

Parents Are Hard To Raise S02 E71.mp3

[00:00:00] The world's becoming a dangerous place for us women. Lipstick bodyguard looks just like an innocent little lipstick, but it will instantly drop any attacker to his knees, so you can get away unharmed. Lipstick bodyguard. Fear no evil. Get yours today. Only at lipstickbodyguard.com.

Announcer: [00:00:37] It's been called good law gone bad. Over the years, guardianship law has been misapplied, misused and sometimes just plain manipulated, until it has become what it is today, a threat to the health, wealth and freedom to our elderly and disabled citizens.

[00:00:55] Diane's special guest expert Marcia Southwick, of the National Association to Stop Guardian Abuse has witnessed this abuse firsthand and is on a mission to end it.

Diane: [00:01:17] Welcome to parents are hard to raise helping families grow older together without losing their minds. I'm Elder care expert Diane Berardi.

[00:01:27] The thought that today, in the freest country in the history of mankind, a group of innocent people can be legally targeted to have their assets seized, Their constitutional freedoms denied, and even their ability to hire an attorney or receive visitors be refused is morally reprehensible. Even prisoners convicted of the most heinous crimes have more liberties. But now consider, that these atrocities are routinely being perpetrated on some of our most vulnerable citizens by the very people and institutions that are sworn to protect them, and the thought becomes unimaginable. But that's exactly what happened to a close friend of my next guest, back in 2010, and set this mild mannered author, poet, and creative writing professor on a quest, to pull back the curtain and shine the light of truth on a good law that has developed a very bad side.

[00:02:27] She started a Facebook page, boomers against elder abuse, to collect research and stories of Guardian abuse from around the country. Today that page has over 160,000 followers. Here to talk to us about the National Association to Stop Guardian Abuse is Marcia Southwick. Marcia welcome to parents are hard to raise.

Marcia Southwick: [00:02:51] Thank you so much. You know, when you mention that it's a good law, you know it's a good sentiment to want to care for elders who have no one to care for them. And so what the courts have done, and this has been in existence for a very long time, is to protect those who cannot function on their own. And so, the idea is that a guardian will be appointed by the court to take over. And unfortunately in most cases it's plenary, which means full guardianship. And what that means, is that the elder is somebody petition's the elder even possibly without knowing if it's an emergency. The petitioner says it's an emergency. They can basically freeze your assets and take you under their wing right away, without, and then have a hearing later.

[00:03:49] But you are basically deprived of rights to vote, to marry, to drive. You can't carry an I.D. anymore. You can't use your own money. You don't have any money. And the court hands your money your estate, over to the guardianship. And guardian will put it into a trust of some sort, usually take all your assets, sell your house, put you in a facility and they have the right to determine who can come see you and who can't, and what you can do.

[00:04:21] If you want to go out to lunch, you know, the Guardian could say nope, sorry. And then, if you are in a facility and your family, often this is done even though an elder has a family willing to care for an elder... Maybe they weren't there at the moment when they got into an accident or maybe they're out of state, which is you know, that leaves an elder very vulnerable when the kids aren't around. So, unfortunately it is so easy to get people declared incapacitated because guardians and conservers can make... What happens is when you're under guardianship, the Guardian and the

conservator, some states its guardians, some states its conservator, sometimes there's guardian of the person and then a conservator of the estate. But depending on that, all of your assets... It's about the assets. That's what's beginning to happen.

[00:05:32] What happened was a private industry started to evolve around this, and it's a for profit industry. And it is being really misused to get people's assets, is what's going on. And it's just heartbreaking.

Diane: [00:05:49] So, we can have our parents living and they're living alone, you know, our mother and father, and we're out of state. And you mean to say a neighbor could just think, "well, I don't think they could get on by themselves"... And can a neighbor and just go to court and say...

Marcia Southwick: [00:06:10] Usually what happens is, yes they can. And it depends on the state. And in some states like ours in New Mexico. I'm from New Mexico. Usually it happens through an attorney. In other words, somebody goes to an elder attorney worried about an elder.

