

**NATIONAL STUDY OF
GUARDIAN AD LITEM
REPRESENTATION**

**Administration for Children, Youth and Families
Office of Human Development Services
U.S. Department of Health and Human Services**

139642

Prepared by

**CSR, Incorporated
Suite 600
1400 Eye Street, N.W.
Washington, D.C. 20005**

October 1990

This document was prepared under Contract 105-89-1727
by CSR, Incorporated
for the Administration for Children, Youth and Families
Office of Human Development Services
U.S. Department of Health and Human Services

Project Director:

Sherrie S. Aitken

Authors:

Sherrie S. Aitken
Larry Condelli
Tom Kelly

Editor:

Monica Sørensen

Subcontractor:

American Bar Association
Center for Children and the Law
Robert Horowitz
Subcontract Manager

139642

TABLE OF CONTENTS

Acknowledgements	iii
Chapter 1: Introduction and Methodology	1
Background	1
Methodology of the Study	2
Overview of State Summaries	5
Chapter 2: National Summary of GAL Representation	9
Prevalence of Representation	9
Statewide GAL Programs	15
Types of Representation Provided	17
Who Can Serve as a GAL	17
Appointment Practices	19
Responsibilities of GALs	23
Compensation of GALs	28
Training Requirements for GALs	30
Characteristics of GALs	33
Administration of GAL Programs	35
Immunity From Liability for GALs	37
Chapter 3: Conclusions and Recommendations	41
Conclusions	41
Recommendations	43
Appendix 1: State Summaries of GAL Representation	47
Appendix 2: Sampled Counties by State	251

INCOFS
DEC 8 1992
ACQUISITIONS

LIST OF EXHIBITS, FIGURES, AND TABLES

- Exhibit 1: States Allowing Discretionary GAL Appointment**
- Exhibit 2: State Estimates of Percentage of Abused and Neglected Children Receiving GAL Representation**
- Exhibit 3: Statutory Requirements for Who Can Serve as a GAL**
- Exhibit 4: Written State Requirements Concerning GAL Appointment Times**
- Exhibit 5: Other Types of Cases in Which Children Receive GAL Representation**
- Exhibit 6: Training Requirements for GALs**
- Exhibit 7: Program Administration of Statewide GAL Programs**
-
- Figure 1: Statewide GAL Programs**
- Figure 2: Types of GAL Representation in 555 Sampled Jurisdictions**
- Figure 3: GAL Involvement**
- Figure 4: Characteristics of Attorney GALs**
- Figure 5: Administration of Independent GAL Programs in States Without Statewide GAL Programs**
-
- Table 1: Number of Individuals Who Participated in the Study**
- Table 2: National Study of GALs**

ACKNOWLEDGEMENTS

This study benefited from the cooperative efforts of many talented people concerned about child advocacy. Robert Horowitz of the Center for Children and the Law of the American Bar Association (ABA) was a valuable resource, providing names of respondents in each county and assisting in the development of the discussion guide. Beth Waid of the National CASA Association, Don Duquette of the University of Michigan Law School, and Lynn Shreve, State Coordinator for the Delaware CASA Program, also contributed to the development of the discussion guide. We also appreciate the valuable comments that were provided by the expert external reviewers, including Dr. Ellen Grey, formerly with the National Council of Jewish Women and now with the Department of Sociology, Allegheny College in Pennsylvania; Dr. Victor E. Flango, a Senior Staff Associate with the National Center for State Courts, Williamsburg, Virginia; the Honorable W. Don Reader, a family court judge in Stark County, Canton, Ohio; and Dr. Jules Kerness, Director of Special Studies, New York State Senate Child Care Committee, Albany, New York. Finally, we appreciate the direction provided by our Project Officer, Dr. David Fairweather, as well as his support and encouragement of our independent judgment.

The collection of the large amount of information collected from over 550 counties and district courts was a massive undertaking which required the hard work of a team of CSR and ABA researchers. Larry Condelli supervised the researchers—Tom Kelly, Alexandra Davis, Melisa Kelly, Sharon Goretsky, Lisa Wright, and Alison Thomas—who spent numerous hours on the telephone tracking down respondents and verifying needed information. Without the tenacity, dedication, and perseverance of these individuals, this study could not have been conducted. Their work is gratefully acknowledged.

Finally, more than 600 judges, GAL program directors, CASA volunteers, attorneys, and court administrators spent considerable time on the telephone discussing their procedures and requirements for providing representation for abused and neglected children in their States and counties. Many of these people also took the extra time to send us copies of laws, court rulings, training manuals, and reports to clarify issues, thereby helping us to prepare a better report. Their cooperation is greatly appreciated.

Sherrie S. Aitken
Project Director

CHAPTER 1

INTRODUCTION AND METHODOLOGY

Background

Since the passage of the Child Abuse Prevention and Treatment Act (P.L. 93-247) in 1974, most States have provided representation to children involved in civil abuse and neglect judicial proceedings. The Act required States to appoint a guardian *ad litem* (GAL) to maltreated children as one condition for receiving Federal grant funds authorized by the Act. In the years following the passage of the Act, all States enacted legislation requiring GAL representation for some or all children involved in legal proceedings resulting from a child abuse or neglect incident. With few exceptions, this legislation has not clearly defined how this representation should be provided, who can serve as a GAL, or the role that this individual should play. Federal law stated only that the GAL should represent the child's "best interests," and many State laws are similarly broad. The Federal Government left the implementation of the GAL requirement to States. In turn, most States gave their individual counties authority to establish a mechanism for representation.

The GAL role originally was conceptualized in legal terms. Consequently, States initially appointed attorneys to represent children. In the late 1970's, courts in Florida and Washington State began appointing trained volunteers to represent children either alone or with an attorney. Due to the success of these efforts, other States also began appointing nonattorney volunteers. In the early 1980's, the Administration for Children, Youth and Families (ACYF) encouraged the development of volunteer GAL programs, such as Court Appointed Special Advocate (CASA) programs, by including their establishment as a priority area in the coordinated discretionary grants program. Other methods for providing GAL representation also have evolved over the last 15 years including the use of Public Defenders, Legal Aid attorneys, and social workers. Some States have developed statewide programs and standards for GAL representation.

A lack of legislative guidance and disagreement among and within States regarding how best to provide this representation has resulted in a chaotic and inconsistent system of GAL representation. Many counties also have been constrained by a shortage of qualified attorneys or volunteers to accept abuse and neglect cases and by lack of funds. There has been no systematic accounting of the ways in which local jurisdictions have met their mandate to provide representation to abused and neglected children. Each State has developed its own procedures to meet local needs and conditions. No national studies have been conducted to determine such basic issues as the type of representation provided, the number of children who receive this representation, and the role of the GAL. There also has been little systematic study of these issues even within States. Yet this information is critical for identifying problems and shortcomings in providing GAL representation and to aid in developing recommendations and guidelines for improving methods of representation.

The U.S. Congress recognized the need for information on GAL representation nationwide in its reauthorization of the Child Abuse Prevention and Treatment Act in 1988 (P.L. 100-294). The Act

National Study of Guardian *ad Litem* Representation

required ACYF to conduct a study to determine how each State provided GAL representation. In addition, ACYF posed the following questions to be answered by the study:

- Which models of GAL representation are being used?
- Is there a GAL program office? Are GALs independent of the court?
- How many children who should be receiving representation are not receiving it?
- When does GAL appointment begin, and when does it end?
- What training is required of GALs?
- What is the level of compensation of GALs? Are expenses compensated?
- What are the responsibilities of GALs, and are there written descriptions of their role? Are GAL responsibilities described in State laws?
- Are GALs assigned to other types of cases besides abuse and neglect?
- Are GALs assigned in addition to an attorney for the child?
- What is the status of GALs regarding immunity from liability? Are GALs insured for liability?

ACYF contracted with CSR, Incorporated, to provide this information through a national telephone study of the 50 States, the District of Columbia, and counties within each State. The study included two phases. The first phase involved collecting information at the State level concerning general characteristics of GAL representation that existed statewide. In the second phase, respondents in the selected counties provided information about their local jurisdictions. The American Bar Association (ABA) assisted CSR in identifying respondents and conducting some telephone discussions and provided guidance on discussion topics. The National CASA Association and members of our consulting panel also provided assistance in formulating the discussion questions.

Methodology of the Study

In the first phase of the study, the ABA assisted CSR in identifying one knowledgeable respondent at the State level in each State and the District of Columbia to provide a general overview of GAL representation in the State. If there was a statewide GAL or CASA program in the State, the program coordinator was contacted. In other States, the chief court administrator or judge was contacted. If any of these respondents were unable to provide the needed information on GAL representation, CSR researchers asked the respondent for the name of another individual who could provide it. This person then was contacted. In many States, more than one person provided information.

Introduction and Methodology

Selection of counties. The conduct of the second phase of the study required a random sample of counties or jurisdictions within each State. To ensure that the study adequately represented State conditions, counties were stratified into the following groups based on population size: rural counties, with populations less than 100,000; small urban counties, with populations between 100,000 and 500,000; and large urban counties, with populations greater than 500,000. The proportion of counties in each stratum was computed for each State, and a total of 10 counties per State were randomly selected from the strata based on these proportions. For example, if 30 percent of a State's counties were large urban and 50 percent were rural, then 3 large urban counties, 5 rural counties, and 2 small urban counties would be selected.

There were three exceptions to this selection procedure.

- In States with 15 or fewer counties, all counties were selected.
- At least two counties were selected from each stratum regardless of the proportion of counties in the State in that stratum. If there were only one or two counties in the stratum, as happened in the large urban stratum in some States, these counties were included.
- In States with a large number of contiguous counties with populations less than 25,000, such as Nebraska, the counties were clustered into a single sampling unit with a population of 25,000 or less. These clustered samples were selected as a single unit, and all counties within the unit were included in the sample. This clustering procedure was employed to ensure inclusion of counties in different regions of the State.

After the original sample was drawn using the above procedures, two adjustments were necessary. The clustering procedure resulted in the selection of 637 counties—too many to study given the time and resources available. To reduce the sample size, 20 percent of the rural counties were eliminated randomly from the States where clustering was used, yielding a sample size of 554. In addition, due to the random nature of selection process, the major population areas in some States were not included in the original sample. In order to include at least one major population center in each State, the following additional counties were added:

- Alabama: Montgomery
- California: Los Angeles, San Diego, and San Francisco
- Florida: Duval
- Iowa: Polk
- New York: Erie
- North Carolina: Mecklenburg

- Pennsylvania: Philadelphia
- Texas: Bexar and Harris

Some rural county courts heard cases from several neighboring counties. If information was available from these neighboring counties, then the county was added to the study even if it was not part of the original sample. Information from six additional counties was added in this way.

The final complication related to sample selection arose in States that used district courts that covered multiple counties, or parts of many counties. These States were Connecticut, Massachusetts, New Hampshire, and Rhode Island. In these States, the district courts most closely tied to selected counties were substituted for the counties.

The final sample size was 555 counties or court jurisdictions. Seventeen counties were added as described above, and 16 (2.9 percent) were not able to participate because they did not have the information required or because staff were not available to carry on telephone discussions with CSR staff. These counties all were rural; 8 had populations less than 20,000, and only 2 had populations greater than 40,000. In 2 of the 8 counties the local judge had instructed staff not to participate in the study. We gave consideration to auditing those counties that did not participate during Phase II of this project. However, since these counties are rural and only had 1 or 2 child abuse and neglect cases per year, it appears that the cost of the opportunity to learn far outweighs the potential benefit of additional information. Appendix 2 provides a complete list of all counties included in the study and identifies the counties that were added to the study later or did not participate.

Respondents. The ABA and National CASA Association assisted CSR in identifying respondents in selected counties. As with the first phase of the study, the GAL or CASA program coordinator for the county, where one existed, was the first point of contact. Where there was no coordinator, the chief judge of the local juvenile court was the first contact. If the initial contact could not provide the information needed, the CSR researcher asked for the name of another knowledgeable potential contact. In many counties, several individuals had to be contacted. Telephone discussions were conducted from mid-December 1989 through late March 1990. Table 1 lists the number and type of individuals that we contacted during the course of the Phase I effort.

Definition of GAL. The definition of GAL varies considerably among States. For example, some States define the GAL as anyone who represents the child's best interests. In other States, the GAL is an attorney who provides legal representation. Still other States define GALs in terms of specific duties performed for the court. To avoid complications arising from these differences and to obtain a complete picture of the nature of representation of children provided within each State, this study defined GAL broadly to include anyone appointed as a representative for the child in civil abuse and neglect proceedings. This definition is used throughout this report. The State summaries included in the Appendix of this report describe all representation provided to children in each county, regardless of whether the local jurisdiction calls the representative a GAL. The State summaries also provide definitions and terminology used within the studied jurisdictions when they differ from the study definitions.

TABLE 1
NUMBER OF INDIVIDUALS WHO PARTICIPATED IN THE STUDY

POSITION	# INDIVIDUALS BY LEVEL		TOTAL
JUDGE	STATE	8	142
	LOCAL	134	
COURT ADMINISTRATOR	STATE	33	269
	LOCAL¹	236	
CASA	STATE	22	94
	LOCAL	72	
ATTORNEY	STATE²	15	105
	LOCAL³	90	
		TOTAL	610

Written materials received from 26 States and 31 counties.

¹Includes court administrator, court clerk, registrar, commissioner, DSS-Liaison, master, director, probation and court service officers, legal social worker, intake officer, magistrate.

²Includes Deputy Attorney General, Public Defender, State Counsel.

³Includes private attorney-GAL, public defender, District Attorney, Law Guardian, county attorney, prosecuting attorney, DSS attorney.

CASA and volunteer GAL programs. Many jurisdictions use CASA volunteers to provide GAL representation or as friends of the court. The National CASA Association estimates that there are 387 programs in 47 States. The State summaries describe these programs for the studied counties that have them. Study resources did not allow the examination of all CASA representation within each State. However, information on many of these programs can be obtained from the National CASA Association. The State summaries describe CASA programs where the volunteer either serves as a GAL or friend of the court or provides assistance to the GAL.

Many jurisdictions use trained volunteers but do not describe them as CASAs. In the State summaries, volunteers are referred to as CASAs only if this is done within the State.

Chapter 2 of this report provides an overview and summary of GAL representation across the 50 States and the District of Columbia. The conclusions of this phase of the project and the recommendations resulting from the findings are presented in Chapter 3.

Overview of State Summaries

Appendix 1 to this report provides a summary of GAL representation provided in each jurisdiction studied. Each summary begins with a brief overview of the basics of GAL representation within the State followed by a brief text describing GAL and other representation for abused and neglected children in the State's studied counties.

In order to ensure the accuracy and completeness of the information reported in the State summaries, drafts of the information compiled were returned to each of the 50 States and the District of Columbia for their review. Two copies were sent to 2 different reviewers in Colorado, Hawaii, Texas, and Michigan for a total of 55 reviewers.

All of the mailed requests for review were followed by telephone calls. Nine reviewers did not respond. Two reviewers (Colorado and Michigan) were no longer employed at the mailing address, and five (Alabama, Georgia, Illinois, Montana, and North Dakota) did not respond to repeated telephone calls. The remaining two States (Alaska and Hawaii) had State Directors on extended leave, both of whom were interviewed two to three times during the initial survey. Table 2 presents the response information for the State reviewers.

TABLE 2
NATIONAL STUDY OF GALS

Response Rate of Reviewers of the State Chapters

REVIEWERS	TOTAL	# RESPONSE	RESPONSE RATE%
State Court Administrator	19	15	78.9
State CASA Director	19	17	89.5
State DSS/DHS	4	4	100.0
Attorney-GAL	10	8	80.0
Judge	3	2	66.7
TOTALS	55	46	83.6

The information provided in the State summaries includes the following:

- Types of representation provided (attorneys, volunteers), the percentage of cases receiving each type of representation, and the percentage of abused and neglected children represented in the jurisdiction.
- Social work, legal, or volunteer support provided to the GAL, if any.
- The appointment process, including when appointment begins and ends, who appoints, and other types of cases besides abuse and neglect to which GALs are appointed.
- Responsibilities of the GAL regarding representation of the child's wishes and best interests.
- Duties of the GAL, including the GAL's role in coordinating with the child welfare agency, parents, and other involved parties.
- Compensation of GALs.
- Training and prior experience requirements.
- Caseloads, number of GALs available in the county, and any problems retaining or recruiting GALs.

National Study of Guardian *ad Litem* Representation

- Demographic characteristics of attorney GALs.
- For counties with GAL programs, the staffs, budgets, and relationships of GAL programs to the court.
- Immunity from liability and insurance of GALs.
- Evaluation, monitoring, and supervising of GALs.

CHAPTER 2

NATIONAL SUMMARY OF GAL REPRESENTATION

There is considerable variation in understanding among the 50 States regarding the representation of abused and neglected children. Only 14 States have state GAL program offices that establish some requirements regarding who can serve as GALs, what training they must complete, and what their responsibilities are. In these States the GAL program office was established by Statute or by the court and the program is publicly funded. The remaining States rely on a patchwork of attorneys, volunteers, CASAs, and other individuals to represent children. Variation is the norm even within States, and neighboring counties often have different methods of appointment and type of representation, compensation, and training. Even where statewide systems exist, lack of uniformity is not unusual. Coherence and consistency of GAL representation clearly is the exception in most States.

Against this backdrop this chapter presents a national summary of the major topic areas of the study. Findings are aggregated across the 555 counties and jurisdictions studied or presented by State where appropriate. The summary broadly outlines the nature of representation. However, due to the extreme variation within each State, the summary cannot provide detail on many of the atypical circumstances and conditions that exist. Consequently, the reader is urged to review the State summaries in the Appendix to obtain a full picture of GAL representation across the Nation.

Prevalence of Representation

Public Law 100-294 requires that all States wishing to receive Federal grants under this Act to appoint a GAL or legal counsel for children in all civil abuse and neglect cases. In addition, most States have their own Statutes requiring appointment of a GAL or legal counsel for children in civil abuse and neglect cases. As shown in Exhibit 1, however, appointment in eight States is either discretionary or required only in some cases. In Arkansas, for example, appointment is required only if custody is in question. Georgia, Louisiana, and Wisconsin require appointment only in termination of parental rights cases. Georgia law also mandates appointment when the child has no parent and Wisconsin requires representation when the child is removed from the home or in cases involving custody or abuse restraining orders. Indiana requires GAL appointment in cases of termination of parental rights, Fetal Alcohol Syndrome, drug-addicted newborns and whenever an abuse or neglect petition is contested. In Colorado, GAL representation is mandatory in abuse cases but discretionary in neglect cases. In Delaware, Indiana, and Texas, appointment of a GAL is completely at the discretion of the presiding judge. As a consequence of the discretionary nature of GAL or attorney appointment in these eight States, not all abused and neglected children in these States are represented.

EXHIBIT 1

STATES ALLOWING DISCRETIONARY GAL APPOINTMENT

<i>State</i>	<i>Conditions</i>
Arkansas	Required only when custody is in question
Colorado	Mandatory in abuse cases; discretionary in neglect cases
Delaware	Fully discretionary
Georgia	Required only in termination of parental rights cases or when the child has no parent
Indiana	Required in contested abuse/neglect cases, termination of parental rights, Fetal Alcohol Syndrome, and drug-addicted newborns
Louisiana	Required only in termination of parental rights
Texas	Fully discretionary
Wisconsin	Required only in contested custody, abuse restraining orders, or termination of parental rights; counsel required only in placement and certain abuse/neglect cases

EXHIBIT 2

STATE ESTIMATES OF PERCENTAGE OF ABUSED AND NEGLECTED CHILDREN RECEIVING GAL REPRESENTATION

<i>State</i>	Percent Receiving Representation			
	<i>Rural</i>	<i>Small Urban</i>	<i>Large Urban</i>	<i>Total</i>
Alabama	100	100	100	100
Alaska	100	100	NA	100
Arizona**	80	100	93	91
Arkansas	95	100	NA	96
California*	100	77	77	78
Colorado	98	100	NA	99
Connecticut	100	100	100	100
Delaware	NA	22	NA	22
District of Columbia	NA	NA	100	100
Florida	93	36	47	49
Georgia	94	78	100	89
Hawaii	100	100	100	100
Idaho	57	75	NA	60
Illinois	100	100	100	100
Indiana	93	77	50	78
Iowa	100	100	NA	100
Kansas	100	100	NA	100
Kentucky	84	100	100	88
Louisiana	73	20	100	54

National Study of Guardian *ad Litem* Representation

EXHIBIT 2 (cont.)

<i>State</i>	Percent Receiving Representation			
	<i>Rural</i>	<i>Small Urban</i>	<i>Large Urban</i>	<i>Total</i>
Maine	100	92	NA	95
Maryland	100	100	100	100
Massachusetts	100	100	100	100
Michigan	100	100	100	100
Minnesota	100	100	80	95
Mississippi	87	100	NA	90
Missouri	100	100	100	100
Montana	100	100	NA	100
Nebraska	100	100	NA	100
Nevada	98	3	24	32
New Hampshire	100	100	NA	100
New Jersey	100	100	NA	100
New Mexico	100	100	NA	100
New York	100	100	100	100
North Carolina	99	100	NA	99
North Dakota	100	100	NA	100
Ohio	85	100	100	96
Oklahoma	100	100	100	100
Oregon	52	99	40	69
Pennsylvania	99	100	55	83
Rhode Island	100	100	100	100

National Summary of GAL Representation

EXHIBIT 2 (cont.)

<i>State</i>	Percent Receiving Representation			
	<i>Rural</i>	<i>Small Urban</i>	<i>Large Urban</i>	<i>Total</i>
South Carolina	100	100	NA	100
South Dakota	83	100	NA	86
Tennessee	97	90	60	89
Texas	97	100	99	99
Utah	83	83	100	90
Vermont	100	100	NA	100
Virginia	93	100	100	96
Washington	100	100	70	87
West Virginia	100	100	NA	100
Wisconsin	95	100	100	98
Wyoming	100	NA	NA	100

NOTES

*Does not include representation by petitioning social worker.

**Requires both attorney and volunteer GAL. However, representation was counted if either was assigned.

Statewide estimates were made by computing the weighted average of the three strata. Weights were the proportionate State population in the stratum.

Percent Receiving Representation includes attorney representation even when the attorney is not considered GAL by the local jurisdiction.

NA = Not available or not applicable.

National Study of Guardian *ad Litem* Representation

Although required, universal representation of abused and neglected children also does not occur in many of the remaining States. Exhibit 2 presents State estimates of the proportion of children provided a GAL or legal counsel in abuse and neglect cases in 1989. These estimates are based on the proportions reported by respondents in the telephone discussion and are statistically weighted to reflect the entire State.

Caution should be exercised in interpreting the proportions for two reasons. First, estimates provided by respondents usually were "best guesses" and not based on precise counts. Second, respondents may have been biased to overestimate the proportion receiving GAL representation required by State law. No independent method was available for verifying the accuracy of respondents' reports. Finally, these estimates do not address the quality of representation. Some children may nominally be assigned a representative or GAL but receive little or no actual representation.

All abused and neglected children are not being represented in 26 States. In nine of these States, more than 90 percent of children are represented and the children who do not receive representation are concentrated in small rural areas that have small caseloads. In the remaining jurisdictions in these States, all children receive representation. Maine, Minnesota, Tennessee, and Utah also provide representation to 90 percent or more of their children, but representation is low in either the small urban or large urban jurisdictions. The relatively small number of attorneys or volunteers available to handle the higher caseload in these areas is an important cause of the lack of universal representation.

In Kentucky and South Dakota, where 88 and 86 percent of children, respectively, are represented, lack of representation occurs in rural areas that have few cases. Georgia also has a lower proportion of children represented in small urban and rural areas.

Eight States have more widespread difficulties in providing representation. Florida, where only 49 percent of children receive a GAL, Nevada with 32 percent representation, and Delaware with 22 percent were the lowest in the nation on this measure. Florida and Nevada provided a high proportion of cases with a GAL in their rural areas, but had very low representation in their urban areas. Less than half of cases in large urban areas in Florida and a quarter of cases in such areas in Nevada receive representation. In the small urban areas only a fraction of the cases (3 percent) in Nevada and about a third (36 percent) in Florida are represented. Representation was uniformly low in all three of Delaware's counties. In the five remaining States where representation is low—California, Idaho, Indiana, Louisiana, and Oregon—lack of representation is also widespread throughout the State. For example, only 77 percent of children in small and large urban areas of California receive a GAL. Only 60 percent of Idaho children, 54 percent of Louisiana children, and 69 percent of Oregon children are appointed representation.

The lack of universal representation is due in most States to an insufficient number of trained volunteers or attorneys. This problem is often further compounded by low rates of compensation paid to attorneys. Florida, for example, has a statewide volunteer program, supplemented by private attorneys in large urban areas. The jurisdictions included in the study reported a shortage of

National Summary of GAL Representation

volunteers and extremely low compensation to attorneys as reasons for the low level of representation. Nevada counties also reported a shortage of attorneys to cover the large, sparsely populated State.

The low proportions of children receiving representation in California and Idaho, however, appear to result from more fundamental difficulties. California's procedures for assigning GALs are somewhat unclear. The State Statute defines a GAL as a person who serves "in lieu of parents" and provides no further definition. The child's caseworker serves as the GAL and in addition, the child may have legal counsel from the district attorney or a private attorney.

Idaho's low representation levels may stem from a philosophical basis. Many informants in that State questioned the need for a GAL and several stated they did not believe GALs served a necessary or useful function.

In eight States where representation is less than 100 percent, appointment of a GAL is discretionary (see Exhibit 1). The lack of complete representation is due in part to judges choosing not to assign GALs to every case. For example, some informants in Delaware noted the GALs could handle more cases, but judges did not feel one was needed in all cases.

Statewide GAL Programs

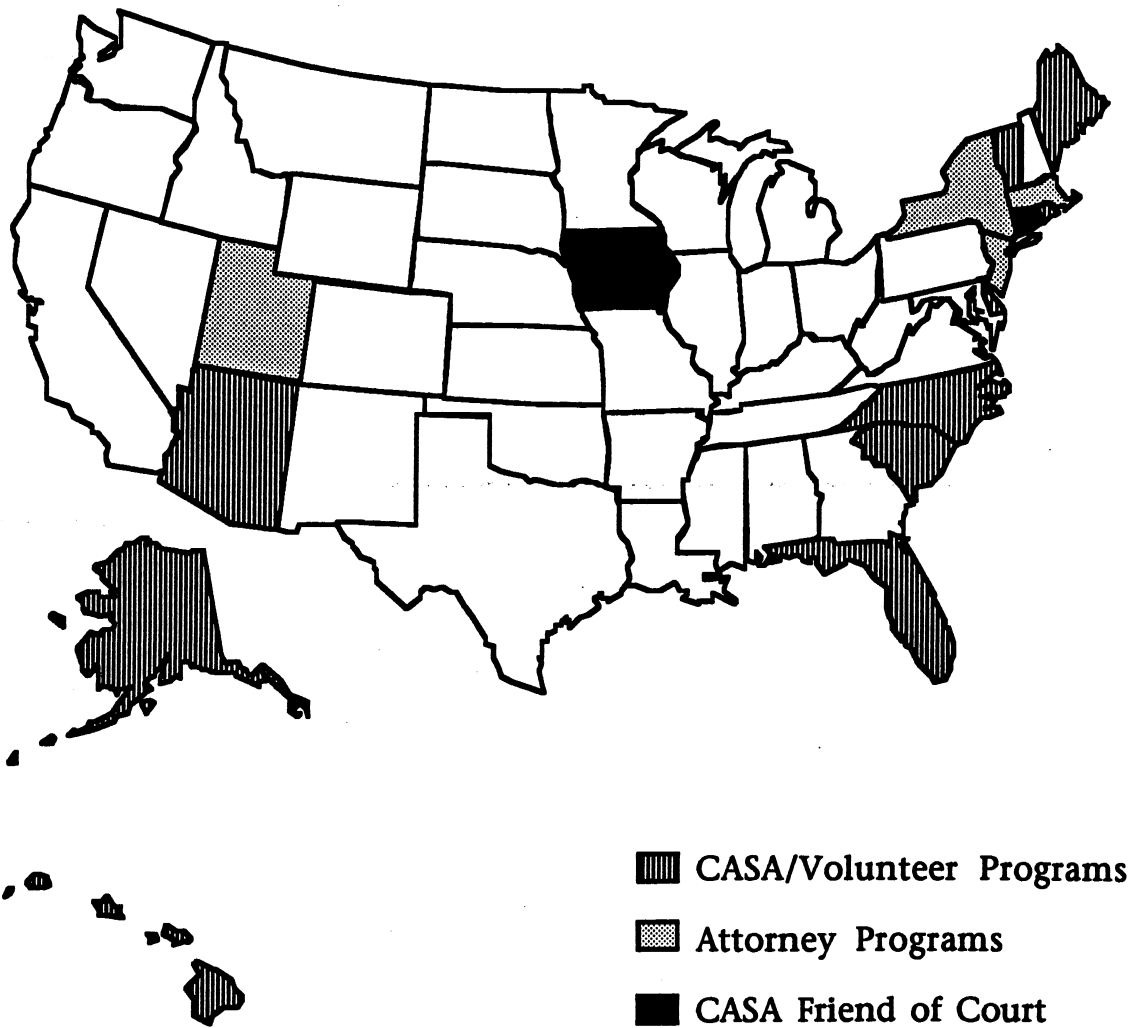
Figure 1 shows the 14 States that have statewide programs for providing GAL representation. In these States, there are uniform requirements regarding who can serve as a GAL, appointment practices, and training requirements. A program office at the State or regional level directs program practices by establishing requirements or enforcing statutory requirements. Statewide programs ensure general consistency in GAL appointment and other practices—consistency that is lacking in most States without these programs.

Alaska, Arizona, Delaware, Hawaii, Maine, and Rhode Island have statewide CASA programs that represent children as GALs in all or most jurisdictions. Florida, North Carolina, South Carolina, and Vermont also have statewide programs using volunteers in almost all jurisdictions. Connecticut and Iowa have statewide CASA programs, but CASAs in these States are friends of the court and do not serve as GALs.

New York and New Jersey have statewide law guardian programs that specify training and role requirements for attorneys serving as GALs. In Massachusetts, the Committee for Public Counsel Services sets training and compensation requirements for attorney GALs, and Utah has a statewide attorney GAL program that establishes standards throughout the State. The District of Columbia also has uniform training and appointment requirements. In Maryland, Legal Aid attorneys represent children in all counties except one. However, there is no formal statewide program.

FIGURE 1

Statewide GAL Programs



National Summary of GAL Representation

Types of Representation Provided

Local jurisdictions provide GAL representation using private attorneys; staff attorneys, such as Public Defenders or Legal Aid attorneys; and CASA and other volunteers. Figure 2 shows that private attorneys are used to provide representation in 72.4 percent of the jurisdictions. Staff attorneys serve as GALs in 21.1 percent of studied jurisdictions; volunteers serve as GALs in 21.6 percent. Other forms of representation were provided in 6.1 percent of studied areas, and about one-fourth (23.6 percent) of jurisdictions used more than one of these models of representation to serve abused and neglected children. In 16 counties (2.9 percent of jurisdictions) there is no representation provided to abused and neglected children. These counties were rural and had few abuse and neglect petitions annually. They had developed no procedures for handling these cases.

Of the 117 jurisdictions that use staff attorneys, 79 percent use attorneys from a Legal Aid or Public Defender's Office, and 5 percent of jurisdictions have a child advocacy office established specifically to provide GAL representation. Other jurisdictions use attorneys from child welfare or other public agencies. In 77.8 percent of jurisdictions that use staff attorneys, some sort of administrative or social work support is provided to them. In contrast, private attorneys in only 41.6 percent of the jurisdictions that use them have access to any support.

Who Can Serve as a GAL

State and county requirements concerning who can serve as a GAL vary widely. The different requirements of the jurisdictions studied include the following.

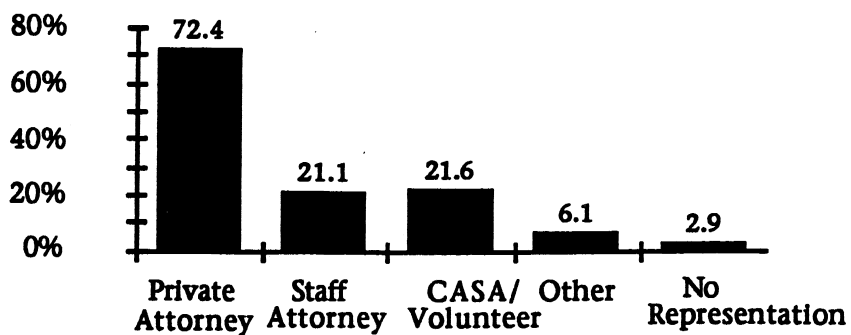
- Attorney is required (volunteer or CASA may be appointed in addition);
- Appointment of both an attorney and a CASA is required;
- Appointment of either a CASA or an attorney to serve as GAL is required (the GAL need not be an attorney); and
- Appointment of a CASA only to serve as GAL is required.

Exhibit 3 summarizes State requirements concerning who can serve as a GAL. In the District of Columbia and in 19 of the 43 States in which appointment is required, Statute dictates the GAL must be an attorney. In addition, in four of the eight States in which GAL appointment is discretionary, only an attorney can be appointed. Twenty-three States have Statutes allowing for appointment of either an attorney or a CASA. Five of these States, however—Arkansas, Iowa, New Mexico, Tennessee, and Texas—use only attorneys. Vermont uses both an attorney and a CASA, and Maine requires that the CASA be used if possible.

Florida, Oregon, and Rhode Island require the GAL to be a trained volunteer. Six other States—Arizona, Delaware, Maine, North Carolina, South Carolina, and Vermont—have statutes

FIGURE 2

Types of GAL Representation in
555 Sampled Jurisdictions



* Note: More than one type of representation was provided in 127 jurisdictions.

National Summary of GAL Representation

allowing but not requiring the GAL to be a trained CASA or other volunteer. Almost all the counties in these States appoint volunteers.

Joint appointments (appointments of an attorney and a volunteer) are used in five States—Arizona, North Carolina, Rhode Island, Utah, and Vermont. While joint appointment is normally possible anywhere at the court's discretion, only these five States and some counties in Missouri, Montana, Oklahoma, South Carolina, and Washington in our sample routinely provided it. In North Carolina, where either a CASA or an attorney is required, if a CASA is appointed as a GAL, then counsel must also be appointed. In Utah, the attorney is assigned as a GAL, and the volunteer is assigned to assist the attorney. A CASA serves as the GAL in the other four States and an attorney may also be assigned if a case goes to trial, or if the court believes one is necessary. In the remaining states, where we found joint appointments, the three most common reasons for them are when the child requests a GAL, when the child and GAL disagree, or when there are concurrent criminal proceedings.

Other representation. In 34 of the studied counties, GAL representation is provided either by independent social workers or a special staff of nonattorneys who perform GAL work as part of their professional responsibilities. Alaska uses paid nonattorneys in seven of the studied districts. Some counties in Minnesota, North Dakota, and Washington also use this approach. In many cases in California, the social worker or probation officer who files the petition is assigned as GAL per State Statute in addition to an attorney or CASA volunteer. However, the State has a unique and vague definition of a GAL as an individual who represents the child "in lieu of parents." Social workers also serve as GALs in some counties in Minnesota, Mississippi, Nevada, and Ohio. One county in Oregon assigns juvenile court counselors, and one county in Nevada assigns an individual involved in the case.

Appointment Practices

In more than 90 percent of the jurisdictions studied, the presiding judge makes the decision to appoint a GAL. In the remaining jurisdictions, the judge's clerk, another officer of the court, or the GAL program director makes this decision. Where there is an organized GAL program, the program director usually makes the actual assignment of an individual GAL. Where there is no organized program, the judge or court clerk makes the assignment.

In virtually all jurisdictions, GAL appointment begins either at the filing of the initial petition or at the emergency removal hearing and lasts until judicial intervention ends. However, in States that do not require GAL appointment in all cases, appointment times are more likely to be at judicial discretion. In some jurisdictions in these States, judges often appoint GALs when there is a conflict between the child and the GAL or between the child's wishes and best interests, or when a party requests a GAL. Discretionary appointment also occurs in jurisdictions that use CASA models as friends of the court or when an attorney is appointed as counsel in addition to a GAL.

EXHIBIT 3

STATUTORY REQUIREMENTS FOR WHO CAN SERVE AS A GAL

State	Attorney required, CASA may be appointed in addition	Both Attorney and CASA required	Either Attorney or CASA	CASA only required as GAL
Alabama	Yes			
Alaska			Yes	
Arizona		Yes ²		
Arkansas			Discretionary ¹	
California			Yes ²	
Colorado	Discretionary			
Connecticut	Yes			
Delaware			Discretionary ²	
District of Columbia	Yes			
Florida				Yes
Georgia	Discretionary			
Hawaii			Yes	
Idaho			Yes	
Illinois			Yes	
Indiana			Discretionary	
Iowa			Yes ¹	
Kansas	Yes			
Kentucky	Yes			

National Summary of GAL Representation

EXHIBIT 3 (cont.)

State	Attorney required, CASA may be appointed in addition	Both Attorney and CASA required	Either Attorney or CASA	CASA only required as GAL
Louisiana	Discretionary			
Maine			Yes ²	
Maryland	Yes			
Massachusetts	Yes			
Michigan	Yes			
Minnesota			Yes	
Mississippi			Yes	
Missouri			Yes	
Montana			Yes	
Nebraska	Yes ³			
Nevada			Yes	
New Hampshire	Yes			
New Jersey	Yes			
New Mexico			Yes ¹	
New York	Yes			
North Carolina	Yes ⁴			
North Dakota			Yes	
Ohio			Yes	
Oklahoma	Yes			
Oregon				Yes ⁵

EXHIBIT 3 (cont.)

State	Attorney required, CASA may be appointed in addition	Both Attorney and CASA required	Either Attorney or CASA	CASA only required as GAL
Pennsylvania	Yes			
Rhode Island				Yes
South Carolina			Yes	
South Dakota	Yes ⁶			
Tennessee			Yes ¹	
Texas			Discretionary ¹	
Utah	Yes—in rural areas	Yes—in large urban areas		Yes—Weber County
Vermont			Yes ⁷	
Virginia	Yes			
Washington			Yes	
West Virginia	Yes			
Wisconsin	Discretionary			
Wyoming	Yes			

Exhibit 3 Superscripts

1. Only attorneys used
2. CASA serves as GAL
3. Statute allows for appointment of layperson in special cases
4. Attorney or CASA is mandatory; if CASA appointed, counsel must also be appointed
5. CASA required, but in absence of CASAs, juvenile court counselor or attorney may be used
6. Mandatory appointment of counsel, but CASAs are used alone in 5 counties
7. All counties appoint both CASA and attorney; statute requires attorney or CASA

National Summary of GAL Representation

Appointment times are established statewide by Statute or court rule in the 29 States, shown in Exhibit 4. In many of these States, the requirement is broadly stated. Only 9 percent of counties studied in other States had local written rules that mandated appointment times. In 65.6 percent of the studied counties, appointment practices were established only by policy set by the local court, administration, or judge.

In two-thirds of the 127 counties that use more than one GAL program model (such as a CASA program and private attorneys), the judge may choose any model to provide representation. Only 40 percent of the counties that have more than one method of representation have written guidelines that specify criteria for assignment. Usually a county has one type of representation that is used the most, and other available models are used for overflow or particular types of cases. For example, in a jurisdiction that has private attorneys and Public Defenders available to serve as GALs, most cases might be assigned to the Public Defender, up to a predetermined limit; cases over the limit would be assigned to private attorneys.

In counties that have a CASA program and attorney representation, attorneys frequently provide representation in most cases, while the court assigns more complex cases or cases that require closer monitoring to CASA volunteers in addition to or instead of an attorney. Some counties assign CASA or other volunteers in most cases and also have attorneys available for appointment. In these counties, the court assigns attorneys to cases that involve complicated legal issues or when requested by a party.

Use of GALs in other types of cases. In 80 percent of the studied jurisdictions, GAL representation is provided to children in other types of cases besides civil abuse and neglect. Exhibit 5 lists the types of cases and the percentages of jurisdictions assigning GALs in these cases. The most common type of case other than abuse and neglect in which children receive representation is delinquency, followed by custody and then by criminal cases involving the child. Approximately 28 percent of jurisdictions provide GALs in criminal child abuse cases, and more than 15 percent provide GALs in voluntary foster care cases.

In 85 percent of counties studied, the same pool of GALs is used to serve in both abuse and neglect cases and in civil abuse cases. This is true for counties using attorneys as well as those using volunteers.

Responsibilities of GALs

It is rare for GALs to have any written guidance on their roles and responsibilities. For example, written guidance could be useful on issues such as the GALs' relationship to the child and the court, their responsibility for investigating cases, and resolution of who decides what is in the child's best interest. Only 20 States have Statutes, court rules, or State administrative policy directives specifying the activities a GAL should perform. In other States, 16.6 percent of local jurisdictions studied have local guidelines written by the county court, local CASA program, or the local Bar Association. Elsewhere, GALs have only very general guidance, such as to serve the best interests of the child, or no guidance at all. Jurisdictions that provide written guidance define GAL responsibilities

National Study of Guardian *ad Litem* Representation

EXHIBIT 4

WRITTEN STATE REQUIREMENTS CONCERNING GAL APPOINTMENT TIMES

<i>State</i>	<i>Appointment Begins</i>	<i>Appointment Ends</i>
Alaska	At filing: Supreme Court Rule; Civil Rule 11	No requirement
California	No requirement	When relieved by court: Welfare Code § 317
Colorado	By first hearing: Statute § 19-10-113	No requirement
Connecticut	At filing	When court intervention ends
Hawaii	At filing/throughout proceedings: Statute § 587-34	When permanent placement occurs: Statute § 587-34
Illinois	By first hearing: Chapt. 37 § 802-17	No requirement
Iowa	At filing: Statute § 232.89(2)	No requirement
Kansas	At filing: Statute § 38-1505	CASA; when relieved by court: Statute § 38-1505a
Kentucky	By adjudicatory hearing: Statute § 625.100	When permanent placement occurs: Uniform Juvenile Code
Maine	“As soon as possible” after filing: Title 22 § 4005	When court intervention ends
Maryland	At filing/throughout proceedings: Legal Aid contract	When court intervention ends
Michigan	At filing: Court Rules 5.915; 5.965	No requirement
Missouri	At filing	When court intervention ends
Nebraska	At commencement of proceedings: Statute § 43-272.01	When permanent placement occurs

National Summary of GAL Representation

EXHIBIT 4 (cont.)

<i>State</i>	<i>Appointment Begins</i>	<i>Appointment Ends</i>
New Hampshire	At filing	When court intervention ends
New Mexico	By filing: Rule 10-305(D)	No requirement
New York	No requirement	When relieved by court: Family Court Act § 1120
North Carolina	At filing: Statute	When court intervention ends; at permanent placement
Ohio	As soon as possible after filing: Statute § 2151.281	When relieved by court: Statute § 2151.281
Oklahoma	No requirement	CASA; when relieved by court: Title 10 § 1109
Rhode Island	At filing	When court intervention ends
South Carolina	At filing "or anytime thereafter"	When relieved by court
South Dakota	At filing	No requirement
Tennessee	No requirement	When relieved by court: Statute § 37-1-602
Utah	At filing: Statute § 78-3a-20.5	When relieved by court: Statute § 78-3a-44.5
Virginia	By first hearing: Statute § 16.1-266	No requirement
West Virginia	10 days prior to hearing: Statute § 49-6-2	Throughout proceedings: Statute § 49-6-2
Wisconsin	No requirement	At final disposition: Statute § 48.235(7); 151 WIS 2ND P.LI
Wyoming	At filing	When court intervention ends

broadly to include conducting an independent investigation of the case; meeting with the child, family, and foster family; providing legal representation; ensuring the child's needs or best interests are met; and monitoring the case. The written responsibilities for volunteer GALs in Delaware, Florida, Hawaii, Nebraska, and South Carolina are unique in that they provide comprehensive descriptions.

In States that appoint an attorney and volunteer jointly as GAL, the attorney is always responsible for legal aspects of the case, while the volunteer serves an investigator and monitor function. In many counties, the two representatives perform their roles autonomously. In jurisdictions that can assign either a volunteer or an attorney to a case, frequently the volunteer is assigned when more intensive monitoring, interviewing, and/or investigation is needed for the family. Otherwise, an attorney is appointed. In some counties, the opposite is true: attorneys are assigned when more legal work is needed, but otherwise a volunteer is appointed.

In most States, GALs are specifically enjoined by Statute to present the best interests of the child and to ensure that these interests are served throughout the child welfare system. A problem arises, however, when the child disagrees with the GAL on what these interests are. The GAL then faces the dilemma of whether to represent the child's wishes or best interests. The dilemma is particularly acute for attorneys, who are required to represent their client's wishes in other types of cases. We asked respondents for their policies on how the GAL should proceed in this situation. Attorney GALs in 45 percent of the studied counties represent the child's wishes and present the GAL's assessment of best interests and let the court decide how to deal with this conflict. However, in 12.6 percent of counties studied, attorney GALs present the child's wishes; in 4.3 percent, the attorney GAL requests a second GAL from the court to present the child's wishes. The remaining counties reported no approach to reaching consensus regarding what attorneys should do in cases of disagreement with the child.

Staff attorneys such as Legal Aid or Public Defenders generally believe that the GAL should present the child's desires in cases of disagreement. This is particularly true for Legal Aid attorneys. In comparison, the majority of private attorneys believe that the GAL should present the child's best interests.

The CASA programs studied require volunteers to present both the child's best interests and the child's wishes to the court when there is a disagreement. In Hawaii and South Carolina, this requirement for GALs is included in State Statutes.

In some States, the dilemma of whether to present the best interests or the wishes of the child is addressed through State policy or Statute. In Wisconsin, children over the age of 12 are appointed counsel to present their wishes, but children under 12 are usually appointed a GAL to represent best interests. Utah has a similar policy of appointing attorneys for older children to present their desires. Arizona appoints an attorney as counsel to a child and a volunteer to present best interests. In North Carolina and Rhode Island, which jointly appoint attorneys and volunteers in most cases, both representatives present the child's best interests and inform the court of the child's wishes. In case of disagreement in Vermont, which also has joint appointment, the attorney represents the child's wishes and the volunteer presents best interests.

EXHIBIT 5

**OTHER TYPES OF CASES IN WHICH
CHILDREN RECEIVE GAL REPRESENTATION**

<i>Type of Case</i>	<i>Percent of Studied Jurisdictions (N = 442) Providing Representation</i>
Delinquency	64.5
Custody	56.8
Other criminal cases	30.8
Criminal abuse	28.1
Voluntary foster care	15.4
Case of abuse that was not taken to court	6.1
Other (e.g., runaway, property)	36.2

GAL involvement. As part of this study, respondents were asked to what extent GALs were involved in cases and whether GALs played lead roles in coordinating with other involved parties or provided assistance in this coordination. Figure 3 shows involvement of volunteer and attorney GALs. Volunteers take a lead role in coordination in 26.7 percent of counties studied and are not at all involved in only one county (0.7 percent). Attorneys take the lead in 20.1 percent of counties studied and are not rated involved in coordination in 3.8 percent of counties. The GAL's involvement varies depending on the legal complexities or the need for investigation and services in each case in 27.4 percent of counties with volunteers and 21.9 percent of counties with attorneys.

These data should be read with considerable caution. The responses were based on the perceptions of individuals with a stake in the GAL system. While this represents a preliminary assessment, Phase II of this project will document the GAL activity with objective measures. In Phase II we will assess GAL activity with a random sample of cases from 42 court jurisdictions across the country. Data will be collected through interviews with GALs, caseworkers, judges, and children; courtroom observations will also be conducted. These data will provide a more unbiased assessment of the GAL role.

Representation of siblings. In almost all counties studied (95.2 percent), the same GAL represents all children in a family. However, in more than half of the counties that appoint more than one GAL, a separate GAL is appointed for each child only when there is conflict between the wishes or best interests of the children involved. Separate GALs are appointed routinely for each child in only seven counties. In one of these counties, the GAL may represent no more than two children.

Compensation of GALs

CASAs and other volunteer GALs receive no monetary compensation for their work. Attorneys are paid in all but five of the studied counties. In 19 States, uniform payment is established by Statute, court rule, or administrative policy; 9 of these States set different pay rates for work done in and out of court.

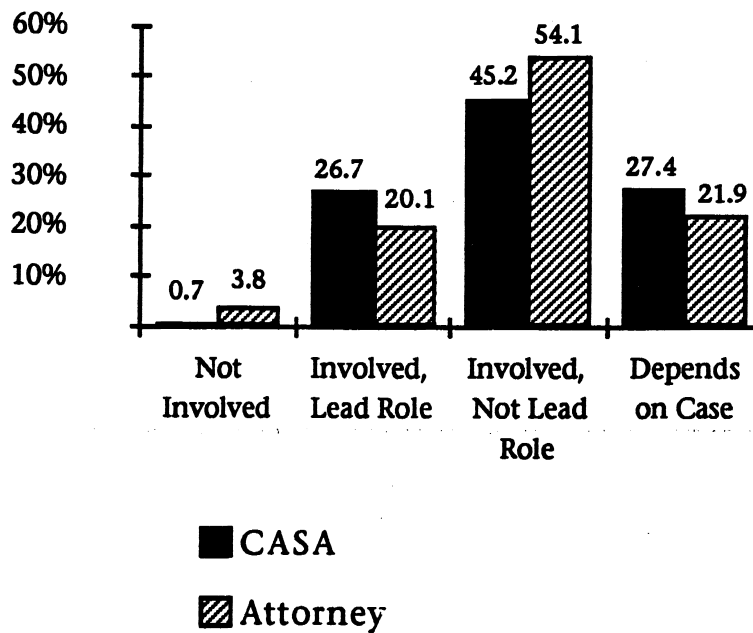
Private attorneys usually are paid by the hour per case, and all but 18 percent of counties without State-set pay have different rates for in- and out-of-court work performed by attorneys. In-court hourly pay ranges from \$10 to \$80, with \$42 being the average. Approximately 60 percent of jurisdictions pay between \$25 and \$45/hour. Out-of-court pay averages slightly less, at \$36/hour, and ranges from \$10 to \$75/hour. Approximately 75 percent of jurisdictions pay between \$20 and \$45/hour for out-of-court time.

