

## Effective Court Practice for Abused Elders: Appendixes

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## Appendix A

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### Data Collection Instruments

## Agencies and Individuals Represented in Stakeholder Interviews

### **Alameda County**

- Elder Protection Court Judicial Officers and Staff, Superior Court of Alameda County
- Family & Children's Bureau, Superior Court of Alameda County
- Probate Court Judge, Superior Court of Alameda County
- Probate Court Examiners and Investigators, Superior Court of Alameda County
- Office of the District Attorney, including Victim-Witness Assistance Division
- County Counsel
- Legal Assistance for Seniors
- Adult Protective Services

### **Orange County**

- Court Executive Officer, Superior Court of Orange County
- Probate Judge, Superior Court of Orange County
- Probate Court Staff, Superior Court of Orange County
- Probate Attorneys, Superior Court of Orange County
- Family Law Commissioner, Superior Court of Orange County
- Office of the District Attorney
- Office of the Public Defender
- County Counsel
- Office of the Public Guardian
- Adult Protective Services
- Long-Term Care Ombudsman
- Orange County Council on Aging
- Orange County Elder Abuse Forensic Center

### **San Francisco County**

- Probate Court Director, Superior Court of San Francisco County
- Probate Court Commissioner, Superior Court of San Francisco County
- Probate Court Examiners and Investigators, Superior Court of San Francisco County
- Family Law Commissioner, Superior Court of San Francisco County
- Family Law Self-Help Center, Superior Court of San Francisco County
- ACCESS Center, Superior Court of San Francisco County
- Office of the District Attorney, Elder Abuse Unit
- Court-Appointed Counsel for Probate Conservatorship Cases
- Legal Assistance for the Elderly
- Adult Protective Services
- Office of the Public Administrator/Public Guardian/Public Conservator

### **Ventura County**

- Court Executive Officer, Superior Court of Ventura County
- Managing Attorney, Superior Court of Ventura County

- Probate Judge, Superior Court of Ventura County
- Family Court Services Manager, Superior Court of Ventura County
- Probate Investigators, Superior Court of Ventura County
- Probate Court Research Attorneys, Superior Court of Ventura County
- Self-Help Legal Access Center Coordinators, Superior Court of Ventura County
- Volunteer Attorneys, Superior Court of Ventura County
- Crime Victims' Assistance Program, Office of the District Attorney
- Office of the Public Defender
- Ventura County Financial Abuse Specialist Team
- Private Professional Conservator

**Archstone**  
**Alameda County Elder Abuse Restraining Order File Review**

1. Case number: \_\_\_\_\_
2. Petitioner last name: \_\_\_\_\_
3. Respondent last name: \_\_\_\_\_
4. Date petition filed: \_\_\_\_/\_\_\_\_/\_\_\_\_\_
5. Is the person to be protected 65 years old or older?
  - Yes
  - No → *STOP HERE*
  - Unable to determine/not in file
6. **Attorney representation at filing**
  - Self-represented
  - Legal Assistance for Seniors
  - Private attorney
  - Other (specify) \_\_\_\_\_
  - Unable to determine/not in file
7. **Attorney representation at initial hearing**
  - Self-represented
  - Legal Assistance for Seniors
  - Private attorney
  - Other (specify) \_\_\_\_\_
  - Unable to determine/not in file
8. **Who filed the petition?**
  - Person to be protected
  - Conservator of person to be protected
  - GAL for person to be protected
  - Other (specify) \_\_\_\_\_
  - Unable to determine/not in file
9. **Gender of person to be protected**
  - Female
  - Male
  - Unable to determine/not in file

**10. Race/ethnicity of person to be protected**

- White, non-Hispanic
- Black
- Hispanic
- Asian/Pacific Islander
- Native American
- Other (specify) \_\_\_\_\_
- Unable to determine/not in file

**11. Age of person to be protected: \_\_\_\_\_**

- Unable to determine/not in file

**12. Living situation of person to be protected (at time of incident/abuse)**

- Own home, living alone
- Own home, living with other(s)
- Own home, not otherwise specified
- Group living situation (specify) \_\_\_\_\_
- Other (specify) \_\_\_\_\_
- Unable to determine/not in file

**13. Gender of person to be restrained**

- Female
- Male
- Unable to determine/not in file

**14. Race/ethnicity of person to be restrained**

- White, non-Hispanic
- Black
- Hispanic
- Asian/Pacific Islander
- Native American
- Other (specify) \_\_\_\_\_
- Unable to determine/not in file

**15. Age of person to be restrained: \_\_\_\_\_**

- Unable to determine/not in file

**16. Relationship of person to be restrained of person to be protected**

- Spouse/intimate partner (incl. dating relationship)
- Child
- Other family member (specify) \_\_\_\_\_
- Caregiver
- Neighbor
- Other (specify) \_\_\_\_\_
- Unable to determine/not in file

**17. Alleged issues or problems, if any, of person to be restrained** *Check all that apply.*

- No indication in file
- Mental health issues
- Substance abuse issues
- Drug dealing
- Criminal history
- Homelessness
- Other (specify) \_\_\_\_\_

**18. Have there been other restraining orders between the parties?**

- Yes
- No
- Unable to determine/not in file

**19. Are there any other related cases? If yes, specify case type(s).**

- |  |   |
|--|---|
| <input type="checkbox"/> Yes → → → → → → → → →           | <input type="checkbox"/> Conservatorship              |
| <input type="checkbox"/> No                              | <input type="checkbox"/> Criminal                     |
| <input type="checkbox"/> Unable to determine/not in file | <input type="checkbox"/> Unlawful detainer (eviction) |
|  | <input type="checkbox"/> Family law                   |
|  | <input type="checkbox"/> Other civil                  |
|  | <input type="checkbox"/> Other (specify) _____        |

**20. Grounds for petition** *Check all that apply.*

- Physical abuse, financial abuse, abandonment, isolation, abduction
- Caregiver neglect
- Unable to determine/not in file

**21. Type(s) of abuse alleged** *Check all that apply.*

- Physical abuse
- Financial abuse
- Emotional abuse (verbal, threats, intimidation)
- Caregiver neglect
- Other (specify) \_\_\_\_\_
- Unable to determine/not in file

**22. Was a fee waiver granted for service of orders?**

- Yes
- No
- Unable to determine/not in file

**23. Was a response filed?**

- Yes
- No

**24. Was the respondent present at the hearing on the permanent order?**

- Yes
- No
- Unable to determine/not in file

25. Date permanent order granted or denied: \_\_\_\_/\_\_\_\_/\_\_\_\_

26. What, if any, additional orders were made? Check all that apply.

- None
- Supervised visitation
- Mental health treatment for restrained person
- Substance abuse treatment for restrained person
- Other (specify) \_\_\_\_\_
- Unable to determine/not in file

27. Was a review hearing scheduled?

- Yes
- No
- Unable to determine/not in file

28. What other agencies or entities were involved in the case? Check all that apply.

- Adult Protective Services
- District Attorney
- Legal Assistance for Seniors
- Law enforcement
- Financial institution
- Other (specify) \_\_\_\_\_
- No indication in file

29. Order(s) requested/granted

	Personal Conduct	Residence Exclusion	Stay-away	Firearms	Other
<b>Requested in EA-100?</b>					
Yes	<input type="checkbox"/>				
No	<input type="checkbox"/>				
<b>Did person to be restrained consent?</b>					
Yes	<input type="checkbox"/>				
No	<input type="checkbox"/>				
N/A (not requested)	<input type="checkbox"/>				
N/A (no response filed)	<input type="checkbox"/>				
<b>Temporary order granted?</b>					
Yes	<input type="checkbox"/>				
No	<input type="checkbox"/>				
N/A (not requested)	<input type="checkbox"/>				
<b>Permanent order granted?</b>					
Yes	<input type="checkbox"/>				
No	<input type="checkbox"/>				
N/A (not requested)	<input type="checkbox"/>				

**30. If no permanent orders were granted, why was this the case? Check all that apply.**

- N/A (order granted)
- Dismissed on petitioner's oral motion
- Unable to serve respondent with OSC/temporary order
- Insufficient grounds
- Other (specify) \_\_\_\_\_
- Unable to determine/not in file

**31. Additional notes: Characteristics of person to be protected (marital status, income, disabilities/health issues, living situation)**

**32. Additional notes: Relationship of person to be protected to person to be restrained (nature of relationship, living situation)**

**33. Additional notes: Services to which person to be protected was referred**

<p style="text-align: center;"><b>Effective Court Practice for Abused Elders Topics Addressed in Stakeholder Interviews</b></p>
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*Note: Questions addressed in stakeholder interviews were tailored to the study county and/or the type of stakeholder, so there are numerous different versions of the topic guides. This document reflects a representative list of topics addressed across all sites and stakeholder categories.*

**Program or Agency Information**

- Overview of program or agency operations; history of program or agency
- How program or agency collaborates with other; how relationships began
- Education and professional background of key staff
- Use of volunteers and capacity in which they are used
- Benefits of program and areas for improvement
- Involvement in community partnerships

**Elder Abuse Cases**

- Types of elder abuse (or other legal issues for elders) most commonly encountered; perpetrators of elder abuse
- Intersection of probate conservatorship and elder abuse
- Changes in number or types of cases coming before the court or agency

**Case Processing**

- Identification of related cases; how related cases are handled or coordinated across different court divisions
- Aspects of local practice and procedure that work well; aspects that need improvement
- How agency receives or is appointed to cases; caseload restrictions
- Challenges to monitoring conservatorships

**Services for Parties to Elder Abuse Cases**

- Community services to which elders are referred; role of court or agency in connecting elder to needed services
- Community services to which abusers are referred
- Alternatives to conservatorship explored
- Use of alternative dispute resolution in cases involving family dysfunction

**Training Availability and Needs**

- Types of training received and what has been most helpful
- Areas in which training opportunities are lacking

Archstone  
San Francisco Conservatorship File Review

**Petition for Conservatorship and Confidential Supplemental Information  
(Forms GC-310 and GC-312)**

Case number: \_\_\_\_\_

P1a. Date petition filed: \_\_\_\_/\_\_\_\_/\_\_\_\_

**P2a. Type of conservatorship**

- Person only
- Estate only
- Person and estate
- Missing

**P3a. Is it a limited conservatorship?**

- Yes
- No
- Missing

**P4a. Is the petitioner the same party as the proposed conservator?**

- Yes → *Skip to P6a*
- No

**P5a. Relationship of petitioner to proposed conservatee**

- Self (i.e. proposed conservatee is petitioner)
- Spouse/domestic partner
- Son/daughter
- Other family
- Friend or other interested person
- Bank or trust company
- Public Guardian
- Private professional conservator
- Non-profit organization
- Other (specify) \_\_\_\_\_

**P6a. Relationship of proposed conservator to proposed conservatee**

- Spouse/domestic partner
- Son/daughter
- Other family
- Friend or neighbor
- Stranger
- Public Guardian/Conservator
- Nonprofit charitable organization
- Private professional conservator
- Bank/trust company/financial manager
- Other (specify) \_\_\_\_\_

**P7. Was a competing petition filed?**

- Yes
- No → *Skip to P8*

**P1b. Date petition filed:** \_\_\_\_/\_\_\_\_/\_\_\_\_\_

**P2b. Type of conservatorship**

- Person only
- Estate only
- Person and estate
- Missing

**P3b. Is it a limited conservatorship?**

- Yes
- No
- Missing

**P4b. Is the petitioner the same party as the proposed conservator?**

- Yes → *Skip to P6b*
- No

**P5b. Relationship of petitioner to proposed conservatee**

- Self (i.e. proposed conservatee is petitioner)
- Spouse/domestic partner
- Son/daughter
- Other family
- Friend or other interested person
- Bank or trust company
- Public Guardian
- Private professional conservator
- Non-profit organization
- Other (specify) \_\_\_\_\_

**P6b. Relationship of proposed conservator to proposed conservatee**

- Spouse/domestic partner
- Son/daughter
- Other family
- Friend or neighbor
- Stranger
- Public Guardian/Conservator
- Nonprofit charitable organization
- Private professional conservator
- Bank/trust company/financial manager
- Other (specify) \_\_\_\_\_

**P8a. Estimated value of proposed conservatee's personal property**

\_\_\_\_\_

**P8b. Estimated value of proposed conservatee's real property**

\_\_\_\_\_

**P9. Proposed conservatee's annual gross income from:**

- Real property \_\_\_\_\_
- Personal property \_\_\_\_\_
- Pensions \_\_\_\_\_
- Wages \_\_\_\_\_
- Public assistance \_\_\_\_\_

Other \_\_\_\_\_

**P10. Does proposed conservatee voluntarily request the appointment of a conservator?**

- Yes
- No
- Missing

**P11. Number of relatives listed as known to petitioner \_\_\_\_\_**

**P12. Alternatives to conservatorship considered (Check all that apply.)**

- Voluntary acceptance of informal or formal assistance
- Special or limited power of attorney
- General power of attorney
- Durable power of attorney for health care
- Durable power of attorney for estate management
- Trust
- Other (specify) \_\_\_\_\_
- Other (specify) \_\_\_\_\_
- Other (specify) \_\_\_\_\_

**P13. What services was the proposed conservatee provided with during the year prior to the filing of the petition? (Check all that apply.)** [categories used here are slightly different than those used in investigation report]

- Health services
- Social services
- Estate management assistance
- No known services
- Missing

**P14. Does the petition (including any attached declarations) contain any allegations of abuse or neglect of the proposed conservatee?**

- Yes
- No → *Skip to 11*

**P15. What type(s) of abuse or neglect is/are alleged in the petition? Check all that apply.**

- Physical abuse (*Indicate specific type(s) below.*)
  - Assault/battery
  - Constraint or deprivation
  - Chemical restraint
  - Medication
  - Other (specify) \_\_\_\_\_
- Sexual abuse
- Neglect (by other person)
- Self-neglect
- Abandonment
- Financial abuse
- Isolation
- Psychological abuse (incl. undue influence)

**P16. Why is the conservatorship needed to stop the abuse?** *Check all that apply.*

- Not indicated in petition
- To take control out of the hands of the abuser (e.g. a trustee)
- Need for third party legal action to stop abuse or neglect
- To provide court supervision of assets that are in jeopardy
- To recover misappropriated assets
- To prevent further loss of assets
- To revoke contracts (incl. marriage)
- To replace an abusive conservator
- To obtain medical care
- Other (specify) \_\_\_\_\_

**P17. Gender of alleged abuser**

- Female
- Male

**P18. Relationship of alleged abuser to proposed conservatee** *Check all that apply.*

- Spouse/domestic partner
- Son/daughter
- Other family
- Formal caregiver
- Friend or neighbor
- Stranger
- Attorney
- Bank/trust company/financial manager
- Other (specify) \_\_\_\_\_

