CHICAGO VOLUNTEER LEGAL SERVICES

Because equal access to justice is everyone's fight

Guardian ad Litem for Minors Program

Pro Bono Guide

2022

Table of Contents

Introduction Page 4

- What is guardianship?
- When is a GAL appointed?
- What law applies?
- Where are cases heard?
- How are these cases different from DCFS or Juvenile Court cases?
- How are these cases different from parentage court?
- What does a GAL do?

The Investigation Page 11

- Getting started
- The initial contact
- Interviewing the parties
    - Tips for interviewing adults
- Interviewing the child
    - Tips for interviewing children
- Additional investigation
    - Verify
    - Criminal background checks
    - Checking a criminal record yourself
    - Additional interviews
    - Therapist and doctor interviews and records
    - The home study
- Visitation, service plans and the value of time
    - Visitation
    - Supervised visitation
    - Restricted visitation
- Additional tools to aid your investigation
    - Drug testing
    - Service plans
    - Monitoring behavior
- Tips for using time to your advantage

Appearing in Court Page 39

The GAL Report Page 41
- Tips for writing a report that the judge will use and follow

Trials Page 44

APPENDIX Page 49
- GAL appointment letter
- Sample 1st letter
- Sample 2nd letter
- Sample Interview background form
- CANTS check
- Criminal Background Check Form
- Sample visitation order
- Sample supervised visitation order
- Sample handwritten order
- Sample GAL reports

INTRODUCTION

WHAT IS A GUARDIANSHIP?

In simple terms, a guardianship makes it possible for a non-parent to step into the role of a parent in order to care for a child. Most guardianships happen when children are left in the care of a relative or family friend. That adult needs often legal guardianship to authorize medical care or obtain public assistance. While guardianship is not technically needed to enroll a child in school, many schools will try to deny enrollment without formalized guardianships. Although parents and guardians may make their own informal arrangements, cases often end up in court after the caretakers discover they need guardianship for medical, educational, or other purposes.

Sometimes guardianships begin when caretakers call The Department of Children and Family Services (DCFS) because a child has been left in their care without an agreement or for an unexpected length of time. Instead of removing the child from the household, DCFS directs these caretakers to obtain guardianship. Other times, DCFS removes a child from a parent's home because of abuse or neglect, and suggests that a non-parent petition for guardianship to keep the child "out of the system."

In essence, a guardianship bestows on a non-parent legal custody of the child and corresponding parental responsibilities. Guardians must ensure that the child receives proper medical care, an education, and is properly fed, housed, and clothed.

Parents do not need to obtain guardianship of their own child – they are the child's legal guardian by operation of law. Custody (now legally called allocation of parental responsibilities) is for parents; guardianship is for non-parents.

It is important to remember that a guardianship is not an adoption. Although the guardian cares for the child and has ultimate responsibility, parents do not lose their parental rights. Most importantly, they retain their right to visitation in most circumstances.

A probate guardianship is also not a juvenile court case. In probate court, neither you nor the Judge will be making decisions about whether a child has been abused or neglected, or whether parental rights should be terminated. In Cook County, those issues are addressed by the Juvenile Court.

Once a guardianship is established, the Probate Court retains jurisdiction over the child and the parties until the child turns 18, or the guardianship is discharged, whichever comes first. At age 18, the guardianship automatically ends without the need for any further court order.

WHEN IS A CVLS GAL APPOINTED?

The court can appoint a GAL for any reason. The court most often appoints a GAL when the parties disagree about either the initial appointment of a guardian, the discharge of a guardian, or the appointment of a successor guardian. The GAL is normally appointed at the first or second court date. Rarely are any issues formally litigated before the GAL gets involved.

Initial Guardianship

An initial guardianship case involves a non-parent who is asking the court to become the guardian of a child or children. We are appointed on both contested and uncontested cases.

Contested

In contested cases, the parent or parents disagree with the proposed guardianship, and have come to court to object. The objection can be for any reason, including that the parent doesn't get along with the proposed guardian, wants someone other than the petitioner to serve as guardian, wants to retain "rights" over the child, wants the child returned, or claims to have always been the child's sole caretaker. Part of our role as GAL is to determine why the parent is objecting, and ensure they understand what guardianship entails.

Uncontested

Sometimes the court appoints a GAL even when there is no disagreement. This can happen when the Judge is concerned about a particular issue or person in the case. Often, the Judge becomes concerned when a party has a history with DCFS for abuse or neglect, or an extensive criminal history.

Discharge of Guardianship

Once a guardianship is in place, a parent can petition to *discharge* the guardianship at any time. Most of the time, this means that the parent wants to terminate the guardianship and regain custody of the child. Guardians object to discharges for a variety of reasons. Sometimes they object simply because they have grown attached to the child. Other times, however, the guardian is concerned about the parent's stability and/or ability to care for and raise the child.

Successor Guardianship

A parent, guardian, or third party can petition to have a successor guardian appointed. This means that the current guardian is discharged, but instead of returning the child to a parent, another person is appointed as guardian. Sometimes, a guardian seeks to terminate his or her own guardianship, and the parents are not available and no one else is willing to take over as successor guardian. If, as a GAL, you face that issue, contact CVLS for help.

Parental Visitation

Sometimes the court will appoint a GAL exclusively to help address visitation between a parent and child. This often happens when the guardian is not allowing the parent to see the child, or the guardian and parent cannot agree on a visitation schedule. In these cases, the GAL will still conduct a full investigation, but our recommendation normally will be limited to issues of visitation.

WHAT LAW APPLIES?

The statute governing guardianship is the Illinois Probate Act, 755 ILCS 5/11-1, *et seq*. Although instructive in some aspects, it is not a very comprehensive statute. The Probate Act was amended in January 2011, eliminating the standard of parental fitness for appointing a guardian, and reads as follows:

> *The court lacks jurisdiction to proceed on a petition for the appointment of a guardian of a minor if it finds that (i) the minor has a living parent, adoptive parent or adjudicated parent, whose parental rights have not been terminated, whose whereabouts are known, and who is willing and*

able to make and carry out day-to-day child care decisions concerning the minor, unless: (1) the parent or parents voluntarily relinquished physical custody of the minor; (2) after receiving notice of the hearing under Section 11-10.1, the parent or parents fail to object to the appointment at the hearing on the petition; (3) the parent or parents consent to the appointment as evidenced by a written document that has been notarized and dated, or by a personal appearance and consent in open court; or (4) the parent or parents, due to an administrative separation, are unable to give consent to the appointment in person or by a notarized, written document as evidenced by a sworn affidavit submitted by the petitioner describing the parent's or parents' inability to receive notice or give consent; or (ii) there is a guardian for the minor appointed by a court of competent jurisdiction. There shall be a rebuttable presumption that a parent of a minor is willing and able to make and carry out day-to-day child care decisions concerning the minor, but the presumption may be rebutted by a preponderance of the evidence.

Initial Petitions

The statutory amendment tracks custody language from the Illinois Marriage and Dissolution of Marriage Act (IMDMA), (750 ILCS 5/101 *et. Seq.),* which means that there is a substantial body of case law that offers guidance in minor guardianship cases. Once standing has been established, the case will turn on the best interests of the child.

Petitions to Discharge

The law also provides a way for parents to discharge a guardianship. In order to discharge a guardianship, a parent must prove by a preponderance of the evidence that there has been a material change of circumstances. If the parent meets that burden, a guardian objecting to discharge has to prove, by clear and convincing evidence, that despite the parent's change in circumstances, it is still in the best interests of the child to remain under guardianship.

Best Interest Analysis

The non-exclusive, non-economic factors to be used by the court in determining best interests of a child are as follows:

- The interaction and interrelationship of the minor with the parent and members of the parent's household.

- The ability of the parent to provide a safe, nurturing environment for the minor.
- The relative stability of the parties and the minor.
- The length of time the minor has lived with the parent and the guardian, and the minor's adjustment to his or her home, school and community.
- The nature and extent of visitation between the parent and the minor and the guardian's ability and willingness to facilitate visitation.

Your primary role as a GAL is to evaluate the best interests of the child and make a recommendation to the court based on your findings.

WHERE ARE THESE CASES HEARD?

In Cook County, all minor guardianships are assigned to the Probate Division of the Circuit Court of Cook County. They are heard in Room 1806, on the 18th floor of the Richard J. Daley Center located at 50 West Washington Street. The judge currently presiding in Room 1806 is the Honorable Stephanie Miller. There is typically no court reporter in 1806. Most attorneys you will see in 1806 are pro bono GALs or legal aid attorneys. All hearings are currently held via Zoom, as outlined in a later section.

HOW ARE THESE CASES DIFFERENT FROM DCFS OR JUVENILE CASES?

Although cases in Juvenile Court and Probate can have similar issues, the proceedings and law are radically different. A typical Juvenile Court case is initiated because someone has called the DCFS hotline to report abuse or neglect. When a hotline call is made, DCFS is required to open an investigation. The result of their investigation is either "indicated" or "unfounded". Indicated means there was enough evidence to support a finding of abuse or neglect, and unfounded means there was not. If cases are indicated under serious circumstances, sometimes children are removed from the home and the state takes custody of the child through the juvenile court process.

In determining if a case is indicated or unfounded, DCFS must evaluate whether the child has been, or is in danger of being, abused or neglected. DCFS' definition of what constitutes abuse and neglect may be very different than ours. For many years, DCFS has been diverting cases to Probate that

should really be in Juvenile Court. Sometimes DCFS-involved families will have a caseworker who participates in the Probate Court proceeding and can help the family access needed resources.

Foster parents appointed in Juvenile Court receive a monthly DCFS stipend. In addition, DCFS is charged with providing services to the parents, foster parents, and children, in an attempt to reunite the family. There is no corresponding supervising agency in the Probate Court, however. Guardians appointed by the Probate Court do not get foster care stipends. Guardians may be eligible for food stamps, a medical card, and other benefits for the child such as social security. Relative caretakers may be also be entitled to a public assistance allowance of about $100 per child per month called the Child Only Grant.

Not all of the cases that end up in Probate Court belong there. Some children would be better served by having the families' issues addressed in Juvenile Court. If you feel you may have a case that is more appropriate for Juvenile Court, contact CVLS to discuss the possible transfer.

HOW IS GUARDIANSHIP DIFFERENT FROM DOMESTIC RELATIONS?

Domestic Relations cases normally address issues between two parents. Guardianship is typically a dispute between a parent and a non-parent. Increasingly, cases in Probate Court have some sort of interaction with a Domestic Relations case. The Domestic Relations court establishes parentage, custody, child support and visitation between parents. Domestic Relations is a large division located on the lower floors of the Daley Center.

It is not unusual for you to have a guardianship case where a father is involved and would like visitation or custody of his child. The first thing to look for is whether the father's name is on the birth certificate. If the father's name is not on the birth certificate, then he has no legal rights as the father until he establishes them in court. Probate court does not offer DNA tests to establish paternity. If the father wants to establish paternity, he can do so in one of two ways. If he and the living mother of the child agree that he's the father, they can go to the Department of Vital Records and execute a Voluntary Acknowledgement of Paternity (VAP). If they don't agree, or if their custody issues are more complicated, then one of them should file a petition to establish parentage in Domestic Relations.

There are also other differences between the divisions in terms of service requirements, modification of custody/guardianship orders, and ability of the child to express a preference of caretaker. CVLS also represents children in Domestic Relations cases; contact us if you have questions.

WHAT DOES A GAL DO?

The most essential responsibility of the GAL is to represent and advocate for the child's best interests. The court's order that appoints CVLS as GAL directs us to "conduct an investigation of the minor's best interests and make a recommendation to the court." A sample copy of that order is included in the Appendix.

At least initially, this is the only instruction you will receive from the court. Your role is broad and flexible, often changing from case to case. The judge is looking to you to bring the issues of the case before the court. Before CVLS is appointed, the judge has usually spent no more than a few minutes on the case, just enough to determine there is a problem that can't be easily rectified.

You will conduct an investigation and then submit a report to the court with your recommendation. In addition, throughout the course of the litigation, the judge will look to you to play a leading role in mediation, negotiation, and in controlling the course, style, and timing of the litigation. She will also rely on you to bring relevant issues before the court at the appropriate times. As you are often the only attorney involved in the case, the judge needs you as a factual, legal, and procedural informant.

You do not need to file or enter an Appearance in the case. Written motions are rare. However, you will ultimately prepare and file a written GAL report that will advise the judge of the results of your investigation and provide your recommendation. You may file several GAL reports over the course of a case, continually updating the court on the progress (or lack thereof) of the parties.

THE INVESTIGATION

GETTING STARTED

Along with the GAL appointment order, CVLS will send you any relevant documents we have. Scant as the information is, it may help you glean at least some understanding of possible issues. Your initial packet may include prior court orders, results of background checks on the parties, the child's birth certificate, and other basic documents from the court file. Your first step is to review the documents you received to get a sense of the situation. Once you do that, you can reach out to the parties.

THE INITIAL CONTACT

Your second step is to contact the parties. The easiest way to get started is to simply pick up the phone and call the parties to introduce yourself, explain your role, gather some initial information, and set up your interviews. If you have trouble reaching the parties, don't have a phone number, or don't hear back from them quickly, please send a letter introducing yourself and asking them to contact you immediately. Most parties are best reached by phone or text. A sample letter is included in the Appendix, but letters should be a last resort.

It is important to explain your role as the GAL when you reach out to the parties for the first time, and again when you meet with them in person. They may not understand who you are and may even think you represent them. It is important to explain that you represent the children's best interests, and that there is no confidentiality or attorney-client privilege between you and any of the parties.

INTERVIEWING THE PARTIES

The Appointment

Interviews can be conducted in your office or at CVLS. You are not expected to meet the parties in their homes. CVLS is located at 33 North Dearborn, Suite 400, and the main phone number is 312.332.1624. You are welcome to use our office for interviews anytime during business hours. Although you have

access to our office on evenings and weekends, we discourage you from making appointments after hours, both for your own safety and because parties in guardianship cases often fail to show up for scheduled appointments. We also cannot guarantee anyone else will be at CVLS outside of normal business hours, so you could be left in the office alone with the parties. If you need to meet with the parties at CVLS after 7pm on weekdays or on weekends, you will need special permission to enter the building. Please contact us to make this reservation.

Make sure you give the parties an address and telephone number where they can reach you. Although your office contact information usually works best, if you'd prefer not to use that, feel free to use the CVLS address and telephone number. *DO NOT give out your home phone number*. Even well-intentioned parties may choose to call you at inappropriate times. Many volunteers like to use Google Voice, a free service, to create a number through which you can contact the parties directly and they can contact you without the need to divulge your cell or office number.

*****Due to the COVID-19 pandemic, most GALs are conducting all interviews virtually until further notice. You are welcome to meet with parties in person if you feel comfortable, but you are not required to do so. All court hearings are being held virtually via Zoom until further order.*****

INTERVIEWING THE ADULT PARTIES

Your first priority is to interview the parties to the case. In the Appendix you will find a thorough questionnaire you can use when interviewing adult parties. After the initial interviews, if you find it appropriate, you can interview other individuals including teachers, social workers, and additional family members. Some litigants will want you to meet with their entire entourage. You can always decide who *you* want to interview in the investigation. You are in control of the investigation, not the litigants.

Explaining Your Role

As mentioned earlier, parties are likely to be confused as to your role. Some may think you have been appointed to represent them; others may know you've been appointed for the child, but don't understand what that really means. Make it clear, from the beginning, that you do not represent them or any other party in the case. The child is your client. With this, make sure that they understand that

you do not have confidentiality with them. Explain what confidentiality means and that you have been appointed by the judge to tell the court the things that you have learned during your investigation.

Confidentiality: HIV Exception

There is one significant exception to the non-confidentiality rule. Someone's HIV status cannot be revealed or alluded to in court, in court orders, or in any written report by the GAL. The Illinois AIDS Confidentiality Act 410 ILCS 305 states, "No person may disclose or be compelled to disclose the identity of any person upon whom a test is performed, or the results of such a test in a manner which permits the identification of the subject of the test." More about addressing a party's HIV status is discussed in the report section of this guide.

Interview Essentials

If the case involves an initial guardianship, make sure each litigant understands what a guardianship is. Clarify that parental rights are not terminated, that a parent retains the right to visit and have a relationship with the child. Also, make sure both sides understand that a parent always retains the right to petition to terminate a guardianship when he or she feels ready to resume caring for a child. Sometimes parents withdraw their initial objection when they find out that they still have visitation rights and can petition the court to terminate guardianship at any time.

