CourTools

Giving Courts the Tools to Measure Success

Why Measure Performance?

CourTools Performance Measures

Modern courts are busy places. A vast array of different case types in all stages of the legal process simultaneously compete for the time and attention of judges and staff.

Satisfying the expectations of court customers who vary in their roles and goals is a daunting challenge for court leaders. Moreover, judges and court administrators have only limited opportunities to view their work in perspective. The press of caseloads, along with everyday operational problems, often seems all consuming.

In this context, performance assessment actually helps court managers set goals as well as understand and manage organizational performance. With performance indicators in place, judges and court managers can gauge how well the court is achieving basic goals, such as access and fairness, timeliness, and managerial effectiveness.

Not everyone will see and accept the purported benefits of court performance measurement. Skeptical reactions range from "performance measurement won't tell us anything we don't already know" to "we're happy with the way things get done now" to "we just don't have the time and money to even try this." Simply stated, an understandable response to the call for a new set of responsibilities is "why shouldn't we just continue to try to do a good job, rely on our sense of how we're doing, and strive to minimize daily problems as much as possible?"

These types of reactions show the need for a discussion of why the bench and court managers should devote energy to the systematic and ongoing task of court performance.

Five Reasons to Assess Court Performance

1 One reason for embracing performance measurement is that perceptions and beliefs of court insiders about how work is getting done are not always accurate. As a result, positive anecdotes and personal accounts are dismissed by court critics who see what is happening in terms of their personal, and perhaps negative, experiences. In contrast to endless debate over conflicting images, performance data allow everyone to test the reality of their assumptions of how well things are going. Performance evaluation sorts out whether what court insiders think is going on is, in fact, taking place.

2 A second attractive aspect of performance assessment is the capacity to identify and focus on areas of greatest importance to a broad and diverse audience. Multiple indicators permit courts to respond to the varied concerns of constituents, including litigants, attorneys, witnesses, jurors, the public, and funding authorities. Certainly the bench and court staff are in a prime position to assess internal operating procedures, but court customers might have quite different criteria in mind when they evaluate the quality of service. By clarifying and measuring key outcomes relevant to the individuals and groups being served, the court averts the problem of making incorrect assumptions about what will best satisfy the public.

3 Fostering greater creativity among court staff is another reason for being clear on desired outcomes. When court leaders and managers explicitly state what matters most, court staff more easily engage in determining how to make it happen. This is done by standardizing the ends rather than dictating the means to achieve them. Setting the desired outcomes in terms of clear measures (e.g., 90% of case files could be retrieved within 15 minutes) help staff better understand their individual contributions and empower court staff to devise creative means to achieve the desired outcome.

4 The value of performance data for preparing, justifying, and presenting budgetary requests constitutes a fourth reason why chief judges and senior administrators should consider performance assessment as a standard management practice. Performance assessment's focus on multiple goals and corresponding measures makes clear that courts use resources to achieve multiple ends. Information on how well the court is doing in different work areas provides essential indicators of whether goals are reasonably being achieved, which ones are being met more fully than others, and which ones are marked by poor or unacceptable performance. As a result, courts can articulate why some activities need tighter management oversight, improved administrative practices, more resources to support promising uses of new technology, or different configurations of

personnel. In this manner, performance assessment is a critical foundation for building evidence-based requests for new initiatives and additional resources. Performance assessment across a spectrum of goals establishes a natural priority of emphasis and shields courts from the criticism that budget requests are the product of some individual judge's or administrator's personal preference. Instead, budget proposals flow from the mission of meeting agreed-upon goals.

5 Finally, attention to the results of court activities is more than just a polite gesture to the outside world. For the nation's courts, failure to highlight performance goals and measure them undermines the judiciary's proclaimed ability and need to govern its own affairs. Formal performance assessment signals a court's recognition, willingness, and ability to meet its critical institutional responsibilities as part of the third branch of government. Effective judicial governance and accountability require courts to identify primary responsibilities for which they can and should be held responsible. Since courts use public resources, taxpayers and their elected representatives are legitimately entitled to raise questions about efficiency and effectiveness in the expenditure of court funds. In response, performance assessment provides the means for courts to demonstrate the value of services delivered.

