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**FINAL REPORT ON THE VALIDATION
AND EFFECTIVENESS STUDY OF LEGAL REPRESENTATION
THROUGH GUARDIAN AD LITEM**

150732^{Pt. 1}

**U.S. DEPARTMENT OF HEALTH AND HUMAN SERVICES
Administration for Children and Families
Administration on Children, Youth and Families
National Center on Child Abuse and Neglect
Washington, DC**

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NCJRS

NOV 2 1994

ACQUISITIONS

**U.S. DEPARTMENT OF HEALTH AND HUMAN SERVICES
Administration for Children and Families
Administration on Children, Youth and Families
National Center on Child Abuse and Neglect**

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EXECUTIVE SUMMARY

The Child Abuse Prevention and Treatment Act (CAPTA) (Public Law [P.L.] 93-247, as amended by P.L. 95-266) began Federal involvement in the area of child abuse and neglect and required that "in every case involving an abused or neglected child which results in a judicial proceeding a guardian ad litem [GAL] shall be appointed to represent the child in such proceedings..." (42 U.S.C. 5106a). However, neither CAPTA nor subsequent regulations specifically define the role of the GAL. In fact, the regulations only require States to "ensure the appointment of a guardian ad litem or other individual whom the State recognizes as fulfilling the same functions as a guardian ad litem, to represent and protect the rights and best interests of the child" (45 CFR 1340.14). The ambiguity surrounding the role of the GAL has left States to define the role themselves, resulting in a variety of interpretations across the Nation.

The absence of clear role definitions prompted questions to arise concerning the adequacy and effectiveness of GAL representation. In the 1988 reauthorization of CAPTA, Congress addressed some of these issues by mandating that the National Center on Child Abuse and Neglect conduct a study of "the effectiveness of legal representation through the use of guardians *ad litem* and court appointed special advocates [CASAs]" (P.L. 100-294). In October 1989 the Office of Human Development Services (now merged within the Administration for Children and Families) contracted with CSR, Incorporated, with the American Bar Association serving as subcontractor to CSR, to conduct a two-phase study of the issues. Phase I involved collecting data at the State and county levels on GAL legislation, program structures, and roles. The report on Phase I, *National Study of Guardian ad Litem Representation*,¹ is included as Appendix A to this report (separately bound).

The Phase I report documented the three major program models of GAL representation as follows: (1) the private attorney model, in which the court appoints an attorney in private practice to represent each child, with compensation by the court; (2) the staff attorney model, in which each county employs a staff of attorneys either directly or through contracts with law firms; and (3) the CASA model, in which lay volunteers are selected and trained by the court or an independent CASA organization. The Phase I report also documented the five major roles described in the literature² for GALs: (1) factfinder and investigator, (2) legal representative, (3) case monitor, (4) mediator and negotiator, and (5) resource broker. Phase II of

¹CSR, Incorporated. October 1990. *National Study of Guardian ad Litem Representation*. Washington, DC: CSR, Incorporated.

²Duquette, D. 1990. *Advocating for the Child in Protection Proceedings*. Lexington, MA: Lexington Books.

the study was designed to measure the effectiveness of GAL representation and to validate selected Phase I findings.

The data presented in this report were collected in a randomly selected 23-county sample from interviews with GALs, caseworkers, and judges and from case record extractions. GALs were randomly selected from lists in each of the 23 counties and asked to report on two child abuse and/or neglect cases: (1) a "new" case, defined as one that recently had completed the dispositional or factfinding hearing, and (2) a "review case," defined as one that had had at least one review hearing. A total of 259 GALs provided data on 458 cases, of which one-half were new and one-half were review, out of a planned sample of 518 cases. The planned sample was not attained because not all GALs had both new and review cases. Caseworkers were interviewed for 415 of these cases, and case record data were extracted for 408.

An important study design issue was the definition of effectiveness. This part of the design is somewhat problematic because "effectiveness" can have different connotations. Phase II of this study adopted a criterion-referenced or procedural definition of effectiveness, as opposed to one examining outcome. Effectiveness, for study purposes, was defined as the degree to which the GAL performed the five roles listed previously and the related tasks and activities. The procedural effectiveness indicators were refined and prioritized by the Technical Expert Group (TEG) for the study—a panel of academics, attorneys, judges, and lay volunteers who also reviewed the preliminary findings and the draft final report of the study.

1. MAJOR FINDINGS

The study had the following findings regarding the backgrounds of GALs who participated in the study, the structure of the programs the GALs served in, and the case placement goals:

- *Recruitment.*—Private attorneys were most likely to be involved in GAL representation as a result of their own request to be placed on the court list of GALs. The private attorneys in this study were compensated by the courts. Almost all of the staff attorneys reported that they were involved as GALs because this was part of their jobs as employees of a firm or agency. CASAs alone reported becoming involved as volunteers.
- *Previous experience.*—Fewer than 30 percent of all GALs surveyed had any prior experience in child welfare or advocacy. Staff attorney GALs were most likely to report having had such experience (34.2 percent). Areas of experience included family/child law, social work, and (in the case of CASAs) foster parenting.
- *Specialized training.*—Virtually all CASAs and the overwhelming majority of private attorneys and staff attorneys reported that they received some specialized GAL training. Staff attorneys reported the greatest amount of training, with a median of 20 days, compared to 5 days for each of the other two models. CASAs received training on a wider variety of topics than GALs in the other two models.

- *Experience as a GAL.*—Private attorneys had the longest tenure as GALs, with a median of 5 years, followed by staff attorneys with 2 years' experience and CASAs with 1.5 years.
- *Timeliness of appointment.*—The appointments of GALs were delayed, especially in the CASA model, where three-quarters of the appointments were made more than 30 days after the petition was filed.
- *Caseload and hours worked.*—The median GAL caseload reported by staff attorneys was 500, compared to 15 for private attorneys and 4 for CASAs. To some extent the differences in caseload were offset by the hours per week spent as a GAL. Staff attorneys reported working a median reported of 40 hours per week performing GAL activities, while private attorneys and CASAs reported medians of 3 hours and 4 hours, respectively. The median reported number of hours per week spent on the cases included in the sample was 1 hour for both of the attorney models and 2.5 hours for the CASA model.
- *Compensation.*—Private attorneys may be compensated on a per case basis, but an hourly rate with a differential between in-court and out-of-court time was more typically reported in this study. Most counties have a maximum limit on compensation, ranging from \$300 to \$1,500 per case. As indicated by the relatively long tenure of private attorney GALs cited above, these limits seem to impact the number of cases private attorneys accept rather than their willingness to serve as GALs. Staff attorneys in the study were compensated by salary, and CASAs worked as unpaid volunteers.
- *Supervision and evaluation.*—Private attorneys typically were not supervised or evaluated, except in the context of compensation. Staff attorneys were supervised by their employing agency or firm, and more than one-half received formal evaluations from their supervisors. CASAs were supervised by a GAL or CASA program director, but less than one-quarter received formal evaluations.
- *Case placement goals.*—One of the most important findings from the analysis of case records was the change in case placement goals as the cases progressed. The original case goal was to retain the child in the home or return the child to the home in 86.4 percent of the cases. However, the placement goal changed in nearly one-half of the review cases, and the new goal involved out-of-home placement in 44.6 percent of the cases. The new goal was long-term foster care in 12.4 percent of the review cases; termination of parental rights, adoption, or emancipation in 19.8 percent of the review cases; and guardianship or other placement in 12.4 percent of the review cases. These changes in case placement goals suggest that family support and family preservation programs need to be designed to protect the best interests of the child while not requiring family reunification.

The sections below discuss the study's findings regarding GAL performance in the five roles of (1) factfinder and investigator, (2) legal representative, (3) mediator and negotiator, (4) case monitor, and (5) resource broker:

1.1 Factfinder and Investigator

Because GALs often operate on tight timetables, it is not always possible for them to thoroughly investigate all sources of information. The TEG recommended that guidelines should be set to help GALs prioritize investigation activities. The TEG also recommended that such guidelines should place the highest priority on meeting with and/or observing the child, visiting the parent's home, visiting the child's home, contacting the child's caseworker, reading the petition, and reviewing the agency case record.

Findings regarding the factfinder and investigator role include the following:

- Almost 30 percent of private attorneys had no type of contact with their clients, followed by 17.4 percent of staff attorneys and 8.9 percent of CASAs. One possible explanation for these high percentages is the perception among GALs that contact with abused/neglected infants and toddlers is not applicable to investigating and preparing for their cases.
- The majority of CASAs visited the parent's or child's home as a placement and service assessment activity. Approximately one-third of GALs in the attorney models made any type of visit with an adult.
- GALs consult a wide variety of persons in preparing for and investigating cases. Over 80 percent of the GALs in each model contacted the caseworker.
- GALs rated themselves as very effective in preparing for and investigating a case in 62.9 percent of the cases. Broken down by model, 71.7 percent of staff attorneys, 68.5 percent of CASAs, and 55.5 percent of private attorneys rated themselves as very effective. Caseworkers rated GALs overall as very effective in only 38.1 percent of the cases.

1.2 Legal Representative

The data suggest that the amount and type of legal representation a child receives depends not only upon the representative who advocates for the child, but also upon the evolution of the case and whether or not any aspect of the case is contested. The TEG members maintained that, in their opinion, it was unacceptable for any child to appear before the court without being represented by either an attorney or another person equally qualified to fulfill the role, and the study recommends that an attorney be present at all hearings.

On the whole, the staff attorneys reported having performed the greatest number of legal activities, followed by the private attorneys and CASAs. The respondents from all three models reported having performed a greater number of activities for review cases than for new cases; moreover, the respondents reported having performed a greater number of legal activities in the contested cases than in the uncontested cases. The data also suggest that since attorneys specialize in legal activities, the staff and private attorneys may tend to concentrate their efforts on courtroom activities, while

CASAs—who often are better trained to perform nonlegal social service activities—may be inclined to concentrate their efforts on activities outside the courtroom.

Specific findings regarding the legal representative role include the following:

- The attorneys in the study were more likely to attend hearings than were the CASAs. The study found that 94.5 percent of the private attorneys and 91.0 percent of the staff attorneys attended all of the hearings for the new cases. In the review cases, however, these numbers decreased to 80.0 percent and 73.9 percent, respectively. CASAs reported having attended all of the hearings in 53.4 percent of the new cases and 60.3 percent of the review cases, reflecting systematic delays in the appointment of CASA GALs in some of the counties studied.
- With regard to recommendations presented to the court, the data suggest that the CASAs placed a greater degree of importance upon the presentation of written documents than either of the attorney models. The CASAs reported having submitted written reports for 67.1 percent of the new cases and 83.3 percent of the review cases, compared to the private and staff attorneys, who submitted written reports for 10.9 percent of the new cases and 29.5 percent of the review cases.
- The TEG recommended that GALs should make dispositional recommendations to the court in all cases, while noting the complexities of the case to the court. Furthermore, the TEG recommended that, in the event that the GAL's opinion concerning the best interests of the child differ from the child's opinion, the GAL present both opinions to the court.
- Although the overall number of disagreements among the GALs, caseworkers, and children was relatively modest, such differences reportedly arose most often between the caseworkers and the staff attorneys, and most of these differences concerned the child's placement. According to the TEG's recommendations, all case-related disagreements must be made known to the court.
- The majority of the GALs responded that the children were not actively involved at the litigation level. The private attorneys reported that in only 18.6 percent of the cases did the child appear before the judge in court, followed by the CASAs (12.3 percent) and staff attorneys (9.8 percent).
- Staff attorneys most frequently rated their own legal representation performance as very effective (85.9 percent), followed by private attorneys (78.1 percent) and CASAs (45.0 percent). The caseworkers rated staff attorneys very effective in 63.5 percent of the cases, rated private attorneys very effective in 58.7 percent of the cases, and rated CASAs very effective in 49.6 percent of the cases.

1.3 Mediator and Negotiator

Mediation and negotiation are very important GAL functions, because any agreements or stipulations that can be concluded outside the courtroom conserve time and energy for all parties. Additionally, agreements that are reached in this manner often are

easier to implement than court-imposed orders, because they are mutually agreed upon.

- Staff attorneys were the most likely to attempt to initiate negotiations (84.8 percent), followed by private attorneys (62.7 percent) and CASAs (38.4 percent). GALs were successful in negotiating an agreement in approximately two-thirds of the cases in which they initiated negotiations.
- Two-thirds of the GALs reported that they were very involved in negotiations, regardless of who initiated negotiations, with little difference across the models. Caseworkers supported these self-assessments, reporting that the GAL was very involved in negotiations in three-fifths of the cases.

1.4 Case Monitor

The TEG stated that maintaining contact with the child and other relevant parties, monitoring the special needs of the child, informing the court of service needs, and following up on court orders were activities critical to a GAL's role as case monitor. The data indicated a need for clear role definitions and lines of communication between the GAL and caseworker to ensure that monitoring activities are performed as necessary. CASAs reported spending significantly more time performing such activities than did the attorney GALs.

Specific findings regarding the monitor role include the following:

- Over one-half of all private attorneys and 40 percent of the staff attorneys reported that they did not contact the child at all on matters other than those pertaining to the hearings. CASAs reported no contact in only 5.5 percent of their cases.
- More than one-quarter of private attorney GALs reported monitoring activities as inapplicable to their role in a case, indicating a need for clearer role definitions.
- Nearly 80 percent of the caseworkers interviewed reported that the CASAs made contact with them since the review hearing, compared to 43.9 percent of the staff attorneys and 36.3 percent of the private attorneys.
- Monitoring was reported to be inapplicable by 27.9 percent of private attorneys, 13.0 percent of staff attorneys, and 7.6 percent of CASAs.

1.5 Resource Broker

The data indicate that ambiguity exists among GALs regarding the extent to which they should act as facilitators of service provision for the child and family members. Some TEG members held the opinion that brokering services was a responsibility of the caseworker that should be shared with the GAL.

Specific findings on this role include the following:

- Nearly one-half of all GALs (46.3 percent) estimated that they do not spend any time in the area of resource brokering.
- In rating their effectiveness as resource brokers, 33.8 percent of the GALs indicated that the activity was inapplicable to their overall function in a case.

2. RECOMMENDATIONS

The study findings point to several areas of improvement that could strengthen the GAL's role as an advocate in child abuse and neglect cases. The following recommendations are offered on the basis of these findings.

2.1 Private Attorney Model

- Private attorneys should be provided with additional resources to support their legal representation.
- State and local governments using the private attorney model should increase the number of hours authorized for payment to enable private attorneys to perform the full range of GAL functions necessary to adequately represent the best interests of the child.
- Private attorneys and staff attorneys should receive more focused training in all aspects of GAL representation.
- An organizational and support structure comparable to that used in staff attorney and CASA programs should be implemented by private attorney programs.

2.2 Staff Attorney Model

- Staff attorney caseloads should be reduced.
- Private attorneys and staff attorneys should receive more focused training in all aspects of GAL representation.
- There should be more input from caseworkers and judges in formal reviews of staff attorneys' performance.

2.3 CASA Model

- The timeliness of CASA appointments to cases needs to be improved. In one-half of the counties studied, CASAs routinely were not appointed prior to the dispositional hearing.
- CASAs should be accompanied by and represented by an attorney in all courtroom proceedings and negotiations.

- CASA training should emphasize the need for the GAL to participate in all courtroom proceeding.

2.4 All GAL Models

- For the cases they are representing, GALs should attend all hearings. CASA programs in particular need to improve in this area.
- Variations of a mixed model of representation using a combination of attorneys, volunteers, and/or trained staff members should be tested.
- The TEG recommended that a formal system of child advocate training and certification should be established for all attorney and volunteer GALs. A less expensive system of uniform training curricula with certificates of completion would accomplish many of the same purposes.
- The courts should issue formal appointment instructions that clearly define the GAL's duties, roles, and responsibilities.
- Additional resources are needed to implement the GAL requirement in the CAPTA legislation. In particular, more resources are needed to provide attorney GALs with adequate time to perform their duties and to provide legal support to CASA GALs.

This study of the GAL program served the purposes of documenting the status of the program and proposing some exciting directions for the future. The results of the study demonstrated that no single GAL model studied was consistently superior to the others across all five GAL roles. The findings suggested that an optimal approach may involve having a GAL who possesses or has access to the expertise and resources of attorneys, lay volunteers, and caseworkers to perform the broad range of functions and services contained in the definition of the child advocate.

Chapter 1. INTRODUCTION TO THE GAL STUDY

While the maltreatment of children through physical and sexual abuse and neglect has taken place throughout recorded history, the start of the modern era of child abuse and neglect research and advocacy can be traced to 1962. Dr. C. Henry Kempe, a physician, conducted a study of children in different hospitals throughout the country and found that a significant number of cases ending in death or permanent injury were the result of abuse and/or neglect perpetrated by the children's parents. His findings, first published in the *Journal of the American Medical Association (JAMA)*,¹ had a major impact on child maltreatment policy at the State and Federal levels. Indeed, what hitherto had been an unrecognized and unacknowledged crime became the center of public attention almost overnight.

In the 5 years following Dr. Kempe's landmark study, every State enacted a law that required the official reporting of suspected cases of abuse or neglect, by physicians and other professionals who work with children, to law enforcement or local child protective service agencies. Although specific definitions of child abuse and the balance between parental rights and children's rights remain within the purview of the individual States, the Federal Government became involved in this sensitive arena with the passage of the Child Abuse Prevention and Treatment Act (CAPTA) in 1974 (Public Law [P.L.] 93-247, as amended by P.L. 95-266). This first attempt at establishing a national policy addressing child abuse and neglect was a milestone in the emergence of child rights in the eyes of the law.

Prior to 1974, juvenile courts historically discouraged legal representation for children. Because these courts were created in order to help rehabilitate delinquent youth and dysfunctional families, the imposition of formalistic legal requirements and procedures was perceived as an impediment to rehabilitation. Prior to CAPTA, only a few States provided legal representation or guardians *ad litem* (GALs) for abused and neglected children by statute.

The concept of a GAL—the focus of this study—dates back to English common law. Children were, and remain today, legally incompetent to file or defend against lawsuits. Traditionally the court would assign a GAL to represent the best interests of a child involved in litigation. The GAL did not have to be an attorney, and a GAL was assigned when the child was a party to a legal action. Thus, GALs traditionally assumed an adversarial role, charged with helping the child prove or defend a case. Subsequent practice in view of State and Federal legislation has altered this traditional view of the GAL's roles and responsibilities. Many practitioners argue that the GAL's role should be to advocate for a child as well as act to safeguard the child's

¹ Kempe, C.H., Silverman, F.N., Steele, B.F., Droegemueller, W., and Silver, H.K. 1962. "The Battered Child Syndrome." *JAMA* 181:17-24.

interests. The issues surrounding this emerging area of law are the subject of considerable discussion and debate.

1.1 LEGISLATIVE MANDATE FOR GAL

As described above, in 1974 Congress passed CAPTA, which began Federal involvement in the area of the neglect and maltreatment of children. The act established the Coordinated Discretionary Grants Program, which enabled States that met certain requirements to establish child abuse prevention and treatment programs. One of these requirements was the appointment of a GAL to all abused or neglected children involved in judicial proceedings. The rationale for the appointment of a GAL in civil and criminal abuse and neglect proceedings was that each child involved in judicial proceedings needs an independent voice to advocate for his/her "best interests."

Although Federal law established the requirement for GAL representation, neither the act nor subsequent regulations defined the role and duties of GALs. Regulations require only that States must "ensure the appointment of a guardian ad litem or other individual whom the State recognizes as fulfilling the same functions as a role of guardian ad litem, to represent and protect the rights and best interests of the child" (45 CFR 1340.14). Beyond this general requirement, States were permitted to implement and define the GAL's role and responsibilities according to local guidelines.

In the years following passage of the act, all States implemented this requirement through law, regulation, or court practice for some or all children involved in legal proceedings stemming from child abuse or neglect. With few exceptions, such legislation did not define clearly how such representation should be provided, who could serve as a GAL, or the role this individual should play.

The GAL role originally was conceptualized in legal terms, and States initially appointed attorneys to represent children. However, in the late 1970's, courts in Florida and Washington State began appointing trained volunteers to represent children either alone or paired with an attorney. Due to the success of these efforts, other States began appointing nonattorney volunteers. In the early 1980s the Administration for Children, Youth and Families (now the Administration on Children, Youth and Families [ACYF]) encouraged the development of volunteer GAL programs, such as court-appointed special advocate (CASA) programs, by designating their establishment as a priority area in the Coordinated Discretionary Grants Program. Other methods for providing GAL representation that have evolved over the past 19 years include the use of public defenders, legal aid attorneys, and social workers. While some States have developed statewide programs and standards for GAL representation, most have not.

The absence of a clear role definition prompted many to question the adequacy and effectiveness of GAL representation nationally. In 1988 Congress responded to this issue by reauthorizing CAPTA (P.L. 100-294). Specifically, the act mandated that

the National Center on Child Abuse and Neglect (NCCAN) conduct a study of "the effectiveness of legal representation through the use of guardian-ad-litem and court appointed special advocates" and prepare a report to Congress that included the information and data gathered during the study, as well as the analysis of such information.

1.2 VALIDATION AND EFFECTIVENESS STUDY OF LEGAL REPRESENTATION THROUGH GUARDIAN AD LITEM

In October 1989 ACYF issued a contract to CSR, Incorporated, with the American Bar Association as CSR's subcontractor, to conduct a national study of GAL representation with two phases. Phase I obtained descriptive information on the GAL program's structure and legislation, as well as other programmatic characteristics at the State and county levels. The Phase I findings were presented in a 1990 report that summarized the status of GAL representation at the national, State, and county levels.² Phase II of the study collected case-level data to measure the GAL program's effectiveness in a sample of counties. Phase II originally was intended to validate the findings of a preliminary 1987 study.³ However, the time elapsed since the 1987 study has resulted in program evaluations that make the Phase II findings presented in this report more current and relevant to the GAL program than were the earlier Phase I reports. This report presents the findings from Phase II of the study. The Phase I report is available as a separately bound appendix (Appendix A).

1.2.1 Study Objectives

The national study of GAL representation was designed to address several research questions. These include the following:

- Is the appointment of a GAL mandatory in all cases affecting children in all States, or is a GAL appointed for child abuse and neglect cases only?
- Are GALs' responsibilities set forth in State laws, court rules, or some other manner? How is this communicated to GALs and other principals?
- Under what circumstances do GALs have access to attorneys for legal support? When attorneys assist GALs, whom do the attorneys represent?
- Do GALs have authority to submit reports to the court? What is the GALs' relationship to the court?

²CSR, Incorporated. October 1990. *National Evaluation of Guardian ad Litem Representation*. Washington, DC: CSR, Incorporated.

³CSR, Incorporated. June 1988. *National Evaluation of the Impact of Guardian ad Litem in Child Abuse or Neglect Judicial Proceedings*. Washington, DC: CSR, Incorporated.

- How are GALs paid? Specifically, what is the source and level of their payment?
- What kind of training is required of a GAL?
- How long do a GAL's responsibilities last?
- What does State legislation say about GAL immunity with respect to negligence suits?
- What access to records does a GAL have with respect to the court, child welfare agencies, and schools?
- Is there an overall GAL program office at the local level that administers GAL activities?
- What minimum standards of performance should be requested of GALs? What would an appropriate position description contain for responsibilities, training, tasks, and expected outcomes?
- What are the functions and roles of GALs overall and by model (e.g., private attorneys, staff attorneys, and CASAs)?
- Is there any difference in the quality of legal representation provided to the children among the various types of GALs? Can the quality of legal representation be measured in terms of the extensiveness of activity in each of the role dimensions?

These questions were addressed through descriptive data in Phase I of the study. In Phase II, data were collected from GALs, caseworkers, judges, and case records to measure the tasks performed by GALs and their effectiveness in representing children.⁴

1.2.2 Brief Narrative of Project Implementation

Work on Phase I of the project began in October 1989 and continued until October 1990. During this time, contractor staff conducted unstructured telephone interviews with State officials, judges, court administrators, and others in each of the States across 555 counties. Most of the data were collected during the spring and early summer of 1990. That effort culminated in the report entitled *National Study of Guardian ad Litem Representation*, published in October 1990 and available as Appendix A (separately bound) of this report.

The survey design and instrument development components of Phase II began in spring 1990. Initial development work was completed on five separate sets of

⁴CSR, Incorporated. October 1990. *National Study of Guardian ad Litem Representation*. Washington, DC: CSR, Incorporated.

instruments involving GALs, caseworkers, judges, parents/children, and court observations. These instruments were pretested in Fairfax, Virginia, and Washington, D.C., in early fall 1990.

During the pretest period, considerable difficulties were encountered in obtaining the necessary clearances to access individuals and records. That experience ultimately led to the elimination of two instruments and the simplification of the remaining instruments. For instance, in one pretest site there was considerable resistance from both GALs and judges in regard to interviewing either the child or parent. In fact, data collectors were required to obtain signed consent from a child's parent (who sometimes was in jail or unreachable). This process became so cumbersome that, in the end, the parent/child interview was not conducted, and the parent/child instrument was withdrawn from the study in order to avoid such difficulties. Similar difficulties were encountered with the courtroom observation instrument. Many hours of hearings were attended during which little of legal substance took place in the court. For instance, many motions for continuances were observed, leading one to conclude that an inordinate amount of staff time would probably have to be invested in order to observe any substantive legal activities performed by the GAL.

On the basis of pretest experiences, the remaining three sets of interview forms were revised. The Office of Management and Budget (OMB) justification package then was developed and submitted to the agency in December 1990. Unfortunately, the OMB clearance process, which normally takes a few months, was not completed until September 1992. Consequently, work on the project halted. The delay was caused by differences between OMB and ACYF over the study design. The issue was resolved in September 1992, by focusing the study on the procedural effectiveness of GALs in carrying out their functions, rather than on the outcomes for children. The study design was revised to collect data from GALs, case records, caseworkers, and judges in a probability sample of counties.

Upon receipt of OMB approval in September 1992, field data collection activities continued. Because much of the groundwork for the survey had been laid down previously, the resumption of project activities did not require a significant amount of lead time. The clearance process began in September 1992, and the first State letters were mailed in November. Obtaining State, county, and local agency clearance matters and planning the fieldwork proceeded until June 1993. The field data collection activities began in early May and continued through early August 1993. The remaining fieldwork then was halted so that a draft of the final report could be completed by the end of August 1993. Data entry, analysis, and report writing took place during July and August 1993.

In early September 1993, a Technical Expert Group (TEG) meeting was held in Washington, D.C. The TEG for this study included two judges, two private attorneys, two CASA representatives, one GAL program director, and two university-based attorneys. At the meeting, the panel reviewed the draft report and made recommendations regarding certain findings in the report. In addition, the panel discussed the roles and responsibilities of GALs in light of the study findings. The TEG also reviewed a draft of this report. The blend of perspectives from judges,

attorneys, volunteers, and academics provided unique insights into the GAL program as a whole and shaped the structure and focus of this report.

1.3 ORGANIZATION OF THE FINAL REPORT

Chapter 2 of this report presents a review of the literature on GALs' roles and responsibilities. The research design and methodology are described in Chapter 3. Chapter 4 presents data on the backgrounds of the GALs, the children in sample cases, the caseworkers involved in these areas, and judges in the sample county. Chapter 5 analyzes the data on GAL effectiveness, and Chapter 6 summarizes the findings. Appendixes (bound separately) contain the Phase I report and the data collection instruments for the Phase II study.

Chapter 2. THE GAL'S ROLES AND RESPONSIBILITIES

Federal law requires that guardians *ad litem* (GALs) be appointed to represent children in civil abuse and neglect cases. This requirement was established by the 1974 Federal Child Abuse Prevention and Treatment Act. As a condition of eligibility for Federal child abuse funds, this act obligates States to have such GAL mandates.¹ Neither the act nor its implementing regulations, however, define the roles or responsibilities of the GAL.² Thus, over the last 20 years, States and local jurisdictions have experimented with different GAL models and approaches.

In the early years, little written guidance was given on the roles and responsibilities of GALs. Consequently, local courts and individual GALs were left free to define the GAL's duties. A 1981 review of the legal literature by the American Bar Association Center on Children and the Law concluded that "the role and responsibilities of the GAL are not uniformly defined." The review went on to state:

Disputes center around the requisite qualifications of the child's representative, whether he or she must advocate the child's expressed wishes or the child's best interest, and the nature and length of his or her appointment. General agreement does exist, however, on the representative's role as an investigator and participant in court proceedings.³

This discretionary approach to the role of the GAL remains true today, though to a lesser degree. The following is a 1993 review of statutes, standards, empirical studies, and guidelines regarding GAL representation. The intent of this review is to help frame discussions and deliberations over the appropriate role and responsibilities of the GAL.

2.1 STATUTORY SURVEY OF THE TREATMENT OF ROLES AND RESPONSIBILITIES OF THE GAL⁴

In general, the roles and responsibilities of the GAL have not been clearly defined by State legislation. All 50 States provide for the appointment of a GAL in child abuse and neglect proceedings. These statutes generally charge the GAL with protecting, promoting, advocating, and/or representing the interests of the child. Most statutes specify representation of the "best" interests of the child, regardless of the GAL's status as an attorney.⁵ Over one-half of the States stop at this general role for the GAL and offer no further guidance.⁶ For these States, the decision of how to represent the child's interests or "best" interests appears to be left to the discretion of the GAL or, perhaps, the courts.

At least 22 States have gone further to address the duties of the GAL and articulate specific roles and responsibilities in varying degrees of specificity. The contents of these 22 State statutes are compared and summarized in the text below.

2.1.1 Areas of Statutory Agreement

The GAL acts as an independent investigator.—All of the States that assign the GAL specific roles require the GAL to act as an investigator.⁷ At the very least, all of these States insist the GAL shall “investigate the facts.” Some statutes do not provide guidelines beyond this general directive.⁸ At least one State lists the minimum actions of an investigation, including review of relevant mental health records and materials; medical records; school records (and other pertinent material); interviews with the child (with or without other persons present); and interviews with parents, foster parents, teachers, caseworkers, and other persons who have been involved in caring for or treating the child.⁹ Another State requires the GAL to communicate with health care, mental health care, and other professionals involved with the child’s case and to receive medical and psychological reports relating to the child and respondents.¹⁰ While carrying out the investigation, several States either require the GAL to talk with the child or strongly intend for such a conference to occur by providing the GAL with specific authorization.¹¹ One State specifies “when,” at the minimum, these interviews with the child must occur.¹² The statute indicates that the GAL “shall meet with and interview the child prior to custody hearings, adjudicatory hearings, disposition hearings, judicial reviews and any other hearings.”¹³ The GAL also shall “contact the child prior to any proposed change in the child’s placement” and “contact the child after any changes in the child’s placement.”¹⁴ Another State regulates “how often,” at the minimum, these interviews with the child must occur.¹⁵ This statute requires face-to-face contact with the child during a home visit every 3 months.¹⁶ In order to make the investigation meaningful, almost all of the States have authorized the GAL to have open access to various records and information concerning the child and the child’s siblings and parents/respondents.¹⁷ While all of these statutes provide for access to any records, many specifically name several possible sources, including records from State and local public agencies, hospitals, medical or nonmedical practitioners, psychologists, child care custodians, courts, law enforcement, social services, and schools.¹⁸

The GAL acts as the child’s advocate or legal representative.—Most of the States that assign the GAL certain roles and responsibilities require the GAL to act as an advocate to some specified extent.¹⁹ For example, a Wisconsin statute reads, “the [GAL] shall be an advocate for the best interests of the person and shall function independently in the same manner as an attorney for a party to the action.”²⁰ At the very minimum, many States insist that the GAL attend the proceedings involved with a child abuse and neglect case. A Montana statute reads, “the [GAL] has a

duty to appear and participate in all proceedings to the degree necessary to adequately represent the child and make recommendations to the court concerning the child's welfare.²¹ Most of these States seem to agree that the GAL must make a written and/or oral recommendation to the court concerning the child in order to perform the role of advocate.²² Some statutes specify when the written reports must be submitted and what must be included in the report. For example, Maine requires the GAL to make a written report of his/her investigation and to provide all of the parties with a copy "reasonably in advance" of the hearing and then to the court upon the consent of all the parties.²³ Idaho requires the GAL to file a written report giving the results of the GAL's investigation, recommendations, and any other information the court may require.²⁴ In addition, Idaho also insists that the written report must be delivered to all of the parties at least 5 days before the date of the adjudication hearing and that the report shall not be admitted into evidence.²⁵ One State uses reports as a means of checking on the GAL by requiring the GAL to include in the written report, submitted every 6 months, a summary of the GAL's activities on behalf of the child in addition to the GAL's recommendations concerning the manner in which the court should proceed in the best interests of the child.²⁶

To what extent the GAL should be acting as an attorney of a party during the court proceedings appears to be an issue of significant confusion. Many States seem to have resolved some of the confusion by specifying the GAL's procedural responsibilities in the courtroom.²⁷ For example, at least seven States authorize or require the GAL to subpoena, examine, and cross-examine witnesses at adjudicatory and disposition hearings.²⁸ Two of these States authorize the GAL "through counsel" to introduce evidence as well as examine and cross-examine witnesses.²⁹ Other procedural responsibilities for the GAL authorized by statute include filing motions necessary to enforce orders of the court,³⁰ entering pleadings,³¹ and petitioning the court for relief on behalf of the child.³² In addition to authorizing the GAL to seek judicial review, at least three States require the GAL to continue to represent the child during any appellate proceedings.³³ Finally, many States provide the GAL with immunity from civil and criminal liability.³⁴

The GAL acts as a case monitor.—Many of the States that assign the GAL certain roles and responsibilities require the GAL to act as a case monitor.³⁵ For example, Idaho requires the GAL "to facilitate and negotiate to ensure that the court, the department, if applicable, and the child's attorney, if any, fulfill their obligations to the child in a timely fashion."³⁶ As a case monitor, the GAL may be expected to watch over the many actors in a child abuse and neglect proceeding and to report to the court when the child's needs are not being met³⁷ or when orders of the court are not being complied with.³⁸ Several States require the GAL to conduct followup investigations and ensure that the department and respondents are complying with the orders of the court. The GAL also may be expected to facilitate the settlement of disputed issues.³⁹ An Arizona

statute provides the GAL with “a right to participate in the formulation of any agreement, stipulation or case plan entered into regarding the child.”⁴⁰

2.1.2 State Differences in the Treatment of the GAL's Role When the Child's Wishes Conflict With the GAL's Perception of the Child's Best Interests

A conflict in the GAL's responsibilities arises when the GAL believes one course of action is in the child's best interest and the child wishes for another course of action. The statutes that dictate the roles and responsibilities of the GAL appear to offer three different choices for dealing with this conflict, depending on the State jurisdiction. In several States the decision of whether to include the child's wishes in the report is discretionary. In South Carolina the GAL only need include the child's wishes “if appropriate.”⁴¹ In Wisconsin, the GAL “shall consider, but shall not be bound by the wishes of the person or others as to the best interests of that person.”⁴² In other States the GAL is required to make the child's wishes known to the court, and the court may make a decision to appoint independent counsel or the GAL may request the appointment of independent counsel, depending upon the State.⁴³ Additionally, in Washington State the GAL may request the appointment of separate counsel, or the child may do this if the child is 12 years of age or older.⁴⁴

This particular conflict appears to be further confused by the different characterization the GAL receives in each State. In some States the child is appointed a GAL who must be an attorney. In other States the child is appointed an attorney who may act as a GAL. It appears that some States have resolved the confusion by requiring the appointment of both an attorney and a GAL for the child, assigning each of these actors specific roles and forbidding them to be played by the same person.

2.1.3 Roles and Responsibilities Unique to a Few States

A careful review of the statutes governing the behavior of the GAL reveals certain provisions that only one or two States have addressed. While some of these unique features may be innovative areas of uncharted territory for the GAL, others are tailored to fit a certain State's needs. In Washington State a GAL may motion the court to order the examination by a physician, psychologist, or psychiatrist of any parent, child, or custodian.⁴⁵ In Ohio a GAL may bring a civil action against a person who is required but fails to file a report of known or suspected child abuse or neglect if the child suffers additional injury or harm.⁴⁶ In North Carolina a judge may authorize a GAL to accompany a child to court in a criminal action where the child may be called on to testify in a matter relating to the abuse.⁴⁷ In New Mexico the GAL is charged with representing and protecting the cultural needs of the child.⁴⁸ In Minnesota a commissioner monitors agency compliance with all laws governing child protection and placement, as they impact

ethnic minority children. One of the tasks this commissioner is assigned is "to work with local state courts to ensure that GALs from communities of color are recruited, trained, and used in court proceedings to advocate on behalf of children of color."⁴⁹ In Washington State the GAL is required to report to the court any information on the legal status of a child's membership in an Indian tribe or band.⁵⁰ In North Carolina the GAL is expected to explore options for a child with the judge at the dispositional hearing.⁵¹ In Utah the court may use a volunteer to assist in the investigation and preparation of information regarding the case of a child. The volunteer acts as a peer of the child appearing in court, and the GAL is responsible for supervising this volunteer.⁵² Under New Mexico's new Children's Code, the GAL is required to attend local substitute care review board hearings concerning the child.⁵³ In South Carolina the GAL may participate on any multidisciplinary evaluation team for the case.⁵⁴ The GAL also is required to maintain accurate, written case records.⁵⁵ Finally, the Wisconsin statute governing the roles and responsibilities of the GAL specifies seven things that the GAL may petition the court for: (1) a change in the child's placement, (2) the termination of parental rights, (3) a revision of dispositional orders, (4) an extension of dispositional orders, (5) a temporary restraining order, (6) an injunction, and (7) relief from a judgment terminating the parental rights.⁵⁶

Two States have considered whether the traditional "guardian" role is included in a GAL's roles and responsibilities. The Ohio statute governing the powers and duties of the GAL includes the term "guardian" as one of several GAL roles.⁵⁷ In contrast, the Wisconsin statute explicitly states that the GAL has none of the rights or duties of a general guardian.⁵⁸

A few State statutes offer reunification or permanency planning as a goal of the GAL. In Oklahoma the GAL has a duty to assist the child in obtaining a permanent, safe, homelike placement.⁵⁹ During the 1993 first legislative session, Colorado amended its GAL statute to mandate that the GAL "shall seek to assure that reasonable efforts are being made to prevent unnecessary placement of the child out-of-the-home and facilitate reunification of the child and the child's family."⁶⁰ Similarly, in Arizona the GAL is charged with helping the court "in making its decision whether reasonable efforts have been made to prevent removal of the child from the child's home or in reunifying the child with the child's family."⁶¹ In Missouri the GAL is required to have completed a training program in permanency planning.⁶²

2.2 A REVIEW OF THE GAL'S ROLES AND RESPONSIBILITIES IN THE LITERATURE

An ever-growing body of literature defines or describes the roles and responsibilities of the GAL. Some commentators establish specific and extensive models for GALs to follow. This study uses the comprehensive

model created by Donald Duquette⁶³ as a framework for examining areas of agreement and disagreement in the literature.

The child advocate, according to this model, is responsible for 10 tasks: (1) investigation, (2) consultation, (3) assessment, (4) identification of the child's interests, (5) permanency planning, (6) client counseling, (7) decisionmaking, (8) problemsolving and mediation, (9) identification of action steps, and (10) followup on action steps.⁶⁴ These tasks are accomplished in the context of five roles: (1) factfinder (investigation, consultation, and assessment), (2) legal representative (identification of interests, client counseling, decisionmaking, consultation, identification of action steps, and followup), (3) case monitor (permanency planning, identification of action steps, and followup), (4) mediator (mediation, consultation, identification of action steps, and decisionmaking), and (5) information/resource broker (investigation, consultation, and identification of interests).⁶⁵ These roles and related responsibilities are described in the sections below.

2.2.1 Factfinder

The overwhelming consensus in the relevant literature, guidelines, and case law is that the GAL should conduct an independent investigation to determine all facts relevant to a child's case.⁶⁶ In general, the commentators and guideline drafters view this role as central to the GAL's purpose and specify particular investigative responsibilities.⁶⁷ The GAL acting as factfinder is increasingly directed to be active and sometimes aggressive in her/his search (e.g., subpoenaing evidence and requesting further evaluation, where appropriate, rather than simply reviewing existing and easily accessible information).⁶⁸

2.2.2 Interviewer and Document Reviewer

Reviewing relevant documents and interviewing people with knowledge of the facts are the investigative tasks most frequently mentioned by commentators. Many articles and guidelines specify in detail the records and reports for review. These typically include the petition and all other court documents;⁶⁹ school reports;⁷⁰ medical records;⁷¹ case records;⁷² documents from law enforcement officers,⁷³ mental health professionals,⁷⁴ court services officers,⁷⁵ and court-appointed special advocates (CASAs);⁷⁶ and reports from treatment, placement, and school staffs concerning the child.⁷⁷

Virtually all of the literature advising the GAL to conduct interviews calls for interviewing, meeting with, or observing the child and interviewing the parents, guardians, or caretakers (with the permission of that person's attorney).⁷⁸ Frequently very detailed guidelines contain specific approaches for meeting with or interviewing the child.⁷⁹ Some commentators recommend that the GAL interview the child many times,⁸⁰

while other guidelines underscore the need to ensure that the child is not exposed to excessive interviews.⁸¹ The GAL must balance the need to gain information with avoidance of the dangers inherent in excessively interviewing a child. Meeting with or observing the child may pose less risk than interviewing.

The GAL also is guided specifically by some of the literature to interview any or all of the following persons with relevant knowledge: child protective workers,⁸² homemakers,⁸³ parent aides,⁸⁴ neighbors,⁸⁵ ministers,⁸⁶ babysitters,⁸⁷ day care providers,⁸⁸ foster parents,⁸⁹ relatives,⁹⁰ medical or mental health practitioners and professionals,⁹¹ law enforcement personnel,⁹² factual witnesses,⁹³ school personnel,⁹⁴ and older children in the child's family.⁹⁵

2.2.3 Other Investigative Duties

The GAL's role in some of the literature extends to assessing (based on a review of the existing information) whether, among those persons affecting the outcome of the case, there is an informed understanding of the family and its problems.⁹⁶ Sometimes the GAL is encouraged to seek independent evaluations of the child or the parents either when evaluations have not been conducted and they are necessary or when the existing evaluations are biased or inappropriate.⁹⁷ Some guidelines, however, discourage this step and, in fact, assign the GAL the responsibilities of (1) ensuring that the child is not excessively interviewed and (2) ensuring that, if interviews occur, certain protections are in place.⁹⁸

Comparatively few commentators discuss visiting the family and foster homes. Those who do discuss home visits encourage unannounced visits at the child's home (with the appropriate permission from the party's attorneys).⁹⁹

Some studies of the GAL's role have shown that in practice GALs may not investigate cases as thoroughly as suggested in the literature. One study indicated that many GALs sometimes or never conduct independent investigations.¹⁰⁰ Another study indicated that some GALs perform certain investigative tasks more than other tasks.¹⁰¹

2.2.4 Legal Representative

An inherent conflict undermines the definition of the role of the GAL as legal representative in child abuse and neglect proceedings. Though far from being an oxymoron, the GAL/legal representative role merges two roles that historically have served very different purposes.¹⁰² "The central question revolves around whether an attorney is expected to advocate the child's expressed wishes (the typical role of an attorney representing a client) or that attorney's perception of the child's best interests (the typical role of a guardian *ad litem*.)"¹⁰³ This question, the answer to which may

ethically compromise both roles, is the most frequently and extensively addressed issue in discussions of the roles and responsibilities of the GAL.¹⁰⁴ The purpose of this review is not to further discuss the ethical problems inherent in this role, but to identify in the commentary the models for the GAL/legal representative role that take into account these ethical considerations. Some of these models are as follows:

- *The GAL considers the child's expressed wishes but need not inform the court of those wishes in advocating for the child's best interests.*¹⁰⁵—This first model gives minimal weight to the expressed wishes of the child, and most commentators go beyond this in incorporating the child's preferences into the model. The importance of understanding and considering the child's view of her/his situation is, however, underscored in most current child abuse and neglect commentary and guidelines.¹⁰⁶
- *The GAL considers and informs the court of the child's expressed wishes even when they conflict with the GAL's position based upon the best interests of the child.*¹⁰⁷—Under this model the GAL makes decisions based on his/her own view of what is in the child's best interests. The GAL need not be bound procedurally or substantively by the child's preferences. This goes beyond the first model in that the court is made aware of the child's wishes.
- *The GAL considers the child's age, maturity, and capacity in determining whether to advocate his/her expressed wishes.*¹⁰⁸—This model generally leaves to the GAL the task of making case-by case determinations of whether the child possesses the "considered judgment" necessary to assess his/her own needs. Some hybrid models incorporate a provision that once a child reaches a specified age, the GAL must advocate according to the child's expressed wishes.¹⁰⁹ This model frequently is supported in recent literature, which generally strongly encourages the meaningful inclusion of the child's expressed interests in the court proceeding.¹¹⁰
- *The roles of GAL and legal representative are divided between two people.*¹¹¹—This model is discussed in some literature and guidelines, although it is economically practical primarily when the GAL is a volunteer. In practice, this model sometimes is used in situations where the child is determined to be legally incompetent and the child's expressed wishes differ from the GAL's position.¹¹²
- *In the absence of sufficiently explicit legislation, case law, and ethical rulings, the GAL should request that the court clearly outline the attorney's duties and responsibilities.*¹¹³—This last model appears increasingly in the most recent literature. The model may reflect the growing acknowledgment and acceptance of lack of uniformity in addressing the inherent ethical problems facing the GAL in her/his role

as legal representative. Above all, the model emphasizes the need to move on from the question to the answer.

However, studies indicate that, in practice, the perception of the GAL's role varies.¹¹⁴

Further review of literature on the GAL's legal representation role has revealed the following suggestions:

- *Identify the child's interest.*—Some of the recent literature reflects a growing impatience with the aforementioned emphasis on the theoretical implications of the “best interest” standard.¹¹⁵ One commentator encourages GALs to “focus on meeting concrete needs shared by most children” and provides guidelines for identifying and meeting these universal needs.¹¹⁶ Other articles support this approach.¹¹⁷
- *Counsel the client.*—The literature reflects growing concern that the GAL be adequately trained to communicate effectively with the child.¹¹⁸ The words used to describe the GAL's responsibilities often demonstrate this trend. For example, the GAL should advise the child in “terms the child can understand.”¹¹⁹ One set of guidelines directs the GAL to inform the child of “the nature of the proceeding, the child's rights, the role and responsibilities of the law guardian, the attorney-client privilege, the fact-finding process and the possible consequences of the finding.”¹²⁰
- *Actively advocate and identify action steps.*—Strong words and phrases such as the following are used frequently in recent commentary to describe the GAL's duty to advocate: “aggressive, ambitious, encompass both legal and nonlegal interests of the child...[not] a passive, purely procedure-oriented approach,”¹²¹ “strong, independent representation,”¹²² and “remain active and vigorous until permanency is attained.”¹²³ Specifically, the GAL should participate in all aspects of litigation (e.g., be present at all hearings, subpoena reports and records and summon witnesses, present evidence and cross-examine witnesses, make legal arguments, appeal unfavorable decisions, and participate in other legal proceedings involving the child).¹²⁴

Whether a GAL can or should testify in the matter concerning the child is unsettled in the literature.¹²⁵ Some guidelines suggest that there may be ethical problems for attorneys in giving evidence in a case in which the GAL is representing the child's interests.¹²⁶ Another set of guidelines, however, allows the GAL to participate in any appeal even though the GAL may have testified at the underlying hearings.¹²⁷

The GAL also may be responsible for creating “a specific plan of action to represent the best interests of the child client.”¹²⁸ Commentators and guidelines addressing this responsibility mention the GAL's duty to “make

clear recommendations to the court,"¹²⁹ write reports that "set forth findings and conclusions or recommendations,"¹³⁰ or "develop independently a complete dispositional plan to present to the court."¹³¹ One commentator encourages the GAL also to identify out-of-court plans.¹³²

2.2.5 Case Monitor

Some literature refers to the GAL's duty to monitor the case until permanency planning is complete and the child is in "a stable and secure home environment."¹³³ One set of guidelines specifies the particular tasks of this role:

Monitor implementation of service plans and dispositional orders to determine whether services ordered by the court are actually provided in a timely manner, and are accomplishing their desired goal. Monitor the progress of a case through the court process and advocate for timely hearings....Inform the court promptly if services are not being made available to the child and/or family, if family fails to take advantage of such services, if services are not achieving their purpose, and bring to the court's attention any violations of orders, new developments or changes in the child's circumstances.¹³⁴

Other commentators and some studies also discuss the responsibilities of the GAL/case monitor.¹³⁵

2.2.6 Mediator

The GAL's responsibility as a mediator is described in the literature as follows: "to facilitate the resolution of problems and to foster positive steps toward strengthening and uniting families,"¹³⁶ "to seek cooperative solutions to the child's situation within the scope of the child's interests and welfare,"¹³⁷ "to see the information gathered is shared with the professionals involved and brought to the attention of the Court,"¹³⁸ and "it may be in the child's best interest to seek swift resolution of the legal dispute through cooperative nonadversarial means."¹³⁹

One study indicates that very few GALs perceive mediating as part of their role.¹⁴⁰

2.2.7 Information/Resource Broker

Some current writers encourage the GAL to seek additional resources for the child beyond what is presented to the GAL by traditional sources.¹⁴¹ The role involves identifying appropriate community resources and advocating for such resources when necessary¹⁴² and generally seeking ancillary services.¹⁴³ As information/resource broker, "the advocate's job is

not to be the support system for the child, but to see that one is in place.”¹⁴⁴ The GAL should “advocate for the child’s interests in mental health, educational, and other community systems.”¹⁴⁵

2.3 MODELS OF GAL REPRESENTATION

Another factor contributing to the lack of uniformity in the perception of the GAL’s role is the existence of several different organizational programs providing GAL representation. The particular professional background or lack of a professional background of the GAL may affect how the GAL and others perceive the GAL’s role. The most frequently mentioned models of representation are as follows:

- *Court-appointed private attorney.*—A private attorney usually is selected from a panel or court appointment list developed by the court or the local bar association. The attorney is paid by the court at an hourly rate (typically not to exceed a certain lump sum monetary amount). These attorneys may or may not have received special training in abuse and neglect cases. They also typically do not have specially trained support staff to perform factfinding and related services.
- *Specialized staff attorney.*—Some communities have an office (e.g., a legal aid society or public defender’s office) with specialized staff attorneys who represent children in protection cases. These attorneys sometimes have the support of administrative staff, paralegals, social work students, or volunteers.
- *Supervised law student.*—Supervised law students sometimes provide representation under the auspices of a law school clinic or a public defender’s office. Support services (e.g., a social worker) are sometimes available. Typically a law school faculty member or an attorney supervises the law student’s work.
- *Lay volunteer and paid attorney.*—The court appoints a lay volunteer and a paid attorney to represent the child together. The lay volunteer conducts investigations, evaluates the child’s circumstances, identifies the child’s needs and interests, mediates, and monitors the case. The attorney provides legal consultation to the lay volunteer, prepares legal documents, and presents the case to the court. The CASA program uses this model.
- *Lay volunteer as the GAL.*—The GAL is a lay volunteer (e.g., under the CASA program) acting as investigator, advocate, mediator, and monitor. The lay volunteer receives training and may be supervised by an attorney.

In summary, the literature on the GAL's roles and responsibilities defines five major roles for the GAL—(1) factfinder, (2) legal representative, (3) case monitor, (4) mediator, and (5) resource broker. These five roles guided the design, data collection, and analysis for the study. The literature also describes a range of models of GAL representation. The study concentrated on three of these models—(1) private attorney, (2) staff attorney, and (3) CASA. The study definitions and methodology for data collection and analysis are described in more detail in Chapter 3 of this report.

ENDNOTES

1. 42 U.S.C. § 5106a(b)(6).

2. 45 C.F.R. § 1340.14(g) ("In every case involving an abused or neglected child which results in a judicial proceeding, the state must insure [sic] the appointment of a guardian ad litem or other individual whom the state recognizes as fulfilling the same functions as a guardian ad litem, to represent and protect the best interests of the child").

3. Davidson, H. 1981. *The Guardian ad litem: An Important Approach to the Protection of Children, Protecting Children Through the Legal System*. (This document reports on the areas of consensus reached at a national conference in November 1980. Child advocates gathered at this conference to produce direction and national standards for the newly mandated GAL in child abuse and neglect proceedings. Some of the roles included were investigator, facilitator, mediator, advocate, coordinator, witness, reformer, case plan developer, assessor, hand holder, and cross-examiner.) *Id.* at 839-845.

4. The statutes surveyed include all State statutes that govern GAL's in child abuse and neglect proceedings and any that govern the behavior of an attorney for a child if the attorney also acts as a GAL. Several States require that both an attorney and a GAL be appointed to represent the child and that these two roles must be met by two different people. For these States, only the statutes that govern the roles and responsibilities of the GAL were included in the discussion of this memorandum.

