

Opening Statement
Senator Susan Collins
“Abuse of Power: Exploitation of Older Americans by Guardians and Others They Trust”
April 18, 2018

Last fall, *The New Yorker* magazine published a shocking story about a professional guardian in Nevada named April Parks. On Labor Day weekend in 2013, Ms. Parks allegedly showed up at the house of Rudy North and his wife of more than fifty-years, and informed them that she had an order from the local court to “remove” them from their home, and that she would be taking them to an assisted-living facility. Ms. Parks told them that if they did not comply, she would call the police.

When the Norths’ daughter came to visit later that afternoon, she thought that her parents might be out running errands. She called and stopped by several times over the next few days, even checking with local hospitals and her parents’ landlord. It was not until four days later that she found a note on her parents’ front door that read, “In case of emergency, contact guardian April Parks.”

Despite the fact that the Norths did not know April Parks, she had become their guardian. As such, she now had the authority to manage their assets, to choose where they lived, with whom they associated, and what medical treatment they received. April Parks allegedly sold their belongings and transferred their savings into an account in her own name. Mr. and Mrs. North had lost nearly all of their rights.

After local reporting revealed this case in 2015, the court suspended Ms. Parks as the Norths’ guardian. Over the past twelve years, it is estimated that she had become a guardian for more than four hundred wards of the court. Last year, a grand jury indicted Ms. Parks on more than 200 felony charges, including racketeering, theft, exploitation, and perjury. As that state’s former Attorney General, our colleague on this committee, Senator Cortez Masto, worked to improve the guardianship system here. And I very much look forward to hearing about her experience and the reforms that she instituted.

Last Congress, this Committee held a hearing on financial abuse of older Americans by court-appointed guardians. At our hearing, the GAO released a report that I had requested, along with former Ranking Member Claire McCaskill, on the prevalence of abuse by guardians.

The report noted a lack of clear data on guardianship cases across the country. It evaluated the progress that several states were making to improve data and to increase oversight. The report also analyzed several recent cases of guardianship abuse.

This updated GAO report built upon a previous study, released in 2010, which had found hundreds of cases of abuse, neglect, and exploitation, and identified \$5.4 million that had been improperly diverted.

In a recent case in my own state, police charged a pastor in York County, Maine, with exploiting an incapacitated elderly woman. The pastor befriended this woman while he was

volunteering at the assisted-living community where she lived. According to police, the state determined the woman to be incapacitated and assigned her a guardian and a conservator. The pastor allegedly took the woman to her bank, withdrew money to have the locks changed on her former home, which had been on the market, and took down the “for sale” sign.

The police say that the pastor told the woman that he would help her return to her home, even though it was not equipped for the wheelchair access she required. He suggested his daughter could live with the woman to care for her. Police said that his goal was to ingratiate himself and have access to this woman’s financial accounts and property. Fortunately, in this case, the conservator, who was legally responsible for protecting the woman’s assets, identified and reported the suspected criminal activity to the police.

Unfortunately, as these cases in Nevada and Maine make crystal clear, financial exploitation by some guardians and conservators remains a real problem.

These cases highlight shocking breaches of trust by people who obtained positions of power or influence over vulnerable seniors. An estimated 1.5 million adults are under the care of guardians, either family members or professionals, who control billions of dollars of assets. Guardianship, conservatorship, and other protective arrangements are designed to protect those with diminished or lost capacity, not to provide the opportunity for deception and financial exploitation.

Ranking Member Casey and I, along with several members of this Committee, cosponsored the Elder Abuse Prevention and Prosecution Act, which became law last year. In addition to directing the Attorney General to develop model legislation for states to adopt, it provides the Department of Justice with greater tools for prosecuting criminals who take advantage of our seniors.

Individuals can lose practically all of their civil rights when a guardian is ordered. It is a legal appointment made by a court, and in many cases it is justified and protects the individual. But we will also learn that in some cases the guardian exploits the vulnerable person and it is often very difficult to reverse the guardianship. Some people are put into a guardianship arrangement when they should not be, or when their guardianship should only be temporary and yet is made permanent.

A study published last year by the American Bar Association found that “an unknown number of adults languish under guardianship” when they no longer need it, or never did in the first place. There may be other, less restrictive, forms of protective arrangements that can provide temporary or specific decision-making support, while not eliminating other of the adult’s rights. These other arrangements may reduce the likelihood that someone will take advantage of the senior or misuse their assets.

Seniors who need assistance in managing their affairs should never be exploited and left destitute by an individual a court has appointed to protect them. I thank all of our witnesses for their cooperation and appearing before us today.