, §III.C.3.

Recommendation 61: The Task Force recommends that guardians be required, through amendment to the Orphans’ Court Procedural Rules, to send a Certificate of Filing (Appendix G to the Guardianship Monitoring Committee Report), to the persons identified at the time of adjudication, within 10 days of filing each form with the Clerk of the Orphans’ Court. See Guardianship Monitoring Committee Report, §III.C.4.

Recommendation 62: The Task Force recommends that the imposition of filing fees for required annual reports by local court or administrative order should be prohibited through amendment to the Orphans’ Court Procedural Rules. See Guardianship Monitoring Committee Report, §IV.C.1.

Recommendation 63: The Task Force recommends that the Supreme Court, through amendment to the Orphans’ Court Procedural Rules, require that Clerks of the Orphans’ Court be responsible for docketing and monitoring guardians’ compliance with submitting the inventory and annual reports by the required due dates. See Guardianship Monitoring Committee Report, §IV.C.3.

Recommendation 64: The Task Force recommends that the Clerks of the Orphans’ Court, through amendment to the Orphans’ Court Procedural Rules, be responsible for providing delinquency notices to guardians when required reports become past due. See Guardianship Monitoring Committee Report, §IV.C.4.

Recommendation 65: The Task Force recommends that the judge or judge’s staff be required, through amendment to the Orphans’ Court Procedural Rules, to review the content of all inventories and annual reports received by the court to identify areas requiring further scrutiny, additional documentation, or a review hearing. See Guardianship Monitoring Committee Report, §IV.C.6.

RECOMMENDATIONS TO THE OFFICE OF ELDER JUSTICE IN THE COURTS AND TO THE ADVISORY COUNCIL ON ELDER JUSTICE IN THE COURTS

Recommendation 66: The Task Force recommends that the OEJC, in conjunction with the local GSA, if one exists, coordinate the creation of a list of individuals and agencies qualified to act as guardian of the person to be referred to when family and friends are not viable options to serve as guardian. See Guardians and Counsel Committee Report, §I.C.1.a.ii.

Recommendation 67: The Task Force recommends that the OEJC develop training for guardians, judges, court administrative staff, attorneys and others involved in guardianship matters. See Guardians and Counsel Committee Report, §II.C.1.c. and §X.C.1.a.

Recommendation 68: The Task Force recommends that the training developed by the OEJC for guardians be divided into pre-service training and some form of continuing education that would include training on the powers, duties and responsibilities of the guardian, including reporting requirements, ethics and liability. See Guardians and Counsel Committee Report, §X.C.1.c.

Recommendation 69: The Task Force recommends that the Supreme Court, through the OEJC, encourage local courts to develop interdisciplinary teams modeled after the existing Children’s Roundtable Initiative to advise and support guardians and the court. See Guardians and Counsel Committee Report, §II.C.1.d.

Recommendation 70: The Task Force recommends that the Supreme Court, through the OEJC, encourage the creation of local GSAs to be relied upon to take an active role in the implementation of education and training, and to support local guardianship improvement. See Guardians and Counsel Committee Report, §II.C.1.e. and §X.C.1.d.
Recommendation 71: The Task Force recommends that the Supreme Court, through the OEJC, develop a program for the certification of professional guardians. See Guardians and Counsel Committee Report, §II.C.1.f and §X.C.1.b.

Recommendation 72: The Task Force recommends that the Supreme Court, through the OEJC, develop a program for the mandatory education and training of individual guardians on matters of liability and ethics. See Guardians and Counsel Committee Report, §III.C.1.a.

Recommendation 73: The Task Force recommends that the Supreme Court, through the OEJC, develop a program for the mandatory education and training of individual guardians that will be required before assuming their duties. See Guardians and Counsel Committee Report, §IV.C.1.c.

Recommendation 74: The Task Force recommends that the Advisory Council and the OEJC study funding sources, such as the state lottery, to develop guardianship support services and provide small tax deductions to guardians for certain guardianship expenses to determine how best to implement them. See Guardians and Counsel Committee Report, §VI.C.1.a & c.

Recommendation 75: The Task Force recommends that the OEJC work with the SSA, VA, RRB and other federal representative-payment and fiduciary programs to develop a system for greater information sharing on adult guardianships. See Elder Abuse and Neglect Committee Report, §II.C.5.

Recommendation 76: The Task Force recommends that the OEJC equip and assist local agencies in developing methods to retain guardians, focusing on helping agencies handle more guardianships as an alternative to relying on ill-equipped family members, and encouraging and expanding the use of GSAs. See Guardians and Counsel Committee Report, §VI.C.1.d, e, and f.

Recommendation 77: The Task Force recommends that the OEJC develop free training for non-attorney guardians on filing required documents; put helpful “how to” videos online to answer questions and provide more detailed instructions for the completion of guardianship tasks such as filing reports and inventories; and encourage a dialog with federal agencies such as the SSA, VA, and RRB, which administer representative-payment and fiduciary programs to develop training for guardians who manage an IP’s benefits. See Guardians and Counsel Committee Report, §VI.C.1.g, i and j, and §X.C.1.e., f. and g.

Recommendation 78: The Task Force recommends that the Advisory Council and the OEJC study the Third National Guardianship Summit Recommendations for Action §§ 3.1-3.8, pertaining to fees, to determine to what extent these recommendations should be adopted in Pennsylvania. See Guardians and Counsel Committee Report, §IX.C.1.f.

Recommendation 79: The Task Force recommends that the Advisory Council and the OEJC explore the feasibility of asking the General Assembly to establish a fund to pay for guardianship services for those with limited available resources. See Guardians and Counsel Committee Report, §IX.C.1.g.

Recommendation 80: The Task Force recommends that the OEJC work with the SSA, VA, and the Department of Aging to establish a collaboration process among the agencies to establish a notification system to share information when it is found that a representative payee is abusing an incapacitated person. See Guardianship Monitoring Committee Report, §V.C.8.

Recommendation 81: The Task Force recommends that the Advisory Council and the OEJC study NGA Standards 12 and 17 to ascertain whether these standards can be adopted by court rule or if legislation is required. See Guardians and Counsel Committee Report, §II.C.1.a.

Recommendation 82: The Task Force recommends that the OEJC, in conjunction with the help of a working group composed of guardianship stakeholders, develop and offer a fee schedule as a model uniform court rule for compensation of guardians. See Guardians and Counsel Committee Report, §IX.C.1.a, b, c, and d.
Recommendation 83: The Task Force recommends that the OEJC provide training for judges and guardians on the recommended Bills of Rights provided in the Guardianship Monitoring Committee Report, §VI.C.1. See Guardianship Monitoring Committee Report, §VI.C.2.

Recommendation 84: The Task Force recommends that the OEJC develop a guide for guardians that includes information about the minimum standards of care for an incapacitated person, and the expectations for and responsibilities of the guardian, including requiring the guardian to maintain in-person contact with the IP at a minimum of once per quarter or more often as appropriate. See Guardianship Monitoring Committee Report, §VI.C.3.

Recommendation 85: The Task Force recommends that, in order to provide the IP with access to justice, the OEJC and Advisory Council research the impact of requiring the court-appointed attorney to make contact with the IP on an annual basis on the current funding stream. See Guardianship Monitoring Committee Report, §VI.C.4.

Recommendation 86: The Task Force recommends that the possibility of piloting a program similar to the Court Appointed Special Advocates (“CASA”) be researched by the OEJC and the Advisory Council to provide a volunteer advocate for the AIP throughout the guardianship process who could alert the court of any observed wrongdoing. See Guardianship Monitoring Committee Report, §VI.C.6.

Recommendation 87: The Task Force recommends that the Advisory Council examine how an effective complaint form and process, specific to guardianships, can be implemented among the appropriate stakeholders. See Guardianship Monitoring Committee Report, §VI.C.5.

Recommendation 88: The Task Force recommends that the Advisory Council study the feasibility and benefits of collaborating with and encouraging colleges, universities, and law schools to develop elder clinics and other programs to assist elder Pennsylvanians in accessing social services and, with appropriate supervision, drafting or reviewing simple documents, such as a power of attorney or living will. The development of such elder clinics could provide tremendous benefits to elder Pennsylvanians. See Elder Abuse and Neglect Committee Report, §III.C.4.c.

Recommendation 89: The Task Force recommends that the Advisory Council, with the assistance of the OEJC, study the advisability and feasibility of creating and supporting guardianship mediation programs in Pennsylvania. If the Advisory Council determines that such programs are advisable and feasible, it should also study the questions of program structure and implementation. See Overarching Administrative Findings and Recommendations, § V.C.

Recommendation 90: The Task Force recommends that the Advisory Council study the feasibility and implications of allocating a portion of filing fees in guardianship cases that involve significant assets to funding initiatives in this Report. See Overarching Administrative Findings and Recommendations, §IX.C.2.

Recommendation 91: The Task Force recommends that the Advisory Council consider, and, if appropriate, the Supreme Court adopt the ABA’s 29 recommended guidelines for state courts to increase access to justice for Pennsylvania elders. See Elder Abuse and Neglect Committee Report, §III.C.4.a.

RECOMMENDATIONS TO THE LEGISLATIVE BRANCH

Recommendation 92: The Task Force recommends that the proposed change to 20 Pa.C.S.A. § 5521(g) be removed from Senate Bill 117 of 2013, Pr. No. 73. See Guardians and Counsel Committee Report, §III.C.1.b.

Recommendation 93: The Task Force recommends that the General Assembly provide guidance as to what the courts should consider “cause shown” in proposed new 20 Pa.C.S. § 5515.3 in Senate Bill 117 of 2013, Pr. No. 73 and clarify whether determinations of “cause shown” would be appealable. See Guardians and Counsel Committee Report, §V.C.1.a.
Recommendation 94: The Task Force recommends that the General Assembly set a minimum total value for an estate before making a bond mandatory in every situation. See Guardians and Counsel Committee Report, §V.C.1.b.

Recommendation 95: The Task Force recommends that the General Assembly enact legislation allowing the acceptance of forms of financial security for guardians other than bonds. See Guardians and Counsel Committee Report, §V.C.1.d.

Recommendation 96: The Task Force recommends that the General Assembly establish a fund to pay for guardianship services for those with limited resources. See Guardians and Counsel Committee Report, §IX.C.1.g.

Recommendation 97: The Task Force recommends that adequate funding be provided to support the Clerks of the Orphans’ Court and Judges in their ability to fulfill their guardianship monitoring responsibilities. See Guardianship Monitoring Committee Report, §IV.C.10

Recommendation 98: The Task Force recommends that adequate funding be provided to support the Clerks of the Orphans’ Court in their ability to implement a local case management system. See Guardianship Monitoring Committee Report, §V.C.9.

Recommendation 99: The Task Force recommends that § 5515.1 of Senate Bill 117 of 2013, Pr. No. 73, addressing the grounds and procedures for removing and replacing guardians, be adopted into the Probate Code. See Guardianship Monitoring Committee Report, §VI.C.7.

Recommendation 100: The Task Force recommends that the General Assembly enact a statute consistent with § 116 of the Uniform Power of Attorney Act (Standing). See Elder Abuse and Neglect Committee Report, §I.C.1

Recommendation 101: The Task Force recommends enhanced mandatory minimum sentences, in addition to those listed in 42 Pa.C.S. § 9717, for the conviction of crimes against elders. See Elder Abuse and Neglect Committee Report, §III.C.2.a.

Recommendation 102: The Task Force recommends that the General Assembly consider enacting amendments to the existing Pennsylvania Slayer’s Statute, 20 Pa. C.S. §§ 8801-15, to include not only homicide, but also elder abuse, neglect and exploitation resulting in convictions of specified crimes. Such statutory expansion would be a progressive and significant step in addressing both prevention and remediation of serious elder abuse. See Elder Abuse and Neglect Committee Report, , §III.C.3.b.

Recommendation 103: The Task Force recommends that the General Assembly consider how to provide greater and more consistent funding and support of civil legal aid, including services specifically targeted to low-income Pennsylvania elders. See Elder Abuse and Neglect Committee Report, §III.C.4.d.

Recommendation 104: The Task Force recommends that the General Assembly enact a statute requiring financial institutions to be mandatory reporters of suspected financial abuse or exploitation of elders. See Elder Abuse and Neglect Committee Report, §I.C.2.a.i.

Recommendation 105: The Task Force recommends that the General Assembly statutorily require financial institutions to administer training programs to help identify, prevent, and report elder financial abuse. See Elder Abuse and Neglect Committee Report, §I.C.2.a.ii.

Recommendation 106: The Task Force recommends that the General Assembly statutorily authorize financial institutions to delay for five days suspicious financial transactions of elder customers. See Elder Abuse and Neglect Committee Report, §I.C.2.a.iii.

Recommendation 107: The Task Force recommends that the General Assembly increase funding to the Department of Aging to facilitate thorough investigations of alleged financial abuse. See Elder Abuse and Neglect Committee Report, §I.C.2.b.
Recommendation 108: The Task Force recommends that the General Assembly consider if all personal care homes, assisted living residences and home health care agencies should carry a minimum of liability insurance. See *Elder Abuse and Neglect Committee Report*, §I.C.2.f.

Recommendation 109: The Task Force recommends that the Legislature mandate the creation or continuation of Elder Abuse Task Forces in each county/judicial district to develop best practices, facilitate information sharing and enable and promote collaboration. See *Elder Abuse and Neglect Committee Report*, §II.C.3.

Recommendation 110: The Task Force recommends that the General Assembly create a civil private right of action for elder abuse or exploitation, such as the one recognized in House Bill 2057 of 2014, Pr. No. 3054. An award of attorneys’ fees or other sanctions may also be appropriate for the frivolous pursuit of causes of action alleging financial abuse or exploitation. See *Elder Abuse and Neglect Committee Report*, §III.C.3.a.


Recommendation 112: The Task Force recommends that the General Assembly – in the interest of all Pennsylvanians – provide an annual appropriation to the Supreme Court for the implementation and ongoing support of the initiatives in this Report and explore other available sources of funding, such as the state lottery. See *Overarching Administrative Findings and Recommendations*, §IX.C.1.

Recommendation 113: The Task Force recommends that decisions whether to require a bond when a guardian of the estate is appointed remain at the discretion of the court. See *Guardians and Counsel Committee Report*, §V.C.1.c.

RECOMMENDATIONS TO THE EXECUTIVE BRANCH

Recommendation 114: The Task Force recommends that, to the greatest extent possible, information on identifying elder abuse and neglect be disseminated to the public in public forums, through the distribution of literature, and online. Elder Abuse Task Forces should determine the most effective ways of relaying this information to their communities. See *Elder Abuse and Neglect Committee Report*, §II.C.6.

Recommendation 115: The Task Force recommends that the Pennsylvania Department of Aging determine if it should request copies of SARs from the Pennsylvania Attorney General’s Office. See *Elder Abuse and Neglect Committee Report*, §I.C.2.a.iv.

Recommendation 116: The Task Force recommends that the Department of Aging and financial institutions work together to determine the most effective and efficient way for AAAs to obtain financial records needed to conduct investigations of alleged financial abuse and exploitation. See *Elder Abuse and Neglect Committee Report*, §I.C.2.c.ii.

Recommendation 117: The Task Force recommends that the OAG and the PSP make financial investigators available to assist local prosecutors and AAAs when complex cases of elder financial abuse are alleged. See *Elder Abuse and Neglect Committee Report*, §I.C.2.c.i.

Recommendation 118: The Task Force recommends that DHS be encouraged to pay guardians who find alternatives to an IP’s placement in a nursing home where the total cost to DHS for community-based services is 50% or less of the cost of a nursing home placement. This may be accomplished by amending the home and community-based waiver to allow guardianship support to be billable as a waiver service, either as part of an existing service category or as a new waiver service category. Such services would be reimbursed based on the guardian’s direct time working with and on behalf of the IP. See *Overarching Administrative Findings and Recommendations*, §VII.C.

Recommendation 119: The Task Force recommends that DHS’ policy be changed to allow the Orphans’ Court to authorize payment of guardianship fees greater than $100 per month where the
court determines greater fees are necessary because of the amount of the guardian’s time required to monitor and advocate for the incapacitated nursing home resident’s needs. See Overarching Administrative Findings and Recommendations, §VI.C.

