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National Institute of Justice  
Environmental Scan of Guardianship Abuse and Fraud

LITERATURE REVIEW OF  
GUARDIANSHIP ABUSE AND FRAUD

BY

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## Table of Contents

Introduction.....	3
Methods.....	6
Literature on Scope and Prevalence of Abuse and Fraud by Guardians.....	7
Literature on the Nature of Abuse by Guardians .....	14
Literature on Prevention and Intervention for Systemic Abuse and Fraud by Guardians .....	23
Lack of Data as Barrier to Understanding Abuse and Fraud by Guardians.....	28
Summary and Conclusions .....	30
References .....	33
Appendices.....	39
Appendix A. Federal Documents.....	39
Appendix B. National Guardianship Summits.....	44
Appendix C. State-Based Documents on Guardianship Abuse and Fraud.....	45
Appendix D. Legal Review of Reported Cases .....	47
Appendix E. Research.....	57
Appendix F. Media .....	58
Appendix G. Resources .....	61

## INTRODUCTION

In the United States, 10.6% of adults ages 18-64 and 35.2% of people age 65 and older live with a disability (Kraus et al., 2018). Four and a half percent of adults ages 18-64 and 8.9% of people age 65 and older have a cognitive disability (Kraus et al., 2018). Certain cognitive disabilities make adults vulnerable to abuse and require the help of a surrogate decision-maker, such as a guardian or an agent under a power of attorney (Gunther, 2011).

A wide spectrum of adults may need the assistance of a guardian, including individuals with serious mental illness, intellectual disability, and traumatic brain injury. The number of adults with serious mental illness increased from 8.3 million in 2008 to 13.1 million in 2019; the greatest increase occurred in young adults ages 18-25 (Lipari, 2020). More than 7 million people in the United States have an intellectual disability, with many requiring assistance (*Population Specific Fact Sheet—Intellectual Disability | National Disability Navigator Resource Collaborative*, n.d.). The Centers for Disease Control and Prevention estimates that each year there are more than 2.87 million visits to emergency departments, hospitalizations, and deaths due to traumatic brain injury; some of these result in long-term disability (*TBI Data | Concussion | Traumatic Brain Injury | CDC Injury Center*, 2021). The U.S. Department of Veterans Affairs reports that more than 400,000 U.S. service members experienced a traumatic brain injury between 2000 and 2019 (*VA Research on Traumatic Brain Injury (TBI)*, n.d.). Individuals with serious mental illness, intellectual disability, and traumatic brain injury may require short- or long-term guardianship depending on the progression and treatment of their disability. Advancements in medical care not only expand the lifespan of older individuals but also enhance the life expectancies of younger individuals with brain injuries, serious mental illness, or intellectual disabilities, who may outlive their family caregivers (Patja et al., 2000).

Terminology for guardianship differs by state. In many but not all states, court-appointed surrogates who make decisions concerning an individual's finances are referred to as "conservators," and those who make decisions concerning an individual's health or personal matters are called "guardians." For this report, we use the term guardian to refer to both, unless specifically indicated.

Guardians are bound by statutory requirements and case law — as well as ethical principles — to act in the best interests of a vulnerable adult. Guardians are fiduciaries, which means that they must act according to the highest standards of care, accountability, trust, honesty, confidentiality, and avoidance of conflict of interest (*Managing Someone Else's Money: Help for Court-Appointed Guardian of Property and Conservators*, 2019). Powers given to guardians are often immense — for example, the authority to sell a person's home and personal property, make contracts on their behalf, and consent to all medical treatments. In addition, guardians may be authorized to charge fees for their services that are payable from an adult's estate — a situation that, left unmonitored, opens the potential for abuse. Moreover, adults with cognitive impairments may be unable to recognize when guardians are not serving as they should.

Although guardians should provide protection, there is also the risk that a guardian may take advantage of an adult whom they were named to protect. Despite this situation, we currently lack reliable data both on how many guardianships or guardians exist and on the outcomes of these

arrangements. A number of high-profile media exposés (e.g., Aviv, 2017; Day, Stark, & Coscarelli, 2021; Garland, 2017) have highlighted how, in some egregious cases, guardian actions have harmed adults who are at risk.

## **The Abuse, Neglect, and Exploitation of Vulnerable Adults**

Overall, there are significant gaps in knowledge regarding the abuse, neglect, and exploitation of vulnerable adults. We do know that vulnerable adult abuse (e.g., physical, sexual, and psychological abuse; active and passive neglect; and financial exploitation) affects approximately 5 million older Americans each year (Department of Justice, 2014). The personal, financial, and societal impact of this abuse is devastating. It is estimated to cost billions annually, yet only 1 in 24 cases of elder abuse is ever reported (Department of Justice, 2014).

Cases of vulnerable adult abuse go unreported and unabated for multiple reasons. Individuals may be isolated from others; they may be unable to recognize the behavior as abusive, neglectful, or exploitive; or they may remain silent because of shame, self-blame, or fear of retaliation or further loss of independence. They may also fear loss of the support they receive from the person who is being abusive (Acierno et al., 2009; 2010; Gunther, 2011; Hafemeister, 2003). Individuals may feel sympathetic and protective of the abusive person, especially when codependence, substance abuse, and mental illness are involved (Ramsey-Klawnsnik, 2017; Roberto, 2017). It is also important to recognize that the abuse of younger adults may differ from that of older adults. For example, younger adults may experience more or different types of sexual abuse than their older counterparts (Abner et al., 2019; Ramsey-Klawnsnik et al., 2007).

Abuse by guardians is one aspect of abuse by surrogate decision-makers, which also includes agents under powers of attorney, trustees, and representative payees. Abuse by surrogates is, in turn, one part of the full picture of adult abuse of all kinds. A number of related concepts confound an understanding of the scope and nature of abuse by guardians. Below, we explain important distinctions among terms and concepts.

## **Distinguishing Guardian Criminal Actions, Abuse, and Misconduct**

What we know about abuse by guardians is similar to what we know about the abuse of vulnerable adults overall. However, harms to individuals with a guardian also have some unique characteristics. Below we differentiate among the range of harmful actions that may affect adults with guardians.

- *Criminal Abuse.* State statutes define criminal abuse — for example, they define theft, exploitation, fraud, burglary, battery, assault, and criminal neglect. Some states have enacted criminal statutes focusing specifically on actions by fiduciaries or surrogate decision-makers.
- *Adult Protective Services (APS) Definition of Abuse.* Criminal actions may overlap with, but are not the same as, actions in substantiated APS reports. These reports include physical, sexual, and psychological abuse; active and passive neglect; and financial exploitation. Although prevalence is uncertain, many of the cases of abuse by guardians appear to involve exploitation.

- *Misconduct or Noncompliance.* Although guardians may commit acts of misconduct or acts that put them out of compliance with various requirements, those acts may not rise to the level of criminal acts or founded APS reports. Examples of guardian misconduct include failing to file reports required by the courts, filing reports that have inaccurate representation or documentation, taking on a caseload so high that the guardian is unable to attend to the needs of the individual, or showing a lack of respect for the individual’s preferences.

### **Distinguishing Abuse by Guardians and Systemic Guardianship Abuse**

There is also a distinction between abuse by guardians and “systemic guardianship abuse.” Abuse by a guardian concerns harmful or abusive actions by an individual or entity appointed by the court as guardian. Systemic guardianship abuse concerns appointment processes, outcomes, and monitoring. The actions and inactions below reflect the context of a larger picture of systemic guardianship abuse, including, but not limited to, issues such as:

- Appointment of guardians without sufficient procedural due process, especially representation by counsel for the adult alleged to need a guardian.
- Guardianship orders by judges when a less restrictive option, including supported decision-making, might suffice.
- Guardianship orders by judges that are overbroad and not tailored to individual needs.
- Guardianship “pipelines,” such as the hospital-to-guardianship pipeline and the school-to-guardianship pipeline, in which guardianship appointments are routinely made or assumed to be necessary without a full review of specific needs.
- Appointments of the same guardian repeatedly or without regard to the guardian’s conflict of interest to serve or performance or capability to perform essential functions.
- Appointments of guardians resulting in caseloads that are higher than a 1:20 ratio of guardian-to-individuals needing guardianship.
- Lack of case review to determine if a guardianship continues to be necessary or if rights can be fully or partially restored.
- Failure of courts to sufficiently monitor cases.
- Lack of attention to the appropriateness of guardian fees.
- Lack of background checks for guardians.
- Failure to require bonds for guardians.
- Lack of clear standards for guardian practices.
- Lack of training for both family and professional guardians.

Individuals needing guardians may be especially vulnerable to both types of abuse because they have lost many — if not all — of their civil rights, rely on others for care, and are unable to advocate for themselves.

### **Need for Environmental Scan of Abuse and Fraud by Guardians**

Closely examining the issues of abuse by guardians and systemic guardianship abuse is critical because, as media attention reflects (the most available source of information on the topic to date), there is recurring evidence that some guardians perpetrate abuse (Bolkan et al., 2020; Government Accountability Office, 2010; 2016).

Despite growing awareness and the urgent need to understand the scope of this problem and how to prevent it, little to no reliable, systematized, empirical information exists on the nature and extent of abuse by guardians and systemic guardianship abuse. Without reliable and systematized information on how abuse and fraud are perpetrated, intervention and prevention efforts are significantly compromised or rendered ineffective altogether.

In 2021, the National Institute of Justice (NIJ) requested that the authors conduct a sweeping, four-part environmental scan:

- Part 1: Literature Review of Research on Guardianship Abuse and Fraud
- Part 2: Scan of the Guardianship Abuse and Fraud Data Landscape
- Part 3: Scan of the Legal, Policy, and Practice Context and Considerations for Collecting Data on Guardianship Abuse and Fraud
- Part 4: Summary Overview of the Environmental Scan

Pertinent to this work, we consider “fraud” as an act targeting a vulnerable adult or adults in which there is an attempt or attempts to deceive an adult using promises of goods, services, or financial benefits that do not exist, were never intended to be provided, or were misrepresented. We define “abuse” along a broad continuum. Although criminal abuse is NIJ’s priority, the report also includes a range of other misconduct as well as the imposition of overbroad or unnecessary guardianship that causes a loss of fundamental rights.

This paper — Part 1: Literature Review of Research on Guardianship Abuse and Fraud — examines documentation and research around:

- (1) The scope and prevalence of abuse by guardians.
- (2) The nature of abuse by guardians, including the kinds of abuses committed, the individuals who perpetrate the abuse, the victims, and their relationship.
- (3) Prevention and intervention addressing abuse and fraud by guardians.
- (4) An examination of the lack of data as a barrier to fully understanding abuse by guardians.

The paper also identifies gaps in the research and barriers to conducting systematic research. The appendices include a full list of literature from federal sources, state-based efforts, the media, research projects, case law, national guardianship summits, and guardianship practice resources. The concluding section summarizes our key findings, drawn from intensive review of this vast body of materials.

## **METHODS**

We researched each of the main areas of the literature review in databases such as Lexis/Nexis, Google Scholar, and YouTube, using the following key words and resources: guardian; guardianship; conservator; abuse, neglect, and exploitation; fraud and vulnerable adult; older adult; and capacity. Using data and publications from the internet and our personal repositories of hard-copy documents, we examined and summarized publications from the federal government (e.g., reports from the U.S. Government Accountability Office (GAO), testimony before congressional committees), publications contributing to and resulting from four national guardianship summits, reports on guardianship published by state governments, appellate court

cases involving fiduciary misconduct, peer-reviewed research on guardianship, and more than a decade of media accounts on guardianship abuse.

## **LITERATURE ON SCOPE AND PREVALENCE OF ABUSE AND FRAUD BY GUARDIANS**

Despite efforts by Congress and GAO, research by experts and state-based entities, and inquiries by the media, there remain no reliable estimates of the scope or prevalence of abuse by guardians. Further, there is no credible evidence of the extent of various kinds of misconduct by guardians or other guardianship stakeholders that might be classified as less than abuse. However, multiple resources confirm the existence of abuse by guardians and include case examples.

In reviewing the literature on abuse and fraud by guardians, we first examine (1) what is known about the scope and prevalence of abuse of vulnerable adults generally and (2) what is known about the scope of adult guardianship in the United States today. We then examine federal efforts, media accounts, state-based reports, and other research and present conclusions about the scope and prevalence of abuse and fraud by guardians.

### **The Scope and Prevalence of Vulnerable Adult Abuse Generally**

Various studies — focused on elder abuse and not overall adult abuse — show differing prevalence rates for different types of abuse. Research has found that at least 1 in 10 older adults who dwell in the community experienced some form of abuse in the prior year (Acierno, 2010; Rosay, 2017). One study, relying on self-reports, assigned the following percentages by abuse type: psychological (11.6%), financial (6.8%), neglect (4.2%), physical (2.6%), and sexual (0.9%) (Yon, 2017). Acierno and colleagues (2009) found the following percentages of abuse: financial (stranger: 6.5%), financial (family: 5.2%), neglect (5.1%), emotional (4.6%), physical (1.6%), and sexual (.6%).

The few studies that have investigated the prevalence of mistreatment within institutions have provided wide-ranging, sometimes disparate, estimates. A recent systematic review that collected self-reports of abuse by residents found high levels of institutional abuse. By abuse type, reported prevalence estimates were: psychological (33.4%), physical (14.1%), financial (13.8%), neglect (11.6%), and sexual (1.9%) (Yon, 2019).

### **The Scope of Adult Guardianship in the United States**

To determine the scope and prevalence of abuse by guardians, it is critical to know the total number of cases for which a guardian has been appointed for an adult and the case is subject to court review. In its 1987 report, *Guardians of the Elderly: An Ailing System* (Bayles & McCartney, 1987), the Associated Press produced the earliest estimate, determining that there were 300,000 to 400,000 older people under guardianship.

In 2011, the National Center for State Courts made a best guess estimate of the total number of active cases at 1.5 million nationally, but it cautioned that the variance between states is high,



and the total number could range from fewer than 1 million to more than 3 million (Uekert & Van Duizend, 2011). This number was projected from just four states that were able to differentiate adult guardianship cases, and it did not include conservatorship (guardians of property) cases.

In 2016, the National Center for State Courts reported an estimated 1.3 million open cases. It noted that approximately 176,000 new cases were filed in state courts in 2015 and estimated that \$50 billion in assets was under state courts' watch in conservatorship cases (Montgomery, 2016).

There are many factors that make finding the number of active guardianship cases challenging, as will be discussed later in this paper.

## **Federal Inquiries**

### *Little Evidence From Congressional Hearings*

There have been seven U.S. congressional hearings on guardianship and abuse held over almost 30 years. Although they offer very little information about the scope and prevalence of abuse by guardians, they do show that it has been a long-standing concern.

- “Roundtable Discussion on Guardianship: Workshop Before the U.S. Senate Special Committee on Aging,” U.S. Senate Special Committee on Aging, 1992. Although witnesses described a host of problems about guardianship proceedings, there were no statistics provided. One witness observed that he based his remarks on “impressions, anecdotes, snatches of evidence, not broad-based empirical studies ... which simply don’t exist by and large in this area.”
- “Guardianship Over the Elderly: Security Provided or Freedoms Denied,” U.S. Senate Special Committee on Aging, 2003. Witnesses provided no data, and one asked, “How can anyone know how many victims there are of abuses and injustice in the guardianship system? These individuals, who are likely to be limited by the nature of their physical and mental frailty to begin with, have no way of speaking up, making themselves and their plight visible, or seeking redress or help out of the situation.” Another witness, Diane Armstrong, author of *The Retirement Nightmare*, said that she was speaking “for the hundreds of thousands of men and women whose retirement years have been destroyed” but offered no substantiation for that figure.
- “Protecting Older Americans Under Guardianships: Who Is Watching the Guardian?” U.S. Senate Special Committee on Aging, 2004. GAO presented findings that highlighted the lack of data and the inability of many courts to track the number and kinds of cases of abuse by guardians. One witness noted that there may be cases in which “guardians are found to have committed literal criminal acts of stealing from the estates of wards ... and physically harming or neglecting the very persons they are charged to protect. ... But the question is how prevalent do you think abuse under guardianship is?”

- “Exploitation of Seniors: America’s Ailing Guardianship System,” U.S. Senate Special Committee on Aging, 2006. A witness from GAO explained that it is “very difficult for the federal government or national organizations to devise effective approaches to preventing and detecting abuse when we don’t know much in any kind of comprehensive way about the circumstances of that abuse, or the incidence of that abuse.”
- “Trust Betrayed: Financial Abuse of Older Americans by Guardians and Others in Power,” U.S. Senate Special Committee on Aging, 2016. GAO presented findings showing that the extent of elder abuse by guardians is unknown. The committee chair remarked, “One would hope that abuse would be unusual where guardians or conservators are involved since these fiduciaries are formally appointed and overseen by state courts. But experience has shown that this is not always the case.” The ranking member stated that “we still have limited information on the prevalence of guardianship abuse across the country and data vary widely from state to state....”
- “Ensuring Trust: Strengthening State Efforts To Overhaul the Guardianship Process and Protect Older Americans,” U.S. Senate Special Committee on Aging, 2018. In conjunction with the hearing, the committee sought comments from states, courts, and organizations, and received more than 100 responses, which it incorporated in a report. “Many [comments submitted] detailed stories of guardianship abuse from throughout the country.” The report and hearing highlighted the lack of state and national data, leaving policymakers in the dark.
- “Toxic Guardianships: The Need for Reform,” Senate Committee on the Judiciary Subcommittee on the Constitution, 2021. Senator Richard Blumenthal, subcommittee chair, said that the guardianship system “is rife with abuse” — but none of the witnesses offered data to substantiate or contradict this claim.

### ***GAO Unable To Quantify Extent of Abuse***

Even though guardianship is a state issue, GAO completed five reports on adult guardianship over 12 years at the request of the Senate Special Committee on Aging. Four of these reports commented on the need for data on abuse by guardians; however, GAO was not able to determine the scope or prevalence of such abuse.

- *Guardianships: Collaboration Needed To Protect Incapacitated Elderly People*, 2004. The report found that most courts surveyed did not track the number of active guardianships. It also found that data on the incidence of abuse could help courts but are not available: “[T]he incidence of elder abuse involving persons assigned a guardian or representative payee is unknown” (GAO, 2004).
- *Guardianships: Little Progress on Ensuring Protection for Incapacitated Elderly People*, 2006. GAO testimony stated, “While the incidence of elder abuse involving persons assigned a guardian or representative payee is unknown, certain cases have received widespread attention” (GAO, 2006).

- *Guardianships: Cases of Financial Exploitation, Neglect and Abuse of Seniors*, 2010. Congress asked GAO to verify whether allegations of abuse by guardians are widespread. GAO “could not determine whether allegations of abuse by guardians are widespread; however, GAO identified hundreds of allegations of physical abuse, neglect, and financial exploitation by guardians in 45 states and the District of Columbia between 1990 and 2010. In 20 selected closed cases, GAO found that guardians stole or otherwise improperly obtained \$5.4 million in assets from 158 incapacitated victims, many of whom were seniors” (GAO, 2010). GAO cautioned that allegations should not be interpreted as evidence that abuse by guardians occurs on a widespread basis.
- *Elder Abuse: The Extent of Abuse by Guardians Is Unknown, But Some Measures Exist To Help Protect Older Adults*, 2016. To determine whether abusive practices by guardians are widespread, GAO reviewed relevant research and conducted interviews with guardianship stakeholders. GAO found that “the extent of elder abuse by guardians nationally is unknown due to limited data on key factors related to elder abuse by a guardian, such as the numbers of guardians serving older adults, older adults in guardianships, and cases of elder abuse by a guardian” (GAO, 2016). GAO identified eight closed cases of elder abuse by guardians in which there was a criminal conviction or finding of civil or administrative liability in the last five years as illustrative of abuse by guardians.

