



**Contra
Costa
County**

To: Board of Supervisors
From: David Twa, County Administrator
Date: August 18, 2015

Subject: Response to Grand Jury Report No.1506 "Office of the Public Guardian"

RECOMMENDATION(S):

APPROVE the response to Grand Jury Report No. 1506, "Office of the Public Guardian" and DIRECT the Clerk of the Board to forward the response to the Superior Court no later than August 27, 2015.

FISCAL IMPACT:

No fiscal impact, this is an informational report.

BACKGROUND:

On May 27, 2015, the County received 2014-15 Civil Grand Jury Report No. 1506 entitled, "Office of the Public Guardian". The report was received by the Board of Supervisors and subsequently referred to the Health Services Department on the July 7, 2015 Board of Supervisors agenda (Item No. C.180) who prepared the attached response that specifies:

- Whether the respondent agrees or disagrees wholly or partially with each finding;
- If the respondent disagrees with a finding, a statement explaining the portion of the finding that is disputed and the reasons for the disagreement;
- Whether each recommendation has been implemented, has not been implemented, or

APPROVE OTHER
 RECOMMENDATION OF CNTY ADMINISTRATOR RECOMMENDATION OF BOARD COMMITTEE

Action of Board On: **08/18/2015** APPROVED AS RECOMMENDED OTHER

Clerks Notes:

VOTE OF SUPERVISORS

AYE: John Gioia, District I
Supervisor
Candace Andersen, District II
Supervisor
Mary N. Piepho, District III
Supervisor
Karen Mitchoff, District IV
Supervisor

ABSENT: Federal D. Glover, District V
Supervisor

I hereby certify that this is a true and correct copy of an action taken and entered on the minutes of the Board of Supervisors on the date shown.

ATTESTED: August 18, 2015

David J. Twa, County Administrator and Clerk of the Board of Supervisors

By: Stephanie L. Mello, Deputy

Contact: Dorothy Sansoe,
925-335-1009

requires further analysis; and



BACKGROUND: (CONT'D)

If the recommendation requires further analysis, a statement explaining the scope and parameters of the analysis or study, and a time frame, not to exceed six months, for the matter to be prepared for discussion.

CONSEQUENCE OF NEGATIVE ACTION:

In order to comply with statutory requirements, the Board of Supervisors must provide a response to the Superior Court no later than August 27, 2015 (90 days after receipt). The Board must take action no later than the August 25, 2015 meeting in order to comply with the statutory deadline.

ATTACHMENTS

Response to Grand Jury Report No. 1506

**BOARD OF SUPERVISOR'S RESPONSE TO
GRAND JURY REPORT NO. 1506:
OFFICE OF THE PUBLIC GUARDIAN**

FINDINGS

1. The Omnibus Conservatorship and Guardianship Reform Act of 2006, which became effective on January 1, 2007, changed California laws pertaining to conservatorships and the offices of public guardians.

Response: Respondent agrees with this finding.

2. The policies and procedure manual of the Contra Costa County Public Guardian was written in 1987 with revisions in 1990, 1999, and 2005.

Response: Respondent agrees with this finding.

3. The policies and procedure manual of the Contra Costa County Public Guardian may not comply with the Omnibus Conservatorship and Guardianship Reform Act of 2006.

Response: Respondent agrees with this finding.

4. California Probate Code section 2920(a)(1) requires the Public Guardian to apply for appointment as guardian or conservator if there is an imminent threat to the person's health or safety of the person's estate.

Response: Respondent partially agrees with this finding. The Public Guardian investigates referrals that meet the court standards. Persons who do not lack capacity would not qualify under California Probate Code Section 2920 (a)(1), regardless of an imminent threat to personal safety or security to their estate.

5. Respondent's policy and practice of only accepting probate conservatorship referrals on behalf of those persons who are in, or going to be placed in a supervised living arrangement, may not comply with California law.

Response: Respondent agrees with this finding.

6. California Probate Code Section 2920(c) requires the Public Guardian to begin an investigation within two business days of receiving a referral alleging that a person's health is in imminent danger or that a person's estate is not safe.

Response: Respondent agrees with this finding. The Public Guardian initiates an investigation within two business day when a completed referral is received.

7. The Contra Costa County Public Guardian has no formal policy regarding the timeliness of initiating an investigation after receiving a referral alleging that a person's health is in imminent danger or that a person's estate is not safe.

Response: Respondent agrees with this finding.

8. The Contra Costa County Public Guardian has an informal policy of initiating an investigation within one week of receiving a referral alleging that a person's health is in imminent danger or there is imminent harm to a person's estate.

Response: Respondent will conform to CPC 2920(c) when there is a lack of capacity.

9. California Probate Code Section 2352.5(a) presumes that the personal residence at the time preceding the conservatorship is the least restrictive residence for the conservatee and requires a hearing prior to removing the conservatee from his/her person residence. (§32; Pro. Code 2352.5(a).)

Response: Respondent agrees with this finding.

10. The Contra Costa County Public Guardian has no policy concerning keeping a conservatee in his or her personal residence.

Response: Respondent partially agrees. Respondent has not written policy but adheres to Probate Code Section 2352.5(a).

11. The majority of deputy conservators in the Contra Costa County Public Guardian's Office are out of compliance with certification requirements mandated by California Law.

Response: Respondent agrees with this finding. Respondent acknowledges that the majority of our Deputy Conservators are not currently certified. There is an ongoing effort to have staff attend regional trainings and to get all deputies into compliance. Initial certification takes four years and four of our deputy conservators have not been employed for four years. Three others are certified (including the two managers), and the remaining six are out of compliance with varying amounts of credits.

