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Center for Elders and the Courts

# Elders and the Courts Results from a Needs Assessment



## National Center for State Courts

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

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## Acknowledgements

The Center for Elders and the Courts (CEC) was made possible by a generous grant from the Retirement Research Foundation of Chicago. The National Center for State Courts and the founding members of the CEC are forever indebted to the Retirement Research Foundation for turning this concept into reality. We welcome input as we proceed to develop our website at [www.eldersandcourts.org](http://www.eldersandcourts.org) and create training tools.

Over 300 individuals participated in the needs assessment. We are thankful for the many organizations and individuals who forwarded our request to listservs and personal contacts. The following organizations were particularly helpful to our cause: AARP, ABA Commission on Law and Aging, American Judges Association, Conference of Chief Justices, Conference of State Court Administrators, NCSC's Elder Abuse and the Courts Working Group, National Academy of Elder Law Attorneys, National Association for Court Management, National Association of State Judicial Educators, National College of Probate Judges, National District Attorneys Association, National Guardianship Association, National Guardianship Network, and the National Judicial College.

This project is guided by a terrific steering committee. The CEC project team is appreciative of the patience and persistent support demonstrated by this group of dedicated professionals. Members of the steering committee are Mike Bridenback, Judge John Conery, Judge Julie Conger, Judge John Kirkendall, Judge Janice Martin, Rebecca Morgan, and Mary Joy Quinn. The CEC is a team effort and we are thankful for the time and expertise graciously provided by the committee members to develop and promote this ambitious project.



### CEC Project Team Contacts

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## Executive Summary

In 2008, the National Center for State Courts (NCSC), with funding from the Retirement Research Foundation of Chicago, launched the Center for Elders and the Courts (CEC). In February 2009, the NCSC carried out a needs assessment for the purpose of identifying resources and tools that should be addressed through the CEC’s website and training programs. The needs assessment was carried out informally through listserv requests and personal requests to individuals with expertise in the area. Responses were received from 311 individuals. The majority of respondents (66 percent) were judges, judicial officials, court administrators, or court staff.

### ❖ **There is a high level of court interest in elder issues.**

The response to the needs assessment was greater than anticipated, with over 300 individuals participating in the needs assessment exercise. The majority of those who responded were from the state courts. In addition, the Conference of Chief Justices (CCJ) and Conference of State Court Administrators (COSCA) Joint Task Force on Elders and the Courts conducted a supplemental needs assessment for the their members, demonstrating the importance of elder issues to court leadership.

### ❖ **There is widespread support for courts to be more active in building relationships with community groups to address the needs of the elderly.**

Few respondents (25 percent) felt that local courts were currently effective in developing community contacts and providing outreach in an effort to address the needs of the elderly. Yet, two of every three respondents would like to see the courts more active in building relationships with community groups on elder issues. This finding is consistent with the recent transformation of the courts as a social actor in the larger community.

### ❖ **There is considerable demand for the CEC website to be multi-functional—providing content as well as a means to share model programs and exchange ideas.**

The CEC website is centered on three issues: aging issues, probate court/guardianships, and elder abuse and neglect. In addition to these general topics, respondents offered a number of excellent suggestions that included medical/social aspects, access, general elder law, financial exploitation, technology, and performance measurement. Respondents suggested that the website be used as “a place for sharing ideas” through forums and chat rooms.

### ❖ **There is consensus that the greatest need for training lies in the areas of elder abuse, neglect, and financial exploitation.**

The highest need for training was in the area of elder abuse and neglect, followed by financial exploitation. The level of need is likely due to the complexity of abuse, neglect, and exploitation and the way these issues intersect a variety of criminal, civil, family, and probate cases.

## Background

In 2008, the National Center for State Courts (NCSC), with funding from the Retirement Research Foundation of Chicago, launched the Center for Elders and the Courts (CEC).

The Center for Elders and the Courts serves as the primary resource for the judiciary and court management on issues related to aging. Our center strives to increase judicial awareness of issues related to aging, provide training tools and resources to improve court responses to elder abuse and adult guardianships, and develop a collaborative community of judges, court staff, and aging experts.

