

# Public Guardian/ Public Conservator

Presented by Health and Human Services Agency

September 2012

( 1 )

# PURPOSE OF PRESENTATION

To alert the Board of Supervisors to an extraordinary increase in caseload affecting the Public Guardian Office

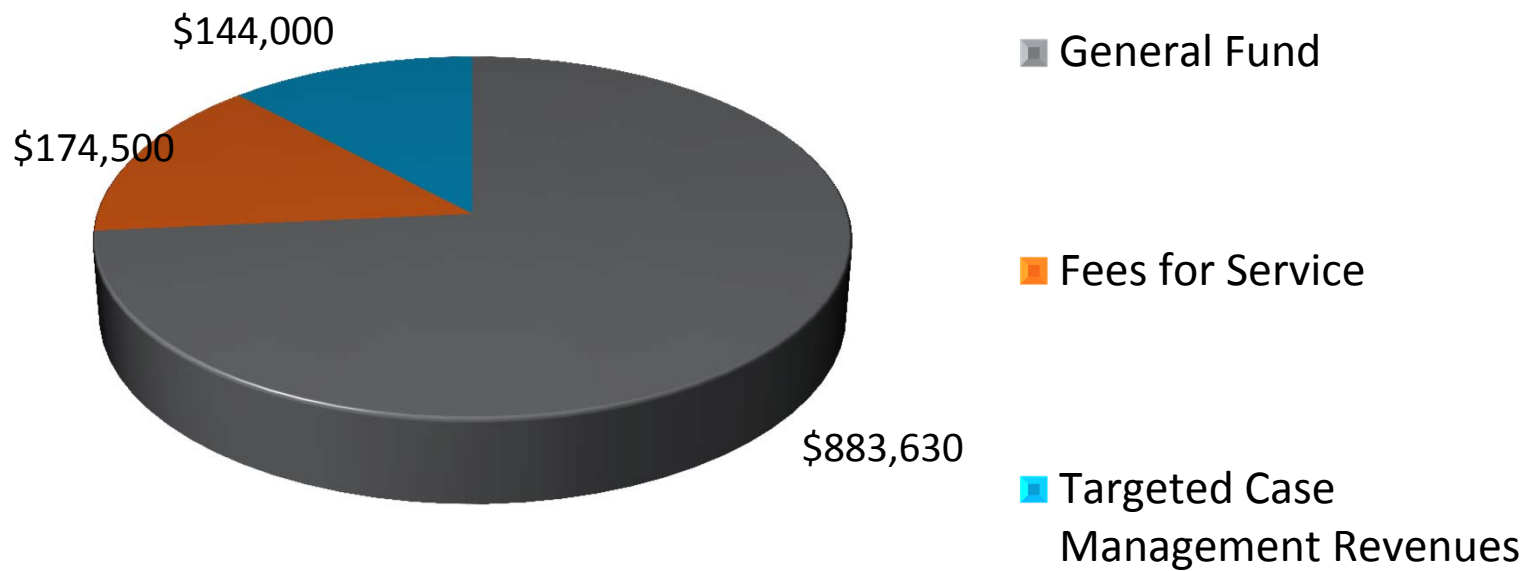
# ROLE OF THE PUBLIC GUARDIAN/PUBLIC CONSERVATOR

- To provide conservatorship of individuals within the County who are unable to provide for their own basic needs or who are the victims of abuse or exploitation and have no one able or willing to act as conservator for them
- Functions of the Public Guardian/Public Conservator:
  - Receive and investigate referrals
  - File petitions on behalf of conservatees
  - Freeze/secure assets in emergency situations
  - Maintain conservatees financial and physical well-being
  - Manage Representative Payee Program
- Types of Conservatorships:
  - Lanterman-Petris-Short Act (LPS)
  - Probate (including dementia, limited and trusts)

**PUBLIC GUARDIAN IS THE AGENCY OF LAST  
RESORT**

# PUBLIC GUARDIAN FUNDING

- FY 2012/13 Recommended Budget



# LEGAL MANDATES

Ability to restrict caseload is limited by the following legal mandates:

- Welfare & Institutions Code §5354.5 [LPS Conservatorships]:

“The public guardian *shall* serve as conservator of any person found by a court under this chapter to be gravely disabled, if the court recommends the conservatorship after a conservatorship investigation, and if the court finds that no other person or entity is willing and able to serve as conservator.”

