

JUDICIAL DEPARTMENT
FY 2022-23 JOINT BUDGET COMMITTEE HEARING AGENDA

Wednesday, December 15, 2021
1:30 pm – 5:00 pm

4:45-5:00 Office of Public Guardianship (OPG)

Main Presenters:

- Sophia M. Alvarez, Executive Director
- Debra Benett-Woods, OPG Commission Chair-Elect

Topics:

- Introduction and Opening Comments: Page 3-9
- COVID-19 Remote work planning: Page 2
- One-time federal stimulus funds: Page 2
- General Questions: Page 2-3
- Requests: Page 3-9

JUDICIAL DEPARTMENT – OFFICE OF PUBLIC GUARDIANSHIP
FY 2022-23 JOINT BUDGET COMMITTEE HEARING AGENDA

Wednesday, December 15, 2021
1:30 pm – 5:00 pm

COMMON QUESTIONS FOR DISCUSSION AT DEPARTMENT HEARINGS

- 1 Please provide an update on how remote work policies implemented in response to the COVID-19 pandemic have changed the Department's long-term planning for vehicle and leased space needs. Please describe any challenges or efficiencies the Department has realized, as well as to what extent the Department expects remote work to continue.

As the Colorado Office of Public Guardianship (OPG) is a newly established agency it was set up as a remote office. Therefore, the office has not seen a change in its need for leased space or leased vehicles. Should the office expand, remote work will continue, but consideration will be given to leasing space and vehicles.

- 2 Please describe the most significant one-time federal funds from stimulus bills (e.g., CARES Act and ARPA) and other major new federal legislation (e.g., Federal Infrastructure Investment and Jobs Act) that the Department has received or expects to receive. For amounts in new federal legislation that have not yet been distributed, please discuss how much flexibility the State is expected to have in use of the funds.

Not applicable

NOTE: Additional detail has been requested in a separate written-only response.

GENERAL QUESTIONS

[Sen. Moreno] Comment on the increasing complexities of your agency's cases, and the related impacts on your agency's resource needs.

Given the nature of the OPG clientele, the caseload is complex. As outlined in the Interim Report provided in the materials, our clients are incapacitated with complex diagnoses. In speaking with various stakeholders, a trend is that younger adults are being diagnosed with serious mental illnesses, which could result in more individuals needing guardians at a younger age. Individuals with serious mental illness are lacking community services and placements. In fact, the OPG was able to partner with the Office of Behavioral Health (OBH) to receive direct funding from OBH to fund a Public Guardian to serve clients transitioning from the Colorado Mental Health Institutes at Ft. Logan and Pueblo to the community. Due to the complexity and intensiveness of this caseload, we need one Public Guardian dedicated to this clientele.

[Sen. Moreno] We have a budget request related to the Colorado WINS Partnership Agreement with the State that is proposing compensation and benefit changes other than salary increases (e.g., tuition reimbursement). As an independent agency, what is your perspective on the provision of the same

compensation and benefits for all state employees, regardless of whether they are included within collective bargaining agreements?

My expectation is that OPG employees can have the same opportunities and benefits as that of all of state employees.

[Sen. Rankin] Describe how your agency's IT systems and services are provided. Is there overlap with IT systems and services from other Judicial agencies? Does your agency receive assistance from the Courts for IT systems and services? Generally, what is the annual, total cost and staff required for the provision of IT systems and services for your agency?

The OPG maintains its own IT systems and services through independent contractors. The OPG does not receive assistance from the Courts.

Annual cost of \$62,661.83 includes IT systems, case management system hosting, maintenance, updates, hardware, and software for 7 staff, and website maintenance. IT needs and expenses are expected to increase as the office expands.

One FTE Staff Assistant primarily serves as the point of contact for IT issues and IT training for staff.

[Rep. McCluskie] Provide an overview about specific positions that have been extraordinarily hard to fill.

Not applicable

REQUESTS

[Staff] Please discuss the Office's request item.

Given the success of the Denver Pilot Program and having adequate cash funds, OPG would now like to expand the program to the 7th and 16th Judicial Districts as envisioned by the original legislation. Expanding services to these two districts will also enable the Office to gather data from a more diverse client population and thereby augment and enrich the information collected for the program evaluation required by Section 13-94-105(4), C.R.S., which is due to the General Assembly in January 2023.

