January 14, 2021

The Honorable Deborah A. Ryan
Presiding Judge
Santa Clara County Superior Court
191 North First Street
San Jose, CA 95113

RE: Civil Grand Jury Report-Conservatorships Revisited

Dear Judge Ryan:

At the November 17, 2020 meeting of the County of Santa Clara Board of Supervisors (Item No. 49), the Board adopted the responses from the Social Services Agency to the Final Civil Grand Jury Report entitled, Conservatorships Revisited. Our office has just discovered that the response was inadvertently not delivered to your office by the directed deadline.

As directed by the Board of Supervisors and on behalf of the Board President, our office is forwarding to you the enclosed copy of the response to the Final Grand Jury Report. The response constitutes the response of the Board of Supervisors, consistent with provisions of California Penal Section 933(c).

Please accept our sincerest apologies for the inconvenience this delay has caused.

If there are any questions concerning this issue, please contact our office at (408) 299-5001 or by email at boardoperations@cob.scgov.org.

Sincerely,

Tina Purpura
Deputy Clerk, Board of Supervisors
County of Santa Clara

Enclosures
DATE: October 27, 2020

TO: Civil Grand Jury

FROM: Robert Menicocci, Agency Director
       Mary Ann Warren, DAAS Director
       Lisa Pätė, Chief Deputy Public Guardian

SUBJECT: Social Services Agency Response to the 2019-2020 Civil Grand Jury Audit Report Conservatorship Revisited dated September 17, 2020

This memo is submitted in response to the 2019-2020 Civil Grand Jury Audit of Santa Clara County, Conservatorship Revisited.

Finding 1

Communication within PAGC has been hampered by the lack of monthly all-hands meetings with well-planned agendas.

Recommendation 1

Restore the monthly staff meetings using well-planned agendas.

Response: Agree. Prior to 2020, all-staff meetings were sporadic due to several circumstances. However, since February 2020, the PAGC office has had monthly All-Staff Meetings, resulting in improved communication throughout the department. With the exception of the first two months of the pandemic, all-staff meetings have been held monthly and expanded to 90 minutes. All meeting agendas and Power Point presentations are posted in the PAGC Toolbox. Since May 2020, all-staff meetings are conducted via Zoom. Attendance is taken and staff members are given a few minutes at the beginning and end of the meeting to chat and see each other. Meetings include an agenda which includes topics such updates of PAGC business practices, personnel/staffing, improvements, useful information, feedback, etc. Several all-staff meetings also include a training element and CEUs.
Finding 2
The fact that performance appraisals are rarely provided hampers communication between the staff and their supervisor.

Recommendation 2
Adhere to the requirement that supervisors provide annual performance appraisals.

Response: Agree. PAGC is working on improving the performance appraisals due for the entire office staff. In 2019-20, approximately twenty percent of PAGC staff had a performance appraisal. Of the seven groups within PAGC, five supervisors have provided annual performance reviews of their staff in the last year compared to the Civil Grand Jury’s finding of only one supervisor providing performance appraisals. Managers are currently working with supervisors for timely completion of staff appraisals as the importance of the appraisal and its impact in improving morale by acknowledging staff’s good work is recognized. In addition, a Best Practice Document has been created, reviewed in unit meetings, and posted in the Toolbox. The Best Practice Document clearly explains to all PAGC staff that Performance Appraisals are to be completed yearly. This document helps staff remind their supervisor that their Performance Appraisal is due as both individuals must complete the appraisal. In addition, the PAGC administrative assistant sends the supervisors a monthly report of performance appraisals completed and highlights the date the outstanding performance appraisals are due.

Finding 3
The Civil Grand Jury commends PAGC for providing induction classes and on the job training for new employees, and for requiring certification through CAPAPGPC.

No recommendation.

Finding 4
PAGC staff are experiencing low morale.

Recommendation 4
Develop a wellness and retention plan for management and staff by August 31, 2021.

