



**Workgroup on Performance Management
Conference Call
March 27, 2015
12:00 p.m. – 1:30 p.m. EST**

Conference Call 1-888-670-3525; Code 4952473921#

AGENDA

12:00 p.m. Meeting Convenes

- I. Welcome and Opening Remarks, Judge Victor Hulslander, Chair
- II. Updated Meeting Schedule
- III. Review of Additional Materials Related to Performance Management:
 - a. Reference List of Acronyms
 - b. General Information Pertaining to Current Court Committee Structure
 - c. Committees Related to Performance Management
 - d. Academic/Professional Articles:
 - i. *Judicial Accountability in the US State Courts: Measuring Court Performance*, By Richard Y. Schauffler, 2007
 - ii. *Evaluating Court Performance: Findings From Two Italian Courts*, By Luigi Lepore, Concetta Metallo, and Rocco Agrifoglio, 2012
 - iii. *Performance Management Systems: The Importance of Defining Their Purpose*, By Charlie Bennett, Ph.D. and Herb Hill, circa 2002
 - a. Matrix on the Use of Performance Measures by Other State Courts
- IV. Plans for In-Person Meeting Scheduled on April 17
 - a. Combined Business Meeting and Workshop
 - i. Morning Workshop- “Free Thinking Zone” Envisioning an Optimal System
 - ii. Afternoon Business Meeting- Review Responses from the Circuit Survey; Develop a Roadmap List of Performance Management Issues to Address

1:30 p.m. Meeting Adjourned

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Proposed Workgroup Timeline – Updated March 10, 2015

Confirmed Meeting Dates are Highlighted in Blue

Tentative Dates are Highlighted in Yellow

February 12, 2015 Conference Call 12:00 pm to 1:30 pm	Orientation meeting to review purpose and goals of workgroup and existing literature on performance management.
March 27, 2015 Conference Call 12:00 pm to 1:30 pm	Determine research and information needs (e.g., to obtain status of performance management). Begin identifying organizational performance management needs (e.g., fill the gap needs).
April 17, 2015 In-person Meeting Orlando	In-Person meeting: Review additional research and begin analyzing results. Refine the scope, as necessary.
May 2015	Staff will prepare written preliminary recommendation options and other results from in-person meeting.
June 19, 2015 Conference Call 12:00 pm to 1:30 pm	Review and discuss issues and preliminary recommendations taking into consideration implementation planning and assessment to the risks and benefits of implementation.
July 23, 2015 In-person Meeting Tampa	In-Person meeting: Finalize preliminary recommendations. Prepare outreach to JMC Performance Workgroup
August and September 2015	Staff will begin drafting report. Preliminary recs will be sent to JMC for outreach.
October 23, 2015 Conference Call 12:00 pm to 1:00 pm	Review feedback from JMC Performance Workgroup. Continue drafting report.
November 20, 2015 Conference Call 12:00 pm to 1:30 pm	Review draft report. Determine outreach participants.
January 2016	Report sent for system-wide outreach.
February 19, 2016 Conference Call 12:00 pm to 1:30 pm	Review outreach responses and determine changes necessary to report.
March 18, 2016 Conference Call 12:00 pm to 1:00 pm	Approve final report for submission to TCP&A

Performance Management Workgroup Acronym Reference List

AOSC – Administrative Order of the Supreme Court

CMS – Case Management System

[CCIS](#) – Comprehensive Case Information System

[COSCA](#) – Conference of State Court Administrators

[CSWC](#) – Court Statistics and Workload Committee

[DCABC](#) – District Court of Appeal Budget Commission

[DCAP&A](#) – Commission on District Court of Appeal Performance and Accountability

[FCCC](#) – Florida Court Clerks and Comptrollers

[FCEC](#) – Florida Court Education Council

[FCTC](#) – Florida Court Technology Commission

[HPCF](#) – High Performance Court Framework

[ITCAS](#) – Integrated Trial Court Adjudicatory System

[JIS](#) – Judicial Inquiry System

[JMC](#) – Judicial Management Council

[LRPP](#) – Long Range Program Plan

[NCSC](#) – National Center for State Courts

[OPPAGA](#)- Office of Program Policy and Government Accountability

[TCBC](#) – Trial Court Budget Commission

[TCP&A](#) – Commission on Trial Court Performance and Accountability

[TIMS](#) – Trial Court Integrated Management Solution

Florida State Courts System

Current Court Committee Structure

While the State Courts System is administered by the Chief Justice and the Florida Supreme Court, the policy development strategy of the judicial branch is, in many respects, very collegial. Due to the nature of the judicial branch, the development and implementation of policies and procedures for the trial and appellate court involves a complex, and often lengthy, process.

Committees may be appointed when a specific issue or concern is brought to the Court's attention, or when the Court desires to evaluate and improve the court system's performance in a particular area. Court committees make a vital contribution to the function of the judicial branch. The topics they deal with include judicial education, the emergence of new technologies and how they affect the judicial system, budget development and administration, and rules governing mediators and arbitrators, just to name a few.

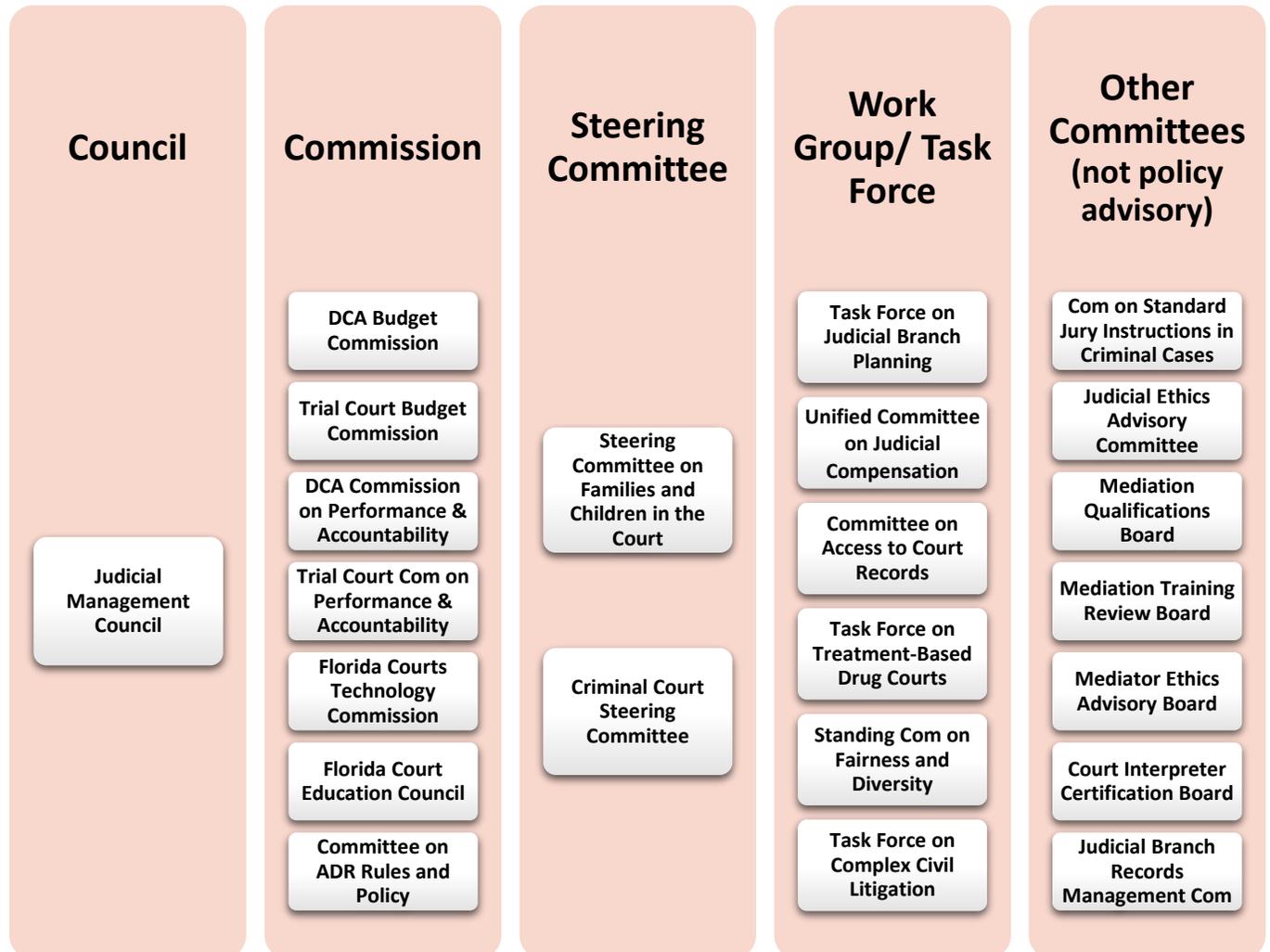
The Florida courts are comprised of nearly 1,000 judges who are independent, constitutional officers; accordingly, policy development strategies emphasize consensus building. An extensive committee structure allows the branch to take full advantage of the rich social, ethnic, and gender diversity of its judges and ancillary staff. Additionally, judges from every level of court, as well as court administrators and their staffs, clerks, public defenders, state attorneys, representatives of the business community, legislators, executive branch officials and staff, attorneys, mediators, and a variety of other topical experts are all called upon to contribute to the work of court committees.

Court committees also provide a mechanism for two-way communication about court policies with justice system partners, the private sector, and the public. Court committees are advisory; they make recommendations for consideration by the Supreme Court. There are a few exceptions, such as the committees that are responsible for professional regulation activities. State Courts System committees usually receive their authority and directive through an administrative order of the Chief Justice. The administrative order may occasionally be supplemented by a letter from the Chief Justice.

Court committees have no authority to become involved in issues beyond the scope of their order, absent requesting and receiving approval in advance from the Chief Justice. Some committees (Trial Court Budget Commission, DCA Budget Commission, and Judicial Management Council) are established by the Rules of Judicial Administration. Others were established as a result of a Supreme Court opinion (Judicial Ethics Advisory Committee, Committees on Standard Jury Instructions). And, by way of another example, while the Florida

Court Education Council was initially established by administrative order, when the Legislature established the Court Education Trust Fund in 1982 it conferred on the council specific statutory duties for administering the trust fund.

In 2002, the State Courts System committee structure was reorganized in a manner that more clearly defined the roles and responsibilities of the various committees. The current structure involves five committee categories: Council, Commission, Division Steering Committee, Work Group/Task Force, and Other.



Councils provide a formal mechanism for effective two-way communication about the justice system between major citizen constituencies and the courts. They also inform the public about the justice system and provide a unique and broad perspective on significant court initiatives. The Judicial Management Council brings together the collective knowledge and experience of State Court System leadership with members of the public for the purpose of conferring about

administration of justice issues that have statewide impact, affect multiple levels of the court system, or affect multiple constituencies in the court community. This collaborative approach will enhance the internal management of the State Courts System by providing court system leadership with a broad perspective on the myriad of administrative challenges facing the Florida courts.

Commissions address high-level policy issues that span the divisions and/or levels of the court. Members are primarily judges and court staff.

Examples:

- Budget Commissions
- Florida Court Education Council
- Florida Courts Technology Commission
- Performance & Accountability Commissions

Steering committees represent the interests of their respective court divisions. They develop an aspirational vision of the ideal court division; recommend models, standards, and best practices; and conduct court improvement initiatives.

Work groups and task forces are ad hoc groups appointed for a specific period of time to address a specific issue or narrow topic. They conduct studies, prepare reports, and take other appropriate action as directed by the Chief Justice.

Examples:

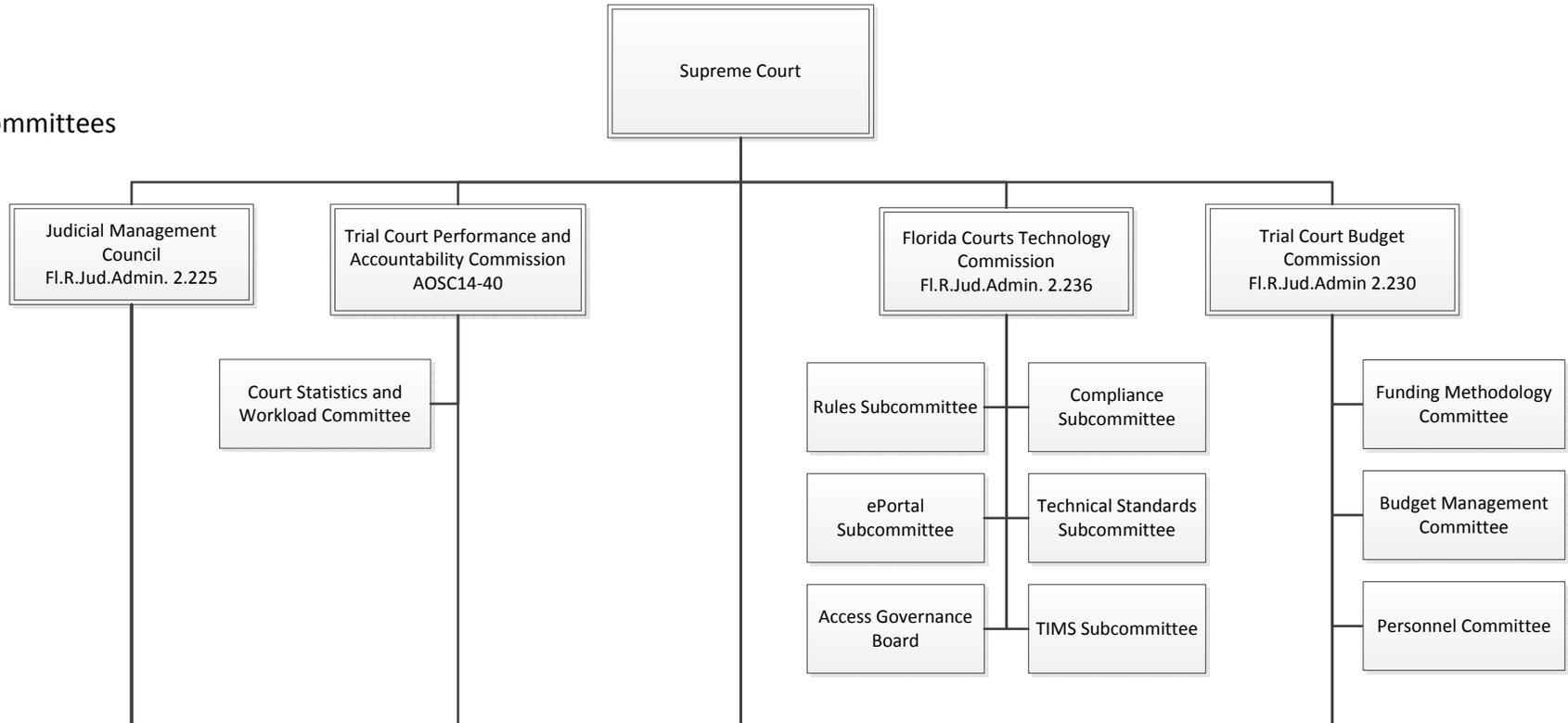
- Task Force on Treatment-Based Drug Courts
- Committee on Access to Court Records
- Task Force on Judicial Branch Planning

Other committees are required by Court opinion, statutory provisions, or other requirements. In some instances, they may, by reason of their responsibilities, operate more independently from Court oversight (regulatory or disciplinary).

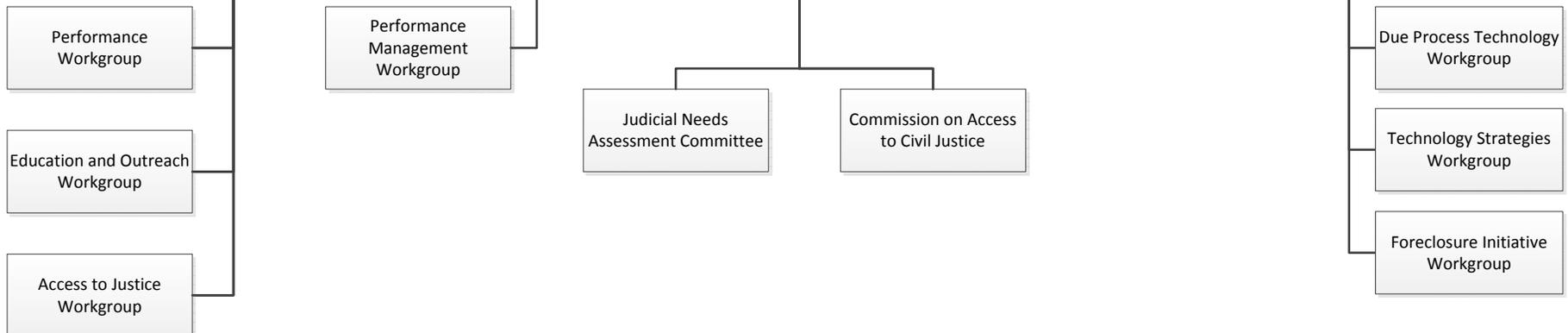
Examples:

- Judicial Ethics Advisory Committee
- Mediation Ethics Advisory Board, Qualifications Board, and Training Review Board
- Court Interpreter Certification Board

Standing Committees



Ad Hoc Committees



Judicial accountability in the US state courts Measuring court performance*

Richard Y. Schauffler**

Currently state courts in the United States are reexamining the issues of performance measurement and accountability. In part a response to competition for scarce budget resources, in part a response to the growing politicization of judicial decision-making and judicial selection, this reawakening of interest in and implementation of performance measurement is also a reflection of struggling with the increasing complexity of modern court management and the need for some objective measurement to inform court managers, the public and partners in government about how well the courts are managed. Here we examine the current efforts at performance measurement in the state courts, situated in a global and historical context.

