



2012-2013 SANTA CLARA COUNTY CIVIL GRAND JURY REPORT

IMPROVEMENTS ARE NEEDED IN THE OFFICE OF THE PUBLIC ADMINISTRATOR/GUARDIAN/CONSERVATOR

Summary

The 2012-2013 Santa Clara County Civil Grand Jury (Grand Jury) received a complaint relating to the operation of the Santa Clara County Office of the Public Administrator/Guardian/Conservator (PAGC), an office within the County of Santa Clara Social Services Agency (SSA). Although the complaint was narrow in scope, the Grand Jury elected to broaden its investigation of the PAGC to include a review of its policies and procedures, its operations, and its performance.

The Grand Jury found that the PAGC has not reviewed two-thirds of its Policies & Procedures (P&P) for more than five years. In addition, less than one third have been posted on its intranet, with the remainder filed in various folders and binders throughout the office.

There is no system in place within the PAGC for collecting information on and resolution of client and client advocate complaints. The absence of such a system prevents effective complaint oversight and limits the opportunity for identifying system and service delivery issues and opportunities for improvement.

The Grand Jury also found that the implementation of the Panoramic Case Management System, installed in 2009, has yet to meet its design goals, and consequently serves the PAGC in a sub-optimal manner. A clear plan for remediation, including a timeline, does not exist.

Certification of Estate Administrators, Conservators, and Deputy Public Guardians has not been an enforced requirement, despite a strong recommendation by the certifying agency, the California State Association of Public Administrators, Public Guardians, and Public Conservators (CAPAGPC). As a result, only some of the PAGC personnel are currently certified. Ensuring compliant and consistent practices within the PAGC by complete certification should be a goal.

The PAGC does not conduct annual staff performance reviews. This is in direct violation of the Santa Clara County Ordinance. The absence of annual performance reviews interferes with the achievement of appropriate goals, identification and correction of issues of concern, and establishment of a shared purpose.

The Grand Jury finds that the PAGC lacks the most basic management tools (regular staff meetings, reporting field work activities, job training and training materials, up-to-date policies, complaint tracking, software tools, complete case files, performance evaluations) that would enable it to assess the quality, effectiveness, and efficiency of the service it provides. The Grand Jury notes that this deficiency is troubling, because by definition, the people served by the PAGC are unable to protect their own interests, and as a result, the Office carries a special burden of public trust. The Grand Jury concludes that the PAGC is not being managed in a manner consistent with best practices or the reasonable expectations of the residents of Santa Clara County.

This report, outlining the investigation by the Grand Jury, identifies 13 issues of concern within the PAGC, its operations, performance, and policies and procedures. In addition, this report includes 17 recommendations for improvement.

Background

Santa Clara County Social Services Agency (SSA)

The Social Services Agency is responsible for providing financial and protective services for residents of the county. It is comprised of the Department of Employment & Benefit Services, the Department of Aging & Adult Services, the, the Department of Family & Children's Services, and the Department of Administrative & Operational Services (Figure 1).

The Mission Statement of the SSA states that it is “a culturally sensitive and socially responsible public agency providing high quality, professional, financial, and protective services for residents of Santa Clara County.”¹

¹ <http://www.sccgov.org/sites/ssa/Pages/County-of-Santa-Clara-Social-Services-Agency.aspx>

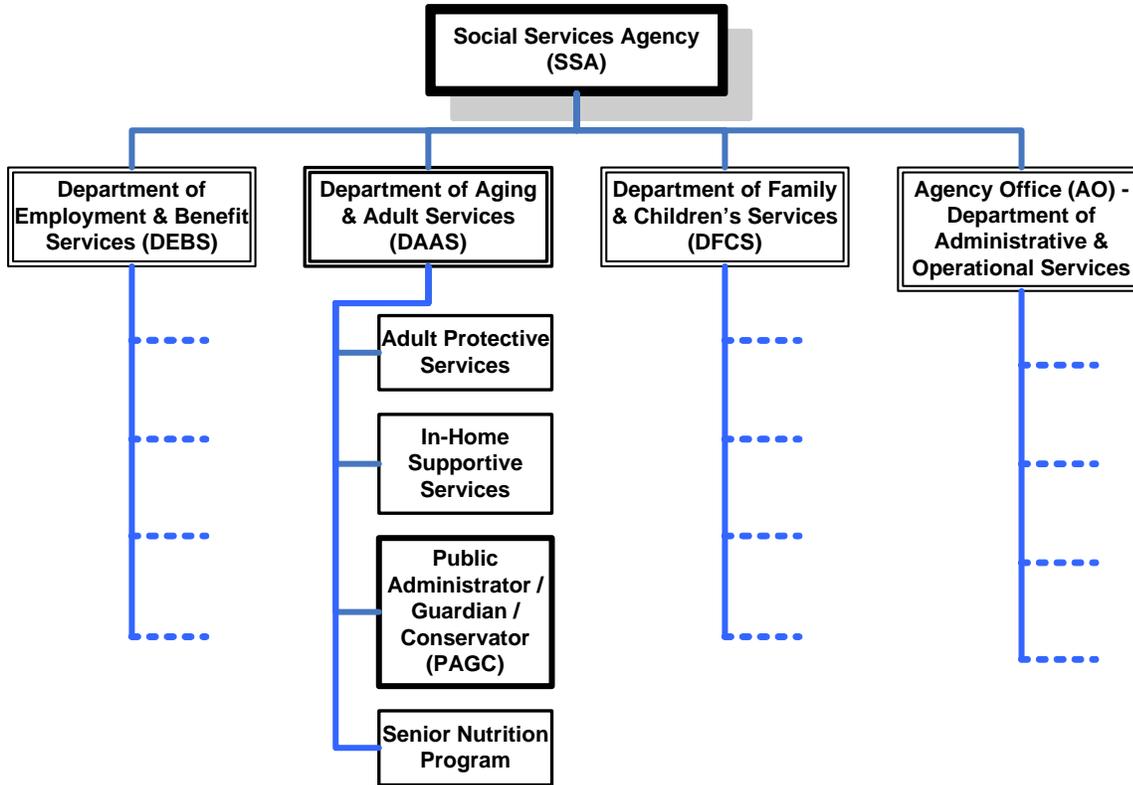


Figure 1 Santa Clara County Social Services Agency

Description of the Santa Clara County Department of Aging and Adult Services (DAAS)

