

**NAME OF PROJECT:** Judicial Guardianship Worksheet Project

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## 1. Introduction

In 2021, the Department of Justice, Elder Justice Initiative, supported an initiative led by Dr. Bonnie Olsen of the Keck School of Medicine of USC (USC) to design, develop, and evaluate a tool for judges to aggregate essential data in guardianship cases, evaluate the quality and relevance of evidence, assess the risk of elder mistreatment, and identify less restrictive alternatives, when possible, in guardianship cases.

*Phase 1.* The two-year initiative led to the development of the “Judicial Guardianship Evaluation Worksheet” (Worksheet), an organizational tool intended to supplement state-specific statutes and support consistent and tailored judicial review of cases. The Worksheet is grounded in the Abuse Intervention/Prevention Model, an evidence-based, pragmatic approach to examine the complex dynamic between the respondent and the proposed guardian within the context of their relationship.

The Worksheet was advised by subject matter experts that included past presidents of the National College of Probate Judges, drafters of the ABA Handbook on Judicial Determination of Capacity of Older Adults in Guardianship Proceedings, a drafter of the Uniform Guardianship, Conservatorship and Other Protective Arrangements Act, and former members of the ABA Commission on Law and Aging, among others. Early drafts were reviewed by three focus groups, composed of probate, general jurisdiction, and tribal judges from around the country.

Following a lengthy process of revisions and refinements, the Worksheet was piloted in 51 courtrooms in 22 states. Study courts were given a 30-minute orientation about the use of the tool and asked to complete a pre-test survey. They were also asked to integrate the Worksheet in their regular case review of five adult probate guardianship cases. At the conclusion of the study, judges participated in a survey and exit interview to share their perceptions of the Worksheet.

The judges found the Worksheet to provide a comprehensive, organized register of relevant factors that highlighted gaps in evidence and prompted additional judicial inquiry. The Worksheet increased judicial confidence in decision making and facilitated consistent practice across jurisdictions. Courts also found that the Worksheet provided a mechanism for holistic, person-focused review, reinforced objectivity and reassessment of biases, and served as a record for continuity of case review. The evidence-based tool was found most useful in complex and contested cases.

*Phase 2.* Following the Phase 1 findings, the Department of Justice, Elder Justice Initiative, in collaboration with the Administration for Community Living (ACL) supported a second phase of the project. Phase 2 centered on implementation of the Worksheet in practice. Two jurisdictions, one in Washington, DC, and another in Arlington, VA, agreed to participate in the study. Both were recipients of Judicial Innovation Grant funding from ACL. Eight judges from the District of Columbia, and one from Arlington, Virginia, participated in the study.

Unfortunately, mid-way through the implementation period, four of the six judges in Washington were rotated off the probate court and 4 new judges were rotated on. Thus, a new cohort of 4 judges was oriented, trained and integrated into the implementation project in January 2025.

The project was intended to take place over an 18-month term, composed of a 3-month planning period, followed by 12-months of implementation, concluding with 3-months of evaluation. Due to the loss of funding, the project ended five months earlier than planned, cutting short the implementation phase and eliminating the evaluation phase (May 2024 - May 2025). This report presents the Phase 2 findings.

## 2. Activities

The following identifies parent activities of each project phase. Details of each activity were reported in the monthly invoice narratives.

### Planning Phase: 6 Activities

- ♦ Introductory Workshop with all collaborators
- ♦ Focus Group with DC
- ♦ Strategic Plan Discussion with DC
- ♦ Aging Network Exploration in DC
- ♦ Focus Group with Arlington, VA
- ♦ Strategic Plan Discussion with Arlington, VA

### Implementation Phase: 6 Activities

- ♦ Post Implementation Meetings with DC
- ♦ Worksheet Training with DC
- ♦ New Cohort Introductory Workshop with DC
- ♦ New Cohort Worksheet Training with DC
- ♦ Post Implementation Meetings/Updates with Arlington, VA
- ♦ CLE Curricular Development with Arlington, VA

### Evaluation Phase: 3 Activities

- ♦ Exit Interview with DC
- ♦ Quantitative Data Gathering & Analysis (4 surveys)
- ♦ Qualitative Data Gathering & Analysis (7 sources of data)

### Dissemination: 3 Activities

- ♦ Presented “Reconceptualizing Judicial Review of Guardianship” at the National Aging and Law Conference in Miami, Florida
- ♦ National Webinar, *Advancing Guardianship Practice: Introducing the Judicial Guardianship Worksheet & Less Restrictive Alternatives to Guardianship Guide*
- ♦ Final Report

The project had initially proposed to develop an implementation strategy specific to each jurisdiction in collaboration with the court. The results of the initial data gathering phase informed us that a more flexible plan that was responsive to the ongoing identified needs of the court would yield engagement in the areas where the court identified high-yield opportunities. Thus, educational experiences and new reference materials were developed in response to the information provided by those participating in the implementation project.

## 3. Evaluation

### 3.1. Methodology

We employed a multi-methods design to collect both quantitative and qualitative data from study participants and individuals who attended the trainings and webinars associated with this project. This study was reviewed and approved by the Institutional Review Board at the University of Southern California (UP-24-00530).

### 3.2. Data Collection

Data were collected in both jurisdictions, using multiple quantitative and qualitative methods designed to capture how the Worksheet was implemented, interpreted, and used in practice. Additionally, quantitative data were collected from attendees of the national webinar hosted by the study team.

*Qualitative data collection.* Focus groups were held with judges and key court-affiliated professionals, including guardians ad litem (GALs), evaluators, investigators, and law clerks, to explore perceptions of the Worksheet's utility and limitations. Training sessions were observed to understand how the tool was introduced and discussed in professional development settings, and how court-affiliated professionals engaged with it in real time. Informal check-ins and ad hoc meetings - including follow-up conversations and one-on-one discussions - provided additional context about implementation challenges, adaptations, and jurisdiction-specific workflow.

*Quantitative data collection.* Surveys were administered to elicit feedback at the pre- and post-Worksheet implementation phases, following trainings, and after the national webinar. Separate surveys were designed and disseminated for the different project components (e.g. pre/post study, trainings, and webinar). Surveys were tailored to the target population for each project component but touched on the same six areas listed below. All surveys were conducted electronically using Qualtrics, a cloud-based software platform for survey data collection. Survey responses were collected anonymously and focused on the following areas:

- a. **Less restrictive alternatives (LRAs):** In the pre/post survey, five-point Likert scales were used to assess participants' perceptions of 1. how successful they thought the strategy of LRAs had been in balancing protection and autonomy; and 2. the frequency with which they felt LRAs met the needs of alleged incapacitated individuals rather than guardianship. In the post-webinar survey, participants responded to two questions about the LRA guide (developed to support the goals of this project) using a five-point Likert scale. Questions focused on how helpful participants felt the LRA Guide would be to inform their thinking about LRAs, and how likely they would be to integrate the LRA Guide into their practice.
- b. **Knowledge.** Participants rated their knowledge of abuse (in general), how elder abuse may contribute to the need for guardianship, how elder abuse may occur as a result of guardianship, strategies to support limiting the scope of guardianship, less restrictive alternatives, and respondent's self-determination with six survey questions. These questions were measured on a 10-point scale where one meant "not knowledgeable at all," and 10 meant "completely knowledgeable."
- c. **Confidence.** We used five survey questions to assess participants' confidence with Worksheet implementation, comprehensiveness, helpfulness to draft limited

- guardianship orders, helpfulness to identify retained capacities, and utility in older adult guardianship cases. These questions were measured on a 10-point scale where one meant “not confident at all,” and 10 meant “completely confident.”
- d. **Readiness:** Perception of readiness to use the Worksheet with guardianship cases was assessed with one item measured on a 10-point scale where one meant “not ready at all,” and 10 meant “completely ready.” In the post-training survey, an additional survey question was included to elicit participants’ enthusiasm for integrating the Worksheet into their practice. The response set was a five-point Likert scale ranging from “very reluctant” to “very enthusiastic.”
  - e. **Guardianship aids & new innovations:** In the pre/post test, we assessed participant sentiment about the use of any tool or aid for evaluating the evidence in guardianship cases using a 5-point Likert scale of agreement. Six-items assessed participants’ perception of value added, utility, and burden-to-benefit ratio of using some type of worksheet or aid. Both positively and negatively worded questions were used to improve the validity and reliability of responses. In the post-webinar survey, participants rated how receptive they were, and others in their work environment were, to new judicial innovations. Receptivity was measured on a 10-point scale where one meant “not receptive at all,” and 10 meant “extremely receptive.”
  - f. **Demographics:** All surveys included some combination of the following demographic survey questions to provide information about the populations who participated in different aspects of this project: age, gender identity, racial identity, county and state in which they work, role with the court, years of experience in role, years of experience with probate guardianship, number of typical monthly guardianship hearings (judges, only), experience with cases involving elder abuse, and current use of existing guardianship aids.

