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National Study of Guardianship Systems: Summary of Findings and Recommendations

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Guardianship/National Study

I. Introduction

The imposition of guardianship entails one of the most extensive deprivations of personal rights in our society. /1/ A person for whom a guardian is appointed loses the most fundamental rights: the choice of where to live; the authority to consent to or refuse medical treatment; control over financial matters; and other personal, contractual, and legal rights that are the hallmark of adulthood. The significance of this deprivation increases in light of the likelihood that more and more persons will be placed under guardianship as the "demographic revolution" continues and our population continues to grow older.

The National Study of Guardianship Systems (National Study), funded by the United States Administration on Aging, emerged out of a concern that, while an increasing number of elderly persons were being subjected to guardianship, little empirical data were available to address how and why guardianships were imposed. /2/ The National Study was developed with the dual goals of (1) refining the current understanding of the guardianship system and its participants and (2) providing data that could guide the development of sound policies and practices, so that older persons at risk of guardianship have the opportunity to obtain the surrogate services that are the least restrictive, yet adequate to meet their needs. The project focused on answering the following five questions:

- (1) Who is affected by guardianship?
- (2) What factors trigger the filing of petitions for guardianship?
- (3) What is the availability, utilization, and effectiveness of alternatives to guardianship?
- (4) What is the process for imposing guardianships?
- (5) What impact does imposition of guardianship have upon individuals?

The National Study, conducted between October 1989 and January 1992, examined guardianship practices in over 700 cases for guardianship of persons 60 years of age or older in 30 jurisdictions in 10 states. /3/ (See fig. 1.) Data were collected by volunteer data collectors /4/ who observed hearings, examined court files, and interviewed petitioners /5/ under the supervision of The Center for Social Gerontology (TCSG). /6/

INSERT FIGURE 1 HERE

Under a second grant from the Administration on Aging, TCSG developed three reports to disseminate National Study project results: National Study of Guardianship Systems: Findings and Recommendations, /7/ National Study of Guardianship Systems: Implications for Additional Research, /8/ and National Study of Guardianship Systems: Implications for Judicial Education. /9/ This article summarizes the contents of the first report.

II. National Study Findings

The data collected provide a wealth of empirical evidence on the current workings of guardianship systems nationwide. Set forth below are the most important findings of the National Study, organized according to the five questions addressed by the study.

A. Who Is Affected by Guardianship?

1. Profile of Respondents

The majority of the respondents, or those individuals over whom guardianship is sought, were white (83 percent). /10/ This is similar to the racial makeup of the general population over 60 in the counties where respondents lived. /11/ Eighty-five percent of the respondents were unmarried. /12/ The percentage of female respondents in our sample, 67 percent, /13/ was slightly higher than the percentage of women aged 60 and over in the general population (63 percent). /14/

Approximately half (44 -- 47 percent) /15/ of the respondents lived in the community and half (41 - - 43 percent) /16/ resided in nursing homes or other institutions at the time of the petition. Over a quarter of the respondents (28 percent) lived alone at the time of the petition. /17/

Guardianship and conservatorship petitions did not appear to be correlated with the respondent's wealth or income, except to the extent that persons with little or no estate do not need a conservator. Twenty-six percent of respondents had estates worth \$25,000 or less, and 43 percent had estates worth \$50,000 or less. /18/ Only 21 percent had estates worth more than \$100,000. /19/

Petitioners reported that respondents had significant cognitive impairments, especially with respect to handling financial affairs. /20/ Sixty-eight percent of petitioners characterized the respondent as having moderate to severe problems with conversation, /21/ 76 percent reported moderate to severe memory problems, /22/ and 91 percent reported that the respondents were having moderate to severe difficulties handling financial affairs. /23/ In general, the respondents were less impaired in performing daily physical activities such as bathing, dressing, using the toilet, doing household chores, and feeding themselves. /24/

2. Profile of Petitioners

The study reported that 76 percent of guardianship petitions and 71 percent of conservatorship petitions were filed by a family member or friend of the respondent, usually the children of the respondent. /25/ Only 22 -- 25 percent of all petitions were filed by agency petitioners, /26/ although this figure varied significantly by state. /27/ The largest category of agency petitioners were social service agencies (55 -- 56 percent). /28/

Fifty percent of individual /29/ petitioners were between 51 and 70 years old. /30/ Like the respondents, the majority of individual petitioners were white and female. /31/ However, petitioners tended to be better educated than respondents, with over 90 percent having high school diplomas and over half having attended college. /32/ In addition, the majority of petitioners were married, while most respondents were not. /33/ Over half of petitioners reported household incomes of \$50,000 or less, and a quarter had incomes of \$25,000 or less. /34/

Eighty-six percent of the individual petitioners reported caring for the respondent at the time of the petition. Thirty-seven percent reported spending six or more hours per week caring for the respondent, and an additional 13 percent lived with the respondent. /35/ These figures indicate that petitioners are generally those family or friends who have already been deeply involved in caring for the older person.

