



STATE OF
NEBRASKA
JUDICIAL BRANCH

Office of Public
Guardian

Making a Difference.

**2019
REPORT**

TABLE OF CONTENTS

Introduction.....	2
Dean’s Story.....	3
OPG Staff.....	4-5
OPG Service Areas.....	6-7
Duties of the OPG.....	8-9
Joe’s Story.....	10
Who Nominates the OPG?.....	11
Case Distribution/Dispositions.....	12-13
Waiting List.....	14-16
Systemic Issues.....	17-19
Legal Counsel Initiatives.....	20-21
Conditions Experienced.....	22-23
New Guardians/Conservators.....	24-25
Education Initiatives.....	26
Ava’s Story.....	27
Advisory Council.....	28
Financial Operations.....	29
Louis’s Story.....	30
Court Visitors.....	31
Successor Guardians.....	32
Jane’s Story.....	33

INTRODUCTION

Nebraska Revised Statute §30-4111 requires the Nebraska Office of Public Guardian (OPG) to report to the Chief Justice and the Legislature on, or before, January 1st of each year. This 2019 OPG Report is the fifth report since implementation began under the Public Guardian Act in 2015. In addition to the specific data required by the statute regarding the number of wards, types of guardianship/conservatorship cases, capacity of the OPG to serve, and the status of the OPG waiting list, this report provides information about OPG people and programs. Additionally, the format has changed to demonstrate more clearly the data and information. Thanks goes to Chelsea Richardson, the OPG Education and Outreach Coordinator, who designed the report, and Katie Nieland who provided volunteer graphic design consulting.

While data, information, and program benchmarks are important reflections of OPG work, the vulnerable adults served by the OPG are, truly, the OPG’s reason

for being. It is important their voices be heard, their stories told. This report continues to share memorials of wards who have passed away. ***Their stories reiterate that any of us, given the right circumstances of tragedy, illness, and crisis, could be in need of the OPG’s services in the future.***

This year there are two significant issues to highlight. First, is the development of an online course for guardians and conservators. This course provides more options and convenience for individuals to comply with mandated Guardian and Conservator Education requirements. The second highlight is the ever-expanding OPG waiting list. We hope data provided in this report assists Nebraska policy makers as they consider actions required to provide vulnerable adults with necessary OPG services.



**MICHELLE
CHAFFEE**
Public
Guardian

DEAN'S STORY

Dean was born and raised in southwest Iowa. After graduating from high school, Dean got married and moved to Omaha. Dean and his wife raised one son, and Dean worked in radio and television until his retirement. After his wife's death in 2012, Dean's health began to decline. He was hospitalized several times for various ailments and had been diagnosed with dementia.

After a brief stint in assisted living, Dean moved into a nursing home. His son was power of attorney at that time. Unfortunately, Dean's son took approximately \$400,000 from his father's estate and spent it on himself. The nursing home, upon reaching over \$100,000 in unpaid charges, petitioned the court to appoint the OPG. The OPG became Dean's conservator in August of 2016. The OPG was later appointed as Dean's guardian in March of 2016, after additional evidence showed his need for assistance in other areas beyond finances.

Over the next three years, the Associate Public Guardian (APG) on Dean's case worked hundreds of hours to ensure that all of his needs were met. She negotiated with the nursing facility on the past due bill, successfully navigated a hardship process with Nebraska Medicaid, and worked with various law enforcement agencies to pursue financial exploitation charges against Dean's son. Dean's APG also worked tirelessly to recover as many of Dean's assets as possible from various banks and investment groups.

Unfortunately, the vast majority of Dean's funds were long gone, and there was little to recover. However, Dean's APG

continued to work with federal and state authorities to pursue criminal charges against Dean's son. Dean's son plead guilty in federal court to various charges and was sentenced to prison. He was ordered to pay restitution to Dean, his nursing home, and Nebraska Medicaid. Shortly after his son's sentencing, Dean became ill and his health declined rapidly. After a short stay on hospice care, Dean passed away in November of 2019, while his son was in prison. Dean's son never paid a penny in restitution.

“Authorities learned of the crimes from the state Office of Public Guardian. This is just one example of commendable work by that office, which operates under the Nebraska court system with a mission to protect the elderly from financial abuse.”

**—Editorial Staff,
Omaha World-Herald
Aug 25, 2019**

**Versions of Dean's story were reported on by the Omaha World Herald as well as the Lincoln Journal Star*



Michelle Chaffee
Public Guardian



Marla Fischer-Lempke
Deputy Director



Tamra D'Andrea
Financial Operations Manager



Jill VanDusen
Administrative Assistant



Jeff Hineman
Legal Counsel



Amie Wergin
Associate Public Guardian



Sarah Herrera
Administrative Assistant



Chelsea Richardson
Education and Outreach Coordinator



Jacey Gayle
Intake Administrator



Annette Scarlett
Associate Public Guardian



Michelle Ging
Administrative Assistant

OFFICE OF PUBLIC GUARDIAN STAFF



Janelle Cantu
Associate Public
Guardian



**Jena
Davenport**
Associate Public
Guardian



Alicia Husted
Associate Public
Guardian



Joe Johnson
Associate Public
Guardian



**Jordan
Wittenburg**
Associate Public
Guardian



**Kelley
Petersen**
Associate Public
Guardian



Lisa Ludden
Associate Public
Guardian



**Michelle
Moore**
Associate Public
Guardian



**Stacey
Rotherham**
Associate Public
Guardian



**Thomas
Holdt**
Associate Public
Guardian



Erin Wiesen
Associate Public
Guardian



Kimmie Fox
Associate Public
Guardian



Susan Mitchell
Associate Public
Guardian



**Emily
Dolinski**
Associate Public
Guardian



**Jana
Krzyzanowski**
Associate Public
Guardian

SERVICE AREAS

Panhandle

Banner, Box Butte, Cheyenne, Dawes, Deuel, Garden, Kimball, Morrill, Scottsbluff, Sheridan, Sioux

West Central

North Platte, Arthur, Chase, Cherry, Dundy, Frontier, Grant, Hayes, Hitchcock, Hooker, Keith, Lincoln, Logan, McPherson, Perkins, Red Willow, Thomas

Mid Central

Kearney, Blaine, Buffalo, Brown, Custer, Dawson, Franklin, Furnas, Garfield, Gosper, Hall, Harlan, Keya Paha, Kearney, Loup, Phelps, Rock Sherman, Valley

