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# An Exploratory Study Into the Financial Situations of Elderly Wards of the Public Guardian and Conservator of Multnomah County

Ruth D. Hudson  
*Portland State University*

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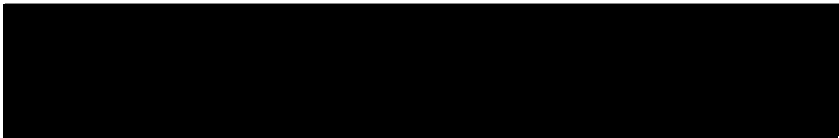
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The advisor approves the practicum of Ruth D. Hudson  
presented May 31, 1978.



Me1 W. Henry

AN EXPLORATORY STUDY INTO THE FINANCIAL SITUATIONS OF ELDERLY  
WARDS OF THE PUBLIC GUARDIAN AND CONSERVATOR OF  
MULTNOMAH COUNTY

by

Ruth D. Hudson

A practicum submitted in partial fulfillment of the requirements  
for the degree of

MASTER OF SOCIAL WORK

Portland State University

1978

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## CHAPTER I

### INTRODUCTION

#### Purpose

It has been the practice of the Public Guardian and Conservator (PG and C\*) of Multnomah County to collect fees for service to elderly wards on an annual basis usually at the time of the annual accounting. The purpose of this study is to determine the profitability of deferring the assessment and collection of fees until the termination of conservatorship. The assumption is that such a policy would provide an immediate benefit to the ward who would enjoy more spendable income while he is alive and at the same time the Public Guardian and Conservator could still collect his fee, although at a later date. This argument is predicated on the assumption that at the termination of conservatorship, the ward is financially solvent and the estate is able to defray the cost of services. By examining the records of past wards, the study should be able to predict the feasibility of a policy that would assess and collect conservatorship fees at the time of termination.

#### Problem

The problem is that the majority of the elderly persons who come

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\*PG and C, an abbreviation used in this paper for Public Guardian and Conservator.

to the attention of the PG and C are in gravely reduced financial circumstances. For them even the minimum annual payment of \$120 could make the difference between meeting a basic need and depriving themselves of an essential service. The practice of the PG and C to collect annual fees at the beginning of conservatorship depletes the ward's resources, thus reducing spendable income during the year. This amount may not appear significant, but for persons living in penurious circumstances this could be a financial blessing.

#### Importance to the Fields of Social Work and Aging

The social and economic problems of the elderly are of considerable importance to the profession of social work and the field of aging because both fields are concerned with the quality of life of the aged person which, in a capitalistic society, is greatly influenced by his income throughout life and at retirement. In the later years when income is reduced by retirement from the labor force, many older persons are forced to reduce their standard of living to a mere subsistence level. This can be a time of indignity and shame for many elderly. Social workers working with the elderly are acutely aware of the deprivations of their clients, and know the importance of additional income to the well being of the elderly. They know that many of their clients are having to live without the necessities of life that many take for granted. Deprivations that are particularly oppressive are those that restrict movement and socialization. These things have so much to do with mental and physical health and a level of functioning that make independent living possible. Independence is a very high value for most older Americans, as it is for the society

as a whole.

### My Interest in the Study

The Office of the Public Guardian and Conservator of Multnomah County, Oregon has held considerable interest for the author since she became Coordinator of Geriatric Protective Services (then known as Geriatric Screening) for Project ABLE (A Better Life for Elderly, a federally funded demonstration project providing supportive services for elderly people in their own homes) in 1972. Working in Protective Services from 1972 to 1976 gave her a keen appreciation of the essential role the Office plays in the protective program for the elderly in Multnomah County. So essential is public guardianship and conservatorship to the program that any threat to the Office becomes a threat to the whole plan of protective services for the elderly in Multnomah County. And the better the Office functions the more secure are the lives of the elderly persons now being served and those who will be in need of protection in the future. When the present occupant of the Office expressed some doubt over the question of the best time to collect fees, the author volunteered to set up a research project to look into the matter. Therefore, this project is also of great interest to the Public Guardian and Conservator of Multnomah County.

### Definition of Terms

The following is an operational definition of terms used in this study.

Annual accountings -- those financial reports to the Probate Court of the business of a ward of the Public Guardian and

Conservator which are required annually by Oregon statute.

Dammasch Hospital -- a State mental hospital located in a county adjoining Multnomah.

Disability -- a physical or mental impairment.

Elderly -- any person over 60 years of age.

Group home -- any home inhabited by unrelated persons for whom the provider is paid for their care and keep, including nursing homes, homes for the aged, foster homes, and boarding homes.

Home provider -- any individual or agency in the business of providing a home for others.

Intake -- the process of beginning service on a new ward in the Office of the Public Guardian and Conservator.

Old age -- persons over 60 years of age.

Public Assistance and Welfare -- used interchangeably to refer to the Adult and Family Services Division of the Department of Human Resources of the State of Oregon, or to financial assistance from that Division.

Spendable income -- that part of the income remaining after outstanding obligations have been met, about which there is some choice as to its disposal.

SSI -- Supplemental Security Income.

Termination or termination date -- the time the services of the Office of the Public Guardian and Conservator cease.

Ward -- an individual whose estate and/or person is under the protection of the Public Guardian and Conservator of Multnomah County.

Welfare -- see Public Assistance.

### Nationwide Perspective

In the last two decades there has been a heightened interest and urgent concern with the problems of the mentally and/or physically impaired aged person who is unable to care for himself. The plight of such individuals has become highly visible with the increase in the aged population and the concentration of the elderly in the cities. At the turn of the century only three million people or 4% of the population were over 65 years of age. Today, due to the advances of medical science in preventing infectious diseases among the young, the declining birth rate<sup>1</sup> and improved living conditions<sup>2</sup> there are now over 21 million people or 10% of the population over 65. More and more people are living into the oldest ages. By 1985 it is estimated that 25 million Americans will be over the age of 65,<sup>3</sup> with 2 million of these over 85.<sup>4</sup>

As the numbers of the elderly increase there is a corresponding increase in the incidence of chronic disease, long term illness, disability and dependency.<sup>5</sup> As the older person becomes increasingly vulnerable and dependent he frequently has difficulty managing his affairs and his life. Typically, the older person who concerns us here is suffering personality disintegration usually manifested in a breakdown in his ability to think--in memory, perception, orientation and judgement, which are at the heart of his ability to function.<sup>6</sup> The description most generally appearing in the literature is aptly put by Regan. The "prospective client for protective services is an elderly person who is too frail mentally and physically to act on his own behalf, who lives alone or is without a responsible person able,

willing, and available to assist him, who needs help in managing himself and his affairs, and whose incapacity might result in hazard to himself or others."<sup>7</sup> The endangered person is most generally poor, maritally unattached, childless, and female although there are many males in this situation. He is frequently confused, depressed, and tired.<sup>8</sup> He cannot manage his money, pay his bills, cash his pension checks, prepare a simple meal, nor keep his home or his person in the most rudimentary state of hygiene. Often he cannot even dispose of his garbage. His poor memory and faulty judgement leave him open to all kinds of exploitation.

Historically since the time of Cicero in Rome and 14th Century England<sup>9</sup> laws have provided for guardianship of person and property of incompetent persons. Such services were easily obtained if the incompetent person could pay for such attention.

Even today the incompetent person can still obtain the services of a guardian under the law. But few prospective guardians are interested in providing such service for those whose estates are insufficient to pay them for their trouble. And so it was common practice in the early part of this century in the United States to take care of the indigent and/or incapable older person by committing him to a mental institution for alleged mental illness at the expense of the state. Functional inadequacy rather than mental illness was often the primary reason for committing many of the indigent elderly. Many others who were so disabled but with money to pay for help, were still in their homes.

In addition to the great increase in the numbers of old people, two events have been operative in drawing attention to the problems of older people. In 1935 the Social Security Act and its subsequent amendments gave the elderly an assured, albeit marginal, income which permitted them to choose to live in their own homes. In the early 1960's revolutionary treatment, particularly drug therapy, drastically shifted the focus of care of the elderly in mental institutions from long term custodial care to short term therapy, pushing many vulnerable old people back into the community.<sup>10</sup> Where appropriate supports were lacking, this has caused serious problems for the old person and his environs. As the aged population increased, leaders in public welfare, health, the Social Security Administration and the Veterans' Administration became concerned about those incapable of managing the income they were receiving from government. The vulnerability to exploitation of many socially dysfunctional elderly alarmed professionals and the public and signalled the need for protection.<sup>11</sup>

Beginning in the 1950's protective services for the elderly became the subject of special conferences, programs, professional papers and extensive projects and research studies.<sup>12</sup> The federal government in 1970 was spending vast sums on Social Security insurance payments which were derived largely from federal trust funds.<sup>13</sup> In the early 1970's the Department of Health, Education and Welfare under Title III of the Older Americans' Act funded ten area wide model projects throughout the country which were to provide comprehensive services to the elderly. One such project was Project ABLE (A Better Life for the Elderly) of Multnomah County which began in 1971. It

contained five service components; nutrition, legal aid, homemakers, transportation, and geriatric screening. Geriatric Screening was in reality a protective service and was later officially called Geriatric Protective Services.

