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July 2, 2009

Honorable Kim Dunning,  
Presiding Judge  
Orange County Superior Court  
700 Civic Center Drive  
Santa Ana, CA 92702

Subject: Orange County Grand Jury report: "The Guardian of Last Resort"

Dear Judge Dunning:

In accordance with California Penal Code sections 933 and 933.05, enclosed please find the Orange County Public Administrator – Public Guardian Department's (PA/PG) response to the above referenced FY 2008 – 2009 Grand Jury Report.

I would like to address the process that was followed leading up to the report, provide additional information about the Public Administrator – Public Guardian Department and its business partners and some of the commentary contained in the report.

The Orange County Grand Jury (GJ) Human Services Subcommittee, consisting of Chair Michael Dresser and members Cathey Bertot, Darlene Hibbs, Marilyn Reardon, Ella Nixon and Linda Hudak first met with the PA/PG management team and Supervising Deputy County Counsel Jim Harvey last July. The subcommittee's audit took place between July and December, 2008. During the course of the audit, the members were given a complete tour of the PA/PG facility, had regular access to PA/PG employees for interviews, were given a computer and work space in the PA/PG conference room to conduct case file audits, were taken on a "ride along" with deputies to the field to observe and invited to a property sale. The members requested and received instructions on where to go to see cases handled in the Superior Court and did subsequently visit the Lamoreaux Justice Center and observed the PA/PG court calendar in action.

The Grand Jury subcommittee members received extensive documentation from PA/PG regarding the budget and general information including ending fiscal year balances, current year expenditures, inter-department cost-apply figures, a list of department accomplishments, copies of the Internal Audit Department report from 2005 – 2006, policy and procedure manuals, organizational charts and caseload data. The subcommittee also requested copies of some employee's entire personnel files but were referred to the County of Orange Human Resources Department (HRD) as these documents are all stored electronically at the HRD. All County of Orange departments, by Board of Supervisors directive, converted to paperless personnel document storage several years ago.

From a historical perspective, I would point out that the elected Public Administrator and ex – officio/appointed Public Guardian positions have been combined since 1968. James Heim held this office from 1968 – 1983, William Baker from 1983 - 2003 and I have served in the office since 2003. The Public Guardian position was created by the Board of Supervisors in 1965 and prior to 1968, the Coroner served as the Public Administrator. The Public Administrator office first appeared on the ballot in Orange County in 1968.

The mission statement of the PA/PG department states:

***“The Public Administrator – Public Guardian organization is committed, when no alternatives exist, to protect, assist, and manage the affairs of decedents and those unable to care for themselves.”***

Public Administrator – Public Guardian deputies assist with the investigation of referrals from the criminal courts, ensure that sex offenders are registered, assist local law enforcement with criminal investigations including seizure of child pornography, illicit drugs, firearms, explosives, and other contraband, investigate elder abuse cases (both living and deceased), and ensure the proper clean up of biohazard material.

The Public Administrator unit protects the assets and manages the affairs of deceased residents of Orange County who at the time of death left no known heirs, no will, no named executor, or have an executor who is ineligible. Deputies search for assets belonging to the decedent, arranges for the interment when there are no known heirs, and acts as administrator of estates when named in a will, when heirs request such service and upon appointment by the Superior Court. In performing these functions the PA is required to maintain a fully documented audit trail for the Superior Court to make certain that each and every asset is accounted for and distributed.

The Public Administrator may be notified by mortuaries, the Coroner, residential facilities, hospitals, landlords or private citizens when someone dies and there are assets to protect or the family of the decedent cannot be immediately located.

The Public Guardian Probate Conservator unit responds to referrals from health care facilities, Adult Protective Services (APS), local law enforcement agencies and the Superior Court to investigate persons, usually elderly, who are unable to properly provide for their personal needs or physical health, food, clothing or shelter, who are at risk of undue influence by others, or whose property is subject to loss, injury, waste, or management. When appointed by the Superior Court, the PG Probate unit assumes responsibility for care of the person and his or her assets.

The Public Guardian LPS (Lanterman - Petris - Short) Conservator unit investigates the need for an LPS conservatorship to obtain mental health treatment for persons who are gravely disabled due to mental illness. During the investigation, alternatives to conservatorship are explored. If the court appoints the PG as conservator, we assume responsibility for the overall welfare of the conservatee including placement, treatment, and management of the conservatee's assets.