The Department of Aging and Adult Services is comprised of Adult Protective Services, In-Home Supportive Services, Public Administrator/Guardian/Conservator, and the Senior Nutrition Program and “*promotes a safe and independent lifestyle for seniors, dependent adults and the disabled through the delivery of protective services, quality nutrition and supportive in-home services. In addition, DAAS assists in the provision of long term care for the frail and elderly and safeguards the property of conservatees and manages the assets of conservatees and decedent estates.*”²

² <http://www.sccgov.org/sites/ssa/Department%20of%20Aging%20-%20Adult%20Services/Pages/Department-of-Aging-and-Adult-Services.aspx>

The Office of the Santa Clara County Public Administrator/Guardian/Conservator (PAGC)

The PAGC “serves the public by managing the estates of persons who die without a will or without an appropriate person willing or able to act as executor.”³ In addition, the PAGC “insures the physical and financial safety of persons unable to do so on their own, and when there are no viable alternatives to public conservatorship. The Superior Court determines whether a conservatorship should be established. The court process includes petitioning the court and notifying the proposed conservatee and his or her family of the proceedings. A conservatorship is only established as a last resort through a formal hearing. The Superior Court can appoint the Public Guardian as a conservator of the person only, estate only or both person and estate.”⁴

“The Conservatee (person being conserved) may nominate any qualified individual or the Public Guardian may petition to be a person’s Conservator. Conflicts are resolved by the Superior Court. In an LPS [Lanterman-Petris-Short] Conservatorship, the Public Guardian is the only party appointed as temporary conservator by the Court. At the time of the permanent hearing, the Court may appoint a willing family member, a friend or the Public Guardian as the conservator, at the court’s discretion.”

“The main responsibility of the **Conservator of the Person**...is to provide each Conservatee with the best and most independent living environment possible, within their abilities and resources. The Conservator assures that all personal care, medical care and services needed to maintain a safe and comfortable living environment are provided for the Conservatee.”

“A **Conservator of the Estate** is responsible for: locating, managing and protecting all assets of the Conservatee’s estate; applying for all income and benefits to which the Conservatee may be entitled; paying all just debts and keeping separate records of all funds received and disbursed on the Conservatee’s behalf.”

“A Conservator must represent, or arrange representation for the Conservatee, in all legal matters, which may include domestic litigation, compensable personal injury actions, heirships, other money judgment actions and Superior or Municipal Court criminal actions.”

“A Conservator must file timely accountings of income and disbursements with the Superior Court, and send a copy to the Conservatee.”

³ <http://www.sccgov.org/sites/ssa/Department%20of%20Aging%20-%20Adult%20Services/Public%20Administrator/Pages/Public-Administrator.aspx>

⁴ <http://www.sccgov.org/sites/ssa/Department%20of%20Aging%20-%20Adult%20Services/Public%20Guardian/Pages/Office-of-the-Public-Guardian.aspx>

“WHO MAY BE CONSERVED?”

“If the court decides that an individual is substantially unable to provide for his/her own personal needs of health, food, clothing or shelter and/ or unable to manage financial resources or resist fraud, or undue influence a Conservator can be appointed by the Superior Court.”

*“If an individual is gravely disabled and unable to provide for food, shelter and clothing due to mental illness or chronic alcoholism, a conservator can be appointed under the **Lanternman-Petris-Short Act (LPS)**. This Court determination requires the recommendation of two psychiatrists or a psychiatrist and a psychologist.”⁵*

According to the FY2012 Report, the PAGC assists more than 810 Conservatees and administers 327 decedent estates.⁶ 66 full time-positions are authorized for the PAGC in FY2013.⁷

Previous Reviews of the PAGC

The PAGC has been the subject of several audits, reports, documents, and investigations during the past decade and a half, including a 1997-1998 Civil Grand Jury report outlining deficiencies in the Office’s operations and its policies and procedures.⁸ More recently, a 2008 document authored by consultant Keerthi Mandala of Global Enterprise Management Solutions, Inc., identified 16 operational issues, of which 11 were termed “high risk.” The document included mitigation recommendations for each of the 16 issues.⁹ The Grand Jury has determined that four of the “high risk” and three of the “medium risk” issues identified in the 2008 document remain unaddressed. The Grand Jury addresses these unresolved issues in this report.

In August 2010, the County of Santa Clara Internal Audit Report prepared by the Internal Audit Division of the Controller-Treasurer Department, identified similar operational issues (e.g., timely review of policies and procedures, completeness of computer data, intraoffice communication) in the PAGC, with similar recommendations for resolution.¹⁰ More recently, in November 2012 a local television station scrutinized the practices of the PAGC in a series of critical reports.^{11, 12}

⁵ <http://www.sccgov.org/sites/ssa/Department%20of%20Aging%20-%20Adult%20Services/Public%20Guardian/Documents/Conserve-Brochure.pdf>

⁶ http://www.sccgov.org/sites/ssa/Documents/agency_fact_sheet.pdf

⁷ <http://www.sccgov.org/sites/scc/countygovernment/Documents/FY13RecBudget/Section%203%20-%20Children,%20Seniors%20and%20Families.pdf>

⁸ 1997-1998 Grand Jury Report, “Review of the Real and Personal Property Management Division of the Department of the Public Administrator/Guardian/Conservator”

⁹ “Business Process Document”, June 2008

¹⁰ Santa Clara County Internal Audit Report, August 2010

¹¹ KGO-TV, Nov. 2, 2012, <http://abclocal.go.com/kgo/story?section=news/iteam&id=8869360>

¹² KGO-TV, Nov. 21, 2012, <http://abclocal.go.com/kgo/story?section=news/iteam&id=8894416>

The Panoramic Case Management System in the PAGC

In November 2009, a new case management system, Panoramic, was implemented in the PAGC, replacing the older CompuTrust Case Management System. A 2008 report, titled *Business Process Document*, outlined in detail the specific elements of every operation and task within the PAGC.¹³ This 361-page report provided the basis for programming and defining the operation of the Panoramic system.

