

**CITRUS COUNTY
CLERK OF THE CIRCUIT COURT
LIMITED-SCOPE PROCESS REVIEW OF
GUARDIANSHIP FUNCTION**



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Clerk & Comptroller
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**Division of Inspector General
Audit Services Unit
January 13, 2015**



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Palm Beach County

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The Honorable Angela Vick
Clerk of the Circuit Court & Comptroller – Citrus County, Florida

Re: Clerk's Office Limited-Scope Guardianship Process Review

At your request, we conducted a limited-scope process review of the guardianship function within the Citrus County Clerk & Comptroller office.

Our objectives were to evaluate the guardianship function in place to: assess the accuracy, consistency, and timeliness of the processes; evaluate the general effectiveness of internal controls; and, identify best practices for further consideration by management.

Our review was neither designed nor intended to be a detailed study of every process, procedure, transaction or system in each area. Accordingly, the observations and recommendations included in this report are not all-inclusive.

This limited-scope review of the Citrus County Clerk's guardianship function identified various opportunities to enhance the processes and implement best practices that are in place in select Florida Clerk's offices. As evidenced in our sample review of ten guardianship cases, opportunities exist to expand the oversight of guardianship cases, as permitted in Florida Statute Chapter 744, by conducting more detailed audits of guardianship cases posing significant risk.

In addition, opportunities exist to improve the collection and maintenance of periodic criminal background screenings and credit history investigations for professional guardians, enhance guardianship training and related policies and procedures, and implement various best practices discussed in this report.

We appreciated the cooperation of management and staff during the course of this review.

Respectfully submitted,

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cc: The Honorable Sharon R. Bock, Esq. – Clerk & Comptroller, Palm Beach County

Executive Summary

At the request of the Citrus County Clerk of the Circuit Court & Comptroller Angela Vick, the Palm Beach County Clerk & Comptroller's Division of Inspector General conducted a limited-scope process review of their guardianship function.

The Citrus County Clerk's Office (Civil Probate and Financial Services) and Fifth Judicial Circuit court administration jointly coordinate the oversight of the guardianship audit program. The Clerk's office has approximately 350 active guardianship cases and receives roughly 120 new cases annually.

The objectives of this limited-scope review were to: evaluate the guardianship function in place to assess the accuracy, consistency, and timeliness of the processes; evaluate the general effectiveness of internal controls; and, identify best practices for further consideration by management.

This limited-scope review of the Citrus County Clerk's guardianship function identified various opportunities to enhance the processes and implement best practices that are in place in select Florida Clerk's offices. Opportunities exist to expand the oversight of guardianship cases as permitted in Florida Statute Chapter 744 by conducting more detailed audits of guardianship cases posing significant risk. Our sample testing of ten guardianship cases identified several questionable items in which the ward's assets and income were not adequately accounted for in the inventories and annual accountings. These cases indicate that more in-depth audit and investigative techniques are recommended to better identify any fraud and financial mismanagement committed against wards.

In addition, opportunities exist to improve the collection and maintenance of periodic criminal background screenings and credit history investigations that are required to be submitted for professional guardians. Guardianship training and related policies and procedures require development or update to help ensure consistency and quality of processing. Finally, various best practices are presented that should be considered for inclusion in the Clerk's guardianship program.

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Introduction

Overall Conclusion

The Citrus County Clerk of the Circuit Court is seeking to enhance and strengthen their guardianship program to more effectively identify any potential fraud and financial mismanagement committed against wards.

This limited-scope review identified opportunities to expand the oversight of guardianship cases as permitted in Florida Statute Chapter 744 by conducting more detailed audits and using investigative techniques and tools for cases posing significant risk. Management should also consider implementing various best practices that are in place in select Florida Clerk's offices as well as other improvements related to strengthening training practices and operating procedures.

Objectives, Scope and Methodology

The Palm Beach County Clerk & Comptroller's Division of Inspector General conducted a limited-scope process review of the guardianship function in the Citrus County Clerk's office located in Inverness, Florida.

