

Prosecuting Elder Abuse Cases

Proposed Performance Measures



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The proposed performance measures outlined in this document are complementary to the strategies outlined in *Prosecuting Elder Abuse Cases: Basic Tools and Strategies* and *Prosecution Guide to Effective Collaboration on Elder Abuse*. This document offers an overview of performance measures, introduces eight measures, offers strategies for “flagging” elder abuse cases, and provides logistics and tools required to collect, analyze, and interpret each measure. The measures may be used by prosecutors’ offices and individual prosecutors as a way to increase effectiveness in handling elder abuse cases.



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PROSECUTING ELDER ABUSE CASES: PROPOSED PERFORMANCE MEASURES

Performance measurement is used in many fields, among them government, education, health care, law enforcement and the courts. For the most part, the prosecution profession has yet to engage in the structured development of performance measures. Some of the perceived barriers to performance measurement include the complexity of criminal cases, variances in state laws and local legal culture, and case management systems that are inadequate for data collection and analysis.

*The goal of this document is to further the discussion of performance measurement for prosecutors' offices and to suggest how measures can be used to improve the prosecution of elder abuse cases. The proposed performance measures are based on guidance offered in the companion publication, *Prosecuting Elder Abuse Cases: Basic Tools and Strategies*.*

This document is presented in four distinct parts. Part 1 is an overview of performance measurement and how it can be used to improve outcomes in elder abuse cases. Part II is an introduction to eight proposed performance measures. Part III provides instructions on how elder abuse cases can be "flagged." Part IV details how data can be collected, analyzed and interpreted.

PART 1: USING PERFORMANCE MEASUREMENT TO IMPROVE ELDER ABUSE PROSECUTIONS

Although performance measurement has become mainstream in many professions, its development and implementation have not been without controversy. Professionals in many disciplines have resisted the concept of statistically quantifying an individual's or organization's performance. However, performance

measurement has never been intended to serve as a numerical gauge of individual performance. Rather, the focus of performance measurement involves (a) planning and meeting established operating goals/standards for intended outcomes; (b) detecting deviations from planned levels of performance; and (c) restoring performance



JUSTICE SYSTEM EFFORTS TO DEVELOP MEASURES

to the planned levels or achieving new levels of performance.¹ Performance measures are organizational tools that can be used to promote promising practices and improve outcomes.

Performance measurement is considered an essential activity in many government and non-profit agencies because it provides information needed to manage their work and resources as well as to assess whether they are accomplishing their intended results. The close monitoring and analyses of various measures of performance such as victim satisfaction with the prosecution process, timeliness of case resolution, and compliance with restitution orders can lead to performance improvements and better outcomes for victims. Performance measurement is essential because it “has a common sense logic that is irrefutable, namely that agencies have a greater probability of achieving their goals and objectives if they use performance measures to monitor their progress along these lines and then take follow-up actions as necessary to ensure success.”²

In the justice system, the state courts have led the development and adoption of national standards and measures. In 1995, the National Center for State Courts (NCSC) released the original *Trial Court Performance Standards*. The standards were crafted by a commission of leading trial judges, court managers and scholars and piloted in trial courts across the nation. Standards of performance for trial courts were developed in five performance areas: (1) Access to Justice; (2) Expedition and Timeliness; (3) Equality, Fairness and Integrity; (4) Independence and Accountability; and (5) Public Trust and Confidence. In 2005, 68 measures associated with the Trial Court Performance Standards were refined to 10 core measures, known as CourTools.³ Subsequently, NCSC has helped develop measures specific to child abuse and neglect cases, problem-solving courts (drug courts and mental health courts), and appellate courts.

¹ NICOLE L. WATERS & FRED L. CHEESMAN II, NAT'L CTR. FOR ST. CTS., *MENTAL HEALTH COURT PERFORMANCE MEASURES: IMPLEMENTATION & USER'S GUIDE* (2010).

² THEODORE H. POISTER, *MEASURING PERFORMANCE IN PUBLIC AND NONPROFIT ORGANIZATIONS* XVI (2003).

³ The *CourTools* offer courts a balanced perspective on how the court is conducting its business. The *CourTools* integrate lessons from successful performance measurement systems in both the public and private sectors and the Trial Court Performance Standards. See www.courttools.org



The experience of the state courts can be contrasted to the last major effort to develop measures and standards for prosecutors. In 2004, the American Prosecutors Research Institute (APRI) developed fundamental goals, objectives and performance measures for prosecutors' offices.⁴ APRI emphasized the role of prosecutors to ensure "that justice is done in a fair, effective, and efficient manner." Three goals for prosecutors were identified:

1. To promote the fair, impartial, and expeditious pursuit of justice
2. To ensure safer communities
3. To promote integrity in the prosecution profession and effective coordination in the criminal justice system

Each goal was linked with several objectives, which were then measured a number of ways. In total, the project identified 35 separate performance measures. APRI then tested prosecution measures pertaining to the first two goals in two prosecutors' offices.⁵ One of the findings from this study was the lack of data collected and maintained

in prosecutors' offices. The authors noted that "prosecutors have limited access to data for assessing performance." Indeed, a vast amount of information that should be collected to gauge performance is not included in most prosecution case management systems. APRI ultimately suggested a set of core performance measures,⁶ but concluded that "setting such standards would be inappropriate at this time."⁷

As the APRI project recognized, each prosecutors' office operates within a context that includes varying laws, legal cultures, crime patterns, politics and resources. However, the same is true of courts, law enforcement agencies, community corrections and government agencies—many of which have agreed to a common set of measures that underscore the main values of each organization. Although this level of consensus for general prosecution measures may be currently unachievable, this document advances the concept that measures that reflect promising practices associated with prosecuting a particular type of crime—elder abuse—can be beneficial and feasible.

⁴ STEVE DILLINGHAM, M. ELAINE NUGENT & DEBRA WHITCOMB, AM. PROS. RES. INST., PROSECUTION IN THE 21ST CENTURY: GOALS, OBJECTIVES, AND PERFORMANCE MEASURES (2004).

⁵ M. ELAINE NUGENT-BORAKOVE, LISA M. BUDZILOWICZ & GERARD RAINVILLE, AM. PROS. RES. INST., PERFORMANCE MEASURES FOR PROSECUTORS: FINDINGS FROM THE APPLICATION OF PERFORMANCE MEASURES IN TWO PROSECUTORS' OFFICES (2007).

⁶ Measures included sentence length; case processing time; gun, gang, and robbery crime rates; juvenile crime rates; ratio of repeat offenders to total offenders; fear of crime; climate of safety; and community attitudes about prosecution effectiveness.

⁷ NUGENT-BORAKOVE ET AL., *supra* note 5, at 15.



DEVELOPING MEASURES FOR ELDER ABUSE CASES

In the last decade, recognition of elder abuse as criminal conduct has risen significantly. In every state, acts constituting elder abuse, such as murder, sexual assault, battery, theft and fraud, violate criminal law. Some state laws enhance penalties based on age or vulnerability status of the victim. However, cases often do not enter and leave the justice system labeled as “elder abuse.” Unless there is a dedicated prosecutor assigned to elder abuse cases or these cases are “flagged” for additional follow-up, elder abuse is likely to be treated as any other criminal case.

Elder abuse is generally defined to include abuse (physical or sexual or emotional), financial exploitation, neglect, abandonment, and self-neglect. Every state has an adult protective services law with definitions and may have other relevant civil or criminal laws. Definitions vary from law to law and state to state.

The accompanying publication, *Prosecuting Elder Abuse Cases: Basic Tools and Strategies*, describes the underlying issues in elder abuse cases that can make them difficult to prosecute and recommends strategies to build effective cases. The proposed performance measures provide additional tools that prosecutors can use to implement these strategies. Although these measures have not been developed through a structured consensus building process, they are derived from an authoritative document that provides the rationale for each measure, and they offer a starting place for prosecutors to improve their effectiveness in handling elder abuse cases. As prosecutors hone their skills in prosecuting elder abuse crimes, these measures may evolve to better reflect prosecution goals. Ideally, prosecution performance measures can be adopted hand-in-hand with court performance measures (see *Elder Abuse Cases: Proposed Performance Measures for Courts*) to produce a consistent justice system response.

Because performance measurement has not been a priority for busy prosecutors trying to be as effective as possible with diminishing resources, prosecutors may have concerns about the utility and benefits of implementing performance measures. Typical apprehensions might include the following:



“OUR OFFICE IS UNIQUE. THERE’S NO WAY TO MEASURE WHAT WE DO.”

Every state differs in laws. Every jurisdiction differs in culture and resources. While it is true that every prosecutor’s office has unique characteristics, there are more similarities than differences. Moreover, the elder abuse performance measures are based on expert guidance at the national level and represent effective practices regardless of the uniqueness of a prosecutor’s office.

“OUR OFFICE DOESN’T COLLECT THE DATA NEEDED FOR PERFORMANCE MEASURES.”

Most case management systems are relatively inadequate in the types of data collected. Important dates may be available, but a number of the data points required in the measures will need to be collected through other means. Part 4 of this document offers sample forms, questionnaires, and a recommended case file summary sheet that can be used to collect data on a case-by-case basis.

“THE PROSECUTOR’S OFFICE DOES NOT ENCOURAGE THE COLLECTION AND REPORTING OF DATA.”

The process of collecting the data for the performance measures will, in itself, act as guidance that will improve an individual prosecutor’s effectiveness in handling these types of cases. For example, the use of the sample evidence collection checklist will encourage prosecutors to be more thorough and organized in their approach to elder abuse cases. Prosecutors who handle an elder abuse caseload also can use the data to gauge their performance over time and make improvements as needed.

“PERFORMANCE MEASURES COULD BE USED BY OTHERS TO NEGATIVELY PORTRAY OUR OFFICE.”

It is a legitimate worry that performance measures will be used by the media or a political opponent to negatively portray the prosecutor’s office. However, good managers can use the measures to their advantage. For instance, the performance outcome might be quite reasonable given staffing levels, or it could be used to make a stronger case for elder abuse training or funding. The measures also could be used to engage in proactive behavior that aims at improving outcomes—action that can be used to highlight leadership in the prosecutor’s office.

“OUR OFFICE DOES NOT ‘FLAG’ ELDER ABUSE CASES.”

The starting point for all measurement is the identification of elder abuse cases. There are several approaches that can be used to develop a “flagging” system for your office—each approach is discussed in Part 3. Elder abuse cases should be documented over time to identify future needs, especially as the nation experiences a significant increase in the elderly population over the next several decades.

“SOME OF THESE MEASURES ARE NOT RELEVANT TO MY OFFICE.”

Almost all measures are relevant nationwide. However, there is at least one exception: Measure 8 aims at measuring how well the older community is protected from further abuse. The measure is based on the prosecutor’s ability to recommend sentences that restrict the offender’s ability to work or volunteer with elderly clients. This option may not be available in some jurisdictions, but other measures are likely to be applicable. There is no requirement that all eight measures be incorporated in every office.

“WHY SHOULD PROSECUTORS BE MEASURED ON OUTCOMES THAT WE HAVE LITTLE CONTROL OVER?”

Prosecutors work in a larger criminal justice system where case outcomes are influenced by external factors, such as the quality of the law enforcement investigation and court schedules. While this fact can be used as a way to avoid measurement altogether, there are those who believe it is critical to begin to collect baseline data and establish trends before specific causes of particular outcomes can be discussed. For example, without documentation of timeliness, it will be impossible to connect an increase or decrease in case processing times with a change in prosecution staffing. Furthermore, prosecutors have considerable control in the elder abuse performance measures proposed here.

Ultimately, these and other concerns about the utility of performance measurement will yield to the experience of prosecutors’ offices that have experimented with and benefited from the use of measures. The use of elder abuse performance measures provides a starting point that may lead to general acceptance and use of prosecution measures across all criminal cases. This is an opportunity for prosecutors to begin the process toward the collection and documentation of data that can objectively gauge performance, guide improvements and produce better outcomes for victims of crime and the communities in which they live.



PART 2: PROPOSED PERFORMANCE MEASURES

The proposed measures that follow apply to crimes that involve forms of elder abuse or neglect. Charges might not specifically include elder abuse, but they will relate to acts committed against an elderly or vulnerable victim (as defined by state law). Each of the measures is based on strategies recommended in the companion prosecution guide—*Prosecuting Elder Abuse Cases: Basic Tools and Strategies*. The starting point for measure development is the role of prosecutors, as outlined in the prosecution guide, which is to:

- Enhance victim safety by addressing any special needs of the older victim
- Restore what has been taken from the victim
- Gather evidence and preserve testimony using methods that will improve the likelihood of admissibility at trial should the older victim be unable or unwilling to testify
- Hold the offender accountable and protect the community
- Rehabilitate the offender in appropriate circumstances

The following page introduces eight proposed performance measures. Together the measures address case preparation, case processing, victim outcomes, and offender sanctions. The remainder of part 2 defines each measure, articulates its goal, and presents the rationale for taking it. The tools provided to collect, analyze and interpret the data can be found in part 4. Downloadable forms can be found online www.eldersandcourts.org



TOPIC AREAS, GUIDANCE AND PROPOSED ELDER ABUSE MEASURES

PERFORMANCE MEASURE 1 USE OF EVIDENCE COLLECTION CHECKLIST

PERFORMANCE MEASURE 2 USE OF EXPERT CONSULTANTS

PERFORMANCE MEASURE 3 TIME TO CASE RESOLUTION

PERFORMANCE MEASURE 4 PROSECUTOR-INITIATED CONTINUANCES

PERFORMANCE MEASURE 5 VICTIM SATISFACTION RATINGS

PERFORMANCE MEASURE 6 EARLY PAYMENT OF RESTITUTION

PERFORMANCE MEASURE 7 SUPERVISED SENTENCES

PERFORMANCE MEASURE 8 CONTACT RESTRICTIONS

TOPIC AREA: CASE PREPARATION

GUIDANCE: The strongest elder abuse cases are built like homicide prosecutions in that they are not dependent on the victim's testimony. Focus on developing corroborative evidence, such as videotaping a walk-through of the crime scene.