More than half (54.3 percent) of the jurisdictions studied have a pay ceiling for attorneys. The amount of these ceilings ranges from \$10 to \$2,500; the average is \$685. The ceiling is \$1,000 or less in 86 percent of the counties with ceilings.

Private attorneys are paid a fixed rate per case in approximately 20 percent of the counties studied. This fee varies from \$25 to \$500 and averages \$169. Almost 80 percent of attorneys working for fixed fees receive \$250 or less per case.

FIGURE 3

Involvement of GALs



National Study of Guardian *ad Litem* Representation

GALs' expenses incurred from representing children are compensated in 65.8 percent of the counties studied, regardless of whether the GALs are attorneys or volunteers. In the remaining counties, GALs pay for their own transportation and other expenses.

Contract attorneys. Attorneys work under contract to the county, family court, or the State in 107 of the jurisdictions studied. Of these, 88 use staff attorneys such as Public Defenders, and the remainder use private attorneys either alone or in addition to the staff attorneys. In 86 percent of the contract jurisdictions, attorneys are paid a fixed amount regardless of the number of cases they receive. The remaining 14 percent receive a contracted hourly fee or have other arrangements. In most counties, experienced attorneys receive higher amounts than those with less experience. The median contracted annual fee range is between \$21,500 and \$42,600. The lowest annual contract fee found was \$25,000 in a rural county in Georgia; the highest was \$85,000 for an experienced Public Defender in a large urban county.

Attorneys paid on a fixed fee per case contract receive \$40 to \$250/case. Four jurisdictions have a maximum charge per case, ranging from \$40 to \$2,500.

Paid nonattorneys. In some jurisdictions in seven States—Alaska, Indiana, Minnesota, North Dakota, Ohio, Oregon, and Washington—professionals who are not attorneys are paid to serve as GALs. Most of these individuals are social workers or have a background in child welfare; they are paid \$13.50 to \$25/hour. Expenses also are paid in Alaska and in one county in Minnesota, but are not paid for these GALs in North Dakota.

Comparability of GAL compensation. Respondents were asked if the pay received by GALs in their jurisdiction was comparable to pay for other indigent defense work in the area. In 76.8 percent of the counties studied, GAL pay was considered comparable; in 18.9 percent, it was considered lower. GAL pay was considered higher than that for similar work in only 4.4 percent of the counties studied.

Training Requirements for GALs

Exhibit 6 lists the States that have training requirements for GALs. All States and counties that use CASAs or volunteers as GALs have training requirements. These requirements are set either by the volunteer program or, where statewide programs exist, by the State. The District of Columbia, Massachusetts, New Jersey, New York, North Carolina, Rhode Island, and Utah, which have statewide programs, require training for attorney GALs. Where statewide programs do not exist, however, training requirements for attorneys generally do not exist. Missouri is the only other State that has a statewide requirement for attorneys, but only 2 counties reported having active training. Maricopa County, Arizona; San Francisco, California; Dade County, Florida; and Geauga County, Ohio are the only sampled local jurisdictions to require training of attorney-GALs. Staff attorney programs also do not normally have training requirements specific to serving as a GAL. Only programs in Cook County, Illinois, and Philadelphia have such requirements. In Vermont, attorneys appointed as GALs must attend the same training as volunteers; attorneys appointed as counsel for children, however, do not receive any training.

EXHIBIT 6

TRAINING REQUIREMENTS FOR GALS

<i>State</i>	<i>Requirement</i>	<i>Source</i>
Alaska	CASAs: 20-25 hours	State
Arizona	CASAs: 15 hours	State
Arkansas	CASAs	Program
Delaware	CASAs: 40 hours	State
District of Columbia	Attorneys: 16 hours	D.C.
Florida	Volunteers: 20-28 hours	State
Hawaii	Volunteers: 20-32 hours	State
Idaho	CASAs: 6-18 hours	Program
Illinois	CASAs: 38 hours Staff attorneys: 16 hours	Program Local (Cook)
Indiana	CASAs: 12-20 hours	Program
Iowa	CASAs: 25 hours	Program (Polk)
Kentucky	CASAs: 20-22 hours	Program
Louisiana	CASAs: 30 hours	Program (Orleans)
Maine	CASAs: 12 hours	State
Massachusetts	All attorneys: 14 hours	State
Michigan	CASA: unspecified	State
Minnesota	CASA: 1-60 hours	Program
Missouri	Attorneys: unspecified CASAs: 16-50 hours	Local (Cass, St. Louis) Program
Montana	CASAs: unspecified	Program (Blaine)

National Study of Guardian *ad Litem* Representation

EXHIBIT 6 (cont.)

<i>State</i>	<i>Requirement</i>	<i>Source</i>
Nevada	CASAs: 9-40 hours	Program
New Jersey	Attorneys: unspecified	State
New York	Attorneys: determined by Department	Program, State
North Carolina	Attorneys: unspecified CASAs: 20 hours	State
North Dakota	CASAs: 12 hours	Program
Ohio	CASAs: 12-14 hours Attorneys: 8 hours	Program Local (Geauga)
Oklahoma	CASAs: 18-37 hours	Program
Oregon	CASAs: 19-30 hours	Program
Pennsylvania	Attorneys: 12 hours	Local (Philadelphia Child Advocates)
Rhode Island	CASAs: unspecified Attorneys: unspecified	State
South Carolina	Volunteers: 15-19 hours	State
South Dakota	CASA: 20-26 hours	Program
Utah	Attorneys: 8 hours	State
Vermont	Attorney-GALs: 12 hours Volunteers: 12 hours	State
Virginia	CASAs: 24 hours	Program (Fairfax)
Washington	CASAs: 15-30 hours	Program

National Summary of GAL Representation

Where training is offered, the topics and duration of the training is somewhat different for attorneys and volunteers across jurisdictions. Training for volunteers usually lasts longer than training for attorneys. The amount of training offered ranges from 2 to 48 hours for attorneys and 1 to 60 hours for volunteers. The average duration of training is 11.5 hours for attorneys and 21 hours for CASAs. Topics covered in CASA training includes relevant laws, investigation techniques, family dynamics, child advocacy, GAL role and responsibilities, investigation, and monitoring. Some training also examines issues of cultural sensitivity, interviewing skills, and methods of working with the child welfare agency. Attorney training, on the other hand, tends to concentrate on legal issues.

In States that have statewide GAL programs, these programs provide GAL training. In States that do not have statewide programs, local programs train GALs. In a few jurisdictions, attorneys are trained through the local Bar Association. Completion of the training program is required before the volunteer or CASA GAL may be assigned cases. However, when training is offered only periodically, such as quarterly or annually, some jurisdictions allow attorneys to take cases prior to training.

Ongoing training for volunteer GALs is required in 58 percent of the jurisdictions studied. These requirements prescribe an average of 6 to 10 hours in a seminar on selected child advocacy topics. Statewide programs in the District of Columbia, Massachusetts, New York, New Jersey, and North Carolina require GAL attorneys to participate in similar ongoing training. In addition, some local courts and staff attorney programs, such as Legal Aid, require attorneys to take continuing legal education courses, although this training need not necessarily be related to child advocacy.

Only 10 percent of the jurisdictions studied have requirements, set by the local family court judge, concerning prior experience of attorney GALs. These requirements include experience in child welfare or at least one year in practice. None of the CASA or volunteer programs studied have experience requirements for volunteers.

Characteristics of GALs

As little is known about the general characteristics of attorney GALs, respondents were asked to describe GALs in their jurisdictions by age, ethnic background, gender, practice specialization, and size of the GAL's law firm. Since several previous studies have collected demographic data on volunteer GALs, this information was collected only for attorneys.

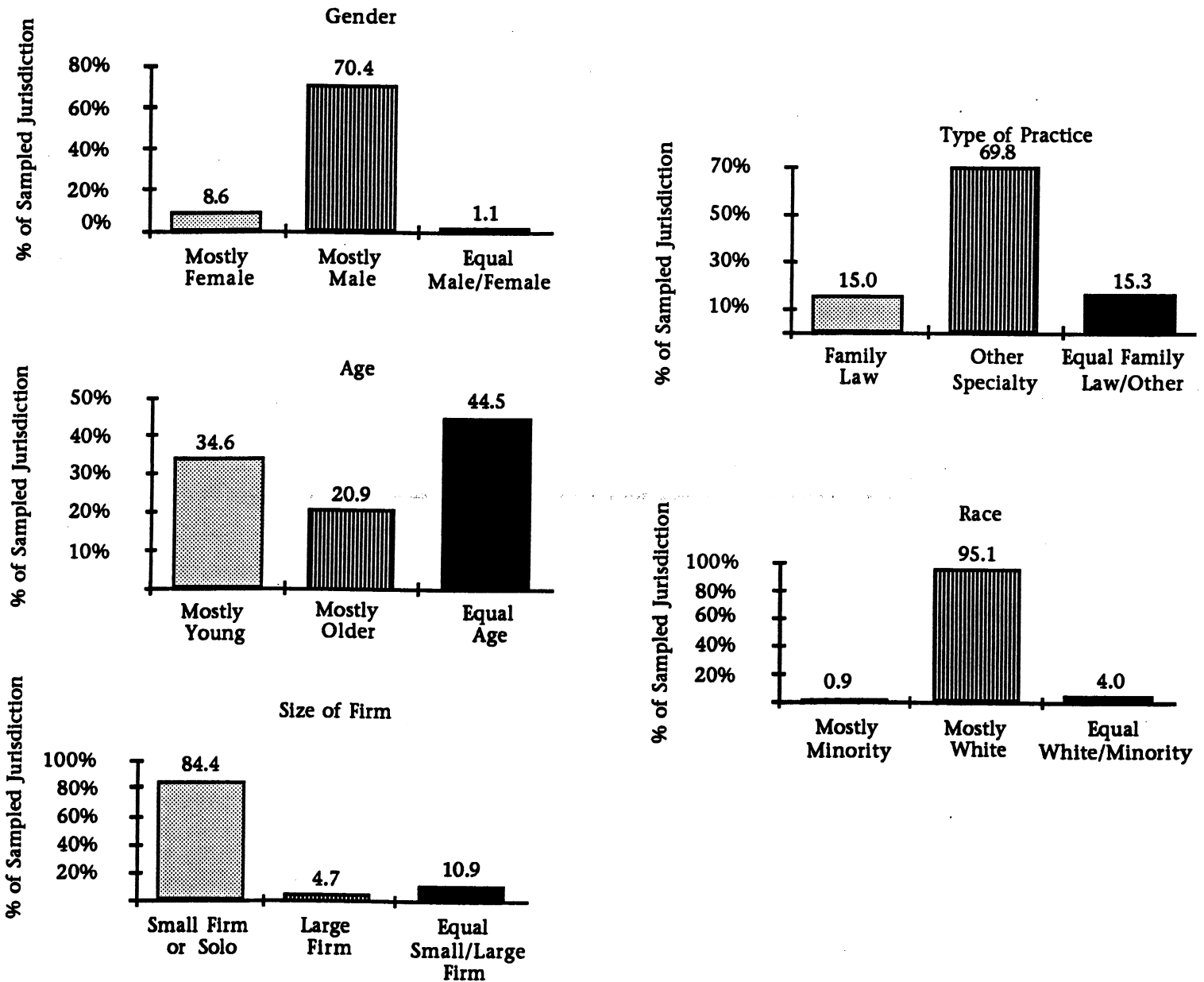
Figure 4 displays the characteristics of attorneys in the 432 studied jurisdictions. The typical GAL attorney is a white male from a small firm or solo practice who does not specialize in family law. While attorneys are younger and inexperienced in 34.6 percent of the studied jurisdictions, many jurisdictions have an equal number of younger and older attorneys. Attorney characteristics are similar for both private and staff attorneys.

The number of jurisdictions that have female and minority GALs is remarkably low. Only 37 counties have mostly female attorney GALs, and only 4 counties have a preponderance of minority attorney GALs; 17 counties have equal numbers of minority and white attorneys. This low number of minority attorneys may reflect their small numbers within the legal profession.

FIGURE 4

Characteristics of Attorney GALs

In 432 Sampled Jurisdiction



National Summary of GAL Representation

Caseloads of attorney GALs vary widely. Private attorneys have 1 to 400 cases per year, with a mean caseload of 11.35 and a median caseload of 3. Staff attorneys have considerably higher caseloads, ranging from 1 to 700 cases, with a mean caseload of 62.82 and a median caseload of 20. Volunteers have only 1 to 15 cases, with an average of 2.93 and a median of 2. Volunteer caseloads per year are smaller because typically they work on a part-time basis rather than full-time as do most attorneys. In more than 80 percent of counties with volunteers, the volunteers have three or fewer cases, while 57.5 percent of private attorney counties had this size caseload. In contrast, less than 20 percent of staff attorney counties had caseloads of 3 or less and 20 percent of these counties had caseloads of 100 or greater.

Recruitment and retention of GALs. Despite the hard work involved in serving as a GAL, relatively low compensation, and, in some areas, high caseloads, only 38 percent of the studied jurisdictions reported difficulty in recruiting or retaining GALs. Jurisdictions that reported difficulty cited lack of both adequate compensation and sufficient numbers of attorneys or volunteers in the community interested in performing GAL work. This problem is especially marked in rural areas. Other problems cited were lack of funds to mount recruitment efforts and inability to attract minorities to serve as GALs.

With the exception of staff attorney programs, counties reported having a large pool of attorneys and volunteers available to serve as GALs, particularly in large urban areas. The number of private attorneys available ranges from 1 in rural counties to 1,000 in the Detroit area. The mean number of private attorneys available is 21; the median is 6, and 75 percent of counties have less than 14. Staff attorney programs are small, although a few large Public Defender's Offices have 80 or more attorneys. However, 80 percent of staff attorney programs have 1 to 4 attorneys available; the median is 2. CASA programs varied considerably in size from 1 in several small counties to 400 in King County, Washington. However, half of the CASA programs studied have 10 or fewer volunteers.

Administration of GAL Programs

Statewide Programs. Staff attorney, CASA, and other volunteer programs are administered through bodies that may be independent, part of the family court, or part of another child welfare agency. Exhibit 7 includes a list of the 14 States and the District of Columbia that have statewide GAL programs. For each program, the exhibit presents the name of the agency administering the program, the program's source of legislative funding, and the program's annual budget.

In three States—Alaska, North Carolina, and South Carolina—the GAL program is administered by a dedicated, independent agency. In New Jersey, the law guardian program is administered through the Public Defender's Office. In the remaining States, the State Family Court or Supreme Court oversees the program.

In all States except Maine, New Jersey, and Utah, GAL programs are funded by direct appropriation from the State legislature. The Maine and Utah programs are funded through the court budget, while New Jersey's law guardian program is funded through the Public Defender.

EXHIBIT 7

PROGRAM ADMINISTRATION OF STATEWIDE GAL PROGRAMS

<i>State</i>	<i>Administrative Agency</i>	<i>Source of Legislative Funding</i>	<i>Annual Budget</i>
Alaska	Office of Public Advocate	Direct; Grants	Not available
Arizona	State Court	State Court; Local Grants	\$325,000
Delaware	State Court	State Court	\$150,000
District of Columbia	D.C. Court	Direct	*\$2,000,000
Florida	State Court	Direct	\$3,500,000
Hawaii	State Court	Direct	\$130,000
Maine	District Court	District Court	\$100,000
Massachusetts	CPCS/State Court	Direct	\$75,000
New Jersey	Public Defender	Public Defender	Not available
New York	State Court; Law Guardian Panels	Direct	\$8,000,000
North Carolina	Independent	Direct	\$2,000,000
Rhode Island	State Court	State Court	Not available
South Carolina	Independent	Direct	\$1,500,000
Utah	State Court	State Court	Not available
Vermont	State Court (as of Oct. 1990)	State Court	Not available

*Includes funds to pay attorneys.

National Summary of GAL Representation

New York's law guardian program has a budget of \$8 million, the highest among the States. Florida also has a multimillion dollar budget, as does the District of Columbia.

Local Jurisdictions. In the 36 States that lack statewide GAL programs, there are 70 local jurisdictions (18.4 percent) that operate GAL programs independently of the court. Half of these programs are CASA or volunteer programs. The remainder are Public Defender, Legal Aid, or other programs, as shown in Figure 5.

The local GAL programs are funded primarily through direct appropriation or court funds. CASA programs also receive funding through private donations and grants. The annual budget of these CASA programs ranges from \$2,000 to \$600,000 and average about \$100,000. Staff attorney programs have similar budgets.

The administrative staff of both the local and statewide GAL programs generally is small. Ninety percent of all programs have five or fewer staff members, and the average program's staff includes only three people. However, some large Public Defender's Offices have 18 to 28 staff members.

Evaluation of GAL performance. Whether GAL performance is monitored formally by the court or local program varies according to the type of representation provided. In all but seven counties that have them, CASAs and volunteers are monitored annually or more frequently by the program director. In some jurisdictions, volunteer performance is observed directly, and casework is reviewed as part of the evaluation.

In contrast, private attorneys are monitored formally in only 15 percent of the jurisdictions studied, and staff attorneys are monitored in 35 percent of the counties that used them. The majority of jurisdictions using attorneys either rely on informal monitoring by the judge or provide no oversight or review of attorneys' performance.

Immunity From Liability for GALs

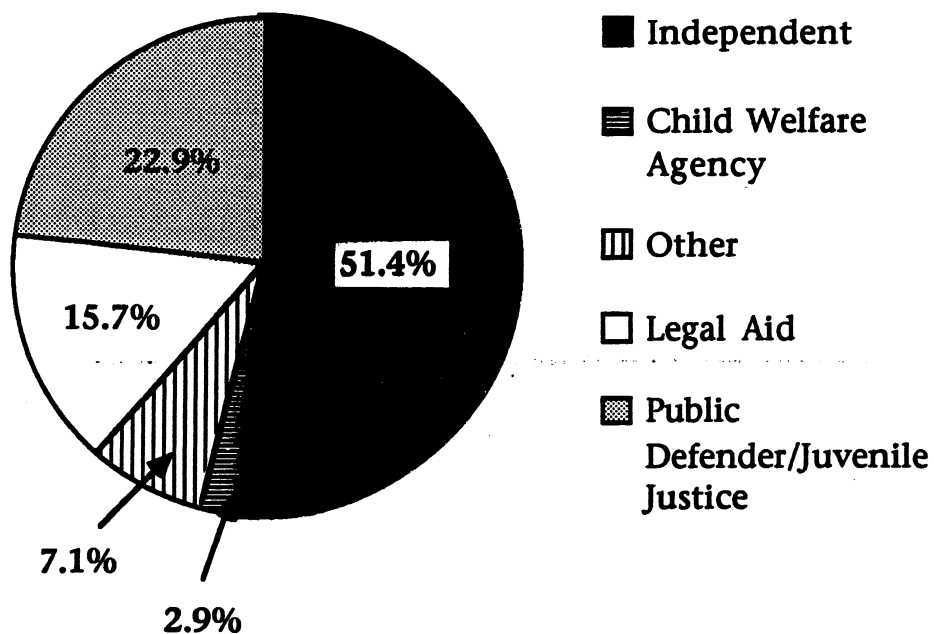
The study respondents were often confused about immunity from liability. Unless the State had clearly addressed the issue with legislation or court ruling, informants at both the county and State level often were unsure of the extent to which a GAL could be held personally liable for actions performed while representing a child. Within the same State, some respondents believed that the GAL had no immunity at all, while others thought that the GAL had partial or even total immunity. Even knowledgeable respondents at the State level were unsure of State law on this matter.

Only 10 States—Alaska, Delaware, Florida, Hawaii, Indiana, Missouri, North Carolina, Ohio, Pennsylvania, and South Carolina—provide total or good faith immunity to GALs through Statute. Arizona, Maryland, Oklahoma, Texas, and Virginia provide immunity to volunteers who serve as GALs but do not address the status of attorney GALs. Iowa, Minnesota, and New Jersey GALs are immune according to State Supreme Court decisions and/or State Attorney General Opinion. Many respondents in all of these States were unaware or unsure of existing immunity. In more than half of

FIGURE 5

Administration of Independent GAL Programs in Local Jurisdictions Without Statewide GAL Programs

N = 70



National Summary of GAL Representation

the jurisdictions studied in the remaining States, respondents claimed GALs had no immunity and were fully liable for their actions.

Respondents in more than one-third of the jurisdictions studied stated that the issue of liability was unresolved in their State. Clearly most States have not considered the issue and lack clear policy and guidance from legislators and judicial precedence.

Only 26.4 percent of counties studied have liability insurance to cover GALs, but attorneys do have malpractice insurance. Of the 81 counties with CASA programs in States that do not provide immunity to volunteers, only 37 have liability insurance for volunteer GALs.

Now we turn to the implications of the findings presented herein and formulate conclusions and recommendations to guide the future of GAL programs.

CHAPTER 3

CONCLUSIONS AND RECOMMENDATIONS

Conclusions

One objective of the Child Abuse Prevention and Treatment Act (P.L. 93-247) of 1974 was to provide for a system in which children involved in civil abuse and neglect judicial proceedings would have representation in court. To some extent, this objective has been realized by the institution of GAL programs at both State and local jurisdictional levels. However, the lack of representation of all abused and neglected children found in the 50 States and 555 counties in this study indicates that Congress' mandate so clearly stated in P.L. 93-247 has not been adequately met.

Despite statutory requirements for representation, less than 100 percent of all children receive it in 26 States. In six of these States, less than 70 percent of children are represented. State laws in 8 of the 26 States do not require a GAL to be appointed in all cases. Where GALs were not assigned universally, informants cited a number of reasons for not providing a GAL including: the judge determined that the cases were not complex or severe enough to appoint a GAL; not enough attorneys, volunteers or CASAs were available; insufficient funds were available; and a GAL was appointed only in cases where the abuse was in the home or when the child was to be removed from the home. We also found that GAL appointment time varied in some States, often reflecting the local judge's policy.

This study found little consistency between or within the States as to who is to serve as the GAL, what the GAL's responsibilities are, and how conflicts are to be resolved. While the vast majority of GALs are attorneys (72.4 percent of the jurisdictions used private attorneys, 21 percent staff attorneys), many States and local jurisdictions (21.6 percent) also use trained volunteers and CASAs to serve in this role. With the exception of the States where statute requires either the attorney or the CASA to serve as the primary GAL, there are no clear guidelines for the appointment of one or the other for this lead role. Generally, the judge, based on his/her personal assessment of the case, will decide if the GAL should be a CASA or an attorney. In addition, the relationship between attorneys and CASAs is often unclear. In cases where the CASAs and attorneys coexist, there does not appear to be a systematic method for coordination of their respective activities.

Only five States were found to have a comprehensive description of the role and responsibilities of the GAL. The responsibilities of the GAL in most other cases are broadly defined, with no specific direction as to what constitutes minimal required effort on behalf of the child. This confusion and blurring of roles has the potential for creating conflict among the social workers, attorneys, and volunteers and CASAs, each of whom may feel that the other is intruding in his or her sphere of responsibility. Ultimately, the lack of clear guidelines for responsibilities can lead to inadequate representation for the child.

The lack of clear guidelines can exacerbate the confusion of roles when coordination of the activities of a CASA and an attorney is required. Without clear rules as to who is responsible for what, the possibility exists for important functions to be missed. Clearly, one individual should be

required to take the lead in coordinating the efforts of the team if comprehensive representation and service coordination is to be achieved.

Of concern to many respondents was the issue of the GAL's responsibility when the child's wishes and best interests are in conflict. There is clearly disagreement within the legal profession as to whether the GAL must present the child's wishes—as in other attorney-client relationships—or the child's best interests. While a few States address this problem in the Statute or State policy, in many States the dilemma continues to exist.

While private attorneys were usually paid by the hour, about one quarter of all jurisdictions maintained contractual relationships with attorneys to serve as GALs. Over 80 percent of these contracts were with staff attorneys such as the Public Defenders or Legal Aid. This study found wide disparity in the rates of compensation to attorneys who serve as GALs. While \$42 per hour was the average for in court pay and \$36 was the average for out of court pay, rates as low as \$10 per hour were identified. Likewise, while the average pay ceiling per case was \$685, it could be as low as \$10. It is hard to imagine an instance where a child could have adequate representation for a total of \$10. Contracted fees were paid on a fixed fee per case basis or a fixed annual amount for all cases. The fee per case ceiling ranged between \$40 and \$2,500.

There is also some concern regarding the adequacy of reimbursement of expenses. Here, as elsewhere in the study, we found wide variation in reimbursement, with only two-thirds of the counties compensating expenses incurred in the process of representing a child. Clearly in those jurisdictions with no or low levels of reimbursement, the GAL is discouraged from providing comprehensive investigations or from obtaining expert testimony.

Where it exists, the training of CASAs and volunteers covers a wide range of topics relating to fulfillment of multiple responsibilities. The range of training time and the content of training programs, however, varies considerably across jurisdictions. While all CASA and volunteer programs require training, only 8 States, the District of Columbia, and a small number of local jurisdictions have training for attorney GALs. Given that our study found that the majority of attorney GALs do not specialize in family law, this lack of training is conspicuous.

In almost all jurisdictions that use them, evaluation and monitoring of GAL performance is conducted on a regular basis for CASAs and volunteers. While monitoring of staff attorneys is less common, 35 percent of the counties that used them performed this activity. While private attorneys were used in almost three-quarters of the jurisdictions studied, only 15 percent of the jurisdictions performed formal monitoring of the performance of private attorneys. Central to the issue of monitoring and evaluation is the lack of a standard against which such judgments are made. Without clear guidelines addressing the duties and actions to be taken in fulfilling the GAL role, there can be no systematic method of assessing individual performance.

Finally, we have identified consistent confusion on the issue of GAL immunity from liability. In most instances, the confusion exists because the issue of liability has not come up in the State; there had never been a case. The respondents in this study had generally not given thought to the issue prior to this study.

Conclusions and Recommendations

Recommendations

CSR has developed nine recommendations based on our understanding of the intent of P.L. 93-247 and the findings of the State study. These recommendations have also been reviewed by the panel of experts who are recognized in our acknowledgements to this report.

Recommendation 1. The Federal Government should take into account the findings presented in this report and the findings of the upcoming Phase II report in order to develop a uniform description of the roles and responsibilities, as well as minimum performance expectations, of the GAL. This guidance should be made available to all States and localities, as well as to the individual GALs, upon their appointment. In addition, the Government should develop guidelines that address the distribution of responsibilities and coordination of effort in cases where a volunteer or CASA works in tandem with an attorney. Overall, this guidance will provide the basis for (1) establishing minimum training standards and (2) monitoring and evaluating GAL performance.

Recommendation 2. Federal legislation stipulates that States are required to appoint a GAL for children involved in legal proceedings arising from abuse or neglect, as a condition of receiving Federal funds under P.L. 93-247. Our study findings indicate that not all States and localities meet the full intent of the law. We are cognizant that case circumstances and resource limitations might influence occasional discretion by the courts over whether or not to appoint a GAL. However, the study findings also indicate that in some court systems there is a persistent disregard for Federal (and often State) legislative intent which is not warranted by occasional case circumstances or resource limitations.

We recommend that the Federal Government consider adopting two mechanisms to remedy these problems. First, the Department of Health and Human Services should provide additional guidance to those States which require mandatory appointment by statute or practice on the need to educate judges about the role and value of using a GAL. This guidance might include guidelines to address the discretionary power of judges to appoint a GAL. For example, we found in the study that, in many instances, a GAL is not appointed because the judge deems the case insufficiently complex or severe to warrant an appointment. Many child welfare experts believe that subjective assessments of case complexity, unsupported by additional guidelines, should not be the sole factor in denying representation.

Second, we recommend that the Department of Health and Human Services consider ways to strengthen their annual process of reviewing State certification applications so that States which persistently disregard this requirement may be identified. It appears that certain States might technically be out of compliance and we think that the Department in conjunction with the States should use these preliminary results to further examine these practices. Moreover, the second part of this study will help identify criteria under which a GAL's appointment is considered to be absolutely necessary to the best interest of the child. At that time we will be better able to determine whether this "technical noncompliance" might be sufficient to warrant stronger action by the Department to enforce compliance.

Recommendation 3. Although it appears that judges choose to use a CASA as GAL when the child needs services or the case needs investigation and an attorney when the case requires complex legal expertise, the consistency of this choice is not assured. The Federal Government should begin to develop guidelines to assist the judge with discretionary power in choosing between assigning a CASA or an attorney as GAL.

Recommendation 4. Phase II of this project will investigate the relationship between level of payment/expense reimbursement and quality of representation. Certainly, the preliminary Phase I results of this study suggest that guidelines should be established to set minimum levels of reimbursement. At this point it is premature to make such recommendations; however, if Phase II results confirm that the quality is limited by financial constraints, we will recommend that guidelines regarding minimum level of effort be tied to payment and reimbursement guidelines.

The opportunity for enforcing minimum performance criteria lies in the development of contracted obligations for a uniform, specified fee, at least in those jurisdictions that use contracted attorneys.

Recommendation 5. The effects of an attorney GAL presenting either the child's best interests or the child's wishes needs further investigation. This issue will be addressed by the research in Phase II of this project.

Recommendation 6. The results of this study indicate that the CASA GAL training, monitoring and evaluation, recruitment, and consistency in assignment may be related to the existence of a statewide program and strength of a central CASA Program Office. Although this will be investigated in greater depth in Phase II of this project, preliminary findings suggest that the States, at a minimum, should conform to existing requirements, and further they should be encouraged to institute a statewide, mandatory GAL program. In those States where such a program is not currently feasible, the State should at least have a Statute setting forth the GAL requirements and establishing a uniform policy on GAL appointment and responsibilities. In addition, it may be beneficial to the GAL program, in general, to have a State administrative person or office responsible for coordinating GAL functions. This could be accomplished in States that do not have a Statewide GAL Program, but wish to insure quality standards in the GAL programs that do exist.

Recommendation 7. The States should be encouraged to review their laws concerning GAL liability. It is recommended that States clarify their immunity requirements and make them known to all GALs. For optimal operation of the GAL program, every participant should know his/her level of liability. The Federal Government should begin to develop guidelines for a good faith immunity in future legislation. They can begin by investigating State statutes that incorporate this concept and frame the Federal legislation requirements so that they parallel the best State practices. This review will be a special focus of Phase II of this project.

Recommendation 8. Local Bar Associations and law schools should be involved in setting standards and providing training to attorney GALs. This study found that while CASAs and volunteer GALs are routinely trained in their role prior to appointment, attorneys rarely receive GAL specific training. Only seven States, the District of Columbia, and a small number of local jurisdictions have training

Conclusions and Recommendations

requirements for attorney GALs. Local Bar Associations should be the leaders in their communities for establishing training requirements, providing both initial and ongoing training to all GAL attorneys, and ensuring these training requirements are enforced.

Recommendation 9. Standards and methods for evaluating GAL performance should be established within local jurisdictions. While volunteer GALs are periodically evaluated by the court or program staff, attorney performance is rarely reviewed. Courts and local Bar Associations should implement procedures and standards for assessing GALs at least annually. In addition, standardized procedures should be developed and used uniformly within jurisdictions for both volunteer and attorney GALs. These procedures should include objective assessment instruments, such as questionnaires and observational checklists that evaluate performance. These instruments can be developed with guidance from research and the literature on the representation of children. The criteria for evaluating GAL performance should be made known to all GALs in the jurisdiction prior to appointment.

APPENDIX 1

STATE SUMMARIES OF GAL REPRESENTATION

This appendix provides summaries of findings of the national study of GAL representation. Summaries are presented in alphabetical order for all States and the District of Columbia. Only findings from jurisdictions included in the sample are described in the summary, not information for the entire State.

Each summary is divided into the following parts for easy reference: a one-page outline providing basic information on GAL representation in that State, and a more detailed text discussing specific study findings, followed by a chart indicating the jurisdictions sampled and their caseloads.

ALABAMA

REQUIREMENTS:	GAL must be an attorney and shall be appointed in all abuse and neglect cases
AUTHORITY:	ALA. CODE § 26-14-11; § 12-5-1
PROGRAM MODELS:	Private attorneys: all sampled jurisdictions Staff attorneys: 95 percent of Jefferson cases; 5 percent of Tuscaloosa cases
APPOINTMENT TIMES:	At court's discretion; generally, appointed before adjudicatory hearing and dismissed when court intervention ends
TRAINING:	None
COMPENSATION:	\$40/hour in court and \$20/hour out of court to a maximum of \$1,000/case or \$1,500 including appeal. State set as per § 12-15-9; two counties reported lower ceilings.
CHILDREN SERVED:	100 percent in sampled jurisdictions
IMMUNITY FROM LIABILITY:	None
SAMPLED JURISDICTIONS:	13 counties
TOTAL JURISDICTIONS IN STATE:	67 counties

National Study of Guardian *ad Litem* Representation

Alabama Statute § 26-14-11 mandates that a GAL be appointed in all child abuse and neglect cases. Section 12-5-1 further requires that the GAL be an attorney. Private attorneys represent 100 percent of the cases in all the sampled counties except two. In Jefferson County, 95 percent of the cases are represented by Legal Aid attorneys. In Tuscaloosa County, 5 percent are represented by the Office of the Public Defender. Attorneys in five counties have no support. In eight counties, administrative and social work support are available. In Jefferson County, CASAs are available but not as GALs.

In all counties 100 percent of abuse and neglect cases are assigned GALs. No written requirements exist mandating when appointment should occur. Judges generally appoint a GAL prior to the adjudicatory hearing; in four counties, it occurs at the filing of the petition; in another four it occurs at the first hearing. Appointment ends when judge dismisses the GAL, usually when court intervention ends. In four counties, the intake officer or court clerk assigns a GAL to new cases. Judges assign GALs in the other nine counties. In Jefferson County, Legal Aid is assigned cases first; private attorneys are used only if Legal Aid is unable to take the case. In Tuscaloosa County, the judge appoints attorneys based on their individual interests and specialties. In Etowah County, Legal Aid refuses to take domestic or family cases, so private attorneys are appointed. In 10 counties, representation in addition to the GAL can occur, but this rarely happens.

In all but three counties, GALs are appointed in cases other than abuse and neglect. These cases include those involving custody, juvenile delinquency, and foster care. Some counties also appoint GALs for children in criminal cases, incompetency hearings, and real estate and probate hearings. The same GALs are used for these cases, except in Tuscaloosa County, where different private attorneys are used based on the attorneys' specialties.

Alabama Statute § 12-15-1 defines a GAL only as a licensed attorney appointed by the court to represent the child. No further description of duties exists, and several respondents criticized this lack of guidance for attorneys. Respondents reported that representation varies depending on the attorney. In six counties, attorneys take a lead role in the case; in another six, they do not; and GALs are hardly involved at all in Cleburne. One respondent reported that the judge would like the GALs to be more active and involved. In Tuscaloosa County, cases are handled differently by staff attorneys than by private attorneys. Public Defenders tend to work more cooperatively with other parties in order to meet the child's needs, while private attorneys tend to take on a more adversarial role. The differences among GALs throughout the State are illustrated by the different responses to a question regarding disagreement between the child and the GAL. Respondents in Cherokee, Cleburne, and Etowah all reported that GALs would represent the child's desires; respondents in five counties reported that both the child's best interests and desires would be represented; and respondents in four counties reported that it would depend on the attorney.

No training requirements exist to help GALs better define their role, although Etowah County presently offers it GALs resource materials and Lowndes County Bar Association offers some GAL training. Five respondents strongly suggested establishing written guidelines and duties for GALs, as well as instituting required training.

State Summaries of GAL Representation

Alabama has State-set fees for attorneys in court appointments which are the same for criminal defense as for GAL work. Attorneys bill the court after the dispositional hearing and receive \$40/in-court hour and \$20/out-of-court hour up to \$1,000. Lee County reported that GALs are paid less than criminal counsel, and Lee and Monroe have lower maximums of \$500 and \$150, respectively. In two counties, the maximum increases to \$1,500 if the case goes to appeal. Some counties allow attorneys to submit interim vouchers if the case continues for a long time. One respondent commented, though, that this is controversial, because some believe payment should only be given after the intervention is complete. Jefferson County Legal Aid draws a salary from a pool of funds from the county and United Way. Tuscaloosa's Public Defenders are paid the same fees as private attorneys on a case-by-case basis. Case-related expenses are reimbursed in all counties.

Barbour, Cleburne, Crenshaw, Lowndes, and Monroe Counties all have fewer than 10 private attorneys who handle 2 to 5 cases at a time. Cherokee, Elmore, Etowah, and Washington attorneys have caseloads ranging from 12 to 25 each. Lee has 18 attorneys available, but one attorney handles over 50 percent of the cases, taking up to 40 at a time. Jefferson County has 350 private attorneys available and 5 Legal Aid attorneys who handle 100 to 200 cases each. Tuscaloosa has 30 private attorneys available who handle most of the cases in that county.

Throughout the State, most GAL attorneys are white males of various ages practicing in small or solo law firms not specializing in juvenile or family law. Cleburne, Elmore, and Jefferson have a mix of female and male attorneys. Jefferson, Monroe, and Washington all use younger attorneys more often, although respondents said recent law school graduates are not used.

In six counties, retaining attorneys for court appointments is difficult because of the low pay. Also, respondents in three counties reported that attorneys are not interested in domestic or juvenile cases. Respondents in two of the smaller counties reported that there were not always enough attorneys in the county when there was a surge in the number of cases or when several attorneys had conflicts of interest. Respondents in six other counties reported no problems obtaining GALs. Respondents in three counties suggested having a staff attorney, Public Defender, or GAL office permanently assigned for all juvenile cases. Attorneys are not supervised except informally by judges.

Respondents offered many suggestions to improve the representation of abused and neglected children: attorneys need formal training and supervision with a better-defined description of duties; more funds and staff are needed; and more case preparation time is needed (the attorney frequently never speaks to the child before the first hearing). Respondents in all counties reported that there was no immunity from liability for GALs, except in Lowndes, it was reported that "good faith" immunity existed according to the disciplinary rules of the Bar.

SAMPLED JURISDICTIONS AND CASELOADS

<i>Number of Petitions in 1989</i>			
Barbour	15	Lee	85
Cherokee	15	Lowndes	18
Cleburne	25	Monroe	36
Crenshaw	25	Montgomery	1,000
Elmore	200	Tuscaloosa	522
Etowah	225	Washington	20
Jefferson	1,200		

ALASKA

REQUIREMENTS:	GAL appointment mandatory in abuse and neglect cases
AUTHORITY:	ALASKA STAT. § 47.10.050 Alaska Rules of Children's Procedure 12(c)(3) Alaska Rules of Court-Rule 11
PROGRAM MODELS:	Staff attorneys and staff nonattorneys: Anchorage and Fairbanks Private attorney contractors: Cordova, Juneau, Kenai, Kodiak, Wrangell Nonattorney contractors: Juneau, Kenai, Nome, Sitka, Wrangell CASA volunteers: Anchorage
APPOINTMENT TIMES:	All GALs appointed at filing of petition according to Alaska Supreme Court Rule and Alaska Civil Rule 11. Appointment ends at the discretion of the court.
TRAINING:	Staff attorneys and staff nonattorneys: none required Private attorneys and nonattorney contractors: none required CASA: 20 to 25 hours of required training in Anchorage
COMPENSATION:	Staff attorneys: \$60,000 to \$85,000/year Private attorneys: \$60/hour Nonattorney contractors: \$25/hour Fees set by Rule 12, Alaska Rules of Court
CHILDREN SERVED:	100 percent of abused/neglected children represented in all jurisdictions 33 percent statewide represented by staff or private attorney 43 percent statewide represented by nonattorney (staff or contractor) 35 percent of total Anchorage caseload (24 percent statewide) represented by CASA
IMMUNITY FROM LIABILITY:	All GALs have immunity from civil and criminal liability when acting in "good faith" according to § 47.17.050
SAMPLED JURISDICTIONS:	9 communities
TOTAL JURISDICTIONS IN STATE:	4 Judicial Districts divided into local and magistrate courts: Juneau, Barrow/Nome, Anchorage, Fairbanks

Alaska has a State Office of Public Advocacy that provides GAL representation for Children in Need of Aid (CINA) throughout the State's courts using several models. Alaska has no counties and courts are divided into districts. Anchorage has the only CASA program in the State and its volunteers handle 35 percent of Anchorage's abuse and neglect cases. Thirty-nine percent of Anchorage's remaining cases are represented by public advocates who are staff attorneys employed by the State. The other 26 percent of cases are represented by nonattorneys. These nonattorneys are paid employees of the Office of Public Advocacy. Fairbanks also uses staff attorneys and nonattorneys for GAL representation in 32 percent and 68 percent of its cases, respectively. The other area courts use private attorneys and nonattorneys, contracted by the Office of Public Advocacy, to act as GALs for children in abuse and neglect proceedings. Last year, Juneau, Kenai, and Wrangell all used both private attorneys and nonattorney contractors in approximately the same ratio: 10 percent private attorney and 90 percent nonattorney contractor. Cordova and Kodiak used only attorney GALs, while Nome and Sitka used only nonattorney GALs. Statewide, 31 percent of abuse and neglect cases have staff attorneys as GALs; 2 percent have private attorneys; 43 percent have nonattorneys (staff or contractor); and 24 percent (35 percent of Anchorage caseload) have CASAs. One hundred percent of the abuse and neglect cases have GAL representation in all areas, as mandated by Alaska Statute § 47.10.050 and Alaska Rules of Court-Rule 11.

The Office of Public Advocacy provides direct supervision and administrative/legal support only in Anchorage and Fairbanks. The remaining areas receive no supervision or support, except what is available from the State office in Anchorage or Fairbanks. All GALs have immunity from civil and criminal liability when acting in "good faith," according to § 47.17.050.

GAL appointment is mandatory, and cases are referred immediately to the Office of Public Advocacy for assignment. The public advocate then assigns a GAL to represent the child throughout the court proceedings and until disposition unless court-ordered to continue, as mandated by Alaska Rules of Court-Rule 11. In areas without a formal office, cases are assigned to contractors by the Anchorage and Fairbanks offices, according to availability of contractors. Children can have additional representation in court at judges' discretion. GALs of all models are assigned in other types of cases, such as delinquency, custody, adoption, domestic violence, and guardianship cases (all according to statute).

All GALs are mandated by statute (Alaska Rules of Court-Rule 11) to represent the "best interests" of a child. Children whose desires conflict with their best interests as determined by the GAL, can receive additional counsel. The duties of the GAL are specifically listed by the judge in the order appointing the GAL, again as mandated by Rule 11. The roles and duties of GALs are outlined in *Protocols, Standards of Conduct and Policies for Contract and Court-Appointed Guardians ad Litem*, written by Alaska's State Office of Public Advocacy. CASAs receive guidance from a manual issued by the same office.

Staff attorneys are paid annual salaries of \$60,000 to \$85,000 by the Office of Public Advocacy. Private attorneys are paid \$60/hour; nonattorney contractors receive \$25/hour. Fees are set by Alaska Rules of Court-Rule 12. Maximum fees exist but can be exceeded with approval of the public advocate. CASAs are volunteers and do not receive any compensation. All GALs, however, are reimbursed for case-related expenses up to \$1,000, or \$1,500 with the judge's approval. Salaries

State Summaries of GAL Representation

and fees in criminal cases are outlined in Rule 12 and are equivalent. Fees and salaries are higher than in most other States because of Alaska's higher cost of living.

Staff attorneys, private attorneys, and nonattorney contractors do not receive formal training. CASAs are required to complete 20 to 25 classroom hours and several courtroom hours before being assigned as a GAL. CASA training is comprehensive and includes all relevant topics, such as abuse and neglect issues, interviewing, courtroom responsibilities, laws, and regulations. CASAs also are required to attend ongoing training quarterly. The Office of Public Advocacy CASA Project in Anchorage administers training and supervises all CASAs.

Caseloads for staff attorneys and nonattorneys in Anchorage and Fairbanks are very high; each staff member handles 100 to 150 cases at any given time. Respondents reported that a lack of adequate funding prevents the office from hiring more staff. In the other, less densely populated areas, caseloads are much lower. CASAs generally only handle one to three cases at a time.

The Office of Public Advocacy instituted by statute is independent of the courts. This office implements the CASA program and administers all aspects of court-appointed representation under the direction of the public advocate. Both the Office of Public Advocacy and the CASA project are State-funded with additional income received from private grants. The office monitors and supervises all staff and CASA directly and also reviews the performance of the private contractors annually.

Respondents reported that while abused and neglected children are served well by the statewide program and by the comprehensive State statutes, funding has not kept pace with the increased need for representation in these cases. It also was suggested that to improve representation, private attorneys and contractors should have required training and better supervision.

SAMPLED JURISDICTIONS AND CASELOADS*

<i>Number of Petitions in Fiscal Year 1989</i>			
Anchorage	651	Kodiak	4
Cordova	3	Nome	22
Fairbanks	165	Sitka	15
Juneau	49	Wrangell	6
Kenai	4		

*Alaska has no counties. Courts are divided into judicial districts with local courts organized within four judicial districts. Nine communities were sampled.

ARIZONA

REQUIREMENTS:	Appointment of GAL required in all abuse and neglect cases. Attorney counsel is also required.
AUTHORITY:	Arizona State Supreme Court Rule 22, Rules of Procedure for Juvenile Court as amended (1989); ARIZ. REV. STAT. § 8-225 (B)
PROGRAM MODELS:	CASA and private attorney: Cochise, Coconino, Gila, Graham, Maricopa, and Pima Counties Private attorney only: Apache and Greenlee Public Defender: Cochise
APPOINTMENT TIMES:	Varies locally; begins at 5- or 21-day hearing when possible. Appointment ends when GAL is relieved by the court.
TRAINING:	CASAs: 15 hours required by State Supreme Court Administrative Order 87-11; court-appointed attorneys in Maricopa County receive 1 day of training.
COMPENSATION:	Set locally for attorneys; CASAs are not paid
CHILDREN SERVED:	In sampled counties, 0 to 80 percent of children receive required CASA representation; 0 to 100 percent of children receive required counsel.
IMMUNITY FROM LIABILITY:	CASAs are insured as per ARIZ. REV. STAT. § 41-621 (A.3); liability for attorneys is unclear
SAMPLED JURISDICTIONS:	8 counties
TOTAL JURISDICTIONS IN STATE:	15 counties

National Study of Guardian *ad Litem* Representation

Children in Arizona abuse and neglect proceedings are entitled to attorney counsel according to Arizona Revised Statute § 8-225 (B). A statewide CASA program was instituted in 1985. In 1987, the State Supreme Court ruled that CASAs or attorneys may be appointed as GALs in abuse and neglect cases. In 1989, Supreme Court Rule 22 was changed to require GAL in all abuse and neglect cases, making Arizona the only State in the Nation to require both an attorney and GAL statewide. Since this requirement is less than 1 year old, there are not yet sufficient numbers of CASAs in many counties to represent all children. Four of the 15 counties still do not have CASA programs, and none of the current programs is able to handle 100 percent of the cases. CASA representation is only 20, 80, 80, 15, and 25 percent, respectively, for Cochise, Coconino, Gila, Maricopa, and Pima Counties. Apache and Greenlee do not have CASAs; Graham started its CASA program in April 1990.

Arizona makes a strong distinction between attorney-counsel and attorney-GALs; attorneys appointed as counsel are not considered GALs. Most GAL assignments in the State, however, are given to CASAs. All counties use private attorneys as counsel, and Cochise County uses the Public Defender for half of its cases.

Despite statutory requirements for the appointment of counsel, not all children receive an attorney. All county-level respondents in the sample, however, stated that most or all children receive court-appointed counsel. One State-level respondent added that severe budget restraints and a lack of sufficient numbers of attorneys in rural areas have prevented some counties from fulfilling this obligation and that some local judges do not routinely appoint attorneys or CASAs except in cases of termination of parental rights. Maricopa and Pima Counties petition 81 percent of the State's abuse and neglect cases. Most or all of these cases are represented by at least an attorney; however, required CASA representation is very low among the large number of cases that exist.

In all counties, the judge decides whether to appoint a CASA, but the actual assignment is made by the local CASA coordinator who attends all initial hearings. The statewide director receives copies of all abuse and neglect petitions from the four counties without CASAs and makes written recommendations to the judges concerning appointment of attorney-GALs. The judge appoints and assigns all attorneys, except in Cochise and Maricopa counties, where the court staff rotates assignments based on availability.

CASAs can be appointed by the judge at any time. It is the CASA program's policy to try to become involved in cases as soon as possible, and CASAs are usually appointed at the 5- or 21-day hearing. Maricopa and Pima, the most populous counties sampled, do not have enough CASAs and make assignments as soon as one CASA becomes available. Pima County reported that this may take as long as 1 year.

CASAs are used only in cases of abuse and neglect, although some judges would like to use them in other types of cases. Attorneys can be appointed as counsel for children in other cases, such as delinquency and mental health hearings.

