

**OPG Commission meeting
Director Report
12.13.19**

Purpose: The Director Report will provide detailed 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 and make the Report available on the OPG Commission web site for the public. Questions about the Director Report will be addressed at the Commission meetings, if necessary.

- I. **Administrative Infrastructure Update.** The CO OPG main phone number changed on 12.13.19 due to Denver Probate phone system upgrades.
 - a. CO OPG main phone number: Update at the meeting
 - b. CO OPG mailing address: 1300 Broadway Street
Denver, CO 80203
 - c. Web site and Case Management System (CMS). Phase 1. Mid-February is the anticipated live date for the CMS.

- II. **Budget and MOU Update.**
 - a. Budget Update for Fiscal Year 2021: JBC GA hearing on 12.13.19. Director, High Wilson (SCAO Budget Manager), and Kelsey Lesco (OPG Commissioner) are poised to attend.
 - b. A fully executed updated Memo of Understanding (MOU) with State Judicial was executed on 12.02.19. The updated MOU supersedes the Initial MOU and details the Director responsibilities (versus the Commission), that State Judicial will continue to assist with IT needs through June 30, 2020 and will provide a mailing address and mailbox for the OPG.

- III. **Stakeholder Engagement Plan.** The Commission asked me to prepare a Stakeholder Engagement Plan by the next meeting. A draft will be provided and will be posted on the OPG Commission web site.

- IV. **Colorado OPG Personnel Policies.** Completed, but for the section addressing the use of the Case Management System (CMS). I anticipate that the CMS section will not be completed until mid-February. New staff will be trained as soon as possible.

- V. **Colorado OPG Fiscal Policies draft.** Completed and mirrors State Judicial fiscal rules as per statute CRS §13-94-104 (4)(c).

- VI. **Colorado OPG Pilot Program Operating Policies.** In progress. Drafting Operating Policies also entails determining specific protocols such as intake, eligibility and prioritization. There are items that need to be addressed and I welcome input and feedback.
 - a. **Indigency issue.** The Public Guardianship Act (PGA) requires that the OPG serves indigent and incapacitated adults. However, the PGA does not define indigency. As such, I looked to the Colorado Probate Code and local Denver Probate Court rules and procedures. Denver Probate Court defines indigent as: meeting certain standards of poverty, qualifying a criminal defendant for a public defender, waiver of fees and appointment of counsel. I then looked to the Denver Probate Court forms Motion to File Without Payment and Supporting Affidavit (Attachment 1) as well as the Application for Public Defender, Court-Appointed Counsel or Guardian ad Litem (Attachment 2).
 - i. **While the referring party will need to determine indigency, the OPG has an obligation to ensure a referred individual is indigent. Therefore, I intend to adopt the indigency standards outlined in the Attachments and will require the referring party to complete documentation indicating**

indigency. In most cases, I anticipate that referred individuals will have minimal personal assets and income of Social Security Administration (SSA), Veterans Administration (VA) or State benefits that are at or below the income eligibility guidelines. This leads to the next item.

- b. Representative Payee, etc. issue.** As a referred individual can be indigent and still receive certain income/benefits, that does not rise to the need of a conservator, there are still funds that a referred individual may need assistance or oversight by the Public Guardian. For referred individuals that reside in a facility, the facility can apply to become a SSA Representative Payee or VA Fiduciary. For other individuals, I believe the OPG should not manage those funds for three reasons.
 - i. First, the legislative history of the PGA indicates that the OPG is to care for the person, not finances.**
 - ii. Second, the Colorado statutes are clear that guardian and conservator responsibilities should be held by different individuals/entities.**
 - iii. Third, the OPG lacks staff and funding for full accounting of up to 80 clients anticipated to be served during the Pilot Program.**
 - iv. For these reasons, I propose obtaining an independent contractor or financial institution to serve as the SSA Representative Payee and VA Fiduciary. The independent contractor will be required to submit annual filings for the SSA or VA, etc. The OPG will require monthly statements and ledgers from the independent contractor and provide those statements and/or the annual filings to the Court at time of the Annual Guardian Reports. I verified with Hugh Wilson and John Kane, Judicial Purchasing Manager, this requires an RFP process if the amount contracted for is over**

\$25,000.00. I am in the process of determining if Colorado Fund for People with Disabilities (CFPD) can provide this service. CFPD is regulated by statute and approved by the Social Security Administration and the Veterans Administration.

