

GUARDIAN AD LITEM

2006 Annual Report



*The Voice for Florida's Abused
& Neglected Children*

GUARDIAN
AD LITEM



When a 17 year old boy stood before a judge and asked his caseworker to help him get adopted, it hit me again.

This is the reason I work for the Guardian ad Litem Program – this boy, right now. I didn't know him personally, but I knew who he was, a child with no family, confused and afraid, being carried by the current of the child welfare system to a future without definition. I was overwhelmed by his faith in people. The hope he had was astonishing and I was humbled by the courage I knew it took to utter those words out loud. Adoption of a 17 year old boy with a long history in the foster care system? Statistics say it's unlikely. And he knew it. But he dared to ask for a family, for someone to adopt him, to love him, to always be there for him.

And why shouldn't he be adopted? He deserves a family – a place to call home. But instead his parent is the state. He is a legal orphan. Somehow there wasn't enough funding or services or time or energy to prevent this child from suffering through too many years in the system. Now he stands alone, with nowhere to go but into adulthood. This is who the Guardian ad Litem Program works for – for children like this boy and thousands more – to make sure they haven't fallen through the cracks, to pick up where others have left off, to prevent them from missing out on the things they so desperately need.

Over the past year the Guardian ad Litem Program has worked to create a place where children's best interests are paramount, where all participants think of the child first, where the energies of staff and volunteers push each case, each family and the system to a better place. This report details the efforts of the Guardian ad Litem Program in 2006, and there is tremendous progress. We continue to improve and to represent more children, but not all children have someone fighting for them. We must commit to representing every child. We must advocate to get them to safe, permanent, loving homes. We must not stop until all children have a meaningful, powerful voice in their futures.

Sincerely,

A handwritten signature in cursive script that reads 'Angela Orkin'.

Angela H. Orkin

Executive Director

EXECUTIVE SUMMARY

The Guardian ad Litem Program advocates for abused, abandoned and neglected children in court and in the community, and impacts the child welfare system so that all children have safe, stable homes and an opportunity to reach their own unique potential.

Florida Statutes require a guardian ad litem (GAL) be appointed at the earliest possible time in an abuse, abandonment or neglect proceeding to represent the child's best interests. The Guardian ad Litem Program (Program) advocates for thousands of children in dependency court. The Program is committed to representing all children involved in dependency proceedings and providing high quality, proactive advocacy. To that end, over the last year the Program can report the following:

- The 2006 Legislature appropriated \$7 million in new funding. After implementation of these resources, the Program estimates it will be able to represent 32,787 children by December 31, 2006.
- The Program's volunteer base increased to 5,413, the largest number of volunteers in its 26 year history.
- Several promising initiatives were continued and expanded. The Permanency Project in Jacksonville, which experienced remarkable success in the finalization of adoptions, is being implemented in five additional judicial circuits. Several efforts geared toward older youth are also being expanded, including a project called Fostering Independence which targets pro bono attorneys to serve as guardians ad litem for 16 and 17 year olds and an initiative for Attorney-GALs to represent older youth.
- The Program worked to enhance its representation by launching a new training manual and on-line training for volunteers, conducting regional trainings with specific topical focuses, implementing new Standards of Operation and Attorney Standards of Practice and holding a statewide leadership conference to emphasize the importance of children participating in dependency proceedings.



EXECUTIVE SUMMARY *continued*

The Statewide Guardian ad Litem Office is required to provide recommendations on how to meet the need for guardian ad litem representation. As of August 31, 2006, the Program represents 28,179 children. There are 43,765 children currently under DCF supervision and involved in court proceedings. Taking into account the number of children currently represented and using resources allocated in the 2006 Legislative session, the Program anticipates it will be able to represent 32,787 children by December 31, 2006. Therefore, an estimated 10,978 children will be without representation. In order to represent all of these children, the Program will be seeking approximately \$10.8 million in additional funding. If the Program's request is fully funded, the Program will, for the first time in Florida's history, be able to represent 100% of abused, abandoned and neglected children in dependency proceedings. The Program will also be requesting funding in order to meet the mandate in Rule 8.350 of the Rules of Juvenile Procedure for certain children to be represented by attorneys ad litem and to address the needs of children in dependency court with developmental disabilities.

The Program is proud of the accomplishments of 2006 and grateful for the dedication of the staff and volunteers who made these achievements possible. However, more work must be done to ensure that every abused, abandoned and neglected child has an advocate in dependency court. The Florida Statutes unequivocally state that children are entitled to a guardian ad litem and the children should not be made to wait. This year we can reach all of them. The Guardian ad Litem Program stands ready to provide all children an advocate of their own.



ALL CHILDREN DESERVE THEIR OWN ADVOCATE

The Guardian ad Litem Program advocates for children alleged to be abused, neglected or abandoned who are involved in dependency court proceedings. Volunteers, case coordinators and program attorneys make up the team that represents children. The unique perspective and expertise of each team member complements the others and all are critical to advocate for children's best interests. The Program advocates in court and in the community for the child's physical safety and emotional well-being and to find a permanent placement in a stable and nurturing home that fosters healthy growth and development. Program attorneys work to protect the child from further harm while involved in the court system and to protect the child's interests.