The objectives of this limited-scope review were to: evaluate the guardianship function in place to assess the accuracy, consistency, and timeliness of the processes; evaluate the general effectiveness of internal controls; and, identify best practices for further consideration by management.

In order to meet the objectives, we conducted interviews with management and key personnel within Civil Probate and Financial Services to review and document the processing of guardianship filings. We performed a high-level review of the internal control environment. We performed testing of a sample of ten guardianship cases by reviewing the corresponding filings (e.g., initial plans, initial filings, initial inventories, annual plans and annual accountings) and identifying any inaccuracies or red flags that may indicate potential fraud, waste, or financial mismanagement of the wards' assets. We reviewed the applicable laws, regulations and state statutes related to the

guardianship process as well as the administrative orders issued by the Fifth Judicial Circuit of the State of Florida that apply to the circuit and Citrus County.

We compared guardianship processes to best practices established by the Florida Court Clerks and Comptrollers (FCCC) and other Clerk's offices. We performed other procedures that were deemed necessary under the circumstances.

Background

The Citrus County Clerk of the Circuit Court office is responsible for performing various court-related functions for the 140,000 residents.

In accordance with Florida Statute (F.S.) 744, the Clerk of the Circuit Court is mandated to perform audits of guardianship reports (property and person) submitted to the Court. At guardianship initiation, state statute requires the guardian to file an initial guardianship report (verified inventory and plan) of the ward's assets and well-being with the Court. Thereafter, the guardian is required to file an annual accounting and an annual plan with the Court. The Clerk's office is required to audit the initial plan within 30 days and verified inventory and accountings within 90 days after filing and advise the Court of the results. Various Florida Statutes, Fifth Judicial Circuit Administrative Orders, local customs, and Florida Probate Rules exist that govern the handling of guardianships.

The Citrus Clerk's Office has two locations:

- The main Clerk's Office in Inverness, Florida.
- The branch office in the West Citrus Government Center in Crystal River, Florida.

The Clerk's Office (Civil Probate and Financial Services) and Fifth Judicial Circuit court administration jointly coordinate the oversight of the guardianship audit program. Guardianship cases are received at the main office in Inverness. One judge handles all guardianship related matters. All cases filed at the Crystal River branch are forwarded to and handled by the main office. The Citrus Clerk's office has approximately 350 active guardianship cases and receives roughly 120 new cases annually.

Civil Probate performs the following duties: receives plans, inventories, and accountings; verifies timeliness of reports; follows up with attorneys and guardians when delays exist; and, communicates delays to the judge. Financial Services verifies

accuracy and completeness of reports, and validates data to supporting documentation (e.g., bank statements, cancelled checks, receipts/bills). No third-party verification is performed. Upon completion of the individual guardianship audits, any findings are documented in a written notice worksheet for the judge. If the audit is disapproved, Financial Services flags the disapproval, Civil Probate generates the order disapproving, and the judge reviews and signs the order disapproving, with the worksheet attached supporting the reason for disapproving.

Review Team:

Michael Bodle, Senior Internal Auditor
Anthony Palmieri, Senior Internal Auditor

Observations & Recommendations

The limited-scope review was neither designed nor intended to be a detailed study of the entire guardianship process. Accordingly, the results of our review and recommendations presented in this report may not be all-inclusive of areas where improvement may be needed.

1. Opportunities exist to conduct detailed audits of guardianship cases posing significant risk.

Guardianship in the State of Florida is governed by Chapter 744 of the Florida Statutes. Prior to legislative changes in 2006, the legislative intent of the term “audit” indicated that the Clerk’s role was to check off the required guardianship forms. However, in 2006, legislation amended the guardianship statute. Subsection 744.102 stated that “audit” means a systematic review of financial and other documents to ensure compliance with section 744.368 (Responsibilities of the Clerk of the Circuit Court), rules of court, and local procedures using generally accepted accounting principles.

