OPPAGA Review of Florida's Guardian ad Litem Program

Presentation to the Senate Committee on Children, Families, and Elder Affairs

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OPPAGA

Office of Program Policy Analysis and Government Accountability

Project Scope

The Legislature directed OPPAGA to review the Florida Guardian ad Litem Program, including whether the program

- fulfills statutory requirements to represent all children in dependency proceedings, and if not, how it prioritizes appointments;

- follows best practices for child advocacy;

- represents children in an effective and efficient manner;

- identifies areas where it can improve performance; and

- has adequate procedures to screen and supervise volunteers.

Methodology

OPPAGA's review of the Florida Guardian ad Litem Program included

- interviews with program staff and other Florida dependency court stakeholders, representatives from nine states' court-appointed special advocate (CASA) associations, and national stakeholders;

- analysis of GAL Program, Office of the State Courts Administrator (OSCA), and Department of Children and Families (DCF) data;

- a 50-state review of dependency laws and rules, and CASA/GAL association funding; and

- a review of relevant literature.

Background

Background

- Guardians ad litem (GALs) are individuals appointed by the court to advocate for the child's best interest

- Both federal and Florida law require the appointment of a GAL to every case of abuse or neglect that results in a judicial proceeding

- States have varying requirements around who can serve as a GAL, usually court-appointed volunteers (referred to as CASAs) or attorneys

- Florida's GALs are primarily volunteers, supported by a staff advocate and program attorney
  - Separate attorneys are appointed to represent the child's wishes in certain types of cases

Background

GALs advocate for children involved in abuse and neglect proceedings in the following ways

Guardians ad Litem

1. Represent the child's best interest in all proceedings
2. Meet with the child on a regular basis
3. Investigate the circumstances of a child's case
4. Submit a recommendation to the court

Background

- Florida GAL Program provides advocates in all counties except Orange
- State funding for the program has increased by 21% over the last five years
  - From $43.6 million in Fiscal Year 2015-16 to $52.9 million in Fiscal Year 2019-20
- Funding from other sources has more than doubled over the last five years
  - From $4.6 million in Calendar Year 2015 to $9.7 million in Calendar Year 2019
- During this time, the number of staff increased, while the number of volunteers remained stable
  - Staff increased from 712.25 to 848
  - Approximately 13,000 certified volunteers in each year
- The number of children served has decreased
  - From 40,032 in Fiscal Year 2016-17 to 36,506 in Fiscal Year 2019-20

Child Representation Models

Types of Representation

- Representation for children in dependency proceedings may be best interest or client directed (or a hybrid approach) and is generally provided by an attorney and/or lay volunteer

  - Best interest: advocacy based on what the CASA or GAL believe will best serve a child
  - Client directed: representation by an attorney of a child's expressed wishes

- Attorneys may be appointed to serve in either role, while CASAs and other non-attorney GALs only serve in a best interest capacity

CASA/GAL Programs

- The National CASA/GAL Association for Children (NCASA) sets program standards; Florida's program is similar to many other states' programs in administrative structure and funding sources
  - Including Florida, 49 states have CASA or GAL programs that are members of NCASA
  - Florida and 10 other states have publicly administered state organizations that provide direct services to children; most states' GAL programs are nonprofits
  - CASA/GAL programs receive funding through a variety of sources, including state and local funds; federal funds, including Victims of Crime Act and Temporary Assistance to Needy Families funds; and private donations

Child Representation in Florida

- The Florida GAL Program uses a multidisciplinary team approach to represent children

  - Volunteer serves as GAL, supported by staff advocate and attorney
  - Attorney does not provide legal representation to the child

- Florida statutes require the appointment of attorneys ad litem to represent children in specific types of dependency cases

- Two circuits have programs wherein children receive attorneys through local legal aid programs

  - 9th Circuit: Legal Aid Society of Orange County provides attorney GALs to children
  - 15th Circuit: Legal Aid Society of Palm Beach County provides client-directed attorneys to children in out-of-home care cases in addition to the GALs

