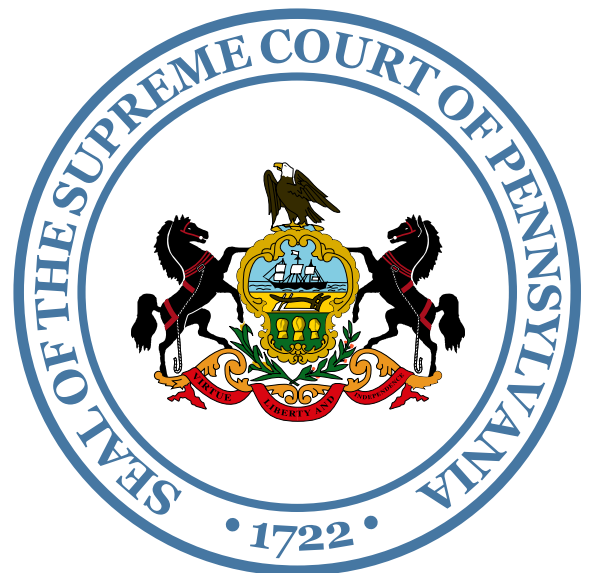


*Progress Report on the*

# Work of the Advisory Council on Elder Justice in the Courts

January 2015 through December 2018



# THE ADVISORY COUNCIL ON ELDER JUSTICE IN THE COURTS

## MISSION STATEMENT

The mission of the Advisory Council on Elder Justice in the Courts shall be to identify and address elder justice issues (including elder abuse and neglect, guardianships, and access to justice) affecting the Commonwealth's elders.

## EXPLANATORY STATEMENT

While we recognize that many adults live long, healthy and productive lives well beyond the age of 60, for the purposes of its Report, the Elder Law Task Force defined an elder as a person 60 and over, based on the use of that age by the Pennsylvania Department of Aging, the Area Agencies on Aging, the United States Administration on Aging and most aging services providers. This age originally comes from the Federal Older Americans Act (which created the "aging network" of services for older Americans). In addition, Pennsylvania Act 70 of 2010, which created Adult Protective Services (a reporting and investigative system for the under 60 population), defines an "adult" as an individual between the ages of 18-59. Thus, the Task Force determined an "older adult," or "elder," would be defined as 60 and over. While some of these recommendations are equally applicable to younger adults with diminished capacity, the focus of the Elder Law Task Force was on elders.

## DISCLAIMER STATEMENT

The materials contained herein, and the opinions expressed in this Report on the work of the Advisory Council do not necessarily represent the official views of the Supreme Court of Pennsylvania. The Report is for informational purposes only as a service to the public and other interested entities. This Report does not constitute legal advice or a substitute for the advice of legal counsel.



**If you suspect  
an elder is  
being abused,  
please call the  
Statewide Elder  
Abuse Hotline:  
1-800-490-8505**

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Supreme Court of Pennsylvania



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January 2019

Greetings,

In April 2013, at the direction of former Chief Justice Ronald D. Castille, the Supreme Court of Pennsylvania established a multi-disciplinary Elder Law Task Force to address issues involving guardianships, abuse, and access to justice for the Commonwealth's elders. I was privileged to chair the Task Force, which was charged with reviewing current practices and problems, examining promising practices in other states, and delivering recommendations to address the needs and challenges of the Commonwealth's expanding aging population and its interactions with the judiciary.

Former State Court Administrator Zygmunt Pines and I had the amazing opportunity to work with thirty-six experts in the field of elder justice, who volunteered their time, along with a talented cadre of judiciary staff. In November 2014, following eighteen months of study, the Task Force released its Report and Recommendations, offering 130 recommendations, and laying the foundation for the Supreme Court and others to successfully address the critical issues facing Pennsylvania's elders. The Report and Recommendations may be found on the Unified Judicial System website at [www.pacourts.us](http://www.pacourts.us).

As we stated in the Preface to the Task Force Report, our Nation and Commonwealth are truly blessed to have an increasing number of elders who are living longer, healthier, and active lives. Those of the "Greatest Generation" who served our country, and others of advanced years, have contributed, and continue to contribute, to our society. These citizens impart a wealth of wisdom, a deep understanding of our past, and an abiding faith that links the past, present, and future. They enable us to pass down traditions from one generation to another, providing stability and continuity. Indeed, many elders are not only active in the workplace, but also are volunteers in our hospitals, nonprofits, and government, where they selflessly devote countless hours to others. Yet, with the aging population, which has given so much to subsequent generations, come unique challenges that affect our institutions, including the judiciary.

As the Commonwealth's population continues to age, the court system is facing unprecedented needs. Cases dealing with the protection of vulnerable elders, including guardianships, financial exploitation, and elder abuse proceedings, are expected to increase substantially. The Pennsylvania courts' capacity to provide services and remedies must be bolstered to meet the growing numbers and needs of older adults. The range, efficacy, and quality of services that abused, neglected, and exploited older adults receive from the courts is a matter of public trust and confidence.



In response to the recommendations of the Task Force, our Supreme Court established the Office of Elder Justice in the Courts and the Advisory Council on Elder Justice in the Courts. The office's director, Cherstin Hamel, and the Advisory Council's Chair, Judge Paula Francisco Ott, and Vice-Chair, Zygmunt Pines, along with the twenty Advisory Council members and our extraordinary administrative staff, have worked tirelessly over the past four years implementing the recommendations of the Task Force.

The Advisory Council members are to be commended for their dedication, their commitment, and their energy. These members are volunteers, who selflessly contribute their time and expertise. Each of them has provided invaluable insight into the implementation of the Task Force's Recommendations and, together, they have proposed meaningful solutions to the challenges faced by our Commonwealth in addressing the growing needs of our elderly population. In particular, the partnerships we have established with Secretary Teresa Osborne, Pennsylvania Department of Aging; Pennsylvania Attorney General Josh Shapiro, and the legislature, through the involvement of Senator Art Haywood and Representative Tim Hennessey, have demonstrated the value of working together toward our common goal of protecting our Commonwealth's elders.

Under the leadership of Chief Justice Thomas G. Saylor, our Supreme Court continues to promote elder justice through the work of the Advisory Council and the Office of Elder Justice in the Courts.

I express my personal appreciation to the Chief Justice and to State Court Administrator Tom Darr for their support, and to Judge Paula Ott and Zygmunt Pines for their stewardship of the Advisory Council. I am also grateful to Cherstin Hamel, Rhonda Campbell, Attorney Damian Wachter, and Attorney Jeffrey Bauman for their time and effort in the preparation of this Report.

Sincerely,

Justice Debra Todd



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# EXECUTIVE SUMMARY

The significant past and present contributions of elders to our Commonwealth cannot be understated. Yet, more than ever, unprecedented needs and unique issues face this special and growing part of our citizenry. Pennsylvania is the nation's fourth oldest state in the percentage of elder population. Above all, our Commonwealth's elders want to know that their government is dedicated to recognizing and providing practical solutions to the real challenges that face them, and to acting resolutely on their behalf.

To address these challenges with respect to the Commonwealth's judiciary, the Elder Law Task Force (Task Force) was created in 2013 to act as a catalyst through which necessary improvements concerning these venerable Pennsylvanians could be realized. To this end, the Task Force made 130 recommendations in its ground-breaking 2014 Report which serves as a framework for positive substantive change in the lives of our elders.

Since the issuance of the Task Force's Report, the Advisory Council on Elder Justice in the Courts (Advisory Council) and the Office of Elder Justice in the Courts (OEJC) have been established and charged with the implementation of the Task Force's recommendations. The overarching goal of the Task Force, and, now, the Advisory Council and the OEJC, has been to address the needs and challenges of our aging population through meaningful reform to improve and protect access to justice for our Commonwealth's elders.

Over the past four years, the Advisory Council and the OEJC have taken major strides towards advancing the Task Force's vision and fulfilling its goals through significant progress regarding guardianships, elder abuse and neglect, and access to justice. More specifically, and well ahead of many other states, the Advisory Council and the OEJC are leading the way in Pennsylvania to ensure justice for our elders through progressive administrative automation programs, procedural reform, and substantive innovation. Of the 130 recommendations made in the Task Force report, 70 recommendations have been accomplished, (20 of which, while accomplished, work is ongoing),



*Judge Paula Francisco Ott, Advisory Council Chair*

34 recommendations are in progress, and 26 recommendations will be addressed or implemented in the coming years. While there remains much work to do, the following is a summary of our considerable achievements thus far.

## JUDICIAL ADMINISTRATION

Arguably the most significant accomplishment of the Advisory Council and the OEJC is the creation and implementation of the Guardianship Tracking System (GTS). Guardianship issues center on those who protect the interests of an incapacitated person (IP) and who have the duty and power to make decisions for him or her. The judiciary has grappled with the practical difficulties in appointing guardians, and in screening, monitoring, and reporting physical and financial abuse, all of which have been cited as significant areas of concern with respect to elders. A primary impediment to real reform in this area has been the lack of timely, accurate, and complete guardianship data, which is essential to resolution of these issues.

To address these concerns, and to bring genuine change to guardianship administration in Pennsylvania, the AOPC Information Technology Department (IT), under the direction of Amy Ceraso, Esquire, spearheaded the creation and development of the GTS. The result of IT's efforts has been the establishment of a comprehensive web-based system to be used by guardians, court staff, Orphans' Court Clerks, and judges to file, manage, track, and report on guardianships. Specifically, through the GTS, courts will be better able to monitor active guardianships through a statewide uniform reporting process. The system will permit guardians to electronically file inventories and annual reports with the Orphans' Court, and will flag concerns regarding potential loss or neglect. Indeed, through the GTS, a judge may, without delay or expense, effectively communicate a concern regarding a specific guardian in the form of a statewide alert that serves as both a warning and a resource to prevent or address abuse. GTS will be used in conjunction with anticipated data sharing with federal agencies such as the United States Department of Justice (DOJ), the Social Security Administration (SSA), and the Department of Veterans Affairs (VA), providing a more holistic and inter-governmental approach to the protection of elders. Beginning in Allegheny County in July 2018, full statewide implementation of GTS was completed in December 2018. Ultimately,

the advent and implementation of the GTS is a true game changer in the area of responsible guardianship decisions and oversight.

At the time the Task Force released its Report and Recommendations, an Orphans' Court Case Management System (OCCMS) was under development by IT. In November 2016, the Supreme Court directed IT to prioritize the creation of a limited scope guardianship reporting and tracking system — the GTS. Further work on the broader OCCMS was placed on hold during the GTS project, and will be reevaluated when funding becomes available.

Numerous other administrative mechanisms have been enacted to give special attention to the needs of elders. For example, the common pleas and magisterial district judge case management systems now track criminal cases in which at least one of the victims is 60 or older, leading to enhanced data collection, and the foundation for studying and formulating practical solutions to crimes against elders. Similarly, the comment to Pennsylvania Rule of Criminal Procedure 500 was amended to ensure that testimony of elder victims and witnesses in criminal cases is preserved, addressing an impediment to bringing criminals to justice when the victim or witness dies or experiences memory loss.



A proposal to begin a pilot Elder Court project in Philadelphia, spearheaded by President Judge Sheila Woods-Skipper, was approved by the Supreme Court. The first phase was the creation of an elder justice resource center where the public may obtain information and resources, as well as assistance with navigating the court system. The project's second phase will involve case management for matters involving elders. The grand opening of the Elder Justice & Civil Resource Center, located in Philadelphia's City Hall, was held on October 13, 2016. Initially a resource and referral office only, the Center has expanded to provide legal representation through a volunteer attorney program.

These significant contributions to the overall goal of elder justice are prime examples of the practical and innovative solutions to real-life, systemic problems impacting our elders.

## PENNSYLVANIA ORPHANS' COURT PROCEDURAL RULES

Another major goal of the Advisory Council and the OEJC was the completion of extensive amendments to the Pennsylvania Orphans' Court Procedural Rules. Through procedural rules, the Orphans' Court executes its core function of protecting the welfare of older, incapacitated persons through assessment, appointment, and monitoring of the guardian of the person and the guardian of the person's estate. The Supreme Court's Orphans' Court Procedural Rules Committee (OCPRC), under the leadership of Chairman John F. Meck, Esquire, created and submitted a proposal, crafted in response to the Task Force's recommendations, to the Supreme Court to comprehensively overhaul the Pennsylvania Orphans' Court Rules related to guardianship proceedings. Throughout the rulemaking process, the Advisory Council assisted the OCPRC through critical review and practical feedback regarding the rule changes.

Specifically, the rules address various aspects of the guardianship process. While far too many to list here, these reforms include creation of a standardized expert report form to ensure consistent quality and quantity of information to be used by judges when determining capacity; procedures for guardian consideration so as to favor family members, but not exclude friends and relatives from consideration; the requirement of criminal background checks; the submission of current credit reports; appointment



of counsel when appropriate; the verification by counsel of representation, scope of employment, and duration of representation; timely and efficient fee dispute resolution; the requirement of the filing of an inventory within 90 days of a guardian's appointment; the completion of an annual report by the guardian one year after appointment; Orphans' Court Clerk monitoring of the guardianship docket to ensure compliance; notification by the Orphans' Court Clerk to the court of any delinquent or incomplete reports; judicial review of filed reports; and recommended remedial actions regarding reporting issues.

The new Orphans' Court Rules represent a tremendous accomplishment by the OCPRC. Along with new forms, drafted by the Task Force and the Advisory Council, the Rules were adopted by the Supreme Court in June 2018, and will become effective in June 2019, bringing with them increased efficiencies and oversight of the guardianship process. Some of the new forms adopted by the Supreme Court are already in use, having become effective in July 2018.

## EDUCATION AND TRAINING

A key component to ensuring genuine elder justice is the instruction and continued training of those most directly involved with our elders. This was not lost on the Task Force, as a significant number of its recommendations dealt with education. The Advisory Council and the OEJC have made concrete many of these recommendations. Specifically, they have worked with AOPC's Judicial Education Department (Judicial Education) to develop and conduct educational programs for judges who handle guardianship matters. The OEJC also collaborated with the Administrative Office of York County Courts (York County Court) on an educational program for attorneys.



Additionally, numerous training sessions and educational programs were conducted statewide for judges, court staff, and attorneys, including programs at Dickinson Law School, regional presentations through a partnership with Temple University's Institute for Protective Services, and educational sessions for judges through the Supreme Court's newly created Continuing Judicial Education Board. Related thereto, advances have been made by allowing retired attorneys (those with an emeritus license) to provide free legal services to elders under the auspices of a legal aid organization, and by awarding one continuing legal education credit for every five hours of *pro bono* legal work completed by registered attorneys. Steps have been taken to collaborate with the Pennsylvania Bar Association for providing support, advice, and ethical counsel for those attorneys assuming roles in guardianship matters. Moreover, training programs for family and lay guardians were conducted in several counties, including instruction on the powers, duties, and responsibilities of a guardian, with an eye towards future certification and mandatory training of both lay and professional guardians. Of significant note, the Elder Justice & Civil Resource Center in Philadelphia provides training programs on various aspects of elder justice. A complete list of all training programs and educational presentations made by Advisory Council members may be found in Appendix B.

In terms of crucial and accessible reference material, a Guardianship Bench Book for Orphans' Court judges, including best practices for limited guardianships, new guardianship rules and forms, recent legislation, guidance on an Elder Bill of Rights,

as well as information regarding the GTS, was envisioned, drafted, and completed. This essential Bench Book will be released in early 2019. Similarly, an Elder Abuse Bench Book, as a separate reference, was completed and will likewise be released in early 2019. Related thereto, an Elder Abuse Bench Card, a judicial resource for identifying and reporting elder abuse, was introduced at the Pennsylvania Conference of State Trial Judges in 2015 and was provided to all common pleas judges as well as all magisterial district judges. This distribution not only apprises judges and judicial staff of elder abuse identification information, but ensures that elder abuse is not considered to be only an Orphans' Court issue. Elder justice impacts all aspects of the judiciary. These comprehensive resources will provide judges and judicial staff immediate access to valuable information concerning our elders.

Finally, public awareness of elder abuse and information regarding available resources are key to preventing and addressing elder abuse. To this end, informational brochures setting forth the warning signs of elder abuse, and companion posters which include an accessible tear-off sheet with the statewide elder abuse hotline number, were distributed to all common pleas courts, magisterial district courts, and municipal courts, as well as libraries throughout the Commonwealth.

In addition to educating the courts and the community on elder justice issues, the Advisory Council has also engaged in extensive continuous education of its own members at its quarterly meetings in Harrisburg. For example, the Advisory Council has hosted presentations and educational forums on subjects affecting elders ranging from financial exploitation to domestic violence. A complete listing of these presentations and forums is attached as Appendix C.

## BEST PRACTICES

One of the most impactful ways in which the Advisory Council sought to improve the life of our Commonwealth's elders was through the recommendation of "best practices." These best practices suggest a spectrum of practical tools to help courts ensure the protection of vulnerable elders.

Specifically, a plethora of administrative best practices have been recommended to facilitate guardianships, prevent elder abuse, and foster improvements to elder justice. These include the allowance of telephone or videoconference follow-up examination in exploring areas in which a partially incapacitated person can function without a guardian; determination of conflicts of interest and evidence of elder abuse contributing to incapacity; the use of oral and written instructions as a resource for guardians at the time of their appointment; the holding of periodic hearings to monitor the status of a guardianship; increased use of volunteer monitoring to assist courts; ensuring a guardian's willingness to visit an IP; ensuring a guardian's access to counsel; ensuring use of assets to maintain the best possible life for the IP; prompt completion of an inventory; and the timely filing of an annual report.

These and other best practices represent meaningful advances in all aspects of the guardianship process, and are included in the Guardianship Bench Book and Elder Abuse Bench Book developed by the Advisory Council.

## LEGISLATIVE INITIATIVES

Legislative involvement and input are highly valued. Thus, the Advisory Council includes a state senator and a state representative as standing members.

In addition to working with the legislature on implementation of the Task Force's Recommendations to the Legislative Branch, Advisory Council members have testified before the House Aging and Older Adult Services Committee, and have begun work on legislative initiatives including and derivative of those addressed in the Task Force Report, such as amendments to Title 18 of the Pennsylvania Consolidated Statutes to address a myriad of issues and incidents involving care-dependent persons arising in caregiver settings; financial exploitation of elders or care-dependent persons; and social media abuse of nursing home residents.

## FUNDING

Critically, it takes substantial funding to accomplish the Task Force's goals and to meet many of the needs of our elders. Importantly, the Unified Judicial



System receives appropriations from the General Assembly to continue the implementation of the Task Force's recommendations and related work by the Advisory Council and the OEJC. Other sources of funding have included the STOP Violence Against Women Grant obtained by AOPC for support of the informational brochures and posters regarding elder abuse. However, the financial need for implementation of the ongoing and yet to be completed recommendations regarding elder justice is great, and the cooperative relationship among all three branches of government is essential to achieving this goal.

## CONCLUSION

While much work remains to be done, the Advisory Council and the OEJC have taken significant steps to improve the lives of our Commonwealth's elders. From promoting measures to recognize the warning signs of elder abuse, to the creation and implementation of educational and training programs through collaboration with various entities that will impact all aspects of elder justice, to valuable and accessible written resources for the judiciary, to a much needed statewide system of guardianship tracking, to a major overhaul of the Orphans' Court Procedural Rules, and, finally, to the implementation of a myriad of practical best practices, the Task Force, the Advisory Council, and the OEJC have demonstrated an unparalleled dedication and commitment that is producing concrete and meaningful results for our Commonwealth's elders.

# STATUS OF THE IMPLEMENTATION OF THE ELDER LAW TASK FORCE'S RECOMMENDATIONS

*This Report provides the recommendations as stated in the Task Force Report, followed by the status of their implementation. The page numbers referenced within each Recommendation refer to the page numbers in the Task Force's Report and Recommendations (available at [www.pacourts.us](http://www.pacourts.us)) which provide background information regarding each recommendation.*

## RECOMMENDATIONS TO THE SUPREME COURT OF PENNSYLVANIA

**RECOMMENDATION 1:** The Task Force recommends that an Office of Elder Justice in the Courts ("OEJC") be established to assist the Supreme Court in implementing the recommendations in this Report, and that the Director of the OEJC, research, grant writing, legal analysis, information technology and secretarial services be provided by AOPC staff. This Recommendation has been approved by the Supreme Court, and the OEJC will be established in January 2015. See *Overarching Findings and Recommendations, §§I.C.1 and 2 (Page 221)*.

### √ THE IMPLEMENTATION OF THIS RECOMMENDATION HAS BEEN ACCOMPLISHED

The OEJC opened on January 2, 2015 with one full-time staff member (Director, Cherstin Hamel), and is housed within the AOPC's offices at the Pennsylvania Judicial Center in Harrisburg. In 2016, 2017, and 2018, the OEJC received an appropriation within the Unified Judicial System's budget to implement the Task Force's recommendations and related initiatives of the Advisory Council. The appropriations also provide for expenses associated with meetings of the Advisory Council and the hiring of a full-time OEJC analyst.

**RECOMMENDATION 2:** The Task Force recommends that an Advisory Council on Elder Justice in the Courts ("Advisory Council") be established to serve as a liaison to the executive and legislative branches, and to communicate with the AOPC and the Supreme Court regarding the implementation of the Task Force's recommendations and other matters involving elder justice. This Recommendation has been approved by the Supreme Court, and the Advisory Council will be formed in January 2015. See *Overarching Findings and Recommendations, §§II.C. (Page 222)*.

### √ THE IMPLEMENTATION OF THIS RECOMMENDATION HAS BEEN ACCOMPLISHED

The first meeting of the Advisory Council was held on January 7, 2015. The Council meets quarterly to work towards implementation of the recommendations of the Task Force and to discuss matters involving elder justice and promote initiatives to support elders.

Judge Paula Francisco Ott serves as the Chair. Zygmunt A. Pines, Esquire, the former Court Administrator of Pennsylvania, is the Vice-Chair. The Advisory Council is divided into two Committees. The Elder Abuse and Neglect Committee (EANC) is chaired by President Judge Sheila A. Woods-Skipper and co-chaired by President Judge George N. Zanic. The Guardianship Counsel and Monitoring Committee (GCMC) is chaired by Judge Lois E. Murphy and co-chaired by Diane Menio.

A Long-Range Planning Committee was created in September 2016 to establish a mission statement for the Advisory Council and to create Internal Operating Procedures for the Advisory Council. The Internal Operating Procedures were approved in August 2017, and the conflict of interest policy and disclosure form were implemented in March 2018. The Long-Range Planning Committee continues to guide the Advisory Council on implementation of the recommendations of the Task Force, as well as other matters promoting initiatives to support elders.

**RECOMMENDATION 3: The Task Force recommends that the AOPC Judicial Education Department and the OEJC develop training for judges and attorneys handling guardianship matters. See *Guardians and Counsel Committee Report*, §X.C.1.a. (Page 55).**

√ THE IMPLEMENTATION OF THIS RECOMMENDATION HAS BEEN ACCOMPLISHED

While the implementation of this recommendation has been accomplished, work is ongoing.

Implementation of this recommendation began in 2015. The OEJC worked with the Advisory Council's chairs and Judicial Education on the development of educational sessions for judges, and collaborated with the York County Court on an educational program for attorneys who handle guardianship matters. The program was first presented in March 2015 through the York County Bar Association. Most recently, the OEJC and Judicial Education provided educational sessions to judges through the Supreme Court's new Continuing Judicial Education Board.

Members of the Advisory Council continue to develop and present educational sessions to judges and attorneys handling guardianship matters. A list of all training programs and educational presentations made by Advisory Council members may be found in Appendix B.

**RECOMMENDATION 4: The Task Force recommends that training for Judges and attorneys developed by the AOPC Judicial Education Department and the OEJC include information on ascertaining when a limited guardianship would be appropriate, and how to make a limited guardianship effective when it is appropriate. See *Guardians and Counsel Committee Report*, §X.C.1.i. (Page 56).**

√ THE IMPLEMENTATION OF THIS RECOMMENDATION HAS BEEN ACCOMPLISHED

While the implementation of this recommendations has been accomplished, work is ongoing. Best practices regarding the use and effectiveness of limited guardianships are included in the Guardianship Bench Book developed for Orphans' Court judges. Educational sessions for judges and attorneys on best practices will be offered once the Guardianship Bench Book is released in early 2019.

