

Building a Better Understanding of Trial Courts*

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Every day, new social, economic, political, and technological change enters the courthouse door through litigation and awaits correct and timely decisions by judges at critical stages of the legal process. Courts themselves are complex organizations that require management to meet the variable expectations of individuals and business entities who avail themselves of the legal process. Managing this complex environment, often characterized as decentralized, autonomous, and fragmented, requires insight and direction into how to achieve organizational effectiveness. However, due to a set of internal constraints courts often find it difficult to assess how well they are doing.

Courts as institutions have little to no internal research or analytic capacity to enlighten judges and administrators on how to organize collectively to get the job done. State court administrative offices and trial courts usually lack research and evaluation divisions with professional research staffs, which are defined as a cadre of professionals with master's degrees or higher who address policy questions using data.¹ This stands in stark contrast to state executive-branch agencies that have legislative budget and agency analysts. Within the current structure, virtually all acting court managers at the trial court level spend a bulk of their time setting calendars, managing employees, planning and executing court budgets, dealing with facilities issues, and introducing technology for recordkeeping purposes, without ever really assessing how well the court as an institution is doing.

Furthermore, courts are challenged to report even the most basic information about their case processing, such as filings and dispositions, and infrastructure, such as the number of full-time equivalent staff, in a reliable and consistent manner. Without this information, courts are hard-pressed to gauge which policies, practices, and initiatives work; how to allocate scarce resources efficiently and effectively; and how to convey information about the court to judges and staff who work in the court, external stakeholders, and the public.

Cohen, March, and Olsen (1972) characterize the policymaking process as a situation where solutions are looking for problems. Courts, on the other hand, are institutions where challenges, questions, and problems are seeking solutions. This provides a unique need for political scientists and other social scientists who can provide both theoretic and practical contributions. Social-science research can begin to systematically and comparatively assess issues of court reform and court performance.

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¹ Notable exceptions include state court administrative offices in California, Florida, Minnesota, New Jersey, New York, and Texas. At the trial court level, exceptions include Alameda County, Orange County, Los Angeles, and Sacramento in California; Hennepin County, Minnesota; Harris County, Texas; and Maricopa County, Arizona.

Scholars can and should construct an organizational model of courts that acknowledges the unique attributes of courts that differentiate them from executive-branch agencies or legislatures. A model of this type will help pinpoint both the challenges that courts face and provide insight into how courts can be improved. Applied practitioner-oriented research that focuses on helping courts move closer to approximating the ideal of a high-performing court would help support the proclamation of the former chair of the Law and Courts Section of the American Political Science Association that “[p]olitical science scholarship is valuable only to the extent that works help citizens and policymakers make better political decisions” (Graber, 2006:4).

Recently, the National Center for State Courts developed a framework for trial court performance measurement called *CourTools*, which is designed to enhance the administrative ability of courts (Ostrom and Hall, 2005). This framework should provide scholars with an opportunity to examine courts on a comparative basis and develop knowledge about the influence of trial court structure and process on court performance.

PERFORMANCE MEASUREMENT—*COURTOOLS*

CourTools represents a balanced set of trial court performance measures (Ostrom and Hall, 2005). There are ten outcome-based measures designed to continue promoting effective judicial governance and accountability (Conference of Chief Justices and Conference of State Court Administrators, 2005) by providing a means for courts to demonstrate the value of their services delivered, help courts manage their resources effectively, and promote a better public understanding of the role of the judiciary.

The ten outcome measures of *CourTools* (see Figure 1) are based on the following criteria: a) a correspondence to a fundamental set of court values (e.g., access, fairness, timeliness); b) the provision of a balanced perspective on the work of the courts; and c) feasibility and sustainability in their implementation (Ostrom, 2005). The measures themselves encompass the attributes of effectiveness, Measures 5, 7, 8; procedural satisfaction, Measures 1 and 9; efficiency, Measures 2, 4, and 6; and productivity, Measure 10 (Clarke et al., 2008).

CourTools allows for the widespread collection of court data on internal operations and opinions of court users (including litigants, attorneys, witnesses, jurors, and the public). Previous research-data-collection efforts have employed case studies of individual courts (e.g., Feeley, 1983; Diamond et al., 2003); small-n studies (e.g., Church, 1985; Eisenstein, Fleming, and Nardulli, 1987; Luskin and Luskin, 1987; Hewitt, Gallas, and Mahoney, 1990; Ostrom and Hanson, 1999; and Ostrom et al., 2007); or aggregate, statewide data collections (e.g., Rottman and Strickland, 2004; LaFountain et al., 2007). These previous efforts have suffered from threats to external validity and generalizability or have remained highly structural in their orientation and have not focused on management strategies or institutional performance. Up until now, efforts to collect data from a large number of individual courts within and among states about their structure and the way they process different types of cases has

Figure 1
Ten *CourTools* Measures

Measure	Definition
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 Clearance Rates	The number of outgoing cases as a percentage of the number of incoming cases.
3 Time to Disposition	The percentage of cases disposed or otherwise resolved within established time frames.
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.
5 Trial Date Certainty	The number of times cases disposed by trial are scheduled for trial.
6 Reliability and Integrity of Court 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.
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 assessing the quality of the work environment and relations between staff and management.
10 Cost Per Case	The average cost of processing a single case, by case type.

proven to be unrealistic due to the lack of automation, coordination costs, and concerns for data validity and reliability.

