

**State-Level Adult Guardianship Data:  
An Exploratory Survey**

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**National Center on Elder Abuse**

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The National Center on Elder Abuse (NCEA) serves as a national resource for elder rights advocates, law enforcement and legal professionals, public policy leaders, researchers, and citizens. It is the mission of the NCEA to promote understanding, knowledge sharing, and action on elder abuse, neglect, and exploitation.

The NCEA is administered under the auspices of the National Association of State Units on Aging.

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## *Table of Contents*

### **Executive Summary**

#### **I. Introduction**

#### **II. Background**

#### **III. Project Goal and Objective**

#### **IV. Methodology**

#### **V. Findings**

##### **a. Data on Adult Guardianship of Person and Property**

##### **b. Data on Adult Guardianship of the Person**

##### **c. Data on Adult Conservatorship**

##### **d. Data on Elder Abuse Cases**

##### **e. Potential Compilation of State-Level Guardianship Data**

##### **f. Notable Local Data Collection Practices**

#### **VI. Discussion of Findings**

### **List of References**

### **Appendix: Survey Questionnaire**

## **Executive Summary**

Guardianship is a relationship created by state law, in which a court gives one person (the guardian) the duty and power to make personal and/or property decisions for another (the incapacitated person or ward). The appointment of a guardian occurs when a judge decides an adult lacks capacity to make decisions. Guardianship is a critical protection for at-risk, frequently elderly individuals. However, it is also a drastic intervention in which the guardian is given substantial and often complete authority over the lives of vulnerable wards, and press accounts have detailed significant instances of malfeasance and exploitation. Yet, basic data on guardianship is scant, offering courts, policymakers, and practitioners little guidance for improving the system. Indeed, the U.S. Government Accountability Office found that the dearth of statistical data limits oversight and reform efforts. The need for uniform, consistent guardianship data is heightened by demographic trends that will sharply boost the number of cases in the coming years—including the aging of the population, an increasing number of younger adults with mental retardation, developmental disabilities, and mental illness, and a possible rise in elder abuse.

### **Exploratory Survey**

The National Center on Elder Abuse charged the American Bar Association Commission on Law and Aging to conduct an exploratory survey of adult guardianship data collected by state court administrators' offices. The ultimate goal of the project was to contribute toward strengthening court collection of data on adult guardianship, which is required for: (1) effective case processing and monitoring of guardians; (2) gauging the extent of abuse by guardians and the extent to which guardians protect individuals from abuse; and (3) shaping guardianship policy, practice, training, and education. The project objective was to gain knowledge about the extent and kinds of guardianship information reported and maintained at the state level. While guardianship data originates at the local court level, identifying guardianship data collected by state court administrative offices from local courts can provide a foundation for further work on adult guardianship statistics.

With advice from the Court Statistics Project of the National Center for State Courts and with the endorsement of the Conference of State Court Administrators, the Commission sent an electronic survey to all 56 state and territorial court administrators,

and received a total of 47 responses. Since guardianship terms differ among states, the survey used terms consistent with definitions from the National Center for State Courts' *State Court Guide to Statistical Reporting*, under "Civil Case Type Definitions." The survey asked: (1) whether guardianship (of person, of property, or both) is a distinct case type reported by trial courts to the state court administrative office, and, if so, the number of filings and dispositions; (2) what the obstacles are in collecting such data; and (3) whether state offices would be interested in collecting it in the future. It also looked beyond adult guardianship to the related area of elder abuse. It asked whether elder abuse is a distinct case type reported to the state office, and, if so, the number of filings and dispositions.

## **Findings**

- Over one-third of responding state court administrative offices (34 percent) receive from trial courts reports on filings and dispositions for adult guardianship of the person and/or property as a distinct case type, but close to two-thirds (66 percent) do not.
- Less than a fifth of responding state court administrative offices receive from trial courts reports of filings and dispositions for guardianship of the person only (19.1 percent); and just over a quarter of the offices receive reports for guardianship of the property (conservatorship) only (25.5 percent).
- State court administrative offices do not receive from trial courts information on adult guardianship beyond the number of filings and dispositions.
- Only five states reported that elder abuse is a distinct case type reported by trial courts to state court administrative offices, and a few additional states may receive such data in the future.
- Over two-fifths (44.7 percent) of responding state court administrative offices indicated that they are interested in compiling data—or additional data—on adult guardianship, conservatorship, and elder abuse, but named substantial barriers.
- A few local courts are planning for or demonstrating data collection practices that may assist other courts grappling with data collection issues.

## **Discussion and Conclusions**

- ✓ There is no state-level guardianship data for the majority of the reporting states. For states that do receive such data, comparison may be limited by differing definitions and coding.
- ✓ Data reported to state court administrative offices is limited to filings and dispositions. There is no data on a range of elements that would be critical for guardianship research and reform efforts. Whether, and to what extent, such data is maintained at the local court level is not known.
- ✓ Additional data beyond filings and dispositions may have two related purposes— (1) enhancing case processing and strengthening oversight of guardians; and (2) supporting broader guardianship research and reform efforts. Courts may be more apt to collect data for the former than the latter.
- ✓ There is almost no data on elder abuse as a distinct case type, reflecting a larger lack of elder abuse data nationally.
- ✓ While many states express interest in collecting additional information on guardianship and elder abuse, the burden to local courts, the need for standardized definitions, and the cost of technology are significant barriers.
- ✓ Isolated promising practices in some areas offer potential.
- ✓ Major investment in court technology, training, and standardized definitions is required to secure data for effective guardianship case management, as well as enabling courts, policymakers, and practitioners to move toward strengthening the guardianship system and preventing elder abuse.

# State-Level Adult Guardianship Data: An Exploratory Survey

## I. Introduction

A July 2004 report of the U.S. Government Accountability Office (GAO), *Guardianships: Collaboration Needed to Protect Incapacitated Elderly People*, highlighted a grave lack of hard data on guardianship of vulnerable adults. The report found that only one-third or fewer of the responding courts surveyed tracked the number of active guardianships for incapacitated adults, and concluded that the dearth of statistical data limits oversight and efforts to improve the guardianship system. The report maintained that “sufficient data are not available to determine the incidence of abuse of incapacitated people by guardians . . . nor the extent to which guardians . . . are protecting incapacitated people from abuse” (GAO, 2004).

The GAO findings and conclusions reinforce earlier statements by the National “Wingspan” Guardianship Conference (*Stetson*, 2002; National Academy et al., 2004), the National Center for State Courts (Hannaford & Hafemeister, 1994), and other writings recognizing a troubling absence of statistics to evaluate the adult guardianship process and the reforms that have occurred, as described below. Nationally, we are looking at guardianship “through a glass, darkly,” unable to make informed policy and practice choices without an adequate knowledge base of what exists and what trends are evident.

Thus, the National Center on Elder Abuse charged the American Bar Association Commission on Law and Aging to conduct an exploratory survey of adult guardianship data collected by state court administrators’ offices. While the bulk of guardianship data is at the local court level, knowledge of state-level guardianship data would provide baseline information, identify barriers, and provide a foundation for eventual work on consistent approaches to adult guardianship statistics. Strengthened guardianship data collection could shed light on both the extent of abuse by guardians and the extent to which they protect individuals from abuse.