In 1974 when federal funding ran out Geriatric Protective Services was adopted by the City of Portland and with contributing money from Multnomah County continues to serve the same population. It is now called Geriatric Counseling and Protective Services.

The 1971 White House Conference on Aging recommended that "The States adopt legislation providing public guardians, conservators, and administrators without cost to the elderly who cannot afford from modest assets to pay for these services."<sup>14</sup> While most states have laws providing for guardianship, and some specifically giving old age as a reason for guardianship, fewer have enacted any form of public guardianship. Provision for guardianship for those of limited income is an effective alternative to commitment or institutionalization in many cases. When there is a surrogate to make decisions and manage funds an elderly person can often remain at home. This is particularly true if there are other home supports available, as for example, a Meals on Wheels program or homemaker services.

How to deal with the problem of the socially dysfunctional, indigent older person is of particular importance to the social work profession because social casework is the backbone of any protective service program. The social agency "provides the casework,



continuity, and financial resources"<sup>15</sup> required for such an undertaking. While the "role of delivering protective services has been little sought" either within or outside the profession it has become an area of persistent interest in the professions of social work, law, medicine, psychiatry and nursing.<sup>16</sup> The individual central to all this concern, the aged person, must be dealt with in the context of direct personal contact. The specialized field of casework for older people, incorporating additional protective components which developed within the social work profession, has evolved into a protective service with a relative degree of consistency of practice<sup>17</sup> and a body of theoretical information embracing knowledge developed in the field of aging.

Protective services developed by social workers include financial assistance, medical evaluation, psychiatric consultation, legal consultation, fiduciary and guardianship services, home aide and other home help services, nursing consultation and evaluation, and placement in a protective setting.<sup>18</sup> The functions of these services are preventive, supportive and surrogate. The surrogate role implies legal authority or the potential for such authority. Practitioners in protective service are continually having to face the need of finding a surrogate for their elderly clients. Where no guardianship program exists, or exists minimally, the practitioner often feels defeated in her efforts to provide optimal care for her client. In many cases there is no suitable or acceptable substitute for guardianship services which can make a tremendous difference to the safety, personal freedom and quality of life of the individual.

Oregon Statute

History of Office of PG and C in Multnomah County. In Multnomah County concern over the plight of the elderly paralleled the concern of the country at large. Professionals working with the retarded and the elderly were becoming increasingly aware that a significant number of adults were unable to manage their finances or their lives. Most were not sufficiently well off to pay for the services of a corporate or private guardian and had no relative or friend capable and willing to help. The only solution was commitment to a mental hospital or placement in a nursing home or boarding home, as this was the only way the problem could be legally contained. Many of those in need would have been able to remain in their own homes if someone would manage their money and their business affairs. Others were suffering life threatening illnesses and unable, due to impaired mental functioning, to face the reality of the situation and seek or accept medical help. The law did not provide for a shifting of this decision-making responsibility except through commitment. The inappropriateness of this solution was a source of much frustration for professionals working with those in need of help.

Years of growing concern culminated in a concerted effort to get a bill providing for a public guardian passed by the Oregon Legislature. This force was spearheaded by Mr. Gerson F. Goldsmith, Chairman of the City-County Council on Aging of Portland and Chairman of the Protective Services Committee of the Council. Among those supporting the bill were the Housing Authority of Portland, Multnomah County Public Welfare Commission, the City-County Council on Aging,

Family Counseling Service, Oregon Association of Retarded Children, Multnomah County Department of Medical Services, the Tri County Community Council, and the Visiting Nurse Association.

In 1969 the Oregon Legislative Assembly passed legislation enabling counties to establish an Office of Public Guardian. In July, 1971 Multnomah County opened its Office of Public Guardian for business on a part time basis. The first six months of operation were a trial period to test the need for the office in the community. This trial period clearly established the existence of the need for such an office. As referrals poured into the office, the position of Public Guardian was expanded from half time to full time. Office staff has been increased from one administrator at the beginning of the program to one steno clerk, one clerk typist, one part time accountant, and a deputy PG and C. The much needed deputy was hired in April 1978 and at this writing his duties have not yet been fully defined. For fiscal 1977-78 the budget for this office is \$70,317.

Guardianship Laws in Other States and in Oregon. There is a great paucity of information on the subject of guardianship laws in the various states of the United States, and information on public guardianship is particularly scarce. This is due to the fact that it is very difficult to get universal information because of the individual states' jurisdiction over this matter. In 1972 Alexander and Lewin<sup>19</sup> published a very fine study of surrogate management of the property of the aged in the United States. It was their feeling

that guardianship laws as they are applied to the elderly, benefit the fiduciary far more than the protected person. Their study was in the area of private guardianship only.

Many states have statutory provisions for guardianship of incompetents. The definition of guardian varies from one jurisdiction to another. In some, other designations are added or substituted for guardian. Some of these are conservator, curator, or committee. The chief concern of these statutes, presumably, is the protection of the incapable person and his property. The word "presumably" is used because much of the literature strongly questions those whose interests, these alws are intended to benefit.<sup>20,21,22</sup> For purposes of this study we will assume the laws are primarily for the protection of the incapable person. As of 1972, 41 states had laws providing for "Guardian of Old Age",<sup>23</sup> 17 states and the District of Columbia had laws providing for "Conservatorship of the Old Age",<sup>24</sup> and ten states provided for protection by committee or curator. Sixteen states provided protection which dified classification.<sup>25</sup> Definition of terms is spelled out in the law in some jurisdictions but is not clear in others.

In Oregon the following definitions apply. They are taken from Oregon Statutes, Title 13, Guardianships, Conservatorships, and Trusts.<sup>26</sup>

"'Conservator' means a person appointed as conservator to administer the estate of a protected person under ORS 126.157 to 126.413."

"'Guardian' means a person appointed a guardian of a minor or incapacitated person under ORS 126.060 to 126.143."

Public Guardianship has been growing in popularity as a protective service<sup>27</sup> California has the most elaborate provision for public guardians, but Kentucky, North Carolina<sup>28</sup> and Massachusetts<sup>29</sup> also had some type of public protection by 1972.

Responsibilities of PG and C Under Oregon Statute. In Multnomah County the PG and C serves either as legal guardian or conservator for individuals "declared legally incompetent by the Probate Court, in the absence of other representatives."<sup>30</sup> The Office is intended to serve those "incapacitated persons with assets are above welfare limits but too low for banks or attorneys to handle profitably."<sup>31</sup> Its objectives are to serve those who have neither friends nor relatives willing or able to fill the need, and those not wanted by the private sector even though "funds are available."<sup>32</sup>

The power of a conservator as provided by ORS 126.293 is to "take possession of all the property of substantial value of the protected person, and of rents, incomes, issues and profits therefrom whether occurring" (sic) "before or after the appointment of the conservator, and of the proceeds from the sale, mortgage, lease or other disposition thereof." <sup>33</sup>

It is the philosophy of the present incumbent to serve the interests of his wards above the interests of others. That is to say, he does not serve creditors, relatives, or others to the detriment of his ward. He complies with the wishes of others only when they are in the best interest of the ward. Further, he endeavors to maintain the ward in the environment the ward finds most congenial, and will not move him into strange environs over the objections of the

ward unless this is absolutely necessary.

Fee Development. In setting policy for assessing and collecting fees the problem is how to do this with the most benefit to the ward and the Office. The PG and C has always put the interests of the ward before that of the Office and wishes to collect fees in such manner as to place the least hardship on the ward. In the early history of the Office fees were collected in a rather random manner with no apparent formula or specific guidelines in operation. In 1974 when the present incumbent took office, he set about establishing rules and procedures for setting and collecting fees. Always cognizant of the generally low income of the clientele, he and his superiors in County government have set down guidelines for fee assessing at considerably lower rates than corporations and attorneys normally charge. The question which is of significance for this study, is when should this fee be collected? During the conservatorship or upon termination of the conservatorship?