RECOMMENDATIONS TO THE FEDERAL GOVERNMENT


Recommendation 121: The Task Force recommends that the federal government act on proposed legislation that would fund a state GCIP program similar to the CIP. See Overarching Administrative Findings and Recommendations, §X.C.2.

RECOMMENDATIONS TO PROSECUTORS

Recommendation 122: The Task Force recommends that prosecutors utilize 42 Pa.C.S. § 9728(e) and (f) to the fullest extent to help ensure funds and assets are available to satisfy anticipated restitution orders in appropriate cases, and that educational initiatives be undertaken to ensure district attorneys and Common Pleas Judges are aware of this mechanism for freezing assets. See Elder Abuse and Neglect Committee Report, §I.C.2.d.

Recommendation 123: The Task Force recommends that educational efforts be undertaken to ensure prosecutors are aware of Pa.R.Crim.P. 500, and its implications for preserving testimony of elders in appropriate cases. See Elder Abuse and Neglect Committee Report, §§III.C.2.b

Recommendation 124: The Task Force recommends that district attorneys consider requiring municipal police departments to obtain their approval before filing criminal charges in certain cases involving victims over age 60. See Elder Abuse and Neglect Committee Report, §§III.C.2.c.

RECOMMENDATIONS TO VICTIM SERVICES PROVIDERS

Recommendation 125: The Task Force recommends that advocates, attorneys, law enforcement, and courts work collaboratively with the Office of Victim Services, Office of Victim Advocates and other victim service providers to continue to evaluate and improve services to elder crime victims. See Elder Abuse and Neglect Committee Report, §§III.C.2.d.

RECOMMENDATIONS TO BAR ASSOCIATIONS

Recommendation 126: The Task Force recommends that discussions among attorneys and judges to better define the roles of counsel in guardianship matters be encouraged, and involve the participation of the PBA and local bar associations. See Guardians and Counsel Committee Report, §§VIII.C.1.a.

Recommendation 127: The Task Force recommends that the PBA and local bar associations be involved in providing support, advice and ethical counsel for attorneys willing to assume any of the roles of counsel in a guardianship matter. See Guardians and Counsel Committee Report, §§VIII.C.1.c.

Recommendation 128: The Task Force recommends that, where appropriate, the PBA, the Pennsylvania Bar Institute, and local bar associations, working with the OEJC, develop training sessions as recommended in this Report. See Guardians and Counsel Committee Report, §§X.C.1.a and i.
RECOMMENDATIONS TO THE PUBLIC

Recommendation 129: The Task Force recommends that Pennsylvanians who believe an elder displays the warning signs of mistreatment should report such symptoms by calling either of the state’s two Elder Abuse Hotlines.

Statewide Elder Abuse Hotline: 1-800-490-8505
Office of Attorney General Elder Abuse Hotline: 1-866-623-2137

Abuse reports can be made on behalf of an older adult who lives in his or her home or in a care facility (e.g., nursing facility, personal care home, hospital, etc.). A caller may remain anonymous, and has legal protection from retaliation, discrimination, and civil or criminal prosecution. See Overarching Administrative Findings and Recommendations, §XI.C.1.

Recommendation 130: The Task Force recommends that everyone learn the signs that indicate elder abuse, and take steps to prevent it. See Overarching Administrative Findings and Recommendations, §XI.C.2.
It is said that societies are judged on how they help their most vulnerable.

In 2013, the Supreme Court of Pennsylvania formed the Elder Law Task Force, chaired by Madame Justice Debra Todd, to study the growing issues that impact the elder community, including guardianship, abuse and neglect, and access to justice. The mission of the task force has been to lay the foundation for substantive improvements in the way elderly citizens in Pennsylvania interact with the court system and to deliver a blueprint to address those challenges.

Elder abuse is estimated to affect about 5 million Americans each year. The direct medical costs associated with violent injuries to elders are estimated to add more than $5.3 billion to the nation’s annual health expenditure.

Research suggests that one out of every 10 people 60 and older who live at home suffers abuse, neglect or exploitation. Only one in 24 cases of elder abuse is reported to authorities. Abuse also occurs in institutional settings. In a 2000 study, 44 percent of nursing home residents report having been abused and 95 percent reported that they or another resident had been neglected.

Tragically, elder abuse is also deadly. According to a study published in the Journal of the American Medical Association, victims of abuse, neglect and financial exploitation have three times the risk of dying prematurely.

Contained in this report, prepared by 38 experts who comprised the task force, are recommended solutions to issues involving guardianship, elder abuse and neglect, and access to justice, including court rules, legislation, education and best practices. Next steps include review by the Supreme Court of recommendations related to the courts and referral to the General Assembly of those recommendations that require legislative consideration.

Pennsylvania currently ranks fourth in the nation in percentage of people 60 and older. As of the 2010 census, nearly 2.7 million Pennsylvanians – 21.4 percent of the state’s population – were over 60 and that number is projected to continue to increase to 3.3 million by 2020. With these statistics in mind, there can be little doubt that serious consideration of the report’s findings is timely.

Now is the time to put in place solutions, such as those contained in this report, which will allow older Pennsylvanians to age without worries that they will be abused or their money will be stolen.

On behalf of my fellow justices and the entire judiciary, I thank Justice Todd, Court Administrator of Pennsylvania Zygmont A. Pines, who served as the task force administrative chair, and the entire task force for their work.

Sincerely,

Ronald D. Castille

Chief Justice Ronald D. Castille
## Pennsylvania Elder Abuse and Neglect Bench Card

### Abuse, Exploitation, and/or Neglect Against Individuals Age 60 and Over

### What Is It?

**Most Frequently Reported Forms of Elder Abuse:**
- Self-Neglect
- Caregiver Neglect
- Financial Exploitation
- Emotional Abuse
- Physical Abuse
- Sexual Abuse

**Primary Risk Factors:**
- Any individual who is dependent on another individual for care and support
- A history of domestic violence in the home
- The older adult is isolated from family and/or friends, even if living with someone
- A possible abuser who has a mental illness or substance abuse problem

**Signs of Abuse:**
- Bruises or other injuries
- Poor hygiene
- An older adult who appears unusually withdrawn or evasive
- An appearance that an individual exerts excessive control over the actions or finances of an older adult

### Remediation & Case Management Tools:
- Issue a restraining or “no contact” order that is tailored to individual circumstances
- Schedule review hearings to ensure compliance with court orders, including treatment programs and restitution
- Ensure plea agreements meet the needs of older victims of abuse
- Encourage the use of victim/witness advocates throughout the judicial process
- Ensure the courtroom is accessible and accommodates physical and/or cognitive impairments
- Expedite cases in which elder abuse is an underlying factor, including avoiding unnecessary continuances or delays
- If possible, consolidate ancillary cases involving the same family or victim to create a consistent, efficient and therapeutic outcome
- Understand gradations in diminished capacity, and calendar cases to accommodate medical needs and fluctuations in capacity and alertness
- While preserving the defendant’s right of confrontation, consider procedures that assure the elder victim’s testimony is memorialized, such as videotaped examinations

### Resources:

Local Area Agency on Aging  
See reverse for county-specific telephone numbers

PA Department of Aging—Statewide Elder Abuse Hotline  
1-800-490-8505  
Connects callers to services 24/7  
Local resources available at www.aging.pa.gov
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<td>814-946-1235</td>
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<td>610-782-3034</td>
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<td>Mercer</td>
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<td>717-242-0315</td>
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<td>Carbon</td>
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<td>Warren/Forest</td>
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<td>Franklin</td>
<td>717-263-2153</td>
<td>Wayne</td>
<td>570-253-4262</td>
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<td>Huntingdon/Bedford/Fulton</td>
<td>814-623-8148</td>
<td>Westmoreland</td>
<td>724-830-4444</td>
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<td>Indiana</td>
<td>724-349-4500</td>
<td>York</td>
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The Economic Impact of Outcomes Obtained for Legal Aid Clients Benefits Everyone in Pennsylvania

In 2011\(^1\), $53.6 Million Invested in Pennsylvania’s Civil Legal Services Yielded $594 Million in Income and Savings for Residents and Communities and Supported 2,643 Jobs.

The total economic impact of civil legal assistance in 2011 to Pennsylvania’s low-income individuals and families was $594 million, representing a greater than *eleven-fold return* on the investment of $53.6 million from all funding sources.\(^2\)

**The Unmet Need for Legal Aid Costs the State Money**

Legal Aid lacks the funds to meet all the need. As a result, the state’s economy loses tens of millions each year because unrepresented Pennsylvanians are unable to assert their right to obtain federal benefits, such as federal disability and federal Medicaid payments. The state and local governments then must step into the breach, spending funds from Pennsylvania taxpayers to combat homelessness, domestic violence, and poverty, while forgoing the eleven-fold economic return on investment that legal aid funding provides.

**The 2011 Economic Impacts Include:**

- **$546 million in direct economic benefits for Pennsylvania’s local communities.**\(^3\)
  - Each federal dollar coming into Pennsylvania as the result of Legal Aid’s work circulates 1.86 times through local economies. The payoff is more sales for local businesses and more jobs for Pennsylvania workers. In 2011, the impacts were:
    - **$118 million** in Social Security benefits and Supplemental Security Income attained for low-income residents;
    - **$59 million** in the federal share of Medicaid benefits attained for low-income and disabled residents;
    - **$14 million** in federal grant funds received from the Legal Services Corporation; and
    - **$355 million** for communities via the economic multiplier effect (1.86 times $191 million in total federal funds above).
    - **2,643 jobs** for Pennsylvania workers, with every million dollars in federal funds brought in supporting 13.84 jobs.\(^4\)

- **$48 million in additional cost savings**\(^5\) for Pennsylvania taxpayers and communities.
  - These savings include:
    - **$25 million** in savings in emergency shelter costs. During 2011, a total of 1,715 low-income Pennsylvania families successfully avoided the need for emergency shelter thanks to assistance by Legal Aid advocates. Studies show an average cost savings of $14,794 per family. In the five-year period 2007-11, Legal Aid helped 7,534 families avoid the need for emergency shelter and saved $111 million in emergency shelter costs.
    - **$23 million** in savings in costs related to domestic abuse. Legal Aid advocates protected 6,658 Pennsylvania families from domestic violence during 2011. Studies indicate an average savings of $3,462 per family in the costs of medical care for injured victims, targeted education and counseling services for affected children, and law enforcement resources. In the five-year period 2007-11, Legal Aid protected 31,550 families and saved $109 million.

- **Additional Benefits (not quantified):**
  - **Savings** linked to crime prevention and reduction in law enforcement assistance.
  - **Savings** realized by keeping children in school whose attendance would otherwise have been interrupted by homelessness and/or domestic abuse.
  - **Revenue** for Pennsylvania hospitals and other health care providers from Medicaid reimbursements for services they would otherwise have to write off.
  - **Efficiencies** in Pennsylvania courts due to Legal Aid’s assistance to clients and self-represented litigants through materials and trainings on how to follow court procedures.
  - **Additional tax revenue** from jobs preserved in Pennsylvania as a result of Legal Aid employment cases.

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1. All years refer to fiscal years ending in the stated year.
2. A total of $53.6 million from “all funding sources” included $15.5 million in local efforts and direct IOLTA grants; $13.8 million in federal funds; $11 million in state Access to Justice Act (AJA) filing fee funds; $6.1 million in state block grants (Social Services and other), disability project funds, and special allocation funding; $3 million from the state general fund; $2.5 million from other sources; and $1.8 million from IOLTA.
3. Based on application of U.S. Department of Commerce “Regional Economic Input-Output Modeling System,” and on the assumption that clients immediately spend most of the benefits received. For further information, see this link > [http://www.bea.gov/regional/rims/](http://www.bea.gov/regional/rims/)
4. Ibid.
5. For more information on calculations, assumptions and data sources, visit [http://www.paiolta.org/Grants/Grants_ReportsINDEX.htm](http://www.paiolta.org/Grants/Grants_ReportsINDEX.htm)

April 11, 2012
APPENDIX: Computations for the Fact Sheet,
“The Economic Impact of Outcomes Obtained for Legal Aid Clients Benefits Everyone in Pennsylvania”
April 11, 2012

1. Headline: “In 2011, $53.6 Million Invested in Pennsylvania’s Civil Legal Services Yielded $594 Million in Income and Savings for Residents and Communities and Supported 2,643 Jobs.”

   • $53.6 million invested in Pennsylvania’s civil legal services. This is the total funding received by Pennsylvania legal aid providers during Fiscal Year 2011. This total was compiled by PA IOLTA, based on its records as the fiduciary for IOLTA and state Access to Justice Act (AJA) funds.

   • $594 million in income and savings. This is the sum of economic impacts attributable to Pennsylvania legal aid programs during FY 2011. The figure is comprised of two components:

     o $546 million in direct economic activity stimulated by federal benefits. ........................................... See “2” below.

     o $48 million in cost savings produced by prevention of domestic violence and homelessness by legal assistance ........................................... See “7” below.

   • 2,643 jobs for Pennsylvania workers, with every million dollars in federal funds brought in supporting 13.84 jobs ........................................... See “6” below.

2. $546 million in direct economic activity was stimulated by federal benefits achieved by Legal Aid.

   This figure is the sum of:

   • $118 million in Social Security and Supplemental Security Income benefits received by legal aid clients in FY 2011 ........................................... See “3” below.

   • $59 million in the federal share of Medicaid benefits attained for low-income and disabled clients in FY 2011 ........................................... See “4” below.

   • $14 million in federal grant funds received from the Legal Services Corporation in FY 2011 ........................................... See “5” below.

   • $355 million in “economic multiplier effect – the economic activity generated as a result of the federal benefits being immediately spent by legal aid clients and subsequently circulated through the local and state economies, creating 2,643 jobs for Pennsylvania workers ........ See “6” below.

Continued on next page...
3. **$118 million in Social Security and Supplemental Security Income benefits was received by legal aid clients in FY 2011.**

   **a. Overview of method used to derive this figure.** The $118-million figure was estimated using a financial model developed by *The Resource for Great Programs, Inc.* The model is based on a regression analysis of data from 15 general civil legal aid organizations in New York State and Virginia,¹ which collectively close more than 200,000 cases per year.²

   The multipliers derived from the NY-VA outcomes model and used as assumptions in our analysis consisted of the following:

1. In Pennsylvania, outcome reporting is not required by the principal state funders, or by LSC, the federal funder. Five Pennsylvania legal aid programs collect outcomes data voluntarily for their own internal purposes. Based on interviews with the directors of the five programs, we judged the sample of programs to be too small, and our knowledge about the reliability of the PA data too incomplete, for application in our analysis. Accordingly, we applied the model (see below for details) derived from the 15-program sample of New York and Virginia programs, where outcomes reporting has been in place on a mandatory basis for over a decade and a half.

   The Resource has maintained the reporting systems in the two states since assisting the state funders in design and implementation of their outcomes reporting systems in 1993 (NY) and 1997 (VA). Based on our experience with this data, we are confident that it provides a good measure of outcomes actually being achieved by legal aid programs in those states – and legal aid programs generally – for the following reasons.

   In these two states, the statewide legal aid funders require their grantees to maintain data collection systems and report aggregated statistics on outcomes received by clients for all cases completed each year, including dollar awards. The outcomes are recorded in the data collection system by the advocate at the time the case is completed. Because it is mandatory as a condition of funding, and because the program leaders at the local level find the outcomes data to be useful for their internal purposes, the consistency of reporting is high.

   The estimation model was derived by The Resource using a standard linear regression methodology that produces equations for estimating the average value of independent variables such as the total back awards achieved from legal representation in SSD/SSI “extended representation” cases closed by a legal aid program in a sampled year. Each program is treated as an observation. The number of SSD/SSI cases closed during the period is the independent variable; the total SSD/SSI back awards achieved for clients of the program is the dependent variable. The slope of the regression line is the average back award per extended representation case. This method is used to derive the average values of the multipliers listed above. In our most recent analysis using 2010 data, the R-squared parameter, a measure of the degree of correlation between the independent and dependent variables, ranged from 0.88 to 0.90. (A perfect correlation is 1.00).

   In applying this model, we applied the average figures based on the sample of cases in New York and Virginia as benchmarks for the outcomes of legal aid cases.

