

REPORT TO THE LEGISLATURE

**PUBLIC
GUARDIANSHIP
STUDY**

submitted by the
Guardianship Task Force
enacted by the Special Legislative Session of 1985

January, 1986

PUBLIC GUARDIANSHIP
FOR ADULTS IN MINNESOTA

A Report to the Minnesota Legislature

Minnesota Guardianship Task Force
Legislative Special Session 1985

January 1, 1986

PUBLIC GUARDIANSHIP FOR ADULTS IN MINNESOTA

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Foreword

Chapter 9, Article 2, Section 102 of the laws of the Legislative Special Session of 1985 established a task force to provide a report on January 1, 1986 to the legislature on Public Guardianship in Minnesota, under Statute 252A Mental Retardation Protection Act.

The following individuals served on the task force, acted as staff to the task force or contributed to its workings.

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- Social Services
- Minnesota Board on Aging
- Chemical Dependency
- Mental Health Program
- Deaf Services Division

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EXECUTIVE SUMMARY

The Guardianship Task Force was authorized by the 1985 legislature to evaluate the current status of public guardianship in Minnesota and to recommend changes. Information gathered for the development of this report consisted of presentations by contemporary leaders in the subject and three research components: a literature review, a national survey of guardianship systems and a survey of Minnesota public guardianship services.

DEFINITIONS: The following terms are included in the Report.

guardian: a person appointed by the court to make all decisions for another person (ward), judged legally incompetent

private guardian: a relative, lawyer, banker, or other private party appointed by the court as guardian

corporate guardian: a court-appointed guardian that is a corporation or an employee of a corporation offering guardianship services

public guardian: a public employee who acts as a court-appointed guardian

ward/conservatee: a person for whom the court has appointed a guardian/conservator

FINDINGS:

- Number of Wards and Place of Residence
At this time there *are* approximately 6800 adult mentally retarded wards under adult public guardianship in Minnesota. There *are* dependent and neglected children under public guardianship, many of whom *are* mentally retarded and may need to move to other guardianship at age 18. No other populations *are* accepted for adult public guardianship at this time. About half of Minnesota's counties *are* responsible for 40 or fewer wards. Fifteen percent of the counties have more than 80 wards. The majority of mentally retarded clients in state operated regional treatment centers are adult mentally retarded public wards. Most of the remaining adult wards live in community based ICF-MR facilities.
- Staff Resources
At the state level one professional staff person monitors all 6800 adult wards of the Commissioner, without assistance. Two-thirds of Minnesota counties have two or fewer workers serving in some guardianship related function. Survey results found that the average time spent in guardianship duties on behalf of an average of 40 wards by social workers was slightly more than eight hours per week.

The average annual county cost of performing guardianship functions was estimated at \$5,745 per ward.

- Duties of Case Manager
Although the authorizing legislation requested information regarding the duties of the county case manager as commissioner's designee, the case manager is not appropriate to act as the commissioner's designee as guardian due to statutory and rule requirements, as well as the potential for conflict of interest.
- Successful Guardianship Models in Other States
Three states in the national guardianship survey are offered as successful models for serving adults of differing populations: 1) In the State of Wisconsin, a number of non-profit corporations provided guardianship. The annual cost for one of the small local corporations was \$25,000. This local corporation served 44 people under full guardianship and 24 under limited forms. Wisconsin also provides a small subsidy to promote quality services for private guardianship. 2) The Illinois public guardianship system served more than 3,600 adults representing all disabilities at an annual cost of two million dollars. These wards were served by nine regional administrators. 3) Maine's public, state-run guardianship program spent \$100,000 annually to provide guardianship for 700 wards.
- National Survey Results
In the 28 states providing information, three basic systems of guardianship exist: public, private, and corporate.

The elderly and the mentally retarded constitute the primary populations served by guardianship. The elderly were served most often and the mentally retarded served second most often. Only corporate systems focus most frequently on the mentally retarded population.

Annual figures on budget, staffing, and number of wards evaluated for the public state-run models show a mean of 2,025 wards and a mean of \$711 budgeted per ward. The mean number of staff found was 13 full-time equivalents. Without Minnesota figured in the averages, the mean number of wards was 1,236 and mean of \$828.50 was budgeted per ward. In FY 85 Minnesota budgeted \$7.00 per ward per year for approximately 6,800 wards.

- Minnesota Survey Results
Minnesota is the only Region V state with no corporate model operating statewide. The two most frequently noted suggestions for improving guardianship in Minnesota were specifying clearly the duties and training requirements for guardians, and increased budgets for guardianship activities. It was also found that costs for creating private guardianships in Minnesota run from \$300 to \$700 per client.

Recommendations:

Although the task force attempted to obtain a consensus, a unanimous decision was not reached in all areas. Representatives for the four categories of vulnerable adults encompassed by the task force submitted position papers outlining their conclusions. These are contained in Appendix A: Position Papers.

Task Force members concluded that the present system of public guardianship is not amenable to expansion to other populations. The position papers reflect the desirable characteristics of any expanded guardianship system.

- All guardianship systems should have a clearly defined purpose, with benefits, responsibilities, and legal implications clearly out lined.
- All clients under guardianship should be assured of accountability, protective services, and quality care in decisions made by the guardian.
- Clients should be assured that the most appropriate forms of substitute decision-making are chosen and that they are properly implemented on an individual basis. Wards should retain as many rights as they are capable of exercising on their own behalf. The range of alternatives considered should include: no guardianship, advocacy, representative payee, case management, private guardianship, corporate guardianship, Conservatorship, and public guardianship.
- Expanded and extended educational and communication materials should be made available to the public, especially parents and relatives, social service personnel, protective service personnel, advocates, public school personnel, health services personnel, and probate courts. Such information should include the need for guardianship, alternatives to guardianship, and issues surrounding guardianship.
- Conflicts of interest, or unlawful decision-making by unauthorized parties making decisions on behalf of their clients, should be avoided. Providers should not make decisions for clients unable to make their own decisions without legal sanction.
- State laws providing guardianship must provide fiscal appropriations to permit quality services.
- An adequately resourced independent Office of Public Guardianship should be created. The current guardianship mechanism should be restructured to include Regional Guardians and Assistant Regional Guardians, with support services. These Regional Guardians would assume the major role in providing substitute decision-making now made by counties.

- Current statute should be revised and a rule adopted for creating and implementing standards and quality assurance mechanisms for public guardianship.

- More stringent monitoring and visitation regulations should be required.

- Regardless of the extent of action on the proposed recommendations, the staff and budget of the guardianship office should be expanded.

- Development and implementation of quality assurance reporting mechanisms are necessary to monitor and evaluate guardianship systems.

- Legal and technical assistance to the county social service agencies on substitute decision-making and guardianship alternatives should be provided.

- Final responsibility in major decision-making in such areas as sterilization, "do not resuscitate" orders, refusal of treatment, changes in guardianship status, and protection of abused wards/conservatees should be retained by the state office.

Private Guardianship Recommendations:

- Funding for near-relatives who can not afford the cost of initial guardianship proceedings for private guardianship should be provided.

- Monitoring systems for all private guardianships should be established and implemented by a state agency.

Corporate Guardianship Recommendations:

- A mechanism similar to that in the Wisconsin system, should be developed, creating a non-profit corporate guardianship system to provide for low-income clients with no near-relatives.

- A centralized monitoring agency supervising guardianship services provided by small local corporations should be established.

- All local corporations should be mandated to institute structured training, monitoring, and service provision requirements.

- Partial public funding for corporate guardianship should be provided.

Special Recommendations Proposed by Specific Task Force Members
(for which consensus was not reached)

- The Minnesota Board on Aging proposes a pilot/demonstration project involving elderly individuals or any other population unable to make their own decisions. The project would include providing services, advising families, providing legal services, serving as conservator, supplementing existing services, reviewing active cases quarterly, and formulating service plans and use of least restrictive alternatives.

- The state-operated nursing homes suggest two plans for certain elderly individuals, especially those who exhibit severe behavior disabilities and are otherwise more severely affected than the general elderly population. One plan would authorize a pre-planned designation of Health Conservator, a person who makes substitute decisions when the resident becomes incapacitated and when such behavior threatens the life, safety, or health of residents and/or others. Health Conservator status would be invoked or revoked according to designated reviews and a legally sanctioned procedure to protect the constitutional rights of the clients. The state-operated nursing homes also urge the establishment of Facility Standards needed to carry out nursing home responsibilities for the protection of life, safety, and health of the residents. The Facility Standards would require an individual program plan and quarterly reviews of Health Conservator designations.

- The task force attempted to obtain consensus on all issues, however, full consensus was not reached on the following concerns: (1) the possible advantages and disadvantage of an Office of the Public Guardian which would be independent of other state agencies; (2) the placement of the guardianship office; (3) on what constitutes conflict of interest; (4) what constitutes least restrictive alternatives. These few items indicate study beyond the immediate scope of the task force.

Specific position papers are found in Appendix A.

I. INTRODUCTION:

A. Charge to the Task Force

The 1985 legislature charged a task force, chaired by the Public Guardianship Administrator of the Minnesota Department of Human Services, with investigating current issues of public and private guardianship. The 1985 State Legislature charged the Guardianship Task Force to prepare a report on the following:

1. The number of people under public guardianship and their places of residence.

2. The amount of staff resources available to perform the role of state guardian.

3. The duties of the county case manager as the Commissioner's designee.

4. The types of disabilities of people who *are* under public guardianship.

Recommendations for changes in the public guardianship system were based on a number of factors:

1. The extent that persons who *are* in need of some form of guardianship *are* not receiving protective services.

2. The feasibility and economic impact of extending public guardianship to persons with disabilities other than mental retardation (or other populations).

3. The success of models used in other states to provide protective services.

4. Methods to improve the accountability for persons under public guardianship and to increase visits.

5. Differences between public and private guardianship systems.

6. The feasibility of alternatives to the present public guardianship system.

This paper reports Task Force findings.

B. Background on Guardianship

Currently, adult public guardianship in the State of Minnesota is applied only to persons with mental retardation who *are* in need of guardianship services. The Minnesota Mental Retardation Protection Act was first passed in 1917 and has been revised only slightly. The Act authorizes the Commissioner of the Department

of Human Services to protect the civil rights of wards, to administer their affairs, and to ensure that their social, medical, financial, and residential needs are met. The Act requires an annual review of the physical, mental, and social adjustment of every ward.

In Minnesota, courts may establish private guardianships for persons who are either mentally retarded, mentally ill, chemically dependent, or elderly and who are found to be incompetent to care for themselves. A private guardian may perform services without charge or for a fee and may be a relative, lawyer, banker, corporation or other person. The law for private guardianship limits the freedom of the guardian to act with respect to the property and life of the ward.

Over the years, complex issues have emerged in the area of guardianship, including, "do not resuscitate" (DNR) orders for terminally ill persons, informed consent criteria, the range of decision-making to be afforded to wards, and service delivery for vulnerable adults. Concerns have arisen about execution of the law both by deputies of the Commissioner of the Department of Human Services, and by private guardians. Currently a number of vulnerable persons labeled as 'mentally ill', 'chemically dependent', and 'elderly' are not protected by either public or private forms of guardianship.

II. METHOD

A. Overview

This information was supplemented by guest speakers, literature distribution, and extensive discussion at Task Force meetings.

Information required to carry out the mandate to the Task Force was gathered in two surveys and by a literature review. The first survey examined Minnesota's public guardianship system and the second surveyed guardianship systems across the United States.

B. Minnesota Public Guardianship Survey

The Program Evaluation Resource Center (PERC) of Minneapolis was retained under contract to gather information on the public guardianship system in Minnesota. A written questionnaire was used to gather information on:

- staff resources,
- duties of county case managers,
- unmet needs,
- methods to improve accountability,
- alternatives to public guardians,
- other disabilities (in addition to mental retardation)
- for individuals under public guardianship.

To gather this information 125 surveys were sent in all to:

County Social Service Directors

Probate Court Judges
Advocates for Clients in State Facilities Community Advocates for
Persons with Mental Illness, for Persons who are Chemically
Dependent, or Elderly Regional Service Specialists of the State
Mental Retardation Division.

The complete survey findings are contained in Appendix B:
"A Survey on Public Guardianship in Minnesota".

C National Guardianship Survey

A staff member of Quality Assurance and Protective Services used telephone and written questionnaires to contact individuals in 28 states (including Minnesota) about public, private, and corporate guardianship models.

Persons surveyed Included:

- . Guardianship Administrators,
Administrators of Protection and Advocacy Systems,
Advocates, .
- Case Managers, .
- Attorneys.

The complete survey results *are* located in Appendix C:
"National Guardianship Survey".

D. Literature Review

A literature review was completed on the topic of guardianship. The results of the review have been incorporated into this report.

III. RESULTS

A. Number of Persons Under Public Guardianship and Their Places of Residence

At the time of this report, Minnesota had 6,758 adults under public guardianship. About half of Minnesota's counties had 40 or fewer wards. Fifteen percent of counties had more than 80 wards. Table 1 shows the Average Number of Adult Public Wards Per County.

Table 1

Average Number of Adult Public Wards Per County

Number of Wards	Number of Counties	Percent of Counties
1 - 20	17	23%
2 - 40	23	31%
4 - 60	13	18%
6 - 80	10	13%
8 or more	11	15%
Total	74	100%

B. Staff Resources for State Guardianship

While the Commissioner of the Department of Human Services is the named guardian for persons under public guardianship, he has delegated on-going responsibility to administer guardianship to the Public Guardianship Administrator. This one staff member monitors the county agencies which provide services for 6,758 wards of the Commissioner in 87 counties.

At the county level, PERC found that two-thirds of Minnesota counties have two or fewer workers serving in some guardianship capacity. Table 2 shows the number of county workers who serve in the guardianship function. Workers agreed that guardianship should be a full-time job. Many counties had guardianship case loads greater than 20, and most of them reported that ten percent or less of worker time is invested in guardianship. Table 3 shows the Percent of Worker Time Invested in Guardianship Functions. By comparison, three-fourths of the counties reported case workers spent 20 percent or more of their time in performing all human service functions for mentally retarded adults.

Table 2
Number of County Workers Who Serve in Guardianship Function

Number of County Workers	Number of Counties	Percent of Counties
one	26	36%
two	28	38%
three	6	8%
four	5	7%
five or more	7	10%
no answer	1	
Total	74	100%

Table 3

Percent of Worker Time Invested in Guardianship Functions

% of Time For Guardianship	Number of Counties	Percent of Counties
0 - 10%	50	67%
11 - 20%	16	22%
21 - 30%	5	7%
31 - 40%	3	4%
41% or more	0	
Total	73	100%

D. Duties of Case Managers as Commissioner's Designee

Although the authorizing legislation requested information regarding the duties of the county case manager as Commissioner's designee, the case manager is not appropriate to act as the Commissioner's designee as guardian due to statutory and rule requirements as well as the potential for conflict of interest.

However, survey results found that the average time spent in guardianship duties by county social workers was slightly more than eight hours per week. Respondents indicated that the job required 40 hours a week. About half of Minnesota's counties are responsible for 40 or fewer wards. Fifteen percent of the counties have more than 80 wards. Guardianship duties of the county social workers and the average time spent on them each week are listed in Table 4: Average Weekly time Invested in Guardianship Duties. The greatest average amount of time spent was six hours per week for general supervisional authority over the wards.

Table 4
Average Weekly Time Invested in Guardianship Duties

General supervisional authority over wards	6 hours/34 minutes
Possession of property	28 minutes
Judicial action	25 minutes
Approval of contracts	19 minutes
Surgical procedures	14 minutes
Adoption of ward	6 minutes
Sterilization Permission to marry	6 minutes
	5 minutes
Total =	8 hours/17 minutes

The average annual county cost of performing these functions was estimated at \$5,745 per ward. The figure was calculated from extremely conservative estimates from the average amount of time spent on guardianship duties compared to average worker cost per county.

A picture emerged of an overtaxed county system which is not able to make guardianship responsibilities a priority. Information was gathered regarding the specification of guardianship functions, training of guardians, and monitoring performance of guardians. More than half the counties (62%) did not specify guardianship responsibilities in job descriptions. In nearly nine-tenths (88%) of the counties, workers were not trained in guardianship within 90 days of employment. Eighty percent of the counties did not regularly review performance of guardianship functions.

When asked how they thought guardianship service to wards could be improved, respondents were heavily in favor of additional training (77%).

D. Disabilities of Persons Under State Guardianship

The average number of persons per county under public guardianship who have one or more additional disabilities are listed in Table 5: "Other Disabilities of Persons Under Guardianship".

Table 5
Other Disabilities of Persons Under Guardianship
(Average Number of Persons Per County)

Physical handicap	82
Cerebral palsy	79
Epilepsy	78
Behavior disorder	68
Visual handicap	63
Hearing impairment	62

E. Extent to which Persons in Need of Guardianship are Not Receiving Protective Services

Each county reported the number of vulnerable adults who are not under guardianship at this time. Table 6 shows the results of Counties Reporting Adult Clients Not Under Guardianship. Counties averaged 44 mentally retarded, 14 mentally ill, 19 chemically dependent, and 195 elderly persons not under guardianship. Some respondents said guardianship was not appropriate for many clients. For others, alternatives such as limited guardianship were considered a possible option.

Table 6
Counties Reporting Adult Clients Not Under Guardianship

<u>Type of Client</u>	<u>Number of Clients</u>					
	None	1-10	11-50	51-100	101-500	500+
Number of Counties With Each Type of Client						
Mentally retarded	7 (10%)	32 (43%)	23 (31%)	4 (5%)	5 (7%)	1 (1%)
Mentally ill	18 (24%)	38 (51%)	9 (12%)	4 (5%)	2 (3%)	0 (0%)
Chemically dependent	24 (32%)	39 (53%)	5 (7%)	1 (1%)	1 (1%)	0 (0%)
Elderly	16 (22%)	27 (36%)	23 (31%)	0 (0%)	3 (4%)	2 (3%)

(Numbers came from County Case Loads.)

Respondents viewed the major barriers to private guardianship as the cost of legal guardianship (currently costing \$300 to \$700), limited staff resources, problems with the families, and the unavailability of guardians.

Generally, families were perceived as uninformed about guardianship. As one respondent reported, "My understanding is that most people don't know what guardianship is.... Information to parents and families doesn't go far enough in explaining... guardianship...."

Regarding the unavailability of guardians, one respondent said, "...many of these people have no one interested in them, so finding a private guardianship for individuals with low income is difficult at best."

Even if a person were willing to assume the responsibilities of being a guardian, legal costs were perceived as prohibitive.

Unclear and restrictive policies and procedures deterred potential guardians. Respondents felt the need for clearly defined duties, guidelines as to when guardianship should be sought, procedures for county agencies to use county-attorney

representation, and policies for probate judges confronting guardianship cases.

Local agencies have a problem with limited staff resources. According to one respondent, "Our agency does not have the manpower to provide this service.... Currently nothing has been decided as to who will be responsible for public guardianships on the county attorney's agenda."

A lack of knowledge and information on private guardianship is a problem. Families, county workers, and other potential guardians need information about what guardianship is, how it works, and what alternatives are available. Agencies had trouble identifying who might benefit from guardianship. Lawyers and Judges were also perceived as lacking knowledge of the Mental Retardation Protection Act.

