

LAW AND JUSTICE COMMITTEE

The Law and Justice Committee had responsibility for functional oversight of the following County departments:

- District Attorney
- Probation
- Sheriff/Marshal
- Public Administrator/Coroner/Public Guardian
- Public Defender / Indigent Defense

The committee reviewed each department's current activities and looked at the Grand Jury reports for the previous three years to help determine the areas in which inquiries should be directed. The committee decided the District Attorney's department did not warrant any investigative time. During the period of this report, the Sheriff's Department absorbed the County Marshal's Department.

Subcommittees were formed to make inquiry into the operations of each department to ensure adherence to the applicable laws, ordinances, and procedures.

The following reports encompass a brief background, address findings and offer recommendations that, if accepted, will allow these departments to operate more efficiently and effectively.

CONSERVATORSHIPS

BACKGROUND

Section 2340 of the California Probate Code states, *"No superior court may appoint a private professional conservator or private professional guardian, or permit any person to continue to serve as a private professional conservator or private professional guardian ... unless the conservator or guardian has filed the information required by Section 2342 and 2343 with the county clerk."*

As a result of the State Probate Code, the County Clerk's office has the responsibility of keeping up-to-date the annual filing fees paid by private conservators and guardians.

FINDINGS

The 1997-98 Grand Jury made a recommendation that all conservators and guardians who do not have current filings be notified and given 30 days to bring their annual filings up-to-date to comply with the State Probate Code.

Of the 34 listed conservators, only 19 have current filings and of 19 guardians, only nine (9) have current filings.

With the passing of AB 925, effective January 1, 2000, the California Attorney General's Office requires a current monthly listing of conservators and guardians filing within the State of California. It is the responsibility of the County Clerk's office to send to the Attorney General the information on a monthly basis.

All records and filings pertaining to conservators and guardians within the County are now on a computer program at the County Clerk's office.

Some of the conservator and guardian files are lacking required documentation such as fingerprint cards and receipts of fees paid.

RECOMMENDATIONS

- 00-111 REQUIRE THE COUNTY CLERK'S OFFICE TO NOTIFY CONSERVATORS AND GUARDIANS, IN WRITING, AT LEAST 30 DAYS IN ADVANCE OF THE EXPIRATION DATE OF THEIR FILINGS.

- 00-112 REQUIRE THE COUNTY CLERK'S OFFICE TO PROVIDE THE COURTS WITH A MONTHLY LISTING OF CONSERVATORS AND GUARDIANS WHO HAVE VALID FILINGS AND FEES PAID.

- 00-113 REQUIRE THE COUNTY CLERK'S OFFICE TO BRING ALL DELINQUENT FILES UP-TO-DATE AND DROP FROM THE LISTING ALL THOSE CONSERVATORS AND GUARDIANS WHOSE STATUS IS NOT CURRENT.

PROBATION DEPARTMENT

BACKGROUND

The County Probation Department is comprised of an Administrative Services Bureau, Detention Corrections Bureau, and the Community Corrections Bureau (which provides juvenile and adult court related services in the area of investigations and probation supervision). The mission statement of the department is *"To protect the community through assessment, treatment and control of adult and juvenile offenders by providing a range of effective services based on legal requirements and recognized professional standards."*

The Probation Department is currently staffed with 394 full-time employees in the Administrative Services and Community Corrections Bureaus, and 430 full-time employees in the Detention Corrections Bureau. There are presently seven (7) probation officers in the Pre-Trial Unit. An increase of 88 personnel was requested for Fiscal Year 1999-2000. There are over 100 part-time employees in the Probation Department.

FINDINGS

Currently, the emphasis for funding and for the allocation of probation officers to the number of "clients" has been strongly directed to the juvenile probationer. Most grant funding at the State or Federal level is devoted to the juvenile side of probation. As a result, the County Probation Department emphasizes the juvenile programs.

