

## **PUBLIC GUARDIAN AND COLLABORATION IN THREE COUNTIES: MODELS OF ADULT PROTECTIVE SERVICES**

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The expansion of Adult Protective Services (APS) through the mandates of SB 2199 requires a closer look at the adjunct services related to dependent adults and older adults. The increase in cases of financial abuse requires a response from county APS programs that result in the protection of elders and their assets. There has been a longstanding difference of philosophy of service and community responsiveness between APS and Public Guardian (PG) Offices in most counties.

Historically, APS is located in county welfare agencies while PG programs have a variety of department locations within county structures.

### **BACKGROUND**

Adult Protective Services is a program of the Human Services Department located in the Adult and Aging Division. The reports of elder and dependent adult abuse have steadily increased by 20-25% each year. In 1999, it is anticipated that the changes in the reporting law will result in a 70% increase in reports for the fiscal year.

The reporting law now requires that mandated reporters report all types of elder and dependent adult abuse. Previously only physical abuse was required to be reported. The new law mandates that physical abuse, financial abuse, neglect and all other types of abuse be reported to APS and/or to law enforcement.

In addition, SB 2199, effective May 1, 1999, expands the role of Adult Protective Services. Counties are required make a face to face response to all APS reports immediately or within 10 days. Counties are required to have 24hour response for APS. Also, case management services, tangible support services, emergency shelter and in-home protection are required to be provided to APS clients by the county welfare department.

In Sonoma County, there have been three workgroups, separated by a number of years, which have looked at the functions of the Public Guardian and Lanterman Petris Short (LPS) Conservator. Each of these workgroups has resulted in a report with the intention of influencing the role of PG and the Public Conservator. One significant change occurred when the Public Guardian/Public Administrator was located in the District Attorney's office and the Public Conservator/LPS was located in the Mental Health Department. During county reorganization, the two programs were co-located in the County Clerk's office. This was a goal identified in the report of the Conservatorship Task Force in 1993.

Efforts have been made in the past few years to improve communication between Adult Protective Services and the Public Guardian.

- The Multi-Disciplinary Team (MDT) was established as a vehicle to discuss challenging cases that APS, Mental Health, PG, law enforcement, district attorney, hospitals, community

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based agencies and others shared. The monthly meeting focuses on barriers to service, which result in clients falling through the cracks. Each agency comes to the table with the understanding they will participate in the solution for these clients.

- Each month PG and APS staff meet together to discuss common cases, referrals and solutions. The intention of these meetings is to lessen the finger pointing and improve trust and understanding, as well as to demystify the philosophy of each program.

The results of these enhancements to communication have been positive. However, with the increased mandate and demand for response from Adult Protective Services, the Public Guardian's office has not been able to keep pace with the urgency of these changes.

The relationship between APS and PG has inherent conflicts. This is a healthy conflict when the result is to prevent unnecessary conservatorships. In general, the social service programs serving the elderly and dependent adults in Sonoma County are not able to reliably refer cases to the PG and have the referral result in a conservatorship. The limitations of the Public Guardian's office result in a small number of conservatees carried by the PG. The process of referral requires an arduous wait for service. The cases that are selected for conservatorship are those that have funds or property. Unless extraordinary measures are taken, the client is placed in a facility as a result of the conservatorship.

## **OTHER COUNTY MODELS**

The scope of my project was to visit several counties to draw from their experience of integrating APS and PG.

I selected Alameda County for my host agency because both APS and PG are within Aging and Adult Services. The total caseload in Alameda County is approximately four times larger than Sonoma County. However, the agency structures are similar. The Area Agency on Aging Director is also the Division Director. This co-responsibility lends itself to a vision of leadership that encompasses community responsiveness and client service.

I also visited Santa Clara County's program since it was through conversations with my fellow BASSC participant that I began to consider an integrated service model for APS and PG.

I interviewed the Adult and Aging Division Director from San Mateo County, as well.

Prior to beginning my project, I interviewed the Sonoma County PG to identify common areas of interest and concern.

## **KEY ELEMENTS OF THE PROGRAMS**

### **Alameda County**

Alameda County is in the process of reorganizing their APS and PG. Establishment of the Aging and Adult Department resulted from the merging of the Area Agency on Aging, In-Home Supportive Services/Adult Services and the PG office.

The Public Guardian in Alameda has about 500 conservatees. They conserve both those with funds and property and not those who have only Supplemental Social Security Income. The conservatorship is established after the individual's placement in an institutional setting. The integration of services now allows both APS and PG staff access to computerized information about all conservatees and APS cases. The goal of the Division Director is to further align these services into a unit under one manager, thus recognizing that Protective Services encompasses both APS social work intervention and legal protection for the client's assets and decision-making.

### **Santa Clara**

In Santa Clara, PG services have a very different approach. The office is within the Social Services Department Adult and Aging Division. They are not co-located but the PG reports to the Adult and Aging Division Director. Santa Clara County conserves both those with funds and those without funds or property. A pilot project placed APS staff in the PG office in order to respond quicker to requests for service from the community. In addition, a representative payee program identified clients whose need was not at the conservatorship level. However, the project resulted in the rep payee clients either being served by a non-profit agency for representative payee or by obtaining a conservatorship through the PG office.

APS staff in Santa Clara sees the PG as accommodating to the needs of APS clients. When the PG does not accept cases, .a case conference is held to discuss the issues.

### **San Mateo**

In San Ma teo County the PG is co-located within the Adult and Aging Division. Their model incorporates an Intake Unit that includes APS, PG and mental health services. There are also APS and PG staff in the Continuing Unit. The expectation of APS and PG staff are to make joint home visits when the intake call or social work assessment conclude that a client needs conservatorship.

