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County of San Diego



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July 18, 2006

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SAN DIEGO
COUNTY GRAND JURY

The Honorable Janis Sammartino
San Diego Superior Court, Presiding Dept.
220 West Broadway
San Diego, CA 92101

COUNTY OF SAN DIEGO RESPONSE TO FINAL 2005-2006 GRAND JURY REPORTS

Dear Judge Sammartino:

On July 18, 2006, the County of San Diego Board of Supervisors approved responses to the four 2005-2006 San Diego County Grand Jury reports which contained findings and recommendations addressed to the County. The Board further directed that these responses be sent to your office, pursuant to the Penal Code.

The four reports for which responses are attached are titled:

- o "Conditions and Management of Detention Facilities in San Diego County,"
- o "Felony Warrants – The Unsolved Problem,"
- o "Office of the Public Administrator/Public Guardian" and
- o "A Visit to Polinsky Children's Center."

Since these are the only reports issued by the 2005-2006 Grand Jury that address recommendations to the Board of Supervisors or departments under its jurisdiction, the attached material represents the County's complete response for 2005-2006.

If you have any questions concerning the attachment or any related matter, please contact me at (619) 531-5250.

Sincerely,

WALTER F. EKARD
Chief Administrative Officer

Attachment

cc: Board of Supervisors

**County of San Diego's Response to Grand Jury Report
"Office of the Public Administrator/Public Guardian"
Released May 16, 2006**

SECTION ONE- Failure to Exercise Fiduciary Responsibility

FINDINGS:

1. **Finding:** Neither new nor experienced PA/PG employees have an adequate manual for reference when they encounter a situation that requires guidance. They ask senior deputies for advice which often is conflicting. Advice given by one deputy to another can perpetuate the same mistake. A functional manual as mandated by PA/PG or HHSA management would prevent this from occurring.

Response: Disagree. A manual of policies & procedures is currently available as a reference document for employees and will continue to be updated as new processes are implemented. The last update of the manual was completed in December 2005.

2. **Finding:** The PA/PG staff is not adequately trained in the requirements to insure property for loss and liability, and the need for inventorying all property of the estate at the time of appointment by the court or within a reasonable time thereafter.

Response: Disagree. PA/PG staff is adequately trained in the requirements to insure property. Further, it is department policy to insure real property upon appointment by the court.

3. **Finding:** The Grand Jury finds that the problems occurring in the estates given as examples were a direct result of inadequate supervision.

Response: Disagree. This statement is too general for response.

RECOMMENDATIONS: The Grand Jury recommends that the San Diego County Board of Supervisors:

Recommendation 06-42: Appoint an independent committee to review the Policy and Procedures Manual for consistency and relevance to the work performed.

Response: This recommendation will not be implemented because it is not warranted. Because of their familiarity with staff duties and program requirements, HHSA and PA/PG management regularly review the policy and procedures manual for consistency and relevance.

Recommendation 06-43: Institute procedures that require regular supervisory review of the estates assigned to the PA/PG.

Response: This recommendation will not be implemented because it is not warranted. The recommended procedures are already in place. Presently, supervisors meet with deputies on an ongoing basis to review estates and determine the best course of action. The PA/PG has also implemented a process to enhance this review. This includes a series of meetings to evaluate the sale of real property, securities, and medical decisions and to make referrals for investment/financial planning. The process also includes individual meetings with County Counsel, as well as Unit meetings to address case management issues.

Recommendation 06-44: Require an immediate inventory of all property as soon as the PA/PG is appointed to administer an estate.

Response: This recommendation will not be implemented because it is not warranted. The probate code requires an inventory and appraisal to be completed within 120 days of appointment for the Public Administrator and 90 days for the Public Guardian. The PA/PG routinely inventories and protects assets as mandated by law.

Recommendation 06-45: Require the purchase of property insurance as soon as property is acquired.

Response: This recommendation will not be implemented since the recommended procedure is already in place. It is the policy of the PA/PG to insure real property upon appointment by the court.

Recommendation 06-46: Order a review of the Cedar Fire case to determine if the estate is entitled to restitution.