[00:06:27] And those lawyer petitions or... and that lawyer... You may go in there and be worried about your parent, "I'm not sure what to do about taking care of my parents." This is what happened to my friend... I might as well tell you the story.

Diane: [00:06:41] Sure. Yes, Please tell us.

Marcia Southwick: [00:06:42] So, my friend. He was 90 and very with it. A Fabulous man. He was the lead counsel for JP Morgan in his day. Wealthy. And boy, he was away on a trip and his daughter made the mistake of being concerned about him, and going to an elder attorney who said... Oh well, I have the perfect solution. We can have someone take care of his health, his finances. You don't have to worry about a thing. He'll be just great. And so, suddenly they did an emergency petition. The attorney makes thirty thousand dollars or just doing that.

Diane: [00:07:21] Oh my Gosh.

[00:07:22] It showed up that that very attorney charged before the guardianship was even final, he's in there charging. So there's is motive for the attorney to have a guardianship. And there's motive for a guardian to want to be in charge of this money. And there's motive for the court visitor to put the person in guardianship, because they get money. Everybody is suddenly... the elder is suddenly A cash cow. And they feel like... they feel like they're being surrounded by sharks all of a sudden. And it's it's horrifying.

[00:08:02] So what happened to him. He was, he was on a trip to South America. On a cruise with a friend and got a call from the Guardian saying you have to come home your rights have been removed. You're in a guardianship.

[00:08:17] He didn't know what the heck was going on. So he goes back. He is not allowed to go to his own hearing, because they decided he was too incapacitated. Which is baloney.

Diane: [00:08:28] Oh my gosh.

Marcia Southwick: [00:08:29] I mean, it's just outrageous. And they do this all the time. So he couldn't go his own hearing, and his friend went and she has no standing. The daughter now has no standing, because when the parents rights are taken away, the children can no longer make any decisions about health or money or anything. Because the Guardian's in charge.

Diane: [00:08:52] Oh my gosh.

[00:08:54] Yeah. So suddenly, he's in this position. And the scariest part of this is, you know, as of now you're right, you've lost your right to hire an attorney. So the deck is stacked...

[00:09:11] And not only that. The Guardian and the lawyer who petitions in our state, basically chooses everybody else on that case. And they'll deny this, but they work on a case after case together. They have these things streamlined. I've even seen things where the doctor who did the evaluation--where you're suppose to be evaluated-- wrote the Guardian and said, "Will this do it? Is this what?"

[00:09:39] I mean... You know. So it's very very dangerous system to get in to. And the other problem is that the courts don't have any oversight. They don't have the money. So what happens is, these people, you know, they end up going through the courts for many reasons... Another reason is, well in New York, they just discovered that 25 percent of the petitions are coming from hospitals and nursing homes.

Diane: [00:10:14] Really?

Marcia Southwick: [00:10:14] Yes.

[00:10:14] To get their bills paid. So they want their money. Yeah. Yeah.

Diane: [00:10:21] So they can contact, I guess an attorney and deem this person incompetent?

Marcia Southwick: [00:10:28] Correct.

Diane: [00:10:29] And... So Then the attorney can pay their bills, you know and get control of the assets. Oh my gosh.

[00:10:35] Yes. So the attorney appoints... You know he goes to court petitions, gets money, then the Guardian gets money. And a lot of these hospitals... It came out in that New Yorker article, how the elders are losing their rights...

[00:10:47] It came out that often... And we've known this forever... That guardians have relationships with doctors and lawyers. And so they're basically kind of trolling for clients. And they have a range that's with doctors and so forth. And sign these orders, and they don't know whether they get a referral fee. Something's going on.

Diane: [00:11:11] Right. Right. There's something. Yeah.

Marcia Southwick: [00:11:13] And you, know I've had twice here, I've gone into a doctor's office or in an attorney's office and seen brochures for this very company that took over my friend.

Diane: [00:11:25] Oh my gosh.

Marcia Southwick: [00:11:26] Yes.

Diane: [00:11:27] And we're going to talk more with Marcia Southlake about this Guardian nightmare. But first... If you're a woman or you know a woman, you really want to listen to this...