   Figures on the yearly output of SSD/SSI cases closed by extended representation were compiled from the statewide legal services database maintained by the Pennsylvania Legal Aid Network (PLAN). Each program reports quarterly to PLAN on all cases handled and completed during the quarter, including the numbers of cases attributed to each funding source.

2. This sample of programs and cases can be regarded as representative of “general” (but not specialized) civil legal aid practice in the “Lower 48” states.

   In other jurisdictions, such as Alaska or Hawaii, adjustments would be needed to account for circumstances that differ substantially from those of the sampling of programs from which the model was derived. For example, in Alaska or Hawaii, special factors would need to be taken into account such as the unique geographies, client demographics, legal case distributions, court and administrative agency rules and other factors that affect the outcomes achieved by legal aid organizations. For application to Pennsylvania, we assume that such adjustments are not necessary, inasmuch as the circumstances of legal aid practice and the costs of doing business are generally comparable to New York and Virginia from which the outcomes data used in our model were produced.
• An average of **92 percent** of all Social Security Disability (SSD) or Supplemental Security Income (SSI) cases closed by legal aid programs through “extended representation” are successful in achieving dollar benefits for their clients. (“Extended representation” cases consist of cases that are closed by the following “major reasons:” negotiated settlement, court decision or administrative agency decision.)

• The **average back award** achieved in successful SSD or SSI cases is **$10,008** per “extended representation” case. ³

• The **average monthly benefit** achieved in SSD or SSI cases is **$485 per month** per successful “extended representation” case.

In our analysis of the outcomes of Pennsylvania legal aid programs, we applied the above multipliers to the numbers of SSD/SSI extended representation cases completed in fiscal years 2003 through 2011 by Pennsylvania legal aid programs.

The computation had two components – the total of **SSD/SSI back awards** received by clients, and the cumulative total of **monthly SSD/SSI benefits** received by clients as a result of successful SSD/SSI cases completed by legal assistance during the period covered by this analysis.

**a. Total revenue from back awards.** In FY 2011, Pennsylvania legal aid programs closed 1,991 “extended representation” cases. Application of the “92 percent” success rate derived from the regression model (see above) produces the result that 1,838 of these 1,991 cases produced SSD/SSI dollar benefits for their clients. With each successful case producing an average $10,008 back award for its client (see above), the total received by clients in FY 2011 is $10,008 times 1,838, or **$18.4 million**.

**b. Total revenue from monthly benefit awards.** According to the Social Security Administration, the average duration of benefits from a SSD case is **9.7 years**, and the average for an SSI case is **10.5 years**.⁴ For our analysis, we used a conservative figure of nine years’ average duration for SSD or SSI cases. That assumption means that each of the successful SSD/SSI cases completed by legal aid programs since 2003 continued to produce monthly benefits in FY 2011.⁵

*Continued on next page...*

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³ All figures in the report were adjusted for inflation to reflect 2011 dollars.


⁵ For this analysis, we assumed that in its first year each cohort of cases produced, on average, six payments of $485 each, and in each subsequent year 12 payments at $485 each (in 2011 dollars). Thus, the successful cases completed in FY 2011 produced, on average, 6 payments; the remaining cohorts of cases, FY 2003 through FY 2010, produced 12 payments in FY 2011.
With this assumption, and applying the average benefit amount indicated by the regression model ($485 per month) to the number of extended SSD/SSI legal aid cases completed in each fiscal year from 2003 through 2011, the computations shown in Exhibit 1 below were made. Each column in the table indicates the total benefit payments received in FY 2011 one “cohort” of legal aid clients whose cases were completed in the indicated year. The “Total” column at right indicates that the sum of monthly benefits received by legal aid clients in FY 2011 was $99.6 million.

### Exhibit 1

**Computation of Total Federal Revenue in FY 2011 from SSD/SSI Monthly Benefits Received by Pennsylvania Legal Aid Clients**

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<tr>
<td>SSD and SSI Cases Closed in Year</td>
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<td>2,410</td>
<td>2,040</td>
<td>2,136</td>
<td>2,489</td>
<td>2,219</td>
<td>2,006</td>
<td>1,829</td>
<td>1,991</td>
</tr>
<tr>
<td>Success Rate (from Model)</td>
<td>92%</td>
<td>92%</td>
<td>92%</td>
<td>92%</td>
<td>92%</td>
<td>92%</td>
<td>92%</td>
<td>92%</td>
<td>92%</td>
</tr>
<tr>
<td>Successful SSD/SSI Cases</td>
<td>2,225</td>
<td>2,225</td>
<td>1,853</td>
<td>1,872</td>
<td>2,298</td>
<td>2,048</td>
<td>1,829</td>
<td>1,688</td>
<td>1,688</td>
</tr>
<tr>
<td>Average Monthly Benefit</td>
<td>$485</td>
<td>$485</td>
<td>$485</td>
<td>$485</td>
<td>$485</td>
<td>$485</td>
<td>$485</td>
<td>$485</td>
<td>$485</td>
</tr>
<tr>
<td>Assumed Duration of Benefits (Months)</td>
<td>12</td>
<td>12</td>
<td>12</td>
<td>12</td>
<td>12</td>
<td>12</td>
<td>12</td>
<td>12</td>
<td>6</td>
</tr>
<tr>
<td>Total Benefits</td>
<td>$12,949,500</td>
<td>$12,949,500</td>
<td>$10,959,060</td>
<td>$11,477,040</td>
<td>$13,374,560</td>
<td>$11,019,360</td>
<td>$10,778,640</td>
<td>$9,824,160</td>
<td>$5,348,580</td>
</tr>
</tbody>
</table>

### c. Total of back awards and cumulative monthly benefits

Adding the results of computations “a” and “b” above, we get $18.4 million plus $99.6 million, or **$118 million** (rounded to the nearest $1 million).

### 4. $59 million is the federal share of Medicaid benefits attained for low-income and disabled Pennsylvania residents.

Recipients of SSD and SSI are automatically eligible for Medicaid coverage. Accordingly, an important benefit produced by the success of Pennsylvania legal aid programs in SSD/SSI cases (see above) is health care for thousands of low-income families – and millions of dollars in federal revenue flowing into the state as a consequence of the Federal Medical Assistance Percentage (FMAP).

The key facts used in our analysis of the economic impacts of these Medicaid benefits were as follows:

- **Recipients of SSD and SSI are automatically eligible for Medicaid coverage.** Therefore, each SSD/SSI case that was successful in producing dollar benefits (as indicated in Exhibit 1), also produced Medicaid benefits.

- **The annual Medicaid reimbursement per enrollee is state specific and varies from year to year.** Statistics are compiled on a state-by-state basis by and available from, the Centers for Medicare & Medicaid Services (CMS). For Pennsylvania, these figures ranged between **$5,400** (in 2006) to **$6,900** (in 2005).^7

- The average “federal share” of Medicaid payments – the Federal Medical Assistance Percentage (FMAP) – for Pennsylvania from 2003 through 2011

---

^6 The figures in this table have been rounded for display.

^7 The figures we used in the analysis were obtained from the CMS.gov website. All figures were adjusted to constant 2011 dollars.
was 57.13 percent.\(^8\) Thus, each dollar in Medicaid reimbursements made on behalf of legal aid clients during that period represented a flow of 57 cents in federal revenue into the state.

Exhibit 2 below summarizes the computations used to estimate the total Medicaid benefits and the federal share. From Exhibit 1, the estimated number of successful cases that produced SSD/SSI eligibility – and thus Medicaid eligibility – is shown for each of the nine years from FY 2003 through FY 2011.\(^9\) The total federal share computed in this manner was $59 million (rounded to the nearest $1 million).

### Exhibit 2
**Computation of Federal Share of Medicaid Payments Received in FY 2011**\(^10\)

<table>
<thead>
<tr>
<th>Successful SSD/SSI Cases (See Exhibit 1) greater than 1000</th>
<th>2003</th>
<th>2004</th>
<th>2005</th>
<th>2006</th>
<th>2007</th>
<th>2008</th>
<th>2009</th>
<th>2010</th>
<th>2011</th>
<th>Total in FY 2011</th>
</tr>
</thead>
<tbody>
<tr>
<td>Average Annual Reimbursement (in thousands)</td>
<td>$6,714</td>
<td>$6,597</td>
<td>$6,808</td>
<td>$5,434</td>
<td>$6,119</td>
<td>$6,119</td>
<td>$6,119</td>
<td>$6,119</td>
<td>$6,355</td>
<td>$6,355</td>
</tr>
<tr>
<td>Total Revenue in Year (Cases x Benefit/Cases)</td>
<td>$14,029,750</td>
<td>$14,522,575</td>
<td>$13,966,338</td>
<td>$10,715,848</td>
<td>$13,817,874</td>
<td>$12,531,712</td>
<td>$11,373,132</td>
<td>$10,690,490</td>
<td>$5,821,885</td>
<td>$107,372,574</td>
</tr>
<tr>
<td>Federal Share in PA (%)</td>
<td>16.46%</td>
<td>17.60%</td>
<td>19.34%</td>
<td>19.60%</td>
<td>14.35%</td>
<td>14.60%</td>
<td>14.60%</td>
<td>14.60%</td>
<td>14.60%</td>
<td>15.64%</td>
</tr>
<tr>
<td>Total Federal Share</td>
<td>$8,384,500</td>
<td>$8,277,600</td>
<td>$6,981,100</td>
<td>$5,890,100</td>
<td>$7,515,500</td>
<td>$6,777,100</td>
<td>$6,206,600</td>
<td>$5,981,100</td>
<td>$3,226,300</td>
<td>$59,136,200</td>
</tr>
</tbody>
</table>

5. **$14 million in federal grant funds flowed into Pennsylvania legal aid programs from the Legal Services Corporation.**

The FY 2011 total funding received by the eight LSC-funded legal aid programs in Pennsylvania was $13.81 million. Rounded to the nearest $1 million, this amounted to **$14 million.**

6. **$355 million was produced for local communities through the “economic multiplier effect.”**

This figure was derived as follows:

- **$191 million** in direct federal revenue ($118 million in SSD/SSI payments, $59 million from the federal share of Medicaid payments, and $14 million in LSC funds) flowed into Pennsylvania as a result of the operations of legal aid programs in the state. (See above.)

- Each dollar circulates 1.86 times in the state and local economies before leaving the state. We applied the U.S. Department of Commerce Input-Output Model\(^11\) to compute the economic multiplier impact of the expenditures of the federal funds resulting from the

---

\(^8\) Source: Congressional Research Service, “Medicaid: The Federal Medical Assistance Percentage (FMAP), Table 3.1, page 14.

\(^9\) See Exhibit 1 and accompanying explanation for details about determination of the numbers of successful SSD/SSI cases produced by Legal Aid. We assume that the amount of federal Medicaid payments flowing into Pennsylvania each year per Medicaid-eligible legal aid client was equal to the average expenditure per Medicaid enrollee in the state for each year.

\(^10\) The figures in this table have been rounded for display.

operations of legal aid programs. This model indicates that $1.86 in economic activity is produced from each federal dollar spent within the state.

- $191 million times 1.86 equals **$355 million** in total economic activity.
- **The payoff is more sales for local businesses and 2,643 jobs for Pennsylvanian workers.** The U.S. Department of Commerce Input-Output Model indicates that 13.84 jobs are produced for each million federal dollars coming into low-income households in Pennsylvania. Multiplication of 13.84 by 191 (millions in federal revenue) produces the result that legal assistance supported 2,643 jobs for working Pennsylvanians in FY 2011.

7. **An additional $48 million in cost savings was achieved for Pennsylvania taxpayers and communities.**

This figure was comprised of two components, as follows.

- **$23 million** savings through prevention of domestic violence, protecting 6,658 families in FY 2011; and
- **$25 million** savings in emergency shelter costs through prevention of eviction and foreclosure for 1,715 low-income Pennsylvania families in FY 2011.

**a. Savings in costs related to domestic abuse: $23 million.** This figure was estimated as follows.

- Pennsylvania legal aid programs completed **10,073 Protection from Abuse (PFA) cases** in 2011.\(^2\)

- Based on outcomes data from the NY-VA regression model, **66.1 percent** of all PFA cases completed by legal aid programs are successful in enabling clients to avoid domestic violence.\(^3\) By multiplying 10,073 cases times 66.1 percent, we get the result that 6,658 clients and their families were protected from domestic violence.

- Based on available studies, a conservative estimate of the average savings from preventing one domestic assault per victim is $3,462.\(^4\)

- The total savings is: (6,658 cases) times $3,462 savings per client = **$23 million** (rounded to the nearest $1 million). See the “2011” column in Exhibit 1 on the next page for the details of this computation.

Continued on next page...

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\(^2\) Figures on the output of Protection from Abuse cases were compiled from the statewide legal services database maintained by the Pennsylvania Legal Aid Network (PLAN).

\(^3\) Please see Footnote 1 for details on the financial models used in this analysis.

\(^4\) Source: "Increasing Access to Restraining Orders for Low-Income Victims of Domestic Violence: A Cost-Benefit Analysis of the Proposed Domestic Abuse Grant Program," L. Elwart, et. al., (December 2006), page 13. This 2006 study indicated the cost due to each incident of domestic violence was $3,201. In 2011 dollars, this is equivalent to $3,462. This figure is very conservative because it only includes readily quantifiable costs such as medical care for injured victims, special education and counseling for affected children, police resources, and prison for perpetrators. It does not include costs that are equally real but more difficult to quantify, such as the value of time lost from school and work or the long-term costs of trauma on children and adults caused by exposure to domestic abuse.
• “In the five-year period 2007-11, Legal Aid protected 31,550 families and saved $109 million.” The same data sources and multipliers were applied as described above for each of the five years ending in 2011 then summed to derive the total. Exhibit 3 below shows the details of this computation.

**Exhibit 3**

*Five-Year Results of Legal Aid Domestic Violence Cases, FY 2007-2011*

<table>
<thead>
<tr>
<th>Results of Legal Aid Domestic Violence Cases, By Fiscal Year</th>
<th>Five-Year Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>Total PFA Cases</td>
<td>10,073</td>
</tr>
<tr>
<td>Percent of the above for which DV was avoided</td>
<td>66.1%</td>
</tr>
<tr>
<td>Cases for which families obtained protection from DV</td>
<td>6,858</td>
</tr>
<tr>
<td>Average cost to taxpayers per homeless family:*</td>
<td>$3,482</td>
</tr>
<tr>
<td>Estimated Cost Savings (in Millions):</td>
<td>$23.1</td>
</tr>
<tr>
<td>Average # People per Family Case who Escaped Domestic Violence</td>
<td>1.81</td>
</tr>
<tr>
<td>Estimated total # People who obtained protection from domestic violence</td>
<td>18,232</td>
</tr>
</tbody>
</table>

b. *Savings in emergency shelter cost: $25 million.* This figure was estimated as follows.

• Pennsylvania legal aid programs completed **22,174** “Housing” cases in FY 2011.\(^{15}\)

• Based on outcomes data from the NY-VA regression model, eviction is avoided or delayed or foreclosure is avoided, in **18.7 percent** of all legal aid Housing cases.\(^{16}\)

• Applying the “18.7 percent” benchmark to the 18,558 Housing cases, we estimate that **4,147** low-income households avoided eviction or foreclosure as a result of the legal assistance they received.

• A 2010 analysis in New York State indicates that **41 percent** of households that are removed from their homes through eviction or foreclosure ultimately require emergency shelter.\(^{17}\) (The other 59 percent are able to find shelter elsewhere – for example, by moving in with family or friends or into rental housing they are able to secure.)

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\(^{15}\) Figures on the output of Housing cases were compiled from the statewide legal services database maintained by the Pennsylvania Legal Aid Network (PLAN).

\(^{16}\) Please see Footnote 1 for details on the financial models used in this analysis.

\(^{17}\) Weighted average for New York State, derived in 2011 by *The Resource for Great Programs*, Inc. from data compiled for New York State by Geeta Singh, Ph.D., Cornerstone Research, summarized in PowerPoint presentation, “*Testimony at Chief Judge’s Hearing on Civil Legal Services*” (New York), September 26, 2011, Slide 7. *The Resource* collaborated with Dr. Singh in her research. She documented the percentages in each region of the state – for example, in New York City it was 43.4 percent; in suburban New York it averaged 13.6 percent; and in Upstate New York it averaged 32.1 percent. We applied the New York weighted average of 41 percent to Pennsylvania, on the premise that the costs of emergency shelter would be similar considering the proximity of these
• Applying the “41 percent” benchmark to the 3,470 avoided eviction or foreclosure cases, we estimate that 1,715 low-income households avoided the need for emergency shelter through legal assistance.