Interview every person separately, including spouses and significant others. Although you can meet with them together at the end of the interview, always see the people individually at the beginning. Sometimes people will not be comfortable admitting or discussing things when a spouse or other family member is present. Insist on separate interviews, even if people balk—especially if they balk.

Start your interview with background information. A sample background information questionnaire is in the Appendix**.** These questions will give you a basic foundation about each party. Ask everything. Be nosy. Find out everything imaginable about their history, education, family life, job history, mental and physical health, and finances. Get as many specifics as you can so you can verify their story later. This is not a time to be shy or discreet. Listen carefully to answers and use your common sense. Make sure the answers make sense. Make sure timelines fit chronologically. Don't be embarrassed to point out gaps or inconsistencies in a story. If needed, you can ask the same question in different ways until

you get a sufficient answer. Ask non-leading questions: who, what, when, where, why, how. Keep pushing until you either get answers that make sense, or you realize that you never will. Either result is relevant to your investigation.

Give every adult a homework assignment. Don't let any adult party leave your office without asking them to get back to you with some kind of information. This serves many purposes: it keeps the relationship between you going; it tests their follow through skills; it provides you with information you need without you doing the legwork; it tests the veracity of their assertions; it tests their commitment. Some examples of things you can ask for: report cards, shot records, pay stubs, tax returns, copies of leases, birth or death records, criminal records, and/or contact information for other family members, counselors, teachers, etc.

TIPS FOR INTERVIEWING ADULTS

#1. Clarify your role & confidentiality.

At the very beginning of your interview, explain to each adult party that you do not represent them. You are not their lawyer, so you have no confidentiality. Explain that you represent the best interests of the child or children in the case. You may need to do this multiple times throughout your case. You can tell adult parties they are welcome to find their own attorney. This may not be easy or feasible for low income litigants, but telling them this may help them understand that you are not their lawyer.

#2. Recognize and diffuse anger at the process.

You will probably encounter many parties who seem hostile. Their hostility may be directed at you, at the other parties, or at the situation in general. Many times, they are just angry that they have to go through the court process. Disarm them by acknowledging their anger and follow up with some directed questions. Also realize that guardians and parents may be angry at the process for different reasons. You may be the first person willing to hear their side of things, and they may just need to vent some before you can make progress.

Hostile Guardians: Guardians have taken on a huge responsibility by taking care of someone else's child. They may have dealt all their lives with dysfunctional parents, DCFS, Probate Court and other court and criminal justice systems. They are tired of being dragged through the mud when they are the ones acting selflessly. You can help diffuse them by acknowledging the hard work they have done.

Hostile Parents: Parents, on the other hand, are often angry because they thought the guardian would agree to return the children immediately, or because they expected the court to return their children on the first court date. You can acknowledge their frustration with the process, and try to manage expectations. The court is responsible for the welfare and safety of the children in these cases, and needs full information before deciding if discharge is appropriate.

#3…Be aware of the money issue

Always find out how the parties support themselves and their families, and ask for proof. If anybody tells you that they receive disability income, ask what the disability is. It may or may not impact their ability to care for a child. Ask about their medications or frequency of doctor visits. Be aware that disabilities may include mental or psychological impairments. That alone will not necessary disqualify them from caring for a child, but you do need to know.

You will often hear parties allege that the other is "only in this for the money." To see if this is true, look at whether that assertion squares with the person's behavior. For example, is the guardian using the minor's money to take care of the minor or is the guardian relying on that money as the only source of income? The family's finances can usually be affected by a guardianship in five ways:

1. **Social Security** – Many children receive social security because of their own disability or because their parent is disabled or deceased. This monthly amount is normally in the $700/month range.
2. **Child Only Grant:** Guardians and caretakers who are related to the minor by blood may be entitled to receive a benefit through DHS in the amount of about $100 a month. It's not much, but if relative caretakers are not receiving this grant, you may want to encourage them to apply at the office where they get food stamps.
3. **Food Stamps/SNAP/TANF**: Public aid programs that take into account the family

income and provide funds for basic needs like food.

4. **Minor's Estate** – On rare occasion, a child may have his own estate in the Probate Court resulting from an inheritance or a prior legal settlement. The guardian will not be granted automatic withdrawals upon appointment. All withdrawals still have to be approved by the court and determined to be in the minor's best interest.
5. **Child Support**- Sometimes a family is receiving child support from a non-custodial parent. Sometimes a parent wants custody to avoid having to pay child support to the guardian. Child support is awarded and enforced in the Domestic Relations Division. Although guardians can petition for child support from both parents, the Probate Court will not order or consider child support issues.

#4…Listen with empathy, without appearing to agree.

Sometimes you have to wear the hat of social worker and allow parties to vent. You won't ever get to the meat of the issue if the party thinks they're not being heard. Allow them to vent. You can acknowledge their feelings and listen without agreeing with them by saying things like "It sounds like this has been hard/painful for you."

#5…Look out for extreme positions.

Parents sometimes say things like:

- "I don't want any visitation if I can't have him back."
- "Let her go ahead and just adopt him."
- "I'd rather he be in DCFS or juvenile detention than with her."

Guardians sometimes say things like:

- "If she gets him back, I don't ever want to see him again."
- "She's never going to be in his life."
- "I'm his mother now."

All of these are examples of people who are either temporarily angry and lashing out, or are more focused on themselves than the child. To determine which one, you have to square their statement to the rest of their behavior. Often, if you ask them at a later time (even a few min later) they will recant. Maintaining an extreme position can show that this person is likely not putting the child first.

#6…Realize it's difficult for parents to accept that they cannot care for their children.

Most parents love their kids, no matter what their actions indicate to you. Some may understandably have a difficult time acknowledging to themselves that they cannot take care of their kids. It's even harder to admit that to other family members, the court, and the children themselves. Their lack of acknowledgment can take many forms. For example:

- Grandstanding: They put up a fight just for the sake of it, and just so they don't lose face in their own eyes. The grandstanders can be weeded out with homework assignments and with time. They give up easier than their initial rhetoric would indicate. Don't be afraid to wait them out.
- Taking issue with the Guardian: They may also focus solely on the guardian and their faults, without ever taking any personal responsibility for what they need to improve before taking their kids back. The reason a parent should be asking for a discharge is because they have made the changes necessary in their own lives to now be able to care for the child. If things are going wrong in the guardian's home, you can help by steering the guardian towards services, and using court orders to make sure they follow through.
- Saying they have been good parents the entire time: It is important to some parents that they make you think that they are good parents. They may say incongruous things like, "even though my kids haven't lived with me, I've always been there for them." You can ask some reality check questions without putting them on the defensive and making them feel even more disenfranchised. Don't directly tell the parent they have not been there for their child, but you can ask questions about the child's day-to-day care, milestones and special occasions. Hopefully, this will distract them from their anger and made them realize that the guardian has been there for a lot of the nitty gritty. You can also help them understand that their past absence doesn't mean they can't regain custody of their children now.

#7. Be aware of parents in the process.

Some parties are in the process" of changing their situation. They may be trying to get a job, secure stable housing, or complete rehab. Ask concrete questions and request details and proof. Evaluate how likely these changes are to happen. Look at their long-term patterns, and steps they have taken to make changes. If the improvements seem unlikely or may realistically take years, congratulate the person on their goals, and tell them you look forward to reevaluating the situation in the future. On the other hand, if the person has made concrete steps and seems otherwise sincere and credible, you may want to give them a chance to complete their next steps while the case remains active. Keep in mind some processes like obtaining public or subsidized housing, getting sober, or securing a job may take months if not years. Continuing the case to allow time for these things to happen may or may not be appropriate. Talk to CVLS for guidance on realistic timelines. The probate court does not have the capacity to keep cases open indefinitely. There is a lot of variation, but a good benchmark for case closure is about six months.

#8…Be aware of the impact of socio-economic and cultural differences.

It is important to realize that by the simple fact that you are an attorney, you are probably in a different educational and socioeconomic class than the majority of the parties in these cases. Often you will also be from a different racial, ethnic, or cultural background. **Be aware of, but not controlled by, the impact of socio-economic and cultural differences.**

Although not everybody in one socio-economic class or culture thinks the same about every issue, you still need to be aware of how one's culture and circumstances affect their attitudes and responses. A party may be reluctant to share personal information with you or may tell you what he or she thinks you want to hear. Sometimes that is a cultural thing, other times, it's evasion or outright dishonesty. It's not unusual for an inexperienced attorney to be uncomfortable challenging a client's statements or position because, "She said I've never had to raise three children on welfare and I don't know what it's like." That may be true, but you do know that the court must consider a parent's ability to support a child when ruling on her discharge petition. Remember, it is your job to be objective. Be

sensitive, but be professional.

Things to look out for:

- **Corporal Punishment**: Just be aware that not all cultures look at this issue the same way. Be sure to get lots of information when this allegation is made. Talk to CVLS about whether the situation rises to the level of abuse and needs to be reported to DCFS. Regardless of culture or race, there should never be hitting with an object such as a belt or extension cord, or with a closed fist.
- **Counseling**: Many people may be distrustful of counseling and mental health services, or may feel stigmatized by the suggestion that they need them. Don't let that stop you from making it happen, just be aware of the reluctance and always try and refer to community-based services where providers will be more accessible and more in tune with the daily lives of local families.
- **It takes a village**: Some cultures view parenting as a family and community task, while others view it as a personal choice and therefore a personal responsibility. Don't be put off by family members or friends caring for children when you wouldn't have chosen that option. You may also find many people living together in the same home or living in crowded quarters. This is not normally an issue unless the people or situations pose a danger to the child. Talk to CVLS if you have concerns about the child's living situation.
- **Privacy with you and the court**: Some people may be reluctant to share personal information with you, or to accept direction from the court. They can be belligerent that you are getting in their business, or that the court is trying to tell them what to do. Try to alleviate their fears by telling them that the last thing you want to do is to make trouble for their family, but that it is your job to do what you think is best for the child, and you can't do that if they don't cooperate. If they remain belligerent, then you have to take a harder line and make them realize that without the information you must assume the worst.

#9…Parents might not like the reason stated on the petition.

Petitioners are usually instructed to state the reason for the guardianship as "parents are unable to care for the minor at this time." Others fill in reasons like "parents not responsible", "parents unable to be

found". Sometimes these statements inflame parents, and those that would otherwise not contest are now doing so. Sometimes you will find that parents' primary objection is that they don't like the reason stated on the petition. You can explain to the parents that just because something is written on the petition, doesn't mean the court accepts it as fact. Explain the rights parents retain in guardianship. Explain that the proposed guardian cannot get medical treatment or enroll the child in school without a guardianship. Explain that as a parent, they can petition the court at any time to terminate the guardianship. The Petition can even be amended if necessary and helpful to reach an agreement.

#10…Look out for misunderstandings about consent.

Parents attempting to discharge or vacate a guardianship often argue that they didn't understand the consent when they signed, and didn't understand what guardianship meant. This argument rarely has merit. When questioned, these parents will admit that they expected the guardian to take care of the child everyday. The parent cannot have it both ways. They cannot expect the guardian to act like a parent on a daily basis, but without any guardianship to enable them to do it. Even if the parent didn't understand what exactly guardianship meant in the legal sense when they signed the consent, they still expected the guardian to act like one once they did. Unless the parent raises this issue fairly soon after signing, this argument is a loser. Parents often think if they signed a consent, they have no chance of getting their kids back. You can tell them that is not true, and that signing a consent is not signing away their rights forever. Often consenting to guardianship is a sign of maturity when parents realize they are not in a position to care for their children.

Another common argument from parents who previously had signed a consent is that they never received notice of the actual court date, and therefore the guardianship should be vacated and the children returned to them. Timing is usually the deciding factor. If the complaint is raised within a couple of weeks or even a few months, it is plausible. The parent and "guardian" could have had an agreement to care for the child for only a short time, and the "guardian" ran into court immediately, never notifying the parent. But parents often raise this issue years later. In any case, the signed consent acts as a waiver of notice. The parent's petition to vacate will most likely be treated as a petition to discharge.

INTERVIEWING THE CHILD

Logistics: As with adult parties, conduct interviews of children in your office or at CVLS. CVLS has an interview room specifically for children that is stocked with toys, coloring books, and games. We also have stuffed animals to give to young children to take home. You are welcome to interview your children there if it's helpful. If you work at a firm with a large number of GAL volunteers, your firm may also have a box of toys and games that have been gathered for this purpose, or you can purchase some simple supplies or bring them from home.

Some volunteers prefer to conduct child interviews in the child's home. This can give you a great deal of information about the home, and allow you to see the child in their own environment. However, this is not required, and should be done only when GALs feel comfortable doing so. If you decide to conduct an interview at the home, make sure you know who else lives in the home, and consider taking a colleague with you for safety. Feel free to reach out to CVLS staff if you would like to discuss in-home interviews, or you would like a CVLS staff member to accompany you.

Whoever has physical custody of the child should bring the child to the interview. However, you should meet with each child individually, outside the presence of the adults and siblings.

Children 0-4:

You need not interview an infant or non-verbal toddler. For the youngest children, you can simply make observations about the child's appearance, hygiene, and behavior. Is the child dressed appropriately for the weather? Does the child appear clean and alert? Does the child seem to have a loving relationship with the caretaker? Did the caretake bring necessary supplies to feed and change a baby?

For toddlers and preschoolers who are verbal, try to interview them individually if possible. Meet with any children who easily separate from a parent or guardian without tears or outbursts. If your attempts to meet with younger siblings individually are unsuccessful, you can meet with them together. Children under the age of five are sometimes too shy or scared to meet without an older brother or sister. It's ok to see them in a group because, although you won't get much from them verbally, you can gain

information by watching them interact with their siblings. However, be sure to always interview older children alone, even if they'd prefer to see you in a group. Sometimes, one child has a strong preference that he cannot divulge in front of another family member.

Children 4-17:

How to initiate a conversation: Candy and toys are universal tools of bribery. Ask caretakers for permission, and inquire about any allergies or medical condition, before offering candy or snacks to children. If you get the green light, candy should get any child into your office without fuss, and toys or computer games are sure to distract long enough for the child to let their guard down.

Most kids are uncomfortable in an office setting, which may seem foreign and scary to them. Don't sit at your desk across from them and take notes. For younger kids, get down on the floor and talk while you play. For older kids, take them to get a snack while you talk. For those of you in offices with great city views, chat with the child while you both stare out of the window watching the cars, buses, boats, or whatever. Law firm snack bars and lunchrooms are big hits with kids.

You will find that some children are much more eager than others to talk about their family and relationships. For these children, it may take only a question or two to get them rolling. Other children may only be willing to talk more freely if their hands are busy doing something else and they don't have to make eye contact. If you are having trouble getting the child to open up, try talking to them while they're doing something, like coloring, playing a computer game, or staring out the window

The interview may be awkward at first. After all, you don't often have a seven-year-old boy in your law office playing a game of "go fish" on the floor. You can use the interviewing form that we have provided you as examples of questions to ask.

What information do you need to know: Start by asking questions about them. Find out what grade they're in, who their teacher is and the names of the friends. Ask them what they like to do at school, after school and on weekends. What is their favorite TV show and their favorite food. Ask them if they like to cook. Find out what their typical day is like at home. Find out what they do on weekends. If they

have visitation with the other side, find out what they do on visitation, and if they like it. Ask the last thing they did to get in trouble and what happened. You can ask about “best” and “worst” things about a parent or a guardian.

When to ask where the child wants to live: Only ask where a child wants to live if you feel they are mature enough to answer, and if a change is under consideration. Although this question is useful, young children shouldn’t feel like they have the power to make that decision. These kids are in the middle of a split family and often their biggest concern is keeping both sides from getting hurt. Some children will volunteer this information. In most cases, however, you’ll have to try to figure it out for yourself. Don’t worry if the kid leaves your office and you don’t know what he or she may want, or if you aren’t any clearer about the issues than when they came in. Often, you’re only trying to get a feel for the child. Sometimes nothing the child says is going to tip you in either direction.

