

GUARDIAN AD LITEM



ANNUAL REPORT

The Voice for Florida's Abused & Neglected Children

GUARDIAN
AD LITEM



850 life-sized photos of children were staked into the lawn at the Washington Monument. They represented “Forgotten Children”.

The photos at the Mall were a powerful visual depicting the number of children, who, each day, are taken from their homes and placed in foster care. It was an effort to raise awareness for “Forgotten Children,” those who live in the dependency or child welfare system. The thing about this system is that, no matter how good it is, it still isn’t as good as having a safe, permanent, loving family. And although we have made progress in Florida, children still wait too long for a permanent family, they still sit on waiting lists for services they desperately need, and there are still more children than there are families to keep them. With caseloads that are often too high and resources that are too scarce, the system causes some children to go without. Their needs are forgotten. The children can be forgotten. Sometimes for a long time.



Guardians ad litem believe it should not be this way. Our advocacy is all about the individual child. It is designed to make sure that no child is forgotten. We pair staff with community volunteers who get to know each child and then fight for their best interests. Our attorneys provide strength in court, with volunteers and staff fighting to move a case when it is stalled, working to get federal money owed to the children or advocating for needed therapy. Guardians ad litem don’t forget the children. We don’t forget that they need the same things all other children need: to be safe, to be healthy, to be loved.

I am pleased to provide you with this report of where we are and where we are going. We strive to improve our advocacy and recruit more advocates, and will continue to do so to ensure no child is ever forgotten.

Sincerely,

A handwritten signature in black ink, appearing to read "Dennis W. Moore".

Dennis W. Moore

Interim Executive Director

EXECUTIVE SUMMARY

The notion that children can be forgotten is difficult to accept. However, there are over 35,000 children in the dependency system, and though stakeholders work hard to serve all of them well, some fall through the cracks. For any number of reasons, their needs can be forgotten. This is where a guardian ad litem can make the difference, the difference between being heard and being forgotten. The Guardian ad Litem Program uses a team of well-trained volunteers, case coordinators, and program attorneys to represent the best interests of children. When a strong medication is prescribed, we are calling experts to find out what it means. When services are not provided, we advocate in court to get them started. If a doctor's appointment is missed, we follow up. When it is taking too long to find a loving, stable home, we push to move the case. Children need this help, the system needs this push, the state needs this reminder that no child should be forgotten.

All Abused and Neglected Children Must Have a Guardian ad Litem. Florida Statutes mandate that all abused, abandoned, and neglected children have a guardian ad litem. To accomplish this, the Program will request approximately \$5 million in additional funding this year. 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. The Program will accomplish this by hiring additional staff to represent children and by continuing its volunteer recruitment and retention efforts.

This budget request will restore funding eliminated in the 2008 Legislative Session. This year, the Program's budget for 2007 - 2008 was reduced by 4%. The Program's budget for 2008-2009 was cut an additional 3.2%. These cuts, totaling over \$2.5 million, forced the Program to

terminate staff and therefore reduce the number of children represented. The Program's ability to represent children is currently being further hindered because 4% of the existing year's appropriation is being withheld. Due to the Program's lack of resources, over 5,100 children have no advocate.

The Program Continues to Aggressively Recruit Volunteers. 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 2007 - 2008, the Program certified a total of 2,159 new volunteers, and as of July 31, 2008 had a total of 6,754 certified volunteers. This increases the Program's volunteer base by 1,067 volunteers since last year. The Program has a number of initiatives to increase its volunteer base, including a collaborative effort among state agencies and an initiative led by Chief Justice Peggy Quince to recruit pro bono attorneys.

EXECUTIVE SUMMARY *continued*

Guardians ad Litem Ensure Children are Heard and Not Forgotten. The Program continues to refine its advocacy to ensure that the rights of children to timely permanency, to services, to a stable home, are protected. Statewide, the Program has made finalizing adoptions a priority. We have focused on the needs of children with mental health issues. We are facilitating the transition to adulthood for those children who leave foster care without a family. Guardians ad litem provide advocacy children need on these issues so they can have the futures they deserve.

Guardians ad litem represent the best interests of children. We give children a voice, and help them find their own voice. Without a guardian ad litem, children are left to navigate the child welfare system on their own. They go to court alone. It is not difficult to imagine how their needs could be overlooked, how they could be forgotten. We will continue to work until all abused, abandoned, and neglected children have a guardian ad litem, a person to make sure they are not forgotten.

“ **A permanent home** gives the child an opportunity to dream and hope, to discover and cultivate new talents, to follow their aspirations and to love with the reassurance that they are loved back. Every child deserves that solid foundation for life. ”

— Governor Charlie Crist,
Letter regarding Explore Adoption Initiative,
www.adoptflorida.org

GUARDIANS AD LITEM ENSURE CHILDREN ARE HEARD AND NOT FORGOTTEN

The Guardian ad Litem Program (the Program) represents abused, abandoned, and neglected children who are involved in court proceedings. In most cases, these children come to the attention of the court when someone suspects abuse, abandonment, or neglect, and calls the Florida Abuse Hotline (1-800-96-ABUSE). A protective investigator either from the Department of Children and Families (DCF) or the Sheriff's Department visits the child to see if the child is endangered. DCF may offer services to the family if the child can remain at home in a healthy, safe environment where her welfare can be protected. If not, 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



DCF assesses the risk to the child and provides 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 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.

