

Quarterly Listing of Audit Requests for GOC Consideration

First Quarter 2017 Updated March, 2017						
#	Topic Area	Possible Areas of Focus	Rough \$ estimate	Covered by other topic?	Past or current efforts in this area?	Additional Info
1	State Law Enforcement Agencies' Undercover Operations	<ul style="list-style-type: none"> • Approval process for undercover operations • Oversight of undercover operations • Controls on the length of the operation • Funding for undercover operations • The role of the Attorney General, if any, in approval or oversight 	Unknown	No	Unknown	Some state law enforcement agencies include undercover work as part of their law-enforcement efforts. The requestors are interested in whether the general policies, procedures, and practices for these activities are ensuring that the operations, while remaining confidential, are carried out in a way that respects the rights of individuals so that citizens will have confidence in the integrity of such operations.
<p>Additional information: OPEGA recently requested additional information on this topic from the Department of Public Safety, the Department of Marine Patrol, the Department of Inland Fisheries & Wildlife, the Department of Agriculture (Maine Forest Service) and the Secretary of State (BMV Office of Investigation). The only response was from the Department of Public Safety saying that the request would be forwarded to the Governor's Office.</p> <p>LEGISLATIVE SPONSOR: Senator Davis, Senator Katz</p>						

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2	Guardians ad litem Judicial Branch	<ul style="list-style-type: none"> • Judicial Branch progress in implementing the requirements of PL 2013 Chapter 406 • Effectiveness of actions taken in addressing past issues with GALs 	Unknown	No	2006 OPEGA report on Guardians ad litem	The requirements of PL 2013 Chapter 406 addressed some of the key recommendations from OPEGA's 2006 report that had not been implemented.

Additional Info (cont.) PL 2013 Chapter 406, "An Act To Improve the Quality of Guardian ad Litem Services for the Children and Families of Maine", from the 126th Legislature used existing requirements for guardians ad litem as a base, and included some of the recommendations of the reports to the Supreme Judicial Court, "Recommendations for an Improved Process for Complaints Regarding Guardians Ad Litem," dated September 21, 2012, and "Recommendations for Amending the Maine Rules for Guardians Ad Litem," dated January 14, 2013, by the Guardian Ad Litem Stakeholders Group. Under the Public Law, guardians ad litem appointed under the Maine Revised Statutes, Title 18-A are subject to the general provisions and rules adopted by the Supreme Judicial Court, including the complaint process. Guardians ad litem appointed under Title 19-A and Title 22 are subject to the general provisions and the rules, as well as specific provisions for the different types of cases.

The Public Law, which is captured in 4 MRSA §§ 1551 – 1558,:

- Directs the Family Division within the Judicial Branch to assist the Chief Judge of the District Court to roster guardians ad litem and in the administration of guardians ad litem appointed under Title 19-A and Title 22. It also requires the family division to collect, maintain and report data about the appointment of guardians ad litem, reports, caseloads and other information.
- Clarifies the process of rostering guardians ad litem, although the details were to be established by rules adopted by the Supreme Judicial Court. The rules must include criminal background checks.
- Establishes in statute the role of a guardian ad litem and requires compliance with standards of conduct, which were to be adopted by rule by the Supreme Judicial Court.
- Requires the Supreme Judicial Court to provide by rule for a complaint process concerning guardians ad litem. The complaint process is in addition to the right of a party to file a motion to remove the guardian ad litem while the case is pending.
- Directs the Judicial Branch to include guardian ad litem elements in its request for proposals for the new case management system for the courts.
- Specifies that the order of appointment must specify the duties of the guardian ad litem. A guardian ad litem has no authority to perform and will not be expected to perform any duties beyond those specified in the order, unless subsequently ordered to do so by the court.
- Specifies that the order appointing a guardian ad litem in a case under Title 18-A and Title 19-A must also specify the hourly rate or flat fee for the guardian ad litem, the timing of the payments to be made and by whom and the maximum amount of fees that may be charged for the case without further order of the court.

Title 4 § 1558 has language that repeals the other sections of statute as of October 1, 2017, although there is currently a bill before the 128th Legislature to remove the repeal language.

In February 2017, the Joint Standing Committee of Judiciary received a report from the Judicial Branch on the status of implementing improvements in the delivery of GAL services. OPEGA reviewed the report and found it provides an update on progress in implementing all efforts required by 4 MRSA §§ 1551 – 1557. It appears that the Judicial Branch has largely implemented the requirements set out in statute for improvements to the delivery of GAL services. Efforts in some areas continue to be ongoing, such as

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data collection and the recently commenced post-judgment evaluation process. It is, however, unclear as to how continued progress will be monitored and reported, as there is no provision for ongoing annual reports, review or data reporting on complaints and evaluation. A copy of the Judicial Branch report, not including appendices, is attached.

OPEGA also received a critique of the report by the review requestor expressing that:

- The Judicial Branch report presents a distorted picture of its leadership in making changes to the GAL system.
- Many of the problems identified in the 2006 OPEGA report remain the same in 2017.
- Is it unclear how the changes made by the Judicial Branch are working (for the courts, GALs, lawyers or parties), whether consumers are satisfied, and what data supports any conclusions.
- The complaint procedure is complicated, legalistic and challenging for litigants representing themselves to navigate.
- The fact that all complaints made under the new complaints system have been dismissed is “highly suspect” and indicates that oversight is required.
- There is insufficient information about the consumer-satisfaction evaluation and court clerks seem unaware of it.
- There are continued reports of it being difficult for GALs to be removed from cases and that GAL fees do not follow the law.
- The changes do not take sufficient account of the large majority of divorcing couples representing themselves in proceedings.

The requestor seeks an OPEGA review to get a more robust assessment of the GAL program reality.

On February 16, 2017, Government Oversight Committee members received an email from the House Chair of the Judiciary Committee explaining that the Judiciary Committee had not yet had time to evaluate the report or to meet with the Chief Judge who submitted the report. The House Chair also stated that the Judiciary Committee will be hearing a number of GAL bills this session, including one to eliminate the sunset provision of PL 2013 Chapter 406. Considering these pending actions, and that the reforms are in their first year of implementation, the House Chair feels it is premature for another OPEGA review of the GAL system at this time.

LEGISLATIVE SPONSOR(S): Rep Sampson, Rep Sutton, Rep Malaby, Rep Seavy, Rep Bradstreet