While there are no written guidelines for attorneys, Supreme Court Rule 22 details specific activities that the CASA must perform. These include investigating the case, assisting in the development of case plans, developing a relationship with the child, ensuring that the child's needs are

State Summaries of GAL Representation

met, attending all hearings, and monitoring the case. In Maricopa County, judges assign CASAs to about 15 percent of cases to perform specific activities and to provide information to the court. In all counties CASAs are expected to take a lead role in coordinating activities with all parties of the proceedings. The same CASA or attorney generally represents all children in the same family.

Counsel for the child represents the child's wishes, while the CASA GALs represent the child's best interests. However, respondents stated that disagreement was rare and not a significant issue. Greenlee County stated that the attorney would present both views to the court. If an attorney were appointed as GAL and not counsel, then best interests would be represented.

Compensation for attorney GALs varies within counties, but the State average is \$45/hour. In Maricopa County, attorneys are paid \$45/hour to a maximum of 80 hours. Attorneys are not compensated for case-related expenses, and payment is considered to be less than for other indigent defense work. Greenlee County receives \$3,600/month to be divided evenly among all attorneys in all court-appointments. In Gila County, four attorneys share \$180,000 annually according to caseload and experience. In Apache County, attorneys receive \$45/hour; in Pima County, \$300/case is paid according to contract. In Cochise County, attorneys work under contract for \$21,000 annually for 50 percent of their time. Statute § 8-225 (G) allows courts to order parents to reimburse the costs of representation if the family is financially able to do so. CASAs are not paid and receive compensation only for mileage and travel to Phoenix for initial training.

There are State training requirements for CASAs but not for attorneys. Training lasts 15 hours and is provided by the State CASA program. A minimum of 6 hours of ongoing training is required annually of CASAs. Only attorneys in Maricopa County receive 1 day of training given by the Maricopa Bar Association. While CASAs must receive training prior to appointment, there are no requirements for prior experience for them or attorneys.

Caseloads for CASAs range from one to five, with most volunteers handling only one at a time. Maricopa has 90 CASAs, and Pima has 57. Attorneys in Greenlee average 3 cases at a time; Maricopa attorneys average 12 cases. In Pima county, 23 contract attorneys each have an average caseload of 50.

Most CASA programs reported some difficulty recruiting a sufficient number of volunteers and retaining them. Counties also reported considerable difficulty retaining attorneys due to the low pay and budget problems that many Arizona counties are experiencing. It was also reported that a lack of interest in juvenile cases exists among attorneys, especially in rural areas.

The attorneys in Greenlee and Maricopa Counties are predominantly experienced and white. In Maricopa County, most attorneys specialize in family law, are from small firms or solo practice, and are equally likely to be male or female. Rural Greenlee County has mostly male attorneys in solo practice or very small firms. They typically specialize in other areas of law beside family and juvenile law. Pima County has an approximately equal mix of male and female attorneys.

The statewide CASA program is funded through the State Supreme Court at \$325,000 annually. Local county program budgets range from \$22,000 to \$52,000 annually; some may also

National Study of Guardian *ad Litem* Representation

receive local funds from public or private sources. Local support staffs consist of one to three people, including a program coordinator.

Although total statutory immunity does not exist for CASAs or attorneys, Arizona Revised Statute § 41-621 (A.3) allows for the State Risk Management Plan to insure all agents of the State against liability acts or omissions. State Attorney General Opinion No. 63-30 states that CASA volunteers act as “agents” of the State and are insured as such. It was unclear to most local respondents if this applied to private or contract attorneys.

There is no formal evaluation mechanism of performance of attorneys. However, CASA coordinators review reports and activities of volunteers regularly.

SAMPLED JURISDICTIONS AND CASELOADS

<i>Number of Petitions in 1989</i>			
Apache	6	Graham	2
Cochise	40	Greenlee	20
Coconino	50	Maricopa	654
Gila	20	Pima	503

ARKANSAS

REQUIREMENTS:	GAL must be appointed in any proceeding that involves the custody of a minor
AUTHORITY:	ARK. STAT. ANN. § 45-413(1)(E) (Supp. 1985); § 9-27-316(e) (Supp. 1989)
PROGRAM MODELS:	Private attorneys: all counties CASA: teamed with attorney in 4% Pulaski cases
APPOINTMENT TIMES:	Locally set: usually from initial petition or first hearing to end of court intervention
TRAINING:	Locally set: no requirements for attorney GALs in counties sampled
COMPENSATION:	Locally set: wide variations between counties
CHILDREN SERVED:	0 to 100 percent
IMMUNITY FROM LIABILITY:	Locally determined; partial/good faith in Clark, Monroe, and Pike. None in other sampled counties.
SAMPLED JURISDICTIONS:	11 counties
TOTAL JURISDICTIONS IN STATE:	75 counties

National Study of Guardian *ad Litem* Representation

The Arkansas State statutes require the appointment of counsel or a GAL in all proceedings involving the custody of a juvenile. All the counties sampled except Arkansas uses private attorneys whenever a GAL was assigned. Arkansas County has not appointed a GAL or attorney for the child since 1985; in 1989 there were no petitions of abuse and neglect filed. In 1987 the entire juvenile court system of Arkansas was declared unconstitutional. In December 1987, all local court rules became invalid and beginning August 1, 1989, the entire system was revamped. Before this time many of the juvenile "judges" were administrative personnel. Pulaski County has a CASA program which provides a volunteer and an attorney in approximately 4 percent of the cases. The CASA model used is the attorney/CASA team approach.

In every county except Saline, 100 percent of the petitions filed receive independent counsel. In Saline County, 9 percent of the petitions do not receive counsel; however, if there is a chance that the child will be removed from the home, an attorney will be appointed. Before August 1, 1989, 75 percent of the children in Pike County were unrepresented. Since the new laws went into effect, attorneys have been appointed in all cases. According to the State study, 38 percent of the children in Arkansas still are not receiving counsel.

The local judge holds primary responsibility for all appointments. In Crawford and Monroe Counties, the actual appointment process is handled by the court clerk and the intake officer, respectively. Most courts appoint the GAL at the filing of the initial petition. Sebastian and Crawford County make the appointment at the emergency removal hearing, and Garland assigns the case at the first hearing. All appointments last until court intervention ends or until the attorney is relieved from duty by the judge.

Each county sampled uses GAL attorneys in various other types of cases involving children. These include criminal cases with children and cases involving criminal abuse, custody, paternity, delinquency, truancy, children in need of supervision, "Family in Need of Services" (FINS), and incapacitation. The same attorneys who serve as GALs in abuse and neglect cases also take these cases. Three counties—Clark, Garland, and Pike—may provide other representation to the child besides the GAL in an abuse and neglect case. In Clark and Pike Counties, anyone may request dual representation; the judge will appoint another attorney when concurrent proceedings exist or when he feels it necessary.

In most counties, when the child and counsel disagree over what should be presented in court, the attorney will present both perceived best interests and the child's wishes. Monroe County GALs represent best interests. In Clark, Logan, Pike, and Scott Counties, disagreements have not been an issue. GALs in these counties feel that if the conflict were severe, they would withdraw and another GAL would be appointed. Clark, Monroe, and Pike County respondents feel that GALs are not involved in coordination. In other counties, GALs are very active in coordination; in Garland County, they take the lead role.

Compensation for GAL services varies widely among counties. The judge, in conjunction with the county quorum courts, sets the wages. Clark and Pike County pays \$25/case. Some expenses, such as telephone and mileage, will be reimbursed. In Logan and Scott Counties, the GAL may receive \$40 to \$50/case or may not get paid at all. Pay is completely at judicial discretion, and

State Summaries of GAL Representation

expenses are not reimbursed. In Saline County, the GAL is paid after each hearing; the pay may be \$25 or \$100 depending on the availability of funds and what the judge feels is appropriate. No expenses are reimbursed. Two counties, Crawford and Sebastian, pay \$25/hour of time spent both in and out of court. Minor expenses can be reimbursed; GALs generally do not ask to be reimbursed. Garland County pays the contract GAL \$308/month. The judge has an equal amount which he uses to cover expenses or to pay any conflict attorneys used. Pulaski County pays the director of the CASA program, who is also the contract GAL, \$30,000/year. Expense reimbursement includes costs of training. Monroe County pays the contract GAL \$20,000/year, including expenses, for all public defense work. In Logan, Monroe, Pulaski, Saline, and Scott Counties, GAL pay is equivalent to pay for other indigent defense counsel. In Clark, Crawford, Garland, Pike, and Sebastian Counties, GALs are paid less.

No specific GAL training exists, however, all attorneys must receive continuing legal education credits in order to maintain their license to practice law. This education need not be abuse and neglect issues. There are no other training requirements for GALs. Only Clark and Pike Counties require that attorneys work with an established GAL before they are appointed as GALs.

Average caseload is approximately eight cases per GAL. Pulaski's GAL has a significantly high caseload of approximately 200 cases at any given time. One attorney in Pulaski County contracts to take all of the abuse and neglect cases petitioned and in 1989, 250 new cases were petitioned. No counties have problems retaining and recruiting attorney GALs. While the majority of the attorneys are male, two counties—Garland and Pulaski—have a female attorney as the contract GAL. The GALs usually come from small firms or a solo practice, and the majority are white GALs of various ages.

The only independent GAL program is the Pulaski County one. Grants and county funds provide an annual budget of \$32,000 for this program. Elsewhere, GALs are monitored informally by the courts. Clark and Pike Counties reported that good faith immunity existed through local case law; however, as stated above, local court rules have been declared invalid. Monroe also offers a qualified good faith immunity. In other counties sampled, no immunity from liability exists. All attorneys must provide their own malpractice insurance.

SAMPLED JURISDICTIONS AND CASELOADS

<i>Number of Petitions in 1989</i>			
Arkansas	0	Pike	7
Clark	36	Pulaski	250
Crawford	24	Saline	70
Garland	16	Scott	15
Logan	18	Sebastian	40
Monroe	9		

CALIFORNIA

REQUIREMENTS:	GAL appointment is mandatory in all abuse and neglect cases The social worker who files the abuse or neglect petition is automatically considered the GAL according to California code.
AUTHORITY:	CAL. WELF. & INSTIT. CODE § 326
PROGRAM MODELS:	Private attorney: 10 of 11 counties sampled Staff attorney: 8 of 11 counties sampled CASA (in addition to attorney): Alameda, Los Angeles, San Diego
APPOINTMENT TIMES:	Set locally for counsel and CASA
TRAINING:	Set locally; only San Francisco has requirements for attorneys. All CASA programs require 21 to 30 hours of initial training.
COMPENSATION:	Set locally: By local court rule or local administrative policy
CHILDREN SERVED:	30 to 100 percent
IMMUNITY FROM LIABILITY:	Determined locally; limited immunity by case law in San Diego (9th Circuit)
SAMPLED JURISDICTIONS:	11 counties
TOTAL JURISDICTIONS IN STATE:	58 counties

National Study of Guardian *ad Litem* Representation

California Welfare and Institutions Code § 326 (West, Supp. 1989) states that the probation officer or the social worker who files the petition of abuse and neglect shall be the GAL unless the court appoints someone else. The appointment of independent legal representation or CASA in addition to a GAL is discretionary (§ 317 [West 1984 & Supp. 1989] and § 365.5). When attorneys, whether private or from the Public Defender's Office, are appointed to an abuse and neglect case, the attorney generally is considered counsel for the child and not the GAL.

In four counties, the petitioning social worker is appointed as the GAL; legal representation is provided by the county counsel/District Attorney who represents the State (Social Services) and, by default, the child as well. This is the primary form of representation in Alameda (70 percent), Fresno (95 percent), Lake County (99 percent), and Los Angeles County (70 percent). In Alameda County, where the county counsel is separate from the District Attorney's Office, the District Attorney takes approximately 12 percent of the abuse and neglect cases petitioned. Kings County has one Assistant District Attorney designated to provide counsel to children in 100 percent of abuse and neglect cases petitioned. Four counties also use the Public Defender's Office to provide counsel. These include Alameda (13 percent), San Bernadino (45 percent), Santa Cruz (35 percent), and Placer (5 percent). Private attorneys are used to varying degrees in 10 of the 11 counties sampled: Alameda (5 percent), Fresno (5 percent), Humboldt (100 percent), Lake (1 percent), San Bernadino (50 percent), San Diego (100 percent), San Francisco (80 percent), Santa Cruz (65 percent), and Placer (95 percent). CASA programs exist in three of the counties sampled: Alameda, Los Angeles, and San Diego. In San Diego, CASAs receive approximately 20 percent of the petitions assigned in that county. CASAs are assigned in addition to GALs in less than 2 percent of cases in Alameda and Los Angeles Counties. CASAs work independently of attorneys.

Private attorneys have access to administrative support in San Francisco, social work support in San Francisco, and CASA support in San Diego and Alameda. Staff attorneys, who are part of the county, receive administrative support (staff and/or offices) in San Bernadino, Kings, Placer, and Fresno. The Alameda CASAs also are available as support to staff attorneys.

In Alameda, county counsel is automatically appointed, while in Fresno, the District Attorney is automatically appointed. In the other counties sampled, the judge decides whether to appoint and also selects the attorney or delegates the selection to the court clerk. In Los Angeles and San Diego, the CASA program director makes recommendations to the judge concerning CASA appointment. The judge then appoints a CASA; the program director then assigns one. In Los Angeles, attorneys are appointed automatically in every case; usually the attorney is part of county counsel. The Court Services Officer in San Bernadino and a panel of Bar Association attorneys in San Francisco are used to appoint counsel.

Respondents in four counties specified that certain abuse and neglect cases may not receive independent representation. Alameda (numbers not available), Placer (50 percent initially unrepresented), and San Francisco (70 percent) assign independent counsel only when the judge feels there is a conflict of interest between the Department of Welfare and the child's interests; Humboldt County (25 percent unrepresented) appoints counsel in "serious" abuse cases and when the judge feels the child would benefit from counsel.

State Summaries of GAL Representation

Alameda, Los Angeles, and San Bernadino use the same criteria of appointment. County counsel always is the first choice. If a major conflict arises, the case is passed to the District Attorney's Office (Alameda) or the Public Defender's Office. If the conflict is deemed minor, the case will not be passed on; county counsel will represent the State only. If conflict arises in the Public Defender's Office, a private attorney may be used. In Los Angeles, cases that will go to trial also are assigned CASA volunteers to ease the child's trauma of going through the system; they also are assigned when it is felt that a CASA may positively affect permanency planning. San Francisco, if appointing counsel, uses a list of private attorneys. Legal Services of Children also becomes involved when requested by the child or a third party.

Appointment times appear to be primarily at the court's discretion, though in Fresno, Kings, and Santa Cruz Counties, appointment usually occurs at the filing of the initial petition. In other counties, appointment may occur at the emergency removal hearing or whenever the judge sees fit to appoint counsel. CASAs may be relieved by the court at any time; they may leave a case early when a child is in care for a long time. The Santa Cruz respondent cited a law requiring the appointment of counsel at the allegation of abuse but was unsure whether this law was still in effect.

San Diego does not provide CASA representation in any type of case other than Superior Court dependency cases (i.e., civil abuse and neglect). Eight counties sampled provide counsel in delinquency and custody cases. Other cases that may receive attorney appointments in other counties include criminal cases involving children and cases involving criminal abuse, nonlitigated abuse, voluntary foster care, paternity, truancy, emancipation, and guardianship. Generally the attorneys used in abuse and neglect cases are used in other cases as well. Respondents in four counties stated that for delinquency proceedings, the Public Defender always is appointed.

A child may receive representation besides the GAL in abuse and neglect cases in seven counties. In Kings, San Bernadino, and Santa Cruz, this had never happened. In Lake and San Francisco, it has happened when the child was involved in concurrent criminal or civil proceedings and when the judge felt it was necessary. In Los Angeles and San Diego, a child could have an attorney and a CASA or social worker. Alameda has appointed both an attorney and a CASA to cases; in sexual abuse cases, the child often is represented by the District Attorney and county counsel.

Four counties have local written descriptions of the roles and responsibilities of the GAL. Santa Cruz continuing education materials outline duties when representing a child. Both San Diego and San Francisco training materials cover GAL responsibilities. San Bernadino courts have a package of materials covering the same. Except in San Bernadino, GALs are expected to investigate, meet with the child, provide legal representation, monitor the case, ensure compliance with court orders, and make recommendations to the court. In San Bernadino, the social worker is responsible for investigations, monitoring, and ensuring compliance with court orders. San Francisco Legal Services also is charged with meeting the child's needs.

Whether the attorney is to represent the wishes or best interests of the child varies among counties. This discrepancy exists despite § 317(e) charging appointed counsel to represent the minor's interests. In Alameda, Fresno, Lake, and Santa Cruz, this depends entirely on the attorney and/or the case. Kings, Placer, San Diego, and San Francisco County attorneys present both the wishes and the

best interests of the child to the judge. In Los Angeles, attorneys representing a child present the child's wishes; CASAs or social workers present best interests. Humboldt County, which uses only private attorneys, represents best interests only. In San Bernadino, a different representative would be appointed if the difference between best interests and wishes was severe.

In Lake County, when one case involves more than one child, each child receives his or her own attorney (county counsel) unless there is absolutely no conflict of interest. In Los Angeles, CASAs only are assigned to individual children as opposed to individual cases. Elsewhere, one attorney or CASA generally represents all the children involved in a particular case.

In the process of coordination among different parties, private attorneys in Alameda and Los Angeles were reported to be passive and not very involved. Private attorneys in most other counties are involved to varying degrees. Attorneys in Fresno, Humboldt, and Santa Cruz are seen as lead coordinators.

Monetary compensation is set through local court rule (Fresno, Los Angeles, Placer, San Diego, and San Francisco) or negotiated between the county administration and the attorneys (Alameda, Humboldt, Kings, Lake, San Bernadino, and Santa Cruz). Hourly wages for private attorneys (paid in seven counties) range from \$30 to \$60/hour for in-court time and \$30 to \$50/hour for out-of-court time. Placer County pays the attorneys hourly until the case goes to trial; attorneys then receive a fixed fee of \$250/day. Fresno pays \$300/case from appointment to trial confirmation, \$400 for 10 hours of trial preparation, and \$240/day during a trial. Lake County counsel receive annual salaries of approximately \$52,000. District Attorney annual salaries in Kings County range from \$30,000 to \$75,000. Los Angeles and Santa Cruz Counties have ceilings of \$1,200 and \$1,000/case, respectively. Alameda and San Francisco respondents stated that GAL attorneys in these counties are paid less than other indigent defense attorneys. Respondents in most other counties reported that abuse and neglect compensation was equivalent to compensation for other indigent defense work. Eight counties cover only the major costs incurred by the representation, e.g., tests, witnesses. CASAs across the State are unpaid volunteers. San Diego County covers minor costs such as mileage and telephones for the CASA volunteers only.

San Francisco attorneys must attend workshop trainings covering unspecified topics. This was reported to be a State requirement, although no respondents from other counties reported any training requirements for attorney/social worker GALs. Attorneys must attend training before appointment. The training is provided by a panel of attorneys from the Bar Association. The length of training was unspecified.

Alameda, Los Angeles, and San Diego all have training requirements for CASA volunteers. Topics required include major child advocacy issues. Alameda County has added training on progress measurement and probation issues. Initial training is 21 to 30 hours and must be completed prior to initial appointment. Local programs and experts provide the training. Alameda and San Diego also require ongoing training which includes seminars offered throughout the year. Los Angeles County offers ongoing seminars, but attendance is not required.

State Summaries of GAL Representation

Fresno, Lake, San Bernadino, San Francisco, and Santa Cruz Counties have at least minimal requirements regarding prior experience for attorneys appointed as counsel. The attorneys must have been in practice for at least 2 years and have some experience in juvenile and/or family law.

Caseloads vary extensively. San Diego and San Francisco have many private attorneys available (600 and 400, respectively) who handle approximately 2 cases each. Los Angeles and San Diego have many CASAs (100 and 200, respectively) most of whom handle 2 cases each. Humboldt and San Bernadino each have 2 staff attorneys handling an extremely high caseload: 400 and 700, respectively. In Los Angeles County, 110 private attorneys carry 40 cases each, on average, alongside 80 staff attorneys each handling approximately 120 cases at any time. In Kings County, 1 attorney handles all the abuse and neglect cases, which average approximately 20 at any time. Average caseloads for the other counties sampled were unavailable.

In Kings, Lake, and San Bernadino Counties, lack of interest among attorneys in abuse and neglect cases is the biggest problem in retaining and recruiting counsel. Los Angeles reported problems but did not specify them. Alameda County reported difficulties in locating qualified volunteers. Santa Cruz is the only county with an approximately equal number of minority and white attorneys. All other counties use mostly white attorneys as counsel. Most counties use a fairly equal mix of older/younger, female/male attorneys, half of whom practice primarily in juvenile family law.

The CASA program in Los Angeles receives matching moneys from the Superior Court fund. Paid CASA staff are considered county employees. The director oversees 13 support personnel and is responsible for recruitment, training, and placement of volunteers. San Diego's CASA program is funded entirely from private donations and grants. The current annual budget is \$370,000. The staff consists of the director, 5 supervisory and 5 support personnel.

The issue of immunity from liability when acting as a GAL overall is not clear. Los Angeles County offers partial/good faith immunity through local policy. Alameda County has a partial/good faith statute. San Diego CASAs have total immunity by recent case law; Kings County GALs also have total immunity. San Bernadino respondents were unclear, and respondents in all other counties sampled reported none. Los Angeles and San Diego provide at least minimal insurance for CASAs. Alameda and San Bernadino respondents stated that the attorneys from county offices were insured by the counties. No other county provides any sort of insurance for the GALs. Little formal monitoring of attorneys exist. San Bernadino and Kings County staff attorneys receive evaluations and are monitored by the chief of the appropriate office.

SAMPLED JURISDICTIONS AND CASELOADS

<i>Number of Petitions in 1989</i>			
Alameda	3,000	Placer	175
Fresno	N/A	San Bernadino	3,000
Humboldt	174	San Diego	5,217
Kings	175	San Francisco	3,000
Lake	75	Santa Cruz	218
Los Angeles	14,400		

COLORADO

REQUIREMENTS:	GAL <i>must</i> be appointed in all abuse cases. GAL <i>shall</i> be an attorney and shall be appointed at the first appearance in court. GAL may be appointed in cases of neglect.
AUTHORITY:	COLO. REV. STAT. § 19-3-203 (Supp. 1988)
PROGRAM MODELS:	Private attorneys: all sampled jurisdictions CASA: as "Friend of the Court" in Denver and Larimer Counties
APPOINTMENT TIMES:	Not later than the first hearing
TRAINING:	Locally set; no requirements specific to abuse and neglect
COMPENSATION:	State set: \$40/hour in court, \$30/hour out of court; maximum \$1,160. Beginning July 1990, \$45/hour in court and \$35/hour out of court; maximum \$1,330. Beginning January 1991, \$50/hour in court and \$40/hour out of court; maximum \$1,500.
CHILDREN SERVED:	100 percent of children in abuse cases 90 to 100 percent of neglect cases
IMMUNITY FROM LIABILITY:	None
SAMPLED JURISDICTIONS:	12 counties
TOTAL JURISDICTIONS IN STATE:	63 counties

National Study of Guardian *ad Litem* Representation

Colorado courts use private attorneys as GALs for abused and neglected children. These attorneys are either selected from a rotating list, usually kept by the judge's clerk, or contracted with the State to take all or a specified number of cases in a particular county. Only 2 of the 12 counties sampled did not appoint a GAL in 100 percent of the abuse and neglect cases petitioned.

There is little direct administrative or social work support provided to the private attorneys. The judicial system is very supportive of GALs and their role in representing best interests of the child. All counties are restricted in terms of tangible aid by lack of funding. GALs have statutory access to all records and reports of any involved agency, including the Department of Social Services (DSS). CASA programs exist in Denver and Larimer counties. The CASAs in these counties use the "Friend of the Court" model. A CASA volunteer provides information to the court independently of all other parties, including the GAL.

The two counties not providing 100 percent of abuse and neglect cases with GAL representation are Garfield and Rio Blanco. While Garfield County always appoints a GAL in cases of physical or sexual abuse, 10 percent of cases of neglect do not receive a GAL. The judge tends to follow the recommendations of the DSS in these cases. If the DSS feels that the appointment is unnecessary, the appointment does not occur. In Rio Blanco County, GALs are not appointed in 1 percent of the cases petitioned due to a lack of evidence of abuse. These cases reach disposition quickly.

All counties adhere to the State mandate of appointing attorneys in abuse cases. In rural counties, the judge also is responsible for making the appointment. More densely populated areas, such as Denver and Weld Counties, delegate appointment duties to the court administrator or the division court clerk, respectively.

All counties follow the mandate of Colorado Revised Statute § 19-3-105 and appoint GALs by the first hearing. In some areas, the appointment actually occurs before the filing of the initial petition. Garfield County contracts all abuse and neglect cases to one attorney. Often the DSS informs him of a case pending. In Denver, Rio Blanco, and Weld Counties, the contract system is used to enable the GAL to be present at the emergency removal hearing and/or be alerted to the case before the first hearing. All appointments last until court intervention ends unless the GAL is relieved of duty by the judge.

GAL appointments in cases other than civil abuse and neglect, while solely at judicial discretion, are common. These include criminal cases involving children and cases involving truancy, custody, domestic relations, and delinquency. Only Rio Blanco does not appoint GALs in any other type of case. Rio Blanco is, however, the only county to provide other representation in civil abuse and neglect cases. When delinquency charges are filed in an abuse case, the child receives a GAL and counsel in that county. Respondents in Garfield, Heurvano, Larimer, Las Animas, and Weld Counties stated that other representation was possible, but it never occurred.

Most attorneys acting as GALs are involved in coordination among the various parties. None of these respondents felt that they instigated or held a lead role in such coordination. Respondents in Denver, Heurvano, Larimer, and Las Animas Counties were unclear as to the attorney's role.

State Summaries of GAL Representation

The State law charges the GAL with the responsibility to "generally represent the best interests of the child." Only in Delta, Denver, Montrose, and Weld Counties is this interpreted to mean that the GAL represents only the best interests. In all other counties, particularly if there is conflict between the child's wishes and perceived best interests, GAL presents both views to the court. All counties allow for the appointment of a different GAL in the case of severe disagreement. However, this happens rarely.

The Office of the State Court Administration sets the pay scale for GALs. All contracts are negotiated through this office, using the hourly rate as a base. The current rate is \$40/hour in court and \$30/hour out of court, with a ceiling of \$1,160/case. The ceiling may be waived with an order of justification approved by the district judge. This occurs in approximately one-third of all cases. By January 1, 1991, the rates will rise to \$50/hour in court and \$40/hour out of court, with a ceiling of \$1,500/case. All expenses within reasonable limits are reimbursed by the State, subject to court approval. This pay scale is comparable to all indigent defense work.

There are no training requirements specific to abuse and neglect representation in the State of Colorado. Technically, there are no requirements regarding experience or training before an attorney may be appointed as a GAL. However, due to local judicial control, some judges require some experience in practicing law.

Caseloads in rural areas are quite low, usually four to five cases per attorney. Caseloads in most other areas remain relatively moderate, ranging from 25 to 30 cases each. Denver, the largest county sampled, has one attorney who contracts for 200 cases each year and two attorneys who contract for 15 cases each; the remaining 50 percent of cases are assigned according to a rotating list system.

The seven larger counties reported no problems recruiting or retaining GALs. Other counties cited as problems a lack of adequate compensation and a lack of desire on the part of attorneys to take on such cases. The State has attempted to address the compensation dilemma by raising the hourly wage. By 1991, Colorado will have one of the higher pay scales for GALs in the country.

In all counties sampled except Alamosa, attorneys typically are fairly young, white males in solo practice or from a smaller firm. Women, minorities, and larger firms also represent children. Alamosa had a distinctly even split of older and younger attorneys, men and women, and minority and white GALs.

There is no immunity from liability offered through local policy, case law, or statute. However, private malpractice insurance is mandatory everywhere except in Delta County. All monitoring and most evaluations of GAL performance is accomplished informally. It seems that most courts are small enough that the judges, referees, and commissioners are able to oversee an attorney's performance regularly. In Denver, the Juvenile Court judges and the court administrator meet annually to formally review the GAL performance.

SAMPLED JURISDICTIONS AND CASELOADS

<i>Number of Petitions in 1989</i>			
Alamosa	30	Larimer	96
Bent	7	Las Animas	18
Delta	20	Montrose	33
Denver	562	Otero	11
Garfield	37	Rio Blanco	8
Huerfano	2	Weld	121

CONNECTICUT

REQUIREMENTS:	Attorney counsel mandatory in abuse/neglect proceedings
AUTHORITY:	CONN. GEN. STAT. § 46b-136; § 17-38a
PROGRAM MODELS:	100 percent private attorneys in all jurisdictions. CASA as “friend of the court” in seven jurisdictions.
APPOINTMENT TIMES:	Attorneys assigned at filing of petition. Assignments continue until court intervention ends.
TRAINING:	None
COMPENSATION:	\$50/first hour in court; \$25/second hour in court; \$15/hour in court thereafter; \$15/hour out of court. Maximum \$135.
CHILDREN SERVED:	100 percent of all abused/neglected children statewide
IMMUNITY FROM LIABILITY:	None
SAMPLED JURISDICTIONS:	13 districts in 8 counties
TOTAL JURISDICTIONS IN STATE:	13 districts in 8 counties

National Study of Guardian *ad Litem* Representation

Connecticut appoints private attorneys to represent all children in abuse/neglect proceedings throughout the State. Connecticut Statute (§ 46b-136; § 17-38a) mandates that children receive “counsel” but also allows for the additional appointment of a GAL. One attorney can act as both “counsel” and GAL according to the statute, and respondents reported that two representatives are rarely appointed. CASAs act as “friends of the court” and work independently of attorneys.

CASA is organized statewide with 7 of the 14 juvenile courts in Connecticut currently each operating a program. Eighty-five CASAs in the State are assigned to 50 to 55 percent of abuse and neglect cases to advocate for children in and out of court, in hearings and conferences, and with court services. Cases are referred by judges and assigned volunteers in cases that would benefit from a special investigation, report, or services.

The judge or court clerk assigns a private attorney at the filing of the petition, and appointment continues until court intervention ends. Attorneys also may be appointed as counsel for children in custody, visitation, or criminal abuse cases. Attorneys, in their dual roles as GAL and counsel, represent both best interests and the child’s desires. According to § 17-38a, “the child shall be represented by counsel . . . to speak in behalf of the best interests . . . [and] said counsel shall also be appointed GAL.” Further guidance regarding GAL duties is offered by the *Juvenile Law Handbook* prepared by the Connecticut Bar Association. No other supervision, monitoring, or required training exists for these private attorneys, and there is no formal program overseeing them. Attorneys are not immune from liability regarding court appointments and generally carry their own malpractice insurance.

Attorneys receive \$50 for their first hour in court, \$25 for the second hour, and \$15 for each hour thereafter, to a maximum of \$135. Attorneys also are compensated \$15/hour for out-of-court time. Attorneys are reimbursed for expenses. All fees are set by the State and are expected to be paid by the child’s parents, however, this rarely occurs. If the parents are unable to pay the fees, the court pays them. Respondents did not report any problems recruiting or retaining GAL attorneys. Throughout the State, 185 attorneys accept an average of 5 abuse/neglect appointments each.

Respondents suggested requiring training and certification of GAL attorneys and also increasing their fees in order to improve the representation of abused/neglected children in court.

SAMPLED JURISDICTIONS AND CASELOADS

<i>Number of Petitions 1989</i>			
Ansonia-Milford	52	New London	110
Danbury	102	Rockville	78
Fairfield	136	Stamford-Norwalk	40
Hartford-New Britain	350	Tolland	26
Litchfield	62	Waterbury	124
Middlesex	52	Windham	120
New Haven	282		

DELAWARE

REQUIREMENTS:	CASA appointment in abuse and neglect cases at judge's discretion
AUTHORITY:	DEL. CODE ANN. tit. 10 § 925(14); tit. 31 § C. 36
PROGRAM MODELS:	CASAs in all counties
APPOINTMENT TIMES:	Set locally; normally shortly before or just after adjudication
TRAINING:	Required by State law
COMPENSATION:	None
CHILDREN SERVED:	15 to 80 percent in counties; 22 percent statewide
IMMUNITY FROM LIABILITY:	Good faith immunity by State law
SAMPLED JURISDICTIONS:	3 counties
TOTAL JURISDICTIONS IN STATE:	3 counties

National Study of Guardian *ad Litem* Representation

Delaware provides GAL representation to abused and neglected children through a statewide CASA program developed in 1983. In 1985 the program was formally established statewide by Delaware law. The law does not require GAL representation in all abuse and neglect cases but leaves the decision to appoint a CASA to the presiding family court judge. Twenty-two percent of the State's abuse and neglect cases are assigned CASAs. A staff attorney provides legal assistance to CASAs in each of Delaware's three counties.

In all three counties the CASA program coordinator recommends to the judge whether to appoint a CASA to a case; the judge formally makes the appointment in all counties. The State law is ambiguous as to when appointment should occur. In most cases, the CASA is not formally appointed until after adjudication. Appointment ends when the child is placed in a safe and permanent placement and when the case is closed by the agency. CASAs are not assigned to other types of cases involving children.

Since there is a shortage of trained volunteers, CASAs are assigned only to the most difficult cases, including cases in which there is severe abuse, the family has a significant court history, there is conflict between agencies, the parents are contesting abuse allegations, or a request for a CASA is made by the child welfare agency, family, child, or other party. The child also may be assigned attorney representation if there are concurrent criminal proceedings, if the child requests one, or if the judge believes an attorney is needed. However, all counties state that attorneys are rarely assigned. CASAs are required to present the child's best interests to the court regardless of whether the child agrees with the CASA's assessment.

State law specifies the duties of CASAs to include conducting an independent investigation, reporting to the court, and representing the child's best interests. The CASA represents all children in a family involved in a case and is expected to coordinate activities with other parties involved in the case.

CASAs are not paid and normally are not compensated for expenses. They must obtain 40 hours of training from the State CASA program before they can be assigned cases. The training covers a range of child welfare, social, and legal topics. One day per month of ongoing training is provided by the State program, and volunteers are expected to attend some ongoing training although it is not mandatory. No prior experience or background in child welfare or other areas is required of volunteers, but State law specifies that CASAs should have no conflicts of interests and must be willing to commit to 1 year of service.

At the time of the study, Delaware had 84 CASAs in the 3 counties, with 7 in Kent County and 30 in Sussex. Caseloads average two or three cases. All three programs reported difficulties in recruiting a sufficient number of volunteers. Sussex County had problems recruiting minorities and men, and New Castle County claimed it did not have enough recruiters to find the number of volunteers needed. Kent County has only a part-time coordinator, making ongoing recruitment difficult.

Delaware CASA programs are administered by the Family Court and are funded through a direct appropriation from the State. The most recent funding was \$150,000 divided among the three

State Summaries of GAL Representation

counties. The program is administered by a statewide coordinator and individual coordinators in each county. New Castle has, in addition, one full-time administrative staff member. Sussex has only one part-time clerical staff member.

CASA volunteers receive an annual evaluation from the local program coordinator, and judges monitor performance informally. The program enjoys considerable judicial support.

SAMPLED JURISDICTIONS AND CASELOADS

<i>Estimated Petitions in 1989</i>	
Kent	154
New Castle	275
Sussex	200

DISTRICT OF COLUMBIA

REQUIREMENTS:	GAL appointment mandatory in all abuse and neglect cases; GAL must be an attorney
AUTHORITY:	D.C. CODE ANN. § 16-2304(b)(3) (1988)
PROGRAM MODELS:	Private attorneys with staff support One staff attorney with limited caseload
APPOINTMENT TIMES:	Initial appointment occurs at filing of initial petition; appointment ends when court intervention ends.
TRAINING:	Initial 2-day training required of all attorneys
COMPENSATION:	Private attorneys: \$35/hour, up to \$750 through initial disposition and up to \$750/review hearing
CHILDREN SERVED:	100 percent of abused and neglected children served in 1989
IMMUNITY FROM LIABILITY:	None
SAMPLED JURISDICTIONS:	1
TOTAL JURISDICTIONS IN STATE:	1

National Study of Guardian *ad Litem* Representation

The District of Columbia uses private attorneys to represent children in all civil abuse and neglect cases. The attorneys have both social work support to assist them in case investigation and administrative support. The District also employs one staff attorney who has a limited caseload and who primarily provides advice and legal support for other GALs. All of the approximately 917 abuse and neglect cases in 1989 were assigned GAL representation.

District of Columbia law mandates GAL appointment for all abuse and neglect cases and requires GALs to be attorneys. When an initial petition is filed, the presiding judge appoints GALs from a list of attorneys who have volunteered to take these cases. Appointment ends when court intervention terminates, which can be when the child reaches the age of majority. For adoption cases, the GAL remains involved until final placement of the child in a new home. Appointment times and duration are established by local court rule. The court may also assign GALs to custody and visitation cases, but this does not occur often.

The District has written standards of practice that specify the GAL role and responsibilities. These standards require the GAL to investigate the case, to meet with the child, to provide legal representation, to make recommendations to the court, and to monitor the case to ensure that court orders are followed and that the child's needs are met. GALs are required to represent the child's best interests, even if the child disagrees with the GAL's assessment of these interests.

Local law sets GAL payment at \$35/hour, with a ceiling of \$750 through the initial dispositional hearing and up to an additional \$750/hearing thereafter. Attorneys submit payment vouchers after each review or dispositional hearing, at the end of appointment, or at the end of the review year. This pay is equivalent to pay for indigent criminal defense work. GALs are compensated for case-related expenses, including fees for expert witnesses.

Before serving as GALs, attorneys must attend an initial 2-day training. The training covers legal issues; family dynamics; the role of the GAL; interviewing procedures; working with children; and interacting with parents, foster parents, and child welfare agencies. The court has developed its own procedural and training manuals. The District also requires a minimum of 16 hours of ongoing training annually, and the court offers two seminars per month on issues related to abuse and neglect representation.

There are no requirements for GALs in terms of prior experience in abuse and neglect. Attorneys who perform GAL services are primarily solo practitioners or work in small law firms and specialize in juvenile or family law. Approximately equal numbers of male and female attorneys serve as GALs, and there also is almost an even mix of younger and older attorneys. Most GAL attorneys are white. There are about 200 attorneys available to serve as GALs in the District, and they are assigned an average of 4 or 5 cases per year. The one staff attorney handles about 20 cases annually. The GAL program reports no problems recruiting or retaining attorneys.

The GAL program is administered by the court, through the Office of Counsel for Child Abuse and Neglect. The director of this office and the presiding judge of the Family Division oversee the program, which has a staff of eight and an annual budget of \$2 million, appropriated directly to the court from public revenues. GAL fees and expenses are paid through this budget.

State Summaries of GAL Representation

GALs have no immunity from liability, and the District does not have liability insurance for them. GALs must provide their own malpractice insurance which serves as their only protection from liability. There is no formal evaluation or monitoring of GAL performance.

SAMPLED JURISDICTIONS AND CASELOADS

<i>Number of Abuse and Neglect Petitions in 1989</i>	
District of Columbia	917

FLORIDA

REQUIREMENTS:	Volunteer GAL mandatory in all abuse and neglect proceedings
AUTHORITY:	FLA. STAT. ANN. § 415.508 Florida Rules of Juvenile Procedure Rule 8.590
PROGRAM MODELS:	Volunteer GALs statewide. Sometimes assisted by private attorneys in 66/67 counties who provide team with <i>pro bono</i> legal assistance. Private attorneys: appointed in 10 percent of Dade's cases.
APPOINTMENT TIMES:	GAL program policy is that appointment occurs as soon as possible, generally at filing, detention, or first hearing. Appointment ends when dismissed by court, usually when court intervention ends.
TRAINING:	Volunteer GALs: Local programs require 20 to 28 hours Private attorneys: Dade County Court requires 6 hours
COMPENSATION:	Volunteer GALs: none; expenses are not reimbursed Private attorneys: most in State work <i>pro bono</i> assisting GALs; when court-appointed as counsel, \$23/hour or up to \$3,000/case
CHILDREN SERVED:	0 to 100 percent; statewide average: 49 percent
IMMUNITY FROM LIABILITY:	Total immunity by statute ("good faith" is presumed); for all participants in proceedings
SAMPLED JURISDICTIONS:	11 counties in 8 circuits
TOTAL JURISDICTIONS IN STATE:	67 counties in 20 circuits

National Study of Guardian *ad Litem* Representation

Florida has a statewide volunteer GAL program. In 1979, the Florida Office of the State Courts Administrator studied the use of lay volunteers, Public Defenders, and private attorneys in abuse and neglect proceedings and concluded that lay volunteers are effective advocates for children. In 1982, Florida Supreme Court Rule 8.300 approved the use of lay volunteers as GALs. Florida Statute § 415.508 mandates the appointment of GALs in all civil and criminal abuse and neglect proceedings. Despite this requirement, only 3 of the 11 counties sampled provide representation for 100 percent of all abused and neglected children. Eight counties do not appoint GALs in 20 to 100 percent of their cases. While Glades, Hendry, and St. Johns Counties provide representation in 100 percent of their cases, Clay, Dade, De Soto, Duval, Lake, and Polk Counties provide representation only in 50 percent, 50 percent, 75 percent, 35 percent, 8 percent, and 40 percent of their cases, respectively. In Sumter County, the local court does not appoint GALs, so no cases are represented. Statewide an estimated 49 percent of the cases are represented. This figure agrees with an estimate given by the State-level respondent. Respondents in all of the counties reporting a lack of representation said that there were not enough GALs for all cases.

Only volunteers can be appointed as GALs. Attorneys, if appointed, are appointed additionally as counsel. This does not occur often but is more common in sexual abuse cases or when there are concurrent criminal proceedings. While volunteer GALs are a full party to the proceedings, they do not provide legal representation or counsel. In 1989, the Academy of Florida Trial Lawyers formed the "Friends of GAL" to provide *pro bono* legal advice and assistance to GALs.

Judges are mandated to appoint GALs immediately, and one is assigned by the court or GAL program director at the filing of the petition or the first hearing. Two counties reported that assignment occurs at the court's discretion any time after the filing. GALs must be dismissed from an appointment by the court, usually when court intervention ends. GALs are also appointed in cases of juvenile delinquency, children in criminal proceedings (as victims or witnesses), children in need of services or supervision, and divorce and custody. Attorneys, as stated above, are appointed only to cases involving intensive legal work as in sexual abuse cases or when parents contest abuse or neglect petitions. Attorneys are appointed as counsel, not GAL. When attorneys are appointed, they are paid \$23/hour or up to \$3,000/case. These amounts are lower than those paid for criminal defense. Volunteer GALs receive no payment, and expenses are not reimbursed. The attorneys who assist GALs work *pro bono*.

The State Courts Administrator's Office is the supervisory agency of the GAL program. It provides extensive guidelines for the duties and responsibilities of the GAL in its training manual. Florida Supreme Court Rule 8.590 states that GALs are to investigate and report back to the court with recommendations regarding the best interests of the child. The written report must also include the statements of the wishes of the child. A 1984 Administrative Order of the Court further defines the role of GAL as an advocate of the child's best interests and makes the distinction between GAL and counsel which represents desires. It also set standards for the implementation of local GAL programs. Even if an attorney is appointed as GAL, the attorney must represent the best interests of the child and not act as counsel. GALs are more involved outside the courtroom and attorneys are more involved in the courtroom as legal counsel only. Respondents in four counties reported that their GALs do take a lead in the coordination among the parties of the proceeding. Florida Statute

State Summaries of GAL Representation

§ 415.508 presumes good faith execution of GAL duties and grants GALs immunity from civil and criminal liability. GALs are insured through a State Risk Management plan.

The State GAL program requires comprehensive training equivalent to CASA training in other States. Dade requires 25 hours of training; Hillsborough requires 28; and De Soto requires only 20. All training must be completed prior to initial appointment. Ongoing training is provided monthly, and GALs are required to attend six inservice sessions each year. Training is organized and provided by the State program, with additional training provided by local courts and agencies. Dade is the only county that requires initial training of attorneys; the local courts there require and provide 6 hours of training of all attorneys. No ongoing training is provided, and prior experience is not required of anyone.

Except in De Soto and Hendry Counties, GALs handle only 2 to 3 cases at a time. Hendry has only one GAL who handles about five cases at a time. De Soto has 3 GALs who represented 60 children last year. Respondents in 7 of the 11 counties sampled reported that there were not enough GALs available and there was not enough staff to conduct ongoing recruiting. Dade County has 120 private attorneys available for appointments as counsel to the child. These attorneys include both men and women who are mostly young, white, and from large law firms. Low pay was cited as a reason for attorneys not to take these cases.

The Florida GAL program is a statewide program administered by the Office of the State Courts Administrator. The State program is administered by a staff of six and a budget of \$3.5 million. The State program staff monitor the performance of GALs by meeting with them as well as with local judges and court administrators. In February 1990, all GAL programs began having half-time staff attorneys organize and supervise the *pro bono* attorneys in each county.

Clay County reported that the University of Florida at Gainesville is currently studying the effectiveness of the State's GAL program. Respondents in all counties said that additional funds and GALs are needed to represent all eligible children. Respondents in two counties suggested changing the program to include paid staff attorneys to act in tandem with GALs. The Duval County respondent reported that more minority GALs are needed and that fewer volunteers are available as a result of the growing numbers of two-parent working households.

SAMPLED JURISDICTIONS AND CASELOADS

<i>Estimated Number of Petitions in 1989</i>			
Clay	144	Hillsborough	334
Dade	1,300	Lake	179
De Soto	75	Polk	682
Duval	1,000	St. Johns	38
Glades	15	Sumter	47
Hendry	17		

GEORGIA

REQUIREMENTS:	Counsel mandated for termination of parental rights cases, and no parent or guardian in delinquency, unruliness, or deprivation proceedings
AUTHORITY:	GA. CODE ANN. § 15-11-30 (1988) GA. CODE ANN. § 15-11-85
PROGRAM MODELS:	Private attorneys: 75 percent of sampled jurisdictions Staff attorneys: 33 percent of sampled jurisdictions
APPOINTMENT TIMES:	Set locally; court's discretion
TRAINING:	Set locally; no requirements set in jurisdictions sampled
COMPENSATION:	Set locally; \$40 to \$50/in-court hour \$30 to \$50/out-of-court hour Salaries range between \$25,000 and \$39,000/year
CHILDREN SERVED:	0 to 100 percent
IMMUNITY FROM LIABILITY:	None in sampled jurisdictions
SAMPLED JURISDICTIONS:	12 counties
TOTAL JURISDICTIONS IN STATE:	159 counties

National Study of Guardian *ad Litem* Representation

The Georgia State Code requires counsel to be provided only in case-specific proceedings: delinquency, unruliness or deprivation, where there is no parent or guardian, and termination of parental rights. In Richmond and Emanuel Counties, a GAL is appointed in abuse and neglect cases only if there is a conflict of interest between the Department of Children's Services (DCS) and the child. Chatham, Jenkins, and Stephens Counties did not provide GAL counsel in 10 to 15 percent of the abuse and neglect petitions filed in 1989. Franklin County did not assign a GAL in 20 percent of 1989's petitions. The decision to appoint counsel for the child in abuse and neglect cases is entirely the judge's. The reasons given for not appointing a GAL were (1) the case is "clear cut," and (2) the parents are in compliance with the DFS. The other six counties sampled assigned a GAL in 100 percent of abuse and neglect petitions filed.

Only attorneys are used as GALs. Eight counties use private attorneys who have contracted to take these cases or are chosen from lists kept by the court clerk. Three counties use staff attorneys. In De Kalb County, all abuse and neglect petitions are assigned to the four juvenile court attorneys who take only juvenile court cases. The Fulton County judge's staff includes two child advocate attorneys who take all the abuse and neglect cases. In Franklin County, cases receiving counsel are assigned to the Public Defender or his assistant. Burke County appoints private attorneys in 80 percent of the abuse and neglect cases and uses Legal Aid attorneys for the remainder. In Burke, Emanuel, Franklin, and Jenkins Counties, the attorney GALs receive no support. In all other counties except Richmond, GALs receive social work support. In Chatham, Gordon, and Richmond Counties, GALs receive administrative support.

In De Kalb County, appointment is automatically to the juvenile court attorneys who assign themselves to particular cases. The associate juvenile court judge is responsible for the entire appointment process in Richmond. Elsewhere, the judge or the clerk will handle GAL appointments. In Burke County, cases expected to last a long time usually are assigned to Legal Aid attorneys.

Chatham, De Kalb, and Fulton Counties assign GALs at the filing of the initial petition. Richmond County appoints a GAL only in cases involving termination of parental rights; appointment begins at the filing of the motion to terminate and ends following approval of the order to terminate parental rights. In all other counties sampled, the appointment is made at the court's discretion. GAL appointments generally last until court intervention ends. Only De Kalb and Henry Counties have local court rules that require appointment to be made at filing of the initial petition.

All counties sampled, except Richmond and Stephens, assign representation to children in other types of cases such as those involving criminal abuse, custody, delinquency, and voluntary foster care as well as criminal cases involving children. Gordon County may appoint a GAL in cases of nonlitigated abuse. In Fulton County, a GAL is appointed in any case involving children except when criminal charges against the child are pending. Most counties use the same pool of GAL attorneys. Emanuel County, where only delinquency cases receive GAL appointment, uses the Public Defender's office.

