

OFFICE OF THE PUBLIC ADMINISTRATOR-GUARDIAN

The 2002-2003 Grand Jury commends the Office of the Public Administrator-Guardian for its competence and compassion in support of those citizens of Santa Barbara County least able to care for themselves.

The Office of the Public Administrator-Guardian is a department within the Office of the Treasurer-Tax Collector of Santa Barbara County. Operations within the South County Office are overseen by the Manager, Deputy Public Guardian and an Investigator. Operations in the North County are conducted by two staff members, one full-time and one part-time.

The Public Administrator-Guardian is defined as the "conservator of last resort" for County residents unable to maintain an appropriate lifestyle because of physical and/or mental deterioration and impairment, and for whom there is no other responsible agent or agency. There are two types of conservatorships:

- LPS Conservatorship is defined in the Lanterman-Petris-Short Act of the Welfare and Institutions Code of the State of California. Clients in this category are referred solely by designated medical facilities and authorized medical professionals. These individuals are severely disabled because of mental disorders which render them incapable of providing for their own personal needs (food, clothing, shelter). They are generally younger, indigent and unwilling to accept appropriate psychiatric treatment. Clients in this category can be retained only for one year; continuance requires a hearing in Superior Court.
- Probate Conservatorship is defined in the Probate Codes and the Welfare and Institution Codes of the State of California. Clients in this category are referred by persons cognizant of the deterioration of client capabilities required for independent living. They are generally the frail elderly with assets which range from insignificant to substantial and for whom there is no appropriate agency or agent available to defend their interests. Individuals in this category generally remain in conservatorship through the end of life. This type of conservatorship may last indefinitely and requires no renewal.

During the Grand Jury reporting period, the number of clients served by the Office was 103 under LPS Conservatorship and 63 under Probate Conservatorship.

ENTRY INTO CONSERVATORSHIP

The Office is the responsible Conservator appointed by order of the Superior Court. The referral process which results in the Court order consists of:

- A thorough investigation of the potential conservatee's total personal situation, including but not limited to medical, legal, financial, familial, housing and social aspects of the environment;
- Interviews with family, neighbors, professionals and medical specialists who have knowledge of the situation;
- An interview with the potential client to discern if there is a grasp of the gravity of the situation and to determine if other supporting agencies or structures are available to meet the individual's needs.

At the conclusion of the in-depth referral process, the Office undertakes a further investigation which includes:

- A determination with respect to unmet needs (food, clothing, shelter, financial obligations, health care requirements);
- An evaluation of personal, household and financial assets;
- A review of alternative care possibilities;

The establishing of a Superior Court hearing date with legal representation available for the potential client and with the presence of Santa Barbara County Counsel.

The referral process and the investigation are critical elements in the decision to enter a person into conservatorship. During the process, there are mandatory checks and balances because conservatorship is intrusive and drastic. The Superior Court order which approves conservatorship is powerful because all the civil rights of the individual are transferred to the Office.

INVESTIGATION

The Jury interviewed the Staff members in the Office of Public Administrator-Guardian and the Treasurer-Tax Collector. Representative client files were studied, site visits to facilities were undertaken and the storage facility was inspected.

Facilities in Santa Barbara County

Santa Barbara County has twenty skilled nursing facilities (SNF), of which nineteen are MediCare and/or MediCal certified. The facilities for the indigent are not secured SNFs. Secured facilities are locked for the protection of residents who must be supervised at all times. Because there is no facility for indigent residents with this requirement, they must be transported out of the County and monitored from a distance. The cost in human and material resources is a detriment to the clientele and the Office. County facilities which accept the severely challenged individual incur greater liability in care; however, they do not receive a higher rate of Government reimbursement.

Santa Barbara County is experiencing a facilities challenge! The aging population continues to increase as the baby boomer generation ages along with the longer living preceding generation. What has not kept pace are the financial resources to support the long term care of the aging or frail population within these generations. County residents whose resources have diminished to a crisis point and indigent residents receive care paid through the County General Fund.

File Studies

The contents of the files which were examined are complete and in very good order. The chronological order of the files tracks entry into the system through exit into independent living or death. The records clearly document all procedures adhered to during conservatorship. There is strong and consistent emphasis on the well-being of the people and the welfare of the society from which they emerge and to which they may be required to return. Evident throughout is documentation which details the coordination between public and private sectors and personal and professional contacts in order to secure a reasonable life path for these individuals.

