

GUARDIAN AD LITEM
2007
ANNUAL REPORT



The Voice for Florida's Abused & Neglected Children



He faced me and said, “I guess my mom loves drugs more than she loves me.”

The day before he was supposed to go home to his mom, she relapsed – again. She had worked hard to get him back – we had all worked hard – but in the end she couldn’t handle the pressure of being a mom, and it was easier to turn to crack than to disappoint her little boy again. At only six years old, how could he understand this was her way of letting him go? I will never forget it. As sad as it was, I was grateful I was there for him. He wanted to go home to his mother, but now that was over, and he needed me to find him a place to call home.

Each year I struggle to convey why guardian ad litem advocacy is so important and this story is a perfect example. I was a guardian ad litem for a child in a tragic situation, but I was there. There are over 41,000 children in Florida today who have similar stories, but not all of them have an advocate to help build their futures.

This year, as I report the guardian ad litem needs of the state of Florida, I have compiled a series of true stories like the one above. The names of the children are omitted – but they are real. The small victories described in this report speak volumes about the progress that has been made in representation for children and the difference one person can make when he or she stands up for a child. More importantly though, it should serve as a reminder that there are still children who have no voice, and that we must continue to work until all children have an advocate of their own.

Sincerely,

A handwritten signature in black ink that reads 'Angela Orkin'.

Angela H. Orkin

Executive Director

EXECUTIVE SUMMARY

Recently in a discussion of standards governing the care of children in the dependency system, a federal government representative announced an increase in the standard for compliance with a federal mandate to over 90%. Sensing a negative reaction and general anxiety from the group, the representative asked: Would it be acceptable if firefighters or policemen responded 80% of the time? While the child welfare system and the Program aren't literally putting out fires with water, we are fighting to put out fires and smother flames that can have an equally harmful effect on the life of a child.

Through no fault of their own, abused, abandoned and neglected children are thrown into a complex system that must balance their needs with parents, other participants and the state. Children need independent advocates to help them navigate the system and protect their interests in court. That is why Florida Statutes require a guardian ad litem be appointed at the earliest possible time in all dependency proceedings to represent the child's best interests.

Today, the Guardian ad Litem Program (Program) advocates for over 32,000 children in dependency court. Over 5,600 volunteers work with program attorneys and case coordinators to provide highly effective, proactive and results-driven advocacy. In order to accomplish this, we continually examine ourselves to find out how we can strengthen our advocacy and achieve better outcomes for children. This year the Program undertook a number of initiatives to improve and expand representation on behalf of children.

Providing a Guardian ad Litem for Every Child

The Program has more volunteers than ever and is representing more children than it has in its history. Both are laudable achievements, but meaningless to those children with no one. To represent all children, the Program will continue its volunteer recruitment efforts and will request approximately \$9.5 million in additional funding. If fully funded, the Program will finally be able to represent all abused, abandoned, and neglected children in dependency proceedings.

Ensuring Participation of Children. We believe that we can't expect children to be invested in a future they did not design for themselves. Generally speaking, however, children are not active participants in their dependency cases, and the Program has been building momentum in Florida to change this. One example is in Tampa, where we partnered with Judge Herbert Baumann to create a special division of dependency court where teenagers actively participate in the court process to facilitate a successful transition to adulthood.

EXECUTIVE SUMMARY *continued*

Achieving Timely Permanence for Children. Getting children to permanent homes, whether it is reunification, adoption or other permanent placements, is a priority for the state and the Program. The Program currently has six teams around the state that identify children waiting an unreasonable amount of time to be adopted and work to finalize the adoptions. The team in the Sixth Judicial Circuit has reduced the wait for adoption by 440 days since the team began its work. The Program also focused its training efforts on achieving permanency by providing comprehensive training on case plan practice and termination of parental rights proceedings, and produced a dependency practice manual to improve legal practice.

Strengthening the Program to Improve Advocacy. We are continuously looking within the Program for opportunities to enhance our advocacy and achieve better outcomes for children. One avenue to accomplish this is to review individual circuit practice, a process we call advocacy reviews. We examine case files and observe court to identify strengths and opportunities for improvement, with a focus on permanency, child involvement, legal practice, and achieving best interests. Additionally, to improve support provided to circuit directors and strengthen local circuits, we designated four of our most effective circuit directors to serve as regional directors, overseeing additional circuits as well as their own. Directors are now receiving support and guidance from individuals who are facing the same challenges within their own circuits.

As we move forward as a Program – for each child and in working to improve the system – we all must remind ourselves that less than 100% is not good enough. Until we are providing effective advocacy for all the children, we can do better.



CHILDREN NEED INDEPENDENT ADVOCATES TO HELP BUILD THEIR FUTURES

When someone suspects a child is being abused, abandoned, or neglected, he calls the Florida Abuse Hotline (1-800-96ABUSE), and a protective investigator visits the child to determine if the child's welfare is endangered. The Department of Children and Families (DCF) may offer services to the family if the child can remain at home in a healthy, safe environment where her welfare is protected. However, if the child cannot remain safely at home with services, DCF must remove the child, and she is placed in shelter care. When a child is sheltered, a court hearing is held within 24 hours and a dependency case begins. A guardian ad litem (GAL) is appointed at the shelter hearing to represent the best interests of the child, as required by Florida Statutes.¹

While DCF and the Guardian ad Litem Program (Program) both work to protect the safety and welfare of abused, abandoned, and neglected children, the two entities serve different purposes. DCF is responsible for assessing risk and providing direct services to families, which is done through community based care agencies (CBCs). Under state and federal law, DCF is required to make reasonable efforts to reunify the family, and DCF must abide by many state and federal regulations that impact the funding the state receives for the child welfare system. DCF serves a number of individuals, including the child, the child's parents, relatives, and foster parents.

