

Financial Exploitation of Adults: Scams and Responses

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Session Goals

- Understand the role of the Attorney General in consumer protection in North Carolina
 - Identify common frauds and scams in North Carolina
 - Identify responses, including for the adults in the middle
- 

NORTH CAROLINA DEPARTMENT OF JUSTICE CONSUMER PROTECTION DIVISION

What We Do

- Multistate Investigations
- Consumer Complaint-Driven Cases
 - N.C. Gen Stat. § 75-1.1 et seq.
- Elder Fraud

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BIG PICTURE

- Scam Susceptibility (2019 Annals of Internal Medicine Article)
- Re-Victimization
- Reluctance to Admit or Ask For Help
- Traits and Behaviors of Senior Victims
- Tips For Assisting Targeted Seniors

AVERAGE LOSS FROM WORST SCAMS TARGETING SENIORS

- 2009 – 2013: \$10,000
- 2014 - 2017: \$8,000
- 2018 - 2019: \$17,000
- 2020 - 2022: \$46,800
 - 2020: \$29,300
 - 2021: \$51,500
 - 2022: \$59,500

SPECIFIC SCAMS: 2022

ROMANCE/FRIENDSHIP

- 60 complaints
- 55 victims lost \$5,771,340.66
- Average loss of \$104,933
- 92% of complainants reported money loss

SWEEPSTAKES

- 88 complaints
- 28 victims lost \$2,836,357.50
- Average loss of \$101,298
- 32% of complainants reported money loss

ROMANCE/ FRIENDSHIP SCAMS: HOW THEY WORK

Contact Made Through:

- Facebook
- LinkedIn
- Other Messaging Apps (WeChat)
- Dating Sites

Prey On Vulnerability

Claim Distress

Money Sent Through:

- Gift Cards
- Bank-To-Bank Wires
- Regular Mail (Usually Cashiers' Checks)

Crypto-Currency



SWEEPSTAKES SCAMS: HOW THEY WORK

- Often Communicate By Email
- Won the Lottery!
- Originate Out of Jamaica and Africa
- Masquerade as Publishers Clearing House
- Have to Prepay to Claim Winnings (Taxes, Other Fees)
- Also Won A Car
- Prepay Vehicle Delivery Costs, etc.

SPECIFIC SCAMS 2022 (Cont'd)

IMPOSTER

- 88 complaints
- 57 victims lost \$874,700.30
- Average loss of \$15,346
- 65% of complainants reported money loss

TECH SUPPORT

- 29 complaints
- 18 victims lost \$331,179.56
- Average loss of \$18,399
- 62% of complainants reported money loss

SPECIFIC SCAMS 2022 (Cont'd)

GOVERNMENT GRANT

- 26 complaints
- 13 victims lost \$367,250
- Average loss of \$28,250
- 50% of complainants reported money loss

GRANDPARENTS

- 23 complaints
- 4 victims lost \$40,400
- Average loss of \$10,100
- 17% of complainants reported money loss

IN-HOME SCAMS: HOW THEY WORK

- Contractor Shows Up With Extra Materials (Paving Scam)
- Starts One Job, Finds a Different Problem
- Takes Money and Doesn't Do the Work
- Door-to-Door Sales (see N.C. Gen. Stat. § 14-401.13, the 3-day right to cancel)
 - Solar
 - Alarm Systems
 - Senior Signs on a Pad, Never Gets Copy of Contract
- Induces Senior to Lease Something that Would Typically be Purchased



	Freeze and Inspect	Subpoena
Applicable Statute	G.S. 108A-106(f)	G.S. 108A-116
How and Where Initiated	District court – petition	District court – petition Court must hear the case within 2 business days of filing the petition
Covered persons	Disabled adults	Older and disabled adults
Standard for Relief	<p>Must be reasonable cause to believe</p> <ul style="list-style-type: none"> • Disabled adult • Lacks capacity to consent • Needs protective services • Financially exploited by caretaker • No other person available to arrange for protective services 	<p>Court must issue subpoena when:</p> <ul style="list-style-type: none"> • Investigating a credible report being or been financial exploited • Records are needed to substantiate or evaluate the report • Time is of the essence to prevent exploitation
Relief	<ul style="list-style-type: none"> • Make records available for inspection by the director or designated agent • Freeze assets and no withdrawal without order of the court – good for 10 days after inspection unless extended 	<p>Financial institution must promptly provide financial records of customer to director or agent</p> <ul style="list-style-type: none"> • Limited grounds FI can file motion to quash • Court must hear motion to quash within 2 business days from filing
Available Forms	CV-776 (petition) CV-777 (order) CV-778 (notice)	SP-630 (Petition and Order)

Interim Guardianship, GS 35A-1114

“Imminent or foreseeable risk of harm....that requires immediate intervention.”