Child Representation Models

- States fall into six models of child representation, based on what is required for all children in dependency proceedings

- In addition to these requirements, states may allow for the optional appointment of additional advocates or attorneys

20	Best interest attorney or professional	**6**	Hybrid
12	Best interest volunteer	**4**	Age dependent
7	Client-directed attorney	**2**	Multidisciplinary team

Child Representation Models

- Professional associations and most literature reviewed, including federal studies, favor legal representation
- Lay advocates generally perform comparably to attorneys in several areas
- A consistent finding is that children with a CASA and their families receive more services
- CASA performance is lower in other areas such as time spent in out-of-home care and reunification rates
- Studies recommend CASAs work under attorney supervision or as a team with attorneys
- Lay advocate use is not an evidence-based practice due to significant limitations in available research

Volunteer Screening, Training, and Supervision

Volunteer Screening, Training, and Supervision

- Requirements for GAL volunteers' and volunteer supervisors' screening, training, and supervision are established by Florida statutes, NCASA, and program standards

- GAL program standards and data show that GAL Program adheres to background and training requirements; caseload expectations are exceeded by volunteer supervisors

	NCASA Standard	GAL Program Standard
Volunteer training	30 hours pre-service; 12 hours in-service	30 hours pre-service; 12 hours in-service
Volunteer supervisor training	Volunteer training	Volunteer training, 40 hours of continuing education, certification process
Volunteer caseload	No more than two cases at a time	1.8 cases at a time
Volunteer supervisor caseload	No more than 30 volunteers (45 cases) at a time	No more than 36 volunteers (76 children) at a time; if no volunteer assigned to case, 38 cases

Volunteer Screening, Training, and Supervision

- Nearly all volunteers reported their training is adequate and most reported their supervision is adequate
  - Some reported supervision quality depends on the volunteer supervisor, and some reported supervisors appear overworked
- Most judges felt volunteers and staff are adequately trained
- Two-thirds of attorneys reported a need for additional volunteer and/or staff training in multiple areas
  - A few attorneys specifically stated GAL Program attorneys in one circuit needed more preparation

Representation of Children in Dependency Proceedings

Percentage of Children in the Dependency System Assigned to GAL Program

- Over each of the past four fiscal years, the GAL Program provided best interest representation to approximately two-thirds of children in the dependency system

- The percentage of children represented by the GAL Program ranged from 45% in the 4th Circuit to 93% in the 16th Circuit

The Percentage of Children in the Dependency System Assigned to the GAL Program Has Remained Stable Across the Four Fiscal Years

Fiscal Year	Number of Children Served	Number of Children in Dependency System	Percentage of Children in Dependency System Served by GAL Program
2016-17	40,032	58,784	68%
2017-18	39,562	58,375	68%
2018-19	38,997	57,355	68%
2019-20	36,506	54,695	67%

Source: Florida Guardian ad Litem Program and Department of Children and Families data.

Representation of Children in Dependency Proceedings

- Stakeholders and GAL staff identified several reasons why a GAL may not be appointed to a case

  - GAL Program may discharge before case closure

  - Low safety risk at shelter hearing

- Judge may not appoint to case due to lack of program resources, conflicts of interest, or child being placed out of circuit

Representation of Children in Dependency Proceedings

- When local programs are unable to provide representation in all dependency cases, judges and staff reported prioritizing specific types of cases

- Judges reported prioritizing appointments based on a child's age (with younger children being the priority)

- Most local GAL Program staff reported prioritizing cases based on the following

  - Statutory requirements (termination of parental rights, placements in residential treatment centers)

  - The child's age

  - Abuse severity

  - Whether any special circumstances are present (e.g., victims of human trafficking, children with disabilities)

  - Placement type

Program Outcomes and Performance

GAL Performance Monitoring

- The GAL Program uses monthly reports to track performance and measure program efficacy

  - One of these reports uses data from DCF rather than the program's own data, and may not be indicative of the program's actual performance