**RECOMMENDATION 5: The Task Force recommends that the AOPC Judicial Education Department and the OEJC, in consultation with interdisciplinary groups or practicing professional and non-professional guardians, develop a guardianship bench book to assist judges. See *Guardians and Counsel Committee Report*, §X.C.1.j (Page 56). See also *Overarching Administrative Findings and Recommendations*, §IV.C. (Page 224).**

√ THE IMPLEMENTATION OF THIS RECOMMENDATION HAS BEEN ACCOMPLISHED

While the implementation of this recommendation has been accomplished, work is ongoing.

The implementation of this recommendation began in 2015, and work has continued through December 2018 on development of the Guardianship Bench Book, with an estimated release date of early 2019. The project's timeline was affected by the passing of new legislation, the adoption of new statewide guardianship rules and forms, and the development of the GTS.

Judicial Education (with oversight from Judge Lois E. Murphy) was charged with developing the Guardianship Bench Book for Orphans' Court judges. This Bench Book includes best practices, checklists, the new guardianship rules and forms, and information regarding the GTS and recent legislation involving guardianships.

**RECOMMENDATION 6:** The Task Force recommends that the AOPC Judicial Education Department and the OEJC develop training for judges and financial institutions on the use of emergency guardianships. See *Guardians and Counsel Committee Report, §X.C.1.k. (Page 56)*.

THE IMPLEMENTATION OF THIS RECOMMENDATION IS YET TO BE ADDRESSED

**RECOMMENDATION 7:** The Task Force recommends that a standardized deposition form be implemented to ensure consistent quality and quantity of pertinent information that should be considered by judges when determining capacity. See *Guardianship Monitoring Committee Report, §I.C.1. (Page 113)*.

√ THE IMPLEMENTATION OF THIS RECOMMENDATION HAS BEEN ACCOMPLISHED

The OCPRC submitted a proposal to the Supreme Court in December 2017 to rescind and replace the guardianship rules and forms in response to the Task Force’s recommendations, and to provide new statewide rules establishing uniformity and consistency for guardianship proceedings. The new rules and forms have been adopted by the Supreme Court and will become effective on June 1, 2019. Throughout the process of the adoption of these new Orphans’ Court Procedural rules, the GCMC of the Advisory Council assisted the OCPRC by reviewing the proposed rules and forms and providing feedback to the OCPRC.

The Deposition of Written Interrogatories of Physician or Licensed Psychologist form recommended by the Task Force (Task Force Report, Appendix A, p. 129) requests information pertaining to an evaluator’s educational and professional background and experience in evaluating capacity. It also elicits information on the alleged incapacitated person’s (AIP’s) medical and psychiatric conditions, medications, cognitive abilities, and prognosis. The form asks for the evaluator’s opinion as to whether the AIP is totally or partially incapacitated, and if a guardianship (limited or plenary) is recommended.

Further, new Rule 14.3, Alternative Proof of Incapacity: Expert Report in Lieu of In-Person or Deposition Testimony of Expert, provides that a petitioner may seek to offer into evidence an expert report for the determination of incapacity in lieu of testimony, in-person or by deposition, using the form provided in the Appendix to the rules, and that, in an emergency guardianship proceeding, an expert report may be offered into evidence if specifically authorized by the court. The standardized deposition form is now titled Expert Report, and is Form G-06.

The final version of the Expert Report and information regarding Rule 14.3 are included in the Guardianship Bench Book.

**RECOMMENDATION 8:** The Task Force recommends that, in cases where the qualified individual recommends a limited guardianship and the judge and counsel may need additional information to determine the areas a partially incapacitated person can handle without a guardian, a best practice be adopted for judges to request that a deposition take place by telephone, videoconference, or in-person to allow for follow-up questioning and cross-examination. See *Guardianship Monitoring Committee Report, §I.C.2. (Page 114)*.

√ THE IMPLEMENTATION OF THIS RECOMMENDATION HAS BEEN ACCOMPLISHED

The Guardianship Bench Book includes best practices regarding the taking of depositions for follow-up questioning and cross-examination for a limited guardianship.

**RECOMMENDATION 9:** The Task Force recommends that the AOPC Judicial Education Department train judges who hear guardianship cases on the components of the assessment process to determine capacity, and that the information from training materials be summarized into a bench card and provided to every Orphans’ Court Judge. See *Guardianship Monitoring Committee Report, §I.C.3 and 4. (Page 114)*.



## √ THE IMPLEMENTATION OF THIS RECOMMENDATION HAS BEEN ACCOMPLISHED

The Guardianship Bench Book includes best practices regarding the components of the assessment process to determine capacity. In 2016, members of the Advisory Council made a presentation to the Pennsylvania Conference of State Trial Judges on the determination of capacity in older adults. Additionally, an educational program was offered to judges throughout the Commonwealth by the Thomas R. Kline Center for Judicial Education on understanding expert opinions and assessing capacity.

**RECOMMENDATION 10:** The Task Force recommends that judges be informed when the AIP was previously involved in a case under the OAPSA [Older Adults Protective Services Act], and that the guardianship petition be assigned to the same judge who heard the protective services case. See *Guardianship Monitoring Committee Report, §II.C.1. (Page 115)*.

## THE IMPLEMENTATION OF THIS RECOMMENDATION IS YET TO BE ADDRESSED

Some judicial districts are already following this recommendation. Further discussions are needed to determine how to implement this recommendation across all judicial districts.

**RECOMMENDATION 11:** The Task Force recommends that the training requirement for judges on the assessment of capacity include recommended practices for determining if conflicts of interest are present or if there is evidence of elder abuse underlying the AIP's weakened capacity. See *Guardianship Monitoring Committee Report, §II.C.2. (Page 115)*.

## √ THE IMPLEMENTATION OF THIS RECOMMENDATION HAS BEEN ACCOMPLISHED

The Guardianship Bench Book includes best practices on how to determine the presence of conflicts of interest and evidence of elder abuse contributing to the AIP's weakened capacity. Additionally, the GCMC studied issues related to capacity, and developed guidelines and a checklist to help judges make determinations regarding qualified and independent medical experts on capacity.

**RECOMMENDATION 12:** The Task Force recommends that judges receive education on representative-payment and fiduciary programs such as those administered by SSA and the VA. See *Guardianship Monitoring Committee Report, §II.C.2. (Page 115)*.

## THE IMPLEMENTATION OF THIS RECOMMENDATION IS IN PROGRESS

The Advisory Council and the OEJC are currently studying this recommendation. In December 2016, Assistant U.S. Attorneys Charlene Keller Fullmer and Gerald Sullivan from the Eastern District of Pennsylvania made a presentation to the Advisory Council regarding the Federal Elder Justice Initiative and how the U.S. Attorney's Office can collaborate with and provide training to the Advisory Council. These discussions are ongoing. In March and October 2017, the OEJC and members of the Advisory Council attended the U.S. Attorney's Office's regional Elder Justice Task Force meetings, and in August 2018, attended the U.S. Attorney's Office's task force session on SSI/VA fiduciary programs dealing with privacy and exploitation issues.

**RECOMMENDATION 13:** The Task Force recommends that judges determine if there is involvement from agents under a power of attorney, SSA representative payee, or VA fiduciary in order to uncover potential conflicts of interest. See *Guardianship Monitoring Committee Report, §II.C.3. (Page 115)*.

## √ THE IMPLEMENTATION OF THIS RECOMMENDATION HAS BEEN ACCOMPLISHED

The Guardianship Bench Book includes best practices on how to determine if there is involvement from agents under a power of attorney, SSA representative payee, or VA fiduciary in order to uncover

potential conflicts of interest.

**RECOMMENDATION 14: The Task Force recommends that guardianship files be sealed to protect personal information included in the revised forms. Interested parties who are named in the case should have the ability to access the file by presenting a copy of the Certificate of Filing. In order to assist investigative agencies in their task of researching allegations of abuse, it is recommended that the proposed request form be used. See *Guardianship Monitoring Committee Report, §III.C.5 (Page 117) and Appendixes G (Page 180) and H (page 182) thereto.***

√ THE IMPLEMENTATION OF THIS RECOMMENDATION HAS BEEN ACCOMPLISHED

The OCPRC submitted a proposal to the Supreme Court in December 2017 to rescind and replace the guardianship rules and forms in response to the Task Force's recommendations and to provide statewide rules establishing uniformity and consistency for guardianship proceedings. The new rules and forms were adopted by the Supreme Court and will become effective June 1, 2019. Throughout the process of drafting these new Orphans' Court Procedural rules, the GCMC assisted the OCPRC by reviewing the proposed rules and forms and by providing feedback to the OCPRC.

The Certificate of Filing form (Task Force Report, Appendix G, p. 180), was a proposed new form recommended by the Task Force. The form for investigative agencies, Request for Guardianship Access, was also a new form recommended by the Task Force (Task Force Report, Appendix H, p. 182).

New Form G-07, titled Notice of Filing (not Certificate of Filing as recommended in the Task Force Report), instructs the clerk of the Orphans' Court that a copy of the notice, along with proper identification, is required in order for persons to whom the notice of filing was sent to access and view the annual reports of the person and estate, the inventories, and the final report. The OCPRC did not address the Request for Guardianship Access form for investigative agencies suggested by the Task Force (Task Force Report, Appendix H, p. 182).

The OEJC requested the Supreme Court's Public Access Policy Committee consider requiring the sealing of guardianship files as it developed uniform standards for all appellate and trial courts (to respond to requests from the public for case records).

The Public Access Policy of the Unified Judicial System of Pennsylvania: Case Records of the Appellate and Trial Courts became effective on January 6, 2018. Section 9.0 (B), Limits on Public Access to Case Records at a Court Facility, states that case records concerning incapacity proceedings filed pursuant to 20

Pa.C.S. (Pennsylvania Consolidated Statutes) §§ 5501-5555, except for the docket and any final decree adjudicating a person as incapacitated, shall not be accessible by the public at a court facility.

**RECOMMENDATION 15: The Task Force recommends that guardians be provided with oral instructions and a packet of written instructions from the judge or administrative staff at the time of appointment. See *Guardianship Monitoring Committee Report, §IV.C.2. (Page 119).***

THE IMPLEMENTATION OF THIS RECOMMENDATION IS IN PROGRESS

The Guardianship Bench Book includes best practices regarding instructions for guardians at the time of their appointment.

The GCMC has completed the curriculum and written instructions/materials for a family/lay guardian training program under development by the York County Court and the OEJC. The training program includes oral instruction regarding the duties, powers, and responsibilities of family/lay guardians,

as well as a packet of written instructions and informational material. The training program is being piloted in several counties. Once the pilot is completed in 2019, the OEJC will seek to create a model packet of written instructions that can be provided to a guardian at the time of appointment.

**RECOMMENDATION 16:** The Task Force recommends that if a guardian does not respond to the delinquency notice in Recommendation 64, it is a recommended best practice for the judge to conduct a review hearing with the guardian present. See *Guardianship Monitoring Committee Report, §IV.C.4. (Page 119).*

√ THE IMPLEMENTATION OF THIS RECOMMENDATION HAS BEEN ACCOMPLISHED

The Guardianship Bench Book includes best practices on conducting a review hearing when a guardian does not respond to the notice regarding a delinquency when required reports become past due.

**RECOMMENDATION 17:** The Task Force recommends that Clerks of the Orphans' Court or the court administration office be responsible for determining the reasons for failure to file required reports and addressing those reasons with appropriate instruction to the guardian. See *Guardianship Monitoring Committee Report, §IV.C.5. (Page 119).*

√ THE IMPLEMENTATION OF THIS RECOMMENDATION HAS BEEN ACCOMPLISHED

The GTS provides tools to assist the Orphans' Court in carrying out the function prescribed by Act 114 of 2018, which amended Title 20, and states that not less than quarterly, clerks of Orphans' Courts shall transmit to the court a list of guardians who are 30 days delinquent in filing reports required by law. The court is required to take appropriate enforcement action with regard to such guardians and to develop procedures for the examination of the required reports to ensure that guardians are acting in the best interests of IPs.

**RECOMMENDATION 18:** The Task Force recommends that judges hold periodic review hearings, either on a regular basis or at random, to monitor the status of the guardianship. See *Guardianship Monitoring Committee Report, §IV.C.7. (Page 119).*

√ THE IMPLEMENTATION OF THIS RECOMMENDATION HAS BEEN ACCOMPLISHED

The Guardianship Bench Book includes best practices on conducting periodic review hearings to monitor the status of a guardianship.

**RECOMMENDATION 19:** The Task Force recommends that judicial staff or court administration staff be available to answer a guardian's question(s) or assist a guardian with completing forms, and that resources for guardians be centrally located on a statewide website which includes training materials, forms, and instructions on completion of those forms. See *Guardianship Monitoring Committee Report, §IV.C.8. (Page 120).*

√ THE IMPLEMENTATION OF THIS RECOMMENDATION HAS BEEN ACCOMPLISHED

Resources for guardians regarding the GTS, including a help center, reference documents and video tutorials are available through the Unified Judicial System's web portal. See the Guardianship Tracking System Overview Brochure at Appendix D. It is anticipated that Orphans' Court staff will provide assistance to guardians on the completion of the forms.

Training materials and resources for guardians, which were developed as part of the training program for family/lay guardians, will be posted on the Unified Judicial System's website and provided to court staff to help them respond to questions from guardians.

**RECOMMENDATION 20:** The Task Force recommends that counties adopt a volunteer monitoring program leveraging local/regional resources to assist the courts in their monitoring responsibilities, using the Orphans'

Court Guardian Program in Chester County and the Pro Bono Guardianship Monitoring Program in Dauphin County as models. See *Guardianship Monitoring Committee Report, §IV.C.9. (Page 120)*.

√ THE IMPLEMENTATION OF THIS RECOMMENDATION HAS BEEN ACCOMPLISHED

In April 2017, OEJC staff and a member of the Advisory Council attended Chester County’s Volunteer Training Seminar for Guardianship Monitoring to learn more about the program. The Guardianship Bench Book includes best practices regarding the adoption by counties of a similar volunteer monitoring program to assist courts with their monitoring responsibilities.

**RECOMMENDATION 21:** The Task Force recommends that adequate funding be provided to support the Judges and Clerks of the Orphans’ Court in fulfilling their guardianship monitoring responsibilities. See *Guardianship Monitoring Committee Report, §IV.C.10. (Page 120)*.

√ THE IMPLEMENTATION OF THIS RECOMMENDATION HAS BEEN ACCOMPLISHED

The GTS, which has been funded, developed, and implemented by the AOPC, supports judges and clerks of the Orphans’ Court in fulfilling their guardianship monitoring responsibilities.

**RECOMMENDATION 22:** The Task Force recommends that courts, particularly those in counties with limited access to bonding sources, consider online bonding as an alternative, providing that the online bonding companies are on the list of approved sureties. See *Guardians and Counsel Committee Report, §V.C.1.e. (Page 46)*.

THE IMPLEMENTATION OF THIS RECOMMENDATION IS YET TO BE ADDRESSED

**RECOMMENDATION 23:** The Task Force recommends that, to establish an accurate inventory of active guardianships, each county purge inactive guardianships from its case management system, and complete the Orphans’ Court e-form, noting the number of guardianship terminations which occurred during the purge. See *Guardianship Monitoring Committee Report, §V.C.5 (Page 122) and Appendix K thereto. (Page 185)*.

√ THE IMPLEMENTATION OF THIS RECOMMENDATION HAS BEEN ACCOMPLISHED

While the implementation of this recommendation has been accomplished, work is ongoing.

In 2015, the implementation of this recommendation began. The purging of inactive guardianships from local case management systems and the completion of the e-form were being addressed during the development of AOPC’s OCCMS, then in progress.

In November 2016, the Supreme Court directed IT to prioritize the creation of the GTS.

At IT’s request, in preparation for data migration into the GTS, all counties worked through an exercise to determine which guardianship cases are active. This was done by the purging of inactive guardianships from local case management systems. Only pending cases (not yet adjudicated) and active cases (an adjudication of incapacitation was made, and the protected person is alive and under guardianship) were migrated into the GTS so that an accurate inventory of active guardianships can be established. The data from the counties will continue to be examined in 2019 to establish an accurate inventory.

**RECOMMENDATION 24:** The Task Force recommends that the AOPC’s judicial automation plan for an Orphan’s Court module include a monitoring tool capable of web-based applications, monitoring and auditing tools for court staff, financial accounting, automated reminders to both guardians and court staff, and interface with the [Common Pleas Court Management System] (“CPCMS”) application to provide guardianship monitoring data to court staff. See *Guardianship Monitoring Committee Report, §V.C.6. (Page 123)*.

## √ THE IMPLEMENTATION OF THIS RECOMMENDATION HAS BEEN ACCOMPLISHED

While the implementation of this recommendation has been accomplished, work is ongoing.

The Task Force's recommendations were to be included in IT's development of the OCCMS. In November 2016, the Supreme Court directed IT to prioritize the creation of the GTS. The GTS will include monitoring and auditing tools and the ability to generate reminders to guardians. Three user sessions to determine the design of the GTS were held beginning in March 2017, and included participation by judges, court staff, Orphans' Court clerks, and others. In June 2017, IT reviewed the design of the GTS with the Advisory Council and requested resolution on certain issues raised during user sessions. In October 2017, IT held a webinar for judges to explain the GTS.

The GTS includes functionality to monitor guardian compliance in submitting reports, as well as court staff compliance in accepting the filings and reviewing the reports. The system includes logic to insert flag indicators on reports where a concern of loss or neglect has been detected. An automated reminder is sent to the guardian 30 days before a report is due. Additional notifications are sent to guardians and court users when a report has been electronically submitted. Notification is also sent to guardians and court users if a report becomes overdue. Many counties opted to complete development to integrate aspects of GTS into their local case management systems. Future integrations with AOPC's criminal databases and external databases (e.g., SSA, VA, and Pennsylvania State Police) will be reviewed in 2019. Rule 510 of the Rules of Judicial Administration and Amendment of 204 Pa.Code §207.3 provide that the GTS is the exclusive method for electronically filing required reports and inventories for guardianships of the person and for guardianships of the estate, and for tracking data related to statewide guardianship cases of adult IPs.

**RECOMMENDATION 25: The Task Force recommends that adequate funding be provided to support the Clerks of the Orphans' Court in their ability to implement a local case management system. See *Guardianship Monitoring Committee Report*, §V.C.9. (Page 123).**

## √ THE IMPLEMENTATION OF THIS RECOMMENDATION HAS BEEN ACCOMPLISHED

The GTS, which has been funded, developed, and implemented by the AOPC, provides local case management system guardianship functionality.

**RECOMMENDATION 26: The Task Force recommends that the Bill of Rights of an Alleged Incapacitated Person be provided to the AIP, as well as to any family members or concerned parties, at the time he or she is served with the petition, and that the Bill of Rights of an Incapacitated Person ["IP"] be provided to the IP and interested family members or concerned parties, at the time the IP is adjudicated incapacitated. The guardian should receive copies of both the Bill of Rights of an Alleged Incapacitated Person and the Bill of Rights of an Incapacitated Person in the packet of instructions which the guardian receives upon appointment. It is also recommended that the OEJC create a separate document based on the specifics of the statute to be provided to guardians. See *Guardianship Monitoring Committee Report*, §VI.C.1. (Page 124).**

## THE IMPLEMENTATION OF THIS RECOMMENDATION IS IN PROGRESS

Best practices regarding the Task Force's Bill of Rights of an AIP and Bill of Rights of an IP are included in the Guardianship Bench Book.

**RECOMMENDATION 27: The Task Force recommends that in order to provide the IP with access to justice, the court-appointed attorney be required to make contact with the IP on an annual basis to determine if a guardianship continues to be necessary and if the guardian is adequately performing his or her duties. See *Guardianship Monitoring Committee Report*, §VI.C.4. (Page 125).**

## THE IMPLEMENTATION OF THIS RECOMMENDATION IS YET TO BE ADDRESSED

While the implementation of this recommendation is yet to be addressed, new guardianship Form G-03, Report of the Guardian of the Person, includes a question asking how often the guardian (who might be a court-appointed attorney) visited the IP annually, and that information will be provided to the judge through the GTS.

**RECOMMENDATION 28: The Task Force recommends that educational initiatives be undertaken to ensure judges are aware of 42 Pa.C.S. § 9728(e) and (f) to help ensure funds and assets are available to satisfy anticipated restitution orders in appropriate cases. See *Elder Abuse and Neglect Committee Report*, §I.C.2.d. (Page 196).**

THE IMPLEMENTATION OF THIS RECOMMENDATION IS YET TO BE ADDRESSED

**RECOMMENDATION 29: The Task Force recommends that the Supreme Court consider authorizing a limited practice for *pro bono* service by retired and voluntarily inactive lawyers to work with elders. See *Elder Abuse and Neglect Committee Report*, §I.C.2.e. (Page 196).**

√ THE IMPLEMENTATION OF THIS RECOMMENDATION HAS BEEN ACCOMPLISHED

The implementation of this recommendation began in 2015. In response to recommendations made by the Task Force, the Pennsylvania, Allegheny, and Philadelphia Bar Associations asked the Supreme Court to consider amending the bar admission rules to permit retired and voluntarily inactive attorneys to provide *pro bono* services to low-income Pennsylvanians, including elders. In August 2015, the Supreme Court requested the Disciplinary Board of the Supreme Court and the Pennsylvania Continuing Legal Education Board to review the materials received from the bar associations and the Pennsylvania Board of Law Examiners, and submit recommendations to the Supreme Court. In December 2015, in recognition of the benefits of *pro bono* emeritus programs, the Conference of State Court Administrators issued a resolution in support of emeritus attorney *pro bono* programs to assist elders. In 2016, the Conference of Chief Justices also passed Resolution 6 (“In Support of Emeritus Attorney Pro Bono Programs”).

Proposed amendments to the Rules of Disciplinary Enforcement and Rules of Continuing Legal Education were published in June 2017, and submitted to the Court in January 2018. By Order dated May 9, 2018, the Supreme Court adopted new Pa.R.D.E. 403, which establishes an emeritus status for retired attorneys to provide *pro bono* legal representation, and PA.R.C.L.E. 105(d), which establishes an annual continuing legal education (CLE) requirement of eight hours for lawyers in emeritus status.

**RECOMMENDATION 30: The Task Force recommends that the Supreme Court consider providing continuing legal education (“CLE”) credits to encourage active attorneys to provide *pro bono* services to elder Pennsylvanians. See *Elder Abuse and Neglect Committee Report*, §I.C.2.e. (Page 196).**

√ THE IMPLEMENTATION OF THIS RECOMMENDATION HAS BEEN ACCOMPLISHED

While the implementation of this recommendation has been accomplished, work is ongoing.

In response to the Task Force’s recommendation, the Supreme Court requested that the Continuing Legal Education Board study the matter of CLE credit for *pro bono* legal work. In April 2018, the Supreme Court approved the creation of a three-year pilot project to allow attorneys to receive one CLE credit for every five hours of *pro bono* legal work up to a maximum of three CLE credits per year. The *pro bono* work must be completed through providers who have been approved by the CLE Board as an accredited provider of *pro bono* CLE. To be eligible to apply for approval as an accredited *pro bono* CLE provider during the pilot project, an organization must be a not-for-profit, tax exempt organization that delivers *pro bono* services primarily within Pennsylvania, and which meets the eligibility requirements to receive funds from the Pennsylvania Interest on Lawyers’ Trust Accounts

Board or the Pennsylvania Legal Aid Network. The goal is to have the project running shortly after January 1, 2019.

**RECOMMENDATION 31: The Task Force recommends that the AOPC Judicial Education Department, with the assistance of the OEJC, develop and distribute bench cards for judges on identifying and reporting elder abuse, provide information about the bench cards to judges at educational conferences, and make the information available on court websites. See *Elder Abuse and Neglect Committee Report*, §II.C.1. (Page 200).**

√ THE IMPLEMENTATION OF THIS RECOMMENDATION HAS BEEN ACCOMPLISHED

While the implementation of this recommendation has been accomplished, work is ongoing.

