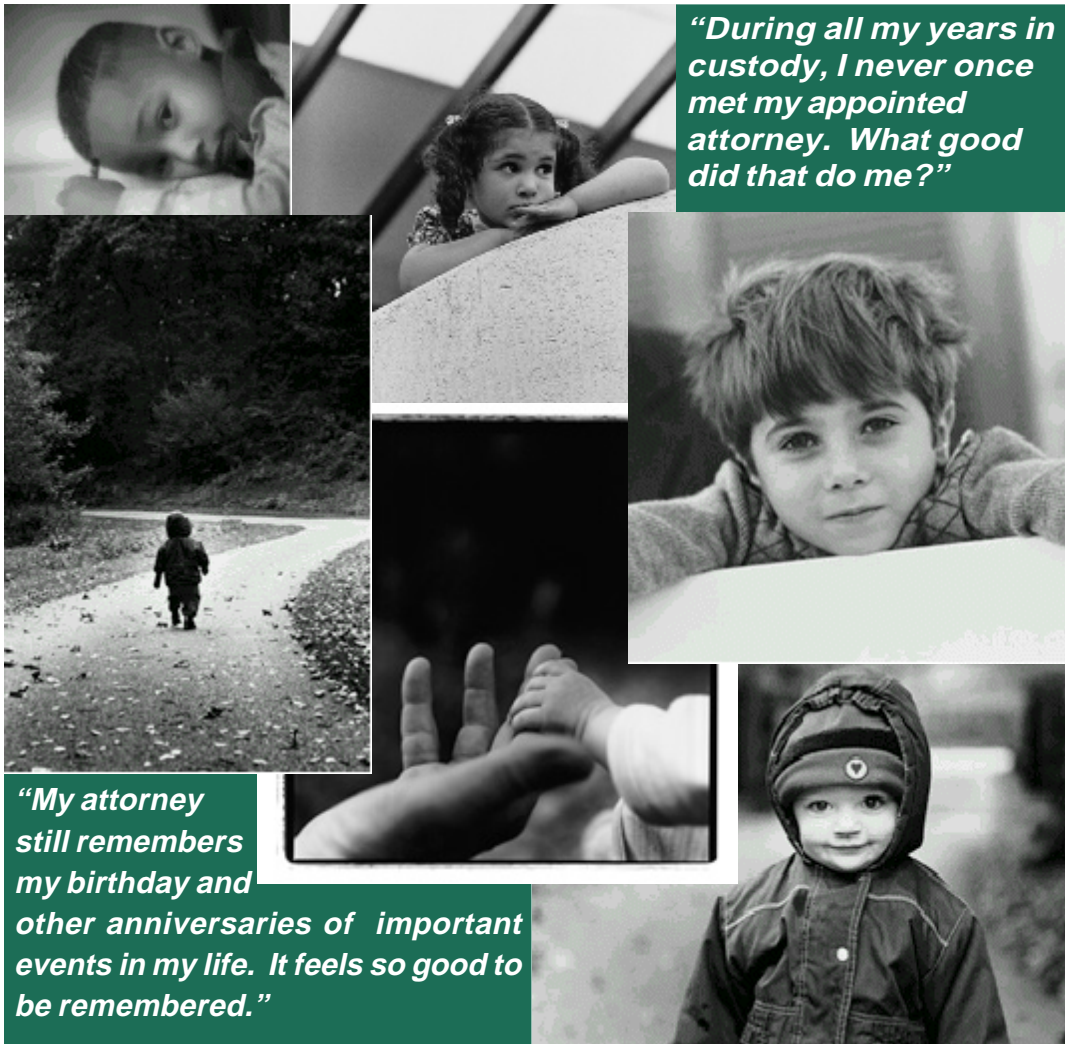


# NM Child Abuse & Neglect Citizen Review Board

*Spotlight on:* Legal Representation for Abused and Neglected Children



*February 2001 - Interim Report*

*The Citizen Review Board is a project of New Mexico Advocates for Children and Families.*