Florida Statutes require a guardian ad litem (GAL) be appointed at the earliest possible time in an abuse, abandonment or neglect (dependency) proceeding.¹ After appointment, the Program accepts the case and assigns a volunteer or a staff advocate.² When the Program accepts a child's case, a GAL collects comprehensive information about the child and family and attends staffings and hearings. The GAL visits the child regularly in her home environment, gaining an understanding of the child's needs and wishes and explaining the process to the child in an age-appropriate manner. The GAL provides recommendations to the judge as to the child's best interests and informs the court of the child's wishes. The Program advocates for the child in court to ensure the child is the focus of decisions regarding placement, visitation, termination of parental rights, adoption and other decisions impacting well-being. The GAL continuously monitors the child and all participants in a child's case to expedite permanency and prevent children's cases from languishing in the system. The Program advocates for individualized services and programs that help children achieve positive outcomes both in and out of court.

The Legislature's stated goals for children in shelter or foster care include having "a guardian ad litem appointed to represent, within reason, their best interests and, where appropriate, an attorney ad litem appointed to represent their legal interests."

— Section 39.4085(20),
Florida Statutes



The Department of Children and Families (DCF) is the government agency responsible for protecting abused, abandoned and neglected children. DCF contracts with community based care agencies (CBCs) to provide social services to children and families. Unlike the Program, DCF serves a number of individuals in addition to the child, such as the child’s parents, relatives or foster parents. The Program will often collaborate with DCF to reach a goal for a child, but will also present the other side of a story or the child’s opinion. While both DCF and the Program work for children in dependency court, sometimes there are disagreements about what a child needs and when. DCF has obligations to the whole family while the GAL presents an unadulterated perspective of the child’s needs. The GAL’s exclusive focus is the child and ensuring decisions are driven by the child’s best interest.



Although the Program advocates for timely permanency, dependency cases can go on for years. The consistency of a guardian ad litem ensures the child’s history is before the judge when decisions are made. The GAL may report to the court and sometimes to the caseworker, events that happened months or years ago, long before the judge or caseworker was involved. Above all, the child has a familiar face that she can count on. In a dependency court proceeding, a child often does not know where she might be living or if or when she might go home. With this uncertainty, the stability of a consistent, independent advocate can positively impact a child’s well-being. For all of these reasons and more, it is critical that every child in dependency court has a guardian ad litem.

“The GAL is the only one in the courtroom and in the case whose only job is the best interests of the child. . . they are not just nice to have; they are a must have.”

— Daniel P. Dawson
Circuit Judge, 9th Judicial Circuit

NEW STATE FUNDING ENABLES MORE CHILDREN TO HAVE A GUARDIAN AD LITEM

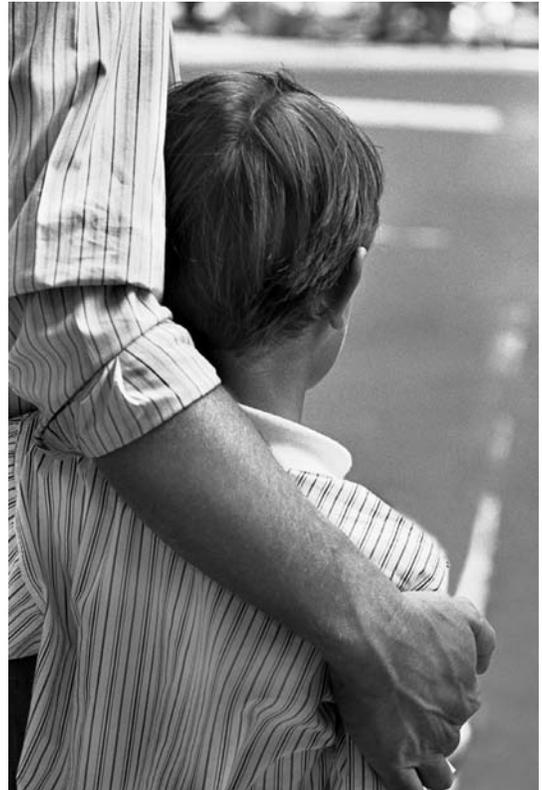
Recognizing the need to provide a guardian ad litem to all children in dependency court, the 2006 Legislature appropriated \$7 million in new funding to the Guardian ad Litem Program.³ This allowed the Program to hire 49.5 program attorneys, 83 case coordinators and 24.5 assistant case coordinators.⁴ Positions were distributed based on the number of unrepresented children in each judicial circuit as indicated in Appendix A. The positions were established July 1, 2006. The Program immediately began recruiting to fill them and 85% were filled within 60 days. After implementation of these resources the Program estimates it will be able to represent 32,787 children by December 31, 2006.

The Florida Statutes charge the Program with determining the feasibility or desirability of new concepts of organization, administration, financing or service delivery designed to preserve the civil and constitutional rights and fulfill other needs of dependent children.⁵ Consistent with this direction, the Program is utilizing several models of representation described in the 2005 Annual Report to represent more children and improve and refine the quality of representation until all children have an advocate.