It has been the practice of the present Office holder to collect fees on a yearly basis at the time of the annual accounting to the Court. While fees assessed are nominal and never sufficient to cover cost of service, in many cases they are significant when measured against a small income.

The object of our research is to test the feasibility of postponing collection of fees until termination of conservatorship. For the elderly termination usually occurs in one of two ways; either by transferring the account to Public Assistance when personal funds can no longer support the ward, or by death. At the time of termination

is there enough money left in the estate to pay the fees for the entire period of the conservatorship? The answer to this question has been the purpose of my research. It is my hypothesis that there is sufficient money after termination to pay those fees.

In California, the practice of a public guardian is to collect fees "only if a private guardian or conservator is appointed to succeed him, or at the death of his ward he may file a claim against the ward's estate for reimbursement of his expenses."<sup>34</sup> In Kentucky all fees are to be paid out of the estate.<sup>35</sup> The Handbook of Model State Laws recommends public guardian or conservator services be free or very low cost for those whose resources are inadequate to compensate for service.<sup>36</sup> It is the recommendation of Regan<sup>37</sup> that costs of the public guardian should be reimbursed from the remaining estate after the death of the ward, so that the assets would be used for his benefit in his lifetime. In Oregon ORS 126.955<sup>38</sup> provides that "the public guardian and conservator shall have a claim against the ward's estate for his reasonable expenses incurred in the execution of the guardianship or conservatorship and such compensation for his services and those of his attorney as the court having probate jurisdiction in the county deems just and reasonable."

In Multnomah County the first uniform fee schedule was set in 1974. It provided for a minimum fee of \$25 for the first year of conservatorship. The fee scale was higher the first year than succeeding years because the initial procedures in a conservatorship

are almost always more arduous than subsequent transactions.\*

Accounts between \$10,000 and \$20,000 were assessed at a rate of 2¼%. Accounts over \$20,000 were assessed at a rate of 2%. After the first year charges were ½ of 1% of the account.

In 1976, in response to increased budgetary pressures and the need of the Office to generate more funds, fee schedules were revised. The minimum fee which was raised to \$120 annually, is still less than half the fee charged by corporate conservators. In the initial year of conservatorship a fee was set at 2% of the total assets up to \$20,000 and 1% of assets in excess of \$20,000. After the first year a charge of 1% of total assets would be made. All fees are subject to individual approval by the Court. No fee is charged for guardianship since it rarely occurs that this office is named guardian and not conservator.

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\*Initial duties in a conservatorship include: accumulation of assets, managing assets, preparation of an inventory, defining needs of the protected person, and settling past financial problems.



## CHAPTER II

### METHODOLOGY

#### Research Design

This is an exploratory study employing an ex-post facto design. Using library research methods, existing records in the Conservator's office will be thoroughly reviewed for data to accept or reject the hypothesis.

#### Sample Selection

The population under study is the elderly clientele of the PG and C who live in Multnomah County. Investigations will be confined to people over sixty years of age who make up approximately 80% of the caseload of the PG and C, as it is this group for whom collection of fees is the most problematic. The other 20% consists of minors and retarded adults. The minors have sufficient income so that collection is not a concern. (Those minors whose incomes are at subsistence level are usually managed by Children's Services Division.) The retarded adults under conservatorship usually receive Social Security Disability and many have real property (from an inheritance) to manage.

The elderly, on the other hand, usually have low incomes and few assets, and unlike the retarded adults whose conditions are stabilized, or the minors who are moving toward independence, the elderly face an inevitable deterioration and the expense that accompanies it.

The sample consists of all wards of the PG and C who were at least sixty years of age at intake, whose cases were terminated with that Office between July 1, 1974 and August 23, 1977, and whose estates, in the case of death, have reached their final disposition.

Multnomah County, Oregon. Multnomah County is located in the northwestern part of the state of Oregon. With an area of 457 square miles, it is the smallest county in Oregon, although its population of 556,400 (1977 estimate)<sup>39</sup> is the highest. Its principle industries are lumber, wood, metals, food, paper, textiles, apparel, and transportation.<sup>40</sup>

In 1967 the County implemented the Home Rule form of government. It is governed by a five man Board of Commissioners elected by popular vote and "responsible for the operation of all County business."<sup>41</sup> The commissioners are all full time employees of the County and all positions are for terms of four years. The Chairman serves as the Executive Officer and with the approval of the other Commissioners, appoints Department heads. It is the duty of the Board to "establish policy and adopt legislative ordinances"<sup>42</sup> and to supervise and control the County budget. It also has the power to enact legislation.

The largest city in Oregon, Portland, resides in Multnomah County at the confluence of the Columbia and Willamette Rivers. Portland, which owes its distinction to its position on the Columbia River, is 173 miles south of Seattle and 639 miles north of San Francisco.<sup>43</sup> It is an important trading crossroads and possesses the largest fresh water port in the West. Five transcontinental

railroads and five interstate buslines converge in the city, and Portland Airport, one of the major airports in the United States, is host to ten commercial airlines.<sup>44</sup>

A celebrated feature of Portland is its extensive park system which occupies entire city blocks in the downtown area. On the western hills of the city a 5000 acre park stretches for nine miles, serving as refuge to deer and smaller wild creatures.<sup>45</sup>

Portland enjoys a Commission form of government composed of a Mayor and four Commissioners. All are elected at large in even years on a non-partisan ballot for four-year staggered terms. The Mayor and Commissioners act together as a Council to enact legislative ordinances. Individually each heads a major department of the city government as its principle administrative officer.<sup>46</sup>

TABLE II, I

NUMBER AND PERCENTAGE DISTRIBUTIONS OF THREE POPULATIONS  
OF ADULTS AGE 60 AND OLDER BY AGE AND SEX

Age	Sex	This Study n=57	Multnomah County n=536,667	Oregon N=3,091,385
Over 60	Males & Females	100%	97,524	321,216
			18%	15%
	Females	36	56,580	175,204
		63%	58%	55%
	Males	21	40,944	146,012
		37%	42%	45%

Table II, I compares the population of this study to those of the County and State by age and sex. Populations of Multnomah County<sup>47</sup> and the State of Oregon<sup>48</sup> are from the 1970 census. The percentage of females in this study is higher than females in the County and State and the percentage of males is lower. This may be because females over 60 are less likely to be married than males; therefore, are more liable to be alone and in need of protective service.

### Research Instrument

The research instrument was a questionnaire designed to elicit the necessary information needed to test the research hypothesis. While all questions were of a demographic nature, specific questions were asked of termination, sources of referral, reason for conservatorship, and nursing home placement. The questionnaire schedule consisted of 19 items.

There were two objectives in developing the questionnaire. The primary objective was to find out how much money was involved in each conservatorship and what happened to it. In relation to this it seemed desirable to compare the total fee collected by the PG and C with the amount of money in the estate at termination and the length of time the service was provided. Computation of the rate of compensation on a time basis rather than intensity of service was the more logical approach, since the latter would be purely speculative.

The secondary objective was to get a demographic profile of the elderly clientele of the Office.

Before going to the files, I made a list of all the things I need-

ed to know about fee assessment and basic demographic information about the client profile. The original questionnaire had five questions asking for race or ethnic background, marital status, number of children, education, and occupation before retirement. Initial perusal of the files revealed that the answers to these questions were not routinely kept on each ward, and in general were not available. Nor was the matter of the sex of the ward systematically noted. If the first name did not make the sex apparent, a search of letters and other documents had to be made to find a reference to gender. This initial search of selected files served as a pretest of the instrument. For example, Questions 8, 9, and 10 were not on the original questionnaire. These were added, subsequent to the pretest, when the author discovered this information was available and contributed to an understanding of the clientele. Question 17 was added when I realized this information was available in the Probate Office and would be useful in completing the financial picture.

#### Procedure and Data Collection

The research procedures are as follows: In the Spring of 1977 I got from the PG and C a list of wards who were over 60 at the time of intake and whose cases had been terminated since July 1, 1974. This date was chosen at the request of the PG and C because that was the beginning of the first fiscal year of his incumbency when he began the first systematized method of fee assessment and collection. Several months after I obtained the first list I asked for the names of persons who were terminated in the interim. I reviewed the files of

all terminated cases that fit my guidelines. The outcome was 54 files which became subjects for this study. Systematically, each file was examined and information obtained consistent with the schedule. In the case of the deceased, I looked at records of estate disposals in the Probate Office to learn how much money was left and what happened to it.

