

Implementation Guide for Modernizing Conservatorship Monitoring

Basic Strategies and Technology Enhancements

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CONTENTS

03

INTRODUCTION

06

THE CASE FOR THE "MINNESOTA MODEL"

09

PILOT SITE EXPERIENCES

09

New Mexico

11

Iowa

12

Indiana

13

Clark County, NV

14

Texas

16

AUTOMATING RISK INDICATORS

17

MOVING FORWARD - STEPS FOR MODERNIZATION

17

Step 1: Establish Executive Support

19

Step 2: Get Stakeholder Buy-In and Collaboration

20

Step 3: Review Files and Assess Compliance

21

Step 4: Standardize Data and Implement a Monitoring System

23

Step 5: Incorporate Technology Solutions

24

Step 6: Examine and Audit Accountings

25

Step 7: Judicial Response

27

APPENDICES

27

Appendix A: Minnesota Process for Designing Online Accounting Software

30

Appendix B: Minnesota Central Auditing Process

33

Appendix C: Predictive Analysis - Producing the Risk Indicators

37

Appendix D: Texas's Best Practices Recommendations

INTRODUCTION

The National Center for State Courts (NCSC) launched the Conservatorship Accountability Project (CAP) in 2015. From the start, the CAP strove to advance tools to help courts (1) develop and use technology to automate key functions of the conservatorship process; and (2) increase monitoring of specific cases based on analytically derived risk indicators. In other words, CAP is about modernizing a process that is too often under-resourced and neglected in the larger court structure.

Originally, this implementation guide was intended to encourage state courts to adopt technologies and analytics that would make

immediate impacts. But like many intentions, the NCSC team, working with pilot states, realized that most state courts do not have the capacity to develop and implement such broad-scale changes at this time. In fact, data collection efforts showed that most state courts still have a difficult time documenting the number of active conservatorship cases. So rather than create a guide that few courts could implement, the purpose of this report is to inform readers of the efforts and advancements under way in light of problems posed by conservatorships. Regardless of the current situation within a state, the proposed strategies can be adapted to assist all courts. The project team encourages movement toward reforms that, ultimately, will improve court accountability and enhance protections for those individuals subject to a conservatorship. First laying the ground work of stakeholder support and improved data collection, then building toward technology solutions.

The goals of the Conservatorship Accountability Project (CAP) are to modernize conservatorship accounting and tracking processes and build safeguards to protect vulnerable adults from financial exploitation.

Terminology

State terms for conservatorship vary; some states use conservator and some use guardian of the property or estate, often just referenced as guardian. Throughout this report, which focuses on conservatorship reform, the term **conservator** is used to describe an individual, authorized by the court, to make decisions regarding the real or personal property of another person who is determined to be incapable of making those decisions.

Relevant and related to conservatorship cases are guardianships of the person, or cases overseeing those authorized to make decisions regarding a person's well-being. When discussed, those cases will be labeled as **guardianships**.



In this report, the term **monitoring** is used to describe all court actions such as tracking the submission of accountings, requesting supplemental information, examining accountings, and ordering repayment when appropriate. An audit is a specific form of monitoring that involves a professional level of scrutiny by a skilled auditor/accountant. An auditor/accountant analyzes and reconciles the accounting with third-party documentation, such as bank statements and invoices.

In Sonoma County California, “the slow, costly workings of the court system can cause untold confusion and pain.” (*AARP: The Magazine*, October/November 2018)

In Texas, 43% of the state’s adult guardianship cases in a 27-county sample didn’t comply with court requirements (*San Antonio Current*, 2014)

In Nevada, “at the court level, an overburdened system and a lack of oversight left these wards vulnerable to exploitation.” (*Las Vegas Review Journal*, 2017)

The Need for Court Reform

Typically, individuals are placed in a conservatorship or guardianship of the person due to some level of incapacity. Most conservators are family members, who receive little training on how to properly fulfill their duties or provide the best care for their loved one. Courts are charged with overseeing these cases, which should include monitoring and auditing financial reports, and for guardianship of the person, monitoring the person’s well-being. But most courts do not have resources and trained staff to properly monitor cases. Guardianships and conservatorships, even though they involve the removal of basic human rights, have been neglected nationally. Unlike other social issues, such as child abuse and domestic violence, the federal government provides no financial assistance to help courts develop resources and institute national standards.

Conservatorships and guardianships impact a wide swath of the population, such as an elderly parent suffering from Alzheimer’s disease, a stroke victim who is left temporarily incapacitated, a young adult who has a traumatic brain injury, mentally ill adults who struggle with everyday decisions, and children who are victims of medical malpractice.

The problems surrounding conservatorships and guardianships are pervasive. The ease with which guardianships are granted, the lack of court oversight, the questionable qualifications of guardians, the general lack of accountability, increasingly complex caseloads, constrained court budgets, and poor data management create a perfect storm in which individuals placed under a guardianship may become the victims of abuse and exploitation. At its core, the system is antiquated – many courts struggle with even simple tasks, such as documenting the

number of active cases and tracking compliance with reporting requirements. This lack of data on these cases becomes the first stumbling block when trying to implement reform. Without a clear picture of the current cases, technology solutions and targeted reform cannot be applied. [Data Quality Undermines Accountability in Conservatorship Cases](#), one in a series of eight Background Briefs, outlines the underlying issues facing courts when collecting information on these cases.

Key to Reform

Modernization is the broad theme that can drive meaningful reform to improve the quality of life of affected individuals and families. Advances in technology from other industries can be adapted by the courts to allow for innovation in a field that all too often relies on paper documents and the collection of data from individual case file reviews. Modern courts are the key to building trust and confidence and improving protections for those who are most in need. In the CAP project, two modernization components were studied: 1) the ability to replicate Minnesota's online accounting system, MyMnConservator, in other states, and 2) implementing empirically based red-flags to identify cases with concern of financial loss using Minnesota's data.

This Guide summarizes those efforts. The first section focuses on Minnesota's system to monitor and audit conservatorship cases. The second section outlines the experiences of five pilot sites that worked to implement their own monitoring systems.

The third section summarizes the process the CAP used to develop and test a set of empirically based red-flag indicators for financial exploitation.

The Guide concludes with a set of Seven Steps, based on lessons learned from Minnesota and the pilot sites, to implement an improved monitoring system. The goal is to provide other states or jurisdictions with a road map and resources to help understand where they currently stand in the process and next steps to take.

THE CASE FOR THE "MINNESOTA MODEL"

The model and inspiration for the CAP project was Minnesota’s mandatory conservatorship accounting software—MyMnConservator (MMC)—and its centralized, statewide Conservator Account Auditing Program

(CAAP). These two separate, but essential components illustrate the benefits of incorporating technology while prioritizing auditing and thorough review.

Minnesota Court Structure and Process

Minnesota has been a unified court system since 1987, when the separate probate, county, and municipal courts were unified into one District Court in each county. Statewide funding for all 87 Courts (in ten Judicial Districts) was completed in 2005, creating a court system that handles all case types except appellate. The Judicial Council is the administrative policy-making body. The largest counties—Hennepin and Ramsey—are single county districts.

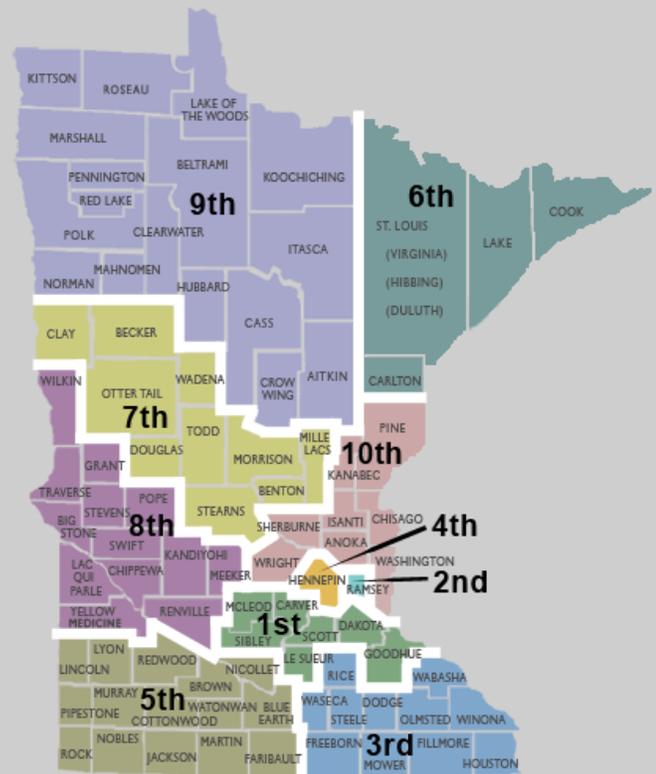
Conservatorship Definition

Minn. Stat. § 524-5.102, Subd 3 (2003):

“‘Conservator’ means a person who is appointed by a court to manage the estate of a protected person and includes a limited conservator.”

All courts within the state use the Minnesota Court Information System (MNCIS), which allows users to access cases based on security levels. MNCIS is an Odyssey product developed and sold by Tyler Technologies. E-Filing is mandatory throughout the state.

Minnesota Judicial Districts and Counties



Conservatorship Process Overview

In Minnesota, the process begins with a petition and hearing to determine the need for a conservatorship and to appoint a conservator if appropriate. The state does not have any licensing or certification requirements for professional conservators—defined as those conservators who are handling three or more non-family cases. About one-third of the cases are managed by professional conservators. The majority of conservators are family members.

