



POLICY BRIEF

Use of Data in Criminal Court Performance Measurement

November, 2012

Importance of Court Performance

Court performance is difficult to measure. This is because quantifying the outputs that we expect courts to produce¹ is complicated: we can easily count case dispositions, but appraising the quality of justice is more subjective. In addition to the hurdles that all government service providers face, courts face entirely unique management challenges: judges must take great care to work within the limits of due process requirements; they have minimal control over other government actors upon whom they depend to handle their caseload or the number of cases that enter the court.²

In the past forty years, courts have faced increasing pressure from funders to measure and evaluate their performance using increasingly sophisticated performance measures. “Fiscal conservatism and resource scarcity” drove courts to focus on workload measures starting in the 1970s.³ Early attempts to implement performance measures in state courts stumbled because courts did not have the technology to collect, store, and search huge banks of information.⁴

Now that budgets are lean again, organizations with expertise in court administration are calling on courts to embrace performance measures again.⁵ Some courts are responding: as of 2008, two states had rolled out statewide measurement initiatives based on “CourTools,” a comprehensive set of performance measures created by the National Center for State Courts. Four more states had pilot projects in place, as had numerous local jurisdictions.⁶ This brief explores the benefits of measuring court performance, shares two case studies of where doing so has been successful, and then offers one potential application to Cook County: timely disposition of cases.

Benefits of Measuring Court Performance

- **Identify inefficiencies in your system.** Solid performance measures enable court managers to identify issues unique to their systems, and move beyond applying other jurisdictions "best practices."⁷
- **Provide objective support for policy decisions.** When decisions are made based on empirical evidence and the connection between the evidence and the policy is clearly articulated, it is much easier to generate the systemic consensus necessary to effectively implement reform.⁸ Particularly in a

About Chicago Appleseed

Chicago Appleseed Fund for Justice is a policy research and advocacy organization. We identify problems, research solutions, and recommend practical and systemic reforms.

About Policy Briefs

Chicago Appleseed Policy Briefs are research and advocacy papers that explore current trends in public policy. Policy Briefs investigate policy innovations being implemented in other urban jurisdictions and consider applications to Chicago, Cook County, and/or Illinois.

Authors

Katy Welter
Law & Policy Analyst

Benjamin Israel
Staff Intern



Recommended Resources

Action Research: Using Information to Improve Your Drug Court, Michael Rempel, Center for Court Innovation (2010)

•

Differentiated Case Management in Cook County (Chicago), Illinois: Stakeholder Perceptions and Empirical Data, Peter Coolson (2007)

•

Justice Reinvestment at the Local Level: Planning and Implementation Guide, Nancy LaVigne, Urban Institute Justice Policy Center (2010)

•

Model Time Standards for State Trial Courts, Richard Van Duizend, National Center for State Courts (2011)

•

Performance Measurement in the State Courts, Richard Schauffler, National Center for State Courts (2008)

•

Population Dynamics and Characteristics of Inmates in Cook County Jail, David Olson (2012)

contentious arena, where any reform may well come at the cost of one set of stakeholders, unbiased information is invaluable.

- **Make court operations more transparent.** While some data might be too sensitive to publish, even summary reports can give the public a window into the courts. More detailed data also allows managers to hold criminal justice system employees accountable to laws and policies. All of these practices enhance court legitimacy, a central goal of any justice system.
- **Promote efficacy and attract funding.** Armed with data to support management decisions and budget requests, court managers can make convincing funding requests.

Case Studies in Court Performance: New Jersey and Brooklyn, NY

State of New Jersey: Backlog Reduction¹²

New Jersey's state court system is centrally managed and maintains a state-wide archive of time-to-disposition data. Judges can access this database through a secure intranet system and generate simple reports to monitor their own performance. But the state does not rely solely upon judges to keep cases moving. For more than a decade, the state has held counties accountable for the speed of case disposition in a variety of ways. New Jersey's judicial oversight board, the Judicial Council, questions presiding judges about their monthly statistics and monthly backlog data are published on the Administration of Courts website. Counties in the bottom third for backlog of particular types of cases must develop detailed improvement plans. Finally, visitation teams monitor performance at struggling courts.

The state's consistent focus on backlog elimination has paid off.

Between 1992 and 2006, the state reduced backlog by 50,000 cases. Criminal post-indictment backlog decreased by more than 20% from 1996-2006.

The New Jersey example shows that collecting and evaluating even basic performance data can improve outcomes. Computers help manage data and make it easily accessible, but the most comprehensive data set in the world will not improve performance on its own. By setting clear goals, establishing incentives to meet those goals, and providing assistance to courts that struggle to do so, the New Jersey state court system has been able to move more cases off the docket than are filed for more than a decade.