Permanency Project

In 2005, the Program began an initiative called the Permanency Project which focused on expediting permanency for children whose parents' rights were terminated (post-TPR children). The Permanency Project started in the Fourth Judicial Circuit in Jacksonville and was funded in part by a grant from The Florida Bar Foundation. The Program discovered that in some cases children had been awaiting permanency for years. Many were already placed in adoptive homes, but the adoption was not being finalized, while others had administrative and paperwork issues that were preventing them from getting to their new families. The Fourth Judicial Circuit GAL Program and Circuit Judge David Gooding identified 421 children whose dependency case status was post-TPR and who were therefore legal orphans. Both the GAL Program and Judge Gooding agreed the situation was a crisis for children and the Permanency Project was launched. A GAL program attorney and case coordinator worked together and recruited pro bono attorneys and certified legal interns to serve as guardians ad litem to finalize these cases. The judiciary managed the cases aggressively with status hearings on adoption cases every week and, when necessary, every day. In less than a year, the Fourth Circuit reduced the total number of children awaiting adoption by 153 children.⁶



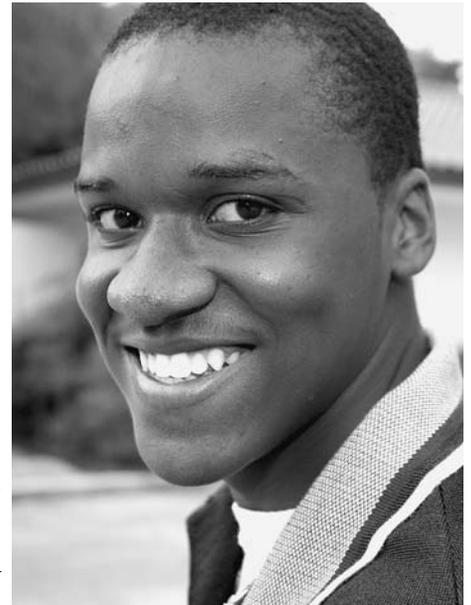
“Adoption is grafting a branch onto a family tree. It affects more than the two or three people at the hearing. Adoption affects grandparents, aunts, uncles, cousins, and generations yet to be born. It is no stretch to say what we do here is eternal in significance.”

— David M. Gooding
Circuit Judge, 4th Judicial Circuit

The tremendous results in the Fourth Circuit's project can be attributed to many factors, including cooperation among stakeholders, proactive management of cases by the dependency judges and specialized knowledge on the part of Program staff and pro bono attorneys. Using resources allocated in the 2006 Legislative session the Program expanded this initiative to serve post-TPR children in five additional judicial circuits. The Program believes that by focusing its resources in this manner, it will be able to recruit more pro bono attorneys and children will reach permanency more quickly.

Advocating for teens

Numerous studies have identified poor outcomes for children transitioning out of foster care and noted that youth are ill-prepared to live independently once they turn 18.⁷ National and statewide attention to the plight of older youth in the child welfare system, coupled with the direction in the Florida Statutes to encourage the Program to serve children aging out of foster care,⁸ inspired the Program to develop new strategies to serve this population of children. With resources allocated this year, the Program is attempting to meet the needs of teens by utilizing Attorney-GALs to advocate for 16 and 17 year olds. Attorney-GALs investigate cases, meet with children and use their courtroom skills to achieve better outcomes for teens.⁹ This initiative is similar to the Program's Fostering Independence project which targets pro bono attorneys to serve as guardians ad litem for 16 and 17 year olds in foster care. The pro bono attorneys work as part of the GAL team with Program staff and attorneys to provide advocacy for the teen.



The Program provided specialized training to the Attorney-GALs and pro bono attorneys to better prepare them to address the needs of older children in dependency court. The training addressed common problems such as barriers to permanency, aging out of foster care without adequate support and appropriate housing and lack of independent living services. Older youth also typically need information and education about application procedures for secondary education, eligibility requirements for social services and housing. Training and materials were provided to Attorney-GALs on these topics, as well as on advocacy for children who may be involuntarily committed to residential treatment centers

and handling issues related to master trust accounts.¹⁰ It is anticipated that Attorney-GALs and pro bono attorneys will develop specialized knowledge in these areas which will not only benefit the youth they represent, but can be shared with other Program staff and volunteers throughout the state.

In the past, when foster children turned 18, the court case was automatically closed even if they were aging out of foster care without the ability to live independently and without any support. In 2005, the Legislature enacted Section 39.013(2), Florida Statutes, which enables youth to petition the court to extend its jurisdiction until the youth's 19th birthday. Extending the court's jurisdiction helps to ensure children who qualify receive services needed for a successful transition to adulthood.¹¹ Over 200 children have elected to extend jurisdiction, according to DCF data.¹² To ensure teens have this opportunity if they want it, the Program developed a petition to extend jurisdiction that teens can use as well as a brochure geared toward older youth, which explains extended jurisdiction and how to ask for it. The Program distributes the brochures and petitions to judges, group homes, foster parents, schools, caseworkers and others who have contact with foster teens. A program attorney and case coordinator in each circuit have been designated to work on extended jurisdiction issues. Program attorneys take phone calls to answer questions from teens in their circuits, and the Program's toll-free phone number is included in the brochures. By helping children take advantage of this new law, the Program hopes more youth will have the services they need and be better able to successfully transition from foster care to adulthood.



Being a voice for children sometimes means teaching
them to use their own voice.

Advocating for Children until Permanency is Achieved

In addition to reaching more children, the Program is providing more representation for children by staying on cases longer. One historical problem for the Program caused by lack of resources was that GALs often had to discharge from cases where permanency seemed probable in order to focus resources on newer cases.

As a result, children did not have an advocate pushing for permanency and some cases languished in the system awaiting final resolution.

This practice affected both the number of children represented and the quality of the representation. The Program began to collect data on “Discharges with Permanency” to reflect the number of cases where the Program was able to stay on the case until the child was in a safe, permanent placement and DCF terminated supervision. This measure was developed to encourage Program staff to remain on children’s cases until true permanency is achieved. In July 2005, the Program recorded “permanency” as the reason for discharge on 31.4% of its cases. By August 2006, that number was up to 52.8%. By advocating for children until permanency is achieved, the Program has been able to push the system towards final resolution of the case.