GUIDANCE: Many elder abuse cases will benefit from expert consultation, which can be extremely helpful in determining whether and what charges are appropriate, anticipating defenses, and preparing for cross-examination of defense experts.

TOPIC AREA: CASE PROCESSING

GUIDANCE: In light of the impact of elder abuse on its victims, it is critical to expeditiously review and charge elder abuse matters. If your state allows expedited procedures in elder abuse cases you should pursue using them.

GUIDANCE: At every stage of prosecution, efforts should be made to resist delay and/or continuances.

TOPIC AREA: VICTIM OUTCOMES

GUIDANCE: The issues that distinguish elder abuse cases from other crimes also can impact how you communicate with older victims and assist them in participating as fully as possible in the prosecution of their case.

GUIDANCE: Recognize the critical importance of restitution to victims. Consider creative approaches to negotiate early payment of restitution and request that the court monitor compliance.

TOPIC AREA: OFFENDER SANCTIONS

GUIDANCE: Sentencing should serve the dual purposes of protecting individuals from further abuse and providing justice in a particular case. If probation is considered and appropriate, request that the court frequently monitor compliance with terms and conditions through review hearings. Even if probation is not possible, consider asking the court to set review hearings to monitor defendant's compliance with restitution and other relevant conditions of the sentence.

GUIDANCE: Make efforts to secure a conviction on a charge that will enable future identification of the offender as an elder abuser. Seek a condition of sentence that prohibits offenders from working or volunteering with organizations that assist older or vulnerable persons.





CASE PREPARATION MEASURES

The case preparation measures offered are basic measures that prompt prosecutors to use checklists and forms that should improve the collection of evidence and the use of expert consultants in elder abuse cases. Together, these strategies should improve the quality of cases and favorable outcomes.

PERFORMANCE MEASURE 1 USE OF EVIDENCE COLLECTION CHECKLIST

GUIDANCE

The strongest elder abuse cases are built like homicide prosecutions in that they are not dependent on the victim's testimony. Focus on developing corroborative evidence, such as videotaping a walk-through of the crime scene.

ACCOMPANYING FORM

- ■ Sample Evidence
- ■ Collection Checklist

WHAT IS THE MEASURE?

Percentage of elder abuse cases in which an evidence collection checklist was completed.

WHAT IS THE GOAL?

Case Preparation. Elder abuse cases can be challenging to prosecute. The victim may be unavailable or unwilling to participate in the prosecution, or may make a poor witness. Evidence collection becomes especially critical to document the events and to counter common defenses. The goal is to prepare cases and ensure the greatest likelihood that they can be successfully prosecuted, with or without the victim's participation.

WHY USE AN EVIDENCE COLLECTION CHECKLIST?

The collection and documentation of physical evidence is a law enforcement function. However, to effectively prosecute an elder abuse case, prosecutors must consider the case as a whole, including likely testimony, background evidence, and information gained through interviews. The use of a checklist can provide consistency in case preparation and diminish the need for continuances to gather evidence that may have been previously overlooked. A sample evidence collection checklist is provided. Offices may choose to modify the checklist based on local procedures and the level of crime. For example, a simplified version may be created for misdemeanors.



CASE PREPARATION MEASURES

The case preparation measures offered are basic measures that prompt prosecutors to use checklists and forms that should improve the collection of evidence and the use of expert consultants in elder abuse cases. Together, these strategies should improve the quality of cases and favorable outcomes.

PERFORMANCE MEASURE 2 USE OF EXPERT CONSULTANTS

GUIDANCE

Many elder abuse cases will benefit from expert consultation, which can be extremely helpful in determining whether and what charges are appropriate, anticipating defenses, and preparing for cross-examination of defense experts.

ACCOMPANYING FORM

- ■ Expert Consultant
- ■ Assessment Form

WHAT IS THE MEASURE?

Percentage of felony elder abuse cases in which an expert was consulted.

WHAT IS THE GOAL?

Collaboration for Effective Prosecution. Felony elder abuse cases frequently require a careful analysis of the evidence in the case in conjunction with addressing the dynamics between the victim and suspect, and issues involving capacity and competency. Different types of abuse, such as sexual abuse, neglect, financial exploitation, and abuse that occurs in facilities, often require consultation and collaboration with additional experts. This measure aims to increase prosecutor awareness of the need for case-specific collaboration while documenting the need for consultation by purpose, particularly in felony cases. The assessment form used in this measure can also be used to compile a list of local experts who will be able to consult on and testify in elder abuse matters.

WHY USE A CONSULTANT/ EXPERT WITNESS FORM?

A standard form that relies on checklists prompts prosecutors to consider the type of expert consultants that may best assist the prosecution in evaluating and handling a felony case. The form promotes uniformity of responses in prosecutors' offices in which elder abuse cases may be handled by more than one prosecutor, investigator or others. The sample form (see Part 4) can be modified to better incorporate local resources.





CASE PROCESSING MEASURES

Two measures are used to assess case processing. The first measure requires tracking the dates in which cases were filed and resolved. The second measure focuses on the number of prosecutor-initiated continuances. The desirable outcome is expeditious processing of elder abuse cases.

PERFORMANCE MEASURE 3 TIME TO CASE RESOLUTION

GUIDANCE

In light of the impact of elder abuse on its victims, it is critical to expeditiously review and charge elder abuse matters. If your state allows expedited procedures in elder abuse cases you should pursue using them.

WHAT IS THE MEASURE?

Median days from filing of charges to case resolution.

WHAT IS THE GOAL?

Timeliness. Elder abuse, neglect and exploitation cases often involve older victims who may be in frail health. Expedition is particularly critical to provide justice and resolution while the victim is alive. Additionally, the case should proceed as quickly as possible to ensure the likelihood that older victims will have the ability to participate in interviews and court proceedings. This goal should be combined with the use of memorialized testimony that will enable prosecution to go forward without the victim's participation.

WHY MEASURE TIME TO CASE RESOLUTION?

Time to Case Resolution is defined as the time between the filing date and the date in which a resolution is determined (case closed date for non-convictions; conviction date for convictions). It is a measure that is affected by a number of factors, some of which are beyond the control of the prosecutor. For instance, the availability of a timely trial date will be dependent on the efficiency and caseload of the court. Similarly, defense attorneys may request continuances to allow time for capacity assessments of the defendant. Nevertheless, prosecutors play a critical role in time to case resolution and can improve timeliness by being prepared to counter common defenses and minimizing requests for continuances.



CASE PROCESSING MEASURES

Two measures are used to assess case processing. The first measure requires tracking the dates in which cases were filed and resolved. The second measure focuses on the number of prosecutor-initiated continuances. The desirable outcome is expeditious processing of elder abuse cases.

PERFORMANCE MEASURE 4 PROSECUTOR-INITIATED CONTINUANCES

GUIDANCE

At every stage of prosecution, efforts should be made to resist delay and/or continuances.

WHAT IS THE MEASURE?

Median number of prosecutor-initiated continuance requests per filed case.

WHAT IS THE GOAL?

Expeditious Case Processing. Continuances are often necessary to allow prosecutors and defense bar additional time for gathering/reviewing evidence or responding to matters that could not have been reasonably anticipated, to accommodate multiple schedules, and to address the capacity or health of the parties to the case. While continuances may be routine in some jurisdictions, they nevertheless delay justice, which ultimately is detrimental to the prosecutor's case as older victims and witnesses may be less able or willing to testify.

WHY COUNT CONTINUANCE REQUESTS?

The number of continuances requested is partly a reflection of the complexity of the case, the participation of the victim in criminal proceedings, and an individual judge's tendencies to grant continuances. Ideally, prosecutors will minimize the number of continuance requests to further expedite the case. This measure examines only those continuances that were requested by the prosecutor, although we recommend documenting continuance requests by both prosecutor and defense bar. Documentation of requests and reasons for such requests can be used to argue that the case should proceed in a more timely fashion, and can be easily recorded through the use of a case file summary sheet (see Part 4).





VICTIM OUTCOME MEASURES





Victim outcomes are measured through victim satisfaction ratings and by early payment of restitution. Victim satisfaction with their relationship with the prosecutor’s office (including prosecutors, Victim/Witness staff and support staff) will influence a victim’s willingness to testify and provide supporting documentation. Restitution affects victim satisfaction, and in the case of older victims, it is particularly critical that restitution be paid promptly.

PERFORMANCE MEASURE 5 VICTIM SATISFACTION RATINGS

GUIDANCE

The issues that distinguish elder abuse cases from other crimes also can impact how you communicate with older victims and assist them in participating as fully as possible in the prosecution of their case.

ACCOMPANYING FORMS

-   Prosecutor Checklist
-   Victim Survey

WHAT IS THE MEASURE?

Percentage of elder abuse victims satisfied with their interaction with the prosecutor’s office.

WHAT IS THE GOAL?

Victim Satisfaction. The way you and your staff interact with older victims will impact their participation in the prosecution and their willingness to contact criminal justice agencies in the future. While victims may be dissatisfied with certain case outcomes, they should demonstrate high rates of satisfaction with the level of courtesy, respect, responsiveness and flexibility demonstrated by the prosecutor’s office.

WHY DOES IT MATTER IF VICTIMS ARE SATISFIED WITH THEIR EXPERIENCE?

Victims of elder abuse often fear significant negative consequences as a result of cooperating with a criminal investigation and prosecution. The prosecution of their abuser may cause them to fear that they will lose their independence, their home and/or a close family member or trusted friend. The chances of successfully prosecuting an elder abuse case are significantly increased when prosecutors and their staff are sensitive to these concerns and are skilled at working with older victims. Specialized elder abuse prosecutors and staff should receive significant training on how to establish rapport with older victims and on the types of accommodations to consider. This measure provides a checklist that prosecutors can use as a guide to their interaction with older victims, as well as a brief questionnaire that will gauge victim satisfaction. Results reflect victim satisfaction with prosecution staff on the whole, rather than a specific prosecutor.



VICTIM OUTCOME MEASURES

Victim outcomes are measured through victim satisfaction ratings and by early payment of restitution. Victim satisfaction with their relationship with the prosecutor's office (including prosecutors, Victim/Witness staff and support staff) will influence a victim's willingness to testify and provide supporting documentation. Restitution affects victim satisfaction, and in the case of older victims, it is particularly critical that restitution be paid promptly.

PERFORMANCE MEASURE 6 EARLY PAYMENT OF RESTITUTION

GUIDANCE

Recognize the critical importance of restitution to victims. Consider creative approaches to negotiate early payment of restitution and request that the court monitor compliance.

WHAT IS THE MEASURE?

Percentage of convictions in which restitution was paid at or by the time of sentencing.

WHAT IS THE GOAL?

Victim Compensation. Restitution is one of the most significant factors affecting victim satisfaction with the criminal justice process. Prosecutors play a key role in determining the amount of monetary value or property to be returned to the victim and can take steps to encourage compliance with court ordered restitution. Specifically, prosecutors may negotiate early payment of restitution in appropriate cases, request that the court set review hearings to monitor compliance, and use suspended sentences contingent upon payment of restitution.

WHY MEASURE EARLY PAYMENT OF RESTITUTION?

Prosecutors and courts cannot be held responsible for an offender's lack of compliance with restitution orders. But concerted action can increase the likelihood that at least partial restitution to the victim will be made. This measure focuses on payment of restitution (partial or whole) at or prior to sentencing. It is important to note that early payment of restitution, which favors wealthier defendants, should not be used as a bargaining chip over sentencing recommendations. Rather, the primary goal should be timely compensation for older victims of abuse.





OFFENDER SANCTION MEASURES

Upon conviction, offenders should be limited in their ability to perpetrate additional crimes against older victims. Prosecutors can play a critical role in protecting victims by recommending sentences that require an active level of supervision. In most states, the prosecutor also may have the ability to protect the larger community by recommending sentences that restrict offenders from securing employment or volunteer opportunities with organizations that primarily serve older clients.

PERFORMANCE MEASURE 7 SUPERVISED SENTENCES

GUIDANCE

Sentencing should serve the dual purposes of protecting individuals from further abuse and providing justice in a particular case. If probation is considered and appropriate, request that the court frequently monitor compliance with the terms and conditions through review hearings. Even if probation is not possible, consider asking the court to set review hearings to monitor the defendant's compliance with restitution and other relevant conditions of the sentence.

WHAT IS THE MEASURE?

Percentage of elder abuse convictions resulting in supervised sentences.

WHAT IS THE GOAL?

Victim Safety. Victim safety should be prioritized. In elder abuse cases, the victim may be a member of the family and want ongoing contact with the abuser. In these cases, contact should be supervised. Supervised probation and/or review hearings should be used to monitor compliance with the terms and conditions of the sentencing agreement to limit the abuser's opportunities to further harm the victim or other persons.

WHY ARE SUPERVISED SENTENCES IMPORTANT?

The measure includes three types of supervised sentences—those that include some level of jail or incarceration, sentences that include active supervision by probation/community corrections professionals, and sentences that require periodic court review hearings. The goal of supervision is to limit the individual's contact with the victim, where appropriate, and to quickly enforce violations of the terms and conditions of the sentence.



