

Utah Working Interdisciplinary Network of Guardianship Stakeholders (WINGS)

June 18, 2020 - 12:00 to 2:00 p.m.

Attended			Excused
Judge Keith Kelly	Xia Erickson	Andrew Riggle	Jean Boyack
Judge James Brady	Wendy Fayles	Nancy Sylvester	Todd Weiler
Judge David Connors	Nels Holmgren	Shonna Thomas	
Kent Alderman	Nan Mendenhall	James Toledo	<u>Not Present</u>
Shane Bahr	Michelle Miranda	Norma Valavala-Ballard	Jeff Daybell
TantaLisa Clayton	Kate Nance	Michelle Wilkes	Cora Gant
Rob Denton	Alan Ormsby	Kaye Lynn Wootton	Daniel Musto
Rob Ence			Joanne Sayre

Agenda			
AGENDA			
	Topic	Presenter	Materials
12:00	Meeting begins		
	Welcome, Minutes, Housekeeping	Judge Kelly	<i>February 2020 meeting minutes</i>
12:10	Updates:		
	<ul style="list-style-type: none"> • COVID-19 & your program/organization 	Attendees	
	<ul style="list-style-type: none"> • COVID-19, guardianship, & tribal communities 	James Toledo	
	<ul style="list-style-type: none"> • COVID-19 & GRAMP GRAMP – <ul style="list-style-type: none"> ○ New Judge Orientation ○ Budget cuts Court Visitor Program – <ul style="list-style-type: none"> ○ In-person interviews ○ Case increase vs CV shortages ○ Workarounds (gap project) 	Shonna Thomas Michelle Wilkes	<i>CVP – Protocol for COVID-19</i>
1:00	CJA Rule 6-507 (Court Visitors & Reports)	Nancy Sylvester	<i>Memo – Rules for Public Comment</i>
1:10	Power of Attorney / Health Care Directive Clinic	Kate Nance Jean Boyack	
1:35	WINGS Projects Updates:	Judge Kelly Kent Alderman Shonna Thomas	
	<ul style="list-style-type: none"> • Clerical Manual • Guardianship test • Annual report reminder email 		
1:50	Reappointment for 2nd terms:	Judge Kelly	
	<ul style="list-style-type: none"> • Todd Weiler • Rob Denton • Michelle Wilkes 		
2:00	Meeting adjourned		

1. Housekeeping

- Meeting brought to order at 12:07pm
- Judge Kelly updated the group on a discussion from the Executive Committee meeting in May, where it was unanimously decided to start the regular WINGS meetings again, albeit virtually due to COVID-19. It was noted that in light of the pandemic, it would be helpful to get input and insight from stakeholders regarding the various restrictions and challenges guardianship programs are facing.
- A motion was made to approve the minutes from the previous meeting (February 20, 2020). The motion was seconded and approved.
- Meeting adjourned at 1:29pm.

2. Updates

COVID 19 & your program/organization (attendees):

Judge Kelly (3rd District) –

- Regular court processes have been particularly challenging in the Salt Lake area, where they remain at the orange risk level.
- There are still several hundred people waiting in jail, and there are challenges of not being able to hold the criminal law and motion calendar.
- Guardianship hearings and protective order hearings are taking place and ongoing (via WebEx).

Judge Connors (2nd District) –

- 2nd district matters are assigned to individual judges – rather than a specific probate judge/calendar. The advantage of that right now is that these are customary civil matters they are handled on the civil law and motion calendars and there has been no reason that they cannot go forward remotely.
- One observation is that the volume of cases may be down – filings, petitions for guardianship. It may be that pro se individuals do not feel comfortable going to the courthouse to file.
- To the extent that 2nd district is receiving these cases, they are able to handle them remotely without much difficulty right now.

Nan Mendenhall (Adult Protective Services) –

- APS has continued investigations.
 - Their practice is to call the victims prior to an appointment to gauge if the individual is comfortable with an investigator coming in.
 - All workers are using protective equipment to protect themselves and the victims.
 - Many times, they are meeting over the phone, or through a video chat.
 - If the individual is in a facility, such as a nursing home, APS will arrange with the administrator to allow the victim to use a private room for a video conference.
- The caseloads have gone down during this time – which has been a break for workers who were previously swamped. They are now able to spend a bit more time on cases, which is a benefit.