As described by its vendor, the Panoramic Case Management System is designed to handle cases from investigation and case opening to case closure. It will track clients, assets, heirs, and maintain case notes.¹⁴ It will produce court accounting reports directly from information stored in the system. In addition to the above capability, it will track visits, relatives, and assessments for Conservators. It will also produce pre-filled forms with data pulled from the application. It will run a “tickler” reminder to schedule upcoming visits. It is a comprehensive case management system especially focused on the needs of Administrators, Guardians, and Conservators.

Certification of Personnel in the Office of the PAGC

California Probate Code Section 2923, which governs public guardians, states:

On or before January 1, 2008, the public guardian shall comply with the continuing education requirements that are established by the California State Association of Public Administrators, Public Guardians, and Public Conservators.

Probate Code Section 7605 was passed two years later and governs the public administrator but is virtually identical to the public guardian statute:

On or before January 1, 2010, the public administrator shall comply with the continuing education requirements that are established by the California State Association of Public Administrators, Public Guardians, and Public Conservators.

Probate Code Section 1456.2 was passed at the same time and addresses public conservators:

On or before January 1, 2010, the public conservator shall comply with the continuing education requirements that are established by the California State Association of Public Administrators, Public Guardians, and Public Conservators.

¹³ “Business Process Document,” June 2008

¹⁴ <http://www.panosoft.com/>

The CAPAGPC is a non-profit association representing the Public Administrators, Guardians and Conservators from each of California's 58 counties. According to the association's website, their mission is to “foster communication between counties, provide education and certification to its members, and provide legislative advocacy on behalf of individuals served by these programs.”¹⁵

The CAPAGPC develops education and training programs that provide professional levels of competency for Public Administrators, Guardians and Conservators and certifies those who have successfully completed the education and training requirements. Initial certification requires attending 40 hours of courses approved by the association. The requirements for certification are completion of a course on ethics and a basic orientation course, approved by the association, applicable to the duties performed in an office of a public administrator, public guardian or public conservator. Within a two-year period following certification, recertification is required and may be obtained by taking 20 hours of courses approved by the CAPAGPC. Completion of a course on ethics is also required for recertification.

Investigation Methodology

During its investigation, the Grand Jury:

- Conducted 21 total interviews of personnel within the PAGC and other SCC departments
- Reviewed 38 documents, including a previous Grand Jury report, business documents, e-mails, and audits
- Conducted two site visits
- Conducted one survey of other PAGC offices in eight California counties

Discussion

Policies and Procedures

As the Grand Jury began investigating the operation of the PAGC, the first documents reviewed were its P&P. The Grand Jury requested and was provided with the current, most up-to-date edition of the P&P of the PAGC. Upon review, however, it was found that for nearly two-thirds of the 131 individual P&P, there was no evidence of their having been reviewed or updated within the past five years. The complete review status is shown in Chart 1 below.

¹⁵ California State Association of Public Administrators, Public Guardians, and Public Conservators
Website <http://capagpc.org/index.html>

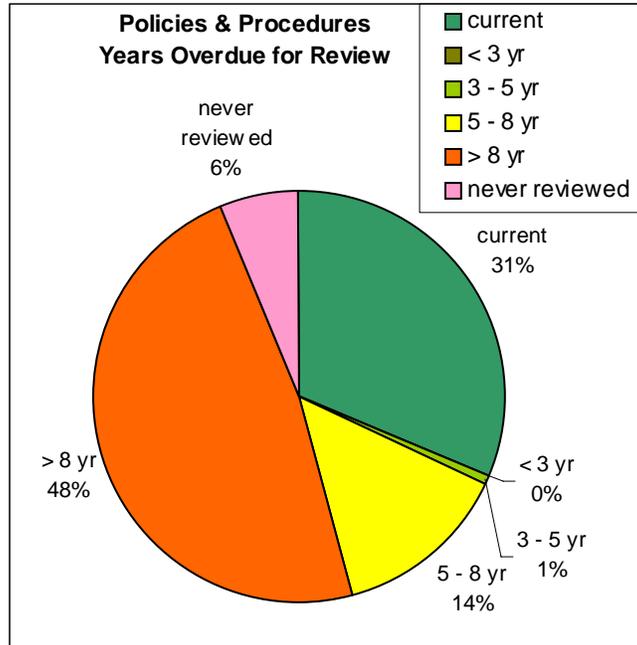


Chart 1

Many of the procedures refer to job titles that no longer exist or to activities that have undergone modification with the implementation of the Panoramic Case Management System. In addition, it was determined that there were five procedures that bore the same identifying number, but whose contents addressed completely unrelated procedures. Furthermore, five other policies bore no identifying number whatsoever, despite their focus on such key matters as “Emergency Procedure for Missing/AWOL Clients,” “Creditor Claims,” and “Death Procedure.”

Less than one-third of the P&P have been reviewed and placed on the department intranet for PAGC personnel use as shown in Chart 2 below.

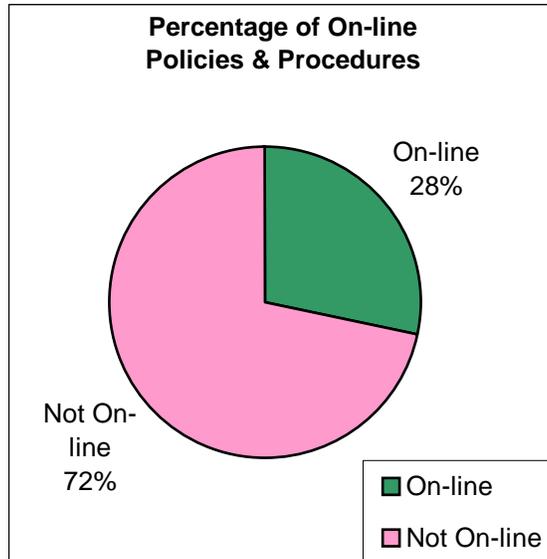


Chart 2

Lastly, a policy (#204) that has been recently revised defines the procedure for reviewing and updating all office P&P. The previous version, last reviewed in 1998, defined a maximum review interval of three years for all office P&P. Even though this review interval has been generally disregarded (see Chart 1), its existence nevertheless provides a “best practice” metric. The revised policy, however, has dropped this maximum review interval, thereby eliminating a means of assessing the quality and of assuring that the office P&P are up to date. The Grand Jury recommends re-establishing a maximum review interval for all office P&P.