- A variety of tools are used to monitor and improve performance, such as employee performance evaluations, annual volunteer re-certifications, specialized trainings, and qualitative file reviews

- CASA/GAL performance metrics are similar across states, though several reported collecting additional performance information, such as child wellbeing assessments and outcomes tools

Data Limitations

- There is no unified dataset combining GAL case information and DCF child welfare outcomes

- GAL Program data system has several limitations that impeded OPPAGA's ability to conduct analyses, as well as determine completeness and accuracy of data

  - Program staff do not have a strong understanding of the case management system's underlying data

  - GAL Program's data system changes in mid-2016 resulted in potentially unreliable data prior to 2016

  - Program data do not include a unique identifier for children served

  - Issues with dates within the system hindered our ability to determine when children were served

Data Limitations

- OSCA's dependency court data system keeps real-time data, and historical cases are overwritten when a child has subsequent removals
  - Data quality issues resulted in OSCA staff removing some records, resulting in incomplete GAL data prior to 2018

- While DCF's data system tracks child outcomes, it does not identify which children were assigned a GAL
  - The lack of a unique identifier (e.g., SSN or DCF ID) in the GAL Program data system hindered our ability to match children in the two systems

Sample Size and Child Demographics

OPPAGA staff were able to match 80% of children identified in GAL Program data to DCF removals

43,135 children (45,568 court-ordered removals) with a GAL Program closed case from FY 2016-17 – FY 2019-20

62% white

Age 0-17

Equally male and female

Most initially placed with relative caregiver and no prior removals

43,768 removals closed with discharge reason

Number of Children Served
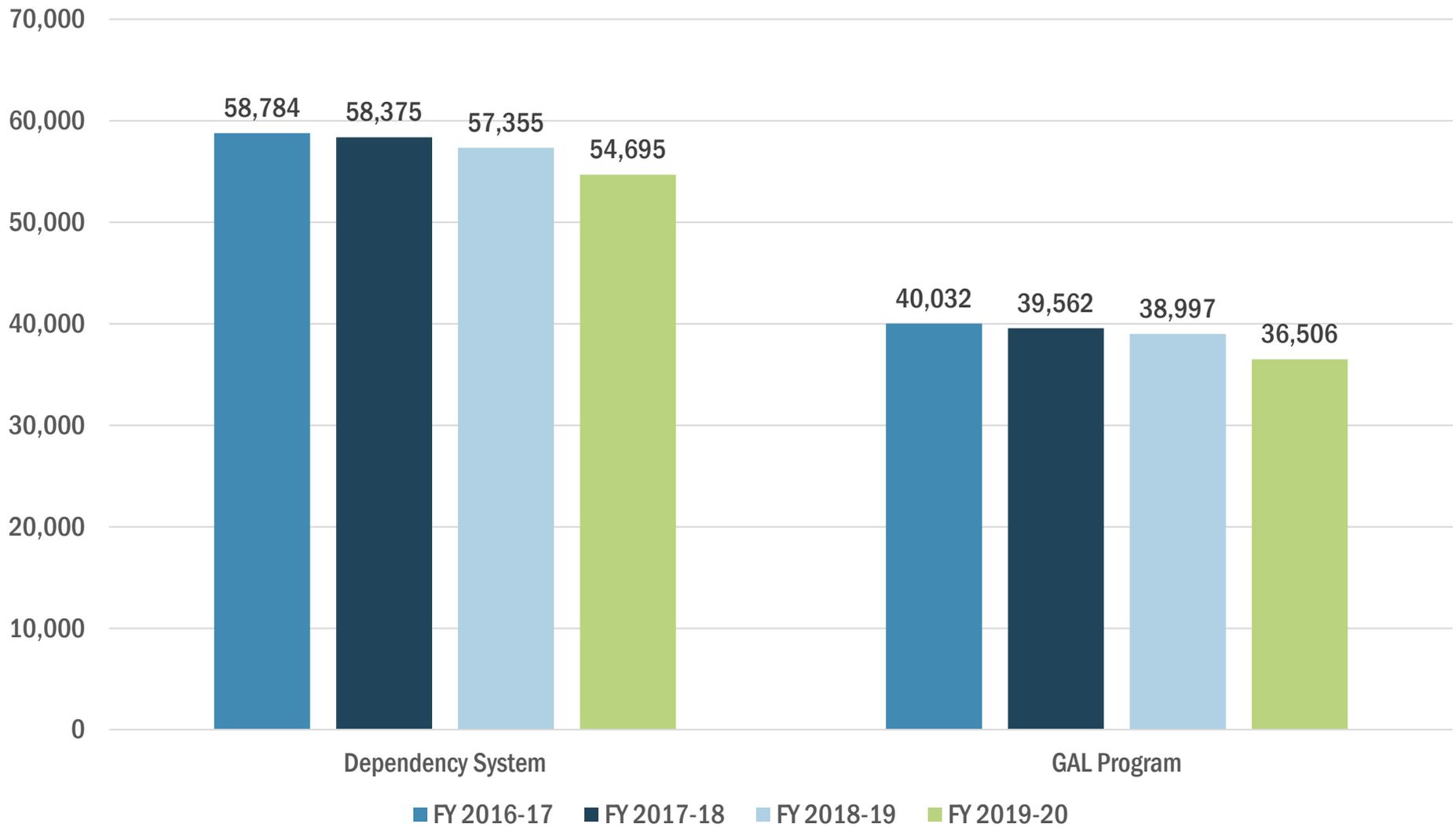
Amount of Time in Care