## II. Background

Guardianship is a relationship created by state law, in which a court gives one person (the guardian) the duty and power to make personal and/or property decisions for

another (the ward). The appointment of a guardian occurs when a judge decides the ward lacks capacity to make decisions. While it is a critical protection for at-risk, frequently elderly individuals, guardianship of adults is also a drastic intervention. With the stroke of the judge's pen, an individual loses fundamental rights and a surrogate is charged with making intimate personal choices about health care, living arrangements, finances, and property.

Each state has an adult guardianship law. State laws differ markedly in terminology, procedures, definition, and determination of incapacity, powers and duties of guardians, and court oversight. During the past 20 years, most states have revised their guardianship laws or enacted comprehensive new provisions (Wood, *Directions*, 2006). Important changes were made, yet implementation of the new laws appears uneven.

The adult guardianship system has been maligned in a number of press accounts since the mid-1980s. In 1987, the Associated Press (AP) released the results of a year-long investigation in all 50 states, including an examination of more than 2,200 probate court files. The AP report, *Guardians of the Elderly: An Ailing System*, alleged that "the nation's guardianship system, a crucial last line of protection for the ailing elderly, is failing many of those it is designed to protect" (Bayles & McCartney, 1987). More recent press accounts (Wendland-Bowyer, *Detroit Free Press*, 2000; Rubin, *Phoenix New Times*, 2000; Kilzer & Lindsay, *Rocky Mountain News*, 2001; Leonnig, *The Washington Post*, 2003; Glaberson, *The New York Times*, 2004; Leonard, *Los Angeles Times*, 2005) mirror the AP claims, despite continuing reform efforts.

Whether these accounts reflect isolated examples of abuse in an otherwise well-functioning process or accurately portray the norm is unknown. Indeed, policymakers, advocates, and the legal and judicial system are working in the dark in assessing adult guardianship. There is very little data. A 1994 summary observed that:

a pervasive problem for organizations examining the use of guardianship for the elderly has been the lack of accurate or reliable information concerning the number of persons actually under the protection of a guardian in the United States. Much of the criticism of guardianship proceedings stems from a few highly publicized, notorious, and particularly heinous examples of guardians' abuse and neglect of wards. Whether these examples constitute the exceptions or the rule of how guardianships actually function was unknown, however (Hannaford & Hafemeister, 1994).

A later law review article also stressed “the absence of ‘hard’ data” to evaluate the process and the changes that have occurred (Frolik, 1998). The 2004 GAO study found that:

Neither the states or the federal government compile data concerning the incidence of abuse or people assigned a guardian or representative payee or even the number of elderly people with guardians. Without better statistical data concerning the size of the incapacitated population or how effectively it is being served, it will be difficult to determine precisely what kinds of efforts may be appropriate to better protect incapacitated elderly people from exploitation, abuse and neglect (GAO, 2004).

The need for uniform, consistent guardianship data is heightened by ongoing demographic trends that will sharply boost the number of appointments in the coming years. The older population (age 65+) numbered 35.9 million in 2003. As the baby boomers come of age, the older population will more than double, reaching 71.5 million by 2030. Within the older population, the number of “old old” (age 85+) is growing especially rapidly—and is expected to increase from 4.7 million in 2003 to 9.6 million in 2030 (U.S. Administration on Aging, 2006; U.S. Census Bureau, 2006). At the same time, Alzheimer’s disease and related dementias are becoming more prevalent. Today, 4.5 million Americans have Alzheimer’s disease. The number has more than doubled since 1980 and will continue to grow—reaching from 11.3 million to 16 million people by 2050 unless a cure or preventative measures are discovered (Alzheimer’s Association, 2006).

Moreover, guardianship also serves a younger population of adults with mental retardation, developmental disabilities, and mental illness. Currently “it is estimated that there are seven [million] to eight million Americans of all ages who experience mental retardation or intellectual disabilities. Intellectual disabilities affect about one in ten families in the USA” (President’s Committee, May 2006). This number will rise with new forms of medical treatment, and an increasing number will outlive family caregivers. Estimates for adults age 60 and over with mental disabilities/mental retardation and other developmental disabilities (such as cerebral palsy, autism, epilepsy) range between 600,000 and 1.6 million. This population is growing rapidly, and although many persons are unidentified and the actual number is not known, it is expected that by 2030, there will be several million (American Association on Mental Retardation, 2006).

At the same time, incidents of elder abuse are rising. While statistics are scant, it is estimated that “between 1 million and 2 million Americans age 65 or older have been injured, exploited, or otherwise mistreated by someone on whom they depended for care or protection. The frequency of occurrence of elder mistreatment will undoubtedly increase over the next several decades, as the population ages” (National Research Council, 2003). A 2004 survey of adult protective services showed a 19.7 percent increase in reports of elder and vulnerable adult abuse and neglect and a 15.6 percent increase in substantiated cases since 2000 (NCEA, 2006). Bolstering guardianship data could aid in assessing both the frequency of abuse by guardians and the degree to which guardians protect vulnerable people from abuse by others.

In recent years, there have been a few attempts to collect data on adult guardianship, including the following:

- The Associated Press report provided the country’s first guardianship statistics—numbers that remain today among the very few such national-level counts. It concluded that there were approximately 300,000 to 400,000 adults under guardianship in the country—and that 67 percent were female, the average age of wards was 79, 33 percent of wards were moved during the guardianship, and 64 percent were in a nursing home sometime during the guardianship. It also included figures on guardianship proceedings. In 44 percent of the cases, the proposed ward was not represented by an attorney, and in 49 percent of the cases the proposed ward did not attend the hearing. Accountings were missing in 48 percent of the files. Three out of 10 files included no medical evidence. “Advanced age” was given as the reason for appointment of a guardian in 8 percent of the cases. One out of four files contained no indication that hearings had been held. Some 13 percent of the files were empty except for the opening of the guardianship (Bayles & McCartney, 1987).
- The National Probate Court Standards Project compiled statistical information about the number of guardianship cases filed in 41 jurisdictions in 1988, 1990, 1991, 1992, 1998, and part of 1999. The project found that the number of guardianship cases filed varied widely among the states, both in terms of absolute numbers and relative to the state’s population. The total number of filings was 86,622 for 22 states and the District of Columbia (DC) in 1990; 114,882 for 31 states and DC in 1991; 133,005 for 33 states and DC in 1992; and 247,416 for 40 states and DC in 1998. Taking into account only those states reporting filings for

all three years “the number of filings increased twenty-five percent between 1990 and 1992” (Hannaford & Hafemeister, 1994).

