

# Elder Abuse Cases

Proposed Performance Measures  
for Courts





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## Proposed Performance Measures for Courts

The proposed performance measures outlined in this document are complementary to the strategies outlined in *Identifying and Responding to Elder Abuse: A Benchcard for Judges* and *Court 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 court managers and judges as a way to increase effectiveness in handling elder abuse cases.



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This product is based on practices outlined in *Identifying and Responding to Elder Abuse: A Benchcard for Judges*. The benchcard was designed for judges and judicial officers who may be hearing cases in which elder abuse or neglect may be an underlying issue. The measures proposed here are consistent with recommendations that pertain to criminal elder abuse cases. We thank the members of our advisory group for their guidance in the development of the benchcard and subsequent products. Members of the advisory board include:

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# TABLE OF CONTENTS

ACKNOWLEDGEMENTS  
EXECUTIVE SUMMARY 01

03

**PART 1: USING PERFORMANCE MEASUREMENT TO IMPROVE COURT RESPONSES**

- 3 COURT EFFORTS TO DEVELOP MEASURES
- 4 DEVELOPING MEASURES FOR ELDER ABUSE CASES
- 6 REASONS FOR IMPLEMENTING THE PROPOSED MEASURES

08

**PART 2: PROPOSED PERFORMANCE MEASURES**

- 10 PRODUCTIVITY MEASURES
- 12 EFFICIENCY MEASURES
- 14 PROCEDURAL SATISFACTION MEASURES
- 16 EFFECTIVENESS MEASURES

18

**PART 3: THE STARTING POINT: FLAGGING CASES**

- 18 GUIDANCE 1: WORK WITH JUSTICE SYSTEM PARTNERS
- 21 GUIDANCE 2: DEFINE CRITERIA
- 26 GUIDANCE 3: ESTABLISH A DATA COLLECTION SYSTEM

28

**PART 4: PERFORMANCE MEASURE LOGISTICS**

- 28 DATA COLLECTION PROCESS
- 28 REQUIRED DATA ELEMENTS
- 30 CASE FILE SUMMARY FORM
- 32 M1: CONSOLIDATION OF RELATED CASES
- 34 M2: JUDGES PER CASE
- 35 M3: TIME TO DISPOSITION
- 37 M4: TRIAL DATE CERTAINTY
- 38 M5: ACCESS AND FAIRNESS RATINGS
- 45 M6: TIMELY PAYMENT OF RESTITUTION
- 47 M7: SUPERVISED SENTENCES
- 48 M8: COMPLIANCE HEARING



# EXECUTIVE SUMMARY

Courts and judges do not always recognize elder abuse, neglect and exploitation because many of these cases do not enter the court with such labels. One of the purposes of this document is to raise court awareness of the problem of elder abuse and to provide guidance on how the court can best address these types of cases. The performance measures are both educational and aspirational.

The purpose of performance measurement is to improve practices. In this case, court practices are considered in the context of criminal elder abuse cases, which by definition involve an older or vulnerable victim. Just as performance measures have been put forward (and widely accepted) in child abuse and neglect cases, courts must eventually consider how current and future court practices impact older victims of crime. The proposed measures are based on the courts' role to:

1. Address elder abuse and related cases in a consistent and fair manner
2. Expedite elder abuse cases
3. Ensure an accessible and fair environment for older parties
4. Hold the offender accountable and protect the victim and community from future harm

Based on the latest research and these ideals, eight performance measures are put forward that call into question current court practices that treat elder abuse as just another crime. Each measure and its corresponding guidance is summarized below.

**PERFORMANCE MEASURE 1**  
CONSOLIDATION OF  
RELATED CASES

Ancillary cases involving the same older victim should be consolidated to create a consistent, efficient and therapeutic outcome.

**PERFORMANCE MEASURE 2**  
JUDGES PER CASE

A single judge, preferably trained in elder abuse, should handle all hearings of a particular elder abuse case to promote consistency and decision making.

**PERFORMANCE MEASURE 3**  
TIME TO DISPOSITION

The court should expedite cases in which elder abuse is an underlying factor.

**PERFORMANCE MEASURE 4**  
TRIAL DATE CERTAINTY

The court should avoid unnecessary continuances and delays in elder abuse cases.

**PERFORMANCE MEASURE 5**  
ACCESS AND FAIRNESS RATINGS

The court should provide a supportive environment for older victims, witnesses and defendants and provide physical accommodations as needed.

**PERFORMANCE MEASURE 6**  
TIMELY PAYMENT OF RESTITUTION

The court should encourage the timely payment of restitution to older victims.

**PERFORMANCE MEASURE 7**  
SUPERVISED SENTENCES

The court should require active supervision of those convicted of elder abuse crimes.

**PERFORMANCE MEASURE 8**  
COMPLIANCE HEARINGS

The court should strive to enhance offender compliance by ordering court review hearings.

Courts may find that some measures are more readily attainable and useful than others. A description of each measure, along with detailed instructions on the collection, analysis, presentation and interpretation of data is provided. The application of performance measures to elder abuse cases should be viewed as an opportunity for courts to address a growing problem and to consider proactive strategies that will improve the experiences of older persons.

## **ELDER ABUSE CASES: PROPOSED PERFORMANCE MEASURES FOR COURTS**

Performance measurement is used in many fields, among them government, education, health care, law enforcement, and the courts. 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.”<sup>1</sup> The goal of this document is to apply performance measures to the specific crime of elder abuse, with the intent that the application of measures will generate greater court awareness and improve judicial responses.

The proposed performance measures are based on guidance offered in the companion publication, *Identifying and Responding to Elder Abuse: A Benchcard for Judges*.<sup>2</sup> 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 2 is an introduction to eight proposed performance measures. Part 3 provides instructions on how elder abuse cases can be “flagged.” Part 4 details how data can be collected, analyzed and interpreted.

<sup>1</sup> THEODORE H. POISTER, MEASURING PERFORMANCE IN PUBLIC AND NONPROFIT ORGANIZATIONS XVI (2003).

<sup>2</sup> The benchcard can be found at [www.eldersandcourts.org](http://www.eldersandcourts.org). It can be modified according to state laws and local resources.





# PART 1: USING PERFORMANCE MEASUREMENT TO IMPROVE COURT RESPONSES

Although performance measurement has become mainstream in many professions, its development and implementation has 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 to the planned levels or achieving new levels of performance.<sup>3</sup> Performance measures are organizational tools that can be used to promote promising practices and improve outcomes.



## COURT EFFORTS TO DEVELOP MEASURES

In the justice system, the state courts have led the development and adoption of national performance 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:

- Access to Justice
- Expedition and Timeliness
- Equality, Fairness and Integrity
- Independence and Accountability
- Public Trust and Confidence

<sup>3</sup> NICOLE L. WATERS & FRED L. CHEESMAN II, NAT'L CTR. FOR ST. CTS., MENTAL HEALTH COURT PERFORMANCE MEASURES: IMPLEMENTATION & USER'S GUIDE (2010).

In 2005, the 68 measures included in the Trial Court Performance Standards were refined to 10 core measures, known as *CourTools*.<sup>4</sup> 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.

Most recently, the measures were used to develop the Court Performance Framework, which provides a more “balanced” perspective on court performance.<sup>5</sup> The balanced perspective results in the inclusion of performance measures that might not be readily obvious to the field, but which nonetheless measure important aspects of court performance. NCSC developed a high performance court (HPC) framework that is comprised of a balanced scorecard based on the following matrix:

|   |  |
|---|--|
| <p><b>EFFECTIVENESS</b></p> <p>The match between stated goals and their achievement</p> | <p><b>PROCEDURAL SATISFACTION</b></p> <p>Customer perception of whether the court is providing fair and accessible service</p> |
| <p><b>EFFICIENCY</b></p> <p>The variability and stability in key processes</p>          | <p><b>PRODUCTIVITY</b></p> <p>Whether processes make the best use of judge and staff time</p>                                  |



**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 (e.g., murder, sexual assault, battery, theft, fraud) violate

criminal law. Some state laws require enhanced 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” by the court, elder abuse is likely to

<sup>4</sup> 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](http://www.courttools.org)

<sup>5</sup> Brian Ostrom & Roger Hanson, Nat’l Ctr. for St. Cts., *Achieving High Performance: A Framework for Courts* (Apr. 2010) (working paper, available at <http://bit.ly/L2X5fv>).



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.

be treated as any other criminal case.

The proposed elder abuse court performance measures are based on recommendations discussed in the following publications.

### **ABA RECOMMENDED GUIDELINES**

In 1996, the American Bar Association published *Recommended Guidelines for State Courts Handling Cases Involving Elder Abuse*.<sup>6</sup> The document contains 29 recommendations that address training, judicial administration and case management, implementation of procedural innovations, and coordination.

<sup>6</sup> AM. BAR ASSOC., RECOMMENDED GUIDELINES FOR STATE COURTS HANDLING CASES INVOLVING ELDER ABUSE (1996).

<sup>7</sup> MAX ROTHMAN, BURTON DUNLOP & LAURA SEFF, CTR. ON AGING, FLA. INT'L UNIV., ADAPTING TRIAL COURT PERFORMANCE STANDARDS TO AN AGING SOCIETY (2006).

<sup>8</sup> The benchcard can be found at [www.eldersandcourts.org](http://www.eldersandcourts.org).

### **ADAPTATION OF TRIAL COURT STANDARDS**

In 2006, Rothman, Dunlop, and Seff presented *Adapting Trial Court Performance Standards to an Aging Society*.<sup>7</sup> The standards addressed three issues: guardianship, self-service and criminal cases involving elder mistreatment and domestic violence. Standards specific to elder abuse criminal cases addressed effective participation, case processing, fair and reliable judicial process, responsibility for enforcement and production and preservation of records.

### **NCSC'S ELDER ABUSE BENCHCARD**

Recognizing the need for an abbreviated document to guide judges through the identification of and response to elder abuse and neglect, the National Center for State Courts developed a benchcard for judges.<sup>8</sup> The benchcard, which is a companion to this publication, outlines the definition of elder abuse, provides important concepts, offers tips on identifying elder abuse and neglect, notes reporting requirements, and offers assessment, remediation, and case management strategies.

A side-by-side comparison of recommendations offered by each of the three efforts demonstrated considerable consensus on the types of issues that are particularly relevant to court performance in elder abuse and neglect cases.

Eight issues were selected and translated into measures—each measure is shown in the balanced scorecard matrix below.

### **EFFECTIVENESS**

Supervised Sentences  
Compliance Hearings

### **PROCEDURAL SATISFACTION**

Access and Fairness Ratings  
Timely Payment of Restitution

### **EFFICIENCY**

Time to Disposition  
Trial Date Certainty

### **PRODUCTIVITY**

Consolidation of Related Cases  
Judges Per Case



## **REASONS FOR IMPLEMENTING THE PROPOSED MEASURES**

There are a number of reasons why courts should begin to measure performance on elder abuse matters. In many jurisdictions, judges are not aware of elder abuse cases unless they enter the court with specific abuse charges. Smaller jurisdictions that cannot afford specialization may see these cases slip through the cracks, thus losing the opportunity to craft better outcomes for older victims of crime. To implement these measures, judges and court managers may need to address the typical apprehensions:

### ***“OUR COURT 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 court—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.



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

The majority of case management systems will include the types of data required to develop the performance measures. However, some of the data will have to be collected through other means, including a survey of older court users. 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.