The County written reporting system requires only quarterly submissions by the adult probationer. This is not consistent with the monthly reporting requirements of adjacent counties. The Adult Probation program is badly understaffed. There are over 14,000 adults in the probation program at this time. The activities of these adults are monitored by 24 field probation officers, plus seven (7) probation officers, and five (5) clerks in the General Services Unit (GSU). The GSU monitors over 13,000 adult probationers via computer tracking of the probationers' submission of written reports.

It is estimated that 80 percent of those in Adult Probation had one or more criminal convictions prior to the one for which they are currently on probation. An estimated 45 percent of those presently on adult probation will

commit additional crimes before their present probation term has been completed.

In the Adult Probation program there is the opportunity for educational programs that can qualify the probationer for a GED high school certificate and a junior college program that is tuition free. Both programs are intended to prepare the probationer for job placement opportunities. The County has located employment for 80 percent of those that participate in these programs. There is a direct correlation between those probationers that take advantage of these educational programs and the incidents of repeat offenses, i.e., education and jobs significantly reduce repeat offenses.

Only ten percent (10%) of the total probation officers are devoted to Adult Probation supervision. The caseload is about 550 cases per probation officer, exclusive of those tracked by the GSU personnel. The Probation Department has a need for additional personnel and funding from the County for the Adult Probation programs. There is an urgent need to develop grant funds for adult probation programs at the State and Federal levels.

RECOMMENDATIONS

- 00-114 SUBMIT AN IMMEDIATE REQUEST TO THE BOARD OF SUPERVISORS FOR THE FUNDING AND HIRING OF A MINIMUM OF 75 PROBATION OFFICERS DEDICATED TO THE ADULT PROBATION PROGRAM.

- 00-115 RESEARCH ALL SOURCES OF FUNDING TO DETERMINE IF GRANT FUNDS ARE AVAILABLE FOR ADULT PROBATION PROGRAMS.

- 00-116 UNDERTAKE AN AGGRESSIVE PROGRAM THROUGH PROFESSIONAL ORGANIZATION AFFILIATES AND POLITICAL CHANNELS, AT THE STATE AND FEDERAL LEVELS, TO DEVELOP GRANTS FOR ADULT PROBATION PROGRAMS.

- 00-117 ESTABLISH A MONTHLY REPORTING PROCEDURE FOR ALL ADULT PROBATIONERS TO KEEP BETTER TRACK OF THEIR ACTIVITIES.

- 00-118 ENCOURAGE GREATER PARTICIPATION BY PROBATIONERS TO ENROLL IN THE ADULT EDUCATIONAL PROGRAMS THAT QUALIFY THEM FOR JOBS.

PUBLIC ADMINISTRATOR/ CORONER

BACKGROUND

The Public Administrator's office has the responsibility to investigate and to administer estates of decedents placed under its jurisdiction. As part of this responsibility, the Public Administrator inventories the deceased's property and locates heirs, if any. It also inventories personal and real property, checks property ownership, supervises business affairs, manages rented property, pays expenses, and collects estate income, benefits, and insurance due to the estate.

FINDINGS

Two deputy public administrators take initial inventory of personal property at the residence of the deceased.

Two County warehouse employees take a second inventory after the personal property has been transported to the Public Administrator's Warehouse in San Bernardino. A random check of several Public Administrator files showed that the inventory sheets written by the warehouse personnel had only one signature instead of the required two.

All unclaimed personal property of a decedent is taken to the County warehouse for storage. Only about 50 percent of the total warehouse space is available for use by the Public Administrator, which is inadequate for the storage of these goods.

Currently, all personal property is stacked in lots and identified by signs that are nailed to the warehouse walls.

At the present time there is no computer program to help identify personal effects of the deceased.

RECOMMENDATIONS

00-119 REQUIRE TWO SIGNATURES ON ALL INVENTORY SHEETS TO INSURE TOTAL ACCOUNTABILITY OF DECEDENT'S PROPERTY.