### 3.3. Analytical Approach

Qualitative data. This report uses a comparative case analysis (Yin, 2017) approach to examine how the Judicial Guardianship Evaluation Worksheet was implemented in two distinct jurisdictions: Washington, DC, and Arlington, VA. Each jurisdiction functioned as a bounded case, allowing for an in-depth exploration of local judicial processes, court-affiliated professional roles, and institutional context. Data were analyzed using reflexive thematic analysis (Braun & Clarke, 2006) within each case, based on transcripts from focus groups, training sessions, and check-ins, followed by cross-case synthesis to identify patterns, divergences, and contextual factors shaping the Worksheet’s use. This approach allowed us to capture both the distinct jurisdictional dynamics and the contextual factors that influenced the Worksheet’s perceived value and practical application across sites.

Quantitative data. All survey data were downloaded from Qualtrics and analyzed with univariate statistics (frequency, percent, mean, standard deviation, median, and mode) using SPSS statistical software v.28.

Limitations. Results of this study may be limited by several factors. This study focused on two jurisdictions, and results may not be generalizable beyond these settings, however, the purpose of exploratory qualitative research is to gain insight into the reality of a specific population, and not generalizability, which was accomplished and reported here (below).

One jurisdiction was minimally engaged in the project, significantly limiting any outcomes, data, or interpretations in that setting. Thus, this report focuses primarily on the implementation in one jurisdiction.

The abbreviated study period precluded full analysis of qualitative data. Given the time constraints, data were single-coded and only overall themes were extracted and reported here while more nuanced outcomes were not possible.

Self-report bias may limit quantitative and qualitative data, and those who provided responses may have been more personally motivated or able to participate. Low response rate to the post-test survey (post Worksheet implementation) precluded bivariate statistical analyses to detect any statistically significant differences in survey domains from pre- to post-test. Despite these limitations, the study team took multiple measures to mitigate bias and reduce limitations. For example, survey data were collected anonymously to reduce participant response bias to provide socially desirable responses. Additionally, this study recruited a diverse multidisciplinary sample of key court-affiliated professionals and representatives of the guardianship system.

#### 4. Quantitative Results

##### 4.1. Pre/Post Worksheet Implementation

At the outset of the study period, participants from the two jurisdictions in Washington, DC, and Arlington, VA, attended an introductory meeting with study personnel via video web conferencing. At the conclusion of that meeting, participants were provided with a weblink to access the anonymous survey. Twenty participants attended the training and all agreed to participate in the study (N=20).

*Participant Characteristics.* Most attendees were probate division staff (45%) or judges (35%). About one-third were newer in their role with 1-2 years of experience (33%). Just over half (56%) of participants characterized their experience with cases involving elder abuse as 'moderate' or greater. Among the judges (n=7) who provided a response, 83% reported hearing more than 10 guardianship cases in a typical month. See Table 1.

**Table 1. Participant Characteristics at Pre-Test (N=20)**

	<i>Frequency</i>	<i>Percent</i>
<b>Current role</b>		
Probate judge	7	35.0%
Probate division staff	9	45.0%
Probate steering committee	2	10.0%
Examiner and visitor	2	10.0%
<b>Years of experience in current role</b>		
1-2 years	6	33.3%
3-5 years	8	44.4%
6-9 years	1	5.6%
10+ years	3	16.7%
<b>Monthly guardianship hearings*</b>		
Less than 5	0	-

5-10 hearings	1	16.7%
More than 10 hearings	5	83.3%
Characterize your experience with cases involving elder abuse:		
None	3	16.7%
Minimal	5	27.8%
Moderate	3	16.7%
Considerate	4	22.2%
Extensive	3	16.7%

*\*Reported by Judges, only*

The judges alone were surveyed about their perception of less restrictive alternatives to guardianship and their current use of any worksheet or aid to organize the evidence in guardianship cases. Overall, judges mostly reported feeling that the strategy of less restrictive alternatives to guardianship is “quite successful” (67%) at balancing protection and autonomy, or “neutral” (33%) in their success at doing so. Judges were split on their experience of how often they found that less restrictive alternatives met the alleged incapacitated individual’s needs (rather than guardianship): half (50%) reported that this “rarely occurs,” and 33% indicated “sometimes” and 17% “often.” At the time of the pre-test survey, two judges (33%) were using a self-created checklist to aid in their guardianship case review, while one (17%) was using an existing tool provided by their state, and another (17%) used a document they described as a “prep worksheet.” Two judges (33%) were not using any type of aid or worksheet. See Table 2.

**Table 2. Judge's Perception of Less Restrictive Alternatives and Evidence Organization Aids (n=7)**

	<i>Frequency</i>	<i>Percent</i>
To the extent that you know, how successful do you think this strategy of LRAs is in balancing protection and autonomy?		
Not at all successful	0	-
Slightly successful	0	-
Neutral	2	33.3%
Quite successful	4	66.7%
Extremely successful	0	-
In a hearing on a petition for guardianship, how often have you found that LRAs would meet the alleged incapacitated individual's needs (rather than guardianship)?		
Never	0	-
Rarely	3	50.0%
Sometimes	2	33.3%
Often	1	16.7%
Almost always	0	-
Do you currently use any of the following to help you organize evidence in guardianship cases?		



Existing tool (from state)	1	16.7%
Bench card	0	-
Self-created checklist	2	33.3%
None	2	33.3%
Other	1	16.7%

*LRAs=less restrictive alternatives*

All participants were asked about how strongly they believed that a worksheet to organize evidence in guardianship cases could be: valuable, help with evidentiary evaluation, a poor use of time, more beneficial than burdensome, redundant to their workflow, or add too much complexity. Overall, respondents were split as to whether a worksheet is valuable (50% "agree") and can help when evaluating evidence (56% "agree"). Only one-third (33%) of respondents agreed that the benefits of using a worksheet outweighed the burden of completing it. However, 44% of respondents disagreed (either "disagree" or "strongly disagree") that using a worksheet is not a good use of time, while the remaining 56% were "neutral." Sentiments about any redundancy or complexity introduced by a worksheet were more mixed, however, overall, respondents reported less complexity (6%) associated with incorporating a worksheet and more redundancy (28%). The most commonly reported barriers that participants expected to encounter during the Judicial Guardianship Evaluation Worksheet ("the Worksheet") implementation (i.e. study phase) were: high case volume (30%), lack of time (22%) and systemic barriers (22%), lack of judicial resources (17%) and other barriers (17%), and lack of supervisory approval (4%), and complexity of the Worksheet (4%). Low case volume was not expected to be a barrier (0%). See Table 3.