Watch out for coaching: Be leery about children who tell you immediately what they want and in perfect grammar. They’ve probably been coached. Ask a lot of questions, jump around and repeat questions. You’ll soon be able to tell. Even if you’re fairly inexperienced with children, it’s not that hard to tell if a kid has been coached. Beware of kids who use vocabulary clearly beyond their years, or tell you a story in exactly the same words as the adult, or who come into your office and tell you a whole litany of stories before you even give your name. Those kids are trying to get it right, before they forget. The best response is to interrupt and get them off topic. Say you’re hot or tired, and take them for a walk to get a soda. Try and start the interview over again, making it extra light. Once you think they’re comfortable, go ahead and ask them if anybody told them what to say to you. Most kids who have been coached will be honest and say yes. Then ask them how they feel about that.

Conclude with confidentiality: Although technically you don’t have confidentiality with the child, you can treat the child’s information and wishes as if they were confidential. Before a child leaves your office, ask him if there’s anything he’s said that he doesn’t want the parties to know. Ask if there’s anything he wants you to tell the judge. Ask if there’s anything he’d like to tell you now that he knows you won’t tell anyone else other than the judge. A lot of children don’t want to hurt anyone’s feelings. Assure him that you can make the recommendation in such a way that the other adults won’t know that the child wanted it. Explain that you and the judge will take the heat, not him.

Tell the child you are there for them, not the adults: Once you feel they're comfortable, ask them if they know why they're in your office. Tell them you are there to represent them in court. You are their attorney. Give them your card and tell them that it is just for them, not their mom or guardian. Tell them to keep it in a safe place and to call if they need to tell you anything. Younger kids often think it's cool to have a business card just for them.

Older children: Kids aged fourteen and older may nominate a guardian by signing the petition. Obviously, this age is a benchmark for giving credence to the child's wishes. Although it does not mean that older children automatically get their way, the court will give their opinion more weight. With minors over fourteen, however, be on the lookout for kids who choose the person who lets them come and go as they please with no rules or discipline.

When to have the child talk to the judge: Please talk to CVLS staff if you would like the minor to speak with the judge. If you feel the child's view is extraordinarily credible or important in a particular case, you can request that the judge do an "in camera" interview with the minor at the time of trial. The judge will interview the minor in her chambers. Sometimes the judge will request an interview with the child *sua sponte*. In the past, the GAL has been allowed to sit in on that interview, in part to help the child feel more comfortable. Feel free to request that if it looks like the judge will interview the child.

QUICK TIPS FOR INTERVIEWING CHILDREN

1. **Make it fun, not intimidating.**
    - Play games: card games, Jenga, having them draw, etc.
    - Look out the windows. Kids love to look at the view of the city or the lake.
    - If you have to take notes, you can make a joke out of it by saying you're losing your memory as you get older.
    - You can go to the vending machine to get a snack together.
    - As long as there isn't a health concern, you can give them food or candy.
2. **Start the conversation out light.**
    - Get to know the child ask about favorite classes, sports, food etc.
    - Use our interview form for questions to ask.

3. **Ask questions while playing together.**
    - Kids generally don't like to look at you in the eye and have a serious talk, especially kids who are shy or scared. They're more likely to open up if they can do something while they talk to you.
4. **Beware of intimidation.**
    - If a child won't say anything and seems petrified to talk to you, it may be more than just being intimidated by being downtown in a lawyer's office. They have probably been warned by one of the parties not to talk to you. Try to play and have fun. You will want to follow up with the child's teacher to see if the child is normally that quiet. Also, you may have to schedule another appointment for the child to see you.
    - Be aware that some children may never open up. That's okay. Do the best you can.
5. **Watch out for children wanting to live in the home with fewer rules.**
6. **Watch out for kids who are caretakers.**
    - Sometimes kids want to live with someone because they feel responsible for younger siblings, or because they care for the guardian or parent.
    - Also, take note if you see the child comforting a parent or guardian. This can indicate an unhealthy role reversal with the child parenting the adult.
7. **Get details when kids allege abuse.**
    - Ask for every little detail about every little incident. Ask where, when, how, with what, why, and in front of whom.
    - If they cannot quickly recall details, beware that the child may be alleging abuse just to get to live where they want or has been coached.
    - Be wary of general terms like "beating" or "whooping". Different cultures and generations use these terms to mean different things. Get details before jumping to conclusions. Talk to CVLS about any concerns.
8. **Don't let the child think they get to decide.**
    - Be sure to tell the child that they don't get to decide, that their parents and grandparents don't get to decide, that only the judge decides. But tell them, that since you represent them that you want to know what they think.

ADDITIONAL INVESTIGATION

Verify: After you conduct your initial interviews, do everything you can to verify *everybody's* story. Ask for names, addresses and telephone numbers of people who can corroborate information you receive. Consider getting other sources of information, like school records or information from teachers, counselors, therapists; DCFS records, employment records and references, tax returns, pay stubs, other court case records, copies of leases, public aid documentation, child support records. A party's willingness and effort to provide you with requested documentation can be indicative of their commitment to the minor's welfare.

Criminal background checks:
As of July 2021, the criminal background check process in the Probate Division has changed. **At present, all parties and adults in the home are required to submit to, and pay for, a full fingerprint search through a private provider.** CVLS will send you further information and instructions for the parties when you take a case. We realize this process is burdensome and cost prohibitive for low-income families, and we are working with the court on an alternative, free process.

It is common in these cases for parties to have criminal histories. Remember that an arrest or even a series of arrests does not indicate guilt. People of color are disproportionately represented in both the juvenile and criminal justice systems and are arrested at higher rates. A criminal arrest or even a conviction does not automatically disqualify someone from caring for a child. However, a pattern of involvement in criminal activity and/or recent criminal activity may demonstrate that the person is not living in a safe environment for children. This is especially true for crimes that would endanger children, such as possession of weapons, domestic violence, and other more violent offenses. Felony convictions involving danger or threat to children are a bar to guardianship.

When reviewing criminal records, convictions may be listed as one of the following: Finding of Guilt (FG), Guilty Plea (PG), Conditional Discharge (CD), Probation, Time Considered Served (TCS), Periodic Imprisonment, Home Confinement or any time spent in Department of Corrections. Every

once in a while, something will get transferred from a misdemeanor to felony court and you'll see some notations about that. If it's confusing, write everything down and contact a CVLS attorney to sort through it with you.

- If the defendant was not convicted, the following options may be listed: **Finding no probable cause (FNPC)-** This means that there was no probable cause to believe that a crime was committed or that the defendant committed it.
- **Nolle prosequi (NOLLE)-** The State's Attorney made a motion to dismiss the case without the right to reinstate or bring back the charge.
- **Stricken with leave to reinstate (SOL)-** This is a dismissal but the State's Attorney has/had the option to bring back the charge.
- **Nonsuit**- The State has not made a sufficient case against the defendant
- **Finding of Not Guilty (FNG)-** The defendant was found not guilty after a hearing..
- **Supervision**- There are certain misdemeanor offenses where a final order is temporarily suspended until the defendant completes a period of supervision. If the defendant does this successfully, then the case will be dismissed.
- **Probation**- The court can also temporarily suspend its order for first time drug offenders and place the defendant on probation. If probation is completed successfully, the charges are dismissed. Most other types of probation, however, follow a conviction.

DCFS Records

Similarly, the court will run a DCFS records search on the petitioning party only, but the court will want to know the DCFS history of other adults in the home. DCFS records are easy to obtain. If you do not receive them with your initial case documents, email CVLS staff and we will reach out to our DCFS liaison to obtain the necessary information.

DCFS investigations will result in a finding of either "indicated" or "unfounded," which is essentially like guilty or not guilty. Indicated means that there was enough evidence to show that the offense happened, and unfounded simply means there was not enough evidence to prove it. Each offense has an assigned number in the DCFS system, as well as a retention period, meaning how long the record stays in the DCFS system. Indicating findings of, for example, inadequate supervision, stay in the system for five

years, while more serious offenses can remain on file for up to 50 years. Remember that DCFS is an Illinois state agency only, so DCFS searches are limited to cases in the state of Illinois that are within DCFS 'retention period for each offense. When you interview adult parties, be sure to ask them about their past involvement with the child welfare system, if any. Just because a search comes up clean doesn't mean they have had no prior DCFS involvement. For parties with child welfare involvement in other states, we have had mixed results reaching out to those departments directly, but it's worth trying. Contact CVLS if you need help trying to obtain out-of-state records.

The document used for a DCFS background check through the court is called the CANTS form. If the court requests that a party submit that form to the clerk, you can find the form in the courtroom, on the CVLS website under the GAL for Minors section, or by emailing CVLS staff.

Additional Interviews:

Other adults in the home, school staff, and counselors/therapists are often the most important sources of information for a GAL. It's essential that you interview stepparents, partners and others who live in the home. You need not conduct the same level of interview as used for the parties, but it is good to have at least one conversation with them to obtain general information. Also, have them undergo the same criminal and DCFS background checks as the parties. Sometimes you might find that a mother or guardian doesn't have a criminal record, but that her significant other has an extensive one. If someone objects or refuses to participate in this process, consider that a significant factor in your evaluation. Make sure the party understands how important this is and that she or he is responsible for ensuring their cooperation. It is not your job to chase down people who may be an integral part of the child's life.

The court order that appoints you requires each party to cooperate in producing pretty much any information you request. That means when you decide you want some third-party information, the parties must cooperate and get you the information or make it possible for you to obtain it. If the party does not, that same order can be used to get most records directly from the source.

Although face-to-face interviews provide you with the most valuable information, including the opportunity to observe their demeanor, sincerity, and body language, a lot of other interviews can be conducted by telephone. Don't be shy—you'll be amazed with information you obtain by talking with

other relatives, neighbors, the child's teachers, etc. Have the guardian or caretaker let the school know you may be reaching out for information.

Schools: When you contact a school, call the main line and ask to speak to the principal or vice principal. Telling the main office you are an attorney representing a student at their school is normally enough to get someone from administration on the line, or leave a message for the principal and they will normally call you back. If needed, send them a copy of the GAL appointment order, calling their attention to paragraph D which authorizes the release of information. In most cases, you will get the information you seek. Contact CVLS if you have any issues, or if you need a letter on our letterhead naming you individually as the GAL.

Therapist and doctor interviews and records: You do not need to obtain medical or mental health records in every case. If one of the parties has a health or mental health condition that impacts or might impact their ability to care for the child, then it might be wise to look into medical records. If you want to speak with the party's therapist, counselor or doctor, you will need a signed release. Tell the party to get and sign a release from the professional's office and send it to you or ask CVLS for a general release form. If the party fails to follow through and you really need the information, ask the court to order the party to sign the release. In that case, contact the professional's office in advance for their form release and bring it with you to court for the signature.

Requesting medical records from the source can often involve a cost. Be sure to ask in advance if they will be charging you, and if they can waive the fee since CVLS is a non-profit organization. We often have success in getting fees waived. Contact CVLS if you have any questions about this or need help navigating the process. CVLS can pay records fees when absolutely necessary and when we have prior notice.

The Home Study: Sometimes, one or both sides raise an issue about the quality of the other party's home. Although you are never obligated to conduct a home study on your own, it can be helpful to see a party's home. If you are uncomfortable conducting your own home study but feel it is necessary in your case, please contact CVLS and we can perform a home study. Staff will visit the parties' homes, and write a report detailing his or her observations. CVLS capacity to perform home studies is

extremely limited; please allow staff at least 60 days to conduct a home study and talk to staff prior to promising a home study will be conducted to the court or parties.

VISITATION, RESOURCES AND THE VALUE OF TIME

Some guardianship cases resolve quickly. For instance, you may have a case involving an uncontested petition for guardianship in a situation where both parents are deceased. You investigate, find the proposed guardian to be appropriate, and the case is closed. However, other types of cases take more time. Often, you can't really make a recommendation until you have had a chance to see how the parties interact with the child, whether or not they can provide for the child or maintain the necessary stability, and if they are looking out for the child's best interests.

Often in parental discharge cases we cannot recommend that a child be returned to the parent – yet. However, you may believe that the parent could regain custody if she or he has more time to stabilize his or her life or to develop an appropriate relationship with the child. Sometimes, you, as GAL can give the parent a road map to follow, in the form of a list of recommendations for next steps. It can be helpful to propose these suggestions to the court and have them included in an order if the court approves.

Visitation

In nearly every case, you will need to address the issue of visitation. Visitation runs on a spectrum from supervised, which is the most restrictive, to extended overnight, which is essentially living unsupervised with the parent for a significant period of time. The spectrum of options is outlined below.

Often, no matter how the case comes into court, visitation is the real issue. Either a parent isn't getting it, the guardian doesn't like it, or a combination of both. Visitation will probably get most of your attention after the initial interviews. It can also make your ultimate decision easy. You can use visitation as a test for the parties, not only to determine a parent's commitment and reliability, but also to get insight to

how cooperative the guardian is. Non-custodial parents still have a right to a relationship with the child, even if the guardian doesn't approve of that relationship. A guardian who is uncooperative and overly rigid is not going to work in the long term if the parents diligently exercise their right to visitation.

Parents have a right to visit and enjoy a relationship with their child and the guardian is charged with making that happen. However, the guardian has an obligation to keep a child safe. If there is a real threat of physical, mental or emotional harm to a child, the court can order that visitation be restricted, supervised, or in rare situations, suspended. Ultimately, visitation will be a case-by-case analysis based on the best interests of the child.

Factors to consider when determining appropriate visitation:

- Initial determination of any valid safety issues. If there are credible allegations that visitation would not be safe for the child, postpone the issue until you can determine all of the facts, or recommend supervised visitation. If visitation is ok with limits, get a visitation order with appropriate restrictions.
- How old is the child?
- How involved has the parent been in the child's life? Has there been regular contact? Have those visits been a positive experience for the child? Why or why not?
- How stable is the parent and his or her living situation? Does the parent understand any special needs or challenges the child may have?
- Tip: The younger the child and the less involved the parent, the more limited visitation can and should be. Infants and toddlers need naps and regular schedules. Watch out for parents who insist on day-long visits outside of the home for very young children. They may not be considering what's best for their child.

Visitation commonly expands: As the child gets older and more able to communicate, and the relationship between the child and adult betters, visitation can expand. However, don't feel compelled to agree to overnight visits, absent agreement by all parties, until you are comfortable and you believe the child will be ok. Usually, you will want to have completed a good part of your investigation before you authorize overnight or extended visits. Home studies are often a good way of determining if a home is safe for overnight visits. Follow your instincts when deciding this issue.

When the parent hasn't been involved in the minor's life: It's also common, when a parent has been out of the child's life for an extended time, to start with short visits that gradually expand as the parent and child get reacquainted. It is highly atypical for a parent to go from having supervised visitation to regaining custody in a single step. Know that most parents will have to go through the visitation continuum until they are able to show that they can handle the least restrictive visits.

Monitor behavior: Once you set up visitation, you'll want to watch to see how the parties work together (or not) and who, if anyone, is keeping the child's best interests in mind. Have the parties regularly report to you, whether visits went well or if there was a problem. You don't have to suffer through lengthy discussions every week. Tell them to leave you voicemail or email updates on a regular basis. Keep a record of the visits, good and bad. Make sure they understand that you expect to hear immediately if there are problems and that if you don't hear about them at the time, you won't believe it later. Clear instructions and regular monitoring can eliminate some of the biggest problems of the "he said, she said" issues. Also, your visitation order can mandate that parties immediately notify you if there is any problem with visitation.

SUPERVISED VISITATION

Supervision of visitation can occur in three ways: (1) by a family member or friend, (2) by a therapist or counselor, or (3) by an agency.

Supervision by family member or friend: In many cases, supervision is needed, but professional services are difficult to obtain, or simply not necessary. Often there are neutral family members or family friends who get along with everyone and who can play the role of peacekeeper. Those people can be good candidates to serve as supervisors, if they are willing. You can ask each party to provide you with a short list of proposed supervisors. You can share those lists with all parties and discuss options to arrive at a decision. You will want to have a conversation with the proposed supervisor to ensure that person knows they have been selected, understands what the responsibility entails, and will protect the children's interests above those of the parties. The court will want to run criminal and DCFS background checks on any proposed supervisor, so be sure to obtain those results before authorizing that visits take place. You will want to name the supervisor in a court order outlining the visitation schedule and parameters.