#### Limitations of the Study

With regard to those cases that were transferred to Welfare, the precise date of termination was difficult to determine because of the number of conflicting dates. For example, the date the PG and C authorized Welfare to handle the funds, the date the Probate judge signed the order dismissing the PG and C, and the date of the last entry in the accounting were all present. For purposes of uniformity and of measuring actual length of service to the ward, I have chosen to use the date of the last accounting entry as the termination date. In the case of death I have used the date of death as termination. The time required from these dates to the turning over of assets to the next responsible party varies from case to case.

Source of and reason for referral were sometimes impossible to obtain. The earlier conservatorship files do not always contain a referring letter from the referring agent.

All information regarding receipts and disbursements came from the annual accountings, a copy of which is in each file. Where the purpose of the transaction has been unclear, the item has been placed in the category of "Unspecified".

## CHAPTER III

### DATA ANALYSIS AND FINDINGS

This chapter represents the culmination of the research project. Data will be presented in a logical manner and analyzed in discrete categories which grew out of the material gathered as an end product of the questionnaire. Tabulations will be given around the basic concepts of mean, mode and median. No statistical tests will be used, neither will there be any attempt to determine correlations and causal relationships.

#### Age, Sex, and Marital Status

The sample which totalled 57 individuals, comprised 36 females and 21 males. Of this number, there were 51 single individuals and 3 married couples. The couples were treated as individuals except in the areas of finances, source of referral and reason for referral. When referring to cases, one married couple represented one case, as does an individual. Therefore, the 57 individuals were reduced to 54 cases. The age range was 60 to 96 with a mean age of 77, and a median and mode of 79 and 85 respectively.

#### Sources of Referral

There were eleven sources of referral including both public and private sectors. The following table (Table III, I.) provides a list of these sources.

TABLE III, I.  
SOURCES OF REFERRAL

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Public Assistance	12
Metropolitan Family Service	12
Multnomah County Division of Health Services	10
Dammasch Hospital	3
Visiting Nurse Association	3
University of Oregon Health Science Center	2
Private Attorney	2
Relative	2
Good Samaritan Hospital	1
Probate Judge	1
Housing Authority of Portland	1
Veterans' Administration Hospital	1
Bank	1
Not specified	3
	<hr/>
	54

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#### Reasons for Referral

The reasons for referral have been logically broken down into ten somewhat discrete categories. (See Table III, II.) The first five categories deal with aspects of mental impairment which warranted separate categories. Category one has reference to mental incapability due to forgetfulness, while category two deals with the client's being taken advantage of by other persons, or danger thereof because he is mentally and/or physically incapable of defending himself or keeping his money and valuables safe. Additionally, he may be gullible, possibly due to loneliness and a desire to believe in others. Category five refers to the person who is mentally incapable of facing or comprehending the gravity of his medical situation and making a rational decision. In my own experience, at no time was medical



TABLE III, II.  
REASONS FOR REFERRAL

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Inability to manage money	38
Financial exploitation or threatened exploitation	7
Inability to provide basic needs or care for self	15
Wanders and gets lost	3
Needs medical care to save life	2
Physical incapability	7
Physical abuse by others	1
Emotional dependence and fear of being alone	1
Exhaustion of funds	1
Not specified	4

---

attention forced on anyone when they were mentally competent to choose not to have it.

Category six relates to the person who is physically incapable of taking care of his business affairs. Category seven relates to a person who was being physically abused by her family which would not allow her to leave the situation. Category eight refers to a person who literally could not tolerate being left alone. Category nine was the reason for referral given by a bank which had been acting as conservator for the individual referred. Category ten represents those files which contained no referring letter. Many persons were referred for more than one reason. Others had more than one of the nine difficulties listed, but all the reasons that applied were not necessarily mentioned.

#### Living Situation at Intake

At the time of intake 18 wards were living in apartments, 17 in their own homes, 10 in nursing homes, 4 in boarding homes, 2 in homes

for the aged, 3 in hotels, 1 in Dammasch Hospital, 1 in Good Samaritan Hospital, and 1 in the home of her son and daughter-in-law. (See Table III, III.) It is not known if the one in Dammasch Hospital had been living there. Immediately after conservatorship commenced he was moved to a hotel. It is highly probable that hotel living was his custom. The person at Good Samaritan Hospital had not been there long, but it is not clear where she had been living.

TABLE III, III.  
LIVING SITUATION AT INTAKE

Apartment	18
Own home	17
Nursing home	10
Boarding home	4
Hotel	3
Home for the aged	2
Dammasch Hospital	1
Good Samaritan Hospital	1
Home of son and daughter-in-law	1
	57

#### Assets at Intake

The assets at intake included cash, stocks and bonds, homes, and in two cases, rental property. The range was from no assets at all to \$184,931.15. The mean was \$10,202.99 and the median was \$3,448.17. The three highest were \$37,640.96, \$38,213.00, and \$184,931.15. Leaving out the one highest, the mean is \$6,906.23 and the median is \$3,731.48. Omitting the three highest, the mean is \$5,689.71 and the median is \$2,976.16.

Conversely, going to the other extreme and omitting the three lowest (\$00., \$18,06, and \$23,68), the mean is \$10,802.34 and the median is \$3,842.13. Table III, IV gives the distribution of assets. Since no two figures were exactly the same, each sum represents one case.

TABLE III, IV.  
ASSETS AT INTAKE

\$ 00.00	\$1,881.00	\$6,629.72
18.06	2,052.33	7,993.65
23.68	2,117.84	8,391.40
100.40	2,274.09	9,249.65
108.55	2,559.01	10,126.37
158.18	2,579.82	10,223.17
169.55	2,678.62	10,300.00
195.80	2,976.16	13,026.94
230.43	3,162.86	13,390.32
477.26	3,731.48	15,141.62
779.04	3,842.13	19,501.00
822.92	4,452.91	20,795.60
891.33	4,571.96	21,491.57
1,000.00	4,973.00	22,168.59
1,044.62	5,613.57	23,386.02
1,485.42	5,868.43	37,640.96
1,598.95	6,040.59	38,213.90
1,628.10	6,249.54	184,931.15

### Income

The income for the sample came from at least thirteen different sources. These sources were Social Security, Social Security Disability, Supplemental Security Income, Railroad Retirement, Veteran's, Union and other pensions, life insurance annuities, Public Assistance, interest on savings and bonds, dividends from investments, sale of home or personal property, rental receipts, inheritance,

property tax relief, tax refunds and alimony. Additional income was derived from unidentified persons and sources. Social Security was the most common source of income for this sample. With the exception of two persons, all cases received Social Security. Three individuals received Social Security only. All other incomes were from two or more sources. See Table III, V for tabulations)

TABLE III, V.  
SOURCE OF INCOME

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Social Security	52
Interest	45
Property Tax Relief	33
Public Assistance	26
Sale of Personal Property	19
Other Pensions	14
Supplementary Security Income	10
Investments	10
Sale of Home	7
Checks from Unspecified Source	5
Inheritance	3
Rental Property	2
Alimony	1
Social Security Disability	1
Other	4

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One might expect more than 10 of the 54 would receive Supplementary Security Income, when 26 were receiving Public Assistance. The difference is related to the fact that persons in nursing homes are ineligible for SSI. Placement in a nursing home causes a great many persons to require government assistance, and at this time, SSI is not a choice.

Of the 54 cases in the study, 26 were on Welfare at some time during the conservatorship. Of the 28 not on Welfare, two were under conservatorship only four days and five days each before death. Naturally this did not allow enough time to establish their income on a monthly basis. The other case was a couple in the process of being transferred to a relative. Income was not established before transfer.

Of the 25 remaining who were not on Welfare the range of the average monthly income was \$132.59 to \$1,585.43. The mean was \$388.56 and the median, \$240.70. Three had income ranging from \$854.55 to \$1,585.43, which heavily skewed the mean. These three had unusual income during the conservatorship. One inherited \$15,000 from a brother and two had sold their homes. When these unusual receipts were averaged with the regular receipts for the period of the conservatorship, it made monthly income unrealistically high.

The mean income for the other 22, leaving out the three highest incomes, was \$270.83 and the median \$238.36.

Because of the advancing years and low retirement incomes of this population, receipts often represent liquidation of assets as the conservator attempts to increase income and allow the ward to remain self-supporting. This is particularly true if the individual can no longer live alone and must move to a group home, thus significantly raising the subsistence cost. Unusual income which often gave a false impression of prosperity came from sources such as the sale of personal property and home furnishings, the sale of a home and the cashing in of stocks and bonds.