[00:11:40] I Want to tell you about my friend Katie. Katie is a nurse and she was attacked on her

way home from work. She was totally taken by surprise. And although Katie is only 5 feet tall and 106 pounds she was easily able to drop her 6 foot 4, 250 pound attacker to his knees and get away unharmed.

Katie wasn't just lucky that day. She was prepared.

In her pocketbook, a harmless looking lipstick, which really contained a powerful man stopping aerosol propellant.

It's not like it was in our grandmother's day. Today just going to and from work or to the mall can have tragic consequences. The FBI says a violent crime is committed every 15 seconds in the United States. And a forcible rape happens every five minutes. And chances are when something happens, no one will be around to help.

It looks just like a lipstick. So no one will suspect a thing. Which is important since experts say, getting the jump on your attacker is all about the element of surprise.

Inside this innocent looking lipstick is the same powerful stuff used by police and the military to disarm even the most powerful armed aggressor. In fact, National Park rangers used the very same formula that's inside this little lipstick to stop two-thousand pound vicious grizzly bears dead in their tracks. It's like carrying a personal bodyguard with you in your purse or your pocket.

Darkness brings danger. Murderers and rapists use darkness to their advantage. We all know what it's like to be walking at night and hear footsteps coming at us from behind. Who's there? If it's somebody bad, will you be protected? Your life may depend on it.

My friend Katie's close call needs to be a wake up call for all of us. Myself included. Pick up a lipstick bodyguard and keep it with you always.

Announcer: [00:13:41] You're listening to parents are hard to raise. Now thanks to you, The number one elder care talk show on planet earth. Listen to this and other episodes on iTunes, Google Play and on demand using the iHeart Radio app.

[00:14:06] I want to welcome our new listeners from Argentina. From Buenos Aires and Cordoba. From Tel Aviv, Jerusalem. Israel. [laughing] I said that backwards.

[00:14:19] From Canada. British Columbia, Vancouver and New Westminster. And from Ontario, Ottawa and Thunder Bay.

[00:14:28] I get so excited with new listeners that I think my eyes look at the paper and just scan it. And I just start talking before I'm really knowing what I'm reading. I apologize to the people in Israel.

[00:14:42] And in the U.S. we're getting tons of e-mails from new listeners in Austin Texas, Denver Colorado, Baltimore Maryland, Nashville Tennessee and Charleston South Carolina.

[00:14:53] Keep those e-mails coming. Thank you so much.

[00:14:56] And we're here with Marsha Southwick and we're talking about an unbelievable topic. Guardian abuse. And literally that someone can take over another person's life and assets, under the law. And then there is nothing you can do about it.

[00:15:15] So, my gosh Marcia. Is there anything we can do to protect ourselves?

Marcia Southwick: [00:15:20] Well that's a great question. And there are a lot of answers that. One... Let me just say that the laws, the Uniform Law Commission has come out with a new document, after two years of working on it, that will improve things. And improve due process rights. You'll be able to hire an attorney of your own. Guardians won't be able to isolate wards anymore. It's gonna help. There are things to. Is going to help. If states adopt it. They have the choice whether to or not.

Diane: [00:15:53] Really?

Marcia Southwick: [00:15:53] But also this the problem. of...Okay... There are all these laws in place but there's no real criminal action. Often these guardians and so forth get away with the theft because they do it in the form of charging 400 dollars to go shopping. You know, they make these ridiculous charges, and the court can't quite... It doesn't have the manpower to audit any of it. So it's is just as a system fraught with fraud.

[00:16:27] But here's some things you can do. And I think number one would be...Don't take a family conflict to court.

[00:16:36] A lot of times when an elder is becoming a little bit hazy... this actually happened in my own family. The elder becomes a little hazy and you start realizing that we're going to have to put some things in place for mom.

Diane: [00:16:51] Yes.

Marcia Southwick: [00:16:52] But then, the family... All the old childhood conflicts, you know, come up. And I read something, this is funny, in The Times, that children, siblings, when they are young, they go through something like three to seven conflicts an hour.

