Performance Measurement in the State Courts
By Richard Schauffler

Renewed efforts to measure court performance in state courts are examined in historical context, taking into account the variation in organizational structure of state courts. Current performance measurement efforts at the state and local level are discussed, based on the CourTools performance measures designed by the National Center for State Courts.

State courts in the United States are re-examining the issues of performance measurement and accountability. In part a response to competition for scarce budget resources, in part a response to growing politicization of judicial decision-making and judicial selection, this reawakening of interest in and implementation of performance measurement is also a reflection of a new vision for managing the increasing complexity of modern courts. The movement responds to the need for a more objective means to inform court managers, the public and partners in government about how well the courts are managed.

The resurgence of interest in and actual practice of performance measurement in the state courts is a response to this need for objective measures of court performance. Faced with the increased complexity of court management, court leaders and managers are turning to performance measurement for both internal and external purposes. Internally, the use of these measures within the court facilitates evaluation of court practices, promotes the balancing of efficiency and effectiveness, and mobilizes court staff in solving identified problems. Externally, performance measurement also addresses issues of critical interest to those outside the court, namely how well the court uses public resources, whether current resources are sufficient, and how well the court is doing in meeting its institutional responsibilities.

When the paradigm of court management shifted in the 1980s from a largely passive model to a dynamic and service-oriented one, notions of efficiency and effectiveness came to the fore. Managing court cases was seen to involve an active process of deploying resources to maximize service and reduce cost to litigants and to the courts themselves. This shift required a higher level of management information, but court automation systems were only rarely able to provide it. The current move to information-based management among courts is being made possible by the new vision of court leadership and the capabilities of new information technology solutions.

Introduction: The Organizational Structure of State Courts
The structure of the judiciary, which remains the least understood of the three branches of government, varies widely across states, because the state courts were founded and evolved as local institutions at the city or county level, funded by the local government and originally adjudicated by lay judges on the basis of local custom and law. As such, the trial courts (courts of first instance) were, and to some extent remain, embedded in local politics and local practices.

In general, although the names of these courts vary widely along with the definitions of their jurisdiction, the courts in each state comprise the following jurisdictional levels: a court of last resort (usually but not always called the supreme court); an intermediate appellate court and one or more levels or types of trial courts (courts of first instance). The trial court levels typically include a general jurisdiction court (typically called a superior court, district court or circuit court) and one or more types of limited jurisdiction court (e.g., town and village court, municipal court, traffic court). At each level of court, a judicial officer (chief justice, presiding judge, etc.) is paired with an administrator (state court administrator, clerk of the supreme court, court executive officer, clerk of court, etc.). This two-headed leadership structure is not unlike that of a hospital, with a doctor in charge of medical matters paired with a hospital administrator.

Judges (i.e., justices, judges, commissioners, referees, magistrates, justices of the peace, by whatever names they are known) and court administrators (i.e., court executive officers or clerks of court, by whatever names they are known) are typically either appointed or elected. The appointment, election or hiring process of these key actors along with the complex institutional structure pose key questions: To whom are judges and court administrators accountable? Are they accountable to the governor, the chief justice of the state supreme court, the state legislature, the county, or the public? Are they agents of a state entity—the judicial branch of state government—or
local officials? The implementation of performance measurement is affected by the variety of stakeholders’ views on this issue.

The ongoing attempt throughout the 19th and 20th centuries to create a state-level branch of government from the numerous county- or city-level courts is at best an unfinished reform. Fewer than half the 50 states now fund their courts entirely through a central state budget; the remaining states fund their courts primarily through local funding at the county or city level. Generally speaking, this institutional environment presents many challenges for state-level administrative offices of the courts. As a result, in some states performance measurement is initiated at the state level and involves all courts, while in others it is being initiated at the local level of a single court.

**Measuring Performance in the State Courts**

In the 1980s and 1990s, performance measurement in the public sector experienced a reawakening. One of the most popular books on the subject, *Reinventing Government*, argued for reconceptualizing how governmental functions are organized and evaluated, an idea that was embraced to varying degrees across the political spectrum. The use of performance measurement as part of this process demanded two things: clarification of the purposes of each institution and definition of the appropriate measures to gauge progress toward those specific organizational objectives.