A cornerstone of the CEC is a court-focused website, which is currently being constructed under the domain, [www.eldersandcourts.org](http://www.eldersandcourts.org). The website is aimed at providing practical resources and tools to the nation's courts to address aging issues, probate (especially guardianships), and elder abuse.

In February 2009, the NCSC conducted a needs assessment for the purpose of identifying resources and tools that should be addressed through the CEC's website and training programs. The needs assessment was carried out informally through listserv and personal invitations to individuals with expertise in the area. The request to participate was sent to at least 15 separate listservs, representing 13 different organizations.



### Participating Organizations

AARP

ABA Commission on Law and Aging

American Judges Association

Conference of Chief Justices

Conference of State Court Administrators

NCSC's court2court listserv

NCSC s' Elder Abuse and the Courts Working Group

National Academy of Elder Law Attorneys

National Association for Court Management

National Association of State Judicial Educators

National College of Probate Judges

National District Attorneys Association

National Guardianship Association

National Guardianship Network

National Judicial College



The needs assessment was administered online. A direct link to the assessment form was sent to each participating listserv. The form was divided into the following sections: (1) introduction, (2) website content, (3) training needs, and (4) communications.

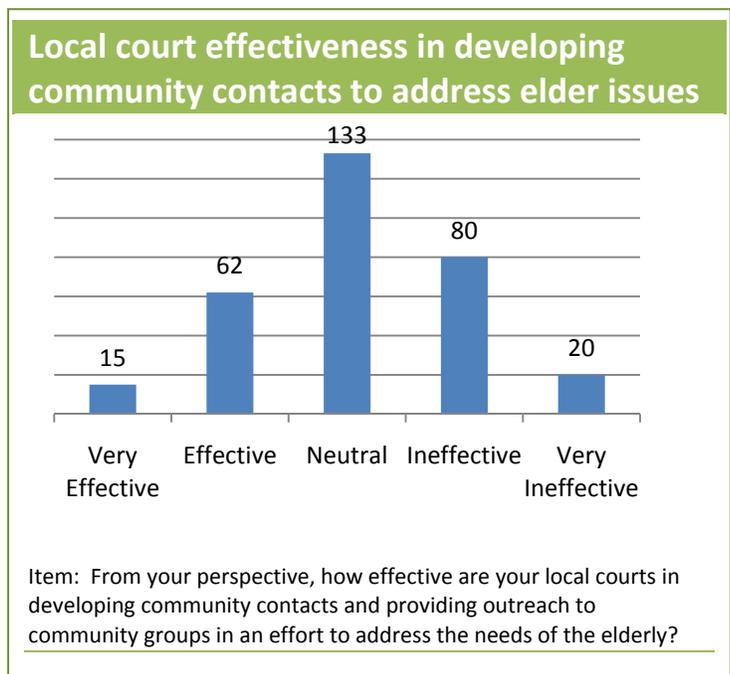
Responses were received from 311 individuals. The majority of respondents (66 percent) were judges, judicial officials, court administrators, or court staff. Court administrators made up more than one-third (35 percent) of respondents. The large number of respondents in conjunction with the court experience and expertise of the majority of respondents provides a solid base on which to assess court needs. The table below shows the professional backgrounds of respondents.

Professional Background of Respondents		
Profession	Number	Percentage
Judge or judicial officer	61	19.6%
Court administrator	108	34.7%
Court staff	35	11.3%
Adult protective services	12	3.9%
Elder law attorney	13	4.2%
Clerk/registrar	10	3.2%
Judicial educator	5	1.6%
Legal services attorney	6	1.9%
Private attorney	5	1.6%
Other	56	18.0%
<b>TOTAL</b>	<b>311</b>	

Responses were received from individuals in 44 states and the District of Columbia, with Californians over-represented in the pool (66 respondents/22 percent of the total). Respondents were asked to identify the types of courts in which they regularly practice or frequent, if applicable. The most typical responses were general jurisdiction court (37 percent), probate court (33 percent), and civil court (29 percent).

### Court-Community Relations

The introductory section of the needs assessment form included two items to gauge the relationship between local courts and the community. In the first item, respondents were asked to specify the effectiveness of local courts in developing community contacts and providing outreach in an effort to address the needs of the elderly. Results show that 43 percent of respondents (133 of 310) did not have an opinion on this matter. Almost one-third of respondents (32 percent or 100 of 310) stated that the court was very ineffective or ineffective in developing community contacts. One of every four respondents indicated that the local court was effective or very effective in carrying out this function.



