



THE STATE

OF WYOMING

Office of the
State Public Defender

DAVE FREUDENTHAL
GOVERNOR

2020 CAREY AVENUE, 9th Floor
CHEYENNE, WYOMING 82002
Telephone (307) 777-7519
FAX: (307) 777-8742

DIANE M. LOZANO
STATE PUBLIC DEFENDER

RYAN R. RODEN
DEPUTY STATE PUBLIC DEFENDER

November 1, 2009

Joint Appropriations Interim Committee
Wyoming State Legislature
213 Capitol Building
Cheyenne, Wyoming 82002

Senator Phil Nicholas, Co-Chairman
Representative Rosie Berger, Co-Chairman
Senator Mike Massie
Senator Curt Meier
Senator Ray Peterson
Senator Charles Townsend
Representative Steve Harshman
Representative Debbie Hammons
Representative Pete Jorgensen
Representative Bryan Pedersen
Representative Frank Philp
Representative William "Jeb" Steward

Joint Judiciary Interim Committee

Wyoming State Legislature
213 Capitol Building
Cheyenne, Wyoming 82002

Senator Tony Ross, Co-Chairman
Representative Keith Gingery, Co-Chairman
Senator Bruce Burns
Senator Drew Perkins
Senator Sandra Meyer
Senator Kathryn Sessions
Representative George Bagby
Representative Joseph Barbuto
Representative Gregg Blikre
Representative Richard Cannady
Representative John Patton
Representative Frank Peasley
Representative Lorraine Quarberg
Representative Mary Throne

RE: Office of the Public Defender, Guardians *Ad Litem* Program

Dear Senators and Representatives,

On July 1, 2008, the administration of the Guardians *Ad Litem* Program (hereinafter "GAL Program") was transferred from the Wyoming Supreme Court to the Wyoming Office of the Public Defender (hereinafter "PD Office") pursuant to 2008 Wyo. Sess. Laws Chapter 48, Section 316. That same legislation requires the PD Office to report to the joint judiciary and appropriations interim committees on or before November 1, 2009, on the results of the program including the number of cases, the amount of monies expended for reimbursements and the amounts of matching monies from participating counties.

The function of the GAL Program is to provide legal services as guardians *ad litem* in abuse/neglect cases, children in need of supervision cases (CHINS), termination of parental rights (TPR) cases that stem from Juvenile Court¹, delinquency cases in which the child does not have a parent or guardian who can appear on the child's behalf or whose interests are adverse to the child, and appellate cases that arise from the preceding four types of cases. An attorney GAL's role in Wyoming is a hybrid role, which means they represent the child's wishes and advocate for the child's best interests at the same time.

The GAL Program is located in a separate office from the Office of the State Public Defender (PD or PD Office) and separate from any State Public Defender field office, to avoid any appearance of a conflict of interest. The GAL Program is being managed by an attorney director who certifies attorneys, monitors caseloads, reviews itemized billing, provides training, maintains files, bills the counties for their match, tracks case information with an agency created database, oversees the GAL Program budget, and maintains the GAL panel of certified attorneys. The Program Director also supervises the cases, provides case consultation and resources to the contracted GALs and maintains a GAL caseload in Laramie County. The Director also works as a liaison with courts, county attorneys, DFS, CASA, and is a general advisor to the GAL attorneys throughout the state. An AWEC receptionist handles secretarial duties and assists with caseload data entry and fiscal duties are being shared by the fiscal staff of the PD Office.

The GAL Program provides GAL services with 104 attorneys statewide. The Office reimburses the GAL attorneys for 100% of legal services provided. The PD Office has entered into Memorandums of Understanding with each of the twenty-three (23) counties for purposes of the 25% match.

The legislature appropriated \$4.2 million for FY2009-2010. The GAL Program budget was reduced by \$500,000 pursuant to the Governor's budget reduction for FY2010. In order to collect the match monies for the counties, the Office of the Public Defender received additional spending authority in the amount of \$950,000 through the B-11 procedure.

CHANGES TO THE PROGRAM

Pursuant to 2008 Wyo. Sess. Laws Chapter 48, Section 316 (a), the GAL Program's Rules and Regulations for the GAL Program were adopted in December 2008. With one exception, the District Courts appoint the GAL Program to provide GAL representation in a case; and the Program, through the use of regional contact attorneys, assigns the cases to the GAL attorneys in the given county on a rotation basis. In addition to the review and approval of monthly invoices, the GAL Program monitors attorney work performance through the use of case audits, a formal complaint process and Rules compliance checks. Also, prior to the transfer of the GAL Program to the PD Office, the maximum caseload allowed per attorney was 65. This maximum caseload has been modified to 40. The GAL Program has implemented the use of an agency created

¹ Since the inception of the GAL Program in 2005, the Department of Family Services has not requested reimbursement in TPR cases.

database to monitor caseloads and to ensure that the maximum caseload requirement is met with each attorney.

