

**COMMISSION MEETING MINUTES**  
**December 17, 2013**

**Video Conference sites**

Chicago:	Thompson Center	100 West Randolph, Room 9-036
Springfield:	Capitol City Training Center	130 W. Mason St., Room 104
Carbondale:	So. IL University Morse Library	ISS Conference Room

**MEMBERS PRESENT**

Anthony E. Rothert, Chairman  
Rev. Barbara Berry-Bailey  
Dr. Seymour Bryson  
Brian N. Rubin

**MEMBERS ABSENT**

Inez Torrez Davis	Professor Lawrence Schlam
Senator Don Harmon	Andrea Schleifer
Dr. Sharon Jenkins-Collins	Senator Ira Silverstein
Angelo "Skip" Saviano	

**EXECUTIVE STAFF PRESENT**

Dr. Mary L. Milano	Executive Director
John H. Wank	General Counsel / Deputy Director for Programs
Veronique Baker	Director, Legal Advocacy Service
Helen Godlewski Brownfield	Director, Office of State Guardian
Bobbie Fox	Director, Human Resources
Gloria Lasley	Director of Finance and Fiscal Operations
Teresa Parks	Director, Human Rights Authority
Constance Umbles-Sailers	Confidential Assistant to the Director
Awisi Quartey	Director of Policy and Training
Florence P. Martin	Private Secretary to the Director

Chairman Rothert called the meeting to order at 1:05 pm. A quorum was not present.

## DIRECTOR'S REPORT

**Dr. Mary L. Milano**

We have an independent source of income for the GAC fund and the Commission is in the position to have more money that can be spent quickly; the current balance in the fund is close to \$1 million.

There are several projects being considered to utilize these funds, all of which relate to things that we would not be able to do during the ordinary course of business and relate specifically to better ways of serving our wards in community and less traditional settings. We have managed to reserve a sum of money, although we aren't sure how long we'll be able to hang on to it, to work with, at their invitation, the Cook County jail system, which is the largest provider of mental health services in the state. The goal is to think through different ways of dealing with the number of individuals in the system that who really should not be in that system or at Cermak because they've been picked up for behaviors that are a result of mental illness. We have determined that we are able to assist them with personnel on the legal and advocacy side to find alternative settings for them, disposing of their cases in the judicial system, etc. Unfortunately, they operate in fits and spurts and each time we've begun to made progress it falls into a black hole. We think the project is significant enough to continue to hang on a bit longer to available funding for what we believe would be an 18-24 month project, during which time we would both evaluate the initiative and look for alternative funding on a longer term basis. It would probably be something that has not been done anywhere in the country and we think it could be really significant. At some point, however, we're going to have to detach from the project because we don't want to be in a position where the Legislature says 'obviously you don't need the money' and there are other options that will be coming to light.

We have a group of initiatives that oriented to community outreach, resources and education and we are proceeding with different parts of that right now. One portion is hiring law students, 2 at a time that, after a voluntary training period, would work for 6 month periods. These students may be 7-11's, graduates who are waiting for Bar exam results; people of a senior nature who we will deploy to do educational and outreach work around the development of a better understanding and execution of mental health powers of attorney at various locations such as community mental health centers where we know this knowledge is needed. We will rotate that project around first the northern part of the state and Springfield and then hopefully be able to expand it to 6 months increments around the state.

Along the same lines will also be able to provide training in the same area to the John Marshall Law School Veterans Clinic. We don't typically hear from VA facilities because they are an entity unto themselves, but John Marshall has been doing some very good work with veterans directly and could benefit from such training.

The GAC funds is operating like a 'grant' fund for projects that are specific in duration and are reviewable and able to be analyzed in terms of their results to become candidates for permanent funding. We are going to try to negotiate with the Bargaining Unit to permit us to hire for a 2 year period a group of individuals we would call 'ParaGuardians'. These individual would do the work our Guardianship Representatives whose work would be directed toward the kinds of tasks our regular guardians cannot do constantly due to the requirements of documentation, etc., which

is to visit wards, develop relationships and report. This is a way of taking the work we did in our volunteer guardian visitor model and transferring it to what could become potentially paid permanent positions. People who are in the communities may not have a large amount of training, but may have a Bachelors degree in a social service area, or very familiar with the community can go to the placements we are making and hope to make, judicial system permitting, in the future of wards who have been disbursed into very small community settings. Our guardians were once able to visit one facility and see 30 people at a time: now those individuals could potentially live in 30 different facilities.