“You know how it feels when you’ve been standing up for a very, very long time and then you finally get to sit down? Well that’s how it feels to be adopted.”

— John, age 12

OVER 5,400 VOLUNTEERS ADVOCATING FOR CHILDREN

The Guardian ad Litem Program is able to represent thousands of children with the help of its volunteers. Program volunteers donate countless hours to the children they represent. The unique perspective of volunteers and their often creative solutions are highly valued by dependency court judges. The Program has worked hard to recruit more volunteers to represent children and in the last fiscal year, the Program can report great success. From July 2005 to August 2006, the Program increased its volunteer base by 582 volunteers, for a total of 5,413 volunteers. This is the largest number of volunteers in the Program's 26 year history. A total of 1,929 new volunteers were recruited and trained the last fiscal year, a 23% increase over the number of volunteers recruited in fiscal year 2004/2005.



Through innovative recruiting and retention efforts by circuit programs and numerous statewide initiatives, the Program has the largest number of volunteers in its history.

This success can be attributed to innovative recruiting and retention efforts by circuit programs and a number of statewide initiatives including:

- Bi-monthly conference calls conducted to receive input and guidance from existing volunteers in each circuit.
- Monthly conference calls conducted to coordinate recruitment efforts across the state.
- Uniform presentations featuring best practices in volunteer recruitment.
- A new partnership with Florida Campus Compact to increase the number of student volunteers and raise public awareness of the Program in universities and community colleges.
- Hispanic/Latino and African American recruitment workgroups organized to recruit a more diverse volunteer and employee base.
- Membership in the Florida Mentoring Partnership providing access to a statewide network of volunteer coordinators.
- Partnerships with corporate offices, such as Burger King, developed to provide opportunities for their employees to become volunteers.

Based on the success in recruiting new volunteers over the past year, the Program is optimistic about the future. The Guardian ad Litem Program will continue to develop and share best practices and replicate successful strategies throughout the state to recruit more volunteers. The Program is committed to nurturing this resource and recruiting more volunteers until all children have an advocate of their own.



STRENGTHENING GUARDIAN AD LITEM ADVOCACY

Every day the Program works to provide highly competent and proactive representation for children. Ensuring that GAL volunteers, program attorneys and staff are advised of the most recent case law and statutes, trained on how to most effectively operate within the child welfare system and taught how to best interact with the children they represent goes to the core of the GAL mission. In the last year, the Program undertook numerous initiatives to enhance its representation, including launching a new training manual and on-line training for volunteers, conducting regional trainings with specific topical focuses, implementing new Standards of Operation and Attorney Standards of Practice and holding a statewide leadership conference to emphasize the importance of children participating in dependency proceedings.

Improving Training

As discussed in last year's Annual Report, Florida Statutes directed the Program to establish a curriculum committee to develop a volunteer training program. The Committee recommended that the National Court Appointed Special Advocate training manual be utilized with some revision, including the addition of Florida-specific information. These revisions were completed and the updated training manual was disseminated in a classroom format and an on-line format. The training is 30 hours, and is a prerequisite for new volunteers. Through grant funding, the on-line version of the training was developed to attract more volunteers, specifically those who otherwise may not volunteer because the classroom training is a barrier (for example in rural areas).¹³ Six of the ten classroom chapters have been moved into the on-line format, and circuit programs are now able to use this innovative training tool.



The Program also began an evaluation of training needs for staff. Process training for case coordinators and program attorneys to enhance job performance was identified as an area for training as well as topical trainings to better represent children. The issue of psychotropic medications for children under DCF supervision was identified as a training priority for the Program. Psychotropic medications are drugs that affect the mind through action on the central nervous system and sometimes have severe side effects. The Florida Statewide Advocacy Council reported increased use of psychotropic drugs in children, particularly foster children.¹⁴ The report discussed the serious nature of prescribing these medications to children, and the difficulty in diagnosing mental illness in young children. The SAC investigation, other studies and reports, newspaper articles and concern among child advocates led to the passage of legislation which delineated procedures for when psychotropic medications are to be used for children under DCF supervision.¹⁵ The Program implemented statewide guidelines and developed practice aids¹⁶ to be used when a child represented by the Program may be prescribed psychotropic medications. The Program's guidelines include a summary of the new legislation and pay special attention to the timeframes regarding notice and objections.¹⁷



In July 2006, the Program conducted regional trainings to review the psychotropic medication guidelines and practice aids with over 300 staff. Each circuit program developed a plan for executing the requirements of the new legislation. The Program received a great deal of positive feedback from the regional training format used to educate staff on psychotropic medication and is replicating this format for use on other topics. Additional regional trainings will be conducted in October 2006 and February 2007 in four different locations around the state. Trainings will focus on subjects such as case plans and independent living. Practical guidance will be provided on how GALs can provide more effective advocacy to children and improve outcomes.

