



County of Inyo Response to 2017-2018 Final Grand Jury Report

September 11, 2018

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Inyo County Board of Supervisors

Dan Totheroh	District 1
Jeff Griffiths	District 2
Rick Pucci	District 3
Mark Tillemans	District 4
Matt Kingsley	District 5

Acting County Administrative Officer/Clerk of the Board: Clint G. Quilter
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The Board of Supervisors meets every Tuesday, with some exceptions, at 8:30 a.m. in the Board of Supervisors Room at the County Administrative Center, 224 N. Edwards St., Independence, CA. Correspondence may be sent to the Board at: P.O. Drawer N, Independence, CA 93526, or c/o the Assistant Clerk of the Board at dellis@inyocounty.us.

Agendas and minutes may be found at:
<http://www.inyocounty.us/Board of Supervisors/>.

Loss of Ambulance Service and EMT Shortage Report

FINDINGS

FINDING 1: “There is a countywide need for people to serve as EMTs.”

COUNTY RESPONSE: *Agree.*

FINDING 2: “The county or state does not have a mandated responsibility to provide ambulance service in the absence of volunteer services.”

COUNTY RESPONSE: *Agree.*

RECOMMENDATIONS

RECOMMENDATION 2: “The Inyo County Board of Supervisors, while not legally responsible for providing ambulance service, be pro-active and have an up-to-date county wide [sic] plan for loss of volunteer ambulance service. The Inyo County Board of Supervisors arranges a meeting with all districts to discuss and formulate a plan.”

COUNTY RESPONSE: *The recommendation has been implemented.* The Inyo County Board of Supervisors empanels a 13-member Emergency Medical Care Committee (EMCC) that functions in an advisory manner to both the Board of Supervisors and the local Emergency Medical Service agency known as the Inland Counties Emergency Medical Agency (ICEMA). The EMCC’s primary function is to review and report on ambulance service operations, the emergency medical care offered, and first aid practices in the county. Membership includes representatives from all fire districts in the unincorporated areas of the county as well as both hospitals, a private ambulance service, the local air ambulance service, and an individual who staffs an EMT training program. One of the EMCC’s major areas of focus has been the difficulty recruiting and retaining EMTs for our local ambulance services, and it continues to search for viable, lasting solutions to the current crisis facing Inyo County and has the full support of the Board of Supervisors and County staff as it does so. The Board of Supervisors believes any plan for addressing loss of ambulance service should be formulated, at the very least, with the input and expertise of the men and women serving on the EMCC, as well as the public at-large. With this understanding, and at the request of the EMCC, the Board of Supervisors directed staff on August 14 to organize a “summit” later this year for the express purpose of bringing volunteer ambulance service providers, other experts in the field and members of the public together to brainstorm solutions to the EMT shortage. This is in addition to ongoing proactive efforts being undertaken by the County to ensure continued operation of local ambulance services. County Counsel, for example, has been working with the ICEMA Director to affect administrative changes at the state level to expand the types of personnel able to staff ambulances, which would widen the net of available first responders.

Report Regarding Inyo County Office of Public Guardian

FINDINGS

FINDING 1: "The Public Guardian does an excellent job of caring for the conservatees for whom she has been appointed by the Court to serve as Conservator. This is true in every file we have reviewed. All of her Accountings to the Court appear well itemized and balance properly."

COUNTY RESPONSE: Agree.

FINDING 2. "The present job description of the office of Public Guardian does not include a duty to petition the Court for reasonable fees from the conservatorship estates which have substantial assets."

COUNTY RESPONSE: Agree. The authority to petition the Court for reasonable fees for Public Guardian services is provided by California probate law, which allows the Public Guardian to seek reimbursement but does not compel him or her to do so.

FINDING 3. "The Public Guardian is authorized by law to petition the Court for reasonable fees for its services just as would a private attorney."

COUNTY RESPONSE: Agree.

FINDING 4. "There is now and has been a Court Ordered fee schedule in place for the Public Guardian to seek fees for its services in Conservatorship estates which have assets to pay for those services."

COUNTY RESPONSE: Agree.

