



Public Administrator's Policy

HUMBOLDT COUNTY SHERIFF/CORONER'S - PUBLIC ADMINISTRATOR'S OFFICE

Estate Administration

TITLE	Function and Duties of Public Administrator	Policy 800.01
POLICY	The Sheriff-Public Administrator's Office manages decedent's estates and the indigent burial program.	
REFERENCE	Govt. Code Sections 27440, Probate Code Sections 7600, 7601 & 7605, Health and Safety Code Sections 7100	

1.0 Public Administrator Function and Governing Laws

The Sheriff-Public Administrator's authority is acquired through sections of the California's Government Code, Probate Code and Health & Safety Codes. All fees received for services are paid to the Humboldt County General Fund. The Public Administrator maintains an office staff experienced in the investigation and administration of estates of deceased persons.

Actions in estate matters are subject to the supervision of the Superior Court, and all records are subject to periodic audits by the State and County authorities.

The Public Administrator serves in a fiduciary capacity to provide professional estate management services to county residents who die without someone willing or able to handle their affairs. The powers of the Public Administrator are mandated by the Probate Code of the State of California.

The Public Administrator may be appointed under the following circumstances:

- When no executor or administrator has been appointed and the property is at risk of waste, loss or misappropriation.
- When appointed by the Court.
- When an heir nominates the Public Administrator or the Will names the Public Administrator as Executor.
- When there are no known heirs of the estate.
- For an heir who resides outside of the State of California and requests the Public Administrator.
- When the named Executor fails to act on a Formal Probate and no other person has a preferred right.
- In situations where the person with priority to act is not a resident of the United States.

Categories of Estates handled by the Public Administrator

- Indigent Estates
 - These are estates without sufficient funds for disposition of the decedent remains and no heirs to take care of disposition arrangements. In situations where the assets of an estate are not sufficient to pay for disposition, the law requires disposition by the relatives of the decedent. If there are no relatives or other persons to act, the County assumes that responsibility.
- Summary Estates
 - Estates not exceeding \$50,000.00 in value. The Public Administrator may act without

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court authorization to marshal and distribute the assets of these estates pursuant to the Probate Code.

- Estates valued at \$50,000.01 to \$150,000.00. The Public Administrator may act after an ex parte application seeking authority to summarily dispose of a small estate is approved by the court.
- Probated Estates
 - These are estates over \$150,000.00 in value. An estate of this size is handled by the Public Administrator under the jurisdiction of the Superior Court. The proceeding commences from the first filing of a petition and appointment of the Public Administrator. Other procedures subject to court approval include proving a will, sale of property, paying taxes and distribution of assets. An accounting is completed and submitted to the court to show what was done before the Public Administrator is discharged.

The overall objective of the administration of an estate is to:

- Collect a decedent's assets (including partially owned assets)
- Determine and pay the debts, expenses, and taxes
- Distribute the balance of the assets to the persons (sometimes trusts) entitled to them.

In accordance with California Probate Code Section 7601, the Public Administrator must take immediate charge of the property within Humboldt County of all persons who have died when no executor or administrator has been appointed, and in consequence thereof, the property or any part thereof, is being wasted, uncared for, or lost; and of all estates ordered into his hands by the court. The Public Administrator must apply for Letters of Administration for estates of decedents who have no known heirs, or heirs unwilling or unable to act, and where no executor named in the Will is willing to act or able to qualify, and he may apply for such Letters for any other estate, which he is entitled to administer.

Upon appointment by the court, as administrator of an estate, the duties of the Public Administrator are similar to those of other administrators. They are mainly to collect, manage and account for the estate property; to pay funeral and last illness expenses, taxes and all other debts, as far as the estate is able; and to dispose of property, both real and personal, as ordered by the court.

The length of time for case investigation, administration of estate (sale of personal and real property), determination of heirship, final accounting and distribution of assets is from 4 months (an all cash estate) to 18-24 months for the average case (some cash, bank accounts and stock, real property). Since Court approval is mandatory for particular actions, some time periods are simply "wait time" to be heard in court. The Public Administrator must request and then be assigned a calendar date.

The work is finished when there are no longer any assets in the name of the decedent or the estate

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and any court-administered estate has been closed.

California Probate Code Section:

- 7605: All personnel assigned to the Public Administrator Division shall be members of the Public Administrator/Public Guardian/Public Conservator Association and shall comply with the training requirements set forth by the PA/PG/PC Association.

California Government Code Sections pertaining to sales of personal property:

- 27441: The public administrator shall charge and collect such fees as are allowed by law.
- 27442: If the public administrator is salaried and all fees and charges allowed him are paid or turned over to the county, then all fees and charges incurred by him for the benefit of any estate in which the assets prove insufficient therefor are county charges.
- 27443: Every person holding the office of public administrator, public guardian, or public conservator and any deputy or agent of such officer is guilty of a crime who:
 - (a) Purchases, directly or indirectly, the property of any estate or a claim against any estate administered by any public administrator, public guardian, or public conservator in his official capacity, or
 - (b) Acts upon any transaction or expenditure in connection with the administration of an estate by the public administrator, public guardian, or public conservator in his official capacity, when he has a financial interest in such transaction or expenditure, or, having knowledge of such interest, is associated in business with anyone who has such an interest.
 - Subdivisions (a) and (b) shall not be applicable to any act specifically authorized by court order.
 - Any violation of this section is punishable by a fine not exceeding one thousand dollars (\$1,000), or by imprisonment in the county jail not exceeding one year, or by both such fine and imprisonment, or by imprisonment pursuant to subdivision (h) of Section 1170 of the Penal Code. Upon conviction of this section a person forfeits his office. This section is not intended to preclude prosecution under any other provisions of the criminal law which are otherwise applicable.
- 27443.5: Employees in the office of public administrator, public guardian, or public conservator shall be subject to the provisions of Section 27443; provided that, the restrictions of Section 27443 shall apply only with respect to the administration of estates by their employing officer.
- 27444: The authority of the public administrator ceases upon termination of his or her tenure in the office of public administrator, and his or her authority vests in the successor in the office of public administrator. If letters have been issued to "the public administrator" of the county, the letters are sufficient to authorize action by the successor and new letters need not be issued.

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2.0 Indigent Burial/Cremation Program

The Sheriff-Public Administrator manages the County's Indigent Burial/Cremation Program. When a resident dies and his/her family is unable to manage the financial costs of the disposition of the remains, the family may apply for financial assistance.

The Sheriff-Public Administrator contracts with a mortuary to provide such assistance. The mortuary works with the families to complete applications. The information is provided to the Public Administrator's Office, and, if it is determined that the family meets the criteria, the payment for funeral services is made to the mortuary by the Office.

3.0 Definitions

- 3.1 **Executor** – An executor is the person named in a decedent's Will to handle the administration of the estate. The executor must be 18 and decedent can name more than one person to act as co-executor. If appointed, the executor receives Letters Testamentary.
- 3.2 **Administrator** – When a decedent leaves no Will, the court appoints someone to handle the administration of the estate. This person is called an administrator, and his/her duties and responsibilities are virtually identical to those of an executor. If appointed, the administrator receives Letters of Administration, as General Administrator.
- 3.3 **Administrator With Will Annexed** – Granted when a testator's Will does not name an executor or when the executor named is incompetent to act, is deceased, or refuses to act. If appointed, the administrator receives Letters of Administration as General Administrator.
- 3.4 **Special Administrator** – An administrator with authority to deal with only some of a decedent's effects, as opposed to administering the whole estate. The appointment is usually made to preserve the estate pending appointment of an executor or general administrator, where, for example, there may be a Will contest, or where assets of the estate are subject to immediate loss. If appointed, the administrator receives Letters of Special Administration.
- 3.5 **Successor Administrator** – An administrator appointed after original executor or administrator is removed by the probate court, either because of incapacity, death or malfeasance. If appointed, the administrator receives Letters of Successor Administration (perhaps with Will annexed, if a Will exists).

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TITLE	Persons Having Priority to Act	Policy 800.02
POLICY	If no Will exists, certain persons are entitled to appointment as administrator of the estate.	
REFERENCE	Probate Code Sections 50, 8461	

1.0 Definitions

- 1.1 Domestic partners – One of two persons who have filed a Declaration of Domestic Partnership with the Secretary of State pursuant to Division 2.5 (commencing with Section 297) of the Family Code, provided that the domestic partnership has not been terminated pursuant to Section 299 of the Family Code.
- 1.2 Issue – All his or her lineal descendants of all generations, with the relationship of parent and child at each generation being determined by the definitions of child and parent.
- 1.3 Lineal descendant – a direct blood relative.

2.0 Priority to Act

- 2.1 Per section 8461 of the Probate Code, if no Will and Testament (intestate) exists, a person in the following relation to the decedent is entitled to appointment as administrator in the following order of priority:
 - 2.1.1 Surviving spouse or domestic partner
 - 2.1.2 Children
 - 2.1.3 Grandchildren
 - 2.1.4 Other issue
 - 2.1.5 Parents
 - 2.1.6 Brothers and sisters
 - 2.1.7 Issue of brothers and sisters
 - 2.1.8 Grandparents
 - 2.1.9 Issue of grandparents
 - 2.1.10 Children of a predeceased spouse or domestic partner
 - 2.1.11 Other issue of a predeceased spouse or domestic partner
 - 2.1.12 Other next of kin
 - 2.1.13 Parents of a predeceased spouse or domestic partner
 - 2.1.14 Conservator or guardian of the estate acting in that capacity at the time of death who has filed a first account and is not acting as conservator or guardian for any other person.
 - 2.1.15 Public Administrator
 - 2.1.16 Creditors
 - 2.1.17 Any other person

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2.2 Exceptions to Priority

- 2.2.1 The surviving spouse or domestic partner, a relative, or a relative of the predeceased spouse or domestic partner of the decedent has priority only if the person takes part of the estate. (Probate Code 8462)
- 2.2.2 If the surviving spouse or domestic partner is a party to an action for separate maintenance, annulment, or dissolution and was living apart from the decedent at the date of death, he or she has priority after brothers and sisters. (Probate Code 8463)
 - 2.2.2.1 The spouse must be a party to the dissolution on the date of death; an action that was previously filed, but dismissed prior to death, does not disqualify the spouse.
- 2.2.3 Neither a minor nor a person subject to a conservatorship of the estate may serve as personal representative. (Probate Code 8402(a))
 - 2.2.3.1 The court has discretion to appoint the guardian of the minor (if there is one) or the conservator. (Probate Code § 8464)
- 2.2.4 Non-residents of the United States may not serve as administrator. (Probate Code 8402(a)).
 - 2.2.4.1 The court may appoint as administrator a person nominated by a non-resident of the United States. (Probate Code Section 8465(a)(2))

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TITLE	Decedent Referrals with Minor Children as Next of Kin	Policy 800.03
POLICY	The Sheriff-Public Administrator's Office will take all necessary actions when safeguarding assets in decedent cases where next of kin are minor children.	
REFERENCE	Probate Code Sections 330, 3401, 7600, 7604, 13100	

1.0 Definitions

- 1.1 Minor – An individual who has not yet reached legal age (18 years).
- 1.2 Guardianship of Minor's Estate – The court process in which a person is vested with the power, and charged with the duty, of managing the property of another person, who, for defect of age, is considered incapable of administering his own affairs.

2.0 Minor Children

- 2.1 The Sheriff-Public Administrator's Office is notified of the death of a decedent survived by minor children. The purpose of this notification is to ensure that the rights of the minor children as pertains to the estate are protected. The notification is made pursuant to Probate Code Section 7600 and there is no provision requiring our intervention in these cases. Therefore, it is imperative that we assist rather than interfere when investigating these estates.
- 2.2 A parent, grandparent, or person with custody of a minor child has no legal right to sign for valuables from an estate on behalf of that child. Neither money nor property can be released to the custodian solely by execution of the 13100 Affidavit.
- 2.3 A guardian of the estate of a minor is responsible to the court for property or money received for the minor. Most individuals do not encounter the need to act in this capacity until an event such as death occurs, requiring the collection of estate distribution or insurance proceeds. Prior to release of any item from this office to a person basing their right to said property under guardianship proceedings, a certified copy of the Letters of Estate Guardianship must be on file with us (an intent to obtain same is not sufficient).
- 2.4 A custodian of a minor does not have priority to act as administrator of the minor's parent's estate unless Letters of Guardianship have first been received. The person claiming to have priority should be aware of the need for guardianship proceedings prior to petitioning for Letters of Administration as we will assert our priority at the hearing if they fail to obtain same.
- 2.5 If the total estate does not exceed \$150,000 and the total estate of each minor child

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(including the property to be delivered from the estate) does not exceed \$5,000 and the estate otherwise is appropriate (within the confines of Section 13100), property may be delivered to the surviving parent by execution of affidavits pursuant to Section 330 and 3401. This is only applicable for delivery to a parent. A grandparent or custodian cannot execute a 3401 Affidavit. As this is a written assurance to hold the delivered assets for the minor until he/she attains majority, this method should not be implemented when you have reason to believe that the assets will not be held or that claims against the estate will not be paid.

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TITLE Public Administrator Referrals

Policy 800.04

POLICY The Sheriff-Public Administrator's Office will review all estate referrals and will take necessary steps to safeguard the assets of estates falling under its jurisdiction.

REFERENCE Probate Code Sections 48, 7600, 7600.5 and 7601

1.0 Definitions

- 1.1 Decedent Estate Referral – A written or telephonic reporting of the death of a Humboldt County resident with possible ownership rights to either real or personal property.
- 1.2 Interested Person –
 - (1) An heir, devisee, child, spouse, creditor, beneficiary, and any other person having a property right in or claim against a trust estate or the estate of a decedent which may be affected by the proceeding.
 - (2) Any person having priority for appointment as personal representative.
 - (3) A fiduciary representing an interested person. The meaning of "interested person" as it relates to particular persons may vary from time to time and shall be determined according to the particular purposes of, and matter involved in, any proceeding. (Probate Code Section 48.)

2.0 Estate Referral

- 2.1 Case referrals made to the Public Administrator will be forwarded to the Sheriff's/Coroner/Public Administrators Office. Any questions concerning the validity of an incoming referral should be directed to a supervisor. Criteria used to determine appropriateness will include:
 - 2.1.1 Decedent was a resident of Humboldt County.
 - 2.1.2 The responsible party, i.e., the next of kin, named executor of a Will, or the individual with nomination priority, is either unavailable or unwilling to act.
 - 2.1.3 There appears to be an estate, i.e., identifiable and collectable assets vested in the decedent's name.
 - 2.1.4 Case is being referred by a public officer under provisions of Section 7600 of the Probate Code.
 - 2.1.5 Referring party has a valid interest in the decedent's estate and is authorized to invoke action by the Public Administrator's Office (an "interested person" as defined in Probate Code Section 48).

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2.2 Sources of referrals

- 2.2.1 Coroner's Office
- 2.2.2 Private Attorneys
- 2.2.3 Families
- 2.2.4 Mortuaries
- 2.2.5 Nursing Homes
- 2.2.6 Hospitals
- 2.2.7 Public Guardian
- 2.2.8 Probate Court

- 2.3 Upon intake of a decedent referral, the Deputy Public Administrator, or a designee, will assign the referral to a Estate Investigator. That investigator will be listed as the department contact person for that estate. All incoming calls will be directed to the assigned Estate Investigator.
- 2.4 The Estate Investigator will then investigate the various aspects of the case to determine: (1) if the decedent's assets are subject to potential harm as defined in Sections 7600 – 7601 of the Probate Code (loss, injury, waste or misappropriation); (2) if the estate could benefit from the Public Administrator's involvement, and/or (3) if the person with priority to act wishes to nominate this office to manage the estate.
- 2.5 After making this determination, the Estate Investigator will forward the case, along with his/her recommendation for action (classification) to the Deputy Public Administrator who will review.
- 2.6 The Office will classify the case on the computer record system. Document action taken, if any and direct it to referring party, prepare the appropriate case folder, and forward the file to the assigned Estate Investigator. All incoming calls, inquiries and correspondence will be directed to the Estate Investigator.