OFFENDER SANCTION MEASURES

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PERFORMANCE MEASURE 8 CONTACT RESTRICTIONS

GUIDANCE

Make efforts to secure a conviction on a charge that will enable future identification of the offender as an elder abuser. Seek a condition of sentence that prohibits offenders from working or volunteering with organizations that assist older or vulnerable persons.

WHAT IS THE MEASURE?

Percentage of elder abuse convictions resulting in restrictions that limit contact with older persons.

WHAT IS THE GOAL?

Community Protection. An individual convicted of elder abuse should be limited in his or her contacts with organizations that predominantly serve older or incapacitated adults. While not all states provide an option that easily identifies an individual convicted of elder abuse, neglect or exploitation, the prosecutor can recommend sentencing conditions that prevent offenders from working or volunteering with such groups. The goal of such a sentence is to protect the community from further abuse.

WHY IS IT IMPORTANT TO RECOMMEND CONTACT RESTRICTIONS?

An often overlooked aspect of sentencing are conditions that the prosecutor can request, and the court can impose, that can be tailored to restrict an individual's access to a specific activity or group, such as the elderly. Conditions are used in a variety of criminal sentences to restrict a defendant's employment, associations and other activities. For example, in financial fraud cases, the sentence may include a condition that prohibits the defendant from handling other people's money. In elder abuse cases, similar restrictions can be added to the sentence to minimize the defendant's ability to further victimize older persons.



PART 3: THE STARTING POINT: “FLAGGING” CASES



GUIDANCE 1: WORK WITH LAW ENFORCEMENT

Cases that involve some level of elder abuse may not be recognized as such by local law enforcement. Furthermore, given the variances in state laws and law enforcement documentation, prosecutors may not be aware of elder abuse as an underlying factor in a criminal case. In fact, many states do not have a separate crime of “elder abuse,” and those that do are sometimes reluctant to charge individuals under this particular criminal code. Rather, these cases typically enter the justice system under a multitude of charges, with no indication that they may include an elderly or vulnerable victim. These cases can be difficult to identify—especially if law enforcement and prosecution do not have specialized responses that “flag” the cases. For this reason, some external criteria often must be used to “flag” cases, and the process can be somewhat subjective. The following guidance can be adapted to your state laws and prosecution procedures. They do not require a specialized prosecutor or unit, though such an approach may be conducive to addressing these crimes in a consistent and service-driven manner.

Many metropolitan law enforcement offices now have a designated elder abuse detective or unit that is well-trained in handling cases involving elderly victims. In these jurisdictions, the prosecutor’s office should be working closely with the elder abuse law enforcement specialists to develop a system that will allow both agencies to “flag” cases for follow-up. In smaller jurisdictions and those without a specialized unit, cases involving elder abuse or neglect are not likely to be handled differently, in which case the prosecutor’s office will have a more difficult time identifying these cases.

Prosecutors should work with law enforcement, and preferably, the larger justice system to develop a “flagging” system that works for them. But before this can be done, three questions need to be addressed.

WHY SHOULD WE “FLAG” ELDER ABUSE CASES?

The act of “flagging” a case must serve a purpose. Why “flag” a case if it is handled the same as all other cases? Depending on leadership, opportunities, and resources, there may be several reasons why elder abuse cases should be “flagged.”

- Elder abuse cases may be “flagged” for the primary purpose of documentation. For the most part, these cases go unnoticed. There is little to no data on whether these types of cases are increasing or decreasing and where they might be entering the justice system. The documentation of elder abuse cases allows the prosecutor’s office to make estimates or forecasts of the number of cases that they may need to address as the population ages. Documentation of a growing caseload may also be used to suggest the need for additional training for prosecutors, Victim/Witness staff, and justice system personnel
- “Flagging” may be used to ensure that elder abuse cases receive additional support and advocacy. An elder abuse case is much more likely to require special accommodations to ensure that the victim has accessibility to the justice system and understands the process. The roles of Victim/Witness and senior advocates are oftentimes critical for these types of cases
- “Flagging” elder abuse cases may build support for an elder abuse prosecution team and possibly a dedicated court docket. Depending on the numbers and complexity of elder abuse cases, the prosecutor’s office may benefit from developing a specialized unit that includes enhanced victim services and vertical prosecution

HOW DO WE “FLAG” THE CASES?

Once the decision to “flag” cases has been approved, the logistics must be determined. The criteria used to identify cases for inclusion in the elder abuse category deserves considerable thought and is the subject of the next section. Here we focus on the physical logistics by which the prosecutor can easily identify an elder abuse or neglect case. Minimally, basic steps



can be used at the intake level to ensure that prosecutors are knowledgeable about cases that may involve elder abuse or neglect. For instance, the intake unit or individual prosecutors may use a designated color file folder for elder abuse cases, or may mark the folder in some other fashion, with this information relayed to Victim/Witness staff. Ideally, this information will be incorporated into a case management system for prosecutors (and preferably, other justice agency systems) that will allow prosecution staff and justice partners to easily identify elder abuse cases as they are processed through the system.

- Be creative in charging cases
- Anticipate and be prepared to counter common defenses
- Address issues of competency and capacity
- Build an effective case
- Craft appropriate sentences
- Develop relationships with community partners



GUIDANCE 2: DEFINE CRITERIA

WHAT DO WE DO NOW?

Once cases are identified, “flagged,” and brought to the prosecutor’s attention, what happens? Prosecutors, working with Victim/Witness and interested stakeholders, should explore options and resources to develop protocols that will ensure elder abuse cases receive the full attention of the justice system. The accompanying prosecution guide (*Prosecuting Elder Abuse Cases: Basic Tools and Strategies*) provides an excellent starting point for this discussion. Key prosecution strategies outlined in the prosecution guide include the following:

Once the prosecutor’s office has determined that a “flagging” system will be helpful, the key decision is which types of cases to include as elder abuse or neglect. Much of the determination will be based on state laws that define the age and/or vulnerability status necessary to be considered “elderly” or a “dependent adult.” For example, in some states an “elder” is an individual over the age of 65, but in other states, the threshold is 60 years of age. In other states, elder abuse statutes address vulnerability or dependency status of adults, rather than age-only criteria. An additional consideration is the treatment of abuse and neglect as they occur in nursing homes and other

long-term care facilities. State laws will vary on how these types of cases are processed through the justice system.

Even though all states have laws criminalizing elder abuse, charges specific to elder abuse may appear infrequently, as there may be additional criteria that must be met. For instance, in California, for the specific elder abuse crime to be charged, the defendant must know or reasonably should have known that the victim is an elderly person or be that person's caregiver. Generally, there are relatively few cases heard strictly as "elder abuse," and for this reason the prosecutor's office may want to use a broader set of criteria to identify the appropriate cases. A review of justice agencies that have a specialized response to elder abuse and neglect suggests three main strategies that can be used to define the criteria for inclusion of cases. First, a number of states have sentencing enhancements if the victim is elderly or vulnerable. Second, some combination of the victim's age and charges can be used to identify possible elder abuse cases. Third, cases can be screened based on criteria that will match the needs of the older person with available resources. This last approach often requires collaboration and offers the opportunity for innovations.

RELY ON CRIMINAL STATUTES

A handful of states identify elder abuse as a separate crime. Several additional states have statutes that include sentencing enhancements in criminal cases that include an elderly victim. In these cases, the charge codes can identify such cases, and the prosecutor's office, if willing, can establish special procedures for this subset of cases.

EXAMPLE:

CALIFORNIA'S PENAL CODE 368

California Penal Code 368 offers "special consideration and protection" for elders and dependent adults. It provides enhanced sentences for crimes against the elderly. Prosecutors have discretion to determine the specific crimes that should be charged. It applies to persons 65 and older, or persons 18 to 64 who have significant mental or physical disabilities that restrict their ability to meet their basic needs or protect their legal rights, and includes the crimes of physical abuse, caregiver neglect, intentional unjustified infliction of physical pain or mental suffering, financial exploitation and false imprisonment. California law also provides for sentencing enhancements and limitations or prohibitions against probation when crimes are committed against elders (or dependent adults), where the victim suffers great bodily injury, a person takes advantage of a position of trust, a weapon is used, etc.



ADVANTAGES: The use of specific charge codes to identify “elder abuse” cases is a rather straightforward method. Specific cases can be retrieved from case management systems. Accuracy is reliable in jurisdictions in which prosecutors consistently use elder abuse-related charges when appropriate.

DISADVANTAGES: Elder abuse-related charges are discretionary and may not be applied consistently across jurisdictions. In some states, the crime of elder abuse may be limited to only those cases in which the victim was targeted because of his/her age or mental capacity—a motive that is often difficult to prove. States with vulnerable victim aggravator enhancements have different definitions of “vulnerable” adults and may not apply the enhancements to all elder abuse crimes (for example, misdemeanors). The statutes may include only a subset of particular types of criminal charges, thus missing some other forms of elder abuse.

**EXAMPLE:
FLORIDA CRIMINAL STATUTES**

In Florida, criminal cases that include a victim over the age of 65 can be identified by the charge. Assault, aggravated assault, battery, aggravated battery, theft, abuse of elderly or disabled adult, lewd or lascivious battery, and exploitation of elderly person are some of the crimes for which the enhancements are noted in the actual charges under Florida statute. The courts can readily identify “elder abuse” or “elder neglect” cases by reading the charge codes. While these cases might not be “flagged” in the case management system, they can be retrieved and documented by searching this subset of charges.





USE VICTIM’S AGE AND CHARGES AS SELECTION CRITERIA

A combination of victim’s age and the types of charges can be used as selection criteria, regardless of the presence or absence of victim aggravator enhancements. This approach works best when the prosecutor’s office identifies these cases in advance. This criterion is currently preferred in several jurisdictions that are served by a specialized elder abuse prosecutor. For example, in King County, Washington, the elder abuse prosecutor handles a subset of cases in which the victim is over 60 years of age. The age and/or vulnerability criterion is typically set by state law (“elders” are defined as age 60 or above in Washington).

ADVANTAGES: Criteria allows for a definitive set of cases to be identified. Cases can be easily identified through the prosecuting attorney.

DISADVANTAGES: Method is reliant on the ability and willingness of prosecutor’s office to identify such cases. Some cases that include a variation of elder abuse may not meet the criteria. Unless cases are “flagged” as elder abuse or neglect in the case management system, it may be difficult to retrieve these types of cases for the purpose of measuring performance.

EXAMPLE: CASES INCLUDED IN THE ELDER ABUSE PROJECT, PROSECUTOR’S OFFICE, KING COUNTY, WASHINGTON

	Victim 60 or Over	Additional Criteria
Economic Crimes Unit		Perpetrator has trust relationship to victim (caregiver, family member, etc.) OR victim is targeted because of dementia or advanced age (regardless of trust relationship)
Violent Crimes Unit		Perpetrator has trust relationship to victim (caregiver, family member, etc.) OR victim is targeted because of dementia or advanced age (regardless of trust relationship)
Special Assault Unit		Resident of long-term care facility
Domestic Violence Unit		Perpetrator has trust relationship to victim (caregiver, family member, etc.) EXCEPT for intimate partner relationship



SCREEN CASES TO MATCH NEEDS WITH RESOURCES

A third strategy for selecting cases on which to base performance measures relies on collaboration between prosecutors, public defenders, courts, legal aid, and local service providers. The rise of problem-solving courts has made the use of case screening more common nationwide. For example, case screening is often used for the successful operation of unified family courts, drug courts and mental health courts.

ADVANTAGES: The prosecutor has the ability to identify cases that can best be served by additional resources. Case screening offers flexibility and can include a variety of criminal cases. A specially trained designated prosecutor can provide consistency and best practices.

DISADVANTAGES: Case screening may require additional resources, such as a case manager and training. Collaboration may be difficult to achieve in some communities. Cases screened into the program may be difficult to identify in the case management system. Depending on the criteria, cases screened into the program may be more inclusive than the legal definitions of abuse and neglect.

An innovative approach to criminal, civil and probate matters related to older persons can be found in the Superior Court of California, County of Contra Costa, which created an Elder Court. The Elder Court has a weekly docket for senior citizens that includes every case type that involves elder abuse, restraining orders, landlord tenant, small claims, and probate matters. The District Attorney's Office uses vertical prosecution with a designated prosecutor who brings all criminal elder abuse cases (Code 368) to the attention of the court. Prosecutors have the opportunity to present cases involving older persons that will benefit from the additional services provided through the Elder Court.

For an overview and video of the Contra Costa Elder Court, visit www.courts.ca.gov/14124.htm



GUIDANCE 3: ESTABLISH A DATA COLLECTION SYSTEM

Case management systems are often inadequate in terms of the types of data that they collect. For case types that are amorphous, such as elder abuse, a new field that “flags” the appropriate cases may need to be added to data systems. Most justice agencies, including prosecutors’ offices, are familiar with the “flagging” concept because the crime of “domestic violence” is similarly defined—federal and state laws require agencies to document criminal domestic violence cases based on relationship between the parties and status of criminal offense. Flags for elder abuse cases would work in a similar manner—requiring age or vulnerability status of the victim to be documented in addition to the charges. However, there are several challenges in designing such a system:

- Age and/or vulnerability status may not be well-documented in law enforcement reports
- Data entry processes need to be established that will define the criteria used to “flag” a case. This will likely include additional paperwork and data entry for administrative staff
- Training for data entry specialists may be required
- The inclusion of an “elder abuse” flag in the case management system may be insufficient for evaluating performance

Currently, states that use victim aggravator enhancements for elderly victims have a significant advantage, as charges are generally included in case management systems, thus enabling this subset of cases to be identified. States that also have a designated crime of elder abuse or neglect have a data advantage; however, relatively few cases are brought with these specific charges. In states where elder abuse is not recognized as a separate crime or subject to enhanced penalties, the prosecutor’s office must be proactive in developing criteria and establishing a process to collect data on this particular case type.