A few respondents perceived no barriers to substitute decision-making. As one said, "Ah-Gwah-Ching Nursing Home policies. State regulations, advocacy services, the Vulnerable Adults Act, and many others assure that persons under guardianship are being well cared for."

F. The Feasibility and Economic Impact of Extending Public Guardianship to Persons with Other Disabilities

Three states in the national Guardianship Survey *are offered* as examples of how well other models for serving adults with other disabilities *are* working.

Wisconsin In the State of Wisconsin, a number of nonprofit corporations provided guardianship. One corporation, for example, served only elderly, developmentally disabled, and mentally ill people at an annual cost of \$26,000. Funding was 38 percent public, using funds from county social service departments and community Care Organization, and 62 percent using ward assets. Among their clients were 44 people under full guardianship and 24 under more limited forms. The corporation employed one person full-time, and five volunteers. The administrator meets with the corporation attorney weekly and attends seminars when available.

Illinois The Office of State Guardian, the public guardianship system of Illinois, served more than 3,600 adults representing all disabilities. The system spent two million dollars a year on guardianship. The exclusive function of the professional staff which maintained case loads of 130 cases was to provide guardianship services. They were overseen by nine regional administrators. Staff were trained on-site and were required to attend an annual two-day training conference. Each ward was visited at least four times a year and a written report was filed annually.

Maine The public, state-run guardianship program in Maine spent \$100,000 a year to provide guardianship for 700 wards representing a range of disabilities. Two full-time staff and one part-time staff oversaw monthly visits to wards and generated two written reports a year on each. The system used trained volunteers to perform many services.

G. The Success of Models Used in Other States to Provide Protective Services

Although the authorizing legislation requested information regarding "protective services", this was construed to mean guardianship services. The two services often overlap, but *are* not necessarily the same type of service.

In the 28 states which provided information, there were three basic systems of guardianship: public, private, and corporate. The three systems are divided into ten varieties as shown on Table 7: "Guardianship Systems". The type of guardianship most frequently available is the private system. This model is used in 96 percent of states surveyed. The second most prevalent type is the corporate non-profit model used in 57 percent of states surveyed. The third most prevalent type is the public state-run model used in 36 percent of states surveyed, including Minnesota. Most states surveyed utilized more than one guardianship model.

In each of the five Region V states (Illinois, Minnesota, Wisconsin, Ohio, Michigan), there were on average three models in operation. All have private models, 80 percent have corporate non-profit models, and 60 percent have public state-run models (Michigan and Ohio do not). Minnesota is the only Region V state with no corporate model operating statewide.

Table 7
Guardianship system

State	Type (see Key below)										total
	1	2	3	4	5	6	7	8	9	10	
Arizona			x		x	x					3
Arkansas				x	x				x		3
California			x		x	x	x				4
Colorado			x		x	x					3
Georgia					x						1
Hawaii	x				x	x			x		4
Illinois	x	x			x	x					4
Indiana					x						1
Iowa					x			x			2
Kansas	x				x	x					3
Kentucky	x				x			x			3
Maine	x				x						2
Massachusetts										x	1
Michigan											
Minnesota	x				x						2
Missouri		x			x	x	x				4
Montana				x	x						2
Nebraska					x	x					2
Nevada			x		x						2
New York		x			x	x					3
North Dakota		x			x	x					3
Ohio					x	x					2
South Dakota	x				x	x				x	4
Tennessee	x		x		x	x		x			5
Texas			x		x	x					3
Utah	x				x						2
Wisconsin	x			x	x	x					4
Wyoming					x						1
Total	10	4	6	4	27	16	2	3	2	2	76
% systems	13	5	8	5	35	21	3	4	3	3	100
% states use	36	14	21	14	96	57	7	14	7	7	NA

Key:

- 1 - Public state-run guardianship
- 2 - Public county-run guardianship, statewide information
- 3 - Public county-run guardianship, one-county information
- 4 - Public guardianship, other
- 5 - Private guardianship
- 6 - Corporate non-profit guardianship, statewide information
- 7 - Corporate for profit guardianship, statewide information
- 8 - Corporate non-profit guardianship, one-company information
- 9 - Protection and advocacy system only
- 10- Other

Guardianship serves a variety of target populations, most commonly persons who are mentally retarded, chemically dependent, mentally ill, elderly, and physically disabled. This study found that mentally retarded and mentally ill persons were the groups most often deemed appropriate for guardianship services. The breadth of populations served is shown in Table 8: "Percent of Systems Serving Each Group". Table 9 shows the "Percent of Models Which Serve Each Population Most Frequently".

Across all systems of guardianship, the elderly and the mentally retarded constitute the primary populations served by guardianship with the elderly most often served and the mentally retarded second most often.

Both public and private systems concentrate their efforts among the elderly, while corporate systems are most frequently focused on the mentally retarded.

Table 8
Percent of Systems Serving Each Group

Group	Public	Private	Corporate	Total
Mentally Retarded	86	77	84	82
Chemically Dependent	71	73	37	61
Mentally Ill	76	82	53	71
Elderly	71	73	37	61
Physically Disabled	71	64	47	61
Other	9	14	5	10
Unknown	5	18	11	11
# Systems Reporting	21	22	19	62
# Missing	5	5	2	12

Table 9
Percent of Models Which Serve Each Population Most Frequently

Group	Public	Private	Corporate	Total
Mentally Retarded	24	14	42	26
Chemically Dependent	0	0	0	0
Mentally Ill	5	5	11	6
Elderly	62	36	11	37
Physically Disabled	0	0	0	0
Other	0	0	5	2
Unknown	9	45	31	29
# Models Represented	21	22	19	62
# Missing	5	5	2	12

Monitoring methods and respondent evaluations were indicated as elements of an effective guardianship system. The states quantified their monitoring practices as shown in Table 10: "Monitoring Practices by State and System".

The 10 public state-run systems required one annual visit on average; though an average of 14 visits were actually performed. The same disparity existed for the average number of written reports: one report was required annually on average with eight actually performed on average.

The 16 states with corporate non-profit systems showed an average of .27 visits required, with 12.8 performed and .9 written reports required with one performed.

Because very little information was acquired from the 22 states allowing private guardianship, they are not shown on a table. The averages, however, were: .18 visits required with an unknown number performed, and .7 written reports required with an unknown number performed.

Table 10 Monitoring Practices by State
and System

<u>Public State-Run</u>	# visits required	# visits performed	# written required	# written performed	State mon	Court mon
Illinois	4	4	1	1	yes	yes
Kansas	2	2	1	12	yes	yes
Kentucky	1	3	1	1	yes	yes
Maine	0	12	1	2	yes	yes
Minnesota	0	dk	1	dk	yes	yes
South Dakota	dk	dk	dk	1	yes	yes
Tennessee	dk	dk	dk	1	yes	yes
Texas	0	52	1	1	no	yes
Utah	2	12	dk	12	yes	yes
Wisconsin	0	dk	dk	dk	no	yes

<u>Corporate Non-profit</u>	# visits required	# visits performed	# written required	# written performed	State mon	Court mon
Arizona	0	26	1	1	no	yes
California	--	--	--	--	yes	yes
Colorado	dk	24	dk	2	no	yes
Illinois	0	dk	1	dk	no	yes
Iowa	0	12	1	2	no	yes
Kansas	2	2	1	1	yes	yes
Kentucky	1	3	1	dk	no	yes
Massachusetts	0	dk	0	dk	no	yes
Michigan	0	dk	1	1	no	yes
Missouri	0	1	dk	1	no	yes
Nebraska	0	24	.5	1	yes	no
North Dakota	dk	dk	dk	dk	no	yes
South Dakota	0	6	1	1	no	yes
Tennessee	dk	dk	dk	1	no	yes
Texas	0	26	1	1	no	yes
Wisconsin	dk	4	1	1	yes	yes

Key: dk - don't know
mon -- monitored

As shown on Table 11, Recommendations for Improvements, more than half the states reported a need to increase the available funding, add paid staff, protect wards better, provide more training for guardians, and increase outreach. No training is provided in 65 percent of the private models.

Public state-run systems would be most improved by increasing funding, adding paid staff, increasing outreach, serving more disability groups, decreasing case loads, and requiring specific training according to respondents to the surveys.

Corporate models would be improved by increasing funding, adding paid staff, and tightening monitoring requirements according to respondents to surveys.

Private models would be improved by increasing funding, adding paid staff, providing better protection for wards, providing training, increasing outreach, adding monitoring requirements, requiring that the least intrusive form of guardianship be used, creating a central record of wards, modifying the needs assessment used, and committing long term funding.

Table 11
Recommendations for Improvement

Improvement	Public	Private	Corporate	Mean
Increase available money	70*	60	63	64
Add paid staff	60	55	56	57
Protect wards better	45	65*	38	50
Provide training	45	65*	38	50
Increase outreach	55*	55*	38	50
Require specific training	50	55*	44	49
Serve more wards	45	50	44	47
Commit long-term funding	40	55*	43	46
Tighten monitoring requirements	35	55*	50	46
Add monitoring requirements	25	70*	44	44
Have central record of wards	25	55*	43	41
Add volunteers	35	40*	38	38
Have guardianship alternatives	40	50*	19	38
Monitor programmatic issues	25	50*	31	36
Require least restrictive form	25	55*	25	36
Modify needs assessment used	30	55*	19	35
Provide written training	30	45*	13	30
Add guardianship types	30	35*	19	29
Specify duties of guardian	25	45*	13	29
Reimburse private guardians	10	50*	19	27
Develop volunteer recruitment	15	35*	25	25
Standardize referral system	20	20	31	23
Serve more disability groups	25*	15	13	18
Decrease case loads	25*	5	13	14
Serve fewer people	5	10	13	9
Have fewer types of guardianship	0	10	13*	7
Serve fewer disability groups	5	0	0	2
Mean % suggestions given for each system	31	43	23	34
Number of suggestions more than 5% above the mean	4	18	2	
Number of systems answering	20	20	16	
Number not answering	6	7	5	

* 5% or more above the mean for that suggestion

II. Methods to Improve Accountability For and Increase Visits To Persons Under Public Guardianship

When shown a list of suggested measures to improve accountability for, and increase visits to, persons under public guardianship, respondents to the PERC survey consistently supported clear specification of the duties and training requirements for guardians, and increased budgets for guardianship activities. Table 12 shows the results for perceived effectiveness of suggested improvements.

Clearly specified guardianship duties were supported by 89 percent of respondents. As one put it, "...the recent DHS guidelines have been worthwhile; more are needed".

Guardianship training was almost as well supported (83%) though some county informants qualified their agreement by emphasizing the need for clear regulation or by urging a training option rather than a training requirement.

Respondents suggested that an increased budget is needed especially "if more is required of us".

Because respondents included county officials and non-county individuals, the two groups were compared for any differences in perception. Notably, 80 percent of the non-county respondents believe in more stringent monitoring while only 12 percent of the county respondents concurred. In contrast, 81 percent of county respondents perceived the need for more county personnel while only 57 percent of the non-county respondents did.

Table 12
Perceived Effectiveness of Suggested Improvements

Method	Proportion of respondents that believe the method listed would be effective		
	County Informants (N = 74)	Other Informants (N = 25)	Total (N=99)
Clearly specify duties of guardian	88%	92%	89%
Training requirements for guardian	79%	92%	83%
Increased budget for guardianship activities	80%	73%	78%
Increased number of county personnel	81%	56%	75%
Perform needs assessment of wards	57%	92%	66%
Decrease number of wards being served	55%	56%	56%
More stringent monitoring requirements	12%	83%	30%
Increased number of state personnel	18%	48%	25%

Volunteers are a potential source of guardianship services that could reduce the burden to professional staff while increasing visits. A comparison in Florida of professional and volunteer models of guardianship showed that volunteers, however, are not a panacea. The cost of using volunteers proved only moderately lower because of the need for professional staff to supervise, recruit, train, and support the volunteers.

I. The Differences Between Public and Private Guardianship Systems

The national survey of 28 states gathered information that suggested differences between public and private guardianship systems. Corporate non-profit models are discussed in this section as a type of private model.

Annual figures on budget, staffing, and number of wards can be evaluated for the public state-run models and show a mean of 2,025 wards and a mean of \$711 budgeted for each ward. The mean number of staff found was 13 full-time equivalents (FTEs). The corporate non-profit model showed a mean of 508 wards, and a mean of \$521 budgeted for each ward with 18 FTEs (including volunteers).

Public state-run	# Wards	Annual budget	Budget type	# paid FTEs	\$ per ward
Illinois	3,557	2,000,000	1	54	\$ 562
Kansas	800	38,776	1	1	48
Kentucky	2,300*	843,250	1	27*	367
Maine	700	100,000*	1	2.8	143
Minnesota	6,758	50,000*	1	1	7
South Dakota	54	64,500	3	1	1,194
Utah	7	18,600	3	2.5	2,657
Corporate non-profit	# wards	Annual budget	Budget type	# paid FTEs	\$ per ward
Arizona	2	48,000	1	1	24,000
Iowa (one system)	35	13,000	1	.4	371
Colorado	25	60,000	1	dk	2,400
Michigan	250	dk	dk	2	dk
Ohio	2,960	1,422,455	1	99.5	481
South Dakota	46	65,000	1	1	1,413
Texas	250	76,000	1	3	304
Wisconsin	500*	300,000*	1	21	600

Budget types: 1 - guardianship only
 2 - guardianship and case management
 3 - guardianship and protection and advocacy

* - approximately
 dk - don't know

Queries about the sources of financial support revealed that state funds are most often used. Other sources were county and federal funds and estate fees.

Public state-run systems most often (62 percent) employ state funds with other models receiving support from counties and the federal government.

Corporations also often (56 percent) rely on state funds with an additional 33 percent using the wards' estate fees and 22 percent using federal sources.

Most private models received no funding. Those that did most often received financial support from wards' estate fees.

Respondents evaluated their various systems and listed strengths and weaknesses. Public state-run models are ranked more positively than private, but not as high as corporate models.

The major strengths of public state-run systems found were regular visits to wards, regularly completed written reviews, clearly delineated guardian duties, and a wide range of disabilities served. The major weaknesses were inadequate budgets and training.

Corporate systems provided training more frequently than the other two types of system. The major corporate strengths were high monitoring standards and practices, training, outreach, and clearly delineated guardian duties. The major weaknesses were limited types and number of populations being served and limited funding.

The major strengths of the private systems were the ability to serve a wide variety of disabilities and their availability to the general population. A lack of funding, training, monitoring, and accountability through written reports and visits weaken private systems.

J. Feasibility of Alternatives to the Present Public Guardianship System

The Program Evaluation Resource Center (PERC) asked respondents about the feasibility and desirability of alternative guardianship mechanisms. County and non-county respondents favored different systems as shown in Table 14: "Perceived Feasibility of Guardianship Alternatives".

County respondents supported (90%,) public guardianship monitored by a local public agency and funded by the State. They also supported (84%) privately funded private guardianship monitored by the courts.

Non-county respondents preferred (62%) public guardianship monitored by advocacy groups and funded by the State, favored (54%) private guardianship monitored by the courts and funded privately, and favored (54%) private guardianship monitored by advocacy groups and funded from the private sector.

Table 14
Perceived Feasibility of Guardianship Alternatives

Type of Guardianship	Monitoring Agency	Funding Mechanism	Respondents		
			County	Other	Total
Public	Local/ public	State/ public	90%	46%	79%
Private	Court	Private	86%	54%	78%
Public	Local/ public	Local/ public	51%	29%	45%
Public	Advocacy group	State/ public	38%	62%	44%
Private	Advocacy group	Private	41%	54%	44%
Private	Advocacy group	State/ public	37%	58%	41%
Corporate	State/ public	State/ public	36%	42%	37%

Type of Guardianship	Monitoring Agency	Funding Mechanism	Respondents		
			County	Other	Total
Public	State/ public	Local/ public	34%	37%	35%
Corporate	Local corporation	Private	27%	29%	28%
Corporate	State corporation	Private	23%	29%	25%

(N=74) (N=25) (N=99)

The literature showed considerable discussion of less restrictive forms of guardianship. These forms include property guardianship, power of attorney, durable family power of attorney, appointment of an agent, single-transaction court ratification of a particular action, joint tenancy, inter vivos transfers of property, deeds of guardianship, trusts, substitute or representative payee, protective services, and civil commitment. If these forms are used, especially for those with property, full guardianship can become a last resort.

To provide the least restrictive forms of guardianship, it is necessary to base guardianship on the client's recent conduct in specific areas and to tailor it to each client's needs. The ward deserves every opportunity to overcome the problem that adversely influenced his or her capacity to make sound decisions. One journal article suggests that guardianships be created for fixed periods of time and that judicial review be required before renewal.

Applying limited guardianships to adults with developmental disabilities presents some specific problems. An investigation into under use of limited guardianships in North Carolina revealed that those working with mentally retarded adults often were not knowledgeable about the law governing guardianship. Other obstacles to implementation were: perceptions by social service workers of excessive work demands, by parents that an incompetent offspring was a stigma, by clerks of the court who

thought learning to use limited guardianship would be troublesome, and by all groups who questioned as to who would act as the petitioner

A position paper presented by one member of the task force and conclusions of the literature review, cautioned against the liberal application of full guardianship with the elderly. Personnel at the one Minota state-operated nursing home suggested that "Substitute decision-making is limited to those areas where the individual's inability to meet his needs mandates control by others". Elderly persons under protection need to be allowed to make what choices they can. A study by the Benjamin Rose Institute found that intensive protective services in fact increased the chance of death.

The position paper regarding chemical dependency asserts that guardianship is preferable to commitment for chronically chemically dependent people. While the area is developing, it is likely that a limited form of guardianship will be presented for consideration by lawmakers in the near future.

IV. RECOMMENDATIONS

Although the Task Force attempted to obtain a consensus, a unanimous decision was not reached in all areas. Representatives for the four categories of vulnerable adults encompassed by the Task Force submitted papers outlining their position. These are contained in Appendix A: Position Papers.

It was generally agreed by Task Force members that the present system of public guardianship is not amenable to expansion to other populations. The position papers reflect the desirable characteristics of any expanded guardianship system.

Task Force recommendations were grouped into four categories: (1) general recommendations, (2) private guardianships recommendations, (3) corporate guardianship recommendations, (4) special recommendations proposed by specific Task Force members.

A. General Recommendations:

A consensus was not reached on placement of the guardianship office, on what constitutes conflict of interest, on what constitutes least restrictive alternatives, or on the special recommendations which conclude this summary. On all other issues a general consensus was reached.

- All guardianship systems should have a clearly defined purpose with benefits, responsibilities, and legal implications clearly outlined.

- All clients under guardianship should be assured of accountability, protective services, and quality care in decisions made by the guardian.

- Clients should be assured that the most appropriate forms of substitute decision-making are chosen and that they are properly implemented on an individual basis. When selecting a method for substitute decision-making, the least restrictive alternative or least intrusive or controlling mechanism should be chosen. Wards should retain as many rights as they are capable of exercising on their own behalf. The range of alternatives considered should include: no guardianship, advocacy, representative payee, case management, private guardianship, corporate guardianship, Conservatorship and public guardianship.