Another factor which tended to skew the results of income calculations was tax refunds and property tax relief. Tax refunds are usually but not always specific whether state or federal. Where there is a clear indication in the accountings when the taxes were paid, these refunds have been subtracted from payments. When this is not clear it may be that taxes were paid before the conservatorship began. In that case the refunds have been included in income, which does not give a true picture of income. Simply omitting the refund entry would not have clarified the matter, because the tax payment could be unrecognized among the disbursements. A payment to the "Department of Revenue" can mean a payment for state institutional care, to satisfy a tax lien, to pay property or income tax or claim against an estate.

Of the 28 persons (26 cases) in the sample on Welfare, 18 were in nursing homes for long term or permanent placement. Of the 10 remaining, one was in Dammasch Hospital and 9 remained in the community, either living independently or in group homes at the time of termination.

#### Monthly Expenditures

For the 26 cases on Welfare it is not always possible to ascertain how much money was being spent for monthly expenses because Welfare was making direct payments to nursing homes. Also, for those on Medicaid, health care bills were paid directly to the provider. Therefore, no attempt will be made to estimate the monthly cost of living for this group.

Of the 28 cases not on Welfare, six were under conservatorship too short a time for average monthly expenditures to be established. Of the 22 cases remaining, average monthly expenditures ranged from \$159.80 to \$1,084.41: the mean was \$402.89 and the median, \$321.98. Of those with the six highest average monthly expenditures, two had several rental apartments on which they were paying utilities, maintenance, insurance, etc., and this business overhead could not be differentiated from the expenditures for the wards' own housing. The other four were in nursing homes.

Many accounts showed that disbursements exceeded receipts. In these cases assets were clearly being consumed, and if the tendency continued the ward went on Welfare unless death interceded or the account was transferred before funds were exhausted. (Because of this process five cases were terminated to Welfare which had not previously been receiving Welfare.) In some cases excessive expenditures were due to the PG and C paying off delinquent bills the ward had neglected. In other cases they represented a move from independent living to a group home or from a lower cost group home to a higher cost group home, that was beyond the means of the ward. In all cases the move was due to the necessity for a more protected environment for the safety of the ward.

Funds were spent on a great variety of goods and services. Usually the ward was given a small monthly allowance, in most cases \$20 to \$50, depending on income and needs. The accountings rarely indicated what purchases were made. Aside from this allowance funds were generally spent on the necessities of life. I found very little

money going for "frills". This can be accounted for not just in terms of generally impoverished circumstances, but also because the world of desire for this population has contracted due to physical infirmity and impaired mental functioning. Many have been withdrawn from the world for so long they have forgotten the meaning of the term "pleasure". Therefore, their monthly incomes were being used on the necessities of life in an attempt to maintain a modicum of independence and under circumstances that would enhance their dignity and pride.

#### Disbursement of Funds

Disbursements were divided into ten categories: Residence, Food, Medical, Personal, Cost of Guardianship, Legal, Costs to Bury Spouse, Taxes (when purpose is not specified), Insurance (when insured item is not specified), and Miscellaneous. Table III, VI. shows what items were included under these headings.



TABLE III, VI  
DISBURSEMENT OF FUNDS

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Residence: payment of group home provider, rent, utilities, home maintenance, insurance, taxes

Food: groceries, Food Stamps, Meals on Wheels, restaurants, milk delivery

Medical: doctor, hospital, ambulance, pharmacy, X-rays, laboratory, health insurance, hearing aid, glasses, dental care, chiropodist

Personal: clothes, beauty parlor, charge accounts at department stores

Costs to Bury Spouse: death certificate, cemetery, funderal service

Costs of Guardianship: bond, stamps to research assets (does not include fees)

Legal: attorney fees, legal documents, court

Taxes: (when purpose not specified)

Insurance: (when purpose not specified)

Miscellaneous: social services, homemaker service, personal care, housecleaning, laundry and dry cleaning, veterinary, florist, driver's license, "For Sale" sign, storage of personal affects and furniture, church donations, union dues, YWCA dues, repayment of loans, TV repair, income tax preparation, newspaper

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When transfer is made Public Assistance opens a Trust In Agency account to handle the client's funds. The client no longer has a conservator.

### Termination

Conservatorships were terminated for reasons of death, transfer to Public Assistance as assets dwindled, improvement of physical and/or mental condition to capability for independence, transfer to Veterans' Administration conservatorship, transfer to a private conservator (an attorney or relative), or transfer of responsibility to a friend or relative when assets were too small to require conservatorship. Table III, VII gives the frequency of these dispositions.

TABLE III, VII.  
REASONS FOR TERMINATION

Final Disposition	Number
Transfer to Welfare	22
Transfer to private conservator	4
Transfer to Veterans' Administration Conservator	1
Able to be independent	3
Moved to Norway to live under sister's care	1
Transferred to care of friend when assets were negligible	1
Death	25
Total	57

When conservatorships are transferred to Public Assistance it is often because assets are reduced to the point where the client must depend on Welfare to survive. However, there are many cases where transfer is not made at the time funds are exhausted. The ward goes on Welfare but the PG and C continues to manage the account. When the PG and C is guardian of the person as well as conservator of the

estate, he holds the account as long as guardianship is necessary. In other cases there is real property to be disposed of. After the sale, the ward is frequently self-supporting for a time, and many never need Public Assistance again.

#### Living Situation at Termination

At termination many wards had moved from the residence they occupied at intake. Table III, VIII compares the living situations at termination with the living situations at intake.

TABLE III, VIII  
COMPARISON OF LIVING SITUATION AT TERMINATION  
WITH LIVING SITUATION AT INTAKE

Living Situation	Intake	Termination
Apartment	18	3
Own home	17	6
Nursing home	10	30
Boarding home	4	5
Hotel	3	1
Home for the aged	2	9
Dammasch Hospital	1	1
Good Samaritan Hospital	1	0
Home of son and daughter-in-law	1	0
Home of sister	0	1
Unspecified	0	1
	57	57

#### Length of Conservatorship

The length of conservatorship ranged from 4 days to 47 months. The mean was 21 months; the median, 20 months; and the mode, 13 months. Table III, IX shows tabulation.

TABLE III, IX.  
LENGTH OF CONSERVATORSHIP

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4 days	2
5 days	1
25 days	1
1 month	1
3 months	1
4 months	1
5 months	1
6 months	1
7 months	3
8 months	1
9 months	1
11 months	3
12 months	2
13 months	6
14 months	1
20 months	3
21 months	1
22 months	1
23 months	1
26 months	1
27 months	3
28 months	1
29 months	3
30 months	2
34 months	1
35 months	2
36 months	1
38 months	3
42 months	2
43 months	1
45 months	1
47 months	1

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54

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#### Disposition of Estates

Twenty-five individuals died during conservatorship. Two of these were part of a couple under conservatorship and left their estates to their spouses. Estates of couples will be treated as one

estate. In no case did both spouses die under conservatorship.

Of the 23 remaining individuals who died, eight left no assets (usually because of a Welfare claim on the estate, or other debts) after all claims had been honored. So the amount of assets left after claims ranged from zero to \$40,922.16. The mean was \$7,410.90 and the median was \$3,387.28.

Of the deceased, one barely had enough for funeral expenses, one left \$965 in debts (for funeral expenses and charge accounts) which exceeded the assets. Eight had Welfare claims against their estates. Six of these did not have enough assets to fully honor the claim, but two were able to honor the claim and leave something for relatives. Three had no heirs and their assets went to the state of Oregon. One left an estate to the Shriners' Hospital for Crippled Children; one left his estate to his church; and one made the International Workers of the World his heir. Eight left something to relatives and one left everything to a friend. Table III, X compares length of conservatorship, fee, assets at termination, and disposition of estate on 23 deceased wards.

Table III, XI compares length of conservatorship, fee, assets at termination and reason for termination on 10 wards who did not die or transfer to Welfare.

TABLE III, X.