Generally, case management systems will include data on a minimum number of variables, such as charges, hearing dates and conviction status. Some performance measures might be obtained by examining data fields such as the following.

- Measures of expeditious case processing might be documented by measuring the length of time from first appearance to date closed and the number of continuances granted

- The use of expert consultants might be documented through motions to allow testimony, motions in limine, and disposition information

However, most offices will require additional data collection to adequately measure their performance. Part 4 provides a case summary file sheet that can be used to collect data needed to calculate performance measures.

PART 4: PERFORMANCE MEASURE LOGISTICS

This section contains the “nuts and bolts” of collecting, analyzing and interpreting the data. It is aimed at research-minded individuals who will be responsible for overseeing performance measures in their office. A background in research methodology is helpful but not necessary to complete the tasks outlined in this section. Thus, individual prosecutors should be able to follow the instructions to begin gauging (and improving) how they handle elder abuse cases. Sample forms can be modified to fit local terminology and practices.



DATA COLLECTION PROCESS

Prior to introducing the instructions to collect, analyze and interpret each proposed measure, it will be helpful to identify the types of data required to construct the measures. While some of the data may be available in a case management system, most of the data will have to be collected on a case-by-case basis. A sample case summary sheet is provided as the first document in this section. This summary sheet should be used as a front cover sheet

in all elder abuse cases. When completed, the information should be collated and entered into an Excel spreadsheet. Data can then be manipulated and graphic presentations can be easily produced.



REQUIRED DATA ELEMENTS

The following table outlines nine types of data required to create the entire package of measures. Data most likely to be found in case management systems include:

- Important dates (filing, closed, conviction, sentence)
For performance measurement purposes, a resolution date is used to select cases in five of the eight measures. Resolution date is the date on which the case was closed for non-convictions, and the conviction date for convictions.
- Charging levels (felonies/misdemeanors)
- Type of case resolution (charges withdrawn by prosecutors, case dismissed by judge, not guilty verdict, guilty plea—including Alford, guilty verdict)
- Sentences (jail, prison, supervised probation, court review hearings, no contact orders)

The absence of detailed information, such as the level of probation supervision, may require that some of this information be collected by hand on each elder abuse case. The lack of automated data can be resolved by using the case file summary form provided in this section. In addition, several measures require the use or administration of other forms or surveys. The following sample forms are provided for the relevant measures:

MEASURE 1: USE OF EVIDENCE COLLECTION CHECKLIST



Sample Evidence Collection Checklist

MEASURE 2: USE OF EXPERT CONSULTANTS



Expert Consultant



Assessment Form

MEASURE 5: VICTIM SATISFACTION RATINGS



Prosecutor Checklist



Victim Survey



PROPOSED MEASURES

1. Use of Evidence Collection Checklist
2. Use of Expert Consultants
3. Time to Case Resolution
4. Prosecutor-Initiated Continuances
5. Victim Satisfaction Ratings
6. Early Payment of Restitution
7. Supervised Sentences
8. Contact Restrictions

DATES								
FILING DATE								
CASE CLOSED DATE								
CONVICTION DATE								
SENTENCE DATE								
CHARGE LEVEL (MISDEMEANOR/ FELONY)								
TYPE OF CASE RESOLUTION								
USE OF EVIDENCE CHECKLIST								
USE OF EXPERT CONSULTANTS								
CONTINUANCES REQUESTED BY PROSECUTOR								
VICTIM SURVEY RESPONSES								
RESTITUTION (ORDERS AND PAYMENTS)								
SENTENCE (INCLUDING SUPERVISION LEVELS AND RESTRICTIONS)								

ABOUT DATA PRESENTED IN THE GRAPHICS

In the following section, the logistics behind calculating, analyzing and interpreting data are presented for each proposed measure. Each measure is accompanied by sample graphics, based on fictional data, to demonstrate how results might be displayed. The data do not reflect actual expected performance.

**ALL FORMS CAN BE FOUND ONLINE AT
WWW.ELDERSANDCOURTS.ORG**



CASE FILE SUMMARY FORM

This summary data sheet can be used to collect information for the purposes of calculating performance measures. The data sheet should be completed as information becomes available and included as a cover sheet in the case file.

CASE INFORMATION

Assigned Prosecutor(s): 1. _____ Case Number: _____
 2. _____ 3. _____

Defendant: _____ DOB __ / __ / ____
 Victim(s): _____ DOB __ / __ / ____

Class of Crime: Felony Misdemeanor

CASE PROCESSING

Dates are used to identify appropriate cases from which to select data for each measure. Resolution date as used in the measures refers to the date the case was closed for non-convictions, or the conviction date for convictions. Filing, closure, and conviction dates are used to calculate Measure 3 (time case to resolution). Continuance information is used for calculation of Measure 4 (prosecutor-initiated continuances).

KEY DATES

Charges Filed: _____ Case Closed: __ / __ / ____
 Conviction Date: _____ Sentencing Date: __ / __ / ____

(For cases resulting in a conviction)

If the defendant is subject to a bench warrant for any period of time, please note the date on which the warrant was issued, and the date, if applicable, that it was quashed. (The time period would not be included in calculations of time to case resolution.)

Warrant Issued: __ / __ / ____ Warrant Quashed: __ / __ / ____

CONTINUANCE REQUESTS Total Number of Prosecutor-Initiated Continuance Requests (include Both): _____

DATES	REQUESTOR			GRANTED?	
__ / __ / ____	<input type="checkbox"/> Prosecutor	<input type="checkbox"/> Defendant	<input type="checkbox"/> Both	<input type="checkbox"/> Yes	<input type="checkbox"/> No
__ / __ / ____	<input type="checkbox"/> Prosecutor	<input type="checkbox"/> Defendant	<input type="checkbox"/> Both	<input type="checkbox"/> Yes	<input type="checkbox"/> No
__ / __ / ____	<input type="checkbox"/> Prosecutor	<input type="checkbox"/> Defendant	<input type="checkbox"/> Both	<input type="checkbox"/> Yes	<input type="checkbox"/> No
__ / __ / ____	<input type="checkbox"/> Prosecutor	<input type="checkbox"/> Defendant	<input type="checkbox"/> Both	<input type="checkbox"/> Yes	<input type="checkbox"/> No
__ / __ / ____	<input type="checkbox"/> Prosecutor	<input type="checkbox"/> Defendant	<input type="checkbox"/> Both	<input type="checkbox"/> Yes	<input type="checkbox"/> No
__ / __ / ____	<input type="checkbox"/> Prosecutor	<input type="checkbox"/> Defendant	<input type="checkbox"/> Both	<input type="checkbox"/> Yes	<input type="checkbox"/> No
__ / __ / ____	<input type="checkbox"/> Prosecutor	<input type="checkbox"/> Defendant	<input type="checkbox"/> Both	<input type="checkbox"/> Yes	<input type="checkbox"/> No
__ / __ / ____	<input type="checkbox"/> Prosecutor	<input type="checkbox"/> Defendant	<input type="checkbox"/> Both	<input type="checkbox"/> Yes	<input type="checkbox"/> No
__ / __ / ____	<input type="checkbox"/> Prosecutor	<input type="checkbox"/> Defendant	<input type="checkbox"/> Both	<input type="checkbox"/> Yes	<input type="checkbox"/> No





CASE FILE SUMMARY FORM, CONT.

CASE PREPARATION/VICTIM SATISFACTION

Use for calculations of Measures 1 (use of evidence collection checklist), 2 (use of expert consultants), and 5 (victim satisfaction ratings). Refer to the sample evidence collection checklist, expert consultant assessment form, and victim survey.

- | | | | | |
|--|--------------------------|-----|--------------------------|----|
| Was an evidence collection checklist completed? | <input type="checkbox"/> | Yes | <input type="checkbox"/> | No |
| Was an expert consulted on this case? | <input type="checkbox"/> | Yes | <input type="checkbox"/> | No |
| Was the victim satisfaction survey completed and returned? | <input type="checkbox"/> | Yes | <input type="checkbox"/> | No |

CASE OUTCOMES

Use for calculations of 6 (early payment of restitution), 7 (supervised sentences), and 8 (contact restrictions).

HOW CASE WAS CONCLUDED

- | | | | |
|--------------------------|---------------------------------|--------------------------|---|
| <input type="checkbox"/> | Charges withdrawn by prosecutor | <input type="checkbox"/> | Case dismissed by judge |
| <input type="checkbox"/> | Not guilty verdict | <input type="checkbox"/> | Guilty plea (including Alford pleas) |
| <input type="checkbox"/> | Guilty verdict | <input type="checkbox"/> | Defendant assigned to deferred prosecution program* |

* Do not include deferred prosecution cases when calculating Measure 3 (time to case resolution).

CONDITIONS AND TERMS OF SENTENCE

- | | | | |
|--------------------------|--|--------------------------|----------------------------------|
| <input type="checkbox"/> | Jail/Prison | <input type="checkbox"/> | General Probation (unsupervised) |
| <input type="checkbox"/> | Referral for Assessment | <input type="checkbox"/> | Supervised Probation |
| <input type="checkbox"/> | Treatment/Intervention Program | <input type="checkbox"/> | Court Review Hearings |
| <input type="checkbox"/> | Restrictions on Future Employment/Volunteer Opportunities with Elderly Clients | | |

VICTIM CONTACT RESTRICTIONS

- | | | | | | |
|--------------------------|------------------------|--------------------------|--------------------|--------------------------|-----------------|
| <input type="checkbox"/> | No contact with Victim | <input type="checkbox"/> | Supervised Contact | <input type="checkbox"/> | No Restrictions |
|--------------------------|------------------------|--------------------------|--------------------|--------------------------|-----------------|

RESTITUTION

- | | | | |
|--------------------------|-----|--------------------------|----|
| <input type="checkbox"/> | Yes | <input type="checkbox"/> | No |
|--------------------------|-----|--------------------------|----|

If restitution was ordered, how much restitution was paid prior to or at sentencing?

- | | | | | | |
|--------------------------|-----------|--------------------------|--------------|--------------------------|--------------|
| <input type="checkbox"/> | None paid | <input type="checkbox"/> | Paid in part | <input type="checkbox"/> | Paid in full |
|--------------------------|-----------|--------------------------|--------------|--------------------------|--------------|

MEASURE 1

USE OF EVIDENCE COLLECTION CHECKLIST

Percentage of Cases in which an Evidence Collection Checklist was Completed

HOW IS THE MEASURE CALCULATED?

- Select all cases in that were resolved within the study timeframe (e.g., the past year)
- Determine the number of resolved cases in which an evidence collection checklist was completed (*checklist provided on following page*)
- Compute the percentage of cases in which an evidence collection checklist was used

WHAT DATA ARE REQUIRED TO COMPUTE THE MEASURE?

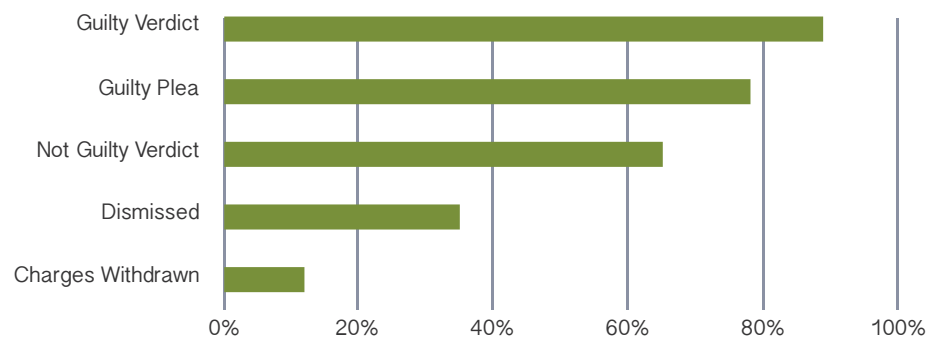
- The date on which the case was resolved (use case closed date for non-convictions, conviction date for convictions)
- Documentation of the use of a standard evidence collection checklist
- Case level (misdemeanor or felony)
- The type of closure (e.g., charges withdrawn by prosecutor, case dismissed by judge, not guilty verdict, guilty plea—including Alford, guilty verdict)

HOW SHOULD THE DATA BE INTERPRETED?

The data should be analyzed by case level, type of resolution and over time.

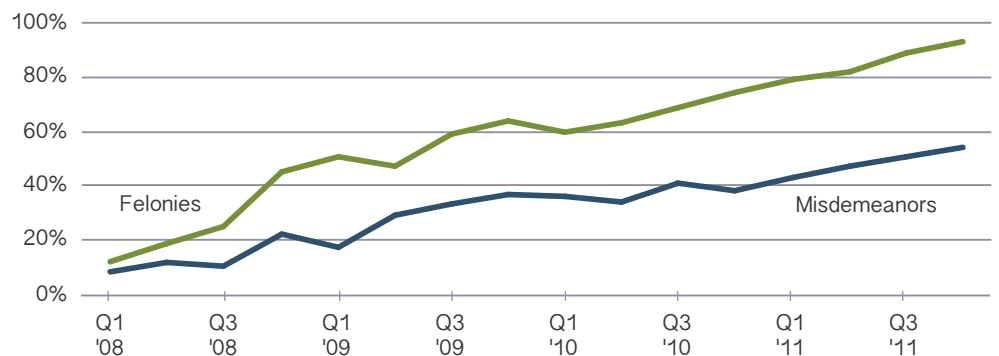
SAMPLE A shows the percentage of resolved cases in a given year in which an evidence collection checklist was used, by the type of closure. Findings suggest that the use of an evidence collection checklist has a positive bearing on case outcomes.