5. For example, Cal. Welf. & Inst. Code § 317(e) (indicating the "counsel for the minor shall be charged in general with the representation of the minor's interests"); Mont. Code Ann. § 41-3-303, amended by 1993 Mont. Laws 434 (indicating the GAL is "charged with representation of the child's interests"); Mich. Comp. Laws § 722.630 (indicating "legal counsel in general shall be charged with the representation of the child's best interests"); 23 Pa. Cons. Stat. Ann. § 6382 (indicating that the GAL "shall be charged with representation of the best interests of the child at every stage of the proceeding"); N.C. Gen. Stat. § 7A-586 (indicating the GAL shall "protect and promote the best interest of the juvenile"); 1993 Wash. Legis. Serv. 241 (H.B. 1165) (amending and creating new sections of Wash. Rev. Code Ann. § 13.34.100) (indicating the GAL is "appointed to represent and advocate the best interest of the child"); Utah Code Ann. § 78-3a-44.5, amended by 1993 Utah Laws 175 (S.B. 283) (indicating the GAL "represents the best interest of the child"); and Okla. Stat. Ann. tit. 10, § 1109 (indicating the GAL has a "duty to advocate for the best interests of the child"). See also Me. Rev. Stat. Ann. tit. 22, § 4005; Fla. Stat. Ann. § 415.503(8); S.C. Code Ann. § 20-7-122; Colo. Rev. Stat. Ann. § 19-3-203(3); 1993 N.M. Laws 473 (creating N.M. Stat. Ann. § 32-1-6); S.D. Codified Laws Ann. § 26-8A-18; Wyo. Stat. § 14-3-211; and Ala. Code § 26-14-11.

6. For example, Ala. Code § 26-14-11 (provides only that the "attorney will represent the rights, interests, welfare and well-being of the child and serve as [GAL] for said child"), S.D. Codified Laws Ann. § 26-8A-18 (provides only that the attorney for the child "shall represent the child's best interests" and the GAL will "represent the best interests of the child and assist the child's attorney"), and Wyo. Stat. § 14-3-211 (providing only that the child's

"attorney shall also be the [GAL] and shall be charged with representation of the child's best interests").

7. For example, Ariz. Rev. Stat. Ann. § 8-522(e); Cal. Welf. & Inst. Code § 317(e); Colo. Rev. Stat. Ann. § 19-3-203(3); Idaho Code § 16-1631; Kan. Stat. Ann. § 38-1505; Mich. Comp. Laws § 722.630; Mont. Code Ann. § 41-3-303, amended by 1993 Mont. Laws 434; N.C. Gen. Stat. § 7A-586; Ohio Rev. Code Ann. § 2151.281; 23 Pa. Cons. Stat. Ann. § 6382; S.C. Code Ann. §§ 20-7-122 and 20-7-124; Utah Code Ann. § 78-3a-44.5, amended by 1993 Utah Laws 175 (S.B. 283); and 1993 Wash. Legis. Serv. 241 (H.B. 1165), creating Wash. Rev. Code Ann. § 13.34.300.

8. For example, Idaho Code § 16-1631 (requiring the GAL to "conduct an independent factual investigation of the circumstances of the child, including, without limitation, the circumstances in the petition"); Kan. Stat. Ann. § 38-1505 (requiring the GAL to "make an independent investigation of the facts upon which the petition is based"); Mich. Comp. Laws § 722.630 (requiring the legal counsel for the child to "make further investigation as he deems necessary to ascertain the facts"); Mont. Code Ann. § 41-3-303, amended by 1993 Mont. Laws 434 (requiring the GAL to "conduct such investigations that the GAL considers necessary to ascertain the facts constituting the abuse and neglect"); and 1993 Wash. Legis. Serv. 241 (H.B. 1165) (creating Wash. Rev. Code Ann. § 13.34.300) (requiring the GAL to "collect information about the child's situation").

9. Me. Rev. Stat. Ann. tit. 22, § 4005.

10. 1993 N.M. Laws 473 (creating N.M. Stat. Ann. § 32-1-6).

11. For example, Idaho Code § 16-1631(c) (stating that the GAL "shall be entitled to confer with the child"); S.C. Code Ann. § 20-7-124 (stating that the GAL "is authorized to confer with and observe the child"); Colo. Rev. Stat. Ann. § 19-3-203(3) (requiring that the GAL "shall talk with or observe the child"); Me. Rev. Stat. Ann. tit. 22, § 4005(B) (requiring that the GAL "shall have interviews with the child, with or without other persons present"); and Mont. Code Ann. § 41-3-303, amended by 1993 Mont. Laws 434 (stating that the GAL "has a duty to interview or observe the child").

12. 1993 N.M. Laws 473 (creating N.M. Stat. Ann. § 32-1-6).

13. *Id.*

14. *Id.*

15. Haw. Rev. Stat. § 587-34(c).

16. *Id.*

17. For example, Ariz. Rev. Stat. Ann. § 8-522(F); Cal. Welf. & Inst. Code § 317(F); Colo. Rev. Stat. Ann. § 19-3-203(2); Haw. Rev. Stat. § 587-34(b)(2); Idaho Code § 16-1632(c); Ind. Code § 31-6-11-9; Me. Rev. Stat. Ann. tit. 22, § 4005; Mo. Rev. Stat. § 210.160; Mont. Code Ann. § 41-3-303; 1993 N.M. Laws 473 (creating N.M. Stat. Ann. § 32-1-6); N.C. Gen. Stat. § 7A-586; Okla. Stat. Ann. tit. 10, § 1109; 23 Pa. Cons. Stat. Ann. § 6382; S.C. Code Ann.

- § 20-7-125; and 1993 Wash. Legis. Serv. 241 (H.B. 1165) (creating Wash. Rev. Code Ann. § 13.34.300).
18. *Id.* North Carolina even specifically provides that neither physician-patient privilege nor husband-wife privilege may be invoked to prevent obtaining the information. N.C. Gen. Stat. § 7A-586.
19. For example, S.C. Code Ann. § 20-7-121 (stating that the GAL's roles and responsibilities include "to advocate for the welfare and rights of a child involved in an abuse or neglect proceeding"), Mich. Comp. Laws § 722.630 (stating that the "legal counsel for the child shall participate in the proceedings to competently represent the child"), and 23 Pa. Cons. Stat. Ann. § 6382 (stating that the GAL shall participate "in the proceedings to the degree appropriate for adequately representing the child").
20. Wis. Stat. Ann. § 48.235.
21. Mont. Code Ann. § 41-3-303, amended by 1993 Mont. Laws 434. See also Idaho Code § 16-1631(c) (stating that the GAL shall "act as an advocate for the child for whom appointed at every stage of proceedings. The [GAL] shall participate fully in the proceedings and to the degree necessary to adequately represent the child"). Accord Kan. Stat. Ann. § 38-1505; 1993 Wash. Legis. Serv. 241 (H.B. 1165) (creating Wash. Rev. Code Ann. § 13.34.200).
22. Colo. Rev. Stat. Ann. § 19-3-203(3); Haw. Rev. Stat. § 587-34(c); Idaho Code § 16-1631(b); Me. Rev. Stat. Ann. tit. 22, § 4005; Mich. Comp. Laws § 722.630; Mont. Code Ann. § 41-3-303; 1993 N.M. Laws 473 (creating N.M. Stat. Ann. § 32-1-6); 23 Pa. Cons. Stat. Ann. § 6382; S.C. Code Ann. §§ 20-7-122 and 20-7-124.
23. Me. Rev. Stat. Ann. tit. 22, § 4005.
24. Idaho Code § 16-1631(b).
25. *Id.*
26. Haw. Rev. Stat. § 587-34.
27. However, the issues surrounding a difference in the GAL's perception of the child's best interests and the child's expressed wishes are still somewhat conflicted and will be discussed below as an "area of conflict."
28. Cal. Welf. & Inst. Code § 317 (e); Colo. Rev. Stat. Ann. § 19-3-203(3); Me. Rev. Stat. Ann. tit. 22, § 4005(c); Mich. Comp. Laws § 722.630; 23 Pa. Cons. Stat. Ann. § 6382; S.C. Code Ann. § 20-7-124; and 1993 Wash. Legis. Serv. 241 (H.B. 1165) (creating Wash. Rev. Code Ann. § 13.34.200).
29. See S.C. Code Ann. § 20-7-124 and 1993 Wash. Legis. Serv. 241 (H.B. 1165) (creating Wash. Rev. Code Ann. § 13.34.200).
30. For example, Idaho Code § 16-1632; Ohio Rev. Code Ann. § 2151.281; S.C. Code Ann. § 20-7-124.

31. For example, Idaho Code § 16-1632.
32. For example, S.C. Code § 20-7-124.
33. See Colo. Rev. Stat. Ann. § 19-3-203(3); Kan. Stat. Ann. § 38-1505; 1993 N.M. Laws 473 (creating N.M. Stat Ann. § 32-1-6); and S.C. Code Ann. § 10-7-124.
34. For example, Ariz. Rev. Stat. Ann. § 8-522 (1991); Okla. Stat. Ann. tit. 10, §1109; S.C. Code Ann. § 20-7-127; and 1993 Wash. Legis Serv. 241 (H.B. 1165) (creating Wash. Rev. Code Ann. § 13.34.300).
35. For example, Ariz. Rev. Stat. Ann. § 8-522, Idaho Code § 16-1631, 1993 N.M. Laws 473 (creating N.M. Stat. Ann. § 32-1-6), N.C. Gen. Stat. § 7A-586, Ohio Rev. Code Ann. § 2151.281, S.C. Code Ann. § 20-7-121, and 1993 Wash. Legis. Serv. 241 (H.B. 1165) (creating Wash. Rev. Code Ann. § 13.34.300).
36. Idaho Code § 16-1631.
37. For example, Ariz. Rev. Stat. Ann. § 8-522 (requiring the GAL to “ensure that appropriate case planning services are provided for the child”).
38. For example, S.C. Code Ann. § 20-7-121 (indicating that one of the responsibilities and duties of a GAL is “to monitor compliance with the orders of the family court and to make motions necessary to enforce the orders of the court or seek judicial review”).
39. For example, N.C. Gen. Stat. § 7A-586.
40. Ariz. Rev. Stat. Ann. § 8-522.
41. S.C. Code Ann. § 20-7-122.
42. Wis. Stat. Ann. § 48.235.
43. For example, Cal. Welf. & Inst. Code § 317 (e) (requiring counsel for a child of 4 years of age or older to interview and determine the minor’s wishes “beyond the scope of the juvenile proceeding” and report to the court); Haw. Rev. Stat. § 587-34 (requiring the GAL to inform the court of the child’s wishes, and—if they differ from the GAL’s recommendation—then the court will ~~decide~~ whether to appoint independent counsel); and Me. Rev. Stat. Ann. tit. 22, § 4005(E) (~~requiring~~ the GAL to make the child’s wishes known to the court and offering the GAL the ~~option~~ to request independent counsel).
44. 1993 Wash. Legis. Serv. 241 (H.B. 1165) (creating Wash. Rev. Code Ann. § 13.34.200).
45. 1993 Wash. Legis. Serv. 241 (H.B. 1165) (amending Wash. Rev. Code Ann. § 26.44.053).
46. Ohio Rev. Code Ann. § 2151.281.
47. N.C. Gen. Stat. § 7A-586.

48. 1993 N.M. Laws 473 (creating N.M. Stat. Ann. § 32-1-6).
49. Minn. Stat. Ann. § 257.0762 (West, 1992).
50. 1993 Wash. Legis. Serv. 241 (H.B. 1165) (amending Wash. Rev. Code Ann. § 26.44.053).
51. N.C. Gen. Stat. § 7A-586.
52. Utah Code Ann. § 78-3a-44.5.
53. 1993 N.M. Laws 473 (creating N.M. Stat. Ann. § 32-1-6). The statute also provides that if the GAL is unable to attend, the GAL must forward a letter to the board including the child's status during the period since the last local substitute care review board review and an assessment of the department's permanency and treatment plans. *Id.*
54. S.C. Code Ann. § 20-7-124.
55. S.C. Code Ann. § 20-7-122.
56. Wis. Stat. Ann. § 48.235.
57. Ohio Rev. Code Ann. § 2151.281.
58. Wis. Stat. Ann. § 48.235.
59. Okla. Stat. Ann. tit. 10, § 1109.
60. Colo. Rev. Stat. Ann. § 19-3-203 (as amended by 1993 Colo. Legis. Serv. S.B. 93-28).
61. Ariz. Rev. Stat. Ann. § 8-522(e).
62. Mo. Rev. Stat. § 210.160.
63. Duquette, D.N. 1990. *Advocating for the Child in Protection Proceedings: A Handbook for Lawyers and Court Appointed Special Advocates*. Lexington, MA: Lexington Books.
64. *Id.* at 36.
65. *Id.* at 37.
66. For example: National CASA Association. 1992. "Quality GAL Representation: What Every Child Deserves." *The Connection* 8(1); Sivan, A.B., and Quigley-Rick, M. 1991. "Effective Representation of Children by the Guardian *ad Litem*: An Empirical Investigation." *The Bulletin of the American Academy of Psychiatry and the Law* 19(1):53; Shink, S.F. 1991. "The Justice System: It Has Forgotten the Children." *The Colorado Lawyer* 20(4):689; The National Legal Resource Center for Child Advocacy and Protection, American Bar Association Young Lawyers Division. 1982. *National Guardian Ad Litem Policy Conference Manual*. Revised Edition; Sherman, C. 1988. "Neglect/Abuse Proceedings in the Family Court: Role of the Law Guardian." *Child Abuse and Neglect: Protecting the*

Child, Defending the Parent, Representing the State. Practising Law Institute (Chairman, Martin Guggenheim); Kansas Bar Association. *Representing Children in Kansas: A Handbook for Lawyers*; and Snider, J.J. 1990. "Guardian Ad Litem: Speaking for the Child." *William Mitchell Law Review* 1253. See also four sets of guidelines: Colorado State Bar Guardian ad litem Committee of the Justices and Clerks of the Superior Court. October 1992. "Colorado Guardian ad litem Mission Statement"; the Guardian ad litem Committee of the Justices and Clerks of the Superior Court. "New Hampshire Guidelines for Guardians ad litem"; New York State Bar Association's Committee on Juvenile Justice and Child Welfare. "New York Law Guardian Representation Standards in Child Protective Proceedings"; and "National Association of Counsel for Children Guidelines for Guardian ad litem in Abuse and Neglect Cases," in Haralambie, A.M. 1993. *The Child's Attorney: A Guide to Representing Children in Custody, Adoption and Protection Cases*, 240-88 (Section of Family Law, The American Bar Association). See also the following case law: *In the Interest of J.V.*, 464 N.W. 2d 887, 893 (Iowa App. 1990) and *In re: Jeffrey R.L.*, 1993 WL 199235, *12 (W. Va.).

67. For example, Sherman, C. "Neglect/Abuse Proceedings in the Family Court: Role of the Law Guardian," *supra* note 66 at 200.

68. For example, Duquette, D.N. *Advocating for the Child in Protection Proceedings: A Handbook for Lawyers and Court Appointed Special Advocates*, *supra* note 63 at 40.

69. *Id.* at 39; *In re: Jeffrey R.L.*, 1993 WL 199235, *17 (W. Va.) (advises maintaining adequate records of documents filed in the case); "New York Law Guardian Representation Standards in Child Protective Proceedings," *supra* note 66 at 259; "National Association of Counsel for Children Guidelines for Guardian ad litem in Abuse and Neglect Cases," *supra* note 66 at 283 (GAL should check the court file and not rely on the court to send documents).

70. For example, "National Association of Counsel for Children Guidelines for Guardian ad litem in Abuse and Neglect Cases," *supra* note 66 at 260; *Representing Children in Kansas: A Handbook for Lawyers*, *supra* note 66 at I-3; "New Hampshire Guidelines for Guardians ad litem," *supra* note 66 at 249; "Colorado Guardian ad litem Mission Statement," *supra* note 66 at 241; and Sherman, C. "Neglect/Abuse Proceedings in the Family Court: Role of the Law Guardian," *supra* note 66 at 200.

71. For example, "New Hampshire Guidelines for Guardians ad litem," *supra* note 66 at 249; "New York Law Guardian Representation Standards in Child Protective Proceedings," *supra* note 66 at 260; "Colorado Guardian ad litem Mission Statement," *supra* note 66 at 241; and Sherman, C. "Neglect/Abuse Proceedings in the Family Court: Role of the Law Guardian," *supra* note 66 at 200.

72. For example, "New York Law Guardian Representation Standards in Child Protective Proceedings," *supra* note 66 at 260; "National Association of Counsel for Children Guidelines for Guardian ad litem in Abuse and Neglect Cases," *supra* note 66 at 283 (recommends reviewing the caseworker's file); Sherman, C. "Neglect/Abuse Proceedings in the Family Court: Role of the Law Guardian," *supra* note 66 at 200; and *Representing Children in Kansas: A Handbook for Lawyers*, *supra* note 66 at I-3.

73. *Representing Children in Kansas: A Handbook for Lawyers*, *supra* note 66 at I-3 and "Colorado Guardian ad litem Mission Statement," *supra* note 66 at 241.

74. For example, "New Hampshire Guidelines for Guardians ad litem," *supra* note 66 at 249; "Colorado Guardian ad litem Mission Statement," *supra* note 66 at 241; and *Representing Children in Kansas: A Handbook for Lawyers*, *supra* note 66 at I-3.

75. *Representing Children in Kansas: A Handbook for Lawyers*, *supra* note 66 at I-3.

76. *Id.* at I-3.

77. "Colorado Guardian ad litem Mission Statement," *supra* note 66 at 241 and at 244 (drug and alcohol treatment records) and Sherman, C. "Neglect/Abuse Proceedings in the Family Court: Role of the Law Guardian," *supra* note 66 at 200 (drug program records).

78. Duquette, D.N. *Advocating for the Child in Protection Proceedings: A Handbook for Lawyers and Court Appointed Special Advocates*, *supra* note 63 at 39; National CASA Association, "Quality GAL Representation: What Every Child Deserves," *supra* note 66 at 6; "Colorado Guardian ad litem Mission Statement," *supra* note 66 at 244; "New Hampshire Guidelines for Guardians ad litem," *supra* note 66 at 249; "New York Law Guardian Representation Standards in Child Protective Proceedings," *supra* note 66 at 260; Sivan, A.B., and Quigley-Rick, M. "Effective Representation of Children by the Guardian *ad Litem*: An Empirical Investigation," *supra* note 66 at 56; Sherman, C. "Neglect/Abuse Proceedings in the Family Court: Role of the Law Guardian," *supra* note 66 at 200; *Representing Children in Kansas: A Handbook for Lawyers*, *supra* note 66 at I-3; and *In re: Jeffrey R.L.*, 1993 WL 199235, *15 (W. Va.).

79. "Colorado Guardian ad litem Mission Statement," *supra* note 66 at 244 (mentions specific areas of discussion, circumstances of observation, sensitivity to child's comfort level, etc.); *In re: Jeffrey R.L.*, 1993 WL 199235, *16 (W. Va.) (establishes specific conditions for interviewing depending upon the age and placement of the child); "National Association of Counsel for Children Guidelines for Guardian ad litem in Abuse and Neglect Cases," *supra* note 66 at 284 (e.g., suggests interviewing older child alone); and *Representing Children in Kansas: A Handbook for Lawyers*, *supra* note 66 at I-5 (e.g., suggests conducting the interview while walking to get ice cream).

80. Sherman, C. "Neglect/Abuse Proceedings in the Family Court: Role of the Law Guardian," *supra* note 66 at 200.

81. "Colorado Guardian ad litem Mission Statement," *supra* note 66 at 244 (repeated interviews can be abusive) and *In re: Jeffrey R.L.*, 1993 WL 199235, *18 (W. Va.).

82. For example, National CASA Association. "Quality GAL Representation: What Every Child Deserves," *supra* note 66 at 6; Kansas Bar Association, *Representing Children in Kansas: A Handbook for Lawyers*, *supra* note 66 at I-5; "Colorado Guardian ad litem Mission Statement," *supra* note 66 at 244; "New York Law Guardian Representation Standards in Child Protective Proceedings," *supra* note 66 at 260; "National Association of Counsel for Children Guidelines for Guardian ad litem in Abuse and Neglect Cases," *supra* note 66 at 283; and *In re: Jeffrey R.L.*, 1993 WL 199235, *16 (W. Va.).

83. "Colorado Guardian ad litem Mission Statement," *supra* note 66 at 244 and "National Association of Counsel for Children Guidelines for Guardian ad litem in Abuse and Neglect Cases," *supra* note 66 at 284.

84. "Colorado Guardian ad litem Mission Statement," *supra* note 66 at 244 and "National Association of Counsel for Children Guidelines for Guardian ad litem in Abuse and Neglect Cases," *supra* note 66 at 284.

85. "Colorado Guardian ad litem Mission Statement," *supra* note 66 at 244 and "National Association of Counsel for Children Guidelines for Guardian ad litem in Abuse and Neglect Cases," *supra* note 66 at 284.

86. "Colorado Guardian ad litem Mission Statement," *supra* note 66 at 244 and "National Association of Counsel for Children Guidelines for Guardian ad litem in Abuse and Neglect Cases," *supra* note 66 at 284.

87. "Colorado Guardian ad litem Mission Statement," *supra* note 66 at 244 and "National Association of Counsel for Children Guidelines for Guardian ad litem in Abuse and Neglect Cases," *supra* note 66 at 284.

88. "Colorado Guardian ad litem Mission Statement," *supra* note 66 at 244 and "National Association of Counsel for Children Guidelines for Guardian ad litem in Abuse and Neglect Cases," *supra* note 66 at 260.

89. "Colorado Guardian ad litem Mission Statement," *supra* note 66 at 244.

90. *Id.* at 244.

91. *Id.* at 244; "New York Law Guardian Representation Standards in Child Protective Proceedings," *supra* note 66 at 260; and *In re: Jeffrey R.L.*, 1993 WL 199235, *16 (W. Va.).

92. *In re: Jeffrey R.L.*, 1993 WL 199235, *16 (W. Va.).

93. Sherman, C. "Neglect/Abuse Proceedings in the Family Court: Role of the Law Guardian," *supra* note 66 at 200 and "New York Law Guardian Representation Standards in Child Protective Proceedings," *supra* note 66 at 260.

94. For example, National CASA Association, "Quality GAL Representation: What Every Child Deserves," *supra* note 63 at 6; "Colorado Guardian ad litem Mission Statement," *supra* note 66 at 244; "New York Law Guardian Representation Standards in Child Protective Proceedings," *supra* note 66 at 260; *Representing Children in Kansas: A Handbook for Lawyers*, *supra* note 66 at I-4; and *In re: Jeffrey R.L.*, 1993 WL 199235, *16 (W. Va.).

95. *In re: Jeffrey R.L.*, 1993 WL 199235, *16 (W. Va.).

96. Duquette, D.N. *Advocating for the Child in Protection Proceedings: A Handbook for Lawyers and Court Appointed Special Advocates*, *supra* note 63 at 40.

97. *Id.* at 39; "National Association of Counsel for Children Guidelines for Guardian ad litem in Abuse and Neglect Cases," *supra* note 66 at 287; "New York Law Guardian Representation Standards in Child Protective Proceedings," *supra* note 66 at 260; and Sherman, C. "Neglect/Abuse Proceedings in the Family Court: Role of the Law Guardian," *supra* note 66 at 200.
98. *In re: Jeffrey R.L.*, 1993 WL 199235, *16 (W. Va.).
99. "Colorado Guardian ad litem Mission Statement," *supra* note 66 at 244; "New York Law Guardian Representation Standards in Child Protective Proceedings," *supra* note 66 at 262; "National Association of Counsel for Children Guidelines for Guardian ad litem in Abuse and Neglect Cases," *supra* note 66 at 284; Sherman, C. "Neglect/Abuse Proceedings in the Family Court: Role of the Law Guardian," *supra* note 66 at 200; and *In re: Jeffrey R.L.*, 1993 WL 199235, *17 (W. Va.).
100. Kansas Bar Association. 1991. "Representing Children in Kansas: Survey Summary—Preliminary Report" (survey indicated that 46 percent of the GAL's reported that they sometimes or never conduct independent investigations).
101. Sivan, A.B., and Quigley-Rick, M. "Effective Representation of Children by the Guardian ad Litem: An Empirical Investigation." *The Bulletin of the American Academy of Psychiatry and the Law* 19(1):53. (GAL's interviewed reported as follows: "85 percent reported interviewing the child; 77 percent reported reviewing file reports or documents; 71 percent reported contacting the child protective case worker; 71 percent reported contacting other professionals; and 65 percent reported interviewing or contacting parents or parents' attorney." In addition, 24 percent reported making home visits, 40 percent reported interviewing witnesses, and 13 percent reported seeking evaluations.)
102. See discussion of roles in Haralambie, A.M. 1993. *The Child's Attorney: A Guide to Representing Children in Custody, Adoption and Protection Cases*, Section of Family Law, The American Bar Association, 3. (A significant factor contributing to the widespread merger of these roles is the Federal mandate for appointing GAL's in all child abuse and neglect proceedings.)
103. *Id.* at 2.
104. For a list of a sampling of publications that address this issue, see the publications listed *supra* at note 4 as well as the following articles and books: Haralambie, A.M. *The Child's Attorney: A Guide to Representing Children in Custody, Adoption and Protection Cases*, *supra* note 66; Harbo, S.J. July 1982. "A Comparison of the Guardian/Ward and the Attorney/Client Relationship," in *National Guardian Ad Litem Policy Conference Manual*, rev. ed. The National Legal Resource Center for Child Advocacy and Protection, American Bar Association Young Lawyers Division, 79; Duquette, D.N. *Advocating for the Child in Protection Proceedings: A Handbook for Lawyers and Court Appointed Special Advocates*, *supra* note 63; Ramsey, S. 1983. "Representation of the Child in Protection Proceedings: The Determination of Decision Making Capacity." *Family Law Quarterly* 287:17.
105. For example, "New Hampshire Guidelines for Guardians ad litem," *supra* note 4 at 248.

106. For example, the publications listed at note 79, *supra*. But compare: Harhai, S.J. "A Comparison of the Guardian/Ward and the Attorney/Client Relationship," *supra* note 104 at 80 (suggests that the GAL who advances the child's preferences contrary to the child's best interest could be liable for damages for the breach of fiduciary duty). Compare also: National CASA Association. "Quality GAL Representation: What Every Child Deserves," *supra* note 66 at 6 (the implication is that if the GAL is not an attorney, the GAL does not represent the client and is not obligated to represent the child's wishes).

107. "Colorado Guardian ad litem Mission Statement," *supra* note 66 at 245 (the GAL does not necessarily adopt or advocate the child's desires unless it would serve the child's best interest; in the absence of compelling reasons, the GAL must communicate the child's desires to the court or arrange for the child to do so directly); and *Representing Children in Kansas: A Handbook for Lawyers*, *supra* note 66 at I-6—I-7 (older children should be advised that they can personally make a statement in open court).

108. Duquette, D.N. *Advocating for the Child in Protection Proceedings: A Handbook for Lawyers and Court Appointed Special Advocates*, *supra* note 63 at 32 (proposed legislation would state that at age 14, the child is presumed capable of determining her or his interests, and the advocate must represent the child's wishes; the advocate makes a case-by-case determination of whether a younger child is mature enough to determine one's own interests); Shink, S.F. 1990. "Reflections on Ethical Considerations," *Lawyers for Children*, Center on Children and the Law, American Bar Association, 49 (suggests a child-centered approach under which the wishes of a child are treated with respect and, with older children, guide the representative's actions); "New York Law Guardian Representation Standards in Child Protective Proceedings," *supra* note 66 at 258 ("the mixture of wishes and interests depends in large part on the child's age, maturity and capacity"); Sherman, C. "Neglect/Abuse Proceedings in the Family Court: Role of the Law Guardian," *supra* note 66 at 199 (one central "interest" of the child is to be heard to the extent that he/she can articulate his/her view; the wishes of a child who demonstrates "considered judgment" must be followed); and Ramsey, S. 1983. "Representation of the Child in Protection Proceedings: The Determination of Decision Making Capacity." *Family Law Quarterly* 287 (proposes a standard for determining whether a child has decisionmaking abilities necessary to constitute "considered judgment").

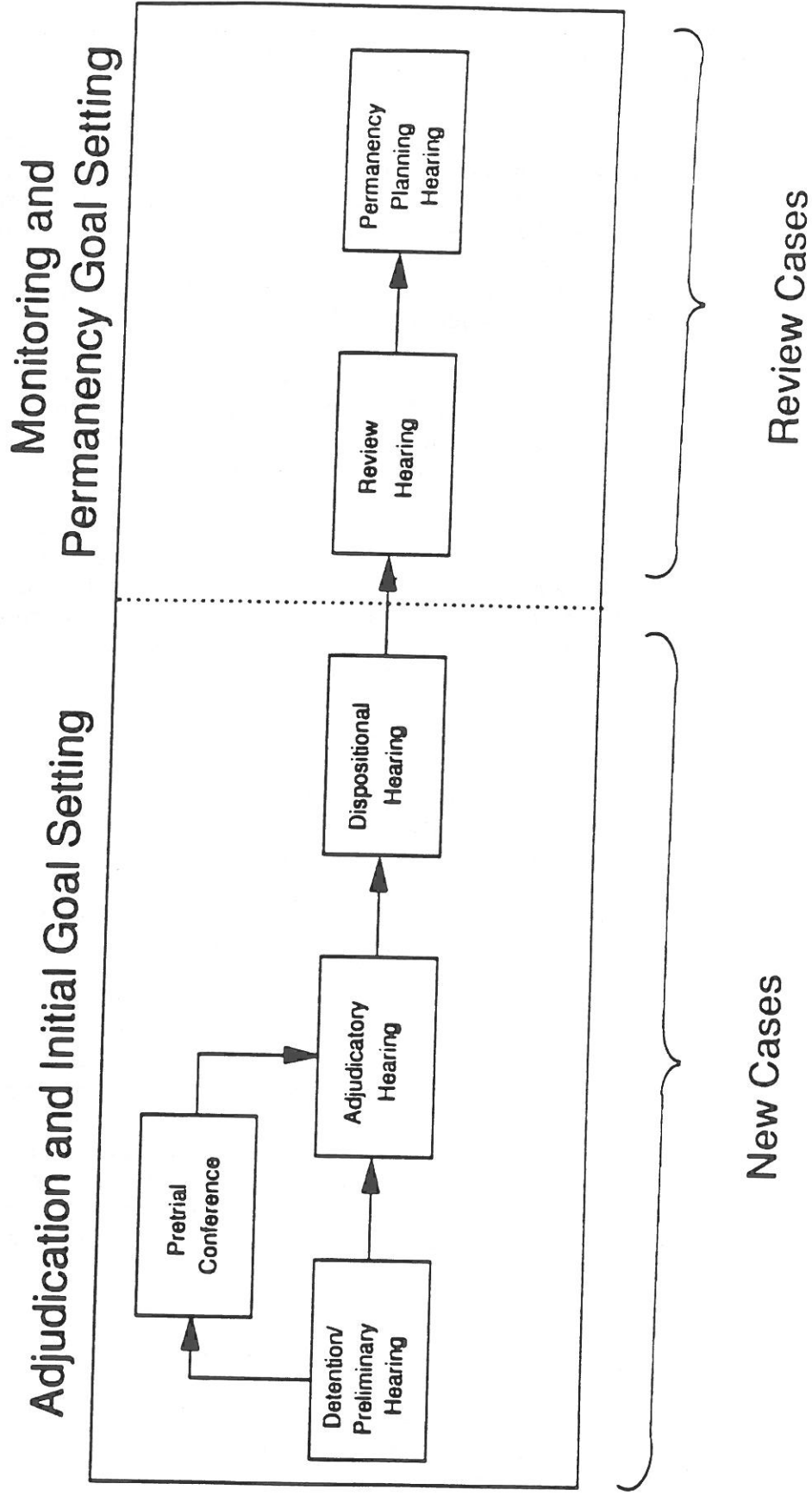
109. See publications listed *supra* at note 108.

110. Sivan, A.B., and Quigley-Rick, M. "Effective Representation of Children by the Guardian *ad Litem*: An Empirical Investigation," *supra* note 66 at 55. See also publications listed *supra* at note 108.

111. Sivan, A.B., and Quigley-Rick, M. "Effective Representation of Children by the Guardian *ad Litem*: An Empirical Investigation," *supra* note 66 at 55 (the proper procedure when there is a role conflict is withdrawal from one of the roles); see The National Legal Resource Center for Child Advocacy and Protection, American Bar Association Young Lawyers Division, *National Guardian Ad Litem Policy Conference Manual*, *supra* note 66 at 8 (one area of consensus in the Final Report was that a child who can voice her or his desires must have an attorney regardless of whether a GAL has been appointed).

Figure 3-1

Sampling Perspectives



different sets of activities, which may change over time. The primary stages in case processing include the following:

- *Preliminary hearing.*—This is the first court hearing in the child protection process, and its name differs by State. During this hearing, the court listens to testimony and recommendations from all parties and then renders a decision about (1) whether the alleged facts, if true, constitute child abuse or neglect under State statutes; (2) whether to authorize further action by filing the petition; and (3) whether a temporary placement should be made.
- *Pretrial conference.*—This conference, presided over by a judge, is designed to clarify the issues to be addressed at the trial and to ensure that the case is ready for trial. This conference also provides an opportunity to settle a case without a formal trial.
- *Trial.*—The major issues discussed in the trial are technical and legal. For example, one major issue is whether the facts alleged in the petition are true and, if so, whether they constitute legal abuse or neglect as defined by the State statutes. The outcome of the trial will determine whether the State has the authority to interfere with the privacy and freedom of the parents and the child.
- *Dispositional hearing.*—At the dispositional hearing, the court officially considers what it should do to protect and help the child and his/her family. Generally the focus is on developing a caseplan that establishes the actions to be taken by the parents, the agency, and other professionals to achieve rehabilitation of the family situation.
- *Review hearings.*—After the court enters dispositional orders, the case is brought back before the court or administrative body regularly for review (usually every 6 months). The review hearings generally focus on the caseplan and whether it has been implemented properly and has had or is having the desired effect. In addition, the court wants to know what the parents have done to reestablish a home for their child and what the social agency has done to facilitate that progress.
- *Permanency planning hearings.*—The Adoption Assistance and Child Welfare Act of 1980 requires that the State hold a permanency planning hearing after the child has been in foster care for 18 months. At this hearing the agency or the court usually determines whether the efforts to rehabilitate the family are likely to be successful. If it is determined that rehabilitation is unlikely, then an alternative permanent plan is sought. Most often this leads to the termination of parental rights so that the child may be adopted.

Figure 3-1 on the following page presents a simplified flow diagram of the various stages in processing an abuse or neglect case. This functional description of the case processing stages illustrates the shift in emphasis as

3.1 CONCEPTUAL FRAMEWORK OF THE GAL'S ROLES AND RESPONSIBILITIES

During the review of various State and county statutes, regulations, and court practices in Phase I, it was concluded that there was considerable variation in how States have interpreted and implemented the Federal legislative requirement for the appointment of GALs in civil abuse and neglect cases. Specifically, it was found that:

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, volunteers, and CASAs [court-appointed special advocates], 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.¹

A conceptual model was necessary to provide a framework for the construction of the survey instruments. In view of the findings cited above, select State GAL guidelines and literature from the child welfare research and advocacy community were referred to in order to develop a theoretical model of child representation. As a result of this search, the study used the model of the GAL's roles and responsibilities proposed by Professor Donald Duquette, because this model transcended a specific jurisdiction, was comprehensive, and covered all aspects of cases in the child welfare system. That model encompasses five functions—factfinding, legal representation, case monitoring, mediation, and resource brokering—which are presented in detail in Chapter 2 of this report.

According to Duquette, typically in cases of abuse and neglect where the child is (or has been) placed out of the home, there are six stages in the case process where the GAL might be involved.² It is important to understand these different stages and how they are interpreted and applied in each State. In addition, these stages invariably require the GAL to conduct

¹CSR, Incorporated. October 1990. *National Study of Guardian ad Litem Representation*. Washington, DC: CSR, Incorporated, 41.

²Duquette, D. 1990. *Advocating for the Child in Protection Proceedings*. Lexington, MA: Lexington Books. However, this model is not necessarily followed by all States or for all cases. For instance, there may be a stipulation of abuse or neglect by the parents, which may result in the avoidance of certain hearings. If the child is not removed from the home, yet remains under the supervision of the agency (e.g., family preservation services), there would be no review hearings necessary for children in foster care. In addition, in some States GALs are appointed only for hearings up through the adjudication; in others GALs are appointed only after adjudication and only have a review function.

Chapter 3. RESEARCH DESIGN AND METHODOLOGY

The goals of the project were to answer the following broad research questions:

- What are the articulated role dimensions and activities across different times in case processing (e.g., between “new” and “review” cases)? Do the role dimensions between new and review cases differ, irrespective of the guardian *ad litem* (GAL) model?
- How do the different models of GALs view their roles and responsibilities? Are they similar or different?
- What is the relationship between various procedural indicators of effective legal representation (e.g., talking to/observing the child and appearance at legal hearings) and select case measures (e.g., number of placements, changes in caseplan, and placement goals)? Are there any differences between the various models?

The research design and methodology used to answer these research questions consists of four major components. The first component is a conceptual model of GAL roles and responsibilities that links these GAL activities to the various steps involved in processing cases in the child welfare system. This model provides the underlying structure for the data collection activities and instruments. The second component involves a multistage sample of GALs in 23 counties throughout the United States in order to yield a nationally representative sample of GALs. The data collection plan, the third component, was implemented in order to capture information on GAL activities from a variety of perspectives in order to validate the mainly self-reported information provided by the GALs. Finally, the analysis plan includes analytic approaches and statistical methods to generate summary data that answer these research questions.

In this chapter each of these components is discussed in greater detail, as are aspects of the field data collection experience that had an impact on methodology and results. This chapter also describes the procedures used for recruiting States, counties, and individuals to participate in the study. Finally, the various quality control and confidentiality measures are described that were adopted to ensure that the data were of the highest quality and that no sensitive personal information was divulged during the course of this study.

reviewing reports (71%), preparing for/attending review hearings (46%), making contact with the child (42%), monitoring the situation (46%) and taking action if a problem arises (50%)”).

136. Duquette, D.N. *Advocating for the Child in Protection Proceedings: A Handbook for Lawyers and Court Appointed Special Advocates*, *supra* note 63 at 44.

137. National CASA Association. “Quality GAL Representation: What Every Child Deserves,” *supra* note 66 at 6.

138. Snider, J.J. “Guardian Ad Litem: Speaking for the Child,” *supra* note 66 at 1268.

139. Sivan, A.B., and Quigley-Rick, M. “Effective Representation of Children by the Guardian *ad Litem*: An Empirical Investigation,” *supra* note 123 at 58.

140. *Id.* at 58 (mediating stipulations were mentioned by 4 percent of the GALs).

141. See Duquette, D.N. *Advocating for the Child in Protection Proceedings: A Handbook for Lawyers and Court Appointed Special Advocates*, *supra* note 63 at 37.

142. “Colorado Guardian ad litem Mission Statement,” *supra* note 66 at 244 (e.g., drug and alcohol treatment, parenting education, counseling alternatives, and programs for special needs children).

143. Shink, S.F. “The Justice System: It Has Forgotten the Children,” *supra* note 66 at 689-90.

144. Duquette, D.N. “Identifying the Best Interest of the Child in Protection Proceedings: Nine Guidelines for the Child Advocate,” *supra* note 115 at 12.

145. National CASA Association. “Quality GAL Representation: What Every Child Deserves,” *supra* note 66 at 6.

121. Duquette, D. 1987. "Liberty and Lawyers in Child Protection." In Helfer, R., and Kempe, R., eds. *The Battered Child*. 4th ed. Chicago, Illinois: University of Chicago Press, 405.
122. Sherman, C. "Neglect/Abuse Proceedings in the Family Court: Role of the Law Guardian," *supra* note 66 at 198.
123. Sivan, A.B., and Quigley-Rick, M. "Effective Representation of Children by the Guardian *ad Litem*: An Empirical Investigation," *supra* note 66 at 56.
124. See National CASA Association. "Quality GAL Representation: What Every Child Deserves," *supra* note 66 at 6; "Colorado Guardian ad litem Mission Statement," *supra* note 66 at 240; Shink, S.F. "Reflections on Ethical Considerations," *supra* note 108 at 690; "New Hampshire Guidelines for Guardians ad litem," *supra* note 66 at 248; "New York Law Guardian Representation Standards in Child Protective Proceedings," *supra* note 4 at 271-75; Snider, J.J. "Guardian Ad Litem: Speaking for the Child" *supra* note 66 at 1268; "National Association of Counsel for Children Guidelines for Guardian ad litem in Abuse and Neglect Cases," *supra* note 66 at 285-287; and *In re: Jeffrey R.L.*, 1993 WL 199235, *17-18 (W. Va.).
125. "Colorado Guardian ad litem Mission Statement," *supra* note 66 at 246.
126. *Id.*
127. "New Hampshire Guidelines for Guardians ad litem," *supra* note 66 at 250.
128. Duquette, D.N. *Advocating for the Child in Protection Proceedings: A Handbook for Lawyers and Court Appointed Special Advocates*, *supra* note 63 at 45.
129. "Colorado Guardian ad litem Mission Statement," *supra* note 66 at 245.
130. "New Hampshire Guidelines for Guardians ad litem," *supra* note 66 at 249.
131. "New York Law Guardian Representation Standards in Child Protective Proceedings," *supra* note 66 at 262.
132. Duquette, D.N. *Advocating for the Child in Protection Proceedings: A Handbook for Lawyers and Court Appointed Special Advocates*, *supra* note 63 at 45.
133. *Id.* at 42.
134. National CASA Association. "Quality GAL Representation: What Every Child Deserves," *supra* note 66 at 6.
135. "New York Law Guardian Representation Standards in Child Protective Proceedings," *supra* note 66 at 275; *Representing Children in Kansas: A Handbook for Lawyers*, *supra* note 66 at II-7; Snider, J.J. *Guardian Ad Litem: Speaking for the Child*, *supra* note 66 at 1268; and *In re: Jeffrey R.L.*, 1993 WL 199235, *18 (W. Va.). For a study, see Sivan, A.B., and Quigley-Rick, M. "Effective Representation of Children by the Guardian *ad Litem*: An Empirical Investigation," *supra* note 66 at 59 (the GAL's mentioned "the following activities:

112. Massachusetts Bar Association Committee on Professional Ethics, MBA Opinion No. 93-6, at 4 (June 18, 1993).

113. The National Legal Resource Center for Child Advocacy and Protection, American Bar Association Young Lawyers Division, *National Guardian ad Litem Policy Conference Manual*, *supra* note 66 at 7 (this was an area of consensus in the field as long as 11 years ago); Haralambie, A.M. *The Child's Attorney: A Guide to Representing Children in Custody, Adoption and Protection Cases*, *supra* note 102 at 14; and *In re: Jeffrey R.L.*, 1993 WL 199235, *16 (W. Va.) (these guidelines evidence the court's support for this model).

114. Knitzer, J., and Sobie, M. 1984. "Law Guardians in New York State: A Study of the Legal Representation of Children," 7 ("overall the panel law guardians in New York State view their role as representing what they perceive to be the child's best interest"); Sivan, A.B., and Quigley-Rick, M. "Effective Representation of Children by the Guardian *ad Litem*: An Empirical Investigation," 58-9 ("GALs appeared to perceive their role less as a 'neutral friend of the court' and more as an advocate for the child's welfare...there did not appear to be support for the role espoused in the literature of 'zealous advocate for the child's wishes'").

115. For example, Duquette, D.N. Winter 1992. "Identifying the Best Interest of the Child in Protection Proceedings: Nine Guidelines for the Child Advocate," Vol. 5, No. 1, 12 (although the phrase "best interests" sounds noble, it provides little practical guidance for the child advocate).

116. *Id.* at 12 (the guidelines are as follows: (1) protect the child from harm; (2) ensure that the child has minimally adequate food, clothing, and shelter; (3) minimally disrupt the child's daily living pattern; (4) inform the child and consider the child's views; (5) preserve the family so long as it is safe for the child; (6) coordinate all of the relevant services; (7) attend to the child's sense of time in acting on the child's behalf; (8) expedite permanency planning decisiveness; and (9) be sure that the professionals follow through with their responsibilities).

117. For example, Sherman, C. "Neglect/Abuse Proceedings in the Family Court: Role of the Law Guardian," *supra* note 66 at 198 (a child has a "legal right and interest in remaining alive, in being protected from physical injury and psychological damage, in being fed, clothed and educated,...[and] in remaining in his own home and with his own parents, and to have every effort made to maintain him at home unless the home situation is dangerous for him. If such interests fail and he cannot be returned home, he has a right to and interest in permanence and stability within a caring, nurturing family, rather than as a ward of an institution or as a foster child in a succession of foster homes").

118. See publications listed *supra* at note 79.

119. "New York Law Guardian Representation Standards in Child Protective Proceedings," *supra* note 66 at 260. See also National CASA Association, "Quality GAL Representation: What Every Child Deserves," *supra* note 66 at 6 ("in language and terms that the child can understand").

120. "New York Law Guardian Representation Standards in Child Protective Proceedings," *supra* note 66 at 260.

Researchers went to considerable lengths to determine the sampling frame of eligible GALs in each county selected. For most counties a list of practicing GALs was obtained. For various reasons, in some counties the actual names of practicing GALs were not available, and the estimated number of practicing GALs was obtained instead.¹¹

3.3.4 Case Selection by the GAL

The criteria for case selection were as follows: The GAL was asked to identify (1) the most recent case that had an adjudication hearing or a hearing where either abuse and neglect was stipulated or (2) its equivalent, which would be considered a new case. If there was some doubt on the part of the interviewee, the case had to have been in the system for a sufficient amount of time to build up a history of activity. A review case was one that met the criterion of a new case but which had at least one 6-month review hearing. Dispositional hearings that characteristically take place shortly after adjudication did not qualify as review hearings. The GAL then was asked to identify the most recent review case on which he/she had worked.

3.4 DATA COLLECTION PROCEDURES

Preparation for the field data collection started in fall 1992 when the initial steps were instituted to obtain State and local clearances. The actual field data collection commenced in early May (almost 8 months later) and was completed in early August 1993. A 2-month window was allotted in each county for the conduct of the interviews and the extraction of the case record data. Data collection activities ended the first week in August so that preliminary data analysis could be completed by the third week of that month.

In this section the data collection plan is discussed, including the recruitment strategy, various data collection instruments, onsite logistics, problems encountered, and the results of this effort in terms of completed interviews and case review forms.

3.4.1 Recruitment of States, Counties, and GALs

In order to recruit States and counties as participants in the study, an initial clearance letter was sent out under the signature of the Administration on Children, Youth and Families' Commissioner, to be followed by successive waves of clearance-related efforts. The various individuals were contacted in the following order: (1) State human services or child welfare director and State liaison officer; (2) county human services

¹¹In some counties obtaining the list was difficult. Individual judges in private attorney counties generally keep the lists, and there was some duplication across lists. It generally was easier to identify the keeper of the list in the staff attorney and CASA counties, but some directors were reluctant to release lists of GAL names.

Figure 3-3

States Selected for the Effectiveness Study, by Validation and Effectiveness Strata and by Region

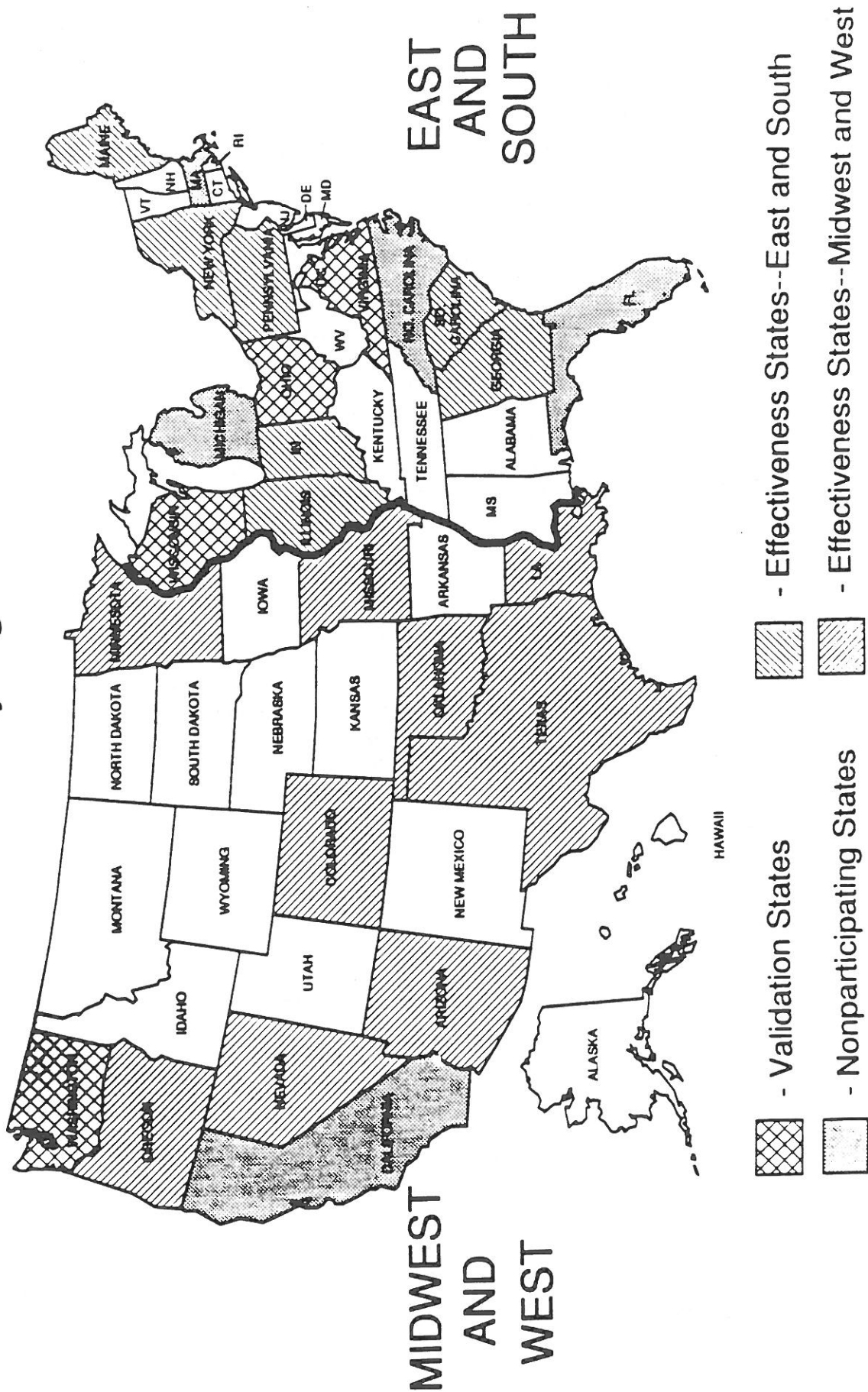


Table 3-5

**Counties Selected in the Study,
With the Estimated Number of GALs in Each**

Validation Survey		Number of GALs
Private Attorney:	Virginia Beach, VA	56
	Medina, OH (near Cleveland)	4
Staff Attorney:	Milwaukee, WI	7
	Franklin, OH (Columbus)	12
CASA:	Summit, OH (Akron)	90
	King, WA (Seattle)	69
Effectiveness Study		
EAST		
Private Attorney:	Muscogee, GA (Columbus)	4
	Westmoreland, PA (near Pittsburgh)	15
	Oneida, NY (Rome)	40
	Niagara, NY	69
Staff Attorney:	Cook, IL (Chicago)	37
	Erie, PA	1
	New York, NY*	20
CASA:	Madison, IN (Indianapolis)	49
	Charleston, SC	120
	Cumberland, ME*	68
WEST		
Private Attorney:	Weld, CO (Greeley)	4
	Lubbock, TX	41
	Dallas, TX	187
	Prima, AZ (Tucson)	25
Staff Attorney:	Oklahoma, OK (Oklahoma City)	4
	East Baton Rouge, LA	1
	Washington, OR (near Portland)	4
CASA:	Dakota, MN (Minneapolis suburb)	17
	Clark, NV (Las Vegas)	90
	Hennepin, MN (Minneapolis)*	116

*Selected in the sample but were dropped because clearance could not be obtained. The GAL figures for these counties are estimates.