- A national study by The Center for Social Gerontology in 1994 examined the guardianship process intensively in ten states. The project gathered and analyzed data from 566 guardianship hearings and 726 guardianship files, conducted telephone interviews with 228 petitioners, and identified 20 previous research studies focused largely in individual states. The study made 14 findings and eight recommendations about the guardianship process (Lisi, Burns, & Lussenden, 1994).
- Researchers in individual states have undertaken varying efforts to collect guardianship information either through the courts or through public or private guardianship programs. For example:
  - In *California*, the San Francisco Probate Court conducted a retrospective review of all (168) adult guardianship (known as “conservatorship”) cases filed in 2000 (Quinn & Nerenberg, 2005). The review resulted in findings about: (1) the wards (87% age were age 65+); (2) their functional impairments (close to 70% had a cognitive impairment requiring severe need for assistance, and 62% required such assistance with activities of daily living); (3) their living arrangements (over 36% resided in nursing homes and over 31% in private homes); (4) proposed conservators (35% were family members and 29% were the local public guardian); (5) types of conservatorship (almost 90% were for both conservatorship of person and estate); and (6) reasons the conservatorships were sought (multiple contributing factors, no single reason).
  - *The Los Angeles Times* reviewed more than 2,400 adult guardianship (“conservatorship”) cases, including every one handled by professional guardians (“conservators”) in Southern California between 1997 and 2003 (Leonard, 2005). Among the findings were that more than half of such cases were granted on an emergency basis; 56% were granted without notice to the individual or the family, 64% were granted before an attorney was appointed for the proposed ward, and 92% were granted before the court investigator’s report.
  - The State Bar of *Georgia* convened groups that conducted two statewide surveys of adult guardianship cases. The Georgia State Bar Young

Lawyers Division Elder Law Committee conducted a survey in 1995 examining approximately 500 randomly selected closed guardianship files from 1994. The State Bar Elder Law Committee conducted a survey in 2001-02 of some 500 randomly selected closed files from 2000. The survey questionnaire consisted of 86 questions that tracked the statutory process. These surveys “represent the first time that extensive data on adult guardianship cases in Georgia have been collected” (Crosby & Nathan, 2003). The survey report made comprehensive findings on: (1) petitioners (80% were family members in both years); (2) proposed wards (75% were age 60+ in 1994 and 70% in 2000); (3) facts supporting claims of incapacity; (4) consideration of alternatives to guardianship (found in 19% of case files in 2000); (5) information about proposed ward’s functional capacity (found in 33% of evaluation reports in 1994 and 53% of reports in 2000); (6) reason for incapacity determination – and more.

- A researcher conducted a study of all guardianship cases opened in three *Illinois* counties (Cook, Lake, and DuPage) in 1985 (Iris, 1989).
- In Washtenaw County, *Michigan*, counsel to the probate court reviewed case filings in 1994 and 2002, including number of respondents, number of petitions, number of emergency petitions, petitioners, guardians, demographic information on respondents, case dispositions, and scope of guardianship powers (plenary vs. limited). The probate counsel produced a brief analysis of the significant changes over the eight-year period and the possible contributing factors (Geller, 2006). These included: (1) a reduction in petitions; (2) reduction in emergency petitions; (3) increase in percent of petitions withdrawn or denied; (4) increase in percent of limited guardianships; and (5) reduced reliance on professional guardians.
- In *Ohio*, Adult Guardianship Services in Cleveland conducted a study of the projected need for guardianship services, and as a basis examined all guardianship services provided by the agency between 1993 and 2003 (Stoiber & Njoku, 2004). The study projected an increase in the number of agency wards from an average of 287 per day in 2003 approximately 830 in 2008.
- In *Oregon*, the Guardianship Work Group, a coalition of interested parties, surveyed adult guardianship cases filed after January 1, 1996, in 12 counties, examining a total of 225 cases. The study used a convenience

sample of files randomly selected by the court clerk (Guardianship Work Group, 1999). The survey findings included: (1) age range of proposed wards (over 33% were age 76-85, and over 25% were age 86+; (2) types of petitions filed (88% for permanent guardianship, and over 28% for permanent guardianship and conservatorship); (3) petitioners and proposed guardians (over 76% family members); (4) existence of a physician's statement submitted with the petition (close to 50% of petitions); (5) appointment of court visitors (over 91% of cases) – and more.

- In *Vermont*, consumer advocate groups led by Vermont Legal Aid conducted a statewide examination of every adult guardianship case that had been opened after 1992. The examination was comprehensive in scope, including notices given, motions filed, appointment of counsel, annual accountings filed, and more. The data was not published, but was used in identifying areas in need of legislative change (Brian Sawyer, personal communication, February 7, 2006).
- In *Virginia*, the Public Guardian and Conservator Program conducted an evaluation and collected statistical information on public guardianship cases in its ten local/regional programs (Teaster & Roberto, 2003). The study made findings on ward characteristics, needs and outcomes; as well as program administration.

In addition to these state and local data collection initiatives, it is notable that the National Center for State Courts' *State Court Guide to Statistical Reporting, 2003*, which replaced the 1989 version, made significant changes in the probate categories for case types. The 1989 version lumped together "guardianship/ conservatorship/ trusteeship" and did not differentiate between adults and minors. The new version includes separate categories for "guardianship–adult," "guardianship–juvenile," "conservatorship/ trusteeship," and "elder abuse." The *Guide* is a tool for improving court administration and assessing caseloads, and offers a model for court data systems.

The compelling need for statistics on adult guardianship was addressed in 2001 by a National Guardianship Conference ("the Wingspan Conference") sponsored by several collaborating groups including the National Academy of Elder Law Attorneys, the Borchard Foundation Center on Law and Aging, the Stetson University College of Law, the ABA Commission on Law and Aging, the ABA Section on Real Property, Probate and Trust Law, the American College of Trust and Estate Counsel, the National College

of Probate Judges, the National Guardianship Association, and others. This landmark, multi-disciplinary symposium resulted in 68 recommendations to improve the guardianship system, including the following:

The Conference recommends that a uniform system of data collection within all areas of the guardianship process be developed and funded. Comment: Although significant legislative revisions have been adopted, little data exists on the effectiveness of guardianship within each state or across the states, and less information is available about how the system actually affects the individuals involved (*Stetson*, Rec. #4, 2002).

Following the Wingspan Conference, the National Academy of Elder Law Attorneys, the National College of Probate Judges, and the National Guardianship Association took up the challenge of implementation of the recommendations by convening a “Wingspan Implementation Session” at their joint 2004 conference. Each of the groups sent participants, who were joined by representatives designated by the state chief justices, as well as individuals from the ABA Commission on Law and Aging, the ABA Section on Real Property, Probate and Trust Law, the American College of Trust and Estate Counsel, and the National Center for State Courts. The session aimed to develop a blueprint for action at the national, state, and local levels. The session’s Action Step 4-2 urges that national leaders in the field “encourage the chief justices of all states to mandate comprehensive and consistent collection of data within each state” (Wood, 2004).

### **III. Project Goal and Objectives**

The National Center on Elder Abuse charged the American Bar Association Commission on Law and Aging to conduct an exploratory survey of adult guardianship data collected by state court administrators’ offices. The ultimate goal of the project was to contribute toward strengthening court collection of data on adult guardianship. Improved data collection is required for: (1) effective case processing and monitoring of guardians; (2) gauging the extent of abuse by guardians and the extent to which guardians protect individuals from abuse; and (3) shaping guardianship policy, practice, training, and education. The underlying assumption is that knowing more about adult guardianship cases will improve guardianship monitoring, policy, and practice—and thereby improve the lives of incapacitated individuals.