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

Judges 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 prosecution efforts. 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 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 staffing. Furthermore, courts have considerable control in the elder abuse performance measures proposed here.

This is an opportunity for courts to begin the process toward the collection and documentation of elder abuse data that can objectively gauge performance, guide improvements and produce better outcomes for older victims of crime.

## **PART 2: PROPOSED PERFORMANCE MEASURES**

The proposed measures that follow apply to crimes that involve forms of elder abuse, neglect or financial exploitation. Charges might not specifically include elder abuse, but will relate to acts committed against an elderly or vulnerable victim (as defined by state law). Each measure is based on promising practices previously put forward by the American Bar Association and the National Center for State Courts. Most of these measures are applicable beyond elder abuse cases.

The following page introduces eight proposed performance measures. Together the measures address productivity, efficiency, procedural satisfaction and effectiveness. 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 at [www.eldersandcourts.org](http://www.eldersandcourts.org).







# PERFORMANCE AREAS, GUIDANCE, AND PROPOSED ELDER ABUSE MEASURES

**PERFORMANCE MEASURE 1**  
**CONSOLIDATION OF RELATED CASES**

**PERFORMANCE MEASURE 2**  
**JUDGES PER CASE**

**PERFORMANCE MEASURE 3**  
**TIME TO DISPOSITION**

**PERFORMANCE MEASURE 4**  
**TRIAL DATE CERTAINTY**

**PERFORMANCE MEASURE 5**  
**ACCESS AND FAIRNESS RATINGS**

**PERFORMANCE MEASURE 6**  
**TIMELY PAYMENT OF RESTITUTION**

**PERFORMANCE MEASURE 7**  
**SUPERVISED SENTENCES**

**PERFORMANCE MEASURE 8**  
**COMPLIANCE HEARINGS**

## **PERFORMANCE AREA: PRODUCTIVITY**

**GUIDANCE:** Ancillary cases involving the same older victim should be consolidated to create a consistent, efficient and therapeutic outcome.

**GUIDANCE:** A single judge, preferably trained in elder abuse, should handle all hearings of a particular elder abuse case to promote consistency and decision making.

## **PERFORMANCE AREA: EFFICIENCY**

**GUIDANCE:** The court should expedite cases in which elder abuse is an underlying factor.

**GUIDANCE:** The court should avoid unnecessary continuances and delays in elder abuse cases.

## **PERFORMANCE AREA: PROCEDURAL SATISFACTION**

**GUIDANCE:** The court should provide a supportive environment for older victims, witnesses and defendants and provide physical accommodations as needed.

**GUIDANCE:** The court should encourage the timely payment of restitution to older victims.

## **PERFORMANCE AREA: EFFECTIVENESS**

**GUIDANCE:** The court should require active supervision of those convicted of elder abuse crimes.

**GUIDANCE:** The court should strive to enhance offender compliance by ordering court review hearings.



## PRODUCTIVITY MEASURES

Productivity measures are particularly critical in cases involving older victims. Generally, greater consistency and improved productivity can be achieved by consolidating related cases and by ensuring that a single judge handles all hearings associated with a particular elder abuse case. These strategies will also have a positive impact on the older victim's court experience.

### PERFORMANCE MEASURE 1 CONSOLIDATION OF RELATED CASES

#### **GUIDANCE**

Ancillary cases involving the same older victim should be consolidated to create a consistent, efficient and therapeutic outcome.

#### **WHAT IS THE MEASURE?**

Percentage of eligible cases in which related matters were addressed.

#### **WHAT IS THE GOAL?**

Greater Court Productivity and Therapeutic Outcomes. In addition to a criminal elder abuse case, there may be related civil or probate matters involving the same victim that can be addressed efficiently in the same hearing. For example, there may be civil financial cases pending that may be an outcome of criminal charges in which the older victim was defrauded. By consolidating related cases, the courts can minimize the number of appearances required by the older victim and can create consistent rulings that provide a therapeutic outcome.

#### **WHY MEASURE CASE CONSOLIDATION?**

The consolidation of criminal cases with related cases may not be possible in all jurisdictions. Furthermore, special consideration must be given to legal representation and unbiased judicial decision making when a single judge is hearing a variety of cases concerning the same victim. Despite the challenges, there is precedence in consolidating cases—unified family courts for example. Furthermore, most courts now have case management systems that will allow staff to identify cases involving the same parties. The measurement of case consolidation, where applicable, encourages courts to identify elder abuse and related matters and to consider ways in which courts can be more responsive to the needs of older victims.





## PRODUCTIVITY MEASURES

Productivity measures are particularly critical in cases involving older victims. Generally, greater consistency and improved productivity can be achieved by consolidating related cases and by ensuring that a single judge handles all hearings associated with a particular elder abuse case. These strategies will also have a positive impact on the older victim's court experience.

### PERFORMANCE MEASURE 2 JUDGES PER CASE

#### GUIDANCE

A single judge, preferably trained in elder abuse, should handle all hearings of a particular case to promote consistency and decision making.

#### WHAT IS THE MEASURE?

Percentage of cases in which the same judge presided over all hearings.

#### WHAT IS THE GOAL?

Consistency and Well-Informed Judicial Decision Making. Elder abuse cases share similar characteristics with child abuse and neglect cases, where the one family one judge model is considered a model approach. By using vertical judicial assignment in elder abuse cases, the judge will have the case history and experience with the parties that promote better decision making. Victims should benefit from this approach as they can be assured that the judge has all necessary information. Preferably, judges should be specially trained in elder abuse (see additional resources).

#### WHY MEASURE THE NUMBER OF JUDGES HANDLING A CASE?

In smaller jurisdictions or court divisions in which a single judge handles all criminal cases, this measure will not be relevant or useful. But when applied to jurisdictions in which several judges may be presiding over different phases of the criminal case, this measure can be used to initially raise awareness among the judiciary on the need for consistency. For example, if the typical elder abuse case that goes to trial is heard by three different judges, the judiciary should consider whether current practices can be modified to encourage judicial assignments in which elder abuse cases are heard by the same judge. Courts that subscribe to this goal may also consider the creation of an elder abuse docket and specialized judicial assignment, which will result in one judge handling all elder abuse cases—the ideal.

#### ELDER ABUSE CASES

*proposed performance measures for courts*



## EFFICIENCY MEASURES

Two measures are used to assess court efficiency in handling elder abuse cases. The first measure requires tracking the dates in which cases were filed and disposed. The second measure, trial date certainty, measures the ability of the court to dispose of cases on the scheduled trial date. The desirable outcome is expeditious processing of elder abuse cases.

### PERFORMANCE MEASURE 3 TIME TO DISPOSITION

#### GUIDANCE

The court should expedite cases in which elder abuse is an underlying factor.

#### WHAT IS THE MEASURE?

Median days from court filing to case disposition.

#### WHAT IS THE GOAL?

Timeliness. Elder abuse, neglect and exploitation cases often involve older victims who may be frail in health. Expediency is particularly critical to provide case 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 court proceedings. This goal should be combined with the appropriate use of memorialized testimony that will enable the court to hear the victim's testimony should the individual be unable to physically appear in court.

#### WHY MEASURE TIME TO CASE DISPOSITION?

Time to disposition is defined as the time between the court filing date and the disposition date (*Entry of Judgment* date). It is a measure that is affected by a number of factors, some of which are beyond the control of the court. For instance, the ability of the prosecutor to move forward will depend on the availability of victim and witness testimony. Similarly, defense attorneys may request delays to allow time for capacity assessments of the defendant. Nevertheless, the court plays a critical role in time to disposition and can work with its calendaring system to minimize the length and impact of ordinary delays that often occur in cases proceeding to trial.





## EFFICIENCY MEASURES

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### PERFORMANCE MEASURE 4 TRIAL DATE CERTAINTY

#### GUIDANCE

The court should avoid unnecessary continuances and delays in elder cases.

#### WHAT IS THE MEASURE?

Median number of trial date settings.

#### WHAT IS THE GOAL?

Expeditious Case Processing. Trial date certainty is another way to measure efficiency and reflects the court's continuance practices. 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. If continuance practices are too lenient, attorneys are less likely to be properly prepared on the trial date, which not only impacts the court calendar but places further burdens on older victims and witnesses.

#### WHY MEASURE TRIAL DATE CERTAINTY?

Trial date certainty, which documents a court's ability to hold trials on the first date they are scheduled to be heard, is closely associated with timely case disposition. The measure partly reflects the complexity of the case, the participation of the victim in criminal proceedings, and an individual judge's tendencies to grant continuances. Ideally, judges will minimize the number of continuances granted to further expedite the case and establish a court expectation that prosecutors and defense bar come to court prepared on the trial date. By using this measure, courts will become more aware of continuance practices and can make concerted efforts to ensure that justice for older victims is not unnecessarily delayed.

## ELDER ABUSE CASES

*proposed performance measures for courts*



## PROCEDURAL SATISFACTION MEASURES



Procedural satisfaction is based on the perception of whether the court is providing fair and accessible service. Despite popular belief, individuals can and do judge fairness apart from their satisfaction with the results of the case. Access is of particular importance to the older population for the reason that mobility and disability problems increase with age. In addition, restitution is particularly important for older persons who have a limited amount of time in which they can be compensated for their losses.

### PERFORMANCE MEASURE 5 ACCESS AND FAIRNESS RATINGS

#### GUIDANCE

The court should offer a supportive environment for older victims, witnesses and defendants, and provide physical accommodations as needed.

#### ACCOMPANYING FORMS

-  Court Checklist
-  Access and Fairness Survey

#### WHAT IS THE MEASURE?

Percentage of older persons satisfied with their court experience.

#### WHAT IS THE GOAL?

Access and Fairness. The way judges and court staff interact with older victims, witnesses and defendants will impact perceptions of access and fairness. In particular, court awareness and helpfulness in providing accommodations to older persons will directly impact the ability of an older person to fully participate in the court process. Court experiences could determine whether an older person is willing to ask for help in the future. Older persons should demonstrate high rates of satisfaction with the level of courtesy, respect and responsiveness demonstrated by the court.

#### WHY MEASURE SATISFACTION?

Ultimately, the goal of measuring user satisfaction with the court process is to identify service gaps and improve court management practices. The court must be particularly aware of access issues in cases involving older persons. For example, a court that does not address hearing impairments diminishes a person's access to the court process. By using the access and fairness survey, the court can identify strengths and weaknesses and work to refine practices to ensure that older persons receive equal and fair treatment in an accessible court.







## PROCEDURAL SATISFACTION MEASURES

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### PERFORMANCE MEASURE 6 TIMELY PAYMENT OF RESTITUTION

#### GUIDANCE

The court should encourage the timely payment of restitution to older victims.

#### WHAT IS THE MEASURE?

Percentage of convictions in which restitution was paid on time.

#### WHAT IS THE GOAL?

Victim Compensation. Restitution is one of the most significant factors affecting procedural satisfaction for victims. Courts 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, judges can require court review hearings and impose additional sanctions for offenders who are not paying restitution in a timely manner. The goal is to improve the timely payment of restitution to older victims.

#### WHY MEASURE TIMELY PAYMENT OF RESTITUTION?

The 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 at or prior to the original restitution due date. The measure recognizes that restitution orders may be changed over time—in both amount and deadlines for repayment. However, the measure encourages courts to abide by the due date imposed in the original order, thereby providing timely compensation for older victims of abuse.