“**‘I want to go home’** was the first thing he told me when I met him. And it looked like it would happen – his parents were working their case plan and the judge allowed DCF to reunite them before the next hearing if it was safe. But time dragged on and I noticed him growing more and more distressed. I learned his behavior had degraded at school. The teacher said she held him one day while he sobbed and told her, “I want to go home but the judge won’t let me.” I told the judge how continuing to keep him out of the home was doing more damage than good and recommended the parents complete their tasks with the child back home. The judge promptly agreed and sent him home safely that day.”

— Guardian ad Litem Volunteer,
Second Judicial Circuit

The Program advocates exclusively for the best interests of the children. Florida Statutes require a guardian ad litem be appointed at the earliest possible time in the dependency proceeding.² This is consistent with federal law which mandates the state have a procedure requiring a GAL in every case involving an abused or neglected child which results in a judicial proceeding.³ The Program often collaborates with DCF to achieve a particular outcome for a child. However, the Program looks at the case through the eyes of the individual child, and may disagree with DCF's recommendations to the court. This independent perspective provides an opportunity for judges to hear what is best for each child before making decisions that forever affect the child's life.

In practice, after a judge appoints the Program to represent a child, we accept the case and assign a volunteer or a staff advocate and a program attorney.⁴ The GAL collects comprehensive information about the child and family and attends staffings and hearings. We visit the child regularly in her home environment to understand her needs and wishes and explain the process in a way she can understand. Using this information, the Program makes recommendations to the judge as to the child's best interests and reports the child's wishes. We work to ensure child-centered decisions are made regarding placement, visitation, termination of parental rights, adoption, and the child's well-being. Some examples of issues a GAL might work on include ensuring a child who has been removed from her home stays in the same school, advocating for increased visitation between children and their parents or siblings, and identifying age-specific services for children. The GAL monitors the child and all participants in the case to get children into permanent homes and prevent them from languishing in the system.



When the Program was initially established, volunteers performed the majority of the advocacy, and staff provided training and oversight and coordinated the volunteers' activities. As the dependency system became more complex and as federal and state policies focused more on the need for permanency for children, the Program adjusted its model of representation. Additional funding was allocated for lawyers to represent the best interests of children in court. At approximately the same time the Program staff began advocating for children when a volunteer was not available. Today the Program's model of representation is a team approach, with an attorney on every case, a case coordinator either providing advocacy to children or oversight to volunteers, and a volunteer when available. Over the past decade, the Florida Legislature has appropriated additional funding to provide advocacy to significantly more children using this model of representation.

FLORIDA LAW REQUIRES A GUARDIAN AD LITEM FOR EVERY CHILD

Each year the Statewide Guardian ad Litem Office must provide recommendations on how to meet the need for guardian ad litem representation for Florida’s abused, neglected, and abandoned children.⁵ The Florida Statutes lay out certain expectations for GALs,⁶ but each child we represent has unique needs and a different vision for his future. Children need their own advocate to ensure their needs are given priority, to give them a voice, and to empower them to use their own voice. Additionally, the court needs an independent assessment of each child’s best interests. The Program strives to provide highly effective representation for every child that includes:

- Gathering comprehensive information concerning the child’s needs and monitoring the progress of DCF, the parents and others involved in the case in meeting those needs;
- Visiting the child regularly to see first hand how the child is doing in her environment;
- Making recommendations to the judge at every hearing regarding the best interests of the child;
- Providing strong legal advocacy in court and representing the child in any appeals that arise;
- Ensuring children understand the dependency process and have the opportunity to participate in and out of court; and
- Advocating for timely decisions regarding permanency, so children can spend less time in the system and more time in safe, secure, permanent homes.

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

“**When she gets ‘triggered’** by a past event, she bangs her head until she succeeds in cracking it open if not immediately restrained and medicated, yet she was about to be discharged from residential treatment for failure to ‘show improvement at this level of treatment’. We objected. We negotiated. We appealed the decision of the funding administrator, were denied and appealed again. We motioned for an order to show cause why funding could not be provided for this child to remain in a residential facility. The judge agreed and then someone was able to ‘find’ some money. Now she is getting help.”

— Guardian ad Litem Case Coordinator,
Tenth Judicial Circuit

resources. As of September 14, 2007, the Program represents 32,411 children. This is the largest number of children that have ever been provided advocacy. In addition to reaching more children, the Program is providing more representation by staying on cases longer.⁷ However, there are 41,180 children under DCF supervision and involved in court proceedings according to HomeSafeNet data,⁸ meaning over 8,000 children have no advocate. To represent all children, the Program will request approximately \$9.5 million in additional funding. If fully funded, the Program will be able to represent all abused, abandoned, and neglected children in dependency proceedings for the first time in Florida's history.⁹

The Program will accomplish this historic achievement by hiring additional staff to represent children and by continuing its volunteer recruitment and retention efforts. The Program uses staff to advocate for children for a variety of reasons, including the fact that volunteers are not available for every child. Staff advocacy is a powerful tool to further the best interests of Florida's abused, abandoned, and neglected children because they have experience and expertise that allows them to efficiently navigate the child protection system.

However, we believe it is critical that every child have someone from his community advocating for him. The volunteer sees the child and the child welfare system in a way that inspires everyone in the Program to work for an uncompromised result, furthering the best interests of the individual children they represent and positively affecting the system.