Diane: [00:17:07] [laughing] Really?

Marcia Southwick: [00:17:08] You can imagine... All that is latent. And then when it comes to your mom or dad it's all out there. So a lot of times, one person will go to court, wanting to get control. Right.

[00:17:20] And then court looks at it and goes, "No. I'm not putting you in control. You guys are all arguing. I'm putting a third party. And then they're subjected to this horrible, horrible situation where they can't even go see their parents when they want to. And the Guardian will insist that any visit.... If they're allowed at all... Sometimes they cut them off for months. I have a friend who was cut off from her mother for four years. And the Guardian just said to the court, "I think she might harm her mother.".

Diane: [00:17:52] Oh My...

Marcia Southwick: [00:17:53] And so the court said, OK.

[00:17:53] She wasn't allowed to see her for four years. So it's a terrible, terrible situation. And if you can avoid bringing a conflict to court, That is number one.

[00:18:05] Get mediation. Get a therapist. Most of all, Wake up to the fact that if you don't quit and

make a real solution, you may lose access to your parents and your own inheritance. So is it's a big deal. Big deal.

[00:18:22] The other thing to think about. Well, obviously having your health directive. Your power of attorney. Your living will, And all that in place... Even though the courts can undo those documents, it's better to have them than not to have them.

[00:18:40] Sometimes if you land in a hospital, for example, without them...alone then that could be a problem.

[00:18:48] Then... Let's see, what else... I would say. It's mainly... It's really educating your kids as well. Because, think about it this way...

[00:19:02] You know, elders now, are really a kind of "protected class." By that I mean, there are a lots of attention now to these problems of theft. And Elders lose their cognitive abilities. We all do. We all do as we age. And so imagine this scenario...

[00:19:23] And so now they have for example all these mandated reporters. Doctors have to report. Social services. All that. Financial people. So, I want you to imagine... You tell your kids that I want to imagine what would happen if I left a child alone... Like a seven year old or even 11 year old... Alone for two weeks. And never ever bother to check on them. And then CPS found out. What would happen?

[00:19:58] Your kid would be just snatched from you. Right?

Diane: [00:19:59] Right. Taken away. Yeah.

Marcia Southwick: [00:20:02] You would lose parental rights. Well, it is kind of the same with an elder. That's kind of the attitude... Like, "Are you really gonna leave this person who's who just lit the curtains on fire. Because she forgot to turn off the coffee pot. [laughing.. that's actually happened to me].

Diane: [00:20:22] There You go.

Marcia Southwick: [00:20:25] You know, accidents happen. Or you know somebody starts wandering off if they have dementia. I mean...What Are the courts supposed to do? Right?

Diane: [00:20:34] Right.

Marcia Southwick: [00:20:37] So it's really... I mean I increasingly I think families absolutely have to take responsibility for their parents and to know the facts. Really to know the facts.

[00:20:50] I mean I can't tell you how many how many adult children of parents, who are in this situation, who are completely blown away by it. I mean they can't even believe it happened.

[00:21:03] You know... and at first denial. Then they go to rage. And then they you know they get very angry as the Guardian and the courts and of course that makes it worse. Ugh. It's just something that you want to try to avoid at all costs.

[00:21:20] And the other thing I would suggest is that everybody read the state statutes in their state. Because the state issue.

Diane: [00:21:29] This is a state issue, right. Not a federal issue.

[00:21:29] So we're talking tiny county courts, all over the nation, putting people in the guardianship, every day. Without really understanding or comprehending deeply the impact it has on somebody they have no rights. You become a "non-person." You're really a non-person and the effect of that on suddenly losing your dignity, your independence. You are now told your medical decisions are made for you. You don't have any choices. It's so humiliating.

[00:22:05] My friend in guardianship. Here he was the head of, you know, the lead counsel for J.P. Morgan... He was not allowed to look at his own bank statements. They said, "You're too incapacitated." They took away photos of his companion. They took away his phone. They kept him restricted to the house. I could only see him once a week for two hours.

Diane: [00:22:32] Really?

