

# ROLE OF COUNTY COUNSEL

- County Counsel acts as legal counsel to the Public Guardian in all conservatorship proceedings:
  - Advises the Public Guardian in all aspects of pre-petition proceedings (e.g. investigations)
  - Prepares petitions for LPS and Probate Conservatorships
  - Prepares petitions for instructions or authority in existing conservatorships (e.g. instructions for placement of conservatee; authority to sell or abandon property; authority to resolve claims; authority to make payments)
  - Prepares and files annual and periodic accountings on all conservatorships
  - Appears on behalf of the Public Guardian at trials and all court hearings on any of the above matters
  - Litigates claims or lawsuits on behalf of conservatees (e.g. personal injury lawsuits; recovery of funds lost to elder abuse)
  - Appears in criminal court matters on behalf of the Public Guardian (upon referral of the court) where it appears that a defendant is a conservatee or potential conservatee

# INCREASING LEGAL COMPLEXITY OF CONSERVATORSHIP

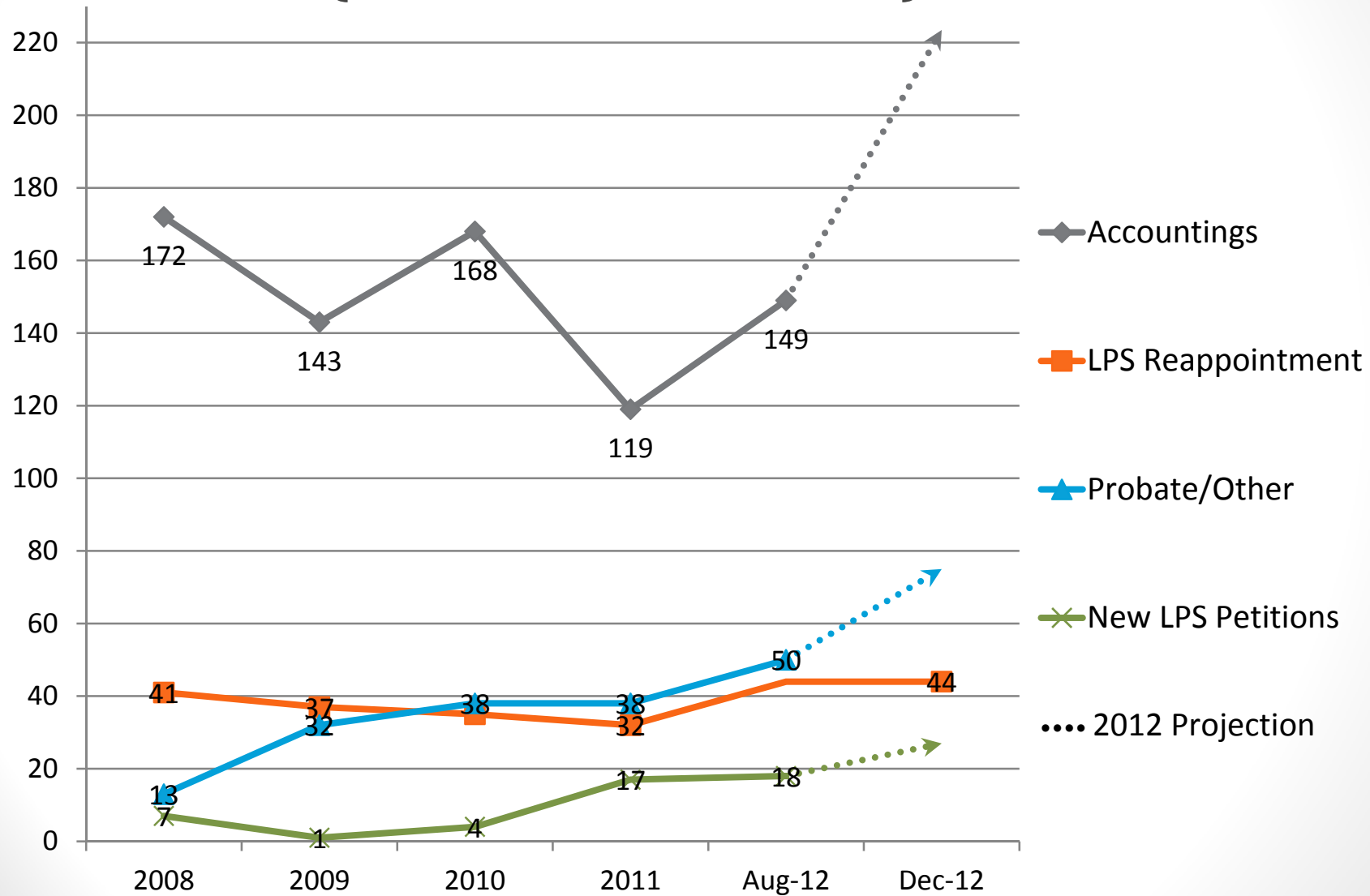
## CASES NOT REFLECTED IN RAW CASE NUMBERS

- Increase in the number of trials (both court and jury trials). In 2010, County Counsel's Office completed 5 conservatorship trials; in 2011 this tripled to 15 trials; in 2012 there are 11 trials either completed or set already, which is a rate of 16 trials for the year. More than half of the trials are jury trials, which are much more time consuming than court trials.
- Increase in the number of appeals. In the past decade, we can recall one appeal from a trial court ruling in a conservatorship case. In the past year, we already have 4 appeals pending. Responding to an appeal can involve more work than the underlying case.
- Increase in the number of civil court referrals. More often than in the past, a court presiding over a private conservatorship case will appoint the Public Guardian to act as temporary conservator during the trial. This occurs without advance warning, and requires the Public Guardian and County Counsel's Office to suddenly have to familiarize themselves with ongoing, contentious private litigation which might have been pending for years, in which each party is accusing the other of misdeeds, and to respond according to the existing abbreviated trial schedule.

