

This report is prepared pursuant to 7 GCA §3112(g) by the Office of the Public Guardian for the Chief Justice of the Supreme Court of Guam.

Maintaining An Office

The Office of the Public Guardian operated all year at the same location, at Suite 104, 259 Martyr Street, Hagatna, Guam. The paid staff of the office continues to be a Legal Secretary and the appointed Public Guardian. The same persons have held these positions this year.

For much of this year, the Office of the Public Guardian has shared its office space with the two staff of the Office of the Ethics Prosecutor. This accommodation has worked out well and is expected to continue for the foreseeable future. This accommodation has resulted in there being no room for expansion or increase of staff for either office in this present location.

It is felt that the consistent maintenance of office space in the same location for one and one half years has promoted the Office of the Public Guardian in the mind of the public. In addition, directions to the office are easy to explain and the office is easy to locate. The office and the office building are ADA accessible, but additional signs are needed in order to clarify the exterior path to the accessible building elevator. The office would benefit from a TDD telephone line equipped to provide phone access to persons who are hearing impaired.

Reaching Out

The Office of the Public Guardian continues to promote the availability of the services it provides. As well, the office promotes an understanding of guardianship issues and the needs of adults with illness or disability that affects decision making and control of daily life. This past year the Public Guardian made ten appearances before organizations, conferences, radio audiences and to policy makers.

To date, these presentations have been made upon the request of others to the office. The Office of Public Guardian has not developed or implemented any programs of training or outreach of its own. So, outreach to date has been a passive program. The coming year may offer the opportunity to implement a proactive program of training and promotion. Such a proactive program should be developed from a clear statement of goals and objectives to be accomplished by the outreach. To date goals and objectives for proactive outreach are not clearly delineated.

Amendment of Public Guardian Statute

Two public laws enacted this year have amended the legislation establishing the Office of the Public Guardian. Both amendments were made at the request of the Public Guardian.

Public Law 26-64 made technical amendments to the composition of the Public Guardian Review Board. The revision provides for the Director of the Department of Mental Health and Substance Abuse to appoint a psychiatrist to the board, instead of the appointment being made by the Administrator of Guam Memorial Hospital. Also, the revision provides for an appointment to the board from the Guam Council on Senior Citizens, instead of the “Guam Council on Aging”, an entity which does not exist.

The second amendment, at Public Law 26-112, provided substantive changes which (1) enable the office to develop and implement a volunteer program, (2) enable the office to seek financial support from sources other than the government, and (3) authorizes the Public Guardian Fund to be under the control of the Public Guardian, into which fees, grants and other fund raising are to be placed and managed.

Referrals and Casework

During this calendar year the Office of the Public Guardian received 90 referrals. These referrals were received from:

Private individuals and Families making self-referrals	31
Adult Protective Services	10
Micronesia Health and Aging Institute, UOG	10
Guam Legal Services Corporation	7
Guma Mami	5
Public Health and Social Services clinics	5
Veterans Administration	4
Public Defender Services Corporation	3
Catholic Social Services	3
Guam Memorial Hospital	3
Department of Mental Health and Substance Abuse	2
US Naval Hospital Guam	2

Individual referrals came from Office of the Attorney General, PacificCare Home Health Services, Guam Nursing Services, Department of Integrated Services for Individuals with Disability, and GHURA.

Referrals this year resulted in 58 cases being opened and 6 referrals which are pending action. Of the matters opened in the office, the general categories of work include:

- 9 Guardianships in which the Public Guardian is the guardian of an individual;
- 3 Guardianships by petition of the Public Guardian in which a family member or friend is appointed as guardian;
- 10 After assessment, guardianship is an appropriate outcome and referral is made to private counsel for follow up;
- 14 After assessment, guardianship is not an appropriate outcome and steps are taken to assist the individual and family to resolve the presenting problems;
- 2 Assistance provided to a guardian in support of fulfilling guardianship responsibility;
- 6 Assistance provided or intervention by the Office of the Public Guardian prevented the need for a guardianship now or perhaps in the future.
- 10 Pending guardianship in which the Public Guardian is to be nominated for an individual;
- 4 Pending guardianship in which the Public Guardian is to file petition nominating family member.

There were 26 referrals outside of the scope of the Office of the Public Guardian and individuals were, in most circumstances, provided information and referred to individuals or organizations who could assist with the presenting problem.

As of December 31, 2002 the Office of the Public Guardian has 57 open cases, as follows:

- 25 Public Guardian is guardian of the person and/or estate of individuals.
- 4 Public Guardian is providing services to the guardian, ward, or family.
- 14 Public Guardian is assessing case and final status is undecided as of 12/31/02.
- 10 Public Guardian is to file petition seeking guardianship for self.
- 4 Public Guardian is to file petition seeking guardianship for family or friend.

