

# We Count What We Care About

By Thomas F. Coleman  
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Bankers know to the penny how much money they are managing in their financial institution. Elections are based on the actual number of votes cast, not vague estimates. Workers know exactly how much money should be in their monthly paycheck.

Schools keep tabs on how many students are enrolled. Employers track how many workers they employ. Jailers count how many inmates they have in their custody, and whether anyone is missing. Mental hospitals know if any patients have eloped.

If we care about something, we devote attention to it. When it comes to quantity, we know the exact amount and whether it is increasing or decreasing. In terms of quality, we know the condition and whether it is improving or deteriorating.

Since I have been studying the probate conservatorship system in California which is now going on seven years, I have been asking myself an important question. How much does the judiciary care about the thousands of probate conservatees who are under its protection?

In a world of “counting equals caring” the answer appears to be that these judicial protectors are not really concerned about their protectees. Part of my opinion is based on the fact that, in terms of adults who are under an order of conservatorship, the judicial branch does not care enough to even count them.

The chief justice is not aware of how many adults are under an order of conservatorship in California. Neither is the Judicial Council. They do not know the number of new probate conservatorship petitions that are filed annually in the state. Even various estimates from the judicial branch differ

greatly when it comes to the number of probate conservatees in California.

Probate courts are sometimes referred to as “protection courts” because they are charged with protecting the lives and well-being of the individuals whom they order into conservatorships. By law, probate courts are required to send investigators out to the homes of conservatees to check into their status every two years.

Considering this mandate, and considering the vulnerability of the seniors and adults with developmental disabilities who are under the “protection” of these courts, it would seem logical – indeed imperative – that the chief justice and the Judicial Council would know how many conservatees the 58 superior courts are protecting in California. Surprisingly, they don’t.

One would think that local courts would have an obligation to report to someone at the state level the number of conservatees who are missing. How many conservatees are these local courts unable to locate? Obviously, if a court can’t locate someone it can’t protect them.

Information that I have gathered from the Los Angeles County Superior Court suggests that there may be hundreds, if not thousands, of conservatees who are missing – who simply cannot be located by court investigators. These adults are no longer considered part of the court’s “active” inventory of probate conservatees. Just what category are these missing people placed into? “Inactive” inventory?

In 2015, the presiding judge of the probate division of the Los Angeles Superior Court told the State



Senate that the Los Angeles court had 10,000 “active” probate conservatorship cases. As I sat in the hearing room and heard this number, my ears perked up.

Data gathered by Spectrum Institute from the Department of Developmental Services earlier that year showed that, just counting adults with developmental disabilities, there were more than 12,500 such adults in open conservatorship cases in Los Angeles County. Add to that seniors and other adults and there easily could have been another 3,000 open cases in Los Angeles County. By my calculations there could have been 15,000 or more adults under the protection of the Los Angeles probate court in open conservatorship cases.

In her remarks to the Senate Judicial Committee, the presiding judge alluded to the inability of the court to properly monitor probate conservatees. She advised senators that the court was severely understaffed. The case loads of court investigators were unmanageable.

The whistle the presiding judge was blowing with her bated breath, barely audible to me, was not heard at all by the senators. Fortunately, my ears were sensitive to her encoded message because of my own prior research into these numbers. My interpretation of her testimony alarmed me: “Conservatees are missing, and the court needs more resources to find them and check on their well-being.”

Let us remember that these protectees are vulnerable adults, not old computers or other forms of devalued property being counted by court administrators. They are people who have been involuntarily ordered into the protection of the courts.

Since this many people may be unaccounted for in Los Angeles, how many probate conservatees have unknown whereabouts in the entire state?

This is a serious problem. These adults could be victims of ongoing abuse. It is imperative that a “protector” notify law enforcement when a “protectee” cannot be located. Resources should be allocated to ensure that courts know the location

and the condition of each and every adult who is under their protection.

My plea to the judiciary is simple: “Don’t pretend to protect. Actually do it.”

The first step to fixing a problem is to acknowledge there is one. This issue of missing conservatees is something that needs to be addressed, without delay, by the chief justice and the Judicial Council. The judicial branch should demonstrate that it sincerely cares about seniors and people with disabilities. For starters, it needs to begin counting the people it is protecting. The judicial branch also has a legal obligation to know where these individuals are living, and to determine their physical, medical, and psychological condition.

The judges can’t do the protecting themselves. They rely on court investigators to monitor these cases. Investigators are supposed to see conservatees in person every two years and conduct an assessment of their well-being. According to the report issued by the Senate Judiciary Committee in 2015, in some areas of the state these biennial investigations are sometimes delayed for years.

What should be done about the problem of missing conservatees, unreasonably high caseloads of court investigators, and the backlog of biennial reviews?

For starters, the chief justice should direct the Judicial Council to conduct a statewide survey of all 58 superior courts to gather information about these protectees. How many new probate conservatorship cases are filed each year? How many open cases are there? How many of these conservatees are missing? Are the statutorily-mandated biennial reviews being conducted in a timely manner? What is the caseload of each court investigator?

It is time for the judicial branch to show that it cares about probate conservatees. It should gather essential information about them. In other words, it should start counting. ◇◇◇

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