The objective of the project was to gain knowledge about the extent and kinds of guardianship information reported and maintained at the state level. Guardianship data, of course, originates at the local court level. While it is not possible to survey every local court, identifying guardianship data collected by state court administrative offices from local courts can at least advance the field by providing a foundation for further work on adult guardianship statistics.

#### **IV. Methodology**

With support from the National Center on Elder Abuse, the ABA Commission on Law and Aging, with assistance from the Court Statistics Project of the National Center for State Courts (NCSC), conducted a survey of state court administrators on state-level adult guardianship data. The project included the following steps:

1. Literature search. Project staff conducted a literature scan of existing writings on guardianship data (see above).
2. Survey design. With advice from the NCSC Court Statistics Project (Richard Schaffler, director), project staff designed a brief survey for the state court administrators to determine the status of guardianship data within the state court system.

At the strong suggestion of the Court Statistics Project, the survey was kept short and was disseminated electronically. It focused generally on statistics courts may gather in case processing and management, rather than information that might be useful to researchers, but would be unlikely to be maintained by court staff (i.e., demographics, procedural due process issues). The survey primarily targeted information on the *existing status and capacity* of state courts for data collection, rather than a statistical study of the data itself. However, it did seek basic state-level data on the number of filings and dispositions for guardianship of the person and of property. The survey instrument is shown in the Appendix.

3. Survey terminology. Guardianship terms differ among states. To ensure a uniform understanding, the survey used terms consistent with definitions from the National Center for State Courts' *State Court Guide to Statistical Reporting*, under "Civil Case Type Definitions." These included the following:

- Adult guardianship (of the person and of property)—A subcategory of estate cases that includes cases involving the establishment of, or a controversy over, the relation existing between a person (guardian) lawfully invested with the power and charged with the duty of taking care of the rights and/or the property of another adult (ward) who is considered by the court as incapable of caring for himself/herself.
- Adult guardianship of the person—A subcategory of estate cases that includes cases involving the establishment of, or a controversy over, the relation existing between a person (guardian) lawfully invested with the power and charged with the duty of taking care of the rights of another adult (ward) who is considered by the court as incapable of caring for himself/herself.
- Adult conservatorship (or guardianship of property)—A subcategory of estate cases that includes cases involving the establishment of, or a controversy over, the relation existing between a person (conservator) lawfully invested with the power and charged with the duty of taking care of the property of another person who is considered by the court as incapable of caring for his/her property.
- Elder abuse—Although the definition of elder abuse (including the age at which one is considered to be an elder) varies by state, seven types of offenses are usually included: physical abuse, sexual abuse, psychological abuse, neglect, abandonment and isolation, financial or fiduciary abuse, and self-neglect. (Elder abuse as a “distinct case type” refers to cases that may not be in the guardianship system.)
- Respondent—An adult individual who is the subject of a guardianship or conservatorship petition (also may be called alleged incapacitated person, proposed ward).
- Ward—An adult individual for whom a guardian or conservator has been appointed by the court.

The survey asks about the number of guardianship “filings” and “dispositions.” A “filing” is a guardianship petition (or if elder abuse is a distinct case type, an initial petition to court on an elder abuse case). It could also include reopened cases or reactivated cases that were previously in inactive pending status. A “disposition” is a case dispatched by the court, as through dismissal, settlement or judgment, and court order (NCSC, 2005). However, the survey did not specify

exact definitions for these terms. Some states track the number of filings, but not dispositions, while others track both. It is important to note that: (1) the cases reported in the number of filings are not necessarily the same cases as those reported in the number of dispositions; and (2) the survey did not ask about the total number of active guardianship cases.

4. COSCA endorsement. The project obtained the endorsement of the Conference of State Court Administrators. In July 2005 the Conference posted an introductory letter from its president, along with the survey on its national listserv, asking each state court administrator to reply to the ABA Commission.
5. Response to survey. The ABA Commission followed up with two e-mail reminders to the state courts administrators, as well as with selected phone calls. The project received a total of 47 responses from the 56 state and territorial court administrative offices.
6. White paper report. The project entered the results into spreadsheets, and consulted with the NCSC Court Statistics Project on analysis of the survey responses. The ABA Commission prepared, and the Court Statistics Project reviewed, the resulting report, which was then reviewed and approved by the National Center on Elder Abuse partners and the U.S. Administration on Aging.

## **V. Findings**

### **A. Data on Adult Guardianship of Person and Property**

Survey question #1 asked whether adult guardianship of the person and property is “a distinct case type reported by trial courts to the state court administrator’s office,” and, if so, the number of filings and dispositions for 2004 or the most recent year. The results are shown in Table 1 below.

**Table 1 – Reporting of Adult Guardianship of Person/Property  
As a Distinct Case Type (n=47)**

<b>State</b>	<b>Guardianship of Person/Property As Distinct Case Type Reported to State Court Administrative Office</b>	<b>Number of Filings</b>	<b>Number of Dispositions</b>
AL	No		
AK	Yes (Anchorage, Palmer & Fairbanks only)	86	
AZ	Yes	5,511	4,338
AR	No		
CA	No (Reports do not distinguish probate from mental health conservatorships, which could include minors.)		
CO	No		
CT	Yes	1,839	1,839
DE	No		
DC	Yes	326	280
FL	No (Reports include minors, drug & alcohol treatment)		
GA	No		
HI	No		
ID	Yes	824	835
IA	No		
IL	No		
IN	Yes	6,671	5,561
KS	No (Reports include child guardianships, but in 2005 adults will be separate.)		
KY	No		
LA	No		
ME	No		
MD	No		
MI	No		
MN	Yes (Converting database & will track guardianship as case type; current figure from special program run in 2002)	687 (for 2001)	
MO	Yes	2,266 (FY 2003; 16 were for limited	2,013 (FY 2003; 16 were limited orders)

State	Guardianship of Person/Property As Distinct Case Type Reported to State Court Administrative Office	Number of Filings	Number of Dispositions
		guardianship)	
MT	No		
NE	Yes	585	528
NV	Yes	4	
NH	Yes	848	
NJ	No		
NM	No		
NY	No		
NC	Yes	562 (2005)	549 (2005)
ND	Yes	127	
OH	No		
OK	No		
PA	Yes	2,499	2,445
RI	No		
SC	No		
SD	No		
TN	No		
TX	No (However, a county by county survey was conducted in Jan. 2005 in response to legislative initiatives; showed number new cases filed per month & currently active cases)	(2005 survey showed statewide total of average number of new filings per month at 410.5)	
VT	Yes	421	
VA	No		
V.I.	No		
WA	No (Reports include minors)		
WI	Yes	2,811	3,316
WY	No		
TOTAL	Yes = 16 (34.0%); No = 31 (66.0%)		

The survey next asked (question #1(a)) if trial courts file a summary of more specific data on adult guardianship of the person and/or property with the state court administrative office, and inquired about a number of particular items that might be included in such a summary report—such as guardian actions and services provided for

the ward, ward’s condition, information on income and assets, age of wards, timeliness of reports, and more (see #1b on survey in Appendix).