Receiving and processing intake in the Office of Public Guardian has always remained open. Due to the amount of work presented to the office, it has been necessary to proceed from an understanding of certain priorities and schedule work based upon these priorities.

The top priority in the office is work which is required on behalf of the wards of the Public Guardian. Appointment as the guardian of an adult is a personal responsibility of the Public Guardian which is assumed by virtue of a judge of the Superior Court of Guam appointing the Public Guardian as guardian for the individual. For this reason, the needs and requirements of each ward is a priority over all other matters. Fortunately, most of the responsibilities of the guardian can be scheduled and many are able to be performed by others under the direction of the Public Guardian.

The second priority of the Office of the Public Guardian has been to manage those intakes which are received by the office that are of an emergency nature. There always seems to be at least one time sensitive intake at any given time. Often there is more than one. This priority includes filing of a guardianship, even ahead of matters received in the office at an earlier date, where appointment of a guardian is an emergent matter due to the circumstances of the people involved.

The third priority of the Office of the Public Guardian has been to complete policies, procedures and develop a fee schedule for the office. This matter is addressed in this report.

The fourth priority has been to file petitions and proceed with those cases accepted by the office which await appointment of the Public Guardian or another as the guardian for a person.

After twenty three months in operation it is clear that the responsibilities of the Office of the Public Guardian, and of the appointed Public Guardian, are greater than the resources which have heretofore been made available to the office. Although much good work has been accomplished, and many needful adults who are unable to manage their affairs have been, and are being assisted, more could be accomplished with additional human resources.

Volunteer Program

One significant response to meeting the work demands of the Office of the Public Guardian under its statutory mandates has been the development of a volunteer component. As stated, the enabling legislation has been amended to permit the use of volunteers within the Office of the Public Guardian. It is significant that the first volunteer, who began working with the Public Guardian in October 2002, has spent many hours under the guidance of the Public Guardian developing the volunteer program itself.

The development and implementation of the volunteer program also requires the development and implementation of policies, procedures and rules for the Office of the Public Guardian. This work has proceeded as well with the assistance of the first volunteer. As a result, a Volunteer Agreement has been developed, an application form is in use, a working draft of volunteer policies is developed and in review, as well as other policy and procedure necessary in the program.

A second volunteer has applied to the program and has been accepted. Both volunteers are social workers with considerable experience working with those people we serve and those agencies we work with. It is expected that field work with wards and other clients will begin in January 2003.¹

The assistance of the volunteers has enabled the Public Guardian to develop materials and put in place program elements that could not have been successfully completed without this voluntary assistance. This is due both to the need for additional personnel and the need for more than one person to be involved in the development of programs. The sharing of ideas and experience has been very helpful and has made progress in many areas possible.

Policy, Procedure and Rule Development

The Public Guardian Act at 7 GCA §3112 (f) provides that the Public Guardian shall develop rules and regulations in compliance with the Administrative Adjudications Act. Development and implementation of rules and regulations was a goal of the Public Guardian for 2002. This goal for 2002 has not been achieved.

The Public Guardian Review Board, with the concurrence of the Chief Justice of the Supreme Court, agreed in November 2002 to review and recommend revision to a draft of policies and procedures prior to these materials being submitted to the Chief Justice for review and adoption. It is anticipated that the Chief Justice will approve a final version of policies, procedures and rules for formal adoption in the near future.

The process of developing policies, procedures and rules has enabled the staff and volunteers of the Office of Public Guardian to look back at the work which has been completed, assess the manner in which work should be addressed and accomplished in the future and develop written statements for the processes and steps involved. This rigorous task is necessary to the establishment of a new program.

¹ A third volunteer began in January 2003 and has helped compile this report with other volunteers.

Public Guardian Review Board

The Public Guardian Review Board, established with the Office of Public Guardian, met three times in 2002. Amendment of the enabling legislation this year has clarified the mechanism for appointing two of the members of the review board. Now, membership on the board is comprised of eleven persons, and all of the members have been chosen and are able to participate in the work of the board. The eleven members are:

William J. Brandshagen	Ann San Nicolas
Dr. Rosie Villagomez Palisson	Rodney Priest
Alejandrina E. Cacho	Dr. Sachdev Somiah
Peter A. Blas	Bernadita Grajek
Kathleen Maher	Monica Tinkham
Christine Baletto	

The Public Guardian Review Board has two responsibilities; first, to review the care and protection of those persons who are under the guardianship of the Public Guardian, and second, to consistently monitor persons, corporations or agencies appointed as guardian of a person. The Public Guardian Review Board has grappled with the complexities and the size of both tasks it is charged with fulfilling.

This year the board decided to tackle its first task by dividing up the guardianship cases of the Public Guardian so that each board member assumed responsibility to review about three cases. In this arrangement, most of the cases would be reviewed by at least two members of the board. In the review process, the member came to the Office of the Public Guardian and reviewed the files maintained by the office for the wards assigned. The Public Guardian would make himself available for questions, if necessary.