- The amount of time children with a GAL spent in out-of-home care (OHC) increased slightly over time and varied by circuit and child race

  - The average time a child spent in care increased from nearly 17 months to 18 months from FY 2016-17 to FY 2019-20

  - The average time in care was the highest in the 9th circuit (24 months) and the lowest in the 8th circuit (14 months)

  - Black children also tended to stay in care longer on average (573 days) compared to white children (534 days)

GAL Program Closures

- Closure reasons remained relatively stable across the past four fiscal years
  - Percentage of cases closed due to permanent guardianship decreased, and percentage of cases closed due to an established permanency goal increased
  - The most frequent case closure reason was reunification with family

GAL Program Closure Reasons for Children Served by GAL Program From FY 2016-17 – FY 2019-20[1]

GAL Program Closure Reason	FY 2016-17	FY 2017-18	FY 2018-19	FY 2019-20	Four-Year Total
Reunification	29%	31%	29%	31%	30%
Adoption	18%	18%	20%	19%	19%
Permanency Goal Established	18%	19%	23%	22%	21%
Permanent Guardianship	17%	15%	13%	12%	15%
Other	9%	9%	6%	6%	8%
Insufficient Program Resources	5%	4%	4%	4%	5%
Aged Out of Care	3%	4%	4%	4%	4%
Total	**100%**	**100%**	**100%**	**100%**	**100%**

[1] To control for differences between GAL Program closures and DCF discharges, we limited the FY 2019-20 data to the first six months (July 1, 2019 – December 31, 2019).
Source: OPPAGA analysis of Florida Guardian ad Litem Program data.