• Based again on the 2010 New York analysis, a conservative estimate of the average cost of emergency housing for a homeless family/household is $14,794.  

• The total savings is: (1,715 households avoided the need for emergency shelter) x ($14,794 savings per household) = $25 million (rounded to the nearest $1 million). See the “2011” column in Exhibit 4, below, for the details of this computation.

• “In the five-year period 2007-11, Legal Aid helped 7,534 families avoid homelessness and saved $111 million in emergency shelter costs.” The same data sources and multipliers were applied as described above for each of the five fiscal years ending in 2011 then summed to derive the five-year total. Exhibit 4 below shows the details of this computation.

### Exhibit 4

Five-Year Results of Legal Aid
Eviction Defense and Foreclosure Prevention Cases, FY 2007-2011

<table>
<thead>
<tr>
<th>Results of Legal Aid Housing Cases, By Fiscal Year</th>
<th>Five-Year Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>Total Number of Housing Cases</td>
<td>97,404</td>
</tr>
<tr>
<td>Assumption: Percentage of the above for which eviction or foreclosure was avoided</td>
<td>18.7%</td>
</tr>
<tr>
<td># Cases in which family avoided homelessness:</td>
<td>18.7%</td>
</tr>
<tr>
<td>Assumption: Percentage of the above for which emergency shelter would have been needed</td>
<td>41%</td>
</tr>
<tr>
<td># Cases in which family would have needed emergency shelter:</td>
<td>41%</td>
</tr>
<tr>
<td>Average cost of emergency shelter</td>
<td>$14,794</td>
</tr>
<tr>
<td>D. Estimated Cost Savings for ($Millions)*</td>
<td>$111.46</td>
</tr>
<tr>
<td>Average # People per Housing Case who Avoided Eviction, Obtained Additional Time or Avoided Foreclosure</td>
<td>2.67</td>
</tr>
<tr>
<td>Estimated total # People who avoided need for emergency shelter</td>
<td>20,135</td>
</tr>
</tbody>
</table>

---

18 We assumed the same weighted average cost for Pennsylvania as determined for New York State by Dr. Singh – see previous footnote. We believe this figure of $14,794 is conservative, reflecting the lower range of estimates derived around the U.S. For example, a 2012 Massachusetts analysis determined that 2,017 families in family shelters cost the state an average of $25,155 apiece and 812 families in hotels/motels cost an average of $10,480 apiece. See Massachusetts Legal Assistance Corporation, “Civil Legal Aid Yields Economic Benefits to Clients and to the Commonwealth,” January 2012, Footnote 31. Studies in other states have produced figures in a comparable range between $14,000 and $40,000 per family.
Greetings,

When Chief Justice Ronald D. Castille asked me to undertake the formation and leadership of the Pennsylvania Supreme Court’s Elder Law Task Force, I was both honored and challenged by the daunting responsibility this would entail. My first task was to assemble a “blue-ribbon” panel of experts in all areas of elder law to bring to the table the diverse and critical perspectives of myriad stakeholders in the aging network.

The thirty-six Task Force members who joined Court Administrator Zygmunt A. Pines and me on this journey are to be commended for their devotion, their time, and their energy. Each of them provided invaluable insight into the preparation of proposed approaches and solutions to the challenges faced by our Commonwealth in addressing the growing needs of our elderly population.

This Report came to fruition in large part due to the leadership of Court Administrator Pines and our Committee Chairs and Vice Chairs, Judge Joseph O’Keefe, Judge Penny Blackwell, Judge Paula Ott, Attorney Rise Newman, District Attorney Stephen Zappala, and Department of Aging Director Wilmarie Gonzalez, and due to the tireless efforts of our Task Force staff, especially Cherstin Hamel, AOPC Assistant Director of Judicial Programs, and Rhonda Campbell, my Chief Judicial Assistant. I am eternally grateful to Court Administrator Pines and the Task Force members, as well as our capable and dedicated staff, for their commitment to this important project.

Vice President Hubert H. Humphrey once said, “The moral test of a government is how it treats those who are at the dawn of life, the children; those who are in the twilight of life, the aged; and those who are in the shadow of life, the sick, the needy, and the handicapped.” With the release of this Report and Recommendations, the Elder Law Task Force has taken bold and significant steps toward enhancing the quality of life for our Commonwealth’s elder population, and I could not be more proud of the work which has been accomplished.

Sincerely,

Justice Debra Todd
WHITE PAPER:

Creating a Successful Court-Based Program to Safeguard Access to Justice for Mentally and Physically Impaired Litigants at Risk for Eviction

December 2016
WHITE PAPER:
Creating a Successful Court-Based Program to Safeguard Access to Justice for Mentally and Physically Impaired Litigants at Risk for Eviction

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Access to Justice Program
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Our Mission: To ensure access to justice in civil and criminal matters for New Yorkers of all incomes, backgrounds and special needs, by using every resource, including self-help services, pro bono programs, and technological tools, and by securing stable and adequate non-profit and government funding for civil and criminal legal services programs.
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Mary had always been a model tenant. Although she had been diagnosed as being bi-polar many years ago, she had been able to obtain psychiatric help, remain compliant with medications, and secure a reasonably priced apartment. Mary paid her rent on time every month and was able to live in her apartment independently and with dignity. One day, Mary lost her job and with it, her insurance coverage. Without insurance, Mary was unable to continue seeing her psychiatrist and re-fill her bi-polar medication prescriptions. Without medication, Mary eventually became manic and began to deteriorate. As a result, Mary found herself unable to manage her personal and financial affairs. It wasn’t long before Mary also found herself in Housing Court, facing the possibility of eviction due to non-payment of rent yet unable to do anything to advocate for herself or get back on her feet. Sadly, Mary’s story is typical of thousands of litigants facing eviction proceedings each year. Many litigants like Mary fall through the cracks and do not receive fair treatment in the courts; some end up living on the streets.

In New York City, the Housing Court Guardian Ad Litem Program provides landlord-tenant judges with a pool of trained advocates, known as Guardians Ad Litem (GALs), for judges to appoint from when a mentally or physically impaired litigant is “incapable of prosecuting or defending his rights.” GALs are appointed pursuant to New York State’s Civil Practice Law and Rules (CPLR) Article 12 to safeguard these litigants’ rights and advocate on their behalf to prevent eviction. As distinguished from an attorney, GALs have dual responsibility to the court and the litigant. On the litigant’s behalf, the GAL mobilizes necessary resources to address the root cause of the case and sees the case through resolution. The GAL also makes a recommendation to the court for settlement based on the facts and circumstances presented and what he or she perceives to be in the litigant’s best interest. In Mary’s case, the GAL was able to connect her with entitlements, including insurance, which then enabled Mary to resume taking her medication, stabilize, obtain a grant to cover arrears, and pay rent going forward.

The GAL Program has become a staple in the New York City Housing Parts, frequently and hereinafter referred to as Housing Court. On average, judges make over 1400 GAL appointments each year drawing from a pool of trained GALs who participate in the Program. Significantly, 91% of New York City Housing Court judges surveyed stated that without the housing GAL Program in place they believe that it would be "difficult" or "very difficult" to find GALs to accept cases (see a copy of the Housing Court Judge GAL survey and results annexed as Appendix “A”). Moreover, of the judges surveyed, 91% think more impaired litigants would be evicted without housing GALs (see Appendix “A”).

Mentally and physically impaired litigants are often unable to recognize or keep up with demands placed on them to successfully resolve their Housing Court cases. This is especially true in New York City landlord-tenant proceedings which are summary in nature and require quick action to prevent eviction. A litigant served with a nonpayment
Petition must file an Answer within five days and a litigant served with a holdover
Petition will have a court date between five and twelve days after receiving the Petition.
A disabled person who is unable to understand the significance of these legal papers
upon receipt may fail to answer or appear within the narrow time frame. Failure to
timely answer or appear would then result in a default monetary or possessory
judgment which in turn can lead to eviction.

If the impaired litigant does manage to timely respond to the Petition, there are
numerous other challenges. A physically impaired litigant may be unable to ambulate or
otherwise travel to the courthouse or to social service agencies. A mentally impaired
litigant may find it difficult to appear on time or meaningfully participate in the
negotiating process. He or she may have difficulty articulating the facts of his or her
case or presenting relevant evidence in an understandable comprehensive manner.
Stress experienced as a result of the pending eviction often exacerbates existing
medical and psychiatric conditions and may lead to further deterioration and inability to
engage in the problem-solving process. Disabled litigants may not recognize their
limitations or may perceive any limitations as irrelevant or stigmatizing and choose not
to inform the court. Instead, the impaired litigant may seek to get the process over with
and agree to a settlement peppered with unrealistic terms. In Housing Court, the
consequences of not understanding terms and implications of a court agreement and
rushing into settlement can lead to eviction.

The impact of an eviction cannot be overstated. People with mental and physical
impairments, including seniors, often live on fixed incomes in either specialized housing
or in an affordable apartment they have lived in for many years. In New York City,
options for alternative affordable housing are limited or unrealistic. In addition, many
landlords blacklist tenants who have prior judgments against them in Housing Court.
Therefore, eviction frequently results in the loss of a longstanding home, community,
friends, trusted doctors, support systems and a place that people can actually afford to
live. Even if the impaired litigant is able to eventually find housing, the experience of
being evicted is so traumatic that most find it difficult to adjust and start over unscathed.

Having a housing GAL Program in place can prevent the eviction of similarly situated
litigants. With this knowledge, this white paper asserts that it is a matter of judicial
fairness for the court to ensure that impaired litigants are not further disadvantaged,
rendered homeless, or ill-placed as a result of their disability. Judicial systems nation-
wide can take a lead in partnering with local adult protective services agencies,
governmental or community-based agencies, and/or bar associations to create their
own housing GAL Program to protect the rights of this vulnerable population.

This paper is divided into three parts. Part I explores different alternatives that some in
the judicial system have employed in their struggle to respond to the growing number of
impaired litigants at risk for eviction, both of which have proven to be inadequate. Part
II highlights a unique court-based program in New York City that provides Housing
Court judges with a list of trained GALs to advocate for impaired litigants at risk for
eviction. Finally, Part III of the paper provides concrete suggestions for how to replicate the New York City Housing Court GAL Program. The goal is to highlight the far-reaching impact of having a housing GAL Program in place and provide a roadmap for replicating the Program so that other courts nation-wide can develop a similar mechanism to protect mentally and physically impaired litigants from becoming needlessly homeless.

Part I. Protecting the Rights of Mentally and Physically Impaired Litigants: What Happens When There Is Not a Landlord-Tenant GAL Program in Place

Absent a landlord-tenant GAL Program judges are left looking for alternative solutions. In 2012, with the assistance of the Office of the Deputy Chief Administrative Judge for Courts outside of New York City, Michael Coccoma, the New York State Courts Access to Justice Program surveyed New York State judges outside New York City (see a copy of the Non-Surrogate Judges: Guardian Ad Litem Appointments survey and results annexed as Appendix “B”). The goal of this survey was to obtain information about judges’ experiences appointing GALs outside of New York City, where there is no separate and distinct housing GAL Program or funding source available to compensate GALs. The survey revealed that when faced with an impaired litigant, judges primarily choose from one of the following two courses of action: they either (A) utilize the available statute to appoint a GAL or (B) seek to link the litigant with an attorney who will represent the litigant for free. Both courses of action, by themselves, are problematic.

A. Pursue a Statutory Solution

The court may seek to appoint a fiduciary that could serve as an advocate for the impaired litigant and perform the duties needed to resolve the case in the litigant’s best interests. Unfortunately, many jurisdictions lack statutory authority to make such appointments. In New York State, the Unified Court's Guardian and Fiduciary Services Office oversees what is referred to as “the PART 36 list,” a list of fiduciaries approved and trained to serve the court in various capacities. One of the fiduciaries listed is a Guardian Ad Litem (GAL). When a judge wants to make a GAL appointment in any proceeding aside from New York City Housing Court, he or she must look to the PART 36 list for names of GALs. GALs appearing on the PART 36 list can be appointed pursuant to the Surrogate’s Court Procedure Act (SCPA) Article 4 or New York State’s Civil Practice Law and Rules (CPLR) Article 12. SCPA Article 4 GAL appointments are limited to Surrogate’s Court while CPLR Article 12 allows for the appointment of a GAL in non-Surrogate proceedings including Civil, Family, and Matrimonial matters. Since the focal point of this white paper is impaired litigants appearing in landlord-tenant matters, I will focus on CPLR Article 12 GAL appointments.
CPLR Article 12 permits judges in any “court in which an action is triable…”\(^1\) to appoint a GAL upon the court’s determination that a litigant is “incapable of adequately prosecuting or defending his rights.”\(^2\) It is not necessary that the impaired litigant agree with the appointment although the judge will consider his or her position when making a determination. The appointment can take place at any stage of the proceeding either *sua sponte* or upon the motion of “an infant party if he is more than fourteen years of age; or a relative, friend, a guardian or committee of the property or conservator; or any other party to the action...”\(^3\) A GAL appointment is, by definition, for the duration of the case and his or her powers are limited by law. GALs have a dual responsibility to the court and to the impaired litigant they are appointed to assist. Generally, a GAL’s function is to gather and report information about a case to the judge while also advocating for the best interest of the ward\(^4\) and securing services on his or her behalf, when needed, to successfully resolve the legal matter.

Significantly, exploring a GAL appointment pursuant to CPLR 12 is appropriate where a litigant is deemed impaired but not yet determined to be incapacitated. To this point, a GAL is distinguishable from an Article 81 Guardian. In New York, Article 81 of the Mental Hygiene Law (MHL) provides for the appointment of a Guardian following the determination of a Supreme Court judge (in New York City) or County Court judge (outside of New York City) that an “alleged incapacitated person” (AIP) is incapacitated or the AIP needs an Article 81 Guardian and consents to the appointment.\(^5\) A finding of incapacity must be based on clear and convincing evidence that “the person is unable to provide for personal needs and/or property management; and the person cannot adequately understand and appreciate the nature and consequences of such inability.”\(^6\) Appointments are narrowly tailored to the needs of the person determined to be incapacitated. Notwithstanding, an Article 81 Guardian has powers that exceed that of a GAL as they are appointed Guardian of the person, property or both for a duration specified by the court, not just for the duration of the legal case.

At first glance pursuing a statutory solution similar to that offered by CPLR Article 12 may appear to be an attractive solution for a judge seeking to safeguard the rights of

\(^1\) McKinney’s Consolidated Laws of NY, Book 7B, Civil Practice Law and Rules, Article 12, Rule 1202 (a).
\(^2\) McKinney’s Consolidated Laws of NY, Book 7B, Civil Practice Law and Rules, Article 12, Rule 1201.
\(^3\) McKinney’s Consolidated Laws of NY, Book 7B, Civil Practice Law and Rules, Article 12, Rule 1202 (a).
\(^4\) Following the appointment of a GAL, the impaired litigant is referred to as a ward.
\(^5\) McKinney’s Consolidated Laws of NY, Book 34A, Article 81, Mental Hygiene Law § 81.02 (a), § 81.04 (a).
\(^6\) McKinney’s Consolidated Laws of NY, Book 34A, Article 81, Mental Hygiene Law § 81.02 (b).
an impaired litigant. Yet, for the reasons provided below solely pursuing a statutory solution may be impractical or insufficient.

First, as previously mentioned, many jurisdictions lack statutory authority to make such appointments. Second, where statutory authority does exist, finding a means to compensate GALs for their work may be a problem. CPLR Article 12, Section 1204 states that a court may allow for GAL payment to come from another party to the proceeding or from a recovery received by the litigant appointed a GAL. However, in reality, most litigants facing a landlord-tenant proceeding do not have assets or an ability to pay from their own funds. There are also no settlement proceeds or damages to draw from. The court is unlikely to order the landlord to render compensation. As one New York State judge responding to the survey stated “[t]he ability to pay a GAL is always a concern… With little assets…[c]ontested matters can cause a problem” (see Appendix “B”).