FINDING 5. "The Public Guardian is legally obligated to file periodic accountings with the Court to report on the services rendered and the beginning and ending amounts of both cash and non-cash assets of the estate and all income and expenses in the accounting period. At this time, it is the practice to also request fees for the services of the Public Guardian and the County Counsel for acting as the PG's attorney in filing the petition. In Inyo County, the practice is to file these petitions every two years."

COUNTY RESPONSE: Agree. The Public Guardian submits fees for court approval on behalf of the office of Public Guardian and County Counsel, when it acts as attorney for the Public Guardian.

FINDING 6. "The Public Guardian has consistently failed to ask for the fees justified by the Court-ordered Public Guardian fees schedule then in effect."

COUNTY RESPONSE: Disagree partially. The Public Guardian, as shown in the Grand Jury Report and in other records available to the Board of Supervisors, has not "consistently" failed to ask for fees justified by the fee schedule but rather has very often filed for reimbursement at the minimum levels, which may well have been appropriate in a lot of those cases involving indigent or fixed-income conservatees. However, the Board agrees that the Public Guardian has sometimes chosen not to seek sufficient fees to recoup the County's costs associated with providing services, in cases where seeking higher reimbursement levels would not cause hardship to larger estates and where the compensation would be considered "just and reasonable" for the services provided.

FINDING 7. "There is presently a good system of oversight to be sure that the Public Guardian is giving good care to the conservatees."

COUNTY RESPONSE: *Agree.*

FINDING 8. "There is no system of oversight presently in place in Inyo County to be sure that the Public Guardian is seeking reasonable fees for its services for the benefit of the County tax payers [sic]."

COUNTY RESPONSE: *Disagree wholly.* The sole authority to approve or deny the Public Guardian's fee requests lies with Superior Court, which considers a number of factors when weighing its decision. The Court Ordered fee schedule states, "Pursuant to Probate Code §§ 2623, 2640, and 2942, the Public Guardian shall petition for not more than these fees for such services. In determining whether fees are just and reasonable for a particular estate, the Court shall, among other factors, take into consideration the actual costs of the services provided, the amount of the estate involved, the special value of services provided in relation to the estate, and whether the compensation requested might impose an economic hardship on the estate." While the Grand Jury notes that the Court is more likely to lower a request for fees than raise one, this system for oversight nonetheless exists. It should also be pointed out that as a duly-elected public official, the Public Guardian has a personal responsibility to seek the most just and reasonable fees on behalf of both the estates and taxpayers she serves, and the Board of Supervisors cannot dictate what the Public Guardian files for reimbursement to the Court. It is also worth noting the existence of a Court-appointed attorney for the conservatee and a Court-appointed investigator, who are arguably also part of the system of oversight under state law.

FINDING 9. "The reasonable value of the services performed by the Public Guardian as conservator of the conservatee is to be measured at least in part, under both past fee schedules and the newly ordered fee schedule, by the amount of time devoted by the Public Guardian in taking care of the physical, medical and financial needs and concerns of the conservatee."

COUNTY RESPONSE: *Agree.*

FINDING 10. "The Public Guardian's office has not, at least in recent years, kept track of the time devoted to taking care of its conservatees."

COUNTY RESPONSE: *Agree.*

FINDING 11. "Keeping track of the time spent is not a difficult or time-consuming task and several computer programs are available for the purpose."

COUNTY RESPONSE: *Agree.*

FINDING 12. "Only a minimal effort is required to compute the appropriate fee for the Public Guardian using the fee schedule. It is not difficult in larger estates to multiply months of service times the \$200 per month allowed in the schedule."

COUNTY RESPONSE: *Disagree partially.* The Board of Supervisors assumes there might be certain other factors and nuances involved in the calculation of conservatorship fees and cannot qualify the amount of effort needed if this is the case. This does not appear difficult to do if based on the fee schedule alone; however, in every case, the Court must determine whether the compensation sought is just and reasonable, taking into consideration various factors including the actual costs of the services provided. (See Penal Code Section 2942(b).)

FINDING 13. "While the first priority of the Public Guardian is taking care of the conservatees, the county taxpayers deserve to be reasonably compensated for the services rendered at their expense where there are sufficient assets in the conservatorship to do so."