East Central

Adams, Clay, Fillmore, Greely, Hall, Hamilton, Howard, Nance, Merrick, Nuckolls, Polk, Thayer, Webster, Wheeler, York

Eastern

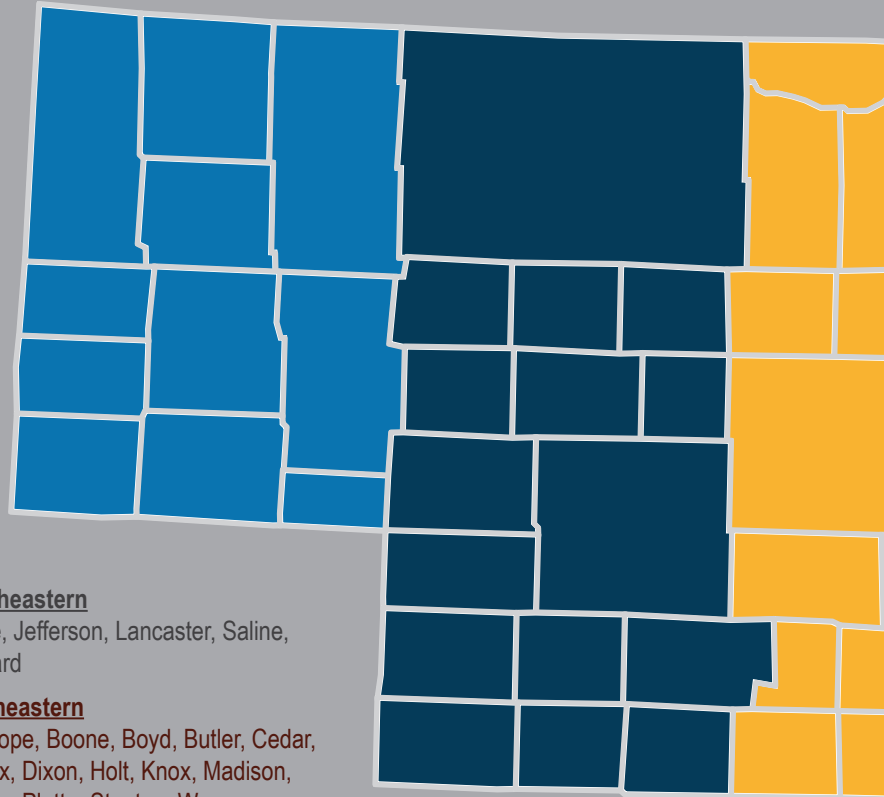
Omaha, South Sioux City, Falls City - Burt, Cass, Cuming, Dakota, Dodge, Douglas, Johnson, Nemaha, Otoe, Pawnee, Richardson, Sarpy, Saunders, Thurston, Washington

Southeastern

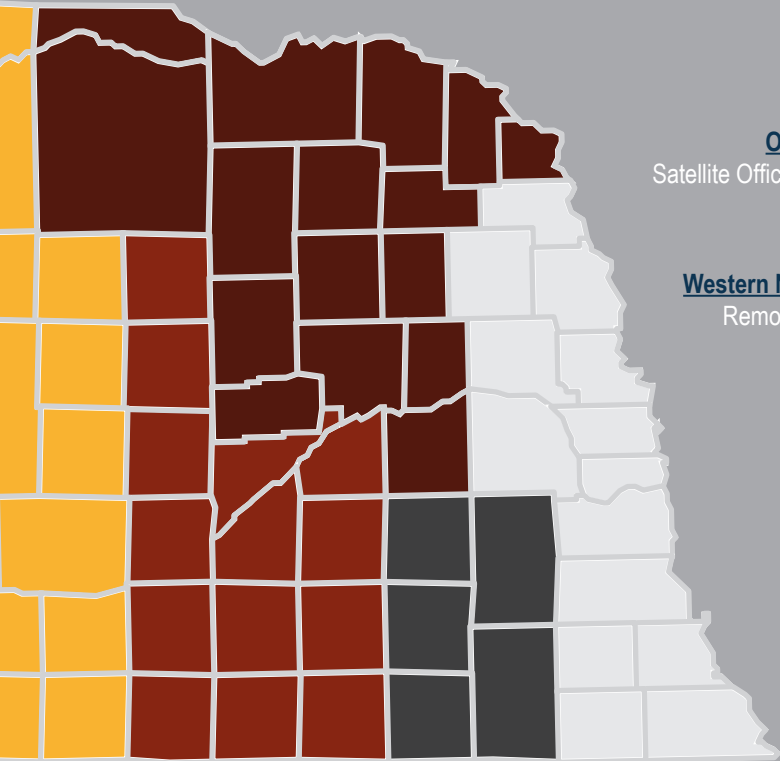
Gage, Jefferson, Lancaster, Saline, Seward

Northeastern

Antelope, Boone, Boyd, Butler, Cedar, Colfax, Dixon, Holt, Knox, Madison, Pierce, Platte, Stanton, Wayne



OPG OFFICES



Omaha, NE
Satellite Office Location

Western Nebraska
Remote Offices

Lincoln, NE
Main Office Location



DIRECT SERVICES

- Serve as guardians and conservators providing care, support, and timely decision-making
- Respond to emergency needs for guardians and conservators
- Provide an option upon resignation, removal, or discharge of guardians/conservators so that no lapse in service occurs
- Model best practices for guardianship and conservatorship
- Distribute cases among APGs according to complexity, location, available services, and professional expertise
- Maintain an average caseload of 20 wards per APG
- Visit wards monthly in their homes or the facilities where they reside
- Communicate regularly with wards' service providers
- Maintain records of both financial and non-financial services provided for wards and protected persons in the care of the OPG
- Prepare a biennial budget for all OPG operations
- Develop sliding scale fee guidelines

PUBLIC EDUCATION

- Provide education in order to help the public understand the responsibilities associated with guardianship and conservatorship
- Support and train those serving as guardians and conservators
- Collect and report statistical data regarding guardianship and conservatorship in the state of Nebraska
- Develop, adopt, and promote ethical standards for guardians and conservators
- Maintain and further develop curriculum for training guardians and conservators
- Help the public promote the dignity and rights of wards and protected persons
- Develop public understanding of alternatives to guardianship and conservatorship for least restrictive alternatives, fiduciary services, and other options
- Advise guardians and conservators on the needs and wishes of wards and protected persons and