It was noted by the Grand Jury that a previous report¹⁶ and audit¹⁷ of the PAGC have identified the PAGC’s inattention to timely and routine review of the office’s P&P as a serious impediment to efficient and reliable operation of the office. In addition, the Grand Jury found that there was not a consolidated, current set of P&P manuals available for employees. While less than one-third of the P&P are available on the department intranet, access to the majority of P&P is limited to their scattered availability and questionable completeness in loose-leaf binders located throughout the office.

¹⁶ Business Process Document, June 2008, pg. 351

¹⁷ Santa Clara County Internal Audit Report, August 2010

Complaints

By way of interviews with several PAGC personnel, it was clear that no P&P for addressing client, client advocate, or other complaints exist. It is important to distinguish between the office not responding to complaints, versus the office not having a documented procedure for comprehensively recording the complaint details and its resolution. Due to the lack of a formal complaint collection and resolution process, the Grand Jury was unable to determine if complaints were being addressed and resolved.

A functioning complaint collection system would allow the PAGC management to have a data source for: 1) identifying common complaints and sources; 2) identifying proactive procedures or actions to avoid situations and circumstances that generate complaints in the first place; 3) ensuring a case history that includes all complaints, their resolution, and the staff member(s) providing the resolution.

The Panoramic Case Management System in the PAGC

The Panoramic Case Management Computer System was installed in November 2009 replacing the CompuTrust system. A consultant was retained by the county to produce a document, completed in June 2008, which described in detail every operation and process within the PAGC office.¹⁸ The document was used as the basis for programming the Panoramic system. In addition, because the consultant compared the *actual* office operation with the operation as described in the office's P&P, 16 issues of functional misalignment were identified, 11 of which were termed "High Risk." The report included mitigation recommendations for each of the 16 identified issues.

Through interviews with several PAGC personnel, it is clear that the implementation of the case management system fell short of the goal. In the estimation of its users, the ability to obtain relevant and customized reports is lacking. It is also cumbersome, and in some cases impossible, for Estate Administrators (EA) and Deputy Public Guardians (DPG) to enter all pertinent case documents into the system. In particular, documents such as grant deeds are not scanned into the system but held in paper files, file folders and loose-leaf binders. The Grand Jury finds that this practice has the clear potential for important case documentation to be misplaced, lost, or inadvertently destroyed. Furthermore, scattered off-line documentation prevents the computer system from effectively monitoring case timelines and issuing action reminders as needed. Moreover, the difficulty (or in some cases the inability) to create custom reports leads to the creation and use of documents outside of Panoramic. Excel[®] spreadsheets and other "personalized" records are in use throughout the office.

¹⁸ Business Process Document, June 2008

A further source of frustration for Panoramic users, as expressed in interviews, is the absence of a clearly identified “go-to” person for Panoramic service, maintenance, and training issues.

The items noted above have resulted in an underutilized case management system that has not provided all of its intended benefits.

Care of Client Assets and Belongings

The August 2010 Santa Clara County Internal Audit Report asserted that a comprehensive periodic physical inventory of client personal property items in the warehouse had not occurred and was overdue. In January 2013, the PAGC warehouse was relocated to a different site, and in preparation for this move, a physical inventory was conducted. In February 2013, members of the Grand Jury toured the new warehouse and determined that a physical inventory of client personal property items had occurred within the previous 12 months and that client items appeared to be secure, adequately segregated, and identified.

Certification of PAGC Deputies, Estate Administrators, and Conservators

In its investigation, the Grand Jury learned that there has been no ongoing requirement within the PAGC office for CAPAPGPC certification (or re-certification) of the office’s Estate Administrators, Conservators, and Deputy Public Guardians. There are several reasons to have certified PAGC personnel. Certification helps PAGC personnel to be correctly informed about revisions in applicable laws and policies.¹⁹ In addition, should there be a challenge to a decision made by personnel within the PAGC office, having certified deputies and administrators who follow best practices provides a counter to these challenges.

The Grand Jury conducted a limited survey of PAGC offices in eight California counties (Alameda, Los Angeles, San Bernardino, San Diego, San Mateo, Santa Cruz, Sonoma, and Tulare) inquiring if their Deputy Public Guardians, Conservators, and Administrators are required to have current CAPAPGPC certifications. In each county, certification of PAGC personnel is a requirement.

¹⁹ For instance, the current CAPAPGPC conference includes education in the following subjects: Public & Fiduciary Ethics, Marshaling Assets, Medical Decision Making, Common Law Principles for PA, PA & PG/PC Workshops, Basic Estate Taxation, Easy Steps to Certification/Recertification, Field Safety/Risk Management of the Property/Fall Prevention, Internal Controls, LPS Law Practice (recent court cases, medications issues and medical procedures), Psychopharmacology, Firearms, Proposed changes to the LPS Act

A PAGC executive advised the Grand Jury that effective with the onset of the Omnibus Reconciliation Reform Act of 2006, Deputy Public Guardians and the Public Guardian must be certified.²⁰

The Department of Aging & Adult Services indicated that it sought legal advice as early as September 2008 about the training requirements and was advised that the safest course was to apply the education requirements to all deputies and estate administrators. However, through interviews, the Grand Jury found that not all PAGC Deputy Public Guardians, Conservators, or Estate Administrators are CAPAGPC certified. In order to operate with up-to-date awareness of current laws and best practices, all PAGC Deputy Public Guardians, Conservators, and Estate Administrators should be CAPAGPC certified.

