



April 26, 2004

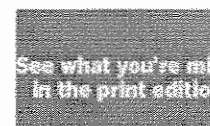
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Photography by Larry Sultan

Stolen Lives

By Barry Yeoman, January-February 2004

Thousands of older Americans are being robbed of their freedom, dignity, and life savings by a legal system created for their protection. How can that happen?

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The Christmas Day before the courts stripped Inez America Carr of her independence, she woke up earlier than usual to help prepare the traditional family feast. She started first on the rolls, dozens of them, mixing the homemade batter and allowing the miniature loaves to rise, then bake, before stacking them on sheets of wax paper. She washed the collards, set them to boil in an aluminum pot with a chunk of salt pork for flavoring, then peeled the fat sweet potatoes and dressed them with liberal amounts of butter, sugar, and nutmeg. By evening, her three-story home in San Francisco's upscale Pacific Heights was thick with the savory smells of the cooking of her Mississippi roots.

It was a typical Christmas for the Carrs. Inez, a retired practical nurse, and her husband, Carnell, a retired psychiatric technician, never had children of their own, but they never lacked invitations to holiday dinners. Over a half-century, the Carrs had grown kin-close to a family named the Jolivets, whose matriarch Joanne Gentry, worked alongside Inez at the old Franklin Hospital in the Duboce Triangle in the 1950s and '60s. After Gentry's death, two younger generations of Jolivets adopted the Carrs as their own. They've shopped for the couple, shuttled them to doctor appointments, and he repairs to their Victorian home. "They are my family," Inez says. "They look out for us."

At 7 p.m., Chris Jolivet, 35, came by to pick up the couple, whom he has called aunt and uncle since the time he learned to speak. Inez removed the apron from her holiday dress and collected the food. A few minutes later, the trio was on the south side of town, where Jolivet, who is unmarried, brought them for dinner with his mother, Lavern Jolivet, a 60-year-old medical transcriber and Joanne Gentry's daughter. Carnell joked about the steep descent from Jolivet's SUV. "Sierra Nevada," he called it, as they entered the house for an evening of prayer, feasting, and t

On that peaceful Christmas Day 2001, the assembled family had no idea of the drama that was about to unfold: Just three months later, a visit from two out-of-town relatives would set in motion a series of events that would land the Carrs in front of a San Francisco judge. He would decide if the couple were incompetent to handle their own affairs, and place them—ostensibly for their own protection—under the care of professional conservators. These total strangers would assume control of the Carrs' finances, placing them on a restrictive monthly allowance. They would redirect the Carrs' money and try to replace Carnell's doctor—all the while billing the Carrs \$90 an hour for their services. Eventually, legal and conservator fees would drain much of the couple's life savings. They would even bar Inez from hiring her own lawyer.

Inez America Carr grew up with the rural Southern values of self-reliance and autonomy.

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sudden loss of independence—and the ensuing struggle to win it back—has left her a pe and angry 93-year-old. What happened doesn't square with her vision of the country tha both a middle name and a lifetime of opportunity. "How in the world can they do this to m the clear blue sky, under the guise that they're protecting me?" she asks.

The answer: It happens every day across the country to unsuspecting people just like In because of a patchwork of state laws designed to care for adults who can't take care of themselves—incapacitated adults. Often the system works. But too often it backfires, lea victims worse off than they might have been without the system's so-called protections.

That system is known in most states as "guardianship." California calls it "conservatorsh places use both terms to mean slightly different things. But the upshot is the same: In ev judge has the right to decide that someone is no longer capable of running his or her ow judge can then appoint a guardian to make all major decisions for the ward (the term use describe a person placed under guardianship).

Guardians can be attorneys, relatives or friends, government employees, private social v money managers, community volunteers, or employees of social-service organizations. be volunteers or they might charge a fee. There are no reliable statistics on the number under guardianship in the U.S., but estimates run upwards of 600,000, a number that wil exponentially as the baby boomer generation ages.

The guardianship system, which was brought over from England during colonial times, is considered a necessary part of elder law, to be used under narrow circumstances and o resort. Without such a process, there might not be anyone to make health care decisions person suffering from dementia who has no caregiver. But while many guardianship cas without a hitch, the system is also rife with opportunities for financial exploitation, medic and the wrongful usurping of a competent person's freedom.

"Guardianship is a godsend and a gulag," says Erica Wood, associate staff director of th Bar Association's Commission on Law and Aging. "It's a lifesaver and a life stopper. It's i institution that we as a society need. But we need to make it better."

"You could be a shoe salesman at a five-and-dime store yesterday and a professional conservator or guardian today."

The perils of guardianship first gained public notice when a platoon of Associated Press reporters fanne across the United States, reviewing 2,200 case files part investigative series. The reporters uncovered "a dangerously burdened and troubled system" in which were committing people to guardianships without fir permitting them access to attorneys or even hearing also discovered that "often, in the eyes of the court, and spending money foolishly" were criteria enough being placed in a guardianship. What's more, there safeguards to ensure that guardians didn't abuse or their charges.

