



Guardian Monitoring Program Workgroup Meeting

Tuesday, September 13, 2022

Zoom Meeting

8:00 a.m. – 9:00 a.m.

Meeting Minutes

Members Present

Ms. Sujatha Jagadeesh Branch
Ms. Jacalyn Brudvik
Ms. Arielle Finney
Ms. Julie Higuera
Ms. Ana (Forston) Kemmerer
Mr. David Lord
Ms. Audrey Pitigliano
Judge Nancy Retsinas
Ms. Jane Severin
Mr. Daniel Smerken
Ms. Tracie Thompson

Staff

Ms. Amber Collins
Ms. Heather Lucas
Ms. Alexis Pullen
Ms. Nichola Russell

Members Not Present

Guests – No guests invited/admitted

1. Meeting Called to Order

Ms. Amber Collins called the September 13, 2022 Guardian Monitoring Program (GMP) Workgroup meeting to order at 8:02 a.m.

2. Welcome

Ms. Collins welcomed all present and spoke about the meeting agenda. She added she would speak about items out of order.

3. Recap & Updates

There were no items on the agenda for Recap & Updates.

4. Discussion Topics

a. GMP Workgroup Member Renewals

Ms. Collins stated the GMP is approaching a year since establishing the GMP Workgroup. She stated she wanted to thank each and every member of the Workgroup for their insight, thank

them for allowing GMP staff to pick their brains, and thank them for partnering with the GMP and AOC (Administrative Office of the Courts). Ms. Collins added the GMP is looking to expand the Workgroup to add more guardianship professionals who have different experiences in guardianship.

Ms. Collins stated Ms. Heather Lucas will send an email to the Workgroup about the renewal with an application for those who'd like to continue as Workgroup members. She stated she wanted returned applications by September 30th.

Ms. Collins stated the October 2022 meeting will be cancelled as GMP staff will be reviewing applications for the Workgroup at that time and resume in November 2022. She reiterated that she was thankful for all GMP Workgroup members and their work over the past year.

b. Rebranding the GMP

Ms. Collins stated she wanted to talk about rebranding the GMP, adding staff is going to scrap the term "GMP." She stated there's confusion about what the GMP does. She stated the GMP must fulfill the values and mission of the AOC to assist courts. Ms. Collins stated when using the term "branding," she's speaking about changing the GMP's name, changing objectives, and making sure the GMP is supporting the courts.

Ms. Julie Higuera stated she's curious what the new name is. Ms. Collins stated the reason why GMP staff brought up the name change to OGES (Office of Guardianship and Elder Services) staff was in regards of the terms "support" versus "assist." She stated an example name could be the Guardian Assistance and Monitoring Initiative. She added GMP staff like the term "initiative," but are stuck on the idea of "assistance" versus "support."

Ms. Collins stated what seems more important is that the GMP accomplishes its mission. She stated some teammates don't like the term "assistance" because it's a direct action in helping in terms of courts and guardianship. She stated half of the GMP team prefer "support," adding Ms. Lucas stated support is a multifaceted, broader idea, where the GMP is supporting people in the guardianships.

Ms. Collins stated GMP staff brought the terms "assist" and "support" to OGES staff, but wanted to bring the rebranding discussion to the GMP Workgroup before making a final name change. She added GMP staff is kind of stuck, asking if the GMP should incorporate assistance or support.

Mr. Daniel Smerken stated he recognizes Washington State courts are non-unified, more like a collection of multiple jurisdictions, and the idea of rebranding is understandable. He stated the GMP is created by statute and asked if the GMP is still working in framework of the law. Ms. Collins confirmed, yes. Mr. Smerken stated given that certified professional guardians (CPGCs) have SOP's ([Standards of Practice](#)), it raises a concern that CPGCs and lay guardian rules need to be somewhat congruent.

Ms. Collins stated she appreciated Mr. Smerken's comment, adding that she brought up SOPs because the GMP still has a lot of work to do that court admin and the clerks will have to incorporate. She added when she talks about SOPs, it's regarding court staff more than CPGCs or lay guardians. Ms. Collins stated she sees Mr. Smerken's concern in SOPs for CPGCs and lay guardians. Mr. Smerken joked Ms. Collins is more than welcome to use CPGC Board SOPs

if she likes, and the CPGC Board won't charge her. Ms. Collins replied thank you, adding she appreciates it.