Either or both:

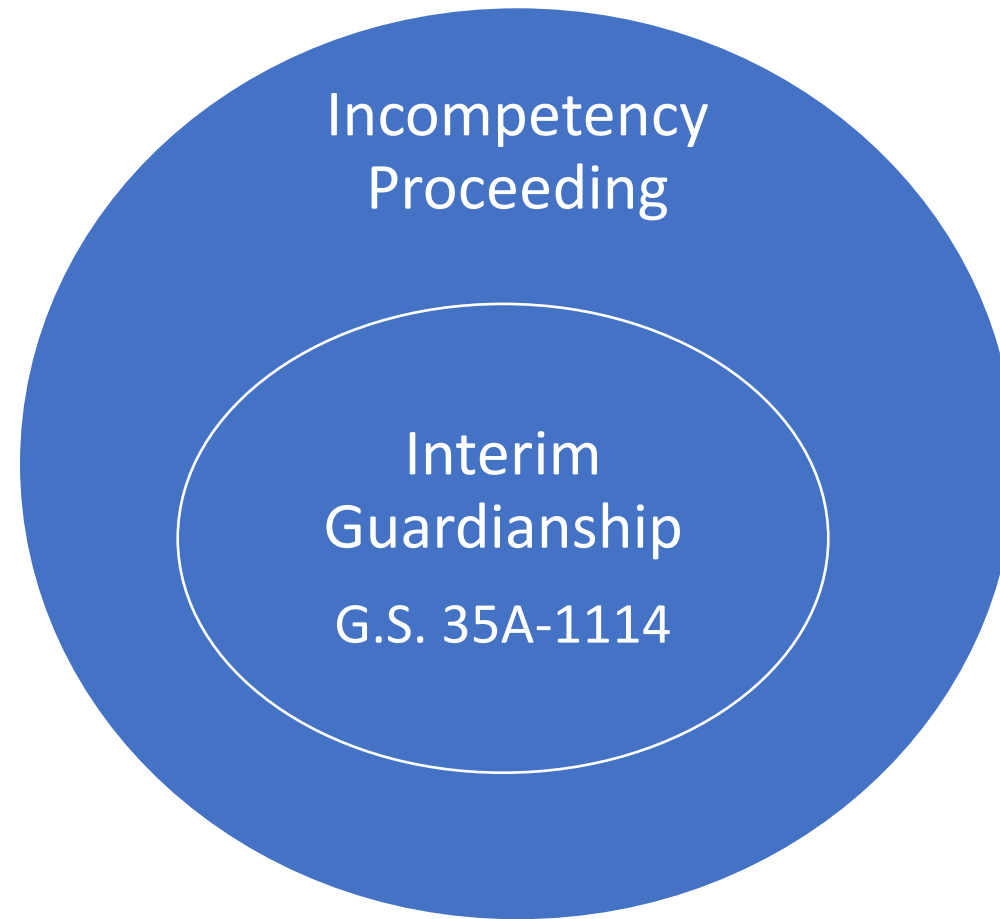
- To physical well-being
- To the estate

AND reasonable cause to believe R is incompetent

AND needs an interim guardian to immediately intervene

Interim Guardianship

Motion filed in the *pending* incompetency proceeding.



Incompetency Adjudication - It is a big deal....

Since the respondent's **right to liberty** or **control of property** is at stake, statutory procedure must be carefully followed.

In re Dunn, 239 N.C. 378, 79 S.E.2d 921 (1954).



DSS Responses

- Educate Medical Community + Social Workers
- Reorientation Relative to Current APS Standards
- Trusted Persons List
- Do Not Call Registry
- Reports to State and Federal Agencies
- Multidisciplinary Teams
- Community Adult Education









Educating the Medical Community + Social Workers

- Cognitive impairment is a key factor in why older adults are targeted and why perpetrators succeed in victimizing them. Even mild cognitive impairment (MCI) can significantly impact the capacity of older people to manage their finances and to judge whether something is a scam or a fraud.
- Mild cognitive impairment is an intermediate stage between the expected cognitive decline of normal aging and the more serious decline of dementia.
- Studies indicate that 22 percent of Americans over age 70 have MCI and about one third of Americans age 85 and over have Alzheimer's disease
- Recognizing signs of diminished capacity:
 - memory loss, communication problems, calculation problems and disorientation
 - changes are not bad enough to impact daily life or affect usual activities