In court, the judge balances the interests of all the parties and has an active role in making sure the child is safe and that the case moves quickly. Everyone in the case will negotiate a case plan, which lists each person's responsibilities and a time frame to complete them, so the family can be reunited or the child can be placed in another home permanently. The judge approves this case plan and makes final decisions about where the child will live, what services everyone needs, and how soon the case can close. Under state and federal law, the goal for having the child in a permanent placement is one year.²

The guardian ad litem is appointed to represent the child's best interests and focuses exclusively on the child. Florida Statutes require a guardian ad litem be appointed at the earliest possible time in the dependency proceeding.³ 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.⁴ When the Program doesn't have a GAL available, we have to file a motion to discharge to inform the court we do not

have the resources to represent the children. In practice, with when the Program accepts a case, we assign a volunteer or a staff advocate and a program attorney.⁵ 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 to explain the process in a way she can understand. We work to have the child present at proceedings when appropriate for the child and when the child wishes to attend. The Program formulates a best interests recommendation for the judge, based on the information gathered through visits, interviews, independent investigation, and discussions with the child, and reports the child's wishes.

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. By providing this independent perspective, the guardian ad litem provides an opportunity for judges to hear what is best for each child before making decisions that forever affect the child's life.

The Program advocates for things the law says the child is entitled to, such as a permanent home within a year, appropriate developmental and educational evaluations, and services available for those children aging out of foster care. 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 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.

“ **She had lost so much and now it seemed she might lose her**

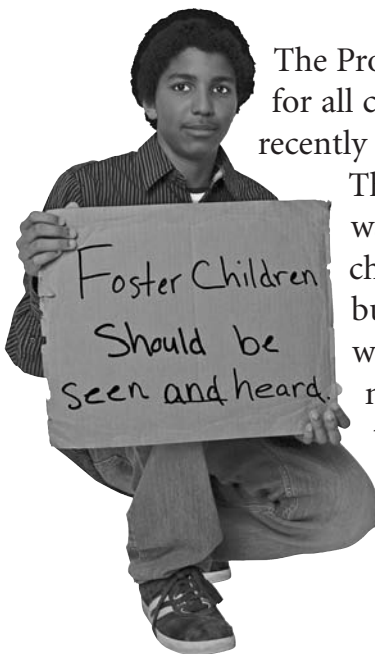
brothers too. Her mother had given her up. Her father had died. She had mental health and behavioral issues that required serious therapy. Her foster parents located her brothers and were helping her build relationships with them, but there was an objection and a recommendation that the contact with the siblings be stopped. We negotiated with all the parties to make sure the child could get the help she needed with a qualified therapist and reconnect with her siblings. It is going to be a long, hard road, but at the end, she will have brothers she knows and loves.”

— Guardian ad Litem Program Attorney,
Tenth Judicial Circuit

CHILDREN MUST HAVE AN ADVOCATE IN COURT SO THEY ARE NOT FORGOTTEN

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.⁶ The Florida Statutes lay out certain expectations for GALs,⁷ and each child in the system has unique needs and a different vision for his future which must be given priority. Additionally, the court needs an independent assessment of each child's best interests. The Program strives to provide highly effective, proactive representation for every child that includes:

- Gathering comprehensive information concerning the child's needs and monitoring the progress of DCF, the CBC, 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 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 Program is committed to providing this high quality representation for all children in dependency proceedings. Unfortunately, we have recently lost resources, which has caused us to represent fewer children.

The highest number of children ever represented by the Program was in September 2007, when the Program represented 32,520 children. However, in the 2008 Legislative Session, the Program's budget was reduced by 4%. The Program's budget for 2008-2009 was cut by an additional 3.2%. These cuts, totaling over \$2.5 million, forced the Program to terminate staff and therefore reduce the number of children that can be represented. The Program's ability to represent children has been further diminished by the fact that 4% of the existing year's appropriation is being withheld.⁸

For the 2008 - 2009 fiscal year, the Program was given resources to represent 30,344⁹ of the 35,543 children under DCF supervision who are involved in court proceedings. Thus, over 5,100 children have no advocate. To reach these children and fulfill the mandate in Florida law that all children have a guardian ad litem, the Program will request approximately \$5 million in additional funding.¹⁰ 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. The Program will accomplish this by hiring additional staff to represent children and by continuing its volunteer recruitment and retention efforts.¹¹

Florida Statutes also establish a goal for children in shelter or foster care to have, "where appropriate, an attorney ad litem appointed to represent their legal interests."¹² The Program currently administers approximately \$309,000 for attorney ad litem (AAL) representation statewide, though because of the budget situation described above, this funding has also been reduced.¹³ AAL representation is also provided to children by pro bono attorneys, legal aid organizations, and law schools.

“ 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).

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.¹⁴ In six judicial circuits the Program contracts with organizations to provide AAL representation.¹⁵ The Program also contracted with individual attorneys in several circuits to represent all or most of the children appointed an AAL in that circuit. Nearly 600 children were represented by AALs last fiscal year using funds administered by the Program.¹⁶

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 Florida Guidelines of Practice for Lawyers who Represent Children in Abuse and Neglect Cases developed by The Florida Bar's Committee on the Legal Needs of Children and are required to review them as a condition of their contracts.



