

August 28, 2001

Board of Supervisors  
Court House  
Stockton, CA

Dear Board Members:

**Mental Health Services**  
**Response to Grand Jury Report-Case #1800**  
**Public Conservator's Office**

**Recommendation**

That the Board of Supervisors accept the Mental Health Services Response to the Fiscal Year 2000-01 Grand Jury Report Case #1800 regarding the Public Conservator's Office; and

That the Chairman be authorized and directed to transmit the Response to the Presiding Judge of the Superior Court.

**Reason for Recommendation**

The 2000-01 San Joaquin County Grand Jury investigated procedures followed in the Public Conservator's Office after there were indications that an alleged embezzlement took place, and that there were no checks and balances to safeguard the legal, civil or property rights of conservatees. In June 2001 the Grand Jury issued its Final Report, which contained a number of findings, conclusions and recommendations.

This Response to the Grand Jury Report will address each of findings, conclusions and recommendations. Furthermore, this Response will make additional recommendations, which are above and beyond those recommendations contained in the Grand Jury Report.

**Grand Jury Findings:**

1. Finding: 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.

Response: Agree. The Public Conservator's Office is in the process of updating the manual. New and revised policies and procedures are being written. Two

revised policies regarding Checks and Vouchers have been written and implemented. New Personal Property, Real Property, and Valuables policies are in draft form.

2. Finding: 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.

Response: Agree. The policies have been completed, approved and implemented as of June 13, 2001.

3. Finding: 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.

Response: Agree. The Public Conservator's Office does not have a formal training manual. They use the Policy and Procedure Manual, Probate Code and Welfare and Institutions Code to train staff. Mental Health Services will be sending Conservatorship staff to the Public Conservator/Guardian Association conferences to take advantage of the learning opportunities there. The Public Conservator's Office will be developing a formal training manual.

4. Finding: 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.

Response: Agree. The Auditor-Controller's did not conduct audits of the Public Conservator's Office during the period of June 1991 through December 1995 because of budget constraints.

5. Finding: 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.

Response: Agree. A new policy and procedure for handling vouchers has been approved and implemented.

6. Finding: 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.

Response: Disagree. Full-time and part-time employees are both hired from the list of eligibles provided by Human Resources. The interview process and appraisal of qualifications is similar for both groups. However, it appears that the current process lacks thoroughness for both groups. A recommendation will be made to conduct fingerprint checks and a thorough background analysis, including extensive checking with references, for all prospective employees of the Public Conservator's Office.

7. Finding: 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 \$5.45 higher. Part-time employees work 32 hours per week and do not receive any employee benefits.

Response: Agree. It appears that the Grand Jury Report is referring to a survey that was conducted by the Public Conservator's Office. The County practice is that salary surveys are done by Human Resources, which utilizes six (6) specific counties as comparisons. A recommendation will be made that Human Resources conduct a salary survey of the classifications utilized within the Public Conservator's Office.

8. Finding: The January, 1996 - June, 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.

Response: Agree.

9. Finding: 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.

Response: Agree.

10. Finding: The Office of the County-Auditor pools the cash of the conservatees with the funds of other County agencies in order to receive a larger percentage of interest on those amounts. However, the amount between the amounts 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 \$74,406, 54% of the total interest earned.

Response: Agree.

Grand Jury Conclusions:

1. Conclusion: 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.

Response: Agree. After completion of the Mental Health Expansion Plan and occupancy of the new facilities in the Spring of 2003, the Public Conservator's Office will move to the facilities currently occupied by the Adult Outpatient Clinic. These facilities are self-contained and more conducive to program functioning than the long corridor situation described in the conclusion.

2. Conclusion: Current practices make the ability to misuse funds and assets of conservatees extremely easy.

i. At times, only one person inventories personal items of new conservatees.

Response: Agree. The long-time practice of having two persons inventory the personal items of new conservatees had deteriorated in that one staff person was not following this practice. There is now a draft policy, which staff are field-testing, of always having two staff inventory the personal items of new conservatees.

ii. Assets are brought into the Public Conservator's Office for safe keeping without documentation taking place.

Response: Agree. There were instances in which assets were brought into the Public Conservator's Office without appropriate documentation, which was a violation of procedure. There is now a draft policy, which

has already been implemented for testing purposes, which documents a precise methodology for bringing assets into the Public Conservator's Office. All assets are listed on Inventory and Appraisal sheets and in the future will be tagged and entered into the computer inventory system.

- iii. There is no current active list for each conservatee's assets.

Response: Agree. The active list for each conservatee's assets was not always updated on a timely basis or always accurate. A draft policy has been implemented on a trial basis, which contains specific and comprehensive procedures for maintaining the timeliness, comprehensiveness and accuracy of the conservatee asset lists. In the future, the list will be maintained in the computer inventory system.

- iv. Deputy Guardians approve voucher requests for each other.

Response: Agree. Deputy Guardians were approving voucher and check requests for each other. The policy has been changed. Only designated persons (Conservator, Conservatorship Accounting Manager, Accounting Officer and Mental Health Director) now have authority to approve checks and vouchers.

3. Conclusion: Mandated State and Federal laws are not adhered to.

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

Response: Disagree. The Mental Health Services policy is to allow smoking in the courtyard; in fact, there are twelve (12) ashtrays for the convenience of the smokers. It is also a Mental Health Services policy to prohibit smoking in the areas adjacent to the doors in order to prevent smoke from entering the buildings. Areas around doors have signs that state "SMOKING PROHIBITED IN THIS AREA." It is believed that the Grand Jury may have mistakenly assumed that the signs posted near doors applied to the entire courtyard.