Supervision by a counselor or therapist: Family therapy can be a very effective and constructive form of visitation that helps a parent and child improve their relationship. This can be useful in cases where parents may lack the skills or experience to interact appropriately with their children, or where there is past hurt or trauma that needs to be addressed for the parties to move forward. It's a good idea to speak to therapists before the sessions start to give them an overview of the situation and confirm their willingness to communicate with you about the parties 'progress. Contact CVLS and send us the addresses of the parties who need therapy, and we can provide you with a list of potential community-based services that are free or low cost.

Therapeutic Supervised Visitation (TSV) at The Chicago School of Professional Psychology: CVLS partners with The Forensic Center at The Chicago School of Professional Psychology ("The Chicago School"). In some cases, it is appropriate to refer the parties to The Chicago School for free or low-cost specialized services. However, as there are a number of factors to consider before referring a case, you must discuss the option with CVLS before making the referral.

One service offered by The Chicago School is **Therapeutic Supervised Visitation (TSV)**. The TSV process begins with one-on-one parent coaching sessions with a therapist, in which the therapist works with the parent to recognize the impact that separation has on children, as well as to set goals for therapy and for the parent's relationship with the child. The therapist determines the frequency and duration of the parent coaching sessions and only after the therapist determines the parent is ready, will the child be introduced into the sessions.

The Chicago School may be an appropriate referral for other visitation or parenting issues that arise as well. For example, if the parent has a history of mental health issues, The Chicago School may be an appropriate referral for a psychological evaluation. The key here is to check in with CVLS to ensure that you are referring families to suitable services and drafting orders in such a way that you attain the desired outcome.

Note: The Chicago School is located downtown, and services are limited to weekdays. Evening appointments are scarce and hard to obtain. This schedule and location may not be possible for

many families. Community-based services are always preferred, but the more intensive services offered by the Chicago School are not always available for free in community settings. **Currently, the Chicago School is offering many services remotely, including individual therapy.*

Supervision by an agency: If you feel that visitation should be supervised, for any length of time, you don't have too many options. There are only a few free or low-cost supervised visitation centers in Chicago. Supervised visits are very hard on parents and children. They are very restrictive, both in terms of time--usually only one hour per week--and in terms of the ability of a parent and child to relate. They should be used only when absolutely necessary, and for as limited a time as possible. You can advise the judge that you are recommending supervised visitation and why, either orally or in a GAL report. If the judge agrees, make sure to memorialize this in a court order. A sample order is in the **Appendix**.

- **The Branch Family Institute**, 11111 S. Western Ave, Chicago, IL 60643, (773) 238-1100, https://thebranchfamilyinstitute.org/

- **Apna Ghar,** 4753 North Broadway, Suite 518, Chicago, 60640, 773-334-0173, www.apnaghar.org

- **Metropolitan Family Services Midway Center**, 3843 W. 63rd St., Chicago, IL 60629, 773-884-3310, http://www.metrofamily.org/community-centers/midway/ (there has to be an issue of domestic violence for parties to qualify for free services at Metropolitan Family Services, talk to CVLS if you have questions)

- **Mujeres Latinas En Accion, Erie Neighborhood House**, 2124 West 21st Place, Chicago 60622, 773-890-7676 (Spanish speaking) www.mujereslatinasenaccion.org

How agency-supervised visitation works: Include in a court order that the parties should contact the center within a set period of time. The visitation center will interview the parties and give them a regular time and date for visits. Many visitation centers require parties to pay for services, and parents are typically responsible for the cost. The price of supervised visitation may make the service cost prohibitive for the parent in the case. Be sure to specify in your court order who is responsible for paying the center.

The guardian brings the child into the center and hands him off to one of the workers. That person accompanies the child to the visitation room where the parent is waiting. The guardian and the parent do not see each other. The worker stays throughout the visit, and will intervene if there is inappropriate behavior or conversation, but will not otherwise participate. When the visit is over, the worker follows the same routine, taking the child to meet the guardian while the parent leaves through another door. Workers will end visits early if the child becomes upset or a problem develops. Workers keep logs of the visits, describing problems or concerns. You can also talk with them to get information about the visits. In addition, the worker can testify in court with a subpoena.

Other Restrictions on Visitation

Sometimes visits don't need to be supervised, but need certain limitations in order to protect the child. Typical restrictions might include one or more of the following:

- ➢ Daytime only visits (no overnights)
- ➢ Visitation at a public place (McDonald's, public library or park, etc.)
- ➢ Limitations on who else can be present
- ➢ Restrictions on length of time

It can be difficult to find acceptable places for visits outside of the parent's home. Don't despair. Be creative. One of our favorite places for visitation is a library. In addition to being free and open to the public most weekends, they provide a natural way for a parent and child to bond. The guardian can sit nearby without hovering or disturbing the parent's time with the child. In the summer, parks and playgrounds are another natural visitation site. In the winter, indoor shopping malls can provide a place for a parent and child to walk, talk and snack. Sample visitation orders are in the Appendix. Pick and choose the requirements or limitations you feel are appropriate. However, unless the parties work well together, make your visitation order specific as to when, where, who and how. Specificity allows everyone to know exactly what his or her rights and responsibilities are and allows you to monitor compliance with the order. Compliance with a court order mimics the kind of follow through necessary for any person who has to shepherd a child through a school, an illness or life in general.

Drug Tests

Unfortunately, GALs regularly encounter adults struggling with substance use disorders or addiction issues. In the past, the court could order free drug testing for low-income parties through its adult probation department, but unfortunately this free service is no longer available. You can ask the Court to order a party to submit to a hair follicle drug test through a private provider like Quest, but the party will be responsible for the costs, and tests are expensive. Consequently, you should only order a drug test if a party's current sobriety is in question.

Marijuana is legal in the state of Illinois. Marijuana use should be treated similar to alcohol use—excessive use especially in front of minors is inappropriate. Alcohol and marijuana should be used responsibly and in moderation.

Service Plans

Sometimes you question a parent's ability to parent or to maintain a stable life. You have a parent who admits to previous drug use, but claims to be clean and raring to do the full parenting thing now. You're not too sure that the recent conversion is true or, if it is, that it will last. What can you do? Consider a service plan type of court order. This is an order that lays out specific responsibilities for a parent with the understanding that, once completed, you will consider a recommendation to terminate the guardianship. This is a road map, so to speak, for a parent who really is trying to do the right thing, but needs time and guidance. In most cases, this will include professional help such as drug treatment or counseling, anger management or parenting classes, family therapy, etc. It can also include practical requirements such as stable income and housing. It usually includes graduated visitation, involvement with the child's school or health care professionals and regular reports. These service plan cases take a long time to resolve. Free and low-cost service providers often have waiting lists, and it can take many months to secure stable housing and employment. However, service plans can help parents understand a clear path to regaining custody of their children, and help manage expectations for a realistic timeline. Reach out to CVLS for guidance on when to implement a service plan, and what an appropriate plan might look like in your case. Normally when several steps are needed, it's best to work toward case closure, and recommend that the parent petition again in the future once the parent is more stable.

TIPS FOR USING TIME TO YOUR ADVANTAGE

#1… Be sensitive to the impact of time on the family

It is a legitimate tactic to either speed up or slow down a case so that you get what you want for the child. However, you need to make this decision consciously and with an open mind to the impact it has on the entire family and the court. When cases drag on, the stress of uncertainty and conflict among family members can cause stress for both the adults and children involved.

#2… Slow it down to get services or visitation that the child needs

When you meet with the child, you may find the child is in need of help or services, be it related or unrelated to the issue at hand. Children from low-income families may have experienced trauma. They may need counseling, medical or dental care, mentoring, tutoring, or other resources. As long as a guardianship remains in place, the court has jurisdiction over the parties and the minor. At the request of the GAL, the court can order either party to provide needed services for the child.

#3…Use time to help with transitions

When a guardianship is discharged and a child is returned to a parent, the court loses jurisdiction. Once that happens, the role of the GAL is terminated, and the court cannot order the parent to do anything. Therefore, if you determine the child needs services that haven't been provided, you can slow the case down and order the guardian or the parent to obtain them. This can be a good test for the parent, to see if they are indeed ready to have the child returned.

Time can also help build a relationship between parent and child. When transitioning a child back to a parent, it is a good practice to slowly expand visitation over time, allowing time for each stage of the visitation spectrum, as appropriate. In some cases, GALs will recommend an extended visitation period with a parent, such as a full summer, as a trial period of sorts, before ultimately discharging guardianship.

Sometimes it is easier for a child to make a clean break to a new home. Sometimes it is easier to have a gradual transition. You need to determine it on a case-by-case basis. If the child is doing poorly in school, or the guardian seems to have given up, or it is the beginning of the school year, or the parent has been intimately involved with the child for some time, consider making a quicker move. If it is the beginning of the school year, and the child is doing well, and hasn't had much time with the parent, or a child is about to graduate, use more transition time.

Remember that it is difficult for a guardian to continue to care for a child whom they know will be leaving their home soon. If you are going to delay the process, you don't always need to tell the parties that you've made up your mind. Just continue the case, and tell the parties you need more time.

If you want to give the parent a trial run at caring for the child day to day, you can enter an order giving the parent extended visitation, and then just have the child be with the guardian every other weekend. This allows you to test the waters, and also doesn't lose the court's jurisdiction. You can place the child back with the guardian if it doesn't work out.

In determining whether to transition slow or fast for the child, you should talk to as many family members, or school personnel that are not directly involved as possible. If you ask the adults involved, they often give you the answer that is easiest for them, and not for the child. Talk to CVLS if you would like guidance on an appropriate transition or visitation plan.

APPEARING IN COURT

Both CVLS and the Probate Court understand that when you volunteer to be a CVLS GAL, you might not have much familiarity with courtroom procedure. We are here to support you, and there are no dumb questions. If you are an attorney with little experience in the courtroom, this section should answer your basic questions. If you still have questions about court procedures, please feel free to contact a CVLS attorney for more help.

Checking in with the clerk. When you first arrive in courtroom 1806 of the Daley Center, you will see several seats to the right of the judge's bench. The court clerk sits directly next to the judge and the court coordinator sits on the end. When you enter the courtroom, let the clerk know that you are checking in as the GAL on your case. If all of the parties are there and you don't need to talk to anyone, tell the clerk that you are ready to be called. If you need a few more minutes, tell her that you'll get back to him when you're ready. (Currently, check in will be via Zoom when the judge calls you in from the waiting room).

Stepping up in front of the judge. The first time you appear in front of the judge can be a little scary or intimidating. Remember that the judge knows that CVLS GALs are volunteers and typically will work with you.

The judge will ask the parties to hand their identification to the clerk. Once the clerk hands the I.D.s to the judge, she will ask everyone to identify themselves. This is when you state your name and that you are the GAL. Tell the judge who else is present and why you are here. An example might be, "Good morning your honor, Sally Smith, volunteer attorney with CVLS, serving as the GAL for the minor child, Joe Jones. Also present today are mother, Julie Jones, and maternal grandmother, Jill Jones. We are here today on mother's petition to discharge guardianship." Don't be afraid to be assertive, confident and persuasive when you are speaking to the judge.

Tell the judge the status of the case or your current recommendations. The judge will typically allow you to speak first and then hear from the parties. As an advocate for the child, it is typically best for you to tell the judge what's going on before parties start putting in their two cents. When a party

does speak, don't be afraid to rebut what they're saying, especially if it's untrue and/or you have information that directly contradicts it. You want the judge to know that you've done your investigation and you are aware of the issues. When the judge says what she is ordering, take the opportunity to thank her and step away. If you don't, the parties may think that they can stand there arguing all day. Before stepping away, you should ask the judge how much time she wants before the next court date.

The Order. In some courtrooms, parties can submit draft orders to the court. Judge Miller prefers to write her own orders, so you should not submit a draft order unless you are submitting an agreed continuance order (see below). The court will issue an order and send the order to CVLS. We will forward to you via email when we receive it. Feel free to circle back with CVLS if more than a week has passed and you have not received your order. <u>You are responsible for sending the order to the parties</u>.

***Zoom Court.** Currently all cases in 1806 are being heard over zoom. Login instructions will be sent to you when you take a case. The judge will allow everyone out of the waiting room and will check everyone in herself. Please tell her the child's name, that you are GAL, and (if asked) who you expect to appear. You will be placed back in the waiting room until your case is called. All CVLS GAL status dates are heard at 9am and trials take place at 2pm.

Agreed Orders. If you need additional time for your investigation, then you might want to consider seeking an agreed order to continue the matter. The Court will entertain agreed orders to continue a case if there is nothing substantive to the order and all parties are in agreement to continue the case. Email a draft order to the judge and <u>include the case name, number and court date in your subject line</u>. CVLS has sample agreed orders since certain language is required. Please note in the body of your email how much time you need before the next court date (or any date(s) you and the parties are unavailable). This order must be sent **<u>at least two business days prior to court</u>**. If the order is timely submitted, neither you nor the parties need to appear in court. If you obtain agreement from the parties for the continuance less than two days in advance of court, then you can waive the parties' appearance and appear by yourself to obtain the continuance. All parties and the GAL need to appear for any substantive changes to visitation or the minor's living situation, schooling, etc. If you have questions about whether your situation is appropriate for an agreed order, please contact CVLS.

The GAL Report

Your next charge is to write a recommendation to the court. There are no hard and fast rules for this document. You can develop your own style as long as you include the relevant information, make a recommendation, and tell the judge why.

This can be a very powerful document. The judge will read your report before any evidence has been introduced. You control what the judge hears first about the case and in what manner she learns it. If you want the judge to give your ideas credence, the quality of your report needs to reflect that. It can be a very persuasive tool, but there also needs to be a balance between persuasion and information. Remember also that this report serves as a record both to the court and to CVLS. CVLS remains as GAL on a case until the child is returned to a parent or the child turns 18. That means that if your client is two years old when you recommend an initial guardianship, there is a good chance that a CVLS GAL will work on this case again once, twice, or fifteen times during the life of this child. When you write a clear report, you give a future GAL the information needed to handle the case the next time around.

The GAL report is often the catalyst to settlement. Be aware that the dynamics of the case will change after the parties read your report. Up until then, they've been on their best behavior, attempting to make a favorable impression. Now, you have inevitably made enemies of at least one side.

Invariably, you will say something in your report about each side that will be upsetting. It is simply fallout from your role. To be a good GAL, you need to be judgmental and someone's going to end up disliking you or, at least, your opinion.

Tips for Writing a Report that the Judge Will Use and Follow

#1 ... Before you sit down to write your report, talk to us!

Call us to discuss your case. Make sure you're on the right track before you put a lot of effort into the report. You may have missed something, or you may not be aware of some particular issue that pushes the judge's buttons. We practice in this courtroom everyday, so we are intimately familiar with this area

of the law and with the judge's nuances. Even after many years of practice in this area, CVLS staff still discusses each other's cases before writing our reports.

Do not feel bad for bothering us or using us. We are here to support you. It is our job. And we like it.

#2…Make it easy to read.

- Use plain language.
- Rarely do you need to quote the statute or case law.
- Use either the party's first names or their title as an identifier.
    - Referring to parties by their title is often the easiest and the least confusing. Refer to them as Mom, Dad, Guardian, and Grandmother.
    - Keep the identifiers consistent throughout the report.

#3… Include the essential information on the first page.

The first page should include a section entitled, History, Introduction, or Overview: It should give a brief synopsis of the who, what, where, when, why and how. The Judge should be able to look at your first page and know what the case is about; how old the child is, who the parents are, the extent of their involvement, what is pending before the court, and who is represented.

Please see the sample GAL report in the appendix for a template on how to write the first page.

#4… Keep your opinions to the end

The Investigation section should be objective, while your analysis and conclusion should be subjective. The Investigation section is for information purposes only, much like the "facts" section in a brief. Save your persuasive arguments for the recommendation or analysis and conclusion. This will save you from appearing biased to both the parties and the judge.

#5… Be sensitive to the report's impact

The parties understand that your report has a big impact on the judge. They can see from sitting in the courtroom that the judge is likely to follow your recommendation. You can make a strong recommendation without insulting or degrading either party.

Try to give some credit to everybody without being sappy or appearing disingenuous. If you are removing a child from a guardian, make sure to point out that the guardian has done the best she could to care for someone else's child, and her effort deserves some gratitude. If you are denying the return of a child to a parent, try to put a positive spin on whatever progress the parent has made, however minimal.

#6… Be discreet

There is no confidentiality in your investigation, so you may repeat anything you are told during your investigation. On the other hand, remember that both parties are part of the child's life, and it is never in the child's best interest for them to be fighting. Don't tell what isn't necessary. If it is, try not to restate something as fact that isn't. Until you get to your analysis, use language like "She alleges", or "She states".