Kings County, New York (Brooklyn)

Kings County, NY has a population of 2.5 million, with a metro population of 8.5 million. At the Brooklyn Treatment Court (BTC), high quality data collection allowed program monitors to identify elementary issues that might have otherwise gone unnoticed. A 2001 investigation of regularly collected data discovered that, while 86% of heroin users required residential treatment for optimal outcomes, only 52% of users were initially placed in



residential programs. This is a relatively simple problem that might have been overlooked without effective data collection and monitoring.¹³

Data collection and monitoring has allowed the BTC not only to tailor programs to individual defendants, but also to make programs more efficient and to identify issues in other departments. Faced with a very high volume of referrals in the late 1990s, the BTC used data monitoring to streamline processes and handle a growing caseload. Drug court staff recognized that young male defendants were commonly referred to the BTC, but rarely enrolled because few of them were addicted to drugs. Data analysis confirmed this anecdotal evidence and the BTC developed a five-question intake survey for young defendants to replace their standard 45-minute intake interview. In this way, data collection and analysis allowed the BTC to use limited resources much more efficiently.¹⁴

In addition, when BTC caseload decreased dramatically in 2002, data analysis uncovered the root of the problem: treatment resources were being under-utilized because judges and defendants were not referring eligible candidates. To remedy this, BTC staff met with key court officials to ensure that they knew the standards for referral to drug treatment programs. This case demonstrates that good program evaluation can identify problems throughout the criminal justice system, not just within the individual agency being evaluated.¹⁵

Key Steps to Design & Implement a Data Management System

- A coalition of stakeholders should identify performance goals, develop relevant measures, and collect necessary data.
- Ensure compatibility among independent agencies' information systems.
- Use a uniform method for collecting data across and within agencies.
- Link performance measures to incentives.
- Communicate results to both court and public stakeholders.

Using Data to Improve Time to Disposition in Cook County, IL

The Criminal Division of the Cook County Circuit Court ("Court") is currently developing a new digital case management system that could enable robust data-based performance. In particular, this system could address a longstanding issue within the Court: timely disposition of felony cases. Because many defendants await disposition in Cook County jail, reducing the time it takes to dispose of their cases can also reduce the average length of stay within the jail population, which has steadily risen over the past five years.

Under the current system, each day, judges receive a printout of cases currently on their docket. This "court sheet" gives them some very valuable information. It tells them what the first charge was in the case, the first date on the docket, the status of the case, the date that status was assigned, and the next scheduled court date.

Absent from this report, however, is any aggregate information or time series data that would allow a judge to quickly evaluate how well he is



managing cases. Such measures are the “vital signs” that judges and administrators need to evaluate how well they are shepherding cases from initial filing to final disposition. Even an ambitious judge committed to resolving his cases quickly simply does not have the tools to evaluate his performance using “court sheets.” Moreover, the data system does not allow for digital inter-agency information sharing, thereby limiting potential for evidence-based cooperation.

A forthcoming interactive order system ("IOS") will make it much easier for judges to manage their caseload. Under the current system judges handwrite any of hundreds of dispositions; the clerk then enters the handwritten dispositions into the court’s computerized records. In contrast to this cumbersome manual process, the IOS will allow a judge to select the appropriate disposition from a drop down menu. Automated disposition entry from the bench would improve both the accuracy and consistency of disposition records.

Beyond simply streamlining the court’s filing processes, the IOS has the potential to become a tool for continuously measuring and improving court performance. Because the IOS can display key individual and cumulative data, judges will be empowered to actively guide the case process. Moreover, the Court administrator may regularly enforce time standards on both an individual and Court-wide basis, rather than relying on periodic evaluations. The importance of this facet of interactive disposition entry cannot be overestimated. In the quest to improve court management and performance, real-time, accurate cumulative data is essential. However, the IOS is simply one component of a successful court performance program.

Timely and consistent case disposition is a long-standing issue for the Court. In 2005, American University thoroughly evaluated the Cook County felony case process, discovering substantial variation in case disposition times among judges, to extent that the Court's average time to disposition could not be compared with national standards.¹⁹ Following this report, the Court's own administrator conducted an internal study of its case management system in 2007. The study first established reasonable time standards, and then concluded that over 40% of all pending cases were already over their time standard.²⁰ The table below, copied directly from the Court's 2007 self-evaluation, breaks out cases by track (track number increases with case seriousness and complexity).²¹

TABLE #8 ACTIVE PENDING CASELOAD: CASES OVER TIME STANDARD

TRACK	STANDARD FOR EACH TRACK	# OF CASES IN EACH TRACK	% OF ACTIVE PENDING CASELOAD	# OF CASES OVER TIME STANDARD	% OF CASES OVER TIME STANDARD
Track #1	90 days	2,816	28%	1,616	57%
Track #2	180 days	3,798	38%	1,291	34%
Track #3	365 days	2,698	27%	688	26%
Track #4	547 days	736	7%	322	44%
TOTALS		10,048	100%	3,917	39%



Note that current, nationally accepted time standards recommend that all cases resolve within 180 days.²² Chicago Appleseed was not permitted access to more recent time-to-disposition data, but jail data and interviews with justice system stakeholders support a conclusion that they are likely unchanged: while judges are aware of felony case disposition goals, they adhere to these standards only on a voluntary basis. One exception to this voluntary system is that cases older than two years are transferred to a dedicated "supplemental" court call. There is no evidence that the supplemental call expedites the vast majority of cases that take less than two years to resolve.

