



JUST DEVELOPMENT

An Introduction to Selecting the Right Indicators to Improve Court Performance

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Introduction

This note provides a framework to assist practitioners in developing useful measures to track and improve court performance. While the principles and measures articulated here are meant for courts, they may well be applicable to other justice institutions.

Why Measure Court Performance? A successful organization is one that can authoritatively state – at any given moment – how it is performing. The selection of performance measures (sometimes known as indicators) and the collection of data against them allows an organization to answer this question. Performance measures can shed light on areas that are working well (and thus could be learned from), as well as those that need improvement. Performance management means using this data on a regular and continuous basis to make informed decisions that improve efficiency, effectiveness, and the quality of justice. Many court systems are facing tough budgetary environments and measurement enables courts to focus limited resources on priority areas for reform and also understand whether resources are achieving desired impacts. Measuring performance can also help to create a compelling evidence base for courts to make budget submissions for future resources.

Aligning Interests, Incentives and Influence: Like all reform processes, the selection of measures, collection of data and use of the performance information best takes place with an under-

standing of the interests and incentives of those who have influence over reform. Naturally, the constellation of people who have interest and influence will vary in each context and for each reform process. That said, some guiding principles include involving those who oversee and manage courts (Chief Justices, Chief Registrars, court managers and administrators, Attorneys-General and Ministers of Justice) in the selection and use of measures. This will allow them to understand the trajectory of reform and make managerial decisions on the basis of the data. It can also be useful to think about expanding the circle of those involved to others who may have interest in reform and can provide positive reform pressure, including judges, court personnel, lawyers and court user associations, Ministries of Finance, relevant NGOs, and the media. These stakeholders should contribute to identifying the areas of reform that are most important to them and the measures by which they can confidently track that reform is happening – or not.

Whilst the indicator development process needs to be rooted in local reform priorities, it can be useful to think about measuring performance in at least the following five areas: 1. Efficiency; 2. Quality; 3. Transparency and Accountability; 4. Access; and 5. Independence. These measurement areas, of course, are very much interrelated. For example, lengthy delays in case processing may demonstrate inefficiency, result in inaccessibility and be correlated with poor quality (e.g., lack of fairness).

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The process of developing court indicators can fall roughly into three phases: (1) developing the right measures, (2) ensuring the right delivery of the information, and (3) enabling the right use of the measures.

Phase 1: Develop the *Right Measures*

Q: Are there generally accepted measures of court performance?

A: *Yes, more or less.* There are three tried and tested models of performance measures listed in the table below. These models, or the measures within them, will not be relevant or useful for every context. Use of these models for any reform process could range from simply consideration (“inspiration”), to adaptation or direct adoption. The process of determining whether to consider, adapt or adopt should be grounded in local priorities, the nature of the reforms being undertaken and capacity to collect the relevant data.

Justice System Performance Measures - Three Models

	Global Measures of Court Performance ¹	CourTools ²	EU Justice Scoreboard ³
Case Clearance Rate	✓	✓	✓
On-Time Case Processing	✓	✓	✓
Case Backlog	✓	✓	✓
Proportion of Court Orders Complied With	✓	✓	
Court User Satisfaction	✓	✓	
Trial Date Certainty	✓	✓	
Cost Per Case	✓	✓	
Court File Integrity	✓	✓	
Employee Engagement and Satisfaction	✓	✓	
Average number of days spent in Pre-trial Custody	✓		
Average Access Fees Paid Per Civil Case	✓		
Number of Citizens Selected for Jury Service Qualified and Available to Serve		✓	
Monitoring & Evaluation			✓
Use of ICT Systems for Courts			✓
Number, Average Duration and Costs of Cases Brought Before Alternative Dispute Resolution Entities			✓
Training of Judges			✓
Resources and Budget Available to Courts			✓

¹ The [Global Measures of Court Performance](#) describe eleven focused, clear, and actionable core court performance measures aligned with the values and areas of court excellence of the [International Framework for Court Excellence](#). This tool also provides easy guidance on how to calculate each measure.

² [CourTools](#), a project of the National Center for State Courts, presents ten performance measures for both trial and appellate courts, designed to help courts clarify performance goals, develop a measurement plan and document success.

³ The [EU Justice Scoreboard](#) is a tool developed by the European Commission to provide objective, reliable and comparable data for all EU Member States. It focuses on the quality, independence and efficiency of justice.

Q: How many measures should courts develop?

A: The vital few instead of the trivial many. It is better to select, collect and effectively use a small number of indicators that are relatively easy to collect, sustain and maintain, rather than attempt to use many indicators for which the data is not consistently available, difficult to capture or which deluge court managers, staff and stakeholders with information they are unable to digest. First and foremost, the number of performance measures developed depends on the reform priorities identified. Within these parameters, a few key indicators that are reliably collected and thoroughly interpreted are preferable to many measures that are infrequently collected and so complex as to be ignored. For example, regularly reporting data on just two indicators – user satisfaction and case backlog – will in many jurisdictions provide a good understanding for courts and the general public about how much progress is being made, as well as provide impetus for reform. Starting with a vital few indicators also creates a strong foundation on which to build in the future. After gradually building understanding and buy-in for a first set of indicators, more can be added as capacity allows.

For each measure, it is important to disaggregate or break out the data collected (e.g. respondents to a court user survey could be asked about their ethnicity, gender, income, frequency in the courthouse, and “business” in the court, etc.).

Q: What types of data should be relied upon?