Percentage of Cases in Which an Evidence Collection Checklist was Used, by Type of Disposition



SAMPLE B is a trend chart that shows how usage of the evidence checklist has changed over time. An upward trend indicates greater acceptance and usage of the checklist. The data also demonstrate how the evidence collection checklist might be used differently in misdemeanors and felonies.

Evidence Collection Checklist Use for Misdemeanors and Felonies, Prosecutor Office A





SAMPLE EVIDENCE COLLECTION CHECKLIST

- ☐☐ Psychological/psychiatric evaluation of victim (when capacity, consent or undue influence may be an issue)
- ☐☐ Victim testimony or deposition with full-cross examination, as soon as possible after charging (*Crawford*)
- ☐☐ Videotape the victim at the early stage of the investigation, including the following:
 - ☐☐ Orientation—victim’s perception of time, place and person

FACTS

- ☐☐ Consent
- ☐☐ Identity of perpetrator
- ☐☐ Review documents/evidence. Have victim sign his or her name in video to compare to signature on questioned documents
- ☐☐ Impact of crime. Include a walk-through video of a neglect or abuse crime scene if possible

MEDICAL EVIDENCE, INCLUDING

- ☐☐ Medications. Include actual bottles/containers for prescriptions to show physician and pharmacy, possession and full/empty status given recommended dosage over time from the date of the last refill
- ☐☐ Medical records of current and underlying conditions

Sources of Information

- | | |
|-----------------------|------------------------|
| ☐☐ Emergency Room | ☐☐ Treating physicians |
| ☐☐ Nursing facilities | ☐☐ Pharmacy |
| ☐☐ Dentists | ☐☐ Other _____ |

Specific Types of Documents to Request

- | | |
|----------------|--------------------------|
| ☐☐ Lab reports | ☐☐ Nurses’ notes |
| ☐☐ X-rays | ☐☐ Social workers’ notes |
- ☐☐ Adult Protective Services (APS) records of current and prior contacts
 - ☐☐ All law enforcement contacts with involved parties and witnesses, including
 - ☐☐ 911 tapes
 - ☐☐ Arrest reports
 - ☐☐ Criminal histories
 - ☐☐ Jail records, including:
 - ☐☐ Phone calls
 - ☐☐ Visitor logs by or on behalf of suspects

FINANCIAL RECORDS

- | | |
|------------------------|-------------------------------|
| ☐☐ Credit card records | ☐☐ Investment account records |
| ☐☐ Credit reports | ☐☐ Victim’s bank records |
| ☐☐ Checkbook registers | ☐☐ Suspect’s bank records |



SAMPLE EVIDENCE COLLECTION CHECKLIST, CONT

☐☐ LEGAL DOCUMENTATION

- | | |
|--|---|
| ☐☐ Powers of attorney | ☐☐ Prior civil cases |
| ☐☐ Court/protection orders | ☐☐ Wills and trusts |
| ☐☐ Property deeds | ☐☐ Conveyances |
| ☐☐ Advanced care directives/living wills | ☐☐ Guardianship/conservatorship documents |

☐☐ CONSULTATION WITH EXPERTS

- | | |
|-------------------------|--|
| ☐☐ Handwriting analysts | ☐☐ Geriatricians |
| ☐☐ Forensic accountants | ☐☐ Geriatric psychologists and psychiatrists |
| ☐☐ Wound care experts | ☐☐ Medical examiner |
| ☐☐ Civil attorneys | |

INTERVIEWS

- ☐☐ Witnesses who can describe the victim’s condition, activities, and level of functioning and interaction with the defendant at time of incident and before. Include a description of changes over time.

POSSIBLE WITNESSES:

- | | |
|------------------------------|---|
| ☐☐ Family and friends | ☐☐ Acquaintances/social |
| ☐☐ Banking/financial | ☐☐ Medical providers (prior and current) |
| ☐☐ Hair stylists/barbers | ☐☐ Faith community |
| ☐☐ Local businesses | ☐☐ Neighbors |
| ☐☐ Adult day care services | ☐☐ Social services (Meals on Wheels, etc.) |
| ☐☐ Adult Protective Services | ☐☐ Payees for expenses the suspect paid with the victim’s money |
| ☐☐ Civil attorneys | |





SAMPLE EVIDENCE COLLECTION CHECKLIST, CONT

PHYSICAL EVIDENCE - INCLUDE AN INVENTORY

- ☐☐ Photo and video documentation
 - ☐☐ Crime scene, including, if relevant
 - ☐☐ Contents of refrigerator, cupboards, medicine cabinets [include actual bottles/containers for prescriptions to show physician and pharmacy, possession and full/empty status given recommended dosage over time from the date of the last refill]
 - ☐☐ Suspect's living area
 - ☐☐ Victim's living area
 - ☐☐ Major new purchases made by the suspect
 - ☐☐ Victim's body
 - ☐☐ Injuries over time
 - ☐☐ Other signs of neglect
 - ☐☐ Clothing victim was wearing at time of incident (include adult diapers if applicable)
 - ☐☐ Bedding
 - ☐☐ Writings/journals/letters
 - ☐☐ Legal file from victim's civil attorney
 - ☐☐ Nutritional supplements
 - ☐☐ Restraints and bindings
 - ☐☐ Defendant's computer, flash drives, etc.
 - ☐☐ Locks on outside of doors
 - ☐☐ Photos and videos related to conduct
 - ☐☐ Defendant's and victim's ISP records
 - ☐☐ Medications and medical supplies
 - ☐☐ Assistive devices (or lack thereof)
 - ☐☐ Checkbooks, check registers

MEASURE 2

USE OF EXPERT CONSULTANTS

Percentage of Felony Elder Abuse Cases in which an Expert was Consulted

HOW IS THE MEASURE CALCULATED?

- Select all felony elder abuse cases that were resolved within the study timeframe (e.g., the past year)
- Determine the number of cases in which a consultant was used and record the number of expert consultants used, by purpose (*form provided on following page*)
- Compute the percentage of felony cases in which an expert was consulted, by purpose

WHAT DATA ARE REQUIRED TO COMPUTE

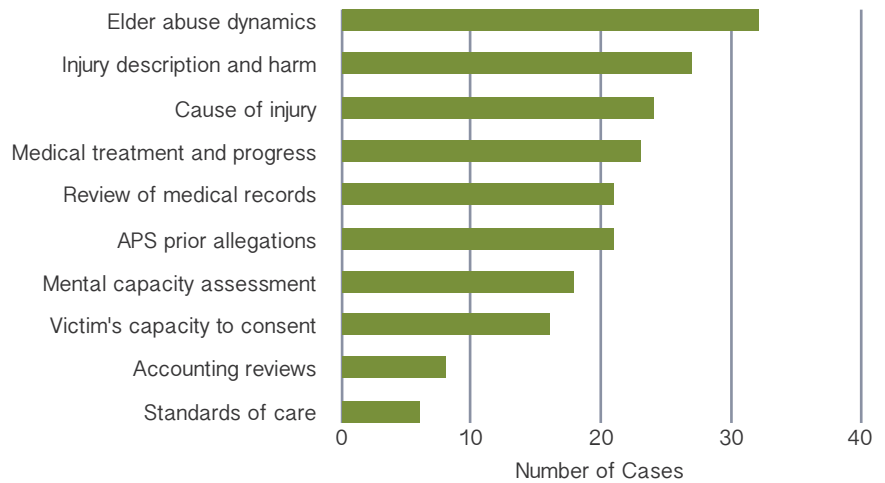
- The date on which the case was resolved (use case closed date for non-convictions, conviction date for convictions)
- Charge level (misdemeanor/felony)
- Data provided on the consultant/expert witness form for each resolved case

HOW SHOULD THE DATA BE INTERPRETED?

The data should be analyzed by purpose and over time.

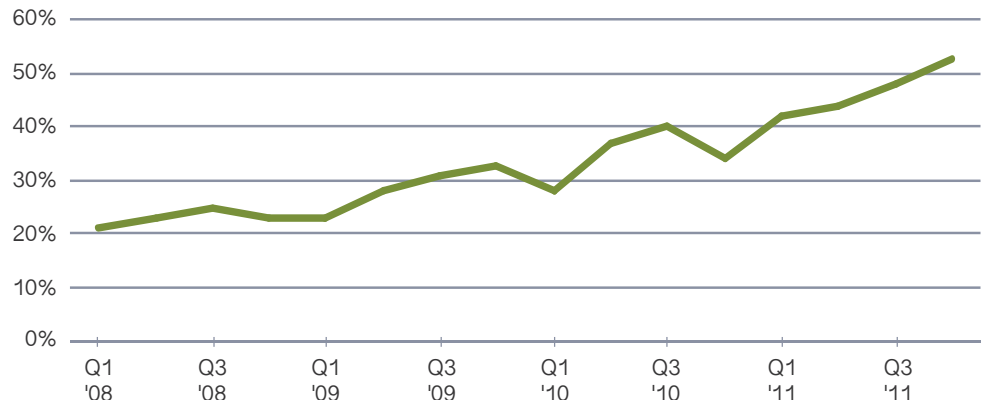
SAMPLE A shows the ten most common reasons for which an expert was consulted in resolved felony elder abuse cases, for a given year. Data show that experts who can speak toward elder abuse dynamics, injury description and harm, and cause of injury are in high demand.

Top 10 Reasons for Obtaining Consultation



SAMPLE B is a trend chart of the percentage of felony elder abuse cases in which an expert was consulted, over time. The trend shows that prosecutors are increasingly using expert consultants to help build felony elder abuse cases.

Percentage of Cases in which an Expert was Consulted





EXPERT CONSULTANT ASSESSMENT FORM

This form can be used to identify expert consultants who may be able to assist the prosecution’s case. An expert consultant or witness is an individual with expertise in a particular subject matter who is not associated with the particular criminal case about which you are inquiring. For instance, the victim’s primary care physician would not be included as an expert consultant. But a geriatrician who has not treated the victim and has expertise on a particular topic would be considered an expert consultant or witness. The expert may provide advice and assistance outside of courtroom testimony.

CONSULTANT/ EXPERT	PURPOSE
<div style="display: flex; align-items: center;"> <div style="margin-right: 10px;"> ❑ ❑ </div> <div> <p style="margin: 0;">MEDICAL EXPERTS</p> </div> </div>	<div style="display: flex; align-items: flex-start;"> <div style="margin-right: 10px;"> ❑ ❑ </div> <div> <p>Identify/describe injury and degree of harm/pain</p> </div> </div> <div style="display: flex; align-items: flex-start; margin-top: 5px;"> <div style="margin-right: 10px;"> ❑ ❑ </div> <div> <p>Identify cause of injury/death</p> </div> </div> <div style="display: flex; align-items: flex-start; margin-top: 5px;"> <div style="margin-right: 10px;"> ❑ ❑ </div> <div> <p>Document disease symptoms and progression</p> </div> </div> <div style="display: flex; align-items: flex-start; margin-top: 5px;"> <div style="margin-right: 10px;"> ❑ ❑ </div> <div> <p>Describe appropriate course of treatment and progress</p> </div> </div> <div style="display: flex; align-items: flex-start; margin-top: 5px;"> <div style="margin-right: 10px;"> ❑ ❑ </div> <div> <p>Describe medication interactions and effects</p> </div> </div> <div style="display: flex; align-items: flex-start; margin-top: 5px;"> <div style="margin-right: 10px;"> ❑ ❑ </div> <div> <p>Discuss proper wound care</p> </div> </div> <div style="display: flex; align-items: flex-start; margin-top: 5px;"> <div style="margin-right: 10px;"> ❑ ❑ </div> <div> <p>Review medical records</p> </div> </div> <div style="display: flex; align-items: flex-start; margin-top: 5px;"> <div style="margin-right: 10px;"> ❑ ❑ </div> <div> <p>Discuss evidence of improper or inadequate care</p> </div> </div> <div style="display: flex; align-items: flex-start; margin-top: 5px;"> <div style="margin-right: 10px;"> ❑ ❑ </div> <div> <p>Identify care instructions given to and referrals made for caregiver</p> </div> </div> <div style="display: flex; align-items: flex-start; margin-top: 5px;"> <div style="margin-right: 10px;"> ❑ ❑ </div> <div> <p>Describe standard of care for treatment of specific injuries, conditions or illnesses</p> </div> </div> <div style="display: flex; align-items: flex-start; margin-top: 5px;"> <div style="margin-right: 10px;"> ❑ ❑ </div> <div> <p>Stage pressure sores and explain causation and standard of care</p> </div> </div>
<div style="display: flex; align-items: center;"> <div style="margin-right: 10px;"> ❑ ❑ </div> <div> <p style="margin: 0;">SEXUAL ASSAULT EXPERTS</p> </div> </div>	<div style="display: flex; align-items: flex-start;"> <div style="margin-right: 10px;"> ❑ ❑ </div> <div> <p>Discuss standards in examination and collection of evidence</p> </div> </div> <div style="display: flex; align-items: flex-start; margin-top: 5px;"> <div style="margin-right: 10px;"> ❑ ❑ </div> <div> <p>Explain findings</p> </div> </div> <div style="display: flex; align-items: flex-start; margin-top: 5px;"> <div style="margin-right: 10px;"> ❑ ❑ </div> <div> <p>Discuss absence or presence of injuries that may confound fact finders</p> </div> </div> <div style="display: flex; align-items: flex-start; margin-top: 5px;"> <div style="margin-right: 10px;"> ❑ ❑ </div> <div> <p>Provide empirical information on typical victim behavior in context of sexual assault</p> </div> </div> <div style="display: flex; align-items: flex-start; margin-top: 5px;"> <div style="margin-right: 10px;"> ❑ ❑ </div> <div> <p>Offer expertise on how prior interactions/relationships between suspect and victim may influence reporting behavior</p> </div> </div> <div style="display: flex; align-items: flex-start; margin-top: 5px;"> <div style="margin-right: 10px;"> ❑ ❑ </div> <div> <p>Other _____</p> </div> </div>



