

**STANISLAUS COUNTY OFFICE OF PUBLIC GUARDIAN
CIVIL GRAND JURY CASE # 07-38
2006 -2007**

SUMMARY

The 2006-2007 Stanislaus County Civil Grand Jury conducted a review and assessment of the Stanislaus County Office of Public Guardian to determine the office's ability to meet community needs.

Through sworn testimony and document review, the Grand Jury has determined that the Public Guardian is unable to perform the duties legally required by the state and is in noncompliance with court mandates. Furthermore, it has been determined that lack of staff prevents collection of service revenue owed to the Public Guardian Office. Public funds and client funds are intermingled without an ongoing financial review by county or independent sources. Interest from client accounts is used to offset Public Guardian administrative expenses.

Because of these and other deficiencies, it is the Grand Jury's recommendation that a performance audit and a financial audit of the Office of Public Guardian be conducted by an independent firm.

BACKGROUND

The Office of Public Guardian functions as a division of Stanislaus County Behavioral Health and Recovery Services (BHRS). The Public Guardian serves persons who cannot provide basic services for themselves and do not have family members, friends or others who are willing or able to initiate conservatorship proceedings on their behalf or, ultimately, to serve as conservators upon determination by the court that a conservatorship is required. The Public Guardian provides services to Lanterman-Petris-Short (LPS) Conservatorships, Probate Conservatorships, Representative Payee and Guardian ad litem cases. LPS conservatees are severely mentally ill and/or gravely disabled. Probate conservatees have been found by the Superior Court to be unable to care for themselves or their finances and/or cannot resist undue influence or fraud. Representative Payees are BHRS clients who need to have a representative who ensures that food, clothing and shelter needs are met. The court appoints the Public Guardian to safeguard monies for Guardian ad litem clients until they reach the age of 18.

Although many of the persons served by the Public Guardian are destitute, some have estates that must be managed. The Public Guardian is allowed to bill clients with estates for services at a fixed or hourly rate. This revenue offsets a significant portion of Public Guardian administrative expense. The Public Guardian provides comprehensive fiduciary management to the LPS conservatees, probate conservatees, representative payee and guardian ad litem cases. The Public Guardian also provides comprehensive personal case management to their probate conservatees. With the probate conservatees, the Public Guardian serves as the "substitute decision-maker" for mental health and medical treatment as well as for the provision of food, clothing and shelter.

METHOD OF INVESTIGATION

The Grand Jury interviewed four county employees and reviewed several documents.

Documents reviewed

- Introductory letter dated October 17, 2006 from BHRS Chief, Forensics Services/Public Guardian
- California Probate Code Section 1880 et seq.
- Welfare and Institutions Code 5350 et seq.
- Stanislaus County Public Guardian Statement of Expenditures, Encumbrances and Revenues for April 2007, Fiscal Year 2005/2006, 2004/2005, 2003/2004
- Stanislaus County Public Guardian Budget Unit Financing Use Detail for 2001-2002
- Agreed-Upon Procedures on the Office of Public Guardian report for the period ending June 30, 2006 conducted by Bartig, Basler and Ray
- Agreed-Upon Procedures on the Office of Public Guardian report for the period ending October 28, 2003 conducted by Bartig, Basler and Ray
- Office of Public Guardian New File Checklist

FINDINGS

1. In May 2007, the Public Guardian has a caseload of 165 clients.
 - 82 – LPS Conservatorship
 - 59 – Probate Conservatorship
 - 23 – Representative Payee
 - 1 – Guardian ad litem
2. 2006-2007 Office of Public Guardian Personnel:
 - Program Manager II
 - Deputy Public Guardian II
 - Behavioral Health Specialist II
 - Account Clerk III (2)
 - Stock Delivery Clerk II (3)
 - Stock Delivery Clerk I
 - Account Clerk II (extra help)
 - Chief, BHRS Forensics Services/Public Guardian (39% assignment)
3. The duties and legal responsibilities of the Public Guardian are listed in the California Probate Code and the California Welfare and Institutions Code.
4. Limited Agreed-Upon Procedures reports on the Office of Public Guardian were performed by Certified Public Accountants and Management Consultants Bartig, Basler and Ray in 2003 and 2006.

5. Staffing for the Public Guardian has decreased from 17 fulltime employees (FTE) in 2002/2003 to nine FTEs in 2006/2007.
6. Office of Public Guardian estimates indicate that up to \$175,000 in court accounting fees has gone uncollected due to lack of staff. Also undone or not done timely are the following Public Guardian duties:
 - Fee summaries for court accountings
 - Inventory and appraisals
 - Letters to conservatees' creditors
 - Filing
 - Tracking of outside client bank accounts and investments
 - Client medical bills and the research involved in matching what insurance has paid and what is outstanding
 - Warehouse audits
 - Releasing and/or disposing of deceased conservatees' property
 - Cleaning of clients' houses so that they may be sold on a timely basis
 - Correspondence with IRS to assure that conservatees' taxes are current
7. Evidence suggests that eligible persons who have been referred for appraisal to the Public Guardian have not been accepted into the program because of staff limitations.
8. The 2006 Omnibus Conservatorship and Guardian Reform Act imposes new duties to the California probate system. As a result, additional Public Guardian staff will be needed to accomplish the increased administrative time and effort this new law will require.
9. The 2006/2007 Public Guardian budget is \$965,030 and is funded from three sources:
 - County match funds
 - Service revenue from Public Guardian clients
 - Service revenue from Medi-Cal
10. The Public Guardian budget decreased from \$1,185,310 in 2003/2004 to \$1,095,391 in 2005/2006. It then decreased to \$965,030 in 2006/2007.
11. Service revenue from Medi-Cal funds have declined from \$182,020 in 2005/2006 to \$71,000 in 2006/2007. Limited staffing to bill Medi-Cal and a lower reimbursement rate are two reasons for this decline.
12. Client funds and Public Guardian funds are commingled in one fund. Software allows tracking of each client's individual funds.

When the Public Guardian bills a client for a service, the transferred funds are placed in the Public Guardian portion of the commingled fund. These transactions are not recorded in the monthly county budget until these funds are transferred to the county treasury each June.

13. Evidence suggests that some client interest revenue is used to offset Public Guardian administrative program costs and not added to individual client accounts.
14. Interest percentage paid to individual Public Guardian client accounts varies according to the amount in the individual client fund account – the larger the amount, the higher the interest percentage paid. It should be noted that Public Guardian clients who have less than \$2,000 are paid no interest due to administrative cost offsets.

RECOMMENDATIONS

The Grand Jury recommends that the Stanislaus County Behavioral Health and Recovery Services take immediate steps to:

- 1) Schedule a full performance audit by an independent firm to assure compliance with federal, state and court requirements.
- 2) Schedule an in-depth financial audit by an independent firm to assure that the handling and investments of county and client funds by the Office of Public Guardian are appropriate.

RESPONSE REQUIRED *per Section 933(c) and 933.05 of the California Penal Code*

Stanislaus County Board of Supervisors
Stanislaus County Behavioral Health and Recovery Services
Stanislaus County Office of Public Guardian

5/22/07