

# **Volunteer Guardianship Monitoring Programs: A Win-Win Solution**

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The mission of the American Bar Association Commission on Law and Aging is to strengthen and secure the legal rights, dignity, autonomy, quality of life, and quality of care of elders. It carries out this mission through research, policy development, technical assistance, advocacy, education, and training. The Commission consists of a 15-member interdisciplinary body of experts in aging and law, including lawyers, judges, health and social services professionals, academics, and advocates.

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## **Executive Summary**

### **Volunteer Guardianship Monitoring Programs: A Win-Win Solution**

In 1990, with funding from the State Justice Institute, Legal Counsel for the Elderly at AARP initiated a National Guardianship Monitoring Project featuring the use of trained volunteers to be the “eyes and ears” of the court. AARP supported the program for seven years, fostering volunteer monitoring projects in 55 courts throughout the country.

In 2007, with the support of the AARP Foundation, the American Bar Association Commission on Law and Aging conducted a study of the AARP-initiated volunteer guardianship monitoring projects. The study aimed to determine the extent to which the AARP volunteer guardianship monitoring projects are still functioning, and to examine their experiences and effectiveness in the 10 years since AARP discontinued support.

The study found:

- More than half of the programs are still active and their volunteers are satisfied.
- Volunteers are critical to a program’s success and failure.
- Programs maximized scarce resources to successfully intervene and provide remediations for incapacitated adults at risk of abuse, neglect, or exploitation, and assisted guardians.
- Volunteers—while not free—provide an enormous value, bring a new perspective and energy to the work the court does, and often have skills and experience that paid staff does not have.
- Programs enhance the court’s capacity to monitor cases and to assist guardians without substantially increasing staff and budgets, and help the volunteers make important contributions to their own well-being.

The study urges courts interested in ensuring a program’s success do the following:

- Make room for the program.
- Have a paid program coordinator.
- Recruit volunteers.
- Form partnerships with the state and local AARP offices.
- Recognize volunteers.
- Adequately supervise volunteers.
- Conduct comprehensive training for volunteers on a regular basis.
- Track results of the program and use this information to regularly inform the court of the program’s importance.
- Integrate the volunteer program into the larger monitoring program at the court.

# Volunteer Guardianship Monitoring Programs:

## A Win-Win Solution

### I. Background and Study Methodology

A guardianship is a relationship created by state law in which a court gives one person or entity (the guardian) the duty and power to make personal and/or property decisions for another adult (an incapacitated person). A guardian is appointed by a judge upon finding an adult lacks the capacity to make decisions for him or her self. To ensure the welfare of incapacitated persons, court monitoring of guardians is required. Monitoring may require the guardian to post a bond and submit reports and accounts for review, and guardians who demonstrate malfeasance may be subject to sanctions.

As the population ages and more individuals with mental disabilities live longer, the number of adult guardianships continues to increase, escalating the need for effective court monitoring of guardians. Probate courts and other courts charged with monitoring and supervising the guardian's work are finding it increasingly difficult to provide the necessary oversight. To make matters worse, probate courts and other courts that handle adult guardianships face tight funding restrictions, and financial needs for guardianship monitoring must compete with other judicial needs.

At the same time, the number of older volunteers continues to rise as the population ages and older adults look for ways to remain active in retirement. A 2000 AARP study, *Maintaining America's Social Fabric: The AARP Survey of Civic Involvement*, found more than 40 percent of Americans had spent time volunteering in the past year. According to the study, "volunteers contribute an average of 4.2 hours of service per week, totaling 20.3 billion hours every year. These volunteer hours have an estimated value of \$201.5 billion annually."<sup>1</sup>

Older adults looking for ways to remain active in retirement and courts overburdened with the responsibility of monitoring guardians and incapacitated adults can be of use to one another through volunteer guardianship monitoring programs. These programs are probate court-sponsored efforts to enhance the court's capacity to monitor the care, condition, and assets of incapacitated adults, and to assist guardians in fulfilling their responsibilities. The programs are a win-win solution for courts and volunteers. Volunteers can help overburdened courts to expand their ability to be apprised of the condition of incapacitated individuals and the accountability of guardians, and courts can help volunteers make important contributions to their communities and their own well-being.

The purpose of this study is to examine the experiences and effectiveness of several volunteer guardianship monitoring programs across the country, and provide recommendations for courts considering creating or improving a volunteer guardianship monitoring program.

#### a. Background

In 1990, with funding from the State Justice Institute, Legal Counsel for the Elderly at AARP initiated a National Guardianship Monitoring Project featuring the use of trained volunteers to be the "eyes and

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1. Center for Medicare Education, *Managing Volunteers*, Vol. 1, No. 7, 2000.

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ears” of the court. Members of AARP served as volunteer court visitors and records researchers. They verified information in guardian reports, and flagged and observed problems or concerns for the judge.

AARP supported the program for seven years, fostering volunteer monitoring projects in 55 courts throughout the country. Judges, incapacitated persons, guardians, and volunteers rated the program highly. AARP provided national support for the program until 1997.