Response: Agree. PAGC leadership is aware that some staff experience low morale which may be caused by interpersonal relationships and is not indicative of the majority of staff. Additionally, when surveyed, the majority of staff did not prioritize wellness training when surveyed. Nonetheless, the leadership team has been working on improving cohesiveness in several ways, even while Sheltering in Place. These improvements include:
- Conducting monthly all-staff meetings. These are found to help improve morale by sharing pertinent PAGC information and having the entire group together every month.
- The Civil Grand Jury recommended addressing employee wellness and retention issues and PAGC has been discussing the issue of wellness for
many months. At the September 2020 all-staff meeting, the training committee polled the staff in order to create a training plan for the next year. Staff were asked to rank their top five training priorities from a list of eight. Wellness training received the least votes. While this does not minimize the need for wellness training, it does indicate that it is not a priority for staff. This may be because the County has provided multiple wellness trainings during the pandemic which staff are encouraged to attend.

- There are voluntary workgroups in which staff can participate and assist in making recommendations and improvements in the office. Volunteering for a workgroup allows staff members to be part of the solution.
- A monthly training series began in August 2020. This training allows staff members to attend workshops that they find interesting and pertinent and collaborate with one another during a workshop.
- PAGC has held a staff appreciation day in March every year since 2017. This year, PAGC had prepared for Staff Appreciation Week but due to the pandemic, the celebration was cancelled. However, in August 2020, the PAGC leadership team wanted to recognize the flexibility, complexity, and good work the staff were doing so a Staff Appreciation Day was held. There was a drive-by ice cream social and managers distributed some appreciation gift bags at the Social Services Julian campus. It was a very fun and successful event. PAGC was even mentioned in the County Bridge Newsletter on October 1, 2020 as an example of a way to help keep teams connected.
- During the pandemic, unit meetings became even more essential to keep staff engaged and informed. Every unit is required to have a minimum of one monthly unit meeting, though some units meet more frequently.

In order to support staff working from home during the pandemic, PAGC management has approved a 4/10 schedule for those staff who will find it personally beneficial. Additionally, PAGC management participates in monthly union meetings which allow for discussion and problem solving in a timely manner. The Social Services Agency just completed a Climate and Culture survey. The report indicates that PAGC respondents feel more valued as an employee, would recommend SSA as a good place to work, and perceive that the agency operates to effectively accomplish its vision and mission.

**Finding 5**

Absence of an up-to-date complaint system prevents identifying common complaints from the public.

**Recommendation 5**

Restore the practice of maintaining the complaint log by November 30, 2020.

**Response:** Agree. A complaint system was in place in 2013-14 and changed when a new Chief Deputy Public Guardian, Kristina Cunningham, was appointed in late 2014. Ms. Cunningham wanted to be informed and respond to all complex and intricate complaints herself. Staff was asked to be responsive to inquiries,
complaints, and comments and to escalate any challenges they were unable to handle. In addition, staff kept management informed of issues that may escalate or needed follow up. No formal log was kept as Ms. Cunningham handled complaints as needed.

While sheltering in place, it is not as convenient or easily accessible for staff to immediately talk with someone in the office about a complaint or comment that they receive. Although the office does not receive many complaints or suggestions, in May 2020, PAGC developed a Complaint/Comment/Suggestion (CCS) Procedure (Procedure #803). The procedure provides guidelines for staff on responding to and documenting client, family or community complaints, comments, or suggestions calls/emails. The procedure contains a form that is completed by staff when they receive a complaint, suggestion, or comment. The form is sent to the Executive Assistant who tracks all CCS forms and informs the Chief Deputy if follow up is needed. Procedure #803 and the form are in the PAGC Toolbox. PAGC plans on using the form and log for one year and will review the data and results to determine if a formal log is necessary.

**Finding 6**
Caseloads for administrators are too large due to vacant positions.

**Recommendation 6**
Prioritize efforts to fill the vacant probate administrator positions.

**Response: Agree.** It often takes many months to fill a vacant code. This occurs for many reasons that are beyond the scope of PAGC (e.g., ESA’s role in hiring). It should be noted that the Estate Administrator is a unique classification and recruitment for such a code is both time consuming and extensive. Since February 2020, all Estate Administrator codes have been filled. Caseloads continue to be made equitable as newer staff become more competent and experienced in their job. Currently there are approximately 257 cases in the PG/Estate Administrator unit and each EA manages an average of 26-53 cases. It should be noted that in the EA’s caseload, there may be cases that are waiting for a final court order and no work is necessary until the order is received. In addition, Trust cases are often monitored and require little work for the EA. The addition of two Estate Administrator Assistants has enabled the EA to gain assistance with EA tasks and obtain some relief and support with job responsibilities.