EXPERT CONSULTANT ASSESSMENT FORM, CONT

CONSULTANT/ EXPERT	PURPOSE
<div style="display: flex; align-items: center;"> <div style="margin-right: 10px;"> ❑ ❑ </div> <div> <p>MENTAL HEALTH EXPERTS</p> </div> </div>	<div style="display: flex; align-items: flex-start;"> <div style="margin-right: 10px;"> ❑ ❑ ❑ ❑ ❑ ❑ </div> <div> <p>Assess victim's mental capacity to consent</p> <p>Determine victim's level of social functioning</p> <p>Assess victim's susceptibility to undue influence</p> <p>Assess victim's competency to testify</p> <p>Document victim's mental health disorder</p> <p>Other _____</p> </div> </div>
<div style="display: flex; align-items: center;"> <div style="margin-right: 10px;"> ❑ ❑ </div> <div> <p>FACILITIES EXPERTS</p> </div> </div>	<div style="display: flex; align-items: flex-start;"> <div style="margin-right: 10px;"> ❑ ❑ ❑ </div> <div> <p>Describe standards of care</p> <p>Discuss facility's history of improper care and violations</p> <p>Locate and interpret relevant records and documents</p> </div> </div>
<div style="display: flex; align-items: center;"> <div style="margin-right: 10px;"> ❑ ❑ </div> <div> <p>FINANCIAL EXPERTS</p> </div> </div>	<div style="display: flex; align-items: flex-start;"> <div style="margin-right: 10px;"> ❑ ❑ ❑ ❑ ❑ ❑ ❑ ❑ </div> <div> <p>Consult on and testify to suspect's fiduciary duty to victim</p> <p>Conduct accounting and financial analysis of victim's/suspect's finances</p> <p>Create a financial timeline and comparison of wealth of suspect and victim and how it changed during the course of events</p> <p>Document standards of accounting practices</p> <p>Provide information on the impact of financial issues and gifts/loans on tax laws and Medicare eligibility</p> <p>Discuss the function of powers of attorney, guardianships and conservatorships in relation to financial obligations</p> <p>Provide information on the role of undue influence in financial exploitation</p> <p>Other _____</p> </div> </div>
<div style="display: flex; align-items: center;"> <div style="margin-right: 10px;"> ❑ ❑ </div> <div> <p>ADULT PROTECTIVE SERVICES</p> </div> </div>	<div style="display: flex; align-items: flex-start;"> <div style="margin-right: 10px;"> ❑ ❑ ❑ ❑ </div> <div> <p>Describe APS processes, standards and typical responses</p> <p>Discuss types of available services</p> <p>Describe APS role in determining mental capacity</p> <p>Other _____</p> </div> </div>
<div style="display: flex; align-items: center;"> <div style="margin-right: 10px;"> ❑ ❑ </div> <div> <p>ABUSE EXPERTS</p> </div> </div>	<div style="display: flex; align-items: flex-start;"> <div style="margin-right: 10px;"> ❑ ❑ ❑ ❑ </div> <div> <p>Explain elder abuse dynamics</p> <p>Explain dynamics of domestic violence and abuse in later life</p> <p>Discuss links between animal abuse and elder abuse</p> <p>Other _____</p> </div> </div>
<div style="display: flex; align-items: center;"> <div style="margin-right: 10px;"> ❑ ❑ </div> <div> <p>OTHER EXPERTS</p> </div> </div>	<div style="display: flex; align-items: flex-start;"> <div style="margin-right: 10px;"> ❑ ❑ </div> <div> <p>Other _____</p> <p>Other _____</p> </div> </div>



MEASURE 3

TIME TO CASE RESOLUTION

Median Days from Filing of Charges to Case Resolution

HOW IS THE MEASURE CALCULATED?

- Select all cases that were resolved within the study timeframe (e.g., the past year)
- Compute the number of days from the date on which the prosecutor's office filed charges to the date on which the case was resolved
- Determine the median number of days to resolution. The median is used, rather than the mean, because the median will minimize the impact that extraordinarily lengthy cases would have on days to resolution

WHAT DATA ARE REQUIRED TO COMPUTE THE MEASURE?

- The date on which charges were initially filed (this becomes the "start date")
- The date on which the case was resolved (use case closed date for non-convictions, conviction date for convictions)
- The type of resolution (e.g., charges withdrawn by prosecutor, case dismissed by judge, not guilty verdict, guilty plea—including Alford, guilty verdict)

HOW DO I TREAT SPECIAL CIRCUMSTANCES?

In cases in which the defendant absconds, count the number of days from which charges were filed to the date on which the defendant absconds plus the number of days from the time the case was reactivated to date of case resolution. In the example below, the total number of days from charges filed to case resolution is 35 (15 days from charges filed to defendant absconding + 20 days from the time case reactivated to case resolved).



TIME TO CASE RESOLUTION = 15+20=35 DAYS

Some offices rely heavily on deferred prosecution programs or some form of diversion that results in an extended period of time in which a case is held open. These cases can be excluded from time to closure statistics. However, deferrals should be tracked by documenting case status at a particular point in time. In the example below, the status of all cases charged in a specific time period (January to June) was recorded as of a specific date (June 30). Case status can be graphed over time to look for changes in the use of deferred prosecution.



TIME TO CASE RESOLUTION = 74+82=156 DAYS

MEASURE 3

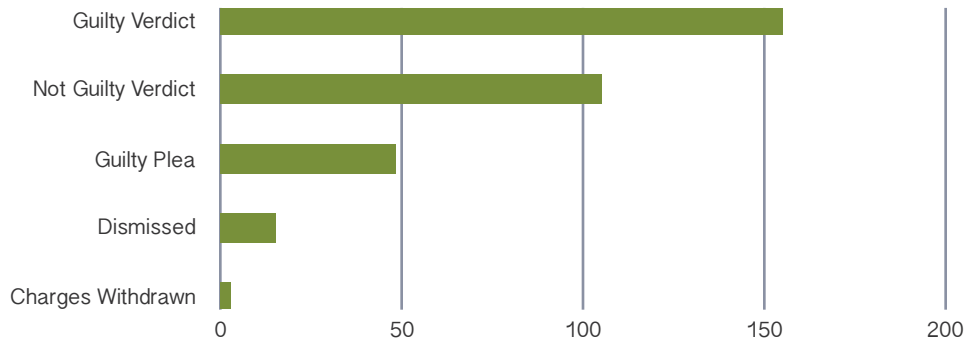
TIME TO CASE RESOLUTION

HOW SHOULD THE DATA BE INTERPRETED?

The data should be analyzed by type of closure and over time.

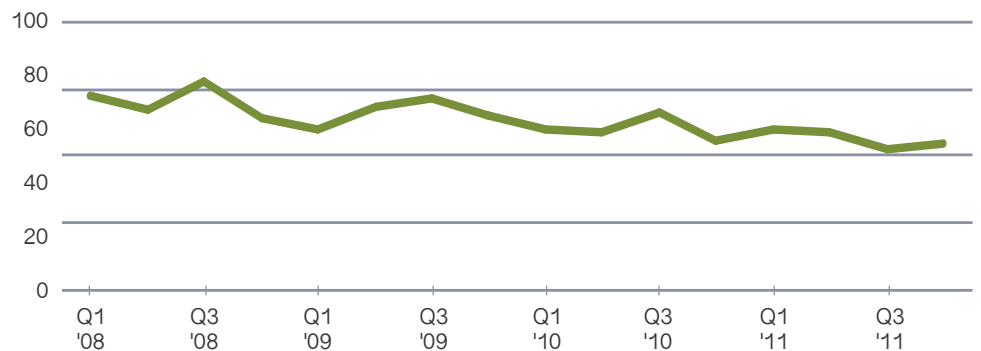
SAMPLE A shows the total median time (in days) to case resolution for a given year, by the type of resolution. Data demonstrate that cases resulting in guilty verdicts require considerably more time to prosecute than cases with other outcomes.

Median Days from Filing Date to Disposition, by Type of Disposition, Prosecutor Office A



SAMPLE B is a trend chart that shows how the median number of days to case resolution has changed over time. The trend shows greater efficiencies over time.

Median Days from Filing of Charges to Disposition, Prosecutor Office A



MEASURE 4

PROSECUTOR-INITIATED CONTINUANCES

Median Number of Prosecutor-Initiated Continuance Requests per Filed Case

HOW IS THE MEASURE CALCULATED?

- Document continuance requests in the case file summary sheet and preferably, case management systems. Note the date of each request and whether the continuance was initiated by the prosecutor's office, the defendant or both
- Select all cases resolved within the study timeframe (e.g., the past year)
- Calculate the median number of prosecutor-initiated continuance requests per case. The median is used, rather than the mean, because the median will minimize the impact that extraordinarily lengthy cases would have on days to resolution
- For comparison reasons, prosecutors may want to distinguish misdemeanor from felony cases
- Continuances requested by requestor (prosecutor, defendant, both)
- The date on which the case was resolved (use case closed date for non-convictions, conviction date for convictions)
- The charge level (misdemeanor, felony)

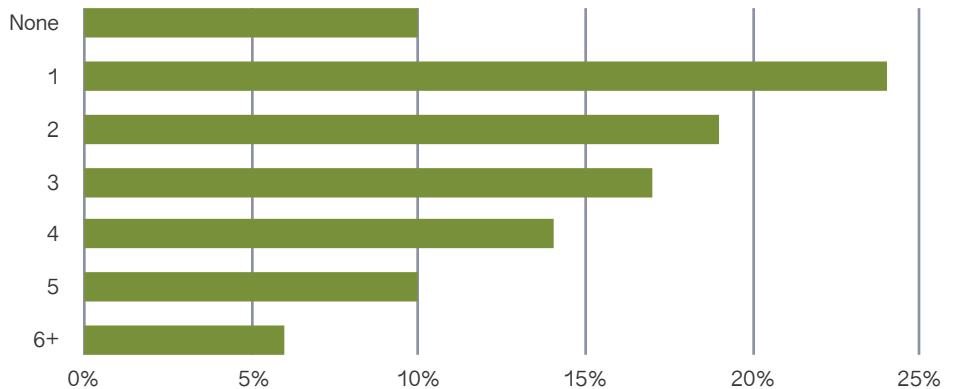
WHAT DATA ARE REQUIRED TO COMPUTE THE MEASURE?

HOW SHOULD THE DATA BE INTERPRETED?

The data should be analyzed by charge level and over time.

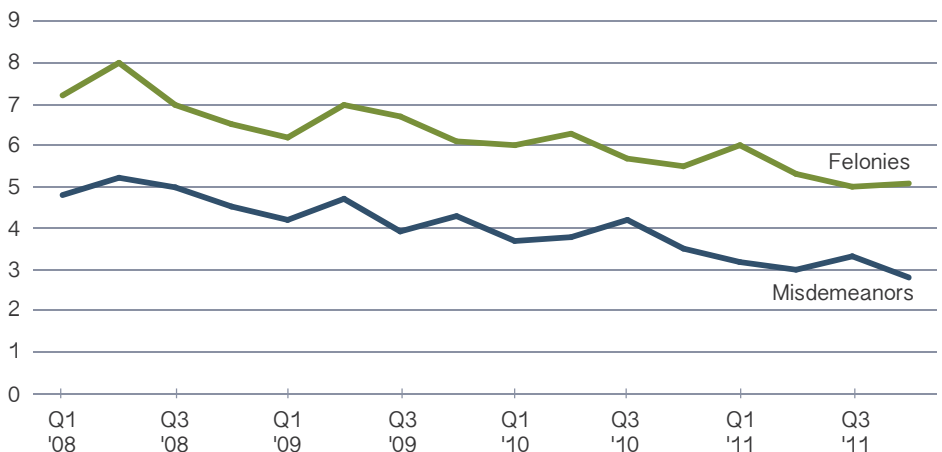
SAMPLE A shows the number of prosecutor-initiated continuances for cases resolved in a given year. The information can be used to highlight particularly challenging cases and identify ways in which similar types of cases might be expedited in the future.

Percentage of Cases Closed by Number of Prosecutor-Initiated Continuance Requests



SAMPLE B shows the median number of prosecutor-initiated continuance requests over time, by charging level (misdemeanor, felony). In the long-term, prosecutors should look for a decline in the number of continuance requests at each charging level.

Median Number of Continuance Requests for Misdemeanors and Felonies, Prosecutor Office A



MEASURE 5

VICTIM SATISFACTION RATINGS

Percentage of Elder Abuse Victims Satisfied with their Interaction with the Prosecutor's Office

HOW IS THE MEASURE CALCULATED?

