



Good Budgeting, Better Justice: Modern Budget Practices for the Judicial Sector

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Abstract

For many countries, determining annual budgets for the justice sector is a frustrating and contentious process. The requirements of the executive branch of government—especially for fiscal restraint and accountability in financial management—are often perceived as infringing on the principles of the judicial branch (“fairness” and “independence” in the administration of justice). The problem is not simply insufficient funds, but a mutual perception that neither branch properly understands, or respects, the other’s mandate and goals.

This study provides information and practical guidance for government officials, judicial staff, project managers and financial and legal advisers working on judicial reform projects in transition and developing countries. It focuses on some of the good practices developed in recent years in the United Kingdom, France and New Zealand in preparing and implementing justice sector budgets, especially in relation to management of the courts. In summarizing the lessons from these approaches, the author suggests how they might be adapted and applied to less advanced countries embarking on judicial reform programs. The author concludes by looking at how budgeting in the justice sector may be further improved through the application of some relatively sophisticated financial management techniques that link growth in expenditure demands in the justice sector, particularly caseloads in the courts, to the budget planning process.

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Table of Contents

Acknowledgements	ii
Introduction	1
I. The Context for Judicial and Financial Management Reforms	3
The Challenge: Combining Fiscal Responsibility with Judicial Independence	3
The Need for Legal and Judicial Reform	4
Recent Developments in Public Management and Government Budgeting	5
II. A Survey of Justice Sector Budgeting in Three Developed Countries	6
United Kingdom	8
France	21
New Zealand	29
Major Lessons from Developed Administrations	40
III. Modernizing Judicial Budgets: Two Recent Examples	45
Jordan	45
Slovakia	48
IV. Pushing the Boundaries: Advanced Techniques for Planning and Estimating Justice Expenditures	58
Multi-year Budget Planning and Presentation	58
Relating Budget Estimation to Case Management	62
V. Enhanced Courts Budgeting and Judicial Independence: Final Comments	66
Bibliography	67

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Good Budgeting, Better Justice: Modern Budgeting Practices for the Judicial Sector

Introduction

This study has been designed and prepared as a source of information and practical guidance for government officials, judicial staff, reform project managers and financial and legal advisers working on judicial reform projects in transition and developing countries. The study focuses on good practices employed in recent years by three advanced and two less advanced countries in preparing and implementing justice sector budgets. It examines their methodologies and experience and suggests how they might be applied to budgeting processes and judicial reform programs in other countries.¹

The need for this study arose largely from recognition by World Bank staff that projects or interventions to support legal and judicial reform in less advanced countries needed to include new and more effective ways of working with central fiscal authorities. Judicial reforms require significant financial support and national budgets are invariably the key source of financing for the judicial system. Budgets that are well prepared and presented increase the chances that the need for additional funds to implement judicial reforms will be understood and more positively received by finance officials. As this study demonstrates, good budgets can also substantially assist in raising the performance of the judicial sector.

This study has also been prompted by recent developments in the design and application of public-sector budgets. These developments have been introduced into judicial administrations in several more advanced countries and are already helping to establish a more performance-oriented judicial culture. The initial application of some of these practices by a small number of less advanced countries in the last two years (with assistance from the World Bank) has provided the impetus for a wider and more rounded discussion and assessment of these techniques.

The aims of this study go beyond applying new and improved methods of budgeting to judicial systems in less advanced administrations. Part I of the study argues that there is a need for more effective integration of modern budgeting concepts and practices with judicial performance objectives and measures. The key hypothesis is that an effectively integrated approach can serve the fiscal management, accountability and transparency objectives of central government authorities in ways that also strengthen and support judicial reform, including increased judicial effectiveness and independence. However, even the developed countries surveyed here have made only the first tentative steps in this direction.

The study then examines several recent innovations in public management, in particular, the development of performance-oriented management and budgeting techniques and how they may be adapted to the justice sector. The approaches taken by three developed countries with relatively

¹ The emphasis in this study is on budget planning and management for judicial systems, in particular, the operation of courts. However, budgeting for other parts of the justice sector, such as prisons or justice policy, is included where they form part of a country's overall approach to resourcing and managing the justice sector.

advanced public administrations and judicial systems are surveyed first in Part II. The principles and methods adopted in these cases are argued to have direct relevance and application to less developed economies and administrations contemplating, or embarking on, judicial reform programs. Part III describes the introduction of some of these methods in two countries contemplating and undergoing judicial reform, and provides further insight into the requirements of, and the potential gains from, these initiatives. Part IV introduces certain more advanced budgeting methods and demonstrates their application to judicial budgets.

This study does not purport to cover all of the possible, or latest, methods or developments in “performance budgeting.” Nor does it aim to be prescriptive about how performance concepts and measures should be applied. Rather, the purpose of the study is to indicate how *some* of the more recent and innovative practices in public-sector budgeting might contribute to improving the performance of judicial programs and activities. In short, the aim is to show how good budgeting may contribute to better justice.

I. The Context for Judicial and Financial Management Reforms

The Challenge: Combining Fiscal Responsibility with Judicial Independence

For most countries, determining the annual budget allocation for the judicial system can be a frustrating and contentious process. The requirements of one branch of government (i.e., the executive's need for "restraint" and "accountability" in financial management) are invariably perceived as infringing on the principles of another (i.e., the "fairness" and "independence" of the justice system). In most cases, the problem is not simply insufficient resources—although that is invariably a source of irritation—but a mutual perception that neither branch properly understands, or respects, the other's mandate and goals.

One frequent result of these tensions is a mutual, enduring suspicion of motives between the managers and guardians of the public financial system and members of the judiciary. Even in more advanced public administration and judicial systems there may be a steadfast reluctance to cooperate, much less collaborate, in establishing new and more workable budgeting arrangements. In such situations, public financial management and the administration of justice are both poorly served.

The nature of judicial administrations is often part of this problem. The judicial sector is traditionally conservative, rigid in its views and processes, and reluctant to accept change or correction when performance is challenged. Some members of the judiciary prefer to exert highly individual and decisive engagement in budgeting issues, while others show little interest in operational matters, or have little regard for financial rules and conventions. In some jurisdictions, there may also be a reluctance to assign responsibility for courts administration and budgeting matters to professional (i.e., non-judicial) managers. This reluctance often constrains the development of appropriate skills and systems. The question of who should set the objectives for judicial sector performance—the executive, the judiciary, or both—also goes to the heart of judicial independence issues. Finally, there may be a stubborn reluctance among some in the judiciary to accept that the justice sector is simply one of many sectors that compete for the limited financial resources of the government and has no particular claim on funds over and above other public expenditure needs.

This study addresses these issues from a professional budgeting perspective. In particular, it examines the progress that several developed countries have made in bridging these gaps. This progress has been achieved largely through the implementation of improved budgeting methods that are more responsive to the needs and constraints of spending agencies, including the judicial sector, and more conducive to increased managerial autonomy. These improvements in justice budgeting have, through considerable willingness and effort on both sides, enabled a more efficient use of resources, a better-functioning judiciary and, arguably although less visibly, fairer and more effective judicial outcomes. Less advanced countries may actually have an advantage in pursuing these improvements, as the role, position and status of the judiciary are often less embedded in tradition, conventions and historically-determined expectations in these countries.

The Need for Legal and Judicial Reform

There has been increasing recognition in recent years by The World Bank and other development institutions that, to be successful, the development process must be comprehensive and supported by an effective judicial system. This view is supported by empirical studies that indicate a strong correlation between indicators of development—such as per capita income and infant mortality—and the rule of law.²

An effective judicial system requires, at a minimum, transparent legislation, fair laws, and predictable enforcement. It also requires governments that are legitimate, accountable and committed to maintaining order by lawful means. For poorer countries, poverty cannot be fought without effective and equitable systems of justice. In transition economies, the shift to an efficient and successful market economy requires effective regulatory regimes for market activity and foreign investments; the establishment of new, more democratic institutions and associated legal frameworks; the sustainable management and development of natural resources; proper delineation and enforcement of property rights; and fair and effective systems of compensation and legal redress.³

Better laws, however, are never enough. A well-functioning judicial system is crucial for effective implementation of these laws and for supporting and promoting improved levels of governance across both government and non-government sectors and organizations. Both legal and judicial reform is therefore essential to promote the rule of law.

Awareness of the linkages between legal and judicial reform, good governance and economic and social development has strengthened considerably in the last ten years. This has given rise to a number of new legal and judicial reform initiatives in various regions. The geographic spread of World Bank technical and financial support for these reforms is extensive, encompassing countries in Africa, Central and Eastern Europe, the Commonwealth of Independent States (CIS), the Middle East, Central and East Asia, the Caribbean and Latin America.⁴

In many of these regions, a key element of the judicial reform process involves the re-organization and modernization of the judiciary and the courts system. In all of these cases, judicial needs and activities are financed primarily by the central government budget, or through a combination of central (or federal) and local budgets. Implementing effective judicial reforms therefore involves directly confronting the requirements—and, in many cases, the limitations—of government financial management systems. Learning to work more effectively within the constraints of government budget rules and procedures is often a frustrating, but necessary, experience for those managing and reforming judicial systems.

Many of these frustrations can be traced to three main causes. First, there are often inherent and enduring tensions between the executive and judicial branches of government arising from the

² See, for example, *Legal and Judicial Reform: Strategic Directions*, Legal Vice Presidency, The World Bank, (undated), 16-17. Available at: www.worldbank.org/publications.

³ For a more detailed discussion of the conditions required for the rule of law to “prevail,” see *Legal and Judicial Reform: Strategic Directions*, Legal Vice Presidency, The World Bank, (undated), 1-3. Available at: www.worldbank.org/publications.

⁴ *Initiatives in Legal and Judicial Reform*, Legal Vice Presidency, The World Bank (2004 edition). Available at: www.worldbank.org/publications.

fundamental principle of *judicial independence*. Second, these tensions are seldom more evident, or more regularly inflamed, than in discussions of the *resourcing of the judicial sector*. These discussions often include the vexed issues of judicial remuneration levels, the necessity for (but perceived inefficiency of) certain time-consuming legal processes, and the frequent requirement of expanded and/or much-improved court facilities.

Third, there is invariably considerable sensitivity within the judiciary concerning issues of *judicial performance* and *managerial accountability*. How should these issues be measured? Who should have the authority and capability to monitor, compare and comment on the actions or effectiveness of judges and the legal process? What incentives exist, if any, for more efficient judicial performance and do these incentives necessarily encourage better justice outcomes?

Each of these issues has direct implications for the financing of the judicial system. As noted above, the budget needs of the judicial sector must be negotiated annually, often within a highly politicized context in which there are many other worthy and competing demands for public expenditure. If judicial budget demands are not expressed effectively, the sector is unlikely to get the financial recognition it seeks, a recognition that effective judicial reform often genuinely requires.

Recent Developments in Public Management and Government Budgeting

Substantial developments have taken place in public management and government budgeting systems over the last 40 years. Although not all innovations in budgeting have been successful, or long-lasting, most have contributed in some way to a gradual advancement of the quality of public financial management. Starting from the basic input-budgeting approach, these innovations have included “program budgeting,” “zero-based budgeting” and some early attempts, especially in the United States, at “program and performance-based budgeting.” More recently, several countries have introduced various budgeting reforms aimed more specifically at supporting or enhancing a wider focus on performance management. These later initiatives have in particular included “output” and “outcome” budgeting.⁵

Many developments in budget management have been prompted by a desire or perceived need to achieve new levels of outreach and effectiveness in public spending. Recent decades, however, have witnessed growing appreciation in developed economies of the importance of fiscal constraints and the real-world limits to the effectiveness of many government interventions. Improved understanding of these limits has led to an increased, more pragmatic focus on improving efficiency, accountability and transparency in government expenditures.

Nonetheless, concern with public-sector performance, albeit at times in terms of differing goals and expectations, remains a central feature of government budgeting. The re-emergence of “performance management” concepts in recent years, including various forms of “performance budgeting,” represents yet another evolution in this search. These ideas, commonly grouped under

⁵ There is considerable variation even within the budgeting literature on what is meant by some of these terms, especially “performance budgeting.” However, many attempts have been made to identify their core characteristics and to show how these might be applied or adapted in the specific context of developing or less advanced countries. See, for example, Jack Diamond, (2003), *From Program to Performance Budgeting: The Challenge for Emerging Market Economies*, IMF Working Paper Wp/03/169, Washington, DC.

the label “new public management,” endeavor to raise the performance of the public sector by focusing on the incentives of public managers.

Performance budgeting methods are best understood as a subset of performance management concepts. In essence, performance budgeting methods aim to enable public-sector managers to build stronger linkages between resources, activities and results. While there is certainly no single description, or understanding, of performance budgeting, it is widely agreed that defining objectives, developing intervention strategies and reporting against specific achievement measures or targets are the cornerstones of a performance budgeting approach.

These concepts and methods, including a comprehension of the appropriate situations in which they can be applied and the degree to which resource allocation decisions might be based on past (or expected) results, are still evolving. However, a common element of performance budgeting is that it seeks to give greater autonomy, flexibility and certainty to budget managers. In many cases, a principal trade-off against this increased managerial freedom is increased responsibility and accountability for results.

Even in developed countries, the application of performance budgeting methods to the justice sector is still in its infancy. The justice sector has often proved to be one of the most difficult areas of public policy in which to require, much less achieve, improved performance. It is also, however, one of the most important areas in which to achieve the gains from improved performance. This potential contribution is even greater in many developing and transition countries, where the rule of law, and the effectiveness with which it is administered, is one of the keys to social and economic progress.

II. A Survey of Justice Sector Budgeting in Three Developed Countries

Introduction

The three developed countries depicted in this survey of justice sector budgeting were chosen on the basis of the following criteria:

- well-developed, respected and relatively stable justice systems;
- comparatively well-developed systems of public administration and public financial management;
- experience of performance management and budgeting concepts within the justice sector; and
- readily available information and data on public financial management practices and justice sector budgets for recent years.

Meeting these criteria does not imply that these countries necessarily represent international “best practice” with regard to the administration of justice or public financial management. Nonetheless,

they provide, individually and collectively, valuable insights into the development of performance-oriented budgeting practices in public management generally and in relation to judicial administration in particular. In this way, these examples provide both a general guide and useful specific examples of how governments, especially those in less advanced countries, might successfully incorporate some of the latest developments in government budgeting into their judicial reform programs.

It is generally accepted that the improved budget practices implemented in recent years in these countries have clearly assisted the modernization of their judicial processes, in large part by helping to focus attention on issues of managerial quality and capability within the judicial sector. However, important changes and improvements within judicial administrations have also been attributable to many other public management reforms and factors (internal and external to the sector) that are outside the scope of this study. With a couple of exceptions, the following sections do not provide detailed analysis or examples of the judicial sector improvements that specifically resulted from these advanced budgeting practices; indeed, there is only limited research evidence to date of the specific effects of these initiatives. However, one clearly evident feature of these budgeting innovations has been their contribution to promoting and developing a more skilled, engaged and professional managerial cadre within the judicial sector.