- ii. 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.

Response: Agree. Current Employment and Discrimination regulations are posted in Older Adult Services, which is adjacent to the Public Conservator's Office on the second floor of the Professional Building.

Mental Health Services will ensure that the requisite regulations are posted in a central location for employees.

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

Response: Disagree. Mental Health Services administration is committed to providing a competent and professional public conservatorship services, which gains the public's trust. There is concern, however, that there has been inadequate management resources committed to the management of the Public Conservator's Office. Simply put, there are more operational and oversight responsibilities than can be handled by one person, the Public Conservator. To remedy this, a recommendation will be made to create a new classification, Chief Deputy Public Conservator, to assist the Public Conservator in the management of the office. The principal duties of the Chief Deputy Public Conservator will include the monitoring of the integrity of the operations, ensuring that checks and balances remain in place, and providing oversight. The management of the conservatorship accounting function has been strengthened by clarifying the reporting lines to the Accounting Manager, who is now located on the same floor. The oversight role of the Accounting Manager has been increased to include multiple checks and balances functions on a daily basis.

Grand Jury Recommendations:

1. 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.

Response: The recommendation is in the process of being implemented. The review of the Public Conservator's Office is well underway. Two revised policies have been approved and implemented. Three draft policies are currently being field-tested. Other policies will be developed in the next six months. A training manual and training program for new employees will be developed.

2. Recommendation: 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.

Response: The recommendation has not yet been implemented, but will be within three months. Mental Health Services will request that Human Resources conduct a compensation survey of the positions utilized in the Public Conservator's Office. Fingerprint checks and extensive background checks involving thorough contacts with references will be required. All employees, whether full-time or part-time, will be held to the same qualifications.

3. Recommendation: 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.

Response: The recommendation has been implemented. The Auditor's report contained four major recommendations, which were immediately implemented. The exit conference notes contained 25 findings; all these findings have been addressed and appropriate action taken.

4. Recommendation: 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.

Response: The recommendation is in the process of being implemented, and will be fully implemented within three months. The following structure for payment of interest to conservatees is being evaluated. Rates will be based on a five (5) bank survey of average rates paid for a TCD for 30 days on estates of \$10,000 or less, except those with less than \$500.00 will not receive interest. Estates with a balance of more than \$10,000 up to \$50,000 will be paid a rate equal to the average of the five (5) designated banks for a 90 day TCD. Estates with a balance over \$50,000 will be credited with a rate equal to the average of the five (5) designated banks for a 6 month TCD.

5. Recommendation: 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.

Response: The recommendation is in the process of being implemented, and it is anticipated that the recommendation will be fully implemented in six months. The firm of Moss-Adams was contracted to provide an evaluation of the operations and has produced an excellent report with thirty-six (36) recommendations. These recommendations are being implemented. Moss-Adams will be contracted to provide regular reviews of the Public Conservator's Office, with a minimum of one review each year.

6. Recommendation: The 2000-2001 SJCCGJ recommends that the Public Conservator's Office have an annual audit be 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.

Response: The recommendation has not yet been implemented, but will be within six months. Mental Health Services will request an annual audit from the Office of the Auditor-Controller. If the Auditor's Office is unable to fulfill the request, an independent CPA will be contracted.

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

Response: Mental Health Services looks forward to the follow-up by the 2001-02 SJCCGH.

*Additional Mental Health Services Recommendations:*

1. MH Recommendation: It is recommended that a new classification, Chief Deputy Public Conservator, be developed. This position would assist the Public Conservator in the management of the office. The principal duties of the Chief Deputy Public Conservator will include the monitoring of the integrity of the operations, ensuring that checks and balances remain in place, and providing oversight.
2. MH Recommendation: It is recommended that one additional Office Assistant II and one additional Office Assistant III be added to the Public Conservator's Office. Many of the recommendations from Moss-Adams have to do with the division of responsibilities as a check and balance mechanism. The added workload stemming from increased accountability procedures necessitate the increase in personnel resources.
3. MH Recommendation: Mental Health Services recommends that Human Resources conduct a compensation survey of the positions utilized in the Public



Conservator's Office. This is a necessary precursor for any increases in compensation being negotiated between the County and SEIU.

4. MH Recommendation: Mental Health Services recommends that all employees of the Public Conservator's Office and employees in mental health programs that are involved in the disbursement of funds or vouchers be required to undergo fingerprint checks.

### **Fiscal Impact**

There is no immediate fiscal impact associated with this response to the Grand Jury Report. Many of the recommendations, when implemented, will have a fiscal impact. However, separate Board action at a future date will be necessary to implement those recommendations, and the fiscal impact will be considered at that time.

### **Action To Be Taken Following Approval**

After acceptance of the Mental Health Services Response to the Fiscal Year 2000-01 Grand Jury Report Case #1800 regarding the Public Conservator's Office, the Chairman will be authorized and directed to transmit the Response to the Presiding Judge of the Superior Court.

Sincerely,  
Roger I. Speed, Interim Director  
Health Care Services

(1:BOS/01GRANDJURY)

c: Auditor-Controller  
Mental Health Services  
Clerk of the Board