Another project we are in the process of putting into place is the development of a statewide Human Rights Authority panel which would be based in Springfield. This panel would have expertise in the variety of settings we call community placements: CILA's, informal arrangements, whatever the nature may be. We were in the process of staffing this project, however, due to a Labor Relations contract matter with the Bargaining Unit, we must wait a certain period of time for individuals who are already employed in certain classifications to speak up and indicate if they wish to take advantage of these positions or whether we can hire externally.

We are also going to begin using the GAC fund for transitional hiring. This requires approval from the Governor's Office of Management and Budget because it would result in temporary increases in our headcount. What we would like to do is make certain there are not large spaces where our headcount has fallen due to separation from the State for various reasons; i.e. we have approximately 30% of our workforce that is eligible for retirement by the end of 2014. We have also used these funds to employ people in shorter contracts, people who have already worked for the agency, in large part to relieve the case burdens of individuals who are engaged in directing and assisting with the movement of wards due to the closures of Jacksonville and potentially Murray Developmental Centers. We will continue to hire through such contracts in the event other State operated facilities close as well as some of the institutional changes from some of the larger settings into smaller settings.

We are exploring other initiatives such as what would we need to develop a Tele-medicine model using guardianship in remote areas so we could have a guardian and perhaps a set of volunteers who are connected by technology, as well as the possibility of contracting some social service providers to do the kinds of Para-Guardian work we spoke of earlier.

Outside of the GAC fund and the kinds of opportunities it presents, we have begun the process of cross disciplinary hiring. We hired a lawyer to service for both the LAS and OSG in the Springfield region. It enabled us to put an LAS presence in Sangamon County for the first time a very long time to assume the burden of mental health cases in that area. We believe that this will result in many things, one of which is better resolution of cases at the trial level; better opportunities for settlement prior and far less appellate work rising out of the lack of the former. We are also in the process of hiring a second lawyer who will split LAS and HRA work and, to accommodate the new HRA presence for community services in Springfield, new attorneys, and we hope to hire and increase our IT support, we are taking on additional office space in the Stratton Building. We have been able to do this fairly quickly and economically because CMS has vacant space available.

Aside from these things, the Governor's office has agreed that our budget for the next fiscal year should be at what they call a 'maintenance level' rather than a flat level. This means we can incorporate the Bargaining Unit raises—the principal expense—into the basic budget. Whether the legislature will allow us to retain that level of funding we aren't sure, but it is better to start out higher than lower so in the event they decide to take something away we will still be in fairly good shape. There's been no approval for Merit Compensation raises generally, but we have found that there has been some receptivity to these raises when looked at on an individual basis. We are examining each member of the Merit Comp staff to see what possibilities exist for them to have their compensation raised, if not appropriately, at least marginally to address a number of different issues—one of which is that most of our Merit Comp staff supervise Bargaining Unit employees who are paid considerably more than they are—in fact one of the Directors ALL of their staff salaries are considerably higher and we have rectified that to some extent.

We are currently engaged in several other time consuming things: the bi-annual audit, as well as litigation which has arisen out of the Administration's attempt to close state operated developmental centers and finding more appropriate placements for the individuals living there that are more in tune with current thinking about how to serve individuals with developmental disabilities. It is an enormous amount of work, but the litigation has made it extraordinary.

We have made some progress, albeit painstaking, in appointing Commissioners. We are happy to finally be able to bring aboard Brian Rubin after a 2 year delay in the Governor's Office of Boards and Commissions and 1 year of finalization. He was originally recommended by Kathy Ryg as her replacement when she left the Commission. Mr. Rubin is active and well known in advocating for and creating laws for the rights of children and of the disabled. The other new Commissioner is Lawrence Schlam, professor of Law at Northern Illinois University. There are 2 others that are stuck in the appointment process. We continue to have quorum issues due to the inability to timely and effectively get new appointments finalized, this will no doubt be an audit finding again. We cannot have official meetings because we don't have enough Commissioners in place who are willing and able to attend meetings.