At the beginning of the conservatorship, conservators are required to submit an inventory (within 60 days) to establish the assets and estate of the protected person. Conservators are required to use MMC to file the inventory, as well as annual accountings, online. CAAP audits first annual accounts and then every four years. When auditing, supporting documentation, such as bank statements, canceled checks, receipts, and invoices, can be scanned and attached in MMC or mailed to CAAP. Centralized court staff review annual accounts in between audit years and accounts of lesser value, comparing what was reported with financial statements. Automation in MMC places the accountings in the applicable queue for audit by CAAP or review by staff reviewers. Accounts can be referred to audit from court staff, reviewers, and judges.

MyMnConservator (MMC)

CAMPER, the predecessor to MyMnConservator (MMC) originated as a pilot program in Ramsey County, and then became mandatory statewide in 2010. When it was determined that CAMPER no longer met the needs of the court, MMC was developed and launched in 2014.

In 2015, Minnesota recorded 5,575 accounts filed in MyMnConservator with a total asset amount of \$909 million. The majority of those assets were bondable assets (\$597 million) and the remaining in real estate (\$312 million).

MMC is an online accounting system used by all Minnesota conservators. Using this system, conservators report each transaction that has occurred throughout their annual accounting period. The accounting period is determined by the date the letters of conservatorship have been issued by the court. The conservator may enter the transactions as often as desired. There are features in MMC that help balance accounts with bank statements and track categories of spending. Once the conservator has entered all transactions for the annual period, the accounting is electronically submitted to the court.

Conservator Account Auditing Program (CAAP)

The Conservator Account Auditing Program (CAAP), a statewide team of auditors based in Ramsey, Minnesota, is charged with reviewing and auditing accountings submitted through MMC. CAAP staff review cases referred from local courts, as well as those predetermined by their audit years. Each audit includes a review of the accounting and supplemental information.

Audit staff also have access to several additional databases to review previous accountings, court status, and motor vehicle information. Auditors use a scale of 1 to 4^[1] to assign a value to each case and draft an audit report to the court summarizing audit findings and recommendations. Level 4 audits are those with a concern of financial loss (see Appendix B for more information on audit levels). The local court has the discretion to call for a judicial hearing when necessary to address the audit report. In cases where there is a documented loss due to conservator behavior or unethical actions, the most

common judicial responses are removing the conservator and ordering repayment of funds. [Conservator Exploitation in Minnesota: An Analysis of Judicial Response](#), one in a series of eight Background Briefs, outlines the judicial response to cases of exploitation in Minnesota.

See Appendices A and B for further information on the process of establishing and implementing the Minnesota MMC and CAAP initiatives.

[1] In 2017, a level 5 audit was introduced to indicate when a conservator was not responsive to auditor requests for documentation.

PILOT SITE EXPERIENCES

Five pilot sites embarked on the CAP project to improve court monitoring and implement auditing solutions. The five sites came into the project with different resources and at different stages of reform. Although initially the hope was for each to implement software solutions similar to Minnesota's MMC, competing priorities and resource constraints proved challenging.

However, in part through their CAP efforts and investigating possible solutions, each state made great strides in improving the conservatorship process and moving their state forward. These summaries highlight each site's larger conservatorship landscape, successes in improving the process, lessons learned when trying to implement MMC-like solutions, and current and future ambitions.

New Mexico

Need for Reform:

New Mexico courts indicated a need for conservatorship software to provide district court judges with a tool to assist them in monitoring conservators. Although state statutes and state supreme court forms require the filing of both an initial 90-day report and an annual report, there were no statewide processes or best practices to monitor compliance or standardize the review process. Without a statewide, comprehensive policy on how to monitor these cases, individual judges have been tracking the filings manually, using a simple spreadsheet or index cards or by maintaining a handwritten list of reports that are due.

Successes:

New Mexico has made great strides to improve conservatorship monitoring. In 2013, the Administrative Office of the Courts (AOC) hired a part-time staff attorney to address statewide adult guardianship and conservatorship issues. New Mexico is a unified court system and all district courts use the same case management system, Odyssey. With statewide technology available, the staff attorney worked closely with the Judicial

Information Division (JID) to create a new case status to better identify cases that have been adjudicated and require ongoing judicial monitoring. As part of this effort, the Second Judicial District Court (SJDC), which includes Albuquerque, began a manual review of all existing guardianship and conservatorship cases and placed open, active cases into the new case status: Adjudicated Case-Report Review. Once the case was placed into this new case status, the JID and SJDC automated the tracking of initial and annual reports to the court. A method of docketing "Due Event Codes" soon proved to be the easiest and most efficient method to track when a report was due and when a report had not been filed. This initial endeavor with the state's largest judicial district, which handles approximately 40% of the state's total guardianship/conservatorship cases, allowed the AOC to develop a Standard Operating Procedure (SOP) for courts to docket and track when initial 90-day and annual reports are due.

In an effort to obtain information from the general public about gaps in the current adult guardianship system, the Supreme Court established the Adult Guardianship Study

Commission in April 2017 to make recommendations for improving the system. The commission held ten statewide meetings, listened to public testimony, and considered the Uniform Law Commission's recently approved Uniform Guardianship, Conservatorship, and Other Protective Arrangements Act (UGCOPAA). In late 2017, the commission delivered a final report to the Supreme Court with thirteen different recommendations.

In January 2018, the New Mexico legislature decided to incorporate some of the Uniform Act into the state's existing probate code. The Supreme Court convened a Guardianship Rules Committee and a Guardianship Reform Implementation Steering Committee to review the legislative changes that were to take effect on July 1, 2018. The rules committee created ten new forms and corresponding court rule changes and redesigned the existing annual reports for guardians and conservators. The steering committee, made up of all three branches of government, was able to develop a pilot project with the Office of the State Auditor to audit annual reports filed in conservatorship cases through an MOU with the AOC and the State Auditor. Having an external entity audit conservatorship cases for the courts eliminated any potential conflict with having auditors housed within the AOC. The AOC reimbursed the State Auditor using a one-time appropriation from the legislature for guardianship reform. Most recently, the State Auditor received funding for three full-time employees (FTE) for fiscal year

2020, thus allowing this pilot program to continue and be expanded.

The development of more robust and comprehensive annual reports, along with the possibility of a conservator being audited, has been a tremendous improvement to ensure conservators are not violating any fiduciary duty. Finally, the AOC began a comprehensive review of all guardianship/conservatorship cases ever filed that are in a closed status. The district courts, where all guardianship/conservatorship cases are filed, have been reviewing over 24,000 closed cases to verify whether the protected party is still alive and the case should be moved to Adjudicated Case-Report Review status. One-time funds provided by the legislature in 2018 are being used to pay overtime to court staff to conduct the closed case review. Once the comprehensive manual review of closed cases is completed, the AOC will have a definitive number of active cases that will require ongoing judicial review. More importantly, these active cases will be monitored to that ensure annual reports are being filed in a timely manner, and effective July 1, 2019, late fees of \$25 a day may be assessed for late reports.

Hurdles:

During the CAP project, the state of New Mexico faced a major budget crisis, due to declining oil and gas revenues (the primary source for funding state government). In addition, other large-scale IT development projects made it impossible to incorporate the MMC source code into New Mexico's Odyssey

system. However, the judiciary continued to engage with various stakeholders and obtain comments from the public about much needed reform and improvement to the current system. Ultimately, legislative changes required the judiciary to make substantial changes to the system which, have resulted in improvements in identifying active cases, tracking the filing of annual reports and having external professional auditing by the State Auditor available to ensure that conservators are fulfilling all fiduciary responsibilities.

Next Steps:

New Mexico's reform efforts to date include mandatory bonding requirements; requiring separate conservator accounts, with no commingling of funds; new comprehensive annual reports, including a three-year snapshot of income and expenses (current year, prior year, two years ago). After July 1, 2019, New Mexico will have a new grievance process and will require certification for all professional guardians and conservators. The Steering Committee will continue to meet and make further recommendations to the Supreme Court for continued improvements to the adult guardianship and conservatorship system.

Iowa

Need for Reform:

Aware of Iowa's aging population and growing concerns about elder abuse and financial exploitation, the Iowa legislature passed a chapter in the Iowa Code (§235E) in 2014 that governs claims of elder abuse. In the first 17 months there were 136 elder abuse filings in Iowa's district courts-- or about 8 filings per month statewide. Given the trend in Iowa's aging population, it is likely that elder abuse filings will increase in the years ahead.

Iowa has a statewide automated court case information system (ICIS), but it has been used simply to docket filings and events in conservatorship and guardianship cases. From ICIS, the Iowa courts produce very basic statistical reports on the number of guardianship and conservatorship cases pending, filed, and disposed each month and year-to-date. There are no automated stand-alone programs for continually monitoring the assets under the control of a conservator to prevent financial exploitation of elders.

Successes:

The Iowa Supreme Court appointed a Guardianship and Conservatorship Reform (GCR) Task Force in 2015 to identify current issues and challenges in this area and to offer recommendations for addressing them. The task force created subcommittees to focus on specific areas, including a subcommittee on "Court Monitoring of Guardianships and Conservatorships." The GCR Task Force released [a report in 2017](#) calling for statutory changes to require a financial management plan be filed in addition to inventories and accountings.

