

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 and covers January 1, 2003 through December 31, 2003.

### **Maintaining an Office**

The Office of the Public Guardian operated throughout the 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.

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. There is 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 two 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 has had only a modest outreach program this year. The Public Guardian made four public presentations concerning the roles of the Office of the Public Guardian and issues concerning guardianship, elder persons and persons with disability. In addition, the Public Guardian participated in a video presentation produced by the Micronesian Health and Aging Institute, University of Guam, concerning competence, guardianship and appointment of durable agents, which has been shown on public television and is to be used in future training programs.

As set out here, the number of referrals to the Office of the Public Guardian continues to grow. There appears to be wide recognition of the presence of the office in the community as indicated by the number of referrals and the numerous service providers who make appropriate referrals to the office. There are no immediate plans to develop a more formal outreach program for the basic services performed. As set out in a subsequent section, there is a need, however, to implement an outreach program for volunteers if the necessary resources to run an expanded volunteer program can be developed.

**Referrals and Casework**

**Referrals:**

During this year the Office of the Public Guardian received 122 referrals. This represents a 36% increase in referrals over 2002. The referrals received in 2003 were from:

Private individuals and Families making self-referrals	38
Adult Protective Services	11
Dept. of Mental Health and Substance Abuse	10
Micronesian Health and Aging Institute, UOG	8
Public Defender Services Corporation	8
Catholic Social Services	8
Guam Memorial Hospital	8
Home Health Nursing Organizations	6
Guam Legal Services Corporation	5
Public Health and Social Services Clinics	4
Dept. of Integrated Services Individuals with Disability	4
Supreme Court or Superior Court of Guam	4
Guma Mami	2
Ina Fa' Maulek	2
St. Dominic's Senior Care Home	2
Office of the Attorney General	1
Veterans Administration	1

Referrals this year resulted in 83 cases being opened, 17 referrals which are pending intake interviews, and 21 referrals which were outside the scope of the Office of the Public Guardian. Of the matters opened (or pending) this year, the cases fell into the following categories (categories are established by the Public Guardian Act; 7 GCA §3112 (a)):

- 9      Petition for appointment of Public Guardian.  
9%
- 25     Assess and support appointment of guardian by family or friend.  
25%

4	Pursue Court request or direction to assist or supervise a guardian. 4%
8	Provide advice, information and guidance to persons appointed as guardian. 8%
37	Offer guidance and counsel to persons requesting assistance to encourage maximum self-reliance and independence, and avoid guardianship. 37%
17	Referrals pending intake interview. 17%

Open Cases:

As of December 31, 2003, the Office of the Public Guardian has 58 open cases.

**Current Open Cases**

From 2001	15 open cases	14 are guardianships; 1 other
From 2002	24 open cases	13 are guardianships; 3 other 8 are pending guardianships
From 2003	19 open cases	3 are guardianships; 10 other 6 are pending guardianships

Note: the 14 matters listed as 'other' are open cases handled by the Office of the Public Guardian which do not result in becoming the guardian of the individual.

**Plus**

From 2003	17 referrals pending interviews
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Guardianships:

The Public Guardian is currently appointed as guardian for 30 individuals. These appointments represent some differences in responsibilities, as noted in this breakout:

Guardian of the Person and the Estate	20 individuals
Guardian of the Person	1 individual
Guardian of the Estate	7 individuals
Guardian Ad Litem	2 individuals

For these guardians, the Office of the Public Guardian maintains 9 savings accounts and 22 checking accounts at the Bank of Guam. These are all fiduciary accounts for which the Public Guardian is the signatory. These accounts amount to more than \$ 195,000 as of December 31, 2003. It is worthy to note that the Public Guardian and the legal secretary are bonded up to \$10,000 only.

In each guardianship for which the Public Guardian maintains cash accounts, a separate system of record keeping is established which records and documents each receipt of funds, each expenditure of funds, and a reconciliation of checking and/or savings account statements from the Bank of Guam. As a standard, all receipts are deposited into a ward's account. As a standard, all expenditures are documented by a check drawn or a withdrawal made, and by a receipt or receipts which establishes that the Public Guardian paid out funds to a given person or entity for a stated purpose. No cash owned by a ward is held in the Office of the Public Guardian, or held by the Public Guardian save for the brief period of time cash may be held to deliver to a ward, or a care giver for a ward. Such cash transactions are always documented with a receipt signed by the individual receiving funds from the Office of the Public Guardian.