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TITLE	Releasing Remains	Policy 800.04a
POLICY	The Estate Investigator will issue a release form to the contract mortuary for transfer of the remains when family and next of kin cannot be located.	
REFERENCE		

1.0 Releasing Remains

- 1.1 After receiving a referral, the Estate Investigator will conduct an immediate search for family and next of kin to handle disposition through a mortuary of their choice.
- 1.2 If family cannot be located and the decedent died in a hospital, convalescent care center or any facility that does not normally provide long-term storage, the Coroner will respond and take possession of the remains until disposition can be arranged.

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TITLE	Work Flow of Public Administrator's Office (General Outline) Record Keeping, HIPAA Compliance, Signatures	Policy 800.05
POLICY	The Sheriff-Public Administrator's Office will administer each estate in a timely manner, from referral intake to final distribution.	
REFERENCE	Probate Code Sections 7600-7601, 7604, 13100, 13114	

1.0 Receiving Referrals

- 1.1 The Estate Investigator receives telephonic referrals and determines whether or not the Public Administrator has jurisdiction. If the referral is accepted, the Estate Investigator completes PA Referral Form.
- 1.2 Referrals: Coroner's Preliminary Report for Public Administrator, Public Guardian Decedent Referral Report, Probate Court Notices of an Order to Show Cause (OSC), and other written referrals.
- 1.3 The Deputy Public Administrator assigns a Estate Investigator to investigate referrals received by the Office.
- 1.4 The Supervising Deputy Public Administrator assigns a Deputy Coroner to investigate the Order to Show Cause (OSC) referrals received from the Superior Court. In the absence of the Supervising Deputy Public Administrator, the Assistant Public Administrator, or a designee, will make these assignments.

2.0 Investigation

- 2.1 It is the Estate Investigator responsibility to safeguard the estate assets.
- 2.2 The Estate Investigator will make every effort to locate and notify the next of kin of the decedent's death.
 - 2.2.1 Due diligence is required in the search for family through an ancestry family search software, CLETS, etc. (such as, TLO, Ancestry.com, Accurint, etc.). A report describing steps taken to locate next of kin and the amount of time spent performing the search will be entered in the case file. A printout of the search results will be placed in the case file.
 - 2.2.2 Prior to making death notification, the Estate Investigator shall establish that the decedent is related to the family member. An initial "Contact Letter" will be sent to the potential relatives in order to communicate with and confirm the relationship.

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- 2.2.3 Death notification will be made once the relationship is verified.
- 2.3 If the family has been notified of the death, but has hesitated or refused to act, the "7-Day Letter" shall be sent to the nearest next of kin (person or persons of highest authority), via certified mail, within three (3) working days following death notification.
- 2.4 The initial thrust of the investigation by the Estate Investigator will be to determine if the decedent has a Will, and if the decedent has burial/cremation or funeral instructions. If a valid Will is found, the Estate Investigator will ascertain whether or not the named executor will act or nominate someone to act in his or her place. If the executor or his/her nominee will act, the Public Administrator's jurisdiction terminates. If the executor is unwilling to act, the Estate Investigator should determine if the executor wishes to nominate the Public Administrator. If a nomination is given to the Public Administrator, the Estate Investigator will continue to handle the investigation.
- 2.5 If no Will is found, the Estate Investigator will determine if the heirs wish to handle the case themselves, or, if the case meets the appropriate HCSO criteria, handle the estate pursuant to Section 13100 of the Probate Code. If the family wishes to handle the case themselves, the Public Administrator's jurisdiction terminates. (NOTE: If the Public Administrator's jurisdiction terminates, the Estate Investigator should determine if the Public Administrator is entitled to reasonable costs incurred for the preservation of the estate, together with reasonable compensation for services pursuant to Probate Code Sections 7604 and 13114, and initiate a billing.) If jurisdiction does not terminate, the Estate Investigator will continue the investigation.
- 2.6 The appropriate appointment authority will be determined by the size and character of the decedent's estate. The Estate Investigator will take the necessary actions to secure accurate information regarding the estate's asset inventory. These actions may include (but are not limited to):
- (1) On-site evaluations of the decedent's real and personal property;
 - (2) Notices of death and information requests obtained from or sent to banks, insurance companies, employer, securities agents, etc.;
 - (3) Interviews with any interested parties who may have knowledge of the decedent's assets or affairs; and
 - (4) Review of the Assessor's records, Department of Motor Vehicle's records, and any other records regarding possible real or personal property.
- 2.7 If funeral arrangements are pending, the Estate Investigator will forward a file to the Deputy Public Administrator for disposition of remains. The file is assigned to an Estate Investigator to contact the mortuary. If burial instructions are found, and this office is handling the case, the Estate Investigator should follow through on finalizing the process. If no instructions are found, the Estate Investigator should, if at all possible, honor the family's desires regarding disposition.

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- 2.8 After burial/cremation arrangements are made, the Estate Investigator will conclude the investigation. Upon completion of the investigation and a recommendation for classification (type of case: Formal, Summary, Miscellaneous, Miscellaneous-Indigent) the Estate Investigator will forward the case to the Deputy Public Administrator. If the investigator determines that there are no assets or that the family will act, the investigation is concluded, the Deputy Public Administrator will review the file and the case is closed.

3.0 Investigation of Order to Show Cause

- 3.1 The investigation of OSC referrals are a matter of priority for the Office because of the impending court hearing. The Office must be prepared to report to the Court the appropriateness/inappropriateness of the appointment of the Public Administrator as successor administrator/trustee. The focus of a Estate Investigator's OSC investigation is to determine:
- 3.1.1 The nature, extent and current status of assets owned by the decedent at date of death.
 - 3.1.2 The various issues/complications hindering the current personal representative's ability to complete the management of the estate.
 - 3.1.3 Current status of case.
 - 3.1.4 Whether or not there are identifiable and collectable assets vested in decedent's name.
 - 3.1.5 Why the current administrator/executor is unable to fulfill his/her duties and responsibilities.
 - 3.1.6 The Deputy Coroner will perform a search for other assets including real estate, vehicles, property placed with the California State Controller, and bank accounts.
 - 3.1.7 At the conclusion of the investigation, if the Estate Investigator has been unable to locate assets and the current executor is not bonded, the Estate Investigator will prepare a memorandum recommending that the Public Administrator not be appointed in this matter. If identifiable and collectable assets vested in the decedents name are located, and the current representative is unable to fulfill his duties and responsibilities as executor to the estate, the Estate Investigator will prepare a memorandum requesting that the Deputy Public Administrator and his attorney review the OSC to determine if Public Administrator involvement is prudent and necessary.

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- 3.4 The Deputy Public Administrator will perform a search for other assets including real estate, vehicles, property placed with the California State Controller, and bank accounts. The Deputy Public Administrator may request the assistance of an Estate Investigator to help with these tasks.
- 3.5 At the conclusion of the investigation, if the Deputy Public Administrator has been unable to locate assets and the current executor/administrator is not bonded, the Deputy PA will prepare a declaration to be filed with the court recommending that the Public Administrator not be appointed in this matter.

4.0 Administration of Estate

- 4.1 Depending upon the type of case, the Deputy Public Administrator's initial focus will be to safeguard assets belonging to the estate. The Deputy PA will immediately verify that each piece of real property, both improved and unimproved, are properly insured, and that personal property is secured (i.e., decedent's residence is secure and property is reasonably secure until the Public Administrator's court-appointment).
- 4.2 Upon notification of a miscellaneous probate (valued at less than \$50,000), the Deputy Public Administrator will assign a Estate Investigator to take control of the decedent's assets. Notices of the decedent's death will be sent to banks, insurance companies, the Department of Health Services, Social Security Administration and the Post Office. Personal property will be sold (after notice given to beneficiaries or heirs). Creditors are provided notice and debts satisfied if estate is solvent.
- 4.3 Upon assignment of a summary probate (valued between \$50,000 and \$150,000), the Deputy Public Administrator will retain the services of legal counsel to prepare a summary petition and order. Upon assignment of a formal probate (valued at greater than \$150,000), the Deputy Public Administrator will retain the services of legal counsel to prepare a petition for appointment. Notices of the decedent's death are sent to banks, insurance companies, the Department of Health Services, Social Security Administration, Post Office and the Franchise Tax Board. Upon receipt of Letters of Administrator or Order Appointing Public Administrator Summarily, the Deputy Public Administrator will perform the following duties and responsibilities:
 - a) Marshal assets.
 - b) Submit wage claims and insurance claims.
 - c) Collect bank accounts, inventory and takes possession of the contents of safe deposit boxes, and obtain all securities and stocks.
 - d) Inspect and manage real property and/or any business.

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- e) Collect and inventory all personal property.
- f) Sell real and personal property when necessary.
- g) Provide notice to creditors in summary matters; provide information to attorneys in formal proceedings so they may provide notice to creditors.
- h) In a formal proceeding, provide attorney with inventory information for preparation of the Inventory and Appraisal.
- i) Distribute personal effects (no value items) to the next of kin or arrange for their storage or disposal.
- j) Review incoming creditor's claims for validity and accuracy, and recommend approval or rejection.
- k) Provide Certified Public Accountant with any information in the deputy's possession regarding all tax related matters. Ensure the prompt filing of all personal and fiduciary tax returns as required.
- l) Respond to any inquiry (written or oral) from a beneficiary, creditor, or any other interested party.
- m) Provide the attorney with pertinent information for preparation of court accounting, including Estate Transaction History, and real and personal property sales reports.
- n) Track the case along the various stages of the administration, ensuring that the estate is closed as soon as it is feasible and as equitably as possible.
- o) Prepare distribution sheets, letters of transmittal, and receipts for beneficiaries in summary and miscellaneous estates.
- p) Prepare Statements of Disposition in summary estates.
- q) Order the appropriate checks from Accounting and forward them to the attorney in formal estates upon receipt of a court-approved order for distribution. Upon filing of receipts with court, a Declaration for Final Discharge will be prepared by the attorney, signed by Public Administrator, and filed with the court, terminating the jurisdiction of the Public Administrator.

5.0 Record Keeping

- 5.1 All data, information and/or documentation pertaining to the investigation or case management will be kept with the estate file upon receipt in the office.

6.0 HIPAA Compliance and Security

- 6.1 All files will be kept in locked cabinets by the Estate Investigator, deputies, and the office assistant at the end of their respective shifts. Each staff person is responsible for the securing of his or her files in their individual cabinets. Duplicate keys will be kept by supervision for access.
- 6.2 All file storage areas will be kept locked in the absence of an Estate Investigator. This will ensure the privacy of stored files and security of personal property.

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7.0 Organization and Signatures

7.1 Authorized signers consist of the following members of the Public Administrator Office:

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| a) Sheriff - | Coroner and Public Administrator |
| b) Undersheriff - | Assistant Coroner and Public Administrator |
| b) Lieutenant - | Deputy Coroner and Public Administrator |
| c) Non-Sworn Manager - | Assistant Deputy Public Administrator (future position) |
| d) Sheriff or Coroner Deputy - | Estate Investigator |

7.2 Every effort shall be made to obtain signatures from authorized signers for all correspondence, form letters, forms, checks and legal documents.

7.3 The Sheriff's signature stamp will be used only with the approval of an authorized signer or his/her designee.

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TITLE	Death Notifications	Policy 800.05 a
POLICY	Estate Investigator shall make death notifications as soon as reasonably possible. Utmost priority should be given to locating next of kin.	
REFERENCE		

1.0 Notification

- 1.1 Notification should first be made to the decedent's next of kin. The investigator is to make sure there is no possibility of misidentifying either the decedent, or the next of kin.
 - 1.1.1 Notification of death shall be made without delay. If for some reason notification is delayed, the investigator shall inform a supervisor of the circumstances.
 - 1.1.1.1 When a supervisor is made aware of the delay, other arrangements are to be made to handle the notification as soon as possible.
 - 1.1.2 If the Estate Investigator is unable to locate the next of kin at the last known address or telephone number, a "Contact Letter" is to be mailed to the person with a corresponding name and telephone number of the investigator.
- 1.2 The responsibility of notification rests on the Estate Investigator.
 - 1.2.1 If the Estate Investigator is consumed with other case details, another Estate Investigator may assume the task.

2.0 Weekly Agenda

- 2.1 Estate Investigators are required to submit a "Weekly Agenda" to their supervisor.
 - 2.1.1 Each agenda must include a list of decedents as a means of noting the urgency in locating and notifying family, and to avoid unnecessary delay in the decedent's disposition.
 - 2.1.1.1 The list shall be complete with the decedent's name, date of death and location of body. After approval by the supervisor the agenda shall become part of the case file.

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TITLE	Burial Arrangements	Policy 800.06
POLICY	The Sheriff-Public Administrator's Office will perform the duty of interment, or burial disposition, as required by Section 7100 of the Health and Safety Code. If the Office is required to make the burial disposition, the arrangements shall be based on established measures of reasonable costs and the specific circumstances of individual cases.	
REFERENCE	Probate Code Sections 7600-7666, 11420(3), Health and Safety Code Section 7100	

1.0 Burial Arrangements

- 1.1 Whenever possible, a decedent's next of kin should arrange and pay for the decedent's appropriate funeral disposition. If the Deputy Public Administrator has to determine or approve the amount spent on burial arrangements (i.e., the estate will be responsible for payment or reimbursement of the funeral expense), the following factors regarding the appropriate disposition should be considered by the assigned deputy:
 - 1.1.1 The decedent's own wishes.
 - 1.1.2 The gross value of the decedent's estate.
 - 1.1.3 The apparent solvency/insolvency of the estate.
 - 1.1.4 The court rules concerning the expenditure of burial funds (if any).
 - 1.1.5 The decedent's station in life.
 - 1.1.6 The funds available to pay.
 - 1.1.7 The wishes of heirs or legatees.
 - 1.1.8 Previous arrangements by the decedent; for example, burial arrangements for a predeceased spouse.
 - 1.1.9 The approval of the probate court.
- 1.2 Grave markers will be purchased when appropriate in given case situations. Absent input by relatives or beneficiaries, the Deputy Public Administrator will make the decision based on funds available, total amount already obligated, and the actual cost of the marker. As a rule, the deputy should order a minimum price item. If estate solvency is questionable, the marker decision should be deferred until the estate is ready to close.
- 1.3 Upon arriving at an agreeable cost, the deputy should note in "events" or on the investigator's worksheet, the name of the mortuary/cemetery handling the funeral and the

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exact price agreed upon. Any variance of this amount on the mortuary's bill will subject that portion of the obligation to disapproval.

- 1.4 Upon receipt of the funeral bill, the deputy should ensure that it is accurate. If it is not accurate, it is the deputy's responsibility to reconcile the difference with the mortuary. When the amount is correct, the deputy should allow the bill.
- 1.5 Payment of the cost of the funeral is usually given priority over other obligations and may be paid as soon as the funds are available.

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TITLE	Indigent Disposition and Abandoned Cremains	Policy 800.07
POLICY	The Sheriff-Public Administrator's Office will perform the duty of Indigent Burial Officer in accordance with all state and local laws and guidelines.	
REFERENCE	California Health and Safety Code Section 7100	

1.0 Definitions

- 1.1 Direct Cremation – An immediate cremation disposition without service or viewing.
- 1.2 Direct Burial – An immediate burial disposition without service or viewing.
- 1.3 Indigent Burial/Cremation – The general term used for indigent funeral dispositions authorized and paid for by the Sheriff-Public Administrator's Office.
- 1.4 Contract Mortuary – The mortuary under contract with the Office to provide indigent cremation/burial services.