United Kingdom

The Framework for Budget Management

The U.K. government has been pursuing a performance-oriented approach to the budgeting and management of public expenditures for more than five years. This approach was developed jointly by the National Audit Office, Audit Commission, Cabinet Office, Office for National Statistics and HM Treasury. Its aims include ensuring that Parliament, the government and the public are equipped with “world class performance measurement and reporting systems.”⁶

The government describes performance information as “a cornerstone of our commitment to modernise [*sic*] government.” It sees performance information as providing “some of the tools needed to bolster improvements in public sector performance including improving accountability, performance management, risk management and business planning. Good quality information also enables people to participate in government and exert pressure for continuous improvement. In addition to empowering citizens, this information equips managers and staff within the public service to drive improvement. Performance information is thus a catalyst for innovation, enterprise and adaptation.”

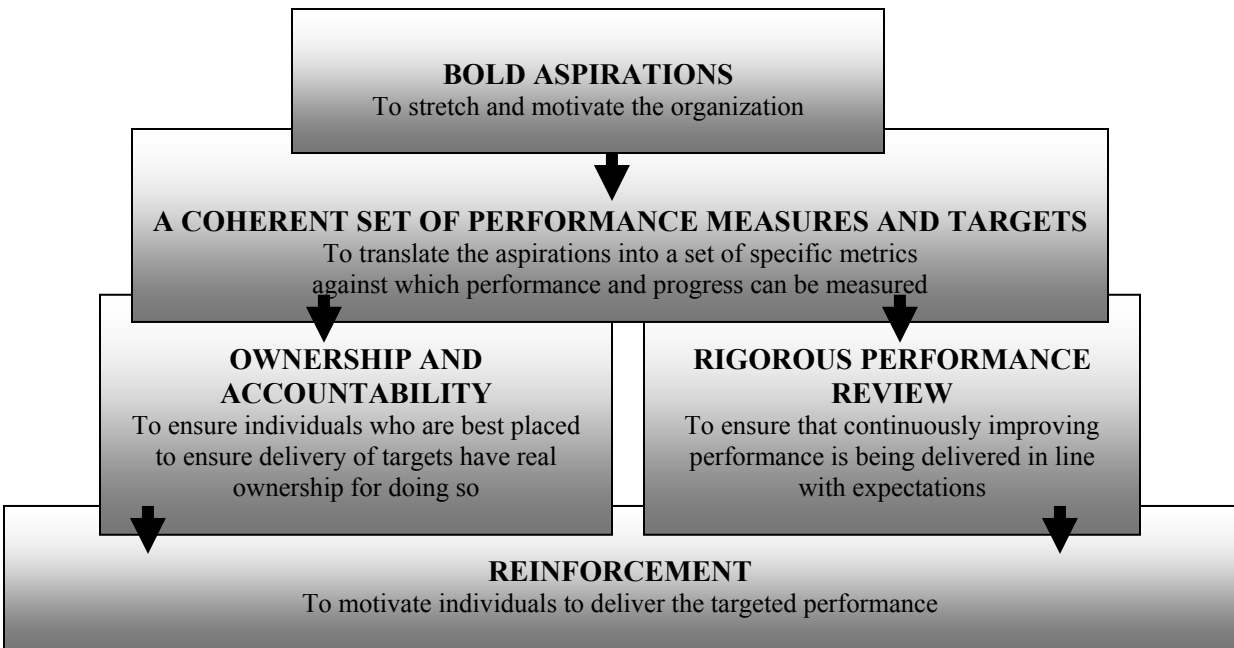
The Performance Management Context

The U.K. approach to performance budgeting sits within an overall performance management framework (or “performance information system,” as it is called) that aims to raise both the planning and implementation capabilities of spending departments. Figure 1.⁷ depicts the overall performance information system

⁶ Her Majesty’s Treasury, (2001), *Choosing the Right Fabric: A Framework for Performance Evaluation*, Government of the United Kingdom, Available at: www.hm-treasury.gov.uk/documents/public_spending_and_services

⁷ Ibid, Footnote 6.

Figure 1. Public Sector Performance Information System



This performance management framework is underpinned by a detailed “business planning” approach at various levels of government. Thus the business plans of individual public-sector entities (e.g., departments, divisions and operational units such as the courts) are expected to “cascade down” from high-level strategies to the responsibilities of individual staff members. In terms of the judicial sector, business planning extends down to the level of individual courts and court officers. Relevant performance measures and standards are designed and monitored at each level.⁸

In allocating budget resources, the performance information approach is then meshed with performance-oriented budgeting concepts and terminology such as *inputs*, *outputs* and *outcomes*.

Developing a Performance Information System: FABRIC

As in other highly developed public administrations, the U.K. government has devoted considerable effort and resources to helping departments develop meaningful performance criteria and measures. This task has involved developing an effective basic performance information structure, plus the capacity of departments to adjust their objectives and measures to ensure that the right, and most important, expenditure policies and goals are delivered.

To assist departments, the government has promulgated what it refers to as the *FABRIC* set of performance system principles (see Box 1), which are comprised of broad criteria.

⁸ The U.K. Government uses “standards” to describe minimum acceptable levels of performance.

Box 1. FABRIC: Criteria for a Performance Information System

Focused	<i>The performance information system should focus on the organization's aims and objectives.</i>
Appropriate	<i>The information being collected should be appropriate to, and useful for, the stakeholders who are likely to use it.</i>
Balanced	<i>The performance measures should give a balanced overall picture of what the organization is doing—covering all significant areas of work.</i>
Robust	<i>The performance information system should be able to withstand organizational changes or individuals leaving.</i>
Integrated	<i>The performance information system should be integrated into the organization and be a part of business planning and management processes.</i>
Cost Effective	<i>The resources put into collecting performance information should be proportionate to the benefit which the information brings.</i>

The government recognizes that setting up a performance information system is “as much an art as a science.” It acknowledges that departments must balance competing demands across these criteria. For example, “the *focus* criterion urges concentration on the measurement of key objectives, while the *balance* criterion suggests that measures must capture all important areas of activity, and major dimensions—quantity and quality—of performance.”⁹

Performance Targets: Public Service Agreements and Service Delivery Agreements

The U.K. performance information system can be seen as a pyramid structure that is designed to support the achievement of the “bold aspirations” of each government department. At the top of this pyramid, the overarching strategic framework for a department is provided by a set of public service agreements (PSAs) and service delivery agreements (SDAs). These agreements are published annually by the government as part of the budget process. Each PSA represents a key policy priority, or strategic objective, and is accompanied by a measurable target(s).

SDAs are also published for each department. SDAs explain both how the government proposes to deliver the high-level targets in the PSA and how it will modernize and reform to get better value for its money. The content of SDAs may vary from year to year, or as the respective PSAs change, and the targets associated with them are not always conceptually distinct from the PSA targets. Nonetheless, they jointly comprise a reasonably comprehensive set of performance measures.

Finally, within this pyramid, each department is required to develop (lower-level) targets for internal management that are linked to the PSA and SDA targets. These targets also measure a variety of outcomes, outputs and inputs. Many individual members of staff have targets linked to the targets of their department. Targets are required to be SMART: specific, measurable, achievable, relevant and timed. It is important to note that increased managerial flexibility, combined with appropriate mechanisms for improved accountability, have been a key element in enabling managers and staff to manage resources in ways that address these targets more effectively.

Performance Measures

The design of performance measures is closely related to the selection of targets at each level of the system. The government has established eight criteria to assist departments in the design of performance measures:

- **Relevant** to what the organization is aiming to achieve
- Able to **avoid perverse incentives**, i.e. ,not encourage unwanted or wasteful behaviour
- **Attributable**—the activity measured must be capable of being influenced by actions that can be attributed to the organization
- **Well-defined**—a clear, unambiguous definition is required so that data will be collected consistently and the measure will be easy to understand and use

⁹ HM Treasury, (2001), *Choosing the Right Fabric: A Framework for Performance Evaluation*, Government of United Kingdom, 17. Available at: www.hm-treasury.gov.uk/documents/public_spending_and_services.

- **Timely**—produces data regularly enough to track progress and quickly enough for the data to be useful
- **Reliable**—accurate enough for its intended use and responsive to change
- **Comparable**—with either past periods or similar programs elsewhere
- **Verifiable**, with clear documentation behind it, so that the processes which produce the measure can be validated.

Central Monitoring and Support for Improved Performance

A degree of central monitoring and support for government agencies engaged in performance improvement is provided by the Prime Minister's Delivery Unit (PMDU). Its stated aim is to assist the government to “improve public services by working with departments to help them meet their PSA targets consistently with fiscal rules.”

In conjunction with the Treasury, the Prime Minister's Office, other parts of the Cabinet Office and stakeholder departments, the PMDU plays an important role in assessing the quality of delivery in government services and supports the performance management of departments responsible for key delivery areas. It performs this role by:

- monitoring and reporting on delivery of the Prime Minister's top priorities;
- identifying key barriers to improvement and the actions needed to strengthen delivery;
- strengthening departments' capacity to deliver, through capability reviews and sharing knowledge about best practice in delivery; and
- supporting the development of high-quality PSA targets that will effectively incentivize improvements in public services.¹⁰

Justice Sector Budgets

Tables 1–3 show how the performance management framework is applied in practice to justice sector budgets and judicial administration in particular.

Justice Sector Appropriations

Funding of the justice system in the UK is distributed across a number of departments and agencies. The major departments include the Department for Constitutional Affairs (DCA), the Home Office and the Lord Chancellor's Department.

The major part of the budget of the DCA is allocated under the broad category of “Justice Rights and Democracy” (see Table 1). A significant portion of the budget of the DCA is dispersed through

¹⁰ Further information on the role of the PMDU is available at www.cabinetoffice.gov.uk/pmdu.

other agencies, such as Her Majesty's Courts Service (HMCS) and the Legal Services Commission, for the delivery of specific operational aspects of judicial administration. The HMCS carries out courts administration and support services for the Court of Appeal, the High Court, the Crown Court, the magistrates' courts, the county courts and the Probate Service.

The funding of other justice-related activities is channeled through separate departments. For example, the administration of prisons and the probation service have, since 2004, been brought together under the National Offender Management Service (NOMS), itself under the Home Office. The latter is also the oversight agency for the Police Service and responsible for managing the government's crime reduction strategies.

Management and administration of the judiciary has long been the responsibility of the Lord Chancellor's Department. The Lord Chancellor is also the Secretary of State for the DCA and the Speaker of the House of Lords (in effect, the U.K. "Supreme Court"), the administrative support for which is provided by the Clerk of the Parliaments.

Major Budget Programs of the DCA: Budgeting by "Objectives"

The major expenditure programs of the DCA on judicial administration functions ("Request for Resources, category 1") are expressed in the form of six major "objectives" (see Table 2). Each of these objectives is underpinned by a statement of *what* the Department expects that funding to achieve and, in very broad terms, *how* it seeks to do so.

These budget objectives are essentially statements of desired "outcomes" for which a specific level of resourcing (i.e., share of the department budget) is assigned. The estimated budget cost of each objective is, however, determined through a bottom-up process of costing of inputs and outputs. Detailed reporting of *actual* expenditures of the Department remains predominantly on an administrative sub-agency and inputs basis.¹¹ Resources may be moved annually between different objectives and new or revised objectives may be introduced during the appropriation process. However, objective statements are generally sufficiently broad that the range of outputs (e.g., services) can vary widely from year to year.

Relevant Performance Targets and Measures

The major expenditure programs (objectives) cited in Table 2 are constrained to and aligned with the specific responsibilities and government-approved strategies of the DCA. The PSA targets and performance measures agreed with the government provide much greater specificity concerning what the department will do and how it will do it. Table 3 shows these major targets and measures for 2004/05 as they relate to the DCA's judicial administration functions.

In most cases, targets are supported by a range of quantitative performance measures. This enables clear tracking by the government (especially central agencies such as PMDU and HM Treasury) of improvements in both service delivery and outcome achievement. Although these quantitative (or trend) measures are generally specific to the U.K. courts, they reflect desired improvements in service levels and judicial effectiveness that are common to many other countries and court systems.

¹¹ As contained, for example, in the Department of Constitutional Affairs, *Resource Accounts 2004-05*. Available at: www.dca.gov.uk/dept./report2005.

Notably, court user and public opinion surveys conducted either by the DCA, HMCS or outside agencies play an important part in supporting the performance information system and helping establish and drive a “culture of change” within the sector.

PSA targets are generally assigned to specific budget objectives. However, PSA targets may not be applied to all major spending programs. In this case, they apply to objectives I, II and III only. Nonetheless, the performance reporting of the department normally includes what it has achieved against other objectives in terms, for example, of new initiatives or outputs that may contribute to them (see Table 4).

Table 1. Structure of U.K. Department of Constitutional Affairs Budget¹²

Appropriations: “Request for Resources” (RfR)	Administering Agency
<ol style="list-style-type: none"> 1. Justice, Rights and Democracy (including Her Majesty’s Courts Service) 2. Funding to the Scottish Executive 3. Funding of the National Assembly for Wales 	Department of Constitutional Affairs (DCA); including Courts Service and Legal Services Commission DCA / Scotland Office DCA / Wales Office

Table 2. Request for Resources 1: Justice Sector

Major Programs (Funding by “Objectives”)	Performance Statement
I. To ensure the effective delivery of justice	“DCA works with others across Government and with local partners to reduce crime and anti-social behaviour and empower people to exercise their rights and enforce their responsibilities. We work to reduce the number of ineffective trials and to guarantee the rights of defendants while ensuring that the public are protected and that jurors, victims and witnesses are treated with respect and care.”
II. To ensure a fair and effective system of civil and administrative law	“DCA works to deliver a fair and effective system of civil and administrative law in order to help reduce anti-social behaviour, tackle asylum abuses and create sustainable communities. We work to give people access to a choice of proportionate and low-cost ways to resolve disputes including alternatives to court-based systems. We work to make sure that costs are kept to a minimum, delays are avoided and judgments are enforced so that excellent customer service becomes the norm.”
III. To reduce social exclusion, protect the vulnerable and children, including	“DCA works to improve access to justice especially for the socially excluded and vulnerable so that everyone can protect their rights in law. We are increasing the

¹² The budget and performance information cited in these tables is based on 2004/2005 fiscal year budget documentation, including targets determined by the Spending Review 2002. These targets were revised slightly in the Spending Review 2004 and are to be reported against in 2005/2006 fiscal year.