## Role of Courts in Building Relations with Community Groups on Elder Issues



Item: Should the courts take a more active role in building relations with community groups to address the needs of the elderly?

The relatively high level of respondents who were “neutral” in their assessment of the courts’ effectiveness in engaging the local community on elder issues is likely an outcome of a larger issue: the role of the court. Respondents were asked whether the courts *should* take a more active role in building relations with community groups to address the needs of the elderly. Two-thirds of respondents indicated that the courts should take a more active role, while the remaining respondents were not sure (28 percent) or felt the courts should not take a more active role (5 percent).

## Building the CEC Website: Court Needs

The CEC website is geared toward the judiciary, court managers, and court staff and addresses aging issues, probate, and elder abuse. The needs assessment listed particular items under each primary subject matter and asked respondents to indicate whether the item was “very important,” “important,” “neutral,” “unimportant,” or “very unimportant” to include in the new CEC website. Responses were analyzed by scoring each response and then ranking the items on a scale of 1 to 5, with 1 being “very unimportant,” and 5 being “very important”—the higher the score, the higher the importance.

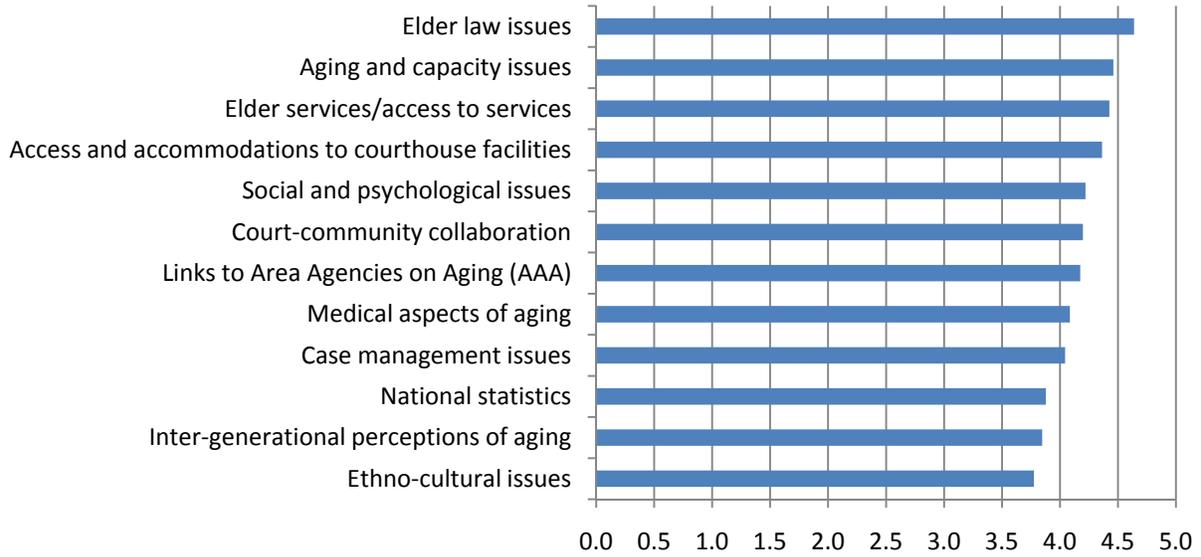
## Aging Issues

Twelve separate items were listed under aging issues. Responses ranged from a low of 3.8 (ethno-cultural issues) to a high of 4.6 (elder law issues). The range of variance in scores was small. Essentially, the difference between the lowest score to the highest score is the difference between “important,” and “very important.” None of the items were ranked as neutral or unimportant.

### Issues of Importance

- Elder law
- Aging and capacity
- Access

## Aging Issues, by Level of Importance



Item: What elements pertaining to AGING ISSUES are most important to include on the Center for Elders and the Courts new website?