# LEGAL MANDATES

- Probate Code §2920 [Probate Conservatorships]:

“(a) If any person domiciled in the county requires a guardian or conservator and there is no one else who is qualified and willing to act and whose appointment as guardian or conservator would be in the best interests of the person, then either of the following shall apply:

(1) The public guardian *shall* apply for appointment as guardian or conservator of the person, the estate, or the person and estate, if there is an imminent threat to the person’s health or safety of the person’s estate.

(2) The public guardian *may* apply for appointment as guardian or conservator of the person, the estate, or the person and estate in all other cases.

(3) The public guardian *shall* apply for appointment as guardian or conservator of the person, the estate, or the person and estate, if the court so orders...”

# FUNCTIONS

- LPS Conservatorships
- Probate Conservatorship
- Representative Payee

# LPS CONSERVATORSHIP

- The Lanterman-Petris-Short Act (LPS) of 1967 allows for involuntary conservatorships of clients who are gravely disabled due to a mental disorder
- Conservatorship is initiated by Mental Health. The Public Guardian is appointed for a term of one year and conservatorship must be re-established annually if the person has not recompensated
- Allows for locked placement and administration of psychotropic medications if necessary
- Person and Estate management. The Public Guardian holds the attorney-client privilege in all legal arenas



# PROBATE CONSERVATORSHIP

- Probate Code Section 2920(a) requires the Public Guardian to apply for appointment as guardian or conservator if there is an imminent threat to the person's health or safety
- Probate conservatorship typically includes:
  - Investigation of referral
  - A comprehensive assessment to determine:
    - Placement needs (least restrictive)
    - Medical needs/care, end-of-life decisions
    - Short and long term services and supports needed to stabilize the client
  - Hold attorney-client privilege
  - Marshall and inventory assets within 90 days
  - Apply for any pensions, benefits, or insurances
  - Manage monthly obligations within clients financial ability
  - Work with Probate Referee, Court, and financial institutions to ensure adequate liquidity to meet clients basic needs

# COMPLEXITY OF CASES INCREASING

- Court appointment of cases already in civil/probate litigation
- Court appointments from criminal courts
- Multidisciplinary Teams (MDT)/community referrals with complex demographics including increased severity of physical/financial risk with fewer alternative resources
- Lack of placement facilities for low-income individuals with behavioral disturbance or criminal history
- Placement facilities are geographically more distant
- Cuts to Medi-Cal/Medicare/ALTA/IHSS result in:
  - Clients discharged from hospitals with greater care needs
  - PG providing transportation services no longer provided by care facilities
  - Clients with less discretionary income
  - Partner agencies with fewer resources

# TOTAL FUNDS CURRENTLY MANAGED=\$12,301,908

## EXAMPLE OF FUNDS PROTECTED/RECOVERED

A COLLABORATIVE EFFORT BY PUBLIC GUARDIAN, COUNTY COUNSEL & OTHER EPU PARTNERS

CASE	ORIGINAL ESTATE VALUE	FUNDS LOST OR AT RISK BEFORE PG INVOLVEMENT	PROTECTED (AMOUNT REMAINING)	RECOVERED
1	\$250,000	\$250,000	\$0	\$250,000
2	\$1,200,000	\$775,000	\$425,000	\$525,000
3	\$225,000	\$225,000	\$0	\$75,000
4	\$850,000	\$850,000	\$0	\$300,000
5	\$1,000,000	\$1,000,000	\$0	\$1,000,000
6	\$175,000	\$50,000	\$125,000	\$25,000
7	\$1,000,000	\$1,000,000	\$0	\$1,000,000
8	\$1,000,000+	\$1,000,000+	\$0	\$800,000
9	\$700,000	\$700,000	\$0	\$700,000
10	\$625,000	\$625,000	\$0	\$625,000