What explains the resurgence of interest in court performance measurement as a particular form of court management reform? Why are the US state courts of interest to Europe, and EU Member States in particular? The experience of US state courts might be a useful reference point for several reasons. The current impetus for court performance measurement is particular to the US, but it is also an instance of public management reform that can be understood in a comparative framework. What is taking place in the US is not of interest because developments in the US will necessarily, through some unspecified process of ‘globalization’, directly influence developments in Europe. As Pollitt and Bouckaert point out in their model of public management reform, global forces operate in complex ways through intervening variables.¹ The value of understanding the developments arising out of the federation of the fifty states of the US is that these developments may prove illuminating for understanding developments unfolding with the expansion and strengthening of the EU as a supranational polity. Just as the EU Member States enjoy formal institutional autonomy among their sovereign national legal and judicial systems, so do the fifty US states. Just as the EU Member States find themselves at varying levels of institutional maturity and capacity, so do the fifty US states. While obviously the fifty states share a common legal framework, the challenges of institutionalizing performance measurement in this decentralized and diverse US environment is perhaps more relevant to the EU than it might appear at first glance.

* I am indebted to my colleagues at the National Center for State Courts for our extensive collaborative work on court performance measurement, notably Brian Ostrom, Ingo Keilitz, Dan Hall, Tom Clarke, Fred Cheesman, and Charles Ostrom. While the inspiration for this article comes from our theoretical and practical work together, the views expressed here are the sole responsibility of the author.

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1 C. Pollitt & G. Bouckaert, *Public Management Reform: A Comparative Analysis*, 2000, pp. 24-38.

1. The global context

Over the last two decades, courts around the world have been struggling with performance measurement as part of broader public sector and judicial reforms. For developing countries and post-Soviet countries of Central and Eastern Europe, these attempts have been made in the context of democratization and the penetration of Western investment, which insists upon a more extensive and reliable rule of law to protect its investments. In Western Europe, the focus on quality derived from reasons similar to those in the US: renewed emphasis – brought on by global economic crisis beginning in the mid-1970s, the privatization and contracting out of public services of the 1980s, and the neoconservative political pressures of the 1980s and 1990s² – on defining the appropriate type and quality of public services. In the United Kingdom, this movement developed under the name New Public Management, which was embraced to varying degrees (and with varying but mostly inconclusive results) in many countries around the world.³ In the US, given the fragmented nature of state politics, performance measurement for courts has not been part of a concerted joint effort across states, but rather a project undertaken or not according to the priorities of state and local level judicial leadership.

The comparative framework provided by Pollitt and Bouckaert (2000) for analyzing public management reform at the national level as instigated by executive government can help illuminate the same issues for the judiciary.

That heuristic model contemplates the following variables:

A. Socio-economic forces

- B. Global economic forces
- C. Socio-demographic change
- D. National socio-economic policies

E. Political system

- F. New management ideas
- G. Party political ideas
- H. Pressure from citizens
- I. Elite perceptions of what management reforms are desirable
- J. Elite perceptions of what management reforms are feasible
- K. Chance events, *e.g.*, scandals, disasters

L. Administrative system

- M. Content of reform package
- N. Implementation process
- O. Reforms actually achieved⁴

The relationships among these variables are diagrammed in the original, but for the purposes of the present discussion it is sufficient to enumerate them and discuss those relevant for under-

2 See C. Pollitt, *Managerialism and the Public Services: The Anglo-American Experience*, 1990, pp. 28-49 for a more detailed description of this trajectory.

3 For a brief description of the basic elements of NPM, see R. Gregory, 'Accountability in Modern Government', in B. G. Peters & J. Pierre (eds.), *Handbook of Public Administration*, 2003, pp. 563-567, and C. Hood & M. W. Jackson, 'The New Public Management: A Recipe for Disaster', 1991 *Canberra Bulletin of Public Administration* 64, pp. 16-24. For a more detailed and historical discussion of the economics and politics of NPM, see L. E. Lynn, Jr., *Public Management: Old and New*, 2006, pp. 104-156. NPM is discussed in the context of a ten-country comparison in C. Pollitt and G. Bouckaert, *Public Management Reform: A Comparative Analysis*, 2000.

4 From C. Pollitt & G. Bouckaert, *Public Management Reform: A Comparative Analysis*, 2000, p. 26 Figure 2.1.

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standing the current court management reforms underway in the US state courts. Prior to that, it is necessary to provide some historical and descriptive background on the evolution of the state courts in the US.

2. The national context

In order to understand developments in court performance measurement in the state courts, it is necessary to situate it in the context of the political and economic structures of state government in the US. At the outset, it is important to distinguish between the federal court system and the state court system. The federal courts are part of the national government, and are funded, organized, and administered at the national level. Tensions exist within the system between the jurisdictions between these two court systems (some matters are exclusive to one or the other, some are overlapping), the role of federal and state courts with respect to finality of state court decisions, federal preemption of state law, and the control over administration of the state courts and the bar. These issues, while legally important, are not the heart of the matter here; it is sufficient for our purposes to clearly note that federal courts are not addressed here.

In some sense, the term ‘state courts’ may itself be somewhat misleading, since in some states it refers to a coherent set of courts functioning as a judicial branch in concert, while in other states it refers to local-level courts that are geographically located within the same state boundaries, but which have little or nothing to do with each other. The reasons for this are explained below.

2.1. The state judicial branch

The state courts in the United States are situated within a government that is constitutionally structured with three branches: the executive, the legislative and the judicial. In theory, the first two branches govern, while the third adjudicates. If each branch adheres to its role, this structure provides a means through which each branch regulates the behaviour of the other branches and constrains their ability to act outside their constitutionally mandated role, thus preventing the abuse of power. In the popular vernacular, this system is described as ‘the system of checks and balances’.

When applied to the state and local government, however, this simple but elegant model does not fit reality as well as it might at the national level. The state courts 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 highly invested in local practices. The courts of last resort (usually referred to as state supreme courts) and intermediate appellate courts functioned as statewide institutions reviewing the work of the lower courts upon demand. The ongoing attempt throughout the nineteenth and twentieth centuries to create a state-level judicial branch of government from the numerous county or city-level courts is at best an ‘unfinished reform’.⁵

2.2. State court budgets

About one-third of the fifty states now fund their courts through a central state budget; the remaining states fund their courts primarily through local funding at the county or city level.⁶ In

⁵ R. Tobin, *Creating the Judicial Branch: The Unfinished Reform*, 1999, p. 3.

⁶ D. Rottman et al., *State Court Organization 2004*, 2004, pp. 83-96.

many states this lack of budget control creates very weak state-level administrative offices of the courts, which exercise leadership through cooperation and persuasion, not through the leverage of resource allocation.

Regardless of the source of funds, control of the judicial branch budget further problematizes the notion of judicial branch independence. In 29 of the 50 states, the judicial branch budget is submitted to the executive branch, and is subject to negotiation with the governor prior to being submitted to the legislature.⁷ The history of control over judicial budgets is a long and torturous one; more than one state supreme court has seen its budget cut as the result of a court decision that was unpopular with its governor or legislature. At the local level, court budgets are subject to line item review and veto by the local executive or legislative branch, which constrains the ability of the judiciary to chart its own course as an institution. The issue was fully explored in Baar's book, whose title expresses the problem: *Separate but Subservient: Court Budgeting in The American States*.⁸ Although the judicial branch budgets in the fifty states range from 0.5 to 5% of the total state budget,⁹ in larger states this translates into hundreds of millions and even billions of dollars. With this growth in judicial branch budgets has come a demand by the executive and legislative branches for greater accountability.

2.3. State court politics

In most states, the judicial branch has traditionally held itself aloof from partisan politics, seeking to remain in perception and in actuality disengaged from the political fray. This distancing was seen as necessary for remaining impartial and effective arbiters of legal disputes. In recent years, however, the theory and practice of political neutrality and temperance has come under pressure from political interests (party political ideas (G) in the model). One form of this pressure comes from the legislative branch; through the practice of 'court stripping', whereby legislatures seek to remove the authority of the courts to review the legality of particular laws. For example, in the *Schiavo* case,¹⁰ Congress sought to eliminate the authority of the Florida state courts by imposing federal jurisdiction. State-level court stripping efforts occurred recently in Florida and Arizona where the legislatures sought to transfer the power to write rules of court from the state supreme courts in those states to the legislatures.¹¹

Another form of political pressure comes from political interest groups seeking to influence judicial elections or pass legislation through popular ballot initiatives to restrict the authority of courts. The developments here are quite negative, as a few highlights from 2006 illustrate:

1. Television advertisements ran in ten of 11 states with contested Supreme Court elections, compared to four of 18 states in 2000...
2. Average spending on television airtime per state surpassed \$1.6 million...
3. Pro-business groups were responsible for more than 90% of all spending on special interest television advertisements...
4. Candidates themselves went on the attack, sponsoring 60% of all negative ads...¹²

⁷ *Ibid.*, pp. 80-82.

⁸ Carl Baar, *Separate but Subservient: Court Budgeting in The American States*, 1975.

⁹ D. Rottman *et al.*, *State Court Organization 2004*, 2004, pp. 80-82.

¹⁰ The legal developments surrounding the right to die of Terri Schiavo are actually a series of state and Federal court cases. Case references and legal documents can be found at <http://www.euthanasiaprocon.org/legaldocumentsschiavo.html>.

¹¹ David Rottman, 'The State Courts in 2005: A Year of Living Dangerously?', in Council of State Governments, *The Book of the States 2005*, 2006.

¹² J. Sample & L. Jones, *The New Politics of Judicial Elections 2006*, <http://www.justiceatstake.org/contentViewer.asp?breadcrumb=3,570,979> (accessed 21 May 2007).

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Due to the peculiar form of electoral politics practiced in the US (where political parties are mere advertising labels for individual politicians who are not bound by a party programme, and where special interests, rather than political parties, reign), the analysis of these developments problematizes both party political ideas (G) and pressure from citizens (H) in the model. Business interests frequently masquerade as citizen interests through fictive organizations and disguised spending. While the legislative and executive branches feel it is appropriate (if not required) to be responsive to this kind of political pressure, judicial branch leaders have been appropriately reluctant to allow this kind of political activity to influence the judicial branch. In this context, performance measurement is appealing as it has the potential to shift the discourse in elections from specific decisions in individual cases to more appropriate criteria.

2.4. State court structure

State courts in the United States evolved at the city or county level within the context of the system of three branches of government outlined above. As a result of the historical evolution of the country as it expanded westward from the seventeenth through the twentieth century, the structure of the courts in each state is far from homogeneous. 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).¹³

The distinction between the two levels of trial court can be characterized in terms of the seriousness of the cases that come before them, expressed as either the economic value of the case (for a civil case) or the severity of the crime and its sanction (for a criminal case). In some states, the courts are combined through a system of geographical regions, through which several courts form a single district or circuit served by a common pool of judges. It is safe to say that almost every variation of the above exists today, from the simplified unified structure of states like Minnesota and California (with a single court of last resort (supreme court), a single tier of intermediate appellate courts (court of appeals) and a single tier of trial courts (district court or superior court, respectively) to the still complex structures of states like New York (with eight distinct limited jurisdiction courts (courts of claims, surrogate's court, family court, district court, city court, town and village justice court, civil court of the city of New York, criminal court of the city of New York), two different general jurisdiction courts (county court and the confusingly named supreme court), two different intermediate appellate courts (appellate divisions of the supreme court and appellate terms of the supreme court) and one court of last resort (the confusingly named court of appeals). The unnecessary complexity of many of these state court structures was decried in Roscoe Pounds's famous 1906 address to the American Bar Association and cited as one of the 'causes of popular dissatisfaction with the courts'.¹⁴

As states sought to create a state-level judicial branch from these local-level institutions, they typically assigned responsibility for judicial branch governance either to the state supreme court, led by a chief justice, or to a judicial council, a small, representative body chaired by the chief justice. Either way, the state-level institution seeks to govern and administer the local-level

13 The most complete guide to the organization of the state courts in the US is *State Court Organization, 2004* a joint project of the Bureau of Justice Statistics and the National Center for State Courts, available at <http://www.ojp.usdoj.gov/bjs/abstract/sco04.htm>

14 R. Pound, 'The Causes of Popular Dissatisfaction with the Administration of Justice', 1964 *Crime and Delinquency* 10, pp. 355-371.

courts through the creating of mandatory statewide rules of court, standards of judicial administration and disciplining of judicial officers. The judicial branch is led by two figures: the chief justice of the state supreme court (appointed by the governor in thirteen states, elected in non-partisan election in four states, elected in partisan elections in two states and chosen by other means, typically the supreme court itself, in the remainder)¹⁵ and the state court administrator, who serves at the pleasure of the supreme court. However, it must be noted that the notion of a professional manager as part of the state-level administration of the judicial branch is a rather modern one: the first such position was not created until 1947 in New Jersey.¹⁶

The state court administrator serves as the chief executive officer of an administrative office of the courts, the statewide staff office for the judicial branch. The authority and span of control of that office varies widely. In those states where the judicial council/supreme court gained control over the funding of the courts through the state budget, this provides additional leverage through the distribution of these funds to local courts via the administrative office of the courts. In these states, fiscal control can also be used to create more standardized, statewide approaches to judicial administration.

This brief discussion of state court structure would not be complete without making mention of the two most influential actors in the state courts at the local level: judicial officers (*i.e.*, justices, judges, commissioners, referees, magistrates, justices of the peace, by whatever names they are known) and court executive officers (*i.e.*, court administrators or clerks of court, by whatever names they are known). Judicial officers at these various levels of state court arrive at their position in a variety of ways. For general jurisdiction trial courts, judges are elected in partisan or non-partisan elections in 27 states; appointed by the governor in 19 states; and appointed by the legislature or other means in the remaining states.¹⁷ The governor and the legislature both play a role in the authorization for and funding of new judgeships; in about 35 states, requests for new judgeships are made on the basis of a quantitative workload assessment methodology administered by the judiciary.

Within each trial court one judge is typically elected by fellow judges locally or appointed by the chief justice of the state supreme court to serve as the presiding judge (also known as the chief judge or administrative judge). This judge is ‘first among equals’ and is charged with managing the legal and judicial side of the court and co-managing the administrative matters with the court administrator. All the dynamics of competing allegiances described below are at play with respect to this position as well.

Court administrators are either elected in local partisan or non-partisan elections in 30 states, or appointed by either state-level (administrative office of the courts) or local-level (the trial court) judiciary.¹⁸ While the office of an elected clerk of court is an old tradition in many states, the notion of a professional manager hired for their management expertise is a very modern one: the first such administrator was hired by the Superior Court in Los Angeles, California, in 1957.¹⁹

The appointment/election/hiring process of these key actors itself thus poses an immediate question: To whom are judges and court administrators accountable: the governor, the chief justice of the state supreme court, the state legislature, the county, the litigants, or the taxpaying and voting public? Are they agents of a state entity – the judicial branch of state government –

15 D. Rottman *et al.*, *State Court Organization 2004*, 2004, pp. 25-28.

16 A. Aikman, *The Art and Practice of Court Administration*, 2007, p. 2.

17 D. Rottman *et al.*, *State Court Organization 2004*, 2004, pp. 33-38.

18 *Ibid.*, pp. 169-174.

19 L. Sipes, *Committed to Justice: The Rise of Judicial Administration in California*, 2002, p. 69.

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or local officials? Their interest in and implementation of performance measurement is of course affected by their views on this issue. These are not merely rhetorical questions, since state courts are responding to inputs from both the state and local levels. In the discussion of the Pollitt and Bouckaert model below, we will confine our discussion to the state level.

3. Performance measurement in the state courts of the US

In the wake of the neoconservative efforts in the 1980s to privatize, downsize, and reorganize the public sector, the idea of reconceptualizing how governmental functions are organized and evaluated held some appeal across the political spectrum. An effort was made to transcend the significant but ultimately sterile debate about more or less government and to shift the discourse to answering the question: Government for what purpose? Perhaps the most popular book on the subject in the US, *Reinventing Government*,²⁰ argued for performance-based public institutions. The use of performance measurement called for two things: clarification of the purposes of each institution and definition of the appropriate measures to gauge progress toward those specific organizational objectives.

While much of this discourse in the US was about the federal government,²¹ the ideas permeated state and local government as well. States like Colorado and Connecticut undertook benchmarking efforts, as did some major cities. Indeed, by the mid-1990s, it was claimed that ‘performance measurement, the regular collection and reporting of information about the efficiency, quality and effectiveness of government programmes is arguably the hottest topic in government today’.²²

In the state courts, the impetus toward performance measurement was further stimulated by several other factors:

1. the enormous increase in cases prosecuted as part of the national ‘war on drugs’ that were overwhelming the courts;
2. renewed attention to court delay and costs of litigation;
3. the economic recession of the early 1990s, which put a serious budget squeeze on state and local budgets and illustrated how ineffective courts were at justifying their use of public dollars with objective data,²³ and
4. the low level of public trust and confidence in the courts, as reported in national and state surveys.²⁴

To reframe these elements within the framework provided by Pollitt and Bouckaert, the factors pushing the reform effort included: 1) factors from the political system (new management ideas (F)); 2) socio-economic forces (socio-demographic changes (C) in terms of increased drug use and drug-related crime), which in turn result in elite perceptions of how to respond to 3) a second set of factors from the political system (party political ideas (G) and pressure from citizens (H)

20 D. Osborne *et al.*, *Reinventing Government*, 1992.

21 National Partnership for Reinventing Government (NPR), originally the National Performance Review, was an interagency task force created in March 1993 during the Clinton presidency to reform the way the U.S. federal government works.

22 R. Nyhan *et al.*, ‘Comparative Performance Measurement’, 1999 *Public Productivity and Management Review*, no. 3, pp.348-364.

23 National Association of State Budget Officers, ‘Fact Sheet: Quick Rebound? State Fiscal Recovery Could Be Gradual, Lag National Economy 12-18 Months’, 2002.

24 See for example American Bar Association, *Perceptions of the US Justice System*, 1999; National Center for State Courts, *How the Public Views the State Courts: A 1999 National Survey*; Yankelovich, Skelly, and White, Inc., *The Public Image of the Courts: Highlights of a National Survey of the General Public, Judges, Lawyers, and Community Leaders*, 1978.

regarding drug use and drug-related crime, leading to the ‘war on drugs’); 3) a third set of factors from the political system (pressure from citizens/interest groups (H) on court delay and legal costs); 4) socio-economic forces (national and state economic conditions and policy responses (D)); and 5) additional factors from the political system (pressure from citizens (H) in the form of negative public opinion about the courts) which in turn give rise to new elite perceptions of what management reforms are desirable (I).