As part of the CAP project, an additional steering committee formed to guide the development and rollout of a monitoring software solution. The committee comprised judges, court administrators, clerks, and IT staff. Members of the committee conducted a site visit to MN to talk about their program and process. The formal call to implement a MN-like monitoring system and auditing team was also part of the Task Force report.

Hurdles:

The IT resources needed to adapt Minnesota's source code for MMC to align with Iowa legal process and technical configurations were larger than anticipated. For example, the MN

code is a Microsoft solution, and Iowa works in Linux (non-Microsoft solution). Given budget constraints and the high demand for IT staffing resources, the large task of adapting the MMC code was not feasible at the time.

Indiana

Need for Reform:

Indiana's laws offer guardians of the estate great latitude, with periodic statutory reporting to the court. In 2014 over 1,869 allegations of financial exploitation were reported to Indiana's Adult Protective Services; many of these allegations involved exploitation by guardians of the estate. This creates a situation in which negligence, or outright exploitation, may go undetected for months or even years. Indiana Code requires conservators to file an initial inventory within 90 days of their appointment and an accounting every two years. However, the lack of a unified court system creates issues with oversight. Rather than prescribing a standard regulatory framework, the state's probate benchbook provides a model for judges to follow in developing their local processes and procedures for monitoring compliance with statutory reporting.

Successes:

Starting in 2014, Indiana developed a Guardianship Registry application to provide uniform data regarding guardianship and conservatorship cases in a state without a unified case management system. The application is optional but used in over 70% of the states' counties. The Registry provides non confidential information to the public, including the names of the protected person

and of the appointed guardian, the protected person's year of birth, whether the guardianship case is active, the date of issuance of the letters of guardianship, the county issuing the guardianship, and the guardianship case number. This enables banks and hospitals to determine whether a person is under a guardianship as well as the identity of the guardian. The Registry also tracks important data for courts, such as the number and type of guardianship cases filed in each jurisdiction. The application notifies courts if mandatory filings (including inventories and accountings) are not received, which can assist judges in their oversight efforts. Incorporating a monitoring application into the already existing registry was a logical next step, and the process began as part of the CAP project. Indiana is developing the "MyIndianaAccounting" (MyINA) application to track all inventories and accountings for permanent guardianship cases filed with the courts. The MyINA application will serve as an enhancement to the existing registry, letting the courts know when an inventory or accounting has been filed and the ability to program and test "red flags" to indicate financial mismanagement or exploitation.

Hurdles:

The definitions and references in Minnesota's MMC source code differed from Indiana's

guardianship statutes. To adapt the application to Indiana, the code needed to be thoroughly reviewed and updated, a time intensive task. Indiana also faces the challenge of how the auditing process will work in a non centralized state with courts monitoring at the county level.

Next Steps:

Indiana is finalizing the MyINA application and plans to pilot in three counties in the summer of 2019. For reviews of submitted documentation, Indiana plans to use judges and senior judges in counties that do not have auditing resources.

Clark County, Nevada

Need for Reform:

The state of Nevada, and specifically Clark County's Eighth Judicial District Court (EJDC), has been under severe scrutiny due to media attention on cases of conservator exploitation. The EJDC and entire state of Nevada have undertaken multiple efforts to address and improve the process. However, one key issue the court still faces is lack of uniformity in inventories and accountings. Litigants are not obligated to use standard forms, nor enter or calculate accountings in the same manner. Inconsistency can makes it difficult to track income and expenditures during routine review and can further frustrate the forensic analysis process when in-depth examination of inventories and accountings is warranted. Further, court resources to scrutinize annual accountings are scarce, making the need to create a streamlined, automated, red-flag process all the more important for purposes of completing accounting reviews.

Successes:

The court has made notable efforts toward restoring public confidence in its guardianship system through case management; the establishment of a guardianship compliance division, which reviews all annual accounts and reports; and outreach with the citizenry,

public guardian's office, and other local government agencies.

In 2015, the Nevada Supreme Court created a Guardianship Commission to address issues of concern with guardianships in Nevada. Work of the 2015 Commission includes passage of a protected person's bill of rights, tightening of requirements for accounting, mandated legal representation for each protected person, and the creation of a permanent Guardianship Commission.

Additionally, the EJDC embarked on a case cleanup of the adult guardianship caseload, a process that has taken multiple years and has now expanded to include case cleanup for the cases involving minors, which is expected to be completed by the end of 2019. The cleanup resulted in a large drop in the caseload as many cases were no longer active and needed to be closed. The EJDC also created a daily report, through the case management system, to keep track of the now clearly defined cases. The report shows which cases are out of compliance when the required reports have not been filed. In addition, Clark County is working on an automated process for notifying guardians that they are late in their annual filings and sending notices for compliance hearings.

The Second Judicial District, which includes Reno and Carson City, has also been working on case cleanup and implementing similar tools, including an automated system for monitoring or filing compliance.

Hurdles:

The EJDC attempted to adapt and structure the MMC source code to fit in Nevada. However, not having the resources available to get the software up and running and to resolve the non technological issues (e.g.,

changing state and local court rules to allow the filing of the accountings online) has slowed progress.

Next Steps:

Nevada continues to improve and refine the tracking and monitoring systems currently in place. The Nevada Supreme Court Guardianship Commission is moving forward as a state in tracking guardianships, as well as updating statutes, court rules, and approved forms.

Texas

Need for Reform:

Only ten of Texas’s 254 counties have statutory probate courts. These courts are required to have court investigators and auditors that monitor guardianship filings to identify potential fraud and abuse and report those findings to the statutory probate judge. In the vast majority of the state’s counties, judges hearing guardianship cases do not have these resources. This lack of structured oversight and reporting has generated concern over those subject to conservatorship being properly safeguarded. There are currently no statewide, uniform forms or processes. The development and implementation of statewide reporting software and forms would provide a mechanism for the consistent and thorough auditing of guardianship filings.

Successes:

In November 2015, based on a Texas Judicial Council recommendation and funding by the Texas Legislature, the Office of Court Administration (OCA) initiated the Guardianship Compliance Project (GCP) with the goal of helping courts protect vulnerable

citizens and their assets. Guardianship Compliance Specialists (GCS) review guardianship cases to identify reporting deficiencies by the guardian and report findings to the court. The GCSs work with the courts to identify active and closed cases and then assist in implementing best practices in managing guardianship cases (see Appendix D: Texas's Best Practices Recommendations). The GCP services are provided by the OCA at no cost to the county. Through this project, the OCA has been better able to understand the reporting, compliance, and data collection deficiencies relating to guardianship cases throughout the state. The GCP revealed the inaccuracy of the data reported to the Office of Court Administration. Guardians in Texas are required to report to the court: 1) a bond; 2) an inventory of the assets in the estate; and 3) an annual accounting of the transactions from the estate. Overall, 41% of cases reviewed by GCS were found to be out of compliance with reporting requirements, and in 3,390 of the cases reviewed, the person subject to guardianship was deceased without the court’s knowledge.

Beginning in 2018, all guardianships in Texas were required to be registered by the Judicial

Branch Certification Commission. The registration process includes submitting online information relating to the guardianship, completing an online comprehensive guardianship training component, and submitting a criminal background check requirement. This mandatory guardianship registration will improve the reporting and oversight of guardianships throughout the state.

Hurdles:

Due to budget constraints, implementation of new procedures and technology applications are not always timely. Also, even after receiving a complete spreadsheet of

information on their cases compiled during the GCP review, many smaller county courts with limited staff and resources struggle to follow up on cases identified as non compliant and to maintain their caseload and track cases after cleanup by the GCSs.

Next Steps:

In addition to the review of guardianship files, the Office of Court Administration has been developing an online reporting and monitoring system, similar to Minnesota's, for guardians to submit their statutorily required annual reports and accountings. When deployed, the reporting tool will work in conjunction with the guardianship registration to improve reporting on oversight of the person under guardianship.

AUTOMATING RISK INDICATORS

Although states and jurisdictions are working toward reform, limited resources pose a challenge for the audit component of case monitoring. Courts currently rely on trained staff and experts to identify cases where there is a concern, yet staff resources are often scarce or not available. The Conservator Accountability Project (CAP) aimed to test an innovative approach to monitoring and develop a set of empirically based “red flags” that would begin to automate the process. Using the data collected by the MMC online software (e.g., how many times did a conservator buy clothing for the protected person, what is the total value of a protected person’s estate), the CAP explored the use of predicative analytics to help identify cases where there may be financial exploitation. In other words, were the data collected in MMC able to accurately identify which cases would end up receiving a level 4 audit rating, a case where there was a concern of financial loss?

Using 17 months of MyMNConservator (MMC) transaction-level data (hundreds of variables, thousands of data points), the Conservatorship Accountability Project applied multiple statistical techniques (Principal Component Analysis, Binomial Regression, Artificial Neural Network modeling, and Decision-Tree analysis). Ten preliminary Risk Indicators were discovered that together could predict which cases were level 4. The risk indicators looked at:

- Round Transactions
- Vehicle Expenses
- Other Household Expenses
- Transportation Expenses
- Clothing Expenses
- Conservator Fees
- Dining Out Expenses
- Hobby Expenses
- Grocery Expenses
- Number of Bank Accounts

After developing the Risk Indicators, CAP staff used a new data set of audit reports from the MMC system to validate the indicators. When applied to the new cases, the Risk Indicators did flag cases with higher audit levels; however, they were not able to statistically differentiate level 4 audits from the other levels. Therefore, the 10 Indicators were not recommended to be programmed into MMC or other state systems.