A COMPARISON OF LENGTH OF CONSERVATORSHIP, FEE, ASSETS AT  
TERMINATION AND DISPOSAL OF ESTATE FOR  
23 DECEASED WARDS

Length of Conservatorship	Fee	Assets at Termination	Disposition of Estate
4 days	\$ 25.00	\$ 8,858.60	Friend
4 days	433.86	22,229.14	Church
5 days	147.57	3,387.28	19 relatives
25 days	120.00	3,285.65	International Workers of the World
1 month	120.00	1,900.97	State of Oregon
3 months	25.00	No assets	-----
7 months	120.00	2,000.00	State of Oregon
8 months	120.00	No assets	-----
11 months	35.17	No assets	-----
11 months	243.60	12,254.25	Shriners' Hospital for Crippled Children
11 months	94.37	7,265.65	3 relatives
12 months	100.00	13,091.29	14 relatives
13 months	25.00	No assets	-----
14 months	25.00	No assets	-----
20 months	479.51	19,097.01	State of Oregon
26 months	136.89	No assets	-----
28 months	459.13	7,687.85	Daughter
29 months	114.95	No assets	-----
30 months	475.87	3,193.34	Son
35 months	554.81	11,500.00	Sister
38 months	1,439.34	40,922.16	Daughter
38 months	145.00	No assets	-----
47 months	520.30	9,670.01	Daughter

TABLE III, XI.

A COMPARISON OF LENGTH OF CONSERVATORSHIP, FEE, ASSETS  
AT TERMINATION AND REASON FOR TERMINATION  
FOR 10 WARDS

Length of Conservatorship	Fee	Assets at Termination	Reason for Termination
4 months	\$ 25.00	\$12,730.00	Niece conservator
6 months	120.00	2,063.50	Friend responsible
7 months	120.00	1,027.09	V.A. conservator
13 months	39.04	1,522.69	Sister responsible
13 months	120.00	59.95	Independent
13 months	362.38	33,200.00	Private conservator
13 months	120.00	977.83+	Independent
		home	
20 months	89.24	1,555.92+	Daughter conservator
		home	
29 months	360.68	13,555.88	Private conservator
42 months	2,900.11	100,387.85	Independent

Fees of the Public Guardian and Conservator

Total fees for each conservatorship ranged from \$0.00 to \$2,900.11. The mean was \$285.38; the median was \$120.00; and the mode was \$120.00. There was no fee collected in one case, and twenty-two paid less than \$120.00. See Table III, XII for tabulation of fees.

TABLE III, XII  
TOTAL FEE CHARGED 54 WARDS

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No Fee	1
\$25.00	5
27.76	1
35.17	1
39.04	1
43.07	1
50.00	2
75.00	1
78.48	1
78.99	1
85.00	1
86.10	1
89.24	1
94.37	1
100.00	1
110.00	1
114.95	1
120.00	11
120.15	1
130.00	1
136.89	1
145.00	3
147.57	1
205.47	1
236.34	1
243.60	1
259.82	1
362.38	1
368.21	1
433.86	1
459.13	1
475.87	1
479.51	1
520.30	1
554.81	1
1,439.35	1
2,900.11	1

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Age at Death

Of the 25 who died, the age range at the time of death was 64 to 97; the mean age was 81 and the median was 83. Table III, XIII shows the distribution.

TABLE III, XIII.

## AGE AT DEATH

Age Categories	Deaths
64-67	3
70-78	6
81-87	11
90-97	5
	<u>25</u>

Real Estate and Solvency

With few exceptions the elderly clientele of the Office of the Public Guardian and Conservator are living in impoverished circumstances. Social Security was the most common source of income, with 52 out of 54 receiving it. Only 14 received pensions from another source. Twenty-six depended on Public Assistance and an additional 5 were terminated and transferred to Public Assistance when assets were exhausted. Sixteen out of 54 owned property; in all but 2 cases, homes only.

Among the 16 cases who owned real estate, at termination 3 were transferred to a private conservator; 3 were transferred to Welfare; 2 became independent; and 8 died. See Table III, XIV for their living situation. None of the 8 who died was in debt at the time of death. (See Table III, XV)

TABLE III, XIV  
FINAL DISPOSITION AND LIVING SITUATION AT TERMINATION  
OF WARDS WHO OWNED REAL ESTATE

Final Disposition	Living at Termination
Died, 8	Nursing home, 3 Own home, 3 Boarding Home, 1 Home for Aged, 1
Private conservator, 3	Nursing home, 3 Own home, 1
Transfer to Welfare, 3	Nursing home, 3
Independent, 2	Own home, 1 Apartment, 1
16	16

TABLE III, XV.  
ASSETS AT DEATH OF 8 WARDS\*  
WHO OWNED REAL ESTATE

Assets over \$2,000	In Debt
8	0

\*The 8 dead wards in Table III, XV are the 8 who died in Table III, XIV.

Thirty-eight cases did not own real estate. At termination 18 of the number were transferred to Welfare; 2 to another conservator; 2 were transferred to the care of a responsible person, 1 became independent; and 15 died. (See Table III, XVI, for their living situation.) Among the 15 who died, 8 died in debt or without assets, and 7 had money left. (See Table III, XVII for more details.) Since the 18 transferred to Welfare would be indebted to Welfare, 25 were in debt or potentially in debt at termination.

TABLE III, XVI.

FINAL DISPOSITION AND LIVING SITUATION AT TERMINATION  
OF WARDS WHO DID NOT OWN REAL ESTATE

Final Disposition	Living at Termination
Transferred to Welfare, 18	Nursing home, 12 Home for the aged, 3 Boarding home, 2 Apartment, 1
Died, 15	Nursing home, 10 Home for the aged, 2 Dammasch Hospital, 1 Apartment, 1 Hotel, 1
Transferred to other conservator, 2	Home for the aged, 2
Transferred to responsible person, 2	Boarding home, 2
Independent, 1	Boarding home, 1
38	38

TABLE III, XVII.  
 ASSETS AT DEATH OF 15 WARDS WHO DID  
 NOT OWN REAL ESTATE\*

Assets at Death	No. of Deaths
Died in Debt	7
Left no Assets	1
Left under \$2,000	1
Left over \$2,000	6
	<u>15</u>

Thirty persons were in nursing homes at the time of termination. Eight owned real estate and 22 did not. Fifteen of the 30, or 50% were transferred to Welfare; 2 were transferred to another conservator, and 13 died. (See Table III, XVIII) Among the 13 who died, 8 left over \$2,000, 1 left under \$2,000, and 4 died in debt. (See Table III, XIX) Since the 15 transferred to Welfare would be indebted to Welfare, 19 of the 30 in nursing homes were in debt or potentially in debt at termination.

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\*The 15 dead wards in Table III, XVII are the 15 who died in Table III, XVI.

TABLE III, XVIII

FINAL DISPOSITION OF 30 WARDS LIVING IN NURSING HOMES,  
8 WHO OWNED REAL ESTATE AND 22 WHO DID NOT

Final Disposition		Owned Real Estate	Did Not Own Real Estate
Transferred to Welfare	15	3	12
Transferred to other Conservator	2	2	0
Died	13	3	10
	30	8	22

TABLE III, XIX

ASSETS AT DEATH OF 13 WARDS LIVING IN  
NURSING HOMES\*

Assets	Wards
Left over \$2,000	8
Left Under \$2,000	1
In debt	4
	<u>13</u>

\*The 13 dead wards in Table III, XIX are the 13 who died in Table III, XVIII.

## CHAPTER IV

### IMPLICATIONS AND RECOMMENDATIONS

#### Implications

This is a study about conservatorship in Multnomah County, Oregon. The major focus of this study was to determine if assessment and collection of conservatorship fees by the Public Guardian and Conservator of Multnomah County could be done at the termination of conservatorship instead of the beginning and still be a viable financial operation. Done retrospectively, the study examined 54 terminated cases to ascertain the amount of assets and income which the ward had when conservatorship was terminated. Based on the findings of this study, it appears that the present policy to assess and collect fees for conservatorship seems appropriate and should be continued.

Several implications seem warranted. The first has to do with the probable length of time that assets will last. Factors which affect the duration of assets are amount of assets at intake, longevity, and cost of living. The data indicated, not too surprisingly, that in general those with more assets remained solvent longer. Even generous assets, however, must be measured against the cost of living and longevity in each case. Any amount of money is meaningless by itself. It is the demands made upon the money that give it a relative meaning.

Based on the findings, those who owned real estate were likely to remain self-supporting for the longest period. Similarly, those remaining in the community (apartments and homes) were likely to be self-

supporting for a longer period than those living in group homes or institutions. As physical and mental functioning deteriorated and group homes or institutions became necessary, assets were consumed more rapidly. There was a definite relationship between the decline in real assets and the decline in the ward's health status.