2.0 Referrals from families for indigent cremation/burial assistance

- 2.1 The Office's contract mortuary will assist families with the application process and forward the documentation to the Office.
- 2.2 Deputy Public Administrator will review the application and supporting documents. If the application is incomplete, the Estate Investigator will interview family members and verify information.
- 2.3 The Estate Investigator will note their findings and forward the information to supervision with a recommendation for approval or denial of the application.
- 2.4 The approval or denial will be faxed to the contract mortuary.

3.0 Estates administered by the Public Administrator's Office meeting criteria for indigent cremation or burial

- 3.1 If an estate under the jurisdiction of the Office is unable to pay for the cost of burial (mortuary and cemetery charges), the Estate Investigator will arrange for cremation or burial with the Office's contract mortuary.
- 3.2 The arrangements shall be made in accordance with the provisions of the contract, which include, but are not limited to, transportation, storage, cremation, disposition of cremated remains, or direct burial.
- 3.3 Unidentified Decedents

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- 3.3.1 When the decedent's identity cannot be determined and that disposition arrangements may now be made, the Estate Investigator will arrange for *burial*. Cremation arrangements *will not be made without approval of a supervisor*.
- 3.4 Homicide Victims
 - 3.4.1 In the absence of family and/or pre-need funeral arrangements, the Estate Investigator will arrange for the *burial* of homicide victims. Cremation arrangements *shall not be made without supervisor approval*.
- 3.5 Cremated Remains Abandoned at Mortuaries
 - 3.5.1 When families have failed to retrieve cremated remains from mortuaries, the Office will accept a referral from the mortuary and investigate the matter *prior to taking possession of the cremated remains*.
 - 3.5.2 The Estate Investigator will obtain the following information from the mortuary:
 - 3.5.2.1 Name, relationship, and address of any next of kin.
 - 3.5.2.2 A written statement from the mortuary as to their efforts to locate family.
 - 3.5.2.3 A copy of the mortuary contract and burial permit.
 - 3.5.3 The Estate Investigator make arrangements for final disposition.
 - 3.5.4 The Estate Investigator will search for family. If family is located and willing to accept the cremated remains, they will be directed to the mortuary.
 - 3.5.5 If the Estate Investigator is unable to locate family, or the family is uncooperative, the Office will accept the cremated remains from the mortuary.
 - 3.5.6 The Estate Investigator will determine the decedent's veteran status.
 - 3.5.7 The Estate Investigator will document his/her findings, close the investigation and submit the file to supervision for approval of indigent internment.
 - 3.5.9 The Estate Investigator will contact the contract mortuary with instructions for interment of the cremated remains. Mortuary will sign a receipt when the cremated remains are released to them.

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- 3.6 Cremated Remains Abandoned At Various Locations (Excluding Mortuaries)
 - 3.6.1 The Office will immediately accept abandoned cremated remains from anyone possessing them (excluding mortuaries)
 - 3.6.2 A file will be opened and the matter assigned to an Estate Investigator.
 - 3.6.3 If the Investigator finds family the cremated remains will be released to them.
 - 3.6.4 If family is unwilling to accept the cremated remains or, if family is not located, the Investigator will determine the decedent's veteran status.
 - 3.6.5 The Estate Investigator will document their findings, close the investigation and submit the file to supervision.
 - 3.6.6 If interment is approved, arrangements will be made for final disposition by the Estate Investigator and the contract mortuary.

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TITLE	Management and Control of Estates	Policy 800.08
POLICY	The Sheriff-Public Administrator's Office will ensure that all estates handled by the Office are managed with ordinary care and diligence.	
REFERENCE	Probate Code Section 9600	

1.0 Probate Code Section 9600 (in part)

- (a) The personal representative has the management and control of the estate and, in managing and controlling the estate, shall use ordinary care and diligence. What constitutes ordinary care and diligence is determined by all the circumstances of the particular estate.

2.0 Estate Review

- 2.1 The Deputy Public Administrator, acting as personal representative, will review his/her assigned cases every ninety (90) days. After completion of the review, notes will be entered in the case file indicating that the review has taken place, along with a brief explanation of the status of the case.
- 2.2 In checking the status of each estate, the Deputy PA should review the case events, the estate inventory, the estate transaction ledger, the creditor's claims, and, if solvent, the heirship status.
- 2.3 The Deputy Public Administrator should immediately address any problems or deficiencies discovered during the deputy's case review.
- 2.4 Any matters of concern should be brought to the attention of a supervisor, the Public Administrator.

3.0 Formal Case Reviews

- 3.1 To ensure the proper management of each estate, case reviews will be routinely conducted. Office staff members will participate in the review and the Public Administrator, or designee, will then audit each estate file.

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TITLE	Independent Administration of Estates Act	Policy 800.09
POLICY	The Sheriff-Public Administrator's Office may elect to administer Formal Estates using authority provided by the Independent Administration of Estates Act (IAEA).	
REFERENCE	Probate Code Sections 10500	

1.0 Definitions

- 1.1 Devisee - A recipient of property (usually real property) by Will.
- 1.2 Legatee - One who is named in a Will to take personal property; one who has received a legacy or bequest. Loosely, one to whom a devise of real property is given.
- 1.3 Ex Parte - Done or made at the instance and for the benefit of one party only, and without notice to, or argument by, any person adversely interested (an ex parte hearing).
- 1.4 Interested person - (1) Devisees and legatees whose interest in the estate is affected by the proposed action. (2) Heirs of the decedent in the intestate estates. (3) The State of California if any portion of the estate is to escheat. (4) Persons who have requested special notice.

2.0 Administration of Formal Estates

- 2.1 The assigned Deputy Public Administrator and attorney representing the Public Administrator will make the final determination on whether or not to request that the estate be administered under Independent Administration of Estates Act (IAEA).
- 2.2 All Creditors' Claims are to be filed with the court. As prior court approval is not required to make payment, Creditor's Claims Allowances are filed for record purposes only.
- 2.3 Once the executor or administrator has obtained authority to administer under IAEA, it becomes discretionary whether or not to obtain court approval for certain transactions. If at any time the deputy believes that prior court approval should be obtained even when it is not required, the situation should be discussed with a supervisor and the attorney.
- 2.4 The IAEA was designed to be used in administering simple estates in which there are no disputes between interested parties and the parties have a cooperative attitude toward the administrator. If a large number of persons are interested in the estate or if there are any disputes, authority to administer an estate under IAEA should be requested, but used sparingly.
- 2.5 The Assistant Public Administrator determines whether or not to request authority to administer under IAEA. The decision to do so is strictly optional. Upon determining to petition for authority to administer under the Act, the deputy will request the attorney to

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incorporate the IAEA petition into the Petition for Letters of Administration. Upon obtaining Letters with such powers, the estate will be administered without court approval for most transactions.

3.0 Actions Requiring Court Approval

- 3.1 The IAEA is designed to eliminate the need for obtaining prior court approval for most of the transactions taken by the executor or administrator between the time of appointment and the time of final distribution. Certain actions, however, continue to require court approval (Probate Code Section 10501):
 - 3.1.1 Sale or exchange of real property whether sold individually or as a unit with personal property (unless accomplished through a Notice of Proposed Action);
 - 3.1.2 Allowance of executor's and administrator's commissions and attorney's fees;
 - 3.1.3 Settlement of accountings;
 - 3.1.4 Continued payment of a family allowance for a period in excess of twelve (12) months (Probate Code Sections 6540);
 - 3.1.5 Preliminary and final distributions and discharge (subject to Section 10520);
 - 3.1.6 Borrowing money or executing a mortgage or deed of trust or giving other security;
 - 3.1.7 Leasing any real property (1) if the Will does not authorize or direct the personal representative to lease property; (2) and the term exceeds one year;
 - 3.1.8 Completing a contract entered into by the decedent to convey real or personal property;
 - 3.1.9 Determining third party claims to real and personal property if the decedent died in possession of, or holding title to, such property, or determining decedent's claim to real or personal property, title or possession of which is held by another.

4.0 Actions That Do Not Require Court Approval (Probate Code Sections 10530-10564)

- 4.1 Manage and control the estate (except as specific provisions of the IAEA require court supervision or notice of proposed action).
- 4.2 Enter into a contract (except as noted in subdivision (b), Probate Code Section 10532);

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- 4.3 Deposit money in an insured account in a financial institution in California;
- 4.4 Invest in direct obligations of the United States or the State of California that mature within one year;
- 4.5 Invest in certain money market funds that invest in United States government obligations;
- 4.6 Invest in common trust funds described in Fin C Sec. 1564;
- 4.7 Continue the decedent's business operations or act in the decedent's place as a general partner of a partnership for a period no longer than six months after the date letters were issued;
- 4.8 Pay a family allowance;
- 4.9 Lease real property for a period of one year or less, lease estate personal property for a period of two years or less, or lease personal property for any period while retaining the unrestricted right to terminate the lease within two years of its making;
- 4.10 (1) Sell or exchange personal property consisting of securities sold on an established stock or bond exchange or listed and sold through NASDAQ by a broker-dealer, (2) sell subscription rights for cash, (3) sell personal property that is perishable or uneconomic to keep or that is needed to provide for payment of a family allowance for cash, or (4) surrender certain securities for redemption or conversion;
- 4.11 Grant an exclusive right to sell estate property for a period not exceeding a cumulative total of 270 days;
- 4.12 Take any action that a personal representative without authority under the IAEA could take without court supervision;
- 4.13 Allow, pay, reject, contest, or settle any claim by or against the estate, compromise or settle any claim or action involving the decedent, the estate, or the personal representative; release uncollectible claims in whole or in part, as long as the provisions of Probate Code Section 10501 are complied with;
- 4.14 Begin, maintain, and defend actions and proceedings for the benefit of the estate; defend actions or proceedings against the decedent, the personal representative, or the estate;
- 4.15 Extend, renew, or modify obligations to or favoring the estate of the decedent;
- 4.16 Convey or transfer property to implement any specific power granted under the IAEA.

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- 4.17 Pay taxes and administration expenses
- 4.18 Purchase an annuity from an admitted insurer to satisfy a provision of the Will;
- 4.19 Exercise an option right that is an estate asset;
- 4.20 Purchase securities or commodities required to complete a sale made by the decedent;
- 4.21 Hold a security in the name of a nominee or any other form;
- 4.22 Exercise security subscription or conversion rights;
- 4.23 Repair and improve estate property when approved by supervisor. In most cases, the property will be sold as is;
- 4.24 Accept a deed to property subject to a mortgage in lieu of foreclosure or sale under a deed of trust; and
- 4.25 Give a partial satisfaction of a mortgage or cause the trustee of a deed of trust to execute a partial reconveyance.

5.0 Actions that Require a Notice of Proposed Action (Probate Code Sections 10530-10538)

- 5.1 Manage and control estate property if the provision governing that particular action to be taken requires that a notice be given;
- 5.2 Enter into contracts if, by their terms, they are not to be fully performed within two years (unless the representative has the unrestricted right under the contract to terminate the contract within two years) or if the contracts are made to exercise specific powers granted under the IAEA which require the giving of notice for exercise of the power;
- 5.3 Invest money as permitted in Probate Code Section 10533(a)(2)(d) or (a)(3) except for investments in direct obligations of the United States or the State of California maturing within one year;
- 5.4 Continue the decedent's business operations or act in the decedent's place as a general partner of a partnership for a period beyond six months after the date letters were issued;
- 5.5 Pay a family allowance, but only if the payment is either the first payment of a family allowance or the first payment of a family allowance for a period beginning 12 months after the decedent's death, or an increase in the amount of a family allowance.

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- 5.6 Enter into a lease of estate real property if the lease is for a period of more than one year (including any extensions to which the lessee is entitled), or the lease of estate personal property if the lease period is more than two years (unless the representative has the unrestricted right under the lease to terminate it within two years);
- 5.7 Sell or exchange personal property, except for (1) securities sold on an established stock or bond exchange or listed and sold through NASDAQ by a broker-dealer, (2) the cash sale or subscription rights, (3) the cash sale of personal property that is perishable or uneconomic to keep or that is needed to provide for payment of a family allowance, or (4) the surrender of certain securities for redemption or conversion; or
- 5.8 Grant a broker an exclusive right to sell property if the grant is for a cumulative period of more than 270 days.

6.0 Interested Persons Will Be Advised Of Transactions Not Requiring Court Approval

The attorney representing the Public Administrator will give legal notice to all interested parties before any of the following actions take place (Probate Code Sections 10510-10519):.

- 6.1 Sell or exchange real property;
- 6.2 Sell or incorporate decedent's business or venture;
- 6.3 Abandon tangible property that is uneconomic to collect, maintain or safeguard;
- 6.4 Borrow or encumber property;
- 6.5 Grant an option to purchase real property within or beyond the period of administration;
- 6.6 Transfer property to one given an option in the Will to purchase that property;
- 6.7 Convey or transfer property in completion of decedent's contractual obligations;
- 6.8 Allow, compromise, or settle third party claims to property owned by or possessed by decedent and decedent's claims to property owned or possessed by another;
- 6.9 Make a disclaimer.

7.0 Advice to Interested Parties Must Be In Writing and Be Delivered either In Person or By Mail

- 7.1 The advice must contain a reasonably specific description of the proposed transaction.
- 7.2 Failure to give the advice could be cited as a reason for dismissal as administrator. However, such failure will not affect the validity of the action taken.
- 7.3 Any person to whom advice is required to be given has the right at any time to obtain an ex parte restraining order restraining the administrator from consummating any particular transaction without prior Court approval.

8.0 Preliminary Distributions under IAEA (Probate Code Section 10520)

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- 8.1 Under IAEA, the administrator may secure an ex parte order authorizing a preliminary distribution. With such an order, preliminary distribution can be made in a few days without need for a formal hearing and the filing of an accounting. In order to secure an ex parte order the following must be met:
 - 8.1.1 The time for filing creditor's claims must have expired.
 - 8.1.2 A partial inventory and appraisal must be filed because the assets to be distributed cannot exceed 50% of the net value of the estate.
 - 8.1.3 All taxes must have been paid or a Certified Public Accountant has consented to the distribution.
 - 8.1.4 The Court must find that the estate is but little indebted and that the distribution can be made without loss or injury to the estate or any person interested in it.
 - 8.1.5 If the distribution is to be made to a trust, an accounting must be made unless the trustee waives it.

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TITLE	Search of Residences, Vehicles, Safe Deposit Boxes Inventory / Residence Maintenance	Policy 800.10
POLICY	The Sheriff-Public Administrator's Office will endeavor to take great care in the gathering and preservation of personal property. All personal property accessed and/ or retained by this Office shall be inventoried, witnessed and receipted.	
REFERENCE	Probate Code Sections 330, 7603	

1.0 Estate Inventory

1.1 Searches of Residences

- 1.1.1 If decedent maintained a residence (home, apartment, mobile home, etc.), the Estate Investigator will visit the premises as soon as it is established that the estate may fall under the jurisdiction of the Public Administrator's Office, or the residence is not secured. In the absence of a second investigator, one investigator and an additional staff person may search the residence.
- 1.1.2 Digital photographs of each room are to be taken immediately upon entering the premises. Video recording will be use when necessary.
- 1.1.3 A thorough search is made of the residence especially looking for: a Will, burial instructions, relative information, bank accounts, insurance policies, property deeds, veteran papers, jewelry, weapons, or cash.
- 1.1.4 If a Will and/or relatives are found, the executor or family members are immediately contacted for the purpose of determining who will proceed with the estate. (If an executor or family member is located and they wish to proceed with the estate, the Estate Investigator shall conclude the investigation.)

2.1 Search of Vehicles

- 2.1.1 If decedent owns a vehicle or vehicles, the Estate Investigator will access the vehicle(s). If the vehicle(s) cannot be accessed, the Estate Investigator person will contact supervision for further instructions.
- 2.1.2 Digital photographs of the vehicle or vehicles will be taken of the exterior and interior, including the trunk and all vehicle storage compartments. Video recording will be use when necessary.
- 2.1.3 A thorough search of all areas of the vehicle or vehicles will be made including the interior, the trunk, all vehicle storage compartments, especially looking for a Will, burial instructions, important documents, next of kin information, cash, jewelry, or weapons.