The state of Florida has never been closer to fulfilling this promise to abused, abandoned, and neglected children and the impact of 100% representation cannot be overstated. Not only will each child have his voice heard in court, he will have an advocate dedicated to his best interests and working to ensure his needs are met by the child welfare system.

“ I urge that this year, the State fulfill this statutory mandate by fully funding the GAL Office so that each child has, at a minimum, guardian ad litem representation, and attorney ad litem representation where necessary. In my view, this State should do no less for our most vulnerable children - those who are in the court system because of an adult's abuse, neglect, or abandonment. The benefits of full funding for GALs and AALs for children include ensuring that children's voices are heard, that children receive needed services while in foster care, and that everything possible is done to reduce the amount of time these children are without permanent homes. ”

— *In re Amendments to the Florida Rules of Juvenile Procedure*, 952 So. 2d 517 (Fla. 2007) (Pariente, J., concurring in part and dissenting in part) (footnotes omitted).

MORE GUARDIAN AD LITEM VOLUNTEERS ARE ADVOCATING FOR CHILDREN THAN EVER BEFORE

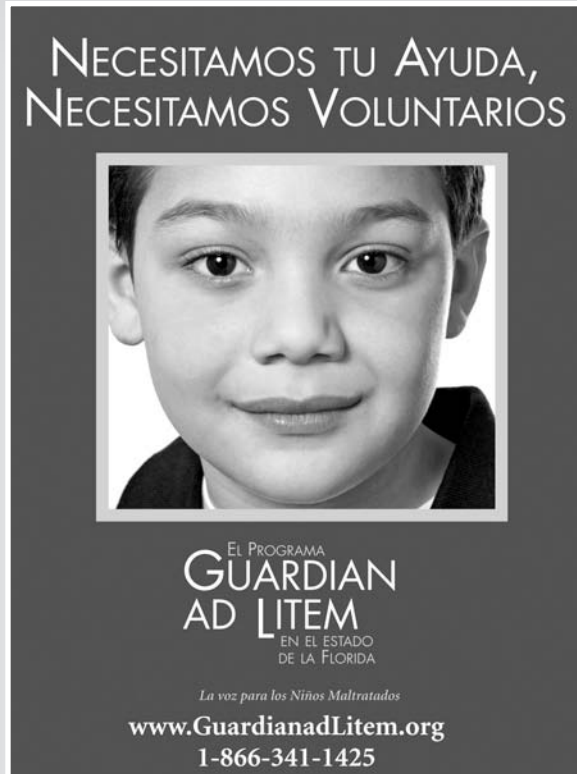
Today in Florida, 41,180 children need a guardian ad litem, and the Program reaches thousands of these children with the help of its volunteers. Guardian ad litem volunteers donate countless hours to the children they represent and the individualized advocacy volunteers provide is priceless. Volunteers must have 30 hours of training prior to certification, and must complete six hours of inservice training each year. Since the establishment of the Statewide Office, the Program has achieved a consistent increase in its number of volunteers year over year. In fiscal year 2006 - 2007, the Program certified a total of 1,965 new volunteers, and as of July 31, 2007 had 5,687 certified volunteers.¹⁰ This success can be attributed to innovative recruiting and retention efforts by circuit programs and targeted statewide initiatives.

A critical element of the Program's strategy to represent every child is the growth of its volunteer base. Last year we identified a circuit director with unprecedented success in recruitment and retention of volunteers and designated him as the Program's Director of Volunteer Management. This director is providing training and support to all circuit directors to increase volunteer numbers. With this assistance, each circuit director developed a Recruitment, Retention, and Training Plan with an annual recruitment goal. Circuits are analyzing volunteer attrition and developing solutions to improve retention. Many are forming volunteer recruitment committees that include experienced volunteers who are some of our best recruiters.

“**You're all I got**” she told me from her hospital bed. We went every day, my intern and I, for the seven days she was in the hospital. Her mother and sister were chronic drug users who took every opportunity to steal from her, including her medically prescribed pain medication. And I knew we had to help her – she needed help and we had to help her.”

— Attorney-Guardian ad Litem,
Fourth Judicial Circuit

The Program is also reaching out to state agencies to recruit more volunteers and gain other support. Many state agencies are already working with the Program, but the Program is attempting to increase its volunteer base further through a targeted, two-year recruitment initiative supported by leadership in the state organizations. We met with Executive Branch agency heads to discuss the need for volunteers and how a coordinated effort could make it possible to represent every child. One critical element of this initiative has been the support of the Department of Corrections, the Department of Juvenile Justice, and the Agency for Health Care Administration. The leaders of those entities, Secretary James McDonough, Secretary Walter McNeil, and Secretary Andrew Agwunobi are encouraging other agency heads to participate in a task force to develop statewide recruitment strategies. By appealing to the strong sense of public service of so many of Florida's state employees, the Program hopes to increase the number of state employees advocating for abused, abandoned, and neglected children.



The Program has developed recruitment materials written in Spanish to increase the number of Hispanic and Spanish-speaking volunteers.

Public - Private partnerships

We know that government alone cannot meet the needs of Florida's abused, abandoned, and neglected children. Throughout the state there are not-for-profit organizations that support the Program and help address other needs of children. Some of these organizations provide necessary items directly to children, such as football uniforms and opportunities to attend summer camp, while others provide staff for the Program who advocate for children. In many circuits these organizations also assist with recruitment and retention of volunteers. In the 2007 Legislative Session, the Florida Legislature authorized the Program to establish a direct support organization. This organization – The Florida Guardian ad Litem Association – is working to strengthen the network of not-for-profit organizations throughout the state and to raise private funds for statewide Program needs such as volunteer recruitment.

