

**OPG Commission meeting
Director Report
10.25.2023**

Purpose: The Director Report will provide information about new matters, updates about the previous month's matters, and next steps for the following month. The Director will provide the Director Report to all Commission members. Questions about the Director Report will be addressed at the Commission meetings, if necessary. Commissioners are encouraged to reach out to the Director directly regarding any questions in between meetings.

Attachment 1: SB23-064 Fiscal Note for the 10.25.2023 meeting.

I. Budget and Administrative Update.

- a. Due to a labor shortage and oncoming budget season, the Judicial Budget Office is unable to supply the monthly budget summary report.
- b. Update: FY24-25 Budget Request due to Judicial Budget Analyst by October 1, 2023. I was finally able to meet with Robin Smart of the Judicial Budget Office on finalizing our FY24-25 Budget Request to present to the Board as soon as possible. Due to the Judicial Budget Office's labor shortage, Ms. Smart recommended that I focus on the two budget requests for Staff Attorney and the Workforce Development Manager for November 1 and make the additional requests via budget amendments due to JBC by January 2, 2024.
 - i. Additionally, I met with JBC Analyst, Alfredo Kemm, about the upcoming FY24-25 Budget Requests, Ms. Smart's recommendations considering the SB23-064 Fiscal Note and the acceleration of the expansion plans due to current operational needs.
 - ii. FY23-24 Supplemental Budget Requests due to JBC by January 2024.
 1. Additional Denver lease space
 2. ASIA expenditures, other operating expenditures and items that are not/will not be met through Judicial MOU
 1. Travel expenditures for outreach activities for expansion to additional judicial districts
 2. Human Resources
 3. IT Support
 4. Administrative staff services

5. Any other provisions regarding administrative support to help maintain the independence of the Office
- c. Board updates: The Chief Justice Office still needs to appoint a 3rd nominee. I emailed Ms. Slagle again and she is reaching out to the Chief Justice's Office for an update. The Attorney General's Office may have also reached out to Ms. Slagle.
 - d. Update – I reached out to the State Auditor – I hope to have an update by the 10.25 meeting. While not scheduled until 2027 – 2030, I reached out to the State Auditor for a meeting to ensure that I understand the process and can lay the groundwork for a successful audit. A meeting is scheduled for 09.05.2023. The State Auditor requested that the meeting be rescheduled, date is TDB.
 - e. No update - Renegotiation for Judicial MOU: AG Finke and I met on July 24, 2023, to strategize for support outlined in SB23-064 and until ASIA is up and running. We have had to reschedule this meeting twice due to AG Finke's schedule. We do not have a meeting scheduled with SCAO. Update – AG Janna Fischer and I met with SCAO on 09.08.2023. AG Fischer drafted an MOU which I reviewed. AG Finke confirmed last week that the MOU updates were provided to SCAO's Legal Department. It is my deep concern that Judicial will not respond timely nor honor the MOU updates. Therefore, the possible HR requests and budget amendment requests are noted above.
 - f. Office of Administrative Services for Independent Agencies (ASIA) updates.
 - i. Through June 30, 2024, the Administrative Board is chaired by the Director of the Office of Child Protection Ombudsman.
 - ii. After some discussion, the Board is established as the included agencies of "Child Protection Ombudsman, Independent Ethics Commission, Colorado Commission on Judicial Discipline, COPG, and Office of the Statewide Behavioral Health Court Liaison."
 - iii. As of the last update, we received 25 applications and review began, with the goal of interview to begin in October.
 - iv. I was elected as Vice-Chair of the ASIA Board of Directors, the term ends June 30, 2024