As an exception to these standards, three wards who are residing in Guma Ifil, a transitional home intended to teach an individual independent living skills, each maintain, with the Public Guardian, a joint savings account at the Bank of Guam. These three accounts are not fiduciary accounts. Each of the three wards holds an ATM card which gives them ease of access to their money. The Public Guardian does not hold an ATM card. This allows each of the individuals to learn how to manage their own funds for purchase of clothes, groceries and sundries and other shopping. Each individual is carrying out a budgeting and shopping program under the supervision of professional staff at Guma Ifil. The Public Guardian replenishes the balances in these accounts, maintaining a maximum of around \$ 300.00 in each account. The Public Guardian maintains only records of his deposits into these accounts, and periodically monitors the withdrawals made by each ward to assure that there is no unusual activity which could indicate that the ward is either negligent with the funds or under the influence of some other person.

Assessment:

There has been an increase in the workload of the office. Although the number of open cases has remained consistent from 2002 to 2003, the number of referrals received has increased, and the number of guardianship appointments has increased.

	<b>2001*</b>	<b>2002</b>	<b>2003</b>
<b>Open Cases</b>	26	57	58
<b>Referrals</b>	86	90	122
<b>Guardianships</b>	13	25	30

\* 10 months only

The additional work in the office has been managed, for the most part, by an increase in efficiency by the two staff members, by an expanding list of pending matters, and by the use of volunteers to carry some of the office workload. There remains a need to increase the capacity of the office to manage the incoming work.

It remains a priority in the Office of the Public Guardian to carry out the work required by the 30 wards of the Public Guardian. All other work becomes a second priority. Having said this however, does not diminish the difficulty in determining how to manage the work of the office. Unless additional resources are found to carry out the work which is presented to the office, the list of pending guardianships and intakes will likely continue.

## **Volunteer Program**

The volunteer program, begun in 2002, continued in 2003. During this year four persons volunteered to work at the Office of the Public Guardian. One volunteer offered to assist with clerical work under the direction of the Legal Secretary. Two volunteers assisted with case work, aiding the Public Guardian in direct services to clients of the office. One of these volunteers also worked on developing materials for use in a training and orientation program for volunteers, anticipating a much-expanded volunteer recruitment and training effort in the future. One volunteer worked with the Public Guardian on grant development, and has begun work on funding the volunteer program from sources outside of the local government.

As currently implemented, the volunteer program is in need of work space, work stations, and office equipment, especially a computer station and a telephone. As it is now, volunteers have to work around existing staff in order to complete their work.

A much more sophisticated and expanded volunteer program is possible in the Office of the Public Guardian. Volunteers could be utilized not only for the case work and clerical work of the office, but volunteers could also be used as guardians, each taking responsibility for one or two wards, as the legally appointed guardian, under the supervision of the Public Guardian. This type of program would require a recruitment effort, a specific training program for the volunteer guardians, and, most importantly, a coordinator to manage the operation of the volunteer program. The program, as anticipated, could not be carried out by the Office of the Public Guardian without a program coordinator. A qualified person could coordinate a volunteer program of this size utilizing twenty hours a work week. [Note: this employee's remaining twenty hours of the work week would be applied to case work services to wards and families.]

An expanded volunteer program would also require additional office space and equipment. The office space, as originally developed in 2001, would support the additional staff and work stations needed for the volunteer program anticipated here. The original office design anticipated two work stations in the room now occupied by the Ethics Prosecutor. One work station had been installed. Another work station would need to be installed. If the whole of the current office space is used by the Public Guardian, the Office of the Ethics Prosecutor would need to be relocated. If the Office of the Public Guardian were to be moved into the Judicial Center, then that new office space should anticipate the space needed to operate an expanded volunteer program.

Grant funds will be sought to operate the volunteer program. These funds would be used to develop the training materials, carry out the training programs, purchase equipment and provide stipends for volunteers. An outline for a grant proposal to a local foundation has been developed. The grant proposal, as now envisioned, would not provide funding for the coordinator. Grant funds, however, should not be sought or received unless a coordinator is available to implement the volunteer program.