In this context, the National Center for State Courts initiated the development of what came to be known as the Trial Court Performance Standards (TCPS). Over three years, the Commission on Trial Court Performance Standards engaged the court community in the development of 22 standards requiring 68 measures across 5 broadly defined areas: access to justice; expedition and timeliness; equality, fairness and integrity; independence and accountability; and public trust and confidence.²⁵ Conceptually, the TCPS 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 TCPS were first published in 1990 and endorsed by all the key national court organizations (Conference of Chief Justices, Conference of State Court Administrators, National Association for Court Management and American Judges Association).²⁶ Again, referring to the model, these management reforms were endorsed by judicial leadership as desirable (I).

The purpose of securing endorsements from national organizations is perhaps obvious: faced with a federation of state court systems, any effort to create a coherent national project must gain acceptance from the leaders of those state and local courts. While the members of those associations are not bound to carry out the resolutions or policy guidelines developed at national meetings, there is nonetheless important symbolic value and legitimacy conveyed by being able to refer to these actions.

As a sign, however, of how intimidated the court community was by the notion of performance measurement, the TCPS were published with an explicit disclaimer that the measures were only to be used for a court’s internal management. This message was not lost on the states. The Judicial Council of California, for example, adopted the TCPS as one of its Standards of Judicial Administration with an explicit statement that the standards are ‘for the purposes of internal evaluation, self-assessment, and self-improvement. They are not intended as a basis for cross-court comparisons’.²⁷ Whether this was the price that had to be paid for embracing the TCPS in that state or any other can be debated, but the point here is simply that this was indicative of the fear of data-driven performance evaluation that was widespread among the state courts.

For a variety of reasons, shortly after it was endorsed the movement toward performance measurement in the state courts lost momentum at this time. As summarized by one court management expert, ‘At an intellectual level, the Trial Court Performance Standards changed the debate, and changed the perception about the value of data. Regrettably, they did not change operations in more than a few courts’.²⁸ Several factors contributed to the inability of state courts to institutionalize performance measurement:

25 Commission on Trial Court Performance Standards, *Trial Court Performance Standards with Commentary*, 1997.

26 This description is drawn from Pamela Casey, ‘Defining Optimal Court Performance: The Trial Court Performance Standards’, 1998 *Court Review*, Winter, pp. 24-29.

27 Judicial Council of California, *California Rules of Court*, 2007, <http://www.courtinfo.ca.gov/rules> (accessed 13 April 2007). Originally adopted as Section 30 in 1995, these standards are now incorporated into the newly reorganized *California Rules of Court* as Standard 10.17.

28 A. Aikman, *The Art and Practice of Court Administration*, 2007 p. 237.

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1. the number of proposed measures (68) was too great and the measures appeared complex and seemingly without priority (thus in terms of the model, the reform process failed to develop systematically from elite perceptions of what management reforms are desirable (I) to those that are feasible (J) and from thence to actual content (M) and implementation (N));
2. the courts' information systems were not originally designed to produce the data required for the measures, and manual data collection was too labour intensive (constituting a failure of reform in terms of implementation process (N)) ;
3. the economic pressure on budget resources diminished as the economy recovered, and hence the perceived need to invest resources in performance measurement declined (diminished pressure from national and state socio-economic conditions and policies (D));
4. the institutional separation of the judiciary from other branches of government (G), which insulated the courts from pressures to adopt performance measure like some executive branch agencies were compelled to do; and
5. a lack of consistent leadership prevailed on this issue at all levels of the judicial branch (again, a failure to progress from elite perceptions of the desirable (I) to elite perceptions of what management reforms are feasible (J)).

3.1. Court performance measurement reborn

With renewed fiscal pressure on public sector budgets at the turn of the century and a growing perception that judicial branch institutions have not been as successful as other public sector organizations in advocating for budget resources, interest in performance measurement has been renewed. During the intervening years, it is also true that the attention to appropriate performance measurement grew, as indicated by the publication of numerous works on the subject.²⁹ Thus, referring again to the model, judicial branch leaders experienced another round of economic budget pressure (D) (not as severe as in the early 1990s, but enough to remind them of the pain) and a shift in their perceptions of what reforms are feasible (J). The latter was influenced no doubt by increased awareness of the leap in information technology generally (the World Wide Web and Web-based information services had blossomed over that decade) and of improvements in functionality of court information systems made it possible to think of using automated systems for generating key performance reports.

Propelled by increased demand from judicial branch leadership for assistance in promoting 'effective judicial governance and accountability',³⁰ the National Center for State Courts revisited the TCPS 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 NCSC developed CourTools, a set of ten performance measures designed to evaluate a small set of key functions of the court. Drawing heavily on the framework originally outlined in the TCPS and its notion of measuring the performance of the court as a whole, CourTools was designed as a 'feasible few' set of measures that were selected on the basis of three criteria: a) correspondence to fundamental court values; b) balanced

29 See for example M. Brown, *Keeping Score: Using the Right Metrics to Drive World-Class Performance*, 1996; R. Chang *et al.*, *Performance Scorecard: Measuring the Right Things in the Real World*, 2000; R. Kaplan *et al.*, 'The Balanced Scorecard: Measures That Drive Performance', 1992 *Harvard Business Review* (January-February), pp. 71-79.

30 Conference of State Court Administrators, *Position Paper on Effective Judicial Governance and Accountability*, 2001. Available at http://cosca.ncsc.dni.us/white_papers.html

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perspective on the work of the court; and c) feasibility and sustainability.³¹ Success factors that the measures seek to illuminate include fiscal responsibility, employee satisfaction and engagement, client-customer satisfaction and effectiveness and efficiency of internal processes.

The ten CourTools measures are:

1. *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)
2. *Measure 2 Clearance Rates* (the number of outgoing cases as a percentage of the number of incoming cases)
3. *Measure 3 Time to Disposition* (the percentage of cases disposed within established time frames)
4. *Measure 4 Age of Active Pending Caseload* (the age of active cases pending before the courts, measured as the number of days from filing until the time of measurement)
5. *Measure 5 Trial Date Certainty* (the number of times cases disposed by trial are scheduled for trial)
6. *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)
7. *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)
8. *Measure 8 Effective Use of Jurors* (measurement of juror yield (the number of citizens 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))
9. *Measure 9 Employee Satisfaction* (ratings of court employees assessing the quality of the work environment and relations between staff and management)
10. *Measure 10 Cost per Case* (the average cost of processing a single case, by case type).³²

Citing a) the need 'to promote judicial governance and accountable state Judicial Branch institutions that provide the highest quality service to the public'; b) the need to improve understanding of the judiciary's role to make it less likely that there is interference with 'the judiciary's ability to govern itself'; and c) 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', in August 2005 the Conference of State Court Administrators called upon state courts to implement performance measures and upon the National Center for State Courts to create a national clearinghouse of performance data.³³ What is new here, in comparison to the earlier endorsement of the TCPS, is the explicit call for cross-court comparison and the acknowledgment of both managerial and political reasons for measuring performance. What is also new is the fact that some states and individual courts are actually implementing performance measures. A brief review of these efforts follows below.

31 Brian Ostrom, *Why Measure? Five Reasons to Assess Court Performance*, 2005. Accessed 21 May 2007 at http://www.ncsconline.org/D_Research/CourTools/CourToolsWhitePages-v4.pdf

32 Full definitions and detailed descriptions of these measures are available from the National Center for State Courts at <http://www.courttools.org>

33 Conference of State Court Administrators, *Resolution 14 In Support of Measuring Court Performance*, 2005. <http://cosca.ncsc.dni.us/Resolutions/CourtAdmin/resolutionMeasuringCourtPerformance.html> (accessed 1 April 2007).

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3.1.1. State-level performance measurement

The state of 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, and data for most measures are available at the aggregate statewide level as well as at the local jurisdiction level. The state of North Carolina has developed a Court Performance Measurement System (CPMS) that is also available on its public Web site, reporting data on three measures related to caseload management: clearance rate, time to disposition and age of active pending cases.³⁴ The state of California is currently pilot testing all ten 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. The state of Arizona has major work underway in its largest superior and municipal courts pilot testing many of the CourTools measures. 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.³⁵ The state of Oregon has adopted a set of budget-related performance measures, which include 17 measures consistent with, identical to, or supplemental to the CourTools measures.³⁶ Finally, the state of Massachusetts has initiated a comprehensive effort to utilize the measures related to caseload management to revitalize that state's court system: clearance rate, time to disposition, age of pending cases, and trial date certainty. Massachusetts has taken the additional step of setting statewide goals for its measures and publishing results.

3.1.2. Court-level performance measurement

Individual courts are also taking up performance measurement, without waiting for broader statewide efforts to get underway. These range from large urban courts like Harris County, Texas, (which includes the city of Houston), Hennepin County, Minnesota, (which includes the city of Minneapolis) and Maricopa County, Arizona, (which includes the city of Phoenix) to small courts of one to six judges in rural areas. Results of the Fourth District Court in Hennepin County and for Maricopa County are available on the court Web sites.³⁷ A good example of a strong effort underway in a midsize urban court is the work being done in Yuma, Arizona, in the superior court, which is reporting results for CourTools measures 1 (Access and Fairness), 9 (employee satisfaction), 8 (effective use of jurors), 3 (time to disposition), 2 (clearance rate) and 10 (cost per case).³⁸ 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.³⁹ These courts represent a representative, but not exhaustive sample of the breadth and depth of local-level court performance measurement initiatives across the US.

34 See the Web site of the North Carolina Administrative Office of the Courts at <http://www1.aoc.state.nc.us/cpms/login.do>.

35 Arizona Supreme Court, *Good to Great: A Strategic Agenda for Arizona's Courts 2005-2010*, 2005. <http://www.supreme.state.az.us> (accessed 13 April 2007).

36 A. Phalan, *The Oregon Judicial Department Performance Measurement System*, presentation to the COSCA 2005 mid-year meeting, December 9, 2005, San Diego, California.

37 For Minnesota see www.mncourts.gov/district/4/?page=394 and for Arizona see <http://www.superiorcourt.maricopa.gov/publicinfo/annualrep/FY2006AnnualRpt.pdf>.

38 See <http://www.co.yuma.az.us/courts/dashboard.htm>

39 See the Lubbock, Texas court report at <http://www.co.lubbock.tx.us/DCrt/Reports.htm>; see the Morrow County, Ohio report at <http://morrowcountycpc.com/>; see the Tippecanoe County, Indiana report at www.courttools.org on the Online Community home page.

3.1.3. *The perception of feasibility*

What accounts for the change in elite (judicial branch leadership) perceptions of the feasibility of performance measurement? One of the key failure points in the previous reform movement based on the TCPS was the inability or unwillingness to move beyond rhetorical statements of the desirable (I) to an actual performance measurement programme (M). Several factors appear to have contributed to this shift.

First, in order to create the perception of feasibility (and ultimately the possibility of comparative evaluation), the CourTools were specifically designed to provide precise data definitions and analytical methodologies to develop results that are credible. State and local court leaders have long known that much of their data is unreliable at worst and unverified at best. Thus, even those who embraced the notion of performance measurement were not prepared to believe the results of any attempt to measure it that relied on current, unrevised data. A necessary prerequisite was thus the development and dissemination of standard definitions of case types (that is, the definition of a contract case, fraud case, tort, etc.) and case counting rules (that is, the relationship among the number of charges/causes of action, the number of defendants/plaintiffs, and the number of cases). This was accomplished through the publication of the *State Court Guide to Statistical Reporting* in 2003, which codifies the universal definitions of case types and standardized counting rules.⁴⁰ For example, in some states *one person* charged with five different criminal offences is counted as *five cases*; the NCSC standard calls for this to be counted as a single case. While states may have local preferences or legal requirements for how they classify or count cases, the guiding principle is to map that data into the standard framework for national comparison purposes.

In addition, detailed specification of the calculation rules, for example, for computing accurate time to disposition, require that case management systems embed the appropriate logic in their queries and reports, and/or that courts utilize appropriate formulas in spreadsheets.⁴¹ Even as simple a notion as the elapsed time from the filing of a case to its disposition involves a series of decision rules and exposes the limitations of current information systems. For example, to count this time correctly, a court must be able to exclude time when the case was removed from court control, *e.g.*, when a civil case is stayed due to the filing of a bankruptcy proceeding in federal court or when a criminal case is halted because the defendant has absconded.

Developing standard definitions, counting rules, and calculations provided the basis for creating a new perception that measurement could be done fairly, accurately, and consistently within and across courts within a given state, and among states. The obvious additional benefit, in the context of diverse state court systems, is that standardizing the precise way the measures are to be taken is the only hope for creating results that can be interpreted and compared in a meaningful way.

3.1.4. *Data quality*

As noted above, for many if not most courts, the data required either does not exist in usable form or is of dubious quality. This is not surprising, since most courts manage their operations without reference to this data, focusing on the scheduling of events and ad hoc methods of allocation of work among judicial officers and court staff. Although much of this data is reported in the aggregate to the state-level administrative office of the courts, in many states virtually no use is

⁴⁰ National Center for State Courts, *State Court Guide to Statistical Reporting*, 2003.

⁴¹ To ensure error-free calculation, the NCSC has developed a series of spreadsheets for data entry and analysis. See the templates at www.courttools.org on the Online Community home page.

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made of it at that level either, other than to publish it in aggregate form in an annual report. At most, a court might receive an inquiry about missing data or wildly different data, but that does not generally lead to any real investigation into the data quality. Of course, for any generalization like this there are exceptions, for example, the states of New Jersey and Minnesota, which have developed and maintained a high level of data quality. This quality is based on the fact that those state offices actually use the data to manage the courts, and court staff and judicial officers have a keen understanding of that fact.

Thus, a critical first step for most courts is the collaborative work among court information technology staff, managers and court staff required to validate and correct their data. Generally this work has proceeded on an iterative basis by producing reports and then investigating anomalies reflected in those reports numerous times until the data is acceptably clean. Several other courts have taken a different path forward. The court management team of the criminal courts of Harris County, Texas, took note of the following:

1. While information technologies come and go, data is eternal, yet little effort and resources are invested in auditing and improving it;
2. Every inquiry begins with the same questions (Do we have the data? Can we get to the data? Is the data readable? Can we convert the data? Is the data reliable?) and the cost of redundant explorations of the answers is significant;
3. The court pays over and over again for slightly different views of the same data, and produces different versions of the truth, depending on exactly how the data is categorized, both of which are expensive and unwise practices.⁴²

This court has undertaken to build its underlying data infrastructure first, before deploying it to produce reports. This stands in contrast to the ‘deploy and fix’ approach to data quality described above. As part of this effort, the Harris County criminal courts subject their data to systematic audit. Errors are identified not only to fix the record, but also to target training to specific staff responsible for the errors. Results for each court are published to the courts, and a healthy competition has evolved among the courts to achieve the lowest error rate. Having initiated a culture that values data quality, the court is now in the final stages of developing Web-based reporting tools and graphical displays of performance measurement results.

3.1.5. Interpreting performance measurement results

Assuming the availability of data relevant to measurement, the second major challenge for court managers is to understand what the results mean. Most court administrators at the state and local levels have managed the courts without any such data for so long that the utility of the information is not at all apparent to them. What this reveals is that some of the fundamental notions of caseflow management, if learned at all, remain invoked at best on an intuitive basis by individual judges or court managers on an ad hoc basis. When the results of a single measure are not understood, it is obvious that the more nuanced use of multiple measures (*i.e.*, the balanced scorecard, 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) never appears on the managerial agenda at either the local or state level.

⁴² H. Leverette, *Industrial Strength CourtTools: An Architecture for Court Business Intelligence*, presentation to the Court Solutions Conference, September 18-20, 2006, Baltimore, Maryland. Available online at: <http://www.courtsolutions.org/MS/MS5/page.php?p=451>

Most courts that have engaged in performance measurement in this recent resurgence of interest and implementation have measured key outcomes only once, and cannot yet see the results of any management actions they may have taken in response to those results reflected in measurement at subsequent points in time. In addition, given the as yet small number of courts engaged in performance measurement and the lack of historical data, specific outcomes on measures like clearance rates and collection rates tend to be specific to individual courts and not ripe for comparative analysis. Thus, our discussion below of lessons learned is more of a snapshot of initial insights on some issues arising from two measures that are relevant to understanding the overall effort at court performance measurement. The commentary below is based upon review of performance measurement data from the courts of Arizona, California, Ohio, Texas and Utah.

3.2. Ratings of access and fairness

The first measure in the CourTools set is a measure of access and fairness through ratings of court practice by court users. The survey, administered to all those exiting the courthouse(s) in a jurisdiction on a given day, ask respondents to rank the court on ten items related to access and five items related to procedural fairness if they participated in a hearing before a judicial officer that day. Most courts have discovered that the public rates their services higher than judicial officers and the court's staff and managers might have guessed. No doubt, in part this is due to the skewed impression that the court gets of its customers, based on memory of either the very negative or very positive feedback obtained in person or on voluntary customer feedback survey cards available at the counter. The 'mystery of the middle' – what *most* court users think – has remained a mystery up to now. For most courts, these ratings have indicated a relatively high rating of the court by its constituents. At the same time, courts are gaining valuable information on what parts of their constituency feel less well served. Serving communities with diverse populations is a challenge faced by many urban courts and by some rural courts with immigrant populations who typically make up a significant part of the agricultural and service sector labour force. On the whole, the surveys to date indicate that the courts are, for the most part, perceived as equally accessible to court users regardless of age, sex and race/ethnicity, or type of case that brought them to the court.

The second part of the survey asks five questions related to procedural fairness. Courts are also learning, as the research on procedural justice has consistently shown, that people's evaluation of the court is not based on whether they win or lose, but on whether they were treated with respect and feel that their side of the story was heard by the court and taken into account. This well-established finding remains outside the purview of many judges and attorneys, however, who continue to believe that litigants are focused on the *outcome* ('winning' or 'losing') rather than on the perceived fairness of the process.⁴³ This disjuncture leads to unintended consequences in the courtroom, when judges and attorneys fail to create a process and a language that allows litigants to feel they have had their say and understood their day in court.