- 00-120 SEEK ADDITIONAL SPACE TO HOLD PERSONAL PROPERTY TO ENSURE THE SEPARATION OF EACH LOT.
- 00-121 DEVELOP A COMPUTER PROGRAM TO LINK PERSONAL EFFECTS BY LOT NUMBERS FOR EASIER IDENTIFICATION.

PUBLIC DEFENDER / INDIGENT DEFENSE

BACKGROUND

The Public Defender's office provides legal representation for persons who are charged with a criminal offense and whom the Courts have found to be financially unable to employ private counsel.

The County Administrative Office established the County Indigent Defense Program as a County function independent from the Court. The program consists of a staff analyst and a fiscal clerk who is responsible for accounts payable for appointed private attorneys and their staff of investigators and experts.

FINDINGS

Contract and/or ad hoc attorneys are appointed for a client as the result of either a conflict of interest or an excessive caseload on the part of the Public Defender's office. Contract attorneys are under contract to the Court and ad hoc attorneys are hired on a case-by-case basis when the case is beyond the capabilities of the Public Defender or the private attorney.

In the last three years in the San Bernardino District, the average cost of a contract attorney is \$950 per case and an ad hoc attorney \$4,000 to \$5,000 per case. The cost of a case to the Public Defender's office is \$534 per case.

There are no reporting requirements to the County Administrative Office or the Board of Supervisors for expenditures incurred by the Public Defender's office or the Indigent Defense office.

The Public Defender's central office in San Bernardino tried 38 felony and misdemeanor jury trials in 1999. The Indigent Defense Program of private attorneys tried 93 felony and misdemeanor jury trials in the San Bernardino district.

In 1999 the Public Defender's central office was assigned 3,839 felony cases, of which 938 had conflicts of interest. Conflict cases accounted for 24.43 percent of all assigned felony cases. This percentage is more than double the 11.40 percent of conflicted cases over the past five years.

The Public Defender's office and the County Indigent Defense Program have different computer programs for collecting data and cost figures. As a consequence, there is no consistent method of collecting caseload data and cost information for all providers of indigent defense in San Bernardino County.

There is no one in the County to provide overall leadership in coordinating indigent defense services or in evaluating and implementing measures to control costs between the Public Defender's office and the Indigent Defense Program.

The Public Defender's office does not have a written policy that outlines what constitutes a conflict of interest and what situations would require withdrawing from a case.

The Court determines if a client is eligible for the services of a Public Defender. The Court does not require a financial background report on the client to determine the client's ability to pay.

RECOMMENDATIONS

00-122 DEVELOP A WRITTEN POLICY THAT OUTLINES THE CONFLICT OF INTEREST PROCESS AND THE SITUATIONS THAT WOULD REQUIRE WITHDRAWING FROM A CASE.

00-123 DEVELOP A COMPUTER-BASED PROGRAM FOR COMPILING DATA ON COST INFORMATION AND CASELOAD FACTS THAT ENCOMPASSES BOTH THE PUBLIC DEFENDER'S OFFICE AND THE COUNTY INDIGENT DEFENSE PROGRAM.

- 00-124 PROVIDE THE COURTS WITH A WRITTEN FINANCIAL BACKGROUND CHECK ON THE CLIENT'S ABILITY TO PAY PRIOR TO THEIR COURT APPEARANCE.
- 00-125 ESTABLISH SEMI-ANNUAL REPORTS TO THE BOARD OF SUPERVISORS THAT DOCUMENT THE PRODUCTIVITY OF THE PUBLIC DEFENDER'S OFFICE. THE REPORTS ARE TO INCLUDE TOTAL NUMBER OF CASES BROUGHT TO TRIAL (MISDEMEANOR AND FELONY), NUMBER HANDLED BY THE PUBLIC DEFENDER'S OFFICE, NUMBER HANDLED BY PRIVATE ATTORNEYS, AND THE TOTAL COST OF THESE TRIALS BY BOTH THE PUBLIC DEFENDER'S OFFICE AND THE INDIGENT DEFENSE OFFICE.
- 00-126 ESTABLISH A STAFF POSITION THAT HAS THE RESPONSIBILITY TO COORDINATE AND EVALUATE SERVICES AND COSTS BETWEEN THE PUBLIC DEFENDER'S OFFICE AND THE INDIGENT DEFENSE PROGRAM.