Response: This recommendation will not be implemented because it is not warranted. The issues have already been thoroughly reviewed. The opening of this estate by the Public Administrator was initiated by a petition filed by the Borrego Springs Bank alleging that the decedent's daughter was defrauding the bank through her cashing of her deceased father's social security checks for a period after his death. The daughter was the sole heir. In the final accounting of the estate, she agreed to assign a portion of her total distribution as payment to satisfy the Bank's claims. She decided not to file an objection to the accounting or a claim against the County related to the fire loss, and the matter is closed. The final accounting with proper disclosure was approved by the probate court. By law, since the estate's administration has concluded and the time to appeal has passed, there is no legal means by which the Grand Jury's recommendations can be carried out.

SECTION TWO: PA/PG Client Medical Errors

FINDINGS:

- 1. Finding:** Staff members have limited knowledge of the Medi-Cal, Medicare and SSI programs.

Response: Disagree. There is PA/PG staff in the department with an in-depth working knowledge of Medi-Cal, Medicare and SSI programs. In addition to working for the PA/PG for several years, their job backgrounds include duties such as determining social services eligibility, including Medi-Cal, in the County's Health and Human Services Agency. The PA/PG is developing a training module on Medi-Cal, SSI, Medicare and Medicare Part D to ensure staff knowledge remains current in these areas.

- 2. Finding:** To properly administer these programs, an ongoing comprehensive training program for health insurance programs should be developed.

Response: Agree. The PA/PG is developing a comprehensive training program on health and insurance programs.

- 3. Finding:** Training for Medi-Cal, SSI, Medicare and the Part D Prescription program is inadequate.

Response: Agree. The PA/PG is developing a training module to provide staff with Medi-Cal, SSI, Medicare and Medicare Part D Prescription information.

- 4. Finding:** Public Guardian clients will have to unnecessarily spend their own funds to pay for medical services or prescriptions if Public Guardian employees have insufficient understanding of the extensive State and Federal medical options and regulations.

Response: Disagree. There is no basis for this finding.

- 5. Finding:** The staff indicated that the policy and procedures manual gave them little guidance. The Health Insurance employee testified that she was only given a few hours of medical insurance billing training.

Response: Disagree. As stated above, a policy and procedure manual for staff reference is currently available and updated regularly. In addition, staff was provided training/guidance from Social Security and the State Department of Health Services staff, as well as training from the Health Insurance Counseling Advocacy Program (HICAP).

- 6. Finding:** The Grand Jury Audit disclosed that the PA/PG Office in San Diego County has not complied with the law as it pertains to administering estates.

Response: Disagree partially. This finding is ambiguous. The PA/PG believes this finding relates to the notification of the State Department of Health Services (DHS) with all PA cases. The Public Administrator routinely notifies DHS regarding the death of a client. The case identified in the audit has been resolved. This practice is overseen by a PA/PG supervisor.

RECOMMENDATIONS: The Grand Jury recommends that the San Diego County Board of Supervisors:

Recommendation 06-47: Authorize installation of a County Meds Computer system in the PA/PG Office.

Response: This recommendation will not be implemented because it is not warranted. The PA/PG electronically determines the eligibility status of clients using a County database. The County Meds Computer system would not be of additional benefit to the PA/PG.

Recommendation 06-48: Require the PA/PG Office to establish an ongoing Medi-Cal/Medicare Eligibility Training program.

Response: This recommendation will be implemented. The PA/PG is developing a training module to provide staff with Medi-Cal, SSI, Medicare and Medicare Part D Prescription information which will also address eligibility issues. This will be implemented by December 2006.

Recommendation 06-49: Require case reviews by all PA/PG staff with their supervisors.

Response: This recommendation will not be implemented because it is not warranted; The recommended action is already in place. Presently, supervisors meet with deputies to review cases on an ongoing basis and determine the best course of action. The PA/PG has also implemented a process to enhance this review. This includes a series of meetings to evaluate the sale of real property, securities, and medical decisions as well as to make referrals for investment/financial planning. The process also includes individual meetings with County Counsel, as well as Unit meetings to address case management issues.

Recommendation 06-50: Require procedures to validate which medical providers were paid with supporting documentation for those payments.

Response: This recommendation will not be implemented because it is not warranted; The recommended action is already in place. Procedures are in place to validate payments to medical providers, as well as supporting documentation.

Recommendation 06-51: Require the establishment of a priority for payments to providers based upon legal requirements.

Response: This recommendation will not be implemented because it is not warranted; The recommended action is already in place. County Counsel has provided PA/PG staff with direction as it relates to priority of payments, and in accordance with the law. The Public Administrator supervisor currently validates the priority of payments.