Pursuant to the GAL Rules and Regulations, the GAL Program implemented policies in regard to conflicts of interest, records retention, formal complaints, the GAL Panel, travel approval and reimbursement, communication with the child client, and the need to have the child present at court hearings. The GAL Program created Child Chat, a monthly training session (webinar), a monthly newsletter, and the GAL Pro Bono Panel. The GAL Program also continued its partnership with the Children's Justice Project (CJP) to develop and present the 2009 Children's Justice Conference.

The GAL Program utilized the services of four (4) law student externs, an Experience Works volunteer from the Department of Workforce Services, and it entered into an agreement with the Department of Health Mental Health and Substance Abuse Division in which the two programs can collaborate and coordinate efforts and services. The GAL Program has also implemented a website that includes the Program's rules, policies, procedures, forms and resources which can be found at <http://gal.state.wy.us>.

TRAINING AND CERTIFICATION OF ATTORNEY GALS

In FY09, GALS were offered a total of 41.75 hours of CLE training, including in-person training, trainings by teleconference and webinars. The GAL Program co-sponsored the Annual Children's Justice Conference with the Children's Justice Project. Currently there are 103 certified GAL attorneys statewide.

CASELOADS

In FY09, the GAL Program provided services to 1,911 children. Each child served is counted as one case for purposes of caseload figures. The average caseload per GAL attorney was 14.55 cases. These cases were assigned to 104 different GAL attorneys statewide. Overall, the Program has seen an increase in the number of clients served compared to the numbers reported to the legislature by the Wyoming Supreme Court. The Wyoming Supreme Court reported 1,296 cases in FY06 and 1,313 cases in FY07. It did not report caseload figures in FY08.

COUNTY EXPENDITURES AND MATCH

The following is the amount of monies expended per county and the 25% match per county in FY09:

<u>COUNTY</u>	<u>AMOUNT EXPENDED</u>	<u>COUNTY MATCH</u>
Albany	\$49,862.39	\$12,465.60
Big Horn	\$29,172.99	\$7,293.25
Campbell	\$240,665.34	\$60,166.33
Carbon	\$155,376.34	\$38,844.08

Converse	\$57,371.11	\$14,342.78
Crook	\$8,314.40	\$2,078.60
Fremont	\$48,854.99	\$12,213.75
Goshen	\$29,243.86	\$7,310.96
Hot Springs	\$15,659.42	\$3,914.85
Johnson	\$69,579.40	\$17,394.85
Laramie	\$297,426.49	\$74,356.62
Lincoln	\$10,316.61	\$2,579.15
Natrona	\$612,391.31	\$153,097.83
Niobrara	\$9,718.61	\$2,429.65
Park	\$145,950.46	\$36,487.62
Platte	\$39,755.66	\$9,938.91
Sheridan	\$96,069.09	\$24,017.27
Sublette	\$16,720.57	\$4,180.14
Sweetwater	\$117,021.41	\$29,255.35
Teton	\$15,635.36	\$3,908.84
Uinta	\$21,976.82	\$5,494.21
Washakie	\$28,362.01	\$7,090.50
Weston	\$9,299.18	\$2,324.80
TOTALS	\$2,124,743.83	\$531,185.96

PROPOSALS AND RECOMMENDATIONS

The principal struggle of the GAL Program is the sole reliance on independent contract attorneys. Despite the various methods currently used by the Program, it is difficult to monitor, supervise and manage the attorneys and their work product. The GAL Program must ensure that the GAL services provided are within the standards set by the Program's Rules and Regulations, which include the adoption of the National Association of Counsel for Children (NACC) *Recommendations for Representation of Children in Abuse Neglect Cases* and the consideration of the *ABA Standards of Practice for Lawyers Who Represent Children in Abuse and Neglect Cases (1996)*. These standards include required qualifications and training for GAL attorneys, detailed responsibilities of the GAL attorney, and caseload limits. In order to ensure that these standards are met, full-time employee attorneys are needed. . Consolidating independent contracts to create attorney positions will better enable the GAL Program to provide quality GAL services in a fiscally responsible manner. The long-term vision of the Program is to provide GAL services through the use of full-time, part-time and contract attorneys. This includes establishing districts throughout the state to be supervised by full-time attorneys. The short-term goal is to add a few full-time attorney positions as is requested in our FY2011-2012 budget request. In addition to the need for full-time attorney positions, a fiscal employee is needed to handle the voluminous financial paperwork generated by the use of independent contracts. Furthermore, it is necessary to separate the fiscal aspects of the GAL Program from the Public Defender to avoid potential conflicts of interest. The current AWEC receptionist is responsible for reception duties, secretarial duties, file maintenance, and database entry, as well as some