### ***Other Federal Findings***

*Administrative Conference of the United States (ACUS)*. The U.S. Social Security Administration asked ACUS to study adult guardianship laws and practices to inform opportunities for potential collaboration between the Social Security Administration and the courts. ACUS contracted with the National Center for State Courts to conduct a survey of state courts. The study found that two-thirds of respondents said the court had “taken actions against at least one guardian for misconduct, malfeasance, or serious failure to fulfill their obligations in the past three years. In these cases, the most serious sanctions applied were the removal and appointment of a successor guardian and issuing a show cause or contempt citation” (*SSA Representative Payee: Survey of State Guardianship Laws and Court Practices*, 2014). In 39% of these cases, the court filed an APS report; in 7% of the cases, the guardian was convicted of a crime against the individual whom they were appointed to serve.

*National Council on Disability*. Although the main focus of its report is reducing overbroad and unnecessary guardianships through use of less restrictive options, including supported decision-making, the National Council on Disability commented on the significance of the 2010 and 2016 GAO reports regarding the prevalence of abuse:

Notably, both GAO reports are careful to assert that [the cases described] are nongeneralizable examples. Nonetheless, while the examples of abuse GAO uncovered are only illustrative, it is apparent from the totality of available evidence regarding guardianship practices, that courts are not currently able to safeguard individuals against abuse, neglect, and exploitation committed by guardians. While it cannot be said that the findings of GAO report demonstrate that abuse is occurring in the majority of guardianship cases, it would also be a mistake to assume that GAO only found and

reported on the outliers. GAO reports raised significant red flags for Congress, which passed the *Elder Abuse Prevention and Prosecution Act of 2017*. (*Beyond Guardianship: Toward Alternatives That Promote Greater Self-Determination for People with Disabilities*, 2018).

## **Media Accounts**

As mentioned above, in 1987, the Associated Press found a “dangerously burdened and troubled system that regularly puts elderly lives in the hands of others with little or no evidence of necessity, then fails to guard against abuse, theft and neglect” (Bayles & McCartney 1987). The report noted that this occurs “in thousands of courts around the nation every week” (Bayles & McCartney 1987). As explained in detail later in this paper, the Associated Press report was replete with examples of individual cases of abuse by guardians and systemic problems with the guardianship system.

Over the next 35 years, other media outlets followed the lead of the Associated Press and spotlighted the maltreatment of individuals subject to guardianship — especially with the rise of professional guardians and guardianship agencies. The appendices for this literature review include more than 30 stories published since 2000.

The popular press has shaped much of the public’s perception of abuse by guardians over the years, rising to a recent pitch with a host of stories about singer and actress Britney Spears. Although such stories can highlight serious problems and spur reform, they may not accurately represent the system as a whole and do not address the scope or prevalence of abuse by both family and professional guardians.

Finally, organizations of family members who have experienced abuse of a vulnerable adult by professional guardians present compelling cases on websites and in press stories. Organizations such as the Center for Estate Administration Reform and Stop Guardianship Abuse have collected numerous egregious cases and helped bring the need for change to the public’s attention (*CEAR- Center for Estate Administration Reform*, n.d.; *NASGA – National Association to Stop Guardianship Abuse*, n.d.). The websites of these organizations do not include information on the scope or prevalence of such cases.

## **Limited Research**

There is very little empirical research on adult guardianship — and even less on abuse by guardians. The few research inquiries concerning abuse by guardians shed limited light on its overall scope or prevalence.

*Conservator Exploitation Background Briefs*. In 2018, the National Center for State Courts and partner organizations — with funding from the Department of Justice’s Office for Victims of Crime — produced a series of eight research background briefs on conservator exploitation. The introduction notes that “despite the financial and psychological impact of conservator exploitation on victims and their families, there is little information on its extent and consequences” (National Center for State Courts et. al., Introduction, 2018). The briefs cover

exploitation detection (through court monitoring and other systemic approaches), court actions upon detection, innovative programs to address conservator exploitation, support for victims, and data quality.

The project contains descriptions of 22 recent conservator exploitation cases that had received media attention. It includes an analysis of nine cases and presents the dynamics, processes, and impacts of conservator exploitation on victims and their families (National Center for State Courts et. al., *Examples of Conservator Exploitation: An Overview*, 2018).

The research also includes an issue brief that presents findings from the Minnesota courts' centralized professional auditing team, the Conservator Account Auditing Program (CAAP). CAAP uses a four-point scale to summarize audit results. A level 1 finding means that there are no issues with the accounting, and a level 4 finding shows a "concern of loss." The issue brief explains that a "concern of loss" could include a range of problems, such as comingling of funds or unusually large expenditures without court approval (National Center for State Courts et. al., *Conservator Exploitation in Minnesota*, 2018).

The issue brief focuses on 139 conservatorship cases over three years. It states that of the 139 cases, "only one professional conservator was charged and convicted of violating the Minnesota statute on financial exploitation. By examining only official crimes, financial exploitation would appear to be a rare occurrence in conservatorships. The reluctance to criminally charge conservators, many of whom are family members, requires a more expansive definition of exploitation" (National Center for State Courts et. al., *Conservator Exploitation in Minnesota*, 2018). Therefore, the brief defines exploitation more broadly as any combination of: (1) filing of criminal charges; (2) a judicial finding of monetary loss; (3) a judicial order for repayment; or (4) repayment made to the person with or without a court hearing. Using this definition, 31 of the 139 audit-level-4 cases were classified as exploitation (National Center for State Courts et. al., *Conservator Exploitation in Minnesota*, 2018).

*Study of Abuse by Surrogate Decision-Makers.* A 2020 study examined substantiated APS reports involving agents under powers of attorney, guardians, and representative payees. Investigators collected data over a 10-month period on community-dwelling older adults in selected counties in California, Florida, North Carolina, New Hampshire, Nevada, and Texas. The study found substantiated reports involving 102 surrogate decision-makers: 90 were agents under powers of attorney, seven were representative payees, and five were guardians (Bolkan, Teaster, & Ramsey-Klawnsnik, 2020).

*National Guardianship Summit Paper on Abuse.* One of the background articles commissioned for the 2021 Fourth National Guardianship Summit was a landmark paper by Anetzberger and Thurston (2021) on "Addressing Abuse by Guardians: The Role of Adult Protective Services, Law Enforcement, and the Courts." The paper states that there is "no research on the prevalence of abuse by guardians." It highlights misperceptions and lack of collaboration, which block needed interventions. For instance, APS may not pursue reports of abuse by guardians, assuming that the courts are sanctioning bad actors. Courts may not make referrals to APS or law enforcement, and law enforcement may regard abuse by guardians as a civil matter. Moreover,

abuse by guardians is not in the purview of the growing number of multidisciplinary elder justice and elder abuse coalitions.

In their paper, Anetzberger and Thurston (2021) presented the results of interviews with nine judges who regularly handle guardianship cases. None of the judges perceived that abuse by guardians “was a pervasive or prevalent problem,” but almost all the judges described at least one case. As a result of the paper, the National Guardianship Summit recommended promoting state and local policy collaboration to address abuse by guardians.

## **State-Based Reports**

Several states — including Arizona, Florida, Michigan, Nevada, New Mexico, New York, Pennsylvania, Texas, Virginia, and possibly others — have convened task forces, grand juries, and court commissions to examine guardianship practices. These groups have examined systemic issues within guardianship procedures, including those that could advance the detection of misconduct or abuse. Their reports — although acknowledging cases of abuse — have not included statewide empirical studies that would reveal the scope and prevalence of abuse by guardians. However, they may contain relevant information.

For example, in New Mexico, the Adult Guardianship Study Commission noted in its 2017 final report that its work had been influenced by “the pair of federal indictments that were issued this summer against two corporate officers of Ayudando Guardians. These indictments revealed structural weaknesses in the oversight of guardians and conservators in New Mexico. The Commission used these public allegations as a case study to help identify improvements that should be made to prevent similar misconduct in the future” (*Final Report to the New Mexico Supreme Court*, 2017).

In New York, the Commission on Fiduciary Appointments reviews and reports on needed court-system reforms. Of note is a statement in the commission’s 2005 report: “Even as we focus on the weaknesses of the fiduciary oversight system and the relatively few but often well-publicized abuses by individual fiduciaries, it should be kept in mind that most fiduciary appointments are uncontroversial, involve relatively small estates, generate insignificant fees, and provide much-needed assistance to vulnerable people” (*Report of the Commission on Fiduciary Appointment*, 2005, p. 1).

In Texas, specialists at the Guardianship Compliance Project help review cases, audit accountings, and report any concerns of potential abuse, fraud, or financial exploitation to the courts. In a review of more than 55,000 cases, “Texas’ judiciary found that in 5,261 instances, the individual was deceased without the guardian alerting the judge. Forty percent of the cases lacked current required reports, meaning that the court was uninformed about the well-being of the individual or how the guardian was managing the finances of the estate” (Slayton, D., 2021). Such a staggering lack of compliance sets the stage for possible abuse by guardians.

In Virginia, the 2021 report of the Joint Legislative Audit and Review Commission concluded that the “extent of mistreatment of adults under guardianship is unknown” (*Improving Virginia’s Adult Guardian and Conservator System*, 2021). Nonetheless, the report identified 20 guardians

who had been named by APS for allegedly perpetrating substantiated mistreatment between fiscal year 2019 and fiscal year 2021 (19 for neglect and one for financial exploitation). The guardians in all 20 cases were family members or friends. The report recognized that data systems must be updated for an accurate picture. Also, in Virginia, unlike other states, APS reviews guardian reports, and therefore it might be more likely to identify problematic or abusive cases.

## **Conclusions**

A scan of the relevant literature finds the following:

- Overall, elder abuse affects about 5 million older adults each year, and rates of prevalence differ by study and type of abuse. This number does not include vulnerable younger adults with disabilities. Studies have recognized that projections of elder abuse likely underestimate the actual population prevalence.
- The best estimate of the number of adult guardianships in the United States is 1.3 million open cases for court review, but it is based on varying reports by selected states.
- Federal inquiries and a limited amount of research have been unable to determine the scope and prevalence of abuse by guardians. State reports have not revealed such information, although some make useful findings. All of these sources recognize the tragic existence of abuse by guardians and highlight case examples.
- Although press stories have investigated serious problems, they may not accurately represent the system as a whole and do not address the scope and prevalence of abuse by guardians.

## **LITERATURE ON THE NATURE OF ABUSE BY GUARDIANS**

Trying to describe the nature of abuse by guardians is like putting together a puzzle with pieces from different puzzles. One puzzle is what we know about elder abuse and why we do not know more about how it happens, how much occurs, and why we are unsuccessful in preventing it. Another puzzle is whether there are any significant differences between abuse of older adults and the younger population of vulnerable adults. Then there is the complex puzzle of guardianship itself and what it looks like across multiple state systems. When we do not know how many open guardianships there are, the picture is indistinct as to who is currently under a guardianship and how much abuse by guardians is occurring. An additional puzzle is whether the current state guardianship systems can be abusive to those whom they are supposed to protect by creating unnecessary or overbroad guardianships or by permitting guardians to abuse their authority through lax oversight. A final puzzle may be how abuse by a court-appointed fiduciary is different from abuse by any other person.

Caution is necessary because the different puzzles may use differing vocabulary when discussing abuse. APS definitions of abuse, neglect, or exploitation may have distinctly different elements than a state statute's criminal definition of elder abuse or financial exploitation. National and state agencies that license and discipline guardians may look for violations of practice standards that other entities consider misconduct, noncompliance, or breach of a fiduciary duty — none of which constitute what APS would substantiate as abuse, neglect, or exploitation. In deciding whether to remove a guardian, judges may consider the well-being of the adult under a guardianship rather than whether any abuse has occurred.

With these cautions in mind, the diverse array of literature reveals some varying insight into the nature of adult abuse by guardians across a range of populations and settings.

### **The Nature of Adult Abuse in General Is Complex**

Lack of basic knowledge about adult maltreatment — including the number of adults affected, the types of maltreatment, and the characteristics of those perpetrating the abuse — has long impeded the ability of federal, state, and local officials to develop effective policies to combat this issue. A comprehensive review by Mallik-Kane and colleagues (2021) revealed that, in 2010, the Department of Justice’s Bureau of Justice Statistics, contracting with the Urban Institute, made one of the first attempts to assess available data in the protective services system. In 2013, the Department of Health and Human Services began a two-year effort to develop a national collection system based on APS data. After extensive research on information needs and APS capabilities and several years of pilot studies, the Administration on Community Living rolled out the National Adult Maltreatment Reporting System (NAMRS) in 2016.

The most recent NAMRS report illuminates the who, what, and how of substantiated investigations by APS in 2020. More than 70% of APS victims and clients were age 65 or older. That figure may undercount abuse of younger adults because some APS programs serve only older adults who live in community settings. Fifty-six percent of victims were women, and 58% of all victims were white. More than half of the victims (54%) were not Hispanic, and ethnicity was unknown for 32% of victims. More than half of the victims (57%) lived in their own residence or that of a relative or caregiver. The most frequent types of victims’ disabilities were ambulatory (35.2%) and cognitive difficulties (20.8%). For the 30 states reporting data on the relationship between victims and those who perpetrated the maltreatment, two-thirds had a familial relationship. Males (related or not) perpetrated higher percentages of physical, sexual, and emotional abuse, and women perpetrated the abuse more often in cases of abandonment, neglect, and exploitation (McGee & Urban, 2021a).

In 2020, the number of financial exploitation victims (36,862) was almost equal to the number of neglect victims (36,890), with some victims experiencing both (i.e., polyvictims). Emotional and physical abuse — with 25,000 and 21,000 victims respectively — comprised the other significant categories of maltreatment. Excluding self-neglect cases, the exploitation and neglect cases together comprised 54.3% of all cases (McGee & Urban, 2021a).

In 2016, Kathryn Larin, Acting Director of GAO’s Forensic Audits and Investigative Service, testified to the Senate Special Committee on Aging and held out the promise that NAMRS would be able to collect long-sought information about guardians who perpetrate abuse (K. Larin, Testimony, November 30, 2016). Unfortunately, the NAMRS data on individuals who perpetrate abuse are limited, with less than half of the states submitting these data.

NAMRS allows states to provide data on the relationship between the victim and the individual perpetrating the abuse, including whether there is a substitute decision-maker relationship (such as with a health care or financial proxy, a guardian or conservator, or representative payee). According to an **ACL** gap analysis of NAMRS data, among the states that submitted detailed



case-level data on financial exploitation cases in fiscal year 2018, most provided less than half of the 29 requested data elements examined by the gap analysis, and eight of 31 states provided no financial exploitation data. ACL officials acknowledged that, even at the summary data level, data on who perpetrated the abuse are the least complete type of data and a known gap. ACL officials said that many states were initially unsure if they would be able to provide certain data on who perpetrated the abuse because this information may not be captured in the state-level data systems. Some states may also have policy or legal concerns about recording this information before affording the individual due process. Further, state APS programs place their primary focus on the victims, not those perpetrating the abuse. Nevertheless, ACL officials said that the agency has provided technical assistance to states that have requested it to increase the amount of data they provide, and they believe that data on who perpetrates abuse will likely become more complete over time, to the extent that more states continue to provide more data to NAMRS each year (McGee & Urban, 2021).

Although data collected on adult abuse provide some insight, the extensive multi-agency effort to devise a national data collection system of APS reports demonstrates the complexities inherent in identifying the nature of this abuse. NAMRS addressed challenges in variations in elder abuse laws, diverse jurisdictions of APS agencies, and limited data system capacity. Those same challenges are also present for the more diverse state guardianship systems, laws, and lexicon.

### **The Nature of Misconduct by Guardians Is Complicated**

When research shows that courts lack both basic information about how many guardians are under their jurisdiction and the capacity to provide oversight, finding documentation about the nature of misconduct by guardians is challenging. A few pockets of information — as described below — expose breaches of fiduciary duties, mismanagement of assets, and exploitation.

The key factor distinguishing misconduct by guardians from misconduct by others is that guardians have been appointed by a court. This means they have a fiduciary duty to act in the best interests of the individuals whom they are appointed to serve, faithfully manage assets, promote well-being, and honor the limitations of their authority. When guardians breach the public trust by harming those whom they were appointed to protect, their misconduct, however denominated, is of national concern.

### **Appellate Court Decisions Expose Cases of Misconduct by Guardians**

Appellate court decisions in guardianship cases offer some information on how guardians have abused their authority. The National Guardianship Association (NGA) (*National Guardianship Association*, n.d.), a member organization for guardians, court officials, attorneys, and others interested in guardianship matters, has compiled abstracts of all published court cases concerning guardianship and conservatorship matters since 1998. That effort represents 23 consecutive years of case law compilation. Each year, a volunteer panel of attorney members of NGA search Westlaw for all state and federal cases that have a written opinion or decision that raises issues about guardianships, conservatorships, or other fiduciary matters. The panel attorneys then create abstracts of those reported cases, which are compiled into an annual report called the *NGA Legal Review*.

The NGA abstracts of appellate decisions cover a wide range of issues, such as whether there was adequate evidence of incapacity; who should have been appointed as guardian; whether a court had jurisdiction over a particular matter; whether an order is final and ripe for appeal; whether parties received adequate notice; and challenges to actions by a fiduciary, caregiver, family member, guardian, or conservator. Although the vast majority of state court decisions never result in an appeal or a reported decision — and thus escape inclusion in this resource — the *NGA Legal Review* abstracts provide important insights into the nature of guardian conduct and misconduct.

For this paper, we examined *NGA Legal Reviews* from 2015 to 2021, comprising a total of 1,385 reported cases. The panel attorneys categorized 150 of those cases as involving some allegation of fiduciary misconduct (11% of all cases). From those 150 cases, we eliminated cases where the fiduciary misconduct was attributed to trustees, agents with a power of attorney, or family or caregivers who had no court-appointed guardianship role. We coded the resulting 114 guardianship cases according to the role of the party engaging in the alleged misconduct, the type of misconduct, and the case outcome or sanction, including any criminal prosecution. The appendices contain a spreadsheet of the case descriptions.

Some of the actions involved in these “misconduct” cases can be clearly categorized as financial abuse: theft of guardianship assets, excessive fees, false accountings, and comingling of funds. Three-fourths of the cases against guardians pertained to financial mismanagement or breach of fiduciary duty, including failure to file accountings or pay taxes, improper expenditures or accountings, misuse of a restricted account, sale of property without authority, change of a beneficiary to self, and similar difficulties in managing someone else’s money. The other one-fourth of cases concerned personal management: abusive behavior, lack of caregiving, failure to give proper medical attention, moving the individual without authorization, neglect, and sexual abuse.

Two cases involved judges from Mississippi. One judge, who was also a conservator, was sentenced to five months in federal prison for mismanagement of his conservatorship appointment and obstruction of justice. The state judicial commission removed him from office. Another judge, who consistently appointed the same attorney as both guardian ad litem and the conservator’s attorney, received a public reprimand for negligence and inattention.

Forty percent of those who engaged in alleged misconduct were attorneys — 11 were appointed as guardian/conservator, and the others served as attorney for the guardian/conservator, the person alleged to need a guardian, or the petitioner (the high percentage of attorney-involved cases may be attributed to the fact that bar counsel disciplinary actions are searchable in Westlaw). The attorneys appointed as guardians were found to have misused or misappropriated client funds, filed false accounts, or otherwise neglected their duties. Only one case — which concerned mistreatment of a vulnerable adult and bad check writing by a Kansas guardian’s attorney — resulted in criminal convictions. Other actions by attorneys who were not serving as guardian could nonetheless be considered abuses of the guardianship system: charging excessive fees, making frivolous or unsupported filings, submitting false statements or documents, having conflicts among clients, and otherwise abusing the court process. Most of their actions resulted in

disbarment, suspensions, and restitution, primarily through bar counsel opinions. One Montana attorney for the respondent’s family was sanctioned and removed from the case for “frivolous, frothful filings” (*p*, 2016) *State v. Williams*, 380 Mont. 445 (MT 2015)

Criminal charges were present in 10 cases involving guardians. In addition to the two Mississippi judges and the Kansas attorney mentioned above, an Ohio attorney was sentenced to two years for theft of guardianship assets. A Nevada attorney for a petitioner was convicted for false statements on the petition; the husband of a Missouri grandmother-guardian was given a seven-year sentence for sexual assault of the individual under her guardianship; and a Montana guardian, who persistently offended and stole a minor’s inheritance, was given a 10-year prison term. A grandfather-guardian had 10 felony convictions for gross abuse and neglect, and parent-guardians were convicted of sexual abuse. Sanctions imposed in the noncriminal cases included removal of the guardian, restitution, surcharge of bond, and civil contempt.