The foregoing observations suggest that performance assessment shifts the focus of court management from paying attention primarily to internal processes to delivering quality and value for the taxpayer dollar to court customers. However, actually establishing measures of value in the court context is a complex task. No single best measure for assessing high performance (like profitability in the private sector) exists to guide court leaders. Traditional court management typically measures a blend of inputs (e.g., the number of court staff employed) and outputs (e.g., the number of cases processed by court staff). But measures that focus on outcomes—the ones that allow people to say, "Yes, I see the value delivered for the investment"—are much more difficult to craft. ***CourTools*** proposes a small but well-considered set of outcomes that appear to be widely accepted as valuable.

Outcome measures should, however, be supplemented and tempered by reference to measures that relate to cost-effectiveness. Court leaders focused solely on outcomes risk investing money past the point of diminishing returns. If improvements in performance fail to increase proportionately to additional outlays of time and resources, new money would be better distributed to another activity, function, or program. At some point, for example, the impact on case-processing time of adding more staff will be negligible. Therefore, performance measurement should be conducted with an eye on two fundamental criteria: the outcomes the court delivers to its customers and the cost-effectiveness the court achieves in distributing resources. Both kinds of measures are included in ***CourTools***.

***CourTools**, developed by the National Center for State Courts, is a first effort toward providing all courts a common set of ten indicators and clear methods to measure performance in a meaningful and manageable manner.*

Design criteria

The choice and formulation of the ten ***CourTools*** measures are shaped by three interrelated criteria: (1) fundamental court values; (2) balanced perspective on the work of the court; and (3) feasibility and sustainability. Performance measures must be relevant to a court's mission, purpose, and strategic plan. In designing ***CourTools***, the NCSC draws on the civic ideals and major performance areas unique to courts, as defined by the *Trial Court Performance Standards (TCPS)*. These include, for example, providing access to justice, reducing delay, and ensuring fairness. ***CourTools*** also includes other success factors linked to management effectiveness that are relevant to all public institutions, such as fiscal responsibility, client-customer satisfaction, and the effectiveness and efficiency of internal processes. The ten measures making up ***CourTools*** provide concrete and specific indicators of success.

Achieving a balanced perspective means core performance measures should cover the most important dimensions of court performance and offer meaningful indicators of success in each area. Many court managers recognize the need for measurement in appraising current practices and procedures, but may not view performance measurement as essential beyond the arena of case-processing. The management approach associated with a "balanced scorecard" entails both the idea of achieving balance (e.g., unifying traditional case-processing measures like time-to-disposition with measures of access, procedural fairness, effective use of jurors, and court-employee opinion) and the need to regularly score performance. The goal is making performance measurement an integral part of the management process.

Finally, feasibility and sustainability require measures that are limited in number, readily interpretable, and durable over time. ***CourTools*** constitutes ten vital indicators of court performance, with more specific focus than the 68 measures of the *TCPS*. The ***CourTools*** indicators are easier to use initially and permit regular, periodic applications. The effort to apply the measures is not exorbitant or exhausting.

Delivering quality service

Let us now consider the relationship between these three design criteria and the ten measures. To facilitate the measurement of what constitutes a well-performing court, performance is defined in terms of service delivery, a concept associated with the outcomes of public institutions. For courts specifically, key services include how individuals are treated, the manner in which cases are handled, and the integrity of how a court controls its operations. Courts exist to provide the services of a controlled, efficient, and orderly legal process.

Within each area of service delivery, there are criteria for evaluating the quality and value of services rendered. In the treatment of individuals, we focus on measures of access and fairness, which are key values in the *Trial Court Performance Standard*s. In the handling of cases, we focus on the criterion of timeliness, a value enshrined in the U.S. Constitution. Drawing on the insights of the *TCPS* as well as contemporary management literature, we examine managerial effectiveness, a standard calling for purposeful and deliberative administrative actions.

CourTools: Ten Measures

Access and fairness emphasize the fundamental importance of individuals and how they are treated in the American legal system. The degree to which these values are achieved in the real world is measured by ratings of court customers. **Measure 1: Access and Fairness** is a survey measuring individual satisfaction with the ability to make use of the court's dispute resolution services (access) and how the legal process dealt with their issue, interest, or case (fairness).

Timeliness emphasizes the concern of court participants, the public, and policymakers that the legal process is controlled and well-managed. Four measures highlight the general requirement that trial court functions be performed within a proper and reasonable timeframe.

Measure 2: Clearance Rates examines court productivity in keeping current with the incoming flow of cases. **Measure 3: Time to Disposition** calculates the length of elapsed time from case filing to case resolution, with the recommendation that the result be compared to some stipulated or agreed-upon case-processing time standard.