These training efforts are in addition to initiatives the Program has found to be effective and has continued, such as:

- **Conference Call Trainings for Program Attorneys:** The Program provides conference call trainings by experts and educational materials on issues such as ethics, trial advocacy and evidentiary issues. The practice aids and audio recordings of the conference calls are available on the internet via the Program's website and accessible to any attorney or child advocate.
- **Website:** The statewide website (www.GuardianadLitem.org) continues to develop as a useful resource for program attorneys, case coordinators, volunteers, pro bono attorneys, attorneys ad litem and judges. The website contains up-to-date case summaries, legislative updates, links to statutory and administrative materials and other information to enhance advocacy.
- **Newsletter:** The Program's Legal Briefs Newsletter provides case summaries and articles reinforcing general practice areas as well as instruction on complex legal issues. The newsletter is distributed via email to program staff, volunteers, judges, attorneys and others who have an interest in Florida dependency law and can be accessed through the website.
- **Forms Bank:** The Program has developed a collection of legal forms for program attorneys. The availability of the forms ensures attorneys who are unfamiliar with an area of law have accurate information which will promote more effective advocacy.



Giving Children a Voice in the Proceedings

In August 2006, the Program held a leadership conference focused on encouraging active participation by children in dependency proceedings. Circuit staff in leadership positions convened to focus on this issue and develop strategies to facilitate children's participation. Many children can, and should be, heard more in court. Having children present at key points in their cases, in court and out, ensures that they are the focus of dependency proceedings and they have the opportunity to speak for themselves. Participation by older youth is particularly valuable because it enables youth to be engaged in the plans for their future. After hearing from a panel of child advocates and youth from around the state, program staff identified barriers to involving children in the process and developed solutions to overcome them. Each circuit program left with an action plan which included specific steps to increase child involvement. With this framework, the Program intends to build momentum in Florida to ensure children are more informed, more involved and better served in dependency proceedings.

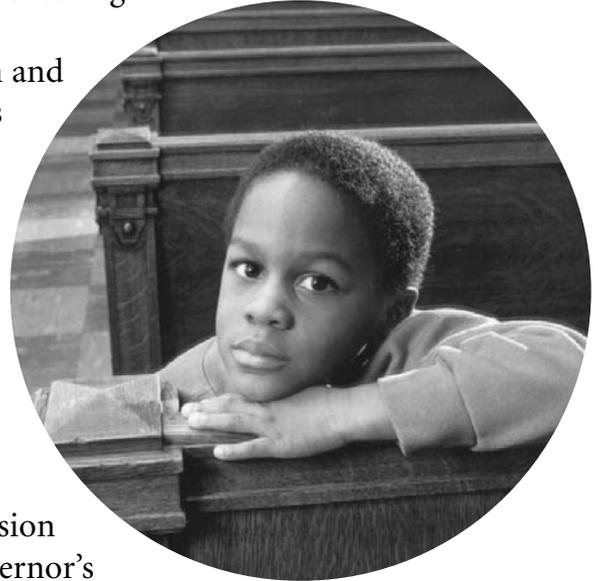
“Foster care can be a dehumanizing experience for youth, and often at best a disempowering experience. Foster youth want the opportunity to attend court and be part of the planning process for their permanency, education, transition to adulthood and well-being. Allowing foster youth to exercise their right to attend and participate in their court hearings accords foster youth the respect they deserve and allows youth to have a part in deciding their own future.”

— Jennifer Rodriguez, Esq.
*Legislative and Policy Coordinator,
California Youth Connection and former foster care child.*

SHAPING PUBLIC POLICY FOR CHILDREN

In 2006, the Program had the privilege of working with the Legislature and dependency stakeholders to revise Chapter 39 of the Florida Statutes which governs abuse and neglect proceedings. The revision made Florida's statutes consistent with federal law and streamlined the law so children can reach stable, nurturing homes more quickly. Revising laws to expedite permanency for children and ensure that children and families receive comprehensive services to address their needs furthers the best interests of all children represented by the Program as well as those the Program is still trying to reach.

Representatives of the Program were also invited to participate on numerous committees and advisory boards designed to improve the child welfare system, including: the Florida Supreme Court's Steering Committee on Families and Children in the Court, The Florida Bar's Commission on the Legal Needs of Children, the National Governor's Association Center for Best Practices, Policy Academy on Youth Transitioning Out of Foster Care and the Independent Living Advisory Board. Through its participation in these groups, the Program can influence the development of policies and procedures so that children's needs are the primary focus in dependency proceedings.



Representing Children in Appeals

Prior to establishment of the Statewide Office, appellate advocacy for the best interests of children was sporadic and inconsistent throughout the state. Often cases languished in the appellate arena and in hundreds of cases, there was no voice for the child. Today the Program is advocating for children in 322 appeals.¹⁸ The Program ensures the child's voice is heard at the appellate level and advocates to protect the child's best interests and expedite permanency. As the result of its statewide practice and the information collected, the Program can identify policy issues of statewide significance, discern emerging trends and issues and influence the law to further the best interests of children in dependency court.

The Program has also worked with other groups to address policy matters pending before the Florida Supreme Court and in the administrative law forum. Informed by the data and experience of its appellate practice, the Program filed comments concerning proposed amendments to the Florida Rules of Appellate Procedure impacting the ability of children to achieve timely permanency. Protecting children's best interests at the appellate level is crucial to both the individual cases and to children in the dependency system generally. If the Program can influence Florida case law to ensure the needs of children are the paramount consideration, children can achieve permanency more quickly and not be held up by the legal system.



