

February 21, 1997

President R. Lane Beattie, Co-chairman  
Speaker Melvin R. Brown, Co-chairman  
Members of the Audit Subcommittee  
State Capitol Building  
Salt Lake City, Utah 84114

**Subject: Guardian Ad Litem Follow-up (Report #95-10)**

Dear Legislators:

We have completed our follow-up review of our Guardian Ad Litem (GAL) report (#94-02). The Audit Subcommittee requested that our office conduct an in-depth follow-up of the Guardian Ad Litem program. Legislators wanted us to determine what progress has been made in implementing the recommendations made in our prior report and report any other areas of concern. We found that the state's Guardian Ad Litem program is improving. The state administrator is developing a needed management information system and the guardian attorneys report they are spending more time with children in foster care. However, the recently passed legislation outlining the GAL's duties is unclear in certain passages and the statutes may need some clarification and modification.

The State Guardian Ad Litem Administrator is implementing the recommendations made in our prior report. This report expressed concerns that the guardians may not be spending adequate time with the children and recommended that the state administrator develop a management information system to track guardian visits with children, to track guardian attendance at reviews (administrative reviews and citizen reviews), and to ensure that cases transferred between districts are handled appropriately. In addition, the report recommended that the Division of Family Services (DFS) management ensure that guardians have access to the complete DFS case file.

The State Guardian Ad Litem Administrator is in process of developing a database to track, by case, guardian visits with the children, attendance at reviews and other case-specific information. In addition, we interviewed guardians in four districts and found that DFS is

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making the child's case file available to the guardians. Finally, we tracked 17 cases transferred between districts and found that when the child's case was transferred to a new district, the new guardian attorney was notified.

In addition, the guardians report spending more time with their assigned children. In fact, though the number of cases has doubled since 1993 (the year we conducted our fieldwork), the number of attorney hours spent serving the children has more than quadrupled increasing the average number of attorney hours statewide from .72 to 1.4 hours per child. The number of attorney hours has increased because all districts except two now have full-time Guardian Ad Litem attorneys compared to 1993 where five districts had part-time attorneys. The Guardian Ad Litem attorneys are now full-time state employees who do not have a private practice as was occurring in 1993. Also, more attorneys have been hired in those districts that already had full-time attorneys.

In addition, DFS caseworkers reported that generally the guardians appear to be actively involved in their cases. Twelve DFS caseworkers, who have worked in foster care for several years, reported that the guardians generally are actively involved in their cases. Six of the twelve caseworkers specifically mentioned that the guardians are more actively involved in their cases than the GALs were in 1993.

Besides determining that the attorneys appear to be spending more time with the children, we also found that the Legislature may need to specifically state what role they intend the Guardian Ad Litem to perform. Several sections of the current Guardian Ad Litem law are unclear as to what the Legislature wants the guardians to do. Currently, the guardians view their role as a monitoring and watchdog function to make certain the DFS caseworker conducts an adequate investigation and provides the child with appropriate services. The guardians said that they do not have the resources nor the training to expand this role to personally conduct investigations and other evaluations such as home studies. However, several sections of the statute could be interpreted to mean that the Legislature intended this role for the Guardian Ad Litem. One section of the statute requires the Guardian Ad Litem to, "Conduct a thorough and independent investigation" (**Utah Code 78-3a-44.5(3)(c)**). It is not defined in statute what a thorough and independent investigation entails. The guardians said they do not have the resources nor the training to conduct an investigation as thorough as the DFS caseworker's investigation. The guardians report they are meeting this requirement through reviewing the caseworker's investigation and through making some independent contacts as appropriate. Another section requires the Guardian Ad Litem to, "...determine whether there are relatives or close family friends who would be appropriate and willing to take the child" (**Utah Code 78-32-44.5(3)(e)**). This section could be interpreted to require the guardians to conduct home studies and other analyses to determine the best placement for the child. The Guardians Ad Litem said they do not have the needed social-work training and they do not have the time to

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conduct these assessments. Currently, the guardians average about 80 cases per month on a statewide basis. With this high number of cases it does not appear possible for the guardians to conduct investigations and home studies on each case. The guardians currently meet this requirement by reviewing the work done by DFS in conducting a thorough review of placement options and then making any recommendations or conducting any additional work as needed. We conclude that the statute is unclear in these sections and the Legislature may wish to clarify what role they intend for the Guardian Ad Litem to perform. The statute could indicate that the Legislature intends the GAL to monitor the services given the child but not personally conduct investigations or home studies.

Finally, the Legislature may want to change a section of the statute to give the GAL more flexibility in attending administrative reviews. The current statute requires the GAL to personally attend administrative reviews. Administrative reviews are hearings monitoring case progress which are conducted by individuals not directly associated with the case. The statute does not give the GAL the option to either attend personally or to send a trained volunteer if the GAL can not personally attend. A statewide sample of over 100 case files showed that the GAL did not attend 19 reviews conducted since July 1994. The GALs said that sometimes there are scheduling conflicts and they are not able to personally attend the administrative review. The Legislature may wish to change the statute to allow the GAL to either attend personally or to send a trained volunteer if the GAL can not attend the administrative review.

We hope this letter helps in your deliberations about the Guardian Ad Litem Program. Please contact us if we can assist you further.

Sincerely,

Wayne Welsh  
Auditor General

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