**Table 3. Participant Perceptions of Using a Worksheet to Organize Evidence in Guardianship Cases at Pre-Test (N=20)**

	<i>Frequency</i>	<i>Percent</i>
I believe that...		
...there is value to using a worksheet to organize evidence in guardianship cases.		
Strongly disagree	0	-
Disagree	1	5.6%
Neutral	8	44.4%
Agree	9	50.0%
Not sure/Don't know	0	-
...a worksheet can help me evaluate the evidence.		
Strongly disagree	0	-
Disagree	0	-
Neutral	8	44.4%
Agree	10	55.6%
Not sure/Don't know	0	-
...using a worksheet is not a good use of time.		
Strongly disagree	2	11.1%
Disagree	6	33.3%

Neutral	10	55.6%
Agree	0	-
Not sure/Don't know	0	-
...the benefits of using a worksheet outweigh the burden of completing it.		
Strongly disagree	0	-
Disagree	0	-
Neutral	12	66.7%
Agree	6	33.3%
Not sure/Don't know	0	-
...using a worksheet is redundant to my workflow.		
Strongly disagree	2	11.1%
Disagree	3	16.7%
Neutral	8	44.4%
Agree	5	27.8%
Not sure/Don't know	0	-
...a worksheet would add too much complexity to my practice.		
Strongly disagree	2	11.1%
Disagree	6	33.3%
Neutral	9	50.0%
Agree	1	5.6%
Not sure/Don't know	0	-
Do you expect the Court to encounter any barriers during Worksheet implementation)?†		
High case volume	7	30.4%
Lack of time	5	21.7%
Systematic barriers	5	21.7%
Lack of judicial resources	4	17.4%
Other	4	17.4%
Lack of supervisory approval	1	4.3%
Complexity of the worksheet	1	4.3%
Low case volume	0	-

†Responses are not mutually exclusive

 =negatively worded question

All participants were asked about their perceived level of knowledge about elder abuse, in general, and as it related to guardianship and strategies for limiting the scope of guardianships, confidence with the Worksheet itself, and implementing it into practice during the study period. Overall, there was a wide range of perceived knowledge of factors related to elder abuse and guardianship. However, on average, respondents reported being most knowledgeable about how elder abuse can contribute to the need for guardianship (mean: 7.4, SD: 2.3) and least knowledgeable about strategies that support limited scope of guardianship (mean: 5.6, SD: 2.7). Participant responses also indicated mid-range

knowledge about strategies that support limited guardianship, less restrictive alternatives to guardianship, and self-determination of the alleged incapacitated individual, which was lower compared to knowledge ratings of elder abuse and how it relates to guardianship (see 'Mode' column in Table 4). Similarly, respondents indicated mid-range confidence with five aspects of the Worksheet and its implementation, although confidence was highest in the comprehensiveness of the Worksheet (mean: 5.9, SD: 2.4). Confidence that the Worksheet helps the user draft limited guardianship orders was lowest (mean: 4.4, SD: 2.1). See Table 4.

**Table 4. Participant Perception of Knowledge, Confidence, and Readiness (N=20)**

KNOWLEDGE				
How knowledgeable do you feel about...	Mean (SD)	Min-Max	Median	Mode
...elder abuse in general	6.8 (3.0)	1-10	7	10
...how elder abuse can contribute to the need for guardianship	7.4 (2.3)	3-10	8	7
...how elder abuse can occur as a result of a guardianship	6.6 (3.0)	1-10	7	10
...strategies that support limited scope of guardianship	5.6 (2.7)	2-10	5	5
...strategies that support less restrictive alternatives	5.9 (2.8)	1-10	5	5
...strategies that may support respondent's self-determination	5.7 (2.6)	2-10	5	5
CONFIDENCE				
How confident do you feel...	Mean (SD)	Min-Max	Median	Mode
...utilizing the Worksheet in your guardianship cases	5.9 (2.5)	2-10	5	5
...that the Worksheet is comprehensive	5.9 (2.4)	1-10	5	5
...that the Worksheet helps you identify the retained capacities of respondents	5.8 (2.4)	1-10	6	6
...that the Worksheet helps you draft limited guardianship orders	4.4 (2.1)	1-8	5	5
...that the Worksheet would be useful for most older adult guardianship cases	5.7 (2.8)	1-10	5	5
READINESS				
	Mean (SD)	Min-Max	Median	Mode
Current readiness to use the Worksheet with guardianship cases	5.4 (2.8)	1-10	5	5

*'Worksheet'=Judicial Guardianship Evaluation Worksheet*

Limited responses to the post-test survey (N=2) preclude any meaningful data reporting or comparative analyses between pre- and post-test survey responses.

## 4.2. Training

In response to limited judicial engagement at the two study sites, we developed and conducted training sessions with the broader guardianship workforce in both jurisdictions. A total of 32 individuals responded to the post-training session survey, (N=32). Most respondents identified as Black or African American (32%), female (78%), and aged on average 54 years (SD=13.2 years). Respondents were diverse in their role(s) with the court and included court appointed attorneys (47%), "Other" roles (31%), guardian ad litem (28%), court investigators (22%), and court appointed evaluators (9%). Those who indicated their role as "Other" specified that they were "guardian"/"court-appointed guardian" (n=2), "judge administrative assistant" (n=2), "court employee" (n=2), "government attorney/petitioner" (n=1), judge (n=1), "legal services organization" representative (n=1), and a "program manager" (n=1). Half (50%) of respondents had 10 or more years of experience with probate guardianship while nearly one-third (31%) had two years or less. Respondents most commonly characterized their experience with guardianship cases involving elder abuse as "moderate" (36%) or "limited" (32%) and were most likely to use a self-created checklist or "nothing" to help organize evidence in their guardianship cases. Over half of respondents (53%) indicated that they were "enthusiastic" or "very enthusiastic" to integrate the Worksheet into their practice. See Table 5.

**Table 5. Training Participant Characteristics (N=32)**

	<i>Frequency</i>	<i>Percent</i>
Gender identity		
Male	6	18.8%
Female	25	78.1%
Prefer not to answer	1	3.1%
Racial identity		
Asian	2	6.5%
Black of African American	18	58.1%
Native Hawaiian or Pacific Islander	0	-
White	10	32.3%
Other	1	3.2%
Age		
<i>Mean (SD); Min-Max</i>	54.0 (13.2); 29-74 years	
Current role†		
Court appointed attorney	15	46.9%
Guardian ad litem	9	28.1%
Court investigator	7	21.9%
Court appointed evaluator	3	9.4%
Other	10	31.3%
Years of experience with probate guardianship		
Less than 12-months	6	18.8%
1-2 years	4	12.5%
3-5 years	3	9.4%
6-9 years	3	9.4%

10+ years	16	50.0%
Characterize your experience with cases involving elder abuse:		
None	4	12.9%
Limited	10	32.2%
Moderate	11	35.5%
Significant	6	19.4%
Do you currently use any of the following to help you organize evidence in guardianship cases?		
Existing tool (from state)	3	9.4%
Bench card	1	3.1%
Self-created checklist	14	43.8%
None	8	25.0%
Other	6	18.8%
How do you feel about integrating the Worksheet into your practice?		
Very reluctant	2	6.3%
Reluctant	3	9.4%
Neutral	10	31.3%
Enthusiastic	11	34.4%
Very enthusiastic	6	18.8%

*'Worksheet'=Judicial Guardianship Evaluation Worksheet*

*†Responses not mutually exclusive*

Participants were asked to rate how knowledgeable they felt about elder abuse and how it may relate to judicial guardianship. Overall, responses were very diverse and covered the full spectrum of the numeric rating scale corresponding to the lowest and highest possible ratings. However, on average, participant ratings indicated that they felt most knowledgeable about how elder abuse can contribute to the need for guardianship (mean=7.8, SD=2.4) and elder abuse in general (mean=7.4, SD=2.6). On average, participants rated their knowledge of conceptual frameworks for understanding elder abuse the lowest (mean=6.9, SD=2.4). Despite the diversity in responses, the most common rating (mode) for all knowledge questions was very high with a rating of 10/10 or 8/10.

Participants were also queried about their perceived level of confidence with the Worksheet and five other elements that related to its implementation and value added to practice. Ratings were highest for confidence that the Worksheet is comprehensive (mean=7.9, SD=2.0), that the Worksheet helps users identify retained capacities (mean=7.5, SD=2.0), and that the participant understands how to use the Worksheet without additional training (mean=7.5, SD=2.6). Lowest ratings were observed for confidence that the Worksheet helps judges draft limited guardianship orders (mean=6.3, SD=2.5), confidence in using the Worksheet in guardianship cases (mean=6.6, SD=2.4), and confidence that the Worksheet would be useful in most older adult guardianship cases (mean=6.7, SD=2.6). Respondents indicated mixed readiness to use the Worksheet with guardianship cases, however the most common rating was 8/10 indicating fairly high readiness (mean=6.5, SD=2.6). See Table 6.