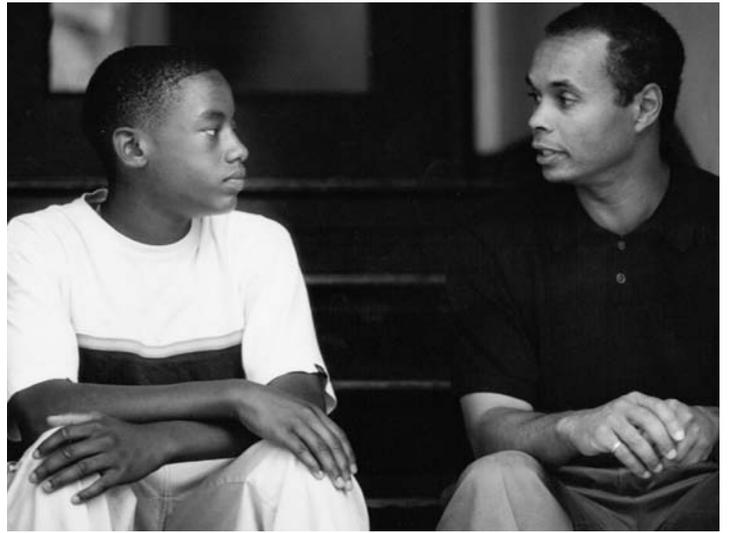
PROVIDING REPRESENTATION FOR EVERY CHILD

The Statewide Guardian ad Litem Office is required, each year, to provide recommendations on how to meet the need for guardian ad litem representation for Florida's abused, neglected and abandoned children.¹⁹ When one takes into account the requirements of the Florida Statutes,²⁰ the nature of the child welfare system, the need for children to have an advocate of their own and the necessity for the court to have information concerning the child's best interests, the state's guardian ad litem needs can be met by implementing a model of representation with the following elements:

- a focus on the child's best interests;
- a mechanism to gather information concerning the child, his environment, the status of DCF and the activities of the child's caregivers;
- an ability to advocate effectively for the child in court with sufficient legal staff and resources;
- a link to provide community advocacy; and
- the ability to provide comprehensive, accurate and timely reports to the court.

The Guardian ad Litem Program is committed to providing this high quality representation for all children in dependency proceedings. However, since the Program's inception, the number of children in need of a guardian ad litem has always exceeded the Program's resources. This remains true today. As of August 31, 2006, the Program represents 28,179 children. This includes children represented by the Legal Aid Society of the Orange County Bar Association's GAL Program and Lawyers for Children America. There are 43,765 children currently under DCF supervision and involved in court proceedings.²¹ Taking into account the number of children currently represented and using resources allocated in the 2006 Legislative session, the Program anticipates it will be able to represent 32,787 children by December 31, 2006.²² Therefore, an estimated 10,978 children will be without representation. In order to represent all of these children and achieve the mandate in the Florida Statutes for 100% representation, the Program will be seeking approximately \$10.8 million in additional funding.

If the Program's request is fully funded, the Program will, for the first time in Florida's history, be able to represent 100% of abused, abandoned and neglected children in dependency proceedings. The Program will accomplish this historic achievement by using the majority of the funds to hire additional staff to represent children and by continuing its volunteer recruitment and retention efforts. The Program will distribute resources to circuits based upon the number of unrepresented children in each circuit. Resources will be allocated to expand upon initiatives which have shown promise in the past year. For example, elements of the Fourth Judicial Circuit's Permanency Project, discussed previously in this report, will be implemented in other areas of the state. This will ensure that children who have become legal orphans through termination of their parents' rights are afforded representation that is sharply focused on achieving permanency. Additionally, the Program will provide Attorney-GALs for 16 and 17 year olds, and will also actively recruit pro bono attorneys and lay volunteers to provide GAL advocacy for them.



MEETING THE ADDITIONAL LEGAL NEEDS OF CHILDREN

One of the Legislature’s stated goals for children in shelter or foster care includes having “a guardian ad litem appointed to represent, within reason, their best interests and, where appropriate, an attorney ad litem appointed to represent their legal interests.”²³ Attorneys ad litem represent a child’s legal interests as expressed by the child and owe the same duty of confidentiality and zealous advocacy due an adult client. The Florida Bar’s Commission on the Legal Needs of Children studied representation of children for three years and wrote a comprehensive report recommending children have an attorney ad litem to represent them in certain legal and administrative proceedings whenever their legal interests, constitutional or statutory rights need to be protected.

Currently, the only situation in which appointment of an AAL is required is in Rule 8.350 of the Florida Rules of Juvenile Procedure. Rule 8.350 provides an attorney ad litem must be appointed in certain cases where DCF requests that a child be involuntarily placed in a residential treatment facility.²⁴ Unlike the mandate for a guardian ad litem found in Chapter 39, Florida Statutes do not otherwise specify when an attorney ad litem should be appointed in dependency proceedings and judges make appointments in their discretion.²⁵ Judges appoint AALs for a variety of reasons including cases of children being placed in residential mental health treatment facilities under Rule 8.350. Other reasons for appointment include the existence of a legal problem outside the scope of dependency proceedings, such as immigration, lack of a GAL and disagreement between a child’s wishes and their GAL’s best interests recommendations.



“I am grateful for the ability to appoint an attorney ad litem for older children in foster care. Having an attorney ad litem allows teens with special legal needs to receive the help they deserve.”