- They are starting to see an increase in calls, as restrictions are lifted and more individuals can get out and see their loved ones. They anticipate within the next month or so there will be a large increase in the caseloads.

Nels Holmgren (Aging and Adult Services) –

- Long-Term Care Ombudsmen advocate for individuals in facility-based care. Those facilities are locked down, making it a challenge to be able to serve those individuals.
- They have worked to get protective equipment into the facilities, which the facilities have appreciated.
- They also worked with the Department of Health to get funding for a number of iPads and tablets to help residents in those facilities communicate with family.
- They are looking forward to restrictions easing so they can address needs in-person in the future.

Kaye Lynn Wootton (Medicaid Fraud Control Unit) –

- Similar to APS, referrals are down, but caseloads are still large (approximately 75 open cases).
 - They have charged 7-8 new cases in the area of exploitation or abuse since COVID began.
 - They are starting a slow re-entry into the office; small teams are coming back to the office.
 - Once they have made that transition satisfactorily, they will start in-person interviews again (although not likely in facilities).
 - Investigators were out during the protests/riots, potentially exposed, so they held off a little longer, just as a precaution.
- There are concerns with reporting down. Cases coming in seem to be more egregious, or the individual calling may experience more panic about the situation.
- It is unlikely that this time period has seen a decrease in abuse, but rather reporting of abuse has decreased, so they are preparing in case reporting numbers do increase.

Xia Erickson (Office of Public Guardian) –

- OPG continues to receive referrals – the number appears to be steady.
 - They have not been doing any in-person assessments, since their referrals typically come from hospitals, skilled nursing facilities, and assisted living facilities.
 - There have been a few social-distanced in-person interviews in the community, in order to get a better sense of what is going on.
- They have learned that while a web-based platform is a good option in some respects, it has been a challenge with their clients because it is not generally conducive to the population they serve. It doesn't allow them to get a full picture of the situation, and in some cases where facility staff may be the issue, if staff are required to facilitate the phone/video calls, the individual may not feel comfortable reporting anything in their presence.
- They have had to hold off on some cases because skilled nursing facilities are not allowing admissions right now.

Wendy Fayles (NAMI) –

- COVID-19 has pushed them to move all their groups and most of their classes online. This has had the positive consequence of increasing access to individuals across the state.
- They put together a flyer that discusses this change, which can be shared with the WINGS stakeholders.

Michelle Miranda (University of Utah Health) –

- The University of Utah moved to the orange phase back in May. They started seeing patients again in person at the end of May.
 - They are asking that everyone get COVID tested before coming in to the clinic.
 - Patients are asked to wear masks while in the clinic. Clinic staff also use masks and face shields. The data shows that this is good at reducing transmission rate.
 - All touched surfaces are sanitized; they have also implemented plastic folders which can be sanitized and re-used.
- Given the information they have, it looks like this may be a second wave. How things are done needs to change as this could last a while. Stakeholders may need to consider getting PPE as well.

COVID 19, guardianship, & tribal communities (James Toledo):

- COVID-19 has hit the Navajo Nation hard. Access to running water, basic necessities, electricity, is lacking in many homes, which has exacerbated the problem.
- They have been working with the Department of Health and the Utah Division of Emergency Management to address tribal needs.
 - The Department of Health has deployed mobile testing to the Navajo Nation, Ute Mountain Ute, and Confederated Goshute.
 - They have provided test kits and supplies to other tribes as well (e.g., Northern Ute Tribe, Fort Duchesne; Paiute, Cedar City).
 - Their clinics are able to do testing, and the state has been in regular communication, replenishing supplies, etc.
- Tribal courts are open, operating in a limited capacity. They are taking into account social distancing measures.
 - Confederated Goshute is holding court once a month. They do still handle guardianship cases, but the vast majority of those are for minors.
 - Fort Duchesne and Navajo Nation are also operating at limited capacity with their court system.
- Some tribes have travel restrictions in place, advising tribal members to not leave the reservation unless absolutely necessary. If they do leave, they are required to self-quarantine for two weeks.
- Many tribes have been working with their elder populations, going around the community checking on them, providing supplies as needed.
 - Ute Mountain Ute implemented a color card system that members can use at home. Example: Red card in the window = needs assistance; green card = no concerns.
 - Each tribe has implemented similar measures.
- Needs tend to be community-based, such as access to non-perishable food, water, PPE (e.g., masks, hand sanitizer). Assistance would be appreciated if any stakeholders are interested in providing support.