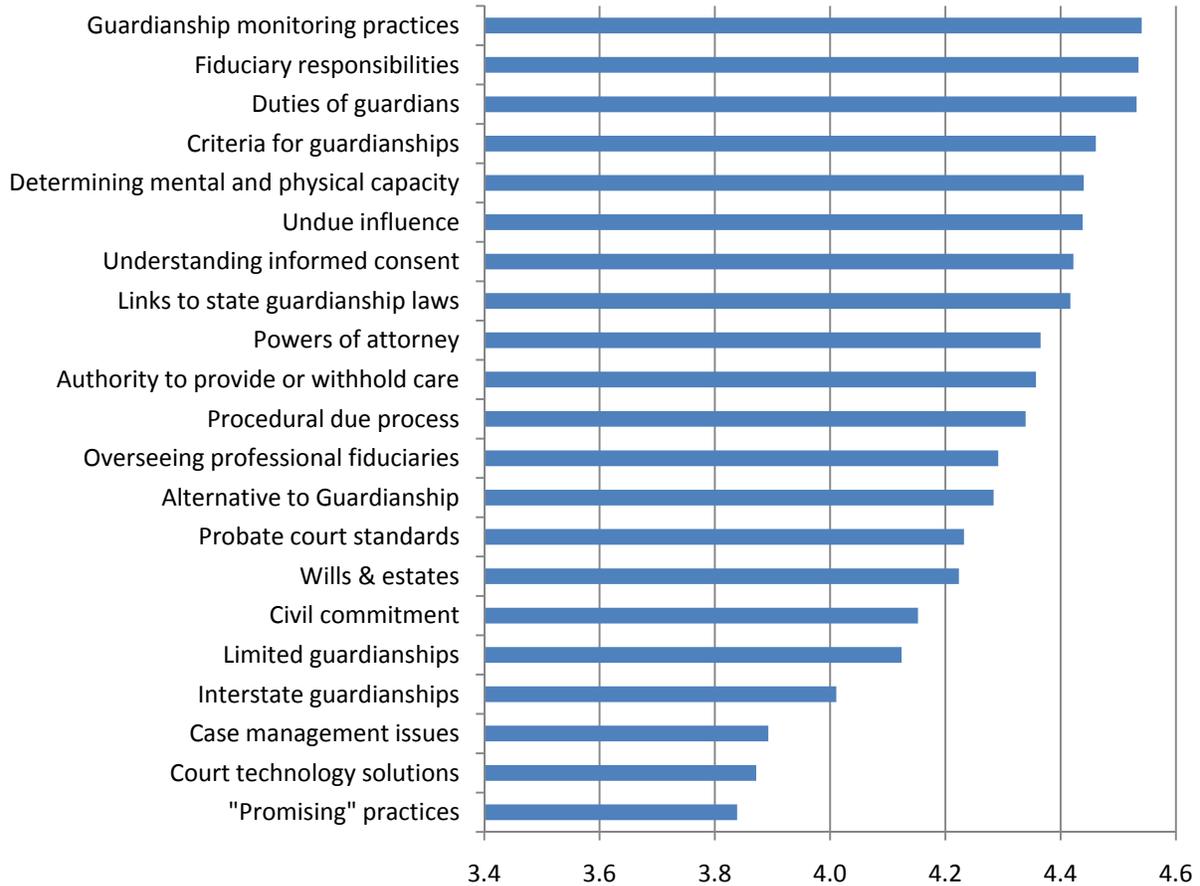
### Issues of Importance

- Guardianship monitoring
- Fiduciary responsibilities
- Guardian duties

### Guardianship/Probate Issues

Twenty-one separate items were listed under guardianship/probate issues. Responses ranged from a low of 3.8 (“promising practices”) to a high of 4.5 (guardianship monitoring practices). Similar to the previous item on aging issues, the range of variance between the low and high scores was minimal.

## Guardianship/Probate Issues, by Level of Importance



Item: What elements pertaining to PROBATE COURT are most important to include on the Center for Elders and the Courts new website?