The implementation of this recommendation began in 2015 when the Elder Abuse and Neglect Committee (EANC) developed an Elder Abuse Bench Card that was approved by the Advisory Council. The Elder Abuse Bench Card was distributed at the Pennsylvania Conference of State Trial Judges in July 2015, and was provided to all common pleas judges who did not attend. All magisterial district judges received training on the Elder Abuse Bench Card through the Minor Judiciary Education Board's 2015-2016 Continuing Education Program. All judicial districts were asked to make the Elder Abuse Bench Card available on their websites.

Furthermore, the EANC determined a survey should be sent to common pleas and magisterial district judges to ascertain whether the Elder Abuse Bench Card can be made more useful for judges. A survey was distributed to all common pleas and magisterial district judges in January 2017. Results indicated education for judges is needed due to the perception that elder abuse is primarily an Orphans' Court issue, and that the distribution of the Elder Abuse Bench Card should be made to a larger population (law enforcement, emergency responders, United States Postal workers, utility workers, and others who are in contact with elders). The EANC suggested developing an application which can run on patrol car laptops, and the Pennsylvania Office of Attorney General (OAG) will take the lead on development of that project.

**RECOMMENDATION 32: The Task Force recommends that the AOPC Judicial Education Department, with the assistance of the OEJC, develop an Elder Abuse Bench Book and conduct educational sessions for the judiciary on its contents. See *Elder Abuse and Neglect Committee Report*, §II.C.2. (Page 200) See also *Overarching Administrative Findings and Recommendations*, §IV.C. (Page 224).**

√ THE IMPLEMENTATION OF THIS RECOMMENDATION HAS BEEN ACCOMPLISHED

The implementation of this recommendation began in 2015 and work continued through 2018 on the development of the Elder Abuse Bench Book with an estimated release date of early 2019. A dozen authors contributed written content for the Elder Abuse Bench Book, and feedback on drafts was solicited from the contributors and the Advisory Council's chairs throughout 2017 and 2018.

**RECOMMENDATION 33: The Task Force recommends that the Supreme Court consider the creation of a Statewide Elder Justice Roundtable similar to the one created by Justice Max Baer and the AOPC's Office of Children and Families in the Courts ("OCFC"), with administrative support provided through the OEJC. See *Elder Abuse and Neglect Committee Report*, §II.C.4. (Page 200).**

THE IMPLEMENTATION OF THIS RECOMMENDATION IS YET TO BE ADDRESSED

In October 2015, the Advisory Council decided to defer this recommendation until, if, or when funding becomes available, or if it receives requests from county roundtables to take action. The Advisory Council's emphasis going forward will be on the development of interdisciplinary teams as outlined in the status of Recommendation 69.

**RECOMMENDATION 34:** The Task Force recommends that the Supreme Court suggest that a victim’s age be documented by police departments in all criminal complaints and that information be included in the CPCMS. See *Elder Abuse and Neglect Committee Report, §III.C.1. (Page 212)*.

√ THE IMPLEMENTATION OF THIS RECOMMENDATION HAS BEEN ACCOMPLISHED

The implementation of this recommendation began in 2015 when the Supreme Court asked the Pennsylvania Criminal Procedural Rules Committee (CPRC) to review and consider the Advisory Council’s proposal to include either the date of birth of the victim, or a checkbox that identifies the individual as an elder (age 60 and over) on criminal complaints. The CPRC, after consideration of the recommended change, declined to propose this change to the criminal rules.

Instead, IT recommended a data field be added to the Criminal Complaint Form to be completed by police if the victim or victims are age 60 or over, if such information is known. The Advisory Council embraced this suggestion and, in October 2016, IT requested that the Supreme Court approve tracking of an elder victim’s age in the Magisterial District Judge Case Management System and the Common Pleas Case Management System. The Supreme Court approved modifications to the Magisterial District Judge and Common Pleas Case Management Systems, which were implemented in July 2017.

**RECOMMENDATION 35:** The Task Force recommends that the Supreme Court suggest that the plaintiff’s age in Protection from Abuse matters be documented and reported to the AOPC Research and Statistics Department. See *Elder Abuse and Neglect Committee Report, §III.C.1. (Page 212)*.

THE IMPLEMENTATION OF THIS RECOMMENDATION IS YET TO BE ADDRESSED

**RECOMMENDATION 36:** The Task Force recommends that the Supreme Court consider if the Comment to Pa.R.Crim.P. 500 should be amended to help ensure the testimony of elder victims and witnesses in criminal cases can be preserved. It further recommends that educational efforts be undertaken to ensure judges and attorneys are aware of this Rule and its implications for cases involving elders. See *Elder Abuse and Neglect Committee Report, §III.C.2.b. (Page 212)*.

√ THE IMPLEMENTATION OF THIS RECOMMENDATION HAS BEEN ACCOMPLISHED

The implementation of this recommendation began in 2015 when the Supreme Court instructed the CPRC to review and consider the Advisory Council’s proposal to amend Pennsylvania Rule of Criminal Procedure 500 (Criminal Rule 500) to help ensure the testimony of elder victims and witnesses in criminal cases can be preserved and to expand the definition of the paragraph 3 comment that the witness “may be unavailable.”

The Supreme Court approved the revision to the comment to Criminal Rule 500 to clarify that the Rule’s procedures are available in circumstances where a witness is elderly, frail, or demonstrates the symptoms of mental infirmity or dementia. The rule became effective October 1, 2016.

Information regarding Criminal Rule 500 procedures is included in the Elder Abuse Bench Book, and in educational sessions developed by the EANC for judges and attorneys.

**RECOMMENDATION 37:** The Task Force recommends that the Supreme Court consider authorizing a pilot “Elder Court”. See *Elder Abuse and Neglect Committee Report, §III.C.4.b. (Page 213)*.

THE IMPLEMENTATION OF THIS RECOMMENDATION IS IN PROGRESS



The implementation of this recommendation began in 2015 with the creation of an Elder Justice Working Group by Philadelphia Court of Common Pleas President Judge Sheila A. Woods-Skipper that identified the need for a pilot elder court, and the types of cases that involve elders.

A proposal to begin the pilot Elder Court project was sent to the Supreme Court for its consideration in May 2016. The proposal suggested the first phase of the pilot Elder Court project should be the creation of an elder justice resource center where the public could obtain information and resources for, and assistance with, navigating the court system. The project's second phase would involve case management for cases involving elders. The grand opening of the Elder Justice & Civil Resource Center (the Center), located at Philadelphia's City Hall, was held on October 13, 2016. The Philadelphia Court of Common Pleas provided financial support for renovations, webinars, and educational sessions.

Volunteer training programs on landlord/tenant, mental health issues, and financial exploitation were presented by the Center. In June 2017, the OEJC made a one-time purchase and donation of supplies and equipment to the Center in order to help elder users, victims, witnesses, and others having business at the Center and courthouse to navigate more easily. The items included walkers, a wheelchair, assistive listening devices, magnifying glasses, sets of reading glasses, canes, an electric scooter, sign stands, and brochure racks. In September 2017, a civil e-filing pilot project began, and all litigants were asked to voluntarily provide their date of birth in civil cases. Work on the case management system continues.

With Philadelphia Court employees providing administrative and coordination services, the Center receives support from numerous key service organizations including the Center for Advocacy for the Rights & Interests of the Elderly (CARIE), the SeniorLAW Center (SeniorLaw), Community Legal Services, Jenkins Law Library, Philadelphia Bar Association, Philadelphia Corporation for Aging, Philadelphia Legal Assistance, and Temple University Beasley School of Law.

After beginning as a resource and referral office only, the Center has grown to provide limited legal representation through a volunteer attorney program. As an incentive for attorneys to volunteer, the Center offers CLE credits free of charge to any attorney who commits to volunteer in the Center. The program commenced in February 2017, and has had five CLE programs that have produced an average of 62 volunteers per program. This program has allowed the Center to assist nearly 2,000 clients with 41% of those clients involving elders with elder-related issues.

The Center has purchased LegalServer, a legal service provider specific case management software, to help manage the volume of clients and volunteers.

The Center provides direct services via volunteer attorneys and advocates experienced with legal issues as they relate to elders. The Center also offers referrals for elders, as well as educational workshops designed to inform judges, court staff, and members of the public on issues of aging, capacity, elder abuse, prominent legal issues affecting elders, and available resources for elders. In addition to legal services, resources, and education, the center continues to facilitate access to the courts by making available equipment to aid any hearing, vision, and mobility challenges of elders who are navigating the court system.

A recent addition to the legal offerings of the Center involves partnering with SeniorLaw in order to have one of its staff attorneys work part-time in the Center. This was made possible by a VOCA (Victims of Crime Act) grant obtained by SeniorLaw, and with the support of the First Judicial District. The focus of the work of this part-time attorney will be on elder victim cases.

**RECOMMENDATION 38: The Task Force recommends the implementation of a statewide Orphans' Court case management system. In the interim, Clerks of the Orphans' Court should make the necessary upgrades to their case management systems in order to comply with the Guardianship Monitoring Committee's recommendations and as a precursor to migrating data into the statewide system. See *Overarching Administrative Findings and Recommendations*, §III.C.2. (Page 223).**

√ THE IMPLEMENTATION OF THIS RECOMMENDATION HAS BEEN ACCOMPLISHED

While the implementation of this recommendation has been accomplished, work is ongoing.

Implementation of this recommendation began in 2015. The tools, reminder, and data interface recommended by the Task Force were to be included in the OCCMS, which was under development by IT. The OEJC and several members of the Advisory Council participated in design sessions for the OCCMS. In November 2016, the Supreme Court directed IT to prioritize the creation of the GTS. The GTS includes monitoring and auditing tools and the ability to generate reminders to guardians. In June 2017, IT reviewed the design of the GTS with the Advisory Council and requested resolution on certain issues raised during user sessions. In September 2017, IT provided a detailed update regarding the status of the GTS. In October 2017, IT held a webinar for judges to explain the GTS.

At IT's request, in preparation for data migration into the GTS, all counties worked through an exercise to determine which guardianship cases are active. This was done by the purging of inactive guardianships from local case management systems. Only pending cases (not yet adjudicated) and active cases (an adjudication of incapacitation was made, and the protected person is alive and under guardianship) were migrated into the GTS so that an accurate inventory of active guardianships could be established. The data from the counties will continue to be examined in 2019 to establish an accurate inventory.

The rollout of the GTS began in July 2018, and full statewide implementation was completed in December 2018. Further work on the broader OCCMS was placed on hold during the GTS project, and is to be reevaluated when funding is available.

**RECOMMENDATION 39: The Task Force recommends that Orphans' Courts and the AOPC collaborate and coordinate with federal agencies that administer representative-payment programs on the exchange and collection of data, training, and education on adult guardianships. See *Overarching Administrative Findings and Recommendations*, §VIII.C. (Page 227).**

THE IMPLEMENTATION OF THIS RECOMMENDATION IS IN PROGRESS

The Advisory Council and the OEJC are moving forward with this recommendation. In December 2016, Assistant U.S. Attorneys Fullmer and Sullivan made a presentation to the Advisory Council regarding the Federal Elder Justice Initiative and how the U.S. Attorney's Office can collaborate with the Advisory Council. In March and October 2017, the OEJC and members of the Advisory Council attended the U.S. Attorney's Office's regional Elder Justice Task Force meetings and discussed whether data on abusive representative payees/fiduciaries for SSA and VA benefits is available to the courts, and the guardianship data its federal colleagues would receive from the GTS. In late 2017, OEJC staff and Vice-Chair Zig Pines had subsequent conversations with DOJ regarding providing a communications link to SSA to discuss the possibility of a formal data sharing agreement and other issues regarding representative-payment programs, and followed up with the U.S. Attorney's Office to advise about the communications with DOJ, the data to be collected by the GTS, the criminal court case data AOPC can share, and to continue discussions on the possibility of a formal data sharing agreement. The OEJC participated in conference calls with SSA representatives and other states' Working Interdisciplinary Networks of Guardianship Stakeholders groups to begin a dialogue about how courts with guardianship jurisdiction can best coordinate with the SSA's representative payee program.

Throughout 2018, the OEJC held further discussions with the U.S. Attorney’s Office for the Eastern District of Pennsylvania on the collection and exchange of data regarding abusive representative payees for SSA and the VA. Discussions are ongoing.

## **RECOMMENDATIONS 40 - 65 ADDRESSING AMENDMENTS TO THE ORPHANS’ COURT PROCEDURAL RULES:**

The following 26 recommendations of the Task Force (Recommendations 40 - 65) involve amendments to the Pennsylvania Orphans’ Court Procedural Rules.

The OCPRC submitted a proposal to the Supreme Court in December 2017 to rescind and replace the guardianship rules and forms in response to the Task Force’s recommendations, and to provide new statewide rules establishing uniformity and consistency for guardianship proceedings. The new rules and forms were adopted by the Supreme Court and will become effective June 1, 2019. New Orphans’ Court Forms G-02 through G-05 became effective July 1, 2018.

Throughout the process of the adoption of these new Orphans’ Court Procedural Rules, the GCMC of the Advisory Council assisted the OCPRC by reviewing the proposed rules and forms, and providing feedback to the OCPRC.

**RECOMMENDATION 40: The Task Force recommends that, whenever possible, courts should favor the appointment of a family member as guardian of the person. Through amendment to the Orphans’ Court Procedural Rules, the definition of “family member” should be expanded so as not to be limited to immediate family, but rather attempts to contact other relatives and friends should be encouraged. In addition, the Rules should be amended to encourage courts to look to the hierarchy in 20 Pa.C.S. § 5461(d)(1) for guidance. See *Guardians and Counsel Committee Report, §I.C.1.a.i. (Page 33)*.**

### **√ THE IMPLEMENTATION OF THIS RECOMMENDATION HAS BEEN ACCOMPLISHED**

New Rule 14.6 sets forth a hierarchy of individuals for guardian consideration. The OCPRC explained that the hierarchy set forth in the proposed Rule is stated so as to favor family members, but not to exclude other relatives or friends from consideration, provided they have knowledge of the IP’s preferences and values. Moreover, the OCPRC noted that, aside from persons nominated in a valid power of attorney, the court is only required to give consideration to nominees based upon the hierarchy, and not required to appoint a guardian based upon the hierarchy. “Professional guardian” was added to the list of persons eligible to serve as a guardian.

Best practices regarding application of Rule 14.6 and the hierarchy of individuals for guardian consideration are included in the Guardianship Bench Book.

**RECOMMENDATION 41: The Task Force recommends that, through amendment to the Orphans’ Court Procedural Rules, courts may favor the appointment of a family member to serve as a guardian of the estate when the estate of the incapacitated person consists of minimal assets or where the proposed guardian of the estate has the skills and experience necessary to manage the estate and is able to obtain a bond or provide other assurance of financial responsibility. See *Guardians and Counsel Committee Report, §I.C.1.b.i. (Page 34)*.**

### **√ THE IMPLEMENTATION OF THIS RECOMMENDATION HAS BEEN ACCOMPLISHED**

New Rule 14.6 provides for family members to receive relatively higher consideration for appointment as guardian of the estate than non-family members, provided the estate consists of minimal assets or the proposed family member possesses the experience to manage the estate.

Best practices regarding application of Rule 14.6 and appointment of a family member to serve as a guardian of the estate are included in the Guardianship Bench Book.

**RECOMMENDATION 42:** The Task Force recommends that, through amendment to the Orphans' Court Procedural Rules, a list of individuals and agencies qualified to act as guardian of the person or estate to serve if family and friends are not viable options be mandated. See *Guardians and Counsel Committee Report*, §§I.C.1.a.ii and I.C.1.b.ii. (Page 34).

√ THE IMPLEMENTATION OF THIS RECOMMENDATION HAS BEEN ACCOMPLISHED

The OCPRC considered the Task Force's recommendation and agreed that a court-maintained list of qualified and available guardians is a best practice. The OCPRC determined the responsibility for doing so, as well as other operational aspects, is a matter of judicial administration based upon resource availability. Absent a rule of judicial administration, whether local or statewide, the OCPRC determined this matter is best implemented if left to the discretion of the President Judge or Administrative Judge. Therefore, the new rules adopted by the Supreme Court do not address this specific recommendation, but New Rule 14.6 provides for a hierarchy of eligibility. The GTS has the capability to produce a list of guardians qualified to act as guardian of the person or estate.

**RECOMMENDATION 43:** The Task Force recommends that, through amendment to the Orphans' Court Procedural Rules, training be mandated for all guardians. See *Guardians and Counsel Committee Report*, §II.C.1.c. (Page 39) This training should include, but not be limited to matters of liability and ethics. See *Guardians and Counsel Committee Report*, §III.C.1.a. (Page 43).

√ THE IMPLEMENTATION OF THIS RECOMMENDATION HAS BEEN ACCOMPLISHED

The OCPRC considered the Task Force's recommendation and acknowledged the salutary purpose that mandatory training would serve, but determined that imposing a universal training requirement is a substantive matter for the General Assembly to address. The Advisory Council will continue to study this Recommendation.

While training is not mandated under the new rules, the Advisory Council has allocated funds to present training for family/lay guardians. The free training program, "Fundamentals of Guardianship: What Family Guardians Need to Know," was piloted in several counties in late 2018 and includes, among other things, matters of liability and ethics. The training program will continue to be offered in 2019.

**RECOMMENDATION 44:** The Task Force recommends that, through amendment to the Orphans' Court Procedural Rules, all individual guardians, family and professional, be required to undergo criminal background checks. See *Guardians and Counsel Committee Report*, §IV.C.1.a. (Page 44).

√ THE IMPLEMENTATION OF THIS RECOMMENDATION HAS BEEN ACCOMPLISHED

New Rule 14.2 requires a certified response to a Pennsylvania State Police criminal record check, with Social Security number redacted and issued within six months of the filing of the guardianship petition, be appended to the petition for each proposed guardian.

**RECOMMENDATION 45:** The Task Force recommends that the Orphans' Court Procedural Rules be amended to require that in all guardianship matters where the court does not require a bond, the proposed guardian be required to submit a current credit report. This requirement should be ongoing and, after appointment, the guardian should be required to supply a current credit report each year together with the annual report. The guardian's credit reports should be kept confidential and not be made publicly available. For good cause shown, the court may waive the requirement of a credit report. If the court waives the requirement of a credit report,

however, it should still require an assurance of financial responsibility as recommended in Section V.C.1.d. See *Guardians and Counsel Committee Report, §IV.C.1.b. (Page 44)*.

√ THE IMPLEMENTATION OF THIS RECOMMENDATION HAS BEEN ACCOMPLISHED

New Rule 14.5 permits a guardian to seek court approval for either the waiver or modification of a bond requirement. The rule allows the court to waive or modify the bond requirements only for “good cause” shown, as determined by the judge. The rule is not intended to encourage waiver or modification of bonds, but is intended to establish a procedure and a standard for judicial waiver and modification. The explanatory comment to the rule leaves to a court’s discretion the necessity of filing assurances of a guardian’s creditworthiness or liability coverage.

Best practices regarding issues involved with bonding and requiring a guardian to submit a current credit report are included in the Guardianship Bench Book.

**RECOMMENDATION 46: The Task Force recommends that the Orphans’ Court Procedural Rules be amended to require that in addition to not having any interest adverse to the AIP, the proposed guardian should have the willingness and ability to visit with the AIP on a regular basis and be available at all times to confer with the AIP’s physicians, nurses, and other care providers. If the proposed guardian is not a family member, he or she should have some education and/or experience in guardianship or in providing services to elders and/or the disabled. In lieu of adopting specific requirements concerning minimum education and/or experience for all guardians, the Task Force believes that the goal of assuring that qualified guardians are appointed would similarly be met by mandating that all guardians undergo training before assuming their duties. See *Guardians and Counsel Committee Report, §IV.C.1.c. (Pages 44-45)*.**

√ THE IMPLEMENTATION OF THIS RECOMMENDATION HAS BEEN ACCOMPLISHED

New Rule 14.2 requires that the guardianship petition include information about the proposed guardian’s availability and training. The OCPRC determined that whether the individual’s or entity’s availability and training are sufficient to perform as a guardian is a matter to be evaluated and determined by the judge on a case-by-case basis.

While training is not mandated under the new rules, the Advisory Council has allocated funds to present training for family/lay guardians. The free training program, “Fundamentals of Guardianship: What Family Guardians Need to Know,” was presented in several counties in late 2018 and includes, among other things, matters of liability and ethics.

Best practices regarding application of Rule 14.2 and the determination of whether the proposed guardian’s availability and training are sufficient to perform as a guardian are included in the Guardianship Bench Book.

**RECOMMENDATION 47: The Task Force recommends that the Orphans’ Court Procedural Rules be amended to limit a potential guardian’s appointment to a guardianship of the person in appropriate circumstances to avoid potential intra-familial disagreements as well as any financial responsibility of a potential guardian. See *Guardians and Counsel Committee Report, §VI.C.1.h. (Page 47)*.**

√ THE IMPLEMENTATION OF THIS RECOMMENDATION HAS BEEN ACCOMPLISHED

The OCPRC determined when an outcome is based upon “appropriate circumstances” that are incapable of being defined by rule, then the matter is best left to the discretion of the judge, who will select the best suited guardian for the IP and, in doing so, will consider the potential for conflict. Related thereto, “professional guardian” was added to the list of persons eligible to serve as a guardian.

Best practices regarding the appointment of guardians are included in the Guardianship Bench Book.

**RECOMMENDATION 48:** The Task Force recommends that the Orphans' Court Procedural Rules be amended to require that in all cases where the AIP does not have private counsel, counsel should be appointed. Private counsel for an AIP should be required to enter his or her appearance as soon as possible to allow the court to quickly identify when counsel needs to be appointed. Counsel fees should be paid by the AIP whenever possible and, if resources are insufficient, then by the Commonwealth, as under the existing approach. See *Guardians and Counsel Committee Report, §VII.C.1.a b and c. (Page 49)*.

√ THE IMPLEMENTATION OF THIS RECOMMENDATION HAS BEEN ACCOMPLISHED

Rather than a rule mandating counsel's appointment, the OCPRC favored a rule mirroring the statutory provision that counsel may be appointed if the court deems it appropriate. The remainder of the Task Force's recommendation is reflected within new Rule 14.4.

Best practices regarding cases where the AIP does not have private counsel are addressed in the Guardianship Bench Book.

**RECOMMENDATION 49:** The Task Force recommends that Clerks of the Orphans' Court have the capability to produce a standardized list of data items for each active guardianship (including Case Management and Caseload Reports). To ensure uniformity across all counties, this practice should be implemented through a statewide Orphans' Court Procedural Rule. See *Guardianship Monitoring Committee Report, §V.C.1, 2, 3, and 4 (Page 122) and Appendix J thereto. (Page 184)*.

√ THE IMPLEMENTATION OF THIS RECOMMENDATION HAS BEEN ACCOMPLISHED

The OCPRC determined that this capability and practice is a matter of judicial administration, and not procedural.

The GTS provides the clerks of the Orphans' Court with the capability to produce a standardized list of data items for each active guardianship case.

New Rule 510 of the Rules of Judicial Administration, adopted by the Supreme Court on August 31, 2018, provides that the GTS is the exclusive method for electronically filing required reports and inventories for guardianships of the person, and for guardianships of the estate, and for tracking data related to statewide guardianship cases of adult IPs. The GTS will provide all court-appointed guardians of adult IPs the convenience of filing inventories and annual reports online. Use of the GTS will alleviate the need for traditional paper filings. The GTS will also assist the Unified Judicial System with tracking and monitoring of statewide practices related to guardianship cases, as was recommended by the Task Force and the Advisory Council.

**RECOMMENDATION 50:** The Task Force recommends that the Orphans' Court Procedural Rules and/or Disciplinary Rules be amended to require attorneys serving as guardians to complete the same training and other requirements as professional guardians unless the court specifically waives that obligation, and that CLE credit, including ethics credit, be made available to attorneys for this training. See *Guardians and Counsel Committee Report, §VIII.C.1.b. (Page 51) and §X.C.1.h. (Page 56)*.

THE IMPLEMENTATION OF THIS RECOMMENDATION IS IN PROGRESS

While the training requirements for professional guardians and attorneys serving as guardians should not differ, because the OCPRC decided that a training requirement for non-attorney guardians is a substantive matter, it determined that rule-based training requirements for attorneys serving as guardians is premature.