Most counties sampled do not provide representation other than the GAL to a child in an abuse and neglect case. Chatham County has no objections to a person who desires to represent the

State Summaries of GAL Representation

child as a friend of the court, although this has not yet happened. In Burke County, when concurrent criminal proceedings exist, both an attorney GAL and an attorney are appointed.

There are no written descriptions of the roles and responsibilities of the GAL except in De Kalb and Fulton Counties. Both staff programs contain descriptions of the GAL's role which were unspecified by the respondents. In Burke County the court has different expectations for Legal Aid GALs than for private attorney GALs. Legal Aid is expected to follow up longer and is charged with "meeting the children's needs." These requirements are not written.

In De Kalb and Fulton Counties, a different attorney may be appointed in cases where the child and the GAL disagree. In Emanuel and Jenkins Counties this depends upon the particular attorney involved. In Chatham and Richmond the issue of disagreement has never been a problem. In all other counties sampled, the attorney presents both best interests and the wishes of the child to the judge.

Unless there is a conflict of interest among siblings, one GAL will represent the interests of all the children involved in a particular case. Most respondents were unsure of the role of the GAL with regard to coordination. Respondents in only three counties—Burke, De Kalb, and Jefferson—stated definitively that the attorneys there were involved in coordination.

Only Richmond County attorney GALs work solely *pro bono*. Emanuel County pays a flat fee of \$100/case. The seven other counties using private attorneys pay hourly rates ranging from \$30 to \$50 for out-of-court time and from \$40 to \$50 for in-court time. Annual salaries for staff attorneys range from \$25,000 in Franklin County to \$39,000 in De Kalb. Gordon and Jefferson Counties have a ceiling of \$300/case which may be waived with a court order. In Chatham, bills exceeding \$1,000 are reviewed by a judiciary committee for approval.

Most nonsalaried attorneys are paid when they bill the court. Burke County Legal Aid sets their fees. Local county administrators are responsible for fee levels in Chatham, De Kalb, Franklin, Gordon, and Jenkins Counties. Respondents in all the other counties sampled reported that the fee was "regular practice." Respondents in eight counties stated that GAL fees are equivalent to those paid to other indigent defense workers.

The DFS pays for expert witnesses, child testing, and other major expenses in most of the counties. The attorneys in these counties are not reimbursed for lesser costs of mileage, photocopying, etc. Chatham County courts reimburse GALs for lesser costs, while in Gordon cost recompensation is unspecified; the attorney must petition the court for expenses.

There are no local or State GAL training requirements for attorneys. There also are no requirements regarding prior experience, though the trend in De Kalb and Fulton is to select attorneys with some work in children's issues. All GALs in De Kalb and Fulton are former probation officers.

The average caseload for attorneys is two cases at any time. The Stephens County court covers 4 counties that share approximately 40 attorneys. Chatham County has access to approximately 125 attorneys. In De Kalb and Fulton Counties, which are more densely populated than the others

National Study of Guardian *ad Litem* Representation

sampled, only staff attorneys are used and the average caseload is very high. In De Kalb, 4 attorneys carry approximately 250 cases each at any time. In Fulton, two attorneys carry up to 500 cases at any time.

All counties sampled reported no problems recruiting or retaining GALs. Most attorneys are younger, white males from a solo practice or a smaller firm practicing primarily in a variety of areas of law. None of the GALs is considered independent from the courts. In De Kalb, the Director of the Court oversees and monitors the GALs. In Burke, the administrator of Legal Aid supervises Legal Aid attorneys. Elsewhere, any evaluation of GAL performance is performed informally by the judge.

Respondents in four counties either felt that the issue of immunity from liability was not resolved or were unsure whether any laws existed providing immunity. Respondents in all other counties sampled were very clear that there were none. Neither the counties nor the State provide any insurance to cover attorneys working as GALs.

SAMPLED JURISDICTIONS AND CASELOADS

<i>Number of Petitions in 1989</i>			
Burke	20	Gordon	15
Chatham	375	Henry	30
De Kalb	1,100	Jefferson	35
Emanuel	10	Jenkins	12
Franklin	10	Richmond	N/A
Fulton	1,600	Stephens	50

HAWAII

REQUIREMENTS:	GAL appointment mandatory throughout abuse and neglect proceeding
AUTHORITY:	HAW. REV. STAT. § 587-34
PROGRAM MODELS:	Private attorneys: all counties Volunteer: all counties Statewide volunteer GAL program
APPOINTMENT TIMES:	Private attorneys and volunteer GALs appointed at the filing of the petition in all four counties. Appointment ends at time of permanent placement (mandatory by statute) or when court relieves GAL, usually when court intervention ends.
TRAINING:	Private attorneys: none Volunteer GAL: statewide training conducted locally; 20 to 32 hours required in counties
COMPENSATION:	Private attorneys: set by Family Court Act 376-87 \$60/in-court hour; \$40/out-of-court hour Maximum: \$1,500 through disposition; \$500 for review
CHILDREN SERVED:	100 percent of abused and neglected children served in all counties
IMMUNITY FROM LIABILITY:	Private attorneys and volunteer GALs have immunity from civil liability when acting in "good faith" according to § 350-3 of the Child Abuse Reporting Law
SAMPLED JURISDICTIONS:	4 counties
TOTAL JURISDICTIONS IN STATE:	4 counties

Private attorney as well as volunteer GALs are used in all four counties in Hawaii. In Honolulu and Maui counties, private attorneys receive no administrative and social work support. Hawaii County has only a volunteer GAL program manager, with no clerical or social work staff. Kauai County offers administrative support only. Honolulu and Maui Counties assigns private attorneys as GALs in 85 percent of abuse and neglect proceedings and volunteer GALs in the remaining 15 percent. Hawaii County assigns attorneys in 90 to 95 percent of the cases and volunteer GALs in 5 to 10 percent. Kauai is the only county to use volunteer GALs more often than private attorneys. This county uses volunteer GALs in 75 percent of abuse and neglect cases and attorneys in the remaining 25 percent. In all four counties, 100 percent of the children in abuse and neglect proceedings receive GAL representation.

The presiding judge in the abuse and neglect proceeding appoints a GAL based on the mandate of Hawaii Revised Statutes § 587-34 requiring GAL representation throughout abuse and neglect proceedings. The court clerk then assigns private attorneys from a list of attorneys who agree to do GAL work. Cases referred to the volunteer GAL program are assigned a GAL by the program services manager in each county. More legally complex cases are assigned to private attorneys. The judge, alone or with the program manager, decides which cases should be referred to the volunteers. This differs only in Kauai County, where volunteers are assigned first and private attorneys are used only if no volunteers are available. An additional factor in the assignment process is geography. Because of the multi-island geography of Hawaii, children generally receive GALs who live in or near their communities in order to facilitate the GALs' visits with the children.

Volunteer GALs are used only in abuse and neglect cases, while private attorneys may be assigned to represent children in custody disputes, foster care hearings, and delinquency or other criminal cases. In abuse and neglect proceedings, representation in addition to GAL can occur and, in fact, is mandated by § 587-34 if the child and GAL disagree on the child's best interests. Counsel is then appointed; however, this is rare.

The duties of all GALs are described in § 587-34. Duties include submitting reports to the court every 6 months, appearing at all proceedings, and representing the child's best interests but including child's desires or perceived interests in the written report. Volunteer GALs receive additional guidelines from the statewide program information and training. All GALs meet with the child, family, and relevant school and social work staff. All GALs submit written reports to the court and represent the child at all proceedings. Legal representation, however, is provided only by attorneys as GALs or as counsel.

Volunteer GALs are not paid but are reimbursed for travel, phone calls, and other out-of-pocket expenses. Family Court Act 376-87 set attorney's fees for the entire State at \$60/in-court hour and \$40/out-of-court hour, up to \$1,500 through disposition; an additional \$500 is allowed if the case goes to review. Attorneys must receive prior approval from the judge for expenses, usually including only travel among islands. All family court-appointed counsel receive the same rate, considered equivalent to indigent criminal defense compensation.

Private attorneys are not required to attend any training before taking on GAL work. However, some GAL issues-specific training is available to them. Private attorneys are not formally

State Summaries of GAL Representation

monitored or supervised except by local bar or peer disciplinary panel. In Maui County, attorneys who have attended training are assigned cases before untrained attorneys. Volunteer GALs are required to complete comprehensive GAL training before being appointed. The same training topics are used statewide but are administered and provided locally using GAL, court, and social service speakers. Honolulu County requires 28 classroom hours and 4 courtroom observation hours of training. Hawaii County requires 20 hours of training; Kauai and Maui Counties require 22 to 24. Ongoing training is provided and recommended in all counties, but it is not required. Volunteer GALs are monitored by the program services manager and/or court officer who oversee all paperwork and attend proceedings. No prior experience is required of attorneys or volunteer GALs.

In all four counties, volunteer GALs are assigned only one or two cases at a time, with only a small number of GALs taking more. The caseloads of private attorney GALs vary throughout the State. Hawaii and Kauai Counties assign one or two cases to each private attorney. Honolulu attorneys have an average of 5 to 10 GAL cases, and some Maui County attorneys have 10 to 20 cases.

Although the smallest county, Kauai, has no problems recruiting or retaining GALs (in part, due to smaller need), the three larger counties have insufficient numbers of GALs due to a lack of organized recruiting by the State. The already small program staff is unable to conduct ongoing recruiting in addition to its other duties. Hawaii County has experienced a drastic decrease in the number of private attorneys available for court appointment in all cases, including GAL. Private attorneys in Hawaii County became concerned about their liability in court-appointed cases when one attorney was suspended from practice for more than 1 year by disciplinary panel regarding a GAL appointment. Most private attorneys accepting GAL work in the State are men from small firms or solo practices. The attorneys include equal numbers of whites and minorities. Maui County has equal numbers of male and female attorneys. All counties have a mix of experienced and younger attorneys specializing primarily in family law.

No formal program exists for private attorney GALs. Private attorneys submit vouchers to the court and are paid with State funds. Volunteer GALs belong to the statewide volunteer GAL program, which is part of the State court system. The program is administered in each county by a program services manager who also administers five other programs. The statewide annual budget for the volunteer GAL program is \$130,000, provided directly by State funds. The entire State program is coordinated by the Honolulu program staff, which includes a coordinator, a secretary, two social workers, and two attorneys providing legal counsel to the program (not to the GALs).

All GALs are immune from civil liability when acting in "good faith" according to § 350-3 of the Child Abuse Reporting Law. Volunteer GALs are considered public employees and are covered by the State, which is self-insured. Private attorneys are not considered public employees, but this has never been tested.

Respondents reported that the volunteer GAL program works very well and receives the support of judges. The respondents would, however, like to see paid legal counsel to provide advice and guidance to the volunteer GALs. Required training and monitoring of private attorneys was also suggested.

National Study of Guardian *ad Litem* Representation

SAMPLED JURISDICTIONS AND CASELOADS

<i>Number of Abuse and Neglect Petitions in 1989</i>	
Hawaii	114
Honolulu	est. 800
Kauai	39
Maui	75

IDAHO

REQUIREMENTS:	GAL or separate counsel is required in all abuse and neglect cases
AUTHORITY:	IDAHO CODE Chapter 16, Title 16 (1986)
PROGRAM MODELS:	Private attorneys: Canyon and Washington CASAs: Ada, Elmore, Gooding, and Twin Falls No representation: Bingham, Bonner, Clearwater, Gem, Idaho, and Payette
APPOINTMENT TIMES:	Set locally. Attorneys are appointed at initial petition; appointment lasts until court intervention ends. CASAs are appointed at initial petition or prior to adjudication; appointment lasts until the case is closed by the court.
TRAINING:	Set locally: 6 to 18 hours for CASAs; no requirements for attorneys in sampled areas
COMPENSATION:	Set locally: attorneys receive \$40/hour; CASAs may get reimbursement for large travel or telephone expenses
CHILDREN SERVED:	38 percent of abused and neglected children statewide 0 to 100 percent in counties sampled CASA programs average 65 percent of caseload in four counties
IMMUNITY FROM LIABILITY:	Complete immunity through § 16-1633
SAMPLED JURISDICTIONS:	12 counties
TOTAL JURISDICTIONS IN STATE:	7 judicial districts in 44 counties

National Study of Guardian *ad Litem* Representation

Idaho's representation of children is in a state of change. In some areas, CASA programs are being developed to complement or replace private attorney or public defender representation, while in others, there is no representation at all. Canyon and Washington Counties use only private attorneys; among sampled counties Ada, Elmore, Gooding, and Twin Falls Counties have CASA programs. Bingham, Bonner, Clearwater, Gem, Idaho, and Payette have no representation at all. Attorneys can work alone or with social workers. Some CASAs work with *pro bono* attorneys as consultants.

In the counties with private attorneys, representation is 100 percent. Representation in counties with CASAs varies. In Gooding, which has the newest program, representation is 25 percent; in Elmore, 70 percent; in Ada, 75 percent; and in Twin Falls, has 100 percent representation. In Gooding, CASAs work alone. In Ada County, CASAs are assigned as GAL where available, but there always is an attorney in the courtroom with each child. This attorney is not the GAL but represents the CASA. In Twin Falls and Elmore, CASAs have attorneys to consult with them. In all of the counties sampled, the judge decides whether to appoint a GAL. Respondents in the areas where there is no representation at all gave the following reasons for this lack: the idea was never raised, they would just get in the way at the hearing, they would confuse the process, and there is a delay in getting a CASA program. Programs are being developed in Bingham, Gem, and Idaho Counties, but they are developing slowly, and there is no representation for children in the meantime. Judges and social workers felt strongly that a CASA would interfere in their territory or get in their way. It was reported that Elmore County is a military area, with the military base often taking over cases before appointment.

Appointment times vary by model. Both private attorney counties, Canyon and Washington, appoint at the initial petition filing and appointment lasts until the end of court intervention. In CASA counties, appointment is made either at the initial petition or prior to adjudication and lasts until the case is closed by the social service agency. Both CASAs and attorneys are used in divorce, custody, and delinquency cases. Attorneys also are used in criminal cases against the child.

Both CASA and attorney GALs investigate, provide legal representation, monitor the case, report to the court, and contact appropriate agencies for the child. In the case of a disagreement between the GAL and the child, respondents in all counties sampled said that the GAL would inform the judge of the disagreement but represent the best interests of the child.

Private attorneys are paid \$40/hour in both Canyon and Washington. There is no ceiling on hours billed. This is equal to payment for other similar indigent work. Attorneys also can bill for extra tests or expert witnesses.

There are no training requirements for attorneys. CASAs train for 6 to 18 hours and use the National CASA Association Training Curriculum. Ada, Gooding, and Twin Falls have similar programs that last 16 to 18 hours and cover law, courtroom responsibilities, child abuse, procedures, and interacting with attorneys. This training must be completed prior to appointment as a GAL. Gooding and Twin Falls are part of a group, South Central Community Action, that has a staff of four and a budget provided by the counties, grants, and donations. The Elmore County CASA is independent and is funded by donations. The Ada County CASA is part of Family Advocate Program, Inc., with a staff of two and a budget of \$63,000, provided by the county, grants, and donations. The

State Summaries of GAL Representation

State has allocated \$150,000 for CASA programs throughout the State. None of these organizations requires previous experience, but they do perform extensive background checks on volunteers.

The average caseload of a CASA is 1.2, with a range of 1 to 2 in sampled areas. Attorneys average 2 cases, with a range of 1 to 3. No problems were reported regarding recruitment or retention of CASAs or attorneys. Many CASA programs have volunteers waiting to be trained months before the next session.

Idaho's attorneys are remarkably diverse in age, gender, and background. However, all respondents reported whites only for both paid and *pro bono* consultants.

All CASA program respondents were aware of Idaho Code § 16-1633, granting total immunity to GALs. No attorney county mentioned knowledge of this law. All attorneys in the two counties using only attorney GALs must prove that they have malpractice insurance.

Any monitoring of attorneys is informal, with judges making mental note of the best attorneys and those not to appoint again. All CASA programs formally monitor CASA performance. Monitoring is performed by observation, speaking to judges, and meeting monthly or bimonthly with volunteers to ensure compliance with laws and policies.

SAMPLED JURISDICTIONS AND CASELOADS

<i>Number of Cases in 1989</i>			
Ada	131	Gem	4
Bingham	0	Gooding	3
Bonner	100	Idaho	3
Canyon	108	Payette	10
Clearwater	20	Twin Falls	60
Elmore	10	Washington	5

ILLINOIS

REQUIREMENTS:	GAL <i>may</i> be appointed if sexual abuse case. GAL <i>shall</i> be appointed if no parent, guardian, or relative of the minor appears at the first or subsequent hearings, or if the child came to the court under the Abused and Neglected Child Reporting Act.
AUTHORITY:	ILL. ANN. STAT. ch. 37, § 802-17 (1989)
PROGRAM MODELS:	CASA: Winnebago Private attorneys: Du Page, Logan, Hancock, Madison, Stephenson, Washington Staff attorneys: Cook, Du Page, Perry, Schuyler, Washington, Winnebago
APPOINTMENT TIMES:	Set locally; in all counties sampled. appointment is made at the filing of the initial petition and lasts until court intervention ends
TRAINING:	Set locally: CASAs are required to have 38 initial hours plus 10 meetings per year; attorneys have 0 to 38 hours of training in sampled counties
COMPENSATION:	Private attorneys receive \$35 to \$60/hour Staff attorneys receive \$25,000 to \$35,000/year
CHILDREN SERVED:	100 percent in sampled counties CASA serves 20 percent in Winnebago County
IMMUNITY FROM LIABILITY:	Staff attorneys have total immunity as court workers for the county. Private attorneys have no immunity but have State insurance. CASAs have partial immunity as long as working in good faith, set locally.
SAMPLED JURISDICTIONS:	10 counties
TOTAL JURISDICTIONS IN STATE:	102 counties

National Study of Guardian *ad Litem* Representation

Illinois uses a wide variety of private attorney/CASA/staff attorney models. Cook County, which includes the city of Chicago, uses only attorneys in the Office of the Public Guardian. Children can have their own attorneys also, but the staff attorney remains the GAL in every case. Several counties use both staff and private attorneys. Reasons for this include availability of private attorneys, any pending criminal charges against the child, and the desire to evenly distribute responsibilities. Winnebago County has CASAs handle about 20 percent of its cases, usually the worst ones. All jurisdictions have social workers available for consultation, but only Du Page and Hancock use that help regularly.

Respondents in all counties indicated that they assign GALs to all cases. The decision when to appoint is always left to the judge, but either the judge or his clerk may select the person for the case. Generally, the severity of the case dictates who will be assigned. In the county where CASAs are available, they are used for the most severe abuse cases. Where there are staff attorneys available, they also usually are used for the most difficult cases.

The appointment is made at the filing of the initial petition and ends when court intervention ends. Attorneys who serve as GALs also are used in a wide variety of other juvenile cases, depending on the jurisdiction. They may be appointed in divorce/custody disputes or in cases involving criminal charges against the child or termination of parental rights.

Private attorneys are paid hourly. Hourly rates range from \$35 in Hancock County to \$60 in Washington County. There is no maximum on the number of billable hours allowed, except in Du Page and Madison Counties. Du Page has a limit of 8 hours, petitionable to more; Madison County also has a petitionable \$500 limit. CASAs are not compensated. Staff attorneys receive salaries averaging \$24,000/year. These amounts are comparable to other indigent cases in the area, although several respondents felt that these were too low.

All training requirements are set locally. Initial training for CASAs lasts 38 hours; CASAs also are expected to attend 10 meetings annually. There is no training requirement for private attorneys. Cook County requires a 16-hour course for their Office of Public Guardian attorneys, and Winnebago County requires the same 38-hour course for both CASAs and their staff attorneys. Other counties have no staff attorney training requirements. Previous experience prior to being appointed as a GAL is not required in any county.

The average caseload of attorneys is 2.5, with a range of 1 to 4. Only Washington County experiences problems recruiting attorneys. The county's new judge recently was a partner in a firm that provided a large amount of GAL representation, but he was not able to appoint his former co-workers for GAL work for 1 year. This left a void in the pool of representatives for the children, and the county had to "borrow" attorneys from other counties to provide representation. Illinois attorneys vary in age, but all are white men, mostly from small firms. Staff attorneys have full immunity from liability as workers for the court. Private attorneys, however, have no immunity, but are insured for liability by the State.

The Winnebago County CASA program is independent from the court and is part of the Child Welfare Office. A CASA coordinator oversees the 25 CASAs. Funding sources include the county,

State Summaries of GAL Representation

private donations, and grants. The annual budget is \$50,000. There is a local policy of good faith immunity for the CASAs, but they do have insurance. The coordinator monitors their performance through seminars and courtroom observation.

SAMPLED JURISDICTIONS AND CASELOADS

<i>Number of Petitions in 1989</i>			
Cook	3,821	Perry	4
Du Page	200	Schuyler	11
Hancock	3	Stephenson	100
Logan	45	Washington	8
Madison	50	Winnebago	250

INDIANA

REQUIREMENTS:	Court may appoint attorney or CASA or both to represent a child's best interests in court, at any time in the proceedings
AUTHORITY:	IND. CODE § 31-6, 7, 2-1 (1986) IND. CODE § 33-2.1, 7, 3.1
PROGRAM MODELS:	Private attorneys: Parke, Pulaski, Vermillion, Wabash, and White CASAs: Dearborn, Knox, St. Joseph, Vanderburgh, and Wabash Paid nonattorneys: Clay and Marion
APPOINTMENT TIMES:	Set locally; great variation across the State
TRAINING:	Locally set: CASAs train 12 to 20 hours Attorneys have no training requirement Nonattorney GALs have no training requirement
COMPENSATION:	Attorneys receive \$40 to \$50/hour CASAs receive no compensation GALs are either salaried at \$15,000 to \$34,000 or are paid \$10/hour
CHILDREN SERVED:	50 to 100 percent in sampled counties
IMMUNITY FROM LIABILITY:	Total immunity from liability for GALs, CASAs, and attorneys unless there is gross misconduct. CASA programs generally do not have insurance.
SAMPLED JURISDICTIONS	11 counties
TOTAL JURISDICTIONS IN STATE:	92 counties

Indiana law leaves room for any type of representation of children, at any time in a proceeding. This guarantees many different approaches throughout the State. Of the counties sampled, five use private attorneys, five use CASAs, and two use court staff or paid nonattorneys. None use social work help to any great extent.

Indiana does not require representation in all abuse and neglect cases. Indiana Code mandates GAL appointment only in contested cases or when the child is a danger to self or others. As of July 1990, GAL appointment will also be mandatory in cases involving termination of parental rights, Fetal Alcohol Syndrome, or drug-addicted newborns. Nine counties sampled indicated that not all children are represented. The county with the lowest representation is Vermillion where no one is appointed in 70 percent of cases. This county makes no assignment unless the abuser is someone in the child's home. Marion County, home to Indianapolis—and the highest number of petitions in the sample area, 1,400—appoints in about 50 percent of cases due to a staffing shortage. GALs in this county are paid volunteers from the volunteer assistant program. In Vanderburgh County, about 25 percent do not receive appointment. The judge in this county stated that representation is appointed only in cases in which parental rights might be terminated, the parent denies abuse, or the child is in danger of harming himself or someone else. In Clay County, there is one volunteer GAL who represented three of the county's five cases last year. The volunteer is a retired court worker who has a background in child welfare. In the other two cases in Clay County, no representation was provided and the judge ordered removal of the child to a foster home. In Wabash County, 20 percent have no representation. In Dearborn County, 10 percent of "one-shot court appearance" cases receive no GAL. Knox, Parke, Pulaski, and White counties reported 100 percent representation.

The GAL is assigned by the judge and the program director, if there is a CASA program. The judge always decides if a GAL is warranted in the case. Private attorneys generally are assigned from the removal hearing until the court intervention ends, but the assignment may end at the dispositional hearing if a judge so orders. Although CASAs may be assigned at any time, they usually are assigned at the removal hearing or at the filing of the initial petition. They are excused when court intervention ends or when dismissed by the court. The volunteers in Clay and Marion Counties serve at the court's discretion. In counties that use more than one model, such as Wabash, the cases where a parent is not accused of abuse will go to the CASA, and the others to the attorneys.

GALs of all models can take other assignments, such as cases involving criminal charges against the children, custody disputes, and delinquency. GALs also are used in some instances involving elderly people with impaired judgment, youth under the age of 18 with large inheritances or who are trying to get a real estate license, and paternity suits.

The duties of the GAL, regardless of model, are consistent in the areas sampled. In areas of disagreement with the child, it is up to the GAL to decide which side to present to the judge, but they would normally make both presentations to the court. The compensation to private attorneys is also fairly equal, ranging from \$40 to \$50/hour, with no limits in any county. CASAs are sometimes reimbursed for mileage or phone calls, but are not paid. The Marion County nonattorneys receive a salary of \$15,000 to \$34,000. The GAL in Clay County is paid \$10/hour and has a maximum annual budget of \$2,000. This person has an average caseload of three cases.

State Summaries of GAL Representation

Training for private attorneys is not required, but Pulaski County requires some work in the child welfare area. CASAs have training of an unspecified amount of time up to 20 hours. The training covers all general areas of abuse, working with children, and the courtroom role. Seminars are available for ongoing training in all counties with CASAs that were sampled. The nonattorney GALs in Clay and Marion Counties do not have mandatory training. In Marion County all GALs have either a B.A., M.S.W., or J.D. degree.

The caseload of the private attorney ranges from 1 to 3 and averages 1.8. The caseload of the CASA ranges from 1 to 10 and averages 5, but this is weighted by the one county with 10; others are from 1 to 3. The Clay County volunteer has 3 cases annually, and the Marion County nonattorneys have caseloads up to 400. No one reported any significant problem in finding or keeping GALs, except Vanderburgh County. This may be due to the difficult cases assigned to CASAs in this county. They receive only cases where there is a potential of termination of parental rights, if the parents deny abuse, or if the child is a danger to themselves or others. The CASA program has 40 volunteers and reports a large dropout rate. Indiana GAL attorneys tend to be older, white men. They all come from generally small firms or solo practice.

Vanderburgh and St. Joseph County CASA programs are independent of the court. Vanderburgh has 40 volunteers, an Executive Director, and one staffperson. Its \$60,000 budget comes from county, State, and the United Way. St. Joseph County's program is part of the Youth Service Bureau. Its \$40,000 budget supports 42 CASAs, a Project Director, and one staffperson, and comes from the United Way. The Marion County volunteer GAL program is also independent and has two staff with an annual budget of \$110,000, 90 percent of which comes from the United Way. The remaining 10 percent is donated by individuals. The Clay County GAL is part of the court and runs on a \$2,000 budget. The statewide program contributes to the county programs from its \$400,000 two-year budget.

There is total immunity given by Indiana Code 31 for CASAs, attorneys, and GALs unless there is gross misconduct. Only St. Joseph County CASAs and Marion County GALs carry insurance.

SAMPLED JURISDICTIONS AND CASELOADS

<i>Number of Petitions in 1989</i>			
Clay	5	St. Joseph	100
Dearborn	30	Vanderburgh	165
Knox	15	Vermillion	1
Marion	1,400	Wabash	6
Parke	12	White	10
Pulaski	2		

IOWA

REQUIREMENTS:	GAL or counsel required in any case where the child is a party or witness
AUTHORITY:	IOWA CODE ANN. § 232.89(2) (1988)
PROGRAM MODELS:	Private attorneys: all jurisdictions Public Defender's Office: assists in Black Hawk County CASAs: assist in Polk County
APPOINTMENT TIMES:	Set locally; generally from initial petition to closing of court case
TRAINING:	No training requirements, except for CASA (25 hours)
COMPENSATION:	Private attorneys: \$40 to \$50/hour Public Defenders: \$32,000/year
CHILDREN SERVED:	100 percent in sampled counties
IMMUNITY FROM LIABILITY:	Iowa State Attorney General Opinion 76-7-24 gives good faith immunity; only Polk County CASA had knowledge of this
SAMPLED JURISDICTIONS:	13 counties
TOTAL JURISDICTIONS IN STATE:	99 counties

Iowa has a very thorough law to cover children in the judicial system. It requires a GAL or legal counsel in any case where a child is a party or witness. This mandate requires GALs to be appointed in many different areas. Every county sampled provides an attorney for the child. Black Hawk County uses the Public Defender for most cases and private attorneys for the overflow work. All other counties use private attorneys. In some cases, Polk County also assigns CASAs, along with attorneys, based upon the CASAs' availability.

All areas reported 100 percent representation, in compliance with State law. Technically, the judge has the option of appointing or not, but it has become routine in several counties due to the law, and often a clerk or assistant to the judge does all of the work except for the final signature on the paperwork. The actual appointment of a specific person is done either by the judge or by someone on the judge's staff. The public defender in Black Hawk County calls upon private attorneys whenever his caseload exceeds 15 or 20.

Appointment occurs at the initial petition filing for all attorneys, including the Public Defender. The CASAs are assigned after the first dispositional hearing. The assignment ends either when the court intervention ends or when the case is closed by an agency. This holds true for both attorneys and CASAs. GALs are assigned to several other types of cases in order to comply with Iowa State law. These include delinquency, custody or divorce, criminal abuse, and other criminal cases involving children. All GALs work on all these types of cases as needed.

The duties of all GALs are the same. CASAs, however, represent only the child's best interests and do not provide legal representation, since they are paired with an attorney. If the child and the GAL disagree, the CASA would state the best interests side of the case, while the attorney in the case would state the child's wishes. All other areas, where there is an attorney alone, responded that the attorney could present both sides or just his own.

The private attorneys are paid between \$40 and \$60/hour, with several counties having maximums of \$500/case. The Public Defender has an annual salary of \$32,000. CASAs are not paid, and they receive no compensation for mileage or phone calls. The attorneys can petition for extra payment for tests or expert witnesses. In 7 of the 13 counties sampled, this payment maximum has made many older, more established attorneys unwilling to take on these cases.

Training requirements are in place for CASAs only. The State requires 25 hours of comprehensive training before the first assignment for all volunteers. Additional seminars are offered bimonthly. However, the Supreme Court has ruled that unless CASAs are reimbursed for travel mileage, attendance cannot be required. There are no previous experience requirements for GALs.

The average caseload of the private attorney is 3, with a range of 1 to 9; CASAs handle 1 case at a time; the average caseload for the public defender is 18. There are no major problems retaining attorneys or volunteers, but many attorneys are reluctant to get involved due to the payment restrictions.

The average attorney involved in GAL in Iowa is a man from a small firm or a solo practitioner. He is also generally white, and tends to be fairly young, although there is more variation

State Summaries of GAL Representation

in age than in any other category. No programs are independent of the court. The executive director of the CASA program is a ¾-time State employee, and the program has a \$60,000 budget from the court.

The State Attorney General's Opinion 76-7-24 states that there is good faith immunity for GALs. Among the jurisdictions sampled, only Polk County's CASA program respondents knew about this. There is informal monitoring of the attorneys and a more formal monitoring of the CASAs by the Director.

CASAs soon may no longer serve as GALs in Iowa. As of February 1990, the State legislature was considering a bill brought forth at the instigation of attorneys which would require attorney representation of all abused and neglected children. Non-attorneys would not be allowed to serve as GALs. Many attorneys in Iowa believe that CASAs do not properly represent the child or know the court system adequately. The CASA program argues that attorney representation is inadequate due to large numbers of attorneys that do not take what the CASAs consider to be enough time with the child or in investigating all of the facts. This issue is unresolved.

SAMPLED JURISDICTIONS AND CASELOADS

<i>Number of Cases in 1989</i>			
Black Hawk	180	Marion	72
Bremer	25	Pocahontas	2
Buchanan	15	Scott	90
Delaware	11	Washington	45
Humbolt	15	Webster	20
Iowa	20	Wright	5
Jones	25		

KANSAS

REQUIREMENTS:	GAL appointment mandatory in all "child in need of care" cases. GAL shall be an attorney.
AUTHORITY:	KAN. STAT. ANN. § 38-1505(a) (1986)
PROGRAM MODELS:	Private attorneys, either contracted by county or selected from a rotating list by the court clerk
APPOINTMENT TIMES:	Appointed at the filing of the initial petition. Appointment ends when court intervention ends.
TRAINING:	No requirements set in sampled counties
COMPENSATION:	\$50/hour <i>recommended</i> by State; set locally
CHILDREN SERVED:	100 percent of abused and neglected children in sampled counties
IMMUNITY FROM LIABILITY:	No immunity by State statute. Partial/good faith immunity provided through local policy in Allen and Doniphan Counties.
SAMPLED JURISDICTIONS:	13 counties
TOTAL JURISDICTIONS IN STATE:	105 counties

Kansas State law requires an attorney be appointed as GAL at the filing of the initial petition in all abuse and neglect cases. All counties sampled use private attorneys who have contracted with the county to receive all abuse cases or who are selected from a rotating list of attorneys available for court appointments. In Lyon County, one attorney has contracted to take all cases requiring a Public Defender, which includes all abuse and neglect petitions.

The Sedgwick County judicial system was the only one sampled to provide extra support to its GALs. The court has a staff of 11 Court Services Officers and one secretary, who are available as resources to GALs. The officers are assigned to specific cases for which they conduct independent investigations and provide monitoring. The court services offices often brief new attorneys on procedures related to representing abuse and neglect cases. Johnson and Sedgwick Counties have CASA programs to support attorneys.

Respondents in all counties were aware of the State mandate to appoint attorney GALs. While the judge is responsible for appointments, it usually is an automatic process. In nine counties, the paperwork and actual recruitment process is delegated to the court clerk. In Allen, Neosho, and Osage Counties, the judge handles this. One hundred percent of children involved in abuse and neglect proceedings are represented. In Sedgwick County, the District Attorney decides whether to petition a case. State statute allows the State, county, law enforcement agency, or any private individual to request a petition be filed.

Most of the counties sampled adhere to the State mandate requiring the appointment to be made at the filing of the initial petition. Respondents in Atchison and Marshall Counties noted attempts made to have attorneys present at the emergency removal hearings. In Brown and Neosho Counties, the GAL is appointed at the first hearing. All GAL appointments end only when court intervention ends. In seven counties, these assignment times are determined by State requirements.

All counties except Saline and Sedgwick provide GALs in other cases involving children. Most often these are delinquency, custody, and conservatorship cases, but they also include legal disability and criminal abuse cases. The same attorneys are used as GALs on these cases and civil abuse and neglect cases. Saline County does provide a GAL in more obscure cases such as those involving an unknown heir.

Only Allen County provides representation in addition to the GAL. Additional representation is provided at judicial discretion or when requested by the child or the GAL. However, this occurs rarely. Respondents in Brown and Coffey Counties felt that other representation could be provided at judicial discretion, although this had never happened.

Most counties do not have local written descriptions of the roles and responsibilities of the GAL. Respondents in four counties mentioned that descriptions were included in the statute. Attorneys from Johnson County developed a handbook for GALs based upon the State statute. The handbook states that the GAL must meet with the child, provide legal representation, monitor the case, ensure compliance with court orders, make recommendations and/or reports to the court, and meet the child's needs. Nemaha County court rules require the attorney to investigate the case as well.

State Summaries of GAL Representation

Representation of the perceived best interests of the child appears to be the priority. Attorneys from six counties—Allen, Lyon, Marshall, Osage, Saline, and Sedgwick—also present the child's wishes to the judge in cases of disagreement. Disagreement between the child and the GAL has never occurred in Coffey or Neosho. However, respondents in these counties felt that if the conflict were severe, they would appoint another attorney. Generally, all children in a family involved in a particular case are represented by the same GAL.

Most attorney GALs are involved in the process of coordination among parties. GALs in Brown, Lyon, and Osage Counties generally take a lead role, while in Neosho and Sedgwick, this depends on the case or the attorney involved.

The State Board of Indigents' Defense Services has set a recommended rate of attorney compensation at \$50/hour. Eight counties—Allen, Atchison, Brown, Coffey, Doniphan, Marshall, Nemaha, and Neosho—follow this recommendation. Atchison, Doniphan, and Marshall Counties have set a maximum fee of \$250/case, but this may be waived with judicial approval. Neosho County's maximum is \$100/case. All the aforementioned counties except Brown pay at least minor expenses of the GAL. Osage County pays \$40/hour. Johnson, one of the larger counties sampled, has a step system. Attorneys receive \$125/case through the adjudication, \$50 for each ensuing hearing, and \$30 for judicial reviews. Expenses are not reimbursed. Lyon County has a contract with one attorney who receives \$1,400/month to represent all children in petitions to the court. The 1990 contract is \$3,000 less than the 1989 contract. No expenses are reimbursed. Attorneys in Sedgwick County receive the lowest compensation. They are paid \$30/hour for in-court time only. They are allowed to use the courthouse telephone, but that is the only compensation in terms of expenses. The result is that most of the work besides actual legal representation is left to the Court Services Officers. Respondents in every county sampled—except Sedgwick, where GALs are paid less—reported that GAL wages are equivalent to those for other indigent defense work. Except as discussed above, there are no payment ceilings.

All attorneys in Kansas must receive continuing legal education credits to retain their licenses. There are no training requirements specific to abuse and neglect nor are there any requirements regarding experience prior to GAL appointment.

In the smaller counties in Kansas, most attorneys handle 2 to 4 cases at any given time. Caseloads in Johnson and Lyon Counties are considerably higher. In Johnson County, 2,035 cases were petitioned in 1989. The county has 40 GAL attorneys available, each of whom carries an average caseload of 200 cases. Fifty petitions were reported for Lyon County for 1989, but this probably is a low figure; in 1989, the county had 2 attorneys available, each with an average caseload of 6 cases.

Respondents in two counties felt that more adequate compensation would help in retaining and recruiting GALs. No other problems regarding retaining or recruiting GALs were reported. In each county sampled, most attorneys are not primarily juvenile family law specialists. Most are white males, except in Allen, Johnson, and Sedgwick. These counties, which are much more densely populated, have an equal mix of men and women.

National Study of Guardian *ad Litem* Representation

Allen and Doniphan Counties provide partial/good faith immunity to GAL attorneys through a local policy of the judicial system. Elsewhere, immunity does not exist or the issue was not resolved. There is no insurance provided by the State or the counties to GAL attorneys.

There is no formal monitoring or evaluation of GALs. Respondents in the smaller counties felt that their communities were small enough that any attorneys not providing adequate representation would be held accountable.

SAMPLED JURISDICTIONS AND CASELOADS

<i>Number of Petitions in 1989</i>			
Allen	20	Marshall	5
Atchison	62	Nemaha	12
Brown	18	Neosho	3
Coffey	4	Osage	18
Doniphan	4	Saline	250
Johnson	est. 150	Sedgwick	324
Lyon	50		

Note: Counties file petitions differently; e.g., Sedgwick files one petition per family while Saline files one petition per child.

KENTUCKY

REQUIREMENTS:	Private counsel mandatory in "dependency" proceedings for adjudicatory hearing
AUTHORITY:	KY. REV. STAT. § 620.100(1)(a)
PROGRAM MODELS:	Private attorneys: all jurisdictions Staff attorneys: 1 to 5 percent of Henry, Kenton, and Warren cases CASA: appointed additionally (not as GAL) in Jefferson and Fayette Counties
APPOINTMENT TIMES:	Statute requires appointment before adjudicatory hearing. In sampled jurisdictions this occurs at filing or first hearing. Appointment ends when permanent placement occurs.
TRAINING:	Attorneys: none CASAs: 20 to 22 hours required
COMPENSATION:	Set locally. <i>Pro bono</i> or \$50/hour or \$35 to \$750/case to maximum of \$35 to \$750 in sampled counties.
CHILDREN SERVED:	100 percent represented in 7 of 12 sampled counties 30 to 80 percent represented in Butler, Grant, Ohio, Owen, and Warren
IMMUNITY FROM LIABILITY:	Attorneys: none CASAs: Jefferson reported statutory "good faith" immunity
SAMPLED JURISDICTIONS:	12 counties
TOTAL JURISDICTIONS IN STATE:	119 counties

National Study of Guardian *ad Litem* Representation

Kentucky State Statute § 620.100 mandates that private counsel be appointed for children in dependency proceedings. Despite this requirement, not all children receive counsel in 5 of the 12 counties sampled. Seven counties have 100 percent representation, but 20 to 70 percent of the cases in Butler, Grant, Ohio, Owen, and Warren are unrepresented. In these counties judges do not appoint attorneys in cases requiring only one appearance, cases where the respondents never appear, and other "easy" cases. In two counties the attorneys for the petitioner (Department of Human Resources) usually are regarded as protectors of the child's interests. In one county appointment is only mandatory if removal from the home is being considered.

All counties appoint private attorneys, although only Henry, Kenton, and Warren use staff attorneys in 1 to 5 percent of their cases when a private attorney is not available. Henry and Kenton Counties use Legal Aid, and Warren County uses the Public Advocate. Attorneys receive social work support only occasionally. CASAs are appointed by the court, but they do not provide direct support to attorneys and do not act as GALs. Fayette and Jefferson Counties have active CASA programs; Kenton County may assign CASAs from Campbell County; and Warren County is starting a CASA program. Campbell, McCracken, and Nelson Counties have CASA programs but were not included in the random sample.

The judge decides to appoint an attorney, and one is assigned by either the judge or the court clerk. In eight counties appointment occurs at the filing of the petition, and in four it occurs at the first hearing. All counties meet the statute's requirement that counsel be appointed for adjudicatory hearing. Usually appointments end when court intervention ends; however, in three counties it continues until permanent placement and in Henry County it ends at disposition. In addition to the statute, the Uniform Juvenile Code also mandates these appointment times in three counties. Barren County has a local court rule, and in Fayette County a local court rule is currently being written. CASAs serve at the discretion of the judge.

In the counties sampled attorneys are only occasionally appointed in other types of cases, such as criminal abuse and custody. Only in Jefferson County are attorneys regularly appointed in all types of cases involving children. In the counties sampled additional representation occurs only if private counsel is hired by the family for the child.

Attorneys for children have no written description of their duties except for § 625.080 regarding termination of parental rights, which states that the GAL shall represent the best interests of the child. There are no training requirements or supervision of attorneys. In five counties attorneys represent the child's best interests, in five they represent both the child's best interests and desires, and in two it depends on the attorney. CASAs always advocate for the child's best interests. In nine counties the attorneys are not involved in a lead role, except as legal counsel in court. In two counties it depends on the attorney. In Daviess County judges are pleased with the vigorous representation provided for children by the young attorneys appointed in abuse and neglect cases.

Fees for attorneys vary widely across the State. In Grant and Owen Counties, court-appointed attorneys receive only \$35/case, although judges can approve higher fees. Daviess, Fayette, Henry, and Warren pay \$250/case; Butler, Hopkins, Jefferson, and Ohio pay up to \$500/case. Kenton pays attorneys \$50/hour up to \$750/case, and Barren judges set their own fees. In Grant and Owen

State Summaries of GAL Representation

Counties, GAL attorneys receive lower fees than do attorneys in criminal defense. Barren, Jefferson, and Warren reported that fees are equivalent. In five of the remaining counties, GAL attorneys are paid more than criminal indigent defense attorneys. In Kenton County the GAL fee of \$50/hour is double the rate for attorneys in other court appointments. Because of the very low compensation in the rural counties of Grant and Owen, most attorneys there take cases on a *pro bono* basis, rarely asking for payment or expense reimbursement. In these counties, 70 percent of the abuse and neglect cases are unrepresented. Respondents did not cite low pay as the reason for the lack of representation but the belief that the petitioner's attorney protects the child's interests and, therefore, private counsel is unnecessary. No explanation was obtained for the widely varying compensation across the State. Expenses are reimbursed in nine of the counties; again, most GAL attorneys in Grant and Owen Counties do not request reimbursement.

Private attorneys in all of the counties sampled have caseloads ranging from one to five cases. Half of the counties have fewer than 10 (ranging from 2 to 10) private attorneys available. The remainder use 12 to 50 private attorneys. Henry has one Legal Aid attorney, Kenton has two Legal Aid attorneys, and Warren has three Public Advocates. All take cases as needed. Only Hopkins and Jefferson reported problems retaining attorneys because of the lack of interest in juvenile cases. Jefferson does not have enough GALs to handle its large number of cases. Most GAL attorneys in the State are experienced, white males practicing in solo or small firms. Jefferson has an even mix of white and minority attorneys and a majority of female attorneys. Daviess uses younger attorneys more often. Barren and Fayette Counties reported a mix of female and male attorneys.

No formal program exists for GAL attorneys. Jefferson's CASA program is independent of the courts and has 72 volunteers, four part-time staff members, and an annual budget of \$85,000 from private donations. Attorneys have no immunity from liability. Jefferson County reported that CASAs have statutory "good faith" immunity.

To improve representation, one respondent suggested required training for attorneys. Another respondent reported that family court cases are not made a priority and that children's issues on the whole are ignored. A third respondent commented that even after an adjudication of abuse or neglect, the termination of parental rights proceedings continue for too long.

SAMPLED JURISDICTIONS AND CASELOADS

<i>Estimated Number of Petitions in 1989*</i>			
Barren	5	Hopkins	60
Butler	7	Jefferson	1,200
Daviess	350	Kenton	750
Fayette	125	Ohio	30
Grant	50	Owen	50
Henry	NA	Warren	200
NA = not available			

*Some counties split into/among district courts.

LOUISIANA

REQUIREMENTS:	Counsel required for all children involved in custody and termination of parental rights proceedings. Child is entitled to counsel in all other proceedings.
AUTHORITY:	L.S.A.C.J.P. art. 95 (West Supp. 1989) LA. REV. STAT. ANN. § 13:1602(c) (West 1983)
PROGRAM MODELS:	Private attorneys: all jurisdictions sampled Staff attorneys: East Baton Rouge, Lafourche, and Orleans CASA: teamed with attorney in 30% of Orleans cases
APPOINTMENT TIMES:	Set locally
TRAINING:	Set locally: no requirements exist for attorneys
COMPENSATION:	Set locally: varies widely among parishes
CHILDREN SERVED:	0 to 100 percent
IMMUNITY FROM LIABILITY:	Partial immunity: Orleans Parish None: all other parishes
SAMPLED JURISDICTIONS:	10 parishes
TOTAL JURISDICTIONS IN STATE:	61 parishes

National Study of Guardian *ad Litem* Representation

The Louisiana State Juvenile Code and Revised Statutes provide that counsel shall be appointed to represent children in termination of parental rights and continued custody proceedings. Any other representation, such as GAL representation in abuse and neglect cases, is left to the discretion of local parish courts, although the law states that the child is entitled to counsel. Of the 10 parishes sampled, 8 use private attorneys as GALs. East Baton Rouge, Lafourche, and Orleans also use the parish Public Defender. Rapides and St Mary Parishes do not appoint GALs in abuse or neglect cases. In Rapides Parish, minors receive attorneys only in termination proceedings or when the minor's rights may be infringed upon. This was defined by the respondent as cases leading to the possible confinement of the minor. St. Mary's Parish does not provide independent representation to a child. The representation of best interests is left to the Department of Health and Human Services. Legal representation is provided by the District Attorney.

East Baton Rouge and Lafourche assign 90 percent of their abuse and neglect cases to the indigent defense attorney's office and 10 percent to private attorneys. Orleans uses the Public Defender on 95 percent of its cases and private attorneys on 5 percent. A CASA program exists in Orleans Parish, and CASA volunteers are assigned to approximately 30 percent of the cases alongside the attorney. Tangipahoa Parish provides administrative support to the attorney who has contracted to receive all the public defense work. Lafourche Parish provides volunteer support.

In Claiborne, Lafourche, and Tangipahoa, appointment is automatic. Elsewhere the judge decides whether to make an appointment. All appointments are made by the judge or the court clerk, except in Lafourche, where the Indigent Defense Board assigns indigent defense attorneys to particular cases. Within the eight counties that do provide GAL representation, 100 percent of the children involved in abuse and neglect cases are reported to receive counsel. In East Baton Rouge Parish, Public Defenders are assigned to all cases except when there is a conflict with the child. Private attorneys are assigned to these cases.

Appointment times vary locally but are made at the first hearing if not already made at the initial filing or the emergency removal hearing. CASAs are appointed prior to the adjudicatory hearing. Most parishes relieve the GAL when court intervention ends. Claiborne Parish may end the appointment after the initial disposition, while in East and West Feliciana it depends on the case. In Bienville and Lafourche, these appointment times are established as local law and local court rule, respectively. Claiborne Parish respondents understood the appointment times to be a State requirement.

All parishes provide GALs in delinquency cases and a variety of other cases involving children. These cases include those involving criminal abuse, nonlitigated abuse, voluntary foster care, custody, children in need of supervision, adoptions, minor settlements, and criminal cases involving children. Lafourche Parish reported the provision of legal representation in any case involving a child. Tangipahoa is the only parish that uses attorneys for these cases who are different from than those used in abuse and neglect cases. Rarely would a child in an abuse and neglect case receive other representation alongside the GAL except in Orleans Parish. Orleans uses CASAs whenever possible alongside the attorney GALs.

State Summaries of GAL Representation

There are no written descriptions of the roles and responsibilities of the GALs. However, in Orleans Parish it is understood that when a CASA is assigned to a case, the volunteer covers investigations, meeting with the child, monitoring, compliance with court orders, etc., while the attorney handles the legal representation; the attorneys, on the other hand, are counsel.

What stance the attorney GAL should take if the attorney and the child disagree varies among parishes. Respondents in Orleans, Lafourche, and Tangipahoa stated that the GAL would represent the perceived best interests of the child. In Claiborne Parish, the GAL would present both the wishes and the best interests to the judge, while in East Baton Rouge, the GAL would do either or the judge would appoint a different GAL. In Bienville and East and West Feliciana, the issue was undecided. In all counties, one GAL represents all the children in the family involved in a particular case.