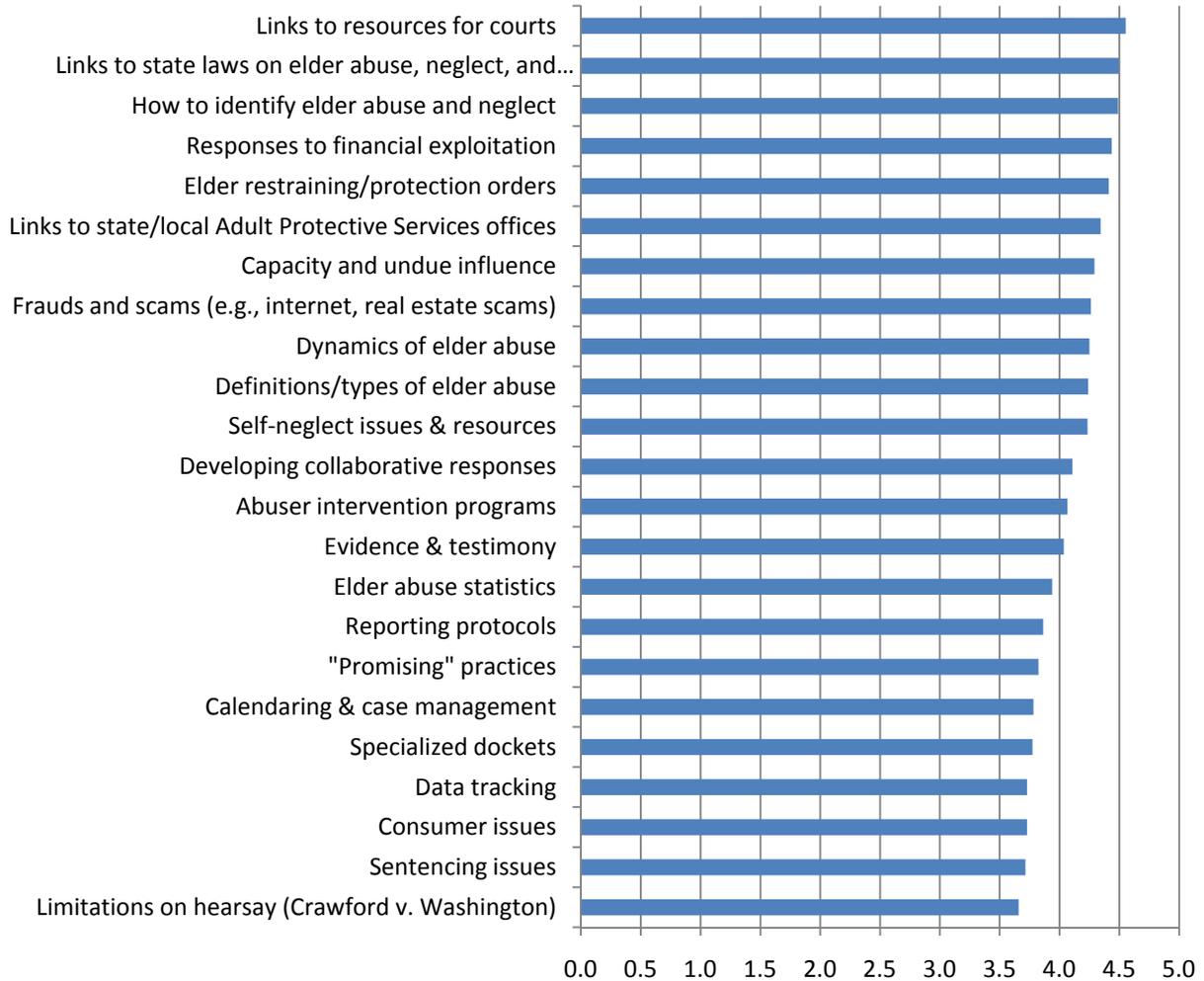
### Elder Abuse

The section on elder abuse and neglect contained 23 separate items in which respondents could indicate the level of importance for the CEC website. Responses ranged from a low of 3.7 (limitations on hearsay) to a high of 4.6 (links to resources for state courts). Website links to general resources and specific state laws ranked highest.

#### Issues of Importance

- Links to resources
- Links to state laws
- Identification of abuse

## Elder Abuse Issues, by Level of Importance



Item: What elements pertaining to ELDER ABUSE & NEGLECT are most important to include on the Center for Elders and the Courts new website?

An open-ended item provided the opportunity to identify additional topics that should be addressed on the CEC website. Responses were received from 76 individuals. Responses tended to fall into six subject matters: (1) medical/social aspects, (2) access, (3) general elder law issues, (4) elder abuse and neglect, (5) guardianships and conservatorships, and (6) technology and measurement. Detailed examples are provided in the following table.