At a subsequent meeting of the review board, board members who had an opportunity to review cases would present information to the Public Guardian Review Board concerning the wards whose cases had been reviewed. The Public Guardian would describe the nature of the work he was handling on behalf of the wards under review, and answer questions about the work completed. Suggestions for handling problems or for improving the work being done on behalf of a ward would be made to the Public Guardian. To date, nine guardianship cases of the Public Guardian have been reviewed in this manner. This process is expected to continue at future meetings.

At the November 2002 meeting, the board discussed in some detail the responsibility to consistently monitor all guardianship cases in the Superior Court of Guam. There is consensus among the members of the review board that this task is not possible to complete as stated in the law currently. The Public Guardian Review Board is developing a strategy for determining the extent of the need for this type of review, with an eye toward seeking an amendment or clarification of the statutory obligation so that recommendations might be made to the Legislature in the near future.

In pursuit of the developing strategy, the Public Guardian has been tasked with acquiring a list of all open guardianship cases from the Clerk of the Superior Court. This will provide the review board with both the number of active guardianship cases, and create a tool from which to conduct future work. In addition, the Public Guardian is to meet with the Clerk of Court and with the Presiding Judge of the Superior Court and seek to arrange a “status call” on all guardianship cases. By this it is meant that each case would be scheduled for a hearing and guardians would be required to appear, file a financial report, and report on the status of the ward. This would enable the Public Guardian to appear, as well, and begin developing baseline information on each case.

The members of the Public Guardian Review Board have actively and positively pursued their responsibilities for the past two years. The review board continues to be an asset to the Office of the Public Guardian.

Challenges and Achievements in 2002

The most significant challenge in 2002 continues to be the difficulty in properly serving a number of our wards, especially in providing appropriate residential services, and related services, in a therapeutic environment. Five wards are living in situations which are not appropriate for them, to include the Department of Corrections, the Adult Inpatient Ward of the Department of Mental Health and Substance Abuse, the Emergency Receiving Home operated by Adult Protective Services, and in institutional settings on the mainland. An inordinate amount of time has been spent to properly support wards in inappropriate settings and to litigate this issue in both the Superior Court of Guam and the United States District Court on Guam. In addition, wards are affected by a lack of proper medication at the Department of Mental Health and Substance Abuse, by the lack of effective services at the Division of Vocational Rehabilitation, Department of Integrated Services for Individuals with Disability, and by the lack of community resources for recreation and leisure time activities.

The Public Guardian and his staff, to include most recently the volunteers, are challenged by the work load that has continued to grow over the past two years. As this report indicates, there are a number of cases pending action by the Public Guardian. Most significantly, there are ten guardianships which are necessary to complete, but have not been filed in court and finalized. Even assuming that these matters can be filed and finalized in the near future, each of these cases will remain open and active for the foreseeable future. Therefore, it is foreseeable that the Public Guardian will have thirty five wards in 2003, without even considering guardianship cases which may result from referrals for 2003.²

² There have been eleven intakes received and processed in January 2003.

The Public Guardian and his staff are most heartened by the support provided to the office by our new volunteers. The biggest achievement of this year, to be fully realized in the next two months, is the inauguration of the volunteer program and the finalization of the Policies, Procedures and Rules. These two, seemingly disparate matters, are really linked together as it turns out. With this achievement completed it is possible to implement outreach and training programs for volunteers, guardians, and volunteer guardians. Such programs will enable the Public Guardian to share the load with others who are capable and able to provide an effective response to the guardianship needs of the community.

Another achievement of the year is the amendment of the enabling legislation for the program, clarifying and permitting the Public Guardian to seek funding, collect fees and control this revenue for use by the Office of Public Guardian. It is felt that there are funding sources available to be tapped, both in government funds, but more likely in private philanthropic funds. Specific, focused goals and objectives should be developed in 2003 in order to fully appreciate this potential.

Finally, in a sense, it was an achievement to just to complete the year with as much good work as has actually been accomplished. The statistics contained in this report do not adequately reflect the great sense of accomplishment which the staff and volunteers feel from working day to day with our wards and clients. We believe we have made a positive difference in the lives of very special people. We appreciate the support provided by the Supreme Court of Guam staff and Justices, the Superior Court of Guam staff and Judges, the Legislature, and especially Senator Judith Won Pat, and the many, many capable and hard working people, in families, and in government and private agencies, who serve our wards and clients so well. Our job at the Office of the Public Guardian is made easier by the people who help us serve.

January 31, 2003

John Weisenberger, Public Guardian

(Please note Appendices and Attachments for the 2002 Annual Report are available at the Office of the Public Guardian.)

