



REPORT ON
GUARDIAN AD LITEM REPRESENTATION
OF CHILDREN IN
CHILD ABUSE AND NEGLECT PROCEEDINGS
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Executive Summary

The Office of the Family and Children's Ombudsman (OFCO) was established to work independently on behalf of children in need of state protection and on behalf of families and children who are involved with the state because of child abuse and neglect issues. As an independent office within the Office of the Governor it is OFCO's mission to protect children and families from potentially harmful agency acts or omissions by governmental agencies. It is also OFCO's mission to identify significant problems and recommend improvements in the child protection and welfare system.

Basis for this Report

OFCO's investigation into the issue of children's representation by guardians ad litem (GAL) was prompted by a pattern of complaints received by the office in which the affected child was reported as having no one to represent him or her in child abuse and neglect proceedings. Abused and neglected children who are involved in court proceedings are entitled under federal law to have their best interests represented by a GAL. The federal Child Abuse Prevention and Treatment Act (CAPTA) requires states receiving CAPTA grants to certify that the state has in effect, and is enforcing, a state law that for every case involving an abused or neglected child which results in a judicial proceeding, a GAL shall be appointed to represent the child's best interests. Washington State receives approximately \$1.25 million per biennium in CAPTA grants, and has made the required certification.

Data Collection

OFCO investigated the number of children who are not represented by a GAL in child abuse and neglect proceedings by collecting data on the number of children in Washington State who are the subject of such proceedings, and the number that have been appointed a GAL to represent their best interests. The Washington Office of the Administrator for the Courts (OAC) provided OFCO with numerical data in several areas. The OAC data was then clarified, verified and augmented in telephone interviews of county officials. After completing the survey of county officials, OFCO contacted a number of superior court judges and commissioners who have experience in juvenile court for their views of GAL representation in child abuse and neglect proceedings.

GAL Representation in Washington State

It is the role of guardians ad litem in child abuse and neglect proceedings to investigate a child's circumstances and provide the court with independent recommendations on what constitutes the child's best interests. This role is significant because the courts are called upon to independently

determine whether, due to alleged parental deficiencies, a child is dependent or a parent and child relationship should be terminated. It is the role of the court to ensure that the state is acting in the best interest of each child who is the subject of such a proceeding.

Washington counties employ different models of GAL representation:

- **Volunteer Court-Appointed Special Advocate (CASA):** CASA volunteers are lay members of the community who are trained and supervised through county-based CASA programs. Twenty-five of Washington's 39 counties currently have CASA programs.
- **Professional GAL:** Some courts appoint non-attorney professionals, e.g., probation officers, social workers, to act as GALs in child abuse and neglect proceedings.
- **Attorney GAL:** Some courts appoint attorneys to serve as GALs for children in child abuse and neglect proceedings.

Washington law requires the court to appoint a GAL for children who are the subject of a child abuse and neglect proceeding. State law also allows the court to decide *not* to appoint a GAL if it finds for "good cause" that the appointment is unnecessary. Washington State is the only state in the country with a statutory good cause exception.

Findings and Recommendations

Based on the results of its investigation, OFCO makes the following findings and recommendations:

Children Not Represented by a GAL

OFCCO has found that approximately one-third of Washington children who are involved in child abuse and neglect proceedings do not have a guardian ad litem to represent their best interests. These children are concentrated in seven Washington counties: Benton, Franklin, Clark, King, Kitsap, Snohomish, and Spokane.

It is the undisputed practice in several counties not to appoint GALs in certain situations, or for some children. Washington's statutory good cause exception does not appear to authorize these practices. The Washington State Court of Appeals has made clear that the practice of failing to appoint a GAL, or finding good cause not to appoint a GAL based on lack of resources, is a violation of the state's mandate to appoint. Moreover, because the exception authorizes courts not to appoint a GAL in certain instances, the good cause exception appears to violate CAPTA's universal mandate to appoint in all instances. If in conflict with CAPTA's funding requirements, the good cause exception is, according to Washington law, inoperative.

Children in child abuse and neglect proceedings suffer when they do not have advocates for their best interests. Research clearly indicates that in cases where children are not represented by a GAL, the cases take longer to resolve, and the children themselves are likely to spend significantly more time in substitute care, compared to cases in which children are represented by a GAL.

Recommendations: OFCO recommends that: (1) the number of GALs be increased to a level that is sufficient to ensure appointment for all children who are involved in child abuse and neglect proceedings; and (2) the statutory good cause exception be deleted to make clear that it is the state's policy that a GAL be appointed to represent the best interests of every child who is the subject of a child abuse and neglect proceeding. In addition to ensuring compliance with CAPTA, the implementation of these recommendations would reinforce the right of Washington children to a "speedy resolution" of their cases, and help shorten children's stay in substitute care.

Caseload Concerns

Information obtained during OFCO's survey of county officials indicates that children in three counties are served by professional GALs with extremely high caseloads. In Pierce County, each professional GAL represents on average about 140 children at one time, while Spokane County reports that at least one professional GAL has a caseload of about 90 children. Yakima County reports that the single, full-time professional GAL represents about 400 children, while a half-time professional GAL represents about 150 children. The concern over high caseloads in these counties was reinforced in comments by the superior court judges and commissioners contacted by OFCO.

High caseloads limit the amount of time that a GAL can devote to each case. The amount of time that a GAL is able to expend on a child's case is important. CAPTA states that GALs are "to obtain first-hand, a clear understanding of the situation and needs of the child." This generally requires thorough investigation. Moreover, community professionals agree that the most effective vehicle for identifying, advocating for, and representing the child's best interests is thorough investigation of the child's circumstances. Thorough investigation often requires a significant investment of time.

Recommendation: OFCO recommends that county officials in Pierce, Spokane, and Yakima counties review and take appropriate steps to reduce the caseloads of professional GALs in their jurisdictions to reasonably ensure that these GALs have the time necessary to conduct thorough investigations of a child's circumstances. The caseloads of professional and attorney GALs in other counties should be reviewed as well for this purpose.

Section 1

BACKGROUND

OFCO's Statutory Role

The Office of the Family and Children's Ombudsman (OFCO) was established in Chapter 43.06A RCW by the 1996 Washington State Legislature as an independent office within the Office of the Governor. The office was established to ensure that government agencies respond appropriately both to the needs of children in need of state protection, and families and children who are the focus of the state's attention because of child abuse and neglect issues. It is OFCO's mission to:

- Protect families and children from potentially harmful agency acts or omissions;
- Ensure that agency officials and state policy makers are aware of chronic problems in the child protection and welfare system so they can improve services.

OFCO fulfills its mission by acting on specific complaints, and by investigating broader systemic issues of concern that relate to the provision of child protection and welfare services. The purpose of OFCO's systemic investigations is two-fold:

- Identify system-wide problems that adversely affect families and children, and
- Recommend steps which agency officials and state policy makers can take to address these problems. OFCO's systemic investigations result in written reports that are provided to agency officials, the Governor, the Legislative Children's Oversight Committee, and the public.

Basis and Scope of this Report

OFCO's investigation into the issue of children's representation by guardians ad litem (GAL) was prompted by a pattern of complaints received by the office in which the affected child was reported as having no one to represent him or her in child abuse and neglect proceedings. In the course of investigating these complaints, OFCO confirmed that many of the children, in fact, had not been provided with any representation. In some cases, appointment of a representative for the child was specifically requested of OFCO by the complainant; in others the absence of a representative appeared as a significant problem in the complaint; in still others the absence of a representative was simply one factor in the situation that gave rise to the complaint.

Abused and neglected children who are involved in court proceedings are, under federal funding requirements, entitled to have their best interests represented by a GAL.¹ Because complaints to OFCO do not necessarily provide a representative sample of all children involved in child abuse and neglect proceedings, OFCO conducted a state-wide survey of juvenile court administrators to ascertain the number of children in Washington State whose best interests are not being represented by a GAL in these proceedings. Findings from this survey are the focus of this report and form the basis of OFCO's recommendations to state policy makers.

Role of the Guardian ad Litem in Child Abuse and Neglect Proceedings

Guardians ad litem are intended to provide the court with an independent perspective on what constitutes a child's best interests. Federal law states that it is the role of a GAL "to obtain first-hand, a clear understanding of the situation and needs of the child, and to make recommendations to the court concerning the best interests of the child."²

Washington law specifically provides that the role of GALs in child abuse and neglect proceedings includes, but is not limited to, the following duties:

- To represent and be an advocate for the best interest of the child;
- To collect information relevant to the child's situation;
- To monitor all court orders for compliance and to bring to the court's attention any change in circumstances that may require a modification of the court's order; and
- To report to the court information that the GAL has on the legal status of a child's membership in any Indian tribe or band.³

Guardians ad litem are not parties to child abuse and neglect proceedings. Rather they are deemed to be officers of the court.⁴ Parties to child abuse and neglect proceedings include the child, the child's parent or parents, and the Department of Social and Health Services (DSHS). Parents are generally represented by private or publicly funded defense attorneys, while DSHS is represented by attorneys from the Office of the Attorney General. Guardians ad litem are authorized to access all information available to the state or agency on the case. Moreover, they are entitled to the same notice of proceedings, and have the same right as parties to attend hearings and present evidence.⁵

Types of Guardian ad Litem Representation

Washington counties employ different models of GAL representation:

¹ 42 USC 5106a(b)(2)(A)(ix).