The AP series sparked congressional hearings, a na conference, and legislative reforms in all 50 states. The new laws have strengthened du and instituted more careful monitoring by the courts. Judges also have been instructed to on labels like "senile" and "incompetent" and more on real abilities to handle day-to-day

Still, according to critics, the legal reforms haven't always translated into real-life improve Many guardianships continue to be assigned to untrained professionals based solely on evidence, often without methodical court hearings to determine the scope of the subject's competence. And conservators and guardians continue to siphon five- and six-figure sur bank accounts of the very people they are supposed to be protecting. Sometimes that si pure theft; other times guardians simply charge astronomical fees for their services.

In 2001, New York's *Daily News* reported about guardians who billed their clients' estate hour for such routine services as reviewing bank accounts. One guardian reportedly visit who was celebrating her birthday, then billed her \$850 for the social call. In many cases, not only has to pay the guardian for his or her services, but also must pay the guardian's for time spent on the case.

Adding to the potential for abuse is the fact that there is no uniformity in records states in. Consequently, no one knows exactly how widespread the problems are. Many experts say abuse is rampant. Bob Aldridge, a Boise, Idaho, elder-law attorney who testified recently before Congress, reviewed 250 guardianships on behalf of the state bar association and court system, uncovering more than 50 with "egregious" problems. "These are not isolated occasional blips," he says. "This constitutes a significant portion of the cases out there. It's flat-out rip-off situations."

Inez Carr never expected to become a legal statistic. Born in Kosciusko, Mississippi, she had a difficult childhood. The family lived "with the pan," relying on leftover food from the kitchen of wealthy white households where her mother worked as a maid. Like many black families in the Jim Crow South in the 1920s, Inez's family eventually migrated north, first to Philadelphia and then to South Bend, Indiana, chasing economic opportunities that rural Dixie failed to provide. After graduating from high school at 23, she took cosmetology classes and found work at a local hair parlor.

One day in 1947, Inez dropped by her mother's house for a visit. Her mother rented out a room, and that day Inez spotted the handsome brother of her mother's boarder. His name was Carnell Roosevelt Carr, and he had just returned home from a hitch in the Army. "I saw him, and I fell in love with him," she says. The only work Carnell could find in South Bend was sweeping hotel floors, so he moved to San Francisco, where he had family and an opportunity to work in a hospital. Inez followed a year later, and the couple married.

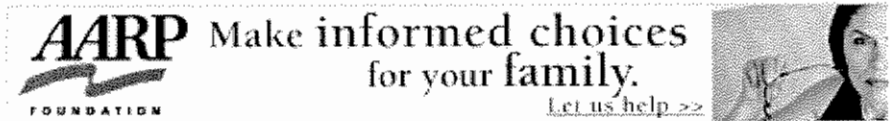
When they had saved enough money, the Carrs took a bold step for the 1950s and bought a home in Pacific Heights, an exclusive district of bougainvillea-covered Victorian homes. "We were the only African Americans on this block," Inez recalls. "We expected to see signs all around the neighborhood in the morning." In fact, there was no neighborhood outcry.

Today, the Carr home, valued around \$1.4 million, is divided into three apartments. Inez lives on the top two upper floors, and she collects the money and keeps the books. The Carrs live on the bottom floor, a sprawling two-bedroom apartment packed with African art, antique furniture, and a collection of baby dolls, Asian fans, and figurines.

Over the years, the Carrs have accumulated their share of medical problems. Carnell has had a stroke and heart disease. Inez suffers from high blood pressure and diabetes. Twice a day she checks her blood sugar, keeping meticulous records of her levels. With the Jolivets' help, she is able to juggle the constant demands of medications and doctor visits.

Then, in March 2002, Inez and Carnell received a visit from Carnell's nephew, Ozell Carr. Carnell had just learned that according to the Carrs' will he was in line to split the Carr estate with Chris Carr. Accompanying the nephew was his daughter, Pamela Kizer, who says she was immediately dismayed by the condition of the apartment. "When you walked in the door, the house was a mess," she says. "You couldn't eat on the kitchen table for all the clutter. The room that I slept in was a mess. You had to make a path to the sofa bed. There were boxes in front of the heating register." In June, Kizer called San Francisco's Adult Protective Services and reported her observations. The agency also claimed that the Jolivets were trying to financially exploit her great-uncle and his wife.

Kizer says her sole concern was for the Carrs' welfare. Inez suspected other motives: She thought Kizer was trying to protect her father's inheritance by accusing Chris Jolivet and his family of financial influence and neglect. Regardless of Kizer's intentions, her call to APS triggered an aggressive investigation—too aggressive, says Dennis Livingston, an attorney hired by the Jolivets to help them deal with the situation. "Adult Protective Services came in like a bull in a china shop," Livingston says. "The presumption was that because Mrs. Carr was in her 90s, she could not be competent."



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