There were multiple reasons why these Risk Indicators may not have had the desired predictive power:

- MMC data were self-reported and manually entered by conservators, leading to human error and variability across cases in categorization and missing data.
- Key variables were not collected consistently in MMC (e.g., age).
- The original 17 months of data were from the first months of the MMC system (i.e., lots of variability within cases as conservators adjusted to the new system).
- The original 17 months of data did not contain historical information (i.e., accounting from previous years) to observe changes over time.
- This was one of NCSC’s first attempts at using predicative analytic methodology.
- Difficulty simplifying complex predictive results into operational Risk Indicators.

See Appendix C for more detail on the process and analysis for developing and testing the Risk Indicators.

Although this attempt was not successful in operationalizing empirically based red flags, CAP supports further work in this area. As financial monitoring is a highly evolved field in the banking industry, applying industry techniques and machine learning to predict financial behavior in conservatorship cases is the future of reform.

MOVING FORWARD - STEPS FOR MODERNIZATION

The experiences and challenges of both the pilot sites, as well as the attempt to develop empirically validated Risk Indicators, have highlighted not only many of the current barriers to reform, but also the critical need to advance this area and protect the vulnerable citizens subject to conservatorships.

Many states and jurisdictions are not ready to implement technology solutions, as their caseload data are not accurate, in large part due to lack of standard reporting. Funding and resource constraints make technology improvements challenging when a state is ready to move forward.

In light of these conclusions, CAP outlined a set of **Seven Steps for Modernization** to assist a state, wherever they are in their process, to move forward towards more comprehensive monitoring. Each step is supplemented by examples from states participating in CAP. Although the technology implementations originally planned for this project were unable to be fully attained, the lessons learned contributed to these steps and will guide the National Center for State Courts' efforts in the field.

STEP 1: ESTABLISH EXECUTIVE SUPPORT

Is an executive with decision-making authority aware of and supportive of this work?

Undertaking and successfully implementing an extensive project to transform conservatorship monitoring requires executive support and strong governance. Having a champion that values the work, and an individual or group with decision-making authority, will be essential to work through the many challenges. Some states have waited until media uncovered or reported tragic cases before prioritizing this work. Although bad press gets the attention of executives, building a case for why it is important to proactively address this issue would build public trust and confidence and provide an opportunity for positive media coverage.



The changes and reforms to guardianship in Nevada have worked and allowed the judiciary to be more accountable and responsive to the needs of families. Our Guardianship Commission has tackled many of the issues facing the courts resulting in positive change. Overall, we are seeing positive results from the new laws and court rules.

Robin Sweet, Nevada State Court
Administrator





We are working diligently in Texas to correct those practices and look forward to continuing this essential work moving forward.

David Slayton, Texas State Court Administrator from testimony from US's Senate Committee on Aging hearing "Abuse of Power: Exploitation of Older Americans by Guardians and Others They Trust."



Key Considerations

- Obtain data on the amount of assets under the courts' watch to assist in building interest and attention
- Consider current administrative rules or statutes and what updates or changes would be needed
- Ensure authority to make policy decisions (e.g., mandatory electronic filing, choosing pilot sites)

State Spotlight

Minnesota's MyMNConservator (MMC) (see Appendix A) has been recognized both domestically and internationally as a model program to combat conservator exploitation. The ability for the Minnesota Judicial Branch to move a one-county solution statewide was a result of the state court administrator's leadership and recognition by the Judicial Council of the issues facing the court. The leadership valued the work and prioritized resources for improving conservatorship monitoring. Support continues in the Minnesota Judicial Branch with the Conservator Account Auditing Program and the upcoming launch of the MyMNGuardian application. See the [Minnesota Story](#).

The **Texas** Judicial Council began to study guardianship proceedings in 2014 and made extensive recommendations for reform. In 2015 the Guardianship Compliance project was launched to assist the courts in protecting the most vulnerable citizens and their assets. The Supreme Court leadership and the Administrative Office of the Courts strong support is a driving factor in guardianship reform in Texas. See the [Texas Story](#).

In spring 2018, the **New Mexico** Supreme Court convened a Guardianship Rules Committee and a Guardianship Reform Implementation Steering Committee to review the legislative changes that were to take effect on July 1, 2018. The rules committee created ten new forms and corresponding rule changes and completely redesigned the existing annual reports for guardians and conservators. The steering committee, made up of all three branches of government, was able to develop a pilot project with the Office of the State Auditor to audit annual reports filed in conservatorship cases through an MOU with the AOC and the State Auditor.

STEP 2: GET STAKEHOLDER BUY-IN & COLLABORATION

***Are relevant stakeholders part of the conversation regarding conservatorship reform?
Are mechanisms in place to include stakeholders in discussions and decisions moving forward?***

Multiple stakeholders will be impacted by conservatorship reform: judges, clerks, court staff, conservators, attorneys, adult protection services, law enforcement, advocacy agencies, the list goes on. Buy-in and input from each of these entities will be key. Although it will be impossible to solve all issues and address all concerns raised, it is critical to have committees or groups to give voice to stakeholders and create an environment to achieve buy-in. Collaboration among stakeholders is key to identifying priorities and determining holistic multidisciplinary solutions.

Key Considerations

- Identify relevant stakeholders and organizations
- Form or identify a committee or working group appropriate for this work
- Review existing models for stakeholder collaboration such as WINGS

State Spotlight

Multiple states, including Texas, Indiana, and Minnesota, have established Working Interdisciplinary Network of Guardianship Stakeholders (WINGS). WINGS is an ongoing

court-stakeholder partnership that drives changes in guardianship policy and practice, promotes less restrictive options, addresses guardianship abuse, and opens doors to communication. For more information on creating WINGS in your state see [WINGS](#).

Indiana WINGS/ Indiana Adult Guardianship State Task Force is impacting public policy and practices by providing an open forum at their meetings and developing trust and support from the Probate Committee of the Judicial Conference of Indiana; the Indiana State Bar Association Probate, Trust, and Real Property Section; the Indiana General Assembly; and the Governor's office who participate as members. See [Indiana WINGS](#).

Texas's WINGS began in August 2013 and works to address key policy and practice issues; engage in outreach, education, and training; and serve as an ongoing problem-solving mechanism to enhance the quality of care and life for adults in the guardianship system. See [Texas WINGS](#).

New Mexico formed an Adult Guardianship Commission in April of 2017. The final report of the commission issued in December 2017 has multiple recommendations for guardianship reform. See [New Mexico Commission](#).

New Mexico also has a multidisciplinary team led by the Senior Citizen Law Office and includes Adult Protective Services, disability rights, and the courts. They have also formed a cross-branch partnership with the state auditor's office to conduct audits of conservatorship accountings.



This audit partnership between the courts and the state auditor's office in the guardianship program is a critical safeguard for people who are relying on strangers to manage their life savings and expend it responsibly on their behalf

Wayne Johnson, New Mexico State Auditor



STEP 3: REVIEW FILES AND ASSESS COMPLIANCE

***Do you have accurate data on the number of active conservatorship cases?
Do you know whether courts are in compliance with state statutes and rules?***

In each state that has moved toward statewide reform, a critical step has been to review each case file in the courts to determine if the case is open or not. All too often, courts have not followed up on cases and have failed to close cases in which the protected person has died, the conservatorship was temporary, the protected person relocated to another jurisdiction, or the minor reached the age of emancipation. Most states also require that annual accountings be filed with the court, yet courts may not be sending reminders to conservators or tracking the receipt and timing of submitted documents. Many courts also do not have a procedure to follow up with noncompliant conservators. Basic and accurate numbers on filings and active conservatorship cases is essential before moving forward with updating a monitoring system. These types of problems are likely to especially plague states that have decentralized court structures and antiquated case management systems.

Key Considerations

- Identify open/closed cases through file review
- Assess and document cases out of compliance with reporting requirements
- Establish a system for review - automated if possible - to track and provide notices of key events

State Spotlight

As of the 2019 report, the **Texas** Guardianship Compliance Project reported 30,416 cases in 38 counties had been reviewed recommending 18,819 cases for closure and 11,597 active guardianships. The project found 41% of cases were out of compliance with missing reports. [Texas Guardianship Compliance Project Performance Report](#)

The Texas Compliance project has developed a data collection template for their file to review: [Audit Data Collection Template](#)

New Mexico began reviewing its more than 24,000 guardianship and conservatorship cases in 2018. According to Second Judicial District Judge Shannon Bacon, “a review of older case files is critical because it will help the courts identify the guardianship and conservatorship proceedings that require ongoing judicial monitoring.”

Nevada established the statewide Guardianship Compliance Office to support the efforts of the district courts’ compliance officers to implement best practices in managing guardianship cases, identify active and closed cases, and assist with implementing a guardianship case management system to track cases. [Nevada Office of Guardianship Compliance.](#)

STEP 4: STANDARDIZE DATA AND IMPLEMENT A MONITORING SYSTEM

Do you have a system to reliably retrieve information on a case, such as the age of the person subject to guardianship?

Can you retrieve statewide information, such as the number of active conservatorship cases and total assets under the court’s jurisdiction?

Once cases have been reviewed and determined to be active, establishing an effective and efficient system for ongoing monitoring is the next essential step. This involves two components: 1) implementing data standards and definitions for data collection and 2) setting up a tracking system for monitoring compliance of report filing.

Collecting and making available consistent data is the starting point for monitoring cases. For example, a mechanism to identify the cases that have been confirmed as active. The NCSC Court Statistics Project recommends using a status of “set for review” once the order for guardianship or conservatorship has been issued and the court is responsible for continued monitoring of the case.