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- 2.1.3.1 In the event unsafe hazardous weapons and/or hazardous materials are found, supervision shall be contacted immediately for further instruction. The unsafe weapon and any type of hazardous materials will not be brought into the Sheriff's Property area. They will be managed at the residence.
 - 2.1.4 The contents of the vehicle or vehicles will be inventoried during the search by the Estate Investigator. An inventory may not be performed in the following circumstances: the staff person is unable to gain access to the vehicle (contact supervision); the vehicle is not registered to decedent; the vehicle is at a tow yard; the vehicle is in a "hoarder" condition; the death occurred in the vehicle and is unsanitary or unsafe to enter.
 - 2.1.4.1 In the event the vehicle is not inventoried at the residence or its location, the vehicle will be inventoried by the Estate Investigator once it is delivered to the storage facility as per Estate Vehicle Policy 800.27.
- 3.1 Search of Safe Deposit Box:
 - 3.1.1 If a safe deposit box key is located, immediate arrangements will be made to access the safe deposit box.
 - 3.1.2 If a key to the safe deposit box is not located, the Estate Investigator will consult with a supervisor as to the method to fund the payment of a locksmith to "drill" the box to gain access.
 - 3.1.3 Boxes should be entered as soon as possible for a Will search.
 - 3.1.4 The safe deposit box shall be opened and the contents collected by the Estate Investigator within four (4) months after the appointment of the Public Administrator.
 - 3.1.5 A bank employee shall accompany the Estate Investigator during the search of the safe deposit box. Under no circumstances will an investigator perform a search or inventory without the presence of a bank employee.
 - 3.1.6 In the absence of Letters of Administration or a Summary Order, to accomplish a Will search, the bank will require a certificate of Public Administrator's authority to proceed pursuant to Probate Code Section 7603.

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- 3.1.7 A Will and/or Funeral Instructions search is conducted.
 - 3.1.9 The Will shall be turned over to the Attorney representing the Public Administrator for review and filed per the Attorney's directions.
- 4.1 Inventory / Maintenance of Residences:
- 4.1.1 The Estate Investigator shall conduct the formal inventory of the residence. No property will be omitted from the inventory sheets except for alcohol, food, pet food, and cleaning supplies. Items of little or no value may be grouped together.
 - 4.1.2 The placing of an adequate description on property items, particularly jewelry, aids in identification, and serves as a basis of computation of a loss in the event of fire or theft. Items of lesser value may be grouped. Each item inventoried will reflect the condition of the property (i.e., good, fair, poor) and will also indicate the location of the property (i.e., "DR" decedent's residence; "W" warehouse; "AS" accounting safe, etc.).
 - 4.1.3 At the conclusion of the residence search, the investigators shall empty the refrigerator of all perishable food, unplug it and leave the door ajar.
 - 4.1.4 Prior to leaving the residence, the hot water heater shall be turned off, as well as any other appliances or units that would consume power and pose a threat to the integrity of the structure.
 - 4.1.5 Primary residence and vehicle keys will be identified and marked separately.
 - 4.1.6 The Estate Investigator will inventory personal property located in the decedent's vehicle.
 - 4.1.7 Any property removed from the residence or safe deposit box and will be handled in accordance with departmental policy.

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TITLE	Photograph and Video Recording of Residences	Policy 800.10a
POLICY	The Estate Investigator shall photograph and video record and the decedent's residence as a means of documenting the condition of the premises and the decedent's personal property at the time of the referral.	
REFERENCE		

1.0 Photographic and Video Recording Documentation

1.1 Recording Documentation of Residences

If the decedent maintained a residence (home, apartment, mobile home, etc.) two Estate Investigators, or an investigator and staff member, shall visit the premises, as soon as, it is established that the estate may fall under the jurisdiction of the Public Administrator.

- 1.1.1 The Estate Investigator shall photograph and video exterior and interior of the residence, other property buildings, out buildings, recreational and other vehicles on the first visit.
- 1.1.2 Each area should be viewed and recorded to document the condition of the residence and the items present in the home.
- 1.1.3 All photographs and Video shall be secured in the Coroner's/Public Administrators' Office e-file system and the case file. All photographs and video documentation shall be stored as per statute of limitation retention requirements.

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TITLE	Personal Property Intake and Disposition	Policy 800.11
POLICY	The Sheriff-Public Administrator's Office will follow all departmental guidelines regarding the acquisition and recording of personal property belonging to decedent's estates.	
REFERENCE		

1.0 Personal Property

Estate Investigators are frequently required to take charge of a decedent's personal property during the course of an investigation. Any staff person receiving property will ensure that all property coming into his or her possession is properly witnessed, documented and safeguarded.

2.0 Residence Searches Shall Be Conducted with No Less than Two Staff Members

2.1 If a search must take place and only one staff person is available, the search must be approved by a supervisor.

3.0 Personal Property Received from Facilities

3.1 Property received from facilities is to be verified in the presence of a facility witness.

3.2 Valuables must be placed in a sealed envelope and signed by the facility witness along the seal's edge by the staff person receiving the property and thereafter delivered to the office.

3.2.1 The property can be "cherry picked" for items of value, leaving non-valuable items behind.

3.3 The property must be inventoried by the staff person receiving the property on a Public Administrator inventory sheet in the presence of a witness same day of receipt of said property. If the property cannot be inventoried the same day, it is to be given to supervision for safe keeping and is to be inventoried the following business day.

4.0 Delivery of Property from Residences

4.1 The Estate Investigator will determine if the property of a decedent is in a secure location. Limited items determined to have high value shall be removed from the decedent's residence and moved to storage areas. These items usually consist of guns, jewelry, and U.S. Currency.

4.2 If the decedent resided in a mobile home or house, the Estate Investigator shall make the determination of whether the removal of personal property is required according to the circumstances of the case and the number of items. In large estates it may be necessary to leave the property in place until an estate sale can be held at the property location.

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- 4.3 If the decedent resided in a care facility or a rental situation, the personal property should be transported to a safe location, as soon as it is determined that the family will not be acting, and in an effort to avoid incurring future rents, or theft or vandalism of the property.

5.0 Inventory of Property

- 5.1 Every effort will be made by the Estate Investigator to inventory property at the residence.
- 5.2 The Estate Investigator completing the inventory will complete all boxes the top portion of the inventory sheet and itemize the property on an inventory form. For uniformity and identification purposes, all receipts and inventories should list the decedent's last name first, first name last, and indicate the location from where the property was removed (Coroner, residence address, hospital, safe deposit box).
- 5.4 Have the witness sign each new inventory page.
- 5.5 While off-site (residence, facility, etc.), all non-inventoried valuables such as uncounted coins, and/or jewelry, must be placed in a container or bag (preferably evidence bag, brown paper bag, etc.), sealed, dated and signed on the seal by the person receiving said item and by the witness.
- 5.6 If upon return to the office there is no time to inventory the collected items, deliver the non-inventoried valuables to the secured storage area. The following business day, the property will be collected and inventoried by the Estate Investigator who brought the property to the office.
- 5.7 All personal property will be inventoried on an Inventory Sheet by the person who collected the property in the presence of another, with the completed paperwork signed by the witness. Upon completing the Inventory, place all items into a evidence bag, seal it and attach a copy of the Inventory Sheet on the plastic bag.
- 5.8 Once all personal property is inventoried, witnessed and sealed in either an evidence bag or brown paper bag, the personal property is to be deposited in Property Management areas. A member of Property Management will sign the Inventory Sheet, acknowledge receipt of the property, and retain a copy of the Inventory Sheet in the case file.
- 5.9 Photographs and personal papers are to be sorted and placed on an Inventory Sheet by the staff person delivering them to the office.
- 5.8 The Estate Investigator will include an inventory of all estate assets in the case file during the course of the investigation (personal property, real property, bank accounts, insurance proceeds, etc.). The status of these items, and any additional assets found during estate

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administration, will be entered by the assigned Estate Investigator. The Estate Investigator will update the status of assets as items are sold, distributed, or abandoned.

- 5.9 Personal property brought in during the course of the investigation should be placed in the secure storage room marked with the date it was brought in, and the estate name.

6.0 Release of Property

- 6.1 If, subject to provisions of the Probate Code, another party establishes priority over the Sheriff-Public Administrator to handle the decedent's estate, the investigator will ensure that proof of the status and identity of the person to whom the property is being delivered is received before any valuables are released.
- 6.2 All personal property items being released will be verified against the inventory sheet with the party.
- 6.3 The party will sign and date the inventory sheet where indicated as a form of receipt.
- 6.4 The original signed inventory sheet will remain with the file and a copy provided to the party.

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TITLE	Personal Property - Cash	Policy 800.11a
POLICY	The Sheriff-Public Administrator's Office will follow all appropriate departmental guidelines regarding the acquisition and recording of cash and currency belonging to decedent estates	
REFERENCE		

1.0 This section applies to all forms of U.S. Currency

1.1 All other foreign currencies and checks will be handled as described in Personal Property Intake and Disposition.

2.0 Collection and Inventory of Cash

2.1 The receipt and inventory of cash will be handled with the same care as described in **Personal Property Intake and Disposition** with the following requirements:

2.1.1 All cash shall be counted and inventoried by the staff person that collected it the same day it is brought in.

2.1.1.1 If overtime is required to accomplish the counting and inventorying of the cash, the staff person will seek supervisor approval. Overtime will be approved for this purpose.

2.1.1.2 If the person that brought in the cash cannot stay beyond end of shift, the task will be delegated to available personnel.

2.1.2 All cash is to be counted and inventoried in the presence of another staff person.

2.1.3 The cash will be counted and verified and placed on an Inventory Sheet, and witnessed by the staff person assisting with the count.

2.1.4 Cash is to be bagged separately and inventoried separately from other personal property or paperwork.

2.1.5 The cash and Inventory Sheet will be given to Accounting. If they are unavailable, the cash and Inventory Sheet will be placed in the drop safe. The Inventory Sheet will be stapled or attached to the bag.

2.1.6 An email will be sent to Accounting advising that the funds are in the safe.

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3.0 Coins

- 3.1 If the cash also consists of a few coins, the coins will be counted and inventoried along with the cash as explained above.
- 3.2 If the coins are too many to easily count in a few moments, the coins will be placed, uncounted, in an evidence bag or suitable container, and given to supervision for safe keeping. No later than the following business day, the coins will be retrieved and taken to a local business with a coin counter by the staff person that collected the coins.
 - 3.2.1 A second staff person will assist with taking the coins to a local business for counting and will sign the Inventory Sheet as a witness.

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TITLE	Real Property Management	Policy 800.12
POLICY	Real property will be managed by the Sheriff-Public Administrator's Office in such ways as to maximize both the security and the estate value of the properties.	
REFERENCE		

1.0 Securing Real Property

- 1.1 The Estate Investigator will assume overall responsibility for real property upon receiving assignment of the case.
- 1.2 The Estate Investigator will make arrangements to insure the property if the property is uninsured or if there is no available proof of insurance.
- 1.3 The Estate Investigator will shut off the water, electric and gas service at the residence at the earliest possible time, unless there is a specific need to keep it on (pool, lawn sprinklers, escrow walk-thru). Exceptions will be discussed with supervisor.
- 1.4 The Estate Investigator will ensure that the property is adequately safeguarded from potential damage or unauthorized occupancy by transients, vandals, or other individuals.
- 1.5 The Estate Investigator will initiate any required action regarding unauthorized occupancy, non- payment of rent, complaints regarding renters, complaints regarding the property, lease violations, or any other property problem.
- 1.6 The Estate Investigator will coordinate the rentals of properties in appropriate situations and any potential renovations required to make the properties suitable for renting.
- 1.7 The Estate Investigator will consult with the Assistant Public Administrator or Office Commander concerning the expenditure of estate funds to renovate or improve real property.
- 1.8 The Estate Investigator will make an on-site inspection of each improved parcel of real property or mobile homes located within the County of Humboldt.
- 1.9 The Estate Investigator will make the appropriate first contact with all interested parties of the decedent estate, including those individuals concerned with the decedent's real property (i.e., renters, etc.). The deputy will inform these individuals of the authority by which the Public Administrator has taken charge of the estate.
- 1.10 The Estate Investigator will handle all issues regarding the decedent's real property.

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TITLE	Real Property Intake/Property Insurance	Policy 800.13
POLICY	The Sheriff-Public Administrator's Office will take all necessary actions to identify, document, and safeguard all real property under the jurisdiction of the Office.	
REFERENCE		

1.0 Definitions

- 1.1 Vesting – A recorded title to property indicating ownership.
- 1.2 Encumbrance – A claim or liability that is attached to property or some other right and that may lessen its value, such as a lien or mortgage; any property right that is not an ownership interest.
- 1.3 Easement – An interest in land owned by another person, consisting in the right to use or control the land, or an area above or below it, for a specific limited purpose (such as to cross it for access to a public road).

2.0 Procedure

- 2.1 The Estate Investigator, in the course of the investigation, normally discovers the existence of real property in an estate. The investigator determines ownership and title vesting by checking available documentation and by reviewing the County Assessor's records.
- 2.2 The Estate Investigator will request a Property Profile.
- 2.3 The Estate Investigator will complete a Property Insurance Request form providing specific information concerning the nature of the property (i.e., type of roof, number of rooms, square footage, etc.).
- 2.4 The Estate Investigator will include in the case file all available information and any supporting documents, e.g., deeds, title policies, tax bills, etc., reference the real property.
- 2.5 Within five working days of being assigned the case, the Deputy Public Administrator shall verify that real property insurance is in place either by maintaining the insurance purchased by the decedent or by arranging for such insurance. The Deputy PA need not wait for the court to appoint the Public Administrator, but shall endeavor to immediately ensure and protect the estate from loss.
 - 2.5.1 If the decedent has property insurance in place, the Deputy PA shall, in writing, advise the insurance carrier or agent that the owner is deceased and that the Public Administrator has taken charge of the estate. The Deputy PA will inquire as to

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whether or not the insurance company will cancel its coverage. In some instances, the company may cancel the coverage.

- 2.5.2 Unimproved property requires liability insurance.
 - 2.5.3 Mobile homes and improved real property, whether occupied or vacant, require fire, extended coverage, vandalism, malicious mischief, and liability coverage.
 - 2.5.4 Improved real property requires fire insurance and extended coverage. Condition and value of mobile homes and improved real properties should be taken into consideration when purchasing insurance.
- 2.6 The Deputy PA will request a Preliminary Title Report to determine vesting, encumbrances, easements and other facts concerning real property. The Deputy PA will review the Report and take any action required resolving issues (i.e. delinquent property taxes, Affidavit Re: Death of Joint Tenant, etc.).

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TITLE	Authorization to Liquidate Real or Personal Property	Policy 800.14
POLICY	The Sheriff-Public Administrator's Office will liquidate real and personal property when necessary to meet the needs of the estate. Estate property shall not be sold without the supervisor's written authorization.	
REFERENCE	Probate Code Sections 68, 7661, 10000; California Government Code section 27443, HCSO Memorandum 08/07/2017 Direction for Public Administrator Duty	

1.0 Definitions

- 1.1 Property – Anything that may be the subject of ownership and includes both real and personal property and any interest therein.
- 1.2 Personal Property – Includes any movable or intangible thing that is subject to ownership and not classified as real property. (Furniture, furnishings, vehicles, mobile homes, jewelry, numismatic coins, stocks, bonds, debentures, bank accounts, and investment accounts, etc.)
- 1.3 Real Property – Includes improved and unimproved real estate, and a leasehold interest in real property.