In this context, the National Center for State Courts initiated the development of what came to be known as the Trial Court Performance Standards. Over three years, the Commission on Trial Court Performance Standards engaged the court community in the development of 22 standards requiring 68 measures across five broadly defined areas: access to justice; expedition and timeliness; equality, fairness and integrity; independence and accountability; and public trust and confidence. Conceptually, the standards were aimed at evaluating the performance of the court as an organization, not the performance of individual judicial officers per se. The point of reference was those who use the court, and the focus was on how to improve services to the public. The standards were first published in 1990 and endorsed by all the key national court organizations, including the Conference of Chief Justices, Conference of State Court Administrators, National Association for Court Management and American Judges Association.

However, several factors contributed to the inability of state courts to institutionalize performance measurement at that time. These included the apparent complexity of the Trial Court Performance Standards, in which the 68 proposed measures appeared too great and the measures too complex and seemingly without priority, as well as the fact that courts’ information systems were not originally designed to produce the data required for the measures, and manual data collection was too labor-intensive. As a result, the performance measurement movement lost momentum.

**The Redesign of Court Performance**

In response to the increased demand from judicial branch leadership for assistance in promoting effective judicial governance and accountability, the National Center for State Courts revisited the Trial Court Performance Standards in a series of national meetings. Responding to the widely held view that the measures were too many, and taking into account the emerging literature on the balanced scorecard approach to performance measurement, the Center developed *CourTools*, a set of 10 performance measures designed to evaluate a small set of key functions of the court. Drawing heavily on the framework originally outlined in the standards and the notion of measuring the performance of the court as a whole, and not individual judges, *CourTools* was designed as a feasible set of measures that were selected on the basis of three criteria:

- correspondence to fundamental court values;
- balanced perspective on the work of the court; and
- feasibility and sustainability.

The measures seek to illuminate success factors such as fiscal responsibility, employee satisfaction and engagement, client-customer satisfaction and effectiveness and efficiency of internal processes.

The 10 *CourTools* measures are:

- **Measure 1 Access and Fairness**: Ratings of court users on the court’s accessibility, and its treatment of customers in terms of fairness, equality and respect
- **Measure 2 Clearance Rates**: The number of outgoing cases as a percentage of the number of incoming cases
- **Measure 3 Time to Disposition**: The percentage of cases disposed within established time frames
- **Measure 4 Age of Active Pending Caseload**: The age of active cases pending before the court, measured as the number of days from filing until the time of measurement
- **Measure 5 Trial Date Certainty**: The number of times cases disposed by trial are scheduled for trial
- Measure 6 Reliability and Integrity of Case Files: The percentage of files that can be retrieved within established time standards and that meet established standards for completeness and accuracy of contents.

- Measure 7 Collection of Monetary Penalties: Payments collected and distributed within established timelines, expressed as a percentage of total monetary penalties ordered in specific cases.

- Measure 8 Effective Use of Jurors: Measurement of juror yield—the number of people who report for jury duty as a percentage of those summoned and juror utilization—the number of prospective jurors actually used as a percentage of those who reported for jury duty.

- Measure 9 Employee Satisfaction: Ratings of court employees assessing the quality of the work environment and relations between staff and management.

- Measure 10 Cost per Case: The average cost of processing a single case, by case type.

In August 2005 the Conference of State Court Administrators called on state courts to implement performance measures and on the National Center for State Courts to create a national clearinghouse of performance data. The Conference of State Court Administrators cited the need “to promote judicial governance and accountable state Judicial Branch institutions that provide the highest quality service to the public,” the need to improve understanding of the judiciary’s role; and the need “to develop benchmarks for court performance measures so judiciaries can assess their own progress and allow courts to compare their performance with similarly situated courts.”

The issue of performance measurement was similarly embraced by the Conference of Chief Justices and the National Association for Court Management. As a result, state court systems and individual courts are implementing performance measures. Utah has begun to implement the CourTools measures, proceeding measure by measure, statewide. The results of those measurements are published on the state courts’ public Web site, www.utcourts.gov/courtools/ and data for the measures are available at the aggregate statewide level as well as at the local jurisdiction level. North Carolina has developed a Court Performance Measurement System that is also available on its public Web site at www.laooc.state.nc.us/cpms, reporting data on three measures related to caseload management: clearance rate, time to disposition and age of active pending cases. California is currently pilot testing all 10 CourTools measures in four courts, with the intention of building reporting capacity on most of the measures into the new statewide California Case Management System.