**Initial Court Investigation Report**

**I1. Date report filed:** \_\_\_\_/\_\_\_\_/\_\_\_\_

**I2. Is the proposed conservatee able to attend the hearing?**

- Yes
- No
- Missing

**I3. Is the proposed conservatee willing to attend the hearing?**

- Yes
- No
- Missing

**I4. Is the proposed conservatee able to provide for his/her needs for physical health, food, clothing and shelter?**

- Yes
- No
- Missing

**I5. Is the proposed conservatee able to live in his/her residence during the conservatorship?**

- Yes
- No
- Missing

**I6. Are the petitioner's reasons why alternatives to conservatorship are not available appropriate?**

- Yes
- No
- Missing

**I7. What services was the proposed conservatee provided with during the year prior to the filing of the petition?**

- Health services
- Social services
- Health and social services
- No known services
- Missing

**I8. Is the proposed conservatee able to manage his/her own financial resources or to resist fraud or undue influence?**

- Yes
- No
- Missing

**I9. Does the proposed conservatee wish to contest the conservatorship?**

- Yes
- No
- Missing

**I 10a. Does the proposed conservatee object to the proposed conservator in P1a?**

- Yes
- Somewhat
- No
- Missing

**I 10b. Does the proposed conservatee object to the proposed conservator in P1b?**

- Yes
- Somewhat
- No
- N/A – no competing petition
- Missing

**I 11. Does the proposed conservatee wish to be represented by legal counsel?**

- Yes
- No
- Missing

**I 12. Would the appointment of legal counsel be helpful to the resolution of the matter?**

- Yes
- No
- Missing

**I 13. Is the appointment of legal counsel necessary to protect the interests of the proposed conservatee?**

- Yes
- No
- Missing

**I 14. Was an attorney appointed for the proposed conservatee?**

- Yes
- No
- Missing

**I 15. Is the proposed conservatee capable of completing an affidavit of voter registration?**

- Yes
- No
- Missing

**I 16. Has exclusive authority for medical treatment been requested?**

- Yes
- No
- N/A – conservatorship of estate only
- Missing

**I 17. Rationale for conservatorship** *Check all that apply.*

- Proposed conservatee does not grasp severity of situation/refuses assistance
- Proposed conservatee is at risk for undue influence
- Proposed conservatee has sudden physical impairment
- Proposed conservatee's home is in severe disrepair
- Proposed conservatee is severe hoarder/clutterer
- Self-neglect
- Proposed conservatee has been neglected
- Proposed conservatee has been abused
- Legal authority is in the hands of the abuser
- Authority needed to recover assets or revoke contracts
- Physician or facility is uncomfortable with decision-making capacity of proposed conservatee
- A legal action is pending
- Other (specify) \_\_\_\_\_

**I 18. Proposed conservatee's age** \_\_\_\_\_

**I 19. Proposed conservatee's gender**

- Female
- Male

**I 20. Proposed conservatee's marital status**

- Married
- Single/never married
- Divorced
- Widowed
- Missing

**I 21. Proposed conservatee's current placement**

- Home
- Apartment
- Nursing home → *Skip to 123*
- Assisted living facility → *Skip to 123*
- Congregate living (e.g. senior housing, retirement community) → *Skip to*

123

- Other (specify) \_\_\_\_\_
- Missing

**I 22. Proposed conservatee's living situation** *Check all that apply.*

- Alone
- With family
- With an attendant
- With a roommate
- Other (specify) \_\_\_\_\_
- Missing

**I23. Other agencies involved in case** *Check all that apply.*

- None noted
- Law enforcement
- Adult Protective Services
- Community-based organization
- Hospital
- Other (specify) \_\_\_\_\_

**I24. Is there an indication that court actions other than conservatorship have been taken with respect to the proposed conservatee?**

- Yes
- No → *Skip to I26*

**I25. For other court actions involving the proposed conservatee, what is/are the case type(s)?** *(Check all that apply.)*

- Elder and dependent adult abuse restraining order
- Domestic violence restraining order
- Civil harassment restraining order
- Criminal
- Unlawful detainer
- Civil damages
- Other (specify) \_\_\_\_\_

**I26. Is there an indication that the investigator suspects abuse or neglect of the proposed conservatee?**

- Yes
- No → *Skip to I28*

**I27. What type(s) of abuse or neglect does the investigator suspect?** *Check all that apply.*

- Physical abuse *Indicate specific type(s) below.*
  - Assault/battery
  - Constraint or deprivation
  - Chemical restraint
  - Medication
  - Other (specify) \_\_\_\_\_
- Sexual abuse
- Neglect (by other person)
- Self-neglect
- Abandonment
- Financial abuse
- Isolation
- Psychological abuse (incl. undue influence)

**I28. If abuse or neglect is suspected by the investigator or alleged in the petition, does the proposed conservatee acknowledge the abuse or neglect?**

- Yes
- No
- Unknown
- N/A – no abuse alleged/suspected

**I29. Is the investigator's assessment that the conservatorship in general is appropriate?**

- Yes
- Somewhat
- No
- Missing

**I30a. Is the investigator's assessment that the proposed conservator in P1a is suitable?**

- Yes
- Somewhat
- No
- Missing

**I30b. Is the investigator's assessment that the proposed conservator in P1b is suitable?**

- Yes
- Somewhat
- No
- N/A – no competing petition
- Missing

**I31. Recommendations** *Check all that apply.*

- None noted
- Court-appointed counsel to remain on the case
- Appearance hearing status report in 3 months
- Work with APS to get services for proposed conservatee
- Allowance for proposed conservatee
- No movement from personal residence without court review
- Other (specify) \_\_\_\_\_

**Order Appointing Probate Conservator (GC-340)**

**O1a. Was the proposed conservator in P1a appointed conservator of the person?**

- Yes
- No
- N/A – conservatorship of person not sought
- Unknown/no indication in file

**O2a. Was the proposed conservator in P1a appointed conservator of the estate?**

- Yes
- No
- N/A – conservatorship of estate not sought
- Unknown/no indication in file

**O1b. Was the proposed conservator in P1b appointed conservator of the person?**

- Yes
- No
- N/A – no competing petition
- N/A – conservatorship of person not sought
- Unknown/no indication in file

**O2b. Was the proposed conservator appointed in P1b conservator of the estate?**

- Yes
- No
- N/A – no competing petition
- N/A – conservatorship of estate not sought
- Unknown/no indication in file

**O3. If a conservator was appointed, is the conservatorship limited?**

- Yes
- No
- N/A – conservator not appointed
- Missing

**O4. Date of order \_\_\_\_/\_\_\_\_/\_\_\_\_**

- No order issued

## **Review Investigation**

Date report filed: \_\_\_\_/\_\_\_\_/\_\_\_\_

**R1. Does the conservatee wish to petition to terminate the conservatorship?**

- Yes
- No
- Missing

**R2. Is the conservatee still in need of the conservatorship?**

- Yes
- No
- Missing

**R3. Is the conservator acting in the best interests of the conservatee?**

- Yes
- No
- Missing

**R4. Is the conservatee capable of completing an affidavit of voter registration?**

- Yes
- No
- Missing

**R5. Was a previous order made under Chapter 4 (Section 1873) (Legal Capacity)?**

- Yes
- No → *Skip to R7*
- Missing

**R6. What action should be taken with respect to the previous order under Chapter 4 (Section 1873) (Legal Capacity)?**

- The order should be modified
- The order should be revoked
- The order should remain unchanged
- Missing

**R7. Is the conservatorship limited?**

- Yes
- No
- Missing

**R8. Has the inventory and appraisalment been filed?**

- Yes → *Skip to R10*
- No
- Missing → *Skip to R10*

**R9. Has a notice of the delinquent inventory and appraisalment been sent?**

- Yes
- No
- Missing

**R10. Is the General Plan applicable?**

- Yes
- No – file pre-dates requirement → *Skip to R12*
- Missing → *Skip to R12*

**R11. Has the general plan been filed and approved?**

- Yes
- No
- Missing

**R12. Is the status report current?**

- Yes
- No
- N/A – status report not yet due
- Missing

**R13. What is the status of the accounting?**

- Current → *Skip to R15*
- Not current
- Not delinquent → *Skip to R15*
- N/A – accountings not required → *Skip to R15*
- Missing → *Skip to R15*

**R14. Has a notice of the delinquent accounting been sent?**

- Yes
- No
- Missing

**R15. Is the conservatee residing in the least restrictive residence available and necessary to meet his or her needs?**

- Yes
- No
- Missing

## Appendix B

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### Full Court File Review Results

## Alameda County Elder Abuse Restraining Order File Review: Summary of Full Results

### **Methodology**

The research team met with a judge and court staff affiliated with the Elder Protection Court (EPC) to determine what court records were available that would paint a picture of the needs and characteristics of abused elders, the outcomes of their cases, and the operations of the specialized court.

In spite of the fact that the EPC hears a range of case types and matters, both criminal and civil, a decision was made to focus on elder and dependent adult abuse restraining orders because those cases could be most reliably identified as involving an elderly person and being heard by the EPC. Because age is not a routine part of court forms or pleadings in other case types, there was no way to flag cases involving elders in the case management system, and given the small number of elder cases among the broader case types, a manual review of files to determine which involved elders was considered unfeasible.

After determining the case type for which records would be reviewed, the research team explored with court personnel what information was available and in what format. Because of security issues with the case management system and the availability of a greater range of information in the physical case files (for example, case manager notes and supplemental data sheets), a manual review of the files using a data extraction tool was determined to be the best approach. The research team, with input from court staff, developed a five-page, 33-item instrument to gather data from the hard copy files.

In order to get recent case information but avoid the potential pitfalls of analyzing data from cases that have not yet been disposed, the research team selected calendar year 2006 as the time frame from which to select the sample for review. Court staff from Alameda County generated a list of all the cases with an EA-100 petition (Request for Orders to Stop Elder or Dependent Adult Abuse) filed during calendar year 2006 and sent it to research staff in an Excel file. From that list of 208 cases, research staff randomly selected 62 cases for review, a 30 percent sample. After excluding a small number of cases because they involved dependent adults rather than elders or because the file was missing key documents, the final sample size came to 57 cases.

### **Results**

At the time of filing, petitioners were most likely to be self-represented (49 percent), while around a third (35 percent) were represented by Legal Assistance for Seniors (LAS). Petitioners whose cases went on to an initial hearing were most likely to be represented by LAS (53 percent), with less than a third (29 percent) being self-represented. At the time of both filing and the initial hearing, relatively few petitioners were represented by a private attorney. For the vast majority of petitioners, legal representation was the same at filing and the initial hearing; for the four cases in which there was a change in legal representation, the petitioner started out representing him- or herself and then obtained representation from LAS (not shown).

**Table 1. Legal Representation at Filing and Initial Hearing**

	At Filing		At Initial Hearing	
	N	%	N	%
Self-represented	28	49%	13	29%
Legal Assistance for Seniors	20	35%	24	53%
Private attorney	6	11%	5	11%
Other	2	4%	2	4%
Unable to determine	1	2%	1	2%
<b>TOTAL</b>	<b>57</b>	<b>100%</b>	<b>45</b>	<b>100%</b>

Note: The total for “at initial hearing” does not equal 57 because in 12 cases, there was either no hearing held or the petitioner failed to appear at the hearing. Percentages may not sum to 100 due to rounding.

The files were also reviewed for evidence of the involvement of justice partners or other agencies in the case. More than three-quarters of cases (77 percent) involved other agencies. LAS was most often involved in the cases (47 percent), followed by law enforcement (44 percent) and Adult Protective Services (APS) (19 percent). Court staff, including case managers for the EPC, noted that the percentage of cases involving APS seemed somewhat at odds with their experience; it may be that APS was actually involved in a higher proportion of cases but that was not explicitly noted in the case files. Court staff also noted that because of the new law making financial institutions mandated reporters of elder abuse, they expected to see a higher proportion of cases involving both financial institutions and the district attorney in the future.

**Table 2. Outside Agency Involvement**

	N	%
Legal Assistance for Seniors	27	47%
Law enforcement	25	44%
Adult protective services	11	19%
District attorney	2	4%
Financial institution	1	2%
<i>Any of the above</i>	<i>44</i>	<i>77%</i>
No indication in file	13	23%
Other	2	4%
<b>TOTAL</b>	<b>57</b>	<b>100%</b>

Note: Percentages do not sum to 100 because more than one agency could be involved in the case.

Although the statute allows a variety of persons to file a restraining order petition on behalf of an elder, the person to be protected filed the petition the vast majority of the time (82 percent). This being the case, and in the interest of succinctness, the person to be protected will herein be referred to as the petitioner.

**Table 3. Party Who Filed Petition**

	<b>N</b>	<b>%</b>
Person to be protected	47	82%
Family member	6	11%
Guardian <i>ad litem</i>	2	4%
Conservator	1	2%
Other	1	2%
<b>TOTAL</b>	<b>57</b>	<b>100%</b>

Note: Percentages may not sum to 100 due to rounding.

Around three-quarters of petitioners (74 percent) were female. Petitioners ranged in age from 62 to 99, with a median age of 78. Interestingly, a substantial proportion (42 percent) were 80 years of age or older, perhaps reflecting the increased vulnerability of this particular segment of the elder population. Among petitioners for whom race/ethnicity could be identified from the court file (race could not be determined for nine, or 16 percent of, petitioners), most were black (44 percent) or white (non-Hispanic) (33 percent). Relative to their share of the total 65-and-older population in Alameda County (14 percent), blacks were overrepresented among elder abuse restraining order petitioners. Around 8 in 10 petitioners (81 percent) lived in their own homes, with more than half living with others.

**Table 4. Petitioner Characteristics**

	<b>N</b>	<b>%</b>
<b>Gender</b>		
Male	15	26%
Female	42	74%
<b>TOTAL</b>	<b>57</b>	<b>100%</b>
<b>Age</b>		
64 or younger	3	5%
65 to 69	6	11%
70 to 74	9	16%
75 to 79	9	16%
80 to 84	14	25%
85 to 89	7	12%
90 or older	3	5%
Unknown	6	11%
<b>TOTAL</b>	<b>57</b>	<b>100%</b>
<b>Race/ethnicity</b>		
Black	25	44%
White, non-Hispanic	19	33%
Hispanic	3	5%
Asian/Pacific Islander	1	2%
Unable to determine	9	16%
<b>TOTAL</b>	<b>57</b>	<b>100%</b>

Note: Percentages may not sum to 100 due to rounding.

**Table 4. Petitioner Characteristics (cont.)**

	<b>N</b>	<b>%</b>
<b><i>Living situation</i></b>		
Own home, living with others	31	54%
Own home, living alone	5	9%
Own home, not otherwise specified	10	18%
Senior public housing	2	4%
Other	1	2%
Unable to determine	8	14%
<b>TOTAL</b>	<b>57</b>	<b>100%</b>

Note: Percentages may not sum to 100 due to rounding.