The Program is also establishing partnerships with corporations, service organizations, and charitable entities. One of the Program's strongest partnerships this year is with Florida Kiwanis. The Florida Kiwanis First Lady, Sharon Taylor, is promoting the Program



during her district visits throughout the state during this upcoming year. Ms. Taylor is highlighting the need for volunteers and encouraging members to assist local volunteer recruitment efforts. In addition, Florida Kiwanis will continue to support the Program through our local not-for-profit organizations to meet other needs of children such as school supplies, and holiday gifts.

Another statewide partnership the Program continues to develop is with UPS. UPS has a program called "Neighbor to Neighbor" to raise awareness about needs within communities and encourage volunteerism. UPS donated funds from its Foundation to support local not-for-profit organizations supporting abused and neglected children, and is educating employees about the Program's volunteer opportunities.

CHILDREN'S FUTURES SHOULD BE THEIR OWN

Children are parties to dependency proceedings in Florida. The Florida Legislature has set goals for children to appear in court and the statutes encourage participation in case plan development and judicial review hearings. Generally speaking, however, children are not active participants in their dependency cases. Despite much progress in independent living laws and advocacy, there are still youth aging out of the system whose plan for the future was developed without them. We can't expect children to be invested in a future they did not design for themselves. Children should be present at key points in their cases, in court and out, to ensure they are the focus of dependency proceedings. They should have the opportunity to speak for themselves. They should chart the course for their futures with professionals who can help them identify the supports they need and put them into place. The Program has been building momentum in Florida to ensure children are more informed, more involved and better served in dependency proceedings which will not only benefit the children but will improve the functioning of the child welfare system as a whole.



“ **It took a lot of courage** for him to stand before the court and say he'd rather stay in foster care than go home to his mother, but that is just what he did and the judge listened. He had to read it from a letter he'd written and clutched in his hands as he stood there with his foster father and me by his side, but he did it. Now, his vision for his future is in the record, so every judge who sees this teen's case knows he does not want to return home. I was proud of him. ”

— Guardian ad Litem Case Coordinator,
Sixth Judicial Circuit

The Program is currently partnering with the judiciary to help youth become active participants in their cases. In the Thirteenth Judicial Circuit in Tampa, Judge Herbert Baumann instituted an Independent Living division of the dependency court. In addition to ensuring the law relating to independent living and judicial reviews for teens is followed, the Independent Living division provides teenagers an opportunity to attend court, focus on their futures, and explore the options available to them. Court hearings are set for judicial reviews, case planning, and for any problem or issue the youth may have.

In the Seventeenth Judicial Circuit in Fort Lauderdale, at the suggestion of the Program and with the support of the CBC, Judge John Frusciante agreed to hold “benchmark hearings” where youth address the court and discuss issues impacting their futures. The teens even file their own report with the court on their progress, the services they are receiving and needs that haven’t been met. On the first day the benchmark hearings were held two teenagers who had run away appeared in court because they had heard from other youth that they would be able to personally address the judge.



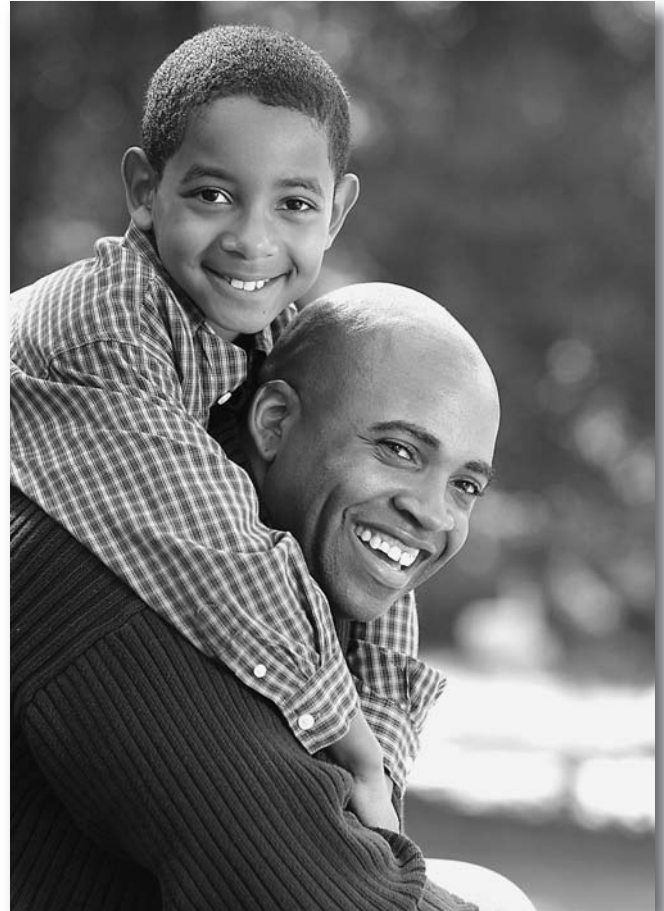
CHILDREN HAVE A RIGHT TO TIMELY PERMANENCY

Getting children to permanent homes, whether it is through reunification, adoption, or other permanent placements, is a priority for the state and the Program. Expediting permanency is the foundation of nearly all of the Program's policies, training, and initiatives. In 2005, the Fourth Judicial Circuit in Jacksonville began an initiative called the Permanency Project after discovering hundreds of children were waiting years to be adopted despite the fact that parental rights had been terminated. Many children were already placed in adoptive homes, but the adoption was not finalized. Others had administrative issues preventing them from getting to their new families. The project focused on overcoming these barriers to adoption and the initiative had dramatic success, finalizing adoptions of 153 children in under a year. The Program recognized Jacksonville was not the only place where children had barriers to adoption and established permanency teams in several circuits throughout the state.