Lastly, Director Milano introduced Awisi Quartey replaced Danielle Welliever as Director of Policy and Training located in our Springfield office. Ms. Quartey came to the Commission from the Governor's office where she was a Governor's Office of Citizen's Action (GOCA) Fellow; she works for the Commission full time and will be commuting between Springfield and Chicago while attending classes at John Marshall Law School.

## **FISCAL REPORT**

**Gloria Lasley**

Chairman Rothert asked what was is current headcount of personnel for the Commission. CFO Lasley stated that currently it is 104, we are approved and the maximum is 106. She (CFO Lasley) then elaborated on what Director Milano meant when she alluded to plans to overlap the headcount by using the GAC fund. The plan is to hopefully get approval to continue hiring in anticipation of retirements, etc. hopefully many months in advance so people are trained and already on board when people vacate positions. We then transfer them into the General Revenue

fund head count. If we are lucky, we could get up to a headcount of 110 and then bring it back down to 106 as salaries transfer from GAC fund to the General Revenue fund.

CFO Lasley then called the Commissioner's attention to their information packet. She pointed out that it includes the fiscal summary from the last completed fiscal year-2013 ending June 30<sup>th</sup>, with a lapse period continuing to August. The appropriation was \$10,056,800 which included the original appropriation plus the supplemental to give us access to the GAC fund when the Legislation passed bringing in additional revenue last January. Our expenditures were \$9.4 million with a lapse of about \$600,000: this has a lot to do with turnover of many people retiring and the many months in delay of filling those positions. An additional portion of that lapse is due to the fact we budgeted a significant amount of money to upgrade our CompuTrust system. In the initial budget we were looking at a more expensive conversion process to a web based application which wasn't ready for presentation, so we've now been upgrading to an earlier version and consulting dollars are less.

For FY 2014, our General Revenue appropriation is a flat \$10 million and the GAC fund is \$500,000. We anticipate that the GAC fund will bring in about \$1.2 million over the course of FY14, so there's 'money in the bank' so to speak for the Commission to grow into how we spend that fund. We started it off slow because many of the initiatives take a while to get off the ground and we knew we wouldn't spend it all right away.

Our FY 15 budget request all inclusive is at \$11.3 million which includes \$700,000 of GAC fund appropriation. Again, additional money will be available in the GAC fund; it's not a guarantee because of the way the revenues come in based on court appointed fees, but it is likely there will be more that we can grow into if these initiatives go full steam we can increase it with a supplemental appropriation.

General Counsel Wank explained why there is a large spike in the General Revenue for FY15 in comparison to previous years. In the past it was funded, almost entirely, from assessment of fees against the estates of State Guardian wards. The biggest balance we ever carried was maybe \$150,000; we can't get a lot of monies from individuals who are by definition indigent. The change occurred starting mid FY 13 when we passed a law that assessed fees against, some but not all, filings in probate court. The clerks of the court in the 102 counties are the collectors: they assess the fees, collect them and send them onto the State Treasurer. The State Treasurer then segregates those receipts and places the funds into the GAC fund.

Lastly, CFO Lasley reiterated that the Agency is finishing its Bi-Annual audit. She expects a draft from the auditors in the next week however; from her discussions with them thus far we have not seen any material findings. Any findings that may occur are things we might expect such as inability to fill positions or conduct regular meetings due to the lack of Commissioners.

Discussion then moved to information regarding the litigation involving Murray Developmental Center. John Wank began with an explanation that this information would typically be discussed in closed session for 2 reasons:

- The Open Meetings Act provides several rationales for taking matters into closed session. One reason is to discuss litigation strategy, matters of personnel and matters that create financial implication for the State Agency. So it seems that this discussion would fit into that category;
- The second reason, that isn't as clear in the Open Meetings Act, but still very important to us, is if it is necessary for us to discuss confidential issues pertaining to wards of the State Guardian or clients of the Legal Advocacy Service, if it is something that may drift into the Mental Health and Developmental Disabilities Confidentiality Act, we like to do that privately to respect the privacy of our wards and clients.