## EFFECTIVENESS MEASURES

Upon conviction, courts should promote sentences and practices that maximize the older victim's future safety and well-being. Two strategies that should deter future acts of crime against the older victim are the issuance of sentences that include active supervision and court review or compliance hearings.

### PERFORMANCE MEASURE 7 SUPERVISED SENTENCES

#### GUIDANCE

The court should require active supervision of those convicted of elder abuse crimes.

#### WHAT IS THE MEASURE?

Percentage of 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 who requests that the court be lenient in its sentencing order. Some level of active supervision is encouraged to improve the victim's prospects for remaining safe, even in cases in which the victim wants ongoing contact with the abuser. While a jail or prison term automatically includes supervision, the court has additional means, such as supervised probation and compliance hearings, that should enhance victim safety.

#### WHY MEASURE SUPERVISED SENTENCES?

The measure includes three types of supervised sentences—those that include jail or incarceration, sentences that include active supervision by probation/community corrections professionals, and sentences that require periodic court review hearings. Courts may have additional supervision options that can be incorporated into this measure. Active supervision should be distinguished from passive supervision. For example, a probationary period that simply requires the defendant to avoid further contact with law enforcement does little to enhance an older victim's safety. On the other hand, the requirement that the offender be placed in active/intensive probation or report to the court periodically to discuss compliance is more likely to limit the offender's opportunity to further victimize the older person. When violations do occur, the court should quickly enforce sanctions. Appropriate levels of supervision should be an element of every sentence imposed in an elder abuse case.





## EFFECTIVENESS MEASURES

Upon conviction, courts should promote sentences and practices that maximize the older victim's future safety and well-being. Two strategies that should deter future acts of crime against the older victim are the issuance of sentences that include active supervision and court review or compliance hearings.

### PERFORMANCE MEASURE 8 COMPLIANCE HEARINGS

#### GUIDANCE

The court should strive to enhance offender compliance by ordering court review hearings.

#### WHAT IS THE MEASURE?

Percentage of convictions that included compliance hearings.

#### WHAT IS THE GOAL?

Offender Accountability. Individuals convicted of elder abuse must be held accountable for their actions. Judges should be aware that some offenders may be specifically targeting older persons, especially in financial crimes. The goal of compliance hearings is to hold the offender accountable through an additional layer of court monitoring. A periodic report to the court will allow the court to provide the offender with immediate feedback—both positive and negative. In addition, compliance hearings may be a means for the court and justice agency partners to protect the larger community from further abuse.

#### WHY MEASURE COMPLIANCE HEARINGS?

The court has the demonstrated capacity to require review hearings. For example, compliance hearings are used in a number of court settings (juvenile court, drug courts, domestic violence courts) to provide instant feedback to the offender that is aimed at improving the offender's participation in programs and compliance with court orders. However, while compliance hearings might be standard practices in problem-solving courts, they are less likely to be used in general jurisdiction courts. Elder abuse cases should be afforded this additional layer of monitoring.

## ELDER ABUSE CASES

*proposed performance measures for courts*

## PART 3: THE STARTING POINT: FLAGGING CASES

Cases that involve some level of elder abuse may not be recognized as such by local law enforcement and prosecutors. Furthermore, given the variances in state laws and lack of documentation, judges 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 court 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 court procedures. They do not require a specialized judge or docket, though such an approach may be conducive to addressing these crimes in a consistent and service-driven manner.



### GUIDANCE 1: WORK WITH JUSTICE SYSTEM PARTNERS

Many metropolitan criminal justice agencies now have a designated elder abuse detective, prosecutor or unit that is well-trained in handling cases involving elderly victims. In these jurisdictions, the prosecutor’s office should have already developed a “flagging” system to identify these cases, which should be shared with the courts. 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 court will have a more difficult time identifying these cases.

Judges should work with prosecutors, 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 court system. The documentation of elder abuse cases allows the court 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 judges, court staff and local justice system personnel.
- “Flagging” may be used to ensure that elder abuse cases receive additional support and links to community resources. An elder abuse case is much more likely to require special accommodations to ensure that the victim has accessibility to the court and understands the process. The roles of court staff and community advocates are oftentimes critical for these types of cases
- “Flagging” elder abuse cases may build support for elder abuse specialists in the justice system and possibly a dedicated court docket. Depending on the numbers and complexity of elder abuse cases, the court may benefit by developing an elder abuse docket with a specially trained judge to improve the efficacy of case processing and enhance the court experiences of older victims of crime.

## **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 court can easily identify an elder abuse or neglect case. Minimally, basic steps can be used to ensure that judges are knowledgeable about cases that may involve elder abuse or neglect. For instance, 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 the presiding judge. Similarly, judges who have identified cases in which elder abuse appears to be present may request the clerk to highlight particular cases on paper and preferably, in the court’s case management system. Ideally, this information will be incorporated into a case management system that will allow judges and clerks to easily identify elder abuse cases as they are presented in court.

## **WHAT DO WE DO NOW?**

Once cases are identified, “flagged,” and brought to the judge’s attention, what happens? Judges, working with interested stakeholders, should explore options and resources to develop protocols that will ensure elder abuse cases receive the full attention of the court. The companion benchcard for judges provides a number of strategies that can be applied to criminal elder abuse cases. Key remediation and case management tools are provided below.

### **Remediation Tools**

- Issue a restraining or “no contact” order that is tailored to individual circumstances.
- Schedule review hearings to ensure compliance with court orders, including treatment programs and restitution if applicable.
- If appropriate, appoint a guardian ad litem to monitor the provision of services and compliance with protective orders.
- Ensure that plea agreements meet the needs of the older victim of abuse. Be creative in sentencing and the use of alternative sanctions.





- Encourage the use of victim/witness advocates throughout the judicial process. If advocates are not available, train court staff to guide older abused persons through the court process.
- Allow an opportunity for victims to provide impact statements at sentencing.

- While preserving the defendant’s right of confrontation, consider procedures that assure the older victim’s testimony is memorialized, such as videotaped examinations and conditional exams.
- Consider creating an Elder Protection Court/Docket that addresses a variety of complex cases requiring expertise in elder law. The Court/Docket should be presided over by a specially trained judge.

**Case Management Tools**

- Ensure the courtroom is accessible and accommodates physical and/or cognitive impairments.
- Expedite cases in which elder abuse is an underlying factor, including avoiding unnecessary continuances and delays.
- If possible, consolidate ancillary cases involving the same family or victim to create a consistent, efficient and therapeutic outcome.
- Understand gradations of diminished capacity and calendar cases to accommodate medical needs and fluctuations in capacity and mental alertness.



**GUIDANCE 2:  
DEFINE CRITERIA**

Once the court 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 a handful of states, elder abuse statutes address vulnerability or dependency status of adults, rather than using an age-only criteria. An additional consideration is the treatment of abuse and neglect as it occurs 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 appear infrequently, as there are often 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, a broader set of criteria has to be used 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 court, if willing, can establish special procedures for this subset of cases.





# EXAMPLES

## **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.

**Highlighted Court:** In 2009, the California Superior Court, County of Ventura, established an elder abuse court to hear “368” cases. Cases eligible for the court are identified by the District Attorney’s Office and heard by a designated judge in a courtroom that has a separate observation room for vulnerable witnesses and victims.

## **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.

**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.

**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).

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

|                        | <b>Victim 60 or Over</b>            | <b>Additional Criteria</b>   |
|------------------------|-------------------------------------|--|
| Economic Crimes Unit   | <input checked="" type="checkbox"/> | 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    | <input checked="" type="checkbox"/> | 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   | <input checked="" type="checkbox"/> | Resident of long-term care facility  |
| Domestic Violence Unit | <input checked="" type="checkbox"/> | Perpetrator has trust relationship to victim (caregiver, family member, etc.) EXCEPT for intimate partner relationship   |



**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.

### **SCREEN CASES TO MATCH NEEDS WITH RESOURCES**

A third strategy for selecting cases on which to base performance measures relies on collaboration between courts, prosecutors, public defenders, 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.

### **EXAMPLE: ELDER COURT, SUPERIOR COURT OF CALIFORNIA, COUNTY OF CONTRA COSTA**

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 involve 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. The specially assigned judge has the opportunity to hear cases involving older persons that will benefit from additional community resources.

For an overview and video of the Contra Costa Elder Court, visit [www.courts.ca.gov/14124.htm](http://www.courts.ca.gov/14124.htm)

**ADVANTAGES:** The court has the ability to identify cases that can best be served by additional resources. Case screening offers flexibility and can include a variety of case types, including civil and probate. A specially trained judge and court staff can provide consistency and best practices.

**DISADVANTAGES:** Case screening may require additional resources (case manager, calendaring, 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.



### **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 courts 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. 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 is often not recorded in filings with the court
- Data entry processes need to be established that will define the criteria used to “flag” a case. This may require additional paperwork and data entry for administrative staff



- Training for clerks and data entry specialists may be required
- The inclusion of an “elder abuse” flag in the case management system will help the court identify such cases, but 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 to the court with these specific charges. In states where elder abuse is not recognized as a separate crime or subject to enhanced penalties, the court 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 disposition. Once elder abuse cases are identified, most of the performance measures can be obtained through the case management system. For example, measures of expeditious case processing might be documented by measuring the length of time from court filing to disposition and the number of trial date settings. However, courts may 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 the proposed 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 court. A background in research methodology is helpful but not necessary to complete the tasks outlined in this section. Thus, individual judges and court managers 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 may be helpful to identify the types of data required to construct the measures. While much of the data should be available in a case management system, some of the data may 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 eight 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, trial, disposition, conviction, sentence, restitution)
- Judicial assignments
- Related cases involving the same victim
- Charging levels (felonies/misdemeanors)
- Sentences (jail, prison, supervised probation, compliance hearings, etc.)
- Restitution (amount ordered, payments)

























The absence of detailed information, such as the level of probation supervision, may require that some of this information be collected by using a modified case file summary sheet. An analysis of the types and level of information provided in the case management system, as well as a review of local terminology, should be considered before modifying any forms or measures.





## PROPOSED MEASURES

1. Consolidation of Related Cases
2. Judges per Case
3. Time to Disposition
4. Trial Date Certainty
5. Access and Fairness Ratings
6. Timely Payment of Restitution
7. Supervised Sentences
8. Compliance Hearings

| DATES   |   |   |   |   |   |   |   |   |
|---|---|---|---|---|---|---|---|---|
| COURT FILING DATE   |   |   |  |   |   |   |   |   |
| DISPOSITION DATE  |    |    |  |    |    |   |   |   |
| TRIAL DATE  |   |   |   |    |   |   |   |   |
| CONVICTION DATE   |   |   |   |   |   |    |   |   |
| SENTENCE DATE   |   |   |   |   |   |   |    |    |
| RESTITUTION DUE DATE  |   |   |   |   |   |    |   |   |
| CHARGE LEVEL (MISDEMEANOR/<br>FELONY)                       |   |    |  |    |   |    |    |    |
| RELATED COURT MATTERS                                       |  |   |   |   |   |   |   |   |
| PRESIDING JUDGE AT HEARING                                  |   |  |   |   |   |   |   |   |
| TRIAL DATE SETTINGS   |   |   |   |  |   |   |   |   |
| COURT USER SURVEY RESPONSES                                 |   |   |   |   |  |   |   |   |
| RESTITUTION (ORDERS<br>AND PAYMENTS)                        |   |   |   |   |   |  |   |   |
| SENTENCE (INCLUDING SUPERVISION<br>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

Information on related cases and case consolidation is used to calculate Measure 1 (consolidation of related cases).

