

**FINAL REPORT  
CASE #0703 SAN JOAQUIN COUNTY PUBLIC GUARDIAN  
CONSERVATOR'S OFFICE**

**REASON FOR INVESTIGATION:**

The 2003-2004 Civil Grand Jury received a complaint dated April 23, 2004 alleging that the San Joaquin County Public Guardian/ Conservator's Office (PG/CO) had failed to preserve the estates of conserved persons. The complaint further alleged that the PG/CO planned to eliminate part time auditors before completing a scheduled internal audit. Since there was insufficient time to complete an investigation, the 2003-2004 Civil Grand Jury left the matter to the discretion of the 2004-2005 Civil Grand Jury. Owing to the severity of the allegations and since prior Grand Jury recommendations to the PG/CO had not been implemented, this Grand Jury voted to open an investigation.

**BACKGROUND:**

A conservator is a person or agency appointed by the court to act in the best interest of a conservatee. The conservator may be a public agency (Public Guardian) or a private person or agency. It is the responsibility of the PG/CO to safeguard the legal, civil and property rights for all conserved individuals. The Public Guardian provides mandated services as defined by the California Welfare and Institutions and Probate Codes. The courts may appoint him/her conservator for persons who are considered gravely disabled (unable to provide food, shelter or clothing by reason of a mental disorder) and who are unwilling or unable to voluntarily accept psychiatric treatments. The San Joaquin County Conservator's Office currently has 1149 clients.

The court can appoint conservatorship for the person, the estate, or both. Conservatorship "of the person" makes arrangements for the client's care and protection and determines where the client will live. This type of conservatorship makes arrangements for food, clothing, shelter, health care, housekeeping, recreation and transportation. Conservatorship "of the estate" manages the client's finances, locates and controls assets, collects income due, pays bills, invests money and protects the client's assets. As conservator of the estate, the Public Guardian is responsible for prudent use of a client's money and property. All assets must be reported to the court by filing an Inventory and Appraisal within ninety days of appointment. The Inventory and Appraisal sets the initial amount for which the conservator is accountable and an accounting must be filed with the court one year after appointment.

## **CHRONOLOGY**

- The 2000-2001 and 2001-2002 Civil Grand Juries conducted detailed investigations of the PG/CO and the Department of Mental Health Services. These Grand Juries reviewed financial audits of the PG/CO from January 1989 to June 1991 and from January 1996 to June 2000. Grand Jury members conducted an independent review of the administrative policies and procedures of this agency and found outdated policies, errors regarding income and disbursement of funds, and incorrect or careless documentation.
- In 2002 a criminal investigation was conducted in the Conservator's office after allegations of fraud and elder abuse arose. A Deputy Public Guardian was arrested on charges that she conspired to steal money from the elderly and mentally ill. She was fired in 2002.
- In 2002 the San Joaquin County Board of Supervisors signed a contract to hire an Interim Public Guardian with an order to revise the outdated policy and procedure manuals.
- On February 11, 2003 the San Joaquin County Board of Supervisors approved a plan to reorganize the PG/CO. The reorganization plan included a change in the reporting structure and focused on four basic areas, Organizational Autonomy, Management, Organizational Structure and Staffing Resources.
- In May 2004 a former Deputy Public Guardian, three family members and a friend were charged with "theft of an elder or dependent adult by a caretaker, conspiracy to commit a crime and conflict of interest". All defendants pled not guilty. Charges were later dismissed against one defendant, one defendant pled no contest to a lesser charge and a former Deputy Public Guardian denied all charges.
- On June 1, 2004 San Joaquin County hired a full time Public Guardian/Conservator, Ms. Scarlett Hughes.
- Conspiracy and theft charges were dismissed against one defendant in October 2004.
- On April 11, 2005 a former Deputy Public Guardian appeared in court for sentencing. Three counts against the defendant were reduced to misdemeanors upon payment of \$2,000.00 to the Human Services Agency. The defendant was ordered to pay miscellaneous fines and fees to the court by July 11, 2005.

## **TYPES OF CONSERVATORSHIP**

The Conservator's Office has oversight of three groups of clients, which includes two types of conservatorship: LPS and Probate. LPS refers to the Lanterman-Petris-Short (LPS) Act which passed in 1969 and specified rights and protections for mental health clients including civil commitment procedures. The intent of LPS was to end inappropriate, indefinite and involuntary institutionalization of mentally disordered persons, developmentally disabled persons, and persons impaired by chronic alcoholism. The LPS Act also intended to protect public safety. There is no typical LPS conservatee, but this type of conservatorship includes individuals who may be psychotic or in a hospital with little property or income. LPS conservatorship automatically terminates after one year, but the conservator at a court hearing may renew it. The PG/CO currently handles approximately 304 LPS cases.