Ms. Alexis Pullen stated she thinks she's the one who came up with this naming problem. She stated GMP staff got pushback from this Workgroup when using the term "assist lay guardians" in a previous meeting. She argued the term "support" is like holding someone up, and "assist" seems like you're more involved, like you're sitting down with a lay guardian doing the paperwork for them. She stated GMP staff knew we'd have to keep the term "monitoring," as that's part of our scope, adding GMP staff is not physically capable to do monitoring in every case.

Ms. Collins referred to a Zoom chat comment by Ms. Jane Severin ("Some may want assistance, some may want support. How can a name infer both rather than either one or the other?") and asked her to expand on that comment. Ms. Severin replied she wasn't thinking about the public, but the courts, adding the name change could apply to the public as well.

Ms. Collins stated GMP staff understands there's a need for assistance and a need for support. She stated the reason why the term assistance came into play is because of GMP's values and mission to assist the courts. She stated it's hard to infer as GMP staff are working not only on the name change, but in what is being developed. She added GMP staff were trying to figure it out when it was brought up to the OGES team. Ms. Collins stated she feels as though either term would work, but it needs to be clear what is being done regarding assisting or supporting.

Ms. Pullen stated when GMP staff brought the rebranding idea to the OGES team, she was hoping the attorneys on the team would have more of an opinion as there are a handful at OGES. She stated the GMP wants to provide support and training to lay guardians, provide support for guardians in the hearing process so when lay guardians come in, they know what to do, and support the courts in guardianship cases.

Mr. Smerken stated he thinks GMP staff is running into the same problem as clerks. He added there was a great facilitator program that was left without funding by the Legislature and fell apart. He added a person is limited in what they say when they're not a lawyer and can't give legal advice. Mr. Smerken stated Spokane County and Clark County have great models for their programs.

Mr. Smerken stated the court is spending a lot of money sending people like him out to see why someone's not filing their triannual reports. He reiterated that he's not an attorney, so we're all limited in that aspect. Ms. Collins stated she appreciates his feedback, adding she wants to give everyone an idea of what the GMP is doing.

Ms. Collins thanked Judge Nancy Retsinas for her comment in the Zoom chat ("I think support and assist are synonyms...so either works. The program definitions will define the type of assistant/support provided."). She agreed that some attorneys use the terms "support" and "assist" interchangeably.

Ms. Collins asked if there were more comments, questions, or suggestions as this was technically the last meeting with everyone on this panel. She added she wanted to be open outside of the name change for what the GMP is doing.

Mr. David Lord asked what was the proposed name. Ms. Pullen joked GMP staff didn't tell the Workgroup members. Ms. Collins stated she would put the proposed name in the chat, adding it is "The Guardianship Assistance and Monitoring Initiative" or "The GAaMI." Ms. Pullen stated GMP staff may still incorporate "Washington State" in the name. She stated the acronym is nice as GAMI, but you can also speak the word, pronouncing it as gam-ee.

Mr. Lord asked if there was a controversy about using the term "assist" or "support." He asked if the controversy was in this committee. Ms. Collins replied there is no controversy, she wants to get an understanding from the Workgroup member's point of view for using "assist" versus "support." Ms. Collins closed the topic adding GMP staff will decide this week about the name change, stating GMP Workgroup members will see the name on documents and applications moving forward.

Mr. Lord stated he might not be doing his due diligence as the GMP Workgroup goes along. He stated Ms. Collins mentioned objectives, asking if there was a list. Ms. Collins stated there was and asked Ms. Lucas to share them using the Zoom screenshare feature.

Mr. Lord asked what programs or things GMP staff working on. Ms. Collins stated GMP staff is launching the pilot program with Clark County and Pacific & Wahkiakum Counties. She stated GMP staff is working with county staff, getting a MOU (memorandum of understanding) between the GMP, court staff, and AOC staff.

Ms. Collins stated Clark County has a partial GMP program set up and GMP staff are working with them to make more onsite visits. Ms. Collins stated Pacific & Wahkiakum Counties don't have a formal program, so GMP staff have been working with court staff to analyze their cases. She added the pilot program was to work with three counties and technically, the GMP is. Ms. Collins stated the GMP intends to develop working SOPs and refining SOPs, so when the GMP expands to other counties, those SOPs are in place.