COUNTY RESPONSE: Agree.

FINDING 14. "The Public Guardian is consistently late, often very late, in filing its accounting and reports with the Court."

COUNTY RESPONSE: Agree.

FINDING 15. "A system of oversight to insure [sic] timely filings is not working well."

COUNTY RESPONSE: Disagree partially. The Board is not convinced that the lack of timely filings in prior years was due to an oversight system not working well, but rather believes that there were other contributing factors (some of which should be addressed prospectively by the additional personnel and software included in the Fiscal Year 2018-2019 Board-Approved Budget, as discussed more fully below).

RECOMMENDATIONS

RECOMMENDATION 1. "The Public Guardian's Office seek reasonable fees for its services in those cases where the conservatorship estate has sufficient assets to reasonably pay for those services."

COUNTY RESPONSE: The recommendation is not within the Board's power to implement. The Board of Supervisors can encourage or request, but not compel, the Public Guardian to seek certain fees in certain cases, as she is a duly-elected official and the Board of Supervisors holds only budgetary or personnel related decision-making authority over the Public Administrator-Public Guardian's Office. Further, and as noted in the Grand Jury Report itself, "there is no law that absolutely mandates that the Public Guardian seek any fees whatsoever. It is up to the Public Guardian to decide whether to ask for fees and to decide upon the amount to be requested to be ordered by the Court."

RECOMMENDATION 2. "The job description of the Inyo County Public Guardian be changed to provide that it is the duty of the Public Guardian's Office to seek reasonable fees to reasonably compensate the County for services rendered by the Public Guardian when there are conservatorship assets to do so."

COUNTY RESPONSE: This recommendation requires further analysis. This analysis will be conducted in concert with the Public Guardian and Personnel Director to determine the feasibility of the recommendation as, once again, the Board of Supervisors holds decision-making authority only over budgetary and personnel matters in the Public Administrator-Public Guardian's Office.

RECOMMENDATION 3. "Each new Public Guardian read the Court Fee Schedule for Public Guardians and sign a document that he he/she [sic] has read it and understands it and will follow it to the best of his/her ability. He or she should seek the advice of the Court or County Counsel or an experienced attorney if they have questions about it."

COUNTY RESPONSE: The recommendation is not within the Board's power to implement. The Board of Supervisors can encourage or request, but not compel, the Public Guardian to follow the fee schedule or seek the advice of the Court or County Counsel, as she is a duly-elected official and the Board of Supervisors holds only budgetary or personnel related decision-making authority over the Public Administrator-Public Guardian's Office.

RECOMMENDATION 4. "The Public Guardian's Office keep track of the time of the Public Guardian and that of its personnel in rendering services for the benefit of its conservatees."

COUNTY RESPONSE: *This recommendation requires further analysis.* This analysis will be conducted in concert with the Public Guardian and Personnel Director to determine the feasibility of the recommendation as, once again, the Board of Supervisors holds decision-making authority only over budgetary and personnel matters in the Public Administrator-Public Guardian's Office. But it is worth noting that the funding for software to assist in tracking time is included in the Fiscal Year 2018-2019 Board-Approved Budget, as discussed more fully below.

RECOMMENDATION 5. "Reports to the court be filed when due at least every 2 years."

COUNTY RESPONSE: *The recommendation will not be implemented because it is not warranted or is not reasonable.* The Board of Supervisors can encourage or request, but not compel, the Public Guardian to follow the fee schedule or seek the advice of the Court or County Counsel, as she is a duly-elected official and the Board of Supervisors holds decision-making authority only over budgetary and personnel matters in the Public Administrator-Public Guardian's Office. Superior Court Rules require the Public Guardian to file Accountings and Reports with the Court every two years.

RECOMMENDATION 6. "A system of oversight to insure [sic] timely filings needs to be created and implemented."

COUNTY RESPONSE: *The recommendation is not within the Board's power to implement.* The Public Administrator-Public Guardian is a duly-elected official and the Board of Supervisors holds decision-making authority only over budgetary and personnel matters in the Public Administrator-Public Guardian's Office. Such a system of oversight would reside with Superior Court, which requires filing of Accounting and Reports every two years through Superior Court Rules and state law.