VOLUNTEERS ARE CRITICAL TO THE GAL TEAM

While the state budget is shrinking, the Guardian ad Litem Program continues to aggressively recruit volunteers to advocate for children. Guardian ad litem volunteers donate countless hours to the children they represent and the individualized advocacy volunteers provide is priceless. Volunteers are a cost-effective way to represent children, and their unique perspective and often creative solutions are highly valued by dependency court judges. Each volunteer works with a program attorney and case coordinator as part of the GAL team. Volunteers are required to have 30 hours of training prior to certification, and must complete six hours of in-service training each year.

The volunteer's perspective is unique because the volunteer advocates for one child or a sibling group, and typically has only one or two cases, rather than managing a caseload. Because the volunteers are not part of the dependency system, they see the child and family in a way that is unaffected by the demands and shortcomings inherent to the system. The child is not a case or a number. The volunteer does not accept delays or dearth of resources as commonplace. The volunteer advocates from the perspective that every child should be treated as if he or she were the only child in the system.

“ **She was in the ICU and on a ventilator** – a fifteen year old thrown from the back of a motorcycle. She had a fractured pelvis, femur and tibia, a shattered knee and a broken jaw – a harrowing list of injuries to add to the list in a life where she had already been so battered. Two surgeons called me a few days after the accident, saying that I was the only person on the phone list they could reach. They needed to perform several procedures and put her under anesthesia ASAP. So within about thirty minutes I was in front of the Judge with a proposed order for the procedures and anesthesia. I had called the Judge's office for an emergency hearing, which he allowed even though he was in the middle of a trial. He allowed me to get the surgeon on the phone and take testimony. She's better now. She was released to a rehabilitation center and then to a medical foster home. It will be a long recovery, but we feel optimistic and hope she will understand how lucky she is – even though that hasn't always been the case. ”

— Guardian ad Litem Program Attorney,
Fourth Judicial Circuit

The relationship between the child and the volunteer is a tremendously important aspect of guardian ad litem advocacy. The GAL is often the only constant in the child's life, staying with them if their placement changes, if a judge rotates to a new division of court, or if they are assigned a new caseworker. In over 75% of the Program's cases, the Program stays with the child until the child reaches his permanent placement.¹⁷ This stability is not only crucial to the child but also to the court, as the GAL can be counted on to have the background on the children and the family.

Guardians ad litem also serve as a link between a child and the community. Often, volunteers provide the child and her family with things she wouldn't get from another source, little necessities, small gifts, or big opportunities. Volunteers serve as mentors for children, can identify a community resource, or can help a child find a job using the volunteer's personal connections. This relationship with the community can help support a family as they get back on their feet and can be even more important for youth leaving foster care as they prepare to live independently. There is no substitute for having this kind of network. It is a resource during the case and a safety net when the case closes. Establishing a place for children within our communities helps to make sure they are not forgotten.

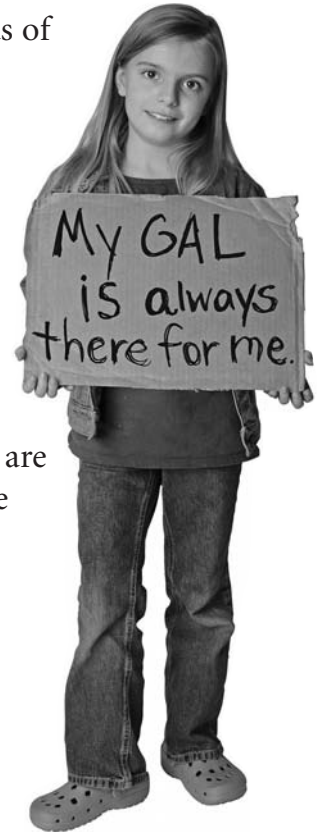
“ **She was wrapping empty light bulb boxes so there would be something under the tree.** We had worked to get the kids home for the holidays, so they had each other, but it had not occurred to me that there would be no presents. I really had never met people with so little. I found them a used computer and a printer, and the GAL office arranged for there to be toys for all the children – a lot of toys. We all believed in magic that Christmas.”

— Guardian ad Litem Volunteer,
Second Judicial Circuit

The Program has the Highest Number of Volunteers in its History

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 2007 - 2008, the Program certified a total of 2,159 new volunteers, and as of July 31, 2008 had a total of 6,754 certified volunteers. This is an increase of 1,067 volunteers since last year.

Continuous growth of our volunteer base is a critical element of the Program's strategy to represent every child. Circuit programs have been setting volunteer recruitment goals which are reported on and managed monthly. The Program has designated a Statewide Director of Volunteer Recruitment who monitors the circuits' recruitment levels and offers training and support to directors in order to improve recruitment and retention. Circuits are analyzing volunteer attrition and developing solutions to improve retention, such as designating Volunteer Mentors. Many circuit programs are forming volunteer recruitment committees that include experienced volunteers, and are being trained on how to most effectively form and manage these groups. Additionally, circuits will establish targeted goals for recruiting pro bono attorneys and African-American and Hispanic volunteers.



Collaborating with State Agencies Creates Recruitment Opportunities

One innovative recruitment initiative the Program is working on is a collaborative effort among state agencies. This initiative began last year, and its premise is to bring together state entities, not only to recruit GAL volunteers within those organizations, but also to leverage resources for the Program to better recruit and retain volunteers statewide. The Program first convened state agency heads to introduce the initiative in 2007. Twenty partners committed to participating on a two-year task force. This collaboration is important to the Program, because as a very small state entity, we do not have many of the resources that the larger state agencies have available to them. The initiative creates opportunities for the Program to reach further into communities to recruit volunteers by using these resources

available to its partners. Resources such as media production offices, expertise in data collection and analysis, technology and transportation are examples of things that, with cooperation among partners, could be used. The Program also has an opportunity to recruit employees of its partners and the citizens they serve all over the state.