B. What Factors Trigger Petitions for Guardianship?

One of the primary questions in the study was whether particular events in the life of an older person are likely to lead to guardianship. Eighty-seven percent of petitioners identified a "triggering event" that caused them to file a petition. /36/ (See fig. 2.) /37/ These petitioners most frequently cited "an abrupt change in respondent's circumstances" as the event or occurrence leading to the filing of a guardianship petition. /38/

INSERT FIGURE 2 HERE

The study noted that the imposition of guardianship was often associated with nursing home placement. Almost half (45 percent) of the guardianship petitions contained allegations concerning the respondent's need for nursing home or other institutional placement. /39/ Forty-five percent of interviewed petitioners said that the petition was prompted by the need to move the respondent to a nursing home. /40/ Forty-seven percent of the respondents in fact were moved to a nursing home within three months of the granting of the guardianship, and 13 percent of the petitioners anticipated that such a move would occur within the next six months. /41/

C. What is the Availability, Utilization, and Effectiveness of Alternatives to Guardianship?

As part of the petitioner interview, the use of alternatives prior to the guardianship petitions was explored. Our data indicate that most respondents received assistance with both financial and social/personal affairs before the petition for guardianship. /42/ Most assistance was provided by family and friends rather than by professional service providers. /43/

Financial assistance was provided by agencies, institutions, or other professionals in only 10 percent of the cases. /44/ Much of the assistance was provided informally, without the benefit of a legal surrogate decision-making mechanism, such as a power of attorney or a representative payeeship. /45/ Only 2 percent of the petitioners reported having used bill-paying services, 18 percent had a representative payee arrangement in place, and 30 percent reported that a durable power of attorney was in place. /46/ The money management alternative used by the largest group (49 percent) was a joint bank account arrangement. /47/

In 78 percent of the cases, someone had assisted or tried to assist respondents with the activities of daily living. /48/ Thirty-six percent of respondents had received in-home medical services before the filing of the petition. /49/

Only 14 percent of respondents had executed an advance directive to assist with medical decision making. /50/ (See fig. 3.) Of the respondents who had signed advance directives, 13 percent had both a living will and a durable power of attorney for health care, 29 percent had only a durable power of attorney for health care, and the largest group, 52 percent, had only a living will. /51/

INSERT FIGURE 3 HERE

D. What Is the Process for Imposing Guardianships?

Although substantial differences exist among states in the details of the process used to impose guardianships, several basic steps are commonly found in every state system. These are (1) filing of a petition with the court to ask for the appointment of a guardian; (2) notification to the respondent and other parties of the petition and of scheduled hearings; (3) appointment of representatives for the respondent and appointment of investigators/guardians ad litem and medical evaluators, as required by law; (4) conduct of hearing(s); (5) determination of the need for guardianship based on written evidence and testimony; and (6) appointment of the guardian (limited or full) or dismissal of the petition. /52/

Most guardianship hearings (58 percent) lasted no more than 15 minutes. Hearings attended by respondents or respondents' attorneys were the longest, averaging over 30 minutes. /53/ Twenty-five percent of hearings lasted less than five minutes. /54/

INSERT FIGURE 4 HERE

Although six out of the ten states studied had statutory provisions that mandated or strongly encouraged the respondent's attendance at the hearing, only 28 percent of respondents attended. Thus, statutory provisions requiring or encouraging the respondents' attendance appeared to have little influence on attendance rates. /55/ However, some evidence suggested that representation by an attorney positively influenced respondents' presence. /56/ In 39 percent of the cases, there was no discussion regarding the respondents' absence from the hearing. /57/ In 15 percent of the cases, there was discussion about the respondent's absence, but no reason for the absence was given. /58/

When present at the hearing, respondents testified 77 percent of the time. /59/ Fifty-six percent of respondents who testified objections to receiving any kind of assistance, while 43 percent indicated that they approved of the guardianship. /60/ Only 25 percent explicitly rejected the guardianship. /61/

