



# County of Yolo

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## DEPARTMENT OF FINANCIAL SERVICES

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- Financial Systems Oversight
- Accounting & Financial Reporting
- Internal Audit
- Procurement

October 30, 2017

Yolo County Board of Supervisors and  
Patrick Blacklock, County Administrator  
625 Court Street, Room 201  
Woodland, CA 95695

### **Re: Executive Summary – Final Results of the Special Review Report of the Public Guardian and Public Administrator**

Dear Board of Supervisors and Mr. Blacklock:

We have performed a review of the Public Guardian and Public Administrator's (PG/PA) Office and various aspects of its operations prior to the reorganization effective on January 1, 2017. This review was performed solely to assist the County in identifying potential areas of concern regarding the administrative and fiduciary functions of the office with respect to the management of conservatees (clients) funds, case management, and estates, and the handling of indigents and their estates.

Prior to the January 1, 2017 reorganization, the PG/PA Office operated in a consolidated manner as a single office under the leadership of an elected Public Administrator and Public Guardian. Upon her retirement at the end of 2016, in accordance with a plan developed over the course of that calendar year, the Office was separated and merged into two other departments: the PG was moved into the Health and Human Services Agency (HHSA), and the PA into the Office of the Sheriff-Coroner. Beginning promptly after this reorganization, at the request of the County Administrator and the Board of Supervisors, the Division of Internal Audit performed an in-depth review of processes and procedures to help identify areas that require improvements following the transition. Particular attention was devoted to evaluating internal controls relating to the management of client property and funds, and to whether conservatorships and similar matters are being managed in accordance with California law and applicable County policies and procedures.

#### Audit Standards

Our examination was performed in accordance with professional auditing standards established by the American Institute of Certified Public Accountants (AICPA) and in accordance with Government Code Section 1236 that requires that these standards be followed. We were not engaged to, and did not,

conduct an audit, the object of which would be the expression of an opinion on the accounting records. Accordingly, we do not express such as opinion. Had we performed additional procedures, other matters might have come to our attention that would have been reported to you. Our examination disclosed opportunities for immediate improvements in the reorganized PG and PA offices, including with regard to organizational, financial, and administrative processes and procedures, both as agents of their clients and as components of County government.

#### Audit Scope

The scope of the review was initially for the period of July 1, 2013 to December 31, 2016. However, as a consequence of the materiality of the initial findings, the scope of the review reached back, in some areas of testing, to year 2003. The scope of the review consisted of inquiries with staff, observations, testing of transactions; review of prior audits, laws and regulations, policies and procedures review of procedures around case management and the handling of real and personal property, inventory, cash receipts and disbursements, revolving and petty cash funds; and the review of the disaster recovery process, system storage, and recordkeeping practices. Additionally, the auditors performed procedures to determine if staff was diligent and exercised due professional care while performing their fiduciary responsibilities over conservatees and their estates in accordance with applicable provisions of California law and other authorities. Further, the auditors performed procedures and testing to determine if, as a county office, the PG/PA had followed county policies and procedures and complied with laws applicable to the county generally.

#### Staff Appreciation

The PG and PA staff as well as County Counsel staff has been instrumental in helping us gain an understanding of the control environment and providing valuable insight on numerous operational processes and transactions that have impacted the office over several years. Importantly, the PG and PA worked diligently as we tested and identified issues that needed immediate attention to implement recommended processes and procedures prior to the completion of this review. The enormous amount of time, commitment to improvement, and dedication have provided the auditors an understanding of California Government, Probate, and Welfare and Institutions, Health and Welfare Codes, and other governing laws and regulations around Social Security and Medicare benefits, which is tremendously appreciated and commendable.

Further, the auditors would like to express appreciation to Sheriff Ed Prieto and the Health and Human Services Agency Director, Karen Larsen, and their staff for their diligence, cooperation, and proactive approach in addressing and working to resolve several matters prior to the completion of this review.

#### Audit Determination

At this time, we have completed our review for the purpose of helping management identify practices and occurrences that should be further reviewed and/or addressed. Management was provided the draft report for review and their responses are included as an attachment to this final report. Moving forward

auditors will arrange a meeting with the PG and PA to further discuss the findings and recommendations, as well as the process of correction and improvements. Further guidance from the Division of Internal Audit (IA) will be provided to support the PG/PA staff in developing a Corrective Action Plan (CAP) that will help ensure success.

The auditors agree with the County Administrator's recommendation and the Board of Supervisors approval to reorganize and consolidate the offices into the Health and Human Services Agency (HHSA), and the Sheriff-Coroner's Office. The Public Guardian, who handles conservatees that often receive services provided by HHSA, can support PG staff by providing much needed resources to enable them to better perform their responsibilities. Similarly, the Public Administrator is appropriately housed within the Sheriff-Coroner's Office, as the handling of estates requires strong safeguarding of assets, chain of custody, accountability, and other controls around cursory searches, etc., that the Sheriff-Coroner's Office already has in place and can ensure PA staff incorporates and adheres to.

#### Summary of Results

1. Staffing resources must be improved to ensure full compliance with state laws and other authorities that apply to the PG/PA function. Training on topics such as accounting, reporting, inventory, monitoring, valuation and sale of assets, and some Probate and other governing codes could substantially improve overall performance. Other observations and recommendations relating to staff resources are set forth in a separate letter (not part of this report) to the County Administrator and Human Resources Director for their confidential consideration.
2. In regards to case management the PG/PA lacked in their fiduciary responsibilities, including due care as conservator over the welfare and care of conservatees, and their real and personal assets and other financial management duties. The auditors determined that the PG/PA mismanaged, and in some cases grossly mismanaged, conservatees' financial and estate related matters.

The PG/PA staff materially lacked good system controls, with little to no internal controls present to help ensure that the assets were safeguarded; conservatees real and/or personal assets were properly marshaled, valued, monitored, tracked, secured or sold. The PG/PA office also lacks separation of duties in several key areas that would have helped to ensure the prevention and/or the detection of fraud or misappropriation of assets.

Further, the auditors were unable to vouch that the system records were complete and data reliable since the system was easily manipulated and will only identify clients that are entered into the system. Therefore, auditors were unable to confirm that all clients on conservatorship during the period were properly accounted for.

3. The PG/PA files reviewed were found to be poorly organized and unauditible. As a result auditors were unable to reasonably confirm that misappropriation, misconduct, or misuse of client assets has

not occurred. In several files reviewed, the fiduciary duties and due diligence around conservatee real and personal property was found deficient and completely lacking accountability; conservatee assets (real and personal property) entrusted to the PG/PA could not be easily traced and tracked or in some cases accounted for. The auditors were often unable to trace occurrences and events transactions from the beginning to end or locate documentation that may support and explain the transaction.

Auditors reviewed conservatees' physical files and noted that files were missing various court documents. Also, auditors noted that nearly half of the client files where documents were found had untimely court accounting and were overdue for many I&A's. The auditors identified 2 that had been overdue for 7 and 8 years, and several others had not yet been filed. According to PG/PA staff, many of the I&A's previously prepared and submitted were incorrect and required amendments in order to move forward and close the case. The governing code requires that an I&A be completed within 90 days of conservatorship and to file an amendment if there is any change. The Panoramic system (system) allows for inventory tracking and facilitate the process of completing an I&A, but this feature has not been utilized.

4. The PG/PA do not have written policies and procedures. Based on inquiries with previous PG staff and other county staff, and on the review of various processes and tests of transactions, a lack of guidance and disconnect between staff and the former Public Guardian were apparent.

Furthermore, based on inquires with previously employed staff and other county staff the working environment for staff was flooded with strong arming and bullying, with one member of management fully in charge, given too much control, supported and allowed to behave in an overbearing and controlling manner towards staff, which over the years left staff demoralized with some fleeing the county unable to work in the environment.

5. The conservatees personal properties and funds were poorly managed; assets could not be accounted for and/or auditors noted various transactions that lacked accountability over the sale and treatment of assets. Further, bank reconciliations were not performed timely or accurately, with adjusting entries posted to the system over a year later; uncashed warrants were not reviewed or tracked; plug numbers were used to reconcile; and county (public) funds were not being fully reimbursed when staff used the funds for client needs until conservatees funds were marshalled and accessible. The auditors found little to no evidence of management oversight or second level approval over most transactions.
6. Auditors identified a lack of proper segregation of duties for both PG and PA functions. The auditors determined that the former management permitted one other member of management to control major transactions for both PG and PA functions regarding real and personal property and other assets from the beginning to the end of a transaction including; cursory searches (often alone), and documenting inventory. Based the review over inventory, conservatees' files lacked adequate

documentation such as pictures, and asset description, asset intake logs, documentation of valuation or appraisal of assets, and sufficient support for assets sold; preparing court accounting for all PG/PA clients of which many were not filed, filed untimely, and recently found to have been completed with several accounting errors; and hiring and selecting of vendors and contractors (using sole source for appraisal of jewelry and property and contractor services without an approved county contract).

7. The full report accompanying this Executive Summary provides specific examples of occurrences supporting these conclusions. Sales of personal assets were found to be inadequately controlled. The items sold such as jewelry, antiques, and other personal property lacked detail descriptions of the asset, tracking of inventory (valuation and sale), and supporting documentation. Real property was permitted to foreclose with little or no explanation found in the file or system; real property was sold for less than appraised value or property identified by staff was never marshalled, again with little or no explanation. The auditors identified some conservatees files where funds had been held by the PG/PA for years after conservatorship ended, and were pending final accounting.
8. Auditors noted other personal assets that could not be traced to records. During inventory observation, the auditors noted several items, including antique swords, guns, coins, jewelry, stamp collections, old photos, and books that could not be traced to the conservatee or PA estate.
9. Auditors noted that PG/PA staff lacked sufficient resources and adequate training and understanding. The PG/PA staff lacked sufficient resources and adequate training and understanding of governing codes over conservatees regarding case management and timelines for filing of court documents. The PG/PA staff do not appear to have adequate understanding of probate codes or regulations and guidelines over social security, medical, and the burial trust limitations (revocable vs. irrevocable). In several case files examined, the clients exceeded their social security and/or Medical resource limits and are facing potential responsibility for repayment of previously paid benefits to the Social Security Administration (SSA).

The auditors identified several conservatees who the county continues to hold fund balances for, but are no longer conserved by the county. Specific examples of SSA resource limitation problems, the failure to timely disburse conservatees' funds, and other issues are provided in the accompanying report.

10. The PG/PA function over the collection of revenue and fees was inadequate. The PG/PA's process for fee collection is over generalized to a one-size fits all treatment. Generally, the deferred fees are tracked using an Excel document that consists of a continuous list of conservatees fees ordered and paid; with a separate (unlinked) Excel document for each letter of the alphabet. The general treatment and "spoken" unwritten policy for fee collection for fees were applied as part of a determination of conservatees income nearing the income limits, rather than collecting fees upon court approval or when services are provided, even if the amount collected is not for the full fee

awarded. Based on inquiries with staff there was a general belief that conservatees have limited resources and can't afford more than their basic needs. However, the auditors identified many conservatees that fees should have been collected at the time reported and approved by the court. More effort should be shown for collection of fees.

Additionally, the PG/PA did not properly post appropriate accounts receivables or payables for relevant PG/PA transactions relating to fees or other transactions such as conservatees share of costs, initial support for conservatees needs, etc. to the systems (panoramic or Infor). Had the PG/PA followed county policy and properly posted and recorded the accounts receivables and payables, and supported collection efforts, it would have been better for more accurate revenue projections and other budget considerations; thus helping the county with future planning around the office's needs.

The auditors identified several cases where the cost was absorbed by the county for cremations that could have been recovered from the family. According to the governing code, the cost should have been recovered. Also, the auditors noted several cases where the county held funds belonging to an estate that should have been used to cover the cremation cost rather than the use of public funds. Further discussion and examples of this practice appears in the accompanying report.

