Ethical Responsibilities

Undocumented Youth

Anwar, a 13-year old boy, has been placed with the Department for Children and Families (DCF). A petition was filed when his teacher reported to DCF Intake and Assessment that Anwar had bruises covering his back and legs. After Anwar was taken into custody, DCF attempted to make contact with his mother and father. However, when the social worker went to the home, everything had been removed from the house. Neighbors reported that the family had left in the middle of the night and they had planned on returning to Somalia. Anwar did provide a second address for his aunt and uncle. When the social worker contacted his aunt and uncle they expressed willingness to have Anwar live with their family.

During the Temporary Custody Hearing, the judge appointed a Guardian *ad litem* (GAL) to Anwar. The GAL appointed to represent Anwar's best interest reads the petition and notices that Anwar's parents have allegedly returned to Somalia.

The social worker appointed to the case visited the aunt and uncle prior to the adjudication hearing. The aunt and uncle have four children and have lived in the United States for 20 years. They would like to have Anwar live with them. However, during the conversation the uncle asked if not being citizens would be a problem. Their children were all born in the US, but the parents have not obtained citizenship.

What are your ethical obligations?

Undocumented Youth

Elena, a 15 year-old girl, was reported as a runaway by her father. Elena's parents are not married. Elena was living with her mother in the same town as her father, but neither her mother nor her father has been able to locate her for the past three weeks. Elena was eventually picked up during a human trafficking raid two counties away. The police took her to Intake and Assessment and the prosecutor filed a Child In Need of Care Petition based on her refusal to return home.

You interviewed Elena during her stay at the secure facility. Elena says she was born in El Salvador. Her father is from the United States, but her mother is from El Salvador. She thinks she is a citizen, but she doesn't have a birth certificate.

What information do you provide to the court?

Who do you interview to conduct an independent investigation?

Undocumented Youth

Julio is a 16-year old boy who was sent by his parents to live with his uncle in a small rural community in Kansas while his family remained in Guatemala. The police were called one evening when a neighbor witnessed the uncle chasing Julio with a baseball bat striking him several times. When the police arrived, the uncle told the police that Julio was sent to him because Julio told his family he was gay. The uncle is supposed to help Julio to see the error of his ways. He caught Julio looking at inappropriate materials and was just trying to discipline him. The uncle says he is no longer welcome in his home and he is not wanted by his family in Guatemala.

A Child In Need of Care case was filed and you were appointed as the Guardian *ad litem*. The prosecutor was discussing recommendations with you and the social worker. The youth has stated he wants to go home to his family in Guatemala, but you have concerns about his safety.

What do you recommend to the court?

Undocumented Youth

Four-year-old Mary J. Santiago comes to DCF attention four months ago because her mother was arrested by Immigration and Citizen Enforcement for working without legal papers after a raid at the meatpacking plant.

No one came to pick up Mary J. at Preschool and she came into the state's care. Mother was held without bond awaiting a deportation hearing (many, many months away). By phone, mother insists that the child is a US Citizen by birth – born in Texas by a mid-wife and has no birth certificate.

You were appointed as the GAL.

What are your first-steps?

ICWA

Sue Smith has a serious drug problem that caused her to neglect her three-year-old daughter. Doug, the father, is in and out of the home. Sue claims she is a member of a tribe.

What information are you required to provide to the court?

ICWA

Lexi, a sixteen-year-old in the custody of the Secretary, who is an enrolled member of the Cherokee Nation, has a baby boy. After a year and a half, Lexi decides she is unable to care for the child and agrees to relinquishment as long as her foster parents are allowed to adopt the child. The tribe, who has chosen not to intervene in Lexi's case, has decided to intervene in the baby boy's case. The Nation is requesting the infant be placed in the home of a tribal member in Oklahoma.

What does the GAL recommend to the judge?

ICWA

You have been appointed to a ten-year old boy named Sam. Sam's mom and dad have abandoned him at the local intake and assessment center. As the GAL you have interviewed Sam and he has told you that he lived on a reservation in Michigan when he was a baby. He has blue eyes and blonde hair.

As his GAL what do you tell the court when the judge asks if ICWA applies to Sam's case?

ICWA

The biological mother who is a member of the Arapaho Tribe has not seen her child since he was a few days old and has not attended any judicial proceedings. A petition for termination of parental rights has been filed by the prosecutor. The mother has now requested a transfer to the tribal courts.

As the GAL, what is your recommendation to the court?

Human Trafficking

A sixteen-year-old foreign national is hired to work in a restaurant. His identity documents are taken, he is underpaid, forced to live in the basement of the restaurant owner, and told he will be deported if he tries to talk to law enforcement.

The restaurant owner is arrested and charged with labor trafficking and a Child in Need of Care case is filed on the sixteen-year-old. An attorney is appointed to the child in the criminal case and a GAL in the CINC case.

What must the GAL know to be competent?