- g. Human Resources Update
 - i. We continue case coverage, transfers and had to limit accepting new clients. Our 7th JD guardian is covering cases while the Director, Deputy Director, and Case Management Aid conduct client visits and additional support as needed.
 - ii. We continue to post for 2nd JD guardians and will interview as we receive qualified applicants. We are in the process of scheduling several interviews. We have 2 2nd JD guardian positions to fill (potentially 3 to fill).
 - 1. We made one offer and are waiting her response.
 - iii. The staff attorney position posting was extended. We received 5 applications and interviewed one applicant. We are in the process of contacting his references. We will schedule interviews as applications are received.
 - iv. I reached out to Ms. Winegar for an update, hopefully I will have an update for the meeting on 10.15.2023. The new Director for the Center for Organizational Effectiveness, through DPA, reached out to me about our training needs. I met with Chelsea Winegar on 08.07.2023. EDI courses are under review so there is no requirement currently. DPA is implementing a statewide Learning Management System (LMS), but this is sometime within the next year. Ms. Winegar is exploring if she can grant me a work-around, but the current compliance courses are not in compliance due to changes in the definition of “harassment.” She expects the courses to be updated next month. We had a follow up meeting on 09.15.2023 and Ms. Winegar confirmed that she can set up the COPG with a temporary COTRAIN account to access compliance courses. However, the courses are still being written, so it will still be a few months as once the courses are written they need to be reviewed by the AG’s office.
- h. Updates: The Attorney General’s Office has been assisting our office with several matters:
 - i. Various Motions to Intervene in client criminal matters and mental health matters.
 - ii. Follow up regarding Bylaws and Board composition related to the language “The fourth non-attorney member must be an individual who

has **not** served directly in an advocacy role for at-risk adults.” AG Finke, AAG Brown, DD Cantu and I met and discussed, and AG Finke will advise the Board.

- iii. Board orientation is scheduled for 11.02.2023. We all have been working together to prepare materials, etc. A conference room in the Ralph Carr Building is arranged and attendance can be by Zoom or in person. We will provide more details in advance of the Orientation.

COPG Board Orientation

November 11, 2023, 10 AM to Noon
Ralph L. Carr Colorado Judicial Center
300 Broadway, Conference Room 2A, Denver

- iv. UGCOPAA – Uniform Guardianship Conservatorship and Other Protective Arrangements Act. Chair Garcia and Board member Thiessen were contacted about the Act. The Act will be presented to the Colorado Commission on Uniform State Laws at a hearing on 10.20.2023. I worked with our Legislative Liaisons to reach out to Senator Gardner, a member of the Commission, to inform him that COPG is an engaged stakeholder and that we are reviewing the Act and plan to provide feedback.

II. **Colorado OPG Pilot Program Commission and Operating Policies Updates – No updates.** Please note that Commission and Operating Polices are available on the OPG website: <https://colorado-opg.org/opg-in-depth/>

- a. Update - I’ve reviewed and will present updated Policy 4. Personnel Standards at the Board Orientation. Since the Office is permanent a review and update of Personnel and Operating Policies is needed. AG Alison Kyles, whose focus is Human Resources, met with Chair Garcia and me on 09.08.2023. AG Kyles provided very good insight and advice. AG Kyles sent updated Personnel Policies which I and Chair Garcia are reviewing before providing to the full Board.
- b. Expansion Plan: I am updating this from the proposed plan in the 2023 Final Report to the Legislature. I will prepare a draft and request Board input prior to a retreat, strategic planning, and FY25 Budget Request and planning. This will require thought and exploring conversations in a

number of areas based on our legislative liaisons advice and the need to remain flexible with the changing budgetary and political landscapes.

- c. **Trainings and Projects – Ongoing.** A list can be provided quarterly.
 - i. Janelle Cantu and I met with Allison Villegas on 03.16.2023 to discuss creating training modules for our office. Ms. Villegas is a Physician Assistant with Longevity Health Plan, a specialized Medicare Advantage health plan serving people living in skilled nursing facilities. We discussed a program to discuss collaborative communication with the interdisciplinary team at nursing facilities and common medical and behavioral conditions that affect patients and how guardians can identify and follow up on treatment, etc. We will be following up with the guardians for input and scheduling of training. I will be following with Ms. Villegas on a contract for the training.
 - 1. Our first training was on 04.19.2023 entitled Communication and Collaboration and focused on working with healthcare professionals as an interdisciplinary team.
 - 2. Our second training was on 06.21.2023 entitled UTIs and focused on identifying symptoms of all types of bacteria in the urine, identifying symptoms and evaluate medical evidence and ask questions to identify if a client has a UTI or other medical issue.
 - 3. We completed training on 08.16.2023 Advance Planning: Code Status/Hospice/Palliative Care.
 - 4. We completed training on 10.18.2023 on Acute and Chronic Respiratory Failure.
 - 5. Upcoming session on 12.20.2023 on Client Falls.
 - ii. Internal trainings/Procedures:
 - 1. Ft. Logan Process – Transition/Discharge Planning Procedure – in flux as the Ft. Logan Director has transitioned to a new role
 - 2. Code Status and Hospice Procedure - completed
 - 3. Fax Training - completed
 - 4. Naxolene Policy
 - 5. Update Client Visit Protocol
 - 6. Update Modification/Termination of Guardianship Protocol
 - 7. Strategic Planning – Workforce Wellness and Development