More detailed data around guardianship and conservatorship cases are needed at all levels: locally, state, and nationally. The long-term nature of guardianships and conservatorships and the need for ongoing monitoring raises the level of reporting that should be done. Ideally courts should develop a set of data collection and reporting guidelines that include several tiers, the basic level being the minimum required data submitted for national reporting (such as the NCSC Court Statistics Project), with additional levels to include case and event details needed by local courts and states to monitor active cases and detect problems of abuse and financial exploitation.

BE ON THE LOOKOUT FOR:
The NCSC is developing standard definitions for national, state, and local data elements for guardianship and conservator cases.

The second part of monitoring is tracking for compliance of reports. **Minnesota** has court administrative processes that outline the procedures for monitoring report filing in these cases. The processes align with state statutes and provide specific progressive steps for compliance, beginning with “notice to file or appear” and ending in “warrant for arrest” in the most severe non-compliance situations. Some courts use court visitors to follow up on non-compliant filers. Whatever the process, the key is conservators understand the requirements of the court and the consequences for non-compliance. Failure to comply with annual filing requirements should not be taken lightly and should be an indication of concern.

Some states have turned outside to case management systems for tracking cases. Texas and Indiana have launched registry systems for guardianship and conservatorship cases. The **Indiana** system will help courts better track and monitor the status of their cases. The **Texas** registry ensures guardians are registered and trained and have completed a criminal history background check ([Texas Registry](#)).

Technology solutions are not always available to local courts, or a single technology or case management system may not be used statewide. If the underlying process is defined, and key data elements outlined, whatever method is used to collect this information, the data will be consistent and then can be rolled up at a state and national level.

Key Considerations

- Identify information that will assist in the management and review of cases
- Identify a mechanism to indicate active cases, such as “set for review”
- Consider the variety of technologies used throughout the state or jurisdiction and be sure each has a way to capture the required information
- Create standard definitions and a data dictionary.
- Consider using an automated reminder system (text /email) for key events
- Establish a response procedure for when conservators are noncompliant

State Spotlight

New Mexico has programmed their Odyssey case management system to automatically update a case status to “adjudicated case-report review” once a conservator has been appointed. This automation clearly identifies when a case switches status rather than relying on staff to make this determination. After piloting this update in a few locations, they rolled out this indicator for all courts using Odyssey, and as new cases come in, the courts now have an accurate method for identifying cases to be monitored. Clerks and court staff are appreciative of this automation for tracking cases. New Mexico is now utilizing Due Date codes in Odyssey, which can track when an annual report, inventory or statutorily required 10-year review is due. This “tickler system” requires court staff to docket the Due Date, which can then be queried to compile a list of all overdue reports. In addition, if a Due Date item is overdue, it will be highlighted in red font on Odyssey when the case is opened, giving both judges and court staff a visual indicator that an item is overdue.

STEP 5: INCORPORATE TECHNOLOGY SOLUTIONS

Do you have technology resources available that can automate or streamline the process?

Technology can be used throughout the conservatorship reform process. Upfront investment in automation can save time and resources long term. Using a case management system to generate automatic notices to conservators or to identify cases with a certain status may already be available to a state with little investment of time and resources. However, designing and implementing software to capture online submissions of accountings and reports requires extensive coordination with IT and subject matter experts. Each state or jurisdiction has its own set of available technology and internal processes that must be considered. Implementing code designed for the statutory requirements and processes of one jurisdiction has proven to be difficult to share with other jurisdictions as demonstrated by the CAP pilot sites

At a minimum, providing a standard form or process for account filing statewide is beneficial for courts, not only when judges are shared across jurisdictions, but are also for professional conservators that operate in multiple jurisdictions.

Key Considerations

- Identify a project management approach or project manager for software design
- Ensure IT staffing/support
- Identify business needs that technology will meet
- Consider integration with other key systems (e.g., case management system, e-filing, other databases)

State Spotlight

Appendix A outlines **Minnesota's** multistage process for developing a statewide software solution for submission of conservatorship inventories and yearly accounting. The source code for the Minnesota software is available upon signing a software user agreement.

[MyMNConservator website](#)
[CAP website with MN usage agreement](#)

Texas reviewed the MyMNConservator code and determined it was not feasible to use the code and therefore is building their own online filing system that will be piloted in spring 2019.

Indiana will be piloting the MyINA application, adapted from Minnesota's code, in the summer of 2019.

STEP 6: EXAMINE AND AUDIT ACCOUNTINGS

***Do courts have protocols in place to for in-depth examination or auditing accountings?
Are courts ensuring expenses are appropriate and used for the benefit of the protected person?***

When conservators file accountings and reports, it is critical to conduct audits comparing filed information to third-party documentation (financial statements, receipts, etc.). If not, the court is not providing necessary oversight, and conservators will discover they aren't being monitored. Thorough court examination and audit of reports and procedures to flag especially high-risk cases are key steps in detecting and preventing financial exploitation.

Key Considerations

- Identify staff and process for initial examination of accounts filed to ensure they are complete, accurate, and reasonable
- Understand the difference between an account review and audit
- Determine what resources are available and how best to allocate them to do full audits on accountings
- Determine alternatives, such as a volunteer program, if resources are scarce for auditing

State Spotlight

One model program for audit is **Minnesota's** Conservator Account Auditing program. This centralized unit audits accountings for all courts statewide (see appendix B). In addition, Minnesota has recently created the Conservator Account Review Program (CARP) to review the accountings between full audits. The complementary programs ensure that all conservator-managed financial accounts in

the state are reviewed by trained financial experts and that District Court judges have more tools and information when hearing conservatorship cases.

Without resources to audit all conservator accountings, courts must be innovative in their approach to auditing. Some courts or jurisdictions may have specialized staff to review conservatorship cases and filings. Marion County, **Indiana** and Albuquerque, **New Mexico** have hired auditors or lawyers to review conservator cases. However, not all jurisdictions can hire specific staff. One approach may be to develop or train staff in a specific jurisdiction that can then serve other regions or localities.

A new NCSC project, Rapid Response, proposes a solution that could change the landscape of conservatorship account filing and monitoring. The concept proposes to use third-party financial monitoring and machine learning to identify anomalies in conservatorship accounts and send alerts to the court for review and response. The two-year project will be tested in two pilot sites to determine if the proof of concept is a viable solution for monitoring. [Rapid Response](#)

**BE ON
THE
LOOKOUT FOR:**
The NCSC is currently developing the Rapid Response Project

STEP 7: JUDICIAL RESPONSE

Do judges know what actions they can take when exploitation or concerns are uncovered?

Through interviews with CAP pilot sites and judges in Minnesota, it became clear that judicial responses vary when there is a case with concern of exploitation. Judges often feel unsure of their authority and how they can respond in these cases. Few states have adequate training for judges or staff, especially when there is not a dedicated probate bench and judges rarely hear conservatorship cases.

- Requiring the filing of an amended or adjusted account to resolve discrepancies
- Compelling the conservator to obtain a bond, if the conservator has not already been bonded
- Requiring the conservator to submit documentation to support claims made on the account
- Requiring that the conservator receive fiduciary advice from the judge or other appropriate person.

Key Considerations

- Review and update administrative rules or statutes granting judicial authority and providing guidance for judicial response
- Provide judicial protocols (such as bench cards) and training
- Consider an interdisciplinary team approach to addressing abuse, neglect, and exploitation

State Spotlight

Minnesota has an administrative rule in place that calls for a judicial hearing to address the issues discovered during an audit. If a hearing is held, there are a variety of actions the judge may take. The most common action is removing the conservator and ordering repayment. Other actions include:

- Ordering bond reimbursements and direct repayment from the conservator.
- Referring the case to prosecution for consideration of criminal charges
- Requiring the conservator to obtain court permission before taking some financial action

Travis County Probate court in Texas uses court investigators to gather detailed information for the Judge and ensure the petitioner is compliant with court requirements before a hearing. The judge is well prepared for the hearing and can ask the right questions to get information needed to make the best decision.

At **New Mexico's** Judicial Conclave in June 2018, judges were able to attend a session that highlighted all of the new statutory changes, rules, and forms that were to take

BE ON THE LOOKOUT FOR:

The NCSC is currently developing a national protocol for judges to respond to abuse, neglect and exploitation in guardianship/conservatorship cases.



effect on July 1, 2018. In addition, judges received a Bench Book for adult guardianship/conservatorship cases that included over 26 sample documents judges could use for various judicial scenarios, including overdue annual reports, change of venue, termination of guardianship, and order appointing successor guardian/conservator. A similar session is planned for June 2019, which will focus on new statutory changes that take effect July 1, 2019 that require all professional guardians and conservators to be certified by a national organization and will create a new grievance procedure that allows anyone to file a grievance against a guardian or conservator that is breaching their fiduciary duty.

Statutory changes effective July 1, 2019 allow courts to assign a court investigator to assess the protected person's capacity in lieu of holding a status hearing to fulfill a statutorily required ten-year review of the case. The court investigator shall prepare a detailed report to the court regarding the status of the protected person's capacity and the continued need for a guardian or conservator. This report will allow the judge to obtain a much more detailed analysis of whether to continue, modify or terminate the guardianship/conservatorship.

Appendix A: Minnesota Process for Designing Online Accounting Software

Minnesota: Development of MyMNConservator (MMC)

The origins of MMC date to the development of an online conservator accounting system called CAMPER (Conservator Account Monitoring Preparation and Electronic Reporting), which debuted in Ramsey County in 2005.