Employee Performance Evaluations

The Grand Jury established through interviews with several employees of the PAGC that no annual performance evaluations are conducted for the line staff (those covered by the Service Employees International Union [SEIU] 521 [the Union] collective bargaining agreement). Interviews revealed that the basis for the lack of performance evaluations is the common belief within the office that the Union does not allow performance evaluations. The Grand Jury determined, based on interviews and correspondence, that the DAAS also holds this view.

The County of Santa Clara Ordinance Code expressly requires periodic employee performance evaluations. Division 25 Personnel Department, Chapter VI Personnel Practices, Article 8 Evaluation, Sec. A25-698. Procedure, states:

“Evaluations shall be made periodically by the employee's immediate supervisor on approval forms and be approved by the employee's appointing authority. One copy of each report shall be maintained by the Department for its permanent records.”²¹

Furthermore, the Performance Appraisal Program Agreement (available in Appendix A) between Santa Clara County and the SEIU 521, defines in its preamble those employees who must receive appraisals:

“Effective June 19, 2006: this program applies to *all workers represented by the Union* [italics added], with the exception of extra help employees unless otherwise required based by regulation or law.”²²

²⁰ E-mail memo received from PAGC executive, Sept. 5, 2012

²¹ County of Santa Clara Ordinance Code, as updated Oct. 23, 2012

²² <http://www.sccgov.org/sites/ed/CountywideTrainingProgramInformation/Performance%20Appraisal/Documents/715-app-guide-rev-10-07.doc>

The appraisal form itself, “Santa Clara County (SEIU Local 715) Appraisal and Development Form” is available in Appendix B.²³ (It should be noted that SEIU Local 715 is the former designation of SEIU Local 521).

The PAGC is not in compliance with the requirement to carry out performance evaluations.

Office Operations

Staff Meetings: During the interview process, the Grand Jury learned that regularly scheduled staff meetings are not held. Holding regularly scheduled staff meetings with employees enables effective communication between members of the department and their supervisors. It provides an opportunity to discuss the operational efficiency of the department, allows for the sharing of recent developments, and creates a forum for the exchange of ideas and solutions to problems. A staff meeting is an appropriate place for planning future department assignments and activities. Further, staff meetings are an opportunity to hear or speak on something critical. Support for holding regular staff meetings is a recommendation (#13) contained in the *Business Process Document*.²⁴

Sign-in/sign-out process: The Grand Jury identified inconsistent use of the office sign-in/sign-out process. This was of concern, because it has resulted in a lack of accountability among the staff.

Interviews established that some workers would not appear in the office at the start of the workday, but would call in to the PAGC to have someone sign them in. Then at the end of the workday, they would call into the PAGC to have someone sign them out. Some would call in or sign out for the following workday, citing their intention to be in the “community,” the “field,” or some other non-specific destination for the entire day. In these situations, client identification was seldom established, thereby compromising office staff accountability.

The Grand Jury acknowledges that emergency situations do arise with clients which prohibit staff from coming into the office, instead requiring staff to spend the day with one or more clients. When this type of event, including the case identifier and specific location(s), is logged into the event category of the Panoramic system, it reinforces office staff accountability.

According to interviews, not all employees fill out the event section of *Panoramic* with specific details such as client’s name, purpose of the trip, and where they were going. They may just enter that they were in the “field” or “community.” This again undermines office accountability.

²³http://www.sccgov.org/sites/ed/CountywideTrainingProgramInformation/Performance%20Appraisal/Documents/715Appraisal_Form_Upd_N1.doc

²⁴ “Business Process Document”, June 2008

Job training: As a result of an office reorganization in early 2012, the Deputy Public Guardian job responsibility was modified to include some tasks previously assigned to Estate Administrators. These modifications are reflected in the SCC Class Specification Bulletin (i.e., job description) for the Deputy Public Guardian - Conservator, revised March 5, 2012. However, based on interviews conducted as late as October 2012, the personnel affected by this revision had not received training for their new responsibilities. This is of concern, as the new tasks require management of client real estate and financial assets, responsibilities for which the Deputy Public Guardian/Conservators may not be adequately trained to handle.

Training for new personnel: From interviews with numerous PAGC employees, the Grand Jury has determined that an official procedure for the training of new personnel does not exist in the PAGC office. This is the same for both new hires and inter-office transfers. Currently, new employees may be trained by what is variously described as shadowing other employees, on-the-job training, and by asking for help. Developing a formal training protocol and process would ensure smooth transitions during staffing changes, would assist personnel to fully grasp the scope of their responsibilities, and would enable supervisors to hold subordinates accountable. A training module should be created for general office procedures and detailed for each unique position in the PAGC office, as was contained in Recommendations #8, #14, and #15 in the *Business Process Document*.²⁵

Conclusions

The Grand Jury investigated the operation of the Office of the PAGC. It conducted 21 interviews, reviewed 38 documents, and made two site visits. It is apparent that the personnel interviewed by the Grand Jury are dedicated to the welfare and well being of those they serve.

The absence of several elements critical to the effective operation of the PAGC has impeded the ability of PAGC personnel to perform their job in an efficient and complete manner. Specifically, a majority of the PAGC P&P have not been reviewed for five years or more, despite recommendations for their review in reports dating from 2008. As of February 2013, less than one-third of them are posted on the department intranet.

There also is no system in place within the PAGC for collecting information on and resolution of client and client advocate complaints. The absence of such a system prevents effective complaint oversight, as well as limiting the opportunity for identifying system and service delivery issues and opportunities for improvement.

²⁵ *ibid*

Additionally, nearly four years after its introduction, an incomplete implementation of the Panoramic Case Management System has prevented it from meeting key design requirements. For example, an inadequate report-generating capability has limited its effective use by PAGC personnel. Obtaining operational and case oversight reports is reported to be difficult, and in some cases, impossible. Worse, an inability for the system to accommodate all relevant case documentation has resulted in case materials being scattered between various binders, individual deputy and administrators' file folders, as well as the computer system. Should the need arise to transfer case materials between personnel, ensuring a complete transfer would be difficult.