**Table 6. Training Participant Perception of Knowledge, Confidence, and Readiness (N=32)**

KNOWLEDGE				
How knowledgeable do you feel about...	Mean (SD)	Min-Max	Median	Mode
...elder abuse in general	7.4 (2.6)	1-10	8	10
...factors that contribute to elder abuse in general	7.3 (3.0)	1-10	8	10
...factors that protect against elder abuse in general	7.0 (2.9)	1-10	7	10
...how elder abuse can contribute to the need for guardianship	7.8 (2.4)	1-10	8	10
...how elder abuse can occur as a result of a guardianship	7.2 (2.6)	1-10	8	10
...conceptual frameworks for understanding elder abuse	6.9 (2.4)	2-10	7	8
CONFIDENCE				
How confident do you feel...	Mean (SD)	Min-Max	Median	Mode
...utilizing the Worksheet in your guardianship cases	6.6 (2.4)	2-10	8	10
...that the Worksheet is comprehensive	7.9 (2.0)	3-10	8	10
...that the Worksheet helps users identify the retained capacities	7.5 (2.0)	4-10	8	5
...that the Worksheet helps judges to draft limited guardianship orders	5.9 (2.5)	1-10	6	6
...that the Worksheet would be useful for most older adult guardianship cases	6.7 (2.6)	1-10	7	5
...that you understand how to use the Worksheet without additional training	7.5 (2.6)	1-10	7	8
READINESS				
	Mean (SD)	Min-Max	Median	Mode
Current readiness to use the Worksheet with guardianship cases	6.5 (2.6)	1-10	7	8

*'Worksheet'=Judicial Guardianship Evaluation Worksheet*

#### 4.3. Webinar

A total of 405 individuals registered for the webinar, and 253 attended the session. Of those, 60 webinar participants responded to the brief survey at the conclusion of the session (N=60). Respondents were diverse in their roles which commonly included social workers (22%), attorneys or legal professionals (20%), individuals from Adult Protective Services (12%), and court investigators (10%). Respondents who indicated their role as “other” identified as deputy clerk, care manager, court employee, foster care liaison/program administrator, and friend of proposed ward. One respondent identified as, “A parent rethinking guardianship.” Respondents were from 19 different states and territories, representing a multitude of

counties. The areas represented were: California (n=12), Washington DC (n=11), North Carolina (n=6), Kansas (n=5), Guam (n=2), Indiana (n=2), Maryland (n=2), Oregon (n=2), Virginia (n=2), Washington (n=2), Hawaii (n=1), Illinois (n=1), Montana (n=1), New York (n=1), Georgia (n=1), Pennsylvania (n=1), Tennessee (n=1), Wisconsin (n=1), and Wyoming (n=1).

The majority of respondents indicated that they were “very likely” or “somewhat likely” to use the Worksheet in their older adult guardianship work (67%) and that using the Worksheet in their role would contribute to a more comprehensive understanding of the unmet needs of the older adult (83%). Most respondents also indicated high perceived helpfulness of the LRA Guide to help inform thinking about the viability of less restrictive alternatives to guardianship for older adults (64%) and integrating the LRA Guide framework into their practice (70%).

Finally, participants were asked to rate how receptive they are to new approaches, and how receptive they believe others in their work environment are to new approaches. On average, respondents indicated that they believed that they were more receptive (mean=8.5, SD=1.6) than others in their work environment (mean=7.1, SD=2.0). See Table 7.

**Table 7. Webinar Participant Characteristics and Reactions (N=60)**

	<i>Frequency</i>	<i>Percent</i>
<b>Current role(s)*</b>		
Judicial officer	1	1.7%
Court appointed attorney	2	3.3%
Guardian ad litem	1	1.7%
Court investigator	6	10.0%
Attorney or legal professional	12	20.0%
Adult Protective Services	7	11.7%
Social worker	13	21.7%
Guardian	2	3.3%
Other	18	30.6%
<b>How likely are you to use the Worksheet in your older adult guardianship work?</b>		
Very likely	20	35.1%
Somewhat likely	18	31.6%
Maybe/Undecided	13	22.8%
Somewhat unlikely	3	5.3%
Very unlikely	3	5.3%
<b>Do you think that using the Worksheet in your role will contribute to a more comprehensive understanding of the unmet needs of the older adult?</b>		
Very likely	27	47.4%
Somewhat likely	20	35.1%
Maybe/Undecided	6	10.5%
Somewhat unlikely	4	7.0%
Very unlikely	0	-

Do you think the LRA Guide will help inform your thinking about the viability of less restrictive alternatives to guardianship for older adults?

Extremely helpful	19	31.7%
Very helpful	18	32.1%
Moderately helpful	12	21.4%
Slightly helpful	5	8.9%
Not helpful at all	2	3.6%

How likely are you to integrate the LRA Guide framework into your practice?

Very likely	26	45.6%
Somewhat likely	14	24.6%
Maybe/Undecided	13	22.8%
Somewhat unlikely	2	3.5%
Very unlikely	2	3.5%

Rate how receptive you are to new approaches

<i>Mean (SD); Min-Max</i>	8.5 (1.6)	4-10
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Rate how receptive you believe others are in your work environment to new approaches

<i>Mean (SD); Min-Max</i>	7.1 (2.0)	2-10
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*\*Responses not mutually exclusive*

## 5. Case Studies

### 5.1. District of Columbia, Probate Division

#### 5.1.1. Judicial Process in Guardianship Cases

In Washington, D.C., the judicial process in guardianship cases follows a structured yet individualized approach. A first round of coding focused exclusively on judges' perspectives, supplemented by member reflections from a court staff member, to better understand procedural flow and the evolving role of court clerks.



The judges described a consistent, step-by-step workflow for evaluating guardianship petitions, which is reflected in Figure A.

One judge took the lead in outlining this process during the focus group, with other judges affirming the accuracy of the description and occasionally adding detail. One key point of divergence emerged around the use of law clerks. One judge emphasized the extent to which her team is trained to identify and extract key details from guardianship filings:

*“We’ve told our clerks and our interns and everyone, this is what I need you to look at... They know exactly what to look for.”*

Another judge elaborated on how law clerks prepare hearing materials, underscoring the potential value of integrating standard forms during this process:

*“My law clerks do a prep-sheet for me in advance... it would be very helpful for me to be looking at the form when I’m looking at the prep sheet and preparing for the hearing that day.”*

Outside of these examples, references to law clerks were relatively limited in this focus group. The dominant themes centered on the procedural steps judges follow when reviewing petitions and preparing for hearings.

### Key Stages of the Judicial Process

Evaluating the Subject and Substance of the Petition. Judges begin by reviewing the subject of the petition, checking for proper service, and ensuring all interested parties are included. Judges expressed a preference not to dismiss petitions based on insufficient evidence, preferring instead to hear from the parties directly.

*“I will almost never, or maybe never, dismiss a case for lack of substance... I want to be able to see people and have a better understanding of what is going on.”*

Appointment of Legal and Clinical Professionals. Judges universally appoint counsel from a vetted panel, regardless of the petitioner’s financial situation. Depending on the facts of the case, they may also appoint a guardian ad litem, examiner, or - in rare cases - a visitor.

- ♦ Appointments follow these general principles:
- ♦ Counsel: Appointed in every case.
- ♦ Guardian ad litem: Appointed when the respondent cannot meaningfully participate.

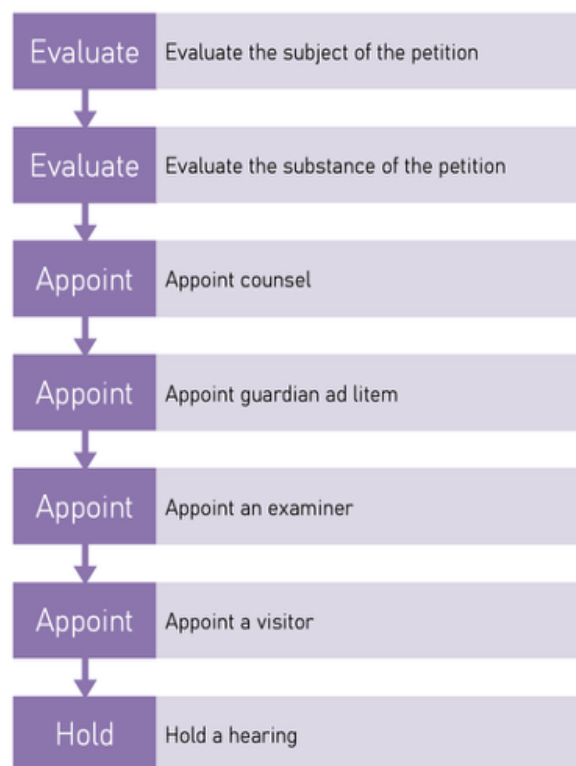


FIGURE A: DC JUDGE’S PROCESS IN GUARDIANSHIP CASES.