2.0 Liquidating Real or Personal Property

- 2.1 The Sheriff-Public Administrator has the statutory power to sell estate property subject to the following limitations, conditions and requirements as set out in Probate Code Section 10000:
 - 2.1.1 Where the sale is necessary to pay debts, devise, family allowance, expenses of administration, or taxes.
 - 2.1.2 Where the sale is to the advantage of the estate and in the best interest of the interested persons.
 - 2.1.3 Where the property is directed by the Will to be sold.
 - 2.1.4 Where authority is given in the Will to sell the property.
- 2.2 The Deputy Public Administrator will review the decedent's Will for instructions as to the disposition of estate property, and follow those instructions whenever possible. The Estate Investigator will consult with a supervisor before arranging to liquidate items specifically mentioned in a Will.

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- 2.3 The Assisting Public Administrator will consult with family members as to the disposition of estate property prior to its liquidation. Instructions from family should be obtained in writing, whenever possible.
- 2.4 Once it is determined that estate property will be sold, the Estate Investigator shall complete an Authorization to Sell Real or Personal Property and present it for review and approval by the Deputy Public Administrator and the Public Administrator.

3.0 Liquidating Real or Personal Property

- 3.1 Personal estate property in the custody of the Public Administrator must be disposed of in accordance with the California Probate and Government Codes. This provides instruction that will allow the Public Administrator to move forward with sales of a decedent's personal property pursuant to California Probate Code 7661 in a way that ensures compliance with applicable laws, regulations, and policies. To accomplish this goal, the Chief Deputy Coroner and agents assigned to the Coroner's office shall take the following steps when receiving and administering an estate:

4.0 Marshall Assets and Inventory Estate Property:

- 4.1 All estate property received by the Public Administrator (PA) will be documented via digital video and cataloged onto a PA property receipt. All property that has an estimated value of \$50 or more will be cataloged in detail and will ultimately be sold through an official estate sale (see Paragraph 3, below). All property with a value of \$10-\$49 may be itemized and stored in storage containers and subsequently disposed in a "Lot Sale."
- 4.2 All firearms, jewelry, and cash in the custody of the PA will be photographed in the place where discovered and then packaged for storage at the PA Office.
- 4.3 Cash will be counted in front of a witness. If no witness is present at the scene, the cash will be sealed and documented with the responding officer's signature along with the time and date collected, stored, and subsequently counted with a witness at the PA Office.
- 4.4 All firearms seized will be entered into CLETS as stored property associated with the specific estate within 24 hours.
- 4.5 All other property will be stored at the decedent's residence, if applicable, or in a rented storage unit.
- 4.6 All vehicles will be stored at a designated storage location. All vehicles to be sold as part of an administration will be sold pursuant to Paragraph 3, below. (Any vehicle sales in an estate with a Superior Court case shall be conducted only with the consultation and advice

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of the attorney handling the case to ensure that all applicable legal requirements are met.)

5.0 Third Party Valuation

- 5.1 The PA needs to determine if the estate exceeds \$50,000 in value. If so, the PA would either follow the process specified in Probate Code section 7660(a)(1) or contact Janssen Malloy to file a Petition for Probate with the Court.
- 5.2 **Estates over \$50,000:** No personal property shall be sold until either the process described in Probate Code section 7660(a)(1) is completed or until an Inventory and Appraisal is completed by the Probate Referee. All sales of real and personal property in a formal probate proceeding shall be done in consultation with the attorney handling the case to ensure that all pertinent legal requirements are met.
- 5.3 **Estates Under \$50,000:** No property shall be sold pursuant to Probate Code section 7660(a)(2) until all of the estate property has been marshalled and inventoried and a determination made that the total value of the property in the decedent's estate does not exceed fifty thousand dollars (\$50,000).

6.0 Sales of Personal Property, Estates Under \$50,000 in Value:

- 6.1 The PA shall sell decedent's personal property at public auction unless specific factors make sale at public auction impractical, i.e. the cost of holding an auction exceeds the estimated value of estate property. The PA shall be responsible for selecting the property to be auctioned and may not leave this decision to the discretion of the auctioneer. The PA shall supervise all aspects of auction sales of estate property and shall require that the auctioneer or his/her designee reconcile items sold or left unsold at auction with the estate property inventory to ensure that all items are accounted for. The PA shall maintain in the estate file a summary of the results of the auction that includes the item sold, the sale price, the name and address of the purchaser, and the estate to which the sale price should be credited.
- 6.2 The PA shall maintain a roster of individuals and/or companies that have indicated an interest in purchasing personal property from estates administered by the PA. The PA shall invite individuals and/or companies to be listed on this roster by posting a permanent announcement on the HCSO website, Craigslist, and/or any other for sale type websites. In the alternative, the PA shall, on an annual basis, place an advertisement in a paper of general circulation in Humboldt County inviting individuals and companies to be listed on the roster.
- 6.3 All parties listed on the roster shall be notified via e-mail of all sales held by the PA no less than five (5) business days prior to such sale. If the PA becomes aware that a decedent's

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friends, family members, or alleged family members have an interest in purchasing property from a particular decedent's estate, the PA shall notify them of the sale and also accept bids from them as well.

6.4 At least 15 days prior to the sale, the following notices will be issued:

6.4.1 Official notice will be posted at the County Courthouse and Coroner's Office; and

6.4.2 Publication pursuant to section 6063(a) of the Government Code in a newspaper of general circulation in the county.

6.5 Where the individual assigned to PA duties reasonably believes that sale at public auction is not in the best interest of the estate because the value of the estate property is less than the price to hold an auction The PA may dispose of a decedent's personal property by sealed bid auction or household estate sale. A household estate sale will be advertised fifteen (15) days in advance of the sale where items are individually marked by the PA or specified agent at fair market value and sold at the decedent's residence. Where the personal property consists of furnishings or fixtures of less than \$500.00 in value, or where specific factors make sale by other means impractical, such property may be sold in conjunction with the sale of the real property, after consultation with attorney and or Supervisor, so long as applicable legal requirements are met. The PA may sell similar items with an individual value of less than \$50.00 as a combined lot, i.e. clothes, kitchenware, etc. Personal property that has no value may be disposed of at the PA's discretion

6.6 Each time the PA disposes of estate property by sealed bid auction, the highest bid shall be selected. The PA shall ensure that information regarding the bid amounts and the identity of bidders is not disclosed during the bidding process. A copy of each bid shall be retained in the estate file.

6.7 All payments made by purchasers of personal property shall be promptly deposited in the estate account with the Humboldt County Treasurer.

6.8 The use of third parties to conduct the auction or household sale of personal property is permissible and recommended, and the PA shall select and compensate such third-parties in the manner prescribed by the County of Humboldt for the selection and compensation of vendors.

7.0 Conflict of Interest, Applies to ALL Probate Estates

7.1 No estate property entrusted to the PA will be sold, transferred, or given away **regardless of value** to any of the following people:

7.1.1 Employee, former employee, or current volunteer of the Humboldt County Sheriff's

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- 7.1.2** Relatives or domestic partners of any employee of the Sheriff's Office
- 7.1.3** Any person or company that has an active contract with or performs a duty for the Public Administrator's Office
- 7.1.4** Any person whose receipt of the property may pose a potential "Conflict of Interest", either actual or perceived
- 7.1.5** Any county public official
- 7.1.6** Any of those individuals listed in California Government Code section 27443

8.0 Improvements

- 8.1** No property, personal or real, shall be improved by the Public Administrator, except in limited circumstances and with the approval of the Chief Deputy Coroner or a designated PA supervisor approved by the Sheriff.
- 8.2** Any improvements to properties in formal probate cases should be documented in a request and submitted to the assigned attorney for consultation.
- 8.3** If any work needs to be performed on the property to maintain landscaping or to remove a hazard or trash, a licensed business, non-profit organization, or contractor shall be used.
- 8.4** The compelling need for the work and resulting benefit to the estate must be balanced against the cost of the work to the estate and carefully documented in the estate file.
- 8.5** At no time shall the Public Administrator employ or allow any of the persons listed in 7.1 to perform work on an estate property.
- 8.6** This applies to all estates, regardless of value.
- 8.7** Any improvements contemplated in cases where a probate proceeding is pending in the Superior Court shall be discussed, decided, and carefully documented in consultation with the attorney handling that case.

9.0 Vehicles

- 9.1** All vehicles shall be sold "as is."

10.0 Debts

- 10.1** No outstanding bills or debts of any estate will be paid by the PA until the estate has the necessary funds in the designated decedent's account to cover the bills to be paid.

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TITLE	Sale of Real Property	Policy 800.15
POLICY	The sale of real property by the Sheriff-Public Administrator's Office will be conducted in accordance with all Probate Code statutes, local court rules, and real estate guidelines.	
REFERENCE	Probate Code Sections 1220, 1230, 9940 et. seq., 10300-10363, 10510-10511, 10538	

1.0 Definitions

- 1.1 Confirmation of Sale – The court hearing which approves the sale of estate property to a specific buyer.
- 1.2 Exclusive Listing – The granting by the court of an “Exclusive Right To Sell Agreement” to a specified broker for a period not to exceed ninety (90) days.
- 1.3 Minimum Overbid – The amount required as the minimum acceptable offer for real or personal property during the court confirmation hearing.

2.0 Requirements for Sale

- 2.1 No property, either real or personal, will be prepared for sale until **Authorization to Sell Real or Personal Property** has been approved by the Deputy Public Administrator.

3.0 Legal Authorization

- 3.1 Generally, Probate Code Sections 10300-10351 govern real property sales.
- 3.2 The Sheriff-Public Administrator will enter into an Exclusive Listing Agreement with a real estate broker or agent. The attorney representing the Public Administrator will prepare the petition and order needed to obtain the court's permission to enter into such an agreement. Conditions/terms of the agreement are as follows:
 - 3.2.1 Probate Code Section 10150(c) permits a personal representative to grant an exclusive listing for a period not to exceed ninety (90) days after obtaining the permission of the court. To obtain such permission, the representative must file a petition setting forth in detail a description of the property to be sold, the broker to be employed, the listing price, and the terms of the exclusive listing agreement.
 - 3.2.2 Without seeking court approval, Probate Code Section 10538 permits a personal representative with Independent Administration of Estates (IAEA) powers to enter into an exclusive listing agreement for not more than ninety (90) days and the power to grant to the same broker one or more extensions, each extension not to exceed

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ninety (90) days. No notice of this action is required.

3.3 Regardless of the type of estate, the method of sale (auction or listing), or the powers granted (court supervision or independent authority), notice of sale of real property will be published pursuant to Section 10300 of the Probate Code by the Attorney representing the Public Administrator and the estate. As noted in this statute, publication frequency will conform to standards specified in Government Code Section 6063(a), which reads in part:

3.3.1 Publication of notice pursuant to this section shall be for at least ten (10) days. Three publications in a newspaper published once a week or oftener, with at least five (5) days intervening between the first and last publication dates will be sufficient. The period of notice commences upon the first day of publication and terminates either at the end of the day of the third publication or at the end of the tenth day, including therein the first day, whichever period is longer.

As noted above, three (3) separate publications are required during a period of at least ten (10) days. The publication period shall be completed before "the day specified in the notice as the day on or after which the sale is to be made (Section 10300). The attorney representing the Public Administrator will prepare the notice of publication and cause its publication.

3.4 Once the above publication requirements have been met, sales may proceed on the stated sale date, or up to one (1) year after that date, without need for further publication. All other sale requirements (appraisal dates, special notice, etc.) must, of course, be adhered to regardless of the date of the sale.

3.5 As previously stated, real property sales are accomplished with the use of exclusive broker listings. An exclusive listing agreement must also conform to Probate Code and local court requirements for real property sales. These requirements include:

3.5.1 The exclusive listing agreement does not exceed ninety (90) days. The exclusive listing agreement can be less than a ninety (90) period.

3.5.2 There is no automatic renewal after the ninety (90) day period expires.

3.5.3 The sale is subject to court confirmation.

3.5.4 The commission will not exceed six (6) percent for improved property and ten (10) percent for unimproved property, unless authorized by a supervisor. (The court ultimately determines the amount of the commission.)

3.5.5 The sale is "as is" with no warranties.

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3.5.6 A ten (10) percent deposit accompanies the purchase offer. (This is the preferred amount. However, the deposit amount is subject to negotiation with supervisor approval.)

4.0 Confirmation

- 4.1 If the real property is listed for sale, the deputy will periodically review the comps and reduce the asking price, as necessary. *Every offer* will be discussed and considered.
- 4.2 Upon receipt of an acceptable offer, and its acceptance by the Assistant Public Administrator and will provide the attorney with the information necessary to prepare the confirmation documentation. All sales of estate real property will be confirmed by the Superior Court.
- 4.3 Before the court will confirm the sale of real property, bidders other than the purchaser are permitted to make increased bids to the court. The minimum acceptable overbid will be equal to the original offer plus ten (10) percent of the first \$10,000.00 and five (5) percent of the remaining balance. For example, the minimum overbid amount on a \$100,000.00 sale would be as follows:

Original bid = \$100,000.00
10% of \$10,000 = \$ 1,000.00
5% of \$90,000 = \$ 4,500.00
Minimum overbid = \$105,500.00

- 4.4 Once the sale is confirmed by court, and escrow is opened, the Assistant Public Administrator will handle all questions or requests from the buyer, his broker or the title/escrow company during this period.
- 4.5 Generally, the sale of a promissory note secured by a deed of trust must be confirmed in court with the purchase price subject to overbid. The minimum bid is equal to the original offer plus ten (10) percent. Additionally, the leasing of real property may require confirmation in court (Probate Code Section 9940 et seq.).

5.0 Notice of Proposed Action

- 5.1 On rare occasion, circumstances will warrant the use of the Notice of Proposed Action, rather than the preferred court confirmation process. The Notice of Proposed Action shall only be used with the permission of the Public Administrator. The court confirmation process is preferred because it allows the court to review and approve the sale, and because it allows individuals interested in the property to appear in court and participate in an overbid. The Notice of Proposed Action is allowed by the Probate Code and is a tool that can

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be used to affect a sale of real property. However, there is no court review process and no opportunity for an overbid. The Public Administrator's Office will strive in all instances to obtain court confirmation of the sale of real property. Circumstances that warrant the use of a Notice of Proposed Action include:

- 5.1.1 Impending loss of property due to foreclosure.
- 5.1.2 All beneficiaries or heirs of the estate are in favor of the offer and wish to expedite the sale process.
- 5.2 When the decision to proceed with a Notice of Proposed Action has been made, the attorney representing the Public Administrator will prepare the Notice pursuant to Probate Code Sections 10580-10600.
- 5.3 If no objections are made by any person entitled to Notice of Proposed Action under Section 10581, the offer to purchase can be accepted and an escrow opened to accomplish the sale. If any person entitled to such notice makes an objection, the court confirmation process will be followed.

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TITLE	Sale of Personal Property	Policy 800.16
POLICY	The sale of personal property by the Sheriff-Public Administrator's Office will be conducted in accordance with all Probate Code statutes and local court rules.	
REFERENCE	Probate Code Section 10250-10264	

1.0 Sale of Personal Property

1.1 Notice of Sale

The Public Administrator may sell personal property, with or without notice, in any of the following cases:

1.1.1 Where the property is directed by the Will to be sold.

1.1.2 Where authority is given in the Will to sell the property

1.1.3 Where property is perishable, will depreciate in value if not disposed of promptly, or will incur loss or expense by being kept.

1.1.4 Where sale of the property is necessary to provide for the payment of a family allowance pending receipt of other sufficient funds.

1.2 The Public Administrator does not give notice when selling personal property in a miscellaneous estate or where appointed with Independent Administration of Estates (IAEA) powers.

1.3 Unless one of the criteria as stated in 1.1 above is met, a Formal or Summary estate will require a Notice of Sale. The Deputy Public Administrator may choose one of the following methods:

1.3.1 A posting of the Sale at the courthouse at least 15 days before: (1) In the case of a private sale, the day specified in the notice of sale as the day on or after which the sale is to be made; (2) In the case of a public auction sale, the day of the auction.