EDUCATION

the public understand duties and
guardianship and conservatorship in Nebraska
guardians and conservators in Nebraska
regarding guardianship and conservatorship
standards and standards of best practice
curriculum for training new guardians and
and autonomy of wards and protected
challenges associated with disabilities, needs
and secondary needs of wards and protected persons
on securing rights, benefits, and services
wards and protected persons are entitled to

VOLUNTEER PROGRAMMING

- Make reasonable efforts to recruit members of the public and family members of wards to serve as volunteer successor guardians for OPG cases
- Encourage more people to serve as private guardians and conservators
- Develop volunteer programs to help enhance quality of life for wards and protected persons in the care of the OPG
- Safeguard the rights of individuals by supporting least restrictive alternatives and full guardianship only as a last resort

DUTIES OF THE OFFICE OF PUBLIC GUARDIAN

JOE'S STORY

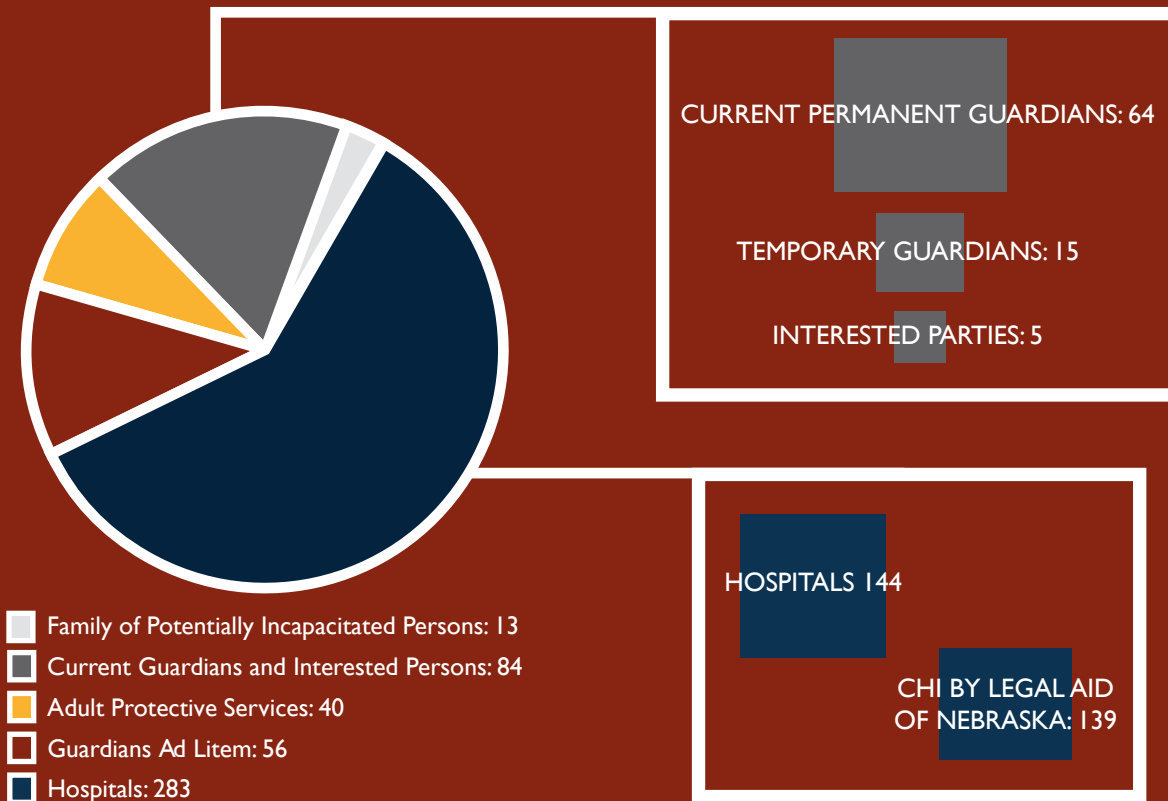
The OPG received temporary/emergency guardianship over Joe in February 2018. When Joe was 77 years old his family was informed that Joe needed 24/7 care for advanced dementia. The family, unable to meet Joe's needs, dropped him off at a local homeless shelter. Unfortunately, Joe was too confused to make it into the shelter and wandered away. Later, police found him walking the streets nearby and brought him to a local hospital. Joe was hospitalized nearly a month, when the hospital social worker petitioned the courts for the OPG to be Joe's emergency guardian. The hospital had concerns about Joe's family's ability to serve as his guardian. They suspected financial exploitation – Joe's family seemed more concerned with who would be responsible for Joe's finances than with how they would meet Joe's medical needs – and the hospital relayed their concerns to Joe's newly assigned APG.

Joe was eventually transferred to a nursing facility with a locked memory support unit. It was challenging to get to know Joe due to his dementia. Joe talked about his family. He loved sports. His teams were the Cowboys, the Cornhuskers, the Lakers, and the Dodgers. He could not remember his relatives' names, but he could remember the mascots for his favorite teams. It was easy to talk to Joe. All you had to do was pull up the latest scores for his favorite teams and talk sports. Joe and his APG also watched highlight videos of important plays together. On his birthday, Joe requested chocolate cake and vanilla ice cream. He loved good food. Joe's APG, his only birthday visitor, brought the requested chocolate cake and ice cream and some gifts. He reminisced about being a socialite and how he liked to gamble.

We learned Joe had a rough upbringing somewhere in the South. He often talked about being pulled off a bus and beaten with a

crow bar. He had horrible night terrors in which he relived this incident. He was afraid to sleep in his bedroom and often slept in a recliner next to the night staff in the facility. Shortly after moving to the nursing facility, Joe's girlfriend removed him from the facility. She had a check of his worth less than \$200, and she was attempting to have Joe cash the check. However, Joe didn't have his ID, and was unable to cash the check. Rather than return him to the nursing facility, Joe's girlfriend abandoned him outside on a cold winter night. Eventually, Joe was found by the police and transported to a local ER where he was treated for multiple injuries. The ER treated him and discharged him to a nearby homeless shelter. The shelter called hospitals in the area to find out where Joe belonged. The petitioning hospital in the guardianship case informed the nursing facility that Joe was at a local homeless shelter, and Joe returned home. Adult Protective Services was contacted and investigated this incident. They filed a negligence claim on Joe's girlfriend and sent information to local police to investigate criminal charges. After this incident Joe's dementia progressed and his health declined. Joe's APG notified his family of the decline, and strongly encouraged them to visit before Joe passed away. They did visit, and Joe passed away in the facility a few days later. Joe was cremated and placed in a communal burial site. After Joe passed away, someone went to the Social Security department to file for survivor's benefits. The APG informed Social Security that Joe was not married, and that Social Security should not disburse benefits.