A: Baskets of data. Whilst being mindful of limiting the total number of indicators, it can be useful to have more than one source of data for each area of reform (a basket of indicators). This helps to guard against problems in any one data source. It is also useful to have data that draws from different sources such as administrative data (e.g. court files), experience and perception surveys (e.g. of users and the general public), and expert opinions (e.g. of lawyers). This is particularly important for measuring a performance area that is multi-dimensional or not easily observable, like access to justice. For example, access to justice could be measured by way of administrative data: a case file analysis could indicate whether both men and

women are filing cases, the number of unrepresented litigants, and whether legal aid is being offered. It could also be measured using user surveys to determine user characteristics such as income or ethnicity, their understanding and experience of court processes, and experiences in physically accessing the court.

Q: How can we collect the data that feeds the indicators?

A: Simply and cheaply. Collecting data can be done in a range of ways, from complex technology-based collection systems to simple paper based records. In general, it is best to have a strong manual system established before trying to institute it electronically. For resource-constrained courts, data collection can be done relatively cheaply. For example, a court user survey or an employee engagement survey can be a one page sheet of paper or a free online survey (such as Survey Monkey) in areas where internet access is more common. A good system of court records can be built on simple register books – as long as they are faithfully filled out and the data regularly submitted for analysis. It is important to ensure that responsibility is clearly assigned for each step in the data chain: collecting, transmitting, analyzing and disseminating findings.

Q: What’s wrong with measures such as the number of judges?

A: Outcomes not inputs. The number of judges is an input. We know from court systems across the world that many different institutional forms are associated with effective functioning. Just within Western Europe there is great variation in inputs. For example, the UK has four judges per 100,000 inhabitants, Sweden 12 and Germany 24.⁴ It’s unlikely that anyone would suggest that Sweden’s court system is three times as good as the UK’s or Germany’s six times. For one, the number of judges per population doesn’t take into account the number of cases (one measure of a judge’s workload) let alone the length of time each case takes. Secondly, a greater number of judges does not necessarily provide more efficient and effective courts – not least because of the other inputs needed to run the system. Further, the definition of “judge” varies in each country. The same consider-

⁴ CEPEJ. 2012. *Evaluation Report on European Judicial Systems*. http://www.coe.int/t/dghl/cooperation/cepej/evaluation/2012/Rapport_en.pdf

ations apply to picking measures like percentage of budget allocation to the judiciary.

Instead, it is generally considered preferable to pick measures that focus on changes in the experience of those served by courts, over those that track internal aspects -- that is, measures that indicate results, rather than resources, activities, or level of effort. Courts are often keen to measure internal matters they have closer control over (e.g. the number of personnel trained) as these can be more easily improved year-to-year. Whilst it might be useful to keep track of these, ultimately the impact of internal activities needs to be felt by users (e.g. training of registry staff leads to increased reports of satisfaction) for the purpose of the activity to be fulfilled.

Phase 2: Ensure the *Right Delivery* of the Information

Q: How should the data be delivered?

A: Make it visual. It makes no sense developing the right measures and assembling critical data, if the performance information is not delivered to people who have an influence over reform, in a manner they can use. The purpose of data is to increase understanding and to improve court performance and delivery of court services. Those running justice institutions may not have a statistical background, therefore it is important to present data in an easily accessible manner such as graphs and tables. Increasingly, automated court systems allow the construction of “performance dashboards” that let users view critical performance information on their computers at a glance, and move easily through successive layers of strategic, tactical and operational information on a self-help, on-demand basis. Even if personal manipulation of data is possible, it can be useful to have an agreed small set of measures which are reported over time (the “vital few”). This can take the form of a performance scorecard. In addition to targeting particular actors who have influence over reforms, data should be made generally available to the public in an engaging and easy to interpret format. This will not only increase transparency and accountability but also allow program evaluators and researchers to mine data for insights

which may be of interest for reformers, allow the media and NGOs to convey shifts in performance to a broader audience, and allow staff throughout all levels of the court system to see progress.

Q: When should the data be delivered?

A: As regularly as possible. Whenever possible, data delivery should happen in “real-time” to provide the most accurate picture of court performance at any particular moment. Whilst it is not essential, automated processes can provide for additional learning, including allowing users to manipulate and control the data, drawing their own relationships and conclusions. Even when real time data is available – and particularly when it is not - it can be useful to have designated dates on which data is published, to create interest in the data and milestones to spur reform momentum.

Phase 3: Enable the *Right Use* of the Measures

Q: How can I ensure that the data collected translates into changes in the court system?

A: Integration. To best utilize measures, a court should attempt to integrate them into key management processes and operations, including budgeting and finance, resource and workload allocation, strategic planning, organizational management, and staff development. This creates a consistent feedback loop between performance measurement data and larger reform processes, allowing the data to inform future actions.

Q: What should I look for in the data?

A: Look for differences and then ask “what, where, how, and why”. Looking for variations in performance between, say, courts, types of people served (e.g. men and women) and personnel (e.g. judges) can identify both areas of strong performance (“bright spots”) and those in need of particular attention. Then, explore why the indicators are moving. A bright spot may reveal a particular court that has significantly less delay than the average. By exploring the practices of this court, lessons may be learned that are applicable to courts across the jurisdiction.

Additional Resources

- Global Measures of Court Performance: http://www.courtexcellence.com/~media/microsites/files/icce/global%20measures_v3_11_2012.ashx
- Courtools: <http://www.courtools.org/>
- EU Justice Scoreboard: http://ec.europa.eu/justice/effective-justice/scoreboard/index_en.htm
- Keilitz, Ingo. www.made2measure.blogspot.com
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