However, training programs for guardians are in progress, but not mandated. The OEJC, working with the York County Court has provided an educational program on guardianships for attorneys which was presented through the York County Bar Foundation. Members of the Advisory Council have participated in programs through the Pennsylvania Bar Institute (PBI) and bar associations that have presented educational programs for attorneys concerning the various roles attorneys serve in guardianship matters.

**RECOMMENDATION 51: The Task Force recommends that the Orphans' Court Procedural Rules and/or Disciplinary Rules be amended to require attorneys to clarify to the client, the court, and all other involved parties which role or roles counsel is assuming, and to clarify those role(s) through a letter of engagement stating who is being represented and describing counsel's role. It should also be required that these role(s) be restated to the court when entering an appearance with the court. See *Guardians and Counsel Committee Report, §VIII.C.1.d. (Page 51)*.**

√ THE IMPLEMENTATION OF THIS RECOMMENDATION HAS BEEN ACCOMPLISHED

New Rule 14.4 requires private counsel for the AIP to set forth the scope of employment within an engagement letter that is producible to the court upon request. The Rule also requires the court to delineate the scope of appointed counsel's role within the order of appointment.

Best practices regarding the clarification of private counsel role(s) in guardianships are included in the Guardianship Bench Book.

**RECOMMENDATION 52: The Task Force recommends that the Orphans' Court Procedural Rules be amended to require that where the court appoints counsel to represent an AIP, the court indicate whether, except for pursuing rights of appeal, counsel for the AIP is discharged or is to continue representing the person now under guardianship in the event the petition is granted and a guardian is appointed. See *Guardians and Counsel Committee Report, §VIII.C.1.e. (Page 51)*.**

√ THE IMPLEMENTATION OF THIS RECOMMENDATION HAS BEEN ACCOMPLISHED

New Rule 14.4 requires the court to delineate the scope of appointed counsel's role within the order of appointment.

Best practices regarding the continuation and discharge of court-appointed counsel representation of an AIP are included in the Guardianship Bench Book.

**RECOMMENDATION 53: The Task Force recommends that, through amendment to the Orphans' Court Procedural Rules, model language be developed pertaining to retention or discharge of counsel which can be inserted into a final decree of incapacity and appointment of a guardian. See *Guardians and Counsel Committee Report, §VIII.C.1.f. (Page 51)*.**

√ THE IMPLEMENTATION OF THIS RECOMMENDATION HAS BEEN ACCOMPLISHED

The OCPRC did not favor the creation of a statewide form order wherein such language as recommended by the Task Force may be inserted. New Rule 14.7 does, however, require the court to state within the order adjudicating incapacity and appointing a guardian the right of the IP to be represented by an attorney in filing an appeal or seeking to modify or terminate the guardianship.

Best practices providing model language of a final decree of incapacity and appointment of a guardian, including issues with regard to retention or discharge of counsel, are included in the Guardianship Bench Book.

**RECOMMENDATION 54: The Task Force recommends that, through amendment to the Orphans' Court Procedural Rules, guardians and IPs have access to legal counsel for consultation following adjudication. See *Guardians and Counsel Committee Report, §VIII.C.1.g. (Page 51)*.**

√ THE IMPLEMENTATION OF THIS RECOMMENDATION HAS BEEN ACCOMPLISHED

The OCPRC considered the Task Force's recommendation and determined that if counsel's services terminate upon the finality of the adjudication of incapacity and appointment of a guardian, as per the private engagement letter or order of appointment, then the guardian would need to obtain private counsel for himself or herself or for the IP to be paid from the IP's estate. If the IP's estate is unable to pay for counsel, then the guardian should seek the appointment of counsel by the court.

The new rules address this recommendation with respect to an IP's right to counsel in Rule 14.7(a)(2). Best practices for handling of guardians' and IPs' access to legal counsel for consultation following adjudication are included in the Guardianship Bench Book.

**RECOMMENDATION 55: The Task Force recommends that the Orphans' Court Procedural Rules be amended to require that the assets of the IP be used for the purpose of maintaining the best possible quality of life for the IP. See *Guardians and Counsel Committee Report, §IX.C.1.e. (Page 53)*.**

√ THE IMPLEMENTATION OF THIS RECOMMENDATION HAS BEEN ACCOMPLISHED

The OCPRC determined that requiring the assets of the IP to be used for the purpose of maintaining the best possible quality of life for the IP is not a procedural matter, but appears to be a qualitative and quantitative measure to be monitored through the evaluation of reports.

The GTS generates reports regarding an IP's assets which are provided to the courts for monitoring purposes. Best practices regarding the use of an IP's assets to maintain the best possible quality of life are included in the Guardianship Bench Book.

**RECOMMENDATION 56: The Task Force recommends that the Orphans' Court Procedural Rules be amended to require that fee disputes be resolved in a timely, efficient manner. See *Guardians and Counsel Committee Report, §IX.C.1.h. (Page 54)*.**

√ THE IMPLEMENTATION OF THIS RECOMMENDATION HAS BEEN ACCOMPLISHED

New Rule 14.4 requires private counsel to set forth information regarding fees in the engagement letter. The reasonableness of all fees incurred on behalf of the AIP, whether attributable to private counsel or appointed counsel, are subject to court review. The explanatory comment to the Rule provides that any fee dispute should be resolved in a timely and efficient manner to preserve resources in order to maintain the best possible quality of life for the AIP.

Best practices regarding application of Rule 14.4 and the handling of fee disputes are included in the Guardianship Bench Book.

**RECOMMENDATION 57: The Task Force recommends that the Orphans' Court Procedural Rules be amended to require that professional guardians, i.e., those guardians with more than two guardianships at the same time, should be certified by the professional guardian certification program referred to in §II.C.1.f. See *Guardians and Counsel Committee Report, §X.C.1.b. (Pages 55-56)*.**

THE IMPLEMENTATION OF THIS RECOMMENDATION IS IN PROGRESS



The implementation of this recommendation began in 2015 with the GCMC collecting and reviewing information relating to the certification of guardians. The GCMC also discussed who is a “professional guardian,” and studied whether the imposition of a certification requirement could be done by rule, legislation, or as a best practice.

The OCPRC determined that certifications held, like completed training programs, relate to the qualifications of a prospective guardian, which should be evaluated by the court on an individual basis. To the extent that the Task Force’s recommendation suggests a statewide certification process, the OCPRC concluded such a requirement is a substantive matter, rather than procedural, and would need to be addressed by the General Assembly. However, the OCPRC was not opposed to local rules regarding certification. New Rule 14.2 does provide that if a guardian has certification, it should be included in the petition for appointment of guardian.

In September 2017, the OEJC and Judge Lois Murphy met with the Center for Guardianship Certification to learn about its rules and regulations for certification, and to request information on other states’ statutes regarding certification. Judge Murphy has drafted a proposed local rule for approval by the Montgomery County Board of Judges that requires non-family (“professional”) guardians appointed for three or more IPs to be certified. The proposed rule will also require approval from the Rules Committee of the Bar Association of Montgomery County and the Supreme Court OCPRC. Subject to these reviews, it is anticipated that guardians appointed by judges in Montgomery County will be expected to obtain certification from the Center for Guardianship Certification, unless they provide evidence of a comparable certification satisfactory to the judge.

The certification of professional guardians was a part of amendments to Senate legislation proposed by Senator Arthur Haywood in 2018. The legislative session expired before the amendments could be adopted.

**RECOMMENDATION 58: The Task Force recommends that guardians be required, through amendment to the Orphans’ Court Procedural Rules, to complete the inventory (as revised per Appendix C to the Guardianship Monitoring Committee Report) 90 days after appointment. See *Guardianship Monitoring Committee Report*, §III.C.1. (Page 117).**

√ THE IMPLEMENTATION OF THIS RECOMMENDATION HAS BEEN ACCOMPLISHED

New Rule 14.8 requires the filing of an inventory by the guardian of the estate within 90 days after such guardian’s appointment. New Form G-05 is the Inventory form. Rule 14.8 also provides that the Court Administrator of Pennsylvania assume responsibility for future form design, which would include future revisions, in consultation with the OCPRC and the OEJC.

The Inventory Form G-05 and information on Rule 14.8 are included in the Guardianship Bench Book.

**RECOMMENDATION 59: The Task Force recommends that guardians be required, through amendment to the Orphans’ Court Procedural Rules, to complete the Annual Report of the Person (as revised per Appendix F to the Guardianship Monitoring Committee Report, and/or Annual Report of the Estate as revised per Appendix E to the Guardianship Monitoring Committee Report) one year after appointment. See *Guardianship Monitoring Committee Report*, §III.C.2. (Page 117).**

√ THE IMPLEMENTATION OF THIS RECOMMENDATION HAS BEEN ACCOMPLISHED

New Rule 14.8 requires the completion of annual reports by both the guardian of the person and the guardian of the estate one year after appointment and annually thereafter. New Form G-02 is the Report of Guardian of the Estate Form. New Form G-03 is the Report of Guardian of the Person Form.

Rule 14.8 provides that the Court Administrator of Pennsylvania, in consultation with the OCPRC and the OEJC, assumes responsibility for future form design, which would include future revisions.

The Report of Guardian of the Estate Form G-02 and Report of Guardian of the Person Form G-03, along with information on Rule 14.8 are included in the Guardianship Bench Book.

**RECOMMENDATION 60:** The Task Force recommends that guardians be required, through amendment to the Orphans' Court Procedural Rules, to complete a Firearms Search [Form, pursuant to §§ 18 Pa.C.S.A. 6105(a) and (c) of the Uniform Firearms Act] (Appendix D to the Guardianship Monitoring Committee Report) within 90 days of appointment. See *Guardianship Monitoring Committee Report*, §III.C.3. (Page 117).

√ THE IMPLEMENTATION OF THIS RECOMMENDATION HAS BEEN ACCOMPLISHED

The OCPRC observed courts already send the Pennsylvania State Police a Pennsylvania Notification of Mental Health Commitment Form SP-4-131(8-01) pursuant to statute.

A best practice that guardians should be advised by the court that they are expected to inquire about an IP's ownership and/or possession of any firearms and arrange for the sale or transfer of them is included in the Guardianship Bench Book.

**RECOMMENDATION 61:** The Task Force recommends that guardians be required, through amendment to the Orphans' Court Procedural Rules, to send a Certificate of Filing (Appendix G to the Guardianship Monitoring Committee Report), to the persons identified at the time of adjudication, within 10 days of filing each form with the Clerk of the Orphans' Court. See *Guardianship Monitoring Committee Report*, §III.C.4. (Page 117).

√ THE IMPLEMENTATION OF THIS RECOMMENDATION HAS BEEN ACCOMPLISHED

New Rule 14.8 requires guardians to send a Notice of Filing (Form G-07) to the persons identified at the time of adjudication, within 10 days of filing each form.

Form G-07 was designed to strike a balance between facilitating information sharing among interested parties and safeguarding the privacy and best interests of the IP.

Rule 14.8 provides that the Court Administrator of Pennsylvania assumes responsibility for future form design, which would include future revisions, in consultation with the OCPRC and the OEJC.

The Notice of Filing Form G-07 and information on Rule 14.8 are included in the Guardianship Bench Book.

**RECOMMENDATION 62:** The Task Force recommends that the imposition of filing fees for required annual reports by local court or administrative order should be prohibited through amendment to the Orphans' Court Procedural Rules. See *Guardianship Monitoring Committee Report*, §IV.C.1. (Page 119).

√ THE IMPLEMENTATION OF THIS RECOMMENDATION HAS BEEN ACCOMPLISHED

In 2015 the GCMC began collecting and reviewing information on the use of Orphans' Court filing fees in Pennsylvania's judicial districts.

The OCPRC advised that AOPC indicated that 15 counties currently impose filing fees. The GCMC believed that the permissibility of filing fees was more of an administrative or legislative matter than a procedural matter, and decided the best course of action is not to make a request to impose fees, but to instead include as a best practice in the Guardianship Bench Book that, on request, judges should

liberally waive filing fees. Guidance regarding the waiving of filing fees and a sample order are included in the Guardianship Bench Book.

**RECOMMENDATION 63:** The Task Force recommends that the Supreme Court, through amendment to the Orphans' Court Procedural Rules, require that Clerks of the Orphans' Court be responsible for docketing and monitoring guardians' compliance with submitting the inventory and annual reports by the required due dates. See *Guardianship Monitoring Committee Report*, §IV.C.3. (Page 119).

√ THE IMPLEMENTATION OF THIS RECOMMENDATION HAS BEEN ACCOMPLISHED

The GTS provides tools to assist the court in carrying out the function prescribed by Act 114 of 2018, which amended Title 20, and states that not less than quarterly, clerks of Orphans' Courts shall transmit to the court a list of guardians who are 30 days delinquent in filing reports required by law. The court is required to take appropriate enforcement action with regard to such guardians and develop procedures for the examination of the annual reports to ensure that guardians are acting in the best interests of IPs.

New Rule 14.8 designates either the clerk or the court's designee to monitor the guardianship docket to confirm compliance with reporting requirements. In its explanatory comment to the Rule, the OCPRC notes the Rule is silent as to the manner of proceeding when reports are deficient or warrant further investigation, or when the guardian is recalcitrant after being given notice by the clerk or the court's designee. In its discretion, the court may order further documentation, conduct a review hearing, or take further action as may be deemed necessary, including, but not limited to, removal of the guardian or contempt proceedings.

**RECOMMENDATION 64:** The Task Force recommends that the Clerks of the Orphans' Court, through amendment to the Orphans' Court Procedural Rules, be responsible for providing delinquency notices to guardians when required reports become past due. See *Guardianship Monitoring Committee Report*, §IV.C.4. (Page 119).

√ THE IMPLEMENTATION OF THIS RECOMMENDATION HAS BEEN ACCOMPLISHED

New Rule 14.8 provides that either the clerk or the court's designee should notify the guardian and ultimately the court if any report is delinquent or incomplete by more than 20 days.

The GTS provides tools to assist the court in carrying out the function prescribed by Act 114 of 2018, which amended Title 20, and states that not less than quarterly, clerks of Orphans' Courts shall transmit to the court a list of guardians who are 30 days delinquent in filing reports required by law. The court is required to take appropriate enforcement action with regard to such guardians and develop procedures for the examination of the annual reports to ensure that guardians are acting in the best interests of IPs.

**RECOMMENDATION 65:** The Task Force recommends that the judge or judge's staff be required, through amendment to the Orphans' Court Procedural Rules, to review the content of all inventories and annual reports received by the court to identify areas requiring further scrutiny, additional documentation, or a review hearing. See *Guardianship Monitoring Committee Report*, §IV.C.6. (Page 119).

√ THE IMPLEMENTATION OF THIS RECOMMENDATION HAS BEEN ACCOMPLISHED

While the implementation of this recommendation has been accomplished, work is ongoing.

New Rule 14.8 provides that either the court or its designee review the filed reports. In its explanatory comment to the Rule, the OCPRC noted the Rule is silent as to the manner of proceeding when reports are deficient or warrant further investigation, or when the guardian is recalcitrant after

being given notice by the clerk or the court's designee. In its discretion, the court may order further documentation, conduct a review hearing, or take further action as may be deemed necessary, including, but not limited to, removal of the guardian or contempt proceedings.

The GTS provides tools to assist the court in carrying out the function prescribed by Act 114 of 2018, which amended Title 20, and states that not less than quarterly, clerks of Orphans' Courts shall transmit to the court a list of guardians who are 30 days delinquent in filing reports required by law. The court is required to take appropriate enforcement action with regard to such guardians and develop procedures for the examination of the annual reports to ensure that guardians are acting in the best interests of IPs.

## RECOMMENDATIONS TO THE OFFICE OF ELDER JUSTICE IN THE COURTS AND TO THE ADVISORY COUNCIL ON ELDER JUSTICE IN THE COURTS

**RECOMMENDATION 66:** The Task Force recommends that the OEJC, in conjunction with the local GSA [guardianship support agency], if one exists, coordinate the creation of a list of individuals and agencies qualified to act as guardian of the person to be referred to when family and friends are not viable options to serve as guardian. See *Guardians and Counsel Committee Report, §I.C.1.a.ii. (Page 34.)*

### √ THE IMPLEMENTATION OF THIS RECOMMENDATION HAS BEEN ACCOMPLISHED

The GTS will include in its database all guardians appointed by any judge in any county. The GTS provides the guardians with the capability to input their data into GTS, including in which counties they are willing to serve and accept appointments. Court staff then has the ability to search the GTS database for all professional guardians or they can restrict the search by county. While there is no list that will imply court approval of the listed guardians, court staff can identify guardians who have delinquent reports or who are the subject of an alert in the GTS.

**RECOMMENDATION 67:** The Task Force recommends that the OEJC develop training for guardians, judges, court administrative staff, attorneys and others involved in guardianship matters. See *Guardians and Counsel Committee Report, §II.C.1.c. (Page 39) and §X.C.1.a. (Page 55).*

### √ THE IMPLEMENTATION OF THIS RECOMMENDATION HAS BEEN ACCOMPLISHED

While the implementation of this recommendation has been accomplished, work is ongoing.

Implementation of this recommendation began in 2015. Through a grant, the York County Court and the OEJC developed curriculum and written materials for a training program for family/lay guardians. Several presentations of the training program were held to test the curriculum before the grant expired. In December 2015, the York County Court was awarded \$5,000 by the York County Bar Foundation to refine the curriculum and made multiple presentations of the training program. The York County Court and the OEJC provided an educational program on guardianships for attorneys presented through the York County Bar Foundation. The OEJC also worked with the Advisory Council and Judicial Education on the development of educational programs for judges and attorneys.

In 2017, the OEJC awarded a contract to Temple University's Institute for Protective Services in Harrisburg for the development of an educational session for judges and a training program for court staff to be informed by the American Bar Association's (ABA) 29 Recommended Guidelines for State Courts to Increase Access to Justice.

Throughout 2018, several educational sessions were held for guardians, judges, court administrative staff, and attorneys. The OEJC, in conjunction with Temple University’s Institute for Protective Services, presented, “Elder Abuse and Exploitation: Practical Tools for Ensuring Access to Justice” to judges, court staff, orphans’ court clerks’ staff, and district attorney victim witness coordinators. The OEJC also piloted a free training program for family and lay guardians, “Fundamentals of Guardianship: What Family Guardians Need to Know,” in several counties. This training program will continue to be offered in 2019.

A list of the training programs and educational presentations for guardians, judges, court administrative staff, attorneys, and others involved in guardianship matters made by Advisory Council members may be found in Appendix B.

**RECOMMENDATION 68: The Task Force recommends that the training developed by the OEJC for guardians be divided into pre-service training and some form of continuing education that would include training on the powers, duties and responsibilities of the guardian, including reporting requirements, ethics and liability. See *Guardians and Counsel Committee Report, §X.C.1.c. (Page 56).***

√ THE IMPLEMENTATION OF THIS RECOMMENDATION HAS BEEN ACCOMPLISHED

While the implementation of this recommendation has been accomplished, work is ongoing.

The family/lay guardian training program developed by the York County Court and the OEJC includes instruction on the powers, duties, and responsibilities of a guardian (including reporting requirements, ethics, and liability).

In 2018, the OEJC piloted a free training program for family and lay guardians, “Fundamentals of Guardianship: What Family Guardians Need to Know,” in several counties. This program will continue to be offered in 2019.

**ORIGINAL RECOMMENDATION 69: The Task Force recommends that the Supreme Court, through the OEJC, encourage local courts to develop interdisciplinary teams modeled after the existing Children’s Roundtable Initiative to advise and support guardians and the court. See *Guardians and Counsel Committee Report, §II.C.1.d.***

The Advisory Council decided to move forward with developing interdisciplinary teams at the county level, and thus revised this Recommendation, removing “modeled after the existing Children’s Roundtable Initiative” from the Task Force’s original recommendation due to the lack of a funding stream similar to that which is available to the Children’s Roundtable.

**REVISED RECOMMENDATION 69: The Task Force recommends that the Supreme Court, through the OEJC, encourage local courts to develop interdisciplinary teams to advise and support guardians and the court. See *Guardians and Counsel Committee Report, §II.C.1.d. (Rev. 10/14/15) (Page 39.)***

THE IMPLEMENTATION OF THIS RECOMMENDATION IS IN PROGRESS

The Advisory Council discussed how to facilitate the development of interdisciplinary teams, and whether to reach out to existing county elder abuse task forces (EATF) or to create interdisciplinary teams to address guardianship issues. The Advisory Council also considered how to make existing EATFs more effective and to encourage counties without an EATF to create one.

In June 2017, Justice Todd sent a letter to all president judges seeking their collaboration with the Advisory Council and providing information regarding a free consultation available from Temple University’s Institute for Protective Services for counties interested in establishing an elder justice interdisciplinary team or a regional EATF. The letter also made the president judges aware of the Task

Force's recommendations and the work of the Advisory Council. Similar letters were sent in August 2017 from Judge Ott to county commissioners, district attorneys, and Area Agency on Aging (AAA) directors.

The letters requested that counties notify the OEJC of their interest in participating in either a regional forum or a statewide summit on the subject of interdisciplinary teams and EATFs. Responses indicated a preference for regional forums. In December 2017, the Advisory Council determined the regional forums would be put on hold until after conclusion of the presentations of the educational sessions for judges and training programs for court staff informed by the ABA's 29 Recommended Guidelines for State Courts to Increase Access to Justice. Feedback obtained from the evaluations from the spring and fall educational sessions for judges and training programs for court staff will be utilized in the development and planning of the regional forums. In 2018, the Advisory Council held preliminary discussion on the format and content of the regional forums.

**RECOMMENDATION 70: The Task Force recommends that the Supreme Court, through the OEJC, encourage the creation of local GSAs to be relied upon to take an active role in the implementation of education and training, and to support local guardianship improvement. See *Guardians and Counsel Committee Report*, §II.C.1.e. (Page 40) and §X.C.1.d. (Page 56).**

THE IMPLEMENTATION OF THIS RECOMMENDATION IS YET TO BE ADDRESSED

**RECOMMENDATION 71: The Task Force recommends that the Supreme Court, through the OEJC, develop a program for the certification of professional guardians. See *Guardians and Counsel Committee Report*, §II.C.1.f (Page 40) and §X.C.1.b. (Page 55-56).**

THE IMPLEMENTATION OF THIS RECOMMENDATION IS IN PROGRESS

The implementation of this recommendation began in 2015 with the GCMC collecting and reviewing information relating to the certification of guardians. The GCMC considered the definition of a "professional guardian," and studied whether the imposition of a certification requirement could be done by rule, legislation, or as a best practice.

In 2016, the GCMC determined research is needed on identifying funding sources for certification when the IP does not have sufficient funds, fees for certification and best practices regarding certification. In April 2016, the Center for Guardianship Certification made a presentation to the Advisory Council regarding the certification process and indicated its willingness to customize its testing requirement for Pennsylvania. There is no cost to the Commonwealth to establish certification, as the Center for Guardianship Certification would perform all functions and provide a registry system.

Discussions are ongoing between the Advisory Council and the Center for Guardianship Certification.

**RECOMMENDATION 72: The Task Force recommends that the Supreme Court, through the OEJC, develop a program for the mandatory education and training of individual guardians on matters of liability and ethics. See *Guardians and Counsel Committee Report*, §III.C.1.a. (Page 43.)**

√ THE IMPLEMENTATION OF THIS RECOMMENDATION HAS BEEN ACCOMPLISHED

While the implementation of this recommendation has been accomplished, work is ongoing.

The family/lay guardian training program developed by the York County Court and the OEJC includes instruction on matters of liability and ethics. The Advisory Council is allocating funds to present training for family/lay guardians. The free training program, "Fundamentals of Guardianship: What

Family Guardians Need to Know,” was piloted in several counties in late 2018. This program will continue to be offered in 2019.

**RECOMMENDATION 73:** The Task Force recommends that the Supreme Court, through the OEJC, develop a program for the mandatory education and training of individual guardians that will be required before assuming their duties. See *Guardians and Counsel Committee Report*, §IV.C.1.c. (Pages 44-45).

THE IMPLEMENTATION OF THIS RECOMMENDATION IS IN PROGRESS

The family/lay guardian training program developed by the York County Court and the OEJC includes instruction for individual guardians. While training is not required before assuming their duties as guardian, the Advisory Council has allocated funds to present training for family/lay guardians. The free training program, “Fundamentals of Guardianship: What Family Guardians Need to Know”, was piloted in several counties in late 2018, and will continue to be offered in 2019.