12. The Contra Costa County Public Guardian's office may give higher priority to LPS conservatorships than probate conservatorships because of the availability of supplemental funding for LPS conservatees and the ability to place LPS conservatees in less expensive out-of-county facilities.

Response: Respondent disagrees with the finding. The Public Guardian's office gives equal effort and attention to both LPS and Probate referrals and cases; however, we agree that there is a lack of funding for our indigent Probate clients.

13. Due to poor communication between the Public Guardian and APS departments, the Public Guardian's Office has failed to timely and adequately convey information to APS that could affect potential conservatees.

Response: Respondent disagrees with the finding. The Public Guardian's office recognizes the communication challenges in the past between our office and Adult Protective Services. We are currently working quite closely with APS and jointly agree that communication has improved.

14. In some instances, deputy conservators visit a probate conservatee as infrequently as once a quarter.

Response: Respondent partial agrees with the finding. Respondent's current policies require a minimum of quarterly visits. However, the vast majority of conservatees are seen more often than quarterly. It is the Public Guardian's goal to see conservatees and their care givers monthly if possible, given caseload numbers, client acuity, and staffing availability.

15. The California Judicial Council's report on best practices recommends that a deputy conservator should visit a conservatee under his or her supervision monthly.

Response: Respondent agrees with this finding.

16. Contra Costa County's budget does not include a line item for funds for the Public Guardian to use to preserve a conservatee's personal and/or real property until the property has been sold.

Response: Respondent agrees with this finding.

17. At times, the Court grants the Public Guardian permission to use the conservatee's own assets to preserve a conservatee's personal and/or real property until the property has been sold.

Response: Respondent partially agrees with this finding. The Public Guardian's office adheres to California Rules of Court 7.1059. The Public Guardian must provide management of the conservatee's property, with the care of a prudent person dealing with someone else's property. Therefore, they are expected to use any available funds belonging to the conservatee to preserve the conservatee's property until it is sold. Although permission is needed from the Court to sell the conservatee's real property, they do not need permission to use their funds to preserve it.

RECOMMENDATIONS

1. The Contra Costa County Public Administrator should update its Public Guardian Policy and Procedures Manual to comply with California law and California Judicial Council's report on best practices by June 30, 2016.

Response: The recommendation will be implemented. Respondent recognizes that the Policies and Procedures of the Contra Costa Conservatorship and Public Guardian Office are not up to date. Policies and procedures will be updated by June 30, 2016 in conformance with the California Judicial Council's requirements.

2. To comply with California law, the Contra Costa County Public Guardian should accept all referrals for probate conservatees when there is an imminent threat to the person's health or the safety of the person's estate, regardless of whether the person is in or going to be placed in a supervised living arrangement.

Response: The recommendation will not be implemented because it is not reasonable. Respondent investigates referrals that meet court standards. Persons who do not lack capacity would not qualify under California Probate Code Section 2920 (a)(1), regardless of an imminent threat to personal safety or security to their estate. It is the investigation that determines the Public Guardian's recommendation to the court regarding placement. It is the court investigator's report and appointed counsel that guide the court's placement decisions.

3. To comply with California law, the Contra Costa County Public Guardian should begin an investigation within two business days after receiving a referral alleging that a person's health is in imminent danger or that there is an imminent threat to the safety of a person's estate.

Response: The recommendation will not be implemented because it is not warranted. Respondent initiates an investigation within two business days when a completed referral is received. Policy and procedures will be updated to reflect said practice.

4. To comply with California law, the Contra Costa County Public Guardian should establish a policy of keeping a probate conservatee in his or her own residence if that is the least restrictive living arrangement in which the conservatee can be safe.

Response: The recommendation will not be implemented because it is not warranted. Respondent adheres to Probate Code Section 2352.5(a). The Public Guardian will update policies and procedure that will conform to said code.

5. To comply with California law, the Contra Costa County Public Guardian should ensure that all deputy conservators meet certification requirements, as required by the State of California, by June 30, 2016.

Response: The recommendation has not yet been implemented, but will be as soon as reasonable. Respondent acknowledges that the majority of our deputy conservators are not currently certified. There is an ongoing effort to have staff attend regional trainings and to get all deputies into compliance. Initial certification takes four years and four of our deputy conservators have not been employed for four years. Three others are certified (including the two managers), and the remaining six are out of compliance with varying number of credits.

6. The Board should consider separating LPS and probate public guardians.

Response: This recommendation will not be implemented because it is not reasonable. Separating LPS and Probate will create two small units that will reduce capacity, may result in staff shortages, response capability, and availability to conservatees.

7. The Board should consider placing the probate conservatorships with Adult Protective Services in the Employment and Human Service Department's Aging and Adult Services unit.

Response: This recommendation will not be implemented because it is not warranted. Placing probate in another department will create smaller units that will reduce capacity, may result in staff shortages, response capability, and availability to conservatees.

8. The Contra Costa County Public Guardian should follow California Judicial Council's best practices by requiring deputy conservators to meet with each probate conservatee at least once a month and to keep a log of such visits.

Response: This recommendation will not be implemented because it is not warranted. Respondent's current policies require a minimum of quarterly visits. However, the vast majority of conservatees are seen more often than quarterly. It is the Public Guardian's goal to see conservatees and their care givers monthly if possible, given caseload numbers, client acuity, and staffing availability. Respondent will update policies to reflect the California Judicial Council's report on best practices.

9. The Contra Costa County Public Guardian should adopt a line item to its budget specifically for the needs of probate conservatees before the Public Guardian has access to their assets.

Response: This recommendation will not be implemented because it is not warranted. Respondent already has a process to provide for the needs of conservatees when necessary, provided there are assets available for reimbursement to the County under a Court Order.