Many GALs listed on the PART 36 list render *pro bono* services from time to time. Some even do more than anyone can reasonably expect. For this reason, judges responding to the New York State survey noted making an effort to remember the names of those who accept *pro bono* appointments, offering them future compensated cases as they arise. They did this as a way of providing GALs with an incentive to accept the appointment and rewarding them for their service to the court. Despite these efforts, finding a GAL to accept a case where payment will be lacking is a challenge. Another New York State judge surveyed shared “[t]he absence of compensation for many actions and proceedings renders the benefits and wisdom of the PART 36 illusory at best” (see Appendix “B”).

Third, GALs available for appointment pursuant to an existing statutory authority may lack specific training on the role of a GAL in landlord-tenant proceedings. For instance, in New York State, the GALs that appear on the PART 36 list are available to accept appointments in Surrogate and non-Surrogate Court alike. Yet, the GAL training provided by the Guardian and Fiduciary Services Office is mostly geared towards appointments in Surrogate Court. While this problem is not unsurmountable, it may place the Part 36 GAL appearing in landlord-tenant court at a disadvantage when trying to effectively advocate for an impaired litigant and negotiate an agreement in his or her best interest. Housing GAL cases are often complicated and require an enormous amount of time and advocacy. Consequently, finding a Part 36 GAL knowledgeable in landlord-tenant matters and willing to take a case for free is particularly difficult.

For the reasons set forth above, unless the identified problems are addressed pursuing a statutory solution in and of itself in not enough.
B. Find an Attorney

The court can also seek to link the litigant with legal representation. For example, New York State judges surveyed noted enlisting the help of the local bar, 18-b attorneys, locally known attorneys, and legal service providers to render pro bono work (see Appendix “B”). Yet, there are several reasons why this is an unsatisfactory option as well.

First, many pro-bono providers restrict services based on income and catchment area. As a result, impaired litigants living over the income limit or in rural areas are unable to avail themselves of legal representation they may otherwise qualify for. Second, some pro bono providers or attorneys may not have the social service knowledge or resources to comprehensively assist an impaired litigant with securing needed services. While an attorney can successfully settle a case, if he or she is not involved in the process of helping an impaired litigant secure needed services or entitlements the litigant may not be able to comply with the negotiated stipulation and will end up back in court again. Simply providing an impaired litigant with a referral for follow-up is therefore insufficient. Third, a pro bono provider may be unable to accept a case that is likely to go to trial. Forth, finding an attorney would not be a viable option in situations where it is clear that the litigant is unable to meaningfully retain the attorney.

Notably, there are also times when an impaired litigant may benefit from having both an attorney and a GAL. For example, when an impaired litigant is uncooperative or difficult and this behavior undermines the attorney’s ability to provide effective representation or when an impaired litigant is facing a complicated legal matter that is beyond the expertise of the GAL. In both these instances, an attorney can focus on providing legal representation while the GAL continues to fulfill his or her dual role to the ward and the court. This collaboration could work to serve the impaired litigant’s best interest.

In sum, simply pursuing an appropriate statutory authority or legal representation are imperfect remedies. Statutory authority provides the necessary foundation for the appointment of GALs to protect this population in ways that an attorney or pro bono provider may not be able to. However, standing alone without an available funding source for GAL compensation or specialized training for GALs specifically appearing in landlord-tenant matters, it is ineffective. Similarly, linking an impaired litigant with legal representation may not always be a viable or sufficient option. It follows that the absence of a dedicated housing GAL Program creates a gap in services for impaired litigants facing eviction. As a result, many courts are unable to meet their constitutional mandate to ensure equal justice for all.
Part II. New York City Civil Court, Housing Part, Guardian Ad Litem Program: A Model Court-Based Program

In New York City, all landlord-tenant proceedings are heard in the Civil Court, Housing Part. Housing Parts are divided into resolution and trial parts and are staffed by 50 Housing Court judges city-wide. When a Housing Court judge needs to appoint a GAL for an impaired litigant, he or she is able to turn to the GAL Program for names of people who have been specifically trained to serve as GALs in Housing Court. The GAL Program was established as a means of solidifying the court’s role in safeguarding the rights of impaired litigants at risk for eviction. Remarkably, the GAL Program began as an informal need-based initiative. Today, it serves as a model collaborative court-based program worthy of replication throughout the country.

A. History

As early as the 1980s, New York City Housing Court judges began to notice a growing segment of impaired litigants appearing in court who were unable to appreciate the seriousness of the proceeding or follow-through with the necessary steps to help themselves. Many of these litigants were at the mercy of a plethora of circumstances and people that could randomly influence their case one way or another. For example, on the one hand, you might find an impaired litigant who fortunately had an involved family member or kind neighbor to accompany her to court and affirm her deteriorating health to the judge, or an understanding landlord who preferred to work with a social service agency to obtain arrears rather than expect the forgetful and confused tenant to pursue a grant himself. On the other hand, you might find a shy, clinically depressed, and barely verbal litigant who agreed to an unfavorable stipulation, as his disability went unnoticed, or an unreliable transportation system that failed to pick up a disabled tenant on time causing him to default on his court date. The lack of a viable procedure to safeguard the rights of these impaired litigants as a whole, left too much to chance.

To respond to this obvious problem, New York City Housing Court judges proactively developed a grassroots referral system whereby volunteers were paired with impaired litigants and became their GAL via court appointment. The first GALs were either attorneys who happened to be present in court when the need arose or sympathetic volunteers from the legal service providers. Since Housing Court judges are not subject to the PART 36 Rules, they were able to follow this informal system for several years. Over time, the New York City Human Resources Administration (HRA) and the New York City Bar Association either volunteered their assistance or were solicited as informal helping agents. HRA, for example, maintained an unofficial list of volunteers willing to accept GAL appointments. At some point, it also began to compensate GALs who accepted appointments involving its clients. Yet, it did not train or oversee any of the volunteers on the list. Nevertheless, the court worked hand in hand with such volunteers to instinctively attempt to assist as many impaired litigants as possible.
Recognizing the court’s responsibility to this population, in 2000, Justice Fern A. Fisher, the then Administrative Judge of the City of New York and current Deputy Chief Administrative Judge for New York City Courts and Director of the NYS Courts Access to Justice Program, formally took over HRA’s list and established the New York City Housing Court GAL Program which is now administered under her leadership. The GAL Program is unique. Outside of New York City, a dedicated court-based program for the appointment of GALs exclusively for landlord-tenant matters does not exist.

B. How the Program Works

The GAL Program is staffed by a Special Counsel with a dual degree in law (JD) and social work (MSW) who coordinates the program city-wide and a special assistant who performs administrative functions that relate to the program. As the Coordinator, the GAL Program’s Special Counsel oversees the daily operations of the Program, and remains a resource to judges, GALs, and members of the public in need of guidance concerning GAL-related matters. The Special Counsel also plays an active role advocating for GALs, frequently acting as an intermediary in securing information for GALs and facilitating communication between GALs and outside organizations; a function that is often instrumental to the resolution of the impaired litigant’s Housing Court case.

The following provides a description of how the GAL Program operates:

i. Recruitment
The GAL Program maintains a pool of GALs for Housing Court judges to appoint on behalf of people with mental or physical impairments facing landlord-tenant proceedings. Notably, both attorneys and non-attorneys can serve as GALs in New York City Housing Court. Attorney GALs either have landlord-tenant or social advocacy experience while non-attorney GALs typically have a social work related background. Recruitment of new GALs takes place primarily via the Access to Justice Program’s website and other social media and internet sites aimed at attracting volunteers. Word of mouth also plays a significant role as judges, attorneys, and local organizations encourage people well-suited to become a GAL to apply. In its effort to expand the GAL pool, the Program has also partnered with New York City law firms Patterson & Belknap Webb & Tyler LLP and White & Case LLP to train their respective associates so that they can accept pro bono GAL appointments.

ii. Initial Training
Before a person can be part of the GAL Program, he or she must first submit an application, successfully interview with the Special Counsel, undergo a background and reference check and complete a specialized training. Prospective GALs are trained by a panel of experts in the fields of legal and social work advocacy and landlord-tenant law. The training is seven hours long, incorporates free CLE, and includes the following segments: “Introduction to
iii. How Judges Obtain GAL Names for Appointment:
The GAL Program maintains a centralized database of GALs who are available to accept appointments in any one or more of the five counties in New York City. Once a GAL is accepted into the Program, his or her name is placed on the Housing Court GAL list. Housing Court judges can obtain names of GALs on this list by either using a specialized computer application or seeking names from their supervising judge. Either way, names are provided at random or based on specific experience in accordance with the spirit of the PART 36 of the Rules of the Chief Judge of New York. Judges have discretion on who to choose from the names provided. The Program’s assistant continuously updates the GAL database to reflect changes in GAL availability and contact information.

iv. Appointing a GAL
A Housing Court judge can appoint a GAL pursuant to CPLR Article 12. Typically, appointments take place when:

1. A judge notices that a litigant’s impairment renders him or her unable to prosecute or defend their rights. For example, a judge may recognize, upon speaking to or observing a litigant, that the litigant appears to be confused, delusional, severely depressed, or finds it difficult to ambulate. Under different circumstances a judge could also take note that a litigant fails to appear in court or follow-up with social service agencies due to agoraphobia or other medical concerns. These are just a couple of examples when a judge may decide to appoint a GAL "sua sponte," with the consent of the parties or following a hearing.

2. A judge is made aware of the need for the appointment of a GAL by way of motion. For instance, in New York City quite often the impaired litigant is also a client of the Human Resources Administration’s (HRA’s) Adult...
Protective Services (APS). New York State Social Services Law Section 473 (1) states:

“…such [APS] officials shall provide protective services to or for individuals without regard of income who, because of mental or physical impairments, are unable to manage their own resources, carry out the activities of daily living, or protect themselves from physical abuse, sexual abuse, emotional abuse, active, passive or self-neglect, financial exploitation or other hazardous situations without assistance from others and have no one available who is willing and able to assist them responsibly.”

If a client of APS is facing eviction in Housing Court, APS will petition, through HRA’s Office of Legal Affairs (OLA), for the appointment of a GAL. Alternatively, a landlord can also make a motion if he or she has notice that a litigant is mentally or physically impaired and cannot advocate for him or herself.

v. APS Involvement and GAL Compensation

HRA uses Title XX federal funds to compensate GALs a flat fee of $600 upon completion of a case, provided the ward is also a client of APS. Given the amount of time and effort these cases require of the GAL this $600 flat fee often amounts to _pro bono_ service. Yet, this funding remains crucial to the GAL Program’s success. Without it, as noted previously, the GAL Program would be unable to attract and retain qualified GALs to perform the work needed.

HRA’s legal mandate to serve its client base serves as an incentive for collaborating with the court and allocating necessary funding to compensate GALs. With a GAL on board, APS is able to gain a partner in addressing the needs and protecting the rights of its clients in a comprehensive and efficient manner. The GAL’s ability to make court appearances, negotiate with the landlord, gather information and documents, submit Orders to Show Cause, all benefit APS in its effort to take all necessary steps to avoid the client’s eviction.

The appointment of a GAL is also consistent with APS’ goal to pursue the least restrictive alternative when formulating a service plan for a client. A GAL may be able to secure services that would enable the ward (an APS’ client) to remain in the apartment safely, thus avoiding inappropriate placement in a nursing home or other facility.

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8 NYC’s Human Resources Administration has agreed to increase the flat fee to $750. This increase is scheduled to begin effective January 2017.
For GALs, APS involvement not only means that they will receive compensation but they will also derive the benefit of having increased access to APS' collaborative ties with other HRA departments that facilitate the provision of financial and other concrete social services.

vi. Pro-bono Service
Although the GAL Program derives funding through its partnership with HRA, a great number of GAL appointments still call for pro bono service, making the GAL Program a quasi-volunteer program. Pro bono appointments typically involve litigants who, at the time of the Housing Court proceeding, are staying in a nursing home, rehabilitation center, or hospital and are at risk for losing their apartment. These litigants are not eligible for APS services because they are deemed to be in a protected environment outside of the community. Those deemed to have a viable support system are also ineligible for APS services, therefore requiring an appointment without compensation as well.

To address the need for pro bono service, the GAL Program requires that all GALs accept at least three pro bono appointments a year. Many GALs consistently exceed this requirement year after year. Judges are extremely grateful for this much needed and valuable service to the court. In fact, it is common for judges to offer appointments that carry compensation through APS to such GALs when their names are subsequently provided for consideration. GALs, in turn, understand the long-lasting impact of their work and opportunity to make a difference. As one GAL shared “… I don't anticipate that serving as a Housing Court GAL will meet the full need for even a modest income, but if I fulfill my responsibilities as a GAL, I can do good.”

Despite these efforts and accommodations, both the court and GALs face an enormous amount of pressure to keep up with the demand for pro bono appointments. To alleviate this concern, the GAL Program has partnered with New York City law firms Patterson & Belknap Webb & Tyler LLP and White & Case LLP for their associates to take the GAL training and remain available to accept pro bono appointments involving impaired litigants facing eviction in either New York or the Bronx counties, respectively. The pro bono appointments offered to these associates are generally limited to impaired litigants staying in a nursing home, rehabilitation center, or hospital at the time of litigation.

vii. Rewarding GALs Through Non-Monetary Means
The GAL Program recognizes the significance of the GALs’ work and their commitment to pro bono service. As such, it makes every effort to reward GALs, through non-monetary means, to acknowledge their value to the court and the impaired litigants served by the Program. For example, every year judges nominate GALs to receive an award for their commitment to pro bono service at the annual Pro Bono Award Ceremony, a volunteer recognition event co-sponsored by the New York State Courts Access to Justice Program, the New
York State Bar Association, and New York County Lawyers’ Association. GALs are also applauded through social media such as Twitter and Facebook.

vii. Additional Training
In recognition of the fact that the initial training may only provide GALs with a foundation of knowledge, the GAL Program also provides numerous free supplemental CLE workshops throughout the year to bolster the GALs’ skill-set. These workshops commonly address an emerging trend or concern to GALs so as to enable them to better advocate for their wards. Moreover, by providing free CLE as part of these workshops the GAL Program is able to attract attorneys seeking volunteer opportunities.

C. Role of the GAL in Housing Court

A GAL is a fiduciary who is appointed to safeguard the rights of a physically or mentally impaired litigant who cannot prosecute or defend his or her rights in Housing Court due to their impairment. Once appointed, a GAL fulfills the function of an advocate and works with the ward, when possible, the landlord or the landlord’s attorney and any outside agencies involved to resolve the legal matter and prevent the ward’s eviction. GALs are also expected to investigate and address the root cause of the Housing Court case to avoid recidivism. Significantly, a GAL who is appointed to advocate on behalf of a physically impaired litigant serves as that litigant’s eyes, ears, or feet in attempting to resolve the Housing Court case. Examples of GAL duties include but are not limited to:

• helping a ward re-certify for a lost benefit or entitlement
• helping a ward apply for a grant to pay the arrears owed
• facilitating the process for obtaining a heavy-duty cleaning and preparing with the ward for what this may involve
• generally connecting a ward with needed social services so that they may be able to safely remain in their apartment
• asking a judge to amend the Answer to include more defenses
• conferencing cases with the landlord’s attorney, court attorney, and judge
• negotiating, preparing, and reviewing stipulations of settlement
• asserting facts that can trigger possible defenses or counterclaims
• preparing Orders to Show Cause
• preparing requests for judicial inspection reports and subpoenas
• making oral applications
• sitting through trial, conducting direct examination and cross-examination of witnesses, and delivering opening and closing remarks
It is important to note that while a GAL may be able to advocate for a ward in a variety of ways, their role is limited by law. For example, a GAL lacks the legal power to grant access to a ward’s apartment for a heavy duty cleaning or sign on behalf of a ward to obtain a benefit even if both of these actions would enable the ward to successfully resolve the case and remain in their apartment. Similarly, a GAL cannot surrender an apartment. It is also important to note that once the court case has been resolved, the GAL’s role ends too.

Communications between the GAL and the ward are not confidential. A GAL must be mindful of this fact and clarify for the ward the difference between his or her role as a GAL and that of an attorney, including the lack of “client-privilege” and his or her concurrent obligation to report to the judge. The GAL’s dual responsibility requires the GAL to share with the judge any information about the case that would be helpful for him or her to know in considering the GAL’s advocacy, requests, and settlement recommendations. At times, the GAL may be judge’s only source of information about the ward’s whereabouts, wishes, and ability to remain in the apartment. For example, when a ward is unable or fails to appear in court. Finally, the GAL’s dual function permits him or her to share any challenges he or she may be experiencing in resolving the issues presented. Judges are thus able to make informed decisions that fully take into consideration all aspects of the case.