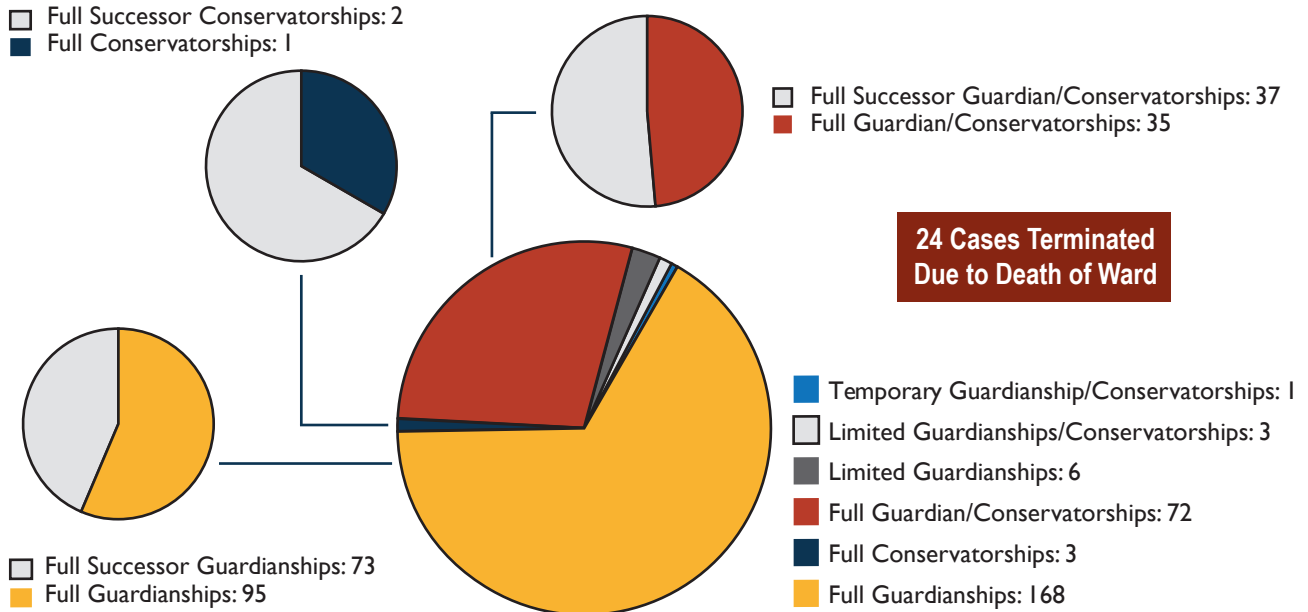
WHO NOMINATES CASES TO THE OFFICE OF PUBLIC GUARDIAN?



DISTRIBUTION OF OPG CASES

OPG
CASES
SERVED
2016-2019 **609**

CASES SERVED IN 2019: 253



In the 2019 reporting period the OPG was nominated to serve individual vulnerable adults in Nebraska 117 times, and 58 of those nominations were for emergencies. The OPG was not appointed in 95 of these 117 cases. Resolutions in these 95 cases included but were not limited to the following scenarios:



The individual died before the OPG could serve them



The OPG had no capacity to serve, and the individual was referred to the OPG's waiting list



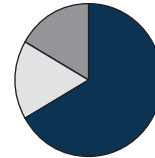
The individual regained their capacity to make decisions and no longer required OPG assistance



The OPG was not appointed because an alternative guardian or conservator was located

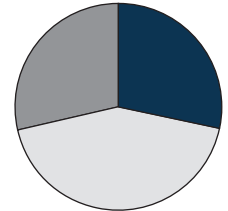
2019 DISPOSITION OF NON-WAITING LIST CASES

Active Emergency Cases



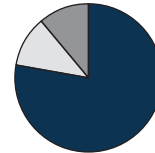
- Limited Guardianships: 1
- Guardianships/Conservatorships: 1
- Guardianships: 4

Pending Cases



- Successor Guardianships/Conservatorships: 2
- Successor Guardianships: 3
- Guardianships: 2

Active Non-Emergency Cases



- Limited Guardianships: 1
- Guardianships/Conservatorships: 1
- Guardianships: 7

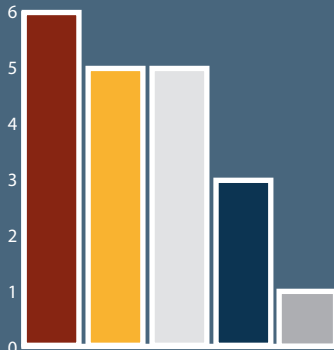
NEW CASES APPOINTED TO OPG 22

WAITING LIST

The OPG waiting list was developed in accordance with the Public Guardianship Act and Nebraska Court Rules, with input from the OPG Advisory Council, and final direction by the State Court Administrator. The waiting list provides for a 90 day limit for placement on the waiting list. This allows for subsequent requests for the case to be placed on the waiting list again, subject to updated status information regarding the case. The criteria for choosing a waiting list or active emergency/temporary case when an opening for public guardianship/conservatorship occurs seeks to align with case load and distribution mandates, and the public interests undergirding the duties outlined in the Public Guardianship Act.

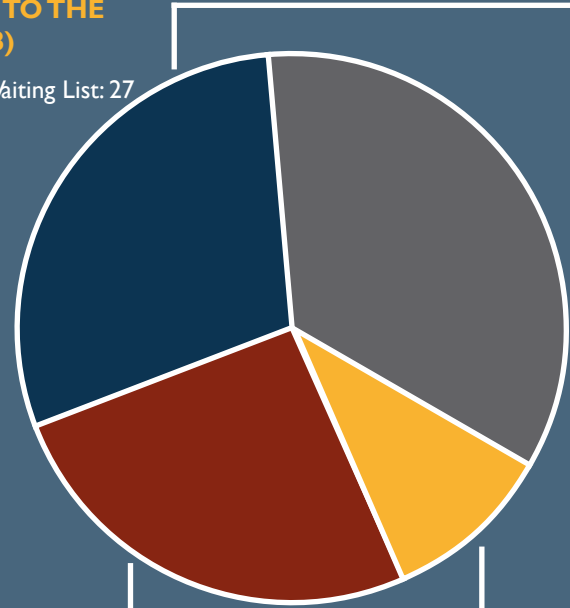
REMOVED CASES (20)