#7…Consciously decide whether to give advice for the future.

When you are denying a parent's Petition to Discharge, you need to decide whether you want to guide that parent in the right direction, so that someday she might regain custody. Remember that a guardianship does not terminate parental rights, and parents always have a continuing right to try and terminate the guardianship.

If a parent's background is so horrendous, and the child is thriving in the care of the guardian, you may not want to give the parent a road map to regaining custody. You still must have concrete reasons for denying the discharge. On the other hand, guardianships are not intended to last forever; they are not adoptions. In most cases when you deny a parent's Petition to Discharge, you should state in your

report what steps you would want to see from the parent before you would consider changing your recommendation. Whichever way you choose, make a conscious choice. Don't include or exclude information by chance. .

#8… Let us review it

Use us again. Even if time is crunched, email us a copy of your report to review. We will review the report as quickly as possible and get it back to you with edits and suggestions. Just like sometimes we know the hot issues to look for, sometimes we know the hot words that should or shouldn't be used.

#9… Send a courtesy copy to the Judge

You must send a courtesy copy of your report to the judge **at least two business days before your court date**. This can be done via email to Stephanie.Miller@cookcountyil.gov.

TRIAL

- Most contested cases in 1806 are now ultimately being set for trial.
- The court will no longer make a ruling on the status call for cases involving petitions for guardianship or petitions to discharge where the cases are contested and the parties are unable to reach an agreement.
- Trials are heard in 1806 (currently via Zoom) from 2pm to 5pm. Most pro se trials are set for just one day, but some cases may require multiple days. Trial dates are not always consecutive. You will typically be able to select your trial dates with the court.
- If you feel your case is headed for trial but the parties might be able to reach an agreement, speak to CVLS or the judge about sending the parties to mediation.

Role of the GAL at Trials

- The GAL has a limited role in minor guardianship trials. After a thorough investigation and report with a recommendation, most of our work is complete. A trial is primarily an opportunity for the parties to be heard and to present evidence and testimony to the court.

- The GAL normally provides a brief narrative summary of the GAL investigation, recommendation, and reasoning.
- The court typically takes judicial notice of the GAL report and its contents.
- The GAL may be called as a witness by the parties, but the GAL does not call his/her own witnesses or present evidence.

Pre-Trial Protocols

Pre-Trial Procedure

- When the case is set for trial, the judge orders the parties to tender witness and exhibit lists at least one week prior to trial, or by a specified date.
- The parties are responsible for sending that information to the judge and to you. Alternatively, you may decide to collect this information from the parties and send it to the judge. However, this is not required of the GAL.
- You should send a courtesy copy of your GAL report to the judge one week prior to trial or by the date the witness and exhibit lists are due.
- It may be helpful to have a pre-trial call with pro se parties to explain the general format and procedures of a trial, such as that a party can question the other party's witnesses. Many parties have limited or no trial experience, so a pre-trial conversation can help the trial run more efficiently. However, this is not required and is within your discretion on whether this would be helpful. Do not give the parties legal advice; this should be limited to procedure only.
- On the date and time of trial, the judge will first hold a mini pre-trial conference during which she will ask the parties if they have read the GAL report and if they agree with the recommendation of the GAL. This is a last-minute opportunity for your parties to settle the case amicably. If the parties are still not in agreement, the trial will proceed.
- The judge explains the basic trial format and says the GAL will testify or provide a statement. Throughout the trial, the judge instructs the parties on the law and holds the parties to evidentiary standards, such as laying the foundation for exhibits or witnesses only testifying on matters about which they have firsthand knowledge.

Trial Format:

- For an **Initial Petition for Guardianship**, the court will first address whether the parent is willing and able to parent the child. If the court finds the parent unwilling and/or unable, the Petitioner must prove that it is in the best interests of the child that guardianship be entered.
- For a **Petition to Discharge**, it is the burden of the parent to prove a material change in circumstances since the guardianship was entered.
    - When a parent has not proven a change in circumstances, the judge bars the parent from presenting evidence on best interest.
    - If after testimony you feel the parent has not proven a change in circumstances, you may ask the court for a directed verdict. If the court enters the directed verdict, the trial is over. In some cases, it is possible the court will rule this way even if the GAL does not request a directed verdict.
    - If the court finds that the parent has proven a material change in circumstances, the burden shifts to the Petitioner to prove that despite that change in circumstances, it is still in the best interests of the minor that guardianship be entered.
- For **Cross Petitions, Petitions for Visitation**, or other issues, the best interests of the minor will govern, and the trial is less formally structured.

Witnesses

- All parties have the opportunity to call witnesses. The GAL does not call our own witnesses.
- The GAL has an opportunity to direct questions to all witnesses after the parties have conducted their direct and cross examinations.
- The GAL may also object during any witness's testimony.
- The judge also cross-examines each witness.
- In the absence of an objection by counsel, the judge has not been limiting the cross-examination to the scope of the direct examination.
- Further, the judge may impeach the parties using their prior statements in the GAL report.
- If a party wishes to call the minor as a witness, the GAL may object to this prior to trial and ask that the court conduct an *in camera* interview of the minor.

Exhibits

- The parties must email exhibits to the court at least one week in advance of trial, or by the date specified by the court. Alternatively, while not required, the GAL may also choose to collect exhibits from the parties and send them to the court.
- The judge expects the parties to lay the foundation for exhibits.
- The judge also has restricted parties from introducing social media posts or text messages as exhibits when the party cannot prove who in fact wrote the messages.
- DCFS reports are normally for the eyes of the GAL and the court only. The contents of a DCFS report may be summarized in a GAL report but need not be attached as exhibits. If any of the parties request copies of the DCFS records, or ask to use them as exhibits at trial, please send those DCFS records to the judge for her decision on whether or not they should be distributed.

GAL Recommendation

- The judge generally asks the GAL to summarize their recommendation and reasoning rather than framing this as testimony.
- Before doing so, the GAL should ask the court to take judicial notice of their GAL report, and the judge will take judicial notice of the report and its contents.
- While each party may question the GAL, the judge often objects to most of these questions.
- When needed, typically in contentious cases involving counsel, the GAL may be represented by counsel, normally a staff member from CVLS or, if preferred, a colleague from your firm. This is normally not necessary when all parties are pro se.

Ruling

- In most trials, the judge will rule from the bench at the conclusion of the trial.
- In some cases, particularly in challenging cases, the judge may want to review the evidence and may issue a ruling after the trial.
- In either situation, the judge will write the order and send it to CVLS or to you via email.
- Please distribute the order to all parties via mail or email in a timely manner.

- After your trial, please email CVLS with a copy of your order, and please complete a case closure form so we can close your case in our database.

CVLS Supervision

  - If your case gets set for trial, please let CVLS know.
  - CVLS staff presence at trials is not always required, especially in pro se trials, but we are happy to attend and assist when needed or requested.
  - Please reach out to us with any questions about your case or trial.

Rebekah Rashidfarokhi, Director, Guardianship and Immigration Programs for Minors
rebekah@cvls.org
312.332.7399

Debi Martin, Supervising Attorney, GAL for Minors Program
dmartin@cvls.org
312.332.8257

Morgan Smith, Program Coordinator
msmith@cvls.org
312.332.8252

APPENDIX

ORDER APPOINTING GUARDIAN AD LITEM

IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS
COUNTY DEPARTMENT – PROBATE DIVISION

ESTATE OF:
Jane Doe
A MINOR

No: 15 P 91234

ORDER APPOINTING GUARDIAN *AD LITEM*

This matter came to be heard on: 2/7/15

Petition for discharge of guardianship by Mary Doe.

Present in Court: petitioner, Mary Doe
guardian, Keri Doe

And the Court otherwise being fully advised,

HEREBY FINDS:

A. The moving party Mary Doe, is related to the minor as mother, and resides at 2103 N. Belmont St., Chicago, IL 60610
Phone numbers: Home: _____ Work: 312-310-1234 Cell: 773-130-1234
And is represented by _____
Address: _____
Telephone Number: _____ Fax: _____

B. The responding party Keri Doe, is related to the minor as guardian, and resides at 2465 S. Addison Ave., Chicago, IL 60609
Phone numbers: Home: _____ Work: 312-606-1234 Cell: 773-906-1234
And is represented by _____
Address: _____
Telephone Number: _____ Fax: _____

C. The name(s), date(s) of birth, and current residence of the minor(s) are as follows:

Name	Date of Birth	Current Residence
Jane Doe	6/19/01	2465 S. Addison

IT IS HEREBY ORDERED:

A. Chicago Volunteer Legal Services (CVLS) is appointed guardian *ad litem* of the above named minor(s), and shall conduct an investigation of the minor's best interest and make a recommendation to the court.

B. **An attorney from CVLS will contact each party. If you do not hear from an attorney within thirty days of your next court date, or if your address or telephone number changes, you should contact CVLS immediately at:**

Chicago Volunteer Legal Services
33 North Dearborn Street, Suite 400
Chicago, IL 60602
312-332-1624
(fax) 312-332-1460

C. Each party shall fully cooperate with the investigation and provide all requested documentation, information, and consents to obtain information regarding the minor, the parents and other interested parties.

D. CVLS is authorized to review and copy any records relating to the minor. These records include: school, medical, psychological, DCFS, juvenile court, financial, any other agency involvement, and any other pertinent records.

E. This matter is set for status on April 03, 2016 at 11 a.m. in Room 1806 of the Richard J. Daley Center.

ENTERED
JUDGE [illegible]-1600
FEB -7 2016
DOROTHY BROWN
CLERK OF THE CIRCUIT COURT
OF COOK COUNTY, IL
DEPUTY CLERK

ENTER:

Judge 1600
Judge's No.

SAMPLE 1ST LETTER

May 16, 2017

Ms. Patricia F
XXXX C Drive
Chicago, IL 606xx

Re: Angel and Damien Jones
06 P 0000

Dear Ms. F:

The Honorable Judge Stephanie Miller appointed my organization as guardian *ad litem* (GAL) of the above minors on November 25 when you petitioned to be appointed as their guardian.

I must meet and talk with you before the next court date. Please call me as soon as you receive this letter so that we can make an appointment. My number is XXX-XXX-XXXX. If I am not in when you call, leave a telephone number and a time when I can reach you.

I look forward to hearing from you.

Very truly yours,

Margaret C. Benson
Guardian *ad litem*

SAMPLE 2ND LETTER

May 16, 2017

Ms. Patricia F
XXXX C Drive
Chicago, IL 606xx

Re: Angel and Damien Jones
06 P 0000

Dear Ms. F:

You have not called to arrange an appointment for you to meet with me. It is essential that you do this immediately.

I am enclosing a copy of one of the orders appointing CVLS as the guardian *ad litem* in this case. Please note that Paragraph B on page 2 orders you to contact CVLS for an appointment and Paragraph C requires that you fully cooperate with our investigation and provide all information that we request.

Call me immediately at XXX-XXX-XXXX. If I am not in when you call, leave a voice mail with a telephone number where I can reach you. If you don't have a telephone number, keep calling until you reach me. It is your responsibility to contact me.

Very truly yours,

Margaret C. Benson
Guardian *ad litem*

SAMPLE BACKGROUND FORM

CHICAGO VOLUNTEER LEGAL SERVICES

Because equal access to justice is everyone's fight

The Chicago School FORENSIC CENTER

GUARDIAN *AD LITEM* CASES BACKGROUND INFORMATION

Name _____ Child Name _____

Date of Birth _____ Child DOB _____

Relationship to Child _____

Addresses in the Past 5 years	Dates in Residence (Move-In and Move-Out dates)	Type of Setting (shelter, rent, own, living with friends or family)	Rent/ Monthly Payments	People in the Home (Names and DOBs)	# of Bedrooms	Where does everyone sleep?

Adult Education:

Highest grade completed? _____

List all degrees, certificates, diplomas, and licensures earned:

Financial Information:

What is your primary means of financial support? _____

Other sources of income:	Amount
Child Support	
Social Security for Self	
Social Security for Child(ren)	
Public Aid	
Food Stamps	
Housing Assistance	

Spouse or significant other income: _____

Work History – Last 5 Years:

Employer	Dates	Pay (per check or per hour)	Hours	Outcome (include reason for leaving, workplace sanctions and promotions)

Other Children:

Name	Age	Other Parent	Where does child live?	If living with someone other than parent, explain circumstances

Interviewee's Medical and Wellness Information:

Doctor's name/phone number:

Any health concerns or major injuries?

Any medications (prescription or over-the-counter)?

What drugs and alcohol have you used in the past, including marijuana and beer even if it was once or a small amount (include details of sobriety dates, rehab, sponsor, etc)?

What is your current use of drugs and alcohol even if it is a small amount or on occasion? (include substance, frequency, amount)?

Have you experienced any of these major life events as a child or adult: ☐ Homelessness ☐ Deaths ☐ Accidents ☐ Controlling or high conflict relationships ☐ Other important events (explain)_____
Please describe what happened and when it occurred:

Has anyone ever referred or encouraged you to seek help due to emotional/psychological/behavioral issues (even if you did not agree)?

Has a professional ever diagnosed you with: ☐ Depression ☐ Schizophrenia ☐ Bipolar/Manic Depression ☐ Attention-Deficient/Hyperactivity Disorder (ADHD) ☐ Post-Traumatic Stress Disorder (PTSD) ☐ Substance Abuse/Dependence ☐ Other diagnosis? _____

Have you ever received *outpatient* treatment for emotional/psychological/behavioral issues? No ◯ Yes ◯
If yes, please explain the reason and outcome:

Have you ever received *inpatient* treatment for emotional/psychological/behavioral issues? No ◯ Yes ◯
If yes, please explain the reason and outcome:

Support System/Interpersonal Relationships:
Who are the people that you encounter most frequently in your day-to-day life? What are their relationships to you?

Who supports you most in your day to day life and how?

Legal Information:

Previous Arrests/Convictions/Felonies/ Misdemeanors	Date	Disposition	Other outcomes (e.g., loss of custody, mandated services, housing problems)

Any DCFS involvement? No ◯ Yes ◯ If yes, explain

If current DCFS involvement, worker's name and phone number: _____

Child Information:

School

Name of child's current school/daycare

_____

Grades (mostly As, Bs, Cs, Ds, Fs)

_____

Teacher's Name

_____

Type of educational programming (e.g., regular, special education, advanced)

_____

What is your level of involvement in the child's schooling?

Does the child have any special education needs (e.g., learning, emotional, physical, or problems with attention, seeing, hearing, or balancing)?

Behavioral/Emotional

Does the child have a history of behavioral/emotional issues (e.g., defiance with rules/authority figures, fighting, inability to calm self, fearfulness, hyperactivity, truancy, running away)? If yes, explain (When? For how long? What has been done?):

Does the child have any health problems? If yes, explain (When? For how long? What has been done?):

Any social problems (e.g., no/few friendships, fighting, impaired nonverbal interactions)?

Describe the child:

Describe your relationship with the child:

What do you think the child needs in order to facilitate healthy development (e.g., social, emotional, educational)?

What are the current circumstances that brought you here now

Any additional notes/comments

Be sure to collect all papers and/or ask for the party to send you additional information including:

- Current lease
- School records
- Social security payments
- Releases to speak with doctors
- Contact info for all therapists/social workers/DCFS workers
- Documentation of sobriety
- Paystubs

Interviewer _____

Date of interview _____

DCFS BACKGROUND CHECK (CANTS)

CONSENT FOR CANTS BACKGROUND CHECK

As requested by this Honorable Court, the undersigned proposed guardian(s), hereby give consent to the Illinois Department of Children and Family services to conduct a Child Abuse and neglect Tracking System (CANTS) check. The purpose of this check is to determine if you, as the proposed guardian, have caused or substantially contributed to this minor or any minor, becoming an abused or neglected minor, as defined in the Juvenile Court Act of 1987 at any time in the past.

PROPOSED GUARDIAN(S)

Name _____ Date of birth: _____
(Please print)
Address: _____

_____

Date: _____ Signature _____
(Proposed guardian)

Signature _____
(Witness)

Name _____ Date of birth: _____
(Please print)
Address: _____

_____

Date: _____ Signature _____
(Proposed guardian)

Signature _____
(Witness)

Child's name: _____ DOB: _____

Child's name: _____ DOB: _____

Probate Case No: _____ FOR DCFS USE ONLY
Return Date: _____
Time: _____

SAMPLE VISITATION ORDER

IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS
COUNTY DEPARTMENT -- PROBATE DIVISION

Estate of:

_____

Minors

Case No. _____

ORDER

This matter came to be heard on the Petitioner's to petition to discharge guardianship.