Stratification in this manner offered several advantages. Including the former validation States as a stratum in the effectiveness sample allowed the counties sampled for the validation study to be included in the national sample. This provided additional observations and therefore increased the precision of the national sample, while still allowing for a separate investigation to be conducted on the validation stratum. The regional nature of the effectiveness stratum provided a measure of equal geographic representation. Allotting States to each of these strata was determined so that both geographic strata would contain an adequate number of counties with each model of representation.

3.3.2 Probability Sampling of Counties

Once all eligible counties were classified according to stratum, a probability proportional to size (PPS) sample was utilized to select the actual counties. PPS sampling maximized the probability of selecting counties with more GALs. One exception to this procedure was implemented in the validation-staff attorney stratum. Simple random sampling (SRS) was utilized for these counties. New Jersey contains so many large counties that utilize the staff attorney model that PPS sampling within this stratum almost certainly would have resulted in a sample that included only counties from New Jersey. Using SRS in this case minimized the probability of this happening.

The list of counties that were selected as part of the GAL sample is found in Table 3-5 following this page. This list represents 26 counties in 19 States. Figure 3-3 provides a map of the United States and indicates the distribution of States represented in the final sample.

It must be noted, however, that some of the counties initially chosen were replaced because either the State or the county was unable to provide clearance for data collection. The States of Michigan, North Carolina, and Florida had laws that precluded the conduct of research on open child welfare cases. In addition, some county child welfare directors did not grant approval for interviewing caseworkers or obtaining case record information. In each of these cases, the county was replaced with an alternative from the same stratum. After time-consuming efforts, clearance was unable to be obtained in three additional counties.

3.3.3 GAL Selection

The maximum number of GALs to be interviewed in any county was set at 20. Table 3-5 indicates the actual number of GALs who were available for interviews. If more than 20 GALs were available, 20 were randomly selected; if there were 20 or fewer GALs available in the county, an attempt was made to interview all of them.

Within each of the primary strata, counties were classified into secondary strata based on their model of GAL representation—private attorney, staff attorney, or CASA. CSR classified each county on the basis of information gleaned from Phase I of the project or from direct contact with State or county public officials who were familiar with the GAL program. If more than one type of GAL practiced in a county, the rule of thumb for classifying the county was to determine which type of GAL represented the majority of children in that county's civil abuse and neglect cases; that model then was classified as the predominant model. Table 3-3 below shows the breakdown of all eligible counties by primary and secondary strata.

Table 3-3

**Breakdown of All Eligible Counties In
the United States by Primary and Secondary Strata**

Stratum	Private Attorney Model	Staff Attorney Model	CASA Model	All Models
Validation	40	21	12	73
Effectiveness—East	92	49	8	149
Effectiveness—West	71	15	72	158
Total	203	85	92	380

In the end, data were collected in 26 counties. The distribution of counties by strata in the survey is indicated in Table 3-4 below.

Table 3-4

Number of Counties In the Survey by Region and by Model

Stratum	Private Attorney Model	Staff Attorney Model	CASA Model	All Models
Validation	2	2	2	6
Effectiveness—East	4	3	3	10
Effectiveness—West	4	3	3	10
Total	10	8	8	26

Second, for budgetary reasons the fieldwork was limited to 26 sites (the final figure was 23 counties). Originally, increasing the number of GAL interviews in these counties was considered; however, the roster of active GALs in many of the selected counties was less than 20. Given this limit on the number of GAL participants (and therefore the overall sample size), it was decided to increase the number of observations from each participant.

3.3 SAMPLING PLAN

The sampling plan can be characterized as a multistage, stratified sample, whereby probability sampling was employed at each stage of selection. The purpose of this sample design was to produce national estimates for GALs as a whole and for GALs in each of the model subgroups, as well as estimates for a subsample of States that participated in an earlier GAL study.⁹ In the discussion below, both the various stratification schemes incorporated into the design and the probabilistic methods for selecting the counties that compose the sample are described.

3.3.1 Primary and Secondary Strata

The primary stratum consists of all States in the United States; these were divided into two groups based on whether the State was a participant in a previous pilot study of GAL representation.¹⁰ Six States were subjects in the previous study, and these compose the validation stratum. The remaining States compose the effectiveness stratum. This latter stratum is divided into either eastern or western geographic status, based on whether the State is located east or west of the Mississippi River. Because of reported problems in obtaining access to open child welfare agency records, California and Massachusetts were excluded from the study.

Only those counties with populations greater than 100,000 were chosen for inclusion in the study. The reason for this minimum cutoff figure is that it was determined that smaller counties were not likely to generate a sufficient number of new cases in order to meet the study target for each county. This yielded a pool of approximately 380 counties, representing about 65 percent of the total U.S. population.

statistically control for such mediating factors. In addition, it is believed that this assumption was partially validated because the analysis indicated that the case types and demographics are quite comparable on new and review cases.

⁹CSR, Incorporated. June 1988. *National Evaluation of the Impact of Guardians ad Litem in Child Abuse or Neglect Judicial Proceedings*. Washington, DC: CSR, Incorporated.

¹⁰*Ibid.*

The primary data source was the actual GAL, because only she/he could provide adequate information about what the GAL did and when. For example, the GAL might investigate whether there was a suitable relative or neighbor with whom to place a child, or the GAL might negotiate with the parent(s) in the court's antechamber and reach an agreement then or base a recommendation to the court on such a negotiation. Neither the caseworker nor any other concerned party would know or could be expected to know what the GAL had done in those instances.

3.2.1.3 *Multiple Perspectives Used To Cross-Validate Information and Assessments*

To round out the GAL's self-reported information, the data collection approach known in the evaluation literature as "triangulation" was used. Essentially, this strategy utilizes multiple sources of information when there is some question about the validity of the primary information source. For each case selected, an effort was made to obtain additional, confirmatory information from other participants and sources—namely from caseworkers, judges, and case records.⁷ Table 3-2 provides a detailed description of the information collected by respondent.

The assumption behind this strategy is that if these other sources support the self-reported information provided by the GAL, it is likely that there will be more confidence in the reliability of the data than if the perceptions and interpretations conflict. If differences exist, the study methodology will enable them to be detected and enable the strength of the differences and the number of respondents who differ from the GALs to be assessed. However, this will not establish whether such differences are due to unreliable information, self-serving perceptions, institutional or role antipathies, or some other factor.

3.2.1.4 *Conduct of Paired Interviews*

From the beginning of the project, it was intended that two interviews would be conducted per GAL, pertaining to a new and a review case. By pairing the interviews, capturing information about activities across different times in a case—a perspective that otherwise could be obtained only by a retrospective examination of a case—was sought. The assumption was made that paired interviews for each GAL would reestablish conceptually a perspective that would be missing if each GAL was interviewed once.⁸

⁷As discussed in Chapter 1 of this report, interviews with parents and children were found to be infeasible during the study pretest.

⁸This assumption may be challenged because of mediating factors, such as the type (e.g., sexual abuse, physical abuse, and/or neglect) or severity of the case, which would render the two cases as being noncomplementary and unequal; this would make the GAL's separate experiences nonadditive. However, plans have been developed to

3.2.1 Data Collection Approach

The preceding discussion provides an overview of the data collection approach. A number of design considerations are highlighted below. These include the following: case linkage across multiple information sources, interviewing of respondents about current or contemporaneous cases, multiple perspectives used in the cross-validation of information and assessments, and paired interviews.

3.2.1.1 Case Linkage Across Multiple Information Sources

An important aspect of the design is that this core set of data relates to both new and review cases. The data from these different sources are referred to here as being case linked, meaning that a specific case forms the organizing theme of the GAL and caseworker interviews and the case record extractions. Case linkage was considered necessary in order to ground these observations and statements to something tangible in the respondent's experience. An exception to this plan involved interviews with judges.⁴

3.2.1.2 Interviewing of Respondents on Current or Contemporaneous Cases

In order to obtain indepth information about the roles and responsibilities at each case-processing stage, it was necessary to conduct interviews in which the respondent was asked to recall relatively recent information. This required obtaining data on contemporaneous (i.e., "open") cases rather than on retrospective (i.e., "closed") cases. The alternative choice of conducting a retrospective study of closed cases was found in an earlier study to be hampered by problems of inadequate respondent recall.⁵ For instance, information obtained from GALs about investigation-related activities completed a few years after the fact was likely to be unreliable and incomplete. Since the primary source of information is the GAL and there are no additional outside sources of such information, the data collection effort was limited to concurrent or open cases. This ensured that case-related activity for both the new and the review cases would be relatively recent and that recall would not be a limiting factor.⁶

⁴Information was obtained from judges about their overall perceptions of the GAL's performance and effectiveness across all phases of the child welfare case. Originally it was planned that judges would be asked questions about each case in the sample, but during the pretest the judges made it clear that they would not discuss specific cases pending before the court. Therefore, these data are not case linked.

⁵CSR, Incorporated. June 1988. *National Evaluation of the Impact of Guardians ad Litem in Child Abuse or Neglect Judicial Proceedings*. Washington, DC: CSR, Incorporated.

⁶The tradeoff was that information obtained on open cases was of a higher quality, but this made the task of obtaining State and county clearances correspondingly more difficult. Outsiders' ability to gain access to closed case records generally is easier than to open records, where confidentiality is a greater concern.

by the different GAL models in order to permit intermodel comparisons. Due to the large number of variables contained in the questionnaires, a data reduction strategy was adopted involving the creation of counts or composite scores across specific role activities. This strategy facilitated the development of assessments on such dimensions as the thoroughness and extensiveness of activities.

The second category of analysis assessed the procedural effectiveness of GALs in specific role dimensions. The respondents were asked to assess the GAL's performance in specific role dimensions and also more broadly across role dimensions. One aspect of the analysis involved comparing and cross-validating these assessments. Another part of the strategy to assess the effectiveness in certain role dimensions involved analyzing certain attributes of GAL performance (e.g., quality of legal representation). This part of the design was somewhat problematic because "effectiveness" has different connotations. One possibility would have been to measure child outcomes, specifically placement; however, in the absence of extensive child-based data collection, the type of placements that furthered the best interests of the child would not have been clear.³ The approach chosen for the study was to assess the procedural effectiveness of the GALs in terms of the extent to which their representation activities demonstrated the following:

- Sufficient effort on the part of the child's representative with regard to investigation and case processing;
- Legal advocacy;
- Activity to mediate and conciliate, if necessary; and
- Activity to advocate for the child in terms of information and resources.

In other words, this procedural effectiveness approach implies that, in certain core areas, the conduct of such GAL activity is de facto inference of quality representation, regardless of the outcome of the process. The focus is not on whether the outcome is different but on whether there is an appearance of diligence, comprehensiveness, and thoroughness to ensure the most likely positive outcome. The measure of effectiveness is whether the criterion of "effective" representation is met; in other words, whether those activities thought to enhance the achievement of a desirable outcome are undertaken.

³Federal law mentions that family preservation and adoption are to be considered preferable to foster care as an outcome for the child. There is considerable debate over whether such preferences can be considered categorically to be in the best interests of the child. In addition, because the cases examined are open cases, the children's current placement is not necessarily his/her final placement, so without a longer term perspective, it is not feasible to classify current placements in terms of desirability.

Table 3-2 (continued)

Information Type	GAL	Child Welfare	Judge
What was level of coordination between two representatives?	N,R		
Case Record Information			
Sex			
Race			
Type of abuse/neglect			
Severity of case			
• Case contested • Special placement — Hospitalized -- Residential treatment -- Other			
Current placement			
• Placement history			
Case goal			
• Changes in case goals			
What assessments/evaluations are in case records?			
Information about ordering and receipt of services			

N = Collected for new cases R = Collected for review cases ✓ = Collected from judges

Table 3-2 (continued)

Information Type	GAL	Child Welfare	Judge
Were there benefits to having two representatives?			✓
Did two GALs contact each other?	N,R		
• What did they discuss?	N,R		
• When did contacts take place?	N,R		
• How often were contacts?	N,R		
• Were they concentrated around hearings or evenly spread out?	N,R		
• Were there disagreements between two representatives	N,R		
— Over what?	N,R		
— Were they resolved?	N,R		
Self-Assessment of Overall Effectiveness			
How thorough was GAL in investigating and preparing for case?		N,R	✓
Was GAL successful in expediting case through the court system?	N,R		✓
• What did GAL do to expedite case?	N,R		
Was GAL assertive in advocating for child?	N,R	N,R	✓
• If not, why?	N,R	N,R	
How involved was GAL in negotiations?	N,R	N,R	
• How important was GAL's contribution?	N,R	N,R	✓
• How effective was GAL in advocating for child's interests?	N,R	N,R	✓
How effective was GAL in each role discussion?	N,R	N,R	✓
• How effective was GAL in coordinating work with the agency?	N,R	N,R	✓
How effective was GAL in information sharing with agency/caseworker?	N,R	N,R	
Was there anything that prevented GAL from being effective?	N,R		
• With whom did this occur?	N,R		
Was there anything about program that limits GAL's effectiveness?	N,R		✓
• Inadequate compensation?	N,R		
• How well two representatives shared information?	N,R		
How much did they rely on each other for advice?	N,R		
What was level of cooperation between two representatives?	N,R		

N = Collected for new cases R = Collected for review cases ✓ = Collected from judges

Table 3-2 (continued)

Information Type	GAL	Child Welfare	Judge
Case Monitor			
How frequently did GAL contact child?	R	N,R	✓
Did GAL make contacts regarding matters other than those related to hearing?	R	R	
• Who was contacted?	R		
Did GAL do anything pertaining to child's adjustment?	R	R	✓
Was change necessary in placement, caseplan, or services?	R	R	
Did GAL do anything to change caseplan?	R		
• Were any changes made due to GAL?	R	R	
Did GAL do anything to encourage/discourage visits by parents?	R	R	
Did GAL represent the child in other court action?	N,R		
• Which types of court actions?	N,R		
Information and Resource Broker			
Did GAL present information previously unknown to family, agency, or court?	N,R	N,R	✓
• Information about what?	N,R	N,R	
• Was this information useful?	N,R	N,R	
Did GAL assist agency or directly help obtain services?	N,R	N,R	
• What did GAL do?	N,R	N,R	
• What types of services?	N,R	N,R	
Breakout of Activities by Role Dimension			
Breakout of activities by role dimension	N,R	N,R	✓
Other activities worth mentioning	N,R	N,R	✓
Dual Representation Questions			
With whom did caseworker have most contact?		N,R	
With which representative was caseworker better able coordinate work?		N,R	

N = Collected for new cases R = Collected for review cases ✓ = Collected from judges

Table 3-2 (continued)

Information Type	GAL	Child Welfare	Judge
Did GAL assess:	N,R	N,R	✓
• Placement needs?	N,R	N,R	✓
• Needs for services?	N,R	N,R	✓
• Educational needs?	N,R	N,R	✓
• Other needs?	N,R	N,R	✓
Legal Representation			
What GAL activities are performed in noncontested hearings?	N,R		✓
What GAL activities are performed in contested hearings?	N,R		✓
Did GAL attempt to negotiate agreement or stipulation?	N,R	N,R	
• Did negotiations result in agreement?	N,R		
• When did negotiations take place?	N		
• What issues were dealt with?	N,R		✓
• Who was involved in negotiations?	N,R		
Placement issues	N		
• Did GAL form an opinion about most desirable placement?	N,R		
• What was opinion?	N,R		
• Did GAL discuss opinion with anyone?	N,R		
• Did GAL make recommendations?	N,R		
• Did GAL make recommendations about visitation?	N,R		
Did GAL have disagreements with child welfare agency?	N,R	N,R	✓
• Were differences resolved?	N,R	N,R	
• Were unresolved differences expressed in court?	N,R		
Did the court adopt GAL recommendations regarding goals/placement?	N,R		✓
• Which were adopted?	N,R		✓
Did GAL have disagreement with child?	N,R		
• Which view was presented in court?	N,R		
Did child speak before the court?	N,R		
• How was this presented?	N,R		
• Who requested this be done?	N,R		
• Did GAL make it easier for child?	N,R	N,R	✓
— How was this done?	N,R		✓

N = Collected for new cases R = Collected for review cases ✓ = Collected from judges

Table 3-2

Information Contained in the Project Data Base by Respondent

Information Type	GAL	Child Welfare	Judge
Background Information on GAL			
How was GAL recruited?	N		
Did GAL have previous experience in child welfare/child advocacy field?	N		
• Years of experience?	N	N,R	
How many years' experience as GAL?	N	N,R	
Did GAL receive specialized training?	N		
• Topics of training?	N		
Is GAL supervised?	N		
• What is supervisor's title?	N		
• Received formal evaluation?	N		
• Were evaluation criteria known when appointed?	N		
Does GAL receive compensation?	N		
• How much are private attorneys paid?	N		
— Is there ceiling on case?	N		
— How much will GAL get paid for case?	N		
— How are compensation procedures determined?	N		
• How much are staff attorneys paid?	N		
What type of immunity from liability does GAL have?	N		
How many hours per week does GAL spend on all cases?	N		
How many hours per week does GAL spend on a particular case?	N,R	N,R	
How many children does GAL represent?	N		
• From how many families?	N		
Factfinding			
Investigation activities	N,R	N,R	
• What written sources did GAL consult?	N,R		
• With whom did GAL discuss case?		N,R	
• Whom did GAL contact?	N,R	N,R	
• Did GAL speak with child?	N,R		
• Did GAL submit report to the court?	N,R		

N = Collected for new cases R = Collected for review cases ✓ = Collected from judges

Figure 3-2
Overview of Data Development and Analysis

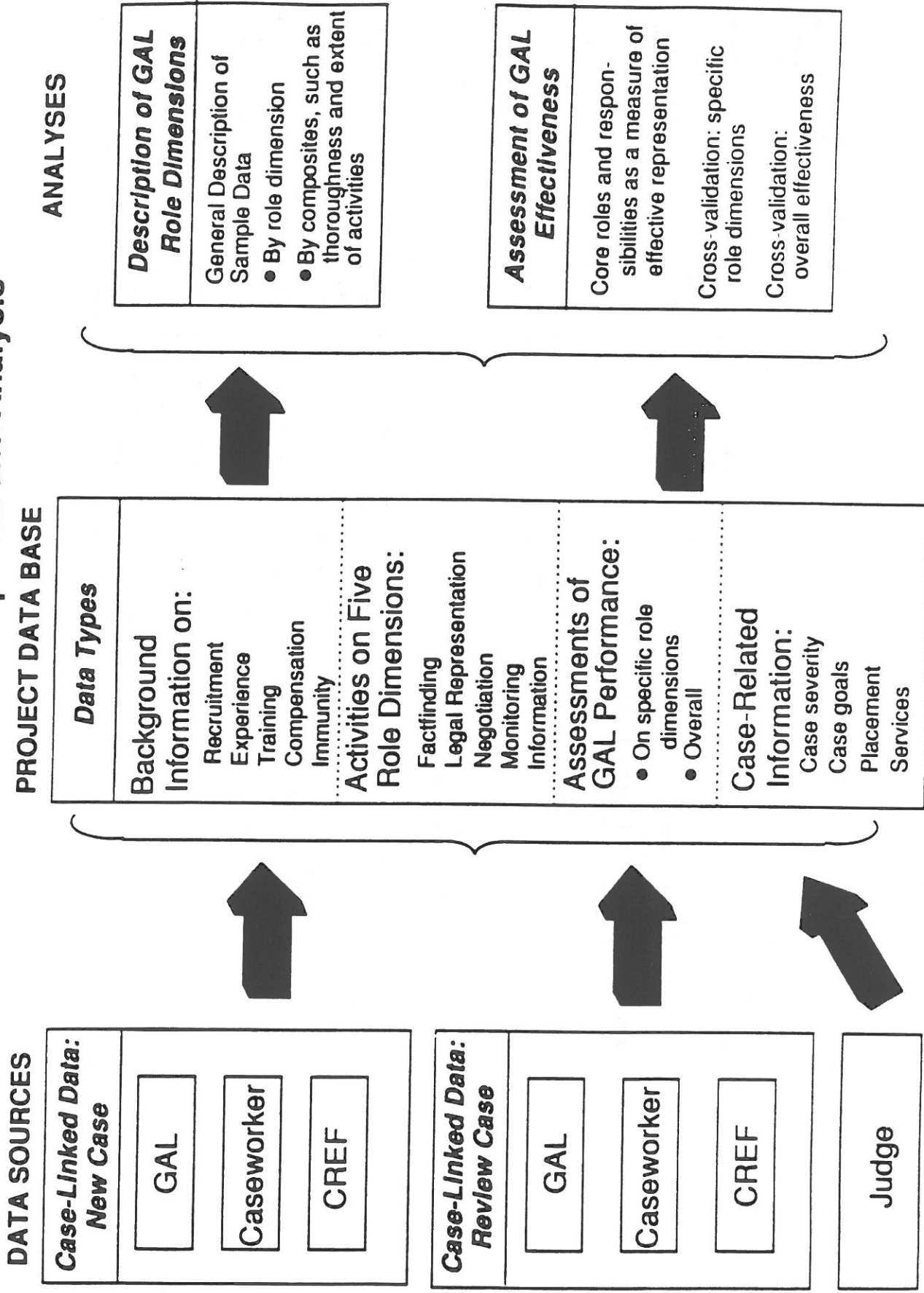


Table 3-1 (continued)

Hearing Type	Detention or Preliminary Hearing	Pretrial Conference	Adjudicatory Hearing	Dispositional Hearing	Review Hearing	Permanency Planning Hearing (18-Month Dispositional Review)
Legal Representation	Provide information to the child about court procedures and options available.	Identify the child's interests about protection and placement. Provide information about court procedures and options available.	Advocate for child in court, if necessary. Identify child's interests about protection and placement. Determine what to recommend to court.	Advocate for child in court. Identify child's interests about placement.	Advocate for additional services to rectify conditions, for other placement, or termination of parental rights.	Advocate for additional services to rectify conditions, for other placement, or termination of parental rights.
Case Monitoring		Monitor whether services, etc., received after preliminary hearing.	Monitor whether services received and other actions accomplished.	Monitor whether services received and other actions accomplished.	Monitor whether actions of parents, agency, etc., to correct conditions are completed.	Monitor whether actions of parents, agency, etc., to correct conditions are completed.
Mediation	Advocate for the child in a nonadversarial way.	Determine common interests among parties. Promote a cooperative resolution of problems. See whether parties other than child welfare and court can assist.	Determine common interests among parties. Promote a cooperative resolution of problems. See whether parties other than child welfare and court can assist.	Advocate for cooperative and nonadversarial agreement on the caseplan and dispositional order.	Attempt to promote a cooperative resolution of any remaining problems. Consult with interested parties about long-term placement options.	Attempt to promote a cooperative resolution of any remaining problems. Consult with interested parties about long-term placement options.
Information/Resource Broker			Determine whether court has sufficient information and professional advice about child.	Determine whether court has sufficient information and professional advice about child.	Determine whether court has sufficient information and professional advice about the child.	Determine whether court has sufficient information and professional advice about the child.

Table 3-1

Role of GALs at Various Stages of the Child Protection and Welfare Process

Hearing Type	Detention or Preliminary Hearing	Pretrial Conference	Adjudicatory Hearing	Dispositional Hearing	Review Hearing	Permanency Planning Hearing (18-Month Dispositional Review)
Description	Advise parents of rights, and hear testimony and recommendations.	Clarify issues to be addressed at trial; offers an opportunity to settle case before trial.	Determines whether child is abused or neglected.	Court determines final disposition of child in home or foster care placement and develops caseplan.	Periodic review of caseplan implementation and whether it has desired effect.	Decision point about long-term goal of child in home, permanent placement, or foster care.
Level of GAL Involvement	Moderate; high in investigation and problem-solving	High in investigation and mediation	High in legal representation and mediation	High in legal representation and mediation.	Moderate in mediation and monitoring	Moderate in mediation and monitoring
Roles and Responsibilities						
Investigation/Fact Finding	Determine what happened where and when; speak with involved parties; read petition.	Follow up to determine seriousness of risk and what the family and child are like; consult with social worker and others on their views.	Uncover additional facts about the case.	Present additional information to court.	Collect information about implementation of caseplan; consult with other parties about progress and determine additional needs.	Collect information about implementation of caseplan; consult with other parties about progress and determine additional needs.

a case evolves. Early in the case there are a myriad of legal and court hearings involving removal of the child from the parental or custodial home and establishing an interim placement. Over time, the focus shifts toward reviewing the child's current and prospective placement status and case goals. This shift takes place shortly after adjudication and roughly at the time of the dispositional and review hearings. Accordingly, in the study design a distinction is made between new and review cases because of this natural differentiation in function. The review hearing is the designated demarcation point distinguishing new cases from review, because in many States the dispositional hearing is held concurrently with, or very shortly after, the adjudication hearing and addresses short-term case goals and placement options.

The model developed for this study (based on Duquette's model) summarizes the various GAL activities by role dimension and time in case processing (see Table 3-1 following this page). This model provides the framework for determining the various activities that GALs can and should follow in order to ensure that the child's best interests are served.

3.2 OVERVIEW OF DATA DEVELOPMENT AND ANALYSIS PROCESS

The basic structure of the research design is illustrated in Figure 3-2. The far left column of the figure indicates a core set of data collected from GALs, caseworkers, judges, and case records. Data obtained from the GALs and caseworkers include background information about the GALs, activities GALs perform in each of the five role dimensions, and performance assessments on various role dimensions. Factual information on case severity, case goals, placements, and services was extracted from the case records. It is important to note that this core information was obtained for both a new and a review case; this information is considered to be case linked. In addition to this case-linked data, information was obtained from judges about (1) GAL activities and (2) their assessment of GAL performance of a more global nature. A detailed list of the data elements found in the project data base is included in Table 3-2.

The information obtained from these various sources was stored in a data base constructed in Paradox 3.5. In order to ensure that the data were accurate, the data were double-keyed from each form (i.e., each form was entered twice using different data entry staff persons). Each record was compared using PROC Compare in SAS (Statistical Analysis System), and all discrepancies were reconciled. The data analysis was conducted using Paradox and SAS-PC.

The analysis falls into two broad categories. The first and largest category involves the presentation and analysis of descriptive data about the five GAL role dimensions. For the most part, the descriptive displays include summary information relating to GALs as a whole, with further breakouts

- Programs frequently employ support staff such as paralegals, administrative assistants, social workers, or volunteers.
- The programs may or may not require staff attorneys to complete specialized training.

Within this broad definition, considerable variation exists across staff attorney GAL programs. While most programs provide some support structure to help facilitate the performance of GAL activities, the nature and level of support varies. For example, among the seven counties using the staff attorney model in the study sample, four provide staff attorneys with support from staff social workers and CASA volunteers. These counties provide the most intensive GAL support system, with professional social workers either directly teamed with GALs on cases or available for consultation and specialized case-specific tasks. In the three other staff attorney counties in the sample, attorneys receive clerical support and assistance from CASA volunteers. However, the level of CASA support is severely limited in one county and somewhat constrained in the other two due to a shortage of CASA volunteers. CASAs in these counties are not GALs but instead serve in a more limited capacity as friends of the court or assistants to the court-appointed GAL.

Some other differences across the seven staff attorney counties in the sample relate to the amount of time staff attorneys devote to GAL activities and training requirements. Most of the attorneys in four of the counties are full-time GALs, spending well over one-half of their time performing GAL activities. GALs in the three other counties spend about one-third of their time performing GAL activities. The counties also have different training requirements for GALs. Three counties require their attorneys to participate in ongoing training, while four have no requirements in place. One similarity across all the staff attorney counties concerns compensation; all staff attorneys interviewed during the study were compensated on a salaried basis, as described in the model.

4.1.3 **CASA Model**

The CASA model of GAL representation uses trained volunteers to represent children in abuse and neglect proceedings. CASA programs vary based on the standing the volunteers are given in court and their relationships to other professionals appointed to represent the child. In some counties CASAs work in tandem with private attorneys. Under such an arrangement, a volunteer may function as the GAL, as the co-GAL with the attorney, or as an assistant to the attorney who is the GAL. The counties selected for this study were limited to counties in which the CASA volunteer is appointed as the GAL or co-GAL. Thus, this sample should not be considered representative of all CASA programs. Some characteristics common to programs using the CASA model of GAL representation include the following:

Among counties using private attorneys as GALs, the courts often assemble a panel or maintain a list of private attorneys available for appointments. Depending on the county, the panel or list may include referrals from the local bar association, referrals from law firms, self-referrals, or private attorneys under contract to the county. Characteristics common to most private attorney GAL programs are as follows:

- Programs are loosely organized and do not employ specially trained support staff or provide attorneys with support services. Attorneys operate independently and usually are supervised by a judge.
- The courts pay private attorneys on an hourly basis, and the rates may vary in some counties for hours worked "in court" and "out of court." Most counties have a cap on the amount that can be charged to a single case.
- The court may or may not require attorneys to participate in special training on child abuse and neglect issues.
- GAL cases usually represent only a small fraction of private attorneys' entire caseloads.

The GAL programs in the 10 counties selected to represent the private attorney model generally fit this description; however, some notable exceptions exist. In one of the counties, private attorneys receive support from CASAs in performing their duties. In contrast, two other counties have CASA programs, but no direct coordination exists between attorneys and CASAs. Regarding child abuse and neglect training, four of the participating counties have established minimum requirements that GALs must fulfill. Lastly, in exception to the above characteristics, GALs are paid by the hour in only 6 of the 10 counties; 2 of the counties compensate attorneys by court appearance, and 2 other counties provide attorneys with a fixed amount for each case they accept.

4.1.2 Staff Attorney Model

In the staff attorney model, counties employ a staff of attorneys who specialize in representing children in child abuse and neglect cases. Such staff attorney programs typically operate through the legal aid society or public defender's office. In large urban counties, the county may contract with a law firm to provide staff attorney GAL representation. Characteristics common to most staff attorney programs are as follows:

- Staff attorney GALs spend a majority of their time working on child abuse and neglect cases.
- Compensation is provided on a salaried basis.

examined during the study were previous child welfare and advocacy experience, years of GAL experience, and participation in specialized training.

Section 4.4 describes the characteristics of particular children whom the GALs in the study sample represented. During the study, data collectors completed a case record extraction form (CREF) for each case examined with the GALs. The information collected through the CREF helps corroborate GAL responses to interview questions. The CREF also describes the types of children and issues involved in each case and provides information on demographics, the type of abuse, the number and types of placement, and the case goals established regarding final disposition.

Finally, the study collected information from caseworkers who worked with the GALs included in the sample and from judges in counties included in the sample. The caseworkers and judges provided the basic background information concerning their personal experiences with GALs that establishes them as qualified information sources. Sections 4.5 and 4.6 present this information, focusing on years of experience, caseloads, and other relevant topics. In addition, the caseworkers and judges provided assessments of the GALs' activities and effectiveness, which will be analyzed in Chapter 5.

The interpretation of the data presented in each of these sections was guided by comments received from the 12-member technical expert group (TEG) composed of attorneys, court-appointed special advocates (CASAs), and judges. TEG comments are cited in selected portions of the chapter to provide a more robust interpretation of the data.

4.1 DEFINITION OF MODELS

Establishing definitions of the different models of GAL representation was a crucial task in undertaking the GAL study. The three models analyzed in this study are the private attorney model, staff attorney model, and CASA model. The definitions and descriptions of these models that follow are based both upon the definitions and legislative analysis presented in Chapter 2 as well as data collected over the course of the study. While considerable diversity exists within each of the models and not all GAL programs will fit these definitions precisely, the three models are a useful and generally acceptable way of describing and analyzing the current structure of GAL programs in the United States.

4.1.1 Private Attorney Model

In the private attorney model, courts appoint attorneys in private practices as GALs to represent children involved in abuse and neglect proceedings.

Chapter 4. BACKGROUND INFORMATION ON THE SAMPLE AND THE RESPONDENTS

A thorough knowledge of the background and characteristics of GAL programs and participants supports a complete understanding of the analysis and findings of the Validation and Effectiveness Study of Legal Representation Through Guardian *ad Litem*. Chapter 4 focuses on six main topics that provide the background to the data analysis presented in Chapter 5 of this report. These topics include the following:

- The definition of the three GAL models analyzed during the study (Section 4.1);
- The characteristics of GAL programs that may affect the performance of GALs (Section 4.2);
- The background and experience of GALs (Section 4.3);
- The characteristics of the children represented by GALs and the cases selected for the study (Section 4.4);
- The background and experience of caseworkers who work with GALs (Section 4.5); and
- The background and experience of judges who preside over child abuse and neglect proceedings (Section 4.6).

The information presented in these sections sets the context for the data that have been collected and analyzed during the study. For example, while the types of GAL programs differ across various States and counties (as discussed earlier in Chapter 2), three specific GAL models were defined for this study to facilitate the sampling, data collection, and analysis activities. Section 4.1 describes these models and their prevalence in the study sample.

In addition, the study collected data on some specific characteristics of different GAL programs that might impact the performance of GALs as they work with child abuse and neglect cases. Section 4.2 details the information pertaining to activities that may affect GAL performance, such as recruitment, workloads, time of appointment, supervision and evaluation, compensation, and immunity from liability.

To describe the GALs in the study sample who reported the primary data collected, Section 4.3 provides information concerning the GALs' personal experience and backgrounds. Among the types of personal experience

count variables and composite scores, each of which incorporated the raw variables that were alike on a particular GAL role activity. This procedure was facilitated by the presence of a large number of dichotomous variables measuring particular role dimensions. All dichotomies related to a specific role activity formed one count variable or composite score. Composite scores resulted when mutually exclusive categories of responses were needed. Count variables occurred when the effects of any single variable on another was essentially independent of the effects of the other variables. Therefore, their differential effects could be added to determine the overall relationship.

3.7 SUMMARY

The methodology for this evaluation was designed to measure the effectiveness of GALs in performing the roles and tasks of child advocacy. The definition of roles and tasks was based on five major roles defined by Professor Duquette (1990): (1) factfinding or investigation, (2) legal representation, (3) mediation or negotiation, (4) case monitoring, and (5) resource brokering. The study was designed to collect comparative data across three models of GAL advocacy: (1) the private attorney model, (2) the staff attorney model, and (3) the CASA model of lay volunteers. Data were collected in a sample of 26 counties chosen to be representative of the three models and of the geographic distribution of counties between East and West. Within each county, a sample of 10 new cases and 10 review cases was selected to represent the different mix of activities in different phases of child abuse and neglect cases. Case-specific data were collected from GALs, caseworkers, and case records. In addition, judges in each county were interviewed to obtain their perspectives on the roles of child advocates and the effectiveness of the different GAL models.

Although the study used a probability sample design, the findings cannot be generalized nationally to all child welfare cases. This is because the sample was designed to be representative of GAL models of representation, not child welfare cases.

The next chapter of this report, Chapter 4, presents data on the GAL programs, the GALs, the cases in the sample, the caseworkers, and the judges. The GAL programs and the backgrounds of the GALs themselves differ widely among the models in ways that not only have an important bearing on the activities they conduct but also carry substantive implications for the design and implementation of GAL programs in the future.

included a mix of nominal, ordinal, and interval data, a variety of techniques were employed that were appropriate to the properties of the data. The types of descriptive statistics utilized include the following:

- *Measure of central tendency.*—This statistical technique is used to measure the typical or average response to a particular question. There are three common indices of central tendency: (1) mode, (2) median, and (3) mean. Each of these indices is appropriate for a different scale of measurement. The mode is appropriate for nominal data, the median for ordinal data, and the mean for interval data. Since most of the measurements in this study represent an ordinal or interval scale, the mean and median were the most frequently used measures of central tendency.¹³
- *Measure of variability.*—This statistical technique is used to summarize the degree of dispersion, or the degree to which the variables are spread out. There are three common indices of variability, depending on the characteristics of the data: (1) range, (2) quartile range, and (3) standard deviation. The range is an appropriate measure for nominal data, the quartile range for ordinal data, and the standard deviation for interval data. A mixture of all three measures were used, depending on the characteristics of the data.
- *Measure of association.*—This statistical technique is used to measure the degree to which variables covary. Measures of association are descriptive and summarize the strength and direction of the degree to which knowledge of the value of one variable enables one to predict the value of another. These measures also are used to compare several relationships between different grouping variables and a common response variable and to determine which is the strongest. There are numerous measures of association, including Yule's Q, theta, lambda, Goodman and Kruskal's rho, Cramer's V, Kendall's tau, and Pearson's r. However, as noted above, the complex design and the nonparticipation of sample counties made the use of statistical tests inapplicable to the analysis. In the tables presented in this report, differences of less than 10 percent are unlikely to be important, let alone significant.

3.6.3 Data Reduction Through Count Variables and Composite Scores

Efforts were made to reduce the number of variables in the analysis through a process of merging raw variables into count variables and composite scores. These procedures were conducted insofar as the scales of measurement were equal and the variables were conceptually and logically linked. The purpose in this variable reduction process was to create several

¹³Even though the majority of variables represent a nominal scale, these variables reduce to a dichotomous "yes" or "no" response after the "do not know" and "not applicable" responses are eliminated. Dichotomous variables, even if based on a nominal scale, for some statistical measures can be treated as a continuous variable.

weighted data were produced for the advisory panel meeting, and a first draft of the final report was submitted on August 31, 1993.

After the preliminary tabulations were completed, the weighted estimates were analyzed carefully, and it was concluded that the sample had certain anomalies which made it prudent to present and conduct statistical tests using unweighted data. The weighted total estimates were discovered to be distorted in the CASA stratum because of very large weights accorded to two counties in the stratum. The CASA strata were underrepresented because of the last-minute withdrawal of two large counties (Cumberland, Maine, and Hennepin, Minnesota), which disproportionately weighted certain responses in two of the remaining CASA counties (Charleston, South Carolina, and Madison, Indiana). These two counties were accorded weights of more than 400, and their weighted cases constituted substantially all of the weighted results for the CASA model.

The review of preliminary tabulations led to the decision to utilize unweighted data for the following reasons: (1) the sample was designed to be representative of GAL representation models, not child welfare cases, but the weighted estimates were easily misinterpretable as relating to cases; (2) nonparticipation by sample counties altered the weights, as discussed above; and (3) there is no consensus among statisticians over the relative desirability of conducting significance tests with normed or unweighted data. Therefore, the data presented in this report represent raw counts of the data rather than weighted estimates.

In terms of sampling error, there is some degree of uncertainty associated with any estimate that is made on the basis of a sample. The standard error provides some idea of how much uncertainty is associated with a given estimate as a result of the use of a sample rather than a complete study of the total population. However, the methods for estimating standard errors are inextricably linked to the sampling design and execution, which resulted in the anomalies noted above. Given the small number of cases, the standard errors would be high in any case. Therefore, statistical tests were not performed on the data. In general, no difference between models of less than 10 percent should be considered important.

3.6.2 Descriptive Analyses

The descriptive analyses presented in this report utilized a large number of variables collected in case-linked interviews of GALs and caseworkers and abstracted from case records. In addition, this record was supplemented (at the aggregate county level) by observations from judges about the overall effectiveness of GALs in certain role dimensions. The study's primary strategy was to conduct a mix of univariate and bivariate analyses in order to address the descriptive research questions.

For this analysis, several descriptive statistical techniques were employed to summarize the data. Because the variables in the project data base

procedure also was developed in line with the requirements of the CASA organization in Charleston County, South Carolina. Other ad hoc procedures were adopted in various counties in order to meet the requirements of the child welfare agency.

Finally, procedures were instituted whereby each case was assigned a unique identifier that preserved client confidentiality. This unique identifier was entered into the data base as the key field for linking the various forms. No personal identifiers, such as the name of the GAL, caseworker, or family, were entered into the data base. In order to ensure that any actual or potential identifiers (e.g., family name or case record number) were not entered, the code sheet on each instrument where such information might be listed was color coded, and these color-coded sheets were stripped from the data collection instrument before the completed instrument was mailed to the project office.

3.6 DATA ANALYSIS

A variety of analytic and statistical techniques were used in the project's approach to answering the various descriptive and evaluative research questions discussed in Section 3.1. A variety of univariate and bivariate statistical techniques were utilized in order to present descriptive displays relating to the various GAL role dimensions. In order to reduce the large number of variables, raw data were merged into count variables or composite scores, insofar as the scales of measurement were equal and the variables were conceptually and logically linked. With these count and composite scores, more complex descriptive analyses could be conducted. Finally, the case-linked variables and conducted analyses were combined, linking specific aspects of GAL activities with case goals and placement outcomes.

Since the majority of the data collected by the study were nominal or ordinal, a variety of nonparametric statistical techniques were used, including bivariate contingency tables, measures of association, and chi-square tests of significance. The various descriptive and inferential techniques utilized in the conduct of this study are described below.

3.6.1 Sampling Weights and Tests of Significance

In the initial analysis plan, sampling weights were developed to account for the different stratum means when determining national estimates. The sampling weight for each GAL sample consisted of (1) a first-stage county base weight, (2) a first-stage nonresponse adjustment weight, and (3) a second-stage weight for the subsample of GALs selected within the county. In addition, nonresponse adjustment weights were computed for each caseworker response and each CREF variable. Descriptive tables based on

- Remove from their immediate workspace in the agency any records, photographs, forms, or other materials contained in the records that they were permitted to review;
- Link the information abstracted from the case records with information obtained from any other sources not related to the project;
- Contact or attempt to contact any person identified in the case records; and
- Issue a report or publication based on materials obtained while conducting the course of their responsibilities without the prior written consent of the State and/or county agency.

In addition, each project staff member and field data collector on the GAL project stated that he/she would provide security safeguards for the protection of all personal information in his/her possession. These safety measures included the following:

- Maintaining the study forms and information abstracted from records in a secure, locked location when not in use and restricting access to all study forms and information to persons who signed a confidentiality statement (i.e., project staff and field data collectors);
- Destroying all individual study records containing case record information when the study purposes were accomplished; and
- Permitting the State/local agency the right, at any time, to monitor, audit, and review the project staff's and field collectors' activities and methods in order to ensure compliance with the confidentiality agreement.

Second, select project staff and field data collectors were required to sign supplemental confidentiality forms that were provided by some States or counties as a condition of conducting the study. For instance, a formal proposal had to be submitted to the State of Washington Human Subjects Review Board and a confidentiality agreement signed with the board before any case records could be reviewed or caseworkers could be interviewed in that State. Supplemental agreements also were signed with the State of South Carolina and with Franklin County, Ohio.

Third, in some counties, specialized data collection procedures had to be developed per county requirement that ensured the confidentiality of the GAL and/or the family. For instance, in Dakota County, Minnesota, interview procedures were altered in conformance with the requirements of the State Data Practices Act. Under these procedures, the families' names were not permitted to be exposed or the case records reviewed. Case identification was achieved by using the agency case record numbers and having the agency complete the case record extraction forms. A similar

Each field data collector also was responsible for completing a weekly activity log wherein any problems and their resolutions were documented. Copies of each field data collector's activity log were maintained.

Manual Editing of Completed Forms

Upon completion of an interview or case record extraction, each form was manually edited by both the field data collector and a project staff person. This process involved manually reviewing the answers for completeness, consistency, and clarity. Completeness refers to whether all the questions were answered; clarity refers to whether the answers on the instruments were legible and not overlapping; and consistency refers to whether the response to one question was logically in accord with the response to another question (e.g., correctly observing skips in the question flow).

Each field data collector submitted his/her first few completed GAL instruments to the project monitor for a quality control review. As a result, any questions or problems were addressed early in the data collection process. If project editors, during any part of the editing process, detected any problems with a form (e.g., significant numbers of items with no response or, more frequently, answers to questions that should have been skipped), the field data collector was contacted for further clarification. A few inconsistencies in certain skip patterns were detected during and shortly after the first field data collector training session, and a memorandum was sent to the field data collectors notifying them of changes in the skip pattern.

3.5 PROCEDURES TO PROTECT CLIENT CONFIDENTIALITY

For both the project staff and the field data collectors, performance of the fieldwork (and to some extent data entry and analysis) entailed having access to and the use of information that was considered sensitive and confidential. Because access to and utilization of such information is subject to Federal, State, and county laws and regulations, the field data collectors treated the confidentiality of client information as a paramount concern.

A number of procedures were adopted in order to ensure client confidentiality on this project. First, each project staff member and field data collector signed a confidentiality statement that was kept on file. In the confidentiality statement, staff and field data collectors, in performing their field data collection and handling duties, pledged that they would not do the following:

- Copy, duplicate, or disclose any names or other individually identifiable information contained in the records that they were allowed to access and examine;

some of the field data collectors had relevant experience in more than one part of the country and were able to provide a multi-State perspective. Knowledge of the various stages in the child welfare system and of the different terminology characterizing each stage in the different counties proved to be important for the fieldwork, especially in helping the GALs select the most appropriate case for review.

Methods To Standardize Interview Results

In order to ensure that the interview results were consistent across sites, questionnaires were developed that required little or no interviewer interpretation. Each question relating to GAL activities had a forced response, except those designated as "Other, Please Specify." If the respondent had difficulty interpreting a question or providing a fixed response, the interviewer was instructed to note this in the margin.

In addition, each field data collector was required to attend an intensive 1½-day training session prior to starting fieldwork. As a prelude to the training, a training manual was developed that provided guidance on all aspects of the data collection instruments and the data collection techniques. During each training session, data collection techniques were reviewed and role playing of the interview situation was conducted, with experienced caseworkers and GALs acting in the role of respondent. The other participants then were given the opportunity to conduct a segment of the interview. This enabled the field data collectors to be observed and critiqued regarding their interviewing styles. The field data collectors' questions were answered.

Further guidance to standardize interviews was provided in a series of data collection notes or memoranda. If a data collection problem was detected that was likely to affect more than one field data collector, the problem was summarized and a likely solution was presented in an informational memorandum which was sent to each field data collector.

Internal Procedures To Monitor the Field Data Collectors

Each field data collector was monitored by a central staff person whose responsibilities included supervising the field data collector, providing technical guidance related to the fieldwork, and providing logistical and other support. Each monitor maintained, at a minimum, weekly contact with each field data collector under her/his supervision. If the field data collector confronted a problem in which the resolution deviated from the procedures outlined in the field training manual or data collection notes, the monitor was responsible for notifying the deputy project director to obtain approval prior to implementing such a solution. All guidance provided to the field data collector was maintained in a written log.

If neither of these two alternate scenarios applied, the field data collector obtained one randomly selected observation from the GAL in order to complete 20 GALs per county.

Institutional resistance.—In two counties the field data collectors met resistance from organizations that represent and supervise GALs. While neither organization refused to participate, the terms of their participation made the data collection effort much more arduous. Specialized procedures had to be adhered to, which limited the extent to which the field data collector could be proactive in setting up appointments and interviews. One county of these counties had all three GAL models, but the predominant model was staff attorney. Numerous barriers limited the data collection effort due to client confidentiality restrictions.

3.4.4 Quality Control and Confidentiality Measures

In view of the sensitivity and variability of the information gathered in this study, rigorous quality control and confidentiality measures had to be established. Several methods were implemented, both prior and during the data collection, to ensure that the data compiled on this study were of the highest quality. Special attention was given to this because of the complexities inherent in the diverse State and county child welfare systems. The various quality control measures implemented are discussed below.

Pretests of the Data Collection Instruments

The various survey instruments were pretested twice during the project. (No pretest was conducted on the case record extraction form (CREF) because it had been used in the previous study¹² and had been pretested as part of that project.) Initial drafts of the GAL instruments were pretested in Fairfax, Virginia, and in Washington, D.C., during fall 1990. A subsequent pretest of the GAL and caseworker survey instruments was made in April and May 1993 during the field data collector training sessions. This informal pretest was more substantive than the limited pretest because almost all individuals at the training had current or previous experience either as a caseworker or as a GAL. This experience also spanned a wide distribution of jurisdictions in the United States.

Hiring of Field Data Collectors With Either Caseworker or GAL Experience

In most of the counties, local field data collectors were hired who had experience either as caseworkers or GALs but who were not employed in either capacity in the area where they collected data for this study. In fact,

¹²CSR, Incorporated. June 1988. *National Evaluation of the Impact of Guardians ad Litem in Child Abuse or Neglect Judicial Proceedings*. Washington, DC: CSR, Incorporated.

problem involved whether a GAL had two cases that met the selection criteria for both a new and a review case. These problems proved to be more intractable. Finally, some field data collectors encountered institutional resistance to participation because of concerns for the confidentiality of their GALs or clients. Each of these problems is discussed below.

Individual participation-related problems.—In most counties the field data collectors ran into some resistance from GALs, caseworkers, and judges who were reluctant to participate in the study. In some counties the rate of individual nonresponse was quite high; in other counties, near zero. Field data collectors implemented a variety of service providers to overcome such nonresponse, such as providing the GAL with a contact person in the judge's office for further reference, distributing study descriptions, conducting confirmation telephone calls, and the like. These procedures worked in some cases. In addition, a number of prospective interviewees adopted indirect methods in order to avoid participation, such as not returning telephone calls, pleading that there was insufficient time to conduct the interview, claiming that he/she did not have a new or a review case, and not showing up for interview appointments.

Case-related problems.—At the start of data collection, it was anticipated that most, but not all, GALs would have at least one new and one review case. Procedures were developed to address occasions where this was not the case. However, this situation proved to be more widespread than expected. In some counties it was found that few GALs proceed beyond adjudication on any case, and therefore few GALs had a review case. In other counties GALs were not appointed until after adjudication, so few had any new cases. In some counties the panel of attorneys was so large that few, if any, GALs had more than one active case at any given time. In some CASA counties, certain CASAs were used more frequently than others, or CASAs were precluded from working more than one case at a time.

In order to keep the numbers relatively high for each county, the field data collector was instructed to replace the GAL with another on the list, if applicable. If there were no further replacements, initial selection criterion of one open new case and one open review case was altered. Since recollection of the facts of the case and activities performed on the case is the key factor in establishing this criterion, two additional scenarios were permitted to be applied during case selection. First, if the GAL had one new case and a review case that recently was closed (for example, within the past year) and the GAL had adequate recollection of her/his activities, then the recently closed case would be treated as a review case. Second, if the GAL had two review cases but one review case recently had its first review hearing, then the newest review case would be treated as a new case.

3.4.2 Logistics of the Field Data Collection

The logistics of the onsite data collection were fairly straightforward. Data collectors were required to collect a core set of case-linked data. Data on GAL activities and performances were obtained from both GALs and caseworkers. Data on client demographics, case goals, and placements were collected from case records.

In addition, field data collectors collected data from judges about their overall perceptions of the GAL program's performance and effectiveness across all phases of the child welfare case. These data were not case linked. Most or all of the juvenile or family court judges were contacted in the various jurisdictions in order to obtain a cross-section of opinion regarding GAL performance. In some counties masters also were interviewed if they presided over civil abuse and neglect cases.

A 2-month period was allotted within which data could be collected from various sources. Overall, the targets for the full counties (i.e., with 20 GALs) included conducting between 80 to 90 interviews and extracting information from 40 case records in the child welfare agency files. The breakdown of the field data collection was as follows:

- Interviews:
 - Up to 20 GALs at 2 interviews each,
 - Up to 40 caseworker interviews, and
 - All family court judges; and
- Case records: Up to 40 case record extractions.

Based on notes from field data collectors, the range of time to administer or complete instruments was as follows:

- GALs: 45 to 90 minutes per interview;
- Caseworkers: 30 to 60 minutes per interview;
- Judges: 40 to 60 minutes per interview; and
- Case record extractions: 1 to 4 hours or more, depending on the size, complexity, and organization of the records.

3.4.3 Field Data Collection Problems Encountered and Their Resolution

Field data collectors encountered a variety of problems in their data collection efforts. The most common problem was determining whether certain individuals would participate in the study. Most of these cases were resolved without significant delay or additional effort. Another common

or child welfare director; (3) presiding judge of the county family or juvenile court; and (4) depending on model, the directors of the public defender's office/legal aid society or of the CASA organization. Each succeeding clearance step was not initiated until after approval had been obtained from the higher authority.

Initial contacts with the States were made in a letter signed by then Commissioner Wade Horn. All other letters subsequently were signed by David Lloyd, Director of the National Center on Child Abuse and Neglect. After the mailing of each letter, telephone calls were used to follow up and to obtain the decision of the person contacted.

The clearance process began with the State CEO (chief executive officer) then proceeded to the county director. Once the approval had been obtained from the State and county authorities, individual GALs then were recruited to participate in the study. In many counties this process was relatively expeditious, as the support of a judge and/or director of a legal or CASA organization was obtained. In some counties field data collectors ran into difficulties recruiting GALs. A study description was produced that could be distributed to individuals, and in some places the field data collectors had to mail out a description to the individual before she/he would consent to participate. In some staff attorney and CASA counties, the director of the respective public defender's office or CASA organization was requested to intercede on the study's behalf. As a result, the clearance process was considerably lengthened and a level of uncertainty was introduced regarding whether clearance ultimately would be obtained in the county. In all, more than 8 months were spent attempting to obtain clearance from the State and local public officials who maintain GAL records. The overall clearance process required more than 1,000 telephone calls and consumed many hundreds of hours of staff time.

