



North Carolina's Elder Protection "System"

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Overview

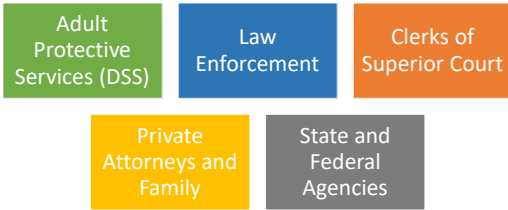
- Who does what?
- Is it a system?
- SOG's Elder Protection Project

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Who does what?

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Key Players



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Authority - APS

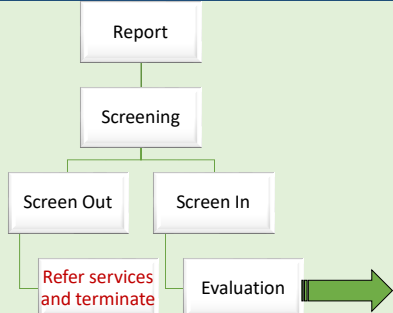


G.S. 108A, Articles 6 & 6A

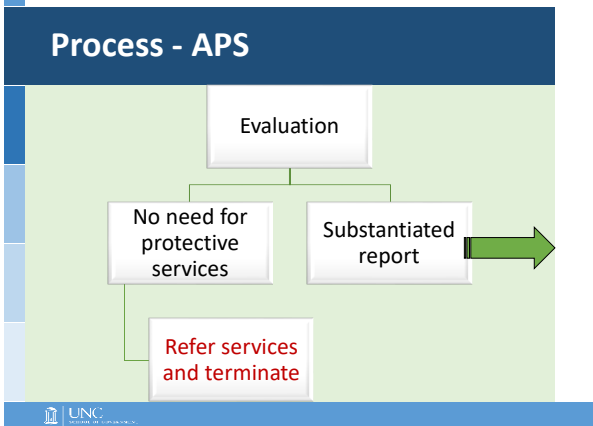


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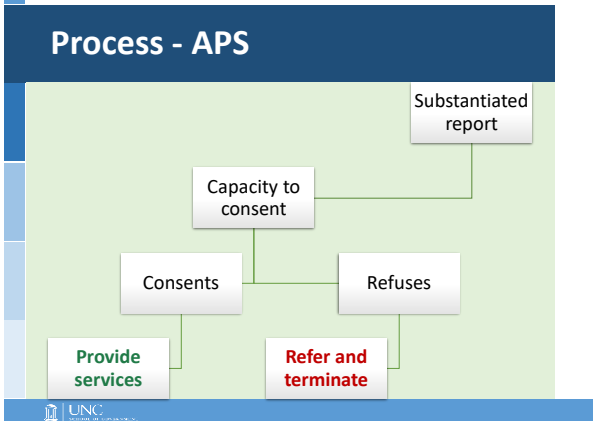
Process - APS



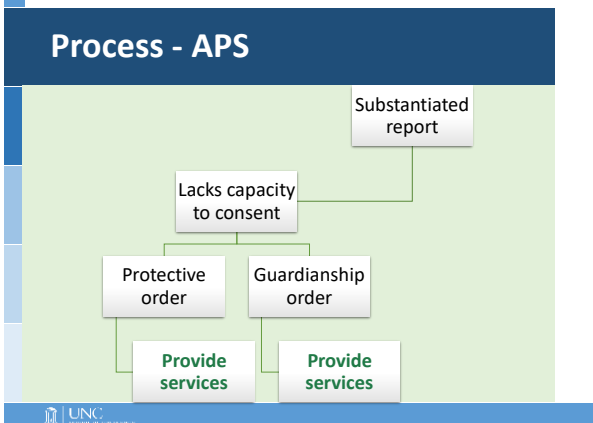
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Pressure Points

- Authority limited to disabled adults
- No authority if “able, responsible, and willing person” is able to provide services to protect adult
- Abuse/neglect authority limited to that by a “caretaker”
 - Responsibility for care of the individual b/c of family relationship or contract
- No authority if adult has capacity and refuses services

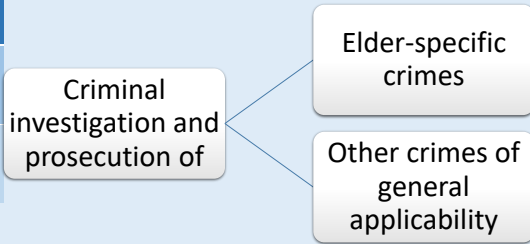


Image: <https://massagechairexpert.com/>



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Authority – Law Enforcement



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G.S. 14-32.3: Disabled or elder (60+) adult in a domestic setting

Abuse	<ul style="list-style-type: none"> • Caretaker, with malice aforethought, knowingly and willfully, <ul style="list-style-type: none"> • Assaults • Fails to provide with medical or hygienic care or • Confines or restrains = cruel or unsafe • Adult suffers mental or physical injury as a result
Neglect	<ul style="list-style-type: none"> • Caretaker wantonly, recklessly, or with gross carelessness <ul style="list-style-type: none"> • Fails to provide with medical or hygienic care or • Confines or restrains = unsafe • Adult suffers mental or physical injury as a result



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G.S. 14-112.2: Exploitation of Older (65+) or Disabled Adult

- The person
 - Knowingly
 - By deception or intimidation
 - Obtained, used, or endeavored to obtain/use
 - The adult's funds, assets or property
- The person also intended to
 - Temporarily or permanently deprive the adult or
 - Benefit someone other than the adult
- Penalties more severe if person either
 - Stands in a position of trust and confidence or
 - Has a business relationship with the adult