“**‘We are all together.’** That was his answer when I asked the oldest child what he liked best about his new home. He was one of six brothers and sisters who had been in and out of the system. This time they had been in foster care for 18 months, the girls in one home and the boys in another. A relative was willing to adopt them if the termination of parental rights succeeded, but there were just too many delays. So I asked our program attorney to help me get them back together. We filed a motion to compel a change of placement and move them to the relative's home and the court agreed. The children are a family again.”

— Guardian ad Litem Volunteer,
Second Judicial Circuit

The strategy for the permanency teams is to develop cooperation among stakeholders, to encourage proactive case management and to develop expertise in adoption-related issues. Currently permanency teams are operating in five additional judicial circuits. Pro bono attorneys are recruited to be part of the team and given targeted training. The permanency team's first task is to identify children who have been waiting an unreasonable amount of time to have adoptions finalized and close the cases. In Sixth Judicial Circuit, in Pinellas and Pasco counties, some children who entered the Permanency Project had been waiting months and even years after their parents' rights were terminated for the finality of adoption. Those children waited an average of 633 days (or 1.7 years) to be adopted. When the Permanency Project was able to advocate for children immediately after termination of parental rights was granted, the wait for children was reduced by 440 days (or 1.2 years). As the Sixth Circuit's dramatic results demonstrate, having an advocate pushing the case until adoption is finalized gets children out of the system and into families faster.



YOUTH SHOULD HAVE EVERY OPPORTUNITY TO SUCCEED AS ADULTS

Thousands of Florida's foster children are teenagers, youth in high school who may or may not find a family before they turn 18. There are numerous state and federal studies and anecdotal information that detail the future for children who turn 18 while in the foster care system: increased homelessness, lack of higher education, inability to obtain medical insurance, and unemployment. These results indicate teens in the child welfare system are not being adequately prepared to live independently. The Program is working to identify and advocate for the services they need to successfully transition into adulthood.

In a project called Fostering Independence, the Program developed training for attorneys on the needs of children who are 13 – 18 and engaged in a targeted recruitment effort to get pro bono attorneys to work as part of the GAL team.¹¹ The training addresses 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 on these topics, as well as guidance on advocacy for children who may be involuntarily committed to residential treatment centers and handling issues related to master trust accounts. The Program is currently updating three of its training DVDs that are part of the Fostering Independence training curriculum and developing a new DVD focusing on the realities of advocating for teens in the system.

“**‘Give me 30 days’** is what I told him when he called me out of the blue and said he’d come back to foster care . . . he’d stop running . . . if I could get him into subsidized independent living. I promised him that if he would come off runaway status and stay in a foster home for 30 days I would make every effort to get him into the program. I got the judge to sign an order allowing him to lease an apartment as a minor, found him a safe place to live, and now he is enrolled in community college studying auto mechanics. Not bad for 30 days.”

— Guardian ad Litem
Program Attorney,
Fourth Judicial Circuit

To assist youth outside of the court process the Program has developed a section of its website called “Teen Resources” which can be accessed by youth at any time. The site has information teens need to know while they are in foster care, and as they prepare to age-out of system including information on:

Life-Skills

- Emergency and safety skills
- Banking and money matters
- Food management and safety
- Mentors
- Parenting
- Child care and support
- Time management and organizational skills
- Voting
- Community involvement
- Driver’s education

Health

- General medical information
- Free or low cost medical care
- General dental information
- Mental health and substance abuse counseling and help
- Drug and alcohol treatment
- Food, nutrition, and fitness

Education and Scholarships

- Researching colleges
- SAT and ACT
- Paying for college – tuition exemption, student loans
- Scholarship search engines

Employment

- Finding a career
- Creating a resume
- Military
- Interviewing
- Child labor
- References
- Filing taxes
- Unemployment compensation

Transportation and Housing

- Entering into a lease at 17
- Organizations that pay utility bills
- Transportation alternatives

The website also has worksheets for youth to fill out depending on the youth’s age to track their progress and ensure all requirements are met.

One solution for teens who are not able to live independently at age 18 is to petition the court to extend its jurisdiction until the child's 19th birthday.¹² Extending the court's jurisdiction allows the court to determine whether appropriate aftercare support, Road-to-Independence Program, transitional support, mental health, and developmental disability services have been provided. To help teens extend jurisdiction, the Program developed a form petition and a brochure which explains the process and how to ask for extended jurisdiction. The brochures and petitions are given to youth, judges, group homes, foster parents, schools, caseworkers, and others who have contact with foster teens. The Program has a toll-free phone number included in the brochures so that teens can talk to a program attorney. Through these efforts, the Program is working to get more youth the services they need to successfully transition from foster care to adulthood.

Children Aging Out of Foster Care:



- One in four will be incarcerated within the first two years after they leave the system.¹³
- Over one-fifth will become homeless at some time after age 18.¹⁴
- Approximately 58% obtain a high school degree at age 19, compared to 87% of a national comparison group of non-foster youth.¹⁵
- Less than 3% earn college degrees by the age of 25,¹⁶ as compared to 28% of the general population.¹⁷

APPEALS INVOLVING CHILDREN SHOULD MOVE AS QUICKLY AS POSSIBLE

When a dependency case is appealed, children wait an average of nearly nine months for a decision. This lack of finality leaves children in limbo. If a termination of parental rights decision¹⁸ is appealed, the child's adoption can't be finalized and permanency is delayed. The Program currently advocates for children on the appellate level in 331 cases.¹⁹

We protect the child's best interests and legal interests and urge the court to always consider the child's right to timely permanency.

