



**Madera County Public Guardian/
Conservator/Public Administrator
2016-2017
Madera County Grand Jury
Final Report 1617-01**

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Introduction:

The 2016-2017 Madera County Grand Jury (MCGJ) inquired into the operation of the Public Guardian/Conservator/Public Administrator Office (Public Guardian). The last MCGJ inquiry into the Public Guardian was 2005-2006. The objective of the current MCGJ was to learn of the services provided, the clientele served, and the structure and staffing of the department.

The Public Guardian Director is also the Madera County Social Services Department (Social Services) Director. The MCGJ interviewed the Director on October 28, 2016 and the Chief Deputy Public Guardian on January 9, 2017 and January 27, 2017. The MCGJ reviewed organizational charts, the Policy and Procedure Manual, budget proposals, relevant California statutes, and client profile data.

The Public Guardian serves some of the most vulnerable residents in the county and is charged with ensuring the financial and personal safety of persons unable to care for themselves. When the Madera County Superior Court (court) determines there is no able person to provide care, the Public Guardian is ordered to act as conservator of the person, conservator of the estate, or conservator of person and estate.

Facts:

1. The Madera County Social Services Director is also Director of the Public Guardian Office.
2. Prior to mid-fiscal year 2009-2010 the Public Guardian was a separate department headed by a director with the title of Public Guardian.
3. Oversight for the operation of the Public Guardian Office was placed under the Department of Social Services by the Board of Supervisors midway through fiscal year 2009-2010, with the Social Services Director taking on the additional role as Public Guardian.
4. As of January 23, 2017 the Public Guardian Office is located at 209 W. Yosemite Avenue, Madera, California and is not housed with Social Services.
5. The Public Guardian 2015–2016 budget shows three permanent positions funded and one permanent position unfunded.
6. The Public Guardian 2016–2017 budget shows three permanent positions funded (Chief Deputy Public Guardian, Deputy Public Guardian, and Program Assistant), and one permanent position unfunded. A permanent Office Assistant II position is 100% funded through the Behavioral Health Department.
7. Social Services provides the Public Guardian with a part-time social worker and a college intern to assist with field visits.

8. The Public Guardian receives referrals from other agencies, hospitals and the court.
9. Madera County Counsel represents the Public Guardian in court.
10. California Probate Code §§2900–2955 provide the framework for the operation of the Public Guardian in all counties.
11. Effective January 1, 2008 California Probate Code §2923 mandates Public Guardian caseworkers comply with continuing education requirements as established by the California State Association of Public Administrators, Public Guardians and Public Conservators.
12. Probate conservatorships, governed by the California Probate Code, may be of the person, the estate only, or both the person and the estate.
13. Lanterman, Petris and Short Act (LPS) conservatorships, governed by California Welfare and Institutions Code §§5350-5372, serve persons with serious mental disorders or developmental delays.
14. Since fiscal year 2015-2016 the Behavioral Health Department has funded a full-time permanent Behavioral Health Case Manager to handle the Public Guardian LPS Conservatorships.
15. The Behavioral Health budget includes funding for a full-time permanent clerical position in the Public Guardian Office for the 2016-2017 fiscal year.
16. In Madera County, the Public Guardian also serves as Public Administrator, managing estates of persons who die with no will or have no appropriate person to act as administrator.
17. The Public Guardian acts as “representative payee” by providing budgeting and money management services, enabling clients to maintain independent living.
18. Pursuant to California Probate Code §2942, the Public Guardian shall be paid from the estate of the conservatee for reasonable expenses incurred in the execution of conservatorships.
19. California Government Code §27441 authorizes the Public Guardian as the Public Administrator to collect fees for services.
20. California Government Code §27436 authorizes the Public Guardian to collect fees for “representative payee” services.
21. The Board of Supervisors adopted a fee schedule (Resolution Number 2011-148) for Public Guardian, Public Administrator and “representative payee” services on July 12, 2011. (See Attachment A.)
22. The Department of Social Services/Public Guardian/Conservator/Public Administrator 2016 annual report to the Board of Supervisors shows the Public Guardian managed 225 active cases in the month of July 2016.
23. On January 8, 2017 the Public Guardian/Conservator/Public Administrator case management database showed 243 active cases.
24. As of January 8, 2017 the Public Guardian had 78 active probate conservatorships of the person, the estate, or person and estate; 62 LPS conservatorships; and 92 “representative payee” clients.
25. As of January 8, 2017 the Public Guardian, acting as Public Administrator, was handling six estates of deceased individuals.
26. In Madera County, guardianships of minors are handled by Social Services; conservatorships of adults are handled by the Public Guardian.

27. The Public Guardian has a Policy and Procedure Manual in which most documents are not dated; dated documents are from 2010 and 2011.