<p>maintaining contact between children and a non-resident partner after a family breakdown, where appropriate</p>	<p>effectiveness of the civil and criminal justice system for domestic violence cases, improving decision making for people with impaired mental capacity, and ensuring that children’s welfare remains paramount. Recent legislation has given transsexual people proper legal recognition in their acquired gender.”</p>
<p>IV. To modernise the constitution and ensure proper access to information by citizens</p>	<p>“DCA seeks to establish mutual trust between the citizen and the state by strengthening our democratic process and institutions, supporting greater freedom of information and ensuring citizens’ own personal information is handled with care. We are making it easier for people to vote, reforming the office of Lord Chancellor and creating a new Supreme Court, setting up an independent Judicial Appointments Commission and promoting better understanding of human rights.”</p>
<p>V. To increase consumer choice in legal services by improving information and by promoting competition</p>	<p>“DCA promotes better access to the justice system by working towards the creation of a market where everyone can get legal services at affordable cost. Conditional fee agreements and moves to increase out-of-court settlements and alternative dispute resolution procedures are part of this work. Following an independent review of the regulatory framework for legal services, we will publish a White Paper in autumn 2005 with legislation to follow. We will set the parameters of the regulatory framework – which will include the roles of a new Legal Services Board, a new Office for Legal Complaints and the professional bodies – and make it possible for legal services to be provided in new ways.”</p>
<p>VI. To deliver justice in partnership with the independent judiciary</p>	<p>“DCA works to improve the public’s confidence in the justice system by working in partnership with magistrates and judges to make sure courts are efficient and understand the problems of their communities. We work to ensure that the justice system serves everyone irrespective of their gender, race, religion or sexual orientation. The new Judicial Appointments Commission will establish better transparency and accountability in the selection of judges and open up the bench to a wider diversity of candidates.”</p>

Table 3. “Public Service Agreement” (PSA) Targets and Measures

Target	Relevant Objective	Measures
<p>1. To improve the delivery of justice by increasing the number of crimes for which an offender is brought to justice¹³ to 1.15 million by 2005/06 (1.125 million by 2007/08); with an improvement in all Criminal Justice System (CJS) areas, a greater increase in the worst performing areas and a reduction in the proportion of ineffective trials.</p>	<p>I</p>	<ul style="list-style-type: none"> - Total number of crimes for which an offender is brought to justice (excludes minor motoring offences) - Number of offences brought to justice in 42 CJS areas, cf. baseline 2001/02 - Average performance improvement in worst CJS areas, cf. national average performance improvement for 2001/02 to 2005/06 - Proportion of ineffective trials: target reduction from 24% to 17% in Crown Court and from 31% to 23% in magistrates’ courts by 2006
<p>2. Improve the level of confidence in the Criminal Justice System, including increasing that of ethnic minority communities, and increasing year on year the satisfaction of victims and witnesses, while respecting the rights of defendants.</p>	<p>I</p>	<ul style="list-style-type: none"> - Level of public confidence,¹⁴ cf. the baseline year 2002/03 - Level of confidence¹⁵ among black and minority ethnic people, cf. the baseline year - Year on year increase in satisfaction of witnesses: target rise of 3% - Rights of defendants (on evidential basis)
<p>3. Reduce the proportion of disputes resolved by resort to courts</p>	<p>II</p>	<ul style="list-style-type: none"> - Number of non-family claims in civil courts: target reduction of 11.8% - Proportion of allocated (i.e. defended) cases that are resolved by a hearing: target reduction of 1.9% - Number of hearings: target reduction of 9.3% - Proportion of Contact and Ancillary Relief Orders made by consent: target increase of 2.8%

¹³ ‘Offences brought to justice’ counts the number of offences that someone is convicted of, cautioned, has had taken into consideration by the court, or for which they receive a penalty notice (either for harassment, shoplifting or vandalism). Formal warnings for the possession of cannabis are also included. Only notifiable cases are counted.

¹⁴ As measured in the British Crime Survey, a public opinion survey on the effectiveness of the Criminal Justice System.

¹⁵ A minimum 3% increase is required for this measure to show statistical significance.

<p>4. Increase year on year the level of satisfaction of users by taking speedy, high-quality decisions and reducing unnecessary delay and cost, and by ensuring that outcomes are enforced effectively</p>	<p>II</p>	<ul style="list-style-type: none"> - Customer satisfaction with: <ul style="list-style-type: none"> - knowledge of court staff at public counter: 85% target - knowledge of staff on telephone service: 80% target - speed of resolution of complaints: 60% target - helpfulness of written communication: 80% target - Award of Charter Mark status to courts and units: 95% target - Complaints answered within target timescales: 85% target - Administrative transactions completed within 5 days: 94% target - Percentage of civil cases heard within target periods for allocation to hearing: various targets - Percentage of Public and Private Law Children Act cases and adoption cases dealt within target periods: various targets - Number of opportunities for county courts and magistrates courts to share accommodation: target of 30 - Establishment of a cost indicator (by April 2004) - Amounts of money on enforceable warrants as percentage of total value of enforceable warrants: 80% target - Percentage of Charging Orders processed within applicable timescales: 70% target - Percentage of Third Party Debt Orders processed within applicable timescales: 70% target - Percentage of Attachment of Earnings Orders processed within applicable timescales: 70% target
<p>5. Focus the asylum system on those genuinely fleeing persecution by taking speedy, high- quality decisions and significantly reducing unfounded asylum claims by:</p> <ul style="list-style-type: none"> • fast turnaround of manifestly unsound cases • ensuring by 2004 that 75% of substantive asylum applications are 	<p>II</p>	<ul style="list-style-type: none"> - Speed of turnaround of manifestly unfounded cases - Number of substantive asylum applications decided within two months - Number of substantive asylum applications, including final appeal, decided within six months: 65% target

<p>decided within two months and a proportion, including final appeal, are decided within 6 months</p> <ul style="list-style-type: none"> enforcing immigration laws more effectively by removing a greater proportion of failed asylum seekers 		
<p>6. Increase year on year the number of people who receive suitable assistance in priority areas of law involving fundamental rights or social exclusion</p>	III	<p>- Number of people receiving suitable assistance in priority areas of law: target increase from 31% to 34% (as measured by the triennial National Periodic Survey of Legal Need)</p>
<p>7. Increase value for money from the Criminal Justice System by 3% per year, increasing efficiency of justice by at least 2% per year, including the delivery of legal aid</p>	N/A	<p>- Annual expenditure savings (through various, explicit, targeted actions and administrative measures)</p>

Table 4. An Example of Performance Reporting Against Objectives without a PSA Target

Objective	Performance Reporting (by DCA)
<p>VI. To deliver justice in partnership with the independent judiciary</p>	<p>1. We will continue our work on improving and modernising the judicial appointments process, in particular through:</p> <ul style="list-style-type: none"> implementation of competence-based selection for all appointments up to Circuit Judge, and piloting assessment centres for Recorders (Western Circuit) and Employment Tribunals, and applying for the Charter Mark for Judicial Appointments. <p>2. We will take forward work to open up both the professional judiciary and the lay magistracy to a more diverse range of candidates by:</p> <ul style="list-style-type: none"> developing a strategy to increase diversity in the judiciary, continuing and expanding our program of events, organized with both branches of the legal profession, to encourage eligible women, ethnic minority and disabled lawyers to apply for judicial appointments,

	<ul style="list-style-type: none">● implementing a National Strategy for Recruitment of Magistrates, including continuation of the Magistrates Shadowing Scheme in conjunction with Operation Black Vote to attract more candidates from ethnic minority communities, and● developing new recruitment material and a strategy to target employers to persuade them of the benefits of supporting their staff who are magistrates. <p>3. We will continue to develop a new relationship with the judiciary by taking forward our plans for the creation of:</p> <ul style="list-style-type: none">● an independent Judicial Appointments Commission, and● a new Judicial Appointments and Conduct Ombudsman.
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France

The Framework for Budget Management

France has only recently introduced major public financial reforms and provides a less advanced example of the application of performance-oriented concepts, compared to the other developed public administrations surveyed in this study. Even so, it has taken significant steps to break with a tradition of expenditure-oriented (compliance-based) budgets by drawing up a new system based on a “program budget.” The major goal has been to introduce modern budgeting concepts that will increase transparency in public finances and give departments greater autonomy and responsibility for their expenditure activities. The new organic budget law was passed in 2001 and its implementation is expected to be fully effective as of 2006.¹⁶

A Program-based Budgeting Approach

The French government has introduced new programmatic budget concepts based on a tiered structure:

Table 5. Budget Tiers of the French Government

Level	Title (in French)	Description
Highest	<i>Missions</i>	Appropriations by major public policy sectors (e.g., justice)
Second	<i>Programmes</i>	Defined in terms of major functional activities
Third	<i>Actions</i>	Operational sub-programs

The Ministry of Economy, Finance and Industry has stated that the previous budgetary structure based on budget chapters obscured the ultimate aims of budget appropriations, as well as the costs of the administrative policies and structures under them. Although ministers and departments received their appropriations through a multiplicity of separate chapters, there was very limited budget flexibility (and what flexibility existed was not readily transparent). In fact, the French budget system invariably scored poorly in terms of its capacity for effective resource allocation.

Under the new structure, appropriations may not be re-allocated between programs. However, the initial breakdown of program appropriations into sub-programs (actions) and types of (input) expenditure (*titre*) is “entirely indicative.” This enables appropriations to be adjusted, within limits, by managers to meet perceived needs for more effective budget implementation.¹⁷

These changes to the budget allocation process are supported by a shift to a “commitment accounting” basis. This will enable program managers to operate on a multi-year budget implementation time frame with the flexibility to negotiate the carry-over of some funds (up to 3% of appropriations) at the end of each fiscal year.

¹⁶ “Loi organique n. 2001-692 du 1er aout 2001 relative aux lois de finances.” Available at: www.minefi.gouv.fr/lolf.

¹⁷ This flexibility is not extended to civil service recruitment numbers or their total costs.

The new budget structure includes some performance management concepts. Each program comprises a number of objectives that provide a goal statement for measuring performance. In addition, program managers will be clearly identified at both national and local levels. Local spending departments are expected to play a much increased role in managing government policies, but within the context of a centrally defined strategy.

In exchange for increased autonomy of financial management, program managers are expected to be accountable via a set of targets and results indicators. The government has so far established three broad criteria, or categories, on which to assess performance. These categories reflect three different standpoints in an assessment process.

Table 6. Assessment Criteria of French Government Budgeting Process

Standpoint	Goal
Citizen	Social and economic effectiveness
User	Quality of service
Taxpayer	Efficiency

The specific goals and performance measures that surround policy implementation and the assessment process are stated in an Annual Performance Plan (APP). These Plans are appended to the Budget Act. Both ministers and managers must be committed to these Plans and are expected to report achievements against the same framework in an Annual Performance Report (APR).¹⁸ The Report is also appended to the annual Budget Review Act. The APR must be submitted to Parliament and reviewed before the following year's Budget Act is passed.

Under the new system, Parliament also has a substantially increased role and level of discretion over spending decisions. Previously, most appropriations (94% in 2004) were renewed virtually automatically from one year to the next. Debate would therefore focus only on a very small proportion of total spending. Now, all 47 *missions* (100% of appropriations) are debated. This measure has significantly restored the balance of power between the government and the Parliament.

Justice Sector Budgets

Tables 7–12 reflect the application of these new performance budgeting concepts to the justice sector in France and to judicial administration in particular. It must be remembered that the new system was only introduced in 2005 and that further expansion and refinement—as a result of experimentation and ongoing development of objectives and indicators—is inevitable.

¹⁸ The delineation of accountability for performance between ministers and public-sector managers remains a grey area. Parliament continues to hold ministers primarily accountable, although their ability to influence directly the performance of their respective departments is significantly less than that of their civil service managers.

Major Programs (“Programmes”)

Expenditures for the Justice Sector (*mission justice* in French) are divided into five major programs for 2006 (see Table 7). For each program, a number of policy and performance objectives have been developed.

The largest of these programs, Administration of Justice (Civil and Criminal) is shown in Table 8. Although not depicted here, sub-programs are constructed mainly on the basis of functional jurisdiction, i.e., the different levels of courts and tribunals within the judicial system.

The objectives for this program relate primarily to the efficiency with which judicial processes and decisions should be taken and supporting actions and services implemented. However, one objective—to enhance and diversify the response to crime—is more “outcome-oriented,” in the sense of addressing issues of policy effectiveness within the criminal justice area.

Programs 2-5 (Tables 9–12) tend to follow the structure of other developed-country justice sector administrations by assigning expenditures according to prisons, youth protection and legal aid. In each case, the objectives identified so far concentrate mostly on efficiency issues, although there is some recognition that expenditures also need to focus on longer-term systemic objectives, such as levels of re-offending, access to justice and the fairness of treatment.

Performance Measurement

The performance indicators assigned to each of the objectives in these justice sector programs reflect a predominant interest in efficiency. As with many developed judicial administrations, the range of performance indicators used for budget management purposes is narrower than the total range of measures and data that are usually collected by judicial sector entities and service providers. In other words, the application of performance concepts in budgeting for the justice sector does not require a comprehensive analysis of court statistics, for example, although there may well be other judicial or public information reasons for improving and expanding the collection of judicial data. Rather, good budget management requires collecting and reporting information on *key* indicators that best reflect the efficiency and impact of budget resources over time.

The performance indicators proposed for courts management (Table 8) may, however, present problems of interpretation. The French authorities appear to place considerable emphasis on trends in the number of cases, or the number of cases per type of resource cost (judges, civil servants, etc.) as an indicator of efficiency. This can be misleading where the increasing complexity of the law, or frequency of changes to the law, may have a significant bearing on the duration of cases. Indicators of this type must be interpreted with care so that the trade-off between efficiency objectives and judicial fairness is not unsound due to the limited understanding of budget officials of the impacts of these changes on a legal or courtroom environment.