Ms. Collins read the GMP objectives from the GMP Overview presented via the Zoom screenshare function: "The GMP approach is designed to mitigate risks of mistreatment, neglect and exploitation, and to protect vulnerable adults subject to guardianship and conservatorship. The initiative is guided by three strategic objectives that will achieve the GMP's vision. The GMP's three main objectives are:

1. To provide the courts information that verifies the location, physical, emotional and financial well-being of adults subject to guardianship and supports the court's determination regarding the continued appropriateness of guardianships or the option for less restrictive alternatives.
2. To strengthen the integrity and reliability of guardianship data and increase the court's capacity to track and monitor guardianship cases.
3. To engage with lay guardians to enhance their knowledge of court rules and processes and improve their understanding of the duties and powers entrusted to them by the court."

Ms. Collins asked for questions and thanked Mr. Smerken for the book reference he made in the Zoom chat feature ("The GMP Team may be interested in this book about successfully scaling up pilot projects – <https://www.thevoltageeffect.com/the-book>") and thanked Judge Retsinas for her comment in the Zoom chat feature regarding the objectives ("These are great.").

Ms. Collins stated once the GMP solidifies the GMP Overview, the document will be available in November 2022. She stated if a GMP member is not returning or selected to return, GMP staff will still keep everyone on the Workgroup updated about the GMP initiative.

c. Conflicts of Interest: Using Lay Guardians as Volunteers

Ms. Collins stated the GMP has a subcommittee where this topic came from, and stated GMP staff wanted an open discussion. She asked if it is a possible conflict of interest in using lay guardians as volunteers. NOTE: Ms. Lucas was booted from the Zoom meeting and missed comments while logging back in.

Ms. Audrey Pitigliano stated she is a lay guardian and a member of this committee. She asked Ms. Collins how the GMP is currently using lay guardians. Ms. Collins replied the GMP has a subcommittee with more lay guardians and individuals who assist or are advocates for those in guardianships. She stated to Ms. Pitigliano that she is the only lay guardian on this committee. Ms. Pitigliano replied Ms. Collins' response doesn't tell her how the GMP is currently using lay guardians. Ms. Collins replied the GMP is having monthly meetings with the subcommittee and are currently asking about what they're doing, how they're handling guardianships with the [UGA](#) in place, and do they see how courts can assist them. She added GMP staff is asking about experiences and gaining information from that. Ms. Pitigliano thanked Ms. Collins for her response.

Ms. Higuera stated even though a person is taking care of their loved one, they struggle so much with the reporting process. She added she can't emphasize how much of an issue that is for guardians. Mr. Smerken agreed stating he wanted to amplify Ms. Higuera's statement, adding that someone taking care of a person with a developmental disability, especially a parent, is often told to pursue guardianship and they don't know why, but they just do it. He stated many lay guardians see guardianships as the courts interfering in a family. Ms. Higuera agreed adding she doesn't blame them.

Ms. Higuera stated the information requested on guardianship reports regarding income from social security is very intrusive. She added lay guardians are already going through so much with DDA (Developmental Disabilities Administration), and it seems unfair in her opinion. Ms. Jacalyn Brudvik stated she wanted to interject. She stated the UGA has become extremely onerous, so there's much more required for adult guardianships, adding she's just gone through her triannual report. Ms. Brudvik stated she still sits on Snohomish County calendars and the courts are trying to implement the statute and everything that needs to be done. She added she doesn't know how to get feedback to the Legislature, but she wanted to interject here that courts aren't making the UGA rules up.

Ms. Pullen wondered whether there could be something in the statute that differentiates lay guardians who manage income for those with social security. She stated in case reviews she's completed, she's seeing cases where the only income is SSI, and it seems like a big burden to fill in the full guardianship report for someone who is caring for an adult child with no other income. Ms. Brudvik reiterated the UGA is more onerous. She stated she recently completed her conservator's plan, but has been working with the court since February 2022. Ms. Brudvik added it's more difficult and she's a person with knowledge and experience with guardianships, plus she has her own attorney. Ms. Pullen agreed stating it's difficult for the people who don't have an attorney.

Ms. Brudvik stated it's got to come from the Legislature about mandatory forms and reports. She stated there has to be an addendum to attach to the UGA. Ms. Brudvik addressed Ms. Higuera stating she hears what Ms. Higuera is saying, but the court isn't in a position of differentiating, like they're not going to apply the statute to one guardian, but not to another. She reiterated the real push is to revisit the UGA with the Legislature and make it clear how much work they've made everyone do, from guardians through to folks supporting the courts. Ms. Brudvik stated she wanted to make sure everyone doesn't go away from this meeting thinking the courts are doing this.