Effective July 1, 2014, the legislation expanded the definition of audit by adding: *“The term includes various practices that meet professional standards, such as verifications, reviews of substantiating papers and accounts, interviews, inspections, and investigations.”* The Clerk’s “audit” responsibility under s. 744.368 is defined as:

“within 90 days after the filing of the verified inventory and accountings by a guardian of the property, the clerk shall audit the verified inventory and the accountings. The clerk shall advise the court of the results of the audit. If the clerk has reason to believe further review is appropriate, the clerk may request and review records and documents that reasonably impact guardianship assets, including, but not limited to, the beginning inventory balance and any fees charged to the guardianship.”

While clear guidance was not provided in the legislation to ensure adherence when conducting audits, it is prudent to ensure clerks utilize due care and methods that are consistent with the intent of the legislation. In guardianship cases posing significant risk, more detailed audits may be warranted.

The FCCC Best Practices Committee on Guardianships recommended several guidelines that Clerk's offices in Florida could follow to exhibit the due care contemplated in the legislation. For example, it recommended that varying degrees of audits should be conducted, with consideration given to involving Clerk audit staff, as follows:

- Level 1 Audit: Consists of desk review of the guardianship reports in conjunction with the supporting documentation filed therewith.
- Level 2 Audit: Consists of the examination of the guardianship report, and the attempted verification of selected questionable items. Limited inquiries and/or requests for supporting documentation may be necessary to resolve issues.
- Level 3 Audit: Consists of a comprehensive examination and attempted verification of all significant items pertinent to the guardianship report. Detailed review of accounts and attendant transactions is common, which may include third-party confirmations as necessary.

Currently, the Citrus Clerk's office only conducts less detailed audits, which are indicative of Level I audits, as defined above. Certain guardianship cases represent higher risk based on various factors that may include: significant asset values, inability to substantiate assets or large changes in asset values, cases with orders to disapprove, and questionable actions taken by a particular guardian. In such cases, exercising due care may require more in-depth audits, as described above in Level 2 and Level 3 audits. These enhanced audits can be performed using staff within the Clerk's internal audit office or within the guardianship function.

Recommendation:

- A. Re-evaluate the current guardianship audit practices. We recommend that more detailed examinations be conducted by performing Level 2 and Level 3 audits for guardianship cases posing significant risk. Determine the required staffing and skill sets and formulate action plans.

2. Questionable and missing items are not always identified and followed up for resolution.

The intent in conducting Level 2 and Level 3 guardianship audits is to identify questionable and missing items on the initial inventories and annual accountings. When such instances are identified, follow-up inquiries and verifications are recommended.

Our testing of ten guardianship files identified four cases where questionable items or “red flags” were identified in which follow up audit work was recommended.

Details of the red flags noted in these four cases and the results of our examinations were provided to Citrus Clerk’s office management in a separate document and excluded from this report to ensure confidentiality.

Recommendations:

- A. Strengthen the audit process by consistently following up on questionable and missing items. Perform more extensive examinations, as intended in Level 2 and Level 3 audits. Management should adopt the FCCC recommended best practice audit check sheets. Detailed check sheets would help ensure that all items that affect the physical and financial well-being of the ward will be reviewed by the guardianship auditors. Concerns identified should be communicated to the court.
- B. Supplement the detailed check sheets (in A above) with a list of common red flags for which guardianship auditors should be aware as they review and question the information submitted and document concerns for follow up. Finance should also ensure that higher risk guardianships, such as those with large assets, higher frequency of disapproved reports, and habitually delinquent reporting, receive greater attention than the routine small filings. The reasons for disapproval should be documented in correspondence.

3. Collection of professional guardian information requires improvement.

Florida Statute 744.3135 requires the Clerk's office to maintain documentation for each professional and non-professional guardian's periodic criminal background screening and credit history investigation. The Clerk's office shall maintain a file on each guardian appointed by the court and retain in the file documentation of the result of any investigation conducted under this section.

Currently, the Clerk's office collects documents from the professional guardians along with a one-time fee (\$7.50). However, the Clerk's office does not actively track receipt of the documents. Staff does not determine whether periodic updates of criminal background investigation and/or credit checks have been received nor distinguish whether professional guardians are active or inactive.