Compensation for attorneys is set locally through the judges, the Indigent Defense Board, or the parish administrative offices. However, in some parishes, attorneys are not compensated. In Bienville Parish, 50 percent of the attorneys are not paid due to lack of funds. Tangipahoa GAL attorneys are not compensated. In East Baton Rouge, Lafourche, and Orleans Parishes, the indigent defense attorneys receive annual salaries ranging from \$15,000 to \$50,000. In Claiborne County, attorneys may not be paid for time spent if funds are not available; however, they are reimbursed for expenses. No other parish covers expenses.

There are no training requirements for the attorney GALs. In Orleans Parish, the CASA volunteers complete approximately 30 hours of training before being assigned to a case. Also in Orleans the parish court is developing a training program on child abuse and neglect for judges, social workers, and attorneys in Louisiana. There are no requirements concerning prior experience for GALs.

Private attorneys carry an average caseload of 1 to 3 cases. The attorneys in the more populated areas (East Baton Rouge, Lafourche, Orleans, and Tangipahoa), most of whom are part of the Public Defender's Office, carry caseloads ranging from 20 to 65 cases.

Respondents in all parishes sampled said that there were no problems retaining or recruiting GALs, although Orleans needs additional funding. Attorney characteristics vary among parishes. Most attorneys are white, but are of various ages and both sexes. In all parishes except East Baton Rouge, most attorneys have small private practices, and all are general legal practitioners.

In three parishes the GAL programs are independent of the courts. The CASA program in Orleans is funded through grants and private donations. The staff consists of the executive director and five support personnel, and the program's annual budget is \$135,000. Both East Baton Rouge and Lafourche Parish Public Defenders' offices are created through public funds from the county. The senior Public Defender administrates the office and monitors the other attorneys on staff.

Orleans Parish offers partial immunity from liability to the GALs. Elsewhere no immunity exists. Attorneys are expected to provide their own malpractice insurance.

SAMPLED JURISDICTIONS AND CASELOADS

<i>Number of Petitions in 1989</i>			
Bienville	4	Orleans	345
Claiborne	12	Rapides	390
East Baton Rouge	93	St. Mary	35
East Feliciana	3	Tangipahoa	50
Lafourche	25	West Feliciana	3

MAINE

REQUIREMENTS:	State mandated GAL representation in all child protective proceedings
AUTHORITY:	ME. REV. STAT. ANN. tit. 22 § 4005(1) (Supp. 1986)
PROGRAM MODELS:	Private attorneys: all jurisdictions CASA: six of the nine counties sampled State mandates CASA volunteer as GAL must be first choice
APPOINTMENT TIMES:	State mandated: Appointment begins at the filing of the initial petition and lasts until court intervention ends
TRAINING:	State CASA program requires and provides 15 hours of training for CASA volunteers. There are no requirements for attorneys.
COMPENSATION:	\$40/hour for time spent in and out of court for private attorneys, with a maximum of \$350 to \$1,000/case in some counties
CHILDREN SERVED:	67 percent to 100 percent
IMMUNITY FROM LIABILITY:	Partial/good faith immunity provided through case law
SAMPLED JURISDICTIONS:	9 counties
TOTAL JURISDICTIONS IN STATE:	16 counties 33 district courts

Five years ago the Maine State Legislature required that, when available, a CASA volunteer must be appointed as the primary GAL. When CASAs are not available, private attorneys are used. Three counties sampled—Franklin, Somerset, and Aroostook—appoint only private attorneys as GALs. All other counties in the sample appoint both CASA and private attorneys. CASA volunteers usually work unassisted, but attorneys are sometimes available to help. Franklin and Somerset are the only counties that provide administrative support to the GALs.

The Maine judicial system is organized by districts and each county has at least two district courts that operate independently. The district courts within counties generally are consistent in their policies of GAL representation. One exception is Kennebec County where one district court uses only CASA volunteers as GALs, one court uses CASAs as a support to the attorney GALs, and another court has no CASA volunteers at all. In Kennebec County it was reported that when the petition is uncontested by the parents (approximately 33 percent of the cases) a GAL is not appointed.

All appointments are made by the judge at the filing of the initial petition. However, in at least two counties there may be a delay of over a month before a CASA volunteer is found to take on the case. The actual appointment is handled primarily by the judge. Others who may be in charge of appointments are the State CASA director or the clerk of the court. All appointments last until court intervention ends.

The only type of case other than civil abuse and neglect to which an attorney may be appointed for the child is divorce, although this occurs rarely. In Franklin and Somerset Counties a GAL might also be appointed in juvenile petitions for emancipation. State statute allows an attorney to be appointed alongside a CASA volunteer.

Maine Revised Statute Annotated Title 22 § 4005 describes the general duties of the attorney GAL. The Maine Department of Human Services developed a comprehensive pamphlet on the GAL's role based on this statute. According to these guidelines, the GAL provides representation to the child, acts as a guardian, and is an investigator, advocate, counsel, representative, and court officer. The guidelines also detail the typical activities of one serving the role of GAL. However, respondents in five counties were unaware of any written descriptions with regard to attorney GALs. All counties using CASA followed the State CASA program guidelines.

There is a statutory requirement that representation of any child must include the wishes of the child. In all counties the GAL presents both perceived best interests and the child's wishes (when the child is old enough to articulate them). Lincoln is the only county sampled that provides a different GAL to each individual child, usually when siblings have different fathers. In other counties, one GAL represents all children involved in a particular case. The process of coordination among all parties involved is the same in all but three counties. Both CASA and the attorneys are involved although not instigators of such coordination. The exceptions are Franklin, Somerset, and York. In Franklin and Somerset Counties GAL attorneys usually take a lead role in coordinating case activities among all involved parties. In York County neither the attorney nor the CASA GAL are involved in such coordination efforts.

State Summaries of GAL Representation

Attorney GAL compensation is \$40/hour statewide for time spent both in and out of court. Expenses are reimbursed by the county, there are no limits. This pay is equivalent to other indigent defense work. Four counties—Aroostook, Franklin, Somerset, and York—have a limit of \$350/case which may be exceeded with judicial approval. Oxford County has a limit of \$1,000/case.

There are no training requirements for the attorney GAL. Only Franklin and Somerset have requirements established by the judge for prior experience before taking abuse and neglect cases. Attorneys must have been in practice for some time. All CASAs receive training from the State CASA program which sets the requirements. The training lasts 15 hours and must be completed before appointment as a GAL. There are no ongoing training requirements.

The highest individual average caseload for a private attorney is five cases at any time (Aroostook and Waldo). Most private attorneys average two cases. The highest number of cases per CASA is four in Kennebec County. All other volunteers carry between one and three cases. Kennebec County has the most difficulties recruiting qualified CASA volunteers. Oxford County also has difficulties in recruiting and retaining CASAs.

Aroostook, Franklin, and Somerset Counties, which use private attorneys, and Lincoln County have no problems finding GALs. In the other counties, the number of GALs available is a problem. York County has difficulty with CASAs who leave in the middle of the case and also has experienced long delays in receiving a CASA volunteer for particular cases. Most attorneys across the State are white general practitioners. There was an equitable mix of male and female and older and younger attorneys.

The State CASA program is considered a part of the Judicial Department and is funded through public dollars appropriated from the State courts fund. The current annual budget is approximately \$100,000. An executive director and a secretary are the sole staff, responsible for training, recruiting, screening, placing, and monitoring the volunteers. The individual district court judges also evaluate the CASA volunteers after every case. There is no formal evaluation system for attorneys.

GALs are considered public employees according to State Torts Law and have “good faith” immunity as such. Only two respondents were aware of this.

SAMPLED JURISDICTIONS AND CASELOADS

<i>Number of Cases Petitioned in 1989</i>			
Aroostook	81	Oxford	19
Cumberland	75	Somerset	25
Franklin	7	Waldo	18
Kennebec	38	York	50
Lincoln	5		

MARYLAND

REQUIREMENTS:	Counsel is mandatory in abuse/neglect proceedings. CASA may be appointed additionally.
AUTHORITY:	MD. CTS. AND JUV. PROC. CODE ANN. § 3-834
PROGRAM MODELS:	Staff attorneys: all jurisdictions Private attorneys: Montgomery County CASA: Montgomery and Talbot Counties
APPOINTMENT TIMES:	Contract with Legal Aid mandates that representation is to be provided throughout the proceedings, from filing through the end of court intervention
TRAINING:	17 to 20 hours annually recommended but not required
COMPENSATION:	Staff Attorneys: Legal Aid \$21,000 to \$35,000/year Public Defender's Office: \$32,000 to \$50,000/year Private attorneys average \$65/court hour
CHILDREN SERVED:	100 percent of all Children in Need of Assistance (CINA) cases receive "counsel"
IMMUNITY FROM LIABILITY:	Staff and private attorneys: none CASA: "good faith" immunity according to § 3-834.1
SAMPLED JURISDICTIONS:	9 counties
TOTAL JURISDICTIONS IN STATE:	23 counties and the city of Baltimore

All children appearing before the Maryland courts in abuse and neglect proceedings receive court-appointed "counsel" as mandated by Maryland Courts and Juvenile Procedure Code Annotated § 3-834. CASAs may be appointed in addition to, but not in lieu of, counsel according to the same statute. In all counties except Montgomery, Legal Aid is contracted by the State to provide representation to all Children In Need of Assistance (CINA) cases. Conflicts of interest are referred to the Maryland Volunteer Lawyers Association for *pro bono* representation. Montgomery County uses the Public Defender's Office in 90 percent of its cases, referring 10 percent to private attorneys when the family is deemed able to pay for child's counsel. All Legal Aid and Public Defender attorneys are staff attorneys. Most of these are women with many years' experience in juvenile representation. Montgomery and Talbot Counties also appoint CASAs in 10 to 20 percent of cases.

A referral to counsel occurs automatically at the filing of the petition, and appointment continues until court intervention ends. This is required by the State's contract with Legal Aid, which states that representation must be provided at all proceedings. Counsel is appointed at the court's discretion in other types of cases (criminal, foster care, delinquency), but different staff or private attorneys are used. Respondent attorneys generally handle only CINA cases. If a handicapped child is abused or neglected, representation is provided by the Maryland Disability Law Center instead of Legal Aid or the Public Defender's Office. CASAs may be assigned at any time during or after court intervention, but they are limited to abuse and neglect cases.

Counsel takes a lead role in the courtroom as the child's attorney. Both staff and private attorneys meet with the child and represent the child's desires to the court. Except for CASA, it is rare for any additional representation to occur. Three of the counties sampled reported that the child's desires and best interests both are represented in court. Both of the State's CASA programs also reported that both views are represented. The remaining counties have staff attorneys who represent solely the child and the child's desires, unless the child is deemed to have unreasonable or impaired judgment, in which case the least restrictive or most protective view is presented. CASAs receive a more explicit explanation of their duties than attorneys in the rules and guidelines set forth by the Administrative Office of Courts' Order #89-1. CASAs interview, investigate, and monitor cases while reporting back to the court.

Legal Aid attorneys receive annual salaries in the range of \$21,000 to \$35,000, equivalent to the salaries of Legal Aid attorneys working on criminal cases. The Public Defenders receive annual salaries of \$32,000 to \$50,000. The discrepancy occurs because Legal Aid is a private, nonprofit organization and the Public Defender's Office is a governmental agency. In Montgomery County, parents are expected to pay the private attorneys who take on abuse and neglect appointments. Fees are based on an assessment of the child's parents' income and the average fee is \$65. Attorneys rarely receive payment from parents, so most private attorneys would rather contract with the Public Defender's Office on a case-by-case basis in order to guarantee compensation. Case-related expenses are reimbursed.

Training is provided to all Legal Aid attorneys and Public Defenders; 17 to 20 hours per year are recommended, but no training is required. CASAs are required to complete 24 hours of comprehensive CASA training before being appointed. Private attorneys receive no training or

State Summaries of GAL Representation

supervision. Specific abuse and neglect experience is not required of Legal Aid attorneys, Public Defenders, CASAs, or private attorneys.

Caseloads vary throughout the State depending on population and the number of attorneys available. In Montgomery County, four Public Defenders have average abuse and neglect caseloads of 40 each. Private attorneys and CASAs handle only 1 to 2 cases at a time. Talbot County is served by the Queen Anne office of Legal Aid. Dorchester and Wicomico share a Legal Aid office. Allegheny, Dorchester, Howard, and Wicomico Counties all have several attorneys handling 25 to 40 cases each. Carroll's Legal Aid office has one attorney, and Harford's office (shared with Cecil) has four attorneys—all handling an average of 100 cases each. Problems retaining or recruiting attorneys were reported only in the rural areas, which respondents said did not attract enough attorneys in general, hence, the higher caseloads there.

The Legal Aid and Public Defender offices operate independently of the court and receive State funds directly. Supervision is limited to in-house monitoring of cases. All offices have clerical and paralegal support; however, more is needed, according to the respondents. Respondents also added that more CASA programs have not developed within the counties because of the lack of a statewide program to offer guidance and support. Montgomery CASA has 3 full-time staff members and an annual budget of \$207,000, while Talbot County has only three volunteer administrators and a budget of \$19,400. The city of Baltimore has a larger CASA program but was not included in the randomly selected jurisdictions. CASA was established by statute as part of the State's Administrative Office of Courts and receives funds from both public and private sources.

Attorneys are not immune from liability concerning abuse and neglect representation. Legal Aid is required by its contract with the State to carry its own liability insurance. The Public Defender's Office is a governmental agency and covered as such by the State. Private attorneys generally carry their own malpractice insurance. CASAs and CASA staff, however, do have immunity from liability when acting in "good faith," according to § 3-834.1.

Respondents commented that requiring legal counsel for children in abuse and neglect proceedings is good practice. They believe that CASA volunteers are a good adjunct to, but not a substitute for, attorney representation.

SAMPLED JURISDICTIONS AND CASELOADS

<i>Number of Petitions in 1989</i>			
Allegheny	85	Montgomery	460
Carroll	72	Prince George's	646
Dorchester	27	Talbot	234
Harford	135	Wicomico	27
Howard	45		

MASSACHUSETTS

REQUIREMENTS:	Counsel mandatory in abuse/neglect cases
AUTHORITY:	MASS. GEN. LAWS 119 § 29
PROGRAM MODELS:	Private attorneys in all jurisdictions
APPOINTMENT TIMES:	Appointed by judge at filing/first hearing. Assigned by court clerk from Committee for Public Counsel Services (CPCS) list to provide representation until court intervention ends.
TRAINING:	Statewide; 14 hours provided by CPCS
COMPENSATION:	\$35/hour in all jurisdictions; set by CPCS
CHILDREN SERVED:	100 percent of abused/neglected children statewide receive "counsel"
IMMUNITY FROM LIABILITY:	None
SAMPLED JURISDICTIONS:	8 district courts and 2 juvenile courts
TOTAL JURISDICTIONS IN STATE:	69 district courts and 4 juvenile courts in 14 counties

Massachusetts General Laws Chapter 211 D § 1 established the Committee for Public Counsel Services (CPCS) to provide indigent and juvenile representation throughout the Commonwealth of Massachusetts. CPCS maintains lists of private attorneys who are specially trained to provide "counsel" in abuse/neglect proceedings, known as "care and protection" proceedings. Legal "counsel" for children is mandated by Chapter 119 § 29. In Massachusetts, "GAL" refers to an investigator appointed by the probate courts, not the child's legal counsel. Occasionally GALs are appointed in abuse and neglect proceedings in district court. All children before the court in abuse/neglect cases receive court-appointed counsel.

The judge presiding over the care and protection proceeding appoints counsel to the child at the first hearing held the same day as the filing of the petition. The court clerk then assigns a local private attorney from a list provided by CPCS. CPCS maintains different lists for each type of case, e.g., criminal, juvenile, mental health. Court-appointed attorneys must be on the CPCS list to receive payment, which also is administered by CPCS. Appointments for abuse/neglect cases continue until court intervention ends.

The duties of these court-appointed attorneys are outlined in written performance standards adopted by CPCS. The duties include advocating the child's desires, meeting with the child, requesting and reviewing all records, interviewing all relevant witnesses, informing and explaining the case's progress, and generally ensuring the child's right to due process in court. Because these attorneys represent the child's desires, additional representation rarely occurs. Attorneys are not immune from liability and are expected to carry their own malpractice insurance.

Attorneys submit pay vouchers to CPCS and are compensated \$35/hour throughout the State, with no ceiling. This rate is equivalent to other indigent defense work and respondents felt strongly that this rate should be increased. Although the hourly rate is the same as for criminal cases, juvenile counsel receive higher fees *per case* because these cases require much more time. Case-related expenses also are reimbursed.

CPCS requires 14 hours of training before private attorneys can be assigned in abuse/neglect cases. Attorneys receive training in court procedures, laws, issues in abuse/neglect, medical evidence and expert witnesses, and preparing children for court. CPCS also provides ongoing training. As of July 1990, attorneys will be required to complete two additional 2-hour courses annually to remain on the CPCS list for court-appointed work.

Each district court in Massachusetts has jurisdiction over a small area, so attorneys handle only 1 to 3 abuse/neglect cases at a time in each district. Attorneys on the CPCS list also may be available for court appointments in several districts, so caseloads vary depending on the overlap. The larger juvenile courts of Boston and Bristol have more attorneys available but higher caseloads. Respondents did not report any problems recruiting or retaining court-appointed counsel.

CPCS is part of the State court system and receives State funds directly. It also receives private donations and grants, such as from the interest on Lawyers Trust Accounts. The administrative budget for CPCS' director and four support staff is \$75,000 (not including fees paid to attorneys). CPCS also has 12 regional offices throughout the State. In 1988, CPCS contracted the Family Law

State Summaries of GAL Representation

Advocacy Project to develop regional training staff and resources and a review process to monitor private attorneys. It is hoped that this will remedy the reported inconsistent quality of representation in Massachusetts.

SAMPLED JURISDICTIONS AND CASELOADS

<i>Number of Petitions in Fiscal Year 1988</i>			
District Courts			
Brockton	64	Greenfield	22
Cambridge	19	Northampton	26
Dedham	7	Pittsfield	65
Edgartown	1	Salem	19
Juvenile Courts			
Boston	316	Bristol	88

MICHIGAN

REQUIREMENTS:	Legal counsel mandatory to represent the child's best interests
AUTHORITY:	MICH. COMPLETE LAWS ANN. § 722.630 (1986)
PROGRAM MODELS:	Private attorneys: all counties CASA alone: Genesee County Staff attorney: Public Defender in Wayne County
APPOINTMENT TIMES:	State requirement for appointment at filing of initial petition, ending when the court case is closed
TRAINING:	State requirement for CASA, duration set by counties. No requirement for attorneys.
COMPENSATION:	CASA: no compensation Public Defender: \$150/hearing, \$125/appearance, on contract Private attorneys: \$40 to \$60/hour, \$100/appearance, or \$10,000/year contract, depending on county
CHILDREN SERVED:	100 percent in sampled counties
IMMUNITY FROM LIABILITY:	Not resolved; no insurance requirement
SAMPLED JURISDICTIONS:	10 counties
TOTAL JURISDICTIONS IN STATE:	83 counties

National Study of Guardian *ad Litem* Representation

Michigan law states that counsel must be given to children when there are any judicial proceedings necessary, and that the counsel should represent the child's best interests. Michigan has a fairly uniform system to uphold this law and is consistent throughout the counties sampled.

Every county sampled uses private attorneys to represent children. In Genesee County, CASAs are also used, but only in cases that need no testimony. In Wayne County, home to Detroit and the largest caseload in the State, the help of the Public Defender's Office is also used to meet the requirements of the law regarding representation for all children. Every county reported full representation of all children. County attorneys generally do not use the services of social work reports, nor do they receive administrative help from the county.

Appointment is made at the filing of the initial petition, in compliance with a State rule that requires GAL appointment within 24 hours of the case being petitioned. All appointments end when court intervention ends. The judge makes the decision to appoint, but all counties said that appointment is automatic when a case has been petitioned. The actual appointment of a specific person is a more complicated matter, as some representation is provided by firms that have contracts with the county, some are selected from the bar list for the county, and others are assigned a day and must take all petitions in that day. In other cases, the judge or his registrar makes an appointment.

Where there is CASA or Public Defender assistance, assignment to CASA is based solely upon whether testimony might be necessary. If assigned, and the circumstances change, an attorney is added to the case in order to comply with the law. The Public Defender covers all cases in the county. Private attorneys are on a contract with the county to provide overflow help and take cases whenever necessary. Only Wayne County uses attorneys and CASAs extensively in cases other than abuse and neglect, including criminal cases against the child and delinquency and custody cases. Other counties may do this in extreme cases.

The law states that if the GAL and child disagree as to what should be presented in court, the best interests of the child must be presented. In many States, it is left up to the attorneys to make a judgment. Often if the child is older the attorney makes both sides known to the court.

Attorneys are paid in several different ways. Four counties pay a straight hourly wage, ranging from \$40 to \$60/hour. None have maximum amounts allowable. Several counties have yearly contracts with attorneys. In Manistee County, six attorneys share the burden for the whole county and an annual salary of \$15,000. This is considered low because the county has a high caseload: 16 petitions last year. Newaygo County has a contract with three attorneys who receive \$10,000 each for all the cases in the county. Last year this was 21. Branch County's contract is with three attorneys, and they divide an annual salary of \$5,000. Jackson County contracts with two attorneys for \$15,000 each to provide representation to any children *and* their parents. Wayne County pays private attorneys \$150/hearing, and its contract with the Public Defender's Office pays \$690,000/year for approximately 20 to 30 percent of its cases, which totalled approximately 3,000 last year. Macomb County pays \$100 for each court appearance, with no maximum.

There are no State training requirements for attorneys. Training is required for CASAs, but each county determines its own minimum time requirement. Genesee County CASAs train for an

State Summaries of GAL Representation

unspecified number of hours, covering the basic topics that most CASA programs cover: children and abuse, the courtroom role of the CASA, and dealing with social services agencies. There currently is no training for attorneys, but Wayne County is developing a program. One county sampled tried to hold attorney seminars, no one showed up for the first seminar, and the idea subsequently was abandoned. No county sampled requires any prior experience for CASAs or attorneys.

The average caseload of a CASA is one; Public Defender, 20; and private attorney, 9, with a range of 1 to 35.

No respondents noted any problems recruiting or retaining people to do GAL work, but difficulties were encountered in establishing the CASA program. Eleven counties in addition to Genesee have CASA programs, but none were randomly selected to be included in the sample. Most of the private attorneys are male and from small firms, and in all but Wayne County they are mostly white. The age of attorneys in the counties sampled varied.

The Genesee County CASA program is not independent of the court, and it has one staff person—the court caseworker—as its administrator. The program receives all of its funds directly from the courthouse budget. Monitoring is performed by means of a report that is submitted after each case is completed. Attorneys are not monitored. No county indicated any immunity from liability. No one stated that they provided any insurance, although most attorneys carry their own liability insurance.

SAMPLED JURISDICTIONS AND CASELOADS

<i>Number of Petitions</i>			
Benzie	10	Macomb	350
Branch	10	Manistee	16
Genesee	24	Mecosta	50
Ionia	14	Newaygo	21
Jackson	70	Wayne	2,744

MINNESOTA

REQUIREMENTS:	GAL required when child needs protection or services, or if the parent or guardian is hostile to the child's interest or is indifferent to the child
AUTHORITY:	MINN. STAT. ANN. § 260.155(4)(a) (1989)
PROGRAM MODELS:	Private attorney: Crow Wing, Kittson, Murray, and Olmsted CASAs: Hennepin, Olmsted, and Ramsey Paid nonattorneys: Brown, Marshall, Morrison, Nobles, Redwood, and Roseau Social worker: Jackson County
APPOINTMENT TIMES:	Set locally; generally from filing of initial petition to end of court intervention
TRAINING:	Set locally; CASA, 0 to 60 hours; social workers must have college degree
COMPENSATION:	Set locally; CASA either not paid or paid \$10/hour Social workers: \$15/hour + mileage GAL: \$13.50 to \$25/hour Attorneys: \$40 to \$45/hour
CHILDREN SERVED:	80 to 100 percent in sampled counties
IMMUNITY FROM LIABILITY:	Absolute immunity according to Minnesota State Supreme Court Decision (1988). Unclear to some local jurisdictions.
SAMPLED JURISDICTIONS:	13 counties
TOTAL JURISDICTIONS IN STATE:	87 counties

Minnesota uses several forms of representation to comply with the State law that requires a GAL when a child is in need of protection or services or when the parent or guardian is hostile to the child's interest or indifferent to the child. Four counties—Crow Wing, Kittson, Murray, and Olmstead—use a standard private attorney model. Three counties use CASAs: Hennepin, Olmsted, and Ramsey. Brown, Marshall, Morrison, Nobles, Redwood, and Roseau Counties use paid nonattorneys who have child welfare training and experience, while Jackson County uses a social worker.

All areas except Hennepin County have 100 percent representation of all abused and neglected children. In 1989, Hennepin County, which includes Minneapolis, had 172 volunteers who represented 1,589 children. Only the most serious 80 percent of cases were represented due to the county's limited number of volunteers and staff available to train them.

Appointment is not required in any areas of the State, but it is standard practice in many counties. The appointment of a specific person may be made by the judge, his clerk or secretary, or the CASA program director. In many counties, there is only one person assigned to take abuse and neglect cases. In Olmsted County, which has dual CASA/private attorney representation, the basis for assignment is age. Children over 12 are assigned an attorney who presents their wishes in court. Children under 12 are assigned a CASA who presents the best interests of the child in court.

Appointment can occur at any time, but generally begins at the filing of the initial petition and ends when the court intervention ends, except in the case of social workers, who remain assigned until the case is closed by the social service agency. Some appointments may occur as late as disposition. Attorneys also are assigned to several other juvenile cases including those involving custody, delinquency, criminal abuse, voluntary foster care, and termination of parental rights. CASAs also work on other cases involving children, except criminal cases. The social worker of Jackson County handles only civil abuse and neglect cases. The counties with paid volunteers use them primarily for abuse and neglect cases also have assigned them to custody or delinquency cases at the determination of the judge.

In Olmsted County, the CASA and attorney share responsibility. When there is a disagreement between the child and GAL, generally there is a determination made by the GAL as to whether the child is mature enough to make a decision. If it is felt that the child is mature enough to make a decision, the GAL will present both sides. In the case of a very young child, the GAL states only the perceived best interests of the child. In other counties, duties of all GALs are the same.

Payment of GALs is different in every county. Attorneys receive \$40 to \$45/hour, or \$28,000/year on contract. Both CASA counties that pay have rates of \$10/hour. The social worker receives \$15/hour. The paid nonattorneys receive either \$13.50 or \$25/hour. Four CASA counties do not pay their volunteers but may reimburse for mileage and phone bills. The attorneys feel that this is roughly equal to other indigent work, and the social worker agrees that the pay is within the market for similar work.

There is no training requirement for attorneys or paid nonattorneys, nor is there a set training schedule for the social workers. In two counties, the paid nonattorneys are required to have a master's

State Summaries of GAL Representation

degree in social work. In the other county, the judge chose the single volunteer to provide all the representation in his county because this volunteer had a background in child welfare and had many children himself.

CASAs train from 0 to 60 hours, depending on the county. Redwood County has no training. Morrison requires an unspecific number of hours with some followup training. Olmsted requires 28 hours plus monthly seminars. Training there covers all basic duties and issues plus cultural awareness. Hennepin and Ramsey Counties require 40 hours of initial training and ongoing seminars covering issues such as crack and boarder babies. Brown County requires 60 hours, including 40 hours at the State level and 20 at the local level. There are no requirements regarding previous experience for attorneys or CASAs.

The average attorney caseload in Crow Wing County is 40, which is abnormally high for the State. The only attorney GAL in this county handled 100 cases last year. The other private attorneys had caseloads of one, three, and five. CASAs averaged two or four cases. Hennepin County has 172 CASA volunteers who represented 1,589 children last year. The social worker averaged a caseload of three cases, and the GALs averaged seven cases each. The average private attorney willing to work on these cases is an older, white male from a small or solo firm. The only county to complain of high turnover was Hennepin, with the largest CASA caseload.

The Hennepin County volunteer GAL program, which is part of the Bureau of Community Corrections, has a director, three staff members, and an annual budget of \$310,000 from the county. In Morrison County, the program is run by the court administrator as part of his overall duties. The Brown County program has an annual budget of \$5,000 and receives funds directly from the county budget. The Olmsted program has a director and one staff person supported by a \$7,000 budget which covers one-third of the salaries and training. Ramsey County is part of the Court Administrator's office and has a program director, four staff members, 100 volunteers, and an annual budget of \$218,000. The program needs more volunteers, but the director is unwilling to add more until the program has more staff to ensure proper monitoring of the volunteers.

GALs have total immunity according to a 1988 State Supreme Court decision (*Tindell v. Rogosheske*, 428 N.W. 2d 386). Only three respondents were aware of it.

CASAs are monitored closely by each jurisdiction's program director. The social workers and paid nonattorneys are monitored as county employees. There is no formal monitoring of attorneys.

SAMPLED JURISDICTIONS AND CASELOAD

<i>Number of Cases in 1989</i>			
Brown	30	Murray	8
Crow Wing	100	Nobles	15
Hennepin	1,589	Olmsted	100
Jackson	5	Ramsey	348
Kittson	2	Redwood	3
Marshall	40	Roseau	20
Morrison	6		

MISSISSIPPI

REQUIREMENTS:	Requires a GAL to protect the child's interest in abuse or neglect cases
AUTHORITY:	Miss. CODE ANN. § 43-21-121(1)(e), (2) (1981)
PROGRAM MODELS:	Private attorney: nine counties Social Worker: Calhoun, Harrison, Jones, and Rankin Staff Attorney: Jones and Rankin
APPOINTMENT TIMES:	Set locally; generally from initial petition to end of court intervention
TRAINING:	Set locally; none are trained
COMPENSATION:	Set locally; private attorneys receive \$40 to \$50/hour or \$300/case, depending on county. Staff attorneys' salaries start at \$28,000/year. Social workers' salaries range from \$15,000 to \$20,000/year.
CHILDREN SERVED:	50 to 100 percent in sampled counties
IMMUNITY FROM LIABILITY:	Set locally; issue unresolved or no immunity in counties; no insurance
SAMPLED JURISDICTIONS:	11 counties
TOTAL JURISDICTIONS IN STATE:	82 counties

Mississippi's Code requires a GAL to be appointed to represent the child's interests in all abuse or neglect cases. This mandate is fulfilled sporadically throughout the State by attorneys and social workers. Social workers are used to represent children in four counties: Calhoun, Harrison, Jones, and Rankin. In Jones and Rankin Counties, staff attorneys are used to supplement the social workers. Nine other counties sampled use private attorneys. Many counties often use the services or reports of social workers.

In four counties GALs are not appointed in every case, despite the statutory requirement. Wayne County sends 25 percent of its cases straight to the child welfare agency without an appointment. Respondents stated that these cases are clear cut and do not need appointment. In Clarke and Rankin Counties, 50 percent of cases are not assigned a GAL. Again, respondents stated that these cases are clear cut and go straight to removal from the home and into the child welfare department. Calhoun County does not assign a GAL if the perpetrator is not someone in the home and if there is no chance of removal from the home. About 30 percent of its cases fall into this category. Hinds County has an interdisciplinary team of social workers, juvenile, police, and court officers who screen every case of abuse and neglect. All screened cases are referred to Youth Court and all receive a GAL.

The judge decides what is a "clear cut case" and generally is the one to appoint a specific person to the position. In many counties the judge appoints attorneys from a rotating list. Several counties use more than one model at a time for representation, both to keep caseloads low and for economic reasons. Rankin County relies heavily upon the Public Defender but also uses private attorneys and social workers for overflow cases. In Jones County, a social worker is used if the case will not go to court. If, when in court, it is decided to remove the child from the home, the case is reassigned to a social worker. In Calhoun County, social workers are assigned to the simpler cases, while the attorney is assigned to the ones requiring more intensive legal work. Almost all of the cases in Hinds County, the most populous county in Mississippi, are represented by the Public Defender's office which is made up of contracted private attorneys.

There is no consistent time for appointment start or end. The time of initial appointment varies from the emergency removal hearing to the filing of the initial petition to any other time the judge decides to appoint someone. The appointment ends either when court intervention ends or when an agency closes the case. Attorneys are widely used in delinquency cases, and according to statute, GALs are appointed when a child before the court has no parent or guardian; when the parent is a minor or incapacitated; when parents are indifferent to child; or whenever the court deems one to be necessary to protect the best interest of the child. Local respondents said that GALs generally are used only in abuse and neglect cases. The duties of all persons performing GAL work are the same except in the cases noted above. When the child and GAL disagree, all GALs present both sides to the court, except when the child is very young.

Compensation for attorneys varies as much and is as different among counties as the times of appointment start and end. Hourly rates range from \$40 to \$50; some counties have a maximum of \$200. Payment per case ranges from \$75 in De Soto, where many attorneys do not bill, to \$500 in Jasper. The judge often can raise the limits depending on the case and time involved. In Smith County, the attorney submits a bill and the judge decides how much of it to pay. Many of these

State Summaries of GAL Representation

amounts are lower than other indigent work. In Clarke County, payment of attorneys for GAL work began only six months ago, and the judge feels that it is much easier now to obtain attorneys for the cases. The social workers are paid from \$15,000 to \$20,000. The staff attorneys of the Public Defender's Office earns \$28,000 to \$40,000 per year. Attorneys and social workers are not required to have any training specific to GAL work.

The average caseload of the private attorney is 2.3, with a range of 1 to 10. For the social worker, the range is 2 to 50. Three counties averaged 2 cases, and in Harrison County 1 social worker handled 56 petitions last year. The Public Defenders average 10 to 20 cases.

There are no problems recruiting or retaining attorneys to perform GAL work. Now that all counties pay GALs, attorneys are more willing to take cases than they have been in the past. Most of the attorneys are white men of varying ages from small or solo firms.

None of the GAL programs are independent from the court, and there is no formal monitoring of their work. Social workers and the staff of the Public Defender all have supervisors who oversee their work. There is no immunity from liability offered to GALs in any county. De Soto County respondents mentioned that they were discussing plans for a CASA program.

SAMPLED JURISDICTIONS AND CASELOAD

<i>Number of Cases in 1989</i>			
Calhoun	25	Jones	30
Clarke	5	Pontotoc	25
De Soto	70	Rankin	30
Harrison	156	Smith	9
Hinds	330	Wayne	5
Jasper	10		

MISSOURI

REQUIREMENTS:	GAL required in every case of abuse or neglect
AUTHORITY:	MO. REV. STAT. § 210.160(1) (1986)
PROGRAM MODELS:	Private attorneys: all counties except one CASA (alone or with attorney): Jackson, Platte, and St. Louis Counties Staff attorneys: Jackson County
APPOINTMENT TIMES:	Set by State; at filing of initial petition, excused when court intervention ends. In practice, this varies widely.
TRAINING:	Required by § 210.160(1), (1986), program in permanency planning. Eight counties have no attorney training; Cass and St. Louis do. CASAs train 16 to 50 hours.
COMPENSATION:	Locally set; ranges from \$25 to \$75/hour, \$5,000/year, and \$100/case. Legal Aid attorneys receive up to \$30,000/year.
CHILDREN SERVED:	100 percent in sampled counties
IMMUNITY FROM LIABILITY:	Partial/good faith, by statute
SAMPLED JURISDICTIONS:	10 counties
TOTAL JURISDICTIONS IN STATE:	114 counties

National Study of Guardian *ad Litem* Representation

Missouri State law requires that every child receive representation in abuse and neglect cases. Private attorneys serve the children in most counties, assisted by CASAs in Platte and St. Louis Counties. Jackson is the only county without private attorneys. It uses Legal Aid attorneys with CASA assistance or, occasionally, CASA or attorney alone. Respondents in most areas indicated that social workers reports were available, but few reported actually using them extensively.

All counties reported 100 percent representation of all children. Judges appoint a guardian, except in Platte, where a Juvenile Court Officer makes that decision. The judge, his clerk, or the CASA director actually appoints a specific person. In the counties that use CASAs, Jackson, Platte, and St. Louis, respondents felt that CASAs had the time available to play a larger role in leadership and organization than any other parties involved. CASAs are assigned to all cases in Platte but only to the most severe abuse cases in Jackson.

According to the State, appointment of the guardian must take place at the filing of the initial petition and end when court intervention ends. However, this varies widely. CASA appointment actually begins either at initial petition or sometime before a removal hearing. Private attorney appointment takes place from the initial petition to the end of disposition and other times in between. There is also wide variation in end of appointment. CASAs are excused either when the case is closed by an agency or when permanent placement takes place. Attorneys can be excused at the end of court intervention, when an agency closes the case, or when permanent placement takes place. Other areas where guardians are used include custody disputes, statutory cases against the child, delinquency cases, and criminal abuse cases. Only CASAs are confined to civil abuse and neglect cases, mostly because of the small numbers of CASAs. In Jackson County, CASAs cannot independently represent children in the courtroom, although they may conduct all other preparation and followup.

When there is a disagreement between child and guardian, CASAs make both presentations to the court. The Legal Aid attorneys also make both presentations. Approximately half of the private attorneys present both the best interests and the wishes of the child; the others present the best interests of the child.

Legal Aid attorneys are paid up to \$30,000/year. Private attorneys receive hourly salaries ranging from \$25 in Platte County to \$75 in St. Louis County. Cass County pays an annual salary of \$3,500 to \$5,000; Andrew County pays \$450/case; and Texas County pays \$100/case. There is no maximum number of hours or cases per year. Payment for expert witnesses is rare and tends to take place only in the larger counties.

The \$25 hourly rate in Platte County is significantly lower than hourly rates in the other counties sampled. However, in this county, this compensation is fairly equal to compensation for all other indigent work. Respondents in other counties with higher pay felt that their own pay was low. The \$60 hourly rate in Jefferson County and the \$50 hourly rate in Holt County both were low. Respondents may have been comparing their rates with the \$75 one in St. Louis County.

Eight counties have no attorney training. State Statute § 210.160 requires training in permanency planning. Two counties, Cass and St. Louis, have attorney training programs. Jackson County requires one-on-one training for their Legal Aid attorneys. CASA programs have training

State Summaries of GAL Representation

requirements: Jackson requires 50 hours, covering a wide variety of issues and topics from drug abuse to dealing with children along with the standard CASA training; Platte requires 16 hours, covering all basic family dynamic and child abuse issues and courtroom work; and St. Louis requires 22 hours. The St. Louis CASA program also provides the training for attorney-GALs in that county. Cass County's attorney training covers juvenile court issues and is presented by the Cass County Bar Association. No jurisdiction requires previous experience.

The average caseload varies greatly throughout the State depending on the particular role and position. Legal Aid attorneys have the highest caseloads, averaging approximately 40. Private attorneys' caseloads range from 1 to 15, with an average of 4.6. CASAs carry one or two cases. No one noted any specific problems retaining or recruiting either attorneys or CASAs. One CASA program respondent expressed frustration that the program's CASAs did not reflect the same demographics as the population served.

The average attorney performing GAL work is a young or middle-aged white man, from a small office. Only in St. Louis County is there variation in gender or size of firm.

The CASA programs in Jackson and Platte Counties both are independent from the court, but the similarities end there. The Jackson program has a staff of four and a \$150,000 annual budget. The county has over ten times more petitions than Platte County and carries its own liability insurance, unlike Platte County. The Platte program is small, with one staff member and an annual budget of \$14,000.

Missouri Statute provides partial/good faith immunity from liability. Respondents in over two-thirds of the counties sampled were unaware of this, but respondents in the CASA programs knew of it.

There is no formal monitoring of any private attorney action or performance, but CASAs and Legal Aid attorneys are evaluated and monitored by their directors or supervisors.

SAMPLED JURISDICTIONS AND CASELOADS

<i>Number of Cases in 1989</i>			
Andrew	20	Jackson	300
Cass	251	Jefferson	150
Crawford	5	Platte	23
Dent	6	St. Louis	702
Holt	50	Texas	50

MONTANA

REQUIREMENTS:	Mandated appointment of GAL in every abuse and neglect case
AUTHORITY:	MONT. CODE ANN. § 41-3-303 (1985)
PROGRAM MODELS:	Private attorneys: 14 of 17 counties sampled Staff attorneys: 3 of the 17 counties sampled Family Services: provides GAL representation on 50 percent of Chouteau County petitions CASA: Blaine County only
APPOINTMENT TIMES:	Set locally; emergency removal hearing, filing of petition, and/or first hearing and continues until court intervention ends.
TRAINING:	Locally set; no existing requirements for attorneys
COMPENSATION:	Private attorneys: \$30 to \$60/hour in court, \$30 to \$50/hour out of court
CHILDREN SERVED:	100 percent represented by court-appointed GAL
IMMUNITY FROM LIABILITY:	None
SAMPLED JURISDICTIONS:	17 counties
TOTAL JURISDICTIONS IN STATE:	57 counties

National Study of Guardian *ad Litem* Representation

Montana law requires GAL appointment but does not require the GAL to be an attorney. All counties, except Chouteau, either provide private attorneys or include abuse and neglect petitions in the caseload of the local Public Defender. In Chouteau, 50 percent of the petitions filed are appointed to Family Services for representation. Flathead and Lincoln Counties provide administrative support to GALs. Lincoln recently began contracting all abuse cases to the Public Defender and providing an investigator and a secretary rather than contracting the cases to a private attorney. Fergus and Flathead County GALs receive social work support. Blaine County is the only one with a CASA program. This program follows the attorney/volunteer team model.

Only Fergus and Flathead Counties did not provide 100 percent representation. Their cases not provided with GAL representation were those in which a third party, usually the parents, retained private counsel for the children. In all other counties, 100 percent of abuse and neglect cases receive GAL appointments.

The only two counties in which the judge does not appoint GALs are Carbon and Sanders. In these counties, the county attorney is responsible for GAL appointments. In 13 counties, the judge or the court clerk actually makes the appointment; in Yellowstone and Carbon, the county attorney does. In Sanders County, all cases are automatically assigned to the Public Defender. Ten counties have only one attorney who receives all the appointments. Big Horn, Cascade, Fergus, Powder River, Ravalli, and Rosebud used both private attorneys and the Public Defender's Office. Chouteau directs their more serious abuse cases toward Family Services. The appointment may begin at the filing of the initial petition, the emergency removal hearing, or the first hearing. All appointments last until court intervention ends or until the case is closed by the Department of Human Services.

Each county has one or two other types of cases to which a GAL may be assigned. The most common type of case is delinquency. Others include cases involving custody, probate, conservatorships, divorce, kids as witnesses, incapacitated persons and, in Big Horn County, criminal abuse and other criminal cases involving children. Big Horn and Lincoln may use lay volunteers or family members in these cases to act as GAL. Carbon, Dawson, and Lincoln use attorneys other than those used in abuse and neglect cases.

Respondents in six counties sampled stated that they would provide representation in addition to the GAL, although in four—Chouteau, Flathead, Ravalli, and Rosebud—this has never happened. When additional representation might be provided was either unclear (Chouteau and Flathead) or left to judicial discretion (Ravalli and Rosebud), such as when the child and GAL disagree. Ravalli also listed concurrent criminal proceedings as a time when other counsel may be appointed. Other representation has been provided in Fergus and Judith Basin Counties at judicial discretion.

Blaine County is only one that has any written descriptions of the role of the GAL. In this county, the attorney is responsible for legal representation; the volunteers cover all other aspects of a particular case, including investigating, monitoring, conducting followup, meeting the needs of the child, etc.

Some respondents felt that the State mandated that the GAL represent the best interests of the child when disagreements arose. This is, in fact, left to local interpretation and depends upon the

State Summaries of GAL Representation

attorney. Most respondents said that they would make both presentations, particularly if the child were over the age of 15.

Compensation rates are set locally, either by the judges or the county commissioners, and vary widely among counties. Hourly rates for private attorneys are between \$30 and \$60 for time spent in court and \$30 and \$50 for time spent out of court. In five counties, annual salaries range between \$15,000 and \$33,000 (Flathead and Yellowstone: contract GALs; Ravalli, Lincoln, and Sanders: Public Defenders). In 13 counties, GALs are paid rates comparable to those paid for other indigent defense work. Flathead County pays the GAL less because this attorney has fewer cases than the Public Defender. Blaine, Lincoln, Ravalli, Sanders, and Yellowstone Counties do not reimburse attorneys for costs.

Respondents in several counties felt that training was important and that the lack of training was a problem. Only Blaine County has training requirements for volunteers. The volunteers receive 18 hours of training on all topics suggested by the National CASA Association. Ongoing training includes 10 to 16 hours of training annually. Blaine County has the only CASA program of all the counties sampled. It is not an independent entity but organized under the District Court. Public funds are appropriated specifically for this program. The current annual budget is \$2,000. The Rosebud County's Public Defender's Office, which provides all GAL representation, is independent of the court. There are no requirements for experience prior to GAL appointment in any county sampled. However, the judge in Flathead County looks for attorneys with some experience.

Caseloads for attorneys in the smaller counties range from 1 to 10 cases; the average is approximately 4. In the larger counties, the average is 24.5 cases. In Yellowstone County, the GAL carries a caseload of 50 abuse and neglect petitions at any given time. The respondent from Stillwater County noted that there was a high rate of abuse, particularly sexual abuse, yet only a few cases were ever petitioned (about 7 percent in 1989).

Respondents in Big Horn and Ravalli Counties reported problems with retaining GALs due to the small number of attorneys available. In addition, most attorneys available in Ravalli County preferred not to take these cases. There were no other problems reported.

Seven counties use mostly younger attorneys; six counties use mostly older ones. Five counties used equal numbers of men and women; 10 used men. In 14 of the counties, most attorneys are white. Only one county has attorneys who are affiliated with a large law firm, and only one county's GAL practiced primarily juvenile family law.

All counties sampled reported that there is no immunity from liability offered on a State or local level. Blaine County volunteers are indemnified by the county. Chouteau County Family Services workers are covered as State employees. Otherwise, all GALs must provide their own malpractice insurance. Attorneys are not monitored or evaluated except informally by the judges.

Respondents cited as a problem the judicial control over most Public Defenders' Offices. Respondents believed that the attorneys could provide more effective representation if the program

were independent. Respondents also stated that youth cases do not get high priority and sometimes are overlooked when resources are scarce.

SAMPLED JURISDICTIONS AND CASELOADS

<i>Number of Petitions Filed in 1989</i>			
Big Horn	10	Lincoln	21
Blaine	20	Powder River	4
Carbon	10	Prairie	0
Cascade	50	Ravalli	20
Chouteau	4	Rosebud	8
Dawson	6	Sanders	14
Fergus	96	Stillwater	3
Flathead	32	Yellowstone	240
Judith Basin	23		

NEBRASKA

REQUIREMENTS:	A GAL shall be appointed at the commencement of cases filed under neglect and abuse; except in cases where there are particular reasons to appoint a layperson, the court shall appoint an attorney as the GAL
AUTHORITY:	NEB. REV. STAT. § 43-272(1), (2)-(3) (1984) NEB. REV. STAT. § 43-272.01(1), (2) (Supp. 1986)
PROGRAM MODELS:	Private attorneys are used in all jurisdictions. The Public Defender's Office is used only in Douglas County.
APPOINTMENT TIMES:	The GAL must be appointed at "the commencement of the proceedings." Fifty percent of the counties sampled appointed GALs at the filing of the initial petition; 50 percent varied but made the appointment before the adjudicatory hearing. In all counties, appointments last until permanent placement occurs.
TRAINING:	Set locally
COMPENSATION:	Set locally by the court, approved and paid by county; \$40 to \$50/hour in and out of court or by contract
CHILDREN SERVED:	100 percent of abused and neglected children in counties sampled
IMMUNITY FROM LIABILITY:	None
SAMPLED JURISDICTIONS:	18 counties
TOTAL JURISDICTIONS IN STATE:	93 counties

In Nebraska the State law requiring the appointment of a GAL also requires, except in very specific cases, that the GAL be an attorney. Every county sampled except Douglas County uses private attorneys as GALs. In Douglas County, the Public Defender's Office has two staff attorneys who receive 95 percent of the GAL appointments. The remaining 5 percent are assigned to private attorneys.

Respondents in only five counties—Dakota, Dixon, Lancaster, Seward, and Thurston—specified that GAL attorneys receive social work support. In two counties—Dakota and Thurston—GALs receive administrative support, but the actual type of support was unspecified.

The decision to appoint a GAL is mandated by State law. In all but four counties the judge makes the actual appointment. In Douglas, Keith, Perkins, and Lancaster this duty is delegated to the court clerk or bailiff. In Douglas County, the only county with more than one model, cases are spread evenly among available GALs.

The appointment usually is made at the filing of the initial petition and always prior to the adjudicatory hearing. All appointments last until court intervention ends. Although the statute specifies only that the appointment of a GAL shall be at the "commencement of the case," two counties reported that there were specific State requirements regarding this.

Four counties—Cheyenne, Douglas, Deuel, and Keith—appoint counsel in most cases involving children. Often the counsel appointed are the same attorneys who serve as GALs. Nine counties do not provide representation other than the GAL in civil abuse and neglect proceedings. Although in Knox and Perkins Counties the possibility of appointing other representation is not discounted, it has never happened. In Boyd, Cheyenne, Deuel, Holt, and Keith Counties counsel can be and is appointed alongside the GAL. This may occur when the child and the GAL disagree, when requested by any party in the proceeding, or if the judge deems it necessary.