**Finding 7**
The Policies and Procedures need to distinguish between the duties of deputies and the duties of administrators.

**Recommendation 7a**
Revise the Policies and Procedures by August 31, 2021, so they clearly define the duties of deputies and administrators.
Response 7a: Agree. Management continues to work on improving the Policy and Procedures and is aware that some staff members are confused regarding their roles and responsibilities. Management is improving, clarifying, and defining staff roles in the policy and procedures whenever possible and will clearly define the roles in each procedure, as much as possible. There are times when the duties overlap and can be the responsibility of both staff members; therefore, delineating one or the others responsibility is not possible (e.g., real property sales or completion of the asset investigation task list). In addition, management has created a checklist that defines core competencies and proficiencies for each unit and classification. This document was originally intended to be used for new hires but is highly recommended for all staff as a reference tool and aid to further clarify staff roles. As discussed below in Recommendation 10, revised and new procedures are also discussed at the monthly All Staff meetings and staff are encouraged to provide feedback or suggestions through their supervisor, manager, or directly to the Chief Deputy PAGC.

Lastly, a long-standing document was created in 2012 to show the division of tasks between Deputies and Estate Administrators. The Civil Grand Jury refers to this document which was intended to clarify the roles and responsibilities of the professional staff assigned to each case (DPGC and EA) and provide accountability for given tasks. It was also created to establish an office-wide quality assurance component to the case management of conservatorships. An overriding principle inherent in the division of duties and responsibilities is a sense of objectivity in working towards a mutual goal of providing the best service possible. This document was not intended to replace existing procedures but rather to clarify the roles of staff and responsibility for the various steps involved in the conservatorship process and provide an overview of the conservatorship case from referral to termination/death. This document was revised in 2017 by the PAGC leadership team. The document was reviewed and updated with additional details in September 2020 and is in the Toolbox (under Administration).

Recommendation 7b
Post the official Deputy/Administrator task list in the Toolbox by November 30, 2020, to clarify task assignments.

Response 7b: Agree. All of the above are posted in the PAGC Toolbox. In addition, trainings are posted in the Toolbox to help clarify the duties and tasks of the DPGC and EA. Some trainings that can help differentiate duties include: Fiduciary Duties of a Conservator, Administration of Special Needs Trusts, Common Law Concepts of Estate Administration, Ethical Principles, Inventory: Evaluation and Financial Planning, LPS Conservatorships, Probate Conservatorships, and Real Property Sales.

Finding 8
Different perspectives cause disagreements between deputies and administrators. The Civil Grand Jury commends PAGC for establishing a procedure to mediate the conflicting viewpoints of the deputies and administrators.

No recommendation.

Finding 9
Unclear transfer requirements cause friction between Intake and Ongoing groups because of differences over task responsibilities.

Recommendation 9
Post the official Probate Transfer Form in the Toolbox by November 30, 2020, to clarify transfer requirements between Intake and Ongoing deputies.

Response: Agree. In 2019, the Probate Intake and Ongoing unit supervisors and leads participated in a Continuous Quality Improvement (CQI) to improve communication and understand all roles in Probate transfer cases. A Probate Transfer Checklist was developed and reviewed with Probate staff. The Probate Transfer Checklist (SCP 719) has been posted in the PAGC Toolbox. In addition, the Probate Transfer Procedure was updated and posted to the PAGC Toolbox on April 23, 2020. It was revised again by the Unit Supervisors and Leads (line staff) on September 21, 2020 and reposted in the PAGC Toolbox. Unit supervisors are responsible to review the updated procedure with their staff. The transfer process currently runs smoothly and both teams are satisfied with the improvements and clarifications.

Finding 10
The procedures section of the Policies and Procedures (P&P) does not always accurately reflect office routines.

Recommendation 10
Devise a plan to encourage all staff to participate in revising applicable Procedures sections of the P&P.