1.3.2 Publication in a newspaper: (1) In the case of a private sale, the day specified in the notice of sale as the day on or after which the sale is to be made; (2) In the case of a public auction sale, the day of the auction.

1.3.3 In a Summary estate, the Estate Investigator will be responsible for the Notice of Sale. In a Formal estate, the Deputy PA shall request the attorney to prepare the Notice of sale.

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TITLE	Sale of Personal Property	Policy 800.16
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2.1 Authorization for Sale

2.1.1 Property will not be prepared for sale until an Authorization for Sale has been approved and signed by the Assistant Public Administrator.

2.1.2 Family members will be consulted concerning sales of personal property, regardless of the solvency of the estate. If the estate is insolvent, the family members shall have an opportunity to purchase items from the estate prior to a private sale or auction.

2.1.3 If there is a Will, and the estate is insolvent, the devisee shall have an opportunity to purchase the item at the appraised value prior to a private sale or auction.

3.1 Auctions/Estate Sales

The Public Administrator can sell personal property at auctions or estate sales, by a contracted auctioneer/estate sale representative or they can conduct auctions/estate sales at a decedent's residence as related to the challenges of the property management.

4.1 Individual Sales

In the instance of a family member wishing to purchase items from the estate, the Estate Investigator will organize such a sale. The deputy will ensure a Report of Sale document, collection of funds, including sales tax, and deliver the report and funds to Accounting.

5.1 Vehicles

When vehicles are to be sold, either at auction or by individual sale, the Deputy Public Administrator will provide to the buyer Letters of Administration, a Summary Order, or a Certificate of Public Administrator, and a Certificate of Death.

Vehicles will not be released until all funds have been received and verified, Bill of Sale and the Release of Liability are completed and signed, and a photo copy or photograph is taken of the buyers DMV License.

Documents will be placed into the Estate File.

The Vehicles will be sold "as is" with "no warranty".

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TITLE	Firearms / Weapons	Policy 800.17
POLICY	The Sheriff-Public Administrator Office shall comply with all appropriate laws when selling firearms and other miscellaneous weapons.	
REFERENCE	Policy and Procedure 700.14 Firearms / Weapons	

1.0 Transportation / Retention

- 1.1 Firearms shall be unloaded prior to transportation. The weapons shall be disabled and secured. Weapons are packaged for storage. Ammunition shall be placed in ammunition storage containers and transported separately from the weapon, and not placed in the firearm box, firearm barrel, cylinder, or in any magazine.
- 1.6 The Estate Investigator shall run the weapon and serial number through CLETS.
- 1.7 Firearms and ammunition are to be inventoried on a separate Inventory Sheet and entered into the inventory portion of the data system.

2.0 Gun release

- 2.1 Legal Firearms can be released to next of kin, providing the next of kin is an adult, and legally able to possess a firearm.
 - 2.1.1 The Estate Investigator shall send a certified letter to the next of kin indicating how they can apply, through the Department of Justice (DOJ), to recover the firearm. (Copy of sample letter and DOJ Form is attached to this policy.) DOJ forms and applications can be found at: <http://ag.ca.gov/firearms>, under General Information – Forms and Publications – Law Enforcement Gun Release Application.

3.0 Special Considerations

- 3.1 In order to release a weapon that is not registered with DOJ and not found in AFS, the individual obtaining the weapon as personal property must fill out the following, and send both forms together within the same envelope with any applicable fees to the DOJ:

Firearm Ownership Report (BOF 4542A)
Law Enforcement Gun Release Application (BOF 119)
- 3.2 In order to release a weapon as property that is not registered to the decedent; however, is registered in AFS to an individual, the Estate Investigator must attempt to locate the registered owner within 90 days. If the Estate Investigator is unsuccessful in locating the registered owner, the weapon can be released to the Next of Kin (NOK) as long as the NOK has filled out the Gun release application and has been approved and can provide the letter

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or certificate from the DOJ.

- 3.3 If the registered owner of the weapon is located, then the following must be completed by the registered owner prior to release of the weapon:

Firearm Ownership Report (BOF 4542A)
Law Enforcement Gun Release Application (BOF 119)

- 3.4 All other release procedures and documentation for release of property shall be followed, to include, but not limited to, signature for the property by the releasing employee and the receiving individual and appropriate entry into the database for tracking.

4.0 Disposal of Firearms will be coordinated through Property Technician

- 4.1 A firearm may be destroyed in the following circumstances:

4.1.1 A signed letter authorizing destruction has been received from the decedent's next of kin and 180 days has passed since a letter was sent to the next of kin, stating the firearm would be destroyed if not claimed in 180 days.

- 4.1.3 Illegal Firearm

4.1.3.1 In all cases, the firearm must be run first to see if it is stolen.

4.1.3.2 In order to retrieve a weapon for destruction, the Estate Investigator will obtain a supervisor's written approval on the Inventory Sheet prior to the weapon being moved out of storage. The Estate Investigator will be provided with a copy of the signed Inventory Sheet.

- 4.2 The firearm shall be listed on the Sheriff-Public Administrator's Office "Firearm Disposal Log" and sent to the Property Technician.

- 4.3 The Property Technician shall dispose of firearms.

- 4.4 Other weapons, such as knives, etc. may be disposed of in similar fashion.

- 4.7 Ammunition will not be sold.

4.7.1 Should next of kin or a beneficiary express an interest in receiving the ammunition, the release of ammunition can only be made with the approval of a supervisor.

4.7.2 The Inventory Sheet and computer data system are to be updated.

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5.0 Sale of firearms and other miscellaneous weapons:

- 5.1 Firearms are to be inventoried by the Property Technician and appraised through a contractor.
- 5.2 Unless firearms contained in a particular estate are specifically requested for disposition by an entitled heir, they will be offered for sale to a California FFL firearms dealer.
- 5.3 If estate property does include firearms, heirs should be notified of this policy as soon as possible. Firearms should not be sold or destroyed prior to notification of heirs and a receipt of a written response.

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TITLE	Creditor's Claim	Policy 800.18
POLICY	The Sheriff-Public Administrator's Office will handle all debts of the estate in accordance with statutory laws and local Superior Court rules.	
REFERENCE	Probate Code Sections 9000-9399, 11420-11429	

1.0 Definitions

1.1 Section 9000 of the California Probate Code defines a "Claim" as follows:

- (a) "Claim" means a demand for payment for any of the following, whether due, not due, accrued, or not accrued, or contingent, and whether liquidated or unliquidated.
 - (1) Liability of the decedent, whether arising in contract, tort, or otherwise.
 - (2) Liability for taxes incurred before the decedent's death, whether assessed before or after the decedent's death, other than property taxes and assessments secured by real property liens.
 - (3) Liability of the estate for funeral expenses of the decedent.
- (b) "Claim" does not include a dispute regarding title of a decedent to specific property alleged to be included in the decedent's name.

2.0 Claims

- 2.1 Creditor's Claims are subject to the statute of limitations set forth in Section 9051 of the Probate Code, which requires that they be submitted within four (4) months from the date Letters are first issued to a general personal representative.
- 2.2 Originals bills received on Public Administrator estates are held by the Estate Investigator assigned to the case. Once appointed, the Estate Investigator causes a claim to be mailed to each creditor on file, and in formal probates, the attorney representing the Public Administrator causes a Notice of Administration of Estate to be sent to the creditor.
- 2.3 When a claim is received, the Estate Investigator reviews the claim for validity in terms of both the debt information presented and the estate circumstances. In a formal estate, the Estate Investigator will request the attorney to prepare an approval or rejection of claim. The Estate Investigator maintains summary and miscellaneous estate claims that are approved. Generally, criteria to be used in the evaluation of claims are outlined in Probate Code Section 9151. Any questions regarding the appropriateness of a claim should be addressed with a supervisor.

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- 2.4 Claimants of wholly or partially rejected claims have ninety (90) days from the date of notification to file a court action contesting the decision (Probate Code Sections 9250 and 9353).

3.0 Claims Presented in Formal Estates

- 3.1 All Creditors' Claims must be submitted on a court approved Creditors' Claim form and filed directly with the court. Claims do not have to be mailed to estate representative to be valid.
- 3.1 The Estate Investigator will forward bills to the attorney requesting that Notice to Creditors be prepared and forwarded to the creditor. The attorney should have information concerning creditors within 30 days from date of appointment, or within 10 working days after receipt of the bill if the 30-day time period has already expired.
- 3.2 Claims against the estate are paid in the order of priority according to Section 11420 of the Probate Code.
- 3.3 Claims in solvent estates may be paid at any time after the Notice to Creditors has expired. According to Probate Code Section 11421 priority claims (funeral, last illness, family allowance and wage claims) are to be paid as soon as sufficient funds, after reserving funds for cost of administration, are available.
- 3.6 General claims in insolvent estates are not paid until final accounting and the proration of the claims. However, funeral claims, last illness claims, family allowance claims, wage claims, should be paid as soon as sufficient funds to pay all priority claims are available, after reserving funds for cost of administration, if there is no question of their classification, and after approval of a supervisor. If there is a question as to whether a claim is a priority (as sometimes occurs with possible "last illness" claims), it should not be paid from an insolvent estate without court order.
- 3.7 Department of Health Services' claims may or may not be considered general creditors depending on the services the Department is seeking reimbursements. If some of the services were for last illness then that portion would be treated as a priority claim.
- 3.8 Claims of Franchise Tax Board are not priority creditors, do not come before federal taxes, funeral, and last illness, etc., but is a preferred creditor coming before general creditors of the estate.
- 3.9 A representative proceeding under the Independent Administration of Estate Act (IAEA) has authority to:
- (a) Allow, pay, reject, or contest any claims by or against the estate;

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- (b) Compromise or settle a claim action, or proceeding involving the decedent, personal representative, or the estate; or
 - (c) Release claims to the extent they are uncollectable. Court filed actions are subject to settlement by court approval or Notice of Proposed Action.
- 3.10 If the estate is not administered under the IAEA the judge must also approve the claim for payment or rejection. Most cases are administered under the IAEA.
- 3.11 Claims in estates of persons dying on or after January 1, 1993, are barred if not presented within one year after date of death.

4.0 Claims Presented in Summary Estates

- 4.1 Creditor's Claims in Summary Probates will be processed using the same procedures and forms as in Formals, except that they are not filed with the court.
- 4.2 In Summary Estates the claims are requested to be directed to the Public Administrator's Office and should be presented within four months from the date of appointment. However, until the Statement of Disposition is prepared claims can be considered.

5.0 Determining Validity of Claims

- 5.1 The Estate Investigator determines if: (1) Claim is sufficient as to form and content to be approved; (2) Claim is submitted on appropriate form and necessary sections (boxes) are completed, signed, and supported by an affidavit or declaration, amount is justly due, and correct amount; (3) Claim was timely filed with the court and itemized statement is made on claim or attached thereto. If any questions or doubts arise as to the validity of a claim, consults with a supervisor concerning approval or rejection.
- 5.2 Before approval, the Deputy determines if claim has been filed with the court by cross checking with attorney, the court's website or filed copies of claims.
- 5.3 If claim is determined to be valid, the deputy requests the attorney to prepare the Allowance or Rejection of Creditor's Claim form and the attorney directs it to the creditor.
- 5.4 If claim is determined to be insufficient as to information provided, within ten (10) working days of receipt of Claim the deputy will send a letter to claimant explaining the defect and requesting that it be remedied by a new claim or an amended claim filed with the court. Within thirty (30) days if defect is not corrected, deputy will request attorney to prepare and provide service of the Allowance or Rejection of Creditor's Claim form to the creditor. Under certain conditions Probate Code Section 9154 allows personal representative to waive formal defects in a claim.

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- 5.5 Under certain conditions, Probate Code Section 9154 allows a personal representative to waive formal defects in a claim. To pay claims pursuant to that section, the deputy should promptly review all claims four months after letters of a general personal representative are issued. The Deputy may pay an otherwise defective claim provided:
- 5.5.1 The debt is justly due;
 - 5.5.2 The debt is paid in good faith;
 - 5.5.3 The amount paid is the true amount of the indebtedness over and above all payments and offsets;
 - 5.5.4 The estate is solvent; and
 - 5.5.5 The claim is paid within 30 days after the 4-month period has expired.

6.0 Payment of Claims

- 6.1 After determining sufficient funds are available to pay costs of administration, Deputy pays priority creditors: funeral expenses; expenses of last illness; family allowance; and wage claims.
- 6.2 Requests for payments are to be made and recorded through the County Auditor Office when approved by the accounting manager. Each payment will be recorded on the estate ledger. Supervision will either approve or deny the request, and forward the approvals to the accounting manager for processing. After Accounting has cut the check, it is delivered to the Estate Investigator for forwarding to the creditor with a receipt for payment. The accounting manager is responsible for entering the payment amount and status in the estate's "Creditor's Claim" computer ledger and case file.

7.0 Insolvent Estates

- 7.1 General Creditor's Claims are not paid until the court, in the final accounting, approves proration. However, the process for approving and paying the claims are the same as solvent estates.

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TITLE	Filing Federal and California Estate Tax Returns	Policy 800.19
POLICY	Deadlines for the filing of all Federal and California Personal and Estate Tax Returns shall be met in order to avoid penalties.	
REFERENCE		

1.0 Definitions

- 1.1 Tax Return - An income tax form on which a person or entity reports income, deductions, and exemptions, and on which tax liability is calculated.
- 1.2 Fiduciary – One who must exercise a high standard of care in managing another’s money or property.

2.0 Estate Tax Returns

- 2.1 All Federal and California Estate Tax Returns, Forms 706 and ET-1, must be filed with the Internal Revenue Service or State Controller, or an extension in the filing deadline obtained and estimated payment of tax due made within (9) months of the date of death of the decedent. Failure to do so will result in substantial penalties and the accruing of interest on any tax due.
- 2.2 Upon appointment of the Public Administrator, the Deputy Public Administrator determines the deadline for filing Federal and California Estate Tax returns (Forms 706 and ET-1). The deputy will calendar the filing of tax returns sixty (60) days prior to the deadline. Thirty (30) days before the filing deadline, the deputy makes available to the Certified Public Accountant all information relating to Federal and California Estate taxes.
- 2.3 If the Estate Investigator cannot obtain all the necessary tax information prior to the deadline, the Estate Investigator will notify the Certified Public Accountant in sufficient time to file an extension. The Estate Investigator will discuss with the Accountant the amount of any estimated tax due and file the extension and tax payment prior to the deadline.
- 2.4 If an extension is denied, the deputy will advise the Accountant and file the tax return using the information available.
- 2.5 If an extension is granted, the deputy will check back with the Accountant before the extension deadline to provide the additional information. If the Estate Investigator is unable to obtain the required information, the Estate Investigator will notify the Accountant and obtain a second extension or file an incomplete return.

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- 2.6 As a rule, Miscellaneous Estates (valued at less than \$50,000) will not require tax returns. However, in some instances, returns could be required. When in doubt, the Estate Investigator should consult with the supervisor.
- 2.7 Summary Estates (valued between \$50,000 and \$150,000) that generate \$600 or more in income may require tax returns. If stock or real property is liquidated, rents collected, or interest income generated, the Estate Investigator should consult with a Certified Public Accountant for advice as to the filing of returns.
- 2.8 Most Formal Estates (valued at \$150,000 or greater) will require a tax return. The Deputy Public Administrator shall review these estates immediately upon appointment to determine the tax filing deadlines and provide a Certified Public Accountant with financial information in sufficient time for the meeting of those deadlines.
- 2.9 Gather information concerning any outstanding tax returns that might have been due prior to death and arrange for the filing of any estate tax returns:
 - 2.9.1 Arranging for outstanding tax returns due prior to death and for a final personal tax return. Pay the decedent's estimated tax. Apply for a tax identification number. Secure an accountant for the estate with the guidance of an accountant, selecting the estate's tax year.