*Missouri* was the only state that replied to this question. The state court administrative office indicated that 60 percent of statewide probate data, including guardianship data, is entered directly by local court staff into the Justice Information System (JIS), an automated case management system, obviating the need for summary reports. The remaining 40 percent of the statewide data is still maintained manually by local court staff. Missouri is converting these remaining courts to JIS. The Missouri state court administrative office contact explained that “timeliness of guardian reports” is entered directly as a “milestone” and statistics are aggregated for the state. Some of the additional data items listed in the survey question are entered by local courts into JIS, but are not automatically run as a report. For instance, “age of wards” is available through JIS, but the report would have to be run 45 times for the 45 participating counties (Pierrette Bentivegna, personal communication, February 7, 2006).

## **B. Data on Adult Guardianship of the Person**

Survey question #2 asked whether adult guardianship of the person (as opposed to guardianship of the person and/or property) is a distinct case type reported by trial courts to the state court administrator’s office, and, if so, the number of filings and dispositions for 2004 or the most recent year. These results are shown in Table 2 below.

**Table 2: Reporting of Guardianship of the Person  
As a Distinct Case Type (n=47)**

<b>State</b>	<b>Guardianship of Person As Distinct Case Type Reported to State Court Administrative Office</b>	<b>Number of Filings</b>	<b>Number of Dispositions</b>
AL	No		
AK	Yes (Anchorage, Palmer, & Fairbanks only)	153	
AZ	No		
AR	No		
CA	No (Reports do not distinguish probate		

State	Guardianship of Person As Distinct Case Type Reported to State Court Administrative Office	Number of Filings	Number of Dispositions
	from mental health conservatorships, which could include minors. <sup>1)</sup>		
CO	Yes	691	
CT	Yes	481	481
DE	No		
DC	No		
FL	No		
GA	No		
HI	No (604 filings includes minors)		
ID	No		
IA	No		
IL	No		
IN	No		
KS	No		
KY	No		
LA	No		
ME	No		
MD	No		
MI	Yes	9,512	9,121
MN	No		
MO	Yes	656	490
MT	No		
NE	Yes	460	418
NV	Yes	944	
NH	No		
NJ	No		
NM	No		
NY	No		
NC	Yes	1,671 (2005)	1,713 (2005)
ND	No		
OH	Yes	6,032	5,322

<sup>1</sup> In California, a “Lanterman-Petris-Short” or LPS conservatorship is of a person who is gravely disabled as the result of a mental disorder or impairment by chronic alcoholism under Welfare and Institutions Code section 5350 et seq. It is different from a “probate conservatorship” of an adult who is unable to provide properly for personal needs for physical health, food, clothing, shelter.

State	Guardianship of Person As Distinct Case Type Reported to State Court Administrative Office	Number of Filings	Number of Dispositions
OK	No		
PA	No		
RI	No		
SC	No		
SD	No		
TN	No (Category of guardianship of person includes majority of juveniles)		
TX	No (However, a county by county survey was conducted in Jan. 2005 in response to legislative initiatives; showed number new cases filed per month & currently active)		
VT	No		
VA	No		
V.I.	No		
WA	No		
WI	No		
WY	No		
TOTAL	Yes = 9 (19.1%); No = 38 (80.9%)		

Survey question #2(a) then asked if trial courts file a summary of more specific data on adult guardianship of the person with the state court administrative office, and inquired about a number of particular items that might be included in such a summary report. As above, *Missouri* indicated that that 60 percent of statewide probate data, including data specifically on guardianship of the person, is entered directly by local court staff into the automated Justice Information System (JIS), and the remaining courts will be converting to JIS. Some of the specific data items listed in the survey question are entered by local courts into JIS, but these are not automatically compiled. Thus, statistics

could be obtained by running the report query (such as age of incapacitated persons) 45 times for the 45 counties.

### C. Data on Adult Conservatorship

Survey question #3 asked whether adult conservatorship (guardianship of the property only) is a distinct case type reported by trial courts to the state court administrator's office, and if so, the number of filings and dispositions for 2004 or the most recent year. The results are shown in Table 3 below.

**Table 3 – Reporting of Conservatorship  
As a Distinct Case Type (n=47)**

State	Conservatorship As Distinct Case Type Reported to State Court Administrative Office	Number of Filings	Number of Dispositions
AL	No		
AK	Yes	55	
AZ	No		
AR	No		
CA	No (However, courts do report to state court administrative office on accountings filed by estate conservators.)		
CO	Yes	201	
CT	Yes	240	240
DE	No		
DC	No		
FL	No		
GA	No		
HI	Yes	227	
ID	No		
IA	No		
IL	No		
IN	No		
KS	No (However, in 2005 will separate adult from child conservatorships.)		
KY	No		
LA	No		
ME	No		
MD	No		

State	Conservatorship As Distinct Case Type Reported to State Court Administrative Office	Number of Filings	Number of Dispositions
MI	Yes	3,599	3,430
MN	Yes	1,578 (2001)	
MO	Yes	0	0
MT	No		
NE	Yes	79	72
NV	No		
NH	No		
NJ	No		
NM	No		
NY	No		
NC	Yes	203 (2005)	169 (2005)
ND	No		
OH	Yes	84	88
OK	No		
PA	No		
RI	No		
SC	No		
SD	No		
TN	No (Category includes juveniles.)		
TX	No (However, a county by county survey was conducted in Jan. 2005 in response to legislative initiatives; showed number new cases filed per month & currently active.)		
VT	No		
VA	No		
V.I.	No		
WA	No		
WI	Yes	113	133
WY	Yes	614	
TOTAL	Yes = 12 (25.5%); No = 35 (74.5%)		

Survey question #3(a) asked if trial courts file a summary of more specific data on adult conservatorship with the state court administrative office, and inquired about a number of particular items that might be included in such a summary report. As above, *Missouri* noted that that 60 percent of statewide probate data, including data specifically

on conservatorship, is entered directly by local court staff into the automated JIS, but is not automatically aggregated. The data (such as age of protected person) could be obtained by running a report query 45 times for the 45 counties.

#### D. Data on Elder Abuse Cases

Survey question #4 looked beyond adult guardianship to the related area of elder abuse. It asked whether elder abuse is a distinct case type reported by trial courts to the state court administrative office. Five states responded that elder abuse is a distinct case type reported by trial courts, and seven additional states made comments, as shown in Table 4.