**RECOMMENDATION 74:** The Task Force recommends that the Advisory Council and the OEJC study funding sources, such as the state lottery, to develop guardianship support services and provide small tax deductions to guardians for certain guardianship expenses to determine how best to implement them. See *Guardians and Counsel Committee Report*, §VI.C.1.a & c. (Page 47).

THE IMPLEMENTATION OF THIS RECOMMENDATION IS YET TO BE ADDRESSED

As its work proceeds, the Advisory Council will examine all potential funding sources.

**RECOMMENDATION 75:** The Task Force recommends that the OEJC work with SSA, VA, RRB [Railroad Retirement Board] and other federal representative-payment and fiduciary programs to develop a system for greater information sharing on adult guardianships. See *Elder Abuse and Neglect Committee Report*, §II.C.5. (Page 201).

THE IMPLEMENTATION OF THIS RECOMMENDATION IS IN PROGRESS

The Advisory Council and the OEJC are moving forward with this recommendation. In December 2016, Assistant U.S. Attorneys Fullmer and Sullivan made a presentation to the Advisory Council regarding the Federal Elder Justice Initiative and how the U.S. Attorney’s Office can collaborate with the Advisory Council. In March and October 2017, the OEJC and members of the Advisory Council attended the U.S. Attorney’s Office’s regional Elder Justice Task Force meetings and discussed whether data on abusive representative payees/fiduciaries for SSA and VA benefits is available to the courts, and the guardianship data its federal colleagues would receive from the GTS. In late 2017, OEJC staff, IT, and Vice-Chair Zig Pines had subsequent conversations with DOJ regarding providing a communications link to SSA to discuss the possibility of a formal data sharing agreement and other issues regarding representative-payment programs, and followed up with the U.S. Attorney’s Office to advise about the communications with DOJ, the data to be collected by the GTS, the criminal court case data AOPC can share, and to continue discussions on the possibility of a formal data sharing agreement. The OEJC participated in conference calls with SSA representatives and other states’ Working Interdisciplinary Networks of Guardianship Stakeholders groups to begin a dialogue about how courts with guardianship jurisdiction can best coordinate with the SSA’s representative payee program. Throughout 2018, the OEJC held further discussions with the U.S. Attorney’s Office for the Eastern District of Pennsylvania on the collection and exchange of data on adult guardianships. Discussions continue.

**RECOMMENDATION 76:** The Task Force recommends that the OEJC equip and assist local agencies in developing methods to retain guardians, focusing on helping agencies handle more guardianships as an alternative to relying on ill-equipped family members, and encouraging and expanding the use of GSAs. See *Guardians and Counsel Committee Report*, §VI.C.1.d, e, and f. (Page 47).

THE IMPLEMENTATION OF THIS RECOMMENDATION IS YET TO BE ADDRESSED

**RECOMMENDATION 77:** The Task Force recommends that the OEJC: develop free training for non-attorney guardians on filing required documents; put helpful “how to” videos online to answer questions and provide more detailed instructions for the completion of guardianship tasks such as filing reports and inventories; and encourage a dialogue with federal agencies such as the SSA, VA and RRB [Railroad Retirement Board], which administer representative-payment and fiduciary programs, to develop training for guardians who manage an IP’s benefits. See *Guardians and Counsel Committee Report, §VI.C.1. g, i and j (Page 47), and §X.C.1.e., f. and g. (Page 56).*

THE IMPLEMENTATION OF THIS RECOMMENDATION IS IN PROGRESS

The family/lay guardian training program developed by the York County Court and the OEJC includes instruction on filing required documents, but online videos will not be created until after the training program is refined. The Advisory Council has allocated funds to present training for family/lay guardians. This free training program, “Fundamentals of Guardianship: What Family Guardians Need to Know,” was piloted in several counties in late 2018 and includes, among other things, instructions for the completion of guardianship tasks such as filing reports and inventories. This program will continue to be offered in 2019. Resources for guardians on the GTS, including a help center, reference documents and video tutorials are available to guardians through the Unified Judicial System’s web portal at <https://ujportal.pacourts.us>. The Unified Judicial System also offers a number of resources for guardians on the judiciary’s website at [www.pacourts.us](http://www.pacourts.us).

In December 2016, Assistant U.S. Attorneys Fullmer and Sullivan made a presentation to the Advisory Council regarding the Federal Elder Justice Initiative and how the U.S. Attorney’s Office can collaborate with the Advisory Council and provide training to the Advisory Council or other elder justice agencies. In 2017, the OEJC began participating in conference calls with SSA representatives and other states’ Working Interdisciplinary Networks of Guardianship Stakeholders groups to begin a dialogue on how courts with guardianship jurisdiction can best coordinate with the SSA’s representative payee program. Discussions continue.

**RECOMMENDATION 78:** The Task Force recommends that the Advisory Council and the OEJC study the Third National Guardianship Summit Recommendations for Action §§ 3.1-3.8, pertaining to fees, to determine to what extent these recommendations should be adopted in Pennsylvania. See *Guardians and Counsel Committee Report, §IX.C.1.f. (Page 54).*

THE IMPLEMENTATION OF THIS RECOMMENDATION IS IN PROGRESS

The GCMC has studied, and discussions continue on, the issue of fees for guardians for the services they provide to IPs. Best practices regarding fees for guardians are included in the Guardianship Bench Book.

**RECOMMENDATION 79:** The Task Force recommends that the Advisory Council and the OEJC explore the feasibility of asking the General Assembly to establish a fund to pay for guardianship services for those with limited available resources. See *Guardians and Counsel Committee Report, §IX.C.1.g. (Page 54).*

THE IMPLEMENTATION OF THIS RECOMMENDATION IS YET TO BE ADDRESSED

**RECOMMENDATION 80:** The Task Force recommends that the OEJC work with the SSA, VA and the Department of Aging to establish a collaboration process among the agencies to establish a notification system to share information when it is found that a representative payee is abusing an incapacitated person. See *Guardianship Monitoring Committee Report, §V.C.8. (Page 123).*

THE IMPLEMENTATION OF THIS RECOMMENDATION IS IN PROGRESS



The Advisory Council and the OEJC are moving forward with this recommendation. In December 2016, Assistant U.S. Attorneys Fullmer and Sullivan made a presentation to the Advisory Council regarding the Federal Elder Justice Initiative and how the U.S. Attorney’s Office can collaborate with the Advisory Council. In 2017, the OEJC and members of the Advisory Council attended the U.S. Attorney’s Office’s regional Elder Justice Task Force meetings, including one focused on financial scams, and continued discussions on whether data on abusive representative payees/fiduciaries for SSA and VA benefits is available to the courts, and the guardianship data its federal colleagues would receive from the GTS. In late 2017, OEJC staff and Vice-Chair Zig Pines had subsequent conversations with DOJ regarding providing a communications link to SSA to discuss the possibility of a formal data sharing agreement and other issues regarding representative-payment programs, and followed up with the U.S. Attorney’s Office to advise about the communications with DOJ, the data to be collected by the GTS, the criminal court case data AOPC can share, and to continue discussions on the possibility of a formal data sharing agreement. The OEJC participated in conference calls with SSA representatives and other states’ Working Interdisciplinary Networks of Guardianship Stakeholders groups to begin a dialogue about how courts with guardianship jurisdiction can best coordinate with the SSA’s representative payee program.

Throughout 2018, the OEJC held further discussions with the U.S. Attorney’s Office on the collection and exchange of data. Discussions continue.

**RECOMMENDATION 81: The Task Force recommends that the Advisory Council and the OEJC study NGA [National Guardianship Association] Standards 12 and 17 to ascertain whether these standards can be adopted by court rule or if legislation is required. See *Guardians and Counsel Committee Report*, §II.C.1.a. (Page 36).**

THE IMPLEMENTATION OF THIS RECOMMENDATION IS IN PROGRESS

National Guardianship Association Standard 12 concerns the duties of the guardian of the person. Standard 17 concerns duties of the guardian of the estate. These standards are currently being studied by the GCMC as training programs and resource materials for guardians are being developed.

**RECOMMENDATION 82: The Task Force recommends that the OEJC, in conjunction with the help of a working group composed of guardianship stakeholders, develop and offer a fee schedule as a model uniform court rule for compensation of guardians. See *Guardians and Counsel Committee Report*, §IX.C.1.a, b, c, and d. (Page 53).**

THE IMPLEMENTATION OF THIS RECOMMENDATION IS IN PROGRESS

The GCMC is currently studying the matter of a proposed fee schedule for services provided to IPs by guardians.

**RECOMMENDATION 83: The Task Force recommends that the OEJC provide training for judges and guardians on the recommended Bills of Rights provided in the Guardianship Monitoring Committee Report, §VI.C.1. See *Guardianship Monitoring Committee Report*, §VI.C.2. (Page 124.)**

✓ THE IMPLEMENTATION OF THIS RECOMMENDATION HAS BEEN ACCOMPLISHED

While the implementation of this recommendation has been accomplished, work is ongoing.

Throughout 2018, several educational sessions were held for guardians, judges, court administrative staff, and attorneys. The OEJC, in conjunction with Temple University’s Institute for Protective Services, presented, “Elder Abuse and Exploitation: Practical Tools for Ensuring Access to Justice” to judges, court staff, Orphans’ Court clerks’ staff, and district attorney victim witness coordinators.

In addition, best practices regarding the Bill of Rights of an IP are included in the Guardianship Bench Book.

**RECOMMENDATION 84:** The Task Force recommends that the OEJC develop a guide for guardians that includes information about the minimum standards of care for an incapacitated person, and the expectations for and responsibilities of the guardian, including requiring the guardian to maintain in-person contact with the IP at a minimum of once per quarter or more often as appropriate. See *Guardianship Monitoring Committee Report*, §VI.C.3. (Page 124).

THE IMPLEMENTATION OF THIS RECOMMENDATION IS YET TO BE ADDRESSED

The family/lay guardian training program currently being piloted is anticipated to provide much of the content for this recommended guide.

**RECOMMENDATION 85:** The Task Force recommends that, in order to provide the IP with access to justice, the OEJC and Advisory Council research the impact of requiring the court-appointed attorney to make contact with the IP on an annual basis on the current funding stream. See *Guardianship Monitoring Committee Report*, §VI.C.4. (Page 125).

THE IMPLEMENTATION OF THIS RECOMMENDATION IS YET TO BE ADDRESSED

**RECOMMENDATION 86:** The Task Force recommends that the possibility of piloting a program similar to the Court Appointed Special Advocates (“CASA”) be researched by the OEJC and the Advisory Council to provide a volunteer advocate for the AIP throughout the guardianship process who could alert the court of any observed wrongdoing. See *Guardianship Monitoring Committee Report*, §VI.C.6. (Page 125).

THE IMPLEMENTATION OF THIS RECOMMENDATION IS YET TO BE ADDRESSED

**RECOMMENDATION 87:** The Task Force recommends that the Advisory Council examine how an effective complaint form and process, specific to guardianships, can be implemented among the appropriate stakeholders. See *Guardianship Monitoring Committee Report*, §VI.C.5. (Page 125).

√ THE IMPLEMENTATION OF THIS RECOMMENDATION HAS BEEN ACCOMPLISHED

Instead of the creation of a complaint form and process for implementation among appropriate stakeholders, the Advisory Council established a procedure whereby complaints by the public addressed to the Council regarding elder justice matters are reviewed by the OEJC and referred to the appropriate agency for resolution.

**RECOMMENDATION 88:** The Task Force recommends that the Advisory Council study the feasibility and benefits of collaborating with and encouraging colleges, universities, and law schools to develop elder clinics and other programs to assist elder Pennsylvanians in accessing social services and, with appropriate supervision, drafting or reviewing simple documents, such as a power of attorney or living will. The development of such elder clinics could provide tremendous benefits to elder Pennsylvanians. See *Elder Abuse and Neglect Committee Report*, §III.C.4.c. (Page 213).

√ THE IMPLEMENTATION OF THIS RECOMMENDATION HAS BEEN ACCOMPLISHED

While the implementation of this recommendation has been accomplished, work is ongoing.

In 2016, the EANC surveyed law school clinics and pro bono programs across the Commonwealth which assist elders on issues of safety, security, and shelter. In 2017, the Supreme Court met with Pennsylvania law school deans to encourage law schools to focus on elder abuse and/or financial exploitation in their clinical programs.

Attorney Mary Catherine Scott explored the creation of student externships by making outreach to the Dean of Widener University Commonwealth Law School to discuss Widener’s program serving as a model for the possible creation of student externships. Attorney Scott also discussed the creation of student externships with Dauphin County’s AAA director, District Attorney, and court administrator, as well as Dauphin County Bar Association’s pro bono director.

In January 2018, Justice Todd wrote to the law school deans encouraging the law schools to specifically focus on the critical issues of elder justice, elder abuse, or financial exploitation as they formulate their new clinical and pro bono programs.

In November 2018 Justice Todd wrote to the law school deans advising them that they would be contacted by members of the Advisory Council to set up meetings to discuss ways law schools can be a part of the national effort to increase elder justice in courts.

In December 2018, Vice-Chair Zig Pines, President Judge Zanic, President Judge Woods-Skipper, DA Stephen Zappala, DA Eugene Vittone, Karen Buck, John Kennedy, Mary Catherine Scott, and Darren Breslin made presentations to the Deans of Villanova, Penn, Temple, Widener, Duquesne, and Pitt Law Schools to explain the work of the Task Force and the Advisory Council. The problems of access to justice and abuse and neglect were highlighted, and the possibility of law schools adding elder justice classes to their curriculum was discussed. The needs and issues facing law schools and their civil law clinics were also discussed.

**RECOMMENDATION 89:** The Task Force recommends that the Advisory Council, with the assistance of the OEJC, study the advisability and feasibility of creating and supporting guardianship mediation programs in Pennsylvania. If the Advisory Council determines that such programs are advisable and feasible, it should also study the questions of program structure and implementation. See *Overarching Administrative Findings and Recommendations, §V.C. (Page 224)*.

THE IMPLEMENTATION OF THIS RECOMMENDATION IS YET TO BE ADDRESSED

**RECOMMENDATION 90:** The Task Force recommends that the Advisory Council study the feasibility and implications of allocating a portion of filing fees in guardianship cases that involve significant assets to funding initiatives in this Report. See *Overarching Administrative Findings and Recommendations, §IX.C.2. (Page 229)*.

THE IMPLEMENTATION OF THIS RECOMMENDATION IS YET TO BE ADDRESSED

**RECOMMENDATION 91:** The Task Force recommends that the Advisory Council consider, and, if appropriate, the Supreme Court adopt the ABA’s 29 recommended guidelines for state courts to increase access to justice for Pennsylvania elders. See *Elder Abuse and Neglect Committee Report, §III.C.4.a. (Page 213)*.

√ THE IMPLEMENTATION OF THIS RECOMMENDATION HAS BEEN ACCOMPLISHED

While the implementation of this recommendation has been accomplished, work is ongoing.

The EANC categorized and studied the ABA’s 29 Recommended Guidelines, and determined the guideline priorities should be: 1) regional training programs on elder abuse/neglect, capacity, and an overview of local aging network services provided to judges, court administrators, and court personnel; and 2) four supplemental webinars on the guidelines (financial exploitation, other forms of abuse and neglect, best practices for judges handling cases involving elders, and elder capacity issues).

At the request of the Advisory Council, the Supreme Court considered adoption of the ABA’s 29 Recommended Guidelines, but instead authorized the Advisory Council and the OEJC to move

forward with coordinated efforts to develop and implement measures that are consistent with the ABA's 29 Recommended Guidelines. An award was made to Temple University's Institute for Protective Services for an educational session for judges and a training program for court staff to be informed by the ABA's 29 Recommended Guidelines. In August 2017, the Advisory Council's chair and vice-chair, OEJC staff, and trainers from Temple University met to review project expectations and discuss content for the judge and court staff training modules.

Through its contract with Temple University, the OEJC presented the educational session, "Elder Abuse and Exploitation: Practical Tools for Assuring Access to Justice," to 34 common pleas judges regionally during the spring and fall of 2018. Concurrently, a similar training program was presented to 118 court staff. The training program is now being considered for presentation to magisterial district judges as part of their continuing education.

## RECOMMENDATIONS TO THE LEGISLATIVE BRANCH

*All recommendations, and any supplemental information provided to the legislature relative to the work of the Task Force or the Advisory Council represent the views of the members of the Task Force or the Advisory Council and are not intended to convey an official position of the Supreme Court or the AOPC.*

**RECOMMENDATION 92: The Task Force recommends that the proposed change to 20 Pa.C.S.A. § 5521(g) be removed from Senate Bill 117 of 2013, Pr. No. 73. See *Guardians and Counsel Committee Report*, §III.C.1.b. (Page 43).**

### THE IMPLEMENTATION OF THIS RECOMMENDATION IS IN PROGRESS

Senate Bill 117 has been reintroduced in two subsequent legislative sessions since 2013. Although the bill number has changed each session, the content of the bill has not. Discussions of this legislation by the Advisory Council have evolved in the years since the Task Force report was issued. The Advisory Council decided that, in addition to the underlying recommendation, the legislation should be amended to clarify that guardians must seek the approval of the Orphans' Court division having jurisdiction over the guardianship of any compromises or settlements of claims by or against the estate or for the payment of counsel fees and other expenses – a concept endorsed by the Advisory Committee on Decedents' Estates Laws of the Joint State Government Commission. In addition, Senator Arthur Haywood sought to amend the bill to require the appointment of counsel to represent AIPs, provide for state and federal criminal background checks for individuals seeking to become guardians, and require certification of professional guardians. Each of these concepts was supported by the Advisory Council. The 2017-18 legislative session expired before the amendments could be adopted.

Relatedly, Senate Bill 1115 was introduced by Senator Patrick Browne. Among other provisions, the bill included language requiring the approval of the Orphans' Court division of compromises or settlements or the payment of counsel fees and other expenses. The 2017-18 legislative session expired before the bill was considered.

**RECOMMENDATION 93: The Task Force recommends that the General Assembly provide guidance as to what the courts should consider "cause shown" in proposed new 20 Pa.C.S. § 5515.3 in Senate Bill 117 of 2013, Pr. No. 73 and clarify whether determinations of "cause shown" would be appealable. See *Guardians and Counsel Committee Report*, §V.C.1.a. (Page 46).**

### THE IMPLEMENTATION OF THIS RECOMMENDATION IS IN PROGRESS

Senate Bill 117 has been reintroduced in two subsequent legislative sessions since 2013. Although the bill number has changed each session, the content of the bill has not. Discussions of this legislation

by the Advisory Council have evolved in the years since the Task Force report was issued. The Advisory Council decided that, in addition to the underlying recommendation, the legislation should be amended to clarify that guardians must seek the approval of the Orphans' Court division having jurisdiction over the guardianship of any compromises or settlements of claims by or against the estate or for the payment of counsel fees and other expenses – a concept endorsed by the Advisory Committee on Decedents' Estates Laws of the Joint State Government Commission. In addition, Senator Arthur Haywood sought to amend the bill to require the appointment of counsel to represent AIPs, provide for state and federal criminal background checks for individuals seeking to become guardians, and require certification of professional guardians. Each of these concepts was supported by the Advisory Council. The 2017-18 legislative session expired before the amendments could be adopted.

Relatedly, Senate Bill 1115 was introduced by Senator Patrick Browne. Among other provisions, the bill included the language requiring the approval of the Orphans' Court division of compromises or settlements or the payment of counsel fees and other expenses. The 2017-18 legislative session expired before the bill was considered.

**RECOMMENDATION 94:** The Task Force recommends that the General Assembly set a minimum total value for an estate before making a bond mandatory in every situation. See *Guardians and Counsel Committee Report, §V.C.1.b. (Page 46)*.

THE IMPLEMENTATION OF THIS RECOMMENDATION IS YET TO BE ADDRESSED

**RECOMMENDATION 95:** The Task Force recommends that the General Assembly enact legislation allowing the acceptance of forms of financial security for guardians other than bonds. See *Guardians and Counsel Committee Report, §V.C.1.d. (Page 46)*.

THE IMPLEMENTATION OF THIS RECOMMENDATION IS YET TO BE ADDRESSED

**RECOMMENDATION 96:** The Task Force recommends that the General Assembly establish a fund to pay for guardianship services for those with limited resources. See *Guardians and Counsel Committee Report, §IX.C.1.g. (Page 54)*.

THE IMPLEMENTATION OF THIS RECOMMENDATION IS YET TO BE ADDRESSED

**RECOMMENDATION 97:** The Task Force recommends that adequate funding be provided to support the Clerks of the Orphans' Court and Judges in their ability to fulfill their guardianship monitoring responsibilities. See *Guardianship Monitoring Committee Report, §IV.C.10. (Page 120)*.

✓ THE IMPLEMENTATION OF THIS RECOMMENDATION HAS BEEN ACCOMPLISHED

The goal of this recommendation shifted focus to AOPC/IT working within its own budget to design, create, and maintain a statewide guardianship report and tracking system (GTS). The GTS supports judges and clerks of the Orphans' Court in fulfilling their guardianship monitoring responsibilities.

**RECOMMENDATION 98:** The Task Force recommends that adequate funding be provided to support the Clerks of the Orphans' Court in their ability to implement a local case management system. See *Guardianship Monitoring Committee Report, §V.C.9. (Page 123)*.

✓ THE IMPLEMENTATION OF THIS RECOMMENDATION HAS BEEN ACCOMPLISHED

The goal of this recommendation shifted focus to AOPC/IT working within its own budget to design, create, and maintain a statewide guardianship report and tracking system (GTS). The GTS provides local case management of guardianship functionality.

**RECOMMENDATION 99:** The Task Force recommends that § 5515.1 of Senate Bill 117 of 2013, Pr. No. 73, addressing the grounds and procedures for removing and replacing guardians, be adopted into the Probate Code. See *Guardianship Monitoring Committee Report, §VI.C.7. (Page 125).*

THE IMPLEMENTATION OF THIS RECOMMENDATION IS IN PROGRESS

Senate Bill 117 has been reintroduced in two subsequent legislative sessions since 2013. Although the bill number has changed each session, the content of the bill has not. Section 5515.1 – providing for the removal and discharge of guardian – remained in the bill after the Senate Judiciary and Appropriation Committees voted to adopt the bill. The provision would have been part of the final bill had the full Senate voted on the bill. The 2017-18 legislative session expired before the final vote was taken.

**RECOMMENDATION 100:** The Task Force recommends that the General Assembly enact a statute consistent with §116 of the Uniform Power of Attorney Act (Standing). See *Elder Abuse and Neglect Committee Report, §I.C.1 (Page 195).*

THE IMPLEMENTATION OF THIS RECOMMENDATION IS IN PROGRESS

Section 116 of the Uniform Power of Attorney Act enumerates nine individuals or entities who may petition a court to construe a power of attorney or review the agent's conduct. Recommendation 100 seeks the adoption of Section 116 of the Act.

The Advisory Council endorsed the recommendations set forth in a September 20, 2016 concept paper, "Addressing Financial Exploitation of Elders: The Power of Attorney Problem," regarding the adoption of Section 116, and provided the concept paper to the chairmen of the House Aging and Older Adult Services Committee, the Senate Aging and Youth Committee, the House Judiciary Committee, and the Senate Judiciary Committee. The AOPC's legislative staff and Advisory Council member John Kennedy, Esquire, fielded and answered questions from legislative members and staff in response to the circulation of the concept paper.

In 2018, two bills were introduced to codify Section 116 – Senate Bills 1115 and 1207. Senate Bill 1115, introduced by Senator Patrick M. Browne, is a comprehensive bill that includes not only the codification of Section 116, but also a number of recommendations made by the Joint State Government Commission's Advisory Committee on Decedents' Estates Laws in its February 2018 report. Senate Bill 1207, introduced by Senator Arthur L. Haywood III, addresses only Section 116. Both bills would add the provisions of the Uniform Act as Section 5615 in Title 20. The 2017-18 legislative session expired before the bills could be adopted.