While most petitioners were female, most respondents were male (61 percent). Respondents ranged in age from 21 to 95, with the largest portion (58 percent) between 40 and 59 years of age. The race distribution of respondents was very similar to that of petitioners, with respondents most likely to be black (44 percent) or white (non-Hispanic) (33 percent). Two-thirds (67 percent) of respondents were family members of the petitioners; of that total, more than one-third (37 percent) were the petitioners' adult children.

The court files were reviewed for any evidence of issues or problems experienced by respondents that may have been connected to the allegations of abuse. For the majority of respondents (60 percent), there was an indication of at least one type of social problem, and for nearly one-third of respondents (32 percent) there were multiple issues (not shown) The most common problems among respondents were substance abuse issues (44 percent) and criminal history (21 percent). Court staff noted that the proportion of respondents with a criminal history or mental health issues seemed low; this is another instance where there may have been no indication of such problems in the court file in spite of the fact that they were present in the case.

**Table 5. Respondent Characteristics**

	<b>N</b>	<b>%</b>
<b><i>Gender</i></b>		
Male	35	61%
Female	22	39%
<b>TOTAL</b>	<b>57</b>	<b>100%</b>
<b><i>Age</i></b>		
29 or younger	8	14%
30 to 39	9	16%
40 to 49	21	37%
50 to 59	12	21%
60 or older	6	11%
Unknown	1	2%
<b>TOTAL</b>	<b>57</b>	<b>100%</b>

Note: Percentages may not sum to 100 due to rounding.

**Table 5. Respondent Characteristics (cont.)**

	<b>N</b>	<b>%</b>
<b><i>Race/ethnicity</i></b>		
Black	25	44%
White, non-Hispanic	19	33%
Hispanic	3	5%
Asian/Pacific Islander	1	2%
Unable to determine	9	16%
TOTAL	57	100%
<b><i>Relationship to protected party</i></b>		
Child	21	37%
Spouse/partner	2	4%
Other family member	15	26%
Caregiver	3	5%
Neighbor	1	2%
Other *	10	18%
Unable to determine	5	9%
TOTAL	57	100%
<b><i>Evidence of social problems **</i></b>		
Substance abuse issues	25	44%
Criminal history	12	21%
Mental health issues	7	12%
Drug dealing	7	12%
Homelessness	1	2%
Other ***	8	14%
Any of the above	34	60%
No indication in file	23	40%

Note: \* "Other" relationships to protected party include partners or former partners of family members and friends or former friends, among others. \*\* Percentages do not sum to 100 because more than one type of problem could be selected. \*\*\* "Other" social problems include financial, employment, and anger issues.

On the restraining order petition, the petitioner was asked to indicate whether there had previously been restraining orders between the person to be protected and the person to be restrained. In only four of the 57 cases (7 percent) reviewed did the petitioner indicate that there had been other restraining orders between the parties. Other related cases were also fairly uncommon (16 percent), but more common than other restraining orders (not shown); related cases were most likely to be criminal.

In almost all cases (98 percent), the petition indicated that the respondent caused the petitioner to suffer physical harm or mental suffering through physical abuse, financial abuse, abandonment, isolation, abduction, or other treatment (not shown). On the other hand, in a very small number of cases (5 percent), the petition indicated that the respondent had care or custody of the petitioner but neglected him or her or deprived him or her of goods and services necessary to avoid physical harm or mental suffering (not shown). Because these are very broad categories of abuse, the court files were further

reviewed for supporting facts and declarations that revealed more about the specific nature of the alleged abuse. Emotional abuse was the most common form of abuse, noted in 79 percent of cases, followed by financial abuse (42 percent) and physical abuse (33 percent). In cases in which an other type of abuse was indicated (18 percent), the most common problems centered around the respondent refusing to leave the petitioner’s home or property. In 61 percent of cases, more than one type of abuse was alleged.

**Table 6. Allegations of Abuse**

	<b>N</b>	<b>%</b>
<b><i>Types of abuse alleged *</i></b>		
Emotional	45	79%
Financial	24	42%
Physical	19	33%
Caregiver neglect	2	4%
Other	10	18%
<b><i>Number of abuse types alleged</i></b>		
One	22	39%
Two	27	47%
Three	8	14%
<b>TOTAL</b>	<b>57</b>	<b>100%</b>

Note: \* Percentages do not sum to 100 because more than one type of abuse could be selected.

All petitioners (100 percent) requested a stay-away order, and almost all (96 percent) requested a personal conduct order. Around three-quarters also requested firearms relinquishment (74 percent) and residence exclusion (72 percent) orders. Relatively few petitioners (18 percent) requested other orders. The other orders included, but were not limited to, requests for visitation and for protection of other household members. Temporary stay-away orders and firearms relinquishment orders were granted in 88 percent of cases in which they were requested. Temporary personal conduct orders were granted in 86 percent of cases in which they were requested. Temporary residence exclusion orders were somewhat less likely to be granted (73 percent), and other temporary orders were much less likely to be granted. Across all types of orders requested, temporary orders were granted in 88 percent of cases (not shown). Temporary orders were not granted in several cases because there were insufficient grounds to grant the order, because the petitioner did not complete the paperwork, or because the petitioner decided to drop the matter.

**Table 7. Orders Requested and Temporary Orders Granted**

	Order Requested		Temporary Order Granted *	
	N	%	N	%
<b><i>Personal conduct</i></b>				
Yes	55	96%	48	86%
No	2	4%	8	14%
TOTAL	57	100%	56 **	100%
<b><i>Residence exclusion</i></b>				
Yes	41	72%	30	73%
No	16	28%	11	27%
TOTAL	57	100%	41	100%
<b><i>Stay-away</i></b>				
Yes	57	100%	50	88%
No	0	0%	7	12%
TOTAL	57	100%	57	100%
<b><i>Firearms relinquishment</i></b>				
Yes	42	74%	38	88%
No	15	26%	5	12%
TOTAL	57	100%	43 **	100%
<b><i>Other orders</i></b>				
Yes	10	18%	6	----
No	47	82%	4	----
TOTAL	57	100%	10	----

Note: \* The total may be less than 57 because not all petitioners requested the type of order in question. \*\* The total is greater than the number of petitioners who requested such orders because the court granted the order in spite of the fact that the petitioner did not request it.

In two-thirds (67 percent) of cases, the petitioner was granted a fee waiver for service of the order to show cause (OSC) and temporary restraining order (TRO). In a small proportion of cases (9 percent), neither an order to show cause nor a temporary restraining order was issued, so there was no need to apply for a fee waiver. (Both figures in this paragraph are not shown.)

A response was filed in only 7 percent of cases. Of the few individuals who did respond, some consented to the requested orders and some did not. Respondents were somewhat more likely to appear at the hearing (16 percent) than to file a response, but overall they did not have a great level of involvement in the case.

**Table 8. Response to Restraining Order Request**

	<b>N</b>	<b>%</b>
<b>Response filed?</b>		
Yes	4	7%
No	49	86%
N/A (no OSC/TRO)	4	7%
TOTAL	57	100%
<b>Personal conduct order: respondent consents? *</b>		
Yes	1	----
No	3	----
TOTAL	4	----
<b>Residence exclusion order: respondent consents? *</b>		
Yes	1	----
No	1	----
N/A (not requested)	2	----
TOTAL	4	----
<b>Stay-away order: respondent consents? *</b>		
Yes	2	----
No	2	----
TOTAL	4	----
<b>Firearms relinquishment order: respondent consents? *</b>		
N/A (not requested)	2	----
Respondent has no firearms	2	----
TOTAL	4	----
<b>Other orders requested: respondent consents? *</b>		
N/A (not requested)	4	----
TOTAL	4	----
<b>Respondent appeared at hearing?</b>		
Yes	9	16%
No	40	70%
N/A (no hearing held) **	6	11%
Unable to determine	2	4%
TOTAL	57	100%

Note: Percentages may not sum to 100 due to rounding. \* Data related to the respondent's consent to the orders is limited to cases in which a response was filed. \*\* A hearing may not have been held because no OSC or TRO was issued or because the petitioner decided to drop the matter before the hearing.

In nearly 9 of 10 cases (89 percent), the petitioner had an opportunity to have his or her case heard in court. At least one type of permanent order was granted in about half (49 percent) of the cases reviewed. Of those cases, nearly two-thirds (64 percent) were resolved within one month of the date the petition was filed. The median time from filing

to disposition (in cases where permanent orders were granted) was three weeks, or 21 days. The different types of orders were granted with around the same frequency, with firearms relinquishment orders the most likely to be granted (57 percent). Additional specialized orders were granted in three cases; in two cases, the order involved provisions for limited contact between the petitioner and respondent. A review hearing was scheduled in a small proportion (7 percent) of cases. (All figures in this paragraph, except for granting of firearms relinquishment orders, are not shown.)

**Table 9. Orders Requested and Permanent Orders Granted**

	Order Requested		Permanent Order Granted *	
	N	%	N	%
<b>Personal conduct</b>				
Yes	55	96%	27	49%
No	2	4%	28	51%
TOTAL	57	100%	55	100%
<b>Residence exclusion</b>				
Yes	41	72%	20	49%
No	16	28%	21	51%
TOTAL	57	100%	41	100%
<b>Stay-away</b>				
Yes	57	100%	26	46%
No	0	0%	31	54%
TOTAL	57	100%	57	100%
<b>Firearms relinquishment</b>				
Yes	42	74%	26	57%
No	15	26%	20	43%
TOTAL	57	100%	46 **	100%
<b>Other orders</b>				
Yes	10	18%	4	----
No	47	82%	7	----
TOTAL	57	100%	11 **	----

Note: \* The total may be less than 57 because not all petitioners requested the type of order in question. \*\* The total is greater than the number of petitioners who requested such orders because the court granted the order in spite of the fact that the petitioner did not request it.

The most common reason for a permanent order not being issued was that the case was dismissed on the petitioner’s oral motion (38 percent of cases in which no permanent order was issued). In five of the seven cases in which a temporary restraining order was not issued, an order to show cause was also not issued, so there was not an opportunity for hearing on a permanent order (not shown). Other reasons for a permanent order not being issued included the petitioner’s failure to appear at the hearing; insufficient grounds to grant the order or the petitioner not providing enough information for the court to make an informed ruling; a change in circumstance so that a restraining order was no longer required (for example, one of the parties moving); and inability to serve the respondent with the order to show cause and temporary restraining order. Court staff in

Alameda County reported that when an LAS client was unable to serve the respondent with the order to show cause and temporary restraining order, it was common practice for LAS to request a dismissal on the petitioner’s motion. In these cases, the record may not have explicitly reflected the petitioner’s inability to effect service, so the extent to which proof of service problems affected a petitioner’s ability to get a permanent order was likely underestimated.

**Table 10. Reason Permanent Order Not Issued**

	<b>N</b>	<b>%</b>
Dismissed on petitioner’s oral motion	11	38%
No OSC/TRO issued	7	24%
Failure to appear at hearing	5	17%
Insufficient grounds	4	14%
Petitioner did not provide enough information	3	10%
Change in circumstance, order no longer needed	3	10%
Unable to serve respondent with OSC/TRO	2	7%
Other	5	17%

Note: Percentages are based on the 29 cases in which a permanent order was not issued, including cases in which a temporary order was also not issued. Percentages do not sum to 100 because more than one reason could be selected.

**Detailed Analysis**

The following section summarizes the relationships among different case characteristics. Because breaking the cases down into subcategories resulted in small sample sizes from which it is not possible to generalize, tables do not include percentages.

**Factors associated with abuse allegations.** Male petitioners seemed somewhat more likely to be alleged victims of physical and emotional abuse, while female petitioners seemed somewhat more likely to be alleged victims of financial abuse.

**Table 11. Abuse Allegations by Gender of Petitioner**

	<b>Male</b>	<b>Female</b>
<b><i>Physical abuse alleged?</i></b>		
Yes	6	13
No	9	29
TOTAL	15	42
<b><i>Financial abuse alleged?</i></b>		
Yes	5	19
No	10	23
TOTAL	15	42

**Table 11. Abuse Allegations by Gender of Petitioner (cont.)**

	Male	Female
<b><i>Emotional abuse alleged?</i></b>		
Yes	13	32
No	2	10
TOTAL	15	42

Males were more likely than females to be alleged perpetrators of physical abuse. Males and females were roughly equally likely to be alleged perpetrators of both financial and emotional abuse.

**Table 12. Abuse Allegations by Gender of Respondent**

	Male	Female
<b><i>Physical abuse alleged?</i></b>		
Yes	14	5
No	21	17
TOTAL	35	22
<b><i>Financial abuse alleged?</i></b>		
Yes	14	10
No	21	12
TOTAL	35	22
<b><i>Emotional abuse alleged?</i></b>		
Yes	27	18
No	8	4
TOTAL	35	22

Family members, and in particular the child of the petitioner, were more likely than nonfamily members to have been the alleged perpetrators of physical abuse. On the other hand, nonfamily members were more likely to have been the alleged perpetrators of financial abuse. Emotional abuse was the most common allegation and showed the least amount of variation across all categories of respondents.

**Table 13. Abuse Allegations by Relationship of Respondent to Petitioner**

	Child	Other Family	Non-Family
<b><i>Physical abuse alleged?</i></b>			
Yes	10	7	2
No	11	10	12
TOTAL	21	17	14
<b><i>Financial abuse alleged?</i></b>			
Yes	7	7	8
No	14	10	6
TOTAL	21	17	14

**Table 13. Abuse Allegations by Relationship of Respondent to Petitioner (cont.)**

	Child	Other Family	Non-Family
<b><i>Emotional abuse alleged?</i></b>			
Yes	17	13	12
No	4	4	2
TOTAL	21	17	14

Note: The table does not include five cases for which the respondent's relationship to the petitioner could not be determined.

Physical abuse was somewhat more likely to be alleged when there was evidence that the respondent had some kind of social problem than when there was no such evidence. Financial abuse, however, was somewhat less likely to be alleged in this situation. Allegations of emotional abuse tended not to vary by whether there was evidence of the respondent's social problems.

**Table 14. Abuse Allegations by Evidence of Social Problems Among Respondents**

	Evidence of Any Social Problem	No Social Problem Noted
<b><i>Physical abuse alleged?</i></b>		
Yes	13	6
No	21	17
TOTAL	34	23
<b><i>Financial abuse alleged?</i></b>		
Yes	13	11
No	21	12
TOTAL	34	23
<b><i>Emotional abuse alleged?</i></b>		
Yes	27	18
No	7	5
TOTAL	34	23

**Factors associated with granting of restraining orders.** Permanent orders seemed most likely to be granted in cases involving allegations of physical abuse. Overall, however, rates at which permanent orders were granted were fairly consistent among all abuse types.

**Table 15. Permanent Order Granted by Type of Abuse Alleged**

	Physical Abuse	Financial Abuse	Emotional Abuse
<b><i>Permanent order granted?</i></b>			
Yes	12	13	22
No	7	11	23
TOTAL	19	24	45

Note: Caregiver neglect is not included in this table because there were only two cases involving allegations of caregiver neglect. "Other" type of abuse is not included in this table because the range of abuse types included in that category makes it difficult to compare with other categories of abuse.