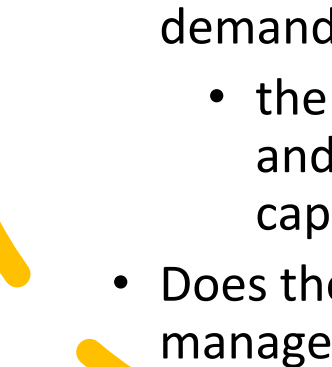


Educating the Medical Community + Social Workers

- Recent data suggest that many persons who seem to be cognitively intact also fall prey to scams
 - 76% reported that they answer the telephone whenever it rings even if they do not know who is calling, 24% reported that they listen to telemarketers, and 11 % reported difficulty ending an unsolicited or unwanted communication with a telemarketer
 - Reduced scam awareness occurs early in the course of age-related neurodegenerative disease
 - Scam awareness as a component of decision making and a complex behavior that requires a variety of social cognitive abilities, including recognition that others may have intentions and desires that differ from one's own, perception of the personality traits of others, and regulation of behavior even in highly pressurized situations
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Educating the Medical Community + Social Workers

- While valid financial capacity (FC) assessment tools exist, they are not without limitations; many are not readily available for use and thus most healthcare clinicians are not familiar with them, and they do not fully address social, emotional or cognitive risks for EFA
 - General Recommendations for Clinical Assessment of Financial Capacity:
 - Identify and clarify the specific referral question(s) relevant to financial capacity
 - Identify the patient's premorbid level of financial function
 - The clinician should seek to understand the patient's current financial environment and its demands and requirements
 - the clinician should focus on functional evidence of actual financial skills, knowledge, and values obtained from the patient, family members and other collateral sources, and capacity-specific measures
 - Does the patient have the financial skills, knowledge, judgment and values to successfully manage his or her financial affairs within their particular financial environment?
- 

Reorientation Relative to Current APS Standards

G.S. 108A-102(a) Duty to Report:

Any person having reasonable cause to believe that a **disabled adult** is in need of **protective services** shall report such information to the director.

G.S. 108A-101. Definitions:

(d) The words "**disabled adult**" shall mean any person 18 years of age or over or any lawfully emancipated minor who is present in the State of North Carolina and who is physically or **mentally incapacitated due to** an intellectual disability, cerebral palsy, epilepsy or autism; **organic brain damage caused by advanced age or other physical degeneration in connection therewith**; or due to conditions incurred at any age which are the result of accident, organic brain damage, mental or physical illness, or continued consumption of substances.

(n) The words "**protective services**" shall mean services provided by the State or other government or private organizations or individuals which are necessary to protect the disabled adult from abuse, neglect, or exploitation.