The Grand Jury is also concerned that PAGC Estate Administrators, Conservators, and Deputy Public Guardians are performing their work without proper certification and continuing education training. Up-to-date training and education is important to ensure that deputies are knowledgeable of the most current legislative requirements and are aware of the latest developments within their field of expertise. Trained deputies are less likely to make errors while performing their role as guardians of vulnerable and/or frail clients. Proper training allows deputies to develop into proficient and productive employees. Certified and trained personnel are more likely to contribute to the success of the PAGC office.

Finally, staff employee performance evaluations are not being conducted in the PAGC under the mistaken notion that the SEIU prohibits evaluations. In fact, both the County of Santa Clara Ordinance Code and the SEIU collective bargaining agreement require that periodic employee evaluations be conducted. As a result of the absence of performance evaluations, significant opportunities for strengthening employee-management interaction and engagement have been lost.

The Grand Jury concludes that the PAGC is not being managed in a manner consistent with good practice and the reasonable expectations of the residents of Santa Clara County. This is especially troubling because the PAGC bears responsibility for those who are unable to protect their own interests, and as a result, the PAGC carries a special burden of public trust.

The investigation by the Grand Jury identified 13 issues of concern within the PAGC office, its operations, policies and procedures, and performance. In addition, this report includes 17 recommendations for improvement.

Findings and Recommendations

Finding 1

As of August 2012, nearly two-thirds of the PAGC office Policies and Procedures have not been reviewed or updated for five years or more, as has been recommended by previous reports and audits.

Recommendation 1a

The County should require the PAGC to establish a completion date for the review and update of PAGC Policies and Procedures.

Recommendation 1b

The County should monitor the progress toward the timely completion of the review and update of the PAGC office Policies and Procedures.

Finding 2

As of February 2013, less than one-third of the PAGC office Policies and Procedures are available on the department intranet for PAGC staff use.

Recommendation 2a

The County should require the PAGC to establish a completion date for the transfer of hard-copy Policies and Procedures to the department intranet.

Recommendation 2b

The County should monitor the progress toward the timely transfer to the department intranet of the PAGC office Policies and Procedures.

Finding 3

The PAGC policy (#204) that defines the review and revision procedure leaves undefined a maximum review interval for its office procedures.

Recommendation 3

The County should require a maximum review interval for all PAGC Policies and Procedures.

Finding 4

The PAGC has no documented process to record and track client or client advocate complaints.

Recommendation 4

The County should require the PAGC to establish Policies and procedures to record and track complaints against the PAGC.

Finding 5

PAGC personnel do not consistently utilize the Panoramic Case Management System.

Recommendation 5a

The County should require the PAGC to identify the issues that prevent the full use of the Panoramic system.

Recommendation 5b

The County should require the PAGC to establish a completion date for resolution of the identified issues preventing the full use of the Panoramic system by the PAGC.

Recommendation 5c

The County should monitor the progress toward the timely resolution of the identified issues preventing the full use of the Panoramic system by the PAGC.

Finding 6

The PAGC does not maintain case documents in a standardized fashion.

Recommendation 6

The County should require the PAGC to establish procedures and standards for the maintenance of case documents in a standardized fashion.

Finding 7

The PAGC does not have clearly delineated personnel responsible for problem solving, maintenance, and training for the Panoramic software system.

Recommendation 7

The County should require the PAGC to assign the necessary resources to assess and oversee the operation of the Panoramic software system, and to provide training and assistance to staff.

Finding 8

Not all PAGC Deputy Public Guardians, Conservators, or Estate Administrators are CAPAPGPC certified.

Recommendation 8

The County should require that all PAGC Deputy Public Guardians, Conservators, and Estate Administrators be CAPAPGPC certified.

Finding 9

PAGC Employee performance reviews, as stipulated by the SEIU Local 521 Performance Appraisal Program Agreement, are not being conducted.

Recommendation 9

The County should require that the PAGC conduct employee performance reviews as stipulated by the SEIU Local 521 Performance Appraisal Program Agreement.

Finding 10

The PAGC does not hold regularly scheduled staff meetings.

Recommendation 10

The County should require that the PAGC conduct regularly scheduled, mandatory staff meetings for both supervisorial and line staff.

Finding 11

The PAGC does not have a clearly established procedure that governs staff sign-in and sign-out.

Recommendation 11

The County should require that the PAGC establish a procedure that governs staff sign-in and sign-out as a means of providing accountability for field activities.

Finding 12

The PAGC has not provided training in response to revised job descriptions and responsibilities.

Recommendation 12

The County should require that PAGC personnel receive timely training related to their responsibilities.

Finding 13

The PAGC does not consistently use training materials or have a training methodology in place for new office personnel.

Recommendation 13

The County should require the PAGC to implement a procedure and training module for new office personnel.

Appendix A

Performance Appraisal Program Agreement

<p style="text-align: center;">Performance Appraisal Program Agreement COUNTY OF SANTA CLARA and SERVICE EMPLOYEES INTERNATIONAL UNION (SEIU) LOCAL 521 (FORMERLY 715)</p>

I. Preamble

This performance appraisal program has been developed by a Joint Labor Management Committee (JLMC) pursuant to Section 6.10 of the contract between the County and SEIU Local 521 (formerly 715). This program applies to workers in coded classification listed on Appendix A and to workers as specified in Section V.6 of this agreement.

Effective June 19, 2006: this program applies to all workers represented by the Union, with the exception of extra help employees unless otherwise required based by regulation or law.

II. Purpose

The purpose of the annual performance appraisal program is to provide a system of periodic review and constructive feedback to enhance the development of knowledge, skills and abilities of workers and to contribute to providing quality services.

The performance appraisal is intended to be a positive tool for worker development. Restricting the use to worker development will assist in promoting a non-threatening process and to encourage cooperation between the appraiser and the worker.