It will likely take a year to fully implement the volunteer program anticipated here. It is hoped that a volunteer program would go a long way toward addressing the work load of the office which is not currently being handled effectively.

### **Policies, Procedures and Rules**

The Policies, Procedures and Rules of the Office of the Public Guardian (hereafter, the Rules) were submitted to the Guam Legislature on November 26, 2003, pursuant to the Administrative Adjudication Law, 5 GCA§ 9303, after completing all other requirements of the law.

Submission to the Legislature followed a comprehensive process of development of the Rules. The Public Guardian took primary responsibility to develop the Rules under the guidance of the Chief Justice of the Supreme Court. Input was received from the Public Guardian Review Board, and the Staff Attorney for the Supreme Court during preliminary development. Once a 'final' draft of the rules was prepared, the rules were disseminated to the public and to stakeholders of the Office of the Public Guardian in preparation for a public hearing. A public hearing was held on April 10, 2003 at the Supreme Court. Both written and oral testimony was received at this hearing. Finally, after considering input from the public, some modifications to the Rules were made under the direction of the Chief Justice prior to submission to the Legislature. A proposed bill, adopting the Rules, was submitted to the Legislature concurrently.

[Note: A public hearing on Bill No. 239 (COR) "An Act To Approve Rules For The Office Of The Public Guardian As Prescribed By Public Law 25-103" was held on February 12, 2004 before the Committee on Judiciary and Transportation of the Twenty Seventh Guam Legislature. No further action has been taken by the Legislature.]

### **Public Guardian Review Board**

The Public Guardian Review Board, established with the Office of Public Guardian, met four times in 2003. The board consists of eleven members. There was one change in membership in 2003 when Christine Baleto asked Speaker Vicente C. Pangelinan to replace her due to a change in employment. Speaker Pangelinan then appointed Sarah Thomas-Nededog on December 16, 2003.

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
Sarah Thomas-Nededog	

The Public Guardian Review Board is required to meet at least two times a year. The board has decided, however, to meet four times a year. The quarterly meetings are set annually, in advance, so that all members are aware of the schedule. Currently, the board members serve without remuneration.

The board met on March 13, 2003, June 19, 2003, September 18, 2003, and December 11, 2003. The board continues to try and accomplish its mandate to review the care and protection of those persons who are under the guardianship of the Public Guardian. As in previous years, this mandate was fulfilled in two ways. First, individual board members have chosen to review the files of up to four wards of the Public Guardian, discuss these matters with the Public Guardian, and pursue any issues deemed appropriate or necessary. Each board member has either chosen, or been assigned, specific wards to review. Second, at board meetings, the Public Guardian shares the highlights of each guardianship matter, answers questions from the board, and receives input and suggestions for further action to be taken.

The board has been unable to respond to a second mandate, to consistently monitor persons, corporations or agencies appointed as the guardian of a person by the Superior Court of Guam. Neither the Public Guardian Review Board nor the Office of the Public Guardian have the resources necessary to accomplish this task.

Finally, the board has a committee which is working on proposed Rules of Order. A draft of these rules has been prepared for the Public Guardian Review Board by the Supreme Court Staff Attorney. These rules, once developed, will provide guidance to the board in the conduct of its meetings and the decision-making process.

### **Challenges and Accomplishments**

As in prior years, another year of service to the community seeking to meet the guardianship needs of adults and their families has provided a clearer perspective on the needs of both the Office of the Public Guardian, and the community as a whole. This opportunity is taken to set out challenges and accomplishments.

#### **Staffing and Resources**

\_\_\_\_\_ At a minimum, the Office of the Public Guardian needs two additional staff to meet its current mandate. A social worker splitting time between coordination of a volunteer program and working along-side the Public Guardian on case work would enable the Public Guardian to address the backlog of pending work. A social work position is justified by the case statistics set out in this report which show both an increase in intake and referrals, an increase in work accomplished this year, and an increase in the pending work at the end of the year, and by the plan to implement a broader, more comprehensive volunteer program as anticipated by the Public Guardian Act.