Appellate decisions can change the way the law is interpreted for thousands of children in the dependency system. To make decisions that put children first, the court must hear the legal arguments from the child's perspective.

Because the Program is advocating in all of the district courts of appeal and in the Florida Supreme Court, the Program can identify the policy issues that are important, discern emerging trends, and influence the law in a way that helps all dependent children. The Program

does this in the individual cases of children, in matters involving constitutional issues in dependency court, and in cases revising rules of procedure. For example, the Program has successfully defended (to date) constitutional challenges to various portions of the 2006 amendments to Chapter 39 of the Florida Statutes, which were designed to get children into permanent homes more quickly.²⁰

The Program takes an active role in opportunities to reduce delays in permanency for children. In 2007, the Commission on District Court of Appeal Performance and Accountability studied the processing of dependency and termination of parental rights appeals. The Commission was asked by the Florida Supreme Court to identify ways to expedite these proceedings. The Program participated extensively in these discussions and is helping develop rules implementing the recommendations of the Commission.

“She could have been ripped from her home and sent with a father she hardly knew. She spent years with a loving family but when a court terminated her parents' rights, her father appealed. We fought his appeal and urged the court to place the child and her stability at the center of its decision. The court agreed and noted, “The dissent would separate five and a half year old L.C. from the only people who have loved her as parents and ultimately place her in the hands of a biological father who has demonstrated no interest in L.C. during the vast majority of her young life, and is presently unable to provide adequate care as he has not obtained suitable housing or employment to care for L.C.”

— Guardian ad Litem
Appellate Attorney

CHILDREN SHOULD NOT RECEIVE MEDICATION THEY DON'T NEED

Psychotropic medications affect the mind through action on the central nervous system and sometimes have severe side effects. Most psychotropic medications have never been tested on children and are not approved by the Food and Drug Administration for use by children.²¹ While physicians are permitted to prescribe medications in ways that have not received FDA approval, there is very little data on the possible long-term consequences of using these drugs at an early age.²² Further, diagnosing mental illness in young children is extremely difficult because they are unable to describe their symptoms adequately, if at all.²³ Anecdotal reports over the past several years indicate children in the child welfare system are often given the wrong medication, prescribed a medication that does not address the child's symptoms, given dangerous combinations of these medications or are overmedicated to a degree that they are "chemically restrained."

We believe that psychotropic medications should not be administered without careful consideration of the child's unique needs and adequate expert advice. This is what every parent would demand for his child, and foster children deserve nothing less. We have been training volunteers and staff, developing practice aids and guidelines, and strengthening our legal practice to ensure children are not incorrectly prescribed psychotropic medication. Circuit programs established protocols to use when we learn a child may be prescribed psychotropic medication. The Program is continuing to refine its advocacy in this area to ensure that children get only the medications they need, no more and no less.

“**He took his last dose of Seroquel on Monday,**” the director from his group home wrote in a note. “We started seeing improvement in his behavior on Wednesday and it has steadily improved since then. The difference is absolutely undeniable. He is much calmer, happier, more stable, and more controlled – EVERYONE has noticed. He really was in crisis about two weeks ago, and it is so great to see him feeling and doing so much better. You asked the right questions and made sure that we did the right thing. He was on Seroquel for a year and a half and I never thought it did him any good, but he might still be on it if not for your efforts.” It is five months since Johnny, age 8, was taken off the Seroquel. He is now in a pre-adoptive home with four of his siblings and is doing great.

— Guardian ad Litem
Circuit Director,
Ninth Judicial Circuit

EVERY CHILD DESERVES ADVOCACY THAT IS HIGHLY EFFECTIVE, PROACTIVE, AND RESULTS-DRIVEN

Whether a child lives in Key West or Pensacola, his representation should be highly effective, proactive, and results-driven. In order to accomplish this, we continually examine our practices to strengthen our advocacy and achieve better outcomes for children. Ensuring volunteers, attorneys, and staff know the most recent case law and statutes, are trained on navigating the child welfare system, and understand how to effectively communicate with children we represent is fundamental to the Program's mission.

There are many points in a dependency case that impact the time it takes for a child to reach permanency. This year we focused our training efforts on two critical points – case planning for children and termination of parental rights proceedings. The case plan in the dependency case belongs to the child.²⁴ It should meet the needs of the child and family and should be as short as possible.²⁵ Having a well-developed case plan to adequately address the needs of the parents and the child directly impacts the child's ability to return home and dictates what will happen to the child while in the system. When a parent is given effective services, children may go home faster. When parents do not take advantage of services, children can be freed sooner for adoption. The GAL can shape the development of the case plan and make sure the mandates and timeframes in it are obeyed. By training on how to use case plans as a tool to expedite permanency we believe children can leave the system more quickly and be better cared for while they are in it.

When children are unable to return to their parents, the next best option is adoption.²⁶ Effective advocacy at termination of parental rights proceedings is necessary to ensure the child can move on as quickly as possible. Our training efforts focused on the legal elements necessary for a judge to terminate parental rights and for that decision to be upheld if appealed. Additionally, a permanency conference was held to provide further training on achieving the right permanency option within statutory time frames.