While guardianship experts anecdotally are aware that a number of the volunteer monitoring projects have continued to operate, there has been no national examination of how the projects have fared, to what extent they have been useful to the courts in ensuring guardian accountability, and whether they have proved to be cost effective.<sup>2</sup>

## **b. Study Methodology**

In 2007, with the support of the AARP Foundation, the ABA Commission on Law and Aging conducted a study of AARP-initiated volunteer guardianship monitoring projects. The study aimed to determine the extent to which the AARP volunteer guardianship monitoring projects are still functioning, and to examine their experiences and effectiveness in the 10 years since AARP discontinued support. The project had two components:

1. Telephone court staff to briefly determine status of project and obtain e-mail addresses for the probate clerk or individual handling guardianship monitoring. Project staff obtained contact information from 51 of the 55 courts, and determined 28 programs are active and 23 programs are inactive.<sup>3</sup>
2. Distribute a brief e-mail survey to former and current coordinators. The ABA Commission designed a 43-question survey instrument for coordinators of active programs and a 45-question survey for former coordinators of inactive programs (Appendix A). The questionnaire asked about the operation and management of the program, the role of AARP, number of volunteers, volunteer roles and responsibilities, volunteer satisfaction, volunteer age and background, problems encountered by volunteers, court response to problems encountered, volunteer training, program funding, and the strengths and weaknesses of the program.

Over half (28) of the 51 programs responded to the survey between January 2007 and May 2007. Of those 28 that responded, 15 programs are active and 13 programs are inactive. Below is an analysis of the findings from those 28 coordinators and their programs.

2. In 2005, the AARP Public Policy Institute, in collaboration with the ABA Commission on Law and Aging, conducted a national survey on guardianship monitoring entitled *Guardianship Monitoring: A National Survey of Court Practices*. A follow-up effort, to be published shortly, involves site visits to identify promising practices in guardianship monitoring, including the use of volunteers generally. This study compliments the larger AARP Public Policy Institute guardianship monitoring survey. Pamela B. Teaster *et al.*, *Public Guardianship After 25 Years: In the Best Interest of Incapacitated People? National Study of Public Guardianship, Phase II Report* (2007).
3. Contact information for coordinators could not be obtained for Fulton County Courthouse in Atlanta, Georgia, Richland County Courthouse in Columbia, South Carolina, Greenville County Probate Court in Greenville, South Carolina, and Horry County Probate Court in Conway, South Carolina.

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## II. Findings

### a. Volunteers

Over the years, more than 850 individuals have volunteered for one of the 28 programs that responded to the study. The average volunteer is 65 years of age or older, female, and retired.

#### The Average Volunteer

- Nineteen programs reported the average age of their volunteers is 65 years or older.
- Twenty-seven programs reported that 56 percent of their volunteers are female.
- Twenty-five programs reported that 85 percent of their volunteers are retired.

Volunteers' professional backgrounds are varied, *e.g.* accountants, teachers, students, and homemakers. The survey asked program coordinators to identify the percentage of volunteers who were current or former (1) lawyers, (2) court staff, (3) accountants, (4) social workers, (5) teachers, (6) doctors or nurses, (7) bankers, and (8) students. The survey also asked program coordinators to include the percentage, and the specific professions, of volunteers who did not fit into one of the above eight categories. According to program coordinators, the majority of volunteers—71 percent—were NOT accountants, teachers, students, lawyers, doctors or nurses, bankers, court staff, or social workers. The majority were a mix of business and sales executives, homemakers, military personnel, management professionals, and engineers, among other things. The next highest percentages were accountants at eight percent, teachers at seven percent, students at five percent, lawyers, doctors or nurses, and bankers at two percent, and court staff and social workers at less than two percent.

#### Law Student Intern Volunteers

Volunteers at Tarrant County Probate Court #1 in Fort Worth, Texas, include law students from a nearby law school, the Texas Wesleyan University School of Law. The law school requires students to complete at least 30 hours of *pro bono* work before graduating.

In a typical year, between six and eight law student interns volunteer for the program at Tarrant County Probate Court #1. Each law student makes between seven and 10 visits a semester. Last year, the students volunteered more than 367 hours of their time to the program.

The volunteers' commitment to the volunteer guardianship monitoring programs is noteworthy. Most programs ask volunteers to commit for a specific amount of time, usually a year.<sup>4</sup> Nevertheless, most volunteers make a longer commitment. The average length of volunteer service in active programs was more than three years and between one and two years for inactive programs.<sup>5</sup>

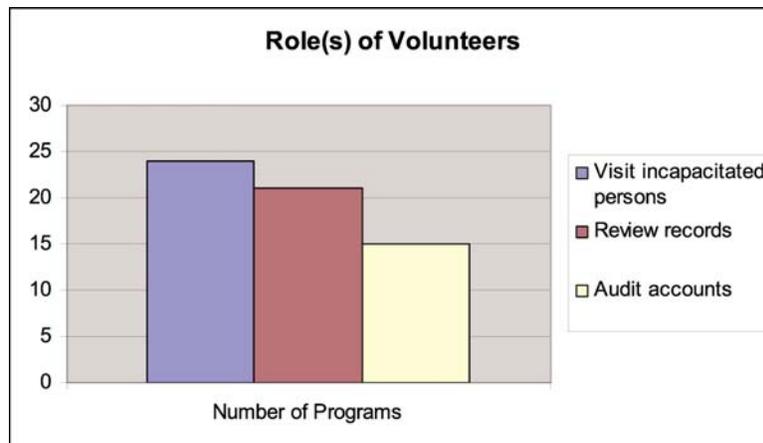
### Volunteer Profile

In 1995, Jerry Potter, a retired Air Force Colonel, received a letter from AARP asking for his help with the guardianship monitoring program at Tarrant County Probate Court #1 in Fort Worth, Texas. Interested in knowing why the Probate Court, and not the Family Court, had jurisdiction over guardianships, Mr. Potter signed up. He attended various trainings over three days and committed to volunteer for the program.

Twelve years have passed and Mr. Potter is still volunteering for the program. At age 75, Mr. Potter is responsible for visiting incapacitated individuals. Before each visit, Mr. Potter: 1) reviews the file, which includes a report from the guardian and the last volunteer visitor, 2) obtains a certified court order, 3) mails a copy of the order to the guardian, and 4) notifies the guardian by mail and telephone of his impending visit.<sup>6</sup>

#### i. Role

Volunteers fulfill three major roles: visit incapacitated persons, review records, and audit accounts. As shown in the chart below, most of the 28 programs that responded to the survey use volunteers to visit incapacitated persons.