- iii. Articles with Chair Bennett-Woods and Research Assistant Grant Yoder. We met on 06.15.2023 to brainstorm articles we could publish from our experiences establishing the COPG Pilot through the 2023 Final Report.
 - 1. We met monthly and have reached out to certain NGA Public Guardian Special Interest Group members for review and guidance.

d. **Intake Eligibility, Prioritization and Referral Process.**

- i. Update on number of registered users, referrals, accepted cases, etc. as of

10.17.2023

- 1. 82 Active guardianships
- 2. 0 referrals pending in court proceedings
- 3. 20 Complete referrals
- 4. 9 Partial referrals
- 5. 23 clients passed away since COPG appointment
- 6. 19 Hold status (now includes OBH/CHMI-Ft. Logan/Pueblo referrals that are non-OBH/Momentum contract referrals)

- 7. The OBH/Momentum dedicated caseload for one guardian is full and all 12 guardianships are active

- a. Partial 0
- b. Waiting for Court Appointment 0
- c. Complete 1 (waiting review/decision)

- 8. 7th Judicial District

- a. Partial 1 - Delta
- b. Waiting for Court Appointment 0
- c. Complete 4 (waiting review/Decision)

- 9. Declined referrals – pre-Hold status

- 1. 99 Denver declined referrals (some declined were prior to establishing the Hold status)
 - a. 6 - Family available to serve
 - b. 49 - Expired/Incomplete information
 - c. 8 – Not appropriate referral
 - d. 5 - Not adult
 - e. 4 - Withdrawn by Ft. Logan
 - f. 4 - No OPG Capacity
 - g. 6 - Withdrawn, not incapacitated
 - h. 17 -Withdrawn, other Guardian Available non-Family member

2. Texas inquiry - 1
3. Nebraska referral - 1
4. Alaska inquiries – 2
5. Colorado inquiries - 11

10. 120 streamlined referrals (Non-Denver County) – Declined

1. Adams County – 7
2. Alamosa County - 1
3. Arapahoe County – 20
4. Boulder County – 8
5. Broomfield County – 1
6. Crowley - 2
7. “Denver County” – 2
8. El Paso County – 26
9. Fremont - 1
10. Garfield County – 1
11. Gunnison County – 1
12. Huerfano County - 3
13. Jefferson County – 11
14. Lake County - 1
15. La Plata County – 2
16. Larimer County - 5
17. Las Animas County - 2
18. Mesa County – 1
19. Montrose County – 3 *
20. Otero County – 6
21. Pueblo County – 9
22. Weld County – 7

*Montrose County: Two referrals were declined prior to April 2023. 1 referral was declined in May 2023 due to the AIP residing in Otero County.

III. **Colorado OPG Strategic Plan.** Draft previously provided. Once the new Board is created, facilitated Strategic Planning sessions may be optimal.

IV. **Stakeholder Outreach – Ongoing.** A list can be provided if requested.

- a. I received an invitation from the Office of Civil and Forensic Mental Health (CDHS) to participate in a Colorado delegation to NYC. The purpose of this trip is to learn more about the development, launch, and implementation of Mayor Eric Adam’s Mental Health Involuntary Removals directive from

fall 2022. I provided details to Chair Garcia and she approved this trip. I will attend a briefing meeting on 10.23.2023 and can provide more details to the full Board at that time.

- b. As a member of the Vivage Colorado Long-Term Care Ethics Committee, I am presenting to the Committee at the next meeting on 11.02.2023.