11. The auditors performed a review of the PG/PA banking. The PG/PA maintain approximately \$2.3 million of client funds in a checking and money market accounts at the First Northern Bank, considerably in excess of the federal deposit insurance (FDIC) of \$250,000. These funds currently earn between 0.03% and 0.32% interest, significantly below the County's Treasury pool earnings of 0.59% (interest apportionment rate as of 12/31/16). Additionally, the auditors noted that there is a lack of separation of duties around bank reconciliations and other account transactions. The bank reconciliations are not performed on a timely basis, typically prepared 2-3 months after the end of the period, and during an assigned staff's leave, no bank reconciliations were performed between April 2014 and October 2014. Also, interest earnings were not allocated to the conservatees accounts on a timely basis (interest earnings from April to September of 2014 were not allocated until November 2014). The bank reconciliations for the burial trust account included a non-posted transfer amount of \$5,397.69 that was carried forward for a year in the Panoramic system but not transferred between the bank accounts. The client's book balances are not properly recorded on the bank reconciliations. Other concerns regarding the panoramic system are included in more detail in the full report.
12. The PG/PA support for disbursements of conservatees funds are inadequate. The auditors noted that a majority of the payments are made out of the spending trust account. Payments are also made out of the county's revolving fund when conservatees do not have funds and later the county's revolving fund is reimbursed. However, auditors noted transactions where the county's fund was not reimbursed. In addition, the auditors selected a sample of expenditure transactions from the spending trust, revolving fund, and from the department's general fund (GenLed and Infor transactions).

Several disbursement transactions did not have adequate documentation on file to support the charges against the conservatee and the estate accounts. Auditors recommend that PG staff perform a full review of these accounts.

13. The PG/PA's case files are poorly organized, lack important documents, and do not reconcile with system records. Court documents and conservatees important financial documents (wills, trusts, and bonds, list of assets, deeds, and burial certificates) were loosely placed in folders, with no organization. The case files also were deficient in supporting documentation such as receipts for disbursement of funds. In addition, the system and hard files do not reconcile. The staff did not update case management matters on a timely basis or upload important financial documents to the system.
14. A review of the referral process provided evidence that referrals were denied without a proper investigation. Deferred/Declined Cases-Current PG management identified 11 files of individuals that were seeking referral, but that they did not go through the PG referral review process. 2 of the cases from 2011 and 2016 were entered into a hard copy binder and noted as declined, but were not entered into the Panoramic system. The other 9 cases (mostly from June 2016) were not found in the binder or entered into the system. The auditors reviewed emails and notes that indicate that former PG/PA declined the referral prior to an investigation, failing to adhere to governing codes that require an investigation prior to denial of a referral. Of the 9 cases 3 have recently reached out to the PG manager for reconsideration and are being investigated. The current PG managers continues to receive calls regarding status on referred cases that were never documented or logged to follow-up.
15. Auditor's noted that the PG/PA does not have a written disaster recovery plan. If PG/PA's files were destroyed the system files would not be sufficient to continue to support the conservatees, including the management of their estates. The auditors confirmed that no written disaster recovery plan or recordkeeping policy exists. The system lacked detailed notes, and important documents that should have been uploaded to the system.

The California Probate Code is extensive and the references provided in the detailed report represent a very small percentage of the code regarding the laws, and rules and regulations that govern the fiduciary responsibilities of the Public Guardian and Administrator. The staff should attend ongoing training to ensure that they are receiving sufficient training, guidance and understanding. Additionally, there are other governing codes such as the Welfare and Institution, Health and Welfare and California Government Code that are applicable and should also be understood and followed.

The PG/PA staff and management should develop a Corrective Action Plan (CAP) that details steps to develop and implement written policies and procedures to ensure that the recommendations are fully implemented, with defined timelines, expected work product, percentage of completion, and end-result performance measurements. The Division of Internal Audit will provide ongoing support and guidance to

help develop the CAP and perform annual reviews to ensure implementation. It should be noted that in addition to the many examples provided in the detailed report, the auditors have documented numerous cases in their audit work papers that further supports the mismanagement and neglect that occurred over the many years of the department's operation.

The auditors recommend that county management review workload and staffing resource needs for both the PG and PA functions, including the period of time it will take to develop and implement the Corrective Action Plan, clean-up past issues, and continue to move forward current matters. Other observations and recommendations relating to staff resources are set forth in a separate letter (not part of this report) to the County Administrator and Human Resources Director for their confidential consideration.

We request that staff work with management to prepare a Corrective Action Plan (CAP) and submit it to the Division of Internal Audit by **January 4, 2018**. The CAP should include the findings, recommendations, the action steps to be taken, and expected completion dates. An effective CAP addresses each area of responsibility according to governing codes and laws. The CAP should have performance based results that are measurable and timelines for completion. The auditors will perform a review on work completed and work in progress annually until CAP has been fully implemented. Refer to page 16 through 18 in the report for more detail. If guidance and/or an examples of a CAP is needed please contact us. After we've received your CAP, we will perform a review to determine if the plan is being implemented and is effective.

Based on the results review and the determination that, prior to the 2017 reorganization, the office mismanaged the estates of office clients and neglected other fiduciary duties, and the incomplete and poorly organized (unauditable) condition of the files, the auditors are unable to confirm that misappropriation or misuse of conservatees or decedents assets did not occur. On this basis, the auditors recommend that further investigation be performed and findings reported to the appropriate agency for consideration.

#### Results – Additional Subsequent Review

Prior to the final release of this report the auditors were requested to performed additional review. The result of the follow-up review was inconclusive due to the fact that an outside third party verification (Conservatee's and PA client's banks and investment institutions) could not be obtained because of record retention polices of outside parties, and other constraints relating to dated material that was being requested but unavailable for our review, as such, matters relating to the follow-up review are not part of this report. The Division of Internal Audit will move forward in helping to provide the departments guidance, which will help ensure that good system controls and best practices are developed and implemented, thus preventing similar events described in this report from occurring in the future.



We would be pleased to discuss the matters reported or to answer any questions. Please contact me at (530) 666-8190 Ext 9210 or at [mary.khoshmashrab@yolocounty.org](mailto:mary.khoshmashrab@yolocounty.org).

Sincerely,



Mary E. Khoshmashrab, MSBA, CPA  
Internal Audit Manager  
County of Yolo

Enclosure: Special Review Report of the Public Guardian and Administrator-  
Results, Findings and Recommendations  
Attachment A- PA - Office of the Sheriff Response  
Attachment B- PG - Health and Human Services Agency Response

cc: Sheriff Ed Prieto, Sheriff-Coroner's Office  
Karen Larsen, Director, Health and Human Services Agency  
Jeff Reisig, Yolo County District Attorney  
Tracie Olson, Yolo County Public Defender  
Phil Pogledich, Yolo County Counsel  
Howard Newens, CIA, CPA, Chief Financial Officer  
Noemy Mora-Beltran, Internal Auditor  
File

***Transmitted electronically to all parties***

**YOLO COUNTY**

**SPECIAL REVIEW REPORT  
OF THE  
PUBLIC GUARDIAN AND  
ADMINISTRATOR**

**For the Period of  
July 1, 2013 to December 31, 2016**

**PREPARED FOR  
THE BOARD OF SUPERVISORS AND  
COUNTY ADMINISTRATOR**

**Prepared by: Mary Khoshmashrab, MSBA, CPA,  
Yolo County Internal Audit Manager  
October 2017**

### **Purpose**

Prior to the January 1, 2017 reorganization, the PG/PA Office operated in a consolidated manner as a single office under the leadership of an elected Public Administrator and Public Guardian. Upon her retirement at the end of 2016, in accordance with a plan developed over the course of that calendar year, the Office was separated and merged into two other departments: the PG was moved into the Health and Human Services Agency (HHSA), and the PA into the Office of the Sheriff-Coroner. Beginning promptly after this reorganization, at the request of the County Administrator and the Board of Supervisors, the Division of Internal Audit performed an in-depth review of processes and procedures to help identify areas that require improvements following the transition. Particular attention was devoted to evaluating internal controls relating to the management of client property and funds, and to whether conservatorships and similar matters are being managed in accordance with California law and applicable County policies and procedures.

### **Background**

The Public Guardian acts as conservator for those County residents the Yolo County Superior Court determines to be unable to properly provide for themselves or their finances. California law provides for two types of conservatorships. The first is a Probate Conservatorship of the person and/or estate for those found unable to care for themselves or to manage their own finances or resist fraud or undue influence. The second is an LPS Conservatorship, short for Lanterman-Petris-Short, for those unable to provide food clothing and shelter for themselves because of a mental illness. When there is a need for a conservator, the Public Guardian is the last resort and only becomes involved when there are no family members or others willing and/or able to become the conservator.

#### Probate Conservatorship

The Superior Court can appoint a conservator for an individual who is substantially unable to provide for personal needs such as health, food, clothing or shelter and/or is unable to manage financial resources or resist fraud or undue influence. Probate conservatorships are often used for older, frail and vulnerable adults and for people with significant developmental disabilities.

#### LPS Conservatorship

The court will establish a conservatorship under the Lanterman, Petris Short (LPS) Act on the determination of a psychiatrist or psychologist that an individual is unable to provide for food, clothing or shelter as a result of a mental illness. In an LPS conservatorship, the conservator has the authority to place a conservatee in a psychiatric treatment facility. LPS conservatorships may be renewed on an annual basis, if the court deems it appropriate.

#### Establishing a Conservatorship

Referrals for LPS conservatorship can only come from a professional person in charge of an agency providing comprehensive evaluation or a facility providing intensive treatment who determines that a

person in his care is gravely disabled as a result of mental disorder. Private parties cannot refer a person directly to the Public Guardian for an LPS.

Referrals for probate conservatorships generally come from Aging and Adult Services, but may also come from the general public. The referral must include information demonstrating a verifiable mental incapacity and/or an imminent threat to the person's health and safety or estate.

Once the Public Guardian receives a referral of either kind, the Centralized Intake Unit assigns a deputy public guardian to investigate the need for conservatorship, whether legal criteria is met and whether there are any less restrictive options. If deemed appropriate, the Public Guardian petitions the Court to establish a conservatorship and recommends who should be appointed as the conservator. Family members have priority to be named conservator, but if none is willing or appropriate, the Public Guardian or a private fiduciary may be appointed as conservator.

#### Role of the Public Guardian

The deputy public guardian assigned to the individual arranges for health care, housing, meals, transportation, personal care and recreation. In addition, the deputy public guardian gathers all assets, applies for income, and collects all bills, making decisions on which bills can be paid. The public Guardian must account to the Superior Court and the Superior Court supervises the actions taken by the Public Guardian on behalf of the conservatee.

#### Role of Public Administrator

The Public Administrator investigates and administers the estates of persons who die without an appropriate person willing or able to act as an administrator. The Public Administrator has the same duties and functions as private administrators which include:

- Protecting the decedent's property from waste, loss or theft
- Making appropriate funeral and burial arrangements
- Conducting thorough investigations to discover all of the decedent's assets
- Collecting all money owed to the estate
- Ensuring all estate benefits are applied for and received
- Paying the decedent's bills and taxes
- Ensuring the estate is administered according to the decedent's wishes
- Locating persons entitled to inherit from the estate and ensuring these individuals receive their inheritance and maintaining a fully documented audit trail to make certain that each and every asset is accounted for and distributed appropriately.

During administration, the Public Administrator holds estate funds in an FDIC-insured interest bearing account.

The Public Administrator services also include managing the indigent burial/cremation program. The program makes burial arrangements for Yolo County residents who are, at the time of death, indigent and whose estates cannot cover the cost of the disposition.

Although not mandated to, the Public Administrator also arranges an annual celebration of the lives of residents who die alone, without any recognition of their passing. Decedents being honored have either been clients served by the office of the Public Guardian-Public Administrator, or those whose death and final affairs were handled by the office. Generally, those served through the indigent burial and cremation program are very low income and often disenfranchised from their families.

### **Audit Standards**

Our examination was performed accordance with professional auditing standards established by the American Institute of Certified Public Accountants (AICPA) and in accordance with Government Code Section 1236 that requires that standards be followed. We were not engaged to, and did not, conduct an audit, the object of which would be the expression of an opinion on the accounting records. Accordingly, we do not express such as opinion. Had we performed additional procedures, other matters might have come to our attention that would have been reported to you. Our examination disclosed opportunities for immediate improvements in the reorganized PG and PA offices, including with regard to organizational, financial, and administrative processes and procedures, both as agents of their clients and in the role of the reorganized office as a component of the county.