**Specific Issues to Address in the CEC Website**

<b>Medical/Social Aspects</b>	<b>Access</b>	<b>General Elder Law</b>
<p>Commonly used terms in geriatric medicine and gero- or neuro-psychology, medication</p> <p>Issues, hoarding, effects of dementia on testamentary capacity and undue influence</p>	<p>Alternatives to on-site testimony,</p> <p>Access to facilities (hearing, sight line assistance, etc.),</p> <p>early trial dates for elderly or infirm</p>	<p><u>Issues:</u> health care directives, “deeding” property, age discrimination, interstate conflicts, estate planning, alternative dispute resolution, pro se protective measures, unrepresented elders, civil cases against nursing homes/care providers</p> <p><u>Resources:</u> how to obtain legal advice, Legal Self Help Centers, problem-solving elder-focused courts, role of judges, privacy issues in court documents, court funding and budget issues.</p>
<b>Elder Abuse &amp; Neglect</b>	<b>Technology and Measurement</b>	<b>Guardianship</b>
<p>Abuse prevention, phishing issues and internet fraud, elder abuse courts, domestic violence and family dynamics in elder abuse cases, safe visitation with adult children who are abusers, intersection with other types of cases</p>	<p>Development of standards and protocols for data collection, verification, and reporting</p> <p>Ideas for securing feedback from “clients” served by courts, data on prosecution rates for various elder crimes, local statistics, technology advances, performance measures, trends, use of technology to increase quality of oversight, technology that would allow conservators to submit accountings electronically and would provide internal checks on information submitted</p>	<p><u>Issues:</u> needs of self represented prospective conservators/guardians, remedies for families in context of abuses by court-appointed guardians, alternatives to guardianship, limited guardianships, bonding, auditing financial accounts, guardian compensation, guardian ad litem/court investigator standards and procedures, complaint processing.</p> <p><u>Resources:</u> best practices for finding guardians, how to set up a Court Visitors program, links to state licensing or certification of guardians (regulatory bodies), developing network of trained guardians ad litem, state variances on powers of attorney and guardianship laws, monitoring staff or volunteers, elements of investigations for court staff, specific (balanced) stories in regard to guardianship monitoring, best visitation practices</p>

A number of respondents also requested that the website include tools that will contribute toward a sense of community among those who work on elder issues – “a place for sharing ideas.” Several of these suggestions, such as the creation of a speakers bureau and web forums for judges and court administrators, are currently under development.



CEC Website Links - Organizational

AARP

ABA Commission on Law and Aging

National Academy of Elder Law Attorneys

National College of Probate Judges

National Guardianship Association

Social Security Administration

U.S. District Attorneys

CEC Website Links - Topical

ABA book on capacity assessment

Elder Justice Act

Uniform Adult Guardianship and Protective

Proceedings Jurisdiction Act

Law libraries

Bar associations



Building a Website Community

- ❖ Speakers bureau
- ❖ Discussion of legal issues involving vulnerable adults
- ❖ Forums on various court approaches
- ❖ Chat room for court administrators to discuss administrative issues

Several respondents specified organizations or topics that should be linked from the CEC website. Additionally, a common theme in the responses is the need for model practices and model courts. The website is likely to include a separate Promising Practices section that highlights practices related to problem-solving courts, collaboration between the courts and community agencies, guardianship monitoring, court technologies, and court administration.