Case Number: \_\_\_\_\_

Defendant: \_\_\_\_\_

DOB \_\_ / \_\_ / \_\_\_\_

Victim(s): \_\_\_\_\_

DOB \_\_ / \_\_ / \_\_\_\_

Level of Crime:  Felony

Misdemeanor

From the time this criminal case was filed with the court to the time of disposition, note any related criminal, civil or probate matters involving the same victim. Check the appropriate box to indicate the consolidation of any cases. A case is considered consolidated if two or more separate but related matters are addressed in the same hearing.

| CASE NO. | TYPE OF CASE                      |                                |                                  | CONSOLIDATED?                |                             |
|----------|-----------------------------------|--------------------------------|----------------------------------|------------------------------|-----------------------------|
| _____    | <input type="checkbox"/> Criminal | <input type="checkbox"/> Civil | <input type="checkbox"/> Probate | <input type="checkbox"/> Yes | <input type="checkbox"/> No |
| _____    | <input type="checkbox"/> Criminal | <input type="checkbox"/> Civil | <input type="checkbox"/> Probate | <input type="checkbox"/> Yes | <input type="checkbox"/> No |
| _____    | <input type="checkbox"/> Criminal | <input type="checkbox"/> Civil | <input type="checkbox"/> Probate | <input type="checkbox"/> Yes | <input type="checkbox"/> No |
| _____    | <input type="checkbox"/> Criminal | <input type="checkbox"/> Civil | <input type="checkbox"/> Probate | <input type="checkbox"/> Yes | <input type="checkbox"/> No |
| _____    | <input type="checkbox"/> Criminal | <input type="checkbox"/> Civil | <input type="checkbox"/> Probate | <input type="checkbox"/> Yes | <input type="checkbox"/> No |

### CASE PROCESSING

Dates are used to identify appropriate cases from which to select data for each measure. Filing and disposition dates are used to calculate Measure 3 (time to disposition). Hearing information is used to calculate Measure 2 (judges per case) and Measure 4 (trial date certainty).

#### KEY DATES

Court Filing Date: \_\_\_\_\_

Disposition Date: \_\_ / \_\_ / \_\_\_\_

Trial Date: \_\_\_\_\_

(include both jury and bench trials)

#### For cases resulting in a conviction

Conviction Date: \_\_\_\_\_

Sentencing Date: \_\_ / \_\_ / \_\_\_\_

Restitution Due Date: \_\_\_\_\_

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: \_\_ / \_\_ / \_\_\_\_





## CASE FILE SUMMARY FORM, CONT

### HEARINGS

| HEARING DATE   | TYPE OF HEARING | PRESIDING JUDGE | TRIAL DATE SET?              |                             |
|----------------|-----------------|-----------------|------------------------------|-----------------------------|
| __ / __ / ____ | _____           | _____           | <input type="checkbox"/> Yes | <input type="checkbox"/> No |
| __ / __ / ____ | _____           | _____           | <input type="checkbox"/> Yes | <input type="checkbox"/> No |
| __ / __ / ____ | _____           | _____           | <input type="checkbox"/> Yes | <input type="checkbox"/> No |
| __ / __ / ____ | _____           | _____           | <input type="checkbox"/> Yes | <input type="checkbox"/> No |
| __ / __ / ____ | _____           | _____           | <input type="checkbox"/> Yes | <input type="checkbox"/> No |
| __ / __ / ____ | _____           | _____           | <input type="checkbox"/> Yes | <input type="checkbox"/> No |
| __ / __ / ____ | _____           | _____           | <input type="checkbox"/> Yes | <input type="checkbox"/> No |
| __ / __ / ____ | _____           | _____           | <input type="checkbox"/> Yes | <input type="checkbox"/> No |
| __ / __ / ____ | _____           | _____           | <input type="checkbox"/> Yes | <input type="checkbox"/> No |

Number of Judges Hearing this Case: \_\_\_\_\_

Number of Trial Date Settings: \_\_\_\_\_

### ACCESS AND FAIRNESS SURVEY

Use this section to acknowledge the administration and receipt of the survey for older victims, witnesses and defendants. Survey results will be used to calculate Measure 5 (access and fairness ratings).

Was the access and fairness survey completed and returned by the:

Older victim:  Yes  No  N/A  
 Older Witness(es):  Yes  No  N/A  
 Older Defendant:  Yes  No  N/A

### SENTENCING AND RESTITUTION

Use for calculations of Measure 6 (timely payment of restitution), Measure 7 (supervised sentences), and Measure 8 (compliance hearings).

#### CONDITIONS AND TERMS OF SENTENCE

- Jail/Prison
- Referral for Assessment
- Treatment/Intervention Program
- Restrictions on Future Employment/Volunteer Opportunities with Elderly Clients
- General Probation (unsupervised)
- Supervised Probation
- Court Compliance Hearings

Check if the sentence involved some level of supervision (jail/prison, supervised probation, court compliance hearings):

### RESTITUTION

Was restitution ordered?  Yes  No

Original amount of restitution ordered: \_\_\_\_\_

Modified amount: \_\_\_\_\_

Amount paid by original restitution due date: \_\_\_\_\_

None paid  Paid in part  Paid in full

### ELDER ABUSE CASES

proposed performance measures for courts

# MEASURE 1

## CONSOLIDATION OF RELATED CASES

*Percentage of Eligible Cases in which Related Matters were Addressed*

### HOW IS THE MEASURE CALCULATED?

- Select all elder abuse cases in which cases were disposed or otherwise resolved within the study timeframe (e.g., the past year)
- From those selected cases, determine how many had ongoing court cases (criminal, civil, probate) concerning the same victim while the criminal case was active
  - *This is the total number of cases eligible for case consolidation and is used as denominator in future percentage calculations*
- Determine how many of the eligible cases were consolidated. A case can be considered consolidated if two or more separate but related matters are addressed in the same hearing
- Compute the percentage of eligible cases in which related matters were consolidated

### WHAT DATA ARE REQUIRED TO COMPUTE THE MEASURE?

- Date on which the case was disposed or resolved (*Entry of Judgment* date may be used)
- Record of additional court cases involving the same victim that were open while the criminal case was active
- Whether the elder abuse case was consolidated with related matters

### HOW DO I TREAT SPECIAL CIRCUMSTANCES?

Some court jurisdictions may not be able to hear criminal, civil and probate issues in a single court. If your court has a division that handles only criminal cases and does not allow the court to consolidate different types cases, this measure will not be appropriate at this time.

Some caution must be used before declaring cases unrelated. For example, the victim's capacity to consent or susceptibility to undue influence might be an underlying issue in cases that first appear unrelated. For ease of measurement and to ensure consistency, these cases should be considered eligible for case consolidation.

### HOW SHOULD THE DATA BE INTERPRETED?

The data should be analyzed over time.

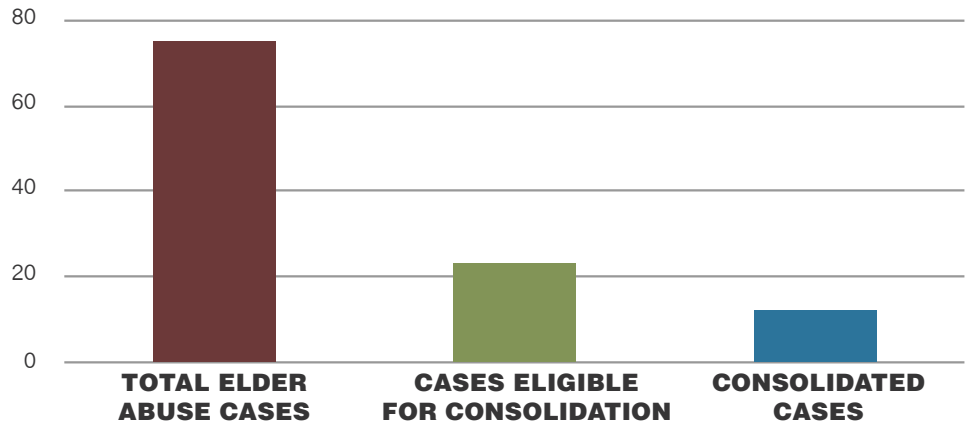


# MEASURE 1

## CONSOLIDATION OF RELATED CASES

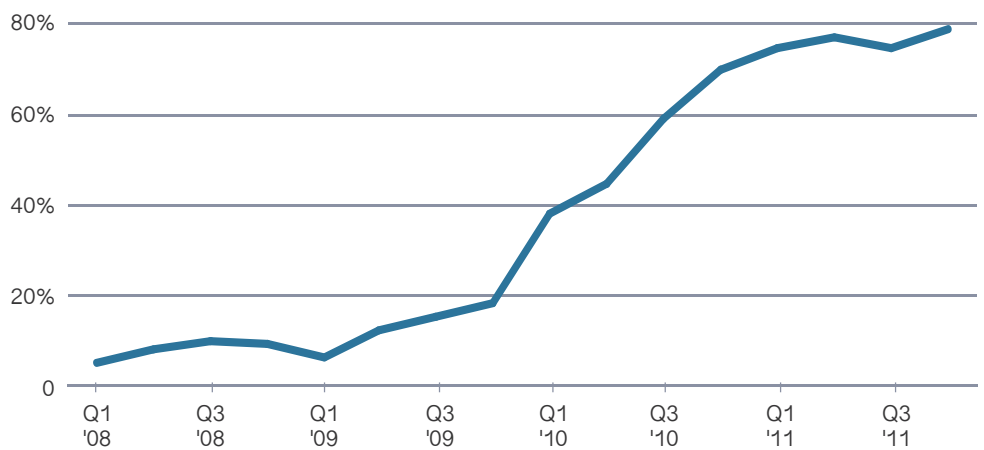
**SAMPLE A** shows the total number of elder abuse criminal cases, the number of cases eligible for case consolidation, and the number of cases in which related matters were actually consolidated in a given year. Data indicate that a relatively small proportion of cases were eligible for consolidation, but about half of those eligible cases were consolidated by the court.

Number of Cases Consolidated for Elder Abuse



**SAMPLE B** is a trend chart that shows how case consolidation has changed over time. Percentages are based on the number of elder abuse cases that were consolidated as a percentage of those that were eligible for consolidation. The example demonstrates a dramatic change in court philosophy that brought the consolidation of elder abuse and related matters into a standard practice.