To aid in clarifying concerns related to the role of a GAL in Housing Court, the Deputy Chief Administrative Judge for New York City Courts issues directives and advisory notices to GALs and Housing Court judges, respectively. Directives set forth requirements GALs must follow during the course of their appointment. These requirements aim to ensure GAL accountability to the court and compliance with the law. Advisory notices, in turn, aim to provide judges with guidance on best practices they should follow in overseeing cases where a GAL has been appointed.

Every GAL case is different. To successfully resolve a case, the work involved will always have to be tailored to the myriad of needs presented. Therefore, an effective GAL must think broadly. They must also be creative, engaging, empathic, informed, resourceful, patient and kind. The New York City Housing Court judges surveyed shared the following examples of GAL interventions that, in their opinion, made a difference in the life of a ward:

- “I had a litigant who was bipolar. She had stopped taking her meds and was suicidal; the kindness and assistance of the GAL made her realize her case was not hopeless, she resumed taking her meds; the guardian

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9 1234 Broadway LLC v Feng Chai Lin (25 Misc.3d 476 2009).
obtained a grant for the ward that paid her arrears in full and ended the litigation.”

- “In a HO action, pro [s]e litigant could not express the issues/defenses in a non-aggressive way due to lack of education, frustration and mental disability. GAL, in a quieter setting with less time constraints, was able to get the issues out & clarify defenses, evidence, etc, all of which helped settle the action without an eviction.”

- “I have seen GAL’s coordinate with agencies to deliver services to prevent evictions, including payment of rent and deep cleaning of apartments with hoarding conditions and successfully interpose substantive defenses at trial, which prevented the ward’s eviction.”

- “I can recall an extraordinary case where the GAL was able to end the financial exploitation of the elderly, disabled ward by a third-party and reunite the ward with her family.”

- “The outstanding GAL in this proceeding worked with various agencies to obtain over $40,000 in outstanding arrears and thus saved tenant from eviction.”

- “[C]onvinced the ward to accept a heavy duty cleaning allowing the tenant to remain in the apartment[.]”

- “It has been my experience on many occasions that a GAL has been able to make someone feel empowered to assert their rights and preserve a long term rent regulated tenancy. When if they were standing alone, due to either their significant disability or lack of an advocate who can access resources on their behalf (such as obtaining legal representation or government benefits), they would have lost “housing of last resort[.]”

- “A GAL was able to coordinate assistance available to the ward in 3 different agencies and to apply for DRIE (something the ward would not have been able to do).”

- “In an access holdover which had been on the calendar for a year before the GAL was appointed, the GAL was able to assist in getting the apartment cleared to facilitate the repair work that was needed and in the process averted an eviction.”

(see Appendix “A”)

D. Benefits of Having a Court-Based GAL Program for Landlord-Tenant Cases

The GAL Program’s imprint on the lives of physically and mentally impaired litigants facing eviction cannot be underscored. In most landlord-tenant cases involving an impaired litigant the risk of eviction is high. An impaired litigant not showing up in court, not following through with the terms of a previously negotiated stipulation, not providing necessary documentation or access to an apartment are just a few common examples of situations where, without GAL assistance, the impaired litigant would likely lose his or her apartment. Yet, with a Housing Court GAL Program in place judges have access to a dedicated group of skilled advocates, who are specifically trained to safeguard the rights of these
vulnerable litigants. Once appointed, GALs are typically able to negotiate a favorable settlement and preserve the impaired litigant’s long-standing and/or affordable housing.

Having a viable GAL Program also helps the court to resolve difficult cases involving impaired litigants more quickly and responsibly. In fact, 87% of the New York City judges surveyed think that having the Housing Court GAL Program improves efficiency in the courtroom and 89% think that the GAL Program connects litigants to outside government agencies and community resources and helps cut through bureaucratic red tape (see Appendix “A”). A Housing Court judge’s description of a GAL he appointed and subsequently nominated for a pro bono award further illustrates this point. He shared: "[i]n addition to being highly effective, he is also very efficient, i.e., he doesn’t waste the time of either the court or of the parties by chasing after unrealistic outcomes… For example… [he] rescued the rent-stabilized tenancy of a 77 year-old stroke victim by (1) persuading a landlord after a year and a half of litigation to convert a chronic nonpayment holdover into a simple nonpayment proceeding, (2) arranging for the City of New York, which had refused at the outset of the lawsuit to provide any assistance, to pay $15,000 out of some $19,000 in rent arrears, and (3) ensuring the tenant’s payment of future rent by having her enroll in a program that routed her Social Security payments directly to the landlord."

Through their advocacy efforts, GALs move cases along. A GAL provides the impaired litigant with a “voice” in negotiations and the litigation process, keeps the court abreast of information that may otherwise be difficult to obtain, addresses underlying social service needs to prevent recidivism, and ensures more favorable and comprehensive outcomes. With each court appearance the case advances towards resolution as discussion takes place on how to meaningfully tackle and resolve presenting challenges while still protecting the impaired litigant’s rights and preserving judicial neutrality. A Housing Court judge sitting in Bronx County noted "[w]ithout a GAL many are unable to successfully resolve the underlying issues, most commonly nonpayment of rent and nuisance issues like cluttering. The GAL focuses on those issues which is a tremendous help to the litigant and the court" (see Appendix “A”).

A GAL appointment can also be advantageous to a landlord. With a GAL in place a landlord is able to achieve a resolution to a case in a fraction of the time that it would otherwise take to resolve. Moreover, by addressing any underlying social service issues GALs lessen the likelihood that the case will have to be restored to the calendar or commenced again. Inherent costs and stress associated with ongoing litigation are thereby reduced.

The creation of the GAL Program has resulted in other innovations as well. In 2008, the New York County’s Integrated Part, otherwise known as Part I, was created as a means of responding to concerns expressed by GALs, Housing Court judges, and Supreme Court judges regarding the many pressures
experienced by all involved when a ward facing possible eviction in Housing Court was also the subject of a Supreme Court, Article 81 Guardianship case. Through the creation of Part I, located in New York County Supreme Court, both cases are combined. An Acting Supreme Court Justice presiding over the combined case is able to resolve the legal matters presented taking into account the litigant’s court history, unique circumstances, and needs. Having such a Part allows for consistent handling of the case. It also eliminates the need for an often physically or mentally fragile litigant to go before two different courts, thereby lessening the stress the litigant may be facing. By taking a holistic approach, the judge is able to fashion solutions that aim to address the “root cause” of the existing legal problems and prevent recidivism.

Having a court-based GAL Program in place has also enabled the court to offer training to prepare family members to responsibly accept GAL appointments. Specifically, there are instances when an impaired litigant has a family member willing and able to fulfill the function of a GAL in Housing Court. This can be ideal since family members may be more knowledgeable about the impaired litigant and have a personal investment in seeing that their loved one is protected. Yet, like most lay people, family members may be unfamiliar with the function of a GAL or the court’s expectations upon appointment. Currently, New York City Housing Court judges who appoint family members can refer them to take an abbreviated version of the general GAL training. This training allows for family members to accept the appointment knowing what their appointment will require of them, how Housing Court operates, and how to best protect their loved one’s rights while negotiating with the landlord. Having a family member who has been previously trained to fulfill the function of a GAL works to the advantage of the impaired litigant. The GAL Program similarly offers the GAL training to legal service provider attorneys, therapists, and social workers seeking to comply with an exception to the established GAL appointment procedure that allows them to be considered for judicial appointment provided they take the training. These options broaden the number of people available for appointment, thereby promoting judicial efficiency as well.

Programs such as the New York City Housing Court GAL Program ensure that the court is able to play an active role in protecting disabled litigants from becoming needlessly homeless and remaining respectful of their dignity as human beings. Since its formal inception in 2000, New York City Housing Court judges have been able to utilize the GAL Program to appoint GALs for over 15,000 impaired litigants facing the possibility of eviction. In 2015, approximately 33% of the judicial requests for GALs were made due to concerns that the litigant was mentally impaired, 16% were due to physical impairment concerns, while 51% were due to both. In addition, over 62% of the people appointed a GAL were age 60 and above.

As one GAL shared “[o]ne of the best parts of serving as a GAL is realizing the value of our work. Not all cases are equally rewarding… but when actions you
have taken make the difference between homelessness and longevity in familiar surroundings, your efforts have paid off.” Clearly, replicating a similar court-based program should no longer be a question of why but a question of how.

Part III. How to Replicate the GAL Program

Creating a court-based GAL Program not only serves to address an existing gap in services but it also improves efficiency in the courtroom, prevents recidivism and has the potential to have a life-changing positive impact in the lives of many physically and mentally impaired litigants who would otherwise become homeless. Presently, a great number of people with disabilities, including seniors, are able to live in the community with needed medical, psychiatric, and/or functional support in place. Yet, when faced with a landlord-tenant proceeding this population is at an increased risk for eviction. Having a dedicated court-based housing program that is able to specifically respond to the needs of these litigants has become a necessity.

To successfully replicate the New York City, Housing Part GAL Program, a court should take the following steps:

A. Identify or Obtain Statutory Authority for the Appointment of a GAL
   Statutory authority will form the basis for a motion to appoint a GAL, including *sua sponte* motions. Where statutory authority for the appointment of a GAL does not exist, legislation should be sought.

B. Identify Appropriate Fiduciary
   The function of a GAL may be fulfilled by a differently named fiduciary outside of New York State. Therefore, it is important to identify the name of the appropriate fiduciary according to the relevant statutory authority.

C. Secure Funding
   The New York City Housing Court GAL Program runs successfully in part because it has strong supportive funding. As revealed by the New York State judges surveyed, GAL compensation is critical. A court can use its own fiduciary budget to fund a court-based GAL program that includes compensation. Alternatively, the court can absorb the cost of personnel while partnering with a governmental agency or a social service or charitable organization with a mission or legal mandate to serve the elderly or impaired litigants. Such an agency or organization could provide for GAL compensation as part of its service delivery costs. Another option is to seek funding from philanthropists. Philanthropists are often interested in investing in programs that have been proven to be successful on a large scale. A combination of any of these options may also prove to be a feasible plan.

D. Choose or Create an Administering Entity
   Identifying an office to administer the program is crucial to establishing its legitimacy. Having a department or office within the court is ideal since the
program then derives the benefit of being sanctioned by the court. Perhaps an office that oversees the appointment of court fiduciaries already exists. If so, that office may be willing to create a program, in compliance with the established fiduciary appointment process, specifically tailored to meet the needs of impaired litigants at risk for eviction. If not, the office may support the creation of a GAL program that is overseen by another office within the court.

E. Obtain Partners to Support the Program
Partner with an established community and/or government stakeholder, similar to New York City's HRA. Such a stakeholder may be willing to provide social service assistance, in addition to funding, in order to fulfill its own stated mission more easily and effectively. Other possible partners include local law firms willing to allow for their associates to participate in the program and accept pro bono appointments as a means of expanding the firm’s commitment to pro bono service. Finally, Graduate Schools of Social Work may also be interested in partnering with the program in order to offer a new opportunity for their students to meet their field placement requirement working with GALs on social work and legal advocacy matters.

F. Hire Personnel
Hire qualified personnel to carry out the daily operations of the program. The position of Special Counsel/Program Coordinator is best filled by an attorney with knowledge of landlord-tenant law and ideally a Masters in Social Work. While knowledge of landlord-tenant law is clearly important, social workers are trained to work with people in crisis and effectively advocate on their behalf. This dual skill-set would also help to enhance the Program Coordinator's effectiveness in responding to GALs seeking problem-solving assistance, whether legal or social work in nature. A program assistant is also needed to perform daily administrative functions.

G. Establish a Database for Maintaining GAL Names
Create a centralized database that includes the names of all GALs available for appointment for the court to draw from when needed. For example, the New York City Housing Court GAL Program collaborated with the New York Unified Court’s Division of Technology (DOT) to create a GAL FileMaker database Application. The GAL FileMaker Application allows Housing Court judges and court attorneys to immediately request and obtain GAL names from the convenience of their computers, while preserving the neutrality and integrity of the GAL appointment process as names are provided randomly or according to specified need. Another benefit to using the FileMaker Application is that it collects data as requests are submitted. The GAL Program is thus able to run reports which provide data concerning GALs, the population they serve, as well as evolving trends. Other software might be available for these purposes.
H. Develop a Strong Training Program
A specialized training program should include segments on landlord-tenant law, the GAL’s role, negotiation strategies, mental illness in general, outside resources and partners, and the practical aspect of serving as a GAL in landlord-tenant matters, including obtaining payment and navigating the court. Training could be provided free of charge by court personnel and other stakeholders. Possible presenters include judges, court attorneys, the local bar, legal service providers, governmental agencies, and social work practitioners. Training materials consisting of the presenters’ handouts or relevant articles can be incorporated into a manual distributed at the training. It is extremely beneficial to also coordinate for the provision of free CLE as this might serve as an incentive for attorneys contemplating participation in the program.

I. Recruit Volunteers
To recruit prospective GALs, first establish a website. With a program website in place, people are able to easily learn more about the program, the population it serves, the work entailed, and how they can participate. Also, maximize use of social media and internet sites aimed at attracting volunteers and reach out to court personnel. Court personnel interacts with local practitioners and advocates and is therefore in an excellent position to encourage qualified people to apply. Other sources of recruitment may include unions whose membership includes retired teachers, professional social work associations, and solo practitioners seeking to expand their legal practice.

J. Screen Volunteers
Establish a screening process to determine who will be invited to participate in the GAL training and ultimately be placed on the GAL list. The New York City Housing Court GAL Program requires prospective GALs to submit a GAL application with their resume and references and participate in an interview. Interviews are important because while many people may be interested in becoming a GAL, not everyone is well suited for the job. An effective GAL possesses a relevant background, interpersonal skills, and genuine interest in helping the population served by the program. Moreover, given the vulnerability of the population served, being of sound moral character is of paramount importance. Hence, it is strongly recommended that prospective GALs undergo a criminal background check. The New York City Housing Part GAL Program is able to avail itself of the New York State Office of Court Administration’s assistance to conduct necessary background checks free of charge.

K. Provide Incentives for Continued Volunteer Service
If the program is replicated in such a way that it is also a quasi-volunteer program, it is important to incorporate incentives that promote continued volunteer service. Some examples include: providing continuous free supplemental training relevant to GAL work with accompanying CLE, fostering linkages with community agencies that assist GALs in their advocacy efforts, and providing recognition in the context of an award ceremony or via social media.
Expanding the GALs’ skill-set benefits both the GALs and the people served by the program. CLE can be costly so the opportunity to receive free CLE is always welcome. Establishing mechanisms that facilitate the work of a GAL also make GALs feel supported and alleviate burnout. Finally, being recognized for hard work boosts morale and provides an incentive to continue volunteering.

L. Institute a Due Process Procedure to Address Complaints About GALs
Every effective program must have a means of addressing complaints. Given the vulnerability of the population served by the GAL Program, it is particularly important to provide a way for addressing concerns regarding the work of GALs. Modelled after Section 36.3 (e) of the PART 36 Rules of the Chief Judge the New York City Housing Court GAL Program’s due process procedure allows for judges, wards, government or community agency workers, or anyone who may have contact with a GAL to voice a complaint against him or her. Once a written complaint is received, the Program Coordinator writes a letter to the GAL setting forth the allegations made against him or her and affording the GAL an opportunity to respond. The Deputy Chief Administrative Judge for New York City Courts/Director, NYS Courts Access to Justice Program then makes a final decision based on the GAL’s written response, or lack thereof, and information gained as a result of the Program Coordinator’s further investigation into the matter. GALs can be removed from the GAL list for cause.