### **Audit Authority**

Government Code Section 1236 (a) All city, county, city and county, and district employees that conduct audits or that conduct audit activities of those respective agencies shall conduct their work under the *general and specified standards* prescribed by the Institute of Internal Auditors or the Government Auditing Standards issued by the Comptroller General of the United States, as appropriate ...

Yolo County Internal Audit Charter Article III, Section 1 states ...The Chief Auditor shall have open and direct access to the County's Administrator, Board of Supervisors, the Chief Financial Officer, the County Management, the Committee, and the County's staff. The Chief Auditor shall be free to document and communicate without interference or influence, specific policies and procedures best suited for managing the Internal Audit Division.

The County's Management and staff shall be obligated to respond to the Internal Audit Division's inquiries and recommendations, formal and informal, and in a timely and diligent manner. Excessive requirements for management authorizations or permissions are deemed to inhibit access. The Chief Auditor has the discretion to disclose and refrain from disclosing any reasons for requests placed upon management and staff.

### **Methodology and Scope**

The scope of the review was initially for the period of July 1, 2013 to December 31, 2016. However, as a consequence of the materiality of the initial findings, the scope of the review reached back, in some areas of testing, to year 2003. The scope of the review consisted of inquiries with staff, observations, and testing of transactions; review of prior audits, laws and regulations, policies and procedures; review of procedures around case management and the handling of real and personal property, inventory, cash receipts and disbursements, and revolving and petty cash funds; and the review of the disaster recovery process, system storage, and recordkeeping practices. Additionally, auditors performed procedures to determine if staff was diligent and exercised due professional care while performing their fiduciary responsibilities over conservatees and their estates in accordance with applicable provisions of California law and other authorities. Further, auditors performed procedures and testing to determine if, as a county office, the PG/PA was following county policies and procedures and complying with laws applicable to the county.

### **Audit Determination**

At this time, we have completed our review for the purpose of helping management identify practices and occurrences that should be further reviewed and/or addressed. Management was provided the draft report for review and their responses are included as an attachment to this final report. Moving forward auditors will arrange a meeting with the PG and PA to further discuss the findings and recommendations, as well as the process of correction and improvements. Further guidance from the Division of Internal Audit (IA) will be provided to support the PG/PA staff in developing a Corrective Action Plan (CAP) that will help ensure success.

The auditors agree with the County Administrator's recommendation and the Board of Supervisors approval to reorganize and consolidate the offices into the Health and Human Services Agency (HHSA), and the Sheriff-Coroner's Office. The Public Guardian, who handles conservatees that often receive services provided by HHSA, can support PG staff by providing much needed resources to enable them to better perform their responsibilities. Similarly, the Public Administrator is appropriately housed within the Sheriff-Coroner's Office, as the handling of estates requires strong safeguarding of assets, chain of custody, accountability, and other controls around cursory searches, etc., that the Sheriff-Coroner's Office already has in place and can ensure that the PA staff incorporates and adheres to.

### **Results, Findings, and Recommendations**

#### **1. Finding- Review of Prior Audits and Reviews and Implementation of Recommendations:**

**As a result of the review of prior audit or reviews performed on PG/PA, the following matters were identified:**

For the past 20 years the PG/PA has not had a full accounting financial audit that provided an opinion based on an examination of various financial assertions (assets, liabilities, fiscal transactions, etc.).

However, there have been a few reviews performed over the last 10 years that provide limited or no assurance.

The results of the reviews are below:

- Agreed Upon Procedures Review- Report Issue Date 4/30/2017

The Review performed by an independent auditor, provided no assurance, and was limited to agreed-upon procedures (AUP are limited to a few procedures and scope that are agreed upon in advance and provide no assurance/opinion) to assist the PG/PA with evaluating the internal controls around bank accounts, cash receipts, cash disbursement, accounts receivable, case management and conservatees personal assets and processing of financial records.

The procedures performed resulted in two exceptions: 1) Bank accounts not properly separated after the PG/PA separation; and 2) PA clients not entered into the Panoramic system after department separation and was awaiting the system vendor to remedy the problem. The auditors determined no other exceptions.

- Social Security Administration Desk/Field Review- Report Issue Date 2/10/2013

According to the desk/field review performed the following matters were identified: 1) No disaster recovery plan 2) Segregation of duties (same person posting to the ledgers, has access to checks, or is authorized to sign checks); and 3) Allowable fees of 10% of payment or benefit of SSI (whichever is less) not charged.

Based on our review and current findings these matters continued and no action has been taken to resolve the findings.

- Agreed Upon Procedure Review- Report Issue Date 9/01/2011

The review performed by an independent auditor, provided no assurance, and was limited to agreed-upon procedures to assist the PG/PA with internal control structure for the fiscal year ending 6/30/11. The procedures performed resulted in the following exceptions: 1) No procedures in place to perform inventory counts; 2) No management review for cash receipts posted into Panoramic; 3) Outdated administrative policy and procedures; 4) Approved disbursements exceeded the case officer's authorization threshold; 5) No segregation of duties within the cash receipts process and bank reconciliations; 6) Interim reports of assets not used; 7) General ledger to track fiduciary assets and liabilities not used; and 8) A system- based general ledger for the generation of financial statements is not used.

Based on our review and current findings these matters continued and no action has been taken to resolve the findings.

- Division of Internal Audit Limited Review on Timekeeping and Accounting Procedures- Report Issue Date 9/22/2008

According to the limited review performed by the Division of Internal Audit, the following issues were identified: 1) Timesheets not completed and changes to regular work schedule (including telecommuting) not approved in advance; 2) Overtime allowed only for one employee; 3) No procurement procedures and approved vendor list; 4) Potential conflict of interest for services provided to clients; 5) Forms 1099-Miscellaneous not filed; 6) Court-ordered receivables not reported to the Auditor-Controller; 7) Promotion of staff from senior accounting technician to assistant PG/PA; 8) Large volume of disbursements handled by staff; 9) Not all transactions recorded in the Panoramic system; 10) Annual audits not performed; and 11) Assets in bank accounts exceeded FDIC insurance and interest earned significantly below the county treasury pool.

Based on the review auditors determined that services were obtained by word of mouth, relatives or trustworthy individuals that had performed work for the PG/PA on past estates. The type of services arranged were landscaping services, repairs and maintenance, rental and other miscellaneous services for clients still living at home or with a relative.

Based on our review and current findings these matters continued and no action has been taken to resolve the findings.

The current review described in this report demonstrates that through the end of 2016, the PG/PA had not successfully implemented recommendations that could have prevented the current state of matters. The auditors' findings and recommendations identified in the previous reviews are still present.

**Recommended Action:**

The auditors recommend that the PG and PA management and staff review the prior audit findings and recommendations along with the recommendations made in this report and develop a process for a corrective action plan and implement each recommendation. Additionally, county management and PG staff should consider an asset management position to support staff and ensure good system controls. The PA should ensure that controls currently in place over asset management for assets managed by the Sheriff are also implemented for PA matters.

As identified in prior reviews and in this review, PG/PA did not utilize a general ledger to track fiduciary assets, liabilities, and changes in assets or liabilities. The system used only tracks on an individual basis by client rather than in total. As such the PG/PA is unable to generate financial reports essential to the accountability of the financial accounts as a whole (for example, to allow an accurate reconciliation with bank and other accounts). The auditors recommend that a financial review be performed on each of the PG/PA accounts that includes testing of transactions and reconciliations.



## **2. Finding- Review of Probate, LPS, PA, and Indigent General Process and Case Management:**

**As a result of the review of Probate, LPS, PA, and Indigent General Process and Case Management, the following matters were identified:**

**No written policies and procedures-** The auditors note that the former PG/PA maintained various legal opinions and other documents and codes that she referred to as policies. Inquires with staff, however, indicate that the documents were not provided for their guidance and reference.

**Untimely Case Management-** The auditors identified that procedures required to be performed on behalf of the conservatees were not performed or were not performed timely. Currently, there is rising concern from staff that existing resources are not sufficient to adequately manage assets and estates.

**Dual Custody Cursory Searches-** Based on the review of the PA and PG physical case files, there is no evidence that the cursory searches were performed by at least two employees. According to the PG staff, the common practice was to take pictures of the assets during the cursory search for record and inventory. However, the pictures were rarely taken and/or recorded in the case files. In addition, there are no written policies or procedures regarding cursory searches. According to the former assistant PG/PA, the process depended more on the situation than a policy.

**Review of Referrals and Declined cases-** The current PG management identified 11 deferred/declined referrals, which did not go through the PG referral review process. In 2011 and 2016, 2 of the cases were entered into a hard copy binder and noted as declined, but were not entered into the Panoramic system. The other 9 cases (mostly from June 2016) were not entered into a binder nor found in the system. However, there are emails and notes that indicate that the PG declined the referral prior to performing an investigation, as required by California law. Three of the 9 cases have recently reached out to the PG for reconsideration and are undergoing investigation. The current PG managers continues to receive calls regarding status on referred cases that were never documented or logged to follow-up.

According to the current PG manager, from January 1, 2017 to May 31, 2017, the PG has had a significant increase of referrals since year 2016. It is unclear that the increase is due to those that have reached out due to a referral that was declined prior to an investigation or that there is a better tracking of all referrals and an actual record in the system.

**Court Accountings and Inventory and Appraisals not filed Timely and Potential Responsibility for Overpayment of Social Security Administration Benefits-** The PG did not adhere to the required timelines for Inventory and Appraisals, court accountings, investigations, and other related matters.

Inquiries with the current PG manager noted that PG staff identified approximately **150** cases where the case status was undetermined. According to PG staff, the Panoramic system and case files of many conservatees have not been updated with relevant, accurate information on the client's status (active case, deceased, transferred to another jurisdiction, no longer conserved). The current PG manager noted that all 150 cases were no longer on conservatorship. Additionally, the current PG manager noted that all cases were poorly documented and it will take considerable time to sort through the files and take the necessary action.

For these 150 conservatorships, staff confirmed that **44** have terminated either by operation of law (conservatee is still alive), or as a result of the death of the conservatee. The date of termination for these 44 cases varied from **six months to over seven years** prior to this audit.

Further, of these 44 cases, auditors noted the following deficiencies:

- No initial inventory and appraisal completed.
- The information necessary to complete an inventory and appraisal had not been uploaded to the system.
- There was no final accounting submitted to the court.

The PG staff will need to review each individual case with outstanding balances and reconcile this to the hard files and/or to the notes entered into the system to bring the files up to date for any required filings with the court. This process may require additional resources.

The following cases were examined:

**1 Conservatee** – The conservatorship ended in March 2014 (over 3 years ago), but the case is still shown as "active" in the Panoramic system with an outstanding balance of \$2,690.47. Per system notes, the conservatee was moved to another place and the benefits to be routed to another payee. The client's balance may have exceeded the \$2,000 resource limit for as long as 3 years. If 1C's balance had exceeded \$2,000 per month, then for each month 1C exceeded this amount, 1C was not eligible for benefits. It is important to note that per the benefit guidelines the amount of overpayment is not only for the amount exceeding the resource limit each month, but the full monthly benefit amount received afterwards from the first month exceeding the resource limit.

**2 Conservatee** The conservatorship for 2C ended in February 2010 (7 years ago), but notes in the file indicate the discussion of deferred fees. Although the staff intends to allocate the deferred fees in question to clear the clients balance; there has not been a final accounting performed or closure of the case. This is another example of potential liability if fees are not taken to consume the entire balance, 2C could be at risk for exceeding the resource limits and possibly face repayment to SSA.

**3 Conservatee** The conservatee 3C had shown remaining fund balance with the county of \$6,700. In August 2013, 3C's child took over conservatorship, but the remaining fund balance had not been transferred to 3C's child. According to staff, there may be outstanding fees that are unallocated, but this has not been determined. Furthermore, the last event note in the system was 2013 regarding 3C being transferred to

a new facility. Again, no final accounting was uploaded in the system or determination of eligibility for benefits/resource amounts. Further review is necessary.

4 Conservatee The conservatee 4C has not been on conservatorship with PG for over a year with a remaining fund balance with the county of \$3,194. A final accounting has not been performed and 4C's guardian is concerned that this may put 4C over the resource limit; whereas, 4C could lose benefits. Again, staff believes that the outstanding fees that are unallocated will be absorbed. However, this practice, at least in appearance, seems as though PG is trying to avoid repayment of benefits by taking fees. The PG should estimate/allocate monthly expenses on a consistent basis not *only* when conservatees funds are nearing resource limits.

