

County of San Bernardino

Auditor-Controller/Treasurer/Tax Collector
Internal Audits Section

Sheriff/Coroner/ Public Administrator: Estate Administration Follow-Up Audit



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Auditor-Controller/Treasurer/Tax Collector

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The San Bernardino County Auditor-Controller's Office is committed to serving our customers by processing, safeguarding, and providing information regarding the finances and public records of the County. We perform these functions with integrity, independent judgment, and outstanding service. We are accurate, timely, courteous, innovative, and efficient because of our well-trained and accountable staff.

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Sheriff/Coroner/Public Administrator Estate Administration Follow-Up Audit

Audit Report Letter	1
Scope, Objective and Methodology	3
Prior Audit Findings, Recommendations and Current Status	4



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April 17, 2019

John McMahon, Sheriff-Coroner
Sheriff/Coroner/Public Administrator
655 East Third Street
San Bernardino, CA 92415

SUBJECT: ESTATE ADMINISTRATION FOLLOW-UP AUDIT

In compliance with Article V, Section 6, of the San Bernardino County Charter and County Policy 05-20 entitled Internal Operational Auditing, we have completed a follow-up audit of the Sheriff/Coroner/Public Administrator (Department)'s Estate Administration for the period of June 1, 2018 through February 21, 2019. The objective of the audit was to determine if the recommendations for the findings in the Sheriff/Coroner/Public Administrator Estate Administration Audit dated April 17, 2018 have been implemented. We conducted our audit in accordance with the International Standards for the Professional Practice of Internal Auditing established by the Institute of Internal Auditors.

We have provided a status of the audit findings identified in the original audit report issued on April 17, 2018. The three recommendations from the original audit report have not been implemented.

We sent a draft report to the Department on March 25, 2019. The Department's responses to the current status of our recommendations are included in this report.

We would like to express our appreciation to the personnel at the Sheriff/Coroner/Public Administrator who assisted and cooperated with us during this engagement.

Respectfully submitted,

Ensen Mason CPA, CFA

Auditor-Controller/Treasurer/Tax Collector
San Bernardino County

By: _____

Denise Mejico

Chief Deputy Auditor

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Date Report Distributed: 4.17.2019

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Scope and Objective

Our audit examined the Sheriff/Coroner/Public Administrator (Department)'s Estate Administration as of February 21, 2019.

The objective of this follow-up audit was to determine whether the Department implemented the recommendations contained in the prior audit report, *Estate Administration Audit*, issued on April 17, 2018.

Methodology

In achieving the audit objective, the following audit procedures were performed, including but not limited to:

- Review of the Department's prior audit report.
- Interviews of the Sheriff/Coroner/Public Administrator personnel.



Prior Finding 1: Compliance with the California Probate Code's timeliness requirements needs improvement.

California Probate Code Section 8801 requires the Public Administrator to file a supplemental inventory and appraisal within four months after knowledge of property to be administered in the decedent's estate that is not included in a prior inventory and appraisal is acquired. Additionally, California Probate Code Section 9054 requires the Public Administrator to notify the known or reasonably ascertainable creditors of the decedent of administration of the estate within four months after the date letters are first issued, or thirty days after the personal representative first has knowledge of the creditor, whichever is later.

The following conditions were noted:

- In one case, the Public Administrator took approximately ten months to file a supplemental inventory and appraisal after receiving knowledge of additional property to be administered in the decedent's estate.
- In one case, the Public Administrator took approximately nine months to notify creditors of estate administration from the date letters were issued.

The Department does not have an enforced timeframe within which to file initial and supplemental inventories and appraisals or notify creditors of estate administration. Further, the Public Administrator may be liable for damage to the estate or to an interested person that results from the failure to file an inventory and appraisal or provide notice to creditors within the time allowed.

Recommendation:

We recommend that the Department implement procedures to ensure compliance with the timeliness requirements of California Probate Code Sections 8801 and 9054.

Current Status: Not Implemented

Procedures to ensure compliance with the timeliness requirements of California Probate Code Sections 8801 and 9054 have not been implemented. The



Department did create a memo to revise their policies and procedures that addressed these Probate Codes, however staff did not adhere to the revisions documented in the memo.

Management's Response:

The Coroner-Public Administration Division agrees with the audit team's findings, and concurs with this recommendation. From our perspective, there is a better solution than the one we initially proposed, which was simply write a policy to address this particular finding. We believe the proper corrective action is three-pronged: create a new policy manual that focuses on proper implementation of the California Probate Code, rather than on interactions with the Coroner Division; enhance supervision over the Public Administrator staff (the Division is working with the County Human Resources Department to recruit and hire a full-time Public Administrator supervisor.); develop and implement a training program intended to emphasize fluency with the Probate Code and Division policy.