Respondents' presence at the hearing was associated with a lower rate of granting of petitions (80.7 percent granted, as compared to 89.2 percent granted). /62/ However, respondents' presence was not associated with a significantly higher rate of denial of petitions. Rather, in 15 percent of the cases in which the respondent was present, no decision about the need for guardianship had been reached when the data collection phase of the project had ended. /63/ In only 8.1 percent of the cases in which the respondent was absent had the court failed to make a decision by the time data collection was completed. /64/ Therefore, it appears that the respondent's presence is associated with a delay or suspension of proceedings rather than an outright denial of the petition. /65/

Most respondents went through the guardianship process without representation by legal counsel. Only 17 -- 20 percent of study respondents were represented by court-appointed attorneys. /66/ An additional 9 percent had retained private counsel. /67/ In states with statutes requiring legal counsel for respondents, however, volunteers reported that 80 -- 93 percent of respondents were represented by attorneys. /68/ Statutory language that did not mandate, but only encouraged, appointment of attorneys for respondents did not result in an increase in the number of respondents represented by attorneys. /69/ Although respondents with objections to the proceedings were twice as likely to be represented by an attorney, over half of respondents who had some objection to the proceeding still were unrepresented. /70/

INSERT FIGURE 5 HERE

Overall, 87 percent of respondents' attorneys who were present spoke at the hearing. /71/ However, two of the three states with the lowest reported percentages of respondents' attorneys speaking were states in which mandatory appointment of counsel was required. /72/ This suggests that court-appointed attorneys often may not be taking as active a role as they should on behalf of respondents. /73/

Medical evidence was present in the court files in a majority of the cases. /74/ However, unless statutorily mandated, few court-ordered independent medical evaluations were performed. /75/ States with statutory language intended to foster the use of independent evaluations, but not requiring their performance, did not have a higher rate of evaluations than states whose statutes did not address the need for evaluations. /76/

Medical testimony was rarely presented at hearings. /77/ Only 10 percent of the cases in which hearings were attended had a medical evaluator present. With the exception of New York, no state had a physician present in more than 3 percent of the hearings. /78/

E. What Is the Impact of Guardianship upon Individuals?

Guardianship and conservatorship petitions were rarely denied. Overall, 94 percent of all guardianships and 93 percent of all conservatorships were granted by the court. /79/ Of petitions granted, only 13 percent of guardianships and 10 percent of conservatorships placed limits on the authority of the guardian or conservator. /80/ Only in Minnesota, where the system is set up to encourage the use of limited guardianships, was there substantial use of limited guardianships and conservatorships. /81/

Data from file abstractions indicate that individual petitioners became guardians 86 percent of the time and conservators 81 percent of the time. /82/ Agency petitioners became guardians 49 percent of the time and conservators 49 percent of the time. /83/

Individuals /84/ accounted for 72 percent of guardians and 66 percent of conservators appointed. /85/ Slightly more agencies /86/ were appointed to handle conservatorships than to handle guardianships (29 percent versus 24 percent). /87/

Individual petitioners provided substantial care to respondents. This assistance continued after imposition of the guardianship. In 24 percent of the cases where guardianship or conservatorship was imposed, the time spent by the petitioner caring for the respondent increased, and in 37 percent of the cases this amount of time remained the same. /88/

III. National Study Recommendations

The National Study findings highlighted above have many implications for current policy and practice. In light of these findings, the following recommendations for improving the guardianship system are presented.

1. Further investigation is needed of the use of alternatives to guardianship, including an examination of the barriers to implementation and utilization and an exploration of the factors that improve the effectiveness of alternative services. The data clearly demonstrate that the majority of respondents in our study had not taken steps to plan for future incapacity. Further research is needed to determine when and how preplanning is most useful in averting the need for guardianship, and whether special crisis intervention services geared toward these kinds of crises could lessen the need for guardianship. Until such studies are conducted, it is recommended that educational efforts to inform the public and service providers about the benefits of and methods for implementing alternatives continue and that programs to provide alternative services be encouraged.
2. There is a strong need for state courts to undertake judicial education and the development of judicial resource materials on the subject of adult guardianship imposition. Results of this study and others suggest that judicial practice, rather than state law, most influences the outcome and handling of guardianship hearings. This appears to be particularly true with respect to such issues as respondent's presence, representation by counsel, the use of limited guardianship, and use of independent evaluations of the respondent.