The Grand Jury subcommittee was provided a list of the PA/PG Department's significant accomplishments, including the following:

- From March, 2008 – February, 2009 PA/PG conducted estate real property auctions generating \$6,906,350 in sales despite the downturn in the real estate market.
- PA/PG works closely with the District Attorney's Office and law enforcement to prosecute both elder financial and physical abuse. There are numerous examples where cooperation between these departments has resulted in criminal convictions and recovery of funds and property for the estates of decedents and conservatees. PA/PG participates in the Financial Abuse Specialty Team (FAST), Multi Disciplinary Team (MDT) and Elder Death Review Team (EDRT).
- PA/PG has implemented an Internal Audit Unit (IAU) to ensure compliance with training, file maintenance, and benefits. The IAU is responsible for the preparation and coordination of various training units relating to all facets of the role of the deputy
- PA/PG has implemented in-house training sessions to take a proactive approach in the certification and re-certification of deputies in compliance with the Omnibus Conservatorship Act of 2006. The sessions are in compliance with and approved by the California State PA/PG/PC Association and allow our deputies to receive credits at a substantial savings to the department with a reduction in travel expenditures.
- In 2008, PA/PG recovered millions wrongly taken from estates, \$3.8 million on APS cases and \$5.1 million on community referral cases. In one case alone, PA/PG recovered \$1,013,790 from a private conservator who received 9 years in state prison for the theft from a conservatee who subsequently died. The private conservator squandered the funds on her internet gaming habit. PA/PG worked closely with the District Attorney's Office and Orange County Sheriff's Department to prosecute this case.
- Most PA/PG employees are on an alternate work week schedule such as the 4/10 or 9/80, saving many commute miles per month in compliance with Air Quality Management District (AQMD) rules.
- The entire fleet of passenger car vehicles assigned to PA/PG have been replaced with Compressed Natural Gas (CNG) powered cars assisting the County of Orange in compliance with AQMD regulations. The CNG cars qualify for Diamond Lane privileges for single occupants and the CNG is much less costly than gasoline.
- PA/PG has stepped up its collection rate from the California Controller's Office for unclaimed property for the client estates. Currently there is a stock claim pending for \$137,000 for an estate.
- PA/PG has been approved by the Orange County Board of Supervisors for funding to develop a new database program that will allow for both the PA and PG databases to merge into one. The new system has been named Orange County Public Administrator Conservatorship Services System (OCPACS) and will allow tighter controls, audit trails and will streamline many of the workflow processes of the department. OCPACS will ensure overall compliance and better management of the cases.

The leadership team at PA/PG will continue to look for innovative ways to serve our clients and save taxpayer dollars in the performance of our duties.

The PA/PG Department is represented in court on estate matters by the County Counsels' Office. I am proud of the good working relationship PA/PG has with County Counsel staff and the quality of legal representation we are provided. The GJ subcommittee requested and County Counsel provided a 3 month study of PA/PG court case history, listing each and every case the County Counsel's office handled and each day's outcome of the cases calendared. The County Counsel's office worked diligently to prepare this report, spending many hours in preparation and tracking of cases on a daily basis and PA/PG appreciates this effort.

The PA/PG Department's Information Technology (IT) services are provided by the County of Orange CEO IT Department. During the 2005 - 2006 fiscal year, PA/PG outsourced its IT from self supporting to CEO IT, a move that has proven to be fiscally sound and resulted in a dramatic increase in the level and quality of services provided. The **2002 - 2003 Orange County Grand Jury report entitled "Cost Saving Opportunities For County Information Technology"** stated:

***"Decentralized organizations inherited some cost inefficiencies due to the loss of economy of scale. During economic boom years, business people were less concerned about the costs when they deployed a new technology. Recent economic conditions have raised cost concerns."***

The move to a centralized IT solution has produced a good working relationship between the PA/PG Department and CEO IT. We remain confident the people of the CEO IT Department will continue to provide PA/PG with the highest level of service in a cost effective manner.

