



DEPARTMENT OF JUSTICE
OFFICE OF THE ATTORNEY GENERAL

April 5, 2017

The Honorable Jackie Winters, Co-Chair
The Honorable Duane Stark, Co-Chair
Joint Committee on Ways and Means, Subcommittee on Public Safety
900 Court Street NE
H-178 State Capitol
Salem, OR 97301-4048

Dear Co-Chairs Winters and Stark, and members of the Subcommittee,

Please accept this letter as response to questions raised by the Subcommittee during the Department of Justice's (DOJ) budget presentation on April 3, 2017.

Q1. Does the DOJ Criminal Justice Division Elder Abuse Resource Prosecutor coordinate or communicate regularly with the Long-Term Care Ombudsman?

A1. We are working on scheduling regular meetings with the Long-Term Care Ombudsman. Currently, our Elder Abuse Resource Prosecutor attends quarterly meetings with the Social Security Fraud working group (comprised of representatives from almost every state and federal agency that investigates criminal conduct targeting elderly and vulnerable victims). He also attends quarterly meetings with another work group comprised of representatives from DOJ's Civil Enforcement Division (including Financial Fraud, Charitable Activities, and Medicaid Fraud), DHS (Adult Protective Services), and the Oregon Office of Adult Abuse Prevention and Investigations. He has also attended Multi-Disciplinary Team (MDT) meetings in 13 counties.

Q2. Have illegal marijuana grows and associated crime in Oregon declined since the state's legalization of recreational marijuana?

A2. Due to how recently recreational marijuana has been legalized, as well as changes in law enforcement practices and other variables, we cannot accurately determine whether illegal marijuana grows have declined. It will take several years of data collection to accurately determine what the impact of legalization will be on illicit marijuana cultivation. As far as associated criminal activity, most law enforcement databases and the national crime statistic platforms do not have data systems in place that track contributing crime factors, such as "marijuana-related." Any information on person/property crimes that is available is anecdotal based on news articles that have identified thefts, robberies, or homicides as related to illicit marijuana cultivation.

Q3. Does the DOJ Civil Enforcement Division Charitable Activities Section educate private and public board members of their legal responsibilities?

A3. In addition to its registration and enforcement functions, the Charitable Activities Section also engages in education and outreach to the nonprofit community to ensure that board directors are informed about their fiduciary duties in connection with managing their organizations. The Section fields hundreds of calls and inquiries each month from board directors and other members of the public seeking information about nonprofit legal requirements. Every year, the Section distributes several thousand copies of the Attorney General's Guide to Nonprofit Board Service, which explains nonprofit directors' legal duties in plain English. The Guide is also published on the Attorney General's website, along with other useful resources, such as financial control recommendations for small organizations to prevent embezzlement and questions board directors should be asking at board meetings. In addition, Department representatives make presentations several times a year at educational events for nonprofit organizations, including recent presentations on board governance to nonprofit directors in Baker City and Ashland and on charitable gaming at fraternal organizations' annual conventions. The Department also works with the Oregon State Bar and other professional groups that advise nonprofit organizations to ensure they are aware of board directors' legal obligations and the Department's charitable oversight role.

Q4. How has the guardianship and conservatorship program been going?

A4. The Oregon Public Guardian and Conservator (OPGC) program was created by the 2014 Legislature and the position was filled in 2015. As a new program, there were many things that had to occur before OPGC could serve as a guardian, including hiring and training staff, obtaining the statutorily required bond, networking and developing community contacts, and identifying persons who needed to have a guardian.

The OPGC investigates potential guardianship cases independently and only consults with DOJ if it has questions about a particular case or wants to be appointed as a guardian. DOJ has consulted with the OPGC on at least 28 potential guardianship cases. We have filed petitions to appoint the OPGC as guardian in approximately 17 cases, of which two are pending, 14 resulted in OPGC being appointed as the guardian, and one resulted in the appointment of a professional guardian other than OPGC. We are currently preparing petitions in two other cases.

Many of these involve challenging facts or legal issues. For example, we assisted the OPGC with a series of cases to remove a guardian who was charged with and ultimately convicted of stealing from protected persons. OPGC investigated the circumstances for over 40 such individuals to determine which ones needed OPGC to serve as a substitute guardian. Other cases involve persons who are seriously ill, face imminently life-threatening situations, or have difficult family dynamics. These cases are scattered across the state, and it can be difficult to obtain admissible information concerning the person's capacity and medical condition. In addition, there are often no funds to pay for the appointment of a court visitor or an attorney to represent the protected person. As a result, OPGC has had to pay for the visitor's services and

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courts have to ask attorneys to serve pro bono (in many cases, the protected person is not even represented by an attorney).

If we can provide additional information on any of these topics, please do not hesitate to contact me.

Sincerely,

A handwritten signature in black ink that reads "Frederick M. Boss". The signature is written in a cursive style with a large initial 'F' and a long, sweeping tail on the 's'.

FREDERICK M. BOSS
Deputy Attorney General

Cc: John Borden, Legislative Fiscal Office