For those who were financially independent at intake, the tendency to use up assets could be anticipated in many cases. Liquidation of property is a significant method of increasing income for many. In the absence of property or inheritance, income usually does not increase. If costs are rising due to the need for a more protected environment or greater medical needs, assets tend to diminish at a more rapid rate. As spending accelerates, a time approximation can be made regarding the necessity for application to Public Welfare. In cases where this is indicated, fee collection should be made immediately and prior to the application for Public Welfare. This would ensure that the conservator's fee is paid prior to the exhaustion of funds.

Table IV, I gives the approximate amount of assets that was left in all cases at termination. If all collections had been postponed until termination, 59% (32 cases) could have paid at least the minimum fee and several could have paid considerably more (as they actually have using the present fee scale). These 32 cases had at least \$1500\* at termination. It is doubtful that many of the remaining 41% (22 cases) could have paid the minimum fee. Of those 22 cases; 9 or 17% left no

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\*The amount of \$1500 is used to determine those capable of paying the minimum fee as this is the maximum amount a person over 65 years of age is permitted, to be accepted as a Welfare client.

TABLE IV, I  
TERMINATION/ASSETS

Assets	Died	Transferred to Welfare	Other	Totals	%
No assets	8	1		9	17
\$0-500		2	1	3	6
\$500-1,000		4		4	7
\$1,000-1,500		5	1	6	11
\$1,500-2,000	1	4	1	6	11
\$2,000-3,000	1	4	1	6	11
\$3,000-5,000	3	1		4	7
\$5,000-10,000	4		1	5	9
\$10,000-15,000	3		2	5	9
\$15,000-20,000	1		1	2	4
\$20,000,30,000	1			1	2
\$30,000-40,000			1	1	2
\$40,000-50,000	1			1	2
Over \$100,000			1	1	2
Totals	23	21	10	54	100

assets at all (See Table IV, I.). While it would cause no hardship on the deceased to pay fees more equitable with the cost of service, for those who must continue to live off their assets, even a minimum fee would create hardship for many. The implication is that there is no accurate way of predicting the amount of assets a person will have at termination.

With no hard data to go on, it appears the PG and C has done remarkably well in making fair and equitable assessments on the estates of his wards. In very few cases have there been instances where the PG and C could have fairly made a higher assessment than he did. There



were no cases in which he erred on the side of over-assessment. In those few cases where it seemed reasonable to charge more (2 cases, see Table III, X), the suddenness of death seemed to be a factor in the low assessment. Although this study is dealing with an elderly population, death cannot always be anticipated and/or predicted, and assets were being conserved to support life a bit longer.

### Recommendations

Most of the demographic information (religion, race and ethnic background, marital status, number of children, education, and occupation) was not available in the files. Apparently, collection of demographic data is not seen as an essential part of the conservatorship process. Since the PG and C has made it a policy to obtain social services for all his elderly wards, some demographic data are available from this source. However, since the Office of the PG and C is a public office and one that is subject to enquiry from its constituents, it would be better not to have to depend on the social service agency for these data. In addition to demographic data, information pertinent to the dates a ward moves from one home to another; the actual expenditure for room and board, and the date of termination of conservatorship, irrespective of the reasons, are all important. It would be useful to have more details concerning entries for expenditures and receipts in behalf of the ward. (e.g., Why was a certain individual paid a given amount?) Therefore, I recommend that more routine demographic data be kept in the files, along with the dates a ward changes his place of residence, the date the ward becomes a Welfare client, and the reasons behind all receipts and expenditures.

In consideration of the evidence as presented in Table IV, I and previously discussed, it is my recommendation to continue to collect all fees annually as is the present practice. I further recommend that the minimum fee of \$120 annually be doubled for all those who terminate by death, with the additional assessment made before closing the account. This would insure that fees, more commensurate with cost of service, be collected from the one group of wards who would suffer no inconvenience in meeting the obligation.

My final recommendation is that more research be done on the general subject of public guardianship. The dearth of information on this matter leaves an informational vacuum in the area of public surrogate services. After a diligent search of the literature and relevant sources, this author was unable to locate resources that were very helpful.

More information is needed on the number of states providing public guardianship in their statutes, and the nature of these statutes; how the public guardianship laws compare among states, and the nature and scope of implementation; criteria used in accepting or rejecting referrals, charges for service, the educational or experiential requirements for those filling this office, and what provisions is made for social services for wards. In general the whole subject of public guardianship is too important a service not to be publicly recognized.

## FOOTNOTES

<sup>1</sup>Peter M. Horstman, "Protective Services for the Elderly: The Limits of Parens Patriae," Missouri Law Review, Vol. 40, No. 2, (Spring 1975) p. 217.

<sup>2</sup>Protective Casework Practice with Older People: An Explication of the Service Component in the Benjamin Rose Institute Study, The Benjamin Rose Institute (1974) p. 4.

<sup>3</sup>Horstman, p. 217.

<sup>4</sup>John J. Regan, "Protective Services for the Elderly: Commitment, Guardianship, and Alternatives," William and Mary Law Review, Vol. 13 (Spring 1972) p. 569.

<sup>5</sup>Ibid., p. 507.

<sup>6</sup>Workshop on Protective Services for Older Adults, Proceedings of a Conference held at Portland, Oregon (Nov. 2-4, 1967) p. 13.

<sup>7</sup>Regan, p. 601.

<sup>8</sup>Workshop on Protective Services for Older Adults, p. 2.

<sup>9</sup>Horstman, p. 218.

<sup>10</sup>Protective Casework Practice with Older People. p. 4.

<sup>11</sup>Ibid., p. 5.

<sup>12</sup>Ibid., p. 5.

<sup>13</sup>Regan, p. 507.

<sup>14</sup>Toward a National Policy on Aging, 1971 White House Conference on Aging, Final Report, Vol. II, p. 236.

<sup>15</sup>Regan, p. 617.

<sup>16</sup>Protective Casework Practice With Older People, p. 5.

<sup>17</sup>Ibid., p. 7.

<sup>18</sup>Regan, p. 617.

<sup>19</sup>George J. Alexander and Travis H. D. Lewin, The Aged and the

Need for Surrogate Management, Syracuse University (1972), p. 122.

<sup>20</sup>Horstman, p. 217.

<sup>21</sup>Regan, p. 609.

<sup>22</sup>Alexander, p. 9.

<sup>23</sup>Ibid., p. 83.

<sup>24</sup>Ibid., p. 90.

<sup>25</sup>Ibid., p. 95.

<sup>26</sup>Oregon Revised Statutes, 1, Chapters 1 to 170, State of Oregon (1977) p. 1137.

<sup>27</sup>Regan, p. 609.

<sup>28</sup>Ibid., p. 610.

<sup>29</sup>Ibid., p. 611.

<sup>30</sup>Multnomah County Government Handbook, 1969, Published by Multnomah County, Oregon. p. 38.

<sup>31</sup>Ibid., p. 38.

<sup>32</sup>Ibid., p. 38.

<sup>33</sup>Oregon Revised Statutes, p. 1149.

<sup>34</sup>Regan, p. 610.

<sup>35</sup>Ibid., p. 610.

<sup>36</sup>A Handbook of Model State Laws, Publisher: Legal Research and Services for the Elderly (1971) p. 153.

<sup>37</sup>Regan, p. 615.

<sup>38</sup>Oregon Revised Statutes, p. 1162.

<sup>39</sup>Population Estimates: Oregon Counties and Incorporated Cities (July 1, 1977, Portland State University, PO Box 751, Portland, Oregon 97207, p. 3.

<sup>40</sup>1978 Editor and Publisher Market Guide, Editor and Publisher Co., New York, New York, p. 357.

- <sup>41</sup>Multnomah County Government Handbook, 1969, p. 3.
- <sup>42</sup>Ibid., p. 3.
- <sup>43</sup>Ibid., p. 7.
- <sup>44</sup>1978 Editor and Publisher Market Guide, p. 357.
- <sup>45</sup>Lewis, Paul M., Our Oregon, Beautiful West Publishing Company and Benj. Franklin Savings and Loan Assn. (1977), p. 3.
- <sup>46</sup>City Club of Portland, Or., Report on Portland City Government, Published May 19, 1961 in Vol. 41, No. 51, Portland City Club Bulletin, p. 284.
- <sup>47</sup>1970 Census of Population, General Population Characteristics, Oregon, A United States Department of Commerce Publication (August, 1971) p. 99.
- <sup>48</sup>Ibid., p. 83.