Arizona has major work underway in its largest superior and municipal courts pilot testing many of the CourTools measures. The Yuma court has published results on its public Web site (see www.co.yuma.az.us/courts/dashboard) while the Superior Court of Arizona in Maricopa County has an internal dashboard and reports its performance results in its annual report (see www.superiorcourt.maricopa.gov). The Arizona judicial branch strategic plan, “Good to Great: A Strategic Agenda for Arizona’s Courts 2005–2010,” includes a section on accountability, within which the judicial branch commits to establish performance and operational standards and measures for the courts, based on the CourTools. Oregon has adopted a set of budget-related performance measures, which include 17 measures consistent with, identical to or supplemental to the CourTools measures. Finally, Massachusetts has initiated a comprehensive effort to utilize the measures related to caseflow management to revitalize that state’s court system: clearance rate, time to disposition, age of pending cases and trial date certainty. The vision of this project is one of “transforming the culture of the Trial Court—a transformation whereby empirical data inform policies and drive management decisions, enabling us to increase our accountability and assess our progress, while maintaining our unwavering commitment to quality substantive justice.”

Massachusetts has taken the additional step of setting statewide goals for its measures. Individual courts are also taking up performance measurement. These range from large urban courts like Harris County, Texas, which includes the city of Houston, and Hennepin County, Minn., which includes the city of Minneapolis, to small courts of one to six judges in rural areas. Results of the Fourth District Court in Hennepin County are available on its Web site at www.mncourts.gov/district/4/. Three smaller rural courts in Indiana, Texas and Ohio have posted the results of their first round of performance measurement, along with management recommendations for actions to take based on the results. These courts represent a sample of the breadth and depth of local level court performance measurement initiatives across the U.S.

**Initial Performance Management Lessons from the Trial Courts**

For many courts, the data required to support performance measurement either does not exist in usable form or is not consistent and of sufficient quality.
Of course, for any generalization like this there are exceptions; for example, New Jersey and Minnesota have developed and maintained a high level of data quality. This quality is based on the fact that those state offices consistently use the data to manage the courts, and court staff and judicial officers have a keen understanding of that fact. Thus, a first lesson for most courts is the collaborative work among court information technology staff, managers and court staff required to validate and correct their data. Assuming the availability of data relevant to measurement, the major challenge for court managers and judges is to understand what the results mean and communicate those results to internal and external stakeholders. Court administrators and judges have managed the courts without a balanced set of performance measures for many years. Fundamental notions of caseload management remain invoked largely on an ad hoc basis or through a single metric like backlog or time to disposition. The more nuanced use of multiple measures (i.e., the balanced scorecard design of CourTools), and the practice of making conscious management decisions to trade off performance in one dimension (e.g., timeliness) for performance in another (e.g., quality of justice) brings another level of complexity to the managerial agenda at both the local and state levels. Creating the educational and professional infrastructure for developing skilled management is a strategic goal whose value and immediacy is perhaps still underestimated.

The Road Ahead

Leading a complex public institution like the court requires sophisticated management tools that capture and analyze key data and report it. In the state court environment, this management effort requires solutions that range in complexity from the CourTools analytical spreadsheets to the creative use of off-the-shelf products to data marts and dashboards built by large courts or the state-level administrative office of the courts. The National Center for State Courts has sought to bring a framework for uniformity through its State Court Guide to Statistical Reporting and technical assistance through its Court Statistics Project staff (www.courtstatistics.org), as well as by providing guidance for the consistent implementation of the CourTools measures across states. Ultimately the National Center for State Courts envisions creating a data warehouse to archive performance data and design intelligent comparisons across jurisdictions.

A significant number of state court systems and individual courts have made a strategic commitment to this new vision of court management. Performance measurement makes clear that many court processes are shared and can only be improved with the active participation of justice system partners, based on a common understanding of the purposes of courts among the three branches of government. While the path to performance measurement is a challenging one, the benefits are enormous and are vital to the state courts’ vision of fair and impartial justice and service to the public.

Notes
4 See the Lubbock, Texas, court report at www.co.lubbock.tx.us/DCrit/Reports.htm; see the Morrow County, Ohio, report at morrowcountycpc.com; see the Tippecanoe County, Indiana, report at www.courtools.org on the Online Community home page.

About the Author

Richard Schauffler, director of Research Services, joined the National Center for State Courts in October 2003. At the center, he directs the Court Statistics Project, which collects and analyzes state court data to develop a national perspective on the work of the state courts. He also works on the CourTools team to assist states and courts with implementation of performance measures.