- Expanded and extended educational and communication materials should be made available to the public, especially parents and relatives, social service personnel, protective service personnel, advocates, public school personnel, health services personnel, and probate courts. Such information should include the need for guardianship, alternatives to guardianship, and issues surrounding guardianship.

- Conflicts of interest or unlawful decision-making by unauthorized parties making decisions on behalf of their clients should be avoided. Examples of conflict of interest include nursing homes making decisions for the elderly without legal sanction and county case managers acting as commissioner's designee in public guardianship. The guardianship function should be placed in an agency which does not provide services to clients. Providers should not make decisions for clients unable to make their own decisions without legal sanction.

- State laws providing guardianship must provide fiscal appropriations to permit quality services.

- An adequately resourced independent Office of Public Guardianship should be created. The current guardianship mechanism should be restructured to include Regional Guardians and Assistant Regional Guardians, with support services. The Regional Guardians would assume the major role in providing substitute decision-making now made by counties. This system should be centrally operated within the Department of Human Services to retain the authority vested in the current system.

- Current statute should be revised and a rule adopted for creating and implementing standards and quality assurance mechanisms for public guardianship.

- More stringent monitoring and visitation regulations should be required.

- Regardless of the extent of action on the proposed recommendations, the staff and budget of the guardianship office should be expanded.

- Development and implementation of quality assurance reporting mechanisms are necessary to monitor and evaluate guardianship systems.

- Legal and technical assistance to the county social service agencies on substitute decision-making and guardianship alternatives should be provided.

- Final responsibility in major decision-making in such areas as sterilization, "do not resuscitate" orders, refusal of treatment, changes in guardianship status, and protection of abused wards/conservatees should be retained by the state office.

B. Private Guardianship Recommendations;

- Funding for near-relatives who can not afford the cost of initial guardianship proceedings for private guardianship should be provided.

- Monitoring systems for private guardianships should be established and implemented by a state agency.

C. Corporate Guardianship Recommendations;

- A mechanism similar to that in the Wisconsin system, should be developed, creating a non-profit corporate guardianship system to provide for low-income clients with no near-relatives.

- A centralized monitoring agency supervising guardianship services provided by small local corporations should be established.

- All local corporations should be mandated to institute structured training, monitoring, and service provision requirements.

- Partial public funding for corporate guardianship should be provided.

D. Special Recommendations Proposed by Specific Task Force Members (for which consensus was not reached)

- The Minnesota Board on Aging proposes a pilot/demonstration project involving elderly individuals or any other population unable to make their own decisions. The project would include providing services, advising families, providing legal services, serving as conservator, supplementing existing services, reviewing active cases quarterly, and formulating service plans and use of least restrictive alternatives.

- The state-operated nursing homes suggest two plans for certain elderly individuals, especially those who exhibit severe behavior disabilities and are otherwise more severely affected

than the general elderly population. One plan would authorize a pre-planned designation of Health Conservator, a person who makes substitute decisions when the resident becomes incapacitated and when such behavior threatens the life, safety, or health of residents and/or others. Health Conservator status would be invoked or revoked according to designated reviews and a legally sanctioned procedure to protect the constitutional rights of the clients. The state-operated nursing homes also urge the establishment of Facility Standards needed to carry out nursing home responsibilities for the protection of life, safety, and health of the residents. The Facility Standards would require an individual program plan and quarterly reviews of Health Conservator designations.

- Other concerns indicated included further study of the possible advantages and disadvantages of an Office of the Public Guardian which would be independent of other state agencies.

Specific position papers are found in Appendix A.

V. CONCLUSION.

The Guardianship Task Force concluded that the current guardianship system could not be expanded to other populations and operate effectively. A number of general changes are required to improve efficiency and protect the rights of those under guardianship. Those changes should include clearly defining the system's purpose, ensuring accountability, invoking the least restrictive means of protection, educating all involved persons, avoiding conflicts of interest between guardians and service providers, and developing a source of funds.

The Task Force has recommended a number of changes prior to expansion of public guardianship to populations other than persons with mental retardation. Basically those changes encompass creating an independent Office of Public Guardian, increasing funding and staff for the guardianship office, stricter monitoring and visitation requirements, and quality assurance reporting mechanisms. The Task Force supports encouraging corporate and private guardianship and establishing a means for education, monitoring, and funding.

Once the task force recommendations are implemented and proved effective, the system should be addressed with respect to expansion to other populations.

VI. DEFINITIONS OF TERMS

CONSERVATEE -- a person for whom the court has appointed a conservator to make specified decisions on their behalf.

CONSERVATOR -- person appointed by the court to make limited decisions for another person (conservatee) based on the court delineation of powers.

CORPORATE GUARDIAN -- a court-appointed guardian that is a corporation or an employee of a corporation offering guardianship services.

GUARDIAN -- a person appointed by the court to make all decisions for another person (ward), judged legally incompetent, which includes determining residence, supervising care, and protecting property.

LEGALLY INCOMPETENT -- a judicial assessment of a person's inability to self-administer.

PRIVATE GUARDIAN -- a relative, lawyer, banker, or other appointed by the court as guardian for a person judged legally incompetent.

PUBLIC GUARDIAN -- a public employee; for mentally retarded adults in Minnesota, it is the Commissioner of the Department of Human Services.

WARD -- a person for whom the court has appointed a guardian.

INTER VIVOS -- transaction between persons

VII. REFERENCES

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VIII. PERSONS CONTRIBUTING TO TASK FORCE DELIBERATIONS

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The County Social Service Agencies -- Minnesota

Chemically Dependent Advocates -- Minnesota

Senior Citizen Advocates -- Minnesota

Michael Seeber -- Video taping of presentations

Tony Apolloni -- California

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John Hoyle -- Michigan

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X. INQUIRIES

Please direct inquiries regarding this report to:

Quality Assurance and Protective Services Division
Minnesota Department of Human Services Fourth
Floor, Centennial Building 658 Cedar Street St.
Paul, MN 55155

Attention: Kay C. Hendrikson
Public Guardianship Administrator
(612) 296-2168

APPENDIX A

INDIVIDUAL TASK FORCE MEMBERS'

POSITION PAPERS



I. WARDS OF THE COMMISSIONER

This guardianship system should be used only for those mentally retarded individuals who have no near-relatives "willing and/or able" to assume the responsibility of guardianship. These wards are highly vulnerable individuals, including those with the most severe secondary handicapping conditions.

For comparative purposes, the State of Illinois was used. With a budget of over \$2 million, and over 50 total staff, Illinois provides total guardianship services. There is no case manager or local provider conflict of interest. In addition, the state guardianship office is used primarily for policy-making purposes, rather than case-by-case decision-making. The state office does reserve the responsibility of making decisions in highly controversial situations such as sterilization, do not resuscitate orders, refusal of treatment, and protection of abused wards. The regional staff are responsible for the day-to-day decision making, including surgical consents.

A. STRUCTURE

The entire guardianship system should be administered and monitored on a state level. The system should operate outside the Department of Human Services. This change in position is to ensure the absence of conflict of interest within the state department system itself. For example the role of court monitor is completed outside the state department system for these reasons. If quality protection and advocacy services as guardians and substitute decision-makers are to be completed, it must be maintained outside the current system. This may mandate statute revisions. This new structure will incorporate a state level director with program assistant and clerical support, as well as at least 10 regional guardians with an assistant regional guardian, and clerical support services.

The purpose of this proposed structure is to eliminate the conflict of interest and provide better protection and advocacy to wards of the Commissioner. This structure will allow the county social service agency to act as case manager without the added duties of acting as guardian for the wards.

B. MONITORING AND DUTIES

The state guardianship office should develop a rule ensuring that guardianship responsibilities are carried out effectively.

The Regional Guardians and their Assistant Regional Guardians will act as legal representatives on behalf of the Commissioner. Delegation of authority will be given to these personnel to act on behalf of the Commissioner in decision-making for the wards. Certain high level situations will always require consent from the State office prior to proceeding. In general, the Regional and Assistant Regional Guardians will assume the duties that, in the past, county personnel had been doing on behalf of the wards. The Regional and Assistant Regional Guardians will be required to visit the wards a minimum of four times per year. These personnel will be required to submit, at least quarterly and annually, a report on the progress and status of the ward. They are to maintain close contact with the county social service agency, near relatives, and service providers related to the ward's life. These personnel will provide services as outlined in the Mental Retardation Protection Act, Minnesota Statute 252A.

C. QUALITY ASSURANCE MEASURES

The Regional and Support Guardians will formally report on a monthly basis to the state guardianship office, including measures which ensure quality guardianship services. These measures will be developed at a later time.

II. MENTALLY RETARDED CITIZENS IN NEED OF GUARDIANSHIP OUTSIDE OF COMMISSIONER'S GUARDIANSHIP

The following systems can be applied to populations other than just the mentally retarded.

Mentally retarded citizens in Minnesota are in need of more alternatives than are currently available. In the case of wards who have no family members that are willing and/or able to act as guardians, or in the case where there are family members willing and/or able but who do not have the resources to even initiate the guardianship proceedings, Minnesota needs some alternatives.

A. PRIVATE GUARDIANSHIP

A funding mechanism needs to be established for parents and near-relatives who cannot afford the typical costs of proceedings (running from \$150.00 to \$700.00). This funding should be appropriated at the state level to be distributed to counties as needed. The Wisconsin model can be used for comparison.

In addition, a better monitoring mechanism should be established. The private guardian should be required to submit quarterly reports to the state department. The state department would act only as a monitoring agency for all private guardianships.

B. CORPORATE GUARDIANSHIP

A system of corporate guardianship needs to be developed in Minnesota for citizens in need of substitute decision-making who have neither funding nor near-relatives willing and/or able to assume the responsibility.

A corporate model that is viable for Minnesota can be seen in Wisconsin. The system consists of a state office apart from the State Human Services Department which monitors and has authority over many small, highly independent corporations. All independent corporations will have one policy/regulations manual outlining specific duties and responsibilities. In turn, the individual corporations will submit reports to the main office for monitoring and control.

The state should be required to allocate a minimum of dollars per month per corporate ward to be routed to the county social service agencies which will reimburse the local corporation for work involved.

III. OTHER CONSIDERATIONS

This position paper does not recommend that all mentally retarded persons should have guardianship services. In all cases, the use of the least intrusive alternative for substitute decision-making should be mandated on an individual client-by-client assessment.

MEMO

TO: Kay Hendrikson

FROM: Stephen E. Scott, Legal Advocacy for Developmentally
Disabled Persons in Minnesota, and Deborah Holtz,
Association of Retarded Citizens, Minnesota

DATE: October 1, 1985

At your request, we are writing to convey our thoughts on the form we think public guardianship should take in the future. We appreciate your interest in receiving our thoughts and will be glad to expand further on what we share below.

Our preference for the future would be the creation of an independent Office of Public Guardianship. This office would serve essentially an oversight function similar to that of a private guardianship. We would request that the Task Force explore this alternative and would accept the responsibility for providing some leadership in these explorations.

If the Task Force ultimately decides not to recommend this option, we would ask that it suggest several major changes in the present state guardianship system. From our perspectives, the present system has too often failed to effectively serve the essential duties of a true guardian, as enumerated in Minn. Stat. § 252A.15. The following major reforms are needed to transform the system into one that will protect and advocate the rights of mentally retarded wards and conservatees.

The state guardianship office should play a more substantial role in ensuring that counties properly perform their role as the Commissioner's guardianship delegatee. As an important step in

this direction, the office should set standards through adopting a state guardianship rule, such as the one that has been adopted for children under state guardianship. The office should also conduct periodic monitoring of counties to ensure compliance with the rule.

The state guardianship office should have the capability to provide counties with technical assistance where needed to properly exercise their guardianship oversight. The office should also be able to deliver legal assistance where needed to protect the rights of wards or conservatees.

The state guardianship office presently makes certain decisions itself, instead of delegating them to the counties. The office should continue this practice by assuming the responsibility for final decisions in such areas as sterilization, DNR orders, refusal of treatment, changes in guardianship states, and protection of abused wards/conservatees.

These changes will obviously require a modest expansion of staff. They will also require major efforts to trim the state guardianship roles so that only those with no viable alternatives utilize this system. We believe that these changes can be made and would be willing to offer our support in effecting them.

Guardianship Issues for Chemical Dependency

- I. Background - Historically, guardianship is seldom established for anyone due to chemical dependency. In rare cases, either guardianship of the estate or spendthrift trusts are employed to prevent later stage chemically dependent persons with substantial assets from the financial consequences of chemical dependency. When a person's chemical dependency has reached the stage where harm cannot be prevented to the individual or the public, the standard response has been civil commitment to a state hospital or a private chemical dependency facility. The complaint of these facilities has been 1) that many late stage chemically dependent will not benefit from further treatment due to problem severity, and 2) there are few resources to which such clients may be referred after treatment.
- II. Scope of Problem - It must be noted that the chemically dependent person, when compared with other disability groups, is highly capable of effective self care unless and until the illness is in its late stage. There are an estimated 3,200 chronic or late stage alcoholics in Minnesota. These individuals consume approximately \$40,000,000 in public resources annually. The costs are in the form of detoxification, acute hospital and chemical dependency treatment admissions; payments for public assistance; arrest and jail costs; and court and other administrative costs relating to civil commitment and criminal processing. These costs are not under the control of any single agency or level of government, and often function at cross purposes with other public expenditures. Case managers often report that their lack of control over income maintenance funds results in the funds being spent on alcohol instead of for self-care, for example.

In an effort to gain some control over costs, and to foster consistency in public support of recovery from chemical dependency, efforts are underway to develop a comprehensive case management model for the late stage chemically dependent. It is thought that such a model should involve guardianship in some form as one case management tool. Current case managers estimate that ten to fifteen percent of these chemically dependent would benefit from guardianship. This would amount to 320 to 180 individuals per year.
- III. Current Efforts - The Department, Hennepin County, the City of Minneapolis, and private foundations are currently supporting a study by the Minnesota Institute of the feasibility of a prepaid case management model for chronic alcoholism. This study will be completed during fiscal year 1987. The study will gather more data on problem scope, and investigate the legal and ethical issues involved in a case management system that would limit client alternatives. Preliminary work indicates that case managers may need the option of obtaining a guardian for certain clients. It may be the case that neither of the current forms of guardianship would be ideal for this purpose. In most cases, these clients should have the same civil rights as a person under civil commitment, with a guardian having control of assets and perhaps of living arrangements. Current law does not appear to provide this option.
- IV. Conclusion - The chronic chemically dependent person is usually more dedicated to perpetuation of the illness than to any care or treatment. As the state looks to the resulting needs for behavior management tools to foster recovery, a paradox becomes highlighted. While guardianship as

as currently conceived of as the most restrictive alternative for any individual by the legal system, clients would much prefer that option over the current practice of institutional commitment. At least the former option allows for normal community activities within client capabilities. An ideal solution has not been formulated to date, but probably involves a new category of guardianship or Conservatorship.

While the work of the Task Force has defined a large number of problems associated with the guardianship system, the chemical dependency field has no system at all that can effectively provide protections to certain chronic stage people in the community. The task at hand is to determine what the proper behavioral and economic supervision limits ought to be, so that a system can be proposed that recognizes both the strengths and problems of the chronic chemically dependent. Such a proposal very likely will include a form of guardianship, which will provide some court monitoring for the person or agency acting as guardian.

DEPARTMENT

HUMAN SERVICES

Office Memorandum

TO:

Kay Hendrickson

DATE:

FROM:

Katie Bradfield
Ardo Wrobel

11/7/85

PHONE:

SUBJECT:

PROPOSAL

As a follow-up to the attached Bradfield memo of 8/23/85, the following summary and proposals are for consideration.

1. Nursing homes are experiencing increasing difficulties in protecting the rights of their residents, and in carrying out their responsibilities for the protection of life, safety, and health of residents. While this is true in community nursing homes, it is more so in the state nursing homes because they specialize in severe behavior disabilities that cannot be appropriately cared for in community facilities.
2. There is, on one hand, a body of interpretation that all decisions rest with the resident (regardless of their condition). On the other hand, there are daily practices that make substitute decisions for the resident (i.e., when he/she is an unsafe smoker, refuses to bathe, refuses to change clothes, ingests substances such as shaving lotion and after-shave lotion, refuses to eat, leaves the facility under unsafe conditions). See paragraph 9 of the attached Bradfield memo.
3. Since all residents are considered competent (in the eyes of the law) unless adjudicated incompetent, they have a right to refuse care and protection needed (as seen by the nursing home) to carry out the facility's responsibility to protect the residents from harm. See paragraph 11 of Bradfield's memo.
4. The process of aging presents problems of discrimination, confusion, and disturbing behaviors that may threaten the safety of the resident or others he/she lives with. Since such behavior may occur before admission (and is often the reason for admission), or after admission, community nursing homes and state nursing homes must cope with these problems daily (more so in state nursing homes because of higher numbers of persons with serious behavior problems).
5. Significant problems arise when resident behavior (confused, disturbed, disoriented) conflicts with the nursing home's efforts to protect resident rights, and at the same time protect their life, safety, and health.

6. Clarification of responsibilities and authority is needed. In doing so, should nursing homes have a right to establish facility rules to carry out their responsibility to protect residents, or should they have legal sanction to act in the implied guardianship role 1) they are often assumed to have?

7. In any form of solution, certain minimum well-defined standards for such authority would need to be established to protect resident life, health, and safety. Features should include a system of substitute decision making, and assurance of protection of resident rights.

8. Non-compliance with facility rules (actual or perceived), and action needed to protect the resident from harm, is often due to resident confusion, disorientation, memory loss, physical and verbal threats to self or others. In such cases, competency to make appropriate (informed) decisions about his/her health, and safety, is in question, even though the person may be competent in all other areas.

9. A form of Conservatorship for health preservation reasons is proposed for consideration. Although the guardianship/ Conservatorship laws provide for such protection, the costs, attitudes of relatives, time delays, and other factors, indicate that the current laws may need change to be more relevant to the needs of elderly in nursing homes.

PROPOSAL

1. AUTHORIZE THE ESTABLISHMENT OF FACILITY STANDARDS THAT ARE NEEDED TO CARRY OUT NURSING HOME LEGAL RESPONSIBILITIES FOR THE PROTECTION OF LIFE, SAFETY, AND HEALTH OF THE RESIDENTS: REQUIRE ESTABLISHMENT OF AN INDIVIDUAL PROGRAM PLAN THAT SPECIFIES MEASURES THAT MAY BE TAKEN: PROVIDE FOR REGULAR QUARTERLY REVIEWS BY RELATIVES, RESIDENT, COUNTY, GUARDIAN, OR HEALTH CONSERVATOR, TO DETERMINE NEED FOR IMPLEMENTING THE INVOKE-REVOKE PROVISIONS OF HEALTH CONSERVATORSHIP. 2)

- 1) The implied guardianship role of the nursing home is seen as a conflict of interest, and is not recommended.
- 2) The criteria for determining the invoke-revoke provisions of a health Conservatorship plan would need to be established in statutes or rule. The should likely include reports of the type and frequency of behaviors that threaten life, safety, or health, of self or others.