The design of *CourTools* is aimed at overcoming these challenges. Each outcome measure includes a brief definition, purpose, method, and strategy for data reporting and analysis. By including precise definitions of the necessary data elements, courts ranging from as small as one judge and two staff members in a single courthouse to courts with over 600 judges, 4,500 staff, and multiple locations will be able to collect data in a uniform manner. Standardizing the way data is collected across courts provides “the only hope for creating results that can be compared and interpreted in a meaningful way” (Schauffler, 2007:123). As such, the data collection of trial court

performance measures represents a “grassroots” movement, whereby individual trial courts or courts within a particular state are actively collecting their own data.

Currently, trial court performance data are being collected in many jurisdictions. As of today data are being collected measure-by-measure statewide in Massachusetts, Minnesota, and Utah.² At the court level, performance measurement is taking place in rural courts in Indiana, Texas, and Ohio; in midsize urban courts (e.g., San Mateo, California; Yuma, Arizona); and in large urban courts (e.g., Harris County, Texas [Houston]; Hennepin County, Minnesota [Minneapolis]; Maricopa County, Arizona [Phoenix]; and Sacramento, California).³ Given the prominence of performance measurement on the agendas of the Conference of Chief Justices, the Conference of State Court Administrators, and the National Association for Court Management, the likelihood that additional courts will begin to implement *CourTools* is very high.

The data that are collected “organically” from each trial court could be compiled in a data clearinghouse that hosts performance data from around the country. This cost-effective approach to data collection would result in a cross-sectional and longitudinal database—as data are collected over time—of measures that represent essential aspects of trial court operations.

A clearinghouse database allows for the advancement of our understanding of courts in at least three distinct ways. First, the database provides researchers with a way to develop rich, descriptive profiles and typologies of trial courts. The measures themselves have been designed to highlight core values that courts apply in carrying out their role (e.g., timeliness, access and fairness, and independence and accountability) and are familiar and tangible concepts to court managers. These profiles would help advance our understanding of courts as organizations and about what courts do.

Second, the cross-sectional and longitudinal nature of the data makes strict comparisons within and among courts over time possible. As Collier notes, “comparison is a fundamental tool of analysis. It sharpens our power of description and plays a central role in concept formation by bringing into focus suggestive similarities and contrasts between cases” (1993:105). Associating the outcome measures with basic institutional and structural features of the court (e.g., funding sources, judicial selection, size of court, types of calendars, court jurisdiction) will reveal the impact that these organizational characteristics have on court performance. Scholars and practitioners can now study court initiatives and policies to uncover the circumstances under which they succeed or fail.

² The collection of data statewide is being made a greater reality by the development and implementation of new statewide case management systems (e.g., CCMS in California and MNCIS in Minnesota) that have memorialized the *CourTools* measures into their statewide data-reporting systems.

³ Courts that have piloted the measures have found that the data-collection process for the caseflow measures (Measures 2-6) is best done through an iterative process. The initial collection of data often reveals a number of data anomalies that can be corrected by cleaning or purging. For example, many civil cases are filed with the court and remain pending even if they have been resolved outside of court. This iterative process improves data validity.

Finally, a broad database will allow for the construction of empirically grounded benchmarks that indicate success. Benchmarks help identify best practices, allow for an examination of the processes that created them, and permit an assessment of progress toward an empirically defined goal. For example, *CourTools* data will allow for the development of civil, criminal, juvenile, and domestic case-processing standards that are not only aspirational, but also plausible, as they will be grounded in empirical data.

The advent of *CourTools* provides a unique opportunity for court managers and scholars to examine the way that courts conduct their business and to identify successful strategies, policies, and institutional arrangements to obtain the court's desired ends. Ultimately, these data can be used by court managers to make informed policy decisions and improve overall institutional performance. Coupled with the assistance of focused social-science research, courts can continue to improve their operations and service delivery and become high-performing public organizations. To be viewed as successful, research of this nature should not solely be an evaluation of courts from the "outside," but instead allow court managers and judges to use data and research to make better decisions and improve overall institutional performance. Thus, aggregate findings and lessons from comparative inquiry should be made meaningful to individual courts so that court administrators and managers can use this information for the betterment of courts in their own jurisdictions. **jsj**

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