- Twelve active programs and seven inactive programs reported that they asked volunteers to commit to a specific amount of time. Of those that asked volunteers to commit to a specific amount of time, eight active programs and six inactive programs asked volunteers to commit for a year.
- Nine active programs reported the average length of volunteer service was more than three years. Five inactive programs reported the average length of volunteer service was between one and two years.
- Telephone call with Jerry Potter, volunteer, Tarrant County Probate Court #1, Fort Worth, Texas, June 8, 2007.

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Programs' use of volunteers to visit incapacitated persons varies in the number of visits made, the types of incapacitated persons visited, and the volunteers selected for visits. Some programs allowed only selected persons to visit incapacitated persons. In one court, only those who were clearly compassionate, diplomatic, observant, reliable, and understood the process were asked to visit. And while some programs only visit incapacitated persons when the court has a question or concern, most programs (14) reported volunteers visit or aim to visit incapacitated persons at least once a year, regardless of questions or concerns.

### **Beyond the Traditional Role: A “Picture Perfect” Volunteer**

In addition to visiting incapacitated persons and recording old probate files, records, and wills in the computer, a volunteer at the Kalamazoo County Probate Court in Kalamazoo, Michigan, serves as the court's photographer at functions related to the volunteer guardianship monitoring program and adoption day.

#### **ii. Satisfaction**

Almost all programs ask volunteers if they are satisfied with the program.<sup>7</sup> One program reported that asking their volunteers if they were satisfied with the program was not necessary—because their volunteers are not shy about expressing themselves and voicing their needs.

Fifteen programs rated their volunteers as satisfied, and nine said their volunteers were “very satisfied” with the program. One coordinator, who attributes volunteer satisfaction to the variety of cases offered and the brief nature of the services provided, added he is told frequently how much the volunteers love the work.

### **Satisfaction: A Volunteer's Perspective**

It should come as no surprise that after 12 years with the Tarrant County Probate Court #1 in Fort Worth, Texas, Jerry Potter, the court's most experienced volunteer, is very satisfied with the program. According to Mr. Potter, the hours are flexible, volunteers are free to determine the amount of time they can commit to the program, the pressure from the court is nonexistent, and the support he receives from program coordinator Barrie Allen and her staff is unparalleled.<sup>8</sup>

#### **iii. Recognition**

All 28 programs recognize volunteers in some form. These include awards, recognition events, a verbal or written thank-you, coffee, and snacks. Twenty-three programs recognize volunteers with a verbal or written thank you.<sup>9</sup> Fourteen programs offer volunteers coffee and snacks, and fourteen recognize volunteers at events, such as volunteer appreciation dinners. For example, one former coordinator invited all of her volunteers to her home every year for a steak dinner and presented each volunteer with a medal or award in recognition of their service.

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7. Twenty-three programs ask volunteers if they are satisfied with the program.

8. *Supra*, n. 6.

9. At one program, the judge “bends over backwards” to make the volunteers feel welcome and appreciated. These volunteers delight in having the judge notice and thank them for their work.

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### **“Mock” Appreciation**

When one of their most active volunteers achieved a milestone number of visits—500—the Kalamazoo County Probate Court in Kalamazoo, Michigan, held a mock hearing. The program coordinator tricked the volunteer by telling him the judge had read one of his reports and had questions for him “on the record.” At the mock hearing when the judge asked how many visits the volunteer had made over the years the program coordinator proudly responded “exactly 500 cases to date, the most of any volunteer!” Moments later, the entire probate court staff burst into the court room clapping their hands and thanking the volunteer.

#### **iv. Problems Encountered**

On average, less than five percent of visits to incapacitated persons resulted in concern for the incapacitated person. Percents varied from as little as less than one percent to as high as 75 percent. The range can be attributed to the differences among the courts concerning the number and types of visits made. For example, some visits are routine, while other visits are made only when requested by the court.

Concerns for incapacitated persons most often included guardians in need of assistance and a lack of guardian contact or responsiveness. Seventeen programs reported their volunteers encountered situations where a guardian was in need of assistance, including a guardian in need of a guardian, a guardian in need of respite, or an aging guardian unable to physically meet the demands of caring for another. Fourteen programs reported volunteers were frequently confronted with a lack of guardian contact or responsiveness, including a failure to visit the incapacitated person on a regular basis, a failure to file reports, and a failure to inform the court of a change in address.

### **Concerns for One Incapacitated Person**

After receiving a phone call from a concerned guardian *ad litem* of a 30-year-old incapacitated woman, the volunteer guardianship monitoring program at the Ada County Probate Court in Boise, Idaho, sent Lisa Reed, an experienced volunteer, to visit. During the visit, the volunteer learned the woman’s live-in boyfriend, who had recently converted the garage into an arsenal, was forcing her to engage in prostitution. The volunteer also discovered the woman’s mother had absconded with her money and used it to purchase a new home in a resort community several hours away—threatening the woman’s Medicaid eligibility.

The volunteer took immediate action to protect the incapacitated woman from continued sexual and financial abuse. She contacted adult protective services, law enforcement, the court, the state agency responsible for the regulation of firearms, and the state Medicaid eligibility office. As a result of the volunteer’s hard work: 1) the guardian *ad litem* negotiated a move-out date for the boyfriend, 2) the state agency responsible for the regulation of firearms forced the boyfriend to secure the weapons in locked cases, 3) the court asked the mother to sell the house in the resort community and return the funds to the daughter, and 4) the state Medicaid agency corrected the daughter’s Medicaid eligibility status to ensure she continued to receive the public benefits she was entitled to.<sup>10</sup>

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10. Telephone call with Lisa Reed, volunteer, Ada County Probate Court, Boise, Idaho, May 24, 2007.