The case abstracts showed that guardians who committed misconduct were primarily family members, especially notable given the emphasis by certain advocacy organizations and the media on abuse by professional guardians. In all 91 examined cases categorized as noncriminal misconduct, only one private professional guardian was mentioned. The cases involving another private guardian and a public guardian were dismissed on appeal. Female family members serving as guardian were most frequently identified as having some misconduct allegations: nine cases involved daughters, three involved sisters, two involved mothers, and one involved a grandmother. Four cases identified sons who served as guardian and faced misconduct allegations, brothers were mentioned in two cases, and fathers and grandfathers each were mentioned in one case. Spouses were identified four times. In the remaining 15 cases, the abstract did not identify the relationship between the guardian and the person whom they were named to protect.

Guardians brought four cases against former guardians or family members to obtain accountings, restore assets, or remove an executor for undue influence. Three disgruntled families sought to bring cases in federal courts, alleging wide-ranging challenges to state guardianship court decisions and the guardians, judges, and attorneys involved. Each was dismissed for lack of federal jurisdiction.

### **GAO Reports Highlight Egregious Actions**

Another resource that sheds some light on the nature of abuse by guardians is a 2010 GAO report that identified hundreds of allegations of physical abuse, neglect, and financial exploitation by guardians between 1990 and 2010. As a point of comparison, in 2020 alone, APS programs received 1,327,019 referrals of alleged maltreatment; one-third (258,389) of those allegations were substantiated (McGee & Urban, 2021). Most of the identified allegations in the GAO report involved financial exploitation and misappropriation of assets. Examples of allegations included public guardians who sold a woman’s property below market value to the guardian’s relative; a lawyer serving as guardian who stole more than \$4 million from 23 adults; a Texas guardian of an older couple who allowed their home to go into foreclosure; and a judge appointed as guardian for a woman who bequeathed him \$250,000 (GAO 2010).

In its 2010 report, GAO also highlighted 20 closed cases involving guardians that resulted in conviction, settlement, plea agreement, or finding of liability for exploitation or abuse. Those cases involved a licensed social worker, taxi driver, three attorneys, two certified public accountants, a professional guardian, a professional guardian agency, and a public guardian office. Six cases resulted in prison terms, and four provided some restitution to the victims. Two professionals lost their certified public accountant or law licenses (GAO 2010).

GAO returned to the question of abuse by guardians in 2016, selecting eight cases in which guardians were convicted of exploitation or neglect. These cases exposed how guardians can abuse their authority or fiduciary duty by spending the adult's money on their own personal expenses, misappropriating funds to support substance use disorders, or diverting funds to personal bank accounts. One of the guardians also neglected the adults they were appointed to serve by failing to contact them for months, withholding monthly benefit stipends, failing to provide clothing, and being nonresponsive to the care facilities where the adults resided. The guardians received jail or prison terms, lost professional licenses or certifications, and were required to pay restitution or administrative costs (GAO 2016).

### **Professional Certification/Licensing Agencies Have Disciplined Guardians for Misconduct**

The disciplinary actions of state or national certification programs contribute to understanding the nature of abuse by guardians. Thirteen states have certification or licensing requirements for professional guardians. In addition to eligibility and education requirements and a qualifying examination, these programs have procedures to receive and review complaints about certified guardians and determine whether the guardian should be disciplined (Seal & Teaster, in press).

For example, the Washington State Certified Professional Guardianship Board develops, adopts, and implements regulations governing certification, minimum standards of practice, training, and discipline of professional guardians. Its goal is to protect the public and facilitate the delivery of competent and ethical guardianship services. When determining any misconduct, the board refers to a set of standards of conduct that cover the range of responsibilities of a professional guardian (*Washington State Courts, Standards of Practice*, 2012).

The board publishes annual reports that track the number of grievances opened and closed; the most recent report was published in 2019. Of the 30 grievances in 2018, 15 were dismissed for no jurisdiction, four were dismissed for insufficient evidence, 10 were dismissed for no actionable conduct, and one was resolved by an advisory letter (*Certified Professional Guardianship Board, Annual Report*, 2019).

In the Washington board report, the most commonly alleged grievance was related to the guardian's management of finances, followed by the guardian's relationship with the client's family and friends. One guardian was reprimanded for failure to file mandatory reports and pay rent in a timely manner. Another guardian received a reprimand for failure to work cooperatively with the client and other professionals, failure to consult with the client and treat his feelings and opinions with respect, failure to arrange for regular preventive medical care, and failure to competently manage the client's property. The board also issued advisory letters regarding conflicts of interest in signing paperwork for the sale of the client's home and failure to take

steps to handle client matters while out of state (*Certified Professional Guardianship Board, Annual Report, 2019*).

The Center for Guardianship Certification (CGC) — the only program that provides nationwide certification of guardians — began certifying guardians in 1997. Although guardians in any state can elect to be certified, nine states (Alaska, Idaho, Illinois, Nevada, New Hampshire, New Mexico, North Dakota, Oregon, and Utah) require professional guardians to be certified by the CGC. The CGC examination and disciplinary processes are rooted in the National Guardianship Association’s Standards of Practice (*National Guardianship Association, n.d.*). Between 2012 and 2021, the CGC received 69 complaints against CGC-certified guardians. As a result of those complaints, six certifications were revoked, five guardians received an interim suspension, two were censured, one received a letter of concern, and one received an advisory letter. Predominantly, the standards violated in these cases were management of the estate, conflicts of interest, and fees charged. In addition, standards concerning medical treatment decision-making, relationships with client’s family members, and involvement of the client in decisions were violated and resulted in discipline (*Center for Guardianship Certification, n.d.*).

### **Media Accounts Highlight Abuse by Guardians**

Much of what is known about the nature of abuse by guardians stems from cases featured in the popular press. Although these media accounts spotlight abuse and highlight the unique circumstances both of the victims and of those perpetrating the abuse, they may not be representative of guardianship practices or guardian actions in general or reflective of typical victimization or abuse by guardians.

Mentioned earlier, the 1987 Associated Press report on guardianship heightened the attention of policymakers and the general public alike. The report — a year in the making — was compiled by a team of 67 reporters who covered various aspects of guardianship in the 50 states and the District of Columbia. In addition to interviewing judges, lawyers, academicians, social workers, and individuals under guardianship, the reporters examined more than 2,200 guardianship files. They discovered positive examples of guardianship as well as numerous abuses, including significant instances of exploitation and ageism. The Associated Press report sparked congressional hearings, a national conference, and legislative reforms in all 50 states (Bayles & McCartney, 1987).

Other media highlighted systemic problems, including Wendland-Bower’s “Who’s Watching the Guardians?” (2000). Yeoman (2004) observed that the system was both “a godsend and a gulag” and that the potential for abuse existed because there was little to no uniformity in state records.

More than a decade later, pieces that sounded the alarm about systemic problems included articles by Campo-Flores and Jones (2015) and Diamond (2016). Aviv (2017) published a highly influential article “How the Elderly Lose Their Rights,” which described egregious treatment by paid professional guardian April Parks from Las Vegas, Nevada. Following Aviv’s piece, Leland (2018) penned “I’m Petitioning ... for the Return of My Life” in *The New York Times*.

### **Investigation Examined Media Reports of Abuse by Guardians**

The National Center for State Courts — under a project funded by the Office for Victims of Crime — conducted the most comprehensive analysis to date of media stories on abuse by guardians (*Exploring the Consequences of Conservator Exploitation*, 2016). Researchers searched national online media outlets for reports of the exploitation of older adults from July 1, 2015, through December 31, 2016. Because of the focus of the project, they collected only media stories of financial exploitation and not of any other type of abuse. They retrieved and analyzed a total of 181 media accounts. Of those accounts, 12% (22) concerned guardians, 19% (35) concerned abuse by agents with a power of attorney, and 68% (124) involved exploitation by family members or nonrelated caregivers.

Examining specifically the 22 media articles that concerned exploitation by a guardian, victims were mostly older women residing in care facilities (average age was 82 years). Those perpetrating the exploitation were mostly males (average age was 52 years). Eighteen of the individuals perpetrating the exploitation were nonfamily guardians, six were family members, and two were appointed as fiduciaries only. The media reported that criminal charges were filed against the guardian in nine of the 22 cases; of those nine, three were convicted (*Exploring the Consequences of Conservator Exploitation*, 2016).

### **Recent Media Stories Continue To Publicize Abuses**

A random selection of the most publicized stories in more recent media illustrates some of the endemic problems related to abuse by guardians.

*Paul Kormanik.* Paul Kormanik served as a professional conservator for more than 400 individuals in Ohio. An investigation by *Columbus Dispatch* reporters uncovered Kormanik's exploitive actions and large caseload. He pled guilty to 10 counts of theft of elderly or disabled persons and tampering with records, but he committed suicide prior to his sentencing date (*Professional Conservator*, 2015).

*April Parks.* April Parks was a paid professional guardian in Las Vegas, Nevada. She placed individuals under her care in unacceptable facilities, charged unreasonably high fees, and made it impossible for concerned family members or friends to have contact with loved ones. In 2019, Parks was indicted on more than 250 felony counts — one for each person she served (Ferrara, 2019).

*Rebecca Fierle.* Rebecca Fierle, a Florida private professional guardian, allegedly placed numerous do-not-resuscitate (DNR) orders on adults under her care without family or court permission. In one alleged case, Fierle refused to remove a DNR order even though the client, his family, and his physician asked her to do so. The client subsequently died of asphyxiation; medical staff did not try to revive him because of the DNR order. The Orange County Comptroller found that, over the course of a decade, Fierle had billed one hospital approximately \$4 million for guardian-related services. In some cases, she allegedly billed both the hospital and the client for the same services but at different rates (Fernandez, 2019). As of this writing, Fierle is on trial for aggravated abuse and neglect of an elderly person.

*Peter Falk.* Although he played the rumple-coated detective Columbo for a decade, in his later years, Falk allegedly suffered from Alzheimer’s disease. His second wife, who was his California court-appointed conservator (California’s term for guardian of an adult), allegedly isolated him from his family and friends. She purportedly prevented Falk’s daughter and other family members from visiting him and allegedly failed to notify them of major changes in his condition. She even allegedly failed to notify them of his death (Enea, n.d.).

*Casey Kasem.* Allegedly diagnosed with Parkinson’s disease and Lewy Body disease, celebrity Casey Kasem became embroiled in a guardianship. His children accused their stepmother of isolating him and failing to properly care for him. Despite his wife’s efforts, Kasem’s daughter secured a temporary conservatorship; however, his wife spirited Kasem to Washington state. When Kasem was admitted to a hospital, the court ordered separate visitations for the children and his wife. In 2014, at age 82, Kasem died — the immediate cause was deemed to be sepsis from bedsores. At his death, Kasem was worth about \$85 million. His children from his first marriage sued his second wife, alleging elder abuse and wrongful death. The suit was settled in 2019 (Davies, 2021).

*Britney Spears.* The most recent and highly controversial case of potential abuse by a guardian concerned celebrity Britney Spears. In 2008, Spears’s father was appointed her conservator (California’s term for guardian of an adult) after a series of public struggles and concerns about her mental health and substance use. As early as 2014, Spears objected to her father serving in that role, citing his drinking, among other issues. According to a 2016 court investigator report, Spears maintained that “the conservatorship has become an oppressive and controlling tool against her” and she was “sick of being taken advantage of” (Jacobs, 2021). At the beginning of her conservatorship, she was denied her choice of attorney. Finally, in mid-2021, the court allowed her to select her own attorney, who successfully terminated the conservatorship in November 2021.

## **Conclusions About the Nature of Abuse by Guardians**

The nature of abuse by guardians and by the guardianship system remains an unsolved puzzle due to inconsistent definitions of what constitutes abuse and an abysmal lack of data. From what we can piece together, we can conclude that:

- The National Adult Maltreatment Reporting System (NAMRS) provides a clearer understanding of the nature of adult abuse, but it does not yet capture reliable data on abuse by guardians.
- There are numerous reports by governmental, media, and other sources showing malfeasance by both professional and nonprofessional guardians.
- This malfeasance includes a spectrum of actions, ranging from noncompliance in failing to file reports in a timely manner, to abusive conduct as defined by APS, to criminal conduct for which various sanctions are imposed.
- There are few appellate cases involving misconduct by guardians; these cases expose how guardians abuse their court-ordered authority to exploit the estates they have been entrusted to protect.
- Media exposés tend to focus on the sensational cases of intrafamily disputes carried out in guardianship courts. A systematic review of media stories reveals that financial exploitation

is more likely to happen through misuse of powers of attorney than by guardians and is more likely to be perpetrated by family members or caregivers than by guardians.

- Most guardians who commit financial abuse or neglect are family members.

## **LITERATURE ON PREVENTION AND INTERVENTION FOR SYSTEMIC ABUSE AND FRAUD BY GUARDIANS**

Significant resources from many sectors have addressed the prevention, detection, and remediation of abuse by guardians, as well as the larger abuse inherent in the adult guardianship system. These resources outline helpful approaches to reduce or eliminate such abuse. However, there is a marked gap between guidance on paper and actual practices. Moreover, the strategies have not yet been evaluated empirically.

### **Early Advocacy Efforts To Improve Guardianship Practice**

Early advocacy efforts at adult guardianship reform targeted procedural due process shortcomings, such as effective notice of the guardianship petition and of the potential risk to the respondent of the loss of rights, the presence of the respondent at the hearing, the right to effective legal representation, and a clear and convincing evidence standard of proof (*Guardianship: An Agenda for Reform*, 1989). States also took a hard look at the definition of incapacity and the impairments that were sufficient to trigger guardianship, moving away from medical labels and toward a more functional determination. Additionally, state laws sought to minimize unnecessary or overbroad intervention into a person's life by requiring judges to consider less restrictive alternatives before appointing a guardian and tailoring the order to limit its scope to only what is needed to address the risk of harm (Wood, 2005).

### **Strengthening Court Oversight of Guardians**

Shortcomings in courts' detection or deterrence of abuse by guardians center on their lack of ability, resources, or commitment to provide effective oversight. Every state has statutory provisions addressing steps to monitor guardian actions. These steps include requiring guardians to file forward-looking care plans for how they will meet the needs of the adult, annual reports on care and services, initial inventories of resources the guardian is managing, and annual accountings of monies received and disbursed for the adult's needs. Most courts are directed to review these filings and take action to address any concerns (Hurme & Robinson, 2021).

To help courts carry out these statutory mandates, the National Center for State Courts and the National Association for Court Management have developed extensive guidance and suggested best practices. For example, the National College of Probate Judges, in cooperation with the National Center for State Courts, has promulgated national standards for courts exercising probate jurisdiction. These standards aim to promote uniformity, consistency, and continued improvement in the operations of state probate courts. Most recently revised in 2013, the *National Probate Court Standards* (NPCS, 2013) set out detailed judicial practices for adult guardianship proceedings, including how courts should conduct ongoing oversight of the well-being of the respondent and the status of the estate. According to National Probate Court Standard 3.3.17, courts should:



- Ensure that plans, reports, inventories, and accountings are filed on time.
- Promptly review the contents of all plans, reports, inventories, and accountings.
- Independently investigate the well-being of the respondent and the status of the estate, as needed.
- Assure the well-being of the respondent and the proper management of the estate by improving the performance of the guardian/conservator and enforcing the terms of the guardianship/conservatorship order.
- Consider whether a less restrictive alternative would be appropriate.

Especially relevant, standards for preventing or detecting abuse include requirements for background checks for proposed guardians (NPCS 3.3.12); bonds for guardians of the property (NPCS 3.3.15); a clear and easy-to-use process to communicate concerns about guardians' performance (NPCS 3.3.18); and sanctions, such as removal of bad actor guardians (NPCS 3.3.19). Many of these standards build on Hurme and colleagues' pioneering work *Steps to Enhance Guardianship Monitoring* (Hurme et al., 1991) and Karp and Wood's guide *Guarding the Guardians: Promising Practices for Court Monitoring* (Karp & Wood, 2007). The National Center for State Courts launched a Conservator Accountability Project, which resulted in the 2019 *Implementation Guide for Modernizing Conservatorship Monitoring*, suggesting case management and technological enhancements (Boyko et al., 2019).

Surveys of court personnel and guardians on monitoring practices — by Karp and Wood (2006) and repeated 15 years later by Hurme and Robinson (2021) — found disturbing differences in how proactive courts are in responding to late reports, conducting guardianship reviews, having personnel visit respondents, and sanctioning poor performance. “The lack of organizational capacity and the lack of adequate funding both contribute to a shocking absence of information about how many adults are under guardianship. When courts do not have the systems in place to accurately identify ongoing guardianship cases and resources under their management or know whether court orders are appropriately being carried out, it is impossible to ensure the wellbeing of those the courts have identified as being legally incapacitated and needing the courts' protection” (Hurme & Robinson, 2021).

GAO (2010) found critical shortcomings in court practices:

- Courts fail to adequately screen potential guardians to determine their suitability to care for vulnerable older adults.
- Courts fail to adequately oversee guardians after their appointment, review irregularities in annual accountings, or sanction delinquent guardians, which allows the abuse of adults and their assets to continue.
- Courts fail to communicate with the Social Security Administration and the Department of Veterans Affairs about abusive guardians who may also serve as federal payees or fiduciaries.

### **Additional Initiatives To Improve Practice and Target Abuse**

Additional literature and reform initiatives have sought to improve systemic guardianship practices and reduce abuse by guardians.

- Tracking State Legislative Action. Since 1988, the American Bar Association’s Commission on Law and Aging has been annually tracking state adult guardianship legislation. This information is summarized in a yearly update and posted on the commission’s website (*Guardianship and Supported Decision-Making*, 2021). The commission and Hurme have created numerous state statutory tables, which are also posted on the website and updated annually. These summaries inform researchers and state policymakers about approaches that might help address abuse by guardians.
- Uniform Law Commission Acts. The Uniform Law Commission, established in 1892, “provides states with non-partisan, well-conceived and well-drafted legislation that brings clarity and stability to critical areas of state statutory law” (*Uniform Law Commission*, n.d.). In 2017, the Uniform Law Commission approved the Uniform Guardianship, Conservatorship, and Other Protective Arrangements Act, which builds on earlier versions and incorporates new provisions, including 10 that directly target abuse by guardians (Karp & Wood, National Center on Elder Abuse, in press).
- National Guardianship Summits. Four national guardianship summits sponsored by National Guardianship Network organizations have helped jumpstart adult guardianship reform over the past 30+ years. The National Guardianship Network includes 13 national organizations (including the American College of Trust and Estate Counsel, the National College of Probate Judges, the National Center for State Courts, and the National Center on Elder Abuse) dedicated to effective adult guardianship law and practice (National Guardianship Network, n.d.). The May 2021 summit, “Maximizing Autonomy and Ensuring Accountability,” commissioned 10 law review articles (along with six concise issue briefs), two of which relate directly to systemic guardianship abuse and abuse by guardians (*The Fourth National Guardianship Summit: Maximizing Autonomy and Ensuring Accountability*, 2021).

One summit paper “Addressing Abuse by Guardians: The Role of Adult Protective Services, Law Enforcement, and the Courts,” written by Anetzberger and Thurston (2021) and mentioned above, highlights the misperceptions and lack of collaboration that block needed interventions. A resulting summit recommendation called for the establishment of state and local collaboration and policies focusing on abuse by guardians.

A second summit paper, “The Use and Misuse of Guardianship by Hospitals and Nursing Homes” by Hirschel and Smetanka (2021), outlines the incentives health and long-term care institutions have for petitioning for overbroad or unnecessary guardianship without examining less restrictive options. The results for patients are loss of rights and frequent, ongoing institutionalization — sometimes with poor care — instead of care in home and community-based settings. The paper describes a press investigation in which one hospital routinely selected one petitioning attorney, who then became the guardian and rapidly placed individuals in nursing homes even if willing family members could care for them (Balch, 2019). A resulting summit recommendation urged states to develop guardianship diversion programs to avoid such “guardianship pipelines.”