² 42 USC 5106a(b)(2)(A)(ix).

³ RCW 13.34.015(1).

⁴ RCW 13.34.105(2).

⁵ RCW 13.34.100(5).

- **Volunteer Court-Appointed Special Advocate (CASA):** CASA volunteers are lay members of the community who are trained and supervised through county-based CASA programs. Twenty-five of Washington's 39 counties currently have CASA programs.⁶ Some of the CASA programs have an attorney on staff who provides advice to the CASA volunteer on legal issues affecting the child, and who may also represent the CASA volunteer in child abuse and neglect proceedings.
- **Professional GAL:** Some courts appoint non-attorney professionals, e.g., probation officers, social workers, to act as GALs in child abuse and neglect proceedings.
- **Attorney GAL:** Some courts appoint attorneys to serve as GALs for children in child abuse and neglect proceedings.⁷

Attempts to compare the relative effectiveness of these models has produced varying results. However, national studies clearly demonstrate that child representation accelerates case resolution.⁸

Training Requirements for Guardians ad Litem

All persons applying to become paid GALs after January 1, 1998 must complete the training outlined in the curriculum developed by the Office of the Administrator for the Courts (OAC). Volunteer CASA programs have the option to adopt the OAC curriculum or present an equivalent training program that must be approved by the OAC. The OAC curriculum is oriented toward providing a prospective GAL with the knowledge needed for proficient practice (e.g., understanding the law relating to representing children), the skills needed to complete responsibilities (e.g., report writing, interviewing), and the abilities required to perform complex decision-making (e.g., adhering to strict ethical standards).

The curriculum focuses on a variety of topics, including:

- Ethics
- The law and legal process
- Child development
- Forensic investigative and interviewing techniques
- Systems, agencies and resources
- Chemical dependency and mental health
- Child abuse and neglect
- Domestic violence, and
- Cultural diversity.⁹

⁶ Three counties established CASA programs in 1998 (Klickitat, Okonagan, and Skamania).

⁷ See Appendix A for a brief description of GAL programs by county.

⁸ Berliner, L. & Fitzgerald, M., Court Appointed Special Advocates for Children in Washington State: *A Review of Effectiveness* (Washington State Institute for Public Policy, November 1998), at pp.10-11 [hereinafter referred to as the WSIPP Report].

⁹ OAC Washington State GAL Training Curriculum: Title 13 & Title 26 Facilitators Guide, 1997, at p. 3.

Role of the Court in Child Abuse and Neglect Proceedings

As used in this report, the term “child abuse and neglect proceedings” refers to juvenile court proceedings under chapter 13.34 RCW relating to the dependency of a child, or the termination of a parent and child relationship. Within the context of these proceedings, the courts are called upon to independently determine whether, due to alleged parental deficiencies, a child is dependent or a parent and child relationship should be terminated.¹⁰

It is the role of the court to ensure that the state is acting in the best interests of each child who is the subject of a child abuse and neglect proceeding.¹¹ In addition, under federal and state law, the courts are to regularly review the provision of state services to every dependent child and his or her family to ensure they are receiving services for which they are eligible. These services must be reasonably appropriate for achieving family reunification or, if reunification is not appropriate or possible, securing for the child another permanent family. In this review process, the best interest of the child is the paramount concern.¹²

Recent changes in federal and state law, which are designed to achieve more timely decisions and stronger safety guarantees for abused and neglected children, have accelerated the dependency and termination process in Washington State. As a result these changes are demanding even more court involvement and supervision to ensure that children’s best interests are being served.¹³

The Federal Mandate to Appoint A Guardian Ad Litem to Represent a Child’s Best Interests

The federal Child Abuse Prevention and Treatment Act (CAPTA) requires states receiving CAPTA grants to certify that the state has in effect and is enforcing, a state law that for every case involving an abused or neglected child which results in a judicial proceeding, a GAL shall be appointed to represent the child’s best interests. The GAL may be either a court-appointed special advocate (CASA) or an attorney, or both.¹⁴

According to Region 10 of the U.S. Department of Health and Human Services, Washington State receives approximately \$1.25 million per biennium in CAPTA grants, and has made the

¹⁰ A “dependent child” is a child who: (a) has been abandoned; (b) has been abused or neglected by the child’s caretaker; or (c) has no parent, guardian or custodian capable of adequately providing care, such that the child’s physical or psychological development is at risk of substantial damage. RCW 13.34.030(4). Parental rights may be terminated after a child has been dependent for six months and the court finds that: (1) all services reasonably capable of correcting the parental deficiency within the foreseeable future have been offered or provided; (2) there is little likelihood that the parental deficiencies will be remedied so that the child can be returned to the parent’s home within the near future, and; (3) that continuation of the parent and child relationship clearly diminishes the child’s prospects for integration into a stable and permanent home. The court must also find that termination is in the child’s best interest. RCW 13.34.180, .190.

¹¹ In re Dependency of JBS, 123 Wn.2d 1, 8-11, 863 P.2d 1344 (1993); RCW 13.34.190.

¹² In re Dependency of JBS, supra.

¹³ See RCW 13.34.130; RCW 13.34.145; Adoption and Safe Families Act of 1997, P.L. 105-89, 42 USC sec. 671 *et seq.*

¹⁴ 42 USC 5106a(b)(2)(A)(ix). CAPTA also requires the state to track the number of the GAL’s out-of-court visits to the child.

required certification.¹⁵ Consistent with CAPTA requirements, Washington law requires the court to appoint a GAL for children who are the subject of a child abuse and neglect proceeding. However, Washington law also allows the court to decide *not* to appoint a GAL if it finds for “good cause” that the appointment is unnecessary.¹⁶

Washington State is the only state in the country with a statutory good cause exception. In 1988, the good cause exception in a related statute was vetoed by the governor because “the result will be to disqualify the state from eligibility to receive federal funds under [CAPTA].”¹⁷

Nevertheless, for reasons that are unclear, the good cause exception was left in the child abuse and neglect statute. While there is no definition or other guidance in statute or case law as to what constitutes good cause not to appoint, recent Washington case law has clarified that lack of resources is not good cause.¹⁸

Washington law also provides that the state requirement for a GAL appointment may be deemed satisfied if the child is represented by independent counsel.¹⁹ Independent counsel function as advocates who represent the *expressed wishes* of a child, as opposed to the perception of the child’s *best interests*.²⁰ Washington law permits (but does not require) courts to appoint independent counsel in child abuse and neglect proceedings to represent the child’s position. This may occur under two circumstances: first, when the child requests legal counsel and is age

¹⁵ According to the Children’s Administration of the Department of Social and Health Services (DSHS), which administers the grant, these funds support a variety of activities, including: (1) regional coordinators for CPS program issues; (2) professional education and training; (3) a medical consultation network; (4) a model Project Child Advocacy Law Clinic; and (5) the annual state-wide Children’s Justice Conference.

¹⁶ RCW 13.34.100. The appointment of a GAL is valid until the court discharges the appointment or the court no longer has jurisdiction, whichever comes first. The GAL may also be discharged upon entry of an order of guardianship. RCW 13.34.100(4).

¹⁷ See Partial Veto Message, House Bill No. 1585, Wash. Laws 1988, ch. 232.

¹⁸ Dependency of AG & TG v. Allison Grey v. DSHS, Wash. Ct. App. (Div. 1), December 17, 1998. In this case, the Washington Court of Appeals reviewed the issue of the failure to appoint a GAL in a termination of parental rights proceeding. The Court of Appeals expressed concern about the absence of a GAL, and remanded the case to the trial court to determine whether the children were prejudiced by the GAL’s absence. In its opinion, the court stated:

“At oral argument, counsel for [the DSHS Division of Children and Family Services (DCFS)] candidly informed us that trial courts regularly fail to appoint a guardian ad litem in these circumstances or find good cause for not appointing one based on lack of resources. This is unacceptable. The statute is mandatory, and the children’s interests are paramount. We cannot condone ignoring the statutory provision specifically designed to protect them. If resources are insufficient, DCFS should address the problem with the Legislature.”

¹⁹ RCW 13.34.100(1). Further, while CAPTA provides that a GAL be either a CASA volunteer or an attorney, or both, Washington law allows the court to appoint a “suitable person” to act as a GAL, stating that, “[f]or the purposes of child abuse prevention and treatment act [CAPTA] . . . grants to this state under P.L. 93-247, or any related state or federal legislation, a person appointed pursuant to [the dependency statute] shall be deemed a guardian ad litem to represent the best interests of the minor in proceedings before the court.” RCW 13.34.100 (2), (7). As indicated above, some Washington counties appoint non-attorney professionals, such as probation officers and social workers, to serve as GALs.

²⁰ RCW 13.34.100(6). There has been increasing concern on the part of attorneys representing maltreated children over the roles of attorney versus GAL. Attorneys who represent children are concerned that the GAL role, if substituted for an advocate, has the potential to reflect personal preferences and biases, and to fail to convey the child’s expressed wishes to the court. WSIPP Report, *supra*, at pp. 8-9.

12 or older; and, second, if the GAL or the court determines that the child needs to be independently represented by counsel.²¹

²¹ RCW 13.34.100(6). Officials in only nine counties report that children age 12 or older are routinely advised of their right to request independent counsel.