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## **b. Coordinators**

Coordinators are typically full-time employees of the court who spend a percentage of their time each week (between one and 10 hours) on volunteer guardianship monitoring program duties.<sup>11</sup> Time spent coordinating the program can vary, depending on the week, the training schedule, and the number and type of volunteers. According to one coordinator, “when I do not have student interns at my disposal, I usually spend two days weekly on program-related duties. However, when I am blessed with competent student interns, I am able to reduce that time commitment to one day [a] week.”<sup>12</sup>

## **c. Programs**

The average active program began in 1995, while the average inactive program began in 1994 and ended six years later in 2000.

### **Program Profile: Ada County Probate Court, Boise, Idaho**

In 1995, Judge Patricia Flanagan realized the annual reports required by statute for guardians and conservators were not being reviewed or audited by court staff. Monitoring of the court-appointed guardianships was non-existent; reports that were submitted were being filed away, never to be seen again; and audits of financial accountings and home visits to guardians and their wards were not being conducted. Judge Flanagan, with the help of AARP, recruited volunteers and started the first, and only, volunteer guardianship monitoring program in Idaho.

Twelve years later, the program has a full-time coordinator, a part-time secretary, 44 volunteers, and a case load of 1,400. Volunteers conduct home visits of incapacitated persons randomly selected by the coordinator, perform cursory audits on approximately 600 conservator accountings each year, and request additional information on many with financial “red flags.”

The volunteer guardianship monitoring program has been very successful. The program has brought alleged cases of abuse to the attention of the judge and protective service agencies, and brought the annual reporting compliance rate up to 90 percent.<sup>13</sup>

## **i. Operation**

During the seven years that AARP supported the programs, they also helped all of the 28 programs that responded to the survey recruit volunteers. With AARP’s assistance, the programs used a variety of methods to recruit volunteers. Thirteen programs used an article in a newspaper, 12 programs used AARP mailings, and 10 used a Retired Senior Volunteer Program (RSVP) to recruit volunteers. One program recruited retired faculty from local colleges and universities, and another program used the United Way Web site (<http://national.unitedway.org/volunteer/>) to recruit volunteers.

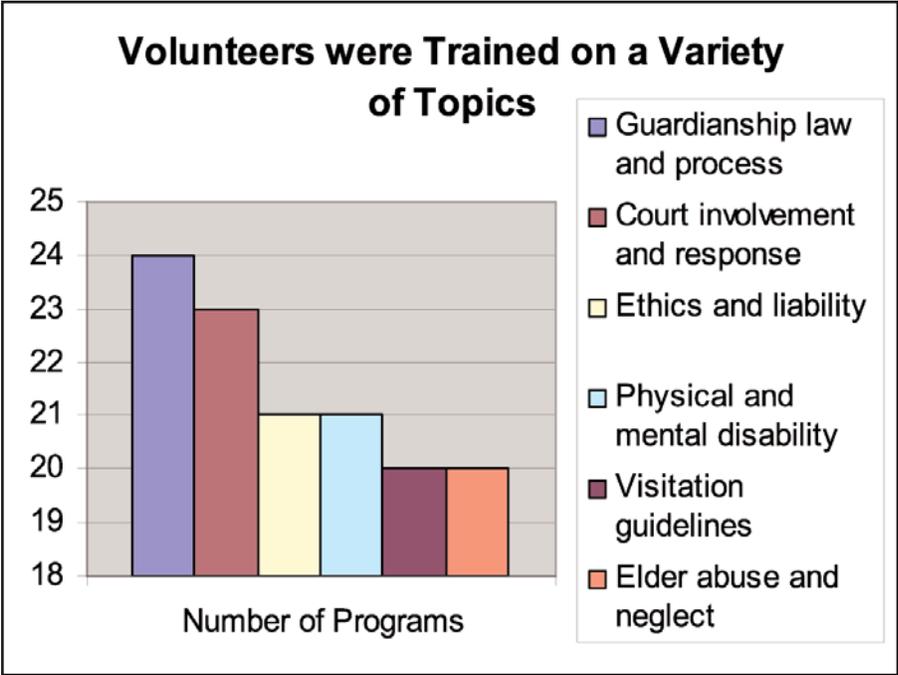
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11. Twenty-three coordinators reported they are full-time employees of the court; 20 reported they spend between one and 10 hours a week coordinating the program.

12. Pat Neil, intake specialist, Kalamazoo County Probate Court, Mich., Volunteer Guardianship Monitoring Program Survey, Apr. 6, 2007 (on file with ABA Commission on Law and Aging).

13. E-mail from Dede Shelton, probate court administrator, Guardianship Monitoring Program, Ada County Probate Court, Boise, Idaho, to Ellen M. Klem, Associate Staff Director, ABA Commission on Law and Aging, May 30, 2007 (on file with ABA Commission on Law and Aging).

Most programs provide volunteers with initial training and several programs provide additional training on an “as needed” basis. Twenty-four programs reported volunteers received initial training and nine programs reported volunteers also received training “as needed.” For example, the Hunterdon County Surrogate’s Office conducted training for volunteers when the Health Insurance Portability and Accountability Act (HIPAA) became effective in 2001.



