

**CASE #1800: Department Of Mental Health Services  
Public Conservators Office**

**REASON FOR INVESTIGATION**

A request was made by the San Joaquin County Criminal Grand Jury to investigate procedures followed in the Public Conservator's Office. There were indications that an alleged embezzlement took place and there were no checks and balances to safeguard the legal, civil or property rights of the conservatees.

**BACKGROUND**

It is not the purpose of the Civil Grand Jury to investigate criminal charges. Therefore, this report reflects policy, procedures and the overall operation of the Public Conservator's Office observed by the Civil Grand Jury.

The Public Conservator's Office is a department of Mental Health Services. It is the responsibility of the Conservator's Office to provide conservatorship investigations, administration and case management services (including safeguarding the conservatee's legal, civil and property rights) for all persons in need of such services.

**METHOD OF INVESTIGATION**

Members of the 2000-2001 San Joaquin County Civil Grand Jury (SJCCGJ) reviewed the transcripts and evidence presented to the Criminal Grand Jury.

Members of the SJCCGJ made a scheduled trip to the Mental Health facility on California Street. A presentation was made to the grand jury members from each department head that comes under the umbrella of the San Joaquin County Mental Health Services.

Visits to the Public Conservator's office were made on several occasions. Interviews were conducted with the Public Conservator on these occasions.

Additional interviews were conducted with the following:

- The Director of Mental Health Services
- The Public Conservator
- Deputy Public Guardian
- Deputy County Counsel
- Deputy Public Defender

Interviews were held and information was gathered from the office of the Auditor-Controller of San Joaquin County.

A review was completed of the January 1989 through June 1991 audit of Mental Health Services and the response to that report.

A review was completed of the January 1996 through June 2000 audit of the Public Conservator's office.

An independent review was made of the financial and administrative policy and procedures of the Office of the Public Conservator. Members of the SJCCGJ studied the preliminary draft and working papers of this review.

## **FINDINGS**

The policy and procedure manual used in the Public Conservator's office has been in place since 1983. Only a limited number of sections in this manual have been updated.

Two policies have been in the re-write stage, one dated November 2000 and the other February 2001. Both of these policies would provide better protection for the conservatee's assets. Neither of these policies has been approved or implemented.

The SJCCGJ did not find any evidence of any training manual or system in place for the training and development of new employees in the conservator's office.


There was no evidence that an audit had been accomplished for the period of June 1991 through December 1995. The County Auditor-Controller's office indicated that there were years when budget constraints precluded them from performing some audits.

Audits from June 1991 and June 2000, identified problems in the Public Conservator's office in all aspects of handling conservatee assets. Errors ranging from information regarding income and disbursement of funds being entered into the system incorrectly to careless handling of vouchers and backup documentation were identified.

Different screening processes are used to hire part-time vs. full-time employees. Part-time employees are given the same authority and responsibility without the same scrutiny of their qualification and background.

A survey was conducted in September 2000 comparing salaries paid to Deputy Public Guardians throughout the Northern California area. The average pay scale in counties smaller than San Joaquin is \$3.60 per hour higher than SJ County. The pay scales of

counties similar in size to San Joaquin have an average hourly wage \$6.45 higher. Part-time employees work 32 hours per week and do not receive any employee benefits.

The 1/96  6/2000 audit completed by the Office of the County Auditor-Controller indicated that for that period fees paid to the County for the Conservator's services, from the conservatee's assets, totaled over \$850,000.

In the same report, the County Counsel's office was paid \$237,000 for services defending the position of the Conservator and the Public Defender's Office was paid \$46,000 to defend the rights of the conservatee. All payments are made from the funds of the conservatee, when sufficient money is available. The above-stated fees are regulated by California State statute.

The Office of the County Auditor pools the cash of the conservatee's with the funds of other County agencies in order to receive a larger percentage of interest on those amounts. However, the amount between the amount of interest that would have applied to each individual conservatee's account is deducted from the total interest earned and the difference is refunded to the County. In 1998, the amount refunded to the County was \$96,065, or 65% of the total interest earned. In 1999, that amount was \$75,406, 54% of the total interest earned.