GAL, _____, present; mother, _____, present; guardian, _____, present.

The Court has been otherwise fully advised in the premises;

IT IS HEREBY ORDERED:

1. Starting _____, _____ will have unsupervised visitation _____ from _____until _____. _____ is solely responsible for all pick-ups and drop-offs.

2. Parties shall contact the *Guardian ad litem* if there are any problems with visitation.

3. This matter is continued until _____ for status on visitation and on Petitioner's petition to discharge guardianship

Enter:

_____
Judge Judge No.

Chicago Volunteer Legal Services (#91139)
Guardian Ad Litem
33 North Dearborn Street, Suite 400
Chicago, Illinois 60602
(312) 332-7546

SAMPLE SUPERVISED VISITATION ORDER

IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS
COUNTY DEPARTMENT -- PROBATE DIVISION

Estate of: _____ **A minor**	**Case No. ____ P _____**

ORDER

This matter came to be heard on the Petitioner's petition to discharge guardianship. All parties and the GAL being present in court. The Court has been otherwise fully advised in the premises;

IT IS HEREBY ORDERED:

1. _____, shall have supervised visitation through The Branch Family Institute for one hour each week. Mother shall be responsible for all fees associated with supervised visitation.

2. Mother, _____, and guardian, _____, must contact The Branch Family Institute at 773 238-1100 within 10 days of this order to set up intake appointments.

3. This matter is continued until _____, 20___ at 11:00 am for status on visitation and on Petitioner's motion to discharge.

Enter:

_____
Judge Judge No.

Chicago Volunteer Legal Services (#91139)
Guardian Ad Litem
33 North Dearborn Street, Suite 400
Chicago, Illinois 60602
(312) 332-7546

Order (Rev. 02/24/05) CCG N002

IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS

Est. of Cassandra
v.

No. 00 P 0000

ORDER

This matter coming before the court on GAL's motion to continue hearing on visitation. GAL appearing; guardian appearing; father and mother failing to appear.

It is hereby ordered:

1) The hearing for visitation is continued until April 24, 2017 at 2pm.

2) The March 29, 2017 hearing date is stricken.

ENTERED
JUDGE [illegible] -1600
MAR 20 2017
DOROTHY BROWN
CLERK OF THE CIRCUIT COURT
OF COOK COUNTY, IL
DEPUTY CLERK

Attorney No.: 12345
Name: Alice Doe
Atty. for: GAL
Address: 33 N. Dearborn, Suite 400
City/State/Zip: Chicago, IL 60602
Telephone: 312-332-1624

ENTERED:

Dated: _____, _____

Judge

1600
Judge's No.

DOROTHY BROWN, CLERK OF THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS

SAMPLE ORDER FOR UNSUPERVISED VISITATION

IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS
COUNTY DEPARTMENT, PROBATE DIVISION

ESTATE OF:

DESTINY R
A minor.

No: 00 P 0000

PAGE 1 OF 2

ORDER

This Cause coming on to be heard for consideration of unsupervised visitation. All parties appearing. The GAL submitting a report and recommending that visitation be allowed with the following restrictions. The Court being fully advised in the premises:

IT IS HEREBY ORDERED:

1. The mother shall obtain and keep in good working order either a land-line telephone at her residence or a personal cell phone. She shall provide the GAL with her telephone number and shall, through the GAL, exchange telephone information with the guardians.

2. Once the GAL has obtained and verified the mother's telephone number, the mother shall be entitled to 3 hours of unsupervised visitation every Saturday from 10:00 a.m. until 1:00 p.m.

3. The first two visits shall be held at the maternal grandmother's residence at 0000 West South Street, Chicago.

4. Subsequent visits shall be held at the mother's residence at 0000 South West Street, Apartment 1, Chicago.

5. The visits shall be restricted to the mother's home unless the guardians and the GAL agree to a change in location. Any said agreement shall be confirmed in writing by the GAL.

6. No one shall be present at the visits except the mother, her fiancé Javier L, their respective children, and the minor's maternal grandmother, aunts, uncles and cousins.

IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS
COUNTY DEPARTMENT, PROBATE DIVISION

ESTATE OF:
DESTINY R
A minor.

No: 00 P 0000

ORDER

7. If the therapist determines that the visits are causing the minor anxiety and distress, she will notify the GAL. The GAL will immediately advise the mother and guardians by telephone and bring an emergency motion before the court within 7 days.

8. The mother shall enroll in and attend to completion a qualified parenting program. She shall show proof of it to the GAL and, if necessary, sign a release that allows the GAL to verify her attendance and activities at the program.

9. The mother shall obtain personal, theraputic counseling and continue as recommended by the therapist. She shall sign a release allowing the GAL to discuss her treatment with the therapist.

10. This cause is continued until March 13, 2006 at 10:00 a.m. for status.

ENTER

_____
JUDGE

Margaret C. Benson
Guardian *ad litem*
Chicago Volunteer Legal Services
33 N. Dearborn, Suite 400
Chicago, IL 60602
312-332-1624

SAMPLE AGREED ORDER TO DISCHARGE GUARDIANSHIP

Attorney No. 91139

IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS
COUNTY DEPARTMENT – PROBATE DIVISION

ESTATE OF:

NIKO ANGELO M. No.: 02 P 0000

A MINOR

AGREED ORDER

This cause coming to be heard on biological Mother's Petition to Discharge Guardianship of Minor. Petitioner, Stephanie M (hereinafter "Mother"), is represented by Attorney Mark B. Stephen A (hereinafter "Guardian") is represented by Juli G. The court appointed Guardian *Ad Litem* for the Minor is Michael Bergmann of Chicago Volunteer Legal Services Foundation.

The Mother, the Guardian, and the Guardian *Ad Litem*, are present in Court and agree to entry of this Order. The Court being fully advised in the premises;

IT IS HEREBY ORDERED:

1. **Mother's Petition to Discharge is entered and continued for eight (8) months from the entry date of this Agreed Order;**
2. **The Guardianship shall remain intact until such time as this Court makes a ruling on Mother's Petition to Discharge or enters some other order;**
3. **The Service Plan for Mother is attached to and made a part of this Order.**
4. **If the Guardian has notice, or reasonably believes that Mother has failed to substantially comply with any part of this Service Plan, s/he shall, within twenty-four hours of learning same, provide notice to the Guardian *Ad Litem*, and counsel for the Mother. This notice shall include date, time and details of the noncompliance and may be written or by telephone.**
5. **If Mother fails to substantially comply with the Service Plan, Mother's Petition to Discharge will be denied, and Mother shall be barred from petitioning to discharge for two years, pursuant to 750 ILCS 5/610;**
6. **The Order of June 12, 2003, requiring supervised visits shall stand until this Court otherwise modifies visitation;**
7. **If at any time Mother's actions or failure to take actions endangers the health or safety of the Minor, any party, or the Guardian *Ad Litem* may petition this Court to set aside or otherwise modify this Agreed Order;**

8. **The Guardian *Ad Litem* shall conduct an investigation two (2) months after the entry of this Service Plan and shall provide a written report to this Court and all parties for the Court to make a determination with regard to visitation;**

9. **The Guardian *Ad Litem* shall conduct an investigation eight (8) months after the entry of this Service Plan and shall provide a written report to this Court and all parties for the Court to make a determination with regard to Mother's Petition to Discharge;**

10. **The Guardian shall support the efforts of Mother to substantially comply with this plan and shall communicate as necessary with Mother to coordinate visitation and Minor's participation in family therapy sessions; and**

11. **This matter is set for status until _____, 2009 at _____.m. in Room 1806.**

AGREED TO:

_____ _____
Stephanie M Mother Stephen A, Guardian

_____ _____ _____
Attorney for Mother Attorney for Guardian Guardian *Ad Litem* and

ENTER:

Michael G. Bergmann, GAL (#91139)
33 N. Dearborn St. Ste. 400
Chicago, IL 60602
312-332-1624

_____
Judge Judge's No.

IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS
COUNTY DEPARTMENT, PROBATE DIVISION

ESTATE OF:	)	No: 00 P 0000
JANELL SMITH, a minor	)	Docket: Page:

REPORT OF GUARDIAN *AD LITEM*

December 20, 2006

Janell Smith ("Janell"), born December 10th, 2003, is 3 years old. Her mother, Berrian Frank ("Berrian"), is contesting the entry of an initial guardianship for Lisa Butler. Father, Willie Smith ("Willie"), initially contested the entry of the guardianship, but has ceased to participate in these proceedings. Chicago Volunteer Legal Services was appointed as Guardian ad litem on May 24, 2006.

INVESTIGATION

For this investigation, I met with the mother, father, proposed guardian, and the minor child. I also requested that a home study be done through the Department of Supportive Services and I spoke with the caseworker, Debra Curry, about that home study. In addition, I requested criminal background checks on both the mother and father. I requested additional information from the mother, father and the proposed guardian. I have received that information from the proposed guardian and have received no additional information from the mother other than what she brought with her to our first meeting. The father has not had any communication with the GAL since October.

The Mother

Berrian is 26 years old. In addition to Janell, she has a child, Terrance, who is 11 years old. Terrance has a learning disability and she receives $603 per month in social security for him. She does not receive any child support. When Berrian first came to my office, she told me that she was working for Welling/MPS in their janitorial services. She had been working there around six months. She made $10 per hour and her net income was around $800 per month. On December 11th, 2006, Berrian and I spoke about her job and she told me that she is now working "off and on." Her last day of work had been on November 25th. She sent two paystubs for the weeks of 11/13/06-11/19/06 for $48.16 and for 11/20/06-11/26/06 for $242.46. She thought that she might go back to work on December 17th. She currently pays $650 per month in rent for a two bedroom apartment. At the time of the first interview, Berrian said that she lived there with just her son. Both the proposed guardian and Berrian's boyfriend reported that Berrian's mother has been living with her for some time. Berrian's boyfriend said that her mother would be returning to Las Vegas in December. Currently, Berrian's nephew has

been placed with her through DCFS. Berrian has been in a romantic relationship with Travis Matthews for the last year. She stays at his home most weekends.
Berrian described her relationship with Willie, Janell's father, as abusive. She said that the police were sometimes called to their apartment. She once suffered a broken nose and a fractured rib. She never obtained an order of protection against him and he was never charged with domestic battery. They were in a relationship for 6 years and eventually she left and hid from him. At one point she moved in with proposed guardian, Lisa Bond, and lived with her for about six month in 2004. She met the proposed guardian when they all lived in the same apartment building several years ago and has known the proposed guardian for about six years. When Berrian left the proposed guardian's home, she left Janell there and would come back and forth to visit her. Berrian claims that she was giving the proposed guardian around $200-$300 per month for Janell, and that Berrian's mother was buying the baby things.

Between 2004 and 2006, Berrian lived in several different places. She lived with proposed guardian until around August of 2004. For a while after that she went to live with her sister. In the summer of 2005, her sister was evicted, so Berrian went to live with another friend. In February, 2006, Berrian left that friend's home and moved in with her mother. Berrian claims that Janell was with her on and off during these periods of transition. In March of 2006, Berrian says that she gave Janell to the proposed guardian because she had gotten into a fight with her mother. At that time she wrote a note "giving Lisa B all rights to care for Janell with everything that involves my daughter until I can get on my feet or get established." At around that time, Berrian stopped giving the proposed guardian money or food stamps for Janell. Berrian made it clear that the proposed guardian could not get public aid for Janell right now.

Berrian reports having been convicted once for retail theft in 2000 and once for domestic battery in 2004. The domestic battery was against her son. She says that DCFS said that the case was unfounded, but that DCFS was coming to her house every Friday. She believes that the proposed guardian is saying that DCFS gave her Janell. Berrian believes that Janell's father, Willie, and others kept calling DCFS on her. She received one year of probation and six months of parenting class for the domestic battery. She claims that her mother got drunk and hit her son and this is what led to the domestic battery charge. She also told me that her son, Terrance, has gotten into trouble for things like showing his penis and stealing over $200. I asked Berrian to provide information from DCFS and some of her son's school records. A packet of information with a report card and IEP arrived the day before this court date. Terrance has had at least three misconduct reports filed this school year. When I asked her about Terrance in a recent conversation, she told me that he had been suspended from school for two days. A background check done by the court shows that Berrian was convicted of a felony theft charge in 2002 and a misdemeanor assault charge in 2004. Her last arrest was in 2004 for domestic battery. Berrian believes that the proposed guardian wants Janell for the public aid. She claims that the proposed guardian was just supposed to be helping her out while she got on her feet, but that now she's keeping her away from her baby.

The Father

Janell's father, Willie, was extraordinarily agitated at the first court appearance after the GAL was appointed. He became very angry about the fact that his constitutional rights had been taken away from him and that he was still Janell's father and should be able to see her whenever he wanted to.

When Willie came to meet me several days later, the first thing that he did was apologize for his behavior in court. He did, during the course of our conversation, however, say that he believed that the media should get involved in this case and that his rights as a father were being violated. Willie claimed that he had worked for Walmart for about 2 ½ years and made $630 every two weeks. He currently lives alone in a 3 bedroom apartment. He was in a relationship with Janell's mother for about 5 ½ years. In addition to Janell, he has an 18 year old son.

Willie reports that he was convicted of burglary around 20 years ago and served 12 months. He reported no other arrests or convictions. The background check run by the court, however, shows quite a different story in that he has been arrested at least 20 times. His arrests include: invasion of privacy, larceny, weapons offenses, prostitution, traffic offenses and sexual assault. He has five previous convictions: felony burglary from 1981, felony obstructing police from 1989, felony robbery from 1980 and two misdemeanor assaults from 1987. His most recent arrest was in 2005 for criminal sexual assault.

Willie asserts that Janell has always lived with him unless the mother took her. He has always been able to see his child. He claims that the mother moved out in March of 2006. The proposed guardian befriended the mother after Janell was born. This is not the first incident with the proposed guardian taking other women's babies. He claims that the proposed guardian would pay $1000 for a child and became obsessed with other children.

After our initial meeting, I asked Willie to produce supplementary documents and he failed to do so. He did not contact the DSS caseworker to participate in the home study and failed to appear at the last court date. It appears that he is no longer interested in litigating this case.

The Proposed Guardian.

Lisa Bond ("Lisa") is the petitioner for guardianship and the godmother of Janell. She currently works at Family Dollar and makes about $1200 per month. In addition, she receives $510 per month in disability and gets food stamps and a medical card. She has one daughter, Brittany who is 19 and lives with her father. Brittany came with Lisa to the office for the interview and has appeared in court with her mother. Lisa pays $950 per month for rent in a three bedroom. Right now she lives there with Janell. She has been with her fiancé, Leonard Perry, for over 15 years. She claims that he does not live with her, although when she calls, the caller ID is registered to his name.

Lisa claims that she has had Janell on and off since she was 3 months old. When the mother was pregnant, she supposedly told Lisa, "I'm having you a baby." Janell was brought to her several times over the last few years. There was a period where the mother was going from house to house and would leave Janell with Lisa. At one point, Janell told Lisa, "T-man was messing with my booty". "T-man" is the nickname for

the mother's other son, Terrance. Lisa reports that Terrance was recently returned to the mother's care. Lisa called DCFS and they told her that since the baby was in her care that it was alright.
Lisa said that the mother had a DCFS case with her son, Terrance and brought Janell to Lisa. Lisa told her that she needed to sign some papers or she wouldn't take her. At that point, the mother wrote and notarized a note giving Lisa the ability to take care of Janell. Lisa believes that the mother wants Janell back so that she can get a check for her. At one point the mother wanted to put Janell on a breathing machine for asthma so that she could get an SSI check. Janell does not have asthma.

Lisa told me that the father, Willie, is a pimp and that he had the mother, Berrian, prostituting herself at age 16. Lisa says that the mother used to work on Madison and Cicero. She says that the father used to beat the mother up. Lisa used to call the police after the mother would get beaten and had tried to help her. Lisa says that she was terrified of the father. Although Lisa never saw the mother use drugs, she believes that the father used to keep the mother on drugs. Lisa told me that the father claims that he's not a pimp anymore.