- Individual Died: 1
- No Incapacity of Individual: 3
- 90-Day Time Limit Expired: 5
- Alternative Found, Private Guardian: 5
- Alternative Found, Attorney Guardian: 6



CASES REFERRED TO THE WAITING LIST (78)

- Remaining on the Waiting List: 27
- Accepted: 23
- Removed: 20
- Denied: 8

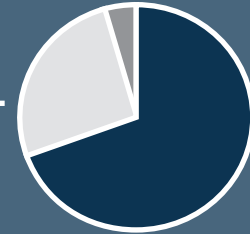


78

CASES REFERRED TO THE WAITING LIST IN 2019

ACCEPTED CASES (23)

- Closed Due to Death of Ward: 1
- Pending: 6
- Currently Serving: 16



CASES IN WAITING LIST PROCESS (27)

- GAL Report Recieved: 6
- Waiting for GAL Report: 18
- I Referral: 24
- 4 Referrals: 1
- 2 Referrals: 2



CASES DENIED (8)

- GAL Report Not Filed: 1
- OPG Not Last Resort: 7



WAITING LIST ISSUES

During 2019, throughout much of Nebraska, the OPG has reached its capacity to serve as guardian/conservator for vulnerable adults. APGs have attained maximum caseload capacity, and APG vacancies hinder OPG ability to accept new cases. The Public Guardianship Act directs the OPG to report on “the status of the waiting list for public guardianship and public conservatorship services.” ***There are no guidelines in the Act regarding a Waiting List (WL) process. Therefore, in 2017 the Supreme Court developed a WL Pilot.*** (See the 2017 annual report, pg. 57 and the 2018 report, pg. 18)

In order to keep WL numbers manageable and information timely, the WL Pilot limits placement on the WL to 180 days. For a case to be considered for reappointment, an updated Guardian ad Litem (GAL) report is required to assess needs of wards on the WL. Openings are not filled on a first come, first served basis, rather, the OPG determines the order of WL cases in accordance with caseload and capacity criteria outlined in the Public Guardianship Act (See Neb. Rev. Stat §30-4115(2) and Neb. Rev. Stat. §30-4115(1)(c)). Additionally, priority is given to cases identified by Adult Protective Services (APS).

Executing the WL process, as envisioned, presents difficulties. In a traditional guardianship case GAL reports are not repeated. Updated GAL reports are unique to OPG WL cases. ***The current practice keeps many WL cases on the list indefinitely, with no updated information.*** So, determining which cases are most at risk and in need of OPG services, when an opening occurs, difficult to ascertain.

The OPG had many discussions with stakeholders - Administrator of the Court, the Advisory Council, judges, attorneys, clerk magistrates, hospitals, facilities, APS, etc. - in the last year regarding WL processes. ***There are a variety of alternatives to current WL policies and processes, but strategies for revision generally yield the following three options:***

The first option is to end the WL process. Advocates for this option maintain: Wards who reach the current WL process qualify for OPG services. Courts determined wards' need for OPG guardianship, but no capacity exists for the OPG to take the case. Determining which wards are in greatest need is a waste of court and OPG resources. This option would end the WL process for the OPG; cases would be accepted first come, first served, when an opening arises.

Other options allow the OPG to continue determining greatest needs in allocating services when openings occur. Advocates for these options argue: Without a WL assessment process, wards with lesser needs are served while those in crisis die, are homeless, or have medical procedures and social benefits postponed.

The second option is to use the current system in the courts to gather information, but to enforce compliance more stringently; if a case is on the WL for more than 180 days, without additional information, the OPG will not consider taking the case when an opening occurs.

The third option is to utilize the OPG to directly manage the WL process instead of the existing court processes. This option allows for assessment of needs but changes the WL process. WL requests would be standardized and responsibility for providing updated information on needs of wards would be on petitioning attorneys/providers who have the most information about a ward. This alleviates court expenses and resources by eliminating additional GAL report requirements.

Discussions are ongoing regarding updating WL processes. ***All stakeholders agreed the need for additional APGs to serve vulnerable, incapacitated adults in Nebraska exists. The five individuals described in this report represent hundreds of vulnerable Nebraskans who are served by the OPG; but others are either not applying because there is no capacity, sitting on the WL, or dying alone while they wait.***

SYSTEMIC ISSUES IN NEBRASKA GUARDIANSHIP

Assisted Living and Nursing Home Facility Issues

- Refusal to take wards with a history of mental illness because of behavior issues
- Licensure and regulation issues
- Facility Resident Agreements include clause making Guardian personally liable for payment, in conflict with federal regulations
- Confusion regarding medical treatment protocols under Do Not Resuscitate and Hospice
- Facility closures

Banking and Finance Issues

- Some banks will not provide access to wards' accounts despite court orders that the individual is under guardianship
- Bank accounts shared between wards and financially exploitative individuals are extremely problematic; closing them can result in a stoppage of funds for wards on tight budgets, and joint account holders can withdraw and overdraw funds without the consent of wards/protected persons or guardians/conservators
- Pension deposits into widowed ward accounts from deceased spouses are difficult to change. Social security numbers, PIN numbers, and answers to security question are difficult to obtain for automatically deposited pensions



SYSTEMIC ISSUES IN NEBRASKA

Office of Public Guardian Challenges

- Assigned as successor guardians, yet prior guardians continue to try to direct and challenge OPG actions for the ward
- Lack of updated, accurate information for waiting list cases making it difficult to determine wards' needs and risks
- Increasing numbers of prior foster care youth appointed as wards of the OPG
- OPG thanks the Nebraska U.S. Deputy Attorney General, Russ Mayer, for his assistance with issues regarding federal pension accounts and misuse of bank funds in multiple cases. Russ assisted an abandoned, physically fragile, financially exploited, widowed OPG ward who continuously had her deceased husband's pension funds stolen from a joint account

General Nebraska Guardianship Issues

- Lack of legal representation for potentially incapacitated persons
- Petitions with incomplete medical information regarding wards' functional capacity, resulting in full guardianship rather than appropriately limiting guardianship
- Difficulty accessing wards financial accounts with banks, financial institutions, and credit agencies, despite Letters of Conservatorship
- Difficulties in obtaining Medicaid when a ward has been a victim of financial abuse through a family member and/or power of attorney
- Lack of education on surrogate decision-making options other than guardianship



GUARDIANSHIP (CONTINUED)