Legislative Council Staff
Nonpartisan Services for Colorado's Legislature

Final Fiscal Note

Drafting Number:	LLS 23-0263	Date:	July 11, 2023
Prime Sponsors:	Sen. Gardner; Ginal Rep. Snyder; Armagost	Bill Status:	Signed into Law
		Fiscal Analyst:	John Armstrong 303-866-6289 john.armstrong@coleg.gov

Bill Topic: CONTINUE OFFICE OF PUBLIC GUARDIANSHIP

Summary of Fiscal Impact:

<input checked="" type="checkbox"/> State Revenue	<input type="checkbox"/> TABOR Refund
<input checked="" type="checkbox"/> State Expenditure	<input type="checkbox"/> Local Government
<input type="checkbox"/> State Transfer	<input type="checkbox"/> Statutory Public Entity

The bill expands the Office of Public Guardianship to provide services in all judicial districts. Starting in FY 2025-26, the bill will increase state expenditures on an ongoing basis.

Appropriation Summary: No appropriation is required.

Fiscal Note Status: The fiscal note reflects the enacted bill.

Table 1
State Fiscal Impacts Under SB 23-064

	Budget Year FY 2023-24	Out Year FY 2025-26	Out Year FY 2026-27	Out Year FY 2027-28
Revenue	-	-	-	-
Expenditures				
General Fund	-	\$1,035,838	\$1,684,755	\$2,399,352
Centrally Appropriated.	-	\$181,337	\$330,937	\$489,970
Total Expenditures	-	\$1,217,175	\$2,015,692	\$2,889,322
Total FTE	-	10.0 FTE	18.3 FTE	27.2 FTE
Transfers	-	-	-	-
Other Impacts				
General Fund Reserve	-	\$155,376	\$252,713	\$359,903

Summary of Legislation

The Office of Public Guardianship (“the office”), established by House Bill 17-1087, currently operates as a pilot program in three Judicial districts. This bill makes the office permanent and requires the office to operate in all Judicial districts by 2030. The bill establishes the office as an independent judicial agency, similar to the Office of the Child’s Representative, for administrative purposes. The bill establishes a board of directors within the Judicial Department to appoint the director of the office and develop rules for governance. The director must begin administering the office by December 31, 2023, with agreed-upon assistance from the Judicial Department. The office will hire public guardians to provide services to indigent and incapacitated adults in each judicial district. The office may accept gifts, grants and donations.

Background and Assumptions

The office currently serves indigent and incapacitated individuals in the 2nd judicial district. The office received 316 referrals as of December 2022, and has served a total of 102 guardianships, including 83 currently active guardianships. Many referrals to the office were denied because clients were not in the 2nd judicial district. Demand for guardianship services across the state is expected to be high. A statistical analysis conducted by the office suggests an unmet statewide need of between 2,754 and 3,736 individuals requiring assistance from a guardian.

State Revenue

Beginning in FY 2025-26, revenue to the Records and Reports Cash Fund will increase to conduct additional CAPS background checks on newly hired public guardians. Based on the assumed number of new public guardians hired, the fiscal note assumes increases to the cash fund will be minimal. The current fee for a CAPS background check is \$9.00. Revenue to the CAPS Cash Fund is subject to the TABOR revenue limit.

State Expenditures

The bill increases state General Fund expenditures by about \$1.2 million in FY 2025-26, \$2.0 million in FY 2026-27, and \$2.9 million in FY 2027-28, as shown in Table 2 and described below. These costs are in the newly expanded Office of Public Guardianship and the Office of the State Court Administrator, both within the Judicial Department

**Table 2
Expenditures Under SB 23-064**

	FY 2023-24	FY 2025-26	FY 2026-27	FY 2027-28
Office of Public Guardianship				
Personal Services	-	\$759,893	\$1,380,924	\$2,032,124
Legal Services	-	\$95,166	\$95,166	\$95,166
Operating Expenses	-	\$14,850	\$25,650	\$36,450
Capital Outlay Costs	-	\$73,370	\$53,360	\$60,030
Vehicle Costs	-	\$30,672	\$61,344	\$97,128
Centrally Appropriated Costs ¹	-	\$181,337	\$330,937	\$489,970
FTE – Personal Services	-	10.0 FTE	18.3 FTE	27.2 FTE
FTE – Legal Services	-	0.5 FTE	0.5 FTE	0.5 FTE
OPG Subtotal	-	\$1,155,288	\$1,947,381	\$2,810,868
State Court Administrator				
Court-Ordered Appointments	-	\$61,687	\$68,311	\$78,454
OSCA Subtotal		\$61,687	\$68,311	\$78,454
Total Costs	-	\$1,216,975	\$2,015,692	\$2,889,322
Total FTE	-	10.0 FTE	18.3 FTE	27.2 FTE

¹ Centrally appropriated costs are not included in the bill's appropriation.