Training is most often conducted by a mixture of individuals. These include program coordinators, experts from the community, and probate court administrators, staff, and judges. When AARP supported the program, 10 programs relied on AARP staff to conduct the training. Twenty-one programs rely on the program coordinator to conduct the training. Fifteen programs use experts from the community, such as lawyers, doctors, and accountants. Eleven use probate court administrators, staff, and judges. One program combines the talents of the entire probate staff, including the administrator, chief judge, and other staff to educate volunteers.

**Training a Devoted Volunteer**

When Lisa Reed, a volunteer for the Ada County Probate Court in Boise, Idaho, is not visiting incapacitated persons or working full-time as an executive assistant for an insurance company, she spends her time—and her own money—attending training seminars on elder abuse. With five years of experience and training, it is no wonder Lisa has become the “go-to” volunteer for the most difficult cases of elder abuse and neglect in the Ada County Probate Court.<sup>14</sup>

14. *Supra*, n. 10.

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Almost all programs have a standard form for volunteers to report findings.<sup>15</sup> A few programs also allow volunteers to report in-person or on the telephone, especially when problems emerge during a visit.<sup>16</sup> One coordinator commented: “Most of the volunteers submit the traditional reporting forms, but when difficulties arise during a visit, volunteers are encouraged to call me immediately on my cell phone day or night, regardless of the day of the week.”<sup>17</sup>

## ii. Costs

Programs were asked very specific questions about the costs of the volunteer guardianship monitoring program, including:

1. How much do you estimate the program costs?
2. What are the costs of the program?
3. Has the program saved the court money?
4. How is the program funded?

Unfortunately, only a few programs responded to questions one and two, and those that did were unable to provide specific information. As a result, the survey was unable to determine the cost of the average volunteer guardianship monitoring program.

While the study was unable to determine the exact costs in dollars associated with a volunteer guardianship monitoring program, the study did conclude that volunteer monitoring programs are not free. There are costs associated with developing and maintaining a volunteer guardianship monitoring program. Those costs include the staff time and money it takes to train, supervise, and retain volunteers; supplies;<sup>18</sup> office space;<sup>19</sup> and mileage.<sup>20</sup> Unfortunately, most programs have no designated funds and only 10 of the 28 programs that responded to the study are funded through court budgets.<sup>21</sup>

However, several programs responded to question number three—has the program saved the court money? Fourteen programs reported the volunteer guardianship program saved the court money. Program coordinators reported the program saved court money by reducing the time judges and court staff spent visiting incapacitated individuals and auditing accounts; facilitating the flow of dockets; provided neces-

### **Value of Volunteer Time**

In 2006, the volunteers at the Tarrant County Probate Court #1 in Fort Worth, Texas, volunteered more than 3,827 hours.

If a May 2007 estimate of the dollar value of volunteers at \$18.87 an hour is correct, then the volunteers at the Tarrant County Probate Court #1 contributed more than \$71,000 to the court in 2006.<sup>22</sup>

15. Twenty-five programs have a standard report form.

16. Ten programs allow in-person reporting and nine allow telephone reporting.

17. *Supra*, n. 12.

18. Thirteen programs reported the program costs included supplies.

19. Thirteen programs reported the program costs included office space.

20. Twelve programs reported program costs included mileage.

21. Fourteen programs have no designated funds.

22. Independent Sector, *Value of Volunteer Time*, [http://www.independentsector.org/programs/research/volunteer\\_time.html](http://www.independentsector.org/programs/research/volunteer_time.html) (last accessed on May 29, 2007).

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sary interventions to incapacitated persons at risk for abuse, neglect, or exploitation; and providing the much needed assistance to overwhelmed, overworked, under-resourced, and underfinanced guardians.

**iii. Strengths**

Strengths of the volunteer guardianship monitoring programs include: (1) volunteers, (2) assistance provided by AARP, (3) paid coordinators, (4) a database to track, organize, and maintain cases and information, (5) comprehensive training, (6) court support, and (7) volunteer recognition.

**One Program’s Key to Success**

One program reported the key to their success was allowing volunteers to select their own cases from a pre-selected bunch, using “seasoned” volunteers to train the new volunteers, and utilizing student interns as co-coordinators.

Volunteers are the strength of every program, but they are the core strength of 12 programs. According to these programs, volunteers guarantee the financial and personal well-being of incapacitated persons and enrich the workplace with their knowledge and experience.

Three programs cited the assistance provided by AARP as a strength of the program. According to those programs, the lists of volunteers provided, the letters sent to recruit volunteers, the technical assistance, and the forms and procedures developed by AARP were a big help.<sup>23</sup> According to one, “A program coordinator would never have the time to develop this program alone, and neither would anyone in the court system.”<sup>24</sup> According to another, “We could not have started without the help of AARP.”<sup>25</sup>

**Screening Volunteers: Essential to One Program’s Success**

One program reported that careful screening of volunteers is essential to their program’s success. According to the program coordinator, volunteer guardianship monitoring programs need very different types of volunteers. For example, some volunteers need to be adept at looking at accountings or financial reports; while others need to be knowledgeable on mental and physical health; and **ALL** volunteers need to be compassionate yet accepting of their role as a monitor, not a social worker.

23. AARP Legal Counsel for the Elderly, *National Guardianship Monitoring Program: Program Coordinator’s Manual – Part I* (State Justice Institute, 1992). AARP Legal Counsel for the Elderly, *National Guardianship Monitoring Program: Trainer & Trainee’s Manual – Part II* (State Justice Institute, 1992).

24. In May 2005, the National Center for State Courts produced an implementation manual for the Administrative Office of the Courts of Georgia entitled *Probate Court Volunteer Visitors Program: An Implementation Manual* (May 2005).

25. *Supra*, n. 12.