- ♦ Examiner: Typically appointed unless existing medical records are sufficient; parties may request an examiner if omitted.
- ♦ Visitor: Rarely appointed, and usually only in cases involving family disputes or allegations of abuse or exploitation.

Hearing Scheduling. Hearings are automatically scheduled upon petition filing. They are on occasion delayed, for instance when appointments (e.g., of counsel or examiners) cannot be completed in time.

### **Administrative Shifts: Reflections from Court Staff**

Court staff offered insight into recent changes in how petitions are prepared and reviewed. Previously, teams of court attorneys reviewed filings for completeness and meeting statutory requirements before judicial review. This process was eliminated, based on concerns that it restricted access to justice. Judges now review every petition directly, with their clerks assisting with preliminary review.

According to one staff member, clerks effectively carry out the same tasks as the prior attorney teams, reviewing filings, identifying missing information, and flagging potential concerns for the judge. However, this individual expressed concern about the shift, describing the transition as “disruptive,” and noting that many clerks are junior staff with limited training.

*“It put evaluations and recommendations into the hands of “baby lawyers,” and (typically) one court intern, who also serves on judges’ staff.”*

Clerks receive a single annual training session on probate procedures, which most choose to repeat during their second year.

#### **5.1.2. Worksheet Implementation**

Judges participating in this pilot reflected both the promise and the pragmatic limitations of the Worksheet implementation. While they noted that the Worksheet helped reinforce legal standards and provided a helpful cue for analysis in complex and contested cases, they also emphasized that its length and level of detail could limit its utility in routine, uncontested matters. The following sections outline the relevant themes and salient quotes related to the Worksheet’s use and the conditions that shape its usefulness.

### **Use of the Worksheet (Facilitators to Using)**

Judges have found the Worksheet useful, particularly in complex cases, but also noted challenges for routine use, due to the granular level of detailed information contained in the Worksheet.

#### **The Worksheet as a Guide/Reminder**

The Worksheet serves as a touchstone or checklist during and after hearings. It was viewed as an important reminder of legal mandates for less restrictive alternatives to guardianship. The Worksheet served as a kind of mental checklist, which helped organize relevant information, highlight evidence gaps, and judges expressed that it prompted them toward asking “the right questions”:

*"I use it as cues, like by the categories, and if there's a category that I feel like I need to spend more time on, then the subset of those things in the cues are helpful."*

*"I think the worksheet was an important reminder that I could not lose sight of that legal mandate... but it is too comprehensive to actually complete it at the pace we're operating on."*

*"The training is as important as the worksheet, frankly, and the worksheet is just a reminder of the training."*

Judges particularly valued the way the Worksheet triggered critical reflection and served as a reminder to re-center attention on legal standards that could otherwise be lost in the fast pace of case management.

### *The Worksheet as a Checklist*

Although the Worksheet was often used more as a prompt than a formal checklist, one judge emphasized its utility in identifying missing information. If a section was blank or incomplete, it served as a red flag prompting further inquiry. This function was especially useful in flagging concerns early, before a case progressed too far without appropriate scrutiny.

*"If there's a section in there that I would expect to have something and it's blank, then I might say, okay, what's going on here? What's the issue? Why isn't there anything there?"*

This diagnostic function underscores the Worksheet's potential as a quality control tool that assists judges in synthesizing evidence.

### *The Worksheet as a Guide in Complex Cases*

One judge saw great value in using the Worksheet in contested guardianship cases or those cases where there was opposition, saying that in these complex situations, the Worksheet could help in "weighing all the pros and cons and looking at the different aspects of it." He noted its potential value in figuring out the motivations of different family members, even siblings, who might have competing interests regarding their parents' well-being.

*"This form for me would come in really handy in those cases where there is opposition... including why are some people saying no and why are some people saying yes."*

He offered a detailed explanation of a recent case that was before him:

*"So, you know...[when] money's involved in any way...I just had a case the other day where the person was a vet and they were in this, what everyone agreed was the best institution they'd ever seen, in terms of a medical care and that it was immaculate and around the clock care. And you had a sister of the subject saying, 'I want to bring them home because...he needs to be home and he responds to me, but when he's there, he's just depressed, and he doesn't communicate with anyone.' And he's not really capable of communicating, but she said, 'He lights up when he sees me, and he needs to come home.' But then, she can't have a home, she needs some of his resources in order to get a home. So, there's this sort of competing interest there. I mean, yeah." (Judge O)*

The example illustrates how the Worksheet can be particularly useful in helping judges structure their thinking around competing narratives, surface potential red flags, and help ensure that the court's decisions are both procedurally fair and legally sound.

### **Barriers to Using the Worksheet**

While the Worksheet was appreciated as a tool for organizing judicial thinking and emphasizing legal mandates, several key barriers emerged that limited its use in daily court practice. Judges noted that the Worksheet's current form is not easily compatible with the time constraints and workflow realities of high-volume probate dockets. These barriers were both practical and systemic in nature, affecting how consistently the Worksheet could be used across cases.

#### Level of Detail

While the judges appreciated the comprehensiveness of the Worksheet, its' comprehensiveness was also seen as a limitation. The Worksheet was sometimes seen as too detailed for practical use in every case, especially given the pace of court operations, with judges concerned about getting lost in the details of the Worksheet.

*"You don't want to lose sight of the forest for the trees, right? Getting involved in the minutiae of things."*

The challenge was especially acute when cases were routine or uncontested. In such instances, judges found that the Worksheet did not add value beyond what was already contained in the guardian ad litem and examiner reports.

*"It is too comprehensive to actually complete it at the pace we're operating on."*

Judges emphasized the need for discernment, reserving the Worksheet's full use for contested, ambiguous, or high-risk cases.

#### Challenges in Assessing Retained Abilities

Judges noted some specific challenges related to assessing retained abilities and how difficult it can be to assess what the person is still able to do within the context of less restrictive alternatives.

Judges find assessing an individual's retained abilities challenging and struggle to differentiate these abilities when determining the appropriate type of guardianship. They expressed a strong commitment to considering the LRA, but this is often hindered by a lack of detailed information on the respondent's capacities. They noted that most reports on the respondent focus on deficits rather than strengths.

*"The retained abilities, the more that I've been a part of this...I find that to be one of the areas that is the most difficult. Like, what are the retained abilities? And where is the line between a general guardian and a more limited guardian, based upon their retained abilities. I mean...it's more talked about [in terms of] 'what is a problem?' And so, [using the worksheet] would be like the inverse [of that]."*

*“Frankly, the only...entity that we see representations with regard to retained ability is from the Department of Disability Services...”*

This limits the court’s ability to meaningfully assess whether an alternative to guardianship is viable, particularly in older adult cases where retained capacity may be underreported.

#### Challenges in Consistent Consideration of Least Restrictive Alternatives

Judges are legally and ethically required to consider LRAs, however, they report that responses from attorneys representing respondents regarding the exploration of lesser restrictive means are often found lacking. For example, judges and other practitioners often have a limited awareness of feasible alternatives that may be available to an older adult, even though they are required by law to explore them:

*“So statutorily I need to look at what is the least restrictive alternative, certainly retained capacity is one factor in that...at the end of the day, we are legally required and, frankly, ethically required to do a least restrictive alternative, right?”*

The DC judges all expressed a deep commitment to their statutory duty to find LRA whenever possible, however, they often lack the information and ability to assess whether all possibilities have been explored before the respondent (or their counsel) appears before them in a hearing.

#### Information on the Extent LRAs have been Pursued is Lacking (for the Judge)

When judges inquire about the need for guardianship and whether LRAs have been explored, they feel that the explanations fall short:

*“Have we explored lesser restrictive means? Generally, the answers I’m getting back are unsatisfactory.”*

*“Sometimes people [i.e., the proposed guardian] just say, ‘Because the Social Security Administration won’t talk to me.’”*

Judges noted that these vague or insufficient justifications are often accepted as default explanations and underscore the need for stronger upstream expectations on petitioners and counsel to explore and document LRA options.