If there had been a quorum present, Chairman Rothert would be asked to call a motion for the meeting to enter into a closed session; minutes would be recorded, segregated and thereby protect all the discussions in the closed session. However, the Open Meetings Act requires a vote into a closed session: since there's not a quorum, we cannot legally enter into a closed session.

## **LEGAL REPORT**

**John Wank**

The Murray Litigation, as Director Milano mentioned, relates to the closure of the Murray Developmental Center, a state center for developmental disabilities located in Centralia, IL. It follows the closure of the Jacksonville Developmental Center, a few years ago and, going back further, the closing and/or downsizing of other developmental disability centers: Howe (Tinley Park), Kiley (Waukegan), Lincoln (Lincoln), and others. It is the latest in a long line of state related closures of facilities.

The reaction to the closure of Murray has been quite different than that of Jacksonville. The Jacksonville closure was challenged in at least 3 different ways; however, those challenges were deemed to be too late. Litigation was brought to make the closure stop, but it was too late since many of the people had already left the facility. People in other communities were no doubt paying attention to what happened with Jacksonville and now are better prepared with regard to Murray.

In January 2013 a case was filed in Federal Court to stop the closure of Murray Developmental Center. The case was brought under various theories of Federal law. The plaintiffs alleged that the closure violated the Olmstead Decision, as well as the American's With Disabilities Act, and that the closure was somehow inconsistent with the Rehabilitation Act and Federal Medicaid regulations. When we observed these allegations, we felt it was backwards: all of the allegations stated are typically used by plaintiffs to force the state to close these types of centers and move individuals into community based settings. Judge Marvin Aspen, the Federal court judge in the Northern district of Illinois, dismissed the Olmstead complaint but he let stand most of the remaining counts, pending a full hearing in early 2014. In July, the plaintiffs sought to stop OSG from removing wards from the facility. We found this to be curious because we'd already moved 2/3 of our wards out: when closure was announced we had 30 wards at Murray; we were able to

get 20 out successfully and 10 wards remain—when the federal litigation arose we were concerned about the final 10. The other thing we found confusing was that while the plaintiffs sought to stop us from removing the wards, we aren't named as a party in the case. We've never been made a party defendant in the federal litigation. Governor Quinn is a defendant, numerous individuals with the Department of Human Services and the Department itself are defendants, but no one from the State Guardian's office has ever been directly served and made a party to the complaint. We're clearly implicated in the case and cannot turn away from it if we wanted to, but we are not technically a party. For the first time we've requested representation by the Attorney General when we haven't actually been sued in a case. Beginning in July we got our own set of Assistant Attorneys General: we've now employed 14 different lawyers to represent 10 wards and we expect to go well beyond the 14.

Our strategy in the Federal court case was to request that the court dismiss all the allegations pertaining to the State Guardian's activity. We argued that the Federal court lacked jurisdiction to oversee any of the matters that we regarded as properly before State court judges. Judge Aspen, after considering the matter for about 2 months, agreed with us and entered a very explicit order that took us out of the litigation—even though technically we were not in it. His order said Guardianship matters were properly heard in State courts and if plaintiffs wanted to pursue those allegations they would have to do so in State court. To their credit, the plaintiffs in the case read and understood what Judge Aspen had clearly written and within about 30 days they did in fact sue us in State court. They brought a complaint in Clinton County, Illinois; one of the 3 counties where Centralia is located. Centralia is where the Murray facility is located.

Commissioner Rubin asked if any of the wards' guardianships are/were located in Clinton County. The answer was yes; for the 10 remaining in Murray, 3 were before a guardianship Judge in Clinton County and 7 were not. Of the original 30 Murray wards, 12 were based in Clinton County and the others were in other counties throughout the state.