Section 2

DATA COLLECTION

OFCO investigated the number of children who are not represented by a GAL in child abuse and neglect proceedings. This investigation was conducted by collecting data on the number of children in Washington State who are the subject of such proceedings and the number that have been appointed a GAL to represent their best interests.

Specifically, OFCO collected information on two sets of children: (1) those children whose cases were in the court system at a given point in time; and (2) those children whose cases were commenced during the ensuing year. This dual approach was suggested by the fact that, of all child abuse and neglect filings, one large group of cases is resolved within six months to one year, while another large group remains in the court system for many years.²² A simple point-in-time survey might have failed to accurately reflect the rather rapid turnover of the first group, while by itself, a survey of incoming cases during the period of a year might have underestimated the total ongoing caseload.

OFCO collected data on child abuse and neglect proceedings that were open as of August 1, 1997; and for proceedings filed between August 1, 1997 and July 31, 1998. The selection of these dates was based on the availability of statewide data available through the Office of the Administrator for the Courts (OAC). The OAC provided numerical data in several areas. The OAC data was then clarified, verified and augmented in telephone interviews of county officials. A questionnaire and the OAC data were provided to each official before the interview to facilitate compilation of data and to assure the accuracy of responses, especially regarding the potentially confusing terminology in this area.²³ All but three of 39 counties responded to OFCO's request for information.²⁴

The data collected by OFCO is consistent with other information sources, including the Department of Social and Health Services (DSHS) (regarding court filings) and Washington State CASA (regarding children served and represented by volunteer CASAs).

After completing the survey of county officials, OFCO contacted a number of superior court judges and commissioners who have experience in juvenile court for their views of GAL representation in child abuse and neglect proceedings. Those contacted included members of the

²² See Appendix B for a more detailed description of OFCO's data collection.

²³ See Appendix C for OFCO's survey questionnaire.

²⁴ The counties that did not respond are: Adams, Asotin, and Garfield. See Appendix D for numerical data by county.

Family and Juvenile Law Committee of the Washington Superior Court Judges Association. They also include judges and commissioners currently serving in juvenile court in those counties identified by OFCO's county survey as having high percentages of unrepresented children or GALs with extremely high caseloads. Samples of their comments are found throughout the report.

Section 3

FINDINGS AND CONCLUSIONS

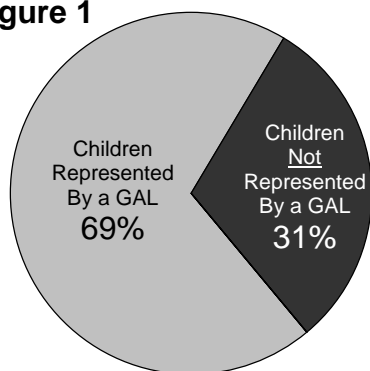
The results of OFCO's investigation reveal that approximately one-third of Washington children who are involved in child abuse and neglect proceedings do not have a guardian ad litem to represent their best interests. These children are concentrated in seven counties. Moreover, information obtained during the course of the investigation indicates that children in three counties are served by professional GALs with extremely high caseloads.

Children Not Represented by a GAL

Figure 1 portrays GAL representation in all child abuse and neglect cases that were ongoing as of August 1, 1997. Thirty-one percent of these cases (3,203 children) were without the services of a GAL.

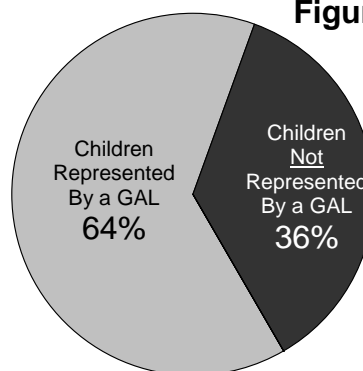
Representation of Children by a Guardian Ad Litem - Statewide -

Figure 1



All Cases Open
As of August 1, 1997
- 10,320 Cases -

Figure 2



All New Cases Opened Between
August 1, 1997 and July 31, 1998
- 4,010 Cases -

Source: Office of the Administrator for the Courts, OFCO Survey

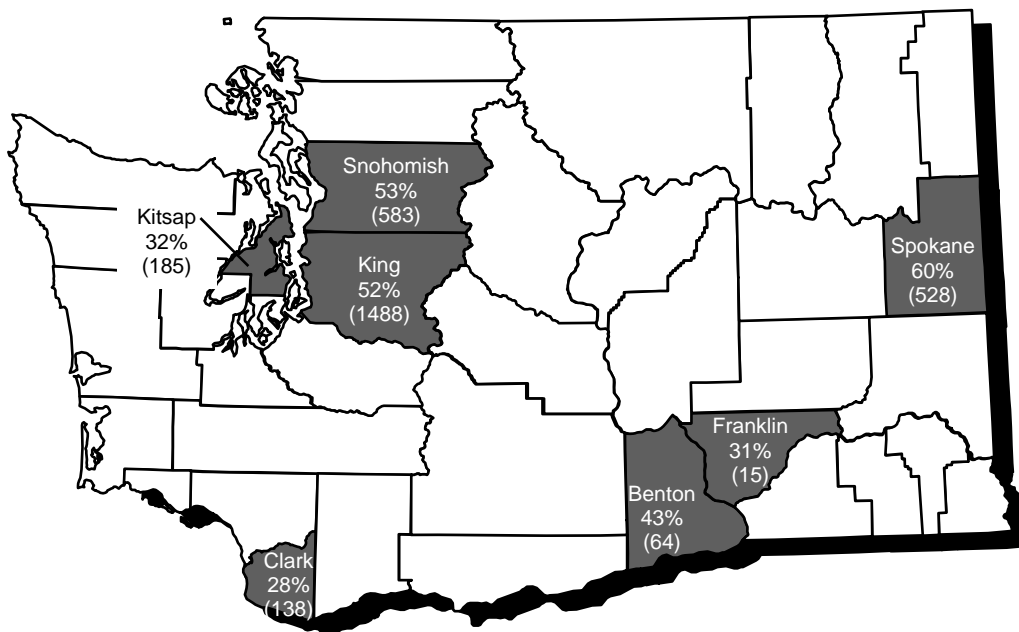
Figure 2 portrays only those new cases that were opened within the year between August 1, 1997 and July 31, 1998. Of these new cases, 36 percent (1,449 children) were without the services of

a GAL. Therefore, whether considering ongoing or recently opened cases, a significant percentage of children in child abuse and neglect proceedings did not have a GAL.²⁵

Counties of Concern

Seven Washington counties account for nearly all of the children who do not have a GAL (See Figure 3). At least 15 percent of the children in these counties had no GAL representation in either time period surveyed by OFCO. In all ongoing cases surveyed as of August 1, 1997, more than 25 percent of the children in these counties had no GAL representation. Nine other counties reported no more than 13 percent of children unrepresented in either time period surveyed.²⁶

**Figure 3: Percent and Number of Children Unrepresented
By a Guardian Ad Litem
- All Cases Open as of August 1, 1997 -**



Source: Office of the Administrator for the Courts, OFCO Survey

²⁵ Some children who did not receive representation by a GAL did receive representation by an attorney acting as independent counsel. In all cases open as of August 1, 1997, these children constituted only one percent of the total number of cases. In those new cases opened between August 1, 1997 and July 31, 1998, this kind of representation constituted only two percent of the total. However, representation by independent counsel is somewhat understated in OFCO's survey. King and Klickitat Counties were unable to report the number of children who received the services of independent counsel for either time period surveyed (See Appendix D). This is particularly problematic with regard to the data for King County due to the large number of children reported to be unrepresented by anyone; 1488 cases, or 48 percent of the state's total number of unrepresented children in cases open as of August 1, 1997 (although unable to report what type of representation, Klickitat County reports that all children in that jurisdiction have some type of representation). As discussed above, independent counsel do not generally perform the same role or function of a GAL.

²⁶ These counties include: Chelan, Cowlitz, Douglas, Island, Lewis, Pierce, San Juan, Skamania, and Walla Walla. The sole exception is Columbia County with one unrepresented child who alone constituted 33 percent of all new cases during the year surveyed.

County Policies and Practices Affecting GAL Appointments

The following describes county policies and practices that affect GAL appointment:

Type-C Dependencies

Two of the seven counties, Clark and King, use dependency type to justify not appointing a GAL for good cause. In these counties, no GAL is appointed to represent children in what are known as Type-C dependencies. In Type-C matters, there are no allegations of abandonment (Type-A) or abuse or neglect (Type-B). Rather, it is alleged that the child has no parent capable of adequately providing care (for other reasons, such as the parent's developmental limitations, medical condition, mental illness, parenting behavior, etc.).

Other Good Cause Factors

In King County, children may also be denied a GAL for good cause according to formal guidelines set by the court. An allegedly abandoned, abused or neglected child in King County is referred to the GAL program for a possible appointment based on four broad factors: (1) child's current placement, (2) parental contact with the child, (3) child safety risk factors, and (4) the child's special needs.²⁷ It is considered good cause not to appoint a GAL for children who do not meet certain criteria.