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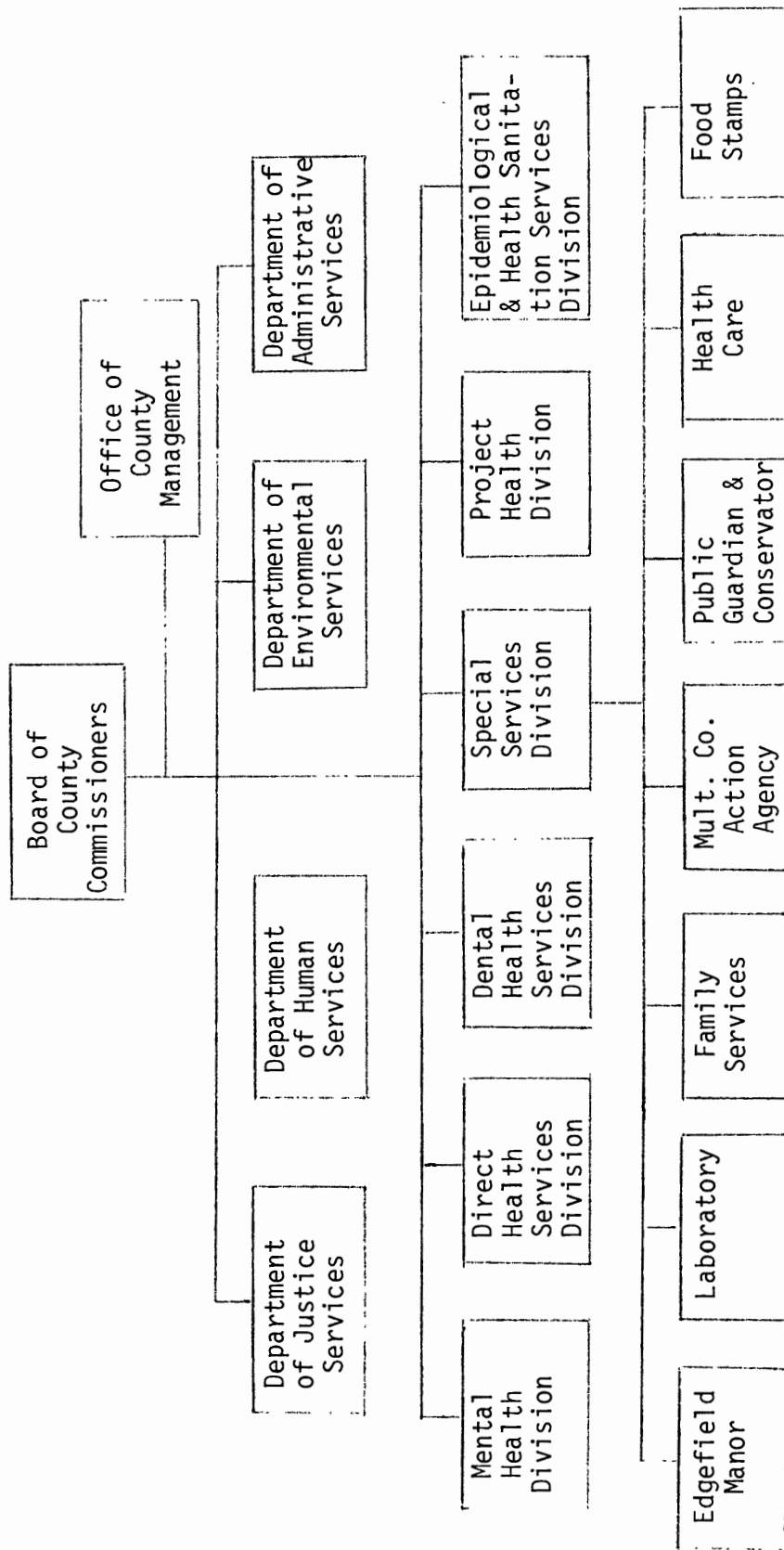
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APPENDIX A



## APPENDIX B

## GUARDIANSHIPS, CONSERVATORSHIPS AND TRUSTS\*

126.313 Powers of Conservator. A conservator, acting reasonably in efforts to accomplish the purpose for which he was appointed, may act without court authorization or confirmation, to:

(1) Collect, hold and retain assets of the estate including land wherever situated, until, in his judgment, disposition of the assets should be made, and the assets may be retained even though they include an asset in which he is personally interested;

(2) Receive additions to the estate;

(3) Continue or participate in the operation of any business or other enterprise;

(4) Acquire an undivided interest in an estate asset in which the conservator, in any fiduciary capacity, holds an undivided interest;

(5) Invest and reinvest estate assets and funds as would a trustee;

(6) Deposit estate funds in a bank including a bank operated by the conservator;

(7) Acquire or dispose of an estate asset including land wherever situation for cash or on credit, at public or private sale; and to manage, develop, improve, exchange, partition, change the character of,

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\*Oregon Revised Statutes, 1, Chapters 1 to 170, Printed by State of Oregon, 1977.

or abandon an estate asset in connection with the exercise of any power vested in the conservator;

(8) Make ordinary or extraordinary repairs or alterations in buildings or other structures, to demolish any improvements, to raze existing or erect new party walls or buildings;

(9) Subdivide, develop, or dedicate land to public use; to make or obtain the vacation of plats and adjust boundaries; to adjust differences in valuation on exchange or to partition by giving or receiving considerations, and to dedicate easements to public use without consideration;

(10) Enter for any purpose into a lease as lessor or lessee with or without option to purchase or renew for a term within or extending beyond the term of the conservatorship;

(11) Enter into a lease or arrangement for exploration and removal of minerals or other natural resources or enter into a pooling or unitization agreement;

(12) Grant an option involving disposition of an estate asset, to take an option for the acquisition of any asset;

(13) Vote on security, in person or by general or limited proxy;

(14) Pay calls, assessments, and any other sums chargeable or accruing against or on account of securities;

(15) Sell or exercise stock subscription or conversion rights, to consent, directly or through a committee or other agent, to the reorganization, consolidation, merger, dissolution, or liquidation of a corporation or other business enterprise;

(16) Hold a security in the name of a nominee or in other form without disclosure of the conservatorship so that title to the security may pass by delivery, but the conservator is liable for any act of the nominee on connection with the stock so held;

(17) Insure the assets of the estate against damage or loss, and the conservator against liability with respect to third persons;

(18) Borrow money to be repaid from estate assets or otherwise and mortgage or pledge property of the protected person as security therefor, to advance money for the protection of the estate or the protected person, and for all expenses, losses, and liability sustained in the administration of the estate or because of the holding or ownership of any estate assets and the conservator has a lien on the estate as against the protected person for advances so made;

(19) Pay or contest any claim, to settle a claim by or against the estate or the protected person by compromise, arbitration, or otherwise, and to release, in whole or in part, any claim belonging to the estate to the extent that the claim is uncollectible;

(20) Pay taxes, assessments, compensation of the conservator, and other expenses incurred in the collection, care, administration and protection of the estate;

(21) Allocate items of income or expense to either income or principal, including creation of reserves out of income for depreciation, obsolescence, or amortization, or for depletion in mineral or timber properties;

(22) Pay any sum distributable to a protected person or a dependent of the protected person by paying the sum to the distributee

or by paying the sum for the use of the distributee either to his guardian or if none, to a relative or other person with custody of his person;

(23) Employ persons, including attorneys, auditors, investment advisers, or agents, even though they are associated with the conservator to advise or assist him in the performance of his administrative duties, to act upon their recommendation without independent investigation, and instead of acting personally, to employ one or more agents to perform any act of administration, whether or not discretionary;

(24) Prosecute or defend actions, claims or proceedings in any jurisdiction for the protection of estate assets and of the conservator in the performance of his duties;

(25) Prosecute claims of the protected person including those for his personal injury; and

(26) Execute and deliver all instruments which will accomplish or facilitate the exercise of the powers vested in the conservator.

## APPENDIX C

## QUESTIONNAIRE

1. Sex.
2. Birthdate.
3. Source of referral.
4. Reason for referral.
5. Date of intake.
6. Date of termination.
7. Reason for termination.
8. Where was the ward living at intake?
9. Where was the ward living at termination?
10. Did the ward go to a nursing home?
11. Source of income.
12. Amount of income.
13. How was income spent?
14. Amount of monthly expenditures.
15. Total assets at beginning of conservatorship.
16. Assets at termination of conservatorship.
17. In the case of death, how was the estate disposed of?
18. In the case of death, what were the assets after final claims had been honored?
19. What was the fee charged by the PG and C?