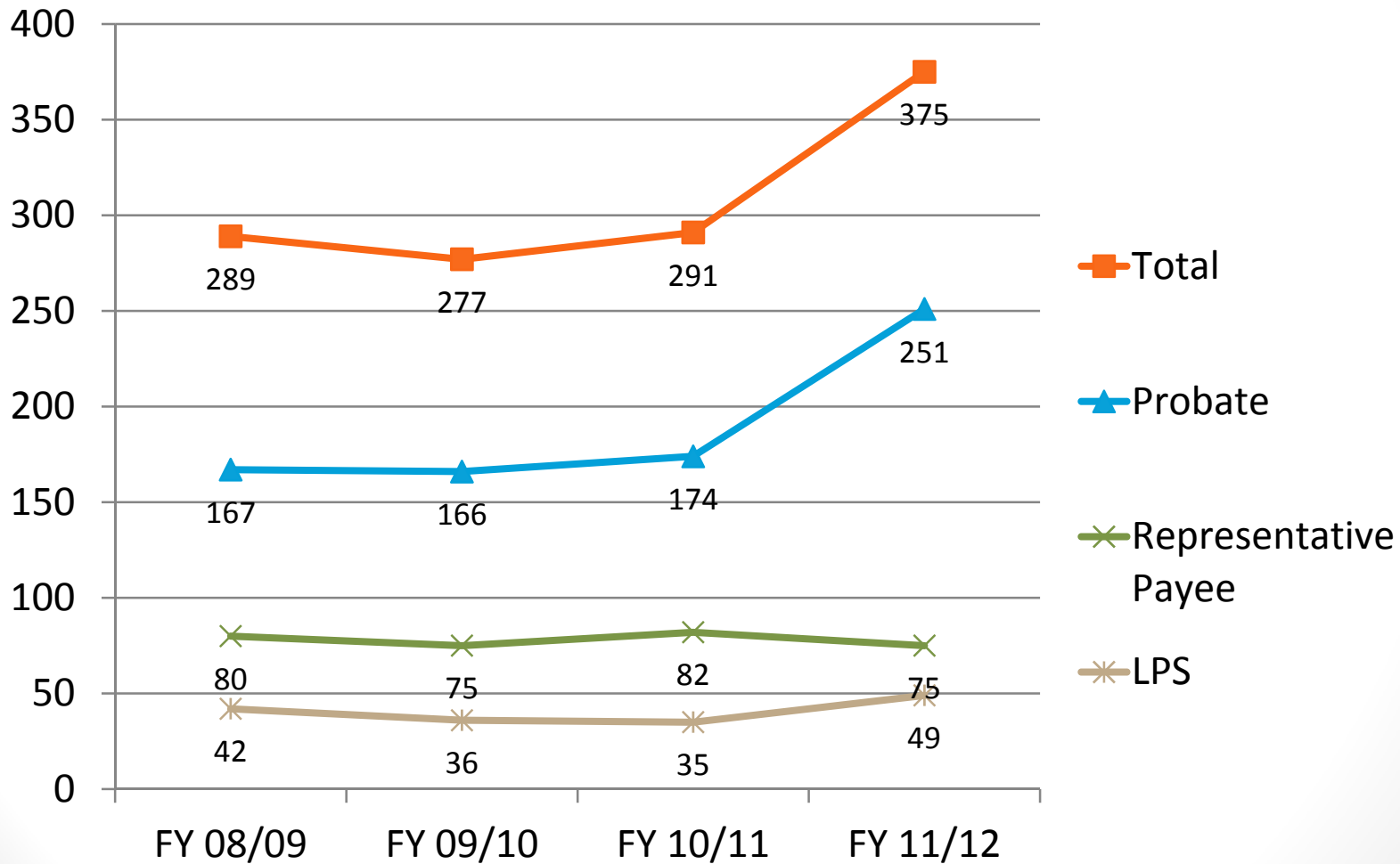
**Total Funds Recovered/Protected in the Above Examples= \$5,850,000**

This sampling of cases is representative of the characteristics of those handled jointly by Public Guardian and County Counsel at any point in time.