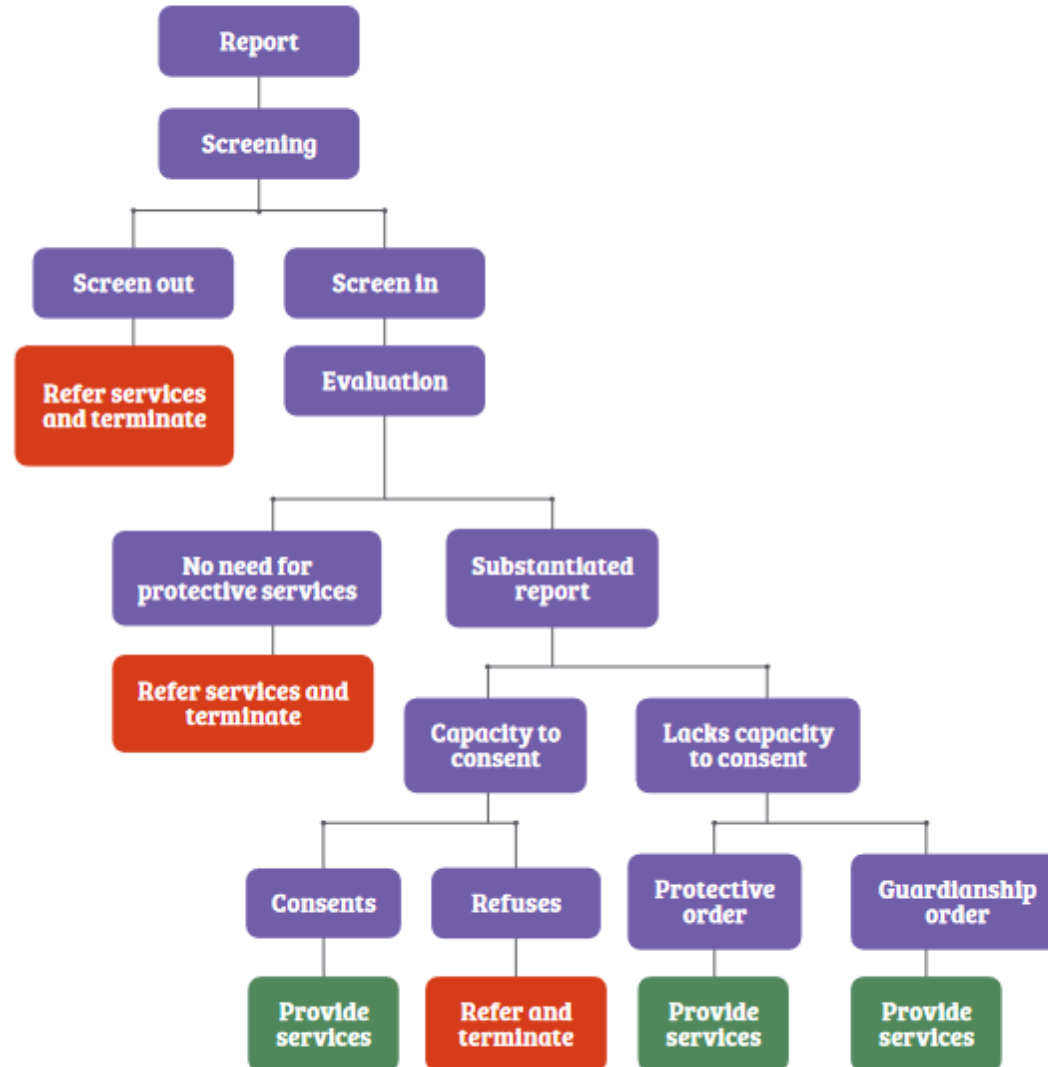
Current Standard: Screening / Substantiating

Three criteria

1. **Alleged/determined** to be disabled adult
2. **Alleged/determined** to be abused, neglected, and/or exploited
3. **Alleged/determined** to be in need of protective services

Source: DHHS APS Manual

Adult Protective Services: Process Overview



Consider Changes When Investigating Exploitation

Strategies for Gathering Information Related to Disability

- The social worker should inquire if there has been a change in the individual's behavior or mental status (DAAS-0001 Adult Protective Services Intake).
- Make as many visits as are necessary.
- Consultation with others who have knowledge of the facts of the situation.
- Medical, psychological or psychiatric evaluations when necessary to determine whether the adult is disabled or exploited
- Advocate for assessment of “financial capacity”



Consider Changes When Investigating Exploitation

Skills and Strategies for Gathering Information Related to Exploitation

- Ask open ended questions. For example, instead of asking whether the adult is disabled, the social worker could ask the caller to describe any limitations the adult has and how they limit him/her.
- In the last six months, has anyone asked the individual to do any of the following?
 - Give their social security number over the phone or online
 - Send money to an unknown party
 - Provide personal or financial information over the phone or online
 - Make a payment to collect prize winnings
 - Sign a document that the individual does not understand
 - Give ATM, debit card or credit card information
 - Make a financial decision that made them feel nervous or suspicious
 - You have been told that you won a prize- the prize could be cash, a car, or other goods. Then you are told that you must pay a fee upfront to claim the prize, for such things as a delivery fee or processing fee.
 - Buy gift cards in order to process a refund or make a payment to someone



Trusted Persons List

Financial institutions are encouraged (but not required) by law to offer older adult customers the opportunity to submit and periodically update a list of trusted persons to be contacted in case of suspected abuse.

G.S. 108A-114

Financial Institution Definition under G.S. 108A-113(4): A banking corporation, trust company, savings and loan association, credit union, or other entity principally engaged in lending money or receiving or soliciting money on deposit.

Liability Protection for Financial Institution

No financial institution, or officer or employee thereof, who acts in good faith in offering to its customer the opportunity to submit and update a list of such contact persons may be held liable in any action for doing so.

G.S. 108A-114

Duty to Report: Financial Institution

Any financial institution, or officer or employee thereof, having reasonable cause to believe that a **disabled adult or older adult** is the **victim or target** of financial exploitation **shall report** such information to the following:

1. Trusted persons, if provided by the customer.
 - The financial institution may choose not to contact persons on the provided list if the financial institution suspects that those persons are financially exploiting the disabled adult or older adult.
2. Law enforcement.
3. DSS, *if the customer is a disabled adult*.