Auditor's Response:

The Department's planned actions will correct the deficiencies noted in the finding.

Prior Finding 2: Compliance with the California Probate Code's disclosure requirements needs improvement.

California Probate Code Section 7661 requires publication of the sale of real property. Further, California Probate Code Section 8803 requires the personal representative to, on filing, mail a copy of any inventory and appraisal or supplemental inventory and appraisal to each person who has requested special notice.

The following conditions were noted:

- In one case, notice of the sale of real property was not published.
- In one case, there was no documentation in file to indicate that a copy of the filed supplemental inventory and appraisal was mailed to a party that requested special notice.



In the instance of the sale not being published, the Public Administrator was incorrectly advised by outside legal counsel that publication of the sale of real property was not required because the sale was not going to be confirmed by the court. In the instance of requested special notice, the department depended upon their outside legal counsel to perform the mailing of the notice. Without proper disclosures made, the Public Administrator may be liable for any damage to the decedent's estate or to an interested party as a result of lack of notice.

Recommendation:

We recommend that the Department implement procedures to ensure compliance with the disclosure requirements of California Probate Code Sections 7661 and 8803. Furthermore, we recommend that tasks expected to be completed by outside counsel be clearly documented in writing and provided to any outside counsel performing tasks on behalf of the Public Administrator.

Current Status: Not Implemented

Procedures to ensure compliance with the disclosure requirements of California Probate Code Sections 7661 and 8803 have not been implemented. The Department did create a memo to revise their policies and procedures that addressed these Probate Codes, however staff did not adhere to the revisions documented in the memo. As of the field work date, the Department has not clearly documented in writing the duties to be performed by the outside counsel on behalf of the Public Administrator.

Management's Response:

The Coroner-Public Administration Division agrees with the audit team's findings, and concurs with this recommendation. From our perspective, there is a better solution than the one we initially proposed, which was simply write a policy to address this particular finding. We believe the proper corrective action is three-pronged: create a new policy manual that focuses on proper implementation of the California Probate Code, rather than on interactions with the Coroner Division; enhance supervision over the Public Administrator staff (the Division is working with the County Human Resources Department to recruit and hire a full-time Public Administrator supervisor.); develop and implement a training program intended to emphasize fluency with the Probate Code and Division policy. The



Coroner-Public Administrator Division further concurs with this finding and the recommendation regarding this element. We will work toward formalizing this agreement through a Memorandum of Understanding between the County and outside counsel.

Auditor's Response:

The Department's planned actions will correct the deficiencies noted in the finding.

Prior Finding 3: Compliance with the California Probate Code's documentation requirements needs improvement.

California Probate Code Section 11753 requires the personal representative to, before or at the time of the petition for discharge, file receipts for all property in the estate with the court clerk. Further, California Probate Code section 7665 requires the public administrator to file receipts for all distributions with the court clerk for summary dispositions.

The following conditions were noted:

- In one formal case, two receipts and two canceled checks in lieu of receipts were not filed with the court.
- In one summary case, one receipt was not filed with the court.

The Public Administrator only files receipts for distributions expressly ordered by the court, and it is not the practice of the Public Administrator to file receipts for distributions of property disposed of summarily. In addition, receipts are not always filed for reserve funds. We further noted that the filing and documentation system used by the Department could be improved. Without the filing of receipts, there will not be an official court record to support the distribution of all property in the estate.

Recommendation:

We recommend that the Department implement procedures to ensure compliance with the documentation requirements of California Probate Code Sections 7665 and 11753. In addition, we recommend that the



Department establish and enforce written policies and procedures regarding the filing and safeguarding of documents.

Current Status: Not Implemented

Procedures to ensure compliance with the documentation requirements of California Probate Code Sections 7665 and 11753 have not been implemented. Furthermore, the Department has not established and enforced written policies and procedures regarding the filing and safeguarding of documents. The Department did create a memo to revise their policies and procedures that addressed these Probate Codes, however staff did not adhere to the revisions documented in the memo.

Management's Response:

The Coroner-Public Administration Division agrees with the audit team's findings, and concurs with this recommendation. From our perspective, there is a better solution than the one we initially proposed, which was simply write a policy to address this particular finding. We believe the proper corrective action is three-pronged: create a new policy manual that focuses on proper implementation of the California Probate Code, rather than on interactions with the Coroner Division; enhance supervision over the Public Administrator staff (the Division is working with the County Human Resources Department to recruit and hire a full-time Public Administrator supervisor.); develop and implement a training program intended to emphasize fluency with the Probate Code and Division policy.

Auditor's Response:

The Department's planned actions will correct the deficiencies noted in the finding.