Table 7. French Justice Sector (*Mission Justice*) Program Structure (2006)

Programs
<ol style="list-style-type: none"> 1. Administration of Justice (Civil and Criminal)¹⁹ 2. Prison Administration 3. Judicial Protection of Youth 4. Access to Law and Justice (Legal Aid) 5. Managing Justice Policies and Related Institutions

Table 8. Program 1 – Administration of Justice (Civil and Criminal)

Major Objectives	Performance Indicators
Deliver decisions in civil matters within a reasonable time frame	<ul style="list-style-type: none"> - average time for procedures by type of jurisdiction - average duration for handling of civil cases by type of jurisdiction - average age of backlog cases by type of jurisdiction - average time for delivery of the decision that has the quality of an execution title - rate of requests for interpretation or rectification of errors or omissions to make a decision - number of cases handled per judge and prosecutor –(in full-time equivalents, or FTE) - number of cases handled per civil servant (in FTE)
Deliver quality decisions in criminal matters within a reasonable time frame	<ul style="list-style-type: none"> - average reaction for response to crime - rate of refusals by the national judicial registry - average time for the transmission of criminal conviction files to the national judicial registry - number of criminal cases handled per prosecutor (in FTE) - number of criminal cases handled per judge (in FTE) - number of criminal cases handled per investigating judge (in FTE)
Enhance and diversify the response	<ul style="list-style-type: none"> - rate of response by the criminal justice system

¹⁹ In 2006, this program combines elements of two previous programs: *Justice administrative* and *Justice judiciaire*.

to crime	<ul style="list-style-type: none"> - rate of alternatives to imprisonment (except for simple admonishments)
Improve the execution of decisions in criminal matters	<ul style="list-style-type: none"> - enforcement rate - average time for enforcement
Manage the increase in judicial costs in criminal matters	<ul style="list-style-type: none"> - average judicial cost per case receiving a response by the criminal justice system
Ensure timely registration of judicial decisions and accelerate the delivery of the bulletin (gazette)	<ul style="list-style-type: none"> - time frame for treatment after reception of the judgment files - rate of use of IT for requests for bulletins number 1, 2, and 3

Table 9. Program 2 – Prison Administration

Major Objectives	Performance Indicators
Enhance security of prisons	<ul style="list-style-type: none"> - number of escapes (high-security section, low-security section, during transport) - number of incidents
Adapt facilities to different categories of detainees (i.e., youth and adults)	<ul style="list-style-type: none"> - cost of a day of detention compared to the occupancy rate by type of structure (i.e., youth or adults)
Develop adjustments to criminal sentences	<ul style="list-style-type: none"> - percentage of detainees who are beneficiaries of adjustments to their sentence
Allow for the continuation of family relations (reception of families)	<ul style="list-style-type: none"> - percentage of facilities equipped for family meetings - percentage of facilities equipped for hosting children
Enhance access to health services	<ul style="list-style-type: none"> - number of cases referred for external medical treatment (ratio of external consultations), including to the Interregional Secure Hospital (UHSI)
Create favorable conditions for professional reintegration of convicts	<ul style="list-style-type: none"> - percentage of detainees receiving general or professional education (minimum number of hours) - percentage of detainees undertaking remunerated activities (work or professional training)

	<ul style="list-style-type: none"> - percentage of detainees who are part of a project for post-detention re-integration
Improve the time frame for follow-up with convicts on parole	<ul style="list-style-type: none"> - average time for follow-up between the notification by the penitentiary judge and the date of the first interview with a social worker

Table 10. Program 3 – Judicial Protection of Youth

Performance Indicators	
Improve the treatment of youth detainees	<ul style="list-style-type: none"> - rate of educational follow-up vis-à-vis detained youth, i.e., number of places in youth sections/total number of places occupied in youth sections - average time for implementation of judicial measures - percentage of departments having established an emergency center - degree of multi-disciplinary in the administrations and facilities (public sector)
Contribute to the quality of judicial decisions via investigations	<ul style="list-style-type: none"> - rate of follow-up by judges and prosecutors on recommendations from the Judicial Institutions for Youth Protection in the context of investigations: number of investigations having led to follow-up by a judge or prosecutor endorsing the recommendations divided by total number of investigations - quality index for investigation measures by the Judicial Institutions for Youth Protection (public sector and licensed private-sector agencies): number of satisfied responses by judges and prosecutors per total number of responses by judges and prosecutors
Optimize the use of human, financial and material resources	<ul style="list-style-type: none"> - occupancy rate of facilities - rate of activity by category of personnel for every type of measure (public sector) - total cost of judicial measures by day or activity (public-sector and licensed private-sector agencies)
Contribute to the protection of endangered youth	<ul style="list-style-type: none"> - rate of positive evolution of endangered youth (public sector): ratio of the number of measures taken under the educational assistance mandated by the Judicial Institutions for Youth Protection that are not renewed or followed by a decision based on less severe reasons to the total number of measures of educational assistance

Enhance via educational support the social, scholastic and professional re-integration of youth under judicial mandate	<ul style="list-style-type: none"> - rate of registrations for ordinary handling after termination of judicial sentence or measure
Prevent repetition of criminal activity and recidivism	<ul style="list-style-type: none"> - percentage of youth taken care of by the criminal justice system who do not re-offend within one year after the termination of judicial sentence or measure,
Respond to the need for justice or compensation vis-à-vis victims and society	<ul style="list-style-type: none"> - percentage of youth placed into the care of the criminal justice system for which a restorative measure vis-à-vis the victim or society has also been imposed

Table 11. Program 4 – Access to Law and Justice (Legal Aid)

Major Objectives	Performance Indicators
Improve the time frame for treatment of requests for legal aid	<ul style="list-style-type: none"> - national average time for treatment of a request for legal aid - percentage of legal aid bureaus whose time frame to deal with request for legal aid exceed two months
Manage the costs for the administration of a legal aid file	<ul style="list-style-type: none"> - cost for making a legal aid decision by the legal aid bureau
Develop a quality response to the needs of legal information by citizens in Law and Justice Service Centers and in the framework created by the Departmental Councils for access to law (CDAD)	<ul style="list-style-type: none"> - client satisfaction survey: percentage of people satisfied with initial environment of the service; - percentage of people satisfied with the quality of the service - numbers of people informed of and accessing the permanent legal services set up by the CDAD as a proportion of the population covered by the CDAD
Timely delivery of compensation to crime victims	<ul style="list-style-type: none"> - average duration of treatment of requests by crime victim compensation commissions
Develop efficiency of rules allowing for the defense and compensation of	<ul style="list-style-type: none"> - satisfaction index amongst victims of crime (with outcomes of the judicial process)

victims	
Develop assistance for victims through a specialized network of victim support agencies	<ul style="list-style-type: none"> - evolution N/N-1 of the number of victims taken care of by the associations and evolution of the number of files handled by the agencies - cost per claiming victim, as managed by National Institute of Assistance to Crime Victims and Mediation (INAVEM)

Table 12. Program 5 – Managing Justice Policies and Related Institutions

Major Objectives	Performance Indicators
Timely adoption of secondary legislation required to adapt the law to the evolution of society	<ul style="list-style-type: none"> - publication rate of secondary legislation (application decrees)
Ensure maximum reduction of average time frame for recruitment of positions in the central administration	<ul style="list-style-type: none"> - average time for appointment of an employee by type of recruitment: contractual recruitment, internal mobility, detached activity
Ensure efficient personnel administration	<ul style="list-style-type: none"> - average management cost per employee
Optimize the management of capital development projects	<ul style="list-style-type: none"> - Non-compliance with delivery date for operations undertaken during the year (in absolute terms and as a percentage) - Cost for each square meter of newly built and renovated judicial and prison space - Non-compliance with delivery costs for operations undertaken during the year (in absolute terms and as a percentage)
Optimize logistical management of central services	<ul style="list-style-type: none"> - expenditure for logistical support by employees of the central administration
Optimize management of big information technology (IT) projects	<ul style="list-style-type: none"> - percentage of compliance with the duration of operations (exceeding 1 million euros) undertaken during the year - percentage of non-compliance with contractual costs for projects exceeding 3 million euros

New Zealand

The Framework for Budget Management

The New Zealand Government has been developing performance budgeting concepts since major public-sector and financial management reforms were introduced in the late 1980s. The application of these concepts initially involved a major budget innovation: “output-based budgeting.” This approach was introduced from 1989 and continues in 2006. However, during the last four years, it has been overlaid by an increased managerial focus on outcomes, officially referred to as the “Managing for Outcomes in the Public Service” (MfO) initiative.²⁰

The Government describes Managing for Outcomes in the Public Service as “an outcome-based approach to departments' planning, management and reporting. Its aim is to improve the performance of the Public Service and require departments to adopt a strategic and outcome-focused approach to planning, management and reporting while focusing on delivering outputs.”

This amalgamation of performance budgeting and management concepts—often referred to in the literature as “new public management”—is not unique to New Zealand, but it has been implemented more widely there than in most other public sectors. Although the approach is undergoing constant modification, the core elements are now firmly embedded in the operation of all New Zealand public departments and agencies.

The Performance Management Context

The New Zealand approach to performance management has certainly been strongly influenced by U.K. concepts and experience, but differs from them in several important respects. First, the New Zealand approach is based on a *performance contracting* relationship between the government (ministers) and public-sector organizations (chief executives), in which ministries and/or departments are explicitly contracted to deliver the *outputs* specified in their annual appropriation. These outputs are, effectively, an agreed package of goods and services for which performance is specified in both quality and quantity terms.

For purposes of annual appropriation, the contracted outputs are mostly grouped under “output classes” according to the type of outputs and/or their broad objective. Some of these output classes resemble “programs,” but many do not. Their expected cost is determined by periodic reviews of “output prices” agreed between departments and the Treasury, rather than being built on an input-cost basis. Ensuring delivery of agreed outputs has been a fundamental mechanism for improving accountability and performance in many departments.²¹

This broad structure provided the principal basis for departmental budgeting and appropriations until approximately 2001. However, concern increased throughout the late 1990s with the apparent

²⁰ For a full description of this approach, as well as major guidance materials on its application for departments and reviews of its effectiveness, refer to: www.ssc.govt.nz/managing-for-outcomes.

²¹ Although departmental appropriations are broken down into several output classes, the uncertain and inconsistent nature of these groupings has limited their effectiveness as a tool for either managing and reporting expenditures or maintaining accountability.

lack of emphasis on the purpose, or outcome, of the outputs produced. Since 2001, departments have been increasingly required to develop a more “strategic” approach to the implementation of expenditure activities. Managing for Outcomes (MfO) is an evolving process aimed at assisting this objective.

A key element in this latest evolution of the budgeting process has been the preparation by each department of an annual strategic document: the Statement of Intent (SOI). A key function of the SOI is to make the policy outcomes pursued by a department much more explicit, as well as how these outcomes are derived from the policies and resourcing decisions of the government. The SOI therefore aims to make clear how the provision of agreed outputs will support the achievement of the desired outcomes.

For the first few years, many departments struggled to develop a clear, meaningful and achievable set of outcomes. This task has continued to prove more difficult in some sectors than in others, although most eventually settled on a broadly satisfactory description. More recently, the major challenges in the budgeting process have become developing effective linkages between outputs and these intended outcomes and underpinning outcomes with useful and consistent performance measures.

Forming effective linkages between outputs and outcomes requires departments to consider and articulate an intervention logic, i.e., a rationale for their activities that demonstrates where various policies and outputs can be effective in supporting the achievement of outcomes. For this reason, many departments have developed intermediate outcomes (in effect, a form of “expected results”) as a way of bridging the gap between what they can reasonably demonstrate as impacts of departmental policy or service outputs and higher-level social, economic or environmental outcomes of major interest to politicians and the public.

Continuing reliance on the output model—especially the absence of explicit and clearly articulated program frameworks with specific objectives—has not made this an easy task. In practice, however, many departments are now finding that by organizing their activities (at least implicitly) in terms of programs or projects, they are better able to define appropriate performance linkages, as well as manage and monitor their expenditure activities. New Zealand’s learning experience in this regard provides a good example of the importance of having public expenditure policies aligned on the basis of well-developed programmatic frameworks, especially when designing and implementing performance objectives.

Most New Zealand public-sector departments have yet to establish a stable set of outcome performance measures, even at an intermediate level, that accurately measure the impacts of government interventions. In most cases, the difficulty has been to find measures that are broad enough to reflect the impact of policies on the desired outcomes, but specific enough for changes in these indicators to be wholly, or even largely, attributable to government decisions or actions within a “policy-relevant time frame.”²² In some cases, there has also been a reluctance to define the linkages between policies and outcomes too explicitly, lest these be used as tool for holding a department accountable for its performance.

²² For a more detailed discussion, see M. Petrie and D. Webber, (2003), *Evaluation of Managing for Outcomes*, New Zealand State Services Commission (available at www.ssc.govt.nz); and D. Webber, (2005), “Wrestling with Outcomes: The New Zealand Experience,” in *Agenda* 11, no. 4, Australian National University, Canberra.

Despite these difficulties, a number of departments have initiated systematic reporting of performance and achievements against outcomes. This experience has already shown that more tightly defined outcomes may be initially harder to define, but are easier to measure on an annual basis and more clearly within the influence of most public expenditure activities. Greater realism about what public interventions can achieve, and can be shown to have achieved, has been an important and useful lesson from the process.

It is not envisaged, at least at this stage, that the performance information generated by departments will necessarily make a critical contribution to future appropriations, or even internal resourcing and budgeting decisions. The principal intention of the approach is, more simply, to encourage departments to develop and implement budgets and policies that increasingly focus on the government's overall policy goals and objectives, together with a clearer and better-coordinated sense of what their expenditure activities are intended to achieve.

Substantial guidance has been provided to departments in applying the MfO concepts and approaches outlined above. However, like the United Kingdom, the implementation of budgeting concepts and techniques in New Zealand should be seen as just part of a much wider "performance management" approach to improving the efficiency and effectiveness of the public sector and strengthening accountability and transparency in the management of public finances.

Justice Sector Budgets

Tables 13–16 reflect the application of the budgeting concepts and methods outlined above to the justice sector in New Zealand and to judicial administration in particular.

The organization of the sector (Table 13) has undergone significant structural change in recent years. This has included, for example, reversing some aspects of a 1996 decision to break up the former Justice Department into separate entities, in particular, into a Department for Courts and a Department of Corrections. The Department for Courts was re-absorbed back into a restructured Ministry of Justice in 2003. This reorganization has, to some extent, delayed or impeded the development of a more comprehensive performance management and budgeting framework for the justice sector, compared to some other sectors.

Justice Sector Appropriations ("Votes")

The New Zealand system of government is based on the "Westminster" (or traditional U.K.) model, one of the fundamental tenets of which is the separation of the judiciary from the control and influence of the executive branch. The purpose of this separation is to create checks and balances on the powers of the legislative and executive branches and ensure that impartiality, fairness and accountability are maintained in the administration of justice.

Notwithstanding the principle of clear separation between the executive and judicial branches, both branches must cooperate closely in practice on many aspects of judicial administration and courts management. For example, the budget of the courts is administered by the Ministry of Justice, but with strong regard for the views and needs of the judiciary. Judicial salaries and allowances are determined by a separate institutional authority, albeit appointed by the government, and their payment is guaranteed by "permanent legislative authority." This ensures that these expenditures are

not exposed to annual amendment or challenge as a result, for example, of changes in budget priorities.

The judiciary in New Zealand is headed by the Chief Justice, who is also Chair of the Supreme Court. The judiciary and the government (via the Ministry of Justice) collaborate in the management of most aspects of the courts system. Performance measures, including public opinion polling of satisfaction levels with the efficiency of the courts and the fairness of the judicial system, are maintained to help ensure this relationship remains effective.

Justice Sector Goals (“Outcomes”)

High-level outcomes are expressed at an overall sector level and are seen as providing a common goal and coordinating framework for each of the relevant government agencies within the justice sector (see Table 14). Two major outcomes—safer communities and a fair and just society—are underpinned by various intermediate outcomes that provide a more detailed focus for implementing agencies.

Specific performance measures have not yet been developed for these high-level outcomes, although (like the United Kingdom) considerable reliance is placed on periodic public surveys as a means of gathering information on broad changes in the public’s attitudes to, and experiences of, the justice system.

The fact that these two high-level outcomes are very broad does not alter the fact that they play an important role in providing an overarching policy framework for the strategies of each justice sector agency.