COVID 19 & GRAMP (Shonna Thomas, Michelle Wilkes):**GRAMP –**

- GRAMP is on the list of possible budget cuts that the Judicial Council will consider once the legislature provides their recommended percentage.
- The good news is that if/when cuts occur, GRAMP has been included in the 10% scenario, toward the end of the list (and hopefully least likely scenario).

Discussion –

- Court employees are not able to go out and advocate to the legislature.
- One of the issues the courts face is that COVID-19 has made it more difficult to get the job done in general (e.g., Court Visitor Program having enough visitors to cover cases, the process of restarting jury trials). COVID-19 makes it more important that there is adequate funding for the courts to maintain its vital function in the community.
- Items related to COVID-19 and the Courts are moving quickly. The legislature is in a special session today, making budget cut decisions.
- The Courts are expecting something less than the 10% level, and they anticipate knowing the amount later today or tomorrow.
- The Court's Budget and Finance committee had keeping personnel as a high priority, and cuts in this area as a last resort.

Guardianship Signature Program –

- The GSP has been managing requests, due to an increased participation from the 3L program at the University of Utah.
- Leslie Francis has a diploma-privilege student requiring practical hours (in lieu of taking the bar exam). As a result, many case requests have been filled that might otherwise have been unassigned.
- GSP attorneys are not volunteering for cases as readily as they were pre-COVID, including in typically easy-to-fill areas such as 3rd district.
- It may be that fewer attorneys are willing to volunteer because of concerns about the virus, or possibly not knowing how the courts are able to accommodate attorney/client meetings and hearings.

Court Visitor Program –

- The CVP – Protocol for COVID-19 was included in the WINGS meeting materials. The program does not anticipate this protocol changing significantly for the remainder of 2020, due to the work that Court Visitors perform, and the potential risks to CVs.
- The CVP is at its lowest number of volunteers, and plans to recruit in the spring were interrupted due to the pandemic.
- The CVP is looking for suggestions from stakeholders on ways to recruit new volunteers with social distancing as a consideration.
- CVP success story:

The courts have judicial support staff who were seeing a loss of work hours and tasks due to the scheduling changes and adjustments that had to be made with COVID-19. At the same time, there was a large influx of Whereabouts cases, likely because some court staff were able to take the time to review old cases and notice past due reports. With fewer available Court Visitors, and an increase in more complicated cases as well, the program had difficulty addressing the outstanding number of Whereabouts requests – many of which were for cases with past due reports from 10+ years.

The *Whereabouts Gap Project* helped address both of these issues:

- The CVP reached out to Clerks and identified staff who were willing and able to serve as a temporary Court Visitor for a case.
- A webinar was held to train these volunteers on how to conduct a Whereabouts investigation and complete the report for the judge.

- Case assignments were made, deliberately connecting staff with cases outside their normal working district, so that the key qualities of a Court Visitor – neutral, unbiased – remained intact.
- The result of this collaboration included 23 court staff volunteering for the temporary assignment, and 24 cases being completed successfully in approximately 6 weeks (May – June).
- One staff member also took time to help translate to Spanish a letter the CVP uses regularly to communicate with guardians.
- The project also gave the CVP a chance to share what the program does with individuals less familiar with the work and purpose.
- The full results of the project will be shared in an upcoming article in the Court’s newsletter.

Question asked –

- Will the court employees who participated be named in the article?
 - It is unclear whether the names will be printed, but hopefully they will be so the employees receive some well-deserved recognition.
 - Shonna will send the names of volunteers to Judge Kelly, Judge Connors, and Judge Brady, so that they can recognize participants in their specific districts.

3. CJA Rule 6-507 (Nancy Sylvester)

This proposed rule is moving along. The rule was sent to the Policy and Planning committee, and now the Judicial Council will be taking it up. It should be sent out for comment soon and will hopefully be in effect by November 1st (according to the rule adoption schedule).

Discussion –

- It has been helpful having the probate committee and WINGS focus on this issue and get the process moving.
- With feedback from the Court Visitor Program and Clerks from around the state, it is important in making sure these reports get on a judge’s radar and not slip through the cracks.
- The comment period is a good time for the rule to potentially be improved.

4. Power of Attorney / Health Care Directive Clinic (Kate Nance)

Kate Nance is an elder law attorney and former volunteer with the Guardianship Signature Program. She works with Adult Protective Services, running a grant to reduce financial exploitation.