This year the Task Force formed workgroups to examine volunteer recruitment, volunteer retention, and public relations/marketing. The workgroups created action plans and identified objectives, such as:

- creation of a public service announcement and a strategy for updating marketing materials;
- expansion of recruitment efforts to include current and retired employees and individuals served by state agencies;
- identification of on-site training opportunities for state employees; and
- the creation of statewide volunteer awards through the Department of Elder Affairs.

Task Force for Recruitment of Child Advocates

- Agency for Healthcare Administration
- Agency for Workforce Innovation
- Chief Justice Peggy Quince, Florida Supreme Court
- Department of Children and Families
- Department of Citrus
- Department of Community Affairs
- Department of Corrections
- Department of Elder Affairs
- Department of Emergency Management
- Department of Environmental Protection
- Department of Health
- Department of Highway Safety and Motor Vehicles
- Department of Juvenile Justice
- Department of Military Affairs
- Department of Revenue
- Department of Veterans Affairs
- Department of Transportation
- Florida Fish and Wildlife Conservation Commission
- Florida Guardian ad Litem Foundation
- Office of Adoption and Child Protection

Chief Justice Quince Leads Effort to Recruit Attorneys to Serve as Guardians ad Litem

This year Chief Justice Peggy Quince is at the forefront of an initiative to recruit attorneys as GALs by calling on members of The Florida Bar to represent children. Chief Justice Quince identified the needs of children in dependency court as one of the priorities of her two-year term as Chief Justice. She has been addressing groups of attorneys around the state to recruit them to represent abused and neglected children. Chief Justice Quince is putting particular emphasis on the Program's Fostering Independence Program, which serves teenagers.

Fostering Independence is a targeted recruitment effort to get attorneys to work pro bono (for free) as part of the GAL team.

The project focuses on the needs of 13 - 18 year olds. When an attorney agrees to represent a teen, the Program provides training on problems common to teens such as barriers to permanency for this age group, 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. We also provide guidance on advocacy for children who may be involuntarily committed to residential treatment centers and handling issues related to master trust accounts.



As she took the office of Chief Justice, Chief Justice Quince remarked, “We have hundreds of children who age out of foster care every year but are they really ready to take their place as good and productive citizens in the state of Florida? I believe with our help, with the help of the lawyers of this state, we can make them those kind of citizens.” Under Chief Justice Quince’s leadership, the Program is organizing regional workshops to gather leaders within The Florida Bar, members of the judiciary and prominent attorneys to develop local strategies for recruitment of pro bono attorneys. Our first workshop was held in August in conjunction with the Dependency Court Improvement Summit. Pro bono recruitment plans were discussed for Osceola, Volusia, Polk, Seminole, Brevard, and Orange Counties. A similar workshop is planned for Miami in January and Tallahassee in March. Each circuit office has a pro bono coordinator and pro bono recruitment plan in place to support new attorney volunteers.

“ **Stability isn’t just about where you live.** When the girls entered the child welfare system, they were placed in a new school district. Their school and friends had been a real support for them when their parents died, but the cost of transporting them became an issue. We advocated to get the girls transportation to their existing school. Now the school board will reimburse the caretaker to transport them. At least we can keep their days stable as we work to make sure their home life will be that way.”

— Guardian ad Litem Program Attorney,
Seventeenth Judicial Circuit

THE IMPORTANCE OF A PERMANENT, LOVING HOME SHOULD NOT BE FORGOTTEN

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.

Permanency Team wins Davis Productivity Award for Finalizing Adoptions

In 2005, the GAL Program in the Fourth Judicial Circuit (*Duval County*) began an initiative called the Permanency Project which focused on expediting permanency for children whose parents' rights were terminated. 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.

“ He was adopted but given back.

A worst case scenario by all accounts. He was 17 and a half, and statistics show finding an adoptive family at that age is unlikely. But there was a family, a family that wanted to mentor him and maybe adopt, but things were moving too slowly. I told the judge the situation and worked to expedite the case. The family was approved to mentor. He moved in May and the adoption is scheduled for October. We get a second chance – we in the child welfare system get a second chance – to get it right for this young man, to give him a family, a future, the kind of stability every child deserves.”

— Guardian ad Litem Program Attorney,
Thirteenth Judicial Circuit

The Permanency Project is a collaborative effort among the Program, the Judiciary under the leadership of Judge David Gooding, DCF and the CBCs, and this year was given a Davis Productivity Award. These awards are given by Florida TaxWatch and recognize innovations that enhance productivity within state government. At the inception of the project, the Permanency Team identified 421 children whose dependency case status was post-termination of parental rights and who were therefore legal orphans. 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. The team finalized 153 adoptions in under one year. Duval County and the State of Florida had a record number of finalized adoptions for the 2007-2008 fiscal year, with 527 and 3,674 adoptions respectively.

Based on calculations by Judge Gooding, millions of dollars are saved by finalizing these adoptions. When the cases are closed, foster care payments do not have to be made, court time is eliminated, and case workers and GALs no longer spend time on the case, thus freeing up resources. By giving these children forever families in a timely fashion, everyone in Florida wins.