- Working Interdisciplinary Networks of Guardianship Stakeholders. In 2011, the Third National Guardianship Summit called for states to create Working Interdisciplinary Networks of Guardianship Stakeholders (WINGS). With start-up funding from the State Justice Institute and later the Administration for Community Living, 13 states created WINGS, bringing together a wide range of stakeholders to improve guardianship practices, address abuse, and promote less restrictive options. Additional states have since developed WINGS; currently more than 20 states have some form of collaborative court-community guardianship partnership (*State WINGS*, 2021). Although WINGS have had substantial accomplishments, especially in training and materials, “resource limitations precluded greater achievements where cost is a factor, such as targeting financial exploitation through steps to improve monitoring. For systems change, WINGS need continuing financial and technical assistance support” (*Advancing Guardianship Reform and Promoting Less Restrictive Options: WINGS Briefing Paper for ACL*, 2020).

### **Limited Research on Guardianship Practices and Maltreatment by Guardians**

Empirical research can also promote interventions to address abuse. Research on adult guardianship in general has been scant, with even less of a focus on abuse by guardians. Government records on public guardianship are often available to researchers; however, records of private guardianships are often nonexistent or inaccessible. Therefore, research on public guardianship has taken a lead. The limitations, of course, are that the affected population is narrower, and the fiduciary responsibility rests on government programs rather than family or private professional guardians. Nonetheless, research on any form of guardianship can spur reforms.

Schmidt and colleagues (1981) conducted the first study on public guardians. The study, which included a survey of state public guardianship programs at the time and detailed analysis of programs in five states, found “instances of flagrant abuse of the office of public guardian ... as well as instances of genuine concern and advocacy for the [individuals]” (Schmidt et al., 1981). Nearly 20 years later, Teaster and colleagues (2010) replicated the study. Both studies found that caseloads were far too high in most jurisdictions, too many people under guardianship were in institutional care facilities, and programs were highly underfunded. Teaster and colleagues also found that public guardians were serving far more younger people than 20 years earlier and that the individuals under guardianship had more complex needs. Both studies found that no guardianship was preferable to poor guardianship.

A small number of additional studies help shed light on guardianship systems and problems. A study by Teaster (2002) remains the only United States study that actually included adults subject to guardianship. It revealed that adults with guardians could express preferences and direct aspects of their lives. Other studies have examined guardianship termination and restoration of rights (Wood et al., 2017), the health care of individuals under guardianship (Caitlin et al., 2021; Sager et al., 2019), and the quality of life of people under guardianship (Schmidt et al., 2017). Research on the outcomes of guardianship and the characterization of individuals under guardianship is still needed.

Finally, there are several key writings on abuse by guardians. These are not research pieces and — because of the dearth of data — offer no perspectives on the extent of the problem. Instead, they set out theories, examples, and possible remedies for systemic guardianship abuse. For example, in “Ten Reasons People Get Railroaded into Guardianship,” Dore (2008) explores diverse factors that make guardianship easy to fall into, contributing to “guardianship pipelines.” She alleges that some professional guardians petition for their own appointment in order to take fees from the person’s assets; however, there are no statistics on the frequency of such a practice.

A recent comprehensive article by Heisz (2021), “Beware of the Con in Conservatorships: A Perfect Storm for Financial Elder Abuse in California,” traces the law, practice, and history of conservatorship financial exploitation in the state and emphasizes the lack of data. It concludes that “lack of any kind of data system for conservatorships is the primary problem in identifying and responding to misconduct by conservators” (Heisz, 2021).

A National Center on Elder Abuse issue brief, “Guardianship: Remedy vs Enabler of Elder Abuse,” describes the two opposing roles that guardianship plays in the world of elder abuse (Wood & Karp, 2021). A National Center on Law and Elder Rights webinar background summary by Pogach and Wood (2019), “When the Guardian Is an Abuser,” features four case examples, signs of abuse by guardians, and practice tips for attorneys. Also included in the bibliography is a National Center for State Courts guide on prosecuting elder abuse cases (NCSC, 2012). Although it does not focus on guardianship, it is relevant to identifying elder abuse generally and building effective cases.

Finally, with rising statutory attention to less restrictive options that could reduce or avoid the need for guardianship, including provisions on supported decision-making, there is clearly a need for research on the use and effectiveness of such arrangements and their potential for abuse (*Guardianship and Supported Decision-Making*, 2021). Although there are some writings on abuse of financial powers of attorney (Stiegel, 2008), empirical evidence is limited. There are initial pilot programs on supported decision-making for individuals with intellectual disabilities (Costanza et al., 2021), but broader empirical evidence on its use is also needed.

### **Barriers to Prevention and Intervention for Abuse by Guardians and Abuse of the Guardianship System**

Despite adult guardianship reform efforts over the past three decades, making permanent, systemic improvements is challenging. In its 2020 briefing paper on advancing guardianship reform through WINGS, the American Bar Association’s Commission on Law and Aging listed barriers, including the following (*Advancing Guardianship Reform and Promoting Less Restrictive Options: WINGS Briefing Paper for ACL*, 2020):

- Key data are not available.
- Aging and disability demographics and other pressures are causing strains in state courts.
- Adult guardianship practices differ significantly by court and state.
- Cases are complex, often fraught with mental illness, family conflict, service fragmentation, and more.
- Guardians and judges must walk a fine line, balancing risks, protections, and self-determination.

- Funding for improvements and research is scarce.
- Judges frequently have general jurisdiction caseloads without intensive guardianship experience, and judicial turnover is high.
- Societal biases against adults alleged to need a guardian can lead to unnecessary or overly restrictive guardianships.
- Guardianship is not generally included in elder justice reform efforts.

An important and additional barrier is the transient nature of public attention to the issue, which rises and falls with media focus — especially around celebrities — but is insufficient to sustain real progress.

### **Conclusions on Prevention and Intervention for Systemic Abuse and Fraud by Guardians**

Despite multiple national policy recommendations, substantial legislative revisions and court mandates, national court standards, and court guides for best practices (*Adult Guardianship Guide*, 2022), many gaps exist between the law and practice (Lanier, 2019).

- Ongoing media reports of grave abuses by guardians are an indication that, although standards and statutes may be in place, practices lag behind. There is a gap between the interventions on paper and reality (Hurme & Wood, 2002).
- Early guardianship reform efforts focused on basics, such as procedural protections and determination of capacity.
- Substantial work on guardianship monitoring includes laws, standards, and oversight approaches for courts. However, due to lack of funding, technology, and in some cases political will, much remains to be accomplished to effectively target abuse by guardians and bring about needed changes in the system.
- Uniform laws and guardianship summits offer key tools, but implementation is uneven or only at the formative stages.
- Research that sheds light on guardianship is limited; much more is needed to understand and act on abuse by guardians. Research on the use and possible abuse of less restrictive options, including supported decision-making, is also essential.
- There are substantial barriers to systemic guardianship reform, including barriers to the prevention and intervention of abuse by guardians.

### **LACK OF DATA AS A BARRIER TO UNDERSTANDING ABUSE AND FRAUD BY GUARDIANS**

#### **Data Are Needed for Research To Improve the Understanding of Guardianship Practices, Including Abuse and Fraud**

Consistently collected and updated data will enable research to clarify:

- The scope of abuse by guardians
- The prevalence of abuse by guardians
- The nature of abuse by various types of guardians
- The settings of abuse by various types of guardians
- The adults most affected as victims, as well as the consequences for their lives

- The effectiveness of various interventions

### **Courts Need Data for Effective Guardianship Monitoring To Target Abuse by Guardians**

To address abuse and fraud by guardians, courts need consistent and timely data and a comprehensive case management system to record, retrieve, and update the data over the life of each case — both while the petition is pending and following the appointment of a guardian. Data are needed on basic case information, case type, the reason a petition was brought (e.g., financial exploitation, abuse, or neglect), the reason the case was closed, the dates of documents due and filed, complaints raised, financial assets, demographic information about the adult and the guardian, residential status of the adult, and relationship of the guardian to the adult. These data should be entered consistently over time.

### **Policymakers Need Data for Legal and Policy Changes To Address Systemic Guardianship Abuse**

Policymakers need data to determine trends and gaps that require changes in laws, regulations, and guidelines, and to develop appropriate training programs for all stakeholders. For example, data might show that family guardians fail to understand their duties or that judges fail to take into account less restrictive options. Data might highlight a high rate of financial exploitation by case type, setting, or individual committing the abuse, or demonstrate that additional court procedures to protect the individual under guardianship would be useful.

### **Literature Shows Dire Lack of Data, Impeding Efforts To Respond to Abuse**

Multiple reports over the past decade have highlighted the dire lack of adult guardianship data — notably the 2010 GAO report stressing that GAO “could not determine whether allegations of abuse by guardians are widespread,” and the 2016 GAO report finding that “the extent of abuse by guardians nationally is unknown due to limited data on key factors related to elder abuse by a guardian” (GAO, 2010; 2016). In 2018, a background brief by the National Center for State Courts determined that “data quality undermines accountability in conservatorship cases” (National Center for State Courts et al., 2018). Also in 2018, the U.S. Senate Special Committee on Aging found that “few states are able to report accurate or detailed guardianship data,” which undermines trust in the guardianship system (*Ensuring Trust: Strengthening State Efforts to Overhaul the Guardianship Process and Protect Older American*, 2018).

### **Initiatives To Address Lack of Data on Abuse by Guardians**

Recent efforts have begun to address the compelling need for guardianship data. In 2020, the National Center for State Courts released two key documents: *National Open Court Data Standards*, which includes probate/guardianship case standards; and *Guardianship/Conservatorship Monitoring: Recommended Data Elements*. Recommendations from the 2021 Fourth National Guardianship Summit urge the highest court in each state to adopt these standards and data elements in ongoing collection of timely guardianship data.

A few jurisdictions have established enhanced data and case management systems:

- Minnesota’s MyMNConservator is an online reporting system that requires conservators to file inventories and accountings electronically and includes alerts for possible problems. Minnesota has now introduced a parallel program for guardianship cases. Indiana has developed a similar online reporting and case management model (*MyMNConservator*, n.d.).
- Pennsylvania has initiated a guardianship tracking system that allows guardians to submit reports, accounts, and inventories online to a centralized system. The court can track compliance and receives alerts when concerns are raised. In one recent example, a guardian was arrested in a case of financial fraud (*Guardianship Tracking System*, n.d.).
- The Palm Beach, Florida, Clerk and Comptroller’s Office developed the Guardian Inventory Reports and Accountings for Florida (GIRAFF) program — a web-based, real-time tool for data collection and use that enables the county to assess its guardianship cases and respond to problems. Replicating such systems in other jurisdictions requires adequate, dedicated funding (*GIRAFF User Guide*, n.d.).

### **Conclusions About the Lack of Data as a Barrier To Understanding Abuse and Fraud by Guardians**

Lack of consistent, reliable data impede our understanding of the adult guardianship system, including abuse and fraud by guardians.

- Data are needed for research to clarify the scope, prevalence, and nature of abuse by guardians.
- Data are needed for effective court case management and monitoring.
- Data are needed for legal and policy changes, including solutions for addressing abuse.
- A literature review shows a disturbing and dire lack of data, impeding efforts to respond to abuse by guardians.

## **SUMMARY AND CONCLUSIONS**

This review of the literature on guardian and guardianship abuse and fraud, which draws from a variety of disciplines and sources spanning nearly four decades, represents the most comprehensive body of work on the topic to date. Abundantly clear is that much more work and reform related to abuse and fraud by individual guardians and the guardianship system are required — consistently and immediately. Each section in this review provides a multitude of reasons that support this assertion.

### **Conclusions About the Scope and Prevalence of Abuse and Fraud by Guardians**

A scan of the relevant literature finds the following:

- Overall, elder abuse affects about 5 million older adults each year, although prevalence rates differ by study and type of abuse. This does not include vulnerable younger adults with disabilities. Studies have recognized that projections of elder abuse underestimate the actual prevalence.
- The best estimate of the number of guardianship cases (cases in which a guardian has been appointed for an adult and the case is subject to court review) in the United States is 1.3 million open cases, but that is based on varying reports by selected states.

- Federal inquiries and a limited amount of research have been unable to determine the scope and prevalence of abuse by guardians. State reports have not revealed such information, although some make useful findings. All of these sources recognize the tragic existence of abuse by guardians and highlight case examples.
- Although press stories have investigated serious problems, they may not accurately represent the system as a whole, and they fail to address scope and prevalence.

### **Conclusions About the Nature of Abuse by Guardians**

The nature of abuse by guardians and by the guardianship system remains an unsolved puzzle due to inconsistent definitions of what constitutes abuse and an abysmal lack of data. From what we can piece together, we can conclude that:

- The National Adult Maltreatment Reporting System provides a clearer understanding of the nature of adult abuse, but it does not capture robust and reliable data on abuse by guardians.
- There are numerous reports by governmental, media, and other sources showing malfeasance by both professional and nonprofessional guardians.
- This malfeasance includes a spectrum of actions, ranging from noncompliance in failing to file reports in a timely manner, to abusive conduct as defined by APS, to criminal conduct for which various sanctions are imposed.
- There are few appellate cases involving misconduct by guardians; these cases expose how guardians abuse their court-ordered authority to exploit the estates they have been entrusted to protect.
- Media exposés tend to focus on the sensational cases of intrafamily disputes carried out in guardianship courts. A systematic review of media stories reveals that financial exploitation is more likely to happen through misuse of powers of attorney and is more likely to be perpetrated by family members or caregivers than by guardians.
- Most guardians who commit financial abuse or neglect are family members.

### **Conclusions About Prevention and Intervention for Systemic Abuse and Fraud by Guardians**

Despite multiple national policy recommendations, substantial legislative revisions and court mandates, national court standards, and court guides for best practices (*Adult Guardianship Guide*, 2013), there are many gaps between the law and practice (Lanier, 2019).

- Ongoing media reports of grave abuses by guardians are an indication that, although standards and statutes may be in place, practices lag behind. There is a gap between the interventions on paper and reality.
- Early guardianship reform efforts focused on basics, such as procedural protections and determination of capacity.
- Substantial work on guardianship monitoring includes laws, standards, and oversight approaches for courts. However, due to lack of funding, technology, and in some cases political will, much remains to be accomplished to effectively target abuses by guardians and bring about needed changes in the system.
- Uniform laws and guardianship summits offer key tools, but implementation is uneven or only at the formative stages.



- Research that sheds light on guardianship is limited; much more is needed to understand and act on abuse by guardians. Research on the use and possible abuse of less restrictive options, including supported decision-making, is also essential.
- There are substantial barriers to systemic guardianship reform, including barriers to the prevention and intervention of abuse by guardians.

### **Conclusions About the Lack of Data as a Barrier To Understanding Abuse and Fraud by Guardians**

Lack of consistent, reliable data impede our understanding of the adult guardianship system, including abuse and fraud by guardians.

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- A literature review shows a disturbing and dire lack of data, impeding efforts to respond to abuse by guardians.

## References

- Abner, E. L., Teaster, P. B., Mendiondo, M. S., Ramsey-Klawnsnik, H., Marcum, J. L., Crawford, T. N., & Wangmo, T. (2019). Victim, allegation, and investigation characteristics associated with substantiated reports of sexual abuse of adults in residential care settings. *Journal of Interpersonal Violence, 34*(19), 3995-4019.  
<https://doi.org/10.1177/0886260516672051>
- Acierno, R., Hernandez, M. A., Amstadter, A. B., Resnick, H. S., Steve, K., Muzzy, W., & Kilpatrick, D. G. (2010). Prevalence and correlates of emotional, physical, sexual, and financial abuse and potential neglect in the United States: The national elder mistreatment study. *American Journal of Public Health, 100*(2), 292-297.  
[doi:10.2105/AJPH.2009.163089](https://doi.org/10.2105/AJPH.2009.163089)
- Acierno, R., Hernandez-Tejada, M., Muzzy, W., & Steve, K. (2009). *National elder mistreatment study*. National Institute of Justice.  
<https://www.ojp.gov/pdffiles1/nij/grants/226456.pdf>
- Adult guardianship guide: A guide to plan, develop and sustain a comprehensive court guardianship and conservatorship program* (2022). Natl. Assoc. for Ct. Mgmt.  
[https://nacmnet.org/wp-content/uploads/AdultGuardianshipGuide\\_withCover.pdf](https://nacmnet.org/wp-content/uploads/AdultGuardianshipGuide_withCover.pdf)
- Advancing guardianship reform and promoting less restrictive options: WINGS briefing paper for ACL*. (2020). ABA Commission on Law and Aging.  
[https://www.americanbar.org/content/dam/aba/administrative/law\\_aging/2020-wings-briefing-paper.pdf](https://www.americanbar.org/content/dam/aba/administrative/law_aging/2020-wings-briefing-paper.pdf)
- Anetzberger, G. J., & Thurston, M. R., (May 2021). Addressing guardianship abuse: The roles of adult protective services, law enforcement, and the courts.  
<http://law.syr.edu/uploads/docs/academics/Anetzberger-Thurston.pdf>
- Professional conservator, tipping point for mandatory training for all conservators*. (2015, November 29). The Columbus Dispatch.
- Aviv, R. (2 October 2017). How the elderly lose their rights. *The New Yorker*.  
<https://www.newyorker.com/magazine/2017/10/09/how-the-elderly-lose-their-rights>
- Balch, B. (2019, Fall). Unguarded: A three-part series on Richmond's guardianship process. *The Richmond Times-Dispatch*.
- Bayles, F. & McCartney, S. (1987, September 19). Guardians of the elderly: An ailing system. *Associated Press*. <https://apnews.com/article/1198f64bb05d9c1ec690035983c02f9f>
- Beyond Guardianship: Toward Alternatives That Promote Greater Self-Determination for People with Disabilities. (2018, May 22). <https://ncd.gov/publications/2018/beyond-guardianship-toward-alternatives>
- Bolkan, C., Teaster, P.B., Holly Ramsey-Klawnsnik, H., Kenneth Gerow, K., (2020). Abuse of vulnerable older adults by designated surrogate decision makers, *Innovation in Aging*, Volume 4, Issue Supplement 1, 702–703, <https://doi.org/10.1093/geroni/igaa057.2467>
- Boyko, C., Holt, K., Allred, A., Graves, S., & Lyles, O. (2019). Implementation guide for modernizing conservatorship monitoring: Basic strategies and technology enhancements. *National Center for State Courts, 38*.
- Campo-Flores, A., & Jones, A. (2015, October 30). Abuse plagues system of legal guardians for adults. *The Wall Street Journal*. <https://www.wsj.com/articles/abuse-plagues-system-of-legal-guardians-for-adults-1446225524>
- Caitlin, C., Connors, H., Teaster, P.B., Wood, E., Moye, J. (2021). Unrepresented adults face adverse healthcare consequences: The role of guardians, public guardianship reform, and

- alternative policy solutions. *Journal of Aging and Social Policy*.  
<https://doi.org/10.1080/08959420.2020.1851433>
- CEAR- Center for estate administration reform. (n.d.). <https://www.pearjustice.org/>  
 Center for guardianship certification. (n.d.). <https://guardianshipcert.org/>
- Certified professional guardianship board, 2019 annual report. (2019).  
<https://www.courts.wa.gov/content/PublicUpload/CPGB%20Annual%20Reports/2019%20Grievance%20Annual%20Report.pdf>
- Costanza, C., Krieger, A., & Glen, K. (2021). Supported decision-making: Lessons from pilot projects. *Fourth National Guardianship Summit*.  
<http://law.syr.edu/uploads/docs/academics/constanzo-glen-krieger.pdf>
- Davies, P. (2021, June 25). Before Britney: The controversial conservatorship of Casey Kasem. <https://www.therichest.com/rich-powerful/casey-kasem-controversial-conservatorship/>
- Day, L., Stark, S., & Coscarelli, J. (2021, November 2). Britney Spears quietly pushed for years to end her conservatorship. *The New York Times*.  
<https://www.nytimes.com/2021/06/22/arts/music/britney-spears-conservatorship.html>
- Department of Justice (DOJ) (2014). *The elder justice roadmap: A stakeholder initiative to respond to an emerging health, justice, financial and social crisis*.  
<https://www.justice.gov/file/852856/download>
- Dore, M., (2008). Ten reasons people get railroaded into guardianship. *American Journal of Family Law*, Vol. 21, Issue 4, pp. 148-152.  
[https://www.researchgate.net/publication/242313638\\_Ten\\_Reasons\\_People\\_Get\\_Railroaded\\_into\\_Guardianship](https://www.researchgate.net/publication/242313638_Ten_Reasons_People_Get_Railroaded_into_Guardianship)
- Enea, A. J. (n.d.) Peter Falk’s law becomes a reality in New York.  
<https://www.eslawfirm.com/articles/peter-falk-s-law-becomes-a-reality-in-new-york/>
- Ensuring trust: Strengthening state efforts to overhaul the guardianship process and protect older Americans*, U.S. Senate Special Committee on Aging, 2018.
- Exploring the consequences of conservator exploitation* (p. Brief No. 4). (2016). National Center for State Courts.
- Fernandez, F. (2019, October 2). Guardian in Volusia elder cases under criminal investigation over DNRs. *Daytona Beach News Journal*.
- Ferrara, D. (2019, January 4). Ex-Nevada guardian to serve up to 40 years behind bars. *Las Vegas Review-Journal*. [viewjournal.com/crime/courts/ex-nevada-guardian-to-serve-up-to-40-years-behind-bars-1565690/](http://viewjournal.com/crime/courts/ex-nevada-guardian-to-serve-up-to-40-years-behind-bars-1565690/)
- Final Report to the New Mexico Supreme Court*. (2017, December). New Mexico Adult Guardianship Study Commission.
- Garland, S. B. (2017, July 28). Calls for court reform as legal guardians abuse older adults. *Business Day*.  
<https://www.nytimes.com/2017/07/28/business/calls-for-court-reform-as-legal-guardians-abuse-older-adults.html>
- GIRAFF user guide*. (n.d.). Clerk of the Circuit Court, Palm Beach County.  
<https://www.mypalmbeachclerk.com/home/showdocument?id=2989>
- Glaberson, W. (2004, March 3). Report calls for Overhaul of System That Protects the Unfit, *New York Times*.
- Guardianship: An Agenda for Reform*. (1989). American Bar Association, 13(3), 271–313.

