

July 26, 1999

Kent Owens
Curry County Sheriff
Curry County Sheriff s Department
County Courthouse
Box 681
Gold Beach, Oregon 97444

Dear Sheriff Owens:

This letter is in response to your correspondence dated July 6, 1999 concerning the transfer of ownership of Curry County Sheriff s Department canines.

**OREGON GOVERNMENT STANDARDS AND PRACTICES COMMISSION STAFF OPINION
99S-019**

STATED FACTS: For many years the Curry County Sheriff s Department has maintained separate narcotics and attack dog programs. Because of revenue shortfalls, and following a cost benefit analysis, the sheriff has decided to terminate both programs. The dog handlers, who are county sheriff department deputies, have been assigned to other duties and will remain county employees. A decision on the disposition of the dogs needs to be made. The dog handlers would like to keep the dogs which have been assigned to them.

Bo is the narcotics dog who has been under the care of his handler for over four years. Bo has special training in locating dangerous drugs, although his certification is not current because of a lack of recent training. Alf has been with his handler for over three years. Alf is trained to attack criminal suspects upon command from his handler. Like Bo, he is not currently certified because of a lack of recent training.

Both dogs are county property. Both were either purchased and/or maintained with drug forfeiture money.

It is the sheriff s opinion that the dogs cannot be auctioned or otherwise sold to the public because the narcotics dog could be used for improper drug activities and the attack dog could be dangerous to its owner and/or the public.

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The sheriff has attempted, without success, to find another public agency to accept the dogs. It is doubtful the sheriff will find any takers because such dogs do not readily accept new handlers, because of the age of the dogs and because the training of the dogs is not current. For these reasons the sheriff believes the dogs have limited value.

RELEVANT STATUTES: The following Oregon Revised Statutes are applicable to the issues addressed herein:

ORS 244.020(15): Public official means any person who, when an alleged violation of this chapter occurs, is serving the State of Oregon or any of its political subdivisions or any other public body of the state as an officer, employee, agent or otherwise, and irrespective of whether the person is compensated for such services.

ORS 244.040: Code of ethics; prohibited actions; honoraria. The following actions are prohibited regardless of whether actual conflicts of interest or potential conflicts of interest are announced or disclosed pursuant to ORS 244.120.

(1)(a) No public official shall use or attempt to use official position or office to obtain financial gain or avoidance of financial detriment that would not otherwise be available but for the public official's holding of the official position or office, other than official salary, honoraria, except as prohibited in paragraphs (b) and (c) of this subsection, reimbursement of expenses or an unsolicited award for professional achievement for the public official or the public official's relative, or for any business with which the public official or a relative of the public official is associated.

QUESTION: Would it be a violation of Oregon Government Standards and Practices laws for the deputy sheriff/handlers to assume ownership of the animals from the county?

OPINION: ORS 244.040(1)(a) prohibits a public official from using, or attempting to use, their official position or office to obtain a financial gain or the avoidance of a financial detriment that would not otherwise be available but for the public official's holding of the official position or office other than official salary, honoraria, the reimbursement of expenses or an unsolicited award for professional achievement for the public official.

The stated facts describe a very unique situation. The two dogs have received extensive training. The training is extremely specialized and unlike any that would be received by dogs owned by members of the general populace. The training received by the dog handlers is also quite different than most normal dog owners would receive. The

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have been teamed with their dogs from the time of the special training to the present. The dogs are acclimated to these particular handlers and it is unlikely that the dogs could ever be suitably paired with another handler/owner. As indicated in the stated facts, if the narcotics dog were given or sold to the wrong party, it could be used for improper drug activities. Likewise, the attack dog could be a danger to its new owner or to the general public.

Again, the situation presented in the stated facts is very unique. It is the belief of the GSPC staff that a disposition of the animals must be made that is both humane and practical. If the dogs cannot be sold, for the reasons cited in the stated facts, it appears that the animals would have no value. Accordingly, it does not appear that there would be a violation of Government Standards and Practices laws if the dogs were given to their respective handlers to live out their retirement years. If this occurs, all costs for the upkeep and maintenance of the dogs would become the responsibility of the handlers and the handlers would incur a financial detriment and not a financial benefit.

THIS RESPONSE ADDRESSES ONLY THE APPLICATION OF ORS CHAPTER 244 TO THE FACTS STATED HEREIN. OTHER LAWS OR REQUIREMENTS MAY ALSO APPLY. THIS IS NOT A FORMAL ADVISORY OPINION PURSUANT TO ORS CHAPTER 244.280. IT IS MY PERSONAL ASSESSMENT AS THE EXECUTIVE DIRECTOR OF THE OREGON GOVERNMENT STANDARDS AND PRACTICES COMMISSION.

Please feel free to call or write again if you have questions or would like additional clarification.

Sincerely,

L. Patrick Hearn
Executive Director

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