Partnering with Explore Adoption

The Program is proud to be a partner in the Governor's Explore Adoption Initiative. Governor Crist has made adoption a priority of his administration, and in 2007, established the Office of Adoption and Child Protection and the position of Chief Child Advocate. That office has begun an initiative called Explore Adoption with an aggressive public relations campaign and a website (www.adoptflorida.org) to provide information about the adoption process, to tell the success stories of families who have adopted, and to enable the public to learn about children hoping to find a family. The Program is a partner in this effort, helping to promote awareness of public adoption through our website and other internal publications. Today there are over 1,000 children in Florida waiting to be adopted. By participating in initiatives like Explore Adoption, the Program is helping to ensure that children waiting for families are not forgotten.



Technology Provides Opportunities to Improve Advocacy for Children

For the past two years, the Program has been collaborating with DCF to facilitate access to DCF's database which contains all information relevant to dependent children, the Florida Safe Families Network (FSFN). This partnership will allow us to access case management information including the most up to date information about placement, status of referrals, and prior abuse reports. With this information, the Program can be more informed about all the activity in a case, whether it is about the child, the parents, or the caregiver. We will be able to better monitor compliance with court orders and changes in the child's life. This information will make our recommendations more comprehensive and should allow us to get children into permanent, stable placements more quickly.

The Program was also recently provided access to a new database which electronically tracks the progress for placement of children through the Interstate Compact on the Placement of Children (ICPC), the law which governs placement of children across state lines. A significant barrier to permanency for children is the inability to finalize out-of-state placements in a timely fashion. Congress has been working for several years to revise the ICPC. In Florida, there have been several changes with the ICPC process, and the creation of this database is a very important one. DCF has allowed the Program access to the system on a circuit by circuit basis. We will be able to see copies of ICPC paperwork, determine the status of requests, and view transmittal confirmations. This access will allow GALs to identify delays, resolve problems with paperwork, and get children into homes more quickly. These advances in technology and the collaboration with DCF help to ensure the status of children can be uncovered in an instant, and that their cases are not forgotten.

“ Unlike adults, who measure the passing of time by clocks and calendars, children have their own built-in time sense based on the urgency of their instinctual and emotional needs. What seems like a short wait to an adult can be an intolerable separation to a young child to whom a week can seem like a year and a month forever ”

— *French v. French*, 452 So. 2d 647, 651 (Fla. 4th DCA 1984) (Glickstein, J., concurring and dissenting).

CHILDREN WITH MENTAL HEALTH NEEDS SHOULD NOT BE FORGOTTEN

One particular area of focus for the Program’s advocacy has been ensuring children are not improperly given psychotropic medications. These medications affect the mind through action on the central nervous system and can have severe side effects. Most psychotropic medications have never been tested on children and are not approved for their use.¹⁸ While physicians may prescribe medications in ways that have not been approved by the Food and Drug Administration (FDA), there is very little data on the possible long-term consequences of using psychotropic medications at an early age.¹⁹ It is also extremely difficult to diagnose mental illness in young children because they are unable to describe their symptoms adequately, if at all.²⁰

Anecdotal reports over the past several years indicate children in the child welfare system are often given the wrong medication, given dangerous combinations of these medications, or are overmedicated to a degree that they are “chemically restrained.” The Program made this issue a priority for our advocacy. We developed training and established protocols to use when we learn a child may be prescribed psychotropic medication.

“ **She was dazed and shaking when she came to court.** When we visited, she seemed lethargic and isolated. We worried she was being overmedicated and wanted the judge to see her. This day was particularly bad. The facility initially resisted our efforts to have her appear when we made our motion. She was taken from the court in an ambulance, hospitalized, and detoxed from an overdose of depakote. We asked the judge to change her placement, to order an evaluation by pediatric specialists, and to get her therapeutic treatment. She needs a lot of help, but now she is herself again.”

— Guardian ad Litem Program Attorney,
Seventeenth Judicial Circuit

In the past year, by following these protocols, we have prevented children from being improperly medicated and made sure that others who were getting such medication were prescribed it only when necessary and were monitored closely. For example:

- We received a motion to put a child on psychotropic medication due to various behavior issues. When we investigated we discovered that between the referral and the time the motion was heard, the child's placement changed. It was reported that once the child was moved, she no longer exhibited the troubling behaviors. We objected to the motion for the medication and asked for a hearing. In court we asked the prescribing doctor if he knew the child's behaviors changed after the move and he said no. Without further inquiry, the doctor withdrew his recommendation for medication for the child.
- Earlier this year, the American Heart Association released new guidelines for the use of certain psychotropic medications because of reports of children dying from unknown heart conditions while on such medications. The day following the release, we brought this to the attention of the court and other parties. We successfully advocated for these safeguards to be utilized, including getting a child an electrocardiogram in advance of approving the order for medication. It was suggested that the order authorizing the psychotropic medication and the order for the electrocardiogram be entered simultaneously. The child's guardian ad litem pointed out that doing so would defeat the purpose of the guidelines and the judge agreed.



- When a child with severe psychiatric issues was referred for an additional antipsychotic medication, the Program put together a timeline of the child’s diagnoses and medications. We discovered the new antipsychotic was a transition medication and not to be used long-term, as the motion requested. The judge granted our request for transitional limits, regular electrocardiograms, and additional monitoring.
- We received a request to authorize Risperdal and Adderal for a 3 year old. Prescribing two psychotropic medications for such a young child is necessary in only very rare cases. We objected. After the Program presented the extensive research done as to side effects and the FDA recommendations, the request was withdrawn.

