Michigan
PROGRAM SPOTLIGHT: Equitable Guardianship Reform Series

Justice in Aging is pleased to spotlight programs that have demonstrated promising practices to address inequities in the guardianship system. These unique and replicable models hold the promise of positive change to reduce bias and increase due process, reforming and improving the guardianship system for low-income older adults.

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MICHIGAN’S CRIME VICTIMS LEGAL ASSISTANCE PROJECT (CVLAP)

About CVLAP
The Crime Victims Legal Assistance Project (CVLAP) is a statewide project of the Michigan Advocacy Program that utilizes VOCA (Victims of Crime Act) and VAWA (Violence Against Women’s Act) funding. CVLAP has thirty attorneys who are hosted by six different legal aid programs throughout Michigan.

CVLAP provides free civil legal assistance to clients, prioritizing low-income individuals, who have experienced domestic violence or elder abuse, neglect, or exploitation. The CVLAP staff provides a range of assistance from legal advice to full representation. CVLAP also engages in systemic advocacy focused on increasing survivors’ access to justice, safety, stability, independence, dignity, economic security, and the courts.

The launch of CVLAP’s statewide program has raised the overall quality of services for victims by allowing greater collaboration among the state’s legal services attorneys. It has allowed consistent data collection to better identify statewide patterns and trends that require systemic advocacy, and has increased the provision of legal aid to rural areas and underserved communities (such as tribal survivors, immigrants, and nursing home residents). It has also strengthened training and advocacy that is trauma-informed, victim-centered, and culturally and racially inclusive.

In addition to the quality of legal services, CVLAP has also significantly impacted the quantity of individuals who can be served, as well as the level of services that can be provided. A focus on full representation, when possible, rather than just the provision of advice, is a priority and paramount to ensuring long-term outcomes for clients.

Since its launch in October of 2016, thousands of clients have been served by CVLAP staff who have helped them achieve lasting safety and stability.
What motivated CVLAP to begin defending the due process rights of low-income older adults facing guardianship, and what does CVLAP’s practice in this area look like?

When CVLAP’s Elder Justice Team initially started its work, it did not anticipate deep involvement in guardianship cases. CVLAP’s clients must be victims of crime, so the expected focus was on consumer work, family law, and housing issues. Over time, however, it became clear that low-income, older, and vulnerable adults who have experienced a crime are at tremendous risk of losing their civil rights even if they still have full decisional capability. Individuals would often come to CVLAP after an "emergency" guardianship had already been granted – without a hearing and without medical evidence. When these trends became evident, CVLAP began defending clients in guardianship cases in earnest. Now CVLAP attorneys regularly represent clients seeking to avoid, modify, or terminate guardianships in a system that often values paternalism and expediency over due process.

What has CVLAP found to be the biggest hurdles to doing this important work, and what strategies has it developed to make real change in guardianship systems and practices?

The most difficult part of improving the guardianship system is not the law but the practice and habits of the entire system, from judges and lawyers to guardians and institutional petitioners. When CVLAP lawyers first began filing appearances in cases to terminate guardianships on behalf of individuals, some judges and opposing counsel challenged the client’s right to obtain counsel of their choosing, despite it being allowed under Michigan law. CVLAP staff have also fought to recover funds when court-appointed guardians (who are sometimes attorneys) have engaged in inappropriate billing practices, which can cause friction with some members of the local bar and community of professional guardians. Although CVLAP’s role in the system is often adversarial to the system’s established players, CVLAP lawyers advocate with civility and respect and are, case by case, slowly reforming the system.

What strategies has CVLAP developed to reach underserved and marginalized communities in need of help in this area?

CVLAP has found that serving older and vulnerable adults, many of whom face significant barriers to accessing the court system, requires strong community partnerships. One of CVLAP’s most robust partnerships is with Michigan’s Long-Term Care Ombudsman Program, which serves individuals who reside in long-term care facilities. CVLAP has also tried to cultivate a close relationship with Adult Protective Services and Disability Rights Michigan so that their clients have easy access to CVLAP lawyers. CVLAP continually reviews its strategies for outreach and intake, ensuring reasonable accommodations are made for clients who may only be able to access legal assistance with the help of third parties. There is always more work to be done.

What advice does CVLP have for other organizations looking to start a guardianship defense program or expand work in this area?

Programs that are considering doing this critical civil rights work should prepare to disrupt the system. Changing hearts, minds, and habits is hard work and requires fierce advocacy, gentle persuasion, litigation, and education. The cases can be challenging but the wins are immense for the clients who retain or regain their autonomy and, over time, it starts to feel like systemic reform.

You can learn more about CVLAP on its website.