**ORIGINAL RECOMMENDATION 101:** The Task Force recommends enhanced mandatory minimum sentences, in addition to those listed in 42 Pa.C.S. § 9717, for the conviction of crimes against elders. See *Elder Abuse and Neglect Committee Report, §III.C.2.a. (Original Recommendation)*

In 2015, the Advisory Council revised this Recommendation by adding "and/or enhanced sentences" to the Recommendation of the Task Force.

**REVISED RECOMMENDATION 101:** The Task Force recommends consideration by the legislature of mandatory minimum and/or enhanced sentences, in addition to those listed in 42 Pa.C.S. § 9717, for the conviction of crimes against elders. See *Elder Abuse and Neglect Committee Report, §III.C.2.a. (Rev. 10/14/15) (Page 212).*

THE IMPLEMENTATION OF THIS RECOMMENDATION IS IN PROGRESS

While legislation providing for mandatory minimum or enhanced sentences for the conviction of crimes against elders has not been introduced, Judge Ott and President Judge Woods-Skipper have informed the Sentencing Commission of the Advisory Council's support for the concepts embodied in mandatory minimum and/or enhanced sentences. The Sentencing Commission plans to await legislative direction on the implementation of any mandatory minimum or enhanced sentences.

**RECOMMENDATION 102: The Task Force recommends that the General Assembly consider enacting amendments to the existing Pennsylvania Slayer's Statute, 20 Pa. C.S. §§ 8801-15, to include not only homicide, but also elder abuse, neglect and exploitation resulting in convictions of specified crimes. Such statutory expansion would be a progressive and significant step in addressing both prevention and remediation of serious elder abuse. See *Elder Abuse and Neglect Committee Report*, §III.C.3.b. (Page 213).**

**THE IMPLEMENTATION OF THIS RECOMMENDATION IS IN PROGRESS**

While legislation has not been introduced, preliminary discussions regarding Recommendation 102 were held between the AOPC's legislative staff and Representative Tim Hennessey and his staff.

In October 2017, a concept paper outlining the Advisory Council's position on the statutory expansion of the Slayer Statute, which included examples of statutes in other states which could be used as a template for legislation in Pennsylvania, was delivered to legislators interested in this policy expansion. Several states, including California and Michigan, have enacted such statutes. Discussions on the expansion of the statute continue.

**RECOMMENDATION 103: The Task Force recommends that the General Assembly consider how to provide greater and more consistent funding and support of civil legal aid, including services specifically targeted to low-income Pennsylvania elders. See *Elder Abuse and Neglect Committee Report*, §III.C.4.d. (Page 213).**

**THE IMPLEMENTATION OF THIS RECOMMENDATION IS IN PROGRESS**

As a part of the 2017-18 budget, the legislature provided for the direction of additional surcharge/fee revenue to the Access to Justice Account. Pursuant to statute, Access to Justice funding is utilized exclusively to provide civil legal assistance to poor and disadvantaged Pennsylvanians. Supreme Court rules determine eligibility for legal assistance under the law. Under the provisions passed as a part of the 2017-18 budget, a new \$2 temporary surcharge on numerous court filings was added. While no specific requirements exist in the law targeting funding to elders, it is estimated the new \$2 temporary surcharge will provide an additional \$7.2 million in annual revenue for the Access to Justice Account, which could benefit elder litigants.

**RECOMMENDATION 104: The Task Force recommends that the General Assembly enact a statute requiring financial institutions to be mandatory reporters of suspected financial abuse or exploitation of elders. See *Elder Abuse and Neglect Committee Report*, §I.C.2.a.i. (Page 196).**

**THE IMPLEMENTATION OF THIS RECOMMENDATION IS IN PROGRESS**

The role financial institutions play in the reporting of, and dealing with, financial abuse of elders has been a topic of discussion in the legislature for a number of years, including whether such reporting should be mandatory or voluntary, to what extent financial institutions should be required to train their employees in the recognition of financial abuse, and whether transactions should be blocked or delayed when financial institutions reasonably believe financial exploitation of elders may have occurred.

In December 2015, in recognition of financial institutions' pivotal role in detecting and preventing the suspected financial exploitation of elders, the Conference of State Court Administrators issued a

resolution in support of financial institutions collaboratively addressing suspected financial exploitation of elders.

In 2016, Representative Tim Hennessey introduced House Bill 786, which proposed amendments to the Older Adults Protective Services Act (OAPSA). The 2015-16 legislative session expired before the bill was considered. Throughout 2017, Representative Hennessey oversaw discussions between numerous stakeholders, including representatives of financial institutions and the Pennsylvania Department of Aging (Department of Aging) on the legislation. One of the topics of the stakeholder discussions was the inclusion of language in the bill requiring financial institutions to train employees to recognize financial exploitation, report elder abuse, and identify suspicious financial activities.

In 2018, comprehensive amendments to OAPSA were introduced by Representative Hennessey, House Bill 2549, and by Senator Robert Mensch, Senate Bill 899. The former bill received no action; the latter bill unanimously passed the Senate. Both bills contain provisions that would – generally – provide for training of financial service industry personnel to assist employees in recognizing signs of potential financial abuse, allow for the refusal of fund disbursements, or engage in transactions and freeze transactions in situations where financial exploitation may have occurred. The 2017-18 legislative session expired before the bills were considered.

**RECOMMENDATION 105: The Task Force recommends that the General Assembly statutorily require financial institutions to administer training programs to help identify, prevent, and report elder financial abuse. See *Elder Abuse and Neglect Committee Report*, §I.C.2.a.ii. (Page 196).**

#### THE IMPLEMENTATION OF THIS RECOMMENDATION IS IN PROGRESS

The role financial institutions play in the reporting of, and dealing with, financial abuse of elders has been a topic of discussion in the legislature for a number of years, including whether such reporting should be mandatory or voluntary, to what extent financial institutions should be required to train their employees in the recognition of financial abuse, and whether transactions should be blocked or delayed when financial institutions reasonably believe financial exploitation of elders may have occurred.

In October 2015, the Advisory Council was invited by the Pennsylvania Department of Banking and Securities to participate in a pilot program to educate lawyers, “Elder Investment Fraud and Financial Exploitation Prevention Program Legal (EIFFE),” to be developed in partnership with the ABA, Investor Protection Trust, and Investor Protection Institute. The EIFFE program is intended for practitioners in a wide array of specialties, such as administrative and government law, business law, elder law, family law, general practice, tax law, and trust and estate law. The OEJC was asked by the Pennsylvania Department of Banking and Securities to identify which Task Force recommendations could be accomplished through EIFFE. In May 2016, the OEJC and Advisory Council members were invited to participate in the first advisory board meeting for the EIFFE program. OEJC staff met subsequently with Pennsylvania Department of Banking and Securities staff to further refine the EIFFE program.

In December 2015, in recognition of financial institutions’ pivotal role in detecting and preventing the suspected financial exploitation of elders, the Conference of State Court Administrators issued a resolution in support of financial institutions collaboratively addressing suspected financial exploitation of elders.

In 2016, Representative Tim Hennessey introduced House Bill 786, which proposed amendments to OAPSA. The 2015-16 legislative session expired before the bill was considered. Throughout 2017, Representative Hennessey oversaw discussions between numerous stakeholders, including representatives of financial institutions and the Department of Aging on the legislation. One of the



topics of the stakeholder discussions was the inclusion of language in the bill requiring financial institutions to train employees to recognize financial exploitation, report elder abuse, and identify suspicious financial activities.

In 2018, comprehensive amendments to OAPSA were introduced by Representative Hennessey, House Bill 2549, and by Senator Robert Mensch, Senate Bill 899. The former bill received no action; the latter bill unanimously passed the Senate. Both bills contain provisions that would – generally – provide for training of financial service industry personnel to assist employees in recognizing signs of potential financial abuse, allow for the refusal of fund disbursements, or engage in transactions and freeze transactions in situations where financial exploitation may have occurred. The 2017-18 legislative session expired before the bills were considered.

**RECOMMENDATION 106: The Task Force recommends that the General Assembly statutorily authorize financial institutions to delay for five days suspicious financial transactions of elder customers. See *Elder Abuse and Neglect Committee Report*, §I.C.2.a.iii. (Page 196).**

**THE IMPLEMENTATION OF THIS RECOMMENDATION IS IN PROGRESS**

The role financial institutions play in the reporting of, and dealing with, financial abuse of elders has been a topic of discussion in the legislature for a number of years, including whether such reporting should be mandatory or voluntary, to what extent financial institutions should be required to train their employees in the recognition of financial abuse, and whether transactions should be blocked or delayed when financial institutions reasonably believe financial exploitation of elders may have occurred.

In December 2015, in recognition of financial institutions’ pivotal role in detecting and preventing the suspected financial exploitation of elders, the Conference of State Court Administrators issued a resolution in support of financial institutions collaboratively addressing suspected financial exploitation of elders. In 2016, Representative Tim Hennessey introduced House Bill 786, which proposed amendments to OAPSA. The 2015-16 legislative session expired before the bill was considered. Throughout 2017, Representative Hennessey oversaw discussions between numerous stakeholders, including representatives of financial institutions and the Department of Aging on the legislation. One of the topics of the stakeholder discussions was the inclusion of language in the bill requiring financial institutions to train employees to recognize financial exploitation, report elder abuse, and identify suspicious financial activities.

In 2018, comprehensive amendments to OAPSA were introduced by Representative Hennessey, House Bill 2579, and by Senator Robert Mensch, Senate Bill 899. The former bill received no action; the latter bill unanimously passed the Senate. Both bills contain provisions that would – generally – provide for training of financial service industry personnel to assist employees in recognizing signs of potential financial abuse, allow for the refusal of fund disbursements, or engage in transactions and freeze transactions in situations where financial exploitation may have occurred. The 2017-18 legislative session expired before the bills were considered.

**RECOMMENDATION 107: The Task Force recommends that the General Assembly increase funding to the Department of Aging to facilitate thorough investigations of alleged financial abuse. See *Elder Abuse and Neglect Committee Report*, §I.C.2.b. (Page 196).**

**THE IMPLEMENTATION OF THIS RECOMMENDATION IS YET TO BE ADDRESSED**

**RECOMMENDATION 108: The Task Force recommends that the General Assembly consider if all personal care homes, assisted living residences and home health care agencies should carry a minimum of liability insurance. See *Elder Abuse and Neglect Committee Report*, §I.C.2.f. (Page 196).**

THE IMPLEMENTATION OF THIS RECOMMENDATION IS YET TO BE ADDRESSED

**ORIGINAL RECOMMENDATION 109:** The Task Force recommends that the Legislature mandate the creation or continuation of Elder Abuse Task Forces in each county/judicial district to develop best practices, facilitate information sharing and enable and promote collaboration. See *Elder Abuse and Neglect Committee Report*, §II.C.3.

In October 2015, the Legislative Budget and Finance Committee (LBFC) staff made a presentation to the Advisory Council on its study of county EATFs. The study was conducted pursuant to House Resolution 929, which was passed unanimously by the House in 2014. The resolution required the LBFC to review the structure of each EATF and develop a profile of current task forces. The study was not available at the time the Task Force made its recommendation. Based on the study's results, the Advisory Council determined it should facilitate, rather than mandate, the creation or continuation of EATFs. In October 2015, the Advisory Council revised this Recommendation changing "mandate" to "facilitate" in Recommendation 109.

**REVISED RECOMMENDATION 109:** The Task Force recommends that the legislature facilitate the creation or continuation of EATFs in each county/judicial district to develop best practices, facilitate information sharing and enable and promote collaboration. See *Elder Abuse and Neglect Committee Report*, §II.C.3. (Rev. 10/14/15) (Page 200.)

THE IMPLEMENTATION OF THIS RECOMMENDATION IS IN PROGRESS

The Advisory Council decided to take steps to facilitate the development of interdisciplinary teams, and discussed whether to reach out to existing county EATFs or create interdisciplinary teams to address guardianship issues. The Advisory Council also considered how to make existing EATFs more effective and encourage counties without an EATF to create one.

In June 2017, Justice Todd sent a letter to all president judges seeking their collaboration with the Advisory Council and providing information regarding a free consultation available from Temple University's Institute for Protective Services for counties interested in establishing an elder justice interdisciplinary team or a regional EATF. The letter also made the president judges aware of the Task Force's recommendations and the work of the Advisory Council. Similar letters were sent in August 2017 from Judge Ott to county commissioners, district attorneys, and Area Agency on Aging directors.

The letters requested that counties notify the OEJC about their interest in participating in either a regional forum or a statewide summit on the subject of interdisciplinary teams and EATFs. Responses indicated a preference for regional forums. In December 2017, the Advisory Council determined the regional forums would be put on hold until after conclusion of the presentations of the educational sessions for judges and the training programs for court staff informed by the ABA's 29 Recommended Guidelines for State Courts to Increase Access to Justice. Feedback obtained from the evaluations from the spring and fall educational sessions for judges and training programs for court staff will be utilized in development and planning of the regional forums. In 2018, the Advisory Council held preliminary discussion on the format and content of the regional forums, included who should be invited.

**RECOMMENDATION 110:** The Task Force recommends that the General Assembly create a civil private right of action for elder abuse or exploitation, such as the one recognized in House Bill 2057 of 2014, Pr. No. 3054. An award of attorneys' fees or other sanctions may also be appropriate for the frivolous pursuit of causes of action alleging financial abuse or exploitation. See *Elder Abuse and Neglect Committee Report*, §III.C.3.a. (Page 213).

THE IMPLEMENTATION OF THIS RECOMMENDATION IS IN PROGRESS

The EANC was supportive of House Bill 2057 of 2014, which would allow any older adult who was injured by an act of financial exploitation or any person authorized to act on behalf of the older adult to institute an action in the court of common pleas to recover damages incurred by the older adult.

The Older Adults Protective Services Act does not define “financial exploitation.” However, it defines “exploitation” as an act or course of conduct by a caretaker or other person against an older adult or an older adult’s resources without the informed consent of the older adult, or with consent obtained through misrepresentation, coercion, or threats of force that result in monetary, personal, or other benefit, gain, or profit for the perpetrator, or monetary or personal loss to the older adult.

The House and Senate oversight committees continue their work on comprehensive amendments to OAPSA. A key component of any legislation amending OAPSA is defining the term “financial exploitation.” The consistent definition of this term is also important when considering other legislation, including establishing a civil private right of action for damages.

In 2018, House Bill 2549 was introduced by Representative Gary Day. The bill defines the term “financial exploitation,” and allows older adults injured by acts of financial exploitation or persons authorized to act on behalf of older adults to institute civil actions for damages. If it is proven by a preponderance of the evidence that defendants engaged in financial exploitation, the bill would allow courts to award reasonable attorneys’ fees and costs to the older adult, in addition to compensatory damages and other remedies provided by law. If it is proven by clear and convincing evidence that the financial exploitation was done willfully, wantonly, or maliciously, or was characterized by aggravating circumstances, the bill also allows for courts to award punitive damages. The 2017-18 legislative session expired before the bill was considered.

**RECOMMENDATION 111: The Task Force recommends that Clerks of the Orphans’ Court become employees of the Unified Judicial System of Pennsylvania. See *Overarching Administrative Findings and Recommendations*, §III.C.1. (Page 223).**

THE IMPLEMENTATION OF THIS RECOMMENDATION IS YET TO BE ADDRESSED

**RECOMMENDATION 112: The Task Force recommends that the General Assembly – in the interest of all Pennsylvanians – provide an annual appropriation to the Supreme Court for the implementation and ongoing support of the initiatives in this Report and explore other available sources of funding, such as the state lottery. See *Overarching Administrative Findings and Recommendations*, §IX.C.1. (Page 229).**

√ THE IMPLEMENTATION OF THIS RECOMMENDATION HAS BEEN ACCOMPLISHED

Since 2016, the OEJC has received an appropriation within the Unified Judicial System’s budget to continue the implementation of the Task Force’s recommendations and related initiatives of the Advisory Council. The appropriation also provides for expenses associated with meetings of the Advisory Council. The judiciary will continue to seek funding from the legislature, and the Advisory Council will continue to explore other possible sources of funding.

**RECOMMENDATION 113: The Task Force recommends that decisions whether to require a bond when a guardian of the estate is appointed remain at the discretion of the court. See *Guardians and Counsel Committee Report*, §V.C.1.c. (Page 46).**

THE IMPLEMENTATION OF THIS RECOMMENDATION IS IN PROGRESS

Senate Bill 117 has been reintroduced in two subsequent legislative sessions since 2013. Although the bill number has changed each session, the content of the bill has not. The GCMC examined provisions

governing bonding which were contained in Senate Bill 117, which is also the focus of Task Force Recommendations 92, 93, 94, and 99.

The latest version of the bill was voted unanimously by the Senate Judiciary and Appropriations Committees. The 2017-18 legislative session expired before the bill was considered further. Section 5515.3 governs bonds and establishes a general rule that guardians must execute and file bonds with sufficient surety in amounts considered by the court as necessary. Exceptions to the bonding requirement are prescribed, and courts have the discretion to not require bonds for cause shown. The Advisory Council was unable to recommend the new section without clarification as to what factors the courts should consider in regard to “cause shown” and whether such determinations are appealable. Section 5515.3 remained in the bill after the Committee votes and would have been part of the final vote had the Senate taken one. The legislature did not amend the provision to clarify the term “cause shown.”

## RECOMMENDATIONS TO THE EXECUTIVE BRANCH

**RECOMMENDATION 114:** The Task Force recommends that, to the greatest extent possible, information on identifying elder abuse and neglect be disseminated to the public in public forums, through the distribution of literature, and online. Elder Abuse Task Forces should determine the most effective ways of relaying this information to their communities. See *Elder Abuse and Neglect Committee Report*, §II.C.6. (Page 201).

### √ THE IMPLEMENTATION OF THIS RECOMMENDATION HAS BEEN ACCOMPLISHED

In October 2016, the OEJC, through AOPC’s STOP Violence Against Women Grant Application, sought funding to create an informational brochure and companion poster in English and Spanish on the warning signs of elder abuse and how to report suspected abuse.

The OEJC was awarded STOP grant funding in 2017 to create the informational elder abuse brochure and poster (which has tear-off sheets that provide the telephone number of the Department of Aging’s statewide elder abuse hotline). The brochures and posters have been distributed to all of the Commonwealth’s common pleas, magisterial district, and municipal courts to display and make available in public areas. Through a new collaboration with PA Forward, a statewide initiative of the Pennsylvania Library Association, the elder abuse brochures and posters will be made available in libraries throughout the Commonwealth. See the informational elder abuse brochure at Appendix E.

**RECOMMENDATION 115:** The Task Force recommends that the Pennsylvania Department of Aging determine if it should request copies of SARs [Suspicious Activity Reports] from the Pennsylvania Attorney General’s Office. See *Elder Abuse and Neglect Committee Report*, §I.C.2.a.iv. (Page 196).

### THE IMPLEMENTATION OF THIS RECOMMENDATION IS YET TO BE ADDRESSED

**RECOMMENDATION 116:** The Task Force recommends that the Department of Aging and financial institutions work together to determine the most effective and efficient way for AAAs to obtain financial records needed to conduct investigations of alleged financial abuse and exploitation. See *Elder Abuse and Neglect Committee Report*, §I.C.2.c.ii. (Page 196).

### THE IMPLEMENTATION OF THIS RECOMMENDATION IS YET TO BE ADDRESSED

**RECOMMENDATION 117:** The Task Force recommends that the OAG and the PSP [Pennsylvania State Police] make financial investigators available to assist local prosecutors and AAAs when complex cases of elder financial abuse are alleged. See *Elder Abuse and Neglect Committee Report*, §I.C.2.c.i. (Page 196).

### THE IMPLEMENTATION OF THIS RECOMMENDATION IS YET TO BE ADDRESSED

**RECOMMENDATION 118:** The Task Force recommends that the DHS [Department of Human Services] be encouraged to pay guardians who find alternatives to an IP's placement in a nursing home where the total cost to DHS for community-based services is 50% or less of the cost of a nursing home placement. This may be accomplished by amending the home and community-based waiver to allow guardianship support to be billable as a waiver service, either as part of an existing service category or as a new waiver service category. Such services would be reimbursed based on the guardian's direct time working with and on behalf of the IP. See *Overarching Administrative Findings and Recommendations, §VII.C. (Page 226)*.

THE IMPLEMENTATION OF THIS RECOMMENDATION IS IN PROGRESS

In 2018, the GCMC began to study fees for guardians for the services they provide to IPs and to discuss the implications of amending the home and community-based waiver to allow guardianship support to be billable as a waiver service. Discussions continue.

**RECOMMENDATION 119:** The Task Force recommends that DHS' policy be changed to allow the Orphans' Court to authorize payment of guardianship fees greater than \$100 per month where the court determines greater fees are necessary because of the amount of the guardian's time required to monitor and advocate for the incapacitated nursing home resident's needs. See *Overarching Administrative Findings and Recommendations, §VI.C. (Page 225)*.

THE IMPLEMENTATION OF THIS RECOMMENDATION IS IN PROGRESS

In 2018, the GCMC began to study fees for guardians for the services they provide to IPs, including the implications of increasing those fees higher than the current \$100 per month. Discussions continue.

## RECOMMENDATIONS TO THE FEDERAL GOVERNMENT

**RECOMMENDATION 120:** The Task Force recommends that the U.S. Congress act on the March 31, 2014 and April 11, 2014 requests made by U.S. Senators and U.S. Representatives to raise the 2015 VOCA cap. See *Overarching Administrative Findings and Recommendations, §X.C.1. (Page 231)*.

√ THE IMPLEMENTATION OF THIS RECOMMENDATION HAS BEEN ACCOMPLISHED

The federal Office for Victims of Crime administers the Crime Victims Fund, established under the 1984 Victims of Crime Act (VOCA) to help victims and victim service providers with program funding. The Crime Victims Fund comes from the collection of federal criminal fines and helps an average of 3.7 million victims of all types of crime every year. Congress raised the appropriations level of the Crime Victims Fund (VOCA cap) from \$745 million in fiscal year 2014, to more than \$2.3 billion in fiscal year 2015.

Congress again raised the VOCA cap to more than \$3 billion in fiscal year 2016. While Congress set the appropriations level of the VOCA cap at \$2.5 billion in fiscal year 2017, they again raised the cap to more than \$4.4 billion in fiscal year 2018.

The Court Administrator of Pennsylvania, members of the Advisory Council, and the OEJC have met with the chairperson and executive director of the Pennsylvania Commission on Crime and Delinquency (through which VOCA funds are distributed) to apprise them of the Advisory Council's needs.

**RECOMMENDATION 121:** The Task Force recommends that the federal government act on proposed legislation that would fund a state GCIP [Guardianship Court Improvement] Program similar to the CIP [Court Improvement Program]. See *Overarching Administrative Findings and Recommendations, §X.C.2. (Page 231)*.

## THE IMPLEMENTATION OF THIS RECOMMENDATION IS YET TO BE ADDRESSED

In December 2016, the Conference of Chief Justices, Conference of State Court Administrators, and the National Center for State Courts' Center for Elders and the Courts adopted an "Adult Guardianship Initiative-Strategic Action Plan 2016," in which the creation of a Guardianship Court Improvement Program was proposed. This proposal is based on the Court Improvement Program, which is a model for federal support of court-community collaboration in the child welfare arena. The Guardianship Court Improvement Program would support the creation and assessment of pilot projects for the sole purpose of making improvements in state court handling of adult guardianship proceedings. Program funds could be used to conduct assessments and identify problems in the way adult guardianships work in the jurisdiction, develop strategies for addressing those identified problems, and implement system improvements. Funds could also be used to establish guardianship offices in the administrative offices of the state courts. The Center for Elders and the Courts provided the proposed Adult Guardianship Initiative-Strategic Action Plan 2016 to the staff of the United States Senate and other federal agencies for their consideration.

In June 2018, Senators Susan M. Collins, Chairman, and Robert P. Casey, Jr., Ranking Member, of the U.S. Senate Special Committee on Aging, requested the input of the Advisory Council (among other stakeholders nationally) regarding four topics relating to guardianship: the collection of guardianship data; actions to ensure persons under guardianship are protected from abuse and exploitation by their guardians; the termination of guardianships; and best practices for guardianship reform. In July 2018, Judge Ott sent a letter to the Special Committee, responding to their request on behalf of the Advisory Council. In addition to addressing the four topics, the letter included a list of ten policy options, recommendations, and potential model programs to improve guardianship practices and outcomes, and a description of the Montgomery County Court of Common Pleas' proposed Pilot Project for Excellence in Adult Guardianship Proceedings.