Petitioners under the age of 70 seemed somewhat less likely than those age 70 or older to have been granted a restraining order; however, petitioners in this age group represented a relatively small number of petitioners overall, so it is difficult to make any generalizations based on this finding.

**Table 16. Permanent Order Granted by Age of Petitioner**

	69 or Younger	70 to 79	80 or Older
<b><i>Permanent order granted?</i></b>			
Yes	3	11	14
No	6	7	10
TOTAL	9	18	24

Note: The table does not include six cases for which the age of the petitioner was unknown.

Permanent orders were more likely to be granted when the petition contained allegations of more than one type of abuse.

**Table 17. Permanent Order Granted by Number of Abuse Types Alleged**

	One Type of Abuse	More Than One Type of Abuse
<b><i>Permanent order granted?</i></b>		
Yes	9	19
No	13	16
TOTAL	22	35

Petitioners who were represented by an attorney at the time the petition was filed were much more likely than self-represented petitioners to receive a permanent order. This

relationship was even stronger with respect to the temporary orders (not shown). However, it is important to note that an order not granted does not equate to an order being explicitly denied, so one should not be tempted to overstate the significance of attorney representation based on this finding. Representation status at the time of the initial hearing was not as closely tied to whether permanent orders were granted (not shown).

**Table 18. Permanent Order Granted by Legal Representation at Filing**

	Self-Represented	Represented by Attorney
<b><i>Permanent order granted?</i></b>		
Yes	11	17
No	17	11
TOTAL	28	28

Note: The table does not include one case for which legal representation at filing could not be determined.

A permanent order was much more likely to be granted in cases in which there was evidence that the respondent had some kind of social problem.

**Table 19. Permanent Order Granted by Evidence of Social Problems Among Respondents**

	Evidence of Any Social Problem	No Social Problem Noted
<b><i>Permanent order granted?</i></b>		
Yes	20	8
No	14	15
TOTAL	34	23

### Conclusion

Because of both the availability of case managers in the ELC to assist parties involved in elder abuse restraining orders and the collection of additional relevant case and participant information by these case managers, it was possible to gain some additional insight into the nature and dynamics of elder abuse cases. The EPC appears to be dealing with a vulnerable population, many over the age of 80 and some with health issues. Consistent with the general body of literature on elder abuse, the cases involved elders mainly in domestic settings; most lived in their own homes with others, not infrequently with their abusers. Additionally, abusers were often family members and had problems such as substance abuse or a criminal history; this situation presents a unique challenge for the courts because the elder might wish to maintain contact with an abusive family member or see him or her in counseling or treatment. The manner in which the EPC

tailors orders to these types of issues reflects the recognition of these special dynamics in elder abuse cases.

The fact that 9 in 10 petitioners had the opportunity to have their cases heard suggests that abused elders are gaining meaningful access to the courts. Attorney representation provided by LAS, a key partner in the EPC, appears to be an important component of that access. However, a potential obstacle to that access is the petitioner's ability to serve the respondent with the order to show cause and temporary restraining order, because abusers may be transient or simply attempt to avoid service. This situation is not unique to elder abuse restraining orders and in many ways is outside the court's control; however, the involvement of other service providers in the EPC and its ability to grant continuances can provide some assistance with service of process.

## San Francisco County Conservatorship File Review: Summary of Full Results

### **Methodology**

Because a primary reason for San Francisco’s participation as a study court was its initiatives in the probate court, the research team opted to focus its data collection on conservatorships. The team met with the probate director to identify the best source of data related to the needs and characteristics of conservatees, the extent to which elder abuse presents as an issue, and other key aspects of **conservatorship cases**. Together, the team and the probate director made the decision to focus on the initial petition and supporting documents as well as court investigators’ reports—both the initial and review investigation reports—because they would contain the most detail on the needs and status of the conservatee. Additional case details were captured from the order appointing the conservator.

After determining the specific documents to review, the research team explored with court personnel what information was available and in what format. Because of the availability of a greater range of information in the physical case files compared with the case management system (including information from the confidential file<sup>1</sup>) as well as the need for ease in viewing and comparing multiple document, a manual review of the files using a data extraction tool was determined to be the best approach. The research team, with input from court staff, developed a 12-page, 73-item instrument to gather data from the hard copy files. Many of the items were either borrowed directly or adapted from the review of conservatorships completed by the court in 2002 under a grant from the Administrative Office of the Courts dealing with elders’ access to the courts. That 2002 review not only gave the research team an idea of what information was available in the court files, but it also allowed for comparison with data previously collected.

In order to get recent case information but allow enough time to pass for completion of a review investigation, the probate director advised the research team to select calendar year 2004 as the time frame from which to select the sample for review. Court staff generated a list of all of the cases with a petition for conservatorship filed (either an initial or a successor petition) during calendar year 2004 and sent it to research staff in an Excel file.

From that list of 254 filings, research staff randomly selected 60 cases for review, a 24 percent sample. A challenge the research team encountered in pulling court files was that many cases had been warehoused or applied to cases of dependent adults, not elders; it was necessary to draw supplemental samples more than once, and the data collection team had to make replacements onsite using the unsampled cases on the list. Because the extent to which the warehoused cases differed from those that were still available in the courthouse is unknown, it is not possible to assess the potential bias caused by the exclusion of warehoused cases.

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<sup>1</sup> The research team received special permission from the court executive officer and probate director to collect data from the confidential file.

Upon review of the completed forms, some cases were excluded because they were duplicates (for example, multiple petitions filed under the same case number); the petition pertained to someone who had already been under conservatorship for a number of years; or the file or form was missing key information. The final sample size was 47 cases.

### Details of Petition

About 9 in 10 petitions (89 percent) included a request for conservatorship of both the person and the estate, reflecting the fact that the proposed conservatees required assistance with both their personal care and management of their finances. None of the petitions were for limited conservatorships.

**Table 1. Petition: Type of Conservatorship Requested**

Type of Conservatorship	N	%
Person and estate	42	89%
Estate only	3	6%
Person only	2	4%
TOTAL PETITIONS	47	100%

Note: Percentages may not sum to 100 due to rounding.

All of the petitioners were the same party as the proposed conservator (that is, no one was petitioning for conservatorship on behalf of someone else). Private professional conservators were the most common parties to petition for conservatorship, representing 39 percent of all petitioners. More than one-third (36 percent) of petitioners were family members, evenly split between adult child of the proposed conservatee and other family members. One in five petitions (20 percent) was filed by the public guardian. Interestingly, no spouses filed petitions for conservatorship, most likely because proposed conservatees did not have spouses, as reflected in the data on marital status below, or their spouses were unable to act as conservator.

**Table 2. Relationship of Proposed Conservator to Proposed Conservatee**

	N	%
Private professional conservator	22	39%
Family member	20	36%
<i>Son or daughter</i>	10	18%
<i>Other family member</i>	10	18%
Public guardian/conservator	11	20%
Friend or neighbor	2	4%
Nonprofit charitable organization	1	2%
TOTAL PETITIONERS	56	100%

Note: Percentages sum to more than 100 because both the main category and subcategories (italicized) of family members are included.

Most cases (83 percent) involved a single petitioner, while 13 percent involved competing petitioners and 4 percent involved co-petitioners.<sup>2</sup> In one case, there were three competing petitions. Competing petitions may have been filed for a number of reasons including the following: competing family loyalties or disagreements over the proposed conservatee’s care; the court investigator had concerns about the proposed conservator’s suitability and recommended that the public guardian or a private professional conservator become involved; or competing petitions or other family dynamics called for the involvement of a neutral third party. In some cases of competing petitions, the involvement of a private professional conservator, working in collaboration with the agencies, can lead to the discovery of family members who may be willing to step in and act as conservator.

**Table 3. Number of Petitioners**

	<b>N</b>	<b>%</b>
Single petitioner	39	83%
Competing petitioners	6	13%
Co-petitioners	2	4%
<b>TOTAL</b>	<b>47</b>	<b>100%</b>

The proposed conservatee voluntarily requested appointment of a conservator in relatively few (6 percent) cases.

**Table 4. Proposed Conservatee Voluntarily Requests Appointment of Conservator**

	<b>N</b>	<b>%</b>
Yes	3	6%
No	41	87%
Missing	3	6%
<b>TOTAL PETITIONS</b>	<b>47</b>	<b>100%</b>

Note: Percentages may not sum to 100 due to rounding.

In all but a few cases the proposed conservator was able to identify at least one relative of the proposed conservatee who could potentially have an interest in the conservatorship and who was entitled to notice of the proceedings. The average conservatee had three relatives known to the proposed conservator.

Proposed conservators and other parties assisting proposed conservatees explored a wide range of alternatives to conservatorship prior to filing the petition, the most common being durable powers of attorney for health care and for estate management (each explored in more than 9 of 10 cases). In many if not most cases, the petitioner noted that

<sup>2</sup> Unless otherwise noted, the total number of cases in the tables represents the number of petitions filed, not the number of petitioners. Where petitioners’ individual characteristics were relevant or where there was disagreement among petitioners, percentages were calculated based on the total number of individuals (or entities) filing petitions; otherwise, one representative petition was selected to describe case characteristics.

the alternatives were considered unfeasible because of the proposed conservatee’s lack of capacity.

**Table 5. Alternatives to Conservatorship Explored**

	<b>N</b>	<b>%</b>
Durable power of attorney for health care	44	94%
Durable power of attorney for estate management	43	91%
Trust	40	85%
Voluntary acceptance of assistance	39	83%
Special or limited power of attorney	39	83%
General power of attorney	39	83%
Other	1	2%
<b>TOTAL PETITIONS</b>	<b>47</b>	<b>100%</b>

Note: Percentages do not sum to 100 because more than one alternative may have been explored.

At least three-quarters of proposed conservatees had been provided with health services (87 percent) or social services (77 percent) in the year prior to filing the petition, with more than one-third (36 percent) receiving estate management services, as well. Only two proposed conservatees were not known to have received such services.

**Table 6. Services Proposed Conservatee Received During Year Prior to Filing Petition**

	<b>N</b>	<b>%</b>
Health services	41	87%
Social services	36	77%
Estate management services	17	36%
No known services	2	4%
Missing	1	2%
<b>TOTAL PETITIONS</b>	<b>47</b>	<b>100%</b>

Note: Percentages do not sum to 100 because more than one type of service may have been received.

**Characteristics of Proposed Conservatees**

Around two-thirds (68 percent) of proposed conservatees were female (not shown). The majority of proposed conservatees (60 percent) were 80 years of age or older, with an average age of around 81. The youngest was 64 and the oldest was 96.

**Table 7. Age of Proposed Conservatee**

	<b>N</b>	<b>%</b>
64 or younger	1	2%
65 to 69	5	11%
70 to 74	3	6%
75 to 79	10	21%
80 to 84	13	28%
85 to 89	10	21%
90 or older	5	11%
TOTAL PETITIONS	47	100%

The largest proportion (43 percent) of proposed conservatees were widowed. Around one in five was either single/never married or divorced (21 percent each); relatively few (9 percent) were married.

**Table 8. Marital Status of Proposed Conservatee**

	<b>N</b>	<b>%</b>
Widowed	20	43%
Single/never married	10	21%
Divorced	10	21%
Married	4	9%
Missing	3	6%
TOTAL PETITIONS	47	100%

Most proposed conservatees lived in a private residence such as a home or apartment (53 percent), although the proportion of proposed conservatees living in a nursing home or assisted living facility (45 percent) was only slightly lower. No proposed conservatees had a congregate living arrangement, such as a senior housing complex or retirement community. Among those living in a private residence, most lived with an attendant or with family, although many lived alone.

**Table 9. Proposed Conservatee's Current Placement**

	<b>N</b>	<b>%</b>
Home or apartment	25	53%
Nursing home or assisted living facility	21	45%
Other	1	2%
TOTAL PETITIONS	47	100%

Note: Percentages may not sum to 100 due to rounding.

Almost all petitioners (91 percent) were able to report the value of the proposed conservatee's personal property. The average conservatee had personal property valued at \$60,000. One-quarter of proposed conservatees had personal property values of less than \$10,000, and one-quarter had personal property values of more than \$200,000. The value of the proposed conservatee's real property was less likely to be known to petitioners; values were reported in 63 percent of cases. In more than half (51 percent) of cases, the

proposed conservatees had no real property. For those who did have real property, the values ranged greatly, from a low of \$250,000 to a high of \$1.5 million. The fact that so many proposed conservatees did not have real property may reflect the unavailability of affordable housing in San Francisco, and the property values for those who did have real property are indicative of the high property values in general in San Francisco.

Proposed conservatees' median annual gross income from all sources was \$15,000; one-third received less than \$10,000 in income annually, and only 10 percent received more than \$40,000. More than half (58 percent) of proposed conservatees received income from more than one source, by far the most common being pensions, which also represented the largest proportion of proposed conservatees' total income. Notably, no proposed conservatees received income from wages.

### **Alleged or Suspected Abuse**

In more than two-thirds (70 percent) of cases, there was at least one indicator of abuse or neglect by others or of self-neglect. This indicator was based on allegations contained in the petition, abuse or neglect suspected by the court investigator as a result of the initial investigation, the proposed conservatee's involvement in certain types of other court actions, and the involvement of certain outside agencies in the case. Additionally, the rationale for the conservatorship (to be discussed in more detail below) was related to self-neglect or abuse or neglect by others in almost half (47 percent) of cases; those cases were fairly evenly split among reasons related to self-neglect and reasons related to abuse or neglect by others. Although the relatively small number of cases does not allow for statistically meaningful comparison, it appears that those who were abused or neglected were somewhat more likely to be widowed and to live in a private residence. Details of alleged or suspected abuse referenced in the petition and the initial investigation report are outlined below.

**Abuse alleged in petition.** Nearly half (47 percent) of petitions contained allegations of abuse or neglect of the conservatee, including self-neglect. Of those, slightly fewer than half alleged more than one type of abuse, by far the most prevalent being financial abuse. Other common allegations were of self-neglect, psychological abuse, and neglect by others. A small number of cases involved both self-neglect and abuse or neglect by others. In cases in which abuse or neglect was alleged, conservatorships were most likely requested to address the abuse in the following ways: provide court supervision of assets that were in jeopardy, allow for a third-party legal action to stop the abuse or neglect, prevent further loss of assets, or obtain medical care.

The alleged abusers most often were male and related to the proposed conservatee. The majority of the alleged abusers were family members—either children, other family members, or spouses (in descending order of frequency). The proposed conservatees were also likely to be allegedly abused by caregivers, friends, or neighbors.