Response: Disagree. Over the years, PAGC has evolved in their Policy and Procedure review and has attempted several ways of reviewing policies and procedures. Three years ago, a consultant was hired to assist with writing the procedures and a team of supervisors and leads met monthly with the consultant to review what had been developed. This process proved to be very slow and time consuming. The process of policy and procedure review changed and in 2019, all members of the leadership team met for ninety minutes twice per month to review, revise, and update policies and procedures. This process was also very time consuming and slow. All along and through the past three years, as new or revised procedures were posted, PAGC staff were encouraged to review the document and provide feedback. Very little feedback was received from staff.
When Shelter in Place became a reality for all of us, a new way to review procedures was necessary. The PAGC Senior Management Analyst began overseeing the Table of Contents and tracking all the Procedures that had been updated and identified all procedures which needed updates and reviews. The Interim Chief Deputy Public Guardian sent supervisors one or two procedures weekly and requested they be returned within two weeks. The supervisors engaged their leads for feedback as well. This process has proven to be very successful. In the Chief Deputy’s weekly written updates to all staff, all new, revised, and updated procedures are listed for staff to review. Staff is aware that feedback is appreciated (although rarely received). Revised and new procedures are also discussed at the monthly All Staff meetings and staff are encouraged to provide feedback or suggestions through their supervisor, manager, or directly to the Chief Deputy PAGC.

Starting in October 2020, PAGC management began disseminating procedures and receiving staff feedback in a new way. The administrative staff now sends a copy of the procedure to unit staff who have been identified in the Procedure via DocuSign. Staff are required to review the procedure and return it with their signature and date via DocuSign. This indicates that they reviewed and understood it. If staff have comments or feedback on the procedure, they inform their supervisor or manager, and further action may occur.

**Finding 11**
Communication needs to improve between APS and PAGC.

**Recommendation 11a**
Probate Deputies should provide status reports to APS as specified in the MOU.

**Response 11a: Agree.** PAGC recognizes the communication between APS and PAGC regarding case status reports could improve. However, the communication among staff has progressed and staff are talking to each other often. PAGC and APS began updating the PAGC/APS MOU at the beginning of January 2020. The review of the MOU document was halted due to the pandemic but began again in May 2020. PAGC has competed their updates and revisions and added timeframes to help with the communication and staff responsibilities. PAGC is in the process of coordinating with APS management staff to complete the revisions to the MOU document.

PAGC has committed that the DPGC will investigate the case and provide an initial status update via email to the APS social worker within thirty calendar days as to whether the DPGC will continue the investigation. The DPGC will then provide continuous status reports monthly. Also, FAST referrals will be reviewed within three business days and non-FAST referrals are reviewed within seven business days by the Probate Referral Committee. APS will be sent a formal disposition if the case is closed and does not move forward with a conservatorship.
For FAST cases, a Multi-Disciplinary Team (which includes a SW, a DPGC, EA, supervisors, managers, County Counsel, District Attorney, and the sheriff) meeting will continue to take place monthly to discuss the case plan. For non-FAST cases, APS and PAGC members are encouraged to collaborate to discuss documents, information, and case coordination and do joint visits, as needed.

The Grand Jury report mentions that the APS social worker keeps the case open for approximately 90 days while the deputy makes an independent investigation that may take six months. It is important to note that the APS State regulations indicate that APS cases are generally open 30-90 days as APS is not intended to be a long-term case management program. State regulations allow APS to keep a case open longer than 90 days if needed. PAGC follows Probate Court rules and is permitted to conduct a thorough investigation that may take six months as a conservatorship is a last resort.

**Recommendation 11b**

APS should follow the MOU and share all relevant information about the prospective conservatee’s environment with PAGC staff when there is an open conservatorship investigation.

**Response 11b: Agree.** Discussions among the APS and PAGC management staff have already begun. Both programs agree to follow the revised MOU. APS has clarified that due to the nature of how reports are made to APS, some information is not readily available or known by the reporting source or to APS. For FAST cases, the information received by APS contained on the Report of Suspected Dependent Adult/Elder Abuse form will be provided to PAGC to open an inquiry for a joint investigation. Discussion about sharing information will continue as PAGC would like as much of the past APS referral and outcome information as possible.