Measure 1

Access and Fairness

Access and Fairness Survey

	Strongly Disagree	Disagree	Neither Agree nor Disagree	Agree	Strongly Agree	Not Applicable
Section I: Access to the Court *Circle the Number.*	1	2	3	4	5	n/a
1. Finding the courthouse was easy.	1	2	3	4	5	n/a
2. The forms I needed were clear and easy to understand.	1	2	3	4	5	n/a
3. I felt safe in the courthouse.	1	2	3	4	5	n/a
4. The court makes reasonable efforts to remove physical and language barriers to service.	1	2	3	4	5	n/a
5. I was able to get my court business done in a reasonable amount of time.	1	2	3	4	5	n/a
6. Court staff paid attention to my needs.	1	2	3	4	5	n/a
7. I was treated with courtesy and respect.	1	2	3	4	5	n/a
8. I easily found the courtroom or office I needed.	1	2	3	4	5	n/a
9. The court's Web site was useful.	1	2	3	4	5	n/a
10. The court's hours of operation made it easy for me to do my business.	1	2	3	4	5	n/a

If you are a party to a legal matter and appeared before a judicial officer today, please complete the following additional questions:

Section II: Fairness						
11. The way my case was handled was fair.	1	2	3	4	5	n/a
12. The judge listened to my side of the story before he or she made a decision.	1	2	3	4	5	n/a
13. The judge had the information necessary to make good decisions about my case.	1	2	3	4	5	n/a
14. I was treated the same as everyone else.	1	2	3	4	5	n/a
15. As I leave the court, I know what to do next about my case.	1	2	3	4	5	n/a

Section III: Background Information

What did you do at the court today? *(Check all that apply)*

___ Search court records/obtain documents
___ File papers
___ Make a payment
___ Get information
___ Appear as a witness
___ Attorney representing a client
___ Jury duty
___ Attend a hearing or trial
___ Law enforcement/probation/social services staff

What type of case brought you to the courthouse today?

___ Traffic
___ Criminal
___ Civil matter
___ Divorce, child custody or support
___ Juvenile matter
___ Probate
___ Small Claims
___ Other:_____

How do you identify yourself?

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

How often are you typically in this courthouse? *(Choose the closest estimate)*

___ First time in this courthouse
___ Once a year or less
___ Several times a year
___ Regularly

What is your gender?

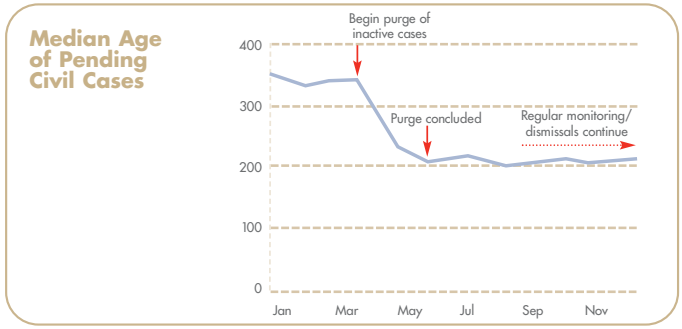
___ Male
___ Female

A related indicator of timeliness is the amount of time cases have been pending or awaiting resolution—**Measure 4: Age of Active Pending Caseload**. It is possible for a court to show expeditious processing of disposed cases, yet have undesirably high figures for the age of its pending caseload. This happens when routine cases move smoothly through the court system while problematic cases are allowed to continue aging. Moreover, an increase in the age of pending cases foreshadows difficulties a court might have in continuing its past degree of expeditiousness. Finally, **Measure 5: Trial Date Certainty** provides a tool to evaluate the effectiveness of calendaring and continuance practices. Not only does trial postponement almost inevitability delay case resolution, the constitutional guarantee of a speedy trial is frustrated by the inability of a court to conduct trials as scheduled.

Managerial effectiveness highlights the nexus between operating procedures that are strictly internal and outcomes important to the court's customers. Success in meeting this key value is assessed in the five remaining ***CourTools*** measures. Measures 6 to 9 relate to values emphasized in the *TCPS*, while Measure 10 focuses on cost-effectiveness.