The responsibilities of attorneys acting as GALs are outlined clearly in the Revised Statutes of Nebraska § 43-272.01(1)(2) (Supp. 1986). These responsibilities include visiting the child, investigating the case, consulting with other parties, and making recommendations about the case. Most respondents stated that, in cases of disagreement between the child and the GAL, the GAL would represent the best interests of the child. In Adams, Douglas, and York Counties, attorneys would make both presentations. In Dakota, Dixon, Seward, and Thurston Counties, it had never been raised as an issue, and the respondent was unclear as to what would be expected. In all counties except Seward and York the GAL is involved in the process of coordination among interested parties. However, only in Boyd, Cheyenne, Deuel, Holt, and Knox Counties do GALs take a lead role.

GALs are paid in accordance with § 43-273. Compensation, while set through local administrative policy or local court rule, is very similar among counties. Most attorneys are paid \$50/hour for both in- and out-of-court time. In Holt and Lancaster Counties, attorneys are paid \$45/hour. In Knox County, they receive \$40/hour. Cheyenne, Deuel, Keith, and Perkins Counties have established a case-by-case system that combines charges for in-court time, out-of-court time, travel, and interviews with children into one statement submitted to the county for payment. The breakdown

State Summaries of GAL Representation

of the rates for time is kept confidential by the judges. In all counties, the pay is equivalent to that received by other indigent defense attorneys.

There are no training requirements for GALs. The Nebraska Continuing Legal Corporation (the legal arm of the State Bar Association) and the National Council of Juvenile Family Court Judges helped create a 2-day seminar conducted in 1988 for attorneys and judges working in the field of abuse and neglect. The seminar was attended by over 300 people. It is now offered annually in association with the Bar Association. It is partially subsidized by the National Council of Juvenile Family Court Judges.

The GALs in all counties except Douglas have relatively small caseloads, averaging one or two cases. Dakota County has the highest average caseload per attorney, six cases at any given time. This may be due to the availability of attorneys there taking abuse and neglect cases. In Douglas County, where there are two primary GAL attorneys, the average caseload is 35 cases. No county reported problems recruiting or retaining GAL attorneys.

The characteristics of attorney GALs are similar across county lines. Most attorney GALs are white males from a solo practice or a small firm practicing primarily in other areas of the law. Lancaster is the only county with a somewhat diverse range of characteristics of attorney GALs.

The primary responsibility of providing adequate representation for children in court in Nebraska remains with the judiciary. Judges are responsible for appointments, compensation, and any monitoring or evaluation that may occur. Except in Douglas County, where the lead Public Defender will review the staff's work, all monitoring of GAL performance is informal.

Respondents in a few counties were unclear on the issue of immunity; two respondents thought their counties provided statutory immunity. Currently there is no immunity from liability when in the position of GAL, and there also is no insurance provided to cover GALs in this regard. However, GALs are considered employees for State tort claims.

Respondents cited the huge distances between towns, foster homes, and medical and psychological services as the largest barrier to adequate representation.

SAMPLED JURISDICTIONS AND CASELOADS

<i>Number of Petitions in 1989</i>					
Adams	5	Dixon	9	Knox	3
Arthur	0	Douglas	400	Lancaster	500
Boyd	5	Garden	0	Perkins	1
Cheyenne	1	Grant	0	Seward	3
Dakota	50	Holt	15	Thurston	0
Deuel	0	Keith	7	York	10

NEVADA

REQUIREMENTS:	GAL appointment mandatory in abuse and neglect cases
AUTHORITY:	NEV. REV. STAT. § 432B.500 (1985) NEV. REV. STAT. § 432B.420 (1985)
PROGRAM MODELS:	Private attorneys: Churchill, Elko, Lincoln, and Pershing Staff attorneys: Churchill and Elko Social workers: Esmeralda, Mineral, and Nye Layperson volunteer: Lincoln CASA: Carson, Clark, and Washoe
APPOINTMENT TIMES:	Set locally; appointment may begin at any time in the proceedings and lasts until court intervention ends
TRAINING:	Set locally; CASA program: 9 to 40 hours in sampled counties
COMPENSATION:	State set for indigent public defense work: \$60/hour in court; \$40/hour out of court. GAL compensation: local judicial discretion.
CHILDREN SERVED:	0 to 100 percent
IMMUNITY FROM LIABILITY:	Not resolved
SAMPLED JURISDICTIONS:	11 counties
TOTAL JURISDICTIONS IN STATE:	16 counties 1 independent city

A GAL must be appointed in every petition alleging abuse and/or neglect. A GAL does not necessarily provide legal representation. The GAL may be a social worker, a juvenile probation officer, an officer of the court, or a volunteer. The judge or the juvenile court master may appoint an attorney to serve both as GAL and as counsel.

There are three primary models used in the sampled counties. Elko, Churchill, Lincoln, and Pershing Counties use private attorneys and/or Public Defenders. Carson, Clark, and Washoe Counties use only CASA volunteers. Esmeralda, Mineral, and Nye Counties always appoint the social worker who petitioned the case as the GAL. Lincoln County uses private attorneys for half of its cases and volunteer laypersons, who may be anyone concerned with the case, for the other half. Lincoln provides administrative support to the GALs. All CASAs work unassisted. In Esmeralda, Mineral, and Nye, any legal representation is provided through the district attorney.

Clark and Washoe counties do not provide GAL representation in 96 percent of the cases petitioned. In Lincoln County 50 percent of the children involved in abuse and neglect petitions do not receive any legal representation. The deciding factor is the judge's decision that cases are simple enough for the social worker to look out for best interests of the child. Esmeralda, Mineral, and Nye Counties, where the social worker serves as GAL, do not provide independent legal representation in any of the abuse and neglect cases. The judge or juvenile court master is responsible for all aspects of the appointments where they are made, except in Carson, Clark, and Washoe Counties, where the actual appointment is left to the CASA program director.

Appointment times are set locally. Appointment generally occurs close the first hearing; however, appointment is highly variable, and in Lincoln and Washoe Counties, it may occur at any time in the proceedings. All appointments last until court intervention ends.

Other types of cases that may be appointed a GAL include domestic violence cases and cases involving custody, delinquency, criminal charges involving children, and truancy. Most counties use the same pool of GALs for representation in these cases. Pershing County is the only one in which GALs are not appointed except in abuse and neglect petitions. This county is starting a CASA program, and currently all children are appointed an attorney. Clark, Esmeralda, Mineral, and Nye courts occasionally have appointed attorneys as other representation alongside the GAL. Elsewhere this possibility is left to judicial discretion and rarely, if ever, happens.

The CASA programs follow the national CASA guidelines. CASA volunteers are responsible for all aspects of representation except legal counsel. There are no guidelines for attorneys or other persons acting as a GAL. There also is no clear policy on whether the GAL is to present the best interests or the child's wishes. Carson, Churchill, Clark, and Elko County GALs present both best interests and the child's wishes. GALs in other counties generally represent the perceived best interests of the child.

GALs in all counties except Elko are involved in coordinating activities with other parties. In all counties except Pershing, one guardian will represent all the children involved in a particular case. In Pershing County, each child receives his or her own advocate.

State Summaries of GAL Representation

Indigent defense work is compensated rates set by the State: \$60/hour in court and \$40/hour out of court. However, compensation for attorney GALs is not mandated unless they are appointed as counsel. Churchill and Elko counties have set ceilings of \$2,500 and \$1,000/case, respectively. The State does cover expenses, per diem, mileage, phone, and up to \$300 for expert witnesses.

Training requirements exist only for CASA volunteers and cover a range of child advocacy topics. Hours of training required range from 9 in Clark County to 40 in Washoe. All training is provided by the local CASA programs. Ongoing training requirements vary: Clark County requires three sessions annually; Washoe requires 12 hours annually; and Carson County requires training whenever it is scheduled. The Lincoln County respondent felt that the laypersons used as GALs tended to "have experience with the system." There are no requirements on prior experience, however, before taking a GAL appointment.

All of the CASA programs are suffering from a lack of a sufficient number of volunteers; Mineral County lacks attorneys. Elko County has no problems retaining or recruiting GALs because few are ever appointed. The average caseload is between one and four cases for both attorneys and volunteers. Churchill has the only significantly high average caseload. The two staff attorneys, who take all the public defense cases, carry an average of 40 abuse and neglect cases at any given time. Attorneys are mostly white males in small firms or solo practices, primarily practicing in other areas of law.

Clark and Washoe County CASA programs are not considered independent of the juvenile court system. Carson County CASA is sponsored by the Seroptimists International. This program receives county funds as well as private grants. The current annual budget is \$3,000. CASA volunteers in Carson are covered by city insurance. The Washoe CASA program has a staff of four persons who provide evaluations and monitor the volunteers. The annual program budget, comprising private and county funds, is \$96,000. The Clark County CASA program has a staff of three persons and an annual budget of \$120,000 from county funds. Clark volunteers are insured. Washoe County provides total immunity by statute. Pershing County respondents reported good faith immunity by statute. All others sampled were unclear on the issue or certain that no immunity existed.

Except for the CASA programs, there is no insurance provided to the GALs. There are no formal requirements or methods of monitoring or evaluating those representing abused and neglected children.

SAMPLED JURISDICTIONS AND CASELOADS

<i>Number of Petitions Filed in 1989</i>			
Carson	25	Mineral	13
Churchill	72	Nye	23
Clark	628	Pershing	?
Elko	25	Storey	1
Esmeralda	23	Washoe	976
Lincoln	2		

NEW HAMPSHIRE

REQUIREMENTS:	Attorney for child mandated in all abuse/neglect proceedings. CASA or nonattorney may be appointed as GAL in addition to attorney.
AUTHORITY:	N.H. REV. STAT. ANN. § 169-C:10 N.H. REV. STAT. ANN. § 464-A:41
PROGRAM MODELS:	Private attorneys in all jurisdictions Pilot CASA programs in 4 District Courts
APPOINTMENT TIMES:	Appointed by judge at filing/first hearing or before adjudicatory hearing. Appointment continues until court intervention ends.
TRAINING:	None
COMPENSATION:	\$30/in-court hour; \$20/out-of-court hour
CHILDREN SERVED:	100 percent of all abused/neglected children eventually receive an attorney (see text for reasons why delay occurs)
IMMUNITY FROM LIABILITY:	None
SAMPLED JURISDICTIONS:	12 district courts in 9 counties
TOTAL JURISDICTIONS IN STATE:	41 district courts in 10 counties

The 41 District Courts of New Hampshire appoint attorneys to represent children in abuse and neglect cases as mandated by New Hampshire Revised Statutes Annotated § 169-C:10. CASAs or nonattorneys can also be GALs and can be appointed in addition to an attorney any time during the proceedings according to § 464-A:41. Private attorneys only are used as primary representation throughout the State on a case-by-case basis, with some attorneys contracted by the State. One hundred percent of all abused and neglected children receive a court-appointed attorney, but in some districts, an attorney may not be assigned for 30 days and children may be basically unrepresented during that time. Concord, Goffstown, Hooksett (not in sample), and Manchester presently have pilot CASA programs where CASAs are appointed by the court to conduct special investigations or reports for the court and do not act as GALs. Currently, there are no State laws or regulations governing CASAs although a statewide CASA association exists.

Private attorneys do not receive administrative or social work support. There is no formal program, so attorneys do not receive any required training, supervision, or guidance. Attorneys are not immune from liability regarding abuse and neglect representation.

Judges appoint attorneys for children at various times throughout the State. In most districts, an attorney is appointed at the filing of the petition or at the preliminary hearing; in two districts, attorneys are appointed within 30 days of filing. Respondents in several districts, however, explained that it is very difficult to locate attorneys willing to accept the appointment, and children may not be represented in the early stages of a case. Judges may order at the beginning of a case that an appointment be made, but it is left to the court clerks to find a willing attorney as quickly as possible. Many clerks said that this is very difficult because of the low fees paid for court appointments, the small number of attorneys available, and the lack of interest in juvenile work among most attorneys. After clerks find a willing attorney, the assignment continues until court intervention ends. Abuse and neglect cases that continue into termination of parental rights or adoption move into probate court, where a new attorney is assigned.

The duties of court-appointed attorneys in abuse and neglect cases are not clearly defined by statute. In eight districts, when a child and appointed attorney disagree, the child's desires are represented; in two districts, "best interests" are represented; in the remaining two, both views are presented. The State statute allows for a GAL to be appointed in addition to an attorney, but this occurs in only half of the sampled districts. GALs are appointed in cases involving teenagers whose desires strongly conflict with their best interests. In most counties, dual representation is limited by the small number of attorneys available, especially in the more rural areas.

Private attorneys are paid \$30/hour for in-court time and \$20/hour for out-of-court time. One respondent said that the fees have not been raised in over 7 years, thus discouraging attorneys from taking court appointments. The same low fees are paid to indigent criminal defense as well. Case-related expenses, however, are reimbursed. Some private attorneys throughout the State are contracted by the State to take court appointments for a fixed fee per case.

Districts reported using rotating lists, county bar lists, and, in Keene, attorneys pledged by large law firms to provide representation. No source was entirely reliable, and most districts rely heavily on the few attorneys—average five per district—who consistently accept juvenile cases.

State Summaries of GAL Representation

Caseloads vary from 1 to 10 per attorney, with an average of 5. Attorneys taking abuse and neglect cases are both male and female. Most are solo practitioners or from small firms, fairly young, and white. Court clerks said that these attorneys are more interested in juvenile work and tend to be very good.

Suggestions for improving representation included increasing attorney fees, defining better the role of attorney/GAL, and promoting interest in and better understanding of the importance of children's legal rights.

SAMPLED JURISDICTIONS AND CASELOADS

<i>Number of Petitions</i>					
	1988	1989		1988	1989
Berlin	12	10	Keene	31	37
Claremont	56	28	Laconia	54	50
Concord	68	60	Lebanon	20	17
Dover	25	22	Manchester	124	64
Exeter	10	24	Nashua	141	110
Goffstown	12	9	Portsmouth	18	30

NEW JERSEY

REQUIREMENTS:	“Law Guardian” mandatory in all abuse and neglect proceedings. Law Guardian must be an attorney.
AUTHORITY:	N.J. STAT. ANN. tit. 9:6-8.23
PROGRAM MODELS:	Staff attorney: all jurisdictions Office of the Public Defender
APPOINTMENT TIMES:	Appointed automatically at filing of petition; appointment continues until court intervention ends
TRAINING:	Required basic training for all Law Guardians; number of hours not specified
COMPENSATION:	Annual salary range: \$30,000 to \$62,000
CHILDREN SERVED:	100 percent of all abused/neglected children statewide (see text for information regarding discrepancy)
IMMUNITY FROM LIABILITY:	Total immunity according to case law
SAMPLED JURISDICTIONS:	11 counties
TOTAL JURISDICTIONS IN STATE:	21 counties

National Study of Guardian *ad Litem* Representation

New Jersey's Statute Title 9:6-8.23 requires the appointment of a "law guardian" for all children before the court in abuse and neglect proceedings. Law Guardians are staff attorneys in the Public Defender's Office, which is a division of the State Office of Public Advocacy. All of the counties use Public Defender's Office Law Guardians; some smaller counties share one Law Guardian. Most Law Guardians have administrative/investigative support. Bergen, Essex, and Morris (not in the sample) all have pilot CASA programs with CASAs acting as "friends of the court," not GALs.

Law Guardians are automatically assigned to a child at the filing of the petition. Every child receives a Law Guardian, but in one county, paperwork from the court may take weeks before reaching the Law Guardian's office and, in some cases, may even be "lost before it reaches the office." The Law Guardian aggressively pursues these cases which the court may ignore. All court appointments continue until court intervention ends, but Law Guardians frequently continue to advocate for their clients outside of court.

One Law Guardian handles all cases in the county and sometimes more. Burlington and Camden share a Law Guardian; Monmouth and Ocean share one; Bergen, Passaic, and Sussex share one; and Hunterdon, Mercer, and Somerset share one. Essex has two Law Guardians. As a result of this, five of the counties reported caseloads over 100 and three Law Guardians—Essex and Bergen/Passaic/Sussex—have caseloads as high as 250. Warren and Somerset have caseloads less than 50. All Law Guardians in the sampled counties are women with more than several years' experience.

These Law Guardians represent only Title 9 (abuse and neglect) cases. Different Law Guardians are assigned in other types of juvenile cases. Title 30 (termination of parental rights) cases get private *pro bono* attorneys, and voluntary foster care placements receive no representation for the child. Both of these practices were criticized by several Law Guardians. All said that the resulting representation in these cases was poor or negligible. It was suggested that the State increase the funding for and expand the statutory role of Law Guardians.

Title 9:6-8.23 states that Law Guardians must "help protect [the child's] interests and to help him express his wishes to the court." Most counties have Law Guardians who interpret this to mean representing the child's desires as well as best interests in court. One Law Guardian, however, cited recent New Jersey Supreme Court Rule 5:8 § A, which defines Law Guardian as "attorney" for the child and makes the distinction between Law Guardian and GAL. The issue was brought to the New Jersey Supreme Court because attorney-client confidentiality (when the client is a child) was being questioned. GALs are rarely appointed in addition to Law Guardians, although statute (§ 9:6-8.23) allows for additional representation. Most of the sampled counties reported that Law Guardians take an aggressive role in the representation of their clients.

Law Guardians receive annual salaries in the range of \$30,000 to \$62,000, which is equal to other Public Defenders. Public monies provide funding. However, respondents in several counties reported that the Law Guardian Program is not a priority and, at the local level, does not receive its fair share of funds, staff, office space, or administrative support.

All Law Guardians receive statewide basic training in abuse and neglect issues and the advocacy and representation of children in court. The number of hours required is not specified, but

State Summaries of GAL Representation

training must take place before first appointment. Ongoing training also is required. Again, hours and topics are not specified, but many counties reported that Law Guardians want as much issue-specific training as possible.

According to the State-level and five county-level discussions, Law Guardians have total immunity from liability according to statute. The remaining counties believed that Law Guardians had only good faith immunity or that immunity was established by case law.* As public employees, all Law Guardians are insured by the State.

Respondents in most of the counties sampled said that abused and neglected children in New Jersey receive very good legal representation because of the commitment of their Law Guardians, despite frustrations resulting from poor funding, high caseloads, and lack of support.

SAMPLED JURISDICTIONS AND CASELOADS

<i>Number of Cases per Year</i>			
Bergen	30	Monmouth	55
Burlington	500	Passaic	40
Essex	200	Somerset	11
Hunterdon	NA	Union	NA
Mercer	NA	Warren	25
Middlesex	NA	NA = not available	

*A 1989 Superior Court decision (*Delbridge v. Office of Public Defender*) granted absolute immunity to Law Guardians because they act as officers of the court.

NEW MEXICO

REQUIREMENTS:	GAL shall be appointed in all abuse and neglect cases
AUTHORITY:	N.M. Children's Court Rules and Forms, Rule 10-305(d) N.M. STAT. ANN. § 32-1-27(K)(L)
PROGRAM MODELS:	Private attorneys: all sampled counties; assisted by CASAs in four counties Staff Attorneys: San Juan, Doña Ana
APPOINTMENT TIMES:	Appointment must be made no later than the filing of the petition by Rule 10-305(D). Appointment ends when case is closed or court intervention ends.
TRAINING:	Set locally
COMPENSATION:	State Supreme Court guidelines are \$500 through initial disposition, \$50 per hearing thereafter; considerable variations locally, however
CHILDREN SERVED:	100 percent in sampled counties
IMMUNITY FROM LIABILITY:	Not resolved
SAMPLED JURISDICTIONS:	11 counties
TOTAL JURISDICTIONS IN STATE:	33 counties

New Mexico court rules require a GAL to be appointed in all child abuse and neglect cases. Private attorneys provide representation to all children in sampled counties with the exception of Doña Ana County, where public defenders and Legal Aid attorneys represent about 10 percent of cases, and in San Juan County where Legal Aid attorneys take about 5 percent of cases. A group of private attorneys in Bernalillo County practicing under the name Advocacy, Inc., take a small number of cases under contract to the county. The court assigns CASA volunteers in Bernalillo, Chaves, Roosevelt, and Santa Fe Counties to provide special services for the court such as case investigation and monitoring. About one third to one half of cases in these counties are assigned CASAs, who are not GALs. Attorneys in Doña Ana, Grant, and San Juan Counties have administrative support. Luna and Quay Counties, which have few cases, have no support.

All counties reported that 100 percent of abuse and neglect cases were assigned GALs in 1989. According to court rules, an attorney must be assigned prior to the time the petition is filed, and all counties complied with this requirement. Appointment ends when the case is closed or when court intervention ends. The presiding judge makes the appointment in all sampled counties. In the counties with CASA programs, the judge can also assign a CASA at any time to provide the court with information or to monitor the case. Assignment of CASAs is limited by availability of volunteers. The judge may dismiss them at any time.

New Mexico law also allows GALs to be assigned at judicial discretion to other cases involving children, and all counties sampled except Sierra made such assignments. These cases included delinquency, criminal abuse, custody and visitation, and voluntary foster care. In all counties sampled except Chaves and Grant, the court uses the same pool of attorneys to appoint as GALs in these other cases. Seven counties reported that a child may be appointed representation in addition to the GAL if requested, but this rarely occurred.

There are no written descriptions of GAL roles and responsibilities, and State law and court rules imply only that the GAL should represent the child's interests. In cases where the child disagrees with the GAL, all counties except Doña Ana reported that the GAL should inform the court of the child's wishes in addition to the GAL's assessment of best interests. Doña Ana County believed that the GAL should advocate only for the child's best interests. GALs represent all children in a family and are expected to facilitate coordination among parties. In Bernalillo and Doña Ana Counties, GALs are expected to take a lead role in coordination.

The State Supreme Court has established guidelines for compensation of GAL attorneys that specify \$100/hour for the first 4 hours and \$25/hour thereafter. GALs may bill up to \$500 through the initial disproportional hearing and up to \$50 for each subsequent review. Of the counties sampled, only Grant and San Juan followed these guidelines. Compensation varied considerably in the other counties sampled. Luna and Santa Fe Counties provide a maximum of \$500/case; Roosevelt County pays \$35/hour to a ceiling of \$750; Doña Ana County pays only \$75/case. Attorneys in Chaves County work under contract to the county and receive a fixed fee per case, as do Legal Aid and the Public Defender's Office in Doña Ana County. Respondents in these counties did not know the amount paid. In Chaves, San Juan, and Sierra Counties, GALs are paid comparably to attorneys performing indigent defense work. However, in the other counties, GAL pay was lower than pay for other comparable work.

State Summaries of GAL Representation

In all counties, the court will compensate at least some expenses to the GAL; however, Chaves, Doña Ana, and Roosevelt Counties require prior court approval. De Baca and Quay Counties will pay only for expert witnesses, to a maximum of \$750.

There are no training requirements for GALs in New Mexico. CASA volunteers are trained by their local programs. Some attorneys in Chaves County voluntarily take the CASA training; in Bernalillo County, many GAL attorneys take training offered by Advocacy, Inc. There are no requirements for experience or law specialty for GAL attorneys.

Caseloads vary widely among the State. At the time of the study, Santa Fe had only two attorneys handling all abuse and neglect cases. They had a caseload of 125. Chaves County attorneys also had high caseloads of about 100. Attorneys in other counties had more manageable caseloads of 15 to 20 in Bernalillo, 9 in De Baca and Quay, and 5 in Sierra. The remaining counties had caseloads of 1 to 4.

The typical GAL attorney in New Mexico is a white male in solo practice or a small law firm who does not specialize in juvenile or family law. Attorneys are of varying ages, although Santa Fe, Bernalillo and Sierra Counties reported their GAL attorneys tended to be older. These counties, along with Chaves and Doña Ana, also reporting having an equal split of male and female attorneys. Bernalillo and Chaves were the only counties who had a large number of minority attorneys. Bernalillo, Luna and Santa Fe reported having difficulty recruiting and retaining attorneys which they attributed to the low compensation.

There was confusion regarding immunity of GALs from liability. In three counties, respondents claimed GALs had total or good faith immunity by statute or case law, although none could provide a specific reference. In other counties, respondents either did not know the status of GAL immunity or claimed there was none. In Chaves and Doña Ana Counties, contract attorneys are protected from liability by the state. All other attorneys had only their own malpractice insurance.

The GALs in Bernalillo are informally monitored by the court and their performance is reviewed every 60 to 90 days by Advocacy, Inc. In the remaining counties, GAL performance is reviewed only informally by the court. The majority of respondents believed New Mexico's GAL representation could be improved by increasing compensation, developing specific training requirements for attorneys and providing concrete guidelines on GAL role and responsibilities.

SAMPLED JURISDICTIONS AND CASELOADS

<i>Number of Petitions in 1989</i>			
Bernalillo	186	Quay	30
Chaves	100	Roosevelt	75
De Baca	10	San Juan	46
Doña Ana	116	Santa Fe	260
Grant	37	Sierra	5
Luna	20		

NEW YORK

REQUIREMENTS:	“Law Guardian” appointment mandatory in abuse and neglect cases. Law Guardian must be an attorney.
AUTHORITY:	N.Y. FAM. CT. ACT § 249
PROGRAM MODELS:	Private attorneys: all jurisdictions except large cities Staff attorneys (Legal Aid): New York City, Erie
APPOINTMENT TIMES:	Appointed automatically at the filing of petition; appointment continues through review until relieved by the court
TRAINING:	Required by the four judicial departments of New York State; number of hours not specified.
COMPENSATION:	Private attorneys: \$40/hour in-court; \$25/hour out-of-court statewide Maximum: \$800, set by the State Staff attorneys: \$23,000 to \$48,000/year
CHILDREN SERVED:	100 percent of abused/neglected children statewide
IMMUNITY FROM LIABILITY:	Not statutory. Case law unclear.
SAMPLED JURISDICTIONS:	7 counties and New York City
TOTAL JURISDICTIONS IN STATE:	57 counties and New York City (5 counties)

National Study of Guardian *ad Litem* Representation

New York's Family Court Act Part 4 § 249 mandates that a "Law Guardian" must be appointed in all Article 10 (Child Protective) proceedings. Law Guardians are attorneys used specifically to represent children in cases of abuse and neglect, delinquency, and "person-in-need-of-supervision." GALs may be appointed in other types of cases, but they do not provide legal representation. CASAs are used as "friends of the court" in some jurisdictions (e.g., Ulster), but they do not act as GALs. Erie County's CASA program is "on hold" due to lack of funds.

Law Guardians are private attorneys approved by County Law Guardian Panels supervised by Law Guardian programs in each of the four judicial departments of New York. In the larger cities of Buffalo (Erie County) and New York, the Office of Court Administration has contracted Legal Aid Society to provide Law Guardian representation. One hundred percent of all children statewide receive a Law Guardian.

Private attorneys have no local administrative or social work support but can obtain social work services paid by the court and can rely on the Law Guardians Backup Center in Albany to provide legal or other issues-specific resources regarding Law Guardian representation. The Legal Aid Society of New York City assigns Law Guardians from its Juvenile Rights Division which does provide administrative and social work support. CASAs are court-appointed in only a few counties to provide investigation or assistance in a case, not as direct support for Law Guardians. Only some counties have Law Guardian committees to advise attorneys on issues of representation.

An assignment of a Law Guardian occurs immediately at filing because appointment is mandatory by statute. Cases are referred by the court clerk, and the judge appoints a Law Guardian to represent the child until the court orders otherwise. Per § 1120, attorneys remain as Law Guardians through appeal until the court relieves them of this duty, generally after court intervention ends. The court may appoint additional representation, but this occurs very rarely.

State Statute § 241 offers Law Guardians only a broad outline of their duties. The New York State Bar Association's Committee on Juvenile Justice published a report in 1988 which further described the standards, duties, and guidelines of Law Guardians and which stated that "law guardians' primary statutory function is to articulate the wishes and protect the interests of the child." This recommendation appeared to be followed by all of the "up-State" counties sampled, with Law Guardians representing in court both the child's desires and what the Law Guardian believes is in the child's best interests. In the "down-State" area (Long Island, New York City, and suburbs), however, Law Guardians feel strongly that they are the child's legal counsel and exist to express the child's perceived interests and desires to the court. This view is contained in written resources and recommendations provided to Legal Aid Law Guardians by its Juvenile Rights Division. The State's statutes are not specific concerning the "standard of representation," so the debate in New York State continues.

Appellate Court Panel Law Guardians are private attorneys who receive payment at the end of their appointment. The fees are set and paid by the State at \$40/in-court hour and \$25/out-of-court hour, to a maximum of \$800 per case. Most counties reported that judges frequently approve fees above the maximum because they believe that the fees are too low and that these cases require more time. Case-related expenses are reimbursed, and all compensation is equivalent to other indigent

State Summaries of GAL Representation

defense work. Legal Aid Law Guardians receive annual salaries set by the Legal Aid Societies which have a contract with the State to provide indigent representation in certain areas. Erie County Legal Aid reported an annual salary range of \$23,000 to \$48,000.

Training of Law Guardians is not required by the State, but each judicial department has the authority to require training before an attorney is certified by the Appellate Court Panel. All counties sampled require training in basic laws and issues concerning abuse and neglect. The number of hours required is not specified. Initial and ongoing training is provided by the State and county courts and by the judicial departments. The Legal Aid Society requires basic and ongoing training of its own staff and offers training in abuse and neglect issues, medical and expert witnesses, and sexual abuse. In all cases, training must be completed before first appointment.

Caseloads vary depending on the model used. Genesee, Ulster, and Wyoming each use fewer than 10 private attorneys, who handle an average of 10 cases each. Chautauqua and Dutchess Counties have 28 and 40 private attorneys, respectively, handling 5 to 10 cases each. Erie County Legal Aid has 7 attorneys who handled about 1,000 cases last year, with an average of 100 each; in New York City (in 1987) 97 Legal Aid attorneys represented over 16,000 abused and neglected children averaging 150 each. Although no counties reported any problems recruiting or retaining Law Guardians, several suggested raising attorney's fees. Throughout the State, most attorneys performing Law Guardian work are primarily younger, white males in solo or small practices, both family law specialists and others. This is different, however, in New York City which has a higher proportion of female and minority attorneys.

The Law Guardian program is administered by the State Office of Court Administration and the State Court's four judicial departments. The State budgets \$2 million for each department for abuse and neglect representation by the Law Guardian Program. Each county court maintains its own list of panel-approved private attorneys. In New York City and Buffalo, the State has contracted Legal Aid, an independent organization, to provide Law Guardian representation.

The liability of Law Guardians remains unclear to most local courts and attorneys. There is no statutory immunity from liability for Law Guardians, and the case law is unclear. Most respondents at the State and local levels were unsure regarding this issue.

The staff attorneys of Legal Aid are monitored and supervised. Private attorney Law Guardians, however, are not monitored directly, and many respondents suggested that this should change in order to improve children's representation.

SAMPLED JURISDICTIONS AND CASELOADS

<i>Number of Petitions</i>			
1989			
Cayuga	est. 20	Genessee	89
Chautauqua	140	Ulster	est. 80
Dutchess	377	Wyoming	19
Erie	938		
1987			
New York City	est. 16,000		

NORTH CAROLINA

REQUIREMENTS:	GAL appointment mandatory in abuse and neglect cases. If a non-attorney GAL is appointed, an attorney shall also be appointed.
AUTHORITY:	N.C. GEN. STAT. § 7A-586 (1983)
PROGRAM MODELS:	Attorney advocate/volunteer team all jurisdictions except Edgecombe: attorney advocate or volunteer
APPOINTMENT TIMES:	State set: at filing of initial petition; ends when court intervention ends or when child is permanently placed.
TRAINING:	State set: 16 hours initially for volunteers; unspecified for attorney advocates
COMPENSATION:	State set: all jurisdictions except Mecklenburg \$40/hour spent in and out of court Mecklenburg: \$32,000 to \$40,000/year on contract
CHILDREN SERVED:	100 percent of abuse and neglect petitions filed
IMMUNITY FROM LIABILITY:	Partial/good faith by statute
SAMPLED JURISDICTIONS:	11 counties
TOTAL JURISDICTIONS IN STATE:	100 counties

National Study of Guardian *ad Litem* Representation

North Carolina has a statewide GAL program. It has 55 coordinators throughout the State, overseen by the State GAL Services Administrator. The budget, from State funds, for Fiscal Year 1990-1991 is \$2 million. North Carolina mandates in every abuse and neglect case that an attorney *and* a volunteer must be appointed. However, volunteers may not be appointed if unavailable. Usually two attorney advocates are contracted in each county to take all abuse and neglect cases. Edgecombe County is the only one sampled in which an attorney *or* a volunteer is appointed.

Avery, Buncombe, Durham, Jackson, and Richmond Counties have volunteers assigned to 100 percent of the abuse and neglect cases petitioned. Bertie, Caldwell, Edgecombe, Hertford, and Mecklenburg provide volunteers on 20 to 90 percent of the cases petitioned. Yancey County has no volunteers. Avery, Edgecombe, and Mecklenburg attorney advocates receive social work support. Mecklenburg County also provides administrative support.

In the counties sampled, 100 percent of children alleged abused or neglected receive GAL representation. The judge or the program coordinator is responsible for the actual appointment. Often the judge appoints the coordinator, who may also be the attorney advocate who, in turn, appoints the volunteers. In counties where there is more than one attorney advocate, the judge decides who will receive the case.

The GAL appointment is State mandated to occur at the filing of the initial petition. Attorney advocates always are appointed at this time. Local variations regarding volunteer appointments exist in Avery, Bertie, Edgecombe, and Hertford. Avery County volunteers are appointed at the court's discretion, while in the other counties, the assignment is made as soon as the program receives the petition or a volunteer is available. All GAL appointments end when court intervention ends or when the child is permanently placed.

Bertie, Buncombe, Hertford, and Jackson Counties do not appoint GALs in any other type of case involving children. Mecklenburg County will appoint representation in all juvenile cases but may use attorneys and volunteers other than those assigned in abuse and neglect cases. Other types of cases that may receive GAL representation include criminal abuse (Caldwell), custody (Avery, Caldwell, Durham, Edgecombe, Richmond, Yancey), delinquency (Caldwell, Mecklenburg), voluntary foster care (Caldwell), and termination of parental rights (Edgecombe, Mecklenburg, Richmond). Durham County uses public defense attorneys in the other cases. All other counties sampled will use the same attorney advocates and volunteers.

Respondents in three counties stated that a child may receive representation in addition to the GAL in an abuse and neglect case. Durham and Mecklenburg Counties provide additional counsel if the minor is a parent. Edgecombe has no specific policy in this regard, and it has not yet happened.

The duties of the GAL, as outlined in North Carolina General Statutes § 7A-586 (1983), include conducting independent investigations to determine facts of the cases, the needs of the juvenile, and available resources; facilitating settlement of issues; presenting options to the judge; and promoting the best interests of the juvenile. Respondents in all counties sampled agreed that the attorney advocate generally is responsible for investigations and legal representation and should meet with the child. The volunteer generally is responsible for meeting with the child, conducting

State Summaries of GAL Representation

investigations, monitoring the case, ensuring compliance with court orders, and making recommendations/reports to the court. Respondents in nine counties stated that the GAL team reports both the child's wishes and the best interests of the child to the judge when the two do not concur. In Bertie and Hertford Counties, such disagreements have not been an issue.

In Avery and Yancey Counties, each child is considered a separate case and appointed separate GALs. In all the other counties, one GAL team generally represents all children involved in a particular case.

The role of attorney advocates in coordination is not clearly defined and depends upon the attorney involved. In most counties, the volunteers are involved; in Durham, volunteers take a lead role in coordination.

The State has set attorney compensation at \$40/hour for time spent in and out of court. All Mecklenburg attorney advocates are staff members of the Children's Law Center, a private, nonprofit organization. These attorneys receive annual salaries between \$32,000 and \$40,000 on contract. Most attorney advocates bill the State monthly. Mecklenburg is the only county in which attorney advocates receive payment comparable to that received by other indigent defense attorneys because the Law Center receives grants and funds from other sources in addition to State funds. Attorney advocates elsewhere receive less. Buncombe and Mecklenburg are the only two counties that do not reimburse attorneys for expenses. Respondents in several other counties stated that reimbursement is possible but not requested by attorneys or volunteers.

State training requirements for both attorney advocates and volunteers cover laws, regulations, investigation, family dynamics, child abuse, advocacy, roles, courtroom responsibilities, monitoring, interviews, dealing with children, disagreements with children, recommendations, interactions with social services, parents and foster parents, and local community resources. Volunteers must attend 16 hours of training plus 3 hours of courtroom observation. The length of training for attorneys is unspecified. State ongoing training requirements for volunteers include local inservice meetings as well as an annual statewide conference. Attorneys must attend annual continuing legal education conferences. The State GAL program provides the initial training. Mecklenburg has local training requirements for Children Law Center attorneys. The topics covered include areas similar to those required by the State as well as other case-related topics. There are no requirements regarding prior experience for either attorney or volunteer GALs.

Attorney advocates' caseloads are either less than 13 cases each or between 55 and 100 cases each, depending on the population density of the given area. Only Mecklenburg County (with five staff attorneys) has more than two attorneys; they represent all of the abuse and neglect, delinquency, undisciplined, and hospitalized children in the county. Volunteer caseloads average about three cases per GAL, except in Avery and Mecklenburg, where some volunteers handle an average of six cases.

Respondents in Bertie, Buncombe, Hertford, Mecklenburg, and Richmond cited the number of volunteer GALs available as a problem. Problems in retaining and recruiting GALs result from distance from State training (Bertie, Hertford); difficulty with getting a 1-year commitment (Bertie, Hertford, Richmond); lack of cooperation with State concerning funding issues (Buncombe); and not

National Study of Guardian *ad Litem* Representation

having enough cases to justify a volunteer program (Avery, Yancey). Caldwell and Durham reported no problems retaining or recruiting GALs.

There is an equal mix of older and younger attorneys serving as GALs. Respondents in Bertie and Durham reported mostly female attorneys; Buncombe and Mecklenburg have both male and female. The remaining seven counties have mostly male attorneys. Most attorney advocates are white. While a few come from larger firms, most are solo practitioners or from small firms. All attorney advocates practice in different areas of the law except in Mecklenburg.

Mecklenburg's Children's Law Center is the only independent GAL program supplying attorney advocates. The Center is funded primarily by the State contract; approximately 20 percent of its funds come from private donations and grants. The current annual budget is \$400,000.

According to the administrative office of GAL services, partial/good faith immunity is offered by statute to GAL attorneys and volunteers. The Children's Law Center in Mecklenburg provides insurance for staff attorneys. Attorney advocates elsewhere must provide their own malpractice insurance. Local GAL program coordinators monitor and evaluate the GAL teams. Whether formal evaluations are conducted annually or monthly depends on the county.

SAMPLED JURISDICTION AND CASELOADS

<i>Number of Petitions in 1989</i>			
Avery	6	Hertford	4
Bertie	1	Jackson	11
Buncombe	84	Mecklenburg	500
Caldwell	25	Richmond	7
Durham	61	Yancey	3
Edgecombe	78		

NORTH DAKOTA

REQUIREMENTS:	GAL appointment mandatory in all judicial proceedings involving abuse and neglect
AUTHORITY:	N.D. CENT. CODE § 50-25.1-08 (1988)
PROGRAM MODELS:	Contracted private attorneys: 15 of 19 counties sampled Public Defender: Cass County Nonattorney GAL: Eddy, Stark, and Stutsman CASA: Cavalier, Grand Forks, McHenry, Nelson, Pembina, Pierce, Ramsey, Towner, and Walsh
APPOINTMENT TIMES:	Made at filing of initial petition; lasts until court intervention ends
TRAINING:	Set locally: CASA, 12 hours
COMPENSATION:	Set locally: \$45/hour in court; \$45/hour out of court Attorney GALs: \$15/hour in court; \$15/hour out of court Nonattorney GALs: \$10/hour: CASA volunteers Maximum \$200/case: Grand Forks, Pembina, Ramsey, Pierce, Cavalier, McHenry, Nelson, Towner, Walsh
CHILDREN SERVED:	100 percent of abused and neglected children
IMMUNITY FROM LIABILITY:	Total immunity by local policy: Eddy, Stark, Stutsman. None elsewhere.
SAMPLED JURISDICTIONS::	19 counties
TOTAL JURISDICTIONS IN STATE:	53 counties

National Study of Guardian *ad Litem* Representation

Fifteen of the 19 counties in North Dakota use private attorneys as GALs. Cass County relegates all abuse and neglect cases to the Public Defender's Office. Eddy, Stark, and Stutsman Counties hire non-attorney laypersons to act as GALs. Cavalier, Grand Forks, McHenry, Nelson, Pembina, Pierce, Ramsey, Towner, and Walsh Counties, all in the northeast section of North Dakota, share rotating judges and 10 GAL attorneys. Because the court system and policies are identical in all nine counties for this summary they will be referred to as the northeast (N.E.) section. Twenty percent of the abuse and neglect petitions in this section are handled by unassisted CASAs. The N.E. section courts provide social work support to the GALs. Cass County also provides social work support.

The decision to appoint a GAL is mandated by the State. The judge or clerk of the court usually makes the actual appointment. In the N.E. section, the juvenile court supervisor is responsible for the appointment. In Sheridan and Kidder the court referee is responsible for this. All appointments are made at the filing of the initial petition and last until court intervention ends. There are no written local requirements concerning these times.

Kidder, McLean, and Stark Counties do not appoint GALs to any type of case other than civil abuse and neglect. Almost all other counties appoint GALs in custody and delinquency cases. Sheridan County also utilizes GALs in other criminal cases involving children and cases involving children in need of supervision. All counties use the same GALs in the other cases as they do in abuse and neglect cases.

Four counties allow other representation besides the GAL in abuse and neglect proceedings. In Kidder and McLean Counties, it is up to the judge and, as of yet, it has not been necessary. Stark County, which uses hired nonattorney laypersons, also appoints an attorney when requested by the GAL. Sheridan has appointed extra counsel in cases involving concurrent criminal proceedings.

The N.E. section has written descriptions of the role of the GAL. For attorneys, this is included in their contracts. CASA volunteer GALs are given the descriptions during training. Responsibilities of both groups include investigating, visiting the child, providing legal representation, monitoring the case, ensuring compliance with court orders, and making recommendations/reports to the court. CASA also is charged with meeting the child's needs. Eddy, Stark, and Stutsman Counties use a job description to list the responsibilities of the hired GALs. These responsibilities are the same as those of the CASA volunteers.

In Kidder, McLean, Sheridan, and Stark Counties, the GAL represents the best interests of the child. Elsewhere the GALs present to the judge both perceived best interests and the child's wishes. Generally one GAL represents all the children involved in a particular case except when conflict of interest exists between the children.

The hired nonattorney GALs in Eddy, Stutsman, and Stark Counties were reported to take a lead role in coordination of all parties involved. All other counties sampled had no clear policy regarding this issue.

Attorneys are paid \$45/hour for time both in and out of court. Although all compensation is set locally by the judge or county, this rate is uniform except in Cass and Sheridan Counties. Cass

State Summaries of GAL Representation

County pays the Public Defender's annual salary of \$25,000. There is no breakdown indicating what proportion of these funds go to GAL work. Sheridan County has contracted with four legal firms to accept all abuse and neglect cases at \$1,300 per month per firm. The N.E. section has set a maximum rate of \$200/case. Eddy, Stark, and Stutsman pay the nonattorney GALs \$15/hour. The CASA volunteers in the N.E. section are paid \$10/hour. With the exception of the nonattorney GALs, the pay rates are equal to those for all other indigent criminal defense work.

Expenses for services such as expert witnesses or testing are covered by Health and Human Services. Minor expenses, such as mileage and phone, are not covered for attorney GALs. Eddy, Stark, and Stutsman reimburse GALs for phone, travel, meals, copies, etc.

The only GAL model with training requirements is the CASA program in the N.E. section. This program is a part of the court system, overseen by the juvenile court supervisor. Topics covered in the training include laws and regulations, investigation, family dynamics, child abuse, general advocacy issues, GAL role, courtroom responsibilities, case monitoring, interview procedures, dealing with children, and working recommendations. Training lasts 12 hours, and CASAs must be trained before accepting any GAL appointment. Training is provided primarily by local law school students. Ongoing training requirements include monthly seminars on varied topics.

Eddy, Stark, and Stutsman Counties are the only ones requiring GALs to have prior experience. Both past work with children and a college degree are required. Work experience as an educator or a social worker is a plus.

The average caseload per GAL is two cases at any given time. Cass County has a significantly higher average of 50 cases per attorney. No problems were reported concerning retaining or recruiting GALs. Most attorney GALs are fairly young, white men from solo practices or small firms, practicing in various areas of law.

The only GAL program independent from the courts is the Public Defender's Office in Cass County. Its budget comes from county funds; no breakdown was available. The senior Public Defender monitors and evaluates his staff of four attorneys and one part-time support staff member. In the N.E. section, the Juvenile Court supervisor is responsible for monitoring both attorney GALs and CASAs. The judge in Stark County formally oversees the hired GALs.

There is no immunity from liability for attorney GALs or CASAs. Attorneys are expected to provide their own insurance. Local policy gives total immunity to hired nonattorney GALs in Eddy, Stark, and Stutsman Counties.

SAMPLED JURISDICTIONS AND CASELOADS

<i>Number of Petitions in 1989</i>			
Cass	426	Oliver	10
Cavalier	4	Pembina	4
Eddy	25	Pierce	4
Grand Forks	4	Ramsey	4
Kidder	20	Sheridan	80
McHenry	4	Stark	20
McLean	20	Stutsman	50
Mercer	10	Towner	4
Morton	5	Walsh	4
Nelson	4		

OHIO

REQUIREMENTS:	Requires GAL for any proceeding involving abuse or neglect. Legal counsel must be provided for a child not represented by a parent, guardian, or custodian.
AUTHORITY:	OHIO REV. CODE ANN. § 2151.281(B)(1) (1989) OHIO REV. CODE ANN. § 2151.352 (1989)
PROGRAM MODELS:	CASA: Ashland, Hamilton, and Summit Private attorney: eight counties Social worker: Hamilton
APPOINTMENT TIMES:	§ 2151.281 mandates appointment "as soon as possible" after filing; CASAs can be appointed at any time. Attorneys are appointed at initial petition or removal hearing. Social workers can be appointed at any time. Appointment ends when court intervention ends or when the referring agency closes the case.
TRAINING:	CASAs: 12 to 24 hours required by local programs Private attorneys: set locally; train 0 to 8 hours in counties sampled Social workers: set locally; must attend monthly seminar
COMPENSATION:	Set locally; \$15 to \$50/hour for attorneys. No payments to CASAs.
CHILDREN SERVED:	60 percent to 100 percent in counties sampled
IMMUNITY FROM LIABILITY:	Recent changes in § 2151.421(a) grant limited immunity to GALs; not known to local respondents
SAMPLED JURISDICTIONS:	9 counties
TOTAL JURISDICTIONS IN STATE:	88 counties

National Study of Guardian *ad Litem* Representation

The State of Ohio requires a guardian for all children in any proceeding involving abuse and neglect. Legal counsel is required for all children if a parent, custodian, or guardian is not representing them. All counties in Ohio are striving to fulfill this requirement, but there is not yet 100 percent compliance. Ohio has three CASA counties among sampled jurisdictions: Ashland, Hamilton, and Summit. Hamilton is the only county that uses social workers in overflow cases. The remaining counties sampled use private attorneys for representation. Almost without exception, social work reports were available for reference, but few GALs used them.

Over 97 percent of children were represented in the counties sampled. In Ashland County, where attorneys and CASAs are used, approximately 60 percent of children are represented because, the respondent indicated, the judge did not feel that all cases were severe enough to warrant a GAL. The more severe abuse cases are assigned to attorneys, with the attorney role described as that of a protector. In Marion County, where representation is estimated at 80 percent, the judge appoints GALs only in what he considers the worst abuse cases.

In all counties sampled, the judge decides to appoint a guardian to the case, and the judge, his clerk, or the CASA program director decides whom to appoint. In Hamilton County, the CASA gets the worst abuse cases; in Ashland County, the CASAs get the least severe cases. Appointment times of CASAs vary greatly. In all counties, the CASA can be appointed at any time in the process. This is also true of the county with social work representation. Attorneys are appointed either at the initial petition or prior to the removal hearing. Statute requires that appointment be made "as soon as possible" after filing. In Marion County, the judge can appoint at any time in the process. The appointment ends either when court intervention ends or when the referring agency closes the case.

Guardians are assigned to a variety of cases other than abuse and neglect. These include delinquency, divorce/custody, criminal charges against the child, and foster care cases. All attorneys, social workers, and CASAs are available for these cases.

The duties of all guardians are the same throughout the sampled jurisdictions. Respondents in most counties said that in the case of a disagreement between child and guardian, the best interests of the child would be presented to the court. In two attorney counties, Hamilton and Licking, both sides would be presented to the judge.

Attorneys are compensated in all counties where they are used. In Geauga County, they often do not bill the usual \$45/hour up to \$450. Other counties pay from \$15 to \$50/hour. The standard pay is \$40 to \$50/hour, but the out-of-court hourly wage in Hamilton is \$15; in-court, \$30. The attorneys must attend monthly seminars. They consider their payment very low compared to other attorney fees. A large number of judges sampled considered attorney commitment substandard and uninspired.

Private attorneys are required to have training only in Geauga County; this training lasts 8 hours. CASAs train for 12 hours in Summit County and for an unspecified time in Ashland County. Hamilton County CASAs must attend monthly seminars, but there are no formal training procedures. In all counties sampled that require training, the training must be completed prior to appointment. The Ohio Department of Human Services is required to conduct the training.

