



Clackamas County Sheriff's Office

CRAIG ROBERTS, Sheriff

The benefits to having HB4084, allows Law Enforcement Officials access to bank records quickly without notice to the account holder, removes the "time" factor and allows the investigator to efficiently and judiciously conduct their investigation, with little and/or no further handcuffs.

Under the current HB4084 Law Enforcement Officials still have the judicial oversight of the courts when submitting a Grand Jury Subpoena request for an individual's financial records, to include the alleged victim in an abuse investigation under ORS 124.070 or 441.650. Once the burden of proof for the request (GJ Subpoena) for financial records has been determined by the courts, the non-disclosure to the individual's account will only serve to allow investigators the ability to maintain the integrity of the case while efficiently and judiciously conducting their investigation.

Once a member of the Clackamas County Sheriff's Office Property Crimes Unit, I was assigned and investigated several financial elder abuse investigations prior to the HB4084. As a result I succumbed to the constraints of time, having to author affidavits to waive the requirements for service of a copy of subpoena upon the account holder, to the waiting period in which it takes the courts to authorize the affidavit waiving the requirement.

Maintaining this provision in HB4084 is a vital part of today's Law enforcement Investigator and is a crucial part of the investigative process. As a current Law Enforcement Investigator, "time is of the essence." Any time not spent investigating is detrimental to our community, a disservice to the elderly and a waste of time.

Clackamas County Sheriff's Office Detective Paul Wade, currently assigned to the Property Crimes Unit has conducted elder abuse investigations under the provisions of HB4084. According to Detective Wade the specific provision not requiring an affidavit of non-disclosure for each Grand Jury Subpoena has reduced the amount of man hours and shortened the time it takes to get the Grand Jury Subpoena back, so it can be served on the financial institution. According to Detective Wade he was able to work within the provisions of HB4084, without eliminating the judicial oversight of the courts authorizing the Grand Jury Subpoena.

Sincerely,

Scott Eggleston
Detective/Clackamas County Sheriff's Office
Professional Standards Unit

"Working Together to Make a Difference"

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Under current HB4084, Financial institutions are to disclose and provide copies of financial records of an alleged victim in an investigation under the mandatory reporting statutes, in accordance with a court order or grand jury subpoena. The disclosure and provisions of copies under this section shall be made without consent of the elder victim, their caretaker, fiduciary or legal representative, without the consent of anyone else on the victim's accounts. If directed by the court or the District Attorney issuing the subpoena, the financial institutions may not inform the elderly victim, their caretaker, fiduciary or legal representative about the disclosure. The disclosure must be completed by the financial institution within 5 days from the date of receipt of the subpoena.

Today's investigators are oftentimes handcuffed with various constraints to include time. One is always told "time is of the essence" and this plays true for today's Law Enforcement Investigator. Investigators are forced to prioritize and juggle a case load of victims, some of which do not have time to rest on a shelf, as the individual's financial security and future are being stolen, oftentimes by their loved ones.

When investigating crimes involving the elderly, it is imperative that the investigators sole focus is on the facts of the case and not the lengthy process of time in which it can take to obtain financial documents associated to the investigation. More often than not, in these types of investigations, the alleged suspect(s) have taken over the elderly person's finances and in some cases put themselves on the elderly person's bank accounts to include being an authorized signer and/or Power of Attorney. Oftentimes elderly individuals have bank accounts at multiple financial institutions.

Law Enforcement Investigators deal with obstacles, such as medical diagnosis for dementia. The elderly individual may be unaware of their financial loss and/or uncooperative with Law Enforcement and/or other State agencies attempting to provide them services. Oftentimes Law Enforcement Investigators are dealing with elderly individuals whose quality of health and/or life has diminished.

A primary concern for today's investigator is to maintain the integrity of the investigation and to gather victims, witnesses, suspect's statements, and physical evidence to support the alleged criminal action being perpetrated. In order to maintain creditability of the investigation and to be certain the case would not otherwise be compromised, investigators should not be mandated to disclose the request for an individual's financial records, to include victims, witnesses, and/or the perpetrator(s), until the investigator determines this to be the most appropriate course of action.

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