The Civil Probate Division is not receiving criminal background screenings from the Florida Department of Law Enforcement and/or consumer credit reports from petitioners because the Court's standing local custom is to waive the requirement for non-professional guardians.

Our review of the Statewide Public Guardianship Office (SPGO) website determined that 3 of 24 professional guardians in Citrus County were not actively registered. The names of the three guardians were provided to Citrus Clerk management.

A review of the Comprehensive Case Information System (CCIS) disclosed the following open guardianship cases for one of the professional guardians:

Case No.	Date	Description
xxGAxxx	7/28/14	Annual GA Plan
	8/19/14	AA Report
	8/22/14	Worksheet Approved
	8/22/14	Order Plan Approved
	9/30/14	Order AA Approved
xxGAxxx	9/2/14	Annual GA Plan
	9/2/14	AA Report
xxGAxxx		
xxGAxxx		

xxGAxxx	8/7/14	Annual GA Plan
	8/22/14	Worksheet Approved
	8/22/14	Order Plan Approved
xxGAxxx		
xxGAxxx		
xxMHxxx	8/5/14	"last docket"/petitioner
xxGAxxx		

According to the Executive Director of SPGO, Teresa Goodson, on October 8, 2014:

Ms. X's (name omitted) "2014-15 Professional Guardian registration is complete except for the Level 2 Background Screening. My office has communicated with the Citrus County clerks office and is awaiting the results of a CJIS name search due to indiscernible prints. I anticipate the registration will be completed as soon as this information is received, and the registration will be retroactive to the date of her professional guardian bond, which is for 7/13/2014 to 7/13/2015".

Recommendation:

- A. Maintain and periodically review (at least annually) professional guardian files to ensure missing documents are identified and reported to the court.

4. Policies and procedures have not been fully developed and updated in some areas.

Standardized procedures are in place in some areas though opportunities exist to update and strengthen policies and procedures for the guardianship processes.

Best practices in internal controls indicate that written policies and procedures should be in place within an organization. Such guidance helps to ensure accuracy and consistency in the quality of work and application of laws and regulations when conducting audits of plans and accountings.

We noted that standard operating policies and procedures (SOPs) were in various stages of completion. Several SOPs were in place, prepared generally in a desk instruction format, which supported the Civil Probate area though management stated that updates were in progress to enhance the procedures. One procedure was available that guided the conduct of guardianship audits within Financial Services.

However, it was outdated and did not adequately contain all of the steps to conduct an audit from the time the accounting, inventory or plan is received by the auditor to the time each is approved and placed in the case file.

Further, the procedures did not incorporate the changes to Florida Guardianship Law that were effective July 1, 2014.

Recommendations:

- A. Develop and update the policies and procedures within Civil Probate and Financial Services that provide overall direction to the guardianship case handling function. The policies should include processing timeframes prescribed by state statute and required communication to management.
- B. Develop procedures that contain all of the steps to conduct audits of accountings and plans from the time of receipt to approval and filing. Procedures should be sufficiently detailed so that Financial Services auditors are alerted to questionable items or red flags. The procedures should utilize a standard format.

5. Opportunities exist to enhance training.

Opportunities exist to strengthen the training provided to Civil Probate and Financial Services staff involved in handling guardianship cases. Staff does not receive ongoing training on auditing guardianship plans and accountings. Training will allow a consistent approach in addressing questionable items that may arise. Also, any changes in legislation should result in a unified approach in handling and reviewing plans and accountings.

In addition, cross training opportunities exist. We noted that efforts are underway to engage other staff in Civil Probate and Financial Services in handling guardianship functions, though efforts should be accelerated to ensure continuity when key personnel are out of the office.

Recommendations:

- A. Provide guardianship training on an ongoing and as-needed basis. Training will take on added importance if staff members begin conducting more detailed reviews of plans and accountings.
- B. Accelerate efforts to cross train key personnel in Civil Probate and Financial Services that handle guardianship cases.

6. Opportunities exist to incorporate best practices into the guardianship processes.

Various best practices should be considered for inclusion in the guardianship audit program. These best practices, summarized below, are in place in various Florida clerk's offices.