## RECOMMENDATIONS TO PROSECUTORS

**RECOMMENDATION 122:** The Task Force recommends that prosecutors utilize 42 Pa.C.S. § 9728(e) and (f) to the fullest extent to help ensure funds and assets are available to satisfy anticipated restitution orders in appropriate cases, and that educational initiatives be undertaken to ensure district attorneys and Common Pleas Judges are aware of this mechanism for freezing assets. See *Elder Abuse and Neglect Committee Report*, §I.C.2.d. (Page 196).

and

**RECOMMENDATION 123:** The Task Force recommends that educational efforts be undertaken to ensure prosecutors are aware of Pa.R.Crim.P. 500, and its implications for preserving testimony of elders in appropriate cases. See *Elder Abuse and Neglect Committee Report*, §III.C.2.b. (Page 212).

## THE IMPLEMENTATION OF THESE RECOMMENDATIONS IS IN PROGRESS

At the Advisory Council's April 2016 meeting, the PDAA executive director was invited to discuss the Task Force's recommendations for district attorneys. The executive director advised that he recognizes elder issues will grow as the population ages, and that more focus on, and prioritization of, these issues is necessary. The membership of the Advisory Council includes two district attorneys, Allegheny County DA Stephen Zappala and Washington County DA Eugene Vittone, who act as liaisons between the Advisory Council and the PDAA, informing the PDAA of the work of the Advisory Council, and keeping the Advisory Council informed of the work of the PDAA with regard to matters of elder justice.

In addition, the Advisory Council is in the process of assisting with training topics to be presented at a future conference of the PDAA.

**RECOMMENDATION 124: The Task Force recommends that district attorneys consider requiring municipal police departments to obtain their approval before filing criminal charges in certain cases involving victims over age 60. See *Elder Abuse and Neglect Committee Report, §III.C.2.c. (Page 212).***

√ THE IMPLEMENTATION OF THIS RECOMMENDATION HAS BEEN ACCOMPLISHED

The membership of the Advisory Council includes two district attorneys, Allegheny County DA Stephen Zappala and Washington County DA Eugene Vittone, who act as liaisons between the Advisory Council and the PDAA, and have made the PDAA aware of Recommendation 124.

The Allegheny County District Attorney's Office has a formalized practice of vertically prosecuting matters where the victim(s) are 65 years of age or older. The Allegheny County District Attorney's Office uses the authority the office has under Allegheny County Local Rule 507.3, Approval of Police Complaints and Arrest Warrant Affidavits by Attorney for the Commonwealth in Cases Where Victims are 65 years old or older. The vertical prosecution model has required that all aspects of Allegheny County's criminal justice system be trained properly, follow protocol and seek permission before charging. DA Zappala has provided information to the PDAA on this program and has recommended its use by members of the PDAA.

## RECOMMENDATIONS TO VICTIM SERVICES PROVIDERS

**RECOMMENDATION 125: The Task Force recommends that advocates, attorneys, law enforcement, and courts work collaboratively with the Office of Victim Services, Office of Victim Advocates and other victim service providers to continue to evaluate and improve services to elder crime victims. See *Elder Abuse and Neglect Committee Report, §III.C.2.d. (Page 213.)***

THE IMPLEMENTATION OF THIS RECOMMENDATION IS IN PROGRESS

In 2015, members of the Advisory Council, the OEJC, and AOPC began discussing ways to collaborate with the Pennsylvania Commission on Crime and Delinquency's Office of Victim Services.

The Court Administrator of Pennsylvania, members of the Advisory Council, and the OEJC met with the chairperson and executive director of the Pennsylvania Commission on Crime and Delinquency in 2016 to apprise them of the Advisory Council's work. The Victim Services Advisory Committee, through its strategic planning process, made services to elder victims of crime a priority for 2016.

In October 2016, the OEJC, through the AOPC's STOP Violence Against Women grant application, sought funding to create an informational brochure and companion poster in English and Spanish about the warning signs of elder abuse and how to report suspected abuse.

The OEJC was awarded STOP grant funding in 2017 to create the informational elder abuse brochure and poster (which has tear-off sheets that provide the telephone number of the Department of Aging's statewide elder abuse hotline). The brochures and posters have been distributed to all of the Commonwealth's common pleas, magisterial district, and municipal courts to display and make available in public areas. Through a new collaboration with PA Forward, a statewide initiative of the Pennsylvania Library Association, the elder abuse brochures and posters will be made available in libraries throughout the Commonwealth.

## RECOMMENDATIONS TO BAR ASSOCIATIONS

**RECOMMENDATION 126:** The Task Force recommends that discussions among attorneys and judges to better define the roles of counsel in guardianship matters be encouraged, and involve the participation of the PBA and local bar associations. See *Guardians and Counsel Committee Report, §VIII.C.1.a. (Page 51)*.

and

**RECOMMENDATION 127:** The Task Force recommends that the PBA and local bar associations be involved in providing support, advice and ethical counsel for attorneys willing to assume any of the roles of counsel in a guardianship matter. See *Guardians and Counsel Committee Report, §VIII.C.1.c. (Page 51)*.

### √ THE IMPLEMENTATION OF THESE RECOMMENDATIONS HAS BEEN ACCOMPLISHED

While the implementation of these recommendations has been accomplished, work is ongoing.

Throughout 2015, 2016, 2017, and 2018, members of the Advisory Council made presentations at events sponsored by the Pennsylvania Bar Institute on the Advisory Council's work and issues in guardianship matters, including the role of counsel.

In December 2018, Justice Todd sent a letter to the President of the Pennsylvania Bar Association (PBA) requesting collaboration and involvement from the PBA in order to formalize a relationship between the PBA and the Advisory Council on the worthwhile initiatives of the Task Force Recommendations on behalf of Pennsylvania's elders.

**RECOMMENDATION 128:** The Task Force recommends that, where appropriate, the PBA, the Pennsylvania Bar Institute, and local bar associations, working with the OEJC, develop training sessions as recommended in this Report. See *Guardians and Counsel Committee Report, §X.C.1.a. (Page 55)* and *§X.C.1.i. (Page 56)*.

### √ THE IMPLEMENTATION OF THIS RECOMMENDATION HAS BEEN ACCOMPLISHED

While the implementation of this recommendation has been accomplished, work is ongoing.

In 2015, the Advisory Council and the OEJC collaborated with the Pennsylvania Bar Institute to participate in its 18th Annual Elder Law Institute (in July) and 22nd Annual Estate Law Institute (in November). The OEJC also collaborated on an educational program for lawyers regarding guardianships, presented to the York County Bar Association. Although not a training program, the Pennsylvania Bar Association Quarterly's October 2015 edition published an article, "The Pennsylvania Supreme Court Elder Law Task Force Report and Recommendations: A Blueprint for Justice."

In March, 2016, the OEJC again collaborated on an educational program for lawyers regarding guardianships, presented to the York County Bar Association. In November 2016, Advisory Council member John Meck presented an update on the work of the Advisory Council to the Pennsylvania Bar Institute's Estate Law Institute.

In April 2017, President Judge Woods-Skipper and others participated in the Philadelphia Bar Association's training program on Elder Investment Fraud and Financial Exploitation: Ethical Traps for Lawyers and Navigating the Challenges of Diminished Financial Capacity. In November 2017, John Meck again presented an update on the work of the Advisory Council to the Pennsylvania Bar Institute's Estate Law Institute.

In 2018, members of the Advisory Council continued to participate in training programs with the Pennsylvania Bar Institute and local bar associations. A list of all training programs and educational presentations made by Advisory Council members may be found in Appendix B.



## RECOMMENDATIONS TO THE PUBLIC

**RECOMMENDATION 129:** The Task Force recommends that Pennsylvanians who believe an elder displays the warning signs of mistreatment should report such symptoms by calling either of the state's two Elder Abuse Hotlines.

Statewide Elder Abuse Hotline: 1-800-490-8505

Office of Attorney General Elder Abuse Hotline: 1-866-623-2137

[renamed "Elder Protection Helpline" in 2017]

Abuse reports can be made on behalf of an older adult who lives in his or her home or in a care facility (e.g., nursing facility, personal care home, hospital, etc.). A caller may remain anonymous, and has legal protection from retaliation, discrimination and civil or criminal prosecution. See *Overarching Administrative Findings and Recommendations*, §XI.C.1. (Page 232).

and

**RECOMMENDATION 130:** The Task Force recommends that everyone learn the signs that indicate elder abuse, and take steps to prevent it. See *Overarching Administrative Findings and Recommendations*, §XI.C.2. (Page 232).

### √ THE IMPLEMENTATION OF THESE RECOMMENDATIONS HAS BEEN ACCOMPLISHED

While the implementation of these recommendations has been accomplished, work is ongoing.

The Advisory Council and the OEJC continue to take every opportunity to encourage the reporting of elder abuse through presentations to bar associations; training programs for providers of guardianship services; and educational programs for judges, court staff, and elder justice-related entities; and through the distribution of informational material on the subject of elder abuse. The Department of Aging's Statewide Elder Abuse Hotline number was provided to all common pleas and magisterial district judges through the distribution of the Advisory Council's Elder Abuse Bench Card.

In October 2016, the OEJC, through the AOPC's STOP Violence Against Women Grant Application, sought funding to create an informational brochure and companion poster in English and Spanish on the warning signs of elder abuse and how to report suspected abuse.

The OEJC was awarded STOP grant funding in 2017 to create an informational elder abuse brochure and poster (which has tear-off sheets that provide the telephone number of the Department of Aging's statewide elder abuse hotline). The brochures and posters have been distributed to all of the Commonwealth's common pleas, magisterial district, and municipal courts to display and make available in public areas. Through a new collaboration with PA Forward, a statewide initiative of the Pennsylvania Library Association, the elder abuse brochures and posters will be made available in libraries throughout the Commonwealth.

The hope is that the public will be encouraged to call the Department of Aging's Statewide Elder Abuse Hotline to report abuse if they are aware of the hotline and know that they can report suspected abuse anonymously. The brochure and poster will be updated as needed in the future. The Elder Abuse Hotline operated by the OAG, which operates only during business hours, was renamed the "Elder Protection Helpline" in 2017 to avoid confusion with the Department of Aging's hotline.

In addition, resource materials created by the National Center on Elder Abuse (NCEA) to help identify signs of abuse and to help prevent elder abuse are available to the public on the Unified Judicial System's website at [www.pa.courts.us](http://www.pa.courts.us). See NCEA's *Red Flags of Abuse* fact sheet at Appendix F, and NCEA's *12 Things that Anyone Can do to Prevent Elder Abuse* fact sheet at Appendix G.

# APPENDIX A

## ABBREVIATIONS AND ACRONYMS

AAA	Area Agency on Aging
ABA	American Bar Association
Advisory Council	Advisory Council on Elder Justice in the Courts
AIP	Alleged Incapacitated Person
AOPC	Administrative Office of Pennsylvania Courts
CLE	Continuing Legal Education
CPRC	Pennsylvania Criminal Procedural Rules Committee
Criminal Rule 500	Pennsylvania Rule of Criminal Procedure 500
Department of Aging	Pennsylvania Department of Aging
DHS	Department of Human Services
DOJ	United States Department of Justice
EANC	Elder Abuse and Neglect Committee
EATF	Elder Abuse Task Force
EIFFE	Elder Investment Fraud and Financial Exploitation Prevention Program
GCMC	Guardianship Counsel and Monitoring Committee
GSA	Guardianship Support Agency
GTS	Guardianship Tracking System
IP	Incapacitated Person
IT	AOPC's Information Technology Department
Judicial Education	AOPC's Judicial Education Department
OAG	Office of Attorney General
OAPSA	Older Adult Protective Services Act
OCCMS	Orphans' Court Case Management System
OCPRC	Supreme Court Orphans' Court Procedural Rules Committee
OEJC	Office of Elder Justice in the Courts
Pa.C.S.	Pennsylvania Consolidated Statutes
PDAA	Pennsylvania District Attorneys Association
SSA	United States Social Security Administration
Supreme Court	Supreme Court of Pennsylvania
Task Force	Elder Law Task Force
U.S. Attorney's Office	United States Attorney's Office
VA	United States Department of Veterans Affairs
VOCA	Victims of Crime Act
York County Court	Administrative Office of York County Courts

# APPENDIX B

## ADVISORY COUNCIL TRAINING PROGRAMS AND EDUCATIONAL PRESENTATIONS

### 2015

**March 24, 2015**

***Pennsylvania Legal Aid Network Excellence Awards Dinner  
Report on the Work of the Elder Law Task Force  
Justice Debra Todd***

**May 27, 2015**

***Legal Education/Training Sponsored by Pennsylvania Department of Aging and the Institute on Protective Services at Temple University  
Allentown, PA  
Overview of the Elder Law Task Force's Report and Recommendations for Prosecutors and the Aging Network  
Judge Paula Francisco Ott, Ronald W. Costen, Ph.D., Esquire, and Wilmarie Gonzalez***

**June 15, 2015**

***New Jersey Court System-Atlantic/Cape May Vicinage Galloway, NJ  
Elder Abuse Training Program  
Judge Paula Francisco Ott, Brenda K. Uekert, Ph.D., and Tim Dibble***

**July 21, 2015**

***Register of Wills/Orphans' Court Clerks Association Annual Conference  
Skytop, PA  
Update on The Guardianship Tracking System  
Judge Paula Francisco Ott, Cherstin Hamel, Amy Ceraso, Esquire, Barbara Holmes, and Russel Montchal***

**July 24, 2015**

***Pennsylvania Conference of State Trial Judges  
Hershey, PA  
Elder Justice in the Courts: The Elder Law Task Force's Report and Recommendations – What Every Pennsylvania Trial Judge Needs to Know  
Justice Debra Todd, Judge Paula Francisco Ott, Judge Lois E. Murphy, President Judge Sheila A. Woods-Skipper, President Judge George N. Zanic, Karen C. Buck, Esquire, and Keelin Barry, Esquire***

**July 25, 2015**

***Pennsylvania Bar Institute 18<sup>th</sup> Annual Estate Law Institute  
Harrisburg, PA  
Update on the Work of the Advisory Council on Elder Justice in the Courts  
Judge Paula Francisco Ott, Judge Lois E. Murphy, President Judge Sheila A. Woods-Skipper, and Cherstin Hamel***

**September 11, 2015**

***Butler County Bench-Bar Conference  
The Supreme Court's Recent Initiatives Focusing on Elder Law  
Justice Debra Todd***

**September 14, 2015 to May 2016**

***Minor Judiciary Continuing Education  
Harrisburg, PA  
Elder Abuse Training  
Darren Breslin, Esquire***

**September 18, 2015**

***Monroe County Bench-Bar Conference  
The Supreme Court's Recent Initiatives Focusing on Elder Law  
Justice Debra Todd***

**September 18, 2015**

***Pennsylvania Coalition of Affiliated Healthcare and Living Communities (PACAH)  
State College, PA  
Elder Law Task Force: Addressing the Needs of Pennsylvania's Aging Population  
President Judge George N. Zanic, John N. Kennedy, Esquire, John F. Meck, Esquire, and Cherstin Hamel***

**November 18, 2015**

***Pennsylvania Bar Institute 22<sup>nd</sup> Annual Estate Law Institute  
Philadelphia, PA  
Update on the Work of the Advisory Council on Elder Justice in the Courts  
Judge Paula Francisco Ott, Judge Lois E. Murphy, President Judge Sheila A. Woods-Skipper, and John F. Meck, Esquire***

**March 15, 2016****Pennsylvania Council on Aging****Gettysburg, PA****Update on the Work of the Elder Law Task Force***Karen C. Buck, Esquire and Joseph M. Olimpi, Esquire***March 29, 2016****York County Bar Association****York, PA****Guardianship of Incapacitated People***Zygmunt A. Pines, Esquire, Cherstin Hamel,**and Joan Krechmer***April 13, 2016****Pennsylvania House Aging and Older Adult****Services Committee****Harrisburg, PA****Testimony***Judge Paula Francisco Ott, President Judge George N.**Zanic, and Zygmunt A. Pines, Esquire***April 27, 2016****Luzerne & Lackawanna County Bar Associations****Scranton, PA****Elder Law Continuing Legal Education Presentation****The Supreme Court's Recent Initiatives Focusing on Elder Law***Justice Debra Todd***May 4, 2016****Senior Law 2016 Gala****Philadelphia, PA****Remarks on Award presented to the Elder Law Task Force***Justice Debra Todd, Judge Paula Francisco Ott,**and Zygmunt A. Pines, Esquire***May 12, 2016****New District Court Administrator Orientation Program****Harrisburg, PA****Update on the Work of the Advisory Council on Elder Justice in the Courts and Office of Elder Justice in the Courts***Cherstin Hamel***July 29, 2016****Pennsylvania Conference of State Trial Judges****Hershey, PA****Determining Capacity in Older Adults***Judge Lois E. Murphy, Judge Shawn D. Meyers,**Dr. Bruce M. Bushwick, and Dr. Rocksheng Zhong***July 29, 2016****Pennsylvania Conference of State Trial Judges****Hershey, PA****Criminal and Civil Responses to Elder Abuse and Financial Exploitation***Judge Paula Francisco Ott, President Judge Sheila A.**Woods-Skipper, President Judge George N. Zanic,**Ronald Costen, Esquire, and Dana Goldberg, Esquire***August 29, 2016****National Adult Protective Services Association - 27th Annual Conference****Philadelphia, PA****Elder Justice Reform Efforts in Pennsylvania***Judge Paula Francisco Ott, Zygmunt A. Pines, Esquire,**Pennsylvania Secretary of Aging Teresa Osborne,**and Cherstin Hamel***September 15, 2016****Monroe County Elder Abuse Task Force****Stroudsburg, PA****P4A Update on the Work of the Advisory Council on Elder Justice in the Courts***Arthur N. DiLoreto***September 29, 2016****Pennsylvania Legal Aid Network Conference****Harrisburg, PA****Update on the Work of the Advisory Council on Elder Justice in the Courts***Judge Paula Francisco Ott, Karen C. Buck, Esquire,**and Pamela Walz, Esquire***October 25, 2016****Mid-Atlantic Association for Court Management Conference****Ocean City, MD****Five Strategies to Better Manage Cases Involving Elderly Litigants***Judge Paula Francisco Ott and Brenda Uekert, Ph.D.***November 8, 2016****Pennsylvania Bar Institute/Estate Law Institute****Philadelphia, PA****Update on the Work of the Advisory Council on Elder Justice in the Courts***John F. Meck, Esquire*

## 2017

**February 23, 2017**

**Pennsylvania Conference of State Trial Judges  
Pittsburgh, PA**

**Competing Representation of Alleged Incapacitated  
Persons, Appointment of Counsel for Incapacitated  
Persons and Ethical Considerations for Counsel**

*Joseph M. Olimpi, Esquire, Judge Emil Giordano,  
and Todd T. Turin, Esquire*

**March 22, 2017**

**Federal Elder Justice Task Force Meeting  
Harrisburg, PA**

**Update on the Work of the Advisory Council  
on Elder Justice in the Courts and Office  
of Elder Justice in the Courts**

*Cherstin Hamel and Amy Ceraso, Esquire*

**April 6, 2017**

**Philadelphia Bar Association  
Philadelphia, PA**

**Elder Investment Fraud and Financial Exploitation:  
Ethical Traps for Lawyers and Navigating the  
Challenges of Diminished Financial Capacity**

*President Judge Sheila A. Woods-Skipper, Pennsylvania  
Secretary of Banking and Securities Robin Wiessman,  
Dr. David Galinsky, Dana Goldberg, Esquire, Stefanie Z.  
Hamilton, Esquire, and Lori Stiegel, Esquire*

**April 12, 2017**

**Financial Security Officers of Eastern Pennsylvania  
Breinigsville, PA**

**P4A Update on the Work of the Advisory Council  
on Elder Justice in the Courts**

*Arthur N. DiLoreto*

**May 4, 2017**

**National Equal Justice Conference  
Pittsburgh, PA**

**Opening Remarks, Court-led Access to Justice  
for Vulnerable Populations**

*Justice Debra Todd, Judge Paula Francisco Ott,  
and Karen C. Buck, Esquire*

**May 9, 2017**

**Judicial District Regional Unit I Meeting  
Williamsport, PA**

**Update on the Work of the Advisory Council  
on Elder Justice in the Courts and Office  
of Elder Justice in the Courts**

*Frank Lill*

**June 15, 2017**

**Pennsylvania Capitol World Elder Abuse Awareness Day  
Harrisburg, PA**

**Remarks**

*Zygmunt A. Pines, Esquire, Pennsylvania Secretary of  
Aging Teresa Osborne, Pennsylvania Secretary of Banking  
and Securities Robin Wiessmann, Pennsylvania State  
Police Lieutenant Colonel Stephen A. Bucar, and David  
Shallcross of the OAG*

**June 20, 2017**

**Pennsylvania Commission on Crime and Delinquency's  
Victim Services and Protective Services Working  
Together Regional Symposium**

**Lewisburg, PA**

**Update on Work of the Advisory Council on  
Elder Justice in the Courts and Office of Elder  
Justice in the Courts**

*Cherstin Hamel*

**August 7, 2017**

**Conference of Chief Justices/Conference of  
State Court Administrators Annual Conference  
Philadelphia, PA**

**Remarks at Elders and the Courts Committee Meeting  
(at the request of Thomas B. Darr, Court Administrator of  
Pennsylvania)**

*Zygmunt A. Pines, Esquire*

**October 5, 2017**

**Judicial District Regional Unit III Meeting  
Oil City, PA**

**Update on the Work of the Advisory Council  
on Elder Justice in the Courts and Office  
of Elder Justice in the Courts**

*Frank Lill*

**October 11, 2017**

**Fayette County Bar Association, Bench-Bar  
Conference**

**Farmington, PA**

**The Supreme Court's Recent Initiatives  
Focusing on Elder Law**

*Justice Debra Todd*

**October 12, 2017**

**Pennsylvania State Police Crime Section Commanders'  
and Patrol Section Commanders' Conferences  
Gettysburg, PA**

**Collaboration and Communication: Upholding the  
Older Adults Protective Services Act**

*President Judge George N. Zanic and Secretary of Aging  
Teresa Osborne*

**October 13, 2017**  
**Southeastern Judicial Districts Meeting**  
**West Chester, PA**  
**Update on the Work of the Advisory Council**  
**on Elder Justice in the Courts and Office**  
**of Elder Justice in the Courts**  
Frank Lill

**October 18, 2017**  
**Judicial District Regional V Unit Meeting**  
**Jim Thorpe, PA**  
**Update on the Work of the Advisory Council**  
**on Elder Justice in the Courts and Office**  
**of Elder Justice in the Courts**  
Frank Lill

**October 27, 2017**  
**Lackawanna County Bar Association, Bench-Bar**  
**Conference**  
**Scranton, PA**  
**The Supreme Court's Recent Initiatives Focusing on**  
**Elder Law**  
Justice Debra Todd

**November 1, 2017**  
**County Commissioners Association of Pennsylvania's**  
**Human Services Administrators Conference**  
**Harrisburg, PA**  
**Update on the Work of the Advisory Council**  
**on Elder Justice in the Courts**  
Judge Paula Francisco Ott and Pennsylvania  
Secretary of Aging Teresa Osborne

**November 15, 2017**  
**Pennsylvania Bar Institute/Estate Law Institute**  
**Philadelphia, PA**  
**Update on the Work of the Advisory Council**  
**on Elder Justice in the Courts**  
John F. Meck, Esquire

**December 18, 2017**  
**Guardianship Tracking System Stakeholder Meeting**  
**Scranton, PA**  
**Update on the Work of the Advisory Council**  
**on Elder Justice in the Courts and Office**  
**of Elder Justice in the Courts**  
Frank Lill

## 2018

**March 29, 2018**  
**Dickinson Law School, Pennsylvania State University**  
**Carlisle, PA**  
**Dementia Diagnosis and the Law**  
Judge Paula Francisco Ott, Judge Lois E. Murphy, Dr. Krish  
Sathian, Claire Flaherty, PhD, Daniel C. Marson, PhD, JD.,  
Katherine C. Pearson, Esquire, Sally L. Schoffstall, Esquire,  
Tiffany Jeffers, Laurel S. Terry, and H. Laddie Montague Jr.,  
Esquire