Medical Issues

- Hospitals that refuse to provide mental health treatment to individuals with developmental disabilities who have mental illness and are a danger to themselves or others
- Hospitals and inpatient facilities discharge wards without appropriate discharge planning, resulting in lack of adequate services, putting wards at risk for decreased health and well-being, including suicide.
- Medical treatment and discharge of wards by hospitals without consent from the guardian
- Hospitals do not admit a ward, but hold them for “observation” only, sometimes for days, shielding hospitals from the obligation to provide discharge planning
- Difficulty getting medical and mental health evaluations
- Lack of substance abuse and mental health treatment options for wards (who are deemed to be cognitively incapable of decision-making) when ward refuses “voluntary” treatment and medication compliance- undermining the guardian’s ability to provide intervention and care for incapacitated wards.
- Lack of permanent, supportive housing for individuals with mental illness and/or substance abuse issues
- Lack of options for individuals with severe, persistent mental illness to obtain residential treatment for stabilization
- Lack of intensive treatment to avoid inpatient hospitalizations



LEGAL COUNSEL INITIATIVES

Legal counsels provide legal advice to inform associate public guardians' decision making and court actions benefitting OPG wards and protected persons, including motions to terminate and limit guardianships. The public guardian, deputy public guardian and legal counsels act in compliance with Neb. Rev. § 30-4104 "(3) An associate public guardian legal counsel shall be an attorney licensed to practice law in Nebraska. The deputy public guardian shall be an attorney licensed to practice law in Nebraska unless the State Court Administrator directs otherwise" and "(4) Legal representation provided by the Public Guardian, deputy public guardian, and associate public guardian legal counsel shall be limited to representing the Public Guardian and his or her designees in the roles and responsibilities of a court-appointed guardian or conservator in accordance with the Public Guardianship Act."

A large, dark blue icon of a pair of scales of justice, positioned on the left side of the page. The scales are balanced, with two pans hanging from a central beam. The background is a solid blue color.

393

**Hearings attended by OPG Legal
Counsels during the 2019 reporting
period on actions involving wards and
protected persons under the
Public Guardianship Act**

MOTIONS DRAFTED OR RESPONDED TO

Motion for GAL or Attorney Fees (to be paid by the county or the ward or unclear in the Motion)

Motion to Continue

Motion for Psychological Evaluation

Motion to Proceed In Forma Pauperis

Motion to Make More Definite and Certain

Motion to Dispose or Sell Real Property

Motion to Dispose or Sell Automobile (Mobile Home)

Motion to Withdraw as Counsel

Motion to Withdraw as Guardian ad Litem

Motion to Dismiss

Motion to Attend Hearing by Phone

Motion to Terminate Guardianship/Conservatorship

Motion for Approval of Final Accounting

Motion for Approval of Annual Accounting and/or Fees

Motion to Deposit Funds with the Court

Motion for Access to Accounts

Request by Alleged Incapacitated Person to Appoint Counsel

Motion to Terminate Powers of Attorney

Motion for Intrastate Transfer

Motion for Special Process Server

Motion for Status Hearing

Motion to Appoint Personal Representative/Special Administrator

Motion to Appoint Successor Guardian

Motion to Amend Order

Motion to Appoint Guardian ad Litem

Motion to be Excused

Motion to Limit Guardianship

Motion to Remove Trustee

Motion to Withdraw Prior Motion

Motion to Withdraw Funds

A DIFFICULT ROAD: EXPERIENCE



OPG cases of Individuals with
Cognitive Impairments:

167

OPG cases of Individuals with
Mental Health Diagnoses:

232



OPG cases of Individuals with
Medical Conditions:

186



OPG cases of Individuals with a
**History of Criminal
Involvement:**

72



CATEGORIES OF CURRENT OPG WARDS



OPG cases of Individuals with
Developmental Disabilities:

78

**CURRENT OPG
WARDS HAVE
EXPERIENCED
865
COMPLEX ISSUES**



OPG cases of Individuals with
**History of Mental Health Board
Commitment:**

40



OPG cases of Individuals with
Substance/Alcohol Abuse:

90

NEW PRIVATE GUARDIANSHIPS AND CONSERVATORSHIPS

The OPG trains and supports new guardians and conservators in Nebraska. In order to better understand the current state of guardianship in Nebraska and support private guardians and conservators needs, our office collects survey data. Below are key findings from surveys administered during the 2019 reporting period (11/1/18 - 10/31/19). Note that in full guardianships the guardian is responsible for all 10 possible areas of decisionmaking for a ward whereas in limited guardianships the guardian's decisionmaking authority is limited to some number fewer than 10 areas of decisionmaking. Statutes require that all guardianships be as limited possible (given a ward's capacity) so as to allow wards maximal access to civil rights while at the same time ensuring protections for vulnerable persons - this is referred to as the "least restrictive alternative."



66% of new private guardians and conservators were women



93% of guardians and conservators are not paid for their work as guardians and conservators



95% of new guardians and conservators felt prepared to serve their wards and protected persons after OPG training



630 People Became Guardian and/or Conservator for an Adult



379 People Became Guardian and/or Conservator for a Minor



81% of full guardianships surveyed did NOT attempt less restrictive alternatives before accepting full guardianship

Full Guardianships: 840
vs.
Limited Guardianships: 36



HELPING PRIVATE GUARDIANS AND CONSERVATORS

The Office of Public Guardian has a statutory requirement to provide support to private guardians and conservators. During the 2019 reporting period (11/1/18 - 10/31/19) the OPG updated and reorganized our web resource database. Additionally, Associate Public Guardians and Education and Outreach staff collaborated to provide a variety of responses to **80** requests for support from private guardians and conservators outside of formal guardian/conservator trainings. Our office is proud to support private individuals in order to enhance the quality of guardianship and conservatorship across Nebraska.

Within the 2019 Reporting Period OPG staff assisted Private Guardians and Conservators by...



Helping them manage systemic issues



Supporting them in fulfilling annual reporting requirements



Helping them find effective resources for their wards and protected persons



1,009 guardians and conservators educated by OPG staff



Making **59** phone calls and emails to ensure needs and concerns of guardians and conservators were addressed



In **21** instances, providing some in-person or other type of support or guidance


Hours OPG Staff Spent Educating Private Guardians:


327



2019 EDUCATION INITIATIVES

 Online Guardian Conservator/Education launched on September 23, 2019

 The development of our online course involved collaborations across 5 Supreme Court Offices and private companies

 People can now access Guardian/Conservator Education at any time that is convenient for them from anywhere in the world

 Future initiatives to launch online courses specifically for Spanish speakers and guardians of minors are underway



NEW IN 2019:
ONLINE
GUARDIAN/CONSERVATOR
EDUCATION



AVA'S STORY

Ava was born on December 1, 1935. As a young child, she was responsible for helping her mother with her siblings and the housework. Ava had eight siblings. She joined the workforce young, working in a nursing home, and waiting tables. She attended college and worked as a certified nursing assistant until retirement. Ava was married four times and had eight children. She worked hard and made just enough money to meet the financial needs of her children. Unfortunately, over the years, Ava's relationships with her children became strained to the point that there was no longer any contact.