In Non-FAST cases, APS has completed an assessment, case plan and investigation of the abuse and neglect allegations and has attempted to find interventions as an alternative to a conservatorship. However, if no other interventions are available, the APS SW may determine that a referral for conservatorship is warranted. The APS SW requests a capacity declaration form to be completed by the client’s primary care physician and completes the SCI “Request to Establish a Probate Conservatorship form” and all information requested in the form is provided. APS has agreed to share all relevant information about the prospective conservatee’s environment with PAGC staff when there is an open conservatorship investigation. Once PAGC decides to accept the referral submitted by APS and opens a conservatorship investigation, the deputy will provide the APS social worker case investigation status monthly.

**Recommendation 11c**

Modify the Request to Establish Probate Conservatorship referral form by August 31, 2021, so that the social worker can describe all safety and environmental issues to inform the deputy before visiting the prospective conservatee.
Response 11c: Agree. PAGC would like to obtain as much information as possible about an APS referral. APS history, and the environment of the proposed conservatee. The history and outcomes of multiple APS investigations is helpful when creating alternative plans and identifying potential “safe” and “unsafe” people in the client’s life. To help obtain more information from APS, PAGC will modify the SC1 referral form to include a section for safety/environmental issues, concerns, and a section for prior/current APS interaction. PAGC will obtain APS feedback on the new information requested on the form prior to the form implementation within two weeks. It is important to note that APS and PAGC have agreed to revising the APS/PAG MOU and providing relevant safety and environmental information that is known at the time of the referral for conservatorship.

Finding 12
Despite occasional disagreements over the outcome, the Civil Grand Jury commends the PAGC decision-making process for accepting or rejecting referrals from APS. The Civil Grand Jury also commends PAGC for improving the referral process, and only accepting conservatorships after verifying that there are no better alternatives.

No recommendation.

Finding 13
The Civil Grand Jury commends PAGC for improving the referral process by ensuring Capacity Declarations are complete.

No recommendation.

Finding 14
The Civil Grand Jury commends management and staff for significantly improving the filing time of I&As.

No recommendation.

Finding 15
Communication needs to improve between FMS and PAGC.

Recommendation 15a
Develop a plan by November 30, 2020, so that PAGC responds to requests for status updates made by FMS accountants within time frames defined by PAGC and FMS management.

Response 15a: Agree. PAGC and FMS management have discussed improving communication and developed a few options. FMS staff will often make inquires to PAGC staff for more information. PAGC staff has been instructed to respond to FMS inquiry within 48 hours. FMS will copy staff lead and supervisor on all emails to ensure a timely response. FMS may request
information that staff are waiting for (e.g., the bank to return a call or waiting for bank statements to be sent), PAGC staff will acknowledge receipt of the email within one week even if they do not have information to provide. PAGC would like to note that the lack of response from staff is because staff are waiting for an external entity to respond. Although this may be the case, PAGC will now require staff to send a courtesy email or call to FMS to apprise them of the situation.

**Recommendation 15b**
SSA needs to support the CQI project and encourage participation by all stakeholders in order to improve communication and reduce delays associated with court filings.

**Response 15b: Agree.** Prior to the pandemic, PAGC staff had been participating in the CQI with FMS and County Counsel. Due to the pandemic, the CQI project has been placed on hold. PAGC is willing to participate in another CQI or reestablish the 2019 CQI to help improve communication. One facet of improving communication is sharing procedures and forms and asking for feedback and suggestions from the other group. As PAGC continues to revise Procedures, management has reached out to FMS for guidance and suggestions to improve processes (e.g., Procedure 764/Burial Trusts, Procedure #759/ Caregiver Services, and Procedure #121/VA Accounting, Procedure #118/Accounts Receivable). Recently, FMS shared a Court Accounting Checklist and PAGC began using it in October 2020. In addition, to improve the communication among the leadership teams, TSS will resume monthly Panoramic (PAGC database) ticket meetings which keeps both FMS and PAGC informed of Panoramic tickets that may impact the other group.

**Finding 16**
The Civil Grand Jury commends both FMS and PAGC for effective processing and prioritization of conservatee’s bills.