Lisa believes the mother has the potential to get her life together and says that if she does get her life together, that she can have her daughter back. She worries that the mother drinks too much and that she once came to the doctor's office drunk. Lisa says that neither the mother nor the father have helped her out in caring for Janell and that she needs financial help taking care of the child. She has called my office several times since our first interview looking for financial help for the minor.

The Minor

When I met with the minor, Janell, she was not yet 3, so the interview was very limited. She appeared well dressed and taken care of. She acted appropriately with the proposed guardian. When I saw her in court interacting with her mother, she was very clingy and whiney and appeared confused about who was taking care of her.

Visitation

Visitation between the minor and her mother seemed to be semi-regular before a court order was entered in this case. On the last court date in October, 2006, the proposed guardian had allowed the mother to take the child for the weekend. As of the Monday that we were in court, the child had not been returned to the proposed guardian and the proposed guardian had not been able to reach the mother. The proposed guardian was frantic about the state of the child and her whereabouts. The mother appeared in court late, but with the child. When she was reprimanded for keeping the child beyond the agreed upon visitation, she became angry. As I spoke with the mother about visitation, the child stood at her feet crying and asking to be picked up. The mother ignored her throughout our conversation. When I told the mother that the case would not be resolved that day, she became angry and hostile. After the judge entered her order, the mother stormed away without saying goodbye to her child. The child stood in the hallway screaming and crying while the mother stormed away. The mother did not wait for her court order and I had to send that to her afterward with a reminder to send me additional documents.

At that court date, the mother was granted weekend visitation every other weekend, starting that upcoming weekend. The start of court ordered visitation was written explicitedly in that court order. The proposed guardian called me after the weekend of October 20th to let me know that visitation did not occur. When I spoke to the mother, she claimed that she did not know when the visitation was supposed to begin. The mother did visitation on the weekends on November 3rd and November 17th without incident. On December 1st weekend, the mother cancelled the visitation. She told the proposed guardian that she had some things going on in her life and could not do the visit. When I spoke to the mother, she told me that it was cold out and that she and the guardian had agreed to cancel the visit. The minor's birthday was on December 10th, a non visitation weekend. The proposed guardian told me that the mother was invited to the child's birthday party and that she had planned to allow the mother to have an additional overnight visit after the party. The mother did not come to the party. The mother told me that she didn't have a car, so she couldn't attend the birthday party. The proposed guardian called me on 12/18/06 to let me know that the mother had taken the minor child only for the day on Saturday of the past weekend. There appears to have been some conflict about the Friday night pick up so Janell didn't go to her mother's until Saturday. However, on Saturday her mother called to say that she would need to bring the child back that night because she had to work. The guardian had to call off of work for Sunday in order to unexpectedly care for the child.

Analysis and Recommendation

At this time I strongly recommend that Lisa B be granted guardianship of the minor child, Janell Smith.

At no point did the mother or father tell me of the prostitution and pimping that was a part of their lives. The caseworker for the DSS home study did obtain information from the mother about her past life as a prostitute and I believe that this, in addition to the information provided by the proposed guardian, is an accurate reflection of what has gone on in the life of the parents. This piece about prostitution was truly the missing piece of the puzzle that was created as I interviewed the parents. I could not figure out why neither mother nor father spoke especially poorly of the other and I believed that the father demonstrated classics symptoms of being a batterer. Although I commend the mother for escaping the victimization that she experienced under the hands of Willie Smith, I believe that she is still in the beginning stages of her journey away from that lifestyle.

Although verbally she has expressed a clear interest in being reunited with her daughter, her actions have been less clear. She has not been cooperative with the GAL and I did not receive school records until the day before this court hearing and have not received any information about DCFS and her son. I am very concerned about the things that he witnessed while his mother was prostituting and I believe that he has already been sexually inappropriate around others, including Janell. He has recently been suspended from school and there are rumors that he helps deal drugs. I also have concerns that the mother has taken in her nephew and that she can not support another child in her household.

I am particularly concerned by the callousness with which the mother watched her child cry while we were in court. The mother seemed more interested in proving that the child wanted to be with her mother than in making sure that the transitions between mother and proposed guardian went smoothly. I believe that Berrian needs to gain greater maturity in handling her child before it is appropriate for Janell to come to her home.

It is not clear to me whether the mother is currently working, who is living with her or what her housing situation is without a steady paycheck. I believe that she needs more time to be in a stable work and living environment before she is ready to have Janell in her home.

At this time, I do not believe that Berrian F is ready or able to take care of the minor child, Janell. Her behavior in court and toward the child has been erratic. It is not clear that her work or living situation are stable and it is not unreasonable to believe that it is unsafe for her son, Terrance, to be living in the same home as Janell. For these reasons, I recommend that Lisa Bond becomes the guardian of the minor child, Janell Smith.

Respectfully submitted to this Honorable Court this 20th of December 2006 by:

_____
Alecia Wartowski
Guardian *ad Litem*

Alecia Wartowski/ CVLS
Guardian *ad Litem*
33 N.Dearborn, Suite 400
Chicago, IL 60602
312.332.7546
Atty. No. 91139

IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS
COUNTY DEPARTMENT – PROBATE DIVISION

ESTATE OF:

Shantall Smitts,

A Minor

No: 00 P 0000

REPORT OF THE GUARDIAN *AD LITEM*
June 11, 2007

Shantall Smitts ("Shantall"), born March 15, 1992, is fifteen years old. Her paternal grandmother, Rebecca Otta, was granted guardianship of Shantall on December 13, 2005. The biological mother, Maritza Veda, filed a petition to discharge guardianship on February 20, 2007. CVLS was appointed as Guardian *ad litem* on February 20, 2007. Shantall has lived back and forth between her mother and grandmother's home over the last 1 ½ years.

THE MOTHER

Maritza Veda ("Maritza") is 35 years old and currently lives with her husband of 3 years, Hector Veda, and her 13 year old son, Jose. Maritza and her husband have owned their home for almost three years. She is employed at the Peninsula Chicago as a credit manger and her husband works as a Project Manager at Arcos Environmental. Between the two of them, they likely make over $70,000 per year.

In addition to Shantall and her son, Jose, Maritza has another son named Sebastian. Sebastian is nine and currently lives with Maritza's brother. Before that he lived with other family members. It does not appear that he has ever lived with Maritza for any extended period of time.

Maritza recounted that Shantall has lived with the paternal grandmother several times in her life. While Shantall was in the 4th grade, she lived with her grandmother so that she could be with her cousin. When Shantall started 8th grade, her mother allowed her to live with her grandmother again because her cousin was living there and Shantall didn't have any friends in the new neighborhood where Maritza had moved. It was at this time that the grandmother petitioned for guardianship in order to enroll Shantall in school. When asked about the petition for guardianship and told that it said that the mother "could not handle minor" she admitted that Shantall had been getting an attitude and that mother and daughter had been bumping heads a lot.

Shantall lived with her grandmother for a couple of months in the 8th grade and then returned to live with her mother for the remainder of the school year. Maritza transferred her back to a local school. In the fall of 2006, Shantall was living with her mother and attending school near her home. Maritza told me that in December of 2006, girls began to pick on Shantall and Shantall was afraid so her mother pulled her out of school. Shantall missed a week of school before Maritza arranged for Shantall to live with her grandmother again and attend school there.

Maritza reports becoming concerned with this living situation in January of 2007 when she found out that the grandmother had moved in with Shantall's paternal great aunt, great grandfather and the great aunt's adopted granddaughter, Martha. Maritza also became upset when the grandmother asked for money to help support Shantall. Maritza claims that she was giving $10 per week for gas and was giving Shantall lunch money for school. When I pointed out that statutory guidelines would have dictated that she give around $260 per month for support, instead of $100, she was dismissive and angered that someone could ask her to pay child support for her own child.

Maritza's final concern, which she expressed to Judge Cesario the day of her emergency motion, was that Shantall's father is or was sexually abusing her, and that consequently her child was in danger. Although Maritza was tearful in front of the judge in speaking about this, she admitted that she had never called the police or DCFS to address

this issue and that this supposed molestation may have happened several years ago. When the GAL met with her she said that she did eventually call the DCFS hotline but they told her to get counseling for her daughter. She also said that it's possible that no one was sexually abusing her daughter. Maritza admits that she has never enrolled her daughter in counseling after learning about the supposed molestation several years ago. Shantall told her that something strange might have happened with her father and then later said that nothing had happened, so Maritza assumed that everything was fine. It is not clear why this became an issue again when Maritza first went to court.

Maritza told me that Shantall told her that her grandmother involves her in a shoplifting scam in the grocery store to steal food. Maritza is also concerned about the way that the grandmother speaks to Shantall and says that the grandmother has a temper. Maritza doesn't like that Shantall is living in a two bedroom apartment with at least 4 other people. She says that no one works in the house.

Finally, Maritza related one specific incident that caused her to be concerned and led to her filing the petition to discharge guardianship. Shantall called Maritza in a panic. She said that she had come home and her grandmother went crazy because Shantall hadn't given her a kiss hello. The grandmother called Shantall's father so that he could talk to Shantall about "respect." Everyone started yelling at one another. Eventually Shantall left and called her mother to pick her up. The grandmother didn't know where Shantall was and called the police to report her as a runaway. Maritza brought Shantall to school the next day and the grandmother made Shantall go down to the police station afterwards to clear up the runaway status.

Maritza would like her daughter to come back to live with her. She never meant for the guardianship to be a permanent arrangement. She believes that she is able to take care of Shantall and that Shantall is not in a good place while she is living with her grandmother.

THE GUARDIAN

Rebecca Otta is Shantall's paternal grandmother. She and her husband own a home in Cicero, but she has spent a large portion of the last several months living with her sister and father so that she could care for her sister after heart surgery this past January. She has not worked since 2005 and her husband is retired and collecting retirement from 25 years of service at the Wrigley Chewing Gum factory. Her husband is also self employed and earns additional money from laying ceramic tiling. She has four children, with her oldest, George, being Shantall's father.

Rebecca told me that she had been arrested once for leaving Shantall and her other granddaughter alone for 15 minutes. DCFS came to the home and saw the girls and recommended that the girls attend counseling. They did so for around 6-8 weeks.

Rebecca reported that Shantall had lived with her for 6th grade and for part of 8th grade. Rebecca said that Shantall and Maritza didn't get along. Shantall went back to live with her mother during 8th grade because Rebecca had rules and Shantall wanted to go back to her mom.

Rebecca told me about the incident over getting a kiss hello and Shantall running away. Rebecca claims that she didn't know where Shantall had gone and that Maritza wouldn't pick up the phone when Rebecca tried to find out if Shantall was there. After Rebecca brought Shantall to the police station so that they could firmly talk to her about running away, Maritza called and swore at Rebecca about the entire incident.

Rebecca believes that it is alright if Shantall goes back to live with her mother. She says that the mother buys Shantall things to make up for not spending time with her and that the mother lacks parenting skills. Rebecca says that she stays on top of what Shantall is doing more than the mother does and she knows when Shantall is engaged in risky behavior or doing destructive things. She thinks that the mother needs to be more vigilant about these things.

THE MINOR

Shantall is 15 years old and is a freshman in high school. She gets A's and B's and would like to go into the medical field. She enjoys reading, writing poetry and spending time with her friends. She reported that she lived with her grandmother while she was in the 4th grade because she didn't get along with her mother. She lived with her aunt and uncle for the summer before 8th grade. She moved back to live with her grandmother for 8th grade because things were not good with her mother. When she moved back to live with her mother at the end of 8th grade, she and her mother were

getting along much better. She and her mother got along well during the first semester of this year, but then Shantall had an incident with some girls at her school and she went back to live with her grandmother.

Shantall told me about the incident between her and her grandmother when she did not give her grandmother a kiss. She said that her father, grandmother and uncle were yelling at one another. She left the fight without telling anyone where she was going and ended up having her mother pick her up. Her grandmother reported her as a runaway. Shantall told me that in general she gets along with her grandmother and she can see why it bothered the grandmother that Shantall didn't give her a kiss when she came in the door.

Shantall reports that she lives with her great grandfather, her aunt Patsy and her cousin Martha. She, Patsy and Martha all share a queen sized bed. Shantall reports that her grandmother and grandfather often sleep on the couch of the apartment even though they live 2 blocks away. Shantall says that she gets along with her aunt alright. Shantall says that her cousin, Martha, gets into a lot of trouble and is pretty different from Shantall.

Shantall visits with her mother every weekend. Her relationship with her mother is far better than it was last year. Maritza used to take out her bad moods on Shantall. She gets along with her mother's husband and feels that she can really talk to her brother, Jose. Shantall says that she has another sister, Odessa, who lives with her mother. Shantall has met her a handful of times in her life. Shantall also has a brother, Sebastian who lives with his aunt and uncle. He comes over to Shantall's mother's house to visit from time to time. Sebastian has never lived with Shantall and her family other than for some summers.

Shantall would like to live with her mother now. She says that they have more of a connection now. Although she gets along with her grandmother, her grandmother has too many rules. Shantall gets along alright with her father but doesn't really spend a lot of time with him.

After our initial meeting, Shantall left me several voice mails and wrote me a long letter. This letter and messages focused on how she really wanted to go home to live with her mother. In some of the voicemails, Shantall was crying hysterically about how she missed her mother, wanted to be home and couldn't wait until another court date to be returned home. From the beginning, I had explained the court process to her and told her that I could not recommend her changing households during the school year. Regardless of this, Shantall appeared shocked and upset when the guardianship was not discharged at the first court date after I met her.

ADDITIONAL INVESTIGATION AND ADVOCACY

On March 26, 2007, Judge Cesario ordered that Shantall be enrolled in counseling with 14 days and that she live in her grandmother's home and not in her aunt's. Shantall was enrolled in counseling at Youth in Crisis and I have spoken with her therapist, Celia, several times. It is not clear where she is living. Rebecca reports that her family moved back into her house. However, the home study shows that when the case worker visited the home, he found that Shantall was still living with her aunt and sleeping 3 people to a bed.

During the course of my investigation, Rebecca told me that Maritza's husband, Hector, had recently served time in prison for drug related charges. In researching his criminal record, I found that he had been charged with manufacturing and delivery of over 5000 grams of cannabis, was found guilty on 7/19/05 and was sentenced to boot camp. I called Maritza to ask her about this and she wasn't able to talk because she was at work. She told me that she would contact me at a later time and never did.

THERAPIST

I have spoken several times with Shantall's therapist, Celia. Celia has great concerns about what has been going on with Shantall and her family. Celia reported that Shantall has been depressed about having to stay with her grandmother. Shantall also told her about the shoplifting/ receipt scam that her grandmother involved Shantall in. Celia believes that this goes on every week. Shantall also told Celia that her grandmother won't let her do her homework and that her grades are beginning to fall. Celia has met with Shantall and her mother together and believes that family counseling would be helpful to continue.

ANALYSIS AND RECOMMENDATIONS

This case is worrisome to me on several levels. On the surface, Maritza seems completely capable of taking care of her daughter. She has a stable job and a home. She claims to be happily married and to care deeply about her daughter. Under the surface, however, there is a slightly different story. It is not clear to me why Maritza has sent her daughter to live with other relatives as many times as she has. It is also not clear why her son, Sebastian, has never truly lived in her home. I believe that it is likely that when things become strained between Maritza and Shantall that Maritza does not confront those issues and instead gets rid of the problem by sending her daughter away. At the same time, Maritza seems to have made MARIA her project over the last few months and consequently Shantall is feeling very loved and well cared for. I worry about whether Maritza will send Shantall away again.

I believe that Shantall has been manipulated by her mother in this situation. Clearly she wants her mother to show interest in and care for her. However, the tears and drama that she demonstrated over the phone seemed completely disproportionate to what was going on and very different from when I met Shantall in person. I worry that some of the drama that Shantall demonstrated is similar to the drama that her mother has brought into these court proceedings. Maritza created an emergency for the court to address based on sexual abuse allegations that she never took seriously until they seemed a convenient way to get her daughter back. I worry that Maritza has been provoking her daughter into this drama. I am very glad that counseling is now in place for Shantall as I believe that it will prove helpful in helping her adjust to living with her mother.