- Guardianship and supported decision-making*. (2021, December 3). American Bar Association Commission on Law and Aging. [https://www.americanbar.org/groups/law\\_aging/resources/guardianship\\_law\\_practice/Guardianship\\_Tracking\\_System](https://www.americanbar.org/groups/law_aging/resources/guardianship_law_practice/Guardianship_Tracking_System). (n.d.). Pennsylvania Courts. <https://www.pacourts.us/Storage/media/pdfs/20210215/040150-guardianshiptrackingsystembrochure-007291.pdf#search=%22guardianship%22>
- Gunther, J. (2011). The Utah cost of financial exploitation. (No. 32). *American Bar Association*.
- Government Accountability Office (2004). *Guardianships: Collaboration needed to protect incapacitated elderly people*. <https://www.gao.gov/assets/gao-04-655.pdf>
- Government Accountability Office (2006). *Guardianships: Little progress in ensuring protection for incapacitated elderly people*. <https://www.gao.gov/assets/gao-06-1086t.pdf>
- Government Accountability Office (2010). *Guardianships: Cases of financial exploitation, neglect and abuse of seniors*. GAO-10-1046. <https://www.gao.gov/products/GAO-10-1046>.
- Government Accountability Office (2016). *Elder abuse: The extent of abuse by guardians is unknown, but some measures exist to help protect older adult*. <https://www.gao.gov/products/GAO-17-33>
- Hafemeister, T. L. (2003). Financial abuse of the elderly in domestic settings. In R.J. Bonnie, & R.B. Wallace (Eds.), *Elder mistreatment: Abuse, neglect, and exploitation in an aging America* (pp. 382-445). Washington, D.C.: National Academies Press.
- Hirschel, A., & Smetanka, L., (2021, May). The use and misuse of guardianship and conservatorship by nursing home and health care providers. <http://law.syr.edu/uploads/docs/academics/Hirschel-Smetanka.pdf>
- Heisz, K. (2021, March). Beware of the con in conservatorships: A perfect storm for financial elder abuse in California. *NAELA News Journal*. <https://www.naela.org/NewsJournalOnline/OnlineJournalArticles/OnlineMarch2021/Conservatorships.aspx?subid=1191>
- Hurme, S. B., Parry, J., & Coleman, N. M. (1991). Steps to enhance guardianship monitoring. *American Bar Association, Commission on the Mentally Disabled and Commission on Legal Problems of the Elderly*.
- Hurme, S. B., & Robinson, D. (2021). What's working in guardianship monitoring: Challenges and best practices. *Syracuse Law Review*, 70.
- Hurme, S. B., & Wood, E. (2002). Guardians accountability then and now: Tracing tenets for an active court role. *Stetson Law Review*, 867–940.
- In re the Guardianship & Conservatorship of A.M.M.*, 384 Mont. 413, 380 P.3d 736, 2016 MT 213 (2016). <https://cite.case.law/mont/384/413/>
- Improving Virginia's adult guardian and conservators system* (p. 49). (2021). Joint Legislative Audit and Review Commission. <http://jlarc.virginia.gov/pdfs/reports/Rpt553.pdf>
- Jacobs, J. (2021, September 22). Britney Spears' conservatorship: What to know. *New York Times*. <https://www.nytimes.com/article/britney-spears-conservatorship.html>
- Karp, N., & Wood, E. (2006). Guardianship monitoring: A national survey of court practices (p. 63). *AARP Public Policy Institute*. [https://assets.aarp.org/rgcenter/consume/2006\\_14\\_guardianship.pdf](https://assets.aarp.org/rgcenter/consume/2006_14_guardianship.pdf)
- Karp, N., & Wood, E. (2007). Guarding the guardians: Promising practices for court monitoring. *AARP Public Policy Institute*. [https://www.aarp.org/money/estate-planning/info-2007/2007\\_21\\_guardians.html](https://www.aarp.org/money/estate-planning/info-2007/2007_21_guardians.html)

- Kraus, L., Lauer, E., Coleman, R., & Houtenville, A. (2018). 2017 Disability statistics annual report (p. 48). *University of New Hampshire*.
- Lanier, E. C. (2019). Understanding the gap between law and practice: Barriers and alternatives to tailoring adult guardianship orders. *Buffalo Public Interest Law Journal*, 36, 155–218.
- Larin, K. (2016, November 30). *Testimony before the Special Committee on Aging, U.S. Senate, Elder Abuse: The Extent of Abuse by Guardians is Unknown, but Some Measures Are Being Taken to Help Protect Older Adults*.
- Leland, J. (2018, December 12). I'm Petitioning... for the Return of My Life, *New York Times*.
- Lipari, R. N. (2020). Key Substance Use and Mental Health Indicators in the United States: Results from the 2019 National Survey on Drug Use and Health. Substance Abuse and Mental Health Services Administration, 114.
- Mallik-Kane, K., Zweig, J., Vasquez-Noriega, C., & Morgan, R. (2021). Assessment of Administrative Data on Elder Abuse, Mistreatment, and Neglect: Final Technical Report. U.S. Department of Justice. <https://www.ojp.gov/library/publications/assessment-administrative-data-elder-abuse-mistreatment-and-neglect-final>
- Managing someone else's money: Help for court-appointed guardian of property and conservators* (p. 6). (2019). Consumer Financial Protection Bureau. [https://files.consumerfinance.gov/f/documents/cfpb\\_msem\\_court-appointed-guardians\\_guide.pdf](https://files.consumerfinance.gov/f/documents/cfpb_msem_court-appointed-guardians_guide.pdf)
- Massachusetts guardian community trust*. (2017). UMass Donahue Institute. <https://donahue.umass.edu/our-publications/fiscal-implications-of-establishing-a-public-guardianship-agency-in-massach>
- McGee, L., & Urban, K. (2021). *Adult maltreatment data report 2020*. <https://namrs.acl.gov/Learning-Resources/Adult-Maltreatment-Reports/2020-Adult-Maltreatment-Report.aspx>
- McGee, L., & Urban, K. (2021). *Adult maltreatment data report 2020*. (p. Appendix A-10). Submitted to the Administration for Community Living, U.S. Department of Health and Human Services. <https://namrs.acl.gov/Learning-Resources/Adult-Maltreatment-Reports/2020-Adult-Maltreatment-Report.aspx>
- Montgomery, L., (2016). State court leaders strive to improve guardianship and conservatorship oversight. *National Center for State Courts*.
- MyMNConservator*. (n.d.). Minnesota Judicial Branch. <https://www.mncourts.gov/conservators>
- NASGA – National Association to Stop Guardianship Abuse*. (n.d.). <https://stopguardianabuse.org/>
- National Center for State Courts. (2012). Prosecuting Elder Abuse Cases: Basic Tools and Strategies. National Center for State Courts. <https://bj.a.ojp.gov/sites/g/files/xyckuh186/files/Publications/NCSC-Prosecuting-Elder-Abuse-Cases-Basic-Tools-and-Strategies.pdf>
- National Center for State Courts, American Bar Association Commission on Law and Aging, Virginia Tech Center for Gerontology, & Minnesota Judicial Branch. (2018). *Financial Exploitation by Conservators: A Series of Background Briefs*. U.S. Department of Justice. <https://www.eldersandcourts.org/other-resources>
- National Guardianship Association*. (n.d.). <https://www.guardianship.org>
- National Guardianship Association (2005 – 2021). NGA Legal & Legislative Review. Copies of the Legal Reviews for 2005 to 2021, except for 2012 when no legal review was

- conducted, are available in the authors' folder. A few hard copies of the more recent years are available from the National Guardianship Association.
- National Guardianship Network. (n.d.). National Academy of Elder Law Attorneys. [https://www.naela.org/NGN\\_PUBLIC/who\\_we\\_are.aspx](https://www.naela.org/NGN_PUBLIC/who_we_are.aspx)
- National Probate Court Standards- NPCS. (2013). National Center for State Courts. <https://ncsc.contentdm.oclc.org/digital/api/collection/spcts/id/140/download>
- Patja, K., Iivanainen, M., Vesala, H., Oksanen, H., & Ruoppila, I. (2000). Life expectancy of people with intellectual disability: A 35-year follow-up study. *Journal of Intellectual Disability Research*, 44(5), 591–599. <https://doi.org/10.1046/j.1365-2788.2000.00280.x>
- Pillemer, K., Burnes, D., Riffin, C., & Lachs, M. S. (2016). Elder abuse: global situation, risk factors, and prevention strategies. *The Gerontologist*, 56(Suppl\_2), S194-S205.
- Pogach, D., & Wood, E., (2019). When the guardian is an abuser. *American Bar Association Commission on Law and Aging, for the National Center on Law and Elder Rights*. <https://ncler.acl.gov/getattachment/Legal-Training/When-the-Guardian-is-an-Abuser-Ch-Summary.pdf.aspx?lang=en-US>
- Population Specific Fact Sheet – Intellectual disability | National disability navigator resource collaborative. (n.d.). <https://nationaldisabilitynavigator.org/ndnrc-materials/fact-sheets/population-specific-fact-sheet-intellectual-disability/>
- Ramsey-Klawnsnik, H. (2017). Older adults affected by polyvictimization: a review of early research. *Journal of elder abuse & neglect*, 29(5), 299-312.
- Report of the Commission on Fiduciary Appointments*. (2005, February). NY Court of Appeals, 1.
- Roberto, K. A. (2017). Perpetrators of late life polyvictimization. *Journal of elder abuse & neglect*, 29(5), 313-326.
- Rosay, A. B., & Mulford, C. F. (2017). Prevalence estimates and correlates of elder abuse in the United States: The national intimate partner and sexual violence survey. *Journal of elder abuse & neglect*, 29(1), 1-14.
- Sager, Z., Catlin, C., Connors, H., Farrell, T., Teaster, P., Moye, J. (2019). Making end-of-life care decisions for older adults subject to guardianship. *Elder Law Journal*. 27(1) 1-33.
- Schmidt, W.C., Bell, W., & Miller, K. (1981). Public guardianship and the elderly. *Ballinger Publ Co*.
- Schmidt, W. C., Teaster, P. B., Mendiondo, M., Marcum, J., & Wangmo, T. (2017). Program and ward characteristics and cost savings of public guardianship: An Evaluation of the Florida public guardianship program. *University of Florida Journal of Law & Public Policy*, 28, 329.
- Seal, C., & Teaster, P.B. (in press). The time has finally come: An argument and a roadmap for regulating the court-appointed professional fiduciary. *Syracuse University College of Law, Law Review*.
- Slayton, D. (2021). Toxic conservatorship: The need for reform. Testimony on 09-28-2021 to the United States Senate Committee on the Judiciary. <https://www.judiciary.senate.gov/imo/media/doc/Slayton%20Testimony1.pdf>
- SSA representative payee: Survey of state guardianship laws and court practices. (pp. 31–32) (2014). Administrative Conference of the U.S. [https://www.acus.gov/sites/default/files/documents/SSA%2520Rep%2520Payee\\_State%2520Laws%2520and%2520Court%2520Practices\\_FINAL.pdf](https://www.acus.gov/sites/default/files/documents/SSA%2520Rep%2520Payee_State%2520Laws%2520and%2520Court%2520Practices_FINAL.pdf)

- State WINGS. (2021, November 30). American Bar Association.  
[https://www.americanbar.org/groups/law\\_aging/resources/wings-court-stakeholder-partnerships0/state-wings/](https://www.americanbar.org/groups/law_aging/resources/wings-court-stakeholder-partnerships0/state-wings/)
- Stiegel, L. A. (2008). *Durable Power of Attorney Abuse: It's a Crime Too*. A National Center on Elder Abuse Fact Sheet for Criminal Justice Professionals.  
<https://ncea.acl.gov/NCEA/media/docs/Durable-PofA-Abuse-FactSheet-Criminal-Justice-Professionals.pdf>
- Storey, J. E. (2020). Risk factors for elder abuse and neglect: A review of the literature. *Aggression and Violent Behavior*, 50, 101339.
- TBI Data | Concussion | Traumatic Brain Injury | CDC Injury Center. (2021, May 21).  
<https://www.cdc.gov/traumaticbraininjury/data/index.html>
- Teaster, P. B. (2002). The wards of public guardians: Voices of the unbefriended. *Family Relations*, 51, 344-350.
- Teaster, P.B, Wood, E., Schmidt, W., Lawrence, S.A., Mendiondo, M. (2010). Public guardianship: In the best interest of incapacitated people? *Praeger Publishing Company. The Fourth National Guardianship Summit: Maximizing Autonomy and Ensuring Accountability*. (2021). Syracuse University College of Law. <http://law.syr.edu/academics/conferences-symposia/the-fourth-national-guardianship-summit-autonomy-and-accountability>
- Uekert, B. & Van Duizend, R., (2011). Adult guardianships: A “best guess” national estimate and the momentum for reform. *Future Trends in State Courts 2011*, pp 107 - 112,  
<https://ncsc.contentdm.oclc.org/digital/collection/ctadmin/id/1846>
- Uniform Law Commission. (n.d.). <https://www.uniformlaws.org/home>  
*VA research on traumatic brain injury (TBI)*. (n.d.).  
<https://www.research.va.gov/topics/tbi.cfm>  
*Washington State Courts, Standards of Practice*. (2012).  
[https://www.courts.wa.gov/content/publicUpload/CPG/20131014\\_SOP\\_Regulations.pdf](https://www.courts.wa.gov/content/publicUpload/CPG/20131014_SOP_Regulations.pdf)
- Wood, E. (2005). *History of guardianship*. In M.J. Quinn *guardianship of adults: Achieving justice, autonomy, and safety* (pp. 31–39). Springer Series.
- Wood, E., & Karp, N. (2021). Guardianship: Remedy vs. enabler of elder abuse. National Center on Elder Abuse.  
[https://ncea.acl.gov/NCEA/media/Publication/NCEA\\_GuardianshipRemedyVSEnabler.pdf](https://ncea.acl.gov/NCEA/media/Publication/NCEA_GuardianshipRemedyVSEnabler.pdf)
- Wood, E., Teaster, P. B., Cassidy, J. (2017). Restoration of rights in adult guardianship: Research and recommendations. *ABA Commission on Law and Aging with the Virginia Tech Center for Gerontology*.
- Wendland-Bower, W. (2000, May 24). Who’s watching the guardians? *Detroit Free Press*.
- Yeoman, B. (2004, January 1). Stolen Lives. *AARP, The Magazine*.  
<https://barryyeoman.com/2004/01/stolen-lives/>
- Yon, Y., Mikton, C., Gassoumis, Z. D., & Wilber, K. H. (2019). The prevalence of self-reported elder abuse among older women in community settings: a systematic review and meta-analysis. *Trauma, Violence, & Abuse*, 20(2), 245-259.
- Yon, Y., Ramiro-Gonzalez, M., Mikton, C. R., Huber, M., Dinesh Sethi, D. (2019, February). The prevalence of elder abuse in institutional settings: a systematic review and meta-analysis, *European Journal of Public Health*, Volume 29, Issue 1, 58–67.

## Appendices

### Appendix A. Federal Documents

#### Federal Legislation Introduced per THOMAS

H.R. 5266 – 100th Congress: National Guardianship Rights Act of 1988 (Rep. Pepper)

S. 2765 – 100th Congress: National Guardianship Rights Act of 1988 (Sen. Glenn)

H.R. 5275 – 100th Congress: Guardianship Rights and Responsibilities Act of 1988 (Rep. Snowe)

S. 235 – 101st Congress: National Guardianship Rights Act of 1989 (Sen. Glenn)

H.R. 372 – 101st Congress: Guardianship Rights and Responsibilities Act of 1989 (Rep. Snowe)

H.R. 1702 – 101st Congress: National Guardianship Rights Act of 1989 (Rep. Pepper)

H.R. 2023 – 102nd Congress: Older Americans Guardianship Assistance Amendments of 1991 (Rep. Snowe)

H.R. 632 – 103rd Congress: Guardianship Rights and Responsibilities Act of 1993 (Rep. Snowe)

H.R. 1354 – 103rd Congress: Standby Guardianship Act (Rep. Maloney)

S. 430 – 104th Congress: Guardianship Rights and Responsibilities Act of 1995 (Sen. Snowe)

H.R. 3005 – 105th Congress: Standby Guardianship Act (Rep. Maloney)

S. 655 – 105th Congress: Guardianship Rights and Responsibilities Act of 1997 (Sen. Snowe)

S. 975 – 113th Congress: Court-Appointed Guardian Accountability and Senior Protection Act (Sen. Klobuchar), to provide for the inclusion of court-appointed guardianship improvement and oversight activities under the Elder Justice Act of 2009.

S. 1614 – 114th Congress: Court-Appointed Guardian Accountability and Senior Protection Act (Sen. Klobuchar), to provide for the inclusion of court-appointed guardianship improvement and oversight activities under the Elder Justice Act of 2009.

S. 182 – 115th Congress: Court-Appointed Guardian Accountability and Senior Protection Act (Sen. Klobuchar), to provide for the inclusion of court-appointed guardianship improvement and oversight activities under the Elder Justice Act of 2009.

S. 3669 – 115th Congress: Guardianship Accountability Act of 2018 (Sen. Collins), to assist states in improving guardianship oversight and data collection.



S. 591 – 116th Congress: Guardianship Accountability Act of 2019 (Sen. Collings), to assist states in improving guardianship oversight and data collection.

H.R. 5380 – 116th Congress: Senior Guardianship Social Security Protection Act of 2019 (Rep. Crist), to amend Title II of the Social Security Act to require the Commissioner of Social Security to enter into agreements with states to share data related to individuals subject to guardianship, and for other purposes.