There is valid concern that speeding time to disposition might negatively affect the quality of justice. Hearings already tend to take very (perhaps too) little time as it is, the thinking goes, and so faster process could produce worse outcomes for defendants. In fact, both local interviews and secondary research revealed that primary drivers of case delay and excessive continuances include (but are not limited to) lack of attorney preparedness (both defense and prosecution), unwillingness of parties to share evidence, the absence of a firm trial date, and the acceptance of a "continuance culture" within the court. Counter-intuitively, research has concluded that neither severity of caseload nor caseload per judge is a significant causes of case delay. While many elements in the justice system drive case delay, the most important factor in adjudicating cases timely is consistent case management by the judge.²³

Because tens of thousands of defendants each year await disposition of their case while in Cook County custody, achieving felony disposition standards is of considerable civil rights and economic value. At any given time, about 90% of the 8,000 - 10,000 individuals detained in Cook County jail are awaiting trial at an estimated cost of \$143 per day.²⁴ Despite a 25.9% decrease in annual admissions between 2007 and 2011, an analysis authorized by the Cook County Sheriff determined that the average length of stay within Cook County Jail has increased by 13.0%, from 47.9 days to 54.1.²⁵ As a result, the jail's average daily population fell by only 9.5% during the same period.²⁶

When combined with the practices described below, the Court's forthcoming interactive order system should enable the establishment and enforcement of timely and consistent time standards--a universally accepted court performance measure that promotes justice and economy.

Components of Successful Court Performance Programs

- **Measures and Goals:** The key to effective use of court performance measures is selecting measures of both the quantity, type and timing of cases handled as well as the quality of justice the system provides. In selecting common measures, such as those in the 'Recommend Resources' section, administrators can draw on a wealth of previous research.²⁷
- **Compatible Systems:** Ideal systems will share data across many agencies, with information available at each intervention point common to all criminal justice systems: system entry, pretrial processing, case processing, sentencing,



and reentry.²⁸ Without information sharing, agencies will duplicate work, or information will slip through the cracks. Furthermore, information should be stored in a single database so that the criminal justice system can be analyzed holistically, rather than piecemeal.

- **Uniform Data:** A common set of terms for all data is essential for cooperation and holistic analysis; thus, agencies editing case information should create and rely on a single data dictionary.²⁹ This practice not only aides inter-agency cooperation, but also allows court administrators to make meaningful comparisons with other jurisdictions. Even popular measures of court performance like time to disposition and backlog mean different things in different places. Simply comparing individual statistics across jurisdictions can be very misleading. Average length of stay in jail, for instance, may be much longer in jurisdictions where in-custody drug treatment is common than length of stay other jurisdictions. Such a statistic might mislead the casual observer.
 - **Incentives:** As the New Jersey case demonstrates, combining data collection with incentives to improve performance can be a highly effective management tool. In fact, publicizing statistics alone often proves sufficient to hasten case resolution. Seminole County, Florida, for example, cut average length of stay for its slowest cases by publishing a list of cases with longest length of by judge. Judges cut continuances and pushed cases to disposition in response to this publicity.³⁰ While public scrutiny is a proven motivator it is not the only way to push practitioners to improve performance. Several more sensitive incentives in New Jersey are monitored by public officials rather than the public. Should a jurisdiction conclude that some performance measures are best kept private, data can still be leveraged to motivate improvement. The key here is linking performance to consequences. Cook County has a ready mechanism for public monitoring--the Star Performance Management Reports, in which the Court currently declines to participate.
 - **Coordination & Communication:** Effective management requires ongoing monitoring and empirically grounded decision-making.³¹ Court administrators and other criminal justice stakeholders cannot simply collect data and measure performance, they have to insure that monitoring is ongoing. To this end, it is essential that administrators understand and communicate results to stakeholders in the criminal justice system and in the larger community.³² In order to justify the expense of many court programs, administrators may explain how data management systems help them make decisions that improve criminal justice system performance.
-