First Generation: CAMPER

CAMPER was created in the aftermath of a scandal in which a professional conservator, whom Ramsey County had refused to appoint because of significant concerns, continued to handle cases in a number of other counties. The conservator was later found guilty of theft in multiple cases, highlighting the need to share information across county lines. As a result, in 2005, Ramsey County developed and piloted CAMPER with a budget of approximately \$40k.

CAMPER was designed to modernize the accounting process by providing online reporting. With conservators entering their own transactions, the program required calculations to balance before the account could be submitted. This built-in logic saved court staff time collecting, reviewing and storing annual accountings and documentation. Staff could then focus on reviewing transaction types and their appropriateness for the needs of the protected person. Additional goals of the software were to provide automated reports (e.g., fees, year-to-year variance, undocumented expenses) to court staff, allowing them to easily look across cases for issues or concerns. Supplemental information through the case management system, MNCIS, would also be available to assist in audit reviews. The benefits of this system were clear. Though statewide rules and forms existed in the past, county by county variation with the audits of conservator accountings was a known issue. The CAMPER system began the process for electronic completion and filing of annual reports.

In February 2007, staff from the Ramsey County court showcased CAMPER at a guardianship monitoring symposium sponsored by the AARP Public Policy Institute and the American Bar Association Commission on Law and Aging. Outlined in the presentation, the benefits to the court are:

- Automated reports
- Analysis across all or selected conservators and conservatorships
- Additional supplementary information can be handled electronically
- Transparency from supplemental disclosure
- Improved audit ability

As part of a study taking place in 2008-2009, the Minnesota Judicial Council's Access, Service, and Delivery Group recommended that CAMPER be rolled out statewide, and a central, statewide process for auditing accounts be established.

Over time, issues with CAMPER were discovered. Data entered in CAMPER consisted of text fields rather than coded or set variables. This allowed wide variation in responses and did not improve the standardization of information. Also, data quality issues, such as the unit of count (case or party), led to difficulties and duplications in the CAMPER data. These important lessons were taken into consideration in later generations of the software.

Statewide CAMPER Implementation

In 2010, the Judicial Council established mandatory statewide filing of accounts through CAMPER, effective January 1, 2011. The Administrative Office of the Courts provided funding for the implementation and necessary software upgrades. A Steering Team was formed to direct and provide governance for the project. The team was composed of the members of the Conservator Business Rules Committee, a group that was already established and active. Members included statewide representation from probate court managers, probate referees, senior court clerks, a court administrator, a court operations supervisor, and a business analyst.

It was agreed that one major change to the CAMPER system and process was critical for statewide rollout. The system was adapted to allow the ability to designate an agent to complete the online accounting for the conservator. For conservators who were already using an accountant or for those not comfortable with data entry and computers, this

was an important and necessary modification. The system also allowed for electronic accountings created in other software to be uploaded rather than reentered. This was another important feature for professional conservators and those using other programs (e.g., Quicken) to keep track of records.

To assist conservators with the transition to the new system, multiple methods of support were provided.

- Trainings were offered
- A telephone Helpline was established
- Online videos were available to walk conservators through each step of the accounting process

When CAMPER went live statewide in 2011, the helpline was essential. Many conservators used this resource to assist while learning the new process. Although there was some push back, there was not as much as anticipated. Having the helpline and being able to designate an agent to complete the online forms addressed the fears and arguments from conservators.

While rolling out the system, again additional issues were discovered that needed to be addressed.

- Many category fields lacked structure and allowed conservators to report similar expenses in a variety of ways
- Many data fields were text fields and therefore not searchable
- The system was created on a shoestring budget and primarily converted a paper form to an online form
- Designed in 2005, the technology was outdated and difficult to maintain

In the Spring 2012, when an Auditing Manager was hired, a review of CAMPER revealed the programming language and current design would make it difficult to update. Instead, a new system would be the best solution to meet the needs of the users and provide a more robust system to improve auditing capabilities.

Second Generation: MMC

An envisioning session, in part funded by a grant from the State Justice Institute (SJI), was held to discuss the desired outcomes for the system and the attributes needed for each user role (e.g., court staff, conservators) This three-day session brought together stakeholders and solidified the businesses needs of the new program. Led by an outside contractor, this session helped to formulate the request for proposal that was released in November 2012. A vendor was chosen through the RFP process and development began in January 2013.

PHASE I: Vendor Development

Throughout development, the vendor worked with multiple judicial branch staff to develop logic, program integration with the case management system (MNCIS), develop system maintenance and the audit process. Conservators (both professional and non-professional) also tested and consulted during development. Having content experts and users involved throughout the process was essential.

Multiple issues did arise that prevented the final vendor deliverable from meeting the desired outcomes. Vendor staff turnover was an issue. The vendor project manager that was part of the initial discussion and planning meetings did not stay for the duration of the contract. As a result, the vendor completed the first 50% of the project, and then judicial staff completed the work. The total vendor costs for this portion of the project were \$335,450. \$95,750 of the cost was paid by an SJI grant

PHASE II: In-house Development

To guide the remaining development of the new system, an advisory committee for the project was formed. Members of the statewide implementation of CAMPER again provided oversight and guidance and were joined by additional members. The committee consisted of:

- State Court Administrator designee, project sponsor, and grant manager
- State Court Deputy IT Director, technical coordinator. and vendor coordinator
- CAAP Program Manager and project manager
- State Court Administration, project management during phase II

- Information Technology specialist focused on court processes with CMS and data quality issues
- CAAP Administrative Assistant, subject matter expert and help desk respondent for conservators and court users
- Conservator Business Rules Committee served as advisory committee for CAMPER statewide roll-out

The new project manager adhered to the PMBOK project management principles to guide the final phase of the project. Following a standard project management process was essential. Planning documents allowed for a well-organized and well-structured process. Documents included an issues/risk log, bug tracker, log for new changes, IT requirements, and integration document.

During this process the PMBOK planning and executing phases were the most challenging for the team. Some of the problems encountered included the conversion inventory or moving cases from CAMPER to MMC. During this process, data quality issues were discovered and had to be manually fixed or updated.

Testing the “unhappy path” or trying to “break the system” was another crucial step that proved challenging. The auditors performed the role of testing the system and stepped in as needed; however, ideally, a formal group trained in this area would perform this function. Similarly, code testers and quality assurance testers would be preferred. During the testing phase it is also important to remember “load testing” for large-scale use once the system is rolled out.

Other important lessons for the development process is to pay close attention to error or help messages. These embedded messages, when specific and easily understood, are the user's first level of assistance and can divert calls from the helpline. Also, Minnesota considered what platforms and devices conservators would use to access the system. Making sure the software is initially compatible with iPads, smartphones, and other mobile devices will likely save time later if updates or adaptations are needed to accommodate additional devices. Minnesota used Bootstrap software to give the program a more modern feel and allow the mobile device accessibility.

MMC went live on April 17, 2014. Again, the helpline proved critical during the initial rollout and continues to be an essential element. The help desk administrator has extensive knowledge of the system and court processes. She has administrator access to the system and is able to view the case as she fields calls or emails. The helpline administrator is a part-time position (20 hrs./week), and inquiries are generally responded to within the same day. When needed, auditors fill in to staff the helpline. Currently, approximately 15-20 requests come in a day, with most questions relating to how to report a transaction (50%). Approximately 25% of questions are regarding logistics – how to access the site or need to reset password. Twenty percent regard audits (e.g., requesting an extension, why was I selected for an audit, I have a question about the audit letter). Five percent of questions address court user error or issues that have been pulled over from MNCIS that needs to be resolved with the court. The helpline administrator handles the court interaction to fix these issues.

This application was the first of its type and scale to be completed by the judicial branch. The success and recognition it has received from the leadership has resulted in the expansion of the IT division and a new in-house developer hired to assist with the maintenance and system upgrades for MMC.

Appendix B: Minnesota Central Auditing Process

Minnesota: Centralized Statewide Auditing

Although the online system for reporting accountings was an important step in streamlining and standardizing the process, the full benefits of this technology could not be realized without the central auditing office. The Conservatorship Account Auditing Program (CAAP) elevated the expectations and professionalism of the auditing process, resulting in more comprehensive oversight of conservatorship cases. Judges and referees are ultimately responsible for protecting the assets of vulnerable citizens; however, they now have the support and assistance of CAAP. Through outreach efforts and education, the CAAP has shown the added value and necessity of this resource.

In September 2011, the Judicial Council authorized the Conservatorship Account Auditing Program implementation by the State Court Administrator's Office (SCA). The CAAP would provide the specialized auditing skills, oversight, and statewide coordination needed. The SCA office, through a memorandum of understanding, delegated the responsibility to implement the CAAP to the 10th Judicial District. The 10th District was already the location of the helpline and statewide accounting system and was the clear home for the program. The 10th District had formed a Conservatorship Committee headed by the District Administrator, which became the advisory committee for the CAAP.

Staff

In February 2012, the CAAP Auditing Manager was hired to build the new program. Two auditors were also hired, and together the three began to establish the protocols for the auditing system. Over the next three years additional auditors were added to the team. As of 2015, the complement of staff includes: 1 Auditing Manager, 1 lead auditor, 4 full-time auditors, 3 part-time auditors (.5 FTE), and 1 part-time (.5 FTE) helpline administrator. The CAAP estimated 135 new audits are added each month, and the current auditing staff can process 100 audits a month. To avoid backlog and to keep up with current work, two additional full-time auditors have been requested.