#### When LRA is “Off the Table”

Judges in the DC jurisdiction largely agreed that the Worksheet is most valuable in complex, contested, or ambiguous guardianship cases, especially where motives are unclear or LRAs may have been overlooked. They emphasized that while they believed that most guardianship cases are straightforward, the Worksheet is helpful for organizing thinking in exceptional cases. For example, in some cases—particularly with individuals with profound disabilities or cognitive impairment—the focus shifts to “guardianship by necessity,” and exploring LRAs doesn’t really apply:

*“But in the situations that we have the persons...[who] have really profound...disabilities where they’re not going to have any capacity...so, I think that for me the struggle is not so*

*much retained capacity as least restrictive alternative...in these cases, we end up with no choice but to pursue guardianship."*

Despite recognition of the Worksheet's utility as a tool to evaluate the proposed guardian, one judge felt that it mostly focused on the respondent, offering this overall comment about cases that come before him:

*"Probably 80% of the cases, there's no dispute... So, then there's really not a lot of work to do, other than making sure that the person is a good fit... But if it's one of those situations where the person clearly has no capacity—they're, you know, unfortunately, completely out of it because of dementia or whatever—then you don't really need this form."*

While the Worksheet is largely about the respondent, the judge did emphasize that it was important to evaluate the appropriateness of the proposed guardian as a general principle.

### **Recommendations for the Worksheet**

While judges expressed appreciation for the core purpose of the Worksheet - reinforcing legal standards and prompting informed inquiry - they also offered concrete recommendations to improve its functionality in the real-world context of probate courts. These suggestions were grounded in workflow realities, judicial discretion, and the diversity of case types. Across their feedback, a clear emphasis emerged: the Worksheet should not be treated as a rigid, one-size-fits-all tool, but rather as a flexible resource adapted to the user's role and case complexity.

The recommendations below reflect participant insights on how the Worksheet could be refined, tailored, and supported to become a more effective component of guardianship practice.

- **Potential for Court-affiliated Professionals-Specific Versions:** There is a suggestion for tailoring the Worksheet to different users like law clerks, attorneys, and evaluators to improve utility and compliance with providing necessary information:

*"It would be easier to get compliance with the necessary information from different stakeholders if there was a version of it that was more tailored to what they should be paying attention to. I mean, I don't think it has to be tailored by jurisdiction, but I think it has to be tailored by the stakeholder."*

Judges also noted that tailoring versions of the Worksheet could help reduce the burden on any one role and increase uptake across the system.

- **Reinforce Cue-Based Use Over Checklist Completion:** As discussed in Section 1.1, several judges emphasized that the Worksheet works best when used as a guide to focus attention, rather than as a detailed checklist to be completed for every case. Based on this perspective, they recommended formalizing this use in training and implementation efforts. This sentiment supports the idea that the Worksheet can be integrated into judicial decision-making as a reflective tool rather than a mandatory procedural document.

- **Training and Implementation Guidance:** Judges emphasized the need for consistent training to ensure clerks, guardians ad litem, and other actors understand the intent and utility of the Worksheet.

*“The training is as important as the worksheet, frankly, and the worksheet is just a reminder of the training.”*

*“We had talked about previously, training the examiners and visitors... and I think that that would be extremely helpful...” (Judge C)*

Clarity about how law clerks are expected to use the Worksheet also emerged as a recommendation. One judge noted they planned to follow up with their clerks to understand current use.

*“I haven’t asked my law clerks exactly how they’ve been doing it, but this provokes me to do that.” (Judge M)*

In short, judges recommended not only tailoring the form itself but also investing in role-specific onboarding and ongoing education, ensuring the Worksheet reinforces legal imperatives and judicial values without disrupting workflow.

### **Contextual Complexity in Guardianship Cases**

While much of the discussion focused on tools, procedures, and systemic constraints, judges also reflected on the deeply personal and relational challenges inherent in guardianship cases. Family conflicts, unclear motivations, and emotional tensions often shape how cases unfold and what decisions are possible. These dynamics complicate the assessment of capacity, trustworthiness, and best interests - sometimes more than any procedural ambiguity or statutory gap.

This section captures the ways in which contextual complexity - especially family conflict and value-based disputes - shapes judicial decision-making and underscores the need for flexible tools and thoughtful deliberation.

#### **Complex Family Dynamics**

Judges frequently navigate complex and often conflicting family dynamics, which complicate guardianship determinations. Balancing legal requirements with the individual's preferences is important, though knowing these preferences can be difficult, and disputes among family members can lead to a lack of consensus or cooperation, forcing the court to intervene.

*“And then what happens is, neither one of them [family members] wants to do anything. One of them barred the other one from the facility, you know, and then the facility is just like, ‘the court needs to get involved right? Because we can’t. We don’t even know who to listen to, because there’s no consensus or cooperation.’” (Judge C)*

The judges noted that while it is challenging, it is important to understand the underlying motivations of family members, especially when there are competing interests, such as potential financial gain.

Judges said they do hear about preferences regarding the need for a guardian and who should be appointed. For older adults who previously had capacity, guardians ad litem are legally required to consider what the ward's preferences would have been:

*"We do hear about preferences when it comes to whether somebody wants a guardian, whether who should be appointed a guardian. When the guardian ad litem are engaging in substituted judgment, they are required legally to take into account what the ward's preferences would have been had they been able to make the decision on their own." (Judge C)*

One judge noted that guardians ad litem or the subject's counsel typically follow that process, and occasionally, even the respondent may agree to the guardianship.

### Systemic and Bureaucratic Barriers

Beyond individual case dynamics, judges described broader structural and organizational barriers that shape the trajectory of guardianship cases and limit court flexibility. These include judicial staffing constraints, weak interagency coordination, insufficient community resources, and policies that push older adults into guardianship as a workaround for service access.

The sections below detail the systemic limitations that judges face in their efforts to uphold legal standards while managing complex and high-volume court dockets.

### Workload and Limited Investigative Power

Judges are overwhelmed by caseloads and limited staff, making streamlined decision-making crucial. They rely heavily on information presented by attorneys, social workers, and assessors and cannot independently verify facts:

*"We do have a role in asking for information and asking for additional information. We can't investigate matters on our own. We can't go search for data." (Judge C)*

*"We are really struggling with being overwhelmed, quite honestly... we're heading to either 14 or 15 judicial vacancies by the end of the month, which is about 25% of the judicial staff." (Judge C)*

Judges described this staffing shortage as a critical pressure point in their ability to meaningfully engage with complex guardianship decisions.

### Guardianship Driven by Bureaucracy

Bureaucratic barriers, such as HIPAA restrictions, drive the need for guardianship even when it may not be strictly necessary for the individual's care. Judges described how policies in housing, Social Security, and healthcare often create scenarios where guardianship is sought not due to incapacity, but to overcome administrative or procedural obstacles. As noted earlier in Section 2.4, some judges found that explanations for pursuing guardianship often referenced these bureaucratic hurdles rather than incapacity or unmet need criteria. Judges described feeling constrained by these structural issues, which often left them no alternative but to impose guardianship.

### Lack of Coordination

There is a lack of clear information and coordination between legal and social service systems regarding available community resources for the aging population.

*"I think in part, it's just because there's so many different resources dedicated to so many different things... I think that there's less information about the resources for the aging population." (Judge C)*



This challenge further limits the court's ability to identify and implement less restrictive alternatives.

#### Need for Judicial Education

Judges recognize a significant need for education on aging and guardianship issues across all court divisions. They also highlighted the need for broader systemic reforms to address the root causes leading to guardianship petitions.

Training is crucial for judges and staff (clerks, examiners, visitors, attorneys) to better understand nuances of older adults' capacities, cognitive impairments, aging-related changes, and alternative care models. Cognitive decline is often misinterpreted as mental illness.

*"I think in our world, at least in my world, in the court... the focus has always been on mental health issues. And I don't think that people understand that there is also dementia and Alzheimer's." (Judge C)*

*"It's been to my benefit to come to this assignment with the background in probate and the training that I have received... I completely agree about how valuable a perspective that would be to increase training for judges throughout the disciplines." (Judge M)*

This call for training spanned procedural knowledge, aging and cognitive science, and implementation of LRA frameworks.

#### Need for Broader Systemic Reform

Addressing structural issues in areas like Social Security, housing, and healthcare, and improving coordination of aging services could decrease guardianship petitions based solely on administrative hurdles. In DC, judges noted that some guardianship petitions appear to stem from administrative hurdles rather than a clear lack of capacity. Judges said that petitioners often cited the need for guardianship to navigate systems like Social Security or healthcare, claims that judges did not always find legally justified. This raises concern that guardianship may be used, or perceived, as a workaround to institutional inflexibility rather than as a last-resort protection.