State Summaries of GAL Representation

CASA caseloads range from 1 to 2 cases, with an average of 1.7. Private attorneys' caseloads range from 1 to 10, with an average of 3.2. Social workers' average caseload is 40.

No recruitment or retention problems were mentioned for CASAs. Responses from the private attorney counties varied. Several respondents noted low pay, especially for older attorneys, as a problem. Respondents in other counties stated that there were attorneys on their waiting lists.

Most Ohio attorneys involved in GAL work have courtroom experience. These attorneys are both young and middle-aged, but they are overwhelmingly male, white, and from small firms.

The three CASA programs are independent from the court. Ashland County relies on donations or grants for funding and currently has 10 volunteers. Summit County's 90 CASAs work from a \$65,000 budget of county funds, grants, and donations. The Hamilton County CASA program has 100 people, a 3-person staff, and a budget of \$120,000 from public funds, grants, and donations.

Section 2151.421 grants limited immunity to GALs, however, county-level respondents were unaware of this.

All CASA programs have monitoring of volunteers, but no attorney counties formally monitor the attorneys' work. Many judges said that they would avoid reappointing anyone who did a poor job.

SAMPLED JURISDICTIONS AND CASELOADS

<i>Number of Cases in 1989</i>			
Allen	67	Marion	102
Ashland	13	Scioto	100
Geauga	25	Summit	100
Hamilton	500	Van Wert	12
Licking	55		

OKLAHOMA

REQUIREMENTS:	Mandatory appointment of attorney in all abuse and neglect cases, only if child is not otherwise represented by counsel. GAL/CASA may also be appointed.
AUTHORITY:	OKLA. STAT. ANN. tit. 10 § 1109; tit. 21 § 846
PROGRAM MODELS:	Private attorneys: all jurisdictions Staff attorneys: 90 to 95 percent of Tulsa and Oklahoma cases CASA: Tulsa, Oklahoma, Comanche, and Cleveland Counties
APPOINTMENT TIMES:	Attorneys appointed at filing or first hearing or prior to adjudicatory hearing. Appointment lasts until court intervention ends. CASAs appointed at any time.
TRAINING:	Attorneys: none CASA: 18 to 37 hours required in counties sampled
COMPENSATION:	Private attorneys: at judge's discretion according to State guidelines. Maximum \$100/case through adjudication. Maximum \$500/case for trial. Staff attorneys: Public Defenders' annual salary \$28,000 to \$40,000.
CHILDREN SERVED:	100 percent of all children in sampled counties
IMMUNITY FROM LIABILITY:	Attorneys: none CASA: total immunity according to Title 10 § 1109(D)
SAMPLED JURISDICTIONS:	13 counties
TOTAL JURISDICTIONS IN STATE:	77 counties

National Study of Guardian *ad Litem* Representation

Attorneys are appointed for all children in abuse and neglect proceedings in Oklahoma according to Statutes Annotated Title 10 § 1109 and Title 21 § 846. Section 846 mandates appointment for all abused children; § 1109 mandates appointment in “deprived” (neglected) cases only if the child is otherwise unrepresented by counsel, such as by a private attorney retained by the parents for the child. Despite this limitation, all 13 sampled counties reported that attorneys are appointed in all abuse and neglect cases. Statute allows for the additional appointment of a GAL or CASA.

All but the two largest counties appoint private attorneys in 100 percent of abuse and neglect cases. Oklahoma and Tulsa use their Public Defender Offices to represent 90 to 95 percent of the cases, with the remainder referred to private attorneys when there is a conflict of interest. There are 13 independent CASA programs in the State which provide additional representation in 15 counties. Sampled counties with CASAs were Cleveland, Comanche, Oklahoma, and Tulsa which appoint CASAs in addition to attorneys in 60 percent, 50 percent, 10 percent, and 75 percent of their cases, respectively. CASA staff added that the CASA programs in the nonsampled rural counties are even more active, representing higher percentages of cases. In sampled counties CASAs are not GALs but report to the court.

Attorneys are appointed by the judge at the filing of the petition or at the first hearing. They are then assigned to a case by the judge, the judge’s clerk, or the Public Defender’s Office sometime before the adjudicatory hearing. Attorneys are assigned from lists on basis of availability. Additional representation may be appointed and is, in fact, mandated by § 1109 if the child or the child’s attorney requests it. All appointments continue until court intervention ends. CASAs may be appointed additionally at any time. CASAs are appointed to cases at judges’ discretion. Generally, cases requiring close monitoring of children in care will have a CASA appointed. Most counties also appoint attorneys for children in delinquency, custody, criminal, and Child in Need of Supervision cases (CHINS). The same private or staff attorneys handle these cases in addition to abuse and neglect cases. In two counties, however, child victims of crimes are not represented in court and this lack of representation was criticized.

Both private and staff attorneys are appointed as counsel for the child. In the “deprived” cases under Title 10 § 1109, attorneys do not receive any specific description of duties. Title 21 § 846 does mandate that, in abuse cases, the attorney represent the child’s best interests and investigate, interview witnesses, and make recommendations to the court. CASAs are instructed by Title 10 § 1109(D) to advocate for the child’s best interests and assist in obtaining a “permanent, safe, homelike placement.” CASAs across the State advocate “best interests”; however, some minor differences exist among attorneys. In one county attorneys represent the child’s desires, while in most other counties the child’s “best interests” are represented. In three counties both views are presented, in one county another GAL is appointed if there is a conflict between “desires” and “best interests.” In all counties attorneys generally do not take the lead in case coordination. CASAs are more involved outside of the courtroom, while attorneys are more involved in the courtroom.

Salaries in the Public Defender’s Office range from \$28,000 to \$40,000/year. Private attorneys submit vouchers to the court, and fees are set by individual judges based on State guidelines. Private attorneys can receive up to \$100/case through adjudication and up to \$500 if the case goes to

State Summaries of GAL Representation

trial. Fees are equivalent to those received in criminal cases. Expenses generally are reimbursed in all but three counties.

No training or supervision exists for attorneys. CASAs must complete comprehensive training in abuse and neglect as well as court training before their first appointment. The individual CASA programs mandate and provide training. The Oklahoma program requires 18 hours; Cleveland, Comanche, and Tulsa all require 24. Tulsa requires an additional 10 hours of homework and 3 hours of courtroom observation. Ongoing training is also required 4 to 6 times per year. The Tulsa program has a "mentor" program with senior experienced CASAs supervising newer ones.

The more rural counties in the sample all have less than 10 private attorneys (9 have less than 5 each) who represent 1 to 3 cases each. Cleveland has 4 to 5 attorneys handling an average of 20 cases each. Comanche has 150 attorneys available who are used as needed. Ten counties have a mix of experienced and inexperienced, white, male attorneys in private practice. Tulsa and Oklahoma Counties each have only one Public Defender for GAL work, resulting in caseloads over 500. The Cleveland, Comanche, Oklahoma, and Tulsa CASA programs have 50, 25, 27, and 77 volunteers, respectively, who take only 1 to 2 cases at a time. Two counties do not have enough CASAs because of lack of funds and staff available for recruiting.

No formal program exists for private attorney GALs, but staff attorneys are part of the Public Defender's Office which is independent of the courts. Individual CASA programs also are independent of the courts; the exception to this is the Oklahoma CASA, which is part of the juvenile court and receives its funding from it. Funding for the other three programs comes from private donations and grants. The CASA programs are supported by staffs of one to four people and budgets ranging from \$55,000 to \$131,214.

Attorneys are not immune from any liability regarding abuse and neglect representation. Private attorneys are presumed to have individual malpractice insurance. CASAs do have total immunity according to Title 10 § 1109(D).

Child abuse and neglect is a priority at the State and local levels in Oklahoma, resulting in good legislation and a high level of community awareness and involvement.

SAMPLED JURISDICTIONS AND CASELOADS

<i>Number of Petitions in 1989</i>			
Alfalfa	3	Mayes	17
Cleveland	est. 200	Noble	6
Comanche	88	Oklahoma	488
Cotton	2	Tillman	12
Grant	4	Tulsa	124
Jefferson	14	Wagoner	est. 40
Logan	est. 9	STATEWIDE	1,488

OREGON

REQUIREMENTS:	Requires CASA to be appointed; if no CASA is available, may appoint juvenile department employee to represent the child's best interests
AUTHORITY:	OR. REV. STAT. § 417.640(1), (3) (1987)
PROGRAM MODELS:	CASA: Hood River, Josephine, Multnomah, Polk, and Wasco Private attorneys: Jackson, Josephine, Lane, Multnomah, Union, and Wallowa Public Defender: Grant and Multnomah Juvenile Court counselor: Benton
APPOINTMENT TIMES:	Set locally; appointment times vary greatly throughout the State
TRAINING:	Set locally; CASAs train 19 to 30 hours, with ongoing seminars. Attorneys have no training requirements. Counselors must have a master's degree and complete inservice training with another counselor.
COMPENSATION:	Private attorneys: \$35 to \$50/hour Public Defenders: \$28,000/year
CHILDREN SERVED:	0 to 100 percent in sampled counties
IMMUNITY FROM LIABILITY:	Not resolved. Multnomah claims total immunity by Statute.
SAMPLED JURISDICTIONS:	12 counties
TOTAL JURISDICTIONS IN STATE:	36 counties

Oregon uses many different programs to represent children, with few counties having similarities. Oregon Revised Statute (1987) states that a CASA must be appointed to represent children in abuse or neglect cases, and a juvenile department employee may be appointed if no CASA is available. However, no State funds were allocated for the development of CASA programs. Other counties seem unaware that the law exists. Thus, GAL representation is in a state of transition and confusion, and counties employ different approaches to meet the needs of abused and neglected children.

Of the 14 counties sampled, 5 have CASA programs. These counties are Hood River, Josephine, Multnomah, Polk, and Wasco. Six counties use private attorneys. Grant and Multnomah use the Public Defender. Benton County uses a Juvenile Court counselor. Many counties use a combination of people.

The representation rate of counties sampled ranges between 0 and 100 percent. Polk County blames a lack of CASAs for incomplete representation, estimating that 70 percent do get a CASA. Representation is provided to the most serious abuse and neglect cases. Hood River and Wasco have representation rates of 50 to 70 percent, respectively. Both counties cite the lack of CASAs and the relative severity of some cases as reasons for less than total representation. Jackson County has a 90 percent representation rate. In this county, the Children Services Department must request representation; without a request, no GAL will be provided. Union and Wallowa Counties have 35 and 50 percent representation, respectively. Representation is low because the District Attorneys in these counties often think that they can represent both the parent and the child. In Josephine County, which has a 10 percent representation rate, there is representation provided only if the child will be removed from the home. Multnomah County includes the city of Portland and has the largest in population of all counties sampled. Multnomah has an estimated 1,600 petitions annually and a 40 percent representation rate. There is little availability of CASAs, since there have been only 2 years to train CASAs and few trainers due to lack of funds. Baker County has no representation, due to a perceived lack of need. Two petitions were filed last year in this county.

In all counties sampled, the judge decides whether to appoint. The actual appointment is made by the judge, his clerk, a CASA program director, or the Juvenile Court director. In each county that has a CASA program along with other available GALs, the CASA is appointed in the most serious cases. Appointment generally begins at the filing of the initial petition, but this is left to the judge in some smaller counties. When appointment ends also varies. There is a 60-day limit on appointment in Union and Wallowa Counties due to the attorneys being on a contract with the county for all cases, and this time limit is stipulated in the contract. In other areas, appointments end at the end of court intervention, when the judge decides it should end, or when the case is closed by a social service agency. Generally, GALs assigned to abuse and neglect cases are not assigned to other types of cases, simply because the workload is so high, especially in the CASA counties. Occasionally there may be appointment in delinquency if there is suspected abuse in the home.

Most of the duties of the Juvenile Court counselor, the Public Defender, the CASA, and the private attorney are the same. In Josephine County where each case is assigned both a CASA and an attorney, the attorney represents the child's wishes, while the CASA represents the best interests of the child and may go beyond the courtroom work in helping the child. In cases of disagreement with the

State Summaries of GAL Representation

child, the court counselor in Benton County is instructed to represent the best interests of the child. CASAs do the same. The Public Defender may present both the best interests and the wishes of the child, as this person attends only the courtroom representation and is not required to meet with the child extensively or to conduct investigation or followup. Private attorneys can decide whether to present the child's best interests or the child's wishes in cases of conflict.

Payment to all parties involved is as diverse and complicated as the other areas already discussed. The Juvenile Court counselor receives \$26,000/year. The Public Defender staff attorney starts at \$28,000/year. Private attorneys who are paid hourly receive either \$35/hour, with a maximum of \$275; or \$50/hour with no ceiling. Others are paid a case-by-case fee and receive either \$100/case, with a maximum of 60 days of work that is renewable; or a flat fee of \$150/case. There is no compensation to GALs for expert witnesses or testing, but a social service department can arrange for these services. Many attorneys with limits on hours or case amounts stated that their compensation is less than that for other types of legal work.

Private attorneys and the Public Defender attorneys are not required to have training. The Juvenile Court Counselor position requires a master's degree and training in child dynamics, abuse, and advocacy. Additionally, new hires must have State social work experience. All CASAs are required to have some training, ranging 19 to 30 hours. Polk County requires 19 hours and ongoing training. Training covers all general areas of duties and responsibility in the court along with values and cultural differences. Josephine County requires 20 hours of training covering basic roles and responsibilities. The County has no ongoing training. Both Hood River and Wasco require 25 hours of training also covering basic roles and responsibilities. Hood River does not require ongoing training, but Wasco requires attendance at two seminars monthly unless there is a prior conflict. Multnomah County requires the most training, 30 hours. After 18 hours of basic training, CASAs may take cases, but the remaining hours must be completed in 4 months. The training covers the same basic topics as the other counties and emphasizes culture and values. CASAs in Multnomah County also must complete 6 hours of ongoing training annually to maintain their CASA certificates. There is no prior experience required for CASAs or attorneys.

The average caseload of the private attorney is 11, skewed by the high number estimated in Lane County, 35; average caseloads in other counties range from 3 to 8. Lane County has 11 attorneys to cover 500 petitions, making their caseloads up higher than most. Juvenile Court counselors average 15 cases at any one time. The Public Defender's Office attorneys average 8.5 cases, with a range of 7 to 10. CASAs have the smallest caseload, averaging 2.4, with a range of 1 to 4.

Polk County's lack of funds for training makes it unable to recruit CASAs. The county has people waiting to be trained, but lacks funds for materials. In Josephine County, the average work period for CASAs is only 2 years. This is attributed to the difficult situations that these CASAs face and a general high burnout for lay people dealing with tragic situations.

Attorneys that volunteer for abuse and neglect cases in the counties sampled tend to be of various ages. Most are men; all are white and from very small firms. The only exceptions were in

National Study of Guardian *ad Litem* Representation

the counties with large cities—Multnomah County, with Portland; and Lane County with Eugene—which have greater diversity in age as well as more women than the smaller areas sampled.

The CASA programs in Josephine, Multnomah, and Wasco Counties are independent bodies. Wasco County has the smallest operation of the three, with one staff person and a budget dependent on donations from citizens and the United Way. This program currently has no funds. Multnomah's program has four staff and a budget of \$138,000 from the county (15 percent) and donations. Josephine County has two staff and a budget of \$150,000 to share with a treatment center that it also operates. The Juvenile Court counselors also are independent of the court. They are part of the Benton County Juvenile Department, with two on staff.

CASAs are monitored by their program director, Juvenile Court counselors by the Juvenile Department head, and Public Defender attorneys by the attorney in charge. There is no formal monitoring of private attorneys. However, several counties have contracts that they could choose not to renew if the judges felt that a poor job had been done in the past year.

Liability is a foggy issue. Respondents in many counties said that they had none; some said that liability has yet to be resolved or even discussed. Multnomah County claims total immunity by Statute.

SAMPLED JURISDICTIONS AND CASELOADS

<i>Number of Cases in 1989</i>			
Baker	2	Lane	500
Benton	69	Multnomah	1,600
Grant	20	Polk	31
Hood River	10	Union	60
Jackson	30	Wallowa	20
Josephine	110	Wasco	50

PENNSYLVANIA

REQUIREMENTS:	The court shall appoint a GAL for the child when a proceeding has been initiated alleging child abuse. The GAL shall be an attorney.
AUTHORITY:	PENN. STAT. ANN. tit. II, § 2223(a) (Supp. 1986)
PROGRAM MODELS:	Private attorneys: available in all jurisdictions Staff attorneys: Public Defender in Beaver, Bucks, Centre, Philadelphia Support Center for Child Advocates: Philadelphia Juvenile Law Center: Philadelphia Legal Aid: Allegheny, Wyoming DHS Attorney: Indiana
APPOINTMENT TIMES:	All appointments made at the filing of the initial petition if not at the emergency removal hearing. Ends when case is closed.
TRAINING:	Locally set; The Support Center for Child Advocates requires 12 hours before GAL appointment. No other requirements exist.
COMPENSATION:	Locally set; hourly wages from \$30 to \$40. Annual salaries range from \$12,000 to \$37,000. Wyoming County offers office space in exchange for services. Philadelphia Child Advocate Center attorneys take cases on a <i>pro bono</i> basis.
CHILDREN SERVED:	100 percent reported in all counties sampled except Philadelphia (less than 50 percent of cases petitioned) and Indiana County (3 percent are not represented).
IMMUNITY FROM LIABILITY:	Partial immunity set by State statute
SAMPLED JURISDICTIONS:	10 counties
TOTAL JURISDICTIONS IN STATE:	65 counties

National Study of Guardian *ad Litem* Representation

The State law of Pennsylvania requires the appointment of an attorney as the GAL in all proceedings alleging child abuse. The attorneys may be in private practice or staff attorneys whose office routinely accepts abuse and neglect cases.

Armstrong, Clearfield, and Lycoming Counties use only private attorneys and do not provide them with any specific administrative or social work support. Centre County uses both private attorneys (20 percent) and the Public Defender's office (80 percent). Beaver and Bucks Counties assign cases to the Public Defender's Office exclusively; Bucks County provides administrative support. Legal Services is a statewide organization providing counsel to indigents and to children in Allegheny and Wyoming Counties. Legal Services represents 100 percent of cases in both counties. In Indiana County, the attorneys for the Department of Child and Youth Services (DCYS) provide 100 percent of child representation.

Philadelphia has three different organizations providing attorneys to represent children. Approximately 90 percent of the cases go to the Public Defender's office, which receives administrative support. The Support Center for Child Advocates provides representation for approximately 400 sexual abuse, severe abuse, and criminal abuse cases annually. The center has a staff of one full-time and one part-time attorney and six social workers who assist attorneys; all receive administrative support from the county. The Juvenile Law Center is the smallest of the three groups, taking approximately 40 cases annually and focusing on teenagers. Currently the Juvenile Law Center is suing Philadelphia County for failing to represent over 50 percent of the cases petitioned. In Indiana, the only other county to report less than 100 percent representation, the judge follows DCYS' recommendation that representation is unnecessary in approximately 3 percent of the cases petitioned. The problems in Philadelphia are at least partly due to the lack of enough attorneys to absorb the very high caseload. The number of cases petitioned in Pennsylvania was high compared to other States.

The local court judge is ultimately responsible for the appointment of attorneys. However, in all counties sampled except Philadelphia and Centre, which do not use one organization exclusively, the appointment process is automatic. The program director or court administrator selects the attorney. In Philadelphia, depending on the type of case, the judge decides which one of the three programs will receive the case. All appointments begin at the filing of the initial petition, except in Wyoming and Centre Counties, which try to have the attorney present at the emergency removal hearings. All appointments last until court intervention ends.

GALs also can be appointed in custody, termination, criminal abuse and incompetency hearings; however, this happens rarely. Delinquency cases remain in the domain of the Public Defenders. Most counties do not provide any other type of representation. In Armstrong and Bucks Counties, other representation is considered possible but happens rarely. Philadelphia County provides other representation in cases of disagreement, but this is always at judicial discretion. Allegheny County usually provides other counsel when the child is involved in concurrent criminal or civil proceedings.

There are no written local descriptions of the roles and responsibilities of the GAL. According to the law, if a case is petitioned under the Child Protective Services Code, the attorney is

State Summaries of GAL Representation

considered GAL and is expected to represent best interests. However, 99 percent of abuse and neglect cases are filed under the "Juvenile Act," in which the definition of "dependent" includes abused. Under this Act, the attorney is not a GAL but counsel for the child and may represent the child's wishes. Despite this difference, an attorney representing a child is referred to as the GAL statewide. Although the law makes the distinction between GAL and counsel, counties differ on the focus of representation. In half of the counties, GALs represent best interests of the child; in the other half, GALs either act solely as advocates for the child (Allegheny and Bucks) or make both presentations to the judge (Armstrong, Indiana, Philadelphia [Center for Child Advocates], and Wyoming).

In all counties, attorneys are involved in coordination among parties. In Allegheny, Bucks County, Lycoming, and Philadelphia (Center for Child Advocates), attorneys take a lead role in coordination and view themselves as advocates.

Compensation for services is set locally by the County Commissioners. Hourly wages for time in or out of court range from \$30 to \$40 in Armstrong, Centre, Clearfield, Indiana, and Lycoming Counties. Reasonable expenses are reimbursed by the counties. There is no ceiling on the amount an attorney may bill on any case. Respondents in all counties stated that GAL pay is equivalent to other indigent defense work. Centre County's aggregate pay scale is lower than most counties'. Annual Public Defender salaries range from \$12,000 (part-time) to \$37,000. In Philadelphia County the more than 240 attorneys who take cases for the Support Center for Child Advocates work *pro bono*. Their expenses are absorbed primarily by the firms in which they work. In Wyoming County, where the number of yearly petitions is significantly lower than elsewhere, Legal Services has agreed to take all the abuse and neglect cases in exchange for free office space and support. In Armstrong and Lycoming counties, GALs are paid slightly more than other indigent defense attorneys.

The Support Center for Child Advocates in Philadelphia County is the only organization to require any form of training prior to appointment as a GAL. This training lasts 12 hours and covers laws, regulations, child abuse, general advocacy issues, the GAL's role, expert witnesses, and dealing with children. In Bucks and Wyoming Counties, attorneys have access to training. Only Lycoming imposes any requirements regarding prior experience for GAL appointment. All potential GALs are interviewed by the court administrator and must have family law experience.

An average attorney caseload is difficult to establish since it varies greatly among the counties. Lycoming County has over 1,000 petitions per year, all of which are handled by one attorney who contracts to take all the abuse and neglect cases while running a private practice. In Philadelphia County, where 8,500 cases are petitioned yearly, each Public Defender has an average of 100 abuse and neglect cases. In addition, there are over 240 attorneys affiliated with the other organizations, representing over 660 cases a year, and still over 50 percent of the children are not being represented.

Respondents in six of the counties sampled reported no problems finding attorneys to take abuse and neglect cases. However, respondents in Allegheny, Bucks, Lycoming, and Philadelphia reported a lack of available attorneys due to the low compensation, high caseload, and a prevailing perception that juvenile law is a low priority. Respondents in several counties mentioned that their attorneys are involved in an attempt to legislate uniform, State-set levels of compensation. One

difficulty in Allegheny County is when private attorneys who are new to juvenile court are appointed. Legal Services in Allegheny is seeking additional funding to expand its staff. The respondent in this county felt that Legal Services was able to handle the large number of cases it did only because of the high caliber of attorneys currently on staff.

Most attorneys are white males practicing in various areas of the law. Four counties use mostly younger attorneys, and three use mostly older ones. One county uses mostly women. Only Philadelphia had fairly equal mix of minority and white attorneys. Allegheny, Lycoming, and Wyoming Counties use GALs whose primary focus is juvenile family law.

Allegheny, Beaver, Bucks, Philadelphia, and Wyoming Counties have independent GAL programs. Each program has an executive director who is responsible for monitoring and/or evaluating staff attorneys. Legal Aid in Allegheny County has an executive director and three support staff. It also has a monitoring team process to review attorneys' performance. All staff and attorneys provide input in this process. The Society is funded by Allegheny County and the United Way and has an annual operating budget of \$331,000.

Beaver County's Public Defender's Office, supervised by the chief Public Defender, is independent from the courts. This office has four support staff, eight part-time attorneys, and one full-time attorney. The total budget, approximately \$625,000 annually, is not broken down to specify what portion of funds cover GAL work. Bucks County also runs an independent Public Defender's Office which has a support staff of 17 persons. Of the three aforementioned programs, the smallest one handles the most cases; Allegheny served 875 new petitions in 1989, while Bucks County served 99.

Legal Services in Wyoming County has two support staff but does not formally monitor the attorney, who had only 10 cases in 1989. In Philadelphia, both the Juvenile Law Center and the Support Center for Child Advocates are independent programs; however, information was gathered only on the latter program. This organization has trained over 240 lawyers and 12 support staff, all overseen by the executive director. It provides representation on approximately 600 cases annually. The current annual budget of \$370,000 is funded from public money, private donations, and foundation grants.

According to the respondent for the State study, partial/good faith immunity is set by State statute. However, respondents in only two counties were aware of this. All the Public Defenders except in Centre County were either considered county employees or provided insurance by the county. The independent programs provide their attorneys with malpractice insurance, and the private attorneys usually carry private insurance.

SAMPLED JURISDICTIONS AND CASELOADS

<i>Number of Petitions in Fiscal Year 1989</i>			
Allegheny	875	Clearfield	99
Armstrong	NA	Indiana	NA
Beaver	360	Lycoming	1,500
Bucks	99	Philadelphia	8,500
Centre	60	Wyoming	10
NA = not available			

RHODE ISLAND

REQUIREMENTS:	CASA appointment mandatory in judicial proceedings involving child abuse and neglect
AUTHORITY:	R.I. GEN. LAWS § 40-11-14 (1984)
PROGRAM MODELS:	Statewide CASA program: staff attorneys provide legal representation; CASA volunteers provide direct support/services to the child
APPOINTMENT TIMES:	Appointment made at the filing of the initial petition; ends when court intervention ends
TRAINING:	State-set: 11 to 12 hours for both attorneys and volunteers
COMPENSATION:	Staff attorneys are salaried. Attorneys who are not appointed through CASA receive \$30/hour in court, \$20/hour out of court.
CHILDREN SERVED:	100 percent of abused and neglected children statewide
IMMUNITY FROM LIABILITY:	None
SAMPLED JURISDICTIONS:	4 counties
TOTAL JURISDICTIONS IN STATE:	5 counties

The State of Rhode Island at the instigation of the Family Court judges has created a statewide CASA program. The CASA program has seven staff attorneys who provide legal representation for 99 percent of the abuse and neglect cases statewide. The remaining cases are represented by private attorneys. These attorneys receive administrative, social work, and volunteer support.

The family court judge is responsible for appointing a GAL. The decision to appoint is mandated by State law in all abuse and neglect cases. The program director is in charge of the actual appointment. As directed by the State, all appointments are made at the filing of the initial petition and last until court intervention ends. The only other type of case for which the CASA program is utilized is delinquency when abuse is involved. With regard to representation in addition to the GAL, a Public Defender is appointed to represent children in concurrent criminal and civil proceedings.

Roles and responsibilities of the GAL are set forth by the State. The attorneys are responsible only for legal representation. CASA volunteers and support staff provide all direct support and/or services to the child. Although GALs are required to represent best interests, often they present both what is perceived to be in the best interests of the child and the wishes of the child. One attorney represents all the children involved in a particular case unless extreme conflict of interest between the children develops. This is very rare. The CASA attorneys are involved in coordination but do not necessarily instigate it.

All seven staff attorneys are salaried. The salary range was, for unspecified reasons, kept confidential. Private attorneys are paid the hourly wage of \$30 for in-court time and \$20 for out-of-court time. The salaries are equivalent to those for other indigent defense attorneys. Expenses are covered by the State, though major expenses, such as expenses for an expert witness, are rare.

The State program sets the training requirements and provides training. Training covers laws, regulations, investigations, family dynamics, child abuse, general advocacy issues, courtroom responsibilities, disagreements with a child, making recommendations, interactions with the child welfare agency, interactions with parents and foster care agencies, the role of the GAL, and the role of CASA. Training for volunteers is the same but also includes case monitoring, interview procedures, and dealing with children. The training is 11 or 12 hours for both groups. Ongoing training is required when offered, but there is no set schedule for it. There are no requirements on prior experience before appointment as a GAL.

For each of the six attorneys covering Bristol and Providence Counties, the average caseload is approximately 300 cases at any given time. The attorney who covers Kent, Newport, and Washington Counties carries an average of 60 cases at any given time. Attorneys are mostly younger, white males specializing in juvenile law.

No respondents cited problems retaining/recruiting attorneys, though recently there was a large turnover. Volunteers are more difficult to recruit, partly due to the high unemployment rate in the State. The State goal is to provide both a GAL and a volunteer on every case. Currently only 30 percent of the cases at most are provided with a volunteer.

State Summaries of GAL Representation

The CASA program is not independent but rather an arm of the family court system, which strongly supports the program. An executive director, five secretaries, three program coordinators, and four social workers comprise the core administrative staff. Public funds are appropriated directly for this program. Annual budget figures were unavailable.

Although there is no statutory immunity, CASAs are indemnified by the State. Private attorneys are required to have malpractice insurance.

SAMPLED JURISDICTIONS AND CASELOADS

<i>Number of Petitions in Fiscal Year 1989</i>			
Providence/Bristol	864	Newport	75
Kent	89	Washington	74

SOUTH CAROLINA

REQUIREMENTS:	Appointment of GAL in all abuse and neglect cases
AUTHORITY:	S.C. CODE ANN. § 20-7-110 (A); § 20-7-121; § 20-7-122
PROGRAM MODELS:	Volunteers statewide, supplemented by attorneys if volunteers are unavailable
APPOINTMENT TIMES:	At filing of initial petition, until dismissed by court
TRAINING:	Required by State law
COMPENSATION:	None
CHILDREN SERVED:	100 percent in sampled counties
IMMUNITY FROM LIABILITY:	Good faith immunity by § 20-7-127
SAMPLED JURISDICTIONS:	11 counties
TOTAL JURISDICTIONS IN STATE:	46 counties

South Carolina established by statute a statewide volunteer GAL program in 1988 to represent all abused and neglected children. Prior to the passage of this law, only attorneys could represent children. Now attorneys serve as GALs only when there are an insufficient number of volunteers available, such as in Harry County where attorneys represent about 7 percent of abuse and neglect cases. In Spartanburg County, volunteers represent all children removed from their home, and the remaining cases receive attorney representation. In all other counties sampled, all abused and neglected children received representation. All GAL volunteers have legal assistance from an attorney who is assigned to represent them.

By State law, the Family Court assigns the GAL when the initial petition is filed, and appointment lasts until the GAL is dismissed by the court, usually when court intervention ends. In actual practice, the appointment of the GAL varied across the sampled counties and was made by the judge, judge's clerk, GAL program director, Department of Social Services, or assistant solicitor for the county. Volunteer GALs are assigned only to civil abuse and neglect cases and are not appointed to other cases involving children. Joint appointments of both attorney and GAL sometimes occur.

State law clearly specifies GAL responsibilities to include conducting an independent investigation of the case, maintain a case record; providing written reports to the court, making recommendations regarding services, placement and the case plan; and monitoring the case to ensure compliance with court orders or seeking early judicial review if necessary. State law also requires the GAL to advocate for the best interests of the child. If the child disagrees with the GAL, the GAL presents both positions to the court, which may assign a separate attorney for the child. GALs were expected to take the lead role or to be involved in coordinating case activities among all parties in eight of the counties sampled. Respondents in Edgefield, Laurens, and Orangeburg counties said that it was unclear what role the GAL should take in coordinating the case.

Volunteer GALs are not paid and receive no compensation for expenses. Attorneys who serve as GALs receive from \$50 to \$100 per case at the discretion of the court; and payment is contingent on the availability of funds. Thus, GAL work essentially is *pro bono* in South Carolina.

State law requires volunteer GALs to receive training prior to assignment. Specific requirements are set by the State GAL program. The training covers a range of child advocacy topics and lasts 15 to 19 hours. The volunteer also must participate in trial experience and pass a South Carolina Law Enforcement and Department of Social Service Central Registry background check. Volunteers must also attend at least two in service meetings each year to fulfill ongoing training requirements. These meetings last 3 to 4 hours. There are no other requirements for GAL volunteers.

Volunteer GAL caseloads range from one to five and average about two. Private attorney caseloads are similar in the two counties sampled that use them. All counties except Orangeburg reported difficulty obtaining enough volunteers for the program. Respondents attributed this problem primarily to the newness of the GAL program and to a lack of sufficient time for publicizing the program. They expect recruitment to be easier as the program becomes better known. Barnwell, Florence, Horry, and Laurens County respondents believed that the amount of time involved to serve as a GAL made recruitment difficult. The smaller counties had recruitment problems due to their low population size and rural poverty. The attorney GALs in Horry and Spartanburg Counties were

State Summaries of GAL Representation

reported to be mostly white, solo practitioners specializing in juvenile law; there are increasing numbers of female attorneys.

The volunteer GAL program is an independent agency funded directly by the State. Its annual budget is \$1.5 million, and it is administered at the local level by program coordinators in each county. The larger counties have one or two additional staff members. Local coordinators monitor and supervise the performance of individual GALs, who must submit monthly reports on their cases to the coordinator. There are four regional directors who monitor the local programs throughout the State.

Section 20-7-127 of the Code of Laws South Carolina Annotated provides immunity from liability to all volunteer GALs when performing their duties in "good faith" and not guilty of gross negligence.

SAMPLED JURISDICTIONS AND CASELOADS

<i>Number of Petitions in 1989</i>			
Bamberg	20	Laurens	43
Barnwell	25	McCormick	20
Clarendon	16	Orangeburg	151
Edgefield	20	Spartanburg	est. 118
Florence	75	Williamsburg	2
Horry	296		

SOUTH DAKOTA

REQUIREMENTS:	Must appoint counsel for any child alleged to be abused or neglected to represent the best interests of the child
AUTHORITY:	S.D. CODIFIED LAWS ANN., § 26-10-17 (1988)
PROGRAM MODELS:	Private attorneys: nine counties CASAs alone: Butte, Lawrence, Meade, Pennington, and Ziebach Counties Public Defender: Minnehaha County
APPOINTMENT TIMES:	State requires appointment at filing of petition. Local control of end of appointment.
TRAINING:	Set locally; no training for attorneys. CASAs train 20 to 26 hours.
COMPENSATION:	Set locally; private attorneys receive \$40 to \$45/hour. CASAs are not compensated.
CHILDREN SERVED:	20 to 100 percent in counties sampled
IMMUNITY FROM LIABILITY:	None from statute; Pennington County CASAs have total immunity by judge as officers of the court
SAMPLED JURISDICTIONS:	14 counties
TOTAL JURISDICTIONS IN STATE:	64 counties

South Dakota has among the most specific laws governing representation of children, requiring (1) counsel in all cases of any alleged neglect or abuse to represent the best interests of the child and (2) initial appointment of counsel at the filing of the petition. However, the State's reported representation is among the lowest in the country for sampled counties, and the responding judges made no mention of these laws, passed in 1988, governing representation of children.

Nine counties appoint private attorneys; five counties have CASA programs, several of them very new; and Minnehaha County uses the Public Defender in cases where the parent knows the private attorney who would be assigned to the case. Counties with long-standing CASA programs include Lawrence and Pennington. New programs, less than a year old, are in Butte, Meade, and Ziebach Counties. They take their lead from and share insurance policies with Lawrence County. In all areas with attorney representation, social work help is available and used.

Only three counties said that they provided 100 percent representation last year: Hamlin, Minnehaha, and Pennington. In Hamlin County, however, not all cases are routinely assigned someone; it just worked out that way last year. (The respondent was unaware of the law, stating that there were no rules requiring assignment to all cases.) In Codington County, it was estimated that 80 percent do not receive representation because the judge feels that when the case is clear-cut it, is a waste of time to assign someone. In Lincoln County, 33 percent did not receive representation because of the lack of severity of the case. In Ziebach County, 50 percent did not receive representation due to a lack in the number of CASAs. In Yankton County, 25 percent had no representation because of a lack of severity and the cost of an attorney. Also, in Clay County, there were 25 percent without representation due to attorney expense and the perception of severity by the judge. Deuel and Union Counties also reported 25 percent as unrepresented, citing lack of severity in the case. In Brookings, 20 percent were not presented due to lack of severity in the abuse. In Butte, 20 percent were not represented due to lack of CASA availability. In Lawrence County, 11 out of 12 cases were represented, and the one that did not have an assignment was a 17-year-old boy who chose to have a school counselor represent him, although the counselor was never officially appointed as a GAL. Finally, in Meade County, 10 percent were not represented due to lack of CASA availability. All counties lack representation due to insufficient funds, bill the parents of the child for payment of attorney fees; the counties pay any amount unpaid by the parents to the attorney.

The assessment of severity of abuse and the decision to appoint a GAL always made by the judge. The similar proportions of cases not represented is partly because the same judge may rotate and sit in several counties at once. For example, four counties in South Dakota are served by one judge, and three are served by another. The actual appointment is left to the judge or his clerk or, in counties that have CASA programs, the project director. The law states that assignment must take place at the filing of the initial petition, but this occurred only in Minnehaha County. In all other counties, time of appointment is at the discretion of the judge, although it is usually done at or near the time of petition. CASA assignments are usually made at the emergency removal hearing. The end of appointment is not specified by South Dakota law, and in the counties that use private attorneys, it is left to the judge to decide. In the CASA counties, they are excused when court intervention ends. Appointments for attorneys in other types of juvenile cases is routine, with most appointments in the areas of custody or divorce. CASAs also have been used in the delinquency and voluntary foster care cases.

State Summaries of GAL Representation

GAL duties do not differ between the CASA and attorney; however, many judges feel that CASAs are more interested in the work and not only investigate further but also provide more assistance to the family in obtaining social service benefits.

While CASAs are not paid, private attorneys receive \$40 to \$45/hour, with no maximum. The Public Defender is used 10 percent of the time in one county and receives \$30,000/year for all of his duties, including many other than GAL representation. This is consistent with other indigent work.

There is no training required of or offered to private attorneys or the Public Defender. The older CASA programs have specific hourly classes; Pennington County requires 26 hours and covers all basic legal responsibilities and child dynamics. In addition, the county's CASA volunteers make a courtroom visit to familiarize themselves with the work. Ongoing seminars are available for volunteers. Lawrence County, parent program to the others sampled, requires 20 hours and covers the same topics as Pennington. Lawrence County does not require ongoing training or courtroom visits. Butte, Meade, and Ziebach are still setting standards and cover the same topics as the others but have no minimum hourly requirements. They are not required to complete their training before their first appointment, since there is no one else in the counties to represent the children. There are no previous experience requirements in any counties sampled.

The average caseload of the attorneys is low compared to many other States, averaging 1.5, with a range of 1 to 4. Six of the nine counties reported a caseload of one. The CASAs carry 1.8 cases on the average, with a range of 1 to 3. The Public Defender is never asked to carry more than one case at a time. There are no problems in finding CASAs, just time involved in their training and budget constraints on the programs. Attorneys are willing to do the work but feel that they should have an hourly raise soon. Attorneys are of varying ages but overwhelmingly male, white, and from solo practices.

All of the CASA programs are independent. Pennington County has a program manager, a staff of two, and an annual budget of \$22,000 from private donations and the United Way. Lawrence County shares its program director and one staff person plus its \$10,000 budget with Butte, Meade, and Ziebach Counties. They all share one liability insurance policy. These underlying programs are in the formation stage and soon will have their own administrations and budgets from donations and grants. No county respondents claimed any immunity from liability. CASA monitoring is performed by the staff and directors. No one formally monitors the attorneys.

The only unusual characteristic of the counties sampled in South Dakota, other than the apparent widespread lack of representation, is the issue of Indian sovereignty and jurisdiction. There are several Indian reservations scattered throughout South Dakota. Many county judges stated that they are uncertain about their authority over Indian parents brought before them, and they also note a hesitancy to remove the Indian child from the home, because they are unsure of the legal status of this decision.

SAMPLED JURISDICTIONS AND CASELOADS

<i>Number of Petitions in 1989</i>			
Brookings	6	Lincoln	3
Butte	7	Meade	10
Clay	5	Minnehaha	100
Codington	7	Pennington	50
Deuel	5	Union	10
Hamlin	3	Yankton	8
Lawrence	12	Ziebach	10

TENNESSEE

REQUIREMENTS:	GAL shall be appointed in all abuse and neglect cases. GAL shall be an attorney.
AUTHORITY:	TENN. CODE ANN. § 37-1-149
PROGRAM MODELS:	Private attorneys: All sampled jurisdictions CASAs alone: Davidson and Shelby
APPOINTMENT TIMES:	Set locally; appointment generally occurs at filing of petition or first hearing and lasts until court intervention ends.
TRAINING:	None
COMPENSATION:	Attorney fees set according to child's family income. If indigent, then \$30/hour in court and \$20/hour out of court or \$100/day up to \$500. Some local variation.
CHILDREN SERVED:	70 to 100 percent
IMMUNITY FROM LIABILITY:	Not clear; § 37-1-610 presumes "good faith" of GAL and grants immunity from liability in sexual abuse cases
SAMPLED JURISDICTIONS:	9 counties
TOTAL JURISDICTIONS IN STATE:	94 counties

National Study of Guardian *ad Litem* Representation

Tennessee Statute § 37-1-149 mandates that a GAL be appointed to all children before the court in abuse and neglect cases. Only private attorneys act as GALs in Tennessee. Although Davidson, Knox, and Shelby Counties have CASAs, they are not considered GALs by the courts. Davidson and Shelby appoint only CASAs to some neglect cases that do not have attorney representation but, again, they are not considered GALs. Only Davidson and Montgomery Counties have administrative support for attorneys, and only Davidson County has social work support.

In four of the nine counties sampled, 100 percent of the cases receive a court-appointed private attorney as GAL. Moore County had no abuse or neglect petitions filed last year, so it did not appoint any GALs. In Shelby County, CASAs are appointed at the judges' discretion. In Rutherford County, GALs are not appointed to cases where the abuse or neglect was not caused by the parents. In Carter County, 20 percent of the cases last year did not receive a GAL because the local social services department took immediate protective custody of children and no need was seen for a GAL. In Davidson County, all abuse cases received a GAL but only 15 to 20 percent of neglect cases did.

There is no written statewide policy setting appointment times for GALs. Respondents in two counties, Carter and Montgomery, did report that their local Juvenile Court Rules of Procedure required certain appointment times. Five counties appoint GALs at the filing of the petition or at the first hearing. In three counties, appointments are made at different times depending on the case and judicial discretion. In Marshall, GALs can be appointed any time there is a valid report of abuse or neglect even before there is a petition or any court proceedings. Judges make appointments in all counties except Rutherford, where the Judicial Commissioner makes them. All appointments continue until the judge dismisses the GAL, usually when court intervention ends.

All counties also use private attorneys as GALs in other types of juvenile cases. Five counties use GALs in criminal abuse cases; three use GALs in other criminal cases; five use GALs in custody cases; two use GALs in foster care hearings; and Marshall and Montgomery use GALs in nonlitigated abuse or neglect cases.

Representation in addition to GAL is possible in all counties, although it occurs rarely. In five counties, this usually occurs only if the parents hire an attorney for the child. Knox and Shelby appoint CASAs in addition to GALs in some cases. In Carter and Rutherford Counties, the State Prosecutor or Attorney General may also represent the child when there are other concurrent court proceedings.

State Statute § 37-1-602 defines a GAL as "a responsible adult who is appointed by the court to represent the best interests of a child." The State offers no further guidance for GALs. Only Davidson County has a written description of duties in its Juvenile Court Rules of Procedure Rule 20 and from the Nashville Bar Association Juvenile Court Committee. Both require the GAL to examine all files, interview all parties and witnesses, personally interview the child at least once prior to the hearing, file an appeal if necessary, and participate fully in all proceedings. In Davidson County, the child's best interests are represented when the child and GAL disagree. In all other counties, both the child's desires and best interests are represented, or representation depends on the attorney.

State Summaries of GAL Representation

Private attorney GALs are paid fees determined by the child's family income. If the parents are indigent, attorneys are paid fees set by the State. Section 37-1-610 (re: sexual abuse cases) mandates that parents or perpetrators reimburse the court for the expense of appointing a GAL and any medical costs resulting from the treatment of the sexual abuse. GALs are compensated even if parents are unable to reimburse the court. In Davidson, Marshall, and Rutherford Counties, attorneys are paid \$30/hour in court and \$20/hour out of court, up to \$500 per case. In Montgomery and Shelby, attorneys receive \$500/case. In Lauderdale, they receive \$75/hour in court; in Carter, \$100/day; and in Knox, \$100/case. In three counties, GAL fees are comparable to fees paid in other court appointments; however, in Carter, Knox, Marshall, Montgomery, and Shelby Counties, GALs are paid less. Only Davidson, Lauderdale, and Marshall provide reimbursement for expenses.

There is no formal GAL program, and there is no required training, monitoring, or supervision. Carter County has 12 private attorneys available for GAL appointments; Davidson, 1,800; Knox, 30; Lauderdale, 8; Marshall, 10; Montgomery, 70; and Rutherford, 48. These attorneys are used as needed and generally handle only one or two cases at a time. Most GAL attorneys are white males from small firms not specializing in juvenile law. Knox, Lauderdale, and Shelby reported a mix of male and female attorneys. Davidson has more women and minorities in private practice.

GAL immunity from liability in Tennessee is unclear. When asked, respondents in three counties reported statutory immunity, one reported no immunity, and four were unsure. Again, in reference to sexual abuse cases, § 37-1-610 presumes the "good faith" of the GAL and grants immunity from any civil or criminal liability.

One respondent commented that State legislation allowing CASAs to be GALs is being considered. Other respondents suggested raising attorney fees and requiring training and supervision of attorneys to improve the representation of children. One commented that attorneys need training or guidance because they are unsure of their role and how GAL work is different from other types of defense work.

SAMPLED JURISDICTIONS AND CASELOADS

<i>Estimated Number of Petitions in 1989</i>			
Carter	NA	Montgomery	104
Davidson	200	Moore	0
Knox	NA	Rutherford	100
Lauderdale	65	Shelby	NA
Marshall	40	NA = Not Available	

TEXAS

REQUIREMENTS:	Fully discretionary at the local level
AUTHORITY:	No State statute requiring appointment. Judge <i>may</i> appoint GAL according to TEX. FAM. CODE ANN. § 11.10. Judge <i>may</i> appoint CASA according to TEX. FAM. CODE ANN. § 11.101.
PROGRAM MODELS:	Private attorneys statewide; CASAs as “friends of the court,” not GAL, in 21 counties (3 sampled)
APPOINTMENT TIMES:	At judge’s discretion; generally appointed before adjudicatory hearing and lasts until court intervention ends
TRAINING:	None required
COMPENSATION:	At judge’s discretion
CHILDREN SERVED:	0 to 100 percent in sampled counties 20 to 33 percent receive CASA additionally in three sampled counties
IMMUNITY FROM LIABILITY:	Attorneys and CASAs: Immunity from civil and criminal liability when acting in “good faith” according to § 34.03; not clear CASAs: Additional immunity from civil liability according to § 11.101
SAMPLED JURISDICTIONS:	19 counties
TOTAL JURISDICTIONS IN STATE:	254 counties

National Study of Guardian *ad Litem* Representation

Nineteen of Texas' 254 counties were sampled, and respondents in all stated that much regarding GAL representation is left to the discretion of individual judges. There is no State statute requiring representation of children in abuse and neglect proceedings, although Texas Family Code Annotated § 11.10 and § 11.101 state that a judge *may* appoint a GAL or CASA volunteer. Despite this, respondents in 13 counties reported that 100 percent of the abused/neglected children before the courts had private "attorneys *ad litem*" appointed to represent them. Four counties had no cases last year, but respondents in these counties said that private attorneys usually would be appointed. In Parmer and Tarrant, attorneys are assigned to children at judges' discretion. Last year, Parmer had two petitioned cases that did not receive court-appointed counsel for the children. In Tarrant, cases that resolve quickly are not assigned GALs. Also, abuse and neglect cases that originate from divorce proceedings do not leave divorce court, and divorce court does not appoint GALs. An estimated one-third of Tarrant's cases do not receive representation.

Bexar, Harris, and Tarrant are 3 of the 21 counties in Texas with CASA programs. CASAs are appointed by the court in complex cases when more fact-finding is needed. CASAs do not act as GALs, and they work independently of the appointed attorneys. CASAs also are used outside of court in nonpetitioned abuse and neglect cases through the Family Volunteer Program. Respondents in all three counties estimated that CASAs are used in only 20 to 33 percent of the petitioned cases. Individual CASA programs have worked independently, but a new statewide office and program including statewide training soon will be developed. Currently, each county has its own training for CASAs, lasting 20 to 30 hours. CASAs are "friends of the court" and do not provide support to the private attorneys. Attorneys do not receive administrative or social work support either. Attorneys in Tarrant County, however, can request support from Department of Human Services.

Judges decide to appoint attorneys and generally appoint them before the adjudicatory hearing. Appointment is at judges' discretion and generally lasts until court intervention ends. In most counties sampled, the judge assigns attorneys from his own list. In four counties, the court clerk assigns from a rotating list. Judges can appoint attorneys or GALs for children at any time in any proceeding. Judges also may appoint representation in addition to a court-appointed attorney, but this has happened in only two counties.