G.S. 108A-115(a).

Trusted Persons: Disabled or Older Adult

- Disabled adult: APS definition under G.S. 108A-101(d).
- Older adult: An individual 65 years of age or older.

G.S. 108A-113(2), (8).

Form of the Report by the Financial Institution

- May be made orally or in writing.
- Report must include:
 - the name and address of the disabled adult or older adult,
 - the nature of the suspected financial exploitation, and
 - any other pertinent information.

G.S. 108A-115

Role of Trusted Persons

- Emergency financial contact who can step in to help when suspected financial exploitation
 - Family member
 - Close friend
 - Financial advisor
- Advance consent, in writing required
- Trusted contacts do not have access to your money — they get notified if the financial institution sees signs of financial exploitation
- Ex: ATM withdrawals late at night. The financial institution might be aware that an account holder resides in an assisted living facility or has limited mobility. The financial institution might contact the account holder and, depending on the response, the trusted contact person.

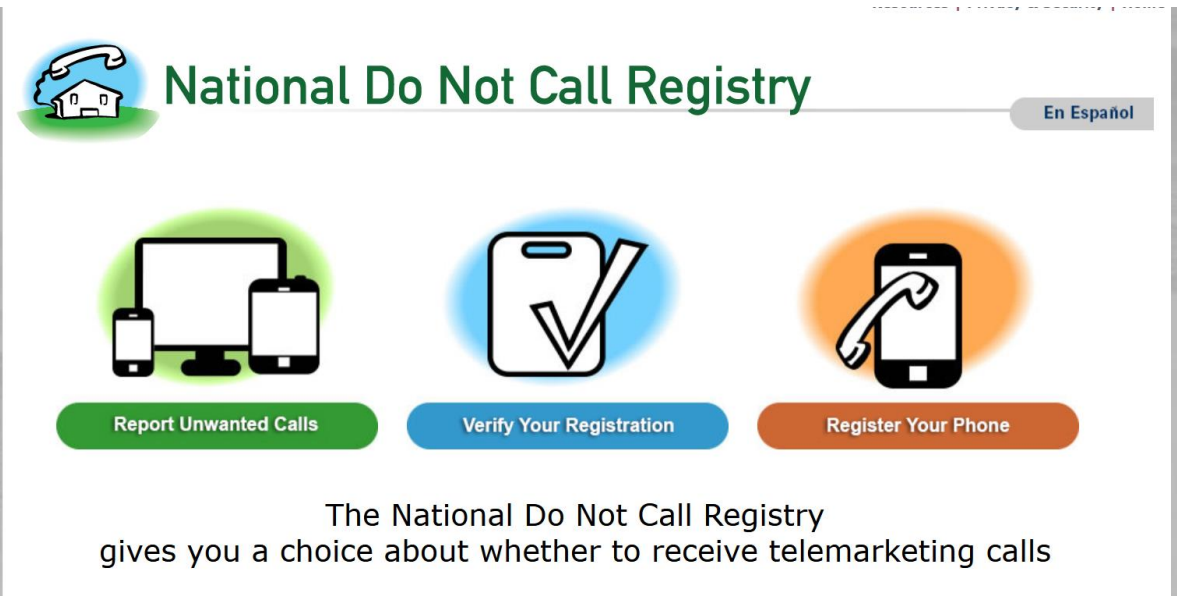
Trusted Persons: DSS Role

Check to see if clients have submitted a list of trusted persons to their financial institutions.

If they have not, encourage them to submit a list to financial institutions so that there is someone in place for the financial institution to reach out to if there is any indication of exploitation.


Do Not Call Registry

Federal Trade Commission:
<https://www.donotcall.gov/>



Reports to Federal and State Agencies


Available at:
<https://www.justice.gov/elderjustice/roadmap>

 THE UNITED STATES
DEPARTMENT OF JUSTICE

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Home » Elder Justice Initiative (EJI) » Financial Exploitation

ELDER ABUSE RESOURCE ROADMAP - FINANCIAL

 ELDER ABUSE RESOURCE
ROADMAP
Financial

Who caused you (or someone you know) financial loss?

Select one option

Someone You Know and Trust

A Financial Professional

A Stranger or Unknown Person

Someone Connected to Your Nursing Home

Reports to State and Federal Agencies

THE UNITED STATES
DEPARTMENT of JUSTICE

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STRANGER OR UNKNOWN PERSON

Restart Close

What did this Stranger or Unknown Person do?