For more information about the New York City Housing Court GAL Program visit: https://www.nycourts.gov/courts/nyc/housing/GAL.shtml

The judicial system is charged with ensuring that all litigants receive just results when seeking to resolve a conflict in court. Judges rely upon the law to render decisions based on the facts and evidence presented. Yet, when a litigant before them is impaired it may be difficult to ascertain the facts and secure all evidence needed to make a just decision. In these instances, simply allowing the judicial process to take its course with the hope that justice will ultimately prevail can, at times, lead to injustice. The potentially far-reaching impact of the work of GALs and a GAL’s ability to significantly aid the court in fulfilling its judicial mandate to provide equal justice for all warrants serious consideration of how judicial systems across the nation can seek to replicate the program.

Conclusion

Creating a court-based GAL Program protects physically and mentally impaired litigants, including the elderly, from becoming needlessly homeless or inappropriately placed in a nursing home or other facility. It provides a needed alternative for the court to pursue when judges are faced with an impaired litigant who cannot protect his or her rights and is either unable to work effectively with an attorney or is unable to obtain legal representation that can comprehensively assist with underlying social service needs at the root of the litigation. It also provides landlords with assistance in expediting the resolution of the legal case in an efficient manner. Most significantly, by creating a
court-based GAL Program the court can play an active and meaningful role in safeguarding the rights of disabled litigants facing eviction and giving them a fair chance to remain living in their home independently and with dignity.
Appendices
Appendix A - Housing Court Judge GAL Survey
Housing Court Judge GAL Survey

<table>
<thead>
<tr>
<th>Respondents:</th>
<th>157 displayed, 157 total</th>
<th>Status:</th>
<th>Open</th>
</tr>
</thead>
<tbody>
<tr>
<td>Launched Date:</td>
<td>12/04/2015</td>
<td>Closed Date:</td>
<td>N/A</td>
</tr>
</tbody>
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1. What County do you sit in?

<table>
<thead>
<tr>
<th>Count</th>
<th>Response Total</th>
<th>Response Percent</th>
<th>Points</th>
<th>Avg</th>
</tr>
</thead>
<tbody>
<tr>
<td>Bronx</td>
<td>16</td>
<td>34%</td>
<td>n/a</td>
<td>n/a</td>
</tr>
<tr>
<td>Kings</td>
<td>14</td>
<td>30%</td>
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<td>n/a</td>
</tr>
<tr>
<td>New York</td>
<td>11</td>
<td>23%</td>
<td>n/a</td>
<td>n/a</td>
</tr>
<tr>
<td>Queens</td>
<td>5</td>
<td>11%</td>
<td>n/a</td>
<td>n/a</td>
</tr>
<tr>
<td>Richmond</td>
<td>1</td>
<td>2%</td>
<td>n/a</td>
<td>n/a</td>
</tr>
</tbody>
</table>

Total Respondents 47 100%

(skipped question) 110

2. Outside NYC, there is no program that provides GALs for Housing Court cases. How difficult would it be to find GALs to accept cases if the Housing Court GAL Program did not exist?

<table>
<thead>
<tr>
<th>Difficulty</th>
<th>Response Total</th>
<th>Response Percent</th>
<th>Points</th>
<th>Avg</th>
</tr>
</thead>
<tbody>
<tr>
<td>Very difficult</td>
<td>32</td>
<td>68%</td>
<td>n/a</td>
<td>n/a</td>
</tr>
<tr>
<td>Difficult</td>
<td>11</td>
<td>23%</td>
<td>n/a</td>
<td>n/a</td>
</tr>
<tr>
<td>Slightly difficult</td>
<td>4</td>
<td>9%</td>
<td>n/a</td>
<td>n/a</td>
</tr>
<tr>
<td>Not difficult</td>
<td>0</td>
<td>0%</td>
<td>n/a</td>
<td>n/a</td>
</tr>
</tbody>
</table>

Total Respondents 47 100%

(skiped this question) 110

3. Do you think having the Housing Court GAL Program helps with any of the following? (check all that apply)

<table>
<thead>
<tr>
<th>Improvement</th>
<th>Response Total</th>
<th>Response Percent</th>
<th>Points</th>
<th>Avg</th>
</tr>
</thead>
<tbody>
<tr>
<td>Improves efficiency in the courtroom by having an advocate for the ward</td>
<td>41</td>
<td>87%</td>
<td>n/a</td>
<td>n/a</td>
</tr>
<tr>
<td>Connects litigants to outside government agencies and community resources and helps cut through bureaucratic red tape</td>
<td>42</td>
<td>89%</td>
<td>n/a</td>
<td>n/a</td>
</tr>
<tr>
<td>Prevents evictions of impaired people</td>
<td>44</td>
<td>94%</td>
<td>n/a</td>
<td>n/a</td>
</tr>
<tr>
<td>Provides judges with a pool of GALs trained in Landlord-Tenant law</td>
<td>34</td>
<td>72%</td>
<td>n/a</td>
<td>n/a</td>
</tr>
<tr>
<td>None of the above</td>
<td>0</td>
<td>0%</td>
<td>n/a</td>
<td>n/a</td>
</tr>
<tr>
<td>Other, please specify</td>
<td>5</td>
<td>11%</td>
<td>n/a</td>
<td>n/a</td>
</tr>
</tbody>
</table>

Total Respondents 47

(skiped this question) 110
4. What do you think happens to impaired litigants when no GAL is appointed to advocate on their behalf? (check all that apply)  

<table>
<thead>
<tr>
<th>Response</th>
<th>Total</th>
<th>Response Percent</th>
<th>Points</th>
<th>Avg</th>
</tr>
</thead>
<tbody>
<tr>
<td>More are evicted</td>
<td>43</td>
<td>91%</td>
<td>n/a</td>
<td>n/a</td>
</tr>
<tr>
<td>They are unable to raise appropriate defenses</td>
<td>40</td>
<td>85%</td>
<td>n/a</td>
<td>n/a</td>
</tr>
<tr>
<td>The &quot;root cause&quot; of the litigation is not resolved leading to recidivism</td>
<td>29</td>
<td>62%</td>
<td>n/a</td>
<td>n/a</td>
</tr>
<tr>
<td>None of the above</td>
<td>1</td>
<td>2%</td>
<td>n/a</td>
<td>n/a</td>
</tr>
</tbody>
</table>

Total Respondents: 47
(skipped this question) 110

5. Please provide an example of something that you have seen a GAL do that has made a difference in the life of his or her ward.

Total Respondents: 36
(skipped this question) 121
3. Do you think having the Housing Court GAL Program helps with any of the following? (check all that apply)

1. [No Answer Entered]
2. [No Answer Entered]
3. [No Answer Entered]
4. [No Answer Entered]
5. [No Answer Entered]
6. [No Answer Entered]

The efficacy of the program variesgreatly from county to county. In the Bronx, GAL’s who are part of the program and are willing to take cases are few and far between. To a great degree, this issue arises as a result of APS service rejections. These rejections mean that GAL’s must act as unpaid volunteers. Absent a stipend from the City of New York, few GAL’s in the pool are willing to accept appointments. As a direct result, the program is not as effective as it is in other counties.

8. The GAL often works with APS to accept the ward as a client.

9. [No Answer Entered]
10. [No Answer Entered]
11. [No Answer Entered]
12. [No Answer Entered]
13. [No Answer Entered]
14. [No Answer Entered]
15. [No Answer Entered]
16. [No Answer Entered]
17. [No Answer Entered]
18. [No Answer Entered]
19. [No Answer Entered]
20. [No Answer Entered]
21. [No Answer Entered]
22. [No Answer Entered]
I think the GAL program has the potential to accomplish all of its goals. The greatest obstacle I find in the court room is in the disparity of skills presented by the GALs and consequently, their relative effectiveness.

All of the above are checked with the caveat that, of course, they’re not all present in every case, and in some cases none are present.

Enhances access to justice to impaired litigants.
Housing Court Judge GAL Survey

Respondents: 157
Launched Date: 12/04/2015

Status: Open
Closed Date: N/A

4. What do you think happens to impaired litigants when no GAL is appointed to advocate on their behalf? (check all that apply)

1. [No Answer Entered]
2. [No Answer Entered]
3. [No Answer Entered]
4. [No Answer Entered]
5. [No Answer Entered]
6. [No Answer Entered]
7. [No Answer Entered]
8. [No Answer Entered]
9. [No Answer Entered]
10. [No Answer Entered]
11. [No Answer Entered]
12. [No Answer Entered]
13. [No Answer Entered]
14. [No Answer Entered]
15. [No Answer Entered]
16. [No Answer Entered]
17. [No Answer Entered]
18. [No Answer Entered]
19. [No Answer Entered]
20. [No Answer Entered]
21. [No Answer Entered]
22. [No Answer Entered]
23. [No Answer Entered]
24. [No Answer Entered]
Without a GAL many are unable to successfully resolve the underlying issues, most commonly nonpayment of rent and nuisance issues like cluttering. The GAL focuses on those issues which is a tremendous help to the litigant and the court.
5. Please provide an example of something that you have seen a GAL do that has made a difference in the life of his or her ward.

1. In a HO action, pro de litigant could not express the issues/defenses in a non-aggressive way due to lack of education, frustration and mental disability.

2. GAL, in a quieter setting with less time constraints, was able to get the issues out & clarify defenses, evidence, etc, all of which helped settle the action without an eviction.

Advocate on behalf of the tenant with HRA and APS.

3. Get family members to assist the tenant.

Locate the tenant so they can get assistance from APS

4. A ward was the subject of a holdover proceeding and the ward's attorney had not set a plan regarding whether the ward would return to the subject apartment or stay in a health care facility.

With the assistance of the GAL, the attorney confirmed where the ward could live while still receiving necessary medical care.

Some GAL's have gone above and beyond, for example, buying groceries for their ward, accompanying them to agency appointments, assisting in applying for Article 78 proceedings helping remove seniors from abusive relationships and searching for affordable alternative housing. Unfortunately those GAL's are few and far between.

5. I have seen GAL's coordinate with agencies to deliver services to prevent evictions, including payment of rent and deep cleaning of apartments with hoarding conditions and successfully interpose substantive defenses at trial, which prevented the ward's eviction.

6. Arranged for cleanings with Adult Protective Services.

7. A succession case in a HUD subsidized building. The GAP at trial was able to establish succession rights and the tenant was able to succeed to his mother's Section 8 subsidy.

8. I can recall an extraordinary case where the GAL was able to end the financial exploitation of the elderly, disabled ward by a third-party and reunite the ward with her family.

I had a litigant who was bipolar. She had stopped taking her meds and was suicidal; the kindness and assistance of the GAL made her realize her case was not hopeless, she resumed taking her meds; the guardian obtained a grant for the ward that paid her arrears in full and ended the litigation.

9. The outstanding GAL in this proceeding worked with various agencies to obtain over $40,000 in outstanding arrears and thus saved tenant from eviction.

10. convinced the ward to accept a heavy duty cleaning allowing the tenant to remain in the apartment

11. On more than one occasion a GAL has been able to obtain rent arrears and home services for their ward to prevent recidivism, thus protecting the tenancy and home of the ward.

12. I have seen a GAL assert defenses on behalf of a ward that prevented the wards eviction

13. Obtain funds from HRA to prevent eviction.

14. assisted the ward in getting a 1 shot deal which, in turn, satisfied the arrears and the proceeding was discontinued.

15. IT HAS BEEN MY EXPERIENCE ON MANY OCCASIONS, THAT A GAL HAS BEEN ABLE TO MAKE SOMEONE FEEL EMPOWERED TO ASSERT THEIR RIGHTS AND PRESERVE A LONG TERM RENT REGULATED TENANCY. WHEN IF THEY WERE STANDING ALONE, DUE TO EITHER THEIR SIGNIFICANT DISABILITY OR LACK OF AN ADVOCATE WHO CAN ACCESS RESOURCES ON THEIR BEHALF ( SUCH
AS OBTAINING LEGAL REPRESENTATION OR GOVERNMENT BENEFITS, THEY WOULD HAVE LOST "HOUSING OF LAST RESORT"

17. Moved for an Art.81 guardian to protect the interests of the ward beyond what a GAL can do.

A positive example is a former GAL that provided services in Staten Island. He was able to utilize resources from his previous career and frequently obtain quick relocations for his wards and rehouse them and thus, avert evictions.

18. A recent negative experience I had was in Brooklyn where the GAL lacked a comfortable familiarity with the workings of HRA and was both slow and needed extensive assistance from the Court and extensions from the Petitioner to complete the process of obtaining arrears. Although she ultimately performed her basic function I am reasonably sure that the actual work was performed by APS.

I have seen GALs articulate arguments in a cogent manner that their ward would have never been able to do. The trial was a better adjudication of both sides’ issues because, if there wasn’t a GAL, the Court would have had to parse through all the documents and statements and try to determine the issue. There is no guarantee that this would have happened.

19. I have seen GALs obtain rent arrears for their wards and avoid eviction. Other GALs have successfully advocated for the commencement of Article 81 proceedings on behalf of their wards. Another GAL worked with her ward's family to relocate her ward to another state.

20. A GAL voluntarily took the extra step of advocating at NYCHA to try to have a termination reversed, thus saving a tenancy.

21. Connecting the litigant to resources and listening.

22. A GAL was able to coordinate assistance available to the ward in 3 different agencies and to apply for DRIE (something the ward would not have been able to do).

23. raise objections during trial (in the absence of the ward) to get the case dismissed

24. Cleaning up a Collyers apartment. Obtaining a large amount of arrears to end a nonpayment proceeding.

One GAL did extensive research and found a private company (with rates affordable to the tenant) to do a heavy duty cleaning of a tenant's apartment in a holdover case, where Adult Protective Services was not able to provide an outside contractor to do the heavy duty cleaning after multiple requests over a six-month period, saving the tenancy.

25. The GAL worked with APS to do a heavy duty cleaning and a bed bug extermination. The tenant would not have granted access without the assistance of the GAL. The case was resolved without an eviction.

26. GAL's ensure that APS puts in for financial management and heavy duty cleaning as well as provide for health aids and assistance in receiving emergency assistance grants.

27. arrange for APS heavy duty cleaning to avoid eviction on holdover cases, obtain an APS grant or one shot deal to avoid eviction on non-payment cases, assist in getting Article 81 for those in need of additional assistance, again, to avoid eviction. For pro bono GAL's, have been able to determine if respondent is in nursing home or has otherwise vacated, if there are adult children helping impaired person or preventing person from getting help and putting him/her at risk for eviction, eg, or if there are other factors of which court needs to be aware.

28. The GAL was able assist the respondent to secure funds necessary to satisfy arrears due and provide ongoing rent payment through HRA and to get necessary repairs completed by petitioner so that respondent was able live more comfortably in his apartment.

29. In an access holdover which had been on the calendar for a year before the GAL was appointed, the GAL was able to assist in getting the apartment cleared to facilitate the repair work that was needed and in the process averted an eviction.

30. All the GALs in my cases, Ms. DeKay, Mr. Dunn and Mr. Giles, are very conscientious and provide a voice to the wards and connect them to necessary services, albeit it takes a long time to resolve the cases. When APS accepts the cases, very rarely, then the GAL is more enthusiastic, motivated and prompted to write motions which, in one of my cases, lead to the complete dismissal of the case against the ward.
33. Advocate for repairs and be present on the days that repairs were scheduled.


35. I have seen a GAL obtain SCRIE benefits and also complete Section 8 recertifications so that an application for rental assistance can be processed by HRA.