These are but a few examples of how the Program is advocating every day in Florida’s courts to ensure children in the child welfare system receive proper mental health treatment. There are many more. As the mental health field evolves and new medications and treatment techniques are developed, the Program is committed to keep its advocacy current so that children in the child welfare system receive appropriate mental health treatment.

“ **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

CHILDREN AGING OUT OF FOSTER CARE SHOULD NOT BE FORGOTTEN

Each year thousands of children leave the foster care system, who, statistics show, are ill-prepared for adulthood.²¹ Both the federal government and the State of Florida have been working on strategies and identifying resources necessary to enable these teens to successfully live on their own. Florida law allows youth to request the court extend its jurisdiction until the youth's 19th birthday.²² This allows a judge to determine whether appropriate aftercare support, Road-to-Independence Program, transitional support, mental health, and developmental disability services have been provided. The Program helps teens who want to extend jurisdiction by providing a form petition and a brochure which explains the process. 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. According to DCF statistics, over 1,800 teens have had jurisdiction extended.²³

Transitioning Youth Project

The Eleventh Judicial Circuit in Miami created the Transitioning Youth Project (TYP) also to focus on these older foster care youth and to help them reach their potential as adults. Supported by the Voices for Children Foundation, their project serves youth ages 16-21. The goal is to make sure that youth who are leaving the system have the adult relationships, education, housing, jobs, and life skills they need to be successful on their own. In its first six months of existence in 2004, the project served 55 teens. This number has increased steadily and last year served 286 teens. Guardian ad litem advocacy for these youth ensures that planning for successful independence begins early and that it builds a solid foundation upon the positive relationships in the child's life.



WHEN DECISIONS ARE APPEALED, THE RIGHTS OF CHILDREN SHOULD NOT BE FORGOTTEN

Shortly after the Legislature created the Statewide Guardian ad Litem Office, we launched a unified statewide appellate practice to advocate not only for the individual children but also for decisions based on statutory and constitutional interpretations with the child at their center. Through its statewide appellate practice, the Program has identified issues and trends that threaten children's best interests. We focus our advocacy on ensuring timely and stable permanency because children have a legal right to a permanent home.

When a decision is appealed, children can wait months, a year, or even longer for the appellate court to issue an opinion and settle the issue. This lack of finality leaves children in limbo. If a termination of parental rights decision is appealed, a child's adoption can't be finalized and permanency is delayed. The Program currently advocates for children on the appellate level in 316 cases. We protect the child's best interests and legal interests and urge the court to always consider the child's right to timely permanency.



She had lived with her foster parents for 15 months, but now was supposed to go live with relatives she had never met.

She was two-and-a-half, had spent half her life in foster care and was being taken from the only people she knew as her family. She wasn't the only one - it was happening in courts all over the state. At the very point children should have been adopted, judges were permitting parents and relatives of dependent children to disrupt long-term, bonded placements just because a relative was available, even if they wouldn't adopt. We decided fighting this was our priority. We began methodically arguing for permanency and stability for the child, in every district court of appeal, every time any party argued for something else. It worked. Based on a motion solely authored by the Program, the district court of appeal recognized the availability of a relative placement is not a legal basis for denying a child a permanent, adoptive home. Since then, subsequent decisions have agreed. Now, children's best interests and right to permanency can be assured in these cases.



— Guardian ad Litem Appellate Attorney,
C.M. v. Dep't of Children & Fams., 952 So. 2d
517, 953 So. 2d 547 (Fla. 1st DCA 2007).

The Program has also been the leader in advocating for the right of children and youth to access Florida's appellate courts. Many of the orders that most affect children and youth are non-final, or interlocutory. Examples of such orders include orders removing children from long-term, stable placements; orders placing children in locked mental health facilities; orders granting or denying changes to case plans; and orders concerning children's trust funds. The fact that these orders are non-final is significant because the Florida Rules of Appellate Procedure limit appeals from non-final orders.²⁴

Without the ability to pursue an immediate appeal as a matter of right, children have to wait until the court files a final order, which, again, can take months or even years. Because children and youth are harmed by these delays, the Program has been the primary advocate for the child's right to immediate access to appellate courts. We addressed the issue with the Commission on District Court of Appeal Performance and Accountability in 2007 and again with the Appellate Court Rules Committee. After careful study and debate, the Appellate Court Rules Committee approved proposed rules we suggested that expand children's access to appellate courts. The proposal is now pending before the Florida Supreme Court.

The issues and parties that threaten the best interests of dependent children and youth are many and varied. Yet, in fewer than five years, the Program's appellate practice has successfully advocated for changes in case law and established itself as the leader in appellate advocacy for the best interests of dependent children and youth.



WELL-TRAINED ADVOCATES ENSURE CHILDREN'S NEEDS ARE NOT FORGOTTEN

Due to the severity of the budget cuts, the Program has been forced to eliminate the majority of its in-person training events. Limited Program staff attended the Dependency Court Improvement Summit on scholarships provided by DCF and with assistance from a private donor. The Summit provides opportunities for training on discrete topics relevant to abused and neglected children. As importantly, the Summit brings together child welfare professionals who convene by judicial circuit to develop strategies and action plans to better serve children and families in the system.

In the absence of in-person training events, the Program has continued conducting monthly conference calls. These calls are a cost-effective method to ensure staff are aware of changes in the law, best practices, and current issues facing youth. Continuing Legal Education credits are available for attorneys which enables them to maintain good standing with The Florida Bar at no cost to the attorney. All trainings are recorded and the audio files are placed on the Program's website, which can be accessed by the public.