Select one option

Demanded Money

Took Money without Permission

Mail was Stolen

Was this page helpful?

Available at: <https://www.justice.gov/elderjustice/roadmap>

Reports to State and Federal Agencies

[Home](#) » [Elder Justice Initiative \(EJI\)](#)

MAIL WAS STOLEN

Mail Theft

The United States Postal Inspection Service (USPIS) investigates:

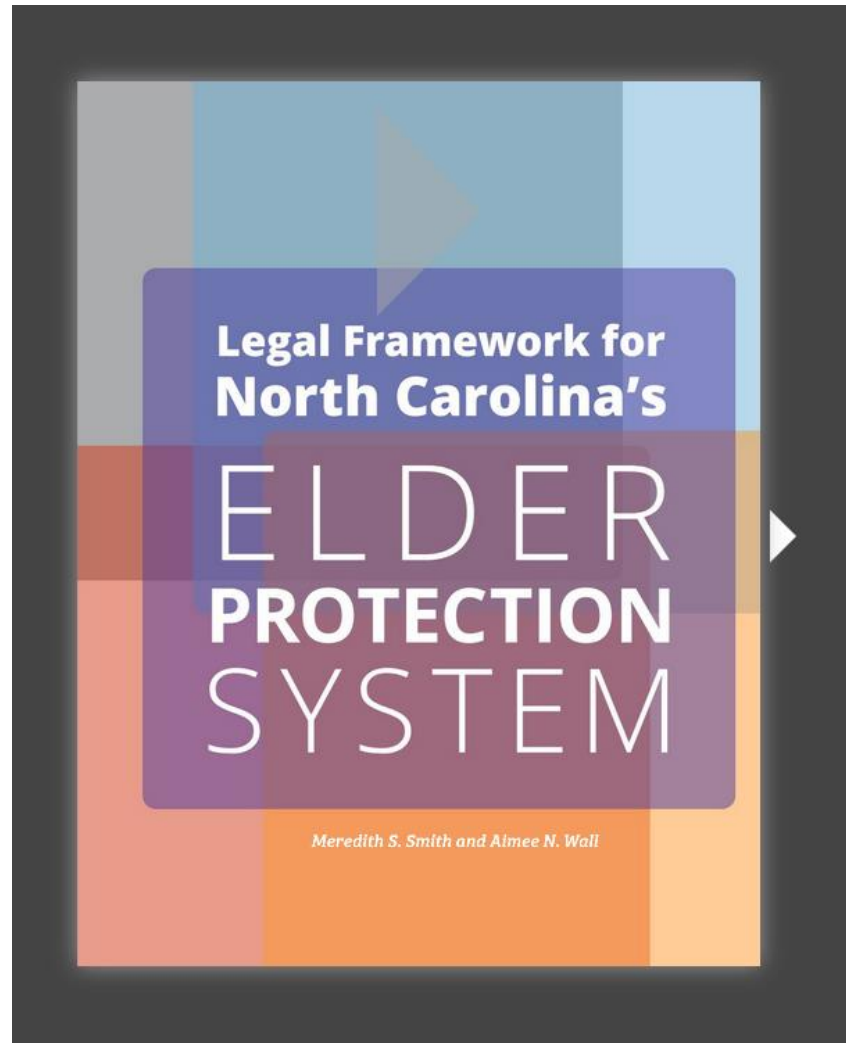
- Mail Theft

[File a Mail Theft Complaint with USPIS](#)

Or call **1-800-ASK-USPS** (1-800-275-8777).

Available at: <https://www.justice.gov/elderjustice/roadmap>

Report to Federal and State Agencies



Chapter 7 Other Critical Components of the Elder Protection System

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Available at: <https://protectadults.sog.unc.edu/>



Multidisciplinary Team Approach

- MDT: A group of professionals in a geographic region who commit to working together toward a common goal.
- Most cases involve more than one kind of abuse and contain interacting social service, legal, medical, psychological, and law enforcement components
- Agencies involved in the MDT can ensure that victims do not fall through the cracks while addressing their range of needs
- Purpose of MDT:
 - Case review: open cases
 - Systems change
 - Case consultation (e.g., medical case management teams)
 - Community and professional training

Mandatory Reporting

Upon finding evidence indicating that a person has abused, neglected, or exploited a disabled adult, **the director shall notify the district attorney.**

G.S. 108A-109.