Periodic Review GALs

Prior to the Fall of 1998, children in Spokane County were appointed a "periodic review GAL." These GALs did nothing more than attend semi-annual review hearings concerning a child's case. They did not investigate the child's circumstances, or perform any duties other than attend hearings. Thus, although these children technically had been appointed a GAL to represent them, that individual was precluded from performing the essential function of a GAL: obtaining first-hand, a clear understanding of the child's situations or needs. Accordingly, these children are included in the total number of unrepresented children. Since the completion of OFCO's investigation, Spokane County has drafted new rules for determining good cause not to appoint.²⁸

Independent Counsel

The policy in Benton and Franklin Counties is to appoint independent counsel to represent children nine years old or older, and a CASA volunteer to represent the younger children. If a petition for the termination of parental rights (TPR) is filed, the policy is to appoint independent counsel regardless of the child's age. In King and Kitsap Counties, a similar policy exists except that the age break is 12 or older.

²⁷ See Appendix E. King County is currently undergoing a revision of its good cause procedures. In other counties, courts and CASA programs have adopted an informal practice of primarily serving younger children. Among younger children, CASA volunteers are more often appointed in difficult and complex cases. According to a recent report by the Washington State Institute for Public Policy, "[t]hese practices have evolved to make the best use of limited resources." WSIPP Report, *supra*, at p. 13.

²⁸ See Appendix F. In Spokane County, CASA program staff, at the 72-hour shelter care hearing, complete a CASA/GAL risk assessment form covering these factors: chronological and developmental age of the child; severity of alleged abuse/neglect; placement issues; case plan issues; contested issues; parental history; number of social worker changes; and noncompliance with court orders. CASA staff then make a recommendation to the court whether to appoint a CASA volunteer or other GAL, or independent counsel.

Unavailable GALs

In Snohomish County, each new case is given by the court to the CASA program, and a CASA volunteer is appointed, if one is available. No finding of good cause is made to justify the decision not to appoint a GAL. If a CASA volunteer is unavailable, the child proceeds through the system without representation unless a petition for termination of parental rights is filed, in which case a GAL is appointed and paid if necessary.

“If there is no GAL, no one is kicking the system along. We are all so jaded concerning the pace of judicial proceedings that we forget that children are involved, and the GAL reminds us.” -- Spokane County Juvenile Court Judge

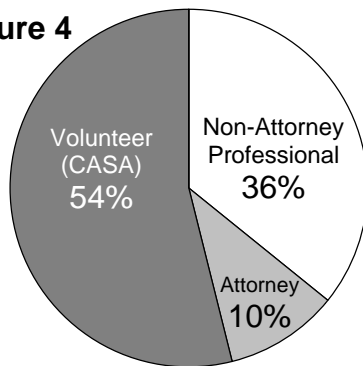
“Children ... who do not have a GAL are not receiving equal treatment in our system.” King County Juvenile Court Judge

Types of GAL Representation

Most children who were represented by a GAL were represented by a CASA volunteer, as opposed to a professional GAL or an attorney GAL. As shown in Figure 4, fifty-four percent of all children represented by a GAL (3,835 children) were represented by a CASA volunteer. Thirty-six percent (2,555 children) were represented by professionals, and 10 percent (727 children) were represented by attorneys. Figure 5 shows a similar percentage of CASA volunteers as GALs, 53 percent (1,249 children), for new cases opened between August 1, 1997 and July 31, 1998. In these new cases professionals represented 30 percent of the children (713 children), and attorneys represented 17 percent (406 children). Thus, in both time periods, CASA volunteers provided the majority of GAL services to children.

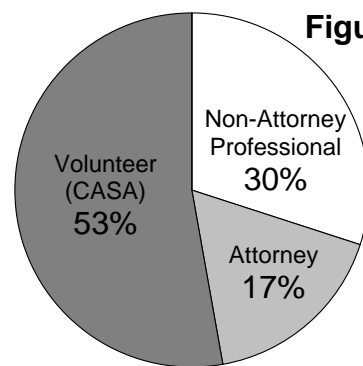
Children Represented by a Guardian Ad Litem - By GAL Type -

Figure 4



**All Cases Open
As of August 1, 1997
- 7117 Total Children -**

Figure 5*



**New Cases Opened Between
August 1, 1997 and July 31, 1998
- 2368 Total Children -**

* Yakima County was not able to provide a breakdown of GAL's by type for this time period.

Source: Office of the Administrator for the Courts, OFCO Survey

Caseload Issues

Information obtained during OFCO's survey of county officials indicates that children in three counties are being served by professional GALs with extremely high caseloads. In Pierce County, each professional GAL represents on average about 140 children at one time, while Spokane County reports that at least one professional GAL has a caseload of about 90 children. Yakima County reports that the single, full-time professional GAL represents about 400 children, while a half-time professional GAL represents about 150 children. The concern over high caseloads in these counties was reinforced in comments by the superior court judges and commissioners contacted by OFCO as part of its investigation.

"GALs with heavy caseloads come to court later in the case, review notes and the individual service plan, listen to the parties, and then off the top of their head say that this is what they think to be in the child's best interest without having spoken with the child." -- Yakima County Juvenile Court Judge

"The most glaring effect of heavy caseloads is the failure to have face-to-face contact with the families." -- Pierce County Juvenile Court Commissioner

Analysis/Conclusions

Washington State's compliance with CAPTA funding requirements is problematic. CAPTA requires that every child who is involved in a child abuse and neglect proceeding have a GAL appointed to represent his or her best interests. However, one-third of such children in Washington State do not have a GAL to represent their best interests. It is the undisputed practice in several counties not to appoint GALs in certain situations, or for some children. In at least one county, if a child's case is filed at a time when a CASA volunteer is unavailable, the child is simply left to proceed through the dependency process without a GAL. In other counties, children who do not meet formal or informal criteria are not appointed a GAL. These practices appear to be a response to the insufficient numbers of GALs that are available for appointment.²⁹

Washington's statutory good cause exception does not appear to authorize these practices. This exception allows courts to decide *not* to appoint a GAL if they find for "good cause" that the appointment is "unnecessary." However, the Washington Court of Appeals has made clear that the practice of failing to appoint a GAL, or finding good cause not to appoint a GAL based on lack of resources, is a violation of the state's mandate to appoint.³⁰ Moreover, because the exception authorizes courts not to appoint a GAL in certain instances, the good cause exception appears to violate CAPTA's universal mandate to appoint in all instances. If in conflict with CAPTA's funding requirements, the good cause exception is, according to Washington law, inoperative.³¹

²⁹ WSIPP Report, *supra*, at pp. 11-13, 43; Dependency of AG & TG, *supra*. King County's GAL Appointment Policy observes, "Because our GAL program involves [CASA] volunteers ... only, and because they are a scarce resource that we must conserve and use wisely, the following approach to the appointment of GALs should be applied, absent special circumstances." See Appendix E.

³⁰ Dependency of AG & TG, *supra*.

³¹ See notes following RCW 13.34.100, .030. They state that, "[i]f any part of [the child abuse and neglect statute] is found to be in conflict with federal requirements that are a prescribed condition to the allocation of federal funds

Children in child abuse and neglect proceedings suffer when they do not have advocates for their best interests. Research clearly indicates that in cases where children are not represented by a GAL, the cases take longer to resolve, and the children themselves are likely to spend significantly more time in substitute care, compared to cases in which children are represented by a GAL.³²

Finally, the extremely high GAL caseloads reported in Pierce, Spokane, and Yakima counties are of concern. High caseloads necessarily limit the amount of time that a GAL can devote to each case. In contrast to the reported caseloads of these professional GALs, which range from 90 to 400 children per GAL, each CASA volunteer is responsible for anywhere from one to 15 children, with the county averages running from 1.7 to 4.5 children per volunteer.³³ Not surprisingly, CASA volunteers spend far more time on cases than professional GALs.³⁴

The amount of time that a GAL is able to expend on a child's case is important. CAPTA states that GALs are "to obtain first-hand, a clear understanding of the situation and needs of the child." This usually requires thorough investigation. Moreover, community professionals agree that the most effective vehicle for identifying, advocating for, and representing the child's best interests is thorough investigation of the child's circumstances.³⁵ Thorough investigation often requires a significant investment of time.

"The ability of GALs to prepare, investigate and appear in court is impacted by completely unacceptable high caseloads." – Pierce County Juvenile Court Commissioner

A GAL gives the child a sense that someone is there for them – Yakima County Juvenile Court Commissioner

A good GAL keeps [DSHS] accountable and the court informed. The department does better work and the court makes better decisions. It is the most critical part in the system. – Yakima County Juvenile Court Commissioner

"Effective GAL representation is most beneficial in protecting the safety of children." -- Whatcom County Juvenile Court Commissioner

"If the GAL is good, he or she can literally save a child." – Thurston County Juvenile Court Commissioner

A GAL "is solely an advocate for the child and their needs. DSHS is constrained by budgetary matters. It would be a frightening system to rely solely on the advocacy of the state." -- Pierce County Juvenile Court Commissioner

"The more cases you have, the less you can do. You're left putting out fires." – Yakima County Juvenile Court Commissioner

"The ability of GALs to prepare, investigate and appear in court is impacted by completely unacceptable high caseloads." – Pierce County Juvenile Court Commissioner

to the state, the conflicting part of this act is inoperative solely to the extent of the conflict and with respect to the agencies directly affected, and this finding does not affect the operation of the remainder of this act in its application to the agencies concerned."

³² WSIPP Report, supra, at p. 10.

³³ This information was derived from OFCO's county survey.

³⁴ WSIPP Report, supra, at p. 38.

³⁵ WSIPP Report, supra, at p. 31.