“ **He was drinking when I got there.** I wanted to do an unannounced visit before the judge made a decision about permanency, so their father was not expecting me. It felt like a close call – the children were to be reunified, but since he was drinking, it wasn't safe. I put it in my report to the judge. We have a better idea of the problems the family is facing now and can get them the help they need.”

— Guardian ad Litem Case Coordinator,
Sixth Judicial Circuit

Examples of Conference Call Topics From the Past Year Include:

- Early Periodic Screening, Diagnosis, and Treatment (EPSDT)
- Depositions of Children
- Understanding the Indian Child Welfare Act (ICWA)
- Proving Nexus
- Master Trusts
- Legal Ethics in Dependency Practice
- Taking and Defending Depositions

Another cost-effective tool for training and sharing information is our website, www.guardianadlitem.org. The site has a “Resources by Topic” section which includes subjects such as adoption subsidies, 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 Program’s website is important not only for staff and volunteers but also for the public and the children and youth we represent. Any child advocate can use the resources on the website to learn about issues affecting abused and neglected children, search case law, or listen to audio trainings. Members of the public interested in volunteering can learn about being a GAL, get information about their local program and download an application. There is a Teen Resources section for youth that includes topics such as Transportation and Housing, Life Skills, and Education and Scholarships. This section can help youth aging out of the system establish connections to the community. Last fiscal year, the Program’s website had over 9.5 million hits and 80,000 unique visitors.

The Program is currently developing a new section of the website concerning the participation of children in court. 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. The Program has been working in the individual circuits to develop protocols for greater participation by children. Creating a resource on the Program’s website that provides legal authority for children to participate and offers suggestions for best practices is another step to give children more of a voice in the process and in their futures.



Knowing Who You Are

Florida's Guardian ad Litem Program was chosen by the National Court Appointed Special Advocates Association as one of four states to pilot a national curriculum called, Knowing Who You Are (KWYA). This research-based training curriculum is designed to help youth in the child welfare system develop a healthy sense of racial and ethnic identity. Because a child's sense of identity is so critical for the children we serve, the KWYA training curriculum can assist us in understanding how we can advocate more effectively for the children we represent. There are three components to the KWYA training curriculum: the video/DVD, an online e-learning, and an in-person learning event. These components provide participants with the knowledge and skills necessary for incorporating this work into day-to-day practice. The Program has identified staff to become certified trainers of the KWYA curriculum. We are scheduled to roll out the curriculum in a training event scheduled to take place in Tampa this December.



PRIVATE PARTNERSHIPS HELP ENSURE CHILDREN ARE NOT FORGOTTEN IN THEIR COMMUNITIES

We know that government alone cannot meet the needs of Florida’s abused, abandoned, and neglected children. That is why the Program has a direct-support organization to seek private funding for its mission. The Florida Guardian ad Litem Association recently changed its name to the Florida Guardian ad Litem Foundation, Inc. (the Foundation), to reflect its role as the private fundraising arm of the Program. The Foundation is beginning its first annual fundraising campaign and is actively seeking grants from corporations and foundations. The primary use of new funding will be to help the Program recruit and retain more volunteers to represent children. This will be accomplished through providing recruitment materials, increased statewide public relations efforts, and volunteer recognition.

In addition to the Foundation, there are not-for-profit organizations throughout the state that support the circuit programs 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 to advocate for children. In many circuits these organizations also assist with local volunteer recruitment and retention efforts.

“ **Two hours.** On one little boy’s birthday, we recommended that he be allowed to have a two-hour visit with his mom. The drug counselor agreed but there was still opposition, so we had to go to court and convince the judge it was in his best interests. Two hours. They spent his birthday together, she met his teacher, she went to the birthday party at school. Those two hours meant the world to that little boy, and that is just the kind of thing that, although maybe small to some, is worth fighting for.”

— Guardian ad Litem Program Attorney,
Thirteenth Judicial Circuit

The Program is also establishing partnerships with corporations, service organizations, and charitable entities. The Program continues previously established partnerships with UPS and Kiwanis. UPS donates to the local non-profits and shares information about our need for volunteers with employees. The Florida Kiwanis First Lady, Sharon Taylor, visited with 24 Kiwanis Clubs across the state and was joined by a local Program representative to promote the Guardian ad Litem Program and need for volunteers. During the past year, individual Kiwanis members have joined our Program as volunteers and many clubs participated in local volunteer recruitment activities and supported local programs through the non-profit organizations.

In the 2007 - 2008 fiscal year, we have established a number of exciting new partnerships:

- Jack and Jill of America, Inc., is a family organization that provides cultural, social, civic, and recreational activities that stimulate and expand the mind to enhance life. Ms. Tamera Robinson, Southeastern Regional Director, chose the CASA/GAL programs as the cause she will support during her two year term. Jack & Jill has 12 chapters in Florida that are planning initiatives focusing on volunteer recruitment and supporting the local non-profits.



- The Florida Parent Teacher Association (PTA) adopts platform items and continuing concerns each Legislative Session. The Florida PTA supports the expansion of the Program to ensure that every child in dependency court has a GAL. We were invited to participate in its Leadership Conference in July and the PTA has published information about our Program in its statewide newsletter.
- The Florida School Psychologists Association invited us to participate in its Summer Institute in Key West and distributed information to its members across the state.
- The State of Florida's Task Force on African American History is an advocate for Florida's school districts, teacher education training centers, and the community at large, in implementing the teaching of the history of African people and the contributions of African Americans to society. The Board formally agreed to partner with the Program and support our efforts to recruit more African American volunteers across the state. Several members have assisted us with distributing information and addressing members of their individual collateral organizations.