Marcia Southwick: [00:22:32] Yes. And they had somebody monitoring him 24/7. So if we went over there, there is a TV camera on you. It's that bad. It's that bad.

Diane: [00:22:42] And this was just because his daughter was worried about him and so she contacted an older attorney.

Marcia Southwick: [00:22:49] Exactly.

Diane: [00:22:50] And...What Happened to him? I mean.

Marcia Southwick: [00:22:55] He was charged Two-million dollars in two years by these people.

Diane: [00:23:00] Oh, my God!

Marcia Southwick: [00:23:00] And there were about ten of them. There were about ten of them on the gravy train. There were there was a conservator. A guardian. The Guardian's attorney. The conservator's attorney. An accountant. Then he had to have 24/7 nursing care, which he didn't need. Right.

[00:23:20] He could make other arrangements, easily. And so, between that and you know, shopping, and all these tasks... The charges are just not monitored by the courts. So he just got fleeced.

Diane: [00:23:34] Oh my gosh.

[00:23:35] And the daughter... I mean, what happened? I mean she must have felt, you know, she was trying to do something good. You Know, and then created this... Oh my gosh.

Marcia Southwick: [00:23:49] She created this horrible nightmare that, you know, then once you are in it. You really, if you try to fight it, then... This is the really sick part... in my opinion. The Guardian can use your parents money to hire their own attorney and fight you. Yeah yeah.

[00:24:11] So, it's so stacked. I was so appalled by this.

Diane: [00:24:20] Yes. This is so crazy.

Marcia Southwick: [00:24:22] And it's happened to many, many people. So, when I first found out

about this, I thought. "No way... this can't be happening. And I started researching, and now I have a database of 600 cases and complaints and all kinds of things on my Facebook page actually under the notes section.

[00:24:43] You can find out a lot about how to protect yourself. It is called Boomers Against Elder Abuse. It's on Facebook. I recommended that anybody go there or write to our organization with your case. And that's the National Association to Stop Guardian Abuse. It's www.StopGuardianAbuse.org. And we have a woman there who is so good at offering help. You know, there's no legal help or anything like that. But... These Are people who...our organization is mainly people who have been victimized by the system. They know inside out. So, it's very helpful.

Diane: [00:25:27] This is this is amazing and I'm sure so many of our listeners weren't even aware of what is going on. And I would love to have you back. Because I'm sure there's so much more information that you can tell us.

Marcia Southwick: [00:25:42] Yes, there is. There's a lot of information. And people... The main message is, you can lose your rights in America. I mean it is really stripping you of all of your dignity and your fundamental rights. And it can happen in 10 minutes, in one of these ex parte hearings.

[00:26:05] Thank You so much Marcia.

Marcia Southwick: [00:26:08] Thank you!

[00:26:08] And we will have you back.

[00:26:13] Tune in next week when our special guest Detective Joe Roubicek, who has investigated over 1000 cases of exploitation of the elderly. He'll tell us what to look for. You don't want to miss this.

Marcia Southwick: [00:26:31] He's Great!

Diane: [00:26:31] Thank You.

[00:26:33] I hope this episode helped you with something you may be dealing with at this moment. Please keep emailing those questions and comments and share as much detail as you can. Because listeners just like you can be helped by your story.

[00:26:46] You can reach me at Diane@ParentsAreHardToRaise.org. Or just click the green button on our home page.

[00:26:52] Subscribe to our show on iHeart Radio, iTunes or your favorite podcast app.

[00:26:57] I'd be so grateful if you'd share this episode with your family, co-workers and friends. Episode number 71.

[00:27:03] Parents Are Hard to Raise is a CounterThink Media production. The music used in this broadcast was managed by Cosmo Music, New York, New York.

[00:27:11] Our New York producer is Joshua Green. Our broadcast engineer is Well Gambino. And from our London studios, the melodic voice of Ms. Dolly D.

[00:27:21] Thank you so much for listening, and I look forward to reading your comments. Can't wait to see me again on the next episode of Parents are hard to raise.

[00:27:30] Till then... May you forget everything you don't want to remember and remember everything you don't want to forget.

See you again next week!