While continuing to provide a high level of IT services to the PA/PG Department, the CEO IT Department also serves as the Project Manager for the OCPACS system upgrade project. I commend the CEO IT Department for their assistance in this ongoing project which will replace a system installed in 1999 and designed to run on Windows 98, causing numerous present day technology issues in our daily operations.

The PA/PG Department is managed in a fiscally conservative and sound business manner. PA/PG follows all County of Orange fiscal and Human Resources Department (HRD) policies, procedures and practices. Fiscal Year ending balances since becoming a stand alone department are as follows: 2005 - 06, \$685,387, 2006 - 07, \$160,371, and 2007 - 08, \$43,377. Not included in these amounts is the self funded reserve PA/PG has accumulated in the amount of \$750,000 and a one time excess interest deposit of \$824,871 in 2005 into the County of Orange General Fund. The fiscal year ending balance data for the last three years was provided to the GJ subcommittee members.

The CEO Budget Office does an outstanding job of overseeing the finances of the County of Orange and its' many departments. PA/PG has a long-time positive working relationship with the CEO Budget staff while adjusting to reduced revenues during these difficult financial times. The PA/PG Department is ready to work with the CEO Budget Office on implementing the inevitable future budget cuts that will likely occur due to the State of California's current budget crisis.

The GJ subcommittee mentions in its' report on page three that it visited the probate court and noted the following:

*"On October 22, 2008, the Grand Jury visited Probate Court and observed PA/PG case handling problems. In this instance, a person in the conservatorship unit of the Public Guardian died. At that time he became a client of the Public Administrator. This individual had a small estate that had been expended on medical care except for \$7,100. The PA took four years from the time of the conservatee's death to bring the matter before the court for disbursement. By this time the estate had dwindled to zero."*

Contrary to the GJ subcommittee's report, the Public Administrator didn't even handle this case. In the case in question, PG was first appointed as an LPS conservator in 1990 and reappointed each year until 2004 when the male conservatee died. After his death, the estate contained \$6,156.12 in cash, a pre-need funeral fund of \$1,500.00 and a small amount of personal property. His remaining assets resulted in a distribution from his estate for PG fees, County Counsel fees, County bond fees, a Medi-Cal lien and the balance applied to the cost of his burial.

The Grand Jury report states on page seven under finding #1 "The management of PA/PG has become top heavy which complicates communication with employees, increases costs and lowers morale and department performance." The PA/PG Department respectfully disagrees with this assessment. The GJ compares the costs of administrative services for the PA/PG function using 2004 – 2005 data while still utilizing the Health Care Agency (HCA) as a service provider; data that is difficult to verify with the combined HCA and PA/PG budgets from that time compared with present day costs associated with employee salaries and benefits. The PA/PG Department ratio of administrative managers compared to total workforce is in line with similarly sized County of Orange departments as the following data demonstrates:


***Percentage of administrative managers vs. total workforce:***

<b><i>PA/PG</i></b>	<b><i>65 employees/9 managers 13.8%</i></b>
<b><i>Clerk of the Board</i></b>	<b><i>32 employees/5 managers 15.5%</i></b>
<b><i>Treasure/Tax Collector</i></b>	<b><i>92 employees/15 managers 16.3%</i></b>
<b><i>Registrar of Voters</i></b>	<b><i>51 employees/9 managers 17.6%</i></b>

The nominal increase of management support for PA/PG was implemented for a number of reasons, including compliance with the Internal Audit Department report of 2005 – 2006 which required the segregation of certain accounting, budgetary, and procurement services performed by a very few individuals at that time and the mandated compliance with the Omnibus Conservatorship Act of 2006 (Jones Bill). The Jones Bill, an unfunded mandate, requires extensive training for sworn personnel and more complex filings to be submitted to the Superior Court, increasing the workload for both PA/PG and the County Counsel's Office.

The men and women of the PA/PG Department will continue to serve the needs of the most vulnerable citizens of Orange County in a compassionate and caring manner. Please do not hesitate to contact me should you have any questions.

Sincerely,

  
John S. Williams  
Public Administrator – Public Guardian

cc: 2009 – 2010 Orange County Grand Jury Foreman  
Members of the Board of Supervisors  
County CEO  
County Counsel, County of Orange