Major Programs (“Output Classes”)

Since the introduction of output budgeting in the 1980s, “output classes” have provided the major grouping, or aggregated expression, of expenditure activity. In this way, output classes are used, albeit not very effectively, to inform Parliament of the various purposes of an appropriation. Output classes are constructed according to differing criteria. Initially, they were intended to represent groups of similar outputs (such as “policy advice”). Over time, however, they have proved more informative for Parliament and more conducive to the efficient management of a department’s principal functions, when defined on the basis of key policies or programs.²³

Table 15A presents the current program structure for the Ministry of Justice. Column 2 shows how each Ministry of Justice program is “mapped” to one or both of the high-level sector outcomes.

The Ministry of Justice’s responsibility for the management and administration of courts is reflected in a separate and explicit output class (Table 16) which comprises its own unique set of outputs. Each of these outputs is also mapped to one or both of the high-level justice outcomes, since the operation of the courts clearly involves issues of public safety and fairness and access to justice.

²³ The latter includes budget funding for many sub-agencies operating semi-autonomously within the sector, but under the auspices of the core ministry or department.

The outputs, or expenditure programs, under this output class are aligned with the structure of the courts system. This separation of funding categories assists the management and resourcing of what are quite different court environments. It also better supports a performance measurement framework that takes account of the different functions and legal processes at each level. In New Zealand's case, this is reflected in the separation of budgets into three outputs: higher courts, district (essentially "first-instance") courts and special courts and tribunals. Similarly, collection and enforcement functions arising from court decisions are treated as a unique output (or sub-program) expenditure.

Performance Measurement

The performance measurement framework within the justice sector in New Zealand still reflects the earlier managerial emphasis on and substantial institutional experience of output reporting and accountability. Performance measures relating to the new emphasis on outcome achievement are much less developed. Tables 15A, 15B and 16 therefore contain primarily output performance (quantity and quality) measures. Table 15B, for example, attempts to make explicit the output of "good-quality" policy advice.

Within the Ministry of Justice, reporting of performance against output measures is a responsibility of each relevant operational division, including the divisions or units responsible for operation of different levels of the courts. Performance reporting against specific output measures may have some bearing on subsequent budget allocation decisions. However, resourcing decisions are invariably taken in conjunction with other information and incentives designed to encourage the most efficient use of resources by managers.

Managerial incentives are a key element in New Zealand's public management regime. They include both tangible and intangible rewards for managers whose areas of responsibility are seen to be performing effectively. In this regard, the development of more devolved, contractually based, appointment structures within the New Zealand public sector over the last 15–20 years has been a key factor in providing chief executives and other senior managers much-increased flexibility for rewarding staff on the basis of both individual and organizational performance. These combined elements of the new public management structure are beginning to drive increased motivation, capability and performance of the courts—a sector traditionally notable for its resistance to modernization and change.

Reporting justice sector outcomes, including intermediate outcomes, is a responsibility of the ministry as a whole. Public and parliamentary interest in the performance of a department is usually focused more at these higher-level outcomes, although the quality of debate around them remains variable due to the measurement and attribution problems described above. However, the focus on outcomes is gradually assisting politicians, departments and the public to develop a better appreciation of what the department can and should achieve.

As with appropriations for other government departments, performance relative to higher-level outcomes may inform policy development, but is not explicitly used as a basis for determining justice sector budget allocations. This situation may change, but only as and when consistent and reliable reporting against outcomes has become routine and conclusions on the effectiveness of expenditures made on this basis are much more robust.

Table 13. Budget Structure of New Zealand Justice Sector, 2005/06 Fiscal Year

Sub-sectors by Major Appropriation (“Vote”)	Administering Agency
<ol style="list-style-type: none"> 1. Justice Policy and Administration 2. Courts Administration 3. Treaty Negotiations (with indigenous Maori tribes) 4. Corrections (prisons administration, probation service) 5. Legal Advice to Government 6. Child, Youth and Family Services 7. Law Reform 	<p>Ministry of Justice Ministry of Justice Ministry of Justice Department of Corrections Crown Law Office Department of Child, Youth and Family Services Law Commission</p>

Table 14. New Zealand Justice Sector Outcomes Framework

Sector-wide Outcomes (All appropriations)	Definition	Indicated by the Results (“Intermediate Outcomes”)	High-level (“Outcome”) Performance Measures
<p>1. Safer Communities</p> <p>2. A fairer, more credible and more effective justice system</p>	<p>communities in which there is reduced crime and in which safety and well-being is enhanced through partnerships</p> <p>a system in which people’s interactions are underpinned by the rule of law and justice services are more equitable, credible and accessible</p>	<ul style="list-style-type: none"> - reduced youth offending - reduced offending by Maori tribes - reduced violence - reduced family violence - reduced burglary - reduced organized crime - reduced theft of and from cars - improved access to and delivery of court services, services for children, youth and families - improved public confidence in the police, court-ordered fines and reparation and other justice institutions - improved relationships between the Crown (government) and Maori tribes - improved laws governing family relationships and other private dealings 	<p><i>Currently being developed.</i></p> <p><i>Likely to be based on conviction and sentencing statistics and relevant trends in police crime data.</i></p>

Table 15A. New Zealand Ministry of Justice – Output Classes and Performance Indicators

Output Classes	Outcome Focus	(Output) Performance Indicators <i>Includes quantity, quality and timeliness criteria</i>
<p>Policy Advice to Government Policy and legal advice and research</p>	<p>Safer communities Fairer justice system</p>	<ul style="list-style-type: none"> - Policy advice to be delivered according to the Policy Work Program negotiated between the Minister of Justice and Secretary for Justice - 100% of policy advice to meet set quality criteria (see Table 15B below) - Minister rates the quality of advice and documentation provided as satisfactory or better (bi-annual assessment) - 100% of policy advice is provided within agreed time frames
<p>Sector Leadership and Support Policy advice and information services relating to coordination and leadership in justice sector and judicial system</p>	<p>Safer communities Fairer justice system</p>	<ul style="list-style-type: none"> - 100% of advice and documentation meet ministry quality criteria - Statutory and agreed deadlines are met - Quantitative targets for judicial and statutory appointments are met - Other specific annual undertakings are fulfilled
<p>Management of Electoral System Services specifically relating to the management of the next general election or any by-elections or referenda</p>	<p>Fairer justice system</p>	<ul style="list-style-type: none"> - 100% of advice and documentation meet ministry quality criteria - Statutory and agreed deadlines are met
<p>Crime Prevention, Community Safety Advice and contract management services for government and communities on strategies for crime prevention, public safety</p>	<p>Safer communities</p>	<ul style="list-style-type: none"> - Specified numbers of partnership contracts managed - Specified outputs of advice and information on crime prevention - 100% of advice and documentation meet ministry quality criteria
<p>Law Commission Purchase of advice from Commission on review, reform and development of the</p>	<p>Fairer justice system</p>	<ul style="list-style-type: none"> - Reviews and reports prepared on demand, peer reviewed, and meet specified time frames

law			
Equity Promotion and Protection Funding for Human Rights Commission (HRC), Police Complaints Authority (PCA), Privacy Commissioner (PC), Inspector of Security and Intelligence	Fairer justice system	<p>HRC: Numbers and/or standards for disputes resolved, as well as responses to requests for information, informational and educational programmes, policy advice submissions</p> <p>PCA: numbers and/or standards for complaints received/processed</p> <p>PC: numbers and/or standards for complaints received and/or processed, as well as for informational and educational programs</p>	
Administration of Legal Services Administration and payments for provision of legal aid	Fairer justice system	<ul style="list-style-type: none"> - Numbers of criminal, family and other legal aid applications administered - 95% accuracy of compliance with relevant legislation, regulations and policy standards - Civil applications: 75% processed within 5 working days, 95% within 15 working days - Criminal applications: 93% processed within 1 working day, 95% of payments paid by 20th of month following approval of claim 	
Electoral Services Party registration, public education, maintenance of electoral rolls	Fairer justice system	<ul style="list-style-type: none"> - Targets and/or projections specified for administering party applications, enrollments, etc. - 91.5–92.5% of eligible voters enrolled on election day - 95–98% accuracy of rolls on election day 	
Victim Support Provision of victim support services by specialist community groups.	Safer communities	<ul style="list-style-type: none"> - Numbers of victims and contact counselling hours - Standards set within individual contracts for counselling agencies and/or individuals 	

Table 15B. New Zealand Ministry of Justice Policy Development Criteria

<ul style="list-style-type: none"> ➤ Includes a clear statement of purpose ➤ Is accurate and uses sound information ➤ Presents a clear, concise and logical argument, with assumptions made explicit and supported by facts ➤ Draws on professional knowledge and appropriate methodologies ➤ Examines comparative material ➤ Presents options ➤ Uses a clear conceptual and well-articulated framework ➤ Considers resource, legal and human rights implications and implementation issues/capability ➤ Considers risks, costs and benefits ➤ Considers evaluation ➤ Considers issues for Maori and Pacific peoples

Table 16. New Zealand Court Outputs and Performance Measures

Outputs (expenditure programs)	Outcome Focus	Main (Output) Performance Indicators
Higher Court Services Provision of services to Supreme Court, Court of Appeal and High Court	Safer communities Fairer justice system	<ul style="list-style-type: none"> - Number of appeals managed –(civil and criminal): annual target range - Number of court hearings supported: annual target range - Number of cases managed (jury trials): annual target range - Number of court sitting hours supported: annual target range - For each of criminal appeals, jury trials, civil cases, civil and family appeals: <ul style="list-style-type: none"> ➤ percentage of High Court judges rating case management and/or file preparation as “meets expectations” or better:

		<p>75%</p> <ul style="list-style-type: none"> ➤ percentage of High Court judges rating courtroom support as “meets expectations” or better: 90%
<p>District Court Services Provision of service to District Courts, including Youth and Family Courts</p>	<p>Safer communities Fairer justice system</p>	<ul style="list-style-type: none"> - Number of cases managed (civil, criminal summary, jury trials, youth): annual target range - Number of substantive applications managed (Family Court): annual target range - Number of court sitting hours supported –(civil, criminal summary, jury trials, youth court): annual target range - For each of criminal jury trials, criminal summary, civil and family court cases: <ul style="list-style-type: none"> ➤ percentage of survey responses rating case management and/or file preparation as “meets expectations” or better: 80% ➤ Percentage of survey responses rating courtroom support as “meets expectations” or better: 80% - Number of cases stayed for undue delay for reasons wholly or partly the responsibility of the Ministry: target of 0
<p>Services of Specialist Courts, Tribunals and Other Authorities Provision of services to the Environment Court, Employment Court, Maori Land Court, Maori Appellate Court, Disputes Tribunals, Tenancy Tribunal, Liquor Licensing Authority, Coroner’s Court and a range of other tribunals and authorities</p>	<p>Fairer justice system</p>	<ul style="list-style-type: none"> - Number of cases and/or appeals managed (where appropriate): target range - Number of court sitting days supported (where appropriate): annual target range - Percentage of relevant judiciary rating case management and/or file preparation as “meets expectations” or better: 70–80% - Percentage of relevant judiciary rating courtroom, hearing and mediation support provided as “meets expectations” or better: 70–80% - Percentage of pending cases under 6 months old (Environment, Maori Land) - Percentage of pending cases under 12 months old (Employment)

<p>Waitangi Tribunal²⁴ Services Purchase of research and administrative services</p>	<p>Fairer justice system</p>	<ul style="list-style-type: none"> - Number of new claims registered: annual target range - New claims registered within 30 days of receipt: 85% - Number of research days provided: annual target range - Research reports meeting quality standards: 90% - Number of inquiry days supported: annual target range - Number of sitting days services: annual target range - Number of report-writing support days provided: annual target range -
<p>Collection and Enforcement of Fines and Civil Debts Services Purchase of services</p>	<p>Safer communities Fairer justice system</p>	<ul style="list-style-type: none"> - Total amount collected: annual target range - Fines “actioned” (under collection, etc.): 57–62% of total - Court-imposed fines placed “under arrangement” within 28 days: 60–65% of total - Number of distress warrants, orders for examination and other civil enforcement applications actioned: annual target range - Number of legal challenges resulting in costs awarded against Ministry: target of 0
<p>Other Courts-related Expenses Includes judicial salaries and allowances (approved under permanent legislative authority), plus professional fees, witness costs, write-downs of fines, etc.</p>	<p>Not specifically outcome-related</p>	<p>No output performance measures cited</p>

²⁴ A special court established to hear the legal claims of indigenous tribes regarding unfair or unlawful appropriation of their land.

Major Lessons from the Developed Administrations

This section draws on the performance-based budgeting practices described in the preceding country surveys to identify key attributes of good budget management in the justice sector. In particular, it identifies how and where program-based and performance-oriented budgeting and management concepts can be employed to improve the allocation and use of scarce financial resources and to bring added independence and effectiveness to judicial administration. These lessons do not constitute a blueprint for less advanced countries, nor for all judicial reform programs. Rather, they define good budgeting practices that may be readily adapted to the specific needs of countries seeking to modernize and improve the management of their judicial systems.

The Environment for Change

The successful introduction of most new initiatives in public management requires various pre-conditions that are conducive to reform. This is certainly true for the introduction of performance-oriented budgeting techniques. Several important steps can be taken to help bring about this environment:

- *Creating positive attitudes: better budgeting supports better justice.* The introduction of financial management reforms in the justice sector requires confidence in and support for the process in many areas, especially among judiciary and court officials. Positive attitudes towards these changes are essential, both for their initial acceptance and eventual success. Emphasizing that new and improved budgeting methods can actually strengthen judicial independence (by “allowing managers to manage and judges to judge”) can help create a positive environment. Demonstrating *how* this can happen will add further weight to these arguments.
- *Recognition of an evolving process.* The different budgeting systems and methods surveyed have each evolved over many years and in parallel with other developments and improvements in public administration and management in the three specific countries. Reforming countries can benefit and learn from this experience, but should not expect immediate success when applying the latest budgeting concepts and methods to their own justice sectors. Simply getting the building blocks of an improved budgeting and financial management system in place is often a challenge. For many countries, it will be the first priority.
- *Extending collaboration between fiscal and judicial authorities.* Few countries have a strong record of collaboration between fiscal and judicial authorities. The successful introduction of budget reforms in the justice sector requires a good understanding and communication of the nature and purpose of these reforms and how both branches of government can benefit from them. Senior managers in the Ministry of Justice are often best placed to provide the initial leadership required to help bridge any historical divide between finance officials and the judiciary.
- *Increasing the focus on performance management.* Public administrations in many developed countries are now focusing on *performance management* as the “next big thing.” Members of the judiciary and justice sector officials cannot afford to ignore or stand apart from these developments. The administration of justice and implementation of the rule of law have much to gain through improved management and financial performance, especially because

it affects the efficiency of the courts system. Budgeting practices which emphasize policy-based programs and performance issues have considerable potential as a vehicle for driving modernization and other needed efficiency and effectiveness improvements in the judicial system, as well as for improving access to justice.