- Select all cases that were resolved within the study timeframe (e.g., the past year)
- Compile information received in the victim survey following case resolution (*prosecutor checklist & sample questionnaire provided*)
- Enter data into an Excel spreadsheet: (*see additional calculation hints*)
 - *Assign the following values for each response category (1=Strongly Disagree, 2=Disagree, 3= Neither Agree nor Disagree, 4=Agree, 5=Strongly Agree)*
 - *Leave the "Not Applicable" responses blank. Do not count these responses in the averages*
- Calculate the percentage of respondents who agree or strongly agree with each response item
- Calculate the average ratings per item
- An index score can also be created that provides a composite of victim satisfaction. This is calculated by summing the average scores for each question

WHAT DATA ARE REQUIRED TO COMPUTE THE MEASURE?

- The date on which the case was resolved (use case closed date for non-convictions, conviction date for convictions)
- Survey responses from elder abuse victims or their representatives

HOW DO I TREAT SPECIAL CIRCUMSTANCES?

In some cases, the older victim may be deceased or incapacitated. If the victim is unable to complete the questionnaire, please ask that responses be completed by a family member or friend who does or did represent the victim. If the victim or victim's representative is not available or cannot complete the questionnaire, please note this information in the case file.

HOW SHOULD THE DATA BE INTERPRETED?

The data can be analyzed over time and multiple analyses may be carried out based on specific variables and relationships of interest.

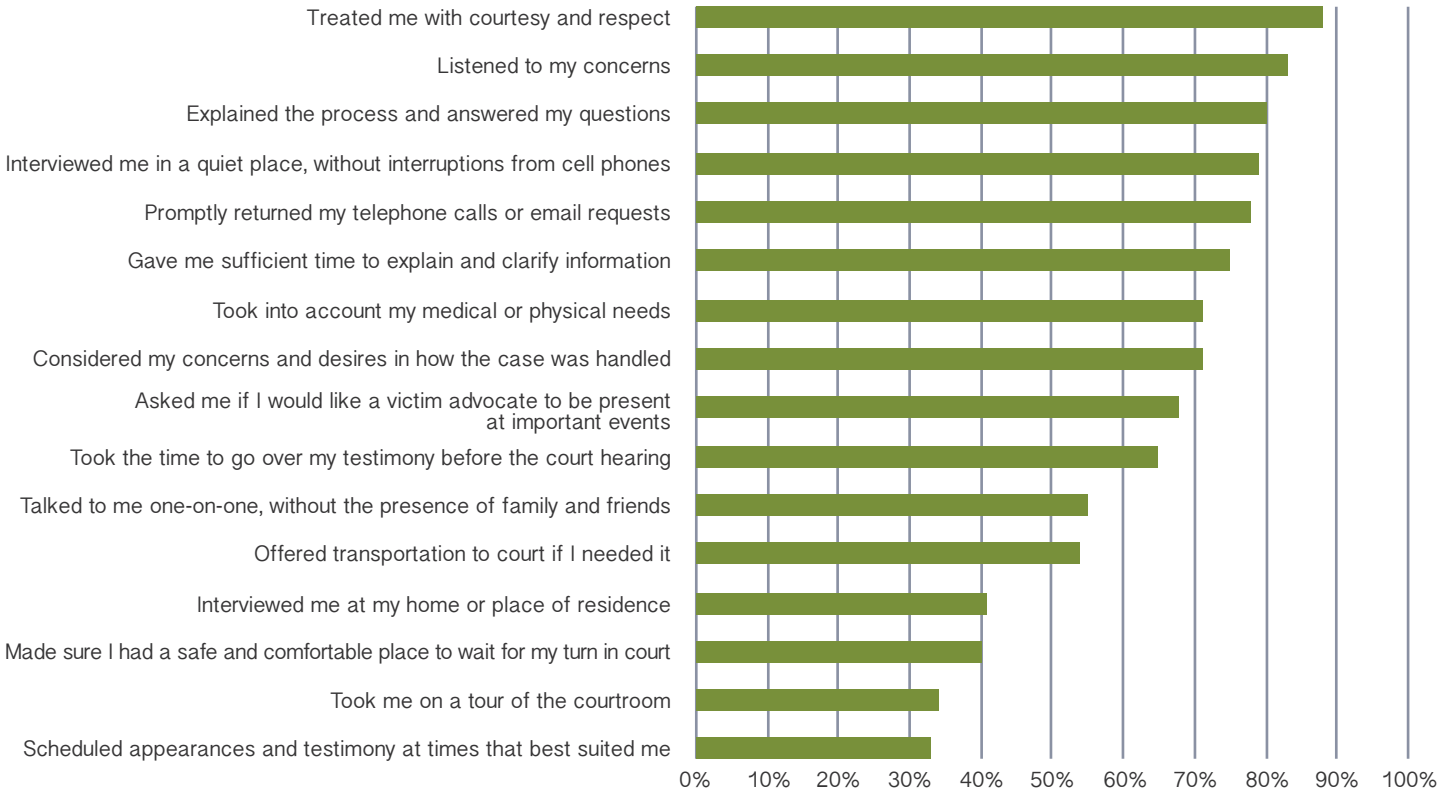


MEASURE 5

VICTIM SATISFACTION RATINGS

SAMPLE A shows the percentage of victims who agreed or strongly agreed with each measure of victim satisfaction. Results can be used to identify strengths and challenges.

Percentage of Victims Who Agreed or Strongly Agreed With Each Satisfaction Measure



SAMPLE B is a trend chart that shows how the victim satisfaction index score has changed over time. An upward data line indicates greater levels of victim satisfaction with the prosecutor's office.

Total Victim Satisfaction Index Score









MEASURE 5

VICTIM SATISFACTION RATINGS

ADDITIONAL CALCULATION HINTS

Example: 1: Calculating Victim Satisfaction Ratings by Question

Respondent Number	QB1 Concerns	QB2 Courtesy	QB3 Calls	QB4 Time	QB5 Needs
1	3	4	5	2	2
2	5	5	2	4	2
3	4	5	3	3	3
4	4	4	-	-	-
					
100	4	5	3	4	2
TOTAL SCORE	410	470	345	388	223
TOTAL RESPONDENTS	100	100	100	100	100
TOTAL VALID RESPONSES	100	98	95	98	95
RATING OF 4 OR 5	83	88	75	79	41
AVERAGE	4.1	4.8	3.6	4.0	2.3
	1 = Strongly Disagree 2 = Disagree	3 = Neither Agree nor Disagree 4 = Agree	5 = Strongly Agree - = Not Applicable		

CALCULATION HINT

To determine the percentage in the Agree group, sum the total number of responses with 4s and 5s and divide by the Total Valid Responses. For Question B1, "Listened to my concerns," the percentage in the Agree group is 83% (83/100); for question B2, "Treated me with courtesy and respect," the percentage in the Agree group is 90% (88/98).

To compute the average, first calculate the Total Score. Then divide the Total Score by the Total Valid Responses.



MEASURE 5

VICTIM SATISFACTION RATINGS

ADDITIONAL CALCULATION HINTS

Example 2: Creating an Index Score

An index score provides an overall rating of victim satisfaction. By summing the average scores for each question, an index score is created. The 16 questions have a maximum possible score of 5 points each, for a total maximum score of 80. In the example below, the overall victim satisfaction score is 63.1, the sum of the average scores of all 16 questions.

B1.	Listened to my concerns.	4.1
B2.	Treated me with courtesy and respect.	4.8
B3.	Promptly returned my telephone calls or email requests.	4.6
B4.	Gave me sufficient time to explain and clarify information.	3.6
B5.	Took into account my medical or physical needs.	4.5
B6.	Explained the process and answered my questions.	3.9
B7.	Considered my concerns and desires in how the case was handled.	3.4
C1.	Interviewed me in a quiet place, without interruptions from cell phones.	4
C2.	Interviewed me at my home or place of residence.	2.3
C3.	Talked to me one-on-one, without the presence of family and friends.	4.1
C4.	Asked me if I would like a victim advocate to be present at important events, like interviews and courtroom appearances.	4.6
C5.	Took me on a tour of the courtroom (if your case was heard in front of a judge).	4.1
C6.	Offered me transportation to court if I needed it.	4.2
C7.	Made sure I had a safe and comfortable place to wait for my turn in court.	3.7
C8.	Made efforts to schedule appearances and testimony at times that best suited me.	3.8
C9.	Took the time to go over my testimony before the court hearing.	3.4
OVERALL INDEX SCORE =		63.1

Index scores can also be calculated for each section of questionnaire. The index score for Section B is 28.9 (of a possible score of 35). The index score for Section C is 34.2 (of a possible score of 45).



PROSECUTOR CHECKLIST, WORKING WITH OLDER VICTIMS

Victim _____

Case Number: _____

Prosecutor _____

Date: ___ / ___ / ____

DIRECTIONS: Please check each item that you addressed. Victims should be provided with a separate survey that they can complete confidentially.

INTERVIEWING STRATEGIES

REMOVE DISTRACTIONS	Select a quiet place for the interview and remove distractions. Turn off cell phones and put away electronic devices. Meet with the older person in his or her own home whenever possible.	<input type="checkbox"/> <input type="checkbox"/>
TALK TO THE VICTIM ONE-ON-ONE	Talk to the victim one-on-one, separating him or her from family members and suspects, especially if it is unclear which family members will be witnesses and/or defendants. Consider the benefit of having an advocate present.	<input type="checkbox"/> <input type="checkbox"/>
ADDRESS NEEDS AND ISSUES OF CONCERN FIRST	Before inquiring about the information you need, ask the victim about concerns he or she might have, including physical or medical needs. Acknowledge those concerns and address them as soon as practical. If you are unable to address those concerns, connect the elder with another professional who can provide prompt assistance.	<input type="checkbox"/> <input type="checkbox"/>
DEVELOP RAPPORT	After addressing the victim's immediate concerns, develop rapport by asking the victim questions about his/her life, career and/or family before exploring case facts. Do not infantilize or patronize older persons (e.g., talking down, baby talk, raising your voice, addressing by first name, physical contact).	<input type="checkbox"/> <input type="checkbox"/>
BE PATIENT	Older victims may need more time to process information. Ask questions one at a time and allow the older person sufficient time to respond.	<input type="checkbox"/> <input type="checkbox"/>

PREPARING FOR COURT

ACCOMMODATE NEEDS	Inquire in advance about the victim's need for accommodations and incorporate those accommodations into all parts of the criminal justice process, including courtroom appearances and pretrial meetings. Identify and consider needs pertaining to mobility, language and communication (assistive devices, interpreters and translators), medication, nutrition, hydration, oxygen and other medical treatment.	<input type="checkbox"/> <input type="checkbox"/>
CONSIDER TRANSPORTATION NEEDS	Anticipate the older victim's transportation needs to attend meetings and hearings. Work with Victim/Witness staff or other professionals (e.g., APS, law enforcement, etc.) to ensure appropriate transportation is provided when necessary. Ensure that someone other than the suspect or suspect allies will provide transportation for the older victim.	<input type="checkbox"/> <input type="checkbox"/>
TOUR THE COURTROOM	Work with Victim/Witness and court staff to provide the victim with a tour of the courtroom in advance. Familiarize the victim with seating arrangements and the general process. Work with court staff to ensure courtroom accommodations (such as hearing amplification devices) are available to the victim.	<input type="checkbox"/> <input type="checkbox"/>
CONSIDER WAITING AREA	Make sure there is a safe and comfortable waiting area (preferably away from the assigned courtroom) and a place for the victim advocate to sit during testimony.	<input type="checkbox"/> <input type="checkbox"/>
BE FLEXIBLE IN SCHEDULING	Schedule appearances and testimony of the victim at the best time for him or her. Be flexible to accommodate any special needs of the victim. Avoid delays once the victim is present.	<input type="checkbox"/> <input type="checkbox"/>





SURVEY: YOUR EXPERIENCE WITH THE PROSECUTOR'S OFFICE

We are seeking your participation in this survey to help us learn how well our prosecutors and staff responded to your needs. Please answer each of the items as best you can. Please provide any additional thoughts on your experiences. **THANK YOU!**

SECTION A: BACKGROUND INFORMATION

A1. Who was your main contact at the prosecutor's office? _____

A2. Which prosecutor(s) handled your case? _____ Do not recall

*Note: Large prosecutor offices may want to provide a list from which to choose.

A3. Were you the victim in the case or are you representing a victim who is unable to complete this questionnaire?

Victim Victim's Representative

A4. What is the gender of the victim? Female Male

A5. How do you identify yourself?

American Indian or Alaska Native Asian
 Black or African American Hispanic or Latino
 White Native Hawaiian or Other Pacific Islander
 Mixed Race Other _____

A6. Did you appear in court for this case? Yes No

Note to office staff: Provide directions on where/how to turn in form.
Provide self-addressed stamped envelope if information should be sent by mail.



SURVEY: YOUR EXPERIENCE WITH THE PROSECUTOR'S OFFICE, CONT

1 = Strongly Disagree
2 = Disagree

3 = Neither Agree nor Disagree
4 = Agree

5 = Strongly Agree
☐☐ = Not Applicable

SECTION B: INTERACTION WITH THE PROSECUTOR'S OFFICE

(Circle the number that best fits your response.)

Staff from the prosecutor's office:		1	2	3	4	5	☐☐
B1.	Listened to my concerns.						
B2.	Treated me with courtesy and respect.						
B3.	Promptly returned my telephone calls or email requests.						
B4.	Gave me sufficient time to explain and clarify information.						
B5.	Took into account my medical or physical needs.						
B6.	Explained the process and answered my questions.						
B7.	Considered my concerns and desires in how the case was handled.						