3.0 Estate Taxes (706)

These are taxes paid on the value of an estate at date of death. Due to Congressional action, the necessary value is increasing as per current IRS reporting.

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TITLE	Affidavit of Heirship	Policy 800.20
POLICY	In small, intestate estates, the Sheriff-Public Administrator's Office will endeavor to identify those entitled to inherit, and will require such individuals to prove their relationships to the deceased.	
REFERENCE	Probate Code Section 6400	

1.0 Definitions

- 1.1 Heirs – Any person, including the surviving spouse, who is entitled to take property of the decedent by intestate succession under the code.
- 1.2 Intestate succession – The method used to distribute property owned by a person who dies without a valid Will.

2.0 Affidavit of Heirs

- 2.1 In Formal Estates, without a Will, the court will require adequate proof of a person's relationship to the deceased prior to issuing its order to distribute. In those instances, the Estate Investigator is not required to obtain an Affidavit of Heirship from family members.
- 2.2 In Summary Estates where an heir locator has discovered next of kin, and has advised the Estate Investigator of their existence, the deputy will require the attorney to obtain an Order Determining Entitlement prior to distribution.
- 2.3 In Summary and Miscellaneous Estates managed by the Assistant Public Administrator, without the involvement of an heir locator will require family members to complete an Affidavit of Heirship. If there are five family members, the Estate Investigator will require two or more members of the family to complete the Affidavit.
- 2.4 Affidavits of Heirship are not required for insolvent estates.
- 2.5 Summary and Miscellaneous Estates will not be closed and distributed without a completed Heirship Affidavit unless approved by a supervisor.

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TITLE	Full Cost Recovery Fees	Policy 800.21
POLICY	The Sheriff-Public Administrator's Office will seek to make full cost recovery for investigation expenses, administrative costs, and estate administration fees.	
REFERENCE	Probate Code Sections 7604, 7621, 7622, 10800-10801	

1.0 Definitions

- 1.1 Statutory Commissions – For ordinary services, the personal representative shall receive compensation based on the value of the estate.
- 1.2 Extraordinary Fees – For extraordinary services performed by the personal representative, the court may allow additional compensation in an amount the court deems just and reasonable.
- 1.3 Investigation Expenses – If the Public Administrator takes possession or control of property, but another person subsequently takes charge of the estate, the Public Administrator is entitled to reasonable costs incurred for the preservation of the estate, together with reasonable compensation for services.

2.0 Public Administrator Fees

- 2.1 The Sheriff-Public Administrator's Office will charge fees, costs and commissions.
- 2.2 Appropriate reimbursement for a specific cost not listed herein should be discussed with a supervisor.
- 2.3 A review the appropriateness of full cost recovery in those situations where such charges may cause hardships or undesirable consequences. The supervisor must approve any reduction in the Office's fees. Charges include the following:
 - 2.3.1 Investigation Expenses for Estate Investigator
 - 2.3.2 Statutory Commissions- The value of the estate accounted for by the Public Administrator's Office is the total amount of the appraised value of property in the inventory, plus gains over the appraised value on sales, plus receipts, less losses from the appraisal value on sales, without reference to encumbrances or other obligations on estate property, and calculated as follows:
 - 2.3.3 Extraordinary Commissions- The Deputy Public Administrator will keep record of time spent for performing services considered to be extraordinary. The Public Administrator's Office will request such commissions. Examples of extraordinary services for which the Public Administrator may request compensation:

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- 2.3.3.1 Sale of real estate
- 2.3.3.2 Sale of personal property including furniture and furnishings, jewelry, automobiles, etc.
- 2.3.3.3 Sale of stocks
- 2.3.3.4 Redemption of bonds
- 2.3.3.5 Litigation

2.3.4 Accounting Storage Charges

- 2.3.4.1 Guns/weapons
- 2.3.4.2 Small document envelope
- 2.3.4.3 Large document envelope
- 2.3.4.4 Jewelry

2.3.5 Warehouse and Vehicle Storage Charges

If the estate is solvent, the Public Administrator will reimburse the Office for the cost of storing personal property and vehicles:

- 2.3.5.1 Storage vault
- 2.3.5.3 Storage container
- 2.3.5.4 Vehicles
- 2.3.5.5 Motorcycles
- 2.3.5.6 Motor Homes

2.3.6 Bond Fee

Every estate administered shall be charged an annual bond fee in the amount of twenty-five dollars (\$25) plus one-fourth of one percent of the amount of an estate greater than ten thousand dollars (\$10,000).

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TITLE	Closing Cases	Policy 800.22
POLICY	The Sheriff-Public Administrator's Office will ensure that all estates handled by the Office are monitored and completed in a timely fashion.	
REFERENCE	Probate Code Sections 7660-7666	

1.0 Definitions

- 1.1 Escheat – A reversion of property to the State in consequence of a want of any individual competent to inherit.

2.0 Timely Closing

- 2.1 The Assistant Public Administrator will monitor his/her cases on a regular basis. When all issues have been resolved (i.e., bank accounts collected, safe deposit boxes inventoried and closed, real and personal property sold, insurance proceeds collected, heirs determined, etc.) steps will be taken to conclude the estate.

3.0 Closing Miscellaneous Estates

- 3.1 If for any reason the Office has possession of cremated remains, and the estate to which they belong can manage the cost of their disposition, such arrangements should be made as quickly as possible and before the closing of the estate. If the estate has no funds to manage the cost of disposition, the Estate Investigator will arrange for their interment through the indigent program prior to the closing of the case.
- 3.2 The Estate Investigator will arrange to forward photographs and personal papers to next of kin. These items will not be shipped until the payment for shipment has been made. In the event family has not been located, the Estate Investigator will set date on the calendar its destruction for one year from date of closing.
- 3.3 The Estate Investigator will make all efforts to determine the appropriate estate distribution. When no relatives or beneficiaries have been identified, the estate proceeds will escheat to the State of California. In the event that the next of kin has been identified, but the whereabouts of the individual is unknown, the proceeds will be directed to the State of California for said heir, whereabouts unknown.
- 3.4 When the relatives of the decedent have been located, the Estate Investigator will obtain an Affidavit of Heirship. One or more of the relatives must complete the Affidavit prior to distribution.
- 3.5 In the event the decedent prepared a Last Will and Testament, the Estate Investigator will do everything possible to follow the decedent's instructions.

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- 3.6 On rare occasions, a Miscellaneous Probate could require a tax return. The Estate Investigator will review the Estate Transaction History to determine if a tax return is required. If there is a question and the deputy is uncertain, the deputy will contact a certified public accountant or tax preparer for advice. In the event a tax return is required, sufficient funds should be withheld in the account to pay any tax that may be due and the fee of the tax accountant.
- 3.7 The Estate Investigator will prepare a Miscellaneous Probate Distribution form indicating the administrative costs to be paid (statutory commissions, extraordinary commissions, bond fee, storage charges, telephone and postage costs, etc.), any claims to be paid, and the distribution of the proceeds of the estate. The deputy will attach a copy of the Last Will and Testament, if applicable, the Affidavit of Heirship, if applicable, and an Estate Transaction History and completed Personal Property Inquiry form, along with the estate file, and forward to the Supervising Public Administrator for review.
- 3.8 Checks issued according for Miscellaneous Probate Distribution form will sent with checks and receipts, as required, to each recipient.

4.0 Closing Summary Estates

- 4.1 Steps 2.1 through 2.9 (Closing Miscellaneous Estates) will be followed when closing a Summary Estate.
- 4.2 The Estate Investigator will review the file for any tax returns that may be required. Tax returns may be required if decedent earned interest or income, or if the estate sold stocks, bonds, or real estate. The Estate Investigator should consult with a certified public accountant or tax preparer when in doubt as to the necessity of a tax return.
- 4.3 If tax returns must be prepared, the deputy will withhold from distribution sufficient funds to pay any additional tax and the fee of the certified public accountant or tax preparer.
- 4.4 The Estate Investigator will prepare a Summary Probate Distribution form indicating the administrative costs to be paid (statutory commissions, extraordinary commissions, bond fee, storage charges, telephone and postage costs, and attorney's fees, if applicable), any claims to be paid, and the distribution of the proceeds of the estate.
- 4.5 The Estate Investigator will attach a copy of the Last Will and Testament, if applicable, Affidavit of Heirship, if applicable, and an Estate Transaction History and completed Personal Property Inquiry form, along with the estate file, and forward to the Supervising Public Administrator for review and approval. The Distribution form will then be forwarded to Accounting for issuance of checks.

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- 4.6 Checks issued according to the Summary Probate Distribution form will be given to the deputy. If there is no attorney assigned to the case, the Estate Investigator will forward the checks to the recipients with the proper receipts. If an attorney represents the Office on the case, then the checks will be forwarded to the attorney for processing.
- 4.7 A Statement of Disposition will be reviewed by the Supervising Public Administrator. The Statement will then be filed with the court and the case closed.

5.0 Closing Formal Estates

- 5.1 Steps 2.1 through 3.3 (Closing Miscellaneous Estates and Closing Summary Estates) will be followed by the Deputy Public Administrator.
- 5.2 The Estate Investigator will send a request to the attorney for preparation of the final account and report of Public Administrator. The Estate Investigator will provide a copy of the Estate Transaction History or schedules of inventory and transactions, copies of filed and approved/rejected creditor's claims, along with instructions to withhold funds for any unpaid tax or tax preparer fees, and a request for Public Administrator's extraordinary commissions, if applicable.
- 5.3 Should distribution from an estate be in excess of \$200,000, the Estate Investigator will notify the Deputy PA of the hearing date, so that sufficient funds are available to issue the distribution checks.
- 5.4 Upon receipt of the Order Settling Final Accounting, the Estate Investigator will prepare a Formal Probate Distribution sheet. The Estate Investigator will attach the Distribution form, Order Settling Final Accounting, Personal Property Inquiry, and Estate Transaction History to the file and forward them to the Supervising Public Administrator for review.
- 5.5 Checks will be issued pursuant to the Order and Distribution form and forward checks to the attorney for distribution to the recipients.
- 5.6 Once distribution of the estate proceeds is made, and no later than sixty (60) days following distribution, the Estate Investigator will complete a Tax Information Memo for use by the certified public accountant or tax preparer. The Estate Investigator will provide all supporting documents: copy of Order Settling Final Account; estate transaction history; any 1099's; the names, addresses and Social Security Numbers of any distributee or beneficiary. Should the accountant call with additional questions or concerns, the deputy will respond to those questions in a timely fashion to insure that the tax returns are promptly prepared.

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- 5.7 Upon receipt of the prepared tax returns, the Deputy will obtain the signature of the Office Commander, or his designee, and forward the returns to the Internal Revenue Service and Franchise Tax Board.

- 5.8 Any residue of funds held in the estate account will not be distributed for at least a six (6) month period of time following the preliminary distribution. After six months has elapsed, the deputy should review the matter and determine if the estate is in a position to distribute the remaining cash on hand and request the attorney to prepare a Declaration for Final Discharge.

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TITLE	Release of Property	Policy 800.23
POLICY	The Sheriff-Public Administrator's Office may release assets to a private executor or administrator when it is determined that they will act to represent the estate, and to heirs and beneficiaries of estates managed by the Office.	
REFERENCE	Probate Code Sections 7604, 13100, 13114	

1.0 Releasing Property to a Private Executor or Administrator

- 1.1 In the case of a deceased Humboldt County resident, estate assets are normally not released until the private executor or administrator obtains letters of appointment.
 - 1.1.1 Should an attorney make a written request for an earlier release from the executor or administrator, the Estate Investigator is then authorized to release the residence and any personal property therein.
 - 1.1.2 Personal property and cash assets in the Public Administrator's actual possession can be withheld pending appointment to defray any costs chargeable to the estate (Section 7604) if payment of the costs and fees have not first been made or if the Estate Investigator determine that there is a likelihood that the executor or administrator is not willing to pay the costs (Section 13114).
 - 1.1.3 If the deceased was not a resident of Humboldt County and the Public Administrator took possession of the estate assets in this county to protect them from waste, loss or theft, such assets may not be released until the executor or administrator obtains Letters of Administration from the appropriate county or state.
 - 1.1.4 The property is released to the private executor or administrator or his appointed agent upon signing a Receipt or is shipped C.O.D. or by Registered Mail.
 - 1.1.5 The Estate Investigator may release non-valuables, such as paperwork, personal pictures, identification, etc., to the decedent's successor upon the appropriate identification of that successor. A signed receipt is also required prior to the release of this property.

2.0 Releasing Property in Estates Managed By Public Administrator

- 2.1 In solvent estates the Assistant Public Administrator may release property in kind to heirs under certain circumstances.
- 2.2 Property in Formal Estates will not be released without a preliminary distribution from court, and will not be released until after the four-month creditor's claim period has expired, unless authorized by a supervisor.

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- 2.3 Property in Summary and Miscellaneous Estates may be released after the expiration of the four-month creditor's claim period, and prior to the conclusion of the estate, with a supervisor's approval.
- 2.4 The Estate Investigator may release non-valuables, such as paperwork, personal pictures, identification, etc., to the decedent's heirs or beneficiaries. A signed receipt is required prior to the release of this property.
- 2.5 When shipping, property will be sent UPS or by Registered Mail, and if estimated value exceeds \$100.00, property will be insured. A receipt and return envelope will be sent with the property

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TITLE	Disposition without Administration	Policy 800.24
POLICY	The Sheriff-Public Administrator's Office will follow established guidelines when advising heirs or distributing property pursuant to Division Number 8 of the California Probate Code, "Disposition of Estate Without Administration".	
REFERENCE	Probate Code Sections 330, 3400-3402, 13006, 13050, 13100-13116	

1.0 Definitions

- 1.1 Successor of the Decedent – Defined in Probate Code Section 13006.
- 1.2 Excluded Property (Valuation or Estate Determination) – Defined in Probate Code Section 13050.
- 1.3 Liability of Heir – Defined in Probate Code Section 13109.

2.0 Disposition Without Administration

- 2.1 An important area of decedent estate law is that portion of the code, which deals with the rights, and responsibilities of heirs of small estates who wish to handle the decedent's estate outside of formal administration. Section 13100 of the Probate Code reads in part: Excluding the property described in Section 13050, if the gross value of the decedent's real and personal property does not exceed one hundred fifty thousand dollars (\$150,000) and if forty (40) days have elapsed since the death of the decedent, the successor of the decedent may, without procuring Letters of Administration or awaiting probate of the will, do any of the following with respect to one or more particular items of property:
 - a. Collect any particular item of property that is money due the decedent.
 - b. Receive any particular item of property that is tangible personal property of the decedent.
 - c. Have any particular item of property that is evidence of a debt, obligation, interest, right, security, or chose in action belonging to the decedent transferred, whether or not secured by a lien on real property.
- 2.2 Public Administrators are exempt from the forty (40) day waiting period, referenced in 13100, when delivering property to a "decedent's surviving spouse, relative, or conservator or guardian of the estate acting in that capacity at the time of death" (Probate Code Section 330). Named executors or beneficiaries of Wills are not included under Section 330.
- 2.3 Upon determination of an appropriate release of assets under this section, the Deputy Public Administrator will secure a signed receipt listing all property being released and either a signed 330 Affidavit or a signed 13100 Affidavit, before turning over any valuables held by this office.

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- 2.4 The Estate Investigator or deputy may release non-valuables, such as paperwork, personal pictures, identification, etc., to the decedent's successor upon the appropriate identification of that successor. A signed receipt is also required prior to the release of this property.
- 2.5 Delivery of property to minors is covered under Probate Code Sections 3400-3402 and in Policy #800.03.