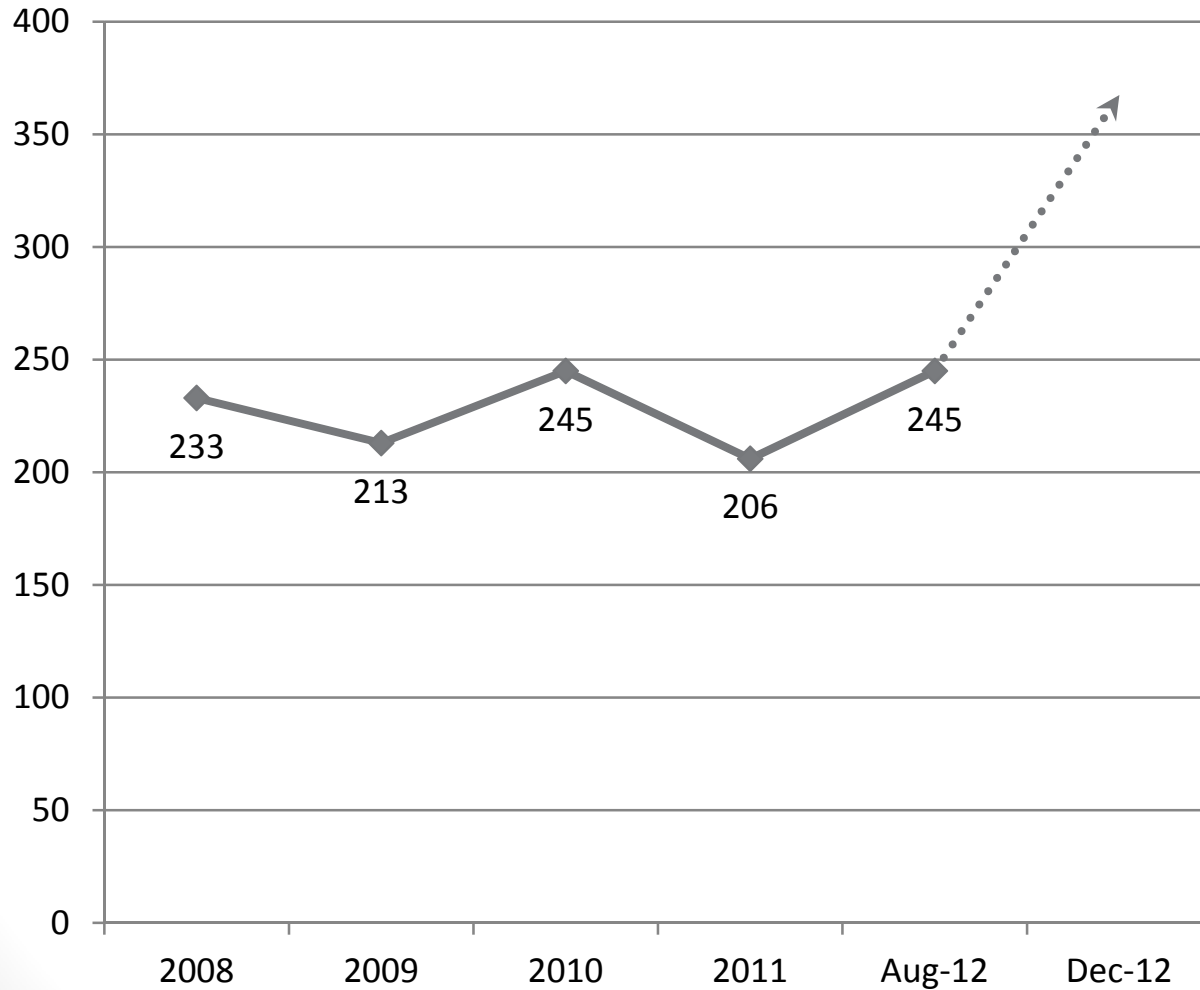
## INCREASING LEGAL COMPLEXITY OF CONSERVATORSHIP CASES NOT REFLECTED IN RAW CASE NUMBERS CONTINUED...

- Increase in the number of criminal court referrals. More often than in the past, a court presiding over a criminal case with a mental health issue will order the Public Guardian and County Counsel to become involved in the criminal case, with the idea that an LPS conservatorship might provide an alternative to conviction and incarceration. This involves having to appear several times in the criminal case, suddenly having to become familiar with a previously unknown situation, and often filing a separate civil LPS conservatorship petition.
- Increase in the number of cases involving ancillary matters. For example, more often than in the past, the funds of the proposed conservatee are in a trust. Appointment of the Public Guardian as conservator does not automatically give access to the funds in the trust. Therefore in an increasing number of cases, there has to be a separate ancillary action filed to obtain adequate funding from the trust to support the conservatee. It is estimated that about 30%-40% of present conservatorship cases actually involve 2 cases: the conservatorship case and the trust case.

# COURT MATTERS HANDLED BY COUNTY COUNSEL (NOT NUMBER OF CASES)



# TOTAL COURT MATTERS HANDLED BY COUNTY COUNSEL



.... 2012 Projection

# POLICY OPTIONS

- No change
- Fund additional resources for County Counsel

Class Title	Position Additions Requested with Addenda				Approximate Additional Cost
	Allocated	Filled	Proposed	New Allocation	
Deputy County Counsel	5.0	4.0	+1.0	6.0	\$152,094
Legal Secretary I/II	3.0	3.0	+1.0	4.0	\$ 65,164
					<b>\$217,258*</b>

\*The requested increase in Net County Cost overall is approximately \$217,258 for a full Fiscal Year.