Probate conservatorship is initiated for an individual who is unable to provide for his or her personal needs for physical health, food, clothing or shelter and who is unable to manage his property or financial resources or resist fraud or undue influence. Conservatorship may be for the person, the estate or both. Probate conservatorship is used primarily for elderly individuals who can no longer function independently. A Probate Conservatorship client is typically an elderly person whose mental and physical impairment usually develops with advancing age. A probate conservatee may suffer from mild mental dysfunction and may lack the judgment and/or ability to properly manage his/her estate. This client often lives alone and may have a substantial estate. The duration of Probate Conservatorship is indefinite, but either the conservatee or the conservator may petition the court for termination at any time. The PG/CO handles approximately 119 Probate cases.

## **REPRESENTATIVE PAYEE**

A Representative Payee is an individual or organization selected to manage the finances of someone who cannot do so on his/her own. The Social Security Administration stipulates that the person or organization acting as Representative Payee maintain detailed records and provide for the basic needs of a client including food, clothing and shelter. In San Joaquin County, the Social Security Administration has a list of organizations authorized to function as a Representative Payee. This list is made available to clients who can select or change their Payee as they see fit.

The Public Guardian/Conservator serves as Representative Payee and in San Joaquin County, he/she arranges services for approximately 700 residents who cannot manage their own finances. The client's funds must be used for personal care, food, clothing, shelter, recreation and miscellaneous expenses. Excess funds must be preserved for the beneficiary, but the Public Guardian has no authority for placement, care or medical decisions for these clients.

The PG/CO is not court mandated to provide services for Representative Payee clients. In San Joaquin County, many Rep Payee clients have substance abuse and behavioral problems and require services from the Behavioral Health system. In an effort to preserve client funds, Deputy Public Guardians will issue small checks on a daily or weekly basis for a client's personal needs. In the San Joaquin County Conservator's Office, Deputy Public Guardians are responsible for Representative Payee clients who consume up to 90% of the deputies' time performing mainly clerical and referral duties. The labor involved to service Representative Payee clients takes the Deputy Public Guardians away from their duties and responsibilities to LPS and Probate clients and creates difficult to manage case loads. In an effort to reduce the Deputy Public Guardian's work load, the Public Guardian/Conservator is proposing a reorganization that would assign Representative Payee clients to Account Managers to lower Deputy Public Guardians' case loads.

## **ORGANIZATION**

The Public Guardian reports directly to the Director of Health Care Services, but must get approval from Behavioral Health management for budgetary items. The following organizational chart shows the reporting structure of the PG/CO. (See Attachment 1)

## ANALYSIS

The San Joaquin County Civil Grand Jury has no jurisdiction over the Public Guardian Offices in other counties, but during the course of this investigation we chose to review the Conservator Offices in Stanislaus and Sacramento counties to compare operations, caseloads, and policies and procedures.

### COUNTY COMPARISON

<b>COUNTY</b>	<b>PROBATE CASES</b>	<b>LPS CASES</b>	<b>REP PAYEE CASES</b>	<b>DEPUTY PUBLIC GUARDIANS</b>	<b>AVERAGE CASE LOAD</b>
<b>Sacramento</b>	<b>190</b>	<b>400</b>	<b>100</b>	<b>22</b>	<b>40</b>
<b>Stanislaus</b>	<b>75</b>	<b>75</b>	<b>25</b>	<b>4</b>	<b>38</b>
<b>San Joaquin</b>	<b>119</b>	<b>304</b>	<b>724</b>	<b>8</b>	<b>143</b>

Stanislaus and Sacramento County Public Guardian/Conservator Offices typically do not act as Representative Payee as does San Joaquin County. Sacramento County has privatized case management and Representative Payee responsibilities. Non-profit and for profit organizations are on a referral list provided by the Social Security Administration and is made available to clients who need assistance managing his/her finances. In Stanislaus County, Catholic Charities of Modesto has a 10-year history as Representative Payee for approximately 85 clients and has developed an excellent service network with city and county agencies and local financial institutions. In San Joaquin County, some community organizations have expressed an interest in the Representative Payee program and, at the time of this investigation, were engaged in conversations with the Social Security Administration to position themselves to serve as Representative Payees. Catholic Charities of Stockton was recently approved to serve as Representative Payee by the Social Security Administration and is bonded and prepared to receive clients in the county. The Gospel Rescue Mission in Stockton serves as Representative Payee for approximately 225 clients, many with substance abuse problems. The Representative Payee program was well run and had on site services to provide for food, clothing and shelter for clients in need. The non-profit agencies we interviewed had experience in dealing with clients who had behavioral, addiction and other social problems and with referring them to community resources as necessary.