Currently financial exploitation is the number one allegation received by APS, and it is often family members who are the guilty party. One of the goals of the grant is to educate seniors to help them protect themselves, including pre-planning, such as a power of attorney or a health care directive.

This assistance would be in the form of a pro bono virtual clinic, with support from the Department of Aging and Adult Services. Before implementing the program, they wanted to check in with stakeholders in the area, for suggestions, thoughts, and other feedback. Some particulars:

- This program would be different from the Serving Our Seniors program with the Young Lawyers Division, as it would be statewide, and able to reach out to people in rural areas who are historically underserved.

- They plan to partner with senior centers to publicize the program. There would be a computer available on-site for those who do not have access at home.
- They would have a simple website with a video for the individual to watch that explains what a power of attorney is and why someone might need one, as well as other basics such as selecting an agent.
- Once the individual has completed the video, they are able to request a virtual appointment with an attorney where they could populate the documents and the attorney could answer questions specific to their situation.
- The forms used would be the statutory forms that Utah has approved for a health care directive and power of attorney.
- The program would not be able to give CLE credit for attorneys volunteering for this, but they hope to do a training for attorneys who do not feel proficient in this area, and credit could be given for the training.
- They would also need to get notaries on board.
- They are hoping to publicize it through the elder law section and the estate planning section, and to work with the law school/Leslie Francis and the 3L students

Discussion –

- If a free CLE is offered for volunteer attorneys, that may be a good way to recruit, especially in the absence of in-person CLE options. It could be popular since attorneys still need to accumulate their CLE hours, and other options, like the Bar conferences, have been cancelled.
- Attorneys may be less busy right now, with COVID, so this could be the time to capitalize on their additional free time.
- COVID may have also made people more aware of their own health and vulnerability. If this can get implemented quickly, it may capture those individuals who are willing, able, and ready to take these steps now who might not have been as interested a few months ago.
- Any feedback or questions, contact Kate Nance: knance@utah.gov

5. WINGS Projects Updates:

Clerical Manual (Shonna Thomas):

The last revision of the manual was in a format not compatible with current programs, so it needed to be recreated. The new draft is in the latest version of Microsoft Word, and should now function better.

Some updates have already taken place, including sections that reference Karolina (by name and contact info), updating items related to the procedure for requesting an attorney (GSP) and a Court Visitor (CVP). Also, all linked section codes were checked to ensure they were labeled correctly.

The manual now needs to undergo revisions for content related to the work of clerks and judicial assistants. The subcommittee can work on it, but it might also be beneficial to have judicial support staff review the content, to ensure that the procedures are correct, that the screenshots are still current, etc.

The section codes also need to be reviewed – they are all labeled correctly, but the subcommittee needs to check and make sure that the code references in the document matches the content.

Decisions made –

- Shonna will send the draft to subcommittee members to review, with the plan to meet at the end of July or early August.

- Subcommittee members will attend the meeting prepared to discuss ideas, suggestions for things missing, errors to correct, etc.
- The subcommittee can look at getting other individuals involved – clerk/judicial support staff.

Guardianship Test (Kent Alderman):

The guardian manual and test has been updated. Further progress was held until after the regular legislative session, in case anything arose that required changes in the materials. It doesn't appear that there were any significant changes, so this project can now move forward.

The new draft also includes the forms the guardian/conservator is asked to use (e.g., inventory, annual reports), so they can better understand what their requirements are as part of the testing process. It is now ready to be shared with the appropriate parties in the courts to be ready to use.

Discussion –

- The draft materials could be sent to some of the WINGS stakeholders with law backgrounds (judges, attorneys) and court clerks, to read through and give input.
- It might also make sense to present to the board of district court judges for their review and approval. Judges should be informed on what training guardians and conservators receive regarding their obligations, and the Court's responsibility to ensure that afterwards, the guardian/conservator implements the training received.
- The Medicaid Fraud Control Unit would also be interested in reviewing and giving input on these materials, as there are times that a defendant is held to a standard showing they had knowledge about how they should have protected the vulnerable adult.
- The Court Visitor Program would also be interested in taking part in the review process. Currently, the materials do not support the extent of knowledge a guardian should have – for example, the current materials and test do not provide enough information or resources if the protected person is a minor. More up-to-date and comprehensive materials would be helpful for Court Visitors to use when they provide education to guardians.