This lengthy clearance process holds lessons for future studies. For instance, State approval was insufficient for regional human resources or child welfare officials in some States. It was necessary to send letters, send study descriptions, and make numerous telephone calls before clearance could be obtained. In other States, administrative court structures extended beyond the county that was a participant in the study. It was found that the family court judge wields considerable authority in many jurisdictions—power that could sidetrack or delay data collection efforts in select counties pending the judge's favorable determination. Whether the issue was one of safeguarding client confidentiality or avoiding a tense political climate, many judges were unyielding. Finally, the directors of legal aid societies and public defenders' offices, as well as the directors of CASA organizations, sometimes delayed the fieldwork. Most counties eventually cooperated and simply required reassurance, but future studies should plan ample time and resources to obtain study approvals in each site.

- Programs are highly structured with written guidelines, training curriculum, and support and supervisory staff.
- All CASAs are required to participate in a training program prior to their first appointment.
- As volunteers, CASAs receive no monetary compensation.
- CASAs typically carry small caseloads.
- Volunteers may or may not have access to an attorney's services.

Aside from these common characteristics, individual CASA programs often are unique to the jurisdiction in which they serve. Programs may be coordinated by nonprofit organizations, by the court, or in some States by a State CASA association. Funding may come from private sources, public sources, or both. Programs also differ in the support services made available to their volunteers and the point at which they appoint CASAs to work on particular cases. These differences are evident across all six of the study counties using the CASA model.

Of the CASA programs in the six counties, three are administered by the court, two by an independent organization, and one by a State association. Regarding funding, five of the programs rely solely on public funding, while the sixth receives both public funds and private donations and grants. In four of the six programs, attorney services are available to CASA volunteers; in addition, two of these counties appoint an attorney to handle all court proceedings for each child. The appointed attorney may or may not coordinate activities with the CASA. In the two other counties, the CASA programs provide staff attorneys who assist the CASA GALs in presenting their cases; in these cases the attorney represents the GAL, not the child. Lastly, one-half of the counties make CASA appointments at the initial shelter care hearing, while the other three typically make appointments after the dispositional hearing.

4.2 PROGRAM FEATURES AFFECTING PERFORMANCE

The characteristics of the different GAL program models are a possible source of some of the variations among models in the services provided to children and their families involved in child abuse and neglect proceedings. Therefore, CSR collected information from the GALs concerning certain program features that might affect their performance. These program features, discussed below, include recruitment, workload, time of appointment, supervision and evaluation, compensation, and immunity from liability. The analysis of these variables attempts to identify differences among the GAL models that might prove helpful in interpreting variations in the types and intensity of GAL activities performed. Researchers and

policymakers, however, should recognize the inability of these data to do more than illustrate differences and similarities in the characteristics of GAL program models.

4.2.1 Recruitment

One important factor in understanding the administration of GAL programs and the quality of attorneys who serve as GALs is the recruitment technique utilized in acquiring and maintaining each local pool of GALs. During the study each GAL in the sample indicated how he/she was recruited to become a GAL and represent children. The study limited the inquiry about recruitment to private and staff attorney GALs because CASAs exclusively become involved with programs as volunteers. In answering the study questions relating to recruitment, the GALs had a number of response choices, including the following: self-request to be included on a court list, solicitation from the court, referral from a local bar association, referral from a law firm, mandatory registration, and the individual's firm/agency being under contract to the child welfare agency, or other. Each respondent could indicate all applicable choices; therefore, some individuals provided affirmative answers in more than one category.

A total of 166 attorneys responded to the recruitment question—120 private attorneys and 46 staff attorneys (see Table 4.2-1 following this page). The overwhelming majority of private attorneys (82.5 percent) indicated that they requested inclusion on a court list as the means of recruitment, while 35 percent indicated that they were recruited through court solicitation. In addition to the data shown in the table, of the 120 private attorneys in this group, 26 (or 21.7 percent) indicated that they requested to be included on a court list in addition to being solicited by the court. A more extensive review of the counties suggested that an attorney had to meet some form of requirement (written or otherwise) to be included on the attorney panel from which the judges ultimately choose attorneys to represent children.

In contrast, the overwhelming majority of staff attorneys (95.7 percent) indicated that they were recruited to represent children because their firm/agency represented children; in other words, the firm/agency had a contract to provide such GAL representation. Almost one-fifth of the staff attorneys also indicated some other reason for their recruitment, the most common reason being that they were part of a public defender's program and that their responsibilities rotated. Thus, the data demonstrate that most staff attorney GALs probably understand their firm's or agency's expectation that they represent children as GALs at the time they are hired whereas most private attorney GALs become involved in the program because of an individual motivation.

One unexpected study finding showed that 15 percent of private attorneys worked for a firm that had a contract with a child welfare agency to represent children. The majority of private attorneys in two counties in the

Table 4.2-1

Methods Used in GAL Recruitment

Method of Recruitment	Private Attorney Model		Staff Attorney Model		All Models	
	<i>n</i>	%	<i>n</i>	%	<i>n</i>	%
Self-request to be put on court list	99	82.5	2	4.4	101	60.8
Court solicited	42	35.0	2	4.4	44	26.5
Referral from local bar association	3	2.5	0	0	3	1.8
Law firm gave name	5	4.2	0	0	5	3.0
Mandatory, required to register	0	0	0	0	0	0
Firm/agency that represented children (e.g., contract attorney)	18	15.0	44	95.7	62	37.3
Other	8	6.7	9	19.6	17	10.2
Total Number of GALs	120		46		166	

Note: The percentages in this table may exceed 100 percent because multiple responses to the question are tabulated.

study sample were recruited in this fashion. The private attorneys in these two counties also represent the majority of private attorneys in the sample who indicated that they were under contract to provide GAL services. This indicates an anomaly in the study sample when compared with the private attorney GAL model described earlier.

Interestingly, no attorneys in the sample indicated mandatory registration on a panel as the means by which they were recruited to become GALs. The lack of evidence of mandatory registration is somewhat surprising, because the literature includes some anecdotal evidence that, in some counties, attorneys are compelled to appear on a list of attorneys from which they are selected at random to serve as GALs. The study data suggest that the incidence of recruitment made under duress may be overstated in the literature.

4.2.2 GAL Workload

Another program feature examined during the study is GAL workload. The workload measure comprises three components: (1) caseload, (2) number of hours per week performing GAL activities, and (3) the number of hours per week spent on individual cases. Based on anecdotal evidence, the expectation was that the study would identify positive correlations between the latter two variables and the effectiveness of representation and a negative correlation between caseloads above a certain threshold and effectiveness of representation.

The data on GAL caseloads presented in Table 4.2-2 following this page is derived from the GALs' reports of their actual caseloads at a distinct point in time rather than their estimates of average caseloads over time. Also, the data should not be mistaken for information on the number of new cases GALs accept each year. As the table illustrates, the staff attorneys carried far larger caseloads than GALs in either of the two other models, with nearly 85 percent of the staff attorneys representing 40 or more children. The private attorneys followed at a distant second, with 24.2 percent reporting caseloads of 40 or larger. In contrast, almost 90 percent of the CASAs reported carrying caseloads of less than 10.

The second component of the workload measure is hours per week performing GAL activities, as presented in Table 4.2-3. More than one-half of the staff attorneys performed at least 40 hours of GAL activities per week, and more than 90 percent worked on GAL activities at least 20 hours per week. In contrast, only 10 percent of private attorneys and 9.7 percent of CASAs performed more than 20 hours of GAL activities per week. This disparity further establishes staff attorneys as the most active of the GALs in the three models. Another interesting finding shows that although CASAs represented, on average, fewer children than private attorneys, they spent slightly more time per week performing GAL activities.

Table 4.2-2
GAL Caseloads

Size of Caseload at a Point in Time	Private Attorney Model	Staff Attorney Model	CASA Model	All Models
None	5.0%	6.5%	0.0%	3.5%
1-5 children	19.2%	0.0%	57.0%	29.3%
5-10 children	13.3%	0.0%	31.2%	17.4%
10-40 children	38.3%	8.7%	11.8%	23.6%
40 or more children	24.2%	84.8%	0.0%	26.3%
Median caseload	15.0	500.0	4.0	10.0
Mean caseload	32.8	623.4	5.2	124.1
Number of cases	120	46	93	259

Table 4.2-3**Weekly Hours Performing GAL Activities**

Hours per Week	Private Attorney Model	Staff Attorney Model	CASA Model	All Models
None	5.0%	0.0%	0.0%	2.3%
Under 1 hour	9.2%	0.0%	1.1%	4.6%
1-2 hours	15.8%	0.0%	6.5%	9.7%
2-5 hours	31.7%	0.0%	44.1%	30.5%
5-20 hours	28.3%	8.7%	38.7%	28.6%
20-40 hours	9.2%	34.8%	7.5%	13.1%
40 or more hours	0.8%	56.5%	2.2%	11.2%
Median number of hours	3.0	40.0	4.0	5.0
Mean number of hours	6.7	40.5	7.3	13.1
Number of GALs	120	46	93	259

The final component of the GAL workload measure—the number of weekly hours spent on a case—appears in Table 4.2-4 following this page. Of the GALs in the three models, the CASAs spent the most time per case representing their clients. More than one-half of all CASAs surveyed spent more than 3 hours per case each week. Staff attorneys spent slightly more time per week representing a client than private attorneys, with the two models averaging 1.6 and 1.5 hours, respectively. Almost one-half of the attorneys in each model spent less than 1 hour per week representing each client.

The data presented for this last variable are somewhat biased by the criteria used to select the cases on which the GALs were interviewed. That is, one of the criteria for case selection was that the GALs select cases on which they had most recently worked. Thus, the numbers presented for this particular variable are inflated because many cases with recent activity tend to be at or above average levels of activity relative to the normal ebb and flow of case activity. Although the magnitudes are inflated, the relative differences between models still provide a useful comparison.

Given the limited number of hours per week and per case and the size of caseloads, GALs must budget their time carefully among the five GAL roles presented in Chapter 3—(1) investigation, (2) legal representation, (3) mediation and negotiation, (4) case monitoring, and (5) resource brokering. GALs were asked to report the percent distribution of their time by function on the cases in the sample. The averages by model are summarized in Table 4.2-5.

These data describe important differences among the functions and the models in the percent of time by function that will have implications for the effectiveness analysis in Chapter 5. Two functions—investigation and legal representation—account for more than 60 percent of staff time. There was little difference among the models in investigation. In legal representation, however, the attorneys spent more than twice as much time as the CASAs. Private attorneys spent 39.9 percent of their time in legal activities, staff attorneys spent 34.0 percent, and CASAs spent only 14.8 percent. The other function in which there was an important difference was monitoring, with CASAs spending 31.5 percent of their time on the function, more than twice as much time as the attorneys.

With these differences in time spent by function, one would expect in Chapter 5 to see important differences in the levels of activities among the models, with attorneys having higher levels of legal activities and CASAs having higher levels of monitoring activities. The differences among the models in time spent on legal representation could imply qualitative differences as well. While legal representation is not the only function to be performed by a GAL, it is an essential function, especially in contested cases. The data on activities is examined in Chapter 5 to determine if there are differences. Finally, it is important to note that, as discussed in the

Table 4.2-4

Number of Weekly Hours Spent on a Case

Hours per Week	Private Attorney Model	Staff Attorney Model	CASA Model	All Models
Under 1 hour	39.1%	42.2%	7.7%	28.5%
1-2 hours	27.6%	27.8%	17.3%	24.0%
2-3 hours	17.2%	16.7%	21.2%	18.5%
3-4 hours	6.8%	7.8%	12.2%	8.9%
4 or more hours	9.4%	5.6%	41.7%	20.1%
Median number of hours	1.0	1.0	2.5	1.0
Mean number of hours	1.5	1.6	3.6	2.3
Number of cases	192	90	156	438

Table 4.2-5**Average Time Distribution of GALs Among Roles by Model**

Role	Private Attorney Model	Staff Attorney Model	CASA Model	All Models
Investigation	30.3%	30.5%	34.7%	31.7%
Legal	39.9%	34.0%	14.8%	31.0%
Negotiation	15.4%	17.7%	12.8%	15.0%
Monitoring	11.0%	15.0%	31.5%	18.5%
Brokering	3.8%	5.4%	6.7%	5.2%
Other	1.5%	0.0%	0.3%	0.8%
Total*	100.0%	100.0%	100.0%	100.0%

*Note that, while the percentages reported by each GAL add up to 100 percent, the sum of the averages by function may not, due to rounding error.

definition of models, some of the CASA programs provide an attorney to conduct the courtroom activities in each case and some of the staff attorney programs provide social workers to conduct noncourtroom activities. The data on time spent refer only to the individual GAL, while the data presented in Chapter 5 are intended to measure all activities, whether performed personally by the GAL or by another affiliated person.

The data on GAL workloads underscore some important differences in the basic designs of the three models. Staff attorneys are best characterized as "full-time" GALs compared to private attorneys and CASAs, who have lower caseloads and spend a smaller fraction of their time performing GAL activities. The workload data also distinguish staff attorneys as the GALs with the most hands-on experience. In addition, staff attorneys also may have an added advantage of increased exposure to key personnel at social service agencies and/or courts, greater experience in negotiating settlements, and increased opportunities to establish a network of contacts within the field. Conversely, staff attorneys' larger caseloads limit the amount of time that can be spent on each case and probably place them at higher risk for "burnout." However, this negative interpretation is somewhat mitigated in counties that provide staff attorney GALs with support from either social workers or CASAs. Four of the seven counties in the staff attorney sample provided staff attorneys with support from social workers, and the other three counties provided staff attorneys with support from CASAs.

The workload data indicate the existence of a submodel within the private attorney model. Part of the explanation for the unexpectedly high number of private attorneys with workloads of more than 40 cases (24.2 percent) is the inclusion of the two counties in the private attorney sample that have a contract arrangement with a firm or a select group of attorneys. This type of model is more like a hybrid of the private and staff attorney GAL models. Therefore, the private attorneys involved shared some of the same workload characteristics as staff attorney GALs. In addition, a third county in the sample consistently appointed GALs from a small group of private attorneys that the court had come to trust with this role. However, in this case, no formal contract existed. These departures from the typical private attorney model described earlier may lead to an understatement of the impact of workload differences on the GAL activity data presented in the next chapter.

4.2.3 Time of Appointment

The timing of the GAL appointment was very important to members of the TEG. The group's consensus was that GAL appointments should be made as soon as possible after the filing of a petition. The study collected the date of appointment from the GAL and the date the petition was filed from both the GAL and the case record. The time lapse between these two dates served as one measure of the timeliness of GAL appointments. When the

petition dates differed between the two sources, the study used the date closest to the GAL appointment date. In several cases, the date of appointment was prior to the petition filing date, sometimes by 1 year or more, due to data collection and coding mistakes. These cases were grouped into one "prepetition" category. The cases with apparently valid dates then were grouped into four time periods: (1) 0 to 5 days, (2) 6 to 30 days, (3) 31 to 365 days, and (4) over 1 year.

The data are presented by model in Table 4.2-6 following this page and by new and review cases in Table 4.2-7; Charts 4.2-1 and 4.2-2 summarize these data. The time lapse between petition filing and GAL appointment averaged nearly 300 days but was shortest for private attorneys at 165.3 days and for new cases at 130.5 days. The averages conceal important differences among the models that are shown more clearly in the charts. Chart 4.2-1 indicates that private attorneys and staff attorneys were appointed early in the cases, with 55.5 percent of private attorneys appointed 0 to 5 days after the petition was filed and 42 percent of staff attorneys appointed in the same timeframe. By contrast, 44.5 percent of CASAs were appointed 31 to 365 days after the petition, and 28.9 percent were appointed more than 1 year after the petition. Chart 4.2-2 indicates that appointments in new cases were made earlier than in review cases, but still 30.7 percent of the appointments in new cases were made more than 30 days after the petition was filed.

The longer time lapse for review cases is understandable, because the GALs interviewed for the study may not have been in all cases the first GAL on the case. In fact, the data indicate that 93 percent of the GALs in new cases were the children's original representatives, compared to 75.1 percent of the GALs in review cases. However, equal percentages of private attorneys and CASAs (89 percent) were the original representatives, compared to only 64 percent of staff attorneys. If this factor explained the difference in time lapse, then staff attorneys would have the longest time lapses. In fact, the time lapses for staff attorneys presented in Chart 4.2-1 are close to those of private attorneys. Therefore, this factor does not explain the differences. In addition, the cases were equally divided between new and review cases for each model.

In summary, the data suggest clear differences in the time lapse among the models and between new and review cases. The difference in the time lapse between new and review cases appears to be related to whether the GAL interviewed was the original representative. The case data provide no clear evidence why the time lapse should be longer for the CASAs than for the attorneys in such a high percentage of the cases. However, a review of the data collection notes revealed that two of the CASA counties routinely delayed appointment of the GAL until the review phase of the case, and other CASA counties may have done so as well. One might expect a longer time lapse to result in lower effectiveness for CASAs compared to the other models. The effectiveness data are examined in Chapter 5 of this report.

Table 4.2-6

Time Lapse Between Petition and GAL Appointment by Model

Time GAL Appointed	Private Attorney Model	Staff Attorney Model	CASA Model	All Models
Prepetition	8.9%	2.3%	4.7%	6.1%
0-5 days	55.5%	42.0%	7.0%	37.3%
6-30 days	23.0%	20.5%	14.8%	19.9%
31-365 days	4.7%	14.8%	44.5%	19.4%
Over 1 year	7.9%	20.5%	28.9%	17.2%
Mean number of days	165.3	408.2	366.5	298.9
Number of cases	191	88	128	407

Table 4.2-7

**Time Lapse Between Petition and GAL Appointment
by New or Review Case**

Time GAL Appointed	New Cases	Review Cases	All Cases
Prepetition	8.3%	4.0%	6.1%
0-5 days	38.0%	36.6%	37.3%
6-30 days	22.9%	16.8%	19.9%
31-365 days	23.9%	14.9%	19.4%
Over 1 year	6.8%	27.7%	17.2%
Mean number of days	130.5	459.1	298.9
Number of cases	205	202	407

Chart 4.2-1

Timeliness of GAL Appointments by Model

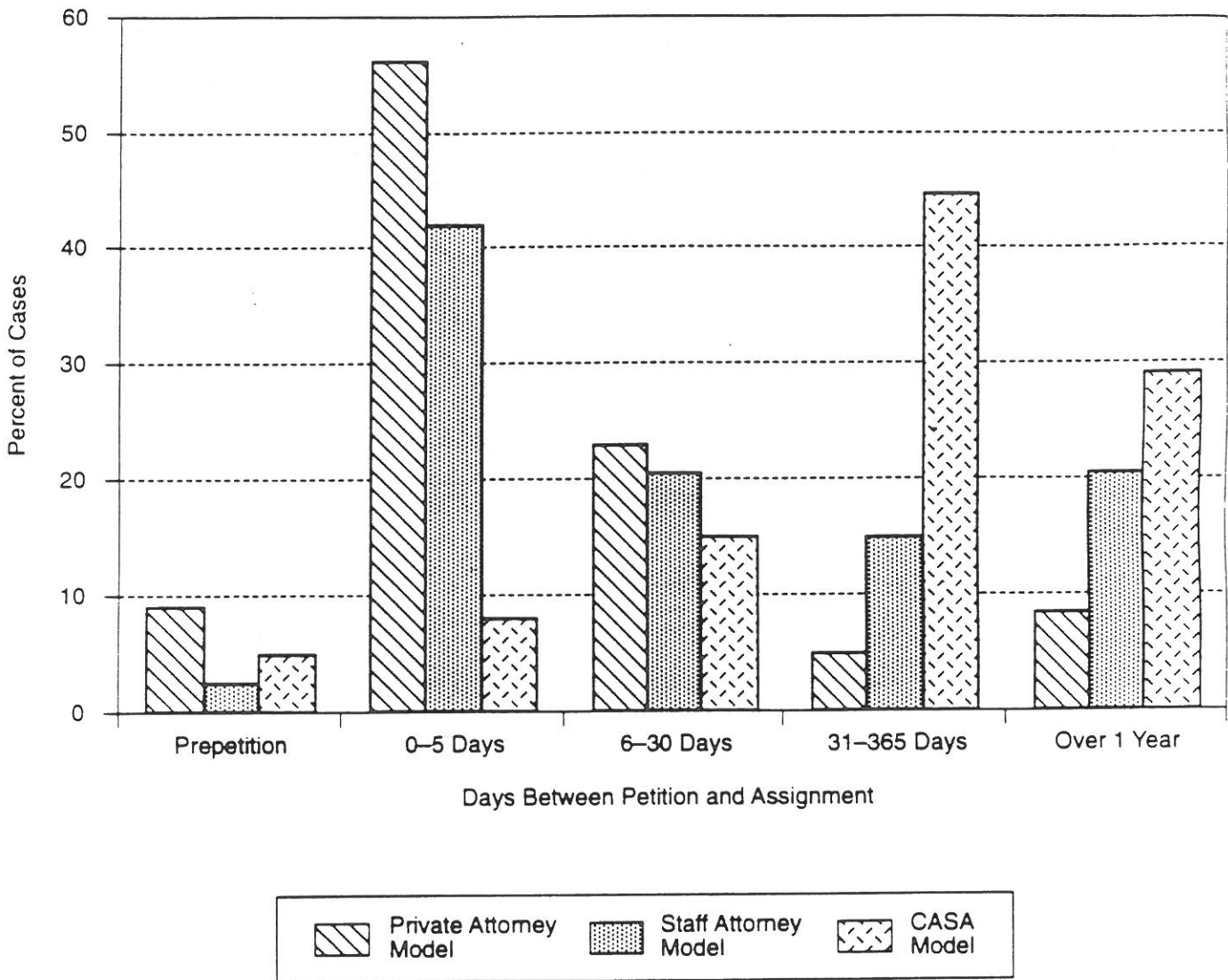
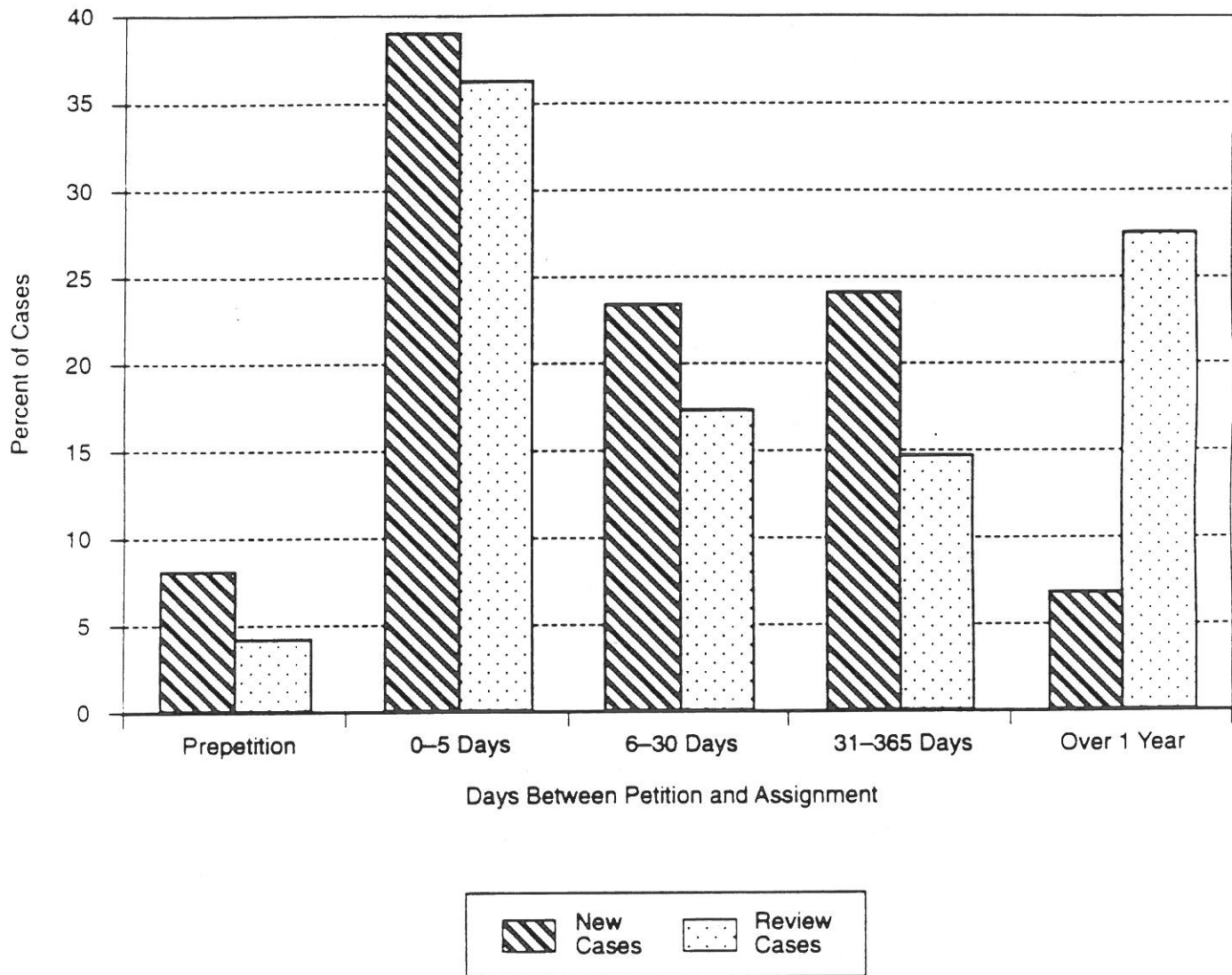


Chart 4.2-2

Timeliness of GAL Appointments by New and Review Cases



4.2.4 Supervision and Evaluation

The GALs were asked a series of questions regarding the supervision and evaluation of their activities. The responses to these questions spurred considerable debate among the TEG members about the apparent lack of accountability and quality control of GALs. The study data indicate that the majority of private attorneys (70.6 percent) were not supervised, whereas the majority of staff attorneys (87.0 percent) and CASAs (90.3 percent) were supervised. The private attorneys, when supervised, reported to a judge, whereas staff attorneys usually were supervised by a senior staff attorney. The CASAs indicated that they reported to either a GAL director or a CASA director. Similarly, performance evaluations were virtually nonexistent for the private attorney GALs (0.8 percent), whereas 58.7 percent of the staff attorneys and 22.6 percent of the CASAs received formal evaluations.

In considering these results, the TEG members were concerned about the possible lack of independence among private attorneys and the potential conflict of interest inherent in a system of supervision instituted by the appointing judges. In the counties with private attorney GALs, the judges had the authority to hold the GALs accountable both for the quality of representation and the costs billed for services. All TEG members agreed both that certain standards regarding GAL roles and responsibilities needed to be established in order to provide a yardstick by which each GAL would be held accountable and that these standards should be enforced by an independent party. Several TEG members added that such a system would not only safeguard the quality of representation but would provide GALs with a valuable independent source of feedback regarding their performance. Lack of an adequate feedback mechanism was highlighted as an area of concern, particularly for the private attorney model.

One panel member explained that Scotland already had established a group composed of select reviewers responsible for maintaining a degree of supervision and evaluation for children's representatives, thereby adequately sustaining a system of checks and balances. Many panelists agreed that such a group could be replicated in the United States, especially for the private attorneys, who are the most independent GAL representatives. However, a consensus developed among TEG members that the appointment and maintenance of such a person or group should not serve as an extension of the judicial system, since a conflict of interest could exist for judges. In the TEG's opinion, judges should have an oversight role but should not be the sole supervisors of GALs.

4.2.5 GAL Compensation

Another important area to consider in examining the differences across GAL programs is the level of GAL compensation and overall program funding. In

recent decades Federal, State, and local governments have awakened to the crisis experienced by children involved in abuse and neglect proceedings and have responded with resources and programs designed to help minimize the damage to children and families. Nonetheless, similar to other public programs, GAL programs constantly are faced with the specter of resource limitations. In an effort to deal with the problem of limited resources, policymakers often must attempt to determine the level at which the benefit of spending additional funds for certain services is maximized or, conversely, counterbalanced by the benefits of alternative spending allocations. Thus, when jurisdictions set limits on the compensation of private attorney GALs or, in the case of staff attorneys and CASAs, the level of funding their programs receive, the jurisdictions are either consciously or tacitly communicating to GALs the level of representation that the jurisdictions expect GALs to provide children.

Members of the TEG identified such a decisionmaking process at work in counties with ceilings on the level of compensation that private attorney GALs can receive on a single case. Five of the ten private attorney counties participating in the study imposed such caps, ranging from \$300 to \$1,500. Based on data collected on the rates of private attorney compensation, \$50 seemed to be a reasonable figure to use as a measure of the hourly cost for an attorney. Using this figure, a cap of \$300 communicated to GALs that they were expected to spend no more than 6 hours on a case. In contrast, a cap of \$1,500 communicated to GALs that a much higher level of activity was expected.

In some cases, counties may adopt low compensation caps to correspond with specific written descriptions of GAL roles and responsibilities. In these cases, counties are making a conscious choice to provide a lower level of representation consistent with a truncated GAL role definition. However, when counties have vague definitions of GAL roles and responsibilities or no written definitions or descriptions, low compensation caps probably serve as one of the clearest indicators of the level of representation expected from GALs. Similarly, low compensation caps may send a clear message to GALs, even in counties that have a comprehensive definition of GAL roles and responsibilities, especially if the enforcement of these roles and responsibilities is lax. The effect of compensation caps on the performance of GALs is likely to be more limited in counties where judges frequently authorize GALs to exceed such caps. This suggests that future research should seek information on the frequency of such authorizations and the circumstances under which these authorizations are made in order to understand how jurisdictions ration limited resources.

A slight variation of this same decisionmaking process occurred in jurisdictions using the staff attorney model. Because the staff attorneys were salaried, compensation was not necessarily as direct a communicator of the level of representation that the attorneys were expected to provide. However, program budgets directly affected the number of staff attorneys

that programs could support, and these numbers in turn affected the size of the caseload that each GAL was expected to handle: The greater the number of GALs that were supported or employed by the program, the lower the caseloads. Thus, caseload size becomes an indirect mechanism through which the county may consciously or tacitly communicate the level of representation expected of GALs.

Because the CASAs in the study worked as volunteers, issues of compensation or salary did not apply as limits on the time and effort they might expend on a case. The CASA programs involved costs of training, facilities, and transportation, estimated by the National CASA Association at \$1,400 per volunteer in 1991.¹ Consequently, CASAs could accept smaller caseloads and spend more time per case than could private or staff attorneys.

According to Table 4.2-2 discussed earlier, almost 85 percent of staff attorneys reported caseloads of 40 or more children, whereas 88.2 percent of the CASAs interviewed had caseloads of less than 10 children. The disparity between the caseloads of staff attorneys and CASAs, even after adjusting for differences in time spent performing GAL activities, would seem to indicate that a higher level of activity was expected of the CASAs. This may in part be linked to the expectation that CASAs would require or be willing to spend more time to complete their work. Possibly for this reason, a number of CASA programs apparently enforced limitations on the size of volunteer caseloads as a means of maintaining the quality of representation provided. It also is possible that adequate representation takes more time than can be expended by private and staff attorneys on each case.

Because this study was not intended to measure cost-effectiveness of GAL activities, the data available only serve to highlight the potential relationship between resource allocation decisions and GAL effectiveness. Determining the type of GAL activities that are most cost-effective would require a study that examines the total cost of GAL representation, including both GAL compensation and program overhead; assigning these costs to specific GAL activities; and estimating the relative importance of each activity to effective representation. Such a study would need to scrutinize hidden costs, such as GAL training and support services, and the effect of caseloads on GAL performance. This type of study would be instrumental in helping policymakers develop GAL standards to maximize GAL effectiveness with varying levels of resources.

¹National CASA Association (NCASAA). 1992. *1992 National CASA Association Program Survey*. Seattle, Washington: Membership Services, NCASAA.

4.2.6 Immunity From Liability

Each attorney and CASA was asked to indicate whether she/he had total, partial, or no immunity from liability regarding her/his work in representing children. In addition, the field data collectors also contacted knowledgeable public officials in each county in order to determine the type of immunity, if any, that GALs had. The results indicate that many GALs (overall, 39.4 percent) did not know whether they had total, partial, or no immunity from liability, and 35 percent thought they had no immunity (see Table 4.2-8 following this page).

The results on immunity can be misinterpreted easily because, as the TEG has indicated, there is considerable ambiguity across States and counties about this concept. The TEG members found that the laws and regulations vary considerably by State and even within States, to the extent that there is great uncertainty over the degree of representation and indemnification. The field data collectors found this to be true in many counties, especially in the absence of State law or regulation. In addition, the possibility of impending class action suits in some counties increased the degree of uncertainty among the public officials interviewed. Unlike immunity, however, issues surrounding liability clearly were understood in many counties, particularly by attorney GALs.

Independent from the interviews, data on immunity were collected from recognized secondary sources to support an understanding of immunity issues in the sites sampled. Of the 10 counties categorized under the private attorney model, 7 counties responded that they have no immunity, 2 claimed partial immunity, and 1 did not know. Of the counties designated as staff attorney counties, three stated they have no immunity, two did not know, one may have total immunity, and one may have partial immunity. All the counties designated as CASA counties have some form of immunity; four have partial and two have total immunity.

The GAL responses were cross-tabulated against responses provided by county officials. The numbers of GAL responses that agreed and disagreed with the independent "official" responses then were computed. Findings indicated that the responses of 76.1 percent of the staff attorneys, 70.9 percent of the private attorneys, and 30.8 percent of the CASAs correlated with the county officials' opinions regarding immunity from liability. Where there was a discrepancy between the GAL and the county, most of the GAL responses tended to fall in the "do not know" category. In view of the training that the CASAs received in order to become GALs, it seems somewhat surprising that CASAs were the least knowledgeable about immunity issues in their counties (approximately 57 percent of CASAs indicated they did not know). As one member of the TEG remarked, however, it is not surprising that GALs might not know about immunity issues since this is a complicated issue. This also suggests that GALs are

Table 4.2-8

GAL Reports of Immunity From Liability

Type of Immunity	Private Attorney Model		Staff Attorney Model		CASA Model		All Models	
	<i>n</i>	%	<i>n</i>	%	<i>n</i>	%	<i>n</i>	%
Partial, good faith immunity	10	8.3	4	8.7	17	18.3	31	12.0
Total/absolute/judicial immunity	5	4.2	4	8.7	17	18.3	26	10.0
Do not have immunity	80	66.7	6	13.0	5	5.4	91	35.0
Do not know	23	19.2	27	58.7	52	55.9	102	39.4
Other	1	0.9	5	10.9	0	0.0	6	2.3
Did not respond	1	0.9			2	2.2	3	1.2
Total	120	100.2	46	100.0	93	100.1	259	99.9

not often threatened by lawsuits; otherwise, GALs would better informed about the status of immunity in their counties.

4.3 GAL BACKGROUND AND EXPERIENCE

GALs served as the primary source of data during the study, detailing their activities on specific new or review child abuse and neglect cases. In an effort to establish a context for the analysis of the data collected on these activities, the study also collected information from GAL respondents concerning their backgrounds and relevant experience. The experience of GALs relevant to their work as child representatives is a function of many variables. The study attempted to address a large percentage of these variables through background questions in three broad areas: (1) previous child welfare and advocacy experience, (2) years of experience as a GAL, and (3) participation in specialized training. Data in any one of these areas represent only a partial measure of GAL experience. To obtain a measure of total GAL experience, all three types of experience must be considered.

4.3.1 Child Welfare and Advocacy Experience

GALs participating in the study indicated the number of years' experience they had in the fields of child welfare and advocacy previous to their involvement as a GAL. The term "child welfare and advocacy" was defined broadly to include all fields and professions that minister specifically to the long-term needs of families and children in crisis. Given the complexity of the issues involved in child abuse and neglect cases, it was hypothesized that such experience would be an important asset to GALs and should be included as a component of the overall measure of GAL experience.

As illustrated in Table 4.3-1 following this page, working as a GAL was the first experience in the field of child welfare and advocacy for the majority of GALs in the sample. More than 80 percent of the CASAs and private attorneys, and more than 65 percent of the staff attorneys, reported no child welfare and advocacy experience prior to becoming GALs. Those GALs who reported prior experience were fairly evenly distributed over the range of 0 to 10 years of experience, with the exception of GALs in the private attorney model. Here, a larger proportion of respondents with previous experience reported 10 or more years of such experience (10.4 percent). Conversely, the majority of CASAs and staff attorneys with previous experience tended to fall in the middle range, with 3 to 5 years of such experience.

A breakdown of the types of previous experience among GALs provides a more complete picture (see Table 4.3-2). Not surprisingly, a significant number of private and staff attorneys had some previous experience concerning family/child law (13.6 and 15.2 percent, respectively). However, almost 20 percent of the staff attorney GALs also had some previous

Table 4.3-1**GALs' Years of Previous Child Welfare or Advocacy Experience**

Years of Experience	Private Attorney Model	Staff Attorney Model	CASA Model	All Models
None	82.1%	65.8%	82.4%	79.5%
0-3 years	1.9%	5.3%	0.0%	1.7%
3-5 years	3.8%	13.2%	8.2%	7.0%
5-10 years	1.9%	7.9%	4.7%	3.9%
10 or more years	10.4%	7.9%	4.7%	7.9%
Number of GALs	106	38	85	229

experience in social work or a related area, similar to CASAs (17.8 percent) and much more than private attorneys (4.5 percent). Less surprisingly, only the CASA GALs (9.6 percent) had any previous foster parent experience.

Table 4.3-2

GALs' Experience In Child Welfare Prior To Becoming GALs

Type of Experience	Private Attorney Model	Staff Attorney Model	CASA Model	All Models
Family/child law	13.6%	15.2%	1.4%	10.0%
Social work or related experience	4.5%	19.6%	17.8%	11.8%
Foster parent experience	0.0%	0.0%	9.6%	3.1%
Number of GALs	110	46	73	229

The low percentage of private and staff attorney GALs with previous experience may be an indication that the majority of such GALs become involved in child welfare as a result of their interest in law rather than choose a career in law because of an earlier interest in child welfare. In addition, child welfare is a relatively new field within the profession of law and is among the less lucrative avenues available to students. In the case of CASAs, low numbers may be an indication that people tend to choose volunteer activities that are not directly related to their professions.

The difference in previous experience between private and staff attorneys may reflect differences in the way attorneys are selected in each of the models. Private attorney GALs often are chosen from a list of attorneys who have volunteered to accept GAL appointments. Often these appointments represent only a small percentage of a private attorney's practice. Conversely, staff attorneys are employed by the court or county and usually spend the majority of their time working as GALs. Because a county usually hires a relatively small number of attorneys to handle a large number of cases, more attention may be paid to the attorneys' previous experience in the fields of child welfare and advocacy. The fact that a large number of the staff attorneys in this study did not have prior child welfare and advocacy experience probably indicates either a shortage of attorneys with such experience or the lack of incentives for experienced attorneys to pursue careers as GAL staff attorneys.

4.3.2 Years of Experience as a GAL

Another measure of experience explored with GALs in the study sample was the number of years of experience working as GALs. Such data could potentially be used to measure and compare the amount of GAL experience among respondents representing each GAL model. These data are presented in Table 4.3-3 following this page.

Of particular interest is the experience of private attorneys. It was hypothesized that the majority of private attorneys are lawyers just out of law school and in need of work. The data support the opposite finding; more than one-half of the private attorney GALs had 5 or more years' experience, indicating an unexpected level of stability in the pool of experienced private attorneys available to serve as GALs. CASAs reported the least amount of experience, with more than one-half reporting less than 2 years of experience. Staff attorneys ranked in the middle, with a median of 2 years of GAL experience and an average of 3.9 years.

The study measured the tenure of GALs and GAL turnover. Of the three models, CASAs showed the shortest tenure, with only 13.2 percent serving as GALs for more than 5 years. The short tenure of CASAs may be due to the newness of the programs studied or other factors. Staff attorneys were second in this category, with 21.7 percent of the GALs staying on for more than 5 years. Private attorney models showed the longest tenure, with 58.5 percent of private attorney GALs staying for more than 5 years.

The turnover measure is the percent of GALs who were the original representatives on a case. Less than two-thirds of the staff attorneys were the original representatives, compared to 90 percent of both private attorneys and CASAs. Thus, staff attorneys have a shorter tenure and a higher case turnover than GALs in the other two models.

The short tenure and high turnover among the staff attorneys may be somewhat attributable to burnout. As discussed earlier in this chapter, staff attorneys typically have caseloads approaching those experienced by child welfare caseworkers and public defenders. Thus, it is not surprising that staff attorneys also might share a similar level of burnout to that typical of these other two fields. Conversely, the high number of private attorneys indicated as having remained with the program for more than 5 years must be analyzed in light of the relatively small caseloads and limited amount of time that private attorney GALs generally devote to child abuse and neglect cases.

The caseload data illuminate the interpretation of the data on the years of GAL experience in another way. While the private attorneys had the most years of GAL experience, they typically had much smaller caseloads than the staff attorneys. Thus, on average, 1 year of experience for a staff attorney GAL resulted in more "hands-on experience" than 1 year as a

Table 4.3-3**Years of Experience as a GAL**

Years of Experience	Private Attorney Model	Staff Attorney Model	CASA Model	All Models
0-2 years	8.5%	32.6%	53.8%	29.0%
2-3 years	12.7%	23.9%	17.6%	16.5%
3-5 years	20.3%	21.7%	15.4%	18.8%
5-10 years	37.3%	8.7%	9.9%	22.4%
10 or more years	21.2%	13.0%	3.3%	13.3%
Median number of years	5.0	2.0	1.5	3.0
Mean number of years	6.5	3.9	2.3	4.5
Number of cases	118	46	91	255

private attorney GAL. Taking this into consideration, staff attorneys had the most hands-on experience, followed by private attorneys and CASAs.

A final point of interpretation for which the study did not collect data concerned the quality of experience possessed by GALs. For example, GALs in some counties may have many years of experience representing children; however, because of a lack of relevant experience and training, the children may not be represented adequately. In such cases, the data would only indicate the amount of experience the GALs have in providing services. Thus, more experience does not necessarily equate with better representation.

4.3.3 Specialized Training

In addition to examining GALs' previous and hands-on experience, the study asked its participants to report on any specialized training that they had received. GALs in the study sample provided information on the number of days of training they had received and on the topics covered in training. The usefulness of these data are limited by the absence of data measuring the quality of the training. An assumption that one is inclined to make in comparisons across models and between jurisdictions is that 1 day of training in one jurisdiction is equal to 1 day of training in all other jurisdictions. The available data, however, do not support such an assumption. Thus, an analysis of these data only allow some qualified statements about the amount of training GALs receive and the types of training topics addressed.

As illustrated in Table 4.3-4 following this page, almost all of the GALs reported receiving some amount of training. More than 80 percent of all the staff attorneys received at least 5 days of training, and 61.9 percent received 15 or more days of training. This is substantially more training than either the CASAs or private attorneys received. Though the CASAs and/or private attorneys may have received fewer but more effective and higher quality days of training, the overall difference is large enough to suggest that the staff attorney GALs probably received more substantial training than the CASA or private attorney GALs. Given that in most cases a staff attorney's full-time profession is to represent children, such a conclusion is tenable though not conclusive.

Another indication of the different levels of training across GAL models is the number of topics covered (see Table 4.3-5). Although the CASAs received about one-half as much training as the staff attorneys, the CASAs' training covered more topics than either the private attorneys' or staff attorneys'. At the other end of the spectrum, the private attorneys received training in the fewest number of topics, with an average of 3.9 topics compared to 7.5 for CASAs and 6.5 for staff attorneys.

Table 4.3-4
Amount of GAL Training

Days of Training	Private Attorney Model	Staff Attorney Model	CASA Model	All Models
None	1.2%	4.8%	3.3%	2.7%
Less than 1 day	2.4%	0.0%	0.0%	0.9%
1-3 days	16.5%	2.4%	13.0%	12.3%
3-5 days	24.7%	9.5%	10.9%	16.0%
5-15 days	37.6%	21.4%	48.9%	39.3%
15 or more days	17.6%	61.9%	23.9%	28.8%
Median number of days	5.0	20.0	5.0	6.0
Mean number of days	9.8	24.0	12.2	13.5
Number of cases	85	42	92	219

Table 4.3-5

Topics Addressed in GAL Training

Training Topics	Private Attorney Model	Staff Attorney Model	CASA Model	All Models
Laws and regulations	69.2%	93.5%	96.8%	83.4%
Courtroom procedures	55.8%	87.0%	98.9%	76.8%
Child/family dynamics in abuse/neglect cases	62.5%	84.8%	96.8%	78.8%
Investigation, monitoring, and negotiation	40.0%	73.9%	95.7%	66.0%
Child welfare system and the courts	52.5%	91.3%	7.8%	75.7%
Interviewing/communicating with child/family	47.5%	80.4%	95.7%	70.7%
Identification of community services	37.5%	71.7%	95.7%	64.5%
Developing service plans	25.8%	67.4%	76.3%	51.4%
Physical and mental health aspects of child welfare	0.0%	6.5%	2.7%	2.2%
Cultural sensitivity	0.0%	0.0%	12.3%	3.9%
Sexual abuse	3.6%	0.0%	12.3%	5.7%
Substance abuse	0.9%	6.5%	8.2%	4.4%
Any topic	70.8%	93.5%	100.0%	85.3%
Average number of topics	3.9	6.5	7.5	5.7
Number of cases	120	46	93	259

Note: The percentages in this table may exceed 100 percent because multiple responses to the question are tabulated.

The overwhelming majority of CASAs received training on both legal representation topics (Topics 1-5) and social service topics (Topics 6-12). The same was true of the staff attorney GALs, with the exception that slightly fewer received training on social service topics. The private attorneys participated in training across all topics in much lower numbers than either the CASAs or staff attorneys. Like the staff attorneys, the private attorneys also were more likely to participate in training on legal representation topics than on social service topics. Few GALs in any of the models received training on the physical and mental health aspects of child welfare, cultural sensitivity, sexual abuse, or substance abuse.

Members of the study's TEG were concerned that GALs in each model were least likely to receive training on the development of service plans. As indicated in Table 4.3-5, only 25.8 percent of the private attorneys, 67.4 percent of the staff attorneys, and 76.3 percent of the CASAs received training on this topic. In the opinion of the TEG, development of service plans is linked directly to permanency planning, the end goal of all abuse and neglect proceedings. One possible explanation for the low numbers is the perception by some GALs that the development of a case plan is exclusively a caseworker's responsibility. If this is true, the development of case plans is an area where the GAL's role definition is in need of clarification in order to address the potential overlap with the child welfare caseworker's role.

Without information on the quality of training, it is impossible to make judgments about which GALs are best trained. However, another study examining the quality of training might test the hypothesis that private attorneys receive more thorough training in the few topics they cover than do CASAs in the many topics addressed in their training. Such a study also might measure the extent to which staff attorneys receive more comprehensive training.

Despite the absence of a quality measure, it is still possible to draw some preliminary conclusions from the data. The lack of training time and focus on certain topics among the GALs in the study sample indicates the need to determine whether additional training for GALs should be provided or even required to ensure adequate representation of children. For example, in addition to the relatively small number of private attorneys who received training in service plan development, less than one-half of the private attorneys received training in investigating, monitoring, and negotiation; interviewing and communicating with the child and family; and identification of community services. Given the small number of private attorneys with previous child welfare and advocacy experience, such a finding indicates the need for some attention to these issues, since they constitute an important part of the GAL's role. While all the CASA programs in the study have minimum training requirements, only 3 of the 10 private attorney counties and 3 of the 7 staff attorney counties have similar requirements.

The gap between the legal experience of attorneys and that of CASA volunteers was another area of concern to the TEG. All the staff attorneys and private attorneys in the study who serve as GALs are practicing attorneys who typically have completed at least 3 years of postgraduate education and have passed the bar exam in the State in which they practice. Clearly there are some legal duties of the GAL for which such training is the only adequate preparation. Some of these duties include filing motions, calling and cross-examining witnesses, and completing termination of parental rights proceedings. In view of this, the TEG believed it necessary to mandate that every child or GAL have access to the services of an attorney. Such a recommendation does not suggest that all GALs must be attorneys, but it recognizes the need for legal counsel where the court is involved.

The TEG's recommendation emphasizes the importance of considering the legal experience of private and staff attorney GALs in addition to the broad GAL experience explored in this section. Nevertheless, all the experts agreed that attorneys should be required to participate in specialized training on the dynamics of child abuse and neglect cases before being appointed as GALs.

The lack of previous child welfare and advocacy experience among the GALs in the study underscores the need for some GAL training to ensure at least a basic understanding of the relevant issues among GALs. The study's TEG members were adamant in their belief that effective GAL representation was vitally linked to an understanding of the dynamics of abuse and neglect cases acquired through hands-on experience and/or training. Given that most GALs are entering the field without such knowledge and experience, the need for some minimum training requirements and perhaps even a standardized curriculum becomes paramount to improving the state-of-the-art of GAL representation.

Determining the types of training that are most necessary and relevant will be a difficult undertaking, especially given the lack of a standard definition of the roles and responsibilities of GALs. However, future studies should examine the quality of training provided to GALs and explore the impact of training on the quality of services provided. Among the topics that should be explored are the following: the particular types of training that are most relevant, the extent to which volunteers can be trained in some legal duties and the types of legal duties that could or should be delegated to nonattorneys, and the impact of existing State and local training standards on the quality of GAL services.

4.4 CHARACTERISTICS OF CHILDREN AND CASES

The CREF collected data concerning demographics, case severity, case goals, placement, and services provided to children and, thus, served as an

important source of background information in understanding the role and activities of the GALs in the sample. Field data collectors used the CREF to collect information from the corresponding case records for each completed GAL questionnaire. Each CREF provided information used to corroborate the GALs' descriptions of their activities. In addition, descriptions of the children and issues involved in each case provided a context in which the GALs performed their responsibilities as children's representatives.

Data collectors used the CREF to obtain data on 206 new cases and 202 review cases during the study. If a particular GAL represented more than one child in a single case and more than one child was named in the petition, one child was randomly chosen from those named in the petition for the purposes of data collection. Thus, each completed CREF included information on one child and one case.

The CREF was used to collect information in a variety of areas, including four that are examined in this section and which provide useful background information: (1) the demographics of the child, (2) the type of abuse sustained, (3) the number and types of placement, and (4) case goals regarding final disposition of the child. Although data collectors fully completed the majority of the CREFs, some information was either unavailable or impossible to determine given the organization or contents of the case record. For example, some case records (13 out of 408) contained inadequate information regarding the number of placements the child had received since the beginning of the case. Therefore, the number of completed responses in each section of the CREF could vary. Where appropriate, the accompanying tables in this section identify the number of children (or cases) for which particular information was collected using the CREF.

4.4.1 Demographics of Children Represented

Birth date information was collected with the CREF and used to compute each child's age. The children then were grouped into one of three age categories: (1) "infant/toddler," comprising children ages 4 and younger; (2) "child," comprising children ages 5 to 12; and (3) "teenager," comprising youth ages 13 and older.

The distribution was roughly even among the three age categories, with slight differences among the models (see Table 4.4-1 following this page). Forty percent of the children represented by the GALs were between the ages of 5 and 12. The CASAs represented slightly more children in the infant/toddler category (32.5 percent) than did the staff attorney GALs (21.6 percent), and the staff attorney GALs represented more children (36.4 percent) in the teenager category than did the CASAs (23.8 percent). However, these differences are relatively minor and may or may not have implications for various GAL activities examined in the next chapter.

Males and females represented were 42.4 percent and 57.6 percent, respectively, of all cases for which a CREF was completed (see Table 4.4-1 following this page). The staff attorneys represented more female children (68.2 percent) than did the other GALs, whose clients were more evenly split between the genders. However, the difference probably reflects a sampling artifact, since staff attorney GALs usually represent all children who need a GAL in a county, regardless of their demographic characteristics.

The case records of 399 of the children represented by the GALs in the sample had race and ethnic information which was collected using the CREF (see Table 4.4-1). More than one-half of the children (58.4 percent) represented by the GALs were Caucasian, and the second largest group of children (26.3 percent) were African-American. Some differences emerged by model, with staff attorneys representing a significantly larger percentage of African-American children than either the private attorneys or CASAs. However, the two largest counties in which staff attorney GALs were interviewed were located in large urban areas where African-American families make up a high proportion of the population, a probable explanation for the finding. No significant differences exist between new and review cases with respect to race or any other demographic characteristic of the children.

4.4.2 Type and Severity of Abuse/Neglect Sustained

Data collectors also extracted information from case records on the type of abuse or neglect that each child sustained, as indicated in Table 4.4-2 below.