**Abuse suspected by court investigator.** Court investigators suspected abuse or neglect of the proposed conservatee only slightly more often than it was alleged in the petition (49 percent versus 47 percent). It was again not uncommon for the investigator to suspect more than one type of abuse or neglect. The most common types addressed in the initial

investigation report mirrored those contained in the petition, with financial abuse predominating and other common issues being self-neglect, psychological abuse, and neglect by others. As was the case with allegations in the petition, physical abuse was rarely suspected. In most cases in which the investigator suspected abuse or neglect, the proposed conservatee did not acknowledge the abuse or neglect.

### **Findings of Initial Court Investigation Report<sup>3</sup>**

In San Francisco County, the court developed a template for the initial investigation report that is based on the requirements set forth in Probate Code § 1826; investigations cover, among other issues, whether the proposed conservatee is willing and able to attend the hearing, whether the proposed conservatee requests or otherwise needs counsel, whether the conservatorship is appropriate, and whether the proposed conservator is suitable. Two-thirds (66 percent) of proposed conservatees were able to attend the initial hearing, while fewer than half (45 percent) were willing to do so. Court investigators categorized only one proposed conservatee as able to provide for his or her needs for physical health, food, clothing, and shelter. More than half (55 percent) of conservatees were able to live in their residences during the conservatorship. Court investigators assessed all proposed conservatees as unable to manage their financial resources or to resist fraud or undue influence. More than two-thirds (68 percent) of proposed conservatees were capable of completing an affidavit of voter registration. Around three-quarters (74 percent) of proposed conservatees were provided with both health and social services during the year prior to filing the petition, while 15 percent were provided with only health services.<sup>4</sup> Exclusive authority for medical treatment had been requested in fewer than one-quarter (23 percent) of cases.

In all cases, court investigators were satisfied with the petitioners' reasons why alternatives to conservatorship were unavailable. Most proposed conservatees did not wish to contest the conservatorship, but notably more than one-quarter (28 percent) did. Similarly, the proposed conservatee objected to the proposed conservator (either somewhat or completely) around one-quarter (23 percent) of the time.

More than half (53 percent) of conservatees did not wish to be represented by counsel; however, court investigators felt the appointment of counsel would not be helpful to the resolution of the matter in only around one-third (36 percent) of cases. Investigators believed that appointment of counsel was necessary to protect the interests of the proposed conservatee in around half of cases. Ultimately, counsel was appointed in 57 percent of cases.

The most common reason for seeking a conservatorship was the proposed conservatee being at risk for undue influence, a factor in more than half (53 percent) of the cases. Other factors underlying the petition for conservatorship included the proposed

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<sup>3</sup> Some details from the initial investigation report are included in the section on characteristics of proposed conservatees.

<sup>4</sup> This proportion may be at odds with the services the proposed conservatee received as listed on the petition both because the petitioner and court investigator were asked to report in different sets of categories and because the services known to the petitioner may have varied from those known to the investigator.

conservatee refusing assistance or being unable to grasp the severity of his or her situation, sudden physical impairment, and the fact that a facility or physician was uncomfortable with the proposed conservatee’s decision-making capacity (each 30 percent). Self-neglect (28 percent) and abuse (23 percent) also were not uncommon. Reasons listed in the “Other” category included the current conservator resigning or the need to find placement for the proposed conservatee.

**Table 10. Rationale for Conservatorship**

	<b>N</b>	<b>%</b>
Proposed conservatee is at risk for undue influence	25	53%
Proposed conservatee does not grasp severity of situation/refuses assistance	14	30%
Proposed conservatee has sudden physical impairment	14	30%
Physician or facility is uncomfortable with decision-making capacity of proposed conservatee	14	30%
Self-neglect	13	28%
Proposed conservatee has been abused	11	23%
Proposed conservatee’s home is in severe disrepair	8	17%
Dementia, other cognitive impairment, mental health issues	7	15%
Authority needed to recover assets or revoke contracts	5	11%
Proposed conservatee is severe hoarder/clutterer	4	9%
Medical issues	4	9%
Legal authority is in the hands of the abuser	3	6%
Proposed conservatee has been neglected	2	4%
Other	14	30%
<b>TOTAL PETITIONS</b>	<b>47</b>	<b>100%</b>

Note: Percentages do not sum to 100 because more than one rationale could apply to a given case.

The initial investigation report was also reviewed for evidence of involvement of other agencies in the proposed conservatee’s case. It is important to note that this involvement may or may not have been documented in the report, but to the extent that such information was available, it was helpful in understanding the complexity of these cases. Around 8 in 10 cases (81 percent) had outside agency involvement. Notably, half of the cases involving outside agencies involved more than one agency.

**Table 11. Other Agencies Involved in Proposed Conservatee’s Case**

	<b>N</b>	<b>%</b>
None noted in report	9	19%
Adult Protective Services	27	54%
Hospital	21	45%
Law enforcement	5	11%
Community-based organization	3	6%
Public guardian	2	4%
Case manager	2	4%
Financial institution	2	4%
Other	2	4%
<b>TOTAL PETITIONS</b>	<b>47</b>	<b>100%</b>

Note: Percentages do not sum to 100 because more than one type of agency may have been involved in the case.

In a small proportion of cases (9 percent), the initial investigation report revealed that actions other than conservatorship had been taken with respect to the proposed conservatee. Other court actions were most often related to restraining orders (elder and dependent adult abuse or domestic violence).

In every case the court investigator concluded that the conservatorship was appropriate. Investigators were also very likely to believe that the proposed conservator was suitable; only one proposed conservator was considered unsuitable, and 7 percent were considered somewhat suitable.

Aside from providing their assessment of the appropriateness of the conservatorship and the suitability of the proposed conservator(s), court investigators were not very likely to make other specific written recommendations regarding the proposed conservatee; no such recommendations were made in nearly three-quarters (72 percent) of cases. Common recommendations included working with a case manager and providing an allowance for the proposed conservatee.

**Appointment of Conservator**

A conservator was appointed in all cases; however, in two cases in which the petitioners requested conservatorship of both the person and the estate, only a conservator of the person was appointed. In cases involving competing petitions, particularly between a family member and a private professional conservator, which party ended up being appointed appears to have depended on the circumstances of the case. In some cases, either the family member or the private professional was appointed, and in some cases, both were appointed—the family member as conservator of the person and the private professional as conservator of the estate.

**Findings of Review Investigation Report**

One year from the date the conservator was appointed (prior to the enactment of the Omnibus Conservatorship and Guardianship Reform Act of 2006), the court must conduct a review investigation into the appropriateness of the conservatorship and

whether the conservator is acting in the best interests of the conservatee regarding the conservatee's placement (which must be the least restrictive to meet his or her needs), quality of care including physical and mental treatment, and finances.<sup>5</sup> This section summarizes the results of the review investigation reports.

In all but two cases—one in which the conservatee was deceased and one in which the conservatorship had been terminated—a review investigation was completed. The conservatee wished to terminate the conservatorship in only two cases. In striking contrast to the findings of the initial investigation report, only 18 percent of conservatees were reported to be capable of completing an affidavit of voter registration. In all cases, the investigator believed that the conservatee was still in need of the conservatorship. In almost all (93 percent) of cases, the investigator found that the conservator was acting in the best interests of the conservatee. The investigators believed that all conservatees were residing in the least restrictive residence available and necessary to meet their needs.

In all cases that required filing of the inventory and appraisal (I&A), the I&A had been filed. The general plan had been filed and approved in all cases, as well. However, in around one-quarter of cases, the status report had not yet been filed. In only one case was the status of the accounting not current.

### **Conclusion**

The results of the review of conservatorship cases revealed not only that the probate court in San Francisco County is dealing with a very vulnerable population, but also that its protective role, enhanced through special initiatives and court-community partnerships, is helping to ensure the safety and well-being of conservatees. The high level of need among conservatees is reflected in almost all petitions being for conservatorship of both the person and the estate, extensive exploration of alternatives to conservatorship not resulting in an appropriate alternative (often due to incapacity), the extent to which conservatees received services prior to establishment of the conservatorship, and the involvement of other agencies in their cases. Furthermore, at least half of conservatees were alleged or suspected victims of abuse or neglect, and even more may have been vulnerable to abuse or neglect.

The fact that private professional conservators represented a large proportion of proposed conservators reflects the court's role in identifying and screening professionals who are competent to do this type of work. Results of the review investigations, which showed that most conservatees were receiving quality personal care and financial management services, suggest that the court and its justice partners are doing the front-end work necessary to ensure that a conservatorship is appropriate and all other options have been exhausted, and that timely and thorough conservatorship monitoring is key to the court in fulfilling its protective role in probate cases.

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<sup>5</sup> Probate Code § 1850 et seq.

## Appendix C

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Full Statewide Survey Results

## Statewide Survey on Court Response to Elder Abuse: Summary of Full Results

### **Introduction and Methodology**

In order to supplement the in-depth examination of the four study courts' specialized responses to elder abuse and paint a picture of the extent to which practices to address elder abuse have been adopted by courts throughout California, the project included a statewide survey on the court response to elder abuse. In consultation with the project working group, which included representatives from various court departments that see elder abuse cases and individuals working in aging services, the research team developed a 24-item survey designed to assess a variety of court practices around the issue of elder abuse, including calendaring and case management, services and accommodations, orders after hearing and compliance, community agencies and partnerships, and training.

Because it is somewhat of a seminal document in terms of laying out best or promising practices in the area of elder abuse and the courts, many of the questions on the survey were based on the American Bar Association's *Recommended Guidelines for State Courts Handling Cases Involving Elder Abuse* (ABA guidelines). Another key resource for developing survey questions, particularly those related to training, was the National Center for State Courts' *Results from a Needs Assessment Survey: Court and Judicial Needs in the Area of Elder Abuse*. Still other questions were derived from current practices observed in California courts, as well as issues that working group members saw or were addressing in their courts and communities.

One of the big challenges for the research team in developing a strategy to administer the survey was that elder abuse cases may appear in a variety of court departments; completion of the survey could require input from multiple judicial officers or staff from different court divisions. It was not possible to identify specific judicial officers or court staff who work on elder abuse cases, and survey responses were meant to address court practices as a whole, not the practices of individual courtrooms, judges, or court personnel. As a result, the team decided to make the court executive officer (CEO) the initial point of contact for the survey.

An initial memo was e-mailed sent to all CEOs on August 17, 2007, explaining the nature and purpose of the survey and asking them to designate one or more court staff who would be in the best position to respond to the survey questions. Next a survey and cover letter with instructions for completing the survey were mailed to the designated respondents starting August 24, 2007. Courts were given an initial deadline of September 14, 2007, to complete the survey. After that, follow-up calls were made to nonresponding courts for a period of approximately one month; the last survey was returned on October 17, 2007.

Respondents could complete the survey on paper, electronically (using a fillable form designed in Microsoft Word), or over the telephone. Most courts (69%) completed the survey electronically and returned it by e-mail, and 28% completed the hard copy and either faxed or mailed it back. No courts opted to complete the survey by telephone,

probably because not all survey questions could be addressed by a single person. The survey response rate was 100%. All courts responded in some way to the survey request. However, two small courts requested not to complete the survey because they had encountered few, if any, elder abuse cases and would not be in a position to meaningfully respond to the questions. The survey results below represent the responses of the 56 courts that were able to respond to the questions.

### **Calendaring and Case Management**

Direct calendaring—assigning a single judicial officer to a case from filing (or a stage very early in the case) to disposition—is viewed as beneficial in that it allows a judicial officer to become familiar with the details of the case and may result in a case moving more quickly through the system. Direct calendaring may be a useful practice in elder abuse cases because of their complexity and the need to often resolve cases quickly when the elder victim’s health is declining. Dealing with a single judge may also help ease the anxiety of elders who must appear in court. Nearly two-thirds (64%) of responding courts reported having some direct calendaring of cases involving elder abuse. Those courts do direct calendaring in a variety of case types, with probate conservatorship and restraining order cases being the most common. Additionally, almost all (94%) courts that offer direct calendaring do so for more than one case type (not shown). A few courts noted that criminal elder abuse cases may involve a combination of master calendaring and direct calendaring, depending on what stage the case is in (for example, a case may be master calendared for the pretrial phase and direct calendared for the trial phase). Additionally, the extent to which direct calendaring is possible in probate conservatorship cases may be limited because trials in probate court are nonjury trials; if a jury is requested, the case will need to be assigned to a judge in another department that has the capacity for jury trials.

**Table 1. Direct Calendaring of Elder Abuse Cases**

	<b>N</b>	<b>%</b>
<b><i>Any direct calendaring?</i></b>		
Yes	36	64%
No	19	34%
Don’t know	1	2%
<b>TOTAL</b>	<b>56</b>	<b>100%</b>

**Table 1. Direct Calendaring of Elder Abuse Cases (cont.)**

	N	%
<b><i>If yes, for which case types?</i></b>		
Probate conservatorship	33	92%
Domestic violence restraining orders involving elders	31	86%
Elder and dependent adult abuse restraining orders	28	78%
Civil/financial abuse	27	75%
Criminal	22	61%
Other	6	17%
TOTAL	36	100%

Note: Percentages for case type detail do not sum to 100 because more than one case type could be selected.

Under the category of Intra-Court Coordination, Recommendation 18 of the ABA guidelines states, “Further study should be given to the concept of consolidation of the courts handling cases involving elder abuse. . . .” Along those lines, a set of questions was included on the survey to assess how many courts had a specialized or consolidated calendar and, if so, what case types those calendars encompassed. Relatively few courts (16%) had some kind of specialized or dedicated calendar exclusively for cases involving elder abuse. Among the courts with specialized calendars, restraining orders were the most common matters heard. About half of those courts also heard probate conservatorship cases involving elder abuse on their specialized calendars.

**Table 2. Specialized or Consolidated Calendars for Elder Abuse Cases**

	N	%
<b><i>Specialized/consolidated calendar exclusively for elder abuse cases?</i></b>		
Yes	9	16%
No	47	84%
TOTAL	56	100%
<b><i>If yes, for which case types?</i></b>		
Elder and dependent adult abuse restraining orders	8	----
Civil harassment restraining orders involving elders	8	----
Domestic violence restraining orders involving elders	7	----
Probate conservatorship	4	----
Criminal	1	----
Other civil	0	----
Other	1	----
TOTAL	9	----

Note: Case type detail does not match total because more than one case type could be selected.

Also under the category of Intra-Court Coordination, recommendation 17 of the ABA guidelines states, “Courts must develop ways of ensuring that judges become aware of cases involving older abused persons that might be underway [sic] simultaneously in different divisions or that might previously have been heard and have some influence on a current case.” In the statewide survey, courts were asked whether they had a process in place to identify such related cases. Less than half (46%) of responding courts had some kind of process to identify whether elderly litigants are involved in any other related cases. Most of the courts that reported having such a process cross-checked across all possible case types, while some cross-checked only within specified case types—most commonly restraining order and criminal matters.