The Judge in Clinton County entered a temporary restraining order with no one from the state present in court, without service having been made on anyone on our side of the case. The temporary restraining order ("TRO") was entered in a way that clearly restrained OSG from removing the remaining 10 wards from Murray, and made it clear that the wards that had already been removed would be subject to the court's jurisdiction. The TRO was then expanded into a preliminary injunction, continuing to restrain OSG from removing the 10 remaining wards and continuing the Clinton County court's jurisdiction over the 20 wards already relocated from Murray. So, as Commissioner Rubin wondered, the court may have had good authority or jurisdiction for some of the wards, but questionable authority to assert itself over guardianships that were established elsewhere. Additionally, the court also appointed a guardian ad litem (GAL) which is intended to be a guardian for the case in a limited capacity. In Illinois, a GAL is more frequently seen on the front end of a guardianship case; the law provides that GALs are appointed to act as the eyes and ears of the court and objectively assess whether guardianship is needed and occasionally take a position to represent the ward's interest. In this case, the GAL was appointed to do "back-end" activity, long after the initial creation of the various guardianships. Stuart Freeman - a local attorney and Public Defender from the area who was suggested by plaintiffs - was appointed GAL. The court thought that this was a good idea and, since (in part) no one was there from the state to object (because we had not been served with

process) Freeman was appointed. Mr. Freeman was given the duty of reviewing any placement decisions that OSG may make for the remaining 10 wards. In essence he was given veto authority: should OSG opt to remove someone the matter would be reviewed by Mr. Freeman. If he agreed, a placement may proceed, but if there was any disagreement, the order provided that the issues be resolved in court.

The Clinton county preliminary injunction order and particularly the appointment of Freeman and the interference with OSG's placement authority for Murray wards is now the subject of an appeal in the 5<sup>th</sup> District Appellate court in Mount Vernon, IL. The briefs in the appellate court matter were filed just before Thanksgiving. Oral arguments will probably happen in early 2014 with a decision expected by summer. We will consider further appeals if needed.

Dr. Milano stated that OSG also considered petitioning for relief in the counties in which the guardianships were originally established, but for a variety of reasons decided (in consultation with the Attorney General's office) not to pursue those options, although we could reconsider in the future.

Dr. Bryson asked what role or responsibility, if any do the Commissioners have in this process. Mr. Wank responded that their role is the same as in any other matter pertaining to the Commission: to provide advice, act as a sounding board as per the Commission's enabling statute and give their frank opinion as to the direction they're taking. Dr. Bryson asked how they are to be made aware of things - is it to be in meetings or is it that they don't need to know until there's a problem? Mr. Wank said that (the latter) was definitely not the case. It is the preference of everyone involved with the Commission to have more frequent meetings and to give the Commissioners the opportunity to do what the Governor has appointed them to do. However, the awkwardness is when there is a matter, such as the Murray case, where there's ongoing litigation that have many directional changes which causes us to take action quickly to respond to matters where we've been sued or adopt a legal position in various courts to protect interests of wards or clients. We have to move quickly and instruct the Attorney General as to what position we think is best. With regard to the 30 cases at Murray, the State Guardian Representatives did not equivocate; they took the position that the majority of placement opportunities offered were very good ones. Dr. Bryson stated that in southern Illinois - and he didn't know how it read in Chicago - the closing of the facility was front page news every day. He believes that leadership should take a proactive role and be sensitive to the possibility that Commissioners may be contacted and give them details of such activities. He said there needs to be a determination made about what information the Commissioners should have so they could help or assist. In the event he had been contacted, he would have had to respond that he didn't know anything and that he didn't know what was happening.

Mr. Wank said when conducting Commission business, the Open Meetings Act requires that it be done in a particular way. For the Director to send out an advisory that may be seen as conducting business, without actually convening the Commission, having a quorum and doing it in an official capacity, could lead to other consequences. It is fully understood that the Commissioners would want to be advised and know what is happening consistently: however, there was a problem in being able to assemble the Commission during the better part of the year, owing to difficulties in having a quorum present for Commission meetings. Going forward, if a



Commissioner is contacted regarding the Murray litigation or any other situation, he or she should feel free to contact Dr. Milano or Mr. Wank and they will provide answers and/or contacts that will help them with answers to any inquiry. They can talk it through in a candid way and Commission leadership will do their best to keep Commissioners well apprised in a way that respects our duty to the Open Meetings Act and the Commission by-laws. Dr. Milano stated that leadership has also been particularly careful at constructing walls between ourselves and persons on the Governor's staff to whom we would normally report and that we have only indirectly communicated with the Governor's staff through Counsel in the Governor's office to protect confidentiality. John Wank also stated the Attorney General has made it clear from the beginning of their representation that all discussions are confidential. He informed the appellate lawyer and the trial counsel for the Murray case that there was going to be a December meeting at which the plan was to advise the Commissioners - not to share every detail of the trial strategy - but to inform them so that the Commissioners would be as well apprised as possible.