S. 2881 – 117th Congress: Guardianship Accountability Act of 2021 (Sens. Collins and Casey), to assist states in improving guardianship oversight and data collection.

H.R. 5600 – 117th Congress: Guardianship Accountability Act of 2021 (Rep. Soto), to assist states in improving guardianship oversight and data collection.

### **Congressional Hearings**

June 2, 1992, Roundtable discussion on guardianship, <https://www.aging.senate.gov/hearings/a-href/publications/621992pdf-targetblankroundtable-discussion-on-guardianship/a>

February 11, 2003, <https://www.aging.senate.gov/hearings/guardianships-over-the-elderly-security-provided-or-freedom-denied>

Witnesses: (statements not available on Senate Committee on Aging website)

Robt Aldridge

Diane Armstrong

Penelope Hommel

Frank Johns

Michael Kutzin

Jane Pollack

Robin Warjone

July 22, 2004, <https://www.aging.senate.gov/hearings/forum-protecting-older-americans-under-guardianship-who-is-watching-the-guardian>

Robert Aldridge testimony, <https://www.aging.senate.gov/imo/media/doc/fr129ra.pdf>

Nancy Coleman testimony, <https://www.aging.senate.gov/imo/media/doc/fr129nc.pdf>

Frank Johns testimony, <https://www.aging.senate.gov/imo/media/doc/fr129fj.pdf>

Barbara Bovbjerg testimony, <https://www.aging.senate.gov/imo/media/doc/fr129bb.pdf>

September 7, 2006, <https://www.aging.senate.gov/hearings/exploitation-of-seniors-americas-ailing-guardianship-system>

Ira Salzman testimony, <https://www.aging.senate.gov/imo/media/doc/hr163is.pdf>

Barbara Bovbjerg testimony, <https://www.aging.senate.gov/imo/media/doc/hr163bb.pdf>

Carol Scott testimony, <https://www.aging.senate.gov/imo/media/doc/hr163cs.pdf>

Mel Grossman testimony, <https://www.aging.senate.gov/imo/media/doc/hr163mg.pdf>

Terry Hammond testimony, <https://www.aging.senate.gov/imo/media/doc/hr163th.pdf>

November 30, 2016, [https://www.aging.senate.gov/hearings/trust-betrayed\\_financial-abuse-of-older-americans-by-guardians-and-others-in-power](https://www.aging.senate.gov/hearings/trust-betrayed_financial-abuse-of-older-americans-by-guardians-and-others-in-power)

Kathryn A. Larin testimony,

[https://www.aging.senate.gov/imo/media/doc/SCA\\_GAO\\_11\\_30\\_16.pdf](https://www.aging.senate.gov/imo/media/doc/SCA_GAO_11_30_16.pdf)

Cate Boyko testimony,

[https://www.aging.senate.gov/imo/media/doc/SCA\\_Boyko\\_11\\_30\\_16.pdf](https://www.aging.senate.gov/imo/media/doc/SCA_Boyko_11_30_16.pdf)

Jane Martin testimony,

[https://www.aging.senate.gov/imo/media/doc/SCA\\_Martin\\_11\\_30\\_16.pdf](https://www.aging.senate.gov/imo/media/doc/SCA_Martin_11_30_16.pdf)

Jessica Kruse testimony,

[https://www.aging.senate.gov/imo/media/doc/SCA\\_Kruse\\_11\\_30\\_16.pdf](https://www.aging.senate.gov/imo/media/doc/SCA_Kruse_11_30_16.pdf)

November 2018, U.S. Senate Special Committee on Aging, *Ensuring Trust: Strengthening State Efforts to Overhaul the Guardianship Process and Protect Older Americans*,

[https://www.aging.senate.gov/imo/media/doc/Guardianship\\_Report\\_2018\\_gloss\\_compress.pdf](https://www.aging.senate.gov/imo/media/doc/Guardianship_Report_2018_gloss_compress.pdf)

April 18, 2018, <https://www.aging.senate.gov/press-releases/senate-aging-committee-examines-financial-exploitation-by-guardians->

Senator Casey, April 18, 2018, <https://www.aging.senate.gov/press-releases/pa-casey-we-must-strengthen-safeguards-that-protect-seniors-from-financial-abuse->

Senator Collins, April 27, 2018, <https://www.aging.senate.gov/press-releases/cracking-down-on-unscrupulous-guardians-seeking-to-exploit-seniors>

Nina Kohn testimony, [https://www.aging.senate.gov/imo/media/doc/SCA\\_Kohn\\_04\\_18\\_18.pdf](https://www.aging.senate.gov/imo/media/doc/SCA_Kohn_04_18_18.pdf)

Pam Teaster testimony,

[https://www.aging.senate.gov/imo/media/doc/SCA\\_Teaster\\_04\\_18\\_18.pdf](https://www.aging.senate.gov/imo/media/doc/SCA_Teaster_04_18_18.pdf)

David Slayton testimony,

[https://www.aging.senate.gov/imo/media/doc/SCA\\_Slayton\\_04\\_18\\_18.pdf](https://www.aging.senate.gov/imo/media/doc/SCA_Slayton_04_18_18.pdf)

Denise Flannigan testimony,

[https://www.aging.senate.gov/imo/media/doc/SCA\\_Flannigan\\_04\\_18\\_18.pdf](https://www.aging.senate.gov/imo/media/doc/SCA_Flannigan_04_18_18.pdf)

November 28, 2018, <https://www.aging.senate.gov/press-releases/senate-aging-committee-examines-ways-to-strengthen-guardianship-programs>

Cate Boyko testimony,

[https://www.aging.senate.gov/imo/media/doc/SCA\\_Boyko\\_11\\_28\\_18.pdf](https://www.aging.senate.gov/imo/media/doc/SCA_Boyko_11_28_18.pdf)

Bethany Hamm testimony,

[https://www.aging.senate.gov/imo/media/doc/SCA\\_Hamm\\_11\\_28\\_18.pdf](https://www.aging.senate.gov/imo/media/doc/SCA_Hamm_11_28_18.pdf)

Karen Buck testimony, [https://www.aging.senate.gov/imo/media/doc/SCA\\_Buck\\_11\\_28\\_18.pdf](https://www.aging.senate.gov/imo/media/doc/SCA_Buck_11_28_18.pdf)

Barbara Buckley testimony,

[https://www.aging.senate.gov/imo/media/doc/SCA\\_Buckley\\_11\\_28\\_18.pdf](https://www.aging.senate.gov/imo/media/doc/SCA_Buckley_11_28_18.pdf)

September 28, 2021, U.S. Senate Committee on the Judiciary, *Toxic Conservatorships: The Need for Reform*, <https://www.judiciary.senate.gov/meetings/toxic-conservatorships-the-need-for-reform>

Zoe Brennan-Krohn testimony, <https://www.judiciary.senate.gov/imo/media/doc/Brennan-Krohn%20Testimony2.pdf>

Nicholas Clouse testimony,

<https://www.judiciary.senate.gov/imo/media/doc/Clouse%20Testimony.pdf>

Dr. Clarissa Kripke testimony,  
<https://www.judiciary.senate.gov/imo/media/doc/Kripke%20Testimony.pdf>  
David Slayton testimony,  
<https://www.judiciary.senate.gov/imo/media/doc/Slayton%20Testimony1.pdf>  
Morgan Whitlatch testimony,  
<https://www.judiciary.senate.gov/imo/media/doc/Whitlatch%20Testimony.pdf>

March 1, 2019, <https://www.aging.senate.gov/press-releases/senators-collins-casey-introduce-bipartisan-bill-to-protect-individuals-under-the-care-of-guardians>

December 24, 2014, Administrative Conference of the United States, *SSA Representative Payee: Survey of State Guardianship Laws and Court Practices*,  
[https://www.acus.gov/sites/default/files/documents/SSA%2520Rep%2520Payee\\_State%2520Laws%2520and%2520Court%2520Practices\\_FINAL.pdf](https://www.acus.gov/sites/default/files/documents/SSA%2520Rep%2520Payee_State%2520Laws%2520and%2520Court%2520Practices_FINAL.pdf)

## **U.S. Government Accountability Office (GAO)**

### ***Guardianships: Collaboration Needed To Protect Incapacitated Elderly People***

**GAO-04-655**

**Published: July 13, 2004**

GAO was asked to examine: (1) what state courts do to ensure that guardians fulfill their responsibilities, (2) what guardianship programs that have been recognized as exemplary do to ensure that guardians fulfill their responsibilities, and (3) how state courts and federal agencies work together to protect vulnerable adults.

### ***Little Progress in Ensuring Protection for Incapacitated Elderly People***

**GAO-06-1086T**

**Published: September 07, 2006**

The Senate Special Committee on Aging asked GAO to follow up on its 2004 report *Guardianships: Collaboration Needed To Protect Incapacitated Elderly People* (GAO-04-655). This follow-up study found that some states had strengthened their guardianship programs; however, little progress had been made in increasing coordination between state courts and federal agencies.

### ***Cases of Financial Exploitation, Neglect, and Abuse of Seniors***

**GAO-10-1046**

**Published: September 30, 2010**

GAO could not determine whether allegations of abuse by guardians are widespread; however, GAO identified hundreds of allegations of physical abuse, neglect, and financial exploitation by guardians in 45 states and the District of Columbia between 1990 and 2010. In 20 selected closed cases, GAO found that guardians stole or otherwise improperly obtained \$5.4 million in assets from 158 victims who were incapacitated, many of whom were seniors. In some instances, guardians also physically neglected and abused their victims. The guardians in these cases came from diverse professional backgrounds and were overseen by local courts in 15 states and the District of Columbia. GAO found several common themes: (1) The courts failed to adequately screen potential guardians, appointing individuals with criminal convictions or significant

financial problems to manage high-dollar estates; (2) the courts failed to oversee guardians once they were appointed, allowing the abuse of vulnerable seniors and their assets to continue; and (3) the courts and federal agencies did not communicate effectively or at all with each other about abusive guardians, allowing the guardian to continue the abuse of the victim or others.

***Oversight of Federal Fiduciaries and Court-Appointed Guardians Needs Improvement***  
**GAO-11-678**

**Published: July 22, 2011**

The Social Security Administration, Department of Veterans Affairs, and state courts have screening procedures for ensuring that fiduciaries and guardians are suitable, and laws in most states require courts to follow certain procedures for screening guardians. There are also statutes and regulations requiring the Social Security Administration and Department of Veterans Affairs to monitor fiduciary performance. Similarly, most states require courts to obtain annual reports from guardians. There is evidence that guardianship monitoring by state courts, however, needs improving, and promising practices have been proposed to strengthen it. Gaps in information sharing between state courts and federal agencies may adversely affect adults who are incapacitated.

***Improving Oversight of Federal Fiduciaries and Court-Appointed Guardians***  
**GAO-11-949T**

**Published: September 22, 2011**

This GAO hearing covered Social Security Administration and Department of Veterans Affairs procedures for screening prospective representative payees and federal fiduciaries and state court procedures for screening prospective guardians. It also covered Social Security Administration and Department of Veterans Affairs monitoring of federal fiduciary performance, state court monitoring of guardian performance, information sharing between the Social Security Administration and Department of Veterans Affairs fiduciary programs and between each of these programs and state courts, and federal support for improving state courts' oversight of guardianships.

***The Extent of Abuse by Guardians Is Unknown, but Some Measures Exist To Help Protect Older Adults***

**GAO-17-33**

**Published: November 16, 2016**

The extent of elder abuse by guardians nationally is unknown due to limited data on key factors related to elder abuse by a guardian, such as the number of guardians serving older adults, older adults in guardianships, and cases of elder abuse by a guardian. This report noted that data limitations prevent courts from being able to provide reliable figures about elder abuse by guardians. In 2017, the Department of Health and Human Services launched the National Adult Maltreatment Reporting System — a national reporting system based on data from state adult protective services (APS) agency information systems. This launch held out promise of the capability to collect information that could help identify cases of elder abuse involving a guardian.

## **Appendix B. National Guardianship Summits**

### **2021 Fourth National Guardianship Summit**

Fourth National Guardianship Summit Recommendation 4.4

[Fourth National Guardianship Summit - Adopted Recommendations \(May 2021\).pdf \(syr.edu\)](#)

Georgia J. Anetzberger & Morgan R. Thurston, [Addressing Guardianship Abuse: The Roles of Adult Protective Services, Law Enforcement, and the Courts \(May 2021\)](#)

NGN Summit Planning Committee, Issue Brief for Working Group #4: Rethinking Monitoring and Addressing Abuse by Guardian

[Issue Brief Working Group 4 Monitoring Abuse final.pdf \(syr.edu\)](#)

Alison Hirschel & Lori Smetanka, [The Use and Misuse of Guardianship and Conservatorship by Nursing Home and Health Care Providers \(May 2021\)](#)

NGN Summit Planning Committee, Issue Brief for Working Group #3:

Limited Guardianship, Protective Arrangements, and Guardianship Pipelines

Robert Dinerstein, Patti Dudek, & Frank Johns, [Conservatorships, Guardianships, Trusts, ADA Integration Mandate, and ABLE Accounts: An Examination of Agglomerate Tensions Between Ensuring Judicial Accountability and Maximizing Trust Beneficiary Autonomy \(May 2021\)](#)

Sally Hurme & Diane Robinson, [“What’s Working in Guardianship Monitoring: Challenges and Best Practices” \(May 2021\) http://law.syr.edu/uploads/docs/academics/Hurme-Robinson.pdf](#)

### **2011 Third National Guardianship Summit**

Seal, C. & Crona, S., Standards for Guardianship Fees, *Utah Law Review*, Vol, 2012, No. 3, pp 1575 - 1620

## **Appendix C. State-Based Documents on Guardianship Abuse and Fraud**

National Center for State Courts, American Bar Association Commission on Law and Aging, Virginia Tech Center for Gerontology, & Minnesota Judicial Branch, *National Forum on Financial Exploitation by Conservators, Final Draft of Plenary Recommendations*, May 30, 2017

### **Arizona**

David Steelman, Alicia Davis, Daniel Hall, *Improving Protective Probate Processes: An Assessment of Guardianship and Conservatorship Procedures in the Probate and Mental Health Department of the Maricopa County Superior Court*, August 2011. Available from authors as a PDF document.

### **Michigan**

Michigan Supreme Court, State Court Administrative Office, *Interim Report on Investigative Follow-up Review of the Michigan Office of the Auditor General Performance Audit of Selected Probate Court Conservatorship Cases*, October 2003. Available at [www.courts.michigan.gov/scao/resources/publications/reports/](http://www.courts.michigan.gov/scao/resources/publications/reports/)

Michigan Supreme Court, State Court Administrative Office, *Final Report on Investigative Follow-up Review, Statewide Phase to the Michigan Office of the Auditor General, Performance Audit of Selected Probate Court Conservatorship Cases*, January 2005.

### **Nevada**

Nevada Supreme Court Commission to Study the Administration of Guardianships in Nevada's Courts, September 2016. PDF in folder

### **New Mexico**

New Mexico Adult Guardianship Study Commission, *Final Report to the New Mexico Supreme Court*, December 2017. PDF in folder

### **New York**

*Report of the Commission on Fiduciary Appointments*, December 2001. Available at <http://www.courts.state.ny.us/ip/gfs/>.

New York State Unified Court System Special Inspector General, *Fiduciary Appointments in New York: A Report to Chief Judge Judith S. Kaye and Chief Administrative Judge Jonathan Lippman*, 2001. Available at [www.nycourts.gov/ip/gfs/igfiduciary.html](http://www.nycourts.gov/ip/gfs/igfiduciary.html).

*Report of the Grand Jury of the Supreme Court, Queens County* (March 2004), available at [www.queensda.org/](http://www.queensda.org/).

Supreme Court of the State of New York: Appellate Division, Second Judicial Department, *Report and Recommendations: The Guardianship Task Force*, November 2004. Available at [www.nycourts.gov/courts/ad2/](http://www.nycourts.gov/courts/ad2/).

*Report of the Commission on Fiduciary Appointments*, February 2005. PDF in folder

### **Pennsylvania**

Center for Advocacy for the Rights and Interests of the Elderly, *The State of Guardianship in Pennsylvania: Results from the 2012 CARIE Study of Guardianship in the Commonwealth of Pennsylvania*, November 2013.

Pennsylvania Elder Law Task Force, *Overarching Findings and Recommendations of the Elder Law Task Force Concerning Court Administration, Judicial Education, Funding, and Public Awareness*, 2013.

### **Texas**

David Slayton, Texas Office of Court Administration, *Guardianship Compliance Performance Report*, December 2016.

### **Virginia**

*Improving Virginia's Adult Guardian and Conservator System* (p. 49). (2021). Joint Legislative Audit and Review Commission. <http://jlarc.virginia.gov/pdfs/reports/Rpt553.pdf>

## Appendix D. Legal Review of Reported Cases

Date	State	Party	Allegation	Sanction/Disposition	Reference
		<b>Guardianship Matter</b>		<b>Criminal Charges</b>	
		<b>Non-Guardianship Matter</b>		<b>Guardian Moving Party or Federal Case</b>	
2016	OK	Attorney guardian	Use of adult under guardianship funds, professional misconduct, addiction	Disbarred	<i>Oklahoma ex rel. Oklahoma Bar Association v. Mitchell Kevin Leonard</i> , 367 P.3d 498 (OK 2016)
2021	AK	Guardian daughter	Lack of caregiving	Removal	<i>In the Matter of the Protective Proceedings of Tiffany O.</i> , 467 P.3d 1076 (Alaska 2020)
2020	AR	Attorney	Contempt over judicial bias	\$100 fine	<i>In the Matter of the Guardianship of Betty Bevill. Jonathan R. Streit v. State of Arkansas</i> , 576 S.W.3d 27 (AR 2019)
2018	AR	Guardian spouse	Failure to file inventory reports	Transfer funds to the estate of deceased individual	<i>Barbara Rogers v. Florida Martin Ritchie</i> , 528 S.W.3d 272 (AR App. 2017)
2018	CA	Conservator daughter	Comingling funds, improper accounting	Surcharge	<i>Conservatorship of Zedalis</i> , 2017 WL 5508209 (Cal. Ct. App.)
2015	CA	Conservator daughter	No authority to sign gift deed	Removal	<i>Conservatorship of Gums</i> , 2014 WL 3812330 (CA Ct. App. 2014)
2020	CA	Daughter	Financial exploitation	Conservator brought case	<i>Dennis v. Ho</i> , (Cal. Ct. App. Cal. 2020)
2015	CA	Predecessor conservator's attorney	Legal malpractice in allowing conservator to conceal assets	Liable, had privity with successor conservator	<i>Stine v. Dell'Osso</i> , 230 Cal. App. 4th 834 (2014)
2017	CO	Attorney for respondent	Failed to abide by client's request to remove guardianship	Reciprocal suspension of one month from AZ	<i>People v. Miller</i> , 2017 WL 2212041 (Office of Presiding Disciplinary Judge, Colo. 2017)