2. AUTHORIZE THE PRE-PLANNED DESIGNATION OF A HEALTH CONSERVATOR TO MAKE SUBSTITUTE DECISIONS WHEN THE RESIDENT BECOMES (OR IS) INCAPACITATED FOR REASONS OF DISORIENTATION, CONFUSION, DISTURBING/THREATENING BEHAVIOR, AND WHEN SUCH BEHAVIOR THREATENS THE RESIDENTS (HIS AND/OR OTHERS) LIFE SAFETY, OR HEALTH.

DISCUSSION

1. In the case of a health Conservatorship plan, it will be necessary to amend the statutes to authorize a pre-planned designation of a health conservator 3) by the client and/or his relatives to act when and if it becomes necessary to protect the client or others from harm. (In the absence of relatives, or their willingness to cooperate with the client, the county or an advocate may be an appropriate substitute for the relative's role in the designation process).
 2. A pre-planned designation of a health conservator should not have to go through court, but rather registered with the court (or county attorney) and held as a legal document, with a copy for the county social service agency.
 3. The authority of the health conservator should be limited to medications, food, and personal restrictions (when and if) needed to protect life, safety, and health of the residents. The written designation of a health conservator should specify how the authority of the health conservator would be invoked and revoked. Health Conservatorship would be invoked when relatives, county, and nursing home representatives jointly agree that it is needed for the purpose intended. By the same token, health Conservatorship would be revoked when (notified that) relatives, county, and nursing home representatives jointly agree that it is no longer needed.
 4. In the event that a pre-planned health Conservatorship is not agreed to (or subsequently rejected) by client/relatives, the need for Conservatorship (or guardianship) would be determined through the usual court procedures.
 5. In the matter of facility rights, it is suggested that county or facility staff inform the client, on admission, that his/her personal rights and facility rights complement each other as
-
- 3) While any person willing and able to carry out this responsibility may be designated (including a relative or county employee), designation of a nursing home employee of the facility of residence is seen as a conflict of interest.

follows: (i.e., to make the following points)

- a. You have rights regarding consent to admission; protection as a vulnerable adult; to refuse care/treatment; to communication and legal counsel; to leave the facility.
- b. This facility has responsibility to protect you from harm, including measure (that you may not like at the time) that prevent you from starvation or suicide; leaving the facility (or wandering) when it is hazardous to do so; not taking prescribed medications to preserve your life, health, or safety, or that of others in this facility.
- c. This facility has a right to expect compliance of all residents, so that your personal rights, and our responsibilities to protect you from harm, are properly carried out. This facility will consider transfer or discharge if you (or your designated health conservator) do not cooperate with our efforts to prevent harming yourself or others.

cc: John Clawson
Maurice Treberg
Jim Walker Lyle
Wray John Grimley



THE MENTAL HEALTH ASSOCIATION OF MINNESOTA



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Executive Director
GEORGE DAVID CARR

December 16, 1985

Ms. Kay Hendrickson
Public Guardianship Administration
Quality Assurance Division
4th Floor Centennial Bldg
St. Paul, MN 55155

Dear Kay,

The following is the Mental Health Association's views as they relate to the potential expansion of public guardianship to include persons with a mental illness.

PERSONS WITH A MENTAL ILLNESS

Client's description:

Any adult person who is impaired by a mental illness to the extent that he/she lacks sufficient understanding or capacity to make or communicate responsible decisions concerning his/her person, and who has demonstrated deficits in behavior which evidence his/her inability to meet his/her needs for medical care, nutrition, clothing, shelter, or safety.

Expansion of Public Guardianship to people with a mental illness should not occur until the current system has made at least the following changes:

1. Creation of an independent Office of Public Guardianship.
2. Adopt a rule for implementing standards.
3. Eliminate even the perception of a conflict of interest.
4. Expand staff of guardianship office.
5. Assurance that law, rule, and funding create a substitute decision-making system based on quality, not minimal adequacy.
6. Assurance that what is best for the person (not the system) is the end result.

After the above changes are in place in systems for mentally retarded individuals:

1. Determine if practice is following theory.
2. Determine number of people with a mental illness who would be included in an expanded Public Guardianship law.
3. Expansion in law must accompany increased funding and staff in the independent Office of Public Guardian-



A UNITED WAY AGENCY

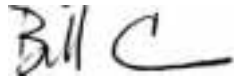
328 East Hennepin Avenue • Minneapolis, Minnesota 55414 • 612/331-6840

Hendrickson-Dec. 16, 1985

Page 2

4. Guardians must be uniquely qualified to make substitute decisions for persons with a mental illness
5. The theory and practice should limit substitute decision-making to those instances when it is "necessary".
6. The type of power of substitute decision-making should be the least restrictive as it relates to scope and time.

Sincerely,

A handwritten signature in dark ink, appearing to read "Bill C", with a stylized flourish at the end.

William W. Conley
Director, Public Affairs

WWC/nak

**For Public Guardianship Task Force
October 1, 1985 meeting**

**Outline for Preliminary Comments Re Position
Paper on Public Guardianship and the Elderly**

Kay asked Katy Bradford (Ah-Gwa-Ching State Nursing Home) and I to do a position paper on the question of extending public guardianship to cover the elderly.

Katy and I have talked -- she couldn't be here today -- and we may or may not come up with a joint position paper. I can tell you my position, and some of the issues Katy and I discussed.

I believe it is universally agreed that the present Public Guardianship system for the mentally retarded, under Chapter 252A, should not be extended to any other population. Present problems include unmanageable caseloads, lack of adequate funding and personnel, and questions about necessity and effectiveness.

So, I think the question we are being asked to address is whether any Public Guardianship system should be extended to the needy elderly. That is, can a system be developed that would meet the needs of certain vulnerable elderly, would not address current problems by creating new problems, and would be viable given economic realities? And would such a Public Guardianship system be preferable to other viable alternatives?

I think we cannot answer such questions without study. I think that the difficulties inherent in Public Guardianship, such as conflict of interest, suggest that we should first explore and study systems which would not use public employees as guardians. I would like to see a demonstration/research project before any new state-wide system is implemented.

Katy and I discussed the issues raised in her letter that was distributed earlier -- the defacto surrogate decision making that goes on in placing and maintaining many elderly in nursing homes. In many cases, entering the nursing home cannot be truly said to be the decision of the elderly person, and treatment decisions are being made without legal authority. Yet, legal intervention in *every* case is neither practical nor desirable. Conservatorship is, itself, a burden on individual rights. Eli Cohen has suggested that (quote) -

- Hearings prior to placement are not the answer. Instead, all those in danger of nursing home placement have a right to a good assessment. There is

an obligation on the part of the law and society to lay out the hierarchy of remedies within the least restrictive alternative concept.

For placement, good assessment that considers less restrictive alternatives is the answer. We have this mechanism in Minnesota.

For treatment in the nursing home, we have care plans, developed by multi-disciplinary teams. And increasingly, there are institutional ethics committees.

Any system to serve the elderly should have a bias against Conservatorship, should coordinate or provide alternatives, and should be located outside of a public agency yet have some public funding.

BASSFORD, HECKT, LOCKHART & MULLIN, P. A.

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December 20, 1985

Ms. Kay Hendrikson
Public Guardianship Administrator
Quality Assurance Division
Department of Human Services
Fourth Floor Centennial Office Building

St. Paul, Minnesota 55101

Dear Ms. Hendrikson:

I wish to state my strong objection to the recommendation of the task force that an Independent Office of Public Guardian be established.

Minnesota has had Public or State Guardianship for a substantially longer period of time than any other state, the Minnesota system like any other system can be improved, but it has developed more expertise, serves more people who are retarded who need public guardianship service, and involves more parents and relatives as respected members of the team in the decision making process than any other state.

The Minnesota Public Guardianship system as opposed to the private guardianship system, or the corporation guardianship system or even the Public Guardianship System of some states mandates that the State by way of the Commissioner of the Department of Human Services provide humane care and treatment for each ward. This is a legally enforceable duty which does not exist in the private or corporate forms of guardianship and which is of extreme importance for the welfare of these people who are wards.

One may not always be satisfied with the service or care and treatment but the ward does not become a bag man or bag lady and is not denied any service or care or treatment whatsoever because there is no space or money available.

Likewise under our present system which can be improved by adding more quality staff to the state office and possibly regional offices, responsibility is placed in one state agency which delegates most of the actual work to the county social service agencies.

EDMUND T. MONTGOMERY
CHARLES A. BASSFORD
RETIRED

FRED B. SNYDER (1858-1951)
EDWARD C. GALE (1862-1943)
FRANK A. JAMES (1908-1999)
NATHAN A. COBB, SR. (1905-1976)
BERGMANN RICHARDS (1888-1978)



Ms. Kay Hendrikson
December 20, 1985
Page 2

This has the important advantage of reducing buck passing and avoidance of responsibility between several state agencies. It has another distinct advantage in providing flexibility.

If Minnesota were to adopt a separate Independent Office of Public Guardian, in my opinion, responsibility would become so diffused that more and more people needing appropriate service, care and treatment would be denied same. Both agencies, the Independent Office and the Department of Human Services, would pass the buck to the other and neither would have the legally enforceable duty to provide and fund the necessary appropriate care, treatment and habitation services for the wards under their jurisdiction.

One other reason for my objection to an independent and separate public guardianship office is my concern that another layer of bureaucracy would be added, that the trend would be toward adding more and more professional guardians and more and more social workers, administrators and management personnel to the extent that not only would the cost of same reduce the funding for the actual care, treatment and habitation of persons who are retarded but that fewer people who need guardianship service would receive them.

Some members of our task force are, in my opinion, overly concerned with the conflict of interest problem in not only public guardianship but also in parents or relatives engaging in substitute decision making.

My main concern is that our system provide interest and decision making. In my opinion the creation of an Independent Office of Public Guardianship and the continuing trend to have more and more court appearances and paper pushing and expense for private guardians will result in fewer and fewer public employees and parents and relatives willing to assume interest and responsibility for people who are retarded.

I believe we should concentrate on improving, not destroying, the present system of public guardianship.

I believe that the task force should continue to meet for at least six months. We should have more discussion and debate, secure more valid statistics and secure reasonably accurate cost projections for implementing each of our finally adopted recommendations.

Ms. Kay Hendrikson
December 20, 1985
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Thanks Kay, for the opportunity to set forth some of my
thoughts and opinions.

Very truly yours,

A handwritten signature in dark ink, appearing to read "Mel D. Heckt", written in a cursive style.

Melvin D. Heckt

APPENDIX B

A SURVEY ON PUBLIC GUARDIANSHIP

IN MINNESOTA

A SURVEY ON PUBLIC GUARDIANSHIP IN MINNESOTA

December 10, 1985

Prepared by:

S. H. Lund N.
E. Larsen C.
D. Johnson B.
A. Miller

The staff of

PROGRAM EVALUATION RESOURCE CENTER Thomas
J. Kiresuk, Ph.D. Director Minneapolis
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EXECUTIVE SUMMARY

This report summarizes the results of a survey concerning Public Guardianship issues in the State of Minnesota. The survey was executed by Program Evaluation Resource Center (PERC) staff under contract to the State of Minnesota, Department of Human Services. The data which comprise this report were collected during October and November of 1985.

Objectives

The primary goal of this survey was to inform the task force's deliberations by collecting information on the following dimensions related to: 1) the amount of staff resources available to perform the role of public guardian, 2) the duties of the county as manager the Commissioner's designee, 3) the extent to which persons in need of some form of guardianship are not receiving these services, 4) methods which may be used to improve the accountability for and increase visits to persons under public guardianship, 5) the feasibility of alternatives to the present public guardianship, and 6) handicapping conditions of wards under public guardianship.

Methods of Procedure

SAMPLING. Working with the state guardian, a list of potential survey respondents was developed. The initial sample consisted of 124 persons who represented the following groups: 1) County Social Service Directors, 2) Regional Services Specialists of the Mental Retardation Division, 3) Probate Court Judges, 4) Advocates for the Mentally Ill, 5) State Hospital Advocates, 6) Advocates for the Mentally Retarded, 7) Advocates for the Chemically Dependent, and 8) Advocates for the Elderly. Ninety-nine (80 percent) respondents returned their completed questionnaires.

DATA COLLECTION. A sixteen-item, seven-page mail survey addressing the six content areas described in the objectives section, together with an accompanying letter of transmittal, was sent to persons on the sample list on October 4, 1985. Follow-up calls were instituted by Program Evaluation Resource Center staff on October 22, 1985, to check on the status of all missing questionnaires and to encourage their completion. After waiting a week for response to these calls, a second wave of reminder calls was instituted the week of November 1, 1985. Concurrent with these reminder calls, data from completed surveys, both open and closed-ended responses, were being entered in a computer file for analysis. As a part of this process, data received were reviewed for clarity, accuracy, contradictions and completeness. Wherever problems existed with the completed surveys, PERC staff contacted the respondents to request additional information. Data were analyzed using the Statistical Package for the Social Sciences (SPSS) Program.

FINDINGS

The results of the survey are outlined below. For the first four sections, only results received from the 74 county social service directors are summarized. In the fifth and sixth sections, responses from county social service directors are compared with those obtained from the other individuals in the sample.

Staff Resources for Guardianship

EXISTING RESOURCES. About half the counties have 40 or fewer wards and 15 percent have more than 80. Two-thirds of the counties have two or fewer workers. Ten percent or less of worker time is invested in guardianship in two-thirds of the counties. In comparison, nearly three quarters of the counties invest 20 percent or more of worker time in performing all human service functions for adults with mental retardation (Table 4).

POSSIBLE CHANGES. County social service directors were asked which of three possible changes they feel would be most effective in improving guardianship services to wards with mental retardation. More than three-fourths (77 percent) responded that training in guardianship functions would be effective, while about two-fifths (38 percent) indicated a need for additional staff and one quarter (25 percent) supported limiting the number of wards.

SPECIFICATION OF GUARDIANSHIP FUNCTIONS. In about three-fifths of the counties (62 percent), the guardianship function is not specified in worker job descriptions.

TRAINING FOR PUBLIC GUARDIANS. In nearly nine-tenths of the counties (88 percent), training in guardianship functions is not provided to workers within 90 days of their employment.

MONITORING PERFORMANCE. In only about one-fifth of the counties (20 percent), do supervisors regularly review staff guardianship performance.

Duties of County Case Manager

HOURS WORKED BY COMMISSIONER DESIGNEE. The average number of reported hours worked is 35.6, and in at least three-fifths of the reporting counties, the guardianship function is performed by a person who works 40 hours per week or more.

CASEWORK COSTS. The average cost to counties per caseworker per year is \$25,272. Two-thirds of the counties (67 percent) reported annual caseworker costs between \$20,000 and \$25,000.

TIME INVESTED IN GUARDIANSHIP FUNCTIONS. By far the greatest amount of time is invested in "general supervisional authority over the ward," which consumed an average of a little more than six hours per week.

Extent of Additional Need for Guardianship

A county average of 44 mentally retarded, 14 mentally ill, 19 chemically dependent and 195 elderly persons were reported as not under guardianship. Some respondents cautioned that many such clients are not under guardianship because such status is not appropriate for their situations.

Barriers to Guardianship

In the third section of the survey, respondents identified major barriers to the provision of guardianship for categories mentally retarded, mentally ill, chemically dependent, and elderly individuals. Five primary themes are evident in these remarks: 1) problems with the family, 2) lack of availability of guardians, 3) cost of legal guardianship, 4) existing policies and procedures, and 5) limited staff resources.

Methods Used to Improve Accountability

A list of suggested methods was presented to both the county social service directors and to the selected sample of individuals outside the county systems. Of the total sample, 89 percent favored clearly specifying the duties of a guardian, 83 percent recommended training requirements for guardians, 78 percent endorsed increased budget for guardianship activities and 75 percent called for an increased number of county personnel.

Feasibility of Alternative Methods to Public Guardianship

There was disagreement between county and non-county respondents concerning the most feasible and desirable methods of public guardianship. The mechanisms that were most favored by county respondents were public guardianship monitored by a local public agency and funded by the state (endorsed by 90 percent of the county sample) and private guardianship monitored by the courts and funded privately (favored by 84 percent of the county sample). The mechanisms most favored by non-county respondents were public guardianship monitored by advocacy groups and funded by the state (endorsed by 62 percent of non-county sample), private guardianship monitored by the courts and funded privately (favored by 54 percent of the county sample), and private guardianship, monitored by advocacy groups and funded from the private sector (endorsed by 54 percent of non-county sample).

Handicapping Conditions of Public Wards

The county average for public wards who have a handicap in addition to mental retardation is 14.5 for epilepsy, 6.6 for cerebral palsy, 16.4 for a physical handicap, 5.3 for a visual handicap, 4.1 for hearing impairment and 19.6 for the behaviorally disordered.

Introduction

This report summarizes the results of a survey concerning Public Guardianship issues in the State of Minnesota. The survey was executed by Program Evaluation Resource Center (PERC) staff under contract to the State of Minnesota, Department of Human Services. The data which comprise this report were collected during October and November of 1985.

Background

The Public Guardianship Study was conducted pursuant to an act by the State Legislature requiring the establishment of a task force to study public guardianship and make recommendations regarding changes in the public guardianship system. In developing these recommendations, the task force was asked to consider at least the following factors:

1. The extent that persons who are in need of some form of guardianship are not receiving protective services;
2. The feasibility and economic impact of extending public guardianship to persons with other disabilities;
3. The success of models used in other states to provide protective services;
4. Methods to improve the accountability for and increase visits to persons under public guardianship;
5. Differences between public and private guardianship systems; and
6. The feasibility of alternatives to the present public guardianship system.

As the focus of the study, the task force was additionally required to collect information on at least the following items:

1. The number of people under public guardianship and their place of residence;
2. The amount of staff resources available to perform the role of state guardian;
3. The duties of the county case manager as the commissioner's designee; and
4. The types of disabilities of people who are under public guardianship.

Objectives

The primary goal of this survey was to inform the task force's deliberations by collecting information on the following dimensions related to: 1) the amount of staff resources available to perform the role of public guardian;

2) the duties of the county case manager as the Commissioner's designee; 3) the extent to which persons in need of some form of guardianship are not receiving these services; 4) methods which may be used to improve the accountability for and increase visits to persons under public guardianship; 5) the feasibility of alternatives to the present public guardianship; and 6) handicapping conditions of wards under public guardianship.

Methods of Procedure

Sampling

Working with the state guardian, a list of potential survey respondents was developed. The initial sample consisted of 136 persons who represented the following groups: 1) County Social Service Directors, 2) Regional Services Specialists of the Mental Retardation Division, 3) Probate Court Judges, 4) Advocates for the Mentally Ill, 5) State Hospital Advocates, 6) Advocates for the Mentally Retarded, 7) Advocates for the Chemically Dependent, and 8) Advocates for the Elderly.

When contacted, 12 individuals/organizations proved not to be significantly involved in public guardianship issues and so were deleted from the sample. This produced a final sample size of 124. The initial and final composition of the survey sample is as follows:

	NUMBER SENT	NUMBER RETURNED	PERCENT RETURN
County Social Service Directors	82*	74	90%
Regional Services Specialists	6	5	83%
Probate Court Judges/ Legal Advocates	4	1	25%
Advocates for the Mentally Ill	3	1	33%
State Hospital Advocates	9	6	67%
Advocates for the Mentally Retarded	9	6	67%
Advocates for the Chemically Dependent	3	1	33%
Advocates for the Elderly	8	5	63%
TOTAL	124	99	80%

♦Although there are 87 counties in the state, the number of separate social service systems is smaller because of a number of multi-county arrangements.