Business Rules

The initial focus for the auditing team was to prioritize which cases needed audits given limited resources. First accountings were given priority. This early attention would ensure new accountings coming in were meeting the program standards and would more likely be on track for future audits. Since statute and court rules are vague, "The court shall establish a system for monitoring of conservatorships, including the filing and review of conservators' reports and plans," MN Statute 524.5-420(h), the CAAP, with their advisory committee, agreed upon the following criteria or business rules: Accounts of \$3,000 or more would be audited by CAAP, all first accountings would be audited, accounts would also be audited every 4 years. Hearings are required every 5 years by Court Rule, so the hearing would occur after an audit. Most recently, Minnesota has created the Conservator Account Review Program (CARP), which is a centralized unit that reviews accountings between audits.

Red Flags

The MMC software was initially programmed to generate red flags after conservators enter accounting information. These flags are visible to both the local court staff when reviewing accountings as well as the audit staff. The initial red flags based on anecdotal information and expert opinion were not viewed as valuable to the auditors and they were therefore not consulted as part of the audit process. Instead, auditors had learned from experience to watch for specific types of transactions or patterns of behavior, such as high shopping expenses or excessive dining out. As NCSC conducted the analysis of data to develop a new set of risk indicators, these "gut" reactions of the auditors proved to be items to watch. The preliminary set of 10 risk indicators were programmed into the MMC software and evaluated by NCSC (see Appendix C).

Case Assignment and Processing

Audits are generally assigned randomly to auditors with the goal of first in, first out. Assignment of cases referred by the court staff, rather than those up for the periodic 4 year or initial first accounting review, rotates between auditors weekly. These cases are a priority. The assumption is that cases referred by court have concerns and needed more immediate attention. The CAAP does group professional audits together with auditors visiting professional conservators on site to conduct reviews of multiple cases. In 2015, two auditors spent two months processing the professional cases. This method was efficient and saved conservator time when documentation was needed, or specific question arose.

The team has also developed other time saving strategies and efficiencies. One staff is responsible for sending out the audit letters, alerting conservators of the upcoming audit, and making sure all the supporting documentation has been received. Also, a set of common recommendations and language to use in the Review Letters to court was developed to streamline the recommendation process. It is estimated that initially CAAP audits took on average 10 hours, and in 2015 the average was estimated to be 8 hours.

Audit Levels

After the audit review is complete, auditors assign each audit a number to categorize the level of concern. These audit levels were designed to provide the court and CAAP with a quick reference point to summarize the types of issues discovered. During the first few years of the CAAP, the Auditing Manager and auditors convened meetings to discuss and agree upon the categorization. Although there will always be individual differences in how the auditors rate cases, they have established criteria and a rating system. All auditors are clear on the distinction of what a level 4, concern of loss, case entails. Each level is described below.

Level 1: No issues found in the accounting. The auditor recommends approval of the accounting by the court.

Level 2: The auditor has found minor issues such as the accounting period is incorrect, expenses or income are placed in incorrect categories, transaction numbers are manipulated to balance the account. The auditor recommends an adjustment to the next accounting to "fix" the issue. If the accounting issue is more significant the auditor can recommend an amended account be filed with the correction before the next accounting. The auditor has no concerns of loss found or misuse of assets and recommends court approval with recommendations on technical issues to the conservator.

Level 3: The auditor has identified multiple accounting issues and adjustments to the accounting are needed. Issues identified could be items such as the account balance may be incorrect, omitted income and expenses, comingling of funds when conservator and protected person have a marital or parental relationship. However, the auditor has not found any concern for loss or misuse of assets and recommends court approval once the adjustments have been made to the account. These are the cases where the conservator may not understand their responsibility or may not have the skills to manage the protected person's assets appropriately.

Level 4: The auditor has found concerns of loss, loans from protected person, expenditures without court approval, or expenditures not in the best interest of the protected person or comingling of funds between conservator and protected person. The auditor may recommend to the court removal of conservator and/or repayment of funds to the protected person.

Recently, CAAP has added a 5th audit level which is assigned when the conservator fails to provide any documentation or cooperate with the auditor's request for supporting documentation.

Review Letters and Hearings

Upon completion of an audit, a standard review letter is given to the court through MMC and MNCIS. The letter summarizes findings and provides the court with recommendations such as holding a hearing and ordering corrections

to the accounting, or repayment of funds in more serious cases. Early on, judges did not use or appreciate the value of the letters; however, auditors have noticed a shift in the culture. Auditors attend account hearings in person or by phone upon request to explain the audit findings.

Appendix C: Predictive Analysis – Producing the Risk Indicators

The Data and Outcome to Be Predicted – Analytical Approaches and Limitations

Using the first 17 months of My Minnesota Conservator (MMC) transaction-level data, the Conservatorship Accountability Project applied data analytic techniques to test the ability to predict cases in which there was a concern of financial loss for the protected person. During the 17-month period, 1,302 audits were conducted with accompanying audit reports. Data available through MMC included 26 data tables containing nearly 300 fields of information on expense and income transactions, bank and other financial accounts, real and other properties, and liens and mortgages, as well as the protected person and conservator(s) information. The tables also included the audit results, which classify audits into one of four levels. Level 4 audits are those that uncovered evidence of loss, expenditures made without court approval or spending inconsistent with the best interests of the protected person. A decision was made early in the analysis to concentrate on the identification of reports that resulted in a concern of loss audit result, referred to as a “level 4” finding.

Although these data represent an incredibly rich source of information about the reports in question, the data had several shortcomings that placed significant limitations on the analysis at this stage. Since only 17 months of data were available, it was not possible to compare reports or summaries across multiple years. Several important data elements, such as the age and living arrangements of the protected person, were largely missing or not clearly indicated. Underlying documentation that may have provided supplementary data elements or added detail to existing entries, such as bank statements and receipts, were not available. Descriptive analysis of the data also called into question whether transaction and other data were entered consistently by different conservators.

The 1,302 audit reports contained in the database served as the unit of analysis for subsequent examination. In order to create a dataset of audit-level indicators, the data from the 26 tables had to be collated, recoded in cases where data values were discrete, and collapsed to produce variables that summarized transactions, accounts, properties, and characteristics of the protected person, conservator, accounting, and audit. In total, the fields contained in the database yielded more than 60 candidate variables for predictive analysis.

The following table provides a brief profile of the collected cases.

Variable/Characteristic	Summary
Average Total Estate Value	\$213,727
Median Total Estate Value	\$42,794
Percent Professional Conservators	39%
Percent in Care Facility	37%
Percent in Urban County	51%
Percent Homeowners	19%
Percent Level 4 Audits (Concern of Loss)	8%

Narrowing the Scope using Principal Component and Binomial Regression Analysis

The goal of this study was to arrive at a set of variables or conditions that could easily be programmed into Minnesota’s MMC system to help identify cases that raise a concern of loss. The analysis sought to identify a smaller set from the approximately 60 potential predictor variables, any of which may individually or in combination with other factors predict level 4 audit outcomes.

The initial set of candidate predictors were narrowed down from 60 to about 20 variables using principal component analysis (PCA). To further narrow the scope, the 20 variables retained from the PCA were entered into a series of binomial regression models using the complementary log-log link function.

In all, 8 of the 20 variables retained from the PCA appeared to have no significant predictive value, these variables were excluded from subsequent analysis in the interest of tractability leaving 12 candidate predictors or variables.

Artificial Neural Network modeling

As discussed above, the outcome of interest- an audit result expressing a concern of loss, is a rare event comprising only 8% of the cases. Predicting this is challenging, because the goal is not simply to describe common characteristics of Level 4 reports (characteristics that likely are also shared with Levels 1-3), but to identify characteristics that are unique to Level 4s and not shared with Levels 1-3. Thus, project staff sought to discover whether a highly complex model, such as an artificial neural network (ANN) could successfully and efficiently distinguish between concern of loss cases and other cases using the candidate predictors.

An ANN model is a machine-learning method capable of relating a set of input variables to one or more outputs through the use of a set of nodes, referred to as “neurons.” Specifying an ANN typically involves multiple iterations of training and testing that can be very time-consuming. A standard approach to calibrating ANN models is to randomly split the data into a “training” set and one or more “testing” sets with 651 audits in each set. The “training” set is then used to develop the model, and the estimated parameters are applied to the “testing” set of observations. Comparing predictions from the testing set to the actual outcomes helps to establish how successful the model is in distinguishing model signal (true difference between level 4 and level 1-3 audits) from noise (all the other random variation).

In total, 12 different ANN models were tested. The best fit in the testing data was achieved with a model featuring 8 nodes in 1 layer. When applied to the testing set of 651 observations, the model correctly predicted 42 out of 53 level 4 audits (79%). The table below, referred to as a Confusion Matrix, catalogs the set of correct predictions and errors.