Additionally, a filing clerk is needed to work with the legal secretary to manage the files, paperwork and product development in the office. But for the temporary work of a talented volunteer during the past year and a half, the maintenance of files in the office would have seriously suffered. This volunteer is currently not available to the office, and likely will not be able to provide volunteer clerical work during 2004.

The Office of the Public Guardian is in need of software support to manage client data and financial information for each of our wards. Currently all of our financial record keeping for over 30 wards is done manually. Additional MIS support is needed to implement and operate programs and systems for these purposes.

Steps have been taken to acquire clerical staff through the Agency for Human Resource Development (AHRD). The application by the Office of the Public Guardian for a person to fill a clerical position, funded by AHRD, has been accepted and approved. The agency is now trying to match us with a qualified individual. In addition, the office applied last year, and will apply again this year, for participation in the Summer Youth Employment program. Although accepted last year for participation, the youth identified for placement at the office apparently did not follow through.

### Open Intake

The Office of the Public Guardian has maintained an open intake policy. The proposed Policies, Procedures and Rules, once fully implemented, will require action on each intake within five days. This policy is appropriate given the nature of this work. This policy is practically impossible to comply with given our limited resources. The office has clarified and improved its operation in order to maintain better control over the time-line on intakes received in the office. It is, however, apparent that intakes can not be managed in a timely fashion under existing circumstances.

### Disaster Planning

Two major typhoons in 2002, with recovery stretching into 2003, has highlighted the need for a disaster preparation and recovery plan for the Office of the Public Guardian and for its wards. Steps to be taken in preparation for an approaching storm in order to protect and prepare wards need to be clearly enunciated. Cooperative arrangements need to be reached with other organizations, to include individuals and programs which give care to wards of the Public Guardian, the offices of the Mayors, Civil Defense and other responders. In addition, a protocol for post-disaster relief and response is necessary.

### Stipends for Volunteers

Volunteers have requested stipends in order to compensate for the mileage placed on personal vehicles while conducting the work of the Office of the Public Guardian. This is, of course, a very reasonable request and expectation on the part of volunteers who travel considerable distances visiting wards in Yigo, Dededo, Barrigada, Tamuning and Mangilao. A source of funds for this cost should be identified until such time as a grant can be secured for the expanded volunteer program.

### Therapeutic Residential Care

\_\_\_\_\_The most significant challenge facing adults with disabilities such as schizophrenia, dementia, Alzheimer's dementia, Lytigo and Bodig, mental retardation, and other disorders, is the need for therapeutic residential care. Therapeutic residential care means services provided in the home, or a home-type setting, to meet personal needs of daily living, medical care needs, behavioral needs and recreational and leisure-time needs. Most often, family members start off providing these services. Sometimes care provided by the family is all an individual ever needs.

But often, the behavior, condition and needs of an individual becomes more than a family can cope with in the home. If help and support is not provided from outside of the home, to the family in the home, the placement of the person in their own home can fail and an alternative placement in a home-type setting outside of the family home is necessary. There are very limited alternatives to the family home available in our community. Those alternatives which are available are often full to capacity and an individual can become virtually homeless or end up in a setting which is not appropriate for that person.

Basically, four actions need to be taken, concurrently. Families with a needful member at home need to be supported better so that the family placement is less likely to fail. Second, more and better alternatives to family placement are necessary so that there are choices for persons to make about where they would choose to live and still have unique needs met. Third, more recreational and leisure time programs and activities for adults with physical, medical or social limitations are needed in the community so that these persons can get out and relax in social settings. Fourth, reliable transportation is needed for adults to be able to get around the community to access necessary or desired programs and activities.

### Conclusion

The Office of the Public Guardian has become a widely utilized resource for adults and families in our community. With proper staffing and resources, and with the continued development of a volunteer program, current needs presented by the community to the office can be adequately addressed. The office is currently over-taxed in attempting to meet those needs.

The community is in need of a comprehensive program of therapeutic residential services, both within the family setting, and as an alternative to family care. Many wards and clients of the Office of the Public Guardian are unserved or under served because of insufficient therapeutic services in a home-like setting.

**April 15, 2004**

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**John Weisenberger, Public Guardian**

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