2016	CO	Attorney and son conservator	Felony theft	Disbarment, \$75,000 restitution	<i>People v. Zarlengo</i> , 367 P.3d 1197 (CO 2016)
2018	CO	Conservator brother	Breach fiduciary duty, civil theft	Surcharge, triple damages	<i>Black v. Black</i> , 2018 WL 549693 (Colo. Ct. App.)
2018	CO	Attorney co-trustee grandson	Improper expenditures	13 counts theft, eight years prison, disbarred	<i>State v. Gregory</i> , 2018 WL 1386832 (Colo. Presiding Disciplinary Judge)
2021	DC	Attorney	Segregation of accounts, recordkeeping	Admonition	<i>In re Quinne Harris-Lindsey</i> , 242 A.3d 613 (D.C. Ct. App. 2020).
2015	DE	Guardian daughter	Breach contract with nursing home, used guardianship funds for own benefit	Action could be heard in civil court	<i>Delaware Health Corporation v. Kelly Ann Grim</i> , 2014 WL 6666570 (Sup.Ct., Del., 2014)
2019	DE	Guardian parents	Sexual abuse	Conviction	<i>In The Matter Of Jane Tyler</i> , 2019 WL 1752618 (Del. 2019)
2021	DE	Guardian son	Failure to pay taxes, failure to report property sale	Sanctions	<i>In the Matter of A.N.</i> , 2020 WL 7040079 (Del. Chan. Ct. 2020).
2017	NJ	Attorney guardian	Sale of condo	Dismissed, no breach	<i>In the Matter of J. F. (Deceased), an Incapacitated Person</i> , 2017 WL 587306 (N.J. Sup. Ct., App. Div., 2017)
2021	FL	Guardian	Unhappy mother	Federal court no jurisdiction	<i>Amy Weissbrod v. Broward County Board of Supervisors</i> , 2021 WL 354199 (US Dist. Ct. S.D. FL 2021)
2020	FL	Guardian son	Failure to follow orders re: restricted account, file plan, inventory, no educational course	Civil contempt and forensic fees affirmed with incarceration, attorney fees reversed as no bad faith	<i>Reginald Hicks, former guardian v. Sharon Hicks, successor guardian and Elgin Polo</i> , 284 So.3d 576 (FL Ct. App. 4th Dist. 2019)
2020	FL	Guardian, judge, attorney	Systemic abuse, racketeering	Vexatious litigant	<i>Barbara Stone v. Nelson Mullins Riley &amp; Scarborough LLP</i> , 2020 WL 3489614 (US Dist. Ct. S.D. FL 2020)
2021	GA	Caregiver daughter	Felony murder	Affirmed	<i>Booth v. State</i> , 858 S.E.2d 39 (GA 2021)
2019	GA	Conservator spouse	Breach of fiduciary duty	Removed, bond surcharged but no punitive damages	<i>In re Estate of Jacqueline Gladestone</i> , 819 S.E.2d 71 (GA App. 2018); and 814 S.E.2d 1 (GA 2018)

2019	GA	Conservator	Will change	Dismissed as ante-mortem will contest	<i>Kellar v. Davis</i> , 2019 WL 2428462 (GA Ct. App. 2019)
2017	GA	Guardian spouse	Looting conservatorship assets	Judgment and punitive damages	<i>In re Estate of Jacqueline Gladstone</i> , 798 S.E.2d 660 (GA Ct. App. 2017)
2017	GA	Residential caregiver	Felony murder	Affirmed	<i>Smith v. State</i> , 801 S.E.2d 18 (GA 2017)
2017	IL	Bank and caregivers	Fraudulent opening of bank account	Bank not liable, did not know was incapacitated	<i>Estate of Polchanin v. Selfreliance Ukrainian American Federal Credit Union et al</i> , 2017 IL (1st) 160641 (2017)
2017	IL	Bank and guardians	Thefts from accounts	Dismissed, not bank's fault	<i>Cook County Public Guardian v. Fifth Third Bank, N.A.</i> , 2016 IL App (1st) 151101-U (2016)
2016	IL	Guardian daughter	Lien on daughter's house for unauthorized repairs	Dismissed	<i>Estate of Herard</i> , 2015 IL App. (1st) 143074-U
2017	IN	Guardian grandfather	Gross abuse, neglect	10 felony convictions, 24-year sentence	<i>Sells v. State</i> , 2017 WL 819742 (IN Ct. App. 2017)
2017	IN	Guardian sister	No accounting, funds not used for adult under guardianship	Removal and reimburse estate	<i>In re Estate of Hall</i> , 2017 WL 1034542 (IN Ct. App. 2017)
2021	IA	Attorney	Frivolous filings in trust	Sanctions	<i>Matter of Teresa Kasparbauer Revocable Living Trust</i> , 949 N.W.2d 660 (Iowa Ct. App. 2020)
2018	IA	Attorney	False statements to court in guardianship	Revoke	<i>Iowa Supreme Court Attorney Disciplinary Board v. Suarez-QUILTY</i> , 912 N.W.2d 150 (Iowa 2018)
2018	KS	Attorney	Client conflict in guardianship	Disbarred	<i>Jarvis v. Wood</i> , 429 P.3d 909 (KS Ct. App. 2018)
2015	KS	Attorney	Theft of client funds in guardianship	Indefinite suspension	<i>In re Jarvis</i> , 349 P.3d 445 (KS 2015).
2018	KS	Attorney for guardian	Mistreatment of dependent adult, violation of orders, bad check	Criminal charges, probation restitution	<i>State v. Ball</i> , 414 P.3d 753 (KS Ct. App. 2018)
2016	KS	Guardian father	Dispute between parents on care and visitation, misinterpretation of	Removal	<i>In the Matter of Guardianship of LeVota</i> , 353 P.3d 470 (KS Ct. App. 2015)

			court orders, no accurate records		
2021	KS	Guardian mother	False pretenses	Conviction reversed	<i>State v. Mayfield</i> , 481 P.3d 818 (KS Ct. App. 2021)
2015	KY	Attorney	File false documents in guardianship	Permanently disbarred	<i>Kentucky Bar Association v. Arnett</i> , 463 S.W.3d 338 (KY 2015)
2019	MA	Conservator spouse	Final account disallowed, record keeping	Affirmed	<i>DiPietro v. Healy</i> , 94 Mass. App. Ct. 1119 (2019)
2017	ME	Public conservator	Breach fiduciary duty, sale of residence below market value	Dismissed on sovereign immunity	<i>Perry v. Dean</i> , 2017 ME 35 (2017)
2018	MI	Attorney for spouse of adult under guardianship	Release of confidential guardian ad litem report	Criminal contempt order reversed	<i>Hanson v. Alpena Probate Judge</i> , 2017 WL 5615880 (Mich. Ct. App.)
2016	MI	Successor conservator	No error in sale of home	Dismissed	<i>Grimm v. PW Services Inc.</i> , 2016 WL 3767473 (MI Ct. App. 2016)
2021	MI	Private guardian	Too many cases to supervise adequately	Dismissed	<i>Smith v. Jones</i> , 2020 WL 5761000 (US Dis. Ct., E.D. Michigan)
2015	MN	Attorney guardian	Misappropriation, excessive fees	Disbarred	<i>In re Disciplinary Action Against Moe</i> , 851 N.W.2d 868 (Minn. 2014)
2017	MO	Caregiver and grandmother guardian	Husband of guardian sexually assault adult under guardianship and impregnate	Husband: 7 year, guardian 30% at fault on \$3M compensatory damages	<i>Jane Doe v. Hughes</i> , 2016 WL 7364704 (MO Ct. App. 2017)
2015	MS	Conservator judge	Mismanagement of estate, attempted influence of witness	Removed from office and taxed costs, five months in federal prison for witness tampering	<i>Mississippi Commission on Judicial Performance v. Chancery Court Judge Joe Dale Walker</i> , 172 So.3d 1165 (2015)
2018	MS	Guardian daughter's boyfriend	Comingling of fund, opened joint bank account	Contempt	<i>In the Matter of the Conservatorship of Margarette Smith</i> , 237 So.3d 852 (MS App. 2018)

2016	MS	Judge	Negligence and inattention in ex parte orders when same attorney was guardian ad litem and attorney for conservator	Public reprimand, 30-day suspension	<i>Mississippi Commission on Judicial Performance v. Judge David Shoemake</i> , 2016 WL 1459109 (MS 2016)
2017	MT	Attorney for family	Interference with guardian and harming the health of the adult under guardianship	Restrictions on family, sanction against attorney “frivolous, frothful filings”	<i>Guardianship of AMM</i> , 384 Mont. 413 (2016)
2016	MT	Guardian	Theft of minor’s inheritance	Persistent offending, 25-year prison, 15-year suspended, restitution	<i>State v. Williams</i> , 380 Mont. 445 (2015)
2021	NC	Attorney	Bullying re: power of attorney, guardianship petition	Disbarred	<i>North Carolina State Bar v. Erica Marie Erickson</i> , 850 S.E.2d 622 (NC App. 2020)
2015	NC	Attorney executor	Undue influence	Sued by guardian, removed as executor	<i>In the Matter of the Estate of Harold Luther Mills</i> , 765 S.E.2d 122 (NC App. 2014)
2015	NC	Attorney grandson on pay on death account	Breach fiduciary duty, constructive trust	Won summary judgment but no Rule 11	<i>Clevell S. Roseboro, Sr. v. John P. Roseboro</i> , 2015 WL 3490059 (NC App. 2015)
2015	ND	Attorney	No misconduct in helping client revoke power of attorney, Rule 1.14	Dismissed	<i>Runge v. Disciplinary Board of North Dakota</i> , 858 N.W.2d 901 (ND 2015)
2018	ND	Son	Undue influence in trust	Summary judgment	<i>Riskey v. Riskey</i> , 917 N.W.2d 488 (ND 2018)
2014	NE	Attorney	Contempt	Sanction	<i>Nebraska v. Connor</i> , 856 N.W.2d 570 (Neb. 2014)
2018	NE	Attorney guardian	Neglecting duties	One-year suspension	<i>State ex rel Counsel for Discipline of Supreme Court v. Halstead</i> 298 Neb. 149 (2017)
2015	NE	Attorney guardian	Late inventory, accounts, breach of duty of competence and diligence	30-day suspension	<i>State of Nebraska v. Connor</i> , 856 N.W.2d 570 (Neb. 2014).
2017	NE	Son	Financial exploitation of vulnerable adult and theft	Conviction five years for financial exploitation, five years for theft	<i>State v. Dehning</i> , 894 N.W.2d 331 (NE 2017)

2020	NJ	Guardian brother	Exploitation	Affirmed	<i>In the Matter of B.M.</i> , 2020 WL 2179052 (N.J. Super. Ct., App. Div. 2020)
2016	NV	Attorney for guardian and trustee of special needs trust	Failure to inform court that guardian and adult under guardianship left state, sold trust assets without permission, failure to file annual accounts, waste of trust assets	One-year suspension	<i>Discipline of Schultz</i> , 2015 WL 9484739 (NV 2015)
2018	NV	Attorney for petitioner	False statement in guardianship petition, petition to appoint self as guardian	Rejected conditional plea as insufficient	<i>Matter of Discipline of Smith</i> , 406 P.3d 958 (NV 2017)
2021	NV	Family	Misappropriation	Guardian brought case	<i>In re Benveniste</i> , 2021 WL 1688696 (Nev. 2021)
2018	NY	Attorney guardian	Self-dealing	Disbarred	<i>Matter of D'Angelo</i> , 158 A.D.3d 107 (N.Y. App. Div. 2nd 2017)
2017	NY	Attorney guardian	Legal malpractice	Dismissed	<i>Celeste Sieen, Administratrix, C.T.A. of the Estate of Virginia Lenzovich v. Lisa Mevorach, as Guardian for Virginia Lenzovich and as attorney for Virginia Lenzovich</i> , 2016 N.Y. Misc. Lexis 4849, N.Y. S. Ct. 2016
2020	NY	Guardian	Son sought 1983 action against mother guardian	Dismissed	<i>Zavalidroga v. Hester</i> , 2020 WL 210812 (U.S.D.C., N.Y.N.D. 2020) (magistrate's recommendation)
2016	NY	Guardian	Abusive behavior to adult under guardianship	Removed on request of adult under guardianship	<i>Matter of Helen S.</i> , 130 A.D.3d 834 (NY 2nd Dept. 2015)
2015	NY	Guardian	Failure to file accountings, follow court orders	Civil and criminal contempt	<i>In re Patricia H.</i> , 46 Misc.3d 1207(A) (N.Y. S. Ct., Suffolk County 2015)
2018	NY	Guardian daughter	Failed to notify family of hospice and funeral	\$15,000 sanction plus attorney fees	<i>Matter of Kornicki</i> , 2018 N.Y.L.J. Lexis 2904 (S.Ct., Nassau County, N.Y., 2018)
2020	NY	Guardian, judge, attorney	42 U.S.C. 1984 civil rights	No federal jurisdiction	<i>Zavalidroga v. Hester</i> , 2020 WL 210812 (U.S.D.C., New York, 2020)

2015	OH	Attorney guardian	Theft of client funds, guardian for 400 clients	Resignation of bar license	<i>In re Resignation of Kormanik</i> , 32 N.E.3d 476 (OH 2015)
2019	OH	Attorney	Theft	Two-year sentence, dismissed appeal	<i>Disciplinary Counsel v. Harmon</i> , 158 Ohio St.3d 248 (2019)
2018	OH	Attorney for previous guardian	Irregular inventories, unsupported motions	Sanction	<i>In re Estate of Arbraitis</i> , 2017 WL 2815202 (OH Ct. App. 2017)
2016	OH	Co-guardians	Sloppy accounting	Remanded as no finding of civil concealment	<i>In re Guardianship of Lindsey</i> , 2015 WL 5934635 (OH Ct. App. 2015)
2020	OH	Guardian	Misuse of restricted account	Bank not liable	<i>Matter of B.M.</i> , 2020 WL 1492579 (2020 Ohio)
2016	OH	Guardian	Failure to file acceptable accounting	Removal and surcharge brought by successor guardian	<i>In the Matter of Disciplinary Proceedings Against Gatzke</i> , 878 N.W.2d 668 (WI 2016)
2018	OH	Guardian daughter	Concealed or embezzled assets, change life insurance beneficiary to self	Judgment	<i>Hundley v. Sparkes</i> , 2017 WL 4877008 (Ohio Ct. App. 2017)
2017	OH	Guardian daughter	Not getting medical attention, medications	Removal	<i>In the Matter of the Guardianship of Thomas</i> , 2016 WL 6805338 (OH Ct. App. 2016)
2017	OH	Guardian daughter	Move without order, menacing behavior at nursing home	Removed	<i>Guardianship of Carey</i> , 2016 WL 5871158 (OH Ct. App. 2016)
2018	OR	Attorney	Improper communication	Public reprimand	<i>In re Conduct of Klemp</i> , 363 Or. 62 (2018)
2018	OR	Attorney conservator	Excessive fee, abuse of process	18-month suspension	<i>In re Conduct of McGraw</i> , 362 Or. 667 (2018)
2017	PA	Family guardian, brother and sister co-guardians	Ignored best interest	Removed and independent guardian appointed	<i>In the Matter of: Genevieve Bush</i> , 2017 WL 679952 (Pa. Sup. Ct. 2017)
2020	PA	Guardian	Misuse of funds	Surcharge	<i>In Re Cecelia Kline</i> , 2019 WL 2564661 (Pa. Super. Ct.2019)
2021	PA	Guardian sister	Imprudent investing	Sanctions	<i>Estate of: Nancy Stapler-Elias</i> , 241 A.3d. 425 (Pa. Sup. Ct. 2020)
2018	RI	Attorney for respondents	Not notify court of joint account	Suspended for 90 days	<i>Matter of Martin S. Malinou</i> , 172 A.3d 774 (RI 2017)

			deposited to own account		
2016	RI	Guardian sister	Joint account with adult under guardianship before appointment	Not breach of fiduciary duty to not disclose account, "close relatives preferred," no misuse of money	<i>In Re Estate of William B. Ross</i> , 131 A.3d 158 (RI 2016)
2020	SD	Attorney	Misconduct	One-year suspension	<i>Matter of Discipline of Swier</i> , 939 N.W.2d 855 (SD 2020)
2019	TN	Caretaker	Theft	Two-year suspended sentence, restitution	<i>State of Tennessee v. Ricky Jan Stevison</i> , 2019 WL 4739229 (TN Crim. Ct. App. 2019)
2017	TN	Guardian mother	Acting against best interest of adult under guardianship re: medications	Removal	<i>In re Conservatorship of Sophia Elaine Taylor</i> , 2017 WL 957801 (TN Ct. App. 2017)
2017	TX	Attorney trustee, who represented adult under guardianship in guardianship, counsel to daughter	Adverse clients	Void trust, funds to court registry	<i>Ross v. Sims</i> , 2017 WL 672458 (Tex. App. – Austin 2017)
2015	TX	Caregiver will beneficiary	Deception in will procurement	Conviction	<i>Melissa Adler v. State of Texas</i> , 2014 WL 5421050 (TX App. Waco 2014, rev. ref'd 2015)
2018	TX	Guardian son	Transfer funds to trust to benefit self	Removal	<i>In the Guardianship of Nancy Simo</i> , 2017 WL 6047706 (TX App. 2017)
2020	TX	Hospice administrator beneficiary of will	Capital murder	Life sentence affirmed	<i>Monica Melissa Patterson v. State of Texas</i> , 2020 WL 373069 (TX Ct. App. 2020)
2020	TX	Hospital	Class action on rape	Class certification denied	<i>Anisha H. Ituah by Her Guardian Angela McKay, on her behalf and those similarly situated v. Austin State Hospital</i> , 2020 WL 354949 (W.D. Tex. 2020)
2019	TX	Neighbor	Misappropriation	Five-year sentence	<i>Slobodan Vidakovic v. State of Texas</i> , 2019 WL 1388363 (TX App. 2019)

2020	TX	Private investigator	Undue influence in wills	Wills set aside	<i>In re Estate of Buford Scott, Jr.</i> , 2020 WL 1685419 (TX Ct. App. 2020)
2021	TX	Regular bus driver	Sexual assault	Affirmed	<i>Edgar Lane Sharp v. State of Texas</i> , 2020 WL 6750815 (TX App. 2020)
2019	TX	Stepfather	Sexual battery	Convicted	<i>Douglas Harry Young v. State of Texas</i> , 2019 WL 1120125 (TX App. 2019)
2021	WA	Attorney	Baseless claim in guardianship proceeding	Sanctions	<i>In re Sanction Order Against Critchlow</i> , 2021 Wash. App. LEXIS 381, 2021 WL 734777 (Wash. App. 2021)
2017	WA	Attorney	Insert in guardianship proceedings after disqualified, potential witness	Rule 11 sanctions	<i>Guardianship of Cudmore</i> , 197 Wash. App. 1052 (2017)
2017	WA	Attorney for petitioner	Representative of respondent and petitioner, conflict of interest	Disqualified	<i>In re Cudmore and Belt</i> , 195 Wash. App. 1003 (2016)
2019	WA	Certified professional guardian	Not in opinion	One-year suspension from all cases by Professional Guardian Board	<i>Matter of Guardianship of Holcomb</i> , 5 Wash.App.2d 1044 (2018)
2017	WA	Guardian	Excessive fees, violation fiduciary duties, violation standards of practice	Pay investigator fee and disgorge fee	<i>Guardianship of Fowler</i> , 198 Wash. App. 1023 (2017)
2016	WI	Attorney	Used estate funds for real estate where was partner, no consent in settling insurance claim, living expenses from trust account	Three-year suspension	<i>In the Matter of Disciplinary Proceedings Against Gatzke</i> , 878 N.W.2d 668 (WI 2016)
2016	WI	Attorney	Theft by power of attorney	Conviction upheld	<i>State v. Elverman</i> , 873 N.W.2d 528 (WI Ct. App. 2015)
2015	WI	Attorney	Comingling, false accounting	Suspension, restitution	<i>In re Disciplinary Proceedings Against Voss</i> , 850 N.W.2d 190 (WI 2014)
2017	WI	Attorney guardian	Theft of guardianship funds	18-month suspension	<i>In the Matter of Disciplinary Proceedings Against Meisel</i> , 893 N.W.2d 558 (WI 2017)



2016	WI	Guardian son	Plaintiff guardian failed to answer admission	Guardian's failure to answer admissions used to grant summary judgment	<i>Estate of Traxler v. Traxler</i> , 874 N.Wd.2d 347 (WI Ct. App. 2015)
2021	WV	Group home worker	Sexual assault	Affirmed	<i>State of West Virginia v. Joshua Ray Lell</i> , 2021 WL 365231 (WV Sup. Ct. App. 2021)
2020	WV	Used car dealer	Exploitation	Suit by family against APS for gross negligence	<i>Jerry Markham, Administratrix of the Estate of Selwyn Vanderpool and Joseph Boswell, III, v. West Virginia Dept. of Health and Human Services</i> , 2020 WL 2735435 (WV 2020)
2020	WY	Attorney	Will drafting, id of client	90-day suspension	<i>Board Professional Responsibility, Wyo. St. Bar v. Pretty</i> , 462 P.3d 446 (Wyo. 2020)
2020	WY	Attorney	Client conflict, misrepresentation	Five-year suspension	<i>Discipline of List</i> , 453 P.3d 390 (Wyo. 2019)
2015	MS	Former guardian	Failure to file accounting, which would reveal embezzlement	Sued by current guardians against court clerk, dismissed statute of limitations	<i>Benvenuto, as Conservator of the Estate of Soon San Pak v. John McAda, Chancery Clerk of Harrison County, Mississippi</i> , 162 So.3d 808 (MS 2015)
2020	MS	Romantic partner	Theft via confidential relationship, undue influence	Cancel deed and recover funds, case brought by conservators	<i>John L. Ward v. Estate of Mary S. Cook by and through Lynn E. Cook, III, Charles J. Cook, and Jean Cook Arick, Conservators</i> , 294 So.3d 1252 (MS Ct. App. 2020)

## Appendix E. Research

Callahan, J., Romanek, R. & Ghesquiere, A., “Guardianship Proceedings in New York State; Findings and Recommendations, *Bifocal*, American Bar Association Commission on Law and Aging, Issue 37, No. 4, 2016, pp 83-89,  
<https://www.americanbar.org/content/dam/aba/publications/bifocal/BIFOCALMar-Apr2016.authcheckdam.pdf>

Larson, S. (2022). Riverside County programs and services for children in foster care, transitioning youth, and adults under conservatorship. Downloads/581757335-Larson-LLP-Report-on-Turpin-Children-s-Care%20(1).pdf

Robinson, D., Trescher, S., & Hamilton, M., National Center for State Courts, *Adult Guardianship Monitoring: A National Survey of Court Practices*, May 2021,  
<https://nscs.contentdm.oclc.org/digital/collection/famct/id/1690/rec/1>

Teaster, P. B. (2002). The wards of public guardians: Voices of the unbefriended. *Family Relations*, 51, 344-350.