**No recommendation.**

**Finding 17**
The Panoramic case management software has limitations involving financial data and calendaring information that need to be mitigated. Additionally, since there is no document naming convention established, it is difficult for staff to locate documents scanned into the system.

**Recommendation 17a**
SSA should have Technology Service Solutions (TSS) investigate the feasibility of automating the transfer of income and expense data from Panoramic into SAP® software by August 31, 2021.

**Response: Partially Agree.** PAGC works very closely with TSS and FMS and will explore the feasibility of automating the transfer of income and expense data from Panoramic to SAP. TSS and the PAGC team will begin working on obtaining the requirements defined by looking at current processes and
necessities. The PAGC management team will also work with FMS to identify Panoramic data that they require to be logged in SAP.

TSS Relationship Manager reached out Ms. Chopra at the County Controllers Office and was informed the process of automating the transfer of income and expenses from Panoramic to SAP was reviewed about ten years ago and would be acceptable to the Controller’s Office. Further research and analysis will be needed.

Recommendation 17b
Investigate and implement a solution so that Panoramic exports calendaring information to Outlook. Investigate this issue with the vendor to find a better solution by June 30, 2021.

Response: Partially Agree. Although exporting dates from Panoramic to a calendar is ideal, PAGC has explored a calendar with Panoramic many times and Panoramic is unable to export dates from their system to an Outlook or Teams Calendar. However, PAGC does track (not on a calendar) all LPS, Probate and Public Administrator (PA) history including referral date, Court appointment date, and Inventory and Appraisal (I&A) due date. This data is input and updated in Panoramic by the unit supervisors and enables PAGC to produce referral reports and I&A due/overdue reports.

Recommendation 17c
Define a naming convention by November 30, 2020 for documents scanned into Panoramic or the shared drive.

Response: Partially Agree. Regarding the document naming convention, Panoramic has specific types of documents for selections under Clientdocs (see below). PAGC can produce reports based on these selections. A workgroup has been establishing a naming convention through weekly meetings and extensive brainstorming and tracking. The workgroup is expected to complete the naming convention by November 1, 2020. Prior to implementing the naming convention, staff must be trained, and a Procedure will be developed and distributed. PAGC has submitted a project request to TSS for Integrated Document Management (IDM) in FY22. IDM will address document naming and any document management issues.
Finding 18
The Civil Grand Jury commends the clerical staff for well-organized file rooms and for ensuring that documents are firmly attached to their file folders.

No recommendation.

Finding 19
The passive approach that PAGC takes in managing the financial assets of conservatees does not optimize the values of conservatees' investments.

Recommendation 19
By August 31, 2021, use a professional financial advisor to establish guidelines about how to invest funds. After determining an appropriate investment model, ensure that a conservatee's investments match that model, and rebalance investments as appropriate.

Response: Partially Agree. Using a financial advisor can create a risk as the PAGC would be using a conservatee's assets for investment purposes. PAGC has discussed this recommendation in the past with County Counsel and has received mixed responses. There is no law or code that insists PAGC invest clients' money. PAGC will complete a risk analysis of investing client's funds as opposed to keeping funds safe in the County Trust account. Risks of investing conservatee's funds range from high to low and may include conservatee's age, portfolio, family beliefs/concerns, costs of an advisor, etc. If PAGC proposes guidelines for investments (including a threshold amount), a RFP must be completed and issued to allow time to develop guidelines and procure a financial advisor. In the past, PAGC has hired a financial advisor when the Court has authorized the use of an advisor. This process of Court authority must also be evaluated.
Finding 20
Since no investment model is followed, conservatees' cash holdings are kept in the County Treasury and earn a lower interest rate compared to alternative FDIC-insured investments depending on the current market.

Recommendation 20
Substantial cash holdings that cover more than one year’s living expenses should be invested following the appropriate investment model.

Response: Partially Agree. As stated above, a risk analysis of investing client's funds will be completed over the next year. A safe investment such as a certificate of deposit may be considered for lower asset amounts and will be researched in the next three to six months. Guidelines and procedures will need to be written and staff will need training to comprehend and follow the process, if implemented.