Attorneys have no written description of their duties, and the varied representation of children reflects this lack of guidance. In nine counties, attorneys represent the child's best interests; in two counties, attorneys represent the desires of the child; and in another two counties, attorneys present both views. In counties with CASAs, the attorneys tend to provide legal counsel and leave the interviewing, investigation, and case monitoring to the CASAs. Respondents in over half of the counties reported that court-appointed attorneys do not take a lead role in the case and that many never see their clients outside of court. Lamar, however, reported that the judge appoints only private attorneys interested in GAL work and that they fully investigate and interview all parties. Judges as well as Department of Human Services staff reported very good representation in Lamar County.

Attorneys' fees are set solely at judges' discretion according to complexity of case, number of hours in/out of court, and number of court appearances. In Nueces, attorneys received a fixed fee of \$150 for each court appearance. In Karnes, they receive an average fee of \$150/case. Two Dallas judges set fees at \$80/in-court hour and \$60/out-court hour. Harris has a \$500,000 fund for all court-

State Summaries of GAL Representation

appointed counsel. In Hunt County, however, every abuse and neglect case is assigned a *pro bono* attorney who receives a fee only if case involves termination of parental rights. Expenses also are reimbursed at the discretion of the judge.

No required training or monitoring of private attorneys exists anywhere in the State. Respondents in several counties suggested that required training and supervision be developed to ensure consistent quality representation. Two judges in Dallas provide an annual seminar for GAL attorneys, but more training is needed. Despite differences in population, attorneys in all the counties sampled have caseloads of 1 to 5 depending on the number of petitions active at one time. Caseloads in more densely populated areas remain low because of the higher number of attorneys available. Thirteen counties sampled are very rural, and each has only a few attorneys available. Four counties must send abuse and neglect cases to district courts in another area because they are too small to support their own court systems. In the larger counties of Bexar, Dallas, Harris, Nueces, Tarrant, and Webb, 25 to 400 private attorneys are available for court appointments. Most attorneys in the State are older, white males in solo practice or small firms. Dallas County has more females but needs more minority attorneys. Webb County uses mostly younger, minority male attorneys. In Hunt, most private attorneys are male, but one younger female attorney accepts most of the abuse and neglect cases. No problems recruiting or retaining attorneys were reported.

State Statute § 34.03 states that civil and criminal “immunity extends to participation in any judicial proceeding resulting from the [child abuse and neglect] report” when acting in “good faith.” State Statute § 11.101 also grants immunity from civil liability to CASAs. Only 4 respondents, however, were aware of any immunity, and respondents in 10 counties reported that none exists for attorneys. Attorneys are presumed to have private malpractice insurance.

Despite the proposed statewide CASA office and growing number of CASA programs, large differences exist among the many counties in Texas. Much is left to judicial discretion, resulting in inconsistent representation of abused/neglected children throughout the State.

SAMPLED JURISDICTIONS AND CASELOADS

<i>Estimated Number of Petitions in 1989</i>			
Bexar	600	Lamar	10
Brewster	3	Live Oak	1
Culberson	0	Nueces	37
Dallas	500	Parmer	2
Deaf Smith	1	Presidio	1
Goliad	0	Reeves	25
Harris	2,500	Tarrant	120
Hudspeth	0	Terrell	0
Hunt	25	Webb	100
Karnes	4		

UTAH

REQUIREMENTS:	GAL appointment in all abuse and neglect cases
AUTHORITY:	UTAH CODE ANN. § 78-3a-63 (Supp. 1988)
PROGRAM MODELS:	Private attorney: all jurisdictions sampled; assisted by CASAs in five counties CASA: Weber, 25 percent
APPOINTMENT TIMES:	Set by State at filing of initial petition but can occur at emergency removal hearing or first hearing. Ends when court intervention ends.
TRAINING:	State set and provided
COMPENSATION:	State set by contract: Varies with size of jurisdiction. Total annual budget \$200,000.
CHILDREN SERVED:	75 to 100 percent
IMMUNITY FROM LIABILITY:	Not clear
SAMPLED JURISDICTIONS:	13 counties
TOTAL JURISDICTIONS IN STATE:	29 counties

In Utah, GAL appointment in abuse and neglect proceedings are mandated by State statute. The State has a GAL program run by the State court administrator. As set out in 7-103 Utah Code, the administrator is responsible for program management provisions for GAL contracting, responsibilities of GAL and conflict of interests. The staff consists of the administrator and his secretary. The project receives \$200,000 in public funding appropriated specifically for this purpose. Attorneys in large counties who receive GAL contracts must recruit, train, and utilize volunteers; both an attorney and volunteer are assigned cases. The attorney/volunteer team exists in Carbon, Grand, Salt Lake, Utah, Wasatch, and Weber Counties. Volunteers assist the attorneys but are not GALs. In smaller counties the use of volunteers is not required. All counties sampled except Weber use private attorneys. In Weber County, the contract GAL has created a formal CASA program. CASA volunteers act as primary in all cases except those going to trial (approximately 75 percent receive CASA). Duchesne and Uintah Counties, both within the Eighth Judicial District, reported providing administrative, social work, and volunteer support to the GALs.

In all counties except Weber, the judge decides whether to make an appointment, and the judge or the court clerk handle the actual appointment. In Weber County, appointment is automatic, and the GAL, as the director of the CASA program, makes the appointment. In Utah and Wasatch Counties, 25 percent of the petitions filed do not receive GAL representation. The decision not to appoint a GAL is made by the judge and is determined by the complexity of the case. In Salt Lake County, 1 percent of the cases do not receive GAL representation. A GAL is assigned if the parents are not in compliance or if the social worker requires assistance.

The mandated appointment time is at the filing of the initial petition. Duchesne, Salt Lake and Uintah Counties make GAL assignments at the emergency removal hearing; Davis and Sanpete Counties appoint at the first hearing. Weber County assigns the CASA volunteers at the emergency hearing and may appoint the GAL whenever it becomes clear that the case will go to trial. In every county the appointment ends when other court intervention ends. In four counties, these times are required by the State.

Duchesne, Uintah, Utah, Wasatch, and Weber Counties provide GAL representation in custody cases; Carbon, Grand, and Weber Counties provide GAL representation in delinquency cases; and Washington County provides a GAL in domestic/divorce cases. In Weber County a GAL may be assigned in any case involving a child. The same GALs are used in these cases as in abuse and neglect cases.

Six of the counties may provide representation to the child, in addition to the GAL, in abuse and neglect cases. Carbon, Grand, Utah, and Wasatch Counties leave this decision primarily to judicial discretion. Davis and Salt Lake Counties provide extra counsel on cases when the victim was also a perpetrator or a minor was also a parent.

The State Court Administrator's Office has developed a manual outlining the roles and responsibilities of the GAL. These include but are not limited to investigating the case, meeting with the child, providing legal representation, monitoring the case, ensuring compliance with court orders, and making reports and recommendations to the court. Most attorneys present both the wishes of the child and what is felt to be the child's best interests when the two conflict. Washington County GALs

State Summaries of GAL Representation

represent primarily wishes of the child, while Utah and Wasatch GALs focus on the best interests. Generally the same GAL represents all the children involved in a particular case. In all counties sampled, except Washington County, GALs take a very active if not the lead role in the coordination process. In Washington, the role of the GAL in coordination is unclear.

All attorneys are paid by the State; most have contracts negotiated with the State Court Administrator's Office. The two exceptions to this were Duchesne and Uintah Counties, where GALs are paid \$40 to \$50/hour for time spent on a case, and pay is set through local court rule. Salaries in all other counties ranged between \$4,800 and \$20,000 annually. All reported annual salaries are less than \$10,000, except in Salt Lake, where it is \$20,000. Duchesne and Uintah were the only counties to report GAL pay as equivalent to other indigent defense pay. Elsewhere, GAL pay was reported to be less. Of the five counties (Duchesne, Sanpete, Uintah, Utah, and Wasatch) where GALs could be reimbursed for expenses, only Duchesne and Uintah covered minor costs such as photocopying, mileage, telephone, etc.

The State training requirements for attorney GALs cover laws, family dynamics, child abuse, advocacy, role, courtroom responsibilities, monitoring, interviewing, dealing with children, recommendations, and interactions with welfare, parents, and foster parents. The lead guardian of the State Juvenile Court provides the initial training and any ongoing training. Ongoing training is less formal than initial training but also is required. All volunteers receive the same training, which lasts approximately 8 hours.

Caseload per attorney averages between 10 and 25 cases at any given time. In Davis County, which includes the city of Ogden, the contract attorney carries an average of 60 cases. The Utah County GAL's caseload is significantly higher, averaging 200 cases. This GAL also accepts all the cases from Wasatch as well as two other counties. This territory includes Provo, Utah.

Duchesne, Sanpete, Uintah, and Utah reported a lack of adequate compensation as one difficulty in retaining and/or recruiting GALs. Sanpete also found the number of GALs available a problem. In Davis and Utah Counties, some attorneys are unwilling to serve as GALs. In the remaining seven counties, there are no difficulties regarding retention and/or recruitment of GAL.

Attorney GALs are mostly younger and, except in Box Elder and Salt Lake, male, white, and from small or solo practices. Salt Lake and Cache County's GALs are from larger firms. Most attorneys practice primarily in areas of the law other than juvenile or family.

Respondents were unclear regarding the issue of immunity from liability. Respondents in three counties (Carbon, Davis, and Grand) reported GALs held total immunity by statute. Respondents in five counties (Salt Lake, Sanpete, Utah, Wasatch, and Weber) stated that GALs received

National Study of Guardian *ad Litem* Representation

partial/good faith immunity by statute. Cache County said none existed. Respondents in Duchesne, Uintah, and Washington were unsure whether GALs had immunity in the counties.*

In Carbon, Grand, Salt Lake, Sanpete, and Weber Counties, the State conducts formal monitoring annually. In Salt Lake, where one law firm receives all of the county's abuse and neglect cases, the lawyers and volunteers also evaluate each other.

SAMPLED JURISDICTIONS AND CASELOADS

<i>Number of Petitions in 1989</i>			
Box Elder	15	Sanpete	10
Cache	50	Uintah	50
Carbon	8	Utah	400
Davis	65	Wasatch	12
Duchesne	70	Washington	51
Grand	5	Weber	203
Salt Lake	460		

*Respondents claimed that GALs are not insured, however, § 78-3a-44.5 considers GALs as employees of the State for purposes of indemnification under the Government Immunity Act.

VERMONT

REQUIREMENTS:	Appointment of GAL or counsel mandatory in abuse/neglect proceedings
AUTHORITY:	VT. STAT. ANN. tit. 33 § 653
PROGRAM MODELS:	Counsel and Volunteer GAL both appointed to all cases in sampled counties Staff attorneys: Public Defenders, 100 percent in all sampled counties Private attorney "conflict counsel" used as needed in conflicts of interest Volunteer GALs: 100 percent in all sampled counties
APPOINTMENT TIMES:	All counsel appointed at the filing of petition. Volunteer GALs appointed at filing or first hearing. Appointments continue until court intervention ends; some GALs continue beyond court; Orange and Windsor counsel transfer appointment to Juvenile Defender's Office at disposition.
TRAINING:	Attorneys as counsel: none Attorney and volunteer GALs: Statewide training and manual. 12 hours. Required before first appointment.
COMPENSATION:	Public Defenders: Annual salaries range from \$21,300 to \$42,600/year. Orange and Windsor Counties contract a private law firm for public defense work for a fixed annual fee.
CHILDREN SERVED:	100 percent of all abused and neglected children in sampled jurisdictions receive both counsel and volunteer GAL
IMMUNITY FROM LIABILITY:	Attorney as counsel: unclear GALs: limited immunity as officers of the court as per statute. Not know to some local respondents.
SAMPLED JURISDICTIONS:	9 counties
TOTAL JURISDICTIONS IN STATE:	14 counties

Vermont statute, Title 33 § 653, mandates that judges appoint counsel or GAL in juvenile cases where the child's and parents' interests conflict. Respondents in all counties sampled reported that this includes all abuse and neglect cases and that both an attorney and a volunteer GAL are appointed in every case. In each of the nine sampled counties, Public Defenders are appointed to represent the child as counsel. Public Defenders are staff attorneys of the Public Defender's Office, except in Windsor and Orange Counties, which both contract the same private law firm to provide public defense. Private attorneys throughout the State also contract with the Public Defender's Office as "conflict counsel" and accept cases when there are conflicts of interest with the Public Defender's Office. Public Defenders have administrative support within their offices. Private attorneys performing public defense work have only their own staff as support. GALs work independently of attorneys and do not provide direct support.

Volunteer GALs also are appointed to every abuse and neglect case. GALs, like attorneys, are appointed by the judge at the filing of the petition and assigned by the court clerk immediately afterwards. Court clerks throughout the State are responsible for recruiting, training, monitoring, and assigning volunteer GALs. All appointments of counsel and GAL continue until court intervention ends, although some GALs may remain involved beyond the end of court action. The Orange/Windsor private attorneys performing public defense work transfer responsibility for the case to the Juvenile Defender's Office at disposition. All nine counties reported that 100 percent of all abuse and neglect cases in District Court have both a volunteer GAL and a Public Defender throughout the court proceedings (only a small number of cases are referred to "conflict counsel").

Attorneys generally provide only legal representation in court; volunteer GALs are more active outside of court, interviewing, investigating, monitoring, coordinating services, and reporting back to the court. Public Defenders also provide legal counsel to children in cases involving delinquency, criminal abuse, unmanageables, and mental health. GALs are also appointed in delinquency cases and whenever a child is called upon to testify. Some attorneys are appointed as GALs, or in some cases, are appointed in the dual role of counsel and GAL.

Counsel and GAL both generally represent the best interests of the child, except in four counties where counsel represents the child's desires or both views. Respondents in all counties except two reported that in cases of major differences between desires and best interests, another attorney is appointed to represent the GAL in court. GALs always represent best interests, and the second appointed attorney is in court to represent the GAL's view. Respondents in some counties said this rarely happens, but respondents in three said it occurs frequently.

Most counties have Offices of the Public Defender with staff attorneys earning annual salaries ranging from \$21,300 to \$42,600. Expenses are not reimbursed. The Department of Human Services usually pays for testing and witnesses. Salaries for Public Defenders are the same as those for criminal defense. Orange and Windsor Counties contract the same law firm to provide public defense counsel. This firm receives a fixed fee for the entire year, regardless of the number of cases handled. As a result, the law firm receives a lower hourly salary, averaging only \$20. GALs are reimbursed for expenses.

State Summaries of GAL Representation

Counsel attorneys receive no formal training or supervision. Community and court organizations, such as Parents Against Child Sexual Abuse and Children's Advocate Services Program, offer training, information, and guidelines in some counties, but they are not required. The volunteer GAL program was organized by a statewide committee which developed a training manual and series of 12 ½-hour videos used statewide. Attorney and volunteer GALs are expected to attend 12 hours of training before their first appointment. Court clerks organize and monitor the training and work of volunteer GALs, and the judges assign only GALs who have completed training. Continued, less formal supervision of GALs is provided by the judges and clerks. Ongoing training is required but not regularly scheduled. Respondents criticized the lack of an organized program with a full-time coordinator or supervisor, asserting that the State mandates that they have a GAL program without providing funds or staff to recruit, train, or monitor volunteers adequately. Recent legislation has reorganized the Vermont courts providing for a single Statewide Family Court (instead of District and Supreme Courts) and has placed the statewide GAL program under the supervision of the Office of Court Administration. This change is expected to occur in October 1990.

Caledonia, Chittenden, Franklin, Orange, and Windsor each have one Public Defender handling 20, 115, 80, and 100 cases, respectively. Lamoille and Orleans each have two Public Defenders handling 20 cases at a time. Rutland has three Public Defenders handling an average of 15 abuse and neglect cases each. Washington has four staff attorneys handling 25 cases each.

Caledonia, Lamoille, Rutland, and Washington have 12, 25, 4, and 35 volunteer GALs, respectively, each handling only 1 to 3 cases at a time. Chittenden has 5 GALs take 7 to 10 cases at a time, and Franklin has only 2 GALs to handle 80 cases annually. Respondents in five counties reported problems recruiting and retaining GALs because of the lack of funds and staff to conduct ongoing recruitment and the difficulty of finding well-intentioned, well-qualified volunteers who are able to make a significant time commitment. One respondent reported a reluctance by GALs to take cases due to liability, however, Statute considers GALs as State employees with limited immunity. Local respondents were unaware of this. It is unclear how this applies to attorneys appointed as counsel.

The Office of the Public Defender is independent of the court and represents abused and neglected children as a part of its public defense duties. The volunteer GAL program, is administered through the courts by the court clerks without a separate budget or staff. State funds were used to develop the training materials. As of October 1990, the statewide program will be supervised by the Office of Court Administration and court clerks will be responsible for all administration.

Despite the dual representation by GAL and counsel, respondents made many suggestions and comments regarding abuse and neglect representation. Respondents felt that the volunteer GAL program should be formalized with paid staff to recruit, train, and supervise; that a juvenile court system should be instituted; that children in Superior Court should be represented; and that a child advocacy office should be used in place of the Public Defender (this is now being instituted in the northeastern counties). One respondent commented additionally that Vermont is a "home rule" State where local governments do not respond favorably to State or Federal intervention. After these interviews were completed, Vermont did legislate that a Family Court be instituted by October 1990, thereby addressing some of these concerns.

SAMPLED JURISDICTIONS AND CASELOADS

<i>Number of Petitions in 1989</i>			
Caledonia	32	Orleans	40
Chittenden	115	Rutland	52
Franklin	80	Washington	48
Lamoille	29	Windsor	51
Orange	26		

VIRGINIA

REQUIREMENTS:	The court must appoint an attorney before the hearing in alleged abuse or neglect cases
AUTHORITY:	VA. CODE § 16.1-266(A) (1988)
PROGRAM MODELS:	Private attorneys: all counties CASAs: assist attorneys in Fairfax County
APPOINTMENT TIMES:	Must be prior to the first hearing
TRAINING:	Set locally; CASAs train 24 hours. Attorneys have no training.
COMPENSATION:	Set locally. Some paid \$100/case; some paid \$40 to \$60/hour.
CHILDREN SERVED:	20 percent to 100 percent in sampled counties
IMMUNITY FROM LIABILITY:	Attorneys: partial immunity as per case law. Unclear to local respondents. CASAs: partial immunity as per recent legislation
SAMPLED JURISDICTIONS:	11 counties
TOTAL JURISDICTIONS IN STATE:	95 counties 41 independent cities

National Study of Guardian *ad Litem* Representation

Virginia law states that an attorney must be appointed for children in alleged abuse or neglect cases, and every county sampled does appoint attorneys. Fairfax County attorneys have help from CASAs. Most counties have social workers' evaluations available, but many attorneys do not take advantage of them.

Representation of children varied dramatically within the State, from 20 percent in Brunswick County to 100 percent in Arlington, Augusta, Carroll, Fairfax, Floyd, Greenville, Henrico, Patrick, Prince William, and Russel Counties. Brunswick County has a policy of nonappointment unless the child will be removed from the home. In all counties sampled, the judge decides whether to appoint an attorney, and the judge, his clerk, or a secretary makes the actual appointment, selecting the attorney from a list of names. Because the Fairfax CASA program is new, assignment currently is limited to a few cases. The CASAs are not GALs, but they assist attorneys. By State law, all appointments must be made prior to the first hearing. In most areas, the appointment is made as soon as possible, before or at the initial petition. However, in Brunswick County, the judge makes the appointment whenever he feels that it is necessary.

The duties of all attorneys are the same. According to State law, the attorney must represent the best interests of the child. In most areas, when there is a disagreement between the child and the attorney, the best interests of the child will be represented; sometimes both presentations will be made. In Greenville County, however, the child's wishes would be presented.

Attorneys are paid either \$40 to \$60/hour, with no hourly limits, or \$100/case. In many smaller counties, the hourly compensation is better than that for other indigent work. This is because, in many other indigent cases, there are hourly limits set. Reimbursement for expenses may be petitioned to the court.

Training is set locally. There are no training requirements for attorneys. Fairfax County CASAs train for 24 hours before appointment with an attorney. This training is still being developed but currently covers courtroom practices, law, and child abuse dynamics. There are no prior experience requirements for attorneys or CASAs.

Attorney's caseloads range from 1 to 6 cases; the average is 2.7. No respondents indicated trouble in recruiting or retaining attorneys to take the cases, but some stated that a few attorneys were less than enthusiastic. In several small counties, being on the list of available attorneys is mandatory, and some counties have only 6 to 10 attorneys.

Age of attorneys varies, but most attorneys are white, and, in all but Arlington and Fairfax, the more metropolitan areas, they are almost exclusively men.

GALs have no statutory immunity from liability, but attorneys have their own malpractice insurance for protection. CASAs and CASA staff will have statutory partial immunity as of July 1, 1990 when new legislation is enacted. Case law does exist granting limited immunity to attorneys in court appointments. No one oversees or monitors the attorneys formally, although nearly all judges indicated that they would not reappoint an attorney who did a poor job. The Fairfax County CASA

State Summaries of GAL Representation

program is administered by the local court, and volunteers are monitored and evaluated by the program director and chief Family Court judge.

SAMPLED JURISDICTIONS AND CASELOADS

<i>Number of Petitions in 1989</i>			
Arlington	200	Greensville	20
Augusta	70	Henrico	60
Brunswick	20	Patrick	10
Carroll	10	Prince William	50
Fairfax	400	Russell	30
Floyd	10		

WASHINGTON

REQUIREMENTS:	The court must appoint a GAL in any case of alleged child neglect or abuse
AUTHORITY:	WASH. REV. CODE § 26.44.053 (1986)
PROGRAM MODELS:	CASA: Clark, Franklin, King, Kittitas, Pierce Private attorney: Cowlitz, Franklin, Grant, Stevens Staff attorney: Yakima Nonattorney staff: Pierce
APPOINTMENT TIMES:	Locally controlled: most from initial petition to end of court intervention
TRAINING:	None for attorneys; CASAs train 15 to 30 hours
COMPENSATION:	Set locally; ranges from \$55/case to \$2,500/month
CHILDREN SERVED:	60 to 100 percent in sampled counties
IMMUNITY FROM LIABILITY:	Several jurisdictions claim total immunity by statute; others claim partial by local policy or local ordinance
SAMPLED JURISDICTIONS:	9 counties
TOTAL JURISDICTIONS IN STATE:	39 counties

Over half of the counties sampled in Washington State have CASA programs. This is not surprising, since the concept of a CASA program was developed by a Seattle judge and the King County (Seattle and suburbs) CASA was the first in the country. The counties that do not use CASAs use a trained nonattorney GAL staff, the Public Defender, or private attorneys. All have limited social workers' support.

The most populous county is King County, which had 1,700 cases petitioned last year. The county's 400 CASAs could handle only about 60 percent of the cases. King County did not report 100 percent representation. Title 26 law mandates that a GAL must be appointed in any case of alleged child abuse or neglect. While the King County CASAs are well aware of the law, they blame the increase in the number of cases in recent years for the lack of 100 percent representation.

The decision to appoint generally is assumed in all cases, but the ultimate decision is up to the judge. The judge, court clerk, or a CASA program director will select a particular person. Franklin and Pierce Counties use more than one model. In Franklin County, the cases are divided evenly between CASAs and private attorneys. Whether a CASA or private attorney is used depends on the age of the child. If the child is over 6 years of age, an attorney is assigned to the case. A child under 6 will be assigned to a CASA unless the abuse is severe or the case is especially complicated, in which case the child would have both a CASA and an attorney. In Pierce County, a staff of non-attorney GALs handles 90 percent of the cases, but the less complicated cases are handled by CASAs. A lack of CASA volunteers and an inadequate training program were reported. The county has recently adopted National CASA Association's training curriculum and plans to improve its training and recruit more volunteers.

Appointment always begins at the filing of the initial petition. Assignments generally end when court intervention or "dependency upon the court" has ceased. The notable exception to this is the Public Defender of Yakima County, where assignment ceases only when parental rights are terminated or when the child reaches the age of 18. While there are CASAs assigned to other juvenile cases, they may not necessarily be the same volunteers. In King County, a separate group of CASAs will take on custody, delinquency, mental health, and abandonment cases. In Kittitas County, students from the sociology department of Central Washington University or a private attorney will be assigned to these cases.

There is no difference between the duties of the CASA and private attorney except for the divisions of labor noted above. When there is a disagreement between GAL and child, the age is taken into account, and the GAL would either state their opinion of best interests or also add the child's wishes to the statement.

There is no payment to CASAs. The Public Defender in Yakima County receives \$3,500/year by contract to do this work. The private attorneys had a range of payments from \$55/case to \$2,500/month, depending on the size of the county. Payment of \$55/case is extremely low and respondents considered it to be much under the average for other indigent work.

CASA training takes 15 to 30 hours and covers the basics of law, CASA responsibility, and child and family dynamics. CASA programs have additional monthly or quarterly meetings that cover

State Summaries of GAL Representation

new topics. GAL staff in Pierce County receive the training developed by the National CASA Association. There is no training for other GALs.

The caseload of the CASA is 1 to 5, averaging 2.6. The GAL staff in Pierce County has a caseload of 150, the private attorneys 17, with ranges from 1 to 40. The attorney with 40 has a contract to do only this work for the county.

There appear to be no problems recruiting or retaining GALs, except as noted in Pierce County. King County has 400 CASAs and needs more but first needs more funds for staff and training. The average attorney in the counties sampled is white and from a small firm. The similarities statewide end there. There is a mix of men and women, old and young.

Only the Clark and Kittitas County CASA programs are independent of the court. The Clark County program is part of the YWCA of Clark County. It has an executive director and three staff and a budget of \$80,000 from donations and the county. The Kittitas program is called Child Advocates for Children and has a budget of \$13,000 for a director and two part-time staff. Its money comes from county funds and grants.

The issue of immunity from liability is a blurred one. Respondents in several counties claimed total immunity from a statute; some claimed partial immunity from county policy or ordinance; and others claimed no immunity at all. CASAs are regularly monitored and evaluated by the program director and judge. There is no evaluation mechanism for attorneys.

SAMPLED JURISDICTIONS AND CASELOADS

<i>Number of Petitions in 1989</i>			
Clark	600	Kittitas	16
Cowlitz	124	Pierce	553
Franklin	72	Stevens	NA
Grant	30	Yakima	208
King	1,700	NA = Not available	

WEST VIRGINIA

REQUIREMENTS:	Counsel is required in all abuse/neglect proceedings. GALs also may be appointed.
AUTHORITY:	W.V. CODE § 49-6-2
PROGRAM MODELS:	Private attorneys: all jurisdictions Staff attorneys: 20 percent of cases in Wood and Morgan Kanawha Public Defender will begin handling 100 percent of that county's cases
APPOINTMENT TIMES:	Appointed by the judge at least 10 days prior to hearing to serve throughout the court proceedings according to § 49-6-2
TRAINING:	None required
COMPENSATION:	Private attorneys: \$30/in-court hour, \$20/out-of-court hour, to be increased July 1990 to \$60 and \$40, respectively. Must be equal to criminal defense fees as per § 49-6-2.
CHILDREN SERVED:	100 percent of abused/neglected children in all jurisdictions
IMMUNITY FROM LIABILITY:	None
SAMPLED JURISDICTIONS:	12 counties
TOTAL JURISDICTIONS IN STATE:	55 counties

National Study of Guardian *ad Litem* Representation

West Virginia Code § 49-6-2 mandates that "legal counsel" be appointed for children in all abuse/neglect proceedings. Code § 56-4-10 allows for the additional appointment of a GAL in any proceeding for infants, or for insane or incarcerated persons. One hundred percent of the abused and neglected children in West Virginia's courts receive a court-appointed attorney. Eleven counties reported that a GAL is rarely needed or appointed additionally. Calhoun County, however, appointed an attorney and an attorney-GAL in 8 of 10 cases last year. All counties use private attorneys for most or all cases, with only Wood and Morgan using staff attorneys, the West Virginia Legal Services and Public Defender's Office, respectively, in 20 percent of their cases. Morgan reported that the Public Defender is in another county and is appointed only if no private attorneys are available. Kanawha soon will begin to use the Public Defender's Office in all of its cases. Hampshire County had no cases last year but normally would use private attorneys in abuse and neglect proceedings. Only staff attorneys receive any direct administrative support.

Judges appoint an attorney for the child as mandated by § 49-6-2 at least 10 days prior to the adjudication hearing. Judges or court clerks then assign attorneys from a rotating list maintained by each county. In three counties, all attorneys are required to be on the list for court appointments. Appointment continues until court intervention ends. Judges also appoint GALs or attorneys for children in a variety of cases such as juvenile delinquency, custody, criminal, inheritance, insurance, and any time a juvenile is before the court. Rule 17 of West Virginia Rules of Civil Procedure requires the appointment of legal counsel for all infants before the court if they are not otherwise represented.

Attorneys are appointed to provide legal counsel for children. Specific duties of counsel are not outlined by statute or policy, and differences exist among the counties. Three counties reported that the child's desires are represented, four reported that "best interests" are represented, and one reported that both views are presented. One county commented that its attorneys represent child's desires "to a fault," leaving the child's best interests basically unrepresented. Four counties reported that an attorney-GAL can be appointed additionally, usually in rare cases when the child's best interests strongly conflict with his desires. In these cases, counsel represents desires and GAL represents best interests. Rule XIII gives limited guidance to GALs only, saying a GAL "shall make a full and independent investigation" and "make known to the court his recommendations."

Fees for private attorneys are approved by the presiding judge according to State guidelines. Private attorneys receive \$30/in-court hour and \$20/out-of-court hour, to be raised in July 1990 to \$60 and \$40 respectively. Only one county reported a fee ceiling, which was \$1,000. Payment must be equivalent to those received by attorneys appointed in felony cases (§ 49-6-2). Kanawha Public Defenders earn an annual salary in the range of \$25,000 to \$38,000. Case-related expenses are reimbursed if approved by the judge.

No formal program exists governing abuse and neglect counsel. Attorneys receive no required training, no supervision, and no guidance. Although only attorneys are appointed, no prior experience is required. Attorneys are not immune from liability, and only public defenders are insured by the State as public employees.

State Summaries of GAL Representation

Eight counties each have less than 10 attorneys handling only 1 to 2 cases at a time. This is due to the small number of cases petitioned in these counties. Kanawha has 15 private attorneys who take one case at a time and four Public Defenders who soon will be taking all of the cases. Wood reported having 12 private attorneys who regularly accept appointments, usually handling 6 at a time. No counties reported any problems recruiting or retaining attorneys. Most of the attorneys used are white males; only three counties reported an even distribution of males and females. All counties reported a mix of experienced and inexperienced attorneys, the majority of whom practice in solo or small firms.

Suggestions made to improve abuse and neglect representation included increasing fees and emphasizing early intervention and resolution of court action. Several respondents commented that abuse and neglect cases do take priority over other civil cases in West Virginia.

SAMPLED JURISDICTIONS AND CASELOADS

<i>Estimated Number of Petitions 1989</i>			
Berkeley	10	Logan	57
Cabell	30	Morgan	10
Calhoun	10	Ohio	9
Grant	2	Roane	11
Hampshire	0	Wirt	10
Kanawha	25	Wood	74

WISCONSIN

REQUIREMENTS:	Mandatory attorney-GAL appointment in cases involving termination of parental rights, custody, or abuse restraining orders. GAL appointment in other abuse and neglect cases is discretionary. Counsel is required in only certain abuse/neglect cases. Children aged 12 and older receive counsel. Children younger than 12 receive attorney-GAL.
AUTHORITY:	WIS. STAT. ANN. § 48.235; § 813.122(3); § 48.23; § 767.045
PROGRAM MODELS:	Private attorneys: all jurisdictions Staff attorneys: Public Defenders in 7 sampled counties Legal Aid in addition to Public Defenders in Milwaukee
APPOINTMENT TIMES:	Eight counties reported that judge appoints attorney at filing of petition. Two counties reported that appointment can occur later. All appointments end when court issues final order according to § 48.235(7) and 151 Wis 2nd p. xxv.
TRAINING:	None required
COMPENSATION:	Private attorneys: \$60/hour according to Supreme Court Rule 81.02, but recent court decision may change this Staff attorneys: Public Defenders' receive \$23,000 to \$50,000 annually
CHILDREN SERVED:	50 to 100 percent
IMMUNITY FROM LIABILITY:	None
SAMPLED JURISDICTIONS:	10 counties
TOTAL JURISDICTIONS IN STATE:	72 counties

Wisconsin State Statutes § 48.235 and § 48.23 allow for the appointment of counsel and/or attorney GAL for a child before the court. The statute mandates GAL appointment only in cases involving termination of parental rights, custody or visitation, or child abuse restraining orders. Counsel is mandatory in certain abuse and neglect cases and discretionary in others. Children under the age of 12 may have an attorney-GAL appointed for them instead of counsel. Despite the judicial discretion permissible, respondents in 8 of the 10 counties sampled reported that 100 percent of children receive at least one appointed attorney. Price and Shawano respondents reported that because of the judicial discretion allowed by the statute, only 80 and 50 percent, respectively, receive representation.

Children aged 12 and older receive an attorney appointed as counsel to represent their wishes. Attorney-GALs are appointed to children under the age of 12 to represent their best interests. Both counsel and GAL can be appointed to one child, but usually this occurs only in cases involving a handicapped child, sexual abuse, or severe conflict between the child's desires and best interests. In 3 of the 10 sampled counties, Public Defenders represent children either as counsel or GAL, and private attorneys are used only in conflicts of interests or if no Public Defender is available. Three counties appoint Public Defenders as counsel to children aged 12 and older and appoint private attorneys as GALs for younger children. Milwaukee uses Legal Aid staff attorneys also as GALs for the younger children. Marathon, Oconto, and Rusk use private attorneys for all cases. The Shawano Public Defender handles all cases in that county despite the availability of private attorneys. The respondent explained that the county prefers to use the Public Defender's Office, which is funded by the State, rather than private attorneys, who are paid with county funds. Of the six counties using both models, only Jefferson and Price use private attorneys more often than staff attorneys.

Public Defenders and Legal Aid attorneys have administrative support within their offices; however, private attorneys receive no support. Milwaukee has one part-time and three full-time social workers in its Office of the Public Defender. Staff attorneys receive only internal monitoring by their offices, and private attorneys are not supervised or formally monitored at all. Attorneys are not required to have any specific GAL experience or training. All Wisconsin attorneys must, however, complete 30 hours of training every 2 years in order to remain on the Bar.

Attorneys receive no guidelines or description of duties except the descriptions in § 48.235 and § 767.045. The statutory requirement of *counsel* for children aged 12 and older has resulted in the representation of children's desires. When the same attorneys are appointed as GALs, § 767.045 states that "The guardian *ad litem* shall be an advocate for the best interests of the child . . . [and] may communicate to the court the wishes of the child." All respondents reported that attorneys do follow these instructions, representing the desires of children aged 12 and older, representing the best interests of younger children, and representing the best interests of any child if appointed as GAL. Attorneys, however, have no statutory or case law immunity from liability regarding abuse and neglect representation.

Judges appoint counsel or GAL at the filing of the petition in all counties where 100 percent of abuse and neglect cases receive representation. In Price and Shawano, where representation does not always occur, appointment can occur later in the case. According to § 48.235(7) and Supreme Court 151 Wis. 2nd p. xxv, appointment must end when the court issues its final order. Other cases

State Summaries of GAL Representation

beside abuse and neglect that receive appointed attorneys include cases involving juvenile delinquency, custody, mental health, and children in need of supervision.

Private attorneys receive \$60/hour for court appointments according to Supreme Court Rule 81.02; however, a January 1990 Supreme Court decision regarding GAL fees may result in a different amount. Public Defenders earn an annual salary in the range of \$23,000 to 50,000. Legal Aid attorneys earn less because Legal Aid is an independent nonprofit agency. Case-related expenses are reimbursed to all GALs. State statute allows the courts to order that the child's parents pay the GAL's fee if they are not indigent.

Jefferson, Manitowoc, Oconto, Price, and Rusk all have fewer than 10 private attorneys who accept only 1 to 3 court appointments at a time. Because these counties have few private attorneys in practice, it is difficult for them to find another attorney if there is a conflict of interest or if another GAL is needed on the same case. Rusk has only two attorneys available for court appointments; they handled all of the 30 cases last year. Brown, Door, and Marathon have 15 to 25 private attorneys; they each handle 2, 1, and 5 cases, respectively. Shawano has only 1 Public Defender; Jefferson, Manitowoc, and Price each have 3; Brown and Door each have 5; and Milwaukee has 7 Legal Aid attorneys and 17 Public Defenders. Caseloads for staff attorneys generally range from 10 to 20 cases except in Door and Price, where caseloads may only be 1 or 2. Most appointed attorneys in the State are white, male solo practitioners or from small firms, Shawano's only Public Defender is female, and Marathon and Milwaukee respondents reported a mix of female and male attorneys. All counties used more experienced rather than younger attorneys for GAL work. Only the more rural counties reported problems obtaining GALs because of the small number of attorneys available. Although the Public Defender's Office and Legal Aid are independent of the court, no formal GAL program exists for private or staff attorneys.

Respondents commented that the present system in Wisconsin worked well within the limits of staff and funding available. Some suggested that CASA would be a good adjunct to, but not a substitute for, attorneys. Respondents felt strongly that children's legal rights must be protected in the courts by attorneys. One problem noted was the rarity of counsel and GAL both being appointed. Respondents said children aged 12 and older receive counsel to represent their desires, but their best interests frequently are unrepresented. Additional funding would enable courts to appoint two attorneys in these cases.

SAMPLED JURISDICTIONS AND CASELOADS

<i>Estimated Number of Petitions in 1989</i>			
Brown	150	Milwaukee	NA
Door	30	Oconto	20
Jefferson	50	Price	15
Manitowoc	80	Rusk	30
Marathon	75	Shawano	20

NA = Not available

WYOMING

REQUIREMENTS:	Requires court to appoint counsel for child in any abuse or neglect case. May also appoint GAL or attorney may be GAL.
AUTHORITY:	WYO. STAT. ANN. § 14-3-211(a) (1986)
PROGRAM MODELS:	Public Defender: Carbon, Natrona, Uinta Private attorneys: all counties
APPOINTMENT TIMES:	State mandates appointment at filing of petition, to end when court intervention ends
TRAINING:	Set locally; attorneys have no training
COMPENSATION:	Set locally; attorneys receive \$45 to \$75/hour or \$150 to \$350/case
CHILDREN SERVED:	100 percent in sampled counties
IMMUNITY FROM LIABILITY:	None
SAMPLED JURISDICTIONS:	9 counties
TOTAL JURISDICTIONS IN STATE:	23 counties

National Study of Guardian *ad Litem* Representation

Wyoming uses several combinations of private attorneys and staff attorneys to serve as GALs. Every county uses private attorneys at least some of the time, and six counties—Albany, Campbell, Fremont, Johnson, Sweetwater, and Washakie—use them exclusively. Carbon, Natrona, and Uinta use private attorneys in conjunction with staff attorneys from the Public Defender's Office. Social work help or reports are available in all counties but are only used in about half.

All counties have 100 percent representation of children. Judges decide which cases will receive appointments, and the judge or his clerk select the individual for appointment. In counties that use both Public Defenders and private attorneys, selection is made on the basis of availability. These counties try to rotate between the two models to evenly distribute cases and responsibilities. The State requires that appointment take place when the initial petition is filed and that it end when court intervention ends. In all counties, GALs are available for delinquency and custody cases also.

State law specifies that counsel must be appointed to a child in any abuse or neglect case. A GAL also may be appointed, or the attorney may be the GAL. GALs are required to represent the best interests of the child. Respondents varied in their opinions regarding presentation in the case of disagreement between the child and the GAL. Uinta County GALs would present the child's best interests, but another attorney could report the child's wishes. Respondents in other counties said that they would present either the best interests of the child and the child's wishes, or only best interests.

Compensation for the attorneys is set locally. Compensation ranges from \$45 to \$75/hour, or from \$150 to \$550/case. Wyoming attorneys feel that this payment is roughly equivalent to that for other indigent work, and they generally are satisfied with these amounts. Training requirements are set locally within the State, but there are no training programs in the counties sampled. Nor is there any experience required prior to serving as a GAL.

The average attorney caseload is 2.6, with a range of 1 to 5. Most counties have no problems retaining attorneys, but scheduling conflicts can be a problem in counties with few attorneys. The ages of attorneys vary greatly, but most are middle aged, white, and male. Almost all are in solo practice or small firms.

There is no immunity from liability, but most attorneys carry their own malpractice insurance. There is no formal monitoring process.

SAMPLED JURISDICTIONS AND CASELOADS

<i>Number of Petitions in 1989</i>			
Albany	12	Natrona	102
Campbell	100	Sweetwater	100
Carbon	15	Uinta	140
Fremont	10	Washakie	50
Johnson	24		

APPENDIX 2 SAMPLED COUNTIES BY STATE

ALABAMA

Barbour
Cherokee
Cleburne
Crenshaw
Elmore
Etowah
Jefferson
Lee
Lowndes
Monroe
Montgomery¹
Tuscaloosa
Washington

ALASKA^a

Anchorage
Cordova
Eagle River²
Fairbanks
Juneau
Kenai
Kodiak
Nome
Sitka
Wrangell

ARIZONA

Apache
Cochise

Coconino
Gila
Graham
Greenlee
Maricopa
Navajo³
Pima
Pinal³

ARKANSAS

Arkansas
Clark
Crawford
Garland
Logan
Monroe
Pike
Pulaski
Saline
Scott
Sebastian

CALIFORNIA

Alameda
Fresno
Humboldt
Kings
Lake
Los Angeles¹
Placer

^adistrict courts sampled

¹added as a large city

²included as part of a larger jurisdiction

³deleted; no response or no information available

⁴deleted; judges declined to participate

⁵added as a district court

⁶juvenile court

⁷added; information was available

CALIFORNIA (cont.)

San Bernadino
San Diego¹
San Francisco¹
Santa Cruz
Siskiyou³
Stanislaus⁴

COLORADO

Alamosa
Bent
Delta
Denver
Garfield
Huerfano
Larimer
Las Animas
Montrose
Otero
Rio Blanco
Weld

CONNECTICUT^a

Ansonia-Milford⁵
Danbury⁵
Fairfield
Hartford-New Britain
Litchfield
Middlesex
New Haven
New London
Rockville⁵
Stamford-Norwalk⁵
Tolland
Waterbury⁵
Windham

DELAWARE

Kent
New Castle
Sussex

DISTRICT OF COLUMBIA

Washington, D.C.

FLORIDA

Clay
Dade
De Soto
Duval¹
Glades
Hendry
Hillsborough
Lake
Polk
St. Johns
Sumter

GEORGIA

Burke
Chatham
De Kalb
Emanuel
Franklin
Fulton
Gordon
Henry
Jefferson
Jenkins
Richmond
Stephens

HAWAII

Hawaii
Honolulu
Kauai
Maui

IDAHO

Ada
Bingham
Bonner
Canyon

Sampled Counties by State

IDAHO (cont.)

Clearwater
Elmore
Gem
Gooding
Idaho
Payette
Twin Falls
Washington

Humboldt
Iowa
Jones
Marion
Pocahontas
Polk¹
Scott
Washington
Webster
Wright

ILLINOIS

Cook
Du Page
Hancock
Kendall
Logan
Madison
Perry
Schuyler
Stephenson
Washington
Winnebago

KANSAS

Allen
Atchison
Brown
Coffey
Doniphan
Johnson
Lyon
Marshall
Nemaha
Neosho
Osage
Saline
Sedgwick

INDIANA

Clay
Dearborn
Knox
Marion
Parke
Pulaski
St. Joseph
Vanderburgh
Vermillion
Wabash
White

KENTUCKY

Barren
Butler
Daviess
Fayette
Grant
Henry
Hopkins
Jefferson
Kenton
Ohio
Owen
Warren

IOWA

Black Hawk
Bremer
Buchanan
Delaware

National Study of Guardian *ad Litem* Representation

LOUISIANA

Bienville
Claiborne
East Baton Rouge
East Feliciana
Iberville³
Lafourche
Orleans
Rapides
St. Mary
Tangipahoa
West Feliciana

MAINE

Aroostook
Cumberland
Franklin
Kennebec
Lincoln
Oxford
Somerset
Waldo
York

MARYLAND

Allegheny
Carroll
Dorchester
Harford
Howard
Montgomery
Prince George's
Talbot
Wicomico

MASSACHUSETTS^a

Bristol⁶
Boston⁶
Brockton
Cambridge
Dedham

Edgartown
Greenfield
Northampton
Pittsfield
Salem

MICHIGAN

Benzie
Branch
Genesee
Ionia
Jackson
Macomb
Manistee
Mecosta
Newaygo
Wayne

MINNESOTA

Brown
Crow Wing
Hennepin
Jackson
Kittson
Marshall
Morrison
Murray
Nobles
Olmsted
Ramsey
Redwood
Roseau

MISSISSIPPI

Calhoun
Clarke
De Soto
Harrison
Hinds
Jasper
Jones

Sampled Counties by State

MISSISSIPPI (cont.)

Pontotoc
Rankin
Smith
Wayne

MISSOURI

Andrew
Boone³
Cass
Crawford
Dent
Gentry³
Holt
Jackson
Jefferson
Platte
St. Louis
Shannon³
Texas

MONTANA

Big Horn
Blaine
Carbon
Cascade
Chouteau
Dawson
Fergus
Flathead
Judith Basin
Lincoln
Powder River
Prairie
Ravalli
Rosebud
Sanders
Stillwater
Yellowstone

NEBRASKA

Adams
Arthur
Boyd
Cheyenne
Dakota
Deuel
Dixon
Douglas
Garden
Grant
Hall³
Holt
Keith
Knox
Lancaster
Perkins
Seward
Thurston
York

NEVADA

Carson
Churchill
Clark
Douglas³
Elko
Esmeralda
Lincoln
Mineral
Nye
Pershing
Storey
Washoe

NEW HAMPSHIRE^a

Berlin
Claremont
Concord

National Study of Guardian *ad Litem* Representation

NEW HAMPSHIRE (cont.)

Dover
Exeter⁵
Goffstown⁵
Keene
Laconia
Lebanon
Manchester⁵
Nashua
Portsmouth

Dutchess
Erie¹
Genesee
New York City
Queens²
Sullivan⁴
Ulster
Wyoming

NEW JERSEY

Bergen
Burlington
Cape May³
Essex
Hunterdon
Mercer
Middlesex⁷
Monmouth
Passaic⁷
Somerset
Warren
Union

NORTH CAROLINA

Avery
Bertie
Buncombe
Caldwell
Durham
Edgecombe
Hertford
Jackson
Mecklenburg¹
Richmond
Yancey

NEW MEXICO

Bernalillo
Chaves
De Baca
Doña Ana
Grant
Luna
Quay
Roosevelt
San Juan
Sante Fe
Sierra

NORTH DAKOTA

Cass
Cavalier
Eddy
Grand Forks
Kidder
McHenry
McLean
Mercer
Morton
Nelson
Oliver
Pembina
Pierce
Ramsey
Sheridan
Stark
Stutsman
Towner
Walsh

NEW YORK

Cayuga
Chautauqua

Sampled Counties by State

WASHINGTON

Clark
Cowlitz
Franklin
Grant
King
Kittitas
Pierce
Stevens
Yakima

WEST VIRGINIA

Berkeley
Cabell
Calhoun
Grant
Hampshire
Kanawha
Logan
Morgan
Ohio
Roane
Wirt
Wood

WISCONSIN

Brown
Door
Jefferson
Manitowoc
Marathon
Milwaukee
Oconto
Price
Rusk
Shawano

WYOMING

Albany
Big Horn³
Campbell
Carbon
Converse³
Fremont
Johnson
Lincoln³
Natrona
Sweetwater
Uinta
Washakie

Sampled Counties by State

OHIO

Allen
Ashland
Geauga
Hamilton
Licking
Marion
Scioto
Summit
Van Wert

OKLAHOMA

Alfalfa
Cleveland
Comanche
Cotton
Grant
Jefferson
Logan
Mayes
Noble
Oklahoma
Tillman
Tulsa
Wagoner

OREGON

Baker
Benton
Grant
Hood River
Jackson
Josephine
Lane
Multnomah
Polk
Union
Wallowa
Wasco

PENNSYLVANIA

Allegheny
Armstrong
Beaver
Bucks
Centre
Clearfield
Indiana
Lycoming
Philadelphia¹
Wyoming

RHODE ISLAND¹

Bristol²
Kent
Newport
Washington

SOUTH CAROLINA

Bamberg
Barnwell
Clarendon
Edgefield
Florence
Horry
Laurens
McCormick
Orangeburg
Spartanburg
Williamsburg

SOUTH DAKOTA

Brookings
Butte
Clay
Codington
Deuel
Hamlin

SOUTH DAKOTA (cont.)

Lawrence
Lincoln
Meade
Minnehaha
Pennington
Union
Yankton
Ziebach

TENNESSEE

Carter
Davidson
Knox
Lauderdale
Marshall
Montgomery
Moore
Roane⁴
Rutherford
Shelby

TEXAS

Bexar¹
Brewster
Culberson
Dallas
Deafsmith
Goliad
Harris¹
Hudspeth
Hunt
Karnes
Lamar
Live Oak
Nueces
Parmer
Presidio
Reeves
Tarrant
Terrell
Webb

UTAH

Box Elder
Cache
Carbon
Davis
Duchesne
Grand
Salt Lake
Sanpete
Uintah
Utah
Wasatch
Washington
Weber

VERMONT

Caldonia
Chittenden
Franklin
Lamoille
Orange
Orleans
Rutland
Washington
Windsor

VIRGINIA

Arlington
Augusta
Brunswick
Carroll
Fairfax
Floyd
Greensville
Henrico
Manassas²
Patrick
Prince William
Russell