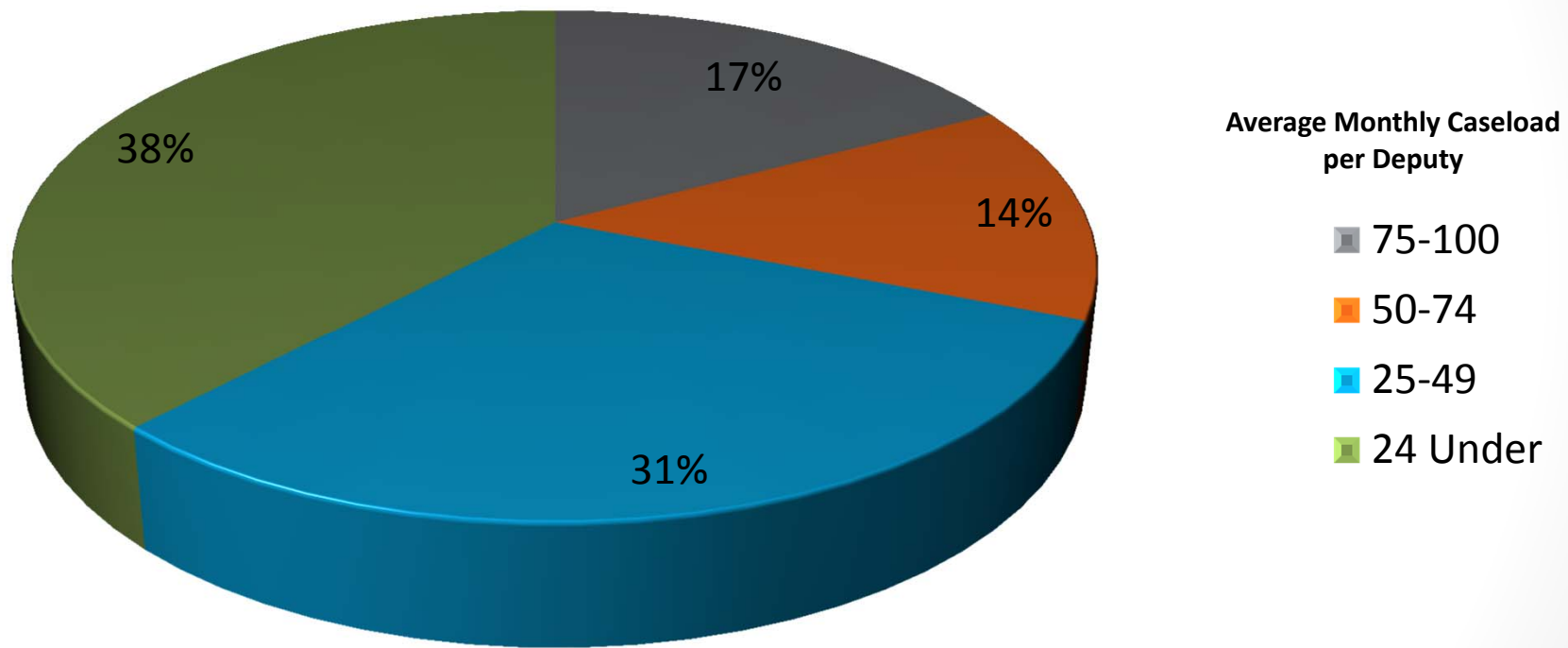
# REPRESENTATIVE PAYEE

- Receive and manage benefits on behalf of clients who Social Security determines incapable of managing their own benefits but do not need full conservatorship
- Through case management assure food, shelter, and clothing needs are met within constraints of the clients resources
- Work 1:1 with clients to determine individual's needs and goals
- Coordinate with primary case manager to ensure safety and well being of clients
- Prevents need for higher cost interventions