## **PERSONAL PROPERTY**

The Sacramento County PG/CO inventories each client's personal property and manages a 15,000 square foot warehouse to store it, but no property can be stored for any client who cannot pay the storage cost. Property is inventoried annually. A small, fenced, locked space adjacent to the property warehouse stores vehicles. A vehicle description, appraised value and storage location is on file for the vehicles. At the time of the Grand Jury visit, only one vehicle was stored at this facility.

Stanislaus County does not currently store clothing or personal effects for clients and uses community organizations to assist with the sale of personal property.

In the past the San Joaquin PG/CO maintained a central warehouse where the conservatees' personal belongings were stored. The warehouse needed repair, was not properly ventilated to protect client property and did not have the proper equipment to move and store property without endangering the Deputy Public Guardian handling the property. One Deputy Public Guardian was in charge of the warehouse and responsible for cataloging, organizing and palletizing the property. Owing to the poor condition of the warehouse, in September 2004, the PG/CO secured and moved to a new storage facility and purchased supplies that would facilitate proper storage of conservatee property. As of March 2005, the San Joaquin County PG/CO stored 17 vehicles belonging to LPS and probate clients in a parking lot at Behavioral Health. The parking lot was unsecured, the vehicles were left unattended, exposed to the elements and allowed to deteriorate.

## **COMPUTRUST**

CompuTrust is a multi-faceted computer database used by the Sacramento and San Joaquin County Conservator's Offices to track a client's name, date of birth, current address and family information. Computrust is equipped with an accounting module to enter deposits and disbursements and a property module that can be linked to it to track client information. The CompuTrust Account in the Sacramento office is managed and reconciled daily by a senior accounting manager. The San Joaquin County PG/CO balances its daily work at the end of each day; however the Wells Fargo bank account where the money is deposited has not been reconciled with CompuTrust since June 2004 and the PG/CO did not have anyone with either the knowledge and or the experience to complete the reconciliation at the time of the Grand Jury investigation. Stanislaus County Public Guardian/Conservator's Office switched from CompuTrust to a different computer database and audits its accounts daily. At their request, the office is audited every 2 years by an outside auditing firm.

## **POLICIES AND PROCEDURES**

Revisions to the Policy and Procedure Manual at the PG/CO have been ongoing since the year 2000. The Sacramento Public Guardian/Conservator's Office Policy and Procedure Manual is available on line, on CD and in a manual for Deputy Public Guardians to use. The new Public Guardian/Conservator in San Joaquin County has extensive policy and procedure writing experience because she managed the project to rewrite and revise the Sacramento County Policy and Procedure Manual for the Public Guardian/Conservator office. This effort

took approximately three years to complete. The new Public Guardian/Conservator is in the process of updating and revising existing policies, but at the time of the Grand Jury investigation, the San Joaquin County Policy and Procedures manual was still in rough draft form.

### **METHOD OF INVESTIGATION:**

The Grand Jury did the following during the course of their investigation:

1. Requested and reviewed Policy and Procedure manuals, job descriptions, salary and class studies and organizational charts for San Joaquin, Sacramento and Stanislaus County Public Guardian/Conservator Offices
2. Interviewed the Public Guardian, Deputy Public Guardians, Accounting Technicians, and the Interim Public Guardian in San Joaquin County
3. Interviewed the Public Guardian/Conservator in Sacramento and Stanislaus counties
4. Conducted site visits in San Joaquin, Sacramento and Stanislaus counties to view office operations and vehicle and property storage areas
5. Conducted a site visit to the Behavioral Health parking lot where 17 vehicles belonging to conservatees were stored
6. Visited non-profit agencies in Stanislaus, San Joaquin and Sacramento counties who served as Representative Payees in a fee for service agreement with the Social Security Administration
7. Interviewed owner/operators of a local storage facility who contracted with the PG/CO to store personal property

### **FINDINGS:**

The Grand Jury found that the (PG/CO):