Conducting the access and fairness survey is also generating comparative data at the local level. Court managers and judicial officers are contrasting the ratings of the court's various divisions (civil, family, criminal, traffic, juvenile, etc.) and locations. The managerial challenge

⁴³ The research of Thomas Tyler has demonstrated this finding repeatedly. For an introduction to that research, see T. Tyler, 'What is Procedural Justice?: Criteria Used by Citizens to Assess the Fairness of Legal Procedures', 1988 *Law and Society Review* 22, pp.103-135. For a recent confirmation of this disconnect between litigants and judges and attorneys, see Judicial Council of California, *Trust and Confidence in the California Courts, Phase II*, 2006, p.36.

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for courts whose management culture is typically reactive, hierarchical, and focused on fixing errors and responding to crises, is to identify areas of excellence and promote courtwide learning and sharing of effective practices, and to do so in a way that involves the court staff.

More generally, it appears true across most courts that while the courts have invested significant resources in the Web sites, the public is largely ignorant of those sites and does not take advantage of functionality (online payment, online traffic school, court calendars, procedural information and forms, etc.) that could make it easier for them to conduct their business, and in some cases avoid a trip to the courthouse in the first place. The public generally finds that it still takes too long to do court business, that court forms are not easy to use or clear, and that the court hours of operation are not convenient.

The relevance of this point is that it illustrates that communicating with their many and varied constituencies is a challenge that is frequently underestimated by courts. Mere publication of information on a Web site or in an annual report does not constitute effective communication. To the extent that courts are measuring performance and demonstrating a commitment to improvement and accountability, this information is not well disseminated. Part of the value of performance measurement lies in the publication of its results, and shaping the public and political discourse about courts. Referring again to the model outlined above, the connection needs to be made between reforms actually achieved (O) and the elite perceptions of what is desirable and possible (I and J), which in turn shape the content of the next iteration of the reform package (M).

3.3. Employee satisfaction

The CourTools measures include a measure of employee satisfaction. This is a survey of approximately 20 questions gleaned from management literature that tap into key dimensions of the work experience. Typically, the survey is administered anonymously as an online survey; response rates in more jurisdictions are approximately 65 %. Reasonable observers of a typical US state courthouse in most jurisdictions would agree that court staff work very hard at their jobs. And many courthouses are far from modern facilities, affording often substandard working conditions and outdated information technologies. What is remarkable is not that court employees work so hard, but that they continue to work hard year after year, without any real feedback about the results of their work. Informal inquiries with court staff reveal that they measure their performance by various ad hoc measures like how high the pile of paper on their desk is on Friday or whether they have had 15 minutes of uninterrupted time at their desk during any day of that week. At best, they might have a sense of some of their outputs – *e.g.*, whether all the notices in a case got mailed out on time.

The employee satisfaction survey provides some insights into the paradox of the hard-working court employee. In analysis of the CourTools survey that categorizes the survey questions into subscales, we find that court employees' values align highly with the mission and vision of the court's higher purpose – providing justice. Court staff believe the work of the court is important and respected in the community, and they experience the connection between the work that they do and the mission of the court. Overall, court employees enjoy their work and are proud to work at the court and it appears that it is these beliefs that motivate their hard work. These findings are all the more impressive given how little information employees get from either their managers or management reports of any kind on the court's performance.

Just as with the surveys of the public, courts administering this survey gain intra-court comparative information that allows sharing of effective managerial practices across locations and divisions. In some instances, the courts have discovered differences in the perceptions of

court workplace management and practices managers and staff, which create fertile ground for productive dialogue within the court. Engaged, committed court employees who are provided with timely information about the court's management agenda are in the best position to provide quality service to those who use the courts.

Again, the challenge for traditional court managers is to engage the staff in the discussion of and solution to the issues identified by court employees. In addition, for some managers, employee satisfaction is seen as irrelevant to their work, while others view it more appropriately as an intermediate outcome that has a direct impact on the outcomes experienced by users of the court (being able to access information, being treated with courtesy and respect, being able to conduct their court business in a reasonable amount of time).

4. Looking to the future

As Pollitt and Bouckaert point out, separating rhetoric from practice and estimating trajectories of reform is risky business, especially since reform packages like performance measurement 'display a considerable rhetorical dimension, playing harmonies on the styles and ideas of the moment'.⁴⁴ And at the local or state level, it is one thing to collect and publish data, it is quite another to use it to make management decisions; this remains the fundamental challenge to effective management of state courts. The vision of this overall project was well summarized by the Massachusetts courts: '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'.⁴⁵

4.1. Institutionalization

The institutionalization of reform through the administrative system (L in the model) is where many a good idea is created or destroyed. A significant issue for the US state courts is that court administrators typically lack the level of professional management training and education required for leading a complex public institution like the court. Most have come up through the ranks and are operational experts; few have formal education or practical experience in managing complex organizations. On the judicial side of the court management team, most judges are, by inclination and training, not strong managers. An additional weakness of the state court leadership structure is the rotating nature of the chief justice and presiding judge positions, which creates discontinuity within the judiciary as well as in relationships with the other two branches of government.⁴⁶ Creating the educational and professional infrastructure for developing skilled management is a strategic goal whose value is perhaps still underestimated.

Currently, a review of which states and courts are undertaking performance measurement initiatives suggests that for the most part, the key factor in implementing court performance measurement is judicial leadership (elite perceptions (I, J) in the model). It is not the states that are experiencing the worst of the political attacks that are leading this effort, nor is it the states whose judicial branch budgets are most constrained. Rather, it is the relatively well-resourced

44 C. Pollitt & G. Bouckaert, *Public Management Reform: A Comparative Perspective*, 2000, p. 35.

45 Administrative Office of the Trial Court, *Enhancing the Delivery of Quality Justice: Report of the Court Metrics Project, Calendar Year 2006, 2007*.

46 The terms of local court presiding judge (aka chief judge, administrative judge) are typically only two years. See National Center for State Courts, *Key Elements of an Effective Rule of Court on the Role of the Presiding Judge*, 2005. Accessed 22 May 2005 at http://www.ncsconline.org/D_Research/Documents/Res_JudInd_ElementsofaRule_final2.pdf

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states and courts with truly visionary leadership that are choosing to reform court management in this way.

4.2. Interpretation

On the analytical side, the challenge of comparative analysis within and across countries of even basic measures looms large. It is obvious from trying to interpret earlier efforts by Dakloias⁴⁷ and her colleagues at the World Bank that data without context, or from wildly different contexts, is difficult if not impossible meaningfully to compare. Certainly this is true in the European context, as part of the process of European integration and the definition of a 'European' justice that is more than the sum of its national parts. The work of Philip Langbroek and Marco Fabri and their colleagues is illustrative in this respect, as these researchers attempt to create meaningful frameworks for comparative analysis of judicial systems.⁴⁸ The work of Zelko Sevic in South Eastern Europe is similarly commendable in this respect.⁴⁹ Through this work, these scholars are filling in a major knowledge gap: how public sector reform efforts in general and performance measurement efforts in particular apply (or not) to judicial systems. As described above, the US state courts suffer from this problem within their own national borders even with a common legal framework; the legacy of their local origins persists in their structures, procedures, data definitions and counting rules, which vary widely. Perhaps some of the strategies for overcoming this variation will be useful for European practitioners and scholars to consider.

Beyond the basic measures discussed here, much remains to be done to define appropriate measures to capture fairness, consistency and quality of justice. In the US, consistency in sentencing is discussed but not evaluated at the local or state level, and the same is true for the quality of written opinions at the trial court level. Beyond these complex issues lies the challenge of the overarching measurement of judicial independence within a state or national framework.

History suggests that advances in judicial governance and accountability through performance measurement will not be undertaken solely or even primarily due to concern for social progress, human rights, or newfound respect for the rule of law. As the economy continues to become increasingly global, the industrialized countries no less than the developing world will compete to attract and retain economic investment. Here perhaps Europe and the US share something else in common: the movement of capital to locations perceived as more hospitable and profitable to business. Judicial systems are one instrument for creating and maintaining a healthy climate for economic growth. Those engaged in the judicial services must ensure that the fundamental vision of fair and impartial justice free from political and economic interference is not lost in the long march to any future model of national or supranational market economy and political democracy.

47 M. Dakloias, 'Court Performance Around the World: A Comparative Perspective', 1999 *The Yale Human Rights & Development Law Journal*, http://www.yale.edu.yhrdlj/vol02/dakloias_maria_article.htm.

48 See for example: P. Langbroek *et al.*, (eds.), *Case Assignment to Courts and Within Courts*, 2004; M. Fabri *et al.*, *The Administration of Justice in Europe: Towards the Development of Quality Standards*, 2003; M. Fabri *et al.*, *L'administration de la justice et l'évaluation de sa qualité*, 2005.

49 Z. Sevic (ed.), *Gauging Success: Performance Measurement in South Eastern Europe*, 2004.

Evaluating Court Performance: Findings From Two Italian Courts

By Luigi Lepore¹, Concetta Metallo², and Rocco Agrifoglio³

Abstract:

This study is part of a wider research project aimed at developing and testing a Performance Measurement System (PMS) for courts based on a Balanced Scorecard (BSC) framework. The current study represents an initial effort to describe results of a performance measurement attempt that may suggest some challenges in developing a comprehensive PMS for courts. We have tried to assess the performance in two Italian courts focusing on three issues: efficiency measures (clearance rates, case turnover, and disposition time), culture assessment, and Information Systems (IS) success. Our findings provide some useful and interesting insight for researchers and practitioners.

1. Introduction

Courts have experimented with innovative management, such as greater autonomy for court administrators and new ways to work supported by Information and Communication. Over the last twenty years the Italian Judicial System (JS) has been facing a crisis of performance, such as the unacceptable length of proceedings, a large number of both pending civil and criminal proceedings and has had a significant amount of money invested⁴. As a consequence, the Italian Legislator is making efforts to realize a modernization process of the JS aimed at changing the organization of courts, management approach and performance measurement. Italian Technology (ICT); ICT is an important medium to spread managerial philosophy in the JS⁵. Italy has been one of the European Countries that has invested the most in ICTs to develop an “e-government approach” for the JS (e-justice)⁶.

Despite the modernization process and the considerable investment in ICT, to date the results achieved have been very few and the Italian JS is still characterized by poor performance⁷. A managerial approach for courts, and the use of PMSs, in particular, could be useful for court administrators and presiding judges in order to monitor the court activities, the achievement of goals and thus to improve court efficiency and effectiveness.

The importance of the managerial approach and performance measurement is shown by the efforts made over recent decades by scholars of Court Management and Judicial Administration to produce Performance Measurement Systems (PMS) for US courts. “Performance measurement is crucial to a court’s ability to provide high quality yet cost-effective and efficient services to its customers. Court managers and presiding judges increasingly embrace the idea of systematically integrating performance measurement into the daily operations of the courts”⁸.

This study is part of wider research project of the “International Laboratory for the Study of Judicial Systems” of Parthenope University of Naples aimed at developing and testing a PMS for courts, titled “Court Performance

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⁴ CEPEJ (2010), *European judicial systems. Efficiency and quality of justice*, Strasbourg: Council of Europe; Ministero dell’Economia e Finanze (2007), *Libro Verde sulla spesa pubblica*, Roma: MEF.

⁵ Fabri M., Langbroek P.M. (2000), *The challenge of change for judicial systems. Developing a public administration perspective*, Amsterdam: IOS Press.

⁶ Fabri M., (2001), “State of the Art, Critical Issues and Trends of ICT in European Judicial System”, in Fabri M., Contini F. (eds), *Justice and Technology in Europe: How ICT is Changing Judicial Business*, The Netherlands: Kluwer Law International, The Hague; Contini F., Cordella A. (2007), Information System and Information Infrastructure Deployment: the Challenge of the Italian e-Justice Approach, *The Electronic Journal of e-Government*, 5(1), www.ejeg.com.

⁷ See note 1 supra.

⁸ Ostrom B.J., Clarke T.M., Schaufli R.Y., Ostrom C., Hanson R.A. (2008: i), *A unifying Framework for Court Performance measurement*, Final Report, Williamsburg: NCSC. <http://cdm16501.contentdm.oclc.org/cdm/ref/collection/ctadmin/id/1079>

Measurement System” (CPMS). We believe that an ad-hoc PMS for courts could be useful in supporting managers/court administrators and presiding judges in decision-making, allowing them to improve the resource allocation, the timeliness of case resolution, the quality of judicial services, and the accountability of the Italian JS. In particular, CPMS is based on the Balanced Scorecard (BSC) framework. Considering the substantial efforts the Italian Legislator are making in order to develop an “e-government approach” for the JS, we decided to add another dimension, Information System success (IS success), to the traditional four indicators of the BSC (financial, customer, internal operating, innovation and learning).

Within this research project, the current study represents an initial effort to describe results of the performance measurement attempt that may suggest some challenges in developing a comprehensive PMS for courts. We have tried to assess performance in two Italian courts focusing on the CPMS’ indicators: internal operating, innovation and learning, and IS success.

The structure of this paper is as follows. First, we introduce the theoretical background, explaining PMSs and BSC in particular within non-profit organizations; then we widen the dimension of IS success. Second, we propose a PMS for courts. In the following section, we describe the research methodology and the results of the analysis. Finally, we discuss the findings.

2. Theoretical Background

Measuring the performance of non-profit organizations is a well-documented topic over the years, various systems have been proposed to assess the effectiveness and efficiency of organizations which, not operating in a market system, cannot refer to profit or other performance indicators typically used in for-profit organizations.

In non-profit organizations, and in public institutions in particular, the importance of non-financial indicators is demonstrated by the relevance assumed in recent decades of those models, like BSC, that through these indicators can be used to best represent the achievement of complex and to articulate goals of public organizations⁹.

Scholars and practitioners have used the BSC framework to assess performance in courts¹⁰. According to Ostrom and colleagues of the National Center for State Courts (NCSC)¹¹, performance measurement provides essential information that is critical to “allow a court to husband its limited resources, set priorities, and target its attention at where it is most needed”. Thus, performance measurement is important for safeguarding the interests of the different stakeholders. In fact, the absence of mechanisms able to adequately evaluate the results, as well as the inadequacy of instruments for the communication of results to public services users, would impede the operation of accountability mechanisms that protect the stakeholders of courts.

CourTools is the PMS released by NCSC and used to evaluate American state trial court performance; it is “a common set of 10 indicators and methods to measure performance in a meaningful and manageable way”¹². The information obtained by the use of this kind of PMS is critical for court management, they are useful to define ways courts can change administrative and managerial practices until the desired objectives are achieved.

According to research, these systems assume a very important role in organizations, supporting strategic and operational decision making. Moreover, these PMSs are considered useful for motivating and sanctioning, as well as for monitoring the activities and their results, in order to improve performance¹³.

The diffusion of sophisticated PMSs, and in general of the Performance Management instruments, in Public Administration (PA) around the world seems to be due to the level of inefficiency, the wasteful use of public resources and the consequent crisis of public confidence. Moreover, this diffusion is also due to the limits of the traditional PMSs, such as the inability to provide precise information about the public value created for the different category of stakeholders and the inadequate ability to show the value produced by intangible assets.

⁹ Kaplan R.S., Norton D.P. (1992), The Balanced Scorecard: Measures that drive performance, *Harvard Business Review*, 70(1); Kaplan R.S., Norton D.P. (1996a), *The Balanced Scorecard: Translating Strategy into Action*, Boston: Harvard Business Scholl Press; Kaplan R.S., Norton D.P. (1996b), Using the Balanced Scorecard as a management service, *Harvard Business Review*, 74(1); Kaplan R.S. (1999), *The Balanced Scorecard for Public Sector Organization*, *Balanced Scorecard Report*, Boston: Harvard Business School Publishing.

¹⁰ See note 5 supra.

¹¹ Hanson R.A., Ostrom B.J., Kleiman M. (2010: 6), The Pursuit of High Performance, *International Journal For Court Administration*, 3(1).

¹² See note 8 supra Hanson R.A., Ostrom B.J., Kleiman M. (2010: 6).

¹³ For an analysis see Pollitt C. (1999), *Integrating Financial Management and Performance Management*, OECD: Paris.

In order to overcome these limitations, BSC uses indicators to monitor targets achievement from four dimensions: financial, customer, internal process, and innovation and learning. More specifically, BSC is a management tool that provides a periodic and concise assessment of how well the organization is progressing towards achieving its strategic and operational goals. The model was created by Kaplan and Norton in the early 1990's and has grown in popularity ever since. To each strategic objective of the organization are associated some indicators on the four perspectives of the BSC¹⁴.

Furthermore, BSC has been widely used to evaluate ICT investments in different kinds of organizations, both profit and non-profit oriented¹⁵. In particular, Wright and colleagues (1999) applied BSC to evaluate software performance including this aspect in the innovation and learning perspective. Rosemann and Wiese (1999), instead, used the BSC for the evaluation of IS tasks such as the process of implementation and operational use, adding a new project perspective to the traditional four dimensions.

The evaluation of effectiveness of ICT investments and the inclusion of this dimension within CPMS could be useful for court administrators and presiding judges because it provides the opportunity to understand if and how the ISs contribute to improve court performance¹⁶. "IS success or effectiveness is critical to our understanding of the value and efficacy of IS management actions and IS investments"¹⁷.

Many scholars recognized the need to evaluate IS success and a large number of system success measures exist. The most widespread and recognized indicator is user satisfaction¹⁸. An IS is a successful information system if it is capable of satisfying the information requirements of its users.

According to DeLone and McLean (1992), however, a single indicator is not sufficient to measure such a complex construct as the success of an IS. The authors therefore developed a model, known as the "IS success model", based on several dimensions, aimed to investigate "What causes IS success?" and, consequently, IS impact on individual and organizational performance. "The IS Success Model" considers six dimensions:

1. system quality, characteristics of the information system itself which produces the information;
2. information quality, quality of the information that the system produces, primarily in the form of reports;
3. information system use, how many times people use IS;
4. user satisfaction, IS ability of satisfying the information requirements of its users;
5. individual impact, the contribute of IS on individual work performance, and
6. organizational impact, the effect of IS on organizational performance. In particular, system quality concerns the consistency of the user interface, the quality of documentation, and whether there are bugs in the system. Information quality concerns the relevance, timeliness and accuracy of information generated through the system. IS use concerns the usage of the system by user. User satisfaction, instead, is the sum of an individual's reactions to a set of factors affecting IS success. Finally, individual and organizational impacts are the outcomes attributed to user satisfaction and IS use.