At the conclusion of the survey, 99 (80 percent) of respondents had returned their completed questionnaires. A listing of survey respondents may be

found in Appendix A. Only two persons (1.6 percent), both county social service directors, refused to complete the survey. Both of these stated that lack of time was their reason for non-completion.

Data Collection Procedures

Preceding the actual implementation of the survey, a letter was sent to all potential respondents from the State of Minnesota Department of Human Services. This letter, signed by Assistant Commissioner for Mental Health Margaret Sandberg and Assistant Commissioner for Social Services Al Hanzal, announced the commencement of the survey, explained its purpose and detailed the use of the responses received.

A 16 item, seven page mail survey (Appendix B) was devised, addressing the six content areas described in the objectives section. An accompanying letter of transmittal provided instructions and a telephone number where assistance and clarification could be obtained. The surveys were sent to persons on the sample list on October 4, 1985, shortly after mailing of the letter from the Department of Human Services.

The stated deadline for receipt of the completed questionnaires by the Program Evaluation Resource Center was October 18, 1985. Since many questionnaires had not yet been received by this date, follow-up calls were instituted by Program Evaluation Resource Center staff on October 22, 1985, to check on the status of all missing questionnaires and to encourage their completion. After waiting a week for response to these calls, a second wave of reminder calls was instituted.

Concurrent with these reminder calls, data from completed surveys, both open and closed ended responses were being entered in a computer file for analysis. As a part of this process, data received were reviewed for clarity, accuracy, contradictions and completeness. Wherever problems existed with the completed surveys, PERC staff contacted the respondents to request additional information. Data were analyzed using the Statistical Package for the Social Sciences (SPSS) Program at the University of Minnesota.

Findings

The results of the survey are presented in six sections: 1) staff resources available to perform the role of public guardian; 2) duties of the county case manager as the Commissioner's designee; 3) extent to which persons in need of guardianship are not receiving these services; 4) methods which may be used to improve the accountability for and increase visits to persons under public guardianship; 5) the feasibility of alternatives to the present public guardianship; and 6) handicapping conditions of wards under public guardianship.

For the first four sections, only results received from the 74 county social service directors are summarized. In the fifth and sixth sections, responses from county social service directors are compared with those obtained from the other individuals in the sample.

Staff Resources for Guardianship

EXISTING RESOURCES. Table 1 shows the number of mental retardation wards reported in each county. About half the counties have 40 or fewer wards and 15 percent have more than 80. Table 2 shows the reported number of county workers who serve in some guardianship capacity. Two-thirds of the counties have two or fewer workers.

Table 3 shows percent of worker time invested in guardianship functions for adults with mental retardation. Ten percent or less of worker time is invested in guardianship in two-thirds of the counties. In comparison, nearly three-quarters of the counties invest 20 percent or more of worker time in performing all human service functions for adults with mental retardation (Table 4).

Table 1

NUMBER OF ADULT MENTAL RETARDATION WARDS IN COUNTY
REPORTED BY COUNTY SOCIAL SERVICE DIRECTOR

NUMBER OF WARDS	NUMBER OF COUNTIES	PERCENT OF COUNTIES
1 - 20	17	23%
21 - 40	23	31%
41 - 60	13	18%
61 - 80	10	13%
81 or more	11	15%
TOTALS	74	100%

Table 2

NUMBER OF COUNTY WORKERS WHO SERVE IN GUARDIANSHIP
CAPACITY REPORTED BY COUNTY SOCIAL SERVICE DIRECTOR

NUMBER OF COUNTY WORKERS	NUMBER OF COUNTIES	PERCENT OF COUNTIES
One	26	36%
Two	28	38%
Three	6	8%
Four	5	7%
Five or more	7	10%
No answer	1	-
TOTALS	74	100%

Table 3

PERCENT OF WORKER TIME INVESTED IN GUARDIANSHIP
FUNCTIONS FOR ADULTS WITH MENTAL RETARDATION
AS REPORTED BY COUNTY SOCIAL SERVICE DIRECTOR

% OF TIME IN MR GUARDIANSHIP	NUMBER OF COUNTIES	PERCENT OF COUNTIES
0 - 10%	50	67%
11 - 20%	16	22%
21 - 30%	5	7%
31 - 40%	3	4%
41% or more	0	-
TOTALS	73	100%

TABLE 4

PERCENT OF WORKER TIME INVESTED IN PERFORMING ALL
HUMAN SERVICE FUNCTIONS FOR ADULTS WITH MENTAL
RETARDATION AS REPORTED BY COUNTY SOCIAL SERVICE DIRECTOR

% OF TIME IN ALL MR FUNCTIONS	NUMBER OF COUNTIES	PERCENT OF COUNTIES
0 - 10%	5	7%
11 - 20%	15	20%
21 - 30%	18	24%
31 - 40%	16	22%
41% or more	20	27%
TOTALS	74	100%

POSSIBLE CHANGES. County social service directors were asked which of three possible changes they felt would be most effective in improving guardianship services to wards with mental retardation. As can be seen in Table 5, more than three-fourths (77 percent) responded that training in guardianship functions would be effective, while about two-fifths (38 percent) indicated a need for additional staff and one-quarter (25 percent) supported limiting the number of wards.

Several county respondents had additional suggestions for improving guardianship services. One of the most common recommendations, mentioned by four informants, was for greater encouragement of parents, family members or other private individuals to assume guardianship responsibilities. In one case it was felt that volunteer guardians should be utilized to perform selected functions. Training for parents of retarded adults on guardianship issues was also needed.

Another common request was for clarification of county and state roles, particularly regarding lines of authority. One respondent stated, "[there needs to be] more specific responsibility and authority in carrying out service to clients. Statute needs to be more effective in assigning authorities." Development of specific criteria about what makes a person appropriate for state guardianship was also called for, as well as how to assess the need for guardianship and where to find competent guardians.

Two individuals also felt that there is a need to discharge those wards who are not requesting or receiving additional services, and who were made wards years ago to be placed on state hospital waiting lists. One county respondent asked for legal advice on guardianship issues, and additional resources to pay for legal service to establish guardianship and pay for expenses for conservators.

TABLE 5

NUMBER AND PERCENT OF COUNTY SOCIAL SERVICE DIRECTORS
ENDORING CHANGES IN RESOURCES WHICH WOULD BE MOST EFFECTIVE
IN IMPROVING GUARDIANSHIP SERVICES TO WARDS WITH MENTAL
RETARDATION

POSSIBLE CHANGE IN GUARDIANSHIP	NUMBER OF COUNTIES	PERCENT OF COUNTIES
Training in guardianship functions	57	77%
Additional staff	29	39%
Limiting number of wards	18	25%

* Percentages do not total 100 percent because informants could endorse more than one.

SPECIFICATION OF GUARDIANSHIP FUNCTIONS. Table 6 concerns the degree to which guardianship functions are specified in worker job descriptions. In about three-fifths of the counties (62 percent), the guardianship function is not specified in worker job descriptions. However, while most said that the guardianship function was not specifically identified in position descriptions, three persons indicated that these activities were assumed to be included within case management duties, two others felt that adult protection included guardianship services, and a third stated that it was listed, but not defined.

TABLE 6

NUMBER AND PERCENT OF COUNTIES IN WHICH GUARDIANSHIP
FUNCTION IS SPECIFIED IN WORKER POSITION DESCRIPTION
AS REPORTED BY COUNTY SOCIAL SERVICE DIRECTOR

GUARDIANSHIP FUNCTION	NUMBER OF COUNTIES	PERCENT OF COUNTIES
Specified	29	39%
Not Specified	45	61%
TOTALS	74	100%

TRAINING FOR PUBLIC GUARDIANS. Table 7 concerns guardianship training for staff. In nearly nine-tenths of the counties (88 percent), training in guardianship functions is not provided to workers within 90 days of their employment. While the majority of respondents said that training was done per se, alternatives to specific training such as using the social service manual, records of former workers, discussions with supervisors and telephone calls to DHS were mentioned. One informant stated that recent information from DHS has been helpful in describing some duties, and another noted that Rules and Instructional Bulletins are reviewed by supervisory staff. A third informant attested that worker review of agency philosophy left them with a clear awareness of the magnitude of their duties: "to wit, that this is a very important responsibility and that as stewards over a person's life, we will be intense, respectful, present, aware and advocative."

Some informants commented on the reasons for absence of training. One individual remarked that "there are too many other things to train on," and three others felt that guardianship was required too infrequently to require training. In one county, the same person had held the job for 15 years, and training was therefore not a relevant issue.

TABLE 7

NUMBER AND PERCENT OF COUNTIES IN WHICH TRAINING IN THE
GUARDIANSHIP FUNCTION HAS BEEN PROVIDED TO ALL EMPLOYEES
WITHIN 90 DAYS OF THEIR EMPLOYMENT WITH GUARDIANSHIP DUTIES

STAFF GUARDIANSHIP TRAINING	NUMBER OF COUNTIES	PERCENT OF COUNTIES
Yes, provided	10	13%
No, not provided	63	87%
No answer	1	
TOTALS	73	100%

MONITORING PERFORMANCE. Table 8 concerns county mechanisms for monitoring the performance of workers with a public guardianship function. In about one-fifth of the counties (20 percent), supervisors regularly review staff guardianship performance. Several different strategies were mentioned as being employed to assess worker activities. These included 1) review of case recording, 2) supervisory consultation, 3) reviews of individual service plans, 3) reviews of habilitation plan and service providers, and 4) reviews regarding adherence to laws and rules. According to one social service director, "I expect physical evidence at staffing's semi annually and that they (sic) be documented and that the ward be physically present and talked to. I want assurance that a quality attention to the client's life is documented." Several informants commented that the same standards are applied to guardianship cases as to regular cases, that is; health and safety, living environment, money management, proper placement in either own home or out - of - home. One supervisor said that he "would like guidance on standards to make assessments of worker's performance."

TABLE 8

NUMBER AND PERCENT OF COUNTIES IN WHICH SUPERVISORS REGULARLY
REVIEW STAFF GUARDIANSHIP PERFORMANCE

STAFF GUARDIANSHIP TRAINING	NUMBER OF COUNTIES	PERCENT OF COUNTIES
Yes, review	15	20%
No, not review	59	80%
TOTALS	99	100%

Duties of County Case Manager

HOURS WORKED BY COMMISSIONER DESIGNEE. The total number of hours worked per week by the person designated to carry out the duties of the commissioner as guardian are shown in Table 9. The average number of reported hours worked is 35.6, and in at least three-fifths of the reporting counties, the guardianship function is performed by a person who works 40 hours per week or more. It should be noted that not all of these hours are necessarily directed toward guardianship activities.

TABLE 9

TOTAL NUMBER OF HOURS PER WEEK WORKED BY PERSON DESIGNATED TO CARRY OUT DUTIES OF THE COMMISSIONER AS GUARDIAN AS REPORTED BY COUNTY SOCIAL SERVICE DIRECTOR

HOURS WORKED BY DESIGNEE	NUMBER OF COUNTIES	PERCENT OF COUNTIES
10 hours or less	6	8%
11 to 20 hours	1	1%
21 to 30 hours	3	4%
31 to 39 hours	20	27%
40 hours	41	56%
More than 40 hours	3	4%
TOTALS	74	100%

The overall average for the 74 reporting counties was 35.6 hours per week.

CASEWORK COSTS. The average reported cost to counties per caseworker per year is shown in Table 10. The average cost is \$25,272. This figure represents average annual caseworker salary and fringe in the 69 counties for which this information was obtained. Overall, two-thirds of the counties (67 percent) reported annual caseworker costs between \$20,000 and \$25,000.

TABLE 10

AVERAGE COST TO COUNTY FOR CASEWORKERS PER YEAR AS REPORTED BY
COUNTY SOCIAL SERVICE DIRECTOR

COST PER YEAR	NUMBER OF COUNTIES	PERCENT OF COUNTIES
\$15,000 or less	2	3%
\$15,001 to \$20,000	11	16%
\$20,001 to \$25,000	45	67%
\$25,001 to \$30,000	5	7%
\$30,001 to \$40,000	3	4%
More than \$40,000	2	3%
No answer	5	-
TOTALS	69	100%

The overall average cost for a caseworker in the 69 reporting counties was \$25,272.51.

TIME INVESTED IN GUARDIANSHIP FUNCTIONS. Table 11 shows the average minutes per week invested in fulfilling various functions of the public guardian. By far the greatest amount of time is invested in "general supervisional authority over the ward," which consumed an average of a little more than six hours per week. Other functions have considerably few minutes invested in them. For example, approximately 14 minutes each week was invested in actions concerning surgical procedures and six minutes in permission to marry.

TABLE 11

AVERAGE MINUTES PER WEEK INVESTED IN FULFILLING VARIOUS FUNCTIONS OF
PUBLIC GUARDIAN AS REPORTED BY COUNTY SOCIAL SERVICE DIRECTOR

GUARDIANSHIP POWER	AVERAGE 6 Hours 11
General supervisional authority over ward	Minutes (N=69)
Possession of Property	28 Minutes (N=68)
Judicial Action	25 Minutes (N=69)
Approval of Contracts	19 Minutes (N=69)
Surgical Operations	14 Minutes (N=69)

TABLE 11 (CONTINUED)

AVERAGE MINUTES PER WEEK INVESTED IN FULFILLING VARIOUS FUNCTIONS OF
PUBLIC GUARDIAN AS REPORTED BY COUNTY SOCIAL SERVICE DIRECTOR

Adoption of Ward	6 Minutes (N=69)
Sterilization	6 Minutes (N=68)
Permission to Marry	5 Minutes (N=68)

Numbers in parentheses are number of counties for which
information was reported concerning each action.

The average overall annual cost for performing these functions (weekly
salary times average time invested in performing these functions) is
\$5,745.06.

Extent of Additional Need for Guardianship

Table 12 shows the average number of mentally retarded, mentally ill, chemically dependent and elderly individuals in the counties who are not under guardianship of any kind. A county average of 44 mentally retarded, 14 mentally ill, 19 chemically dependent and 195 elderly persons were reported as not under guardianship. Some respondents cautioned that many such clients are not under guardianship because such status is not appropriate for their situations.

TABLE 12

NUMBER AND PERCENT OF COUNTIES REPORTING CLIENTS IN VARIOUS CATEGORIES
NOT UNDER GUARDIANSHIP OF ANY KIND

TYPE OF CLIENT	NUMBER OF CLIENTS					
	NONE	1-10	11-50	51-100	101-500	500+
Adult MR	7 (10%)	32 (43%)	23 (31%)	4 (5%)	5 (7%)	1 (1%)
Adult MI	18 (24%)	38 (51%)	9 (12%)	4 (5%)	2 (3%)	0 (0%)
Adult CD	24 (32%)	39 (53%)	5 (7%)	1 (1%)	1 (1%)	0 (0%)
Elderly	16 (22%)	27 (36%)	23 (31%)	0 (0%)	3 (4%)	2 (3%)

Barriers to Guardianship

In the third section of the survey, respondents identified major barriers to the provision of guardianship for categories of mentally retarded, mentally ill, chemically dependent and elderly individuals. Four primary themes are evident in these remarks: 1) problems with the family, 2) lack of availability of guardians, 3) cost of legal guardianship, and 4) limited staff resources.

THE FAMILY. Families were frequently mentioned as a barrier to the provision of guardianship (N=33). According to one respondent, "Parents are viewed as a barrier for guardianship among the mentally retarded population. This is considered a very crucial problem, especially when the family is viewed as an integral part of a successful guardianship system." Another noted, "A separate state agency, serving in this county, would be most appropriate when family members/relatives were not available. [However], the family is most appropriate when possible."

Several respondents viewed many parents and families as uncooperative. Often this results in difficulty "locating family members who are even willing to take on this [guardianship] responsibility." Some families deny there is a problem and therefore oppose seeking guardianship, other times "family members are resistant to state guardianship because of their feelings of personal responsibility to care for their relatives."

The second concern regarding the family as a major barrier to the provision of guardianship relates to lack of knowledge or understanding among family members who would be potential guardians. According to one informant, "Families [are] not realizing this [guardianship] is an option." That part of the problem is, "lack of knowledge of services" and "communication between county workers and families regarding guardianship options." Several respondents noted the common misconception among parents that guardianship automatically transferred as the child became an adult.

The general feeling was that parents and families are uninformed. As one respondent reported, "My understanding is that most people (consumers) don't know what guardianship is. Parents and relatives need more information. [They] don't even know they need to petition. I have been asking around to see if there was a booklet or brochure geared so that consumers could understand. Information to parents and families doesn't go far enough in explaining what guardianship is. Just seems to be a lot of mystery."

AVAILABILITY OF GUARDIANS. Another frequently mentioned barrier was difficulty in finding appropriate and willing persons to serve as guardians (N=28). One informant commented that "many people were in need of assistance with financial management; the county, however, is reluctant to assume that responsibility. And, even if the individual could afford to hire someone, a few people volunteer to assume that responsibility." Another noted, "...[M]any of these people have no one interested in them, so finding a private guardianship for individuals with low income is difficult at best."

A possible explanation for this perceived lack of availability of guardians has to do with what one respondent referred to as "disincentives to private guardianship." "Being a guardian is a real bad deal, there's a lot to do, not a lot of reward, and a lot of legal responsibility that goes along with it." Moreover, there is a "lack of financial incentives to compensate private individuals to assume guardianship responsibilities" and "no responsibility [is] attached to any agency." Although ambivalence was expressed about paying someone to do this, one informant felt that "maybe it's the only way to see that these people are protected."

COST OF LEGAL GUARDIANSHIP. According to one respondent, the "primary barrier to provision of guardianship services is the cost of legal fees to persons otherwise willing to assume guardianship responsibilities." The financial burden on families when obtaining guardianship was also mentioned. For many people, "cost is often prohibitive - or at least family's perceive it to be." Also "families often felt that there should be some type of financial incentive or reimbursement should be available for providing services."

POLICIES AND PROCEDURES. The fourth most frequently mentioned barrier to the provision of guardianship services relates to issues centering around policies and procedures (N=18). The feeling that policies and procedures were unclear was mentioned by several respondents, and there was particular concern about lack of clarity in specifying the responsibilities of guardians. Some respondents also criticized some policies and procedures for being restrictive and stringent, and a number lamented the "lack of definite policy as to when guardianship should be established."

A particular area of concern had to do with coordination of legal and human service functions. According to one respondent, there were "No procedures established in the county court to enable county agency to facilitate guardianship with county-attorney representation." Another respondent was concerned that "every county probate court has a different practice in this area [and] some pose barriers to serving these people." Reluctance of the court to appoint was also reported as a major barrier to the provision of guardianship services.

A few respondents advanced suggestions to improving some of their concerns with policies and procedures in the provision of guardianship services. One of the more obvious remedies was for the establishment of clear and consistent policies and procedures. Another suggestion was that there should be a consideration of the "total picture" before choosing methods of services for clients. This recommendation arose out of a concern that "Often less restrictive alternatives which meet an immediate concern are chosen without considering [the] total picture - e.g., families may become financial payees." One other respondent indicated that there was not "sufficient monitoring regarding guardianship." The recommended remedy for this concern was the stressed need for case management and monitoring to assure that people are making appropriate decisions for these people.