5 Conservatee There were two cases identified in the system for 5C. Because one case was not closed or linked to the other, both cases have conflicting notes and different dates. It is unclear if the notes have been updated to the correct account in the system. The last system update found was in year 2015, but nothing was noted. *Also the current* status is unknown with a remaining fund balance with the county of \$439. Further review is necessary.

6 Conservatee The conservatee is shown as a "transition" status in the system with no case notes, referral document, inventory, or inventory and appraisal report uploaded. If the case was intended to be entered in the system as a referral and was declined, the system notes should provide more information of the client status. Otherwise, the case should be moved to a closed status, with documentation that supports that an investigation was performed and the reason for the denial.

7 Conservatee From early 2015, a system note was found moving 7C to a private conservatorship and a family member taking over conservatorship, but no update or resolution of the matter was posted. Another note was found on 12/15/2015 (over 1.5 years ago) by the former PG/PA stating that the family would not be taking over the conservatorship, and that the former PG/PA will remain as conservator to 7C as recommended to the courts. The information was not updated in the system and no court documents were uploaded. The auditors also reviewed 7C's files and did not find an inventory and appraisal report (I&A) that included accounts. PG staff was unsure why the account was not fully disclosed on the I&A or why the account was not marshalled from intake.

8 Conservatee The auditors noted concerns over a case of a property foreclosure and a potential benefit limitations matter in September 2014 handled by the former assistant PG/PA. The conservatee 8C had property that was not identified on the inventory and appraisal report or noted in the system. The application for benefits also did not list the real property; and, as a result, 8C qualified to receive benefits. The PG case manager inquired with the former assistant PG/PA regarding the omission of the property and court accounting, but was directed to state on the application that the conservatee had no real property held. Based on that information, 8C received benefits that would have not otherwise qualified for almost 2 years of in this case Medi-Cal benefits. The property later foreclosed on 9/13/2016 and was

sold with the deed transferring in 2017. The information regarding the foreclosure was unknown to PG staff until the conservatees homeowners association for the property contacted them and county counsel provided the detail from their records. The impact of the property foreclosure and a potential benefit limitations resulted in 8C exceeding the resource limit for almost 2 years. The amount owed to Medi-Cal equaled approx. 24 months times the amount of monthly benefits received. The PG staff was able to work with Medi-Cal for a lump sum settlement from the proceeds of the home with the remainder forgiven. This situation could have been avoided if the PG staff would have reported the property on the inventory and appraisal report, noted the information in the system, and application with continued follow-up.

9 Conservatee Conservatee owns property out of state with spouse, property was not reflected on I&A or reported to Social Security.

**Misunderstanding of Burial Trust Requirements**- Auditor's inquiries with PG staff indicated that there are several clients that are currently under PG conservatorship that may be over the resource limits due to their balances held in what was referenced by former PG/PA management as an "irrevocable" burial trust. For the purpose of this section, there are two types of burial trusts- revocable and irrevocable. Social Security excludes "revocable" burial trusts, which by its terms can be revoked, worth a maximum value of \$1,500.00 from an estate's countable resource. Any portion of a revocable burial trust that exceeds this amount, with the exception of interest earned, is an includable income resource. This differs from an "irrevocable" burial trust which, by its terms cannot be revoked. There is no limit on the amount held in an irrevocable burial trust. According to staff, for years management was unaware of the limits and other conditions of burial trust. Further review is necessary by PG staff to determine the impact.

Based on the review, **27** clients were identified as potentially being over their resource limits as a result of this matter; this number includes conservatees that the PG are holding funds for but are no longer under conservatorship. The potential impact on the clients no longer conserved would be the same as the ones under conservatorship. If the conservatees' outstanding balances for any month exceeded \$2,000, benefits would be due back to the Social Security Administration (SSA). The matter was initially discovered when SSA Staff performed desk testing on selected number of conservatees. For example Conservatee X, a PG client since August 2015, was identified as exceeding the resource limits due to balances in F's burial trust account exceeding \$1,500.

Additional time and resources may be necessary to identify all the potential current and former conservatees whose estates have exceeded the resource limits. The PG will need to make arrangement with Social Security Administration to address any issues arising from a failure to understand and adhere to income limitation guidelines and other conditions of the burial trust limits.

**Concerns over safeguarding of Critical Information**-Auditors noted concerns over critical information held in folders and the potential for files to be destroyed or lost due to unforeseen disasters. The PG/PA did not have a written disaster recovery plan. If PG/PA's files were the system files would not be sufficient

to continue to support the conservatees including the management of their estates. Auditors confirmed that no written disaster recovery plan or recordkeeping policy exist. The system lacked detailed notes, and important documents that should have been uploaded to the system.

**Receipts and Disbursements of Conservatees Funds-** the PG/PA maintains a file for each client that includes supporting documentation for all financial transactions. The majority of files reviewed lacked sufficient support, such as third party receipts or other forms of evidence to support disbursements. The auditors also noted that some green slips called “Miscellaneous Budget Requests” were used to support disbursements. Further, the auditors identified several billing statements and requests for payment with a handwritten note from office management instructing staff not to pay. According to the staff, there was a “spoken policy” that any debt the clients incurred prior to conservatorship not to be paid unless otherwise directed. The former Assistant PG/PA shared that in her opinion most conservatees have insufficient funds that do not provide fund balances beyond their board and care needs.

#### **Physical PG/PA Case Files**

The PG/PA files reviewed were found to be poorly organized and unauditible. As a result auditors were unable to reasonably confirm that misappropriation, misconduct, or misuse of client assets ***has not*** occurred. In several files reviewed, the fiduciary duties and due diligence around conservatee real and personal property was found deficient and completely lacking accountability; conservatee assets (real and personal property) entrusted to the PG/PA could not be easily traced and tracked or in some cases accounted for. The auditors were often unable to trace occurrences and events transactions from the beginning to end or locate documentation that may support and explain that the transaction. Additional review is recommended to the appropriate agencies for additional investigation and treatment.

Auditors reviewed conservatees physical files and noted that files were missing various court documents. Also, auditors noted that nearly half of the client files where documents were found had untimely court accounting and were overdue for many I&A’s. The auditors identified 2 that had been overdue for 7 and 8 years, and several others had not yet been filed. According to PG/PA staff, many of the I&A’s previously prepared and submitted were incorrect and required amendments in order to move forward and close the case. The governing code requires that an I&A be completed within 90 days of conservatorship and to file an amendment if there is any change. The Panoramic system (system) allows for inventory tracking and facilitate the process of completing an I&A, but this feature has not been utilized.

**Lack of segregation of duties, potential misuse of funds, conflicts of interest and failure to follow county policy-** Auditors reviewed the PG/PA procedures over the processing transactions, issuing checks, contracting for services, reconciliations, processing vendor payments, and other duties that require separation of duties, and determined that the PG/PA function lacked proper separation. The same person handling the receipt of checks is also the person depositing, accounting, and reconciling the client accounts. Further, auditors determined that the same person manages the inventory value and sale of both real and personal property. This same person also prepares the court accounting for all conservatees

and PA estates. There are no controls in place that would provide any assurance that assets are safe from misappropriation or abuse.

One example of apparent misuse of public funds that resulted due to a lack of separation involves a home that was cleaned, garbage cleared, and mortgage payment made costing over \$22,000. The home valued at **\$61,000** was later left to foreclosure, leaving the county unreimbursed for **\$22,000**. The incident involved the former management. The auditors reviewed the transactions and found that the former management intentionally bypassed county policy by processing two separate warrants from the county's revolving fund; one warrant to the member of management for \$7,500, and the other to an individual friend of the client for \$3,500 who was helping clean and repair the home. The former management then deposited the warrant into the PG/PA's outside client trust account ( held to pay client bills) and processed another warrant for \$7,500 from this account that was payable to the friend already paid \$3,500. The friend was paid a total of \$11,000 (\$7,500 and \$3,500), which exceeded the county's one time claim limit policy. The purpose of having a county's policy is to prevent bid splitting and circumvention of contracting requirements by county employees.

Other examples of questionable treatment of assets due to lack of separation include:

C1- Based on a review of the conservatees' file, the auditors identified several pictures of antiques and EBay searches that provided values of antiques that were found in C1's home. The total amount was considerable. Based on the poorly organized file, proceeds could not be traced to the conservatee's prepared I&A's. In addition, the auditors were unable to determine if items were sold, evaluated, or that proceeds were recorded into C1's account. The file also included a letter from an attorney claiming that the antiques were promised to their client by the conservatee. The attorney requested reimbursement to their client. Additional review is needed on this matter.

C2- Vehicles were not properly tracked or sold timely to ensure that the highest value would be obtained for conservatees. A boat that was not marshaled at the time of conservatorship, was recently found (5 years later).

C3- had a mobile home and a vehicle that was sold for \$499.00 and \$1.00, respectively. The initial value of the mobile home was estimated informally at \$9,000. However, a \$500 value was reassigned (2 years later) and additional fees for cleaning, rental space, and utilities were disbursed. Shortly after the reappraisal the PG/PA sold the mobile for \$499. The reason for keeping the property for 2 years, the reappraisal and the sale was not explained.

C4-According to the file reviewed, the conservatee's jewelry was sold to a jeweler that also valued the property. The bill of sale found in the file did not provide a list detailing the items sold or a breakdown of the amount. The bill of sale only provided a total amount of just over \$7,000. An additional sheet with handwritten names, amounts, and a general description (e.g. ring) of items was also found in the file. Additionally, 24 pieces of fine art work were sent to a frame store in 2012 to be sold (6 missing, 6 sold,

and several taken back to be disbursed to family) that recently went out of business and the owner wanted to return the unsold art. The proceeds from the sale of some art work was provided by the owner based on a 40/60 split. However, no agreement was on file. The art work was not appraised or included on the I&A; had the owner not contacted the PG, there would have been no trace. An updated I&A will be prepared to include the artwork so the property could be distributed to family.

C5- The case file included court documents where the conservatee had filed a complaint she was missing jewelry valued between \$30,000 and \$70,000 and had requested the jewelry be given to her. C5 worried someone had taken the jewelry. The file did not include additional follow-up regarding C5's concern; however, a review of the system provided an event note dated 9/10/2010 documenting that C5's home had been broken into. The former PG/PA documented that they could not tell if anything was missing. It was also noted that jewelry boxes were found and brought to the department safe, but there was no detailed information of the jewelry contained in the boxes or that an I&A was prepared.

**The auditors reviewed the PA and Indigent cases and noted the following matters:**

1. Physical files were not properly maintained:
  - a. Case files did not follow a chronological order and were difficult to follow and verify required documentation.
  - b. Documents were loose in the file, which allows documents to be misplaced.
  - c. Case files included documents from other cases.
  - d. Documents were missing from the physical file or there were multiple copies of the same document.
  - e. Case file volumes were not properly labeled.
  - f. A check list with all required documentation was not available for review.
2. Inventory and Appraisal (I&A) forms were found only for 4 cases (out of 33 tested). There were additional assets found in the files that were not listed on the I&As. It is undetermined that the department filed an amendment with the court to include the additional assets.
3. A copy of a check for jewelry sold and apparently distributed to several clients was found in a miscellaneous file. There was no detailed information on the items sold, the appraised value, or calculation for the amount distributed to each case.
4. A vehicle appraised at \$2,500 on the original I&A was returned by an auction company as unsold. It is undetermined whether the vehicle is still in inventory or if it was sold by the department.
5. Supporting documentation on the sale of real property; such as, bids received and buyer information is not maintained in the case files.

**Other exceptions noted:**

1. The Public Administrator generated a loss for two estates as stated below:
  - a. A mobile home was originally appraised at \$9,000 and then sold for \$499.99. The department continued making payments on the rental of the space, utilities, clean-up and repairs for two years before the property was sold. Total payments made on the property

were \$10,813.