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Other Crimes

- | | |
|---|--|
| <ul style="list-style-type: none"> ▪ Assaults, including <ul style="list-style-type: none"> ▪ Assault on an individual with a disability ▪ Patient abuse and neglect ▪ Rape and other sex offenses ▪ Kidnappings, including felonious restraint ▪ Burglary and other housebreakings ▪ Larceny and robbery | <ul style="list-style-type: none"> ▪ Other financial and related crimes, including <ul style="list-style-type: none"> ▪ Embezzlement ▪ Obtaining property by false pretenses ▪ Financial card theft ▪ Forgery ▪ Other, including <ul style="list-style-type: none"> ▪ Telephone threats/harassment ▪ Stalking ▪ Violation of a DVPO |
|---|--|



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Pressure Points



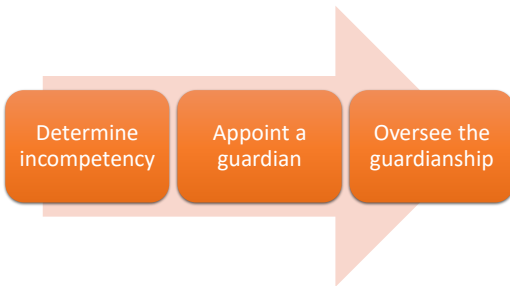
Image: <https://massagechairexpert.com/>

- Confidentiality laws
 - When can health care providers and DSS, in particular, share information with law enforcement officials
- Powers of attorney
 - When a POA involved, law enforcement officials are nervous about intervening
- Financial exploitation cases
 - Extremely complex to investigate
 - Difficult to protect an older adult's assets
 - Enforceability of scams



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Authority – Clerks of Superior Court



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Role in Elder Protection

Appoint a guardian

- Adult does not have a surrogate decision-maker (e.g., POA, HC POA) and is vulnerable to abuse or exploitation
- Surrogate decision-maker fails to act or takes advantage
- Family fights over care of the adult → emotional abuse
- Is the victim of abuse and is unable to stop or report it

Oversee guardianship

- Require status reports, inventories and accountings
- Remove guardians



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Pressure Points



- Detecting abuse by a guardian can be challenging
- Inexperienced guardians
- Balancing individual autonomy and protection
- Demographic trends and increasing caseload

Image: <https://massagechairexpert.com/>



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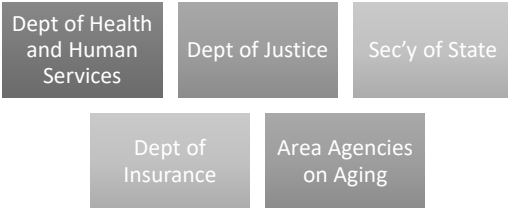
Family, Private Attorneys and Others

- Supported decision-making
- POAs/HC POAs
- DV protective orders and no-contact orders
- Pre-judgment civil remedies, such as
 - Injunctions, temporary restraining orders
 - Attachment, claim and delivery, and lis pendens
- Civil actions, such as
 - Conversion
 - Breach of fiduciary duty
 - Fraud/Constructive fraud
 - Negligent misrepresentation
 - Unfair and deceptive trade practices
 - Breach of contract
- Housing actions, such as
 - Trespass
 - Ejectment
 - Fair housing violations



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State Agencies



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Federal Agencies

- Policy oversight and guidance
- Limited federal funding
- Some federal criminal enforcement
- Agencies include
 - Dept of Health and Human Services
 - Dept of Justice
 - Consumer Financial Protection Bureau
 - Federal Trade Commission
 - Dept of the Treasury
 - Social Security Administration



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Pressure Points



Image: <https://massagechairexpert.com/>

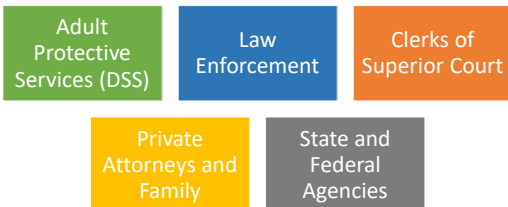


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Is it a system?

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Key Players



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Different Roles and Goals

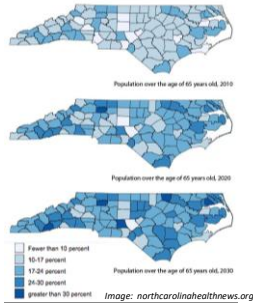
- APS
 - Protect disabled adults, provide services
- Law enforcement
 - Catch perpetrators, prosecute crimes, prevent crime, restitution
- Clerks of court
 - Protect incapacitated adults, oversee guardians
- Private attorneys and family
 - Protect the adult, prevent crime, protect or restore assets



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Local Variation

- Access to services and supports
- APS staffing and funding
- Interest from law enforcement officials
- Population characteristics



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MDTs: Collaboration Opportunity

- Multidisciplinary teams encouraged by federal government (ACL)
- Various types of MDTs
 - Fatality review teams
 - Systemic review teams
 - Case review teams
 - Forensic teams
- Several counties have launched MDTs and begun working within the framework
- No statutory construct

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Project Goals

1. Increase elder abuse training and awareness among the public and professionals
2. Create greater connectivity and collaboration in the elder protection system




 An icon consisting of six purple circles, each containing a white silhouette of a person's head and shoulders. The circles are interconnected by thin purple lines, forming a network or cluster.

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Project Components

Manual	• Legal Framework for NC's Elder Protection System
Tools	• Such as a benchcard, system roadmap
Online platform	• 3 components • Launch by Spring 2020
MDT workshop	• First offered in September 2019
Webinar	• Scheduled for February 2020

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Questions?