Mr. Wank responded to a question Commissioner Rubin asked regarding whether the Commission had considered bringing other actions into courts where the guardianships had been previously established. This had not been done early in the litigation for tactical reasons; however, there was a possibility it could be happening in the next few weeks. The Agency has been advised that lawyers from Equip for Equality, the advocacy organization that works statewide for persons with disabilities, have talked to some of the wards at Murray. They believe that their clients desire the opportunity to leave Murray and go into Community Integrated Living Arrangements (CILA's). We understand that they may be approaching Judges in Cook, Kankakee, Madison and Marion Counties. They plan to fully inform these courts of what has transpired in Clinton County, provide notice to Mr. Freeman and would be asking for 2 things: the authority to legally represent these individuals since they are wards of the state and for an opportunity for a placement hearing to consider taking the wards out of Murray. We believe that EFE hearings could proceed as soon as late January. The next Federal court hearing is set for January 6, 2014 before Judge Aspen.

Also, reportedly, there has been a motion for Mr. Freeman to be appointed on behalf of our wards; he desires to represent them in Federal court on the plaintiff's side. Either he or petitioner's counsel has requested Judge Aspen to consider that issue. The Attorney General is filing a responsive pleading opposing Mr. Freeman's request.

In addition, Mr. Wank noted that an affiliation of like-minded advocacy organizations - Equip for Equality, ACLU of IL, Access Living, The ARC of Illinois, to name a few - filed an amicus brief in the federal court case. The brief tells the Judge that what the plaintiffs have argued is stilted; it is taking the laws that are intended to provide a mechanism for people to get into the community, to progress, to advance their civil rights and using them to hold them back by keeping them in larger state institutions. We're hoping that it will help the court realize what this case is actually about and that we get a better response from the Federal in 2014.

Lastly, there is another piece of litigation which does not involve Murray. We refer to it as a copycat lawsuit. It was filed next door to Clinton County in Marion County, Illinois - so it overlaps with Centralia, geographically. It involves the largest ICFDD in that community and the relief sought and granted by that court is very similar to what happened in the State court affair

involving the 10 people at Murray in Clinton County. This time it involved 4 individuals who are related; we call it the Winks Litigation because these individuals share that same name. The same strategy was applied: someone went to court quickly; they didn't give the OSG notice, the court entered a TRO and we were restrained from allowing our wards to leave that facility to go into CILA's that had been proposed for them. Because these individuals are residents of an ICFDD they are covered by The Stanley Ligas ("Ligas") Federal court decree. This means they are entitled to be considered for residential alternatives and other considerations from the State of Illinois. OSG is of the opinion that, with this TRO, a state court Judge has done something that would appear to be in conflict with something that happened 18 months earlier in a Federal court. The State has filed a motion to dismiss; we've agreed that those wards won't leave the facility until things are sorted out.

## **OFFICE OF STATE GUARDIAN**

**Helen Godlewski**

As it was already mentioned we had 30 wards living in Murray Developmental Center at the beginning of the closure process: 14 have now moved into CILA's, 3 into ICFDD's, 3 moved into other state operated developmental centers and that leaves the 10 who are at Murray. Of those 10 we are hopeful that 8 of those 10 will move into CILA's, the other 2 individuals have some medical issues and we think that if Murray closes, they'll be transitioned to another state operated developmental center. When their medical issues are resolved we will look for community placement.