- A. Check sheets serve as guides for detailed auditing of plans, inventories and accountings and help to identify red flags that could otherwise be missed. Also, the FCCC recommends that Clerk offices coordinate and cooperate with the local court to agree on a uniform set of procedures and audit forms.
- B. In some Clerk's offices, guardianship auditors have accounting degrees or a related background. This can help facilitate audits in accordance with generally accepted accounting principles. In addition, job descriptions have been developed that include specific language regarding guardianship audit responsibilities.
- C. Some Clerk's offices have public websites that provide useful information to guardians and their attorneys. This information includes, but is not limited to, guardian handbooks, blank guardianship forms, frequently asked questions, and checklists that provide guardians and attorneys with information that can help to reduce the number of incomplete and incorrect filing of plans and accountings.
- D. Broward County's website has blank forms that guardianship attorneys are required to download and complete for verified inventories, initial and annual plans, and annual accountings. These forms help ensure consistency in the types of guardianship information currently submitted.

One Citrus County Administrative Order (AO 2003-AO-002) requires the use of Broward County Bar Association Guardianship Forms for submission of the annual accounting. The Clerk's Civil Probate Division reported that the links were recently removed from the Broward County Bar Association and were subsequently removed from the Citrus County Clerk's website. We advised Citrus Clerk management that the Florida Seventeenth Judicial Circuit Court has changed to a different format when electronic filing became mandatory. The forms can now be found at:

<http://www.17th.flcourts.org/index/php/judges/probate/probate-and-guardianship-smart-forms>

- E. Some counties have developed a probate and guardianship case management system to work in conjunction with their e-filing system.
- F. We noted that the Citrus Clerk's Case Initiation Division does not make civil indigent status determination for those seeking relief from payment of filing fees, as per s. 57.082(2), Fla. Stat., for guardianship of the property cases. The office should also consider handling indigent decisions for guardianships of person.
- G. Some Clerk's offices have established guardianship fraud hotlines. These offices have created marketing and promotional materials to encourage individuals who suspect guardianship fraud, waste and abuse to contact these hotlines.
- H. Over the years, some Clerk's offices have created cooperative programs with their courts regarding the guardianship function. For example:
 - In Hillsborough County, extensive cooperation exists between the Clerk's office and their Elder Justice Center in the auditing of plans and accountings.
 - In Broward County, a Program Attorney in the Court's Probate Division serves as a liaison between the Clerk's guardianship auditing function, the court, and guardianship attorneys.
 - In Orange County, monthly meetings are held between the Probate Court Judge and the Clerk's Probate Division to discuss common issues and ways to streamline operations in guardianship and other Probate areas.

Recommendation:

- A. Review the various best practices provided and determine the actions deemed appropriate to strengthen the guardianship function and processes.



ANGELA VICK
CLERK OF THE CIRCUIT COURT AND COMPTROLLER
CITRUS COUNTY, FLORIDA


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MEMORANDUM

TO: Angela Vick, Clerk of Court and Comptroller

FROM: Gerald Riley, Guardianship Audits

THROUGH: Angie Snodgrass, Chief Deputy of Financial Services 

DATE: December 29, 2014

SUBJECT: Implementation of Best Practices

In response to the thorough review of our audit procedures by Palm Beach County's OIG, we embarked on a comprehensive overhaul of our approach to Guardianship Audits conducted by this office. We concur with the observations included in their review.

We have implemented the following changes, and as a result have increased our effectiveness exponentially:

1. Adoption of, and strict conformity to the Best Practices offered by Palm Beach County's OIG
2. Increased training of personnel
3. Increased clarity of purpose
4. Scheduled meetings with Judicial and stakeholders to clarify expectations of guardianship reports
5. Integrated communication between Financial and Courts, involving posting of 'notes' in the Courts' system to document review status

We are committed to performing our role in Guardianship Audits fully and efficiently, and are very appreciative of the time and effort spent by Palm Beach County in helping us improve our effectiveness in this area!