Change in Percentage of Consolidated Elder Abuse Cases



### ELDER ABUSE CASES

# MEASURE 2

## JUDGES PER CASE

Percentage of Cases in which the Same Judge Presided over all Hearings

### HOW IS THE MEASURE CALCULATED?

- Select all elder abuse cases in which cases were disposed or otherwise resolved within the study timeframe (e.g., the past year)
- Document all hearings by the name of the judge who presided over the hearing
- Sort cases and calculate percentages according to the number of judges who presided over elder abuse hearings
- For comparison reasons, courts should distinguish misdemeanor from felony cases
- Date on which the case was disposed or resolved (*Entry of Judgment* date may be used)
- Hearing dates
- Judge at each hearing
- Charge level (misdemeanor, felony)

### WHAT DATA ARE REQUIRED TO COMPUTE THE MEASURE?

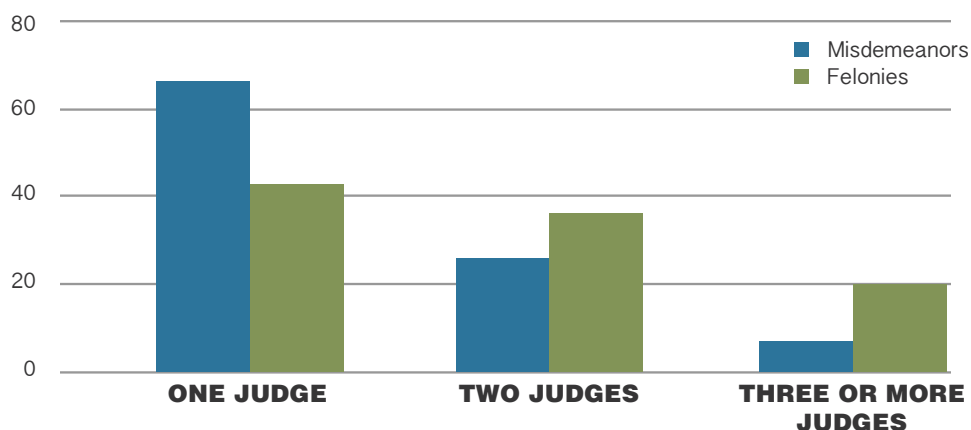
### HOW DO I TREAT SPECIAL CIRCUMSTANCES?

In smaller jurisdictions, a single judge may preside over all criminal hearings. Similarly, courts that use a specially-assigned judge to oversee a docket that includes all elder abuse cases will have one judge presiding over all hearings. In such cases, this measure will not be relevant to your court.

### HOW SHOULD THE DATA BE INTERPRETED?

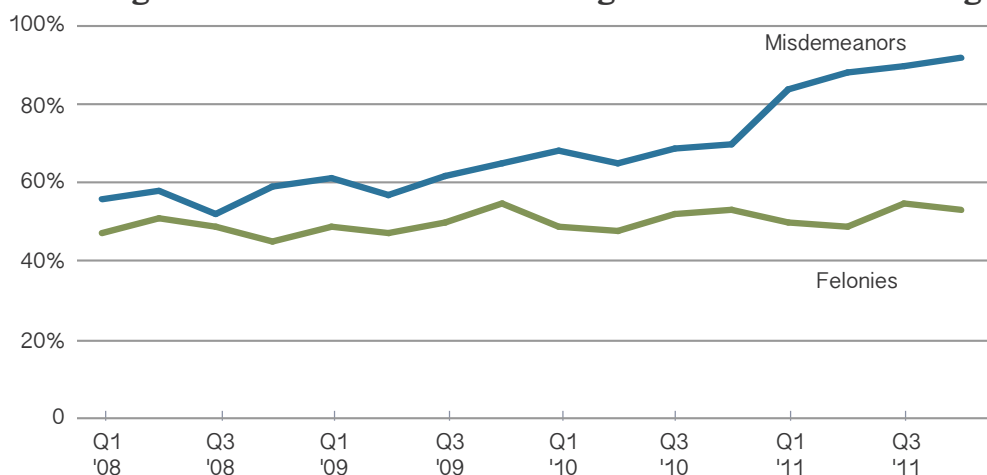
The data should be analyzed by charge level and over time.

Number of Elder Abuse Cases, by Number of Presiding Judges, for All Hearings



**SAMPLE A** shows the number of judges per elder abuse case for misdemeanors and felonies for cases disposed in a given year. Data indicate that hearings for an individual felony elder abuse case are often heard by more than one judge, while the majority of misdemeanor cases are heard by one judge. Generally, an increase in the number of court hearings per case will increase the possibility that multiple judges will be involved.

Percentage of Cases in Which the Same Judge Presided Over all Hearings



**SAMPLE B** is a trend chart of the percentage of cases in which all hearings in an elder abuse case were presided over by one judge, by charge level and over time. The trend shows a concerted effort by the court to limit the number of judges who handle elder abuse misdemeanor cases.



# MEASURE 3

## TIME TO DISPOSITION

*Median Days from Court Filing to Case Disposition*

### HOW IS THE MEASURE CALCULATED?

- Select all elder abuse cases in which cases were disposed or otherwise resolved within the study timeframe (e.g., the past year)
- Compute the number of days from the court filing date to the disposition date
- Determine the median number of days to disposition. The median is used, rather than the mean, because the median will minimize the impact that extraordinarily lengthy cases would have on time to disposition
- For comparison reasons, courts should distinguish misdemeanor from felony cases
- For additional details, see NCSC's *CourTools*

### WHAT DATA ARE REQUIRED TO COMPUTE THE MEASURE?

- Date on which the case was filed with the court (this becomes the "start date")
- Date on which the case was disposed or resolved (Entry of Judgment date may be used)
- Charge level (misdemeanor, felony)

### HOW DO I TREAT SPECIAL CIRCUMSTANCES?

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



**TIME TO CASE RESOLUTION = 15+20=35 DAYS**

Some jurisdictions 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 disposition statistics.

# MEASURE 3

## TIME TO DISPOSITION

### ARE THERE STANDARDS THAT THE COURT SHOULD CONSIDER?

As provided below, there are two national case processing standards that apply to court processing of criminal cases: the Conference of State Court Administrators (COSCA) and the American Bar Association (ABA).

|                     | <b>COSCA STANDARDS</b> | <b>ABA STANDARDS</b>   |
|---------------------|------------------------|--|
| <b>FELONIES</b>     | 100% within 180 days   | 90% within 120 days<br>98% within 180 days<br>100% within 1 year |
| <b>MISDEMEANORS</b> | 100% within 90 days    | 90% within 30 days<br>100% within 90 days                        |

### HOW SHOULD THE DATA BE INTERPRETED?

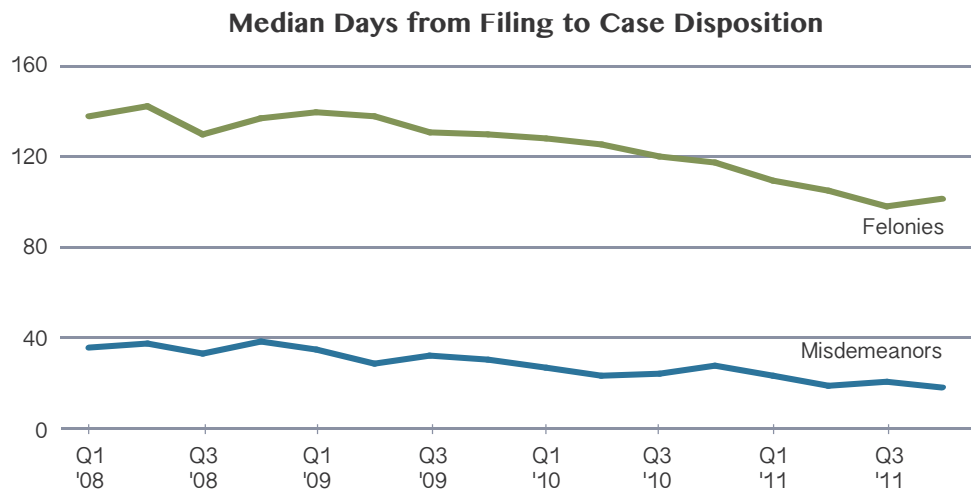
The data should be analyzed by charge level over time. If desired, actual performance can be compared against national standards (see Sample A).

**SAMPLE A** compares actual case processing time to ABA standards. The table also provides the mean and median number of days from case filing to case disposition for both misdemeanors and felonies. Ideally, elder abuse cases should exceed standards due to the importance of expediency for older and vulnerable victims.

Percentage of Elder Abuse Cases Disposed

|                     | 120 days |      | 180 days |      | 365 days |      | Number of Days |        |
|---------------------|----------|------|----------|------|----------|------|----------------|--------|
|                     | Current  | Goal | Current  | Goal | Current  | Goal | Mean           | Median |
| <b>FELONIES</b>     | 71%      | 90%  | 89%      | 98%  | 95%      | 100% | 193            | 101    |
|                     | 30 days  |      | 90 days  |      |          |      |                |        |
| <b>MISDEMEANORS</b> | 76%      | 90%  | 89%      | 100% |          |      | 39             | 18     |

**SAMPLE B** is a trend chart that shows how the median number of days from filing to case disposition for misdemeanors and felonies has changed over time. The trend shows greater efficiencies over time.





# MEASURE 4

## TRIAL DATE CERTAINTY

### Median Number of Trial Date Settings

#### HOW IS THE MEASURE CALCULATED?

- Prepare a list of all elder abuse cases disposed by trial (jury and bench) during the reporting period (e.g., the past quarter, year)
- Examine the case record to determine the number of trial dates set in the case and record them. The minimum number of trial dates set for any case on this list will be 1
- Determine the distribution of cases by the number of trial settings and calculate the percentages
- Calculate the median number of trial settings over time. The median is used, rather than the mean, because the median will minimize the impact that a few cases with a high number of trial settings would have on the final calculation
- For comparison reasons, courts should distinguish misdemeanor from felony cases
- For additional details, see NCSC's *CourTools*

#### WHAT DATA ARE REQUIRED TO COMPUTE THE MEASURE?

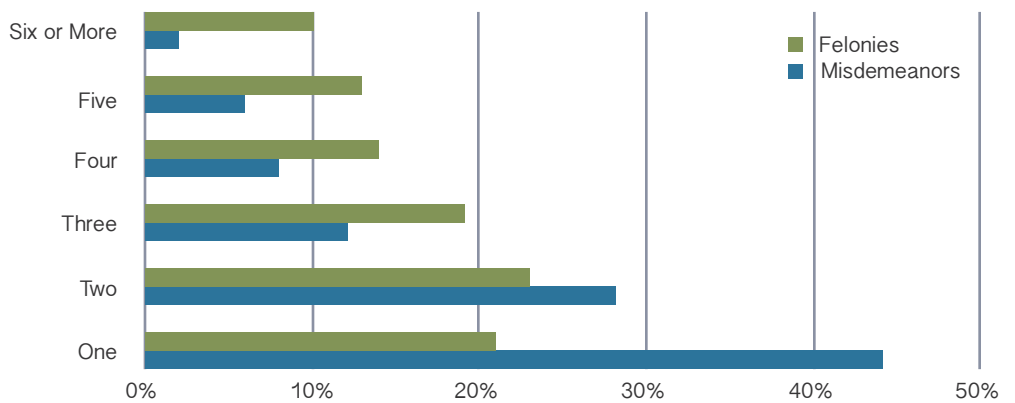
- Date on which the case was disposed by jury or bench trial
- Trial date settings
- Charge level (misdemeanor, felony)

#### HOW SHOULD THE DATA BE INTERPRETED?

The data should be analyzed by the number of trial settings, charge level, and over time.