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#### iv. Weaknesses

Most programs ended because they lacked volunteers and the impetus required to recruit, support, and keep them.<sup>26</sup> Program coordinators reported a lack of a mechanism for continual recruiting, positive feedback, adequate supervision, and interest by potential volunteers. One program coordinator cited the death of volunteers as the reason for the demise of the volunteer guardianship monitoring program at her court, remarking, “I have attended more funerals since assuming this position than at any other time in my life.”

Three programs ended because of a lack of court support. According to one former program coordinator who used her vacation time to attend a program conference in Washington, D.C., the program received “virtually no support from the court administration,” and as a result, was “doomed from the beginning.” According to another program coordinator whose program did not interest the court, volunteers quickly got the message that the program was “mostly fluff” and left.

Another three programs ended because of a lack of funds, and one program cited *all four* (lack of volunteers, lack of interest, lack of funds, and lack of court support) as the reason for the program’s demise. According to this program coordinator, however, the “most important failure” was the lack of an experienced coordinator.

One program ended because the judge perceived there was no need for guardianship monitoring. According to this judge, “there were no glaring cases, or evidence of abuse” after two years of volunteer guardianship monitoring. As a result, he ended the program—confident that if a spouse, child, or relative of an incapacitated person detected, or had reason to believe that a ward was being abused, it would have come to the attention of the court.<sup>27</sup>

### III. Conclusions and Promising Practices

#### a. Conclusions

1. In the 10 years since AARP discontinued support for the program, projects have fared well—more than half are still active, providing satisfaction to the volunteers and a much needed service to the court.
2. A sufficient number of volunteers are critical to the program’s success and failure—active programs cited volunteers as the greatest strength of the program, while inactive programs cited a lack of volunteers as the reason for the program’s demise.
3. Volunteer guardianship monitoring programs are effective—coordinators reported the programs successfully intervened and provided remediations for incapacitated adults at risk of abuse, neglect, or exploitation, and assisted guardians, while maximizing scarce court resources.

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26. Ten programs expressed concerns about the lack of volunteers and the difficulty in recruiting new volunteers. Eight programs reported they ended because potential volunteers were not interested in the program. Five programs reported they ended because of a lack of interest.

27. E-mail from W. Robert Hentges, surrogate, Cape May County Surrogate Court, to Ellen M. Klem, Associate Staff Director, ABA Commission on Law and Aging (Feb. 27, 2007) (on file with ABA Commission on Law and Aging).

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4. Volunteers provide an enormous value, bring a new perspective and energy to the work the court does, and often have skills and experience that paid staff does not have. Unfortunately, volunteers are not free. It takes time and money to find, train, supervise, and retain volunteers.
  5. Volunteers for volunteer guardianship monitoring programs are satisfied. Almost all volunteer guardianship monitoring programs reported their volunteers were either satisfied or very satisfied with the program.
  6. Volunteer guardianship monitoring programs enhance the court's capacity to monitor cases and to assist guardians without substantially increasing staff and budgets, and help the volunteers make important contributions to their own well-being.

## **b. Promising Practices**

To ensure a volunteer guardianship monitoring program's success, the study urges courts to:

1. **Make room for the program.** Programs need space—volunteers and coordinators need room to review files and accountings, make phone calls to guardians and incapacitated individuals, and speak to each other privately about their findings and next steps.
2. **Have a paid program coordinator.** It takes staff time and energy to plan and coordinate a volunteer guardianship monitoring program. Unless the court has someone whose job duties include coordinating the program, the court's staff will be taking on extra, potentially time-consuming responsibilities. Designating a program coordinator will ensure the planning and coordinating receives the attention it deserves.
3. **Recruit volunteers.** Recruiting may involve contacting newspapers, drafting and distributing ads and flyers, speaking to local civic and religious groups, contacting organizations like local AARP chapters, the United Way, and the RSVP (Retired Senior Volunteer Program), and visiting senior centers, libraries, congregate meal sites, and other locations where older adults gather. Programs that take the time and spend the money it takes to find volunteers will benefit from their experience and knowledge.
4. **Form partnerships with the state and local AARP offices.** Local AARP offices can be a valuable resource to volunteer guardianship monitoring programs. Offices may be able to assist with recruitment and training.
5. **Recognize volunteers.** Recognition includes both formal and informal efforts to engage volunteers and make them feel appreciated and part of a team. Efforts include: appreciation dinners, awards, certificate, and gifts.
6. **Supervise and conduct comprehensive training for volunteers on a regular basis.** Not only do volunteer guardianship monitoring programs need to attract volunteers, but they need to keep them and this means ongoing supervision and training related to their specific assignment.
7. **Track results of the volunteer guardianship monitoring program and use this information to regularly inform the court of the program's importance.** Collection and dissemination of pro-

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gram results, including the number of incapacitated persons visited, records reviewed, and accounts audited, can help courts recognize the significance of the program and quantify its value.

- 8. Integrate the volunteer guardianship monitoring program into the larger monitoring programs at the court.** Integrating the volunteer program into the court's larger monitoring program promotes coordination and interaction, ultimately ensuring the welfare of incapacitated persons. A volunteer monitoring a program is just one element of a larger monitoring system. For example, the court may use investigators to follow up on problems encountered by volunteers or may require the guardian to attend a hearing or compliance conference.

## Appendix A: Program Survey<sup>28</sup>

### Volunteer Guardianship Monitoring Program Survey

#### AARP Foundation and ABA Commission on Law and Aging

Because terminology varies considerably across the country, this survey will use the following definitions:

- An **INCAPACITATED PERSON** is an adult who a court has found to lack decision-making capacity and cannot care for his or her own person and/or property. Some states may refer to this individual as a ward or disabled person.
- **GUARDIANSHIP** is a relationship created by state law in which a court gives one person or entity (the guardian) the duty and power to make personal and/or property decisions for another adult (an incapacitated person).
- A **PROGRAM COORDINATOR** is an individual who coordinates or supervises volunteers for a local or state volunteer guardianship monitoring program.
- A **VOLUNTEER GUARDIANSHIP MONITORING PROGRAM** is a program that uses trained volunteers to be the “eyes and ears” of the court. Volunteers serve as court visitors, auditors, and record reviewers. They verify information in guardian reports, and flag any observed problems or concerns for the judge.