Ms. Higuera asked Ms. Brudvik in her court about SSI payees. Ms. Brudvik replied they're part of a limited guardianship, adding there are options to look at as far as how payees work.

Mr. Smerken stated he hopes the GMP can emphasize less restrictive alternatives. Mr. Smerken asked how GMP staff and volunteers are limited in asking if becoming a rep payee is acceptable in terms of guardianships. He added for someone with adult children under guardianship, it's not a contradiction as two things can be true, sometimes family members can be infantilizing and patronizing of an adult subject to guardianship and sometimes a person subject to guardianship needs protection from their guardian. He stated sometimes a guardian needs education about the fact that they weren't given parental rights, but a person subject to guardianship has certain rights about self-determinations. Mr. Smerken stated this is a role he thinks the GMP can be critical in playing.

Ms. Brudvik stated with a right like the right to vote, she's never taken away the right of anyone to vote. She added we all come to voting with various degrees of being informed, and the right to vote shouldn't be denied. She stated she thinks more to Mr. Smerken's point, for guardians, perhaps they think someone isn't quite as informed they are, but that doesn't mean the guardian gets to decide. She reiterated she very clearly states the right to vote is still there for a person subject to guardianship if they would like to exercise it. Mr. Smerken joked there's a test for voting that he thinks none of us would pass.

Ms. Higuera asked if Ms. Brudvik had done many guardianship modifications since the UGA passed, like amending a guardianship of person to a rep payee. Ms. Brudvik stated there have been several alternatives come in front of her, and if there's sufficiency of evidence, then she grants it. She stated those changed cases are most often the ones that come through with an attorney or the Snohomish GMP will identify given resources and get a rep payee if that's something different that can work. Ms. Higuera thanked Ms. Brudvik.

Ms. Collins stated she wanted to piggyback on what Mr. Smerken stated earlier about hoping the GMP initiative can have lay guardians look at less restrictive alternatives. Mr. Smerken replied yes, adding he hopes the GMP can encourage lay guardians and let them know that these options exist. Mr. Smerken stated a rep payee is the easiest one, but is only applicable if the person subject to guardianship has no income and no assets other than social security or SSI, and there are no concerns about other issues. He added the GMP can educate lay guardians about their options and let them know that they can extricate themselves from that level of reporting.

Ms. Collins agreed, stating the GMP is looking into developing those resources to educate. She added GMP staff don't want to try to encourage anyone to do anything unsafe and to work within parameters. She stated she wants the GMP to have charts and info available to every lay guardian explaining less restrictive alternatives, but GMP staff have to be careful as

how to educate lay guardians regarding legal advice. Mr. Smerken agreed, stating education for staff is important.

Mr. Smerken stated he wanted to add to the point about legislative initiatives. He stated Senator Pedersen is receiving emails regarding a big concern with getting people out of hospitals. He stated for some people entering hospitals, there's no power of attorney in place and no one to sign medical documents or discharge papers. Mr. Smerken stated the DSHS (Department of Social and Health Services) position is the same as federal law: which requires the state to be person-centered. He stated legal guardians or representatives with power of attorney need to sign medical documents from the initial stay, and on an ongoing basis, the informed consent statute is not being held as sufficient.

Mr. Smerken stated if someone can't be designated from DSHS to sign medical documents or discharge papers, a guardianship becomes necessary before the person can be released from the hospital. He added it should be addressed to the Legislature and the emails sent recently to Senator Pedersen indicate it's a topic of discussion he's willing to cover. He added there's a reason to talk about this issue as there are a lot of people institutionalized who can't get out because they have no designated representative able to sign documents for them.

d. Question: What do court staff do when encountering issues in cases?

Ms. Pullen explained she's been looking at data county by county, and all the data she could pull from Odyssey, plus data sent from King County. She added she hasn't gotten a response regarding her request from Pierce County yet. She stated she's reviewed guardianship cases in Pacific & Wahkiakum Counties trying to get an understanding of what the GMP SOPs should be and she's getting an idea about how clerks enter info into Odyssey.

Ms. Pullen stated she wants to understand how clerks are putting info into the database, which is a different issue, but she also wants to talk about case management and gave examples. She stated there's a case active in Pacific & Wahkiakum Counties, but it's moved to King County, and now is listed as active in both counties. She stated there was another case where the clerk made a motion to close it, but it's still sitting two or three years later as an open case. She stated there are some cases showing that a full guardianship is being coded as a guardianship of estate.