Table 4.4-2

Type of Abuse Sustained by Children, by Model

Type of Abuse	Private Attorney Model	Staff Attorney Model	CASA Model	All Models
Physical abuse	37.2%	39.8%	32.3%	36.2%
Sexual abuse	24.6%	23.9%	22.1%	23.6%
Neglect	76.4%	65.9%	75.0%	73.7%
Number of children	191	88	127	406

Note: The percentages in this table may exceed 100 percent because multiple responses to the question are tabulated.

Table 4.4-1

Demographics of Children Represented

Demographics	Private Attorney Model	Staff Attorney Model	CASA Model	All Models
Age:				
0-4	29.2%	21.6%	32.5%	28.6%
5-12	37.0%	42.1%	43.7%	40.6%
13 or older	33.9%	36.4%	23.8%	30.8%
Number of children	192	88	126	406
Gender:				
Male	48.4%	31.8%	40.6%	42.4%
Female	51.6%	68.2%	59.4%	57.6%
Number of children	192	88	128	408
Race/Ethnicity:				
Caucasian	61.0%	36.5%	66.9%	58.4%
African-American	18.7%	49.4%	23.6%	26.3%
Hispanic	8.7%	7.1%	0.8%	5.8%
American Indian	0.5%	2.4%	1.6%	1.3%
Asian	0.0%	1.2%	1.6%	0.8%
Multiracial	11.2%	3.5%	5.5%	7.5%
Number of children	187	85	127	399

The type of abuse was coded under three categories—physical abuse, sexual abuse, and neglect, and more than one type of abuse could be included for each case. Nearly three-quarters of the cases in the sample indicated neglect, more than one-third involved physical abuse, and nearly one-quarter involved sexual abuse (see Table 4.4-2).

Although every instance of child abuse or neglect can have severe consequences, attempts were made to obtain a more specific measure of case severity by examining whether (1) the child sustained more than one type of abuse; (2) the child was placed in a hospital, residential treatment facility, or other institution (including emergency foster care) as a result of abuse or neglect; and (3) whether criminal charges were associated with the case against the caretaker.

According to the data, children sustained two types of abuse or neglect in 21.4 percent of the cases and three types in 7.6 percent of the cases. Of the 21.4 percent that sustained two types of abuse, 67.1 percent were physically abused and neglected, 21.2 percent were sexually abused and neglected, and 11.8 percent were physically and sexually abused.

In another indication of severity, more than one-half of the children the GALs represented were placed in either a hospital, a residential treatment facility, or another institution as a result of abuse or neglect (see Table 4.4-3 following this page). According to the case record information, the CASAs represented more children who were placed in a hospital or other institution than did the attorney GALs. Such a difference could reflect the younger children that CASAs represent as compared to the staff attorneys and private attorneys (see Table 4.4-1); that is, more infants and very young children who are neglected or abused likely would require immediate hospitalization or placement in an institution to meet their special needs as compared to older children. Finally, the data indicate that one-quarter of the abuse and neglect cases in the sample had an associated criminal case against a caretaker that was noted in the case records at the time of data collection.

4.4.3 Number and Types of Placements

Another type of information collected using the CREF was the placement history of the children who were represented by the GALs in the study sample. At the time of data collection, more than one-third of the children (39 percent) were residing in a foster home with a nonrelative; 20.8 percent were in the original home with a custodial parent; and 15.9 percent were living in the home of a relative, which sometimes met the requirements of a foster home (see Table 4.4-4). The remainder of the children were living either with a noncustodial parent, in a group home or shelter, in a hospital or facility, or in an adoptive home.

Table 4.4-3

Measures of Case Severity

Measures of Severity	Private Attorney Model	Staff Attorney Model	CASA Model	All Models
Criminal case against caretaker?				
Yes	26.1%	26.1%	23.0%	25.1%
No	72.9%	73.9%	77.0%	74.1%
Number of children	188	88	126	402
Child placed in:				
Hospital	13.4%	17.7%	20.3%	16.5%
Residential treatment facility	7.5%	10.3%	9.5%	8.8%
Other institution (including emergency foster care)	24.3%	20.5%	44.5%	29.9%
Number of children	186	87	128	401

Table 4.4-4**Type of Placement at Time of Data Collection**

Type of Placement	Private Attorney Model	Staff Attorney Model	CASA Model	All Models
Original home, custodial parent	21.4%	17.1%	22.7%	20.8%
Other home, noncustodial parent	4.2%	3.4%	7.0%	4.9%
Home of relative	12.5%	23.9%	15.6%	15.9%
Foster home, nonrelative	39.1%	38.6%	39.1%	39.0%
Group home/shelter	8.3%	5.7%	6.3%	7.1%
Hospital/institution/facility	6.3%	9.1%	2.3%	5.6%
Preadoptive/adoptive home	4.7%	1.1%	5.5%	4.2%
Other	3.7%	1.1%	1.5%	2.4%
Number of children	187	88	133	408

In addition, the data illustrate the number of placements each child had received at the time of data collection. Nearly one-quarter of the children represented by the GALs had only one placement since the original petition was filed, and more than one-third had two placements. However, about one-quarter of the children (24.8 percent) had four or more placements (see Table 4.4-5 below). As might be expected given the greater length of time involved in review cases, the number of placements for review cases was significantly higher than that for new cases. While 34.7 percent of the children in review cases had been placed four or more times, more than 80 percent of the children in the new cases had three or fewer placements since the petition of abuse and/or neglect was filed.

Table 4.4-5

Overall Number of Placements per Child

Number of Placements	New Cases	Review Cases	All Cases
1 placement	31.1%	17.1%	24.1%
2 placements	40.3%	28.6%	34.4%
3 placements	12.8%	19.1%	15.9%
4 or more placements	14.0%	34.7%	24.8%
Number of children	196	199	395

It is important to note that a child with more than one placement has not necessarily had more than one type of placement. For example, if a child was removed from the original home and put in foster care, each foster home in which the child lived was considered to be one placement. The data on type of placements indicate that almost one-half of the children (48.1 percent) were placed in a foster home with a nonrelative one or more times (see Table 4.4-6 following this page). Nearly one-quarter of all children were placed in a group home or shelter one or more times, and almost one-quarter were placed at least once in a hospital, institution, or other facility. In addition, 17.2 percent were placed back in the original home with a custodial parent one or more times after being removed to some other living situation, and 13.4 percent lived in the home of a relative at one time or another.

4.4.4 Case Goals Regarding Placement of the Child

In an attempt to understand the way caseworkers and/or GALs make adjustments to case plans, the CREF collected data on the original goal and

Table 4.4-6

Type of Placement for Children by New and Review Cases

Type of Placement	New Cases	Review Cases	All Cases
Original home, custodial parent	12.8%	21.6%	17.2%
Other home, noncustodial parent	2.0%	5.5%	3.8%
Home of relative	8.2%	18.6%	13.4%
Foster home, nonrelative	38.3%	57.8%	48.1%
Group home/shelter	19.9%	26.6%	23.3%
Hospital/institution/facility	19.9%	29.1%	24.5%
Other	2.0%	2.5%	2.3%

any subsequent case goals regarding the final disposition or placement of the child. According to data extracted from the agency case plans, the original placement goal for more than one-half of the children (58.6 percent) represented by the GALs was to return the children home with services and/or monitoring (see Table 4.4-7 following this page). In addition, the original goal for another 17.9 percent was to remain home with services and/or monitoring. Such goals reflect the focus on family reunification that pervades the Child Abuse Prevention and Treatment Act legislation and illustrate the desire on behalf of child welfare agencies and caseworkers to maintain and preserve the family unit whenever possible. The low number of children whose original case plans recommended either long-term foster care (3.0 percent) or adoption (3.5 percent) further demonstrates the focus on family preservation.

As might be expected given the complexity of many child abuse and neglect cases, caseworkers often must adjust the placement goals of children as a case proceeds. Of the 408 cases for which information was obtained, nearly two-thirds (63.2 percent) required no change to the original case plan regarding the placement goal of the child (see Table 4.4-8). As could be expected, the changes were concentrated in review cases, where less than one-half (46.0 percent) had no changes. In the review cases having changes, the latest placement goals were concentrated in out-of-home placements (long-term foster care; termination of parental rights, adoption, or emancipation; or guardianship or other out-of-home placements).

These findings have implications for family support and family preservation programs. The higher number of goal changes for review cases probably reflects the impact of new information and options as the cases progress. While caseworkers and GALs usually focus on the possibility of reunification, they often must modify such goals while unraveling the complex issues involved in many child abuse and neglect cases. Over time, realistic permanent placement options begin to emerge, and the feasibility of the original case goal is tested. In this way certain options for placement or services are eliminated and other services and resources are implemented until final disposition is achieved. It is important that programs allow for changes in case goals to protect against inappropriate placements.

4.4.5 Summary

Data collected on case characteristics indicate few differences across GAL models regarding demographics, the types of abuse or neglect involved, the placement history, or the case goals regarding final placement for the children in the sample. Given the limited available data, it is not possible to provide a profile of the "typical" abused or neglected child served by GALs. However, general similarities among many of the children sampled indicate some common issues that GALs often confront.

Table 4.4-7**Original Placement Goal for the Child**

Original Placement Goal	Private Attorney Model	Staff Attorney Model	CASA Model	All Models
Remain home, no services or monitoring	2.2%	0.0%	2.4%	1.8%
Remain home, with services or monitoring	20.8%	21.6%	11.2%	17.9%
Return home, no services or monitoring	13.7%	1.1%	4.8%	8.1%
Return home, with services or monitoring	51.4%	70.5%	60.8%	58.6%
Long-term foster care	1.7%	2.3%	5.6%	3.0%
Termination of parental rights/adoption/emancipation	2.2%	2.3%	5.6%	3.5%
Guardianship/other	8.2%	2.3%	9.6%	7.1%
Number of children	183	88	125	396

Table 4.4-8

**Changes in Placement Goals and Latest Placement Goal
for New and Review Cases**

Changes In Case Goals	New Cases	Review Cases	All Cases
No change	80.1%	46.0%	63.2%
Remain home, no services or monitoring	0.5%	1.5%	1.0%
Remain home, with services or monitoring	3.4%	2.5%	2.9%
Return home, no services or monitoring	1.0%	0.5%	0.7%
Return home, with services or monitoring	3.9%	5.0%	4.4%
Long-term foster care	1.0%	12.4%	6.6%
Termination of parental rights/adoption/emancipation	5.8%	19.8%	12.7%
Guardianship/other	4.4%	12.4%	8.3%
Number of children	206	202	408

For example, nearly three-quarters of the children in the sample were neglected and more than three-quarters had three or less placements since the original filing of the petition. At the time of data collection, more than three-quarters of the children were residing in one of three places: 39.0 percent of the children were living in a foster home with a nonrelative, 20.8 percent were living in their original home with a custodial parent, and 15.9 percent were living in the home of a relative. Finally, the placement goals for the children indicate that more than three-quarters originally had a goal either to return home with services or monitoring (58.6 percent) or to remain home with services or monitoring (17.9 percent), illustrating the focus on reunifying families involved in abuse and neglect proceedings whenever possible.

4.5 CASEWORKER BACKGROUND

In addition to interviewing GALs and examining case records, the data collectors interviewed 415 caseworkers who were assigned to the cases in the study sample. The caseworkers provided another source of information concerning the GALs' roles and activities performed on particular cases. The data collectors attempted to interview every caseworker assigned to each case on which a GAL was interviewed and succeeded in doing so with few exceptions. The summary of the backgrounds and experiences of the caseworkers provided below illustrates their familiarity with the system and gives some indication of their qualification to discuss the performance and effectiveness of GALs.

The tables in Section 4.5 have been created to illustrate the similarities and differences among caseworkers who worked on particular cases with GAL private attorneys, staff attorneys, or CASAs. As the tables indicate, 201 caseworkers discussed cases involving private attorneys, 87 discussed cases involving staff attorneys, and 127 discussed cases involving CASAs.

One indicator of a caseworker's knowledge of and familiarity with the child welfare system is the number of years he/she has worked as a caseworker. The average number of years reported was 7.1, with slight differences by model (see Table 4.5-1 following this page). While almost one-half of the caseworkers (47.7 percent) had been working in the child welfare field for less than 5 years, 27.2 percent had between 5 and 10 years of experience, and 25.1 percent had 10 or more years.

Another important characteristic, which could affect the amount of work expected of GALs on particular cases, is the overall caseload of child welfare caseworkers. The current caseloads of the 415 caseworkers interviewed during the study averaged 30.7 cases (see Table 4.5-2). Almost one-half of the caseworkers (47.7 percent) reported a caseload of between 25 and 40 cases, and 39 percent reported a current caseload of 40 or more cases. Interestingly, 69.3 percent of caseworkers who worked with CASA GALs

Table 4.5-1

Years Working as a Caseworker in Child Welfare

Years as a Caseworker	Private Attorney Model	Staff Attorney Model	CASA Model	All Models
0-3 years	29.9%	24.1%	22.0%	26.3%
3-5 years	25.4%	18.4%	17.3%	21.4%
5-10 years	26.9%	21.8%	31.5%	27.2%
10 or more years	17.9%	35.6%	29.1%	25.1%
Median number of years	4.0	6.0	6.5	5.0
Mean number of years	6.1	8.1	8.1	7.1
Number of caseworkers	201	87	127	415

Table 4.5-2**Size of Current Caseworker Caseload**

Current Caseload	Private Attorney Model	Staff Attorney Model	CASA Model	All Models
None	3.0%	2.3%	1.6%	2.4%
1-15 cases	1.5%	6.9%	0.8%	2.4%
15-25 cases	12.4%	6.9%	3.1%	8.4%
25-40 cases	61.2%	49.4%	25.2%	47.7%
40 or more cases	21.9%	34.5%	69.3%	39.0%
Median caseload	21.0	23.0	40.0	24.0
Mean caseload	23.0	39.0	37.2	30.7
Number of caseworkers	201	87	127	415

reported caseloads of 40 or more, as compared to only 21.9 percent and 34.5 percent of private attorney GALs and staff attorney GALs, respectively.

Each caseworker also estimated the average time he/she had spent per week on the case covered in the interview. The caseworkers reported working an average of 3.4 hours per week on each case (see Table 4.5-3 on the following page). Almost one-half of the caseworkers (47.0 percent) reported spending between 1 and 3 hours on the case per week, and 40.0 percent reported spending 3 or more hours per week. A number of caseworkers indicated that the amount of time they spend on a case varies greatly depending on such conditions as the stability of the child's placement, the services required for the child or family, and whether a hearing or other legal proceeding has been scheduled for the near future.

The variability of hours per case is illustrated by the fact that, multiplying the average number of hours by the number of children in a caseload, the resulting figure implies that caseworkers worked an average of 104.4 hours per week. While caseworkers may work overtime regularly, it is unlikely that they would work that many hours on a regular basis. Therefore, the reported weekly hours per case appear to reflect those hours expended during the period when the case was active.

Some differences emerged across the three GAL models. For example, caseworkers working with private attorney GALs averaged 3.8 hours per week on each case, as compared to caseworkers working with staff attorneys and CASAs, who averaged 3.1 and 2.9 hours per week, respectively. The difference might reflect conditions discussed earlier, including the lack of support staff available to many private attorney GALs and the small amount of total time some private attorneys devote to GAL activities in general. Both conditions might require a caseworker to spend more time on a case to perform activities or conduct followup to compensate for activities that the private attorney does not have time to perform.

A slight difference also exists between the time caseworkers spent on new cases and on review cases, with 33.5 percent of the caseworkers spending 3 or more hours on review cases per week as compared to 46.4 percent of caseworkers spending 3 or more hours on new cases (see Table 4.5-4). As a result, the average amount of time spent on new cases was 4.0 hours, as compared to 2.7 hours for review cases.

4.6 BACKGROUND DATA ON JUDGES

Judges who preside over child abuse and neglect cases in the counties in which data were collected also reported on GAL activities. The data collectors attempted to interview at least one judge in every county. They ultimately succeeded in collecting information from 56 judges, with some data collectors obtaining interviews with four or five judges in their

Table 4.5-3**Time Spent by Caseworkers on Sample Case per Week**

Hours per Week	Private Attorney Model	Staff Attorney Model	CASA Model	All Models
None	6.0%	3.4%	5.5%	5.3%
Under 1 hour	4.0%	16.1%	7.9%	7.7%
1-2 hours	22.9%	24.1%	33.9%	26.5%
2-3 hours	21.4%	19.5%	19.7%	20.5%
3 or more hours	45.8%	36.8%	33.1%	40.0%
Median number of hours	2.5	2.0	2.0	2.0
Mean number of hours	3.8	3.1	2.9	3.4
Number of caseworkers	201	87	127	415

Table 4.5-4

**Time Spent by Caseworkers per Week on Sample Cases, by
New and Review Cases**

Hours per Week	New Cases	Review Cases	All Cases
None	5.7%	4.9%	5.3%
Under 1 hour	6.7%	8.7%	7.7%
1-2 hours	23.9%	29.1%	26.5%
2-3 hours	17.2%	23.8%	20.5%
3 or more hours	46.4%	33.5%	40.0%
Median	2.0	2.5	2.0
Mean	2.7	4.0	3.4
Number of caseworkers	209	206	415

respective counties. The judges offered general opinions and observations about the role and effectiveness of GALs in their counties rather than discussing specific cases.

Due to the small sample size, the data are neither weighted nor representative of any model or county. Nevertheless, the information provided by the judges serves as a useful comparison to the data collected from GALs, case records, and child welfare caseworkers. Similar to the preceding section on the background of caseworkers, the summary of the judges' backgrounds, discussed below, illustrates the judges' qualifications to provide another perspective on the performance and effectiveness of the GALs.

While the judges did not comment on specific cases covered in the study, the judges were asked to answer questions concerning the predominant GAL model of representation in their respective counties. Therefore, the discussion in this section use the terms "private attorney judges," "staff attorney judges," and "CASA judges" in reference to the GAL models the judges discussed during the interviews. Of the 56 judges interviewed, 23 represented the private attorney model, 15 represented the staff attorney model, and 18 represented the CASA model.

One potential indicator of the judges' familiarity with issues relevant to GALs who represent abused and neglected children is the extent to which the judges had any professional or other experience in the child welfare or child advocacy fields prior to their appointments to the court. Nearly three-quarters of all the judges (73.2 percent) reported that they had some experience related to child welfare or advocacy prior to their appointments (see Table 4.6-1 on the following page). These judges' experiences included representing children or parents in abuse and neglect proceedings, serving as attorneys in custody cases, and working in the district attorney's or public defender's office. The 56 judges in the sample had an average of 5.7 years of experience in the child welfare or advocacy field prior to appointment. Excluding the 15 judges who had no previous experience in child welfare or advocacy from the analysis, the mean years of experience among judges increases to 7.8.

The judges also reported how many years they had been sitting on a court that hears child abuse and neglect cases. While the average length of time sitting on such a court was 8.4 years across all judges, some differences emerged by model (see Table 4.6-2). Private attorney judges reported an average of 11.2 years of experience, as compared to staff attorney judges and CASA judges, who reported 6.0 and 6.9 years of experience, respectively. However, these differences probably represent no more than an artifact of the data and the small sample sizes of judges for the different models.

Table 4.6-1

Judges' Years of Experience in Child Welfare or Advocacy

Years of Experience	Private Attorney Model	Staff Attorney Model	CASA Model	All Models
None	34.8%	26.7%	16.7%	26.8%
0-2 years	4.3%	0.0%	5.6%	3.6%
2-5 years	8.7%	26.7%	22.2%	17.9%
5-10 years	17.4%	20.0%	33.3%	23.2%
10 or more years	34.8%	26.7%	22.2%	28.6%
Median number of years	5.0	4.0	5.0	5.0
Mean number of years	5.9	5.5	5.7	5.7
Number of judges interviewed	23	15	18	56

Table 4.6-2

Judges' Years Hearing Child Abuse and Neglect Cases

Years	Private Attorney Model	Staff Attorney Model	CASA Model	All Models
None	0.0%	0.0%	0.0%	0.0%
0-2 years	8.7%	33.3%	11.1%	16.1%
2-5 years	8.7%	20.0%	33.3%	19.6%
5-10 years	39.1%	33.3%	22.2%	32.1%
10 or more years	43.5%	13.3%	33.3%	32.1%
Median number of years	7.0	2.5	5.0	5.5
Mean number of years	11.2	6.0	6.9	8.4
Number of judges interviewed	23	15	18	56

A final indicator of experience with issues relevant to GALs is the average number of child abuse and neglect cases heard each week. Similar to the average length of time sitting on the court, these numbers also varied by GAL model (see Table 4.6-3 following this page). Staff attorney and CASA judges reported hearing an average of 28 cases per week, as compared to private attorney judges, who heard an average of 13 cases per week. In addition, one-third (33.3 percent) of the CASA judges and almost one-half (46.7 percent) of the staff attorney judges reported hearing 30 or more cases per week, as compared to only 8.7 percent of private attorney judges.

Background information provided by the case record extractions and interviews with the caseworkers and judges helps one better understand the environments in which GALs work. It is difficult to determine the extent to which the activities a GAL performs on a specific case will be influenced by issues such as case goals and placement or the experience of a judge who hears a case. Nonetheless, this background information provides the context in which to view the roles and responsibilities of GALs.

Table 4.6-3

**Number of Child Abuse and Neglect Cases Heard
by Judges Each Week**

Weekly Caseload	Private Attorney Model	Staff Attorney Model	CASA Model	All Models
None	0.0%	6.7%	5.6%	3.6%
1-10 cases	43.5%	0.0%	11.1%	21.4%
10-15 cases	17.4%	20.0%	27.8%	21.4%
15-30 cases	30.4%	26.7%	22.2%	26.8%
30 or more cases	8.7%	46.7%	33.3%	26.8%
Median number of cases	12.0	25.0	15.0	15.0
Mean number of cases	13.2	28.4	28.5	21.9
Number of judges interviewed	23	15	18	56

Chapter 5. ANALYSIS OF GAL EFFECTIVENESS

This chapter presents the field data collection results pertaining to the five GAL role dimensions identified by Professor Donald Duquette (see Chapters 2 and 3) and the assessment of select activities in each role dimension. The data collection plan was based on the Duquette model and is all inclusive in that it attempts to cover the myriad aspects of the roles and responsibilities of the guardian *ad litem* (GAL). This chapter, however, focuses only on selected measures of GAL effectiveness. As discussed in Chapter 3 of this report, the study measured effectiveness based on the activities performed by the GAL, not on the outcomes of cases. The GAL has the responsibility to advocate for the best interests of the child, whether that be removal from the home or reunification with the family.

The focus of the analysis was influenced heavily by the discussions and recommendations arrived at during a technical expert group (TEG) meeting held in early September 1993. The purposes of the meeting were to review a preliminary draft of the tabulated survey data and to discuss the GALs' roles and responsibilities. In discussions with the TEG, the evaluation staff were able to clarify what was important in each role dimension, thereby permitting the analyses to concentrate on the roles, tasks, and activities viewed by the TEG as central to effective performance of the GAL function. In addition, the TEG assisted in classifying the myriad GAL activities that directly or indirectly relate to core GAL functions in each role dimension.

The TEG reviewed the data pertaining to GAL activities in each of the five role dimensions and suggested a core set of functions that GALs should perform in order to be effective. The TEG members believed that the evaluation should make it clear that, in the context of this study, "effectiveness" should be construed in a procedural sense as work actually performed on a case, rather than on a specific outcome of the case. The sections that follow discuss each role dimension of the GAL. Each section begins with a summary of the discussion at the TEG meeting regarding effective activities of a particular role dimension. In addition, the variables, or cluster of variables, that formed the object of the discussion of effectiveness during the TEG meeting appear first in each role dimension section. The remaining variables were selected as important additional components of that role dimension.

Before delving into each specific role dimension, however, it is important to briefly discuss some of the overarching principles of child advocacy and representation that emerged from discussions with the TEG. It was agreed that child advocacy, in many ways, is in an early stage of development and that the time is favorable for setting out some general principles that would help inform the debate in the field over the next few years or even decade. The TEG members eschewed developing a list of roles and responsibilities,

which they believed had been done by others and was not feasible in the time allotted. Rather, the members used the data obtained from the survey to highlight areas where deficits in GAL activities could be clearly recognized and underscored. The TEG members thoroughly reviewed the data presented for each role dimension and developed what they considered to be a set of core principles and related activities which they thought was inherent in the function of a child advocate, irrespective of the model.

The general principles enumerated below are at the heart of any model of child advocacy and cut across specific role dimensions.

Advocate for the child.—The TEG members thought that the GAL should be considered responsible for pursuing the child's best interests, both within and outside the confines of the courtroom. This advocacy role extends beyond the confines of what is narrowly construed to be the role as purely one of legal representation for the child. TEG members felt that the GAL should advocate for the child (similar to how a reasonably concerned parent would for his/her own child), even if the recommendations fall outside (1) the court mandate, (2) the ability of the agency to implement, or (3) the child's concurrence.

Client-centered orientation.—The implication of this principle is that the focus of GAL activity is on identifying the concrete legal and nonlegal needs of children and on actively and vigorously seeking to meet them. In addition, this implies a sensitivity to the age-specific, developmental, and cultural situation and needs of the child. Various characteristics of a client-centered approach were enunciated by the TEG. These include the following:

- Developing an awareness of the emotional, psychological, developmental, and physical needs of the child;
- Talking with the child;
- Observing the child;
- Familiarizing the child with the court procedures; and
- Maintaining cultural sensitivity in communicating with the child and the family.

Continuity of representation.—The TEG believed that the GAL must remain continuously involved with the child, from the initial emergency hearing to the time when the court no longer has jurisdiction over the child (e.g., if the child is adopted, emancipated, or reaches the age of majority). This requires that the GAL have continuing contact with the child throughout the various stages in the case and that the GAL be contacted by the court, agency, or other actor if changes are made in the case.

Accountability.—The TEG noted that there must be an established mechanism to ensure that the GAL is held accountable for his/her actions on behalf of the child. While staff attorneys and court-appointed special advocates (CASAs) typically have their performances monitored and evaluated, such supervision usually is lacking for many private attorneys. Some TEG members believed that GALs would be reluctant to adopt these principles and implement these recommended activities unless they were held directly accountable by the court or other body.

Independence.—The TEG members thought that the GAL should act independently of the child welfare agency and the court and should be encouraged by these bodies to advocate for the child. The GAL's independence should be upheld, even though the results of his/her activities might slow down court processing of these cases and present difficulties for the agency.

The data on the GAL program's structure and background in Chapter 4 addressed some of these issues, but not all were addressed by data collected in the evaluation. This chapter presents the data collected during the study on GALs' performance of the five roles and tasks; the GALs' own assessments of their effectiveness in performing these roles; and comparative information collected from the case records, the caseworkers, and the judges. The chapter compares, across the three GAL models and between new and review cases, where these differences are important. The reader should be aware that, in addition to the limitations of individual items noted in the discussions that follow, the entire sample of data consists of 458 GAL reports, 415 caseworker reports, 408 case record extractions, and reports from 56 judges. Given these small sample sizes, differences of less than 10 percentage points between the models are unlikely to be substantively important or statistically significant.

The analysis begins with a discussion of the activities performed by GALs in the factfinding and investigation role. This is followed by sections discussing activities in the GAL roles of legal representation, negotiation and mediation, case monitoring, and resource brokering. The chapter concludes with a summary.

5.1 FACTFINDING AND INVESTIGATION

The role of factfinder is typically the first capacity in which the GAL becomes involved during a child abuse or neglect case; this role continues to be important throughout the case. In performing this role, the GAL consults a variety of sources to obtain information on the facts of the case, the interpretation of these facts by each of the parties to the case, and each party's corresponding assessment. Professor Duquette (1990) identifies these three components of the factfinder role as (1) investigation, (2) consultation, and (3) assessment. These activities are all closely related

and often are performed concurrently as the GAL collects information and interviews parties to the case.

Based on information obtained through factfinding, the GAL makes decisions about what is in the best interest of the child and, consequently, sets the underlying structure for activities in the four remaining GAL roles as legal representative, case monitor, mediator, and resource broker. Because of this central influence on the direction of the case, the factfinder role is most important during the early stages of the court proceedings. Later in the case, factfinding continues to be important as circumstances evolve and new developments occur; however, the scope of the task is diminished relative to the initial investigation. Effective performance of this role helps the GAL clarify inconsistencies in information, identify potential areas of disagreement, seek suggestions for solutions, and make his/her own assessments of the case.

In performing as factfinder, the GAL gathers information from a combination of written sources and personal contacts. Possible written sources include the petition detailing the accusation of abuse and/or neglect, the agency case record, court records, police records, mental health records, medical records, school records, and any evaluations of the child or parents which may have been performed. Important persons to contact regarding the facts of the case are the child, the parents of the child, the parents' attorney, the State's attorney, the agency caseworker, the foster parents, relatives, neighbors, and siblings.

Because GALs often are forced to operate on tight timetables, it is not always possible to thoroughly investigate all of these potential sources of information. The TEG members agreed that guidelines should be set to help GALs prioritize investigation activities and spend their limited time most effectively. It also was firmly stated that topping any such list of activities should be contact with the child, visitation of the parents' home, visitation of the child's current home or placement, contact with the caseworker, thorough reading of the petition, and review of the agency case record.

The remainder of this section presents data collected on GAL factfinding activities, emphasizing the areas given high priority by the TEG.

5.1.1 Contact With the Child

The TEG members were unanimous in stating that it is the responsibility of GALs to meet with and/or observe the children they represent. In the cases of older children such a meeting allows GALs to hear directly from the child his/her feelings about his/her family, the circumstances surrounding the alleged abuse or neglect, and the children's wishes concerning the outcome of the proceedings. Although such information may be available in the agency case record or other written documents, such information should not be considered a substitute for direct contact with the child. Speaking with a

child, a GAL can ask his/her own questions and benefit from the added information provided by tone of voice and pauses in speech. Contact in person is a step better in that such contact enhances a child's statements with the added meaning of body language and allows a GAL to supplement knowledge of a child's physical condition with a visual appraisal. During the review process, such contact helps the GAL track the child's situation and monitor progress.

In the case of an infant or toddler, although direct verbal communication may not be possible, it is equally important for a GAL to have some contact, if only to see how the child behaves and reacts to the new setting. Such contact also serves the purpose of establishing a link between GALs and the children they represent. It personalizes the GAL/client relationship and helps the GAL attach the name on a docket to a child with a future. This is an important part of any advocate/client relationship, irrespective of the client's age.

The study asked four questions relevant to GAL contact with the child. One of the questions broadly addressed the issue, asking GALs if they contacted the child personally or by phone. A second question sought to determine the proportion of GALs who spoke with the child without the parents present. The remaining two questions asked if the GAL contacted the child personally or by phone to assess placement needs or service needs. The question regarding placement needs also asked if the GAL observed the parent and child interacting.

As illustrated in Table 5.1-1 on the following page, a surprisingly large number of the GALs interviewed had no contact with the children they represented. Almost 30 percent of the private attorneys had no type of contact with their clients, followed by 17.4 percent of staff attorneys and 8.9 percent of CASAs. Part of the explanation behind these high numbers is the perception among GALs that contact with infants and toddlers is not applicable to investigating and preparing for the case. In 27.3 percent of the cases in which the GAL did not contact the child in person or by phone, the GAL indicated it was not applicable to do so. In 92.6 percent of these cases, the children were toddlers or infants. The effect of this perception on the percentage of GALs contacting children is illustrated in Table 5.1-2. According to this table, GALs were least likely to have any contact with infants and toddlers (65.5 percent) and most likely to have some contact with teenagers (88.5 percent). Based on these numbers, infants and toddlers made up approximately one-half of the children who were not contacted by their GAL.

Table 5.1-1**GAL Reports of Contact With Children**

Type of Contact	Private Attorney Model	Staff Attorney Model	CASA Model	All Models
Contacted in person or by phone	68.6%	77.2%	84.9%	75.5%
Talked to child without parents present	57.3%	64.1%	64.4%	60.9%
Talked to child to assess placement needs	53.6%	70.7%	62.3%	59.8%
Observed parent-child interaction to assess placement needs	37.7%	40.2%	63.7%	46.5%
Talked to child to assess service needs	45.9%	64.1%	58.2%	53.5%
Any topic above	72.7%	82.6%	91.1%	80.6%
Number of cases	220	92	146	458

Note: The percentages in this table may exceed 100 percent because multiple responses to the question are tabulated.

Table 5.1-2

GAL Contact by Age of Child

Any Contact?	Infant/Toddler	Child	Teen	Total
Yes	65.5%	83.6%	88.5%	80.1%
No	34.5%	16.4%	11.5%	19.9%
Number of cases	116	165	122	407

Regarding specific types of contact with the child, Table 5.1-1 presents data on GAL contact without the parents present. This question was designed to determine how common it is for GALs to speak with their clients outside the influence of parents. There is little variation across models in the proportion of GALs making this type of contact with the child. This also may be linked to the way in which GALs perceive their role based on the age of their clients. The majority of GALs who responded "yes" to the broad question of contact with the child also responded "yes" to this question, with the noticeable exception of GALs with clients under the age of 5. Thus, it appears that of the GALs who believed that contact with infants and toddlers was applicable, the majority did not think that it was necessary or applicable for this contact to take place in the absence of the parents. Conversely, of the GALs representing children 5 years of age and older who spoke with their clients, the majority implied that it was important for this contact to at least in part take place outside the influence of parents.

Lastly, Table 5.1-1 presents data on contacts with children to assess placement and service needs. Regarding the assessment of placement needs, two types of contact are measured: talking with the child and observation of the parent-child interaction. In all three models, over 90 percent of the GALs performed activities to assess the placement needs of the child. Staff attorneys most often consulted the child in making this assessment (70.7 percent), compared to private attorneys (53.6 percent) and CASAs (62.3 percent). This may be due partly to the fact that the staff attorney sample of cases is slightly weighted toward older children.

Most CASAs (63.7 percent) observed the parent-child interaction in assessing the child's placement needs, but the percentage of private attorneys (37.7 percent) and staff attorneys (40.2 percent) doing so is much lower. Given the emphasis placed on family preservation by agencies and in the Child Abuse Prevention and Treatment Act legislation, it is surprising that more GALs are not observing parent-child interaction in making their placement assessments, especially in review cases where decisions regarding permanent placement and the feasibility of family reunification must be made. The data collected in this study do not provide an explanation for

this. To more effectively address this issue, future studies should specifically define what is meant by “observing parent-child interaction” and seek to link such activities to cases in which family reunification is being contemplated.

Over one-half of GALs in each of the models performed activities to assess the service needs of the children and families the GALs served. As in the case of placement needs, staff attorneys most often sought the child’s opinion in making this assessment (64.1 percent), followed closely by CASAs (58.2 percent) and private attorneys (45.9 percent). This pattern, similar to placement needs assessments, also may be linked to the fact that the staff attorney sample is more heavily weighted toward older children who may have more to say on the subject of their own service needs.

Interviews with the caseworkers also provided information on the extent of contacts between the GAL and the child. Caseworkers were not asked an overall question but were asked what the GAL did to assess the child’s placement needs and the child’s or family’s need for services. In the context of placement needs, caseworkers were asked both if the GAL talked with the child and if the GAL observed the interaction between the parent and the child. The caseworker data are summarized in Table 5.1-3 on the following page.

The most interesting finding in the caseworker reports is that caseworkers reported contacts in a lower percentage of cases than did GALs. For example, GALs reported talking with the child to assess placement needs in 59.8 percent of the cases, while caseworkers reported such contacts in only 45.5 percent of the cases. For observing parent-child interaction, GALs reported such contact in 46.5 percent of cases, while caseworkers reported this in only 24.1 percent of the cases. The percentages for contacts to assess service needs were 53.5 and 41.2 percent, respectively.

Across models, caseworkers reported contacts by CASAs in the highest percentage of the cases in each of the measures, similar to the GAL reports. Caseworker reports of contacts by private attorneys and staff attorneys were similar, and averaged approximately 20 percentage points lower than for CASAs. In separate tabulations (not shown here), the pattern of contacts by age reported by caseworkers was similar to that reported by GALs, with some contact reported for 71.0 percent of teenagers, 61.0 percent of children, and 33.0 percent of children under 5 years of age. Thus, the patterns of activity are similar, but the caseworkers report lower levels than do the GALs.

The caseworker data on contacts, like other data presented later in this chapter, are important gauges of caseworker perceptions, but the data may not be reliable gauges of the absolute level of contacts. GALs have many opportunities for interacting with the child and the family over the course of a case, and caseworkers may not be present to witness all of these interactions. In addition, the contacts may take place over a long period of

Table 5.1-3

Caseworker Reports of GAL Contact With Child

Type of Contact	Private Attorney Model	Staff Attorney Model	CASA Model	All Models
Talked with child to assess placement needs	41.3%	39.1%	56.7%	45.5%
Observed parent/child interaction to assess placement needs	11.9%	21.8%	44.9%	24.1%
Talked with child to assess service needs	36.3%	34.5%	53.5%	41.2%
Number of cases	201	87	127	415

time, and caseworkers might forget some of the contacts. On the other hand, GALs might be expected to overreport contacts to some extent, especially when they know the importance of such contacts in performing the basic GAL roles and functions.

The implications of these data for assessing the effectiveness of GALs in total and by model are mixed. GALs reported contacting virtually all teenagers and most children ages 5 to 12 but only two-thirds of children under 5 years of age. It would have been desirable to have a comprehensive measure of the extent to which GALs observed the youngest children. Unfortunately the data do not permit measurement of observing the child, except in the context of observing the interaction between the parent and child for purposes of assessing placement needs. In that context, only one-half were observed, and there was no difference by age group of the child.

Given these data, it would appear that GALs did contact or observe the child in most cases where they thought the child was old enough for the contact. Nonetheless, it would seem desirable to emphasize in GAL training the importance of either talking with or observing the child in all cases.

5.1.2 Visiting the Home

The TEG panel placed a high priority on the need for GALs to visit the home from which the child was removed and the home in which the child is temporarily placed. The visit to the child's original home is an important part of the factfinder role, because the home is often the scene of the alleged abuse or neglect and thus a potential source of information either supporting or refuting statements made in the petition. This is especially important in cases of neglect where an unsanitary living environment may be the cause for removal from the home. In addition to substantiating claims made in the petition, a visit to the child's original home is also important because the visit gives the GAL an opportunity to assess the home as a permanent placement option and to assess the services the family may need to create a safe and nurturing environment for the child.

Visiting the foster home or shelter in which a child temporarily is placed is important for many of the same reasons. As the child's representative, the GAL has the responsibility to assess the adequacy of the child's placement and to ensure that the needs of the child are being met. Personally visiting the child at the new placement is essential to fulfilling this responsibility and to protecting the child's right to a safe and nurturing environment.

The study collected data on the number of GALs who, in the course of assessing placement or service needs, visited the parents' homes and/or the children at their temporary placements. The results, presented in Table 5.1-4 on the following page, show that the majority of CASAs visited the parent's or child's home as part of their placement and service assessment activities. Less than one-third of GALs in the attorney models made any

Table 5.1-4

GAL Reports of Visits Made During Investigation and Preparation

Type of Visit	Private Attorney Model	Staff Attorney Model	CASA Model	All Models
Visited foster home or shelter to assess placement needs	26.8%	31.5%	70.5%	41.7%
Visited parents' home to assess placement needs	10.5%	19.6%	52.1%	25.5%
Visited foster home or shelter to assess service needs	20.0%	28.3%	63.7%	35.6%
Visited parents' home to assess service needs	10.9%	18.5%	50.0%	24.9%
Visited with adult	34.5%	35.9%	89.7%	52.4%
Number of cases	220	92	146	458

Note: The percentages in this table may exceed 100 percent because multiple responses to the question are tabulated.

visit to the home in each of the four categories of visits, but both models were eclipsed by the large proportion of CASAs who made visits. In all three models, GALs were more likely to visit the child than they were to visit the parents.

These differences among models generally are supported by the data on GAL visitation collected from caseworkers, although the study did not ask caseworkers about visits to the parents' home to assess service needs. Table 5.1-5 on the following page shows that caseworkers reported lower percentages of GALs making visits than GALs reported in Table 5.1-4. Differences between caseworker and GAL data in the private attorney and CASA models are, in most cases, less than 10 percent and are likely due to problems of recall and incomplete knowledge of GAL activities. The differences in the staff attorney model are slightly larger, though not large enough to support any sound conclusions.

According to TEG members, there are several factors that may be at work behind these low numbers reported by attorneys. Regarding visitation of the parents' home, if the parent is represented in the case by an attorney, it would not be ethical for an attorney GAL to interview the parent without obtaining the consent of his/her attorney. The parent's counsel may be reluctant to give such consent. However, a visit to the home is not the same as an interview. The TEG strongly recommended that home visits be conducted to observe the living situation and family interaction, even if the GAL cannot interview the parent.

Safety is another factor affecting visitation with both the parent and the child. TEG members commented that, in many cases, the neighborhood in which the parents or children live is an unsafe area. GALs also may have to contend with parents who are hostile to the inspection of their home by an "outsider" associated with the court who took their children away. Caseworkers and social workers usually have access to security escorts in such circumstances. According to members of the TEG, no such protection is routinely available to GALs. The panel suggested that, if necessary, the GAL should arrange a joint visit with the caseworker and the caseworker's security guard.

In summary, the data indicate that most attorney GALs are not making any visits to the homes of parents and children. This represents an area of concern, given the importance that experts in the field assign to such visits. The fact that many CASAs did make visits indicates that perhaps the greatest barrier to such activities is the perception among attorney GALs that they are not important to their investigation. This perception is a training issue, which should be addressed in any standardized GAL curriculum. GALs also may feel hindered in attempts to visit the homes of parents and children due to legal restrictions and safety concerns. The extent to which these and other factors prevent GALs from making visits should be ascertained and properly addressed in any new training and program guidelines.

Table 5.1-5

**Caseworker Reports of GAL Contact With Adults
and Visits to Homes***

Type of Visit	Private Attorney Model	Staff Attorney Model	CASA Model	All Models
Visited foster home or shelter to assess placement needs	17.4%	13.8%	59.1%	29.4%
Visited parents' home to assess placement needs	5.0%	4.6%	42.5%	16.4%
Visited foster home or shelter to assess service needs	13.9%	13.8%	56.7%	27.0%
Number of cases	201	87	127	415

Note: The percentages in this table may exceed 100 percent because multiple responses to the question are tabulated.

*Data was not collected from caseworkers on GAL visits to the parents' homes to assess service needs.

5.1.3 Contact With the Agency Caseworker

Caseworkers play a central role in child abuse and neglect proceedings. As employees of the State and local social service agencies, they are charged with the responsibility of assisting and monitoring families in crisis. Thus, it is typically the caseworker who investigates allegations of child abuse or neglect and decides if it is necessary to file a petition to remove the child from the home. Through this decisionmaking process and the work that follows in cases where the child is removed, caseworkers become expert sources on the facts surrounding the case. In some cases, caseworkers may also have extensive information on the case gathered over a long history of working with the family. Based on this information, caseworkers make assessments of the child and the family and develop a case plan specifying services and treatment and permanent placement objectives. This high level of involvement in the case underscores the importance of the caseworker as a source of information available to the GAL.

To measure the number of GALs accessing this valuable source of information, the study asked GALs if they discussed any aspect of the case with the agency caseworker. The results presented in Table 5.1-6 below indicate that the majority of GALs consulted with the caseworker about the case. CASAs were most likely to do so (97.3 percent), followed by staff attorneys (90.2 percent) and private attorneys (86.4 percent). These numbers are strongly supported by the responses obtained from the caseworkers, which appear in Table 5.1-7 on the following page.

Table 5.1-6

GAL Reports of Contact With Caseworker

Contact?	Private Attorney Model	Staff Attorney Model	CASA Model	All Models
Yes	86.4%	90.2%	97.3%	90.6%
No	12.3%	9.8%	2.7%	8.7%
Missing Data	1.4%	0.0%	0.0%	0.7%
Number of cases	220	92	146	458

Table 5.1-7
Caseworker Reports of Contact With GAL

Contact?	Private Attorney Model	Staff Attorney Model	CASA Model	All Models
Yes	83.1%	83.9%	96.1%	87.2%
No	10.0%	9.2%	2.4%	7.5%
Missing Data	7.0%	6.9%	1.6%	5.3%
Number of cases	201	87	127	415

While consultation with the caseworker can save the GAL an immense amount of time investigating the case, TEG members warned that the GAL should not rely too heavily on the caseworker. This is especially true in cases where the GAL has no prior experience working with the caseworker. To ensure the accuracy and completeness of information provided by the caseworker, the GAL should interview other parties to the case to the extent that time permits. Table 5.1-8 on the following page presents data on the number of such contacts GALs made.

Overall, in a large number of cases, GALs were able to contact sources other than the caseworker and the child in investigating and preparing for the case. CASAs ranked highest in most of these categories, with the notable exception of contact with the State's attorney and the parents' attorney. This may be an indication of CASAs' tendency to avoid the legal aspects of GAL representation where they lack experience and to focus on social service activities where their training and skills are more readily applied. This tendency will be more thoroughly addressed in the following section of this chapter, which discusses the legal representation role.

To conclude, the data indicate that GALs are consulting a variety of persons in preparing and investigating cases. In a very high percentage of the cases, GALs contacted the caseworker, but it is puzzling that GALs did not contact the caseworker in all cases. All of the cases included in the study had been adjudicated, meaning that all GALs had ample time and reason to consult with the caseworker. The data also indicate that CASAs and, to a lesser extent, attorneys supplement information obtained from the caseworker and written sources with information gained from other sources. Such a variety of sources reduces GALs' dependence on caseworkers and establishes them more firmly as independent representatives of children.

Table 5.1-8**Other Persons Contacted During Investigation Activities**

Person Contacted	Private Attorney Model	Staff Attorney Model	CASA Model	All Models
Parents	65.0%	50.0%	84.2%	68.1%
Relatives	43.6%	48.9%	60.3%	50.0%
Foster parents	42.7%	55.4%	77.4%	56.3%
Neighbors	6.4%	7.6%	14.4%	9.2%
Medical personnel	20.0%	29.3%	36.3%	27.1%
Law enforcement personnel	20.5%	17.4%	28.1%	22.3%
Education personnel	19.1%	31.5%	41.8%	28.8%
State's attorney	79.5%	82.6%	41.8%	68.1%
Parent's attorney	67.3%	78.3%	48.6%	63.5%
Other GAL	10.5%	38.0%	32.9%	23.1%
Prior representative	3.2%	18.5%	4.1%	6.6%
Mental health personnel	30.0%	42.4%	55.5%	40.6%
Siblings	25.9%	44.6%	47.3%	36.5%
Number of cases	220	92	146	458

Note: The percentages in this table may exceed 100 percent because multiple responses to the question are tabulated.

5.1.4 Written Sources of Information

Written sources of information can be every bit as important as personal contacts to the investigation and preparation of a case. Two sources noted by the TEG of particular importance are the petition filed to remove the child from the home and the agency case record. The petition provides a concise summary of the circumstances that deemed it necessary to remove a child from the home. It is usually the first piece of information received by the GAL and makes for a good starting point. The case record can be a virtual gold mine of information, depending on the thoroughness of the caseworker and the format of the agency's recordkeeping system. In the best case scenario, the case record includes information on every evaluation, assessment, and record used in the court proceedings. This includes medical records, mental health records, school records, police reports, child protective services (CPS) records, and foster care records.

The study examined the written sources of information consulted by the GAL during the course of conducting an investigation. The results are summarized in Table 5.1-9 on the following page. Overall, GALs consulted some type of written source in 94 percent of the cases. The CPS agency record was examined in 83.8 percent of cases, and court records (pleadings, petitions) were examined in 84.3 percent of cases.

There were some differences among the models in the types of records examined. CASAs were more likely than other GALs to look at police reports, child welfare records on the family, and correctional center records. Staff attorneys were more likely to look at third-party statements and medical records. With the exception of police records, the differences are not large, and it is unclear whether that difference is important.

The TEG panel was very interested in the potential time savings that GALs could incur by examining case records, which include all of the available written records on the child and family. Such a complete case record would limit the time GALs would have to spend gathering data and conducting interviews. Table 5.1-10 presents data on the types of records included in the case records of cases selected for the study, and Table 5.1-11 presents data on the types of evaluations appearing in the case records. Based on these data, it appears that in the agency case record, GALs frequently can find CPS records; medical records; educational records; and (to a lesser extent) foster care records, mental health evaluations, and medical evaluations. Anecdotal data collected from GALs and caseworkers, however, indicate that the completeness of case records varies greatly by jurisdiction and by caseworker.

In summary, it appears from these data that GALs consulted a wide range of written information sources. It is unclear whether most of these sources were contained in case records, because the case record extraction did not attempt to document all the contents of case records. The TEG expressed a concern that GALs may face some barriers in obtaining written records

Table 5.1-9**Written Sources of Information Consulted by GALs**

Source	Private Attorney Model	Staff Attorney Model	CASA Model	All Models
Police reports	33.6%	31.5%	60.3%	41.7%
CPS agency record	80.5%	83.7%	89.0%	83.8%
Child welfare records on family	63.6%	58.7%	74.0%	65.9%
Court records (pleadings, petitions)	83.2%	89.1%	82.9%	84.3%
Third-party statements	59.5%	83.7%	61.6%	65.1%
Medical records	44.1%	59.8%	54.8%	50.7%
Mental health records	46.8%	53.3%	58.2%	51.7%
School records	35.9%	37.0%	36.3%	36.2%
Correctional center records	5.0%	5.4%	14.4%	8.1%
Detoxification center records	10.9%	18.5%	12.3%	12.9%
Other records	17.3%	13.0%	9.6%	14.0%
Any written sources	92.3%	94.6%	96.6%	94.1%
Median	5.0	5.0	5.0	5.0
Mean	4.5	5.0	5.2	4.9
Number of cases	220	92	146	458

Note: The percentages in this table may exceed 100 percent because multiple responses to the question are tabulated.

Table 5.1-10

Type of Agency Records Appearing in Case Records

Record	Private Attorney Model	Staff Attorney Model	CASA Model	All Models
Educational*	46.9%	48.9%	46.9%	47.3%
Medical	74.0%	75.0%	78.1%	75.5%
Mental health	48.4%	36.4%	57.0%	48.5%
Alcohol/drug	13.0%	13.6%	29.7%	18.4%
Police	38.0%	34.1%	64.1%	45.3%
CPS records	90.6%	90.9%	96.9%	92.6%
Foster care	69.3%	55.7%	80.5%	69.9%
Number of cases	192	88	128	408

Note: The percentages in this table may exceed 100 percent because multiple responses to the question are tabulated.

*Approximately 71 percent of the children included in this study were school aged.

Table 5.1-11

Evaluations Appearing in Case Records

Evaluation	Private Attorney Model	Staff Attorney Model	CASA Model	All Models
Educational	37.0%	37.5%	32.8%	35.8%
Medical	49.5%	59.1%	53.1%	52.7%
Mental health	62.0%	59.1%	56.3%	59.6%
Alcohol/drug	10.9%	17.0%	25.0%	16.7%
Number of cases	192	88	128	408

Note: The percentages in this table may exceed 100 percent because multiple responses to the question are tabulated.

pertinent to their cases, especially drug and alcohol records. Panel members agreed that all such barriers should be removed, including those blocking ready access to court records. More than 80 percent of GALs in each model had access to both case records and court records, so access to records does not appear to be a significant barrier to the GALs in carrying out their functions.

5.1.5 Opinions About Preparation and Effectiveness

In addition to the quantifiable activities conducted during the course of investigation and case preparation, the study also collected rating scale data on overall perceptions of the extent to which GALs prepared for cases and the effectiveness of this preparation. GALs and caseworkers were asked to rate the overall extent to which the GAL investigated or prepared for the case, and judges were asked to rate the thoroughness of GALs in general. While such opinions may not always be grounded in fact, they play an important role in describing how the actors in child welfare feel about the role of the GAL.

Table 5.1-12 below summarizes the data collected from the three groups of respondents on the subject of extensiveness of preparation. GALs overall reported that they had prepared extensively in 55.7 percent of the cases. By model, CASAs reported extensive preparation in 71.2 percent of the cases, staff attorneys in 63.0 percent, and private attorneys in 42.3 percent. When new and review cases were examined separately (not shown in the table), 63.3 percent of GALs reported extensive preparation in new cases, compared to 48.0 percent in review cases, where 9.1 percent of the GALs did not prepare at all. The drop in the number of GALs reporting extensive preparation is roughly equal across all three models.