SECTION C: INTERVIEWS AND PREPARING FOR COURT

(Circle the number that best fits your response.)

Staff from the prosecutor's office:		1	2	3	4	5	☐☐
C1.	Interviewed me in a quiet place, without interruptions from cell phones.						
C2.	Interviewed me at my home or place of residence.						
C3.	Talked to me one-on-one, without the presence of family and friends.						
C4.	Asked me if I would like a victim advocate to be present at important events, like interviews and courtroom appearances.						
C5.	Took me on a tour of the courtroom (if your case was heard in front of a judge).						
C6.	Offered me transportation to court if I needed it.						
C7.	Made sure I had a safe and comfortable place to wait for my turn in court.						
C8.	Made efforts to schedule appearances and testimony at times that best suited me.						
C9.	Took the time to go over my testimony before the court hearing.						

OVERALL INDEX SCORE =



MEASURE 6

EARLY PAYMENT OF RESTITUTION

Percentage of Convictions in which Restitution was Paid by or at the Time of Sentencing

HOW IS THE MEASURE CALCULATED?

- Each case file should include documentation of partial or whole payment of restitution prior to sentencing. Preferably, this information will be available from a case management system
- Select all cases that resulted in a conviction that included an order of restitution within the study timeframe (e.g., the past year)
- Calculate the percentage of selected cases in which restitution was partially or fully paid by or at the time of sentencing
- Prosecutors may also want to examine data by charge level (felony, misdemeanor), which may affect the monetary value of restitution and the ability of the offender to pay

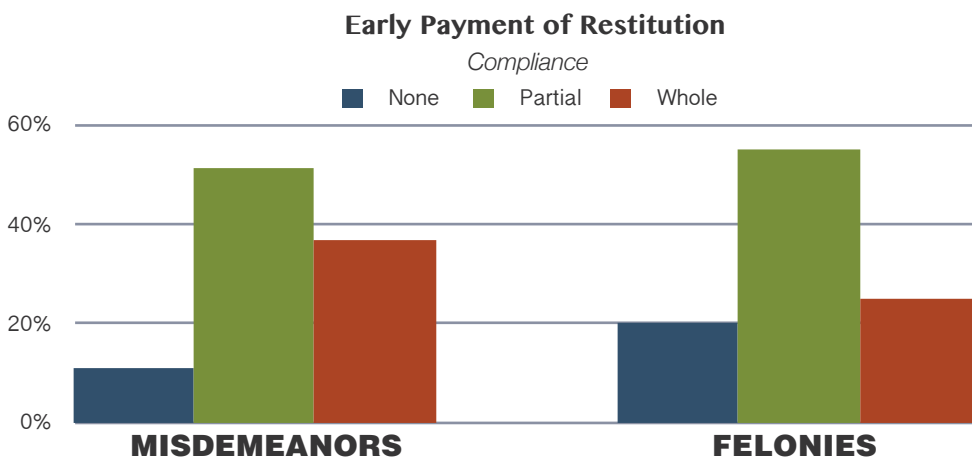
WHAT DATA ARE REQUIRED TO COMPUTE THE MEASURE?

- Whether restitution was ordered as a result of conviction
- Partial or whole payment of restitution by or at the time of sentencing
- The date of conviction
- The charge level (misdemeanor, felony)

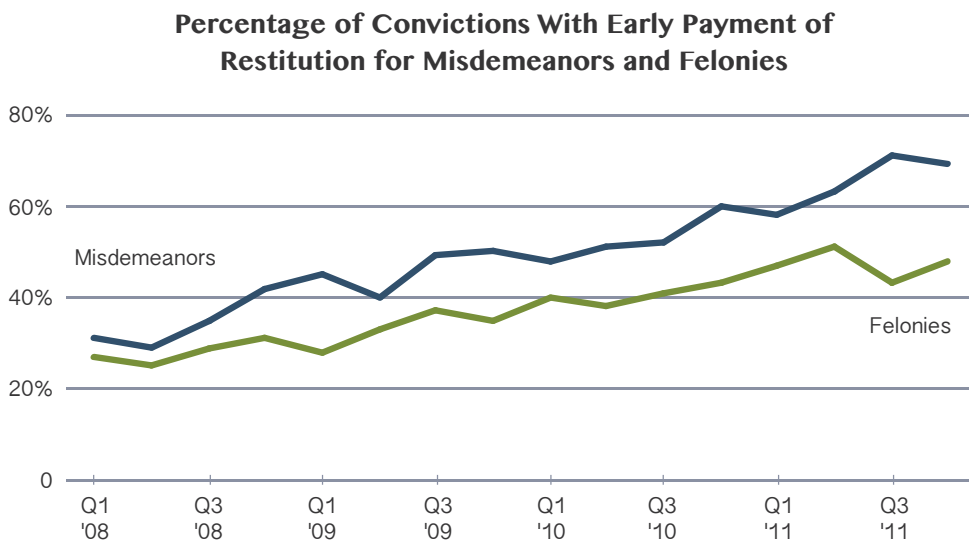
HOW SHOULD THE DATA BE INTERPRETED?

The data should be analyzed by charge level and over time.

SAMPLE A shows the percentage of convictions (that included restitution orders) in which restitution was paid by or at the sentencing date. The data is broken out by the level of payment (none, partial, whole) and by misdemeanor/felony. In this example the goal will be to minimize the percentage of cases in which early restitution did not occur and to maximize the percentage of cases in which restitution was paid in full.



SAMPLE B offers trend data. It reports the percentage of misdemeanor and felony elder abuse convictions in which at least partial restitution was paid by or at the time of sentencing. An increase over time in the percentage of cases with early payment of restitution would be considered a positive trend.



PROSECUTING ELDER ABUSE CASES

proposed performance measures

MEASURE 7

SUPERVISED SENTENCES

Percentage of Elder Abuse Convictions Resulting in Supervised Sentences

HOW IS THE MEASURE CALCULATED?

- Select all cases that resulted in a sentence within the study timeframe (e.g., the past year)
- Count the number of convictions resulting in supervised sentences—jail/prison time, supervised probation, court review hearings
- Compute the percentage of convictions that included supervised sentences
- Consider further analysis by charge level (misdemeanor/felony)
- The sentencing date
- The sentence
- The type of supervision (e.g., jail or prison term, supervised probation, court review hearings)

WHAT DATA ARE REQUIRED TO COMPUTE THE MEASURE?

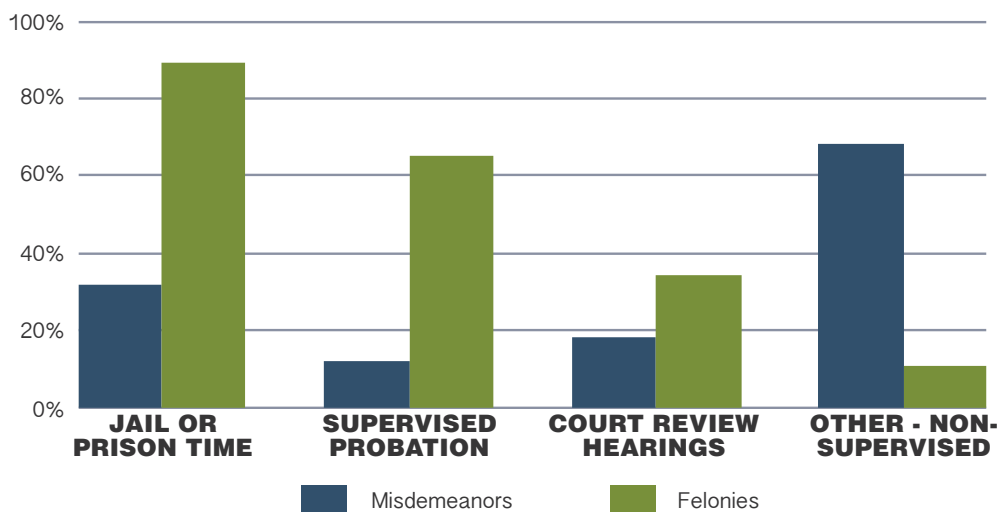
HOW SHOULD THE DATA BE INTERPRETED?

The data should be analyzed by the type of sentence and by supervised sentences over time. Additionally, the data can be viewed by the type of sentence and by charge level.

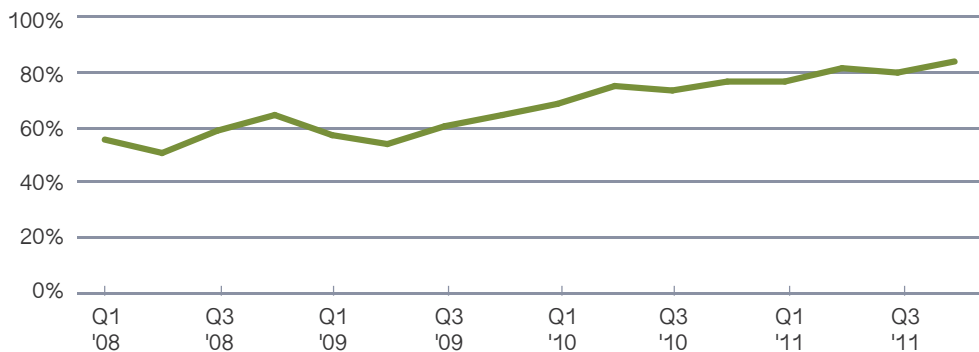
SAMPLE A shows the percentage of convictions by the type of sentence and charge level for a given year. Categories can be modified to reflect the language and types of sentences used by the prosecutor’s office. Cases may be counted in more than one category. For example, the convicted individual may receive a jail term and supervised probation following release. This case would be counted in each category. The percentages, when added, will exceed 100% for this reason.

SAMPLE B is a trend chart that shows how the percentage of convictions resulting in supervised sentences has changed over time. In this example, a supervised case includes one resulting in a jail/prison term, supervised probation, or court review hearings. The trend shows an increase in supervision.

Percentage of Convictions for Misdemeanors and Felonies, by Type of Sentence



Percentage of Convictions that Resulted in a Supervised Sentence



MEASURE 8

CONTACT RESTRICTIONS

Percentage of Convictions in which Restitution was Paid by or at the Time of Sentencing

HOW IS THE MEASURE CALCULATED?

- Select all cases that resulted in a sentence within the study timeframe (e.g., the past year)
- Determine the number of sentenced cases that included conditions that limited or prohibited the defendant’s employment or association with groups that primarily work with older or vulnerable persons
- Compute the percentage of sentenced cases with these employment/volunteer contact restrictions

WHAT DATA ARE REQUIRED TO COMPUTE THE MEASURE?

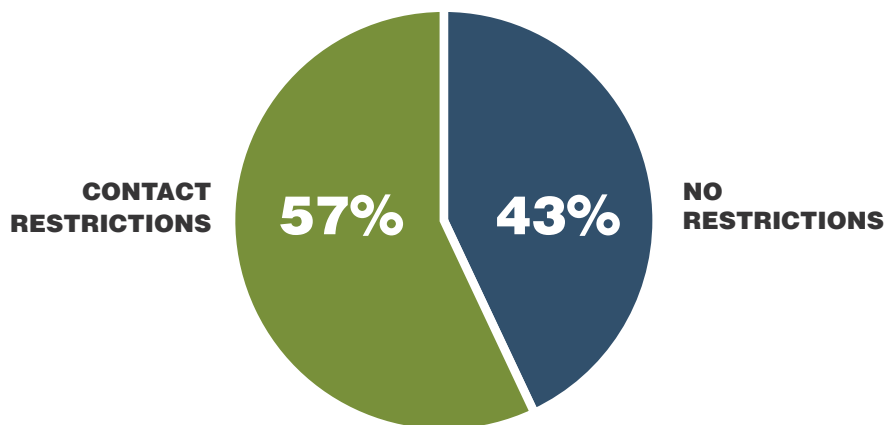
- The sentencing date
- Employment/volunteer service restrictions associated with the sentence

HOW SHOULD THE DATA BE INTERPRETED?

The data should be analyzed by the percentage of sentences that included employment or volunteer restrictions over time.

SAMPLE A shows the distribution of sentences by the presence or absence of restrictions, for a given year. In this example, the majority of sentences included restricted employment or volunteer opportunities with organizations that work with elderly clients.

Distribution of Sentences by the Presence or Absence of Restrictions



SAMPLE B is a trend chart that shows how the percentage of sentences that included contact restrictions changed over time. The trend demonstrates an increase in sentences that include such restrictions.

Percent of Convictions that Resulted in Employment or Association Restrictions





ADDITIONAL NATIONAL ORGANIZATIONS AND RESOURCES

CENTER FOR ELDER AND THE COURTS (CEC)

eldersandcourts.org/

CEC: ELDER ABUSE CURRICULUM FOR STATE JUDICIAL EDUCATORS

eldersandcourts.org/curriculum/

NATIONAL CENTER ON ELDER ABUSE (NCEA)

1.usa.gov/pCO7mK

NCEA: MULTIDISCIPLINARY EFFORTS

1.usa.gov/nxVMF4

NATIONAL CLEARINGHOUSE ON ABUSE IN LATER LIFE

ncall.us/

AMERICAN BAR ASSOCIATION COMMISSION ON LAW AND AGING

americanbar.org/groups/law_aging.html

ELDER ABUSE FATALITY REVIEW TEAMS: A REPLICATION MANUAL

bit.ly/nNPbMM