3. A Performance Measurement System for Courts

Within the wider research project of the "International Laboratory for the Study of Judicial Systems", we have tried to define the CPMS based on BSC framework.

¹⁴ For an analysis of recent developments of BSC in PA see Kaplan R.S. (2012), The balanced scorecard: Comments on balanced scorecard commentaries, *Journal of Accounting and Organizational Change*, 8(4); Chan YC. L. (2004), Performance measurement and adoption of balanced scorecards: A survey of municipal governments in the USA and Canada, *International Journal of Public Sector Management*, 17(3).

¹⁵ Martinsons M.G., (1992), Strategic thinking about information management, Keynote Address to the 11th annual conference of the International Association of Management Consultants, Toronto; Martinsons M., Davison R., Tse D. (1999), The balanced scorecard: a foundation for the strategic management of information systems, *Decision Support Systems*, 25(1); Wright W.F., Smith R., Jesser R., Stupeck M. (1999), Information Technology, Process Reengineering and Performance Measurement: A Balanced Scorecard Analysis of Compaq Computer Corporation, *Communications of the Association for Information Systems*, 1; Rosemann M., Wiese J. (1999), Measuring the Performance of ERP Software: a Balanced Scorecard Approach, *Proceeding 10th Australasian Conference on Information Systems*.

¹⁶ For an analysis of the IS success in U.S. courts, see Greenwood J.M. and Bockweg G. (2012), Insights to Building a Successful E-Filing Case Management Services: U.S. Federal Courts Experience, *International Journal for Court Administration*, (4)2.

¹⁷ DeLone W.H., McLean E.R. (2003: 10), The DeLone and McLean Model of Information Systems Success: A Ten-Year Update, *Journal of Management Information Systems*, 19(4). DeLone W.H., McLean E.R. (1992), Information Systems Success: The Quest for the Dependent Variable, *Information System Research*, 3(1).

¹⁸ Bailey J.E., Pearson, S.W. (1983), Development of a Tool for Measuring and Analyzing Computer User Satisfaction, *Management Science*, 29(5).

Following the studies of Ostrom and colleagues (2008), we have chosen the BSC framework to measure court performance because BSC makes extensive use of qualitative and non-financial indicators to demonstrate the overall ability of the organization to adequately satisfy stakeholders. We decided to add another dimension to the traditional four of the BSC: the IS success dimension. Some authors, in fact, have argued that although the innovation and learning dimension of BSC could also provide indicators for the evaluation of IS performance, in some cases it is not suitable for this purpose¹⁹. Therefore, CPMS consists of five perspectives: customer, internal operating, financial, innovation and learning, and IS success. Figure 1 shows the CPMS.

Fig. 1 - Court Performance Measurement System (CPMS)

Customer Perspective	Internal Operating Perspective	Financial Perspective	Innovation and Learning Perspective	IS success Perspective
Access and fairness	Clearance rate	Cost per case	Number of professional Judges	System quality
	Case turnover ratio		Number of administrative staff	Information quality
	Disposition time		Number of IS end-users	Information use
			ICT hardware investment	User satisfaction
			ICT software investment	Individual impact
			CCAI	Organizational impact

The five dimensions composing CPMS are the following:

- customer perspective*: the customer of a court is a person or an organization that receives the service provided by the court. Indicators included in this dimension measure the court's accessibility and treatment of customers in terms of fairness, equality, and respect. To define these measures, customers are asked to answer questions about how they are treated in court and whether the court's decision making process seems fair. These questions have been defined on the basis of the questions used by the CourTools;
- internal operating perspective*: indicators used in this perspective assess the court's ability to be efficient, controlling its internal procedures and environments. The efficiency indicators used could inform presiding judges and court administrators about how well resources are used to achieve intended goals in terms of case resolution. In this perspective we include the indicators proposed by the *European Commission for the Efficiency of Justice (CEPEJ)* to evaluate efficiency of European courts. These indicators are: "clearance rate", which is the number of cases resolved as a percentage of the number of incoming cases; "case turnover ratio" measured as the resolved cases divided by unresolved cases; "disposition time" calculated as 365 divided by "case turnover ratio". These indicators are a fundamental management tool that evaluate the length of time it takes a court to process cases;
- financial perspective*: the indicator included in this dimension is a cost indicator such as "cost per case". It is a measurement of the average cost of processing a single case, by case type (e.g., civil and/or criminal cases). "Cost per case" is an indicator developed in the CourTools. It could aid managers in decision-making about the resources allocation in order to improve cost effectiveness of courts;
- innovation and learning perspective*: we include in this dimension some indicators that could be useful to evaluate the contribution of human resources, information capital, and court culture to support innovation and learning. Particularly, for human resources, we use the following indicators: number of administrative staff, number of professional judges, and number of IS end-users. Information capital, instead, is evaluated using the following indicators: ICT software and hardware investments. Although the values of these indicators are not a direct measure of performance, they can be interpreted as an approximation of the potential for innovation and learning of the court. For example, information about the number and types of human resources could be useful to understand if court staff is large enough to give court the possibility to carry out its activities, but also to innovate and learn. Finally, court culture is evaluated using a specific scale²⁰, the Court Culture Assessment Instrument (CCAI), which has been

¹⁹ See note 12 supra Martinsons M.G. (1992); Rosemann M., Wiese J. (1999).

²⁰ Ostrom B.J., Ostrom Jr. C.W., Hanson R.A., Kleiman M. (2007), *Trial Courts as organizations*, Philadelphia: Temple University Press.

adapted by a researcher of NCSC from the Organizational Culture Assessment Instrument (OCAI) scale²¹. “Culture is an important element enabling court performance because it encompasses and makes coherent [...] values, expectations, and assumptions about how work gets done in a particular court”²². The CCAI is based on two specific dimensions such as solidarity and sociability. Solidarity refers to how unified the court is and shows the degree to which judges and court personnel working are to shared goals, mutual interests, and common tasks in order to get common ends, while sociability refers to how closely knit are members of the court, highlighting the degree to which judges and court personnel work cooperatively as one in a cordial fashion. Combining these dimensions, the CCAI provides a classification scheme that systematically produces four distinguishable types of cultures (communal, networked, autonomous, and hierarchical) measured by five content dimensions such as case management style, judge-staff relations, change management, courthouse leadership, and internal organization. Communal culture (High Sociability - Low Solidarity) emphasizes the importance of getting along and acting collectively. Networked culture (High Sociability - High Solidarity) emphasizes collaborative work environment and effective court-wide communication. Autonomous culture (Low Sociability - Low Solidarity) is characterized by judges broad discretion in processing cases. Finally, Hierarchical culture (Low Sociability - High Solidarity) defines rules and procedures to meet clearly stated court-wide objectives²³.

5. *IS success perspective*: as previously argued, the model of DeLone and McLean consists of six dimensions useful to investigate a process understanding of IS and their impacts. The model analyses three components, such as creation, use, and consequences of system use, and “each of these steps is a necessary, but not sufficient, condition for the resultant outcome(s)”²⁴. With reference to courts, this model promotes understanding of ICT applications, such as a case tracking system, used by court administrative staff for performing activities and their impacts. Understanding user’s perception of these applications, as well as their usage and effectiveness, provides court managers important information for supporting strategic and operational decision making.

4. Research Methodology

Data was collected from two courts, Naples and Bari, by using a qualitative and quantitative methodology. In particular, a qualitative analysis was conducted by ethnographic interviews and document analysis in order to collect data useful to measure indicators of internal operating perspective. Overall, we conducted nine interviews for each court including a preliminary interview with the court administrator in order to obtain general information about courts and eight semi-structured interviews with two court administrators, an IS manager, two chancellery officers and three administrative officers. Furthermore, through the analysis of court documents (Judiciary Administration Report; Directorate General for Automated Information Systems; CEPEJ reports) and data collecting we obtained some important information about the performance of the courts and calculated CPMS indicators.

Then, a quantitative analysis was carried out by using a structured questionnaire, in Italian, completed by the administrative staff of Bari and Naples courts during the period from the 20th of October 2009 to the 15th of January 2010. The questionnaire was aimed at capturing respondent profile information and to measure court culture and IS success by using two scales developed by research. In particular, these scales were translated from English and then back-translated to check the reliability of the translation using the procedure suggested by Brislin (1970)²⁵. Furthermore, we conducted a pre and pilot test to validate the measures and in the first instance we obtained feedback from representatives of the court administrative staff. Findings of the pre-test confirmed the reliability and consistency of the scales used.

Then, we gave questionnaires to all the administrative staff of Bari and Naples courts. Of 620 court administrative staff, 212 were from the court of Bari and 408 from the court of Naples, we received a total of 321 completed questionnaires: 59 from Bari (r.r. 27.83%) and 262 from Naples (r.r. 64.21%). To minimize data entry errors, the collected data was checked for consistency. As a result, 314 valid responses were collected.

With reference to measurement, court culture was measured using the CCAI scale developed by Ostrom and colleagues (2007). This scale allows both current and preferred cultural conditions to be measured by assessing five key dimensions of court culture. For Case Management Style an example indicator is: *Judges are committed to use case flow management with the support of administrative and courtroom staff. Written court rules and procedures are applied uniformly by judges*. For Judicial and Court Staff Relations, an example is: *Judges value and promote a diverse workforce and diversity of ideas; act to enhance professional administrative and courtroom staff development; seek to treat all staff*

²¹ Cameron K.S., Quinn R.E. (2006), *Diagnosing and Changing Organizational Culture*, San Francisco, CA: John Wiley and Sons.

²² Ostrom B.J., Hanson R.A. (2010: 22), *Achieving High Performance: A Framework for Courts*, Williamsburg: NCSC.

²³ For a more detailed analysis of CCAI, please see 17 note supra.

²⁴ See note 14 supra DeLone and McLean (2003: 16).

²⁵ Brislin R.W. (1970), Back-translation for cross-cultural research, *Journal of Cross-Cultural Psychology* 1, 195-216.

with fairness and respect. For Change Management, an example used is: *Judges and court managers seek input from a varied set of individual and measure court user preferences concerning policy changes [..].* For Courthouse Leadership, an example used is: *Judicial and administrative staff leaders seek to build an integrated justice system community [..].* For Internal Organization, an example used is: *Judges and administrators seek a shared court-wide view of what needs to be accomplished [..].* Each dimension is composed by four sets of statements; responders should divide 100 points among these four statements giving a higher number of points to the statement that is most often emphasized.

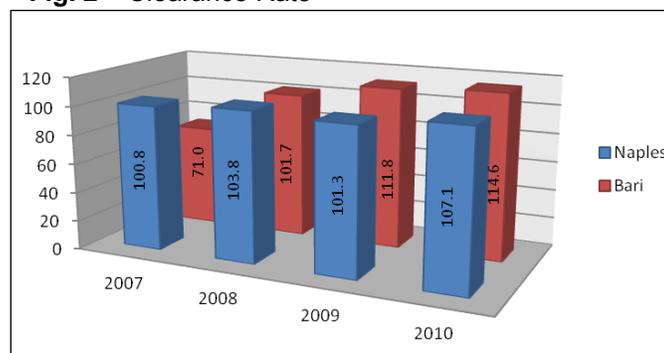
Finally, IS success consists of six dimensions measured as follows. System quality, information quality, and IS use was measured using respectively two-item, seven-item and single item of Rai and colleagues' (2002)²⁶ scales. Examples of items used to measure variables are respectively: *Is system user friendly? Does system provide the precise information you need? How many am I dependent on system?* Twelve items were used to measure user satisfaction based on Doll and Torkzadeh's (1988)²⁷ end-user computing satisfaction scale. An example used is: *Are you satisfied with the system?* Finally, individual impact was measured using Etezadi-Amoli and Farhoomand's (1996)²⁸ user performance four-item scale. An example used is: *How successful has system been in improving the quality of your work?* Organizational impact was not measured because it could be inferred from indicators related to other CPMS perspectives. All the IS success dimensions were measured by five-point scale ranging from "Strongly disagree" (1) to "Strongly agree" (5), except for IS use and individual impact that were measured by seven-point scale ranging from "Strongly disagree" (1) to "Strongly agree" (7).

5. Results

Concerning the internal operating perspective, we calculated the clearance rate, the case turnover ratio, and the disposition time indicators as well as a summary of civil cases management for Bari and Naples courts. On the contrary, concerning the innovation and the learning and IS success perspectives, data was collected by the "t-test" statistical method. The t-test is a statistical test common used to assess whether the means of two groups are statistically different from each other. In this regard, the t-test is very useful for our study because it allows us to compare court culture and IS success dimensions among two courts, showing the significant differences at $p \leq 0.010$ value.

With reference to the first perspective, the clearance rate for Bari court for the year 2010 is 114.6%, while it was 107.1% for Naples court. The longitudinal analysis has highlighted a general increase in productivity of the two courts, there is only a slight decrease in production capacity on Naples court from 2008 to 2009 (Fig. 2).

Fig. 2 – Clearance Rate

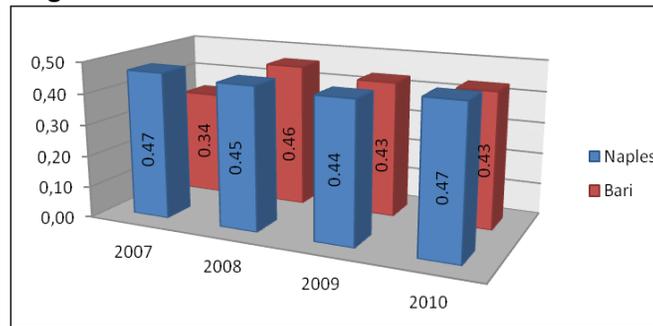


The case turnover ratio for Bari court in 2010 was equal to 0.43, while for Naples court it was 0.47. Moreover, the longitudinal analysis has shown that the value of case turnover ratio for Bari court increased from 2007 to 2008 and then decreased. Instead, it is almost constant during the observed period for Naples (Fig. 3).

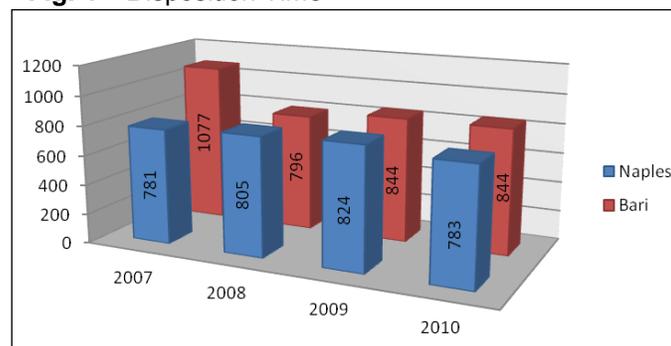
²⁶ Rai A., Lang S.S., Welker R.B. (2002), Assessing the Validity of IS Success Models: An Empirical Test and Theoretical Analysis, *Information Systems Research*, 13.

²⁷ Doll, W. J. and Torkzadeh, G. (1998), The Measurement of End-User Computing Satisfaction, *MIS Quarterly*, 12(2), 259-274.

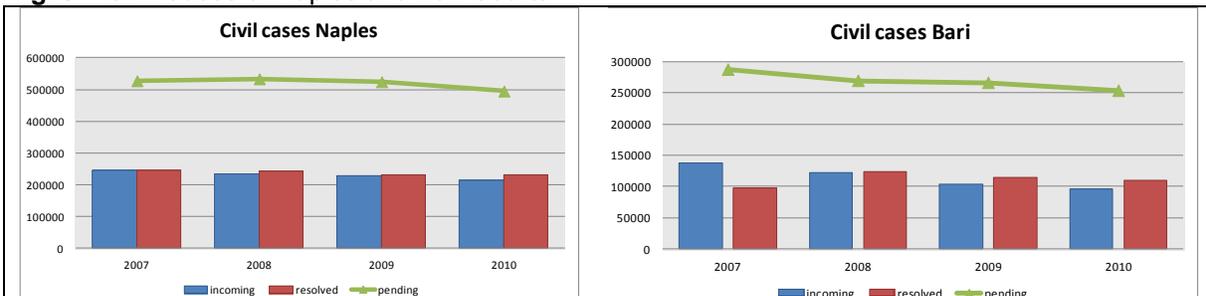
²⁸ Etezadi-Amoli, J., Farhoomand A. F. (1996), A Structural Model of End User Computing Satisfaction and User Performance, *Information & Management*, 30, 65-73.

Fig. 3 – Case Turnover Ratio

Furthermore, results of the disposition time have shown that the number of days required to resolve civil cases decreases from 1.077 days in 2007 to 796 days in 2008, subsequently it increases in 2009, it is equal to 844 days, and remained constant in 2010. For Naples, timeliness of case resolution at first increases from 781 days in 2007 to 805 days in 2008 and 824 in 2009, and then it decreases to 783 days in 2010 (Fig. 4).

Fig. 4 – Disposition Time

Finally, Figure 5 provides a summary of civil case management in the two courts, showing the number of incoming, resolved, and pending cases.

Fig. 5 – Civil Cases of Naples and Bari Courts

With reference to innovation and learning perspective, the results have shown that the Bari court is composed of 106 judges and 252 administrative staff. Investment in ICT hardware amounted to € 40,000, of which € 35,000 for the purchase of 50 computers and € 5,000 for other computer equipment. Investment in ICT software, by contrast, is not quantifiable because these investments are often provided by the central government without any indication of cost. The court of Naples is composed of 438 judges and 674 administrative staff. Data relating to ICT hardware and software investments is not available.

Furthermore, using CCAI²⁹ we assessed the organizational culture of the two courts and compared results in order to verify differences. Thus, firstly, we compared the current and preferred cultural types within each court in order to understand the gaps among cultural models. After, we compared the culture models of Bari and Naples courts in order to understand the difference between two courts about current and preferred organizational cultures.

²⁹ See note 17 supra.

Table 1 shows the results of comparative analysis between current and preferred culture for each court, while Table 2 shows the results of comparative analysis of culture types between two courts.