Section 4

RECOMMENDATIONS

State and county officials should take steps necessary to ensure compliance with the letter and spirit of CAPTA funding requirements. These include, but are not limited to: (1) increasing the number of GALs to a level that is sufficient to provide representation for all children who are involved in child abuse and neglect proceedings; (2) amending state law to remove the “good cause” exception; and (3) reviewing and, if necessary, reducing the caseloads of professional GALs in Pierce, Spokane, and Yakima counties. In addition to ensuring compliance with CAPTA, these steps would reinforce the right of Washington children to a “speedy resolution” of their cases, and help shorten children’s stay in substitute care.³⁶

Recommendation #1: Increase the Number of GALs

The number of GALs should be increased to a level that is sufficient to ensure appointment for all children who are involved in child abuse and neglect proceedings. State policy makers should consider appropriating funds to establish or expand CASA volunteer programs. In 1997, the Office of the Administrator for the Courts issued a report which recommended that the state “encourage [but not mandate] the use of CASAs for all [child abuse and neglect] cases by appropriating funds for the establishment of new CASA programs and for the maintenance of existing CASA programs.”³⁷ A recent review by the Washington State Institute for Public Policy of the effectiveness of CASA volunteers in Washington State found that CASA volunteers: (1) consistently fulfill their mandate; (2) enjoy widespread support among community professionals; (3) are overwhelmingly preferred by community professionals over paid GALs; and (4) received an average ranking of 7.9 by community professionals on a scale of 1 to 10, with 10 defined as outstanding. The report also found that CASA programs are cost-effective compared to paying for an attorney or other professional to provide an equivalent level of service in terms of time expended. The average amount of cost per case is about \$500.³⁸ Currently most funds for GAL programs are provided by counties. State funding supports two pilot CASA volunteer programs and an enhanced recruitment effort in three counties.

Recommendation #2: Remove the “Good Cause” Exception

The statutory good cause exception should be deleted to make clear that it is the state’s policy that a GAL be appointed to represent the best interests of every child who is the subject of a child abuse and neglect proceeding.

³⁶ RCW 13.34.020.

³⁷ *OAC/Guardian Ad Litem Project Final Report*, Office of the Administrator for the Courts (1997), at p. 19.

³⁸ WSIPP Report, *supra*, at p. 43. A case consists of about 30 hours of investigation, monitoring, and court appearances.

Recommendation #3: Review Existing Caseloads

County officials in Pierce, Spokane, and Yakima counties should review and take appropriate steps to reduce the caseloads of professional GALs in their jurisdictions to ensure that they have the time necessary to conduct thorough investigations of a child's circumstances. The caseloads of professional and attorney GALs in other counties should also be reviewed for this purpose.

APPENDIX A

GAL PROGRAM DESCRIPTIONS BY COUNTY

BENTON The courts in this county appoint independent counsel to represent children nine years old or older, and CASA volunteers to represent the younger children. If a petition for the termination of parental rights (TPR) is filed, the courts appoint independent counsel regardless of the child's age; thus, the younger children in TPR proceedings have both types of representation. The county's policy is that each child, at a minimum, shall have either a CASA volunteer or independent counsel, although in some cases, the CASA volunteer withdraws once a child enters a permanent guardianship and all issues are resolved. In those cases, if issues arise again, a CASA volunteer is re-appointed.

CHELAN Policy in this county is for each child to be appointed a GAL. Virtually all children in child abuse and neglect actions are represented by CASA volunteers. Dependent teen mothers are represented by independent counsel, and their children by CASA volunteers. Occasionally, when conflicts arise, attorney GALs are appointed. In some cases, the GAL withdraws once a child enters a permanent guardianship and all issues are resolved. In those cases, if issues arise again, a GAL is re-appointed.

CLALLAM All children in child abuse and neglect actions are represented by CASA volunteers. If a child is 12 years old or older, and has interests in conflict with the GAL's expression of his or her best interest, that child may request the appointment of independent counsel, and the court will do so. Other parties may also request such an appointment for a child.

CLARK Many children in Clark county are represented by the CASA program (volunteers or program staff), but those children who are the subject of Type-C dependencies are not represented in court. Some children (mostly teens) are represented by attorney GALs, at the discretion of the court. Only rarely is independent counsel appointed to represent a child.

COLUMBIA Until September 1997, this county appointed attorneys to represent children in child abuse and neglect actions, and those attorneys functioned as a blend of GAL and attorney. Now all children are represented by the CASA program, with attorneys as backup when CASA volunteers are unavailable. If an older child requests independent counsel, the court may appoint one in addition to the GAL.

COWLITZ County policy is for every child to have a GAL or independent counsel. Children age 12 or older are served by attorney GALs; younger children are served by CASA volunteers. If conflicts arise between the attorney GALs view of the child's best interest and the child's expressed interest, the role of the attorney GAL is modified to advocate for the child's expressed interest.

DOUGLAS Policy in this county is to appoint a GAL for each child. Virtually all children in child abuse and neglect actions are represented by CASA volunteers. Dependent teen

mothers are represented by independent counsel, and their children by CASA volunteers. Occasionally, when conflicts arise, attorney GALs are appointed. In some cases, the GAL withdraws once a child enters a permanent guardianship and all issues are resolved. In those cases, if issues arise again, a GAL is re-appointed.

FERRY This county appoints an attorney GAL for each child.

FRANKLIN The courts in this county appoint independent counsel to represent children age nine or older, and CASA volunteers to represent the younger children. If a petition for the termination of parental rights (TPR) is filed, the courts appoint independent counsel regardless of the child's age; thus, the younger children in TPR proceedings have both types of representation. The county's policy is that each child, at a minimum, shall have either a CASA volunteer or independent counsel, although in some cases, the CASA volunteer withdraws once a child enters a permanent guardianship and all issues are resolved. In those cases, if issues arise again, a CASA volunteer is re-appointed.

GRANT This county appoints an attorney GAL for each child.

GRAYS HARBOR All children are represented by GALs, who are attorneys, social workers, educators, probation officers and psychologists. In addition, some children are represented by independent counsel, but the number of such dual appointments is unavailable.

ISLAND Most of the children in child abuse and neglect actions are represented by CASA volunteers, with the remainder being served by professional or attorney GALs. In addition, some older children are represented by independent counsel.

JEFFERSON Almost all children in child abuse and neglect actions in this county are represented by volunteers, with a few children represented by a professional GAL who is the county's volunteer coordinator. The program is not denominated a CASA program, but follows the CASA model. In addition, some children are represented by independent counsel.

KING Children in child abuse and neglect actions in this county are served by CASA volunteers or independent counsel.

KITSAP All children in child abuse and neglect actions in this county are represented by either independent counsel or a GAL, who may be either a CASA volunteer or professional GAL (a member of the CASA program staff).

KITTITAS Every child in a child abuse and neglect action in this county is served by a CASA volunteer.

KLICKITAT In Klickitat County, an attorney is appointed to represent each child in a child abuse and neglect action. The attorney acts as independent counsel for children age 10 or older, and as attorney GAL for the younger children. A CASA program was just starting in this county when OFCO's survey was conducted.

LEWIS Every child in a child abuse and neglect action in Lewis County is represented by a CASA volunteer, an attorney GAL, or independent counsel. Some children are represented by both a GAL and independent counsel.

LINCOLN An attorney GAL is appointed to represent each child in a child abuse and neglect action in Lincoln county.

MASON Probation officers serving as professional GALs represent all Mason county children in child abuse and neglect actions. Additionally, when a child becomes legally free, independent counsel is appointed to represent him or her. Finally, when a child age 12 or older so requests, independent counsel is appointed.

OKANOGAN Probation officers serving as professional GALs represent all Okanogan county children in child abuse and neglect actions. When the interests of a child age 12 or older conflict with the professional GAL's perception of the child's best interests, independent counsel is appointed. Additionally, independent counsel is appointed when complex legal issues are present. A CASA program has recently been established, with the first CASA volunteer appointed on September 1, 1998.

PACIFIC Probation officers serving as professional GALs represent all Pacific county children in child abuse and neglect actions, with some social workers and attorneys available to be a GAL as necessary. Rarely, independent counsel is also appointed to represent a child.

PEND OREILLE This county appoints an attorney GAL for each child.

PIERCE A combination of CASA volunteers and professional GALs represent Pierce county children in child abuse and neglect actions.

SAN JUAN Either CASA volunteers or their coordinator/professional GAL represent all children in child abuse and neglect proceedings in San Juan County.

SKAGIT One MSW-level social worker functions as professional GAL for all Skagit County's children in child abuse and neglect actions

SKAMANIA An attorney is appointed to represent each child in a child abuse and neglect action; that attorney acts as independent counsel for children age 10 or older, and as an attorney GAL for the younger children. A CASA program was just starting in this county when OFCO's survey was completed.

SNOHOMISH CASA volunteers represent many children in Snohomish county child abuse and neglect actions; occasionally, independent counsel is also appointed. In some instances, when no CASA volunteer is available, the court appoints an attorney GAL.

SPOKANE This county is undergoing change. CASA volunteers represent many children in Spokane County, and they will continue to do so. Prior to Fall of 1998, when a CASA volunteer was unavailable, one member of the juvenile court staff was appointed as

periodic review guardian ad litem to attend review hearings. However, this person did not perform other guardian ad litem functions because several hundred children were involved and resources did not permit other activities. Accordingly, in Appendix D, children technically represented by the periodic review guardian ad litem are listed under Unrepresented, and “na” appears under “Non-attorney professional” guardian ad litem to denote the partial representation. In the Fall of 1998, the Spokane Juvenile Court began reassessing those cases to determine if good cause exists not to appoint a guardian ad litem for some children. If good cause was found, the child continued in the system without a GAL. For the others, either an attorney GAL or one of several staff members (professional GALs) was appointed. In some instances, independent counsel was appointed to replace a GAL.