3. Ongoing training programming should occur at the state or local level to educate investigators/guardians ad litem and attorneys for respondents of their respective roles and duties in representing guardianship respondents. Our data suggest that court-appointed attorneys for respondents often experience role confusion, that is, they are uncertain about whether they are to represent the respondent's best interests or the respondent's stated desires. Although empirical data did not clearly reveal any shortcomings in the performance of investigators/guardians ad litem, comments from the volunteer data collectors indicated a wide disparity in the quality of representation and ability of investigators/guardians ad litem. Educational seminars for court-appointed attorneys and investigators/guardians ad litem should be a requirement of appointment.

4. Courts must require more information concerning the functional status of the older person to assure that the most appropriate and least restrictive decisions can be made respecting the appointment of a guardian. Our data indicate that few courts have an independent medical evaluation before them when considering the need for a guardian. Further research is needed to determine what a good assessment should include. Until the requisites of a quality functional assessment have been identified, and appropriate personnel have been trained in its performance, it will be difficult for courts to obtain the kind of information needed to make informed decisions in guardianship cases.

5. Courts should ensure that each respondent participates in the guardianship decision-making process to the full extent of the respondent's ability. This study demonstrates that statutory provisions that mandate or encourage respondent attendance are ineffective in achieving that goal. We believe that a firm commitment on the part of judges to observe and listen to the respondent firsthand, to make the hearing process less intimidating to encourage respondent participation, and to provide the respondent with legal counsel when appropriate, is indispensable to achieving greater participation by the respondent. Another promising avenue for increasing respondent participation is the use of mediation in guardianship cases.

6. State statutes and court practices must ensure effective respondent representation by counsel whenever necessary to protect the respondent's interests. At a minimum, all respondents who object to the proceeding should have legal counsel. Study data indicate that this is not the case currently. Our results suggest that substantial increases in the number of cases with appointed counsel for respondents is only likely if appointment of counsel is mandated by statute or if effective judicial training can convince judges of the importance of legal representation for guardianship respondents.

7. State statutes and court practices must ensure appropriate use of limited guardianships. Our study results strongly indicate that use of limited guardianship should be increased. Methods for increasing the use of limited guardianships include training judges to recognize the importance of limiting guardianships, fostering the use of comprehensive assessment information, and developing standardized court forms for implementing limited guardianships.

8. Courts and mediation programs should work together to explore the use of mediation in appropriate guardianship cases. In mediation, the parties try to work out their own solution to a dispute with the help of a neutral third party (the mediator). The comments of volunteers, indicating that the respondents were frightened, degraded, and confused by the court process, and study

findings of poor respondent participation in the process, infrequent denial of guardianships, and rare limitation of guardians' powers all suggest the need to examine the use of mediation in guardianship. TCSG has been involved in a project to test the use of mediation in adult guardianship cases. This project has demonstrated that in appropriate cases mediation can be a valuable tool in resolving guardianship disputes. Existing dispute resolution centers around the country are an untapped national resource that could provide valuable mediation services in guardianship cases.

IV. Conclusion

Because the imposition of guardianship results in a severe deprivation of personal rights, it is important to learn more about the current national guardianship system and its participants. Only with this information can sound policies and practices in the area of guardianship be developed. The National Study represents a major step toward this goal. As discussed above, the findings of this study gave rise to a number of recommendations, intended to foster a guardianship system that promotes the best interests of older persons without compromising their rights to self-determination.

While the National Study accomplished its goal of increasing knowledge and understanding of the national guardianship system, many questions remain unanswered. It is hoped and expected that researchers, policymakers, and others who have the potential to fund, initiate, or influence further study of guardianship issues will build on the National Study's findings and undertake additional research to foster the development of an increasingly clear picture of the weaknesses and strengths of the current system and the best methods for improving that system. /89/

Footnotes

/1/ The term "guardianship" is used generally to refer to court-imposed surrogate decision making affecting the respondent's person, or property, or both. Where "guardianship" is distinguished from "conservatorship," the two phrases are used in a more specific sense. "Guardianship" refers only to decision-making power over the person, while "conservatorship" refers only to decision-making power over property.

/2/ The original report of this study was prepared by The Center for Social Gerontology (TCSG), under AoA Grant No. 90-AR-0124. Development of additional materials and additional dissemination of project results were conducted under AoA Grant No. 90-AM-0707.

/3/ The ten sample states were California, Colorado, Florida, Indiana, Kansas, Michigan, Minnesota, New York, Oregon, and Washington. These states were selected on the basis of the availability of an Older Women's League chapter with volunteers willing to collect data and the willingness of the courts to allow volunteers to collect data (see *infra*, note 4). Although the majority of the courts in which data were gathered were in urban or suburban areas, courts in Kansas and Oregon provided us with data about rural courts.