I have some concerns about the appropriateness of Shantall living with her grandmother. First, there was no logical reason why Shantall needed to be staying with her great aunt, great grandfather and cousin this winter. Rebecca claims to only live two blocks away. Why should a child share a bed with two other people when she has her own room in her home? I am also concerned that Rebecca violated the court order and continued to have Shantall live with these other relatives even after she was ordered not to. Finally, I am not sure what to make of the story about Rebecca and the shoplifting scam. I heard about this scam first from Maritza and later from the therapist. In some ways, it is too strange of a story not to be true. It is clearly not appropriate to make a child engage in criminal activity, and therefore I am concerned about Shantall continuing to live in her grandmother's home.

At this time, I recommend that Shantall return to her mother under an extended visitation plan for the summer. If things go well between Shantall and her mother, then I anticipate recommending to the court that the guardianship be discharged. I also strongly recommend that Shantall continue to attend counseling and that Maritza enroll in the parenting class that Youth in Crisis plans to offer this fall. I believe that discharging the guardianship at this time is slightly premature because of my concerns about the mother's previous inconsistency and proclivity towards sending her children to live with other relatives. Supervision by the court for another 2 to 3 months will help ensure that Maritza is doing what she needs to do for this child.

Respectfully submitted to this Honorable Court this 11 of June 2007 by:

_____

Alecia Wartowski
Guardian *ad Litem*

Alecia Wartowski/ Chicago Volunteer Legal Services
Guardian *ad Litem*
33 N. Dearborn, Suite 400
Chicago, IL 60602
312.332.7546
Atty. No. 91139

IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS
COUNTY DEPARTMENT – PROBATE DIVISION

ESTATE OF: MARIA S. A Minor,	No: 00 P 0000

SUPPLEMENTAL REPORT OF THE GUARDIAN *AD LITEM*
December 4, 2007

MARIA S, born March 15, 1992, is fifteen years old. Her paternal grandmother, Rebecca O., was granted guardianship of MARIA on December 13, 2005. The biological mother, Maritza V., filed a petition to discharge guardianship on February 20, 2007. CVLS was appointed as guardian *ad litem* on February 20, 2007. MARIA has lived back and forth between her mother and grandmother's home over the last two years. Since June, MARIA has lived with her mother. This is the second report filed by the GAL.

UPDATED INVESTIGATION

At the June 11th court date, the mother was given extended visitation with MARIA and was asked to enroll her in school. Shortly before the August 13th court date, this GAL learned that MARIA enrolled in the outpatient psychiatric program at Christ's Hospital after getting into an argument with her mother's husband over a boy and threatening to harm herself. In addition, the GAL learned that the mother had not yet enrolled MARIA in school for the fall semester. Since several of MARIA's previous moves from home to home have involved issues with school placement, this GAL was concerned about the lack of diligence in enrollment. Consequently, the GAL recommended that extended visitation continue between the minor and her mother with today's status date to determine how MARIA was doing.

Over the course of this investigation, I have spoken multiple times with Celia, MARIA's therapist at Youth in Crisis. She was the person who previously informed me of MARIA's psychiatric hospitalization. I spoke to Celia several days before this today's court date and she has informed me that MARIA is doing well in therapy. Celia continues to integrate MARIA's mother, Maritza, and her husband, Hector, into the therapy sessions as needed. Celia believes that this family has improved their communication skills and has gotten better at defining their roles in the household. For some period of time, Hector struggled with defining his role as parent to MARIA, in part because he is only about 10 years older than her. Celia reports that this has gotten better and Hector is more able to set boundaries and work on structure and discipline with MARIA.

Celia reports that MARIA is doing well in school, although she is struggling with her AP class. Celia is working with MARIA to set up extra study time at Youth in Crisis to address this difficult class. MARIA has not revealed any additional threats of harm or cutting since the incident earlier this summer. In all, Celia believes that MARIA is doing well and could benefit from continued involvement in therapy.

I was also able to contact MARIA's new school, Curie High School, to check in on how is doing. MARIA currently has three A's, a B, a C, a D and an F (in her AP course). She has not missed any school and has had no disciplinary issues.

I attempted to contact MARIA before the court date by calling her and writing her a letter, but have been unable to speak with her.

RECOMMENDATION

At this time, it is my recommendation that Rebecca O's guardianship of MARIA S be discharged and MARIA be returned to the custody of her mother. I believe that the mother, Maritza V, is fit, willing and able to care for her child. In addition, I believe that this period of extended visitation has allowed the mother to demonstrate that she is again ready to take responsibility for her daughter. I strongly urge MARIA and Maritza to continue in therapy with Celia as I believe that it has been extraordinarily beneficial for all involved.

Respectfully submitted to this Honorable Court this 4th of December, 2007 by:

_____

Alecia Wartowski
Guardian *ad Litem*

Alecia Wartowski/ Chicago Volunteer Legal Services
Guardian *ad Litem*
33 N. Dearborn, Suite 400
Chicago, IL 60602
312.332.7546
Atty. No. 91139

IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS
COUNTY DEPARTMENT, PROBATE DIVISION

ESTATE OF:

DESTINY R., a minor

No: 00 P 0000

REPORT OF GUARDIAN *AD LITEM*
July 22, 2002

Destiny, born January 21, 1999, is three years old. Peter and Gloria were appointed her guardians in September, 2000. The mother, maternal grandmother and father consented to the guardianship. Six months later the mother, Diana, petitioned to discharge the guardianship. The father, Peter, has not appeared and is not involved at this time. Chicago Volunteer Legal Services Foundation was appointed Guardian *Ad Litem* in June, 2001.

INVESTIGATION

I interviewed the guardians last summer. Since then, I have spoken with them frequently on the telephone and at court. I also interviewed the mother last summer, have spoken with her at court and on the telephone and re-interviewed her in June, 2002. I have never spoken with, nor had any contact with the father. I interviewed the maternal grandmother, Conception and saw then-2-year old Destiny in my office last summer. Finally, during the course of the last year, I spoke with several doctors and DCFS personnel regarding sexual abuse allegations that the mother and Peter made against each other.

THE MOTHER

Diana is 19-years old with three children—5-year old Estefany, 3-year old Destiny, and 1-year old Edgar. Edgar is the only child in her legal custody. Diana's mother has had guardianship of Estefany since 1997.

Diana has worked at Portillos, a casual restaurant in N, since January, 2001. She currently earns $6.95 per hour. Although her schedule fluctuates, she says that she will be working 5:00 p.m. until closing, Monday through Friday, when she goes back to work in mid-July after a one month vacation. She says that this schedule is guaranteed because she is also babysitting for the crew chief, Tamara B. Diana says that the Department of Human Services is paying her to baby sit Tamara's 4-month old daughter from 8:00 a.m. until 6:00 p.m. every

day. She started the babysitting job May 30, has not been paid yet and doesn't know how much the DHS pay is, although the baby's mother pays her $200 every two weeks. She plans to continue babysitting after she returns to Portillos. Apparently, her mother or her mother's boyfriend will baby sit between the time Diana leaves for work and 6:00 when the baby sitting job is scheduled to end for the day.

Diana has lived in her own apartment with her son, Edgar since December 1, 2001. This apartment is across the hall from the one she shared with her mother, her daughter Estefany, and her mother's boyfriend, Luis. She says she pays $600 per month rent and $20 per month for electricity. She has no telephone in the house, but has a cell phone that she keeps on and charged at all times.

Estefany continues to live with her grandmother/guardian, although Diana says that she sometimes spends the night at Diana's apartment.

Diana claims to have no boyfriend at this time. She told me that she was dating a man named Eric from Portillos between September, 2001 and March, 2002. This is the man that Destiny's guardians believed molested Destiny. Peter and Gloria said that when Destiny told them in early December that Eric hurt her, Gloria called Diana. Diana responded that she had already broken up with Eric. This June, she told me she broke up with him three months ago.

THE GUARDIANS

Peter and Gloria are only peripherally related to Destiny. Peter considers himself Destiny's step-grandfather as he lived with her maternal grandmother for nine years and helped raise Destiny's father, Peter.

Peter, age 39, is an insurance salesman for XXXX Insurance Company, a high-risk automobile insurance broker. He has worked for XXXX for seven years and works standard daytime hours. Gloria, Peter's wife, age 43, has been a customer service representative for XXX for several years. She works from 2:00 p.m. until 10 p.m. Destiny is in preschool from 1:00 p.m. until 6:00 p.m. Peter and Gloria have been married 8 years. They have no children.

ABUSE ALLEGATIONS

On December 3 Gloria called me with the following information: In mid-November Destiny complained that her arm hurt. They took her to her pediatrician who asked Destiny what happened. Destiny said that her grandma had given her a "boo boo" when she said that she wanted to go home. Although there was no bruise on the arm, Gloria had seen bruises on the arm the prior week. At that time, Destiny had said that she fell. The pediatrician called DCFS to report possible physical abuse. DCFS later reported to the guardians that they had investigated Diana's home and that everything appeared to be ok. No case was opened.

Then, on November 25, Destiny came back from a visit to her mother's home exceptionally quiet and subdued. She seemed to be afraid, but refused to talk about what was wrong. During her bath two days later, Destiny pointed to her genital area and said that she had a "boo-boo" there and said "Daddy Eric". They knew

that Diana's boyfriend, was named Eric, but they didn't know his last name. He usually drove Diana when she came to pick up Destiny for her weekend visits. Destiny also said that mommy was working and that Eric tickled her.

Peter made a videotape of him asking Destiny what Eric had done to her. He and Gloria took the child to the pediatrician for an exam. The pediatrician called me and told me his exam was inconclusive and Destiny refused to talk to him.

Peter and Gloria reported the suspected sexual abuse to DCFS. Although the caseworker, Julie Camacho, recommended that Destiny be examined a 2nd time, she closed the case as "unfounded" before the 2nd exam was done. The 2nd physical exam was conducted at Loyola University Medical Center by Dr. Miriam Bar-On. The doctor was not able to interview Destiny because the child was too shy, but conducted a physical exam which noted anal trauma suggestive of inflicted trauma. In addition, she noted that the guardians described behavioral changes suggestive of something unpleasant happening in the mother's home. The doctor recommended counseling or play therapy for the child and cessation of visits to the mother's home.

Although the DCFS caseworker reviewed the case following this medical report, she did not re-open it because, she felt, the VSI was not compelling, Destiny's videotaped statements were not spontaneous and the 2nd physical exam was inconclusive. According to DCFS, there was not enough evidence to say that Eric molested the child.

Diana made a similar report against Peter on January 24, 2002. Elias C of DCFS investigated it and closed it as unfounded on February 7, 2002.

Peter and Gloria have arranged for counseling for Destiny through The Pillars Community Services in Berwyn. She was assigned a therapist in June.

Two other items to note here:

1. On May 14, Peter reported that the Illinois State Police came to his home looking for "Eric R". They showed him a picture of a man that may have been Diana's boyfriend, Eric. The police also asked for Diana's address. The next day, Peter called police headquarters to find out why they were looking for Eric R. He said that they told him that he was a sex offender who had failed to register with them.

2. DCFS did a family assessment on Peter and Gloria when they sought guardianship in 1999. Their guardianship was highly recommended. The case worker noted at the time that the mother was unstable and let other people take care of her children.

VISITATION

Last summer, when CVLS was appointed GAL, the mother had not had visitation with Destiny for several months. Peter and Gloria said that they were afraid she would take the child and flee out of the country. Eventually, Diana gave me her passport and the guardians agreed that Diana would have weekly visits with Destiny from Saturday morning until Sunday afternoon. The weekend visits lasted until the allegations of sexual abuse surfaced. On December 12, an Order was entered giving Diana supervised visits every Saturday morning.

The visits had to take place in public with Peter or Gloria supervising.

Saturday morning visits were rare. Peter complained that Diana never called to arrange them or arranged a visit and then failed to come. He left me voice mail messages every weekend detailing events—whether or not Diana called, whether or not she showed up, his attempts to reach her, etc. Diana only called once, in January, to tell me that she had missed two visits because her infant son was hospitalized with pneumonia. She subsequently blamed Peter for her lack of visits, claiming that he had stymied her attempts to visit by not being available by telephone.

Finally, at a status hearing in court on March 13, I spoke with all of the parties and their counsel in the hall. I told Peter and Diana that they were each to call me and let me know any time there was any problem with a visit. I made it very clear to Diana, with her attorney present, that it was her responsibility to call me *every time* she had a problem arranging a visit. I told her I was going to keep a record of her visits and her calls. I also told her that, if I did not hear from her, I would assume that either she had had a visit or that she had chosen to not visit. Diana said she understood.

Peter has continued to leave me voice mail messages every weekend telling me if Diana has called for a visit. There have been 18 Saturdays between that March 13 meeting and July 15. Diana has visited her daughter four times. She called me once to complain that Peter had given the State Police her address when they were looking for Eric R. When I asked her why she had not been visiting, she said that her work schedule had changed and she had to work Saturdays. She seemed unconcerned and did not ask me about changing the visitation schedule. In fact, as it turns out, her work schedule only conflicted with her visitation schedule for a few weeks.

When I re-interviewed Diana in late June I asked her about her lack of visits. She had a variety of excuses, none of which held up under questioning. She told me that she couldn't get rides—until I pointed out that locations were chosen based upon public transportation availability. She told me that her son was often sick, but could not explain why she didn't leave him at home with her mother or her mother's boyfriend, who usually babysat for Estefany during visitation times. She said she doesn't like Peter and doesn't want to see him. When I asked her why she would forgo seeing her daughter because she doesn't like Peter, she had no answer.

Peter also reported to me that Diana's calls to arrange or cancel visits often come during the wee hours of the morning—1:00 or 2:00 a.m.

RECOMMENDATION

I cannot recommend that the guardianship be discharged at this time. I understand that Diana wants custody of her daughter back. However, I believe that Diana sees Destiny as the prize in a fight against Peter. Destiny belongs to Diana—Peter stole her. I have no sense that Diana sees Destiny as an individual person with her own needs. In addition, Diana doesn't recognize her responsibility in this mess—Peter and Gloria didn't "steal" her child—they stepped in to rescue Destiny when Diana was in trouble.

Peter and Gloria took guardianship of Destiny because her mother's life at the time was chaotic.

Although Diana's life appears to be somewhat stabilized—she hasn't run away from home for a while and she has held her current job for 18 months—she still cannot manage any kind of regular visitation schedule. Her erratic visitation and communication, with post-midnight telephone calls to Peter, don't indicate a lifestyle conducive to raising a three-year old. In fact we don't really know how stable Diana's life is. Diana is still a teenager. I believe that she needs to grow up and focus on the needs of her daughter, instead of her own. She "needs" Destiny back. Destiny needs the kind of stability that she is getting from Peter and Gloria. In addition, it is troublesome that Diana's mother is still guardian to Diana's oldest daughter.

Diana wants her daughter returned to her, but doesn't actually seem to want to spend much time with her. True, supervised visitation is difficult—artificial and constrained. But if that is Diana's only chance to maintain contact with her child, then she must make the best of it. Diana has had ample opportunity to develop and enjoy a solid relationship with Destiny. She has failed to do so

I understand the guardians' reluctance to agree to unsupervised visitation. Diana, in addition to erratic visitation and communication, is secretive, untrustworthy and lacks credibility. She denies that her boyfriend Eric was ever alone with Destiny, but I can't believe what she tells me and there is no way to verify her statements. Diana has a history of leaving her children in other people's care. However, there is so much animosity between Peter and Diana that neither he nor his wife is an appropriate supervisor.

Diana could benefit from parenting instruction and support. It would be wonderful if she could visit with Destiny in a therapeutic setting, so that she could learn how to develop a mature, parental relationship with her daughter while also enjoying visits. If Diana were to get the help she needs, spend the time and effort learning how to be Destiny's mother (in fact, not just in name) and grow up some, I believe that the guardianship could be discharged in the future. Diana still has time to learn to be a mother to Destiny if she gets to work now.

I recommend that Destiny stay under the guardianship of Peter and Gloria and that counsel for both parties try to find a parenting program in the near western suburbs, convenient to public transportation, for Diana and Destiny. Visitation could take place there. If that is not possible, counsel should consider finding a supervised visitation center. I don't recommend unsupervised visits until Diana has shown progress with visitation, with her communication with the guardians and with a parenting program.

_____

MARGARET C. BENSON
Guardian *Ad Litem*

Margaret C. Benson
Chicago Volunteer Legal Services (#91139)
Guardian *Ad Litem*
33 N. Dearborn Street, Suite 400
Chicago, IL 60602
312.332.7546