SECTION THREE- PA/PG Management and Personnel Issues

FINDINGS:

1. **Finding:** This process has not occurred. As of November 29, 2005 there were a total of seventeen (17) overdue visits. Out of the 17, 10 became overdue in November. The remaining 7 currently reside out of state,¹ which makes face-to-face field visits difficult. The deputy follows up on these cases via phone calls.

Response: Disagree partially. All of the client visits cited have been performed. Presently, field visits as well as regular assessments, are tracked by the Public Guardian supervisor to ensure compliance. Monthly visits are required for those clients that reside in their own home. Those clients that live in a supervised setting, such as a board & care or skilled nursing facility, are required to be seen every 90 days.

2. **Finding:** Supervising deputies should not close out a case until the discharge order has been received (probate cases) or the filing of the Report of Proceedings (summary probate cases).

Response: Agree.

3. **Finding:** A review, by the Grand Jury, of the original job applications of current PA/PG deputies revealed that personnel who lack sufficient, even required skills, are granted employment.

Response: Disagree. PA/PG staff is hired based on meeting the minimum requirements that exist at the time of employment. The Deputy PA/PG job requirements have been revised over the years to better reflect the essential functions of the job and/or to increase requirements that are deemed necessary to improve the candidate pool. When this occurs, all incumbents are “grandfathered in” to maintain existing staff expertise. As a result, PA/PG staff has the necessary skills and experience for employment.

4. **Finding:** The Grand Jury finds that by waiving basic job requirements the DHR may have contributed to problems identified by past and present Grand Juries. Further investigation would confirm that the lack of qualifications is pervasive throughout the entire PA/PG organization.

¹ At the time of appointment, these individuals were permanent residents of San Diego County. Although they reside out of state, the San Diego County PA/PG is still the appointed guardian.

Response: Disagree. The Department of Human Resources does not waive basic job requirements for any positions at the County of San Diego. As stated above, PA/PG staff is hired based on the minimum requirements that exist at the time of employment. Because job requirements have been revised to match job functions over the years, PA/PG staff has the needed skills and experience for employment in the department.

5. **Finding:** Lack of core competency training has contributed to agency problems. Interviews with the employees suggest that the monthly in-service training is irrelevant, non-existent, unprofessional, and is woefully inadequate.

Response: Disagree. Over the last year, there has been a concerted emphasis on developing relevant training for PA/PG employees and there is a comprehensive training program in place.

6. **Finding:** The Grand Jury finds that the PA/PG department procedures and policies are inadequate to ensure proper control procedures, and guarantee fiduciary responsibility. This deficiency makes it easy to mismanage estates and to lose control of assets.

Response: Disagree. A manual of policies and procedures is currently available as a reference document for employees and will continue to be updated as new processes are established.

RECOMMENDATIONS: The Grand Jury recommends that the San Diego County Board of Supervisors:

Recommendation 06-52: Require an update of the PA/PG job description knowledge, skills and experience statements, so these statements are relevant to the work to be performed, and that DHR not waive requirements.

Response: This recommendation will not be implemented because it is not warranted; The recommended action is already in place. A classification study and thorough job analysis of the Deputy PA/PG position was completed by DHR and the PA/PG in early 2006. Classification specifications have been updated, and new testing criteria were developed prior to completion of a new recruitment. DHR has never waived requirements for County employment. Minimum requirements are clearly defined and adhered to for all classifications.

Recommendation 06-53: Require the PA/PG mandate that two trained employees make all site visits.

Response: This recommendation will not be implemented because it is not warranted. PA/PG presently has a policy that requires two staff or other witnesses to be present when visiting a client to marshal assets. However, in cases where staff is

performing a client assessment or welfare check, there is no need for two staff to be present.

Recommendation 06-54: Require that all site visits be logged into a permanently retained log system.

Response: This recommendation will not be implemented because it is not warranted; The recommended procedure is already in place. Site visits or “face to face” visits are logged into the PA/PG’s software system for permanent record keeping.

Recommendation 06-55: Ensure that PA/PG supervisors establish a check and balance system to guarantee procedure compliance.

Response: This recommendation will not be implemented because it is not warranted; The recommended procedure is already in place. As stated in the County’s response to Grand Jury Recommendation 06-43, the PA/PG does ensure a check and balance system and maintain procedural compliance with policies that require supervisors and staff to meet on a regular basis to review case status.