Since the last Commission meeting The Jacksonville Developmental Center also closed; we had 54 wards living there. 39 moved into CILA's and the remaining wards moved either into an ICFDD or other state operated developmental centers. St. Mary's Square closed during the same reporting period: we had 100 wards there. 89 moved into CILA's in the Galesburg area, the other individuals moved into either skilled nursing facilities or smaller ICFDD's to be closer to where their family members may be living. Another ICFDD, Colonial Manor in Ziegler, IL closed in March for financial reasons. There were 32 residents, 18 were OSG wards. That provider gave us only a 2 day notice to relocate everyone. We worked closely with the Department of Human Services and the pass agent to find suitable alternatives; some were moved to other ICFDD's and nursing homes so we could insure their safety. Since that time we have moved everyone into a CILA.

Director Godlewski stated that she is very proud of the work OSG has done over the past 2 years in terms of moving people into community based living arrangements and of the effort that DHS has shown. They're now funding situations such as one on one care, two on one care, funding situations that we could have never imagined 10-20 years ago. She believes that the vast majority of OSG wards can be adequately served in CILA's. The homes that she visited recently related to the Murray closure were lovely homes. The one in Marion is a ranch style building in a lovely community which will absolutely accommodate the needs of the 4 individuals who will be living there. Currently there's one individual living there; that person has a private guardian and just transitioned out of Murray. The home she visited in Orland Park, operated by Seguin Services, also will serve 4 individuals. 3 individuals are living there: 2 have private guardians-1 moved from Murray, the other from Kiley—1 person has 2 on 1 care, the other 1 on 1 care. Our ward

would have received 1 on 1 care. That move has been delayed because of the litigation in Clinton County.

Commissioner Rubin mentioned that the local press in Clinton County continues to come up with supposed horror stories about people moving out and how much of a disaster it is, and wondered if any of our wards who moved have returned to Murray. OSG has had 1 person who did not do well; he was placed in a 1 person CILA in Anna, IL and had some severe behaviors and was transferred to Choate Developmental Center. OSG also had 1 death: a woman who was transferred to Fox Developmental Center; she passed away about 6 weeks after her transfer. However, deaths are often age related—this individual was well into her 70's. There was also an individual with a private guardian that passed away a week later at Murray, in that same timeframe, both individuals were well into their 70's. The news that the press is fostering is very one sided. John Wank mentioned the amicus brief mentions some of Murray's deficiencies. There is a long list of incidents that were found by the Department of Public Health that were used as a basis for threatening Medicaid eligibility. We can reasonably say that the occasional bad thing happens, but it is far outweighed by good things. We have seen remarkable progress for people who are living in smaller settings. Other than the one incident in Anna, we've seen behavior stabilize and people in general being more comfortable with themselves and their living environment. It is the sense of community inclusion, allowing them to not be segregated in a large institution but to participate fully in community life.

## **HUMAN RIGHTS AUTHORITY                      Teresa Parks**

We continued to appoint new HRA members and reappoint many. We also have a few enforcement referrals where cases were satisfactorily solved and had to engage another enforcement entity. Director Milano has been these HRA action items consistent with fairly recent changes in the GAC act that allows the Director to approve such items.

One notable result of an enforcement referral that was sent to the Department of Public Health concerns 2 hospitals—Ingalls Hospital in Chicago area and Methodist Medical Center in Peoria, IL. In these cases DPH confirmed in writing that the mental health code protection for mental health recipients applies to hospital emergency rooms where many individuals with mental illness start out in the hospital system. Each of these hospitals initially disputed the HRA's stance that the code protects the rights of mental health recipients in the emergency room settings. They argued that the code only applies once the individual gets up into the mental health unit. The HRA has historically argued that once the hospital recognizes an emergency room patient as a mental health recipient that the code protections should apply. This includes protections associated with forced medications, restraint use and notice of mental health code rights. The DPH through its response confirmed our position and directed those hospitals to change their policies and practices accordingly. A few years ago we had a prior confirmation from the DPH regarding the same matter; however, things change and Directors change so it was good to get reaffirmation of this position since these cases have come up again.

The HRA statistics continue to show consistency in its complaints. Most complaints come from persons with mental illness and involve mental health providers. There was a bit of a spike in nursing home complaints but in general most complaints are rights associated with treatment

planning, admission, transfer and discharge practices, protections associated with abuse and neglect, medication issues—most often forced medications concerns—and rights issues.

