

Deputy Public Administrator

Summary

The Nevada County Grand Jury reviewed the activities and responsibilities of the Public Administrator of Nevada County. The Nevada County Grand Jury observed that in a majority of the estates being handled by that office the decedent had died intestate (without a will). If a Nevada County resident who dies has a valid will, the estate would not automatically be within the jurisdiction of the Public Administrator. Other estates were assigned by the Nevada County Superior Court to the office of the Public Administrator when heirs to an estate could not agree mutually how to distribute an estate. A valid will may expedite the closing of an estate and assure that a decedent's wishes are fulfilled. The Nevada County Grand Jury encourages residents to understand the consequences of failing to have a valid will.

Reasons for Investigation

The Nevada County Grand Jury (Jury), exercising its oversight responsibilities pursuant to California Penal Code Section 925, reviewed the administration of estates assigned to the Public Administrator of Nevada County (Public Administrator).

Background

The Public Administrator is a legally mandated office of county government for every county in California. The Public Administrator may be an elected official, a separate department, or housed within another county department such as sheriff-coroner, treasurer, or public guardian-conservator. In Nevada County, the Sheriff is also the Coroner and Public Administrator and has designated a Deputy Public Administrator.

The Public Administrator investigates and administers estates of persons who die intestate. The Nevada County Superior Court may also appoint the Public Administrator to administer an estate where there is a will.

The Public Administrator is to be notified:

- If a public officer or employee knows of property of a decedent that should be in the possession or control of the Public Administrator and is subject to loss, injury, waste or misappropriation.
- By a hospital or other care facility located in the county, if a person dies in the hospital or other care facility without known next of kin.
- By a funeral director in control of a decedent's remains if there is no known next of kin.

The duties of the Public Administrator are to:

- Protect the decedent's property from loss, injury, waste or misappropriation.
- Make appropriate burial arrangements.
- Investigate to discover all property of the decedent.
- Pay decedent's bills and taxes.
- Locate persons entitled to inherit from the estate and ensure that these individuals receive their inheritance.

Whatever the value of a decedent's estate, it must be distributed in the manner required by the California Probate Code.

If the total value in a decedent's estate at the date of death exceeds \$100,000 the estate is subject to probate, i.e., a legal process intended to assure that any creditors of the estate are paid and that the remaining property is distributed to those entitled to receive it. This process is carried out by the executor/administrator of the estate under the supervision of the probate division of the Superior Court.

If the Public Administrator takes possession or control of an estate where the total value at the date of death of the property in a decedent's estate does not exceed:

- \$100,000, the Public Administrator may exercise its authority upon an order of the court.
- \$30,000, the Public Administrator may exercise his authority without court authorization.

In Nevada County, the Public Administrator acts through the Deputy Public Administrator.

Each case is investigated to determine whether or not there is a will. Cases may require that assets be converted to cash to satisfy fees and creditors. If there are known heirs, the Public Administrator may consult with the heirs concerning the distribution of property. The Public Administrator may collect fees based on the value of the assets available.

Procedures Followed

The Jury interviewed members of the County Sheriff's Department and County Counsel staff and also reviewed California Probate Code sections concerning the role and responsibility of the Public Administrator.

Facts

1. The Deputy Public Administrator retired at the end of 2010.
2. The retired Deputy Public Administrator is currently working as a temporary employee in the same position thru the first half of calendar year 2011.

3. The Jury was advised that the retired Deputy Public Administrator spent approximately 60% of the time in that position and the balance of time was spent as Deputy Chief Financial Officer for the Sheriff's Department.
4. There is one full time Legal Office Assistant who works for the Public Administrator.
5. Of the closed cases, an average case took 4.2 years to process and close based on information provided by staff.
6. Of the 39 open cases as of December 31, 2010, the average cases have been open for 8.5 years and the oldest case is 24 years old, based on information provided by staff.
7. If a decedent does not have a will the estate passes to the decedent's heirs as prescribed by Sections 6400-6414 of the California Probate Code.
8. If a decedent has no heirs and no will, Section 6800 (a) of the California Probate Code provides that the estate escheats (reverts) to the State of California effective on the date of death.

Findings

1. A valid will may expedite the closing of an estate and assure that a decedent's wishes are fulfilled.
2. Given the limited staffing of the office of the Public Administrator and the complexities of administering some estates, the Public Administrator may take a long time to complete the administration of an estate.

Recommendations

1. The Jury encourages county residents to understand the consequences of not having a valid will.

Responses

None required.