Introducing performance concepts

As noted in Part I of this paper, there is no single model, or set, of “performance budgeting” methods, i.e., a “one-size-fits-all” approach is simply not possible. Nonetheless, there are basic features, or principles, that are essential to the effective introduction of modern concepts and techniques for enhancing managerial and financial performance in the justice sector. How best, and how rapidly, to introduce and apply these principles needs to be determined in the light of several overarching considerations:

- *The existing budget system and plans for reform.* The degree to which the public sector as a whole is moving towards a performance management approach will affect not only features of the particular model applied in the justice sector, but the speed with which the different elements need to be implemented. A slow transition need not prevent the judicial sector from preparing for these changes, for example, by developing relevant expenditure programs, assessing requirements for related performance measures and establishing some baseline indicators.
- *The existing bureaucratic structure and plans for reform.* The assignment of justice sector and judicial administration responsibilities within the sector will almost certainly influence the design of a more performance-oriented budgeting approach, including, especially, the choice of programs, the allocation of resources and the assignment of responsibilities for performance measurement and reporting. An important feature of the approaches surveyed in this report is their flexibility, i.e., their ability to accommodate institutional, policy and methodological changes and improvements, often from year to year.
- *The existing structure of the justice system and direction of a judicial reform program.* An effective budgeting system must be aligned directly with the institutional framework of the justice sector and the “judicial map” of the country. Proposed changes to the structure of the courts, for example, will need to be accommodated within the framework of sub-programs. Plans for major expenditures on judicial system facilities may require special budget categories. New or revised constitutional provisions may necessitate special budget categories for proposed changes in judiciary-related expenditures.
- *Levels of public-sector, financial and courts-management expertise.* Assessment of current managerial expertise in justice sector organizations, including the courts, may have an important bearing on the design of performance-focused methods, or suggest a need for carefully staged implementation. Some improved budgeting methods and practices described in this study may be initially too advanced for systems that do not yet possess basic skills and competencies in budgeting, management, courts administration and financial reporting.
- *The availability of relevant information.* The introduction of performance-oriented budgeting practices in the justice sector also requires, at the least, a basic capability for data and

information collection and reporting. Although these capabilities can be greatly strengthened and improved through the introduction of a performance-based system, there must be an underlying acceptance of the need for good information within the sector, including especially the courts, and a political willingness to openly report and disseminate that information, even where it may reflect problems in judicial performance and/or constraints on individual rights before the law.

- *The state of communications and information technology.* Introduction of the techniques described in this report does not require the latest communications and information technology in the public sector, nor in the courts. However, collecting, collating and reporting relevant budget and performance information can be greatly assisted by modern information technology, from basic spreadsheets to computerized case-management systems. The design of a performance-based approach needs to take into account the ease and effectiveness with which the required data and information can be collected and managed.

Essential Elements in a Performance Budget

Each justice sector budget surveyed in the preceding pages is unique in terms of how they apply certain principles that underpin a performance-based approach. However, each also reflects a number of essential common characteristics:

- *A programmatic structure.* A sound programmatic structure for expenditure activities is essential for effective allocation and management of resources within the justice sector. Programs must embody the key functional responsibilities and policy objectives of the government for the sector. Well-designed programs are the bedrock of a successful performance-oriented budgeting system.
- *Types of expenditures.* Although some component programs of the justice sector appropriation will vary from country to country, there is broad acceptance that expenditures on justice policy, courts administration and management, special judicial structures (e.g., constitutional courts or reconciliation processes) and law reform should be clearly distinguished at this level. The inclusion of a prisons administration budget program within a justice sector appropriation is typical, but not essential. Expenditures on the salaries and allowances of the judiciary may also be assigned to a unique program.
- *The principal function of programs.* Initially, programs are generally specified by principal function. However, a performance-oriented budgeting approach also requires that these programs are either expressed as major policy *objectives* in themselves (the U.K. and French approaches), or involve a collection of outputs or activities that can be specifically and comprehensively mapped to stated goals and objectives for the sector as a whole (the New Zealand approach).
- *A tiered budget.* Each major program should be sufficiently large to embrace several sub-programs. Sub-programs may be further broken down into operational units or cost centers. The judicial administration program, for example, should embrace separate sub-programs that reflect the structure of the judicial system: a supreme court, high courts and district (or first-instance) courts. Separate sub-programs are invariably desirable for the enforcement of

court decisions and the provision of legal aid. The decision on whether to place some major expenditure activities at either a higher (program) or lower (sub-program) budget level may often depend on what is appropriate to local circumstances and institutional mandates.

- *Well-defined policy goals and objectives.* A performance-oriented budgeting system requires the effective expression and assignment of objectives at each level of budget management. These objectives must be realistic and measurable and should be useful in the context of determining whether resources are being effectively targeted at major policy goals and efficiently used for that purpose. The developed countries surveyed in this study provide a range of practical examples of developing performance objectives that relate to different aspects of justice sector management and judicial reform.
- *“Smart” performance measures.* Performance indicators that enable the fiscal and judicial authorities to measure progress clearly against policy objectives are the determining feature of a performance-oriented budgeting system. Internationally, a broad menu of measures are now available that can be applied to judicial system performance and reform to support a policy and performance focus, including a variety of outcome (effectiveness) and output (efficiency and accountability) issues.²⁵ Many of these measures appear in the judicial budgets surveyed in this study.
- *Quality not quantity.* An effective budgeting system does not require a broad range of measures. While there is increasing recognition that a combination of carefully selected output and outcome targets and measures works best, good baseline information, accuracy, timeliness and a willingness to assess and address the managerial implications of performance information are more important than the number or diversity of performance measures. In addition, public surveys of attitudes towards and experiences of the judicial system are beginning to play an increasing role in the measurement of outcome achievement.
- *Weaknesses and inefficiencies.* Contrary to certain expectations, performance measures are seldom likely to produce information that is sufficiently robust and timely to steer the annual allocation of budget resources between different policy objectives or competing resource needs. Rather, performance measures may point to areas of weakness or inefficiency that can be addressed or improved by managers. Allocating more or fewer budget funds to these problem areas may be only a small part of the required actions.
- *Performance measures for revenue-generating activities.* Performance measures can and should be applied to revenue-generating functions of the judicial sector, such as the collection of fines, court fees and costs. However, it is important that the incentives generated by this focus do not impact the quality of justice, for example, through over zealous collection methods. For the same reasons, all judicial revenues collected should be returned to the central treasury of the government and not contribute directly in any way to the budget or financing of the judicial sector.
- *Regular, open and informative reporting systems.* Comprehensive financial and management reporting are essential both for credibility and enabling a performance-based system to

²⁵ See, for example, Maria Dakolias, (1999), *Court Performance around the World*, World Bank Technical Paper No.430, The World Bank, Washington, DC.

function well. For example, the more information that can be captured during the courts management process, rather than being collected or extracted from case files, the more efficiently this information can be fed back into managerial and budget assessments. It is unlikely that a budgeting system with a significant performance focus can be successfully introduced and maintained where data capture and reporting systems are slow, unreliable or incomplete.

III. Modernizing Judicial Budgets: Two Recent Examples

Recent developments in budgeting methods, including the practices and experience outlined in Part II can make a valuable contribution to guiding the financial management aspects of judicial reforms in less advanced countries. Particular examples from recent World Bank-supported programs include the design and initial development of improved financial management and performance-based budgeting systems in the justice sectors of Jordan and Slovakia. This section describes the general approach and certain specific initiatives that are being considered and adopted in these two countries.

Jordan

The Government of Jordan has embarked on initial steps towards a more a performance-based budgeting system. Within the justice sector, Jordan's approach involves a process that may provide a possible "roadmap" for other judicial administrations considering or implementing similar systems.

Improvements in budgeting are part of a range of reforms that the Jordanian government has been introducing progressively to improve the quality of governance and the efficiency of the public sector in particular. In the justice sector, a comprehensive reform program has been initiated recently to modernize the operation of the courts and improve the quality and administration of justice. These reforms address, in particular, the training and remuneration of the judiciary, the quality and management of court facilities, the qualifications and skills of courts administration staff and the streamlining of courts procedures, including the progressive computerization of case management.

During 2005, the Government began assessing the best approach to, and likely benefits of, a gradual introduction of performance-oriented budgeting concepts. It has initiated this approach for modernizing budget management within a small number of pilot ministries, including the Ministry of Justice, considered to have the potential to support and encourage wider managerial reforms.

The Ministry of Justice administers much of the judicial system in collaboration with a Judicial Council. This task includes the operation of the civil and criminal courts, a public prosecution service, court registrars and notarial services.²⁶ The allocation of funding for these activities is made through an annual appropriation to the Ministry of Justice.

The annual (recurrent) budget allocated to the ministry has been presented in three major categories: "A" – Administration and Supporting Services, "B" – Judges Remuneration, and "C" – Judicial Institute. Within these categories, budget allocations, monitoring and reporting are managed on an "expenditure item" (input) basis. The principal item codes are for personnel expenditures (100 level), operational spending (200), and social security-related expenditures (300). Expenditures of the Judicial Council are also included as a line item within the ministry's recurrent budget.

Under this structure, there is no systematic distinction in budget presentation or reporting between the operating expenditures of the Ministry of Justice and those of the courts, between different

²⁶ Certain "private courts" - e.g. religious, military and police courts – are outside the direct financial and managerial responsibilities of the Ministry of Justice.

levels of courts, between regions, between judicial services or between different types of cases. Some of this information can be extracted from the financial information system, although detailed analysis of this type (e.g., for comparative purposes) is seldom undertaken.

As is the practice in many developing countries, capital expenditures are presented and accounted for separately under two main headings: capital expenditures from government (budget) revenues, and capital expenditures from external sources (grants and loans).

Preparation and implementation of the budget for judicial services and justice administration is highly centralized within the Ministry of Justice. Budgets are prepared annually on an input basis, with standard percentage increments applied to many areas of expenditure. Most budget expenditures involving judicial activities, including the operational spending of individual courts, are administered and reported by the Ministry's Finance Department.

The current budgeting system is therefore heavily input-oriented and strongly "compliance based." The government recognizes that performance budgeting concepts and practices have the potential to significantly improve the administration of justice in Jordan and strengthen the overall reform effort. It is expected that significant gains are possible from better identifying the cost and effectiveness of judicial services and establishing a more sound basis for allocating resources, managing programs and evaluating justice policies, including the effectiveness and efficiency of the courts and the organizational performance of the Ministry of Justice.

The successful design and implementation of a more performance-oriented budgeting system,²⁷ however, depends not only on following international best practice in budgeting methods, but in ensuring that the system supports the unique structure and administration of justice policies in the Kingdom of Jordan. It also needs to be complementary to, and effective within, the context of both the legal and judicial system and the financial management laws and procedures of the country.

The Ministry of Justice has developed an action plan to introduce these concepts. It comprises the following main steps:

1. *Design of justice sector programs, sub-programs and relevant goals and objectives*

This step requires the development of a suitable "program-based structure" for those expenditure activities currently managed under the Ministry of Justice annual budget appropriation. It requires, at a minimum, separation of the ministry's policy and administrative functions from the operations and expenditures associated with the courts system. It includes specifying appropriate sub-programs and cost centers within each major program and an initial assignment of budget resources (based on the ministry allocation for 2006) across these categories. The development of "program goals" and "sub-program objectives" is intended to provide a basic, but much more effective, framework for performance measurement within the sector.

²⁷ The Jordanian authorities refer to the new practices as a "Performance Budgeting System" (PBS).

- 2. Consultation on and selection of relevant performance indicators, including indicators that measure both the quality (impacts) and quantity (outputs) of administrative and judicial activities and services.*

This step involves reviewing the range of indicators used internationally to measure and assess performance in the justice sector. These indicators include those that relate both to the quantity (output) of services and their quality (impact). It is intended that the ministry will select indicators appropriate to each proposed program/sub-program structure specified in step 1, taking into account the specific objectives, needs and system characteristics of government management and the judicial system in Jordan.

The indicators selected by the government are expected, at least initially, to make modest demands on existing (and quite limited) capabilities for data collection and analysis. However, it is expected that increased resources will enable the number of indicators to be expanded over time.

- 3. Identification and establishment of the systems and capacities for effective collection and analysis of performance data.*

Implementation of performance monitoring requires systems and capacities to collect and analyze performance data. This task encompasses the establishment of procedures and capabilities within the Ministry itself, within the administration of various levels of civil courts and within the Judicial Council. Particular attention will be given to current systems for case management within the courts, case-management software newly introduced into certain courts, in order to better standardize and systematize the data collection process.

The ministry proposes establishing a centralized data analysis unit responsible for collecting, analyzing, monitoring and reporting data from the courts. Guidance and training will be provided to this unit on how data might be analyzed and used to improve performance and/or inform resource-allocation decisions within the justice sector.

- 4. Modifying the ministry's financial management information system to ensure effective support, integration and management for the Performance Budgeting System (PBS).*

This step involves integrating the PBS into the ministry's normal financial management and reporting activities. Integration requires assigning all expenditures currently managed by the ministry to the program or sub-program or cost center specified in step 1. This task also requires adapting the current financial management information system (FMIS) of the ministry so that it can provide the financial data required to support a more performance-oriented budgeting approach.

Ensuring that the Ministry's FMIS can support these performance budgeting concepts will require designing a modified expenditure coding system that can assign budgets and expenditures according to the new PBS framework. The design of such a system will be done in close coordination with other ministries that are developing new methods and revenue and/or expenditure classifications for PBS pilot projects.

5. *Aligning the ministry's organizational structure and functions with the new PBS, i.e., using the PBS as a basis for "managing for results."*

Introduction of a PBS pilot within the Ministry of Justice holds considerable potential for expanding the managerial capability and effectiveness of the Ministry and the Judiciary. However, this requires introducing a new "managing-for-results" ethic within and across the Ministry and the courts.

One aspect of instituting a "managing-for-results" approach is to better align the ministry's organizational structure with the program and/or performance framework to ensure clear accountability for performance. Managers in all areas of the ministry and courts will require guidance to understand how the performance indicators relevant to their areas of responsibility may be used over time to improve effectiveness or inform better managerial and resource-allocation decisions. Hence the success of this initiative depends on the PBS being seen not only as an improved financial (budgeting) tool, but as a mechanism for bringing about substantial improvement in the quality (and, therefore, the impact of) day-to-day managerial decisions in judicial administration. Discussion of these issues among Jordanian officials has been an important first step towards improving the performance of the justice system.

Slovakia

Slovakia provides a useful example of a transition country that has recently moved quite rapidly beyond the preparatory steps taken by Jordan to the introduction and pilot testing of performance-oriented concepts and methods in its annual budgeting process. The Slovak Ministry of Justice was fortunate to have excellent leadership throughout this process. Its continued capability and enthusiasm for this approach has given it a leading role among the government's major spending agencies on budget development issues.

The Czech and Slovak Republics separated from each other in 1993. Since that time, the Government of Slovakia has been implementing a wide range of market-oriented economic, social and political reforms. The reform process culminated in the country's accession to the European Union in May 2004. However, much remains to be done to achieve a standard of living and effective democratic institutions on par with those of most Western European countries.