Teaster, P.B, Wood, E., Schmidt, W., Lawrence, S.A., Mendiondo, M. (2010). *Public guardianship: In the best interest of incapacitated people?* Praeger Publishing Company.

Teaster, P., Wood, E., Holt, J. & George, K., *Incapacitated, Indigent, and Alone: Meeting Guardianship and Decision Support Needs in New York*, The Guardianship Project, 2018,  
<https://www.vera.org/publications/incapacitated-indigent-and-alone>

### **OVC Issue Briefs on Conservator Exploitation, National Center for State Courts, and American Bar Association Commission on Law and Aging**

*Financial Exploitation by Conservators: A Series of Background Briefs*, National Center for State Courts, American Bar Association Commission on Law and Aging, Virginia Tech Center for Gerontology, Minnesota Judicial Branch, funded by U.S. Department of Justice, Office for Victims of Crime, 2018, <https://www.eldersandcourts.org/other-resources>

- Introduction
- Detecting Exploitation by Conservators: Court Monitoring
- Detecting Exploitation by Conservators: Systemic Approach
- Court Actions Upon Detection of Exploitation
- Innovative Programs That Address Financial Exploitation by Conservators
- Data Quality Undermines Accountability in Conservatorship Cases
- Supporting Victims of Conservator Exploitation
- Key Resources on Conservator Exploitation
- Examples of Conservator Exploitation: An Overview
- Conservator Exploitation in Minnesota

## Appendix F. Media

### 2000-2010

Wendland-Bower, Wendy Who's Watching the Guardians? *Detroit Free Press*, May 24, 2000

Glaberson, W., "Report Calls for Overhaul of System That Protects the Unfit," *New York Times*, March 3, 2004

Cohen, S., Leonnig & Witt, A., "Rights and Funds Can Evaporate Quickly: Attorneys' Powers Thwarted DC Residents Trying to Remain Independent," *Washington Post*, June 16, 2003

Yeoman, B., "Stolen Lives," AARP, *The Magazine*, January 1, 2004, <https://barryyeoman.com/2004/01/stolen-lives/>

Fields, R., Larrubia, E. & Leonard, J., "When a Family Matter Turns Into a Business," *Los Angeles Times*, November 13, 2005, <https://www.latimes.com/archives/la-xpm-2005-nov-13-me-conserve13-story.html>

Larrubia, E., Fields, R. & Leonard, J., "'Ruling Over Someone' Ha Paid Off Handsomely," *Los Angeles Times*, November 13, 2005, <https://www.latimes.com/archives/la-xpm-2005-nov-13-me-labow13-story.html>

Leonard, J., Fields, R., & Larrubia, E., Justice Sleeps While Seniors Suffer," *Los Angeles Times*, November 14, 2005, <https://www.latimes.com/news/la-me-conserve14nov14-story.html>

Larrubia, E., "Caretaker to Return \$60,000 Bequest," *Los Angeles Times*, November 18, 2005, <https://www.latimes.com/archives/la-xpm-2005-nov-18-me-will18-story.html>

Olson, L., "Family Fights Probate Court Over Fortune," *Houston Chronicle*, June 25, 2007

Barnum, Tim (2009). Embezzlement Charges Filed Against Public Guardians. Arenac County Independent. Retrieved from <http://www.arenac-independent.com/detail/82301.html>

Eligion, John (2009). Lawyer Is Accused of Stealing Disabled People's Assets He Was Assigned to protect Florida Statewide Public Guardianship Office (2009).

### 2011-2020

Shiffer, J., "Unfit to Be a Lawyer, Yet a Guardian for 200," *StarTribune*, March 30, 2011, <https://www.startribune.com/unfit-to-be-lawyer-yet-a-guardian-for-200/117860934/>

Roche, Walter F., Jr., Criminal probe requested in conservatorship case: Lawyer paid himself \$370,000. *The Tennessean*, July 25, 2013

Roche, Walter R., Jr., Metro to pay for conservator theft, *USA Today Network*, March 21, 2018

Smith, B., "Elder Guardianship: A Well-Oiled Machine," *Extra Herald-Tribune*, December 6, 2014, <https://extra.heraldtribune.com/2014/12/06/well-oiled-machine/#>

Schapiro, R., Ross, B. & Gregorian, D., “Pop Artist Peter Max Allowed to Return Home with his Wife, Judge Rules in Guardianship Battle,” *New York Daily News*, October 8, 2015, <https://www.nydailynews.com/entertainment/artist-peter-max-wife-held-article-1.2388258>

Campo-Flores, A. & Jones, A., “Abuse Plagues System of Legal Guardians for Adults,” *The Wall Street Journal*, October 30, 2015

Dimond, D., “Who Guards the Guardians: A Services by Diane Dimond,” *Albuquerque Journal*, November 30, 2016

Susan Garland, “Calls for Court Reform as Legal Guardians Abuse Older Adults,” *New York Times*, July 28, 2017, <https://www.nytimes.com/2017/07/28/business/calls-for-court-reform-as-legal-guardians-abuse-olderadults.html>

Heild, C., “Guardianship Firm Seized by Marshals,” *Albuquerque Journal*, July 19, 2017, <https://www.abqjournal.com/1035480/guardianship-firm-seized-by-marshals.html>

Rachel Aviv, *How the Elderly Lose Their Rights*, *The New Yorker*, 10/2/2017, <https://www.newyorker.com/magazine/2017/10/09/how-the-elderly-lose-their-rights>

John Leland, *I’m Petitioning... for the Return of My Life*, *the New York Times*, 12/7/18

Graham, J., “A Tale of Love, Family Conflict and Battles Over Care For An Aging Mother,” *Kaiser Health News*, March 1, 2018 (analysis of Edith + Eddie movie), <https://khn.org/news/a-tale-of-love-family-conflict-and-battles-over-care-for-an-aging-mother/>

John Oliver, “Last Week Tonight,” June 5, 2018, <https://www.youtube.com/watch?v=nG2pEffLEJo>

Goldman, D., “Florida Guardianship Abuse: Palm Beach Guardian Under Fire,” *Florida Estate Planning Lawyer Blog*, November 16, 2018, <https://www.floridaestateplanninglawyerblog.com/florida-guardianship-abuse-palm-beach-guardian-under-fire/>

Scudder, C., “Guardians,” *The Dallas Morning News*, December 3, 2019, <https://interactives.dallasnews.com/2019/north-texas-senior-living-serial-killer-billy-chemirmir/index.html>

Bridget Balch, *Unguarded: A Three Part Series on Richmond’s Guardianship Process*, *The Richmond Times-Dispatch*, Fall, 2019, [https://www.richmond.com/news/local/unguarded-a-three-part-series-on-how-richmond-s-guardianshipprocess-leaves-vulnerable-people-unprotected/article\\_d39e242e-9213-5600-8150-da9566c143b7.html](https://www.richmond.com/news/local/unguarded-a-three-part-series-on-how-richmond-s-guardianshipprocess-leaves-vulnerable-people-unprotected/article_d39e242e-9213-5600-8150-da9566c143b7.html)

Ellington, K., “Ohio’s Guardianship Laws Leave Seniors Vulnerable to Abuse,” *Ohio News Services*, February 26, 2019, <https://www.clevescene.com/scene-and-heard/archives/2019/02/26/ohios-guardianship-laws-leave-seniors-vulnerable-to-abuse>

## 2021

Bergin, D., 18 February 2021. "The court has plans for you." SearchLight.  
<https://searchlightnm.org/the-court-has-plans-for-you/>

### Britney Spears

Ronan Farrow and Jia Tolentino, *Britney Spears' Conservatorship Nightmare*, *The New Yorker*, 7/3/21, <https://www.newyorker.com/news/american-chronicles/britney-spears-conservatorship-nightmare>

Jacobs, J., "Britney Spears' Conservatorship: What to Know," *New York Times*, September 22, 2021, <https://www.nytimes.com/article/britney-spears-conservatorship.html>

Adam Walser, *Guardianship Task Force Focuses on Reforming a Broken System*, *ABCActionNews*, 8/18/21, <https://www.abcactionnews.com/news/local-news/i-team-investigates/the-price-of-protection/guardianship-task-force-focuses-on-reforming-a-broken-system>

Blake, H. & Baker, K., Part 1, "Beyond Britney: Abuse, Exploitation, and Death Inside America's Guardianship Industry," *Buzzfeed*, September 17, 2021, <https://www.buzzfeednews.com/article/heidiblake/conservatorship-investigation-free-britney-spears>

Part 2, "They Both Fought to Break Free From Guardianship. Only One Escaped," *Buzzfeed*, September 19, 2021, <https://www.buzzfeednews.com/article/heidiblake/guardianship-conservatorship-marriage-couples?ref=bfnsplash>

Part 3, "My Human Rights Are Being Violated," *Buzzfeed*, September 20, 2021, <https://www.buzzfeednews.com/article/katiejmbaker/family-guardianship-conservatorship-disabilities>

Guilfoyle, K., "Protect Grandma, Not Just Britney, From Conservatorship Abuse," *Real Clear Politics*, July 30, 2021, [https://www.realclearpolitics.com/articles/2021/07/30/protect\\_grandma\\_not\\_just\\_britney\\_from\\_conservatorship\\_abuse\\_\\_146165.html](https://www.realclearpolitics.com/articles/2021/07/30/protect_grandma_not_just_britney_from_conservatorship_abuse__146165.html)

Devine, M., "Guardianship Forces Pop Art Legend Peter Max to Live as Shut-In, Pals Say," *New York Post*, September 29, 2021, [https://mail.google.com/mail/u/0/#search/pteaster%40vt.edu/WhctKKXGxRDshCCXtQjWBntvt\\_hncjBgnDBDHBfxBVKJkHVSShPDCWhLRDZJNpwCbzQmjkBq?projector=1&messagePartId=0.1](https://mail.google.com/mail/u/0/#search/pteaster%40vt.edu/WhctKKXGxRDshCCXtQjWBntvt_hncjBgnDBDHBfxBVKJkHVSShPDCWhLRDZJNpwCbzQmjkBq?projector=1&messagePartId=0.1)

Columbus Dispatch 2015 series on guardianship abuse, 2014 or 2015, find original series; follow up = Sullivan, L., "Layer's Work as Guardian Prompts Ethics Violation Case," *The Columbus Dispatch*, April 16, 2015, <https://www.dispatch.com/article/20150416/news/304169809>

## Appendix G. Resources

### Guardianship Abuse and Fraud

#### Standards, Guides on Court Oversight To Address Abuse

*Adult guardianship guide: A guide to plan, develop and sustain a comprehensive court guardianship and conservatorship program* (2022). Natl. Assoc. for Ct. Mgmt.  
[https://nacmnet.org/wp-content/uploads/AdultGuardianshipGuide\\_withCover.pdf](https://nacmnet.org/wp-content/uploads/AdultGuardianshipGuide_withCover.pdf)

Boyko, C., Holt, K., Allred, A., Graves, S. & Lyles, O., *Implementation Guide for Modernizing Conservatorship Monitoring*, June 2019,  
[https://www.eldersandcourts.org/\\_data/assets/pdf\\_file/0020/54614/modernizing-conservatorship-guide-final\\_May2021.pdf](https://www.eldersandcourts.org/_data/assets/pdf_file/0020/54614/modernizing-conservatorship-guide-final_May2021.pdf)

Hurme, S., Parry, J. & Coleman, N., *Steps to Enhance Guardianship Monitoring*, American Bar Association Commission on Legal Problems of the Elderly, 1991.

Karp, N. & Wood, E., *Guarding the Guardians: Promising Practices for Court Monitoring*, AARP Public Policy Institute (2007), [https://www.aarp.org/money/estate-planning/info-2007/2007\\_21\\_guardians.html](https://www.aarp.org/money/estate-planning/info-2007/2007_21_guardians.html)

National Association for Court Management, *Adult Guardianship Guide*, 2014,  
[https://nacmnet.org/sites/default/files/publications/AdultGuardianshipGuide\\_withCover.pdf](https://nacmnet.org/sites/default/files/publications/AdultGuardianshipGuide_withCover.pdf)

National College of Probate Judges, *National Probate Court Standards* (2013)  
<https://ncsc.contentdm.oclc.org/digital/collection/spcts/id/240>

#### Policy and Practice Writings on Guardianship Abuse

Dore, Margaret, “Ten Reasons People Get Railroaded into Guardianship,” *American Journal of Family Law*, Vol. 21, Issue 4, pp. 148-152 (Winter 2008)  
[https://www.researchgate.net/publication/242313638\\_Ten\\_Reasons\\_People\\_Get\\_Railroaded\\_into\\_Guardianship](https://www.researchgate.net/publication/242313638_Ten_Reasons_People_Get_Railroaded_into_Guardianship)

Heisz, K., “Beware of the Con in Conservatorships: A Perfect Storm for Financial Elder Abuse in California,” *NAELA News Journal*, March 2021,  
<https://www.naela.org/NewsJournalOnline/OnlineJournalArticles/OnlineMarch2021/Conservatorships.aspx?subid=1191>

Karp, N. & Wood, E., “Guardianship: Remedy vs Enabler of Elder Abuse, National Center on Elder Abuse, August 2021,  
[https://ncea.acl.gov/NCEA/media/Publication/NCEA\\_GuardianshipRemedyVSEnabler.pdf](https://ncea.acl.gov/NCEA/media/Publication/NCEA_GuardianshipRemedyVSEnabler.pdf)

Karp, N. & Wood, E., “What if Your Guardians is Not Doing What They Should?” National Center on Elder Abuse, October 2021. [https://ncea.acl.gov/NCEA/media/Publication-4.0/NCEA\\_ElderAbuseGuardianship.pdf](https://ncea.acl.gov/NCEA/media/Publication-4.0/NCEA_ElderAbuseGuardianship.pdf)

Pogach, D. & Wood, E., “When the Guardian is An Abuser,” American Bar Association Commission on Law and Aging, for the National Center on Law and Elder Rights, June 2019, <https://ncler.acl.gov/getattachment/Legal-Training/When-the-Guardian-is-an-Abuser-Ch-Summary.pdf.aspx?lang=en-US>

Uekert, B., Heisler, C., Ulrey, P. & Baldwin, E., *Prosecuting Elder Abuse Cases: Basic Tools and Strategies*, National Center for State Courts, 2012, <https://bja.ojp.gov/sites/g/files/xyckuh186/files/Publications/NCSC-Prosecuting-Elder-Abuse-Cases-Basic-Tools-and-Strategies.pdf> [does not focus on guardianship abuse]

## **Guardianship Data**

DaRos, D., I-Team: Who Tracks Guardianship Data? In Florida, No One,” CBS 12 News, October 4, 2021 – Interview with Anthon Palmieri, Deputy Inspector General, Palm Beach County Clerk & Comptroller Office

Francisco, Hon. P., Hinkel, K. & Whitworth, A., “Pennsylvania’s Guardianship Tracking System,” presented at Massachusetts Colloquium on Guardianship (2020).

Indiana Courts – MyINA Guardian User Guide, <https://myina.courts.in.gov/>

Minnesota Judicial Branch -- <https://www.mncourts.gov/conservators>;  
<https://www.mncourts.gov/Help-Topics/MyMNGuardian.aspx>

Montgomery, L., “State Court Leaders Strive to Improve Guardianship and Conservatorship Oversight, *Background*, National Center for State Courts, 2016

National Center on Elder Abuse website, under “Research: Statistics and Data,” *Guardianship and Elder Mistreatment*, <https://ncea.acl.gov/What-We-Do/Research/Statistics-and-Data.aspx#guardianship>

National Center for State Courts et al, *Data Quality Undermines Accountability in Conservatorship Cases*, Background Brief No. 7, A Series of Background Briefs on Conservator Exploitation, [https://www.eldersandcourts.org/\\_\\_data/assets/pdf\\_file/0021/5844/ovc-brief-7.pdf](https://www.eldersandcourts.org/__data/assets/pdf_file/0021/5844/ovc-brief-7.pdf)

National Center for State Courts, *National Open Court Data Standards*, (includes Probate Court Standards), May 2020, [https://www.ncsc.org/\\_\\_data/assets/pdf\\_file/0014/34025/NODS-User-Guide.pdf](https://www.ncsc.org/__data/assets/pdf_file/0014/34025/NODS-User-Guide.pdf)

Robinson, D., Holt, K. & Boyko, C., *Guardianship/Conservatorship Monitoring: Recommended Data Elements*, National Center for State Courts, October 2020, [https://www.eldersandcourts.org/\\_\\_data/assets/pdf\\_file/0029/54758/GuardianshipConservatorship-Monitoring-Recommended-Data-Elements.pdf](https://www.eldersandcourts.org/__data/assets/pdf_file/0029/54758/GuardianshipConservatorship-Monitoring-Recommended-Data-Elements.pdf)

Uekert, B. & Van Duizend, R., “Adult Guardianships: A “Best Guess” National Estimate and the Momentum for Reform,” *Future Trends in State Courts 2011*, pp 107 - 112, <https://ncsc.contentdm.oclc.org/digital/collection/ctadmin/id/1846>

Uekert, B., *Adult Guardianship Court Data and Issues: Results from an Online Survey*, Conference of Chief Justices & Conference of State Court Administrators, National Center for State Courts, 2010, <https://rethinkingguardianshipnc.org/wp-content/uploads/sites/1731/2021/06/Adult-Guardianship-Court-Data-and-Issues-2010.pdf>,

U.S. Administration for Community Living, *National Adult Maltreatment Reporting System*, <https://acl.gov/programs/elder-justice/national-adult-maltreatment-reporting-system-namrs>  
Wood, E., *State-Level Adult Guardianship Data: An Exploratory Survey*, National Center on Elder Abuse, August 2006, <https://ncea.acl.gov/NCEA/media/docs/archive/State-Level-Guardianship-Data-2006.pdf>

Wood, E., *The Availability and Utility of Interdisciplinary Data on Elder Abuse; A White Paper for the National Center on Elder Abuse*, May 2006, [https://pjwa.com/wp-content/uploads/2014/12/Elder\\_Abuse\\_Report.pdf](https://pjwa.com/wp-content/uploads/2014/12/Elder_Abuse_Report.pdf) [does not focus on guardianship, but includes wide range of possible data sources]