## What is a Guardian ad Litem?

*Quotes on the front cover are from two children who were once in the state's custody.*

**“My experience is that the quality of representation is far superior by a contract GAL than by non-contract appointed counsel. Several reasons: the attorney cared enough about the type of work to seek the contract, the pay is probably better, and the attorney is always a child's attorney or a parent's counsel.”**

*Above quote from an attorney who has extensive experience both within and outside of the abuse and neglect system*

**“I've heard that GALs earn far less than most attorneys. I can't believe that this important work for children is valued so little.”**

*Quote from a Citizen Review Board volunteer*

By state law, a Guardian ad Litem (GAL) is “an attorney appointed by the children's court to represent and protect the best interests of the child in a court proceeding.” The GAL has an unique and vital role in that their client is a child -- a child in crisis. The child may be so young as not even yet able to speak, or a child so traumatized by abuse that they are severely emotionally disturbed. By law, GALs are to “*zealously represent the child's best interests*”. Additionally, their mandated duties include:

- Meet with and interview the child prior to court hearings; present the child's declared position to the court
- Communicate with health care, mental health care and other professionals involved with the child's case; review medical and psychological reports relating to the child and the parents
- Contact the child prior to any proposed change in the child's placement; and after the placement changes
- Attend Citizen Review Board hearings concerning the child and if unable to attend, forward a letter to the board describing the child's status
- Report to the court on the child's adjustment to placement, the department's and parent's compliance with court orders and the treatment plan, and the child's participation in visitation with the parents
- Represent and protect the cultural needs of the child.

(Paraphrased N.M.S.A Sec 32A-1-7)

## Guardian ad Litem Make A Difference

*A composite of typical cases that CRB reviews*

### Samantha's Story

Samantha was sexually abused by her mother's boyfriend and brought into state's custody at 14 years of age. After two years in custody she has had four different social workers, lived in five different homes or treatment centers, worked with several different therapists, and attended five different schools. Her parents have been in and out of the case, never quite visiting enough or attending treatment on a regular basis. Samantha feels she belongs to no one and no one really knows her – with the exception of her GAL.

Samantha's contracted GAL has been in monthly contact with her, through personal visits or calls, since the beginning of the case. The GAL and Samantha have developed a working relationship. The GAL understands Samantha's needs, because she has personally seen some of her behaviors, plus has been attending meetings with the people involved with the 16 year old. The GAL had been trained on her many responsibilities to her child client, and has been held accountable to the contract she signed as a GAL.

Though Samantha's life is not what anyone would wish for her, her GAL has been able to bring her in-depth knowledge to help Samantha receive what she needs. Samantha is working toward becoming an independent adult and her GAL remains the strong constant in her life.

Samantha deserves the best quality of representation. Her attorney makes a point of personally knowing Samantha, meeting with the experts involved in the case, and being trained on the abuse and neglect system.

*What if her GAL had not received specialized training?*

*What if her GAL had not frequently met with her child client?*

*What if her GAL had not been held accountable to the mandated duties?*

## Why Is a Guardian ad Litem So Vital?

All parties in abuse and neglect cases have attorneys representing them – parents, CYFD, and possibly others involved in the case, such as grandparents or foster parents. Abuse and neglect cases “are driven” by a legal timeline mandated by federal and state law but more importantly, there must be consideration of “children’s time”. Six months to an adult is very different to a child where six months may be half of their life.

The GAL is a vital resource to the child because:

- The child has been victimized
- The child has suffered injury and/or trauma
- The child is defenseless by virtue of her size, age, and maturity
- The child has no voice in law because of her age and/or ability to verbalize.
- The legal complexities of an abused child’s case is complicated by mandated state and federal timelines and requirements.
- Delay causes far greater harm to a child than it does to an adult.