- b. Another mobile home for another case was appraised at \$0, but the department continued making payments on space rental, utilities, and yard work for a year after the client's death. Total payments made on the property were \$5,499.
2. An indigent was the sole heir of his grandmother, who had been conserved by the PG prior to her death. His grandmother's estate was referred to the PA for administration. Per notes in the case file, the indigent tried to follow-up on the estate several times, but no response was provided. The outstanding balance on the estate was nearly \$100,000.
3. Due to timing constraints for this procedures, we did not test if all client files had court documents that were filed on a timely basis, however during our review the following matters also came to our attention.
  - a. Application to administer the estate for a decedent was not filed with the court until two years after death.
  - b. Final accounting filed for a case and the estate distributed as in accordance with the last will. However, there is still an outstanding balance on the decedent's account of \$90,755. It is undetermined that additional assets were found after the case was closed.
  - c. Cases reviewed were between 4 and 10 years old with outstanding balances up to \$90,755.26. It is undetermined the items that are still pending or when the Public Administrator is expecting to close the case.
4. The auditors were unable to vouch that the system records were complete and data reliable since the system was easily manipulated and will only identify clients that are entered into the system. Therefore, auditors were unable to confirm that all clients on conservatorship during the period were properly accounted for.

As a result auditors were unable to reasonably confirm that misconduct, misappropriation, or misuse ***has not*** occurred. In several files reviewed, the fiduciary duties and due diligence around conservatees real and personal property was found deficient and completely lacking accountability; conservatees assets (real and personal property) entrusted to the PG/PA could not be easily traced and tracked or in some cases accounted for. The files were unauditible. The auditors were often unable to trace occurrences and events transactions from the beginning to end or documentation that may support and explain the transaction was nonexistent.

**Criteria:**

The California Probate Code is extensive and the references provided in the detailed report represent a very small percentage of the code regarding the laws, and rules and regulations that govern the fiduciary responsibilities of the Public Guardian and Administrator. The staff should attend ongoing training to ensure that they are receiving sufficient training, guidance and understanding. Additionally, there are



other governing codes such as the Welfare and Institute, Health and Welfare and California Government Code that are applicable and should also be understood and followed. Note that this paragraph is relevant to all findings included in the report and need not be repeated under each finding.

**According to Probate Code Section 2920 (a)** If any person domiciled in the county requires a guardian or conservator and there is no one else who is qualified and willing to act and whose appointment as guardian or conservator would be in the best interests of the person, then either of the following shall apply: (1) The public guardian shall apply for appointment as guardian or conservator of the person, the estate, or the person and estate, if there is an imminent threat to the person's health or safety or the person's estate.... It further states that (c) The public guardian shall begin an investigation within two business days of receiving a referral for conservatorship or guardianship.

**Probate Code Section 2610 (a)** requires that an I&A be prepared no later than Ninety days after appointment of a conservator of estate...further the date of value determination would be the date of letter assigning either general or temporary conservator. For property discovered after the inventory has been filed, the value should be the date property was discovered or acquired **(PC§ 2613)**. Probate Code does not specify a timeline for submitting Final Report but it should be done in a reasonable timeframe to allow for distribution of assets and release from the court of administrator duties. Other states require timelines no later than 90 days up to one-year.

Additionally, Conservator should include out-of-state real property on an information schedule on the inventory and estimate the value of the property. See Probate Referee Guide **§10.8A**. Out-of-state property rules: a. Out-of-state real property is always excluded. (However, an informational schedule is required for Conservatorships.) b. As a general rule, out-of-state tangible personal property is included (such as furniture, a boat, stock cooperative, or an automobile located in another state). c. All intangible personal property of a California resident is always included (this includes such things as stocks, partnership interests, or insurance proceeds, wherever located). Additionally, Probate Code sections 2401.1 and 1063(h) are the applicable codes re out of state real property. Prob. Code sections 2400(b) and 2600(b) apply to any of the conservatee's personal property, regardless of location.

Further, Notice to the director of the Mental Health Department or the director of Developmental Services is required if the conservatee is a patient in a state hospital under the jurisdiction of the State Department of Mental Health or State Department of Developmental Services; the copy must be mailed not later than 15 days after the Inventory and Appraisal is filed with the court **(PC§2611)**.

**Payment of Debt - PC2430.** (a) Subject to subdivisions (b) and (c), the guardian or conservator shall pay the following from any principal and income of the estate: (1) The debts incurred by the ward or conservatee before creation of the guardianship or conservatorship, giving priority to the debts described in Section 2431 to the extent required by that section. (2) The debts incurred by the ward or conservatee during the guardianship or conservatorship to provide the necessities of life to the ward or conservatee,

and to the spouse and minor children of the ward or conservatee, to the extent the debt is reasonable. Also, the debts reasonably incurred by the conservatee during the conservatorship to provide the basic living expenses, as defined in Section 297 of the Family Code, to the domestic partner of the conservatee. The guardian or conservator may deduct the amount of any payments for these debts...

**Recommended Action:**

The auditors recommend that staff attend ongoing training to ensure that they are receiving sufficient training, guidance and understanding of California law and the applicable County Codes and Procedures.

As mandated in *California Probate Code 2400, et seq.*, the conservator (PG/PA) is responsible for the proper management and control of the conservatee's estate. Duties include marshaling all assets, maintaining benefits, budgeting, paying bills, creditor claims, reducing debt, and filing taxes. This may include cash, real and/or personal property and investments. Duties may include securing the conservatee's income, managing their expenditures, paying debts, applying for benefits on their behalf, filing taxes and managing their assets.

Written policies and procedures should be developed and implemented to ensure the overlaying responsibilities around management of conservatees, PA decedents, Indigents, and their assets are being performed, in a timely manner, and to ensure that procedures and transaction performed includes strong system controls that help to ensure that the PG/PA are successful at meeting their fiduciary responsibilities as required by governing codes, and laws.

Well written policies and procedures should ensure that:

1. Conservator's (public guardian/administrator) as the Financial Planner and Manager have strong fiduciary relationships with the conservatees and hold themselves to the highest standard of practice.
2. Conservators make well-reasoned decisions, represent only the interests of the conservatees and avoid any conflicts of interest while maintaining the confidential nature of the conservatee's affairs.
3. The conservator remain free to challenge inappropriately or poorly delivered services keeping an arms-length relationship with all service providers (including financial institutions, realtors, auctioneers, hospitals, physicians and placement facilities such as group homes, residential care facilities and nursing homes); and
4. The County's Public Guardian/Administrator maintain that the conservator avoid actual and apparent conflicts of interest with the conservatee. The conservator must avoid any personal, business, or professional interest or relationship that is or reasonably could be perceived as being self-serving or adverse to the best interest of the conservatee. For example (although not illegal), a conservator, employee, or their family members are discouraged from bidding at real estate and personal property auctions.

Auditors recommend that both PG and PA work with the County's Division of Internal Audit to develop a comprehensive Corrective Action Plan (CAP) that addresses each area of responsibility according to governing codes and laws. The CAP should have performance based results that are measurable and timelines for completion. The auditors will perform a review on work completed and work in progress annually until CAP has been fully implemented. The CAP implementation and matters of importance to be considered are as follow:

1. The CAP should begin with necessary training and education of all staff to ensure that applicable California law is understood and that written policies and procedures are designed with applicable codes in mind. A good understanding should be gained around each phase: referral, investigation, denial/assignment, marshaling of assets, custody, valuation, inventorying of both real and personal property, maintenance and care of clients including income limitations and burial trust guidelines, sale of assets, case and file management, fiduciary responsibilities as conservator or person or estate, transfer of assets, and dissolution of estate, etc.
2. A review and analysis of staffing classifications and resources should be performed to ensure that sufficient staffing exists and that they are able to meet the fiduciary responsibilities of all clients conserved, in a timely manner. This should include sufficient procedures to regarding safeguarding assets, separation of duties, and asset management duties to ensure that client's assets are properly managed, protected, and accounted for. Additionally, employees' duty statements should be reviewed to ensure that employees are not working out of class at a higher classification than what they are being compensated for.
3. PG/PA system of records (Panoramic) should be reviewed to determine if the system is appropriate for both the PG and PA needs, and that sufficient controls are considered and implemented to help prevent manual manipulation of the system. Further, the system should be fully utilized including the inventory tracking for each client (currently being poorly maintained in a separate excel document). Further the PG/PA should ensure that the system is properly segregated by job duties and function to prevent manipulation of the system and ensure proper separation.
4. A review of each conservatee's file to determine the correct status of each client (active, archived, closed, transaction, etc.) and to ensure that the system is also updated and reconciled to the files.
5. Each hard file should be reviewed, duplicate copies should be removed, required or late court documents and other filings should be assigned to staff, and timelines with updates on status should be required.
6. The auditors recommend that the County consider digitizing all files, and that an ongoing practice of scanning documents into a shared drive, stored by conservatee name and case number, is implemented to ensure backup and disaster recovery of important client documents. The auditors noted that files reviewed included important documents that were not noted or uploaded in the system. If a disaster were to occur the ability to manage clients and their assets would be difficult, and in many cases impossible.

7. Asset management processes including separation of duties should be developed, initial search of assets and investigations should be controlled and always performed in pairs. Written policies and procedures for tracking, valuation, monitoring/inventorying, safeguarding, and sale of assets should be developed and implemented.
8. Written policies and procedures over disbursement of funds, cashiering duties, and bank reconciliations should be developed and implemented, including assurance of separation of duties.
9. Case management of conservatees and estates should be allocated appropriately between conservatorship officers, and asset management officer, and accountants.
10. Written policies and procedures should be developed and implemented around requirements and timing of court filing of I&A, court accounting, and other fiduciary responsibilities; proper separation of duties should always be considered.
11. Written policies and procedures should be developed over employee time tracking for billing of fees and recovery, with oversight reviews performed on client's case management files. Proper authorization and oversight on the sale of real and personal assets should be in place and reviewed timely by management.
12. Written policies and procedures should be developed and implemented around contract and vendors to ensure that county policies are followed, and to prevent conflict of interest issues, in appearance or fact.
13. Written policies and procedures should be developed and implemented for sale of assets, valuation and appraisal of real and personal property, vendor contracts for services rendered, collection of fees and other revenue, posting of accounts receivable and payables, aging and collections of receivables, interagency payables and receivables, timely reconciliations, inventorying of personal and real property, etc.
14. Good system of controls should be considered throughout each process to ensure that PG/PA's fiduciary responsibly to conservatees and estates are successfully being addressed.
15. Indigent burials practices, consideration of PA's involvement should be reviewed, governing codes, laws and regulations should be understood, recovery of cost and collections efforts should be considered; written policies and procedures should be developed, implemented and adhered to. Policies and procedures for tracking of PA and Indigent cases need to be designed and implemented.
16. For PA asset management should be integrated into the CSI inventory system with good system controls, separation of duties including search and recovery of real and personal property, inventorying of assets, valuation and sale, and distribution of both real and personal property or assets should be maintained and controlled with proper separation of duties.
17. PG and PA should ensure dual cursory searches occur, that good documentation be maintained and include documents such as before and after pictures, a detailed inventory intake log be maintained, with written narrative of search, before and after pictures of clean-up to support payment for cleaning services to vendors, sufficient documentation with adequate third party

detail should be provided such as invoices, description of services, and other specific detail for payment reimbursement.

18. DFS should review their current practices to ensure that staff understands and has proper training in regards to sufficient supporting documentation and also when exception forms are appropriate for use.

### **3. Finding- Review of Real and Personal Property:**

#### **As a result of the review of PG/PA Real and Personal Property, the following matters were identified:**

The sale of personal assets were found to be inadequate with little to no audit trail. The items sold, such as jewelry, antiques, furniture, vehicles, and other personal property, lacked detailed descriptions of the asset, tracking of inventory (valuation and sale), and supporting documentation. Real property was permitted to foreclose with little or no explanation found in the file or system; real property was sold for less than the appraised value or property identified by staff was never marshaled, again with little or no explanation. Auditors identified conservatees assets held by the PG/PA for years after conservatorship ended, and were pending final accounting.

**No written policies and procedures-** The PG/PA does not have written policies and procedures over the sale of real or personal property. Some older polices were available that will be used as a starting point for new written procedures. Auditors recommend staff reach out to other counties for guidance and development of new procedures.