DSS and Law Enforcement

Situation	General Rule
DSS receives a report and has reason to believe that an adult may be at risk of immediate harm ¹	<ul style="list-style-type: none">▪ DSS may contact the DA or law enforcement (LE) and share confidential information, including most health information. May also provide information from Adult Protective Services (APS) register.
DSS conducts an evaluation and finds evidence that the adult has been abused, neglected, or exploited ²	<ul style="list-style-type: none">▪ DSS must notify the DA if it finds such evidence. It must be in writing and should include the specific findings from the evaluation.
Law enforcement requests information from DSS about an adult ³	<ul style="list-style-type: none">▪ If DSS found evidence of abuse, neglect, or exploitation (A/N/E) and receives a request for information from LE or the DA, DSS must provide information to assist with the investigation or prosecution.▪ If DSS did not find evidence of A/N/E but has information about the adult that may be useful to LE or the DA in the investigation of a potential crime, it may be provided to LE or the DA pursuant to a search warrant or court order.
Law enforcement requests the identity of reporter of suspected abuse	<ul style="list-style-type: none">▪ DSS may disclose to LE/DA if they are investigating or prosecuting a criminal investigation of alleged A/N/E without a court order.▪ If the request is for another purpose, DSS may disclose the identity pursuant to a search warrant or court order.

1. Title 10A, Chapter 71A, Section .0201 of the North Carolina Administrative Code (hereinafter N.C.A.C.); 10A N.C.A.C. 71A, § .0806(b)(1)(c).

2. Chapter 108A, Section 109 of the North Carolina General Statutes (hereinafter G.S.); 10A N.C.A.C. 71A, §§ .0906, .0901.

3. 10A N.C.A.C. 71A, § .0803; *id.* at 69, § .0504.

Source, Information-Sharing in Elder Abuse Cases:

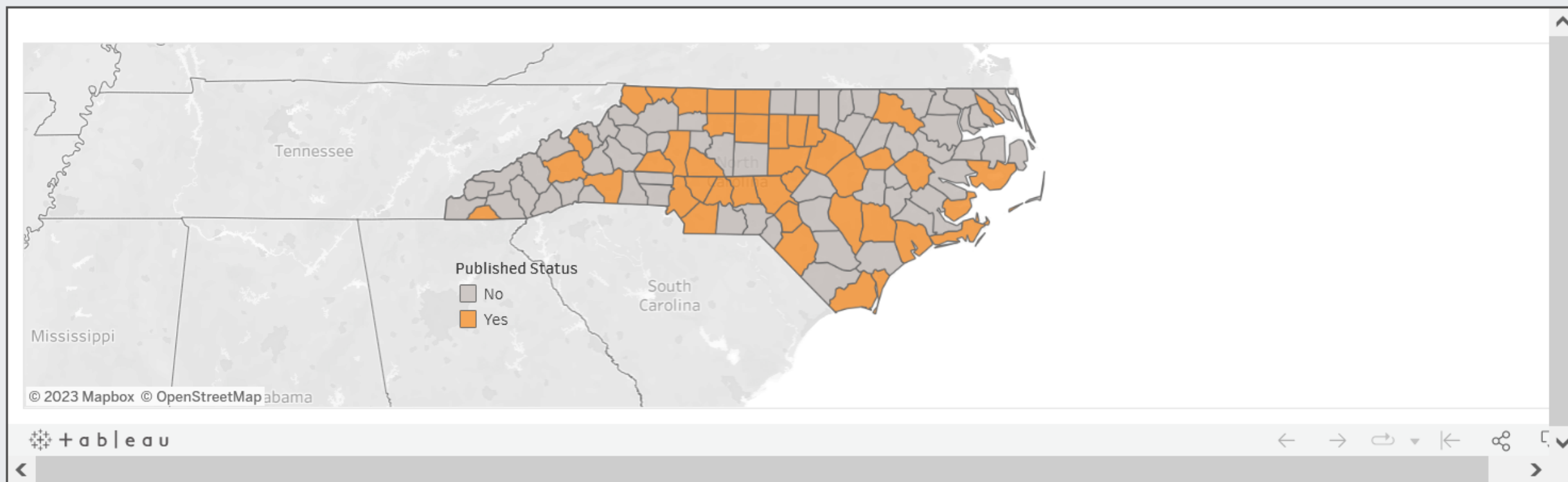
https://protectadults.sog.unc.edu/sites/default/files/Tool-EAInfoSharing_1.pdf

Lessons from Working with an MDT



Map of North Carolina Multidisciplinary Teams

The map below identifies the location of adult protection multidisciplinary teams (MDTs). These teams work together to help and support adults who may need protection from abuse, neglect, and exploitation in North Carolina. For more information about an MDT or to contact the MDT members, click on the individual county.