fiscal duties. We are requesting that this AWEC position be converted into a full-time employee position as well in the FY2011-2010 budget request. None of these requests require additional appropriations.

To enhance the efficiency and cost effectiveness of the Program, a review of the Program Rules and Regulations for possible amendments will be conducted. Additionally, the Program will be reviewing the method of payment to contractors as well as reducing the number of contracts for FY2011-2012.

Finally, a codification of the Session Law similar to the Public Defender Act (W.S. §7-6-101-114) would better enable the State and the Office of the State Public Defender to provide quality GAL services to the children in Wyoming. This codification could include a funding formula for the county match similar to the Public Defender Act §7-6-113. Nonetheless, there seems to be a contradiction between the Session Law and W.S. §14-6-422 and §14-6-416 in regard to when GAL services are needed in CHINS cases.

CONCLUSION

The past fiscal year has been a time of growth and of growing pains for the GAL Program. The GAL Program provides services to more children and in more counties than in the previous years of the Program. All counties are participating and are providing the required match monies. The adoption of the GAL Program Rules and Regulations has improved the quality of services provided to the children in child protection cases, in CHINS cases, and in a limited number of delinquency cases. Greater oversight is needed, however. This can be accomplished by incrementally adding attorney supervisors and employees. Although much has been accomplished since July 1, 2008, the GAL Program can continue to improve over the next year and into the future.

Thank you for the opportunity to administer this invaluable program. I look forward to meeting with you and am available at your convenience to answer any questions.

Sincerely,

Diane M. Lozano
State Public Defender

EXECUTIVE SUMMARY

The Guardians *Ad Litem* Program (GAL Program) was transferred to the Office of the Public Defender pursuant to 2008 Wyo. Sess. Laws Chapter 48, Section 316 on July 1, 2008. The function of the GAL Program is to provide legal services as guardian *ad litem* in abuse/neglect cases, children in need of supervision cases (CHINS), termination of parental rights cases that stem from Juvenile Court, delinquency cases in which the child does not have a parent or guardian who can appear on the child's behalf or whose interests are adverse to the child, and appellate cases that arise from the preceding four types of cases.

The GAL Program has adopted Rules and Regulations which govern the standards for the legal services provided by the attorneys who provide GAL services, as well as GAL training, administration of the GAL Program, and payment for services. The GAL Program has also implemented several policies in regard to GAL services and administrative issues. In FY09, the GAL Program reimbursed 104 attorneys for 100% of the legal services provided pursuant to contracts with the Office of the Public Defender. The Office of the Public Defender has entered into Memorandums of Understanding with all 23 counties. Currently the District Courts appoint the GAL Program to represent a child. The GAL Program contact attorneys, located in each county, appoint the GAL attorneys in that county on a rotation basis.

The GAL Program has provided 41.75 training hours for the GAL attorneys in the form of in-person, teleconference and webinar trainings. The Annual Children's Justice Conference was conducted in June in Cheyenne. Currently there are 103 certified GAL attorneys statewide.

In FY09, the GAL Program represented 1,911 children. The GAL Program has implemented the use of an agency created database to monitor caseloads and to ensure that the maximum caseload requirement is met with each attorney. A total of \$2,124,743.83 was expended in the 23 counties in FY09, and the counties have been billed quarterly for a total of \$531,185.96 for the 25% match. The GAL Program budget was reduced by \$500,000 in FY2010.

The GAL Program struggles to monitor the contract attorneys and hopes to improve the oversight, management and feasibility of the program by incrementally adding employee attorney positions in Cheyenne and throughout the state. A request for 3 attorney positions, one fiscal employee position and a receptionist is included in the Office's FY2011-2012 with no additional requests for appropriation.

The GAL Program will be reviewing its Rules and Regulations, method of attorney payment, and the number of attorney contracts for the next budget year. Better oversight and management could be achieved with a codification of the current session law similar to the Public Defender Act.