Promising Practices

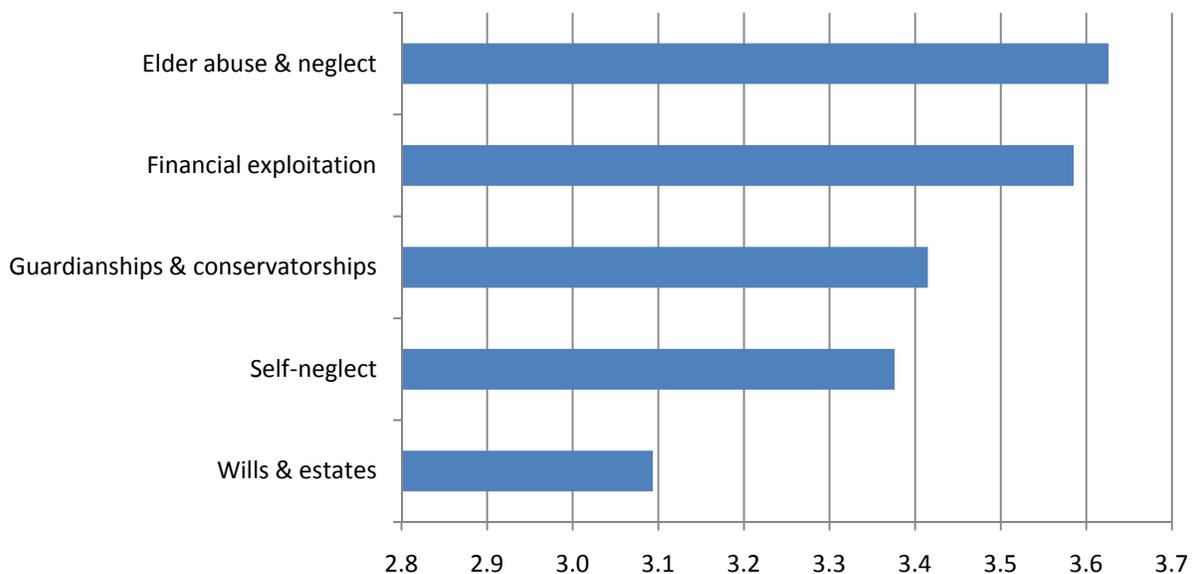
- Problem-solving courts
- Court-community collaboration
- Guardianship monitoring
- Court technologies
- Administration (forms, protocols, etc.)

## Training Needs

The Center for Elders and the Courts includes the development of training programs specific to judges and court administrators. The needs assessment instrument had a section on training that consisted of two major sets of items. The first set asked respondents to identify their level of need regarding five broad issues. The second component was comprised of open-ended questions, requesting respondents to identify the top three topics that should be addressed in elder abuse and guardianship/conservatorship training for judges and court managers and in court-based trainings for those appointed as guardians and conservators.

Respondents were asked to indicate the need for judicial and court manager training on the topics of elder abuse and neglect, financial exploitation, guardianships and conservatorships, self-neglect, and wills and estates. Responses were ranked on a scale of one to four, with one indicating “no need,” and four “high need.” The range of responses varied from a low of 3.1 (medium need) for wills and estates, to a high of 3.6 (high need) for elder abuse and neglect. Findings support the need for training on complex issues that intersect a variety of case types.

### Training Needs, by Level of Need



Item: What are the training needs for judges, judicial officials, court managers, and court staff on the following broad subject matters?

Respondents were asked to list specific training needs in three areas (1) elder abuse training for judges and court managers, (2) guardianship/conservatorship training for judges and court managers, and (3) court-based trainings for those appointed as guardians and conservators. For the most part, responses were consistent with the issues already raised in regard to website content. In the area of elder abuse training for judges and court staff, the most common training suggestions were the provision of basic information on abuse and neglect and how to identify and respond to these types of cases. Items mentioned for guardianship training for judges and court staff include discussions of procedures and

processes, such as review of accountings and guardianship monitoring. Suggestions regarding court-based training for guardians and conservators include providing an overview of the guardianship/conservatorship process and requirements, how to handle and report financial transactions, and links to support programs in the community.

## Communications

The needs assessment afforded the opportunity for the NCSC to begin its work of building a community of individuals interested in addressing elder issues. One component of the website will be a speaker's bureau. Forty respondents asked to be included in the speaker's bureau. A second component is a listserv for judges and court staff aimed at addressing issues related to the elderly. The needs assessment resulted in 124 individuals added to the CEC listserv.

## CCJ/COSCA Supplemental Needs Assessment

The Conference of Chief Justices (CCJ) and Conference of State Court Administrators (COSCA) Joint Task Force on Elders and the Courts requested NCSC to modify the needs assessment for its purposes. The modified needs assessment included an item that gauged the importance of particular issues to be addressed by the Task Force and requested information on specific programs, practices, and/or technologies at the state level used to address elder issues.