**Negligence and poor treatment of the sale of assets both real and personal property-** Auditors determined that office management allowed one individual to control major transactions for both PG and PA functions regarding real and personal property and other assets from the beginning to the end, including conducting cursory searches (often alone), documenting inventory, and selling the marshaled assets. Based on the review over inventory, conservatee files lacked adequate documentation such as, pictures, asset descriptions, asset intake logs, valuation or appraisal of assets, and sufficient support for assets sold. In addition, court accountings for many PG/PA clients have not been filed, were filed untimely, and recently were found to have been completed with several accounting errors. Furthermore, documentation on the hiring and selecting of vendors and contractors (using sole source (one vendor all the time) for appraisal of jewelry and property and contracting serves without an approved county contract) was not available.

During a review of system files, the auditors identified 52 conservatee clients that showed \$8.58 posted to their fund balances, with a note "found in room". Auditor inquired with staff regarding the matter and noted that staff was directed to post the amount to each of the conservatee's account from proceeds resulting from a garage sale that the office management and a vendor hosted to sell personal property belonging to various conservatees. According to inquires with staff, the items were stored in a warehouse that needed to be cleared. Items were of little value, but were not logged individually before or after the

sale and proceeds received for each item was not logged separately. Office management and the vendor instructed staff on the sales price for each item. After the sale, office management instructed staff to post \$8.58 to the 52 conservatee system balances and post an event stating that the funds were “found in room”. This directive lacked due care and was negligent in directing staff to fabricate system records.

According to staff, the garage sale also included some items of greater value. Those items were properly posted to the individual conservatee accounts. However, there was no appraisal or valuation of items sold to determine accurate worth. The items belonged to both LPS and Probate conservatees. Staff does not recall the total amount of cash received for the sale held or the total amount deposited into the bank. The concerns include a lack of accountability by the PG and the fiduciary responsibilities owed to clients.

**Conservatees debt obligation prior to conservatorship-** Based on inquires with PG staff, creditors were not paid if the debt was incurred prior to conservatorship. According to staff, office management instructed them, as a standard practice, not to pay bills related to these prior debts. According to PG staff, such direction arose from a view that conservatees had minimal funds and therefore could only afford their monthly room and board. Auditors noted that in several files reviewed a handwritten note “do not pay” written across a billing statement found in conservatees files.

According to applicable provisions of California law, the PG and PA have fiduciary responsibility to ensure that debt obligations are paid (if funds are available). If for some reason obligations are not paid, there should be sufficient reasonable explanation documented. The decisions and determination not to pay a debt should be made with diligent consideration and not because a “spoken policy” that says any debt incurred prior to conservatorship should not be paid. These actions taken or a failure to act responsibly on behalf of conservatees may have contributed to assets not being valued or sold properly and conservatees exceeding allowable resource limits for benefits.

**Treatment for valuing assets-**Asset valuations were arranged by office management. Other real property identified on an I&A was evaluated by the probate referee appointed by the court. Based on inquires and review of the system event notes and files, auditors did not identify valuations performed on personal property such as appraisal for fine jewelry, paintings, bonds, etc. Additionally, little detail was provided on vendor invoices for items known to be sold. The only document that auditors were able to locate regarding officially appraised values were court documents that provided the court appointed probate referee appraisal for real property.

According to staff, office management was charged with the valuation and sale of all real and personal property. The case managers and staff were not permitted to perform any duties around their conservatees’ assets. Auditors were able to locate evidence in a few files showing searches of the Kelly Blue book for values of vehicles to be sold. In many cases vehicles were left unsold for years and were allowed to lose value. One conservatee’s vehicle that was fairly new was held at the county’s garage for over 8 years and lost value. The vehicle still remains unsold. There are several conservatees that had

vehicles and other vessels (boats, mopeds, scooters, and motorcycles) that were held for years and lost value. Some vehicles held were owned by conservatees who were permanently unable to drive.

Office management often used one vendor who was paid through one time claims or through the client's trust fund, without a contract. The vendor was hired often to clean, clear, sale, or move conservatee's belongings. The vendor did not have a county contract and was paid thousand each year, exceeding the county's single source policy. The invoices reviewed were vague and only showed a total amount, an address, and lacked adequate support such as before or after pictures. Further, based on discussion with staff and the former Assistant PG/PA, only one realtor was used to sell homes. The auditors were told that agent was well versed in the sale of conservatorship assets, the applicable law, and that he would get the job done.

**Criteria:**

**Probate Code Section 2610** (a) requires that an I&A be prepared no later than Ninety days after appointment of a conservator of estate...further the date of value determination would be the date of letter assigning either general or temporary conservator. For property discovered after the inventory has been filed, the value should be the date property was discovered or acquired.

**(PC§ 2613).** Probate Code does not specify a timeline for submitting Final Report but it should be done in a reasonable timeframe to allow for distribution of assets and release from the court of administrator duties. Other states require timelines no later than 90 days up to one-year.

Additionally, Conservator should include out-of-state real property on an information schedule on the inventory and estimate the value of the property. See Probate Referee Manual **§10.8A**. Out-of-state property rules: a. Out-of-state real property is always excluded. (However, an informational schedule is required for Conservatorships.) b. As a general rule, out-of-state tangible personal property is included (such as furniture, a boat, stock cooperative, or an automobile located in another state). c. All intangible personal property of a California resident is always included (this includes such things as stocks, partnership interests, or insurance proceeds, wherever located). Additionally, Probate Code sections 2401.1 and 1063(h) are the applicable codes re out of state real property. Prob. Code sections 2400(b) and 2600(b) apply to any of the conservatee's personal property, regardless of location.

**Payment of Debt - PC2430.** (a) Subject to subdivisions (b) and (c), the guardian or conservator shall pay the following from any principal and income of the estate: (1) The debts incurred by the ward or conservatee before creation of the guardianship or conservatorship, giving priority to the debts described in Section 2431 to the extent required by that section. (2) The debts incurred by the ward or conservatee during the guardianship or conservatorship to provide the necessities of life to the ward or conservatee, and to the spouse and minor children of the ward or conservatee, to the extent the debt is reasonable. Also, the debts reasonably incurred by the conservatee during the conservatorship to provide

the basic living expenses, as defined in Section 297 of the Family Code, to the domestic partner of the conservatee. The guardian or conservator may deduct the amount of any payments for these debts...

**Recommended Action:**

The PG/PA should establish written policies and procedures regarding asset management that includes documentation of proper valuation and appraisal, contracting with vendors and agents, and written policies and procedures to ensure due diligence around payment and other fiduciary responsibilities over debt obligations for conservatees.

Further, written policies and procedures should be developed and implemented that would ensure timely searching and marshalling of in and out of state property, and timely and complete filing of I&A's and court accounting. A CAP should be developed to include the stated recommendations with committed timelines and percentages of completion that will be reviewed, tested, and vouched on an annual basis by the Division of Internal Audit. The County's management and PG staff should consider an asset manager position to support staff and ensure good systems of controls around assets.

Please refer to finding 2 for detailed recommended actions (starting on page 16) for the CAP.

**4. Finding- Review of Inventory:**

**As a result of the review of PG/PA Inventory, the following matters were identified:**

Based on inquiries and a review of conservatee files, inventory management by the PG/PA over both real and personal property lacked good system controls, adequate tracking, valuation, and monitoring. The PG/PA failed to properly safeguard conservatee assets and ensure proper valuation and sale of real and personal property. No written policies and procedures over inventory could be provided.

**Assets are not properly identified in the system of record (e.g. real or personal property and cash or other financial instruments)** - Auditor was unable to determine the methodology used to identify property. There was no standardization, files lacked consistency, were unorganized, and often I&A's were incomplete. Inquiries with staff were inconclusive and practices and processes described appeared to change based on the officer assigned. Staff shared that many times it was at the direction of the former management whether to marshal property, leave it at resident, give away, sell it, or allow it to foreclose. There was no consistent evidence or documented explanation regarding decisions around management of property.

**Inventory is not recorded in the general ledger or in the system of record**-Auditors confirmed that the Panoramic system has an inventory tracking system for each client. However, at the direction of the former management the inventory tracking system was not utilized.. The reason provided by staff was that not everything in inventory would need to be placed on the I&A, and if it were entered into the system, it would be automatically included (at times unnecessarily) on the I&A. Auditors tested the system



and found that the system is capable of tracking and not posting everything onto the I&A by simply checking a box for each item entered. Auditors recommend that the system be fully utilized and tied to the inventory log and client files for good system controls and safeguarding of assets.

Currently, inventory is tracked on an Excel spreadsheet. However, the spreadsheet is unorganized and not kept to date. Also, many items noted in files as assets were not posted, or had been removed.

Based on a review of the last inventory sheet for December 2016, the document was incomplete and had various items scratched out with no explanation. Further, the list of items were generic and provided either estimated values or no value at all. The records were found to be held separately and a copy made and renamed for the next month. Auditor noted that the dates had not even been updated to show the month of inventory on the actual document.

#### **Deficient internal controls including safeguarding of assets**

**PG-** maintains inventory items in a safe located in the PG office and in a locked cage located in the County's administration building basement. The auditor observed and attempted to trace inventory from the system of record (Excel document) to the cage and safe. Auditor noted several exceptions of items listed that were not found. Additionally, the auditor noted that several items; such as, old paintings, antiques, guns, swords, and other memorabilia were on hand, but were not identified on the inventory list and owners were unknown. In addition, the items were not properly tagged. Other assets on hand included several boxes of loose jewelry (that appeared to have value), stamps with stamp collector guides, and old coins; these items were also not tagged. The current PG manager is working diligently to identify the owners and update the inventory records. A lost and found section will be established and items will be inventoried for safekeeping and tracking. The auditor recommends that a policy be established regarding lost and found items.

**PA-** Auditor's inquired with the former Assistant PG/PA and the Sheriff's Chief of Finance and Administration (SCFA). After discussion and independent work to analyze the maintenance of assets, the auditors have concluded that no audit trail or system has been established to properly track, monitor, and identify PA and Indigent assets that are in custody. The auditors are informed that the PA is working on a system to track inventory items. Further, additional procedures will need to be developed and implemented that require dual cursory searches, pictures of the site inspection and properly documented investigation notes.

The auditors noted that PA and Indigent files were unorganized with no system notes or other audit trails to support the marshaling or proper sale of inventory items. It was difficult to determine if documents that appeared to be assets such as stocks, bonds, and other paper instruments were marshaled and if there were any assets held on hand in inventory. The auditors were also not able to determine if required court documents were properly and timely filed with all the inventory items.

Auditors noted several loose items such as rings, jewelry, wallets, etc. placed in bags and held within the hard files at the PA's location. The items were not logged, and a majority of the files reviewed were unorganized and very messy.

**Criteria:**

- \*California Probate Code (PC §7000 - §12999) – estate administration
- \*Government Code (GC §50050-50057) – escheating funds
- \*The Probate Referee Guide (applies to Inventory and Appraisal - PC §8800 – 8980)
- \*California Decedent Estate Practice Guide

**California Probate Code (PC§ 2401) (a)** The guardian or conservator, or limited conservator to the extent specifically and expressly provided in the appointing court's order, has the management and control of the estate and, in managing and controlling the estate, shall use ordinary care and diligence. What constitutes use of ordinary care and diligence is determined by all the circumstances of the particular estate. (b) The guardian or conservator: (1) Shall exercise a power to the extent that ordinary care and diligence requires that the power be exercised. (2) Shall not exercise a power to the extent that ordinary care and diligence requires that the power not be exercised.

**County Administrative Manual** ... Further, the Act requires that each local government adopt a conflict of interest policy not less than that provided by the Act and/or what is imposed in Government Code. Yolo County has an adopted policy regarding ethical procurement practices that contains relevant language for consideration. In part, that policy provides as follows:

**C. UNETHICAL BEHAVIOR**

The following types of behavior reflect unethical behavior. This list is not all-inclusive, but provides a guideline by which to assist in judging appropriate behavior:

- “1. Favoritism or preference to certain vendors. Favoritism or preference for certain vendors harms the competitive bidding/proposal process.
2. Acceptance of kickbacks. A kickback is a payment, gratuity, commission, job offer, or other favorable action from vendors, prime contractors, subcontractors, or higher-tier contractors in return for award of a contract.
3. Conflict of interest. A legal conflict of interest occurs when a County employee who has influence in the selection process has a financial investment in the company from which the purchase is made. This is apparent when such an employee or close family member/friend of such employee owns the selected company. Any other circumstances that may lead to personal gain also indicate a conflict of interest.
4. Contemporaneous employment. An employee cannot be employed or perform services for a vendor that sells goods or services to that employee's department. Such vendors are barred from submitting bids or proposals to that department.”