In referring to a recent lawsuit about how DC is "really not providing sufficient supports for people to leave long [term] nursing homes...to allow these individuals to come home and to age in place," she offered this observation:

*"Well, maybe this [recent] lawsuit is a good opportunity for the district to create that compendium of resources available for those who are aging and what the spectrum is, from the less restrictive to the most restrictive."*

This comment reflects a broader judicial awareness that coordination of aging services is essential to ensure guardianship remains a last resort.

## 5.2. Arlington, Virginia, Circuit Court

### 5.2.1. Judicial Process in Guardianship Case

In Arlington, Virginia, engagement in the project was limited to one judge and one attorney whose role was to provide oversight to the panel of attorneys who may be appointed as guardian ad litem in guardianship cases. The following reflects the comments and reports of these two individuals and cannot be interpreted to reflect the perspectives and practices of other judges or GALs within Arlington or Virginia more generally. In this specific circuit court, guardianship decisions follow a clearly defined procedural structure, which reflects both the state's statutory requirements and this specific court's practice. Figure B depicts the court's current workflow, which reflects this procedural emphasis on early-stage filtering and pre-hearing review.



FIGURE B: VA CURRENT COURT PROCESS AND WORKFLOW

### The Role of the GAL and the Pre-Hearing Review Process

The Arlington, VA focus group included the two individuals mentioned above and revealed their distinct legal and procedural views in which the judicial role in guardianship cases is perceived to be guided by state statutes. In our initial outreach to this jurisdiction, they emphasized that many of the considerations prompted by the Worksheet, particularly around LRA, are already embedded in state code and addressed by the GAL before the case file reaches a judge. The judge and attorney describe the hearing as an opportunity for final review of the case file and summation provided by the GAL. Exploration of alternatives and identification of information gaps reportedly is the responsibility of the GAL and occurs prior to providing the file and summaries to the judge or the hearing occurs. The attorney explained:

*“Our code says to the GAL, in your written report to the court, you have to address all of these things. Everything from jurisdiction, to capacity, to is there a less restrictive means, can you utilize supportive decision-making... All of that is happening or happens once the petition [is] filed prior to that hearing occurring.”*

Judges review the petition, the Guardian ad litem report, and other supporting documents, typically within 24 to 48 hours prior to the hearing. The judicial officer suggested that the panel adequately assesses alternatives, adequateness of the proposed guardian, and any missing information. This process was seen to streamline hearings. The attorney elaborated:

*"If the judge is asking those questions like, 'Why can't we use something less restrictive?' I think we've kind of failed in our jobs. It's the petitioner['s] counsel and it's the GAL."*

### **Capacity as a Unitary Construct**

Across the discussion, there was an implication that in this court individuals who are the subject of guardianship petitions and who are deemed to be incapacitated are highly likely to be provided a guardian. While attorneys acknowledged the value of supportive decision-making in theory, it was described as viable only rarely and under ideal conditions - when the respondent is cooperative and sufficient resources exist to meet their needs. Participants conveyed that, in the majority of cases, once incapacity is certified, the process moves forward toward guardianship:

*"It works well if you've got the person who's cooperative with it, and there's resources... Where it's not going to work is when you have people that are incapacitated...who are not able to participate in that, or they're not cooperative. So, without the structure of a guardian, it all falls apart."*

Comments suggest that capacity is understood in categorical rather than nuanced terms where there is minimal focus on retained abilities that may be useful in identifying less restrictive alternatives to guardianship.

### **Reflections on the Worksheet: Skepticism and Pragmatic Interest**

Initial reactions to the Worksheet were largely skeptical, with the judge and the attorney questioning its added value. They felt that the information captured in the Worksheet was duplicative of what already appears in the guardian ad litem report. The judge reflected:

*"Most of the information on this worksheet is going to be in the [GAL] report, and tasking [them] with completion of the worksheet, adding additional demands on their time—can that have an adverse effect?"*

The judge added:

*"Me then transcribing it onto the worksheet and then looking at the worksheet is not adding anything to that process. It's just putting the information in a different format. And for whom?"*

The Judge elaborated one way he could see the Worksheet employed:

*"I wouldn't see a judge sitting down and writing this questionnaire out. I would think it would be more of a presentation to the court, so that the court has it at its fingertips at the time of the hearing."*

Our team emphasized that the Worksheet can be used as a bench card to support judicial preparation. Indeed, there was recognition that not all judges review the entire file before

a guardianship hearing. In trying to better understand the purpose of the Worksheet, the judge offered:

*“It appears, then, that the purpose of this worksheet is probably to address that issue... that not all judges are reviewing the entire file before a hearing, so this is a gentle way of nudging a judge to be fully prepared for the guardianship case.”*

### **Support for Education and Role-Based Use**

Although the Worksheet was not viewed as directly useful in the hearing itself, the Judge and the Guardian ad litem saw significant promise for its use in judicial training, particularly for newly appointed judges who are less familiar with the key factors in guardianship determination. A Judicial Services Director explained:

*“It would be good, you know, for these newer judges that are elevated from a lower court to a circuit court... to have it as sort of like, these are the factors that go into the consideration when a judge is making a determination whether to appoint a guardian or not.”*

One judge agreed with this observation, saying:

*“Yeah, I think you’re right, for sure. That’d be a good way to get it out, and then they can bring it back to their circuits.”*

The judge also strongly supported the idea of using the Worksheet as the basis for a Continuing Legal Education (CLE) training, for attorneys in the role of guardian ad litem who play a larger role in pre-hearing file review. In this context, the Worksheet was seen as a professional development tool, reinforcing best practices and legal standards, particularly around LRA exploration.

### **Interest in Systemic Reform Outside the Courtroom**

The judge expressed strong interest in broader systemic reform framed around administrative accountability, particularly reducing delinquency rates in post-appointment guardian reports. He was eager to scale a local pilot program aimed at improving their local Department of Human Services (DHS) processes.

Although the judge was not resistant to the Worksheet, he was clear that he believed its strongest potential lay outside the courtroom - in upstream planning, agency use, or court-affiliated professional training. The attorney, who noted he had participated in drafting elements of the state’s guardianship statute, echoed this emphasis on early-stage responsibility. He framed LRA consideration as something that Virginia law requires guardians ad litem and petitioners to address, reinforcing the perception that deliberation on alternatives occurs prior to the courtroom phase.

## **6. Comparative Analysis of Case Studies**

This section compares how the Worksheet was implemented and perceived in the two jurisdictions, highlighting key similarities, differences, and system-level insights. While the contexts differ in workflow, statutory structure, and professional roles, a core insight emerges - judges are not the sole agents of reform. Although judges retain ultimate responsibility for

issuing guardianship orders, their decisions are shaped by the information filtered through other actors. As one DC judge explained:

*“I will say that the court relies heavily on the partners that we have, the attorneys we appoint, the guardian ad litem’s viewpoint, the examiners, the visitors, because they make contact with that subject. They’re the eyes of the court, they’re able to see what’s actually happening, and when they do have that knowledge of what resources are out there, they help us to determine what are the least restrictive means, period.”*

This perspective underscores that while the Worksheet was designed for judicial use, its real-world utility depends on the broader network of professionals supporting the probate court - guardians ad litem, examiners, visitors, attorneys, and others - who influence the information adduced, how alternatives are considered, and whether the respondent’s rights and preferences are adequately represented.

### 6.1. Key Similarities Across Jurisdictions

Despite structural differences, both jurisdictions emphasize the importance of information provided by court-affiliated professionals. While not exclusive, they ultimately provide critical information that informs the court’s rulings.

**Judicial Consideration:** In both Arlington, VA and DC, judges describe using the Worksheet primarily as a tool for structuring case review, reinforcing statutory considerations, and facilitating judicial decision making - especially in complex cases. Some judges noted that the Worksheet can help provide opportunity for deliberation, surface relevant facts, or flag missing information, potentially shaping how decisions unfold.

**Judicial Dependence on Court Affiliated Professionals Input:** In both Arlington, VA and DC, the Worksheet is seen as most useful before a case reaches the bench - for example, as a reference tool for law clerks, a checklist for guardians ad litem, or a guide for judicial preparation. Judges consistently described their reliance on court-appointed partners—particularly GALs and examiners—to gather information, assess alternatives, and contextualize the case. While some judges noted the Worksheet’s potential for inclusion in continuing legal education (CLE) and new judge training, its greatest utility appears to lie in shaping partner input that ultimately informs the court’s rulings.