STEVENS This county appoints an attorney GAL for each child.

THURSTON An attorney GAL is under contract to represent all children in Thurston County child abuse and neglect actions. Additionally, CASA volunteers represent many of the younger children. Rarely, independent counsel is appointed.

WAHKIAKUM Probation officers serving as professional GALs represent all Wahkiakum County children in child abuse and neglect actions, with some social workers and attorneys available to be a GAL as necessary. Rarely, independent counsel is also appointed to represent a child.

WALLA WALLA Until September 1997, this county appointed attorneys to represent children in child abuse and neglect actions, and those attorneys functioned as a blend of GAL and attorney. Now all children are represented by the CASA program, with attorneys as backup when CASA volunteers are unavailable. If an older child requests independent counsel, the court may appoint one in addition to the GAL.

WHATCOM MSW-level social workers functioning as professional GALs are under contract to represent all children in Whatcom County child abuse and neglect actions.

WHITMAN Almost all children in child abuse and neglect actions are represented by CASA volunteers. The remainder are represented by attorney GALs. Additionally, CASA-trained juvenile court staff are available to assist CASA volunteers in special cases.

YAKIMA CASA staff, functioning as professional GALs, and CASA volunteers represent all Yakima County children in child abuse and neglect actions. Additionally, children age 12 or older who express interests different from the GAL’s perception of best interests are appointed independent counsel.

GAL REPRESENTATION MODELS

Guardian ad litem representation occurs in three basic types: (1) attorney GALs, (2) CASA volunteers, and (3) non-attorney professional GALs. Combination models are widely used. The distribution of counties using these models, or combination of models, is described in the table below.

SINGLE GAL MODEL		
Attorney GALs	CASA Volunteers	Professional GALs
Ferry Grant Klickitat Lincoln Pend Oreille Skamania Stevens	Benton Clallam Franklin King Kittitas	Mason Okanogan Pacific Skagit Wahkiakum Whatcom

COMBINATION GAL MODELS			
Attorney GALs & CASA Volunteers	CASA Volunteers & Professional GALs.	Attorney & Professional GALs	All types
Chelan Columbia Cowlitz Douglas Jefferson Lewis Snohomish Thurston Walla Walla Whitman	Kitsap Pierce San Juan Yakima	Grays Harbor	Clark Island Spokane

APPENDIX B

OFCO DATA COLLECTION PROCEDURE

The Office of the Family and Children's Ombudsman (OFCO) investigated the number of children who are not represented by a GAL in child abuse and neglect proceedings. This investigation was conducted by collecting data on the number of children in Washington State who are the subject of such proceedings and the number that have been appointed a GAL to represent their best interests.

OFCO collected information on two sets of children: (1) those children whose cases were in the court system at a given point in time and were ongoing; and (2) those children whose cases were commenced during the following year. This dual approach was suggested by the fact that, of all child abuse and neglect filings, one large group is resolved within six months to a year, while another large group remains in the court system for many years. A simple point-in-time survey might have failed to accurately reflect the rather rapid turnover of the first group, while a survey of incoming cases during the period of a year would have underestimated the total ongoing caseload.

The time period under investigation was determined by the accessibility of data available through the Office of the Administrator for the Courts (OAC). Some OAC data is archived and difficult to retrieve after a year elapses. OFCO commenced its investigation in August 1998. Therefore, the most current and easily accessible OAC data was for the year starting August 1, 1997. Accordingly, OFCO selected this date as the point-in-time survey date.

The OAC then supplied OFCO with preliminary information for each county in two groups: first, dependency proceedings that were open and ongoing as of August 1, 1997; and second, dependency proceedings filed between August 1, 1997 and July 31, 1998.

There are three types of GALs: (1) Volunteer; (2) Non-Attorney Professional; and (3) Attorney. OAC was unable to separate Volunteer from Professional GALs under the heading "Total GALs." OFCO therefore developed a questionnaire to clarify, verify and augment the OAC data, to identify the numbers of children represented by particular types of GAL, and to obtain a description of each county's system for providing GALs and independent counsel to children in dependency actions.

That questionnaire, along with a copy of the OAC data, was mailed to juvenile court administrators in each county. Juvenile court administrators and their assistants, CASA program personnel and others assembled information in response to the questionnaires. OFCO then telephoned a designated official in each county to individually record the responses to the questionnaire, to accurately describe the model used in each county, and to make sure that terms were used consistently. Of the 39 counties in the state, 36 responded.

The information OFCO received from juvenile court officials took several forms. Many officials were able to provide numerical responses to specific questions. Others were able to derive numerical answers from policy and practice. For example, where policy and practice dictated that every child be appointed an attorney GAL, simply knowing the total number of children yielded the number for each type of GAL. Other officials made good faith estimates, especially where different types of GAL were used. Where reliable information is not available, “na” appears in the tables. The data collected by OFCO is consistent with other information sources such as the Department of Social and Health Services (DSHS) (court filings) and the Washington State CASA organization (children served and represented by CASA volunteers).

After completing the survey of county officials, OFCO contacted a number of superior court judges and commissioners who have experience in juvenile court for their views of GAL representation in child abuse and neglect proceedings. Those contacted included members of the Family and Juvenile Law Committee of the Washington Superior Court Judges Association. They also included judges and commissioners currently serving in juvenile court in those counties identified by OFCO’s county survey as having high percentages of unrepresented children or GALs with extremely high caseloads.

APPENDIX C

OFFICE OF THE FAMILY AND CHILDREN'S OMBUDSMAN CHILD REPRESENTATION SURVEY 1998

A. FOR CHILDREN WHO WERE THE SUBJECT OF ACTIVE DEPENDENCY PETITIONS AS OF JULY 31, 1997:

1. Of those children who had an attorney appointed to represent their expressed interest, how many were 12 years or older?
2. Of those children served by GALs to represent their best interest, how many were served by CASA volunteers?
3. Of those children served by GALs to represent their best interest, how many were served by paid attorney GALs?
4. Of those children served by GALs to represent their best interest, how many were served by paid non-attorney GALs?

B. FOR CHILDREN WHO WERE THE SUBJECT OF DEPENDENCY PETITIONS FILED BETWEEN AUGUST 1, 1997 AND JULY 31, 1998:

1. Of those children who had an attorney appointed to represent their expressed interest, how many were 12 years or older?
2. Of those children served by GALs to represent their best interest, how many were served by CASA volunteers?
3. Of those children served by GALs to represent their best interest, how many were served by paid attorney GALs?
4. Of those children served by GALs to represent their best interest, how many were served by paid non-attorney GALs?

C. GUARDIANS AD LITEM—PROGRAM CHARACTERISTICS

1. Does your county currently keep data concerning the number of out of court visits each GAL makes to each child? If not, do you plan to?
2. Do any persons who serve as GAL also serve the court in any other capacity, e.g. as probation officer, administrator, clerk, judge or commissioner pro tempore, or other staff? If so, please identify the position and describe its duties, and specify if the GAL is paid or CASA.

3. In your county, does the order appointing the GAL define the scope of the appointment? If the order is a standardized form, please provide a copy of it.
4. Of the following functions, what do attorney GALs perform?
 - a. investigate and report, e.g. inquire into the circumstances of the child and report orally or in writing to the court and parties
 - b. monitor court orders for the performance thereof
 - c. attorney-at-law functions, such as discovery, pleadings, presentation of evidence, examination of witnesses, briefing and argument to the court, and appeal.
5. Of the foregoing functions, what do CASA GALs perform?
6. Of the foregoing functions, what do attorneys representing CASA GALs perform?
7. Of the foregoing functions, what do non-attorney, non-CASA GALs perform?

D. CASA VOLUNTEERS

1. Does your county have a CASA volunteer GAL program?
2. Are the CASA volunteers represented at court by a court-appointed attorney?
3. Are the CASA volunteers represented at court by their own, in-house attorney?

E. PAID GALs

1. Does your county utilize paid GALs?
2. Are the paid GALs: ___attorneys; ___social workers; ___educators; ___other (describe) _____.
3. Is a rotational registry system maintained by the court for paid GALs pursuant to RCW 13.24.102?
4. Are the paid GALs (non-attorneys) represented by a court-appointed attorney at court?
5. What is the rate of pay for GALs?
6. If there is a cap on the amount your county will pay the GAL per case, what is it? In what circumstances will the court grant a waiver, extension or exception?
7. How often do requests for waiver, extension or exception occur?
___ almost never

- fewer than half the cases
- more than half the cases
- in most cases.

8. Are such requests granted when made?

- almost never
- fewer than half the requests
- more than half the requests
- almost always

9. Who administers your paid GAL program, judge, court administrator, clerk or other?

F. PROGRAM FUNDING

1. What funding sources support your county's GAL program in fiscal year 1998?

Please identify source and percentage of total support.

2. Does your county provide in-kind support as well? If so, please identify its nature and value.

G. APPOINTMENT PROCESS FOR GALS

1. At what point in the dependency process is a GAL appointed? Please estimate the applicable percentage for each legal event for the period August 1, 1997 through July 31, 1998.

