

Vera Institute of Justice

Criminal Justice Issues and Prisoners' Rights

<https://www.vera.org/blog/in-nebraska-a-guardians-failure-signals-new-challenges>

Public Facing Advocacy Writing

People with limited capacity and serious medical needs often require guardians to help them navigate the many challenges surrounding health care decisions, finances, and housing. A recent incident in Scottsbluff, Nebraska shows how vulnerable these individuals can be to exploitation even from the very people supposed to protect them. On November 25, 2013, a woman whose small business served as the legal guardian for more than 600 people [was arrested](#). She allegedly stole thousands of dollars from her clients as well as from three people who were not even her clients. She used the stolen cash to pay for personal expenses such as Christmas and birthday gifts and casino gambling. The arrest comes on the heels of [a major audit](#) by State Auditor Mike Foley, who also discovered that the Nebraska Department of Health and Human Services made unreasonable and unlawful payments in more than a third of guardianship cases.

In the wake of these revelations, state politicians and advocates have called for widespread reform of Nebraska's guardianship system, which relies on volunteerism to fill the ranks of its needed guardians. Many other states also have troubled guardianship systems due to, among other factors, bloated court dockets coupled with resources inadequate to monitor court-appointed guardians effectively. These issues are not new in fact, they have been the subject of multiple reports issued by the U.S. Government Accountability Office during the past 10 years.

What happens when an elderly client with a complex illness or dementia has limited assets? In states like New York, where there is no public guardianship office and guardians typically are paid from the clients' assets, courts often have difficulty finding someone willing and able to take on the significant, often indefinite, fiduciary responsibility of a guardianship. Too frequently, a prospective guardian may not appreciate the scope of this burden, while individuals in the clients' lives may be actively engaged in self-dealing, resulting in theft, manipulation, and abuse at incredible extremes. [Vera's Guardianship Project](#) works to fill that gap, serving as guardian every day for more than 130 New York City residents.

Guardianship Project staff members have, for example, taken on cases where unscrupulous individuals have stolen clients' money and property, sold clients' homes without their consent, and in one instance, claimed a hospitalized person who lived in a rent-regulated apartment for 40 years had never lived in the unit. Guardianship systems for older people involve enormous amounts of money; for example, a stay in a nursing home can cost more than \$400 per day and a uniquely vulnerable population of individuals who are usually friendless, not entirely aware of what's happening to them, easy to intimidate, and in fragile health. Recently, Vera's president, Nick Turner, dared us to ask what if? to the social challenges of the day. In that spirit, we ask:

As the example from Nebraska demonstrates, guardianship problems are a silent crisis affecting thousands of Americans who need help managing the basic tasks most of us barely notice. The Guardianship Project, however, is committed to providing this vulnerable population with assistance, care, and respect.

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