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Estate Administration

TITLE	Identification of Decedents	Policy 800.25
POLICY	Before disposition of the remains are made, the Public Administrator Office will make every effort to verify the identity of all decedents. In the event identification cannot be made, the matter will be referred to the Coroner Office to establish proper identification as soon as possible.	
REFERENCE		

1.0 Identification of Decedents

- 1.1 Confirming the identity of the decedent is the responsibility and shall be a top priority for the assigned Estate Investigator. *In any situation where the Estate Investigator questions the identity of a decedent, the Estate Investigator shall proceed to confirm and verify identity.*

- 1.2 An investigator can be confident of the identity of the decedent when cases are referred from:
 - 1.2.1 Family
 - 1.2.2 Coroner Office
 - 1.2.3 Law enforcement
 - 1.2.4 Superior Court
 - 1.2.5 Department of Health Care Services

- 1.3 Identification of a decedent may need to be verified when referrals are received from:
 - 1.3.1 Hospitals
 - 1.3.2 Skilled nursing facilities
 - 1.3.3 Mortuaries
 - 1.3.3.1 Unless the information was self-reported by the decedent to the facility or family is immediately located to confirm identify, *request fingerprints as soon as possible. Any delay in obtaining fingerprints could result in an inability to identify the decedent through this process.*
 - 1.3.3.1 In those instances where a referral is made by a mortuary for the sole purpose of locating next of kin so that the mortuary can proceed with disposition previously arranged by the decedent or as arranged by an executor, the Estate Investigator is not required to verify decedent's identity. Humboldt Sheriff-Public Administrator's Office Estate Administration Policy 800.25 Identification of Decedents

- 1.4 In any situation where the Estate Investigator is uncertain that the decedent is, in fact, the person named on the referral, the staff person shall make further inquiry into identification.

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- 1.4.1 When Social Security numbers and dates of birth, places of birth, or parent names cannot be verified additional investigation will be required.
- 1.5 The Estate Investigator will establish positive identification using one or more of the following methods:
 - 1.5.1 Fingerprints shall be obtained and submitted to Cal-ID for processing ASAP.
 - 1.5.2 Government issued photo identification (state driver license, state identification card, military identification, etc.).
 - 1.5.3 Dental examination.
 - 1.5.4 Skeletal x-rays.
 - 1.5.5 On occasion, identification may have to be made based mostly on circumstances:
 - 1.5.5.1 Circumstantial identification will be used only as a last resort.

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Estate Administration

TITLE	Background Checks for Law Enforcement	Policy 800.26
POLICY	Printed information obtained through the TLO <i>for Law Enforcement</i> account will be used exclusively within the Sheriff-Coroner/Public Administrator and will not be provided to any individual or agency.	
REFERENCE		

1.0 Terms and Conditions of Use

- 1.1 The account with Personal History software for Law Enforcement similar the TLO program comes with certain terms and conditions agreed to by each User as the account is accessed. In part, those terms and conditions include:
 - 1.1.1 Individual User codes will be used only for authorized investigative purposes and only in an official capacity. The background software for Law Enforcement account will not be used for personal business.
 - 1.1.2 Individual User passwords will not be disclosed to any other person except as expressly authorized by User's employing agency management.
 - 1.1.3 Individual passwords will be changed if the User reasonably suspects that his or her password has been improperly disclosed or compromised.
 - 1.1.4 Information will only be accessed or printed out for authorized investigative purposes and only in an official capacity. Printed copies of information obtained in the course of official business from these programs will not be provided to individuals outside the Sheriff-Coroner/Public Administrator without subpoena and then only with approval of the Sheriff's Administration.
 - 1.1.5 Information can be shared with interested parties – just not the actual printed copies. Interested parties might include the court, attorneys, C.P.A., law enforcement agencies, governmental agencies, etc.

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Estate Administration

TITLE	Depositing Wills/Providing Copies	Policy 800.27
POLICY	Unless a petition for probate of the Will is earlier filed, the Attorney representing the Public Administrator Office shall deposit with the Clerk of the Superior Court all Wills received, found or discovered for a decedent, and provide a copy to the executor or beneficiary.	
REFERENCE	Probate Code Section 8200	

1.0 Definition

- 1.1 Will – A document by which a person directs his or her estate to be distributed upon death.
- 1.2 Holographic Will – A will that is entirely handwritten by the testator.
- 1.3 Last Will – The most recent will of a deceased; the instrument ultimately fixing the disposition of real and personal property at the testator’s death.
- 1.4 Custodian – A person or institution that has charge or custody of property, papers, or other valuables.

There are a variety of types of wills an individual can make. When in doubt as to whether the writing is a will, always consult with supervision. A writing that appears to be a will, but has been marked upon, altered, or changed may still be a valid will. Always consult with supervision. Wills can be formally prepared, form-filled, or handwritten on note pads, envelopes or bits of paper. Always be vigilant when searching a decedent’s property.

2.0 Depositing Wills

- 2.1 When a Will is discovered (either during the course of an investigation or during the administration of the estate) the Estate Investigator assigned to the case shall cause the Will to be deposited with the Clerk of the Superior Court as soon as possible, but no later than three (3) business days following the discovery of the will.
- 2.2 The Estate Investigator that discovered the will shall give the document to the Office Assistant for filing with the Clerk of the Superior Court. The Deputy Public Administrator will arrange for the document to be delivered to the Court.
- 2.3 Within three (3) business days, the Estate Investigator assigned to the case shall provide a copy of the Will to the person(s) named in the Will as executor, if the person’s whereabouts is known, or if not, to the person(s) named in the Will as a beneficiary, if the person’s whereabouts is known.
- 2.4 A custodian of a Will who fails to comply with the requirements of Probate Code Section 8200 shall be liable for all damages sustained by any person injured by the failure.

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Estate Administration

TITLE	Updating Case Information	Policy 800.28
POLICY	The Sheriff-Public Administrator shall update case information in a timely fashion as to keep all records current.	
REFERENCE		

1.0 Cases Referred to Public Administrator

- 1.1 Upon the initial report of a case, the Estate Investigator shall enter all available information in Case Management.
- 1.2 Enter the following information into the database: Decedent's name; Social Security number; date of birth; date and place of death; any vital statistics; contact information for next of kin, interested parties, and referring party; and asset information.

2.0 Updating Case Information

- 2.1 The updating of case information is an on-going process that is shared by several people. The assigned Estate Investigator or Deputy Public Administrator are responsible for updating the database as new information becomes available.
 - 2.1.1 Enter investigation activities as they occur, including, but not limited to: next of kin searches; conversations with next of kin; interviews; residence searches; banking activity; and inventory items.
 - 2.1.2 Enter estate management activities as they occur, including, but not limited to: disposition of remains; conversations with attorneys, accountants, realtors, next of kin, interested parties; court activity; creditor claims and tax return issues; and activities concerning real property.

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Estate Administration

TITLE	Accountant Services	Policy 801.01
POLICY	The Sheriff-Public Administrator's Office will retain, as needed, certified public accountants or tax preparers for the preparation of personal and estate tax returns. The Office Commander, or his designee, will select accountants on a rotating basis.	
REFERENCE		

1.0 Accounting

- 1.1 The Sheriff-Public Administrator's Office must file personal and estate tax returns in those decedent's estates meeting federal and state requirements for such returns.
 - 1.1.1 Once a determination has been made by the Deputy that a federal or state tax return may be required, the Office Commander or his designee will select a certified public accountant or tax preparer to be contacted for assistance.
 - 1.1.2 The Public Administrator will maintain a list of qualified accountants accepting cases from the Office.
 - 1.1.2.1 The list will consist of accountants who have applied to the Public Administrator's Office and have been screened and interviewed by the Deputy Public Administrator.
 - 1.1.2.2 In the event an accountant had been previously retained by the decedent, the accountant may prepare returns for decedent's estate.
 - 1.1.2.4 Should the services of an accountant prove unsatisfactory, in the opinion of the Deputy Public Administrator, their name may be removed from the list of qualified accountants.

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TITLE	Brokerage Services	Policy 801.02
POLICY	The Sheriff-Public Administrator's Office will require, from time to time, the services of a broker-dealer to negotiate the sale or distribution of securities.	
REFERENCE	Probate Code Section 10150(2)	

1.0 Definitions

- 1.1 Registered broker – A broker registered or required to be registered under the Securities Exchange Act of 1934.
- 1.2 Security – Includes any note, stock, treasury stock, bond, debenture, land trust certificates, certificates of beneficial trust in trusts, investment trust certificates, mortgage participation certificates, or certificates of deposit.

2.0 Brokerage

- 2.1 The Sheriff-Public Administrator's Office will, during the course of estate administration, liquidate or distribute securities, and will require the services of a registered broker-dealer.
 - 2.1.1 The Deputy Public Administrator will maintain a list of qualified broker-dealers accepting accounts from the Office.
 - 2.1.2 Should the services of a broker-dealer prove unsatisfactory, future accounts will not be opened with this firm.
- 2.2 In those instances where the securities are on account with a registered broker-dealer, as previously arranged by the owner, the Office will maintain the account and work with the broker-dealer to meet the needs of the estate.
- 2.3 In those instances where the securities are in a limited number and easily managed by the Public Administrator, the Estate Investigator may make direct contact with shareholder services and arrange for the liquidation or distribution of the securities.

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Estate Administration

TITLE	Real Estate Services	Policy 801.03
POLICY	The Sheriff-Public Administrator's Office will require the services of real estate brokers and agents to liquidate properties belonging to the estates.	
REFERENCE		

1.0 Realtors

- 1.1 The Sheriff-Public Administrator's Office sells a considerable amount of real estate, both improved and unimproved, and mobile homes. Real estate agents and brokers assist with the majority of these transactions.
 - 1.1.1 Once it has been determined that it is appropriate to liquidate a decedent's real estate or mobile home, the Deputy Public Administrator or his designee will select a real estate broker or agent to be contacted for assistance.
 - 1.1.2 The Assistant Public Administrator will maintain a list of qualified real estate brokers or agents accepting properties from the Office.
 - 1.1.2.1 The list will consist of those broker/agents who have adequately handled sales for the Office.
 - 1.1.2.2 The Assistant Public Administrator may add real estate agents to the list as the need arises.
 - 1.1.2.3 Should the services of a broker/agent prove unsatisfactory, the name may be removed from the list.

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TITLE	Heir Locators	Policy 801.04
POLICY	The Sheriff-Public Administrator's Office may require the services of private investigators to assist in locating heirs if the estate will escheat to the County or State.	
REFERENCE	Probate Code Section 7660(a)(e), 9650(b)	

1.0 Definitions

- 1.1 Escheats - Reversion of property to the county or state upon the death of an owner who has neither a Will nor any legal heirs.

2.0 Heir Locators

- 2.1 Private investigative firms may be retained to locate heirs if the assets are to escheat.
- 2.2 A list of investigative firms will be established and maintained by the Deputy Public Administrator will rotate among these firms.
- 2.3 A flat fee or hourly rate with a cap, rather than a percentage of an heir's share, shall be agreed upon when retaining a private investigator to locate heirs.
- 2.4 In formal and summary estates, it may be necessary to seek court approval before engaging the services of an heir locator. This decision will be made by supervision.
- 2.6 The Deputy Public Administrator will take the following action:
 - 2.6.1 The Estate Investigator will conduct an independent search for next of kin, including but not limited to, an internet search, examining the decedent's personal papers, and speaking with friends and interested parties.
 - 2.6.2 Request from the investigative firm from the rotation list.
 - 2.6.3 Once court approval has been obtained or a decision has been made to enter into a contract, the contract will be signed by the Deputy Public Administrator or his designee. At that time, personal information concerning the decedent can be provided to the contracted heir locator.

3.0 Contacts Initiated by Investigators

- 3.1 In those instances where the estate is intestate or there are no known heirs, it is not unusual for a number of heir locators to contact the Public Administrator's Office at the time of the filing of the Public Administrator's petition for appointment. The Public Administrator may share with them information concerning the estate, as long as the same information is

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shared with each investigator that contacts the office. Under no circumstances is a member of the Office allowed to initiate contact with an investigator from an heir locator firm prior to the filing of the Public Administrator's petition for appointment.

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Estate Administration

TITLE	Attorney Selection/Agreement for Professional Services	Policy 801.05
POLICY	The Sheriff-Public Administrator's Office will, as required, retain private counsel for the purpose of representing the Office in matters of estate administration. The Office Commander, or his designee, will select attorneys on a rotating basis.	
REFERENCE	Government code Section 27643	

1.0 Professional Services

- 1.1 The Sheriff-Public Administrator petitions the court for appointment in those cases valued in excess of \$50,000, and requires the services of an attorney in these and other estate matters.
- 1.2 Once it is determined that the estate falls under the jurisdiction of the Public Administrator, the Deputy Public Administrator or his designee will select an attorney to represent the Public Administrator.
- 1.3 The Deputy Public Administrator will maintain a list of qualified attorneys accepting cases from the Office, and familiar with probate laws and procedures.
 - 1.3.1 The list will consist of those attorneys who have adequately handled estates for the Office and those attorneys who have shown an interest in representing the department.
 - 1.3.2 Attorneys will be added to the list (should the department require the services of additional attorneys), after meeting with the Deputy Public Administrator.
 - 1.3.2.1 Should the services of an attorney prove unsatisfactory in the opinion of the Deputy Public Administrator, the name will be removed from the list. In addition, if the situation warrants it, the attorney may be substituted out of active cases with approval.
- 1.5 The assigned Deputy will ensure the Agreement for Professional Services Form is executed by the attorney and the Deputy Public Administrator or his designee within 30 days of the selection of the attorney.

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Estate Administration

TITLE	Referrals to Private Attorneys	Policy 801.06
POLICY	The Sheriff-Public Administrator's Office will not make referrals to private attorneys.	
REFERENCE		

1.0 Private Attorneys

- 1.1 The Sheriff-Public Administrator's Office may receive referrals where it is subsequently determined that a private citizen will act on behalf of the estate rather than this Office. When this occurs, the person will often ask staff for the name of an attorney to assist in the accomplishment of the estate administration.

- 1.2 All requests for the name of an attorney to assist in the accomplishment of the estate administration or any other legal matters shall be answered by either referring the requestor to the Lawyer Referral and Information Service or to the Attorney Guide Section of the telephone directory.

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Estate Administration

TITLE	Attorney Fee Division or Referral Fee/Acknowledgement	Policy 801.07
POLICY	The Sheriff-Public Administrator's Office will not consent to a request by an attorney to divide a fee or pay a referral fee for legal services.	
REFERENCE	California Rules of Professional Conduct, Rule 2-200	

1.0 Attorney Fees

1.1 Under certain circumstances, attorneys sometimes agree to split or share compensation between one another. When this agreement is made the attorney must have approval from his or her client. If an attorney representing the Sheriff-Public Administrator makes such a request, the request will be brought to the attention of supervision and in every instance **shall be denied**. It is the policy of the Sheriff-Public Administrator Office that consent (as required by California Rules of Professional Conduct, Rule 2-200) **will not be given by an employee of this Office** for any attorney fee division, fee split, or referral fee that is subject to the provisions of Rule 2-200. California Rules of Professional Conduct, Rule 2-200

- (A) A member shall not divide a fee for legal services with a lawyer who is not a partner of, associate of, or shareholder with the member unless:
 - (1) The client has consented in writing thereto after a full disclosure has been made in writing that a division of fees will be made and the terms of such division; and
 - (2) The total fee charged by all lawyers is not increased solely by reason of the provision of division of fees and is not unconscionable as that term is defined in rule 4-200.
- B) Except as permitted in paragraph (A) of this rule or rule 2-300, a member shall not compensate, give, or promise anything of value to any lawyer for the purpose of recommending or securing employment of the member or the member's law firm by a client, or as a reward for having made a recommendation resulting in the employment of the member or the member's law firm by a client. A member's offering of or giving a gift or gratuity to any lawyer who has made a recommendation resulting in the employment of the member or the member's law firm shall not of itself violate this rule, provided that the gift or gratuity was not offered in consideration of any promise, agreement, or understanding that such a gift or gratuity would be forthcoming or that referrals would be made or encouraged in the future.