# CASELOAD TRENDS



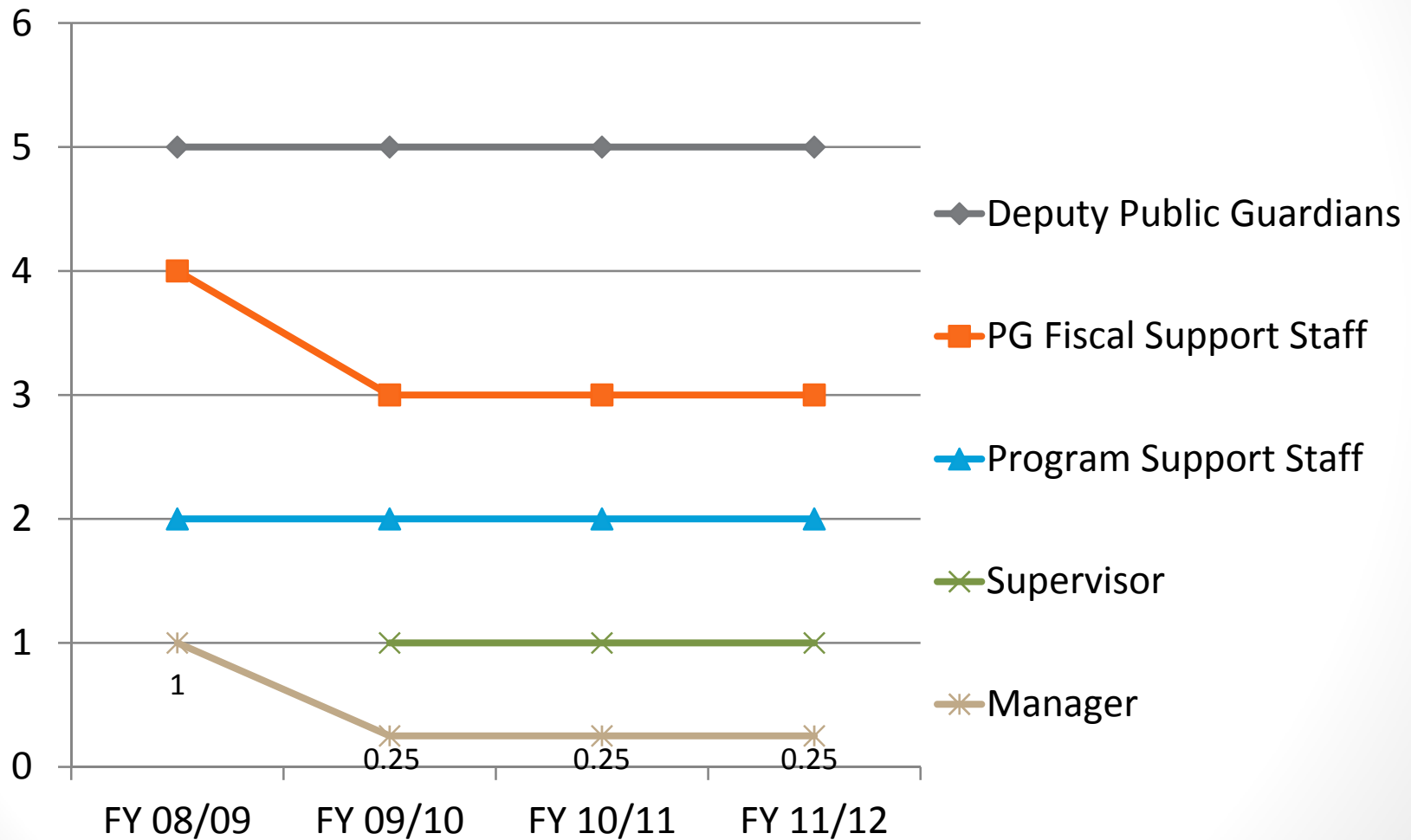
# CA COUNTIES PUBLIC GUARDIAN SURVEY – PROBATE CONSERVATORSHIP



INCLUDES INVESTIGATION AND CASE MANAGEMENT  
RESPONSE FROM 29 COUNTIES

( 14 )

# STAFFING TRENDS



# LIABILITY CONCERNS

- Sanctions resulting from statutory timelines not being met for inventory and accountings
- Civil Suits
- Concerns for Person
  - Health & safety of neglected client
- Concerns for Estate
  - Loss of assets
  - Timing of sale of assets
  - Tax consequences



# POLICY OPTIONS

- No change
- Cap caseloads at 53 per Deputy Public Guardian
- Fund additional resources for Public Guardian

Class Title	Position Additions Requested with Addenda				Approximate Additional Cost
	Allocated	Filled	Proposed	New Allocation	
Chief Deputy Public Guardian	0.0	0.0	+1.0	1.0	\$103,000
Deputy Public Guardian	5.0	5.0	+2.0	7.0	\$144,000
Various admin costs, including cost applied charges					\$ 6,039
					<b>\$253,039*</b>

\*There were various other minor net changes with the Addenda submittal related to Public Guardian. The requested increase in Net County Cost overall is approximately \$253,000. The Net County Cost amount is expected to decrease in future years as TCM reimbursable activities increase with additional staffing.