In March 2018, the Office of Public Guardian (OPG) was appointed as emergency guardian/conservator for Ava. At that time, there was an open Adult Protective Services (APS) case regarding neglect. The investigation by APS detailed that Ava had cognitive limitations and had left a nursing facility, where she was staying for rehabilitation, against medical advice. The APS investigation also reported there had been several reports of Ava falling, misusing her pain medications, and smoking in her apartment. Ava lacked the ability to care for herself. When her assigned Associate Public Guardian (APG) visited, they noted concerns about Ava's living environment, her hygiene, and her overall appearance. She had holes burned in her clothing, chair, and carpet. There were pills sitting out and Ava was unaware of what to take and when to take it. She had a large open wound on her coccyx. As a result, the APG worked to get Ava admitted to the hospital right away. Later Ava went to live in a nursing facility. Due to the extent of her needs, Ava was never able to move out of the nursing home facility and return to the community.

In November of 2018, the OPG was appointed Permanent Guardians. APGs worked to clean out Ava's apartment and try to

salvage some of her belongings, despite the extreme filth. In early January 2019, Ava declined rapidly and was hospitalized when it was determined she had an infection and suffered a stroke. After long discussions with Ava, she and her APG decided she would be admitted to a hospice service. On hospice, Ava received amazing care and compassion from the caregivers and volunteers in the facility. During this time, Ava was nominated for the "Dream Weavers Program." Her "dream" was to have a "Glamour Day." Ava always enjoyed looking nice and loved wearing hats. However, while raising her eight children on a certified nursing assistant's wage, Ava was never able to buy fancy clothes for herself. So, the Dream Weaver's Foundation arranged for her to receive a beautiful outfit, hat, makeup, jewelry, and shoes. They also arranged a makeup artist and a photographer so that Ava could shine in the spotlight on her special day. On January 26, 2019, Ava got her day and she was definitely shining! The APG painted her nails, and the APG's children, who had become close to Ava, witnessed her transformation.

During this time on hospice, Ava mended some relationships with her children. Four of her children came to visit her, one of them she had not seen in over 20 years. She was able to reach three of the other children on the phone to say goodbye. Ava expressed to her APG, before she passed away, that she was thankful for all the OPG had done for her and the love and care that she had been shown by her APG. Ava noted she had never had someone care so much about her and make sure she had everything that she needed. She passed away on February 7, 2019. Ava definitely brought joy and spark to the OPG. Her story told of her amazing strength and it was an honor to get to be part of her ending.

ADVISORY COUNCIL

The Office of Public Guardian is assisted by an Advisory Council, appointed by the Administrator of the Courts, to advise the Public Guardian on the administration of public guardianships and conservatorships. Members of the Advisory Council are comprised of individuals from a variety of disciplines, knowledgeable about guardianship and conservatorship, representative of the geographical and cultural diversity of the state, and reflect gender fairness.



Corey Steel
State Court
Administrator



Darla Schiefelbein
Clerk
Magistrate



Amanda Duffy Randall
Professor of
Social Work



Dianne DeLair
Attorney



Todd Hutton
County Judge



Russ Leavitt
Clerk
Magistrate



Lisa Line
Attorney
Disability Rights
Nebraska



Kevin Ruser
Director of Clinical
Programs, UNL
Law



Julie Masters, PhD
Professor of
Gerontology



Beth Baxter
Administrator,
Region 3
Behavioral Health

FINANCIAL OPERATIONS

The OPG uses a web-based case management system, EMS, for ward information, medical documentation, and management of funds. The OPG also uses Union Bank & Trust's (UBT) online positive pay site. This prevents fraudulent checks from processing on the collective account. A file is uploaded from EMS daily with the amount of the check, payee, and check number. If there is a mismatch, notice is sent to the OPG to verify information and notify the bank to pay or return the check. Automated Clearing House (ACH) transactions are also uploaded to UBT from EMS. The OPG sometimes receives guardianship fees. These are fees to open cases, and monthly fees assessed on a sliding scale. Fees are only assessed for wards who have over \$5,000 in liquid assets.



22 new applications to be representative payee for Social Security for a total 251 beneficiaries



Managed 49 wards' Enable Savings Plans which totaled over \$205,600



16,850 total transactions

Over 11,800 disbursements for a total of over \$3.6 million



60 wards paid fees that were approved by the court, totaling \$25,100



7,000 ACH transactions accounted for \$1,652,000



4,800 checks written from EMS totaling approximately \$1,976,000



Over 5,100 deposits for a total of over \$3.5 million

LOUIS'S STORY

Louis was born on May 3, 1935 in Hardeman County, Tennessee. When he was a young boy, Louis's family moved to East St. Louis, Illinois, where he attended school. He joined the workforce at an early age at the Swift & Company Packing House. During the early 1960s, the packing house had a deep cut in their work force, so Louis decided to seek employment in Omaha, Nebraska. Louis married twice and had six children. He worked in packing houses in Omaha and was employed at Omaha Technical School until his retirement. Louis was an extremely hard worker and often held down several jobs simultaneously. He was a self-starter with a truck-hauling job and a garage business alongside his full-time jobs. He enjoyed cooking, gardening, hunting, fishing, and was a phenomenal storyteller. His home, his pride and joy, was a place where friends and family would often gather to listen to stories and celebrate special occasions. **Late in 2017, the Office of Public Guardian (OPG) was appointed as emergency guardian/conservator for Louis. At that time, there was an open Adult Protective Services (APS) case regarding neglect and possible exploitation of Louis by a family member.** The investigation revealed Louis had been diagnosed with late stage prostate cancer that had spread to his lungs and lymph nodes. However, he had not been taken back to the doctor since the initial diagnosis. By the time the OPG became involved, Louis was very ill and needed to move to a nursing home facility to rehabilitate. Unfortunately, Louis was never able to return to the home he cared for so lovingly. Following the appointment, the OPG secured Louis's financial assets to prevent any possibility of continued exploitation. **The OPG legal counsel worked with the City of Omaha to ticket squatters in Louis's home.** The OPG boarded up the house and changed the locks to prevent continued destruction of the property. However,

the damage was so substantial that the home was considered a complete loss.