Ms. Pullen asked within courts, how does the GMP address these issues and what is a priority. She stated for instance, if GMP staff find someone that's deceased in a case showing as active, can she bring it to the judge who can close it, or hand it over to the clerk. She added she is trying to find out how to address these case issues as GMP staff are defining SOPs now on a broad scale.

Ms. Pullen stated she's looked at cases in 37 of 39 counties, but knows this needs to be addressed as these issues are bound to happen anywhere the GMP goes. Ms. Pitigliano stated she's had experiences where an attorney is saying there was no response regarding a case, so they'll drop the case, but she knew contact info for a person directly involved in the case that he didn't. She added sometimes people at a facility may know information, but the attorney is out of the loop or the family involved is ill or moved or something. Ms. Pitigliano stated somebody needs to be spending more time determining if there's a family member, guardian, or someone related to that person.

Ms. Pullen stated she came across a case with a motion for dismissal where the attorney came back a few times stating the case was an out of state transfer. She added she dug around and thinks the people involved in the case didn't move to Washington. Mr. Smerken stated that it sometimes comes down to who's accountable. He stated the best time for addressing cases like this is when they come before the clerk, and that's why an annual, triannual, or biannual hearing is important. Mr. Smerken joked it's like at a doctor's office: no one looks at your lab results until you're in front of doctor, but by then, you're dying.

Mr. Smerken stated it's confusing about who's accountable to bring before the court and it sometimes requires a GAL (Guardian ad Litem) or a court visitor to track the guardians down. He stated even though it's costly, it seems like it may be the only solution.

Ms. Brudvik stated she never takes anyone's word when they say so-and-so is deceased. Ms. Pullen asked as a guardian, if she were to hand Ms. Brudvik an obituary, would that be enough. Ms. Brudvik replied she would need a death certificate, or something to file in court to order the dismissal of the guardianship based on the passing of a person. She stated depending on the county or judicial officer, she's unsure regarding how much supporting info a person would need, like an obituary. Ms. Brudvik stated maybe she requires more because she's a lay guardian and she was in special education before that.

Ms. Brudvik reiterated Mr. Smerken's statement about putting someone on a case to locate people. She added that's where the Snohomish County GMP has been fabulous: she tasks them to find someone or get a court visitor to track down a guardian. Ms. Pullen asked if the GAL fees are billed to the county, so everyone's paying for that. She asked if the GMP is going to get resistance from counties if closing out cases will be costly. Ms. Brudvik stated she's been in Snohomish County court for 23 years and she's never gotten push back about that, but that doesn't mean Pacific & Wahkiakum Counties won't push back. Mr. Smerken stated his understanding is some jurisdictions get funds from AOC, so GMP may get push back from their own agency.

Ms. Collins stated she reviewed a few cases from 2008 or 2009, but if she were to go to the judge to ask what's going on, how will that be accepted. Ms. Higuera stated they ran Odyssey reports a while back for cases in Benton & Franklin Counties. She stated the reports were 116 pages for Benton County. She stated obviously some cases that are open need to be closed as people died 20 years ago, but the clerk won't close them on their own.

Ms. Higuera stated there are a few cases you can confirm a person is deceased, and the case can be closed. She stated Benton & Franklin Counties GMP has been using state ex parte forms to get the clerk to close the cases. Ms. Collins asked if the clerk is responsible for coding and making the status changes for cases. Ms. Higuera replied the clerk won't close the case without an order from the court to close a case. Ms. Pullen stated she's seen cases that say "court action required," but it's up to the clerk to close the case once they have the order in hand.

Ms. Collins stated she's not going to hold everyone any longer, and thanked Workgroup members for the in-depth conversation and this year's work as Workgroup members. She stated if Workgroup members were interested in continuing with the Workgroup to please send their applications to Ms. Lucas. She added there's also a subcommittee with lay guardian advocates, so if anyone knows someone who may be interested, or if anyone was interested in that group, please let us know.

Ms. Collins thanked everyone again and stated she appreciated their input.

5. Wrap Up/Adjourn

The next Guardian Monitoring Program Workgroup meeting will take place via Zoom Conference on Tuesday, November 8, 2022, at 8:00 a.m. With no other business to discuss, the September 13, 2022 meeting was adjourned at 9:02 a.m.