### 6.2. Key Differences by Jurisdiction

While both jurisdictions share several structural features and constraints, notable differences emerged in how the Worksheet was used, how judges interpreted their roles, and how each court engaged with the broader ecosystem of aging services. Table 8 below summarizes key divergences in courtroom practices, court-affiliated professional responsibilities, and institutional orientation.

TABLE 8. Summary of key divergences		
Category	DC	Arlington, VA
<b>Worksheet Use in Hearings</b>	Judges use the Worksheet during preparation and post-hearing review, particularly when drafting orders; it is	Used primarily to slow down the guardian appointment process; not typically used in court hearings.

	not currently used during live proceedings.	
<b><i>Role of GALs and Examiners</i></b>	GALs and examiners may raise alternatives to guardianship, even beyond formal role expectations.	GALs are required by statute to assess for LRAs; examiners are rarely appointed, we have no information about how they consider LRAs
<b><i>Judicial Attitudes Toward LRA</i></b>	Judges emphasize their statutory obligation to consider LRAs but note that reports lack strength-based information that would inform opportunities for LRA.	Pre-appointment LRA consideration the responsibility of GALs or DHS post appointment.
<b><i>Clerk/Staff Roles</i></b>	Law clerks synthesize case materials and sometimes flag missing elements; judges expressed need for better clerk training.	Clerk roles were not addressed. Worksheet seen as useful for CLE or new judge training.
<b><i>Community-Based Interventions for LRA</i></b>	Examiners have discretion in recommending supports or alternatives by employing aging network resources.	LRA is considered pre-appointment by GALs and post-appointment through DHS oversight of annual guardianship reports.

Judges engaged with the Worksheet in different ways which may reflect variation in courtroom practice and how judges perceive their role relative to court affiliated professionals. In Arlington, for example, GALs play a particularly prominent role in surfacing less restrictive alternatives prior to the hearing along with contextual information about the needs of the respondent. In contrast, DC judges discussed their own statutory obligations to assess alternatives, while also noting that reports often focus on deficits and lack detail about the respondent's retained abilities.

### **Cross-Case Insights**

Despite jurisdictional differences, judges in both sites described using the Worksheet primarily as a tool for structured consideration in cases involving complexity or ambiguity. The Worksheet was seen as a resource for wholistic consideration - particularly in complex or contested cases involving family conflict, ambiguous capacity, or unclear motives. In such instances, judges used or could envision using the Worksheet to organize their thinking, flag missing information, or prompt deeper inquiry. In DC, these complex cases were explicitly described as exceptions, with the majority of guardianship petitions being routine and uncontested. VA judges did not comment on frequency.

In both jurisdictions, judges emphasized their reliance on court affiliated professionals—GALs, examiners, visitors, attorneys, and law clerks - to gather and summarize information about the respondent. Judges are statutorily responsible for assessing less restrictive alternatives and most often do so based on summaries or recommendations provided by others. This contributed to the perception that the Worksheet's utility lies in shaping case preparation and court affiliated professionals' considerations. Both sites mentioned its potential value in

training - whether through CLE, judicial orientation, or improved guidance for law clerks - suggesting that an additional value of the Worksheet may lie in standardizing expectations and prompting more wholistic consideration across the system.

## **7. Conclusions & Recommendations**

Phase 2 of this project sought to assess the impact and outcomes of implementation of the Judicial Guardianship Evaluation Worksheet in two judicial jurisdictions over a 13-month period from May 2024 through May 2025. The project engaged judges, guardians ad litem, court appointed counsel, evaluators, investigators, visitors, law clerks, and other court staff in activities including orientations to the Worksheet, focus groups describing court practices, roles and structures; focused training on less restrictive alternatives to guardianship as well as a final webinar summarizing findings and outcomes. Quantitative data was generated through surveys and qualitative data through focus groups and interviews.

Our efforts in Washington DC resulted in significant judicial engagement, providing opportunities for the interpretation of findings applicable to the jurisdiction as a whole. However, in Arlington VA, only one judge and one GAL attorney participated which significantly limits the interpretation of findings beyond their own experience and views. An additional limitation to the interpretation of data is that the qualitative data was only superficially analyzed due to time limitations in the evaluation component of the project. Therefore, while general themes presented here are reliable, more nuanced interpretation should be undertaken cautiously.

Key findings from the implementation of the Worksheet in Washington DC indicate that judges described using the Worksheet primarily as a reference tool for structured wholistic consideration of evidence in cases involving complexity or ambiguity. In such instances, judges used or envisioned using the Worksheet to organize their thinking, flag missing information, or prompt deeper inquiry. The DC judges expressed a deep commitment to find LRA whenever possible, however, they note that reports they receive from court affiliated professions often lack information regarding retained abilities and whether all possibilities have been explored before the hearing occurs. They stress the need for training of court affiliated professionals that would result in more consistent reporting on both retained abilities and LRAs that have been considered.

Survey data, representing primarily DC court personnel, can best be understood to reflect a bi-modal distribution of responses where the majority report positive attitudes towards the Worksheet and more enthusiastic intention to implement it in their consideration of guardianship and a minority report skepticism and perceived barriers to implementation. Once they have the opportunity to use the Worksheet, there is a shift towards greater intention to integrate it into their process.

Virginia state statutes stipulate appointment of GALs to represent each respondent of a guardianship petition and require GALs address the completeness of the petition and less restrictive alternatives. This structure may contribute to the judicial officer's reliance on the reports provided by GALs to determine the need for guardianship, appropriateness of the proposed guardian, and draft orders. Nonetheless, value was seen in the Worksheet as a mechanism to "nudge" judges to more thoroughly review case files prior to hearings, and as

a mechanism to facilitate upstream training for judges who are new to guardianship. Comments suggest that capacity is understood in categorical rather than nuanced terms where there is minimal focus on retained abilities. Therefore, training on the Worksheet for attorneys who fulfil the rolls of GALs, court appointed counsel, and counsel representing petitioners, as suggested by Arlington participants, may be useful in identifying less restrictive alternatives to guardianship.

A webinar presenting the Worksheet, findings from the first and second phases of the project, and the newly developed LRA Guide was made available to the national network of professionals engaged in guardianship work with 375 registered participants and 60 completed survey responders. Survey results are optimistic, with the majority indicating that they were very likely or somewhat likely to use the Worksheet in their guardianship work (67%) and that using the Worksheet would contribute to a more comprehensive understanding of the unmet needs of the older adult (83%). Most respondents also indicated high perceived helpfulness of the LRA Guide to inform thinking about the viability of LRAs (64%) and intention to integrate the LRA Guide framework into their practice (70%).

Taken in total, results of this project indicate that the Worksheet helps judges identify gaps on evidence, organize evidence in complex and contested cases. Further, the Worksheet appears to help standardize expectations of reports by court affiliated professionals, and prompts more intentional consideration of less restrictive alternatives across the ecosystem of court affiliated professionals. Exposure to the Worksheet creates a culture of innovation and openness and energy around improved court practices and development of evidence-based practices.

**Recommendations:**

- Findings from the project consistently point to the desire for the Worksheet to be integrated into the practice of court affiliated professionals and judges new to probate by providing orientation and training on the use of the Worksheet and education on broader issues related to capacity, retained abilities, medical/mental health/functional issues, and LRA pertaining to older adults. Some endorse adapting the Worksheet to specific roles within the court.
- Project participants endorse the development of strategies to ensure that retained capacities and LRAs are consistently considered and integrated into reports and summaries in case files. They encourage education on the agencies, resources, and supports that may inform implementation of LRAs, providing judges more details to inform their decisions.

## **8. Products**

<b>Outfacing Products</b>	<b>Housed</b>
Revised Worksheet Training Video	<a href="#">DOJ Website</a>
Revised Judicial Guardianship Evaluation Worksheet	<a href="#">DOJ Website</a>



Judicial Guardianship Evaluation Worksheet Glossary	Pending Placement, <a href="#">USC Drive</a>
Less Restrictive Alternative Guide	<a href="#">DOJ Website</a>
Advancing Guardianship Practice Webinar	Pending Placement, <a href="#">USC Cloud</a>

## 9. References

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