The judicial sector in Slovakia initially proved one of the slowest and most difficult to reform. Its faltering progress was characterized by serious anomalies in the law, inconsistencies in the design and interpretation of legislation by the Parliament and a courts system plagued by delays, low-quality decisions and corruption. The quality of the judiciary, the management performance of the courts, costly legal services, unethical behaviour of individual lawyers and an inadequate system of legal aid are major reasons for the general public's low regard for the legal system. This low opinion of the courts has led to a number of requests by the Slovak Government for international assistance in strengthening the judicial sector, starting in 1998.

At the same time, the Ministry of Finance introduced some far-reaching budget and financial management reforms over the past five years. These reforms included the introduction of new finance laws that incorporate a comprehensive approach to "program budgeting." The Ministry of Justice was one of several ministries selected in 2003 to pilot program concepts and methods in budget preparation. This initiative dovetailed well with the introduction of much-needed improvements in the management and effectiveness of the judicial system. One clear outcome of the

introduction of budgeting concepts and methods has been the emergence of a more motivated, capable and responsive financial management team within the Ministry of Justice.

The Application of Program and Performance Concepts

Although referred to as a “program budgeting” initiative, the guidelines prepared by the Slovak Ministry of Finance included an important role for performance measurement. Detailed instructions for implementing ministries, for example, identify “measurable indicators” that can be used to report on the achievement of relevant program “goals” and “objectives.” In fact, the Finance Ministry’s instructions refer at several points to “results-oriented budgeting.”²⁸

The Ministry of Finance’s approach to an improved budgeting process was therefore largely orthodox, i.e., it specified that ministry budgets needed to move away from the traditional input cost basis, initially by developing programmatic structures. Major expenditure programs were required to be further broken down into “sub-programs” and, at the next level, “projects.” Goals were assigned to each major program and could be further supported by specific objectives and measurable indicators. The methodology also called for the development of “monitoring and evaluation” functions and capacities within each ministry and the inclusion of “joint programs,” where appropriate, that might involve special EU accession funding.

Within this general framework, the ministries participating in the pilot of these new budgeting methods were free to develop their own programmatic structures and performance measures. Negotiation and possible refinement of their program structures, objectives and measures has been held with the Ministry of Finance within the context of subsequent budget submissions. While these budget reforms have involved the application of both program and performance budgeting concepts and methods, there is a general recognition that budgetary decision making on the basis of performance may still be several years away.

For the Ministry of Justice, considerable efforts were made to develop a programmatic structure for judicial administration that could accommodate three main features, or expenditure requirements, of the sector:

- existing institutional structures and managerial responsibilities;
- expected new outlays associated with the judicial reform program; and
- long-term management, accountability and financial administration needs of the judicial system, including its gradual modernization and the development of standards appropriate to EU membership.

Proposed Program and Performance Budget Structure of the Ministry of Justice

The initial program and performance budget of the Ministry of Justice (see Table 17) was developed with a limited amount of international assistance, which reflected a mix of the budgeting principles

²⁸ “Ministry of Finance Instruction: Methodology Guidance on Program Budgeting” (for formulation of State Budget 2005-2007), unpublished paper issued to Slovak Government departments by the Ministry of Finance, Bratislava.

and practical experience of the developed countries described in Part II of this paper, combined with pragmatic recognition of certain local ideas and priorities.²⁹

Funding of the judicial system was defined as a unique program (separate from a small number of other programs under the Justice Ministry, including prisons and the Ministry's own operational activities).

A key feature of the programmatic structure is the separation of costs relating to the judiciary, including judicial support staff. This separation was desirable to provide scope for the possible constitutional separation of these expenditures over the longer term. It has also facilitated separate monitoring and reporting of the performance of judges, as a group, against these expenditures.

A second key feature of the sub-programs was a special category (sub-program 5) that related to various reform projects. These activities often involved specific external funding and were all expected to be of finite duration. As such, they had specific developmental objectives and needed to be resourced and measured separately from normal (ongoing) operational expenditures.

Considerable discussion was held with the Ministry of Finance concerning the possible separation of capital expenditures on the courts into a unique sub-program. Capital development is expected to be a major activity over the next several years, given the requirement for large-scale construction, modernization and upgrading of court facilities. It was ultimately agreed that a spike in these expenditures did not, in itself, justify a unique sub-program and that they could be integrated into other court spending.

A notable feature of the initial programmatic structure for the judicial sector budget was the inclusion of "case management" budgeting categories at a lower sub-program level. This innovation proposed accounting for expenditures within the two sub-programs for courts management on the basis of the type of case. Although not yet implemented by the Slovak Government, this categorization of expenditures will enable future management of resources to account for shifts in demand for the different types of judicial services—a feature of the judicial sector in Slovakia since independence and an important factor in the constant misallocation and under-appropriation of budget resources. This extension of program/performance budgeting methods to embrace a case management approach within the judicial sector is the subject of more detailed discussion in Part IV.

Goals and Objectives for Judicial Expenditures

Few administrations, if any, have found it an easy task to set program goals and objectives that provide an effective framework for performance-oriented budgeting. Invariably, there is a tendency to adopt objectives that are either too optimistic or too difficult to measure. It is often preferable to take a cautious and conservative approach initially, so as not to generate expectations or work demands that cannot be fulfilled, and to accept that refinement may be needed over time.

The initial goal and/or objective structure for budgeting in the judicial sector in Slovakia is shown in Table 18. Goals are assigned to each sub-program and generally describe very high-level aspirations for the impact or effectiveness of the system. The achievement of these goals should be measured

²⁹ Modification of this approach is ongoing and some components of the tables presented here may have been revised in the most recent (2006) budget round.

over time, most probably by qualitative public opinion on the effectiveness of the judicial system and the progress of the reforms, rather than on a narrow or specifically quantitative basis.

Table 18 shows that for each goal, it has been possible to define two or three specific objectives that are more precise and clearly measurable. It is also important that these objectives are written in a way that will help drive improved managerial performance in areas of current policy priority.

Table 17. Slovak Republic Ministry of Justice: Program 06X – Funding of the Judicial System

Sub-Program Structure and Components

Sub-Programs (06X)	Projects / Elements (including Cost Centers) (06X00)	Budget Management Categories (06X0000)	Main Expenditure Items
01. Remuneration of the Judiciary and Judicial Support Staff	01. Regional Courts Judiciary & Judiciary Support Services (JSS) 02. District Courts Judiciary & JSS 03. Special Court Judiciary & JSS 04. Judiciary & JSS in other locations	Criminal Case Management Civil Case Management Administrative Case Management Commercial Case Management	Salaries Per-diem allowances Social insurance contributions
02. Operation of the Courts	01. Operation of Regional Courts 02. Operation of District Courts 03. Operation of Special Court 04. Operation of other courts & tribunals 05. Capital Development of the Courts	Criminal Case Management Civil Case Management Administrative Case Management Commercial Case Management Commercial Registration Land Purchase Courts Construction/Renovation IT Systems, Equipment, Vehicles Collection Costs Capital Requirements	Salaries/Allowances Materials, Rents, Utilities, R&M Professional Fees In-house Training Capital Expenditures
03. Administration & Collection of Judicial Revenues	01. Judicial Treasury		Salaries/Allowances Capital Expenses
04. Judicial Education & Training	01. Judicial Academy 02. MoJ Judicial Training Institute 03. Other Judicial Training	Judiciary / Support Staff Trainees Courts Administration Trainees Prosecutors	Salaries/Allowances Capital Expenses Training Allowances
05. Judicial Reform Projects	01. Courts Management Project 02. Optimizing Court System 03. Probation and Mediation Services 04. Commercial Registry 05. Disseminating Court Decisions on Internet 06. Judicial Academy (development) 07. Expanding Number of Higher Judicial	(specific to each project)	All items, as required

	Officers		
	08. Bankruptcy Law Reform		
	09. Public Defender's Office, Criminal Law Reform		

Table 18. Slovak Republic Ministry of Justice: Program 06X – Funding of the Judicial System

Sub-Program Goals and Objectives

Sub-Programs (06X)	Sub-Program Goals	Sub-Program Objectives
01. Remuneration of the Judiciary and Judicial Support Staff	01.1 To provide administrative and managerial services that support the independence of the judiciary, its efficient operation, and its capacity for high-quality judicial decisions	01.01. To ensure payment of all salaries, allowances and other remuneration to members of the judiciary accurately, in full and on time 01.02. To ensure payment of all salaries, allowances and other remuneration to judicial support staff accurately, in full and on time 01.03. To ensure information and other requests made to MoJ staff by members of the judiciary and judicial support staff are dealt with promptly and efficiently 01.04. To ensure that the reputation of the judiciary and the quality of judicial decision making are constantly improving
02. Operation of the Courts	02.1 To support a fair and efficient judicial process through efficient management and administration of the courts 02.2 To support continuous improvement of the judicial system by ensuring courts have modern and efficient facilities,	02.01. To ensure that the courts meet, or exceed, their annual specified targets for disposing of civil, criminal, administrative and commercial cases, including appeals 02.02. To ensure that these courts and proceedings meet, or exceed, their individually prescribed targets for operational performance in terms of number of days sitting, applications processed, caseloads completed, etc. 02.03. To ensure that the relevant regional courts process all company registration applications within the specified legal time frame 02.04. To establish and maintain an affordable and effective program for replacing and upgrading capital equipment and

	equipment and information technologies	facilities in the courts 02.05. To ensure that individual capital improvement projects are completed on time and within budget
03. Administration and Collection of Judicial Revenues	03.1 To ensure full, fair and efficient collection of all fines, penalties and other payments imposed by the courts	03.01. Meet specific quantitative targets for collection of overdue fines and penalties 03.02. Achieve annual efficiency gains collection costs
04. Judicial Education & Training	04.1 To ensure that the human resources capacity of the sector is adequate for supporting the effective operation and future development of the judicial system	04.01. To provide well-targeted funding to trainees and selected judicial training institutions 04.02. To increase the quality and capacity of judicial training institutions by funding the development of new and improved training programs and facilities 04.03. To ensure that the performance of these institutions is evaluated and their financial affairs are audited regularly, in accordance with government requirements
05. Judicial Reform Projects	05.1 To undertake specific, well-planned and time-bound reform projects aimed at improving the fairness and efficiency of the judicial system of the Slovak Republic	05.01. To ensure that each project is completed on time and within budget 05.02. To ensure that the results from each project contribute directly to the government's objectives for judicial reform in the Slovak Republic

Performance Indicators and Measurement

Table 19 depicts how the Slovak Government has adopted a justice budget structure similar to the countries surveyed in Part II of this paper. Building on recent international experience, it explicitly assigned both output and performance measures to each objective. This combination enables the budget formulation process to set targets and capture progress in terms of both efficiency and effectiveness within the justice sector, thereby strengthening the contribution of budget accountability to successful financial and judicial reform.

The output measures are, primarily, basic quantitative indicators of the throughput of judicial system services. They enable the government to assess increases in the quantity of services produced nationally and regionally by the courts the different branches of the sector. By comparing changes in outputs with input costs, the government is also able to determine the size and direction of efficiency changes.

The availability of these efficiency measures will have direct practical value for the managers of the courts and other services in terms of allocating resources more effectively, as well as for building performance and accountability. The selection of good output and performance measures, including their relationship to management needs and decision making, is the key to tapping the potential of a performance-based approach.

Nonetheless, Slovakia's initial selection of output and performance measures are only a small subset of the various measures identified in the developed judicial administrations presented in Part II. The range and depth of financial performance indicators selected for budgeting purposes cannot outpace the capability of the courts. Nor can it outpace other data collection, monitoring and analytical services within the judicial sector.

The performance of individual members of the judiciary is an important and vexed issue within many judicial administrations, especially those undergoing significant reforms. How effectively judges perform on an individual level will certainly have an important bearing on the efficiency and effectiveness of the judicial system as a whole, including the day-to-day efficiency of individual courts. However, the assessment of individual judges—whether this is done on a points system, by peer review, by court-user surveys, etc.—is a judicial and not a budget issue. It therefore remains outside the performance framework of this study. Nonetheless, the budget performance indicators proposed for the sector as a whole may well help to reveal favorable or undesirable comparisons in the performance of different courts that have their genesis, and their solution, in the selection and/or performance of individual judges.

Table 19. Slovak Republic Ministry of Justice: Program 06X – Funding of the Judicial System

Sub-Program Output Measures and Performance Indicators

Sub-Programs (06X)	Sub-Program Objectives	Output Measures	Performance Indicators
01.	01.01	Number of members of judiciary for whom salaries, etc., are administered	Number of formal complaints received from Judiciary regarding MoJ's performance of these administrative functions
	01.02	Number of judicial support staff for whom salaries, etc., administered	Number of formal complaints received from judicial support staff regarding MoJ's performance of these administrative functions
	01.03	N/A (Not applicable)	Covered by above measures
	01.04	N/A	Judiciary Performance Evaluation: Points System Number & percent of decisions overturned on appeal Number of official complaints against judges
02.	02.01	Number of originating cases received (by type) Number of appeal cases received (by type)	Number and percentage of originating cases settled (by type) Number and percentage of appeal cases settled (by type)
	02.02	Number of days sitting Number of cases and/or submissions heard Number of cases and/or submissions disposed of Number of company applications processed	Number and percentage of cases or submissions (by type) settled or disposed of within a required time frame
	02.03		Percent of applications processed within 5 days (target = 100%)
	02.04	3–5-year Capital Development Program established	Adherence to capital program; time and cost achievements Brief assessments of:

	02.05	Total value of capital works contracts issued Total value of procurement contracts issued Total value of capital works completed Total value of procurement contracts fulfilled	1. Functionality of new and renovated capital facilities and equipment 2. Successful operation of IT systems 3. Assessed monetary value of efficiency gains (e.g., heating)
03.	03.01 03.02	Number of overdue fines and/or penalties collected (or placed under acceptable arrangements for repayment) N/A	Amount collected (or placed under acceptable arrangements for payment) as percentage of total amount outstanding Costs of collection: total amounts collected (target = constantly improving ratio)
04.	04.01 04.02 04.03	Output of trainees and course graduates by type Value of new and renovated facilities completed Number of financial and performance audits completed	As percentage of budget-funded targets (target =100% disbursed) Achievement against budget-funded targets (target = 100%) As percentage of budget-funded institutions (each institution audited at least every 3 years) Annual survey by MoJ (HRD Dept.) of skills requirements and shortages in judicial system
05.	05.01 05.02	Progress or completion report for each project Completion Report submitted for each project	Project completion time and costs against plans and budget (target = on time, within budget) Specific project evaluation: impacts/achievement/contribution (compared against statements and expectations at project commencement)

IV. Pushing the Boundaries: Advanced Techniques for Planning and Estimating Justice Expenditures

Introduction of the program and performance budgeting methods described in Part III creates opportunities for improving other areas of judicial sector budget preparation and planning, as well as improving the utilization of resources. Two important needs are considered below: preparing budget proposals, especially in a multi-year budget planning context, and fine-tuning the resource requirements of the courts system. In these ways, improved budgeting practices may also contribute directly to a more effective judicial system.