(Yolo County Administrative Policies and Procedures Manual—Code of Ethics for Procurement at p. 2.)

**Recommended Action:**

Staff should attend ongoing training to ensure that they are receiving sufficient training, guidance and understanding of relevant statutory requirements. The PG/PA should ensure that there is adequate separation of duties regarding the intake of real and personal property, cursory searches, valuation and sale of property, and the deposits of proceeds. The PG/PA should also properly document property searches, investigations performed, valuation of assets and the sale of property. In addition, the Panoramic inventory function should be utilized to record and track inventory and to timely and accurately file an I&A. Furthermore, written procedures should be developed for maintaining and safeguarding physical inventory, conducting physical inventory counts, and for the sale of inventory items.

The PG has a sign-up sheet that should be used by staff every time they go in/out of the locked cage. In addition, staff should not go in/out alone. The auditors recommend that Property Transfer Report be completed when the items are removed from the cage. Per inquiry with staff, these controls are in place, but are not often followed.

Auditor's will work with PG and PA staff to prepare a CAP that includes addressing these findings and recommendations with appropriately detailed objectives, timelines and percentages of completion within each phase. The CAP will also include written policies and procedures that will be reviewed and vouched for on an annual basis until fully implemented.

Please refer to finding 2 for detailed recommended actions (starting on page 16) for the CAP.

**5. Finding- Review of PG/PA Revenue- Fees, Accounts Receivable and Payables:**

**As a result of the review of PG/PA Revenue- Fees, Accounts Receivable and Payables, the following matters were identified:**

The PG/PA's process for fee collection is over generalized to a one-size fits all treatment. Generally, the deferred fees are tracked using an Excel document that consists of a continuous list of conservatee fees ordered and paid; with a separate (unlinked) Excel document for each letter of the alphabet. The general treatment and unwritten, "spoken", policy for fee collection was based in part on a determination of whether a conservatee's income was nearing the resource limits, rather than collecting fees upon court approval or when services are provided, even if the amount collected is not for the full fee awarded. Based on inquires with staff there was a general belief that conservatees have limited resources and can't afford more than their basic needs. However, the auditors identified many conservatee fees should have been collected at the time reported *and* approved by the court. More effort should be made to collect court ordered fees, even in part, or to document why collection is not possible.

Furthermore, the staff should ensure that sufficient documentation is entered into the system including more detailed notes on conservatees that would allow the staff time to be fully accounted for and fees can be appropriately charged.

Additionally, appropriately record and post account receivables or payables for relevant PG/PA transactions, related to fees or to other transactions such as conservatee share of cost, initial support for conservatee needs, etc., were not properly posted to the systems (Panoramic or Infor). Had the PG/PA followed county policy and properly posted and recorded the account receivables and payables, and supported collection efforts, it would have better allowed for more accurate revenue projections and other budget considerations; thus helping the county with future planning around the office's needs.

Additionally, the use of and failure to recover public funds used to for conservatee's needs before property is sold or marshalled should be reconsidered. There are no written policies, tracking, and a lack of accountability to the County and public funds to ensure that funds used have a reasonably high assurance for recovery (e.g. county funds of \$22,000 that was not recovered when a client's home was repaired and shortly after foreclosed (Finding 2)).

Moreover, auditors identified indigent cases that do not qualify for indigent treatment. Auditors noted cases where costs incurred by the county for cremations of some decedents should have been recovered from known family members that received the cremains. The auditors identified cases where the county held funds of estates that could have covered the burial cost, but public indigent burial funds were used.

**Indigent Fees-** The auditors identified several cases where the cost of cremation was absorbed by the county rather than by the family. The auditors noted 19 out of 30 indigent cases (termed as indigent) where the cremains were released to the family without a request for payment to recover expended public funds. Based on PA cases reviewed, the auditors determined that though the family was known at the date of death, the county paid for the costs of administration and cremation totaling \$12,055.55. According to the governing code, the cost should have been recovered from family, if possible.

Also, the auditors noted several cases where the county held funds belonging to an estate that could have been used to cover the cremation cost rather than using public funds.

According to staff the PG had an unwritten "spoken" policy that if the deceased did not have funds or the spouse did not own a home or have sufficient funds that was apparent, reimbursement for the cost of cremations was not expected. The auditors identified cases where the spouse had funds and a home.

**The auditor reviewed 30 indigent case files and the following was noted**

- 1) The following criteria, required to qualify for the Indigent Burial program, is not established:
  - Decedent's estate cannot cover the cost of burial (inventory of assets)

- Decedent has no family to provide burial services
  - Decedent has family, but payment of the fee would cause economic hardship on the family (economic hardship form signed by family member)
  - Decedent is a veteran, but is not eligible for assistance from Veteran's Administration
  - Decedent was a Yolo County resident
- 2) Indigent cases are not recorded in the Panoramic system.
- 3) Account receivable balances are not recorded in the general ledger to reflect the amounts owed to the department for administrative, burial, and shipping costs.
- 4) Cremains were returned to family members on 19 out of the 30 cases reviewed. An invoice was not provided to recover the cost for services provided.
- 5) Fees are waived without the specific approval of the Board of Supervisors.
- 6) PA does not take property from indigents or perform a search for assets. In addition, any personal property or cash found on the decedent is returned to family members.
- 7) The Department does not maintain accurate client files: Client files do not follow a chronological sequence and are hard to follow and verify required documentation.
- 8) Property search reports from Accurint to locate next of kin were missing on 22 cases of the 30 cases reviewed; and receipt of cremains form for remains released to family members was not on file for 6 cases.

Other findings included cremains for a decedent who died in September 1995 were released to a family member on 3/1/17. Per notes found in a case file, a veteran was buried at the Knights Landing Cemetery and then the family requested a disinterment to transfer the cremains to a veteran's cemetery in Riverside, CA. Auditors did not identify a disinterment authorization form on file. Another matter includes a burial permit for a decedent who died in July 2002 was on file but no supporting documentation on the disposition of cremains. Per Health & Safety Code, Section 7050.5, every person who disinters or willfully removes any human remains in or from any location other than a dedicated cemetery without authority of law is guilty of a misdemeanor. Further review may be necessary.

**Criteria:**

The Public Guardian/Administrator is entitled to reasonable costs incurred for the preservation of the estate, together with reasonable compensation for services. **(PC 7604)**

The PG/PA of the County in which the estate of the decedent may be administered shall promptly petition for appointment as personal representative of the estate if no person having higher priority has petitioned for appointment and the total value of the estate property in the decedent's estate exceeds one hundred and fifty thousand dollars (\$150,000). **(PC 7620)**

When the PG/PA of the County takes possession or control of an estate, the Public Administrator may act as a personal representative of the estate may summarily dispose of the estate in a manner provided by the Probate Code. This type of a decedent estate has a total value that does not exceed \$150,000. An Ex-

Parte application and order is filed with the County Superior Court. The Public Administrator may charge the estate a **minimum of \$1,000** for administration fees.

**(PC7660(a.)(1.))** *When the decedent's estate total value is less than \$50,000, the Public Administrator who is authorized to summarily dispose of property of a decedent is not required to open an estate with the County Superior Court. No Court supervision is required for this type of summary estate. The Public Administrator may charge a **minimum of \$1,000** for the administration fees. (PC 7660 (a.) (2.)...*

The value of the estate accounted for by the personal representative is the total amount of the appraisal of property in the inventory, plus gains over the appraisal value on sales, plus receipts less losses from the appraisal value on sales, without reference to encumbrances or other obligations on estate property. **(PC 10800)**

The PG/PA or representative is entitled to extraordinary fees for tax work, litigation or matters outside of normal administrative services such as preliminary distributions, complex accounting or complex investigations. **(PC 10811)**... (There are no such fees charged with PG/PA)

### **CHAPTER 3. Custody, and Duty of Interment [7100 - 7117.1]**

*(Chapter 3 enacted by Stats. 1939, Ch. 60.)...* (d) The liability for the reasonable cost of final disposition devolves jointly and severally upon all kin of the decedent in the same degree of kinship and upon the estate of the decedent. However, if a person accepts the gift of an entire body under subdivision (a) of Section 7155.5, that person, subject to the terms of the gift, shall be liable for the reasonable cost of final disposition of the decedent.

#### **County's Administrative Manual States:**

##### **C. POLICY**

##### **1. COST RECOVERY**

a. Departments shall seek to recover the full cost of all services they provide to agencies, entities or individuals outside the County of Yolo organization on a contractual or fee basis or when obtaining grant funding. The purpose of full cost recovery is to preserve the ability to provide sustained services.

##### **Recommended Action:**

The staff should attend ongoing training to ensure that they are receiving sufficient training, guidance and understanding of applicable statutory requirements. Account receivables should be posted and increased as fees are earned and decreased when collected. This balance should be reconciled each month to the Excel document of deferred fees. Other account receivables or payables should be posted for matters where the client owes the county funds due, or where the PG/PA owes another department for share of cost, etc.

The auditors recommend that the current tracking document for deferred fees be compiled differently so that the PG/PA will be able to identify a total outstanding balance (at any point) by fiscal year for fees

owed. This amount should be reconciled on a monthly basis with the county's financial management system (Info).

A policy should be developed and procedures implemented that include a monthly review of client accounts for the purpose of applying some amount (\$10, \$20 or \$50) from the client's balance towards deferred fees.

A reasonable amount of funds should be provided as a cushion for clients, comparable to what would be reasonable to others on limited income that do not live on conservatorship. The county should collect a reasonable amount of fees that are due.

A written policy and procedure should be developed and implemented that supports a reasonable effort to collect deferred fees prior to requesting fees be written off.

Further, in regard to unreported conservatee case management events where fees could be charged, a written policy and procedure should be implemented to ensure that important conservatee information and case management notes are tracked in the system and fees recorded. A CAP should be developed that includes steps to be taken to address the provided recommendations. An annual review will be performed to determine if recommendations are being followed and implemented.

Additionally, written policies and procedures should be developed and implemented that would ensure that the PG is not sending additional funds to client board and care facilities to keep resource limits down, when funds should be applied to unpaid fees. Also, a policy should be developed that ensures that facilities are accountable for the additional funds as well as monthly P&I funds, which include a proper accounting of the balances, receipts, and other supporting document.

The county's management and PG staff should consider a position for an asset manager that is charged with fee collection, tracking of deferred fees, spend downs and accountably reviews of board and care and other facilities, and write-off procedures; in addition to duties around inventory.

**6. Finding- Review of PG/PA Bank Accounts-Petty Cash, Revolving Fund, Money Market, Client Trust and Burial Trust Accounts:**

**As a result of the review of PG/PA Bank Accounts- Petty Cash, Revolving, Money Market, Client Trust, and Burial Trust Account, the following matters were identified:**

The PG/PA maintains approximately \$2.3 million of client funds in checking and money market accounts at First Northern Bank, which is considerably in excess of the federal deposit insurance (FDIC) of \$250,000. These funds currently earn between 0.03% and 0.32% interest, significantly below the County's Treasury pool earning of 0.59% (interest apportionment rate as of 12/31/16).

The auditors reviewed 12 bank reconciliations for all accounts held outside of the County Treasury and noted the following:

- Bank reconciliations were prepared by the Senior Accounting Technician who also handled the cash receipts and disbursements. In addition, the reconciliations were not reviewed by an independent person.
- Bank reconciliations were not prepared on a timely basis. Reconciliations were prepared 2-3 months after the end of the period. Furthermore, reconciliations were not prepared when the Senior Accounting Technician was on personal leave from April to October 2014.
- Interest earned from April to September 2014 was not allocated to client accounts until November 2014.
- The bank reconciliations for the burial trust included a non-posted transfer amount of \$5,397.69 that was carried forward for a year for transactions recorded in the Panoramic system but not transferred between the bank accounts.
- Book balances are not properly recorded on the reconciliations.

The Panoramic system is a proprietary case management system used by many county Public Guardians in the state. The system provides a case management module that is used to record medical and social needs for the clients and an accounting module to post receipts and disbursements. Due to time constraints, we did not perform a complete information technology audit or review of application controls. However, we noted that PG/PA does not have a written policy to evaluate each employee's assigned role or the access levels of each role for potential segregation of duties and security controls.