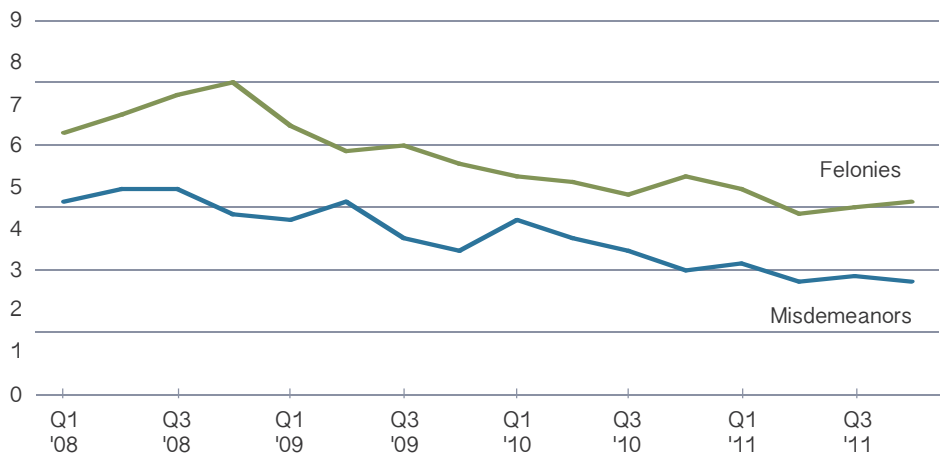
**SAMPLE A** shows the number of trial settings for elder abuse cases that went to trial in a given year. The information can be used to identify particularly challenging cases that have a high number of trial settings and identify ways in which similar types of cases might be expedited in the future.

Percentage of Cases by Number of Trial Settings



**SAMPLE B** shows the median number of trial date settings over time, by charging level (misdemeanor, felony). In the long-term, courts should look for a decline in the number of trial date settings at each charging level.

Median Number of Trial Date Settings



### ELDER ABUSE CASES

proposed performance measures for courts

# MEASURE 5

## ACCESS AND FAIRNESS RATINGS

*Percentage of Older Persons Satisfied with Their Court Experience*

### HOW IS THE MEASURE CALCULATED?

- Give the survey to older victims, witnesses and defendants in elder abuse cases following disposition (*the survey can be applied to other cases with some modification*). Set up a system to encourage the completion and return of questionnaires (*court checklist and sample questionnaire provided*)
- Select all elder abuse cases that reached disposition within the study timeframe (e.g., the past year)
- 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
- For additional details, see NCSC's *CourTools*

### WHAT DATA ARE REQUIRED TO COMPUTE THE MEASURE?

- Date on which the case was disposed or resolved (*Entry of Judgment date may be used*)
- Survey responses from older victims, witnesses and defendants in elder abuse cases

### HOW DO I TREAT SPECIAL CIRCUMSTANCES?

In some cases, the older person may not be able to complete the questionnaire due to physical or medical reasons. For instance, the individual's sight may be impaired. If the older person is unable to complete the questionnaire, please ask that responses be completed by a family member or friend who assisted the older person. If the older person or her/his representative is not available or cannot complete the questionnaire, please note this information in the case file summary sheet.

### HOW SHOULD THE DATA BE INTERPRETED?

The data can be analyzed over time. In addition, higher level analyses can be carried out based on specific variables and relationships of interest.

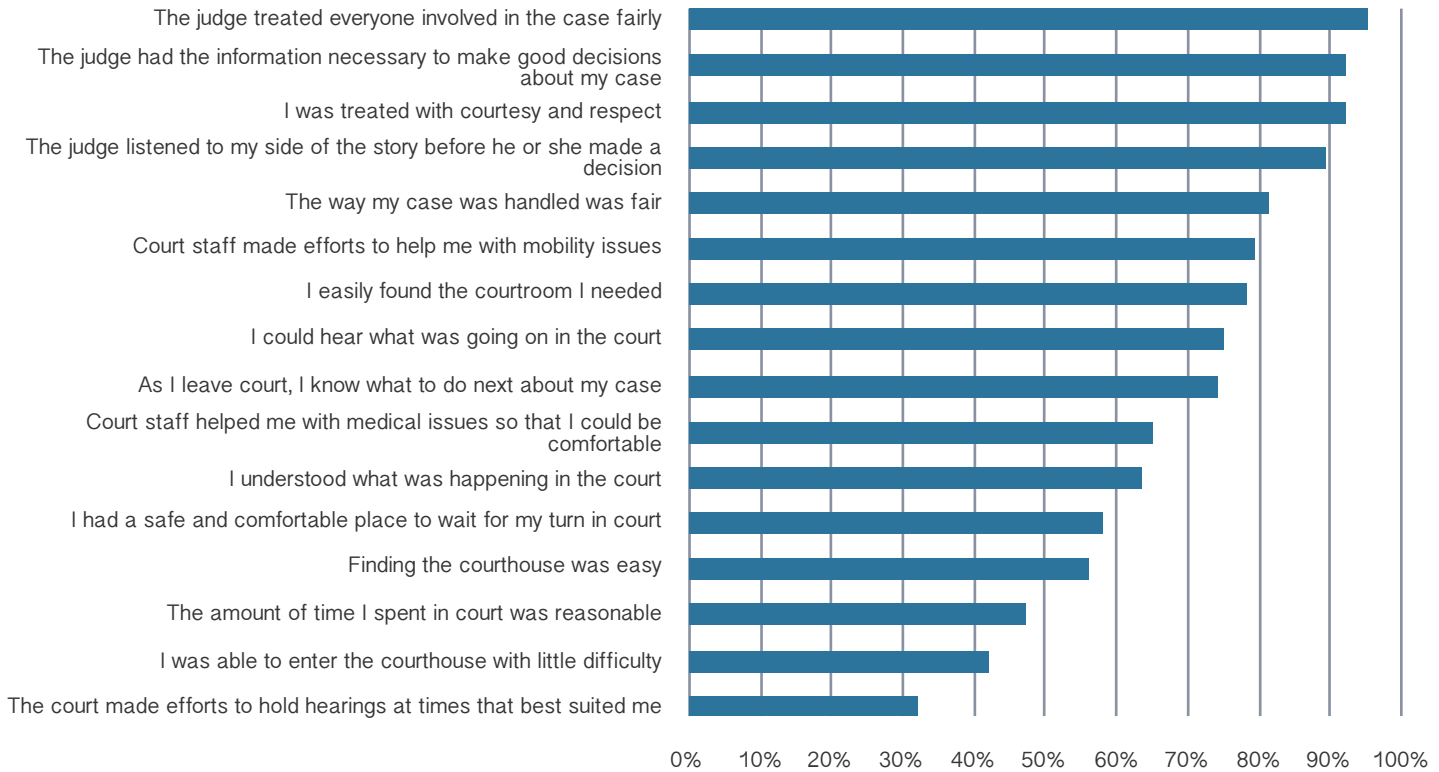


# MEASURE 5

## ACCESS AND FAIRNESS RATINGS

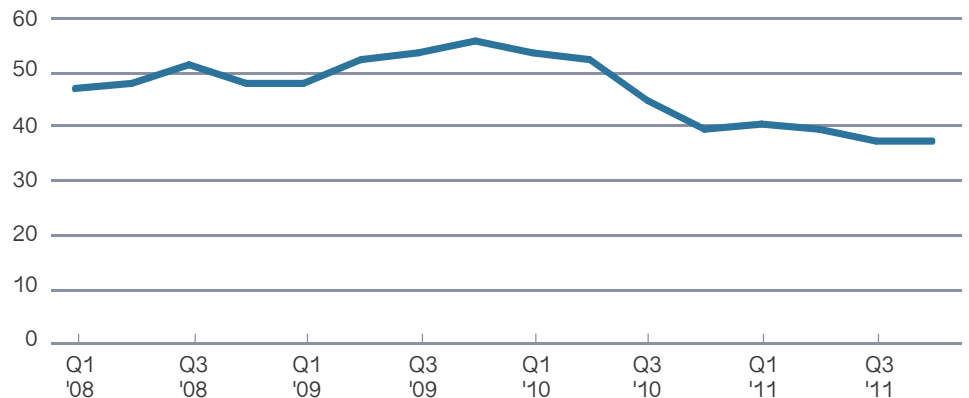
**SAMPLE A** shows the percentage of older persons who agreed or strongly agreed with each measure of user satisfaction. Results can be used to identify strengths and challenges.

**Percentage of Victims who Agreed or Strongly Agreed with Each Satisfaction Measure**



**Total Victim Satisfaction Index Score**

**SAMPLE B** is a trend chart that shows how the court user satisfaction index score has changed over time. In this hypothetical example, index scores declined over time. Upon further analysis, the decline may be due to an external factor, such as courthouse renovation or internal staffing issues. The goal should be improved levels of satisfaction, which will be indicated by an upward trend.








# MEASURE 5

## ACCESS AND FAIRNESS RATINGS

### ADDITIONAL CALCULATION HINTS

#### Example 1: Calculating Court User Satisfaction Ratings by Question

| Respondent Number            | QB1<br>Location   | QB2<br>Entrance   | QB3<br>Courtroom  | QC1<br>Fair   | QC2<br>Listen   |
|------------------------------|---|---|---|---|---|
| 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   |
| <b>TOTAL SCORE</b>           | 410   | 470   | 345   | 388   | 223   |
| <b>TOTAL RESPONDENTS</b>     | 100   | 100   | 100   | 100   | 100   |
| <b>TOTAL VALID RESPONSES</b> | 100   | 98  | 95  | 98  | 95  |
| <b>RATING OF 4 OR 5</b>      | 83  | 88  | 75  | 79  | 41  |
| <b>AVERAGE</b>               | 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, "Finding the courthouse was easy," the percentage in the Agree group is 83% (83/100); for question B2, "I was able to enter the courthouse with little difficulty," 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

## ACCESS AND FAIRNESS RATINGS

### ADDITIONAL CALCULATION HINTS

#### Example 2: Creating an Index Score

An index score provides an overall rating of user 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 63.5, the sum of the average scores of all 15 questions.

|                              |   |             |
|------------------------------|---|-------------|
| B1.                          | Finding the courthouse was easy.  | 4.1         |
| B2.                          | I was able to enter the courthouse with little difficulty.                    | 4.8         |
| B3.                          | I easily found the courtroom I needed.  | 4.6         |
| B4.                          | I had a safe and comfortable place to wait for my turn in court.              | 3.6         |
| B5.                          | Court staff made efforts to help me with mobility issues.                     | 4.5         |
| B6.                          | Court staff helped me with medical issues so that I could be comfortable.     | 3.9         |
| B7.                          | The court made efforts to hold hearings at times that best suited me.         | 3.4         |
| B8.                          | I could hear what was going on in the court.                                  | 4.1         |
| B9.                          | I understood what was happening in the court.                                 | 3.7         |
| B10.                         | The amount of time I spent in court was reasonable.                           | 2.3         |
| B11.                         | I was treated with courtesy and respect.                                      | 4.1         |
| C1.                          | The way my case was handled was fair.   | 4.6         |
| C2.                          | The judge listened to my side of the story before he or she made a decision.  | 4.1         |
| C3.                          | The judge had the information necessary to make good decisions about my case. | 4.2         |
| C4.                          | The judge treated everyone involved in the case fairly.                       | 3.7         |
| C5.                          | As I leave the court, I know what to do next about my case.                   | 3.8         |
| <b>OVERALL INDEX SCORE =</b> |   | <b>63.5</b> |













Index scores can also be calculated for each section of questionnaire. The index score for Section B is 43.1 (of a possible score of 55). The index score for Section C is 20.4 (of a possible score of 25).



## COURT CHECKLIST

This checklist may be used by judges and court staff as a reminder of actions the court may take to accommodate the needs of older victims, witnesses and defendants.