“ **She loved them but she couldn't afford to keep them.** The children had been in the system for years and were troubled, medically complex, and needed treatment. When we got appointed we advocated for an evaluation from the Agency for Persons with Disabilities, and as we suspected, the child was developmentally disabled. After we helped the foster mother better understand the problems the child was facing, the benefits the child was eligible for, and how to get him help she decided to adopt. As if that wasn't good enough, the experience convinced her to adopt another medically needy child.”

— Guardian ad Litem
Program Attorney,
Fourth Judicial Circuit

The Program also created a Dependency Practice Manual which provides basic information on all stages of the dependency process and key issues impacting abused, abandoned, and neglected children. The manual provides guidance on how to apply the law, identify collateral issues, and use the statutes and rules to get the best possible outcomes for children. Practice tips are included which provide references to relevant case law and resources to assist attorneys with advocacy. A number of dependency stakeholders lent their expertise to the project by contributing chapters. The initiative was funded by a grant from the Children's Justice Act Task Force.

The Program provides regular opportunities for its staff and volunteers to stay updated on changes in the law, the latest research, and best practices. Each month, the Program conducts a conference call training on an issue impacting abused and neglected children. Continuing Legal Education credits are available for attorneys which makes the trainings a cost-effective method of ensuring program attorneys maintain good standing with The Florida Bar. All trainings are recorded and the audio files are placed on the Program's website, which can be accessed by the public.

Examples of conference call topics from the past year include:

- Paternity
- Sexual Abuse Issues and the Keeping Children Safe Act
- Independent Living
- Termination of Parental Rights
- Professionalism in Preparing for Trial
- Adoption Subsidies
- Medicaid Waivers and Early Periodic Screening, Diagnosis and Treatment
- Implied Consent for Failure to Appear and Petitions for Habeas Corpus

Keeping Children Safe Act

In 2007, the Legislature recognized some children who are abused, abandoned, or neglected may be at risk of suffering from further harm during visitation or other contact. The Legislature created the Keeping Children Safe Act which requires a hearing prior to contact or visitation between children and parents or caregivers who were alleged to have sexually abused them or who have been convicted of sex-related crimes. The bill requires any guardian ad litem or attorney ad litem representing a child in such a case to have specialized training in the dynamics of child sexual abuse. To better protect these children and meet the Legislature's mandate, the Program has incorporated this issue into all facets of its training including conference calls, written materials, and its volunteer certification training.²⁷

The Program's website continues to serve as a training resource and this year we have added a "Resources by Topic" section which includes subjects such as adoption subsidies, the Keeping Children Safe Act, mental health, education, domestic violence, legal writing and research, independent living, and psychotropic medication. Under each topic there are links to relevant statutes, cases, websites, practice aids, studies, and books. The website had over 303,408 unique visitors from January to September of 2007.

Advocacy Reviews

In addition to training, another mechanism the Program uses to improve our representation for children is to review individual circuit practice, a process we call advocacy reviews. Members of the state office and local program examine case files and observe courtroom practice to identify strengths and opportunities for improvement. Some of the specific qualitative issues we look at include permanency, child involvement, legal practice, and achieving best interests. After each review, the group discusses its findings and develops a plan to enhance strengths and address areas that need improvement. The plans are revisited throughout the year to support the circuit's efforts to improve its advocacy.

Establishment of Regional Structure

The Program is constantly balancing the need for oversight with the urgency of having the maximum number of advocates representing children. One way we have improved our oversight within existing resources is by designating recognized leaders within the Program to take on supervisory roles. Four of our most effective circuit directors are now providing guidance to their peers as regional directors. The regional directors each supervise their own circuits and provide support and oversight to additional judicial circuits. The regional directors communicate best practices and new policies, facilitate implementation of strategies for better advocacy, and follow up on new initiatives. We believe this structure has enhanced managerial support provided to circuit directors, because directors are now receiving support and guidance from individuals who are facing the same challenges within their own circuits.



THE NUMBER OF CHILDREN WITH ATTORNEYS AD LITEM IS INCREASING

Florida Statutes state that a goal for children in shelter or foster care is to have “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.”²⁸ The Program currently administers approximately \$309,000 for attorney ad litem (AAL) representation statewide.²⁹ AAL representation is also provided by pro bono attorneys, legal aid organizations, and law schools. When an AAL is appointed by the court, and will be compensated with state funding, the AAL notifies the Program and we provide a contract for that specific case.³⁰ In five judicial circuits the Program contracts with organizations to provide AAL representation.³¹ The Program also contracted with individual attorneys in several circuits to represent all or most of the children appointed an AAL in that circuit.

Over 660 children were represented by AALs last fiscal year using funds administered by the Program.³² This is an increase from last year, when approximately 400 children were represented and fiscal year 2004-2005 when 314 children were appointed an AAL.

The Program offers legal resources, including access to monthly training conference calls and bi-monthly legal newsletters to AALs. All AALs receive 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 (NACC Standards) and are required to review them as a condition of their contracts. Additionally, in 2007, The Florida Bar Standing Committee on the Legal Needs of Children approved Florida Guidelines of Practice for Lawyers who Represent Children in Abuse and Neglect Cases. The Guidelines were developed after a review of similar standards promulgated around the country. The Program



reproduced copies of the Guidelines with a grant from the Children’s Justice Act Task Force and will use them in place of the NACC Standards when it contracts with AALs. We hope that by distributing the guidelines, stakeholders, the courts, and children will have a clearer idea of the representation that should be expected when a child is appointed an AAL.