RECOMMENDATION 7. "A system of oversight be created to be sure that the Public Guardian always petitions the Court for the fees to which it is reasonably entitled under the law."

COUNTY RESPONSE: *The recommendation is not within the Board's power to implement.* The Board of Supervisors can encourage or request, but not compel, the Public Guardian to follow the fee schedule or seek the advice of the Court or County Counsel, as she is a duly-elected official and the Board of Supervisors holds decision-making authority only over budgetary and personnel matters in the Public Administrator-Public Guardian's Office.

RECOMMENDATION 8. "When the Public Guardian in its discretion decides to apply to the Court for lesser or greater amounts than called for by the Public Guardian Fee Schedule, the Guardian should explain in the Petition for fees, which is a public document, why it is not seeking the amount supported by the Court Ordered Fee Schedule."

COUNTY RESPONSE: *The recommendation is not within the Board's power to implement.* The Board of Supervisors can encourage or request, but not compel, the Public Guardian to provide such an explanation in the Petition for Fees, as she is a duly-elected official and the Board of Supervisors holds decision-making authority only over budgetary and personnel matters in the Public Administrator-Public Guardian's Office.

RECOMMENDATION 9. "To be sure there is some oversight on behalf of the Inyo County taxpayers, now and in the future, copies of all conservatorship accountings be provided both to the County Administrator Budget Analyst and to the County Auditor's Office at the time of filing the Accountings

with the Court at the latest and preferably 10 days before filing the Accounting with the Court so that those offices may confer with the Public Guardians office or appear in Court if the interest of the County Taxpayers does not appear to be properly served by the fees requested in the Petition to the Court.”

COUNTY RESPONSE: *The recommendation requires further analysis.* The Board of Supervisors can encourage or request, but not compel, the Public Guardian to provide copies of all conservatorship accountings to the Budget Analyst or Auditor’s Office, as she is a duly-elected official and the Board of Supervisors holds decision-making authority only over budgetary and personnel matters in the Public Administrator-Public Guardian’s Office. But the Board will explore the feasibility of obtaining and providing copies of conservatorship accountings through other means.

RECOMMENDATION 10. “The County work with the Public Guardian to assure [sic] adequate levels of record keeping and fee calculations and to reasonably compensate the County for the Public Guardians services whether by use of software, personnel or other County office assistance in calculating and processing those fees.”

COUNTY RESPONSE: *This recommendation has been implemented.* While, again, the Board of Supervisors cannot compel the Public Guardian to charge for fees that would reasonably compensate the County for services rendered, it has taken steps to provide the office with the tools necessary to improve in the calculation and processing of these fees. As part of the Fiscal Year 2018-2019 Department Requested Budget, the Public Administrator-Public Guardian requested that her office’s Authorized Staffing be increased by deleting a part-time position and adding a full-time Public Administrator-Public Guardian Specialist position (Range 57). The total cost of the requested change in the office’s Authorized Staffing is an additional \$38,296 a year. In requesting this change to the office’s Authorized Staffing, the Public Administrator-Public Guardian wrote that, “if a full time position is granted, the office of PAPG can function at an efficient level to ensure higher fees are taken in without compromising the duties required by California Probate Law.” However, during the departmental budget meeting on June 29, 2018, the Public Administrator-Public Guardian indicated that these same efficiencies could be achieved if the Recommended Budget supported purchasing a public administrator-public guardian case management software system for an estimated one-time cost of \$21,000, plus \$6,000 in annual fees. The Recommended Budget brought forth by the CAO supported funding for both the purchase of the software system, through coordination with the Information Services Director, as well as the full-time position. The Board approved both funding requests in the Final Fiscal Year 2018-2019 Budget. It was noted in the CAO’s Recommended Budget Message that, “while the nature of the office’s caseload precludes any guarantee of the amount of fees that can be collected in any given year, funding both the new software system and increasing the Authorized Staffing will afford the office the best opportunity to collect all of the fees to which the County is entitled and, in doing so, will hopefully offset some of the increased costs associated with at least some of the \$44,296 in new, ongoing expenses.”