**Table 4: Reporting of Elder Abuse As a Distinct Case Type (n=12)**

State	Number of Filings	Number of Dispositions
AR	49 felony & 4 misdemeanor filings	
CA	Courts do not report civil or criminal case information to the administrative office of the courts based on the victim's status as an elderly or dependent adult.	
FL	Elder abuse cases are counted under general heading of "other social cases."	
KS	Trial courts began reporting elder abuse as a distinct case type in 2005. No data yet.	
ME	Court may have ability to report elder abuse as distinct case type in future.	
MO	No distinct case type for elder abuse, but data shows number of criminal charges for elder abuse of first degree, second degree, and third degree filed and disposed. Total number filings for 2003-04 = 74; total number dispositions = 56.	
NE	There is a distinct case type for "knowing and intentional abuse of a vulnerable adult," deriving from a criminal statute. Cases are recorded by trial courts in the state court administrative office's case reporting system. A specific query could access the number of cases statewide.	
NC	43 filings	33 dispositions
RI	No data on elder abuse cases reported to state court administrative office, but the state has specific criminal charges concerning crimes against the elderly and this information is captured by the court's criminal information system and reports could be generated.	
TN	Administrative office gets the number of elder abuse cases reported in criminal court, but that this does not accurately reflect the total number of cases.	
VT	61 filings	
WI	20 filings	23 dispositions

### E. Potential Compilation of State-Level Guardianship Data

Survey question #5 asked state court administrative offices if they would be interested in compiling data on adult guardianship, conservatorship, and elder abuse. As shown in Table 5 below, a total of 17 states that do not now collect data replied positively that they would be interested, and an additional four states that currently collect data also said they would be interested (likely interpreting the question to mean interest in collecting additional, more specific data elements). Thus, some 21 states are interested in the collection of adult guardianship data. Eleven states reported no interest in the collection of such data (including five that already do collect data); and 14 states did not respond.

**Table 5 – State Court Administrative Office Interest in Compiling Guardianship, Conservatorship, & Elder Abuse Data (n=33)**

States <u>interested</u> in compiling data (& not currently collecting such data)	CA, FL, GA, ID, KY, LA, MD, NE, NJ, NY, OH (only if of value to local courts), SC, TN, TX, VA, V.I., WA	TOTAL = 17	TOTAL INTERESTED = 21
States <u>interested</u> in compiling data (already do compile at least some basic data)	AK, DC, NV, PA	TOTAL = 4	
States <u>not interested</u> in compiling data; barriers too high (& not currently collecting such data)	AL, AR, HI, IA, OK, RI, WY	TOTAL = 7	TOTAL NOT INTERESTED = 12
States <u>not interested</u> in compiling additional data; barriers too high (but currently do compile at least some basic data)	CT, IN, MN, ND, WI	TOTAL = 5	
States <u>not responding</u> to question (& not currently collecting such data)	CO, DE, IL, KS, ME, MI, MT, NH, NM, SD, VT	TOTAL = 11	TOTAL NOT RESPONDING = 14
States <u>not responding</u> to question ( but currently do compile at least some basic data)	AZ, MO, NC	TOTAL = 3	

Survey question #6 asked about the obstacles that would prevent the state court administrative office from collecting statewide data on adult guardianship, conservatorship, and elder abuse. The results are shown in Table 6 below. Again, some states that currently already do collect at least basic data (on filings and dispositions of cases of adult guardianship of person and/or property) nonetheless answered this question, and likely interpreted it to address barriers to the collection of additional, more specific data elements. Their answers are instructive, and thus Table 6 includes these states, as well as states not currently compiling any state-level adult guardianship data.

**Table 6 – Obstacles to Collection of Statewide Data (n=43)**

State	Data Avail. Local, Not Statewide	Local Data Elements Not Standardized <sup>2</sup>	Data Not Avail. or Uneven Locally	Cost of Collecting Too High	Other; Notes
AL					Too labor intensive with current system.
AK			X		In courts using old computer system, data not readily available; but is in courts with new (CourtView) system.
AZ		X			Case management systems not completely standardized statewide.
AR		X	X		
CA		X	X	X	Technology and training.
CO					
CT	X				
DE					
DC				X	
FL			X		
GA			X	X	
HI			X	X	
ID		X		X	
IA					Currently do not distinguish between adult & minor, or between person & property.

<sup>2</sup> Column 3 on “local data elements not standardized” was meant to indicate that local courts may have differing definitions that make statewide compilation difficult. Column 4 on “data not available or uneven locally” was meant to indicate that some or all local courts may not have any data at all. However, these may have been interpreted differently by respondents.

State	Data Avail. Local, Not Statewide	Local Data Elements Not Standardized <sup>2</sup>	Data Not Avail. or Uneven Locally	Cost of Collecting Too High	Other; Notes
					Do not have specific case type for elder abuse.
IL					
IN	X		X		
KS					2005 data will differentiate between adult/child, guardianship/conservatorship, & will include elder abuse category.
KY			X	X	Data codes would need to be created, forms implemented, & education, training, and staffing needed to ensure proper recording of data.
LA			X		
ME	X				
MD		X	X	X	
MI					
MN	X				Currently converting database to new system (which will demarcate guardianship of person and of property).
MO					
MT	X				
NE				X	Raw data is available, but when compiled data on specific and distinct case types is needed, additional programming costs are incurred.
NV	X	X	X		
NH					Have ability to do except for elder abuse information. Do not need information regularly so produce as needed.
NJ			X		
NM			X		
NY	X				Statewide guardianship database currently being developed.

State	Data Avail. Local, Not Statewide	Local Data Elements Not Standardized <sup>2</sup>	Data Not Avail. or Uneven Locally	Cost of Collecting Too High	Other; Notes
NC				X	State dept. of health & human services maintains most of data.
ND		X		X	
OH					Would only collect if of value to local courts.
OK			X	X	
PA			X		Burden on local court clerical offices; information not automated locally.
RI	X	X	X	X	
SC					Do not have data element to identify adults from minors, but could possibly include code in future.
SD			X		
TN					Must determine whether data readily available locally. Do not want to pass along cost of collection to counties as changes to local case management systems.
TX	X	X	X	X	Data collection processes & capabilities vary greatly among 254 counties. Collection would require major changes locally. In counties without case management systems, might prove burdensome.
VT	X			X	Data available at local level but not compiled.
VA					Convincing courts of need for this data.
V.I.				X	
WA			X		
WI		X			
WY	X				
TOTAL	11	10	19	15	

## F. Notable Local Data Collection Practices

Survey question #7 asked whether the state court administrative office has any information about practices of particular local courts on guardianship, conservatorship, or elder abuse data collection. The results show examples that may assist other courts grappling with data collection issues.

- Maricopa and Pima Counties, Arizona. In Maricopa County, the probate court relies on the iCIS (Integrated Court Information System) database system, implemented in 2002, for case maintenance, administration and monitoring of guardians. Pima County uses a similar database. These databases eventually will help to form the basis for a larger statewide court database, AGAVE, in the coming years. Maricopa and Pima Counties currently maintain the following data elements in their database systems (Cindy Linnertz & Diana Clarke, personal communication, March 7, 2006):
  - Number of filings, dispositions, and existing cases of adult guardianship of the person and of property;
  - Demographic information on ward, including date of birth and death, age, sex;
  - Ward representation by counsel;
  - Number of accountings filed; overdue
  - Number of bonds, set, modified, and posted;
  - Number of guardian reports filed; overdue
  - Guardian and conservator appointments and removals;
  - Guardian and conservator relationship to ward;
  - Number of elder abuse cases.
  