- filing of petition
- initial shelter care hearing
- 30-day hearing
- fact finding hearing
- disposition hearing
- filing of petition for termination of parental rights
- other, specify _____

2. If appointments are made at other than the filing of the petition, please state the reason.

3. When does the appointment terminate, if other than the dismissal of the dependency?

- when the child returns home
- when the child is legally free
- other, specify _____

4. If appointments terminate before dismissal, please state the reason.

5. Does your county have written rules, criteria or guidelines governing the appointment of GALs? If so, please provide a copy.

6. When there is more than one child in a dependency family, do rules permit one GAL to represent all the children?
7. Do the rules limit the number of children one GAL can represent? If so, how many?
8. On the average, how many children does each CASA GAL represent at any one time?
9. On the average, how many children does each paid GAL represent at any one time?
10. When conflicts of interest arise among children in the same family, how does your county's GAL system respond (if the information is not in the written rules already provided)?
11. Are some appointments of GALs not actually filled? For example, if the court makes an appointment by referring the matter to a GAL program, but there are insufficient personnel to actually perform the work does the appointment go unfilled? If so, during the year August 1, 1997 through July 31, 1998, how many appointments went unfilled?
12. Do some appointments wait a significant time (more than 30 days) before being filled?

H. GOOD CAUSE

1. From August 1, 1997 to July 31, 1998, how many dependent children were not appointed a GAL for good cause as provided in RCW 13.34.100?
2. For children not appointed a GAL identify the factors cited by the court as good cause why the appointment is unnecessary pursuant to RCW 13.34.100.

I. TRAINING OF GALs

1. Does your county have training, experience or certification requirements for non-CASA GALs?
2. Are the requirements substantially identical to those published by the Office of the Administrator for the Courts (OAC) on August 20, 1997 in its Final Report on the GAL Project?
3. If not, please describe your county's requirements; if they are written, please provide a copy.
4. Who performs the training for your county's GALs?

J. GRIEVANCE PROCEDURE

1. Does your county have an established grievance procedure for persons with complaints against GALs?
2. Is the procedure substantially identical to that published by OAC on August 20, 1997 in its Final Report on the GAL Project?
3. If not, please describe your county's procedure.

K. COURT-APPOINTED ATTORNEYS REPRESENTING CHILDREN'S EXPRESSED INTERESTS

1. Does your county have a pro bono attorney program for the representation of dependent children?
2. Does your county utilize paid attorneys to represent children in dependencies?
3. What is the rate of pay for those court-appointed attorneys?
4. If there is a cap on the amount your county will pay the attorney per case, what is it? In what circumstances will the court grant a waiver, extension or exception?
5. How often do requests for waiver, extension or exception occur?
 - almost never
 - fewer than half the cases
 - more than half the cases
 - in most cases.
6. Are such requests granted when made?
 - almost never
 - fewer than half the requests
 - more than half the requests
 - almost always
7. What funding sources support your county's program to provide attorneys for dependent children? Please identify source and approximate amount.
8. Do any persons who serve as attorneys for dependent children serve the court in any other capacity, e.g. as administrator, clerk, judge or commissioner pro tempore, or other staff? If so, please identify the position and describe its duties.
9. On the average, how many children does each attorney represent at any one time?

L. ATTORNEY APPOINTMENT PROCESS

1. At what point in the dependency process is an attorney appointed? Please estimate the applicable percentage for each legal event during the period August 1, 1997 through July 31, 1998.

- filing of petition
- shelter care hearing
- 30-day hearing
- fact finding hearing
- disposition hearing
- filing of petition for termination of parental rights
- upon motion only
- other, specify _____

2. If appointments are made at other than the filing of the petition, please state the reason.

3. When does the appointment terminate, if other than the dismissal of the dependency?

- when the child returns home
- when the child is legally free
- other, specify _____

4. If appointments terminate before dismissal, please state the reason.

5. Does your county have written rules, criteria or guidelines governing the appointment of attorneys, e.g. only children over 12 years who request an attorney get one? If so, please provide a copy.

6. Do the judges and commissioners in your county commonly advise dependent children who are 12 years old or older of their right to request representation by counsel?

7. Is the advisement in a standard form? If so, please provide a copy. Is there a standard policy or procedure in this regard? If so, please provide a copy.

8. When there is more than one child in a dependency family, do the rules permit one attorney to represent all the children?

9. When conflicts of interest arise among children in the same family, how does your county's dependency attorney system respond (if the information is not in the written rules already provided)?

M. CONCLUSION

1. Is there anything else you think it is important to know about your county's program to provide GALs and attorneys for dependent children?

APPENDIX D

REPRESENTATION OF CHILDREN IN CHILD ABUSE AND NEGLECT PROCEEDINGS

- Survey Data By County -

Table 1: All Cases Open as of August 1, 1997

County	REPRESENTATION										
	Total Dependency Cases (3)	Guardians Ad Litem - By Type				Attorney		CHILDREN UNREPRESENTED			
		Attorney	Volunteer	Professional (non-attorney)	Total GALs (2)	Independent Counsel	By Anyone		By A GAL		
							Total	% of Total	Total	% of Total	
Adams (1)	na	na	na	na	na	na	na	na	na	na	
Asotin (1)	na	na	na	na	na	na	na	na	na	na	
Benton	149	0	85	0	85	35	29	19%	64	43%	
Chelan	86	3	78	na	81	5	0	0%	5	6%	
Clallam	125	0	125	0	125	0	0	0%	0	0%	
Clark	487	9	250	90	349	2	136	28%	138	28%	
Columbia	1	1	0	0	1	0	0	0%	0	0%	
Cowlitz	290	113	176	0	289	1	0	0%	1	0%	
Douglas	3	0	3	0	3	0	0	0%	0	0%	
Ferry	15	15	0	0	15	0	0	0%	0	0%	
Franklin	48	0	33	0	33	13	2	4%	15	31%	
Garfield (1)	0	na	na	na	na	na	na	na	na	na	
Grant	27	27	0	0	27	0	0	0%	0	0%	
Grays Harbor	41	39	0	2	41	0	0	0%	0	0%	
Island	69	2	60	1	63	0	6	9%	6	9%	
Jefferson	55	0	52	3	55	0	0	0%	0	0%	
King	2888	0	1400	0	1400	na	1488	52%	1488	52%	
Kitsap	578	0	100	293	393	1	184	32%	185	32%	
Kittitas	25	0	25	0	25	0	0	0%	0	0%	
Klickitat (4)	na	na	0	0	0	na	0	0%	na	na	
Lewis	321	133	183	0	316	5	0	0%	5	2%	
Lincoln	0	0	0	0	0	0	0	0%	0	0%	
Mason	91	0	0	91	91	0	0	0%	0	0%	
Okanogan	80	0	0	80	80	0	0	0%	0	0%	
Pacific	42	0	0	42	42	0	0	0%	0	0%	
Pend Oreille	12	12	0	0	12	0	0	0%	0	0%	
Pierce	1607	0	200	1226	1426	1	180	11%	181	11%	
San Juan	12	0	7	4	11	0	1	8%	1	8%	
Skagit	127	0	0	127	127	0	0	0%	0	0%	
Skamania	27	24	0	0	24	1	2	7%	3	11%	
Snohomish	1099	0	516	0	516	1	582	53%	583	53%	
Spokane (5)	878	0	350	na	350	45	483	55%	528	60%	
Stevens	26	26	0	0	26	0	0	0%	0	0%	
Thurston (6)	320	320	na	0	320	0	0	0%	0	0%	
Wahkiakum	8	0	0	8	8	0	0	0%	0	0%	
Walla Walla	3	3	0	0	3	0	0	0%	0	0%	
Whatcom	167	0	0	167	167	0	0	0%	0	0%	
Whitman	12	0	12	0	12	0	0	0%	0	0%	
Yakima	601	0	180	421	601	0	0	0%	0	0%	
TOTALS	10320	727	3835	2555	7117	110	3093	30%	3203	31%	

Notes for Table 1:

1. No data were available for Adams, Asotin, or Garfield Counties.
2. Total GALs can be derived by adding Attorney, Volunteer, and Professional GALs.
3. The total number of dependency cases can be derived by adding Total GALs, Independent Counsel, and Unrepresented-By Anyone.
4. In Klickitat County, one attorney represented 43 children in abuse and neglect matters. For children 10 years and older, the attorney functioned as independent counsel; for younger children, the attorney functioned as an attorney GAL. The numbers in each category are unknown. Therefore, the Klickitat County data are not included in the table. Thus, the state totals for dependency cases are understated by 43. While all children in the county receive some form of representation, some number do not receive the services of a GAL.
5. In Spokane County, juvenile court staff represented an unknown number of children at hearings, but do not carry out other GAL duties. OFCO chose not to include these children under any GAL category given the extremely limited kind of representation they received. Thus, these children were included in the unrepresented totals. Spokane County is moving away from this system, and the number of unrepresented children will decrease accordingly.
6. In Thurston County, all children are represented by an attorney GAL. Additionally, some children are represented by volunteer GALs. Therefore, an unknown number of children have two GALs.