SHERIFF'S DEPARTMENT

BACKGROUND

According to the Sheriff's Department, their mission is *"to provide prevention, protection, and public safety services with their partners, to diverse communities in the nation's largest county. The cornerstones of their service are commitment, innovation, and pride. Their vision is to be a high performance, inclusive department with high professional standards of integrity, ethics, and behavior guided by the letter and spirit of the law, and the law enforcement code of ethics. The department will relentlessly investigate criminal acts and arrest those guilty of violating the law, while building positive relationships with those they serve."*

At present, the Sheriff's Department has contracts to provide law enforcement for 13 cities. The department has many patrol vehicles, of which a number are unmarked. The unmarked vehicles are used for investigations. The Sheriff's Department serves half of the incorporated cities and all of the unincorporated communities in the County, resulting in a regional approach to crime fighting and public safety.

FINDINGS

San Bernardino County uses a competitive sealed bidding system when purchasing new vehicles for various departments. Proposals are referred to as Requests for Proposal (RFP). A committee of six County departments, including a representative of the Sheriff's Department, evaluates competitive sealed proposals. At the public bid opening, only the vendor name is read aloud. Neither price nor other information is made public until after a notice of intent to award is given.

Used vehicles are included in the department's budget for the purchase of vehicles, which requires the Board of Supervisors' approval. After the approval, the Sheriff's Department determines the number, models, and types of vehicles to purchase.

The department's Automotive Supervisor, who has the final decision as to ultimate price, purchases all used vehicles at auctions. These vehicles are purchased primarily for undercover law enforcement activities. Identity may place the safety of officers in jeopardy.

All used vehicles are purchased through the same agency with a fee of \$400 on each unit.

Dealer used auto auctions require bidders to have a current auto sales license. This license allows the holder to purchase or sell vehicles. The Automotive Supervisor has established his relationship through a dealership located in Barstow. He acts as the vendor's agent in all transactions, in addition to being a Sheriff's Department employee. This supervisor offers services as a "fleet" sales agent to employees of the County. As a salesman for the dealership, he has sold vehicles and received commissions from the agency.

Contemporaneous employment is noted in San Bernardino County's purchasing manual (Section 4, page 2) as *"... an employee cannot be employed or perform services for a vendor that sells goods or services to that employee's department. Such vendors are barred from submitting bids or proposals to that department."*

RECOMMENDATIONS

00-127 AVOID ANY TRANSACTION BETWEEN A COUNTY EMPLOYEE AND A VENDOR THAT CONFLICTS WITH COUNTY POLICY OR ANY OTHER

CIRCUMSTANCE CAUSING A BREACH OF CONFIDENCE IN THE ACQUISITION PROCESS.

- 00-128 DEVELOP DEFINED GUIDELINES FOR THE PURCHASE OF USED VEHICLES AT AUCTIONS, AVOIDING POSSIBLE IMPLICATIONS OF CONFLICT OF INTEREST.
- 00-129 ESTABLISH A RELATIONSHIP BETWEEN VENDORS AND THE COUNTY PURCHASING DEPARTMENT, WHICH ACTS INDEPENDENTLY OF THE SHERIFF'S DEPARTMENT PERSONNEL WHEN PURCHASING USED VEHICLES.
- 00-130 PROVIDE A WRITTEN CONTRACT BETWEEN THE COUNTY AND VENDOR THAT COVERS THE RESPONSIBILITIES OF PURCHASING USED VEHICLES.