## **COMMUNITY BASED CARE**

There are two issues around the philosophy of community based conservatorships: liability and safety. The issue of liability for the client's safety has historically prevented these types of arrangements in Alameda and Sonoma County. In Santa Clara County and San Mateo County, the philosophy of the court is much different. The court does not require a restrictive setting.

In Santa Clara County, about 20% of their conservatees live in their own homes. The plan to place a client in an institutional setting requires the Public Guardian to address the reasons an individual is not able to stay in their own home. In addition, the efforts that have been made to keep the client in the community must be explained to the court. County Counsel requires

evidence that the PG has done everything possible to keep the person in their home. A court order is then put in place that doesn't allow the client to be moved unless there is a medical emergency or a new court order for their care.

As far as liability, the court feels that the client's homeowner's policy and home health agency insurance adequately meet the necessary coverage for the types of risk that would be incurred.

In Santa Clara County, those clients who have funds to pay for a caregiver are more likely to remain in their homes. Clients with less money frequently end up in placement because they do not have enough funds to meet their care needs.

In the counties where the safety and liability issues prevent community-based conservatorships, an intensive case management program could sufficiently address these situations.

## **SUCCESS TO DATE AND OBSTACLES OVERCOME**

Several aspects of the study of the relationship between APS and PG stood out. Other county models clarify specific solutions to obstacles between the programs.

- One of the primary motivators and benefits of co-location is financial. PG is a county general fund program. MAA (Medi-Cal Administrative funds) is one method of funding PG services. However, in each of the counties I studied, the financial reimbursement for using the Welfare . Administrative Claim, Community Services Block Grant (CSBG) and APS funds for PG far exceeds the funds realized through MAA claiming. For example, in Alameda County, there is a 12% county share for PG program staff by utilizing these methods. Staff report that time study through the Welfare claim process is much less intensive than MAA time study.

PG offices collect fees and may bring in funds for counties if the estates they manage are significant. PG staff may charge an hourly rate as well as an annual fee for their services. The court sets the fees.

- In San Mateo, the integration of PG into the Adult and Aging Division has resulted in philosophical and cooperative changes. PG now uses the common intake form for the Division and is expected to collaborate with staff from other Division programs when cases are referred for Conservatorship.
- In San Mateo County there is a quarterly meeting with the director of the Adult and Aging Division (who is the Public Guardian), the court investigator, county counsel, court counsel, the presiding judge, and the probate judge. The agenda is prepared in advance and the philosophy of PG services is determined through a common understanding.
- Santa Clara County has an innovative project with the District Attorney. County Counsel, APS and PG. It is called the "FAST", Financial Abuse Specialist Team. When a financial abuse report is received by APS, the PG, working with County Counsel and the court, is able to freeze all assets that may be at risk (PC 2901) and then establish a temporary

conservatorship. The District Attorney then begins their criminal investigation along with APS in order to build a case to prosecute the abuser.

## **IMPLICATIONS FOR SONOMA COUNTY**

Sonoma County has reached a crisis around the issue of conservatorship of clients who are identified through Adult Protective Services. With 30% of reported cases in Sonoma County in the category of financial abuse, the client's treatment plan most times requires their finances to be protected. The social work staff works with family members and reliable friends to handle a client's funds. However, many times the client has come to the attention of APS because of mismanagement of funds by family or friends, or because they have no one to act on their behalf. This vulnerability and lack of informal resources necessitates the referral to the PG for conservatorship.

When the PG is unable or unwilling to act on the referral, the private system is utilized. Private fiduciaries are willing to work with APS clients within the framework of the client's finances or APS using tangible support service funds to pay for their services. The solution of using public funds to purchase services from the private sector is feasible. The question to be addressed is whether it is the intention of the county to provide PG services with public dollars and then use public dollars to purchase private services that mirror the public system. In addition, clients without funds are not served by either the public or the private sector.

After looking at other county models my recommendations for Sonoma County include:

- 1 Explore the use of the welfare administrative claiming process for financing of the Public Guardian. Currently, PG is funded through fees, county general fund dollars and limited MAA claiming through the Department of Health Services.
- 2 The Director of the Human Services Department and the County Clerk should meet with County Counsel and the Superior Court judges to establish a written philosophy of Public Guardian services for Sonoma County. This should include least restrictive setting, community based care, serving the indigent population and decreasing the response time for sensitive cases. This should be an ongoing dialogue with regularly scheduled meetings.
- 3 Establish the use of temporary conservatorship in Sonoma County for clients who are at imminent risk of financial abuse.
- 4 Advocate for legislative changes for the PG that mirrors the changes in APS. Legislative mandates should include funding streams, minimum service and coordination with APS.
- 5 Utilize new APS funds to purchase PG services dedicated to APS clients. This position should be co-located with the APS utilizing the same model in which Public Health Nurses are located in the Adult and Aging Division through a Memorandum of Understanding with the Department of Health Services.

- 6 Explore the development of a collaborative case management program between APS and PG. This program would address the issue of safety and liability. It would also allow conservatees to live in their homes rather than be placed in institutional care when the conservatorship is established.

## **CONCLUSION**

PG is a necessary partner for APS to adequately address the problems raised by financial abuse in the elderly and dependent adult population. The changes in APS require APS and PG develop a new response to meet the needs of this vulnerable population. These changes must be philosophical and programmatic. They should include an augmentation to the current scope of services as well as a community responsibility to respond to identified needs. As evidenced in other counties, the integration of APS and PG makes sound financial and programmatic sense. By drawing on other county experiences, a new relationship between the programs can be forged in Sonoma County.