Findings:

1. The Chief Deputy Public Guardian oversees the operation of the office and shares casework with the Deputy Public Guardian.
2. The Program Assistant functions as “representative payee”; most client referrals come from the Social Security Administration.
3. The clerical position included in the Behavioral Health budget has not been posted for hiring as of February 6, 2017. Until the hiring process is completed, the Public Guardian employs a temporary extra-help person.
4. Being under the management of Social Services allows the Public Guardian to tap into additional resources.
5. Public Guardian caseworkers are in compliance with certification requirements as mandated by the continuing education statute.
6. As Public Administrator, the Public Guardian manages the estates of intestate county residents under the supervision of the Superior Court, performs heir searches, marshals assets, and oversees the distribution of the estate.
7. Caseworkers diligently search for family or others qualified and willing to manage affairs of those who are unable to do so. The Public Guardian is the agency of last resort for vulnerable county residents.
8. Upon the completion of a thorough investigation by the Public Guardian, a hearing is set in Superior Court. With the assistance of County Counsel attorneys, the Public Guardian prepares the legal paperwork that starts the conservatorship process in court.
9. If a judge finds a person unable to properly care for themselves and/or their finances, and there is no able person to assist, the Public Guardian is appointed as conservator.
10. Client fees collected for services are held in a trust account.
11. A regular accounting of clients’ funds is made to the court. An independent auditor audits the office annually and Social Security audits beneficiaries’ accounts.
12. Most of the Public Guardian clients are poor with negligible estates. Many have dementia, are elderly and frail, reside in nursing homes and have no family.
13. The number of cases managed by the Public Guardian increased 8% in the first six months of this fiscal year.
14. The Public Guardian caseload is increasing and will likely continue to increase.
15. The framework for Public Guardian policy is the California Probate Code and the Welfare and Institutions Code.
16. The Public Guardian Policy and Procedure Manual is out of date.
17. Office procedures for performing tasks change often. Updating written procedures is time consuming and a drain on resources. Hands-on training takes place as soon as a procedure changes.

Recommendations:

The Madera County Grand Jury recommends:

1. That the Madera County Public Guardian remain under the management of the Department of Social Services.
2. That the Madera County Board of Supervisors fund the current unfunded permanent position in the 2017-2018 budget to add another Deputy Public Guardian to handle casework.
3. That Human Resources complete the recruitment process to fill the clerical position funded by Behavioral Health in the 2016-2017 budget.
4. That the Public Guardian review the Policy and Procedure Manual by the end of this 2016-2017 fiscal year and update as needed.
5. That the Public Guardian review the fee schedule for services by the end of this 2016-2017 fiscal year and update as needed.
6. That the Public Guardian staff be commended for diligent and compassionate case management.

Respondents:

Director of Social Services
Public Guardian/Public Administrator/Conservator
700 E. Yosemite Avenue
Madera, CA 93637

Madera County Board of Supervisors
200 West 4th Street
Madera, CA 93637

Human Resources Director
200 West 4th Street
Madera, CA 93637

Information Only:

Chief Deputy Public Guardian
209 West Yosemite Avenue
Madera, CA 93637

BEFORE
THE BOARD OF SUPERVISORS
OF THE COUNTY OF MADERA
STATE OF CALIFORNIA

In the Matter of)	Resolution No.: 2011-148
)	
PUBLIC GUARDIAN, PUBLIC)	A RESOLUTION ADOPTING A FEE
CONSERVATOR, PUBLIC)	SCHEDULE FOR PUBLIC GUARDIAN /
ADMINISTRATOR)	PUBLIC CONSERVATOR/ PUBLIC
)	ADMINISTRATOR'S OFFICE
)	SERVICES

WHEREAS, the Public Guardian/Public Conservator's office is charged with ensuring the physical safety and financial health of individuals unable to care for themselves and/or their estates; and

WHEREAS, the Public Guardian/Public Conservator's office acts as conservator of persons and/or estates when no other parties are willing or able to do so, or on Order of the Madera County Superior Court; and

WHEREAS, the Public Administrator's office acts as Administrator of decedent's estates when no other parties are willing or able to do so, or on Order of the Madera County Superior Court; and

WHEREAS, the Public Guardian/Public Conservator's office is authorized by California Probate Code section 2942 to take into consideration the actual costs of the services provided related to its clients and/or administration of estates; and

WHEREAS, the Public Administrator's office is authorized by California Government Code section 27441 to charge and collect such fees as are allowed by law; and

WHEREAS, the Public Guardian/Public Conservator's office is authorized by California Government Code section 27436 to collect any fees authorized by the Board of Supervisors for public representative payee services; and

WHEREAS, the Public Guardian/Public Conservator's office has determined that implementation of a fee schedule makes its office more transparent while increasing the integrity of its officers and the services it provides; and

NOW, THEREFORE, BE IT RESOLVED by the Board of Supervisors of the County of Madera, State of California, that:

1. The fees are reasonable and necessary; and
2. The Fee Schedule attached hereto and labeled Exhibit "A," is hereby adopted by the Public Guardian/Public Conservator; and
3. The Fee Schedule shall be effective Thirty (30) days after adoption of this Resolution.