**Table 3. Identification of Related Cases**

	N	%
<b><i>Any process to identify related cases involving elderly litigants?</i></b>		
Yes, for every case	22	39%
Yes, for cases requiring more attention	4	7%
No	30	54%
TOTAL	56	100%
<b><i>If yes, for which case types?</i></b>		
All case types	16	----
Selected case types only	10	----
Elder and dependent adult abuse restraining orders	8	----
Domestic violence restraining orders	8	----
Criminal	6	----
Probate conservatorship	4	----
Civil/financial abuse	4	----
Family law	2	----
TOTAL	26	----

Note: Case type detail does not match total because more than one case type could be selected.

In the course of site visits to study counties and stakeholder interviews, the research team discovered that elder and dependent adult abuse restraining order petitions (*Request for Orders to Stop Elder or Dependent Adult Abuse* (form EA-100)) were heard in different departments or on different court calendars. As a result, a question on the survey was designed to assess where these restraining order cases were most often heard. Most courts (70%) reported hearing EA-100 petitions primarily on one calendar, although one-quarter (25%) reported hearing them on a variety of calendars (not shown). EA-100 petitions were most commonly heard on domestic violence calendars (38%), followed by family law (27%) and probate (23%).

**Table 4. Calendars/Departments That Hear Elder Abuse Restraining Orders**

	<b>N</b>	<b>%</b>
Domestic violence	21	38%
Family law	15	27%
Probate	13	23%
General civil	8	14%
General restraining order calendar	5	9%
Specialized elder abuse calendar	3	5%
Criminal	2	4%
Law and motion	2	4%
Other	2	4%
Missing	3	5%
<b>TOTAL</b>	<b>56</b>	<b>100%</b>

Note: Percentages do not sum to 100 because more than one calendar/department could be selected.

### **Services and Accommodations**

Elder abuse victims have unique needs—including but not limited to age-related health conditions—that may need to be addressed in the court setting. Courts were asked about the services or accommodations available to elders who must appear in court. ABA guidelines related to the services about which courts were asked are outlined below.

#### **Category: Judicial Administration and Case Management**

- *Recommendation 4.* Courts should provide accommodations for persons with physical and mental deficiencies and, if necessary, hold hearings in cases involving elder abuse in the setting that best accommodates the needs of the abused older person.
- *Recommendation 5.* Courts should recognize that the capacity of the older person may fluctuate with the time of day, medications, etc., so courts should be flexible in scheduling hearings to accommodate those individual variations.
- *Recommendation 6.* Courts should expedite cases involving elder abuse on the calendar.

#### **Category: Implementation of Procedural Innovations**

- *Recommendation 15.* Further analysis and study should be undertaken of the ramifications of courts' taking steps when necessary to reduce the level of fear experienced by an older person who is testifying against his or her abuser such as allowing the hearing to be held in a less confrontational setting, allowing testimony and cross-examination of the older abused person by videotape or closed-circuit television, or closing the courtroom to the public.

Most courts (89%) reported providing some kind of special service or accommodation. The most commonly provided services or accommodations were assistive listening

devices (84%), foreign language or American Sign Language (ASL) interpreters (75%), and allowing for telephonic appearances (68%). The provision of assistive listening devices was likely so common because such accommodations are covered under the Americans With Disabilities Act and California Rules of Court, rule 1.100, and are therefore more broadly applicable than just in elder abuse cases. Similarly, the provision of interpreters is mandatory in criminal and domestic violence cases, which make up a substantial portion of elder abuse cases, so it is not surprising that interpretation is such a commonly provided service.

Several courts also reported expediting elders' cases or giving priority to their cases on the calendar (41%), allowing elders to take frequent breaks during hearings (36%), expediting the process for obtaining temporary restraining orders (32%), and holding hearings at times of day when elders have the greatest capacity to participate, such as allowing for flexible scheduling or designating special calendar times for elders (23%). Some accommodations, like transportation to hearings and medical equipment, may be less common because outside organizations (for example, the victim assistance program) take responsibility for providing them.

**Table 5. Services and Accommodations**

	<b>N</b>	<b>%</b>
No special services or accommodations	6	11%
<b>Access to the court</b>		
Assistive listening devices	47	84%
Telephonic appearances	38	68%
Medical equipment/storage of medication	3	5%
Transportation to hearings	1	2%
<b>Hearing accommodations</b>		
Providing foreign language or ASL interpreters	42	75%
Expediting/giving priority to elders' cases	23	41%
Allowing for frequent breaks	20	36%
Flexible scheduling/special calendar times to accommodate fluctuations in capacity	13	23%
Holding hearings in alternative locations (e.g., nursing home)	7	13%
Allowing for testimony via video or closed-circuit television	7	13%
Closing hearings to public/holding hearings in chambers	5	9%
<b>Other</b>		
Expediting process for obtaining temporary restraining orders	18	32%
Assigning case managers	4	7%
Other	8	14%
<b>TOTAL</b>	<b>56</b>	<b>100%</b>

Note: Percentages do not sum to 100 because more than one type of service or accommodation could be selected.

Although not addressed by a specific recommendation in the ABA guidelines, a theme that cuts across recommendations is the need for services for self-represented litigants involved in elder abuse cases, including assistance with completion of court forms and other relevant documents and linkage to social services and other community organizations. Courts were asked what services were available to self-represented elders, as well as to family members or caregivers who may be assisting them. The question focused not on what services the courts provided specifically, but on what services were generally available, regardless of the setting in which they were provided. At least one-quarter of courts reported the availability of all of the services listed on the survey. The most commonly available services are summarized below.

- Individual assistance filing restraining order petitions was the most common service, available to litigants in 84 percent of counties. One-third of courts reported this service being available in the court and the community, one-third reported it being available in the community only, and 16 percent reported it being available in the court only. Assistance petitioning for restraining orders was most likely to be provided only by an entity other than the court (43%), although in more than one-third of counties (36%), the service was provided by both court staff and another entity.
- Another common service was written materials, such as forms instructions or informational pamphlets (82%). This service was most often provided in the court only (39%) or in both the court and the community (32%). Written materials were most likely to be provided only by court staff, although in a substantial proportion of counties (39%), they were provided by both court staff and another entity.
- Courts were also highly likely to report the availability of referrals to community, legal, or social services (80%). This service was equally likely to be available in the court only and in both the court and the community (36%). Referrals were most likely to be provided by both court staff and another entity (47%).
- Nearly three-quarters (73%) of courts reported that explanations of the court process or procedures were available to assist elderly litigants and their families or caregivers. This type of service is closely related to recommendation 23 of the ABA guidelines (under the category Assistance from Victim/Witness Advocates and Court Staff), which states that “court staff should help explain and demystify the court process for older abused persons who may be intimidated or confused, or who may have some type of mental or cognitive disability.” Explanation of the court process or procedures was equally likely to be available in the court only and in both the court and the community (34%), and equally likely to be provided only by court staff and by both court staff and another entity (44%).

Less commonly available services included workshops or clinics on petitioning for conservatorship (25%), assistance from volunteer attorneys (30%), and in-court assistance and support (34%).

Although the ABA guidelines advise against the use of alternative dispute resolution (ADR) in cases involving elder abuse until it undergoes further study, interviews with the courts and their justice partners suggested that, given careful consideration of the

underlying case issues and dynamics, there are some circumstances in which ADR may be beneficial. More than half (54%) of courts reported that when an elder abuse case involves underlying family disputes or family dysfunction, which is often the case, they will make referrals to mediation or other forms of ADR. Among courts that do so, referrals to ADR are most commonly made in probate conservatorship (67%), family law (50%), or restraining order cases (47% each for elder abuse and domestic violence). ADR is not as common in civil fraud or criminal cases, case types for which, on the surface, ADR may not seem appropriate.

**Table 6. Referrals to Alternative Dispute Resolution (ADR)**

	N	%
<b><i>In elder abuse cases involving family disputes, are parties referred to ADR?</i></b>		
Yes	30	54%
No	15	27%
Don't know	10	18%
Missing	1	2%
TOTAL	56	100%
<b><i>If yes, for which case types?</i></b>		
Probate conservatorship	20	67%
Family law	15	50%
Elder and dependent adult abuse restraining orders	14	47%
Domestic violence restraining orders	14	47%
Civil/financial abuse	4	13%
Criminal	2	7%
TOTAL	30	100%

Note: Percentages may not sum to 100 due to rounding.

**Table 7. Location of Services Available to Self-Represented Litigants**

Service	Available													
	Not available		Available				Don't know		Missing		TOTAL			
	N	%	In the court N	In the court %	In the community N	In the community %	In the court and the community N	In the court and the community %	N	%	N	%	N	%
Individual assistance filing restraining order petitions	5	9%	9	16%	19	34%	19	34%	1	2%	3	5%	56	100%
Workshops or clinics on filing restraining order petitions	22	39%	8	14%	11	20%	4	7%	7	13%	4	7%	56	100%
Individual assistance petitioning for conservatorship	14	25%	12	21%	10	18%	8	14%	6	11%	6	11%	56	100%
Workshops or clinics on petitioning for conservatorship	27	48%	8	14%	4	7%	2	4%	7	13%	8	14%	56	100%
Explanation of court process/ procedures	6	11%	19	34%	3	5%	19	34%	3	5%	6	11%	56	100%
In-court assistance and support	25	45%	6	11%	9	16%	4	7%	5	9%	7	13%	56	100%
Assistance from volunteer attorneys	27	48%	6	11%	8	14%	3	5%	4	7%	8	14%	56	100%
Referrals to community, legal, or social services	4	7%	20	36%	5	9%	20	36%	1	2%	6	11%	56	100%
Assistance navigating the courthouse	11	20%	24	43%	4	7%	7	13%	2	4%	8	14%	56	100%
Written materials	4	7%	22	39%	6	11%	18	32%	1	2%	5	9%	56	100%

**Table 8. Providers of Services Available to Self-Represented Litigants**

Service	Provided by court staff		Provided by other entity		Provided by court staff and other entity		Missing		TOTAL	
	N	%	N	%	N	%	N	%	N	%
Individual assistance filing restraining order petitions	7	15%	20	43%	17	36%	3	6%	47	100%
Workshops or clinics on filing restraining order petitions	4	17%	12	52%	4	17%	3	13%	23	100%
Individual assistance petitioning for conservatorship	9	30%	11	37%	9	30%	1	3%	30	100%
Workshops or clinics on petitioning for conservatorship	6	43%	6	43%	1	7%	1	7%	14	100%
Explanation of court process/ procedures	18	44%	4	10%	18	44%	1	2%	41	100%
In-court assistance and support	4	21%	10	53%	4	21%	1	5%	19	100%
Assistance from volunteer attorneys	1	6%	13	77%	2	12%	1	6%	17	100%
Referrals to community, legal, or social services	15	33%	6	13%	21	47%	3	7%	45	100%
Assistance navigating the courthouse	17	49%	4	11%	11	31%	3	9%	35	100%
Written materials	20	44%	5	11%	18	39%	3	7%	46	100%

Note: The total for each category varies because the results are limited to those counties in which the service was available.

Services most likely to be available in the court were the same as those most likely to be available in general. The service most likely to be available in the community was assistance filing petitions for restraining orders. Services most likely to be provided by court staff were also fairly consistent with those most likely to be available in general, with the exception of assistance navigating the courthouse. Services most likely to be provided by another entity were assistance from volunteer attorneys, assistance filing petitions for restraining orders, and in-court assistance and support.

The ABA guidelines promote the availability of victim/witness advocates to assist the elderly in court. Specific recommendations addressed by the statewide survey questions are outlined below.

- *Recommendation 21.* Victim/witness advocates should be available and involved in assisting older abused persons throughout the judicial process in both non-criminal and criminal court proceedings.
- *Recommendation 22.* All victim/witness advocates should be trained about the dynamics of elder abuse and about the Adult Protective Services (APS) system and other aging network services available to assist abused older persons. Additionally, there should be an elder abuse specialist at every victim/witness program.

In more than one-third (38%) of counties, courts reported that there were victim/witness advocates who specialize in elder abuse available to assist elderly litigants. It is important to note, however, that despite the lack of specialization in some counties, victim/witness advocates are nonetheless able to provide assistance to elders. In more than half of the counties (52%) where there is such specialization, the advocates assist elders in both criminal and noncriminal matters.

**Table 9. Victim/Witness Advocates Specializing in Elder Abuse**

	N	%
<b><i>Victim/witness advocates available to assist elders?</i></b>		
Yes	21	38%
No	29	52%
Don't know	6	11%
TOTAL	56	100%
<b><i>If yes, do they provide assistance with both criminal and non-criminal cases?</i></b>		
Criminal only	9	---
Criminal and non-criminal	11	---
Don't know	1	---
TOTAL	21	---

Note: Percentages may not sum to 100 due to rounding.

Because elderly victims may be particularly vulnerable, appointment of counsel is an important consideration in elder abuse cases. Courts were most likely to appoint counsel to represent the interests of elders in probate conservatorship (43% of courts appoint counsel always or almost always, and 36% appoint counsel occasionally) and criminal cases (27% always or almost always; 7% occasionally). Counsel were appointed relatively infrequently in restraining order cases.

Probate and criminal cases most likely involve the more frequent appointment of counsel because there are more explicit statutory provisions for doing so, particularly in probate conservatorship cases, in which appointment of counsel is mandatory under a number of different circumstances. Discretionary appointment of counsel is most common when a probate investigator recommends it (66%), when a proposed conservatee opposes the conservatorship (64%), and when the elder has capacity issues (59%).

**Table 9. Frequency of Appointment of Counsel to Represent Elder’s Interests**

Case type/matter	Always or almost always		Occasionally		Rarely or never		Don’t know		Missing		Total	
	N	%	N	%	N	%	N	%	N	%	N	%
Probate conservatorship	24	43%	20	36%	5	9%	5	9%	2	4%	56	100%
Criminal	15	27%	4	7%	28	50%	6	11%	3	5%	56	100%
Civil/financial abuse	3	5%	5	9%	31	55%	9	16%	8	14%	56	100%
Domestic violence restraining orders	2	4%	4	7%	43	77%	4	7%	3	5%	56	100%
Elder abuse restraining orders	1	2%	5	9%	39	70%	8	14%	3	5%	56	100%

**Table 10. Circumstances of Discretionary Appointment of Counsel**

	Number	Percent
When there are capacity issues	33	59
When there is a family dispute/family dysfunction	20	36
When there are competing petitions for conservatorship	30	54
When the proposed conservatee is opposed to the conservatorship	36	64
When the investigator recommends it	37	66
TOTAL	56	100

Note: Percentages do not sum to 100 because more than one circumstance could be selected.

Court-appointed counsel in probate conservatorship cases are most likely to be from the office of the public defender or private attorneys (each 59%). A small number of courts appoint the public guardian or legal services attorneys. More than one-quarter of courts (29%) use some combination of these different types of attorneys (not shown).