DCF Discharges for GAL Program Closures

- To determine the child's ultimate outcome in the dependency system, OPPAGA analyzed trends in DCF discharge data for the matched children served by the GAL Program
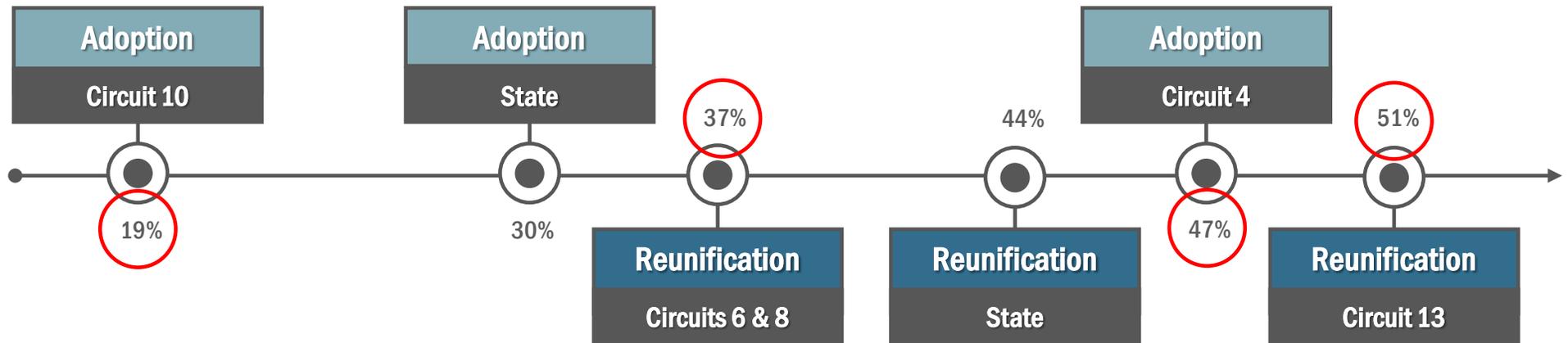
DCF OHC Discharge Reasons for Children Served by GAL Program From FY 2016-17 – FY 2019-20[1]

DCF OHC Discharge Reason	FY 2016-17	FY 2017-18	FY 2018-19	FY 2019-20	Four-Year Total
Reunification	45%	45%	43%	43%	44%
Adoption	28%	30%	31%	28%	30%
Permanent Guardianship	18%	16%	14%	13%	16%
Aged Out of Care	6%	6%	5%	5%	5%
Removal Still Open/ No Discharge Reason	2%	2%	5%	9%	4%
Other	1%	1%	1%	1%	1%
Total	**100%**	**100%**	**100%**	**100%**	**100%**

[1] To control for differences between GAL Program closures and DCF discharges, we limited the FY 2019-20 data to the first six months (July 1, 2019 – December 31, 2019).
Source: OPPAGA analysis of Florida Guardian ad Litem Program and Department of Children and Families data representing 80% of GAL children with a closed case.

Circuit-Level Closure Reasons

- Statewide trends in discharge reasons for GAL closures have been stable, but variations exist across circuits

DCF Discharge Reasons

- OPPAGA examined all DCF OHC cases from FY 2016-17 — FY 2019-20
- Discharges to reunification decreased and adoptions increased
- GAL closure dates and DCF discharge dates do not always align, resulting in difficulty comparing trends between the two

DCF OHC Discharge Reasons for All Children in Dependency From FY 2016-17 – FY 2019-20

DCF Discharge Reason	FY 2016-17	FY 2017-18	FY 2018-19	FY 2019-20	Four-Year Total
Reunification	50%	48%	46%	45%	48%
Adoption	22%	25%	29%	31%	27%
Permanent Guardianship	20%	19%	18%	16%	18%
Aged Out of Care	6%	6%	6%	6%	6%
Other	1%	1%	1%	2%	1%
Total	**100%**	**100%**	**100%**	**100%**	**100%**

Source: OPPAGA analysis of Department of Children and Families data.

Stakeholder Opinions

- Stakeholder opinions regarding the effectiveness and efficiency of Florida's GAL Program were split along professional lines
  - Judges view the program as effective and efficient; overall, dependency attorneys do not share this opinion
- Judges: use of volunteers, additional information, advocacy for child
- Attorneys: lack of legal representation and expertise, bias against reunification
- Attorneys and judges both reported GALs are able to obtain needed services for the children
- Although many stakeholders reported judges often follow the GALs' recommendations, there was disagreement as to whether this had a positive or negative impact

Options for Program Consideration

- Implement additional program performance metrics similar to those of other states

- Clarify that the data includes all children in the dependency system and is not specific to children served by the GAL Program

- Improve GAL data management, including program staff developing a better understanding of the case management system's underlying data to help identify and address data errors

- Include a DCF identification number in each child's case file to facilitate accurate tracking of child placements and outcomes

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