- Seventeenth Judicial Circuit, Florida. The 17<sup>th</sup> Judicial Circuit, under leadership of Judge Mel Grossman, and with the assistance of the Florida Atlantic University, created an inventory, plan, and accounting program that could be downloaded from the Internet to assist guardians with filing the statutorily required reports. The 17<sup>th</sup> Judicial Circuit is in the process of developing a “data dictionary” for estates and guardianships. The data dictionary will define certain key data elements for collection of statistics (written to comply with “Global Justice XML”). The data elements are based on a court *Functional Requirements Document* (Supreme Court of Florida, 2003). The document lists a large number of “data requirements” for guardianship including, for example, petitioner’s relationship to respondent, age of respondent, primary language of respondent, facts on which the petition is based, whether limited or plenary guardianship sought and granted, nature of property subject to guardianship, whether a public guardian is requested, fees paid to the

guardian and attorney, and more. When the data dictionary and technical application is completed, reports will be available to the court on each of these elements. Once this system is piloted in the 17<sup>th</sup> Circuit, it can be used by other Florida circuits so that uniform, consistent guardianship data can be maintained throughout the state (Alexandra Rieman, personal communication, February 7, 2006).

- Brooklyn and Staten Island, New York. New York introduced a statewide guardianship database in 2005 in two test locations (Brooklyn and Staten Island). This database will be expanded incrementally throughout the state over the next few years, and will centralize, in electronic form, guardianship records that previously were available only in hard copy or local databases. The database will include elements on name and contact information for incapacitated person (including data of birth); whether guardian of person, property or both; name of court examiner; history of case; as well as status of reports and accounts. When complete, the database “will not only accurately describe the extent of the pending guardianship caseload in New York, but provide individual judges with a tool to monitor compliance with statutory reporting requirements” (Thomas Kilfoyle, personal communication, February 7, 2006).
- Minnesota. Minnesota convened a Conservatorship Task Force to define best practice guidelines for courts in safeguarding assets of protected persons. The task force devised a system in which the conservatorship accounts would be filed on-line through a Web-based application. The conservator would use a software application such as QuickBooks to manage the account and update the court database. Such a system could also aggregate and run reports on data elements, such as number of conservatorships, income and assets of protected persons, timeliness of filing of accounts, and more (Hon. Margaret Marrinan, personal communication, April 23, 2006).
- Selected Probate Courts in Texas<sup>3</sup>
  - Harris County Probate Court Number Two. This probate court uses an Access database to make quarterly reports to the state’s chief

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<sup>3</sup> In 2005, the Texas legislature passed a significant revision of the state’s adult guardianship law (SB 6). The original bill as introduced included a substantial mandate for the collection of guardianship statistics. The provisions required the state court administrative office to “collect, maintain, and annually publish statistics by county,” including the number of filings of guardian of the person and estate, category of petitioner, categorical description of alleged incapacity, disposition of the case, and more. This language was stricken from the final version. Instead, each guardianship program and private professional guardian is required to provide a report on the number of wards served and amount of money received from the state and from other public sources (Sec. 111.044, SB 6).

administrative judge of probate. The quarterly reports include the number of orders granted for permanent guardianships and temporary guardianships, number of inventories filed, show cause orders issued, annual reports of the person received, as well as annual and final accountings received. It also shows the total number of guardianship cases (Yolanda Lopez, personal communication, February 7, 2006).

- Tarrant County Probate Court Number One.<sup>4</sup> This probate court maintains a number of guardianship databases. The first is a database of requests for court-initiated guardianship investigations. The second is a “super” guardianship Access database, including information on both guardian and ward (with date of birth), date guardian qualified, nature of incapacity, date of most recent guardian report, and date of most recent court visit. Cases in which the ward dies, is transferred to other jurisdictions, or the guardianship is terminated are transferred to a separate database (Barrie Allen, court investigator, personal communication, March 2006).
- Tarrant County Probate Court Number Two. The court maintains an Access database in which new guardianship cases are listed with basic information about the case, similar to Probate Court Number One. It includes (in addition to basic identifying information) the guardian’s report date, the type of incapacity, whether adult or minor, person’s ethnicity and gender, date of birth, and the guardian’s relation to the incapacitated person. Reports can be run to obtain statistical information (Denise Buchan, court investigator, personal communication, March 7, 2006).

## VI. Discussion and Conclusions

The survey findings offer a snapshot of state-level adult guardianship data as of 2005. Not surprisingly, state court administrative offices have few guardianship statistics. The following points merit further scrutiny:

**1. There is no state-level data in the majority of the reporting states.** Close to two-thirds (66 percent) of responding state court administrative offices reported that

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<sup>4</sup> The Tarrant County Probate Courts will pilot a new statewide court data system currently in the planning stages, under the auspice of the Conference of Urban Counties (CUC) in Texas. This system will be an advance in bringing together all of the data on adult guardianship in one place, and allowing for ready use by court staff (Judge Steve King, personal communication, June 22, 2006).

guardianship of the person and/or property was not a distinct case type report by local courts. In the just over one-third (34 percent) that reported receiving such data, it showed great variability (from 4 filings in Nevada to 6,671 in Indiana) making comparisons and conclusions difficult. Moreover, definitions and coding may vary significantly. In addition, an overwhelming majority of the states reported that they do not receive data specifically separated out by guardianship of the person and guardianship of the property (conservatorship).

**2. Reported data is limited to filings and dispositions.** State court administrative offices did not report receiving data from trial courts that goes beyond the number of filings and dispositions.<sup>5</sup> Thus, these state offices have no way of evaluating, for example, the age of wards throughout the state, the categories of petitioners and guardians, or the reasons the guardianships were initiated. Whether and to what extent such data is maintained and regularly aggregated at the local court level is not known.

Additional data beyond filings and dispositions may have two related and perhaps overlapping purposes. The first is to enhance case processing and strengthen oversight of guardians. For this purpose, regularly aggregated data on the filing of reports and accounts, overdue reports and accounts, investigations conducted, status of bonds, and sanctions imposed would be most useful.

The second purpose is for broader guardianship research and reform efforts. For instance, it would be helpful to know to what extent the population of respondents and wards includes older persons with cognitive impairments, such as dementia, as opposed to younger persons with mental retardation, developmental disabilities, or mental illness. It would also be useful to know what percent of guardians are family members as opposed to public or private guardianship agencies. Such information would be critical in designing guardian training programs and guardian report forms. Statistics on the number and types of limited or restricted order would aid the court and community in assessing patterns of judicial practice. Finally, the reason or triggering event for the petition might give insight into the need for guardianship alternatives or community supports.

It seems more likely that courts would be apt to collect data useful for case processing and monitoring than for research and reform—although there is no bright line between the two. Indeed, while court collection would perhaps be ideal, research data might most realistically be obtained through special surveys of files over a designated period, as has been undertaken in a few areas by bar association committees and

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<sup>5</sup> With the exception of some data elements in the Missouri JIS system, many of which are not automatically aggregated, and require the running of individual county reports.

coalitions working for guardianship reform. Funding for this type of specific file research is scant. However, files studies may become easier as courts move toward electronic records.