A FINAL WORD ABOUT FORGOTTEN CHILDREN

Throughout this report, we talk about Forgotten Children, and one may ask, does this really happen? Their cases are in court, DCF is working with their families, are they really forgotten?

For too many children the answer is yes. These are kids who have been abused, abandoned, or neglected. If you are taken away from your home, your neighborhood, how long do people look for you if no one knows if you will be back? Who can a teacher call if you miss school to find out where you are? If a doctor's appointment slips through the cracks, who follows up? Children can be entitled to master trust accountings, independent living services, and relative caregiver funds, but can a child even understand what those things are, much less figure out how to get them?

So, if saying children can be forgotten is fair, it begs the question, how can we prevent this from being the reality in Florida? The answer is to have strong, proactive advocacy for the children. This is the representation that the Guardian ad Litem Program strives to provide every day to the children we represent. When a strong medication is prescribed, we call the experts to find out what it means. When services are not provided, we advocate in court to get them started. If a doctor's appointment is missed - and some of these appointments are critical - we will follow up. When it is taking too long to get to a loving, stable home, we push to move the case. These are the things that matter when you are away from your family and don't know when you'll get back. You need an independent advocate. Children need this help, the system needs this push, the state needs this reminder that no child should be forgotten.

“ **As stewards of this state, our greatest obligation is to our children.** But often it is their voice that goes unheard, or is overlooked. Our children need a voice. They need to be at the table, because soon it will be their table. ”

— Governor Charlie Crist
2007 State of the State Address

ENDNOTES

- ¹ Section 39.402(8)(c), Florida Statutes.
- ² Section 39.621(1), Florida Statutes.
- ³ Section 39.822(1), Florida Statutes.
- ⁴ 42 U.S.C.A. § 5106a(b)(2)(A)(xiii), the Child Abuse Prevention and Treatment Act (CAPTA).
- ⁵ If resources are not available, the Program files a motion seeking discharge for the case. A few circuit programs are only appointed after a determination is made that the Program will accept the case.
- ⁶ Section 39.8296(2)(b)7., Florida Statutes.
- ⁷ Numerous sections of the Florida Statutes address the involvement and role of guardians ad litem in dependency proceedings. See Sections 39.0132, 39.202, 339.402, 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.
- ⁸ The 2008 - 2009 General Appropriations Act provides resources which would enable the Program to represent 30,344 children. Because 4% of this funding is not being released (as of the writing of this report), the Program has had to institute a hiring freeze, and thus is unable to hire advocates to represent children.
- ⁹ The Program is currently representing 29,564 as of July 2008. This number is lower than the number of children the Program has the capacity to represent. Although the current year appropriation would enable us to represent 30,344 children, 4% of the Program's appropriation is being withheld in the anticipation of a budget shortfall. The Program has had to institute a hiring freeze in order to balance its budget in the face of this holdback.
- ¹⁰ This estimate is based on the funds provided in the 2008 - 2009 General Appropriations Act. At the writing of this report, 4% of this money was being held back. If the holdback becomes a permanent cut, the Program would need to amend its budget request to seek restoration of this funding and the request will be higher. In addition to the funding required to reach 100% representation, this estimate includes funding to do national background checks on all GALs and two small technology issues.
- ¹¹ 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.
- ¹² Section 39.4085, Florida Statutes.
- ¹³ The \$309,000 of funding identified for AAL representation is based on historical allocations by the Office of the State Courts Administrator prior to the creation of the Statewide Guardian ad Litem Office.
- ¹⁴ The AAL submits invoices to the Program for payment up to \$500 per child represented. AALs can request modification of the contract to allow them to bill up to \$1000 if the initial \$500 is billed, if contract funds are still available.
- ¹⁵ The GAL Program contracted with Legal Services of North Florida to provide AAL services to the 1st, 2nd, and 14th judicial circuits. The GAL 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.
- ¹⁶ Of the \$309,000 identified for AAL representation, approximately \$303,000 was spent in fiscal year 2007 - 2008.
- ¹⁷ This number is based on Program statistics reported monthly by the local Program offices and represents the percent of cases where DCF has terminated supervision because the children have reached permanency.
- ¹⁸ Statewide Advocacy Counsel Red Item Report, "Psychotropic Drug use in Foster Care" (2003).
- ¹⁹ Id.
- ²⁰ Id.

- ²¹ Studies show that of children aging out of foster care, one in four will be incarcerated within the first two years after they leave the system. 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. Over one-fifth of these children will become homeless at some time after age 18. Northwest Foster Care Alumni Study, Casey Family Programs, 1998. Approximately 58% obtain a high school degree at age 19, compared to 87% of a national comparison group of nonfoster youth. 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. Additionally, less than 3% of children aging out earn college degrees by the age of 25, as compared to 28% of the general population. 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; National Census Bureau. "Educational Attainment in the United States: 2004."
- ²² 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.
- ²³ According to data from the Florida Safe Families Network, 1870 youth had extended jurisdiction as of July, 2008.
- ²⁴ Florida's District Courts of Appeal are in conflict as to whether non-final dependency orders may be appealed. One has said no, while three have said yes. Case law in those that have permitted non-final appeals reflects, however, that their decision is not definitive. Appeals have been denied in some cases.