/4/ The Older Women's League (OWL) assisted in recruiting volunteers from selected OWL chapters who were trained to perform data-gathering activities in their local courts. The University of Missouri -- Kansas City's, Institute for Human Development (UMKC) assisted TCSG with the development of the research design and the analysis of the data.

/5/ As used in this article, a "petitioner" is the person who files a petition with the court to request that a guardian be appointed.

/6/ All data collection instruments were developed by TCSG, in consultation with UMKC. The basic content of the instruments was the same in all states to ensure consistency of data, but each state's instrument used the correct terminology for that particular state. Each of the three instruments -- the court-hearing observation instrument, the file-abstraction instrument, and the petitioner-interview instrument -- had both closed-ended and open-ended questions. In seven states, information was obtained by using all three data-collection instruments; in two states (Oregon and Florida), data were obtained by using only the file abstraction instrument; and in one state (New York) data were obtained by using only the court-hearing observation instrument and the file-abstraction instrument.

/7/ Lauren B. Lisi et al., *The Center for Social Gerontology, National Study of Guardianship Systems: Findings and Recommendations* (1994) [hereinafter *National Study*].

/8/ Lauren B. Lisi & Shari Borsini, *The Center for Social Gerontology, National Study of Guardianship Systems: Implications for Additional Research* (1994) [hereinafter *Additional Research*].

/9/ Lauren B. Lisi & Shari Borsini, *The Center for Social Gerontology, National Study of Guardianship Systems: Implications for Judicial Education* (1994).

/10/ *National Study*, supra note 7, at 112 (tbl. 7).

/11/ *Id.* at 22 (chart 2), 110 (tbl. 5).

/12/ *Id.* at 29 (chart 10), 112 (tbl. 7).

/13/ *Id.* at 112, 114 (tbls. 7, 10).

/14/ *Id.* at 21 (chart 1), 110 (tbl. 5).

/15/ *Id.* at 113 -- 14 (tbls. 8, 11).

/16/ *Id.*

/17/ *Id.* at 113 (tbl. 8).

/18/ *Id.* at 112 (tbl. 7).

/19/ Id. Further analysis of the relationship between the respondent's and petitioner's wealth is needed to determine not only what role it plays in the decision to petition but also whether it has any relationship to who files or is appointed.

/20/ Id. at 24 (chart 4), 116 (tbl. 15).

/21/ Id. at 23 (chart 3), 116 (tbl. 14).

/22/ Id.

/23/ Id. at 24 (chart 4), 116 (tbl. 15).

/24/ Id. at 25 (chart 6), 116 (tbl. 14). While this portrait of respondents appears to support the need for intervention, it is unclear whether court-imposed intervention could have been avoided by the use of less restrictive alternatives and whether guardianships and conservatorships subsequently imposed could have been limited.

/25/ Id. at 118 -- 19 (tbls. 17 -- 18). Respondents' children were the most frequent persons to file a petition for guardianship, followed by nieces, nephews, wives, female friends, granddaughters, and male friends. Id.

/26/ "Agency" petitioner refers to priests, social workers/case workers, professional guardians or conservators, hospitals/health care providers, full-time aides, attorneys/law firms, or bankers. Id. at 117 (tbl. 16).

/27/ Id. at 118 -- 19 (tbls. 17 -- 18).

/28/ Id.

/29/ "Individual" petitioners refer to husbands, wives, sons, daughters, siblings, male or female friends, stepchildren, etc. Id. at 117 (tbl. 16).

/30/ Id. at 121 (tbl. 21).

/31/ Id. at 27 (charts 7 -- 8), 118 -- 19 (tbls. 17 -- 18), 121 (tbl. 21).

/32/ Id. at 121 (tbl. 21). Unfortunately, data on petitioners' and respondents' financial status cannot be compared because slightly different information was collected for each group (household income of petitioners, as compared to the value of respondents' estates).

/35/ Id. at 122 (tbl. 22).

/36/ Id. at 123 (tbl. 23).

/37/ The information reflected in this chart was acquired through petitioner interviews. The particular events or reasons that triggered the petition are not mutually exclusive, i.e., some petitioners cited more than one type of triggering event. Percentages for events are calculated out of the total of all the petitioners who said there was a triggering event.

/38/ Id. The fact that an abrupt change was cited by so many of the petitioners suggests that many guardianship petitions are filed in a crisis situation. Id. at 78.

/39/ Id. at 129 (tbl. 31).