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The foregoing Resolution was adopted this 12th day of July, 2011.

by the following vote:

- Supervisor Bigelow voted: yes
- Supervisor Rogers voted: yes
- Supervisor Dominici voted: yes
- Supervisor Rodriguez voted: yes
- Supervisor Wheeler voted: yes



[Signature]
 Chairman, Board of Supervisors

ATTEST:

[Signature]
 Clerk, Board of Supervisors

Approved as to Legal Form:
COUNTY COUNSEL

By [Signature]



Exhibit A

MADERA COUNTY PUBLIC GUARDIAN/PUBLIC CONSERVATOR

FEE SCHEDULE

"ROUTINE" SERVICE FEES

The Public Guardian shall be paid from the estate of the ward or conservatee for reasonable "routine" expenses incurred in the execution of the guardianship or conservatorship, without causing economic hardship on the estate (California Probate Code §2942a,b). "Routine" services include such day to day tasks as receiving income for conservatees from sources such as Social Security or veterans benefits, paying their bills, posting receipts of income and payment of bills to the conservatees' accounts, balancing the accounts, obtaining services from vendors for the conservatees, addressing their housing needs, shopping for their personal needs, engaging in telephone calls with vendors, health care providers, and mental health care providers, issuing checks to conservatees and receiving telephone calls from the conservatees, their families, and attorneys.

MONTHLY BALANCE OR CASH IN ESTATE*	MONTHLY FEE	CURRENT ACCOUNTING BIANNUAL FEE	
		COUNTY COUNSEL	PUBLIC DEFENDER
0 - 499	-0-	-0-	-0-
500 - 999	37	222	111
1,000 - 1,999	75	450	225
2,000 - 2,999	125	750	375
3,000 - 3,999	175	1,050	525
4,000 - 4,999	200	1,200	600
5,000 - 9,999	225	1,350	675
10,000 - 14,999	250	1,500	750
15,000 - 49,999	275	1,650	825
50,000 and above	300	1,800	900

*Balance of cash in estate after monthly expenses paid.

This schedule will apply unless the fee is waived by conservator, or otherwise set by court order.

Fees noted above for Madera County Counsel and Public Defender will be presented in the biannual accounting petitions.

NOTE: Clients who are otherwise eligible for SSI that have property amounting to less than \$2,000 per month are not required to have a "current accounting" done every two years.

"Person Only" Probate Conservatorship - do not collect fees.

December 16, 2010

"NON-ROUTINE" SERVICE FEES

In addition to "routine" services, the office provides "non-routine" services to conservatees. "Non-routine" services are extraordinary services to address special or unique circumstances of an individual conservatee. Such "extraordinary" services include, but are not limited to, transportation to court appearances and other appointments, oversight of special medical issues and special care requirements, appropriate level of care placement issues, program plan reviews, and review of incident reports from care facilities. "Non-routine" services are charged at a flat rate without regard to the sliding scale. The Public Guardian will charge \$50.00 per hour for "non-routine" services.

Non-routine Services	
\$50.00	Hourly Rate

"Person Only" Probate Conservatorship -- do not collect fees.

ADMINISTRATION OF ESTATES OF DECEDENTS

Compensation can be received based on the value of the estate accounted for by the personal representative as follows (Probate Code 10600):

- 4% on the first \$100,000
- 3% on the next \$100,000
- 2% on the next \$800,000
- 1% on the next \$1,000,000
- .5% on the next \$15,000,000
- Above \$25,000,000 a reasonable amount will be determined by the court

ANNUAL BOND FEES

California Probate Code §2942c allows the County to charge an Annual Bond Fee of twenty-five dollars (\$25) plus one-fourth of one percent of an estate greater than ten thousand dollars (\$10,000).

COURT MEDIATOR/INVESTIGATOR FEES

Fees are billed to the client for the Madera County Court Mediator/Investigator (on final probate accounts only) as follows:

- \$200 for new appointments before 1/1/2007
- \$400 for new appointments after 1/1/2007

PAYEE FEES

Representative Payee provides budgeting and money management to enable its clients to maintain themselves in independent living situations appropriate to their needs.

December 16, 2010

Exhibit A

Payee fees will be billed to client on a monthly basis. The fee shall be \$37.00 per month unless the client does not have the funds to cover the fee. In these cases the fee will be reduced or waived.

DRUG DESTRUCTION FEES

Conservatee will be billed a fee of \$50.00 upon receipt of invoice from the Madras County Public Health Department, for destruction of any controlled substance, prescription drugs, needles, or other paraphernalia discovered at time of initial inventory or as necessary during the conservatorship of the conservatee. In the event that the conservatee does not have the funds to cover the fee, the fee will be reduced or waived.

COUNTY CENTRAL GARAGE SERVICES

Conservatee will be billed a fee of \$45.34 per hour upon receipt of invoice from the Madras County Central Garage for services rendered. Typically, the County Central Garage provides estimates of vehicles owned by conservatees. In the event the conservatee does not have the funds to cover the fee, the fee will be reduced or waived.

December 16, 2010