Table 5.1-12

Assessment of GAL Preparation

Found Extensive Preparation of GAL	Private Attorney Model	Staff Attorney Model	CASA Model	All Models	Total Responses
GALs (self-report)	42.3%	63.0%	71.2%	55.7%	458
Caseworkers	38.3%	36.8%	63.8%	45.8%	415
Judges	26.1%	53.3%	77.8%	50.0%	56

The caseworkers' perceptions of CASA and private attorney preparation were only slightly lower than the self-reported assessments of the GALs in these two models. Caseworkers reported that in 63.8 percent of the CASA

cases and in 38.3 percent of the private attorney cases the GAL prepared extensively. In contrast, caseworkers disagreed with almost one-half of the staff attorney GALs who said they prepared extensively for their cases; caseworkers reported extensive GAL preparation in only 36.8 percent of the staff attorney cases, compared to the 63.0-percent figure reported by GALs in this model. There was little difference in caseworker assessments between new and review cases.

Further supporting the contention that CASAs prepare most extensively were the responses of the judges reporting on CASAs. Over three-quarters of the judges reported that the CASAs had prepared extensively. Of the judges reporting on staff attorneys, just over one-half indicated that staff attorneys had prepared extensively. Approximately one-quarter of the judges reporting on private attorneys indicated that they had prepared extensively.

Comparing the ratings across the different groups of respondents, the consistency of the responses is remarkable and disappointing at the same time; remarkable because of the agreement between parties with much different perspectives of GALs, and disappointing because so many attorneys did not extensively prepare to represent their clients. As is common with self-reported data, GALs rated themselves somewhat higher than did the caseworkers and judges. By model, CASAs were rated highest on preparation by all three groups of respondents, followed by staff attorneys in their own opinions and in the opinions of judges. The large discrepancy between the self-evaluations of staff attorneys and the ratings given them by caseworkers may point to problems in the working relationship between the two groups. Such a problem was documented in one of the counties in which the study was performed and may have been present in other counties.

GALs, caseworkers, and judges also were asked to rate the GALs' effectiveness in investigating and preparing for their cases. This question differs from the question on the extensiveness of preparation in that it seeks to measure the impact of investigation activities on the quality of the representation provided by the GAL. The percent of GALs rated very effective by each type of respondent is summarized in Table 5.1-13 on the following page.

Table 5.1-13

Assessment of GAL Investigation

Found GAL To Be Very Effective	Private Attorney Model	Staff Attorney Model	CASA Model	All Models	Total Responses
GALs (self-report)	55.5%	71.7%	68.5%	62.9%	458
Caseworkers	27.9%	31.0%	59.1%	38.1%	415
Judges	30.4%	53.3%	72.2%	50.0%	56

The GALs rated themselves very effective in 62.9 percent of the cases, with staff attorneys at 71.7 percent, CASAs at 68.5 percent, and private attorneys at 55.5 percent. There was no difference between new and review cases in these ratings.

Caseworkers' opinions sharply differed from those of GALs. Caseworkers rated GALs as very effective in only 38.1 percent of the cases, with CASAs at 59.1 percent, staff attorneys at 31.0 percent, and private attorneys at 27.9 percent. Judges fell between these two extremes, with 50.0 percent rating GALs as very effective. CASAs were rated very effective by 72.2 percent of judges in their counties; staff attorneys received the same rating from 53.3 percent of their judges; and private attorneys, from 30.4 percent of the judges that preside over their cases.

The most interesting finding in these data is the disparity between the GAL ratings and those of the caseworkers and the judges. In the private and staff attorney models, the percent of GALs who rated themselves very effective in investigation were as many as 40 percentage points higher than the caseworkers and judges who rated them as very effective. CASAs' self-reported ratings were 9 points higher than the caseworkers' ratings but 3.7 points lower than the judges' ratings.

In discussing preliminary data from these rating scales, the TEG surmised that the high ratings of CASAs by judges might reflect (or be biased by) the fact that the courts are very heavily involved in the development of CASA programs and in training of CASAs. While the results do not dismiss that as a motivation, the greatest difference is seen in the ratings of caseworkers, who are not involved in GAL selection. The consistent pattern evident across the three sets of responses indicates that CASAs prepare for cases more extensively and are more effective in performing investigation activities than are GALs in the other two models. The data also seem to indicate that staff attorneys and, to a lesser extent, private attorneys seem to have different standards of thoroughness and effectiveness in preparation than those held by caseworkers and judges.

5.1.6 Summary

The data on GAL investigation and preparation show that, by all measures used in the study, CASAs are rated the highest, followed by staff attorneys and private attorneys. While some of the data may reflect biases of the respondents, the consistency across the measures points to substantive differences. The source of these differences in ratings most likely lies in the differences in training, hours per case, and hours per week, as reported in Chapter 4. CASAs have the most extensive GAL-specific training and spend the greatest number of hours on each case. Staff attorneys rank second with regard to specific training and hours spent per week performing GAL functions. Although staff attorney hours per case are small, staff attorneys have access to social workers and other support staff to assist them in case preparation. These factors give CASAs and staff attorneys more training and more hours to devote to GAL functions than private attorneys, and it would be surprising if the combination of training and hours did not show up in the levels of activity and the opinion-based ratings.

5.2 LEGAL REPRESENTATION

The GAL's role as legal representative encompasses those tasks most often associated with GAL representation. In this capacity the GAL is the child's voice in the court room, giving air to the interests and concerns of the child and protecting the child's rights throughout the court proceedings. Performing this role involves a wide range of activities including presentation of arguments and recommendations before the court, handling of procedural details unique to the court environment, consultation with the child, and legal tasks associated with trial law.

For the purposes of this discussion, the legal representation role is divided into five categories of activities. Section 5.2.1 discusses the courtroom activities of GALs. Legal activities such as making opening statements, calling and cross-examining witnesses, subpoenaing records, presenting evidence, filing motions or pleadings, and making closing statements will be examined.

Section 5.2.2 addresses the legal activities related to offering recommendations to the court. GAL activities such as submitting written reports for the record, reporting orally to the court, offering a case plan, offering opinions concerning the most desirable outcome for the child, making recommendations for placement, providing services to the child or family, and addressing visitation concerns will be reviewed.

Section 5.2.3 examines all of the disagreements that the GALs had, either with the State agency, the child, or the caseworker. Such disagreements primarily had to do with the case goals, placement of the child, provision of services to the child or family, and visitation concerns. The GAL's version

of events are case linked and compared to the caseworker's account. Also in this section, the conflict GALs encounter when deciding whether to represent the "best interest" or "wishes" of the child will be examined.

Section 5.2.4 explores the extent to which the children, who were represented by the GALs in the sample, spoke in court. Questions as to when and where it is appropriate for children to speak in court will be examined. In addition, the GAL's description of the events are case linked and compared to the caseworker's version of the events.

Section 5.2.5 examines the GALs' self-assessments of their effectiveness in their role as child representatives. These assessments will be compared to the accounts given by the caseworkers and judges. Also, the extent to which the courts adopted the GAL's recommendations will be examined, and this information will be used as another indication of the level of the GAL's effectiveness.

5.2.1 Courtroom Activities

The TEG unanimously agreed that it was unacceptable for any child to appear before the court without being represented by either an attorney or another person equally qualified to fulfill the role. Furthermore, in the event that some aspect of a case is contested, the panel firmly stated that an attorney should be present in order to guide the child through the legalities of the judicial process and went so far as to recommend that such a requirement be federally mandated. This reflects a strongly held belief among experts in the field that contested cases involve certain legal representation tasks which require the expertise of an attorney.

This distinction drawn by the TEG between contested and uncontested cases implies that the courtroom activities performed by GALs should differ substantially between the two types of cases. The following analysis will break out activities performed by GALs between contested and uncontested hearings to test this hypothesis. The analysis also will present legal activities by new and review cases to examine how activities may vary over the course of a case. The following definitions of new and review cases and uncontested and contested hearings will provide the background necessary to understand this approach to the analysis.

As described in Chapter 3, the terms "new case" and "review case" were created for the purposes of this study and have no standard use in the field of child advocacy. The purpose of the terms is to distinguish between cases for which the study collected information on activities performed early in the case and cases for which the study collected data on activities performed later in the case. The first review hearing was selected as the demarcation point at which to divide the new from the review cases. Thus, new cases include only cases that have not yet had a review hearing, while review cases include only cases that have had at least one review hearing.

A contested hearing is defined as any hearing in which a party involved in the proceedings disputes some aspect of the case. Conversely, an uncontested hearing is defined as any hearing in which no aspect of the case is disputed. In the new cases, the most commonly contested point is the allegation of abuse/neglect. Later in the case, other factors often are contested, such as the direction of the case plan, recommendations, visitation, adoption, and other factors pertaining to permanency planning.

In uncontested hearings a substantial amount of legal activity is precluded. Since all parties agree to the allegations and choose not to contest the ensuing goals of the case plan, lengthy legal battles are avoided. The opposite is often true in contested cases.

The study asked GALs a number of questions regarding their activities at contested and noncontested hearings. The broadest of these questions asked GALs if they attended "some," "most," "all," or "none" of the hearings since they were appointed as GALs on the case. The purpose of the question was to measure the level of GAL involvement in the legal proceedings of the case and to establish a context for the answers to questions on specific activities. As illustrated in Table 5.2-1 on the following page, 94.5 percent of the private attorneys and 91.3 percent of the staff attorneys for new cases attended all of the hearings following their appointments as child representatives. Private and staff attorney attendance for review cases, however, decreased to 80 percent and 73.9 percent, respectively. CASAs reported having attended all of the hearings in only 53.4 percent of the new cases and 60.3 percent of the review cases.

Based on these data, it seems as though attorneys prioritize their time differently than do the volunteers. The attorneys evidently place a greater importance upon attending hearings than do CASAs. Such differences may be attributed to the fact that both the attorney and volunteer GALs perceive their time to be more productively spent engaged in those activities that they were trained to perform. Since attorneys specialize in legal activities, attorneys may concentrate their efforts on courtroom activities, whereas the CASAs are often better trained to perform nonlegal, social service activities and thus concentrate more of their efforts on activities outside the courtroom. This hypothesis is supported by the data presented in Chapter 4 on time spent performing legal representation activities. CASAs indicated that they spend an average of 14.8 percent of their time performing legal representation activities, compared to averages of 39.9 percent and 30.0 percent for private attorneys and staff attorneys, respectively.

Table 5.2-2 presents data on the legal activities performed by GALs in contested and uncontested hearings. As would be expected based on the above discussion, CASAs rank lowest in almost every category. However, it is surprising that private attorneys rank only slightly higher than CASAs and actually rank lower in several categories. Staff attorneys reported having performed the greatest number of legal activities in almost every category. Nowhere was their predominance in performing legal activities

Table 5.2-1

Percent of Hearings Attended by GALs Since Appointed

Self-Report of Number of Hearings Attended	New Cases				Review Cases			
	Private Attorney Model	Staff Attorney Model	CASA Model	All Models	Private Attorney Model	Staff Attorney Model	CASA Model	All Models
All	94.5%	91.3%	53.4%	80.8%	80.0%	73.9%	60.3%	72.5%
Most	5.5%	8.7%	19.2%	10.5%	18.2%	21.7%	31.5%	23.1%
Some	0.0%	0.0%	6.8%	2.2%	1.8%	4.3%	5.5%	3.5%
None	0.0%	0.0%	20.5%	6.6%	0.0%	0.0%	2.7%	0.9%
Number of cases	110	46	73	229	110	46	73	229

Table 5.2-2

GAL Activities in Contested and Uncontested Hearings

	Activities	New Cases				Review Cases			
		Private Attorney Model	Staff Attorney Model	CASA Model	All Models	Private Attorney Model	Staff Attorney Model	CASA Model	All Models
Uncontested	Subpoenaed records	0.9%	26.1%	2.7%	6.6%	6.4%	17.4%	4.1%	7.9%
	Presented evidence	26.4%	47.8%	28.8%	31.4%	42.7%	58.7%	42.5%	45.9%
	Filed motions	21.8%	19.6%	11.0%	17.9%	22.7%	39.1%	16.4%	24.0%
	Other	8.2%	19.6%	1.4%	8.3%	10.0%	23.9%	0.0%	9.6%
	Number of cases	110	46	73	229	110	46	73	229
Contested	Subpoenaed records	4.2%	50.0%	0.0%	17.4%	17.2%	43.3%	13.0%	23.4%
	Presented evidence	58.3%	84.6%	58.3%	66.3%	60.3%	80.0%	60.9%	65.8%
	Filed motions	27.1%	42.3%	33.3%	32.6%	41.4%	73.3%	30.4%	47.7%
	Number of cases	48	26	12	86	58	30	23	111

more pronounced than in the contested cases, but this is evident in almost every other category as well.

Two important observations stand out in the data. First, GALs in all three models reported having performed a greater number of activities on review cases than on new cases. Second, as anticipated, the respondents reported having performed significantly more legal activities for the contested than the uncontested cases. Thus, GALs performed the greatest number of legal activities in review cases with contested hearings.

In 197 of the 458 cases included in the study, some aspect of the case was contested. Of the cases in which contested hearings took place, 111 were review cases and 86 were new cases. Staff attorneys reported the highest proportion of contested hearings (60.9 percent), followed by private attorneys (48.2 percent) and CASAs (24.0 percent).

As discussed earlier, there are inherent differences between new and review hearings as well as between uncontested and contested hearings. These differences lend some meaning to the data presented in Table 5.2-2 as well as in Table 5.2-3 on the following page. In exploring why there were more contested hearings at the review stage, some of the panelists provided insight as to why such a phenomenon may have occurred.

In contested new cases, the point of dispute usually pertains to the allegation of abuse/neglect. In such instances, the ramifications are not wide reaching. The parent tells his/her side of the story, the State's attorney tells the State's side, and then the judge makes the decision. The task is to ascertain whether or not enough evidence has been presented to prove the allegation of abuse/neglect. If sufficient evidence has been presented, the judge then has the opportunity to temporarily remove the child from the home of the abuser.

In the review stage of the hearings, the stakes become much higher. At this point, if the judge finds that the parent is either unwilling or unable to provide an adequate living environment for the child, the judge reserves the right to move for permanent action in the case. The child may be removed from the parent's home, a termination of the parent's rights may be issued, and the child's permanent placement may be decided. Since the stakes are so much higher in the review stage of the contested hearings, the panel noted that there may be a greater number of cases tried. After all, this is the parent's last chance. The child may be taken away from the family permanently by being put up for adoption, placed in foster care, or placed in some other permanent living situation. The parent may see this stage as the final opportunity to win the child back; thus, more cases may be tried, and consequently, a greater number of legal activities may occur.

The study anticipated that cases with contested hearings would be more involved and require more complex legal activities. Table 5.2-3 presents data on legal activities of GALs who participated in contested hearings.

Table 5.2-3

Additional GAL Activities in Contested Cases

GAL Activities	New Cases				Review Cases			
	Private Attorney Model	Staff Attorney Model	CASA Model	All Models	Private Attorney Model	Staff Attorney Model	CASA Model	All Models
Made an opening statement	33.3%	46.2%	25.0%	36.0%	56.9%	50.0%	17.4%	46.8%
Called lay witnesses	16.7%	69.2%	0.0%	30.2%	34.5%	56.7%	0.0%	33.3%
Called expert witnesses	12.5%	26.9%	0.0%	15.1%	22.4%	26.7%	8.7%	20.7%
Cross-examined witnesses	89.6%	73.1%	8.3%	73.3%	96.6%	83.3%	8.7%	74.8%
Made a closing statement	72.9%	69.2%	8.3%	62.8%	77.6%	90.0%	17.4%	68.5%
Number of cases	48	26	12	86	58	30	23	111

Note: The percentages in this table may exceed 100 percent because multiple responses to the question are tabulated.

According to the table, in the contested hearings, staff and private attorneys were the most likely to call and cross-examine lay and expert witnesses and to make closing statements, while the CASAs reported minimal activity for these legal functions. Differences among the models occurred between new and review cases, as well as according to the predilections of the models.

A large majority of attorney GALs reported having cross-examined witnesses and/or made a closing statement in both new and review cases, while CASAs performed these activities in very few cases. Attorney GALs were also much more likely to call lay witnesses and make an opening statement than were CASAs. None of the models placed an emphasis on calling expert witnesses. These data underscore the concerns expressed by the TEG regarding contested hearings in which CASAs do not have the assistance of an attorney. Based on the data in Table 5.2-3, the conclusion can be drawn that, in contested hearings where the child's only representative is a CASA, activities that are significant to the representation of the child will go unperformed in a majority of cases.

In summary, as cases evolved from the new to the review stage of the hearings, a greater number of courtroom activities were performed. Similarly, there were more activities performed in the contested than in the uncontested hearings. Also, staff attorneys for the most part performed the greatest number of activities, followed by private attorneys and CASAs, who were minimally involved in contested hearings. In the uncontested hearings, all three models placed a greater emphasis upon presenting evidence and filing motions than subpoenaing records. However, in new cases, 26.1 percent of the staff attorneys subpoenaed records compared to the private attorneys and the CASAs who reported little activity.

For contested hearings, Tables 5.2-2 and 5.2-3 illustrate that GALs in the attorney models participated more frequently than did CASAs. Staff attorneys reported the most activity, reporting significant activity in presenting evidence, filing motions, calling lay witnesses, cross-examining witnesses, and making opening and closing statements. Private attorneys reported substantial activity in presenting evidence, making opening and closing statements, and cross-examining witnesses. CASAs were involved minimally in courtroom activities in contested hearings, focusing on presenting evidence and, to a lesser extent, filing motions.

The TEG was encouraged by the fact that the CASAs were less inclined to represent children in contested cases. The panel was adamantly opposed to volunteers representing children in contested hearings unless the volunteers were accompanied by an attorney. Of the 35 CASAs who responded that they were involved in contested hearings, 21 responded that they were assisted by another representative. While the instrument was unable to distinguish whether the assisting representative was an attorney or lay person, it is most likely that the representative was an attorney. The low number of CASAs who reported involvement in contested hearings is

promising, but as the panel noted, no CASA should represent a child in the courtroom in a contested case unassisted by an attorney.

5.2.2 Data Analysis of Recommendations

In regard to recommendations presented to the court, GALs were asked whether they submitted written reports to the court, reported orally, or offered a case plan. Overall, GALs reported offering a greater number of recommendations in review cases than in new cases. Also, differences among the models were apparent.

Regarding the submission of written reports for the record, the data suggest that the CASAs placed a greater degree of importance upon the writing of these documents than GALs in either of the attorney models (see Table 5.2-4 on the following page). This was true in both contested and uncontested hearings in new and review cases. GALs from all three models were more likely to submit a written report in review cases than in new cases.

GALs in all three models of representation placed an emphasis upon reporting orally to the court. As presented in Table 5.2-4, nearly 70 percent of the GALs submitted an oral report to the court in new cases, and over 80 percent did so in review cases. The private attorneys reported doing this most often, followed by staff attorneys and CASAs.

Lastly, on the subject of case plans, GALs were more likely to offer case plans in review cases than in new cases. CASAs offered a case plan in the highest proportion of cases, followed by private attorneys and staff attorneys. There was also some variation between activities in contested and noncontested hearings; with the exception of staff attorneys, GALs were more likely to offer case plans at contested hearings.

GALs also were asked if they formed an opinion concerning the most desirable and realistic placement of the child and, if so, what their opinion was, with whom they discussed it, and whether they made a recommendation to the court. The results are presented in Tables 5.2-5 through 5.2-8.

More than 95 percent of all the representatives reported having formed an opinion concerning placement (see Table 5.2-5). As presented in Table 5.2-6, GALs across models assessed the best placement option for their clients in roughly similar proportions among the placement options. There is a difference, however, between new and review cases.

Table 5.2-4

**GAL Activities in Making Recommendations to the Court
in Contested and Uncontested Hearings**

	Activities	New Cases				Review Cases			
		Private Attorney Model	Staff Attorney Model	CASA Model	All Models	Private Attorney Model	Staff Attorney Model	CASA Model	All Models
Uncontested	Submitted written report	10.9%	10.9%	67.1%	28.8%	15.5%	23.9%	80.8%	38.0%
	Submitted oral report	75.5%	65.2%	64.4%	69.9%	86.4%	71.7%	78.1%	80.8%
	Offered case plan	24.5%	23.9%	42.5%	30.1%	41.8%	45.7%	54.8%	46.7%
	Number of cases	110	46	73	229	110	46	73	229
Contested	Submitted written report	25.0%	38.5%	83.3%	37.2%	27.6%	53.3%	95.7%	48.6%
	Offered case plan	45.8%	26.9%	58.3%	41.9%	58.6%	40.0%	82.6%	58.6%
	Number of cases	48	26	12	86	58	30	23	111

Note: The percentages in this table may exceed 100 percent because multiple responses to the question are tabulated.

Table 5.2-6

Most Desirable and Realistic Placement Situation for the Child

Most desirable and realistic placement according to the GAL	New Cases				Review Cases			
	Private Attorney Model	Staff Attorney Model	CASA Model	All Models	Private Attorney Model	Staff Attorney Model	CASA Model	All Models
Keep child at home	17.3%	8.7%	16.4%	15.3%	3.6%	6.5%	2.7%	3.9%
Place with relative	13.6%	23.9%	15.1%	16.2%	12.7%	21.7%	12.3%	14.4%
Place with nonrelative	12.7%	6.5%	2.7%	8.3%	19.1%	13.0%	5.5%	13.5%
Place in foster home with relative	3.6%	8.7%	9.6%	6.6%	5.5%	6.5%	11.0%	7.4%
Place in foster home with nonrelative	21.8%	21.7%	28.8%	24.0%	19.1%	15.2%	15.1%	17.0%
Place in group home	3.6%	2.2%	1.4%	2.6%	5.5%	4.3%	2.7%	4.4%
Arrange for independent living	0.0%	2.2%	0.0%	0.4%	0.0%	0.0%	0.0%	0.0%
Place in residential treatment facility	3.6%	6.5%	0.0%	3.1%	9.1%	10.9%	1.4%	7.0%
Return child home	9.1%	10.9%	5.5%	8.3%	5.5%	4.3%	11.0%	7.0%
Other	4.5%	0.0%	5.5%	3.9%	10.9%	4.3%	6.8%	8.3%
TPR* and adoption	4.5%	2.2%	8.2%	5.2%	7.3%	8.7%	24.7%	13.1%
Number of cases	104	43	68	215	108	44	68	220

* Termination of parental rights

Table 5.2-5

GAL Opinions About Placement

Did GAL form an opinion about placement?	Private Attorney Model	Staff Attorney Model	CASA Model	All Models
Yes	96.8%	96.7%	93.2%	95.6%
No	3.2%	3.3%	6.8%	4.4%
Number of cases	220	92	146	458

In 23.6 percent of the new cases, GALs indicated that keeping the child in the home or returning the child to the original home was the most desirable and realistic placement option. In review cases, this proportion drops to 10.9 percent, and termination of parental rights and adoption rises to 13.1 percent from 5.2 percent. This reflects how placement options can change over the course of a case. Because the primary aim of child welfare and advocacy professionals is to uphold the family unit whenever possible, GALs may hope for successful reunification in the earlier stages, but at some point, GALs may have to abandon such optimistic thinking when it becomes apparent that such an outcome could not possibly be the best placement option given the circumstances of the case.

In regard to whether the GALs discussed the aforementioned most desirable and realistic placement options with any other relevant parties to the case, Table 5.2-7 following this page shows that nearly 90 percent of all GALs (88.2 percent in the new and 88.6 percent in the review) discussed such options with other parties. Although little difference existed between the new and review hearings, different parties were addressed by different representatives. Overall, GALs discussed placement options most often with the caseworker or agency's attorney, regardless of case evolution. Overall, CASAs were slightly less likely to speak to either the caseworker or the agency's attorney than were attorney GALs. Staff attorneys and private attorneys reported discussing placement options with the parent's attorney in over one-half of the cases, whereas CASAs reported having spoken with the parent's attorney in just over one-quarter of the cases.

The data in Table 5.2-7 also show that, of the three remaining parties to whom the GALs could have spoken, GALs reported having discussed placement options more often for review cases than for new cases. With respect to consulting foster parents, significant differences were most evident within the private attorney and CASA models. Whereas only 21.8 percent of the private attorneys reported having discussed options with foster parents for new cases, by the time of the review hearing, 43.6 percent

Table 5.2-7

Parties With Whom GAL Discussed Placement

Party	New Cases					Review Cases				
	Private Attorney Model	Staff Attorney Model	CASA Model	All Models	Number of Cases	Private Attorney Model	Staff Attorney Model	CASA Model	All Models	Number of Cases
Any party	93.6%	93.5%	76.7%	88.2%	202	88.2%	91.3%	87.7%	88.6%	203
Caseworker or agency's attorney	91.8%	80.4%	74.0%	83.8%	192	84.5%	89.1%	84.9%	85.6%	196
Parent's attorney	60.0%	67.4%	27.4%	51.1%	117	54.5%	63.0%	28.8%	48.0%	110
Foster parents	21.8%	32.6%	43.8%	31.0%	71	43.6%	39.1%	60.3%	48.0%	110
Child	42.7%	45.7%	28.8%	38.9%	89	52.7%	54.3%	39.7%	48.9%	112
Other party	32.7%	37.0%	35.6%	34.5%	79	38.2%	52.2%	39.7%	41.5%	95

Note: The percentages in this table may exceed 100 percent because multiple responses to the question are tabulated.

responded positively. Likewise, 43.8 percent of the CASAs reported having discussed placement options with foster parents for new cases, while 60.3 percent responded similarly for review cases.

A similar pattern developed when the respondents were asked whether they discussed placement options with the child. Although the attorney models were more likely to have discussed the placement options with the child, all three models reported having discussed such options more often in review cases than in new cases. Staff attorneys were the most likely to have discussed the options with the children, responding affirmatively in 45.7 percent of the new cases and 54.3 percent of the review cases.

As shown in Table 5.2-8 on the following page, few differences arose either among the models or according to the evolution of the case regarding recommendations to bring about the placement options discussed above. For the most part, the GALs reported having offered more recommendations for new cases than for review cases. The most dramatic difference occurred in the private attorney model, in which 76.4 percent reported having made such recommendations during the new stage compared to 59.1 percent during the review stage of the hearings. Although the staff attorneys reported making slightly more recommendations concerning visitation than did the other GALs, all three models reported more activity in new cases than in review cases.

The TEG panel believed that it is important for GALs to make recommendations to the court concerning their views as to the most suitable outcome for the child. In complicated cases where recommendations are difficult to establish, the GAL, while noting the complexities of the case, must nonetheless endorse one of the placement options. Further, the TEG explained that the GAL's presentation and recommendations affords the judge the opportunity to assess the level of the GAL's involvement.

5.2.3 Disagreements Between GALs and Other Parties to the Case

The GALs were asked whether they disagreed with either the child welfare agency or with the child in regard to the child's placement, provision of services, and visitation concerns. Then the representatives were asked whether any of the aforementioned disagreements were presented to the court and, if so, whether the view of the child, the view of the representative, or both views were presented to the court.

5.2.3.1 Disagreements With the Caseworker

As Table 5.2-9 illustrates, over one-half of the GALs did not report having disagreed with the caseworker on any of the above mentioned activities. Overall, 39.5 percent reported disagreement with some issue, the greatest number occurring with regard to the child's placement. The staff attorneys were the most likely to report having had disagreements regarding

Table 5.2-8

GAL Recommendations on Placement, Services, and Visitation

Recommendations	New Cases				Review Cases			
	Private Attorney Model	Staff Attorney Model	CASA Model	All Models	Private Attorney Model	Staff Attorney Model	CASA Model	All Models
Placement	74.5%	67.4%	60.3%	68.6%	69.1%	65.2%	68.5%	68.1%
Provision of services	76.4%	73.9%	72.6%	74.7%	59.1%	78.3%	60.3%	63.3%
Visitation	65.5%	73.9%	61.6%	65.9%	55.5%	63.0%	57.5%	57.6%
Number of cases	110	46	73	229	110	46	73	229

Note: The percentages in this table may exceed 100 percent because multiple responses to the question are tabulated.

Table 5.2-9

GAL Reports on Disagreement With Caseworker

Area of Disagreement	Private Attorney Model	Staff Attorney Model	CASA Model	All Models
Child's placement	22.3%	34.8%	21.2%	24.5%
Provision of services	10.9%	27.2%	17.1%	16.2%
Visitation	18.6%	19.6%	16.4%	18.1%
Other	10.0%	7.6%	4.1%	7.6%
Disagreement about any issue	39.6%	46.7%	34.9%	39.5%
Number of cases	220	92	146	458

placement (34.8 percent), compared to 22.3 percent of the private attorneys and 21.2 percent of the CASAs.

Staff attorneys were most likely to have disagreed with the caseworker with regard to the provision of services to the child or family, reporting disagreements in 27.2 percent of the cases. CASAs followed next, reporting such disagreements 17.1 percent of the time; private attorneys reported such disagreements in only 10.9 percent of the cases. Concerning the issue of visitation, GALs reported disagreements in 18.1 percent of the cases. There were no significant differences between either the new and review cases or among the models regarding this issue.

Of the 39.5 percent of GALs who reported disagreements with the caseworkers, over 75 percent were able to resolve either all (52.5 percent) or some (25.7 percent) of the differences (see Table 5.2-10 following this page). In addition, 41.3 percent of those who had disagreements expressed them to the court.

In an attempt to corroborate the self-reported information recounted by the GALs, the caseworkers were interviewed. Consequently, a system of checks and balances was created, thereby identifying inconsistencies between the GALs and the caseworkers. Both the GALs and the caseworkers reported few disagreements. When no differences of opinion existed, it was assumed that the information was accurate. However, when differences of opinion occurred, the inconsistencies were noted.

As shown in Table 5.2-11, 27 percent of the caseworkers responded that they disagreed with the GALs about some issue related to the case. Although the overall number of disagreements was relatively modest, differences were reported to arise most often between the caseworkers and the staff attorneys. The CASAs were the next most likely to differ with the caseworkers, followed by the private attorneys.

The child's placement was the area in which disagreements were most likely to occur. There were slight differences among the models, with 19.5 percent of the caseworkers reporting that they had differences of opinion with the staff attorneys, compared to 15.0 percent of the CASAs and 12.9 percent of the private attorneys. Concerning the provision of services to the child or the parent, 16.1 percent of the caseworkers reported that they disagreed with the staff attorneys, while 8.7 percent differed with the CASAs and only 4.0 percent reported differences with the private attorneys.

5.2.3.2 Differences With the Child

When differences arose between the GAL and the child—regarding such case aspects as case goals or permanent placement—the GALs were presented with a difficult decision. They had to decide whether to represent (1) the best interest of the children, as congressionally mandated, or (2) their clients' wishes as their profession dictated. The TEG panel

Table 5.2-10

GAL Reports on Resolution of Disagreement With Caseworker

	Private Attorney Model	Staff Attorney Model	CASA Model	All Models
Were differences between GAL and caseworker resolved?				
Yes, all	55.3%	58.1%	43.1%	52.5%
Yes, some	28.2%	18.6%	27.5%	25.7%
No, none	16.5%	23.3%	29.4%	21.8%
Were any differences expressed to the court?				
Yes	41.2%	41.9%	41.2%	41.3%
No	58.8%	58.1%	54.9%	57.5%
Not applicable	0.0%	0.0%	3.9%	1.1%
Number of cases	85	43	51	179

Table 5.2-11

Caseworker Reports on Disagreement With GAL

Area of Disagreement	Private Attorney Model	Staff Attorney Model	CASA Model	All Models
Child's placement	12.9%	19.5%	15.0%	14.9%
Provision of services	4.0%	16.1%	8.7%	8.0%
Visitation	9.0%	10.3%	11.8%	10.1%
Other	7.0%	16.1%	7.1%	8.9%
Any topic	22.4%	36.8%	27.6%	27.0%
Number of cases	201	87	127	415

recommended that in such instances, the GAL should present both opinions to the court.

Table 5.2-12 below illustrates that there were few disagreements between the GALs and the children they represented. Only 19.7 percent of the GALs reported having disagreements with the child, whereas 43.9 percent responded that they did not disagree with the child and 35.8 percent responded that the question was inapplicable. Table 5.2-13 below shows the viewpoints regarding disagreements that were presented to the court. Most commonly the GALs presented both their views and the children's wishes to the court, including 16.8 percent of the private attorneys, 15.2 percent of the staff attorneys, and 6.2 percent of the CASAs.

Table 5.2-12

GAL Disagreement With Child: Percent of Incidence

Did the GAL disagree with the child?	Private Attorney Model	Staff Attorney Model	CASA Model	All Models
Yes	21.8%	20.7%	15.8%	19.7%
No	43.6%	47.8%	41.8%	43.9%
Not applicable	34.5%	29.3%	41.8%	35.8%
Number of cases	220	90	145	458

Table 5.2-13

**GAL Disagreement With Child:
Viewpoints Presented to the Court**

Viewpoint	Private Attorney Model	Staff Attorney Model	CASA Model	All Models
Children's wishes	1.4%	1.1%	0.7%	1.1%
GALs' views	2.7%	4.3%	6.8%	4.4%
Both views	16.8%	15.2%	6.2%	13.1%
Number of cases	220	90	145	458

In summary, the caseworkers were most likely to report disagreements with the staff attorneys, followed by the CASAs and private attorneys. However,

it is important to note that the disagreement levels between the caseworker and the GALs may reflect communication problems between the two parties in particular counties and have no relation to the effectiveness of the GALs. More than 50 percent of all disagreements between the GALs and the caseworkers were resolved.

The TEG panel recommended that all case-related disagreements be made known to the court. All pertinent, case-related information should be presented to the court in order to fully establish the case record. The fact that many of these differences were not presented to the court may indicate that differences are being resolved between court appearances, that GALs are not making disagreements with other parties known to the court, or some combination of these two.

5.2.4 The Child's Voice in Court

Table 5.2-14 below shows that, although the private attorneys represented the most children who either spoke in court or to the judge (18.6 percent), the majority of GALs responded that the children were not actively involved at the litigation level. In fact, only 9.8 percent of the staff attorneys and 12.3 percent of the CASAs reported that the children they represented spoke in court.

Table 5.2-14

GAL Data on Whether Child Spoke In Court

Did child talk in court or to the judge?	Private Attorney Model	Staff Attorney Model	CASA Model	All Models
Yes	18.6%	9.8%	12.3%	14.8%
No	75.0%	85.9%	81.5%	79.3%
Not applicable	5.9%	4.4%	5.5%	5.5%
Number of cases	220	92	146	458

Most of the children who spoke in court articulated their views in the courtroom atmosphere, but as evidenced by the low percentage rates in Table 5.2-14, most of the respondents either answered negatively to the question or dictated that questions related to the issue were inapplicable. The low number of children who spoke in court troubled many of the TEG panel members, especially the judges. Since 1899, when States began to establish juvenile court systems in order to address the problems of children, and more recently in 1967, with the Supreme Court's landmark

Gault case, much debate has centered around the child's role in the judicial process.

Today questions as to whether the child should play an active or passive role in the proceedings still remain. At one end are those who believe that the child should be fully integrated into the process (thereby instilling in the child a sense of self-worth and independence), in effect, treating the child as an equal party to the case. On the opposite end are those who maintain that the proceedings do more damage than good for the child. Thus, in an attempt to look after the best interests of the child, he/she should remain only minimally involved in the proceedings.

In the middle are those who advocate the integration of the child into the process except when testimony might prove particularly disturbing or other circumstances might prove potentially harmful to the child's emotional welfare. In any event, the TEG panel agreed that for every case in which the child is able and desires to express himself/herself, the view must be made known to the court. The panel also agreed that GALs should seek an appropriate time for the child to speak in order to minimize the intimidating circumstances.

The majority of the caseworkers (77.3 percent) corroborated with the GALs in that the children, for the most part, did not speak in court. However, the children who were represented by the private attorneys were the most likely to speak in court, speaking in 27.9 percent of the cases. The children who were represented by CASAs and staff attorneys were less likely to have spoken, speaking in 18.9 percent and 16.1 percent of the cases, respectively.

5.2.5 GALs' Self-Assessment of Effectiveness

When the representatives were asked to analyze their advocacy efforts on behalf of the children they represented, 71.7 percent of the staff attorneys, 55.0 percent of the private attorneys, and 35.6 percent of the CASAs reported that they were very forceful in their representation (see Table 5.2-15 following this page).

Table 5.2-16 indicates that the caseworkers agreed with the GALs in that the staff attorneys were the most forceful in representing the child, although the caseworkers rated the staff and private attorney's level of forcefulness lower than the GALs rated themselves (52.9 and 40.8 percent, respectively). In contrast, caseworkers rated the CASAs higher than the CASAs rated themselves (41.7 percent versus 35.6 percent).

Table 5.2-17 presents the judges' assessments of the GALs' level of forcefulness in advocating for the best interests of the child. The judges reported little difference between the attorney models. In fact, 47.8 percent of the judges rated the private attorneys as very forceful in their representation compared to 46.7 for the staff attorneys. Only 27.8 percent of the judges rated the CASAs as very forceful in their representation.

Table 5.2-15

GALs' Self-Assessments of Forcefulness in Advocacy

GALs' Assessments	Private Attorney Model	Staff Attorney Model	CASA Model	All Models
Very forceful or assertive	55.0%	71.7%	35.6%	52.2%
Somewhat forceful or assertive	39.5%	25.0%	54.8%	41.5%
Not at all forceful or assertive	5.0%	3.3%	9.6%	6.1%
Missing	0.5%	0.0%	0.0%	0.2%
Number of cases	220	92	146	458

Table 5.2-16

Caseworkers' Assessments of GAL Forcefulness in Advocacy

Caseworkers' Assessments	Private Attorney Model	Staff Attorney Model	CASA Model	All Models
Very forceful or assertive	40.8%	52.9%	41.7%	43.6%
Somewhat forceful or assertive	41.8%	39.1%	43.3%	41.7%
Not at all forceful or assertive	15.4%	6.9%	14.2%	13.3%
Missing	2.0%	1.1%	0.8%	1.4%
Number of cases	201	87	127	415

Table 5.2-17

Judges' Assessments of GAL Forcefulness in Advocacy

Judges' Assessments	Private Attorney Model	Staff Attorney Model	CASA Model	All Models
Very forceful or assertive	47.8%	46.7%	27.8%	41.1%
Somewhat forceful or assertive	47.8%	53.3%	66.7%	55.4%
Not at all forceful or assertive	4.3%	0.0%	5.6%	3.6%
Number of judges	23	15	18	56

Although the GALs and the caseworkers rated the staff attorney model as the most effective model of representation (85.9 and 63.5 percent, respectively), the judges rated the private attorney model the most effective (69.6 percent) (see Table 5.2-18 below). According to the GAL's, 85.9 percent of the staff attorneys, 78.1 percent of the private attorneys, and 45.0 percent of the CASAs rated themselves as very effective in their representation. Lower ratings of GAL effectiveness were reported by the caseworkers, of whom 63.5 percent rated staff attorneys as very effective in their representation, 58.7 percent rated private attorneys as very effective, and 49.6 percent rated CASAs as very effective. According to the judges, 69.6 percent of the private attorneys were very effective, compared to 46.7 percent for staff attorneys and 43.8 percent for CASAs.

Table 5.2-18

Opinions of GAL Effectiveness in Legal Representation

Rated GAL Very Effective	Private Attorney Model	Staff Attorney Model	CASA Model	All Models	Number of Cases
GALs	78.1%	85.9%	45.0%	69.4%	451
Caseworkers	58.7%	63.5%	49.6%	56.9%	404
Judges	69.6%	46.7%	43.8%	55.6%	54

In summary, the data on legal representation show that private attorneys and staff attorneys were much more likely than CASAs to conduct the range of activities and tasks measured in the study. In addition, both attorney models received higher effectiveness ratings than did the CASA model. These findings point to the need to strengthen legal representation in the CASA model.

5.3 ACTIVITIES RELATED TO NEGOTIATION AND MEDIATION

Duquette¹ defines the negotiation and mediation role as one in which GALs facilitate a collaborative working relationship among all concerned parties so that problems can be resolved and a generally acceptable agreement can be presented to the court. Because of the often conflicting viewpoints among parents, children, and the State, the GAL is in a unique position to promote negotiations that lead to cooperative solutions within the scope of

¹Duquette, D. 1990. *Advocating for the Child in Protection Proceedings*. Lexington, MA: Lexington Books.

the child's interests and welfare. In addition, the GAL can work to ensure that the child's best interests will be protected through the swift resolution of the legal dispute through cooperative nonadversarial means (e.g., stipulations or out-of-court settlements).

The discussion of this role dimension during the TEG meeting was significantly less extensive than the discussions of the factfinding and investigation, legal representation, and monitoring roles. However, there was general agreement among the TEG members that CASAs often are trained to seek out common ground and to promote cooperation among the conflicting parties, in contrast to attorneys who are trained to be adversarial. In this respect, the TEG members believe that CASAs represent a different style of child advocacy than attorneys.

At the same time, several TEG members noted that some jurisdictions promote conciliation through the use of trained mediators, although the concern was expressed that the GAL might not be allowed to participate in the mediation sessions. Although the panel conceded that such mediation generally takes place with less severe cases, there was agreement that exclusion of the GAL from mediation activities could raise an ethical issue regarding protecting the child's best interests. The TEG members concluded that the overarching principle to these mediation-related activities is that the GAL should be a party to all the negotiations.

5.3.1 Findings Related to the GAL's Mediation Role

Since most of the mediation and conciliation activities performed by GALs focus on court hearings, the study included questions about this role description under the legal representation questions. This was done in order to preserve the continuity of the questioning during the interview to the extent that court-related issues were discussed at one time, whether or not the questions represented disparate roles. (However, this question structure set up a complicated skip pattern that produced some interesting and perplexing responses.) Respondents were asked a variety of questions about whether and when negotiations took place, with whom they were involved, and the topic(s) of such negotiations. GALs were requested to perform a self-assessment of their own involvement, importance, and effectiveness in pursuing or conducting negotiations. Caseworkers also were asked to provide their opinions about the GAL's activities and to assess the GAL's involvement, importance, and effectiveness in these activities.

5.3.1.1 *Whether the GAL Attempted To Negotiate an Agreement or Stipulation*

The first question regarding mediation and conciliation involved whether the GAL had attempted to negotiate an agreement or stipulation. Respondents on new cases were asked to focus on the period prior to the dispositional hearing, while respondents on review cases were asked about

activities after the dispositional hearing. The responses to this question are presented in Table 5.3-1 on the following page. Overall, just over 59 percent of GALs with both new and review cases said that they attempted to negotiate an agreement at some point in the case. When this figure is broken down by case type, there is only a modest difference: Just over 62 percent of GALs with new cases and just over 56 percent with review cases indicated that they had indeed attempted to negotiate an agreement or stipulation.

Irrespective of case type, staff attorneys are most likely to indicate that they attempted to negotiate (84.8 percent). Private attorneys followed with 62.7 percent and CASAs indicated that they attempted to negotiate in only 38.4 percent of the cases. The consistently low percentage among the CASAs is surprising in view of the type of training they receive. As stated above, CASAs are thought to place greater overall importance on negotiation.

It is interesting to note here the widely differing perceptions of GAL activities recorded by the GALs themselves and the caseworkers. An analysis of GAL and caseworker responses was conducted in which these answers were matched and their response patterns were compared (see Table 5.3-2). Of 412 possible matched comparisons of valid GAL and caseworker responses (both new and review cases combined), only 40.5 percent of responses (167) actually coincided on whether or not the GAL attempted to negotiate agreements on the case. In other words, only 38 of 412 matched responses (9.2 percent) agreed that the GAL had actually attempted to negotiate a settlement. The remaining 129 (31.3 percent) coincided in the view that the GAL did not attempt to negotiate a settlement. However, as discussed below, there is a higher coincidence of perceptions of GALs and caseworkers as to whether or not the GAL performed a specific activity.

5.3.1.2 *Whether the Negotiations Resulted in an Agreement*

GALs then were asked whether the negotiations resulted in an agreement. Table 5.3-3 presents the responses to this question. Overall, GALs with both new and review cases who indicated that they had conducted negotiations said that these negotiations resulted in an agreement in about two-thirds of their attempts. Just under one-third said that the attempt had not resulted in an agreement. At the aggregate level, there are no major differences in the number of agreements reached for either new or review cases. However, while the percentage of cases resulting in agreements remains about the same for private attorneys and CASAs across cases, the percentage of staff attorneys indicating success varies considerably. Staff attorneys with new cases reported that their negotiations resulted in an agreement in 72.1 percent of cases; this declined to 51.4 percent of review cases.

Table 5.3-1

Percent of GALs Who Attempted To Negotiate an Agreement

Negotiated an Agreement	New Cases				Review Cases				All Cases			
	Private Attorney Model	Staff Attorney Model	CASA Model	All Models	Private Attorney Model	Staff Attorney Model	CASA Model	All Models	Private Attorney Model	Staff Attorney Model	CASA Model	All Models
Yes	64.6%	94.5%	38.4%	62.0%	60.9%	76.1%	38.4%	56.8%	62.7%	84.8%	38.4%	59.4%
No	33.6%	4.4%	60.3%	36.2%	36.4%	23.9%	61.6%	41.9%	35.0%	14.1%	61.0%	39.1%
Do not know	0.0%	2.2%	0.0%	0.4%	0.0%	0.0%	0.0%	0.0%	0.0%	1.1%	0.0%	0.2%
Not applicable	1.8%	0.0%	1.4%	1.3%	2.7%	0.0%	0.0%	1.3%	2.3%	0.0%	0.7%	1.3%
Number of cases	110	46	73	229	110	46	73	229	220	92	146	458

Table 5.3-2

Concurrence Between GALs and Caseworkers Over Whether GAL Attempted To Negotiate

<i>Did the GAL attempt to negotiate an agreement or stipulation?</i>		Caseworker Response			
		Yes	No	Other	Total
GAL's Response	Yes	38	187	18	243
	No	21	129	12	162
	Other	1	5	1	7
Number of cases		60	321	31	412

Table 5.3-3

Percent of Cases in Which Negotiations Resulted in an Agreement

Did negotiations result in agreement or stipulation?	New Cases				Review Cases				All Cases			
	Private Attorney Model	Staff Attorney Model	CASA Model	All Models	Private Attorney Model	Staff Attorney Model	CASA Model	All Models	Private Attorney Model	Staff Attorney Model	CASA Model	All Models
Yes	64.8%	72.1%	75.0%	69.0%	71.6%	51.4%	64.3%	64.6%	68.1%	62.8%	69.6%	66.9%
No	33.8%	27.9%	21.4%	29.6%	26.9%	45.7%	35.7%	33.8%	30.4%	35.9%	28.6%	31.6%
Do not know	0.0%	0.0%	0.0%	0.0%	0.0%	2.9%	0.0%	0.8%	0.0%	1.3%	0.0%	0.4%
Did not answer	1.4%	0.0%	3.6%	1.4%	1.5%	0.0%	0.0%	0.8%	1.4%	0.0%	1.8%	1.1%
Number of cases	71	43	28	142	67	35	28	130	138	78	56	272

5.3.1.3 *Issues Dealt With in the Negotiations*

Respondents were asked to indicate the issues that were the subject of negotiations. There was a list of seven possible issues, including the following: stipulation of abuse or neglect, placement, services or treatment for the child, services or treatment for the parents, visitation, legal guardianship, and any other activity the GAL cared to mention.

Table 5.3-4 on the following page presents data on the responses to this question. The data presented here include responses by model across both new and review cases and only include respondents who said that they had attempted to conduct negotiations. The table indicates that the most frequently mentioned item involved the issue of the child's placement (79.6 percent). The next set of issues includes services or treatment for the parents, visitation issues, and services or treatment for the child, all of which are approximately the same percentage (68.8, 68.0, and 65.8 percent, respectively). Issues involving the stipulation of abuse or neglect were mentioned in 51.5 percent of the cases, while legal guardianship was mentioned in 41.5 percent of cases. Over 17 percent of respondents indicated that another issue was dealt with in the negotiations. There was an assortment of different responses in this category, of which the most common were the following: termination of parental rights and adoption issues, support and protection for the child, housing, custody, relations with the father, and payment for services.

As expected, the ordering of these issues is somewhat sensitive to the time in case processing. For instance, the stipulation of abuse or neglect ranks relatively high on new cases and drops to last place on review cases. There were less extreme shifts in percentages in the other response categories across new and review cases. For instance, the issue of services or treatment for parents ranks second on new cases and fourth on review cases. Conversely, visitation and services and treatment for children rank relatively lower on new cases than they do on review cases.

5.3.1.4 *Besides the GAL, Other Parties That Were Involved In the Negotiations*

Respondents were asked to identify the individuals, other than the GAL, who were involved in the negotiations. These included the parents' attorney(s), the agency's attorney, the child's attorney, a lay volunteer, the caseworker, and any other individual the GAL might like to mention.

Table 5.3-5 presents data on the percentages of the GALs who indicated that other parties were involved in the negotiations, by model. The data presented here include responses across both new and review cases and only include respondents who said that they had attempted to conduct negotiations. The table indicates that the individual mentioned most frequently by the GALs was the caseworker, in almost 92 percent of the

Table 5.3-4

Issues That Were Dealt With in the Agreement

What issues were dealt with in the agreement?	New Cases				Review Cases				All Cases			
	Private Attorney Model	Staff Attorney Model	CASA Model	All Models	Private Attorney Model	Staff Attorney Model	CASA Model	All Models	Private Attorney Model	Staff Attorney Model	CASA Model	All Models
Stipulation of abuse or neglect	70.4%	72.1%	50.0%	66.8%	32.8%	34.3%	39.3%	34.6%	52.2%	55.1%	44.6%	51.5%
Placement	81.7%	74.4%	82.1%	79.6%	91.0%	88.6%	71.4%	86.1%	86.2%	80.8%	76.8%	82.7%
Services/treatment for the child	59.2%	58.1%	64.3%	59.9%	73.1%	77.1%	64.3%	72.3%	65.9%	66.7%	64.3%	65.8%
Services/treatment for the parent	85.9%	62.8%	64.3%	74.6%	67.2%	62.9%	50.0%	62.3%	76.8%	62.8%	57.1%	68.8%
Visitation	73.2%	46.5%	57.1%	62.0%	76.1%	74.3%	71.4%	74.6%	74.6%	59.0%	64.3%	68.0%
Legal guardianship	46.5%	37.2%	32.1%	40.8%	44.8%	51.4%	25.0%	42.3%	45.6%	43.6%	28.6%	41.5%
Other	15.5%	18.65%	14.3%	16.2%	16.4%	25.7%	17.9%	19.2%	15.9%	21.8%	16.1%	17.6%
Number of cases	71	43	28	142	67	35	28	130	138	78	56	272

Note: The percentages in this table may exceed 100 percent because multiple responses to the question are tabulated.

Table 5.3-5

Other Individuals Involved in the Negotiations

Which other individuals were involved in the negotiations?	New Cases				Review Cases				All Cases			
	Private Attorney Model	Staff Attorney Model	CASA Model	All Models	Private Attorney Model	Staff Attorney Model	CASA Model	All Models	Private Attorney Model	Staff Attorney Model	CASA Model	All Models
Parent's attorney	77.5%	97.7%	78.6%	83.8%	70.1%	74.3%	57.1%	68.5%	73.9%	87.2%	67.9%	76.5%
Agency's attorney	91.5%	39.5%	67.9%	71.1%	83.6%	65.7%	57.1%	73.1%	87.7%	51.3%	62.5%	72.1%
Child's attorney	54.9%	55.8%	35.7%	51.4%	52.2%	57.1%	21.4%	46.9%	53.6%	56.4%	28.6%	49.3%
Lay volunteer	5.6%	7.0%	42.9%	13.4%	13.4%	0.0%	21.4%	11.5%	9.4%	3.8%	32.1%	12.5%
Caseworker	95.8%	76.7%	89.3%	88.7%	95.5%	97.1%	92.9%	95.4%	95.7%	85.9%	91.1%	91.9%
Other	32.4%	60.5%	42.9%	43.0%	35.8%	60.0%	39.3%	43.1%	34.1%	34.1%	41.1%	43.0%
Number of cases	71	43	28	142	67	35	28	130	138	78	56	272

Note: The percentages in this table may exceed 100 percent because multiple responses to the question are tabulated.

cases. Negotiations with the parent's attorney and the agency's attorney were mentioned in over 75 and 72 percent of cases, respectively. Negotiations with the child's attorney and individuals mentioned in the "other" category were mentioned in just under 50 percent of the cases. Negotiations with a lay volunteer fell far to the bottom of the list, with 12.5 percent of responses; in the CASA model the figure was 32.1 percent, but the figure fell below 10.0 percent in both the private attorney and staff attorney models. About 60.0 percent of GALs said that it was inapplicable to negotiate with a lay volunteer, probably because there were few lay volunteers assigned to any cases in the private and staff attorney models.

A variety of individuals were mentioned, the most common of whom included the following: State or prosecuting attorneys, foster parents, CPS or social workers, parents, other GALs, and school officials. As expected, some of the responses were sensitive to the time in case processing. For instance, at the aggregate level, contacts with the parent's attorney rank fairly high at 83.8 percent in new cases, while this drops to 68.5 percent in review cases. The other response categories do not show a marked shift from new to review cases.