Tab. 1 – Current and preferred culture comparative analysis for each court

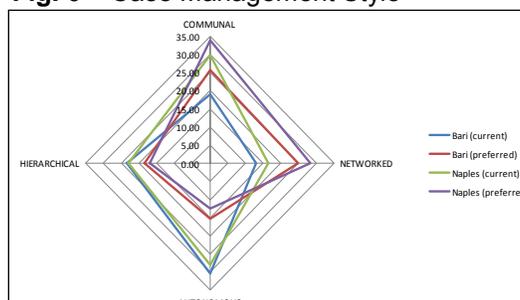
Content dimension	Culture type	Bari						Naples					
		Current		Preferred		t-test		Current		Preferred		t-test	
		Mean	Std. Dev.	Mean	Std. Dev.	"t" value	Sig.	Mean	Std. Dev.	Mean	Std. Dev.	"t" value	Sig.
Case Management Style	COMMUNAL	19.11	16.84	25.78	18.39	3.038	0.004	29.76	20.10	33.83	21.18	3.019	0.003
	NETWORKED	13.06	10.79	24.80	19.36	4.789	0.000	16.59	13.13	28.28	19.4	7.247	0.000
	AUTONOMOUS	30.39	24.67	15.29	15.88	4.467	0.000	27.95	21.81	12.43	11.49	10.054	0.000
	HIERARCHICAL	23.31	21.91	18.43	18.45	1.599	0.116	22.90	20.35	17.03	17.89	4.175	0.000
Judge-Staff Relations	COMMUNAL	27.12	23.11	26.17	20.72	0.355	0.724	33.03	21.05	33.18	21.61	0.080	0.936
	NETWORKED	16.76	16.69	22.92	20.95	1.667	0.102	21.28	14.25	24.42	18.78	1.925	0.056
	AUTONOMOUS	24.29	23.60	13.21	16.67	2.784	0.008	24.29	22.93	13.09	11.54	6.013	0.000
	HIERARCHICAL	14.33	14.12	25.49	23.77	2.773	0.008	14.61	13.95	19.28	18.55	2.854	0.005
Change Management	COMMUNAL	21.35	14.70	21.86	18.55	0.189	0.851	20.63	18.33	20.58	16.41	0.039	0.969
	NETWORKED	16.59	18.08	22.43	18.47	1.552	0.127	13.24	12.42	25.28	18.59	9.239	0.000
	AUTONOMOUS	22.45	18.72	14.12	19.02	2.436	0.018	30.19	24.23	11.36	12.14	10.504	0.000
	HIERARCHICAL	22.94	16.83	29.90	24.85	1.712	0.093	28.43	21.36	33.29	22.16	2.774	0.006
Courthouse Leadership	COMMUNAL	12.18	11.26	29.76	20.82	5.282	0.000	10.85	10.62	28.71	18.73	12.336	0.000
	NETWORKED	14.72	15.16	26.84	21.20	3.224	0.002	17.14	16.39	25.58	18.24	4.780	0.000
	AUTONOMOUS	26.88	23.62	13.98	16.47	3.079	0.003	32.84	21.60	13.50	12.04	11.844	0.000
	HIERARCHICAL	32.59	27.61	18.14	17.55	3.003	0.004	34.31	26.53	23.71	20.00	4.937	0.000
Internal Organization	COMMUNAL	14.82	13.50	27.63	20.13	3.759	0.000	12.89	11.22	17.80	16.13	3.747	0.000
	NETWORKED	15.39	12.32	25.55	18.30	3.670	0.001	18.10	14.50	29.14	23.68	6.110	0.000
	AUTONOMOUS	29.00	22.09	17.12	20.15	2.737	0.009	37.87	22.68	14.33	13.91	12.164	0.000
	HIERARCHICAL	24.12	20.22	17.35	18.17	1.755	0.085	24.73	19.98	28.05	22.90	1.443	0.151

Tab. 2 – Bari and Naples Courts comparative analysis for current and preferred court culture

Content dimension	Culture type	Current Court Culture						Preferred Court Culture					
		Bari		Naples		t-test		Bari		Naples		t-test	
		Mean	Std. Dev.	Mean	Std. Dev.	"t" value	Sig.	Mean	Std. Dev.	Mean	Std. Dev.	"t" value	Sig.
Case Management Style	COMMUNAL	19.11	16.84	29.76	20.10	3.869	0.001	25.78	18.39	33.83	21.18	2.702	0.008
	NETWORKED	13.06	10.79	16.59	13.13	1.996	0.049	24.80	19.36	28.28	19.40	1.146	0.255
	AUTONOMOUS	30.39	24.67	27.95	21.81	0.646	0.521	15.29	15.88	12.43	11.49	1.458	0.146
	HIERARCHICAL	23.31	21.91	22.90	20.35	0.122	0.903	18.43	18.45	17.03	17.89	0.493	0.622
Judge-Staff Relations	COMMUNAL	27.12	23.11	33.03	21.05	1.651	0.103	26.17	20.72	33.18	21.61	2.138	0.036
	NETWORKED	16.76	16.69	21.28	14.25	1.778	0.080	22.92	20.95	24.42	18.78	0.468	0.641
	AUTONOMOUS	24.29	23.60	24.29	22.93	0.000	1.000	13.21	16.67	13.09	11.54	0.047	0.963
	HIERARCHICAL	14.33	14.12	14.61	13.95	0.128	0.898	25.49	23.77	19.28	18.55	1.734	0.088
Change Management	COMMUNAL	21.35	14.70	20.63	18.33	0.299	0.766	21.86	18.55	20.58	16.41	0.452	0.653
	NETWORKED	16.59	18.08	13.24	12.42	1.250	0.216	22.43	18.47	25.28	18.59	0.982	0.329
	AUTONOMOUS	22.45	18.72	30.19	24.23	2.473	0.015	14.12	19.02	11.36	12.14	0.986	0.328
	HIERARCHICAL	22.94	16.83	28.43	21.36	1.963	0.053	29.90	24.85	33.29	22.16	0.888	0.378
Courthouse Leadership	COMMUNAL	12.18	11.26	10.85	10.62	0.757	0.452	29.76	20.82	28.71	18.73	0.329	0.743
	NETWORKED	14.72	15.16	17.14	16.39	1.001	0.320	26.84	21.20	25.58	18.24	0.391	0.697
	AUTONOMOUS	26.88	23.62	32.84	21.60	1.638	0.106	13.98	16.47	13.50	12.04	0.196	0.845
	HIERARCHICAL	32.59	27.61	34.31	26.53	0.403	0.688	18.14	17.55	23.71	20.00	1.965	0.053
Internal Organization	COMMUNAL	14.82	13.50	12.89	11.22	0.940	0.350	27.63	20.13	17.80	16.13	3.233	0.002
	NETWORKED	15.39	12.32	18.10	14.50	1.350	0.181	25.55	18.30	29.14	23.68	1.175	0.024
	AUTONOMOUS	29.00	22.09	37.87	22.68	2.547	0.013	17.12	20.15	14.33	13.91	0.934	0.354
	HIERARCHICAL	24.12	20.22	24.73	19.98	0.193	0.848	17.35	18.17	28.05	22.90	3.550	0.001

The results of comparative analysis within two courts has shown that current and preferred court culture types are often statistically different from each other ($Sig. \leq 0.010$). On the contrary, the results of comparative analysis between two courts have shown that cultural types, both current and preferred, are not statistically different from each other ($Sig. \geq 0.010$), apart from some exceptions. To achieve a better understanding of CCAI results, we built the following graphs, developed from two previous tables, in order to better show the gaps among current and preferred court culture types for each of the five dimensions and for each court. Figure 6 shows the results of CCAI for the Case Management Style dimension.

Fig. 6 – Case Management Style

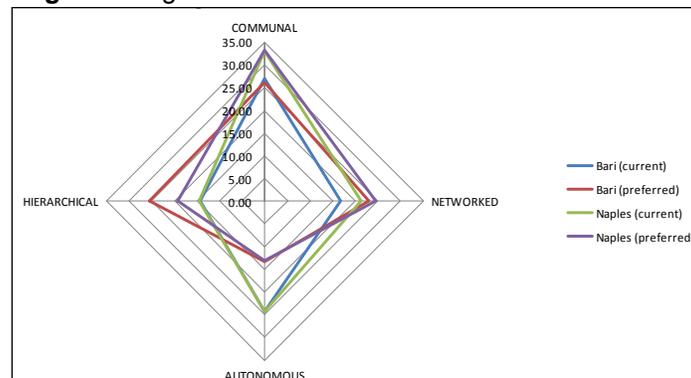


With reference to Case Management Style, the court of Bari is currently characterized by autonomous and hierarchical cultural models, while communal and networked are preferred. Moreover, autonomous and communal current cultural models prevail in the court of Naples, while communal and networked are preferred.

In both courts, despite a general agreement on court's goals, judges are relatively free to make their own determinations on case flow management. Moreover, the court of Bari is also characterized by more rules and procedures to meet clearly stated court-wide objectives, while the other court emphasizes the importance of group involvement and mutually agreed norms rather than established rules and procedures.

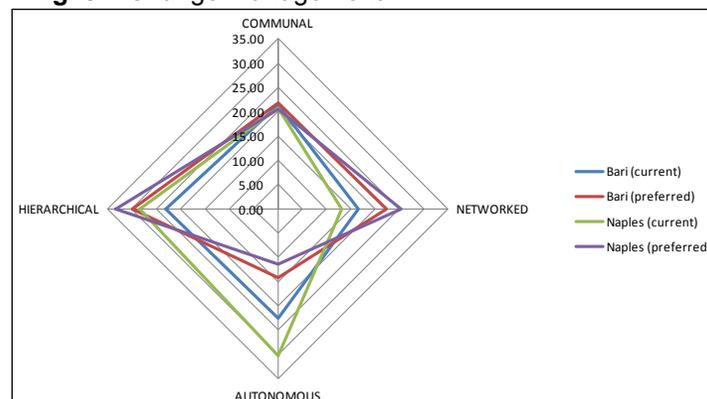
Finally, both court personnel prefer a collaborative work environment and effective court-wide communication aimed to involve people and to decide on policy guidelines. Figure 7 shows the results of CCAI for judge-staff relations.

Fig. 7 – Judge-Staff Relations



With regard to judge-staff relations, the CCAI results have shown that the court of Bari is currently characterized by communal and autonomous cultural models, while it prefers communal and hierarchical types. On the contrary, the court of Naples is characterized by communal and autonomous cultural types, but it prefers communal and networked cultural archetypes. In this regard, in both courts, judges seek to involve and to collaborate with the administrative staff in a flexible way, such as norms, rather than established rules and firm lines of authority. Whereas, the court of Bari prefers the current model, but its personnel would also like to use evaluation systems and performance appraisals in order to obtain rewards, promotions, and merit recruitment. The court of Naples's personnel, instead, also prefers working in a collaborative environment characterized by more flexibility, rather than its traditional environment characterized by more authority and wide discretion of judges. Figure 8 shows the results of CCAI for the change management.

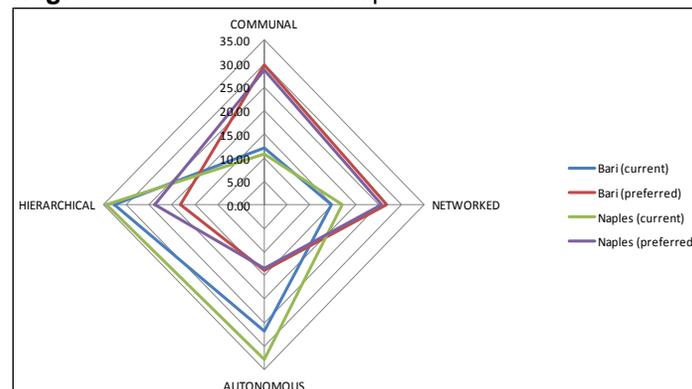
Fig. 8 – Change Management



With reference to change management, the CCAI results have shown that both courts are mainly characterized by autonomous and hierarchical cultural models, while the hierarchical type is even more preferred by administrative staff of the courts. Thus, judges seek individual ways to change management resisting a rule and process bound organizational setting rather than centralized change initiatives. On the other hand, judges are inclined to use technology, new ways of working and interaction inspired by principles of management in order to improve the timeliness of case processing and accuracy of record keeping. In both courts, judges who are perceived as good coordinators and organizers and who seek

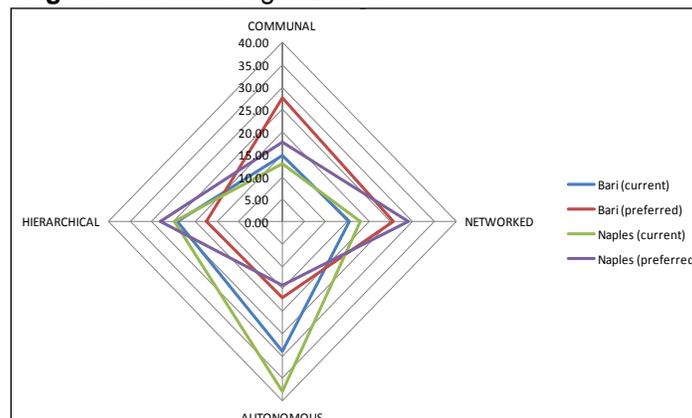
to achieve the advantages of order and efficiency are even more preferred by administrative staff. Using new technologies and principles of management court personnel could improve their individual performance promoting widespread benefits for the whole organization. Figure 9 shows the results of CCAI for the courthouse leadership.

Fig. 9 – Courthouse leadership



With regard to courthouse leadership style, the CCAI results have highlighted that both courts are characterized by hierarchical and autonomous cultural models, while they would prefer to go to other, opposite, cultural models such as communal and networked. In both courts, presiding judge leadership is inhibited because each judge prefers to work with a few corresponding staff members of their own choice. Furthermore, each judge establishes rules and directives to guide court operations and uses their own channels to get things done. On the contrary, the personnel of two courts would like to emphasize human relationships in order to mutually agree upon the court performance goals, to obtain more job satisfaction, and to build an integrated court system community. Finally, figure 10 shows the results of CCAI for the internal organization.

Fig. 10 – Internal Organization



With reference to the internal organization, both courts are currently characterized from the prevalence of the autonomous cultural model. However, the court of Bari prefers communal and networked cultural types, while the court of Naples would like to go to networked and hierarchical models. Thus, in both courts the internal organization is autonomous so that each judge decides how to organize their own work and has wide discretion to get things done. Two courts emphasize stability and slow change of practices, while the confrontation is minimized. On the contrary, the court of Bari prefers the collegiality and teamwork pointing out the role of personal relations in workplace. Court personnel prefer informal channels to communicate and to share information among judges and administrative staff and to work collaboratively to perform case processing. The court of Naples, like the court of Bari, prefers internal organization based on collaborative work, but also would like to have a clear division of duties and formalized roles.

Regarding IS success perspective, as previously mentioned we conducted a comparative analysis of IS success dimensions between the two courts in order to understanding where ISs are perceived to be more effective for performance improvement. The results of the comparative analysis are presented in Table 3.

Tab. 3 – The IS Success's results

IS Success	Court					
	Bari		Naples		t-test	
	Mean	Std. Dev.	Mean	Std. Dev.	"t" value	Sig.
System quality	3.57	1.08	3.32	1.24	1.416	0.161
Information quality	3.35	0.98	3.32	1.03	0.265	0.792
User satisfaction	3.47	0.98	3.34	1.06	0.882	0.381
IS use	5.71	1.74	5.54	1.69	0.632	0.529
Individual impact	4.91	1.64	4.48	1.81	1.673	0.098

Findings have highlighted that both system's quality and information quality are positively perceived by court personnel because their responses' mean is higher than 2.5 (Bari court: means 3.57 and 3.35; Naples court: means 3.32 and 3.32).

Regarding user satisfaction and IS user dimensions, findings have shown that court personnel are satisfied with the system (Bari court: mean 3.47; Naples court: mean 3.34) because there is a fit between job requirements and IS functionality. Consequently, court personnel use it to perform the court activities (Bari court: mean 5.71; Naples court: mean 5.54).

Regarding individual impact, results have highlighted that within two the courts, administrative staff perceive positively the benefits occurring at the level of individual performance, because their responses' mean is higher than 3.5 (Bari court: mean 4.91; Naples court: mean 4.48).

Overall, comparing the dimensions of the IS success model between the two courts, our findings have shown that Bari and Naples courts are similar with regard to IS success dimensions, except for the individual impact dimension (Sig. ≤ 0.010). In this regard, Bari court personnel perceived more benefits deriving from IS compared to Naples court personnel.

6. Conclusions

Overall, three main conclusions emerge from our analysis.

Firstly, despite that over the recent decades the Italian JS has been characterized by a dramatic crisis of performance, our findings have shown an opposite trend from 2007 to 2010 for Bari and Naples courts. More generally, internal operating perspective's indicators have shown a good civil case management for both courts and for Bari in particular. Results have highlighted that both Bari and Naples courts have been able, not only to justify the demands of justice during the year, but also to reduce the backlog and the number of pending cases. These results may have arisen from the modernization process of the JS introduced by the Italian Legislature, tough management approach and ICTs investment. However, despite these results appearing positive when compared with those achieved by other Italian courts, they cannot be compared with the performance of most European courts. According to research, this gap could arise from the limited autonomy and empowerment of Italian court managers, but also from other inadequate organizational characteristics of courts³⁰. The Italian Legislature has enacted three basic principles, such as autonomy, responsibility and evaluation in order to improve the performance of PA. With regard to the JS, perhaps the action on these three principles is still small and thus unable to generate the desired improvements. We believe that PMSs, like CPMS, could be useful to increase the effort on the level of the evaluation, also by delegating more responsibility to court personnel and so improving the internal and external accountability of courts. However, presiding judges and court administrators require greater autonomy and specific managerial skills.