## **CONCLUSIONS**

While touring the facility with the department head, members of the grand jury noted that the offices of the Public Conservator and the Deputy Guardians provide limited oversight. All offices are small cubicles off of a long corridor. This structure makes it difficult for the Public Conservator to see the daily activity of the Deputy Guardians or the Accounting Technicians.

Current practice makes the ability to misuse fund and assets of conservatees extremely easy.

- At times, only one person inventories personal items of new conservatees.
- Assets are brought into the Public Conservator's office for safe keeping without documentation taking place.
- There is no current active list for each conservatee's assets.
- Deputy Guardians approve voucher requests for each other.

Mandated State and Federal laws are not adhered to.

- No Smoking signs posted in the Mental Health Building courtyard are ignored.

- Current Employment and Discrimination regulations are to be prominently posted in a central location for employees. The only posting found in the Conservator's office was a 1993 Federal regulation.

It is the belief of the SJCCGJ that the issues stated above leave an overall impression of lack of direction from top management.

The San Joaquin County Board of Supervisors has a responsibility to see that the appropriate department responds to audit recommendations. No response was made regarding the June 2000 Audit to the Controller's office. Only after repeated attempts to determine if a response had been sent to the Board Supervisors was the Grand Jury successful. Had the recommendations of the Audit been implemented (W/P# K2), "All payment claims must always be approved by the Public Conservator or his deputy", the alleged embezzlement may not have taken place.

## **RECOMMENDATION**

It is time for a complete review of the Public Conservator's office. Some policies have been changed without there being any changes made to the procedure manual. Policy statements have been ignored. Training programs are non-existent for new employees. The noted problems point to a lack of management direction.

Any employee in the Conservator's office, having the responsibility for controlling the assets of others, should have the background for this position. They should be paid a wage comparable to the position. Part-time employees should have the same background checks and be held to the same level of prior experience as full-time employees.

The findings and recommendations from the County Auditor's exit review report of June 2000 made over 20 recommendations to improve the level of competence in the Public Conservator's Office. All of these findings and recommendations should have been addressed immediately.

The June 2000 Audit report highlighted the inadequacy of the current process of identifying the amount of earned interest on the bank balance of each conservatee. The report acknowledged, "Interest rates used for crediting interest to the clients' account appear to be low". It is recommended that the issue of how much interest the county receives from this fund should be reconsidered.

The April 2001 independent review of policy and procedures in the Public Conservator's Office made excellent recommendations to correct many of the noted

issues. These recommendations should be implemented and monitored for their results.

The 2000-2001 SJCCGJ recommends that the Public Conservator's Office have an annual audit by either the Office of the County Auditor-Controller or an independent CPA. A response to that audit should be filed with the Board of Supervisors within 90 days.

The 2000-01 SJCCGJ recommends that the SJCCGJ of 2001-02 follow-up on the above recommendations to determine their level of implementation.

### **RESPONSE REQUIRED**

*Pursuant to Section §933.05 of the Penal Code:*

The San Joaquin County Mental Health Department should respond to the Superior Court within (90) days of the publication of this report.

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 conclusion in the report, a response indicating one of the following:

- a. The respondent agrees with the conclusion.
- b. The respondent disagrees with the conclusion 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 timeframe for implementation.
- c. The recommendation requires further analysis, with an explanation of the scope of the analysis and a timeframe not to exceed 6 months.
- d. The recommendation will not be implemented, with an explanation therefore.

*Pursuant to Section §933.05 of the Penal Code:*

The San Joaquin County Board of Supervisors should respond to the Superior Court within (90) days of the publication of this report.

As to the third conclusion in the report, a response indicating one of the following:

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

As to the fourth 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 timeframe for implementation.
- c. The recommendation requires further analysis, with an explanation of the scope of the analysis and a timeframe not to exceed 6 months.
- d. The recommendation will not be implemented, with an explanation therefore.