The Associate Public Guardian (APG) assigned to Louis's case worked tirelessly to make sure Louis received benefits including Social Security, Medicare, and Medicaid. The APG ensured he received necessary medical care to help treat his prostate cancer, diabetes, dementia, hypertension, and hyperlipidemia. In March, Louis was hospitalized for complications from his cancer. His APG met with palliative care staff at the hospital to discuss Louis's options. Louis's oncologist confirmed his cancer had spread. Medical staff noted Louis was likely in a great deal of pain, but due to early dementia, was unable to communicate what he was experiencing. After much deliberation and consultation, Louis was placed in hospice care.

Louis often thanked the APG for the care he received. He understood some individuals may not have handled his money the way they should have before, and he was grateful for the OPG's careful management of his funds.

Louis passed away in early April, 2019 at the age of 83. His wish was to be buried, not cremated. He was able to pay for a plot and a headstone but did not have enough funds to care for his body and a funeral. **His family stepped forward and paid for Louis's funeral. The funeral was very lively and included family stories and songs played by his musician friends.** Louis himself was quite a musician in his life. He also loved his family and would have done anything for them. Louis's APG was very moved by the service. After the funeral, many family members expressed gratitude to the OPG for its care and attention in Louis's last years of life.

COURT VISITORS

Utilization of a court visitor or guardian ad litem, as an independent screener when the OPG is nominated helps ensure the OPG is the necessary, last resort, and least restrictive option for any given case. Court rules require the appointment of a court visitor or guardian ad litem whenever the OPG is nominated for appointment. The OPG recruits, screens, and trains volunteer court visitors, and provides appointed guardians ad litem with educational information to assist the OPG in complying with the Public Guardianship Act.



Pursued contact with **70** individuals who expressed interest in becoming a Court Visitor in 2019



In 2019 court visitors spent an average **12** hours per case and **796** hours total



Education emailed to **45** Guardians ad Litem in 2019

35

Alternatives to the OPG found in 2019 after the OPG was nominated but before the OPG was appointed



8 Guardians ad Litem trained by the OPG



Total Visitors trained: **53**



EFFORTS BY OPG TO RECRUIT SUCCESSOR GUARDIANS

The OPG has a statutory requirement to make reasonable efforts to transfer OPG guardianships to the care of willing and able volunteer guardians outside of the OPG - these individuals are referred to as successor guardians. Successor guardians are individuals who take over guardianship of a ward when a previous guardian resigns or is no longer able to serve. Recruiting volunteer successor guardians is difficult given the intimate nature and immense responsibility guardianship can require. The OPG continues to pursue and develop recruitment initiatives with regard to volunteer successor guardians.



1,043 guardians and conservators educated about the need for volunteer successor guardians



Transferred 2 OPG cases to volunteer successor guardians



Pursued contact with 51 individuals who expressed interest in becoming volunteer successor guardians



OPG staff spent 74 hours working on volunteer successor guardians recruitment projects

Ongoing Successor Guardian Recruitment Initiatives:



Video PSA Development



Social Media Planning



Outreach to Newly Trained Guardians



Strategic Communications Development

JANE'S STORY

Jane was born in 1932 in Omaha, Nebraska. Jane's parents and grandparents cherished her despite the hard economic times of the Great Depression. Jane loved art and music, but she could not sing or play an instrument despite many hours plunking away at the keys on a piano during her weekly lessons. Jane also loved animals, especially horses, cats, and dogs. One of Jane's favorite stories to tell was when she learned to ride a horse from one of her father's comrades from his service in World War I.

Jane would also develop a love for books, and as she grew older, she began writing her own stories. She was an active member of her high school's newspaper and eventually became editor of that publication. She was also a senior class officer and voted "best artist." Jane went on to earn a bachelor's degree in sociology and master's degrees in English and creative writing. Jane spent many years working as a journalist in the Omaha area. She traveled across Nebraska and the Midwest as part of her work. Jane was a passionate and fearless soul, not afraid to speak out and speak up.

Later in life, Jane "answered the call" to live out her faith at a higher level. She attended seminary on the East Coast, and became a minister. She traveled all over the country assigned to various parishes in Nebraska, New Mexico, Connecticut, Pennsylvania, Maine, and Canada. Despite the long hours and varying duties, Jane also kept herself busy with writing. She became a published author and was a regular columnist in various church publications. Jane was always working on her short stories and poetry. After retirement from active ministry, Jane returned to Omaha and took on a few part-time jobs until her health prevented her from working.

In 2015, Jane was hospitalized several times for health problems.

She was diagnosed with dementia and other medical issues. Despite having a few trusted neighbors who assisted her with grocery shopping, Jane needed more help with cleaning, cooking, and finances. Eventually, someone called Adult Protective Services, who worked with Jane to set up some in-home services. However, Jane could be stubborn, and she often refused those services. With increasing concern that Jane could no longer care for herself without additional assistance, Adult Protective Services filed a petition to have the OPG appointed for Jane.

After becoming Jane's guardian, the Associate Public Guardian (APG) working on Jane's case took immediate steps to build rapport with Jane, encouraging her to accept the in-home assistance and putting new services in place that would keep Jane safe. After several instances of health scares and with Jane's ongoing refusal to accept in-home services, Jane's APG worked with her doctor to determine that a nursing home level of care was necessary.

On the day of the move, Jane refused to go, and she had to be sedated under her doctor's care. Moving day was long and traumatic for both Jane and her APG. Thankfully, Jane went on to adjust to the nursing home quickly, and she made several friends. Jane enjoyed spending time outside on the patio, getting her weekly manicure, watching religious television programs, and drawing for hours. She often joked with her APG that her drawings were all from muscle memory because of her dementia, often remarking, "at least my muscles work if my brain doesn't!"

After a short time on hospice care, Jane passed away in December of 2018. A verse in one of Jane's poems fittingly sums up the way in which her APG remembers her: "The soul is a wild goose, flying free in the sweet clean air."



STATE OF
NEBRASKA
JUDICIAL BRANCH

Office of Public
Guardian

For more information about our office please visit us on the web at:
<https://supremecourt.nebraska.gov/programs-services/office-public-guardian>