Decisions made –

- No formal subcommittee will be formed at this time.
- Kent will send the draft materials to Shonna, who will share them with Judge Kelly, Judge Brady, Judge Connors, Kaye Lynn Wootton, Michelle Wilkes, and any others as requested.
- This item will be added to the agenda for the next Executive Committee meeting.
- Those interested in providing feedback are asked to do so before the next Executive Committee meeting in late July, so that committee members have a sense of what the next steps may be.

Annual Report Reminder Email (Shonna Thomas):

Shonna and Shane met in early March to discuss the next steps for this project. These include:

- Bring in Court Services to determine if it is possible to implement with no system (CORIS) changes. This would entail putting together a plan/proposal and meeting with Clayson Quigley (Court Services) and Meredith Mannebach (Program Administrator) – both from the Administrative Office of the Courts – to identify next steps.
- If the identified next steps include IT changes, the project would likely be delayed due to the increased demand COVID has placed on the IT department. However, once IT's time is freed up, a meeting with them could take place to talk about implementation.
- In addition to collecting data on how the program is working in the 4th District, where it has already been in use for several months, select 1-2 other districts willing to implement this as a pilot program. This

would allow WINGS to collect data on its efficacy, which could help with statewide implementation down the road.

Discussion –

- This would be very helpful in saving time and energy in trying to get annual reports consistently and on time, as there would be fewer delinquencies that require follow up.
- 4th District uses CORIS currently to generate a list of cases for a reminder. The reminders are sent out at least 60 days before the due date, using email if there is one on file, or regular mail if not.
- Older cases are less likely to have an email on file. There has been a push in the last year or two to obtain email addresses, so newer cases are more likely to have email addresses on file.

Decisions made –

- Norma will create a bullet point list to describe the process used in 4th district for the reminder system. Send the completed list to Judge Kelly, Shonna, and Michelle.
- Shonna, Michelle, and Judge Kelly will work with Shane, Clayson Quigley, and Meredith Mannebach to discuss the process laid out by Norma, and to determine next steps toward implementation.
- This item will be added to the next Executive Committee agenda.

6. Reappointment for 2nd terms

There are three members who are under consideration for appointment to a second term: Todd Weiler, Rob Denton, and Michelle Wilkes.

- The Executive Committee voted unanimously in May to approve a second term for all three members.
- Michelle Wilkes and Rob Denton were invited to leave the meeting so the full committee could hold a vote. (Todd Weiler not in attendance.)
- A motion was made to approve all three individuals for a second term. The motion was seconded and approved. Shonna will update the WINGS membership list with this information.

Action Items	
– If you are interested in providing support to tribal communities (e.g., non-perishable food, water, masks, hand sanitizer), contact James Toledo.	WINGS stakeholders
– Provide NAMI flyer to all WINGS stakeholders.	Wendy Fayles Shonna Thomas
– Provide suggestions or ideas on recruiting new Court Visitors with COVID-19 restrictions in mind to Shonna and/or Michelle.	WINGS stakeholders
– Send list of volunteers from the Whereabouts Gap Project to WINGS judges	Shonna Thomas
– Questions, suggestions, or feedback for the Power of Attorney / Health Care Directive Clinic, contact Kate Nance (knance@utah.gov)	WINGS stakeholders
– Send draft of clerical manual to subcommittee members to review and arrange meeting with subcommittee late July / early August.	Shonna Thomas
– Attend clerical education meeting prepared to discuss ideas, suggestions for things missing, errors to correct, in the manual draft.	Clerical Education Subcommittee
– Send the draft materials of the guardianship manual and test.	Kent Alderman Shonna Thomas
– Provide feedback on materials before the next Executive Committee meeting (mid-July).	Judge Kelly Judge Brady Judge Connors Kaye Lynn Wootton Michelle Wilkes
– Send a bullet point list to describe the process used in 4 th district for the annual report reminder system to Judge Kelly, Shonna, and Michelle.	Norma Valavala-Ballard
– Work with Shane, Clayson Quigley, and Meredith to share the process and determine next steps.	Judge Kelly Shonna Thomas Michelle Wilkes

Deferred / Continuing Items	
– Clerical Education subcommittee – manual	Executive Committee
– Guardianship test	
– Annual Report reminder notice	

Next Meeting(s):	August 20, 2020
	October 15, 2020
	December 17, 2020