On the surface, the data appear to indicate that attorneys (both private and staff) were generally more likely than CASAs to talk to a variety of attorneys (e.g., the parent's attorney, agency's attorney, and the child's attorney), while CASAs were more likely to talk to other volunteers. However, the wording of the question did not specify whether the GAL should be included, and it appears from the response patterns that some attorneys and some CASAs included themselves in the list of parties contacted. Therefore, the interpretation of contacts with children's attorneys and volunteers is ambiguous.

5.3.1.5 ***Activities Performed During Negotiations***

Respondents were asked to indicate the types of activities they pursued during the negotiations. The activities presented in the questionnaire included the following: attempting to bring the different parties together, highlighting the common goals of the parties, encouraging the parties to negotiate, suggesting options, drafting a written agreement, and any other activity not listed.

Table 5.3-6 on the following page presents data on the percentages of the GALs who responded to each of the possible answers in this question, by model. The data presented here include responses across both new and review cases and only include respondents who said that they had attempted to conduct negotiations. The table indicates that, in over 90 percent of combined cases, the GAL mentioned having suggested options to the parties. Encouraging the parties to negotiate and highlighting the common goals of the parties were activities mentioned in over 80 percent of the cases. The next most frequently mentioned activity, attempting to bring the different parties together, was mentioned for over 70 percent of the

Table 5.3-6

Activities Conducted by the GAL During the Negotiations

GAL Activities Conducted	New Cases				Review Cases				All Cases			
	Private Attorney Model	Staff Attorney Model	CASA Model	All Models	Private Attorney Model	Staff Attorney Model	CASA Model	All Models	Private Attorney Model	Staff Attorney Model	CASA Model	All Models
Attempted to bring the different parties together	67.6%	74.4%	64.3%	69.0%	71.6%	88.6%	60.7%	73.8%	69.6%	80.8%	62.55%	71.35%
Highlighted the common goals of the parties	80.3%	76.7%	85.7%	80.3%	76.1%	94.3%	85.7%	83.1%	78.3%	84.6%	85.7%	81.6%
Encouraged the parties to negotiate	78.9%	90.7%	85.7%	83.8%	88.1%	85.7%	75.0%	84.6%	83.3%	88.5%	80.4%	84.2%
Suggested options	87.3%	93.0%	85.7%	88.7%	88.1%	94.3%	96.4%	91.5%	87.7%	93.6%	91.1%	90.1%
Drafted a written agreement	2.8%	11.6%	14.3%	7.7%	10.4%	11.4%	21.4%	13.1%	6.5%	11.5%	17.9%	10.3%
Other	9.9%	25.6%	10.7%	14.8%	9.0%	28.6%	0.0%	12.3%	9.4%	26.9%	5.4%	13.6%
Number of cases	71	43	28	142	67	35	28	130	138	78	56	272

Note: The percentages in this table may exceed 100 percent because multiple responses to the question are tabulated.

cases. The other two activities, drafting a written agreement and any other activity the GAL thought important to mention, were mentioned in just over 10 percent of the cases.

While there are some slight differences between the models in each of the activity categories at the aggregate level, only a few stand out as notable. Staff attorneys indicated that they attempted to bring the different parties together in over 8.0 percent of the cases. Staff attorneys were also much more likely to indicate another type of activity in the "other" question, indicating a positive response in 26.9 percent of cases on this question. CASAs were more likely than attorneys to attempt to draft a written agreement.

It is interesting to note that the relative order of the activities is maintained across both new and review cases for the four categories mentioned most frequently. In addition, the percentage in each category was slightly higher on review cases as compared to new cases.

Caseworkers also were asked to indicate what activities they thought the GAL was involved in during negotiations. The responses to this question are presented in Table 5.3-7 on the following page. One can see that, at the aggregate level, the percentage of caseworkers who indicated that the GAL performed a certain activity tends to be slightly lower than the GAL's claim that she/he performed an activity (see also Table 5.3-6). This holds for all activities except drafting a written agreement. Because the caseworker may not be fully knowledgeable about when and if the GAL actually performed a specific activity, especially one outside the court, one must be circumspect in how one interprets such perceptions. The GAL's response was cross tabulated with the caseworker's response in each activity category, and responses were matched. When the noise (e.g., did-not-knows, skips, and nonresponses) was filtered out, caseworkers agreed with the GAL's assessment between one-third and two-thirds of the time on new cases, and the percentage agreement jumped to between two-thirds and three-quarters of the time on review cases. This convergence of perceptions about activities performed may be due to a number of factors, such as the fact that GALs and caseworkers have more opportunity to become acquainted with one another as time progresses. Second, relations between the GAL and caseworker may be more adversarial during a time of intense court-related activity, and there may be less contact outside the courtroom during new cases than review cases.

5.3.2 Assessment of the GAL's Contribution to the Negotiations

On the survey instrument, GALs were asked to assess their contribution to the negotiations in terms of their involvement, their importance to the outcome of the negotiations, and their effectiveness in presenting options and advocating for the child's interests. In addition, caseworkers also were asked to assess the GAL's contribution in each of these categories. A four-point Likert scale was used in each of the response categories. The

Table 5.3-7

**Caseworker Perceptions of Activities Conducted by GAL
During Negotiations**

Activities	Private Attorney Model	Staff Attorney Model	CASA Model	All Models
Attempted to bring the different parties together	71.4%	78.1%	58.8%	68.9%
Highlighted the common goals of the parties	69.1%	81.3%	88.2%	77.3%
Encouraged the parties to negotiate	76.2%	68.8%	74.5%	74.3%
Suggested options	79.8%	78.1%	90.2%	82.6%
Drafted a written agreement	8.3%	18.8%	31.4%	17.4%
Other	6.0%	34.4%	5.9%	11.4%
Number of cases	84	32	51	167

Note: The percentages in this table may exceed 100 percent because multiple responses to the question are tabulated.

responses of GALs to these questions (presented in Table 5.3-8) are based on those who answered positively to the question of whether they attempted to negotiate an agreement. The responses of caseworkers to these questions are presented in Table 5.3-9; caseworkers were only included if they answered positively to this question, whether or not the GAL also responded positively.

5.3.2.1 *Degree of the GAL's Involvement in Negotiations*

Respondents were asked to describe their involvement during negotiations on a 4-point scale ranging from very involved to not involved at all. As illustrated in Table 5.3-8, for all cases, GALs rated their involvement in the negotiation process as "very involved" in two-thirds of cases and "somewhat involved" in 26.3 percent of cases. Overall, there is little difference between the various models in terms of those who said that their involvement was very or somewhat involved. It is interesting to note that staff attorneys rate themselves very low in comparison to both private attorneys and CASAs in terms of minimal involvement in negotiations. In terms of new and review cases, this general pattern holds, although all GALs rate their involvement slightly higher on review than on new cases.

Overall, caseworkers tend to assess the GAL's involvement in the negotiations in fairly similar terms to the GAL's own assessment. Across all models, caseworkers tend to view the GAL's degree of involvement as slightly less than the GAL's own assessment; the biggest difference is found in the assessment of staff attorney involvement (see Table 5.3-9).

5.3.2.2 *GAL's Importance to the Outcome of the Negotiations*

Respondents were asked to characterize the importance of their contribution on a 4-point scale ranging from very important to not important at all (see Table 5.3-8). Overall, respondents reported that their contribution to the outcome of the negotiations was "very important" in 48.6 percent of cases and "somewhat important" in 35.8 percent of cases. Staff attorneys and CASAs tended to rate their importance to the outcome as somewhat higher than private attorneys, who more modestly reported their contribution as "somewhat important." Private attorneys also were more likely to describe their contribution as "minimally important" to the outcome, as compared to staff attorneys and CASAs. There is a pronounced difference between the assessments of GALs on new and review cases, in that the assessment is generally lower on new cases and correspondingly higher on review cases.

It is interesting that caseworkers tended to value the GAL's contribution to the outcome of the negotiations as being somewhat more important than the GAL's assessment of their own contribution (see Table 5.3-9). While the difference is not statistically significant overall, 51.8 percent of the caseworkers considered the GAL's contribution to be "very important," while only 48.6 percent of GALs viewed their own contribution as "very

Table 5.3-8

**Assessments of GAL Involvement in, Contribution to,
and Effectiveness in Advocating for Child During Negotiations**

Assessment	Private Attorney Model	Staff Attorney Model	CASA Model	All Models
Involvement in the negotiations:				
• Very involved	62.6%	71.6%	67.4%	66.3%
• Somewhat involved	29.3%	23.0%	23.9%	26.3%
• Minimally involved	8.1%	1.4%	6.5%	5.8%
• Not at all	0.0%	0.0%	0.0%	0.0%
• Did not know	0.0%	4.1%	0.0%	1.2%
• Skip	0.0%	0.0%	2.2%	0.4%
Contribution to the outcome of the negotiations:				
• Very important	34.1%	67.6%	56.5%	48.6%
• Somewhat important	46.3%	20.3%	32.6%	35.8%
• Minimally important	16.3%	5.4%	4.3%	10.7%
• Not at all	1.6%	1.4%	2.3%	2.1%
• Did not know	1.6%	5.4%	0.0%	2.5%
• Skip	0.0%	0.0%	2.2%	0.4%
Effectiveness in presenting options and advocating for the children's interests:				
• Very effective	57.1%	70.3%	63.0%	62.6%
• Somewhat effective	32.5%	18.9%	28.3%	27.6%
• Minimally effective	8.1%	4.1%	2.3%	5.8%
• Not at all	0.8%	0.0%	2.3%	0.8%
• Did not know	0.8%	6.8%	2.3%	0.4%
• Skip	0.0%	0.0%	2.3%	
Number of cases	123	74	46	243

Table 5.3-9

Caseworker Assessment of GAL Involvement in, Contribution to, and Effectiveness in Advocating for Child During Negotiations

Assessment	Private Attorney Model	Staff Attorney Model	CASA Model	All Models
Involvement in the negotiations:				
• Very involved				
• Somewhat involved	59.3%	56.7%	64.0%	59.6%
• Minimally involved	30.5%	36.7%	32.0%	32.5%
• Not at all	6.8%	6.7%	4.0%	6.1%
• Not applicable	0.0%	0.0%	0.0%	0.0%
	3.4%	0.0%	0.0%	1.8%
Contribution to the outcome of the negotiations:				
• Very important	50.8%	43.3%	64.0%	51.8%
• Somewhat important	28.8%	43.3%	20.0%	30.7%
• Minimally important	16.9%	13.3%	12.0%	14.9%
• Not at all	1.7%	0.0%	0.0%	.9%
• Not applicable	1.7%	0.0%	4.0%	1.8%
Effectiveness in presenting options and advocating for the children's interests:				
• Very effective	62.7%	60.0%	56.0%	60.5%
• Somewhat effective	27.1%	26.7%	32.0%	28.1%
• Minimally effective	8.5%	3.3%	4.0%	6.1%
• Not at all	1.7%	0.0%	4.0%	1.8%
• Did not answer	0.0%	10.0%	4.0%	3.5%
Number of cases	59	30	25	114

important” to the outcome of the negotiations. Caseworkers rated the contribution of private attorneys in the “very important” category 16.7 percent higher than the attorneys rated themselves and 24.3 percent lower than staff attorneys.

5.3.2.3 *Effectiveness in Presenting Options and Advocating for the Child's Interests*

GALs were asked to assess their effectiveness in presenting options and advocating for the child's interests (see Table 5.3-8). Overall, 62.6 percent of GALs reported that they were “very effective” and 27.6 percent said they were “somewhat effective” in advocating for the child's interests. Staff attorneys with new cases were much more likely than private attorneys or CASAs to report that they were “very effective.” This difference does not hold on review cases.

Overall, caseworkers rated the GAL's effectiveness in advocating for the child's interests in similar terms to the GAL's own self-assessment. Caseworkers rated the GAL as being “very effective” in 60.5 percent of cases, while GALs rated themselves as being “very effective” in 62.6 percent of cases. Caseworkers tended to rate the effectiveness of private attorneys as being slightly higher and staff attorneys and CASAs as being slightly lower than their GAL counterparts.

5.3.2.4 *Overall Effectiveness in Negotiations*

GALs were asked to assess their overall effectiveness in negotiations (see Table 5.3-10 on the following page). In addition, caseworkers and judges were asked to comment about the GAL's overall effectiveness (see Tables 5.3-11 and 5.3-12, respectively). The caseworker's assessment of the GAL's effectiveness is linked to activities performed on a specific case; the judge's assessment is global and refers to all GALs practicing in the jurisdiction of the court.

Overall, GALs rated their performance as “very effective” in 37.0 percent, “somewhat effective” in 42.5 percent, and “ineffective” in 6.8 percent of cases. The ratings are fairly comparable across the models, except that staff attorneys rated themselves as “very effective” in almost one-half of the cases (49.4 percent), while private attorneys and CASAs rated themselves as “very effective” in 32.5 and 35.4 percent of cases, respectively.

Caseworkers tended to assess the GAL's overall effectiveness slightly below the GALs' self-assessments. Caseworkers were less likely to consider GALs “ineffective” (12.6 percent) and more likely to consider GALs as “somewhat effective” (37.0 percent) or “very effective” (31.9 percent) in negotiations. When these figures are broken down by model, caseworkers assessed private attorneys as being “very effective” more frequently (34.5 percent) than CASAs (31.5 percent) or staff attorneys (26.4 percent).

Table 5.3-10

GALs' Self-Assessment of Overall Effectiveness in Negotiations

GAL's Effectiveness	Private Attorney Model	Staff Attorney Model	CASA Model	All Models
Ineffective	8.0%	9.2%	3.1%	6.8%
Somewhat effective	44.5%	39.1%	41.7%	42.5%
Very effective	32.5%	49.4%	35.4%	37.0%
Not applicable	12.5%	2.3%	18.1%	12.1%
Did not respond	2.5%	0.0%	1.6%	1.7%
Number of cases	200	87	127	414

Table 5.3-11

Caseworkers' Assessment of Overall GAL Effectiveness in Negotiations

Assessment	Private Attorney Model	Staff Attorney Model	CASA Model	All Models
Ineffective	13.5%	13.8%	10.2%	12.6%
Somewhat effective	36.5%	43.7%	33.1%	37.0%
Very effective	34.5%	26.4%	31.5%	31.9%
Not applicable	11.0%	11.5%	20.5%	14.0%
Did not respond	4.5%	3.4%	3.9%	4.1%
Other	0.0%	1.1%	0.8%	0.4%
Number of cases	200	87	127	414

Table 5.3-12

Judges' Assessment of Overall GAL Effectiveness in Negotiations

Assessment	Private Attorney Model	Staff Attorney Model	CASA Model	All Models
Ineffective	18.2%	13.3%	0.0%	11.5%
Somewhat effective	22.7%	6.7%	33.3%	21.2%
Very effective	59.1%	80.0%	60.0%	65.4%
Not applicable	0.0%	0.0%	6.7%	1.9%
Number of judges	22	15	15	52

Judges, in contrast to caseworkers, rated GAL effectiveness fairly high in negotiations, with 65.4 percent stating that GALs performed very effectively during negotiations. The percent of judges indicating that GALs are ineffective is comparable to the caseworker's assessment (11.5 percent). In terms of the different GAL models, judges rated staff attorneys very high (80.0 percent as very effective); CASAs and private attorneys were given somewhat less favorable ratings (60.0 percent and 59.1 percent, respectively, were considered very effective).

5.3.2.5 *Summary*

In summary, GALs indicate that they attempted to mediate or negotiate an agreement in about 60 percent of the cases, with staff attorneys being most likely to negotiate and CASAs least likely to negotiate. These negotiations are likely to result in an agreement in about two-thirds of cases. In about two-thirds of the cases, these negotiations included such issues as placement, services or treatment for the child or the parent, and visitation matters. The most common activities GALs performed during negotiations included suggesting options, encouraging the parties to negotiate, highlighting the common goals of the parties, and attempting to bring the different parties together. For most of these activities, staff attorneys were more likely than both private attorneys and CASAs to claim that they performed the activity. It is worth noting that this perception is not shared by caseworkers, who indicated that CASAs were more likely than staff attorneys or private attorneys to perform these activities.

In terms of assessing the GAL's role in these negotiations, GALs assessed their own involvement and effectiveness in advocating for the child's best interests as being very important and very effective in over 60 percent of the cases where negotiations were pursued. GALs rated their contribution to the outcome of the negotiations as being very important in just under 50 percent of the cases. In each of these dimensions, staff attorneys rated their role more positively than CASAs, followed by private attorneys. In aggregate, the caseworkers mirrored these perceptions. However, caseworkers diverged somewhat from the rankings derived from the GAL's self-assessments. For instance, caseworkers were less likely to support the staff attorney's self-assessed importance in terms of involvement and contribution; caseworkers rated CASAs first and private attorneys second in these dimensions. Caseworkers rated private attorneys first, staff attorneys second, and CASAs last in terms of effectiveness in advocating for the child's best interests. Judges rated staff attorneys first in terms of overall effectiveness in conducting negotiations, followed by CASAs and private attorneys with comparable scores.

5.4 MONITORING ACTIVITIES

Case monitoring is intended to ensure that, while the child has been placed in a safe environment, the case is moving swiftly through the court process and the child and family are receiving the services contained in court orders, agreements, and case plans. The tasks involved in the standard definition of monitoring include permanency planning, identification of action steps, and followup on case plans. Data collection in this study focused on followup tasks.

The activities a GAL may undertake to monitor the progress of a case will differ depending upon a number of factors, including the circumstances and history of the case, the severity of abuse or neglect, the needs of the child and family, and the placement options available. In general, however, the TEG agreed that the GAL should check on compliance with court orders and voluntary agreements between hearings; continue to review the order to ensure that it is up to date; advocate for timely hearings; see that services ordered are received in a timely manner and that the court is informed of additional service needs; monitor the special needs of the child; and maintain contacts with the child, family, and caseworker as appropriate.

To be an effective monitor, the GAL should have a clear idea of what needs to happen when and by whom, so she/he can take action as necessary. For example, if the case plan requires special education or counseling, the GAL needs to verify that the services are being provided. If not, the GAL may need to bring any violation to the court's attention. This monitoring can be done by telephone or in face-to-face meetings with the child, family members, caseworker, and other professionals. The contacts that a GAL develops while conducting the investigation and factfinding will likely serve as useful contacts in monitoring the case.

The study collected data on case monitoring activities from the GALs, the caseworkers, and case records. Opinion data on GAL effectiveness in monitoring was collected from the GALs, the caseworkers, and the judges. This section presents data on activities conducted to maintain contact with the child, the family, and other parties and to follow up on case plans and court orders. It also presents GAL, caseworker, and judge effectiveness assessments. Data on specific activities were collected only for review cases, because most new cases offer little opportunity for monitoring.

5.4.1 Contact With the Child

Maintaining contact with those involved in case activities, including the child, appears to be an important tool in monitoring the progress of the case and in keeping abreast of any changes in the case plan or circumstances of the child. Talking with the child on the phone, when possible, and visiting the child can indicate to the GAL how the child is adjusting to a new placement and the effects of any services the child or family may be

receiving. Visiting the child, as opposed to only talking with him/her on the phone, increases the likelihood that the information gathered by the GAL regarding the child's placement and condition is reliable.

GALs reported on how frequently, since the review hearing, they had contacted the child on matters other than those dealing with hearings. Of the 228 GALs interviewed, only 10.5 percent reported contacting the child very frequently (see Table 5.4-1 on the following page). Exactly 25.0 percent of the GALs reported they contacted the child somewhat frequently, 28.5 percent reported doing so infrequently, and 36.0 percent said that they did not contact the child at all. Some of the GALs explained that the review hearing recently had taken place and there was no need yet to contact the child.

There was a considerable difference among models in respect to contacting the child. CASAs contacted the child very frequently or somewhat frequently in 63.0 percent of the cases. In comparison, 54.5 percent of the private attorneys and 40.0 percent of the staff attorneys reported not contacting the child at all. This was true for only 5.5 percent of the CASAs.

Caseworkers also were asked how frequently the GAL contacted the child on matters other than those dealing with hearings. Their reports, shown in Table 5.4-2, were similar to those of the GALs. Of the 205 caseworkers interviewed, 8.8 percent said the GAL contacted the child very frequently. Nearly one-third (30.7 percent) said the GAL made no contacts, and 21.0 percent said they did not know if the GAL contacted the child. A significant difference exists among the models, with caseworker reports indicating that CASAs contacted the child on matters other than those dealing with hearings more frequently than did the attorney GALs.

In addition, judges were asked if, in their opinion, GALs maintain sufficient contact with the child after completion of the dispositional hearing. Overall, 30.4 percent of the 56 judges interviewed said GALs maintained sufficient contact with the child, 41.1 percent indicated that the GALs did not maintain sufficient contact, and 28.6 percent of the judges said they did not know (see Table 5.4-3). More than one-half of the judges in CASA counties (55.6 percent) reported that CASAs maintained sufficient contact with the child, compared to only 20.0 percent of the judges reporting on staff attorneys and 17.4 percent of the judges reporting on private attorneys.

Table 5.4-1

Frequency of Contact With Child Since Review Hearings

How frequently GAL contacted child	Private Attorney Model	Staff Attorney Model	CASA Model	All Models
Very frequently	4.5%	6.7%	21.9%	10.5%
Somewhat frequently	13.6%	26.7%	41.1%	25.0%
Infrequently	27.3%	26.7%	31.5%	28.5%
Not at all	54.5%	40.0%	5.5%	36.0%
Number of cases	110	45	73	228

Table 5.4-2

**Caseworkers' Assessment of
Frequency With Which GAL Contacted Child**

Assessment	Private Attorney Model	Staff Attorney Model	CASA Model	All Models
Very frequently	5.9%	2.4%	17.5%	8.8%
Somewhat frequently	12.9%	7.3%	36.5%	19.0%
Infrequently	25.7%	12.2%	17.5%	20.5%
Not at all	35.6%	48.8%	11.1%	30.7%
Do not know	19.8%	29.3%	17.5%	21.0%
Number of cases	101	41	63	205

Table 5.4-3

**Judges' Opinions Regarding GAL Maintaining
Sufficient Contact With Child After Completion
of Dispositional Hearing**

Judges' Responses	Private Attorney Model	Staff Attorney Model	CASA Model	All Models
Yes	17.4%	20.0%	55.6%	30.4%
No	69.6%	46.7%	0.0%	41.1%
Do not know	13.0%	33.3%	44.4%	28.6%
Number of judges	23	15	18	56

5.4.2 Contacts With Other Parties

Maintaining contact with other persons or parties (not including the child) on matters other than those dealing with the hearings is integral to effectively performing the role of case monitor. As indicated in Table 5.4-4, 65.1 percent of the GALs had contacted one or more individuals. CASAs reported making contacts most often (83.6 percent), followed by staff attorneys (71.7 percent) and private attorneys (50.0 percent). The three most common parties contacted, according to GAL reports, were the caseworker or foster care worker (59.8 percent), foster parents (41.0 percent), and the child welfare agency (37.6 percent) (see Table 5.4-5 on the following page). Contact with caseworkers is especially important, because they are often the ones who develop case plans in which services are recommended and permanent placement objectives developed. The GALs need to be aware of what is in the child welfare case plan so that they can recommend changes and conduct followup as appropriate.

Table 5.4-5

Parties Contacted by GAL Since Review Hearing

Party	Private Attorney Model	Staff Attorney Model	CASA Model	All Models
Parents	15.5%	10.9%	53.4%	26.6%
Other adults in home	5.5%	8.7%	23.3%	11.8%
Foster parents	25.5%	32.6%	69.9%	41.0%
Caseworker	43.6%	60.9%	83.6%	59.8%
Relative(s)	16.4%	21.7%	37.0%	24.0%
Child welfare agency	22.7%	43.5%	56.2%	37.6%
Parents' attorney	18.2%	30.4%	28.8%	24.0%
State's attorney	24.5%	26.1%	21.9%	24.0%
Medical personnel	6.4%	10.9%	13.7%	9.6%
Mental health personnel	16.4%	26.1%	50.7%	29.3%
Educational personnel	8.2%	19.6%	35.6%	19.2%
Court employee	7.3%	8.7%	8.2%	7.9%
Other	11.8%	23.9%	17.8%	16.2%
Any contact made	50.0%	71.7%	83.6%	65.1%
Median	0.0	3.0	6.0	3.0
Mean	2.2	3.2	5.0	3.3
Number of cases	110	46	73	229

Note: The percentages in this table may exceed 100 percent because multiple responses to the question are tabulated.

Table 5.4-4

**GAL Contact With Other Persons or Parties
Since Review Hearing**

Contact With Other Persons/Parties	Private Attorney Model	Staff Attorney Model	CASA Model	All Models
Yes	50.0%	71.7%	83.6%	65.1%
No	48.2%	28.3%	16.4%	34.1%
Not applicable	1.8%	0.0%	0.0%	0.9%
Number of cases	110	46	73	229

In addition, caseworkers themselves were asked if they were contacted by the GAL on matters other than those pertaining to the hearings (see Table 5.4-6 below). Of the 206 caseworkers interviewed, 51.0 percent reported that the GAL had contacted them. Again, notable differences exist among the models. Nearly 80 percent of the caseworkers reported that the CASAs made contact with them, compared to 43.9 percent of the staff attorneys and 36.3 percent of the private attorneys. Thus, while caseworkers reported lower overall percentages of contacts than did the GALs, comparisons of the data indicate similar differences across the models.

Table 5.4-6

Caseworker Reports Regarding Contact With GAL

Contact With GAL	Private Attorney Model	Staff Attorney Model	CASA Model	All Models
Yes	36.3%	43.9%	79.4%	51.0%
No	62.7%	56.1%	20.6%	48.5%
Do not know	1.0%	0.0%	0.0%	0.5%
Number of cases	102	41	63	206

5.4.3 Followup on Case Plans and Court Orders

GALs were asked if, since the review hearing, they had done anything to carry out some aspect of a court order, voluntary agreement, or case plan. Just over 44 percent of the GALs had taken action in this respect (see Table 5.4-7 below). In addition, 3.1 percent of the GALs reported that the question was not applicable; it is possible that some GALs reported not doing anything to carry out some aspect of a court order, voluntary agreement, or case plan because there was no need to. Nevertheless, more than half (52.9 percent) of the GALs reported not doing anything to carry out some aspect of a court order, voluntary agreement, or case plan.

Table 5.4-7

Since the Review Hearing, Has GAL Done Anything To Carry Out Some Aspect of a Court Order, Voluntary Agreement, or Case Plan?

GAL's Response	Private Attorney Model	Staff Attorney Model	CASA Model	All Models
Yes	31.8%	50.0%	59.2%	44.1%
No	63.6%	50.0%	38.0%	52.9%
Not applicable	4.5%	0.0%	2.8%	3.1%
Number of cases	110	46	71	227

When judges were asked how diligent GALs have been in carrying out some aspect of a court order, voluntary agreement, or case plan, nearly 70 percent reported GALs to be very diligent, and 28.8 percent said they were somewhat diligent (see Table 5.4-8 on the following page). All but one judge reporting on the CASA model rated CASAs as very diligent in this area, while just over one-half of the judges rated private and staff attorneys as very diligent.

Table 5.4-8

Judges' Opinions Regarding Diligence of GALs in Carrying Out Court Orders, Voluntary Agreements, or Case Plans

Judges' Responses	Private Attorney Model	Staff Attorney Model	CASA Model	All Models
Very diligent	57.1%	53.8%	94.4%	69.2%
Somewhat diligent	42.9%	38.5%	5.6%	28.8%
Not diligent	0.0%	7.7%	0.0%	1.9%
Number of judges	21	13	18	52

As a case progresses, special needs of the child often are identified, which may require various changes in the case. GALs were asked if any changes were necessary in the following areas of the case: placement of the child, services for the child, services for the parent(s), or the hearing schedule. Over one-third (34.4 percent) believed changes were necessary in placement, 28.6 percent reported changes were needed in services for the child, 24.2 percent said changes were necessary in services for the parent, and 16.3 percent thought changes in the hearing schedule were needed (see Table 5.4-9 on the following page). There were slight differences among the models.

Of the 110 GALs who believed that changes were necessary in one or more of these areas, 76.4 percent reported that they had recommended a change to the case plan order (see Table 5.4-10), and 20.9 percent reported that they had filed a motion or pleading to obtain changes (see Table 5.4-11). Over one-half of the staff attorneys (52.2 percent) reported filing a motion or pleading, compared to approximately 12.5 percent of the CASAs and private attorneys. Almost 70 percent of the GALs said that the action of filing a motion or pleading was not applicable, and 20.9 percent said a change to the case plan was not applicable. In one-half of these cases, the GALs reported that changes were made as a result of their intervention, led by staff attorneys at 69.7 percent.

Table 5.4-9**Changes Necessary Since Review Hearing**

Changes Necessary	Private Attorney Model	Staff Attorney Model	CASA Model	All Models
Placement of child	29.1%	43.5%	36.6%	34.4%
Services for the child	21.8%	39.1%	32.4%	28.6%
Services for parent(s)	20.0%	23.9%	31.0%	24.2%
Hearing schedule	8.2%	26.1%	22.5%	16.3%
Other changes need	11.8%	10.9%	12.7%	11.9%
Any change	50.9%	63.0%	63.0%	57.2%
Median	1.0	1.0	1.0	1.0
Mean	0.9	1.4	1.3	1.1
Number of cases	110	46	71	227

Note: The percentages in this table may exceed 100 percent because multiple responses to the question are tabulated.

Table 5.4-10

GALs Who Recommended Changes to Case Plan Orders

Recommended a Change to the Case Plan Order	Private Attorney Model	Staff Attorney Model	CASA Model	All Models
Yes	78.7%	65.2%	80.0%	76.4%
No	2.1%	8.7%	0.0%	2.7%
Not applicable	19.1%	26.1%	20.0%	20.9%
Number of cases	47	23	40	110

Table 5.4-11

GALs Who Filed Motions/Pleadings To Obtain Changes

Filed a Motion or Pleading	Private Attorney Model	Staff Attorney Model	CASA Model	All Models
Yes	12.8%	52.2%	12.5%	20.9%
No	10.6%	0.0%	15.0%	10.0%
Not applicable	76.6%	47.8%	72.5%	69.1%
Number of cases	47	23	40	110

5.4.4 Time Spent in Monitoring

For both new and review cases, GALs were asked to look over the whole case and estimate the time they spent doing certain activities. This information is summarized in Table 5.4-12 on the following page. GALs estimated that they spend, on average, 18.5 percent of their time conducting monitoring activities. Two-fifths (40.0 percent) reported spending 20 percent or more of their time in monitoring activities, while nearly one-fifth (18.8 percent) said they spend no time on monitoring. The difference among models is striking: Over two-thirds of the CASAs estimated that they spend 20 percent or more of their time in monitoring activities, compared to one-third (33.7 percent) of staff attorneys and less than one-quarter (23.6 percent) of private attorneys. It is worth noting that 29.1 percent of private attorneys estimated that they spend none of their time doing monitoring activities.

Table 5.4-12

GALs' Estimates of Time Spent Performing Monitoring Activities

Time Spent In Monitoring Activities	Private Attorney Model	Staff Attorney Model	CASA Model	All Models
0 percent	29.1%	14.1%	6.2%	18.8%
1 to 10 percent	18.6%	18.4%	8.2%	15.3%
10 to 20 percent	28.6%	33.7%	17.1%	26.0%
20 percent or more	23.6%	33.7%	68.5%	40.0%
Median	10.0	10.0	25.0	11.0
Mean	11.0	15.0	31.5	18.5
Number of cases	220	92	146	458

Caseworkers were asked to estimate the percentage of time they thought GALs should spend monitoring an average case (see Table 5.4-13 below). Caseworkers believed that GALs should spend, on average, 23.5 percent of their time monitoring the case, somewhat more than the 18.5 percent reported by GALs. Almost two-thirds (63.1 percent) of the caseworkers said GALs should devote 20 percent or more of their time to this activity.

Table 5.4-13

**Caseworker Estimates of GAL Time
That Should Be Spent Performing Monitoring Activities**

GAL time that should be spent in monitoring activities	Private Attorney Model	Staff Attorney Model	CASA Model	All Models
0 percent	4.6%	1.2%	0.8%	2.7%
5 to 10 percent	7.2%	11.9%	3.3%	7.0%
10 to 20 percent	28.9%	29.8%	22.8%	27.2%
20 percent or more	59.3%	57.1%	73.2%	63.1%
Median	20.0	20.0	30.0	20.0
Mean	20.1	19.8	31.3	23.5
Number of cases	194	84	123	401

5.4.5 Effectiveness in Case Monitoring Role

GALs rated their effectiveness, for both new and review cases, in each of the five role dimensions. In the area of monitoring, 37.9 percent rated themselves very effective, 39.2 percent said they were somewhat effective, and 4.4 percent reported themselves to be ineffective (see Table 5.4-14). CASAs rated themselves highest in this area, followed next by staff attorneys and private attorneys. In addition, a significant number of private attorneys (27.9 percent) reported that monitoring activities were inapplicable to their role in the case and did not provide an effectiveness rating.

Comparatively, 31.7 percent of caseworkers rated GALs as very effective in monitoring, 42.8 percent rated them as somewhat effective, and 21.4 percent said they were ineffective (see Table 5.4-15). There was some difference among the models, with CASAs more likely to be rated as very effective in this area than the attorney GALs.

Table 5.4-14

GALs' Self-Assessments of Effectiveness in Monitoring

Assessment	Private Attorney Model	Staff Attorney Model	CASA Model	All Models
Very effective	24.2%	41.3%	56.3%	37.9%
Somewhat effective	42.3%	41.3%	33.3%	39.2%
Ineffective	5.6%	4.3%	2.8%	4.4%
Not applicable	27.9%	13.0%	7.6%	18.4%
Number of cases	215	92	144	451

Table 5.4-15

Caseworkers' Assessments of GAL Effectiveness in Monitoring

Assessment	Private Attorney Model	Staff Attorney Model	CASA Model	All Models
Very effective	19.9%	22.9%	56.1%	31.7%
Somewhat effective	44.0%	51.8%	35.0%	42.8%
Ineffective	29.8%	21.7%	8.1%	21.4%
Not applicable	6.3%	3.6%	0.8%	4.0%
Number of cases	191	83	123	397

Approximately one-third of the 55 judges (34.5 percent) who evaluated GALs in the area of monitoring rated them as very effective, and over 40 percent (41.8 percent) rated them as somewhat effective (see Table 5.4-16). The percentage of judges rating CASAs as very effective (76.5 percent) was noticeably higher than that for the attorney GALs (averaging about 15 percent). Two judges in private attorney counties said monitoring activities were not applicable to the role of the GAL.

5.4.6 Summary

The role of the GAL as case monitor is vital not only to ensure that the child remains free from harm, but also to ensure that the child's placement is viable and appropriate, that the case is moving swiftly through the court process, and that the services the child or family need in order to attain or maintain case goals are being provided. For these reasons, maintaining contact with the child and other relevant parties as the case progresses is an important role of the GAL. However, given the time constraints of GALs and the more pressing needs the children whom they represent may have, monitoring activities may not always be a top priority. Therefore, clear communication between the caseworker and GAL is necessary to ensure that each is informed and aware of case activities and able to take appropriate followup actions when necessary.

Of the three models, CASAs reported spending significantly more time monitoring the case than did the attorney GALs. In addition to higher levels of activity, CASAs received higher effectiveness ratings from caseworkers and judges than did the attorney GALs. The fact that 18.4 percent of GALs reported case monitoring activities as inapplicable to their role seems to indicate that some GALs do not view monitoring as their responsibility. Future training programs may want to emphasize the importance, on the part of the GAL, to remain actively involved in the case beyond the roles of investigation and legal representation.

5.5 RESOURCE BROKERING

Resource brokering can involve providing information about a resource or **directly assisting** the child or family in accessing a resource so that they are **able** to obtain the services they need. Services the children receive may be **vital** to their adjustment to a new living situation and to helping them deal with the issues surrounding the abuse and/or neglect. In some cases, services provided to parents or other family members prepare the family for reunification. A child may be placed out of the home temporarily while the parents receive services that prepare them to provide a stable and safe living environment for their child.

Some members of the TEG were of the opinion that brokering services was a function of the caseworker that should be shared with the GAL. In the

Table 5.4-16

Judges' Assessments of GAL Effectiveness in Monitoring

Assessment	Private Attorney Model	Staff Attorney Model	CASA Model	All Models
Very effective	17.4%	13.3%	76.5%	34.5%
Somewhat effective	47.8%	53.3%	23.5%	41.8%
Ineffective	26.1%	33.3%	0.0%	20.0%
Not applicable	8.7%	0.0%	0.0%	3.6%
Number of judges	23	15	17	55

absence of a clear definition of what specific activities are the responsibility of the caseworker vis a vis the GAL, there is the possibility of role conflicts. Some panel members suggested that the caseworker be the service provider and the GAL be a catalyst in activating services to children and families.

5.5.1 Resource Identification

GALs were asked if they provided information about a resource to the family, the agency, or court which they were unaware of or did not recommend themselves. It is important to note before going any further that these questions do not provide any measure of how involved GALs were in the role of resource brokering. It is likely that GALs provided information to the court, agency, or family regarding resources that other parties also were aware of or recommended. In that case, their activities were not accounted for by these measures.

Slightly more than one-quarter of the GALs reported providing information about a resource. Information provided by GALs most commonly involved the availability of services (19.4 percent) and current placement options (13.8 percent). CASAs and staff attorneys were at least twice as likely to provide information about resources than were private attorneys. Table 5.5-1 on the following page presents the percentage of total GALs who provided resource information that other parties did not recommend.

Judges reported on how frequently GALs provided resource information to the child and/or family that the court, agency, or family was unaware of or did not recommend themselves. Over one-third of the judges, or 36.5 percent, reported that GALs provided resource information somewhat frequently, and 48.1 percent said GALs did so infrequently (see Table 5.5-2). According to the opinions of 56 judges, availability of services and changes in the circumstances of the family or child were the aspects of the case for which GALs most commonly provided information (see Table 5.5-3).

Data on whether GALs assisted the child or family directly to obtain social services or attempted to ensure that the child welfare agency provided services is illustrated in Table 5.5-4. Overall, 30.1 percent of the GALs assisted the family or child in some way, with CASAs (37.0 percent) and staff attorneys (38.0 percent) more likely to provide assistance than were private attorneys (22.3 percent). Close to one-quarter of all GALs contacted the caseworker or other professional about a need the family or child had or contacted the caseworker or other professional to follow up. CASAs were more likely than the attorney GALs to assist the family or child by providing information about resources, discussing and arranging referral or direct services, and escorting the client to a service agency.

Table 5.5-5 illustrates the different types of services GALs assisted the child or family in obtaining. The most common services GALs attempted to or actually obtained for the child or family were therapy/counseling services (21.2 percent) and parenting classes (12.0 percent). The differences among

Table 5.5-1**GAL Data on Information Provided About Resources**

Types of Information	Private Attorney Model	Staff Attorney Model	CASA Model	All Models
Availability of services	11.4%	23.9%	28.8%	19.4%
Availability of resources	9.1%	17.4%	10.3%	11.1%
Change in circumstances	8.6%	15.2%	13.0%	11.4%
Current case plan (new only)	2.3%	6.5%	9.6%	5.5%
Current placement options	9.5%	18.5%	17.1%	13.8%
Other	4.5%	2.2%	5.5%	4.4%
Any topic	17.7%	33.7%	35.6%	26.6%
Number of cases	220	92	146	458

Table 5.5-2

**Judges' Assessments Regarding Frequency
of Provision of Resource Information by GALs**

Assessment	Private Attorney Model	Staff Attorney Model	CASA Model	All Models
Very frequently	9.1%	0.0%	5.9%	5.8%
Somewhat frequently	27.3%	46.2%	41.2%	36.5%
Infrequently	45.5%	53.8%	47.1%	48.1%
Not at all	18.2%	0.0%	5.9%	9.6%
Number of judges	22	13	17	52

Table 5.5-3**Judges' Reports on Aspects of Cases for Which
GALs Provided Information**

Type of Information	Private Attorney Model	Staff Attorney Model	CASA Model	All Models
Availability of services	43.5%	53.3%	50.0%	48.2%
Availability of resources	60.9%	66.7%	72.2%	66.1%
Change in circumstances of family or child	47.8%	73.3%	77.8%	64.3%
Case plan	30.4%	66.7%	38.9%	42.9%
Placement options	43.5%	66.7%	50.0%	51.8%
Other	4.3%	0.0%	11.1%	5.4%
Any topic	69.6%	86.7%	88.9%	80.4%
Number of judges	23	15	18	56

Note: The percentages in this table may exceed 100 percent because multiple responses to the question are tabulated.

Table 5.5-4

**GAL Data on Assisting Children or
Families in Obtaining Social Services**

Type of Assistance	Private Attorney Model	Staff Attorney Model	CASA Model	All Models
Providing information about resources	13.2%	12.0%	26.7%	17.2%
Discussing and arranging referral or services	6.4%	14.1%	19.2%	12.0%
Escorting client to agency	1.4%	0.0%	8.9%	3.5%
Contacting child welfare agency or other professional about need	15.0%	32.6%	30.8%	23.6%
Contacting child welfare agency or other professional to follow up	17.7%	30.4%	28.8%	23.8%
Other	3.6%	5.4%	4.8%	4.4%
Assisting in any way	22.3%	38.0%	37.0%	30.1%
Number of cases	220	92	146	458

Note: The percentages in this table may exceed 100 percent because multiple responses to the question are tabulated.

Table 5.5-5

Types of Services GALs Assisted in Obtaining

Type of Service	Private Attorney Model	Staff Attorney Model	CASA Model	All Models
Therapy/counseling	12.7%	30.4%	28.1%	21.2%
Physical health	5.0%	13.0%	11.6%	8.7%
Legal matters unrelated to GAL activities	5.0%	5.4%	2.7%	4.4%
Educational or vocational training	4.5%	10.9%	13.7%	8.7%
Housing assistance	4.1%	5.4%	4.1%	4.4%
Financial services	3.6%	6.5%	9.6%	6.1%
Homemaker services	3.2%	8.7%	1.4%	3.7%
Child care service	2.3%	6.5%	5.5%	4.1%
Employment service	1.4%	3.3%	6.8%	3.5%
Transportation service	1.8%	6.5%	15.8%	7.2%
Alcohol/drug abuse service	5.0%	8.7%	8.2%	6.8%
Parenting classes	8.6%	16.3%	14.4%	12.0%
Other	5.9%	7.6%	9.6%	7.4%
Any service	22.3%	37.0%	37.7%	30.1%
Number of cases	220	92	146	458

Note: The percentages in this table may exceed 100 percent because multiple responses to the question are tabulated.

the models are very slight; however, staff attorneys and CASAs were more likely to assist with service provision than were private attorneys.

5.5.2 Services Ordered and Received According to Case Record Data

Information was collected from 408 case records on services that were ordered by the court or recommended by the child welfare agency for the child or family. As shown in Table 5.5-6 following this page, the most commonly recommended services were family counseling (73.5 percent), parenting classes (72.5 percent), and medical/health services (60.0 percent). As might be expected, services were recommended or ordered slightly more often in review cases than in new cases.

Services that were recommended or ordered for the family and/or child were provided, on average, 78.2 percent of the time. "Services provided" means that a service was offered and made available to the child or family. If, for example, parenting classes were offered and the parents refused to participate, services were said to be provided although they were not actually received.

Over 90 percent of those who were recommended for medical/health services, legal assistance, and transportation services were provided with those services, and over 85 percent were provided with the educational services and financial assistance as recommended. Less than 70 percent received parenting classes, substance abuse treatment, employment services, vocational services, and housing assistance, even though these services were recommended. Based on the information contained in the case records, it was often difficult to determine instances in which the child or family flatly refused services (in particular, family counseling or AOD abuse treatment) that had been recommended by child welfare or other service providers.

5.5.3 Time Spent in Resource Brokering

GALs were asked to review the whole case under study and estimate the amount of time they spend performing various activities. On average, GALs reported that they spend 5.2 percent of their time providing information about possible resources and support services to other parties and advocating for resources for the family and child (see Table 5.5-7). However, nearly one-half of all GALs (46.3 percent) estimated that they do not spend any time in the area of resource brokering. This was reported most often by private attorneys, with 60.5 percent reporting that they do not spend any time in this activity.

Table 5.5-8 presents caseworker estimates of the amount of time GALs should, in the caseworkers' opinions, spend in resource brokering activities. Approximately one-half of the caseworkers said that between 10 and 20 percent of the GAL's time should be spent in this area, and another 23.9

Table 5.5-6

**Services Recommended or Ordered by Child Welfare or the Court
and Percent of Services Received**

Type of Service	Services Recommended or Ordered		Provided as Percent of Recommended or Ordered	
	Number	Percent	Number	Percent
Family counseling	300	73.5%	223	74.3%
In-home family preservation services	119	29.2%	91	76.5%
Parenting classes	296	72.5%	187	63.2%
Medical/health services	245	60.0%	231	94.3%
AOD abuse treatment	177	43.4%	109	61.6%
Homemaker services	61	15.0%	48	78.7%
Child care service	94	23.0%	78	83.0%
Employment service	56	13.7%	33	58.9%
Financial assistance	117	28.7%	105	89.7%
Legal assistance	181	44.4%	172	95.0%
Housing assistance	85	20.8%	55	64.7%
Transportation services	135	33.1%	129	95.6%
Educational services	126	30.9%	111	88.1%
Vocational services	51	12.5%	31	60.8%
Other services	156	38.2%	114	73.1%
Average	147	35.9%	115	78.2%

Note: The percentages in this table may exceed 100 percent because multiple responses to the question are tabulated.

Table 5.5-7

GALs' Estimates of Time Spent in Resource Brokering

Time Spent Resource Brokering	Private Attorney Model	Staff Attorney Model	CASA Model	All Models
0 percent	60.5%	38.0%	30.1%	46.3%
1 to 10 percent	22.3%	37.0%	36.9%	30.2%
10 to 20 percent	13.2%	20.7%	24.7%	18.3%
20 percent or more	4.1%	3.3%	8.2%	5.2%
Median time spent	0.0	5.0	5.0	5.0
Mean time spent	3.8	5.4	6.7	5.2
Number of cases	220	92	146	458

Table 5.5-8**Caseworkers' Estimates of GAL Time
That Should Be Spent in Resource Brokering**

GALs' Time That Should Be Spent Resource Brokering	Private Attorney Model	Staff Attorney Model	CASA Model	All Models
0 percent	8.2%	4.8%	15.4%	9.7%
5 to 10 percent	26.3%	25.0%	19.5%	23.9%
10 to 20 percent	56.2%	48.8%	39.8%	49.6%
20 percent or more	9.3%	21.4%	25.2%	16.7%
Median time spent	10.0	10.0	10.0	10.0
Mean time spent	9.5	11.8	11.2	10.5
Number of cases	194	84	123	401

percent said this should be between 5 and 10 percent. Nearly 10 percent of all caseworkers said that GALs should not spend any of their time in this activity.

5.5.4 Effectiveness in Resource Brokering

GALs were asked to rate their effectiveness in resource brokering (see Table 5.5-9 following this page). For both new and review cases, 20.5 percent rated themselves as "very effective" and 33.2 percent rated themselves as "somewhat effective." However, the most outstanding finding was the 38.6 percent who reported the activity as not applicable. Nearly one-quarter of the CASAs (24 percent), 35.9 percent of the staff attorneys, and almost one-half of the private attorneys (49.5 percent) reported resource brokering as not applicable to their role in the case.

Caseworkers also rated the effectiveness of GALs in resource brokering for all cases (see Table 5.5-10). Over 40 percent of caseworkers reported GALs to be "somewhat effective," while slightly less than 20 percent said they were "very effective," and almost one-quarter rated them "ineffective." CASAs were rated more highly than were the attorney GALs, and only 9.9 percent of the caseworkers found resource brokering to be inapplicable to the case.

Over three-quarters of the 56 judges interviewed rated GALs as either "very effective" (28.6 percent) or "somewhat effective" (50.0 percent) in the area of resource brokering (see Table 5.5-11). Of the 15 judges in staff attorney counties interviewed, 7 (or 46.7 percent) viewed the GALs as very effective. Only one judge found the activity of resource brokering as not applicable.

5.5.5 Summary

Since there appears to be some ambiguity concerning the extent to which GALs should be involved in resource brokering activities, the role of the GAL as a resource broker is something that merits further discussion in the future. Given the time constraints of GALs and the compensation they receive, it seems reasonable that a number of GALs would contend that resource brokering is not part of their job. For this reason, it is important that the individual roles of the GAL and caseworker be defined in each case and communicated to all parties. This could be accomplished by prior agreement between child protective services and CASA organizations, by agreement between the GAL and the caseworker, or by order of the judge in the case. This will help ensure that resource brokering services are provided to the families that need them and that GAL and caseworker activities do not overlap unnecessarily. In any event, the family needs to know who is going to provide services, and the judge needs to know who will implement the services ordered and follow up to see that they are provided.

Table 5.5-9

GALs' Self-Assessments of Effectiveness in Resource Brokering

Assessment	Private Attorney Model	Staff Attorney Model	CASA Model	All Models
Very effective	13.6%	23.9%	28.8%	20.5%
Somewhat effective	26.8%	35.9%	41.1%	33.2%
Ineffective	8.6%	4.3%	4.1%	6.3%
Not applicable	49.5%	35.9%	24.0%	38.6%
Number of cases	217	92	143	458

Table 5.5-10

**Caseworkers' Assessments of GAL
Effectiveness in Resource Brokering**

Assessment	Private Attorney Model	Staff Attorney Model	CASA Model	All Models
Very effective	13.9%	17.2%	30.7%	19.8%
Somewhat effective	44.3%	36.8%	39.4%	41.2%
Ineffective	29.4%	32.2%	10.2%	24.1%
Not applicable	8.5%	9.2%	12.6%	9.9%
Number of cases	193	83	118	415

Table 5.5-11

Judges' Assessments of GAL Effectiveness in Resource Brokering

Assessment	Private Attorney Model	Staff Attorney Model	CASA Model	All Models
Very effective	21.7%	46.7%	22.2%	28.6%
Somewhat effective	56.5%	33.3%	55.6%	50.0%
Ineffective	21.7%	20.0%	11.1%	17.9%
Not applicable	0.0%	0.0%	5.6%	1.8%
Number of judges	23	15	17	56

5.6 CONCLUSION

The analysis of effectiveness showed differences among the three models in each of the five functional areas of child advocacy. The models showed different strengths and limitations in each of the functions. The major findings are as follows:

- In factfinding and investigation, GALs should talk with or observe every child, and they should visit the home to assess its suitability for placement. CASAs contacted the child and visited the home in a higher percentage of the cases than did either private or staff attorneys, but all three models could improve in this regard. CASAs also received the highest ratings for investigation on the opinion-based effectiveness scales.
- In legal representation, the GAL should attend all hearings, and an attorney should be present at all formal and informal legal proceedings. The private and staff attorneys attended a much higher percentage of the hearings than did the CASAs. It was not clear in the CASA model whether an attorney was present to represent the child at the negotiations and hearings. These are important limitations of the CASA model, and the CASA GALs were rated as less effective in legal representation than were the attorney model GALs.
- Mediation and negotiation are essential steps in resolving a case, and an attorney should participate in these activities. Again, the private and staff attorney GALs were more likely to be involved in negotiations than the CASA GALs and received higher effectiveness ratings.
- Monitoring and resource brokering were most often conducted by CASAs, and they received the highest effectiveness ratings in these functions. A significant number of GALs spent little or no time in monitoring or resource brokering and reported such activities as inapplicable to their role in the case. This is an issue that may need to be addressed in training, in policymaking, in definition of GAL roles and responsibilities in each jurisdiction, and in the allocation of time and resources for GAL representations.
- Effectiveness ratings given by caseworkers were always lower than the self-assessments given by the GALs, and those given by the judges were often lower as well. The difference was particularly striking between staff attorneys and caseworkers in ratings of legal representation and negotiation. These disparate perceptions may reflect different expectations between the parties.

This short summary highlights the major findings on GAL effectiveness presented in Chapter 5. Chapter 6 provides a more comprehensive summary of the major findings, linking the background information in Chapter 4 with the effectiveness findings in Chapter 5 (1) to provide a

comprehensive assessment of the strengths and limitations of GAL representation, (2) to identify the underlying causes of the limitations, and (3) to recommend improvements to strengthen child advocacy through GAL representation in the future. Chapter 6 concludes with recommendations for additional research.