— Alan S. Apte
Circuit Judge, 9th Judicial Circuit

The Program currently administers approximately \$309,000 for attorney ad litem (AAL) representation statewide.²⁶ Attorney ad litem representation is also provided by pro bono attorneys, legal organizations and law schools. When an AAL is appointed by the court, if the AAL will be compensated with state funding, the AAL notifies the Program and the Program provides a contract to the attorney for that specific case.²⁷ In five judicial circuits the Program contracts with organizations to provide AAL representation. These organizations often provide support and training to their attorneys, which enables them to provide high quality representation.²⁸ The Program also contracted with individual attorneys in five circuits to represent all or most of the children appointed an AAL in that circuit. By utilizing attorneys who make representation of children their primary practice, the attorneys develop a level of expertise which the Program believes will result in more effective advocacy. Anecdotally, the Program has received positive feedback about these procedures and methods of providing AAL advocacy. In addition to achieving a perceived improvement in quality, these approaches are consistent with the recommendation from The Florida Bar's Commission on the Legal Needs of Children that, in order to preserve the independence of counsel for children, judges should not be able to select which publicly funded attorneys to appoint in specific cases.²⁹



In 2006, the Program made a number of resources available to all AALs under contract with the Program. The Program offered legal resources, including access to monthly training conference calls and bi-monthly legal newsletters. As a condition of their contracts, and in an effort to ensure that any attorney undertaking the representation understands the unique role of the child's attorney, all AALs received copies of the National Association of Counsel for Children's Revised ABA Standards of Practice for Lawyers who Represent Children in Abuse and Neglect Cases and were required to review them. All contracted AALs also received copies of Chapter 39, Florida Statutes, which included significant legislative revisions this year.

Approximately 400 children were represented by AALs last fiscal year using funds administered by the Program. The previous year 314 children were appointed an AAL. In fiscal year 2005/2006, 100% of AAL funds were placed under contract with AALs, and approximately \$259,559 was actually spent.³⁰ At the time of this report, \$291,000 is under contract for the 2006/2007 fiscal year.³¹ In the 2007 Legislative session, the Program will be seeking additional AAL funding in order to address the mandate in Rule 8.350 in the Rules of Juvenile Procedure. Based on data provided by DCF, as of August 2006, 582 children were placed in residential treatment facilities. It is unknown how many of these children object to placement in such a facility and are therefore entitled to an AAL under the rule.

Additionally, the Program is requesting funding to address the needs of children in dependency court with developmental disabilities. Developmental disabilities include mental retardation, cerebral palsy, autism, spina bifida and Prader-Willi syndrome. Abused or neglected children with developmental disabilities are some of the most vulnerable children and face additional barriers to finding permanent homes. Without needed services, their chances for permanency are reduced even further. Many children in dependency court are on waiting lists for services and some are denied services altogether.

In 2004, the Agency for Persons with Disabilities was established to provide services to persons with disabilities.³² If a child is determined to be ineligible, he has a right to appeal that determination in an administrative proceeding.³³ Ensuring children receive appropriate services, including developmental disability services, is central to the GAL's mission. Therefore, the Program intends to employ an attorney to focus exclusively on issues for children with developmental disabilities, assist circuits in the representation of children in dependency court who qualify for or are denied developmental disability services, and identify existing legal resources and pro bono attorneys to help represent developmentally disabled children.

KEEPING THE PROMISE TO CHILDREN

Upon the establishment of the Statewide Guardian ad Litem Office, the organization set out to explain the function of guardians ad litem and to demonstrate why giving children an advocate in court was critical. From this work came a greater understanding as to why no child should go to court alone. The Program continues to make great strides in volunteer recruiting and retention, has obtained significant increases in state funding and represents far more children today than ever. This is tremendous progress. However, it is meaningless to the child who has no advocate. This progress does not help the children who still must navigate dependency court alone. They don't understand what is happening or why they don't have a voice. They should not be made to face their uncertain futures alone. The Florida Statutes unequivocally state that children are entitled to a guardian ad litem and the children should not be made to wait. This year we can reach all of them. The Guardian ad Litem Program stands ready to provide all children an advocate of their own.



ENDNOTES

¹ Section 39.822(1), Florida Statutes.

² If resources are not available, the Program files a motion seeking discharge from the case. A few circuit programs are only appointed after a determination is made that the Program will accept the case.

³ The Program received \$8 million in recurring funds, but \$1 million in nonrecurring funds were not reappropriated for a net gain of \$7 million.

⁴ The Program received 163.5 positions and established 83 case coordinators, 24.5 assistant case coordinators, 49.5 attorneys and one half-time (0.5) secretary (not reflected on the table in Appendix A but allocated to the Fourteenth Judicial Circuit). Six positions were utilized in the state office to convert existing OPS positions and establish new positions to support the increase in circuit staff.

⁵ Section 39.8296(2)(b)6., Florida Statutes.

⁶ At the inception of the project the total number of post-TPR children was 421. In less than a year, the total number was 268. This "snapshot in time" number does not reflect cases where parents' rights were terminated and adoptions were finalized during the same time period. Therefore, the number of children who were adopted is likely even higher.

⁷ See generally, Independent Living Advisory Council, 2005 Report; Improvements in Independent Living Services Will Better Assist State's Struggling Youth, Office of Program Policy Analysis and Government Accountability Report No. 05-61, December 2005.

⁸ Section 39.013(11), Florida Statutes.

⁹ This is consistent with the Legislature's intent articulated in section 39.013(11), Florida Statutes, providing that "The court shall encourage the Statewide Guardian Ad Litem Office to provide greater representation for those children who are within 1 year of transferring out of foster care."