### STRATEGIES FOR HEARING CASES INVOLVING OLDER PERSONS

|  |   |   |
|--|---|---|
| <b>BE PATIENT</b>                      | Older persons may need more time to process information. Allow the older person sufficient time to respond. Remind attorneys to speak one at a time.  |       |
| <b>ACCOMMODATE NEEDS</b>               | Identify and consider needs pertaining to mobility, language and communication (assistive devices, interpreters and translators), medication, nutrition, hydration, oxygen, and other medical treatment. Older persons may also need more frequent breaks and comfortable seating. Provide accommodations as needed.  |       |
| <b>PROVIDE A TOUR OF THE COURTROOM</b> | Court staff should offer to work with attorneys and Victim/Witness staff to provide the older person with a tour of the courtroom in advance. Familiarize the older person with seating arrangements and the general process. Provide information on how the courtroom will be accommodated, as needed, to address special needs (such as hearing amplification devices). |       |
| <b>ENCOURAGE THE USE OF ADVOCATES</b>  | Court advocates are particularly helpful for older victims and witnesses who may be intimidated by their participation in court proceedings. Encourage the use of advocates throughout the judicial process. If advocates are not available, consider training and using court staff to guide older persons through the court process.                                    |       |
| <b>CONSIDER WAITING AREA</b>           | Make sure there is a safe, comfortable and accessible waiting area (preferably away from the assigned courtroom).   |   |
| <b>BE FLEXIBLE IN SCHEDULING</b>       | The court should make efforts to be flexible in calendaring cases. Some older persons may need hearings scheduled at a time that best accommodates medical needs or fluctuations in capacity and mental alertness. Also consider the length of the hearing. Avoid delays once the victim is present.  |   |





## SURVEY: YOUR EXPERIENCE WITH THE COURT

We are seeking your participation in this survey to help us learn how well the court—including judges and staff—responded to your needs in this court case. Please answer each of the items as best you can.

### THANK YOU!

Note: If you are completing this survey on behalf of an older victim, witness or defendant, please mark responses that reflect this person’s background and experiences. For example, enter the gender and ethnicity of the person you are representing rather than your own.

### SECTION A: BACKGROUND INFORMATION

A1. Please check this box if you are completing the survey on behalf of an older person:

A2. What was the date of the last court hearing? \_\_\_ / \_\_\_ / \_\_\_\_

A3. Did you (or the person you are representing) appear in court as a victim, witness or defendant?

Victim       Witness       Defendant

A4. Have you had previous experiences with the court?  Yes       No

A5. What assistance, if any, did you (or the person you are representing) need to be able to fully participate in the hearing?

**Assistance was needed with: (Please check all that apply)**

- |   |  |
|---|--|
| <input type="checkbox"/> Mobility issues (wheelchair, walker, cane)         | <input type="checkbox"/> Hearing the court proceedings                         |
| <input type="checkbox"/> Viewing or reading documents                       | <input type="checkbox"/> Language—an interpreter was needed                    |
| <input type="checkbox"/> Medical devices or conditions (oxygen, medication) | <input type="checkbox"/> Timing of the hearings due to variations in alertness |
| <input type="checkbox"/> The number and timing of court breaks.             | <input type="checkbox"/> Other _____   |

**Assistance from the court on any of these issues was not needed**

A6. What is your Gender?  Female       Male

A7. How do you identify yourself?

- |   |  |
|---|--|
| <input type="checkbox"/> American Indian or Alaska Native | <input type="checkbox"/> Asian                                     |
| <input type="checkbox"/> Black or African American        | <input type="checkbox"/> Hispanic or Latino                        |
| <input type="checkbox"/> White                            | <input type="checkbox"/> Native Hawaiian or Other Pacific Islander |
| <input type="checkbox"/> Mixed Race                       | <input type="checkbox"/> Other _____                               |



## SURVEY: YOUR EXPERIENCE WITH COURT, CONT

1 = Strongly Disagree  
2 = Disagree

3 = Neither Agree nor Disagree  
4 = Agree

5 = Strongly Agree  
☐☐ = Not Applicable

### SECTION B: ACCESS TO THE COURT

(Circle the number that best fits your response.)

|      |   |   |   |   |   |   |    |
|------|---|---|---|---|---|---|----|
| B1.  | Finding the courthouse was easy.  | 1 | 2 | 3 | 4 | 5 | ☐☐ |
| B2.  | I was able to enter the courthouse with little difficulty.                | 1 | 2 | 3 | 4 | 5 | ☐☐ |
| B3.  | I easily found the courtroom I needed.                                    | 1 | 2 | 3 | 4 | 5 | ☐☐ |
| B4.  | I had a safe and comfortable place to wait for my turn in court.          | 1 | 2 | 3 | 4 | 5 | ☐☐ |
| B5.  | Court staff made efforts to help me with mobility issues.                 | 1 | 2 | 3 | 4 | 5 | ☐☐ |
| B6.  | Court staff helped me with medical issues so that I could be comfortable. | 1 | 2 | 3 | 4 | 5 | ☐☐ |
| B7.  | The court made efforts to hold hearings at times that best suited me.     | 1 | 2 | 3 | 4 | 5 | ☐☐ |
| B8.  | I could hear what was going on in the court.                              | 1 | 2 | 3 | 4 | 5 | ☐☐ |
| B9.  | I understood what was happening in the court.                             | 1 | 2 | 3 | 4 | 5 | ☐☐ |
| B10. | The amount of time I spent in court was reasonable.                       | 1 | 2 | 3 | 4 | 5 | ☐☐ |
| B11. | I was treated with courtesy and respect.                                  | 1 | 2 | 3 | 4 | 5 | ☐☐ |

### SECTION C: FAIRNESS

(Circle the number that best fits your response.)

|     |   |   |   |   |   |   |    |
|-----|---|---|---|---|---|---|----|
| C1. | The way my case was handled was fair.   | 1 | 2 | 3 | 4 | 5 | ☐☐ |
| C2. | The judge listened to my side of the story before he or she made a decision.  | 1 | 2 | 3 | 4 | 5 | ☐☐ |
| C3. | The judge had the information necessary to make good decisions about my case. | 1 | 2 | 3 | 4 | 5 | ☐☐ |
| C4. | The judge treated everyone involved in the case fairly.                       | 1 | 2 | 3 | 4 | 5 | ☐☐ |
| C5. | As I leave the court, I know what to do next about my case.                   | 1 | 2 | 3 | 4 | 5 | ☐☐ |

Please provide any additional thoughts on your experiences.

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





# MEASURE 6

## TIMELY PAYMENT OF RESTITUTION

*Percentage of Convictions in which Restitution was Paid on Time*

### HOW IS THE MEASURE CALCULATED?

- Select all convictions that had an original restitution due date within the study timeframe (e.g., the past year)
- Calculate the percentage of selected cases in which restitution was fully paid by the original restitution due date
- For comparison reasons, courts should distinguish misdemeanor from felony cases

### WHAT DATA ARE REQUIRED TO COMPUTE THE MEASURE?

- Conviction date
- Whether restitution was ordered
- Amount of restitution ordered
  - *If the amount of restitution was modified before the original due date, use the modified amount*
- Amount of restitution paid by original due date
- Original restitution payment due date
- Charge level (misdemeanor, felony)

### HOW DO I TREAT SPECIAL CIRCUMSTANCES?

The terms of restitution may be modified over time, based on the ability of the offender to pay and the victim's wishes. Due to the urgency of on-time restitution payments for older victims, this measure stresses the importance of payment by the *original* due date. However, if the amount to be paid was modified before the original due date, the court may use the modified amount in this measure.

### HOW SHOULD THE DATA BE INTERPRETED?

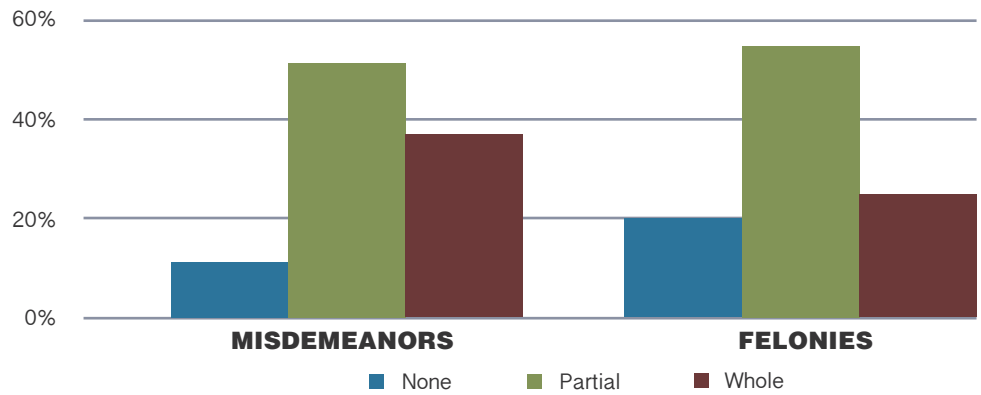
The data should be analyzed by charge level and over time. To improve precision, courts may consider determining the proportion of restitution paid by the original due date. For example, data could be presented to show the number of selected cases in which restitution was paid by the proportion of payment (e.g., none, partial, whole). This option requires a slightly higher level of analysis and is presented in Sample A.

# MEASURE 6

## TIMELY PAYMENT OF RESTITUTION

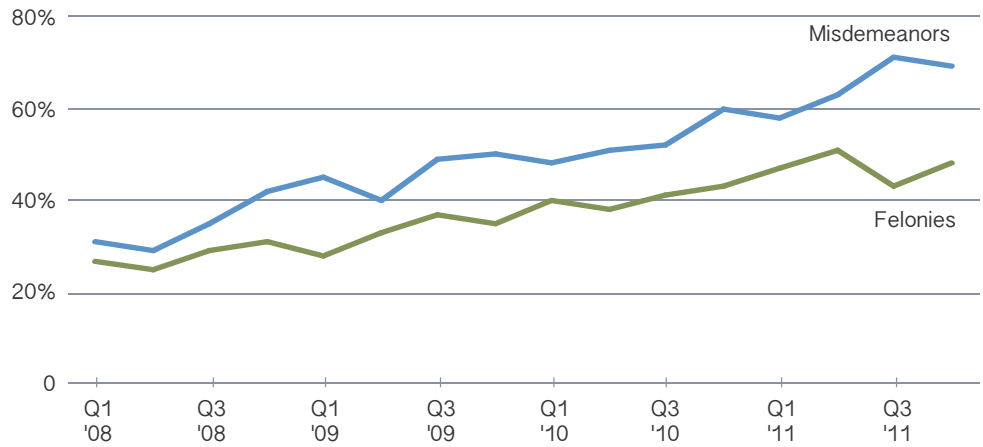
**SAMPLE A** shows the percentage of convictions (that included restitution orders) and the level of restitution that was paid on or by the original restitution due date. The data is broken out by the amount of payment (none, partial, whole) and by charge level. Generally, the goal will be to minimize the percentage of cases in which restitution was not paid and to maximize the percentage of cases in which restitution was paid in full on or by the original due date.

On-Time Payment of Restitution



**SAMPLE B** offers trend data. It reports the percentage of misdemeanor and felony elder abuse convictions (in which restitution was ordered) in which full restitution was paid on or by the original restitution due date. An increase in the percentage of cases of timely and complete payment of restitution would be considered a positive trend.