Multi-year Budget Planning and Presentation

As noted in Part I of this paper, there is considerable scope in many countries to improve relations between the justice sector and central fiscal authorities. There is also, in many instances, considerable scope for improving the flow of national budget resources in support of judicial sector needs and judicial reform programs. Justice authorities can significantly enhance their prospects of bidding successfully for budget funds by using a program format as the basis for implementing other good practices in budget management.

One of the tools commonly proposed for improved budget planning in less advanced countries is the use of multi-year, or medium-term, expenditure plans. However, these plans involve a capability in analysis and a degree of budget resource certainty that are invariably absent in financial reform situations. Recent experiences with one particular approach often referred to as Medium Term Expenditure Frameworks (MTEF), have been frequently disappointing.

An alternative approach—increasingly popular among more developed financial administrations—involves the use of budget baselines for assessing and controlling the cost of current policies over the next budget year and beyond. Budget baselines are essentially an estimation of the cost of future years of current policies and operations and are presented as a commitment, or first charge, on budget resources over the medium term.

To the extent that additional budget resources may be available in the next fiscal year, competition for these funds focuses on the new expenditures proposals of each spending agency. In a situation of limited funds and competing claims, the sector agency that best demonstrates how new spending will complement core responsibilities and yet deliver new efficiency or service gains will have a considerable advantage in acquiring at least some of the new funds. Baseline budgeting, done well, can help clarify the presentation, analysis and choice of new spending proposals.

A potential weakness of the baseline budgeting approach is that it may encourage a predominant focus on the merits of new expenditure proposals at the expense of (usually larger and more costly) ongoing activities. Central fiscal authorities employing the baseline approach have generally responded to this tendency by instituting periodic “baseline reviews” (often every three years), which examine, for example, the efficiency and effectiveness of all major, ongoing programs or sub-programs within an appropriation.

It is important, therefore, that baseline budgeting not be confused with the “incremental budgeting,” which characterizes the budget round in many less developed countries. Incremental budgeting has an obvious tendency to lock in inefficient allocation of resources and patterns of spending. Baseline budgeting recognizes that few budget agencies or sectors, even in developed administrations, have the resources or capability to fully review spending programs each year. Provided they do so regularly, say, once every three years for each sector, the budgeting process will be much better than it is currently in many countries. In fact, a baseline budgeting approach *increases* the probability that comprehensive spending reviews will occur, precisely because it incorporates them as a regular requirement in the budgeting process. Both the central finance authorities and the spending agency know when wide and deep reviews of their spending are scheduled to occur and must prepare for them.

Furthermore, proponents of the baseline approach point out that most sectors, including the justice sector, have many core activities and services, such as the operation of courts, which must be funded from the budget on a stable, long-term basis. It makes good sense to examine closely the cost and purpose of any new policies in these areas, leaving the time and analytical resources remaining to assessing the actual performance, rather than revisiting the budget allocations, of core expenditure activities.

Table 20 shows how a baseline approach to budget planning might apply to a typical justice sector budget with judicial sub-programs similar to those described in previous sections of this paper. The example provided uses purely illustrative programs and financial figures and assumes a context in which the country is undergoing judicial reform. The format provided by the table is not intended to be prescriptive; the fiscal authorities in each country may request or impose a different structure according to local needs or budget presentation conventions.

The key advantage of the format presented here is that it enables judicial authorities to use a programmatic structure to indicate clearly to the government the ongoing (baseline) costs of providing existing judicial services and programs, *plus* the degree to which additional resources are required to extend the achievement of policy objectives or implement proposed reform activities and projects. The presentation also enables justice officials to make a clear distinction between new expenditure proposals that may be of short-term duration and those that may need to be built into future estimates of baseline expenditures. This distinction also enables both judicial and fiscal authorities to discuss and agree on where proposed new expenditures may need to be subjected to different kinds of performance criteria and monitoring.

Table 20. Using Program Baselines for Preparing Judicial Sector Budget Requests (Summary Table)

Program	Sub-Program Title	2006 Budget	2007 Request	2008 Forecast	2009 Forecast	Comments / Explanation
01	<i>Example actions and data only (US\$m)</i>					
	Remuneration of the Judiciary					
	Baseline (Ongoing) Costs	10.0	10.50	11.03	11.58	Primarily salary and allowances expenses Inflation adjusted in outer years
	New Expenditure Proposals:					
	1. 10 New District Court Judges		0.50	0.53	0.55	To support increased caseload
	2. Planned Judicial Salary Review		1.00	1.05	1.10	As recommended by review panel for quality improvement and/ or recruitment objectives
02	Operation of the Courts					
	Baseline Costs	75.0	78.75	84.60	88.50	Inflation and demand adjusted for outer years
	New Expenditure Proposals:					
	1. Special Reconciliation Court		1.50	1.80	0.83	Duration: 2 years to settle outstanding grievances
	2. Additional Courts Admin Staff		0.75	0.79	0.50	Ongoing: resources added to baselines in 2008
	4. Construction of 4 New Courts		1.00	1.00	0.60	Construction: 3 years; provision for maintenance to be included in future baseline increases
	5. Courts IT Systems Upgrading		2.50	2.00		
03	Administration and Collection of Court Fines and/or Penalties					
	Baseline Costs	3.20	3.36	3.53	3.70	Inflation and demand adjusted for outer years
	<i>New Expenditure Proposals:</i>					
	1. Overdue Fines Recovery Unit		0.30	0.45	0.47	Ongoing: resources added to baselines in 2008
04	Judicial Education and Training					
	Baseline Costs	0.80	0.85	0.93	1.00	Judicial Academy only: inflation and demand adjusted for outer years
	New Expenditure Proposals:		0.00	0.00	0.00	No new expenditure proposals for 2007

05	Legal Aid								
	Baseline Costs	1.50	2.50	4.00	6.75				<i>Rapid growth in demand expected for low-cost legal representation</i>
	New Expenditure Proposals: 1. New Public Defender's Office		0.85	0.28					<i>02 Baseline includes provision for ongoing maintenance costs</i>
06	Judicial Reform Projects								
01	Courts Management Systems	0.30	0.50	0.75	0.50				<i>Ongoing bilateral project, local cost contribution</i>
02	Probation and/or Mediation Services		3.50	2.80	3.00				<i>New project: future funding to be included in sub-program 02 baseline in 2008</i>
03	Court Decisions on Internet		0.07						<i>New bilateral project, local cost contribution</i>
04	Law Reform Program		0.40	0.45	0.47				<i>Expected 5 years duration – donor support still being sought</i>
	Total for Sub-Program 06	0.30	5.10	4.00	3.97				
	Total Budget Estimates	90.80	109.46	115.99	119.55				

Relating Budget Estimation to Case Management

In most judicial sector budgets, the largest program in financial terms is likely to be the “Operation of the Courts.” Within this program, ensuring that each level of courts, and each court within that level, has a budget appropriate to its needs and circumstances is one of the most difficult challenges facing financial managers in this sector. However, budgeting techniques have developed significantly over recent years in ways that can make the task of budget estimation more accurate and effective.

Table 21 shows in stylistic form how developed countries have refined and improved their methods of budgeting for the operations of the courts. Increasingly sophisticated budget techniques have not only made the allocation of budget resources more accurate and fair, but have strengthened accountability and performance at all levels of courts management. Less advanced countries not only have the opportunity to analyze and adopt the concepts and methods behind these refinements in budgeting techniques, but also to “leapfrog” certain stages in this development process.

The first column in Table 21 portrays the historical, input-based, budgeting approach that many developing and transition judicial administrations still use. Successive columns reveal how this basic model can evolve into more sophisticated methods that assign funds increasingly on the basis of actual and forecast demand for the types of services (mainly case hearings) provided by the courts and the actual costs of providing them. This enables courts to achieve greater levels of operational efficiency, leading to increased fairness in the justice system.

These judicial budgeting methods are presented progressively in a way that reveals the gradual refinements involved. In practice, implementation of judicial reforms may involve some consolidation, or acceleration, of individual stages, where resources and capabilities allow. Nonetheless, experience has shown that movement from the least to most sophisticated techniques (i.e., from Column 1 to Column 5) may in fact require at least two decades of institutional development.

1st Refinement: The Simple Volume Demand Model

The first refinement of the historical method described in Column 1 includes a basic assessment of “volume demand” for courts services in budget estimates. In this improved approach (Column 2), historically determined input-costs are increased by a combination of aggregate demand forecasts and price inflation factors. Aggregate demand forecasts of caseloads can probably be determined satisfactorily in the first instance from a simple time-series analysis of courts data from recent years.

2nd Refinement: The Simple Case-Flow Demand Model

Column 3 takes this demand analysis a step further by combining it with estimates of the average cost of each type of court case or service. In this way, the budget requirements of the courts are related not only to aggregate changes in the demand for their services, but to the differences they face in balancing this demand (by case type) and the (historical) cost of providing particular (mostly courtroom-based) services.

3rd Refinement: The Advanced Case-Flow Demand Model

Since these “average costs” per case type are determined on a historical basis, they may be set too low (or too high, if there has been a pattern of substantial inefficiency) for supporting the fair and efficient administration of justice. Column 4 therefore introduces the concept of “efficient” case funding, i.e., the level of funding that is *actually needed*, on average, to hear (or process) the different types of cases in a full and fair manner. By combining this concept with accurate case-flow forecasting, the budget of the courts may begin to approach a level of resourcing that supports the efficient, and more effective, administration of justice.³⁰

Column 4 notes that the introduction of efficient case funding principles may have implications for other programs, most specifically, the remuneration of the judiciary if more, or fewer, judges, etc., are needed. The implication of this method is therefore not necessarily just “more budget funds.” By examining case costs carefully, many opportunities for courtroom or case management efficiencies should begin to appear. Also, differentials in the performance of individual members of the judiciary (in terms of their courtroom managerial efficiency) may begin to appear in ways that encourage less efficient judges to making positive changes in their case management or courtroom management skills.

4th Refinement: The Advanced Case-Flow Demand Model for Regional Funding

Column 5 addresses situations in which the judicial map involves a regional (or some other territorial) distribution of judicial, managerial and financial oversight functions. It shows how the inclusion of regional variations can be incorporated into the advanced case-flow demand model and how different regions may be funded more accurately on the basis of these differences.

This advanced budgeting model may also be used to fund regional or other territorial judicial administrations on a “bulk funding” basis, i.e., by providing a lump-sum budget based on regional jurisdictional and demand factors. The regional judicial administration, or superior court, may then use this advanced model to determine the appropriate distribution of their region’s bulk funding among particular sub-regions and lower courts.

³⁰ There are several ways to determine the time and resources required to hear fully and fairly any particular type of case. Some of the more common methods involve time and motion studies within the courtroom and/or the use of Delphi method assessments among members of the judiciary and courtroom officials.

Table 21. Improved Methods of Budgeting and Financial Management in Courts Operations

Less sophisticated techniques.....>.....>.....*More sophisticated techniques*

1. Historical Approach (Input-based)	2. Simple Volume Demand Model (Output-based)	3. Simple Case-Flow Demand Model	4. Advanced Case-Flow Demand Model	5. Method 4 for (Bulk) Funding of a Regional Courts System
Start with previous years' budget allocation	Previous year's total demand (output)	Calculate an average (per case) cost for major types of court cases (civil, criminal, etc.)	Calculate an efficient (per-case) cost for all types of court cases	Calculate efficient per-case costs for case types applicable to each regional jurisdiction
Adjust inputs for general price inflation	Adjust for overall trend growth in demand	Apply this figure to relevant case demand levels from previous year	Apply these to all case type demand levels from previous year	Apply these to individual forecasts of all types of case demand levels
Add budget requests for any proposed new policies and projects	Use previous years' allocations for other (non-variable) expenditures	Adjust for trend growth in demand for relevant cases	Adjust for trend growth in demand for all case types	Develop funding models for other expenditure programs with consistent assumptions
	Adjust for general inflation	Use previous years' allocations for other (non-variable) expenditures	Assess related demand impacts on other expenditure programs	Identify specific regional variations in demand, price and possible social factors
	Add requests for any proposed new policies and projects	Adjust for sector inflation	Compare with previous year's allocation – adjust where necessary, including for sector inflation	“Bulk fund” regions, with funding further distributed to district courts according to local needs

<p>NOTES: <i>In general terms, this is the method currently used in many developing and pre-reform judicial administrations.</i></p>			<p><i>Uses aggregate measures such as number of court days, total cases, disposed cases, commercial registrations, etc.</i></p>	<p>Add requests for any proposed new policies and projects</p>	<p><i>This may require a Delphi-type analysis of workloads within the judiciary, together with an (approximate) apportionment of operational court costs</i></p>	<p>Add requests for any proposed new policies and projects</p>	<p><i>A related demand impact could be, for example, shifts in case type demand that generate a requirement for additional or a different balance of personnel funding for the judiciary</i></p>	<p>Add requests for any proposed new policies and projects</p>	<p><i>Bulk funding provides the superior court in each region with a lump-sum budget for allocation among sub-regional (e.g., district) courts</i></p>
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V. Enhanced Courts Budgeting and Judicial Independence: Final Comments

The application of budgeting innovations outlined above is greatly assisted by a sound programmatic expenditure framework. These methods also clearly require competent systems and adequate capabilities for the identification, collection and monitoring of courts statistics and case data. In many developing and transition administrations, data collection functions may be under-resourced and poorly motivated. However, the fact that court information will play an increasingly important role in the preparation of budgets and their associated management and resourcing decisions provides additional arguments (and a valuable incentive) for improving the quality and efficiency of data collection in these areas.

Judicial reform practitioners will recognize the opportunities inherent in the “advanced case flow demand” budgeting model for implementing other important managerial advances in the courts. In particular, the model not only enables funding to be re-allocated annually, or more often, according to shifts in court demands and case workloads, but it also introduces a culture of flexibility in courts management that may flow into a wide range of managerial and resourcing decisions and judicial performance issues. In other words, it may help to break down cultural or systemic rigidities that are themselves an impediment to the success of various reforms within the sector.

A key factor in achieving these gains is securing acceptance within the judiciary that a cadre of professional courts managers who take responsibility for better budgeting does not challenge their authority, much less their judicial independence. On the contrary, it may enhance their authority and independence by enabling judges to concentrate on matters of law and judicial decision making and less on matters of operational detail. The desire of many judges to maintain tight control of under-funded and poorly allocated budgets has only ever supported *illusions* of judicial independence.

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Making Inclusion Operational: Legal and Institutional Resources for World Bank Staff on the Inclusion of Disability Issues in Investment Projects	Katherine Guernsey Marco Nicoli Alberto Ninio	1	A. Ninio 81750 M. Nicoli 30304
Institutional Framework for Legal and Judicial Training in South Asia (with Particular Reference to Bangladesh and Nepal)	Anand M. Bhattarai Kishor Uprety	2	K. Uprety 80146

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