Human Trafficking

You are a GAL for a fourteen-year-old girl. She confides that her dad has set up "dates" for her and mom with other men. When she originally refused, he beat her and locked her and her mom in a closet until she agreed. He takes and keeps all the money and uses it to support his drug habits.

What should you do with this information from your client?

Human Trafficking

You are the GAL for a fifteen-year-old girl who is under the jurisdiction of the court placed with DCF. She is found to have illegal drugs in her purse at school. The local police are called. She has in her possession two cell phones, condoms, and lubricant packets. The school counselor reports that she recently dropped out of school activities like the choir and soccer team. She has changed her appearance with new clothes and manicured nails and a tattoo. She does not have an explanation of how she got the money for this. A high school friend told the counselor she has a new older boyfriend in his twenties. She is charged as a juvenile offender for possession of an illegal substance.

What do you do as the GAL?

Human Trafficking

You have been appointed by the judge as the GAL for Sally, age 13, who has run from foster home placements three times. She shows you her new tattoo that says "Daddy" and confides that she runs so that she can be with her new older boyfriend, Eric. Eric is 21-years-old and she says that Eric loves her. Reports of her medical condition indicate STDs and substance abuse.

What information do you provide to the court?

What recommendations do you make to the court?

Crossover Youth

You are the GAL for Tommy, a twelve-year-old, in a CINC case from El Paso county. He was placed at a PRTF in Make Believe county. While in placement, he was charged with two counts of aggravated indecent liberties with a minor. Parental rights have been terminated.

Do you have any obligation to appear in Make Believe county as his GAL?

Should you contact the court in Make Believe county to ensure a GAL is appointed in his JO case?

Assume that you were not informed of the charges until after Tommy had entered a plea, where he pled guilty to both counts. Now that the matter has been moved to El Paso county for disposition, should you file any motions on his behalf? Should motions to withdraw the plea be filed in El Paso county or Pueblo? What if you are now aware that no GAL was appointed when the court accepted the plea?

Crossover Youth

You are the GAL for Betty, a seventeen-year-old, in a CINC case in Pretend county. She was placed at a foster home in Make Believe county. While there she was arrested and charged with shoplifting. She was offered an opportunity to do community service in exchange for a dismissal of the charges. She refuses to complete the community service hours and is convicted of the charge of theft. You were not made aware of the situation until after the adjudication. Her parents were aware of the charges but chose not to attend court, instead allowing the case manager to attend with Betty. Disposition has been returned to Pretend county.

Do you have any obligation to appear at the dispositional hearing?

Does it change anything if her parents do attend?

Crossover Youth

You are the GAL for Billy, a sixteen-year-old with autism. He has an open CINC case in Make Believe county. Parental rights have not been terminated, but his parents are low functioning and unable to manage his behavior. He is charged in Make Believe with three counts of battery on a school official.

Do you attend his JO hearings, consult with his JO attorney, provide mental health records, and participate in his JO case regarding plea agreements?

Crossover Youth

You are the GAL for Theo, a fourteen-year-old in foster care, after his mother has been charged with murder. Theo was a witness to the crime. He is scheduled to testify at his mother's upcoming jury trial. Mother's defense counsel would like to interview Theo. There is also a request by the defense attorney to obtain Theo's school records.

Do you attend the pretrial motions hearing in the criminal case on Theo's behalf?

Do you ask the judge to take the school records for an in- camera review before offering them to the defense counsel?

Do you attend the trial while Theo is testifying?

Do you attend any meetings with defense counsel while interviewing Theo?

Older Youth

A fifteen-year-old client tells the GAL that his mother was "smoking weed" on his last unsupervised home visit, but does not want the GAL to tell the court because the child wants to go home soon. The GAL was hoping the child could go home soon as well and the GAL wonders if mother using a little marijuana is really much of a safety risk for client. The permanency hearing is next week.

What should the GAL do?

Does the age of the child make a difference in the answer?

What if the CASA tells the GAL that the child told her this info and told her not to tell anyone?

What if the prosecutor says to the Judge – "Mother is no longer using drugs and the child can go home."

Older Youth

The court is probably going to return your two teen clients to the birth parents in the next few weeks. You agree that the parents have been sober and have finally got some decent housing and that your clients seem very happy about being able to go home. BUT you can't help but see how much better off they have been in foster care – the school is so much better, their grades have really improved, they are hanging out with decent friends and the foster family could not be more loving and supportive – the placement has been a real "10". These kids are going home to an environment that is more like a "5" - minimal.

What should you do?

Older Youth

11 year-old client tells GAL that she does not want to attend her permanency hearing at court "because the Judge is stupid and treats me like a baby and it doesn't matter what I say anyway."

What should you do?

Older Youth

15 year old client has pretty serious behavior problems, is adamant about wanting to go to next court appearance so he can "tell that f--king Judge what a real a--hole he is for putting me in this place; that Judge is gonna be one sorry dude if he does not send me home."

Should you let the child come to court?

What should you do?