

Abuse of Power: Exploitation of Older Americans by Guardians and Others They Trust

Excerpts from the [Testimony](#) of David Slayton to the
U.S. House of Representatives Special Committee on Aging
April 18, 2018

*Texas Judicial Council Official Tells Congress of Rampant Noncompliance with
Reporting Requirements – An Admission of ADA Violations by the Court System*

“In Texas, there are 50,478 active guardianships . . . with 5,186 new guardianship cases filed last fiscal year, a 7% increase over Fiscal Year 2016. Only 2,804 guardianship cases were closed during that period. The number of active guardianships has increased by 37% in the past five years and is one of the fastest growing case types in the state. We estimate that the value of the estates under guardianship in our state to be between \$4-\$5 billion. These cases are overseen primarily by constitutional county judges – judges who are not required to be law-trained and who also oversee the administration of counties. In a few of Texas’ 254 counties, the cases are overseen by law-trained specialty probate courts. Almost all of these courts are tasked with monitoring the cases with no additional staff resources.”

“Since [2015], the [*Guardianship Compliance Pilot Project*] has reviewed over 27,000 guardianship cases in 27 counties. . . . The project has made **disturbing discoveries** [G]uardians are required to file four basic items with the judge upon appointment or annually: 1) a bond; 2) an inventory of the assets in the estate; 3) an annual report of the person; and 4) an annual accounting of the transactions from the estate. Overall, 43% of cases were found to be out of compliance with reporting requirements. The vast majority of the cases out of compliance were cases where the guardian was a family member or friend. While the numbers tell a disturbing story, the findings from reviews of filed accounting and reports tell a more disturbing story. The project regularly found **unauthorized withdrawals** from accounts; **unauthorized gifts** to family members and friends; unsubstantiated and **unauthorized expenses**; and the **lack of backup data** to substantiate the accountings.”

Comment by Spectrum Institute: Reporting and monitoring are services that are supposed to be provided by the courts to seniors and people with disabilities who are wards in guardianship proceedings. Due to the nature of their disabilities, these wards are unable to monitor their own cases or to “blow the whistle” to complain when their guardians disobey statutory reporting requirements. These wards are being denied access to justice, as required by the Americans with Disabilities Act, due to the failure of the judiciary to require compliance with these requirements. Courts are supposed to provide a service of “protection” in guardianship cases. They are failing miserably in this role and there is little that the people they are supposed to protect can do about it. This testimony by a representative of the Texas Judicial Council is an admission that the judicial branch is violating its duty under the Americans with Disabilities Act to provide access to justice to people with disabilities under its protection. Note: The testimony fails to mention that most wards in Texas are not seniors – but are younger adults with developmental disabilities.