III. Implementation

1. Performance appraisals shall be implemented for approximately seventy-five percent (75%) of workers represented by SEIU Local 521 (formerly 715) effective March 2003. The covered positions and an implementation schedule are shown on Appendix A. Effective June 19, 2006: all workers are covered by the program. The appraisal form to be used is Appendix B.
2. All participants shall be provided training prior to performance appraisals being conducted. The parties agree that ongoing training shall be provided to newly appointed supervisors and/or managers.
3. Within thirty (30) days of implementation with in each department, appraisers shall review the specific duties for each covered worker based on the job specification. A meeting with the appraiser and the worker may be scheduled, if requested by either party, to plan for the annual appraisal.

IV. Process

1. The appraiser will provide the worker with at least ten (10) working days notice of the date of the appraisal meeting. The worker will complete a self-appraisal prior to the meeting date.
2. The appraiser will review and complete the performance appraisal form prior to the meeting date.
3. The appraiser and worker shall jointly complete the final appraisal. The separate review and completion will ensure that the final appraisal can incorporate any support and training needs identified by the worker as well as by the appraiser.
4. The appraisal must include an overall rating for each appraisal area. Please note the following additional guidelines:
 - a) If an appraisal area does not apply to a particular classification "not applicable" is to be marked.
 - b) The appraiser must provide comments for areas with an overall rating of "Improvement Needed". The comments should include a brief description of further training and/or specific goals that may assist the worker achieve a rating of "Meets Standard" by the next appraisal.
 - c) The appraiser must provide comments for areas with an overall rating of "Above Standard".

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- d) The Appraiser does not need to provide comments on ratings of "Meets Standard".
 - e) The "Unsatisfactory" category is only to be used for participants in the Health & Hospital System (HHS).
5. The appraiser and worker will discuss each appraisal area on the appraisal form. This will provide an opportunity for the worker to communicate his/her training and support needs.
 6. The appraiser will complete the appraisal and provide the worker with a finalized copy. Additional forms may be attached to the appraisal form to evaluate competency and/or satisfy other regulatory requirements.

V. Guidelines

1. Performance appraisals should be conducted on an annual basis within thirty (30) calendar days of the worker's salary anniversary date or as required by licensing, accreditation or other official regulatory board. The appraisal date may only be modified based upon mutual agreement of the worker and the appraiser.
2. SEIU Local 521 (formerly 715) Bargaining Unit members shall not conduct annual appraisals. Clerical Leads are excluded from providing feedback to Supervisors.
3. The annual performance appraisal will not be used in the County disciplinary process, for the purpose of lateral transfers or for the purpose of promotions.
4. A copy of the annual performance appraisal shall be filed in the worker's departmental personnel file. Performance Appraisals shall be removed from the file if a hiring authority or management requests to review the file for the processes or purposes stated in V.3 above.
5. The county shall not require a worker to provide a copy of performance appraisal/s for the purposes of lateral transfers or promotions. The County shall not consider performance appraisals for the purposes of lateral transfers or promotions;
6. All workers on original probation shall receive a performance appraisal prior to completion of their probationary period. These workers shall then continue to receive an annual appraisal regardless of any future changes in classification, position or Agency/Department.
7. Performance appraisals are excluded from the grievance process.
8. Workers shall have the right to provide a written response to the performance appraisal. At the request of the worker, this response may be attached to the appraisal.
9. A worker may request a meeting with the evaluator's immediate supervisor to review the evaluation, if there are any areas of dissatisfaction. The appraiser's immediate supervisor will meet with the appraiser and the worker to discuss the appraisal within ten (10) working days of the request. Any changes shall be made on the form and a copy of the finalized appraisal form shall be provided to the worker. The reviewer's decision shall be final regarding the appraisal.

VI. Program Review

The County agrees to provide the Union with reasonable notification if performance appraisals are mandated for workers not covered by this agreement pursuant to licensing requirements, accreditation, funding and/or other legal or regulatory requirements. Following such notice, either party may request to meet and confer to discuss any impact/s on the appraisal program.

It is further agreed that the parties may meet on an annual basis to review the appraisal program. This meeting shall be held if requested by either party. The purpose of this meeting/s will be to further refine and/or adjust the program.

Note: Copies of original signatures of the March 2003 program agreement can be obtained from Labor Relations or SEIU Local 521 (formerly 715).

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Appendix A

Department	Budget Unit
Children's Shelter & Custody Health	414
Communications	190
Community Outreach	418
County Counsel	120
County Library	610
Department of Revenue	148
District Attorney – Crime Lab	203
District Attorney – Criminal	202
Department of Alcohol & Drug	417
Environmental Health Department	261
Finance	110
Information Systems Department	145
Medical Examiner – Coroner	293
Mental Health	412
Office of Affordable Housing	168
Parks & Recreation	710
Planning & Land Use	260
Probation	246
Public Defender	204
Public Health	410
Purchasing	118

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Registrar of Voters	140
Roads & Airports	603 & 608
Sheriff's Office	230
Sheriff's Services	231
SSA, Children's Shelter	501
Valley Health	725
Valley Medical Center	921
Vector Control	411

Classification

Information Systems Technician Information Systems Analyst	Countywide
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Appendix B

SANTA CLARA COUNTY (SEIU LOCAL 715) APPRAISAL AND DEVELOPMENT FORM

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SANTA CLARA COUNTY (SEIU LOCAL 715) APPRAISAL AND DEVELOPMENT FORM

Name: _____ Class: _____ REASON FOR APPRAISAL: PROBATIONARY PERIOD
 ANNUAL PERFORMANCE APPRAISAL
 Date: _____ Appraisal Period From: _____ To: _____

JOB PERFORMANCE GUIDELINES	NOT APPLICABLE	ABOVE STANDARD	MEETS STANDARD	IMPROVEMENT NEEDED	UNSATISFACTORY (HHS ONLY)
Quality of work	<input type="checkbox"/>				
Quantity of Work	<input type="checkbox"/>				
Work Relationships	<input type="checkbox"/>				
Adaptability	<input type="checkbox"/>				
Communication	<input type="checkbox"/>				
Work Habits	<input type="checkbox"/>				
Job Knowledge	<input type="checkbox"/>				

OVERALL APPRAISAL: _____

Comments on Performance: Appraisal of "Above Standard", "Improvement Needed" and "Unsatisfactory" must be explained. Comments are encouraged but not required for "Meets Standard" performance. You may continue your comments on the reverse or attach separate memo when needed.