A final concern regarding policies and procedures centered around potential for conflicts of interest depending on the types of persons and/or agencies

involved in guardianship functions. One respondent argued that there was a "Problem of having counties [both] acting on behalf of the Commissioner and delivering social services. Case managers work both as advocates and service providers. The client needs an independent advocate." Another responding agency indicated that it would also be inappropriate for social service and income maintenance clients of county agencies to receive guardianship services from the agency. It was suggested that a "separate state agent, serving in the county, would be most appropriate when family members/relatives were not available."

LIMITED STAFF RESOURCES. Limited staff resources was a fifth major barrier to the provision of guardianship services (N=17). Many respondents indicated that there wasn't enough time or staff resources to properly service cases. According to one informant a major barrier is the "lack of social worker's time to do preparatory work or train volunteers." Another mentioned that, "Our agency does not have the manpower to provide this service. We have tried to place some of the responsibility for public guardianships on the county attorney's agenda. Currently, nothing has been decided as to who will be responsible for guardianships in this county." In one county "only one person in the office is responsible for 6200 [cases] and that person has to process all the forms."

LACK OF KNOWLEDGE AND INFORMATION. A concern among several respondents was the general lack of knowledge about guardianship and guardianship services. Some of the responses pertaining to this concern include a lack of knowledge about: 1) guardianship, 2) the types of guardianship services available, 3) how and when to proceed, and 4) who the individuals are needing guardianship services. One respondent indicated that a barrier to be "not knowing they are there - especially the elderly. We have over 1500 people over age 65 [and] we serve maybe 40." Another respondent criticized not only the "lack of information at the county level (and for families) regarding procedures and legal responsibility, but also the lack of information for judges and attorneys regarding the mentally retarded protection act and services for the mentally retarded as examples of perceived major barriers to guardianship.

CONSUMER ISSUES. A few of those completing the survey provided comments regarding their perceptions of potential consumers of guardianship services. One respondent, perhaps in part to explain the reluctance on the part of clients to seek guardianship, said that "they fear that they will lose all control or contact with their relatives when they become state wards." Other potential wards and their families have "too much pride to ask for assistance." Finally, one responding agency noted that, "The majority [of potential consumers] are transients without families, or addresses. They rarely get into programs beyond 'revolving door,' detox, and possibly custodial state hospital units." Moreover, "unless they qualify for MR, chemically dependent clients do not receive guardianship services. [And], once they are sober, many dysfunctional chronics give the appearance of being functional. They are 'street-wise,' know how to 'work the system,' and are not amenable to the commitments associated with conventional guardianship."

NO BARRIERS. Though few in number, there were some respondents completing

the survey who indicated that there were no barriers to the provision of guardianship services and/or that they did not feel that there is underservice in this area (N=6). One explanation mentioned as to why there were no barriers relates to the size and area of the responding agency. That is, according to the respondent, "We have a very small rural county – people tend to take care of one another." Additionally, the respondent perceived this to be an asset, not a barrier. According to another respondent who indicated that there were no barriers, "Ah-Gwah-ching Nursing Home Policies, State Regulations, Advocacy Services, the Vulnerable Adult Act, and many others assures that persons under guardianship are being well cared for." Another respondent remarked that "Guardianship is defined in teamings. [That is], team members (including client) discuss if client's guardianship is appropriate." Consequently, they did not feel that they are 'underserved' in this sense.

Methods Used to Improve Accountability

Table 13 shows the perceived effectiveness of various methods to improve accountability for and increase visits to persons under public guardianship. A list of suggested methods was presented to both the county social service directors and to the selected sample of individuals located outside the county systems.

TABLE 13

PERCEIVED EFFECTIVENESS OF METHODS TO IMPROVE ACCOUNTABILITY
AND INCREASE THE VISITS OF PERSONS UNDER PUBLIC GUARDIANSHIP
(Percents indicate proportion of informants agreeing that
method would be effective)

PERCEIVED EFFECTIVENESS	COUNTY INFORMANTS	OTHER INFORMANTS	TOTAL SAMPLE
Clearly specify duties of guardian	88%	92%	89%
Training Requirements for Guardian	79%	92%	83%
Increased budget for guardianship activities	80%	73%	78%
Increased number of county personnel	81%	56%	75%
Perform needs assessments of wards	57%	92%	66%
Decrease number of wards being served	55%	56%	56%

TABLE 13 (Continued)

PERCEIVED EFFECTIVENESS OF METHODS TO IMPROVE ACCOUNTABILITY
AND INCREASE THE VISITS OF PERSONS UNDER PUBLIC GUARDIANSHIP

(Percents indicate proportion of informants agreeing that
method would be effective)

More stringent monitoring requirements	12%	83%	30%
Increased number of state personnel	18%	48%	25%
	(N=74)	(N=25)	(N=99)

*Percentages do not total 100% because informants could name
more than one.

SPECIFICATION OF GUARDIANSHIP DUTIES. The method most consistently perceived as effective by both groups was to "clearly specify the duties of guardian." One county social service director remarked, "the recent DHS guidelines have been worthwhile; more is needed," while another indicated that there is a particular need for "clearer definitions of when to restore to capacity." Some social service directors, while agreeing in principle with the effectiveness of such a measure, added cautionary notes: "duties must include local authority to act," and "this measure should include only duties, not time frames for how often." Among those who did not feel this measure would be effective comments suggest that these persons felt that "it's clear enough" or that "[the] Social Service manual is adequate."

GUARDIANSHIP TRAINING. A second measure that was often perceived as possibly effective was that of "training requirements for guardians." One county social service director suggested that, "more expertise and training could improve monitoring functions on [the] local level." Some county respondents who did agree added, however, that these training requirements should be "offered, not required" or should be seen as "opportunities rather than requirements." Another member of the county personnel agreed with the proposed method, but also indicated that "training [is] secondary to clear and precise regulations and discrimination of rules." Non-county respondents less often qualified their affirmative responses, suggesting that "guardianship tasks and responsibilities clearly require trained personnel" and as another respondent indicated [training] should be mandatory and on-going to include legal and ethical concerns."

INCREASED BUDGET. A third proposed measure which was commonly seen as possible to improve guardianship effectiveness was "increased budget." A number of comments suggest that many of the county respondents felt that this was true especially or only "if more is required of us." Comments indicate that already tight budgets were also a factor in assessing the effectiveness of these measures both for those who approved of the measure

and those who did not. Some county respondents stated that increasing the budget for guardianship functions would require "increased state funds" and others did not approve of the measure because "budgets are very tight." A non-county respondent voiced reservations about the measure saying, "I favor private guardianship and would want DHS to assist private guardians rather than maintain large numbers on the state." A county respondent indicated a similar opinion saying, "family members [are] willing to be guardians, but can't afford court costs."

INCREASE COUNTY PERSONNEL. Over two-thirds of county employees and more than one-half of the non-county respondents indicated that "increased number of county personnel" would be effective in improving guardianship functions. As one county respondent stated, "increased number of contacts should increase quality of services." A non-county informant said "[increase in county personnel is] probably a necessity since even currently it seems most county workers consider guardianship a low priority." As with some of the other methods proposed, some county personnel saw the necessity of this measure as conditional on whether or not "monitoring requirements increase and training requirements increase." Also, matters of where the funding was to come from was an issue with many of the county staff. One social service director stated, "budgets are too tight for added personnel," and another said, "we have to do the best with what we have to work with. An increase is not likely." Many of those who felt this might be a good alternative added, that they agreed with this measure "only with state funding" or that this "requires a state subsidy."

WARD NEEDS ASSESSMENT. There were notable differences in the perception between county and non-county samples regarding the effectiveness of performing needs assessment of wards. Only slightly over half (57 percent) of the county sample favored this as compared to 88 percent of the non-county sample. Many of the county respondents felt that this was something that was already done, and they often specifically mentioned that this was covered under Rule 185. A county social service director stated that although needs assessment might be improved this would be possible only if there were more staff. Comments offered by the non-county respondents were clearly more positive. One non-county informant stated that "this is essential, due to the restrictiveness of guardianship." Similarly, another commented that "any restriction on individual rights should be regularly and frequently re-evaluated." Another respondent in the non-county sample suggested "this should pertain to proposed new classes of wards even more than present classes."

MORE STRINGENT MONITORING. A difference of opinion among the non-county and the county sample was also found in regards to the proposed measure of "more stringent monitoring requirements." Only 12 percent of the county sample as compared to 80 percent of the non-county personnel thought that this method would be effective. A statement by a county social service director was indicative of many of the comments offered by the county respondents: "These reports don't free up any time for actual working with clients. The state and feds continuously increase their requirements but the money does not come with this and the small rural counties are really hurting." Still, other of the county personnel felt that this issue is already addressed in

Rule 185. In contrast to the county staff, one of the non-county respondents felt, "definitely, monitoring is currently often ineffective. No teeth in the monitoring efforts right now."

DECREASE THE NUMBER OF WARDS. Within both the county and non-county samples about half of the respondents approved of the proposed measure to "decrease the number of wards being served." Respondents from both samples suggested that there may presently be individuals who are state wards who are competent enough to function independently without a guardian and others for whom a less restrictive alternative would be more appropriate. In contrast, one social service director stated that, "we feel that wards being served have been appropriately under state guardianship." Even among those who agreed with the proposed measure, concern was voiced that these persons continue to receive some care or supervision if needed. One respondent from a county staff supported the method, "but only if they would receive needed services through private guardians." Similarly, another county staff member noted, "many have family members who could be the guardian."

Among the non-county respondents, in particular, emphasis was placed on extending the use of less restrictive alternatives to guardianship. One non-county informant suggested "emphasis on alternatives - Conservatorship and payees. Guardianship review with an advocate." Similarly, another of the non-county sample stated, "many do not require the restrictive intervention of guardianship, but other assistance may be necessary to avoid cutting them off completely."

INCREASING STATE PERSONNEL. The proposed method which was perceived the least positively by respondents in both the county and the non-county sample was that of "increasing the number of state personnel." Only 18 percent of the county sample and 46 percent of the non-county sample responded affirmatively to this proposed measure. Many of the comments suggest that the counties perceived that an increase in state personnel would lead to more rules and restrictions at the county level. As one social service staff member stated "we need doers, not more monitoring capability," and similarly, another suggested "it depends on their role - counties don't need more people telling us what we're not doing." Another county respondent indicated "not unless they will do the direct client monitoring - otherwise they simply frustrate over-worked county workers." Of those who did respond positively relatively few comments were offered, but one non-county respondent did suggest that "there's no possible way that even a super person can effectively monitor 6800 people."

Feasibility of Alternative Methods to Public Guardianship

Table 14 shows the perceived feasibility and Table 15 shows the perceived desirability of various alternative mechanisms for guardianship. The two mechanisms that were viewed as most feasible (Table 14) by the total sample were 1) public guardianship monitored by local public agency and funded by the state and 2) private guardianship monitored by the courts and funded privately. It should be noted, however, that the county people were much more positive about these alternatives than the non-county group. Although the differences are not at all large, non-county respondents tended to be

slightly more positive than county informants about mechanisms where the monitoring is done by the courts or by advocacy groups.

TABLE 14

PERCEIVED FEASIBILITY OF ALTERNATIVES TO PRESENT PUBLIC GUARDIANSHIP
(Percentages indicate number responding that mechanism would be effective)

TYPE OF GUARDIANSHIP	MONITORING AGENCY	FUNDING MECHANISM	INFORMANTS		
			COUNTY	OTHER	TOTAL
Public	Local Public	State-Public	90%	46%	79%
Private	Court	Private	86%	54%	78%
Public	Local Public	Local-Public	51%	29%	45%
Public	Advocacy	State Public	38%	62%	44%
Private	Advocacy Group	Private	41%	54%	44%
Private	Advocacy Group	State-Public	37%	58%	41%
Corporate	State Public	State-Public	36%	42%	37%
Public	State Public	Local-Public	34%	37%	35%
Corporate	Local Corporation	Private	27%	29%	28%
Corporate	State Corporation	Private	23%	29%	25%

♦Percentages do not total 100% because informants could name more than one.

TABLE 15

RANK ORDER OF ALTERNATIVES TO PRESENT PUBLIC GUARDIANSHIP
ACCORDING TO INFORMANT PERCEPTION OF DESIRABILITY

TYPE OF GUARDIANSHIP	MONITORING AGENCY	FUNDING MECHANISM	INFORMANTS		
			COUNTY	OTHER	TOTAL
Private	Court	Private	2.7	3.9	2.9
Public	Local Public	State-Public	2.8	4.8	3.2
Private	Advocacy Group	Private	5.5	3.2	4.9
Private	Advocacy Group	State-Public	6.0	3.3	5.3
Public	Local Public	Local-Public	5.3	7.2	5.7
Public	State Public	Local-Public	6.0	5.5	5.9
Public	Advocacy	State Public	6.5	4.9	6.1
Corporate	Local Corporation	Private	6.7	6.4	6.7
Corporate	State Corporation	Private	6.8	7.2	6.9
Corporate	State Public	State-Public	6.3	7.0	6.5

A similar picture emerges when the ratings of desirability of alternative mechanisms in considered (Table 15). Rated as most favorable by the county informants and the sample as a whole were 1) private guardianship monitored by the court and funded from private sources and 2) public guardianship monitored by local public agencies and funded by the state. The non-county group tended somewhat to prefer private guardianship monitored by advocacy groups and funded either privately or by the state.

Handicapping Conditions of Public Wards

Table 16 shows the average number of persons under guardianship in the counties who have handicapping conditions in addition to mental retardation. The county average for multiply handicapped public wards is 14.5 for epilepsy, 6.6 for cerebral palsy, 16.4 for a physical handicap, 5.3 for a visual handicap, 4.1 for hearing impairment and 19.6 for the behaviorally disordered.

TABLE 16

NUMBER AND PERCENT OF COUNTIES WITH PERSONS IN COUNTY UNDER GUARDIANSHIP WHO HAVE ONE OR MORE HANDICAPPING CONDITIONS IN ADDITION TO MENTAL RETARDATION

TYPE OF ADDITIONAL HANDICAP	NUMBER OF MR CLIENTS							TOTAL
	NONE	1-5	6-10	11-20	21-50	51-100	101+	
Epilepsy	4 (6%)	24 (35%)	18 (26%)	12 (17%)	7 (10%)	3 (4%)	1 (1%)	69 100%
Cerebral Palsy	11 (16%)	41 (59%)	9 (13%)	4 (6%)	3 (4%)	1 (1%)	0 (0%)	69 100%
Physical Handicap	5 (7%)	24 (34%)	13 (19%)	14 (20%)	11 (16%)	1 (1%)	1 (1%)	68 100%
Hearing Impairment	10 (14%)	43 (61%)	10 (14%)	4 (6%)	3 (4%)	0 (0%)	0 (0%)	70 100%
Visual Handicap	13 (19%)	47 (67%)	4 (6%)	4 (6%)	2 (3%)	0 (0%)	0 (0%)	70 100%
Behavior Disorder	1 (1%)	28 (40%)	12 (17%)	12 (17%)	12 (17%)	4 (6%)	1 (1%)	70 100%

CONCLUSIONS

As a reflection of the large number of wards concentrated in the larger metropolitan counties, in the majority of counties, the proportion of worker time invested in guardianship function for adults with mental retardation is relatively small [67 percent report utilizing 10 percent or less and 89 percent utilizing 20 percent or less] in relation to other casework functions. However, this percentage increases when the percent of worker time invested in all human service functions for adults with mental retardation is considered [with 27 percent of counties reporting a worker investment of 41 percent or more of his/her time].

Respondents from the counties felt most strongly that training in guardianship functions would be most effective in improving guardianship services to wards with mental retardation with 77 percent of respondents endorsing this suggestion. Thirty-eight percent also indicated the need for additional staff to accomplish this goal.

The need for clearer guidelines was also stressed by many counties. In 61 percent of counties the guardianship function was not specified in the worker's position description. Additionally, 87 percent of counties indicated that training for workers with guardianship duties was not provided within 90 days of their employment in such a position. In most cases (80 percent of responding counties) staff performance of guardianship functions was not reviewed on a regular basis with a supervisor.

The average amount of time spent per worker for all guardianship functions per week was 7.9 hours, with by far the largest proportion being spent on general supervisory authority over the ward (this is defined as choosing or changing residence, care habilitation, education and employment of the ward and the power to approve the ward's request to sell or encumber his/her personal or real property.) Based on salary rates (including fringe) reported by the staff in each county, the cost of fulfilling the eight guardianship powers averages \$5,745 per county, per year.

Need for Additional Guardianship. Data were also gathered regarding the number of persons within the categories of adult MR, adult MI, adult CD and elderly who were not under guardianship of any kind (see Table 12). Totals of XX mentally retarded, XX mentally ill, XX chemically dependent, and XX elderly were identified. These data must be viewed speculatively, however, since many counties felt that until guidelines were established for appropriateness of guardianship of these groups, accurate estimates could not reasonably be generated.

Barriers to the Provision of Guardianship. Five primary barriers to the provision of guardianship services were identified by survey respondents: 1) problems with the family, 2) lack of availability of qualified guardians, 3) the costs associated with guardianship, and 4) lack of clarity in guardianship policies and procedures and 5) limited staff resources.

Suggestions to overcome these barriers include: 1) dissemination of information in a clear and understandable manner was seen as essential in over-

coming problems with the family, 2) examination and alleviation of disincentives for private guardianship was advanced as one way to overcome the barrier of lack of guardians, 3) the existence of financial incentives or reimbursements to help alleviate some of the costs of guardianship was seen as needed, 4) clearer policies and procedures regarding guardianship and 5) provision of additional information, training and resources to counties. .

Methods to Improve Accountability and Increase Visits to Persons under Public Guardianship. The method endorsed most frequently by both county and non-county respondents for improvement of the system was to clearly specify duties of the guardian. Almost as highly endorsed by both groups were training requirements for guardians, and an increased budget for guardianship activities. Disagreements between the two groups were evident, however, regarding the need for more stringent monitoring requirements, the need for performance of needs assessments of wards and increasing the number of either state or county personnel. While slightly more than one-half of the respondents in each category endorsed the idea of reducing the number of wards, they also stressed that such a reduction could not be carried out arbitrarily, but needed to be examined on a case-by-case basis.

Alternate Methods of Public Guardianship. The methods viewed most viable by the total sample were 1) public guardianship monitored by the local public agency and funded by the state, and 2) private guardianship monitored by the courts and privately funded. Many of the non-county employees found it difficult to differentiate among the various models; however, these respondents tended to be slightly more positive about mechanisms where monitoring would be conducted by the courts or by advocacy groups.

APPENDIX C

NATIONAL GUARDIANSHIP SURVEY

NATIONAL GUARDIANSHIP SURVEY
PRESENTED TO THE
MINNESOTA GUARDIANSHIP TASK FORCE

by

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December 3, 1985

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INTRODUCTION

Many adults in the United States are not able to make decisions about matters crucial to their own survival because of a mental incapacity. Their inability to make sound decisions often makes it necessary for another person to make substitute decisions for them. In the absence of a formally appointed guardian, substitute decisions are made by a de facto guardian who has no legal authority to make those decisions. A guardianship system in which a specific person or organization becomes a legal representative for individuals in need of substitute decision making is the alternative to de facto guardianship.