#### Introduction

1. When was the program developed?
2. The current status of the program can best be described as:
  - a. Active
  - b. Inactive
  - c. Other, please specify:
3. I am completing this survey as:
  - a. A current program coordinator of the program
  - b. A former program coordinator of the program
  - c. Other, please specify:

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28. The ABA Commission designed this 43-question survey instrument for coordinators of active programs and a 45-question survey for former coordinators of inactive programs. The surveys were nearly identical, with the exception of two questions: 1. When did the program end? and 2. Why did the program end?

- 
4. In addition to program coordinator, I am/was:
    - a. A full-time employee of the court
    - b. A part-time employee of the court
    - c. A volunteer

5. My official title at the court was/is:

### **Volunteers**

6. Since the program began, how many volunteers have participated?
7. How many volunteers does the program currently have?
8. Approximately how many of the current volunteers are male?
9. Approximately how many of the current volunteers are female?
10. How old is the average volunteer?
  - a. Under 50 years of age
  - b. Between 50-64
  - c. 65 and over
11. Approximately what percent of volunteers are current or former:
  - a. Lawyers
  - b. Court staff
  - c. Accountants
  - d. Social workers
  - e. Teachers
  - f. Doctors or nurses
  - g. Bankers
  - h. Students, please specify (*e.g.*, medical, law, social work, nursing):
  - i. Other, please specify:
12. Approximately what percent of volunteers are retired?
13. Approximately what percent of volunteers are members of AARP?
14. What is the average length of volunteer service?
  - a. Less than a year
  - b. 1 – 2 years
  - c. 2 – 3 years
  - d. More than 3 years
15. Are volunteers asked or required to commit to volunteer for a specific length of time?
  - a. Yes, volunteers are asked or required to commit the following amount of time.
  - b. No

- 
16. Are volunteers asked or required to commit to handling a specific number of cases?
- Yes, volunteers are asked or required to commit to handling the following number of cases.
  - No

**Role(s) of Volunteers**

17. Volunteers fulfill the following roles: (Circle or highlight all that apply)

- Visit incapacitated persons
- Audit accounts
- Review records
- Perform office duties
- Coordinate program
- Administer program
- Train other volunteers
- Mentor other volunteers
- Other, please specify:

18. How often does the average volunteer visit the incapacitated persons?

- More than once a week
- Once a week
- Twice a month
- Once a month
- Volunteers never visit incapacitated persons
- Other, please specify:

19. How often does the average volunteer audit accounts?

- More than once a week
- Once a week
- Twice a month
- Once a month
- Volunteers never audit accounts
- Other, please specify:

**Operation**

20. What role, if any, has AARP had in the program? (Circle or highlight all that apply)

- Recruitment
- Training of volunteers
- Training of program coordinator
- Providing technical assistance to program coordinator
- Other, please specify:

- 
21. Where and how do you recruit volunteers? (Circle or highlight all that apply)
- a. AARP mailing
  - b. Article in newspaper
  - c. "Volunteers needed" ad in newspaper
  - d. RSVP (Retired Senior Volunteer Program)
  - e. Local AARP chapter(s)
  - f. Local civic/religious groups
  - g. Program presentation at:
  - h. Applicants not used for original AARP mailing
  - i. Other, please specify:
22. How often do volunteers receive training? (Circle or highlight all that apply)
- a. Initially
  - b. Annually
  - c. Twice a year
  - d. More than twice a year
  - e. As needed
  - f. Volunteers do not receive training
  - g. Other, please specify:
23. On what subjects do volunteers receive training? (Circle or highlight all that apply)
- a. Guardianship law and process
  - b. Ethics and liability
  - c. Physical and mental disability
  - d. Elder abuse and neglect
  - e. Court involvement and response
  - f. Office procedures
  - g. Visitation guidelines
  - h. Community resources
  - i. Interviewing skills
  - j. The aging process
  - k. Other, please specify:
24. By whom is the training conducted? (Circle or highlight all that apply)
- a. Program coordinator
  - b. Experts from the community, such as lawyers, doctors, and accountants
  - c. Other, please specify:
25. How do volunteers report their findings to the program coordinator? (Circle or highlight all that apply)
- a. Standard report form
  - b. Telephone
  - c. In-person
  - d. E-mail
  - e. Other, please specify:

- 
26. On average, how much time do you spend each week coordinating the program?
- 1-10 hours
  - 11-20 hours
  - 21-40 hours
  - More than 40 hours a week
27. How is the program funded? (Circle or highlight all that apply)
- Court budget
  - Grants and donations
  - Filing fees
  - Program has no designated funds
  - Other, please specify:
28. What are the costs of the program? (Circle or highlight all that apply)
- Salaries
  - Supplies
  - Community outreach
  - Continuing education
  - Mileage
  - Parking validation
  - Office space
  - Other, please specify:
29. How much do you estimate the program costs?
30. Has the program saved the court money?
- Yes, the program has saved approximately the following amount in the following ways:
  - No
31. Aside from monetary, did the program have any other impacts on the court? If so, what were those impacts?