Table 2: Cases filed between August 1, 1997 and July 31, 1998

County	Total Dependency Cases (3)	REPRESENTATION					CHILDREN UNREPRESENTED			
		Guardians Ad Litem - By Type				Attorney	By Anyone		By A GAL	
		Attorney	Volunteer	Professional (non-attorney)	Total GALs (2)	Independent Counsel	Total	% of Total	Total	% of Total
Adams (1)	na	na	na	na	na	na	na	na	na	na
Asotin (1)	na	na	na	na	na	na	na	na	na	na
Benton	70	0	40	0	40	20	10	14%	30	43%
Chelan	40	0	39	0	39	1	0	0%	1	3%
Clallam	82	0	82	0	82	0	0	0%	0	0%
Clark	141	8	100	12	120	0	21	15%	21	15%
Columbia	3	0	2	0	2	0	1	33%	1	33%
Cowlitz	85	36	47	0	83	2	0	0%	2	2%
Douglas	8	0	7	0	7	1	0	0%	1	13%
Ferry	8	8	0	0	8	0	0	0%	0	0%
Franklin	28	0	13	0	13	14	1	4%	15	54%
Garfield (1)	na	na	na	na	na	na	na	na	na	na
Grant	50	50	0	0	50	0	0	0%	0	0%
Grays Harbor	108	79	0	29	108	0	0	0%	0	0%
Island	49	9	36	0	45	0	4	8%	4	8%
Jefferson	29	0	25	4	29	0	0	0%	0	0%
King	1088	0	343	0	343	na	745	68%	745	68%
Kitsap	202	0	50	120	170	32	0	0%	32	16%
Kittitas	11	0	11	0	11	0	0	0%	0	0%
Klickitat	21	na	0	0	0	na	0	0%	na	na
Lewis	144	41	103	0	144	0	0	0%	0	0%
Lincoln	9	9	0	0	9	0	0	0%	0	0%
Mason	33	0	0	33	33	0	0	0%	0	0%
Okanogan	39	0	0	39	39	0	0	0%	0	0%
Pacific	56	0	0	56	56	0	0	0%	0	0%
Pend Oreille	12	12	0	0	12	0	0	0%	0	0%
Pierce	409	0	55	354	409	0	0	0%	0	0%
San Juan	5	0	4	1	5	0	0	0%	0	0%
Skagit	9	0	0	9	9	0	0	0%	0	0%
Skamania	1	1	0	0	1	0	0	0%	0	0%
Snohomish	460	0	76	0	76	0	384	83%	384	83%
Spokane	359	0	150	na	150	15	194	54%	209	58%
Stevens	27	27	0	0	27	0	0	0%	0	0%
Thurston	124	124	na	0	124	0	0	0%	0	0%
Wahkiakum	1	0	0	1	1	0	0	0%	0	0%
Walla Walla	53	1	48	0	49	0	4	8%	4	8%
Whatcom	55	0	0	55	55	0	0	0%	0	0%
Whitman	19	1	18	0	19	0	0	0%	0	0%
Yakima	193	0	Na	Na	193	0	0	0%	0	0%
TOTALS	4031	406	1249	713	2561	85	1364	34%	1449	36%

Notes for Table 2:

1. No data were available for Adams, Asotin, or Garfield Counties.
2. Total GALs can be derived by adding Attorney, Volunteer, and Professional GALs.
3. The total number of dependency cases can be derived by adding Total GALs, Independent Counsel, and Unrepresented-By Anyone.
4. In Klickitat County, one attorney represented 21 children in abuse and neglect matters. For children 10 years and older, the attorney functioned as independent counsel; for younger children, the attorney functioned as an attorney GAL. The numbers in each category are unknown. Therefore, the Klickitat County data are not included in the table. Thus, the state totals for dependency cases are understated by 21. While all children in the county receive some form of representation, some number do not receive the services of a GAL.
5. In Spokane County, juvenile court staff represented an unknown number of children at hearings, but do not carry out other guardian ad litem duties. OFCO chose not to include these children under any GAL category given the extremely limited kind of representation they received. Thus, these children were included in the unrepresented totals. Spokane County is moving away from this system, and the number of unrepresented children will decrease accordingly.
6. In Thurston County, all children are represented by an attorney GAL. Additionally, some children are represented by Volunteer GALs. Therefore, an unknown number of children have two GALs.
7. The statewide totals for Volunteer and Professional GALs are understated because in Yakima County, the breakdown in these categories was unknown.

APPENDIX E

KING COUNTY POLICY REGARDING APPOINTMENT OF GUARDIANS AD LITEM

Pursuant to RCW 13.34.100 a GAL must be appointed in all contested dependency proceedings unless a court, for good cause, finds the appointment unnecessary, or, in lieu of appointing a GAL, the court appoints counsel to represent the child. Because our GAL program involves volunteer guardians only, and because they are a scarce resource that we most conserve and use wisely, the following approach to the appointment of a GALs (sic) should be applied, absent special circumstances.

1. If the alleged basis for asserting dependency cited in the dependency petition did not involve abuse or neglect, no GAL would be considered, unless specific developments in the case cause a reconsideration of the issue.
2. A designated GAL Assistant Program Manager (APM) will review, screen, and make recommendations regarding the appointment of a GAL at the 72 hour hearing. The GAL APM will utilize the attached appointment referral considerations as a basis for making recommendations.
3. In all cases involving allegations of abuse or neglect where there is insufficient information to make a determination regarding a GAL appointment, the case shall be referred to the GAL staff for review and recommendation at the next scheduled hearing or for ex-parte action.
4. Where there has been a referral to GAL staff, a short check sheet will be filled out by the referring judge, checking off specific areas of concern or issues which will likely be contested at the next hearing. (This check sheet is available to counsel only if specifically requested.)
5. Where allegations of abuse or neglect have been made there should be no GAL appointed if the court is satisfied the referral concerns are not likely to be serious issues requiring GAL input at the next hearing.
6. If pending the next hearing the GAL staff feel a GAL should be appointed, they may present an ex-parte order for appointment.
7. If a GAL has been ordered, the continuing need for a GAL should be evaluated at each subject hearing. If no longer need (sic), the GAL should be discharged.

SUMMARY

The essence of this methodology is to appoint a GAL only when the need for a GAL to ensure the protection of the child has been made readily apparent and to most effectively utilize and retain the volunteer resources of the GAL Program.

Approved July 22, 1992

GAL APPOINTMENT/REFERRAL CONSIDERATIONS

A GAL appointment/referral WOULD NOT be made if one or more of the following considerations are met.

(A) Placement:

- 1) If placed with the non-offending parent, that parent's ability, commitment, or cooperation in accepting the necessary services to protect, counsel, and/or treat the child is not in question;
- 2) Placement with a relative does not create a substantial risk to the child;
- 3) Foster/group care placement is not in substantial contest by parent or child;
- 4) Geographic location of placement presents unreasonable demands for GAL involvement.

(B) Parental Contact:

- 1) Parental visitation is not subject to monitoring, or conditioned on compliance with court orders;
- 2) Child is not likely to be traumatized by parental contact;
- 3) Maintenance of child's bonding with parent(s) is not a significant issue;
- 4) The parents or siblings have not been the subject of any extensive history of prior agency complaints or dependencies.

(C) Child Risk Factors:

- 1) Alleged abuse/neglect is not of a severe or chronic nature;
- 2) Services for child with special mental or physical handicaps are appropriate;
- 3) Only one parent is a significant risk to the child;
- 4) Child is not suicidal, uncontrollable, committing crimes, abusing substances, or otherwise uncooperative;
- 5) A permanent plan for the child is not in question.

(D) Special Needs:

- 1) Child is not in need of additional special services for mental or physical handicaps, substance abuse, mental illness, sexual/physical/emotional abuse, behavior, or anger control; all necessary services are being provided;
- 2) Parent(s) is/are not in need of services for substance abuse, anger management, mental problems, parenting skills, in-home services, etc.; and delivery and availability of services is not in question.

Approved July 22, 1992

APPENDIX F
SPOKANE COUNTY
CASA/GUARDIAN AD LITEM RISK ASSESSMENT FORM

CASA/GUARDIAN AD LITEM RISK ASSESSMENT FORM

CHILD'S NAME: _____ *CASE NUMBER:* _____

RISK FACTORS

- Chronological age of child: _____ Developmental age of child: _____
- Severity of allegations/chronicity/degree
Describe: _____

- Placement issues
Describe: _____

- Concerns about current case plan/court order
 - Special needs/services not offered/implemented
 - Child's needs not being addressed: _____
 - Services for parents inadequate or not effectively utilized: _____
 - Visitation problems: _____
 - Unresolved permanency planning issues: _____
 - Other: _____

- Contested issues
 - Describe: _____

- Parental history:
 - Previous CPS/dependency history: _____
 - Generational child abuse/neglect: _____
 - Mental health issues: _____
 - Substance abuse: _____
 - Incapable of parenting: _____
 - Failure to protect: _____
 - Domestic violence: _____
 - Other: _____
- High number of social worker changes: _____
- Noncompliance with court orders
 - Describe: _____

- Other: _____

CASA PROGRAM RECOMMENDATION

- APPOINTMENT OF A CASA/GAL IS RECOMMENDED**
- APPOINTMENT OF A CASA/GAL IS NOT RECOMMENDED AT THIS TIME**
- APPOINTMENT OF INDEPENDENT COUNSEL OR NON-CASA GUARDIAN AD LITEM RECOMMENDED**

DATE OF RISK ASSESSMENT: _____ **ASSESSED BY:** _____