The Panoramic system also has a feature to assist the department with the bank reconciliation of the spending trust and the two money market accounts. The system allows the department to clear reconciled transactions and to enter adjustments for unreconciling items; such as outstanding deposits, direct deposits not posted to client accounts, interest, and bank errors. The exceptions noted on the bank reconciliation are listed below:

- The system does not have the capability to automatically reconcile bank and transactions posted to client accounts. Instead, the staff manually match and clear an average of 600 transactions to complete the reconciliation.
- There are unreconciled balances and bank errors that have not been resolved since October 2006.
- There are transactions from May 2007 to August 2008 that cleared the Panoramic system, but are still showing as open adjustments on the bank reconciliation. The department inquired with the Panoramic technical support, but they have not been able to resolve this issue.

The majority of payments for conservatees needs are made out of the spending trust. Payments are also made out of the revolving fund when the conservatee does not have the funds and then reimbursed from the spending trust when the funds become available, or from the department's general fund if not



collected from the conservatee. The auditors selected a sample of expenditure transactions from the spending trust, revolving fund, and from the department's general fund (GenLed and Infor transactions, the County's previous and current financial system). Several disbursement transactions did not have adequate documentation on file to support the charges against the client and estate accounts as noted below:

- The department does not have a contract agreement on file with vendors who provide landscaping, repairs, maintenance, cleaning, rental, and other miscellaneous services for clients living at home or with a relative.
- The department does not have an approved vendor list. Services are performed by individuals that have performed work in the past.
- Several invoices were missing. Instead, the department used a Miscellaneous Budget Request or a Revolving Fund Budget Request form to authorize the payment.
- Payments to a tree service vendor in the amount of \$9,000 were made out of the estimate and an original invoice was not obtained.
- Payments to a deceased individual's friend in the amount of \$11,000 to clean up a decedent's property were made out of a work proposal instead of an original invoice.
- Invoices for payments to a vendor used often by the PG/PA, totaling \$13,138.57 for landscaping, maintenance, moving and cleaning expenses did not include dates of when the services were provided, hours worked or detail for the tasks performed.
- Warrants issued from the general fund through the County's claim process were picked up by department staff and personally delivered to the vendors. The Department of Financial Services allowed this practice with an exception form signed by the department head or designee (exception to standard County policy).
- Duplicate payments were made to a mobile home park for rent and utilities from the spending trust and revolving fund. In addition, a warrant in the amount of \$425.11 to replenish the revolving fund for one of the payments was issued and endorsed, but cannot be determined to have been deposited into the revolving fund account.
- A reimbursement a former manager in the amount of \$479.17 for furniture for a client was not supported by original sales receipts.

**Criteria:**

Refer to page 14 for applicable criteria.

**Recommended Action:**

The staff should attend ongoing training to ensure that they are receiving sufficient training, guidance and understanding of relevant statutory requirements. Written policy and procedures should be developed and implemented that requires staff to demonstrate reasonable effort in accordance with state law and county policies regarding good system controls, including separation of duties, proper authorization of

payments, monitoring, reimbursement of funds, timely reconciliations, sufficient supporting documentation, and proper contracting.

Staff should prepare a CAP that includes development and implementation of the recommendations noted. The Division of Internal Audit will review the CAP annually to ensure implementation.

**7. Finding- Review of PG/PA Disaster Recovery, System Storage, and Recordkeeping:**

**As a result of the review of PG/PA Disaster Recovery, System Storage, and Recordkeeping, the following matters were identified:**

The PG/PA does not have written disaster recovery plan. In addition, the PG/PA does not maintain an electronic file of important client documents. Should an unforeseen disaster occur, client files would be lost and PG/PA would be unable to fulfill their fiduciary responsibilities to the conservatees and decedent estates. Many important documents would be lost and most not recoverable because hard documents such as wills, trust, burial plot certificates, court documents, stocks and bond certificates, etc. would be destroyed.

The Panoramic system is the case management system used by the PG/PA. Based on discussion with staff, the system is backed up by the vendor on a regular basis. However, the system severely lacks status updates from the case management aspect. Staff does not regularly update client information, enter notes, record court document filings and inventory information, or update client status. Additionally, the system has the capability to attach electronic (scanned) documents, but this feature is not used due to storage limitations.

The auditors reviewed 149 client PA and PG hard files. Based on the review, the auditors noted that the files were unorganized, displaced, and unauditible. During the auditor's initial interview with staff, auditors were assured that if the hard files were to be destroyed as a result of an unforeseen disaster, the PG/PA would be able to care and continue their fiduciary responsibility to the clients as well as case management. Nearly 85% of the files reviewed did not accurately or fully reflect what was shown or updated in the system. The system not only lacked updated information on client status, but did not include much of what was identified in the physical files, including important client documents. Other important events were found to be unorganized and difficult to follow. The auditor also noted that the recordkeeping in both the system (completely deficient), and the hard files was in a disastrous condition. The files were found to lack court documents, status update information, property information, inventory information, debt obligations, etc. Auditors identified several documents that were repetitive (up to 7 copies) while other documents that one would hope to find, did not exist (trust, will, property information, debt obligations, court filings, heir search, investigation pictures, inventory intake list, asset search, and cursory inspection notes, etc.)

**Criteria:**

Refer to page 14 for applicable criteria.

**Recommended Action:**

The staff should attend ongoing training to ensure that they are receiving sufficient training, guidance and understanding of statutory requirements. The PG/PA should review the county's record retention policy as well as the guidelines provided in governing laws, codes, and regulations regarding file retention around conservatees and estates. Staff should develop a written disaster recovery plan and implement processes and procedures that include updating the system in a timely manner, fully utilizing the system's inventory tracking system, and a reconciliation between hard files and system files.

Additionally, the PG/PA should consider digitizing the client hard files to ensure that the critical records of the clients are not lost in an unforeseen disaster. The PG/PA should develop a checklist of important documents and save an electronic copy onto the share drive (individual folders by last name) that links to the Panoramic system. This will ensure that business can continue should hard files be destroyed.

The PG/PA should develop a CAP that includes the implementation of the recommendations provided above and the following steps to ensure folders are organized, updated, and information is accurate. Auditors will perform an annual review and vouch percentage of completion of CAP.

1. Review all hard folders, organize important documents, inventory assets, inventory court documents, and other critical documents.
2. Reconcile each folder to the client's system records, update status to ensure it is current, and scan (digitize) important documents into a client subfolder that is held on the share drive and linked to the system.
3. Bring to current all required court filings, properly account for and input inventory and assets, file any I&A's and court accounting that are past due, perform a search and marshal any assets that were missed.
4. Create a control log of all court filings required on a continuous ongoing tracking system that ensures timelines for next filings, etc. This list should be reconciled with County Counsel.
5. Archive client files that are deemed closed and if beyond the record retention period properly destroyed.
6. Develop and implement a written disaster recovery system that includes ongoing scanning of documents that move through the PG/PA office as they perform their duties including all new conservatorships.
7. Perform annual system reconciliations to client status and hard files, purge files as appropriate, and destroy to ensure efficiencies of staff time and office space.

The County's management and PG management should consider an additional staff position that could also perform desk reviews of case files on an ongoing monitoring basis as with other oversight monitoring

responsibilities.

The auditors recommend that county management review workload and staffing resource needs for both the PG and PA functions, to consideration of the period of time it will take to develop and implement the Corrective Action Plan, clean-up past issues, and continue to move forward current matters.

We request that staff work with management to prepare a Corrective Action Plan (CAP) and submit it to the Division of Internal Audit by **January 4, 2018**. The CAP should include the findings, recommendations, the action steps to be taken, and expected completion dates. If you would like more guidance and/or an example of a CAP please contact us. After we've received your CAP, we will perform a review to determine if the plan is being implemented and is effective.

As a result of the review auditors are unable to reasonably confirm that misconduct, misappropriation, or misuse **has not** occurred. Additional review was recommended to the appropriate agencies for additional investigation and treatment.

Results – Additional Subsequent Review

Prior to the final release of this report the auditors were requested to performed additional review. The result of the follow-up review was inconclusive due to the fact that an outside third party verification (Conservatee's and PA client's banks and investment institutions) could not be obtained because of record retention polices of outside parties, and other constraints relating to dated material that was being requested but unavailable for our review, as such, matters relating to the follow-up review are not part of this report. The Division of Internal Audit will move forward in helping to provide the departments guidance, which will help ensure that good system controls and best practices are developed and implemented, thus preventing similar events described in this report from occurring in the future.

We would be pleased to discuss the matters reported or to answer any questions. Please contact me at (530) 666-8190 Ext 9210 or at [mary.khoshmashrab@yolocounty.org](mailto:mary.khoshmashrab@yolocounty.org).

Sincerely,



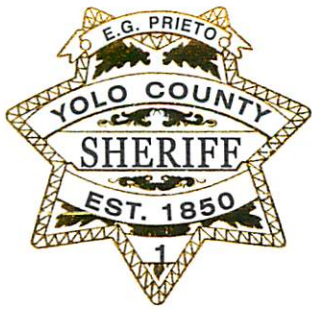
Mary E. Khoshmashrab, MSBA, CPA  
Internal Audit Manager  
County of Yolo

Enclosure:

Attachment A- PA - Office of the Sheriff Response  
Attachment B- PG - Health and Human Services Agency Response

cc: Sheriff Ed Prieto, Sheriff-Coroner's Office  
Karen Larsen, Director, Health and Human Services Agency  
Jeff Reisig, Yolo County District Attorney  
Tracie Olson, Yolo County Public Defender  
Phil Pogledich, Yolo County Counsel  
Howard Newens, CIA, CPA, Chief Financial Officer  
Noemy Mora-Beltran, Internal Auditor  
File

***Transmitted electronically to all parties***



# OFFICE OF THE SHERIFF YOLO COUNTY

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UNDERSHERIFF

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INMATE EDUCATION  
INMATE PROGRAMS  
INMATE TRAINING

August 30, 2017

Mary E. Khoshmashrab, Internal Audit Manager  
Department of Financial Services  
625 Court Street, Room 102  
Woodland, CA 95776

Dear Ms. Khoshmashrab,

Thank you for providing Undersheriff Lopez and myself with a copy of your Executive Summary and Special Review Report of the Public Guardian and Administrator dated August 1, 2017. It is apparent that your review was extensive and productive.

As you are aware, my office has taken on the important responsibility of Public Administrator in January of this year. I am committed to providing the best service to the citizens of Yolo County by utilizing best practices while following the laws of this state.

We are committed to and have already begun making corrective changes to the issues that you have addressed in your review, as related to the Public Administrator function. My Office will prepare and submit a Corrective Action Plan by November 1, 2017.

Thank you again for our inclusion in this process.

Sincerely,

E. G. Prieto  
Sheriff ~ Coroner ~ Public Administrator

cc: Phil Pogledich, Yolo County Counsel

*“Service Without Limitations”*



# COUNTY OF YOLO

Health and Human Services Agency

*Karen Larsen, LMFT*  
Director

MAILING ADDRESS  
137 N. Cottonwood Street • Woodland, CA 95695  
(530) 666-8940 • [www.yolocounty.org](http://www.yolocounty.org)

Mary E. Khoshmashrab, MSBA, CPA  
Internal Audit Manager  
County of Yolo

Re: Health & Human Services Agency response to results of the special review report of the Public Guardian

Dr. Ms. Khoshmashrab,

Yolo County Health and Human Services Agency (HHSA) received the draft results of the Special Review Report of the Public Guardian and Administrator on August 24, 2017. We would like to thank you for your time and diligence in completing this review. We understand the scope exceeded that which was originally anticipated, which led to an extended time frame for completion.

I have personally reviewed the report in its entirety and have no substantive changes to suggest. The report is very detailed and comprehensive with a great deal of follow up required to remedy all issues.

We look forward to working collaboratively with you and your team to develop a comprehensive Corrective Action Plan (CAP) with measurable objectives and timelines built in. HHSA is committed to improving the accountability, clarity and efficiency of the Public Guardian's office. Most importantly, we are committed to ensuring that our conservatees receive the best care and protection afforded to them under the law.

Sincerely,

Karen Larsen LMFT, Director  
Yolo County Health & Human Services Agency  
Public Guardian

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Mental Health (916) 375-6350  
Public Health (916) 375-6380

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