With regard to personnel, the HRA was able to fill the vacant Egyptian HRA position in the Anna office and we were able to fill it internally by Kim Conway who was previously the Office Associate. She completed her degree at SIU in rehab services and we are pleased to have her as part of the HRA. We continue to recruit student interns to help us with our work as well as volunteers. We have a volunteer in the Peoria office, Brianna Smith, who has been with us for a year and a half. She worked with us on program and training projects and will be leaving this month to take a job at Prairie State Legal Aid in Wheaton. We have other volunteers that help with filing and things of that nature.

We have HRA member vacancies and our Chicago, Northwest, North Suburban and Springfield regions. Director Parks asked that if anyone knows any individuals in these areas that may be interested in this type of work HRA is frequently looking for members across the state. Director Milano also mentioned the community HRA: we are working on that effort and Awisi Quartey has been a big help. We are at a point now where we're trying to recruit members to work on that statewide effort and are open to any referrals. According to our mandates our HRA's are to consist of 3 provider representatives, and the remaining 6 must either be consumers, family members of consumers or concerned citizens who aren't employed by a disability provider.

Lastly, we try to keep HRA members informed and educated and in 2013 we were able to provide some specific training for our HRA members. We had monies in the budget to do that; we had 2 training sessions—one in Elgin for those in the northern part of the state and one for the southern regions as well. About 35 HRA members participated and they were appreciative of the opportunity.

## **LEGAL ADVOCACY SERVICE**

**Veronique Baker**

LAS was briefly able to staff an attorney in the Springfield office. During his 2 ½ months with LAS, he handled about 175 commitment and medication petitions and approximately 20 hearings. Springfield conducts hearings every Friday and their habit is that if petitions are filed, they're looking to proceed immediately. With the attorney being there, he was able to go into the 3 hospitals, speak with clients—this had not been happening with the Public Defender representing them—and explain to them their rights. Many clients were willing to sign voluntaries; we had a little resistance initially, but he was able to convince the State's Attorney and the Judges that a client signing a voluntary is a good thing. He was able to try and convince them that there is no need to go forward for each and every case immediately, particularly if the doctor believes that the client will start cooperating and take medication or participate in therapy. If the client is actively involved in his or her treatment it usually works out a lot better. As a result LAS had far fewer appeals in that period of time because there was a clearer understanding of the appellate process and that it wasn't going to yield an immediate result. Many of our clients, once they have left the facility, they go back to their regular lives and are not interested in this process. In addition, the fact that there was a thorough due process at the trial level; they were full hearings, not just pro forma hearings that were taking place with an LAS attorney. His

resignation was a surprise. We will be interviewing 9 potential candidates to replace him the first week of January 2014 and then hopefully a second LAS attorney in the Springfield office. It is an office that can definitely handle at least 2 attorneys as there is a large caseload in the Sangamon County area: they pull from about 45 counties. What we believe happened is the attorney was overwhelmed with the volume of cases he had to handle; that office would do well to have 2 LAS attorneys in that area.

As Director Milano pointed out, we are also in the process of recruiting law students. We will be training them in the workings of mental health declarations they will hopefully be able to go around to area hospitals, beginning in Cook County and later the rest of the state, and have those executed by our clients or anyone else who wants to have one. We think that with the mental health declaration that if our client(s) were to go off of their medication, this will help them get back on track a lot faster than going through the forced medication process. It is another way for clients to have a say in their treatment.

We are awaiting a few Supreme Court decisions: we had oral arguments in early November and waiting for an opinion in 2 matters.

## **OTHER BUSINESS**

Dr. Milano mentioned that Commissioner Angelo "Skip" Saviano, now Mayor of Elmwood Park, has indicated he will be resigning from the Commission. Resigning from the Commission isn't as easy as it would seem to be. He will be missed as he was very active on behalf of the commission in the legislator among his various colleagues and we are grateful for his service. She will be speaking with him in the near future.

Motion was made to adjourn the meeting by Commissioner Bryson and seconded by Commissioner Rubin.

Meeting was adjourned at 2:51pm.