**Table 11. Court-Appointed Counsel in Probate Conservatorship Cases**

	<b>N</b>	<b>%</b>
Public defenders	33	59%
Private attorneys	33	59%
Legal services attorneys	2	4%
Public Guardian	2	4%
Other	2	4%
<b>TOTAL</b>	<b>56</b>	<b>100%</b>

Note: Percentages do not sum to 100 because more than one category could be selected.

Because the dynamics of elder abuse cases can be complex, it may be beneficial to solicit outside expertise to assist the courts in understanding medical, social, psychological, and/or financial issues involved in a case. Most courts reporting involving some type of outside experts in elder abuse cases, most commonly to perform capacity assessments (43%). This is closely related to recommendation 7 of the ABA guidelines, which states, “Courts should use expert witnesses, evaluators, guardians *ad litem*, court investigators, court visitors, or interdisciplinary teams who are trained and knowledgeable about the problems of older persons to assess the older person’s capacity.” Given the frequency with which capacity is an issue in probate conservatorship cases, it is not surprising that the courts most commonly use outside experts in this context. Other common ways in which the courts involve experts are to provide medical opinions and to perform psychological evaluations (38% each). Assessing for undue influence (18%) and analyzing forensic evidence (13%) were less common roles for outside experts. Courts also mentioned using experts in cases involving financial issues—for example, to evaluate an investment portfolio. One court also reported involving outside experts not in individual elder abuse cases but as members of its advisory committee.

**Table 12. Involvement of Outside Experts in Elder Abuse Cases**

	N	%
Court does not involve outside experts	23	41%
Court involves outside experts to:		
Conduct capacity assessments	24	43%
Provide medical opinions	21	38%
Perform psychological evaluations	21	38%
Assess for undue influence	10	18%
Analyze forensic evidence	7	13%
Other	4	7%
TOTAL	56	100%

Note: Percentages do not sum to 100 because more than one category could be selected.

Also related to recommendation 7 of the ABA guidelines, courts were asked to what extent local community elder abuse multidisciplinary teams (MDTs) provided the expertise discussed above. More than one-third (38%) of courts reported that MDTs did not provide such expertise, and many other courts (21%) were not aware of whether MDTs provided it. Financial abuse specialists teams (FASTs) were most likely to provide expertise in elder abuse cases. Although APS is not an MDT, many courts nonetheless mentioned that APS does provide expertise in elder abuse cases. Overall, the results suggest that the courts may have limited awareness of multidisciplinary elder abuse teams in their communities.

**Table 13. Types of Multidisciplinary Teams (MDTs) Providing Expertise**

	N	%
MDTs do not provide expertise	21	38%
Types of MDTs providing expertise:		
Financial/fiduciary abuse specialist team (FAST)	12	21%
Vulnerable adult specialist team (VAST) or other team with a medical focus	6	11%
Elder death review team	4	7%
Elder abuse forensic center	1	2%
Other	7	13%
Don't know	12	21%
TOTAL	56	100%

Note: Percentages do not sum to 100 because more than one category could be selected.

### Orders After Hearing and Compliance

Because the dynamics of elder abuse cases are unique, courts may need to consider special provisions when making orders in these cases. For criminal courts, the ABA guidelines (recommendation 13) propose, “Courts should ensure that plea agreements

meet the needs of the older abused person, including protection from further abuse, and be willing to be creative in negotiations and sentencing, exploring the alternatives available to the abused older person.” Because courts ultimately will be making orders in elder abuse cases in civil as well as criminal contexts, the survey question was broadened to address considerations when making court orders in all case types. Most courts (71%) reported considering at least some special provisions in elder abuse cases. The most common provision was restitution or return of property (50%), which is not surprising, as that is a common practice for many case types (especially criminal), not just for elder abuse cases. Courts were also very likely to consider a range of counseling or treatment options for the abuser, including batterer intervention programs (46%), substance abuse treatment (41%), and mental health treatment (36%). One-quarter or more of courts made orders with respect to visitation between the elder and the abuser, specifically supervised visitation and specialized visitation schedules.

**Table 14. Special Provisions Considered When Making Orders in Elder Abuse Cases**

	<b>N</b>	<b>%</b>
No special provisions	16	29%
Restitution or return of property	28	50%
Batterers’ intervention program for abuser	26	46%
Substance abuse treatment for abuser	23	41%
Mental health treatment for abuser	20	36%
Supervised visitation for elder and abuser	16	29%
Specialized visitation schedule for elder and abuser	14	25%
Respite care for elder	3	5%
Other	5	9%
<b>TOTAL</b>	<b>56</b>	<b>100%</b>

Note: Percentages do not sum to 100 because more than one category could be selected.

By far the most commonly employed method of monitoring or following up on elder abuse cases was review hearings (57%). Many courts also reported monitoring compliance with conditions of probation or restraining orders (30%) or monitoring restitution (20%). Other types of monitoring volunteered by the courts included monitoring conservatorships, probation supervision, and requesting reports from court-appointed counsel. Somewhat surprisingly, nearly one-third (32%) reported not employing any type of monitoring or case follow-up.

**Table 15. Monitoring and Follow-up Activities  
Employed in Elder Abuse Cases**

	<b>N</b>	<b>%</b>
No monitoring	18	32%
Review hearings	32	57%
Monitoring compliance with conditions of probation or restraining orders	17	30%
Monitoring restitution	11	20%
Monitoring temporary orders	10	18%
Other	8	14%
<b>TOTAL</b>	<b>56</b>	<b>100%</b>

Note: Percentages do not sum to 100 because more than one category could be selected.

### **Community Agencies and Partnerships**

Because elder abuse cases often involve not just legal problems but a complex web of health, social, and other types of issues, it may be beneficial for the courts to coordinate with justice partners and community agencies that deal with elder abuse and aging issues to most effectively address the range of issue that these cases present. The ABA guidelines include a set of recommendations pertaining to court coordination with other community resources. Recommendation 24 proposes that courts or the judicial branch as a whole encourage and support the development and operation of elder abuse task forces or coordinating councils, lend support to any existing task forces or coordinating councils, and encourage existing domestic or family violence task forces or coordinating councils to incorporate elder abuse into their agenda or include elder abuse advocates in its membership. The statewide survey included a set of questions to assess the extent to which courts are involved in these types of initiatives and other coordinated efforts with justice partners and community agencies.

Half (50%) of courts were not involved in any community partnerships or other activities related to elder abuse. Among those courts that were involved in such activities, community education and outreach on court services for elders (21%) was the most common, followed by participation on multidisciplinary teams (20%). Other court-community activities mentioned by the courts included partnerships with legal services, the establishment of an elder law center, and involvement in a “Zero Tolerance for Domestic Violence” initiative.

**Table 16. Court/Community Partnerships and Activities Related to Elder Abuse**

	<b>N</b>	<b>%</b>
None	28	50%
Community education and outreach on court services for elders	12	21%
Multidisciplinary team	11	20%
Community education and outreach on elder abuse issues	9	16%
Elder abuse prevention coalition or task force	8	14%
Other	7	13%
<b>TOTAL</b>	<b>56</b>	<b>100%</b>

Note: Percentages do not sum to 100 because more than one category could be selected.

The agencies or service providers to which courts most frequently make referrals in cases involving elder abuse are the office of the public guardian (63%), legal services (52%), and domestic violence shelters or programs (41%). Because these types of programs have the most concrete linkages with the court, it is not surprising that they receive referrals so frequently. Other types of agencies or service providers to which courts make referrals included Adult Protective Services, regional centers, fair housing, and consumer watchdog groups.

Overall, courts received referrals *from* outside agencies less often than they made referrals *to* outside agencies. The agencies that most often received referrals from the court were generally the same as the agencies that most often made referrals to the court; the agencies most commonly making referrals to the courts were the office of the public guardian (29%), domestic violence shelters or programs (16%), legal services (13%), and mental health treatment providers (13%). Other types of agencies or service providers that made referrals to the courts included victim/witness advocates, fair housing, and consumer watchdog groups.

**Table 17. Agencies or Service Providers Receiving Referrals From and Making Referrals to the Court**

Agency or service provider	Court makes referrals to		Court receives referrals from	
	N	%	N	%
No referrals	11	20%	11	20%
Office of the public guardian	35	63%	16	29%
Legal services	29	52%	7	13%
Domestic violence shelters or programs	23	41%	9	16%
Mental health treatment providers	16	29%	7	13%
Substance abuse treatment providers	12	21%	2	4%
Meal programs	8	14%	2	4%
In-home supportive services	8	14%	4	7%
Adult daycare	5	9%	4	7%
Money management programs	5	9%	2	4%
Hospital/medical treatment	3	5%	2	4%
Other	6	11%	2	4%
<b>TOTAL</b>	<b>56</b>	<b>100%</b>	<b>56</b>	<b>100%</b>

Note: Percentages do not sum to 100 because more than one category could be selected.

Courts reported that many services to which they might refer elderly litigants were, to some extent, lacking in their communities; however, no particular service or set of services stood out as being particularly unavailable. The referrals that presented the most difficulty to the courts were adult daycare (21%) and money management programs (21%), which is of some concern because these types of services are often explored as alternatives to conservatorships. Reasons why these types of referrals were difficult included the services not being available in the community and the service providers having caseload restrictions, in terms of either the number or types of cases they will accept. Perhaps because of the agencies' more concrete link to the justice system, courts reported the least difficulty making referrals to the office of the public guardian (5%) and APS (7%). Somewhat surprisingly, 43 percent of courts reported not experiencing any difficulty making referrals for elderly litigants.

**Table 18. Services to Which the Court Had Difficulty Making Referrals for Elderly Litigants**

	<b>N</b>	<b>%</b>
No difficulty	24	43%
Adult day care	12	21%
Money management programs	12	21%
Meal programs	10	18%
Hospital/medical treatment	10	18%
Mental health treatment providers	9	16%
Substance abuse treatment providers	9	16%
In-home supportive services	8	14%
Legal services	8	14%
Domestic violence shelters or programs	5	9%
Adult Protective Services	4	7%
Office of the public guardian	3	5%
Other	4	7%
Don't know	9	16%
<b>TOTAL</b>	<b>56</b>	<b>100%</b>

Note: Percentages do not sum to 100 because more than one category could be selected.

Courts were asked whether their personnel made referrals to APS, law enforcement, or the long-term care ombudsman (LTCO) if elder abuse is suspected. Three-quarters (75%) of courts reported doing so.

**Table 19. Court Makes Referrals in Cases Where Elder Abuse Is Suspected?**

	<b>N</b>	<b>%</b>
Yes	42	75%
No	7	13%
Don't know	6	11%
Missing	1	2%
<b>TOTAL</b>	<b>56</b>	<b>100%</b>

Note: Percentages may not sum to 100 due to rounding.

### **Training**

Because elder abuse awareness is fairly low overall and because it is something of an emerging issue for the courts, it will be important for judges and court staff to receive training to recognize and appropriately respond to elder abuse. The first two recommendations in the ABA guidelines relate to the need to provide training to both judges and court personnel on issues related to elder abuse. Courts were asked about the elder abuse–related topics for which there was the greatest need for training. Separate

questions were asked for judicial officers and for court staff because training needs may vary by court function. It is important to note that one court representative responded on behalf of all judicial officers and court staff, so responses represent general court needs, rather than needs expressed by specific individuals. For judges, by far the greatest area of need for training was on state laws concerning elder abuse (46%). Other common topics of interest included capacity issues (30%), community resources (29%), and crafting restraining orders and sentencing options (29%). For court staff, the most needed areas of training were communicating with individuals with capacity issues (57%), types of cases involving elder abuse (55%), and case management and procedural innovations (43%). Despite the complex dynamics of elder abuse and aging in general, not as many courts were interested in training on undue influence or the physiological and social aspects of aging.

**Table 20. Court Training Needs Related to Elder Abuse**

Training topic	Judicial officers		Court staff	
	N	%	N	%
State laws concerning elder abuse	26	46%	N/A	N/A
Capacity issues	17	30%	10	18%
Community resources	16	29%	22	39%
Crafting restraining orders and sentencing options	16	29%	N/A	N/A
Dynamics of elder abuse and family violence	13	23%	18	32%
Case management and procedural innovations	13	23%	24	43%
Types of cases involving elder abuse	12	21%	31	55%
Undue influence	11	20%	4	7%
Physiological and social aspects of aging	9	16%	8	14%
Adult Protective Services	7	13%	14	25%
Medical issues	2	4%	N/A	N/A
Communicating with individuals with capacity issues	N/A	N/A	32	57%
Forensic financial issues	N/A	N/A	0	0%
TOTAL	56	100%	56	100%

Notes: Percentages do not sum to 100 because more than one topic could be selected. N/A indicates that the topic was not explored with the population in question.

Despite the fact that in most (75%) courts, court personnel make referrals to APS, law enforcement, or the LTCO when elder abuse is suspected, an equal proportion note that court personnel aren't formally trained in making such reports.

**Table 21. Court Personnel Receive Training in Reporting Suspected Elder Abuse?**

	N	%
Yes	13	23%
No	42	75%
Missing	1	2%
TOTAL	56	100%

### **Other Court Practices in Elder Abuse Cases**

At the end of the survey, courts were asked a very general, open-ended question about whether they had adopted any other practices or were participating in any other initiative related to elder abuse and elder needs. Some of those practices are highlighted below.

#### **Calendaring and Case Management**

- Domestic violence restraining orders for persons over 70 heard in probate court;
- Mandatory settlement conferences for all contested conservatorship cases; and
- Complaints generated by special child and elder abuse unit in district attorney’s office, which receive a special stamp.

#### **Services and Accommodations**

- Elder clinic offered in the courthouse three days a week;
- Development of outreach program to assist elders in navigating the court system; and
- Pro bono mediation program.

#### **Community Agencies and Partnerships**

- Court participation on real estate fraud advisory team (elders vulnerable to refinancing schemes and improper reverse mortgages); and
- Court coordination of continuing legal education for pro bono attorneys in areas including elder abuse, real estate law, and homeowner association law.

### **Conclusion**

The results of the statewide survey on the court response to elder abuse indicate that California courts have made some important strides in addressing the needs of abused and neglected elders who come before the courts but also that there is room for improvement in and expansion of these efforts. Overall, the positive steps courts have taken reflect more general trends in the courts—for example, direct calendaring and including special provisions in court orders that are tailored to the circumstances of the case. Courts also seem to be performing well in the area of services for self-represented litigants, in part because that has become a big priority for the judicial branch. The expansion of self-help services beyond the family law arena holds promise for addressing elder abuse and related issues.

Some of the areas in which the courts could improve tend to be more related to the specific, unique dynamics of elder abuse cases and the parties involved. Courts are not often involved in collaborations or community partnerships with other agencies that

encounter elder abuse, and their awareness of and coordination with MDTs is limited. Other areas in which the courts could enhance their response to elder abuse, such as case monitoring and follow-up activities and specialized calendars, are likely affected by limited resources in the courts. As noted in the results of the NCSC needs assessment survey, courts may simply not have the luxury of devoting time and attention to a particular case type, especially when it may not represent a large proportion of the court's caseload.