Second, with reference to court culture our findings have shown that prevailing current cultural models of court personnel are hierarchical and autonomous, while the cultural models preferred by court personnel are communal and networked. Italian JS is characterized by a bureaucratized governance model and, thus, has a strong resistance to change that hinders the modernization process. As research suggested the resistance to change is one of the peculiar characteristics

³⁰ Fabri M. (2006), *Amministrare la giustizia. Governance, organizzazione, sistemi informativi*, Bologna: Lexis; Lepore L., Agrifoglio R., Metallo C. (2010), "Measuring the Performance of Italian Courts: the Role of IS Success", in A. D'Atri, M. De Marco, A.M. Braccini and F. Cabiddu, *Management of the Interconnected World*, Springer, Springer-Verlag Berlin Heidelberg.

of the bureaucratic governance model of Italian Public institutions and in particular the JS. This seems principally due to the autonomy that the law allows to the judicial branch. However, our analysis also shows the willingness of court personnel to change their ways of working through the adoption of new cultural and governance models, similarly to what happens in other sectors of PA.

Finally, our findings have also shown that administrative staff of both courts positively perceived the benefits arising from IS on individual performance. ISs have encouraged the digitalization of documents and the streamlining of organizational processes, allowing the integration of existing databases and to explore the possible uses of ICT to improve the data exchange in the JS³¹. Using these applications, both administrative staff and judges could access legal information timely and without time and spatial limits. In this regard, these applications are useful for receiving information in a timely fashion, reducing the resolution time of legal cases and improving individual and court performance. Furthermore, findings of comparative analysis on IS success between two courts have also identified that Bari court personnel perceived more benefits derived from IS compared to Naples. The literature agrees that user satisfaction and IS use are two determinants of the individual impact dimension³². In Bari court, these dimensions are, on average, higher than Napoli court; consequently, for Bari court personnel, IS contributes most to the improvement of their performance.



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³¹ Contini F., Cordella A. (2007), Information System and Information Infrastructure Deployment: the Challenge of the Italian e-Justice Approach, *The Electronic Journal of e-Government*, 5(1).

³² See note 14 supra.

Performance Management Systems: The Importance of Defining Their Purpose

By Charlie Bennett, Ph.D. and Herb Hill¹

Governments at all levels continue to show strong interest in using some combination of strategic planning, performance measurement, program evaluation, and performance budgeting processes.² This interest is fueled by the belief that these systems can increase the efficiency and effectiveness of government services and bolster citizens' confidence in the ability of government to deliver the services. An October 1999 study by the National Association of State Budget Officers (NASBO, 1999) reported that all 50 states used performance measures to some degree in their budgeting process. Similarly, a recent report on the use of performance management methods in state government stated that two-thirds of states in 1999 had 'broad governing-for-results legislation' (Lanier, et al, 2000). Other evidence of the interest in performance management practices is ample.

Despite their popularity, however, performance management systems have not been as successful as initially projected. What Frank Micciche stated about the federal Government Performance and Results Act (GPRA), enacted in 1993, could be repeated for many state and local government experiences with performance management systems: "Despite seven years on the books, the 1993 Government Performance and Results Act (GPRA) is not used widely among Capitol Hill decision makers" (Micciche, 2000, p. 1). Regardless of this relatively lackluster showing, governments wishing to be perceived as operating in a "business-like" manner seem to believe that they must have at least the basic organizational infrastructure of a performance management system in place. This can take the form of data collection and reporting requirements, training, and supporting documentation for strategic plans, performance measures, program evaluations, and/or performance budgeting processes. The positive perception this can create often has less to do with actual performance results than with the mere presence of performance data and basic performance management structures and processes. This type of "ceremonial activity," as Meyer and Rowan describe it, "has ritual significance: it maintains appearances and validates an organization" (Meyer and Rowan, 1991, p. 55).

An important orientation underlying the points made in this article is that performance management systems that provide operationally useful information to key users are better than ones that do not. Consistent with this orientation, a recent GAO (General Accounting Office, 2000) report on GPRA concluded:

Performance improvements occur only when congressional and executive branch decision makers *use* [performance information] – and the management systems that

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² For the purposes of this article, *performance management systems* are defined as organizational structures and processes that systematically use some combination of strategic planning, performance measurement, program evaluation, and performance budgeting processes. *Performance information*, therefore, is information that a performance management system generates.

generate them – to help inform decisions and improve confidence in the accountability and performance of the federal government. (p. 1)

Simply having a performance management infrastructure in place for “ceremonial” or symbolic purposes is not appropriate or worth the associated costs for at least two reasons:

- It produces little, if any, gains in efficiency and effectiveness of government services.
- It is an underhanded way to manipulate perceptions that can have longer-term, negative effects on people’s trust and confidence in government.

Policy-making versus service-delivery

This article focuses on a chief reason for the limited usefulness of most government performance management systems – the failure to determine whether a performance management system primarily supports *policy-making* or *service delivery*. Policy-makers essentially manage government rules, regulations, communications, and resources to “operationalize” and advance a core set of values and beliefs. Individuals providing government services, on the other hand, focus on the actual delivery and improvement of these services, or what happens at the operational level. With this distinction in mind, this article asserts the following key points:

- Performance management systems useful for supporting service delivery and improvement must be designed and implemented differently from those supporting policy-making activities.
- Using a performance management system suitable for service delivery and improvement generally will not be useful in the policy-making context, and vice versa.

Table 1 below lists the chief distinctions between performance management systems useful for service delivery and those useful for policy-making. These distinctions are intended to illustrate general patterns that differentiate performance management systems useful for these two purposes. Exceptions to this list clearly will occur. However, they will not do so, this article argues, sufficiently to contradict the patterns presented in Table 1. The discussion following Table 1 describes these distinctions and explains why systems supporting service delivery must be designed and implemented differently from those supporting policy-making.

Table 1: Key factors of performance management systems supporting service delivery and policy-making.

Key factors	Service delivery	Policy-making
Primary users	Service delivery staff	Policy-makers
Primary use of performance information	Improve service quality, efficiency, effectiveness	Advocate and defend preferred policies
Type of information to communicate	That which tracks a variety of results and aspects of programs	That which tracks positive accomplishments of preferred policies
Timing of information collection and reporting	Regular and frequent	As needed, given emerging political and policy-making dynamics
How negative information handled	Used as input for improving programs	Disregarded, discredited, or reinterpreted to support policy positions

Primary users

Career civil servants are typically the front-line individuals responsible for providing a variety of government services directly to citizens. They often have received specialized training in their fields, in public administration and management, and are competitively selected for employment. The primary reason that service delivery staff, and occasionally the customers or beneficiaries of their services, use performance information is to improve the quality, efficiency, and effectiveness of services and how they are provided. In this context, useful performance management systems tend to be focused on specific, operational aspects of services.

Policy-makers, on the other hand, are generally elected officials and political appointees. Unlike service delivery staff, they are selected for employment through a political process rather than a competitive one, and usually are closely associated with a political party or leader. They may or may not have expertise in their area of oversight, but have a clear ideological orientation and understand how this orientation relates to policy priorities. To support their advocacy efforts, their information needs are typically more strategic and political than operational in nature. The primary reason that these individuals use performance management systems, this article contends, is to strengthen their position in the policy-making process.

Performance management systems used by policy-makers are generally accessible only to policy-makers and their inner circle. Political landscapes can be highly competitive with continuously shifting issues and coalitions. The economic and political consequences of changes in policy-making influence can be significant. Savvy policy-makers in these settings naturally seek to minimize opportunities that provide their opponents with useful information. Different strategies can be used in this context to limit the distribution of performance information. For example, policy-makers may officially classify “sensitive” performance information (e.g., as confidential, for internal use only, governor’s working papers, etc.), thereby restricting its distribution and ability to be obtained through freedom of information act (FOIA) requests.

Determining whether service delivery staff or policy-makers are the primary users of the system at the outset of developing a performance management system is crucial to ensuring its usefulness. As the system is further developed and refined, more specific subgroups of users within these two general categories should be identified. Their information needs, in turn, will determine the specific structure and processes used by the system.

Primary use of performance information

As mentioned above, service delivery staff use performance information primarily to improve the quality, efficiency, and effectiveness of services and how they provide them. This may require service delivery staff to change the amount of services provided to different groups, strengthen the benefits received by customers of the services, reduce the time spent in providing a service or completing a particular step in the process, identify ways to increase customer satisfaction, or reduce costs per unit of service. The performance management system used to collect and disseminate this information could consist of formal, documented management structures and processes, or something less formal.

Policy-makers use performance information primarily to advocate and defend policy priorities and, in so doing, the values and beliefs on which they are based. The specific operational processes used to deliver services are less important in this context than how a general mix of services symbolically or operationally supports an ideological orientation. Relevant information is used to advantageously position a policy amidst important economic, educational, social, and environmental problems being debated. For example, policy-makers may want performance information that helps them define and advocate policies that achieve the “correct” balance between economic development and environmental regulation. Useful information in this case will identify programs that are consistent with some belief about what balance is “correct,” shed light on how well these programs support this particular position, and mobilize support for policies that support the programs. Rarely are the operational aspects of service delivery, or the mechanics of “good management,” a policy-making priority to which government leaders devote significant time and resources. Such cases typically occur in single organizations; smaller, local jurisdictions in which interaction with citizens is direct and frequent; or in organizations and jurisdictions with serious, widely recognized service delivery problems.

In summary, policy-making and service improvement are very different foci and require different performance management systems to be useful. If this distinction is not made, systems vaguely intended to support service delivery may more easily be used solely for political, public relations purposes. In these cases, the performance management system becomes a “good government” smokescreen behind which policy-makers advance their ideological agendas. GPRA is one example where this may have occurred. In this case, a performance management framework used in a small California city (government workforce of 850) was essentially grafted onto the entire federal government (government workforce of 2.7 million) as a multi-purpose tool to support policy-making, service improvement, performance budgeting, and other activities. GPRA’s lack of specific focus on either supporting service delivery or policy-making inevitably decreases its usefulness for either purpose and increases its vulnerability to be co-opted for political purposes. Consistent with this argument, OMB Watch (Taylor, 2000) recently reported:

Although GPRA was conceived as a tool to strengthen government performance, it has increasingly been used as a partisan tool to push ideological perspectives... If the goal of good government performance is put in the same hopper with political rhetoric and partisan polarization, there is no possibility that GPRA will be anything more than another failed attempt at government reform. (p. 3)

This article asserts that GPRA, as well as other performance management systems like it, can succeed only if decision makers explicitly and clearly define their purpose and fashion the system accordingly. This is a difficult challenge, given that policy-makers are the senior decision makers in government, and can exploit for political purposes the symbolic value of performance management systems regardless of their operational success or failure. The incentives for clearly and explicitly defining the primary purpose of a performance management system and structuring it accordingly, therefore, are relatively weak. This issue, beyond the scope of this article, highlights the importance of competent leadership for developing and implementing useful performance management systems (see Bennett and Hill, 2001).

Type of information communicated

Performance management systems focused on supporting service delivery need to use information about specific, operational aspects of programs. Planning and other performance-related information should be thorough, balanced, and specific. Detailed task-level data, along with a variety of related measures (e.g., outcomes, outputs, inputs, efficiency, and quality), must be used to highlight resources and processes used to provide each service, the efficiency of the processes, service quality, and the outputs and outcomes of services. The analysis of this information should make the operation and results of the program as “transparent” as possible to service delivery staff. General planning statements and a few performance measures pertaining to one or two aspects of services are insufficient for these purposes.

Instead of detailed, operational aspects of programs, policy-makers need performance information that is useful for advocating and defending policy priorities. The scope of this information is often broader or more strategic than the type of information useful in a service delivery setting. It rarely results in operational “transparency,” but should help generate positive perceptions about a set of policy priorities and strengthen the political position of the policy-makers advocating them.

Timing of information collection and reporting

One characteristic of effective performance management systems is their ability to provide data on organizational and program results systematically and regularly. A performance management system useful in the service delivery context must frequently and regularly collect and report performance data to key users. Annual or semi-annual reporting cycles are insufficient for identifying and implementing improvements and timely solutions to service delivery problems. More frequent, regular reporting of performance information – quarterly, monthly, or even weekly – is more helpful.

To favorably position a policy, policy-makers have to respond quickly and effectively to changes in political, economic, social, and other factors that can change significantly overnight. Given the dynamic, often unpredictable environment in which policy-makers operate, their precise

information needs are frequently impossible to predict well in advance. Performance information in the policy-making context, as a result, is typically collected and disseminated on an as-needed basis rather than on a more consistent schedule as in the service delivery context. Exceptions may be information such as regularly collected polling data, revenue and expenditure data, and economic data (e.g., unemployment rates), to name several.

How “negative” information is handled

In an ideal service improvement setting, service delivery staff and, as appropriate, even their customers openly receive performance information that highlight less than expected results. These individuals then analyze, question, and use this information to identify improvement opportunities. In this context, “negative” information is considered as important and useful as “positive” information. Not communicating this information openly and honestly is very counterproductive, as doing so limits the ability of staff and their customers to make necessary, timely improvements in service delivery strategies, resource allocations, training, and other areas.

In the policy-making arena, information about performance results that are less than desired is carefully controlled to ensure that policy priorities and political leaders are favorably presented. Conversely, this minimizes chances that the policies are perceived unfavorably and limits opportunities for opponents to use the information to advance alternative policy agendas. In general, policy-makers achieve this objective by handling negative performance information in the following ways:

- The information is used confidentially to refine communication strategies and solve problems highlighted by the information.
- The information is discredited or presented as invalid (for example, flaws are noted in the data collection and analysis methods, or in the data itself).
- The information is ignored and, if not pointed out by opponents, thereby made irrelevant.
- The information is reinterpreted in a way that supports a particular position (e.g., explaining how the data reveals how effective, rather than how ineffective, the policy is).
- The information is presented at a time when more compelling stories dominate the “headlines,” thereby making the information less visible and relevant.

Conclusion

This article highlights the importance of determining whether the primary purpose of a performance management system is to support policy-making or service delivery. Performance management systems focused on these two purposes differ in a variety of ways, as presented in Table 1 and discussed throughout this article. Though strategic planning, performance measurement, program evaluation, and performance budgeting tools can be used for both policy-making and improving services, using them in a “one-size-fits-all” manner decreases the chances that a performance management system will be useful for either purpose.

Problems associated with not clearly determining the primary purpose of a performance management system are often apparent with government-wide performance management systems. These systems, such as GPRA and those found in a number of states, tend to be implemented by central budgeting agencies whose principal focus is on the development and

execution of the government's budget. This is fundamentally a policy-making process and, as such, tends to be highly politicized and visible. Operational-level service improvements are rarely a significant issue in this context. Policy-makers instead are far more interested in how resource allocations support (or do not support) a preferred ideological orientation regarding the role of government in their jurisdiction. Unfortunately, one-size-fits-all systems that attempt to support both policy-making and service delivery produce voluminous amounts of relatively useless information that effectively support neither policy-making nor service delivery.

A more useful approach is to clearly and explicitly define, prior to developing a performance management system and collecting any performance information: the primary users of the system, the information they need, how they intend to use the information for policy-making and/or service delivery, how the information should be communicated to users, and how to handle negative information. With these clarifications in hand, a more useful system can be constructed that meets its users' specific information needs. The system then should be regularly analyzed and improved so that it continues to add value to its users' policy-making and service delivery efforts. If a performance management system fails at this task, one could reasonably ask, "What's the point?"

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	CourTools Measures										Other measures												
	1	2	3	4	5	6	7	8	9	10	A	B	C	D	E	F	G	H	I	J	K	L	M
New York	-	-	-	-	-	-	-	-	-	-	-	X	-	-	-	-	-	-	-	-	-	-	X
North Carolina	-	X	-	-	-	-	-	-	-	-	X	X	X	-	-	-	-	-	-	-	-	-	X
North Dakota	-	-	-	-	-	-	-	-	-	-	-	X	-	-	-	-	-	-	-	-	-	-	*
Ohio	X	X	X	X	X	-	-	-	X	Individual courts decide what/if to measure-no standard implementation													
Oklahoma	-	-	-	-	-	-	-	-	-	-	*	-	-	-	-	-	-	-	-	-	-	-	-
Oregon	-	-	X	-	-	X	X	-	-	-	X	-	X	-	-	-	X	X	-	-	-	-	*
Pennsylvania	-	-	-	X	-	-	-	X	-	X	*	-	-	-	-	-	-	-	-	-	-	-	*
Rhode Island	-	-	-	-	-	-	-	-	-	-	*	X	-	-	-	-	-	-	-	-	-	-	*
South Carolina	-	-	-	X	-	-	-	-	-	-	*	X	-	-	-	-	-	-	-	-	-	-	*
South Dakota	-	X	X	X	X	-	X	-	-	-	*	-	-	-	-	-	-	-	-	-	-	-	X
Tennessee	-	-	-	-	-	-	-	-	-	-	*	-	-	-	-	-	-	-	-	-	-	-	X
Texas	-	X	X	-	-	-	-	-	-	X	X	-	-	-	-	-	-	-	-	-	-	-	*
Utah	X	X	X	X	-	-	-	X	X	-	X	-	-	X	X	X	-	-	-	-	-	-	*
Vermont	-	-	-	-	-	-	-	-	-	-	*	-	-	-	-	-	-	-	-	-	-	-	-
Virginia	-	X	-	-	-	-	-	-	-	-	X	X	-	-	-	-	-	-	-	-	-	-	X
Washington	-	-	-	-	-	-	-	-	-	-	X	-	-	-	-	-	-	-	-	-	-	-	*
West Virginia	-	-	-	-	-	-	-	-	-	-	*	-	-	-	-	-	-	-	-	-	-	-	*
Wisconsin	-	X	X	X	-	X	-	X	-	-	X	-	-	-	-	-	-	-	-	-	-	-	*
Wyoming	-	-	-	-	-	-	-	-	-	-	*	-	-	-	-	-	-	-	-	-	-	-	-

According to HHS, as of FY 2001 all states receive annual Court Improvement Program grants; however, the websites of state court systems vary considerably in whether and how they reflect this information.

* Website indicates the use of performance measure but no data on website.

Overview of *CourTools* trial court performance measures developed by the National Center for State Courts.

- 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. This measure provides a tool for surveying all court users about their experience in the courthouse; comparison of results by location, division, type of customer, and across courts can inform court management practices.
- 2. Clearance Rates.** The number of outgoing cases as a percentage of the number of incoming cases. This is a single number that can be compared within the court for any and all case types on a regular basis, or between one court and another.
- 3. Time to disposition.** The percentage of outgoing cases disposed or otherwise resolved within established time frames.