Please see the following Interim Report that highlights the successes of the OPG Pilot Program. Included with the Interim Report is Attachment 1 with some preliminary findings of an August 2021 statewide survey to assess Colorado's unmet need for public guardianship services.

In total, the OPG has served 84 clients in its first 18 months of operation. Thirty-three referrals are in a pending status. The OPG has handled at least 35 general inquiries about services, guardianship procedures, and interstate guardianship requests.

An additional 103 referrals have been denied or withdrawn for various reasons related to eligibility. El Paso County (4th Judicial District) is the most referred residence outside of the 2nd Judicial District. In fact, results from a statewide survey of unmet guardianship needs in August 2021 reveals an ongoing high demand for services. The 2022 – 2023 OPG Budget Request and Expansion allows the Office to meet the original statutory intent of serving the 2nd, 7th and 16th Judicial Districts and will allow for pilot data that reflects the needs of non-metro and rural areas of the state.

The primary stakeholder feedback we receive is when will the OPG be able to serve residents of other counties.

To make this expansion possible, the Office is requesting 4.0 FTE including a deputy director who will assist the executive director in fulfilling all statutory requirements and supervise program expansion into the two additional districts. The remaining three positions are for additional guardian FTE.

The additional FTE will also allow the OPG to create a Pilot Guardianship Academy. This collaborative program will educate volunteers in several key areas including guardianship standards, best practices, least restrictive options, advance planning, successor guardianship planning, and supported decision-making options. A central goal of the Guardianship Academy is to establish a cadre of volunteer guardians/powers of attorney/representative payees/supports to serve as additional community-based resources for indigent and incapacitated adults.

The Office of Public Guardianship Cash Fund, which is created by Section 13-94-108, C.R.S., had a balance of \$1,269,229 at the end of Fiscal Year 2021. Fiscal Year 2021 revenues were \$1.17 million while expenses were about \$700,000. As such, the Office is confident the cash fund can support the additional expenses associated with this request in Fiscal Year 2023 and thereafter.

Colorado Office of Public Guardianship Interim Report December 2021

Mission Statement

The Mission of the Colorado Office of Public Guardianship (OPG) is to provide guardianship services for indigent and incapacitated adults, within the targeted judicial district, when other guardianship possibilities are exhausted. If Colorado adults lack willing and appropriate family or friends, resources to compensate a private guardian, and access to public service organizations that offer guardianship, the Colorado OPG Pilot Program provides guardianship services to secure the health and safety of these individuals while safeguarding their individual rights and preserving their independence wherever possible.

Executive Summary

Although HB17-1087, the original OPG pilot project statute, was signed into law in 2017, funding was not secured until an amendment in 2019, which limited the pilot project to the 2nd Judicial District/Denver County. The Executive Director was hired effective November of 2019 and the basic infrastructure for the Office, including initial staff hires was completed in less than six months. Despite the barriers presented by the COVID-19 pandemic, the OPG began accepting referrals in April of 2020 and was serving a caseload of 20 clients by the end of the year. As of the end of November 2021, the caseload has grown to 73 clients and expanded services with the addition of a public guardian, funded by and dedicated to the Office of Behavioral Health, to serve transitioning clients in the Momentum program. In total, the OPG has served 84 clients in its first 18 months of operation. Thirty-three referrals are in a pending status. The OPG has handled at least 35 general inquiries about services, guardianship procedures, and interstate guardianship requests.

An additional 103 referrals have been denied or withdrawn for various reasons related to eligibility. El Paso County (4th Judicial District) is the most referred residence outside of the 2nd Judicial District. In fact, results from a statewide survey of unmet guardianship needs in August 2021 reveals an ongoing high demand for services. The 2022 – 2023 OPG Budget Request and Expansion allows the Office to meet the original statutory intent of serving the 2nd, 7th and 16th Judicial Districts and will allow for pilot data that reflects the needs of non-metro and rural areas of the state.