Chapter 6. FINDINGS AND RECOMMENDATIONS

The Child Abuse Prevention and Treatment Act (CAPTA) legislation requires that a guardian *ad litem* (GAL) be appointed in every child abuse and neglect case to advocate for the best interests of the child in all court and child protective service proceedings. This evaluation of the GAL program collected background data on GALs, caseworkers, and children; measured GAL activities in representing children; and surveyed opinions about the procedural effectiveness of GAL activities held by GALs, caseworkers, and judges. The background data on the programs and the GALs point to gaps in program design, resource limitations, and training deficiencies that need to be remedied. The descriptions of activities conducted by GALs in performance of their child advocacy responsibilities suggest some very important gaps in performance, which were confirmed by the opinion-based assessments reported by various stakeholders. This chapter summarizes the study findings in each of these areas and concludes with recommendations for addressing the various limitations of GAL performance.

The purpose of this study was to assess the effectiveness of the following three GAL models in providing advocacy services to children: (1) the private attorney model, (2) the staff attorney model, and (3) the lay volunteer or court-appointed special advocate (CASA) model. The study originally was planned to validate findings from a 1988 study, but changes in the study design and the program due to the time lapse limit the comparability between the earlier study and the present study. The definition of effectiveness used in the study was based on the process or procedural effectiveness of GALs in carrying out the five roles and tasks recommended as part of a comprehensive model by Duquette (1990). These five functions are as follows: (1) factfinding and investigation, (2) legal representation, (3) mediation negotiation, (4) monitoring, and (5) resource brokering.

An understanding of the study methodology is important to an accurate interpretation of the results. The data presented in this report were collected in interviews conducted during summer 1993 with GALs, caseworkers, and judges in 26 counties selected to represent each model. Data could not be collected in 3 of the 29 sample counties because clearance could not be obtained.

The GALs were asked to report on two recent cases: (1) a new case that had completed the dispositional hearing and (2) a review case that had received a recent review hearing. Data were collected from 259 GALs covering 229 new cases and 229 review cases. Caseworkers in the same cases were interviewed, providing comparison information on 415 cases, and case record data were abstracted for 408 of these cases. The study also interviewed 56 judges to obtain their opinions about the effectiveness of

GALs in general. In addition, there were important changes in case placement goals that have implications for future programs

The indicators of procedural effectiveness were prioritized by a meeting of the technical expert group (TEG). The TEG consisted of attorneys, CASAs, judges, and academicians who had extensive practical experience and publications in the field of child advocacy. Their insights were invaluable in defining issues and directing the focus of the data analysis.

The study design affected the interpretation of study findings. The counties were a representative sample, and the GALs were sampled from randomized lists, but only the most recent new and review cases were selected for each GAL. Therefore, the sample of cases was not representative of all cases, and the study findings cannot be generalized to measure all GAL activities in child abuse and neglect cases nationwide. Furthermore, the study concentrated on one model of representation in each county. Since several of the counties had multiple or mixed models, the results presented in this report do not provide comprehensive measures of GAL activities within the sampled counties. Finally, the number of cases in the sample limits the statistical significance of differences between the models.

Despite these limitations, the data analyses demonstrate strong patterns that link elements in the program structure, resources, and training to activity levels and effectiveness assessments. The first part of this chapter summarizes the cogent features of program and GAL backgrounds. The background is followed by summaries of the study findings in each of the five functional areas, and the chapter concludes with recommendations that have been supported by the TEG.

6.1 PROGRAM STRUCTURE AND BACKGROUND

The study defined three prototype models of GAL representation and collected information on each model. The prototype private attorney model uses court-appointed private attorneys, but in some counties CASAs or other lay volunteers support the private attorneys. The prototype staff attorney model uses attorneys on the staff of the county or a private law firm under contract to the county. Staff attorneys often are supported by social workers and other staff. The prototype CASA model uses lay volunteers, but some counties also appoint attorneys in each case, and many CASA programs provide an attorney to support the CASA. Thus the programs studied represent a mixture of the pure prototypes.

This information describes recruitment, GAL training, experience, hours worked per week, caseloads, and compensation. Important differences among the models in each of these areas are summarized below. Some of these differences are thought to be related directly to differences in the

effectiveness of GALs. In addition, there were important changes in case placement goals that have implications for future programs.

6.1.1 Recruitment, Training, and Experience

Recruitment was examined for the private and staff attorney GALs. Private attorneys were most likely to initiate requests to be included on court lists of GALs (82.5 percent), and 35.2 percent said they were solicited by the court. Private attorneys in two counties reported that their firms were under contracts to the counties, which makes these two counties similar to staff attorney counties. Virtually all staff attorneys reported that their firms or agencies represent children. In retrospect, it would have been useful also to investigate the motivations of the GALs to seek child representation work. This is an area of inquiry that should be addressed by future research.

Experience and training are essential to be effective in any field. The TEG recommended that all GALs be trained in child welfare law and procedures, child advocacy practices, and substantive child welfare issues. Fewer than 20 percent of GALs surveyed had any prior experience in child welfare or advocacy, with the exception of 34.2 percent of the staff attorneys. Areas of prior experience included family/child law, social work, and (in the case of CASAs) foster parenting.

Virtually all GALs reported that they received some specialized training before assuming GAL duties. Staff attorneys reported the most training, with a median of 20 days, as compared to 5 days for the other two models. CASAs and staff attorneys received training in more of the 12 topics tabulated than did private attorneys. Private attorneys were least likely to be trained in each of the topics tabulated. The CASA programs in general have written guidelines and structured training, while staff models have ongoing training, at least some of which is informal, on-the-job training.

Years of GAL experience differed sharply among the models. Private attorneys had a median of 5 years' experience; staff attorneys, 2 years; and CASAs, 1.5 years. More than one-half of the CASAs had less than 2 years' experience, compared with 32.6 percent of staff attorneys and 8.5 percent of private attorneys. The TEG panel members were concerned about the low levels of training for private attorneys because the panel believed that in many cases private attorneys are young and inexperienced, but the private attorneys surveyed were the most experienced, although experience alone does not guarantee good quality of representation. The TEG panel commented that years of experience can be a misleading indicator of qualifications when the quality of performance is not taken into account. On the whole, the panel placed more emphasis on training than experience as a prerequisite for high-quality GAL representation.

An additional issue—that of delayed appointments—was detected in the CASA model. Two of the CASA counties routinely delayed appointing GALs

to cases until the review phase. Such delays are inconsistent with the spirit of the law. These and other counties appoint attorneys at the time the petition is filed, but the data show that the majority of CASA appointments are delayed by more than 30 days after the petition is filed, and a substantial fraction are delayed by more than 1 year. Planned delays in appointing CASAs impede the start of investigative services by the CASAs during critical parts of new cases. These delays also prevent continuity of representation between the new and review phases of the case.

6.1.2 Caseloads and Hours Worked

The differences among the GAL models in caseloads and hours worked were dramatic. The median caseload for staff attorneys was 500, compared to 15 for private attorneys and 4 for CASAs. To some extent, the differences in caseloads were offset by the hours per week spent conducting GAL duties, with a median of 40 hours for staff attorneys, 3 hours for private attorneys, and 4 hours for CASAs. In addition, GALs were asked how many hours they spent per week on the specific case in the sample. The median was 1 hour each for private and staff attorneys, but 2.5 hours for CASAs. The additional hours spent by CASAs would be expected to show up in measures of activities performed on the cases, and the data presented later in this chapter support that hypothesis in three of the five functions.

The data show that CASAs perform additional, important activities on cases that are not performed by private or staff attorneys, especially in investigation, monitoring, and brokering. On the other hand, the private and staff attorneys perform more of the legal representation and negotiation activities measured, which are very important in the conduct of each case. None of these data takes into account the ebb and flow of cases or the additional time and effort required to prepare for court hearings as compared with other phases of a case. Such considerations account in part for the large number of cases reported by the staff attorneys, who may share work on a given case over the course of a year.

In this accounting of caseloads and hours, the study did not adequately measure the contribution of persons other than the individual GAL. This omission is important because the models actually studied were hybrids rather than pure prototypes. Thus, some private attorneys were not independent sole practitioners but were members of firms, and some of them worked with CASAs on some cases. Some staff attorneys had support staff, including social workers, to conduct parts of the investigation and monitoring tasks on cases. Some of the CASAs had access to attorneys for the legal aspects of cases. Although the study data collectors were instructed to include these additional resources, the instruments did not explicitly request the information, and it is likely that the contributions of persons other than GALs were not measured adequately. A discussion of these limitations of the data led the TEG to conclude that some experimental variations in partnership arrangements that include GALs, caseworkers, lawyers, and other staff should be conducted. As one TEG

member pointed out, this is a new field and it is quite appropriate that different approaches be tested to determine the most cost-effective approach to providing quality representation of abused children.

6.1.3 Compensation

The compensation of private attorneys is an important issue, especially for independent practitioners who take GAL cases in addition to other private practice cases. If they are to continue as GALs, they need to earn an adequate income. Private attorneys sometimes are compensated on a per-case basis, but an hourly rate with a differential between in-court and out-of-court time was more typical as reported in this study. Most counties had a maximum limit on cases, ranging from \$300 to \$1,500. At the rate of \$50 per hour, these maximums would purchase between 6 and 30 hours of time per case. In addition, the private attorneys typically are compensated only for those hours billed and actually approved by a judge.

Staff attorneys are compensated by salary, while CASAs are more likely to be motivated by the spirit of public service. However, the shorter average tenure for staff attorneys and CASAs suggests that the compensation may not be sufficient to motivate persons of either model to make long-term commitments. It is possible that staff attorneys move on to more remunerative or less demanding work, while CASAs limit their volunteer efforts to other activities. This issue demands careful attention by the field to ensure that individuals who serve as GALs earn a sufficient and fair income—a prerequisite to recruiting and retaining qualified individuals.

6.1.4 Supervision and Evaluation

The supervision and evaluation of GAL performance showed marked differences among the models. Private attorneys typically were not supervised or evaluated, except in the context of court compensation for time spent on cases. Staff attorneys were supervised by their employing agencies or firms, and 58.7 percent received formal evaluations from their supervisors. CASAs were supervised by GAL or CASA program directors, but only 22.6 percent received formal evaluations. The TEG panel particularly was concerned that private attorneys are selected, supervised, and compensated by the court, which can limit their independence and accountability to the needs of child advocacy. The panel also suggested that GALs should receive explicit instructions from the court on the duties expected of them and formal evaluations to hold them accountable for their performances.

6.1.5 Case Placement Goals

The study analyzed 408 child abuse and neglect case records to describe the demographics of the children, the types of cases, and the case placement goals. One of the most important findings from the analysis of case records

was the change in case placement goals as the cases progressed. The original case goal was to retain the child in the home or return the child to the home in 86.4 percent of the cases. However, the placement goal changed in nearly one-half of the review cases, and the new goal involved out-of-home placement in 44.6 percent of the cases. The new goal was long-term foster care in 12.4 percent of the review cases; termination of parental rights, adoption, or emancipation in 19.8 percent of the review cases; and guardianship or other placement in 12.4 percent of the review cases. These changes in case placement goals suggest that family support and family preservation programs need to be designed to protect the best interests of the child while not requiring family reunification.

6.1.6 Summary

Differences among the three GAL models in training and experience, workloads and hours, and supervision and evaluation can lead to differences in performance. Improvements are needed in each of these areas for all three models. Findings on GAL performance are presented in the next section of this chapter.

6.2 GAL FUNCTIONS

The five GAL functions—(1) factfinding and investigation, (2) legal representation, (3) mediation and negotiation, (4) monitoring, and (5) resource brokering—served as the organizing principles for data collection and the analysis of effectiveness presented in Chapter 5 of this report. The findings demonstrate differences among the GAL models that have important implications for future GAL programs.

6.2.1 Factfinding and Investigation

Factfinding is usually the first function performed by the GAL in a child abuse and neglect case, and investigation into the facts of the case is crucial to the performance of all other GAL roles as an advocate for the child. The TEG placed a high priority on meeting with or observing the child, visiting the home, and contacting the caseworker. Written sources of information, especially the case record, also were viewed as important documents to review during the investigation. Following the TEG's guidance, analysis of the data concentrated on these topics.

In more than 80 percent of the cases, the GAL had some form of direct contact with the child, but the percentages varied by model and by the age of the child. More than 90 percent of the CASAs had some contact, as compared to 82.6 percent of the staff attorneys and 72.7 percent of the private attorneys. The largest difference across the models involved observing the parent/child interaction for placement assessment, performed by 63.7 percent of the CASAs, but by only 40.2 percent of the staff attorneys

and 37.7 percent of the private attorneys. By age of child, the percent contacted was highest for teenagers (88.5 percent) and lowest for infant/toddlers under 5 years of age (65.5 percent). The most common reason for not contacting the child in person or by phone was that the GAL considered the contact to be "not applicable." Virtually all of the "not applicable" responses were for children under 5 years of age.

Given the emphasis placed on family reunification by CAPTA and the new family support and family preservation initiatives, it was surprising that more GALs did not observe the parent-child interactions. Such observation is necessary in making placement assessments, especially in review cases where decisions regarding permanent placement and family reunification must be made.

Caseworkers were asked about three types of contact with the child—(1) talking with the child to assess placement needs, (2) observing the parent/child interaction, and (3) talking with the child to assess service needs. Caseworkers reported a lower percentage of contacts by GALs for each type of contact, although CASAs were perceived to have the highest rate of contacts with children. The lower percentages might be expected because caseworkers are not always aware of every contact between the GAL and child. Furthermore, the large number of cases served by caseworkers might make it difficult to remember the details of a given case.

The TEG strongly recommended that GALs visit the home in all cases to assess its suitability for the child. The visit should include observation of the child and the child's interactions with adults and other children. This includes visits to both the parents' home, when removal or reunification is an issue, and to the foster home or other temporary placement when continued placements are planned. Only one-half of the GALs reported visiting the parents' home or the foster home to assess service or placement needs. Nearly 90 percent of the CASAs reported doing so as compared to one-third of the attorneys. Caseworkers reported that less than one-third of GALs made visits to the parents' home or the foster home. CASAs reportedly made such visits in more than one-half of the cases, while attorneys did so in less than 20 percent of the cases. Again, the caseworkers' lower reports of visits may have resulted from their being unaware of all the activities in which the GALs engage.

The TEG identified some significant barriers to making home visits, especially to the parents' home. If the parents are represented by counsel, the legal code of ethics requires private and staff attorneys to obtain the permission of the parents' counsel before talking with the parents. Such ethical considerations also should apply to CASAs. It is possible that the low percentage of visits by attorneys reflects denial of permission by the parents' counsel. The TEG pointed out that visiting the home to observe the child's current or proposed living situation cannot be equated with interviewing the parents. The belief was that diligent GALs should be able to obtain permission to visit the home and observe the living situation.

The personal safety of GALs also is thought to be a significant barrier to home visits. Many families live in neighborhoods or apartment buildings that are unsafe for outsiders to enter. In addition, GALs may encounter hostility from the parents or other adults in the dwelling. However, if safety was an important barrier to GAL visits, it is unclear why it should be more so for attorneys than for CASAs.

The TEG also discussed potential solutions to safety issues in considering the role of the home visits in an investigation. Caseworkers and social workers in many localities are accompanied by armed security escorts on visits to unsafe areas. The TEG suggested that it might be possible for GALs to arrange joint visits if escorts are not available. They also emphasized the importance of training GALs on how to approach risky situations, how to avoid confrontations, and how to arrange for escorts or companions on visits to unsafe neighborhoods. These barriers should not prevent visits, but rather GALs should be trained in the importance of, and safe precautions in, making the visits before making recommendations to the court about a child's placement.

The TEG believed that contact with the caseworker was essential during the investigation. GAL and caseworker reports were similar in reporting contacts between the GAL and the caseworker in approximately 90 percent of the cases. CASAs had a somewhat higher percentage than private or staff attorneys, but the differences were minor. The study also asked GALs about contacts with other parties during the investigation. In more than one-half of the cases, GALs contacted the parents, relatives, foster parents, the State's attorney, or the parent's attorney. CASAs more frequently contacted the parents, relatives, and foster parents, while private and staff attorneys were more likely to contact the State's attorney or the parents' attorney.

In summary, most GALs contacted caseworkers, and many contacted a wide variety of other sources. The data suggest that CASAs contacted more sources, especially the adults closest to the child, than did private or staff attorneys. The data also suggest that the type and number of contacts reported usually were adequate; however, the study did not assess the quality of the contacts.

Written sources of information can facilitate the GAL's investigation of a case. Particularly important in this regard are agency case records. If these records are complete, then it may not be necessary to review other written records. GALs consulted case records and court records in more than 80 percent of the cases, and consulted some written records in more than 90 percent of the cases. Although the study collected data on the contents of case records, the data are not sufficient to assess case record completeness in supporting an investigation. The TEG recommended that GALs examine case records closely to assess their completeness and quality before deciding whether to consult other sources.

The study data collectors asked GALs and caseworkers to comment on the adequacy of the GALs' preparation and the GALs' effectiveness in investigating the cases. Reported opinions covered the specific new and review cases in the sample. Judges also were asked to describe their overall impressions of GALs' performances in factfinding and investigation. The opinions reported by three types of respondents were generally consistent, as shown below:

- A total of 55.7 percent of the GALs said they prepared extensively, while caseworkers said GALs prepared extensively in 45.8 percent of the cases. One-half of the judges said that GALs were very thorough; and
- The CASAs' performance was rated highly by themselves, the caseworkers, and the judges; but
- Sixty-three percent of the staff attorneys said that they prepared extensively, while caseworkers reported that staff attorneys prepared extensively in only 36.8 percent of cases.

It is possible that the difference between the staff attorneys' own ratings and those of the caseworkers reflects preparation and investigation conducted by social workers or other nonattorney employees of the staff attorneys' organizations. The data collection instruments did not define clearly that the scope of the question included activities by support staff. The role of such staff should be measured in future studies.

Opinions about the GALs' effectiveness in conducting the investigation were collected from the GALs, caseworkers, and judges. In the effectiveness ratings, there were important differences between the GALs' and the caseworkers' assessments, especially for the staff attorney model, as follows:

- Of the staff attorneys, 71.7 percent rated themselves very effective, while only 31 percent of the caseworkers rated staff attorneys very effective;
- The private attorneys rated themselves very effective in 55.5 percent of the cases as compared with 27.9 percent of the caseworkers;
- The CASAs rated themselves very effective in 68.5 percent of the cases as compared with 59.1 percent of the caseworkers; and
- Judges rated CASAs very effective 72.2 percent of the time, compared to 53.3 percent for staff attorneys, and 30.4 percent for private attorneys.

Opinion ratings are difficult to interpret, because respondents often have different perspectives on similar issues. It might be expected that caseworkers would have lower opinions of GALs than do the GALs themselves, because the caseworkers also work very hard on each case and may feel they deserve a share of the credit. In addition, GALs and

caseworkers may disagree on the best interests of the child. The TEG conjectured that judges might rate CASAs higher than private or staff attorneys because judges often participate in the design of CASA programs and in the selection and training of CASAs, but the CASA ratings are consistently the highest across all three types of respondents.

These differing perceptions of effectiveness among the GALs, caseworkers, and judges may have important implications for the structuring of GAL programs in the future. While some of the data may reflect respondents' biases, consistency across several measures points to substantive differences in the perceived effectiveness of GALs' ability to undertake investigation and factfinding. The source of these differences in ratings appears to be related to differences in training, hours per case, and hours per week. CASAs have the most extensive GAL-specific training and spend the greatest number of hours per case. Staff attorneys also have GAL-specific training, although not as extensive as that received by CASAs, and spend the greatest number of hours per week performing GAL functions. Although the staff attorney hours per case are small, they also have access to social workers and other support staff who can assist them in case preparation. These factors provide CASAs and staff attorneys with more training and more hours to devote to GAL functions as compared with private attorneys. These findings lead to the following recommendations for factfinding and investigation in the GAL program:

- The GAL-specific training of attorneys needs to be expanded, especially for private attorneys.
- Additional resources are needed, especially in the attorney models, to reduce the caseloads of staff attorneys and to increase the time private attorneys can devote to each case.
- Private and staff attorneys should receive periodic performance evaluations that provide them with feedback from the judges and the caseworkers about the extent of preparation they expect from GALs and their perceptions of effective performance in investigation.
- The CASA approaches to training, caseloads, supervision, and evaluation may serve as useful models for improving attorney GAL programs.

6.2.2 Legal Representation

Legal representation, as defined in Section 5.2 of the report, encompasses a wide range of activities, including courtroom proceedings, making recommendations in the case, resolving disagreements between the GAL and other actors in the case, and, when appropriate, preparation of the child to appear in court. Legal representation is a critical GAL function and the tasks differ both for new and review cases and for contested and uncontested hearings. While the numbers of new and review cases were

equal in the study (by design), the number of contested cases was less than one-half of the total cases sampled.

The TEG members unanimously agreed that it was unacceptable for any child alleged to have been abused and/or neglected to appear before the court without being represented by either an attorney or another person equally qualified to fulfill the role. This recommendation extends both to contested cases in which issues already have been raised and to uncontested hearings in which an attorney may identify issues that otherwise would go unaddressed. This strong recommendation poses challenges for the CASA model that will be addressed when the findings are summarized.

6.2.2.1 *Courtroom Activities*

The first group of legal activities involves the courtroom activities of the GALs. Legal activities include making opening statements, calling and cross-examining witnesses, subpoenaing records, presenting evidence, filing motions or pleadings, and making closing statements. The data indicate that 94.5 percent of the private attorneys and 91.3 percent of the staff attorneys attended all of the hearings in new cases, but their attendance dropped in review cases to 80 percent and 73.9 percent, respectively. CASAs, on the other hand, attended all hearings in only 53.4 percent of new cases and 60.3 percent of review cases. Because some CASA programs have an attorney available to conduct court-related activities, it is possible that attorneys attended some the hearings on behalf of CASAs. However, the TEG clearly agreed that GALs, whether CASAs or attorneys, should attend all hearings.

The activities varied between new and review cases and between contested and uncontested cases. Across all types of cases, the most frequent legal activity performed was the presentation of evidence. In uncontested cases, evidence was presented in 31.4 percent of new cases and 45.9 of review cases. In contested cases, evidence was presented in two-thirds of both the new and review cases. The next most frequently reported legal activity was filing motions, ranging from 17.9 percent of uncontested new cases to 47.7 percent of contested review cases. GALs also subpoenaed records, most often in contested review cases (23.4 percent). Staff attorneys performed each of the above legal actions in the highest percentage of cases, followed by private attorneys.

CASAs reported having presented evidence and filed motions in approximately the same percentage of cases as private attorneys in both uncontested and contested cases. However, while one-half or more of the attorneys' cases were contested, only 16 percent of the CASAs' new cases and 31.5 percent of the CASAs' review cases were contested. The data collection instruments did not separate the presentation of evidence into calling witnesses and providing testimony, leaving it unclear as to how the CASAs presented evidence. Nor did the study collect data on whether CASAs were assisted by attorneys who filed motions. The TEG

recommendations make it clear that neither of these activities should be undertaken by a lay person without the assistance of an attorney.

In contested cases, the study collected data on five additional legal activities: (1) making an opening statement, (2) calling lay witnesses, (3) calling expert witnesses, (4) cross-examination, and (5) making a closing statement. Staff attorneys conducted most of these activities in the highest percentage of cases, but private attorneys conducted cross-examinations in more than 90 percent of their cases. CASA activities were limited primarily to making opening and closing statements, which occurred in only one-quarter or fewer of the cases.

The low courtroom activity levels reported by CASAs caused concern for the TEG. Attorneys were available to the CASAs in four of the six counties studied, and two counties appointed attorneys to handle all courtroom proceedings. It appears that an attorney must have conducted the necessary legal activities in the contested CASA hearings, but it is not clear whether that same attorney was accompanying the CASA and representing the child's interests. It is possible that the proceedings were conducted by a State's attorney, a prosecuting attorney, or the agency's attorney. While all parties are presumed to be acting to further the welfare of the child, none of these holds child advocacy as a primary concern. The conclusion drawn from these data is that legal representation needs to be given more attention in implementing the CASA model.

6.2.2.2 *Making Recommendations*

This section addresses GALs' experience in offering recommendations to the court. GAL activities studied in this context included submitting written reports for the record, reporting orally to the court, offering a case plan, offering opinions concerning the most desirable outcome for the child, suggesting recommendations for placement, providing services to the child or family, and addressing visitation concerns.

The issue of GALs making recommendations to the court was discussed extensively by the TEG. Attorney members of the group expressed concern about the propriety of an attorney making recommendations, especially in situations where the child may have expressed preferences that differ from the GAL's opinion about what is in the best interests of the child. After some debate, the group's consensus was that GALs must make recommendations to the court concerning their views as to the most suitable placement for the child. When the GAL's view differs from that of the child, the GAL should present both views to the court (this issue is examined further below). The TEG further recommended that in complicated cases where recommendations are difficult to establish, the GAL, while noting the complexities of the case, should still recommend a placement option to the court.

The study data indicate that in 95 percent of the cases surveyed GALs did form opinions about the most desirable and realistic placement situation for the child. In new cases, the most frequent opinion was to place the child with nonrelatives (31.3 percent), followed by keeping the child at home or returning the child to home (23.6 percent) and placing the child with a relative (16.2 percent). In review cases, those who favored keeping the child at home or returning the child to home fell to 10.9 percent. The largest shift was to favor termination of parental rights (TPR) and adoption (13.1 percent). The differences among the models were small, although the private and staff attorneys were more likely to favor residential or treatment facilities, while the CASAs were more likely to favor TPR and adoption.

The GALs in the study made recommendations about placement, services, or visitation in approximately two-thirds of the cases; however, the data collected do not indicate to whom the recommendations were made. The attorneys were somewhat more likely than the CASAs to make recommendations, demonstrating that the activity levels of the attorneys were not unduly limited by concerns about the propriety of attorneys making recommendations.

The study investigated disagreements between the GAL and other parties to the case. While few disagreements were reported, it was notable that the staff attorneys were more likely to disagree with caseworkers about placement (34.8 percent) than were the private attorneys (22.3 percent) or the CASAs (21.2 percent). On the other hand, the staff attorneys also were more likely to resolve these disagreements. Caseworker reports on disagreements followed a similar pattern to that reported by GALs.

The study also investigated disagreements between the GAL and the child. In 44 percent of the cases there were no disagreements, and in 36 percent the question was deemed inapplicable by the GAL, largely because the child was under 5 years of age. However, disagreements were reported in nearly 20 percent of the cases. In cases in which disagreements existed, GALs were asked which point of view they presented to the court. The private and staff attorneys presented both the children's views and GALs' views in most cases. By contrast, the CASAs presented both views in only one-half of the cases and then presented CASAs' views alone in the balance of the cases. This points to a need for additional training, especially for CASAs, on the importance of presenting both views to the court, either directly or through the testimony of the child in court.

6.2.2.3 *Children in Court*

The data collection inquired about the steps GALs take to prepare children to appear in court or before the judge. The most striking finding is that very few children appeared in court at all. Private attorneys had the highest percentage of children appearing (18.6 percent), followed by CASAs (12.3 percent) and staff attorneys (9.8 percent). This finding concerned the

TEG for two reasons. First, there is a growing body of law that recognizes the child as a legal entity. Second, the judges on the panel believe that it is important for a judge to see and talk with the child either in the courtroom, in the chambers, or via videotape. Balanced with the judges' desires to have children appear in court were concerns about the potential trauma to young children who might hear arguments involving their fate. The TEG also pointed out that many cases are settled out of court through stipulations and agreements that are presented later to the court for approval. In these cases it would be difficult to arrange a meeting between the judge and the child. Given the numbers of cases, additional court time would have to be provided to allow an opportunity for the child to meet in court or elsewhere with the judge.

6.2.2.4 *Opinions About GAL Effectiveness*

The study collected three types of data on the effectiveness of GALs in legal representation: (1) GALs' and judges' reports on whether GAL recommendations were adopted; (2) assessments of GAL forcefulness by the GALs, the caseworkers, and the judges; and (3) assessments of the GALs' effectiveness by the same three respondent groups. GALs reported that at least some of their recommendations to the court were adopted in 80.3 percent of the cases, including 70.5 percent of placement recommendations, 58.7 percent of service recommendations, and 53.7 percent of visitation recommendations. Staff attorneys reported the highest percent of recommendations adopted (87 percent), followed by private attorneys (81.8 percent) and CASAs (74 percent). Judges were asked how frequently GAL recommendations influenced their decisions, and their comments supported the patterns reported by GALs.

In assessing forcefulness in advocacy, staff attorneys said they were very forceful in 71.7 percent of the cases, followed by private attorneys (55 percent) and CASAs (35.6 percent). Caseworkers rated GAL forcefulness lower for staff attorneys (52.9 percent) and private attorneys (40.8 percent), but they rated CASAs about equal with private attorneys (41.7 percent). The judges rated staff attorneys (46.7 percent) and private attorneys (47.8 percent) equally, but rated the forcefulness of CASAs lower (27.8 percent).

Finally, the three respondent groups rated overall GAL effectiveness in providing legal representation. Staff attorneys most frequently rated their performance very effective (85.9 percent), followed by private attorneys (78.1 percent) and CASAs (45 percent). The caseworkers rated staff attorneys very effective in 63.5 percent of the cases, private attorneys very effective in 58.7 percent of the cases, and CASAs very effective in 49.6 percent of the cases. Judges, by contrast, rated 69.6 percent of private attorneys very effective, followed by 46.7 percent of staff attorneys and 43.8 percent of CASAs.

This pattern of ratings is not surprising. Attorneys are trained and experienced in the law and courtroom procedures and would be expected to

perform legal representation more effectively than CASAs. Staff attorneys appear in court most frequently since the GAL function constitutes most of their job. Additionally, many staff attorneys have access to supporting staff. For these reasons, their ratings may be higher than those reported by private attorneys. Clearly, the data point to the need for strengthening the CASA model in legal representation. Even more important, these data suggest that when CASAs are not accompanied by an attorney in legal proceedings, their ability to perform the legal representation functions is hindered.

6.2.2.5 *Summary of Legal Representation Findings and Recommendations*

The data on legal representation indicate that a wide range of activities and issues arise during the course of a case and need to be addressed by GALs. Important findings from this study include the following:

- Courtroom activities and related negotiations need to be conducted by an attorney, and the TEG concluded that it is essential for an attorney to be present during all courtroom proceedings.
- Attorneys were more effective than CASAs in having their recommendations adopted, supporting the recommendation that an attorney should act for or support CASAs in all legal proceedings.
- The children appeared in court or before the judge in only a small percentage of the cases. The TEG recommended that the children should have the opportunity to be seen by the judge, either in court or in chambers. On the other hand, the TEG expressed concerns that mandatory appearances in court could be unduly traumatic or disruptive of school attendance. While such circumstances need to be taken into account, the clear recommendation is to increase court appearances by children. This recommendation has significant implications for demands on court and GAL resources.
- Respondents' opinions related to getting recommendations adopted, forcefulness, and overall effectiveness ranked staff attorneys highest, followed by private attorneys and CASAs. The CASA model should be strengthened by requiring CASA GALs to be represented by an attorney in all proceedings.

6.2.3 *Mediation and Negotiation*

Staff attorneys were most likely to attempt negotiations (84.8 percent), followed by private attorneys (62.7 percent) and CASAs (38.4 percent). These differences among the models follow the same trend reported for differences in the percent of time GALs reported spending on negotiation. Please note that the data collected do not attempt to link time devoted to negotiations or particular cases with overall involvement in this function.

CASAs only attempted negotiations in approximately 38 percent of their cases, compared to approximately 63 percent of private attorneys and 85 percent of staff attorneys. CASAs in the study were prepared for negotiations through their training, and they said that they spent approximately the same percentage of time on negotiations as did attorneys. It is possible that negotiations were initiated in CASA cases by other actors, such as the attorney for the parents, the agency's attorney, the caseworker, or some other party.

Overall, GALs reported that negotiations were successful in reaching an agreement in about two-thirds of the cases. Staff attorneys succeeded in 72.1 percent of new cases, but in only 51.4 percent of review cases. The issue most often addressed in negotiations was placement of the child (79.6 percent of negotiations). Two-thirds or more of the negotiations addressed services and treatment for the child, services and treatment for the family, and visitation. The stipulation of abuse and neglect was addressed in 66.9 percent of negotiations in new cases, but in only 34.6 percent of negotiations in review cases.

The parties involved in the negotiations included caseworkers (91.9 percent of cases), the parents' attorneys (76.5 percent of cases), the agency's attorneys (72.1 percent of cases), the child's attorneys (49.3 percent of cases), lay volunteers (12.5 percent of cases), and others (43 percent of cases). Other parties included State's attorneys, prosecutors, foster parents, social workers, parents, other GALs, and school officials. The activities conducted during negotiations typically included bringing the parties together, highlighting common goals, encouraging parties to negotiate, and suggesting options. In 10 percent of the cases, negotiations resulted in drafting agreements; however, the study did not note who had drafted the agreements.

One notable finding emerged from these data. Staff attorneys had a low frequency of involvement with the agency's attorneys, especially in new cases (39.5 percent), and with caseworkers in new cases (76.7 percent). No reason was offered, but it is reasonable to assume that negotiations would not result in a sound agreement without the approval of the child protective services agencies.

The study collected three opinion-based measures of effectiveness of negotiations. These include: (1) GALs' extent of involvement with negotiations, (2) the importance of GALs' contributions to the outcomes of negotiations, and (3) GALs' effectiveness in presenting options and advocating for children's interests. The findings include the following:

- Two-thirds of the GALs reported that they were very involved in negotiations, with little difference across the models. Caseworker assessments supported GALs' self-assessments, with three-fifths of the caseworkers reporting that GALs were very involved in negotiations.

- In assessing their own contribution to the outcome of the negotiations, 67.6 percent of the staff attorneys said they were very important, compared to 56.5 percent of the CASAs and 34.1 percent of the private attorneys. Caseworker assessments provided a different ranking of effectiveness in negotiating across the three models. Caseworkers reported that CASAs were very important in 64 percent of the cases, followed by private attorneys in 50.8 percent and staff attorneys in 43.3 percent of the cases. Thus, the staff attorneys rated themselves much higher than did the caseworkers, and the private attorneys rated themselves much lower than did the caseworkers.
- In assessing effectiveness in presenting options and advocating, GALs rated themselves as very effective in 62.6 percent of the cases, with staff attorneys somewhat higher than the average and private attorneys somewhat lower. Caseworker assessments reflected the same pattern.
- Finally, judges were asked to rate the overall effectiveness of GALs in negotiating. They rated GALs as very effective in 65 percent of the cases, with staff attorneys receiving the highest rating (80 percent).

In summary, GALs conducted negotiations in approximately two-thirds of the cases. Staff attorneys conducted negotiations in 84.5 percent of their cases, but CASAs performed this function in only 38.4 percent of their cases. Among those who attempted negotiations, agreements were reached in approximately two-thirds of the cases, with little difference across models. The negotiation activities described were substantially consistent with the Duquette model. Various opinions reported about the extent of GAL involvement and GAL effectiveness were similar across models, and consistent opinions were reported by both GALs and caseworkers. More diverse opinions were reported about the importance of the GALs' contributions to arriving at agreements. However, it is important to point out that measuring contributions is a difficult task. The judges rated GALs as very effective negotiators in 65 percent of the cases, similar to GALs' self-assessments and caseworkers' ratings.

In reviewing these results, the TEG generally agreed that mediation and negotiation are very important GAL functions because any agreements or stipulations that can be concluded outside the courtroom conserve time and energy for all parties. Additionally, agreements that are reached at this stage are easier to implement than court-imposed orders.

The data presented herein led the evaluators to offer two recommendations:

- The importance of conducting mediation and negotiations should be emphasized in all GAL training to facilitate the settlement of issues as quickly as possible and to minimize the numbers of cases that are decided by the courts.

- Future studies of GAL programs should first measure the extent of negotiations in child abuse and neglect cases and then isolate more carefully the activities conducted by GALs and other parties in reaching agreements through negotiation.

6.2.4 Monitoring

Once the child has been placed in a safe environment, case monitoring is intended to ensure that the case is moving swiftly through the court process and the child and family are receiving the services specified in court orders, agreements, and case plans. The TEG concurred that case monitoring is an essential function and should include monitoring the special needs of the child, informing the court of service needs, reviewing the order to ensure that it is up to date, and following up on orders. These activities help to ensure that the goals of permanency planning and protecting the best interests of the child are met. Most monitoring activities take place after the dispositional hearing. For this reason, data on specific activities performed in case monitoring were collected only on review cases.

An important part of monitoring is maintaining contact with the child. The GALs were asked how frequently since the review hearing they had contacted children on matters other than those pertaining to their hearings. Only 10.5 percent reported contacting the children very frequently, and 36 percent said they did not contact the children at all. There were large differences among the models. Private attorneys reported no contact in 54.5 percent of the cases, and staff attorneys reported no contact in 40 percent of the cases. By contrast, CASAs reported no contact in only 5.5 percent of cases, and they reported contacting the children very frequently in 21.9 percent of the cases. Caseworkers' assessments reflect a similar pattern.

The data from the judges support the GAL and caseworker data. Judges were asked whether GALs maintained sufficient contact with the children after the dispositional hearing. They responded positively in 55.5 percent of the jurisdictions that use CASAs, but in only 20 percent of staff attorneys' and 17.4 percent of private attorneys' jurisdictions.

The study investigated GAL contacts with other parties since the review hearing. Some contact was made by 83.6 percent of the CASAs, 71.7 percent of the staff attorneys, and 50 percent of the private attorneys. The most frequent contact was with the caseworker (59.8 percent), followed by foster parents (41 percent) and the child welfare agency (37.6 percent). Caseworker reports on contacts with the GAL were consistent with GAL self-reports.

GALs were asked what they had done to carry out some aspect of a court order, voluntary agreement, or case plan. Only 44.1 percent of the GALs reported doing anything, but 57.2 percent identified specific changes that were needed in the case plans. For those who identified a change, 76.4 percent recommended changes to the case plan orders, and 20.9 percent

(including one-half of the staff attorneys) filed motions or pleadings to obtain the changes. One-half of these GALs believed that changes were made as a result of their interventions. However, it was not possible to measure what parts of the case plans were changed as a result of GAL actions.

Judges were asked to comment on how diligent GALs had been in carrying out court orders, voluntary agreements, or case plans. The judges reported that, overall, 69.2 percent of GALs were very diligent, with CASAs receiving the highest ratings (94.4 percent), followed by private attorneys (57.1 percent) and staff attorneys (53.8 percent). GALs, caseworkers, and judges all were asked to assess the effectiveness of GALs in performing monitoring and followup. There was substantial agreement among the three types of respondents, with approximately one-third of each type rating GALs as very effective. Staff attorneys rated themselves as very effective in 41.3 percent of the cases, while caseworkers and judges rated staff attorneys as very effective in fewer instances (22.9 percent and 13.3 percent, respectively). CASAs received the highest ratings in performing monitoring and followup. Caseworkers (56.1 percent) and judges (76.5 percent) rated CASAs very effective, compared with 56.3 percent of the CASAs who rated their own performances similarly.

One explanation for these differences in perceived diligence and effectiveness may be the amount of time spent on case monitoring. While the average percent of time on a given case devoted to monitoring was 11 percent across all models, two-thirds of the CASAs spent 20 percent or more of their time on monitoring, and one-half of all CASAs spent 25 percent or more of their time on this function. Additionally, CASAs devoted more hours per week on each case than did staff or private attorneys. These findings suggest that more emphasis on the importance of monitoring might increase the effectiveness of the attorneys. Such a recommendation, of course, has implications for available resources.

6.2.5 Resource Brokering

The final GAL function in the Duquette model is resource brokering. The study did not collect data on the full range of tasks that constitute brokering, but only on the extent to which GALs provided resource information not offered by other parties. It is likely that GALs helped define child and family needs and linked resources to those needs utilizing resources. Unfortunately, the data do not enable us to measure the catalytic role GALs may have played in matching known resources to defined needs.

GALs reported providing new information in about 25 percent of the cases, with the availability of services and current placement options mentioned most often. Data from judges support the GALs' low frequency in performing this activity, with more than one-half of the judges reporting that GALs rarely, if at all, provided additional resource information. Case

record data indicate that some services were ordered by the court or recommended in most cases and that a substantial percentage of cases received the services, but there was no way to link these data to GAL actions. To further support the apparent low levels of GAL activity in brokering, nearly one-half of the GALs reported that they spend no time on brokering.

In rating their effectiveness in brokering, 20.5 percent of the GALs rated themselves very effective. More revealing, perhaps, is the fact that 33.8 percent of the GALs rated the activity as “not applicable” to their overall function in the case. This seems to indicate that some GALs do not view resource brokering as part of their role. The caseworkers also rated GALs’ effectiveness in brokering. They rated 30.7 percent of the CASAs very effective, compared with 17.2 percent of the staff attorneys and 13.9 percent of the private attorneys. The caseworker ratings were not very different from the GALs’ self-assessments.

The data on brokering led to the following recommendations:

- Brokering appears to receive very little attention among GALs, and their effectiveness ratings reflect this low priority. A sizable percentage of GALs do not see brokering as a part of their role. If brokering is to be a major function of GALs, it needs to be given more emphasis in both training and resource commitments.
- The study did not measure the full range of brokering activities, but only those in which the GAL provided information that was unknown to other parties. Future evaluations should measure the activities first, then attempt to ascertain if the information provided strengthened the GALs’ effectiveness.
- There needs to be a clear delineation of roles between GALs and caseworkers so that the resource brokering function is performed, but with minimum duplication of effort between GALs and caseworkers.

6.3 SUMMARY OF CONCLUSIONS AND RECOMMENDATIONS

The evaluation findings point to several areas of improvement that can strengthen the GALs’ role as advocates in child abuse and neglect cases. The data suggest strengths and limitations in each of the three models of GAL representation studied. Given the different laws and circumstances of child abuse and neglect representation in the 50 States, the District of Columbia, and the more than 3,000 counties, it would be inappropriate to conclude that 1 model is preferred over the others or to recommend that 1 model should be adopted. More importantly, the findings do not support such a conclusion or recommendation. However, the data do support some conclusions and recommendations to consider in building on the current

state of the art in the field. The recommendations are presented for each model, followed by global recommendations.

6.3.1 Private Attorney Model

The strengths of the private attorney model appear to be in the attorney's performance of the courtroom phases of legal representation and in negotiation and mediation. On the other hand, private attorneys generally performed fewer noncourtroom activities and rated themselves lower than staff attorneys in terms of their forcefulness in cases. This same assessment was offered by caseworkers and judges. The data suggest that several changes could be made to strengthen the private attorney model:

- The private attorneys need additional resources to support their legal representation. Private attorneys spent an average of 1 hour per week on their cases, and many of the private attorneys surveyed did not have access to support staff or volunteer assistance to conduct investigations, monitoring, brokering, or other activities outside the courtroom. Such additional support could be provided by staff reimbursed by the courts, contracted staff, or volunteers.
- Compensation appears to be a problem for private attorneys. The field generally recognizes that hourly compensation for GAL services is modest when compared with fees offered by private clients. The TEG did not take issue with this, but they did recognize the need to increase the number of hours authorized for payment to enable private attorneys to perform the full range of GAL functions necessary to adequately represent the best interests of children.
- Private attorneys need to receive more focused training in all aspects of GAL representation. The TEG believed that it was undesirable for any GAL to represent children without specific training in child welfare laws and regulations, the relationship between the child welfare system and the courts, and child and family dynamics in abuse and neglect cases. It was suggested that any training models developed should be evaluated to measure their ability to improve GAL performance.
- The TEG recommended that a new approach in selecting and supervising private attorneys should be developed. Currently they do not appear to have sufficient independence and autonomy because they are appointed, supervised, and compensated directly by the court. They also do not receive independent evaluations and other feedback that would help to improve their performance. The TEG recognized that, in implementing this recommendation, courts would need to develop and implement an organization and support structure comparable to that available to staff attorney and CASA programs.

6.3.2 Staff Attorney Model

Staff attorneys were rated as very effective in legal representation and in performing negotiations. On the other hand, staff attorneys did not appear to see children or visit homes in all cases, and they were not active in monitoring or resource brokering. In general, they rated their own accomplishments much higher than did the caseworkers and judges interviewed in most areas. The data lead the evaluators to recommend several changes to strengthen the staff model:

- Caseloads need to be reduced. The staff attorneys reported the highest caseloads by far; in fact their caseloads were even larger than those of the caseworkers. While case responsibilities can be shared in a staff attorney model, that approach must be practiced carefully to ensure that the GALs' knowledge of cases is comprehensive. Counties using this model need more staff attorneys or more social workers to support staff attorneys.
- Staff attorneys appear to need more formal training, especially in child and family dynamics. Most staff attorneys reported receiving some training, but there is no evidence that indicates how much of that training was formalized and how much was informal, on-the-job training.
- Staff attorneys need more performance feedback from supervisors, caseworkers, and judges. Staff attorneys, overall, rated their own performances much higher than did either judges or caseworkers. The TEG agreed that GALs need to be made aware of situations when they are not meeting the expectations and standards of the caseworkers and judges with whom they work.¹

6.3.3 CASA Model

The CASA model showed high activity levels and received high ratings in investigation, monitoring, and brokering, but there appear to be some problems with their legal representation and negotiations. It is possible that some of these gaps were filled by attorneys who accompanied CASAs in courtroom proceedings, although the study design did not measure attorney participation, the study findings led to recommendations for several changes that could improve the performance of CASAs:

- The timeliness of CASA appointments needs to be improved. In one-half of the counties studied, CASAs routinely were not appointed prior to the

¹It is possible the difference is due more to clashes between the attitudes or styles between young, less seasoned staff attorneys and those of more experienced caseworkers and judges. It is also possible that the staff attorneys in the study were perfectly aware of the opinions held by caseworkers and judges. No data were collected to address either of these possibilities.

dispositional hearing. While an attorney was appointed for new cases in these counties, the practice precludes continuity of representation between the new and review phases of a case. When combined with the short tenure discussed above, the consequence is that children in the CASA counties studied are appointed GAL representation later than the other models, and that representation more likely may be interrupted by the departure of the volunteer.

- CASAs, unlike staff or private attorneys, often do not attend all hearings in the cases they represent. The TEG believes that the CASAs' attendance at all hearings is important, even when an attorney is present.
- The TEG recommended that CASAs should be accompanied by and represented by an attorney in all courtroom proceedings and negotiations. The data indicate that CASAs usually participate in courtroom proceedings only to present evidence.

6.3.4 Overall Program Recommendations

The model-specific recommendations presented above were intended to build on and strengthen these models. In addition, several cross-cutting recommendations emerged from the study and the TEG discussion of preliminary findings that could strengthen the GAL program:

- A mixed model of GAL representation was present in many of the counties studied, and it is appropriate to test variations of mixed models currently implemented in other counties. Mixed models have used both attorneys and nonattorneys in each case. The activities conducted by a GAL change over the course of a case in ways that require different combinations of skills and abilities. The investigative function can utilize a mixture of legal, social work, and observational skills, while courtroom activities clearly require attorneys. Monitoring and resource brokering require diligent attention that should be provided by trained staff members or volunteers, while court actions to remedy any problems in cases require lawyers. The mixed model demonstrations recommended by the TEG and the need for a mixed model emerge from the data analysis as well. These, like many other recommendations in this report, would require changes in organization, possible changes in law, and more resources.
- The TEG recommended that a formal, national system of GAL training, standards, and certification be established. The present study measured some aspects of training and identified important gaps in GAL-specific training, especially for private attorneys. A formal system of training and certification, like that proposed by the national CASA association for lay volunteers, would establish more uniform standards and expectations across the Nation but could be quite expensive. A less expensive system of uniform training curricula offered through State colleges or bar

associations may be more feasible to implement. Participants who complete such courses would receive a certificate.

- The courts need to implement formal terms of appointment that detail exactly what courts expect GALs to do and when. Two samples of such terms of appointment provided by the TEG show wide variations, and many counties have no formal document that defines the GAL role.
- Additional resources are needed to implement the GAL requirements in the CAPTA legislation. The small amount of time spent by private attorneys on each case, the large caseloads of staff attorneys, and the absence of CASAs and CASA attorneys from hearings and other legal proceedings all point to the need for increased funding. This study was not designed to provide estimates of the magnitude of resources needed. Further study is needed to develop caseload standards conducive to ethical representation.

6.3.5 Research Recommendations

This study of GAL effectiveness accomplished many of its objectives. However, as the first comprehensive quantitative study in the field, the study design and implementation demonstrate that the scope and design of future studies could be improved and expanded to answer more questions and to provide more definitive answers to those posed in the current study. Additional research is particularly important as implementation proceeds on the family support/family preservation initiatives approved by Congress in 1992. The major areas for improved and expanded research are as follows:

- Future studies of the GAL program should be designed to measure the extent of GAL representation in child abuse and neglect cases.
 - The sample design should be representative of cases, not of GALs or GAL models. The first stage of such a sample should be similar to the sample in the present study, a stratified sample of U.S. counties selected with probability proportional to size. Such samples always select New York City (Bronx, Kings, New York, Queens, and Richmond Counties), Los Angeles County, and Cook County (Chicago), each of which poses important logistical problems.
 - The second stage of the sample should be a probability sample of cases, stratified into new and review cases, so that the results can be generalized to the caseload. The size of the sample would need to be large enough to measure the percent of cases receiving representation, with relative error of 5 percent. While power calculations would be needed to determine the sample size, such samples typically include 1,500 to 3,000 cases, or at least 4 times the size of the sample in the current study.

- The complete range of child advocacy representation should be measured in each sample case. This would cover GALs, other lay volunteers, attorneys, and attorney support staff. It also would cover caseworkers, agency attorneys, and State's attorneys or prosecutors. The activities of each such actor would be measured using instruments of similar design to those used in the present study.
- Where a given advocate, such as a staff attorney, acts in several cases, it would be necessary to stratify the case sample to represent each advocate, and each advocate might need to answer the questions about several sample cases. Only in this way could the full range of advocacy be measured, which is especially important in mixed models.
- Data are needed on the total numbers of advocates of each type available to serve in each county in order to estimate the intensity with which advocates are used.
- Information should be collected on the costs of the GAL programs studied. Such information is vital to providing estimates of the additional resources needed to improve the program.
- More information should be collected on the backgrounds and training of child advocates. Especially important would be their age, academic training, years of professional experience, and primary professional field (including law specialty for attorneys). In addition, it would be important to collect data on their motivations for entering into child advocacy, their estimates of how long they will continue to act as child advocates, and their opinions about the intrinsic positive rewards and negative aspects of child advocacy. Measures of GAL-specific training should distinguish between classroom and on-the-job training. Measures of on-the-job training should distinguish between structured, supervised training and simple "learning by doing."
- Measures of the scope, content, and performance of legal representation need improvement. The present study made sharp distinctions between legal representation in the courtroom and mediation/negotiation. However, most cases are settled in negotiation, not in the courtroom. It is essential to measure how the interests of the child were advocated throughout the formal and informal activities in the case.
- Case monitoring and resource brokering measures need improvement. The current study measured which services were ordered and received as reflected in the case record, but it did not measure the joint and separate contributions of the GAL and the caseworker in delivering these services. Service delivery is inherently a caseworker function, and future studies need to measure how the GAL and the caseworker can best coordinate their efforts to deliver services without conflicts between them.

- A long-term study is needed to relate child well-being, growth, and development to placement options.

The GAL program is still in its developmental stages, and this evaluation was able both to document the status of that development and point toward some exciting directions for the future. Through the data analyzed in the evaluation and the valuable insights and advice offered by the TEG, we have reached the stage where it is possible to consider some alternative programmatic approaches. The results of the evaluation clearly indicate that no single GAL model is superior to the others. The findings suggest that an optimal approach involves the combined resources of attorneys, lay volunteers, and caseworkers to perform the broad range of functions and services contained in the definition of the child advocate.

The study findings demonstrate that more resources are required to provide children with the level and quality of advocacy services envisioned by CAPTA. Future improvements to the GAL program could benefit from planning demonstrations with integrated evaluations to test different combinations of shared resources and functions. Such demonstrations could build on the variations covered in this study, testing combinations of private attorneys, staff attorneys, and lay volunteers in performing GAL functions. The demonstrations also should test more extensive use of pro bono legal services, friends of the court, and other trained volunteers to support formally designated GALs. Finally, given the high percentage of out-of-home placements in review cases, further research and evaluation should be conducted on the role of the GAL as part of the family support and family preservation initiatives.

This study of the GAL program served the purposes of documenting the status of the program and proposing some exciting directions for the future. The results of the study demonstrated that no single GAL model studied was consistently superior to the others across all five GAL roles. The findings suggested that an optimal approach may involve having a GAL who possesses or has access to the expertise and resources of attorneys, lay volunteers, and caseworkers to perform the broad range of functions and services contained in the definition of the child advocate.