Available at: <https://protectadults.sog.unc.edu/>

Domestic Violence

Geriatrician

GAL Attorney

Ombudsman

Legal Aid

Hospital

Housing

Area Agency on Aging

Law Enforcement

Private Attorney

Mental Health

Court

Public Guardian

Financial Institution

Adult Protective Services

District Attorney

Community Adult Education



Search

Submit a Complaint

Consumer Education

Rules & Policy

Enforcement

Compliance

Data & Research

News

Resources for Practitioners / Working with older adults

Protecting Older Adults from Fraud and Financial Exploitation

Tools for Financial Security in Later Life

Money Smart for Older Adults: avoid financial exploitation

Discover resources for surviving spouses

Protecting older adults from fraud and financial exploitation

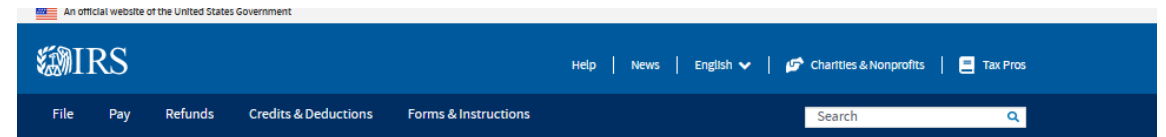
Losing money or possessions to scams, fraud, and exploitation can be especially devastating to older adults, who may be not be able to earn back what they've lost.

- Resources for consumers
- Resources for caregivers and service providers
- Resources for financial institutions

The IRS Dirty Dozen

Available at:

<https://www.irs.gov/newsroom/an-overview-of-the-irss-2022-dirty-dozen-tax-scams>



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An overview of the IRS's 2022 Dirty Dozen tax scams

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Topics in the News

News Releases

Multimedia Center

Tax Relief in Disaster Situations

Inflation Reduction Act

Tax Reform

Taxpayer First Act

Tax Scams/Consumer Alerts

The Tax Gap

Fact Sheets

IRS Tax Tips

e-News Subscriptions

IRS Guidance

Media Contacts

IRS Statements and Announcements

COVID Tax Tip 2022-99, June 29, 2022

Compiled annually, the Dirty Dozen lists a variety of common scams that taxpayers can encounter anytime. The IRS warns taxpayers, tax professionals and financial institutions to beware of these scams. This year's list is divided into five groups. Here's an overview of the top twelve tax scams of 2022.

Potentially abusive arrangements

The 2022 Dirty Dozen begins with four transactions that are wrongfully promoted and will likely attract additional agency compliance efforts in the future. Those four abusive transactions involve charitable remainder annuity trusts, Maltese individual retirement arrangements, foreign captive insurance, and monetized installment sales.

Pandemic-related scams

This IRS reminds taxpayers that criminals still use the COVID-19 pandemic to steal people's money and identity with phishing emails, social media posts, phone calls, and text messages.

All these efforts can lead to sensitive personal information being stolen, and scammers using this to try filing a fraudulent tax return as well as harming victims in other ways. Some of the scams people should continue to be on the lookout for include Economic Impact Payment and tax refund scams, unemployment fraud leading to inaccurate taxpayer 1099-Gs, fake employment offers on social media, and fake charities that steal taxpayers' money.

Offer in Compromise "mills"

Offer in Compromise or OIC "mills," make outlandish claims, usually in local advertising, about how they can settle a person's tax debt for pennies on the dollar. Often, the reality is that taxpayers pay the OIC mill a fee to get the same deal they could have gotten on their own by working directly with the IRS. These "mills" are a problem all year long, but they tend to be more visible right after the filing season ends and taxpayers are trying to resolve their tax issues perhaps after receiving a balance due notice in the mail.

Suspicious communications

Every form of suspicious communication is designed to trick, surprise, or scare someone into responding before thinking. Criminals use a variety of communications to lure potential victims. The IRS warns taxpayers to be on the lookout for suspicious activity across four common forms of communication: email, social media, telephone, and text messages. Victims are tricked into providing sensitive personal financial information, money, or other information. This information can be used to file false tax returns and tap into financial accounts, among other schemes.

Spear phishing attacks

Spear phishing scams target individuals or groups. Criminals try to steal client data and tax preparers' identities to file fraudulent tax returns for refunds. Spear phishing can be tailored to attack any type of business or organization, so everyone needs to be skeptical of emails requesting financial or personal information.

A large orange circle is positioned on the left side of the slide, partially cut off by the edge.

Questions + Contact Information

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