This assesses the length of time it takes a court to process cases.

4. **Age of Active Pending Caseload.** The age of the active cases pending before the court, measured as the number of days from filing until the time of measurement. This information helps focus attention on what is required to resolve cases within established timeframes.
5. **Trial Date Certainty.** The number of times cases disposed by trial are scheduled for trial. This measure provides a tool to evaluate the effectiveness of calendaring and continuance practices.
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.
7. **Collection of Monetary Penalties.** Payments collected and distributed within established timelines, expressed as a percentage of total monetary penalties ordered in specific cases. The focus of this measure is on the extent to which a court takes responsibility for the enforcement of orders requiring payment of monetary penalties.
8. **Effective Use of Jurors.** Juror Yield is the number of citizens selected for jury duty who are qualified and report to serve, expressed as a percentage of the total number of prospective jurors available. Juror Utilization is the rate at which prospective jurors are used at least once in trial or *voir dire*.
9. **Court Employee Satisfaction.** Ratings of court employees assess the quality of the work environment and relations between staff and management. This measure is a powerful tool for surveying employee opinion on whether staff have the materials, motivation, direction, sense of mission, and commitment to do quality work.
10. **Cost Per Case.** The average cost of processing a single case, by case type. Cost per case forges a direct connection between how much is spent and what is accomplished.

Other measures - definitions

- A. Backlog index - number of cases of given case type @beginning of year/number of cases disposed
- B. Time to permanency - timeliness of various permanency decisions made for children
- C. Timeliness standards - appeals, arrest -> disposition, indictment -> disposition
- D. Workforce measures - turnover, representativeness, training
- E. Restitution, fines, fees owed
- F. Public trust & confidence; satisfaction
- G. Juvenile court performance measures
- H. Accessibility of court interpreter services
- I. Drug/alcohol court recidivism rates
- J. Manner of disposition
- K. Successful completion of probation or other court ordered actions
- L. Compliance with case management time standards
- M. Drug court performance measures

Alabama Recipient of Court Improvement Program funds; performance measures will be reported to federal government beginning December 2013.

Alaska Recipient of Court Improvement Program funds; performance measures will be reported to federal government beginning December 2013. Timeliness standards on civil/criminal cases established in 2000 by Alaska Supreme Court; not reported on line or in the branch's annual report.

Arizona *CourTools Performance measures - Trial courts DUI cases only*

<i>Clearance Rate</i>	<i>Age at Disposition</i>	<i>Age of Pending Caseload (active & inactive)</i>	<i>Trial Date Certainty</i>
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CourTools Performance measures - Appellate Courts

<i>Clearance Rate</i>	<i>Time to Disposition</i>	<i>Age of Pending Caseload</i>	Bar & Bench Survey (not CourTools measure)
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In 2008, the Appellate CourTools Committee was established to recommend performance measures for Arizona's appellate courts. The committee's recommendations were submitted to the Arizona Judicial Council, which adopted the measures above in June 2009.

Arkansas Recipient of Court Improvement Program funds; performance measures will be reported to federal government beginning December 2013.

California *Other performance measures - Superior Courts*

Caseload clearance rate	Time to disposition
	The Standards of Judicial Administration establish case processing time goals for different types of civil and criminal cases, which are reported with specific time standards and target performance levels.

Recipient of Court Improvement Program funds; performance measures will be reported to federal government beginning December 2013.

Colorado *Other performance measures - Trial Courts*

Case Management Time Standards	Access and Fairness Surveys	Successful completion of probation rates
Percent of cases open more than 1 year - District court cases	Court users' satisfaction surveys - annual Instituted in 2008	Statewide success rates

Detailed State Information

Percent of cases open more than 6 months
 - County court cases

Recipient of Court Improvement Program funds; performance measures will be reported to federal government beginning December 2013.

Connecticut

Recipient of Court Improvement Program funds; performance measures will be reported to federal government beginning December 2013.

Delaware

Other performance measures - Superior Court Criminal Cases

Average time from arrest to disposition

Average time from indictment to disposition

Recipient of Court Improvement Program funds; performance measures will be reported to federal government beginning December 2013.

Florida

CourTools performance measures

Clearance rates

Effective Use of Jurors

Recipient of Court Improvement Program funds; performance measures will be reported to federal government beginning December 2013.

Drug court performance measures. No information/data on website on Court Improvement Program or drug court performance measures.

Georgia

No statewide performance measures; strategic plan encourages courts to assess performance. In process of educating courts about use of CourTools. Some county courts use CourTools; non-unified court system in Georgia. According to AOC, state doesn't receive Court Improvement funds; no knowledge of local courts receiving CIP funds. However, according to HHS, all 50 state court systems receive Court Improvement Program funds; performance measures will be reported to federal government beginning December 2013.

Hawai'i

Recipient of Court Improvement Program funds; performance measures will be reported to federal government beginning December 2013.
 Juvenile drug court measures to be implemented in 2013-2014.

Idaho

CourTools performance measures

Clearance rate

Age of active pending

Time to Disposition

Access and Fairness

Employee Satisfaction

caseload

The Idaho Supreme Court adopted nine CourTools performance measures in 2009; the five shown above have been implemented. According to HHS, recipient of Court Improvement Program funds; performance measures will be reported to federal government beginning December 2013. No info on state court website.

Illinois

Recipient of Court Improvement Program funds; performance measures will be reported to federal government beginning December 2013.

Detailed State Information

Indiana Recipient of Court Improvement Program funds; performance measures will be reported to federal government beginning December 2013. Three counties have received state grants to implement various CourTools measures; no central policy or tracking of performance.

Iowa Other performance measures
Timeliness standards from filing to disposition - vary by case types
 According to HHS, recipient of Court Improvement Program funds; performance measures will be reported to federal government beginning December 2013. No info on state court website.

Kansas According to HHS, recipient of Court Improvement Program funds; performance measures will be reported to federal government beginning December 2013. No info on state court website.

Kentucky Recipient of Court Improvement Program funds; performance measures will be reported to federal government beginning December 2013.

Louisiana According to HHS, recipient of Court Improvement Program funds; performance measures will be reported to federal government beginning December 2013. No info on state court website.

Maine Recipient of Court Improvement Program funds; performance measures will be reported to federal government beginning December 2013.

Maryland Recipient of Court Improvement Program funds; performance measures will be reported to federal government beginning December 2013.

Massachusetts CourTools Performance measures
Clearance rate Time to Disposition Age of Pending Cases Trial Date Certainty Juror Utilization

Measurements were adopted in 2006. All measures are Trial Court measures. The Trial Court focuses on timeliness, expedition, and juror utilization. In order to address these issues, the Trial Court:

- Utilizes time standards for all court departments;
- Applies common metrics to monitor the timeliness of case disposition and the effective utilization of jurors;
- Establishes specific goals for these metrics across all court departments; and,
- Produces regular reports (quarterly and annual) on performance/progress.

Recipient of Court Improvement Program funds; performance measures will be reported to federal government beginning December 2013.

Detailed State Information

Michigan

	<u>Performance Measures implemented in 2013</u>			
<i>Clearance Rate*</i>	<i>Case Age Disposition Rate*</i> (CT3)	Caseload Pending	Child Suppt. Collections	Drug/alcohol Court Recidivism
	<u>Performance Measures to be implemented 2014-2017</u>			
Public Satisfaction	<i>Juror Utilization rates*</i> (CT8)	<i>Reliability/integrity of files*</i>	<i>Trial Date Certainty*</i>	
			<i>*CourTools Measures</i>	

In 2012, the Michigan State Supreme Court adopted an administrative order requiring the State Court Administrative Office to develop a trial court performance measures implementation plan. Data collection on initial performance measures will be collected and reported beginning in 2013, with data collection on additional measures implemented from 2014-2017. (The Trial Court Performance Measures Committee worked with SCAO to develop measures, templates, and standard methods of data collection.) Data collected will be displayed on the SCAO website as part of the Michigan Supreme Court's performance dashboard.

Minnesota

	<u>CourTools Performance measures</u>			
<i>Clearance Rate</i>	<i>Time to Disposition</i>	<i>Age of Pending Cases</i>	<i>Access/Fairness</i>	

All CourTools performance measures report data from the trial courts. The measures were passed by the Judicial Council in 2005; subsequently revised in 2006, 2009, 2010, and 2011. Recipient of Court Improvement Program funds; performance measures will be reported to federal government beginning December 2013.

Other performance measures

- A. **Backlog Index.** Number of cases of a given case type pending at the beginning of the year, divided by the total number of cases (same case type) disposed during that year - information about a court's ability to keep up with old cases.
 - B. **Time to Permanency.** Assess timeliness of permanency decisions being made for children; goal is to achieve permanency by 18 months for 99% of all children.
 - C. **Court of appeals dispositions within time standards.** Objectives: dispose of 75% of new cases within 290 days of filing; dispose of 90% of cases within 365 days of filing.
 - D. **Supreme Court Timing Standards.** Number of days to accomplish an event for cases at 50% mark of all cases, at the 90th percentile.
 - E. **Turnover rate.** Separation rate of full-time employees (excluding judges, law clerks, bar exam monitors, temporary employees) who leave the branch during the fiscal year in a given location.
- Note: Only measures A & B above show trial court data.

Mississippi

Recipient of Court Improvement Program funds; performance measures will be reported to federal government beginning December 2013.

Missouri *CourTools Performance measures* *Other performance measures*
Access & fairness *Employee satisfaction* **Timeliness standards from filing to disposition - vary by case types**
 Recipient of Court Improvement Program funds; performance measures will be reported to federal government beginning December 2013.

Montana *Trial Court Performance Measures*
Public Trust and Confidence **On-time Case Processing** **Case Clearance Rate** **Age of Active Cases**
 In 2010, Montana's District Court Management Advisory Committee recommended the adoption of a system of court management tools for the District Courts. Based on the work of NCSC, tools adopted are shown above. Beginning in January, 2013, the Office of the Court Administrator began collecting and reporting data on-line for these management tools. According to HHS, recipient of Court Improvement Program funds; performance measures will be reported to federal government beginning December 2013. No info on state court website.

Supreme Court case processing measures
Case clearance **Manner of disposition** **Age of Pending Cases** **Time to Disposition**
 Since 2009 the Montana Supreme Court has tracked and reported on-line the above case processing measures for the cases it processes.

Nebraska Recipient of Court Improvement Program funds; performance measures will be reported to federal government beginning December 2013.

Nevada Recipient of Court Improvement Program funds; performance measures will be reported to federal government beginning December 2013.

New Hampshire According to HHS, all 50 state court systems receive Court Improvement Program funds; performance measures will be reported to federal government beginning December 2013. No info on state court website.

New Jersey *Other performance measures*
Clearance (#, %) **Inventory** **Active Pending cases** **Backlog**
 AOC produces a monthly caseload statistics report based on reports submitted by trial court administrators.
 Recipient of Court Improvement Program funds; performance measures will be reported to federal government beginning December 2013.

New Mexico *Other performance measures*
Clearance #, %

Detailed State Information

Recipient of Court Improvement Program funds; performance measures will be reported to federal government beginning December 2013.

New York Recipient of Court Improvement Program funds; performance measures will be reported to federal government beginning December 2013.

North Carolina

Other performance measures

Clearance rate	On-time disposition	Aging case index (backlog)
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Recipient of Court Improvement Program funds; performance measures will be reported to federal government beginning December 2013.

North Dakota Recipient of Court Improvement Program funds; performance measures will be reported to federal government beginning December 2013.

Ohio Ohio has a non-unified court system, and the current state of Ohio's use of CourTools performance measures is highly variable. No standardized implementation frameworks have been developed. Instead, the Supreme Court partners with local courts as needed to deploy the measures in various customized ways. Implementation is achieved in whatever ways are practical for a given court. Sometimes only the caseload management related measures are used (CourTools Measures 2, 3, 4, and 5), and surveys (Measures 1 and 9) may be implemented by sampling case files or through extracting data from the courts' case management systems. Based on the needs of the courts involved, other CourTools measures may be used as well.

Oklahoma Oklahoma does not use any performance measures in its state court operations. According to HHS, all 50 state court systems receive Court Improvement Program funds; performance measures will be reported to federal government beginning December 2013. No info on state court website.

Oregon

Other performance measures (Key performance measures)

1. **Accessible Interpreter Services.** The percentage of dollars spent on Oregon Judicial Department (OJD) certified freelance interpreters out of total expenditures for freelance (non-saff) interpreters of languages in which certification testing is offered by OJD.
2. **Collection Rate.** The percentage of all monetary penalties imposed by circuit court and appellate court that are collected.
3. **Oregon Judicial Information Network (OJIN) Data timeliness and accuracy.** The average number of calendar days between the date a judge signs a judgment and the date that the judgment is entered into the official record.
4. **Representative Workforce.** The parity between the representation of persons of color in the civilian labor force and the representation of the same group in the workforce of the OJD.
5. **Trained Workforce.** The percentage of OJD education program participants who reported gaining specific knowledge related to OJD by attending the program.
6. **Timely Case Processing.** The percentage of cases disposed of or otherwise resolved within established time frames.

Detailed State Information

Tennessee According to HHS, recipient of Court Improvement Program funds; performance measures will be reported to federal government beginning December 2013. No info on state court website.

Texas

Other performance measures - District Court

Clearance rate <i>Similar to CT 2</i>	Backlog index	Age of disposed cases <i>Similar to CT 3</i>
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These performance measures were adopted by the Texas Legislature in 2001.
Recipient of Court Improvement Program funds; performance measures will be reported to federal government beginning December 2013.

Utah

CourTools Performance measures

Access/fairness*	Effective Use of Jurors*	Clearance Rate**	Time to Disposition**	Age of Pending Cases***	Employee Satisfaction*
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Recipient of Court Improvement Program funds; performance measures will be reported to federal government beginning December 2013.

Other performance measures

Restitution, Fines, and fees.**** Outstanding restitution owed to victims and uncollected court-ordered fines and fees.

Public Trust and Confidence in the Courts. Survey administered to selected Utah households in 2006 and 2012 to determine public perceptions of the Utah State Courts. 2012 results compared to those from 2006 to gauge changes in the public perception of the court system.

Juvenile Court Report Card to the Community. Report on benchmarks from Juvenile Court on performance measures of delinquency referrals, juvenile crime, reoffense rates, drug test results, percent of restitution paid, and timeliness of delinquency and dependency case adjudications.

*These measures reported on statewide basis.

** These measures reported for all levels of court, i.e., Justice Court, Juvenile Court, District Court, Court of Appeals, Supreme Court.

***These measures reported for Justice Court, District Court

****These measures reported for Juvenile Court, District Court

Note: In 2004, the Judicial Council began implementing a court performance measurement system developed in part by the National Center for State Courts. The performance management system helps the courts identify and monitor important performance measures and make improvements to better serve the needs of the public.

Vermont According to HHS, recipient of Court Improvement Program funds; performance measures will be reported to federal government beginning December 2013. No info on state court website.

Virginia

<u>CourTools measure</u>	<u>Other performance measures</u>
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State Court Performance Measures

Detailed State Information

Clearance rate

of pending cases

Age of concluded cases

Age of disposed filings

Recipient of Court Improvement Program funds; performance measures will be reported to federal government beginning December 2013.

Washington

Washington state court system is not unified, and is working to update its data and statistical systems. Will strongly encourage use of performance measures by various levels of court in the state.

Recipient of Court Improvement Program funds; performance measures will be reported to federal government beginning December 2013.

West Virginia

Recipient of Court Improvement Program funds; performance measures will be reported to federal government beginning December 2013.

Wisconsin

CourTools measures

Clearance rate

Time to disposition

Age of acting pending caseload

Reliability/integrity of case files

Juror yield

Wisconsin state courts have been using CourTools performance measures since 2008-2009; present data on dashboard for use by judges and administrators within the court system.

Recipient of Court Improvement Program funds; performance measures will be reported to federal government beginning December 2013.

Wyoming

Wyoming has not yet been able to implement performance measures. It is certainly the goal of the Supreme Court to do so, however as of yet they have been unsuccessful mostly due to inconsistent business practices across the State. They have just implemented a new case management system state-wide in the trial courts and are hopeful to have better statistics in the near future.

Recipient of Court Improvement Program funds; performance measures will be reported to federal government beginning December 2013.

Massachusetts

State court staff first learned about CourTools at the 2005 NACM conference; they took those concepts back to their leadership, who agreed to adopt several CourTools measures in order to improve transparency and accountability.

Early concerns were: what would the data show about the court system's functioning; and, would the data be accurate.

At first, the numbers were "all over the place" - first year, there were over 150,000 cases that were past time standards (hadn't monitored the timely closing of cases.) There were lots of anomalies in the numbers, but the AOC continued to report no matter what the numbers showed.

It was difficult at first, as administrators were afraid to reveal problems; however, numbers continued to improve with each reporting cycle and now the measures are important management tools.

Leadership commitment to use of performance measures was crucial. It has become second nature, but it is always a challenge to get all of leadership on board.

Have always been very careful not to identify individual judges - reports are produced on the department or division level.

Suggest using NACM members within state court system to help act as advocates, educators in adoption/implementation process.

Minnesota

Performance measures were first adopted in 2005 with the advent of CourTools developed by NCSC; Minnesota court system selected those measures on which they could collect data and were relevant to their information needs.

Initially, data reports were generated on demand, and there was great concern about the accuracy of the data; there were early fears about how "bad" data might be used. The AOC implemented a data quality initiative, and created tools to verify the accuracy of the numbers.

Both trial courts and appellate courts use performance measures, though the measures used differ for each level of court.

The court system was administratively unified prior to the court system becoming fully state funded; with the inception of full state funding, having accurate, consistent performance information statewide became increasingly important.

Statewide data collection in the judicial branch is accomplished through an electronic operational system designed and managed by court staff; it functions as a data warehouse from which data and reports can be obtained.

The Minnesota Judicial Council is the administrative policy-making authority for the Minnesota Judicial Branch, and manages strategic direction and accountability. Twice a year, the Judicial Council reviews and discusses court performance measures to ensure their usefulness.

At this point, court system data is open, transparent, and readily available to policy makers and the general public. The court system has been recognized by the legislature for publicly sharing information, and hasn't suffered budget cuts to the same extent as the executive branch.