

Vera Institute of Justice

Criminal Justice Issues and Prisoners' Rights

<https://www.vera.org/blog/the-importance-of-safeguards-in-guardianship>

Public Facing Advocacy Writing

The [recent case](#) of 75-year-old Peter Watkins serves as a telling example of why we need better guardianship mechanisms in place to protect both elderly and other adults who have been adjudicated as incapacitated and cannot manage their own affairs.

Watkins was severely burned in a Wake County, North Carolina house fire earlier this year. As he recovered from his burns, the Wake County Clerk of Courts office appointed his son Robert as his guardian. According to local newspaper reports, Robert, who has a lengthy criminal record that includes numerous felonies, began taking money for personal use from his father's \$450,000 in assets.

Fortunately, after an emotionally charged hearing attended by many members of Mr. Watkins' family, the court removed Robert Watkins as his father's guardian and appointed a nephew in his place. But many who are exploited by their guardians are not so lucky. Across the country, few protective mechanisms exist on the state or federal level for this vulnerable class of citizens.

The issues of abuse and misfeasance by legal guardians raised in the Watkins case are not unique to North Carolina, as a [2010 report](#) issued by the federal Government Accountability Office exploring abuses by guardians around the country documented. Guardians often have substantial authority over their clients' most basic rights, and in many cases, near-total control of their finances, medical care, and living arrangements. Nevertheless, guardians typically receive cursory background checks prior to appointment by the court and minimal supervision thereafter.

U.S. Census data estimate that by 2030, 71 million citizens nationwide will be 65 or over, a significant percentage of whom will suffer from Alzheimer's disease and mental illness. As the nation's elderly population continues to expand, it is increasingly important that courts effectively monitor guardians.

The Vera Institute of Justice responded to instances of guardianship abuse in New York State by launching [The Guardianship Project](#) in 2005. Now in its seventh year, it is dedicated to providing holistic guardianship care to primarily indigent clients who do not have a family member or friend available or willing to serve as a guardian. The project's team of financial, legal, property, and social work experts addresses the complex challenges that affect its clients, offering legal representation, financial services such as bill-paying and protection of client assets, and social services, including arranging for home care, securing public benefits, and monitoring in-home and nursing home health care.

The project, by design, includes a range of internal checks and balances for safeguarding client assets, including criminal and financial background checks on every employee and intern. Its team approach to legal guardianship serves both as a crucial service to the clients and community as well as a best-practices model for state and local governments.

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