- c. **Intake Eligibility and Prioritization.** Initially, the number of accepted cases will need to be phased in over the course of months. The rate of case acceptance will also depend on the experience levels of the newly hired Public Guardians. Initially, the OPG may accept cases on a first come, first served basis. I anticipate the number of referrals will far exceed the OPG caseload capacity. There is a need to track all referrals and coding them according to the following: Referral, Accepted, Closed due to incomplete referral, Closed due to other guardian found, Closed due to death, Closed due to termination of guardianship, etc.
- i. **In meeting with various stakeholders, it seems that there may be a need for different intake/referral options. The process I envision is that the referring party files an online form through the OPG web site. The referring party would also submit all required documentation (indigency, medical records, evaluations, petition, court visitor report). If OPG does not have capacity, the alleged ward will be tracked through the CMS and the referring party will be allowed to submit, online, status update reports.**
 - 1. **The web site will have a Privacy Clause as recommended by REVISIONS.**
 - ii. **For some stakeholders, such as the Alzheimer's Association (AA), they cannot act as a referring party due to confidentiality issues and only connecting an individual with a resource. According to this stakeholder, the individual self-reports to AA. Consideration to self-**

reporters or stakeholders that cannot make a true referral or complete an intake will need to be taken in to account. It is possible that our data-gathering could miss this population. At this time, OPG does not have the personnel capacity to take individual intake/referral calls and to investigate whether the individual should be referred to the OPG.

iii. I recommend that the Pilot Program proceed with the online intake/referral process. During the stakeholder engagement process, the OPG will educate stakeholders of the online intake/referral process and consider input in to designing alternative options. It may also be feasible to create a system within the Stakeholder Engagement Plan to allow for stakeholders to be the investigative party.

d. **Data gathering, and CMS coding issues.** As I meet with REVISIONS regarding the CMS, I am also focusing on the data gathering necessary for the 2023 General Assembly Report.

VII. **Human Resource Update.** Job descriptions posted on 11.26.19 for Staff Assistant and four Public Guardians with a deadline of 12.11.19. My goal is to hire by the early January 2020, train in January and February 2020 and begin accepting cases by March 1, 2020.

- a. 13 PG applicants – interview 8 during week of 12.16.19
- b. 13 SA – interview 7 during week of 12.16.19
- c. The job descriptions were posted on
 - i. Judicial website
 - ii. OPG Commission website
 - iii. Handshake
 - iv. PeaceCorps.gov
 - v. Colorado Bar Association
 - vi. Denver University Master of Social Work Program
 - vii. Various attorneys

- viii. Various service providers
 - d. Deputy AG Sueanna Johnson is working with APS for an MOU addressing CAPS Checks for the OPG to complete adult abuse/neglect for hiring employees

- VIII. **Colorado OPG Strategic Plan.** Drafted and I am accepting feedback. It is likely that a more complete Strategic Plan will be available as the program matures.

- IX. **Stakeholder Meeting Update** since 11.22.19.
 - a. CO Bar Association, Elder Law Section meeting
 - b. CO Fund for People with Disabilities
 - c. CO Guardianship Association, affiliate of NGA
 - i. Attorneys – group meeting of PR attorneys for “lay of the land”
 - ii. Service Providers
 - iii. Fiduciaries
 - d. Charles Golbert, Director of Cook County, IL OPG
 - e. Alzheimer’s Association
 - f. APS Dave Barnhart and Whitney Nettleton
 - g. Melissa Emery, Rocky Mountain Human Services
 - h. Natalie DeVille, Lutheran Family Services
 - i. Probate Clerk Court and SCAO
 - j. Attorney Patricia Dean, Medical Legal program with Legal Aid and Denver Health
 - k. Attorneys/GALS/Incompetency attorneys
 - l. Denver Forensic Collaborative for At-Risk Adults