As is true in many fields, guardianship has its own vocabulary. Each state applies a distinctive set of terms to describe the guardianship models used in their state. Laws governing guardianship practices also vary by state. For the purpose of this paper, guardianship is the total or limited authority to make substitute decisions for adults about their person and/or their estate. Substitute decisions could be made by a public servant, corporate representative, or private citizen.

During the spring of 1985, the Minnesota legislature established a guardianship task force to investigate a wide range of issues related to guardianship. The focus of the task force was to collect data about the characteristics of guardianship models used in Minnesota as well as models available nationwide. The data was to be collected so that recommendations could be made about changes in Minnesota's guardianship models.

Several different methods were used to meet the objectives of the task force. A series of task force meetings were held to discuss issues surrounding changing the guardianship models used in Minnesota. A Minnesota survey was completed to determine the characteristics of Minnesota's public guardianship model. A literature review was prepared to examine the state of current knowledge about guardianship. The national survey presented in this paper was prepared to provide an overview of guardianship systems in operation across the United States. The combined results of these reports were examined to form recommendations to present to the legislature.

The national survey was developed during the fall of 1985. It was written to obtain information about the success of guardianship models in other states, the feasibility and economic impact of extending public guardianship to other populations, the differences between various types of guardianship systems, and the feasibility of alternatives to public guardianship. The information gathered was used to evaluate guardianship systems currently in existence.

The primary objective of the national survey report was to evaluate the types and characteristics of various guardianship models. The three primary types of models of guardianship were studied. Variations of each of the three primary models were also examined.

The second objective of the national survey report was to compare and contrast public, private, and corporate models to determine the feasibility of alternatives to public guardianship models. Alternatives were examined in terms of who they serve, how much they cost, their most successful aspects, and their problem areas. Many of the questions on the national survey provided details to compare and contrast.

IMPLICATIONS FOR MINNESOTA

The findings of the national survey are very relevant to the current discussions in Minnesota about the possible expansion of our public guardianship model. There were several areas where Minnesota deviated from the national norms on guardianship issues. There were also some very specific implications that the national survey data have for Minnesota.

Lack of Corporate Guardianship Alternatives

The first and most obvious deviation Minnesota had from the national norm was that there was not a corporate guardianship system in place in Minnesota. While Minnesota had the largest public state run model, Ohio had the largest corporate non-profit model. This is especially important because the most highly rated models used across the United States were corporate models. One recommendation that comes from this data is that Minnesota should seriously consider investigating the possibility of establishing a corporate guardianship model.

Funding Deficiencies

Another deviation from the norm evident from the national survey was that while Minnesota served the largest group of wards, the state budget for guardianship was the second lowest of the surveyed states. While it is important to remember that the data for Minnesota on the national survey did not cover the staff or money spent on guardianship at the county level, the fact remains that the state money spent on guardianship is far lower than states serving a similar number of wards. The recommendation suggested by this data would be to obtain an accurate picture of the money spent on guardianship in Minnesota, and then to re-evaluate the state's commitment to funding this crucial human service.

Monitoring Deficiencies

The third area bearing examination is the monitoring requirements and practices used in Minnesota. At present there is not a legal guideline stating how many visits a guardian should make to a ward in a year for the public state run system. Guardians who are making substitute decisions for wards on a daily basis must see those wards in order to attempt to make decisions that are in the best interest of that ward. All of the states using a state run model that had information on how many visits were performed yearly reported at least two visits. The average number of visits performed was more than 12 per year. The recommendation here would be to determine how many visits are performed per year by the day to day decision maker, and then to change the requirements so that the ward's best interests are served.

Private Model Deficiencies

The private model in Minnesota required less monitoring than the public model. Private guardians in Minnesota are not required to file an annual program report on the status of the ward. Most of the states using a private model that had information about the written monitoring requirements indicated that at least one report on the status of the ward had to be filed annually. The recommendation here would be to set up monitoring requirements for private guardians to be monitored by the county courts.

Service to Populations

In terms of who can be served by the public guardian, Minnesota deviated substantially from other public models. While Minnesota only serves a narrowly defined mentally retarded population, over 70 percent of all public models also serve the elderly, the mentally ill, and the chemically dependent. This indicates that while Minnesota serves the largest number of wards, it does not serve all of the populations that may require some form of substitute decision-making assistance.

METHODS

SURVEY DESIGN

The national survey consisted of a series of multiple-choice questions about the guardianship services available to adults. The questionnaire was divided into several sections designed to provide details about each model. The first section focused on the guardianship models used by each state. The questions in the remaining sections were asked about each model. While most of the questions required only a one letter answer, there were some questions requiring numerical answers. A total of 75 questions were asked about each system used in the surveyed states.

SUBJECTS

The primary focus of the national survey was to obtain information from the Region V states. Those states include Illinois, Michigan, Minnesota, Ohio, and Wisconsin. After information was obtained from the Region V states, 23 other states were contacted. In all, 28 states were surveyed for this report.

The national survey was administered to the state level decision-maker in each model the state used. In some states, one person had complete information about all systems used in that state, while in others it was necessary to contact several individuals to get complete information. The respondents had one of several titles including: guardianship administrator at the state, county, or corporate level; advocate; case manager; or attorney. The highest ranking person with the most complete information was contacted.

PROCEDURE

There were two methods used to gather information for the national survey. The primary survey tool used was a telephone interview. The telephone interviews were conducted during September and October, 1985 by one investigator. Prior to the phone interviews, all 50 states were contacted to obtain the name of the person/s responsible for administering guardianship programs. Once the names were obtained, the Region V states were contacted first, followed by 23 other states. The responses obtained during the interviews were confirmed by mail and/or by phone.

Although telephone interviews were used primarily, some of the surveys were completed by mail. Respondents receiving the survey by mail were provided a phone number to call if they had questions. The mail surveys were confirmed by phone and/or by mail. The mail survey packet included an instruction page, an example page, the questionnaire, and the answer sheet.

The methods outlined above were used whenever possible. There were, however, instances when modifications had to be made. It was not possible to contact all of the states by phone because there was not sufficient time available. The result was that several states received only a mail survey.

Another modification was that the questionnaire was revised several times during the interview period. The final format contained response choices not available in the original form. In order to ensure accuracy, all respondents received a copy of the final format along with their answers so that they could verify their answers and make any necessary changes. Early respondents were reinterviewed after the final changes in as many cases as possible.

In addition to methodology modifications, there are several limitations to the information presented in this report. It was very difficult to discern who should complete this national survey because there was a lack of uniformity of models across the surveyed states. Each state had a uniquely different model. As a result of this lack of uniformity, the title of the person responsible for guardianship administration varied. This ultimately meant that the respondents to this survey were a heterogeneous group in terms of all guardianship models.

A second major limitation to the information in this report was that there was a limited amount of time to complete the survey. This was further complicated by the difficulty in identifying the key contact, and the changes made in the data collection instrument. Because of the time limitations, some of the respondents did not return a verification of their answers before the data was analyzed. Many of those people were contacted by phone to confirm. It was assumed that the information originally given was correct if no verification was provided.

The third major limitation was the lack of complete information available. This was particularly true of private guardianship models. Often there was not any information available on a statewide basis about the private models. In the public and corporate models, there were some specific questions for which answers were not available.

Other limitations for this report included the survey format, and methodology. These limitations must be considered carefully when interpreting this report. Information that was provided for only one county or for one corporation may not be indicative of the entire state. The information presented can be used to get an overview of guardianship models used across the United States, but should not be used to make specific judgments about any one state.

The information presented in this national survey report represents only a fraction of the data collected. It is the most significant data needed by the Minnesota task force. Section 1 of the report contains specific information about the guardianship models available in each state. Section 2 contains a compilation of data collected about public, private, and corporate models on specific topics.

SECTION 1 CHARACTERISTICS OF SPECIFIC GUARDIANSHIP MODELS

TYPES OF MODELS REPRESENTED

There were three basic categories of guardianship models used by the states surveyed. A guardianship model was considered a public model if the guardian was a public employee. It was considered a corporate model if the guardian was a corporate employee or volunteer. The model was considered a private model if the guardian was a private individual.

Four variations of public models were represented by the 28 states surveyed. These variations included:

1. Public model run by the state;
2. Public guardianship model run by individual counties;
3. Public, other category; and
4. Public protection and advocacy, including guardianship.

A particular state could have more than one public guardianship model in use. The states using a county run system either provided information about the whole state, or they provided information about only one county. They are separated on tables where differential information is provided.

There were four variations of corporate guardianship systems used by the surveyed states.

1. Corporate non-profit guardianship model with statewide information;
2. Corporate for profit guardianship model with statewide information;
3. Corporate non-profit system with information for only one corporation; and
4. Corporate other.

A state could use more than one of the listed corporate models.

Table 1 shows the distribution of the 76 guardianship models used by the states surveyed. An average of 2.7 models operated in each state. Private models were used by 96% of all states. Corporate non-profit organization model operated on a statewide basis in 57% of all states. Public state run guardianship models were in operation in 36% of the surveyed states. The public county run models were also used by 36% of the states surveyed.

The nine models listed on Table 1 represent three basic guardianship categories. A total of 26 public models were used by 22 states. Only Indiana, Iowa, Massachusetts, Nebraska, Ohio, and Wyoming did not have any public

system. Twenty-seven out of the 28 states surveyed had private models. Massachusetts did not provide any information about a private model. Twenty-one corporate models were used by 18 states.

The five states in the Region V area represented a larger proportion of the most frequently used models than the sample as a whole. The Region V states have a mean of three models per state, .3 models per state more than the 28-state mean. One hundred percent of the Region V states have private models, 80 percent have corporate non-profit models, and 60 percent have public state run models of guardianship. Minnesota was the only Region V state that did not have a corporate model operating on a statewide basis. Michigan and Ohio did not have a public state run model.

BUDGET, STAFF, AND NUMBER OF WARDS

Table 2 contains information about the number of wards under guardianship, the number of full-time equivalents serving those wards, and the budget available to provide substitute decision-making. There were 22 models that were table. The information on Table 2 is divided into sections according to the type of model represented. Within each section the information is arranged alphabetically according to state.

The budget figure shown on Table 2 represents the amount of money spent per year for guardianship services. The figure may also include money spent for all case management services provided outside of guardianship cases, or the money spent on all protection and advocacy services provided by the agency represented. It is crucial to consider the budget type when examining the figures on this table.

The category showing the number of paid full-time equivalents shows the number of people who perform guardianship duties paid for by the indicated budget. The respondents indicated the number of full-time equivalents of state personnel, county personnel that worked within each guardianship model. Responses in these categories were added to provide the number of paid full-time equivalents.

The dollar per ward figure is a result of dividing the budget per year by the number of wards served. For the models indicating a type 1 budget, the figure indicates the number of dollars spent on just guardianship. The other budget types give a dollar per ward figure that also includes other types of services to other individuals.

There was variation both within each guardianship model, as well as between model types on this set of questions. An average of 2,024 wards were served by each public state run model. Minnesota serves approximately three times as many wards as Illinois, and approximately one thousand times as many wards as Utah. Caseloads are calculated by dividing the number of wards by the number of paid full-time equivalents ranging from 2.8 wards per full-time equivalent in Utah to 6,758 wards per full-time equivalent in Minnesota. A mean of 15 full-time equivalents were available in each of the states using this type of model. The average budget for public state run models using a type 1 budget was \$219 per ward. There was a range from a high of \$562 per ward in Illinois to a low of \$7 per ward in Minnesota.

While the corporate models served four times fewer clients per state than the public state run models, twice as much was spent per client per year. The corporate non-profit models presented in Table 2 serve a mean of 631 clients. The numbers served ranged from a low of two wards in Arizona to a high of 2,960 in Ohio. An average of \$521 was spent per year per ward. The budget ranged from a low of \$304 per client in Texas to a high of \$24,000 per ward in Arizona.

The information contained on Table 2 can be used for comparison of states using the same guardianship model if specific limitations are considered. A large number of states did not provide information for this section. Only 21 out of 76 models are represented. Therefore, the data may not be representative of the nation as a whole. When examining the number of full-time equivalents for the corporate models, keep in mind that they often rely heavily on volunteers which are not included in the figures given here. Another important consideration is that although only one full-time equivalent is listed for Minnesota, that figure represents only the state level decision maker. Most day-to-day decisions are made by delegated guardians at the local level.

MONITORING METHODS USED

This section addresses methods used to monitor each of the guardianship models presented. Table 3 contains information about the number of visits and the number of written reviews the guardian was required by law to perform. The actual monitoring practices were also evaluated. Whether the state had direct authority over the guardian, and whether the court had direct authority over the guardian is also noted.

The methods used to monitor guardians vary according to the type of guardianship system used. Table 3 displays monitoring requirements and practices for eight different types of guardianship models. Each model has characteristics monitoring patterns used to ensure the accountability of the guardian. The number of visits required and performed give an indication of the frequency that the wards status is monitored. The number of written reports required and performed give an indication of how often the guardian is required to report to a monitoring agency.

The public state run guardianship models are characterized by the large number of states that knew the number and type of monitoring practices used, the high frequency of written reports, and the use of the state to monitor guardianships. The public model had information available about monitoring requirements in most cases. Only four states required a specific number of visits per year, but seven states performed visits an average of once a month. All of the states except Texas and Wisconsin are monitored both by the court and the state. All of the states using the state run model that had information available executed at least one written report per year. Of the models reporting, the state level guardian had direct authority over the delegated guardian in 80 percent of the states. The court had direct authority in 90 percent of the states.

The public county run systems are characterized by the lack of information available. The respondents for these models had information about whether the state or the court monitors the system, but did not know what the specific monitoring requirements were. Only one state, California, had a state monitor for the county system. The other states were monitored by the court.

The corporate for-profit and the corporate non-profit models were very similar in their monitoring practices. In the states that knew how many written reviews were performed, at least one review was done per year. In practice, corporate guardians visited at least once per year with several states visiting once every two weeks or more. Only 30 percent of the corporate models were responsible to the state, while 80 percent were monitored by the courts.

The private guardianship models had the least amount of information available about monitoring practices. The state monitored private guardianships in nine percent of the states reporting. Only Nebraska reported that the court does not have direct authority over the private guardians in some way. Very few states had information about the number of written reviews done for private guardianships. One primary reason mentioned by respondents for the lack of information was that it is kept in the county courts and is not available at any centralized location.

The information presented on Table 3 is limited by two main factors. First, it only pertains to the respondents from each state who provided the answers. It may not generalize to the entire state. Second, the respondents provided their best estimate for these questions. In many cases the exact answer was not available.

SECTION 2 GENERAL CHARACTERISTICS OF THREE TYPES OF GUARDIANSHIP

LARGEST POPULATION SERVED BY EACH TYPE OF MODEL

The three main types of guardianship models were the public, private, and corporate models. Several characteristics of guardianship models can be seen by dividing the 76 models surveyed into those three categories. Section 2 of this report contains a set of tables which detail the differences between the three major types of models.

Each state surveyed had specific eligibility requirements for potential wards. Disability group refers to the primary disability of the ward. Those with a primary diagnosis of mental retardation or developmental disability were included in the category labeled mentally retarded. Individuals with a primary diagnosis of chemical dependency or alcoholism were included in the chemically dependent category. Those wards with a primary diagnosis of mental illness were included in the mentally ill category. Individuals who were comatose, or whose physical limitations make substitute decision-making necessary, were listed in the physically disabled category, while those who are wards because they were elderly were listed in the elderly category. The following discussion focuses on the largest disability groups served by each of the three major types of guardianship models.

Table 4 shows the largest population group served by models of each type. The percent of individual models that serve each population as their largest group is listed. The percentages presented were obtained by dividing the number of models serving the listed group as the largest group by the total number of models in that category.

The elderly and the mentally retarded were the largest populations served by most guardianship models. The largest population group served by 62 percent of all public models was the elderly. The largest population group served by 36 percent of the private models was also the elderly. Conversely, 42 percent of the corporate models reported that the largest group they served was the mentally retarded.

Among the 62 models represented on this table, the primary group served by 37 percent of those models was the elderly. Across all models the mentally retarded were the second largest group served with 26 percent of all models reporting it as the primary group served. Twenty-nine percent of the 62 models reporting did not know what the largest group served was.

TYPES OF POPULATIONS ELIGIBLE FOR SUBSTITUTE DECISION MAKING ASSISTANCE

One focus of the Minnesota task force was to determine whether public guardianship should be extended to populations other than the mentally retarded. Table 5 shows the percent of models of each type which provide substitute decision making assistance to the listed populations.

There was some variation among the different guardianship models in terms of which populations they served. The mentally retarded and the mentally ill were the groups most often eligible for guardianship. While Minnesota's public system serves only the mentally retarded, most of the other public systems serve the elderly, mentally ill, chemically dependent, and physically disabled as well.

A majority of the private models serve all of the populations listed. Mentally ill individuals in need of guardianship could get a guardian in 82 percent of the private models listed. Corporate guardians, in contrast, had only a large percent of systems serving mentally retarded individuals. The only other primary diagnosis served by more than half of all corporate models was the mentally ill.

SOURCES OF FINANCIAL SUPPORT

There were six main funding sources through which guardianship programs was funded. The source of funding varied according to both the guardianship model, and the state in which the program operated. Table 2 shows the distribution of models funded through each of the six major sources. This information was based on the estimates provided by the respondents. Each particular guardianship model may use more than one funding source.

The primary funding vehicle for public guardianship programs is governmental funds. Sixty-two percent of the public models included in this report relied on the state for at least a portion of their funding. A second major funding source for some public guardianship programs was estate fees. County and federal funds were the other primary funding sources used by public programs.

Most of the private models did not receive any funds. Of those who did have a funding source, most received support from the estate of the ward. The other sources used were governmental funds, and funds provided by the actual guardian. Seventy-nine percent of all private models responded that there was some other source used. Many of those models indicated that the private guardianship programs received no financial support.

The most frequent funding source used by corporate guardians was the state. Estate fees were also used by approximately one-third of corporations. Surprisingly, federal funds were available to 22 percent of the corporate models currently in operation. Most of those funds were in the form of a grant.

TRAINING OPPORTUNITIES FOR GUARDIANS

Once an individual has become a legal guardian there are many responsibilities to be fulfilled. Training was one method used to provide the information necessary for a guardian to adequately handle major decisions. Training included, but was not limited to, an explanation of the duties of the guardian, the legal responsibilities of the guardian, the limits of guardianship, and the monitoring expectations and requirements.

Each type of guardianship program handled training somewhat differently. Training of public guardians often took the form of on-the-job training and periodic in-service. Corporate guardianship programs that relied on volun-

teers to provide guardianship services provided guidance and written instruction to the guardians. Private guardians did not usually receive any training aside from the legal assistance needed to initiate guardianship proceedings.

One measure of the training procedures used by guardianship programs was the frequency with which training opportunities were provided. Table 7 lists the number of models within each of the three major guardianship types providing training in the listed frequency.