Actual Outcome	Predicted Outcome		Total
	Concern of Loss (Row %)	No Concern of Loss (Row %)	
Concern of Loss	42 (79%)	11 (21%)	53
No Concern of Loss	2 (0.3%)	596 (99.7%)	598

Decision-Tree Analysis

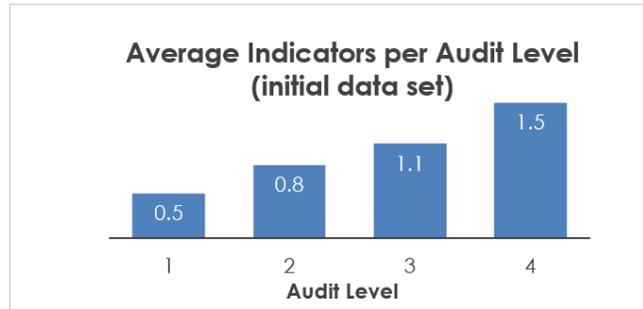
A final analytical approach, decision-tree analysis, was employed to identify when the predictor variables interacted with certain conditions, such as when there was a professional conservator or when the protected party was living in a care facility. These interactions may indicate that the expected relationship with audit result only appears when one or more conditions are present.

The following ten risk indicators were coded from the decision tree analysis. If a condition is listed, this means the indicator only applies in those certain conditions.

Risk Indicator	Condition
Percentage of Round Transactions	Not in Care Facility
Number of Vehicle Expenses	None
Percent of “Other Household” Expenses	Not in Care Facility
Percent of “Transportation” Expenses	Homeowner
Number of “Clothing” Expenses	None
Percentage of “Conservator Fees” Expenses	Non-Professional Conservator; In Care Facility
Number of “Dining” Expenses	None
Number of “Hobby” Expenses	Non-Professional Conservator
Number of “Groceries” Expenses	In Care Facility
Number of Bank Accounts	Non-Professional Conservator

Assessing the Risk Indicators

The initial risk indicators showed some promising results. For instance, even though the algorithms used to identify and calibrate the risk indicators were not provided with any data distinguishing audit levels 1, 2, and 3 (they were grouped together; only level 4 reports were distinguished) the flag counts revealed a distinct step function when the average number of flags per case were calculated, as illustrated in the figure below.

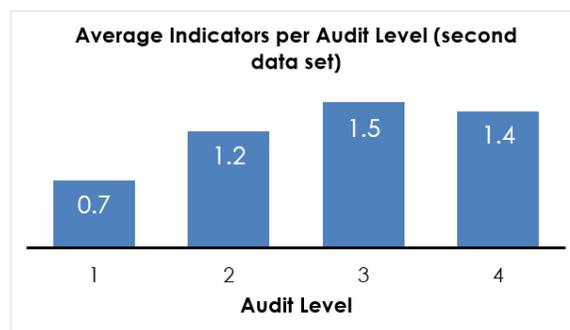


This suggests that the risk indicators are collectively identifying a dimension of irregularity in the report data, rather than merely distinguishing level 4 reports from others. A consequence of this step function effect, however, is that the difference between the number of indicators typically identified in level 4 cases and level 3 cases is not as large as desired. This might recommend either recalibration of the risk indicators using additional data or the application of a weighting analysis to the existing indicators, adding influence to risk indicators that tend to be uniquely informative about concern of loss and reducing the impact of indicators that have more redundancy.

Re-Assessment of the Risk Indicators

In October 2017, a new, second set of audit reports submitted between November of 2016 and October 2017 were used to test the indicators. This new dataset contained 680 audit report outcomes with audit levels and variables for the 10 Risk Indicators specified above. Level 4 audits were again about 8% of this new data, similar to the original set used to create the Indicators.

When applying the indicators to the new data, several of the risk indicators individually and in combination were triggered with increasingly problematic outcomes (higher audit levels) but did not identify substantial separations between the 8% of cases with a level 4 “concern of loss” finding and all others. Reproducing the analysis above, here is the average number of risk indicators per audit for each audit-finding level.



Much like the results for the initial dataset, the average number of indicators generally increases in each audit level. However, for the new data, the peak average is for the level 3 audit, rather than level 4. The greatest change is observed between levels 1 and 2.

Examining the risk indicators individually, the following table presents the average value of audit findings for cases with and without each of the risk indicators.

Average Audit Report Level by Risk Indicator		
Risk Indicator	Average Audit Level for Cases without the RI	Average Audit Level for Cases with the RI
Percentage of Round Transactions	0.9	1.71
Number of Vehicle Expenses	0.81	3.05
Percent of "Other Household" Expenses	0.94	2.5
Percent of "Transportation" Expenses	1.05	2.39
Number of "Clothing" Expenses	0.82	3.19
Percentage of "Conservator Fees" Expenses	1.05	2.03
Number of "Dining" Expenses	0.84	3.36
Number of "Hobby" Expenses	1.03	3.13
Number of "Groceries" Expenses	1.06	3.14
Number of Bank Accounts	0.68	2.37

In conclusion, the risk indicators did capture a dimension of risk between cases, level 3 cases had more risk indicators than level 2 and level 2 more than level 1. However, level 4 did not have more than level 3 and there was not a clear differentiation between level 4 cases and level 1,2, and 3 cases. Level 4 cases, where there is a concern of loss, were not identified with a substantially higher number of risk indicators.

One shortfall of this analysis is that risk was evaluated by comparing each accounting to other accountings; case A to case B to case C. The project identified that between cases, consistency and completeness of data can vary. For example, in case A income from Social Security may be entered monthly. However, in case B, the income from Social Security is entered quarterly, and then in case C it is entered annually. Focusing future analysis on variation within one case, from year to year, rather than establishing comparisons between cases is a worthwhile investigation. For further detail on the process and methodology, contact the NCSC Research Division.

Appendix D: Texas's Best Practices Recommendations

Clerk

- Obtain a case management system that will allow for proper tracking, monitoring, and management of all guardianship cases in this jurisdiction.
- Maintain an active list of all guardianship cases in accordance with EST §1052.001 or §1052.004.
- Maintain a record of all addresses and contact information for every guardianship in your jurisdiction with the ability to make available to court staff.
- Ensure all documents are scanned timely and placed in guardianship case files in chronological order timely.
- Implement a Policy and Procedure Manual for probate clerk staff regarding the handling of all guardianship cases.
- Implement staff training, oversight, and monitoring of data input into the case management system.
- Assign dedicated probate clerk staff who specialize in guardianship matters to monitor and update all guardianship-related matters into the case management system.
- Establish a process to secure criminal history records in accordance with GCT §155.206 beginning 06/01/2018.
- Establish a process to maintain a record of all guardianships registered with the JBCC upon notification from the JBCC of their registration.
- Provide written notice of the guardianship registration requirement to each person who applies for or seeks appointment as a guardian and to each attorney who files an application to create a guardianship per JBCC Rule 10.2 (a).
- Respond to the JBCC guardianship registration staff with requests for clarification, correction, or completion of guardianship information in relation to JBCC Rule 10.2 (b).
- Provide written notice and direction to proposed guardians to instruct the proposed guardians on completing the training and criminal history background check required by GCT §155.204 & 155.205 per JBCC Rule 10.2 (c).
- Make notice to the JBCC that a proposed guardian has been appointed by the court and the date of qualification per 10.6 (a) and in relation to JBCC Rule 10.2 (d).
- Notify the JBCC of the dismissal, denial, or non-suit of a guardianship application within 10 days of the dismissal, denial, or non-suit; and if the guardian is not appointed or qualified as a guardian for any other reason within 10 days of the date it becomes apparent that the person will not be a guardian per JBCC Rule 10.6 (c).
- Send notice of the removal or termination of a guardian to the JBCC per JBCC Rule 10.6 (d) & GCT §155.151 (B).
- Notify the JBCC of a transfer to another venue or jurisdiction within 10 days of receipt of confirmation that the receiving court has accepted the guardianship per JBCC Rule 10.6 (e)
- Inactivate all cases that are no longer active, having been closed by the court, in the case management system and ensure they are not reported as active cases to the OCA.
- Ensure guardianships remain active in the case management system when guardianships of estates are closed, and guardianships of person remain.
- Ensure guardianships that are transferred to other jurisdictions are no longer counted as active and are reported accurately to the OCA.
- Develop a procedure for clerk/court staff to access the case management system to create entries to monitor the 18th birthday of guardianships of minors.
- Develop a procedure for clerk/court staff to access the case management system to create entries to monitor the expiration of temporary guardianships.
- Develop a procedure for clerk/court staff to access the case management system to create entries to monitor the resolution of all court-initiated guardianships.
- Develop a procedure for clerk/court staff to access the case management system to create entries to monitor all incoming intrastate transfers of guardianships and ensure they are brought to the court's attention for review upon transfer.
- Develop a procedure for clerk/court staff to access the case management system to create entries to monitor all guardianship applications not finalized to review for dismissal.
- Develop a procedure for clerk/court staff to access the case management system to create entries recording the date of qualification for every guardian appointed.

- Develop a procedure for clerk/court staff to access the case management system to create entries that facilitate the monitoring of the guardianship caseload to include due dates for annual reports, inventories, annual accounts, and bond qualification due dates.
- Develop a procedure for court staff to access the case management system to create entries to monitor all annual reports, annual accounts, inventories, and any or all submittals not approved and awaiting revision, correction, supplemental information or amendment.
- Develop a process to address reports received from APS, CPS, law enforcement, or third parties alleging the abuse, neglect or exploitation of any protected person under guardianship within an established timeframe.
- Develop a process to ensure letters of guardianship are only issued to guardians who are in compliance with both the guardianship of estate and person where applicable per EST §1106.003.
- Develop additional case types within the case management system to identify other probate cases that are not guardianships, i.e., management trusts without a guardianship, to comply with EST §1052.001 or EST §1052.004.
- Develop a process and procedure for clerk/court staff to access the case management system and reliably run reports for individualized caseload queries to facilitate caseload monitoring and progress.