The abuse and neglect system is emotionally charged, has limited resources, and a tremendous turnover in social workers and others who work in this field. Additionally, this already overburdened system has been negatively impacted by the legal and procedural complexities resulting from recent changes in federal and state child abuse and neglect laws. *A GAL’s importance to her child client has never been so important.*

For a child to have the best legal representation, the attorneys must have:

- caseloads that make their mandated work humanly possible
- reasonable compensation for the hours required to fulfill their obligations
- training and support specific to child abuse and neglect laws, including the duties and responsibility of the Guardian ad Litem.
- accountability to their child clients who do not have a voice

Citizen Review Board members find GAL’s have valuable information about the children they represent - if they visit the children, talk to the people involved with the child, and seriously consider what is best for the child client.

“My child would never have received dental care, if his GAL hadn’t intervened.”

“ I feel bad for the child who has been assigned a GAL that has no support or accountability in their duties to the child. Compare this to the child that has an active and informed GAL looking out for their best interest.

It is amazing the difference in quality of representation the kids in my care receive.”

*Above quotes from a foster parent*

## CRB’s Recommendations

The New Mexico Child Abuse and Neglect Citizen Review Board recommends that to ensure the highest quality legal representation and the most desirable outcomes for the vulnerable children in state’s custody:

- **Training:** The Guardian ad Litem are trained on and held accountable to the required duties written in the Children’s Code.
- **Case Loads:** The Guardian ad Litem have a reasonable number of abuse and neglect cases, especially in light of the multiple obligations that GALs have to these children in New Mexico played out on tight legal timeframes mandated by law.
- **Compensation:** Compensation should be commensurate with the duties and obligations of a Guardian Ad Litem and paid comparably to those providing similar types of legal representation.

“With the seventy children who I represent, there is no way I can see each child as the law says I have to.”

*Above quote from a GAL*

## What is the Citizen Review Board?

The Citizen Review Board **has over 150 volunteers** staffing **33 local review boards** statewide. It is an independent project legislatively created by the State of New Mexico with a two part mandate:

- To review the cases of children in the custody of the state and make recommendations to the Judge who presides over the case.
- To make recommendations to the New Mexico Legislature, the Children, Youth & Families Department, and the courts regarding the statutes, policies, and procedures relating to substitute care.

**The volunteers who make up the New Mexico Citizen Review Board (CRB) have one goal: *that New Mexico's foster care system become the best it can be.*** We believe that the children who are abused and neglected deserve the best possible services and should be in a permanent home that provides love, nurturing, and protection as quickly as possible.

Each local review board hearing provides an opportunity for the parties involved in a case to present information pertinent to the child's/children's progress toward a permanent loving and safe home. The information gathered at these hearings form the basis for a written report with recommendations that the local board sends to the presiding Judge. Additionally, the statewide compilation of the statistical data gleaned from these hearings provides the basis for CRB's recommendations to the legislature, the Children, Youth & Families Department, and the courts.

## For More Information...

- Contact the Citizen Review Board central office in Albuquerque (505) 842-8905, or toll free at (888) 836-2020
- Visit the CRB web-site at [www.nmcrb.org](http://www.nmcrb.org) for up to date information on what is happening to the abused and neglected children that CRB reviews.
- See the CRB Annual Report for additional recommendations and information (reported by state and by county) on the abused and neglected children of New Mexico.
- If you would like copies of our interim reports spotlighting other important issues in the abuse and neglect system, contact the CRB central office.

If you want more information on a board in your area, they meet in the following locations:

Clovis	Albuquerque	Espanola
Farmington	Las Cruces	Deming
Bernalillo	Roswell	Carlsbad
Hobbs	Alamogordo	Gallup
Tucumcari	Taos	Las Vegas
Raton	Clayton	Grants
Socorro	Santa Fe	Silver City
Los Lunas	Truth or Consequences	

**“The Guardian ad Litem in our area is right on target. When she is available to be at the review board meeting, she always gives concise, verbal reports. If she is unable to attend, a nice, lengthy and detailed report is submitted beforehand, for the board's consideration.**

**This is what the children need so that valuable recommendations can be made.”**

**“If the GAL relies on others for their information, or even worse decides what is best for that child based on some philosophy and not on that particular child - then the child is the loser.”**

*Above quotes from Citizen Review Board volunteers*