Percentage of Convictions with Timely and Complete Payment of Restitution



# MEASURE 7

## SUPERVISED SENTENCES

*Percentage of Convictions Resulting in Supervised Sentences.*

### HOW IS THE MEASURE CALCULATED?

- Select all elder abuse cases that resulted in a sentence within the study timeframe (e.g., the past year)
- Count the number of convictions resulting in supervised sentences (e.g., jail/prison time, supervised probation, review hearings)
- Compute the percentage of convictions that included supervised sentences
- For comparison reasons, courts should distinguish misdemeanor from felony cases

### WHAT DATA ARE REQUIRED TO COMPUTE THE MEASURE?

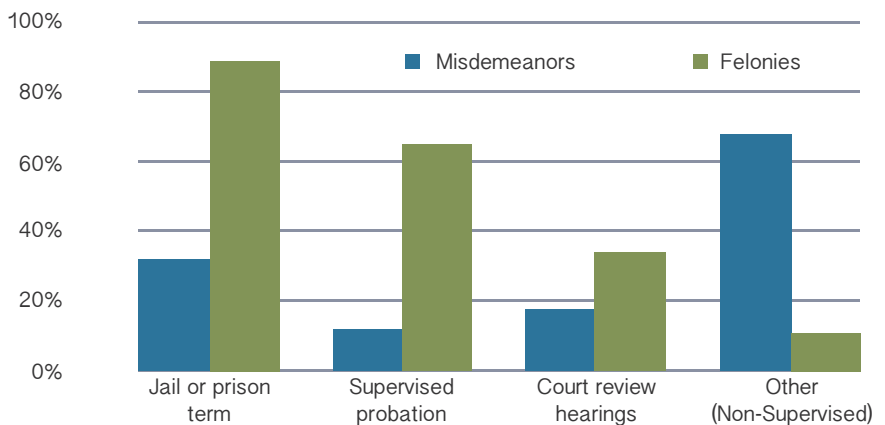
- Sentencing date
- Sentence
- Type of supervision (e.g., jail or prison term, supervised probation, court review hearings)
- Charge level (misdemeanor, felony)

### 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 charge level.

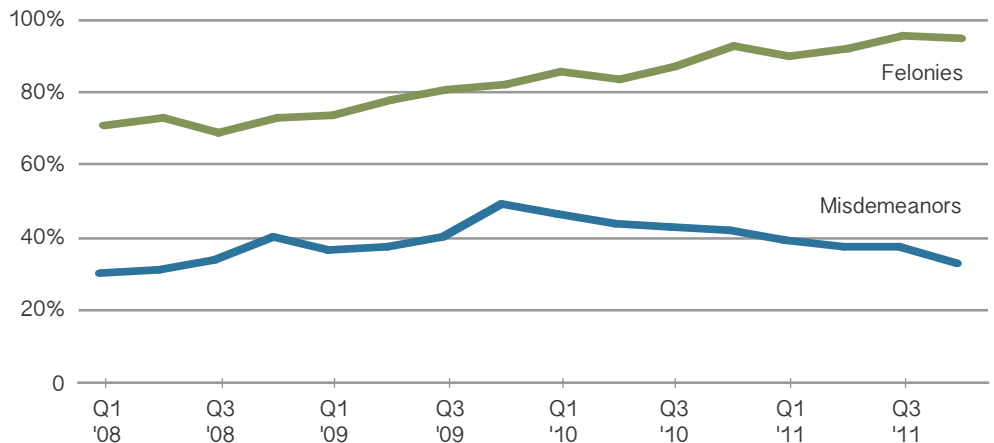
**SAMPLE A** shows the percentage of convictions by the type of sentence and charge level for a given year. Categories can be modified to reflect the language and types of sentences used by your court. Cases may be counted in more than one category. For example, the convicted individual may receive a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

**Percentage of Convictions by Type of Sentence**



**SAMPLE B** is a trend chart that shows how the percentage of convictions resulting in supervised sentences has changed over time, by charge level. In this example, supervision includes all sentences that resulted in a jail or prison term, supervised probation, or court review hearings. The graph shows a marked increase in supervision of elder abuse felons, but a decrease in the active supervision of misdemeanants over time.

**Percentage of Convictions that Resulted in Supervised Sentences**



### ELDER ABUSE CASES

*proposed performance measures for courts*

# MEASURE 8

## COMPLIANCE HEARINGS

*Percentage of Eligible Sentences that Included Compliance Hearings*

### HOW IS THE MEASURE CALCULATED?

- Select all elder abuse cases that resulted in a sentence within the study timeframe (e.g., the past year)
- Exclude those cases that resulted in a prison sentence term—imprisoned offenders are generally not eligible for compliance hearings
- From this number of eligible sentences, determine how many sentences required the offender's participation in compliance hearings
  - *Court compliance hearings occur after conviction for the purpose of monitoring the offender's compliance with the terms and conditions of the sentence. Terminology varies across jurisdictions (e.g., status hearings, review hearings).*
- Compute the percentage of eligible cases requiring compliance hearings
- For comparison reasons, courts should distinguish misdemeanor from felony cases

### WHAT DATA ARE REQUIRED TO COMPUTE THE MEASURE?

- Sentencing date
- Sentence conditions
- Charge level (misdemeanor, felony)

### HOW DO I TREAT SPECIAL CIRCUMSTANCES?

In some jurisdictions, a felony conviction on elder abuse may mandate a prison term. If this is the case in your jurisdiction, felons would not be eligible for court compliance hearings and can be excluded from the analysis.

### HOW SHOULD THE DATA BE INTERPRETED?

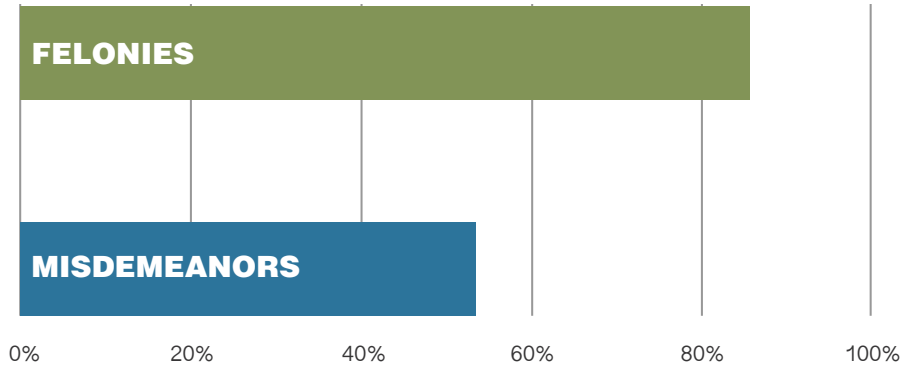
The data can be analyzed over time. In addition, higher level analyses can be carried out based on specific variables and relationships of interest.



# MEASURE 8 COMPLIANCE HEARINGS

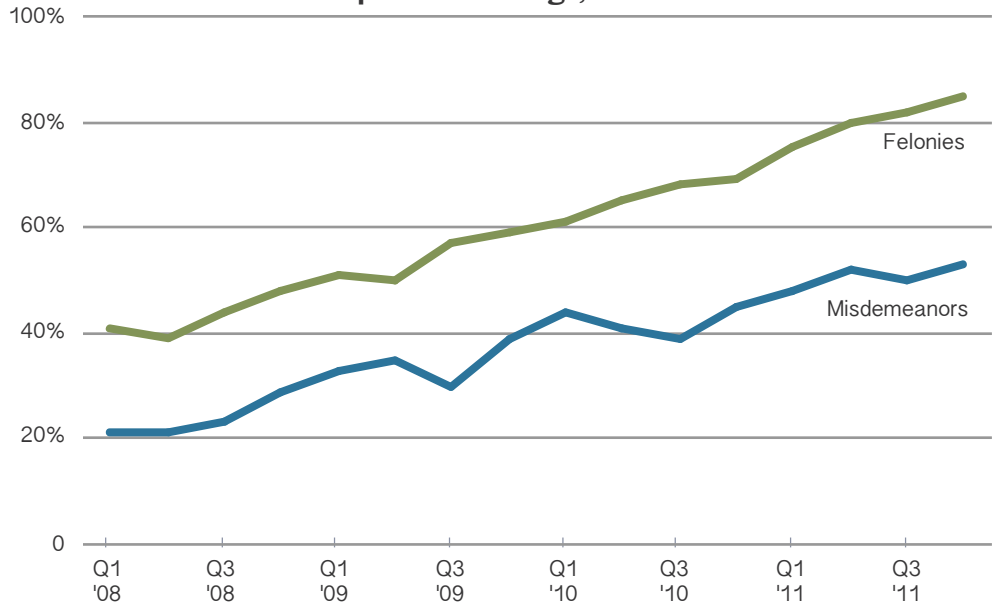
Percentage of Eligible Sentences that Included Compliance Hearings

**SAMPLE A** shows the percentage of eligible sentences that included compliance hearings, by charge level, for a given year. In this example, about half of all misdemeanants were ordered to participate in compliance hearings. The vast majority of eligible felons (excluding those with prison terms) were ordered to compliance hearings.



**SAMPLE B** is a trend chart that shows how the percentage of eligible sentences that included compliance hearings changed over time, by charge level. The trend demonstrates a significant increase in both misdemeanor and felony sentences with such conditions. Those receiving prison terms were not included in the analysis.

Percentage of Eligible Sentences that Included Compliance Hearings, 2008-2011





## **ADDITIONAL NATIONAL ORGANIZATIONS AND RESOURCES**

### **ELDER ABUSE, NEGLECT AND EXPLOITATION**

**NATIONAL CENTER FOR STATE COURTS, CENTER FOR ELDERS AND THE COURTS**

[eldersandcourts.org](http://eldersandcourts.org)

**NATIONAL CLEARINGHOUSE ON ABUSE IN LATER LIFE**

[ncall.us](http://ncall.us)

**AMERICAN BAR ASSOCIATION COMMISSION ON LAW AND AGING**

[americanbar.org/groups/law\\_aging.html](http://americanbar.org/groups/law_aging.html)

**U.S. ADMINISTRATION ON AGING, NATIONAL CENTER ON ELDER ABUSE**

[ncea.aoa.gov](http://ncea.aoa.gov)

### **PERFORMANCE MEASURES**

**NATIONAL CENTER FOR STATE COURTS (NCSC)**

**COURTOOLS—TRIAL COURT PERFORMANCE MEASURES**

[www.courtools.org](http://www.courtools.org)

**HIGH PERFORMANCE COURT FRAMEWORK**

[bit.ly/uRBGKE](http://bit.ly/uRBGKE)

**PERFORMANCE MEASUREMENT RESOURCE GUIDE**

[bit.ly/vNmglI](http://bit.ly/vNmglI)

### **JUDICIAL TRAINING ON ELDER ABUSE**

**NCSC'S CENTER FOR ELDERS AND THE COURTS (CEC)**

**ELDER ABUSE CURRICULUM FOR STATE JUDICIAL EDUCATORS**

[eldersandcourts.org/curriculum/](http://eldersandcourts.org/curriculum/)

**FUTURES WITHOUT VIOLENCE, ENHANCING JUDICIAL SKILLS IN ELDER ABUSE CASES**

[bit.ly/saHQ4O](http://bit.ly/saHQ4O)

**UNIVERSITY OF CALIFORNIA, IRVINE—CENTER OF EXCELLENCE ON ELDER ABUSE AND NEGLECT, ELDER ABUSE TRAINING INSTITUTE**

[centeronelderabuse.org/education\\_overview.asp](http://centeronelderabuse.org/education_overview.asp)