¹⁰ The Program developed an eight-hour specialized training focusing on the unique issues that older teens in the foster care system face such as the need for independent living services and transitioning to adulthood.

¹¹ Section 39.013(2), Florida Statutes, authorizes youth to file a petition for the court to extend jurisdiction until the youth's 19th birthday to ensure appropriate aftercare support, Road-to-Independence Program transitional support, mental health and developmental disability services are provided.

¹² DCF HomeSafeNet data as of August 29, 2006 reported 219 children had extended jurisdiction.

¹³ The grant for the on-line version of the training was provided by the Children's Justice Act Task Force.

¹⁴ See Florida Statewide Advocacy Council, Red Item Report: Psychotropic Drug Use in Foster Care at <http://www.floridasac.org> (last viewed September 6, 2006).

¹⁵ Section 39.407(3), Florida Statutes.

¹⁶ The Program guidelines, checklist, timelines, and more information on psychotropic medication are available on the GAL website at http://www.guardianadlitem.org/resources_psychotropic_practice_aids.asp.

¹⁷ The guidelines include a list of questions recommended by the American Academy of Child and Adolescent Psychiatry (AACAP) to be asked by a parent when a child is prescribed psychotropic medications. American Academy of Child and Adolescent Psychiatry, Psychiatric Medicines for Children and Adolescents, Part III: Questions to Ask, <http://aacap.org> (last viewed September 9, 2006).

¹⁸ The GAL Program maintains independent data on appeals in which it participates. Statistics provided in this report are based on Program data as of August 31, 2006.

¹⁹ Section 39.8296(2)(b)7., Florida Statutes.

²⁰ Numerous sections of the Florida Statutes address the involvement and role of guardians ad litem in dependency proceedings. See Sections 39.0132, 39.202, 39.402, 39.407, 39.4085, 39.6011, 39.621, 39.701, 39.8055, 39.807, 39.810, 39.811, 39.815 and 39.822, Florida Statutes.

²¹ This figure is based on DCF HomeSafeNet data as of August 31, 2006.

²² This estimate is based on the new funding and the Program's successful implementation of funding received in the previous year. In fiscal year 2005/2006, the Program implemented \$3.3 million in new funding. In the 2005 Annual Report, the Program projected it would represent 25,922 children with these new resources. The Program exceeded this goal. In the 2006 legislative session, the Program requested \$22.8 million to represent 17,558 children – the approximate number of children in need. The Program received a net increase of \$7 million in new funding to meet this need, or 30.6% of the request. The Program's estimates of an additional 6,865 children exceeds the 30.6% increase by 1,492 children ($17,558 \times 30.6\% = 5,373$).

²³ Section 39.4085(20), Florida Statutes.

²⁴ If through DCF's motion, the GAL's report or communication with a party, the child indicates that he or she disagrees with DCF's motion, the court is required to appoint an attorney to represent the child. Rule 8.350(6), Fla. R. Juv. P.

²⁵ The following list enumerates sections of the Florida Statutes that refer to appointment of attorneys ad litem, but does not include every reference to AALs in Florida Statutes or any references from the Florida Rules of Juvenile Procedure: section 39.202 – a child's attorney is entitled to access confidential records in the possession of DCF concerning the dependency case; section 39.407 – if a child is on psychotropic medication, the AAL may request that the court conduct reviews of the child's status more frequently than is provided for in statute; section 39.4085 – Florida Statutes establish a goal for all children to have "where appropriate, an attorney ad litem appointed to represent their legal interests" who shall have immediate and unlimited access to the child. This same section provides that children's records should be available for review by their attorney ad litem if they deem such review necessary; section 39.4086 – describes a pilot project for representation of children in which attorneys ad litem were appointed to represent the child's wishes for purposes of proceedings under chapter 39, as long as the child's wishes were consistent with the well-being of the child. Funding for this project was provided from 2000-2003.

²⁶ This figure is based on historical allocations by the Office of the State Courts Administrator.

²⁷ The AAL submits invoices to the Program for payment up to \$500 per child represented. AALs can request modification to the contract to allow them to bill up to \$1,000 if the initial \$500 is billed, if contract funds are still available.

²⁸ The GAL Program contracted with Legal Services of North Florida to provide AAL services to the 1st, 2nd and 14th Circuits. The GAL Program continued to contract with Lawyers for Children America to provide AAL representation for the 11th Circuit and Legal Aid Services of Broward County, Inc. to provide representation for the 17th Circuit.

²⁹ The Florida Bar Commission on the Legal Needs of Children Final Report, June 2002, p.12.

³⁰ The difference between the two numbers is due to AALs not billing for the full contract amount.

³¹ While \$291,000 has been placed under contract and encumbered by the Program for attorney ad litem spending, actual spending will depend upon the amount billed on invoices submitted by individual attorneys.

³² Chapter 2004-267, Laws of Florida.

³³ Section 393.065(3), Florida Statutes.

APPENDIX A

Distribution of New Positions by Circuit FY 2006-2007

Circuit	Case Coordinators	Attorneys	Assistant Case Coordinators
1	8	3	2
2	1		
3			
4	7	4.5	5.5
5	10	5	
6	7.5	8	3
7	2.5	4	1
8			
9	1.5		
10	9	4	2
11	5	5	2
12	2	0.5	
13	13	9	5
14	2		
15	2		1
16	1		
17	2	3	2
18B	3	0.5	
18S	2		
19	4	3	1
20	0.5		
Total	83	49.5	24.5

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