**3. There is almost no data on elder abuse cases.** Only five state court administrative offices reported receiving data from trial courts on elder abuse as a distinct case type (beyond adult guardianship cases), and a few additional states indicated they may or will receive such data in the future.

This lack of state judicial data on elder abuse as a distinct case type is not surprising. Rather, it is part of a larger and very serious lack of elder abuse data nationally (National Research Council, 2003; GAO, 2004; Wood, 2006). While a recent survey of state adult protective services agencies shows a 19.7 percent increase in reports of elder and vulnerable adult abuse and neglect nationally since 2000 (NCEA, 2006), many of these reports do not result in court actions. Those that do result in court actions may be categorized under other case types, such as guardianship or criminal assault (Stiegel, 1995). Finally, even if local courts maintain a distinct case type for elder abuse, this information generally is not transferred to the state level, and, thus, is not available to state policymakers and practitioners.

**4. Many states express interest in collecting additional information but outline significant barriers.** Close to half of the responding state court administrative offices (21) indicated they would be interested in collecting data—or additional data—on guardianship and elder abuse. However, all of the respondents indicated substantial obstacles to doing so. The primary obstacle was that either data is *simply not available locally* or that local data is inconsistent and, thus, cannot be compiled or compared.

A second major obstacle was the *cost of collecting the data* and the potential burden on overstretched and underfunded local courts. Perhaps particularly in rural areas, many courts are overwhelmed with caseloads and have little or no capacity to focus on data collection. Respondents observed that data collection at the local level may be “too labor intensive”; would necessitate changes in data codes, programming, and staff training; and/or was not readily available due to lack of standardization in computer systems and case management systems. Indeed, maintaining and collecting guardianship data may be part of a much larger need to update judicial information systems as a whole.

**5. Isolated promising practices in some areas offer potential.** The survey identified less than a handful of areas engaged in practices that effectively capture (or will soon capture) adult guardianship data, and that might serve as models for others (see Sec. F above describing local court data systems in Arizona, Florida, New York, Minnesota and Texas). Such models offer potential for courts effectively to secure additional information useful in effective case management and monitoring, as well as enabling courts, policymakers, and practitioners to move toward strengthening the guardianship system and preventing instances of elder abuse.

**6. Major investment in technology, training, and standardized definitions is necessary.** Uniform, consistent data collection is a bedrock of effective case management and monitoring, as well as guardianship reform. Strong and consistent data collection will help to foster better care and protection for vulnerable, at-risk individuals. Prerequisites to such data collection are:

(a) A recognition by local courts and by state court systems of the usefulness of uniform data in identifying and remedying guardianship problems;

(b) Financial investment by states and localities in court technology, as well as in staff and training in data collection; and

(c) Standardization of key adult guardianship data elements to enable comparison across localities—and, ultimately, across states. At a minimum, key elements might include:

- Number of filings, dispositions, and existing adult guardianship cases per year, for person, property, and both;
- Relationship of petitioner to the respondent;
- Categories of guardians appointed (individual, private agency, public guardian)
- Age and living arrangement of ward;
- Reports and accounts timely filed and overdue, and sanctions imposed;
- Number of cases of elder abuse, and/or in which elder abuse is a factor.

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## Appendix: Survey Questionnaire

### AVAILABILITY OF COURT DATA ON *ADULT GUARDIANSHIP, CONSERVATORSHIP, AND ELDER ABUSE CASES* ABA Commission on Law and Aging for the National Center on Elder Abuse

Please return via e-mail to: ericawood@staff.abanet.org

1. Is **adult guardianship (of the person and of property)** a distinct case type reported by trial courts to the state court administrative office?

No  
 Yes, number of filings for 2004 or most recent year \_\_\_\_\_  
 Yes, number of dispositions for 2004 or most recent year \_\_\_\_\_

- 1(a) If yes, is there a summary report filed by trial courts with the state court administrative office on adult guardianship cases (of the person and of property)?

No  
 Yes

- 1(b) If yes, does the summary report include:

Guardian actions on behalf of the ward  
 Ward's conditions  
 Services provided to ward  
 Information on income, assets, and expenses of individuals subject to guardianship  
 Whether the guardianship continues to be necessary  
 Age of wards or respondents  
 Timeliness of guardianship reports  
 Percentage of respondents or wards represented by counsel  
 Reasons the cases were initiated  
 Number of cases involving elder abuse  
 Other \_\_\_\_\_

2. Is **adult guardianship (of the person)** a distinct case type reported by trial courts to the state court administrative office?

No  
 Yes, number of filings for 2004 or most recent year \_\_\_\_\_  
 Yes, number of dispositions for 2004 or most recent year \_\_\_\_\_  
\_\_\_\_\_

2(a) Is there a summary report filed by trial courts with the state court administrative office on adult guardianship cases?

No  
 Yes

2(b) If yes, does the summary report include:

Guardian actions on behalf of the ward  
 Ward's conditions  
 Services provided to ward  
 Whether the guardianship continues to be necessary  
 Age of wards or respondents  
 Timeliness of guardianship reports  
 Percentage of respondents or wards represented by counsel  
 Reasons the cases were initiated  
 Number of cases involving elder abuse  
 Other \_\_\_\_\_

3. Is **adult conservatorship (or guardianship of the property)** a distinct case type reported by trial courts to the state court administrative office?

No  
 Yes, number of filings for 2004 or most recent year \_\_\_\_\_  
 Yes, number of dispositions for 2004 or most recent year \_\_\_\_\_

3(a). Is there a summary report filed by trial courts with the state court administrative office on adult conservatorship cases?

No  
 Yes

3(b) If yes, does the summary report include:

Information on income, assets and expenses of individuals subject to conservatorship  
 Conservator actions on behalf of individual

- Age of individuals subject to conservatorship
- Timeliness of conservator reports and accountings
- Percentage of respondents or wards represented by counsel
- Reasons the cases were initiated
- Number of cases involving elder abuse
- Other \_\_\_\_\_

4. Is **elder abuse** a distinct case type reported by trial courts to the state court administrative office?

- No
- Yes, number of filings for 2004 or most recent year \_\_\_\_\_
- Yes, number of dispositions for 2004 or most recent year \_\_\_\_\_

5. If you do not already compile data at the state level on guardianship, conservatorship, and elder abuse cases, would you be interested in doing so?

- No
- Yes

6. What are the obstacles that would prevent you from collecting the kind of data described above on guardianship, conservatorship, and elder abuse cases? Check all that apply:

- Data available at local level, but not statewide
- Data elements at local level not standardized across state
- Data not available or uneven at local level
- Cost of collecting data too high
- Other \_\_\_\_\_

7. Do you have any specific information that you would like to share about practices of particular local courts on collection of data concerning guardianship, conservatorship, or elder abuse?

- Yes (If yes, the project will follow up.)
- No

THANK YOU! Please return survey to: [ericawood@staff.abanet.org](mailto:ericawood@staff.abanet.org).  
 Questions? E-mail Erica Wood at this address or call 202-662-8693.