/40/ Id. at 125 (tbl. 25). See id. at 124 (tbl. 24).

/41/ Id. at 125 (tbl. 25).

/42/ Data collected showed that, before the petition, 75 percent of respondents received assistance with financial affairs, 78 percent received assistance with daily activities, and 36 percent used in-home medical services. Id. at 126 -- 27 (tbl.s 26 -- 28).

/43/ Id. at 126 (Table 26).

/44/ Id.

/45/ Id.

/46/ d.

/47/ Id.

/48/ Id. at 127 (tbl. 27).

/49/ Id. at 127 (tbl. 28).

/50/ Id. at 128 (tbl. 29).

/51/ Id.

/52/ Id. at 38.

/53/ Id. at 135 (tbl. 41).

/54/ Id. at 44 (chart 20), 135 (tbl. 40).

/55/ Id. at 26 (chart 22), 49 (chart 26), 139 (tbl. 47); see id. at 146 -- 47 (tbls. 54, 56 -- 57).

/56/ When represented by an attorney, the respondent was present at the hearing 48 percent of the time. When not represented, the respondent was present only 13 percent of the time. *Id.* at /141/ (tbl. 49).

/57/ *Id.* at 143 (tbl. 51).

/58/ *Id.*

/59/ *Id.* at 139 (tbl. 47).

/60/ *Id.* at 47 (chart 23), 140 (tbl. 48).

/61/ *Id.*

/62/ *Id.* at 142 (tbl. 50).

/63/ *Id.*

/64/ *Id.*

/65/ *Id.* Our study did not compare such factors as the parties' satisfaction with the imposition process and the nature of the guardianship imposed when the respondent is present and when the respondent is not present. Further study on the effect of the respondent's presence on both the outcome of the petition as well as the more tangible aspects of the process is needed.

/66/ *Id.* at 146 (tbl. 54), 147 (tbl. 56).

/67/ *Id.* at 147 (tbl. 56).

/68/ *Id.* at 146 (tbl. 54), 147 (tbl. 56).

/69/ *Id.* at 146 (tbl. 54).

/70/ *Id.* at 144 (tbl. 52).

/71/ *Id.* at 48 (chart 26), 148 (tbl. 57).

/72/ *Id.* at 148 (tbl. 57).

/73/ Factors contributing to attorney passivity are unclear but may include (1) an apparent need for appointment of a guardian; (2) role confusion for the attorney, particularly when the best interests of the respondent appear to conflict with the respondent's wishes; or (3) relative inexperience of attorneys accepting court appointments.

/74/ National Study, *supra* note 7, at 149 (tbl. 59).

/75/ Id. at 146 (tbl. 54).

/76/ Id.

/77/ Id. at 151 (tbl. 64).

/78/ Id. It is unclear why more medical experts testified in New York hearings than in other states. While many factors may be operating to create this result, data from this study suggest a correlation between petitions filed by agencies and physician presence at the guardianship hearing. New York in particular had a high rate of agency petitioners. This correlation, however, does not completely account for New York's significantly higher percentage of physician attendance at the hearings. Id. at 62, 151 -- 52 (tbls. 64 -- 65).

/79/ Id. at 153 (tbl. 66), 155 (tbl. 68).

/80/ Id.

/81/ In Minnesota, 54 percent of guardianship petitions granted were limited, and 33 percent of conservatorship petitions granted were limited. Id. This significantly larger number of limited guardianships and conservatorships may be due to Minnesota's statute and court rule, which have established four separate kinds of guardianships -- guardianship of the person and guardianship of the property, which provide full delegation of authority, and conservatorship of the person and conservatorship of the property, which grant limited authority. Minn. Stat. Ann. Secs. 525.539.2, 525.539.3, 525.56 (West 1975 & Supp. 1991). Petitioners use different court forms when applying for each of the four arrangements, and courts have special order forms for conservatorship arrangements that allow them quickly to check off from a list of enumerated powers the limited powers to be delegated to the conservator.

/82/ National Study, *supra* note 7, at 158 (tbl. 71).

/83/ Id.

/84/ Individual guardians and conservators included husbands, wives, sons, daughters, siblings, other relatives, and friends. Id. at 156 (tbl. 69).

/85/ Id. at 156 -- 57 (tbls. 69 -- 70).

/86/ Agency guardians and conservators included hospitals or health care providers, public and private social service agencies, attorneys, law firms, and banks/financial institutions. Id.

/87/ Id.

/88/ Id. at 159 (tbl. 73).

/89/ See Additional Research, *supra* note 8.