## Appendix D

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County Statistical Profiles

## Alameda County Elders and Elder Abuse: Statistical Profile

### Demographics

Number of residents age 65 or older.....	147,591
As a percentage of the total county population.....	10.2%
Projected 65+ population in 2020.....	254,190
Number of households with at least one person age 65 or older.....	107,144
As a percentage of all households.....	20.5%
Annual household income for households headed by a person 65 or older	
Less than \$10,000.....	13.5%
\$10,000 to \$24,999.....	25.9%
\$25,000 to \$49,999.....	27.3%
\$50,000 to \$99,999.....	22.7%
\$100,000 or more.....	10.7%
Median annual household income	
Head of household age 65 to 74.....	\$39,277
Head of household age 75 or older.....	\$27,558
Percentage of 65+ population below poverty level.....	8.1%
Marital status of 65+ population	
Never married.....	4.6%
Married.....	52.7%
Widowed.....	32.7%
Divorced.....	10.0%
Living arrangements for 65+ population	
Family household.....	65.1%
Non-family household, living alone.....	26.0%
Non-family household, living with others.....	3.6%
Group quarters.....	5.2%
Percentage of 65+ population with a disability.....	43.4%
Disability types among 65+ population	
Sensory.....	15.2%
Physical.....	32.8%
Mental.....	14.4%
Self-care.....	12.1%
Go-outside home.....	25.5%

**Adult Protective Services (Elder Data Only)**

Average number of active cases per month.....	449
Number of reports received in 2006.....	4,780
Investigations completed.....	1,611
Abuse confirmed.....	47.0%
Abuse inconclusive.....	31.2%
Abuse unfounded.....	21.8%
Unduplicated investigated reports.....	1,260
For self-neglect.....	47.3%
For abuse by others.....	52.7%
Types of abuse by others (confirmed reports only)	
Physical.....	9.4%
Sexual.....	0.2%
Financial.....	38.2%
Neglect.....	20.4%
Abandonment.....	2.1%
Isolation.....	1.6%
Abduction.....	0.0%
Psychological/mental.....	28.1%

**Court**

Number of petitions for elder and dependent adult abuse restraining orders.....	254
Rate per 10,000 residents age 65+.....	17
Number of conservatorships under court control.....	2,187

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US Census Bureau, Table P41. Age by Types of Disability for the Civilian Noninstitutionalized Population 5 Years and Over With Disabilities: 2000, available at <http://factfinder.census.gov> (accessed August 7, 2007).

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## Orange County Elders and Elder Abuse: Statistical Profile

### Demographics

Number of residents age 65 or older.....	280,763
As a percentage of the total county population.....	9.9%
Projected 65+ population in 2020.....	503,767
Number of households with at least one person age 65 or older.....	199,741
As a percentage of all households.....	21.4%
Annual household income for households headed by a person 65 or older	
Less than \$10,000.....	8.7%
\$10,000 to \$24,999.....	25.0%
\$25,000 to \$49,999.....	28.5%
\$50,000 to \$99,999.....	24.8%
\$100,000 or more.....	12.9%
Median annual household income	
Head of household age 65 to 74.....	\$45,420
Head of household age 75 or older.....	\$30,856
Percentage of 65+ population below poverty level.....	6.2%
Marital status of 65+ population	
Never married.....	3.2%
Married.....	57.0%
Widowed.....	30.4%
Divorced.....	9.4%
Living arrangements for 65+ population	
Family household.....	67.6%
Non-family household, living alone.....	24.0%
Non-family household, living with others.....	3.4%
Group quarters.....	5.1%
Percentage of 65+ population with a disability.....	38.3%
Disability types among 65+ population	
Sensory.....	16.8%
Physical.....	32.9%
Mental.....	14.6%
Self-care.....	11.1%
Go-outside-home.....	24.5%

**Adult Protective Services (Elder Data Only)**

Average number of active cases per month.....	889
Number of reports received in 2006.....	4,031
Investigations completed.....	3,176
Abuse confirmed.....	49.1%
Abuse inconclusive.....	42.1%
Abuse unfounded.....	8.8%
Unduplicated investigated reports.....	3,066
For self-neglect.....	44.8%
For abuse by others.....	55.2%
Types of abuse by others (confirmed reports only)	
Physical.....	16.1%
Sexual.....	0.6%
Financial.....	25.2%
Neglect.....	21.0%
Abandonment.....	0.3%
Isolation.....	1.1%
Abduction.....	0.1%
Psychological/mental.....	35.6%

**Court**

Number of petitions for elder and dependent adult abuse restraining orders.....	228
Rate per 10,000 residents age 65+.....	8
Number of conservatorships under court control.....	2,194

### **Sources (in order of appearance in document)**

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US Census Bureau, Table P56. Median Household Income in 1999 (Dollars) by Age of Householder: 2000, available at <http://factfinder.census.gov> (accessed August 7, 2007).

US Census Bureau, Table P89. Poverty Status in 1999 by Age by Household Type: 2000, available at <http://factfinder.census.gov> (accessed August 7, 2007).

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US Census Bureau, Table P30. Relationship by Household Type (Including Living Alone) for the Population 65 Years and Over: 2000, available at <http://factfinder.census.gov> (accessed August 7, 2007).

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Administrative Office of the Courts, Probate Conservatorship Task Force Survey, 2007.

## San Francisco County Elders and Elder Abuse: Statistical Profile

### Demographics

Number of residents age 65 or older.....	106,111
As a percentage of the total county population.....	13.7%
Projected 65+ population in 2020.....	151,919
Number of households with at least one person age 65 or older.....	78,716
As a percentage of all households.....	23.9%
Annual household income for households headed by a person 65 or older	
Less than \$10,000.....	18.2%
\$10,000 to \$24,999.....	25.5%
\$25,000 to \$49,999.....	23.5%
\$50,000 to \$99,999.....	19.8%
\$100,000 or more.....	13.0%
Median annual household income	
Head of household age 65 to 74.....	\$35,159
Head of household age 75 or older.....	\$26,597
Percentage of 65+ population below poverty level.....	10.5%
Marital status of 65+ population	
Never married.....	7.3%
Married.....	11.5%
Widowed.....	31.0%
Divorced.....	9.2%
Living arrangements for 65+ population	
Family household.....	60.5%
Non-family household, living alone.....	30.4%
Non-family household, living with others.....	5.2%
Group quarters.....	3.9%
Percentage of 65+ population with a disability.....	44.1%
Disability types among 65+ population	
Sensory.....	15.7%
Physical.....	30.1%
Mental.....	15.9%
Self-care.....	13.1%
Go-outside-home.....	25.2%

**Adult Protective Services (Elder Data Only)**

Average number of active cases per month.....	838
Number of reports received in 2006.....	2,950
Investigations completed.....	1,762
Abuse confirmed.....	65.5%
Abuse inconclusive.....	25.2%
Abuse unfounded.....	9.3%
Unduplicated investigated reports.....	2,088
For self-neglect.....	50.8%
For abuse by others.....	49.2%
Types of abuse by others (confirmed reports only)	
Physical.....	12.9%
Sexual.....	1.0%
Financial.....	31.1%
Neglect.....	12.0%
Abandonment.....	0.5%
Isolation.....	1.1%
Abduction.....	0.4%
Psychological/mental.....	41.1%

**Court**

Number of petitions for elder and dependent adult abuse restraining orders.....	22
Rate per 10,000 residents age 65+.....	2
Number of conservatorships under court control.....	1,350

### **Sources (in order of appearance in document)**

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California Department of Finance (2004). Race/Ethnicity Population Projections, May 2004, available at <http://www.aging.ca.gov/html/stats/CensusTables/T121-2010-2050.pdf> (accessed August 7, 2007).

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Administrative Office of the Courts, Probate Conservatorship Task Force Survey, 2007.

## Ventura County Elders and Elder Abuse: Statistical Profile

### Demographics

Number of residents age 65 or older.....	76,804
As a percentage of the total county population.....	10.2%
Projected 65+ population in 2020.....	159,323
Number of households with at least one person age 65 or older.....	54,516
As a percentage of all households.....	22.4%
Annual household income for households headed by a person 65 or older	
Less than \$10,000.....	9.2%
\$10,000 to \$24,999.....	25.3%
\$25,000 to \$49,999.....	28.8%
\$50,000 to \$99,999.....	25.8%
\$100,000 or more.....	10.9%
Median annual household income	
Head of household age 65 to 74.....	\$44,396
Head of household age 75 or older.....	\$30,571
Percentage of 65+ population below poverty level.....	6.3%
Marital status of 65+ population	
Never married.....	2.8%
Married.....	57.9%
Widowed.....	29.7%
Divorced.....	9.6%
Living arrangements for 65+ population	
Family household.....	68.8%
Non-family household, living alone.....	23.4%
Non-family household, living with others.....	3.5%
Group quarters.....	4.3%
Percentage of 65+ population with a disability.....	39.7%
Disability types among 65+ population	
Sensory.....	17.8%
Physical.....	34.1%
Mental.....	13.8%
Self-care.....	10.8%
Go-outside-home.....	23.5%

### **Adult Protective Services (Elder Data Only)**

Average number of active cases per month.....	250
Number of reports received in 2006.....	1,269
Investigations completed.....	1,258
Abuse confirmed.....	33.9%
Abuse inconclusive.....	34.0%
Abuse unfounded.....	32.1%
Unduplicated investigated reports.....	878
For self-neglect.....	38.5%
For abuse by others.....	61.5%
Types of abuse by others (confirmed reports only)	
Physical.....	16.5%
Sexual.....	0.8%
Financial.....	36.5%
Neglect.....	19.7%
Abandonment.....	0.0%
Isolation.....	0.8%
Abduction.....	0.0%
Psychological/mental.....	25.7%

### **Court**

Number of petitions for elder and dependent adult abuse restraining orders.....	65
Rate per 10,000 residents age 65+.....	8
Number of conservatorships under court control.....	655

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California Department of Finance (2004). Race/Ethnicity Population Projections, May 2004, available at <http://www.aging.ca.gov/html/stats/CensusTables/T121-2010-2050.pdf> (accessed August 7, 2007).

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## Appendix E

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Elder Abuse Resources for the Courts

## Elder Abuse Resources for the Courts

### General

Administration on Aging, U.S. Department of Health and Human Services, Elder Rights and Resources, [www.aoa.gov/eldfam/Elder\\_Rights/Elder\\_Abuse/Elder\\_Abuse.asp](http://www.aoa.gov/eldfam/Elder_Rights/Elder_Abuse/Elder_Abuse.asp).

Administration on Aging, U.S. Department of Health and Human Services, National Center on Elder Abuse (NCEA), [www.ncea.aoa.gov/ncearoot/Main\\_Site/index.aspx](http://www.ncea.aoa.gov/ncearoot/Main_Site/index.aspx).

California Attorney General's Crime and Violence Prevention Center, Elder Abuse section, [www.safestate.org/index.cfm?navId=11](http://www.safestate.org/index.cfm?navId=11).

California Department of Aging, [www.cda.ca.gov](http://www.cda.ca.gov).

Office of the California Attorney General, *A Citizen's Guide to Preventing and Reporting Elder Abuse*, [http://ag.ca.gov/bmfea/pdfs/citizens\\_guide.pdf](http://ag.ca.gov/bmfea/pdfs/citizens_guide.pdf).

U.S. National Institutes on Health, National Institute on Aging, [www.nia.nih.gov](http://www.nia.nih.gov).

### Court-related

American Association of Retired Persons, *Guarding the Guardians: Promising Practices for Court Monitoring*, [http://assets.aarp.org/rgcenter/il/2007\\_21\\_guardians.pdf](http://assets.aarp.org/rgcenter/il/2007_21_guardians.pdf).

American Bar Association, Commission on Law and Aging, [www.abanet.org/aging](http://www.abanet.org/aging).

American Bar Association, *Recommended Guidelines for State Courts Handling Cases Involving Elder Abuse*, [www.ncsconline.org/famviol/elderabuse/pdf/Key%20Components%20Exercise%20Resources/ABA%20Recommended%20Guidelines%20for%20Courts%20on%20Elder%20Abuse.pdf](http://www.ncsconline.org/famviol/elderabuse/pdf/Key%20Components%20Exercise%20Resources/ABA%20Recommended%20Guidelines%20for%20Courts%20on%20Elder%20Abuse.pdf).

Elder Justice Center, 13th Judicial District, Florida, [www.fljud13.org/ejc.htm](http://www.fljud13.org/ejc.htm).

Judicial Council of California, Administrative Office of the Courts, Education Division Programs, [www2.courtinfo.ca.gov/cjer/programs.htm](http://www2.courtinfo.ca.gov/cjer/programs.htm).

Judicial Council of California, Administrative Office of the Courts, *Handling Cases Involving Self-Represented Litigants: A Benchguide for Judicial Officers*, [www.nlada.org/DMS/Documents/1176151729.08/CA%20pro%20se%20Benchbook.pdf](http://www.nlada.org/DMS/Documents/1176151729.08/CA%20pro%20se%20Benchbook.pdf).

Judicial Council of California, *Recommended Practices for Improving the Administration of Justice in Probate Conservatorship Cases* (final report of the Probate Conservatorship Task Force), [www.courtinfo.ca.gov/jc/documents/reports/102607itemD.pdf](http://www.courtinfo.ca.gov/jc/documents/reports/102607itemD.pdf).

National Center for State Courts, Elder Abuse and the Courts Working Group, [www.ncsconline.org/famviol/elderabuse/index.html](http://www.ncsconline.org/famviol/elderabuse/index.html).

National Center for State Courts, *Elder Abuse Resource Guide*,  
[www.ncsconline.org/WC/CourTopics/ResourceGuide.asp?to,pic=EldAbu](http://www.ncsconline.org/WC/CourTopics/ResourceGuide.asp?to,pic=EldAbu).

New York City Department for the Aging, Elder Abuse Training Project: Courts Curriculum on Elder Abuse,  
[www.nyc.gov/html/dfta/html/caregiver/victims.shtml](http://www.nyc.gov/html/dfta/html/caregiver/victims.shtml) (to access PowerPoint presentation, use menu on lower-right side of page),  
[www.nyc.gov/html/dfta/downloads/pdf/elderabuse\\_courtcurriculum.pdf](http://www.nyc.gov/html/dfta/downloads/pdf/elderabuse_courtcurriculum.pdf) (PDF of full curriculum).

Foundation of the State Bar of California, *Seniors and the Law: A Guide for Maturing Californians*, <http://calbar.ca.gov/calbar/pdfs/publications/Seniors-and-the-Law.pdf>.

Stiegel, Lori A. *Elder Abuse in the State Courts—Three Curricula for Judges and Court Staff*, American Bar Association (available in the National Center for State Courts Library),  
<http://nstc.sirsi.net/uhtbin/cgiisirsi/x/0/0/5?searchdata1=KF9324%20S75%201997>.