

 Center for Elders and the Courts
www.eldersandcourts.org



Elder Abuse & Neglect


Module Three: Crafting Court Responses

The National Center for State Courts developed this curriculum in collaboration with the Center of Excellence on Elder Abuse and Neglect at the University of California, Irvine School of Medicine with support from the Retirement Research Foundation of Chicago (grant number 2008-056).



 

Module Three Goal

Goal



Judicial officers will learn how to craft court responses that effectively address elder abuse, neglect and exploitation in a variety of settings.


 

Module Three Objectives


At the conclusion of Module Three, judges should be knowledgeable about

- ✓ State elder abuse reporting requirements
- ✓ The importance of judicial leadership
- ✓ Strategies to build community-based responses
- ✓ Information needed to address elder abuse in a variety of court settings




 

Crafting Appropriate Court Responses




Judicial Leadership

- ABA Code of Judicial Conduct
- State Code of Conduct



Community Resources

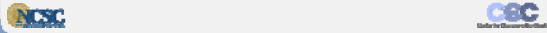
- Task Forces
- Multi-Agency Responses




Benchcard for Judges




- What is elder abuse?
- Is elder abuse a crime?
- What important concepts should I know about elder abuse cases?
- How can the court identify elder abuse and neglect?
- What are the court's reporting requirements?
- What tools are available to help the court respond to elder abuse?
- Where can I find more information?



Homework Exercise



Adapting the benchcard for your jurisdiction

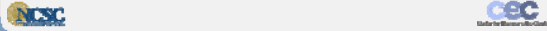


Interactive Exercise

Shawn Marshall, 20, is arrested for possession of heroin in the apartment complex where he lives with his 72 year old grandmother, Mrs. Marshall. His case is assigned to you. Shawn has no prior offenses and pleads guilty.

The Pretrial Services investigation includes an interview with Mrs. Marshall. She tells staff she has tried to keep Shawn out of trouble over the past few years. He used to borrow money occasionally, but lately he has been pushing her to write checks to him almost every week. He brings strangers into the apartment at all hours and she has become fearful of him and his friends.

Shawn Marshall is scheduled to appear before you for sentencing. You read the pretrial services report which describes Mrs. Marshall's concerns and fears about Shawn's behavior.



What is going on?

- What are the red flags?**
- What issues are raised?**
- What information do I need?**
- What should I do now?**



Reporting Requirements

Mandated reporters who suspect elder abuse are required to report the abuse to the local APS or law enforcement agency.

-  Know your state's mandatory reporting requirements
-  Develop APS and law enforcement points of contact for the court
-  Assign court staff to collaborate on the creation of a reporting and investigation protocol between the courts, local justice agencies & APS




Reporting Requirements


Insert your state reporting requirements here



The slide features a large white rectangular area for text, with a red border at the top and bottom. The NCSJ logo is in the bottom left and the CEC logo is in the bottom right.




Remediation Tools


 <p>Tailored restraining or "no contact" orders</p>	 <p>Review hearings</p>	 <p>Appointment of guardian ad litem</p>
---	---	--



The slide contains three circular images of individuals, each with text below them. A large double-headed arrow spans the width of the three columns.

Remediation Tools

 <p>Encourage the use of victim/witness advocates</p>	 <p>Provide opportunity for impact statement</p>	 <p>Be creative in sentencing & use of alternative sanctions</p>
--	---	---



The slide contains three circular images of individuals, each with text below them. A large double-headed arrow spans the width of the three columns.

Case Management Tools

Ensure accessibility

Expedite cases

Consolidate cases

NCC

CEC

Case Management Tools

Calendar cases

Memorialize testimony

Create elder protection court or docket

NCC

CEC

Small Group Exercise

Each group considers one of the following case scenarios:

Family Violence

Neglect

Financial Exploitation

Guardianship

NCC

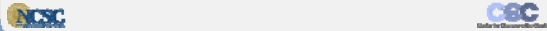
CEC

Small Group Exercise

- What issues does the scenario raise?
- What information do you need?
- How should you manage the case to maximize access to justice for the victim?
- What remedies are likely to prioritize safety and well-being of the victim?

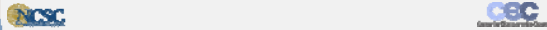
Family Violence

- Robert petitions for a family violence restraining order against his 66 year-old brother, John, on behalf of himself, his son and his 83 year-old mother.
- John is unemployed and has alcohol abuse issues.
- All of the parties live together in the mother's home.
- The petition alleges verbal abuse and threats and seeks to exclude John from the residence.
- The mother makes excuses for John's behavior and wants both her sons to reside in the home.



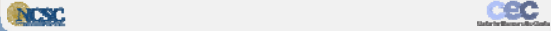
Neglect

- Mr. Downing, an 85 year old veteran of the armed forces, is sentenced to probation for battery of an employee of a residential adult care facility where his wife resides.
- Mr. Downing takes his wife home because he thinks the cost of her care is too high.
- An ER physician had ordered Mrs. Downing's placement in the facility based on signs of dementia, abuse and neglect.
- APS reports serious self-neglect by Mr. Downing and extremely serious neglect of Mrs. Downing despite having adequate resources.
- Mr. Downing shows signs of dementia and his adult sons wish to be placed in charge of their father's financial affairs.



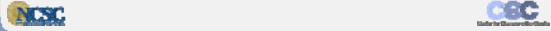
Financial Exploitation

- Carolyn Smith is in poor physical and mental health; her son, Keith, has had a durable power of attorney the past two years.
- Keith has acquired two luxury cars and terminated overnight in-home care services for his mother against her wishes.
- Carolyn's grandson, Zack, an interested party under state law, suspects his Uncle Keith is misusing the POA and files a request for an accounting.
- An apparently incomplete accounting shows a large drop in Carolyn's bank accounts but lacks evidence of expenditures for her benefit.
- Zack files a motion to compel a full accounting, which you are scheduled to hear.



Guardianship


- Bart is charged with domestic abuse against his 83 year old grandfather, John, with whom he lives.
- Bart's Aunt Martha claims that Bart physically abuses and financially exploits John.
- The court issues a no-contact order and refers Martha to APS.
- Bart pleads guilty and is placed on probation.
- Martha and her brother, Bart's father, file competing petitions for guardianship of their father.
- APS reports: (1) John wants Bart to stay, (2) Bart's father may condone Bart's actions, (3) John has poor health and limited ability to protect himself or make financial decisions.





Final Thoughts

- **Exercise judicial leadership**
- **Learn about and connect with your local community resources**
- **Adapt the benchcard to your state laws and local resources**





“It was once said that the moral test of government is how that government treats those who are in the dawn of life, the children; those who are in the twilight of life, the elderly; and those who are in the shadows of life, the sick, the needy and the handicapped.”
-Hubert H. Humphrey



Additional Resources

Visit the National Center for State Courts’
Center for Elders and the Courts at

www.eldersandcourts.org