### **Problems Encountered by Volunteers**

32. What percent of visits to incapacitated persons result in concern for the safety and/or welfare of the incapacitated person?
33. What kind of situations do volunteers typically encounter when they visit incapacitated persons? (Circle or highlight all that apply)
- Lack of guardian contact or responsiveness, example:
  - Insufficient services, example:
  - Poor quality of care, example:
  - Self-neglect, example:
  - Financial misconduct, example:
  - Physical or emotional abuse, example:
  - Guardian in need of assistance, example:
  - Agitated family members, caregiver, or guardians, example:
  - Other, please specify:

- 
34. When presented with one or more of the situations above, in what order does the court take the following steps, if any:

Letter or call requesting information or clarification from the guardian or indicating guardians' responsibilities

Letter or call advising guardian of resources or services in the community

Letter requesting guardian submit a plan for improvements in the incapacitated persons' care or a letter requesting the guardian take specific actions within a designated time

Appointment of a court visitor, court investigator, or guardian *ad litem* for further investigation

Referral to another agency (*e.g.*, Adult Protective Services)

Court order for the guardian to appear at a hearing to determine what problems exist and what changes are needed

Appointment of a new guardian

Termination of guardianship

Court does not take any action

Other, please specify:

### **Volunteer Satisfaction**

35. Do you ask volunteers how satisfied they are with the program?

- a. Yes
- b. No

36. In your opinion, how satisfied are the volunteers as a group?

- a. Very satisfied
- b. Satisfied
- c. Unsatisfied

37. How do you recognize volunteers?

- a. Awards
- b. Events
- c. Thank you (verbal, note, or phone call)
- d. Coffee and/or snacks
- e. Volunteers are not recognized
- f. Other, please specify:

38. Does the volunteer receive information about what action the court took on a particular case?

- a. Yes
- b. No

### **Strengths and Weaknesses**

39. What is the objective(s) of the program?

40. What are the strengths of the program?

41. What are the weaknesses of the program?

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42. What specific practices are keys to the programs' success?

43. Additional comments:

Please return the survey by mail, e-mail, or fax to

Ellen M. Klem  
American Bar Association  
Commission on Law and Aging  
740 15<sup>th</sup> Street, NW  
Washington, DC 20005  
Phone: (202) 662-8689  
Fax: (202) 662-8698  
E-mail: [kleme@staff.abanet.org](mailto:kleme@staff.abanet.org)

## Appendix B: Active Volunteer Guardianship Monitoring Programs

### California

Orange Co. Superior Court  
Probate Mental Health Unit  
341 The City Drive  
Orange, CA 92868-3209

Ventura County Superior Court  
800 South Victoria Avenue  
Ventura, CA 93009

### Florida

15<sup>th</sup> Judicial Circuit  
205 North Dixie Hwy.  
West Palm Beach, FL 33401

### Idaho

Ada County Probate Court  
200 W. Front Street, Room 4155  
Boise, ID 83702

### Illinois

18<sup>th</sup> Judicial Circuit  
505 N. County Farm Road  
Room 2015  
Wheaton, IL 60187

### Michigan

Kalamazoo County Probate Court  
Crosstown Center  
105 E. Crosstown Parkway  
Kalamazoo, MI 49001

### Nebraska

Douglas County Probate Court  
1701 Farnam  
Omaha, NE 68183

### New Hampshire

Grafton County Probate Court  
Administrative Office of the Courts  
Two Charles Doe Drive  
Concord, NH 03301

Rockingham Probate Court  
Administrative Office of the Courts  
Two Charles Doe Drive  
Concord, NH 03301

Strafford Probate Court  
P.O. Box 799  
County Farm Road  
Dover, NH 03820

Cheshire Probate Court  
12 Court Street  
Keene, NH 03431

Belknap County Probate Court  
64 Court Street  
P.O. Box 1343  
Laconia, NH 03247-1343

### New Jersey

Surrogate of Union County  
2nd Floor  
Old Building  
Elizabeth, NJ 07207

Hunterdon Co. Surrogate's Office  
Main Street County Complex  
71 Main Street, Building #1, 1st Floor  
P.O. Box 2900  
Flemington, NJ 08822-2900

Bergen County Surrogate's Office  
Main Street, Room 211  
Hackensack, NJ 07601-7691

Passaic County Surrogate's Court  
County Courthouse Complex  
77 Hamilton Street  
Paterson, NJ 07505

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**Ohio**

Stark County Probate Court  
110 Central Plaza South  
Suite 501  
Canton, OH 44702-1413

Lake County Probate Court  
Lake County Courthouse  
West Annex  
25 North Park Place  
Painesville, OH 44077

**Pennsylvania**

Court of Common Pleas  
Orphan's Court Administrator Office  
Chester County Courthouse  
2 North High Street  
West Chester, PA 19380

**Texas**

Dallas County Probate Court #1  
Old Criminal Courts Bldg.  
501 Main Street  
2nd floor  
Dallas, TX 75202-5798

Harris County Probate Court 1  
201 Caroline  
6th Floor  
Houston, TX 77002

Harris County Probate Court 2  
201 Caroline, Ste. 680  
Houston, TX 77002

Harris County Probate Court 3  
201 Caroline, 7th Floor  
Houston, TX 77002

Tarrant County Probate Court #1  
100 W. Weatherford  
Room 260A  
Fort Worth, TX 76196-0242

Tarrant County Probate Court #2  
100 W. Weatherford  
Room 220A  
Fort Worth, TX 76196

**Washington**

Thurston Co. Superior Court  
2000 Lakeridge Drive SW  
Olympia, WA 98502-6045

King County Superior Court  
516 3rd Avenue  
Seattle, WA 98104

**Wisconsin**

Third Judicial District  
Waukesha County Courthouse  
515 Moreland Blvd.  
Waukesha, WI 53188