1. Held 17 vehicles belonging to conservatees in an unsecured lot, exposing them to the elements, which resulted in deterioration and loss of value to the conservatees' estates.
2. Had no current policies and procedures to identify, store and dispose of personal property of conservatees or to conduct "Inventory and Appraisals"
3. Underutilized CompuTrust modules resulting in missing or incorrect information on 50-75% of client accounts
4. Failed to preserve the estates of some conservatees as evidenced by unsecured vehicles and the inability to sell vehicles due to missing "Inventory and Appraisals"
5. Failed to complete client account audits on 40-50% of their existing client base.
6. Requests were made to purchase a ladder, a memory chip for a digital camera, a hand truck and a furniture dolly for the conservatee warehouse, but the requests were denied by management from Behavioral Health. The PG/CO must get approval from Behavioral Health management to use a county vehicle, to conduct routine business including visits to clients and managing the clients' properties.

## **CONCLUSION:**

The Grand Jury investigation focused on two primary allegations: 1) auditors were scheduled to be laid off without completing account audits and 2) the PG/CO failed to protect the estates of conserved individuals. Based on the current investigation, the Grand Jury concludes that the allegations in the original complaint are true. Audits were completed on caseloads of specific workers who were under criminal investigation by the District Attorney's Office. Random audits were done on the remaining cases, but the Grand Jury found no evidence that an audit was completed on all cases in the Conservator's Office. Due to the high turnover in the Conservator's Office and the fact that most of the Deputy Public Guardians have less than one year of service in the office, it is the opinion of the Grand Jury that a full account audit would not be advantageous.

Owing to a lack of systems for performing basic clerical and accounting duties, and the low staffing levels, estates for some conservatees were not monitored resulting in failure to collect fees for several years. At the time of our investigation the Public Guardian/Conservator had a part time data entry person assigned to review all client accounts starting with the conservatorships. The data entry person was responsible for pulling case files, reviewing court documents, verifying information and updating client data in CompuTrust. The Grand Jury concludes that the data entry position would go a long way towards reconciling conservatorship accounts and determining what authority the PG/CO had.

It is the opinion of the Grand Jury that shifting Representative Payees from Deputy Public Guardians to Account Managers does not solve the problem of heavy case-loads. Currently each account manager is assigned to support a Deputy Public Guardian making the caseloads the same. With the proposed reorganization, accounts would not be co-mingled. Account Managers would do the bill paying for payee cases and Deputy Public Guardians would handle all LPS and Probate Conservatorship cases. We heard credible testimony that current staffing levels at the PG/CO would be enough to provide adequate supervision of client accounts if the office was not responsible for Representative Payee accounts.

The Grand Jury concluded that inexperience, low staffing levels, poor accounting and a lack of systems and management direction contributed to the poor performance of the agency. The new Public Guardian has taken positive steps to address issues at the Conservator's Office and Ms. Hughes has started an aggressive plan to reorganize the (PG/CO), improve staffing levels and raise the level of experience in the areas of accounting and property management but she still has a way to go.

## **RECOMMENDATIONS:**

The Grand Jury recommends the PG/CO take immediate steps to:

- 1) Operate and function as a separate budget unit independent from Behavioral Health as in Sacramento and Stanislaus Counties
- 2) Complete revisions to the Policy and Procedures manual

- 3) Complete the reconciliation of all accounts in CompuTrust to the Wells Fargo client account
- 4) Add a senior accounting position with managerial experience to ensure bank reconciliations are balanced daily
- 5) Review Representative Payee accounts and identify clients who are independent enough to be their own payee
- 6) Transition remaining Representative Payee clients to community agencies
- 7) Dispose of all stored vehicles and eliminate the need for long-term storage
  
- 8) Train all users to maximize their competency in operating CompuTrust computer database modules

**RESPONSE REQUIRED:**

*Pursuant to Section 933.05 of the Penal Code:*

The San Joaquin County Board of Supervisors shall report to the Presiding Judge of the San Joaquin Superior Court, in writing and within 90 days of publication of this report, with a response as follows:

As to each finding in the report a response indicating one of the following:

- a. The respondent agrees with the finding.
- b. The respondent disagrees with the finding, with an explanation of the reasons therefore.

As to each recommendation, a response indicating one of the following:

- a. The recommendation has been implemented, with a summary of the action taken.
- b. The recommendation has not yet been implemented, but will be with a time frame for implementation.
- c. The recommendation requires further analysis, with an explanation of the scope of the analysis and a time frame not to exceed (6) six months.
- d. The recommendation will not be implemented, with an explanation therefore.