Performance targets for this period: _____ How well were targets accomplished? _____

Future performance targets: _____ How will targets be accomplished? _____

- I accept the overall appraisal. I do not accept the overall appraisal.
 I wish to discuss the appraisal with higher supervision within the department.

EMPLOYEE COMMENTS (OPTIONAL):

Signature: _____ Date: _____

SUPERVISOR

Name: _____

Signature: _____ Date: _____

REVIEWER

- I concur with the appraisal.
 I have been requested to review the appraisal. The following are my comments and decision.

Signature: _____ Date: _____

Original – Personnel File
 Duplicates – Supervisor
 Employee

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KEY

RATING DEFINITIONS:

Not Applicable (NA):	This category does not apply to this worker.
Meets Standard:	Work is performed within standards or stated expectations.
Above Standard:	Routinely performs above standard or stated expectations.
Improvement Needed:	Identified performance gap. A rating in this area must include a comment by the supervisor.

APPRAISAL AREAS:

Quality of Work:	Makes decisions consistent with departmental policy and accepted practice.
Quantity of Work:	Completes work assignments in a timely manner consistent with the requirements of the task.
Adaptability:	Performs quality work in difficult or new situations.
Work Habits:	Observes rules, policies and procedures. Demonstrates initiative. Manages time efficiently and effectively.
Work Relationships:	Works with coworkers and clients effectively.
Communication:	Demonstrates oral communication skills. Demonstrates written communication skills.
Job Knowledge:	Demonstrates knowledge in applicable laws, policies, rules and regulations. Demonstrates technical professional knowledge and/or job related skills.

Supervisor's Comments (continued from front):

Employee Comments (continued from front):

Reviewer's Comments (continued from front):

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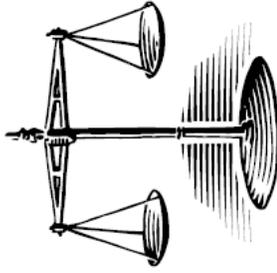
Appendix C PAGC BROCHURE

The Public Guardian of Santa Clara County may be appointed by the Superior Court to serve as Conservator of the person and/or estate (after a 30 day temporary conservatorship period); however, this appointment is made only when no friend or relative is available and appropriate to serve, and is usually based on the recommendation of the LPS investigator.

Upon request, the Public Guardian's Office is available to assist family members, who are willing to serve as a Conservator, in the non-legal aspects of the conservatorship process.



Santa Clara County
Department of Aging and Adult Services
Public Administrator/Guardian/Conservator
P.O. Box 760
San Jose, CA 95106
(408) 755-7610



WHAT IS A CONSERVATORSHIP?

Santa Clara County
Department of
Aging and Adult Services

Public Administrator/Public Guardian/
Public Conservator

WHAT DOES A CONSERVATOR DO?

1. The main responsibility of the conservator of the person, whether private or public, is to provide each Conservatee with the best and most independent living environment possible, within their abilities and resources. The Conservator assures that all personal care, medical care and services needed to maintain a safe and comfortable living environment are provided for the Conservatee.
2. A Conservator of the estate is responsible for: locating, managing and protecting all assets of the Conservatee's estate; applying for all income and benefits to which the Conservatee may be entitled; paying all just debts and keeping separate records of all funds received and disbursed on the Conservatee's behalf.
3. A Conservator must represent, or arrange, representation for the Conservatee, in all legal matters, which may include domestic litigation, compensable personal injury actions, heirships, other money judgment actions and Superior or Municipal Court criminal actions
4. A Conservator must file timely accountings of income and disbursements with the Superior Court, and send a copy to the Conservatee. (Probate Conservators may file biennial accounts after the first annual accounting.

WHO MAY BE CONSERVED?

1. Probate: If the court decides that an individual is substantially unable to provide for his/her own personal needs of health, food, clothing or shelter and/or unable to manage financial resources or resist fraud, or undue influence a Conservator can be appointed by the Superior Court.

2. LPS: If an individual is gravely disabled and unable to provide for food, shelter and clothing due to mental illness or chronic alcoholism (a medical determination), a conservator can be appointed under the Lanterman-Petris-Short Act (LPS). This Court determination requires the recommendation of two psychiatrists or a psychiatrist and a psychologist.

WHO CAN BE A CONSERVATOR?

The Conservatee (person being conserved) may nominate any qualified individual or the Public Guardian may petition to be a person's Conservator. Conflicts are resolved by the Superior Court. In an LPS Conservatorship, the Public Guardian is the only party appointed as **temporary** conservator by the Court. At the time of the **permanent** hearing, the Court may appoint a willing family member, a friend or the Public Guardian as the conservator, at the court's discretion.

HOW LONG DOES A CONSERVATORSHIP LAST?

Probate: A **temporary** Probate Conservator may be appointed to act until a **permanent** appointment is made. A Probate Conservatorship is terminated by the death of a Conservatee, or the court may terminate the Conservatorship upon request.

LPS: A **temporary** LPS Conservatorship is effective for only 30 days from the date of appointment unless extended by court action. In no instance can a **temporary** Conservatorship be extended beyond 6 months. If a **permanent** conservator is appointed, the Conservatorship lapses one year from the date of appointment unless a Petition for reappointment is filed and granted. A reappointment requires the same recommendation as the original appointment. The same process must be repeated annually.

This report was **PASSED** and **ADOPTED** with a concurrence of at least 12 grand jurors on this 4th day of April, 2013.

Steven P. McPherson
Foreperson

Lyn H. Johnson
Foreperson pro tem

Chester F. Hayes
Foreperson pro tem

Francis A. Stephens
Secretary