-
- ¹ Harry O. Lawson and Barbara J. Gletne. Workload Measures in the Court. National Center for State Courts. Williamsburg, VA 1980, at 37.
- ² *Id.* at 23
- ³ *Id.* at 37
- ⁴ Richard Schauffler. Performance Measurement in the State Courts. National Center for State Courts 273 (2008). Available at <http://contentdm.ncsconline.org/cgi-bin/showfile.exe?CISOROOT=/ctadmin&CISOPTR=1298>
- ⁵ Richard Schauffler. Performance Measurement in the State Courts. National Center for State Courts 273, 274 (2008). Available at <http://contentdm.ncsconline.org/cgi-bin/showfile.exe?CISOROOT=/ctadmin&CISOPTR=1298>
- ⁶ *Id.* (Utah and NC adopted, Arizona, California, Massachusetts, and Oregon had begun phasing in CourTools measures)
- ⁷ Nancy LaVigne et al. Justice Reinvestment at the Local Level: Planning and Implementation Guide. The Urban Institute Justice Policy Center, at pg. 21.
- ⁸ Nancy LaVigne et al. at 51; see also "Why Measure Court Performance. National Center for State Courts (2005) at pg. 2. Available online at http://www.ncsconline.org/D_Research/CourTools/CourToolsWhitePages-v4.pdf
- ¹² The information in this section is all derived from John M. Greacen. Backlog Performance Measurement—A Success Story in New Jersey. 46 Judges Journal 42 (2007)
- ¹³ Michael Rempel, *Action Research: Using Information to Improve Your Drug Court*, CENTER FOR COURT INNOVATION, 13 (2010).
- ¹⁴ Michael Rempel, *Action Research: Using Information to Improve Your Drug Court*, CENTER FOR COURT INNOVATION, 8 (2010).
- ¹⁵ Michael Rempel, *Action Research: Using Information to Improve Your Drug Court*, CENTER FOR COURT INNOVATION, 8 (2010).
- ¹⁹ Charles Edelstein, et al. "Review of the Cook County Felony Case Process and Its Impact on the Jail Population." American University, Bureau of Justice Assistance, Technical Assistance Report. (2005) <http://www1.spa.american.edu/justice/documents/1321.pdf>
- ²⁰ Peter Coolsen, "Differentiated Case Management in Cook County (Chicago), Illinois: Stakeholder Perceptions and Empirical Data." Institute for Court Management, Court Executive Development Program, 2007.
- ²¹ Track 1 includes Class 3 and 4 felonies, Track 2 includes Class 2 and 1 felonies, Track 3 includes Class X felonies, and Track 4 is Class M (murder) felonies.
- ²² Van Duizend, Richard, et al. "Model Time Standards for State Trial Courts," National Center for State Courts. (2011)
- ²³ Sources for entire paragraph: Goelzhauser, Greg, "The Politics of Judicial Process" (2010). *Electronic Theses, Treatises and Dissertations*. Paper 4215. David C. Steelman et al., Caseflow Management, National Center For State Courts (2004); Brian J. Ostrom and Roger A. Hanson, Efficiency, Timeliness, and Quality: A New Perspective From Nine State Criminal Trial Courts, National Institute of Justice (2000). Church, Thomas Jr., et al, "Justice Delayed: The Pace of Litigation in Urban Trial Courts" National Center for State Courts (1978).
- ²⁴ Olson, David and Sema Taheri, "Population Dynamics and Characteristics of Inmates in Cook County Jail," 2012. Available at: http://ecommons.luc.edu/cgi/viewcontent.cgi?article=1000&context=criminaljustice_facpubs
- ²⁵ Olson, David and Sema Taheri, "Population Dynamics and Characteristics of Inmates in Cook County Jail," 2012. Available at: http://ecommons.luc.edu/cgi/viewcontent.cgi?article=1000&context=criminaljustice_facpubs at 1.
- ²⁶ Olson, David and Sema Taheri, "Population Dynamics and Characteristics of Inmates in Cook County Jail," 2012. Available at: http://ecommons.luc.edu/cgi/viewcontent.cgi?article=1000&context=criminaljustice_facpubs at 1.
- ²⁷ Holding Courts Accountable: Counting What Counts. National Association for Court Management. (1999) at pg. 5
- ²⁸ Nancy LaVigne et al. Justice Reinvestment at the Local Level: Planning and Implementation Guide, 20. The Urban Institute Justice Policy Center.
- ²⁹ Nancy LaVigne et al. Justice Reinvestment at the Local Level: Planning and Implementation Guide. The Urban Institute Justice Policy Center.
- ³⁰ *Id.* at 37.
- ³¹ See *id.* at 51
- ³² Richard Schauffler. Performance Measurement in the State Courts. National Center for State Courts 273, 274 (2008). Available at <http://contentdm.ncsconline.org/cgi-bin/showfile.exe?CISOROOT=/ctadmin&CISOPTR=1298>