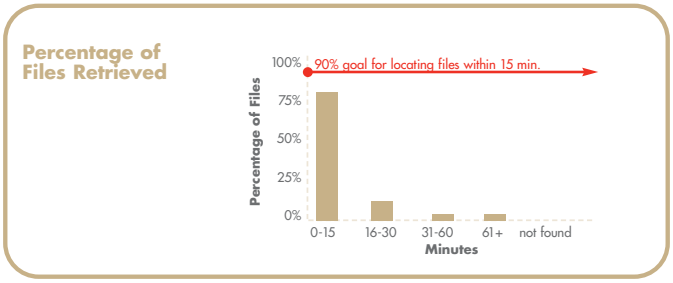
Measure 4

Age of Active Pending Caseload



Measure 6

Reliability and Integrity of Case Files



Measure 6: Reliability and Integrity of Case Files is vital to the public interest (individual litigants and taxpayers alike) in that the records of court decisions and actions officially determine the rights and responsibilities of individuals and the government. Inaccessible or incomplete case files seriously compromise the court's integrity and undermines the judicial process. A well-performing court maintains case files completely and correctly in recordkeeping systems, which also permit expeditious retrieval and support timely case processing.

Integrity and public trust in the legal process also depend in part on how well court orders are observed and enforced. **Measure 7: Collection of Monetary Penalties** focuses on the extent to which a court takes responsibility for the enforcement of monetary penalties.

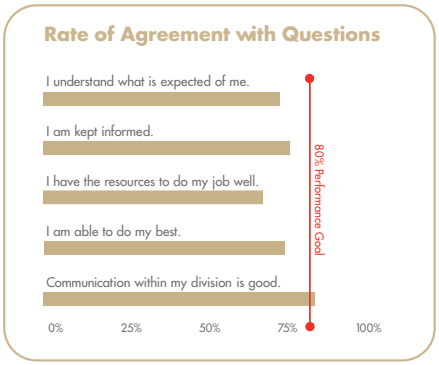
Jury participation in the legal process represents the basic democratic premise that citizens are appropriate decision makers in legal disputes. **Measure 8: Effective Use of Jurors** addresses a court's ability to effectively manage jury service.

Measure 9: Court Employee Satisfaction uses a survey, drawn from contemporary management literature, to gauge employee perspective on the quality of the work environment and relations between staff and management. Conflict, low morale, and doubt about the appropriate division of labor among court employees undermine service to the public. Moreover, effective supervision and direction by managers are essential to the ongoing growth and development of court staff. Clarity and a sense empowerment by employees facilitate judicial efforts to process and issue orders in a timely and effective fashion.

Deciding how best to allocate scarce resources so as to gain the biggest bang for the buck is a critical task for court managers. Attention to outcomes must be united with the equally critical element of cost-effectiveness. High performance courts will want to compare relative expenditures (costs) with outcomes to determine where additional dollars will likely have the greatest incremental impact on performance. **Measure 10: Cost per Case** provides information essential for deciding how to allocate funds within the court and for understanding the link between costs and outcomes. Claims of judicial independence unsupported by information on the cost-effectiveness of current programs makes court budget requests vulnerable to arbitrary cuts or inadequate increases. Hence, it is in the self-interest of courts to frame the dialogue over the financing of services with their own, independent cost-effectiveness data.

Measure 9

Court Employee Satisfaction



Calculating a Satisfaction Rate

The adjacent chart shows the percent in the Agree group (rating of 4 or 5) for the first five items. Court employees were especially positive about being kept informed and communications. At the same time, they were least satisfied with having the resources they need.

Conclusion

CourTools enables courts to collect and present evidence of their success in meeting the needs and expectations of customers. Basic indicators of court performance are a necessary ingredient of accountability in the administration of justice and effective governance of the third branch. Moreover, performance measures provide a structured means for courts to communicate this message to their partners in government. ***CourTools*** should appeal to judges and administrators interested in setting the agenda of policy discussions and evaluations of institutional performance. Designed to demonstrate the quality of service delivery, ***CourTools*** fosters consensus on what courts should strive to achieve and their success in meeting objectives in a world of limited resources.

CourTools

Contact the National Center's Court Services Division to learn more about implementing **CourTools** in your court.

Call us toll-free at:
800-466-3063

Download a free copy of **CourTools** at:
www.courtools.org

Send an email to:
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Readings and Sources

These references are intended to serve as a resource for further inquiry into performance assessment generally, research underlying the ten ***CourTools*** measures, and the concept of a balanced scorecard.

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