**April 5, 2018**  
**Allegheny League of Municipalities**  
**Seven Springs, PA**  
**Allegheny County District Attorney's Senior Justice**  
**Initiative**  
District Attorney Stephen A. Zappala, Jr., and Richard  
Skrinjar

**April 20, 2018**  
**Ten County Meeting**  
**Harrisburg, PA**  
**Update on the Work of the Office of Elder Justice**  
**in the Courts**  
Frank Lill

**May 9, 2018**  
**IBEW Local #5**  
**Pittsburgh, PA**  
**Second Annual Senior Justice in Courts Panel**  
**Discussion**  
District Attorney Stephen A. Zappala, Jr., Richard Skrinjar,  
Julie Capone, Esquire, Kurt Emerling, Robert Peirce,  
Esquire, and Daniel P. Buzard, Esquire

**May 10, 2018**  
**OEJC Training Program for Court Staff**  
**Clarion, PA**  
**Elder Abuse and Exploitation: Practical Tools**  
**for Assuring Access to Justice**  
Richard Albrecht and Joseph Ryan

**May 15, 2018**  
**Judicial District Regional Unit 1 Meeting**  
**Williamsport, PA**  
**Update on the Work of the Office of Elder Justice**  
**in the Courts**  
Frank Lill

**May 31, 2018**  
**OEJC Educational Session for Judges**  
**and Training Program for Court Staff**  
**Wilkes-Barre, PA**  
**Elder Abuse and Exploitation: Practical Tools**  
**for Assuring Access to Justice**  
Richard Albrecht, Joseph Ryan, and President Judge  
Richard M. Hughes

**June 7, 2018**  
**OEJC Educational Session for Judges**  
**and Training Program for Court Staff**  
**Valley Forge, PA**  
**Elder Abuse and Exploitation: Practical Tools**  
**for Assuring Access to Justice**  
Richard Albrecht, Joseph Ryan, and Judge Stanley R. Ott

**June 14, 2018**  
**OEJC Educational Session for Judges**  
**Mechanicsburg, PA**  
**Elder Abuse and Exploitation: Practical Tools**  
**for Assuring Access to Justice**  
*Richard Albrecht, Joseph Ryan, and Judge Shawn D. Meyers*

**September 12, 2018**  
**Pennsylvania Council on Aging**  
**Gettysburg, PA**  
**Update on the Work of the Advisory Council**  
**on Elder Justice in the Courts and the Office**  
**of Elder Justice in the Courts**  
*President Judge George N. Zanic, Zygmunt A. Pines, Esquire, Cherstin Hamel, and Amy B. Whitworth*

**September 13, 2018**  
**OEJC Training Program for Court Staff**  
**Pittsburgh, PA**  
**Elder Abuse and Exploitation: Practical Tools**  
**for Assuring Access to Justice**  
*Richard Albrecht and Joseph Ryan*

**September 24, 2018**  
**Senate Judiciary Committee Public Hearing**  
**Harrisburg, PA**  
**Civil Proceedings in Courts of Common Pleas**  
*Judge Lois E. Murphy, Judge James M. McMaster, and Judge Lesa S. Gelb*

**September 24, 2018**  
**OEJC Training for Family/Lay Guardians**  
**York, PA**  
**Fundamentals of Guardianship: What Family**  
**Guardians Need to Know**  
*Joan Krechmer*

**September 25, 2018**  
**Pennsylvania Bar Institute**  
**Mechanicsburg, PA**  
**New E-filing Requirements and Other Guardianship Rules**  
*Judge Paula Francisco Ott, Judge Jeannine Turgeon, Sherry E. Baskin, Esquire, Deborah S. Freeman, Esquire, Jean Marfizo King, Wayne M. Pecht, Esquire, Bruce J. Warshawsky, Esquire, Sonja P. Waters, and Amy B. Whitworth*

**September 25, 2018**  
**OEJC Training for Family/Lay Guardians**  
**Lancaster, PA**  
**Fundamentals of Guardianship: What Family**  
**Guardians Need to Know**  
*Joan Krechmer*

**October 1, 2018**  
**OEJC Training for Family/Lay Guardians**  
**Blue Bell, PA**  
**Fundamentals of Guardianship: What Family**  
**Guardians Need to Know**  
*Joan Krechmer*

**October 2, 2018**  
**OEJC Training for Family/Lay Guardians**  
**Harrisburg, PA**  
**Fundamentals of Guardianship: What Family**  
**Guardians Need to Know**  
*Joan Krechmer*

**October 4, 2018**  
**OEJC Training Program for Court Staff**  
**Scranton, PA**  
**Elder Abuse and Exploitation: Practical Tools**  
**for Assuring Access to Justice**  
*Richard Albrecht and Joseph Ryan*

**October 11, 2018**  
**OEJC Training Program for Court Staff**  
**Williamsport, PA**  
**Elder Abuse and Exploitation: Practical Tools**  
**for Assuring Access to Justice**  
*Richard Albrecht and Joseph Ryan*

**October 15, 2018**  
**PA Forward Annual Conference**  
**Harrisburg, PA**  
**How Libraries Can Collaborate with the Pennsylvania**  
**Court System in Addressing the Needs of Older**  
**Pennsylvanians**  
*Judge Paula Francisco Ott, Judge Lois E. Murphy, Pennsylvania Secretary of Aging Teresa Osborne, and Amy B. Whitworth*

**October 18, 2018**  
**OEJC Training Program for Court Staff**  
**State College, PA**  
**Elder Abuse and Exploitation: Practical Tools**  
**for Assuring Access to Justice**  
*Richard Albrecht and Joseph Ryan*

**October 19, 2018**  
**Allegheny County District Attorney's Office**  
**Pittsburgh, PA**  
**Powers of Attorney, Guardianship and the**  
**New Guardianship Tracking System**  
*Judge Paula Francisco Ott, John F. Meck, Esquire, and Daniel P. Buzard, Esquire*

**October 22, 2018**  
**York County Bar Association**  
**York, PA**  
**The New Guardianship Rules**  
*Wayne M. Pecht, Esquire*

**October 25, 2018**  
**OEJC Training Program for Court Staff**  
**Grove City, PA**  
**Elder Abuse and Exploitation: Practical Tools**  
**for Assuring Access to Justice**  
*Richard Albrecht and Joseph Ryan*

**October 25, 2018**

**National Law and Aging Conference  
Alexandria, Virginia**

**Court-based Access to Justice Projects  
for Older Americans**

*President Judge Sheila A. Woods-Skipper,  
President Judge George N. Zanic, Judge Lois E. Murphy,  
and Karen C. Buck, Esquire*

**November 8, 2018**

**OEJC Educational Session for Judges  
and Training Program for Court Staff  
Hershey, PA**

**Elder Abuse and Exploitation: Practical Tools  
for Assuring Access to Justice**

*Richard Albrecht, Joseph Ryan, and  
Judge Risa Vetri Ferman*

**November 1, 2018**

**OEJC Educational Session for Judges  
and Training Program for Court Staff  
Philadelphia, PA**

**Elder Abuse and Exploitation: Practical Tools  
for Assuring Access to Justice**

*Richard Albrecht, Joseph Ryan, and  
Judge Risa Vetri Ferman*





# APPENDIX C

## PRESENTATIONS AND EDUCATIONAL FORUMS MADE TO THE ADVISORY COUNCIL ON ELDER JUSTICE IN THE COURTS

### 2015

**October 14, 2015**

***Pennsylvania Department of Banking and Securities  
Work of the Department of Banking and Securities***

*Victoria Reider, Deputy Secretary*

*Christina Kotsalos, Director, Investor Education and  
Consumer Outreach Office*

**October 14, 2015**

***Pennsylvania Legislative Budget and Finance  
Committee***

***Commonwealth's Network of Elder Abuse Task Force's  
Report***

*Dr. Maryann Nardone, Project Manager*

### 2016

**April 19, 2016**

***Pennsylvania Commission on Crime and Delinquency  
Senior Victims of Crime***

*Kathleen Buckley, Manager, Victims' Services Programs*

*Robert Merwine, Director, Office of Criminal Justice System  
Improvements*

**April 19, 2016**

***Pennsylvania District Attorneys Association  
Work of the Pennsylvania District Attorneys  
Association***

*Richard W. Long, Esquire, Executive Director*

**April 19, 2016**

***Center for Guardianship Certification  
Certification of Guardians: A Pennsylvania  
Presentation***

*Denise Calabrese, Executive Director*

*Sally Balch Hurme, Esquire, Consultant*

**December 8, 2016**

***United States Attorney's Office, Eastern District of  
Pennsylvania***

***Federal Elder Justice Initiatives***

*Charlene Keller Fullmer, Assistant U.S. Attorney, Deputy  
Chief, Affirmative Litigation*

*Gerald B. Sullivan, Assistant U.S. Attorney*

### 2017

**June 8, 2017 & September 27, 2017**

***Orphans' Court Division, Allegheny County Court of  
Common Pleas***

***Proposal for a Guardian Security Fund***

*Daniel P. Buzard, Esquire, Supervisor, Guardianship  
Department*

**December 13, 2017**

***Northampton County's Senior Law Center***

*Judge Jack A. Panella*

*Superior Court of Pennsylvania*

**December 13, 2017**

***Pennsylvania Coalition Against Domestic Violence  
Collaboration with Pennsylvania Coalition Against  
Domestic Violence***

***Rachel Haynes Pinsker, Esquire, Legal Services  
Manager***

*Jessa Winas-Devine, Technical and Training Specialist*

## 2018

**June 20, 2018**

**Dickinson Law-Pennsylvania State University  
Proposal: Pennsylvania Judiciary-Specific Education  
Tool for Guardians**

*Katherine C. Pearson, Esquire, Professor of Law*

**September 5, 2018**

**Delaware Courts  
Supported Decision-Making – The Delaware  
Experience**

*Lexie McFassel, Esquire, Public Guardian, State of  
Delaware*

**September 5, 2018**

**SeniorLAW Center/AARP  
Systemic Advocacy Pro Bono Project**

*Nora Dowd Eisenhower, Esquire, Project Director,  
SeniorLAW Center*

*Bill Johnston-Walsh, Esquire, State Director, AARP  
Pennsylvania*

*Karen C. Buck, Esquire, Executive Director, SeniorLAW  
Center*

**November 14, 2018**

**Financial Institution Forum**

*Robin L. Wiessman, Secretary, Pennsylvania Secretary of  
Banking and Securities*

*Sean Blake, CFE, Investigations/Corporate Security &  
Resilience/Citizens Bank*

*Eric G. Hosie, CFP, Group Vice President, Market Manager,  
M&T Securities, Inc.*

*Linda Mill, CFE, Director, Account Servicing/Deposit  
Operations, Ally Bank*

*Judge Paula Francisco Ott*

# APPENDIX D

## Designed with guardians in mind

The Pennsylvania Guardianship Tracking System (GTS) will provide an online alternative to the paper-based forms currently used by guardians to submit inventory and annual person and estate reports. The GTS will simplify this yearly task by providing you with a user-friendly interface that calculates financial totals automatically, provides onscreen assistance, and helps ensure all required information is recorded.

In addition, once a guardian uses the GTS to file online, certain details entered on a previous year's report can be applied to future reports without having to be reentered. This way, you will only need to update information that has changed.

The GTS design has been a collaborative effort incorporating input from guardians, judges, court staff, Orphans' Court clerks and others.



## PENNSYLVANIA COURTS



## GUARDIANSHIP TRACKING SYSTEM

### Questions about the GTS?

Send an email to: [GTSinfo@pacourts.us](mailto:GTSinfo@pacourts.us)

The GTS is being designed by the Administrative Office of Pennsylvania Courts (AOPC) Information Technology Department in association with the AOPC's Office of Elder Justice in the Courts (OEJC). The OEJC assists the Supreme Court of Pennsylvania in promoting best practices in the areas of guardianship, elder abuse and neglect, and access to justice.



Beginning in December of 2018, the Guardianship Tracking System (GTS) will provide all court-appointed guardians of adult incapacitated persons the convenience of filing inventory and annual reports online.

The Guardianship Tracking System:

- Simplifies guardian filings
- Is available when you are
- Understands guardian responsibilities
- Keeps guardians informed
- Is designed with guardians in mind



### Simplifies Your filings

The GTS is being designed based on Pennsylvania Supreme Court-approved guardianship reporting forms that must be utilized in Orphans' Court offices statewide. For guardians who file reports in multiple counties, using the GTS will eliminate any inconsistencies experienced with the various paper forms and simplify the completion and filing of required forms.

### Available when you are

The GTS will be available through the Unified Judicial System of Pennsylvania Web Portal (<https://ujportal.pacourts.us>) in late 2018. As this exciting time approaches, keep in mind that the Unified Judicial System of Pennsylvania (UJS) has a longstanding commitment to the Web Portal's user community that places an emphasis on reliability and security. With the GTS you will be able to start, pause, continue, and file reports at any time, day or night, from any place you have access to an internet-connected computer.

### Understands your responsibilities

Guardians are entrusted to safeguard the welfare of others. The GTS recognizes and fully supports this responsibility by providing you a secure way to submit guardianship information online.

To use the GTS, a guardian will be required to log into the UJS Web Portal with a secure user account. The ability to file reports is then further protected by a unique access code that is issued to the guardian by the court. Once filed, annual reports and inventories are only viewable by the responsible Orphans' Court office.

The payment of filing fees will also be accepted online with a credit or debit card. The UJS Web Portal has already processed hundreds of millions of dollars in court-related payments and all transactions accepted through the GTS will be protected using this established payment method.

### Keeps you informed

Because life gets busy, the GTS will send an e-mail reminder to let you know that the due date for an annual report is approaching. For your peace of mind, the GTS will also send confirmation messages to let you know when the court has received your online submission.

# APPENDIX E



**Are you age 60 or older?  
Know an older adult who is being abused or taken advantage of?**



**HELP IS AVAILABLE.  
ABUSE IS NOT YOUR FAULT.**

**CALL 9-1-1 IF YOUR LIFE OR THE LIFE OF SOMEONE YOU KNOW IS IN IMMINENT DANGER.**



**AOPC**  
ADMINISTRATIVE OFFICE  
OF PENNSYLVANIA COURTS

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**TO REPORT ELDER ABUSE  
CALL PENNSYLVANIA'S  
STATEWIDE HOTLINE**

**1-800-490-8505**

**24 HOURS A DAY, 7 DAYS A WEEK.**

**ABUSE IS NOT YOUR FAULT.  
HELP IS AVAILABLE.**

**Has someone physically harmed or threatened to harm you?**

**Has someone stolen, taken or made threats to take control of your property or money?**

**Has someone forced you to engage in sexual acts or threatened to do so?**

**Has someone denied you medication, food or basic needs?**

**Has someone done any of these acts to an older adult you know?**

### What is elder abuse?

Any form of mistreatment that results in the harm of an older person, including:

- Self-neglect;
- Caregiver neglect;
- Financial exploitation;
- Emotional abuse;
- Physical abuse; and
- Sexual abuse.

### Signs of elder abuse

Include, but are not limited to:

- Bruises or other injuries;
- Poor hygiene;
- Person has adequate financial resources, but appears to struggle financially and/or live without needed care;
- An older adult who appears unusually withdrawn or evasive; and
- An appearance that someone is isolating the older adult, or controlling his/her actions or finances.



**To report elder abuse, call Pennsylvania's statewide Hotline at 1-800-490-8505, 24 hours a day, 7 days a week.**

A caller may remain anonymous, and has legal protection from retaliation, discrimination, and civil or criminal prosecution if he or she is calling in good faith.

Abuse reports can be made on behalf of an older adult whether the person lives in his/her home or in a care facility such as a nursing facility, personal care home, hospital, etc.

Victim services, legal services and domestic violence organizations in your community may also be able to help.

**HELP IS AVAILABLE. ABUSE IS NOT YOUR FAULT.**

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# APPENDIX F



## RED FLAGS OF ABUSE

*Does someone you know—a senior or adult with a disability—display any warning signs of mistreatment?*



### » Neglect

- Lack of basic hygiene, adequate food, or clean and appropriate clothing
- Lack of medical aids (glasses, walker, teeth, hearing aid, medications)
- Person with dementia left unsupervised
- Person confined to bed is left without care
- Home cluttered, filthy, in disrepair, or having fire and safety hazards
- Home without adequate facilities (stove, refrigerator, heat, cooling, working plumbing, and electricity)
- Untreated pressure “bed” sores (pressure ulcers)

### » Financial Abuse/Exploitation

- Lack of amenities victim could afford
- Vulnerable elder/adult “voluntarily” giving uncharacteristically excessive financial reimbursement/gifts for needed care and companionship
- Caregiver has control of elder’s money but is failing to provide for elder’s needs
- Vulnerable elder/adult has signed property transfers (Power of Attorney, new will, etc.) but is unable to comprehend the transaction or what it means

### » Psychological/Emotional Abuse

- Unexplained or uncharacteristic changes in behavior, such as withdrawal from normal activities, unexplained changes in alertness, other
- Caregiver isolates elder (doesn’t let anyone into the home or speak to the elder)
- Caregiver is verbally aggressive or demeaning, controlling, overly concerned about spending money, or uncaring

### » Physical/Sexual Abuse

- Inadequately explained fractures, bruises, welts, cuts, sores or burns
- Unexplained sexually transmitted diseases



**If you or someone you know is in a life threatening situation or immediate danger, call 911 or the local police or sheriff.**

## WHAT IS ELDER ABUSE?

In general, elder abuse refers to intentional or neglectful acts by a caregiver or “trusted” individual that lead to, or may lead to, harm of a vulnerable elder. *In many states, younger adults with disabilities may qualify for the same services and protections.* **Physical abuse; neglect; emotional or psychological abuse; financial abuse and exploitation; sexual abuse; and abandonment** are considered forms of elder abuse. In many states, **self-neglect** is also considered mistreatment.

## WHO IS AT RISK?

Elder abuse can occur *anywhere* – in the home, in nursing homes, or other institutions. It affects seniors across all socio-economic groups, cultures, and races.

Based on available information, women and “older” elders are more likely to be victimized. Dementia is a significant risk factor. Mental health and substance abuse issues – of both abusers and victims – are risk factors. Isolation can also contribute to risk.

## WHAT SHOULD I DO IF I SUSPECT ABUSE?

### Report your concerns.

Most cases of elder abuse go undetected. Don't assume that someone has already reported a suspicious situation. The agency receiving the report will ask what you observed, who was involved, and who they can contact to learn more.

**You do not need to prove that abuse is occurring; it is up to the professionals to investigate the suspicions.**

» **To report suspected abuse in the community,** contact your local Adult Protective Services agency. For state reporting numbers, visit [www.apsnetwork.org](http://www.apsnetwork.org), visit the NCEA website at [www.ncea.aoa.gov](http://www.ncea.aoa.gov) or call the *Eldercare Locator* at **1-800-677-1116**.

» **To report suspected abuse in a nursing home or long-term care facility,** contact your local Long-Term Care Ombudsman. For reporting numbers, visit [www.ltombudsman.org](http://www.ltombudsman.org), visit the NCEA website at [www.ncea.aoa.gov](http://www.ncea.aoa.gov) or call the *Eldercare Locator* at **1-800-677-1116**.



**The National Center on Elder Abuse (NCEA)** directed by the U.S. Administration on Aging, helps communities, agencies and organizations ensure that elders and adults with disabilities can live with dignity, and without abuse, neglect, and exploitation. We are based at University of California, Irvine Center of Excellence on Elder Abuse & Neglect, Program in Geriatrics. NCEA is the place to turn for **education, research, and promising practices in stopping abuse.**

PREPARED FOR NCEA BY:



CENTER OF EXCELLENCE  
ON ELDER ABUSE AND NEGLECT  
UNIVERSITY OF CALIFORNIA, IRVINE

Visit us online for more resources!

[www.ncea.aoa.gov](http://www.ncea.aoa.gov)

Find us on Facebook, YouTube and POPVOX.

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## APPENDIX G

# NCEA 12 Things that Anyone Can Do to Prevent Elder Abuse

National Center on Elder Abuse

**1** Learn the **signs of elder abuse and neglect.**



**2** **Call or visit an elderly loved one** and ask how he or she is doing.

**3** Provide a respite **break for a caregiver.**



**4** Ask your bank manager to train tellers on **how to detect elder financial abuse.**

**5** **Ask your doctor** to ask you and all other senior patients about possible family violence in their lives.



**6** **Contact your local Adult Protective Services or Long-Term Care Ombudsman** to learn how to support their work helping at-risk elders and adults with disabilities.

**7** Organize a **“Respect Your Elders” essay or poster contest** in your child’s school.

**8** Ask your religious congregation’s leader to **give a talk about elder abuse** at a service or to put a message about elder abuse in the bulletin.

**9** **Volunteer to be a friendly visitor** to a nursing home resident or to a homebound senior in your neighborhood.

**10** Send a letter to your local paper, radio or TV station suggesting that they cover **World Elder Abuse Awareness Day** (June 15) or **Grandparents Day** in September.



**11** Dedicate your **bikeathon/marathon/other event** to elder mistreatment awareness and prevention.

**12** **Join the Ageless Alliance.** Ageless Alliance connects people of all ages, nationwide, who stand united for the dignity of older adults and for the elimination of elder abuse. You can join (it’s free) and get involved at **agelessalliance.org.**



UNITED AGAINST ELDER ABUSE

Find local resources for Seniors, People with Disabilities, and Caregivers!  
Call the **ElderCare Locator** at **1-800-677-1116** or visit **www.eldercare.gov.**

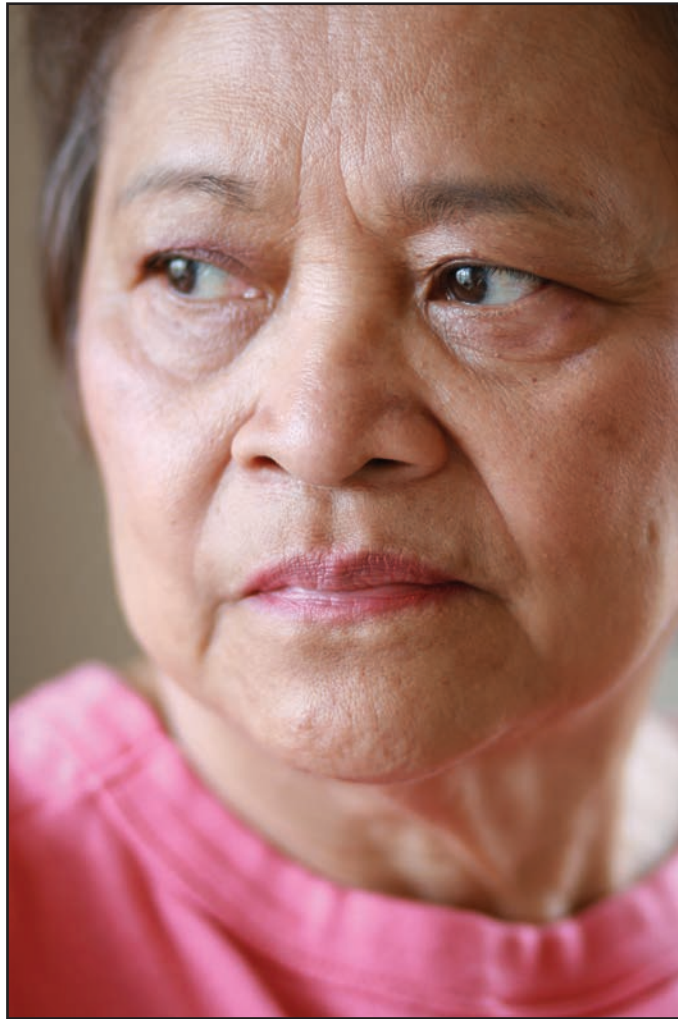
For more information on elder abuse prevention,  
please visit **www.ncea.aoa.gov.**

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Medicine of **USC**

For more information: **www.ncea.aoa.gov**

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**If you suspect an elder is being abused, please call:  
Statewide Elder Abuse Hotline: 1-800-490-8505**