2020

- January 2020: 1 Staff Assistant and 4 Public Guardians were hired
- April 2020: Began accepting referrals
 - Case Management System
 - Website and on-line referral system
 - Contracted with Colorado Fund for People with Disabilities to provide SSA Representative Payee and Veterans Benefits Administration Fiduciary services to OPG clients
- August 2020: First guardianship appointment
- Challenges in offering services
 - March 2020: COVID 19 Pandemic declared

- Supreme Court and Denver Probate Court Administrative Orders limiting Denver Probate court only hearing emergency guardianship petitions
- Facilities not accepting new patients due to the COVID-19 pandemic
- Hospitals not seeking guardianships due to COVID-19 pandemic delays
- Referring parties’ need for legal counsel to file petitions
- Referring parties’ expense of legal counsel to file petitions

Despite these challenges, by December 2020, the OPG was appointed guardian for 20 clients. Populations served:

| Dementia related diagnoses | Intellectual/Developmental disability | Cognitive/Traumatic Brain Injury or Neurological disorder | Severe Mental Health Illness (schizophrenia and/or bipolar diagnosis) |
|----------------------------|---------------------------------------|---|---|
| 5 | 3 | 10 | 2 |

2021

- Denver Probate Court and Chief Justice Order to create **OPG Statement of Indigency** to waive court costs and filing fees
- Ability to **contract with attorneys and legal agencies** to file petitions to nominate the OPG as guardian
- OPG provided **Letter of Support** to assist Colorado Fund for People with Disabilities to receive NextFifty Initiative grant to provide free SSA Representative Payee services to OPG clients age 50 and older
- Seeking statewide Stakeholder Advisory Panel applications
- July 2021: **Office of Behavioral Health (OBH) funding** for **1 additional Public Guardian** to serve Momentum clients transitioning from CMHI - Ft. Logan and CMHI – Pueblo to the community
- August 2021: Statewide Survey to assess **Colorado’s unmet need to public guardianship services** - see Attachment 1.

OPG Caseload as of November 1, 2021

- a. OPG capacity is 80 clients. The OPG is appointed guardian for **73 clients** with 6 referrals pending in court proceedings
- b. OBH Public Guardian capacity is for 10 clients; 5 referrals pending

73 clients: Male 45: Female 28

8 Veterans

| Dementia related diagnoses | Intellectual/Developmental disability | Cognitive/Traumatic Brain Injury or Neurological disorder | Severe Mental Health Illness (schizophrenia and/or bipolar diagnosis) |
|----------------------------|---------------------------------------|---|---|
| 24 | 9 | 22 | 18 |

| | | | | |
|-----------------------------|-------|-------|-------|-------|
| Ages served: 21 – 30 | 30-45 | 45-60 | 60-75 | 75-90 |
| 5 | 5 | 24 | 25 | 14 |

Indigency: Social Security Administration benefits (SSI, Survivors, and SSDI) are the primary income source for clients.

Some clients had no income.

1 client receives Veteran Affairs Benefits and only 2 clients receive a monthly pension from previous employment.

Initial Number of **Homeless** Clients: 47

2022 – 2023 OPG Budget Request and Expansion

- The request meets the original statutory intent of serving the **2nd Judicial District** and
 - **1 Public Guardian: 7th Judicial District** Counties: Delta, Gunnison, Hinsdale, Montrose, Ouray, San Miguel
 - **1 Public Guardian: 16th Judicial District** Counties: Bent, Crowley, Otero
 - **1 Deputy Director:** Assist the Executive Director with expansion, supervision, Director Report data collection

Attachment 1 - Statewide Survey to Assess Colorado’s Unmet Need for Public Guardianship Services

An online survey was generated with the assistance of a graduate research assistant from the University of Colorado. The survey was published via email and on the OPG website to various stakeholders across the state in August 2021 – September 2021. Stakeholders included direct service providers and their administrators, such as the Department of Health and Human Services – Adult Protective Services, the Department of Corrections, private guardians, guardian agencies, hospitals, departments of public safety, etc. A total of 342 surveys were emailed, 338 individuals started the survey, and 254 individuals ultimately provided data. Survey results represented ALL judicial districts.