36. Accompany ward to DSS appts and actively reach out to assisted living facilities to find new home for ward
Appendix B - Non-Surrogate Judges: Guardian Ad Litem Appointments
### Non-Surrogate's Judges: Guardian Ad Litem Appointments

**Respondents:** 166 displayed, 166 total  
**Status:** Open  
**Launched Date:** 10/01/2012  
**Closed Date:** 08/31/2016

#### 1. Please indicate the Court you preside over:

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<thead>
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<th>Court</th>
<th>Response Total</th>
<th>Response Percent</th>
<th>Points</th>
<th>Avg</th>
</tr>
</thead>
<tbody>
<tr>
<td>Supreme-Civil</td>
<td>57</td>
<td>81%</td>
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<td>n/a</td>
</tr>
<tr>
<td>District</td>
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<td>0%</td>
<td>n/a</td>
<td>n/a</td>
</tr>
<tr>
<td>County</td>
<td>12</td>
<td>17%</td>
<td>n/a</td>
<td>n/a</td>
</tr>
<tr>
<td>City</td>
<td>1</td>
<td>1%</td>
<td>n/a</td>
<td>n/a</td>
</tr>
</tbody>
</table>

**Total Respondents:** 70  
*(skipped this question)* 96

#### 2. How long have you been a judge?

<table>
<thead>
<tr>
<th>Experience</th>
<th>Response Total</th>
<th>Response Percent</th>
<th>Points</th>
<th>Avg</th>
</tr>
</thead>
<tbody>
<tr>
<td>0-5 years</td>
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<td>16%</td>
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</tr>
<tr>
<td>6-10 years</td>
<td>16</td>
<td>23%</td>
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<td>n/a</td>
</tr>
<tr>
<td>11-15 years</td>
<td>14</td>
<td>20%</td>
<td>n/a</td>
<td>n/a</td>
</tr>
<tr>
<td>more than 16 years</td>
<td>29</td>
<td>41%</td>
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</tr>
</tbody>
</table>

**Total Respondents:** 70  
*(skipped this question)* 96

#### 3. non-surrogate GAL appointments in last 5 years

<table>
<thead>
<tr>
<th>Frequency</th>
<th>Response Total</th>
<th>Response Percent</th>
<th>Points</th>
<th>Avg</th>
</tr>
</thead>
<tbody>
<tr>
<td>Zero, Skip to question 7.</td>
<td>28</td>
<td>40%</td>
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<td>n/a</td>
</tr>
<tr>
<td>1-10 times</td>
<td>37</td>
<td>53%</td>
<td>n/a</td>
<td>n/a</td>
</tr>
<tr>
<td>10-25 times</td>
<td>4</td>
<td>6%</td>
<td>n/a</td>
<td>n/a</td>
</tr>
<tr>
<td>more than 25 times</td>
<td>1</td>
<td>1%</td>
<td>n/a</td>
<td>n/a</td>
</tr>
</tbody>
</table>

**Total Respondents:** 70  
*(skipped this question)* 96

#### 4. How did you obtain the GAL appointed? Indicate all that apply.

<table>
<thead>
<tr>
<th>Source</th>
<th>Response Total</th>
<th>Response Percent</th>
<th>Points</th>
<th>Avg</th>
</tr>
</thead>
<tbody>
<tr>
<td>I obtained the GAL from the PART 36 List</td>
<td>35</td>
<td>50%</td>
<td>n/a</td>
<td>n/a</td>
</tr>
<tr>
<td>I appointed a family member or friend of the Ignant</td>
<td>12</td>
<td>17%</td>
<td>n/a</td>
<td>n/a</td>
</tr>
<tr>
<td>Other. Please specify the source and procedure used to obtain such a GAL.</td>
<td>7</td>
<td>10%</td>
<td>n/a</td>
<td>n/a</td>
</tr>
</tbody>
</table>

**Total Respondents:** 70  
*(skipped this question)* 96

#### 5. In instances where the GAL WAS AWARDED compensation, indicate the funding source for the compensation rendered. You may indicate more than one funding source.

<table>
<thead>
<tr>
<th>Source</th>
<th>Response Total</th>
<th>Response Percent</th>
<th>Points</th>
<th>Avg</th>
</tr>
</thead>
<tbody>
<tr>
<td>The adversarial party was directed to pay</td>
<td>20</td>
<td>29%</td>
<td>n/a</td>
<td>n/a</td>
</tr>
<tr>
<td>Other funding source(s)</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

**Total Respondents:** 70  
*(skipped this question)* 96
**Survey Results**

<table>
<thead>
<tr>
<th>Question</th>
<th>Response</th>
<th>Total</th>
<th>Percent</th>
<th>Points</th>
<th>Avg</th>
</tr>
</thead>
<tbody>
<tr>
<td>6. Please provide examples of up to three (3) different types of legal matters where you have appointed a GAL pursuant to CPLR, Article 12. For example, &quot;...Landlord/Tenant matter.&quot;</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>Total Respondents</td>
<td>39</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>(skipped this question)</td>
<td>127</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>7. Have you ever had the need to appoint a GAL but were unable to find one?</td>
<td>Yes. Please provide examples of the challenges presented and any creative solutions pursued to try to address the problem(s).</td>
<td>67</td>
<td>97%</td>
<td>n/a</td>
<td>n/a</td>
</tr>
<tr>
<td></td>
<td>No.</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>Total Respondents</td>
<td>69</td>
<td>100%</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>(skipped this question)</td>
<td>97</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>8. Please feel free to add any other comments or concerns regarding the appointments of GALs in cases where a party is unable to adequately prosecute or defend their rights.</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>Total Respondents</td>
<td>10</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>(skipped this question)</td>
<td>156</td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
## Non-Surrogate's Judges: Guardian Ad Litem Appointments

<table>
<thead>
<tr>
<th>Respondents:</th>
<th>166</th>
<th>Status:</th>
<th>Open</th>
</tr>
</thead>
<tbody>
<tr>
<td>Launched Date:</td>
<td>10/01/2012</td>
<td>Closed Date:</td>
<td>08/31/2016</td>
</tr>
</tbody>
</table>

### 4. How did you obtain the GAL appointed? Indicate all that apply.

1. [No Answer Entered]
2. [No Answer Entered]
3. [No Answer Entered]
4. [No Answer Entered]
5. [No Answer Entered]
6. [No Answer Entered]
7. [No Answer Entered]
8. I appointed off the counsel for children or 18-B panel
9. [No Answer Entered]
10. [No Answer Entered]
11. [No Answer Entered]
12. [No Answer Entered]
13. [No Answer Entered]
14. [No Answer Entered]
15. [No Answer Entered]
16. [No Answer Entered]
17. [No Answer Entered]
18. [No Answer Entered]
19. [No Answer Entered]
20. [No Answer Entered]
21. [No Answer Entered]
22. GAL for elderly nursing home resident whose son appeared to be filing papers on her behalf in a contested landlord-tenant proceeding. The Mental Hygiene Legal Service agreed to the appointment due to the circumstances of the possible dementia of the resident.
23. [No Answer Entered]
24. court selection from experienced local bar.

25. [No Answer Entered]

26. [No Answer Entered]

27. [No Answer Entered]

28. I appointed GALs when a person was incapable of understanding the proceedings before me or actively participate in the action after motion practice and appointed a family member or lawyer if no family member was available.

29. [No Answer Entered]

30. [No Answer Entered]

31. [No Answer Entered]

32. [No Answer Entered]

33. [No Answer Entered]

34. [No Answer Entered]

35. [No Answer Entered]

36. [No Answer Entered]

37. [No Answer Entered]

38. [No Answer Entered]

39. [No Answer Entered]

40. [No Answer Entered]

41. I don't recall

42. [No Answer Entered]

43. [No Answer Entered]

44. [No Answer Entered]

45. [No Answer Entered]

46. [No Answer Entered]

47. [No Answer Entered]

48. [No Answer Entered]

49. [No Answer Entered]

50. [No Answer Entered]

51. [No Answer Entered]
52. [No Answer Entered]
53. [No Answer Entered]
54. [No Answer Entered]
55. [No Answer Entered]
56. [No Answer Entered]
57. [No Answer Entered]
58. [No Answer Entered]
59. [No AnswerEntered]
60. My court attorney called around to attorneys who regularly practice in my court to see if he or she would be willing to act as a guardian ad litem.
61. [No Answer Entered]
62. [No Answer Entered]
63. [No Answer Entered]
64. [No Answer Entered]
65. [No Answer Entered]
66. [No Answer Entered]
67. [No Answer Entered]
68. Experienced local attorneys who possessed unique or specific experiences necessary to the case - veterans, mentally impaired litigants, etc.
69. [No Answer Entered]
70. [No Answer Entered]
### Non-Surrogate's Judges: Guardian Ad Litem Appointments

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</tbody>
</table>

5. In instances where the GAL WAS AWARDED compensation, indicate the funding source for the compensation rendered. You may indicate more than one funding source.

1. case still pending - since it seeks damages, payment is expected from damage award or from parties

2. [No Answer Entered]

3. [No Answer Entered]

4. [No Answer Entered]

5. [No Answer Entered]

   It was only AFTER the proceeding had finished, the GAL had put in a good deal of time on representation, including quality research (I appointed her to represent a person who was in an unresponsive coma - and had been for ten years - in a matrimonial action), that I found out that there WERE NO available funds to pay her. Since that time, I have only appointed guardian ad litem in foreclosure matters, where the plaintiff is a bank and can pay the fees. This doesn't come up on regular basis, but it is a problem.

6. [No Answer Entered]

7. [No Answer Entered]

8. [No Answer Entered]

9. [No Answer Entered]

10. [No Answer Entered]

11. [No Answer Entered]

12. From settlement of infant's compromise proceeds.

13. [No Answer Entered]

14. [No Answer Entered]

15. [No Answer Entered]

16. Litigant's own funds

17. [No Answer Entered]

18. [No Answer Entered]

19. depends on the case, the funds available, the issues

20. [No Answer Entered]

21. [No Answer Entered]
22. no compensation was awarded.

23. [No Answer Entered]

24. in negligence cases from the settlement or judgment or the assets of the incapacitated individual estate. counsel often perform work probono

25. [No Answer Entered]

At this point, the GAL has not been paid because the case is still in litigation. Our plan is to use the County 18-b funding (for other service than counsel) because the litigant has been assigned an attorney through 18-b. If the county fails to pay, the attorney has agreed to treat this as a pro bono case.

27. [No Answer Entered]

28. One of the parties.

29. [No Answer Entered]

30. Part of Settlement

On foreclosure actions, the GAL was paid from the proceeds of the referee's sale.

31. On the infant settlement action, the GAL was paid from the proceeds of the settlement.

32. Not yet determined. Most likely the plaintiff in the divorce action.

33. [No Answer Entered]

34. [No Answer Entered]

35. [No Answer Entered]

36. [No Answer Entered]

37. paid by the person or entity who requested appointment

38. [No Answer Entered]

39. Funds held by the beneficiary of the appointment

40. [No Answer Entered]

41. I don't recall

42. [No Answer Entered]

43. [No Answer Entered]

44. N/A

45. [No Answer Entered]

46. [No Answer Entered]

47. [No Answer Entered]

48. marital funds, or no payment
49. I cannot remember except that on one occasion the compensation came from settlement proceeds from a personal injury infant settlement.

50. the person requiring the gal had to pay if possible. often, the gal went unpaid.

51. [No Answer Entered]

52. [No Answer Entered]

53. [No Answer Entered]

54. portion of settlement funds

55. [No Answer Entered]

56. funds available to the person needing guardian

57. [No Answer Entered]

58. [No Answer Entered]

59. [No Answer Entered]

60. None of the GAL's I have appointed in Family Court were compensated. I have not appointed a guardian ad litem in any of the cases I have been assigned as Acting Supreme Court Justice.

61. [No Answer Entered]

62. [No Answer Entered]

63. Overall award, if any

64. [No Answer Entered]

65. [No Answer Entered]

66. [No Answer Entered]

67. [No Answer Entered]

68. And specific fund sources.

69. NA

70. [No Answer Entered]
6. Please provide examples of up to three (3) different types of legal matters where you have appointed a GAL pursuant to CPLR, Article 12. For example, "...Landlord/Tenant matter."

1. medical malpractice
2. Foreclosures with missing possible dead landowner.
   - Divorce
3. Quiet Title
   - Surrogate matters
4. IT WAS SO LONG AGO, THAT I CAN NOT REMEMBER.
5. Matrimonial actions, personal injury actions
   - custody and visitation
6. termination of parental rights
   - neglect
7. matrimonial
8. Infant's compromise proceeding where natural guardian/parent would not cooperate with attorney retained to represent child.
9. personal injury
10. matrimonial
11. Art. 81 MHL (GAL for mentally impaired child)
    - Personal injury lawsuit
12. Divorce, personal injury
13. landlord tenant matter
14. negligence; property dispute among owners or third parties
15. The litigation referred to above is a custody case where the mother has a diagnosed mental illness which clearly interferes with her ability to understand the proceedings.
16. Family Court order of protection
    - Matrimonial action
17. 1. Infant Compromise Order
    2. Negligence - torts
       1. Foreclosures
18. 2. Infant Settlement Action
19. divorce action
20. Negligence case and Matrimonial case
21. foreclosure matters
22. Automobile accident, when parent was driver being charged with negligence.

23. Foreclosure; medical malpractice action involving infant; petition for emergency medical treatment by local health care facility

24. FCA Art 10-A Permenacy Hearings

25. Competency hearing, real estate transaction, lead paint litigation

26. Motor Vehicle case

27. Guardianship, Infant settlement

28. matrimonial (divorce)

29. personal injury - parents both had conflicts with the injured children

30. divorce where the party was mentally disabled; foreclosure/eviction/ property litigation with mentally disabled litigant;

31. One appointment in five years in personal injury/medical malpractice case

32. Estate Proceeding
    Matrimonial Action

33. Tort litigation

   personal injury case where although there was an attorney person did not seem competent and there was a conflict with counsel - person spoke mainly Italian and I appointed an attorney fluent in Italian -
   personal injury settlement for infant applying Florida law - limited insurance policy - wanted to make sure all avenues for recovery were covered -

34. Custody/ Neglect and Abuse cases/ family offense proceeding

35. mortgage foreclosure
    negligence/wrongful death actions
    foreclosure

36. matrimonial
    mental hygiene Article 81

   1) a veteran appearing to suffer with mental health issues in the force action. Appointed a Vietnam veteran attorney.

37. an experienced veteran attorney to assist an apparent mentally disabled property owner in condemnation proceeding with compensation to be paid from the condemnation award.

38. NA
Non-Surrogate's Judges: Guardian Ad Litem Appointments

| Respondents: | 166 |
| Status: | Open |
| Launched Date: | 10/01/2012 |
| Closed Date: | 08/31/2016 |

7. **Have you ever had the need to appoint a GAL but were unable to find one?**

1. In Supreme, was able to secure agreement of parties to pay for GAL. Absent that agreement, action/proceedings were ones in which there were no separate funds or resources subject to authority.

2. In both Supreme and Family Court, there have been numerous instances in which GAL would been very useful but there are no mechanisms other than parties's agreements for payment. Simply muddle through.

   Funding is always an issue in a divorce case! and often there are no family members or friends to serve for free. The last (current) one I have, I appointed an experienced mat attorney who is on the Part 33 list, and I have made a point of giving this GAL mortgage referee appointments. I've done this for all of the cases where there couldn't be payment - not only on GAls but on 0 estate/asset Art81 gubernations as well.
Non-Surrogate's Judges: Guardian Ad Litem Appointments

Respondents: 166
Launched Date: 10/01/2012
Status: Open
Closed Date: 08/31/2016

8. Please feel free to add any other comments or concerns regarding the appointments of GALs in cases where a party is unable to adequately prosecute or defend their rights.

The law needs to be clarified with respect to the GAL's ability to substitute judgement

There needs to be a funding stream to pay for GAL assignments when the parties have no assets

1. Re question 1 above: I sit in Family Court and am regularly asked by attorneys to appoint GAL for incompetent adults. (I checked Supreme Civil because the survey wouldn't let me exit without checking a box, but there is no box for Family Court Judges. If you are not surveying Family Court judges, you are missing a large part of what should be in your sample).

2. The state should have a fund available to pay GALs in much the same way as the 18-b funding exists for indigent litigants.

3. N/A

4. Uncertainty that GAL will get paid.

The new pro bono requirements for newly-admitted attorneys will provide a pool for possible appointment.

5. The absence of compensation for many actions and proceedings renders the benefits and wisdom of the Part 36 illusory at best.

the need for the appointment of a GAL arises in many varied legal proceedings. Many times the appointment is needed on fairly short notice (e.g., Emergency medical treatment). I have found it good practice to make contact with the contemplated guardian in the first instance, explain the need for the appointment and what it might entail to make sure the person will accept the appointment at the outset.

6. I am not aware that there is a funding source for GAL's unless the County is supposed to pay and I am not sure whether the County is entitled to be heard.

7. The lawyers in this county have been very giving with pro bono work in appropriate situations.

8. The survey form does not accommodate those of us who sit in both County and Supreme. My recollection is that I have not appointed a GAL in this context. I have appointed GALs in Family Court.

9. Many of the people on the GAL list are of unknown quantities to me. Many on the list do not even appear in my dedicated matrimonial list. Unless an attorney is personally known to me I will not up quite a name from a list.