LPS clients' files paint portraits of people rendered incapable of self- governance because of severe psychological problems, drug addiction or multiple challenges to themselves and to society. Individuals in this category are often young and financially insecure. Federal and State funds are limited and when they have been exhausted, the County must intervene to protect them.

Probate clients' files reflect the aging County population. They may possess assets sufficient to maintain an acceptable standard of living but may lack the physical or mental capabilities required for independence. The welfare of each client is paramount. Measures may be taken which compromise independence in favor of successful and safe living. When personal assets are exhausted, the full cost of protection is absorbed by the County.

Site Visits

Accommodations for people in conservatorship vary and the variance can be attributed in part to the ability to pay. Those in private pay may experience a residential atmosphere which is superior to the environment of publicly funded residential facilities. Within the private pay population, there exist tiers of care extended to residents. A random sample of facilities visited revealed the differences in physical site, staff number, quality and quantity of services and the amount of attention to the individuals served. The overall condition of a client may dictate the placement, which in turn defines the care received.

It is clear from the interview process, site visits and file review that competence and compassion are the hallmarks of the Office's commitment to the conservatees.

Asset Storage Facility

The Jury recognized the importance of client assets. Those in conservatorships are unable to preserve and protect what they had amassed in their lifetimes. Retention and preservation of client assets are critical components of conservatorships. With that understanding, the Jury toured the asset storage facility, interviewed staff members and reviewed client records and procedures.

The storage facility is an aging, worn structure which overflows with the possessions of clients. It is mandated that, at all times, two members of staff be present. The facility is on property which is presently not secured; however, a continuously staffed fire station is adjacent. The County will be relocating its facility within the year and the proposed location will be fenced.

Assets of estates are placed into storage following an inventory of the estate and an itemization of its assets. The data is entered into a computer.

The Probate Code governs the sale of the personal property of an estate if that should become necessary to support the client, or in the event that the person dies while in conservatorship. The protective attitude of the facility staff is "everybody has somebody". With that firmly in mind, "heir seekers" are frustrated in their attempts to lock onto estates. Diligent searches are made to locate legitimate heirs. If a search locates no heirs, an estate can be sold through an auction process.

The auction process begins with an appraisal of the inventory. The staff appraises the customary and usual goods of an ordinary life. If, during the appraisal, an item is identified as beyond the scope of the ordinary, an appraiser is summoned and a value is placed on the item. Property so evaluated must realize 90% of the appraised value during the auction and may be auctioned locally or in Los Angeles in order to achieve the greatest return. Unsold property is returned to inventory to

be offered again. The public auction is announced when the facility has extensive categories of items available and efforts are made to expose the estates to the greatest number of people. Proceeds realized from the estate of a client in conservatorship are entered into an individual's account to defray expenses of continued care. Unclaimed proceeds for the deceased revert to the State.

In order to support a client, real property may be sold according to the Probate Code. The property is inventoried and appraised and the appraisal is submitted to the Superior Court appointed Probate Referee. When an acceptable offer is made, a petition is made to the Court to accept the bid. The bid is published to invite overbids from the public. Proceeds from the sale of real property are entered into an individual's account to continue support.

The observation which summarized the attitude of the facility's staff toward its clients' estates was expressed in these words:

"We piece together someone's life by putting together their belongings. "

FINDINGS AND RECOMMENDATIONS

Finding 1

There are no locked facilities in Santa Barbara County for indigent conservatees. County citizens who require twenty-four hour monitoring in a secured (locked) facility must be transported out of the County, resulting in significant costs to the client served or to the County.

Recommendation 1

A secured (locked) facility should be available in the County. The County should consider options for expanding in-County care of citizens to avoid the expense of transporting and monitoring clients out of the County. Options for consideration include unused hospital space or County buildings.

Finding 2

An increase in the indigent conservatorship population will impact the County's funds in the future.

Recommendation 2

Every effort should be made to obtain grants to continually assist the indigent population.

Finding 3

The Office of the Public Administrator-Guardian is within the Office of the County Tax Collector-Treasurer.

Recommendation 3

For the purpose of better fiscal control, an outside auditor should be utilized periodically to verify the fiscal integrity of the Office.

AFFECTED AGENCIES

Santa Barbara County Board of Supervisors

Findings 1, 2, 3

Recommendations 1, 2, 3

Santa Barbara County Treasurer-Tax Collector

Findings 1, 2, 3

Recommendations 1, 2, 3

Santa Barbara County Auditor-Controller

Finding 3

Recommendation 3