CONCLUSION

Recently in a meeting to discuss standards governing the care of children in the dependency system, a representative from the federal government announced it was raising the standard for state compliance with a federal mandate to over 90%. Sensing a negative reaction and general anxiety from the group, the representative asked: Would it be acceptable if firefighters or policemen responded 80% of the time?

While the child welfare system and the Program aren't literally putting out fires with water, we are fighting to put out fires and smother flames that can have an equally harmful effect on the life of a child. The Program has more volunteers than ever and is representing more children than it has in its history. Both are laudable achievements, but meaningless to those children with no one. As we move forward as a Program – for each child and in working to improve the system – we all must remind ourselves that less than 100% is not good enough. Until we are providing effective advocacy for all the children, we can do better.



ENDNOTES

- ¹ Section 39.402(8)(c), Florida Statutes.
- ² Section 39.822(1), Florida Statutes.
- ³ 42 U.S.C.A. § 5106a(b)(2)(A)(xiii), the Child Abuse Prevention and Treatment Act (CAPTA).
- ⁴ 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.
- ⁵ Section 39.8296(2)(b)7., Florida Statutes.
- ⁶ 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.
- ⁷ The Program's data on the cases it closed in fiscal year 2006 - 2007 indicates 58% were closed because the child reached permanency and DCF supervision was terminated.
- ⁸ This figure is based on DCF HomeSafeNet data as of July 31, 2007. The number includes children who are on runaway status as well as those children for whom the court has granted an extension of jurisdiction under section 39.013, Florida Statutes. The total number of children for whom the court has granted an extension of jurisdiction (283) was calculated as of July, 26 2007 and combined with the other data from July 31, 2007.
- ⁹ The Program currently has enough resources to represent 32,787 children. This number is slightly higher than the actual number of children represented as of September 14, 2007. Using the DCF HomeSafeNet data of the total number of children (41,180) and subtracting the number of children for which the Program has resources to represent (32,787) there are 8,393 children who are without GAL representation. The Program's Legislative Budget Request provides detail on the precise amount of funding needed, which May be impacted by the Special Session scheduled to begin October 3, 2007.
- ¹⁰ The Program maintains statistics regarding the number of children represented in GAL Tracker, the Program's case management and tracking system. Circuits use GAL Tracker on a daily basis to maintain case information and Program statistics, including the number of children represented by the Program. Each month Program statistics are analyzed, tabulated and recirculated to check for accuracy.
- ¹¹ The Program developed an 8-hour specialized training focusing on the unique issues that older teens in the foster care system face such as independent living services and training to transition to adulthood.
- ¹² Section 39.013(2) 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.
- ¹³ Mark E. Courtney, Amy Dworsky, Sherri Terao, Noel Bost, Gretchen Ruth Cusick, Thomas Keller, and Judy Havlicek. "Midwest Evaluation of the Adult Functioning of Former Foster Youth: Outcomes at Age 19," Chapin Hall, 2005.
- ¹⁴ Northwest Foster Care Alumni Study, Casey Family Programs, 1998.
- ¹⁵ Courtney, M.E. & Dworsky, A. (2005). Midwest evaluation of the adult functioning of former foster youth: Outcomes at age 19. Chicago: Chapin Hall Center for Children.
- ¹⁶ Pecora, P.J., Kessler, R.C., Williams, J., O'Brien, K., Downs, A.C., English, D., White, J., Hiripi, E., White, C.R., Wiggins, T., and Holmes, K. (2005). Improving family foster care: Findings from the Northwest foster care alumni study. Seattle, WA: Casey Family Programs.
- ¹⁷ National Census Bureau. "Educational Attainment in the United States: 2004." Accessed April 12, 2007: <http://www.census.gov/Press-Release/www/releases/archives/04eductableA.xls>
- ¹⁸ The Commission on District Court of Appeal Performance and Accountability reported in its "Study of Delay in Dependency/Parental Termination Appeals Supplemental Report and Recommendations," issued June 2007, that statewide the median time to disposition for termination of parental rights cases was 264 days and for dependency cases 267 days.
- ¹⁹ As of July 31, 2007, the Program was participating in 331 appeals.
- ²⁰ Senate Judiciary Committee Staff Analysis for Senate Bill 1080 (March 14, 2006).
- ²¹ Statewide Advocacy Counsel Red Item Report, "Psychotropic Drug Use in Foster Care" (2003).
- ²² Id.
- ²³ Id.

- ²⁴ See 42 U.S.C. § 671(a)(16)(2000)(requiring states to provide for the development of a case plan “for each child”); Section 39.6011(1), Florida Statutes (“The department shall prepare a draft of the case plan for each child receiving services under this chapter.”).
- ²⁵ Section 39.6012(1), Florida Statutes; Section 39.6011(2)(d), Florida Statutes.
- ²⁶ Section 39.621, Florida Statutes, provides that when children cannot be reunified adoption is the most preferred permanency option.
- ²⁷ In addition to the initiatives mentioned throughout the report, the Program’s specific initiatives to provide specialized training on the dynamics of child sexual abuse include: conducting two conference calls detailing the requirements of the new legislation; distributing a written summary of the legislation to all circuits; revising the Program’s new attorney training module to include information on the Act; and creating additional materials for the Program’s existing volunteer training to include further information on the dynamics of child sexual abuse.
- ²⁸ Section 39.4085, Florida Statutes.
- ²⁹ This figure is based on historical allocations by the Office of the State Courts Administrator.
- ³⁰ 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.
- ³¹ 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.
- ³² Of the \$309,000 allocated for AAL representation, approximately \$270,000 was spent.

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