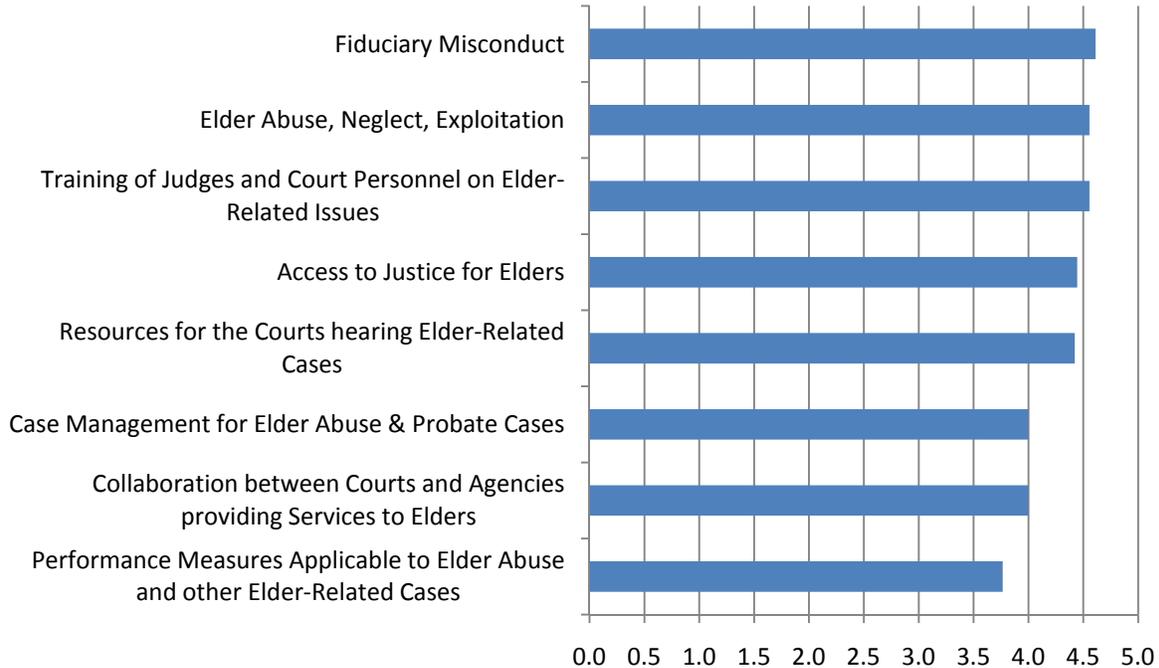
In March 2009, the CCJ/COSCA needs assessment was sent to the CCJ and COSCA listservs. Responses were received from 19 individuals (6 Chief Justices, 8 court administrators, and 5 other persons)<sup>1</sup> from the following states: Alabama, Colorado, Hawaii, Idaho, Indiana, Kansas, Massachusetts, Minnesota, New Hampshire, New York, North Dakota, Oklahoma, Pennsylvania, South Carolina, South Dakota, Utah, Washington, and Wisconsin.

The two items added to the CCJ/COSCA needs assessment provide additional information not found in the general assessment. The Joint Task Force on Elders and the Courts identified eight possible issues on which it may focus. Responses were analyzed by scoring each response and then ranking the items on a scale of 1 to 5, with 1 being "very unimportant," and 5 being "very important." Scores ranged from a low of 3.8 (performance measures) to a high of 4.6 (fiduciary misconduct). Three issues were nearly identical in their scores): fiduciary misconduct, elder abuse and neglect, and judicial training. Details are provided in the graph below.

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<sup>1</sup> Job titles for "other" persons completing the survey were AOC Management, Guardianship Project Director, Program Director, Pro Se Coordinator for Probate and Family Court, and Dispute Resolution Coordinator.

## CCJ/COSCA Task Force Issues, by Level of Importance



Item: Which of the following issues related to elders and the courts are of prime importance in your state?

The second item added to the CCJ/COSCA needs assessment was a request for programs, practices, and/or technologies that have been implemented (or will be implemented) in individual states to address elder issues. Respondents from twelve states responded to this item. A number of interesting projects are being advanced across the nation, primarily in the area of guardianships/conservatorships. Specific projects tended to fall in the areas of task forces, legislative efforts, guardianship monitoring programs, and technology.