Office of Public Guardianship

Between FY 2025-26 and FY 2027-28, the office will expand to all 23 judicial district in the state, resulting in additional staffing, legal services and operating costs, which are shown in Table 2 above and described in more detail in the following sections. Costs are assumed to come from the General Fund.

Staff costs. By FY 2027-28, the office will require 28.0 FTE to implement the expanded public guardianship program. The fiscal note assumes that this staff will be phased in over a 3-year period beginning in FY 2025-26. Staff costs include personal services costs, operating costs, and capital outlay costs as shown in Table 2. The fiscal note assumes a July 1 start date and the General Fund pay date shift for new staff across all three years of the expansion.

- **Public guardians.** The fiscal note assumes a public guardian can serve between 15 and 20 indigent or incapacitated adults in the judicial districts that they serve. Based on this standard, the office will hire 19 new public guardians by FY 2027-28, who will provide services to around 405 clients. The fiscal note also assumes the office will take a phased in approach by hiring 6 new guardians in FY 2025-26, 6 new guardians in FY 2026-27 and 7 new guardians in FY 2027-28.
- **Support staff.** In addition, the office will require two training coordinators to create and implement training curriculums for guardians and create an employee wellness program; one grants and research specialist to expand the office's funding resources and complete a cost-benefit analysis evaluation of the office; a staff attorney to provide in-house counsel; a staff assistant to assist the director of the office with the expansion and day-to-day operations of the office; two human resources analysts to manage personnel matters, a case management aide to assist guardians with managing cases in the 1st and 18th judicial districts; and public guardian supervisor to manage newly hired and existing public guardians. Similar to the public guardians, these support staff positions will phase in through FY 2027-28.

Legal services. As a result of the expansion, the office is expected to require additional legal services from the Department of Law. In FY 2021-22, the office used about 360 hours of legal services. Accounting for the expected growth in caseload, it is estimated that an additional 900 hours of legal services will be required annually beginning in FY 2025-26. Legal services are provided at a rate of \$105.74 per hour by the Department of Law, which will require the equivalent of 0.5 FTE for this work.

Vehicle costs. Each new public guardian will require a fleet vehicle, managed by the Department of Personnel and Administration. Vehicle leases are estimated to cost \$3,000 per vehicle and maintenance and operating for each vehicle is estimated at about \$2,100 per year based on approximately 9,100 miles of driving to serve their clients, on average. The Department of Personnel and Administration will bill the office for fleet vehicle services and reappropriated spending authority will be adjusted as necessary through the annual budget process starting in FY 2025-26.

Office of the State Court Administrator

The bill increase costs to the courts and the Office of the State Court Administrator additional court-ordered appointments. Each new guardianship case can result in additional court-ordered appointments of guardians ad litem, court visitors, and legal counsel, whether required by statute or at the discretion of the court. Based on data from the pilot program, it is estimated that a guardian ad litem will attend 15 percent of guardianship hearings and an attorney will attend 29 percent of the hearings. Other hearings are attended by lay individuals working on behalf of the guardian. Costs for these appointments are shown in Table 2 above.

Department of Human Services.

Starting in FY 2025-26, workload to the Department of Human Services will increase to conduct additional CAPS background checks. The fiscal note assumes this work can be accomplished within existing appropriations.

Governor's Office

Workload will minimally increase for the Governor's Office of Boards and Commissions to make the required appointment under the bill. This work can be accomplished within existing appropriations.

Centrally Appropriated Costs

Pursuant to a Joint Budget Committee policy, certain costs associated with this bill are addressed through the annual budget process and centrally appropriated in the Long Bill or supplemental appropriations bills, rather than in this bill. These costs, which include employee insurance and supplemental employee retirement payments, are shown in Table 2.

Other Budget Impacts

General Fund reserve. Under current law, an amount equal to 15 percent of General Fund appropriations must be set aside in the General Fund statutory reserve. Based on this fiscal note, the bill is expected to increase the amount of General Fund held in reserve by the amounts shown in Table 1, decreasing the amount of General Fund available for other purposes.

Effective Date

The bill was signed into law by the Lieutenant Governor on and took effect on May 30, 2023.

State and Local Government Contacts

Judicial
Human Services

Law

Office of Public Guardianship