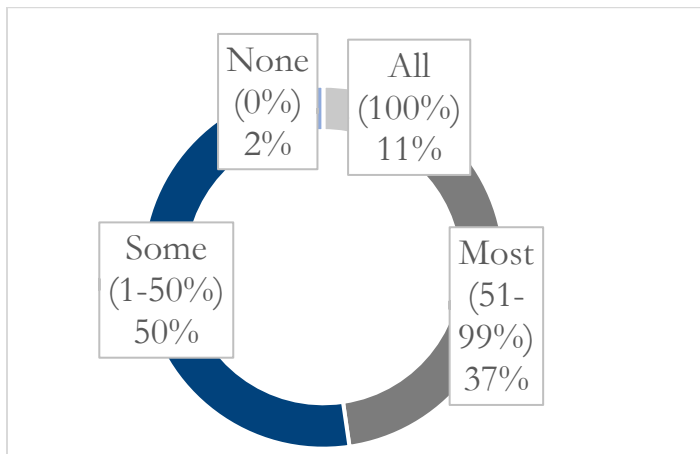
The next is completing statewide interviews of various stakeholders to highlight the challenges faced in areas where the OPG is unavailable and to highlight the positive impact of OPG services.

Preliminary Findings

Primary Obstacles in Establishing Guardianships

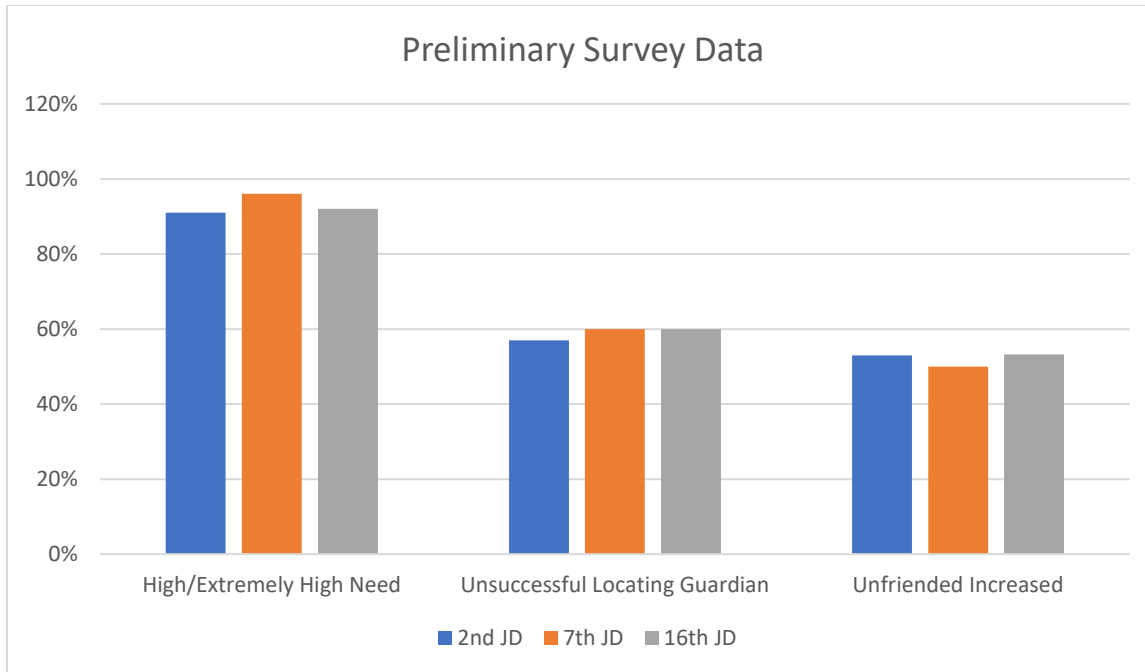
- Lack of available family and friends to serve as guardians
- Lack of available guardians/services

98% of direct service providers indicated that at least **SOME** (50%) of their clients would benefit from guardianship services



Of those who lack decisional capacity how many would benefit from guardianship services?
(Direct Service, n=130)

88% of all participants indicated there was a **HIGH** or **EXTREMELY HIGH** need for Public Guardianship services in their community



On average, **93%** of participants indicated there was a *HIGH* or *EXTREMELY HIGH* need for Public Guardianship services in the 2nd, 7th and 16th Judicial Districts

On average, **59%** of participants indicated they were unsuccessful in locating a guardian in their service area within the 2nd, 7th and 16th Judicial Districts

On average, **52%** of participants indicated that the population of clients without available friends or family to serve as guardian increased in their service area within the 2nd, 7th and 16th Judicial Districts