The frequency with which training opportunities are available showed major differences between the three major forms of guardianship programs. The corporate models provided more training opportunities than either of the other types of models. Of the corporations responding to this question, 54 percent provide training on an ongoing basis, while another 15 percent provide annual updates. One-third of the public agencies provided training on an ongoing basis, but a second 1/3 never provided training. Fewer of the private guardianship programs provided training opportunities than either public or corporate models. No training was provided at all in 65 percent of the private models examined.

EVALUATION OF THE MODELS

The national survey contained a section which asked the respondent to evaluate each model they used in several areas. For each area evaluated, a rating of inadequate, adequate, superior, not applicable, or don't know was given by the respondent. Table 8 shows the percent of models of each type that were rated inadequate by their spokesperson. Each model that had a complete set of answers for this section was included. If the respondent did not know what the rating should be, or the item was not applicable to a particular model, their rating for that item was not included in the computations.

Two different types of comparisons can be made from the data on Table 8. Major weaknesses of each type of model can be identified by examining which areas were inadequate in a high percent of the models. The differences between models can also be assessed from this data.

The public models were rated inadequate in several areas. The area rated inadequate by the highest percentage of public models was budget available for guardianship (72%). Other areas rated inadequate by a large percentage of public models were; needs assessment methods (69%), number of state personnel performing guardianship duties (64%), and outreach methods used (61%). Most of the other areas were inadequate in less than 50% of all models.

A high percentage of private models were rated inadequate in several areas. Needs assessment methods, the methods used to find out who needs guardianship but is not getting it, were rated inadequate by 94% of the private models. Five other areas were rated inadequate by 80% or more of the private models. Those areas were: training practices (89%), training requirements (85%), monitoring requirements (83%), outreach methods (82%), and monitoring practices (80%). There were only two areas that less than 50 percent of the private models rated inadequate as opposed to five for the public models, and seven for the corporate models.

The corporate models had fewer areas than public or private that were rated inadequate by over 60% of the models. The areas with the highest percentages of inadequate ratings were: number of volunteers available (80%), number of other personnel available (78%), and budget (63%). Most of the other areas evaluated were rated inadequate by fewer than 50% of the respondents.

Overall, the percent of models rated inadequate in each area varied widely. A low of 25% of all models were inadequate in the area of range of disabilities served, while 79% of all models were inadequate on needs assessment methods and on the number of volunteers available. Seventy-three percent (73%) of all models were inadequate in the budget area.

The evaluations presented are limited by two major factors. First, these evaluations represent the opinions of the respondents. It was up to the respondent to decide what criterion to use. Second, the reasons for an answer of inadequate were not given. It cannot be assumed that, because a particular area was rated inadequate, that the improvement would be to increase that variable. The next section on improvements needed contains a list of the changes that would reduce the number of models that were inadequate.

SUGGESTIONS FOR IMPROVEMENT

This section summarizes specific suggestions for improvement in guardianship programs according to the respondents. The final revision of the survey asked each respondent to indicate all of the improvements that should be made to increase the effectiveness of each model of guardianship available in their state. The percent of states who indicated that each specific suggestion would improve each model are listed on Table 9. The suggestions are listed in the order of most to least frequent responses for all models combined.

Several observations can be made about the three major systems on the basis of the recommendations made by those systems. The five recommendations made by more than 50 percent of all systems reporting were: increase the money available, add paid staff, protect wards better, provide training, and increase outreach. These recommendations were improvements suggested for all guardianship models.

Each of the three major guardianship types represented had a set of suggestions that were highly rated. The public models represented had four suggestions that were concerns to over 50 percent of the states. Those concerns were to; increase the money available, add paid staff, increase outreach, and require specific training. The public model also had four concerns that were more than five percent more than the overall average. Those concerns were, increasing the money available, increasing outreach, serving more disability groups, and decreasing caseloads. These recommendations were general concerns for public systems.

The private models represented on this table had many more suggestions that were more than 5 percent above the overall mean for the question than either of the other two systems. The four top improvements suggested for private models were to add monitoring requirements, provide training, protect wards better, and increase the money available. These are quite different in type from the suggestions made for public systems.

The suggestions for improvements needed in the corporate model were not made as frequently as the other two models. The high need areas for corporate models mentioned were; increasing the money available, adding paid staff, and tightening monitoring requirements. The two areas mentioned where the corporate models were more than 5 percent higher than the average were; standardizing the referral system, and having fewer types of guardianship models available.

The number of suggestions given by more than 50 percent of the respondents for each type of model were highest in the private models, second in the public models, and lowest for the corporate models. In the analysis section, the possible reasons for the results obtained will be considered and recommendations based on the data will be made.

SUMMARY OF FINDINGS

One objective of the national survey was to evaluate guardianship models used throughout the United States. That evaluation focuses on the data presented for specific states and models. An examination of the characteristics of the specific guardianship models can meet this objective.

There are many differences between the states surveyed for the national survey. A range of between one and five models were used by the surveyed states. Four states had only one alternative available to individuals needing guardianship. An average of 2.7 models were used by each state surveyed.

Another area where there was wide variation was the budget and number of wards served. The public guardianship model in Illinois served 3,557 wards at a cost of \$562 per ward. That figure only included guardianship services. There was a separate case management program available in that state. In the county run program of Los Angeles, California where the case management budget was included in the calculation, a much higher figure was available per ward.

Another focus of the national survey was to determine the characteristics of the three major guardianship models. The public, private, and corporate models can be described in terms of their strengths and weaknesses as shown by the data. They can also be described in terms of the major differences between the models.

The public guardianship systems examined had several strengths. Four of the models examined visited the wards at least once every month. Written reviews of the status of the ward were also done on a regular basis by most of the public models. Another positive feature of public guardianship models was that the duties of the guardian were clearly delineated in most instances. The most important, positive aspect of the public models was that most of the public models serve a large range of disabilities. Most of the systems provide substitute decision-making assistance to persons who have no other alternative.

Public guardianship systems had several drawbacks. The budget available to public models was inadequate in 72% of the models. This may limit the number of staff available to perform the role of guardian successfully. Another drawback was that training was never provided to one-third of the public guardians. Only a few of the public models provided systematic training on a regular basis. Another major problem encountered by public guardianship models was that they are inadequate in the area of assessing the number of people who may need guardianship.

Private guardianship systems were somewhat different than the public systems in their strengths and weaknesses. The major strengths of the private models were their ability to serve a wide range of disabilities, and their availability to the general population. The private models examined did have several areas of weakness, however. The major weaknesses were in the areas of needs assessment, outreach, monitoring practices, and training practices. In many states private guardians not held accountable in any formal way for the decisions they make for the wards.

Corporate guardianship systems had several strengths. Most of the corporate models had high monitoring standards and practices. They were also strong in the areas of training, outreach, and the delineation of the duties of the guardian. Corporate models had the lowest percentages of the models rated inadequate in the areas assessed.

The negative aspects of corporate guardianship models fell into three primary areas. The corporate models were limited in the types of populations they serve. Most served only the mentally retarded. The corporate models were also limited in terms of the number of wards served. Ohio was the only state in which more than 500 wards were served. There were many individuals who needed guardianship who could not be served by corporate guardians. The third problem corporate guardians faced was the limited amount of money available. While the corporate guardians surveyed had more money available per ward than the public system, it was not necessarily sufficient to provide adequate services in all cases.

Several different models of substitute decision-making systems were presented in this report. Each of those models had desirable qualities. Private models were desirable because they encourage persons who know the disabled clients to become advocates for that client. Corporate models often use monitoring methods that ensure that each client is receiving the assistance required. Public models perform an essential service by being guardian of last resort for those individuals unable to obtain needed assistance any other way.

While this report presents the best information available under the circumstances, many study areas could be improved. Any further study should be done on an extended time-frame. A longer time-frame would allow a more carefully designed and implemented survey. Another improvement would be to limit the scope of the study. Another change would be to initially mail the survey to the respondents then using a phone interview to confirm responses. A national survey with the listed modifications would provide a much clearer picture of guardianship across the United States.

CONCLUSION

When the Minnesota legislature formed the guardianship task force, it requested recommendations for improvements in Minnesota's public guardianship program. General suggestions about the types of reforms needed in public guardianship systems can be found throughout this report. A careful examination of the discrepancies between Minnesota and the other states surveyed are in the areas of budgeting, staffing, and monitoring practices that will provide information to guide the recommendations to be made.

Guardianship programs available in the United States vary widely in the types of services available, the quality of the services available, and the focus of the services available. The public, private, and corporate guardianship models all have characteristics that make them valid guardianship alternatives. Each of those models should be examined in light of their strengths and weaknesses in an effort to choose the most appropriate forms of guardianship models available.

TABLE 1

GUARDIANSHIP MODELS AVAILABLE

	MODEL TYPE									TOTAL
	<u>1</u>	<u>2</u>	<u>3</u>	<u>4</u>	<u>5</u>	<u>6</u>	<u>7</u>	<u>8</u>	<u>9</u>	
Arizona		X		X	X					3
Arkansas			X	X				X		3
California		X		X	X	X				4
Colorado		X		X	X					3
Georgia				X						1
Hawaii	X			X	X			X		4
Illinois	X	X		X	X					4
Indiana				X						1
Iowa				X			X			2
Kansas	X			X	X					3
Kentucky	X			X			X			3
Maine	X			X						2
Massachusetts									X	1
Michigan			X	X	X					3
Minnesota	X			X						2
Missouri		X		X	X	X				4
Montana			X	X						2
Nebraska				X	X					2
Nevada		X		X						2
New York		X		X	X					3
North Dakota		X		X	X					3
Ohio				X	X					2
South Dakota	X			X	X				X	4
Tennessee	X	X		X	X		X			5
Texas		X		X	X					3
Utah	X			X						2
Wisconsin	X		X	X	X					4
Wyoming				X						1
TOTAL	10	10	4	27	16	2	3	2	2	76
PERCENT OF SYSTEMS	13	13	5	35	21	3	4	3	3	100
PERCENT OF STATES USING EACH	36	36	14	96	57	7	13	7	7	270

1 = public state run guardianship program

2 = public county run guardianship program

3 = public guardianship other

4 = private guardianship

5 = corporate non-profit run guardianship statewide information

6 = corporate for profit guardianship statewide information

7 = corporate non-profit guardianship/one company information

8 = protection and advocacy system only guardianship not separated

9 = other

TABLE 2

CHARACTERISTICS OF SPECIFIC SYSTEMS

<u>Public State Run</u>	<u>Number of Wards</u>	<u>Budget Per Year</u>	<u>Budget Type</u>	<u>#FTE Paid</u>	<u>Dollar Per Ward</u>
Illinois	3,557	2,015,000	1	54	562
Kansas	800	38,776	1	1	48
Kentucky	2,300*	843,250	1	27*	367
Maine	100	100,000*	1	4.8*	143
Minnesota	6,758	50,000*	1	1	7
South Dakota	54	64,500	3	1	1,194
Utah	7	18,600	3	2.5	2,657
<u>Public County</u>	<u>Number of Wards</u>	<u>Budget Per Year</u>	<u>Budget Type</u>	<u>#FTE Paid</u>	<u>Dollar Per Ward</u>
California (1 county)	2,050	8,882,785	2	dk	4,333
North Dakota	dk	60,000	1	5	dk
Texas (1 county)	75	dk	dk	4	dk
<u>Public Protection and Advocacy</u>	<u>Number of Wards</u>	<u>Budget Per Year</u>	<u>Budget Type</u>	<u>#FTE Paid</u>	<u>Dollar Per Ward</u>
Arkansas	40*	150,000	dk	32	3,750
<u>Private</u>	<u>Number of Wards</u>	<u>Budget Per Year</u>	<u>Budget Type</u>	<u>#FTE Paid</u>	<u>Dollar Per Ward</u>
Nebraska	dk	40,000*	1	2.5	dk
Wisconsin	16,000*	30,000*	1	15	2
<u>Corporate Non-Profit</u>	<u>Number of Wards</u>	<u>Budget Per Year</u>	<u>Budget Type</u>	<u>#FTE Paid</u>	<u>Dollar Per Ward</u>
Arizona	2	48,000	1	1	24,000
Iowa (1 system only)	35	13,000	1	.4	371
Colorado	25	60,000	1	dk	2,400
Michigan	250	dk	dk	2	dk
Ohio	2,960	1,422,455	1	99.5	481
South Dakota	46	65,000	1	1	1,413
Texas	250	76,000	1	3	304
Wisconsin	500*	300,000*	1	21	600

Budget Types: 1 = guardianship only budget
 2 = guardianship and case management budget
 3 = guardianship and protection and advocacy budget

* = approximate number

dk = don't know

TABLE 3

MONITORING PRACTICES BY STATE AND SYSTEM

Public State Run	# Visits Required	# Visits Performed	# Written Required	# Written Performed	State Monit	Court Monit
State						
Illinois	4	4	1	5	yes	yes
Kansas	2	2	1	12	yes	yes
Kentucky	1	3	1	1	yes	yes
Maine	0	12	1	2	yes	yes
Minnesota	0	dk	1	dk	yes	yes
South Dakota	0	12	1	1	yes	yes
Tennessee	dk	dk	dk	1	yes	yes
Texas	0	52	1	1	no	yes
Utah	2	12	dk	12	yes	yes
Wisconsin	0	dk	dk	dk	no	yes
Public County Statewide Info.						
Illinois	0	dk	1	dk	no	yes
Missouri	0	1	dk	1	no	yes
North Dakota	dk	dk	dk	dk	no	yes
Public County One County						
California	dk	4	dk	dk	yes	yes
Nevada	dk	1	dk	1	no	yes
Tennessee	dk	dk	dk	dk	no	yes
Public Other						
Arkansas	0	12	2	2	yes	yes
Michigan	0	dk	1	1	no	yes
Montana	0	4	1	1	no	yes
Wisconsin	dk	dk	dk	4	no	yes
Protection and Advocacy						
Arkansas	2	2	2	2	yes	yes
Hawaii	0	12	0	1	no	yes
Corporate for Profit						
Missouri	0	1	dk	1	no	yes
Ohio	0	4	0	1	no	yes

TABLE 3 (Continued)
MONITORING PRACTICES BY STATE AND SYSTEM

Public State Run	# Visits Required	# Visits Performed	# Written Required	# Written Performed	State Monit	Court Monit
Corporate Non-Profit						
Arizona	0	26	1	1	no	yes
California	--	--	--	--	yes	yes
Colorado	dk	24	dk	2	no	yes
Illinois	0	dk	1	dk	no	no
Iowa	0	12	1	2	no	yes
Kansas	2	2	1	1	yes	yes
Kentucky	1	3	1	dk	no	yes
Massachusetts	0	dk	0	dk	no	yes
Michigan	0	dk	1	1	no	yes
Missouri	0	1	dk	1	no	yes
Nebraska	0	24	0.5	1	yes	no
North Dakota	dk	dk	dk	dk	no	yes
South Dakota	0	6	1	1	no	yes
Tennessee	dk	dk	dk	1	no	no
Texas	0	26	1	1	no	yes
Wisconsin	4	4	1	1	yes	yes
Private						
Arkansas	0	dk	0	0	no	yes
California	--	--	--	--	yes	yes
Georgia	dk	dk	1	dk	no	yes
Illinois	0	dk	1	dk	no	yes
Indiana	0	dk	dk	dk	no	yes
Iowa	0	dk	1	dk	no	yes
Kentucky	1	dk	1	dk	no	yes
Maine	0	dk	0	0	no	yes
Michigan	0	dk	1	1	no	yes
Minnesota	0	dk	0	dk	no	yes
Missouri	0	1	dk	1	no	yes
Montana	0	dk	1	1	no	yes
Nebraska	0	0	0.5	dk	yes	no
Nevada	dk	2	dk	1	no	yes
North Dakota	dk	dk	dk	dk	no	yes
Ohio	0	dk	0	dk	no	yes
South Dakota	0	dk	1	dk	no	yes
Tennessee	dk	dk	dk	0	no	yes
Texas	0	dk	1	dk	no	yes
Utah	2	dk	dk	dk	no	yes
Wisconsin	dk	dk	1	1	no	yes
Wyoming	0	dk	dk	dk	no	yes

dk = Respondent did not have the information available.

TABLE 4

LARGEST GROUP SERVED BY EACH TYPE OF MODEL

	<u>Public</u>	<u>Private</u>	<u>Corporate</u>	<u>Total</u>
Mentally Retarded	24	14	42	26
Chemically Dependent	0	0	0	0
Mentally Ill	5	5	11	6
Elderly	62	36	11	37
Physically Disabled	0	0	0	0
Other	0	0	5	2
Unknown	9	45	31	29
Total Number of Models Represented	21	22	19	62
Missing	5	5	2	12

TABLE 5

PERCENT OF SYSTEMS OF EACH TYPE THAT SERVE EACH POPULATION

	<u>Public</u>	<u>Private</u>	<u>Corporate</u>	<u>Total</u>
Mentally Retarded	86	77	84	82
Chemically Dependent	71	73	37	61
Mentally Ill	76	82	53	71
Elderly	71	73	37	61
Physically Disabled	71	64	47	61
Other	9	14	5	10
Unknown	5	18	11	11
Systems Reporting	21	22	19	62
Missing	5	5	2	12

TABLE 6

PERCENT OF MODELS OF EACH TYPE FUNDED BY EACH AGENCY

<u>Agency</u>	<u>Public</u>	<u>Private</u>	<u>Corporate</u>	<u>Total</u>
Federal	10	5	22	12
State	62	11	56	43
County	19	11	0	10
Foundation	0	0	17	5
Estate	29	32	33	31
Guardian	0	11	17	9
Other	0	79	22	33
Total Models Reporting	21	19	18	58
Missing	5	8	3	16

TABLE 7

FREQUENCY OF TRAINING PROVIDED

<u>Frequency</u>	<u>Public</u>	<u>Private</u>	<u>Corporate</u>	<u>Total</u>
One Time	2	1	0	3
Annually	2	3	2	7
Ongoing	6	2	7	15
Four Times Yearly	2	0	0	2
Never	6	11	4	21
Total Models Reporting	18	17	13	48
Missing	8	10	8	26

TABLE 8

EVALUATION OF MODELS: % OF MODELS RATED INADEQUATE

<u>Area Assessed</u>	<u>Public</u>	<u>Private</u>	<u>Corporate</u>	<u>Total</u>
Range of Disabilities Served	24	29	17	25
Number of Wards	53	72	56	64
Protective Services	50	71	21	51
Monitoring Requirements	35	83	50	56
Monitoring Practices	31	80	0	39
Budget	72	79	63	73
Number of State Personnel	64	57	56	62
Number of County Personnel	50	69	56	61
Number of Non-governmental Supervisors	N/A	N/A	40	24
Number of Other Paid Personnel	N/A	N/A	78	46
Number of Volunteers	N/A	77	80	79
Delineation of Duties	11	25	6	15
Training Requirements	28	85	43	55
Training Practices	44	89	21	55
Outreach Methods	61	82	47	65
Needs Assessment Methods	69	94	56	79
Total Number of Models Used	19	21	17	57
Number Not Answering Section	7	6	4	17

Percents were calculated by dividing the number of models of each type rated inadequate by the total number of models answering either inadequate, adequate, or superior. Those models not answering the question and those answering not applicable or don't know were not used in the calculations.